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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Wednesday, September 27, 1978*

(Legislative day of Tuesday, September 26, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, whose ear is open to those who are of a humble and contrite heart, we pause to acknowledge our need of Thee. If we are too low in spirit, lift us up. If we are too lofty in pride make us submissive in mind. If we feel that Thou art far from us, draw near to give us wisdom for our problems, strength for our testing, and the sunshine of Thy love for the dark places. Grant unto each of us the grace of the Galilean, that we may find fellowship with Him in this hour. In His name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 27, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader.

THE NEW $1 COIN

Mr. PROXMIRE. Mr. President, yesterday the House of Representatives agreed to the Senate bill in the form in which it passed the Senate, providing for a new $1 coin. This is a departure for this country because the $1 coin that is going to be used is about the same size as the quarter. It is expected to be used very widely in this country. But even more significant than that, this is the first coin in our history that has had a woman, a woman who has actually lived, on the coin.

Many people were responsible for that, including a number of people in the House. MARY ROSE OAKAR, the fine Congresswoman from Ohio, worked very hard for it and deserves great credit. But I must say in the Senate it was a member of the staff of our Banking Committee, Marion Mayer, who is a remarkably hard-working intelligent person with a great sense of humor. She worked, diligently, constructively, and I might say wisely on this. She is the head of our coinage efforts in the Banking Committee. Miss Mayer was an unequivocal backer of Susan Anthony as the personage who should be honored on the coin. The Treasury favored Miss Liberty's visage on the coin. Others fought for a variety of personages. Miss Mayer won.

She deserves full credit for having won Senate approval of the first woman ever to be honored by having their image reproduced on an American coin.

In the course of our hearings, we found that we honored many men, not only Presidents but others, but that we never had honored an American woman. So I think this is a memorable, historical occasion, Susan Anthony being on the coin, a woman who did more perhaps than any other woman to achieve the opportunity for women to vote in our elections.

GENOCIDE: WILL HISTORY REPEAT ITSELF?

Mr. PROXMIRE. Mr. President, the television docudrama "Holocaust", a program which shocked Americans, is now searing the collectiveness of the Israeli nation. There 1.5 million people—nearly half the population of this small, beleaguered country—watched the first of the terrifying episodes.

They watched a dramatization of the systematic annihilation of 6 million of their countrymen only 30 short years ago. They felt the collective agony that only a nation that has suffered such murderous tyranny can feel.

Where were we then, Mr. President, and where are we now? What steps have we taken to assure that genocide the likes of this can never happen again?

In an article in the Washington Star, Aharon Famili, an Israeli citizen who watched the telecast, expressed his fear that the Jews could be murdered indiscriminately yet again. I quote:

> That is my people they did that to. . . . That old man, how they beat him. . . . There's no difference. The same nation. The same fate. I wish I was sure that fate of ours was over. But I'm not sure.

Mr. President, look at the record. The U.S. Senate has had the opportunity to ratify the Genocide Convention since 1949 when President Truman first submitted it to the Senate. Since then the Senate Foreign Relations Committee has reported the treaty favorably to the Senate four times.

Four times, Mr. President. In 1970, 1971, 1973, and again in 1976, the treaty was reported and the Senate had an opportunity to act.

Yet we still hesitate.

How can we allay the fears of men like Aharon Famili, who have known the horrors of genocide firsthand? How can we take the first step—admittedly a small, but critical one—to combat the genocidal slaughter perpetrated in Cambodia and Uganda in our time?

We can ratify the Genocide Convention.

Mr. President, we must ratify the Genocide Convention.

We must affirm that most fundamental of all rights—the right to live—so that the Aharon Famili's of this world will never have to worry that history will repeat itself.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to yield back the remainder of my time under the order if there are no other requests.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the standing order, the Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and no request for it.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

PRIVILEGES OF THE FLOOR—H.R. 12929

Mr. MAGNUSON. While the majority leader is on the floor, Mr. President, I ask unanimous consent that Susan Brannigan and Bob Paquin, of Senator LEAHY's staff be granted the privileges of the floor.

This is not the fault of the Presiding Officer, I will say.

Mr. President, I counted, the number that we have asked for and this one that I have just asked for is No. 49. Each unanimous-consent request takes at least a half minute and they interrupt speeches for this. They have to, under the rule. Forty-nine people is a lot of people to have in here, and I suppose before we are through it will go over 50. It may be that it will be difficult for the Senators to get into the Chamber themselves.

I understand why Senators want their staff here. I do, too. I do not have as many as some others. I could ask for the whole Appropriations Committee staff to be here. That would add another 50. Then there would be no room in the Chamber for anyone else.

It seems to me that come next year, or when we have a Rules Committee meeting—and I have discussed this with the majority leader and I believe with the minority leader—we ought to have a better system than this. I understand the leadership is working it out.

I suggested maybe Senators could drop the names of the people at the door that they wanted on the Senate floor, with some limitation.

Let us not get up to 67 staff people on the floor for a bill, but a reasonable amount, because this does take up a lot of time of the Senate, particularly in the closing days. Many times, they are needed, and it is good that they are here. But I hope we will achieve a better system than having to get up—47 times speeches have been interrupted, as of now, to have people come on the floor. I think all Senators agree and I think the staff will agree with this. They, themselves, would have a much more regular procedure and would not interrupt anything and they could all come on the floor, those that are needed.

I merely make that observation, because I have counted now, and this is No. 49.

Mr. ROBERT C. BYRD. The chairman makes an excellent point and the matter is being considered. I think something can be worked out. I assure the Senator that I am going to make that effort.

TIME LIMITATION AGREEMENT—H.R. 12928 CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the natural gas conference report today, the Senate proceed to the consideration of the public works appropriations conference report, H.R. 12928, with a time agreement as follows: One hour overall on the conference report, to be divided between Mr. JOHNSTON and Mr. HATFIELD equally, with an additional 20 minutes under the control of Mr. PROXMIRE.

Mr. MAGNUSON. Reserving the right to object, when do we get back to HEW?

Mr. ROBERT C. BYRD. As soon as possible. I would not have thought of doing this if it had not been an appropriations bill. It is a public works conference report.

Mr. MAGNUSON. I understand. Then we go back to HEW?

Mr. ROBERT C. BYRD. Yes. I am very concerned, I say to the chairman, and I know he shares my concern, that we get this bill down to the President so that if there is a veto, which I hope there will not be, it will be done in time for the Congress to have an opportunity to exercise its option to override.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. MATHIAS. Mr. President, I am instructed by the minority leader to agree to the request of the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of H.R. 12929, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12929) making appropriations for Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I wonder if it would be possible to get a time agreement on the HEW appropriations bill. I will not press for that at the moment. I will wait until the chairman (Mr. MAGNUSON), the manager, arrives in the Chamber.

Mr. BAKER. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, as soon as our principals are here, and I understand they are on the Hill but not yet in the Chamber, we will explore that question. There are many controversial items. It may be difficult to have an overall comprehensive time, but we will make an effort.

Mr. President, I ask unanimous consent that I may recover my leadership time previously yielded back.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield 1 minute to the distinguished Senator from New Mexico.

STATEMENT ON THE REVENUE ACT OF 1978

Mr. DOMENICI. Mr. President, I think we all need to understand that the taxpayer's revolt did not start with the landslide vote on proposition 13 in California, and it will not end with our vote on the tax cuts now under consideration here in Washington.

Back in 1938, for example, the Federal tax rate was a mere 4 percent on income up to $4,000; that is about $18,000 at today's prices. And a married couple enjoyed a $2,500 personal exemption. As a result, the Federal tax bite worked out to about $50 a year.

Today, of course, taxes at the local, State and Federal level absorb slightly over 40 percent of all our national income. At the Federal level, taxes have grown to pay for the constant dollar deficits that Government has incurred in 21 out of the last 22 fiscal years; deficits which total almost $350 billion in noninflated 1972 dollars.

Daniel Webster said the power to tax involves, necessarily, the power to destroy. He was right. Consider this "Devil's Recipe" concocted by governments at all levels over very recent decades:

Add Federal income taxes to State income taxes; mix them both with county income taxes and city income taxes; sprinkle those four taxes with rising social security taxes and rising property taxes and rising sales taxes; then heat those seven taxes with an 11 percent inflation rate that endlessly propels people into higher marginal tax brackets and unrealistically high property assessments; then season this mess with a capital gains tax that puts the United States at the bottom of the industrial world in both capital formation and productivity growth, and second from the bottom in GNP growth; garnish it with rules that wipe out much of the illusory profit a couple makes when they retire and sell their house, and you have an idea of the depth and breadth of the odious stew into which yesterday's government has placed today's governed.

We are trying to do something about that today. But the tax cuts passed by

the House and sent over here to the Senate do not go far enough. They do not cut deep enough. They do not even offset the double-barreled effects of next year's inflation and social security tax increases.

On September 5, 1978, the Congressional Joint Committee on Taxation released several tables which show, first, how much inflation will add to next year's tax bill in each of several income brackets; second, how much will be added by the social security tax increase; third, how much the House-passed bill will cut taxes in each of those brackets; and, fourth, the net tax change in terms of a tax increase (+) or an actual tax reduction (−).

Table 1 shows the effects of the $16 billion House-passed tax cut on a single person, table 2 the effect on a married couple with no dependents, and table 3 the effect on a married couple with two dependents. You will note that taxes still increase next year in all but 2 of the 33 examples cited.

I ask unanimous consent that these tables be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—TAX CHANGE IN 1979 FOR A SINGLE PERSON

Income	Inflation tax increase[1]	Social security tax increase[2]	House bill tax cut[3]	Net tax change
$3,000	0	2	0	+2
$5,000	35	4	−21	+18
$8,000	50	6	−12	+44
$10,000	47	8	−15	+40
$12,500	41	10	−38	+13
$15,000	69	12	−71	+10
$17,500	84	14	−87	+11
$20,000	100	82	−105	+177
$25,000	153	260	−160	+253
$30,000	205	260	−213	+252
$40,000	324	260	−328	+256

[1] This column is the tax reduction which would occur if the personal exemption, general tax credit, zero bracket amount and the tax rate brackets were indexed for a 7-percent inflation. Assumes deductions equal to 23 percent of income. It does not include the effects of the changes in itemized deductions or in capital gains taxation.

[2] This column is the tax increase resulting from the social security rate increase from 6.05 percent to 6.13 percent and the increase in the wage base from $18,900 to $22,900.

[3] This column is the tax reduction from the rate cuts, bracket widening, increase in zero bracket amount and conversion of the general tax credit into a larger personal exemption. Assumes deductions equal to 23 percent of income.

TABLE 2.—TAX CHANGE IN 1979 FOR A MARRIED COUPLE WITH NO DEPENDENTS

Income	Inflation tax increase[1]	Social security tax increase[2]	House bill tax cut[3]	Net tax change
$3,000	0	2	0	+2
$5,000	0	4	0	+4
$8,000	63	6	−47	+22
$10,000	66	8	−39	+35
$12,500	66	10	−14	+62
$15,000	62	12	−6	+68
$17,500	62	14	−25	+51
$20,000	91	82	−81	+92
$25,000	127	260	−160	+227
$30,000	188	260	−224	+224
$40,000	298	260	−345	+213

[1] This column is the tax reduction which would occur if the personal exemption, general tax credit, zero bracket amount, and the tax rate brackets were indexed for a 7-percent inflation. Assumes deductions equal to 23 percent of income. It does not include the effects of the changes in itemized deductions or in capital gains taxation.

[2] This column is the tax increase resulting from the social security rate increase from 6.05 percent to 6.13 percent and the increase in the wage base from $18,900 to $22,900.

[3] This column is the tax reduction from the rate cuts, bracket widening, increase in zero bracket amount, and conversion of the general tax credit into a larger personal exemption. Assumes deductions equal to 23 percent of income.

TABLE 3.—TAX CHANGES IN 1979 FOR A MARRIED COUPLE WITH 2 DEPENDENTS

Wage or salary income	Inflation tax increase[1]	Social security tax increase[2]	House bill tax cut[3]	Net tax change
$3,000	0	2	0	+2
$5,000	56	4	0	+60
$8,000	132	6	−36	+102
$10,000	88	8	−62	+34
$12,500	102	10	−105	+7
$15,000	62	12	−77	−3
$17,500	85	14	−115	−16
$20,000	97	82	−146	+33
$25,000	124	260	−232	+152
$30,000	161	260	−304	+117
$40,000	297	260	−486	+71

[1] This column is the tax reduction which would occur if the personal exemption, general tax credit, zero bracket amount, earned income credit and the tax rate brackets were indexed for a 7-percent inflation. Assumes deductions equal to 23 percent of income. It does not include the effects of the changes in itemized deductions or in capital gains taxation.

[2] This column is the tax increase resulting from the social security rate increase from 6.05 percent to 6.13 percent and the increase in the wage base from $18,900 to $22,900.

[3] This column is the tax reduction from the rate cuts, bracket widening, increase in zero bracket amount and conversion of the general tax credit into a larger personal exemption. Assumes deductions equal to 23 percent of income.

Mr. DOMENICI. Thus the House-passed $16 billion tax cut not only leaves everybody worse off than they are this year, but it does so unnecessarily. This is true because House and Senate conferees agreed on a $38.8 billion budget deficit for the coming fiscal year, $21.8 billion less than proposed by the administration last January. By accepting a revenue floor of $448.7 billion for fiscal 1979, the House conferees reflected their willingness to make room for tax cuts of at least $2 billion more than contained in the original House tax cut.

This was a bipartisan budget resolution. It allows for a further bipartisan tax cut. The only remaining argument against cutting taxes more deeply is the somewhat frayed notion that rises from static analysis of tax policy. Static analysis presupposes that tax cuts generate no savings, generate no economic expansion, generate no new job creation, and thus generate no new additional revenue coming back into the Treasury. Yet the facts show otherwise.

Congress cut individual income taxes in 1946 by about $3.4 billion. Revenues dropped from $17.1 billion in 1945 to $16.1 billion in 1946. But 1 year later, in 1947, revenues hit an alltime record of $18.1 billion.

Taxes were cut again in 1948 by $4.4 billion. Revenues dropped from $18.1 billion in 1947 to $15.4 billion in 1948 and to $14.5 billion in 1949. Yet by 1950 revenues were back to another alltime high, $18.4 billion.

In 1954, Congress cut taxes again by $3.6 billion. Revenues fell from $29.4 billion in 1953 to $26.7 billion in 1954. One year later, in 1955, revenues were back up to $29.6 billion.

The well-remembered 1964 Kennedy tax cuts were estimated to cost $6.7 billion in 1964 and an additional $5.0 billion in 1965. In fact, revenues fell only from $48.2 billion in 1963 to $47.2 billion in 1964, and skyrocketed to $49.5 billion in 1965.

In the 1970–72 period, further tax reductions totaling about $18 billion (including phaseout of a 10 percent temporary tax surcharge) were made effective. Revenues dipped from $86.6 billion in 1969 to $83.8 billion in 1970, but increased in 1971 and hit $93.4 billion in 1972.

In 1975 and 1976 Congress again cut taxes by a total of about $16 billion. Revenues increased from $123.5 billion in 1974 to $124.6 billion in 1975, and to an estimated $140 billion in 1976.

I think it is clear that with tax progressions on both capital and labor, inflation at today's rate forces both labor and industry higher and higher up the progressive tax scale. Both capital and labor pay more to government, keep a smaller share of what they produce, and are discouraged from increasing—or sometimes even maintaining—their present levels of production.

Finally, I think we all recognize that the administration itself realizes taxes must be cut more deeply. On September 25, Time magazine reported:

> The tax cuts enacted this year to take effect in 1979 must be followed by more reduction in 1980, and 1981 and perhaps future years. Charles Schultze, the President's chief economist, came close to making that position Administration policy. Said he: "As we look out over the years ahead, additional tax reductions are almost surely going to be necessary. We are going to need periodic cuts to keep the economy properly balanced."

I, for one, see no need to keep the American public coming back on bended knee next year, and the year after, begging for passage of separate tax cuts year in and year out. I would far prefer the Roth-Kemp approach of telling the public now what they can count on in the form of tax rates for more than merely 1 year out ahead. This would at least allow labor to negotiate with some degree of confidence for the future, management to invest with some degree of certainty over costs, and the farmer, the small businessman and the wage earner to work with the knowledge of how much of their own productivity they may keep.

Since we do not appear to have the votes to follow that approach, at least in this session of Congress, I urge we make the deepest tax cuts possible under the revenue floor provided by enactment of the second budget resolution.

Mr. BAKER. Mr. President, I understand there is a request for 2 minutes by the distinguished Senator from Utah. Before yielding to the Senator from Utah, in this circumstance I wonder if

the majority leader cares to recover any of his time remaining.

Mr. ROBERT C. BYRD. Not as of now.

Mr. BAKER. Mr. President, I yield 2 minutes to the Senator from Utah.

Mr. HATCH. I thank the distinguished minority leader.

THE POVERTY OF WELFARE

Mr. HATCH. Mr. President, I would like to call the attention of my colleagues to two excellent articles on poverty and welfare in the Journal of the Institute for Socioeconomic Studies. One in the summer issue is by Robert L. Bartley, editorial page editor of the Wall Street Journal, and one in the autumn issue is by U.S. Representative DAVID A. STOCKMAN.

Mr. Bartley points out that the best poverty program is rapid economic growth and that it is time to think of redirecting poverty policy away from merely providing support toward providing opportunities to earn income and achieve financial independence from income transfers. Mr. Bartley points out that Government poverty programs have stopped social mobility and that this is unfortunate, because the poor have much to offer the country. Our society has been vastly enriched by succeeding generations of poor raising themselves not only to affluence, but also to positions of importance. There is no reason to believe that the current generation of poor would not succeed as well if the incentive structure was not loaded against them.

That the incentive structure is loaded against the current generation of poor is ably demonstrated by Mr. STOCKMAN. He points out that welfare recipients face high marginal tax rates on earned income and introduce perverse incentives that erode family stability, decrease parental responsibility, and encourage welfare fraud among the beneficiary population. The result of these high marginal tax rates is a reduction of work effort. I quote from Mr. STOCKMAN'S article:

A dramatic example is provided by the programs in which families with unemployed fathers receive benefits. Under such programs, earned income in excess of $360 per year is taxed at a rate of 67 percent up until the point at which the father works 100 hours per month or more, the equivalent of a half-time job. After that point, the family is disqualified from further assistance payments altogether. Due to this absurd provision, a family in which the male head chooses to accept a full-time job at the same wage rate as the prior half-time job will actually suffer a net decrease in take-home income once the loss of in-kind benefits such as Medicaid and food stamps is taken into account. No culture of poverty is necessary to explain why fathers of such families decline invitations for full-time employment. Confronted with this negative incentive on the margin, the male head of a welfare family will be as much of a rational economic man as any Wall Street banker could possibly be.

The situation is equally grim for female family heads over many income ranges of the regular AFDC program. A welfare mother in my home state of Michigan who chooses to go from a half-time to a full-time job at $3.00 per hour stands to reduce family income by better than $47 per month, a marginal tax rate of 117 percent.

Mr. President, none of the proposals that have been before the Congress this year resolve this problem in a satisfactory manner. The administration's program certainly did not, as I pointed out to the Senate when I called attention to the studies by Martin Anderson and David Meiselman. The welfare problem today has been created by the incentives that the Congress has established. We have created a market for our poverty programs by making welfare dependence more profitable than work.

I ask unanimous consent that the articles by Mr. Bartley and Congressman STOCKMAN be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

(Charts which appear in the articles are not reproducible in the RECORD.)

CAUTIONARY TALES FOR POVERTY POLICY

(By Robert L. Bartley)

Since the advent of the "War on Poverty," the Bureau of the Census has periodically estimated the number of Americans "living in poverty." Over the same time span, the Federal budget has displayed dramatic annual increases in transfer payments intended to maintain income and provide adequate food, shelter and medical care for the aged, infirm, jobless and impoverished. In laying these two sets of statistics side by side, one finds some cautionary tales for poverty policy.

In 1967, for example, the official estimate of the poverty population was 27,769,000, while transfer payments ran to an amount equivalent in 1972 dollars, to $47.1 billion. By 1975, transfer payments had grown in constant dollars to $115.6 billion, while the poverty population stood at 25,877,000.[1]

In other words, an expenditure of $68.5 billion had raised an additional 1,892,000 persons out of poverty. To raise one person above the poverty line—$4,430 in 1972 dollars—it cost some $36,000 annually. Given a median family income of about $12,000, this means that to raise one person from poverty, three American families must labor for a year and donate all of their income for the government to use in transfer programs.

The essential dilemma depicted in these numbers can probably be better understood graphically, as in Chart I. We see that the big increases in transfers since 1967 have failed to reduce officially defined poverty. Conversely, however, poverty numbers did decline smartly prior to 1967, when Federal transfers were only growing slowly. How can this be explained? Precisely what cautionary tale does the paradox tell?

It will pay to ask, first, whether these hard-to-believe numbers should be believed. A simple and surprisingly persuasive answer to the paradox is that the official statistics on poverty are wrong and misleading.

The Census Bureau definition of "poverty" counts only cash income toward the established "poverty line." The big surge in transfer payments since 1967 has been fueled by "in-kind" programs—food stamps, medical care programs and various housing subsidies. Presumably these programs benefit the poor, serving as an effective substitute for cash. But the official statistics simply ignore them.

This omission calls the Census Bureau figures greatly into question. And without these commonly used figures, we are without any meaningful guide to the extent of poverty. If the Census Bureau statistics do not measure poverty in any meaningful way, how would we ever tell if we succeeded in abolishing it? Indeed, how do we know that $68.5 billion did not succeed in abolishing it between 1967 and 1975?

Perhaps stimulated by this question, and explicitly addressing the "apparent paradox" of mounting transfer payments and stagnating poverty numbers, analysts of the Congressional Budget Office have done a study of in-kind transfers.[2]

The CBO estimated that with no transfer programs whatever, 21.4 million families, or 21 percent of all families, would have been in poverty that year. Social insurance and other cash transfers reduced this number to 10.7 million families, or 13.5 percent. This would correspond to the Census Bureau definition of poverty, and the Census estimated 13.8 percent of families were in poverty in the comparable period of calendar 1975. After adjusting for in-kind transfers, the deduction of taxes and estimated underreporting, the CBO concluded that the poverty population was 6.6 families, or 8.3 percent.

The CBO concluded that the transfer programs have been much more effective in reducing poverty than the "official" Census Bureau statistics show. Between 1965 and 1976, they estimated, poverty was reduced by 56 percent, rather than the 28 percent shown by the Census count.

The particular methods chosen by the CBO do not facilitate comparisons with other data. It chooses to talk not of persons but of families, "multiple-person families" and "single person families." Its adjustment of the Census concept to include Puerto Rico, not usually counted in these estimates, probably confuses more than it clarifies, given the special problems of the island commonwealth.[3] It estimates are only for year and denominated by fiscal year rather than calendar years.

Some perspective is possible, though, if on the basis of extrapolations from the Census figures, you assume that CBO's 6.6 million families represent roughly 15 million persons. Then the $68.5 billion increase in transfers between 1967 and 1975 reduced poverty by roughly 12 million persons. This is a far better record than the 1.8 million reduction the Census figures show. It means the cost of lifting a person out of poverty was about $5,700. For a family of four, however, this is equivalent to $22,800.

Another, and more optimistic, estimate of the effect of in-kind transfers arrays the figures in more accessible fashion. This was done by Morton Paglin, professor of economics and urban studies at Portland State University.[4] Professor Paglin's yearly estimates of persons in poverty after in-kind transfers are presented in Chart II. He finds that by 1975, the poverty population had been reduced to 6.4 million persons.

Professor Paglin also makes clear that his residual 6.4 million persons, or three percent of the population, would include households with a wide variety of special situations.

Retired persons living on savings;

Young or old households dependent on contributions from their families;

Recipient of transfers from wholly state and local income support programs, not included in the study;

Families formed after the reporting period, but before the interview period;

Families with accounting losses, but positive cash flow;

Those who qualify as poor by income tests, but who are excluded from in-kind transfer programs by asset tests; and

Those who do not wish to participate in the programs.

If Professor Paglin's estimates are right, remaining poverty is not so much a social problem as a statistical artifact. It may be that the "War on Poverty" has after all been won at least in terms of providing practically everyone a minimum level of support. This would be no inconsiderable victory, but even if true, most of the social pathol-

Footnotes at end of article.

ogies usually associated with poverty remain. The South Bronx is still obviously a dreadful place to live and so on. If poverty has been abolished, we will need a new rubric for describing these problems. Perhaps we suffer not from "poverty," but from "dependency."

Curiously enough, though, a great deal can be learned by laying aside the problem of defining poverty and accepting for a moment the Census Bureau estimates. In Chart III, a second and entirely different cautionary tale is evident. Poverty did decline rapidly, after all, before the big expansion of transfer payments started in 1967. And if you glance at Chart III, you can take the stagnation of the numbers since 1967 merely as the result of a stagnating economy.

While money income is no longer a meaningful measure of hardship, it would appear to be a rough proxy for the integration of the poverty population into the general economy. In the post-1967 period, Chart III suggests the relationship between economic growth and providing the poor with opportunities not only to escape severe hardship, but to become reasonably self-sufficient individuals.

There would of course be wide agreement that fast economic growth is a good way to fight poverty, but at this juncture few agree on what policies will produce fast economic growth. Here the issues of poverty merge with the entire field of macroeconomics, itself in vast disarray. This is far from the occasion for a comprehensive review of economic theory, but one general caution and one specific possibility seem particularly relevant to the issue of poverty and transfer payments.

The general caution is that our experience over the last few years suggests that we know a great deal less about macroeconomics than we once believed. Given the record budget deficits and slowish economic growth we have experienced, and given that internationally the nations with the largest deficits are those in the most trouble, it's difficult to sustain beliefs that manipulation of the deficit can "fine tune" an economy.[5]

While the inflation of the past few years has been accompanied and preceded by rapid money creation, it is much more difficult to find plausible monetary causes for recent perturbations in real growth, such as the 1973 boom and 1974 collapse. It becomes reasonable to speculate that while Keynesian and monetarist models succeed in past periods, something in their underlying assumptions no longer fits our current situation. Both are demand models, assuming that if economic policy creates sufficient aggregate demand, supply will be forthcoming. There is currently renewed interest in the other side of the classic equation. Perhaps something is retarding aggregate supply.

This leads to the specific possibility. If there are supply-side problems, the list of possible villains is a long one: the generally debilitating effect of inflation, inadequate capital investment, rapidly growing government regulation of business to further environmental and social goals. But this list of possible villains does also need to include the high levels of taxation needed to finance growing government expenditure, in particular surging transfer payments.

An important source of financing for the recent surge in transfer payments has been the government's "inflation dividend." As inflation leads to higher nominal salaries for the same real income, taxpayers are pushed up through the progressive tax schedule and the government takes a larger share of their real income. There are similar effects on business taxation.

By 1977, further, larger outright tax increases were being passed or contemplated by Congress and the Administration, to regulate energy use and finance Social Security transfers. By pushing the Social Security wage base up to levels where the progressive income tax bites sharply, the Social Security bill sharply increased marginal tax rates to be faced by the broad range of taxpayers as the tax increase phases in. Economists typically conclude that ultimately the employee bears both his share of the Social Security tax and his employer's. By this calculation, the final rates in the bill mean that a single worker making $20,000 would pay a combined marginal tax of more than 52 percent, while a working couple making $40,000 would pay a marginal rate of more than 62 percent.

The possibility that such levels of taxation may retard work effort and economic growth has not been seriously investigated. There are a number of reasons for this. The general emphasis on aggregate demand has led economists in other directions. Anecdotally, some high-income individuals seem driven not by financial incentives, but by personal neurosis.

What consideration has been given the incentive effects of taxation has started, and pretty much stopped, with the observation that there is an "income effect" and a "substitution effect." As marginal tax rates increase, a taxpayer may work less, feeling he gets less return from addition effort—the "income effect." On the other hand, he may work more to sustain a desire—standard of living—the "substitution effect." Few economists have thought enough about this to observe that when taxes finance transfer payments any substitution effect washes out over the population. You are left with the income effect and its incentive for less work and less production.

It is intriguing to look at foreign societies that have experienced the rates of taxation toward which the United States seems to be headed. In Britain, talk of a need for "incentives" for middle and higher managers is now endemic. Even the head of the Labor Party finds himself disavowing conventional Keynesianism.[6] And the most widely discussed recent work of economics, by young Oxford economists Robert Bacon and Walter Eltis, argued that Britain's problem has been too much public spending on non-productive enterprises.[7]

The case of Sweden is even more interesting. For some time, despite its high welfare spending and accordingly high tax rates, Sweden enjoyed the best economic growth in Europe. This seems to have been an artifact of high rates of capital investment, maintained through a social insurance fund. The Swedes decided that rather than financing social security on a pay-as-you-go basis as in the U.S., they would accumulate a portfolio of investments like a private pension. So tax rates were held above social security expenditures, in effect accumulating massive government surplus for reinvestment in the bond markets, thus providing funds for capital investment.

In the current world economic difficulties, though, the crash of the Swedish miracle has been particularly spectacular. Perhaps the problem was caused simply by a blunder, a classic risk of central planning.[8] But perhaps it is more systemic. Swedish businessmen report that their biggest problem is labor absenteeism. Leonard Silk, an economic journalist well versed in conventional Keynesian analysis, reports that high taxes are widely seen in Sweden as "sapping the initiative of both businesses and individual workers."[9]

Assar Lindbeck, one of Sweden's several world-class economists and in politics a Social Democrat, holds that, as paraphrased by Mr. Silk, "the root causes of the 'Swedish sickness' are those against which Professor Friedrich Hayek had warned during the Depression: that the welfare state, with its burgeoning social benefits and high taxation, would in the end arrest the dynamism of the economic system." There is reason to believe, especially since Mr. Lindbeck is an adviser to the selection committee, that the startling selection of the pre-Keynesian Professor Hayek for the Nobel Prize in Economics owes something to the Swedish experience with the welfare state.

Precisely what moral, then, do these cautionary tales leave for poverty policy? Surely not to abandon the effort to help society's disadvantaged. Their problems extend beyond mere sustenance, and surely one measure of a just society is providing the opportunity for solving them.

Beyond that, the poor have much to offer the rest of us. This society has been vastly enriched by succeeding generations of poor raising themselves not only to affluence, but to positions of importance. There is no reason to believe our current generation of poor will not succeed as well if provided at least the same opportunities.

The experience of the past few years, though, suggests that further huge increases in transfer programs are unlikely to fuel such an advance. Between 1967 and 1975, Federal transfers grew from five percent of GNP to 9.7 percent—ignoring state and local social welfare contributions and Federal grants-in-aid to state and local government, both of which also grew rapidly in the period.[10] Short of actual as opposed to rhetorical war, it is most unusual for anything to double as a percent of GNP in eight years. This growth is not likely to be repeated.

Nor is it entirely clear that the poor would benefit if it did continue. The poor will surely suffer from shrinkage of the economic pie to be divided between producers and nonproducers, and it is scarcely inconceivable that further large increases in transfer payments would have this effect. While our recent experiences teaches us to be wary of any economic "truth," we may be reaching levels of taxation that will hamper economic growth.

But here is also a bright side to the coin. Quite substantial resources are already available for easing the burden of poverty. One would have thought that an increase of $68.5 billion in transfer payments would have gone a long way toward easing a poverty deficit of $13.6 billion. One can understand that a certain amount of inefficiency is inevitable, and that the expenditure brought a measure of security for others besides the desperately poor. Still, something in the priorities was sadly wrong if such an expenditure did not provide sustenance for those who most needed it.

If the increase in transfer payments did not reduce the poor, as the Census Bureau would have us believe, then surely the next emphasis of poverty policy ought to be not pouring money into the same programs, but reforming them to deliver out what is put in. If the CBO poverty estimates are the accurate ones, the situation is less scandalous, but the programs leave plenty of room for more reforms. If, as the sheer magnitude of the spending would sugest, we have fairly well solved the problem of sustenance, it would perhaps be time to pause and celebrate. But it would also be time to think of redirecting poverty policy away from merely providing support, toward providing an opportunity to grow away from income transfers, toward an association between effort and reward, away from economic redistribution, toward economic growth, away from the goal of more equality, tward the goal of greater social mobility.

FOOTNOTES

[1] Figures for persons in poverty are from The Bureau of the Census. *Current Population Reports*, series P. 60, and are regularly published in *The Statistical Abstract of the U.S.* The figures on transfer payments are from *The Economic Report of the President* January, 1976, table B–67 converted to 1972 dollars by the GNP deflators in Table B–3.

A study sponsored by The Institute for Socioeconomic Studies finds that official calculations underestimate the amount of spending on income transfers. The institute calculates Federal transfers in 1977 at $250 billion in current dollars. *An Inventory of Federal Income Transfer Programs Fiscal Year 1977*. The Institute for Socioeconomic Studies. White Plains, 1978.

[2] Congressional Budget Office, "Poverty Status of Families Under Alternative Definitions of Income," *Background Paper No. 17*, June 1977.

[3] Puerto Rico, for instance, is particularly hard-hit by the U.S. minimum wage law, holding wages above its natural competitors in the Caribbean. Puerto Rican governments periodically urge a separate minimum for the Commonwealth.

[4] Transfers in Kind. Their impact on Poverty, 1959–1975. Prepared for Hoover institution Conference on Income Redistribution, October 7–8, 1977 (mimeo).

[5] C.f. "Keynes Is Dead," *The Wall Street Journal*, January 31, 1977.

[6] Prime Minister James Callaghan told the 1976 Labor Party Conference, "We used to think that you could spend your way out of a recession and increase employment by cutting taxes and boosting government spending. I tell you, in all candor, that the option no longer exists, and that insofar as it ever did exist, it only worked by injecting bigger doses of inflation into the economy followed by higher levels of unemployment as the next step. That is the history for the past 12 years."

[7] Robert Bacon and Walter Eltis, "Britain's Economic Problems: Too Few Producers," New York: *St. Martin's Press*, 1976. The book is adapted from the original series of articles published by *The Sunday Times* in 1975.

[8] Richard Janssen, "Trouble on the Road to Utopia," *The Wall Street Journal*, November 10, 1977.

[9] Leonard Silk, "The Swedish Sickness"—Gloomy Economic Picture," *The New York Times*, November 10, 1977.

[10] The Institute for Socioeconomic Studies will publish an inventory of all state and local income transfer programs devoted to income maintenance.

Welfare is the Problem

(By David A. Stockman)

Every session of Congress in the past decade has seen the start of a major effort to revise the tangled mass of transfer payment programs that constitute our nation's welfare system. Each of these efforts, including the one begun by the Carter Administration last year, has ended in a stalemate. The persistence of the stalemate is all the more remarkable in light of a near-universal perception of irremediable flaws in the existing system. The reasons underlying the rejection of such disparate approaches as the Nixon Administration's Family Assistance Plan and the Carter Administration's Program for Better Jobs and Income are only now becoming apparent.

Many serious watchers of the welfare reform debate on Capitol Hill have reached a consensus on the causes of the Congressional stalemate. This view, ably articulated by Senator Daniel P. Moynihan in a recent article in The Journal/The Institute for Socioeconomic Studies* holds that comprehensive welfare reform requires so many trade-offs that no one is able to muster the political skill to fashion a compromise acceptable to a majority of the competing factions. Consider just two of the seemingly irreconcilable sets of conflicting goals: the demands of state officials for fiscal relief vs. those of advocates of higher benefit levels and the program designers' quest or administrative simplicity vs. effective mechanisms for reducing fraud and abuse. Compromise has proven impossible.

However, as difficult as it may be to shape a politically acceptable formula for revision of the welfare system, the real obstacle to change is more fundamental. The legislative log-jam is only a political overlay masking a basic policy dilemma that is the true source of the stalemate.

A breakthrough in this policy conundrum may be in the offing, however. The revival of marginalist thinking in the public policy arena offers the promise of an Alexandrian sundering of the political Gordian knot. Sudden and unexpected Congressional support for the Steiger Amendment, which lowers the tax on income from capital gains, and the gathering momentum of the Kemp-Roth plan for a 30 percent cut in personal income tax rates indicate a renewed awareness of the power of government policies to shape individual behavior through incentives that influence decisions on the margin.

Former Wall Street Journal editorial writer Jude Wanniski succinctly described the marginalist perspective in a recent book bearing the modest title, The Way the World Works:

> As a general rule of the economic model, the only way a government can increase production is by making work more attractive than non-work * * *. The statement may seem childishly simple, but economists frequently argue that when individuals are taxed more they will work harder in order to attain a target level of income or wealth. These arguments can be supported by anecdotes, but cannot be true on the margin. If the person taxed works harder, then it follows that the person who receives the tax receipts works less, and there are thus neutral effects on income. All economists agree, though, that in addition to an "income" effect there is a "substitution" effect, and that clearly a worker substitutes leisure for work when his tax rate is raised.

What remains to be pointed out is that this response to high marginal tax rates is not confined to upper income investors or upwardly mobile middle income citizens. There is little reason to believe that the poor respond to high marginal tax rates any differently than the wealthy.

The More You Tax, The Less You Get

Although the poor can in most instances fill out a Form 1040 and end up owing the IRS only a tiny percentage of their income—if they pay any tax at all—they are nevertheless subject to marginal tax rates that match or even exceed the marginal rates faced by our wealthiest citizens. The marginal tax rate faced by welfare recipients results from the combined effect of the benefit losses and income tax liabilities that they incur when they increase their non-welfare earnings. Under the current AFDC-Food Stamp program, many welfare recipients face a marginal tax rate of 70 percent or more. For every dollar gained through increased work effort, they lose 70 cents through reduced benefits or increased income tax liability. At certain income levels, the marginal rate under the AFDC–U program (for families that include an unemployed father) exceeds 100 percent—gaining a dollar through increased work effort leads to a net loss in total family income. Faced with these astoundingly high marginal tax rates, the welfare recipient has come forth with an outpouring of creative effort and ingenuity that matches or even surpasses the kaleidescope of tax-sheltered investments devised by the wealthy. The difficulty is that such "tax avoidance" by welfare recipients is uniformly counterproductive, for society as well as for the recipients themselves.

There is a saying that goes "the more you tax something, the less of it you get." Nothing could more aptly describe the effect of the high marginal tax rates of the existing welfare system on the work effort of welfare family heads. Nor is the impact limited to work effort alone. High marginal tax rates introduce perverse incentives that erode family stability, decrease parental responsibility, and encourage welfare fraud among the beneficiary population. In short, high marginal tax rates are the analytical key to understanding the whole range of problems associated with the welfare issue.

The reduction of work effort is undoubtedly the most obvious effect. A dramatic example is provided by the programs in which families with unemployed fathers receive benefits. Under such programs, earned income in excess of $360 per year is taxed at a rate of 67 percent up until the point at which the father works 100 hours per month or more—the equivalent of a half-time job. After that point, the family is disqualified from further assistance payments altogether. Due to this absurd provision, a family in which the male head chooses to accept a full-time job at the same wage rate as the prior half-time job will actually suffer a net decrease in the take-home income once the loss of in-kind benefits such as Medicaid and food stamps is taken into account. No "culture of poverty" is necessary to explain why fathers of such families decline invitations for full-time employment. Confronted with this negative incentive on the margin, the male head of a welfare family will be as much of a "rational economic man" as any Wall Street banker could possibly be.

The situation is equally grim for female family heads over many income ranges of the regular AFDC program. A welfare mother in my home state of Michigan who chooses to go from a half-time to a full-time job at $3.00 per hour stands to reduce family income by better than $47.00 per month—a marginal tax rate of 117 percent!

None of the proposals that have been before the Congress this year resolve this problem in a satisfactory manner. The incremental approaches, despite expansions of the earned income tax credit to a wider family income range, only reduce the marginal tax rate from the 70–100 percent range to a more modest 60–90 percent range for the majority of welfare recipients. The response of the wealthy to such tax rates is to shield their income from taxation through tax preferences, accounting gimmicks, and non-taxable compensation. Lacking these mechanisms, the only way the poor can shield income is to conceal it illegally or take it in the form of leisure or other non-measurable, nontaxable benefits.

The President can claim with some justice to have sought to end the work disincentive faced by welfare recipients at the lower end of the income scale. The problem with the Administration welfare reform plan was that it went after this goal by broadening the income range subject to the disincentive-producing high marginal tax rates of the present welfare system. In effect, the President proposed that we export these high marginal rates to the middle class.

The primary cause of the highly undesirable "export" was the exemption in the Administration plan of the first $3,800 in family income from the benefit reduction formula. Welfare parents who took jobs in the $5,000 to $6,000 range would, by the Administration plan, have experienced a small loss in benefits. But if family income rose above this modest level, the benefit reduction formula in the Carter Program for Better Jobs and Income (PBJI) would take the character of a sharply progressive tax rate schedule. Income in the range of $6,000 to $12,000 would be taxed at marginal rates in the range of 55 to 65 percent. Thus, while the first increments of additional family income would be protected from the high marginal rates of the current system, the work disincentive effect reappears with undiminished vigor a bit further up the in-

*Volume III, Number 1, Spring, 1978

come scale. When combined with other features of the President's plan, such as the expansion of the earned income tax credit and a new payment to offset taxes for low-income workers, the $3,800 disregard would have ensured that a larger share of American families than ever before would become subject to the work disincentives now reserved for the very poor.

The work disincentive is not the only adverse effect of high marginal tax rates, however. An equally acute problem is the strong financial incentive for the dissolution of nuclear families in our present system—an incentive that would have been perpetuated under the President's PBJI.

The clearest incentive for family break-up is well known. Under the present system, particularly in the states that do not offer a welfare program for families including both unemployed parents, a father who is uninterested in working can provide his family with an income of as much as $6,000 annually by the simple expedient of absenting himself from the home and thereby enabling his wife to qualify for AFDC benefits and associated in-kind transfers. The PBJI, which offered almost two times as much in benefits to single women with small children as it does to intact families, would have done little to reduce this incentive to family dissolution and fraud.

The incentive for family dissolution is not confined to families with unemployed fathers, however, nor is it confined in its effect to families that would in the absence of the incentive be close to breaking up. The very same powerful financial incentives act on families with fathers who *do* want to work and who may have moderately well-paying jobs. For example, the State of Michigan, through its AFDC program, pays a "bounty" of nearly $4,000 per year to each family that causes its $9,000-per-year father to disappear—officially—from the household. Although the notion that adult couples would be willing to maintain an informal or episodic living arrangement in order to qualify for AFDC and secure a net gain in family income of $4,000 may offend middle-class sensibilities, every welfare caseworker can attest to the pervasiveness of this practice among the welfare beneficiary population.

The high marginal tax rates of the means-tested welfare system also erode parental responsibility in homes in which parents are legally separated. According to a comprehensive HEW survey of AFDC recipients, fully 83 percent of absent or non-supporting fathers potentially had earning or child support paying ability; that is, they were not dead, incapacitated, or otherwise unavailable. Nevertheless, only 5.6 percent were found to be subject to court-ordered child support payment obligations, and less than an additional four percent were providing support under a voluntary arrangement. Moreover, even the child support provided by this small fraction of fathers consisted primarily of token payments. Half of the court-ordered fathers were paying less than $75 per month—frequently less than $25—and nearly two-thirds of those under voluntary arrangement were paying $75 or less.

In short, only five percent of potentially capable, but absent, fathers were making more than token payments for the support of their own children. Of course, not all of the 90 percent of absent fathers failing to provide child support are delinquent in the strict sense. Large numbers fall into the "officially" separated category described previously. To some unknown degree, their children benefit from the combined pool of shielded earnings and transfer payments available to the family.

In the case of genuine separations—which undoubtedly number in the millions—the legal machinery for enforcing child support obligations is nearly worthless. Under both the existing program and the alternative proposals that came before the Congress this year, the tax rate on child support payments is 100 percent. The deserted mother thus has absolutely no incentive to seek out the father or to cooperate with civil enforcement authorities and the courts. Any amounts retrieved go to recoup the state's welfare costs or result in a dollar-for-dollar reduction in her benefit entitlement. It is little wonder that so few errant fathers are ever brought to task for turning their child support responsibilities over to the public welfare administrator.

Perhaps the most serious failing of the welfare system we have today, at least in the public mind, is the substantial amount of fraud and abuse it engenders. The most common forms of recipient fraud are concealment or non-reporting of assets or income in order to establish eligibility for benefits at higher levels and failure to report changes in financial circumstances in order to maintain eligibility.

The extent of fraud and abuse under the current system is remarkable only in that it is not even more widespread. The high marginal tax rates of the current system have raised the stakes for concealing income to a level that can justify quite a bit of risk. And just as with the Internal Revenue Code, the effect of these high tax rates has led to the creation of a labyrinthine structure of definitions and distinctions for the determination of what is "taxable"—in the sense of resulting in benefit losses—income.

The average AFDC caseworker manual contains over 200 pages of text setting forth the distinctions between income that results in reduced benefits and income that has no effect on benefits. This mass of paper grows apace as the system tries to take cognizance of ever finer shades of definition in order to achieve some rough equity. It is little wonder that state AFDC programs require more than 100,000 employees just to make payment determinations.

The high marginal tax rates of the present system contribute to administrative complexity in another way by establishing a strong countervailing force to the stringent behavioral standards for employable welfare recipients that require maximum "work effort." Legions of caseworkers and investigators are needed to ensure compliance with the work effort standards; this should not come as a surprise in a system that rewards work effort by taxing away most of the resulting earnings.

The irony in all this is immense. We offer strong financial incentives to welfare recipients to shelter a few hundred dollars in earnings from tax by concealing them. Then, we pay welfare workers $15,000 per year to ferret out fraud and bring it to the attention of $30,000-per-year prosecuting attorneys. This can never be a winning proposition.

THE "IRON LAW OF THE BREAK-EVEN POINT"

It would appear that the problems resulting from the high marginal tax rates of the present welfare system would be amenable to a simple solution. We could lower these high marginal rates to a level at which work disincentive and the encouragement of fraud and family break-up would disappear. But it would be necessary to bring the marginal rate to below 30 percent in order to produce any meaningful change—and that causes us to run into what may be called the "Iron Law of the Break-even Point."

The "Iron Law" is this: any system that establishes even a barely adequate minimum family or household benefit entitlement requires high marginal tax rates in order to keep the "break-even point" (the income level at which eligibility for public assistance would end) at a politically acceptable income level.

The following examples illustrate the operation of the Iron Law: if the minimum family benefit for a family of four is set at the near-poverty level of $6,000 and the marginal tax rate on earnings is kept to 25 percent, the break-even point is an annual income of $24,000. Under such a system more than two-thirds of all American families would receive some form of cash welfare payment! Even if the marginal tax rate is permitted to go up to 40 percent, the break-even point is nearly $15,000. This would include half of all families, a result that is no less politically unsalable than the first example.

Only a marginal tax rate of 70 percent or higher can lower the recipient population to a reasonable fraction of the total population. With the $6,000 benefit level, a 70 percent marginal rate yields a break-even point of $8,600 in annual income.

The incremental approach to welfare reform favored by the Carter plan sought to circumvent the operation of the Iron Law by placing a ceiling on income for entry into the welfare system that was below the break-even point for those already in the system. Thus, those who qualified for benefits by reason of an income below the threshold would retain benefits even after their income rose above the threshold. This permitted the imposition of a lower marginal tax rate on the efforts of welfare recipients to improve their earnings. This was only achieved, however, by dint of the serious inequity inherent in this device for restricting the eligible population to a reasonable level. Thus, two neighboring families might each have current incomes of $7,000. One would be receiving significant welfare benefits because its income had earlier been lower. The other would not qualify for any benefits.

Expedients such as this can ultimately offer little relief from the Iron Law. Inevitably the constraints of limited budgets make the adoption of low break-even points, with their companion high marginal tax rates, a necessity. The special House Subcommittee on Welfare Reform was forced to permit states that supplemented benefits above the Federal minimum level to raise the benefit reduction rate—the marginal tax rate for welfare recipients—from the 52 percent ceiling in the orignal Carter plan to 70 percent. Despite prodigious efforts, the Subcommittee was unable to free the basic means-tested welfare system from high marginal tax rates without raising the break-even point to an income level too high to be acceptable. Forced by the Iron Law to make a choice, they fell back upon high marginal rates.

A RADICAL SOLUTION: ABOLISH MEANS-TESTED WELFARE

The preceding analysis suggests that the recent comprehensive welfare reform proposals are variants of a single unviable generic design: means-tested family entitlements. Even variants such as the negative income tax, which eliminate the problems associated with high marginal tax rates, suffer from other ailments arising out of their dependence on the means test. In the case of the negative income tax, for example, the complexity of determining eligibility and the incentives for concealment of income would be essentially the same as under the current system.

It is thus evident that the only real solution to the problems of means-tested welfare for the working or work-eligible population is to simply do away with it. "Welfare" as we know it should be abolished for all but the non-working—the aged, blind, and disabled—whose eligibility can be ascertained by reference to physical characteristics.

This leaves us with some fundamental questions, however. Do we as a nation want some kind of transfer payment program for the working population. If so, how should such a system be structured?

Judging by the high level of government

resources currently committed to income transfer programs, and the consistent efforts of the Federal government to expand coverage under these programs, it is clear that there is an implicit consensus that transfer payments are appropriate for those with inadequate incomes.

Just as clearly, there appears to be a consensus that this policy derives first and foremost from our desire to protect children. Ensuring adequate income support for children is the focus of the AFDC program, as well as the original guiding principle behind the establishment of the personal exemption in the Internal Revenue Code. Unlike the many tax preferences subsequently added to the Code in lieu of reductions in the high marginal rates of the personal income tax, the personal exemption was never a backdoor means of lowering marginal tax rates. It was a Federal commitment to adequate resources for raising children.

The effective support level provided by the combination of the transfer payment programs and the personal exemption varies, however, by income. The high marginal tax rates associated with the transfer payments quickly reduces the level of public support for each child, which is restored only very slowly as rising marginal personal income tax rates increase the value of the personal exemption. By putting in place a system of universal child payments, we could satisfy this fundamental desire of society to provide for the support of children, while simultaneously doing away with the problems associated with the means-tested welfare system. The universal child payment system would eliminate all of the problems associated with high marginal tax rates, since no change in income status would affect eligibility. It would eliminate all the administrative complexity of existing welfare programs, since the only determination necessary would be to identify the proper recipient for each child. Because it would replace both our existing AFDC transfer payment system and the personal exemption in the tax code, the net cost of a universal child benefit system could actually be less than the cost of the existing system.

In addition to the implicit desire to provide for children evident from our existing welfare and tax policies, there are other major policies in favor of income transfer that indicate that our society is not content to allow the market to allocate income without offering some buffer. First, there are explicit transfer payment programs, directed at adults whose income falls below certain levels, such as food stamps and AFDU-U. More significant, there is the policy of redistribution implicit in the minimum wage laws, which prevents the market from valuing labor services below a level that provides a certain level of income with the intent of effecting a transfer of income within the market structure.

In combination, the overt transfer payment programs and the minimum wage laws have had devastating effects. The marginal tax rates of the overt programs result in tremendous work disincentives and the withdrawal of labor from the market. The minimum wage results in the foreclosing of job opportunities by preventing employers from hiring workers whose productivity cannot support a wage at the minimum statutory level.

Any program to repair or replace the existing benefit programs for adults will of necessity contain an element of income transfer. Perhaps the most likely candidate for a new mechanism for distributing benefits is some form of wage supplements implemented through a negative income tax withholding structure for low-wage workers.

A tax credit of perhaps 20 percent of gross wages earned, provided to low-wage workers immediately through a negative withholding tax, and phased down to allow positive taxes only at a level above the normal entry level wages for unskilled and semi-skilled jobs, would have a strong work incentive effect. Such a system would, like the universal child payment, have many advantages. The system would impose a negative marginal tax rate at the lowest ranges of the wage scale, giving very strong work incentives, while simultaneously encouraging the largest possible number of workers to participate in the taxable labor market. The importance of drawing workers out of the underground labor market, in which transactions escape all taxation through the use of cash or barter arrangements, cannot be overstated. Some economists have estimated the total annual value of goods and services in the underground or black market at $100 billion.

The negative withholding system would also enable us to put a freeze on the minimum wage. This would in time significantly expand labor market opportunities for low-wage workers, without sacrificing society's desire to see that every worker disposes of some minimum level of income.

Because the negative withholding system would attach to the workers and not to the family unit, it would encourage more than one family member to enter the labor market. It would actually be to the advantage of the family to have two workers with nominal wages of $3.00 per hour instead of one worker earning $6.00 per hour. The increased labor market attachment for low income families that this would produce would improve their ability to weather job losses by individual family members. A related positive aspect of the negative withholding system would be its complete neutrality in affecting family behavior, since family status would be irrelevant to eligibility.

The most attractive alternatives for welfare reform available to us thus take cognizance of the plain fact of the matter: means-tested welfare is unworkable and harmful. By moving to systems such as the universal child payment and negative withholding, we can shape incentives at the margin that lead to higher labor output, greater family stability, and a lesser burden on the economy as a whole, while still meeting the unstated but implicit policy goals of providing a minimum standard of living for those who cannot achieve it without some form of assistance.

BLOATED FEDERAL BUDGET PROMOTES FRAUD

Mr. HATCH. Mr. President, on September 6, Senators PROXMIRE, HATCH, HAYAKAWA, DECONCINI, BENTSEN, ROTH, STONE, HARRY F. BYRD, JR., and THURMOND proposed to cut budget authority in the fiscal year 1979 Budget by $17.7 billion. Members of the Budget Committee claimed that the committee had done its job and that there was no waste anywhere in the budget to absorb the small reduction that we proposed. Of course, we were not proposing that the budget be cut below the fiscal year 1978 level. We were only proposing that we increase the budget by slightly less than the 11.5-percent increase that the Budget Committee brought to the floor. It seemed to us that an increase in spending of 7 or 8 percent was plenty.

Not so, said members of the Budget Committee. Members of the committee pretended that without these large spending increases, vital Federal programs such as defense, social security, and education would be harmed.

Exactly 12 days later Elmer B. Staats, Comptroller General of the United States testified before the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs. Mr. Staats stated that the Government's economic assistance programs amounting to about $250 billion annually are full of fraud. Mr. Staats' exact words are:

> All indications are that fraud is a problem of critical proportion. Department of Justice officials believe that the incidence of fraud in Federal programs ranges anywhere from 1 to 10 percent of the programs' expenditures.

Well now how interesting. Looking at only one-half of the Federal budget all indications are that fraud ranges up to $25 billion. That does not include waste, or the fraud and waste in the other half of the budget. Yet, the Budget Committee claimed that it had done its job and that there was nothing to cut.

Just 5 days after our futile efforts to cut back Federal spending increases, the Milwaukee Journal editorialized on the enormous waste that has accompanied the pouring of billions of Federal dollars into American schools. That is the conclusion of a study by the Rand Corp. of programs financed under the Elementary and Secondary Education Act. The programs studied by Rand did not seem to work most of the time. The Federal money was used to develop new programs and techniques and then, in effect, bribe local school districts into trying them even when they did not mesh with local conditions or priorities. The Rand researchers found that many projects were started simply to obtain the money and not with any real intention of dealing effectively with local educational problems.

Yet, the Budget Committee said:

> We have done our job, and there is no waste in the budget.

Quite clearly, the Budget Committee has not done its job. The budget is full of fraud and waste and will continue to be as long as we hand out the inordinate billions and as long as the Budget Committee jumps all over any Senator who dares to try to cut the budget. In an editorial on September 14, 8 days after our efforts to cut the budget were defeated, the Richmond News Leader described the Federal budget as "a Comstock Lode for enterprising con artists."

All of this fraud and waste is the fault of the Congress and the Budget Committees. As long as we pour out billions of dollars more than there is any valid use for, these dollars will continue to fall into the pockets of con artists. Con artists now make up one of the largest beneficiary groups of Federal spending programs. Is that what the Budget Committee means when it claims it has done its job?

SHADOW OPEN MARKET COMMITTEE POLICY STATEMENT

Mr. HATCH. Mr. President, for the past 2 years I have been watching the policy statements of the Shadow Open Market Committee, a group of economists who comment on the Government's economic policy. Their predictions of the behavior of the money supply, rate of inflation, and interest rate have been ac-

curate. Their record certainly warrants our attention since so many other forecasts and predictions, particularly those of the Government, have been so far off the mark.

The current statement points out the contradictory policy statements issued by the current administration. There is clearly a lack of realism in dealing with the problem of inflation. It seems at times that the administration almost wants inflation to worsen so that there will be an excuse to implement wage and price controls.

I am distressed at the view, now represented on the Federal Reserve Board itself, that Government policy is not responsible for inflation. Obviously, the private sector is being set up as the cause of inflation so that wage and price controls become the appropriate cure. As I have said before, Government uses inflation and unemployment to increase its power.

If we actually want to reduce inflation, it is a simple matter. The Shadow Open Market Committee recommends that we take action to reduce the growth in monetary expansion, reduce the growth of Government spending below the growth of private spending, and reduce all tax rates in order to encourage the output of goods and services.

The committee's statement makes it clear, once again, that monetary expansion does not reduce interest rates.

Mr. President, I recommend the committee's statement to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

(Charts which appear in the article are not reproducible in the RECORD.)

POLICY STATEMENT: SHADOW OPEN MARKET COMMITTEE

The government's economic policy has produced the results we predicted. Inflation has risen from 4¾% in 1976 to between 7% and 8% this year. The increase in the rate of inflation is now reflected in higher interest rates, a sinking dollar and increased demands by labor for compensatory wage increases. Long-term interest rates are near the highest levels in a century.

Neither the Administration nor the Federal Reserve has developed a policy capable of slowing the rate of inflation. The Administration proposes or adopts one stopgap after another. None of their programs or proposals to limit price or wage increases has more than a temporary effect on the measured rate of inflation. The Federal Reserve continues to chase interest rates to higher levels by rapidly creating money. The Federal Reserve and the Administration confuse public discussion by misinterpreting the rise in interest rates as evidence of restrictive monetary policy and by opposing policies to reduce monetary growth. Figure 1 records the results of Federal Reserve monetary policy since 1960.

Measures to "defend the dollar" by selling gold, drawing on IMF balances, using swap arrangements, or encouraging foreign borrowing by domestic banks at best, buy time. But time that has been bought has been squandered. The Administration and the Federal Reserve have not developed any effective policy to lower the rate of inflation permanently and to prevent further acceleration.

We are drifting without a program or a goal. One month, the Administration wants tax reduction to stimulate spending; the next month, increases in spending in fiscal 1980 are to be held to the lowest level in decades. One month, the U.S. is a tugboat pulling the rest of the world onto the seas of higher growth; the next month, there is talk of "defending the dollar" and restricting imports from the economies we intended to stimulate. One month, the Federal Reserve announces a target rate of growth of money; the next month, the target is exceeded and ignored.

The experience of the past several years should remove any remaining belief that the government can fine tune the economy. The risk of recession has increased and the threat to economic freedom has grown. Inflation has risen and the long-term growth rate has fallen.

THE PAST FIVE YEARS

The Shadow Open Market Committee first met in the fall of 1973. We were concerned then by the lack of consistent direction in government policy, the resort to controls, the high growth rate of money and the failure of government to develop a long-range program to reduce instability and inflation. Now, five years later, we find again the same high growth rate of money, a renewed drift toward controls, a much larger budget deficit and higher inflation.

At our first meeting and many subsequent meetings, we warned that inflation would not be reduced if we continued to follow stop and go policies. We predicted as early as 1975 that continued large federal deficits financed by debt would "crowd out" private spending and reduce the rate of investment and the growth of real income. In the fall of 1975, we recognized that economic capacity had been reduced by the oil price rise and challenged the then standard view that the economy was in a deep depression comparable to the depressions of the thirties. We argued then that the standard measurement of the output gap—the gap between actual and potential output—was misleading and that policies that relied on published measures of idle capacity would produce excessive stimulus and higher inflation. In March 1977, we warned against the return to fine tuning, predicted that the increase in money growth would bring increased inflation in 1978 and 1979, and pointed out, again, that there would be no large increase in investment spending if the government budget deficit averaged $50-billion or more in 1977 and 1978 as then seemed likely. Our recommendations for monetary policy are shown in Figure 2.

Our predictions regrettably have come true. Investment has remained relatively low. Policies to stimulate consumption did not produce an investment boom. The government was not able to increase output first and slow inflation later. The economy, as we predicted, has come close to economic capacity with a large budget deficit, a rising rate of inflation and slow growth of productivity.

THE NEXT FIVE YEARS

The policy of gradualism in reducing the growth rate of money in 1974 and 1975 brought the increase in consumer prices down from about 11% in 1974 to an average of 5¾% in 1976. The economy recovered. The dollar exchange rate remained stable. If we had avoided the burst of government spending and excessive money growth in the last two years, we would have continued to receive the sustained benefits that could have been achieved only if government policies had been stabilizing. The monetary expansion of the past year and a half renewed excessive stimulus. These policies have continued too long to be abruptly halted.

We propose four steps to end inflation and restore stability within the next five years.

One, the rate of monetary expansion in the past year has been 7.75%. We urge that the rate be reduced to an annual rate of 6% over the next year. The stock of M–1—currency and demand deposits—will average $376-billion in the third quarter of 1979 if the 6% growth rate is attained.

Two, we recommend reduction in the average rate of monetary expansion by 1% a year until a noninflationary rate of monetary expansion is achieved. The Federal Reserve should publicly commit monetary policy to this stabilizing long-term course in order to fulfill its legal responsibilities under the Federal Reserve Reform Act of 1977. Abandoning interest rate targets and controlling the monetary base—currency and bank reserves—is the single most important step the Federal Reserve must take to meet those responsibilities. This change in Federal Reserve procedure should be adopted forthwith.

The Federal Reserve proposes to permit transfers between consumer-type time and demand deposits on November 1. If the change occurs, the reported short-term growth of M–1 will fall. This fall should *not* be interpreted as part of the reduction in M–1 growth that we recommend and should not be an excuse for acceleration of the growth rate of the monetary base. No misinterpretation will result if the Federal Reserve shifts its procedure to control the monetary base.

Three, the Congress should implement the Administration's pledge to reduce the growth of government spending below the growth of private spending during the next three fiscal years. Growth of government spending should be reduced enough to produce a steadily declining absolute deficit.

Four, to encourage investment and output, the Administration and the Congress should reduce all tax rates, individual and corporate, to offset the full effect of inflation on all taxpayers. Real taxes in future years should be no higher than they would have been if there were no inflation.

SHADOW OPEN MARKET COMMITTEE

The Committee met from 1:30 p.m. to 8:00 p.m. on Sunday, September 10, 1978.

Members:

Professor Karl Brunner, Director of the Center for Research in Government Policy and Business, Graduate School of Management, University of Rochester, Rochester, New York.

Professor Allan H. Meltzer, Graduate School of Industrial Administration, Carnegie-Mellon University, Pittsburgh, Pennsylvania.

Mr. H. Erich Heinemann, Vice President, Morgan Stanley & Company, Inc., New York, New York.

Dr. Homer Jones, Retired Senior Vice President and Director of Research, Federal Reserve Bank of St. Louis, St. Louis, Missouri.

Dr. Jerry Jordan, Senior Vice President and Chief Economist, Pittsburgh National Bank, Pittsburgh, Pennsylvania.

Dr Rudolph Penner, American Enterprise Institute, Washington, D.C.

Professor Robert Rasche, Department of Economics, Michigan State University, East Lansing, Michigan.

Professor Wilson Schmidt, Department of Economics, Virginia Polytechnic Institute, Blacksburg, Virginia.

Dr. Beryl Sprinkel, Executive Vice President and Economist, Harris Trust and Savings Bank, Chicago, Illinois.

Dr. Anna Schwartz, National Bureau of Economic Research, New York, New York.

Mr. HATCH. Mr. President, I thank the Chair, and I thank the distinguished minority leader.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no further request that I am aware of. I

once again yield back the remainder of my time under the standing order.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The Senate continued consideration of the bill.

Mr. BAKER. Mr. President, is there an amendment pending before the Senate?

The ACTING PRESIDENT pro tempore. No, there is not. The senior Senator from Maryland is supposed to be recognized at this time for the purpose of offering an amendment.

Mr. BAKER. Mr. President, it is my understanding that the distinguished Senator from Maryland is on his way to the Chamber at this time. Rather than delay the Senate at this time, what I propose to do, if the distinguished chairman and manager and the majority leader agree, is to call up the amendment. I understand now that a copy of the amendment may not yet be at the desk; is that correct?

Mr. President, at this point, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 1929

(Purpose: To restore House provisions with respect to impact-aid program)

Mr. BAKER. Mr. President, is a copy of the Mathias amendment which was the subject of last night's order now available at the desk?

The ACTING PRESIDENT pro tempore. It is now.

Mr. BAKER. Would it be in order, under the unanimous-consent order, for the clerk to state the amendment at this time?

The ACTING PRESIDENT pro tempore. It would be in order for the Senator from Tennessee to call it up on behalf of the Senator from Maryland.

Mr. BAKER. Mr. President, I call up the amendment of the distinguished Senator from Maryland now at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. MATHIAS, proposes unprinted amendment No. 1929.

On page 23, lines 21 and 22, strike out "$769,100,000" and insert in lieu thereof "$823,400,000".

On page 23, line 23, strike out "$693,600,000" and insert in lieu thereof "$747,900,000".

On page 24, line 1, beginning with the colon, strike out through "section" on line 7.

On page 24, line 9, strike out "$30,000,000" and insert in lieu thereof "$33,000,000".

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I called up this amendment, which deals with impact aid, because I feel very deeply that we have a responsibility to the children of this country and to the country itself. When we talk about the strength of a country, we are only talking about the strength of the people of the country. If we want the next generation of Americans to be strong and the country to be strong in the next generation, we, in our time, have to do our part in seeing that they receive the proper training, the proper education, and the proper schooling, and cutting costs on education is not the way to go about achieving that goal.

I am well aware of the chill winds that have blown out of California. I understand about that chilly breeze in California, proposition 13, and I know that many people around here are shivering, and they are scared. But I do not think we ought to take out our concerns, our very legitimate concerns, very real concerns, in this regard on the children of America. I do not think we ought to put our own job security above our responsibility to the children of America. We ought to put job performance in the U.S. Senate above job security in the U.S. Senate.

That is really what we are faced with in considering this amendment, doing the right thing by the children of America. In the committee, I certainly concurred with our distinguished chairman, the very able Senator from Washington (Mr. MAGNUSON), in his observations that the impact aid program is in need of study and of revision. The Senator from Washington has held that view for some time and I have held that view for some time, and I think we are both in perfect agreement on that. I stand ready, as I have told the distinguished chairman before, and I tell him again at this moment, to join with him in looking in a reasonable and rational way at what we need to do. But the fact is that both the Senate and the other body have passed legislation which authorizes again the impact aid program in the form in which we have known it.

I believe the conference committee is meeting at this very moment on the elementary and secondary education amendments of 1978 to resolve differences between the two Houses.

I have the utmost confidence that the two chairmen, the Senator from Rhode Island (Mr. PELL) and the gentleman from Kentucky (Mr. PERKINS), will find a way to resolve the differences, to deal with the current problems, and with the inequities in the impact aid program.

We are here meeting this morning early to deal with this money question while that conference is in progress. What I am suggesting, Mr. President, and I urge upon my leader, my chairman, is that we adopt this amendment which will not interfere with the deliberations of the Senate Human Resources Committee and the House Education and Labor Committee.

The Senate Appropriations Committee bill would instruct the Commissioner of Education to make available for payments of "A" and "B" children no more than was made available in fiscal year 1978. To the extent that this would require reductions in both A and B entitlements through tier 2, those reductions would be achieved through proportionate reductions of the entitlements of all districts as calculated for fiscal year 1979.

My amendment includes $856,400,000 for school assistance in federally affected areas, the same as the President's budget request and the same as the House provisions with respect to the impact aid program and how that money should be disbursed in keeping with the current law.

The President's budget, that is all we are asking for. Let us support the President in this matter.

The amount requested of $811,400,000 is sufficient to fund the same level of operations as in fiscal year 1978, that is through the second payment tier as authorized by the basic law. This would provide payments ranging from 88 percent to 100 percent of entitlement for about 360,000 children who reside on and whose parents work on, Federal property, category A. Payments for about 1,370,000 children who either reside on, or whose parents work on, Federal property, category B, would range from 53 percent to 60 percent of entitlements. Another 725,000 low-rent public housing children in both categories would receive 25 percent of entitlement as specified in the basic law. Full funding of $63,500,000 is provided for approximately 42,000 children residing on certain Federal properties in States where, due to State law or for other reasons, local school districts are unable to provide suitable free public education for such children.

Funds are also included for special payments to school districts whose entitlements are reduced due to closing Federal military installments or due to the number of out-of-State and out-of-country schoolchildren.

In addition, $33 million is to be used for school construction, $16 million which will be used for school facilities in Indian lands and $13 million will be used for school construction where local educational agencies cannot provide classrooms for children residing on certain Federal properties. Four million is provided for local schools heavily impacted with federally connected children. This will provide 259 classrooms and facilities to house 7,500 children.

My amendment also includes $12 million requested for disaster assistance to local school districts.

I would just say one further word, Mr. President. When we discussed impact aid during the debate on the authorizing legislation, there was criticism of it. An illustration was given that I think needs to be repeated, that Amy Carter is one of the people who is used as a statistic in

computing impact aid for the District of Columbia. I think that is unfair.

It was suggested that the President of the United States gets a large salary, that he gets a large house to live in, he gets many perquisites. It was sort of suggested the President would get something out of impact aid, that the President's perquisites would be enlarged because Amy Carter goes to the public school in the District of Columbia and she is part of the statistics for impact aid.

Mr. President, I think that is unfair. The President is not going to get anything because the District of Columbia gets impact aid.

Amy Carter is not going to get anything because her father works for the Federal Government and she becomes part of the federally impacted aid picture. They do not get anything extra.

But what is important is where there is a Federal activity which occupies property which is, therefore, exempt from local taxation, occupies property which might otherwise be occupied by a tax-producing private industry, which would not only pay real estate tax but would pay a corporate franchise tax, would pay a corporate income tax, would produce a payroll, and let me say that in many cases the Federal employees, as in the case of Members of Congress residing in the District of Columbia, are exempt from local income tax.

If all of these things were not true, the District of Columbia would be receiving a different kind of revenue and it would be a different picture.

So I think there is a basic fairness, a basic equity about this.

I do not think it is the best system and, again, I want to renew my pledge to the Senator from Washington, my chairman, that I think we can make it better. But I do not think we can make it better between now and October 1, and that is really our challenge.

I think we have to go on for 1 more year. Let us in that year, Mr. President, promise the Senate and promise the country that we will make it better by the time we get to this point next year. But, for now, let us accept the President's budget request and let us do the job we need to do for the children of America.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield.

Mr. ROBERT C. BYRD. Would it be possible to enter into a time limitation on this amendment? Would the offeror of the amendment be willing to enter into a time limitation on this amendment?

Mr. MATHIAS. I would be happy to.

Let me say that I would hope that all Senators, and I would hope that the staff who are advising Senators, would take note of the fact that we have a table here which will show us the level of funding which would result from the adoption of this amendment.

While I am sure that the Senator from Washington will be very eloquent in his remarks, I suspect——

Mr. ROBERT C. BYRD. He always is.

Mr. MATHIAS. He always is.

Mr. ROBERT C. BYRD. Very persuasive.

Mr. MATHIAS. Very persuasive, and I shudder, I tremble, when he rises to his feet.

Mr. MAGNUSON. Are you buttering me up a little bit?

Mr. MATHIAS. But with all due respect to the Senator from Washington, and to my own efforts, I suspect that this table indicating to Senators how their States are going to fare under this amendment is going to be more persuasive than anything I can say, and maybe almost as persuasive as what the Senator from Washington will say.

I say to the majority leader that as we enter into a time agreement, I want to be sure that Senators have an opportunity to study that table. There will be just about enough time for that.

Mr. ROBERT C. BYRD. Could we agree on, say, 2 hours on an amendment, or 1½ hours, equally divided—not including the statement by Mr. BELLMON?

Mr. MAGNUSON. Mr. President, the Senator from Oklahoma wants to speak on this important matter, as do the Senator from Maine and I believe the Senator from Florida. I do not know how many Senators want to speak in favor of the amendment of the Senator from Maryland—perhaps two or three. Say, 2 hours.

Mr. ROBERT C. BYRD. Two hours, equally divided.

Mr. MATHIAS. It would be 2 hours from this hour?

Mr. ROBERT C. BYRD. It would be 2 hours, because we have to remember the natural gas conference report. If any Senator comes in and wants to speak on that, he would be entitled to do so, and the time on the Senator's amendment would not run during such time. Is that agreeable? Two hours on the amendment, to be equally divided between Mr. MATHIAS and Mr. MAGNUSON, and it would not include the time that Mr. BELLMON speaks.

Mr. MATHIAS. I would be glad to include Mr. BELLMON's time, if we measure the time from 9:30.

Mr. ROBERT C. BYRD. Yes. Is that agreeable?

Mr. MAGNUSON. All right.

Mr. ROBERT C. BYRD. Mr. President, I make that unanimous consent request—2 hours, beginning at 9:30.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. BELLMON. Mr. President, will the Senator yield me 5 minutes?

Mr. MATHIAS. Gladly.

Mr. MAGNUSON. I yield to the Senator.

Mr. MATHIAS. I will yield to the Senator from Oklahoma, even though he opposes me. I respect his views, even though I do not agree with him.

Mr. BELLMON. I thank the Senator from Maryland. I am sorry that we cannot agree on this matter.

Mr. President, I have before me the table that the Senator from Maryland has prepared in support of his amendment. I note that the State of Oklahoma stands to benefit in the amount of $1,380,000 and the State of Maryland by $810,000. So it is obvious to me that the State of Oklahoma has an even larger opportunity to gain from this amendment than does the State of Maryland.

Nevertheless, I must oppose the amendment for one reason, and it is this. Through the work of the Appropriations Committee, as well as the Budget Committee, we have made a concerted effort this year to hold down the size of the deficit. When President Carter sent us his budget last January, he anticipated a deficit of more than $60 billion. Since that time, there have been some reestimates which have reduced that amount; but there has also been a great deal of very hard and sometimes painful work by members of the Appropriations Committee, under our distinguished chairman, the Senator from Washington (Mr. MAGNUSON), as well as a great deal of work done in the Budget Committee, in an attempt to hold the deficit, and reduce the inflationary pressures which are causing such serious concerns in the country.

None of those reductions in spending is pleasant, and everyone who is affected by them could do as the Senator from Maryland has done—come in with amendments to restore the cuts or even to increase figures above the President's original requests. But if we do that, we are going to be back with a $60 billion deficit, and we will have defeated the objective we had when we undertook this work at the beginning of this legislative year.

The amendment which Senator MATHIAS has offered would add $54 million to the impact aid bill. It would restore the reductions that the committee made in impact aid. We did cut below the President's recommendation, but it is not a cut below last year's level.

In fiscal year 1978, the appropriations for impact aid were $738,946,000. The recommendation now before the Senate is for an increase of $7,286,000, making the total $746,233,000.

The point is: We have not cut impact aid. We actually have added, although we added a smaller amount than the President requested and a smaller amount than the Mathias amendment would provide.

We have succeeded in cutting the deficit by $21 billion by taking this kind of action in many programs. If we start now to put back these amounts, piece by piece on every bill that comes before the Senate, we will wind up with a deficit in the $60 billion range; and we will add to the inflationary pressures that we all are determined to help control.

The bill before us—before the Mathias amendment—actually represents an impact aid increase in 36 States. It certainly is not a cut, in the judgment of the members of the Appropriations Committee. It is a reasonable approach to the impact aid question and I believe adequately takes care of the responsibilities the Federal Government has toward educating the children who come from families whose breadwinner is employed in a Federal institution or a Federal establishment.

So, Mr. President, much as I dislike doing so, I must oppose the amendment of the Senator from Maryland, and I

hope the Senate will stand by the level set by the Appropriations Committee. This is only one of many, many areas where slight reductions from the President's requests were made.

Unless we stand with the levels set by the Appropriations Committee and the Budget Committee, we will wind up having to increase our deficit and in this way defeat the work these committees have done over many months.

I strongly oppose the addition of this $54 million.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MAGNUSON. Mr. President, I oppose the amendment, for the same basic reasons that the Senator from Oklahoma has outlined.

It is of little use for me to talk just to the Senator from Maryland. No one else is here at the moment to listen to us.

Mr. MATHIAS. Mr. President, the Senator from Maryland would benefit by that and would enjoy that.

Mr. MAGNUSON. The record should be made clear. The Senator from Maryland graciously said that he would be helpful to us—to the Senator from Oklahoma and the others on the committee—by urging the legislative committee to take a look at the whole impact aid matter. How many times have we heard that on the floor? Over and over and over again. And yet they never do it.

The distinguished former Senator from New Hampshire, Mr. Cotton, started this long before I did. I told the committee I am a little embarrassed about this matter because I started impact aid. I had no idea it would get so far out of hand.

Mr. MATHIAS. It was a great achievement.

Mr. MAGNUSON. It happened that we were building Grand Coulee Dam in my part of the country, and it was located in a county that had nothing but sagebrush and jackrabbits, and there was no local tax base at all. All these Federal workmen came in, with their children, and there was no place to go to school. The county did not have a nickel. Because it was a Federal project, I suggested impact aid.

Later, it went to military establishments. The distinguished lady from Maine proposed the first impact aid for a military establishment. They were building a big air base in the northern part of Maine.

Mr. MATHIAS. Limestone, Maine.

Mr. MAGNUSON. It again was a poor county, without any local tax base at all.

However, impact aid has come to the point that it just grows and grows and grows. No one would like it better than I would—I am sure the Senator from Maryland would agree—if the legislative committees were to try to work out some formula that is more equitable in this matter.

Mr. MATHIAS. I concur.

If I may answer the Senator, he says that we say 1 more year, and we never get to 1 more year. It reminds me of a former colleague of mine in the Maryland legislature. He made a lifetime career by saying, "Just one more term."

I suggest to the distinguished Senator that he now is in a position to turn the screw on this. He is the chairman of the Appropriations Committee; and if he wants hearings on this subject for January or February, they will happen. So he can set the pace here.

Mr. MAGNUSON. I do not think it is the province of the Appropriations Committee to call hearings on a legislative matter. That is the whole trouble with this bill. We are getting to be a repository of every controversial subject that becomes stalled in the legislative committees. They do not even come to testify before us. They wait until the bill gets to the floor, and then they throw in everything but the kitchen sink that they cannot get done someplace else.

We are not touching the legislative thing. But I say for the record that naturally the table the Senator has is a very good one. If we add $54 million to the bill every State is going to get a little more. That is obvious. So he put down here great big amounts. The Senator tempts me. My State would get $1,554,631.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. MAGNUSON. Just let me finish.

But under my proposal my State would lose $21,000.

Someone out there is going to say I am working against the interests of my own State, but I think they get enough impact aid. What are we talking about?

Mr. MATHIAS. Could I defend the chairman just on that point 1 minute?

Mr. MAGNUSON. All right.

Mr. MATHIAS. The Senator talks about his State losing. I do not want the citizens of Washington to think that the Senator has not protected them, and I think they should know that the Senator has taken care of their interests. As to his State, yes, it looks like they would lose $21,000 under the table, but if one looks at page 24 of the bill he will find this language:

> That notwithstanding section 421A(c)(2)(A) of the General Education Provisions Act, the Commissioner of Education is authorized to approve applications for funds to increase school facilities in communities located near the Trident Support Site, Bangor, Washington....

Mr. MAGNUSON. That is a special case.

Mr. MATHIAS. That is a special case.

Mr. MAGNUSON. That is a special case like if they started to build on the Chesapeake Bay a submarine base. I would join with the Senator from Maryland in getting impact aid.

Mr. MATHIAS. I join with the Senator from Washington in this one.

Mr. MAGNUSON. I am talking generally. Let us get the figures here. In other words, some of us just think we have to make a start to bring some order to impact aid. If the legislative committees meet in the meantime parallel with us, that is fine. But the administration, every administration for the past 20 years, has recommended to Congress that we cut out so-called B students altogether. We have never accepted that because the law is written in the nature of an entitlement. I will agree with that. The law states that we have to do so much for one category before we can do so much for another category.

What are the figures? Last year we appropriated $738,964,000 for impact aid. The Senate committee recommendation is $746,232,000. So we have added to it. We have added $7,286,000 to last year's funding level for impact aid.

But that is $57.3 million less than the budget request. The State allocations under that budget request would have allowed Maryland an additional $604,000 on top of $29,577,000.

In my own State, the budget request would allow $19,679,000 and with our recommendation $19,658,000 or $21,000 less.

So I do not think that is any great cut.

California would lose $350,000. West Virginia would lose $29,000. Kentucky goes up $2 million.

I mentioned Maryland would lose $604,000. Mississippi would go up a little. North Carolina, even with the amendment, goes up a plus from last year of $1,337,000 above last year.

I think we could have sustained a bill, just going back to last year's figure, but there is an increase in school enrollment a shift in some districts and as we increase defense programs here and there, there are just more people and more true impact.

So we thought this was a reasonable cut.

In 38 States there would be an increase over last year and the remainder would have a decrease but a very, very little amount.

I am going to defend the Senator from Maryland. I do not blame him either because Maryland gets a cut of about $604,000. That is one of the larger cuts. It still leaves Maryland about where they were last year. But cuts their expected amount by a little over 2 percent.

There is no other one in that amount. Let us see. There are very, very few. California is cut only $350,000. But there are 38 States that get more, and only three with cuts of $100,000 or more.

This recommendation has nothing to do with proposition 13 at all.

I have been trying to get some order to impact aid for 7½ years. I am a little ahead of proposition 13. Someone in a newspaper called me a closet conservative the other day. But I suppose that is due to the fact that the Senator from Maryland and I have tried to use some good judgment in a very sensitive field of handling social needs in this country. That is difficult. We have to add to it. That is why this bill has always been in trouble because it deals directly with people and human needs and services.

I am hopeful that the Senate will at least stay with us on this for a reasonable attack upon the inequities that now exist in impact aid. Help us to retain this program for those areas of real impact and call a halt to this wild growth that imperils the whole program. And it may do what the Senator from Maryland and I want to do and certainly hope to do.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. MAGNUSON. In just a minute.

It may lead to the legislative committee trying to do something about it, and then we will have no complaint. If they want to change the formula we will abide by it.

But the Senator from Maryland realizes that there are some great inequities and that is true across the Nation.

I think there are about 16,000 school districts in the United States. I will get the exact figure. But impact aid is spread so much that out of 435 congressional districts, 435 in the United States, 432 get impact aid. I do not know what happened to the other three. Those poor Congressmen are in trouble, are they not? It is 432.

Mr. CHILES. Under the bill that came out of the Senate Education Committee, the authorizing committee, I think those three would have been taken care of. Everyone has a postal worker.

Mr. MAGNUSON. They would have been taken care of.

Mr. CHILES. Yes, I think they would.

Mr. MAGNUSON. Whether there are any military establishments or anything else there.

Mr. CHILES. As long as there are these post office workers.

Mr. MAGNUSON. If they had a post office, they will be taken care of. Yes, there would be a Federal employee in the post office. That would be counted.

I am just hopeful that we make a start. It is not a great cut. It is a start to tell people that we are going to do something about impact aid and the inequities that are involved.

My State is going to take a cut. I will probably hear from them. I report again, in 1978 there was $738,964.000 in the bill and with our recommendations there is $746,232,000. We have gone up a modest amount.

Mr. CHILES. Yes.

Mr. MAGNUSON. I think that is enough.

Mr. CHILES. I just wanted to mention that.

Mr. MAGNUSON. The Senator from Florida and I would have liked to go right back to last year's level, would we not?

Mr. CHILES. Yes.

Mr. MAGNUSON. All right. I yield to the Senator from Florida.

Mr. CHILES. I thank the distinguished chairman for yielding.

Many of us feel that impact aid is tremendously important. It is important to my State. In my State some counties, because of the Federal bases and Federal installations that are there, the county school boards regardless of the mileage they assess and regardless of the property taxes they levy. there is so little land that is in the private domain—most of it is encompassed in the bases and the Federal installations—that without the help of impact aid, there would be no way they could have comparable schools.

At the same time, there are areas in my State that are getting impact aid, and they are delighted to have that impact aid, but they are not getting that because of a true hardship, and they are not getting it because they do not have the ability to levy or to raise the taxes themselves. They are getting it because of some of the changes we have made in the formula to open up this program to all kinds of areas that were not even in our thoughts when we were first talking about passing impact aid.

I think there is no doubt about it, the program is going to be discontinued altogether, and I think what the Senator from Washington was attempting to do and certainly what the Senator from Florida was attempting to do, was to recognize there are valid purposes for this program, and that is why it was created. We do not want to see it destroyed, but we also recognize that if we continue to load this program up it is not an impact aid program anymore at all. It is just another way of putting out funds, and before long it is going to be terminated, and that is going to work a great hardship on those areas of our States that have a real reason because of an impact of a Federal installation or Federal presence to have that program.

Since 1950 the program's original eligible participation has increased from 440,000 to 2.5 million or about 5.5 percent of the Nation's total public elementary and secondary students. This is primarily because of the change in the authorizing law.

I just wanted to point out one other thing, and I hope the Senator from Oklahoma gets an opportunity to participate in this debate.

Mr. MAGNUSON. He was here earlier.

Mr. CHILES. He put amendments in on the education bill when it came out, the authorizing bill, and those amendments knock out this way of saying all of this has to be tiered together where we cannot look in the Appropriations Committee at one of the areas and make a determination as to which of the areas or which ones should be funded or ones which should be funded at what kind of a proportionate rate, but that we have to now sort of cut this across all the areas. That is one of the problems of this debate today, that requirement that we have to spread a cut across all of the areas.

I would certainly hope from this debate today that we can again express the will of the Senate that the Appropriations Committee be given the ability by knocking out this tier system to be able to do a comprehensive study, together with the authorizing committee, the Human Resources Committee, and determine what is the area of impact aid that still has a valid purpose and that should be funded and should be taken into account, and in what areas are we talking about again some kind of a special revenue-sharing formula which does not come under the heading of impact aid.

I hope we will have that ability to do that if our Senate conferees stand firm on the Bellmon amendments.

Mr. MAGNUSON. I just want to say this, and I will then yield to the Senator from Maryland. We are going to have to go to conference with the House, and we may not be successful in keeping the full amount of our reduction.

Mr. MATHIAS. I would hope not.

Mr. President, if the Senator from Florida will yield——

Mr. MAGNUSON. That is no reason not to vote this up or down on the merits.

Mr. MATHIAS. We always should make our decision on the merits, not on the kind of jockeying which has to go on with the other body later on.

But I think the Senator from Florida has said some very thoughtful things, as he always does, and I think he has pointed to some of the basic considerations that need to be thought about as we think about, as we consider, the whole problem of impact aid.

As the Senator from Washington and I said earlier there is no difference between us on the need for a broad general study of how we are going to deliver an appropriate level of Federal assistance to these local schools. I think that is overdue. We need to do it. There is certainly no difference between us on that point.

But I think what we have to think about is timing. We all agree there ought to be this broad general study of the whole subject. I think it is ill advised less than 2 weeks before the beginning of the fiscal year to make arbitrary cuts. School districts are under tight financial constraints all over the country. I am sure it is true in Florida, and I am sure it is true in Washington. I know it is true in Maryland.

I think school administrators, local officials, have budgeted for their 1979 impact aid allotments, and I think it is only fair that we, to coin a phrase, send them a message that tells them—we tell them—what to expect.

Mr. CHILES. Can the Senator think of a better way to send a message than this very small, minuscule cut we are talking about here? It seems to me this is about the best kind of message I know of you can send.

Mr. MATHIAS. I have to respectfully differ with the Senator from Florida on that. I think the kind of message is the kind of message that a prudent businessman would expect or would hope for, notice in advance that we are going to change the system.

Here we are today on the 27th of September, the fiscal year starts on the 1st of October, and I do not think that is the way to send a message.

Now, we are talking about significant sums. The State of Maryland, for example, under the committee proposal would lose, as the Senator from Washington pointed out, $604,000. But the difference between that and the House level is not $604,000, it is $810,950.

Well now, for a State like Maryland that is a significant amount of money. It makes a difference in the quality of programs that are available.

In the State of Florida we are talking about a $2 million difference between the two proposals. I do not know how Florida views $2 million, but I think it could be significant from a timing point of view.

Perhaps if the Florida Board of Education had adequate notice they could find ways to adjust.

Mr. MAGNUSON. This is based upon the fact that these people think we are going to increase it every year. If they planned like they should have planned, they probably would have as much as

they had last year, and no more, and there would not be anybody hurt in this matter. They just thought we were going to do more and more and more. But there has to be a limit somewhere. The State of Florida would get $182,000 over what they had last year.

Mr. MATHIAS. Let me say to the distinguished Senator that we are talking about fiscal year 1979. Unhappily, we are all very much aware that we have something called inflation in this country, and we want to do something about it, and we want to restrain the forces of inflation in every way that we can. But we do not want to take it out on the schools if we can help it. I think that is a poor place to let the full brunt of inflation take hold.

The House figure, which is the figure reflected in my amendment, is a figure which reflects inflation, that is all. It is not an increase. Unhappily, I think we are into double-digit inflation, and you are going to face in the coming fiscal year about a 10-percent level of inflation. I hope I am wrong. I will be the happiest man in the country if I can find out that I am wrong. But when you crank in 10-percent inflation for this coming fiscal year then you find that they are not getting any more money.

They are only getting the same purchasing power they had last year. It is not an increase.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MATHIAS. Happy to yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Robert Paquin and Susan Brannigan of my staff have all privileges of the floor throughout today's debates and votes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. I thank the Senator from Maryland.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MAGNUSON. Mr. President, I do not see anyone else here who wants to speak. The Senator from Maine said he might, so, if that is agreeable, I will suggest the absence of a quorum while we find out where he is.

Mr. MATHIAS. Mr. President, I might just say one thing further. For the benefit of the Senator from Florida, because I know he is as concerned as I am on this inflation question, this bill is about—and the distinguished chairman can correct me if I am wrong—$1.4 billion under the House bill, not just on this item, but in this whole area of education. It reflects a very restrained, very frugal approach to problems such as education for the handicapped and assistance to disadvantaged students—a very restrained approach. Certainly our concern for inflation is written between every line of this bill.

Mr. CHILES. I agree; and I think that is what the committee has tried to work at. And that does not happen by selecting just one program. That happens by work of the chairman and others in trying to look at all programs, this being one, and trying to hold them down.

While we are about $1.2 billion below the House now, that is really a reflection of the differences in the BEOG money; and if we get that higher education program, we will have to be right here with a supplemental, and that is all the room we have, really, in the second concurrent budget resolution that we have passed.

So we do not have a lot of room to spare; we would be knocking at the top if we have the higher education bill come through.

Mr. MATHIAS. But I do not want the record to reflect that if BEOG money—there is almost $200 million in title I. It is very restrained. And I think that the impact—to use the word impact in a more general connotation—will be very pronounced on States, on counties, on school districts, and most importantly on children.

Mr. President, did the chairman want to have a quorum call?

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum pending the arrival of Senator MUSKIE.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. MAGNUSON. And I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MAGNUSON. Mr. President, while we are waiting for the Senator from Maine to proceed, I want to state for the record that the main reason that Maryland does lose some money, and some other States, is because of the large "hold harmless" payments those States receive. We have always had that in every bill, to hold them harmless, so that they receive at least what they received last year.

The education amendments for 1974 phase out payments for out-of-State impact aid children, those who live in Maryland and work in the District of Columbia and Virginia. That is what the act said in 1974. The phase out under the hold-harmless causes some of these States, the few I mentioned—not 38 of them—to not necessarily lose this amount but with the amount under the House figure they would not get some of it. That is the answer to it. It is still over last year.

I just wanted to clear the record on that. I had passed over the fact that there are these hold-harmless payments which we put in bills at the insistence of States that would get less, if we did not, than they had the year before. It is a very complicated formula, pointing up another reason why we should take a long look at this entire program.

Mr. MATHIAS. Will the Senator yield for a brief comment?

Mr. MAGNUSON. Yes.

Mr. MATHIAS. The chairman is accurate and precise, as he always is.

Of course, the hold-harmless does only apply to about 5 percent of the impact aid.

Mr. MAGNUSON. That is correct. It is a percentage.

Mr. MATHIAS. It is 5 percent, so it is not particularly significant. But I believe the thing we have to acknowledge is that unfortunately we are being educated about this thing called inflation. It is a painful education. Even to the extent that the hold-harmless provision operates, it operates only on the number of dollars, not on the purchasing power of those dollars. To our dismay, discouragement, and distress there is a big difference between the dollar and the purchasing power of the dollar. We want to rectify that. We want to get back to the day when all over the world people can say, "Sound as a dollar." But when we are dealing with this subject, we have to remember that if you are a school administrator or county superintendent of schools, there is a difference, and the hold-harmless provision does not bridge that gap.

Mr. MAGNUSON. It has been helpful at least, and it works in shifts in population, too.

I yield such time as he may require to the Senator from Maine.

Mr. MUSKIE. I thank the manager of the bill, the Senator from Washington.

Mr. President, before I address this amendment, let me put it in terms of the overall second concurrent budget resolution and this bill as a whole.

Last Saturday, Mr. President, the Senate overwhelmingly approved the second concurrent budget resolution. That followed action by the House of Representatives 2 or 3 days earlier which similarly overwhelmingly approved the second budget resolution. I take it from reactions that I heard on the Senate floor, as well as from the House, that that support reflected strong endorsement and approval of the fiscal restraint reflected in the second budget resolution. The net result of that restraint was a reduction of the deficit for fiscal year 1979 from the President's projected $60 billion in January to $38.8 billion in the second budget resolution.

That reduction was not done with mirrors. It had to be done by the very real exercise of restraint if we were to achieve that result which is consistent with the current economic situation in the country, consistent with the current mood of the voters and taxpayers of this country.

The bill that is before us is consistent with that overall context.

But before I say anything else, let me say that I support this bill. It represents a balanced policy of growth in vital programs and selected reductions consistent with the fiscal constraints imposed by the current economic situation.

H.R. 12929 as reported provides budget authority of $56.5 billion. Outlays associated with this bill total $63.3 billion, including $21.3 billion of outlays from prior-year authority. The bill is consistent both with the first budget resolution targets adopted last spring and with the second budget resolution ceilings adopted last week.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays which it

has been allocated under the budget resolution. Since the second concurrent resolution was just adopted last Saturday, the revised subcommittee allocations have not yet been made. However, the distinguished chairman of the Appropriations Committee has stated on numerous occasions that the committee fully intends to stay within the congressional budget. Based on our assessment of the reported bill and requirements remaining to be funded at a later date, we believe the subcommittee will be able to live within the second budget resolution ceilings. I would point out, however, that there is not likely to be room within the second budget resolution for any significant increases in the funding levels for programs included in the reported bill.

It is within the context of that conclusion that I address the amendment which is before us.

Our judgment that the bill is consistent with the second budget resolution ceilings takes into account possible later requirements for programs not included in this bill for lack of an authorization.

As a result of the Appropriations Committee policy of not appropriating funds for unauthorized programs, this bill excludes funding for several programs not yet authorized, such as CETA programs; certain education programs, including middle income tuition assistance; and grants to States for social services and vocational rehabilitation.

The Senate reported bill is below the administration's request primarily because the Senate bill does not include additional amounts for middle-income tuition assistance. The Senate bill is below the House-passed bill, again primarily due to middle-income tuition assistance.

The Appropriations Committee wisely deferred the funding decision for the middle-income tuition assistance proposal because the authorizing legislation has not yet been enacted and final action on the tuition tax credit legislation has not yet occurred. The Appropriations Committee, along with the Budget Committee, strongly believes that we cannot afford both proposals. Therefore, it has delayed consideration of funding for this program until final congressional action has been taken on these two divergent proposals.

While the conference agreement on the second budget resolution assumes appropriations of $1 billion for middle-income tuition assistance, the statement of managers says clearly,

> The conferees believe that enactment of both a tuition tax credit and a college tuition assistance spending program would be inefficient and duplicative. The Congress should choose between these two proposals.

I urge Senators to support this bill as reported. I applaud Senator MAGNUSON's prudence and restraint in making the difficult funding choices required in these times.

I further urge Senators to follow Senator MAGNUSON's lead and exercise similar restraint with respect to programs not included in this bill to be considered for funding at a future date.

(At this point a unanimous-consent agreement was entered, and by unanimous consent the proceedings in connection therewith are printed later in today's RECORD.)

Mr. MUSKIE. Mr. President, I am delighted to yield to the majority leader. I shall not take more than 4 or 5 minutes, perhaps not that long, to complete what I have to say on this amendment.

A moment ago, I made the point that, last Saturday, the Senate approved overwhelmingly and with more enthusiasm than I have noted in recent years the second concurrent budget resolution, principally because it reflected the exercise of real restraint in spending that enabled us to cut the deficit from a projected $60 billion in January, the President's budget request at that time, to $38.8 billion last Saturday. That kind of restraint is not done with mirrors; it reflects a tremendous effort, not only on the part of the Committee on the Budget but on the part of the Committee on Appropriations, as it has reported appropriations bills to the floor, to exercise real fiscal restraint.

With respect to the amendment before us, I say to the Senate that the Senate conferees on the second concurrent resolution specifically assumed the reduction in impact aid as reported by the Senate Appropriations Committee in the pending bill. We did so on the basis of the action taken by the Senate Appropriations Committee on this bill and action by the full Senate just a short time ago on the authorization bill. Under the leadership of Senator MAGNUSON, many of the appropriations-forcing provisions of the authorization bill, and particularly the tier system, were modified by the Senate as a whole. The Senate took that decision deliberately and after an excellent debate. The distinguished chairman of the Appropriations Committee (Mr. MAGNUSON) made it clear that the Appropriations Committee took that action on the authorization bill because it was seeking guidance from the Senate as a whole. The Senate gave the committee that guidance.

The conferees on the second budget resolution undertook to implement what the Committee on Appropriations did on impact aid, by assuming the numbers in this pending bill which were reported out by the Appropriations Committee. I do not know of a better example, Mr. President, of the budget process; the Budget Committees and the Senate Appropriations Committee working together, marching to the beat of the same drummer on a specific program. It does not seem to me that this morning is the time to reverse that decision.

I should like to say just a few things in general on this particular amendment. In the first place, the proposed funding level in this bill, as I am informed, would keep the payments for impact aid at the current rate; that is, the fiscal 1978 level. It is not a cut in dollars.

Second, the funding level would not totally eliminate impact funds for any group, such as "A" or "B" students.

Third, funding for impact aid has decreased from $650 million in 1978 to the $856.4 million proposed for 1979. It could be over $1 billion in 1980.

Fourth, in my judgment the impact aid program should be revised so that it serves only school districts which are directly affected by Federal activities. The rapid growth of the program should not be continued.

Fifth, the proposed cut is a reasonable approach to controlling impact aid. No one school district would be severely damaged and they would all be funded at the current level.

Finally, Mr. President, this is a reasonable action. The only cut the authorizing legislation would allow is a reduction of $449 million. The committee recommendation would stabilize funding. It would not be a meat-ax cut.

Mr. President, that concludes my thoughts on this. I understand, incidentally, that the present level of funding represents some increases for 38 of the 50 States because of the way in which the formula operates. But with respect to the total, the total remains at the 1978 level.

With those observations, Mr. President, I strongly support the position of the Senator from Washington, the chairman of the Committee on Appropriations, and urge the Senate to endorse and reaffirm its support for the action taken on the authorization bill, for the action taken by the Committee on Appropriations, for the action taken by the conferees on the second budget resolution, and for the action taken by the Senate in approving that second budget resolution overwhelmingly.

Mr. PROXMIRE. Mr. President, will the Senator from Washington yield me 3 minutes?

Mr. MATHIAS. I ask the Senator from Wisconsin to withhold for just 30 seconds, because I should like to address the remarks of the Senator from Maine.

He is a reasonable man and made a reasonable argument. I point out to him that we are talking in this amendment about $54 million. The cuts in education made by the committee total $1,400 million. We are only talking about $54 million here.

Now, as the Senator from Maine made his remarks—I do not want to delay the Senator from Wisconsin and the Senator from New Hampshire, both of whom want to speak, but I do think this point has to be made. We are dealing now with a natural phenomenon. If you read the press from around the country, from every State, they are cutting out local property taxes, they are cutting local taxes for the support of education at the local level. We need to do it because inflation is a serious problem and Government spending is a part of the cause of inflation.

But we have to do it, as the Senator from Maine, I think, would want to see it done, in a reasonable way. To do it all at once is not reasonable and to sit here in the Senate on the 27th of September and legislate for the first of October a 10-percent cut in the funds for the State of Maine, the impacted area funds for the State of Maine, is not giving adequate notice to the school administrator in the

State of Maine. I think it is not the kind of reasonable action which the Senate ought to take.

Mr. MAGNUSON. Now, Mr. President, I yield myself time.

Mr. MUSKIE. Mr. President, will the Senator yield to me?

Mr. MAGNUSON. The Senator from Maryland is usually very, very accurate, but the State of Maine, with the amendment, gets a plus. It does not get cut at all. It is not right to say that we are making any drastic cuts. All of these school districts knew that there was going to be something done about impact aid and we are giving them the amount that they had last year. We go from $738 million to $746 million.

Is that not enough? That is not a cut at all.

Mr. DURKIN. Will the Senator yield?

Mr. MAGNUSON. In just a minute.

When the Senator talks about the $1.5 billion, that is a subject matter that I think maybe all we have done is postpone, and it has nothing to do with this at all.

Going up from $738 million last year to $746 million this year, I cannot think that is any cut.

Mr. DURKIN. The cut would be in New Hampshire. We missed it by one State.

Mr. MAGNUSON. New Hampshire, under the amendment, would lose $110,000.

Mr. DURKIN. That is a lot of money in New Hampshire, especially when it hits very hard in just one community.

Mr. MAGNUSON. They will get what they had last year, except $110,000. Last year they got $2,365,000 and under the bill here they will get $2,255,000. Is that not enough? We are cutting it down about 5 percent.

Mr. DURKIN. We appreciate everything we can get. But as the point was made by Senator MATHIAS, this $110,000 cut at the end of the year hits the city of Portsmouth, N.H., very heavily and that is asking a lot.

I voted with the Senator from Maine on the budget resolution. We are all concerned about the budget. But this is going to have to scrape up——

Mr. MAGNUSON. Another $110,000 will torpedo the budget in Portsmouth?

Mr. DURKIN. Somebody has to make it up. The property taxes will have to make it up.

Mr. MAGNUSON. They should not expect that amount. They are getting close to what they got last year.

My State takes a cut.

Mr. DURKIN. I commend the chairman for that.

Mr. MAGNUSON. $110,000 out of $2,225,000 million for impact aid?

Come on. Come on, $110,000.

Mr. DURKIN. The cut hits very hard on one particular community.

Mr. MAGNUSON. We upped the amount all over the country.

Mr. DURKIN. Yes; except New Hampshire.

Mr. MAGNUSON. $110,000. That is not going to shake any great foundations in the city of Portsmouth. How much did they get?

Mr. DURKIN. I am sure they will be down to see me again, maybe we can have a joint meeting, because they will be pretty upset.

Mr. MAGNUSON. Every school district wants this money. They do not pick it up themselves.

Mr. DURKIN. That is true.

Mr. MAGNUSON. We talk about balancing budgets around here. The main reason the Federal budget is out of balance to the tune of $126 billion is that we are picking up too many local tabs for local programs that should be taken care of at home.

One hundred twenty-six billion dollars, that is what it amounts to, and this is one of them.

I am sure the school districts in Portsmouth, or someplace else, talk about $25,000 or $30,000——

Mr. DURKIN. It is pretty much close to most of the $110,000.

Mr. MAGNUSON. The Senator can vote the way he wishes, but we have to make a start on this sooner or later.

Mr. PROXMIRE. Will the Senator yield me 3 minutes?

Mr. MAGNUSON. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I support the distinguished chairman of the Appropriations Committee (Mr. MAGNUSON) in his opposition to this amendment. I do so for two reasons that I will stress at this point.

I had an opportunity to hear on the communication network the speech by the distinguished Senator from Maryland. As usual, it was a very appealing, eloquent statement.

The Senator started out by talking about how the strength of a country depends on the strength of its people, and there is nothing we can do to reinforce the strength of our people more than an education.

Of course, he is correct. But he should recognize we cannot resolve the problem simply by thrusting more money at it. We have enormously increased the sums for education, not only in this program, but in many other programs over the last 5 years. It has not only doubled, trebled, quadrupled, but it has increased many, manyfold.

What is the result? Scholastic aptitude tests indicate the educational system is performing far less adequately than it was before. The number of functional illiterates increased, not decreased.

Furthermore, I would like to ask the distinguished Senator from Maryland to reexamine his heart on his table. I noticed he said that Senators will look at this table and recognize that 36 States will benefit from the Mathias amendment. That is 72 votes in the Senate, which means he will win better than 2 to 1, if the Senators vote on the basis of what States benefit.

What he overlooks is where the money is coming from. Take my State, it would benefit to the tune of a little more than $200,000 from the Mathias amendment. But the taxes Wisconsin will pay on the additional $54 million is over $1 million.

So, sure, we pick up $200,000 by paying out $1 million.

Mr. President, that is the difficulty with so many of the Federal programs. We are told to look at the benefits we get by spending more Federal money. We overlook the fact that our citizens have to pay for these Federal programs, one way or another, either in higher taxes or in higher prices.

So, Mr. President, I support the distinguished Senator from Washington, the chairman of the committee, in his opposition to this amendment, although I have great respect, admiration, and affection for my good friend from Maryland, recognizing that, when we look at this situation overall, there is no way we can argue that many States, as he says, would benefit here, will actually benefit.

What we need is an additional table or an additional column to see the taxes that would be paid to support this program and the net effect on the States.

I submit that then we would not get a majority of States on the Mathias amendment.

Mr. MATHIAS. Mr. President, I want to yield to the Senator from New Hampshire, but let me just say to the Senator from Wisconsin that I accept his challenge to look into my heart. I hope that he will look into his heart, because we are talking about the whole problem now when we talk about the effect on the national economy, the effect on inflation. We are talking about the whole problem. We are talking about Federal taxation and Federal spending, State taxation and State spending. We are talking about county taxation and county spending at every level.

It costs just a certain amount to educate a child. Those expenses have gone up. There have been more children in this country in the last 20 or 30 years. They have been expected to learn more.

While I do not think we can be totally satisfied with the educational system, the attempt to teach more, not only to teach more children, but to teach them more information, has cost more. So the cost of education has gone up.

But this is where I think the Senator from Wisconsin ought to look into his heart.

These winds are blowing in the country, and they ought to blow. They are not unhealthy winds. But we should not be panicked by it.

If they are going to be cut in the counties and cut in the States, and then we cut, too, that is too much at one time. It is a timing problem.

Mr. MAGNUSON. Should we pick up all their cost?

Mr. PROXMIRE. We are not cutting here, as repeated over and over again by the Senator from Maryland, it is not a cut. This program has increased in amount of money over the last 4 or 5 years. It has expanded greatly.

Mr. MATHIAS. It has been challenged by the Senator from Maryland because it is a cut. It is a very real cut. If we kept the same dollar volume as last year, for fiscal 1979, it would be a 10-percent cut, and that is exactly——

Mr. MAGNUSON. Only for States like Maryland.

Mr. MATHIAS. No.

Mr. MAGNUSON. All these other States got a plus.

Mr. MATHIAS. It would be a 10-per-

cent cut for the Nation if we kept the same dollar figure. I do not think we should take out our panic on the schoolchildren of America.

Mr. President, I yield 2 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Maryland.

Mr. President, I agree that the winds are blowing. But when this news hits port, it is going to be a little more than a wind, it is going to be an old-fashioned nor'easter, because it is going to hit just before the end of the year. I do not know what the impact is going to be everywhere, but in the State of New Hampshire, and predominantly in our seacoast area, such as Portsmouth, Dover, and the seacoast towns, this is going to be a $100,000 cut in the fiscal 1979 level. They will have to scrape to try to make this up. The only place we can make it up is by increasing the property tax burden.

After 6 years of our Governor, we have the highest property tax of anywhere in the Northeast. It has gone up more than it has in any other area in New England. Our tax rate is one of the highest rising rates in the country.

I believe in the budget process, and I have supported Senator MUSKIE time and time again. However, if we are going to think of budgets, I think we should think of the budgets of the smaller communities of New Hampshire and the 13 other States that will have serious fiscal problems, serious budgetary problems, as soon as this bill is signed into law.

I also can detect a trend and can detect winds blowing and I know we are going to have a tough job getting the necessary votes for the Mathias amendment. But I commend the Senator from Maryland for standing up and trying to help the communities across the country which are going to have severe budgetary impact once this bill becomes law.

Although 36 or 37 States profit under the formula that came out of the Appropriations Committee, the State of the Chairman, Senator MAGNUSON, actually receives $21,000 less; so he is not asking someone else to do something he has not asked his own State to do.

I do not think the impact is fully appreciated with respect to cities such as Portsmouth and other areas in New Hampshire.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MAGNUSON. Mr. President, I do not know of any other Senators who wish to speak on this amendment. I have discussed it with the Senator from Maryland, and so far as I am concerned. I am willing to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MATHIAS. Mr. President, before I yield back the time, I want to point out that there were a couple of ways we could have tackled this problem. I have some serious reservations about this part of the bill.

The question has been raised about legislating on an appropriations bill. It is a complicated way to approach the problem. I am prepared to face it head-on, rather than to raise a point of order. I think Senators will view this from a broad national point of view, a point of view of what is good for children, what is good for taxpayers, and what is good for all the country.

I hope that the Senate, having taken that broad, national point of view, will make this very modest adjustment of $54 million.

With that, Mr. President, I am prepared to yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I thank the Senator from Maryland.

I can recall when Federal aid to education around here was a bad word. It was said, "You're going to interfere with the education of children," and everybody was against it.

Mr. MATHIAS. The chairman will recall that you had to make a distinction back in those days, whether you were for bricks and mortar or whether you were for operating the systems.

Mr. MAGNUSON. I am convinced that we have adopted a responsibility, that we have some responsibility, as the Senator from Maryland points out, that the adequate education of all children is a Federal responsibility.

We now provide about 8 percent of the total cost of elementary and secondary education in the United States. The remainder is provided by the States and local districts. If I were going before the Human Resources Committee, I would suggest this: We have established our responsibility. We should just take a figure—say, 10 percent—as in revenue sharing, and turn it over to the school district; that that is carrying out our responsibility—amen—"Use it the way you want."

I think that would solve a lot of these problems which become so difficult, with respect to retaining equity in the distribution of funds. But if we do not take a stand now on impact aid, this program is going to grow even more, and fall under its own weight. That would hurt every State far more than what we have recommended.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator request the yeas and nays?

Mr. MATHIAS. Yes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas, 41, nays 52, as follows:

[Rollcall Vote No. 410 Leg.]

YEAS—41

Abourezk	Hatch	Pearson
Anderson	Hatfield, Paul G.	Pell
Baker	Hathaway	Percy
Bartlett	Humphrey	Sarbanes
Bayh	Javits	Sasser
Brooke	Mathias	Schmitt
Case	Matsunaga	Schweiker
Church	McClure	Sparkman
Curtis	McIntyre	Stafford
Durkin	Melcher	Stevens
Ford	Metzenbaum	Thurmond
Garn	Moynihan	Tower
Griffin	Nunn	Williams
Hart		Zorinsky

NAYS—52

Bellmon	Eagleton	Lugar
Bentsen	Eastland	Magnuson
Biden	Glenn	McGovern
Bumpers	Gravel	Muskie
Burdick	Hansen	Nelson
Byrd, Harry F., Jr.	Hatfield, Mark O.	Packwood
Byrd, Robert C.	Hayakawa	Proxmire
Cannon	Hodges	Randolph
Chafee	Hollings	Ribicoff
Chiles	Huddleston	Riegle
Clark	Inouye	Roth
Cranston	Jackson	Scott
Culver	Johnston	Stevenson
Danforth	Kennedy	Stone
DeConcini	Laxalt	Talmadge
Dole	Leahy	Wallop
Domenici	Long	Weicker
		Young

NOT VOTING—7

Allen	Heinz	Stennis
Goldwater	Helms	
Haskell	Morgan	

So the amendment (UP No. 1929) was rejected.

CHANGE OF VOTE

(The following proceedings occurred during the consideration of UP amendmend No. 1937 and are printed at this point by unanimous consent.)

Mr. HEINZ. Mr. President, I yield to the Senator from New York for a unanimous-consent request.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent to change my vote on Senator MATHIAS' amendment to the Labor-HEW appropriation bill. This would not change the result. I voted "nay"; I wish to change my vote to "yea."

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Senate, so that the Senator from New York may be heard?

Mr. MOYNIHAN. I thank the Chair. I ask unanimous consent to change my vote on Senator MATHIAS' amendment to the Labor-HEW appropriation bill. This will not change the outcome of the vote on the amendment.

Mr. MAGNUSON. Nobody could hear the Senator. What is the request?

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Is that permissible?

The PRESIDING OFFICER. That is permissible. The Senator may not add his vote if he did not vote, but he may change his vote.

Mr. GOLDWATER. If it changes the result?

The PRESIDING OFFICER. The Senator's statement was that the result would not be changed, but he might

change his vote, with unanimous consent, even though it would change the result.

Mr. GOLDWATER. I had not heard that it could be done. Not being here all the time, I might use that.

The PRESIDING OFFICER. The Chair will read the rule. Rule XII, paragraph 1, reads as follows:

. . . no Senator shall be permitted to vote after the decision shall have been announced by the Presiding Officer, but may for sufficient reasons, with unanimous consent, change or withdraw his vote.

Mr. WEICKER. Mr. President, reserving the right to object, may we know what the matter is that the Senator is changing his vote on?

Mr. MOYNIHAN. The Senator is changing his vote on Senator MATHIAS' amendment to the Labor-HEW appropriation bill, having to do with impact aid. It would not change the nature of the result.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The above rollcall vote reflects the foregoing order.)

Mr. MAGUNSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we have order in the Chamber so the manager of the bill can be heard. Will the Senator from Washington suspend for just a moment until there is order in the Chamber.

Mr. MAGNUSON. Mr. President, for the benefit of Senators who are here, we have four of five more important amendments on the HEW appropriation bill. Unfortunately, none of them is for appropriations. They are all legislation on policy matters.

I have no order of procedure on them, but we did last night suggest that the amendment of the Senator from Oklahoma be brought up as soon as he could get here today, and he is here now, so we will proceed with that amendment. That involves another OSHA matter.

Then we still have left the abortion question, the busing amendment, the affirmative action amendment, and I do not know how many more. None of them is on appropriations. No money is involved, just policy. But they are a limitation on the use of money and, therefore, I guess, they are germane. I wish the rule could be changed.

We do have a vote at 1 o'clock up or down on the natural gas conference report. I do not know whether we will have time other than on the amendment of the Senator from Oklahoma prior to 1 o'clock. If we do at least we can start on one of the other amendments.

TIME-LIMITATION AGREEMENT ON BARTLETT AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield on that question?

Mr. MAGNUSON. Yes.

Mr. ROBERT C. BYRD. It is my understanding that Senators on both sides of the natural gas issue want to utilize the hour beginning at 12 o'clock until 1 o'clock on the natural gas conference report.

Mr. BARTLETT has agreed to a 2-hour limitation on his amendment equally divided. If this is agreeable with the chairman, I would like to put that request, a 2-hour time limitation on Mr. BARTLETT's amendment equally divided.

Mr. MAGNUSON. It is agreeable with me. I do not know that we need that much time, but if he wants to that is alright with me.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of not to exceed 2 hours on the amendment of Mr. BARTLETT.

Mr. ABOUREZK. Mr. President, reserving the right to object, are we going to have an hour on the natural gas conference report, so that if it is not finished the Bartlett amendment will be put over?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, and I will not object, may I ask can we definitely rely on the fact that the Bartlett amendment will not finally be acted on before 12 o'clock?

Mr. ROBERT C. BYRD. If Mr. BARTLETT is agreeable to that.

Mr. BARTLETT. The Senator wants it not to be acted upon?

Mr. JAVITS. Is that all right with the Senator?

Mr. BARTLETT. Yes.

The PRESIDING OFFICER (Mr. BUMPERS). Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

AMENDMENT NO. 3559

(Purpose: To prohibit use of funds for expenses of the National Commission on the International Year of the Child, 1979)

Mr. BARTLETT. Mr. President, before I call up my amendment, I would like to call up amendment No. 3559, an amendment by the Senator from North Carolina (Mr. HELMS).

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT), for Mr. HELMS, proposes an amendment numbered 3559:

On page 53, insert the following between lines 9 and 10:

SEC. 410. None of the funds appropriated under this Act may be used for expenses or activities of the National Commission on the International Year of the Child, 1979.

Mr. BARTLETT. If I could have the attention of the distinguished Senator from Washington, I just called up——

The PRESIDING OFFICER. Will the Senator suspend for just a moment?

Mr. MATHIAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. If the Senator will suspend for just a moment until we have order in the Chamber, those carrying on conversations will please retire to the cloakrooms. The Senator from Oklahoma is entitled to be heard. Let us have order in the Chamber.

Mr. BARTLETT. Mr. President, I was wanting to convey to the distinguished chairman that I have just called up amendment No. 3559, an amendment proposed by the Senator from North Carolina (Mr. HELMS), and I understand this is acceptable. Then I would go to the OSHA amendment.

Mr. MAGNUSON. I do not know what Mr. HELMS' amendment is.

Mr. BARTLETT. Well, I have been advised by the staff that this is acceptable. It was just read in its entirety, which is three lines.

Mr. MAGNUSON. Well, I wish the Senator, until we could take a look at the amendment of the Senator from North Carolina, could proceed with his own amendment.

Mr. BARTLETT. All right, I will do that.

Mr. President, I would like to have the attention of the chairman again, if I might, but would also hope that the chairman would read the amendment, so that when we finish this we can bring it up.

Mr. MAGNUSON. All right.

Mr. BARTLETT. I have been asked to bring it up, and I was advised, and I thought the chairman was advised, but apparently he was not; but I wish he would advise himself of this, so that we can bring it up.

Mr. MAGNUSON. Well, we will take a look at it.

Mr. BARTLETT. All right.

Mr. President, I ask unanimous consent that Mike Roush of my staff and Mary Jane Bolle of the Congressional Research Service be accorded the privilege of the floor during the consideration and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I yield to the distinguished Senator from Virginia for a unanimous-consent request.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John MacIlroy of my staff be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that Mike Harvey and Betsy Moler, of the Energy Committee staff, be granted the privileges of the floor in connection with legislation pending today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask unanimous consent that the same privileges be accorded Mr. Jerry Tinker during the consideration of the HEW appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Does the Senator wish to withdraw the amendment he offered on behalf of Mr. HELMS?

Mr. BARTLETT. Yes. I ask unanimous consent to withdraw the amendment and to have the opportunity of reintroducing it later on.

The PRESIDING OFFICER. The Senator has that right.

UP AMENDMENT NO. 1930

(Purpose: To promote the efficient allocation of resources with the Occupational Safety and Health Administraton.

Mr. BARTLETT. Mr. President, I have my OSHA amendment here. I send it to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an unprinted amendment numbered 1930: on page 8, line 7, before the period, insert a colon and the following: "provided further, that none of the funds appropriated under this paragraph shall be obligated or expended to administer, or enforce, any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970, except—

Mr. BARTLETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 7, before the period, insert a colon and the following: *"Provided further,* that none of the funds appropriated under this paragraph shall be obligated or expended to administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970, except as provided below, which is applicable to any person that has no more than ten (10) fulltime employees, or the equivalent thereof, and does not have an occupational injury incidence rate exceeding seven (7) per hundred (100) fulltime employees based upon the annual Bureau of Labor Statistics survey of 3 and 4-digit Standard Industrial classification Code industries; provided that such injury incidence rate may be based upon 2-digit Standard Industrial Classification Code industries if the Occupational Safety and Health Administration determines that an accurate and reliable 3 and 4-digit Standard Industrial Classification Code is not available; provided, further, that the Secretary may conduct an investigation to determine the causes of a serious physical injury or death involving workplace safety at such employer's workplace, the Secretary may conduct health investigations and health inspections, and any employee or representative of employees may request an inspection by filing a complaint with the Secretary or his authorized representative and with such employer. Any such complaint shall be reduced to writing, shall set forth with reasonable particularity the grounds for such complaint, shall be based upon a reasonable belief that a violation of a safety standard or an imminent danger exists, that the violating condition or imminent danger stated in the complaint creates a real probability that the result would be death or serious physical harm, and, that such employer, exercising reasonable diligence, should have known of the violation; or such complaint shall be based upon a showing that such employer has maintained the workplace with willful and reckless disregard for employee safety.

If upon receipt of such notification the Secretary determines there are certifiable grounds to believe that a violation or danger exists he may conduct an investigation of such employer's workplace. Nothing in this paragraph shall preclude such an employer from voluntary participation in any educational, training, or consultation program established by the Secretary. No funds shall be expended to issue citations against such employers unless it is determined that a violating condition or imminent danger does exist which creates a real probability that the result would be death or serious physical harm, and that such employer, exercising reasonable diligence, should have known of the violation; or that such employer has maintained the workplace with willful and reckless disregard for employee safety. The failure by the Secretary to provide the annual information necessary for the application of this paragraph shall mean that none of the funds appropriated under this paragraph shall be obligated or expended to administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any persons with no more than ten (10) fulltime employees. The application of this paragraph will continue until the Secretary publishes the required information. In order to further the purposes of this paragraph, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this paragraph but shall not cover employments excluded by Section 653 of U.S. Code title 29. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses (whether or not involving loss of time from work) other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

Provided further, that the Secretary shall publish annually in the Federal Register the occupational injury incidence rate for the ten (10) or-fewer-employees size segment of all Major Groups identified by the 3 and 4-digit Standard Industrial Classification Code number. The annual publication of occupational injury incidence rate shall be published on or before December 31 of the calendar year immediately following the year from which they were derived, and shall apply only during the calendar year immediately following publication.

Mr. BARTLETT. Mr. President, I am offering an amendment today to end the use of Federal money by OSHA to harass historically safe small businesses. This amendment is a reasonable compromise of an amendment I offered on August 2 to a Small Business Committee bill which was passed by the Senate by a vote of 51 to 42. I point out, Mr. President, that this amendment includes the amendment I introduced before plus the so-called Conti-Bartlett amendment that was introduced in the conference committee, and to my knowledge answers all the questions that have been raised about it.

The original amendment would have exempted all small businesses that employ 10 or fewer employees and that have an injury/illness incidence rate of seven or less per hundred from OSHA regulation. I would like to point out that OSHA considers a nine injury/illness incidence rate as the breaking point between hazardous and nonhazardous businesses and companies.

Even though the Senate did pass that version of the amendment the Small Business Committee conferees rejected it. In order to meet the objections that were raised against the original version of the amendment by House Members, I have revised the amendment to the form I offer it in today.

The intent of this amendment is very simple: to stop the spending of Federal money to nit-pick and harass small businesses that are already extremely safe. In other words, to bring a little common sense and cost-effectiveness into the implementation of our health and safety laws.

This amendment provides as a general rule that no funds shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which would be applicable to small businessmen who employ 10 or fewer employees, and whose industry group has an occupational injury incidence rate of seven or less per hundred full-time employees based upon the annual Bureau of Labor Statistics survey of 3- and 4-digit Standard Industrial Classification Code industries.

However, this amendment specifically allows OSHA to conduct investigations to determine the causes of a serious injury or death at such a workplace; it allows OSHA to conduct health inspections as currently done; it allows OSHA to conduct inspections as a result of nonfrivolous employee complaints; and it allows employers to participate in whatever OSHA educational or consulting services they wish. It also provides that the injury/incidence rate be based on a survey of 3- and 4-digit SIC Code industries, thereby becoming much more sensitive to the problem of hazardous firms being categorized in a safe industry group. Using random sampling techniques this could be accomplished with no perceptable additional burden in paperwork.

It has been estimated that OSHA is costing American business about $3 billion a year. What are employees getting for this huge outlay? The evidence suggests very little. In the 6 years of OSHA existence through 1977, agency officers had found 1,357,360 violations. Of these 2.8 percent were serious—defined as willful, repeated and imminent danger—and 97.2 percent were nonserious. Does anyone need a Federal agency giving fines for torn screen doors, cracked toilet seats, fire extinguishers inches out of place or for improper agricultural drainage when the standing water was the result of employees just having washed their cars?

I would also say that this amendment will tend to reduce inflation, because it will reduce the cost of doing business of many small businesses, and at the same time it will provide an incentive for them to conduct their operations in a safer, less hazardous way, and it will give them incentive to be more productive, to increase their productivity. This will certainly help the problem of inflation.

It cannot even be shown that OSHA has accomplished anything other than inflation. National Safety Council statistics show that job related deaths have been on a steady decline since 1937—without OSHA. The council's figures also show that the worst year since 1940 for job related injuries was in 1973—2 years after OSHA had been created. One of the recommendations that a House Committee on Small Business report on OSHA made was to "assign high priority to the shift in resources away from low risk businesses toward higher risk businesses," just what I am attempting to accomplish with this amendment.

This will enable OSHA to utilize its manpower to a more efficient extent, by concentrating on those businesses of 10 and under employees which are the haz-

ardous ones—and there are some—and to improve their situation, rather than spending time with businesses that have no incidence at all, or a very low incidence, of injuries per thousand.

I would like to point out also that the breaking point that OSHA uses to determine the change from hazardous to nonhazardous employment is a nine injury/illness incidence rate per 100 employees.

This ratio is 2 percentage points higher than I am using in this amendment. We are using seven as a determining factor. Seven or below would qualify for an exemption if the employee number is 10 or less.

I might also point out that in all the businesses of 10 or less employees, the average rate of injury and illness is 3, far, far under the 9 or under the 7.

Mr. President, this amendment more than meets the objections that have been raised against it by organized labor and by OSHA itself, both of whom have been lobbying very strongly in opposition to it, and both of whom have not been interested in working out any kind of a compromise. I urge my colleagues to accept the reasonableness of this compromise and to vote for it. My colleagues voted for the original amendment. This amendment addresses the objections which have been raised and I believe addresses all of them.

I might add that this amendment enjoys very broad support from the American small business community, those who are employed by the small businesses, and all those who bear the burden of unnecessary regulations when regulation is translated into higher consumer prices, increased inflation, and increased unemployment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, we have been over this ground before and we have responded. We have responded to many of the concerns of small business in several ways. Most recently the Small Business Act was before us, and we addressed small business's concerns there. Then there was another amendment on the appropriations bill. Now we have this blanket exemption proposal again offered by the Senator from Oklahoma. It impresses me as particularly unwise to attempt to create blanket exemptions. We now know that blanket exemptions cannot exclude from OSHA only the safe, small employers. They also exclude many unsafe small employers.

Mr. President, in 1976 there were 598 fatalities in working places subject to OSHA which employed 10 or fewer employees. Let me say that again, for emphasis—598 fatalities in work places subject to OSHA which employed 10 or fewer employees. Of those deaths, 471 were in shops and factories which were excluded at the two-digit level under the Senator's earlier amendment to the small business bill.

We do not have exact figures, but OSHA estimates that 500 of those deaths would be in places exempt under this amendment the Senator offers today. To put that in perspective, in the same year, 1976, there were a total of 140 deaths in all the Nation's coal mines. I use that figure for perspective because we know what has been done here in the Congress to protect the lives of coal miners. We do not create exemptions to bring greater safety measures to the coal mines, one of the most dangerous work activities. We provide strong safety and health laws, which have given us remarkable progress in assuming the health and safety of the coal miners.

Now the Senator from Oklahoma, a Member for whom all Members have the highest respect and esteem, comes forward and has changed the exclusion criteria in order to include more unsafe businesses. It is clear, however, that a great many unsafe employers, unsafe by any reasonable standard, would still be excluded from OSHA under the amendment he now offers.

I would like to cite a few of the examples of businesses the Senator from Oklahoma could now exclude under the operation of his amendment. The standard industrial code 227, floor covering mills, has an injury rate of 2.9 and would be excluded under the Bartlett amendment. Yet within that SIC is classification 2279, carpets and rugs, with an injury rate of 36.6.

SIC 275, commercial printing, has an injury rate of 3.1, and is excluded under this amendment. Yet within that SIC is classification 2754, commercial printing, gravure, which carries an injury rate of 53.

SIC 322, glass and glassware, has an injury rate of 0.3, and would be excluded under the amendment before us. Yet within that SIC is classification 3221, glass containers, with an injury rate of 154.1.

It is clear that unsafe, small employers will still be excluded, no matter how finely tuned the exclusion criteria may be.

And, Mr. President, the more finely tuned the exclusion criteria, the more burdensome the recordkeeping and reporting requirements become. Thus, we burden with extensive paperwork the very same small employers whom we would seek to benefit by providing the exclusion in the first place.

It becomes just a little absurd. The exclusion is based on the incident rate for three-digit SIC's.

OSHA estimates that the number of small employers who will have to participate in the reporting and recordkeeping will increase from about 60,000 a year to 400,000 a year. At least 400,000 small employers must participate in the recordkeeping and reporting system in order to save small employers from less than 6,000 inspections.

Mr. President, I suggest this makes no sense. It makes no sense from the perspective of the small employers, whom we evidently, through this amendment, are trying to benefit. It clearly makes no sense from the perspective of the employees of these small employers.

Under this amendment literally millions of employees would be without the protections of the Occupational Safety and Health Act, irrespective of how unsafe and unhealthful their own work places may be.

They could not file complaints of unsafe work places without first exposing themselves to retribution from their employer. OSHA could not investigate accidents. Small employers do not need this exclusion from OSHA in order to survive, and it certainly is not calculated to enhance the survival of the employees of small employers.

The House Small Business Subcommittee, which held hearings on this question, specifically rejected the concept of blanket exclusions from OSHA. The Senate and House conferees specifically rejected this approach in consideration of the Small Business bill, H.R. 11445, and the Senate should likewise reject it in connection with this appropriations bill.

Mr. President, last time we had it, it was an amendment to a legislative act. It went to conference and out of conference came the adjustment with the House that has already been referred to. This is not a legislative matter now before the Senate, this is an appropriations bill. Therefore, because this legislation that our good friend, the distinguished Senator from Oklahoma, has introduced, this amendment constitutes legislation on an appropriation bill. It creates a basis for exemption from statutory coverage not contained in the OSHA Act and requires a determination to be made by the administrator of OSHA which is not required by the statute.

Mr. President, I shall be making the point of order that this amendment is is not in order on that basis when it is timely. I see the Senator from Oklahoma wants to speak. I understood that the Senator from Maine also wanted to speak. At any rate, I yield the floor for now.

Mr. BARTLETT. Mr. President, let me advise the distinguished Senator from New Jersey that when he raises the point of order, I shall raise the point of germaneness on the point of order against my amendment. I think he is aware that the legislating in this amendment was done by the House and my amendment simply extends language already in the bill. So it is germane.

I notice that the distinguished chairman mentioned 598 fatalities that have occurred in business of 10 or under. I draw his attention to the amendment and I read starting on the next to last line from the bottom, if he will follow me.

Mr. WILLIAMS. Will the Senator repeat that? I was distracted.

Mr. BARTLETT. If the Senator will follow me, I am responding to his charge about the 598 fatalities in the businesses of 10 or under.

Mr. WILLIAMS. Yes.

Mr. BARTLETT. I point out that this amendment provides, reading the second from the bottom line on the first page, that the Secretary may conduct an investigation to determine the causes of a serious physical injury or death—not just death, but serious physical injury—involving workplace safety at such employer's workplace.

He also commented—and I am not sure exactly what he said—about the health provisions. Just reading on, this says that the Secretary may conduct

health investigations and health inspections. It leaves that part of the law just exactly as it is at the present time. So it does not disturb that.

We changed to three- and four-digit SIC figures so that we could respond to the point that was made by the Senator, that being in a two-digit code would include in it and further breakdowns some businesses or industries which were higher than the seven or higher than the nine. So the purpose of that is to resolve the problem.

The Senator happened to read from part SIC code 227 and cited carpets and rugs, 227.9, 16.6 percent. There is a No. 4 right after carpets and rugs. It means that that is not an accurate figure. That means that either there was not sufficient sampling by OSHA or, for some reason, they do not consider it accurate.

My amendment provides for three and four digits so that we can have a further breakdown in the two-digit code in order not to exempt those businesses that are higher than seven. But if the information is not accurate, then, of course, it is OSHA's responsibility to make it accurate. They can either use a two-digit level, if that is what they prefer, or they can use the three or four. It is their option, really, to use their down figures as they see fit, their own analysis.

I must sort of laugh about this, because originally, OSHA complained that we did not go to three and four digits. Then, when we did, they said, yes, but they are not accurate, or that will be too much of a burden on business.

I want to assure the distinguished Senator from New Jersey that all the small business people I have talked with are cheering about this amendment and they would very happily fill out a 2-page inquiry to provide the statistical information that would be required. In many cases, they would not have any fatalities or injuries at all; in other cases, they would have very little to list in general, because the average injury-fatality rate for small businesses is 3 percent, or 3 out of 100.

In the category of 10 or fewer employees in small businesses, they have 16.5 percent of the employees, but they only have 13 percent of all fatalities. So, just as a group, they are much safer. Many of them, since the Senator has been reading the basic information that does go out to three and four digits, have very low percentages. Some have no fatalities or injuries and others are very low.

I think it is very easy to separate out the hazardous industries and have those included.

Mr. RIEGLE. Will the Senator yield at that point?

Mr. BARTLETT. Yes.

Mr. RIEGLE. I am wondering if he would—let us take a small firm with less than 10 employees that is a hazardous company, either by its past record or by the nature of the business that it is in, that would have a certain kind of process that would pose dangers to workers well above the average. We can find that in firms of all sizes. But let us take the extreme case of a company where there is a known degree of hazard, for understandable reasons; a small company. Why would we want to exempt that company? Why would we not want to make sure that the OSHA rules would apply in that situation, regardless of the size of the company?

Mr. BARTLETT. It would not be exempt. It would not be exempt if it is higher than seven.

Bear in mind that the breaking point for OSHA is nine, not seven. We have just provided an additional buffer, just to be conservative, to be safe. In the example the Senator cites, it would not be exempt if it is above seven.

Mr. RIEGLE. Let us talk about a firm that is below seven. Let us talk about a small firm that is involved in a very hazardous activity. Would the Senator's amendment allow that firm to fall under the full scope of the OSHA rules and procedures?

Mr. BARTLETT. If it were a hazardous industry, it would not be exempt.

Mr. RIEGLE. Let us say the industry itself, taken as a whole, would not be hazardous, but one firm in the industry might well be hazardous. Let us take the situation, the worst-case situation of a hazardous firm within a relatively safe industry. Does the Senator's amendment reach that situation?

Mr. BARTLETT. No, this amendment goes to the 4 digits, but it does not go to individual firms. It goes to further smaller classifications. So an industry that was not hazardous, in a hazardous group, would not be exempt.

Mr. RIEGLE. I guess my concern——

Mr. BARTLETT. Also, I should like to cite two things, that the Secretary may conduct an investigation to determine the causes of a serious physical injury or death involving workplace safety at such employer's workplace.

Any employee or representative of employee may request an inspection by filing a complaint with the Secretary, or his authorized representative, and with such employer.

So I think we are providing the unusual situation that might happen with proper remedies, if there is a death or serious injury in one of the classifications that is below seven, seven or below.

Mr. RIEGLE. I thank the Senator for yielding. I will have more to say, but I appreciate his yielding.

Mr. HATHAWAY. Will the Senator yield for question?

Mr. BARTLETT. On the Senator's time.

Mr. HATHAWAY. On my time? Is there a time limitation?

The PRESIDING OFFICER. There is a time limitation.

Mr. HATHAWAY. Will the Senator from New Jersey yield me time?

Mr. WILLIAMS. I certainly will.

Mr. HATHAWAY. I have a few questions in regard to the amendment itself.

Say there is no more than 10 full-time employees, or the equivalent thereof. Will the Senator tell me what he means by the equivalent?

Mr. BARTLETT. That is just to take into account seasonal workers.

Mr. HATHAWAY. Does the Senator mean it is an hourly basis, so that if they actually had 14 working halftime, that would be equivalent to seven full-time?

Mr. BARTLETT. It takes into account seasonal workers, but it is not on an hourly basis.

Mr. HATHAWAY. Does the Senator mean, if he has, say, 100 people working during the harvest season, but he averages out only 10 for the whole year, consequently he would be exempt?

Mr. BARTLETT. The formula on which the rate was based, this 7 to 100, whatever it is, is based on hours.

Mr. HATHAWAY. Is that not a risky thing to do? If it is done hourly for the year, and there will be a situation where they have maybe 50 employees during the harvest season, where it could be an extremely dangerous time of the year with that many people working together, yet average out to only 10 or less for the entire year, including those, this particular operation would be exempt.

In the dangerous time of the year, it would be hazardous with all the equipment out in the fields, with more people working there, that is the point I want to make.

Mr. BARTLETT. First, I would suggest——

Mr. HATHAWAY. I do not know whether the Senator would want to strike it, or not.

Mr. BARTLETT. I would suggest the Senator look at the rates of the industry, mainly the manufacturing ones are the hazardous ones, and the service industries are the nonhazardous ones.

But the purpose of that language is so it could be made applicable or comparable, so it could be utilized with migrant workers, and so on.

But with the migrant workers, it is mainly a health matter, and this is fully covered in the amendment to protect the present authority that OSHA has.

Mr. HATHAWAY. I do not agree it should be, that is all.

But another question on the seven out of 100, is there anything to indicate the seven injuries per 100 is safe?

Mr. BARTLETT. Yes.

Mr. HATHAWAY. What?

Mr. BARTLETT. Well, OSHA itself uses nine. The nine figure is the breaking point between hazardous and nonhazardous. In other words, nine or less would be nonhazardous, and so, by making it seven——

Mr. HATHAWAY. Who uses nine?

Mr. BARTLETT. OSHA.

Mr. HATHAWAY. OSHA does?

Mr. BARTLETT. Yes.

Mr. HATHAWAY. Is there any breakdown as to seriousness of illness, seven deaths or seven——

Mr. BARTLETT. As I just read to the Senator, a serious injury or death involving workplace safety, the Secretary may conduct an investigation.

Mr. HATHAWAY. Is the Senator saying the 7 per 100, or the 9 he says that OSHA says, is the safe level, means 9 serious injuries or deaths?

Mr. BARTLETT. It is any kind.

Mr. HATHAWAY. Any kind?

So that would be a cut finger as well as a brain concussion?

Mr. BARTLETT. No, it would not include the cut finger.

Mr. HATHAWAY. What level does it start to cut in? I mean, how serious does it have to be to count?

Mr. BARTLETT. If he had to go to a doctor.

Mr. HATHAWAY. If he had to go to a doctor?

Mr. BARTLETT. It would be included.

Mr. HATHAWAY. So if he had a cut finger and had to have it stitched, he would have to go to a doctor, so that would be a serious injury?

Mr. BARTLETT. That would be included.

Mr. HATHAWAY. So the seven counts, a couple of stitches in his hand or a death?

Mr. BARTLETT. I thought the Senator was using the cut finger as an example of a very minor accident.

But if it required stitches and he has to go to a doctor, or he goes to the doctor, that would be included.

But these are the inclusions and the exemptions of what OSHA has decided to use to determine what would be required so these figures would have meaning.

Mr. HATHAWAY. What about the three- and four-digit standard classification codes and the ones that are going to be exempt—is that right?

Mr. BARTLETT. I did not quite hear the Senator.

Mr. HATHAWAY. The amendment says that those who are in the three- and four-digit standard deduction classification codes—is that correct? They are the ones to be exempt?

Mr. BARTLETT. It mentions the injury incidence rate exceeding 7 per 100 full-time employees based on the annual Bureau of Labor Statistics survey of 3- and 4-digit Standard Industrial Classification Code Industries, provided that such injury incidence rate is based upon 2-digit Standard Industrial Classification Code injuries if the Occupational Safety and Health Administration determines that an accurate and reliable 3- and 4-digit Standard Industrial Classification Code is not available.

So they have their choice. It is their responsibility to come up, to my way of looking at it, with adequate sampling, so they can have the adequate figures.

Mr. HATHAWAY. I am just a little unclear. Let me take the table here. Maybe I can give the Senator an example.

This table of various industries, page 2. We get into the textiles and go down to where it says "knit outerwear."

Mr. BARTLETT. What number?

Mr. HATHAWAY. That is a 4-digit, 2253.

Mr. BARTLETT. Yes.

Mr. HATHAWAY. And 2253 has a rate of 9.8. But if one is in knit underwear mills, they could also be in knitting mills, which is, I think, 225, which is a 3-digit, which has a rate of only 2.8.

If he qualified for one of the two, would that take him off the hook, and he had the 10 or less employees, of course?

Mr. BARTLETT. This means that if OSHA will use the 4-digit breakdown, 2269, that gives the rate of 9.3. So it would be included. It would not be exempt.

Mr. HATHAWAY. So OSHA could use the 4, if it wanted, but it uses 3?

Mr. BARTLETT. The Senator can see by looking at these that 3 and 4 are available in many cases.

Mr. HATHAWAY. Right.

Mr. BARTLETT. In some, they say they are not accurate, and I think, it is my understanding, that is because of inadequate sampling. But they can remedy that very simply.

Mr. HATHAWAY. In other words, what the Senator is saying is this: If OSHA could find that the particular company involved were a four-digit classification, that it had a greater than 7 out of 100 accident rate, that company could not be exempt, but the burden is on OSHA to do that?

Mr. BARTLETT. Yes.

Mr. HATHAWAY. If there is no four digit, and that happens to be especially dangerous, and they happen to be in a three digit, which is seven or under, they are off the hook?

Mr. BARTLETT. OSHA determines what sampling is done.

Mr. HATHAWAY. I understand that.

Mr. BARTLETT. I would assume that they would know generally which is more hazardous and when to break those out, and they are doing that now.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. HATHAWAY. It seems to me that we are getting to the question the Senator from Michigan asked earlier about individual companies.

I yield to the Senator from Michigan.

Mr. RIEGLE. The problem with this statistical work, to go down to the third and fourth levels, is that it is going to take a lot of time and money.

I am wondering whether the Senator's amendment anticipates paying to get that job done and, if so, if there are any estimates he has made as to what kind of task that is going to be, how long it will take, how many people, how much money. I think it would be a multi-million-dollar job and would take a long time.

Mr. BARTLETT. At first, OSHA said—this was in August—that there would need to be 250,000 firms participating. Now they are saying 400,000. I think if we offer this amendment next month, they probably will say 800,000. They seem to change their figures from time to time to make them higher. So I am a little suspicious of their figures.

However, every businessman I have talked with in the small business category of 10 or under is really looking forward to this, if he is in a category that qualifies for an exemption, and there is nothing he would rather do than have a 2-page questionnaire to fill out. In some cases, they have nothing to lose, because they do not have any fatalities or injuries; in other cases, they would have some. They would fill them out and would greatly welcome the opportunity, if they qualified for an exemption, so that they would not be subject to the inspection.

Mr. RIEGLE. It seems to me, too, that somehow we have to come to grips with the distinction between a physical injury that occurs at a particular moment, where a fellow perhaps has his arm cut off in a lumber mill, or something of that kind, versus an occupational disease.

We have a problem in Michigan, where we have a lot of workers who are involved in using the chemical PDB, asbestos, and other things, where there are long-term impact disease problems and health problems.

I am wondering how that kind of situation is going to be handled, if that is left to the expertise of the local manager of the small company, who may not be in a position to assess that kind of problem. How do we crank that in?

Mr. BARTLETT. I think the Senator is not talking about injury but about health.

At the top of the second page of my amendment, I will read to the Senator what it says, starting with the last four words. It says:

the Secretary may conduct health investigations and health inspections.

This is what the Secretary may do now and can do now. So it does not change. That is in the law now, and with this amendment, it will remain in the law.

Mr. RIEGLE. I think it is important for the legislative history that we understand exactly what the Senator means by "health investigations and health inspections." In other words, does the Senator mean by that a broad definition, so that if the Secretary determines that there may be a problem and he wants to go into that work environment, he can check out any aspect that would relate to a possible health condition—in other words, something that is in the air, dust of a certain kind, or a chemical substance of some sort? In other words, does the Senator intend here to give the Secretary the broadest possible definition to define a health hazard?

Mr. BARTLETT. In health investigations and inspections, under this amendment, the Secretary would have the same auhority he has today.

Mr. RIEGLE. Perhaps we had better pin that down. What does the Senator see that as being?

Mr. BARTLETT. I just pinned it down. I say that he can have the same authority he has today. I do not know how I can pin it down more than that.

Mr. RIEGLE. My understanding is that there is some question that, in terms of past practice, it has not been settled and differentiated as to the difference between an injury-related condition in a firm versus these conditions which relate to long-term health effects, that that is not clear. The Senator is saying that it is clear.

Mr. BARTLETT. I think the Senator is confusing injury with health.

Mr. RIEGLE. I am talking about two kinds of injury. I am talking about the injury in which you get the injury in one fell swoop, a blade cutting your arm, or you sustain the injury by inhaling something in the air over a period of months. The point is that it is still an injury, but the injury is in a different form and takes a longer time.

Mr. BARTLETT. OSHA makes those distinctions now between injury-related illnesses and health-related illnesses. But the Secretary, at the present time, has authority, full authority, to make health investigations and health inspections.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield.

Mr. WILLIAMS. I should like to re-

mind both Senators that I understand that this Labor-HEW appropriation bill will be set aside at noon. I ask the chairman of the Appropriations Committee if we will come back to this subject matter.

Mr. MAGNUSON. Mr. President, I agreed with the leadership and other people interested in the coming vote on the gas bill that they would have an hour before that vote at 1 o'clock. So I ask unanimous consent at this time—it is 12 o'clock now—that the HEW appropriation bill be set aside temporarily.

Mr. WILLIAMS. Mr. President, will the Senator withhold that for one moment? I would like to put a question to the Senator from Oklahoma on this subject.

Mr. MAGNUSON. Yes.

Mr. WILLIAMS. The Senator, under his amendment, would continue the Occupational Safety and Health Administration's jurisdiction to go to work places of 10 or fewer for inspections dealing with health conditions. Is that right?

Mr. BARTLETT. Yes.

Mr. WILLIAMS. I wonder what would happen if the health inspector, who has two good eyes and knowledge of the workplace, observes a safety violation. If he or she goes there to catch problems of chemical fumes or some kind of dust, or whatever, and sees something that is manifestly unsafe, even dangerously unsafe. What authority would he have, under this amendment, to report that to the safety side of the Occupational Safety and Health Administration? Could the safety inspector deal with an unsafe and dangerously unsafe condition in that workplace?

Mr. BARTLETT. Under this, as it is now written, a worker could complain and request an inspection. It would be my interpretation that he could go ahead and make the safety inspection.

I would be willing to amend this, to add that, if the Senator would like it. If the Senator wants it spelled out a little more, I would be happy to put it in, if he thinks it should be put in there.

Mr. WILLIAMS. I do not support blanket exemptions in this way with respect to places that have safety problems as well as health problems.

Mr. BARTLETT. This is not a blanket exemption.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the HEW appropriation bill be set aside temporarily.

Mr. BARTLETT. I have a question, if the Senator will yield. Does that mean——

The PRESIDING OFFICER. The Chair advises that there is a unanimous-consent agreement that at the hour of noon, which is within 30 seconds, the Senate will return to debate on the natural gas bill, and I assume that that is the request the floor manager is about to make.

Mr. BARTLETT. Mr. President, a parliamentary inquiry.

Mr. MAGNUSON. Mr. President, may I explain that after the vote on the natural gas conference report the public works conference report will come up and there is a time limitation of 1 hour and 20 minutes on that conference report. It may be longer, but I think it will be about an hour and a half, and if we vote on the natural gas conference report at 1 p.m. I think that we could get back—I am just making a guess—to the HEW appropriations bill around 3 p.m.

Mr. BARTLETT. My understanding is that the speakers or debaters of the natural gas conference report have a right to intercede at any time. In fact, it is my request that they do that. But I think we could come back to this and not public works. Public works has to follow this when we finish this. I do not see how the chairman makes that decision.

Mr. MAGNUSON. That was agreed upon by the leadership earlier that we would take up the public works conference report.

Mr. BARTLETT. I did not hear any requests made by the leadership.

Mr. MAGNUSON. It was a unanimous-consent request, and we go back specifically to the HEW appropriations bill.

The PRESIDING OFFICER. The Chair will announce that there is on record a unanimous-consent agreement that following the vote on the natural gas conference report we go to the public works conference report on which there is a time limit of 1 hour and 20 minutes.

Is there objection to the request of the Senator from Washington?

If not, it is so ordered.

Mr. BARTLETT. Mr. President, is there not an order to return to the consideration of the natural gas conference report?

The PRESIDING OFFICER. The Chair is just about ready to announce that.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report on H.R. 5289, which will be stated by title.

The legislative clerk read as follows:

Conference report on H.R. 5289, an act for the relief of Joe Cortina of Tampa, Fla.

The Senate resumed the consideration of the conference report.

The PRESIDING OFFICER. There is a time agreement of 1 hour, 30 minutes on each side.

Who yields time?

Mr. JACKSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. JACKSON. I yield 5 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, at 1 p.m. this afternoon the Senate is going to vote on one of the momentous bills of this session, perhaps the most momentous bill of the session.

I simply wish to say that I am going to cast my vote in favor of the natural gas bill despite my warm, deep, unbounded respect for the Senator from South Dakota (Mr. ABOUREZK).

I wish to say that my vote will be cast with some trepidation, and that trepidation is based on the fact that there are going to be some instances in this country where substantial new gas has been found since April 20, 1977, that is going to jump immediately to the current price of $1.90-some and that even though we have an incremental pricing provision in this bill, which is designed or at least calculated to cause industry or at least those industries using natural gas to fire boilers, it is calculated to cause those industries to absorb the bulk of these gas price increases.

Yet, even under incremental pricing it is not calculated to take effect immediately. It occurs to me that the public service companies or the public service utility commissions around this country and FERC are going to have to operate, I hope expeditiously, as quickly as possible to design the incremental pricing mechanism so that the brunt of the increases which are going to take place after this bill are not borne by the residential homeowners. That is only one of my concerns.

I do not want to be negative about my attitude. I am simply saying that is one of my concerns, and there are others, but I have done the very best I could in analyzing the bill and balancing out what I think will be some of the favorable results that offset the negatives.

For example, if the international economic community perceives the United States as finally coming to grips with its gluttonous energy appetite and the decline of the dollar, which is creating so much inflation in this country, to say nothing of the decline in morale about the stability of the dollar and the strength of the Nation's economic plight, if the decline of the dollar is stopped just where it is and not strengthened, in my opinion the people of this country, who will indeed be paying more for gas in the future, will not be paying as much more for gas as they will be paying for the inflationary impact of doing nothing.

The Commerce Department announced this morning that the trade deficit for August was about $1.5 billion, the smallest since June 1977. That should be encouraging.

The one thing that is not encouraging about that is that oil imports continue unabated. There was no decline. The small trade deficit this country enjoyed in August is not because we have come to grips with the problem with imported oil.

I hasten to add that 2 days ago the Commerce Department announced that the inflation rate in this country was moving along at a 7.6-percent annual rate, and that is unacceptable. But that is another subject.

I have made the point in the Chamber before, and I will make it again, that of the $160 billion worth of goods we are going to import this year, if this bill reduces by even $3 billion the first year some of the $50 to $55 worth of oil imports that are going to flow into this country this year, in my opinion it will be a worthy beginning.

Finally, Mr. President, without going into the mechanics of the whole bill and the technical aspects of it because they are indeed arcane and obfuscated at times, I feel that the other three bills that we are going to adopt once we get this one passed are all worthy, and collectively this and those three bills will indeed have a salutary effect on our energy consumption, but perhaps even more important, we are going to have something on the books.

If we do not pass this bill at 1 p.m. this afternoon you can just forget it until after the Presidential election of 1980.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STONE. Mr. President, will the Senator yield me 2 minutes?

Mr. JACKSON. Mr. President, I yield 2 minutes.

Is the Senator through?

Mr. BUMPERS. No. Will the Senator yield me 2 additional minutes? Then the Senator from Florida wishes to speak.

Mr. JACKSON. I yield 2 additional minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 additional minutes.

Mr. BUMPERS. That is just the Presidential politics and that is just the way the thing stands. It is just like the judgeship bill. If they had not gotten the judgeship bill out of the way the other day we would not deal with it until after the Presidential election of 1980. If we do not pass this bill we are not going to deal with energy in any significant way until after the Presidential election of 1980.

If we pass this bill today and the House passes it later this week or next week, and the President signs it, we have at least something on the books we can work from and it is better than nothing.

The point I think that needs to be made over and over and over is that people talk about gas prices going up under this bill. You heard me say the other day that gas prices last year went up over $4.5 billion. Most people in my State have had their natural gas bills doubled, and in some instances tripled, in the last 3 years. So anybody who stands on this floor and piously says, "I am voting against this bill because I represent consumers," just has not looked at what has been happening in the country. It cannot possibly be any worse than it has been.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BUMPERS. I will be happy to yield.

Mr. JACKSON. I want to confirm what the distinguished Senator from Arkansas just said. The truth is in 1970 for new gas the price was 17 cents per thousand cubic feet. Today—this is all under so-called regulation—it is $1.50. That is an eightfold increase in 8 short years. We do not have regulation.

I want to commend the Senator for his excellent statement.

Mr. BUMPERS. I yield whatever time I have.

Mr. JACKSON. I yield to the Senator from Florida for purposes of a colloquy.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Title II of the Natural Gas Policy Act provides that interstate pipelines and local distribution companies served by interstate pipelines will be required to pass along some portion of the cost of certain specified higher priced supplies to specified industrial customers. This title is referred to as incremental pricing. Is this provision in any way intended to encourage industrial customers who are currently using natural gas to switch from natural gas to other fuels?

Mr. JACKSON. The incremental pricing mechanism is in no way intended to encourage industrial customers to switch from using natural gas to other fuels. Instead, the incremental pricing provision is intended to provide some protection from higher natural gas prices to certain gas customers, in particular residential and small commercial customers.

Mr. STONE. Section 204 provides that certain of the costs from some categories of natural gas will be passed through to industrial users until their natural gas acquisition cost reaches the price of the user's alternative fuel oil. Although the price of No. 2 fuel oil is to be used as the alternative fuel price, the bill provides authority for FERC to reduce the alternative fuel price to the price of No. 6 fuel oil if a pipeline, distribution company, or industrial user can establish that the price of No. 6 fuel oil is the appropriate fuel price to use. Do you agree that No. 6 fuel oil is to be used by the Commission as the alternative fuel price if a pipeline, distribution company, or industrial user can establish that it would use No. 6 fuel oil if natural gas is not available?

Mr. JACKSON. My answer to the Senator's question is in the affirmative. As it states on pages 99 and 100 of the joint statement of managers:

> The conference agreement provides that the price paid by industrial users for No. 2 fuel oil is the alternative fuel cost unless the Commission determines otherwise. The Commission can determine that, in certain cases, the price paid by industrial users for fuel oil costing as low as No. 6 fuel oil is the appropriate fuel cost to use as the alternative fuel cost. The Commission may make this determination either by rule or by order, on a case-by-case basis, or regionally by category of user on a pipeline-by-pipeline basis. . . . The conferees urge the Commission to take whatever action it deems appropriate or necessary (including expeditious consideration of these proceedings and consolidation of these cases) to avoid any delays in reducing the substitute fuel level so as to avoid the likelihood of conversions from natural gas by industrial users if these conversions would result in increases in natural gas rates for any residential, small commercial, and other high priority customers. The conferees intend that in determining the likelihood of these conversions occurring, the Commission move rapidly in the administrative hearings so as to avoid the irreparable damage which the conferees believe will occur to high priority users if these other industrial users, faced with uncertain natural gas rates, begin taking steps to secure alternate fuel supplies.
>
> The conference agreement requires the Commission to make the determination of the cost of alternative fuel following the opportunity for written and oral presentation of views, data, and arguments. The determination is to be based upon a finding that the use of the lower Btu equivalency level is necessary to avoid load shifting that would otherwise result from conversion of incrementally priced industrial facilities to substitute fuels, if that shifting would, in turn, result in increased natural gas rates to high priority users, including residential and small commercial users.

Mr. STONE. Let me see if I can be absolutely clear on this point. If it is established that a particular user to whom gas is being priced incrementally uses No. 6 fuel oil when it is unable to receive natural gas, then gas to this user will be incrementally priced up to the price of No. 6 fuel oil and no further.

Mr. JACKSON. That is clearly the intent of the conferees in the drafting of the incremental pricing provision.

Mr. STONE. I thank the Senator from Washington for helping me further clarify the intent of the incremental pricing provision.

Mr. JACKSON. Mr. President, I yield for the purpose of a colloquy to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Before I do that, I want to confirm what the Senator from Washington commented on with respect to the $1.50 price. As a matter of fact, that is the 1975–76 biennium price set by the regulatory process. There is another one in the making.

Mr. JACKSON. That is right.

Mr. DOMENICI. With or without this bill.

Mr. JACKSON. Under the "just and reasonable" provisions.

Mr. DOMENICI. That is 2 years ago.

Mr. JACKSON. That is right. There will be another increase under so-called regulation.

The truth is that this issue has been talked about and talked about, and I have been here through all of it going back 30 years, and we have not been able to pass tough regulatory legislation.

It is fine out in the boondocks, and I am all for tough regulation to protect the consumers. But the truth is it has failed every time we have attempted to toughen regulatory provisions over the law that was passed, Mr. President, 40 years ago, in 1938, which was the original gas pricing act.

Since then attempts have been made to change it, to deregulate the price of gas and, I might add, it has happened and passed in Democratic Congresses. So my Democratic colleagues cannot get up here and say that Democrats are going to change it. We could not do it in 1956; we could not do it last year right here in this body. They voted to deregulate.

Mr. DOMENICI. Mr. President, I have a couple of questions by way of clarification that I would like to ask the distinguished manager of the bill.

Is it not correct that section 207 explicitly provides that incremental pricing does not apply to LNG imports of projects which have been authorized on or before May 1, 1978, for which an application was pending on that date, or for which the Department of Energy or the Commission determines in connection with the granting of authority under the Natural Gas Act that a contract binding on the importer or other substantial financial commitment of the importer has been made on or before such date.

Mr. JACKSON. The Senator is correct.

Mr. DOMENICI. Section 207(c) recognizes the existing authority of the Department of Energy or the Commission under the Natural Gas Act to determine whether to incrementally price the LNG imports of these projects at the time that authority is granted.

It is my understanding that this provision is neutral as to whether incremental pricing is appropriate and in no way is a mandate to the Department of Energy or the Commission to impose incremental pricing.

Mr. JACKSON. The Senator's understanding of the provision is correct.

Mr. DOMENICI. One last question: In the event a determination is made under the Natural Gas Act to incrementally price the LNG imports of the pending projects, it is my understanding that the amount to be incrementally priced must be in accordance with section 203(a)(4) and that the incremental pricing has to be implemented under the legislation.

Mr. JACKSON. The Senator's understanding is correct.

Mr. DOMENICI. I thank the Senator.

Mr. JACKSON. Mr. President, I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, in a few minutes, the Senate will consider final passage of the natural gas conference report.

I have no illusions about what the outcome is likely to be.

The leadership has done its work well.

And the administration has used every means of persuasion at its disposal to secure a victory. A victory over every major consumer group, every major labor union, the Chamber of Commerce, the largest farm organizations and the independent gas producers.

Some victory.

The administration has told us time and again that passage of this legislation is necessary to defend the value of the dollar.

Yet in the week since the administration won the first round in this fight, the dollar has continued to fall against the key foreign currencies.

On September 19, when the first motion to recommit was defeated, a Swiss franc was worth 63.35 cents. At the end of last week, the franc was up to 66.53 cents. On Monday of this week, the franc hit 67.11 cents with 90 day futures selling at 68.52. And yesterday, the dollar hit another record low against the Swiss currency.

Mr. President, the dollar is falling against the Swiss franc, the German mark, the Japanese yen and the other strong currencies for reasons that have nothing to do with the fate of what the London Economist recently called the "inadequate and daily more-compromised natural gas bill."

The dollar is falling because our inflation rate far exceeds the rate in Europe and Japan.

The dollar is falling because our economy has grown more rapidly in recent years than have the economies of our major trading partners.

The dollar is falling because some of those trading partners have been far more anxious to sell to us than they have been to buy our products.

The dollar, in other words, has declined for a variety of complex reasons.

The administration knows this.

The business community knows it.

The gnomes of Zurich know it. And most importantly so do the Members of the U.S. Senate.

Yet the administration has seen fit to make a vote on this bill almost a patriotic issue.

The administration has used phrases like "national security," and "national will" to rally support for it.

The administration has juggled and rejuggled data to justify each of the several incarnations this bill has gone through in the past 18 months.

The administration has bemoaned the lack of a national energy plan while holding enactment of that plan hostage for almost a year to passage of the faulty legislation that is before us.

The administration has made connections that do not exist between the bill and the dollar—the bill and this President's capacity to lead—the bill and the need for a national energy program.

Mr. President, I stated earlier that I have no illusions about the likely outcome of today's vote.

But I want also to state that Senators who vote for this bill should have no illusions about what it is and what it will do to the people they represent.

There is a good reason why supporters have focused on the dollar and the national interest and the need for an energy plan.

They have done so because the bill itself is indefensible.

It cannot stand examination on the merits.

It is a bad bill—ruinous for consumers and stifling for producers.

By conservative estimates it will cost consumers up to $41 billion by the end of 1985, I want to emphasize, Mr. President, that the $41 billion is a very conservative figure. I want to point out that in previous days we talked about the amount of this bill costing something between certain figures and $41 billion, but now when you go back and reanalyze and reevaluate the figure you come up with different conclusions, and you come to the conclusion that the $41 billion figure is a very conservative estimate.

That is so because that figure was reached under the assumption that the inflation rate, over the next few years, would average 6 percent. But that is a joke.

The bill, of course, uses the inflation rate as reflected in the GNP deflator as the basis of the formula for calculating allowable annual price increases.

Between now and April 1981, prices will escalate on the basis of inflation plus 3.7 percent.

Under the bill, they used 6 percent plus 3.7 percent to arrive at those calculations.

After April 1981, the add-on rate goes to 4.1 percent.

As I have said, this formula produces an added cost of $41 billion when we assume an average inflation rate of 6 percent.

But if we assume an inflation rate closer to what we are now actually experiencing, the figures are much worse. And there is nothing in the record to indicate that the administration is going to be able to achieve much in bringing down that inflation. In fact, the figures, when you look at them based on the present inflation rate, become truly frightening.

With a 10 percent average rate of inflation—a rate somewhat lower than we now have—the wellhead price of gas will reach $2.27 by the end of 1979.

By the end of 1980, the price will rise to $2.58.

In 1981, the price under these assumptions will hit $2.94.

In 1982, it will reach $3.35, $3.83 in 1983, and $4.37 in 1984.

By the end of 1985, the price will hit an incredible $4.99 per Mcf.

Mr. President, the figures that have been used heretofore, which talked about a 10-percent increase rate per year, and bringing it up to $3.50, at this moment are totally out the window. The American people have no reason to assume they are going to be able to bring down the inflation rate, and at least at the present rate, it will be almost $5 by 1985, not the $3.50 we have been led to believe by the figures put out by the Department of Energy.

Every year, Mr. President, not only are the rates provided in the bill accommodated, but we will have a compounding of the rate.

And every year, these rate increases will contribute to inflation. And inflation will contribute to further rate increases.

And at the end of 1985, we get deregulation.

Mr. President, I have said time and again that this bill is faulty, that it is unwise, cumbersome, and unfair.

I say further that if this administration cannot for whatever reason control inflation, the bill is a prescription for economic disaster.

And, Mr. President, the bill will call forth minimal new production—an increase of approximately 3.5 percent over what we can expect with no bill at all.

And this bill will saddle producers with Federal regulation of unprecedented complexity.

Here is what the Wall Street Journal had to say on September 26 about the regulatory nightmare that this legislation will create:

> Under this bill, you start by finding every gas well in the country; we're told there are something like 150,000 of them. Around each you draw a circle of 2½ miles, extending 1,000 feet in depth from the current well. Gas found inside those cylinders is old gas; if you find it outside the cylinders it is new gas and gets a different price. And so on through the rest of 17 to 23 distinctions.
>
> To administer the gas bill, Charles Curtis, chairman of the Federal Energy Regulatory Commission, testified the other day, will require an additional 300 bureaucrats with salaries totaling $9.6 million a year. The FERC chairman emphasized that these were preliminary estimates.
>
> Very preliminary.

Very preliminary indeed.

Mr. President, no Senator should have any illusions about what is in this bill.

And no Senator should yield to the temptation to believe that after today, the natural gas issue will be a thing of the past.

It will not be.

Not by any means.

It is an issue that will come back time and again to this body.

And it is an issue on which every Member of the Senate will have to answer to his or her constituents.

The vote that we are about to conduct is not just any vote.

It is a vote that will affect tens of millions of people in this country.

It is a vote that every Senator will have to explain and explain again and again and again.

It is a crucial vote, certainly one of the most important of the 95th Congress.

And it is a vote that the American people will remember.

In the past 4 years, the American people have seen their gas and utility bills rise by approximately $48 billion.

Passage of this bill will insure that rates will continue to rise at a similar pace.

And passage of this bill will mean that sooner or later, the people of this country will demand to know the reason why.

They will want to know why their gas bills are inexorably rising.

They will want to know why gas supplies have not increased.

And they will want to know how their Senators voted when the crucial choices were made.

I do not know how others feel, but when the homeowners of my State tell me that their heating bills have become intolerable, I do not want to have to tell them that I voted for higher consumer prices because I thought that the President needed a victory.

When those same homeowners want to know why industry is paying $2.44 per Mcf for gas that costs the residential consumer $3.28, I do not want to have to say that I voted for it because the legislation that created it was "the only bill in town."

When businessmen in my State complain to me of mounting costs and minimal new supplies of gas, I do not want to have to tell them that I voted for a bad gas bill because of some vague connection to the dollar or to something called "national security."

When industry in my State begins to talk about moving to the producing States to take advantage of the break that this bill gives to industries located there. I do not want to tell those who stand to lose their jobs that I voted for those breaks because I was taken in by prophecies of doom produced on order by the Department of Energy.

And when I hear from producers in my State or in other States that they are being strangled by the onerous regulations in this bill, I do not want to have to tell them what I voted for overregulation because I wanted to pass a C minus bill—any kind of a bill—just to say we passed an energy bill on the books.

Mr. President, I am aware that lines have been drawn and that no votes are going to be changed by anything I or any other Member of the Senate has to say about this legislation today.

I am aware that most Senators feel themselves to be committed to one side or another of this issue.

But I ask those Senators who plan to vote for the bill to take one last look.

I ask them to consider whether they truly want to see enactment of costly and cumbersome legislation that both consumers and producers oppose.

I ask them to consider whether this bill will be good for the consumers in their States. I ask them to consider whether it will be good for business, good for industry, and good for the economy in general.

I believe that the answer to all of these questions is a resounding "No."

Mr. President, I hope for the sake of the country, that I am wrong in my assessment of the impact of this bill.

But I fear that I am only too correct.

I am proud to have stood against this legislation.

The decision is now up to the Members of the Senate.

Mr. JACKSON. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I would ask myself the same questions as our distinguished colleague from Ohio.

Is this bill good for consumers? Is this bill good for business? Is this bill good for the leaders of the free world? I have come to a resounding answer that is exactly opposite from my distinguished colleague's. I think it is.

We are all aware that the gas bill does have problems. There is no question about it. The distinguished Senator from Ohio has articulated many of them. I think there is a great temptation to vote it down and hope for a better bill next year.

However, in a colloquy that I had on the floor of the Senate recently, I asked what the reality of that hope was. Senator JACKSON said that recommitting the bill with instructions will kill the bill. Senator ROBERT BYRD said:

> What would happen if we send this report back to conference? We would have to deal with a new conference report signed by 13 out of 25 of the House conferees and 9 out of 17 of the Senate conferees. Time is running out and the sands in the hourglass are dropping one by one by one. So just forget it. There will not be a bill.

What is the likelihood of a bill next year if we fail this year? The chairman of the Energy Committee stated:

> I do not intend, unless I am overruled in the committee, and I would doubt that, to take up a natural gas bill, a comprehensive bill, in 1979 or 1980, because we have top priority legislation pending that has to take precedence.

Senator MARK HATFIELD, the next year's ranking minority member of the Energy Committee, agreed completely.

Senator ROBERT BYRD said if we kill this bill, "Those who think they will get something better soon had just better forget it."

With these three leaders on record I am convinced that the reality of the situation is it is this compromise or nothing for several years.

Several assurances that I received recently make the natural gas conference report more attractive to me, and I hope more attractive to some of my colleagues. I was concerned that in the long phase-in period before deregulation took place, policy could be changed which might reverse the trend toward market pricing. In conversations at the White House with Ambassador Strauss, Secretary Schlesinger, and Mr. Stu Eizenstat, each assured me that the Carter administration would do nothing to change the deregulatory direction of this bill. Senator JACKSON assured me that the Energy Committee would use its oversight jurisdiction to hold the administration to that commitment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. With the Senator yield 2 additional minutes?

Mr. JACKSON. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. JACKSON. I will yield 1 minute. I give the Senator my time.

Mr. PERCY. I thank the Senator.

The issue of oversight jurisdiction naturally raised the more fundamental issue of modifying and amending the natural gas compromise in the years to come. The Senator from Illinois was assured that if this compromise is adopted, every effort will be made to amend it and improve it as circumstances dictate.

There are four potential problem areas the Senator from Illinois raised: Criminal penalties becoming a disincentive to trial incremental pricing provisions driving large industrial users to convert to oil or to move to gas-producing States, the burden of regulation on small gas producers, and the cost of the regulatory program of this legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD the answers the Senator from Illinois received to the questions I posed on the Senate floor on September 15. These answers give me every assurance that this bill is far more in the interest of the Nation, the consumers, and the producers than no bill at all.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> The enforcement provisions of this bill raise the rather intimidating possibility that a man could go to jail for submitting information about a gas well based on an honest interpretation of his requirements that just happened to be different from FERC's interpretation.
>
> Certainly, this is a grave problem. It has been discussed at some considerable length in the meetings of Illinois constituents at the White House. Some of my constituents were quite eloquent in their discussion of this issue. Members of the administration at high levels have evidenced concern about this particular section.
>
> If there was ever a disincentive to drill, this provision is it.
>
> The possibility of unintentional misinterpretation is huge. No rational man can study and understand every aspect of this present legislation. The Senator from Illinois has read it carefully. It is extraordinarily difficult to understand.
>
> Will the executive branch interpret this provision in such a way to minimize the problem? Will the administration commit itself to supporting amendments next year to correct this situation?
>
> Can the chairman of the Energy Committee and the floor manager speak on behalf of the administration on this point, and will the chairman of the Energy Committee work with the administration to correct this particular situation?

Mr. JACKSON. I want to state categorically that a man could not go to jail for submitting information about a gas well based on an honest interpretation of his requirements that just happened to be different from FERC's interpretation.

Section 504(c) of the Natural Gas Policy Act provides criminal penalties only for "any person who knowingly and willfully violates any provision of this act." As it states on page 122 of the Joint Statement of Managers, the criminal enforcement procedures are similar to those in the Natural Gas Act—meaning the existing law. I do not believe there will be a need to amend the legislation in this regard.

Mr. PERCY. In other words, the interpretation the distinguished Senator puts on the language is that it must be absolutely willful, and there must be proof that it is willful violation?

Mr. JACKSON. That is absolutely correct. Willful. I would almost go to the point of saying premeditated.

There would have to be an intentional planned scheme to violate the law.

Obviously, we make no exception in cases like that.

Mr. PERCY. If it appears that, even with this assurance, this particular provision causes considerable concern within the private sector and turns out to be a real disincentive to drilling, would the Energy Committee then work on an amendment in the near future to correct that situation?

Mr. JACKSON. Certainly, if it should come to our attention, it is not our view now, that an injustice would be created by a failure to amend it, then obviously we would give it top priority attention.

It is my understanding, and I emphasize, I want to be emphatic about it, that in order to bring any kind of a criminal action it would involve intentional, willful violation of the statute.

Mr. PERCY. I would like to pursue a broader principle. The distinguished Senator from Oregon (Mr. MARK O. HATFIELD), who will be the ranking minority member of the Energy Committee next year, judges that consideration of a new gas bill would be absolutely out of the question if this bill fails or is recommitted. But he also stated that if this legislation were accepted, and imperfections subsequently become apparent, he could see the committee undertaking to work on improvements and modifications to refine and strengthen this legislation in the next session of Congress whereas it, I believe, could not consider new legislation.

Would the distinguished chairman of the committee concur in that judgment?

Mr. JACKSON. Certainly, it is a part of our oversight responsibilities, Mr. President, to make certain that we review existing programs. We are always anxious to know whether the law is being administered properly.

It would be in that capacity, especially, that we would not hesitate to consider amendatory legislation to correct that aspect of the program that might cause problems.

Mr. PERCY. I thank my distinguished colleague.

The next question deals with regulation. I think we are quite aware the burden of regulation often falls heavier on the small producers than on the majors, who have large staffs of lawyers and Government liaison personnel. Small producers are deeply concerned about the amount of regulation and their ability to conform to it.

What guarantees can the administration make that this bill will not have a disproportionate adverse effect on the small gas producers, who are so important to this country?

What commitment can the chairman of the Energy Committee make, that in his oversight of the FERC, he will see to it that this bill does not strangle the independents?

Mr. JACKSON. Mr. President, I assure the distinguished Senator from Illinois that there is no intention whatsoever to strangle the independent sector of the natural gas producing industry.

As a matter of fact, I am pleased to note that the Independent Gas Producers Committee of Oklahoma City, Okla., concur, that the legislation will provide a boost to their segment of the industry because of the strong incentives it provides for additional exploration.

The administration and I agree that the present natural gas conference report will lead to a significant reduction in the regulatory burdens on all segments of the oil- and gas-producing industry.

The cumbersome and unnecessary regulatory requirements of the Natural Gas Act that are now applied to all sales in interstate commerce will be terminated for all onshore and offshore new gas and for gas from onshore production wells, even from acreage that is now dedicated to interstate commerce. The producer who sells such gas to an interstate pipeline will not be required to obtain a certificate from FERC, to make regulatory rate increase filings, to obtain abandonment authorization from FERC when the contract expires or the well is depleted, or wait for 2 or 3 years to learn what price can be charged for the gas.

These simplifications in the regulatory scheme will certainly accrue to the benefit of the small producer. Furthermore, the administration has assured me that they will administer this with the small producer in mind.

Mr. PERCY. I thank my distinguished colleague for his comments.

The next question I would like to put to the manager of the bill deals with the following:

Several large industrial users of natural gas insist that the incremental pricing provisions in this bill will drive them to convert to oil or to move to a gas-producing State. The Senate's intention with incremental pricing was to protect the consumer from higher prices. But if these industrialists are correct, consumers will end up paying those higher prices, and they may lose their jobs as well. What is needed, clearly, is flexibility.

What assurances can the administration give, that flexibility can be built into the regulations, to deal with hardship cases and to prevent industrial relocation?

Mr. JACKSON. On page 95 of the Joint Statement of Managers the conferees state specifically that they "recognize that implementation of this (incremental pricing) program will be complex. The conference agreement provides for implementation of incremental pricing by rule, which is intended to give the Commission the requisite discretion to deal with difficulties that may arise.".

We certainly intend that flexibility will be built into the regulations to deal with hardship cases and to prevent industrial relocation.

There is one critical element of the incremental pricing provision which deserves highlighting in this regard. The incremental pricing provision operates to increase the price paid by incrementally priced industrial users until it is equal to the Btu equivalent of the cost of alternate fuels.

The mechanism is designed so as to prevent it from being the cause of industrial conversions. As the Joint Statement of Managers notes, the determination of the cost of alternate fuels is to be made on a regional basis. It states on page 100:

The conferees recognize that it may be necessary or appropriate for the Commission to make this determination in advance of the effective date of the first rule. The conferees urge the Commission to take whatever action it deems appropriate or necessary (including expeditious consideration of these proceedings and consolidation of these cases) to avoid any delays in reducing the substitute fuel level so as to avoid the likelihood of conversions from natural gas by industrial users if those conversions would result in increases in natural gas rates for any residential, small commercial, or other high priority customers. The conferees intend that in determining the likelihood of these conversions occurring, the Commission move rapidly in the administrative hearings so as to avoid the irreparable damage which the conferees believe will occur to high priority users if these other industrial users, faced with uncertain natural gas rates, begin taking steps to secure alternate fuel supplies.

The administration is very much aware of the need to implement incremental pricing in an equitable manner in order to assure that the public interest is best served. I would note that this bill does not compel incremental pricing with respect to any industrial use other than in large boilers. Extension of incremental pricing beyond boiler use could be prevented by a majority vote of either House of Congress 2 years from now.

Mr. PERCY. Could the distinguished Senator comment further on what he, as chairman of the Energy Committee, can do to hold the administration to its assurances?

Mr. JACKSON. Basically, we would call upon the appropriate officials within the Department of Energy to appear before the committee and to give an accounting. I think the oversight function of a committee does give it tremendous persuasive authority with the administration of the program by the executive branch of Government.

Mr. PERCY. Critics of the compromise legislation claim that it is just too complex in nature. It would require thousands of lawyers, years in court, millions of dollars, or so I have heard. How can we justify a huge buildup at the very time we are trying to shrink the bureaucracy?

What is the administration's forecast of the amount of time and money and the number of new employees which will be needed to enforce the provisions of the conference reported bill?

Mr. JACKSON. Mr. President, according to testimony given yesterday by the chairman of the Federal Energy Regulatory Commission before a subcommittee of the Committee on the Judiciary, chaired by Senator Abourezk, FERC will require 298 new employees, at a cost of $9 million. I should note that the figure includes the necessary support staff.

FERC will also require contract support services which will cost in the range of $5 to $10 million.

In fact, the FERC Chairman believes that the Commission's caseload will decrease under the Natural Gas Policy Act, not increase.

Mr. PERCY. The Secretary of Energy, Dr. Schlesinger, indicated to the Senator from Illinois that there would be a bulge in the first year of hundreds, but not thousands, of new employees. After the first year though, he said, the number of regulatory and enforcement personnel would decline below the current level.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield 4 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Washington, who has labored so long and so faithfully on this matter.

Mr. President, the immediate question before us today is, shall the measure before us be adopted as the best available alternative? This measure is not the bill that many of us want from one viewpoint or another. However, we should get together here and start something now. Hardships will come from this bill, but the big problem is the hardship, the gravest kind of hardship, I think, affecting all of our people, that will come unless we get together

very soon and take the first meaningful step towards a really effective energy policy.

I am greatly influenced by the 4 years of hearings that I conducted as Chairman of a public works subcommittee of the Committee on Appropriations, where we were trying to measure the money needed for research and development in the field of energy, including new types of nuclear power, solar energy, and all the other kinds of energy. We had every kind of witnesses, all of whom were capable. All of the correspondence I had then, or virtually all of it, recognized the fact that the future energy stortage is a reality we are dealing with, not somebody's imagination. In future decades the American people, at some point, are going to be in dire need of adequate energy to maintain our economy at anywhere near the standard we have now. This cannot be done unless major changes are made and major developments are realized.

When shall we begin? This bill is certainly not of my drafting or my wishes. It is not my first choice. But I am compelled to conclude that we must make a start, and this will be a start and a step forward on a necessary journey.

So I am casting my vote here for the conference report. I come from the State of Mississippi and I want to protect the people that I represent, both producers and consumers.

For several years there have been debates in the Congress and throughout the Nation regarding our energy and energy sources. We have had numerous discussions among ourselves as well as discussions with many other knowledgeable and experienced persons. I have had the benefit of conducting Appropriations Subcommittee hearings for 4 years on funds for research and development in all major fields of energy presently and prospectively in being.

All of us agree that we face a grave problem and that something should be done about it. The question now is: when shall we at least make a start?

In 1975 and again last year I voted in favor of the deregulation of natural gas as it seemed to me that this step was among the first needed to be taken. However, deregulation was not approved by the Congress. I am satisfied that immediate deregulation by legislation cannot be attained in the foreseeable future even though a great effort has been made.

The immediate question before us today is: shall the measure now before us be adopted as the next best alternative?

It is evident that some hardship will be imposed on many by this bill, including some in my own State. I regret this exceedingly and wish it could be avoided.

The real overall question on this point is the extent and severity of the hardship that will be brought on all of our people if we fail to act in time to make a start in meeting what is certain to be a grave crisis for our entire people. That crisis would be the lack of adequate energy and energy sources in future years to support the needs of our economy and our way of life.

From the 4 years of Appropriations Subcommittee hearings that I conducted, I learned of the present and prospective supply and the new possible sources of energy, including gas, oil, coal, nuclear, solar, and others. Additionally, in the same period of years I have been impressed with the uniformity of beliefs and conclusions of many capable people in many forms of endeavor of the paramount need for an overall energy policy, which it seems clear to me is necessary for the guidance of individuals, of business enterprises, and all segments of our economy. This policy is necessary in order to induce investments and enable leaders in every field to plan ahead, and then to seek the means of carrying out those plans. The facts are that the major parts of this policy are overdue and our economy is suffering because of this lack of a firm policy.

I have given special consideration, of course, to the problems of the people in my own State. Fortunately, we produce in Mississippi some natural gas, but on the whole we are dependent on outside sources for over 60 percent of the gas that we now consume, and, of course, our demands will increase. This shows the need to increase the interstate gas supply in Mississippi if its industries and our people are to be assured of the gas supply we need to grow and prosper.

All in all, I have been driven to the conclusion that we should take a step now in at least starting off a national energy policy. The effect of this bill may not have a telling impact on the problem as a whole, but by all means it is a start. I have thought for some time that we could not afford to wait until we had a complete energy bill agreed on by the Congress, but, instead, that we would have to evolve an overall policy, one or more steps at a time. Of course, I reserve judgment on the specific provisions of such future legislation as it may be considered by the Senate.

This bill is a start and it is the best that we can get at this time. In view of these considerations, I am supporting it while we look ahead and try to plan and take the next step. With emphasis, I say again that we are legislating a policy that will affect us for many decades to come, and, without a national energy policy, I am satisfied that we will not be able to maintain our economy and high standards of living and our splendid way of life.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. HANSEN. I yield 4 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. I thank my distinguished colleague from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming does not have control of the time.

Mr. HANSEN. I thought I did, Mr. President.

Mr. HOLLINGS. Who does?

The PRESIDING OFFICER. The Chair is in error. The Senator from Wyoming does have control of the time. The Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the Chair. I wish to make a statement regarding the natural gas compromise.

As Lewis Carroll's character in "Alice's Adventures in Wonderland" said:

> We had best find out where we are in order to determine where we are headed.

If we talk about a crisis, if we talk about trouble, if we talk about a lagging, noneconomic industry, I just have to quote our good friend Governor Romney, "You have been brainwashed."

Mr. President, the natural gas industry is the sixth largest industry in the United States, the most prosperous of industries. I can give you all the quotations from the stock market and everywhere. It is a growing and growing prosperous enterprise under regulation.

Texas boys came up here in 1938 and asked for regulation. Ever since they got their lines established, their production, their markets, and everything else, they have been giving us the bum's rush.

They did it under Harry Truman, and he stopped them. They tried it under President Eisenhower and he vetoed it. We were given the same summary talks back in the fifties that we are given here on the floor of the Senate today: If we do not have deregulation, if we do not have a new law, the gas industry is going to grind to a halt and they are not going to drill anymore. I simply say that is not so, and I am going to submit these statistics, Mr. President. I ask unanimous consent to have them printed in the RECORD.

There being no objection, the statistics were ordered to be printed in the RECORD, as follows:

PRODUCING NATURAL GAS AND CONDENSATE WELLS IN THE UNITED STATES BY STATE

[As of Dec. 31]

State	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961
Alabama													4	4	
Alaska													2	2	5
Arizona														1	
Arkansas	160	165	168	179	190	200	230	240	240	255	260	300	320	370	485
California	350	365	395	440	360	380	420	460	470	465	500	535	569	652	774
Colorado	20	30	30	36	35	40	55	75	100	150	240	250	318	466	462
Florida															
Illinois	100	100	100	90	50	40	25	25	30	40	40	35	35	45	74
Indiana	830	800	750	750	650	600	450	425	400	405	410	380	350	350	300
Kansas	2,700	3,000	3,300	3,700	4,000	4,270	4,600	4,800	5,100	5,450	5,650	6,000	5,700	6,003	6,633
Kentucky	3,350	3,480	3,610	3,500	3,570	3,800	3,900	4,000	4,100	4,200	4,300	4,330	4,690	4,829	5,119
Louisiana	2,100	2,210	2,400	2,550	2,690	2,900	3,200	3,500	3,600	4,000	4,300	4,500	5,000	6,479	6,990
Maryland													38	38	34

PRODUCING NATURAL GAS AND CONDENSATE WELLS IN THE UNITED STATES, BY STATE—Continued

[As of Dec. 31]

State	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961
Michigan	760	700	650	550	400	380	280	250	260	260	270	270	230	154	155
Mississippi	60	75	75	140	190	220	220	235	230	235	238	250	300	400	472
Missouri	100	100	90	59	30	20	27	37	32	33	38	40	----	9	9
Montana	700	760	800	820	830	920	1,000	1,050	1,060	1,065	1,090	1,090	1,176	999	981
Nebraska	----	----	----	----	----	----	----	----	----	----	----	----	50	53	49
New Mexico	220	230	270	360	570	920	1,500	1,800	2,200	2,830	3,300	4,000	5,000	6,047	6,491
New York	1,700	1,600	1,400	1,400	1,380	1,360	1,300	1,250	1,180	1,160	1,150	980	920	1,000	1,109
North Dakota	----	----	----	----	----	----	----	----	----	----	----	----	28	28	28
Ohio	7,190	7,000	6,700	6,800	6,300	6,000	6,100	6,100	6,200	6,300	6,450	6,300	6,700	7,063	7,077
Oklahoma	3,250	3,400	3,500	3,600	3,600	3,700	3,900	4,000	4,200	4,300	4,450	5,000	5,300	5,800	6,218
Pennsylvania	19,100	18,800	18,400	18,500	17,700	16,700	16,700	16,500	16,300	16,250	16,300	16,300	16,500	16,350	16,500
South Dakota	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
Tennessee [2]	----	18	18	18	20	20	27	28	28	28	30	30	25	30	23
Texas	5,000	5,100	5,800	7,300	8,300	9,200	10,200	11,200	11,400	12,240	13,400	15,340	16,750	18,612	19,831
Utah	----	----	----	----	----	----	----	----	----	----	----	----	37	35	135
Virginia	----	----	----	----	----	----	----	----	----	----	----	----	53	92	98
West Virginia	15,800	16,100	15,500	13,900	14,000	13,500	13,800	13,900	14,000	14,200	14,200	14,000	12,740	14,500	16,297
Wyoming	150	145	150	165	165	180	180	200	220	265	280	300	390	350	460
Other	30	34	40	43	70	100	109	117	125	130	145	170	----	----	----
Total	63,670	64,212	64,146	64,900	65,100	65,450	68,233	70,192	71,475	74,261	77,041	80,400	83,225	90,761	96,809

State	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972 r	1972 r	1973 r	1974 r	1976
Alabama	----	2	----	----	----	----	1	1	2	----	15	15	6	45	66
Alaska	8	10	13	11	19	21	18	44	51	40	50	52	52	61	50
Arizona	3	7	10	8	9	7	4	4	4	5	4	4	1	1	1
Arkansas	380	490	515	744	818	909	947	998	1,008	1,013	1,041	876	1,172	1,128	1,223
California	826	879	950	1,033	1,068	1,059	994	897	980	962	1,086	1,095	1,142	1,585	1,123
Colorado	451	501	560	701	826	827	810	805	861	928	934	1,050	1,347	1,380	1,500
Florida	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
Illinois	30	25	25	25	3	3	5	5	8	14	31	36	37	41	34
Indiana	290	285	280	275	275	271	265	265	50	83	87	103	474	478	563
Kansas	6,915	7,050	7,174	7,200	8,608	8,603	8,509	8,567	8,660	8,585	8,621	8,785	8,800	8,865	9,330
Kentucky	5,200	5,210	5,320	6,100	6,020	6,215	6,290	6,413	6,913	7,413	7,099	7,224	7,307	7,386	7,505
Louisiana	7,442	7,859	8,260	8,563	8,977	9,036	9,163	9,354	9,690	9,748	9,456	10,551	9,248	11,359	11,370
Maryland	33	33	16	20	8	13	15	13	16	14	16	15	15	15	14
Michigan	174	175	195	226	250	244	199	211	1,235	1,171	1,317	1,145	503	209	214
Mississippi	490	450	435	370	376	360	347	322	325	400	252	250	239	248	257
Missouri	6	6	6	11	11	11	11	11	11	2	3	2	3	3	3
Montana	954	905	869	784	784	648	1,196	1,098	739	1,056	1,116	1,118	1,450	1,235	1,490
Nebraska	47	44	41	39	37	37	36	35	35	29	29	29	25	19	17
New Mexico	6,967	7,150	7,306	8,010	8,017	8,274	8,754	9,100	8,848	9,388	9,679	9,711	9,915	10,352	10,674
New York	1,130	1,130	1,155	1,150	1,164	1,159	1,155	818	700	600	650	789	700	900	1,400
North Dakota	29	31	31	31	31	31	19	33	29	29	21	44	34	18	34
Ohio	7,117	7,128	7,160	7,100	3,790	3,865	7,211	7,334	7,789	8,179	8,630	9,406	10,038	10,382	11,509
Oklahoma	6,324	6,639	6,813	7,447	7,841	7,726	8,337	8,432	8,168	8,507	8,457	8,868	9,401	9,769	10,436
Pennsylvania	16,600	16,600	14,120	17,516	17,808	17,700	17,000	16,600	16,239	16,586	16,600	16,600	17,123	17,300	17,500
South Dakota	----	----	----	----	----	----	----	----	----	----	5	10	20	20	20
Tennessee	30	30	30	20	20	21	23	26	15	20	45	6	13	5	7
Texas	20,834	22,016	22,995	23,748	23,907	23,760	23,805	23,689	23,417	23,280	23,373	23,805	24,646	26,184	27,762
Utah	121	135	133	148	156	168	165	171	173	178	200	158	114	271	71
Virginia	98	98	100	99	104	104	111	111	115	115	130	178	174	186	180
West Virginia	17,121	17,500	17,960	19,600	20,830	20,500	18,214	18,600	20,702	21,025	21,324	21,400	21,450	21,700	22,100
Wyoming	547	578	610	701	741	749	787	521	800	840	887	850	900	950	990
Total	100,267	102,966	103,084	111,680	112,498	112,321	114,391	114,476	117,483	120,210	121,158	124,178	126,349	132,095	137,443

[1] Prior to 1959 included with Missouri.
[2] Prior to 1948 included with Kentucky.
r Revised.
p Preliminary

Source: U.S. Bureau of Mines, Natural Gas Annuals. U.S. Energy Information Administration, Natural Gas Annuals.

U.S. DRILLING STATISTICS—ALL WELLS [1] BY CLASSIFICATION

Year	Exploratory wells				Development wells [1]				Total all wells [2]				Service, stratigraphic, and core tests [3]	Total	Percent change	Year
	Oil	Gas	Dry	Total	Oil	Gas	Dry	Total	Oil	Gas	Dry	Total				
1946	762	375	4,622	5,759	15,089	2,715	3,429	21,233	15,851	3,090	8,051	26,992	2,237	29,229	----	1946
1947	982	396	5,397	6,775	17,017	2,909	4,141	24,067	17,999	3,305	9,538	30,842	2,280	33,122	+13.3	1947
1948	1,098	365	6,550	8,013	21,487	2,532	5,476	29,495	22,585	2,897	12,026	37,508	2,270	39,778	+20.1	1948
1949	1,406	424	7,228	9,058	20,636	2,463	5,499	28,598	22,042	2,887	12,727	37,656	1,382	39,038	−1.9	1949
1950	1,583	431	8,292	10,306	22,847	2,412	6,465	31,724	24,430	2,843	14,757	42,030	1,249	43,279	+10.9	1950
1951	1,763	454	9,539	11,756	21,690	2,576	7,114	31,380	23,453	3,030	16,653	43,136	1,380	44,516	+2.9	1951
1952	1,776	559	10,090	12,425	21,690	2,696	7,528	31,914	23,466	3,255	17,618	44,339	1,482	45,821	+2.9	1952
1953	1,981	699	10,633	13,313	23,781	3,107	7,816	34,704	25,762	3,806	18,449	48,017	1,262	49,279	+7.5	1953
1954	1,985	723	10,389	13,097	27,788	3,251	8,779	39,818	29,773	3,974	19,168	52,915	1,012	53,927	+9.4	1954
1955	2,236	869	11,832	14,937	29,331	2,739	8,910	40,980	31,567	3,608	20,742	55,917	760	56,677	+5.1	1955
1956	2,274	822	13,077	16,173	28,463	3,721	8,720	40,904	30,737	4,543	21,797	57,077	1,049	58,126	+2.6	1956
1957	1,945	865	11,897	14,707	26,067	3,755	9,079	38,901	28,012	4,620	20,976	53,608	1,409	55,017	−5.3	1957
1958	1,745	822	10,632	13,199	22,833	3,981	8,411	35,225	24,578	4,803	19,043	48,424	1,615	50,039	−9.0	1958
1959	1,702	912	10,577	13,191	24,098	4,117	8,688	36,903	25,800	5,029	19,265	50,094	1,670	51,764	+3.4	1959
1960	1,321	868	9,515	11,704	19,865	4,390	8,059	32,314	21,186	5,258	17,574	44,018	2,733	46,751	−9.7	1960
1961	1,157	813	9,022	10,992	19,944	4,851	8,084	32,879	21,101	5,664	17,106	43,871	3,091	46,962	+.5	1961
1962	1,211	771	8,815	10,797	20,038	5,077	7,867	32,982	21,249	5,848	16,682	43,779	2,400	46,179	−1.7	1962
1963	1,314	664	8,686	10,664	18,974	4,087	7,661	30,722	20,288	4,751	16,347	41,386	2,267	43,653	−5.5	1963
1964	1,219	577	8,951	10,747	19,401	4,278	8,537	32,216	20,620	4,855	17,488	42,963	2,273	45,236	+3.6	1964
1965	946	515	8,005	9,466	17,815	4,209	8,020	30,044	18,761	4,724	16,025	39,510	1,922	41,432	−8.4	1965
1966	1,196	698	8,419	10,313	15,584	3,679	6,808	26,071	16,780	4,377	15,227	36,384	1,810	38,194	−7.8	1966
1967	986	532	7,360	8,878	14,343	3,127	5,886	23,356	15,329	3,659	13,246	32,234	1,584	33,818	−11.5	1967
1968	954	486	7,439	8,879	13,377	2,970	5,373	21,720	14,331	3,456	12,812	30,599	2,315	32,914	−2.7	1968
1969	1,084	616	8,001	9,701	13,284	3,467	5,735	22,486	14,368	4,083	13,736	32,187	1,866	34,053	+3.5	1969
1970	790	481	6,422	7,693	12,230	3,359	4,838	20,427	13,020	3,840	11,260	28,120	1,347	29,467	−13.5	1970
1971	651	437	5,834	6,922	11,207	3,393	4,329	18,929	11,858	3,830	10,163	25,851	1,449	27,300	−7.4	1971
1972	684	601	6,254	7,539	10,622	4,327	4,803	19,752	11,306	4,928	11,057	27,291	1,464	28,755	+5.3	1972
1973	619	900	5,947	7,466	9,283	5,485	4,358	19,126	9,902	6,385	10,305	26,592	1,010	27,602	−4.0	1973
1974	814	1,195	6,610	8,619	11,970	6,045	5,064	23,079	12,784	7,240	11,674	31,698	1,195	32,893	+19.2	1974

[1] The number of development wells for the years 1946–65 was obtained by deducting the total number of exploratory wells reported by the AAPG from the total number of wells reported by the Oil & Gas Journal.
[2] Excluding service, stratigraphic and core tests.
[3] 1946-65 excludes stratigraphic and core tests; stratigraphic and core tests are included for 1965–74.

Sources: 1946–65, American Association of Petroleum Geologists and Oil & Gas Journal. 1966–74 American Petroleum Institute and the American Association of Petroleum Geologists.

EXPLORATORY WELLS DRILLED IN THE UNITED STATES

Year	New-field wildcats				Other exploratory wells [1]				Total exploratory wells				Percent change	Year
	Oil	Gas	Dry	Total	Oil	Gas	Dry	Total	Oil	Gas	Dry	Total		
1947	275	119	3,086	3,480	707	277	2,311	3,295	982	396	5,397	6,775	----------	1947
1948	366	135	3,795	4,296	732	230	2,755	3,717	1,098	365	6,550	8,013	+18.3	1948
1949	364	142	3,943	4,449	1,042	282	3,285	4,609	1,406	424	7,228	9,058	+13.0	1949
1950	462	130	4,698	5,290	1,121	301	3,594	5,016	1,583	431	8,292	10,306	+13.8	1950
1951	515	169	5,505	6,189	1,248	285	4,034	5,567	1,763	454	9,539	11,756	+14.1	1951
1952	556	185	5,957	6,698	1,220	374	4,133	5,727	1,776	559	10,090	12,425	+5.7	1952
1953	581	193	6,151	6,925	1,400	506	4,482	6,388	1,981	699	10,633	13,313	+7.1	1953
1954	639	263	6,478	7,380	1,346	460	3,911	5,717	1,985	723	10,389	13,097	−1.6	1954
1955	659	259	7,186	8,104	1,577	610	4,646	6,833	2,236	869	11,832	14,937	+14.0	1955
1956	628	240	7,841	8,709	1,646	582	5,236	7,464	2,274	822	13,077	16,173	+8.3	1956
1957	590	282	7,142	8,014	1,355	583	4,755	6,693	1,945	865	11,897	14,707	−9.1	1957
1958	518	268	6,164	6,950	1,227	554	4,468	6,249	1,745	822	10,632	13,199	−10.3	1958
1959	466	306	6,259	7,031	1,236	606	4,318	6,160	1,702	912	10,577	13,191	−.1	1959
1960	448	297	6,575	7,320	873	571	2,940	4,384	1,321	868	9,515	11,704	−11.3	1960
1961	429	316	6,164	6,909	728	497	2,858	4,083	1,157	813	9,022	10,992	−6.1	1961
1962	470	317	6,007	6,974	741	454	2,808	4,003	1,211	771	8,815	10,797	−8.1	1962
1963	529	240	5,801	6,570	785	424	2,885	4,094	1,314	664	8,686	10,664	−1.2	1963
1964	440	252	5,931	6,623	779	325	3,020	4,124	1,219	577	8,951	10,747	+.8	1964
1965	397	234	5,544	6,175	549	281	2,461	3,291	946	515	8,005	9,466	−11.9	1965
1966	420	239	5,499	6,158	776	459	2,920	4,155	1,196	698	8,419	10,313	−8.9	1966
1967	371	189	4,700	5,260	615	343	2,660	3,618	986	532	7,360	8,878	+13.9	1967
1968	321	127	4,757	5,205	633	359	2,682	3,674	954	486	7,439	8,879	0	1968
1969	344	191	5,421	5,956	740	425	2,580	3,745	1,084	616	8,001	9,701	+8.5	1969
1970	309	184	4,576	5,069	481	297	1,846	2,624	790	481	6,422	7,693	−20.7	1970
1971	232	202	4,028	4,462	419	235	1,806	2,460	651	437	5,834	6,922	−10.0	1971
1972	294	272	4,520	5,086	390	329	1,734	2,453	684	601	6,254	7,539	+8.9	1972
1973	285	416	4,288	4,989	334	484	1,659	2,477	619	900	5,947	7,466	−1.0	1973
1974	358	447	4,847	5,652	456	748	1,763	2,967	814	1,195	6,610	8,619	+15.4	1974
1975	429	447	5,228	6,104	543	724	1,843	3,110	972	1,171	7,071	9,214	+6 9	1975
1976	439	547	4,854	5,840	608	855	1,931	3,394	1,047	1,402	6,785	9,234	+.2	1976
1977	481	523	5,097	6,101	728	954	2,178	3,860	1,209	1,477	7,275	9,961	+7.9	1977

[1] Includes new-pool wildcats, deeper pool tests, shallower pool tests, and out-post (extensions).

Source: 1947–65, American Association of Petroleum Geologists. 1966–77, American Association of Petroleum Geologists and American Petroleum Institute.

U.S. ESTIMATED DRILLING COSTS, ALL WELLS BY CLASSIFICATION

OIL WELLS

Year	Total wells	Total footage	Total costs	Average depth per well (feet)	Average cost	
					Per well	Per foot
1959	25,413	96,931,320	$1,321,426,000	3,814	$51,998	$13.63
1960	21,294	84,033,861	1,110,701,105	3,946	52,160	13.22
1961	21,204	82,924,129	1,086,761,395	3,911	51,253	13.11
1962	21,402	86,494,494	1,160,472,137	4,041	54,223	13.42
1963	20,678	81,099,806	1,071,138,207	3,922	51,801	13.21
1964	21,012	80,988,857	1,062,994,900	3,854	50,590	13.13
1965	18,857	76,547,513	1,066,795,319	4,059	56,573	13.94
1966	15,856	65,553,614	985,753,591	4,134	62,169	15.04
1967	14,935	59,934,309	995,368,948	4,013	66,647	16.61
1968	13,767	58,456,055	1,089,328,359	4,246	79,126	18.63
1969	12,915	57,934,449	1,117,128,484	4,486	86,499	19.28
1970	12,547	56,417,000	1,088,057,000	4,496	86,718	19.29
1971	11,405	48,585,207	894,505,082	4,260	78,431	18.41
1972	10,753	48,399,546	1,005,471,096	4,501	93,506	20.77
1973	9,705	44,667,140	1,006,975,314	4,602	103,758	22.54
1974	13,073	51,765,242	1,440,325,779	3,960	110,176	27.82
Percent change:						
1965–74	30.7	−32.4	+35.0	−2.4	+98.8	+99.7
1970–74	+4.2	−8.3	+32.4	−11.9	+27.1	+44.2

DRY HOLES

Year	Total wells	Total footage	Total costs	Average depth per well (feet)	Average cost	
					Per well	Per foot
1959	19,101	80,995,626	$820,775,000	4,240	$42,970	$10.13
1960	17,577	73,268,783	773,538,864	4,168	44,009	10.56
1961	17,110	73,300,612	773,967,327	4,284	45,235	10.56
1962	16,684	75,630,877	847,431,464	4,533	50,793	11.20
1963	16,396	74,702,588	790,300,052	4,556	48,201	10.58
1964	17,600	80,262,732	853,808,197	4,560	48,512	10.64
1965	15,967	75,664,405	848,541,238	4,739	53,143	11.21
1966	14,605	67,394,526	831,735,157	4,614	56,949	12.34
1967	13,045	62,309,864	802,148,507	4,777	61,491	12.87
1968	12,485	64,140,886	826,295,925	5,137	66,183	12.88
1969	12,639	67,075,559	887,537,373	5,307	70,222	13.23
1970	10,786	57,380,000	873,042,000	5,320	80,942	15.22
1971	9,956	53,936,938	864,132,673	5,418	86,795	16.02
1972	10,604	58,251,358	1,006,309,171	5,493	94,899	17.28
1973	10,112	55,656,749	1,069,625,386	5,504	105,778	19.22
1974	11,713	62,047,989	1,660,122,700	5,297	141,733	26.76
Percent change:						
1965–74	−26.6	−18.0	+95.6	+11.8	+166.7	+138.7
1970–74	+8.6	+8.1	+90.2	−0.4	+75.1	+75.8

GAS WELLS

Year	Total wells	Total footage	Total costs	Average depth per well (feet)	Average cost	
					Per well	Per foot
1959	5,049	27,585,452	$508,895,000	5,464	$100,791	$18.45
1960	5,262	29,078,303	540,179,399	5,526	102,656	18.58
1961	5,674	30,444,400	537,433,923	5,366	94,719	17.65
1962	5,858	31,431,795	568,771,758	5,366	97,093	18.10
1963	4,779	25,677,668	441,425,691	5,373	92,368	17.19
1964	4,874	27,493,848	510,564,089	5,641	104,753	18.57
1965	4,772	26,493,164	486,099,969	5,552	101,865	18.35
1966	4,060	24,974,116	543,251,563	6,151	133,806	21.75
1967	3,558	21,761,617	501,660,931	6,116	140,995	23.05
1968	3,324	20,531,823	493,736,115	6,177	148,537	24.05
1969	3,927	23,695,179	606,005,417	6,034	154,318	25.58
1970	3,844	23,093,000	617,583,000	6,007	160,662	26.74
1971	3,679	22,121,840	612,853,758	6,013	166,582	27.70
1972	5,086	28,884,634	802,385,522	5,679	157,764	27.78
1973	6,427	36,336,867	997,931,552	5,654	155,272	27.46
1974	6,695	37,131,063	1,266,540,323	5,546	189,177	34.11
Percent change:						
1965–74	+40.3	+40.2	+160.6	−0.1	+85.7	+85.9
1970–74	+74.2	+60.8	+105.1	−7.7	+17.7	+27.6

TOTAL WELLS DRILLED

Year	Total wells	Total footage	Total costs	Average depth per well (feet)	Average cost	
					Per well	Per foot
1953	49,279	198,839,000	$2,471,718,287	4,035	$50,158	$12.43
1955	55,931	225,157,031	2,600,143,000	4,026	46,488	11.55
1956	57,125	232,173,708	2,868,410,000	4,084	50,213	12.35
1959	49,563	205,512,398	2,651,096,000	4,146	53,500	12.90
1960	44,133	186,380,947	2,424,418,308	4,223	54,934	13.01
1961	43,988	186,669,141	2,398,162,645	4,244	54,518	12.85
1962	43,944	193,557,166	2,576,675,359	4,405	58,635	13.31
1963	41,853	181,480,062	2,302,863,950	4,336	55,023	12.69
1964	43,486	188,745,437	2,427,367,186	4,340	55,820	12.86
1965	39,596	178,705,082	2,407,436,526	4,513	60,648	13.44
1966	34,521	157,922,256	2,360,740,311	4,575	68,386	14.95
1967	31,538	144,005,790	2,299,178,386	4,566	72,902	15.97
1968	29,576	143,128,764	2,409,360,399	4,839	81,463	16.83
1969	29,481	148,705,227	2,610,671,264	5,044	88,554	17.56
1970	27,177	136,890,000	2,578,682,000	5,037	94,885	18.84
1971	25,040	124,643,985	2,371,491,513	4,978	94,708	19.03
1972	26,443	135,535,538	2,814,165,789	5,126	106,424	20.76
1973	26,244	136,660,756	3,074,532,252	5,207	117,152	22.50
1974	31,481	150,944,294	4,366,988,802	4,795	138,718	28.93
Percent change:						
1959–74	−36.5	−26.6	+64.7	+15.7	+159.3	+124.3
1965–74	−20.5	−15.5	+81.8	+6.2	+128.7	+115.3
1970–74	+15.8	+10.3	+69.3	−4.8	+46.2	+53.6

Data pertaining to well classification not available.

Source: "Joint Association Survey of the U.S. Oil & Gas Producing Industry" Annual, American Petroleum Institute, Independent Petroleum Association of America, Mid-Continent Oil & Gas Association.

U.S. ESTIMATED DRILLING COSTS, ALL WELLS BY CLASSIFICATION

Year	Oil wells: Total wells	Total footage	Total costs	Average depth per well (feet)	Average cost: Per well	Per foot	Gas wells: Total wells	Total footage	Total costs	Average depth per well (feet)	Average cost: Per well	Per foot
1975	16,276	66,067,802	$2,256,506,972	4,059	$138,640	$34.15	7,654	43,375,924	$2,005,410,425	5,667	$262,008	$46.23
1976	16,878	68,257,180	$2,549,652,613	4,044	$151,064	$37.35	8,904	48,365,781	$2,407,418,577	5,432	$270,375	$49.78
Percent change:												
1967–76	+13.0	+13.9	+156.2	+0.8	+126.7	+124.9	+150.3	+122.3	+379.9	−11.2	+91.8	+116.0
1972–76	+57.0	+41.0	+153.6	−10.2	−61.6	+79.8	+75.1	+67.4	+200.0	−4.3	+71.4	+79.2

Year	Dry holes: Total wells	Total footage	Total costs	Average depth per well (feet)	Average cost: Per well	Per foot	Total wells drilled: Total wells	Total footage	Total costs	Average depth per well (feet)	Average cost: Per well	Per foot
1975	13,030	68,198,413	$2,309,296,526	5,234	$177,229	$33.86	36,960	177,642,139	$6,571,213,923	4,806	$177,793	36.6
1976	13,159	67,795,184	$2,504,609,071	5,152	$190,334	$36.94	38,941	184,418,145	$7,461,680,261	4,736	$191,615	40.49
Percent change:												
1967–76	+0.9	+8.8	+212.2	+7.9	+209.5	+187.7	+23.5	+28.1	+224.5	+3.7	+162.8	+153.4
1972–76	+24.1	+16.4	+148.9	−6.2	+100.6	+113.8	+47.3	+36.1	+165.1	−7.6	+80.0	+94.9

Source: "Joint Association Survey of the U.S. Oil & Gas Producing Industry," Annual, American Petroleum Institute, Independent Petroleum Association of America, Mid-Continent Oil & Gas Association.

U.S. ANNUAL AVERAGE ROTARY RIG ACTIVITY BY STATE

State	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Alabama	2	2	3	6	7	8	15	13	12	14	17	13
Alaska	13	21	20	28	14	5	5	5	9	14	14	15
Arkansas	10	8	7	16	13	15	15	15	18	14	15	14
Arizona	1	3	1	2	0	1	0	2	1	0	1	1
California	79	83	87	78	52	46	46	51	72	80	89	90
Colorado	16	16	17	23	25	30	35	42	46	42	38	45
Florida	2	2	1	1	4	11	18	9	7	9	5	6
Georgia	0	0	0	0	0	0	0	1	0	0	0	0
Idaho	0	0	0	0	0	0	0	1	0	0	1	1
Illinois	30	30	22	17	14	13	14	6	7	19	22	16
Indiana	5	3	2	1	1	1	1	0	1	2	0	3
Iowa	1	0	0	0	0	1	2	1	0	2	0	1
Kansas	56	41	35	38	30	29	24	28	44	57	51	67
Kentucky	13	9	5	2	1	2	2	1	2	1	1	2
Louisiana	256	235	233	230	204	194	215	205	203	228	231	292
Maryland	4	0	1	1	0	0	1	0	0	0	1	0
Michigan	9	10	10	10	11	12	17	20	24	28	24	24
Mississippi	34	33	36	40	43	39	37	29	29	25	32	41
Missouri	1	0	0	0	0	0	0	1	0	0	0	0
Montana	24	22	34	31	17	17	20	19	24	27	28	27
Nebraska	8	5	5	10	6	5	6	5	7	9	8	9
Nevada	1	1	2	0	0	0	0	0	1	0	2	3
New Mexico	60	56	68	64	40	47	56	62	79	71	54	69
New York	1	1	1	0	0	1	0	1	7	8	9	7
North Dakota	12	11	13	12	9	9	7	10	12	17	19	24
Ohio	14	18	22	22	24	17	22	36	30	21	26	33
Oklahoma	141	101	106	120	98	90	90	115	146	177	186	233
Oregon	1	0	0	0	0	0	0	0	0	0	0	0
Pennsylvania	10	7	5	7	9	9	8	11	14	10	10	15
Rhode Island	0	0	0	0	0	0	0	0	0	0	0	1
South Dakota	0	0	1	1	2	1	1	1	1	1	2	3
Tennessee	1	1	0	1	2	1	0	0	0	0	0	0
Texas	387	340	329	322	302	291	338	376	508	638	653	778
Utah	14	15	12	12	12	17	34	38	42	26	19	30
Virginia	0	0	0	0	1	1	0	1	2	3	0	1
Washington	1	1	0	0	0	0	0	0	0	0	0	0
West Virginia	19	15	16	18	16	17	17	20	16	10	12	17
Wyoming	48	44	75	81	71	45	61	70	107	107	86	120
Total	1,273	1,134	1,169	1,194	1,028	976	1,107	1,195	1,471	1,660	1,656	2,001

Source: Hughes Tool Co.

Mr. HOLLINGS. In 1947, we had 63,670 producing gas wells in the country. I have a chart showing each year. By 1961, there were 96,809; in 1975, 132,095; in 1976, under the regulation, 137,443.

What is the average rotary rig activity in the United States? You can go to the year 1971. There were 976—976 rotary rigs. This is how the oil boys say you measure the activity and the success, the prosperity, whether or not they have economic incentive. By 1975, that had grown to 1,660 under regulation; in 1976, 1,656; and last year, 2,001—double, under regulation, in the last 10 years, Mr. President.

Simply put, they are really stabilized in making money and they are bringing in all they can under the present price. All activity charts show the success of this particular industry.

Mr. President, the issue of natural gas which has been debated at such great length in this Chamber is before us once again, this time, perhaps, for final resolution. As the vote draws nearer and proponents of the bill offer one reason after another as to why this bill must pass, regardless of its merits, and less and less attention is paid to the merits and faults of the bill. It is time to look once more at the conference report and examine it with care, and it is time to remember the words of the spokesman for the administration who said last winter that no natural gas bill would be better than a bad bill.

Is this a bad bill? Anyone who takes the time to examine it can see that it most certainly is.

It is a bad bill because it will cost the citizens of this country an exorbitant amount without giving them anything in return. Estimates of the total cost of the bill vary. It is now estimated that the conference bill as signed will cost consumers $41 billion in increased costs for natural gas over the next 6 years, and other estimates go even higher—up to $50 billion. The exact amount of the total added cost of this bill is uncertain, but one thing is quite clear: prices for gas will soar. The conference report mandates that unequivocally. The price of a thousand cubic feet of gas will climb from the present price of $1.54 to $3.86 by 1985. The price of gas in 1985 will be 252 percent of its present price and over 700 percent of its 1975 price of $0.52 per thousand cubic feet. Those price increases are just through 1985. At that time, controls on most types of gas will be lifted and prices will rise even higher.

In return for the $30 billion or more in added costs that the gas bill will cause,

this country will receive nothing. Higher prices will not guarantee increased gas production. Between 1972 and 1976 the price of new gas increased 445 percent, yet gas production decreased 12 percent and reserves declined 19 percent. In fact, since the bill grants a large measure of deregulation in 1985, gas producers will have every incentive to withhold gas from the market until that date when higher prices will be in effect.

While the bill's effect on production is uncertain, its effect on inflation is not. The higher price of gas can only increase our accelerating rate of inflation.

The bill is bad because it does not abolish the distinction between consuming and producing States that has caused so much trouble in recent years. The bill allows allocation from the interstate but not the intrastate market. It imposes incremental pricing on industrial consumers in the intrastate market. It allows many categories of gas to be priced higher if sold in the intrastate rather than the interstate market. None of this will help even out the imbalance between the consuming and producing States, but, to make matters worse the bill also nullifies the recent Southland decision that would have insured more gas for the consuming States.

The bill is bad because it will hurt industry and cost jobs in the consuming States since the bill imposes incremental pricing on industry in consuming States but not on industry in producing States. An industry's gas costs will be lower in the producing States. Industry and the jobs it provides will be drawn from the consuming to the producing States.

The bill is bad because it will be impossible to administer conscientiously and fairly. The bill defines over 20 different kinds of gas and requires the Federal Energy Regulatory Commission to approve and monitor separate pricing systems for each one of them. The bill makes the distance of a gas well from other wells an important factor in pricing gas. Eleven thousand gas wells were completed in 1977; more will be completed this year. Each one of those wells may have to be considered separately for pricing purposes, and the pricing decision for each well can be contested at the FERC and in the courts. The FERC will have to drastically increase its staff to attempt to cope with the pricing system mandated by the bill but its efforts will still be hampered by its present backlog of 15,000 filings awaiting action.

Those are the most egregious faults of the natural gas bill presently before us. These faults are scarcely disputed even by the proponents of the bill. Let us now turn to the arguments brought forth in favor of the bill. First, that the bill must be passed because the President's prestige is at stake, and second, that it must be passed to improve the international standing of the dollar.

Both arguments are easily disposed of. Whatever temporary boost passage of this bill would give to the President's prestige will quickly be wiped out as the staggering cost of the measure becomes clear to the citizens of this country. The homeowner with a bigger bill from the gas company and the worker in the consuming State who has lost his job because the gas bill has drawn industry to a producing State would not care one bit about the prestige of the President. They would not remember who voted to help out the President. They will remember who voted to increase the cost of heating their homes.

As for the value of the dollar: The gas bill would not help the dollar; it will give it another kick while it is down. This bill will increase the price of gas, especially for industry, and as gas becomes more expensive, oil will become more attractive and imports will rise. Thus, the gas bill will in all likelihood worsen our balance of payments, not improve it. The exorbitant cost of this bill will spur the inflation that is eroding the value of the dollar, thus decreasing the value of the dollar in international money markets, not increasing it. As my colleague from Louisiana, Senator LONG, said a few weeks ago before this body, the international bankers are not a bunch of idiots and are not going to be fooled by an "energy bill" that leaves the United States worse off than it was without it.

There is an alternative to the gas bill. It is the Natural Gas Act of 1938. There are certainly ways in which the act could be amended and improved. It has proven impossible to muster a majority of the Congress for amendments to the Natural Gas Act, while it has proven impossible to find a majority to scrap the act and deregulate gas. The new Federal Energy Regulatory Commission promises to implement the 1938 act even more imaginatively and effectively than it has been in the recent past.

A decision by the FERC that came earlier this year requiring that all gas from offshore Federal lands be sold in the interstate market will add as much gas to the interstate market as was obtained by the optional pricing and other emergency gas provisions during the winter of 1976–1977. In addition, there is also pending before the FERC a petition that argues persuasively that the FERC has both the authority and the obligation to protect the interstate market when actions by producers operating both inter- and intrastate adversely affect the interstate market.

We must not be rushed into enacting this unquestionably bad bill just for the sake of getting a piece of gas legislation out of the Senate. The Nation has an ample supply of natural gas for right now so we can take the time to write a gas bill that will be fair and effective and that the Nation can afford.

Since there is virtual agreement on the part of all combatants that the natural gas compromise to be voted on by the Senate is a contender for the most complex, least understood and least capable of being administered bill of all time; it may be useful to examine the key arguments of these who support the compromise: First, the Nation's prestige is at stake; second, its passage will halt the decline in the value of the dollar or conversely, failure to enact it will bring about even greater decline; third, Congress has been at this exercise for nearly a year and a half and it would be deemed to be a monumental exercise in futility, frustration, and failure if the compromise is not enacted; fourth, if the extremes (consumer and labor groups at one end and producers at the other) are against it, it must have struck a proper middle course; and fifth, if it is not enacted, we will have to go through the same exercise next year or the next.

With regard to our standing in the family of industrialized nations, the consequences of policies and programs are far more significant than the adoption of a "bad bill." Although the fine points may be in dispute, it is clear that enactment of the bill, even if it could be effectively implemented by the Federal Energy Regulatory Commission (FERC), would have practically no impact on oil imports. A persuasive argument can even be made that if the purpose of steeply higher prices is to discourage the use of natural gas, major industrial users will have no realistic alternative other than to use more oil—thereby worsening our oil import and balance of trade situations. It is naive to believe that the mere enactment of any legislation that happens to be called the Natural Gas Act of 1978 will be perceived to be the development of a national energy policy without regard to the substance of the legislation. There is just the possibility that political leaders and investment bankers in Great Britain, France, West Germany, Japan, and elsewhere might even read the legislation themselves and detect its deficiencies.

To believe that the international community will regard the U.S. dollar with greater respect because the natural gas compromise is enacted, once again rests on an almost childlike view of the international economic community. If the inflationary impact of the compromise (estimated by the administration to be $29 billion between now and 1985 and estimated at more than $40 billion by other experts) has its normal consequences, the dollar would be weakened, not strengthened. To the extent that the energy component in the products and services we attempt to sell abroad is raised, we would be that much more disadvantaged in competition for world markets and can look forward to even greater imbalances in our world trade.

Certainly, there is nothing more frustrating than to work on a complex and controversial subject for a long period of time and be unable to produce a satisfactory resolution generally acceptable to all interested groups. Indeed, compromise is the heart of the legislative process, but a compromise that fails to meet the basic objective of the legislative purpose and which is crafted in such a fashion as to secure the minimum amount of support does not argue for acceptance. One of the basic principles of our Constitution is that there are many alternative means of preventing bad legisla-

tion from being enacted. The underlying notion, of course, is to protect against legislative enactments that are not generally acceptable to the Nation at large.

In my view, the most important consideration in judging whether to accept the compromise, knowing it to be filled with headaches, weaknesses, deficiencies, and boobytraps, is whether the legislation is necessary. Happily, there is on the books the Natural Gas Act of 1938. Although there are many constructive ways it could be amended and improved, it has not proven possible to muster a majority behind that approach, just as it has not been possible to muster a majority behind an approach to scrap the 1938 act and enact deregulation.

Although the 1938 act was not handed down on Mount Sinai, it has proven to be workable and under the new FERC promises to be even more imaginatively and effectively implemented than has been the case in the recent past. There are, in short, administrative approaches that can be used in the absence of any major changes in the 1938 act.

First, is the decision already adopted by FERC earlier this year reversing a policy of the Federal Power Commission (FPC) which permitted producers of natural gas from the offshore Federal domain to reserve a fraction of that gas for their own onshore activities primarily in refinery and petrochemical plants rather than commit the entire offshore production to the interstate market as required by the Outer Continental Shelf (OCS) Act; this single decision will insure that much gas will be added to the interstate market in the heating season beginning this November as was purchased through the optional pricing and other emergency techniques by interstate pipelines from the intrastate market during the unusually severe winter of 1976–77. Additionally, there is pending before the FERC a petition which argues persuasively that FERC has both the authority and the obligation to take action to protect the interstate market from activities by producers operating both inter- and intrastate whose actions adversely affect the interstate market.

Assuming enactment this year of the two segments of the compromise bill dealing with emergency allocation and pricing authority and the handling of any shortages that might develop in pipeline gas supply, there is, therefore, no absolute and compelling need for natural gas legislation at this time. Certainly, it would be advantageous if a satisfactory legislative solution were achieved, but the point that should not be lost sight of is that the current gas supply situation as well as the prospects for eliciting new supplies in the future are such that the Nation can quite comfortably permit the 1938 act to continue.

In light of the dim prospects for the complicated compromise in bringing forth any substantial quantities of gas that might not otherwise be discovered—and at potentially exorbitant prices—it is astonishing that the President would have characterized the bill as the "centerpiece" of his energy program and invested so much of his personal prestige in its failure or success. Nevertheless, the President did so. All thoughtful Senators and Congressmen are put in an awkward position by such a development, and yet it is their solemn obligation to consider the legislation on its merits and upon analyses of its impact and effectiveness. By those tests—and indeed by any test—the legislation should be defeated.

Mr. HANSEN. Mr. President, I yield 3 minutes to the distinguished Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I have been frustrated a great deal in my lifetime. However, I have to confess that this has been one of the most frustrating fights that I have ever been in, that I have fought in recent weeks and months. It is true because everyone I talk to, every Member of the Senate that I have talked to about this particular natural gas conference report, when I say, "You cannot vote for the natural gas bill because it is a lousy, stinking bill," instead of arguing with me and disagreeing with me, each and every one of them says to me, "I know it. I know it is a bad bill, but I am going to vote for it anyhow."

They have one, or two, or three, or four, or five reasons given to them by the administration. One is that it is going to help the dollar. One is that it is going to help President Carter. Another is that it is going to help the oil companies, or whatever.

There are others, and I heard my colleague (Mr. BUMPERS) open up the hour of debate with the admonition that he does not like the bill, it is a bad bill, but he is going to vote for it in spite of his warm and unbounded friendship for the Senator from South Dakota. I do not want him to vote against this bill because of any friendship or animosity he might have for anybody. I want him to vote against it simply because it is a lousy bill, as he confesses.

I have to say to the Senator from Arkansas and to anybody else, you are not going to get any redemption for your sins by denouncing the bill before you vote for it. That is not going to help one bit. All these "born again" regulators, it is not going to help them one single bit when they have to face their constituency that is going to pay the price of this lousy, stinking natural gas bill.

The PRESIDING OFFICER. The Senator's 3 minutes are up.

Mr. HANSEN. I yield 1 more minute.

Mr. ABOUREZK. I heard on the news this morning that the Senate is expected to pass the natural gas bill and that it will be the first big victory for President Carter in the energy field since he took office. I only have one question in summary: Why does a defeat for the American public have to turn into a victory for one man?

I thank the Chair.

Mr. HANSEN. Mr. President, I yield 1 minute to the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, I thank my friend from Wyoming.

Mr. President, it is by now a foregone conclusion that the gas conference report will win Senate approval. This is a sad prospect—sad for the country, which be forced to increase energy imports more than would be the case in a free market; sad for the consumers, who will pay more than they would have to pay in a free market; and sad for the producers, who will be able to produce less than they would in a free market environment.

What makes it doubly sad is that experience points clearly to the path the United States can and should follow to increase domestic energy production. We have controlled crude oil prices already and serious shortages of crude oil have resulted. We have controlled interstate natural gas prices and serious shortages of natural gas have resulted for the interstate consumer.

On the other hand we have a free market for intrastate natural gas and there is a substantial surplus available to intrastate consumers and at prices lower than those set in this bill. Why then, Mr. President, does the Senate ignore the policy that has succeeded in producing an abundance and elect to adopt the policy of controlling prices that experience has proved will produce both scarcity and high prices?

Look at the Energy Policy and Conservation Act—the program adopted by Congress in 1976 which is despised by both bureaucrats who are charged with its administration and the producers who are saddled with its bureaucratic strangulation.

Mr. President, those of my colleagues who have spoken in favor of this gas conference report have tended to take a very simplistic approach. Some of us who have read the bill realize it is anything but simple. It is hard enough to understand what the bill is supposed to do, let alone predict what it will do. We have tried to get our concern across by providing our colleagues with the facts as we know them. But we do not seem to be getting many converts.

So I thought for a while, Mr. President, I might try my hand at a simplistic approach to this bill. It may require a little imagination on the part of my colleagues, but the claims many supporters of this bill have made have already stretched the imagination out of shape.

Imagine a small rowboat on a stormy sea. Valiant men are at the oars and are making some progress toward shore. They are making excellent progress when you consider that the forward half of the rowboat is occupied by a huge millstone.

"Captain Carter," cries an oarsman. "We'll never make it to shore unless we throw that huge millstone overboard."

"You're right, men," replies Captain Carter. "Throw that huge millstone over the side, but, first, make sure it is securely chained to the boat."

Now, that is my allegory, Mr. President. I have no real pride in authorship, so, if anyone else wants to use it and claim that they thought it up themselves, I surely will not object. I will say that I have seen preachers base a sermon on worse allegories and get five or six converts. There is something about allegories that will get you where the pure facts will not. I expect to change five or six votes with my oratory on this subject and hope to change them to our side.

Well, let us get back to the allegory. First, you probably want to know how the situation we find ourself in with this so-called gas deregulation bill is like being in a rowboat with a huge, heavy, millstone in the bow. That is a long story and I do not have time to get into it now. But it all started with the Natural Gas Act, and then along came the Phillips decision, where the courts ruled that the Federal Power Commission had to control the price of gas at the wellhead for gas that was sold to pipelines that engaged in interstate commerce. There have been a whole series of legal and bureaucratic consequences. One of these days I may write a book about it. It will be entitled "What Not To Do, and How Not To Do It."

By the time I arrived on the scene, there was already this huge millstone in the bow. I asked how it got there and the oarsmen said "I don't know, but it sure is heavy."

Anyway, there we were rowing for the shore as hard as we could, consistent with the constraint of having a giant millstone in the bow. Along came Captain Carter, a nautical man from way back. He talked a good line. He pointed out right away what we ought to do. "Deregulate natural gas," he said. "Hosanna," we cried! (Of course, at that time, he didn't let on that he intended to convert that millstone into a boat anchor.)

So, he was elected and now he wants us to pass this bill. The trouble with this bill is it takes the millstone from the bow and converts it into a boat anchor. It not only extends price controls to all gas, and extends those controls to gas that formerly was unregulated. What is worse is that it imposes controls on the consumer that will never be lifted. It is the combination of price controls on production and incremental pricing and allocations on consumption that makes this bill so bad. Not only are we still burdened with the giant millstone, but now we are going to have to drag it across the ocean bottom.

That is the point we opponents have been trying to get across. You cannot just look at one facet of this bill. You have to realize what the effect of the whole bill, working in concert with such other bills as the coal conversion bill, will be.

The President says we have to pass this bill to show foreigners that we are doing something. As a signal that we mean business. Now, if we throw this millstone over the side, I'm sure foreigners are going to realize we mean business. But would they not be just as impressed if we disconnected the millstone from the boat before we throw it overboard? It sure will be a lot easier to row this boat if we don't have to drag that anchor.

The bill has been called a lot of things. Some have called it "The Energy Bill." Others have called it "The Greatest Consumer Ripoff of this Century." Still others have called it "The Gas Deregulation Bill." It has even been called "An abomination—but the only abomination in Town." All manner of wonderful things have been promised us if this bill, whatever we call it, passes.

The dollar's descent will be stopped.

Exports will increase.

Imports will decrease, especially oil.

Industry will shift from oil to natural gas.

Curtailment to consumers will cease.

We will no longer have to import gas from Canada, Mexico, or Algeria.

We will no longer have to make SNG (synthetic natural gas) from naptha to meet winter peak gas demand in New England.

But 2 years from now—just before the national elections, there may be a very different set of results if this bill passes.

If the Federal Government is still running the printing presses at the Mint as if money were going out of style, the dollar's descent will be unabated.

If energy supplied to industry costs more (and it will), exports will have been affected adversely.

If industry is forced by incremental pricing to shift to oil (and it will), imports will increase, especially oil.

If industry is granted the lowest of priorities, and hence the highest of prices (for gas), industry will shift from gas to oil.

As the load leveling effect of industrial usage of gas disappears, costs to remaining customers will increase, demand will decrease, curtailments will be still ordered.

Our imports of gas from Canada, Mexico, and/or Algeria will have continued.

The winter-summer cycle of gas usage in New England will not be affected by this bill and SNG will still have to be made in winter to meet peak demand in New England.

I do not like making these kind of predictions. I hope the Federal Government will quit running the printing presses like money was going out of style. I hope I am wrong about the potential effects of the combination of incremental pricing and total price control at the wellhead. But if this bill passes, if we do what President Carter says we have to do, and none of the wonderful things come to pass that are promised us, then I want the American people to be able to backtrack and find out who and what were responsible. If we have to drag that giant boat anchor across the bottom for the next 2 years, and then find ourselves even further at sea, I want the oarsmen to know what they should do so as not to have to drag that anchor another 2 or 4 years.

I mentioned in my earlier remarks an editorial in the Wall Street Journal which described a 17-month campaign to educate Captain Carter about what to do with that giant millstone in the bow.

Mr. President, I ask unanimous consent that some few of the editorials comprising that 17-month campaign be printed in the RECORD. I urge my colleagues to read through them, at one sitting if possible. They say better than anything I can say what the problem is and what the solution ought to be. One thing is clear. We do not need this bill. We will have enough problems getting to shore even after we have disconnected that giant millstone and given it "the deep six."

The RECORD begins with a reprint of "Slippery Summit." It appeared while President Carter traveled to a European "summit" on economic policy. The White House had twisted arms to get some bill, literally any bill, ramrodded through the Senate. The coal conversion bill, which required industrial and utility users of natural gas to convert to coal as soon as possible, was rushed out of conference and onto the Senate floor for a vote, even though the conference report had not even been printed and no Senator could have a very good idea what might have been in the bill. But it was a bill and it was remotely concerned with energy.

Fortunately, the Senate would not be stampeded and no bill was passed by the Senate while President Carter was at Bonn, after all. Nevertheless, he promised that some major energy bill would be passed soon. This bill we oppose, because it is a potentially disastrous bill for consumer and producer alike, is the bill we have to pass to keep Mr. Carter's end of the bargain.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

SLIPPERY SUMMIT

The collapse of public confidence in President Carter's performance, as evidenced by his record-breaking lows in the opinion polls, will not be reversed at the European "summit" meeting he will attend next week. Like the fellow who doubles his speed when he loses sight of his goal, Mr. Carter seems intent on pursuing strategies that the man in the street knows are destructive.

What is the point of the summit? To coordinate economic plans among the major industrial nations, we are told. What is the deal the Carter people are seeking? Our trading partners are asked to expand their economies, and in return Mr. Carter pledges austerity. Specifically, West Germany promises a $6 billion tax cut. Mr. Carter wants to promise that he will be successful in taxing the daylights out of the U.S. economy, specifically on its use of energy. What a deal.

The root of the problem is not that Mr. Carter turns out to be some kind of Manchurian Candidate, who somehow slipped into the Oval Office intent on perversity. It is that he continues to believe in the notion of resource scarcity. Amid a world-wide energy glut, Mr. Carter believes the world is running out of the stuff.

Not a cab driver in Brooklyn, not a steelworker in Buffalo, not a banker or businessman in Los Angeles believes this. Nor do we. The only substantial support Mr. Carter has is among people who possess energy amid the glut and would like to dispose of it before new producers find even more, which would be the inevitable result if incentives were restored to the independent oil and gas snoopers.

The centerpiece of Mr. Carter's strategy had been his energy bill, which in original form would have taxed American energy consumption so heavily that the citizenry would have to ponder life in the caves. The bill has been dead in Congress for months, but Energy Secretary Schlesinger still pretends it is alive by placing fresh flowers around the casket every day. Sen. Russell Long is to be congratulated for doing everything he can to kill it.

The people President Carter represents, the American people, want him to deregulate oil and gas, as he promised he would. Again, the evidence is the 2-to-1 margin in the opinion polls that widens month by month. Instead, Mr. Schlesinger talks about rationing two gallons of gas per motorist, slapping import duties on imported oil or dictating quotas.

All this to strengthen Mr. Carter's hand at the summit. The Europeans, the Carter people keep saying are demanding that we do something about energy. These phantom Europeans, we suggest, should be produced in Washington. They should be invited to read the several hundred pages of fine print in Mr. Carter's energy bill before taking a walking tour of the fun house that would have to administer it, the Department of Energy. They would, we are sure, return to Europe and clam up.

There are no doubt Europeans who have been sold on the erroneous idea that the United States is subsidizing oil consumption by holding the price down via government regulation. They think this gives us a competitive edge that should be taxed away. But why should our President agree with the prescription, even if he accepts their view of the problem?

The Europeans would be just as happy with price deregulation. This would also "solve" their mythical problem, which derives from an unthinking belief that consumer prices on energy are set on an average instead of on the margin. But Mr. Carter thinks this will cost consumers billions of dollars that will go to energy producers, which he believes the American people would rather have going, in tax dollars, to building a bigger and better Department of Energy.

Our friendly advice to the President having been systematically ignored these past 17 months tempts us to replace advice to him with mere comment. But that would be giving up. Instead, we advise that he watch his step on that slippery summit. He has slipped a long way in the esteem of his constituents. But he can slide further still.

Preliminary provisions of the Carter energy package were leaked to the press and the first of the campaign editorials resulted. "Tinker, Tinker, Tinker", April 14, 1977:

TINKER, TINKER, TINKER

It's hard to find much coherence in the grab bag of energy measures being circulated within the government as the Carter administration's energy policy, as reported in this newspaper yesterday. If there is a coherent objective, it seems to be raising the cost of energy and thereby creating incentives to conservation.

But if the central purpose of the policy is to raise the price to the consumer, what conceivable justification is there for retaining price controls on oil and natural gas? As we have understood it, the sole objective of controls is to hold down the price to the consumer, the exact opposite of Mr. Carter's presumed intention. Yet the policy proposals would retain controls, although increasing some ceiling prices to allow the producers to pay the new tax the government would levy on them. Not only that, the proposals would actually extend controls, by applying them to intrastate production of natural gas, at prices below those at which this gas is now sold.

The punitive taxes being proposed on crude oil, and on large automobiles, no doubt will be an incentive toward energy conservation. The cost to the economy cannot yet be calculated. Does anyone really believe that once Washington gets its hands on the money these taxes will collect, it will actually return it by lowering other taxes? When was the last time Washington did anything like that? And even if it did, the dislocations of such transfers would mean slower economic growth and a lower standard of living.

The way to solve energy problems without taking it out of the country's hide is to encourage production. This is the one alternative the administration proposals write off—at least insofar as petroleum and natural gas are concerned, though the higher prices would provide an incentive for other forms of energy. Energy adviser James Schlesinger may have a hidden agenda of deliberately destroying the petroleum economy to achieve independence of the Arabs, but the costs of such a step would be untold and most of the national security problem can be eliminated by an expanded storage program.

Whatever motives may lie behind the policy, it's clear that when you tax something you get less of it, not more. So it will be with oil and natural gas. Presumably Mr. Carter's energy advisers have held seances with geologists and other seers, have concluded that decontrolled prices would not bring out new supply, and scoff at the "mystical faith" of those of us who believe that, one way or another, if you pay more for something you get more of it.

Yet if you are trying to raise prices to the consumer to begin with, there is no reason in the world not to experiment with higher prices for producers. Even if you happen to think the effect on production would be small, it costs nothing to find out. What is expressed in the package is worse than a mystical faith that markets work; it is—at best—a mystical faith that the government and its experts can sit in Washington and see the future. They have seen it, and it doesn't work. So they set out to reinvent the wheel, trying to simulate the results of a market system by collecting taxes here and redistributing them there. The central ethos of the plan as seen so far is tinker, tinker, tinker.

All experience shows that each new round of tinkering generates yet another, with the problems no nearer to solution, the devices becoming more complex and the bureaucracy growing apace. Let's take one sample from the Carter energy package as a case in point—the graduated tax on the so-called "gas guzzling" cars, coupled with a rebate to auto manufacturers on gas efficient cars. By 1985, the maximum tax could rise to $2,500 and the maximum rebate to $500.

Now that sounds like a dandy idea for saving gasoline and we have little doubt that the people who thought it up are proud. But what about its potential effects on competition among auto makers? Let's say that GM learns to make cars that qualify for the full rebate and low taxes, but Ford, Chrysler and AMC can only manage something less. Does GM risk driving its competition out of business, with the aid of a government subsidy? Does it give the subsidy to shareholders? Does it boost managerial bonuses? You supply the answer.

What tinkering does do is create a lot of jobs for Washington bureaucrats, which is no small reason for its appeal to many of the people who have designed these energy proposals. They hope soon to hold high positions in a vast governmental energy department, and wield great power over society. The energy policy that comes after this one will be full of even more innovations to sort out all the problems that the innovations in this round will generate. The Department of Energy, which already envisions some 20,000 or so on its payroll, will need another infusion of talent to administer the additional innovations. The prevailing political current of our times, as measured by every poll, is public disgust with Washington. Mr. Carter was elected on implied and explicit promises that he would somehow change things. If he ever had any such intent, decontrol of energy would have been the ideal place to start. The draft energy policy shows that he is about to muff that chance.

CHEAP GAS FOR BROOKLYN

We see The Energy Policy Task Force, an umbrella consumer group, was not only "extremely disappointed" but "flabbergasted and stunned" by the U.S. Court of Appeals decision on natural gas. The court last week upheld the Federal Power Commission's decision to lift the regulated price of natural gas on the interstate market to $1.42 from 52 cents.

We're sorry the consumerists are crestfallen; Mr. Nader no doubt had a sleepless night, worrying that prices and profits will now jump and the little guy will get stuck with even higher heating bills. But if the consumerists bothered with a little homework, they'd discover that the court decision is the best thing to happen to the natural gas customer in years. Thanks to the decision, customers will have more gas. Not only that, but many of them will pay less for it. Under total deregulation they would pay less still.

Yes, it sounds like a free lunch, having the wellhead price of natural gas rise, yet having the cost to the consumer fall. But a lot happens to a cubic foot of natural gas from the time it enters the pipeline in Texas or Louisiana until it burns under a frying pan in Brooklyn. When the Brooklyn customer pays his gas bill, only 20 percent of it goes to buy gas. With the other 80 percent he buys pipelines. Whether his bill goes up or down depends principally not only on the cost of gas but on whether the pipelines operate efficiently.

Consider. The price paid at the wellhead averages 45 cents per thousand cubic feet (mcf). The Brooklyn Union Gas Co. charges its residential customers $3.38 per mcf for heating and cooking and $5.78 for only cooking. Just four years ago, when the average wellhead price was 25 cents, Brooklyn Union was charging $1.72 and $3.42 for comparable services. Thus while the wellhead price went up by only 20 cents, the cost at retail went up by $1.66 and $2.36.

The reason for this lies mostly in pipeline costs. In the U.S. there's about $40 billion worth of pipeline on which principal and interest has not been paid. The pipeline companies, regulated by the FPC, are permitted to charge enough to pay off the debt, along with operating costs and a small profit. Say gas costs 52 cents, and the pipeline is being amortized at 10 percent a year. If only one cubic foot of gas moves through the system, the customer at the end will pay $4,000,000,000.52. If two cubic feet move through the system, the retail price plummets to $2,000,000,000.52.

The point is that if the pipeline is not full, each cubic foot bears a higher transmission burden. In 1973, the pipeline was full. Now, because it was against the law for the pipeline company to pay more than 52 cents and nobody would sell gas at that rate, the pipeline supplying Brooklyn Union runs half empty. The cost goes from 50 cents per mcf to $1.00 per mcf for all the pipeline customers. Brooklyn Union has its own pipeline network to pay off and must, in the same fashion, spread these charges over an underutilized distribution system.

Then too, it gets colder in Brooklyn, and when winter comes and there is no extra gas in the pipeline, Brooklyn Union must kick in its synthetic gas plant. Last year about 12% of the gas Brooklyn Union's customers burned was synthetic, which costs $4 per mcf to produce. Some New England utilities paid as high as $6 per mcf for peak-period gas, because the pipeline supplying them was not permitted to pay more than 52 cents. These high costs, of course, are

rolled into the price of the gas under the frying pan.

Is it any wonder that Brooklyn Union Gas Co. is passionately in favor of new-gas deregulation, although it knows the wellhead price its supplier pays must rise? It believes, as do we, that higher prices will bring on new supplies of gas to keep the pipelines full, end the wholesale use of $4 synfuel, and other things being equal, provide a lower price at retail.

In 1975 Arthur Young & Co. studied these costs for the State of Oklahoma. It found that without new supplies resulting from higher prices, Brooklyn Union's 1980 price would be $4.45 per mcf. But if the pipeline were kept full with new gas costing $2.50, Brooklyn Union's retail price would be $3.98. If new gas came in at $1.50, the retail price would be $3.31.

Though the whole country will benefit from these efficiencies, the effect on retail prices for each region depends on how much pipeline they must pay for. Higher wellhead prices would probably mean higher retail prices for some sunbelt customers close to the gas, but the Northeast would clearly benefit. Deregulation of new gas would truly be a free lunch for New England, New York and the Atlantic States, and especially for their financial hub, New York City. Why is it, then, that the politicians of this region are against the idea? Only Mr. Nader knows.

A $48 Billion Presidential Error

When the House Commerce Committee two weeks ago voted 22-to-21 against deregulations of new natural gas, President Carter and his energy people celebrated a victory. The White House had come down to using the argument that deregulation would give producers a "windfall" of more than $71 billion in revenues. This is over and above what they would get from the $1.75 per thousand cubic feet (mcf) price ceiling in the Carter plan. Perish the thought, even though producers would probably invest almost as much in exploration and production as they receive in revenues.

Mr. Carter's energy people have been shamelessly playing with numbers like this all year to support their case for continued regulation, scaring people with the idea that deregulation will cost consumers a lot more money. What they carefully avoid mentioning is that continued regulation will cost even more.

In a careful, conservative study that bends over backward to be fair to the White House, two Republican Congressmen this week estimated that the Carter plan will cost $48 billion more than deregulation between now and 1990. Here is how Rep. David Stockman of Michigan and Rep. Clarence Brown of Ohio came to this conclusion:

They first reject the incredible White House assumption, implicit in its numbers game, that at a price above $1.75 per mcf zero gas will be produced. The study instead reckons that over the 13-year period, an additional 25 trillion cubic feet (tcf) will be produced as a result of deregulation. Current production is about 20 tcf a year, and the estimate of 25 tcf from deregulation is slightly conservative. More production, of course, would mean more savings from deregulation.

If American consumers are denied 25 tcf of natural gas, they will have to get the energy instead from oil or liquefied natural gas or synthetic gas from naphtha or coal. All are more expensive than gas is likely to be under deregulation. The cost of these fuels adds $168 billion to the energy bill. And by moving 25 tcf less gas through the pipeline system, the distributor charges rise per unit to the consumer. This comes to another $44 billion cumulatively. The administration simply ignored these hidden costs in making its case.

The 13-year energy costs under deregulation are then calculated by Stockman-Brown at $414.2 billion. The parallel figure under the Carter plan is $461.8 billion with the gap between the two widening every year thereafter.

If there is any error in these numbers, the Carter plan gets the best of it, considering the length to which Reps. Stockman and Brown went to be fair. For example, they hold OPEC pricing constant through the 13 years. But obviously, if the United States must substitute for 25 tcf of domestic natural gas, it most likely will have to import the energy equivalent. This increase in demand would permit OPEC to increase its oil price by at least $1 per barrel for all oil. This adds an average of roughly $33 billion to the U.S. import bill during the 13 years, and adds $100 billion to the import bill of Europe, Japan and the Third World. The Stockman-Brown $48 billion estimate charitably ignores these costs.

Even if the increased demand has zero impact on OPEC pricing, it would still mean the United States would have to increase imports of Arab oil by nearly 500,000 bbls. per day when compared to a deregulated scenario. The Stockman-Brown study figures the Carter plan will mean an extra $26 billion in the U.S. import bill over these years even without a price increase.

The Carter people will no doubt want to quibble with these numbers, if they can't find a way of ignoring them altogether. But there is absolutely no logical way deregulation can cost consumers more than the Carter plan. The only way the President's people can defend their position is by sticking to their assumption that there is no gas to be found above $1.75 It is hard to see how any serious person can accept such an assumption. Even the most pessimistic of the three estimates in the ERDA MOPPS study, for example, found twice as much gas at a price of $3.25 than at $1.75.

Mr. Carter is supposed to be good with numbers and logic, and ought to sit down with his own slide rule, taking the administration's gas deregulation position as seriously as the B1 or the neutron bomb. It's inconceivable that a good engineer would make a $48 billion mistake.

A Bankrupt Policy

Energy czar James Schlesinger met with a frosty reception in his first efforts to sell the Carter energy plan to the Senate. Among other things, the Finance Committee didn't share Mr. Schlesinger's supreme confidence in his own estimates of when, and at what price, the last drops of gas and oil will be drained from the earth.

The early winds from the Senate suggest it's worthwhile to review the administration's much vaunted victory in the House. We find it telling that the applause for House passage uniformly goes to Tip O'Neill's skills as a legislative manipulator, which is to say, to something other than the substantive merits of the administration's plan. Unless one counts some routine demagoging of the oil companies and pious invoking of the "poor, lame and halt," Mr. O'Neill's sales pitch was contemptuous of the actual contents of the bill.

The Speaker's pitch dwelled instead on party and personal loyalty, on being a "team player." The accompanying logrolling effort by the White House was so intense that we even read in The New York Times that Amy Carter and her treehouse were conscripted, the administration winning one vote to regulate gas prices by inviting a Congressman's daughter over to play.

By dint of such exertions, a Democratic President was able to push his number-one legislation through a lopsidedly Democratic House. At that we note, Mr. O'Neill's one loss was the $2 he wagered with reporters that he would have 296 votes. In fact, the 244–177 final passage was misleading. The House refused to pass a 5-cent-a-gallon tax on gasoline, let alone the 50-cent standby tax the administration offered. The administration prevailed by 28 votes on the regulation of natural gas prices. And the House came within 16 votes of gutting the Carter plan by defeating the proposed well-head tax on oil.

Aside from Democratic Party loyalists, indeed, who does support the Carter plan? One can count a few friends of S. David Freeman, who seem to think it would be a good thing if the American economy were clamped in the vice of zero growth. And that part of the oil business, of which Atlantic Richfield is the most candid spokesman, that sees advantages over its competition in a regulated environment. Beyond that, support is tepid to nonexistent.

We read no hosannas to House passage of the energy bill from the editors of The New York Times or The Washington Post, both of them in fact sometime supporters of natural gas deregulation. The chief input of the Brookings Institution into the debate has been analysis calling for deregulation. The Congressional Budget Office's contribution has been an argument that the oil savings from the plan do not in fact match its stated goals. The opposition includes economist Jay W. Forrester, as well as the Environmental Defense Fund. The withering criticism from conservative economists has been outdone only by the piercing analysis in Harper's by the magazine's editor, Lewis Lapham.

As the debate has proceeded, it has become increasingly difficult for any serious person to believe we face the imminent exhaustion of energy resources, particularly with regard to natural gas. Mr. Schlesinger had to concede to Senator Long that we probably have a 100-year supply of gas in the geopressured zones of the Gulf Coast. He said the 1,001-year supply speculated about in these columns was "based on smoking pot," though in fact it was based on estimates in an ERDA project. In any event, smoking pot might not be a bad method compared to the conventional geology used in the administration's scare forecasts: for the last 100 years such estimates have shown us in imminent danger of running out of resources.

The point is that no one knows what resources are available, what technology may be developed; and no one will ever know so long as the government precludes progress in the name of holding down prices. Serious people now understand, too, that even this hope is vain. Energy not produced by $2.50 gas has to be replaced by $4.50 synthetics or liquefied imports; price control on gas means higher prices for gas. The absurdity of this policy calls sharply into question the very notion that a brilliant administrator can run the energy business from Washington by piling regulation on regulation.

Finally, as the debate proceeds further it will become increasingly evident that we have not an energy package but a tax-increase package. The energy bill amounts to something on the order of a 10% increase in federal taxes (30% if one includes the 50-cent gasoline tax Mr. Schlesinger is trying to revive). The House voted down the one explicit tax, but approved the larger tax increases that would be hidden in the cost of gasoline, and for that matter anything energy is used to produce. The consumer is saddled with these costs—and for what?

Intellectually and morally, the Carter energy program is bankrupt, and is increasingly recognized as such in those quarters of opinion that have a conception of the common good. Politically it survives and perhaps prospers. It has passed the House, and large parts of it may become law, but the only remaining force behind it is the crassest sort of political muscle.

Step Two on Energy

Senate approval of phased deregulation of newly discovered natural gas was a first step towards energy sanity. The next step may look a little harder, but we urge the Senate to take it. Deregulate crude oil, too.

The message of the gas deregulation vote in the Senate is not that 50 Senators suddenly became pushovers for the oil and gas industry. Such a notion is implausible by any reckoning, given the general hostility in Congress towards the "oil giants." Rather, the message is that 50 Senators are beginning to see the serious dangers inherent in the Carter energy program.

While gas deregulation is the single step that will get more energy quickly, the heart of the Carter program is the wellhead tax on oil. The Senate Finance Committee arrested this proposal, perceiving that there is something deathly wrong with it. Yesterday the committee decided to recess for a while and try to think up something else. If it steps back to look at the problem, it ought to see that the only real answer is total decontrol.

Almost everyone agrees on the central problem of energy: the U.S. is not producing enough fuel to meet its needs. Its imports of oil and gas are rising steadily, putting pressure on the nation's trade balance and the dollar, transferring wealth to the Arabs and making foreign policy increasingly vulnerable to arm-twisting. Though in an immediate sense the defense of the currency is the responsibility of the Federal Reserve's monetary policy, the dollar's latest gyrations add urgency to the need to ease the Fed's task by reducing oil imports.

With so much agreement on the nature of the problem, it is little short of incredible that the White House would have designed an energy policy that would further discourage U.S. energy production. It is no less incredible that the House would rubberstamp it with so little understanding or debate on its potential economic and security costs.

Mr. Carter's policy has been dominated not by the need to produce energy, but by the desire to keep oil companies from making profits. Its advocates argue that decontrol would be a bonanza for the industry at the expense of the consumer. This simply is not true. In the case of gas, the alternate energy supplies that would have to be used if more gas is not found cost considerably more than the proposed control prices for gas. This means that decontrol, if it does produce more gas, will be cheaper for the consumer. If against the experience of all ages higher prices don't produce more gas, no one makes a profit.

With respect to the costs of decontrolling crude oil, we refer readers again to the September 28 article on this page by Rand Corp. economists Charles Phelps and Rodney Smith. It demonstrates that crude oil controls are not protecting consumers from anything. Prices of gasoline and heating oil are being set by the world market. Controls are merely effecting an income transfer from domestic crude oil producers to oil refiners, creating an incentive for oil companies to develop production abroad. The effect of the Carter wellhead tax would be to take another cut out of the domestic oil industry, maintaining or increasing the incentive to drill abroad.

It would not solve much to recycle this money back to the industry, as the Finance Committee has pondered. Aside from the fundamental irrationality of taxing the producers in order to subsidize them, this scheme is mainly an idea for giving the $10 billion Department of Energy bureaucracy something to do.

Nor would a do-nothing policy be much help. If Congress deadlocks on energy, we will be stuck with a $1.42 price on natural gas and the current entitlements programs on oil. As even the administration concedes, the effect of the entitlements program is to subsidize imported oil. No wonder imports rise and the dollar slides.

The answer is decontrol, of both gas and oil which in any event are not really separable since drillers often find both when they strike a new field. The consumer will not suffer. To the contrary, it will benefit immediately if Congress accompanies decontrol with a sharp slash in the DOE budget and lower taxes. He will benefit even further later on as decontrol brings out new energy supplies to hold down prices. The oil companies will reap no bonanzas if they are forced to face the market again rather than having money handed to them by DOE bureaucrats.

It's all so simple that we wonder why the Senate is having so much trouble figuring it out. And we wonder whether the House and the White House will figure it out before the economy and the dollar get into really serious trouble.

The President's Energy Speech

The most positive thing that can be said of President Carter's address to the nation on energy Tuesday is that he markedly toned down his misguided attacks on the oil and gas industry. He didn't use the word "rip-off" once and dispensed with that talk about the oil barons trying to gouge $150 billion out of consumers.

But even as the tone of his rhetoric quieted to the point where the speech has been largely ignored by both Congress and the national press, its underlying substance remains as misinformed—at times opening him to a charge of demagoguery—as it has been all year. It's all to the good that he has called off his foreign travels to spend more time on his energy legislation, if he would only use it to get a better understanding of the various proposals on the table, including his own.

It is pitifully late in the game, for example, for the President to repeat the canard that the oil companies "want immediate and permanent deregulation of gas prices, which would cost consumers $70 billion or more between now and 1985." Vice President Mondale made the same statement a few weeks ago on national television, and Mobil Oil went to the trouble of taking ads in the major newspapers to point out the error. Nobody has made such a proposal. The only price deregulation proposed is for "new gas" that has not yet been discovered. And Mr. Carter's closest energy advisers have already persuaded him that there's hardly any new gas to be discovered at costs above his ceiling price. What is it that consumers will pay $70 billion extra for?

Mr. Carter now resorts to arguments like these on national television because the U.S. Senate has turned his bill inside out. Instead of the Carter idea of taxing consumers of energy so heavily that they will use less, the Senate would lower tax rates and ease regulations on energy producers so they will produce more. Probably in recognition that public opinion favors the Senate approach, the President now argues that his bill has plenty of incentives. In fact, where it does change existing incentives, it reduces them.

The Senate voted to deregulate new gas, which will not only maximize incentives and production, but also conservation. Mr. Carter says his plan will provide plenty of incentives because he would raise the ceiling price on gas to $1.75. But on the margin incentives will fall because he would put now uncontrolled intrastate gas that sells for more than $1.75 per thousand cubic feet under the interstate price controls. There would be an immediate decline in gas-exploration planning.

Regarding petroleum incentives, Mr. Carter says, "New oil prices would also rise in three years to the present world level and then be increased. This incentive for new oil production would be the highest in the world." He may believe this, but it's not true.

The idea of letting the new oil price go to the "present" world price in three years means the U.S. price will always trail the world price, which will surely be higher three years from now than at "present." But even that permitted rise is a fiction, for it is effectively muffled by another provision that retains the "composite" price system.

What this means is that oil producers will have to continue selling oil so that the average price for all sales does not exceed a legally permissible ceiling, now $8.99 per barrel. Mr. Carter would let the price of "new oil" rise, but for the industry as a whole, every time a producer sells a barrel of oil at this higher price, some other producer must sell a barrel of oil at a lower price for the industry to stay under the ceiling. Some incentive.

Mr. Carter should know you can't turn a sow's ear into a silk purse just by saying a few words over it. Now that he has a little spare time, and has tempered his views about the motives of those who have opposed his approach, we can only hope he will shift gears on substance as well as on form.

Lesson of the Year

Surely one of the highlights of 1977 was the nine-month debate on national energy policy, which involves not only the immediate energy problem but the long-range future of the economic system. Especially since we like to believe a not-unimportant corner of the debate took place on this page, it would seem fitting to review the issue at the turn of the year.

The current stance of the Carter administration is especially intriguing. Just last week it succeeded in pushing Mexico into formally withdrawing its offer to sell plentiful new finds of natural gas to Americans; six U.S. companies had contracted to buy the gas but the administration threw cold water on the deal because it thought the agreed price of $2.60 was too high. Similarly, American companies have contracted to bring liquefied natural gas from Algeria, but the administration has suggested it may also squelch this deal by changing the pricing rules in the middle of the game. As 1977 ends, in short, Mr. Carter and his energy advisers are devoting their powers to insuring that Americans, even if they're willing to pay the price, cannot have new supplies of energy. What kind of moral equivalent of war is this?

The administration is forced into such absurd contradictions by the very structure of its own energy plan. A good way to understand this is to envision the plan as a vast scheme to subsidize the use of energy in home heating. Taxes would be used to push the price of oil up, except that users of oil for home heat—as in Speaker Tip O'Neill's New England—would get rebates directly from the government. To insure "equity," homeowners who use gas would be subsidized by keeping a low lid on gas prices, while prohibiting the use of cheap gas in industry, which must convert to coal.

Economically, of course, the whole scheme makes no sense whatever. Homeowners would get a break on heating, but consumers would pay higher prices for gasoline and for every product that uses energy. In short, Americans would subsidize themselves. The only thing that would change is political: Oil companies and other product suppliers would get the blame for the higher prices, while politicians would get the credit for lower heating bills. For this the administration is jeopardizing the new supplies of gas from Mexico.

The point is not, we should stress, that we think the Carter administration particularly venal or stupid. Its energy chief,

after all, is James Schlesinger, whom we have stalwartly defended in past battles. And for our part, we will never forget that a Republican administration, albeit with the prodding of a Democratic Congress and certain of the oil companies, gave us the current entitlements system, which takes money from domestic producers of oil and uses it to subsidize imports.

The problem, rather, is that absurd contradictions are inevitable in any attempt to run something as complicated as the energy business from Washington. In the first place, it is an impossible intellectual undertaking to replace all the complex arrangements an industry has worked out by trial and error over many years, but beyond that, the minute such issues arise in Washington the question becomes not what is efficient, but what is politically feasible. The Carter administration needed Speaker O'Neill, therefore it needed to subsidize home heating, therefore it needs to oppose a $2.60 price for Mexican gas. Any administration that starts down this road will end up chasing its tail, and this lesson is what the energy debate is ultimately all about.

For we agree that $2.60 is probably too much for Mexican gas, and the proposed price of $3.26 and up surely too much for Algerian LNG. No one would dream of paying such prices if he could get gas from Louisiana or Oklahoma at $2.59, or $2.20, or $1.80 or $1.48. But he cannot get U.S. gas at those prices, because in its wisdom Washington has made it illegal for him to do so. The solution to our energy problems is to stop trying to set prices in Washington, and to let them be set in the marketplace.

We are encouraged that over nine months of debate this lesson has become far more widely understood. Those testing the political waters in April thought that most of Mr. Carter's energy bill would sail through. So far our own April prediction, that "the whole package will collapse a piece at a time," seems nearer the truth.

Over these nine months, as well, it has become more widely understood that the earth is not about to run out of energy resources. In the past few weeks, OPEC has failed to raise its price, and the International Energy Agency has estimated that at current prices an oil surplus will persist for another four or five years. It is a truism that eventually conventional oil reserves will be depleted, and substitutes will have to be found in gas from Mexico or Alaska, geopressurized methane, coal, tar sands, solar power or whatever. But the substitutes will be brought on line most efficiently and most smoothly if the one developed first is the cheapest, not the most politically favored. If, that is, markets are allowed to work.

This understanding is of course still far from complete, but on net it has been advanced rather than retarded by the energy debate Mr. Carter initiated back in April. And if we as a society can ultimately grasp that the way to solve our energy problem is to rely on the decentralized decisions of markets, then perhaps we can better apply that lesson to all the other sectors of our economy as well.

MEOW

Today we celebrate the first anniversary of President Carter's famous MEOW, the moral equivalent of war. His energy proposals remain bogged down in Congress, but even without the benefit of his program a lot has happened.

During the year we now celebrate, the only detectable energy shortage occurred in those sections of the nation overly dependent on American-produced coal. In California, crude oil is a drug on the market. World-wide, the International Energy Agency sees a "temporary" surplus of oil lasting into the 1980s. U.S. oil imports are no longer growing; indeed the American Petroleum Institute reported yesterday that they fell 14% during the first three months of the year.

Over the year, the price of oil has been steady, meaning that it fell after inflation adjustment. The administration felt free to kill a deal to import huge quantities of natural gas from Mexico because it doesn't like the price U.S. companies have agreed to pay. But the President, Czar Schlesinger and the like continue to assure us that the energy crisis is just around the corner.

Actually, the crisis has more-or-less officially been postponed until 1985 at the earliest. If you want to conjure up a big crisis then, you assume: first, that the Soviet Union will swing from an oil exporter to a big importer, somehow finding the foreign exchange to foot this bill; and second, that Saudi Arabia will cap its production because it likes the old values better than the new money. Because the CIA finds this scenario likely, we're told, we need a big new tax on the production of oil in the United States.

What we have been witnessing in the past year is the huge adjustive power of the price mechanism, even when politicians do all they can to hamper it. Stanford's Henry S. Rowen observes that since 1973, real gross national product has increased by about 11% while energy consumption has increased by only about 3%. This means that even without legislation, a great deal of conservation is going on as a response to the price increases. Prof. Rowen calculates that, holding production constant, consumers are reducing their energy consumption by about 2% yearly.

Higher prices are not only reducing demand but calling forth greater supply. With environmental and legal roadblocks finally overcome, oil is flowing from Alaska and exploration has started off the Atlantic coast. With somewhat higher gas prices and higher prices for "new" oil, drilling and discoveries in the U.S. have both increased, though not yet fast enough to keep up with consumption. But supply incentives are still uncertain, given the government's record of expropriating the returns from new oil with successive tiers of price controls and state or federal taxes.

It is this supply-demand balance called forth by the price mechanism, and not the beneficence of Saudi Arabia, that has kept OPEC from increasing its prices during the past year. Even a cartel is not immune to the laws of supply and demand; at some point higher prices mean lower sales and lower net income.

The improvement in the energy outlook in the past year has come despite government policy, not because of it. Indeed, the U.S. government has been OPEC's biggest economic ally. American oil imports are high because of the government's entitlements program, which in effect taxes the production of domestic oil and uses the proceeds to subsidize imports. Mr. Carter proposes to "cure" this by taxing domestic oil and using the proceeds to subsidize the consumption of home heating oil.

The way to reduce imports would be to end all entitlements and price controls, paying Americans as much for oil as you pay foreigners. This step would increase the price of gasoline by a maximum of seven cents a gallon; some argue that in fact the price would fall because of greater efficiency. Yet the government sees this simple step as an anathema.

The government's record during 1977 scarcely gives reason for confidence in its prescience about 1985. Over the years there has always been a finite supply of energy visible at any one time; the reason is that it is not economic to develop resources too far in advance. Above all, it is risky to invest too much capital in a single source or single technology. You may guess wrong. Huge sums invested in coal will be wasted if there is a break-through in producing geopressurized methane.

We do not know where future energy will come from, but we do know that there is a nearly endless list of possibilities, from coal to methane to nuclear to solar. Over the years, market price mechanisms have proven their ability to make such choices and such transitions smoothly. There will be no crisis if we let them do their work. The only way there will be an energy crisis in 1985 is if the government causes one. While the administration still has not grasped this, the biggest change since MEOW was declared a year ago is that more of the public and more of Congress now understand.

Mr. HANSEN. Mr. President, I yield myself such time as I have remaining.

I should like to ask the distinguished Senator from Washington a couple of questions: Does this bill regulate royalty owners and what royalty owners can receive under their leases?

Mr. JACKSON. Will the Senator repeat the question?

Mr. HANSEN. I do not have much time.

Does this bill regulate royalty owners and what royalty owners can receive under their leases?

Mr. JACKSON. It does not affect the royalty owners and it does not affect any of the pending litigation.

Mr. HANSEN. In memos from Curtis and Hollis, FERC seems to be saying that it believes it has the power to order payback of all volumes of gas delivered in intrastate commerce from any lease that was ever dedicated to any interstate contract. This would seem to violate the intention of the so-called "southland fix." Could the chairman answer this question: If a producer had a lease that at some time in the past was dedicated to an interstate contract but gas was never produced under that lease and contract, then, at a much later time, the land is re-leased and gas is produced and sold intrastate, under this bill, does FERC still have the power to force that producer to pay back all the volumes he sold in intrastate commerce?

Mr. JACKSON. This is a complicated question. My understanding is that they could attempt to go after the individual or corporation under the existing law, but there is nothing in the proposed legislation that would affect that situation.

Mr. HANSEN. Mr. President, because of the complexity of this bill, very minor changes can produce major results. As we come down toward the possibility of passage of this bill, one of those minor situations is beginning to loom large. It arises as follows: If the bill should pass the Senate today, and if a vote in the House is taken on October 12, as is now being reported, and it passes, the bill would fall exactly into a "window" of time where the President could manipulate certain important sections of the bill.

This is because if he signed the bill immediately after passage, one pricing formula would apply, while if he waited the full constitutionally permissible time of 10 days, and did not sign the bill until

October 22, a different pricing formula would apply.

The deliberate delay would have a detrimental effect on gas producers. The operation of the pricing formula means that future inflation would be measured against the third quarter change in the GNP deflator rather than the second quarter change.

The conferees have already swindled gas producers out of billions of dollars by adopting a pricing formula that breaks the promise of allowing 3.5 percent real growth in gas prices.

The bill's method of adjusting for inflation means that for all future periods, your inflation in the months for which data has not been published will be measured by the inflation in the quarter just before the date of enactment.

It now appears that the measured inflation rate in the third quarter of 1978 will be less than in the second quarter. So the President, by deliberate delay in signing the bill, can further erode the producer's protection against future inflation, another item supposedly guaranteed in this bill.

Could the manager of the bill state what he understands to be the administration's intentions on this matter? In colloquy with the Senator from Illinois some time ago, he indicated strong assurances that the administration would not disturb the deregulatory direction of this bill. Would that include an assurance that the President will not manipulate the signing date of the bill in order to reduce whatever incentives are available under this bill?

Mr. JACKSON. I enjoyed the question. As usual, my good friend from Wyoming injects that note of humor, which makes this body a delightful place in which to serve.

On the more serious side——

Mr. HANSEN. That was a serious question.

Mr. JACKSON. Yes, I am getting to that. I know the Senator from Wyoming very well and I am privileged to have that acquaintance.

The effective date of the prices is the first day of the first month after the enactment of the legislation. Now, when the President signs it—as I understand the Constitution as it has been interpreted by the courts, it is 10 days after he receives it, not counting Sundays.

Mr. HANSEN. Within 10 days.

Mr. JACKSON. But it is when he receives it. Now, what if he is overseas and we pass it here. It may take a week to get there.

Mr. HANSEN. Mr. President, under the present situation, the supply realities have begun to improve, slowly but steadily. New gas production is a long-term enterprise. It takes some time after drilling and exploration increase before reserves increase. And it takes a considerable time for new reserve additions to be translated into increasing production. Yet, we are now seeing stability or progress in all of these areas.

The system of freedom in the intrastate market, coupled with the recent FERC price incerases, are responsible for this improvement. An article in the Forbes magazine of September 4, 1978, which I insert for the RECORD, shows that the gas supply situation has been improving markedly in the last year or two. I would like to give just a couple of quotations indicating the tenor of the facts set forth here:

Higher prices for new oil and gas discoveries have caused a drilling boom that just won't quit. More than 48,000 new wells will be completed this year, the highest number since 1959.

Last year additions to U.S. gas reserves totaled 11.9 trillion cubic feet, the best record since the giant Prudhoe Bay field was first included back in 1970.

Spurred by higher costs and fears about gas availability to them, industrial users are conserving gas or switching to other fuels so fast that there's no shortage for residential and commercial customers.

So far as natural gas is concerned, the predicted shortage seems to be taking care of itself.

Just how wrong the Carter experts were about an impending disaster shows up best in a chart published along with the National Energy Program showing a predicted sharp drop in U.S. gas production if the plan were not passed. The predicted production level for last year has already proved to be too low by more than one trillion cubic feet. The Administration cried wolf, but the wolf hasn't shown up.

The more detailed statistics prepared by the Department of Energy show the same trend. Earlier in the debate, the distinguished Senator from Kansas indicated that gas production had been continuing to decline during the past 3 years of uncertainty in congressional debate. While I am in agreement that uncertainty did not help production, which might have been higher otherwise, I would note that DOE's own figures show that production has been essentially stable now for the past 3½ years. That is to say, in 1975, 1976, 1977, and the first half of 1978 total marketed production as an annual rate has varied by less than one-half of 1 percent. It was essentially 20 trillion cubic feet during all of that period.

I would also note that all of the indicators of drilling activity in oil and gas continue to rise, and I must frankly state that it is gas that is producing most of that activity. The continued and pervasive controls on oil have meant that, with the exception of the increase in Alaskan supplies, oil activity has not been as promising as for gas. Thus, in the first 6 months of 1978, total successful gas wells were up 17½ percent over the previous year. The total footage of all wells drilled, both oil and gas, was up over 9 percent. The number of rigs in operation was up 14½ percent, and the number of crews engaged in seismic exploration, perhaps the best indicator of long term future development, was up 17 percent over the year before.

While certainly the current situation is far from perfect, these statistics do indicate that we should not lightly turn aside from the system which is producing these results to plunge into the mass of confusion and bureaucratic control that is contained in this bill.

One of the arguments recently made by proponents of this bill is that the free market in the intrastate system has worked so well and has produced so much gas that producers are losing the incentive to drill because of the lower prices that this vast increase in supply has brought about.

I would note, of course, that it is quite strange that their cure for the evils of low prices produced by a free market is to call for more regulation. But, in fact, their premise is simply wrong, as the previous figures show. I think this is very good evidence that the free intrastate market, which this bill would destroy, coupled with a regulatory system which people can at least understand, which this bill would destroy, is doing a reasonable job for America.

I should also like to note that the relative situation of the interstate and intrastate markets has changed in the last year following the increase in the controlled price from 52 cents to $1.42. One of the major problems with the current system is, of course, the discrepancy between freedom in the intrastate market and control in the interstate market. During the period roughly 1970–75, the interstate market received almost none of the new onshore dedications, and only a very small proportion of all dedications of new gas finds in the United States.

I made those kinds of speeches and arguments last year in supporting the Pearson-Bentsen deregulation bill, and I now find it somewhat amusing to hear the same speeches coming from the mouths of those who were in opposition last year. But I suggest that it is they who have not examined the extent to which the situation has changed. At that time, the new EPC price was still under court challenge, and in any event, it had not had time to influence the activity of companies in drilling or dedicating their gas.

What happened in 1977, however, is that new dedications to the interstate market totaled 8.6 trillion cubic feet. This was more than triple the dedications of the previous year, and was the greatest for any year since 1968. I would like to ask to be inserted in the RECORD following my remarks the complete text of the FERC press release announcing these figures.

Let me also indicate what these figures mean in another context. It means that for the first time in at least 10 years the ratio of reserves to production, that is the length of time we could continue to produce at our current rate has actually gone up. It has gone up only by a little bit, and certainly I am not saying that the situation has become perfect—far from it. I simply indicate that the direction of movement has changed rather dramatically.

I would also note that these new dedications amount to over 70 percent of the total reserve additions for the entire United States, again a dramatic reversal from the situation in the previous years. Finally, and perhaps most importantly, these new dedications amount to about 80 percent of the gas that was consumed in the interstate market in 1977.

Again, this is not perfect. We will not feel that we are making solid progress

until new reserve additions equal 100 percent of consumption, that is, until we are replacing in our gas inventory the gas that we are now using. I would note that in the free intrastate market this has been exactly what has happened over the past 10 years as new finds have kept pace with production.

In the interstate market, the higher price has put us on the road to that condition, and I would again say that we should carefully examine those figures before we decide that the current situation is so horrendous that even this "administrative nightmare," as the Senator from Oregon so aptly called it last week (S. 15213), is a preferable alternative. That is the comparison we must make. If the FERC price were still 50 cents, and drilling and finding were still going down, I might have to hold my nose—and stomach—and vote for this. But that is not the situation, and a more careful consideration of the alternatives is in order.

Finally, I would like to comment on the predictions of vast increases in supplies that will occur under this bill. One of the things that has struck me about the predictions made directly by the administration, at least the ones that I have seen, is that they are always couched in terms of differences. If we adopt this bill, things will be this or that much better than if we do not.

Now in the nature of things, such predictions can never be tested because we will either adopt the bill or we will not, and we can never know what the difference will be. If, on the other hand, they would at least give us their specific prediction of what will happen to production both with the bill and without the bill, we will get at least one result that we can test for the future.

I think the same applies to the arguments that we have heard concerning the value of the dollar. I would be most interested in receiving specific predictions as to the value of the dollar in the event the bill is passed and in the event the bill is not passed. In that fashion again we would be able to have something that we could test at least one of these statements against.

In this regard, I would note that the American Gas Association has had the courage or the misfortune to have done this, and we already see these numbers coming up somewhat short. As the Forbes article indicates, the projections of what will happen under the status quo have already proved themselves to be about 1 trillion cubic feet low. The major AGA document showing the differences between this bill and the current system commences by estimating production this year. It is the same under either system, of course, because passage would have little or no effect on this calendar year. The estimate shows production to be 19 trillion cubic feet this year, while DOE statistics for the first 6 months of the year show production running at an annual rate of over 20 trillion cubic feet per year.

So I would be most interested, and would be happy to have the figures supplied as promptly as possible by the administration, as to their specific predictions in the event of passage and in the event of failure of the bill with regard to total gas production and with regard to the value of the dollar against any particular currency they choose. The experience with earlier projections may mean that I will have a long time to wait.

The material follows:

WHATEVER HAPPENED TO THAT SHORTAGE OF NATURAL GAS?

(By John Berry)

On the theory that unless the government "did something" there wouldn't among other things, be enough natural gas to keep the country going, President Carter unveiled his national energy plan 16 months ago—with dire warnings about what would happen if Congress didn't adopt it. Well, Congress didn't adopt it. Well, Congress didn't, but all the dire forecasts never became reality. To the contrary. So far as natural gas is concerned, the predicted shortage seems to be taking care of itself.

The simplest thing for the Administration to have proposed would have been a removal of federal price controls so that natural gas and its prices could go to where the free market dictated. But that would have gone against every bureaucratic impulse. Instead, the Administration proposed leaving controls in place and using taxes and selective price hikes to discourage industrial use of natural gas and to free up supplies for the home heating and cooking market. But because of congressional backing and filling, the complex proposal was never adopted.

So, look what has happened without the government doing a thing.

Spurred by higher costs and fears about gas available to them, industrial users are conserving gas or switching to other fuels so fast that there's no shortage for residential and commercial customers. As a result, in Virginia, Maryland, Pennsylvania, Michigan and other states, natural gas distributors are once again hooking up new customers.

Higher prices for new oil and gas discoveries have caused a drilling boom that just won't quit. More than 48,000 new wells will be completed this year, the highest number since 1959, and up from only 27,600 in 1973. And that drilling is paying off. Last year additions to U.S. gas reserves totaled 11.9 trillion cubic feet, the best record since the giant Prudhoe Bay field was first included back in 1970.

So much new gas has been found for some intrastate markets that suddenly shortages have become surpluses and new contract prices are falling. In Texas many intrastate pipelines are taking only 30% to 65% of the gas available to them, and the Texas Railroad Commission, which regulates oil and gas production, has a prorationing order that attempts to spread the cutbacks evenly.

Canada, which has had some potentially major new finds, shipped 1 trillion cubic feet of gas to the U.S. last year. In Alberta, the provincial Energy Resources Conservation Board says reserves have jumped so fast it would like to export an additional 14 trillion cubic feet to the U.S. over the next four years, and possibly yet another 12 trillion later in the 1980s. Canada's National Energy Board might link approval of the sales to a U.S. promise to pay back the gas at some future time.

Finally, in what has got to be one of the worst public relations goofs of the year, Maryland residential heating customers of the Washington Gas Light Co. learned they would be liable for a $30-per-month surcharge if they installed an electric heat pump. Why? Because the customer would use the heat pump in fall and spring, when it would be more economical than burning gas, and cut the company's sales.

Just how wrong the Carter experts were about an impending disaster shows up best in a chart published along with the National Energy Program showing a predicted sharp drop in U.S. gas production if the plan were not passed. The predicted production level for last year has already proved to be too low by more than 1 trillion cubic feet. The Administration cried wolf, but the wolf hasn't shown up.

Most of the new gas has been found as the result of drilling in areas where the likelihood of finding some gas, but not big new reserves, was high. Significantly, most of the new gas was intended for the intrastate markets in which prices are not controlled. Drillers are still wary about moving in a big way into riskier, higher-cost areas—such as deep onshore zones below 15,000 feet and some parts of the outer continental shelf—because of the continued uncertainty over the future price of gas that has to cross a state line to reach market. Some are going ahead, however, as Texaco's gas strike off the New Jersey coast this month demonstrates. The pending natural gas bill would settle the pricing question—whatever the bill's other merits or demerits. It probably matters a lot less precisely *how* it is settled than it *is* settled.

Present federal laws hold the price of natural gas flowing from one state to another to $1.50 per thousand cubic feet. This price is unrealistically low considering the cost of finding and developing much gas today. Unfortunately for the nation, Senator James Abourezk (D–S. Dak.) is fanatically opposed to giving even an inch to the gas industry. He has threatened to filibuster the pending bill because it allows gas prices to rise. Abourezk, whose heated opposition to the oil industry often seems irrational, claims that he wants to hold down prices for consumers—as if depriving the country of needed supplies could conceivably keep down prices.

Further confusing the picture, the gas industry's Independent Petroleum Association of America is also fighting the pending bill. The IPAA is afraid that provisions discouraging industrial use of natural gas might so damage overall demand as to make it impossible to sell gas at the higher prices allowed. So even though the bill would let prices rise substantially and would end price controls entirely by 1985, some parts of the gas industry are against it.

This political mess notwithstanding, the underlying situation is clear enough. There is plenty of gas potentially in the offing: Canadian gas; possibly Mexican gas; synthetic natural gas; liquefied natural gas imports; Prudhoe Bay gas. There is even the possibility of tapping the 49,000 trillion cubic feet of gas dissolved in brine in a deep geopressurized zone along the Gulf Coast. The problem isn't gas. With due respect to Carter and Energy Secretary James Schlesinger, the problem isn't even the lack of a national energy bill. The problem is regulation. Too much of it, that is.

FERC PRELIMINARY 1977 REPORT SHOWS CONTINUED MODERATION IN PIPELINE GAS RESERVE DOWNWARD TREND

The Federal Energy Regulatory Commission today released a preliminary staff study which shows that the downward trend in natural gas reserves committed to interstate pipeline companies continued to moderate in 1977.

A preliminary analysis of summary data reported in the annual reports (Form 15's) filed with FERC by interstate pipelines showed that remaining domestic gas reserves committed to the interstate system declined by 2.3 trillion cubic feet in 1977.

Reserves which totaled 98.3 trillion cubic feet at the end of 1976 dropped to 96 trillion cubic feet as of December 31, 1977. However, this was much less severe than 1976 and 1975, with annual declines of 8.5 and 13.7 trillion cubic feet, respectively.

Revisions and additions during 1977 were 8.6 trillion cubic feet, the highest since

1968. During 1976, revisions and additions were 2.9 trillion cubic feet.

Gas which the pipelines produced and purchased in 1977 amounted to nearly 10.9 trillion cubic feet. This represented a decline of 4.4 percent from the annual volume of 11.4 trillion cubic feet in 1976 and was down 23 percent from the peak annual volumes reported in 1971 and 1972.

The reserve-production ratio for the interstate reserve increased from 8.6 at the end of 1976 to 8.8 at the end of 1977.

The accompanying tables summarize the domestic interstate natural gas supply as of the end of 1977.

TABLE 1.—PRELIMINARY SUMMARY OF DOMESTIC NATURAL GAS RESERVES

[Interstate natural gas pipeline companies; million cubic feet—14.73 lb/in²a at 60° F]

1. Total dedicated gas reserves as of Dec. 31, 1976	98, 282, 085
2. Total dedicated gas reserves as of Dec. 31, 1977[1]	95, 968, 054
3. Indicated net effect of 1977 production, revisions and additions (1—2)	(2, 314, 031)
4. Gas produced during 1977[1]	10, 924, 243
5. Indicated 1977 revisions and additions (4—3)	8, 610, 212

[1] As reported in the 1977 form 15.

TABLE 2.—RESERVE, PRODUCTION, AND RESERVE—PRODUCTION (R/P) RATIO TRENDS, 1967-77

[Interstate natural gas pipeline companies; million cubic feet—14.73 lb/in²a at 60°F)

Date (1)	Yearend reserves (2)	Annual production and purchases (3)	R/P ratio (2)÷(3)
1967	198, 061, 163	11, 820, 011	16.8
1968	194, 862, 033	12, 552, 097	15.5
1969	187, 609, 270	13, 433, 388	14.0
1970	173, 555, 745	14, 091, 783	12.3
1971	161, 341, 388	14, 205, 090	11.4
1972	146, 905, 647	14, 206, 937	10.3
1973	134, 317, 273	13, 680, 383	9.8
1974	120, 542, 602	12, 965, 050	9.3
1975	106, 816, 456	11, 991, 748	8.9
1976	98, 282, 085	11, 388, 608	8.6
1977	95, 968, 054	10, 924, 243	8.8

TABLE 3.—1977 YEAREND DOMESTIC RESERVES, PRODUCTION, AND PURCHASES

[Interstate natural gas pipeline companies]

	Major supply companies	Minor supply companies	Total
Number of companies	26	32	58
Gas reserves at yearend (billion cubic feet at 14.73 lb/in²a at 60 F.):			
Company owned	9, 779	517	10, 296
Independent producer contracts	84, 433	1, 239	85, 672
Total	94, 212	1, 756	95, 968
Percent of total	98.2	1.8	100.0
Annual production and purchases:			
Company owned	558	46	604
Independent producer contracts	10, 122	198	10, 320
Total	10, 680	244	10, 924
Percent of total	97.8	2.2	100.0

Mr. HANSEN. Mr. President, without the able, competent staff—both Republican and Democrat—the task of addressing the natural gas issue would have been impossible.

On our side of the aisle, Danny Boggs, deputy minority counsel, tirelessly worked to keep us informed, educated, and prepared.

There is no one I know of that came to the Senate staff so well prepared to perform these difficult tasks. Mr. Boggs excelled in his academic career at Harvard and Chicago University Law School. His scholarship paved the way for his service as assistant to the U.S. Solicitor where he argued vital cases before the U.S. Supreme Court. Later Mr. Boggs served the Federal Power Commission as assistant to the Chairman. Mr. Boggs' intimate and thorough knowledge of natural gas issues have served all Senators on the Energy and Natural Resources Committee.

Mr. President, I salute Mr. Boggs. He epitomizes the professionalism and dedication of our fine staff.

Mr. JACKSON. I yield 1 minute to the Senator from Arizona.

The VICE PRESIDENT. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I voted against both motions to recommit the Natural Gas Policy Act of 1978. I must confess, however, that these were not easily arrived at decisions. The issue is by no means clear-cut, and each side in the debate has persuasive arguments. But, I believe that the weight of the argument and the facts lie with the administration.

During the original natural gas debate, I supported the Pearson-Bentson substitute proposal providing for the phased deregulation of natural gas. Deregulation. in my judgment, is the only answer to the myriad regulations and bizarre behavior that presently characterize the natural gas industry. Government regulation is inherently expensive and inefficient. It can never substitute for an orderly free market. It has resulted in national shortages that threaten not only jobs, but the economic well-being of entire communities. In some areas of the country natural gas is so abundant and underpriced compared to other fuels that it is used to operate boilers. No one has yet invented a substitute for the price mechanism to effectively and efficiently distribute a scarce resource.

The evolution of two distinct natural gas markets—one national and the other local—is the most outrageous and detrimental of the unintended consequences of regulation. Arizona and other consuming States suffer because of this anomalous situation. We can only receive regulated or interstate gas. Under present conditions there is little or no incentive to produce for that market. Where producers have a choice they will opt for the unregulated intrastate market. Thus, consuming States like Arizona face a long term shortage while surplus—even glut—characterizes the intrastate market.

To avoid this predicament. I voted to eliminate the distinction between these two natural gas markets. When price differences have been minimized, I believe intrastate gas will flow into the interstate market. Supplies will even out between the several States. Consuming States will not be forced to shoulder the full burden of any future shortages.

There is no question in my mind that deregulation would be the best means of achieving this end. However, immediate deregulation was not one of our options. The present compromise bill deregulates natural gas over the next 7 years. This is better than no deregulation. In the meantime, it extends some price controls to the intrastate market in an attempt to minimize present differences.

A sober assessment of the political realities led me to the conclusion that if this bill had been defeated—and a vote to recommit was really a vote to kill—the Congress would not have addressed the issue again for some time, probably not until the early 1980's. In the meantime, the FERC would have continued to regulate natural gas on the interstate market as it has done these last 20 years. The shortages and the discrepancies between the two markets would have continued to grow. The economic health and development of Arizona and other consuming States would have been endangered.

There was another consideration: Our position in the world economy, particularly the relationship between the American dollar and other currencies. The enactment of this legislation will have no permanent, major impact on the value of the dollar. However, if we had failed to enact this legislation, it would have been a clear signal to the rest of the world that the United States is unwilling, or unable, to come to grips with the energy crisis. No one pretended that this bill was the answer, but it is the beginning of an answer. Unless we take that first step, we will never be in a position to manage our energy affairs responsibly.

What will happen to the price of natural gas under this proposal? No one knows for sure; like so many other features of this legislation, the price impact is unclear. There are too many factors involved. Most estimates suggest that the price will increase, but moderately. The increase will be especially moderate for typical residential consumers who use gas for heating and cooking. Because of an incremental pricing amendment which I originally sponsored, the low-cost gas will continue to flow to residential consumers while newer and more expensive gas will be utilized by larger industrial customers. Eventually, when natural gas prices reach the equivalent of substitute fuels, the price will rise for all users.

The most difficult decision we faced centered on the question of price. Could we justify voting for a measure that will bring the cost of gas up, albeit slowly, over the next half dozen years? The issue must be viewed in perspective. First, there is the matter of supply. If we had not passed this bill, then many users of gas would have had no gas at all. This would have meant the loss of many jobs and would constitute a serious setback to our economic recovery. Second, most experts believe that the price of natural gas would have continued to rise whether this bill had been enacted or not. This conclusion is based upon experience with

regulatory agencies and rising production costs.

Another major concern of mine is the impact of this legislation on the amount of Government regulation. Some critics of the proposal have suggested that it would involve substantial increases in the regulatory burden. I have asked Secretary of Energy Schlesinger to address this criticism. I ask unanimous consent, Mr. President, to have printed in the RECORD at this point, the letter from Mr. Schlesinger in response to my inquiry, together with an attachment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, D.C., September 19, 1978.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DECONCINI: You have requested my assessment of the administrative burdens under the Natural Gas Policy Act of 1978.

The Act significantly reduces the regulatory burdens upon producers and upon the Federal Energy Regulatory Commission by removing producers from the Natural Gas Act of 1938 for essentially all future sales in interstate commerce. Thousands of filings and the preparation of certificate orders, rate increase orders, and abandonment orders would all be eliminated. The Commission also would be relieved of the burden of establishing rates under the vague "just and reasonable" standard—a process which has required an enormous investment of both public and private resources.

Of course, in the early years there will be a necessity both to phase-down the regulation of flowing interstate natural gas under the 1938 Act and to put into place the basic procedures and standards for administering the new Act. During this transition period, there undoubtedly will be the need for some additional personnel and funding to accomplish these dual functions and oversee a smooth transition. After this initial transition period, I would anticipate that the reduced regulatory burden in the Natural Gas Policy Act of 1978 will lead to a reduction in personnel compared with a continuation of the present system.

Also, I believe that the states will be able to assume their responsibility under the Act with the addition of relatively few new personnel.

I attach for your consideration more detailed comments on the administrative requirements under the new Act prepared by my staff. If I can be of any further help, please let me know.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

Enclosure.

AN ASSESSMENT OF THE ADMINISTRATIVE BURDENS UNDER THE NATURAL GAS CONFERENCE REPORT

Three areas under the bill will require the most significant administrative effort—wellhead pricing, incremental pricing, and the agricultural and industrial curtailment priorities.

First, the wellhead pricing provisions of the bill will lead to a significant reduction in the regulatory burdens under the Natural Gas Act of 1938. For virtually all new wells, producers selling in interstate commerce will not be required to file, and the FERC will not be required to process, certificate applications, rate increase filings, or abandonment applications or to conduct rate determination proceedings. The vast majority of FERC's current caseload deals with producer regulation. For example, the projected 1979 caseload for the Commission is 47,522 cases and producer certificates and rate filings under the Natural Gas Act constitute 81 percent or 37,682. Those types of cases would be eliminated for the future. The FERC will not be required to conduct extended rate proceedings. As Chairman Curtis concludes, "It is reasonable to expect that the Commission's present caseload attributable to functions now conducted under the Natural Gas Act will significantly diminish in future years." In place of those Natural Gas Act functions, the Commission will be required to oversee and review the administration of the price ceilings under the bill.

The Commission will establish guidelines for state or USGS administration of these price ceilings, but will be involved in the routine administration of these functions only in a review capacity. For the most part, the Commission will be able to confine its review workload to those cases that present clear error on the part of the initial fact finder. As Chairman Curtis notes, wellhead pricing provisions of the Natural Gas bill provide "seemingly difficult problems of administration but (also) considerable opportunity to evolve a creative and efficient mechanism for giving effect to the policies enunciated in the Act."

With respect to the state or USGS initial administration of the new gas pricing standards, it should be noted that the standards for establishing eligibility for price are basically readily determinable facts such as distance and depth in relation to old wells. The states should be able to quickly establish a routine for these matters that would require little additional administrative burden. The classification of new reservoirs is a somewhat more complex determination but such inquiries proceed along well established lines of geological inquiry. The states of Lousiana and Texas, for example, routinely today define reservoirs for purposes of establishing proration units. In the past, Texas has provided an incentive for discovery of new oil reservoirs that is analogous to the purposes of the Natural Gas bill. Newly discovered oil reservoirs were allowed an exemption from production limits.

Thus, while states will have somewhat increased administrative responsibilities under the Natural Gas bill, it is not foreseen that large increases in personnel will be required. Representatives of the FERC and the Interstate Oil Compact Commission have had several meetings to discuss approaches to implementation of this legislation. Preliminary discussions have also been held with the State Commissions or agencies that will have the majority of responsibility under the Act. FERC is also planning schedules for expedited proceedings to implement the Act in conjunction with the states.

In regard to incremental pricing, the Commission will be required to assemble data to a degree of specificity not heretofore required, and to conduct two extensive rulemakings within eighteen months after the enactment of the bill. However, once the principles are established and the data base regarding the affected users is in place, the future administration of incremental pricing will flow into the Commission's normal pipeline ratemaking process. Chairman Curtis concluded that "In short, implementation of Title II (incremental pricing) implies a significant statistical effort and some lesser modifications to the Commission's procedures. However the workload, policy and procedural requirements appear achievable."

The implementation of the agricultural priority will require a limited reopening of the existing curtailment cases before the Commission for the purpose of establishing the entitlements. However, recent court rulings may require reopening of many of the curtailment plans without regard to this legislation. In this respect, Chairman Curtis concluded that "Taking this (the flexibility under the bill) into account, and also taking into consideration the more important factors that the curtailment activities of FERC are currently extensive and requirements for reexamination of curtailment policies exist independent of the Natural Gas Policy Act, it appears that the additional requirements of the NGPA will add only incrementally to what already will require a major commitment of Commission resources."

Mr. DECONCINI. Mr. President, while no one knows for sure what difficulties may develop, I am satisfied by the Secretary's commitment that he intends to ultimately reduce the number of staff persons, as well as the amount of regulation.

This legislation presented no easy choices and no simple solutions. If we could provide more gas at reduced cost, we would not have a controversy. Unfortunately, our choices are not so pleasant. It seems to me that had we failed to act on this bill which will, admittedly, raise prices we would be faced by a much worse alternative—gas shortage.

In sum, Mr. President, I believe that this legislation had to be enacted because it represented the only reasonable course of action under present circumstances. To vote against the bill would have been an exercise in futility that would have exalted ideology at the expense of pragmatism. We all hold ideals. But in this imperfect world, we must, likewise, concern ourselves with results. I for one did not push to contribute to massive unemployment and economic misery because this bill failed to meet all my personal standards and philosophical predispositions.

THE WORST OF TWO WORLDS

● Mr. ABOUREZK. Mr. President at this moment we are engaged in a debate over a bill that represents the worst of two worlds: deregulation of prices and deregulation of procedures.

It is ironic that the very Senators who have joined the bandwagon against regulations because of unnecessary redtape, excessive bureaucracy, and burdensome costs are the champions of a piece of legislation which collects into 125 pages more redtape, more bureaucracy, and more administrative costs than any dozen bills—and without any redeeming features, such as actually regulating the price according to costs of production. It almost looks as if the people who support this bill do so because it will further discredit Government regulation, because that is one of the main effects this bill will have.

I would give my colleagues a warning that the business of discrediting Government is better left to business than to members of the Government. On that note, I ask to have printed in the RECORD at this point an article by Mark Green which appeared in the New York Times of July 18, 1978. Mr. Green gives some relevant and little known details about how "Government regulation" came to have such a bad, and often distorted image.

The article follows:

A NEW BACKLASH

(By Mark Green)

WASHINGTON.—There is a spectre haunting America. The spectre of big government.

Or so you would think if you consulted nearly any corporate annual report, Republican Party publication, or company sued by a regulatory agency. Henry Ford 2d recently blamed big government for unemployment, inflation, and lowered productivity. Many representatives opposed a small consumer advocacy office because, in the words of one representative, "Government is already too big, too intrusive and too bureaucratic."

Such sentiments encourage the "New Right," big business and the Republican Party to march together under the antigovernment banner. Thus, attacks on "big government" are the 1970's version of "Law and Order," the slogan that substitutes for analysis. Or as the French author and philosopher Georges Bernanos once said, "All the ideas one sends alone into the world, with their pigtails hanging behind them . . . are raped on the first street corner they come to by any old slogan in uniform."

Although Federal regulation can often be brutish and short-sighted, today's anti-big government fad is too prone to exaggeration, irony and hypocrisy to have enduring impact.

Federal, state and local spending was 35 percent of the G.N.P. in 1975, 32.8 percent in 1977. The number of people on the Federal payroll today—five million, two-thirds of whom are in the Defense Department or armed services—has stayed constant since 1961. The entire budget of the F.T.C. is one-fifth of Procter & Gamble's television advertising budget. And if there is a western democracy that plans and regulates its economy less, it is keeping that fact a secret.

Ironically, according to Herbert Kaufman of the Brookings Institution, the public wants the Government to protect people from people and to transfer wealth, but, due to our suspicion of government, we insist that bureaucrats act according to rules and forms. Hence red tape.

If acronyms like OSHA, E.E.O.C. and E.P.A. have become, for some, despised symbols of intrusive government, surely it was in large part due to their growth in the Nixon-Ford Administrations. Their Administrations' corruption and inefficiency created an antigovernment sentiment that Republicans exploit and Democrats feel defensive about.

None of the 237 representatives who recently voted against a $15 million consumer protection agency because it added "another layer of bureaucracy" said anything about a $1.7 billion business promotion agency called the Commerce Department.

Industry too enjoys attacking government bigness, waste and corruption, conveniently ignoring its own bigness, waste and corruption. It is unpersuasive when the Business Roundtable—58 percent of whose member-companies have recently been named for illegal payoffs or antitrust violations—complains about regulatory law enforcement. Indeed, when Ralph Nader and I wrote to the Chamber of Commerce and seven other trade associations in 1973 to join a campaign to reduce Federal corporate subsidies, all refused. Apparently, they don't mind their layers of bureaucracy.

As long as public officials salute whenever someone mentions "big government," the phrase will continue its fashionable, even influential, vogue. Until, that is, some public leaders challenge the "big government" abstraction as a figleaf for anticonsumer, antipoor, and antilabor policies that chiefly benefit large corporate interests. Such spokesman should be able to demonstrate how government can work to save and improve people's lives—that the F.D.A.'s ban of thalidomide prevented 10,000 teen-agers today from being limbless; that Social Security pays out in benefits 97 percent of all it takes in; that Federally mandated air bags will save 9,000 lives and 65,000 serious injuries a year; that the E.P.A. has reduced the risk of cancer and has produced jobs as a result of the manufacture of antipollution devices.

Already public opinion polls conclusively demonstrate that, although trust in government, as measured by the University of Michigan, generally fell from 63 percent to 30 percent between 1966 and 1976, Americans by better than 2 to 1 margins still support specific government programs to promote full employment, housing, health, desegregation, consumer protection and environmental protection.

The public realizes that government must pursue its mission to reduce misery—but must do so competently and compassionately. This broad consensus is ahead of its leaders, to whom it now looks for a voice, not a slogan. It's time for a backlash to the backlash.●

REGULATORY IMPLICATIONS

● Mr. MOYNIHAN. Mr. President, the history of natural gas regulation is a long, complex, and in strange ways, unanticipated one. It has initiated all kinds of perhaps misguided trends, and has created the atmosphere that makes the conference report necessary today.

That this bill aims to correct many of the excesses of the past seems clear to me. That it is a complex piece of legislation is equally self-evident. Perhaps its complexity, however, is rooted in its efforts to deal with the increasing burden of regulation promulgated by past practices.

Regulation of natural gas commenced in 1938 with the passage of the Natural Gas Act. That act enabled the Federal Power Commission, now the Federal Energy Regulatory Commission, to control the prices of gas in interstate pipelines. Regulation was restricted to interstate pipelines, as only in those industries, such as utilities, which enjoy a natural monopoly, could regulation be justified. Only distribution of natural gas is such a monopoly and regulation was therefore rightfully restricted to that portion of the gas industry, thereby excluding production from Federal control.

In a landmark 1954 Supreme Court decision, however, the jurisdiction of the Natural Gas Act was extended to regulation of gas prices at the wellhead. That decision has substantially changed subsequent regulatory policy, and has had enormous impact on FERC's administrative responsibilities. Since that point, FERC has had to cope with an overblown regulatory burden that has demanded an expansion of its size and originally intended function. The FPC was initially unwilling to accept the new authority for wellhead price regulation, but that reluctance has apparently dissolved.

While extending the scope of regulation, the Court did nothing to formulate a uniform basis on which it could be administered. FERC and its predecessor therefore were obligated to hear tens of thousands of cases on an individual basis. Though they undoubtedly developed expertise in this field of price estimation, their methodology demanded an inestimable infusion of time and effort, to say the least.

The situation changed somewhat in 1974, when FERC for the first time adopted a nationally uniform system of pricing various categories of gas. This alleviated the impossible situation in which they had originally been placed, but left many of their pricing policies vague and inapplicable to various production cases. FERC estimates that it will have to hear perhaps thousands of additional individual cases if the current situation continues unchanged to study the prices that gases classified as high cost or exotic should continue to receive. Surely this regulatory burden is unnecessary and unfair both to producers who must work within them and to consumers who must subsidize them.

It seems that there are several points to be noted here. One is that, contrary to what this conference report's critics would have us believe, the burden of current regulation is enormous. Leaving the status quo unchanged would not maintain an uncomplicated self-perpetuating system. Rather it would create a nightmare in which reevaluations occur every 2 years in which thousands of producers have no definite sense of the price that they can receive for their gas unless it happens to fall into one of the narrowly defined categories that FERC has established; and in which there is no assurance that prices will either be completely deregulated, as producers hope, or that controls will be permanently retained, as consumers wish. What we seem to be asking for if we choose to retain the status quo here is continued uncertainty, continued regulatory instability, and continued inability to predict the prices that will determine the course of investment and consumption for the next several years.

One other fact must be noted, and that is the fallacy of leaving something as important as this question of natural gas pricing regulation to an independent agency that is subject to no congressional review. I would not claim the infallibility of Congress; nor would I suggest that FERC does not have a greater technical expertise in these matters than we have on the floor today. Nevertheless, I would suggest that allowing an independent agency to have total, control of these questions has in this area been manifestly unsuccessful in settling the issue.

The original legislative mandate embodied in the Natural Gas Act of 1938 clearly set forth a system of regulation that was distorted only when it was extended by judicial review. I would not quarrel with the judicial decision that extended regulation to production prices; it was indeed the right decision. What I question is the authority that was thus unilaterally given to the FPC. Certainly the original legislative language had contained no such intent. Nevertheless, FERC has been operating independently since that point, and through administrative action, has created a regulatory system that is impenetrable.

FERC should be commended for creating a system where none previously existed. Nevertheless, I invite my colleagues to predict what will happen if this independent system, however well oiled, is allowed to continue unchecked. Recent trends suggest that FERC will move closer and closer to a deregulation policy;

it raised gas prices 300 percent in a single year, and there is nothing to suggest that it will not be susceptible to the intensive producer lobbying that is expected at this year's pricing session. There is that continuing uncertainty, however, ultimate deregulation seems probable, but by no means definite, and the unpredictability of price can only damage the investment that we are so anxious to encourage.

I would thus suggest to you that this carefully constructed, well-balanced compromise bill gives us both the chance to alleviate a complicated and involved regulatory system, and at the same time the first chance in 50 years to express the congressional view of such a situation. The conference report is by no means perfect, and does not correct a bad situation with absolute regulatory simplicity, but it does offer us a chance to have a say in the costs our constituents will pay for gas, in the amount our Nation's producers will receive, and in the stance that we will take before the world in this matter. Surely this is a worthwhile endeavor that deserves our support.

THE NATURAL GAS COMPROMISE

I rise today to address an issue which is of great importance in relation to the conference report before us, but which many would seek to avoid. The issue of regionalism is one that has led to much divisiveness, and is at least in part responsible for the amount of opposition to this bill we find today. I would not deny that an acknowledgment of regional distinctions has validity, and indeed leads, in cultural terms, to an enrichment of our nation. Regional differences have always played a part in our national politics, and a pattern of economic growth, has directed national attention to this issue.

This is all very well and good, and it is entirely proper, as it has been since the earliest days of the Republic, for the Federal Government to view regional differences with great concern. As I noted, however, in an address last January before the White House Conference on Balanced Growth and Economic Development, regional issues cannot be allowed to become overly politicized. Given that they do indeed exist, the role of the Federal Government cannot be to promise sweeping solutions to regional problems when it cannot implement these solutions without harm to other regions of the country. As I noted in my speech before the White House conference:

> There is just so much government can do here. If it promises more than it delivers, there will be those who genuinely and understandably come to feel that a promise was broken. Or that the promise was insincere from the outset. This is never good for a democracy.

The Federal Government can and must, however, do all it can to minimize the disruption that regional issues will have on the Nation as a whole. This is a fine balance to strike, and is one that requires careful attention. Begging your indulgence for one further quote, I note to you that:

> The founders of this nation understood that our political freedoms and national stability very much depended on our becoming a single economy with the freest possible movement of capital and labor across state and regional borders. The Supreme Court has more than once had occasion to reaffirm that commitment. Now is scarcely the time to go back on it.

These considerations bring me to the bill before us. It seems to me that here the conference committee has not promised what it cannot do, but has done what it can to alleviate this complex problem of natural gas pricing. What the conference committee has done is to create a bill that not only mitigates the sometimes disastrous regional effects of natural gas production, but as well takes a step toward a unified national view of this matter.

As acknowledged by both sides in this debate, there is an inherent regionalism in natural gas issues: gas is, for the most part, produced in western States, and is consumed, in large proportion, in eastern States. This has led to a regional identification of Western producers and Eastern consumers. It has also led to the current injustice in the natural gas pricing system, which has created interstate Eastern markets and intrastate Western markets in which widely differing prices prevail.

This system is clearly unfair and can lead on occasion to catastrophic consequences in some areas. The higher prices currently permitted on the intrastate market have led to a glut on that market with concomitant shortages for interstate customers. The severe eastern gas shortages during the winter of 1976–77 were a result of this disparity, and other supply shortages for interstate, primarily eastern, consumers can be predicted if the current regulatory situation is allowed to continue.

Thus, the situation seems to be this. The current regulatory system is based on regional differences and is designed to exacerbate them. Clearly, it is crucial to remove this barrier to the free movement of supplies to all areas of the Nation. This regional divisiveness can only be exacerbated by continuation of the status quo, at the price of increased gas production and supply. It seems to me that the conference committee has, admirably, faced this problem and carved a compromise which resolves it.

Removal of this barrier could be accomplished either by extending controls to the interstate market or by removing them from all natural gas altogether. Arguments, again regional, arise against both these plans. Western producers feel that controls on their only currently viable market can only inhibit new production. Consumers feel that the immediate jolt of deregulation will inevitably lead to higher prices and widespread inflation.

It is to the credit of this bill that it finds a middle ground between these two positions while incorporatng elements of each. Recognizing that too much control will stifle production, the conference committee has provided for a carefully phased increase in prices, resulting in almost total deregulation in 1985. Acknowledging the value of consumer arguments, however, the committee has also sought to contain both the inflational impact and price burdens on consumers. Immediate deregulation would undoubtedly lead to significant inflation; the bill avoids this result. Instead, by gradual price increases and the application of incremental pricing provisions, the committee has shielded the consumer from the adverse impact of a sudden and huge price increase. At the same time, by setting increasingly higher prices, it has encouraged the continued and growing production of this valuable natural resource.

These efforts can only be applauded. This bill, will ultimately, benefit both Western producers and Eastern consumers, for it will allow greater gas production and more equitable pricing in all markets in all regions of the country.

I conclude by restating a point I made during the White House conference concerning some of these very issues. In an anecdote I told then, which I find relevant now, I noted that in 1964 it fell to me to produce parts of the first draft of the Democratic National Platform of that year. Little if anything was returned from that first draft, but one sentence survived all cuts. That sentence read "We are one nation, one people." I find it even more true today, and hope my colleagues will take it to heart in consideration of this bill.●

● Mr. PAUL G. HATFIELD. Mr. President, I rise to speak in support of the conference report on the Natural Gas Policy Act of 1978. This conference report contains enormous compromises and it embodies the most important concerns of those who seek to deregulate in the interest of greater gas supplies and those who seek to retain regulation in the similar interest of consumer protection.

I for one am for, and have been since before I came here, the deregulation of new natural gas. I have been of record in this regard for some time. Had I been here, I would have voted for the Pearson-Bentsen bill, the Senate bill which sent into the conference, but which did not emerge.

I am against further extension of the Federal regulatory process, especially as it affects new natural gas. Because of the current Federal regulatory process, Montana consumers pay an exorbitantly high price—$2.19 per Mcf—for gas, a good portion of which must be imported from Canada. The Montana situation, in my opinion, would not have come about but for interstate market controls.

Therefore, the decision to support this conference report has not been taken lightly nor without reservation and some reluctance.

The opponents of deregulation seek to protect the consumer and residential user by maintaining Federal control of the price of natural gas. To deregulate in the interest of greater gas supplies and in the ultimate interest of the consumer is not inconsistent with the intent of those who seek continued regulation in the interest of the consumer and residential user. The goals of nearly every Member of the Senate are the same—an assured supply of natural gas, an attempt to reduce our national dependence on

foreign oil and an ultimate concern for the energy health of this country. The suggested routes for achieving those goals are apparently as numerous and as divergent as the membership of this body.

The estimates, the projections and the guesses about what the passage or failure of this bill means for this country vary according to the assumptions on which they are based.

Estimates of increases in natural gas production by 1985 range from a low of 0.7 Tcf (trillion cubic feet) per year by the Congressional Budget Office to a high projection of 5.0 Tcf per year by the Independent Gas Producers Committee for the year 1985.

I for one think that just because estimates and projections are so divergent is not reason enough to oppose this conference report. With any legislation there is an element of doubt about its effects, its ramifications, and implications. We are not sure that tax credits will cause the results we desire when we pass them. We have no guarantees that a new health or housing bill will work in precisely the manner we anticipate. There is a degree of uncertainty in any measure, and certainty can only come through trying. We will not know how this measure will affect natural gas production and interstate supplies until we give it a try.

One assumption made by the opponents of the conference report is that it is best to keep the status quo. I believe that the point has been made several times, but I would like to reiterate, that failure to adopt this conference report will not leave a status quo that is acceptable. The existing quagmire will continue and probably accelerate. The backlog of existing cases proves this point beyond argument. While there certainly are negatives inherent in this compromise, at least it does have a predictable consistency, now unknown, and will provide for some deregulation, although less than I would support.

Further, I feel that this legislation gives a beginning and undoubtedly will provide experience for refinement by future legislation, hopefully toward more meaningful and faster deregulation.

We can be quite certain what will happen if we do not address the problems of our natural gas policy with its crazy-quilt approach to regulation and its antiquated dual system of interstate/intrastate markets. We can be reasonably assured that if we do not approve this conference report that no other compromise measure addressing natural gas pricing will be passed by this Congress. This country may be required to endure another winter without adequate natural gas supplies and without a hope that adequate natural gas supplies will be available in the near future.

I count myself among those who believe that this conference report is more desirable than allowing the antiquated, inherently inconsistent regulatory system to continue as it exists today. I, too, believe that we must halt the erosion of confidence, both in this country and throughout the industrialized world, in our ability to deal with our energy and related problems.

We must stem the unconscionable outflow of American dollars which has contributed to the high inflation rate at home and the diminishing value of the dollar abroad.

I do not suggest this conference report is a panacea by any means. But I do believe it is an important first step toward addressing the critical energy problems facing this country.

We do not have the luxury of changing the conference report before us with any assurance a bill will pass this session. Perhaps the first step is to cut through the fog of oratory and recognize that many of the claims by friend and foe alike are overstated or conjecture at best. One thing is certain however, we are the petroleum pig of the world. In the words of our former majority leader, Mike Mansfield from Montana:

> We are the world's greatest buyer, user and waster of petroleum products.

I suggest it is time we grow up as a Nation and leave behind the carefree energy days of our national youth.

I believe this bill is an important test of our national maturity and despite its imperfections and in spite of our fears of the great unknown, I urge its passage.●

● Mr. STEVENS. Section 109 of the Natural Gas Policy Act of 1978 sets an initial ceiling price of $1.45 per MMBtu's for the sale of gas produced from the Prudhoe Bay unit of Alaska and transported through the Alaska Natural Gas Transportation System, including the State of Alaska's royalty share of gas from that unit.

The gathering and processing of North Slope gas for delivery to the lower 48 States is more expensive and complex than preparing gas for transportation in the lower 48 States. This is due both to the size and complexity of the conditioning and compression facilities that must be built at Prudhoe Bay and to the fact that, unlike any existing U.S. gas pipelines, the Alaska gas pipeline will be a higher pressure pipeline and transport chilled gas for a portion of this system.

These unique characteristics of the pipeline require extraordinary inlet compression and cooling and the removal of a greater than normal percentage of water and will also require removal of liquefiable hydrocarbons which but for these characteristics would not have to be removed on the North Slope. Such long line transmission may also require removal of greater than normal percentages of carbon dioxide.

The facilities required for this process will be expensive and I believe that FERC determinations on the allocation and recovery of these costs should be made with due regard for the unique technical and engineering specifications of the Alaska natural gas transportation system in such a manner so as to encourage the extensive capital investments and manpower commitments necessary to construct the necessary facilities, including the conditioning plant.

Does the distinguished Senator from Washington agree that section 110 of the Natural Gas Policy Act of 1978 gives the FERC the authority to approve upward adjustments to this ceiling price to compensate producers of the gas for the costs of compressing, gathering, processing, conditioning, and transporting the Alaskan North Slope gas, which are borne by the producers and which are allocable to the gas sold?

Mr. JACKSON. The Senator is correct. Section 110 of the act gives FERC authority to increase the maximum lawful price of any natural gas including Alaskan gas, to compensate the seller for costs that they may incur in the gathering and processing of natural gas. The special circumstances described by my colleague would be presented to the Commission. The Commission may allow for an adjustment in the maximum lawful price if it determines it is appropriate to do so.

Mr. GRAVEL. Senator, I infer that the permissive nature of the Commission's power to provide, by rule or order, an allowance in excess of the maximum lawful price for any costs of gas conditioning borne by the seller beyond the wellhead does not preclude a purchaser from acquiring natural gas at the wellhead, paying the maximum lawful price at that point.

Mr. JACKSON. The Senator is correct.

Mr. GRAVEL. Does the distinguished Senator from Washington agree that the combined effect of section 208 and section 203 of the conference report mandate rolled-in pricing for all acquisition costs of gas produced from the Prudhoe Bay unit and transported through the Alaska natural gas transportation system? Rolled-in pricing would include the wellhead price and processing, gathering, conditioning, and compression costs borne by the producers of such gas, which, in the aggregate, are less than $1.45 per MMBtu's, as adjusted for inflation, plus all costs associated with the transportation of such gas to markets in the lower 48 States.

Mr. JACKSON. The Senator is correct. Section 208 and section 203 require that all components of an interstate pipeline's first sale acquisition cost of natural gas produced from the Prudhoe Bay unit, which in the aggregate are equal to or less than $1.45 per MMBtu's (adjusted for inflation, from April 20, 1977) will not be incrementally priced but instead will be rolled-in with the interstate pipeline's other purchased gas costs. In addition, section 208(2) requires that all transportation costs associated with transporting gas from the North Slope of Alaska to the ultimate point of consumption will be rolled-in. This includes the costs associated with transporting the gas through the Alaska natural gas transportation system, transportation costs incurred by purchasers of Alaskan gas and any costs associated with the local distribution of such gas. Finally, Alaskan State severance and other production taxes enacted on or before December 1, 1977, will also be priced on a rolled-in basis.

Mr. GRAVEL. I thank the Senator for his clarification of these points.

Mr. STEVENS. It is my understanding that nothing in this act will effect the right of the State of Alaska to withdraw from an interstate natural gas pipeline for use within the State its royalty nat-

ural gas as provided for in section 13-b of the Alaska Natural Gas Transportation Act of 1976, Public Law 94-586.

Mr. JACKSON. That is correct.●

● Mr. CLARK. I would like to ask several questions about the effects of the conference report on H.R. 5289 on the treatment given to agricultural and food processing uses of natural gas during curtailment periods. As I understand it, the conference report provides a priority for such uses which is second only to the priority provided for homes, small commercial establishments, schools, hospitals, or other uses vital to public health and safety.

Mr. JACKSON. The Senator is correct. The agricultural curtailment priority is provided by section 401 of the Natural Gas Policy Act.

Mr. CLARK. I thank the Senator. I believe that section 401(c) of the conference report provides that the Secretary of Agriculture shall certify to the Secretary of Energy and the Federal Energy Regulatory Commission the natural gas requirements of persons (or classes thereof) for essential uses in order to meet the requirements of full food and fiber production and that the term "essential agricultural uses" as defined in section 401(f) includes food processing. Am I correct in concluding that these provisions would cover the use of natural gas in the singeing of hairs and in the processing chambers for producing ham, bacon, frankfurters, luncheon meat, and other meat products?

Mr. JACKSON. The Senator is correct. The processes the Senator describes are "food processing" and are examples of the processes included in the definition of "essential agricultural use" and section 401(f)(1). The Secretary of Agriculture would have to make the determination of the natural gas requirements to meet such uses in his certification of essential need to the Energy Department and the Federal Energy Regulatory Commission. But the uses the Senator has described certainly would fall within the kind of activity that the Secretary could find were essential uses.

Mr. CLARK. I thank the Senator for his help on these questions.●

Mr. GLENN. There are hundreds of gas wells in Ohio that would qualify for stripper well prices under the bill except for the requirement that stripper well gas production must be nonassociated gas. Most of the wells that would otherwise qualify in my State have very small amounts of oil production. We need to encourage this kind of stripper well production in Ohio as well as the minimal oil production that also comes from these wells. Is there anything that can be done about this?

Mr. JACKSON. I think the Senator raises an important point. I would like to call the Senator's attention to the fact that on page 89 of the Joint Statement of Managers, the managers of the bill state their intention that the Commission may allow a de minimis amount of oil to be produced from gas wells without otherwise disqualifying such wells from the stripper classification under section 108.

From discussions in the conference on this subject, it is clear that the conferees believe that FERC has the authority to indicate that de minimis oil production levels, for example, production of one barrel per day, would not disqualify gas production otherwise eligible for stripper classification.

It should be noted that FERC would have the authority under section 107 to provide, by rule or order, a special ceiling price for high-cost natural gas. For example the Commission could use its authority to provide an increase in the maximum lawful price that would otherwise be applicable for wells that would qualify as stripper natural gas wells except for the fact that they are associated gas wells producing more than de minimis amounts of oil.

The authority of these two sections provides the flexibility to address the problem the senior Senator from Ohio had raised with regards to stripper gas production in his State.

Mr. GLENN. I thank the Senator.

● Mr. BARTLETT. Mr. President, the issues involved in the natural gas debate are probably as complicated and technical as any ever addressed by this body.

Without the aid of our staffs, I do not know how we would ever have gotten through these months. The professionalism, dedication, and sensitivity demonstrated by the staff on both sides of the aisle should be commended.

I especially want to pay tribute to Betsy Moler, counsel to the majority; Danny Bogg, counsel to minority, and Eric Evered, my legislative assistant, as well as Mike Harvey, chief counsel of the Energy and Natural Resources Committee, and Fred Craft, minority counsel of the Energy and Natural Resources Committee.●

● Mr. MUSKIE. Mr. President, I support the conference report on the natural gas bill, and urge my colleagues to do the same.

For several weeks now, I have carefully examined the provisions of this legislation. And I have concluded that there is a compelling case for its adoption. I find it to be sound energy policy and good economic policy—both at home and abroad.

The conference report offers the Congress an opportunity to live up to America's promise of energy responsibility. Many are betting that we will not be able to set aside parochial differences long enough to keep that promise.

The stakes are enormous.

Over the course of this very long debate on natural gas pricing policy, fundamental questions have been raised about the course we should pursue. These questions have been asked of the dozens of different policy alternatives that have been considered—and they are now asked of the conference report as well. They are questions that must be answered before we can proceed.

Will the new pricing policy increase natural gas supplies?

Will such policy treat all consumers of natural gas fairly?

Is it workable?

And most importantly, how will it affect our economy here at home and our role as the leader of the international economic community?

Some of my colleagues have concluded that the conference report cannot pass the test of fairness and workability and responsibility which these questions pose. But I am convinced that each of these questions can be answered in the positive where the conference report is concerned.

First, it is clear that the conference report will increase supplies of natural gas.

The Congressional Budget Office estimates that by 1985, production will increase under this legislation by 0.7 trillion cubic feet. That is enough to heat 7 million homes for a year, and reduce payments to foreign oil producers by $2.6 billion per year, in 1985 dollars.

This estimate is based on a careful analysis of the conference report and agrees with the most conservative estimate made by the conference committee, which projected an increase of 0.7 to 1.4 trillion cubic feet by 1985. Other responsible estimates go even higher—to as much as 2 trillion cubic feet in increased production per year.

The conference report essentially creates a national market for natural gas, eliminating almost all distinctions between gas sold on the interstate market and gas produced and consumed in the same State. This means that the current surplus in the intrastate market—estimated by DOE to be as much as 1 trillion cubic feet per year—could be available to the interstate market.

It should also be noted that the conference report will encourage the construction of the Alaska natural gas pipeline, a facility that would bring an estimated 0.8 trillion cubic feet of additional supplies to consumers by 1985.

The conference report will help this project to move ahead immediately, without further delay, for two main reasons. First, it will establish a price certain for Alaska natural gas. And, second, it will insure that a market exists for that gas by excluding most of that established price from the incremental pricing provision.

Without the specific provisions included in the conference report, the pace of construction will inevitably be slowed. The Federal Energy Regulatory Commission will be obligated to convene a rate proceeding that in all likelihood will take months to complete. And, upon completion, the price established by that procedure will be subject to the uncertainties and delays that must come with any judicial review based on the "just and reasonable" standard of the Natural Gas Act.

The Department of Energy estimates that project costs of the Alaska pipeline are escalating at a rate of more than $50 million per month. Such an increase can only add to ultimate costs to consumers and, in the long run, seriously jeopardize the future of this project.

The second question is whether or not the proposed pricing policies are fair. I believe they are. Indeed they make good sense for all consumers of natural gas.

Residential consumers would be protected against precipitous price increases

through an incremental pricing mechanism. The positive effects of this mechanism can be clearly seen in a few simple comparisons.

If current law were to be maintained—if the Federal Energy Regulatory Commission allowed gas prices to rise no faster than the rate of inflation—residential consumers would be paying only 9 cents less per million Btu's than they would pay under the provisions of the conference report—$3.22 compared with $3.31.

Under current law—if gas rose at the same rate as inflation between now and 1985—an increase of only $0.25 in the regulated price of new natural gas could result in a 1985 price to residential consumers higher than that of the conference report. And let us not forget that just 2 years ago, under the current law, prices for gas jumped $0.90 because of one FPC regulatory decision.

Industrial consumers will also fare well under the conference agreement. In 1985, average industrial gas prices under this proposal will be significantly less than the price of alternate fuels. And in no area of the Nation will the price of gas exceed the price of alternate fuels. Furthermore, industrial prices in 1985, under the conference report, will be less than under the Senate-passed bill, with or without the rather confusing incremental pricing provisions that were included in that measure.

It is clear that both the House and the Senate intended to deflect some of the cost of new natural gas onto large industrial users and away from homeowners. The provisions of the conference report achieve this important goal, and achieve it in a manner both reasonable and fair.

The third question that has been raised is whether this compromise is workable. Here again, the legislation meets the test. In fact, in spite of all that's been said, the conference report will actually reduce the current regulatory burden on the oil and gas industry.

It is true, of course, that the gas bill is a complex and intricately structured document. But it does not necessarily follow that such complexities will lead to abuse or make legal challenges more likely than the existing regulatory scheme. Potential administrative problems did exist in early drafts of the bill, but those problems were identified and addressed in the version the conferees reported.

The essential facts are these: The bill would establish three basic categories for gas from new wells and a set of understandable guidelines for existing gas contracts.

The conference agreement eliminates the unnecessary regulations that now apply to all sales in interstate commerce from acreage that is now dedicated to interstate commerce, as well as from all new on- and off-shore gas.

As a result, the producer who sells such gas to an interstate pipeline will no longer be required to obtain a certificate from the Federal Energy Regulatory Commission, make regular rate increase filings, obtain abandonment authorization, or wait for 2 or 3 years to learn what price can be charged for the gas.

The final and most important question, Mr. President, concerns the economic impact of the proposed policy.

In the first place, the Congressional Budget Office has determined that the direct macroeconomic effect of the conference report will be very small, when considered in the context of a $2 trillion economy.

CBO estimates that by 1985 the legislation will cost all consumers between 5 to 8 percent more than current policy—assuming that gas prices increase at the rate of inflation. Even with this increase, natural gas will remain substantially less expensive than alternative fuels.

Furthermore, CBO estimates that this bill, despite charges to the contrary, will have virtually no effect on the rate of inflation—at most, an increase of one-tenth of 1 percent a year.

Against these relatively minor macroeconomic effects must be weighed the positive benefits to our domestic economy. We will have less unemployment and fewer reductions in output—both of which result from gas curtailments. We will have a potentially lower Federal deficit, and an elimination of the inefficiencies which result from a dual market for gas.

The importance of this conclusion cannot be underestimated in our deliberations.

A fundamental responsibility of Government, in setting national policy of any kind, is to provide an atmosphere of certainty and stability in which decisions can be made. Where energy policy is involved, such certainty and stability are of overriding concern.

Whatever energy pricing policy we adopt will affect the daily decisions of citizens all across the land, and I am not just speaking of the president of Exxon. Farmers, small businessmen, families, one and all need to be able to plan ahead.

They deserve to be able to do so with the expectation that the choices they make today will not be made meaningless tomorrow by constantly shifting Federal policies—or even worse, by confusion and uncertainty because we in Government find it impossible to agree on any policy at all.

In no other area of Federal policy is this need for certainty more apparent—or the lack of it more troublesome. Decisionmakers in the private sector—corporate executives and housewives alike—are whipsawed by the energy news which changes from day to day.

Where should a company build a new plant to insure adequate energy supplies? Should that facility use oil, gas, or coal to meet its energy needs?

What about the family that wants to take a vacation or buy a new house? Will they be able to plan reliably for the cost of energy they will need?

Without a stable energy pricing policy, the answers to these questions are in doubt. And the resulting uncertainty places an immeasurable drain on the vitality of our economy here at home.

Abroad, the consequences of this uncertainty are even worse. We are bombarded daily with new reports of the dollar's shrinking value. As the London Financial Times put it on August 17:

> The dollar's decline is fast becoming a crisis of political leadership as far as the foreign exchange markets are concerned.

These expectations led to massive sales of dollars and a sharp depreciation of nearly 4 percent after the summit of August 15.

And this most recent decline does not tell the whole story. In all, the value of the dollar abroad has eroded about 10 percent between August 1977 and August 1978. This decline has increased inflation by about 1 percent. This means that American consumers and businesses will end up paying $15 to $20 billion more in a single year for what they buy. That is more than the conference agreement would add to the cost of their natural gas purchases over 7 years.

Both the falling dollar and the resulting inflation force the Federal Reserve into more restrictive monetary policies, raising interest rates and threatening economic recovery.

And whether we like it or not, our failure so far to come to grips with an energy policy is at the heart of this crippling dilemma.

The dollar's value on the international market is in one sense a measure of the confidence the international community has in the dollar's long-term value. That judgment is based on perceptions of American economic policy.

The international community is less concerned with day-to-day economic events than it is with the long-term trend. Other nations must be convinced that America is indeed committed to an energy policy and to controlling inflation. If they remain unconvinced, they will continue to bet against the dollar, forcing it to fall even further. We must begin to prove them wrong.

If we do not, we face at least the possibility of more inflation; more restrictive interest rates and slower economic growth; an increase in the price of foreign oil; and loss of control over our own economic destiny.

And the consequences could be much worse.

Under these circumstances, the natural gas compromise assumes tremendous importance.

It has become a symbol abroad of America's capacity to enact a constructive energy policy. Its passage will represent a solid step in maintaining confidence in the dollar and responding to international concern.

Mr. President, of all the many important considerations in this debate, this is, I believe, the most important of all. We can talk about the cost of decontrol all we want. That cost pales in comparison to the unmeasurable cost of a continually depreciating dollar—a prospect which will grow more likely if we fail to act favorably on this compromise bill.

The cost of not acting will be more than the declining confidence among our allies.

It will be more than the extra dollars

American tourists have to pay when they go abroad.

It will be more than the cost we all have to pay for imported manufactured goods.

It will go to the very heart of our national economic health. The OPEC nations hold large amounts of U.S. dollars. The less value those dollars have, the more likely the OPEC nations will be to raise the price of imported petroleum on which we depend.

On the domestic front, congressional failure to shore up the dollar will reduce the tools we have to defend our currency. It will throw even more of the burden of defending the dollar on the Federal Reserve, which would have to tighten monetary policy and raise interest rates even higher than they are today.

I suggest that this is a course of some danger to our economy. Many economists believe that further increases in interest rates pose a serious threat to the continuation of our economic expansion.

I also suggest that placing so much of the burden for supporting the dollar on monetary policy is not a balanced way to conduct economic policy of such importance to the Nation.

That brings me to the final point I want to make here today, Mr. President. In this conference report, we are talking about a compromise bill—one agreed upon only with great difficulty, and seemingly endless delay. The result is a bill which does not give any of the players everything he would like.

The compromise does not give industry all the financial incentives it claims to need—although the industry has an appetite I doubt we could ever possibly satisfy.

And the compromise will cost consumers more for gas—although they will pay more regardless of whether we adopt this bill.

But in this most complex of policy areas, we could never hope to please all sides. And frankly, I do not think we can afford to try. It is very late in the game, and the stakes are increasingly high. We have heard all the arguments, time and time again.

The conference report before us is not a careless document. It represents the only middle ground between legitimate but conflicting needs. It is time to move ahead with it—it is the best course that we have. On this point, above all, I urge my colleagues to reflect. Our only alternative at this time is to do nothing—and that is not an acceptable choice.

The conference report may not give all sides what they want—but it does give them something they need.

It can send a signal to our neighbors in the world, that we both understand and appreciate their concerns—and that we are serious about taking the action necessary to respond.

Most important of all, it offers the prospect of an orderly policy—and with it, a certainly against which we all can plan. And it does so in a way which is both gradual and fair—thereby insuring that our economy can adapt.

This is no small accomplishment.●

NATURAL GAS MYTHS

Mr. JACKSON. Mr. President, since the Senate began its debate on the natural gas conference report, the opponents have made many more speeches than have the proponents. They have had plenty of time for speeches because, as we all know, the opponents have insisted that we delay final passage of the conference report. They hope that their "last gasp" motion to recommit the conference report will miraculously garner support by Wednesday, September 27 so that they can succeed in killing the natural gas bill.

As we prepare for their last ditch effort, it is important for Senators to separate fact and fiction. The opponents have repeated many statements about the conference report, somehow hoping that repetition of untrue statements would make them true.

Repeating the same untrue statements over and over again will not make them true.

I have reviewed the CONGRESSIONAL RECORD since discussion of the conference report began on September 11 when it was made the pending business. And I feel it is important for us to challenge the natural gas myths perpetrated by those opposing the conference report. Otherwise these untrue statements might worm their way into the "Old Wives Tale" category. At best they qualify as myths or fiction; at worst, they simply are not true.

I have noted one place in the RECORD where the statement I refer to as a "myth" is made. Many of the statements have been repeated more than once, as if their authors hope that repetition will make them correct. The places they are repeated have not been noted.

Myth No. 1: "The conference report does not provide for allocation of intrastate gas" (CONGRESSIONAL RECORD, Sept. 11, 1978, p. 28636, col. 1).

Fact: Section 303(b) of the conference report does provide for allocation of intrastate gas. The first natural gas to be allocated in an emergency is natural gas used as boiler fuel, regardless of the source. It covers both interstate and intrastate boiler fuel natural gas.

Myth No. 2: "... (E)ven the strongest supporters of this legislation do not claim it will call forth much in the way of additional gas production between now and 1985." (CONGRESSIONAL RECORD, Sept. 11, 1978, p. 28637, col. 1).

Fact: Department of Energy projections show between 7 and 8 trillion cubic feet of additional gas production between now and 1985. Other estimates are even higher, such as one by the Independent Gas Producers Committee which shows 12 trillion cubic feet of additional production during the same period.

Myth No. 3: "It is a bill whose strongest supporters grade it no better than 'C'. And it is a bill whose supporters argue for its enactment on grounds that have little or nothing to do with its legislative merits." (CONGRESSIONAL RECORD, Sept. 11, 1978, p. 28637, col. 3).

Fact: Many supporters of the Natural Gas Policy Act have said they would not have crafted this particular piece of legislation. But that does not mean it is a bad bill. The legislation will provide substantial benefits to the American people. And its supporters are arguing the case on its merits. In fact, as I said in my opening statement on the conference report:

> The fact is that the conferees have agreed on legislation dealing in a definitive way with a central issue of energy policy—natural gas pricing—which has gone unresolved for a quarter of a century.
>
> We are proposing a natural gas pricing policy to replace the increasingly unworkable, antiquated system we have today.
>
> We are proposing a policy which opens the interstate market to producers, allowing gas now backed up in the intrastate market to flow into the interstate market, where it is sorely needed.
>
> We are proposing a policy which concentrates the rewards of higher prices where they are most needed—on the development of new, high-cost gas.
>
> We are proposing a policy which would, through incremental pricing, protect the residential and small commercial consumers who most need protection from excessive price increases.
>
> We are proposing a policy which assures the privately-financed construction of the Alaska gas pipeline to bring .8 trillion cubic feet of production to domestic markets in 1985.
>
> We are proposing a policy which, by opening Alaskan production and stimulating greater production in the lower 48 states, could increase interstate gas supplies by 30 percent by 1990.
>
> We are proposing a policy which could, by 1985, reduce our dependence on high-cost foreign oil by one million barrels a day, saving more than $5 billion a year in our balance of payments.
>
> The time to act is now. The proposed legislation deals head-on with the massive distortions of the dual market system for natural gas. It will produce more natural gas, at less cost to consumers, than no bill. It will provide producers with the certainty they need to make investment. It will decrease our balance of payments problems by reducing the amount of crude oil that we import.
>
> I urge adoption of the Conference Report on H.R. 5289, the Natural Gas Policy Act of 1978.

Myth No. 4: "And make no mistake about it, the gas bill is highly inflationary." (CONGRESSIONAL RECORD, Sept. 11, 1978, p. 28642, col. 1).

Fact: The bill is not inflationary. According to the Congressional Budget Office the inflationary impact will be negligible. It is just as likely to have a positive impact on the economy as it is to have a negative one.

Myth No. 5: "In a reversal of the clear intent of both Houses, the conference report lowers prices for industry and shifts much of the cost of new supplies to homeowners and small businessmen—those who can least afford to bear it." (CONGRESSIONAL RECORD, Sept. 11, 1978, p. 28639, col. 2).

Fact: The opponents of the bill have made much of an analysis of the conference agreement which was done at my request by the independent Energy Information Administration within the Department of Energy. EIA also did another analysis of the conference agreement, using slightly different assumptions, at the request of the Honorable JOHN DINGELL, chairman of the House Subcommittee on Energy and Power.

Unfortunately however, those using the EIA analysis have not taken the time to understand it in detail. Nor have they been careful to put the statistics in the proper context in order to understand what the EIA analyses actually show.

It is critical to understand the assumptions used by EIA in discussing the EIA analyses.

The incremental pricing provision in the Senate passed bill was limited in scope to interstate pipelines. EIA's first analysis assumed that intrastate pipelines and local distribution companies would voluntarily implement incremental pricing in the fashion that would mirror the Senate bill requirements for interstate pipelines. Furthermore, they assumed that high priority users served by any pipeline would somehow magically gain access to low cost gas supplies. This assumption was made in spite of the fact that our evidence shows that the preponderence of long-term, low-cost gas supply contracts are held by low priority users, especially in the intrastate market

I disagree with these assumptions. Pipelines hate incremental pricing. They simply will not voluntarily implement it. In fact, many State laws and State regulatory bodies prohibit incremental pricing of the type EIA assumed would occur. And there certainly was nothing in the Senate-passed bill to make it occur; nor to override the provisions of valid existing contracts.

At the request of Congressman JOHN DINGELL, the EIA did a second analysis which assumed more realistically that the Senate incremental pricing provision would not be effective.

With these assumptions in mind, let us look at the results.

Just looking at raw numbers for various categories of consumers does not give us a very clear perspective. We must get a feel for what the figures mean.

The EIA analysis shows that in 1985 residential users would pay 3 percent more for natural gas under the conference report than they would under existing law.

Commercial users would pay 7½ percent more under the conference report than they would under existing law.

Raw material users would pay 7 percent more under the conference report than they would under existing law.

Finally, industrial users would pay 9 percent more under the conference report than they would under existing law. These figures show that under the conference report, prices paid by industrial users would increase three times more than prices paid by residential users.

The statistics show that residential consumers are very well protected under the conference report incremental pricing provisions and in fact are more protected than are other natural gas consumers. It is true that under the Senate-passed legislation users other than residential users would have had greater percentage increases. But if the proponents admit this point, the opponents should not forget the other conclusions in both versions of the EIA analyses. After all, it is not appropriate for the opponents to pay heed only to the part of the analysis supposedly supporting their case.

Most importantly, as far as consumers are concerned, the Nation will no longer be suffering from the effects of a natural gas shortage in 1985 if the compromise is enacted. Current law would have a shortage of between 1 and 2.3 tcf in 1985. In many parts of the country, homeowners who want to use natural gas can't get it. This, too, will be a problem of the past by 1985 if the new legislation is adopted.

In addition, the average price paid in 1985 will be $1.83/Mcf under the compromise compared with $1.49/Mcf under existing law; it would have been $1.43/Mcf under the House bill and $1.93/Mcf under the Senate bill.

The compromise will produce more natural gas in 1958 than current law, or the House bill, and as much as the Senate bill. Assuming that some mid-range forecasts about the geology prove to be correct, the compromise will produce 17.7 trillion cubic feet of natural gas in 1985 compared to 16.7 tcf for current law, 17.5 for the House bill, and 17.7 for the Senate bill.

Petroleum imports will be between 300,000 and 400,000 barrels per day less in 1985 under the compromise than they would be under existing law. Natural gas imports are also projected to be less (1.3 tcf/yr. vs. 1.8 or 1.9 tcf/yr.).

The study shows that cumulative producer revenues between now and 1985 will be $200.5 billion with the compromise, compared to $171 under current law (billions of 1978 dollars based upon median geology projections). The producer revenues under the compromise are about halfway between the House and Senate bills which are $168.4 and $238.8 billion respectively.

Finally, the analysis shows that you get just as much production under the compromise as you would under the Senate bill with a $38.8 billion reduction in producer revenues.

The next time the opponents are tempted to use the EIA analysis to their benefit, I hope they will get their assumptions and facts straight.

Myth No. 6: "* * * the supporters of the bill are rather loath to talk about what is in it. They would rather talk about the value of the dollar or the will of the Senate or the international prestige of the Presidency." (CONGRESSIONAL RECORD, September 11, 1978, p. 28643, col. 3).

Fact: I am happy to talk about the merits of the legislation at any time on the Senate floor. If the opponents do not want to talk, they should let us vote. But last week when the majority leader tried to get consent to vote on the conference report sooner than Wednesday, the opponents objected. The fact is, the opponents are scrambling, trying to get one last recommittal motion together. They do not want to talk about the bill and they certainly do not want to talk about the recommittal motion.

Myth No. 7: "The so-called incremental pricing passthrough will cause industry to convert to foreign oil, move factories to gas producing States, and escalate the prices of their products." (CONGRESSIONAL RECORD, September 11, 1978, p. 28653, col. 3).

Fact: This statement evidences a complete lack of understanding of the operation of the incremental pricing provision in the conference report.

The legislation requires boiler fuel users of natural gas to pay the increased costs of more natural gas supplies if the interstate pipeline's acquisition cost exceeds $1.48 per million Btu's plus inflation. This mechanism must be put in place within a year. The legislation also requires FERC to come up with a plan to provide a similar mechanism for other industrial users. This second phase will not go into effect if Congress disapproves.

It is critical to understand that incremental pricing will operate only until the price paid by a facility covered by the rule is equal to the Btu equivalent of the cost of substitute fuel. FERC has a very flexible mechanism for determining the cost of substitute fuel on a regional basis. They can set the price anywhere between the cost of No. 2 fuel oil and the cost of No. 6 fuel oil. They can recommend an exemption for virtually any facility, with the exemption, which may be complete or partial, being subject to congressional review.

The incremental pricing mechanism is in no way intended to drive industrial users of natural gas. Nor will it do so. It will make them cognizant of the price they are paying for natural gas and it will make pipelines acutely aware of the prices producers ask them to pay.

Nor is the incremental pricing provision likely to move factories to gas-producing States. In fact, the only hope of keeping factories in nonproducing States is to enact new legislation which is the only way they will get new desperately needed gas supplies.

It seems to me that a footnote is in order here. My colleagues may recall that the industrial users were among the vanguard of support for deregulation of natural gas prices. They said, "Give us the gas; we'll pay whatever it takes." Now many industrial users are fighting tooth and nail against the conference report because it does, indeed, make them bear the burden of some of these increased costs. I have yet to find an executive from a petro-chemical company, or a manufacturing company, or a steel company, who has a satisfactory explanation for the contradictory position many industrial users have taken on this issue.

Myth No. 9: " . . . first, before anyone drilling a well could say with certainty what price he would get for the gas under the compromise, he would have to pass the examination by a State regulatory agency."

Fact: Under section 503(e), a producer may legally collect $1.45 per MMBtu's, plus inflation for any new well, while the State determination is pending. At a minimum, new wells are allowed to collect $1.45 plus inflation, which works out to $1.52 per MMBtu. There is nothing uncertain about it.

Myth No. 10: "My concern is that if we go ahead and put controls on intrastate gas, even though those who fash-

ioned this so-called compromise may expect controls to go off 8 years from now, that simply will not happen." (CONGRESSIONAL RECORD, September 13, 1978, p. S15017, col. 1).

Fact: The statute removes the ceiling price controls of certain categories of production on January 1, 1985, which is a little more than 6 years from now. Sec. 121 provides statutory deregulation. It does not depend upon the view of one who "may expect controls to go off." It is not a matter of discretion. The conference report also establishes statutory price ceilings which is a completely different approach than the composite pricing approach embodied in the Energy Policy and Conservation Act, or EPCA.

Mr. President, I yield 5 minutes to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on passage.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, it is to the credit of this Senate that the Natural Gas Conference Report before us today represents a legislative milestone and not a legislative tombstone.

For months we have read about the imminent demise of this legislation, about the faint heartbeat, and about the minute pulse. The chronicle of this conference report has wavered between the front pages and the obituary pages.

But we have persevered. This effort is alive and well and I believe that today we will send the Natural Gas Conference Report to the House of Representatives. It will be an essential component of this Nation's energy policy.

Mr. President, there were those who never gave up on this report. There were those whose dedication to enacting a natural gas bill was fueled by a singleness of purpose.

And that purpose is this: If our Nation is to be seen as strong, not weak; if our dollar is to be seen as sound, not unsteady; if this Senate is to have the vision to protect America's interests not only for the moment, but for the decades; then we must meet the challenge that an energy-scarce future poses.

Without a doubt, this has been the most complex and divisive struggle in the 21 months of this session. The roots of this confrontation run deep with regional differences, as well as with geninue concern that this action will add to the costs to the consumers—or add to the regulatory burdens on producers.

Mr. President, I respect these opposing views. However, I believe that they must be weighed on the balance scales of time—not just for the present, but also for the future and what it will bring.

It is through this perspective that the Senate has courageously stood up to numerous challenges during this Congress, whether by shoring up the social security system for the elderly or by strengthening our relations with all of Central and South America by approving the Panama Canal treaties.

Since the oil embargo of 1973, the Congress has written new laws and reworked old ones to adjust to changes in the world's energy markets.

However, we still face the difficult questions involved in updating the Natural Gas Act of 1938 to provide a sound energy policy for the future.

For my part, I accept the carefully balanced recommendations forged by the Senate and House conferees. I will vote for the conference report because it is a fair and reasonable compromise and represents a significant improvement over the status quo.

I believe that this bill will increase domestic gas supplies; that it will limit our dependence on imported oil and gas; that it will improve our balance of payments; that it will bolster confidence in the future of the dollar; and that it will signal to other countries our willingness and our determination to correct an insidious economic problem—energy.

Mr. President, I said there were those who never gave up on this report.

For the conferees working days became working nights and working weekends. I commend them for their perseverance. Mr. President, my colleague, Senator JACKSON, was a cohesive force who kept the sides talking through the many long weeks and months when hope for resolution of this issue was at its lowest ebb, and when the future passage of the conference report was written off as impossible by many people in this country.

Mr. JACKSON and his colleagues are to be commended for forging a compromise that Democrats and Republicans, consumers and producers, could stand behind.

President Carter, who had the ambition to send down a comprehensive national policy on energy, deserves credit for initiating the momentum, and then following through. The President, and Energy Secretary Schlesinger, nurtured and breathed life into the effort when agreement seemed impossible.

So, Mr. President, as we reach today the last and final vote on this issue, I think that every vote cast for the report will represent a difficult and important decision in resolving an energy problem that has frustrated previous Congresses for three decades.

I want to mention not only Mr. JACKSON's name, but also the names of the other conferees who have labored so diligently, so painstakingly, so perseveringly, so long, and with such dedication and devotion: Senators CHURCH, BUMPERS, FORD, MATSUNAGA, MARK HATFIELD, MCCLURE and DOMENICI. They are all entitled to great credit. I salute those, at the same time, who have opposed the conference report for the dedication which they have brought to bear on the matter as they see it.

They firmly believe that the conference report does not represent the best solution, is not in the Nation's best interest. We, the supporters, think that it is.

But, Mr. President, I believe that within a few minutes this Senate will register another instance of facing up to a problem that requires great courage. I want to salute and commend the Senators who will support this conference report which has been brought to the Senate after so many long weeks and months, through the efforts of the Senate conferees and those in the House who signed the report.

We will, by adopting the report, put in place a cornerstone of a comprehensive national energy policy. I urge the adoption of the report.

Several Senators addressed the Chair.

Mr. JACKSON. Mr. President, I yield 1 minute to the Senator from Ohio.

The VICE PRESIDENT. The Senator from Ohio.

Mr. GLENN. Mr. President, I thank the distinguished floor manager of the bill.

Mr. President, I plan to vote for the conference report. This statement will give the reasons and analysis we have gone through here as to why I plan to vote that way.

Mr. GLENN. Mr. President, for 30 years this Nation has been involved in controversy on the subject of natural gas pricing. The divisions on the issue are appropriately characterized by the two very different natural gas pricing plans passed by the House and Senate this year.

The conference committee has worked long and hard to resolve the differences between the two bills. It proved to be an almost impossible task, but the committee did agree on a conference report dealing with the major issues. Mr. President, no one claims this conference report is a perfect bill, but after 30 years of fighting over how to control natural gas, it is probably the best that can be accomplished now.

This compromise legislation represents advances for consumer interests. Despite strong objections I have to a number of the bill's provisions, there is much that can be said for it.

Most importantly, it establishes a single market for gas in this country. No longer can gas producers in the Southwest operate without being regulated in their own States, and sell their gas locally at the expense of consumers in the North. It reverses the historical unfairness in pricing between residential and industrial users. In the past residential consumers had to pay full price, while industrial users received volume discounts. Under the report, extra costs would be passed on to the industrial users.

It gives additional incentives to produce for the interstate market. Ohio is extremely dependent on interstate gas, and these incentives will be of special value in Ohio.

It keeps the lid on prices prior to and during the time period that production increases in sufficient quantity to help competitive factors hold prices down; a situation already existing in the intrastate market in producer States where more than adequate supplies of gas are available.

It is the best step to make certain those more-than-adequate supplies do become available to the interstate pipeline system. Workers in plants are concerned about utility bills, but they are also concerned about not getting their paychecks

because the plant is closed due to gas shortages.

It will encourage construction of the Alaska gas pipeline which will tie into our Midwest pipeline system. This is crucial to reducing our dependence on foreign imports.

It gives priorities to agricultural and food processors, thus assuring availability of food in emergencies.

It includes emergency natural gas provisions for times of acute shortage. This makes permanent the temporary legislation I sponsored and Congress enacted two winters ago.

It could prevent our becoming dependent to some degree on even far more expensive imported natural gas from Canada, Mexico, or Algeria.

It has become symbolic to other nations of our ability or willingness to establish an energy policy and is therefore a factor in value of the dollar in international trade; willingness of other nations to stimulate their own economies, which will make additional U.S. export opportunities; and perhaps even prevention of some nations from following nuclear paths we would rather they avoid at least for the next few years.

I would like to expand on some of these points.

President Carter campaigned and was elected, at least in part, on a platform stressing the need for a national energy policy, including natural gas, and followed through by submitting legislation on April 20, 1977. Since then, the Congress has wrestled with this highly complex issue while the Nation, indeed the world, has waited. Industrial States in a precarious and highly vulnerable energy situation, such as my home State of Ohio, have also waited because this legislation may well determine our future supplies of energy to such an extent that it will determine whether we retain our traditional industrial and agricultural base in the production heartland of America.

Let us also look at the national situation. Administration estimates are that passage of this legislation will increase our supplies of natural gas some 30 percent by 1983. The Department of Energy estimates an additional supply of 2 trillion cubic feet of gas per year coming jointly from the proposed incentives to produce within the contiguous 48 States, combined with the production that will occur from establishment of the Alaska gas pipeline. Incentives include special pricing for new gas, special development incentive gas, stripper gas, and high-cost gas. The Alaska gas pipeline will also be a major contributor, producing 800 billion cubic feet per year by 1985. Without this legislation, it is highly doubtful the Alaska gas pipeline will be built in the immediate future. John Sawhill, head of the Nixon administration's Federal Energy Administration has made estimates as high as 2.5 trillion cubic feet per year in increased supply if this legislation passes, and our own Congressional Budget Office also estimates major increases in gas supply by 1985, stemming from this legislation as contrasted to existing policy.

The facts are that there is now existing gas available in the major producing States of Texas, Louisiana, and Oklahoma, gas presently being held, gas for which there is no incentive to sell into the interstate pipeline system. For the first time this legislation will make one-market gas for our Nation as opposed to the dual-market system of intrastate sales (those where gas is sold in the producing State) and interstate sales with which we have been saddled. Going to a single-market system will encourage sales into the interstate system on which Ohio and other States at the end of the interstate lines are so dependent.

During the period while new drilling and production are getting under way to gain increased supplies, completely unregulated pricing, before these supplies come on stream, could mean that prices would go sky-high, but this legislation keeps the lid on prices during that period until production increases sufficiently to a point where there is enough supply that competition will effectively hold prices down. Also in this interim period, there is a provision for "incremental pricing" which protects the individual residential user from drastic increases and places the major load onto industrial users for any higher priced new gas flowing through the interstate system.

While industrial users may not be particularly happy about that provision, they are at least assured of better supplies, and still at less cost than alternate fuels required in their industries.

In Ohio, we are 85 to 90 percent dependent on other States for our natural gas. That is a frightening dependence which caused near catastrophe the last two winters.

In the heat of summer or even in these early autumn days, it is all too easy to forget the last two winters. But we must not forget, and the lessons of those grueling months must be translated into action immediately.

I fought for emergency natural gas legislation both winters to divert natural gas to sections of the country that were crippled for lack of this precious energy source.

Let us not forget the experience of more than 500,000 Ohioans forced onto the unemployment rolls because their employers could not obtain natural gas. Let us not forget the memory of thousands of children whose schools closed for extended periods because there was no gas to heat them.

Emergency plans were actually being made to evacuate Ohioans from their homes, to move them—as in a wartime situation—into public buildings.

Those were the recent realities of what gas shortages mean to our people. The memory of that experience demands action, and although I consider the conference report imperfect in several ways, I think it is the best possible avenue to assuring Ohioans that the decade of the eighties will not be a repeat of the late seventies.

No one can truly assess the long-term impact of these past winters as industries decided not to locate in Ohio and in-State businesses left Ohio as a result of energy uncertainty. Ohio must have the best possible guarantee against those shortages ever occurring again. This legislation, by moving available intrastate gas into the interstate market, goes a long way toward assuring that Ohio industry and jobs will be secure.

I look at my votes not to recommit, and my vote in support of this conference report, as being proconsumer votes, projobs, propayrolls, prohomeowners who want an assured gas supply without having to shift to more costly fuels, probusiness for enterprises that have faced the prospect of closing down and that now want assurances their energy supplies will be met so they can stay open. A single national gas market means more gas in the interstate system and a better-assured supply.

Add to that the fact that the Alaska gas pipeline is planned to have a major connection from Alaska into the Midwest, and our future gas supply picture looks far better than it would without this legislation, with existing gas held back in the intrastate market and with the potential Alaska supply not available.

Obviously, we would like to have sufficient production within Ohio to lessen our dependence on the interstate pipeline system, and I hope there will be encouragement from this legislation for increased drilling in our Ohio fields. We should be able to realize some additional production in Ohio through the incentives of stripper, high-cost and special development incentive gas, but that does not lessen the fact that we will still be overwhelmingly dependent on interstate pipelines for most of our use.

Ohio is further protected by this legislation in that the now-expired emergency natural gas legislation I supported which went into effect two winters ago will be part of this permanent legislation, giving the President authority for increased gas allocation in the event of emergencies such as those we have already experienced.

In fact, as a result of an amendment I sponsored, allocation authority will for the first time extend into the intrastate market to allow for transfers from the gas-rich States to gas-starved interstate pipelines serving States such as Ohio.

I think it is important to note also that the chances are great that even without this legislation natural gas prices are almost certain to rise. In recent years, without this bill, the price of regulated interstate gas has gone from 47 cents per thousand cubic feet to about $1.50, and indications are the Federal Energy Regulatory Commission (FERC) intends to allow substantial increases with or without a bill. FERC has that power under existing law.

Moreover, if we defeat this legislation, there is also a distinct possibility that the cost to consumers could be much more than under this conference bill. In the existing dual-market system, we have already experienced shortages, shortages that had far greater impact on the economy of Ohio than just the additional cost of gas.

Further, if we do not have the increased availability of gas from the producer States that this bill would provide, there is the possibility of being forced to buy from outside this country

at even far greater increases in price. For example, Canadian gas now being imported into parts of the United States sells between $2.16 and $2.27 per thousand cubic feet. Negotiations now being carried out with Mexico are being discussed at the $2.60 level. Algerian liquid natural gas (LNG) is coming in at $3.81. Competition with other nations to buy gas, even at these inflated prices, is increasing daily, which emphasizes again the importance of increased domestic production.

This brings us to the international implications of passing or not passing the conference report. Secretary of State Cyrus Vance told me recently that he has not talked to a single foreign minister or head of state in the last year who did not at some time bring up the question of when America was going to finally develop an overall energy policy. Most other industrial nations in the free world have long ago established national policies and they find great difficulty in understanding our reluctance to move. They cite the fact that compared to their much lower levels, the United States is 79 percent energy self-sufficient and doubt that we are truly concerned about establishing a national policy.

With $45 billion being paid for imported crude oil last year and a similar amount this year, they see our lack of policy as a major item in the sliding value of the dollar around the world compared with other currencies. We have been trying to encourage other nations in the free world to stimulate their economics to help provide U.S. market opportunities and lessen our balance-of-payments problems. But they have refused to move to stimulate their economies to any major degree until they see that we are serious enough about our balance-of-payments problem to establish a national energy policy, including gas.

Whether the President under our constitutional system of checks and balances can make important and permanent international commitments for this Nation without the participation of the Congress in the process may well be the subject of separate debate, but the President promised the European nations at Bonn that we would reduce our oil imports by 2.5 million barrels per day by 1985, a big order. Administration estimates are that approval of this gas conference report could encourage sufficient drilling for gas so that our oil and gas energy needs would be sufficiently served that we could save 1.4 million barrels of oil per day by 1985, a good part of the President's promise.

Strange as it may seem, this argument over natural gas even carries into the international nuclear nonproliferation field. While the United States has been recommending to other nations a slowdown or moratorium in the commitment to nuclear fast breeder reactors and reprocessing, both of which carry with them the possibility of plutonium production and the spread of additional nuclear weapons around the world, one view expressed in Europe has been that we leave them no choice but to go nuclear in a big way and as fast as possible, unless we establish a national energy policy in this country more in line with those in other nations to reduce the need for imported oil and thus stabilize international oil prices. With increased natural gas supply being a key part of that energy policy, in European minds it has become a symbol of our willingness to act.

Mr. President, my support for this legislation is proconsumer, consumers who want an assured gas supply, who want jobs, who want payrolls, who do not want to see more hard winters result in natural gas emergencies, and consumers who want to see the lid kept on prices during the time period while we encourage new production that will tend to let increased supply hold prices down.

Mr. President, for all these reasons, I have voted against recommital of the conference report and will vote in favor of the report on final passage.

Mr. DANFORTH. Assume a producer were denied a price by the State agency and this denial were not overturned by later FERC or judicial reviews. If such producer discovered new evidence, for example from later production history, that the price for which he had originally petitioned should have granted, what rights would such producer have to reopen the issue?

Mr. JACKSON. The producer would be able to submit a petition to the State agency for a determination that the higher price were applicable. Pending such determination, the producer could be authorized to charge and collect a higher price pursuant to FERC rules to be promulgated under section 503(e)(2)—"Alternate Interim Collection Authority." If the State determined that the requested price were applicable, then the producer would be authorized to collect such price pursuant to section 503(e)(3)—"Collection after Initial Determination." The producer would not be authorized to increase retroactively the prices for sales concluded prior to his supplementary petition.

Mr. DANFORTH. Section 503(d) provides that any State final determination which is no longer subject to review may be overturned if in making the determination FERC or the State relied on any untrue statement of a material fact or if there had been omitted a statement of material fact necessary in order to make the statements made not misleading in light of the circumstances under which they were made.

First, with respect to omissions, I assume that in order to have been "omitted" a fact must have been known or reasonably knowable at the time of the filing. Is this correct?

Mr. JACKSON. The Senator is correct.

Mr. DANFORTH. Second, I assume that the intention of this provision is not that if an untrue statement or misleading omission of material fact were discovered, the producer would necessarily have to begin the full determination process all over again. What would the consequences be?

Mr. JACKSON. If FERC or the State agency found that it has relied on such untrue statement or misleading omission of material fact, then it would have the right to reconsider its former decision.

If the ceiling price were reduced as a result of this process, then the producer would have to refund excess collections plus interest. On the other hand, if the ceiling price were increased, then the producer could be reimbursed if consistent with any applicable contract.

Mr. DANFORTH. Section 503(b) provides that FERC would be obligated to reverse a final State determination if it made a timely finding that such determination was not supported by substantial evidence. There does not, however, appear to be any obligation on FERC to review each State determination. In fact, I believe FERC has indicated an intention to do no more than spot check the determinations. If a producer were denied a petition for price by the State agency, what right, if any, would he have to a FERC review?

Mr. JACKSON. Any person aggrieved or adversely affected by a final State or Federal agency determination described in section 503(a)—"Determinations for Qualifying Under Certain Categories of Natural Gas—General Rule"—has a right to have such determination reviewed in a timely fashion by FERC and in appropriate cases reversed or remanded pursuant to section 503(b).

Mr. JACKSON. Mr. President, let me sum up by saying that the legislation that is before us for this final legislative act in the Senate will give us a better law than we have today in the field of natural gas pricing and delivery.

It will open up, Mr. President, for the first time in 40 years, the intrastate market which now possesses over 40 percent of the natural gas in this country. That gas will start flowing into the intrastate market.

I point out that it will provide the incentives for increased production. I point out that it will do that which it does not do today under existing law, protect the residential and small business consumers of natural gas who need protection from excessive pricing.

Mr. President, it will make possible the construction of the Alaskan gas pipeline and it will, Mr. President, address for the first time the main issue, the central issue, facing the Nation today in the area of national energy policy, and that is oil imports.

We are importing at this very hour 8 million barrels of oil a day and in a matter of short time under this bill we will be reducing it by 500,000 barrels a day, and, by 1985, 1,500,000 barrels of oil a day will be saved.

That is the central issue facing this Nation at a time when our dollar is declining. I am confident that the Senate, by approving this legislation, will be starting down the road on a constructive program that will help to embark this Nation on an effective national energy effort.

I yield back the remainder of my time.

The VICE PRESIDENT. The time has expired.

Mr. ROBERT C. BYRD. Mr. President,

I ask that the clerk announce the vote after each Senator responds, and I ask that the tally sheet be circulated to all Senators.

The VICE PRESIDENT. Under the previous order, the vote will now occur on the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 411 Leg.]

YEAS—57

Allen	Hart	Moynihan
Bumpers	Hatfield,	Muskie
Burdick	Mark O.	Nunn
Byrd, Robert C.	Hatfield,	Packwood
Cannon	Paul G.	Pearson
Case	Hathaway	Pell
Chafee	Heinz	Percy
Chiles	Hodges	Randolph
Church	Huddleston	Ribicoff
Clark	Inouye	Sparkman
Cranston	Jackson	Stafford
Culver	Javits	Stennis
Danforth	Leahy	Stevens
DeConcini	Magnuson	Stevenson
Domenici	Mathias	Stone
Eagleton	Matsunaga	Talmadge
Ford	McClure	Thurmond
Glenn	McIntyre	Williams
Gravel	Melcher	Young
Griffin	Morgan	

NAYS—42

Abourezk	Garn	Nelson
Anderson	Goldwater	Proxmire
Baker	Hansen	Riegle
Bartlett	Haskell	Roth
Bayh	Hatch	Sarbanes
Bellmon	Hayakawa	Sasser
Bentsen	Hollings	Schmitt
Biden	Humphrey	Schweiker
Brooke	Johnston	Scott
Byrd,	Kennedy	Tower
Harry F., Jr.	Laxalt	Wallop
Curtis	Long	Weicker
Dole	Lugar	Zorinsky
Durkin	McGovern	
Eastland	Metzenbaum	

NOT VOTING—1

Helms

So the conference report on H.R. 5289 was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Senate will be in order.

Mr. JACKSON. Mr. President, now that the Senate has agreed to the conference report on the natural gas legislation, I want to pay tribute to the work of Michael Harvey, chief counsel, and Elizabeth Moler, counsel to the committee, on this legislation.

Over the past 18 months they have devoted extraordinary efforts to this issue. They staffed the committee's hearings and deliberations on the bill. They staffed the filibuster in the Senate. And since last November, they have provided invaluable assistance in the protracted effort to achieve a conference compromise.

Our success in this effort to resolve an issue which has resisted solution for almost a quarter century is due in no small part to their outstanding work. Throughout this period, many Senators on both sides of the aisle have benefited from their understanding of the natural gas issue. They have brought to this process not only their knowledge and legal skills, but also the essential objectivity which has made their contribution so important.

Mr. President, I am grateful to Betsy and Mike for their service to the committee and the Senate on this legislation.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CANNON). The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ENERGY RESEARCH APPROPRIATIONS, 1979—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the public works conference report.

Mr. JOHNSTON. Mr. President, I submit a report of the committee of conference on H.R. 12928 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12928) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 14, 1978.)

Mr. JOHNSTON. Mr. President, I am pleased to bring to the Senate the conference report on the bill (H.R. 12928) making appropriations for energy and water development and other purposes for fiscal year 1979.

The House of Representatives passed this appropriation bill on June 16, 1978, by a vote of 263 to 59 and the Senate passed it with our amendments on August 10, 1978, by a vote of 89 to 5. The conference committee immediately went to work and this conference report and the statement of the managers was filed on August 14, 1978, and it was printed in the CONGRESSIONAL RECORD of that same date. The conference report and statement is also available in a separate printed document, House Report 95–1490.

On Thursday, September 14, the House of Representatives adopted this conference report by an overwhelming vote of 319 to 71, after a thorough debate and consideration of this measure. Because the bill and report has been available for such a lengthy period of time, I will not undertake to elaborate on the conference agreement on all of the items that were submitted to the conference. I will give a brief summary of the conference report.

Before I give this summary, Mr. President, I want to thank the members of the subcommittee for their splendid assistance and cooperation, especially the distinguished Senator from Oregon (Mr. HATFIELD), who is the ranking minority member, the distinguished Senator from Kentucky (Mr. HUDDLESTON), and the distinguished former chairman of the subcommittee, the Senator from Mississippi (Mr. STENNIS). I also want to commend the conferees of the other body led by the able and skillful gentleman from Alabama (Mr. BEVILL).

SUMMARY

Mr. President, the conference agreement provides $10,160,483.000 in new budget (obligational) authority. The agreement is $878,965,000 below the President's budget and it is $279,389,100 below the comparable amounts appropriated for fiscal year 1978. It is $37,139,000 more than the amount passed by the Senate and $181.150,000 below the amount passed by the House.

For the Department of Energy, $6,085,175,000 is provided by the conference agreement. In other words, 60 percent of this $10 billion appropriation bill is for the Department of Energy, including $441,900,000 for solar energy; $156,200,000 for geothermal energy; $42,400,000 for biomass; $348,900,000 for defense activities, and $323,234,000 for light water reactor technology; $215,588,000 for environmental research and programs; $204 million for basic energy sciences; and $566,867,000 for the liquid metal fast breeder reactor program.

The conference agreement also provides $145,473,000 for the five power marketing administrations which were brought into the Energy Department and $51,300,000 for the Federal Energy Regulatory Commission. Additionally, there is provided $432,300,000 for general science and research activities, $2,619,283,000 for defense activities, and $323,234,000 for policy, management and support activities of the Department of Energy. Overall, the conference agreement for the Department is $25,581,000 more than the Senate bill amount.

For the civil works program of the U.S. Army Corps of Engineers, the conference agreement is $2,636,024,000. This amount is $2,404,000 more than the Senate allowance. For the major appropriations accounts, the conference agreement provides $137,978,000 for general investigations, $1,343,711,000 for construction, general, $223,035,000 for flood control, Mississippi River and tributaries, $795,500,000 for operation and maintenance, and $66,500,000 for general expenses.

For the Bureau of Reclamation, the conference agreement provides an amount of $579,915,000, which is $13 million more than the Senate bill allowance and almost $36 million less than the House bill. The construction and rehabilitation appropriation is $221,572,000.

In title IV, independent agencies and

offices, the conference agreement includes $368,700,000 for the Appalachian regional development programs, $322,301,000 for the Nuclear Regulatory Commission, and $154,531,000 for the Tennessee Valley Authority.

Mr. President, these appropriations which I have summarized cover the major accounts and amounts in the bill as provided by the conference agreement. As I mentioned earlier, the conference report is $37,139,000 more than the Senate passed bill and $181,150,000 less than the bill passed by the House. The conference agreement is close to the Senate version which passed by a vote of 89 to 5.

The conference bill is a sound and responsible measure reflecting the priorities and needs for energy and water development in our Nation. The programs, projects, and activities included in this bill have been under review and consideration since last January, and now culminating in the legislative process with this conference report. Energy and water development are essential for our future and the funds included in this bill for these activities are a sound and solid investment that will return significant benefits to the Nation.

I urge the adoption of the conference report.

Mr. PRESIDENT, I reserve the remainder of my time at this point.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I yield to the Senator from North Dakota.

Mr. JOHNSTON. I yield the Senator from North Dakota such time as he may require.

Mr. YOUNG. Mr. President, I want to join in support of the conference report on the appropriations bill for energy and water development. I believe the conference report provides a fair and reasonable compromise between the Senate and House bills.

Mr. President, I commend the distinguished chairman of the subcommittee (Mr. JOHNSTON) for the able work he has done in handling this bill, and also the distinguished Senator from Oregon (Mr. MARK O. HATFIELD). They both spent a great amount of time in studying and preparing this bill, and they were assisted by one of the most able staff members of any committee of which I have ever been a member; I have particular reference to Proctor Jones. Also minority staff member Dave Ichman, did a fine job. There is no more able staff member than Proctor Jones as I say, of any committee in the Senate.

This bill, as the chairman has mentioned, was approved by the Senate by a vote of 89 to 5 and almost as big a majority, too, on the House side. This conference report was signed by every member of the conference. In the 30 years I have been a member of this subcommittee, I have never known a bill to be so unanimously approved by the committees and by both Houses of Congress as this one. I see no reason in the world why the conference report should not be agreed to.

In the present state of the economy, we are probably spending less for the kind of public works we need than we should be, in this bill. And, as the chairman has said, about 60 percent of the bill is not related to public works at all, but to energy problems.

This bill provides a total of $10,160,483,900, which is $878,965,100 below the budget request. It provides $181,150,000 less than the House bill, and just $37,139,000 more than the Senate bill. So I believe the conferees have done a good job in resolving the differences between the House and Senate bills in a balanced manner.

This legislation provides the funds necessary to move ahead with the development of energy resources important to our country's well-being and security, at a proper pace. It also recognizes the importance of water management as a part of the wise utilization of natural resources by funding necessary public works projects.

Mr. President, I believe this conference report represents a great deal of hard work by the Senate and House conferees. In particular, I want to draw attention to the leadership provided by the chairman of the subcommittee and the ranking minority member of the subcommittee. It is largely due to their efforts that we have such a responsible bill before us today. I urge my colleagues to join me in supporting it.

Mr. President, I hope that the conference report will be approved without opposition.

Mr. PROXMIRE. Mr. President, I understand that under the time agreement on this bill, I have 20 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. I yield myself such time as I may require.

Mr. President, I could not differ more with my good friend from Louisiana. In his mellifluous, elequent tones, he pointed out that this was, as he said, a sound and responsible bill.

He is a fine man and a good Senator. I admire him greatly, as I do the Senator from North Dakota, who is also a very fine man and a fine Senator, and the Senator from Oregon, who worked hard on this bill.

But, Mr. President. this bill is a budget-busting bill, in my view it is not responsible, and I want to spell out exactly why.

Mr. President, the Senate will soon vote on passage of the fiscal year 1979 energy and water development conference report. If the title of this year's bill does not ring a bell, do not be surprised. It is a new hoop on an old barrel. We used to call this legislation the public works appropriations bill. In some ways the new name is more appropriate than the old. It certainly offers a more accurate description of the programs funded is the bill. But what we have gained in descriptive value, we have lost in alliterative association. To my ear, public works and pork barrel somehow just sounded better together than pork barrel and the new title of the bill. In any event, let us not fool ourselves. Shakespeare noted long ago that "A rose by any other name would smell as sweet." Whether it is sweet roses or sour petunias, the truth of his observation has endured. The fiscal year 1979 energy and water development bill inspires a paraphrase of the Board: Despite a facelift and some cosmetic budget cuts to redistribute the fat, this year's pork of another name retains its flavor.

SLANTED BUDGET COMPARISONS

On the surface the bill looks good. The last page of the conference report proudly proclaims that the bill is $181 million under the House allowance and nearly $879 million below the administration's budget request. On the basis of these figures, supporters of the bill herald it as a barebones piece of legislation, fully responsive to the budget-cutting spirit of proposition 13 that has been sweeping the country.

Mr. President, in my opinion it takes a pretty cynical view of the average taxpayer's judgment to try to pass this bill off as an inflation-fighting model of fiscal restraint. I do not think that the Nation's taxpayers are so easily taken in once they have had a chance to examine the facts more closely.

According to the conference report, this bill checks in at nearly $1 billion under the budget. The Senate and House Public Works Subcommittees have repeatedly cited the $879 million under-budget figure to counter arguments that the bill is a "budget buster."

But let us take a closer look behind the slats of this year's "pork barrel" for a more realistic comparison of the fiscal year 1979 conference report with the administration's budget. Once again Shakespeare has exactly the right phrase for those who support this bill on grounds of fiscal responsibility. Their arguments are "Much Ado About Nothing."

The plain fact of the matter is that the entire $879 million "savings" claimed for this bill can be accounted for by bookkeeping technicalities and differences in accounting philosophies. It does not take an accounting specialist to figure this out.

For example, on page 7 of the conference report we find that the conferees claim to have $41.3 million by estimating changes in inventories and working capital at a far higher level than predicted by the administration.

On page 8 the report offers a so-called "cut" of $68.9 million by assuming miscellaneous revenues far in excess of the sum predicted by the administration.

Mr. President, that is a great way to bring a bill within the budget and to effect savings—by assuming revenues are going to be greater.

Another savings is claimed on page 15 where the conference report predicts uranium enrichment revenues at a level of $100 million higher than estimated by the administration.

Then on pages 8, 18, 50, and 64 we find a series of so-called cuts that are really nothing more than differing estimates between the conferees and the administration as to the extent of unobligated funds carried over from last year. Altogether this report presumes to "save" $316.5 million by taking advantage of after-the-fact knowledge about additional unobligated balances not predicted

in the budget request. Do these kinds of "savings" represent actual cuts in administration program levels? No, of course not. These are merely bookkeeping cuts.

So far, then, we see that $526.7 million of the $879 million in savings originally claimed for this bill are nothing more than paper savings. But that is not the end of it. An even more important difference, a fiscally significant difference, is also reflected in the large discrepancy between the budget estimate and the conference figures. The conference report saves an additional $570 million solely by rejecting the President's proposal to fund new water project construction starts on a "full funding" accounting basis.

That is not a saving, Mr. President. In other words, if a project is going to cost $100 million, all they do is include the first year, which may be $10 million. What the President proposed is that include all of the costs, or $100 million.

The administration's full funding request is an innovative approach because Congress has traditionally funded these projects on an annual, incremental basis. The advantage of the incremental approach is entirely political: it allows Members of Congress to get credit year after year for bringing home the bacon in the form of appropriations for local projects. The disadvantage is economical: annual funding disguises the long-term cost of these individual projects to the taxpayers as a whole.

The President had hoped that Congress would adopt the full funding approach this year in order to provide for a more realistic assessment of the budgetary impact of new project starts. No such luck. We did not adopt it because if we did not adopt it, then we could claim a big saving—a saving of half a billion dollars.

The conference report provides only partial funding for the new starts requested by the administration. But it compares this partial figure with the full cost figures submitted in the budget request and claims to save more than half a billion dollars in the process. This kind of accounting sleight-of-hand is seriously misleading. It makes it look as though we are saving money when in fact we are merely postponing the day of reckoning year after year.

LIES, DAMNED LIES, AND STATISTICS

Mr. President, the point of all this rather detailed discussion is to show that this bill is not nearly as good a deal for the Nation's taxpayers as its supporters would have us believe. Mark Twain once said that there are three kinds of lies: "lies, damned lies and statistics." This bill gives us statistics, and very misleading ones at that. It appears to save us millions of dollars compared to the President's budget; $879 millions, to be exact. Yet we have already seen that $527 million of this is due to bookkeeping technicalities. Another $570 million is based on rejecting the President's full funding approach to water project appropriations. So much for fiscal responsibility to the taxpayers. Here we have a bill that is supposed to be nearly a billion dollars under the budget, but actually comes to more than $200 million over the budget, once we adjust for accounting differences.

And that is only the beginning. That $200 million over-budget figure, while realistic for fiscal year 1979, totally ignores the long term commitments made by this bill. In fact, when we cost out the total commitment represented by the projects funded in the conference report, and compare that figure to the total cost of the projects recommended by the administration, we find that this bill comes to a whopping $1.8 billion over the budget. That is right. By the time we have paid for all the projects in this bill, we will have laid out $1.8 billion more than we would have if we had gone by the President's budget.

Mr. President, of all the bills now crowding the Senate's calendar in these closing weeks of the 95th Congress, I cannot think of a single one that more deserves the President's veto than the public works appropriations bill before us today. There are at least eight reasons why President Carter should roll this year's pork barrel right back down Pennsylvania Avenue and insist on getting a better value for the taxpayer's money. I have already discussed two of these reasons: the bill is over budget—way over the budget in terms of long-range spending committments—and it is seriously misleading to the taxpayers.

It appears to save money when it really only puts off until tomorrow the consequences of the decisions we are making today. It defers funding for scores of projects until future years and makes it hard to gage the long-term inflationary impact of the commitments we are making now.

But these are not the only reasons why the President should veto this bill. Supporters have argued that this is good, responsible legislation; a bill tailored to the times, trimmed down to the essentials of proposition 13. We have already seen how fallacious that argument proves to be. Here are six more good reasons why the President should reject this bill:

BURGEONING BUREAUCRACY

We have seen how the bill "busts the budget." It also bloats the bureaucracy. This conference report mandates 2,300 new bureaucrats for the Army Corps of Engineers and the Bureau of Reclamation. Let me repeat that, Mr. President. That is 2,300 additional Federal employees at a time when the American people have declared as never before the need to reduce the size of the Federal Government. And why has the conference agreed to these new manpower ceilings? Supposedly to permit the Corps and Bureau to carry out their missions "in a timely, efficient and economical fashion."

WORST RECORD OF COST OVERRUNS IN THE FEDERAL GOVERNMENT

Mr. President, I do not want to contest the fact that the Corps of Engineers and Bureau of Reclamation have an efficiency problem. In fact, just 2 years ago I gave the Corps my Golden Fleece of the Year Award for having the worst record of cost overruns in the Federal Government. Cost increases of 200 and 300 percent are not uncommon.

We reviewed many of these programs and, as I say, the average cost overrun exceeds that of any other agency, including the Defense Department.

POORLY PLANNED NEW CONSTRUCTION STARTS

At the same time, Mr. President, I do not think it is fair to blame the Corps for all of this inefficiency. After all, if we send them a pork barrel full of sows' ears, we should not be surprised when we do not get any silk purses in return.

A good case in point: this conference report proposes 53 new construction starts for the Bureau of Reclamation and Corps of Engineers. That is 27 new starts over and above those recommended by the President. Many of these starts cannot meet the minimal criteria proposed by the President in his June message on water quality. The 26 new starts proposed by President Carter have been thoroughly studied and extensively reviewed. The total cost of the administration's projects would be $640 million, including an adjustment for inflation. By contrast, the 27 additional projects recommended for funding in this conference report will cost a total of $1.2 billion by the time they are completed. Many of the congressionally mandated project starts have not been fully planned. I understand that one of them has not even been authorized. Eleven of the projects have not yet met preconstruction legal or contractual requirements. Ten have low economic returns and nine have significant environmental problems. Yet despite these serious deficiencies, this conference report simply mandates that the projects shall be built. By proposing twice as many new starts as the President—at three times the cost and without proper planning—Congress must accept a heavy share of the responsibility for future program inefficiencies.

FUNDING FOR HIT LIST PROJECTS

The conference report also funds six of the eight so-called hit-list projects that were rejected by President Carter last year. These six projects are among the very worst of all the disasters in water resource development authorized in past years.

I realize that only planning and study funds are provided for three of these projects. Frankly, that does not reassure me one bit. One of the oldest games around is throwing planning money at a project just to keep it alive until opponents die off or move away and circumstances change to favor construction.

Look at the Bureau's Fruitland Mesa project. We already know that the benefit cost ratio of this project is only 0.5—that is, the cost will exceed the benefit by 100 percent—even at the authorized rate of 3⅛ percent. This project will provide irrigation benefits to just 69 landowners at a cost of $1.2 million per beneficiary. Just how much more do we need to study this project to know that it is an inexcusable waste of tax dollars?

WATER RESOURCE DEVELOPMENT: NO BARGAIN FOR THE UNEMPLOYED

The answer to these grievous cost-overruns and project inefficiencies is not just to throw more bureaucrats onto the

dam to block the flood of rising costs. The answer is to stop funding so many of these projects in the first place. The argument is made again and again that we need these projects, not only for the local benefits they provide, but because they provide jobs, putting people back to work and making them productive contributors to our economy.

Unfortunately, Mr. President, that argument will not hold any more water than the Grand Teton Dam. As John Marlin, president of the Coalition of American Rivers, has pointed out, "If you want jobs, then building dams is the last place to put your money." Studies at the University of Illinois show that spending on water projects actually results in a net decrease in employment potential. The money we are appropriating in this bill for water project construction actually aggravates unemployment in the sense that more jobs could be created if we redirected these funds to more labor intensive sectors of the economy, or just left the funds with the taxpayers instead of taxing them out of the economy to be used for this purpose.

Money spent on Corps of Engineers construction creates fewer jobs per dollar, less employment bang for the buck, than just about any other Federal program. We could provide many more jobs for the same amount of money by channeling these funds into mass transit, social security benefits or waste treatment construction, or my preferred objective, which is tax reduction.

A 1973 study of the job impact of alternatives to Corps of Engineers projects offers a dramatic illustration of the employment demand that would result from a $1.13 billion investment shift from Corps construction to other sectors.

Mr. President, I ask unanimous consent that the tables showing this information be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Federal program	Employment demand (resulting from $1.13 billion investment shift from Corps of Engineers construction) (in percent)	Federal program	Employment demand (resulting from $1.13 billion investment shift from Corps of Engineers construction) (in percent)
Corps construction	73,380 jobs	Social security benefits	95,968 jobs up +30.5
Waste treatment construction	95,609 jobs up +30.3	National Health Insurance	115,419 jobs up +57.3
Mass transit construction	78,443 jobs up +6.9	Tax relief	81,192 jobs up +10.6

SOURCE: "Job Impact of Alternatives to Corps of Engineers Projects", Bruce Hannon and Roger Bezdek, *Engineering Issues—Journal of Professional Activities*, ASCE, vol. 99, October, 1973, pp. 521–531.

Mr. PROXMIRE. To continue:

NO FUNDING FOR WATER RESOURCES COUNCIL

A final reason why President Carter should veto this year's public works bill is that it eliminates funding for the Water Resources Council. On the surface this may look like a fine idea, an opportunity to get rid of another Government agency. It just so happens that this particular agency, the Water Resources Council, however, is the one that the President was charged with responsibility to streamline the planning and management of Federal water programs. The Water Resources Council has been given responsibility for promoting uniform benefit-cost analysis procedures throughout the Federal Government and insuring that water projects are consistent with Government-wide standards and policies.

Here is the one agency, the one expenditure, that would pay off, and this is what is eliminated. Eliminating this agency is penny wise and pound foolish. The $1.3 million we will save by getting rid of this agency will end up costing us a great deal more money in the long run if our present record of inefficiency and mismanagement is allowed to continue its course unabated.

Mr. President, I know that all Americans like to eat high off the hog from time to time. But that is a luxury we can ill afford during inflationary times like these. The 1979 pork barrel is clearly excessive. It does not give good value for the dollar at a time when we should be content with enjoying the essentials, not gorging ourselves to the bursting point with the whole pig.

After I had an opportunity to study the public works appropriations bill in some detail, I suddenly remembered an Ann Landers column that appeared in the Washington Post last year about this time. The letter to Ann Landers was written by a lady who was well versed in the ways of pork. It read as follows:

DEAR ANN LANDERS: I work for a large supermarket chain, as a delicatessen manager. I enjoy my job, which is giving customers free samples of cheese, spreads, pieces of salami and other goodies. Unfortunately, some people don't realize that a sample is not a free lunch. It is a taste of the product offered—a gimmick to acquaint the customer with the flavor. Many times I have missed my coffee breaks to cut salami up in cubes, only to have customers grab handfuls and send the kids back four or five times. When I put a tray of cheese on top of the counter, some customers gobble like pigs, drop cheese on my bread and rolls, and smear cheese on my showcase window. My point is this: Enjoy! Taste! If you like what you have tasted, buy some, take it home, and gobble and stuff yourself till you bust. Feed your grandchildren seconds, thirds and fourths if you like—and smear it all over your windows.

Signed,

DELI LADY.

Miss Landers' reply was direct and to the point:

DEAR DELI LADY: One of the best ways to measure people is to watch the way they behave when something free is offered. Thanks for laying it out in such picturesque language. If anyone who reads this is wondering if the Deli Lady is talking about you—she probably is.

Mr. President, the Deli Lady is talking about all of us who fail to realize that there are limits to the generosity of the taxpayers who have to pay for all the goodies we lay out year after year in this bill. Too often small groups of individuals who benefit from uneconomic public works projects are conditioned to believe that the Federal treasury will always be available to them for meeting purely local needs. That is why the States and project beneficiaries should bear a fair share of the costs of these projects, not expecting the general taxpayer to pick up such a high proportion of the tab. Like the Deli Lady, the general taxpayers might then hope for a little more restraint from those who finally recognize that there is no such thing as a free lunch.

I know that in a short while this conference report will probably sail through the Senate with very few of us voting against it. That is not surprising. After all, the President has not yet given us any definite statement that he will veto this legislation. And without powerful administration lobbying in opposition, it is very easy to be fooled into thinking that this is a good bill—especially after a quick glance at the misleading budget comparisons on the last page. At the same time, I think I have made a case that the first impression this bill makes is a false one. I do not think we can look to the vote on final passage of this conference report as a test of the President's strength to sustain a veto. My hope is that over the next several days my colleagues will take the time to review the conference report a little closer, keeping in mind the arguments in opposition.

Mr. President, I urge President Carter to disapprove this most recent affront to the taxpayers and return the fiscal year 1979 public works appropriation bill with his veto.

Mr. President, I reserve the remainder of my time.

Mr. YOUNG. Mr. President, I ask unanimous consent that Mary Goedde of Senator HAYAKAWA's staff, Kathy Bridenbaugh of Senator STEVENS' staff, and Everett Wallace of Senator BAKER's staff be granted the privilege of the floor dur-

ing consideration of this bill and any vote thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, as I heard the Senator from Wisconsin talk about pigs, hogs, sows' ears and free lunches, I indeed did not recognize this bill. A pork barrel usually becomes a pork barrel only with reference to the distance from the hometown of those who talk about it. When you talk about projects close to home, where people understand the impact, then it becomes a completely different thing.

The distinguished Senator from Wisconsin has no difficulty in finding that Prairie du Chien, one of the projects in this bill, or Green Bay Harbor, or maintenance and operation funds for the port and harbors of the Great Lakes, are no pork barrel. Oh, no, these are good funds that produce revenue, help commercial navigation on the Great Lakes, and promote the general welfare of the United States. Indeed, I agree with him. But if he will examine the projects in this bill, he will find that our committee, through days and weeks of hearings, have examined with a very sharp pencil all of these projects. All of them stand up to the same kind of scrutiny that the projects he has urged us to put into the bill will pass muster by, that same kind of test.

Mr. President, it is easy to talk about 2,300 additional bureaucrats put into this bill for the Corps of Engineers and Bureau of Reclamation. Do you know where a lot of those jobs come from, Mr. President? From requirements of this Congress. Indeed, I can say that there are 700 of those jobs that have come as a requirement of the subcommittee which the distinguished Senator from Wisconsin chairs, the Committee on HUD and Independent Agencies. They have, if we want to use his kind of rhetoric, concocted a program requiring 700 bureaucrats to overlook the EPA wastewater management and construction grant program. Seven hundred bureaucrats out of his subcommittee needed to manage the EPA construction grant program. Yet we are told that our committee, because we respond to that need by putting in the people to handle the job that is required, are the ones guilty of having pork barrels and pigs and sows and hogs and all the rest.

Mr. President, I think the Senator from Wisconsin ought to look close to home. The fact of the matter is that that is a good program, the EPA waste water management construction grant program. I do not mean any criticism of that program. I simply tell the Senate that it requires 700 bureaucrats, 700 Corps of Engineers employees. That is part of this 2,300.

Where are the other so-called bureaucrats? Well, the dam safety program requires about 400. That is inspection of dams. We know what can happen to people in this country when a dam breaks. It is non-Federal dams, as a matter of fact. It is a good program. But let us not generalize, Mr. President, about 2,300 bureaucrats.

As to the new Clean Water Act permit program, which has been required under section 404 of that act, environmentalists across this country, indeed, people in general, say it is a good program. They say it helps the environment, it preserves the wetlands, the estuaries, the fish population, all of those things. But it requires people. It requires bureaucrats, if you will. That is another reason for that number.

Protection of visitors at damsites and reservoirs has been requested by the States and local governments. I could go on and on down the list, Mr. President. The 2,300 so-called bureaucrats added to this bill are not additional pork barrel bureaucrats; they are simply people required to carry out the programs that Congress has seen fit to require, and good programs, I might add.

Mr. President, we are told that—I did not get all of these points, but the distinguished Senator from Wisconsin has suggested that the $879 million figure that we used, to say this is below the President's request, was legislative legerdemain. I call the Senator's hand on that, Mr. President. For example, we are told that the reduction of unobligated funds is simply a shuffling of papers, it is not a real savings. I should like to call the Senator's attention to the fact that in his very committee, he uses the same technique. If I may ask a question of the distinguished Senator from Wisconsin, does the Senator not, in his Subcommittee on HUD and Independent Governmental Agencies, reduce appropriations with respect to unobligated balances?

Mr. PROXMIRE. Of course.

I should like to respond to the Senator when I get a chance on this whole rebuttal he has made.

Mr. JOHNSTON. Very well. I simply want to make that clear, that that is not legislative legerdemain.

Mr. PROXMIRE. I say it is legislative legerdemain, however, when the Senator claims that they are under the budget when actually they are just taking a different approach. What the President called for was full funding of projects, so if you had a project that took 10 years, he wanted to know the full 10-year cost. What the Senator has done is give this on an annual basis, just giving the annual cost. Obviously, the annual cost is less than the full cost. On that basis, the comparison is not fair.

Mr. JOHNSTON. The point is a different one—unobligated balances on the one hand, which is a question I had; and the question of full funding on the other. I was going to get to the question of full funding in a minute. With respect to unobligated balance, reducing the budget by that amount, that is a time-honored technique, it actually reduces funds available. An unobligated balance is funds left in the budget of the Corps of Engineers or anybody else. It is money in a bank balance. It is like taking money from the checking account of the Corps of Engineers. It is indeed a reduction.

So it is with enrichment revenues. Congress has not only the right but the duty with respect to enrichment revenues to make a judgment as to what those revenues will be. We exercise that judgment. Our judgment shows up in our reduction of the President's budget estimates for new budget authority.

Mr. President, with respect to——

Mr. PROXMIRE. That is simply an estimate, however. The Senator is simply estimating that the revenues will be higher. The estimates may be different. That does not mean you are spending less money.

Mr. JOHNSTON. The Senator is correct, but it is a reduction, and in this case is based on a GAO report.

Mr. PROXMIRE. Sure, technically, it is a saving, I agree. But it is a bookkeeping saving. It has nothing to do with spending less money.

Mr. JOHNSTON. I tell the Senator that a reduction of unobligated funds constitutes a net reduction in spending and obligational authority. Outlays or spending can only occur from budget authority. The reduction in the budget request on page 7, which the Senator refers to, of $41 million constitutes a net reduction of $41 million for inventories and in working capital.

Mr. PROXMIRE. That is just an estimate. You estimate the change so it will be different than the present.

Mr. JOHNSTON. The Senator is incorrect. It constitutes a net reduction in new budget authority for inventories and working capital. It gives them less than they requested, forcing better management and control.

Mr. President, let me speak just a minute about full funding. The President's new concept on full funding came to the Senate in June with the proposed new starts. There had been not a peep out of the White House prior to June on this question of full funding. After the Senate had held its hearings, after the opportunity for any of the Government witnesses to come in and tell us why they needed full funding had passed, after all that had passed, after the committee had had its markup, after the bill had passed the House of Representatives, in June of this year, we were told that full funding is an absolute necessity, we have to have it. We have tried to communicate with the White House and tell them that we will be happy to consider any of these new techniques. At this point, Mr. President, we do not see the need for it. Not only did it come too late, but we do not see the need for it. At issue is the question of who shall decide the rate of funding of these projects.

Mr. PROXMIRE. Will the Senator yield at that point?

Mr. JOHNSTON. Not at this point.

What the White House would have us do, Mr. President, is put in a project all of its dollars from here for the next 20 years, and most of these projects take in the neighborhood of 20 years, all of those dollars in the budget the first year out, the first year we appropriate for that project. Thereafter, the White House would like to determine the speed at which that project is built.

That is what is at issue, who shall determine that speed, that rate; indeed, the question of whether the project shall be built? Should it be the White House

or should it be Congress? We simply believe, Mr. President, that under the Constitution, the power of the purse is the prerogative, that is the duty of Congress.

We have not had any case made. We have not heard even the first witness of the White House who says we ought to change that constitutional duty.

Mr. President, the fact of the matter is that there are reductions and savings in this bill. It is a very fiscally proper bill. I would urge the Senate to pass it.

I yield at this point to the distinguished Senator from Colorado.

Mr. HART. Mr. President, I am not a member of the Appropriations Committee. I had no intention to involve myself in this debate until I overheard the remarks of the Senator from Wisconsin which, speaking as a Coloradan, I find way off the mark.

The Senator from Wisconsin, unfortunately, I think, has chosen, even as an intelligent, thoughtful man, to drag out most of the red herrings with regard to water projects I thought had been laid to rest sometime ago.

The Senator raises environmental concerns and budgetary concerns. Although my record on both is not as long as that of the Senator from Wisconsin, I think it is just about as good.

I do not think anybody here has a corner on environmental purity or, for that matter, on fiscal integrity.

If we were to apply the language and the rhetoric of the Senator from Wisconsin to my State, there would not be a State of Colorado. The only reason there is a Rocky Mountain West today is because of water storage projects. That is not to say that every dam bill on every river is good. But it is also not saying every dam proposed to be built in the Rocky Mountain area is bad, and I am afraid that is the direction the Senator from Wisconsin is taking.

We cannot paint a bill like this in black and white terms. The Senator from Wisconsin knows that.

He cites a project or two in the State of Colorado. Those, as originally designed, were not economically beneficial, and I, as a Senator from Colorado, have never endorsed those projects.

But he also knows, but does not say, that the funds in this bill for those projects were for studies.

We can ask why they need to be studied after all these years. One simple reason is that the State of Colorado and the region is undergoing a transformation from an agricultural-based economy to an industrial-based economy. Not all of us are happy about that, but those changing circumstances justify examining whether those projects should be built and what the cost-benefit ratios would be under those changed circumstances, and that is what the funds are for.

I am no more anxious than the Senator from Wisconsin to dam up every river, including those in my State, particularly those in my State. But to come on the floor of the Senate after the 2 years we have had on water projects in this country and the nonsense that has come out of the White House, and to repeat the pork barrel rhetoric, splatter dabs, that this is a black and white issue, and if one is for fiscal integrity and the environment he cannot vote for this bill, is nonsense.

I thank the Senator for yielding.

Mr. YOUNG. Mr. President, my friend from Wisconsin has been offering public works bills for as long as I can remember. He served a good purpose and helped make for better programs. But he makes that record year after year.

I would like to say something about the pork barrel accusation part of this bill. I do not think there is a single project in this bill the Governor of the State affected opposed. If I knew of any projects opposed by a Governor, it would help take it out of this bill.

When people have flood problems, they usually go to their Governor and then come to their Members of Congress, and have for years and years, to get a project approved.

This year I believe there were nearly 3,000 witnesses who appeared before the Senate Public Works Committee in support of these projects, and just a handful of people opposed them.

In almost every instance, there has been strong local support. There is always some opposition, we can expect that. But if a city, for example, is badly flooded, say, 3 years out of 10, they are hurt badly. They want help. But in order to save a city like that, and we have one in my State, some land for a flood control project will be flooded.

But are we going to sacrifice thousands of people in the cities that are hurt badly by floods, just to satisfy a few that might be hurt?

Our country was not developed that way. We have to move forward.

May I say again, if there are pork barrel projects, they are very popular with the people of the United States.

Mr. JOHNSTON. Mr. President, I am ready to yield back the remainder of my time.

Mr. PROXMIRE. Would the Senator give me 5 minutes in opposition to the bill?

Mr. JOHNSTON. Mr. President, I do not want to object, I simply tell my friend from Wisconsin that I am due at the White House at 2:15.

Mr. PROXMIRE. I will not take long, but I do want to respond to my good friend from Louisiana.

Here we go again. The Senator from Louisiana starts off saying, "Take Wisconsin. If these projects are so bad, how about some of these other projects they are getting?"

Well, Mr. President, I do not oppose everything in this bill in Louisiana, Colorado, North Dakota, or Wisconsin, for that matter. But I want to tell the Senator this, I opposed more than half of what was supposed to go to Wisconsin. I opposed the La Farge dam. It was $1 million. And how much did Wisconsin get on the water projects? Eight hundred and forty thousand dollars out of one-twentieth of 1 percent. We paid 2 percent taxes and 2 percent of the area to have 2 percent of the water. Yet we get out of this, one-fortieth of 1 percent.

So I think under this, in this bill, I am being perfectly consistent with the position taken in my State. I have gone up to La Farge, Wis., and told them I opposed their project. It was the toughest speech I have had to give. Nobody there supported me on it. They disliked it. The community voted overwhelmingly against me in the following election. But I thought it was wrong. I think many here are wrong.

Mr. President, the distinguished Senator from Louisiana has indicated that this is not just legislative legerdemain, accounting gimmicks.

Let me tell my good friend from Louisiana, when he discussed the full funding project and said he had no presentation, he may be right.

I would agree, there are arguments on the side of only annual spending. But the point I make is that it is improper to consider it a saving for public works when we go on an annual funding basis and compare it with the administration's request for full funding.

There is more than half a billion dollars difference there. That is one of the reasons why this bill, as I pointed out, on the basis of making the estimates on the same basis for $1.8 billion over the President's budget request.

Mr. President, as I say, I have admiration and respect for all Senators who have spoken here. This is a matter of difference in judgment, not a personal matter in any way, shape, or form.

But I do feel I had a responsibility for stating my opposition to the conference report.

● Mr. MARK O. HATFIELD. Mr. President, the conference report on the energy and water development appropriations bill provides the Nation with an approach which will provide funds necessary to develop new energy resources and continue a meaningful water resources development program. It does so while staying under the President's budget request by $878,965,100.

While there are some areas in this conference report to which I must take exception—and I would point to funding for the liquid metal fast breeder reactor program as an example—this bill reflects a good compromise between the House and Senate bills, both of which provided high levels of funding for this program. And I would also point out that title I provides some significant increases for development of renewable energy resources, including solar and geothermal, which simply must play a greater part in the country's energy future.

In all, $6,085,175,000 is provided for the Department of Energy in title I of the bill, which is $423,852,000 less than the President's request, $97,891,000 less than the House bill, and just $25,581,000 more than the Senate provided in its bill.

Title II of the bill provides $2,636,024,000 for the Army Corps of Engineers, $335,141,000 less than the administration's proposal, $43,735,000 less than the House bill, and only $2,404,000 more than the Senate bill. The Department of the Interior's water resource programs are funded in title III, which totals $590,828,100. This represents a $144,941,100 decrease in the administration budget,

and is $34,438,000 less than the House bill. Title III is $23,913,900 more than the Senate proposal. So, while the funding of water projects has received a great deal of attention, we have undertaken to study carefully projects proposed for funding, cutting the budget where possible. It is true that reductions from the administration request largely reflect the desire of both the House and the Senate to reject the "full funding" route in the administration's budget, but the conference clearly stayed to the low side in examining the House and Senate bills. As far as water projects are concerned, this bill reflects the view that we recognize their widespread benefits for water conservation, flood control, navigation and other uses and should cautiously move ahead with those which are economically and environmentally justified.

Title IV of this legislation funds the Appalachian Regional Commission, the Appalachian regional development programs, the Delaware and Susquehanna River Basin Commissions, the Interstate Commission on the Potomac River Basin, and the Tennessee Valley Authority; $848,456,000 is provided in title IV.

Mr. President, I believe this conference report reflects not only a good compromise between the House and the Senate but a wise and responsible commitment for management of energy and water programs for fiscal year 1979. I would also like to thank my colleague from Louisiana (Mr. JOHNSTON), the chairman of the Public Works Subcommittee, for the opportunity to work with him in developing this legislation. He has provided able leadership in moving this bill through the subcommittee, the full Appropriations Committee, the Senate floor, through the conference, to the point where we are now. It is my earnest hope that the President will now recognize the great deal of effort and the compromise which this legislation represents and sign it when it reaches his desk.

Mr. President, I would also like to take this opportunity to recognize the excellent staff support I have received during the past 3 years from Mr. David Lohman, who has served on the minority staff of the Committee on Appropriations. I could not have asked for a more able and dedicated staff member than Dave, who was assigned to the Subcommittee on Public Works. This bill marks the end of his service here, at least for now, since he has left to further his education. I know that I and the members of the subcommittee will miss his expertise and willingness to help, although I trust that our friendship will continue.

● Mr. McCLURE. Mr. President, last Friday in Lewiston, Idaho, Secretary Cecil Andrus was quoted as saying he did not need the 2,300 additional employees provided for in the conference report. Senator JOHNSTON has already shown the fallacy of this statement in clarifying that most of the increase in employees is outside the Department of Interior. Secretary Andrus has blatantly misled citizens in Idaho in that speech when he said:

I don't need 2,300 more employees—I've got all I can handle.

His department does not get 2,300 employees. At the most, the department may get 500 for the Bureau of Reclamation for carrying out work on needed water projects that both the President and Congress have agreed on. In fact, Commissioner of the Bureau of Reclamation, Keith Higginson said, in response to the question about the increased employees:

We have a difficult enough time accomplishing what was in the President's request (meaning budget requests for water projects) because we don't have the capability of doing it. That is where the additional employee's come from.

It should be reiterated that the 700 employees for carrying out the EPA program are for waste water management which the President and Congress have required in the EPA program. These are mostly Corps of Engineer's employees. And all of the 400 employees needed to carry out the President's request for a stepped up dam safety inspection program are in the Corps of Engineers, Department of the Army.

In no way does Secretary Andrus represent the facts correctly. In fact he has 1,800 less new employees than he stated in Lewiston and the few he does get are mostly for carrying out programs the administration requested.

CLINCH RIVER BREEDER REACTOR PROJECT

Mr. President, the conference report on H.R. 12928 at pages 5 and 6 discusses the conference action on Clinch River breeder reactor project. The conferees, on page 5, "note with regret that, as was the case last year, the Congress has not resolved the status of the Clinch River breeder reactor project which the administration has proposed to terminate." The report also states, at the top of page 6, that "the conferees have provided an allowance of $172.4 million to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation, and for no other purpose."

Mr. President, I am extremely pleased to report to the committee of conference, the Appropriations Committee and the full Senate, that just such a resolution of the status of the Clinch River breeder reactor project now appears possible and potentially acceptable to the many supporters of the project and the LMFBR program. As many of my colleagues know, I met with President Carter, Vice President MONDALE, Secretary Schlesinger, and other senior administration officials on the evening of August 17, 1978, to attempt to resolve the CRBR/LMFBR issue. We reached agreement that night on a wide ranging, new 3-year LMFBR program, including suspension of the CRBR, during the 3-year period, and leading to a fully prepared decision in 1981 to continue CRBR, build a modification of CRBR, begin the construction phase of an advanced LMFBR demonstration project, or possibly decide against construction at that time of any LMFBR demonstration. The specific details of the program agreed to that night were worked out subsequently by me with Secretary Schlesinger, Robert Thorne, Assistant Secretary for Energy Technology, John Deutch, Director of Energy Research and Development, and the White House. The detailed agreement resulting from those discussions was documented in my letter of August 22, 1978, to Secretary Schlesinger. A copy of that letter, with unanimous consent, is included after this statement for the information of all of my colleagues. Additionally, I had a number of discussions with the President, the Vice President, and Secretary Schlesinger thereafter confirming the accuracy of my August 22 letter and I have received two letters from the Secretary confirming that accuracy.

Since then, we have worked closely with the Department of Energy to further refine the detailed program.

A key element of the agreement with the President and the administration is the commitment of the President to accept the funding for the LMFBR program and the CRBR project, including the $172.4 million for CRBR or project alternative, included in this conference report, to the extent of the authorization levels for fiscal year 1979 specified in the agreement. The appropriations thereby accepted by the President would constitute the first year's increment of funding for the 3-year program described in my August 22 letter, and would support the first year's actions necessary to effectively suspend CRBR during the 3 years, completion and testing of specified CRBR components and subsystems to support the 3-year program and a future demonstration, and an LMFBR specific conceptual design study of an improved LMFBR demonstration, and a significantly expanded LMFBR base program, with new commitments to specified LMFBR test facilities.

Consequently, I am pleased to report to the conference committee, the Appropriations Committee and the full Senate, that the August 17, 1978, agreement with the President, as detailed in my August 22 letter, as a matter of fact would accomplish the resolution of the CRBR issue discussed by the conferees in this conference report.

Mr. President, I am anxious to work closely with the conferees, the Appropriations Committee, and my colleagues here in the Senate in the weeks and months ahead to develop a complete and full understanding of the many elements included in this agreement. I certainly would hope most sincerely that all of my colleagues in the Senate, upon reasoned and objective review of this agreement, will conclude as I have that the agreement is a reasonable and responsible compromise for all factions in the CRBR debate in the Congress, as well as the administration, and perhaps most importantly, for the critical energy supply option for the Nation's energy future which the LMFBR constitutes.

Mr. President, there are many other important items in this report of interest to me and other colleagues interested in the critical energy future and security of the United States. I shall not detail those at this time, but I believe those items fully justify the support of the Senate for this conference report.

Thank you, Mr. President.

Mr. President, I ask unanimous consent that my letter of August 22, 1978, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., August 22, 1978.

Hon. JAMES R. SCHLESINGER,
Department of Energy, Washington, D.C.

DEAR MR. SECRETARY: I wish to express my sincere appreciation to the President and you for your efforts with me to seek a resolution of the differences between the Congress and the Administration regarding this country's liquid Metal Fast Breeder Reactor (LMFBR) program generally and particularly the Clinch River Breeder Reactor (CRBR) project. Also, please extend my appreciation to President Carter, Vice President Mondale, and Mr. Eizenstat, Assistant to the President for Domestic Policy, for meeting with me at the White House last week to reach an agreement on the future of the LMFBR program and the CRBR project over the next three years. I am convinced that the agreement which we have reached on this critical energy policy issue has great significance for the energy future of this country and, indeed, the world.

On the basis of our meeting, I understand that the President has agreed that he will not veto the Department of Energy Authorization Bill insofar as it addresses the LMFBR program and the CRBR project, if the bill is passed by the Congress with the elements described below for the LMFBR program and the CRBR project. The President also made a commitment that the Administration and the Department of Energy will make a good faith effort between now and 1981 to carry out the described LMFBR program and complete it fully and on schedule. Additionally, the President agreed to accept appropriations for the LMFBR program in the fiscal year 1979 Energy and Water Appropriations Bill to the extent of the authorizations in S. 2692, as reported, including the $172.4 million appropriation for the breeder reactor demonstration project or project alternative.

The LMFBR program, which is the subject of the agreement with the Administration, includes the following elements.

1. The Secretary of Energy would be authorized to continue the CRBR project in fiscal year 1979 at the level authorized by S. 2692, as reported, of $172.4 million.

2. The Secretary would be given an alternative to continuation of CRBR, if he determines that the CRBR project does not meet the national requirements for the demonstration of LMFBR technology at this time. The alternative is a three-year LMFBR advanced design and technology program, leading to a decision on an LMFBR demonstration at the end of fiscal year 1981 and involving five distinct elements integrated into an overall program:

(1) completion and testing of those CRBR activities and components, which are necessary to support the three-year program;

(2) deferral of other CRBR activities until the end of the three-year program, but with preservation to the maximum extent feasible of the option at the end of three years to (A) resume the defined CRBR activities and proceed expeditiously with the CRBR project or a modification of it, if a decision is made to do so, (B) continue the deferral, or (C) terminate the project;

(3) conduct of a conceptual design effort for an improved LMFBR demonstration project, with a final report on March 31, 1981;

(4) conduct of an expanded LMFBR base program, including testing of CRBR components, to support the conceptual design effort during the three years and to provide the information necessary to proceed with an LMFBR demonstration in fiscal year 1982; and

(5) preparation and implementation of a detailed program plan for the three-year LMFBR advanced design and technology program.

Appropriations would be authorized for the full three-year program in the fiscal year 1979 Department of Energy Authorization Bill. The authorizations would include the following levels:

Fiscal year 1979:
CRBR specific activities (total for three years), $13.4 million, plus availability of carryover funds.
Conceptual design study and program planning, $55 million.
LMFBR base program, $458 million.
Fiscal year 1980:
Conceptual design study, $55 million.
LMFBR base program, $449 million.
Fiscal year 1981:
Conceptual design study, $35 million.
LMFBR base program, $485 million.

The Administration would request appropriations at the authorized levels for the Conceptual Design Study and the LMFBR Base Program in fiscal years 1980 and 1981 to support full and scheduled completion of the three-year LMFBR program.

3. The following specific CRBR project activities would be continued during the three-year program. The final CRBR systems design would be completed. Components specified in Section 106 of S. 2692, as reported, would be completed and tested at component and subsystem levels. Pending generic licensing issues, including the PSAR, will be fully reviewed and documented with the Nuclear Regulatory Commission to support licensability analyses and studies in the conceptual design study, as well as to support licensing of CRBR in its current or a modified design, if licensing of CRBR is resumed after the three-year program. These activities would be funded by the new authorization of $13.4 million and the authorized availability of carryover CRBR funds and would be carried out pursuant to existing statutory authority.

4. All other CRBR activities would be discontinued and deferred for the remainder of the three-year program, pending a decision in fiscal year 1981 to (A) proceed expeditiously with CRBR, or a modification of it, (B) continue deferral of the activities, or (C) terminate the project. The three options for CRBR would be preserved during the three years by maintaining to the extent feasible the industrial, technical, contractual and legal capability to reactivate fully the project in fiscal year 1982 at the option of the Department of Energy, and by discontinuing the deferred activities in a manner which supports the capability to reactivate fully the project.

CRBR components now in manufacturing would be completed and delivered, unless there would be a significant cost penalty compared to termination. Where all CRBR components under a contract will not be completed and delivered, renegotiation and a contract modification to the existing contract will be sought to preserve the industrial manufacturing capability and an option for the Government to reactivate and complete the procurement.

All delivered CRBR components would be stored in conditions to ensure availability for possible later use. Maximum testing of delivered components necessary for design verification and possible later use will be carried out in the CRBR test program and the LMFBR Base Program. The Clinch River site will be retained in its current condition and all project documentation will be stored for systematic retrieval and use.

The existing assembly and storage facilities will be maintained in a standby condition. Renegotiations and contract modifications to existing contracts will be sought with the Tennessee Valley Authority, the CRBR architect-engineer, constructor, management, and reactor manufacturer contractors and the principal subcontractors to discontinue CRBR activities, other than those otherwise designated to continue, during the three-year period, but with a viable retained contractor capability and the related option for the Government for the next four years to reactivate the project with the existing contractors.

These renegotiations and contract modifications, of course, would reflect the expected participation by these contractors in the conceptual design study. Also, renegotiation of the utility participation agreement will be sought to reflect the changed status of the CRBR during the three-year program and also any negotiated utility participation in the three-year LMFBR advanced design and technology program. Formal licensing of the CRBR will remain suspended and will not be dismissed during the three-year program.

Funding for the discontinuation of the deferred CRBR activities and the minimum continuing level of effort over the three years for maintenance of the storage and standby condition facilities will be authorized to be obtained from the $13.4 million and the CRBR carryover funds.

Any necessary modifications of existing CRBR statutory authorities to carry out this discontinuation and deferral effort will be included in the fiscal year 1979 Authorization Bill, but it is anticipated that the effort can be accomplished under existing law by modification of existing CRBR criteria, which the Authorization Bill would expressly mandate.

5. In that event, the Secretary will conduct a conceptual design effort for an improved LMFBR demonstration project culminating in a final report to the President and the Congress on March 31, 1981. The conceptual design effort will consider CRBR and modifications of it, as well as larger and advanced designs for an LMFBR demonstration project. The final report will include the conceptual design of the LMFBR demonstration plant and all supporting information necessary for the President and the Congress to make an informed decision on construction and operation of an LMFBR demonstration plant.

The final report also will include site selection analyses (but not a site recommendation), environmental impact analyses and sufficient preliminary licensing effort to ensure that any final decision to proceed with construction could be implemented with minimum time delay. Site selection, however, would not occur until after such a final decision to proceed.

The LMFBR conceptual design effort will include active consideration of nonproliferation aspects of the design, reflecting the ongoing NASAP and INFCE activities. The conceptual design effort, therefore, could consider a thorium blanket fuel, as well as plutonium fuels. The conceptual design effort otherwise would generally conform to the effort described in the May 1, 1978 Senate Energy and Natural Resources Committee staff memorandum on the LMFBR program.

Funding for this effort would be authorized at $55 million per year for fiscal 1979 and fiscal year 1980, and $35 million for fiscal year 1981. It is important to note that submission of this report shall not bind or commit either the President or the Congress to recommend construction, and in fact, the report could be submitted with a Presidential recommendation not to proceed with construction.

6. In that event, the LMFBR base program would be authorized for fiscal year 1979 at the levels in S. 2692, as reported, at a total level of $458 million. The LMFBR base program now would be authorized for, and the Administration in each year would request appropriations for, fiscal year 1980 at a total budget authority of $449 million, and fiscal year 1981 at a total budget authority of $485

million, including continuation of the authorized fiscal year 1979 level of effort approximately for the individual operating subprograms (safety, physics, fuels, materials, etc.) and for the authorized construction projects (SAREF, FMEF, HPFL, etc.).

The fiscal year 1980 and 1981 funding levels reflect possible savings in the combined total estimated cost for FMEF and HPFL, if Congress authorizes merger of these projects. The levels also reflect proceeding directly with the Phase I Treat upgrade and the Phase II supporting facilities of the SAFEF project and a decision on the Phase III Safety Test Facility in the late fiscal year 1981/early fiscal year 1982 time frame, consistent with decisions in fiscal year 1981 on the future course of the national LMFBR program and demonstration project.

The activities generally would parallel those described in the May 1, 1978 Senate Energy and Natural Resource Committee memorandum and would be paced to provide a responsible operating subprogram and project schedule through the end of fiscal year 1981 to support the overall LMFBR objectives discussed in paragraph 7.

7. The Secretary will prepare a detailed program plan for the LMFBR program, integrating the CRBR design and component completion and testing activity, the discontinuation and deferral of other CRBR activities for the three years (including maintenance of storage and standby facilities), the LMFBR conceptual design effort, the LMFBR base program activity, the ongoing NASAP and INFCE program activities and related environmental and preliminary licensing efforts into an overall LMFBR program for fiscal year 1979, fiscal year 1980, and fiscal year 1981. The program plan will focus LMFBR efforts on the completion of the March 31, 1981 report and the availability by the end of fiscal year 1981 of all technical, environmental, licensing, economic, nonproliferation and other LMFBR-specific information necessary to proceed directly into the construction phase of an improved LMFBR demonstration plant in fiscal year 1982, if a final decision is made to do so. The information also would support informed consideration of any other alternatives for the subsequent United States LMFBR program effort. The plan would be completed within four months and would provide for semi-annual progress reports to Congress during fiscal years 1979, 1980, and 1981.

Mr. Secretary, I appreciate that this agreement represents a difficult compromise for the President and the Administration, as well as for those of us who have been and continue to be supporters of the CRBR project. I believe strongly, however, that the time has come to end the impasse over the CRBR project, and move forward aggressively with a national commitment to develop a viable United States LMFBR technical option for our energy future. I, therefore, would appreciate your early response acknowledging the agreement as we have stated it.

I thank the President and you again.

Sincerely,

JAMES A. MCCLURE,
U.S. Senator.

Mr. ROBERT C. BYRD. Mr. President, I urge adoption of this conference report on the fiscal year 1979 energy and water development appropriation bill. I urge my colleagues to give this measure their overwhelming support.

I am aware that this bill has been labeled pork-barrel legislation and that there has been talk of a veto. But, I have spoken to the President and urged against a veto.

This bill contains funding for projects that are vital to the lives of millions of people in many areas of the Nation. Their needs may differ. If a man lives in the desert, money for flood control projects does not interest him. But, if a man lives in a flood-prone valley, money for dams, seawalls, and other such projects is vital to his job, his family, his property, and his life.

In addition to funding for many major energy research programs, this bill contains money for dams, levees, and other structures that provide flood protection in areas where people live in fear of rising waters. At winter's end, they scan the skies and wonder if spring rains will bring flowers or floods.

Mr. President, in April 1977 the Tug Fork Valley of West Virginia and Kentucky suffered a flood of such power that it should occur only once every 500 years. Miraculously, no one was killed, but property damage totaled more than $150 million. The cost in human misery was incalculable.

There is money in this bill for planning of flood protection measures and a snagging and clearing program that will lessen the chance of another flood in the Tug Fork Valley. There are funds in this bill for other projects that will benefit millions of Americans.

We do not hesitate to spend money to help flood victims rebuild their lives after disaster strikes. Why do we hesitate to spend money to prevent disasters before they occur? In the long run, flood control programs save millions of dollars that would otherwise be spent on costly relief and repair assistance.

In the devastating 1977 Tug Fork flood, the nearby Guyandotte River valley received a similar amount of rain. However, the partially completed R. D. Bailey Dam on the Guyandotte River prevented major flooding and saved communities in that area. There are funds in this bill to complete the R. D. Bailey Dam so that it can provide even better protection to the lives and property of thousands of people.

I urge my colleagues to adopt this conference report and I would, again, caution the administration about a veto of this bill which answers the needs of so many Americans.

Mr. PROXMIRE. If the Senator from Louisiana wishes to yield back his time, I will yield back mine.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. JOHNSTON. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. SASSER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the adoption of the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. MARK O. HATFIELD) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

[Rollcall Vote No. 412 Leg.]

YEAS—86

Anderson	Griffin	Morgan
Baker	Hansen	Moynihan
Bartlett	Hart	Muskie
Bayh	Haskell	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield, Paul G.	Pearson
Bumpers	Hathaway	Percy
Burdick	Hayakawa	Randolph
Byrd, Robert C.	Heinz	Ribicoff
Cannon	Hodges	Riegle
Case	Hollings	Sarbanes
Chiles	Huddleston	Sasser
Church	Humphrey	Schmitt
Clark	Inouye	Schweiker
Cranston	Jackson	Scott
Culver	Javits	Sparkman
Curtis	Johnston	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Dole	Long	Stevenson
Domenici	Magnuson	Stone
Durkin	Mathias	Talmadge
Eagleton	Matsunaga	Thurmond
Eastland	McClure	Tower
Ford	McGovern	Wallop
Garn	McIntyre	Weicker
Glenn	Melcher	Williams
Goldwater	Metzenbaum	Young
Gravel	Nelson	Zorinsky

NAYS—9

Biden	Chafee	Proxmire
Brooke	Leahy	Roth
Byrd, Harry F., Jr.	Lugar	

NOT VOTING—5

Abourezk	Hatfield, Mark O.	Helms
Allen		Pell

So the conference report on H.R. 2928 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the first amendment in disagreement.

The second assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $4,818,431,000

Mr. JOHNSTON. Mr. President, I move the Senate concur in the amendment of the House to the amendment of the Senate numbered 2.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will read the second amendment in disagreement.

The second assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert:

OFFICE OF THE SECRETARY: WATER RESOURCES PLANNING

For expenses necessary to enable the Secretary of the Interior to carry out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), $10,913,900, to remain available until expended, of which $600,000 shall be for groundwater studies in the Delaware River Basin and Susquehanna River Basin.

Mr. JOHNSTON. I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 24.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

NATIONAL RECREATION AREA AND THE OREGON ISLANDS WILDERNESS AREA ACT

Mr. ROBERT C. BYRD. Mr. President, there is a bill at the desk, H.R. 12026, which, I understand, has been cleared all the way around. I ask unanimous consent, therefore, to proceed for 5 minutes without the time being charged against the pending amendment on the HEW appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on H.R. 12026.

The Presiding Officer laid before the Senate H.R. 12026, a bill to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Colorado (Mr. HASKELL).

Mr. HASKELL. Mr President, this legislation, which is virtually identical to my bill, S. 3349, would create a 70,000 acre Indian Peaks Wilderness and a 35,000 acre Arapaho National Recreation Area in the Arapaho and Roosevelt National Forests in Colorado. This legislation is the result of a study mandated by Congress in 1972 of the so-called "Indian Peaks" area of Colorado. This area abuts the southern boundary of Rocky Mountain National Park and is within a 1½- to 2-hour drive of Denver and the majority of the population of Colorado's front range metropolitan area. As such, the area has become increasingly popular for those seeking a nearby wilderness experience, and represents an outstanding opportunity for Congress to further its goal of protecting wilderness values and establishing wilderness areas in close proximity to major population centers.

At the same time as wilderness use increases, so does the demand for developed and mechanized recreation such as permanent and developed campsites, motorboat use, alpine skiing, and off road vehicle recreation. While most national forest lands are generally available for such uses, sufficient personnel and funding for developed recreation facities are sometimes lacking, or lag behind demand, especially in a region which is growing as rapidly as Colorado's front range metropolitan areas.

To this end, this bill establishes an approximate 32,735-acre Arapaho National Recreation Area immediately west of, and contiguous to, the proposed Indian Peaks Wilderness, and authorizes $5 million for land acquisition and $5 million for water quality and recreation development.

Mr. President, this legislation also adds 459 acres of islands, rocks, and islets to the existing Oregon Islands Wilderness in the State of Oregon. This provision is identical to legislation that passed the Senate in the 94th Congress and has the support of all interested parties. This addition would complete action on an administration wilderness proposal which has been pending before the committee and the Congress since 1972.

Mr. President, although the Energy and Natural Resources Committee has not considered this legislation during this Congress, there is strong support for its enactment. I urge my colleagues to join me in approving H.R. 12026.

Mr. MARK O. HATFIELD. Mr. President, I am prepared today to introduce an amendment which would clarify the placement of the northern boundary of the Kalmiopsis Wilderness, an area in Oregon included in the Endangered American Wilderness Act, which was approved by Congress in February 1978.

However, I do not believe it is necessary to seek legislative remedy for this problem. I am hopeful that a colloquy with the distinguished chairmen of the Senate Energy and Natural Resources Committee and the conference committee on the American endangered wilderness bill will again make clear the intention of the conference committee with respect to the boundary, and allow this minor adjustment to be made in the official map.

The boundary area in question lies on the north side of the Kalmiopsis Wilderness, in the vicinity of "Bald Mountain," and is located in township 36 south, range 10 west, sections 17, 18, 20, and 21. It is in these sections—encompassing a matter of a few acres—in which the official boundary deviates from the hydrologic divide.

Was it not the understanding of my colleagues in the Senate, that the boundary in this area was to be drawn along the hydrologic divide?

Mr. JACKSON. The Senator from Oregon is correct.

Mr. CHURCH. I would agree with my colleagues. It was the understanding of the conferees that the hydrologic divide would serve as the boundary for this area of the Kalmiopsis Wilderness.

Mr. MARK O. HATFIELD. I thank my colleagues for helping to clarify the exact location of the boundary. I would assume that such a discussion expressing this agreement is adequate to reflect the intentions of the conferees, and would thus permit the Forest Service to make this adjustment in its official map of the Kalmiopsis. However, I am prepared to pursue a legislative remedy if deemed necessary.

Mr. JACKSON. Since this was the clear intention of the conferees in determining boundaries of the Kalmiopsis Wilderness, I believe that a reiteration of that intent on the floor of the Senate should be adequate instruction to make this minor adjustment in the boundary.

Mr. CHURCH. I would agree with my colleague from Washington on this matter.

Mr. MARK O. HATFIELD. I appreciate the time of the distinguished Senators in helping to resolve this matter, and would hope that this action will suffice to make this clarification.

Mr. HASKELL. Mr. President, I move the passage of the bill.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill (H.R. 12026) was ordered to be read a third time, was read the third time, and passed.

Mr. HASKELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The Senate continued with the consideration of H.R. 12929.

Mr. MAGNUSON. Mr. President, when we temporarily laid aside the HEW appropriations bill we were on and discussing an OSHA amendment of the Senator from Oklahoma. There is a time limitation on that amendment. I will ask the Chair what is the time situation?

The PRESIDING OFFICER. The time remaining to the Senator from Oklahoma is 38 minutes; the time remaining to the Senator from Washington is 34 minutes.

Mr. MAGNUSON. Mr. President, I yield to the Senator from New Jersey such time as he may want.

Mr. WILLIAMS. There are Members who did want to speak on this. I am not sure how much time the Senator from Oklahoma will require. Is the Senator from Oklahoma prepared to speak? Does he desire to speak at this time?

Mr. BARTLETT. Do I desire to make a statement at this time?

Mr. WILLIAMS. Yes.

UP AMENDMENT NO. 1930, AS MODIFIED

Mr. BARTLETT. I would like to, yes, make a short statement.

I would like to modify my amendment to satisfy the point that was raised by the distinguished Senator from New Jersey. I would like to amend my amendment on page 2, reading in the line that starts on line 19, "No funds shall be expended to issue citations against such employers unless it is determined," and at that point insert, "from any inspection or investigation authorized by this paragraph."

The purpose of this would be to take care of the point raised by the Senator from New Jersey that if, in making a health investigation, the Secretary or his agent found a safety violation he could then proceed ahead with that safety violation found in his inspection and investigation of the safety involved in that plant.

The PRESIDING OFFICER. The Chair inquires of the Senator from Oklahoma if he wishes to modify his amendment?

Mr. BARTLETT. Yes. I was just stating the way I wish to modify it.

The PRESIDING OFFICER. Does the Senator seek unanimous consent to modify his amendment? If so, that will be necessary.

Mr. BARTLETT. Mr. President, I ask unanimous consent to modify my amendment as I just outlined, and I send it to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 8, line 7, before the period, insert a colon and the following: "*Provided further*, that none of the funds appropriated under this paragraph shall be obligated or expended to administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970, except as provided below, which is applicable to any person that has no more than ten (10) fulltime employees, or the equivalent thereof, and does not have an occupational injury incidence rate exceeding seven (7) per hundred (100) fulltime employees based upon the annual Bureau of Labor Statistics survey of 3 and 4-digit Standard Industrial classification Code industries; provided that such injury incidence rate may be based upon 2-digit Standard Industrial Classification Code industries if the Occupational Safety and Health Administration determines that an accurate and reliable 3 and 4-digit Standard Industrial Classification Code is not available; provided, further that the Secretary may conduct an investigation to determine the causes of a serious physical injury or death involving workplace safety at such employer's workplace, the Secretary may conduct health investigations and health inspections, and any employee or representative of employees may request an inspection by filing a complaint with the Secretary or his authorized representative and with such employer. Any such complaint shall be reduced to writing, shall set forth with reasonable particularity the grounds for such complaints, shall be based upon a reasonable belief that a violation of a safety standard or an imminent danger exists, that the violating condition or imminent danger stated in the complaint creates a real probability that the result would be death or serious physical harm, and, that such employer, exercising reasonable diligence, should have known of the violation; or such complaint shall be based upon a showing that such employer has maintained the workplace with willful and reckless disregard for employee safety.

If upon receipt of such notification the Secretary determines there are certifiable grounds to believe that a violation or danger exists he may conduct an investigation of such employer's workplace. Nothing in this paragraph shall preclude such an employer from voluntarily participating in any educational, training, or consultation program established by the Secretary. No funds shall be expended to issue citations against such employers unless it is determined from any inspection or investigation authorized by this paragraph that a violating condition or imminent danger does exist which creates a real probability that the result would be death or serious physical harm, and that such employer, exercising reasonable diligence, should have known of the violation; or that such employer has maintained the workplace with willful and reckless disregard for employee safety. The failure by the Secretary to provide the annual information necessary for the application of this paragraph shall mean that none of the funds appropriated under this paragraph shall be obligated or expended to administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any persons with no more than ten (10) fulltime employees. The application of this paragraph will continue until the Secretary publishes the required information. In order to further the purposes of this paragraph, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this paragraph but shall not cover employments excluded by Section 653 of U.S. Code title 29. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses (whether or not involving loss of time from work) other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

Provided further, that the Secretary shall publish annually in the Federal Register the occupational injury incidence rate for the ten (10)-or-fewer-employees size segment of all Major Groups identified by their 3 and 4-digit Standard Industrial Classification Code number. The annual publication of occupational injury incidence rate shall be published on or before December 31 of the calendar year immediately following the year from which they were derived, and shall apply only during the calendar year immediately following publication.

Mr. BARTLETT. Mr. President, I am pleased to note that the committee report directs that the additional resources provided by OSHA under this pact shall be utilized for inspections involving large businesses and the most hazardous industries.

I am also pleased that this bill contains language that exempts farms employing 10 or fewer employees from the provisions of OSHA. I believe that the reasoning that prompted the Appropriations Committee to accept this small farm restriction on OSHA applies equally well to my amendment.

I also believe that report language is never a substitute for legislature language and I, therefore, hope my amendment will be accepted as fulfilling the intent of the committee.

Mr. President, everyone seems to agree that OSHA should be using its limited resources to inspect large businesses and small businesses which are considered hazardous. My amendment would insure that result.

Mr. President, I would advise the floor manager of the bill and the distinguished Senator from New Jersey that the Senator from Arizona (Mr. DECONCINI) wishes to offer an amendment to my amendment, and I would like to give him an opportunity to do that. Apparently it is being written right now. I can modify it myself if I can obtain the language, but I have not received it.

I have nothing further to say at this time, and if the manager does not, I will suggest the absence of a quorum.

Mr. WILLIAMS. Mr. President, I seek recognition.

Mr. MAGNUSON. Mr. Chairman, I yield to the Senator from New Jersey such time as he may wish.

Mr. WILLIAMS. Mr. President, I would like to clarify, and I would say correct, something that was said earlier about the posture of this particular amendment when it was taken up in the Small Business Committee conference with the House of Representatives.

I thought that the Senator from Oklahoma made the statement that the amendment, as he has offered it here, meets all of the objections which the House raised to the earlier amendment.

I believe that the amendment as it has now been offered by the Senator from Oklahoma in good measure resembles an amendment that was offered by a Member of the House of Representatives from Massachusetts, Mr. CONTE.

Mr. BARTLETT. That is correct.

Mr. WILLIAMS. I think it should be noted that the Conte amendment was rejected by the House conferees. So I do not believe it can be said that this amendment, based on the Conte proposal does meet the objections of the House conferees.

Mr. BARTLETT. Will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. BARTLETT. I think the Senator is aware of the fact that the chairman of the House conferees, during the middle of the conference and while it was under way, added three members of the House Labor and Education Committee to the conference committee; so it was a stacked deck, and I do not think the fact it was voted down by the stacked deck had anything to do with whether it answered the questions that were raised. If you had been there I think you would agree that it did.

Mr. WILLIAMS. As the Senator says, in addition to the members of the Committee on Small Business, three members of the House Committee on Labor and Education were added as conferees on that bill. They were present and voting.

However, the rejection of the Conte proposal was by a vote of 10 to 3, so it is clear that there were others beyond the Labor and Education members who

were rejecting the Conte proposal in the House.

In other words, that left, in the net, after the three from the Labor and Education Committee in the House, seven from the Small Business Committee who also rejected the Conte proposal there.

Mr. BARTLETT. If the Senator will yield further——

Mr. WILLIAMS. Yes.

Mr. BARTLETT. It was, I believe, the seven Senate conferees who voted against the proposal on the floor who voted not to accept the Conte-Bartlett amendment on the Senate side, and it was at that point that they did vote to accept the proposal by the chairman.

Mr. WILLIAMS. I will say that this amendment, if it goes with this appropriation bill to the conference of the Appropriations Committees, most certainly, in view of the record of the House, will suffer the same result.

But beyond that, Mr. President, I want to point out what we have already done here in the Senate in response to a real concern about what has been described as a "heavy burden" that small business has carried under the Occupational Safety and Health Administration, the law, and the regulations particularly.

The small business conference to which we just referred did agree to provide a statutory prohibition against penalties for all small businesses employing 10 or fewer which have fewer than 10 first instance penalties. These are the penalties for nonserious and nonwillful violations.

This whole idea of excepting small businesses from these penalties started here, and on this HEW bill 2 years ago. That approach has now been codified, not on an annual appropriations bill but in basic law. That is to help small business. Presumably, they will use funds that would have gone to penalties to institute safer practices. So that is No. 1: We have certainly gone a long way with that measure in recognizing the particular problems that have been described, that small business had.

Now, following on that—and this certainly is a year for multiple actions with respect to OSHA and small business—just Monday of this week, the Senate adopted the amendment to this appropriation bill offered by the Senator from Kansas (Mr. DOLE) which would prohibit penalties for nonserious, nonwillful violations against all small businesses employing 10 or fewer, no matter how many violations are noted, if those violations relate to a condition about which the employer has received consultation and has complied with the recommendations of the consultant.

These provisions involving Small Business and OSHA recognize that the Senate has been highly sensitive to the need not to have a heavy and unnecessary burden on Small Business. Because of some of the complexity of regulations, we have provided resources here in this bill, and those resources are directed to the agency so that it can make the contracts necessary to provide consultation.

Most of the States have now accepted this opportunity. The consultation contracts go to those who are not part of OSHA, not part of OSHA enforcement. They are the expression of our desire to be helpful to Small Business in meeting its responsibilities under the law and the regulations.

As a matter of fact, the Senator from Washington, the chairman of this great Committee on Appropriations, together with the ranking Republican member, the Senator from Massachusetts, has brought to the Senate right now, in this bill, appropriations of $15 million for consultation.

I just state that to say that I would think we would have reached, by now, the end of the line of trying to put patches on appropriations to meet some imagined fears—and they are now imagined fears—of small business. We have provided all of these opportunities for the small business community to be insulated from some penalties under the law; and, so that they will be sure to know what the law is, we have put them in a position to get all the consultation they need to respect the law. I am sure that is what they all want to do, respect the law, and have a safe and healthy place; and that is the whole purpose of the Occupational Safety and Health Act.

Beyond that, Mr. President, finally, the Bartlett amendment is really unworkable in the context of this 1-year appropriation bill. It directs the Secretary to collect the statistics necessary to determine the exemptions. This, of course, is necessary to classify those businesses that can be found to be relatively safe. This is the year for the gathering of the statistics, but the statistics are gathered this year to determine next year's exemptions, even though this appropriation bill does not govern next year. The exemptions which will apply under the Bartlett exemption this year are based on statistics which were gathered last year. But since the Secretary was not directed to gather statistics for this purpose last year, the statistics may not be available. Then under the terms of the Bartlett amendment, all small employers would be excluded.

This is one of the most dangerous aspects of this amendment. Without those statistics which tell us what industries are relatively safe, the amendment would exempt all, and, exempting all, it will eliminate industries that are unsafe, that are dangerous.

As I mentioned earlier, as this amendment is drawn, in some of the classifications where there are statistics, at the three-digit level which the Senator deals with, we can find subclassifications at the four-digit level that are very risky, very hazardous occupations. Again to reiterate, in that category of employers excluded by this amendment, there were hundreds of fatalities, an estimated 500, in 1976.

I mentioned earlier that because this is clearly legislation, and because this is an appropriations bill, it is my feeling that a point of order should be pressed on this.

Mr. MAGNUSON. Will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. MAGNUSON. Further, this was never submitted to the Appropriations Committee. We had no hearings on it. We had no idea that it was going to be presented. In fact, before we put it on the bill, I think we would like to find out a little more about it.

However, there are an estimated 300,000 to 400,000 small businesses that, under this amendment, will have to submit long questionnaires and things of that kind. What they are complaining about is too much of this paperwork and regulation. Under the present circumstances, in an effort to get the statistics that the Senator from New Jersey is talking about, only about 60,000 businesses have to submit them. It is sort of a spot check.

It is a matter, I think of tangling up regulations. I do not know how the Department of Labor could enforce this at all, the way it is written. Also, we have not heard a word of testimony about it. This just showed up yesterday; the committee had no time to review it.

I wish once in a while, just once in a while, when people have substantive amendments to an appropriations bill, they would come to us ahead of time. We hold hearings all the time. It would be better for them to come to us before we get to the floor rather than pop up with an amendment when this bill comes to the floor. We have no idea whether it is good or bad. And this sort of thing happens all the time. This is not a good way to consider important substantive legislative proposals.

I oppose the amendment and I hope the Senate will reject it. On top of that, it is legislation on an appropriations bill.

Mr. WILLIAMS. I know the Senator from Washington, most appropriately, has wondered from time to time when substantive legislation is brought in as an amendment to his appropriation bills, why has the legislative committee not taken care of that kind of a situation in hearings and in other ways.

I just want to say that in this occupational safety and health area we have had hearings and we are having more. We are having some next week, as a matter of fact. In debate on the Johnston amendment on Monday, the amendment dealing with cotton dust, I mentioned that we had occupational disease hearings last June. We had hoped that a lot of these people involved would come in. The cotton industry people did not come in. We had the debate on Monday. I am happy to say that that message has now been heard. We are having hearings next week, and they have requested an opportunity to come in. They will come in and we will hear them.

So we are at our business of trying to make sure this legislation, this law, the Occupational Safety and Health Act, does its job, and it does it without all of the unnecessary aggravations that we had in the first 4 years of its administration.

Right now, OSHA rules have been developed to relieve small employers from recordkeeping that is voluminous and unnecessary. I will say the pending amendment takes us right back where we were before this administration tried to help, and is helping significantly, in controlling unnecessary volumes of paperwork.

I yield to the Senator from Maine.

Mr. HATHAWAY. I thank the Senator from New Jersey for yielding.

I wanted to conclude what I was talking about this morning in regard to this matter.

It seems to my mind there are several questions with respect to the wording of the amendment. It is rather ambiguous as to how it would be applied.

Also, it seems to me that in all of the testimony we have received on the occupational safety and health law—and I had the privilege of working on this also when I was in the House of Representatives and on the Education and Labor Committee—I remember the testimony showing there was a correlation between the smaller the business and the frequency of the injuries. The larger businesses can afford safety engineers and consultants. They are actually more safe than the smaller businesses which cannot afford safety engineers, and which are more prone to sloppy practices with respect to their safety standards.

If the Senator from Oklahoma is correct, that the businesses really are pretty safe, what is he worried about? If they are safe, they are not going to be fined or penalized. They might have a visit every once in a while by an inspector, but if they are perfectly safe places they are not going to get hurt.

I am not sure with respect to the 7 out of 100, whether that is a good safety statement, despite the fact that it is said that 9 out of 100 is safe. I do not know how this breaks down with respect to the seriousness of the injuries. If it meant 7 deaths out of 100 accidents, it would be pretty serious.

The two- and three-digit classifications bother me because the statistics are not reliable with respect to the fours, for example, and then automatically going into the three category. The four, on the basis of unsatisfactory data, in many cases, have a very high incidence of injuries. The least we should do is hold the effectiveness of this amendment for another year until we can have more reliable data on each of the various categories listed than we now have.

Furthermore, what we are overlooking in this is if some of these smaller businesses happen to be safe, one of the reasons that they are safe is because we have had the Occupational Safety and Health Act on the books. This has provided an incentive for these businesses to clean up their premises and provide a safe place to work for their employees. But if they are going to be exempt, it is human nature that they are going to become lax and there are going to be more injuries on the job.

As a last point, I believe that what we have overlooked with respect to the Occupational Safety and Health Act is that it is geared to protect each and every worker in our society. It does not make any difference whether a worker has 9 fellow employees or 900 fellow employees, he is still entitled to a safe place to work. For that reason alone I think this amendment should be rejected.

I thank the Senator for yielding.

Mr. MAGNUSON. Mr. President, on my side we have no more speakers. I yield such time as the Senator from Arizona may require.

UP AMENDMENT NO. 1931

(Purpose: To revise the provisions relating to employee complaints)

Mr. BARTLETT. I shall be glad to yield the Senator from Arizona such time as he requires.

Mr. DECONCINI. I thank the Senator from Oklahoma.

Mr. MAGNUSON. I do not know what side of the issue he is on.

Mr. DECONCINI. The side of the Senator from Oklahoma.

Mr. President, I send to the desk a modification of Senator BARTLETT'S amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Under the precedents of the Senate, an amendment is not in order until the time on the original amendment has been used or yielded back.

Mr. DECONCINI. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. The Senator could seek unanimous consent to do so.

Mr. DECONCINI. I ask unanimous consent that I may send to the desk a modifying amendment and have it considered at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1931 to the Bartlett amendment No. 1930:

Strike out "and with such employer" the first place it appears and insert in lieu thereof a period and the following: "The Secretary shall notify such employer of the nature of the complaint, but shall not reveal the identity of the employee who filed such complaint. Any such employee shall be subject to the protective provisions of section 11(c) of the Occupational Safety and Health Act of 1970.".

Mr. DECONCINI. Mr. President, my amendment will modify the amendment of the senior Senator from Oklahoma by requiring that the Secretary of Labor provide the employer of an employee who has filed a complaint with OSHA a sanitized copy of the complaint. Also, the amendment specifies that an employee who files a complaint under the provisions of the Bartlett amendment will be protected by section 11(c) of OSHA. This section of law protects employees who file complaints with OSHA from punitive measures that may be taken by an employer.

It is my understanding that that was probably the intent of the Senator from Oklahoma, anyway, but I felt it necessary to rise at this time to make it very clear.

I support the amendment offered by the Senator from Oklahoma. However, I believe these two modifications will help to protect an employee who believes that an unsafe working condition exists in his place of employment and wishes to notify OSHA.

Mr. BARTLETT. Mr. President, I find the amendment is not only acceptable, but it improves the amendment I am offering, because the bill would provide that the employer will receive a sanitized version of the complaint without revealing the identity of the employee who made it. Since it protects the employee and provides information to the employer which is pertinent to his business and to his operation, I wholeheartedly support the amendment by the Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank the Senator from Oklahoma. I ask that the amendment of the Senator from Oklahoma be so amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree offered by the Senator from Arizona.

Mr. MAGNUSON. Mr. President, the amendment is not a bad idea. It is all right, but it does not improve upon the defects of the original amendment of the Senator from Oklahoma. It is still a matter that ought to be brought up when the legislative committee has hearings on OSHA, which the Senator from New Jersey says they will be having. They are having them on small business. Here again is a matter where I would vote for a thing like this, but I do not think it belongs here. It does not improve at all the defects of the amendment of the Senator from Oklahoma. It adds a little frosting on the cake, but the cake is still pretty stale and pretty old.

Mr. DECONCINI. If the Senator from Washington will yield, it seems to me, though I do not support the concept of the amendment of the Senator from Oklahoma, I felt that it needed to be clarified so that the employee would be protected if they file as the Senator's amendment provides.

I cannot disagree with the distinguished Senator from Washington that hearings should be held and that that may be a place to take this matter up. Certainly it is, but this is where we are today. We are not in the hearing room to offer amendments, suggestions, and testimony. We are here to vote on this amendment. That is the reason I offer this perfecting amendment, and I thank the Senator from Oklahoma for not objecting to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the first degree offered by the Senator from Oklahoma.

Mr. MAGNUSON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. The amendment of the Senator from Arizona is now incorporated in the amendment of the Senator from Oklahoma, is that correct?

The PRESIDING OFFICER. Not until the amendment is agreed to.

Mr. MAGNUSON. Oh. If we vote on the amendment of the Senator from Oklahoma, we are voting also on the amendment as modified, is that correct?

The PRESIDING OFFICER. If the amendment of the Senator from Arizona is agreed to, that language will be included in the amendment of the Senator from Oklahoma.

Mr. MAGNUSON. He can ask unanimous consent to have it incorporated. What I am trying to get is one vote.

Mr. DECONCINI. If the Senator will yield, I shall ask unanimous consent. Does the Senator yield?

Mr. MAGNUSON. Yes.

Mr. DECONCINI. Mr. President, I ask unanimous consent that my amendment at the desk modifying the amendment of the Senator from Oklahoma be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MAGNUSON. As I said, it still does not cure what I think are the serious defects of the amendment of the Senator from Oklahoma.

The amendment (UP amendment No. 1930) was modified.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BARTLETT. Mr. President, I have very few additional remarks to make. I would like to comment on the comments made recently and mention that, as far as the Dole amendment is concerned, about 16 States have no consultation and will not be covered by the Dole amendment.

I say, on the comments made by the Senator from Maine, that small businesses as a group are safer than the larger businesses. The incidence of injury is 3 per 100, very much less than the average of the larger industries.

I also point out as to the hearings that the distinguished Senator from New Jersey is going to hold, that is like holding the hearings after the barn is burned and it is too late for any activity in that regard this year. I have been very concerned that in the past, hearings have been requested and there have not been hearings forthcoming. There has been a real reluctance on the part of the committee to look into the matter of OSHA. It has only been possible by floor amendments, as this one that I now offer, to make the changes that are necessary.

Mr. President, if the distinguished floor manager is ready to yield back the remainder of his time——

● Mr. HART. Mr. President, on August 2, 1978, the Senate adopted an amendment to the Small Business Act offered by Senator BARTLETT. It would exempt from OSHA coverage those employers who have 10 or fewer employees in businesses with injury/illness rates not exceeding 7 per 100 employees based on the BLS survey of two-digit Standard Industrial Classification industries. House and Senate conferees later agreed to drop the Bartlett amendment and now Senator BARTLETT has offered it again as an amendment to the Labor-HEW appropriations bill.

Although I share Senator BARTLETT's desire to reduce many of the burdens imposed on small businessmen by OSHA, I do not believe it is sound legislative policy to amend an appropriations bill in this fashion. Legislative programs and procedures are meant to be designed by authorizing committees and embodied in authorizing legislation. These are the vehicles for determining legislative intent on important policy issues. To use an appropriations bill for the purpose of revising a legislative program tends to subvert the wisdom of the two-step approach of authorization and appropriation, that is built into our system. For this reason I believe the amendment is out of order and that the point of order that has been raised against the amendment should be sustained. I support the majority leader's motion to table the question of germaneness that has been raised regarding the point of order.

I repeat that I share the concern of the Senator from Oklahoma for small businesses which cannot keep up with the burdens imposed on them by Government regulation. I share his desire to provide relief to those small businesses which are burdened most by the plethora of OSHA regulations, but who have compiled sound records so far as occupational health and safety are concerned. I am hopeful that the provision adopted by House and Senate conferees as a substitute to the Bartlett amendment will be a major step forward in resolving the problems that confront small businesses under OSHA jurisdiction. This provision, offered by Senator NELSON, codifies OSHA decisions regarding the monetary penalties for nonserious violations on initial inspection, and codifies exemptions from recordkeeping requirements. It also provides for a Labor Department study of the accuracy and efficacy of injury/illness data compilation procedures.

I am confident that the Congress can continue to address the problems that face small businessmen under OSHA jurisdiction. I look forward to the oversight hearings which Senator WILLIAMS has scheduled for October 3, 4, and 5. I support the committee's proposed examination of allegations of OSHA harassment and its attempt to develop methods to protect workers in a manner which least interferes with business. I hope the Congress will be prepared to act quickly on the committee's findings.●

Mr. WILLIAMS. We are yielding back, and the Senator from Oklahoma is.

Mr. BARTLETT. I am ready to yield back the remainder of my time.

Mr. MAGNUSON. The Senator is yielding back his time?

Mr. BARTLETT. Before I do that, Senator BAKER and Senator SCOTT would like to be added as cosponsors. I ask unanimous consent that they be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WILLIAMS. Mr. President, I am going to raise the point of order now that this is legislation on an appropriations bill.

The PRESIDING OFFICER. The Senator has the right to ask for the yeas and nays on his amendment. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WILLIAMS. I do make that point of order.

The PRESIDING OFFICER. The point of order is not in order at this time. All time has not been yielded back.

Mr. MAGNUSON. I yield back my time.

Mr. WILLIAMS. I yielded back.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back his time?

Mr. BARTLETT. I yield back my time.

Mr. President, I raise the question of germaneness on the point of order on my amendment. The legislation in this amendment has been in the House. My amendment simply extends the language already in the bill.

The PRESIDING OFFICER. This would not be germaneness on the point of order; it would be germaneness on the amendment.

Mr. BARTLETT. That is what I meant to say. I raise the question of germaneness on the amendment.

Mr. WILLIAMS. Mr. President, while this is not debatable, I know, I ask unanimous consent for Alan Chvotkin of the Small Business staff to be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question of germaneness having been raised, the Chair submits the question to the Senate, under rule XVI, is the amendment relevant?

Mr. BARTLETT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Has the Chair ruled on it? We are going to have a rollcall on something not ruled on.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. If the question of germaneness is raised, the Chair does not rule on the question of germaneness——

Mr. BARTLETT. It is my understanding, to submit this to the Senate——

The PRESIDING OFFICER. If the question of germaneness is raised, the Chair does not act on the point of order. The question of germaneness must be submitted to the Senate.

The yeas and nays have already been ordered, the Chair will state.

Mr. MAGNUSON. Mr President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. The yeas and nays are ordered on what point?

The PRESIDING OFFICER. On the question of germaneness and on the amendment itself.

Mr. MAGNUSON. Why do we not just vote the amendment up or down?

Mr. BARTLETT. Then we would have to withdraw the point of order, as I understand it.

Mr. MAGNUSON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Is it not true a point of order was made on this amendment

The PRESIDING OFFICER. That is correct.

Mr. MAGNUSON. Will the Chair rule on that?

The PRESIDING OFFICER. Under the precedents, before the Chair acts on the point of order, if the question of germaneness is raised, then under rule XVI that must be submitted to the Senate and the point of order is not acted upon.

Mr. MAGNUSON. Does that shut off a point of order?

The PRESIDING OFFICER. In actuality, yes.

Mr. MAGNUSON. We cannot make a point of order when somebody stands up after we make it and says that we have to vote on germaneness. Is that the rule of the Senate?

The PRESIDING OFFICER. That is the Chair's interpretation of the Senate's precedents.

Mr. MAGNUSON. There should be a lot of rules changed around here.

Mr. ROBERT C. BYRD. Mr. President, has the Chair submitted the question?

The PRESIDING OFFICER. The Chair was about to submit the question.

Mr. ROBERT C. BYRD. Would the Chair proceed?

The PRESIDING OFFICER. The question is, Is the amendment germane? The yeas and nays have been ordered——

Mr. ROBERT C. BYRD. Mr. President, I move to table the question.

Mr. BARTLETT. I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. The question is on the motion to table.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Several Senators addressed the Chair.

Mr. MAGNUSON. A parliamentary inquiry.

Mr. BARTLETT. Is the motion to table——

Mr. MAGNUSON. I have the floor.

Mr. BARTLETT. I was asking a parliamentary inquiry.

Mr. MAGNUSON. Let me make a parliamentary inquiry.

The PRESIDING OFFICER. The Chair at this juncture has recognized no Senator.

The Senator from Washington is recognized.

Mr. MAGNUSON. On a vote to table the germaneness question which is connected with the point of order, I guess, a vote would be "aye" and would that, in effect, then vote down the amendment or would there be a second vote on the amendment?

The PRESIDING OFFICER. It would vote down the question of germaneness.

Mr. MAGNUSON. Only?

The PRESIDING OFFICER. The point of order would then have to be acted upon, which might be subject to an appeal, and possibly the amendment would still have to be acted upon.

Mr. MAGNUSON. All right.

Mr. BARTLETT. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARTLETT. Is the tabling motion in order?

The PRESIDING OFFICER. It is in order.

Mr. BARTLETT. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 47, nays 46, as follows:

[Rollcall Vote No. 413 Leg.]

YEAS—47

Anderson	Hathaway	Muskie
Bayh	Humphrey	Nelson
Brooke	Inouye	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Randolph
Case	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Long	Sarbanes
Culver	Magnuson	Sasser
Durkin	Mathias	Sparkman
Eagleton	Matsunaga	Stafford
Ford	McGovern	Stevenson
Glenn	McIntyre	Weicker
Gravel	Melcher	Williams
Hart	Metzenbaum	
Hatfield, Paul G.	Morgan	
	Moynihan	

NAYS—46

Baker	Domenici	Pearson
Bartlett	Eastland	Percy
Bellmon	Garn	Roth
Bentsen	Goldwater	Schmitt
Biden	Griffin	Schweiker
Bumpers	Hansen	Scott
Byrd, Harry F., Jr.	Hatch	Stennis
	Hayakawa	Stevens
Cannon	Heinz	Stone
Chafee	Hodges	Talmadge
Chiles	Hollings	Thurmond
Church	Laxalt	Tower
Curtis	Lugar	Wallop
Danforth	McClure	Young
DeConcini	Nunn	Zorinsky
Dole	Packwood	

NOT VOTING—7

Abourezk	Hatfield, Mark O.	Huddleston
Allen	Helms	Johnston
Haskell		

So the motion to table was agreed to.

The PRESIDING OFFICER (Mr. DECONCINI). The question recurs on the point of order.

The Chair holds it to be well taken.

Mr. BARTLETT. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. Let the Chair rule.

Since the amendment does contain legislation, it is out of order under rule XVI, paragraph 4.

Mr. BARTLETT. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

Mr. MAGNUSON. I did not hear the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. I did not hear the Chair on his ruling. Will the Chair state that again?

The PRESIDING OFFICER. The Chair has sustained the point of order.

Mr. MAGNUSON. All right.

Mr. President, I move to lay that on the table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN) and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The yeas and nays resulted—yeas 50, nays 45, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—50

Anderson	Hathaway	Moynihan
Bayh	Heinz	Muskie
Brooke	Huddleston	Nelson
Burdick	Humphrey	Pell
Byrd, Robert C.	Inouye	Percy
Case	Jackson	Proxmire
Clark	Javits	Randolph
Cranston	Kennedy	Ribicoff
Culver	Leahy	Riegle
Durkin	Long	Sarbanes
Eagleton	Magnuson	Sasser
Ford	Mathias	Sparkman
Glenn	Matsunaga	Stafford
Gravel	McGovern	Stevenson
Hart	McIntyre	Talmadge
Hatfield, Paul G.	Melcher	Weicker
	Metzenbaum	Williams

NAYS—45

Baker	Domenici	Packwood
Bartlett	Eastland	Pearson
Bellmon	Garn	Roth
Bentsen	Goldwater	Schmitt
Biden	Griffin	Schweiker
Bumpers	Hansen	Scott
Byrd, Harry F., Jr.	Hatch	Stennis
	Hayakawa	Stevens
Cannon	Hodges	Stone
Chafee	Hollings	Thurmond
Chiles	Johnston	Tower
Church	Laxalt	Wallop
Curtis	Lugar	Young
Danforth	McClure	Zorinsky
DeConcini	Morgan	
Dole	Nunn	

NOT VOTING—5

Abourezk	Hatfield, Mark O.	Helms
Allen		
Haskell		

The PRESIDING OFFICER. The motion to lay on the table the appeal from the ruling of the Chair having been agreed to, the ruling of the Chair on the point of order stands as the judgment of the Senate.

Mr. MAGNUSON. Mr. President, I

move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MAGNUSON. Mr. President, there are other amendments.

The PRESIDING OFFICER. The Senate will be in order.

UP AMENDMENT NO. 1932

(Purpose: To fund the special projects authorization of the Indochina refugee assistance program)

Mr. MAGNUSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Washington.

The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON), for Mr. KENNEDY, proposes an unprinted amendment numbered 1932.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 7, strike out "$155,300,000." and insert in lieu thereof the following:

"$160,300,000: *Provided*, That $10,000,000 of the foregoing amount shall be apportioned for the purposes of the special projects authorized by Section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, to be administered primarily by the private voluntary resettlement agencies".

Mr. MAGNUSON. Mr. President, the Senator from Massachusetts (Mr. KENNEDY) has asked that I propose an amendment in his behalf. He intended to be here himself, but he could not be present.

The amendment provides for a $5 million matter that we in the committee did not, at the time, discuss the full impact of, as to what is needed in this particular case. It would add $5 million to go to the State and local agencies and private voluntary resettlement agencies currently assisting refugees in highly impacted communities.

It would continue the current funding level which is $10 million, for this purpose. We had it at $5 million, but I do not think we realized the real impact. The money is needed now, and will encourage a great number of nonprofit private individuals and organizations that are trying to help us with this problem. I think it is well worthwhile.

The junior Senator from Massachusetts (Mr. BROOKE) agrees with his colleague, and I would be glad to put the amendment to a vote.

FUNDING FOR "SPECIAL PROJECTS" OF THE INDOCHINA REFUGEE ASSISTANCE PROGRAM

● Mr. KENNEDY. Mr. President, the amendment I am offering to the pending HEW appropriations bill simply adds $5 million to fund the "special projects" authorized by the Indochina Migration and Refugee Assistance Act. These are the "special projects" of the private voluntary resettlement agencies participating in the Indochina refugee assistance program.

Currently, there is $5 million in the bill for these "special projects," but the voluntary agencies believe, and I support their judgment, that this is inadequate—that we should fund this program at the same level as we have this past year: $10 million. Such an amount is both within the budget ceilings as well as the authorization.

These funds are urgently needed by the voluntary agencies because of the continuing flow of Indochina refugees into the United States. The voluntary agencies are on the frontlines of the resettlement process, and their programs funded through the "special projects" authorization are most effective in the first days—not later. Early, up-front funding of these projects pays off by helping the refugees now, so that they will not be on welfare tomorrow.

In fact, the record shows that the more you spend on special projects now—language and job training, special educational and counseling programs—the less you will have to spend later on social welfare programs. The more you invest now in special projects, the less you will have to pay later in welfare costs. More importantly, it offers the refugees help when they most need it.

The administration, apparently for questionable budgetary reasons, has sought to fund the $25 million authorized for special projects over an extended period—with $10 million appropriated last year and $5 million requested for the following 3 fiscal years.

I believe this phased approach misses the point of the "special projects"—which, to be most useful, must be programed now, not later.

This amendment will assure that funds are available now, when these programs are most needed for effective resettlement of Indochina refugees, who continue to come to our shores. It is a modest sum, but extraordinarily important to help the voluntary agencies meet the special needs of the refugees.●

Mr. CASE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. CASE. This is not in any way related to the matter of European migration, and aid to them?

Mr. MAGNUSON. No, it is not. It is mainly Vietnamese and people from that area.

Mr. CASE. It does not in any way act in derogation of the other assistance?

Mr. MAGNUSON. No, it does not change the matter which you and the Senator from Maryland discussed in the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1933

(Purpose: To provide that funds appropriated may not be used with respect to any quota system)

Mr. HAYAKAWA. Mr. President, I send an unprinted amendment to the desk in behalf of Senator HELMS and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from California.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA), for himself and Mr. HELMS, proposes an unprinted amendment numbered 1933.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, between lines 9 and 10, insert the following:

SEC. 410. None of the funds appropriated in this Act may be obligated or expended in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any quota related to race, creed, color, national origin, or sex, and which requires any individual or entity to take any action with respect to the admissions policies or practices of any institution of higher education.

Mr. ROBBERT C. BYRD. Mr. President, will the Senator from California yield for a question?

Mr. HAYAKAWA. I yield to the majority leader.

Mr. ROBERT C. BYRD. Will it be possible to obtain time agreements on this amendment and on all other amendments and/or the bill? I address this question to the minority leader.

Mr. BAKER. Mr. President, if the majority leader will yield to me, I cannot at this time agree to a general order limiting debate. I have two or three members on this side who have particular concerns. All of them are in negotiations at this time. I think there is some possibility that all or most of the remaining major amendments might be subject to a time limitation, but I must say to the majority leader that I cannot agree to it right now. If we can wait for a little while, I will be glad to confer with the majority leader later in the day.

Mr. ROBERT C. BYRD. All right. Mr. President, I hope the Senate can complete action on this bill today, which may mean we will have to stay in late. I hope the distinguished minority leader can make the contact as early as possible, so we can resolve the question of time agreements.

Would it be possible to get a time agreement on the amendment of the Senator from California?

Mr. HAYAKAWA. Mr. President, I believe it is going to be accepted.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, if Senator HELMS could have been here today, he would have offered this amendment. He is unable to be here today because he is still recovering from back surgery at his home in Raleigh.

I support the goals of his amendment and would like to offer it for him. I ask unanimous consent that Senator HELM'S remarks on this amendment be included as part of the record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HAYAKAWA. Mr. President, today I call upon my colleagues in the Senate to take affirmative action against discrimination based on race, creed, sex or national origin.

We must act affirmatively. How can we go on passively accepting the unfair, divisive, and discriminatory policies fostered—indeed, even decreed—by the Department of Health, Education, and Welfare? I am referring, of course, to HEW's entrenched policy of forcing preferential quotas on the schools of this country. They euphemistically call such plans "affirmative action." But the "action" really being taken is to force upon Americans a curious form of bigotry—requiring admissions officers to look at people through race- and sex-prejudiced glasses It does not matter whether it be called a quota system, a minority ratio plan, a goal, a timetable, or "numerical representation." What it boils down to is treating some people more favorably and others less favorably because of the shade of their skin, the nationality of their parents, or the gender of their chromosomes.

I really thought that, as a nation, we had put all that behind us. In fact, not too many years ago, laws were passed in this very Chamber to forbid that kind of discrimination. Section 601 of the 1964 Civil Rights Act says this:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to any discrimination under any program or activity receiving federal financial assistance.

But now, the Federal Government, through the regulatory authority of HEW, insists upon the very kind of discrimination outlawed in the Civil Rights Act of 1964.

How would my distinguished colleagues of the Senate feel if they received a letter in the mail, inviting them to accept a teaching job at a particular university because their skin color was underrepresented on the faculty? It happens.

How would we feel if we applied for a position at a college, received an enthusiastic response from the school, appeared there for an interview, and found our potential employers visibly distressed that we were not the right color. That happens too.

And it is not in defiance of the law. It is in compliance with HEW's regulations which, in one way or another, require its grantees to give preferential treatment in employment and admissions to members of groups which have, in the past, suffered from discrimination. Or rather, some such groups, not all of them.

HEW has not seen fit to consider as minorities many ethnic and cultural groups whose members have nonetheless suffered past discrimination in our society. If your name is Pulaski or Slechta or Horvath or Chakiris or Gedra or, for that matter, Califano, you cannot be included in affirmative action programs, except as a victim. If your name is O'Brien or Oberholtzer, you have no recompense for past discrimination. If my name were Heifitz or Humboldt or Hlatki, I could be denied a job, a promotion, or a place in college in favor of someone less qualified than I, whose name happens to be Hayakawa.

The Supreme Court ruled recently in favor of Alan Bakke in the U.C. Davis affirmative action case. This decision, despite some ambiguity of wording and effect, casts a heavy shadow over the affirmative action quotas and "goals" promoted by HEW. Even the Civil Service Commission's general counsel, H. Patrick Swygert, has acknowledged this. He recently said that now administrators will have a "tough road to hoe" in establishing affirmative action programs.

The Court's majority opinion, written by Justice Powell, has a direct bearing on the kind of discriminatory practices I want to keep HEW from pushing. Let me quote Justice Powell in part:

> The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal . . .
>
> Petitioner urges us to adopt for the first time a more restrictive view of the Equal Protection Clause and hold that discrimination against members of the white "majority" cannot be suspect if its purpose can be characterized as "benign." The clock of our liberties, however, cannot be turned back to 1868. It is far too late to argue that the guarantee of equal protection to all persons permits the recognition of special wards entitled to a degree of protection greater than that accorded others . . .
>
> Moreover, there are serious problems of justice connected with the idea of preference itself. First, it may not always be clear that a so-called preference is in fact "benign" . . . Nothing in the Constitution supports the notion that individuals may be asked to suffer otherwise impermissible burdens in order to enhance the societal standing of their ethnic groups.
>
> Second, preferential programs may only reinforce common stereotypes holding that certain groups are unable to achieve success without special protection based on a factor having no relationship to individual worth . . .
>
> Third, there is a measure of inequity in forcing innocent persons in respondent's position to bear the burdens of redressing grievances not of their making . . .
>
> Hence, the purpose of helping certain groups whom the faculty of the Davis Medical School perceived as victims of "societal discrimination" does not justify a classification that imposes disadvantages upon persons like the respondent, who bear no responsibility for whatever harm the beneficiaries of the special admissions program are thought to have suffered.

What could be more blatantly contrary to what the Court is saying here than the special preference quotas and ratios encouraged by HEW? The Court's opinion did go on to say, as we all know, that race may still be a factor, considered along with other factors, in college admission decisions. But the point nevertheless is that to categorize people by race numerically is out.

Secretary Califano has assured us that his department does not support racial or sexual quotas in employment or education. The idea is that so-called "flexible goals" are allowed. But if you are a businessman trying to comply with an order for a "more balanced" work force, how can your compliance be anything but statistical in categorizing people? Yet this is just the sort of thing the Court has struck down.

A "flexible goal" pushed by HEW has just as much of a psychological impact on the country's schools and businesses as a "rigid quota." The effect is the same—it is the Government encouraging them to be race-conscious rather than color-blind in their dealings. And in the hands of HEW it is only the difference between a gloved fist and bare knuckles.

We know how the American people feel on this matter: By a Gallup poll margin of 8 to 1, they affirmed their belief that ability, rather than preferential treatment, should be the main consideration. Among women, 82 percent felt that way, and among nonwhites, fully 64 percent wanted ability, rather than other considerations, to determine hiring and job advancement.

Americans also feel sick and tired of how the Government now regulates nearly every area of life and business. They dislike both the annoyance and the expense of it. For example, HEW has spent many months and no doubt many thousands of dollars in an arbitrary inquiry into the John Hancock Insurance Co.'s employment policies. And they already had a well-functioning affirmative action program. HEW also has succeeded in totally confusing male and female sports participation policy for school districts. Different regional HEW offices have even provided differing policy interpretations on the same question. We have before us a chance to knock down one small increment of the regulation Americans hate. And in this case the courts, the people, and justice itself give us a clear mandate to do it.

It seems, however, that time and time again we have let the Federal bureaucracy thwart our will. Bureaucrats regulate the lives of Americans in ways we never intended. The Congress did not see fit to mandate affirmative action programs by law in 1964, and we should not let the executive branch do the same thing by fiat. And whether or not these programs are illegal by the Bakke decision—which I feel they ultimately will be—they are bad policy. We must act clearly now, or run the risk of having the public and the courts mistake our inaction for approbation. We cannot escape our final accountability for whatever the bureaucracy does in our name.

The amendment which our colleague from North Carolina and I are offering today to the Labor-HEW appropriation bill specifies this: That none of the funds for HEW may be used to mandate any admissions policies with numerical requirements related to race, creed, color, national origin, or sex. It would, in effect, prohibit the Department from requiring quota systems. The Secretary could not force such discriminatory practices upon the American people through any "rule, regulation, standard, guideline, recommendation or order." Perhaps I should have included "ukase" in that list—a royal proclamation from a czar. Let us hope, however, that HEW will refrain from seeing itself in that role.

I realize, Mr. President, that my amendment will meet with opposition. But before we hear from the advocates of affirmative action programs, let us think of this: How many of us are in full compliance with HEW's guidelines? Yes, I know they do not apply to us. We exempted ourselves. But if something is bad for Capitol Hill, why force it on the rest of the country "for their good"?

Let us also be aware that HEW does not live up to its own guidelines. A study done through the University of Chicago shows that HEW's white employees make on the average about $3,700 more than their black employees. And men make about $5,600 more there than women. HEW would probably flunk its own statistical tests. I suppose if it were not the Government it might even lose its Government contract.

America's shame has been discrimination and prejudice all through our history. The fight for change has been long and arduous. I know. I have been part of it. I was denied citizenship for years because the laws, which were racist in the extreme at that time, did not permit Orientals to become citizens. I was born in Canada but even that had no effect on the arbitrary racial distinction. In the forties I was a columnist for the militant black newspaper Chicago Defender. We exposed discrimination in the Armed Forces and raised all hell about it.

Arbitrary race discrimination is always heinous—when it was practiced by the Army during the war or by bus lines and schools in the South. And it is no better today when practiced today by schools under HEW mandate.

Black Americans were long denied the rights and privileges of other Americans simply because of an unpopular skin color. If arbitrary distinctions were wrong then, they are wrong now. How could two wrongs make a right? How can the end justify the means?

The Supreme Court's Bakke decision is a good omen. Though far from decisively final in its effect, it represents the germ of an idea which will yet come to clear fruition. It shows that we are moving, however haltingly and tentatively, back from one of our race-conscious extremes. We are finally moving as a society to a genuine concept of "color-blind" (and "sex-blind") law applied evenly to all.

How fitting it would be if the Congress, which found the courage to enact the Civil Rights Act of 1964 for this purpose, would now summon up the strength to teach HEW the true meaning of that law. Its true meaning was that the American Republic, at last overcoming its weaknesses, wrote into law the fundamental decency of its people by requiring that we be blind to color and sex and creed and national origin in our business dealings with one another.

That was a noble decision in 1964. Its reaffirmation would be a noble decision by the Congress today.

EXHIBIT 1

STATEMENT OF SENATOR HELMS

The purpose of the amendment sponsored by Senator Hayakawa and myself is very simple, it is to bring the activity of the Department of Health, Education and Welfare in line with the Supreme Court's ruling in the Bakke case that the use of quotas in university admissions violate the Equal Protection Clause of the Constitution.

Some of my colleagues may remember that Senator Hayakawa and myself last year offered a similar amendment to the Labor/HEW Appropriations Act to prohibit the use of discriminatory racial quotas. This amendment was considered while the Supreme Court was still considering the Bakke case. But now that the Court has acted, it is proper and timely for the Senate to endorse the Court's action and move to bring the activity of the Department of Health, Education and Welfare within the principle of the Court's action.

In a minority opinion in the Bakke case, some justices maintained that because the Congress rejected the amendment offered by the Senator from California and myself, this was an indication of congressional intent to permit racial quotas. Of course, those who have followed congressional action on this issue understand that the Congress never intended to promote discriminatory quotas when it enacted laws to promote equal opportunity and treatment.

The concept of affirmative action first surfaced in Executive Order Number 11246, issued by President Johnson in the wake of the recently enacted Civil Rights Act of 1964. It requires employers to "take affirmative action to ensure that (people) are treated . . . without regard to their race, color, religion, sex, or national origin." However, federal agencies administering this Executive Order have failed to articulate a Constitutionally proper meaning for "affirmative action" which is consistent with the intent of Congress in its landmark civil rights legislation.

The legislative history of the Civil Rights Act of 1964 clearly shows the intent of Congress to outlaw preferential employment practices. For example, Senator Hubert Humphrey, then majority whip, maintained that "The proponents of the bill have carefully stated on numerous occasions that Title VII does not require an employer to achieve any sort of racial balance in his work force by giving preferential treatment to any individual or group." (110 Cong. Rec. 14331)

Despite this intent of Congress to prohibit discriminatory practices through the use of numerical quotas and goals, federal bureaucrats have interpreted "affirmative action" as requiring quotas and goals.

This interpretation of affirmative action is not compelled by any Executive Order. Nor is it mandated by any Act of Congress. Instead, discrimination through the use of quotas and goals is a bureaucratic creation.

Proponents of discriminatory quotas and goals have been partially successful in blurring the distinction between nondiscrimination and affirmative action. In a classic example of Orwellian "newspeak" the Department of Labor characterized affirmative action as part of an employer's larger obligation not to discriminate. This confusion between nondiscrimination and affirmative action has promoted a system in which discrimination is being institutionalized under the guise of a nondiscrimination program.

Under the present bureaucratic formulation, affirmative action is, in reality, affirmative discrimination. Within the academic community it has created a system of reverse discrimination. Affirmative action quotas and goals inescapably produce a situation where discrimination is commonplace. Edward Levi, former U.S. Attorney General and past President of the University of Chicago, rejected HEW's claims that the goals it repeatedly imposes are different than numerical quotas. He said, "The country has been on a program where affirmative action, requiring the statement of goals, is said with great profoundness not to be the setting of quotas. But, it is the setting of quotas."

Similarly, the Supreme Court in its Bakke decision had semantic arguments concerning whether the activity of the University of California amounted to a quota or a goal. The Court said: ". . . the parties fight a sharp preliminary action over the proper characterization of the special admissions program. Petitioner prefers to view it as establishing a "goal" of minority representation in the medical school. Respondent, echoing the courts below, labels it a racial quota.

This semantic distinction is beside the point: the special admissions program is undeniably a classification based on race and ethnic background. To the extent that there existed a pool of at least minimally qualified minority applicants to fill the 16 special admissions seats, white applicants could compete only for 84 seats in the entering class, rather than the 100 open to minority applicants. Whether this limitation is described as a quota or a goal, it is a line drawn on the basis of race and ethnic status.

The guarantees of the Fourteenth Amendment extend to persons. Its language is explicit: "No state shall . . . deny to any person within its jurisdiction the equal protection of the laws." It is settled beyond question that the "rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. They are personal rights. "Shelley v. Kraemer, supra, at 22. Accord, Missouri ex rel. Gaines v. Canada, supra at 351; McCabe v. Atchison, T. & S. F. R. Co., 235 U.S. 151, 161–162 (1914). The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal."

Earlier this year HEW Secretary Califano threatened to terminate millions of dollars of Federal assistance to the University of North Carolina if the University refused to agree to a new HEW plan which some educators believed mandated the use of racial quotas in university admissions. This marked the latest development in a 12 year pattern of increasing Federal control over the higher education system of the State of North Carolina. The far-reaching effects of these guidelines threatens to change the fundamental character of higher education in North Carolina and the five other states affected by the court order. Clearly, it threatens to make them different from post-secondary systems in all other parts of the country.

The University of North Carolina has sought to implement programs and planning decisions which make each institution of higher education, whether predominantly black or predominantly white, attractive to students on a basis other than race. University officials have sought to maximize each student's freedom of choice in attending an institution and in so doing to make that choice a meaningful one.

Under its present desegregation plan, the University of North Carolina has done an excellent job in dealing with the problems associated with its former dual education system. University officials have taken affirmative steps to increase the number of black students at historically white institutions. For example, in 1973, only 18 percent of the black students in the University of North Carolina system were attending white institutions. By 1976, over one-fourth of the black students attending college were doing so at such schools.

While recent surveys show that there is a difference in the academic standing of black and white applicants admitted to the various institutions within the public university system, that difference has not weakened

the educational standards of the university. In the fall of 1974, the University of North Carolina at Chapel Hill accepted 65 percent of the black applicants who applied, while accepting only 45 percent of the white applicants. The average score on the scholastic aptitude test—SAT—for the black applicants was 887 while the average SAT score for white applicants who were accepted was 1,152.

In 1974, the last year for which figures are available, the SAT averages for freshmen at the predominantly white schools were as follows:

Institution:	White	Black
UNC-Chapel Hill	1,052	887
NC State U	1,044	853
UNC-Greensboro	992	885
East Carolina U	900	746
UNC-Charlotte	963	826
Pembroke State U	771	714
UNC-Asheville	944	697
UNC-Wilmington	915	750

(Statistics were not available for Appalachian State University or Western Carolina University.)

Although precise figures for last year's freshman class are not yet available, university officials report that the academic credentials of black applicants granted admission were still lower than their white counterparts.

North Carolina's efforts during these years has dismantled a dual system of higher education with a minimum disruption of the existing institutions and a minimum adverse impact to their students. Many factors affect a student's selection of a college; including peer pressure, parental preferences, familiar ties with particular institutions, financial considerations, academic and athletic programs. Significant progress has been made in promoting each student's freedom of choice in obtaining a college education free from racial considerations.

It is the understanding of the Senator from North Carolina that if the new HEW plan to be implemented at the University of North Carolina results in an admissions plan at any of the institutions within the Greater University of North Carolina which falls within the activity prohibited by the Bakke decision—whether it is referred to as a goal, ratio or quota—that it would be within the meaning of the amendment we are presently considering. This certainly is the intent of this Senator in submitting the amendment.

In closing, I would like to share part of an open letter to President Carter, sponsored recently by the Committee on Academic Nondiscrimination and Integrity. In it, over 40 prominent educators describe quotas and preferential treatment as illegal, unconstitutional and short-sighted.

The signers of the letter include Dr. Sidney Hook, of the Hoover Institution, Professor Nathan Glazer, of Harvard University, Professor Valerie Earle of Georgetown, Professor Eugene Rostow of the Yale Law School, Professor Maurice Rosenberg of Columbia Law School, Professor Paul Seabury of the University of California at Berkeley, and Professor Allan Ornstein of the University of Chicago. The letter reads in part as follows:

"Dear Mr. President:

"According to *The New York Times* of March 18, 1977, Secretary Califano of H.E.W. has enthusiastically endorsed racial and sexual discrimination which we believe to be unjust and illegal. In offering his support to racial quotas and preferential policies in hiring and admissions, your Secretary has bid defiance to the Civil Rights Act of 1964, to Executive Order 11246, to the Equal Protection Clause of the Constitution of the United States as interpreted consistently by the Supreme Court, and to basic principles of civil rights . . .

"Many of us have long felt that the so-called 'goals and timetables' programs were in reality discriminatory quota programs, masked to conceal their illegality. We owe Secretary Califano thanks for the candor with which he announces his support for racial and sexual discrimination. But candor cannot atone for flagrant defiance of law, . . . In one stroke, Secretary Califano proposes to arrogate to himself the power to determine who shall and who shall not enjoy equality of opportunity in our country, and reduces the Constitutional rights of all citizens to privileges bestowed at the caprice of government . . .

"We note with dismay Secretary Califano's justification of discrimination, namely that it "works." Of course, discrimination "works." It benefits the favored groups and damages the others . . . But let us assure you as educators, Mr. President, that discrimination has never and will never work to produce the best possible education for all Americans, and let us assure you as citizens that it has always worked to destroy justice and fairness and has always created cynicism, conflict and more discrimination . . ."

Mr. MAGNUSON. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. Will Members please clear the well and the aisles?

Mr. MAGNUSON. Mr. President, this is an amendment which is somewhat complicated—not particularly the amendment itself but the whole subject is a little bit complicated since the Bakke decision and things of that kind.

The House has in the bill the so-called Walker amendment which addresses itself to this particular matter.

The amendment suggested on behalf of Senator HELMS by the Senator from California is consistent with section 408 of the education amendments of 1976. This legislation now prohibits the Secretary from imposing quotas on admission policies and practices of institutions of higher education.

I personally am reluctant to agree with quotas. I do not think that is quite the right way to do things.

There has been a lot of discussion on just what the Bakke decision means, but I think it did deal with the quota system, in sort of an indirect way.

However, this amendment does not prohibit affirmative action guidelines as they are applied in most institutions. An inflexible quota system, however, I do not think is a proper way to carry out affirmative action goals.

The House has the Walker amendment which we will have to discuss in conference. If my colleague from Maryland will agree with me offhand, we might be able to accept the amendment.

Mr. MATHIAS. If the Senator will yield, I find myself in substantial agreement with my chairman. As I read this amendment and as I would view it, it will not prevent the appropriate administrative or legislative, or even judicial, bodies from dealing with and finding remedies to the effect of past discriminatory practices. I believe the chairman is exactly right when he says it does not conflict with the decision of the Supreme Court in the Bakke case which explicitly preserved the use of remedial classifications based on race or national origin or sex, as long as those classifications are established for the purpose of overcoming past discrimination.

I think we have to understand that as we consider this amendment.

As far as I can see it, this amendment goes no further than the provision which is already in the law as section 408 of the Education Amendments of 1976. So since it is, in effect, a restatement of the law, it seems to me there should not be substantial objection to it.

Mr. MAGNUSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HAYAKAWA. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HAYAKAWA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3559

(Purpose: To prohibit use of funds for expenses of the National Commission on the International Year of the Child, 1979)

Mr. BARTLETT. Mr. President, I call up amendment No. 3559 which was to be proposed by Senator HELMS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT), for Mr. HELMS, proposes an amendment numbered 3559:

On page 53, insert the following between lines 9 and 10:

SEC. 410. None of the funds appropriated under this Act may be used for expenses or activities of the National Commission on the International Year of the Child, 1979.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the remarks that would have been made by the distinguished Senator from North Carolina (Mr. HELMS) if he were present be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HELMS

Mr. President, earlier this month when the Senate considered the Foreign Assistance and Related Programs Appropriation Bill, 1979, it agreed with the Appropriations Committee recommendation that no funds be appropriated for the activities of the United Nations sponsored International Year of the Child. Instead it requested that existing U.N. agencies take into account the objectives of the International Year of the Child in their programs. The Committee report stated:

"The Administration has requested an appropriation of $1 million for the International Year of the Child. This request represents nearly 25 percent of the $4.3 million which is proposed for this purpose. While the Committee is sympathetic with the general ideas being expressed with reference to the International Year of the Child, that is, the promotion of a 'framework for advocacy on behalf of children and for enhancing the awareness of the special needs of children on the part of decision-makers and the public', it does not agree with the proposition that the way to do this is by creating another international bureaucracy with secretariats in

New York and Geneva. The requested funds would be used to support staffs of 23 in New York and 17 in Geneva. The Committee recommends against this request. Instead, the Committee strongly suggests that existing UN Agencies take into account the general objectives of the IYC in their programs."

Mr. President, such a national commission may also obtain funds and assistance through a method other than direct appropriation.

In general, unless otherwise authorized by law, transfers of funds between government agencies and instrumentalities are prohibited by 31 U.S.C. 628 which provides:

"Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others."

The general statutory authority allowing for interagency agreements or contracts involving transfer of funds is found in 31 U.S.C. 686, popularly known as section 601 of the Economy Act of 1932. Section 601 provides, in part:

"(a) Any executive department of independent establishment of the Government, or any bureau or office thereof, if funds are available therefor and if it is determined by the head of such executive department, establishment, bureau, or office to be in the interest of the Government so to do, may place orders with any other such department, establishment, bureau, or office for materials, supplies, equipment, work, or services, of any kind that such requisitioned Federal agency may be in a position to supply or equipped to render, and shall pay promptly by check to such Federal agency as may be requisitioned, upon its written request, either in advance or upon the furnishing or performance thereof, all or part of the estimated or actual cost thereof as determined by such department, establishment, bureau, or office as may be requisitioned; * * *."

Section 601 requires as a precondition that the department requiring the service must have the available funds. In addition, interagency agreements to transfer funds may be entered into apart from 31 U.S.C. 686, where specific independent statutory authority for the transaction exists.

Last year, the Comptroller General of the United States reported that another commission established to participate in the activities of the United Nations, the National Commission on the Observance of International Women's Year, improperly received funds from governmental agencies. The General Accounting Office reported that: "For fiscal years 1975 and 1976, six Federal agencies, without proper legal authority, provided the Commission with $245,000."

Mr. President, the purpose of my amendment is to make clear that there are no funds appropriated under this legislation to be used or transfererd to the National Commission on the International Year of the Child. Furthermore, that it is the intent of the Senate in passing this legislation that should the National Commission seek to use taxpayers' funds to pay for part or all of its activities that the Commission will seek a direct appropriation from the Congress. While Executive Order 12053 may authorize the Commission to seek services and funds from other agencies "to the extent permitted by law", the Senate's passage of this amendment would indicate that the Departments of Labor and Health, Education and Welfare should be exempted from that authorization.

Mr. President, what is the alternative to government funding of the activities of the United States in participating in the International Year of the Child? The answer is suggested in a recent telegram I received from a committee which has for some time participated in the activities of the International Year of the Child. In closing I commend this committee's recommendations to my colleagues. In part it states as follows:

As you know the Senate Appropriations Committee has refused to fund the requested amount of $1 million to promote the International Year of the Child and fund the large bureaucracy for the UN–New York and Geneva staff.

As a non governmental observer to the United Nations and a Member of the International Committee for the Year of the Child we applaud this Senate action.

As currently constituted both the national and international commission for the year of the child are vehicles for the cause of the professional "child advocate" and not the rights of the natural parents or the child. UNICEF—the executing agency for the IYC refuses to defend the right to life of preborn children. UNICEF is currently circulating various child's rights publications including publications which promote sexual freedom and abortion for minor children.

Hasn't this nation had enough of national and international commissions? Why not let NGO organizations such as the US Coalition for Life carry out on a voluntary basis activities related to the IYC which it thinks appropriate and keep tax dollars out. This will give us a better chance to defend children's and parental rights and responsibilities during the Year of the Child.

Mr. BARTLETT. Mr. President, I understand this amendment is acceptable to the floor managers.

Mr. MAGNUSON. Mr. President, as far as I am concerned, it is acceptable. There are actually no funds in this bill for the Commission anyway. It has not been authorized. We would be glad to take it. It might be authorized before we get through, or it might serve the purpose of discussion.

Mr. MATHIAS. Mr. President, if the manager will yield, I personally oppose the amendment, which is offered by the distinguished Senator from Oklahoma on behalf of the senior Senator from North Carolina because, in fact, I am a member of the National Commission on the International Year of the Child, appointed by the President of the Senate. So I feel constrained to strongly support the Commission.

The Commission was created by Executive order of the President in April of 1978. Its purpose is to provide for the United States' participation in the International Year of the Child. Its duties include the planning and promotion of the observance of the International Year of the Child within this country with an eye toward fostering a better understanding of the special needs of our children.

As my colleagues know, the International Year of the Child, 1979, was declared by the United Nation's General Assembly. It is intended to be a year in which all nations of the world will focus on the particular needs and problems of their own children with the ultimate goal of finding remedies and solutions. The year is not going to be marked by an international meeting. Instead, it is a year of action in which each country will be encouraged to focus on its children solely, with a special emphasis on involving all of its citizens in that work. There are 144 nations participating in the International Year of the Child through national commissions or some other kind of leadership body.

Mr. President, because the life of the National Commission on the International Year of the Child, 1979, is intended to be for longer than 1 year, the Congress had to provide for its creation by legislation. The bill to create the National Commission was considered and reported favorably to the Senate by the Foreign Relations Committee, and was then added as an amendment to the Elementary and Secondary Education Act amendments on the floor of the Senate. This amendment, as passed, creates the Commission, authorizes an appropriation, and allows other agencies of the Federal Government to provide assistance to the Commission in the form of funds and other services.

The amendment offered by the senior Senator from North Carolina would forbid the Department of Health, Education, and Welfare from providing funds to the Commission. It would prevent the one Department of the Government which is especially concerned with the well-being of our children from assisting the National Commission in its endeavor to stimulate the people of this country to focus on the needs of our children.

Mr. President, I ask unanimous consent that an impact statement concerning this proposed amendment be printed in the CONGRESSIONAL RECORD following my remarks. This statement, prepared by HEW points out the inconsistency of restricting the Department in this manner.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. I urge my colleagues to reject the amendment and thereby to register, once again, their approval of this Commission and of the participation of the United States in this most important year.

At the same time, Mr. President, my leader and chairman is right, there is no money here, so I am not disposed to press my opposition at this point because it is really arguing over a moot question.

EXHIBIT 1

EFFECT OF AMENDMENT NO. 3559 INTENDED TO BE PROPOSED BY MR. HELMS TO H.R. 12929

Section 410. None of the funds appropriated under this Act may be used for expenses or activities of the National Commission on International Year of the Child, 1979.

The proposed amendment would have a direct effect on the ability of HEW to aid the National Commission by providing funds and personnel to the Commission. The Department is providing $250,000 out of FY 1978 funds to the Commission to assist it in the development of its activities for Year of the Child.

One of the missions of the Department of Health, Education, and Welfare is to provide federal aid to improve the lives of children through such programs as child health, Head Start, elementary and secondary education, social services, and child abuse prevention and treatment. The National Commission on International Year of the Child is planning to complement those ongoing efforts by enhancing public awareness of the needs of children, encouraging agencies to develop new projects for children, and disseminating information about ongoing federal activities.

The ability of HEW to furnish services and funds and to detail personnel to the Com-

mission is an integral part of our efforts to promote the International Year of the Child.

The PRESIDING OFFICER (Mr. METZENBAUM). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, we are moving along here very well. There are three important amendments left which I have listed. We always have the noncontroversial ones last, but these, of course, are not that.

Mr. President, in the bill is the so-called Eagleton-Biden amendment which prohibits the use of Federal funds for busing under certain circumstances. The Senator from Massachusetts, I understand, is going to move to strike that amendment. So we will have a discussion on that.

Then an old friend is back here on the bill, friend or foe, whichever way you want to look at it, the abortion matter. I understand the Senator from Pennsylvania wants to either make some remarks or probably move to change the language in the bill. Neither Senator is in the Chamber at this time.

The PRESIDING OFFICER. Are there further amendments?

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators who have amendments would come to the floor now and call them up. We are doing very well at this moment, but there are no Senators present to call up amendments. The distinguished Senator from Washington has indicated that these two or three major motions or amendments are to be offered. It is the hope of the leadership and the chairman, who is part of the leadership, that we finish action on this bill before the day is over.

Mr. MAGNUSON. I believe we can. We can move fast and get it done. I do not know of any others remaining.

Mr. MATHIAS. I might say to the majority leader that if the Senator from Washington keeps up the track record he has been setting in the last 24 hours, we will meet the goal without any difficulty whatsoever.

Mr. ROBERT C. BYRD. I thank the Senator. I hope we can get Senators over here to call up their amendments.

Mr. HATCH. If the Senator will yield, Senators are working to see if we can get certain other amendments accepted.

Mr. ROBERT C. BYRD. I understood that two of the amendments the Senator is talking about have just been accepted.

Mr. HATCH. That is true, but I am thinking about other amendments here. I understand those two have been, but there are many other amendments. I am willing to have staff sit down and I think we can resolve the problems and maybe not have to call up any.

Mr. ROBERT C. BYRD. Will the Senator call up one of his amendments right now?

Mr. HATCH. I cannot right now, because I do not know which ones they are going to accept and which ones they are not. They have had them for 3 hours.

Mr. ROBERT C. BYRD. The staff is available to help the Senator to respond to that question.

Mr. MAGNUSON. If the Senator has amendments, why not bring them up now?

Mr. HATCH. Well, because the staff has them.

Mr. MAGNUSON. We vote on the amendments, not the staff.

Mr. HATCH. I understand, but they are waiting to discuss them with the Senator and see if he can accept them.

Mr. MAGNUSON. The staff is here to help us move them along.

Mr. HATCH. This is the way we do that, by having the staff discuss them with the Senators.

Mr. MAGNUSON. If the Senator will present his amendments, I can tell him very quickly whether I will accept them or not.

Mr. HATCH. If the Senator will take a few minutes with the staff, they will run them by him. The Senator has been very busy here.

Mr. MAGNUSON. Mr. President, I yield for a minute to the Senator from Kentucky.

Mr. HUDDLESTON. I thank the Senator from Washington.

Mr. President, there are several categories of this legislation that I have had a discussion with the floor manager on and he has agreed to a colloquy on them.

Mr. President, under several categories of this legislation, money is provided for education on the potential dangers of smoking and for research on health-related aspects of tobacco and smoking.

I, for one, have never opposed reasonable and fair-minded efforts to educate the public—and especially children—on potential dangers to their health. That is a responsibility of Government.

However, I do not believe our efforts in any field should be concentrated on one such health hazard to the exclusion or detriment of equally serious problems. I also believe that is the intention of the members of the subcommittee which handled the bill.

Let me address the health education program of the Center for Disease Control (CDC). The House bill contains $12,560,000 for this program; the Senate committee version, $15 million. The directives in the two reports are, however, quite different. The House report indicates that the funds should be used to support a broad range of subjects, including information on child care, family life, human development, disease prevention, physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health and management of chronic disease, including diabetes, arthritis, venereal disease, obesity, and hypertension. Indeed, these are the diseases which the authorization language in Public Law 94-317 refers to.

The Senate report, on the other hand, speaks of little other than smoking education programs. Indeed, little more than lip service is paid to these other vital programs.

Surely it is not the intention of the managers of the bill that the smoking education program should take precedence over these other programs—or that efforts in this regard take away from those programs. Would the managers of the bill agree that this is the case, and that these programs should be supported equally?

Mr. MAGNUSON. The Senator is correct. All of these programs are vitally important. There is a strong interest in the committee in smoking education. Certainly the committee does not intend to slight programs dealing with drug abuse, alcoholism, mental health, diabetes, and arthritis.

Mr. HUDDLESTON. Second, the budget request for the National Institute of Child Health and Human Development included $4 million for research on smoking and health. The House rejected this particular request and recommended instead that funds be focused on investigator initiated research and that projects identified as high priority ones through the peer review system be funded. Since we utilize peer review, at least in part, in order to allow those with expertise to identify the priority fields and to depoliticize grants, I would hope that the Senate committee would agree with the House that nothing in this bill is intended to negate the peer review system.

Mr. MAGNUSON. Again, the Senator is correct. The peer review system is a good one, and we do not intend to circumvent it. I recognize that the House sees this particular item differently, and we will work with the House conferees to come up with language that is mutually acceptable. I do not see this as an insurmountable problem, nor do I view our position as inflexible.

Mr. HUDDLESTON. Third, under the health information/promotion program of the Assistant Secretary for Health, the House recommended the budget request of $1.4 million and the Senate committee recommendation is $6 million. The House report refers to the fact that various health education and promotion programs are to be coordinated through a new arrangement under the Assistant Secretary for Health, but the Senate report talks as if there is to be little here but smoking and health programs. In a department as large as HEW, I would think that coordination activities would be more comprehensive than the Senate language suggests. There is no intention, is there, on the part of the Senate committee to limit these coordination activities to smoking and health programs?

Mr. MAGNUSON. Certainly not. These funds would be used to coordinate a variety of health education and promotion programs, only one of which is smoking education. The increase over the House is for smoking education programs for children in schools. So the Senator is correct.

Mr. HUDDLESTON. Finally, I would note that under several of the National Institutes of Health, the Senate report indicates that the committee "expects" a "portion" of the funds to be used for re-

search on smoking and disease. I certainly have no objection to legitimate research; indeed, I have fought for research funds for health-related production research. I would only hope that the committee is suggesting legitimate and valuable research projects identified through the usual procedures are the ones that will be funded, not that the Institutes should direct all or even an undue portion to one particular area of research. As I understand it, smoking education is only one of many programs to be funded and by directing a "portion" to this area it is not intended that other worthwhile programs be neglected. Am I correct?

Mr. MAGNUSON. Yes, that is indeed the case. I think the Senator knows that there are several members of the Labor-HEW Subcommittee who have very strong feelings about smoking and health, and that is the reason why some of these additions have been made.

But again, we are only directing that some portion of the funds—not all or even the major portion thereof—be used for smoking education.

Once again, I recognize that the House took a somewhat different tack on some of these issues, and we will work with the House to develop a reasonable and fair compromise.

I hope the Senator will accept my assurances in this area and not offer any amendments because my subcommittee members have strong feelings in this area and we would have to strongly oppose any amendments.

But the Senator can rest assured that we will go to the conference with an open mind, and with a willingness to work with the House conferees.

We do not have a closed mind.

Mr. HUDDLESTON. In closing, let me thank the bill managers for the assurances they have given me. As I said, I have no objection to a reasonable smoking education program. But I do have a concern that we do not undertake such programs to the detriment and exclusion of other worthwhile programs. I, for one, have a special concern for health education programs as they relate to various occupational-related diseases.

The assurances you have given me in these program areas are extremely helpful. And while I cannot speak for other members of the Appropriations Committee, I know that I have spoken with several who share my concern.

We do not object to smoking education per se, but we believe that this is only one of many important health education programs included in this budget, and that the former should not be allowed to harm the latter.

And I know that some of the House conferees, particularly my colleague from Kentucky (Mr. NATCHER), share the concerns I have expressed about emphasizing one program at the expense of others, and I know that you will work with Mr. NATCHER to arrive at reasonable compromises that will not result in program imbalance or damage to the established, regular procedures of the agencies involved.

Mr. MATHIAS. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. That is a very good observation. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3651

(Purpose: To establish a ceiling for employment of full-time permanent dental research technicians)

AMENDMENT NO. 3652

(Purpose: To include neuromuscular diseases under title IV of the Act)

AMENDMENT NO. 3653

(Purpose: To establish a ceiling for employment of full-time permanent neurological health research personnel under title IV of the Act).

AMENDMENT NO. 3655

(Purpose: To delete provisions for the insurance of official motor vehicles by the Center for Disease Control)

UP AMENDMENT NO. 1934

(Purpose: To include retinopathy caused by histoplasmosis under title IV of the Act)

Mr. HATCH. Mr. President, I send five amendments to the desk and ask for immediate consideration of all five of them.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the amendments be considered en bloc?

Mr. HATCH. I ask unanimous consent that the amendments be considered en bloc.

Mr. MATHIAS. Reserving the right to object, Mr. President, may be advised as to what they are?

Mr. HATCH. Each one of these amendments considers a specific aid to a specific problem. I do not have copies of them. I shall have to ask for them back.

Mr. MATHIAS. Will the Senator describe them? I have no idea what they are.

Mr. HATCH. If I can get a copy back—Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair suggests that the clerk state the amendments, then all Members of the Senate will be apprised of the contents of the amendments.

Mr. HATCH. I shall withhold my request for a quorum.

The PRESIDING OFFICER. The clerk will state the amendments.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes amendments numbered 3651, 3652, 3653, 3655, and unprinted amendment No. 1934.

The amendments are as follows:

On page 12, line 21, after the word "including" and before "287" insert "and not to exceed".

On page 13, line 1, after "tism,", insert "neuromuscular diseases".

On page 13, line 14, after the word "including" and before "651", insert "and not to exceed".

On page 11, delete line 22, and on line 23, delete "tries;".

On page 14, line 9, after "visual disorders,", insert "including retinopathy caused by histoplasmosis".

Mr. MAGNUSON. I might say, Mr. President, while they are discussing this, three of those amendments deal with a sort of directive to the NIH to go into research in certain diseases in the Eye Institute and other institutes. They are doing it now anyway. The amendments do no harm; they do not change anything.

The other two amendments would place a ceiling limitation on the employment at HEW. This is already in the bill, anyway; we put a ceiling on it, anyway. Those two amendments just reiterate what we have done. In the interest of time, I think we could accept them.

The matters are all in the bill and taken care of, anyway.

Mr. HATCH. I might add that that is, I believe, true, but we want to make sure they are in the bill and that is why we are proposing them.

The PRESIDING OFFICER. Is there an objection to considering the amendments en bloc?

Mr. MATHIAS. Mr. President, reserving the right to object, I want to be perfectly clear about the purpose of the NIH amendments. NIH being located in Bethesda, Md., I have a little avuncular interest in it.

Mr. MAGNUSON. I helped found it, so I have an interest, too.

Mr. MATHIAS. The Senator has a grandfatherly interest, then.

In the committee report, we say that the establishment of these minimum ceilings is not to be construed as mandating that employment be maintained at these levels when efficiency and effective program management would dictate a lower level, and so forth.

All I am asking the chairman is, so that not only is the Senate clear on what it is doing, but so that those who try to interpret and decipher what we have done in the future will be clear, there is nothing in these amendments which is contrary to what the committee has already done; is there?

Mr. MAGNUSON. No. We merely tell them again not to practice Parkinson's law.

Mr. MATHIAS. Well, in all fairness, they do pretty well out there at NIH.

Mr. MAGNUSON. They do very well. They are efficient and effective and make a great national contribution.

The Senator is proud of them and I am proud of them, and we do not want to discourage them.

Mr. MAGNUSON. The committee has done marvelous work on employment. I might just say, last year local and State governments increased their employment 368,000 people. The Federal Government increased its employment 5,000 people. That is due to the action of the Appropriations Committees of these two bodies.

Mr. MATHIAS. I salute the chairman. That is a record.

With that assurance from the chairman, Mr. President, I would have no objection to the unanimous consent.

Mr. MAGNUSON. I might say, the other matters he calls attention to are matters that we have testimony on. They are trying, as much as they can, particularly in the eye institute they are doing more of that—I cannot pronounce the name.

Mr. MATHIAS. Retinopathy.

Mr. MAGNUSON. Yes. They are doing that work anyway.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Without objection, the amendments will be considered en bloc.

Mr. HATCH. It is my understanding the committee will accept these amendments.

Mr. MAGNUSON. I move their adoption.

Mr. HATCH. Then I move their adoption.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments were agreed to en bloc.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank the distinguished manager of the bill.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum again.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I yield to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I have a couple of questions to propound to the distinguished chairman and I will take these up topic by topic.

IMPACT AID

First, I would like to direct his attention to the subject of impact aid.

Mr. President, I wish to raise a concern about the committee report language to accompany the impact aid funding.

As you will recall, when the committee approved the reduction in impact aid payments, there was considerable discussion that this reduction not affect so-called "A" children, that is, children whose parents both live and work on Federal property. Yet, the report indicates a reduction of $37 million in this category of payment.

I would hope that the chairman will assure me that we will work in conference to clarify payment levels to "A" children, and make clear that any reductions agreed to on impact aid are not to be taken from payments to "A" children but from other categories of payments under the program.

Mr. MAGNUSON. The Senator from Missouri raises a good point. I would agree that the committee did not intend to reduce payments for "A" children, and I assure the Senator that we will clarify this point in conference, if it needs to be clarified.

We never did intend to include "A" children. That is really the most legitimate use of impacted aid funds.

Mr. EAGLETON. I see the distinguished Senator from Maryland is nodding affirmatively.

Mr. MATHIAS. Let me say to the Senator from Missouri, had my amendment passed this morning, his concern would not have existed. But since the amendment did not pass, I can assure him I will join with the distinguished chairman of the Appropriations Committee and we will make every effort to see the "A" children are not prejudiced in any way.

● Mr. BELLMON. Mr. President, the point that Senator EAGLETON is raising is very important. None of the Senators on appropriations wanted to reduce funding for "A" students.

When the impact aid reauthorization bill (S. 1753/H.R. 15—"The Education Amendments of 1978") was before the Senate, I offered an amendment which was overwhelmingly adopted, which was intended to give the Congress discretion in deciding the appropriate level of funding for the various components of the impact aid program.

I would like to take this opportunity to urge the Senate conference on the authorization bill to hold firm, so that in the future we can evaluate each part of this program on its merits, without having to deal with the appropriations-forcing provisions of the current law.●

Mr. EAGLETON. Mr. President, I have a second area I would like to discuss with the distinguished chairman, the subject matter being the Department of Labor's positions for enforcement of section 503 of the Rehabilitation Act.

Mr. President, I have received reports that the Department of Labor is dismantling its staff specifically trained to enforce section 503 of the Rehabilitation Act, prohibiting discrimination against the handicapped in Federal contracts.

The distinguished chairman, Senator MAGNUSON, has been concerned with this matter for some time. He will recall the committee report language in the fiscal year 1976 Labor-HEW appropriations bill which read as follows:

> The committee directs the Department to expedite filling the 75 positions included for activities under section 503 of the Rehabilitation Act . . . prior to next year's hearings the Department is directed to provide the committee with a complete report on the status of these positions, as well as the progress being made to carry out the mandate imposed by section 503 of the Rehabilitation Act.

I believe it is important to follow through on our earlier directives, and again our intent that the Department maintain the positions and level of activities to insure that there is not discrimination against the handicapped in Federal contracts.

Mr. MAGNUSON. I completely concur with my colleague. My colleague from Missouri brought this matter up, I believe, in the hearings. He handled most of the hearings on the Department of Labor and did such a good job. I remember we did have something to say about it.

I am a little bit distressed that the Department of Labor is not following out what we suggested, which the Senator read in that report language.

I want to state that it has been and continues to be the intent of the committee that the department maintain staff specializing in enforcement of the Rehabilitation Act.

Mr. EAGLETON. I thank the distinguished chairman.

If I may, Mr. President, I have one final area of inquiry, this pertaining to State advisory councils on vocational education.

STATE ADVISORY COUNCILS ON VOCATIONAL EDUCATION

It has recently come to my attention that the Missouri advisory council on vocational education is about to receive an 11-percent reduction in its funding for the coming fiscal year.

As my colleagues will recall, the education amendments of 1976 increased the minimum funding level for these councils to $75,000. However, the funds appropriated in the fiscal year 1978 Labor-HEW appropriations bill—forward funding for fiscal year 1979—are insufficient to reflect this new required minimum. Thus, we now have a situation where 29 States are to be increased to the new minimum at the expense of 21 other States. I would be less than candid if I did not state that my interest in this matter is heightened by the fact that my own State of Missouri is one of the States facing a reduction in funds. But I believe all Senators will agree that it was not our intent to raise the funding level for certain State councils on vocational education and, in so doing, cut back funds from other State councils. I would also emphasize that we are talking about a relatively small sum of money—$206,000. That amount would restore the proposed reductions to the 21 State advisory councils on vocational education. I hope that my distinguished chairman will look closely at this matter and join me in urging the Department to reprogram funds or use discretionary funds, in effect, to "hold harmless" these States.

Mr. MAGNUSON. I appreciate the Senator from Missouri's concern. I note that the recommended funding in the bill before us does provide sufficient funds to reflect the increased minimum funding. I would not like to see some States receive increases at the expense of other States. I believe I speak for the entire committee when I say that the Department should definitely make necessary additional funds available, and they have enough money down there to do it.

Mr. EAGLETON. I thank the distinguished chairman.

BATTEN'S DISEASE

● Mr. HAYAKAWA. Mr. President, I would like to draw the attention of my

colleagues to funding included in the appropriations bill which is very important to me. The funding measure would provide $1 million per year for 5 years for research into Batten's Disease. I know of the Appropriations Committee's strong commitment to research in genetic diseases. I also know of the committee's reticence to include line-item appropriations for specific diseases. However, I believe that Batten's Disease is important enough to many people to be given special consideration.

Batten's disease is a neurological disorder which may have an incidence as high as 1 per 12,500 births, similar to other better known diseases such as Hungtongton's chorea. Batten's disease manifests itself in previously normal children at the approximate ages of 4 to 8 years and is characterized by a slow progression of clumsiness, stumbling, failure of vision, seizures, changes in personality, and dropping of scholastic grades. Eventually, this pattern of deterioration leaves them totally disabled and unable to care for themselves, and finally leads to death in the late teens or early twenties. These changes are quite similar to the changes that take place in all brains as they age; thus, effective treatment for Batten's Disease might very well delay the normal aging process.

Funds are included under the National Institutes of Health's National Institute of Neurological and Communicative Disorders and Stroke, to correct the imbalance of funds which have been available for research into Batten's disease and to help researchers through a crucial time. They now know what they have to do and how to do it, but they lack funding to proceed with the research. Funds must be available to perfect the diagnostic blood tests, better clarify the pathophysiology of the disease, help with genetic counseling, and initiate and evaluate therapy such as feeding or injecting peroxidase and/or various antioxidants.

Significant breakthroughs have been accomplished on limited funds, but in order to completely solve the disease, one must be realistic and have adequate Federal funding available. The amount of money targeted under the Labor/HEW appropriations bill for Batten's disease is modest compared to the funding for other diseases of similar incidence for which there are still no good prospects of cure as the prospects are for Batten's disease. The cost of care for each child is enormous and may be as high as $50,000 to $100,000 a year. Thus, 10 or 20 children such as these would cost much more per year than the funds included.

Research is the only way to solve this disease, and prevent the devastating tragedy in families who have children so afflicted and effect a tremendous savings to society as a whole. Also, the possible spinoff in enabling us to alter the aging process or senility in all human makes the value of this research unlimited.

Thank you.●

● Mr. CRANSTON: I have a question concerning the funds appropriated in this bill for carrying out the supplemental security income (SSI) program under title XVI of the Social Security Act. Are these funds available for the payments that will be authorized to be made to SSI recipients under H.R. 1337?

I am referring to the provisions of H.R. 1337 that would amend section 8(d) of Public Law 93–233 to authorize cash payments under title XVI to certain SSI recipients in lieu of food stamps. This provision of H.R. 1337 is clearly a provision for carrying out the SSI program under title XVI of the Social Security Act; and, therefore, funds appropriated in this bill for title XVI should be available for these payments to certain SSI recipients. Is this correct?

Mr. MAGNUSON. Yes.●

● Mr. CRANSTON. Mr. President, the Appropriations Committee under the able leadership of the distinguished Senator from Washington (Mr. MAGNUSON) has once more done a fine job in developing the Labor/HEW appropriations measure.

I would like to comment briefly on a few matters discussed in the Senate committee report accompanying the bill.

STAFF POSITIONS

First, I am delighted that the committee made such a strong statement on the need for adequate staff to administer HEW programs efficiently and properly.

Two of the programs that have been severely hampered by a lack of adequate personnel in the past are the National Institute on Aging and the Division of Emergency Medical Services. I had expressed, to the distinguished chairman of the Appropriations Committee (Mr. MAGNUSON) earlier this year, my keen interest in seeing that these two programs had sufficient staff to carry out the very important mission each is given. So I am in total agreement with the recommendations made in the committee report for an additional 30 positions for the Division of Emergency Medical Services, and for an additional 40 positions for the National Institute on Aging.

With these additional staff positions, I am convinced that the Division of Emergency Medical Services and the National Institute on Aging will be able to carry out their programs far more effectively and at the level mandated by Congress.

I would like to point out, Mr. President, that the committee was very cognizant of the fact that staff positions are to be carefully controlled and their need evaluated. The committee deleted funding for two programs in the Office of the Assistant Secretary for Health—the health practices assessment and the special initiatives programs.

The budget request always has included the funding for the position of the deputy assistant secretary for Population Affairs and the staff of the Office of Population Affairs in the request for funding for the special initiatives program. To clarify that the committee did not intend specifically to delete funding for these positions, the committee pointed out, on page 82 of the committee report, that "The Secretary shall draw from this large pool of positions (400 positions in the Office of the Assistant Secretary for Health) for any legislatively mandated positions as priorities permit."

Mr. President, among the legislatively mandated positions in the Office of the Assistant Secretary for Health are those of the Deputy Assistant Secretary for Population Affairs (DASPA) and the staff of the Office of Population Affairs. The language in the Senate committee report which I just quoted makes clear the congressional intent that the DASPA, which is a position established by Public Law 91–572, and staff for the Office of Population Affairs, which he directs, pursuant to Public Law 91–572 and for which that public law directs the Secretary "to provide such full-time professional and clerical staff and the services of such consultants as may be necessary for it to carry out its duties and functions," are to be funded.

Mr. President, as chairman of the Subcommittee on Child and Human Development of the Human Resources Committee, I have followed closely the functioning of the DASPA and the Office of Population Affairs. In hearings this year on legislation to extend the authorities of title X of the Public Health Service Act, population research and voluntary family planning programs, considerable attention was focused on the responsibilities of the DASPA and the Office of Population Affairs. The committee's findings on this matter were set forth in some detail in the committee report accompanying S. 2522, the "Voluntary Family Planning Services, Population Research, and Sudden Infant Death Syndrome Amendments of 1978." I shall submit for the RECORD excerpts from both reports—Nos. 95–1119 and 95–822—at the close of my remarks.

Mr. President, I would like to mention at this point, my full agreement with Secretary Califano's decision to appoint Dr. Irvin Cushner as Deputy Assistant Secretary for Population Affairs. Dr. Cushner has an outstanding background which makes him remarkably suited to carry out the responsibilities of that position. I am confident he will provide the leadership and direction to family planning, population research, and reproductive health programs administered by the Department that was envisioned by Public Law 91–572 when the position of Deputy Assistant Secretary for Population Affairs was established.

The excerpts follow:

EXCERPT FROM SENATE COMMITTEE REPORT NO. 95–1119, H.R. 12929, DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL, 1979

The Committee has deleted funding for both the Health Practices Assessment and Special Initiatives programs. It is felt very strongly that the proliferation of special interest projects within the Office of the Assistant Secretary for Health has become burdensome and counter-productive. It is noted that throughout the Public Health Service, there are literally thousands of employees who deal with the many "special offices" or advisors now in the ASH. The Committee sees no reason why these experts within the agencies cannot serve as advisors to the ASH. Further, these cuts will still leave the office with over 400 positions. The Secretary shall draw from this large pool of positions for any legislatively mandated positions as priorities permit.

EXCERPTS FROM SENATE COMMITTEE REPORT NO. 95-822 ON S. 2522, VOLUNTARY FAMILY PLANNING SERVICES, POPULATION RESEARCH, AND SUDDEN INFANT DEATH SYNDROME AMENDMENTS OF 1978

OFFICE OF POPULATION AFFAIRS AND DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

Many witnesses at the hearings urged that action be taken to reinstitute the position of Deputy Assistant Secretary for Population Affairs (DASPA) so that family planning and population research programs could be given the coordination and policy direction needed to make the most effective use of statutorily authorized program and Departmental resources.

Section 1001 of the committee bill includes provisions, with modifications of Public Law 91-572 establishing the Office of Population Affairs in the Department of Health, Education, and Welfare, and the position of Deputy Assistant Secretary for Population Affairs, describing the duties and functions of that position and Office. Although the organizational structure and line authority of responsibilities for carrying out family planning programs and population research activities were clearly set forth in Public Law 91-572, the Family Planning Services and Population Research Act of 1970, HEW's organizational and administrative arrangements have not always been consistent with the law or its underlying intent. Inclusion of these provisions in title X reasserts original congressional intent that there be a Deputy Assistant Secretary for Population Affairs who shall direct the activities of the Office of Population Affairs and administer the family planning programs and exercise general supervision over title X population research activities as well as coordinate and advise the Secretary on other Departmental programs relating to family planning and population research.

The committee bill directs that the DASPA shall be assigned no substantial functions or responsibilities not specified in part A or determined by the Assistant Secretary for Health to be necessary to carry out the purposes of part A. The committee was concerned by action taken in 1976 by the Secretary to appoint the Deputy Assistant Secretary for Population Affairs as the Administrator of the Health Services Administration. Adding such heavy responsibilities to those mandated by Public Law 91-572 to be carried out by the Deputy Assistant Secretary for Population Affairs, placed an extraordinary burden on one individual, diluted that individual's responsibilities to the family planning and population research programs, and diver ed that official's primary focus from coordinating and supervising those programs.

The committee was again concerned when it was proposed in 1977 to combine the duties of the Deputy Assistant Secretary for Population Affairs with those of the Deputy Assistant Secretary for Health Programs. The committee was pleased that the Assistant Secretary for Health, in his testimony, announced his intention to discard that proposal and reinstitute the DASPA position.

The committee believes that the responsibilities given the DASPA are of sufficient importance and size to warrant the full-time attention of the occupant of that position.

The interrelationships of programs authorized by part A of title X of the Public Health Service Act, by title V of the Social Security Act, and programs receiving assistance or reimbursement under the authorities of titles XIX and XX of the Social Security Act are many, and produce a particularly appropriate area for special focus by the Deputy Assistant Secretary for Population Affairs The committee notes with approval the assurances given by HEW witnesses that efforts are being made to achieve such coordination and that, where individual title X part A projects encounter difficulties in qualifying under medicaid or title XX programs, HEW regional staffs work with projects and State agencies on a case-by-case basis to overcome such difficulties. The committee stresses that this is an important area for the DASPA's involvement. By working with the appropriate officials in HEW and having jurisdiction over the title XIX and title XX programs the DASPA can play a particularly valuable role in assuring that policies followed in those programs are conducive to the most efficient administration of each of the programs.

The difficulties faced by many individuals, and particularly adolescents, in surmounting bureaucratic hurdles created by differing eligibility requirements in HEW programs were eloquently described by Dr. Loraine Henricks, of "The Door—A Center of Alternatives", a comprehensive health and social center for adolescents in New York City. Dr. Henricks stated:

Medicaid and welfare policies and practices are currently insurmountable barriers for many adolescents seeking health care. This is because of laws, regulations and practices which make it nearly impossible for a teenager to obtain medicaid or welfare, even when eligible and when pregnant. Health care programs are increasingly requiring proof of medicaid status prior to provision of services. We estimate that 80 percent of eligible teenagers under 18, and many under age 21, never attempt or never succeed in negotiating the medicaid application system. We strongly recommend easing access to medicaid for teenagers—including providing medicaid for teenagers independently of their family and their family medicaid card, easing regulations on documentation required for medicaid, establishing clearly that age is not a requirement, reducing the waiting period necessary to obtain medicaid, etc.

Efforts to remove such barriers should be undertaken by the DASPA as a priority matter in connection with the coordinative aspects of that Office.

The Committee bill also directs that the Office of Population Affairs be headed by a Director who shall be subject to the direct supervision of the Deputy Assistant Secretary for Population Affairs. The committee believes the duties of the Deputy Assistant Secretary are sufficiently demanding and complex to require a full-time director of the office to assist the DASPA in carrying out those responsibilities. The committee also believes that these duties and responsibilities are such that the DASPA should not be assigned any responsibilities not specified in part A or determined by the Assistant Secretary for Health to be necessary to carry out the purposes of part A.

The committee bill, recognizing the magnitude of the duties assigned the DASPA and the Office of Population Affairs, repeats the provision of Public Law 91-572 directing that the Office of Population Affairs be provided such full-time professional and clerical staff and the services of such consultants as may be necessary to carry out its duties and functions.

EXCERPTS FROM SECTION-BY-SECTION ANALYSIS

Subsection (a)(1) of new section 1001 establishes, within HEW, an Office of Population Affairs under the direction of a Deputy Assistant Secretary for Population Affairs. Provides that the Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary, shall be subject to direct supervision of the Assistant Secretary for Health, and shall be assigned no substantial functions or responsibilities not specified in Part A of title X or determined by the Assistant Secretary for Health to be necessary to carry out the purposes of part A.

New subsection (a)(2) provides that the Office of Population Affairs shall be headed by a Director subject to the direct supervision of the Deputy Assistant Secretary for Population Affairs, and requires the Secretary to provide the Office of Population Affairs with such full-time professional and clerical staff and with the services of such consultants and of such management and supporting staff as may be necessary for that Office to carry out effectively its functions under part A.

The provisions of subsection (a) are derived generally from section 3 of Public Law 91-572 which established the Office of Population Affairs and the position of Deputy Assistant Secretary for Population Affairs (DASPA) in HEW. Inclusion of these provisions in title X Part A reasserts original congressional intent that there be a Deputy Assistant Secretary for Population Affairs who shall direct the activities of the Office of Population Affairs, and, in addition, makes mandatory that that official shall not be assigned functions or responsibilities not specified in part A or determined by the Assistant Secretary for Health to be necessary to carry out the purposes of the part. The committee is concerned by actions taken in the past to assign the DASPA administrative responsibilities other than those specified by or necessary to Public Law 91-572, or to combine the functions of that position with those of another HEW position.

New subsection (b) provides that the Secretary shall utilize the DASPA as follows:

(1) to administer, directly through the Office of Population Affairs, all Federal laws for which the Secretary has administrative responsibility and which provide for or authorize the making of grants or contracts related to family planning programs;

(2) to be responsible for general supervision of and overall policy formulation with respect to all population and family planning research carried on or supported by HEW pursuant to part A;

(3) to provide for the coordinated operation of clearinghouse activities for information pertaining to domestic and international family planning programs and population research for use by all interested persons and public and private entities;

(4) to coordinate the support of training carried out within HEW for necessary personnel for domestic family planning programs, and for family planning and population research activities;

(5)(A) to coordinate and, through the Office of Population Affairs, be responsible for the evaluation of the other HEW programs (including activities relating to the development and dissemination of information and educational materials) related to family planning (including advising the Secretary and the Assistant Secretary for Health on the adequacy of the data systems with respect to family planning activities in such programs) and population research, and to make periodic recommendations to the Secretary regarding such programs and systems; (B) to consult with the Commissioner of the Food and Drug Administration on all matters related to the evaluation and regulation of drugs and devices to assist in fertility management; and (C) to advise the Secretary regarding appropriate relationships between projects and activities supported under part A and other health care programs administered by HEW, and the extent to which such programs are carried out consistent with the purposes of this part; and

(6) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to family planning programs and population research.

The subsection also provides that the administration of certain laws that provide for or authorize the making of grants or contracts related to family planning programs

which clause (1) of new section 1001 requires the Deputy Assistant Secretary for Population Affairs to carry out directly, may be exercised through a delegation of authority which is personally made by the person serving as Deputy Assistant Secretary to an employee of the HEW not operating in the Office of Population Affairs as long as that employee is subject to the direct supervision of the DASPA, and provides that no such delegation of authority shall be effective unless, not less than thirty days before it is proposed to take effect, it has been published in the Federal Register and a copy transmitted to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives.

The committee bill clarifies the duties of the Deputy Assistant Secretary for Population Affairs with respect to family planning and population research programs. Whereas current law directs the Secretary to utilize that official to administer all departmental programs which authorize grants or contracts related to population research and family planning programs, the committee bill provides that the Deputy Assistant Secretary shall be responsible for general supervision and overall policy formulation of population and family planning research. The DASPA's responsibilities with respect to family planning programs are unchanged, but it is clarified that those responsibilities shall be administered directly through the Office of Population Affairs. The committee bill provides that the DASPA may exercise the responsibilities of that office with respect to administering laws related to family planning programs through a specific delegation of authority made by the DASPA himself or herself.

The previous DASPA delegated his authority to administer the family planning programs to the National Center for Family Planning Services, and subsequent reorganizations of Public Health Service Programs resulted in two layers of management being imposed between the Deputy Assistant Secretary and the family planning programs. The committee is concerned that this administrative structure has resulted in an unnecessary and inappropriate subordination of the interests and objectives of family planning programs to other programs of the Public Health Service. By authorizing the delegation of family planning service authorities to an individual not in the Office of Population Affairs who is subject to the direct supervision of the DASPA, the direct line authority of the DASPA would be preserved and the responsibility of that office to coordinate those programs with other Department of Health, Education, and Welfare programs related to family planning would be facilitated.

The committee bill, in addition, modifies existing law to clarify that the DASPA is to coordinate the operation of clearinghouse activities for information pertaining to domestic and international family planning programs and population research. Current law provides that that official is "to act" as a clearinghouse for such information. The committee feels that a strict interpretation of existing law would place an onerous, unachievable, and unrealistic responsibility on that official, and the modified language more precisely states original congressional intent.

A comparable modification is made with respect to the DASPA's responsibilities in the area of personnel training for family planning programs and family planning and population research activities. Current law states that the DASPA is to provide or support training for necessary manpower for domestic programs of population research and family planning programs of service and research. The committee bill modifies that provision to state, as is the current practice, that the DASPA is to coordinate the support of such training.

The committee bill alters current language in section 3 of Public Law 91-572 with respect to the coordination and evaluation responsibilities of the DASPA with other HEW programs related to population research and family planning by specifying the types of activities intended to be covered. The committee bill specifies that these programs shall include activities relating to the development and dissemination of informational and educational materials, and shall include advising the Secretary and the Assistant Secretary for Health regarding the adequacy of data systems utilized in family planning activities. It reinforces original congressional intent by specifying that the DASPA is to advise the Secretary regarding appropriate relationships between title X projects and activities, and other health care programs administered by the Department, and to consult with the Commissioner of the Food and Drug Administration (FDA) on all matters related to the evaluation and regulation of drugs and devices to assist in fertility management.

The committee believes that the DASPA is in a unique position to consult with the FDA Commissioner on matters related to the evaluation and regulation of contraceptive drugs and devices. Because of the contraceptive research and evaluation conducted by the Center for Population Research, it is logical for the DASPA to seek to coordinate the activities of that center with the activities conducted by the FDA. An additional area in which such consultation should be particularly fruitful is the development of patient package inserts for contraceptive products.

It is understood, of course that this consultative role in no way lessens the responsibilities of the FDA Commissioner for decisionmaking under the Federal Food, Drug, and Cosmetic Act.●

Mr. ROBERT C. BYRD. Mr. President, I hope Senators will come to the floor. We have five Senators on the floor. This is the HEW appropriations bill, the second largest appropriations bill of the 13 regular appropriations bills. We cannot get Senators to the floor to call up their amendments and to make their motions.

Mr. MAGNUSON. I think the majority leader should name those Senators, so that they will be included when editorials are written stating that we were not on the floor.

Mr. ROBERT C. BYRD. The Senator might do that.

Mr. MAGNUSON. The Senator from Washington, the Senator from Maryland, the Senator from Missouri. That is all I see here.

Mr. ROBERT C. BYRD. Let us not do that.

Mr. MAGNUSON. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Shall we have third reading?

Mr. EAGLETON. Not instantly.

Mr. MATHIAS. If the majority leader would withhold that, I will make a unanimous-consent request, on behalf of the distinguished Senator from Texas (Mr. TOWER), that Cindy Root have the privilege of the floor during the proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. That is now up to 53.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader is going to attempt to get clearance for a unanimous-consent request. I am going to propound one, and I will suggest the absence of a quorum, without it being agreed to.

I ask unanimous consent that on the busing amendment there be a 1-hour time limitation. I understand from Mr. EAGLETON that that is agreeable with him.

Mr. MAGNUSON. It is agreeable to me.

Mr. ROBERT C. BYRD. Mr. BROOKE will offer the amendment, I believe.

That the time be equally divided; that there be a 1-hour time limitation on the amendment by Mr. SCHWEIKER, the abortion amendment. Both of these subjects have been discussed time and time again.

That there be a time limitation on any other amendment of 30 minutes; that there be a time limitation on the bill now remaining of 2 hours, to be equally divided between Mr. MAGNUSON——

Mr. MAGNUSON. We will not need 2 hours. I suggest 1 hour.

Mr. ROBERT C. BYRD. One hour, to be equally divided between Mr. MAGNUSON and Mr. MATHIAS or his designee, Mr. BROOKE.

Mr. EAGLETON. There may be a speaker or two on the busing amendment. Could we make it 40 minutes to a side?

Mr. ROBERT C. BYRD. Yes, 40 minutes to a side.

Mr. MATHIAS. If the majority leader has now propounded his unanimous-consent request——

Mr. ROBERT C. BYRD. Yes.

Mr. MATHIAS. With great respect, I will be unable at this time to agree to it because of the requests that are pending on our side. However, I will communicate with the minority leader, and we will see what can be done to meet the wishes of the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I do not withdraw the request at this time. I suggest the absence of a quorum. This may be one way to get Senators here to call up their amendments.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, we just cannot get anywhere on the HEW appropriations bill. We cannot seem to get Senators to come in and call up their amendments or their motions.

EXTENSION OF DEADLINE FOR THE RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I, therefore, move that the Senate proceed to the consideration of House Joint Resolution 638.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. MATHIAS. Mr. President, will the majority leader advise us as to the nature of that?

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER (Mr. METZENBAUM). The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to the consideration of H.J. Res. 638, a joint resolution extending the deadline for the ratification of the Equal Rights Amendment.

James Abourezk, John Glenn, John C. Culver, Paul S. Sarbanes, John A. Durkin, Harrison A. Williams, Jr., Edward M. Kennedy, Wendell R. Anderson, Edmund S. Muskie, Patrick J. Leahy, Donald W. Riegle, Jr., Muriel Humphrey, Jennings Randolph, Dick Clark, Birch Bayh, Howard M. Metzenbaum, Spark M. Matsunaga, Robert C. Byrd.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the motion to proceed.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 15 Leg.]

Baker	Eastland	Metzenbaum
Bayh	Hatch	Sarbanes
Biden	Magnuson	Schmitt
Byrd, Robert C.	Mathias	
Eagleton	McClure	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absentee Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The assistant legislative clerk called the roll.

(Mr. PELL assumed the Chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The yeas and nays resulted—yeas 86, nays 5, as follows:

[Rollcall Vote No. 415 Leg.]

YEAS—86

Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield, Paul G.	Pell
Brooke	Hathaway	Percy
Bumpers	Hayakawa	Proxmire
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Hodges	Ribicoff
Byrd, Robert C.	Humphrey	Riegle
Cannon	Inouye	Roth
Case	Jackson	Sarbanes
Chafee	Javits	Sasser
Chiles	Johnston	Schmitt
Church	Kennedy	Schweiker
Clark	Laxalt	Scott
Cranston	Leahy	Sparkman
Culver	Long	Stafford
Curtis	Lugar	Stennis
Danforth	Magnuson	Stevens
Dole	Mathias	Stone
Domenici	Matsunaga	Talmadge
Durkin	McGovern	Thurmond
Eagleton	McIntyre	Tower
Eastland	Melcher	Wallop
Ford	Metzenbaum	Williams
Garn	Morgan	Zorinsky
Glenn	Moynihan	

NAYS—5

DeConcini	Huddleston	Weicker
Goldwater	McClure	

NOT VOTING—9

Abourezk	Hatfield, Mark O.	Stevenson
Allen	Helms	Young
Anderson	Hollings	
Haskell		

The PRESIDING OFFICER. The motion is agreed to, and a quorum is present.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, will the Chair put the unanimous-consent request?

The PRESIDING OFFICER. There is pending an unanimous-consent request for the busing amendment to take 80 minutes, and an abortion amendment to take 1 hour——

Mr. HANSEN. Will the Chair restate the request?

The PRESIDING OFFICER. There is pending an unanimous-consent request for a busing amendment that would take 80 minutes, an abortion amendment that would take 1 hour, any other amendment would take 30 minutes, and the bill would be 1 hour divided between Senators MAGNUSON and MATHIAS.

SEVERAL SENATORS. Objection.

Mr. ROBERT C. BYRD. Who objected?

Mr. GOLDWATER. I objected.

SEVERAL SENATORS. I object.

Mr. ROBERT C. BYRD. We only need one. We are having double portions.

Mr. President, is Mr. BROOKE ready to call up his amendment? Maybe we could get an agreement on that amendment.

Mr. MAGNUSON. If the Senator will yield, as far as I know there are only two major amendments left. One is the busing amendment, the Eagleton-Biden language, which is in the bill. There will be a motion by the Senator from Massachusetts to delete it from the bill. That will be taken up next.

Then follows, I hope, the abortion amendment. Those are about all that I know of major importance. I do not think we need to take much time on the bill itself. We would not need 15 minutes to a side. I have nothing to say. I have talked for 2 days now from 9 o'clock in the morning until they let me go home at night. I am hopeful we can finish this bill.

This bill affects everybody in the United States. I am hoping we can finish it tonight. I do not think the Senator from Massachusetts will take too much time and neither will the Senator from Missouri nor the Senator from Delaware.

On the abortion thing, the Senator from Pennsylvania is now in a foreign aid conference. They will recess——

Mr. NELSON. Mr. President, may we have order so we can hear the Senator?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. He will be here to present his amendment on abortion.

I just wanted to tell the Senate what we have left. As far as I know, there have been scores of amendments and many, many rollcalls. I believe these are the only two left. I just hope we can finish this bill tonight. It is so important. Sunday night is the end of the fiscal year. We want the conference the following week because of the pay. If we do it within a week, the pay will still go on. Otherwise, it will stop the pay.

I am hopeful we will agree to some time limitations. If not, the sponsors of the amendments can perhaps get this done. We can get this done by 7:30 if everyone cooperates.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, it provides me with a great bit of displeasure to tell the distinguished chairman of the committee that in view of the circumstances of this moment, the legislative situation as I understand it, I think it is extremely unlikely that we will have any agreements on this bill at all. Let me recite for a minute, if I may, the state of affairs which causes me to make that statement.

Earlier today the record will disclose that there was a request by the distinguished majority leader to limit time on the remaining amendments on this bill.

At that time, I sought recognition to say that if the majority leader would withhold that request momentarily I would try to check with Members who were interested on our side of the aisle and see if we could get time limitations on the remaining amendments to this measure. They are not small amendments. They are important ones, they are controversial and important, dealing with abortion, busing, and other matters. I know of two busing amendments.

Pursuant to that conference, I asked the secretary to the minority and his assistant to go to the cloakroom on this side and try to check with Senators to see if it was possible to arrange and schedule the remaining amendments on

this bill so we could try to finish it. As it turns out, they completed the contact with seven Senators and were on the brink of getting an agreement on even such controversial measures as busing and abortion.

At that moment I was advised that the distinguished majority leader came to the floor, sought recognition, which he was entitled to do, and gained it by reason of the Chair's recognition of him and, of course, he is entitled to preferential recognition; that he made a motion then to proceed to the consideration of the ERA extension without any advance notice or warning to anyone at all, which is also his privilege. Then he filed a cloture motion against that motion.

All of those things are available to the majority leader under the rules and I have no criticism of him. This is his prerogative.

But by the same token, Mr. President, it is our responsibility on this side of the aisle to see that we do not rush in haste to enact matters that are inimical to our interests, to the interests of this country, and the positions of Senators on this side of the aisle.

The effect of that, then, was to chill our efforts to try to get time limitations. I rise to say, Mr. President, that in this view and under those circumstances, I think it is unlikely that we will have consent unanimously given to any request.

Mr. SARBANES addressed the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, if I could respond, the distinguished minority leader knows of my affection for him. I have many, many times, stated it on this floor. So I am sure that what he has said is in the spirit of friendship, as what I am about to say will be in the spirit of the same warm friendship toward him and toward my friends on the other side of the aisle.

On a number of occasions today, I have sought to get time agreements on this bill. We sought to get time agreements as far back as on Monday, when this bill was first called up, at 9:59 a.m. We have been unable to get a time agreement.

On Monday, the distinguished Senator from Utah, Mr. HATCH, indicated that he felt that he should call the distinguished Senator from North Carolina (Mr. HELMS), who has been hospitalized and who is now recuperating—at home, I believe—to see if Senator HELMS would be willing to enter into a time agreement on his amendments. That was a very reasonable request as far as I was concerned. So I did not press further on that evening for a time agreement.

Mr. HATCH told me this morning that he had called Senator HELMS and I had the impression from that discussion that, if the committee accepted two of the amendments which have now been accepted—two of the amendments that Mr. HELMS was interested in——

Mr. MAGNUSON. We accepted five.

Mr. ROBERT C. BYRD. I had the impression that Mr. HELMS would not call up his remaining 21 or 22 or 23 amendments.

Mr. HATCH. Will the Senator yield on that point?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. The Senator is correct. I called Mr. HELMS and he has tried to get here. I even offered to the distinguished majority leader that if Mr. HELMS could not arrive here and they did not agree to the two amendments he desired, I would be pleased to call up his other amendments to expedite this matter.

They did agree, Mr. HELMS said that he did not need to have the rest of his amendments called up.

Just about an hour ago, I called up five of my amendments and we considered them en bloc. The distinguished majority manager of the bill accepted those amendments. As far as I am concerned, we saved a lot of time as a result of the distinguished majority leader's desires and as a result of the efforts that we put forth.

That should clarify that matter.

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. Mr. President, the Senator from Utah did cooperate and we worked it out and that is behind us.

Mr. ROBERT C. BYRD. Yes.

So, as far as I know, the amendments that Mr. HELMS planned to call up are not going to be called up, because the two amendments he was especially interested in were accepted. Now, that leaves the abortion amendment and the busing amendment, and I presume that is all.

Mr. MAGNUSON. That is all.

Mr. ROBERT C. BYRD. There may be some other amendments that I do not know about, Mr. BARTLETT has called up his amendment and it was disposed of.

So I have attempted, time and time again, to get a time agreement on the busing amendment—we have all discussed it, pro and con, time and time again—and to get an agreement on the abortion amendment, sort of lump it all into one agreement, if we could get a time agreement worked out.

In the meantime, we have been trying to get amendments called up, but have been unable to get them. At one time, we had only six Senators on the floor. A lot of Senators are tied up in conferences with the House and that is understandable.

It is the desire of the leadership, and I have stated it more than once today, beginning early, to complete action on this bill today. The bill was called up on Monday at 9:59 a.m. There is no reason why action cannot be completed on this bill today. I realize there is a big Democratic function downtown tonight, but I am not going.

Mr. MAGNUSON. I cannot afford it.

Mr. ROBERT C. BYRD. Senator MAGNUSON says he cannot afford it. So it is my feeling and his that we ought to complete action on this bill today, because it is hoped that we can complete action on our workload and adjourn sine die by October 14. That is still the goal. If we have cooperation in getting time agreements, that can be done. But I have not seen much cooperation in that regard.

The distinguished minority leader says we should not act in haste, but I have not seen much haste. There has been very little haste on this floor in the last few days.

The foreign assistance appropriations bill was called up on last Thursday. An objection was entered to agreeing to the committee amendments en bloc, so the Senate was forced to take those committee amendments, quite a number of them—I suppose 35 or 40 or more—one by one—nothing in haste done—one by one, the committee amendments were disposed of.

That night, at about 9:30 p.m., there was a rollcall vote demanded on an amendment. We were only able to get 50 Senators on that vote. Senator PELL was on his way in, but a call for the regular order was made, so Senator PELL could not get here. He was on his way in from home. So we were forced out, with only 50 Senators here.

On the next morning, it was mandatory under the rules to establish a quorum. That necessitated a rollcall vote. We had to have the rollcall taken over that had failed the night before because of lack of a quorum.

So, there we were, on Friday. We spent all day Friday—all day Friday—on the foreign assistance appropriations bill. Nothing done in haste; all day long on that bill.

Then, on Saturday, we were able to dispose of two important bills, two conference reports. I say to the Senate, that what we are up against here is not that we are acting in haste, but we are seeing a lot of foot-dragging.

Why? I can only assume that it is an effort to keep the Senate from acting on ERA or Humphrey-Hawkins or hospital cost containment. I have sought to get agreements on these. I think it would be the better part of wisdom to get an agreement on the ERA bill, so as to allow those who are opposed to ERA to call up a rescission amendment. If cloture is invoked on ERA, a rescission amendment will probably not be germane. But with an agreement, that amendment could be in order.

I have not made up my mind as to whether I shall vote for an extension of ERA or whether I shall vote against it, or whether I shall vote for a rescission amendment or whether I shall vote against it. But I am saying this: We ought to work for time agreements. We can get our work done, we can get out on October 14 and not have to come back for a post-election session. If we have a post-election session—we have heard this before, but I think it bears recounting—everyone is going to want his pet bill called up and every special-interest group in the country is going to want its pet bill called up, and we will have one after another of such measures.

What I am pleading for is time agreements, starting with this bill we have up right now. Let us have a time agreement.

What is wrong with this bill? What is wrong with a time agreement on this bill? What is wrong with that?

Oh, they say, "Well, the leader can get recognition," as though I use some sleight-of-hand art here in order to get recognition and offer a cloture motion on the motion to proceed to the ERA resolution.

Mr. SCOTT. Will the Senator yield?

Mr. ROBERT C. BYRD. I will yield in a moment, but I am not quite ready to yield yet.

So I will tell you why I entered a cloture motion on ERA. It was because we have not been able to get cooperation, to get time agreements, and get on with the work of the Senate.

I have indicated more than once that if we do not get time agreements, then we are going to get some of those bills that, apparently, some Senators do not want up, and, because they do not want them up, they are attempting to string out the time of the Senate, delay the work so that come October 14 there will not be any time left to take those measures up.

There will not even be time to take up bills that have to be taken up before we can adjourn sine die.

So what I did was, of course, make the motion to proceed to ERA. That seems to be the great scare around here, the motion to proceed to ERA.

If that is causing the foot dragging, then let us just have a cloture vote. If 60 Senators want to take up ERA, we will. If they do not, we will not. But at least they will be given the opportunity, and the foot dragging will not do anybody any good.

So I withdrew the motion to proceed to ERA, but the cloture motion stays in. It can only be withdrawn by unanimous consent. This means that on Friday, there will be a cloture vote on the motion to proceed to take up ERA.

Now, I would hope we would not have any ill feelings about this matter. I have sought in good faith to get time agreements. I have sought to get Senators to the floor to call up their amendments. The chairman stood on his feet here, he has been here day after day, from 9 o'clock on, urging Senators to get their amendments up.

Let us vote on amendments up or down. Let us get this bill out of the way. Then we will go to something else, for example, mass transit, and then there are plenty of other bills we have to do before we go out.

If there is going to be foot dragging on this bill and they say, "Well, there will not be any more time agreements," that cuts two ways. I will not be around here after October 14 by myself. There will be others here, too. The leadership of this Senate is not all vested in one little poor boy from the hill country of West Virginia. This is a joint leadership.

Now, the distinguished minority leader, in high dudgeon, apparently——

Mr. MAGNUSON. The hills.

Mr. ROBERT C. BYRD. From the hills of Tennessee, says, "We're not going to have any more time agreements."

Well, I would hope that he would reconsider that statement and that he would talk with his colleagues to see if we cannot get time agreements on this bill.

This bill has nothing to do with ERA, and that is what we have been talking about all day. Let us get on with this bill and take up something else.

Mr. MAGNUSON. I hope they do not hold me hostage.

Mr. ROBERT C. BYRD. No, we should not hold the Senator hostage.

Mr. MAGNUSON. I have been trying to get this bill passed for months. We have delayed it for good reasons. We have delayed it again, and this is the second biggest appropriation bill. It affects every American.

You two can argue about ERA later. Why do you two not go argue about it later and let me go on with my poor old HEW bill that is always subject to this delay?

And I feel like a hostage.

Mr. ROBERT C. BYRD. The Senator is a hostage. He is even a put-upon hostage.

Mr. MAGNUSON. Yes.

Mr. ROBERT C. BYRD. And he has been subjected to cruel and unusual punishment.

So I think we have clearly laid out the problem here. I would hope, having done that, we could get on with the bill.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Now, Mr. President, I promised to yield, before I yield the floor, to the Senator from Virginia.

Mr. SCOTT. I appreciate the distinguished Senator yielding to me.

I think every Senator realizes the burdens upon our leadership and, particularly, the leader of the majority.

But the Senator from Virginia has not been one that has made any objection at any time. I did write to the distinguished majority leader. I sent a letter signed by 16 Members of the Senate from both sides of the aisle, requesting that the controversial ERA amendment not be taken up, and then discussed the matter with the distinguished majority leader.

He did not make any commitment that he would not bring it up, but he did make a commitment that he would give the Senator from Virginia 2 days' notice before bringing it up. This was by word of mouth.

I just wonder if the action of the distinguished majority leader today is not a breach of the promise, the commitment, made by the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, what the Senator says is absolutely true. He did talk with me about the matter, I did promise to give him 2 days' notice, and I forgot that I made that promise.

So, Mr. President, now that the Senator has reminded me of that, I will keep the promise.

I ask unanimous consent that the vote on the motion to proceed to invoke cloture not occur until—it would occur under the present circumstances on Friday. The Senate will be in on Saturday.

I ask unanimous consent that the vote on the motion to invoke cloture not occur until Monday, that will allow the extra 2 days.

Of course, if this is denied, I can simply reoffer the motion to proceed on Friday and at that time I can offer the——

Mr. GARN. Reserving the right to object——

Mr. ROBERT C. BYRD. Would the Senator allow me to finish?

Mr. GARN. Yes.

Mr. ROBERT C. BYRD. It was an inadvertent oversight, and now that the Senator reminds me of it, I readily agree, I had promised to give him 2 days' notice.

Mr. SCOTT. Whether the motion is granted or not, I appreciate the courtesy of the distinguished majority leader.

Mr. GARN. Mr. President, reserving the right to object, and I do not intend to object, but I am distressed by the action that has taken place today, because every day the threat of ERA was brought up here, or the extension.

What I said yesterday, I am going to repeat. I do not have to repeat it just for the majority leader because most every one of the Senators know that for several weeks I have been contacting them personally. I have been working very hard personally to talk to them about what my position is on this extension, so that, hopefully, we would not come to the confrontation of a filibuster.

I do not want to have one. I would much rather have it settled more peaceably so we can all go home on the 14th.

Yet, we are constantly told, every day, and the distinguished majority leader says, apparently, this is the threat and we are foot dragging. Well, let me remind all of something. If I, as one who is opposed, Senator SCOTT, and others, wanted to delay, we would not have had to go through a bunch of amendments and voting. There was a unanimous-consent agreement more than a week and a half ago on natural gas, that anybody who wanted to come on the floor and talk about natural gas could do so, and it would displace anything else on the floor.

So if those of us who are opposed to ERA were really foot dragging and really wanted to stall this Senate, there was a lot simpler way than going through exercises of votes and amendments.

All we had to do was come on the floor and talk about natural gas for the last week and a half, not a half-day, not last Friday, but a week and a half of the Senate's time, and nobody could have changed it except by unanimous consent.

I think it would be agreed, all of us who are opposed to natural gas did not do so. We not only double-tracked, there was very, very little conversation about natural gas.

So, with all due respect to the distinguished majority leader, I resent the every day colloquy about foot dragging by those of us who are opposed to ERA.

It has not gone on, and I point out again the simple way to have done it would have been just to talk about natural gas. I could have done that easily.

I do not think it should have passed. But I was not on the floor once. I did not give one speech during that time period, and I do not think that any of the others opposed to ERA took advantage of that unanimous-consent agreement.

So I am getting a little frustrated at trying to act fairly and responsibly, working with my colleagues, and being

threatened every day while I am trying to achieve something on this issue.

I want my colleagues to know, when we hear about foot dragging, that we should remember the natural gas issue.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Utah takes umbrage, apparently, when he is not at fault. I have never indicated that he was at fault. As a matter of fact, in his personal conversations with me, he has indicated that he is doing everything he possibly can to get support for a rescission amendment. He has indicated that he wants a time agreement that would allow that rescission amendment to be called up, and he has been acting in the utmost good faith in that regard. So I hope he does not feel threatened by anything I have said.

If he does, I apologize, because I know that he has not attempted to foot drag. He is doing everything he possibly can do to make his rescission amendment in order; and the only way it will be in order is for there to be a time agreement, because if cloture is invoked, the Senator's amendment will be nongermane. I want his amendment to be called up, because I think the Senate is entitled to vote on it.

So I congratulate the Senator. He has not been doing any foot dragging.

However, as to the threats, I was not aware that I had made any threats. I have talked about the foot dragging; I think it is obvious for everybody to see. It was obvious last Thursday. It was obvious last Friday.

Of course, Senators could have come to the floor and discussed the natural gas conference report. Under the order, they could do it. Nobody chose to do it, however. So I assume they had nothing to say.

Mr. GARN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GARN. I do not take it personally upon myself——

Mr. ROBERT C. BYRD. By the way, I may vote for his rescission amendment. I may vote for the Senator's amendment.

Mr. GARN. Let me make myself clear. There are others involved in this. It is just not like JAKE GARN from Utah. There is also Senator SCOTT, the ranking minority member of the subcommittee. He did not take any time on natural gas; Senator HATCH did not, nor did Senator LAXALT and others who support my position. The point is as to the generalization to even use ERA as a threat. So I do not take it personally. I assure you of that.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. GARN. In just a moment.

But I resent watching the floor every day, being concerned and worried about it, going back to my office. I must say this, with all due respect to the majority leader, and I mean it sincerely, that when I suddenly get a call in my office—interestingly enough, in the middle of a meeting with pro-ERA extension people from my State—that something is happening, go to the floor immediately, with no invitation and with no courtesy, I feel threatened by that.

I think all of us on this side of the aisle feel threatened with the lack of communication that went on and that is being used as a club.

I recognize that it is not directed at me, but the issue is used. Pick on Humphrey-Hawkins next time.

Mr. ROBERT C. BYRD. We may do that.

Mr. DURKIN. Reserving the right to object——

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I think everyone is to be commended under the circumstances for the mildness and sweet reason of the statements that have ensued. But nobody should misunderstand, and I am sure nobody does, the importance of what is transpiring.

What has happened is that, perfectly legally and under the rules of the Senate, we have been put now to the consideration of a measure that possibly we would proceed to in any event. I think it has eliminated the reasonable prospect that we can now get a unanimous-consent agreement on ERA under the threatened cloud of cloture on this bill and on others.

The point of the matter is that we have no refuge except the rules, and the rules are the special domain of the distinguished majority leader. I watch and listen with great admiration as he uses the rules. I admire him for it.

Mr. President, if, in fact, the business of the Senate in the last 3 weeks of the session is to be conducted on this basis, then it will be a very difficult and stormy time.

Mr. ROBERT C. BYRD. Mr. President, let me respond to that.

The Senator from Tennessee has a joint responsibility in seeing that the Senate conducts its business. I have repeatedly commended him for the cooperation I have had in this regard. I cannot do it all by myself.

Any Senator can hold up the Senate's work, and he can use the rules in delaying the Senate's work. But this responsibility is not mine alone.

I am sorry to hear the Senator from Tennessee, the very distinguished minority leader, say to the Senate—I might use the word of the Senator from Utah and say "threatened" but I will not do it—that we are in for a "stormy time."

Let us get on with the bill before us. If we cannot get a time agreement, that is all right with me. Let us just call up our amendments and act on them.

Call up the amendments. That is part of our problem: We have not been able to get Senators to the floor to call up their amendments. So let us get on.

Did I request a time agreement on the amendment by Mr. BROOKE, which he will call up shortly?

Mr. DURKIN. Mr. President, will the Senator yield to me for 2 minutes?

Mr. ROBERT C. BYRD. I yield.

Mr. DURKIN. I thank the distinguished majority leader. I do not intend to be as polite as the majority leader has been. For weeks or months, we have had continual delays from that side of the aisle. They will not waive the 3-day rule. They would not let us pass the coal conversion bill when the President was headed for the conference in Bonn. A different thing pops up every day.

Just because the Senator from Utah did not object to the natural gas bill and did not obstruct the natural gas bill, just because you did not obstruct that one bill, you cannot clear the record.

There has been a steady stream of objections on that side of the aisle for months, and I think the whole country should know it. Everyone is chuckling and chortling: "The Democratic Congress, the Democratic leadership that can't get the work done."

I am not going to be that polite. The obstruction has been coming from that side of the aisle for months, and it is time the whole country knew about it.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I hope we can have Mr. BROOKE call up his amendment.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. There is a pending request for a cloture motion.

Mr. ROBERT C. BYRD. On Monday, rather than Friday, and this will allow 2 days' notice, which the Senator from Virginia is entitled to have.

Mr. HUDDLESTON. Reserving the right to object.

Mr. ROBERT C. BYRD. I hope my friend will not object.

Mr. HUDDLESTON. Your friend has a great many things to object about.

Does the majority leader have a time in mind?

Mr. ROBERT C. BYRD. We can ask unanimous consent to set the vote at a particular time. Under the rule, it would occur 1 hour after the Senate comes in; but ordinarily we are able to get an agreement on the vote at a certain hour. That could be 5 or 6 o'clock on Monday, or whatever.

Mr. BAYH. Mr. President, will the Senator yield for a question?

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Would that be satisfactory?

Mr. STONE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STONE. Mr. President, the majority leader has assured the Senator from Florida that there will be no votes during daylight hours on Monday, until 6 o'clock, because of the high holy days. So if there are any votes scheduled automatically, they would take place, under the commitment, after 6 p.m. on Monday night.

Mr. ROBERT C. BYRD. That is correct. I am glad the Senator reminded me of that. They are not to occur on Monday before 6.

Mr. STONE. They can occur after 6.

Mr. ROBERT C. BYRD. They can occur after 6 o'clock.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, so that I might keep my word with the

distinguished Senator from Virginia (Mr. SCOTT) and my word that was given to the distinguished Senator from Florida about the religious holiday, which I had forgotten, I ask unanimous consent that the vote on the motion to invoke cloture occur at 6:30 p.m. on Monday.

Mr. HUDDLESTON. Mr. President, reserving the right to object——

Mr. GARN. Reserving the right to object——

Mr. GOLDWATER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. I reserve the right to object, and I inquire of the majority leader whether or not he might propound a request for a vote on Tuesday.

Mr. ROBERT C. BYRD. Yes. That would be agreeable with me.

All Senators will see that I am in a very, very agreeable mood and want to be most cooperative and want to see the business of the Senate move along. I am willing to agree to almost any time agreement.

I ask unanimous consent that the vote on the motion to invoke cloture occur on Tuesday, at 1 p.m.

Mr. DOMENICI. Mr. President, reserving the right to object.

Mr. GARN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. And I do not intend to object, but I want to make one more point about what the majority leader has accomplished with this. By removing the motion to proceed but leaving the cloture motion to stand, in effect what has been done, which also troubles me, is that we have been prohibited from debating whatsoever.

Normally when cloture is invoked, Senators are allowed 2 days, under the rule, before that vote occurs.

Mr. ROBERT C. BYRD. That is just a very recent custom.

Mr. GARN. So we have now been told, and I consider that undemocratic from the Democratic side, that we are going to have a cloture vote without the right to debate.

I further say that through all of this parliamentary maneuvering I am not aware of any intent on this side to attempt to filibuster the motion to take up. No one has ever heard that from this Senator. But I do want to make a point that we are going to have cloture, and I hope my colleagues on the point of fairness alone, because of the way this has been handled, will vote against cloture rather than saying, "We will not listen to you at all, we will not listen to your arguments or your debate; we will just cut you off."

Mr. ROBERT C. BYRD. Mr. President. the implication there is that I have been unfair.

May we have order in the Senate?

The implication there is that I have been unfair.

I think one of the trademarks that most Senators, if not all, will accord me is that I am fair.

There have been times when I have risen to protect the rights of the minority.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Time and time again I have stood to protect the rights of the minority.

I remember on one occasion when I complained strongly to the Vice President who was in the chair. Under the Rules of the Senate the Vice President cannot talk back except by unanimous consent, and I said if I ever again criticized the Chair when the Vice President was there I will try to get unanimous consent for him to respond.

But on that occasion he did not recognize the minority leader. Who took up the cause for the minority leader? Who? This Senator from West Virginia who now they say, or at least some would leave the inference to be drawn, is unfair. I took up the cause on that occasion for the minority leader, and I insisted that he be recognized.

Then there was the time when the distinguished Senator from Wyoming (Mr. HANSEN) was seeking recognition from the back row, and I believe that the rollcall was announced or some such. Who took up the cause for the Senator from Wyoming? And by the way, because I did that, that vote on that particular occasion was turned around. It later was reversed. But on that occasion the vote was decided by the vote of the Senator from Wyoming because I insisted that he be allowed to vote, because he was back there seeking recognition.

That was your "unfair" majority leader. And there have been other times that I have stood up for the minority, and I will do it again, because if I cannot be fair to both sides, then I will be quite unhappy with myself.

Mr. GARN. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I am going to be very fair to the Senator from Utah. I am still going to keep an open mind on his rescission amendment, and I may indeed vote for it in the final analysis.

I simply urge him not to be too exercised about what has happened.

I have been here 20 years. I have seen a lot of things happen. I have never yet accused a Senator of being unfair, never yet accused a minority leader of being unfair, or a majority leader of being unfair, and I have seen the rules really utilized in this Senate by a majority leader during an earlier era.

Mr. GARN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Now, Mr. President, I hope the Senator will not take to heart what was done. I simply urge him, as I have been urging him, to continue to try in his own fine inimitable way to get a time agreement on ERA so he can call up his rescission amendment and it will not be ruled out as a nongermane amendment. So I implore him, I beeseech him to do that.

Mr. GARN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GARN. I will guarantee the majority leader I will now work even harder than I have been. He has given me new incentive to do so. So he does not need to worry about that.

Mr. ROBERT C. BYRD. I am not worrying about that.

Mr. GARN. I just add to what I said. The last time I directed a filibuster was on the Clean Air Act in 1975. It was for the whole world to hear.

The majority leader has treated me fairly and I know he has in my dealings with him and we have been acting in good faith during the past few weeks on this one.

I am not trying to single out anyone as being unfair.

I made a point. The majority leader has a right under the rules. He has exercised them. But the fact is regardless of anything else, with the cloture motion going, with the other motion being removed, debate has been denied. But I am not making accusations of unfairness.

Mr. ROBERT C. BYRD. No, debate has not been denied. I will get the Senator 15 minutes tomorrow morning. He can come in and talk about his motion.

Mr. MAGNUSON. Not until we get the bill passed.

Mr. ROBERT C. BYRD. It is just a motion to proceed. Once we are on the resolution there will be ample time to debate the resolution. This is just a motion to proceed. If the Senator wants 15 minutes tomorrow morning, I will come in at 7:00 or 7:30, or any time, and I will get myself 15 minutes and yield it to him, and I will get someone else 15 minutes and get consent to yield it to him. We can have plenty of debate on the motion to proceed, or we can stay tonight after we finish this bill.

Let us finish this bill and then those who want to stay around and debate the motion to proceed can do so. I will be here.

Mr. DOMENICI. Mr. President, reserving the right to object, what is the time the majority leader now proposes, might I ask the leader?

Mr. ROBERT C. BYRD. Yes. 1 p.m. on Tuesday next.

Mr. DOMENICI. All right.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, reserving the right to object.

Mr. DOMENICI. Mr. President, reserving the right to object, I want to say to the leader——

Mr. ROBERT C. BYRD. Did the Senator object?

Mr. GOLDWATER. I reserve the right.

The PRESIDING OFFICER. He reserves the right to object.

Mr. DOMENICI. I wish very much to have a few moments to check to see if I can be here. I may not be able to under any circumstances, but for that purpose I object.

Mr. ROBERT C. BYRD. Will the Senator not object? I will withdraw the request temporarily and give him that opportunity. Otherwise, the vote will have to occur on Friday under the rules. I will not be allowed to keep my word with the distinguished Senator from Virginia, Mr. SCOTT.

Mr. MAGNUSON. Just because one

Senator cannot be here are we going to start to do that around here? If so, we will never get done.

Mr. ROBERT C. BYRD. We will never get through.

Mr. MAGNUSON. We are supposed to be here doing business. If a Senator cannot be here then he will be absent.

Mr. ROBERT C. BYRD. I want to keep my word that I gave in good faith to the Senator from Virginia. I hope Senators will allow us to vote on Monday or Tuesday. Otherwise we will have to vote on Friday.

Several Senators addressed the Chair.

Mr. GOLDWATER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Do I understand the request is withdrawn?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I am glad to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the reservation I made was merely to inquire of the majority leader if this will preclude his changing his mind on the whole thing, because this might happen, and out of respect for what I have known him generally to have, fairness, I think he should seriously consider it because in my opinion, we are being asked to tear apart the Constitution of the United States without due process. I do not think due process consists of a daily recitation of the fact that ERA might be brought before this body. I hope it is brought before this body and it will probably pass, and it will cause, in my opinion, damage.

I just want to say something to the majority leader. We have been friends for a long itme. We get along. I do not object as a rule.

I never forgot a lecture I heard given by Gen. George Patton on leadership.

He held up a big GI plate and he had a wet noodle on it. He was trying to push this noodle across the plate and it would not go. He said: "Gentlemen, you cannot push. You have to get out in front and pull."

I might suggest that if we all can meet amicably some day without the tensions of a formal session, that in a friendly way we might be able to get agreement.

But I would suggest that when we sit here—and it is almost an hour today, and 3 full hours that I can recall in the last 7 or 8 days—listening to the majority leader berate our side, not that we have been necessarily innocent of his "berations," but I think the time has come, with the few days left and with the current desire of the Members of the body to be home, that we might get a lot more done with sweetness than with the constant "berations" of our side in using the only weapon we have left to us, which weapon is the rules, which can be used and abused in any way that any of us sees fit, including the majority leader.

I might suggest that he give serious consideration tonight, inasmuch as he is not going to enjoy that $1,000 dinner—that is worth about $4.50—[laughter] I would suggest that he meditatively sit and think about calling the minority leader and saying, "Howard, let us sit down and talk about this thing."

I would like to see us work out some way in which we can get the hell out of of here and get home, and I can assure you the people of this country would like nothing better.

Mr. ROBERT C. BYRD. Now, the Senator suggests that I call the minority leader. I have done this. I have good rapport with the minority leader. We talk about these things.

I have not berated the Senator from Arizona, I have not berated the Senators on that side of the aisle. I have complained about what appeared to me to be an effort to drag out the time of the Senate on the foreign assistance appropriation bills and a few other things, but I was not berating anybody.

The Senator says the Senators over there will use the rules, and now they complain because I have used the rules. So I think we have had enough discussion of this. I would like to see the Senator from Massachusetts call up his amendment and let us get on with the bill.

Mr. BAKER. Mr. President, I will not belabor this issue. I think if there is any more sweetness and light I may suffocate. But I do think it is important to note that in my view and judgment this is a poor moment in the history of this Senate and this session.

I, too, hope we can find an amicable way to work ourselves out of this situation.

The majority leader has done nothing wrong. He is perfectly within the rules. But, Mr. President, what has happened here, I believe and I fear, may have brought about a fundamental change in the relationships on the two sides of the aisle unless it can be repaired.

Mr. BAYH addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, there has been no fundamental change on this side of the aisle. There has not been any change at all on this side of the aisle so far as my relations with him and the minority are concerned. I am sorry if the minority leader sees it differently. I hope he will reexamine that statement and come to a little different conclusion.

Mr. MAGNUSON. Let us have a change and go on with the HEW bill.

I yield to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Massachusetts.

Mr. BAYH. Mr. President, I have been trying to seek recognition for some time.

Mr. ROBERT C. BYRD. The Senator has asked me to yield, and I will yield the floor.

Mr. BAYH. I am sure what I have to say is not a matter of great consequence, but as one who has been involved in the issue which, at least actively or by inuendo has brought us to the particular situation which has just been discussed at length, I would just like to make one or two observations.

I, like our chairman of the Appropriations Committee, would like for us to get on with and dispose of this HEW bill.

I have the greatest sympathy in the world for both of those men sitting on either side of that aisle who have to carry the mantle of leadership. I do not think anybody who has not sat in any one of those chairs has any real idea of what the actual pressures are, so I think we all ought to have a full measure of understanding at their response to try to carry on the burdens of leadership as they see fit.

I have been bedeviling that man right there, my friend, the majority leader, for 3 or 4 weeks, maybe longer, on the ERA. I make no apologies for that. I have been fighting for ERA for 10 years or more, and I think it is critical that we get this matter up. It has passed 35 legislatures, and we need 3 more. At least the matter ought to be discussed and heard. It is a very controversial issue. I honestly do not know how it is going to turn out on the rescission question. That is going to be one of the critical ones and, Mr. Leader, I hope you do not give up that vote right away because we probably are going to need you.

But I think it is important to have that matter heard.

There have been a lot of people talking to the leader about getting it heard. I have not been privy to his strategy and purpose and reason behind certain moves that he makes, but I think what he wants to do is to get the Senate to stand up and discuss this and get it over with.

I want to say that I think our good friend from Utah, and the minority leader—and I have talked to all of those colleagues personally—I think all of them are willing to sit down and amicably come to some sort of an agreement. But the leader has been faced by a letter from some colleagues saying that they are going to filibuster this thing, and I think that is what has caused him to be in a position of trying to do something to get all of our attention—I should not try to put myself in his mind—but I know he wants to treat everybody fairly.

I know the Senator from Utah does, and I know the minority leader does. Why not just sort of all cool off here and maybe in the morning we can get together and really put our heads together. The Senator from Utah and I are good friends. We could not be farther apart on this issue, but that does not in any way destroy our relationship and our desire to treat each other fairly. I think if we can come to some sort of an amicable time agreement here, preserving everybody's rights and letting everybody have a chance to be heard, the Senate as a whole is going to be in a lot better position than if each person tries to keep the other person from getting what he wants done.

It is a lot easier, I think—we talked about the noodle, I guess it was our colleague from Arizona—it is a lot easier to be against something than to be for something. Unfortunately, the majority leader has the responsibility of running the Senate, and in that responsibility he has to be forthright.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. BROOKE. I have talked to the Senator from Utah. I have talked to him about ERA and, in fairness, let me say that at no time have I ever heard him threaten to filibuster ERA. He has been trying conscientiously to work out a time agreement, and the majority leader knows that, and I think the Senators ought to know that.

Mr. ROBERT C. BYRD. I said that a moment ago.

Mr. BROOKE. I think the Senator from New Hampshire stood up and pointed the finger. The Senator from Utah has tried time and time again to work out a time agreement, and I think if you left him alone he would.

Mr. ROBERT C. BYRD. I think he would.

That is why I ask unanimous consent, Mr. President, that the vote on the motion to invoke cloture occur next Tuesday at 1 p.m.

Mr. BAKER. Mr. President, I will object to that. I will not object to 2 o'clock.

ORDER FOR A VOTE ON CLOTURE ON OCTOBER 3, 1978, AT 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture occur on next Tuesday in accordance with rule XXII, which would be circa 1 hour after the Senate comes in.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I have checked, and I cannot be here, but I will not object because it does appear that will be more accommodating to most of the Senators, but you cannot accommodate me on that day.

Mr. ROBERT C. BYRD. The Senator could not be nicer.

Mr. GOLDWATER. Mr. President, reserving the right to object, and I will not object, does this do away with the possibility that the distinguished Senator from West Virginia might change his mind?

Mr. ROBERT C. BYRD. Well, I did not want to do this. I had hoped we could get a time agreement on ERA, and I also had hoped that we could get time agreements on other bills like appropriation bills and expiring authorizations, and so on, so that we could complete our work on Saturday, October 14.

But I was given the understanding that unless I would make a commitment not to call up ERA, Humphrey-Hawkins, hospital cost containment, or at least not offer cloture motions on those measures, then we would just have to take our time agreements one by one. So I have a mind and heart that is open, but with these facts before me; namely, that I could not get a time agreement on these measures unless I made a commitment not to call up ERA or Humphrey-Hawkins, hospital costs, not to offer a cloture motion—I could not make that kind of commitment—and, moreover, it being obvious that we could not get time agreements on other bills—and we have tried and tried and tried on the bill now before the Senate, I had no alternative, may I say to the Senator. That being the case, I cannot change my mind in this instance, although ordinarily I would change my mind for the Senator from Arizona when he uses his persuasive talents—I had better get out of the Chamber before I do change my mind, but I do not think I will.

Mr. GOLDWATER. Mr. President, still reserving the right to object, and I do not intend to object, would the Senator from West Virginia extend this argument he has just extended to me to every objection we have to unanimous consent that comes up? Do we build the dam a little thicker and a little higher?

Mr. ROBERT C. BYRD. I would hope, with such a full hearing of the matter as we have had, there would not be objection to future unanimous-consent requests.

Mr. BAKER. Mr. President, reserving the right to object, what is the formal request of the Senator?

The PRESIDING OFFICER. That the vote on cloture occur on Tuesday, in accordance with the rules.

Mr. BAKER. Mr. President, further reserving the right to object, I had understood we were talking about a time certain to vote.

Mr. ROBERT C. BYRD. We were, but that was objected to.

Mr. BAKER. At 2 o'clock.

Mr. ROBERT C. BYRD. The Senator from Tennessee objected to the hour.

Mr. BAKER. That was to 1 o'clock.

Mr. ROBERT C. BYRD. But putting it over until Tuesday is really straining me. I wanted to go Friday, but I had to keep my word to the Senator from Virginia. So I said Tuesday. Now, it always has to be done in accordance with the rule unless we obtain unanimous consent.

Mr. BAYH. Mr. President, I ask unanimous consent that it be at 2 o'clock instead of 1 o'clock.

Mr. ROBERT C. BYRD. Wait a minute, I urge my friend to withhold——

Mr. BAYH. Well, then, I withhold it, but I have an apprehension this whole issue will fall.

Mr. ROBERT C. BYRD. It is not going to fall.

Mr. BAYH. It has happened before.

Mr. ROBERT C. BYRD. So I ask unanimous consent that it be set over until Tuesday, and in accordance with the rules. The only way to make it a specific time is by unanimous consent.

How would 11 o'clock do?

Mr. BAKER. Mr. President, I have no personal objection to 11 o'clock. Let me consult on this side.

Mr. President, we have no objection to 11 o'clock on Tuesday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The Senate continued with the consideration of H.R. 12929.

UP AMENDMENT NO. 1935

(Purpose: Deleting the section of the bill relating to "busing")

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an unprinted amendment numbered 1935.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 44, strike out section 209.

Mr. BROOKE. Mr. President, could I ask for order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I would hope that Senators would stay around, because it is the intent of the leadership to work hard and work long in an effort to complete action on this bill this evening. I believe it can be done.

Mr. BROOKE. Mr. President, I am going to be very brief. As I understand it from the Senator from Missouri and the Senator from Delaware, we have an agreement of about an hour on this amendment. Is that correct?

Mr. BIDEN. As far as the junior Senator from Delaware is concerned, I do not expect that I will take more than 5 minutes. I understand my senior colleague (Mr. ROTH) has no intention of taking more than several minutes, and I would ask the Senator from Missouri what his intention is. I am not sure.

Mr. BROOKE. If I might have the attention of the Senator from Missouri——

Mr. EAGLETON. Yes.

Mr. BROOKE. It is my intention to take just a few minutes on this matter. I do not know how long the Senator from Missouri would like.

Mr. EAGLETON. Fifteen minutes.

Mr. BROOKE. Fifteen minutes? Fine. Then, Mr. President, I will proceed, and be very brief.

This is a proposal to strike section 209, Mr. President. My reasons are, first, that section 209 is legislation on an appropriation bill. Second, that section 209 is unconstitutional. It is settled case law that any Federal standard which would force an agency to fund a racially discriminatory program——

Mr. BIDEN. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BROOKE. Would be found in violation of the fifth amendment of the Constitution, under *Cooper* vs. *Aaron*, 358 U.S. 1, a 1958 case.

Third, the severe limitation which the Eagleton-Biden language places on HEW's discretion will ultimately lead to more, not less, busing, for it will certainly lead to greater litigation and contention over the issue, and it will almost certainly precipitate more use of the courts, as the only remaining recourse to vindicate the rights of students trapped in still-segregated communities and ill-equipped educational ghettos.

Mr. President, legislating on appropriations measures has long been a disapproved practice in the Senate. The inclusion of substantive legislative lan-

guage, without recourse to the normal Senate apparati of hearings, investigations, and debate has almost always been ruled subject to points of order, and has engendered great criticism.

Yet, today, we are once again treated to the spector of amendments and riders which are framed in prohibitionary or delimiting terms, and not, therefore, as susceptible to points of order.

But the fact that an amendment limits or proscribes activities, instead of advocating new ones, should not obscure its essentially substantive quality, legislative weight, import, or purpose. Prohibiting the use of Federal funds for certain activities is often as effective as a far-ranging legislative initiative. Yet, this practice short-circuits the safeguards which we in the Congress are bound to respect and which the American people have a right to expect.

This practice has escalated to the point where reasoned, dispassionate debate on controversial issues is virtually impossible. And this practice must cease. For if we vote to sustain the Biden-Eagleton amendment, we are fostering preemptory, precipitous actions at the moment when we should be encouraging caution, concern, and restraint.

The practice of legislating on appropriations measures does little to enhance the luster of the Senate as a deliberative body. And, when we consider the underlying fact that the educational future of millions of our young are at stake, our haste borders on the irresponsible.

It is long past time that we in the Senate separate emotionalism and illusion from reality when confronting the busing issue. The most central issue is certainly not busing, per se. Indeed, busing for school transportation has been a time-honored tool, utilized in the main for noninvidious educational purposes. At this very moment, 55 percent of all schoolchildren are transported by bus to schools in their communities. Yet, only 4 percent of the schoolchildren in this nation are bused for racial desegregation purposes. So I conclude that the fundamental question was, and remains, whether we as a nation are truly committed to full equality of opportunity for all in every aspect of American life.

And if we are committed, then all other questions become merely procedural. These procedural issues—what tools can be used to further our Federal antisegregation policies; how much discretion must be vested in HEW to facilitate accomplishment of these worthwhile policies; what is the impact of limitations, through amendment, on our ability to achieve equality—are extremely complex and variated. They are best solved after careful and protracted consideration.

Anything less is an abrogation of the public trust. Anything less compromises our ability to forge progressive solutions to our manifold social and economic problems. And I, for one, cannot endorse any other course but that we fully meet our responsibility, in this instance, to conduct ourselves in a constitutionally sound and forthright manner. Anything less is disingenuous, and may ultimately be devisive and destructive.

For there are several constitutional, as well as practical problems with section 209 which wait to be resolved. First, any amendment which precludes HEW from taking remedial actions in the face of massive segregatory practices raises serious constitutional questions.

For, it is settled case law that any Federal statute which would force an agency to fund a racially discriminatory program would be found in violation of the fifth amendment of the Constitution. This principle was articulated by a unanimous Supreme Court in the Little Rock school desegregation case, *Cooper* v. *Aaron*. (358 U.S. 1, 19 (1958)) Cooper holds that Government support of segregated schools "through any arrangement, management, funds or property" cannot be reconciled with the constitutional prohibition against governmental action denying equal protection of the laws. *Gatreaux* v. *Romney* (488 F. 2d 731, 739 (7th Cir. 1971)) and *Green* v. *Kennedy* (309 F. Supp. 1127 (D.D.C. 1970)) expressly buttressed this analysis in other Government activities. By passage of this amendment, which is so constitutionally suspect, we make the Government a partner in segregation. This we cannot do.

Mr. President, I am well aware of Federal district court Judge John Sirica's recent decision that last year's Eagleton-Biden amendment was not, on its face, unconstitutional; for, according to the court, HEW theoretically can still refer cases to the Department of Justice for enforcement of title VI.

However, Judge Sirica left open the question of whether the amendment in practice would be unconstitutional. I would like to point out that the plaintiffs are appealing that decision, and I am confident that an appeals court will find Eagleton-Biden unconstitutional on its face.

But even if that is not the result, there is no question that the courts will find this amendment unconstitutional in practice, for the Justice Department cannot alone effectively enforce title VI.

A recent action by the Senate corroborates this position, for the Senate has refused to increase the funding for the Civil Rights Division of the Department of Justice. It should be crystal clear to everyone that the Department of Justice does not and will not have adequate resources to effectively enforce title VI. And thus the Federal Government will not be able to comply with its constitutional responsibility.

In addition, Mr. President, my colleagues may have noted yesterday's action on the floor of the House of Representatives. The House passed an amendment to the Department of Justice authorization bill which could bar money for Justice Department suits involving the transportation of students. If this amendment becomes law, there is absolutely no question that it and the Biden-Eagleton amendment would be declared unconstitutional, both on their face and in practice. For it would be obvious to all that there is no longer any possible way to effectively enforce title VI, and thus comply with constitutional requirements.

Mr. President if this amendment is passed, we will also force HEW into an anomalous, and altogether unsatisfactory position. First, HEW could abide by this amendment, forsaking its fifth amendment responsibilities. Second, HEW could ignore this amendment, thereby precipitating an almost certain court challenge or mandamus action.

Third, and most probable, HEW could be forced to radically alter its approach to title VI enforcement. This approach has, in the past, been largely conciliatory. Although title VI provides for the suspension or termination of Federal funds to programs which illegally discriminate, HEW has rarely utilized this sanction. Instead, HEW has consistently attempted to secure voluntary compliance through negotiation and cooperative efforts. The amendment does not acknowledge this reality. Instead, this amendment shreds HEW's enforcement and review mechanisms and diverts the procedure of even a modicum of sensitivity and selectivity. Whatever our opinion about the efficacy and fairness of busing, this dilemma must give us a pause.

And, it should be crystal clear, even to those who oppose busing on principle, that the severe limitations which Eagleton-Biden places on HEW's discretion may ultimately lead to more, not less, busing. For it will certainly lead to greater litigation and contention over the issue. And it will almost certainly precipitate more use of the courts, as the only remaining recourse to vindicate the rights of students who are trapped in still-segregated communities, and ill-equipped educational ghettos.

Second, the practical dangers of so sharply limiting HEW's ability to fashion or to accept remedies to end unlawful segregation must also be evaluated. The precedent which we may now forge could be applied again and again to other agencies and departments whose purview includes controversial issues. Without careful consideration of this particular aspect of our actions, we may do disservice to the fragile balance of powers guaranteed by the Constitution. And we do violence to the concept of free-flowing, consistent and effective administrative action.

Under these grave circumstances, we must resist the lure of short-term political expediency. We must resist the temptation to resort to demagoguery as we face this volatile issue. Because each time we yield to more facile solutions, we compound our Nation's serious problems, and prolong the processes which we must employ to fashion the solutions which we seek.

There will always be disagreement on the underlying issues which we face today. But for myself, I have only one view. And it is a strong view. I believe that this society must be equal, and free, for all the people. And this equality and freedom must be secured by any permissible, legal or constitutionally mandated means. If it means busing to end unlawful segregation, then I support it. If it means temporary preferential remedies, then I support them.

My faith in the Constitution as a living document which requires equal treatment and protection of the laws for every citizen leads me to conclude that the

temporary discomfort and inconvenience which must be borne in our efforts to propel this society to that moment when equality is finally realized are but small costs to pay.

This debate is particularly poignant to me, as our Nation has seen a whole people ravaged by the dark staining shadow of slavery. Over 100 years ago, this very deliberative body fashioned remedial legislation to help the displaced and disenfranchised persons who were trapped and oppressed by the incidence of their birth. Yet, this tragic historical condition, and the remaining vestiges of slavery, continue to cast a pall over our aspirations, our dreams, and our lives.

So, the need for strong leadership through enlightened congressional action is no less great today. We have stumbled toward progress since the 1954 Brown decision, but we have far to go. This body has, in the recent past, spoken courageously to the issue of racial inequality, securing voting rights, fair and open housing and guaranteeing the use of public accommodations for all. It would be reprehensible, and an historical anamoly, if this 95th Congress presided over the dismantling of those few agencies charged with promoting equality, even before full equality was assured.

Yet, even my strong, unequivocal support for the eradication of inequality wherever it is found in our society does not prevent me from stressing the procedural consequences of the actions which we we might take this afternoon. Nor do my own strong views on this issue hinder me from perceiving the value of intensive dialog among citizens and elected officials who have differing views, before we take precipitous action.

Mr. President, I urge my colleagues to join me in separating substance from procedure. I urge my colleagues to consider the dangers inherent in our rush to judgment and legislation without benefit of dispassionate consideration. And whatever your views on the substantive merits of the Eagleton-Biden amendment, I urge you to consider the dangerous precedent we are here establishing, by attaching a rider of this import on an appropriations measure, and by so sharply limiting agency discretion.

I therefore ask my colleagues to support my motion to strike section 209 from this bill. Let those who wish fashion a piece of substantive legislation to accomplish these debated ends, submitting it to the appropriate Senate bodies for study, and then to the Senate collectively for deliberation and disposition.

Mr. EAGLETON. Mr. President, the Brooke amendment now before us seeks to delete the so-called Eagleton-Biden language in the appropriations bill. The Eagleton-Biden language reads as follows:

> None of the funds contained in this act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing, or clustering. The prohibition described in this section does not include the establishment of magnet schools.

If Senator BROOKE is unsuccessful in offering this amendment, he is likely to offer another motion, seeking to replace the Eagleton-Biden language with the language of the old Byrd amendment. The Byrd amendment went like this:

> None of the funds contained in this act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.

I would like to take a few moments to outline the history of the Eagleton-Biden and Byrd amendments and the reasons for them. I am confident that this review will convince my colleagues to oppose Senator BROOKE in all of his efforts to dilute or otherwise alter the Eagleton-Biden language.

The Byrd amendment first was incorporated into the Labor-HEW appropriations bill in 1975. The amendment's obvious purpose was to put HEW on notice that it was not to consider extensive busing of schoolchildren as an available tool for administrative enforcement of title VI of the Civil Rights Act of 1964.

However, from the very outset, the Ford administration equivocated on the effect of the Byrd amendment. In some instances, the administration seemed to support the amendment. This certainly was the case when HEW Secretary David Matthews wrote to Senator MAGNUSON that,

> Although the amendment is not an absolute prohibition against requiring the transportation of students, it would effectively bar the department from requiring such transportation in virtually every desegregation case.

The Secretary's language seemed clear enough. However, it was undercut by the continuing refusal of HEW's general counsel, an office under the Secretary's jurisdiction, to issue a formal opinion as to whether the Byrd amendment actually did restrict HEW's power to order busing in order to comply with the Civil Rights Act.

The question of how HEW would treat the Byrd amendment in actual practice finally was resolved in the Carter administration, when Secretary of HEW Joseph Califano finally ruled on the Byrd language. Califano noted that:

> [I] have concluded that I should give the language of the Byrd amendment its most literal application. The amendment refers to 'transportation of any student to a school other than the school which is nearest to the student's home, and *which offers* the courses of study pursued by such student' (emphasis added). If the grade structure has been changed for the school year in which the transportation occurs, then the school nearest the student's home (and which he previously attended) may no longer be one 'which offers the courses of study pursued by such student.' The more restrictive reading of the Byrd amendment not only accords with its literal language but also minimizes erosion of the Secretary's authority to enforce title VI of the Civil Rights Act.

In essence, Mr. Califano put the Congress on notice that he was interpreting the Byrd amendment rights out of existence, and that HEW would not feel constrained in its use of busing as an administrative tool to bring about school desegregation.

I continue to emphasize, Mr. President, the term "administrative tool" because as will further be brought out in this debate there is an enormous difference between court ordered busing pursuant to the equal protection clause and HEW administratively ordered busing without the benefit of any court hearing whatsoever.

This action by the Secretary is what motivated Senator BIDEN and me to offer our own amendment to the fiscal 1978 Labor-HEW bill. Our amendment, which was approved by a 51-to-42 margin, restated the intent of the Byrd amendment and closed the loophole through which HEW hoped to drive its big yellow bus. That same language is in this year's Labor-HEW bill. It is this language Senator BROOKE would like to strike, or at the very least replace with the Byrd language which Secretary Califano considers meaningless.

Mr. President, I view the four recent Supreme Court decisions as key to this discussion on remedies for desegregating our school systems.

Beginning with the Warren court in the Brown case—a unanimous opinion in 1954—and continuing through the early Burger court with the Swann case—a unanimous decision in 1971, the Supreme Court charted a course of consistent approval of Federal District Court decrees dismantling the heretofore "separate but equal" or "dual" school systems, primarily in the South.

Then came the Detroit case, Milliken against Bradley, decided by the Supreme Court in 1974. At the time of the suit, the racial makeup of the Detroit school district was 72 percent black and 28 percent white. The trial court found that the only way there could be meaningful integration in the Detroit schools would be, in essence, to merge the Detroit city school district with 53 surrounding suburban school districts. Thus, the lower court ordered an enormous metropolitan busing plan, and the order was upheld by the Court of Appeals.

However, the Supreme Court said no. In reversing the district court and the Sixth Circuit Court of Appeals, the Supreme Court held that a Federal court was not empowered to impose an interdistrict remedy unless it could be proven that either the State or the suburbs had committed discernible, evidentiary segregative acts against the city. In its ruling on the Detroit case, the Court shifted a greater burden of proof to the plaintiffs, and put busing proponents on notice that in future cases they would have to prove not only segregative results, but also segregative intent on the part of those responsible for drawing the district lines. In the majority opinion, Chief Justice Burger rejected the lower courts' efforts to produce "the racial balance

which they perceived as desirable," stating that the Constitution "does not require any particular racial balance."

The Court spoke to these points again 2 years later in Washington against Davis. Although not a school desegregation case, Washington against Davis is important to this discussion because of the way in which the Court's opinion summarized its rejection of lower court decisions ordering desegregation absent explicit proof of "discriminatory racial purpose."

"The essential element of 'de jure' segregation is 'a current condition of segregation resulting from intentional State action * * * the differentiating factor between 'de jure' segregation and the so-called de facto segregation * * * is purpose or intent to segregate," the Court said.

In case there was any doubt in the wake of Milliken against Bradley, Washington against Davis made it crystal clear: In the future, a segregative effect no longer would serve as proof of a constitutional violation, the purpose or intention to segregate also would have to be proven.

The Dayton Case, in 1977, reinforced its two predecessors. The Supreme Court remanded that case, holding that the district court had not found sufficient proof of de jure segregation to justify a city-wide desegregation plan. The Supreme Court reiterated the principle that the remedy must be tailored to a specific violation of the equal protection clause.

Finally, in two brief orders, the Supreme Court remanded both the Omaha and Milwaukee cases to lower courts. Again, the Supreme Court demanded further evidence of segregative intent.

Mr. President, the Supreme Court's current philosophy on busing, as evolved through the decisions I have just described, seems clear. First of all, the Court is telling us, there will be no busing across district lines unless it can be proven that the State or suburban districts acted deliberately and intentionally to perpetuate segregation. Second, even in intradistrict desegregation cases, proof of constitutional violations must be presented on a school-by-school basis, and busing will be tailored to the scope of the proven violations.

As Attorney General Griffin Bell, a former judge himself, put it on Face the Nation, the Court is saying to keep busing to an absolute minimum.

Operating within such rigid constraints, what could HEW or any other agency hope to accomplish by ordering a busing plan? The answer is very little. For even if it were the proper function of HEW to impose busing on local communities, currently available evidence suggests that the schemes would not work. Not only would they not work, in fact, but forced busing plans in heavily minority urban school districts actually could be expected to increase segregation.

For the fact of the matter is, it is practically impossible to integrate most of our big-city school systems. I commend to any of my colleagues who doubt that statement a careful study of a chart I will insert in the RECORD at this point, to show the changing racial composition of selected urban districts.

Mr. President, I ask unanimous consent that the table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD as follows:

Selected large urban school systems—Percentage minority enrollment

[In descending order by size of total enrollments]

	1968	1974	1976 [1]
New York City	56	66	70
Los Angeles	46	58	64
Chicago	62	73	75
Philadelphia	61	67	68
Detroit	61	74	81
Houston	47	61	66
Baltimore	65	70	76
Dallas	39	56	62
D.C	94	97	97
Memphis	54	70	71
San Diego	24	30	34
Cleveland	57	61	62
Milwaukee	27	38	44
Columbus	26	31	33
New Orleans	69	81	84
St. Louis	64	70	72
Atlanta	62	85	89
Indianapolis	34	43	45
Denver	34	46	52
Boston	31	48	56
San Francisco	59	69	72
Kansas City	47	62	66

[1] Most recent figures available.

Mr. EAGLETON. An enlargement of the table is behind me. The inescapable conclusion is that the inner city schools are getting blacker and blacker. As they do and are, the efficacy of busing within these increasingly racially isolated inner city schools becomes impossible. I ask my colleagues, is there any way to racially integrate the Washington, D.C., school system, 96 percent black?

This is the city in which the Justice Department, itself, is situated. Many of the national civil rights organzations have their home headquarters in Washington, D.C. Yet, we all know that, despite the Government's presence and the presence of these fine civil rights organizations, they and no one else can think of any way racially to integrate the District of Columbia school system that is now 96 percent black.

What about Detroit, 81 percent black? What about New Orleans, 84 percent black? What about St. Louis, my home city, 72 percent black? I just called earlier this week to get the September figures. St. Louis is now 76 percent black.

What about the other big city in my State, Kansas City? Kansas City, according to the chart, was 66 percent black. I just called to get the September figures for Kansas City; it is 71 percent black.

I am not alone in this conclusion. Eleanor Holmes Norton, who enjoys a deserved reputation as a leading civil rights advocate, gave this opinion of such situations:

To simply distribute a diminishing number of whites thinner and thinner is obviously to get embarked on a process that will not result in integration. A school with twenty percent white students and eighty percent minority children is not integrated . . . That's why the metropolitan approach has to be looked at very closely.

Mrs. Norton was chairperson of New York City's Human Rights Commission when she made that statement and is now chairman of our Nation's Equal Employment Opportunity Commission.

Prof. Gary Orfield of the University of Illinois has recently published the best historical - analytical - political - educational book I have read on the subject of busing. He is a pro-busser.

He testifies for the Justice Department in litigation in which they are suggesting busing plans to Federal district courts. However, he believes that busing confined just to the inner city will not work. In his new book, the one of which I made mention, called "Must We Bus," published just a few months ago by the Brookings Institution, he writes:

If lasting large-scale desegregation is to be possible for children in New York, Chicago, Los Angeles, Philadelphia, Detroit, and other large cities, the suburban boundary line must be crossed.

The longer one looks at the demographic and economic trends of the largest cities, the more dangerous the barrier against metropolitan desegregation erected by the Supreme Court in the 'Milliken' case appears. With the possible exception of Los Angeles, only local and often transitory integration seems possible in the largest cities.

The largest cities can be desegregated, although accomplishing the change through court orders would require a degree of judicial intervention and assertiveness that seems unlikely with a significant change in the Supreme Court.

Once a school system has become overwhelmingly minority, desegregation policies premised on a white majority or a relatively even population split are nonsensical. To take an extreme example, a racial-balance plan could 'integrate' all the schools in Washington, D.C., by making each 96 percent black. If the primary legal goals are to overcome the effects of prolonged illegal separation of white and black children and to end the racial identifiability of minority schools, neither is accomplished by such plans.

Let me state it in my own words. The Supreme Court has said that the buses will not roll into suburbia. That is what they have said in Dayton, in Omaha, in Detroit, and Milwaukee. And to spread a dwindling number of white students throughout a predominantly black city school system is a self-defeating exercise.

Mr. President, I do not merely suggest that such busing will not improve a district's racial makeup. I also contend that the busing of a dwindling number of whites in increasingly black inner city schools will accelerate resegregation of city districts. Proof on this point does not come easily but it is, in my view as certain as the fact that the Sun will come up tomorrow. Prof. James Coleman, once the patron saint of busing when, in the 1960's his studies of student performance in desegregated against segregated schools were so heavily relied upon by busing proponents, concluded as much recently. "Ironically," Coleman said:

"Desegregation" may be increasing segregation.

What he is referring to is intercity busing orders. If the consequence of in-

ner city busing is to drive more whites to the suburbs, then what are we doing?

Something is wrong, Professor Orfield concludes. In his book he noted that:

Most scholars believed, however, that there was a significant one-year acceleration of white flight in big cities where a plan limited to the city only was implemented. Perhaps the enrollment decline in a single year would be normally expected in 2 years.

Toward the end of his book, Professor Orfield states with far less restraint:

Limiting remedies to schools with few white students in cities where long-established demographic trends guaranteed resegregation meant, in effect, that there was no remedy, only an intensification of conflict and possibly a speeding up of the normal process of ghetto and barrio expansion.

Justice Thurgood Marshall voiced a similar view in his eloquent dissent in the Detroit case:

One cannot ignore the white-flight problem, for where legally imposed segregation has been established, the district court has the responsibility to see to it not only that the dual system is terminated at once but also that future events do not serve to perpetuate or reestablish segregation.

Under a Detroit-only decree, Detroit's schools will clearly remain racially identifiable . . . schools with 65 percent and more Negro students will stand in sharp and obvious contrast to schools in neighboring districts with less than 2 percent Negro enrollment. Negro students will continue to perceive their schools as segregated educational facilities and this perception will only be increased when whites react to a Detroit-only decree by fleeing to the suburbs to avoid integration.

A desegregation order in a heavily black inner city school district is clearly not the sole reason for "white flight," but it most certainly intensifies and exacerbates the trend.

This point again was borne out in the study by David J. Armor, a senior social scientist at the Rand Corp. In 1977, the Los Angeles school board asked Dr. Armor to participate in a study focusing on white flight. Dr. Armor focused on the white student loss rates experienced by other cities which underwent extensive desegregation. In order to measure the white flight effect, Dr. Armor projected what the white enrollments would have been had the mandatory desegregation not occurred. He used white birth data from 1950 to 1972 and net migration data from the U.S. census from 1950 to 1970.

I have on the second chart behind me, a graphic representation of Dr. Armor's results. I ask unanimous consent that the chart be printed in the RECORD at this point. The actual white loss is shown in black, the projected loss, absent desegregation, is shown in blue.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ACTUAL WHITE LOSSES IN 9 NORTHERN BUSING CITIES

	Year before suit	Year before order	Year before start	Year of start	Year of busing 1st	2d	3d	4th	5th	6th	7th
Boston, Mass	−3.3(−3.6)	−6.6(−3.8)		1974	−14.9(−4.0)	−21.6(−3.7)	−10.6(−4.6)				
Denver, Colo	−1.4(−2.3)	−2.3(−2.3)	−6.5(−3.8)	1974	−13.2(−3.4)	−10.5(−3.5)	−7.8(−4.1)				
Pasadena, Calif	−5.2(−2.5)	−6.0(−3.0)		1970	−12.4(−3.7)	−11.5(−4.2)	−11.4(−4.3)	−9.7(−4.3)	−1.9	−2.8	−8.4
Pontiac, Mich	+.8(−2.0)		−6.0(−2.0)	1971	−17.9(−2.5)	−2.9(−3.1)	−5.5(−3.2)	−4.5(−3.6)	+.6	−2.3	
Springfield, Mass	−4.2(−4.5)	−4.2(−5.1)	−6.8(−5.2)	1974	−6.6(−5.6)	−3.6(−4.9)					
Indianapolis, Ind	−2.0	−3.5	−6.7	1973	−9.8	−6.1	−5.3				
Prince Georges County, Md	(+5.0)	−3.3(+4.2)	−3.7(+4.2)	1973	−9.5(+3.2)	−5.6(+2.6)	−6.1(+1.1)	−7.9(+0.2)			
San Francisco, Calif	[1] −3.1(−4.7)	−7.6(−5.2)		1971	−16.9(−5.5)	−9.1(−5.5)	−12.8(−6.2)	−8.8(−6.6)	−4.3	−7.8	
Detroit, Mich	[2] −5.4(−5.2)	−6.8(−5.8)	−9.2(−8.0)	1971	−21.7(−7.8)	−15.1(−7.8)					
Average loss	−2.6(−2.5)	−5.0(−3.0)	−6.4(−3.0)		−13.7(−3.7)	−9.6(−3.8)	−8.5(−3.6)	−7.7(−3.6)			

[1] Year before board order of mandatory busing.
[2] Average of 1968 and 1969 losses.

( ) All numbers in parentheses are projected rate of loss based on birth data and migration data, U.S. Census.

Mr. EAGLETON. Let me move to the chart.

Dr. Armor, I think, if my memory serves me correctly, made his survey of 23 school districts. These are nine that he issued in a preliminary report.

By the way, the full report is out and, interestingly enough, it is the subject of a feature article in either this week's Time or Newsweek, or a fairly current periodical.

But, in any event, let us take a district very close to Washington, D.C.—Prince Georges County, the year of the start of the busing in Prince Georges, which was 1973.

Prior to 1973, that would be the year 1972, the white enrollment in Prince Georges County prior to the order dropped 3.3 percent. Under the Armor extrapolations, it would have been anticipated that white enrollment would have increased 4.2 percent, such was the growth factor in Prince Georges County, a rapidly burgeoning suburban county.

In 1973, white loss, the first year after the order, 9.5 percent. White loss, second year after order, 5.6 percent. Armor projection, no order, would have been a white increase of 3.2 percent. In the first year, a white increase of 2.6 percent.

The most dramatic figures in the chart, of course, pertain to Detroit, Mich., discussed in these remarks, the situs of that case.

The Detroit order was in 1971. The year prior to the order, the white loss in Detroit was 6.8 percent. The year after the order, the white loss was 21.7 percent—in the first year after the order. In the second year after the order, 15.1 percent.

I could go down the entire list. We have put it in the record.

Boston, of course, a very celebrated situation, the order was 1974. The white loss in Boston the year prior to the order was 6.9 percent. The year after the order, it was 14.9 percent. The second year after the order, 21.6 percent. And so on.

As the chart shows, the actual rates of white loss in the nine cities was far greater than the projected rates after the start of extensive court-ordered desegregation plans. In the first year of busing, the actual rate of white loss was 3½ times the projected rate.

In each of these cities, a court made a determination of a violation of the Constitution and ordered the desegregation plan to remedy that violation.

These are all court-ordered situations.

By the way, the amendment does not affect court-ordered situations, nor would I seek it to affect court-ordered situations, nor do I think constitutionally can we, in this forum or any other forum, constrain a Federal district court in its exercise of the equal protection clause.

Now, let me just mention a word or two about my home city of St. Louis because a Federal district court is about to enter an order, and I will not interfere with it. Whatever order he enters I will vigorously support as being required under the Constitution and urge, and strongly urge, all to obey it.

The St. Louis school system, was 73 percent black at the time of the latest office for civil rights school survey. The speech was typed a few days ago, before we had this year's school figures. We got them today.

Just since then, the St. Louis school system's minority enrollment has increased to 76 percent. The plaintiffs in the desegregation suit there are seeking a judicial remedy which would require each school's student body to be within 15 percent of the district's now 76/24 racial makeup.

Every school under the NAACP-requested order would either have to be 15 up or down from those figures.

For the reasons I already have outlined in this speech, I believe that any busing order aimed at achieving a 73–27 split in each St. Louis school would be foredoomed to failure.

However, should the court in St. Louis hand down such an order, I certainly would respect it, we would have to obey it, and would urge my constituents to do likewise, and we would do our best with it. In constitutional matters such as remedying equal protection clause violations, the Congress has no business interfering with the courts. The Eagleton-Biden amendment does not and would not apply in such situations.

However, a situation such as that in St. Louis, where the courts are considering a desegregation plan, is tremendously dif-

ferent from a situation such as that in Kansas City, on the other side of our State.

The Department of HEW recently attempted to order the Kansas City school district to adopt a crosstown busing plan, or face the loss of millions of dollars in Federal aid. The HEW action was purely and simply a case of an administrative agency forcing a local jurisdiction to conform to some bureaucrat's arbitrary notion of what constituted a proper racial balance in each Kansas City school. There was no trial. There was no court order. The closest HEW ever came to a courtroom in the Kansas City case was when they presented their arguments to one of their own hearing examiners, a Social Security Administration officer, at that, to present some factual arguments before the social security hearing examiner, and that was the trial.

Not surprisingly, the hearing examiner ruled in favor of his own agency, and on the strength of this finding HEW was going to order that every school in Kansas City, which was then 66 percent black, and 34 percent white under their plan, every school would have had to have within 5 percent of that formula. Every school would have to be 66 percent, up or down 5, black, and 34 percent white, up or down 5.

As I said, how quickly things change. This year's school enrollment data indicates that Kansas City is 71 percent black, and 29 percent white.

This is the kind of situation the Eagleton-Biden amendment is designed to prevent. The amendment puts HEW on notice that if they want busing in a school district, they are going to have to get it through the Federal courts.

The past year has shown us that the Eagleton-Biden amendment is sound public policy. The past year also has shown us that the amendment should have no trouble passing constitutional tests.

The Department of Justice, in its opposing brief on the motion for declaratory and injunctive relief filed in Federal District Court of the District of Columbia, disputed the argument that the Eagleton-Biden amendment is unconstitutional because it inhibits desegregation. Justice stated that,

> On the contrary, [it] merely effect[s] an adjustment of the means by which that prohibition is to be enforced and thus constitute[s] a valid exercise of Congress' discretionary authority to prescribe the appropriate remedy to enforce fifth and fourteenth amendment guarantees.

The Justice Department brief went on to say,

> To argue that a prohibition against HEW's requiring busing as a condition of receiving Federal funds is unconstitutional is to argue that the Constitution requires the imposition of a remedy for segregation before the existence of segregation has been proven . . . certainly nothing in the Constitution requires that HEW be the final arbiter of whether schools or school districts have complied with constitutional requirements.

On July 18, 1978, Judge Sirica denied plaintiff's motion. As stated in the court's memorandum opinion,

> The Eagleton-Biden amendment . . . preserve[s] the idea that local authorities are the parties best suited in the first instance to determine whether busing is needed to comply with equal protection.
>
> Nor do[es] th[is] amendment . . . bar Federal authorities from exercising discretion to require student transportation when found to be a necessary device to effective Federal guarantees.

What Judge Sirica is saying is what I have said throughout this speech: If you are going to get into the busing business, you do it through the aegis of a Federal district court order, not the HEW having a nice little conversation with the social security hearing examiner.

In short, Mr. President, the Supreme Court's 1974 Detroit decision marked a turning point in civil rights litigation. That is where it all changed. As I said, until then it had been unanimous in Brown and it had been unanimous in Swann; but in 1974, the Detroit decision changed the whole nature of this busing undertaking.

The result of the Detroit case left it this way:

In districts, primarily in the North and West which are now finding their way into court or which are the subject of HEW investigation, it is no longer a matter of applying the de jure/de facto criteria. Cities which never maintained separate school systems for blacks and whites cannot automatically be held liable for present racial isolation in schools. There must be a finding of official action leading to the creation of segregation, and the remedy must be specifically tailored to correct the violation. As the U.S. district court clearly recognized, the Eagleton-Biden amendment seeks to insure that a finding of official segregative action is made by a duly constituted court after weighing the evidence at hand.

Mr. President, I yield such time to my colleague as he may desire.

Mr. BIDEN. Mr. President, I do not plan on taking much time.

We have fought this fight for a number of years now. I believe that the first time this question was raised and was passed by the U.S. Senate was in 1975.

There are a number of arguments with regard to the constitutionality of our amendment and with regard to the sociological impacts of busing, the educational benefits or lack thereof. We have made those arguments time and again.

The Senator from Missouri has made a very fine presentation. I do not intend to take a great deal more of the Senate's time.

Mr. President, the fight to stop the bureaucrats at HEW from ordering a community to bus its schoolchildren began back in 1966.

Most of us thought it ended in 1975 with the adoption of the Byrd language that was a refinement of the Biden language which prohibited administrative busing.

At that time, however, we underestimated just how clever the bureaucrats at HEW could be.

The Byrd-Biden amendment stated that the bureaucrats could "not require * * * the transportation of any student to a school other than school which is nearest the student's home, and which offers the courses of study pursued by such student."

HEW decided that they could require school districts to reorganize their grade structure and by a system of "clustering" or "pairing" could require forced busing that would technically not violate a literal reading of the Byrd-Biden amendment.

In other words, they decided to ignore the clear interest of the Congress.

As a consequence, Senator EAGLETON and I offered strengthening language last year which also prohibited forced busing brought about by "clustering" or "pairing."

The Congress adopted the new language and it has been effective in stopping HEW busing orders.

It is important to note that the language only restricts busing ordered by HEW and has absolutely no impact on court ordered busing.

On July 18 of this year Judge John J. Sirica of the U.S. District Court for the District of Columbia upheld the legality of the legislative language.

This followed the Department of Justice filing an amicus curiae brief with the court supporting the constitutionality of the restrictive language.

Judge Sirica wrote in his opinion that opponents of the amendment, and I quote,

> Overlooked alternative means available to Federal authorities other than HEW to effect transportation remedies when they are needed to achieve desegregation in federally funded school districts.

Mr. President, I ask unanimous consent that the text of Judge Sirica's opinion be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIDEN. Mr. President, forced busing of schoolchildren is a bankrupt social policy and most people are beginning to recognize this.

Just 2 weeks ago, the Washington Post ran a front page story about the changed views of professor of sociology James Coleman of the University of Chicago.

As Senators may remember, Professor Coleman authored the study in 1966 that was widely used by sociologists and judges as evidence that busing was productive.

Professor Coleman now states that his view was "incorrect" and "wishful thinking."

Mr. President, I ask unanimous consent that the text of the Washington Post article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BIDEN. Mr. President, in yesterday's Washington Post there was a news story about a report prepared by respected sociologist David Armor of the Rand Corp., which concludes that, and I quote, "There's no doubt that busing accelerates white flight."

As I have mentioned, forced school busing is the most controversial social policy in this country.

We should not allow decisions of this magnitude to be left to the bureaucrats at HEW.

That is the issue we face today.

I urge my colleagues to again go on record in opposition to administrative busing and therefore oppose the motion by Senator BROOKE.

Mr. President, on both a legal and a sociological front, I think what we should do with regard to busing is what allegedly a senior Member of the Senate some years ago said with regard to the war in Vietnam. I am told that the former Senator from Vermont, Mr. Aiken, one day stood up and said, "Let's declare that we have won the war and leave. Who can dispute it?"

With regard to busing, let us declare that it does not work, admit it, and get off it, and get on with seeing to it that we do better the educational system, do forward the civil rights movement, and not do what we are doing now, which is impeding the civil rights movement, which is not benefiting the educational system in Senator EAGLETON's city, in my opinion, and in Senator BROOKE's State, and in my State or any other State.

So there is a confluence of a number of streams of thought in this area that are all coming to the conclusion that busing does not work, well-meaning as it is, well-intended as it is. It just flat out is not working. It is not required constitutionally.

The amendment that is presently in the law, in part of the law, does not even preclude—my colleagues sometimes become confused as they walk through the door. They will ask us, "What does this one do? Is this the one that stops the courts? Is this ROTH and BIDEN trying to stop the courts, or is this the one that says HEW?"

They will be confused about it because so many busing amendments have been discussed on this floor.

Very simply, the law as it now stands, the amendment which is attempted to be stricken now, merely says that the Department of Health, Education, and Welfare cannot, under threat of withholding funds, force school districts to enter into busing agreements or busing orders. It takes it out of the hands of bureaucrats. Quite frankly, I believe it should be taken out of the hands of the courts.

However, that is not the issue. My friend from Missouri and I disagree on that point. But that is not what we are arguing about here. We are arguing about whether or not, in this instance, HEW should be able to order busing.

I believe that the arguments made by the Senator from Massachusetts are well stated, but they are not valid. The Brown against Califano case, in the first instance, discounts many of the arguments that he made. I do not think there is a constitutional impediment here. I do not believe that the action taken by the House yesterday with regard to the ability of the Justice Department to enter into busing cases detracts in any way from the constitutionality of our position.

In conclusion. Mr. President, I really and truly think that it is becoming very difficult for the proponents of busing to mount either a credible constitutional, a credible educational, or a credible sociological argument for their position. I predict that in a matter of not too many months, the Supreme Court of the United States will restrict further even the rights of the courts in this area, as they gather up some of the remaining cases that are pending in the courts around the Nation.

Mr. President, I yield the floor.

EXHIBIT 1

[In the U.S. District Court for the District of Columbia, Civil Action No. 75–1068]

DARRYL W. BROWN, ET AL., PLAINTIFFS, *v.* JOSEPH A. CALIFANO, ET AL., DEFENDANTS

MEMORANDUM OPINION

This civil rights action challenges, as violating the Constitution's equal protection guarantee, two recently-enacted statutory provisions that limit the means available to the federal government under Title VI of the Civil Rights Act of 1964, Pub. L. No. 88–351, 78 Stat. 252, 42 U.S.C. §§ 2000d–d(6) (1970), to check racial discrimination in federally-supported schools. These provisions, known as the Esch [1] and the Eagleton-Biden Amendments, [2] basically prevent the Department of Health, Education and Welfare (HEW), the agency primarily charged with enforcing Title VI in the education area, from relying on Title VI to order the implementation of plans that require the busing of students to schools other than those closest to their residences. Prior to the enactment of the Esch and Eagleton-Biden Amendments, HEW had the authority under Title VI to require transportation remedies under the threat of cutting off federal funds to offending aid recipients. Plaintiffs, a group of public school students who attend schools that receive federal support, maintain that the Esch and Eagleton-Biden Amendments are unconstitutional because, on their face, they are desegregation-inhibiting measures that will inevitably bring the federal government into a position of having to support segregated educational systems. As will appear more fully below, plaintiffs' argument exaggerates the necessary effects these Amendments will have on the federal government's ability to carry out its constitutional obligations, and overlooks alternative means available to federal authorities other than HEW to effect transportation remedies when they are needed to achieve desegregation in federally-funded school districts.

Title VI of the 1964 Civil Rights Act broadly prohibits recipients of federal aid from engaging in discrimination based on race, color and national origin. In particular, section 601 of the Act declares "No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." 42 U.S.C. § 2000d (1970). This policy of nondiscrimination is carried into effect by allowing "Each federal department and agency which is empowered to extend federal financial assistance" to issue appropriate "rules, regulations or orders." 42 U.S.C. § 2000d–1 (1970). *See* 45 C.F.R. §§ 80.1–.13 (1977). In addition, "Compliance with any requirement adopted pursuant to this section may be effected by (1) termination of" the government funding "or (2) by any other means authorized by law." 42 U.S.C. § 2000d–1 (1970).

Enforcement of Title VI begins with the filing of assurances of compliance by subject recipients attesting to their willingness to comply with all statutory and regulatory requirements. 45 C.F.R. § 80.4 (1977). In the case of recipient elementary and secondary school systems, this obligation is discharged when recipients give adequate assurance that they will either comply with desegregation plans determined by responsible department officials to be adequate under statutory and regulatory guidelines, or abide by the terms of any court order if the school district is under court order to desegregate. *Id.*, § 80.4 (c).

In the event that recipient school districts fail to make the necessary assurances, HEW is permitted to proceed against them but must first notify the offending recipient of the violation and undertake to work out a solution through voluntary means. 42 U.S.C. § 2000d–1 (1970); 45 C.F.R. §§ 80.8 (a) & (b) (1977). If efforts to achieve compliance through conciliation prove to be unavailing, HEW has two enforcement options. The first of these is a multi-step administrative process that culminates in a decision on fund termination after notice to terminate is given, a hearing is held before an examiner, review is conducted by an agency appeals authority and final review by the Secretary of HEW. 45 C.F.R. §§ 80.8–.10 (1977). The final agency decision is then reviewable in the courts. *Id.*, § 80.11; 42 U.S.C. § 2000d–2 (1970).

It is this administrative enforcement process that is affected by the Esch and Eagleton-Biden Amendments. As stated, these provisions operate to prevent HEW from enforcing Title VI so as to require the transportation of students to schools other than those closest to them. And since transportation solutions are often thought to be the necessary corrective action for violations of Title VI, the effect of the Amendments is to prevent HEW from ordering fund termination even though, in the agency's view, compliance with Title VI's mandate depends on busing.

There is, however, a second enforcement option. This alternative authorizes HEW to refer to the Department of Justice cases

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[1] The Esch Amendment was enacted as section 215(a) of the Equal Educational Opportunities Act of 1974, Pub. L. No. 93–380, 88 Stat. 517, 20 U.S.C. §§ 1701–1721 (Supp. V 1975). Codified at 20 U.S.C. § 1714(a) (Supp. V 1975), it provides:

No court, department, or agency of the United States shall . . . order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student. Esch's broad language was narrowed, however, by another provision of the 1974 Act, 20 U.S.C. § 1701(b) (Supp. V 1975), which reads:

. . . the provisions of this chapter are not intended to modify or diminish the authority of the courts of the United States to enforce fairly the fifth and fourteenth amendments to the Constitution of the United States.

[2] The Eagleton-Biden Amendment was enacted as part of Pub. L. No. 95–205, 91 Stat. 1460 (December 9, 1977). It provides:

None of the funds contained in this Act [HEW's appropriation] shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, in order to comply with Title VI of the Civil Rights Act of 1964. For the purposes of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

that evidence a violation of Title VI. In particular:

If there appears to be a failure or threatened failure to comply with this regulation, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by [fund termination] or by any other measure authorized by law. Such other means may include, but are not limited to (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking. . . . 45 C.F.R. § 80.8(a) (1977) (emphasis supplied).

Upon referral, a number of enforcement methods are available. As enumerated in relevant Department of Justice regulations:

Possibilities of judicial enforcement include (1) a suit to obtain specific enforcement of assurances, covenants running with federally provided property, statements [of] compliance or desegregation plans filed pursuant to agency regulations, (2) a suit to enforce compliance with other titles of the 1964 Act, other Civil Rights Acts or constitutional or statutory provisions requiring no discrimination, and (3) initiation of, or intervention or other participation in, a suit for other relief designed to secure compliance. 28 C.F.R. § 50.3, Alt. I–B–1 (1977).

Significantly, nothing in the Esch and Eagleton-Biden Amendments prevents HEW from pursuing the referral alternative in cases where, in the agency's judgment, transportation remedies are warranted. As one of the sponsors of the Eagleton-Biden provision made clear,

HEW is authorized under Title VI to refer matters to the Department of Justice for litigation; this is the course that should be pursued if there is a decision to go forward in a case to which [this] amendment applies. . . . We are not talking about a case in Federal court where the judge finds a violation of the Equal Protection Clause of the Constitution and enters a busing order to remedy such violation. [This] amendment would not apply in such a situation and I would not support a law which attempted to restrict the authority of federal courts to pass appropriate and targeted remedies to redress such constitutional violations. The [Eagleton-Biden] amendment does apply and I support its application to matters such as Kansas City where the HEW acting solely on its own administrative authority and acting without any judicial determination of unconstitutionality, administratively seeks to impose its own formula as the racial mix or racial balance of a given school district. 123 Cong. Rec. S 10898, 10917 (daily ed., June 28, 1977) (remarks of Sen. Eagleton). *See also id.*, S 10915–16 (daily ed., June 28, 1977) (remarks of Sen. Biden).

From the foregoing, it is clear that, if HEW administrators are of the view that the fund termination procedure is foreclosed in a given case because busing remedies are indicated, the option is available to have the matter referred to the Department of Justice for possible litigation. Despite the continued availability of this enforcement option, plaintiffs in this case challenge the Esch and Eagleton-Biden Amendments as impermissibly inhibiting desegregation and as operating to bring the federal government into a position of support for segregated education. In essence, plaintiffs' contention is that HEW's unimpaired ability to insure equality in education through fund termination is a constitutional necessity and that statutory adjustment in the federal government's overall enforcement scheme of the sort brought about by the two amendments in question is constitutionally impermissible. Defendants take just the opposite position. Defendants concede that, if the constitutionality of these amendments was properly tested on the basis of their wisdom as a matter of policy, there would be serious doubt concerning their lawfulness. However, defendants hasten to point out that the continued availability of the referral option as an enforcement technique represents a constitutionally adequate commitment on the federal government's part to Title VI's goal of achieving equality in federally-supported schools. In the Court's opinion, defendants' point is well taken.

At the outset, the Court must note plaintiffs' constitutional challenge is directed at the Esch and Eagleton-Biden Amendments *on their face*. Plaintiffs do not contend that the litigation option left untouched by these provisions is so unworkable and inadequate *as a matter of demonstrated fact* that it should be dismissed out of hand in assessing the constitutionality of Title VI's modified enforcement scheme. Nor could they given the fact that these amendments are of recent vintage and their impact on the government's overall ability to effect desegregated education has of necessity yet to be fully explored. Instead, plaintiffs read their worst fears into the two provisions and, on that basis, ask the Court to declare them unlawful regardless of what may actually come to pass.

Plaintiffs' principal line of attack focuses on the rule established by the Supreme Court in *North Carolina State Board of Education* v. *Swann*, 402 U.S. 43 (1971), to the effect that government-imposed prohibitions against the transportation of students violate the equal protection guarantee when they operate "to inhibit or obstruct the operation of a unitary school system or impede the disestablishing of a dual school system." *Id.* at 45. At issue in *Swann* was a state statute that provided:

No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of creating a balance or ratio of race, religion or national origins. Involuntary busing of students in contravention of this article is prohibited and public funds shall not be used for any such busing.

Observing that "state policy must give way when it operates to hinder vindication of federal constitutional guarantees," *Id.* at 45, the *Swann* Court concluded:

. . . The flat prohibition against assignment of students for the purpose of creating a racial balance must inevitably conflict with the duty of school authorities to disestablish dual school systems. As we have held . . . the Constitution does not compel any particular degree of racial balance or mixing, but when past and continuing constitutional violations are found, some ratios are likely to be useful starting points in shaping a remedy. An absolute prohibition against use of such a device—even as a starting point—contravenes the implict command of *Green v. County School Board*, 391 U.S. 430, that all reasonable methods be available to formulate an effective remedy. *Id* at 46.

Swann is not this case, however. Unlike in *Swann*, the statutory provisions being questioned in the instant case do not *bar* local school officials, whose primary duty it is to maintain unitary educational systems, from exercising their discretion to employ transportation solutions when found to be necessary to insure equality of treatment. Far from mandating the exercise of discretion by state officers against transportation remedies, the Esch and Eagleton-Biden Amendments preserve the idea that local authorities are the parties best suited in the first instance to determine whether busing is needed to comply with equal protection.

Nor do these amendments bar federal authorities from exercising discretion to require student transportation when found to be a necessary device to effectuate federal guarantees. Nothing in either the Esch or the Eagleton-Biden Amendment prevents students aggrieved by discrimination from seeking redress in the federal courts. Neither are the federal courts themselves stripped of their authority or, as was the practical effect of the statute involved in *Swann*, their ability, to require transporttion remedies when indicated. Nor do the two provisions at issue completely check the authority of federal executive officers from proceeding to effect busing solutions in cases where federal rights are violated.

It is true that Esch and Eagleton-Biden preclude one alternative method, the fund termination procedure, by which one federal agency, HEW, may pursue the goal of equality in federally-supported education. And it may also be true that enforcement of the law by the fund termination procedure is the more effective, since certainly it is the more coercive way to bring offending school districts into compliance with the equally mandate. But the fact remains that the Esch and Eagleton-Biden Amendments leave untouched the litigation enforcement option that permits the Civil Rights Division of the Department of Justice, upon referral of a case from HEW, to pursue legal action and obtain the full measure of appropriate relief, including student transportation if warranted, against the offending recipients. In short, contrary to the situation presented in *Swann*, the statutes involved in the case at bar, do not qualify as "flat" or "absolute prohibitions" against the use of needed transportation remedies. While they remove one setting out of which busing orders may originate, they quite clearly preserve student transportation as an available method of insuring equality in education.

The availability of the litigation option also undercuts plaintiffs' alternative constitutional challenge. As a second line of attack, plaintiffs contend that the necessary effect of the Esch and Eagleton-Biden provisions is to bring the federal government into the posture of having to furnish financial aid to school districts that operate impermissible dual school systems. Plaintiff's principal focus is on a line of cases beginning with *Cooper v. Aaron*, 358 U.S. 1, 11 (1958) and including this Circuit's decision in *Kelsey v. Weinberger*, 498 F.2d 701, 709–10 (D.C. Cir. 1974) that establish the rule that no government funds should be dispensed to support illegal discrimination.

Relying on this rule, plaintiffs reason that since busing remedies are sometimes indispensable to the achievement of equal educational opportunities, and since the two disputed amendments prevent HEW from terminating financial support in cases where busing is thought to be the only feasible means of insuring equal treatment, the inevitable result of Esch and Eagleton-Biden will be to place "the Federal Government in an involvement with racially segregated education which the Fourteenth [Amendment] prohibits to the states." *Kelsey, supra* 498 F.2d at 710.

This reading of the two amendments is exaggerated and unpersuasive. Plaintiffs' argument would have force if fund termination were the exclusive means by which the federal government could make sure that only lawfully administered school systems receive federal financial aid. But, as stated, fund termination is only one course of action available to the federal government to insure equality in federally-sponsored education. Notwithstanding Esch and Eagleton-Biden, the referral and litigation option remains an available enforcement technique that carries as much promise from the standpoint of assuring aid only to proper recipients as the fund cut-off procedure.

Obviously, the litigation alternative operates in the opposite direction from the termination technique. Litigation is aimed at bringing offending recipients into compliance with federal law, while the administrative

procedure directly results in severing financial ties with school systems that are willing to accept the loss of federal support as the price for operating their schools, over HEW's objections, as they see fit. But there is nothing in the *Cooper* and *Kelsey* line of decisions that requires the government to end its support of unequal education by proceeding in one way rather than the other. The concern of these cases is that federal support be furnished only to institutions that comply with the mandates of federal law. If this objective can be carried out effectively though indirectly through litigation, instead of directly through fund termination, the government's obligation under *Cooper* and *Kelsey* is nevertheless discharged.

Nor can the lawsuit option be faulted on the grounds that fund termination is likely to sever improper financial ties more promptly than litigation. As applicable regulations make clear, *see* 45 C.F.R. §§ 80.8–.11 (1977), and as prior proceedings in this case confirm, *see Brown* v. *Weinberger*, 417 F. Supp. 1215 (D.D.C. 1975), the fund termination procedure involves a tedious series of notice, hearing and review steps at the various levels within HEW's hierarchy followed by separate review in the courts.

By contrast, the litigation technique bypasses the most cumbersome of the administrative steps and allows the Justice Department to initiate appropriate legal action promptly upon the referral of cases from HEW. This streamlined enforcement approach promises as great if not greater promptness in limiting aid to deserving recipients than does the alternate fund termination process. *See* 28 C.F.R. § 50.3, Alt. I–B–1 (1977) ("Compliance with the nondiscrimination mandate of Title VI may often be obtained more promptly by appropriate court action than by hearings and termination of assistance").

From the foregoing, it is evident that enactment of the Esch and Eagleton-Biden Amendments is unlikely to bring about the results plaintiffs read into them. Admittedly, they work a significant adjustment in the ways the executive branch of the federal government may go about insuring equal educational opportunities in federally-sponsored institutions. But neither provision operates by its express terms to foreclose the availability of remedies that may be necessary to guarantee federal rights in given instances. Consequently, mindful of the presumption of constitutionality to be given to federal statutes, the Court is of the opinion that the enactments at issue in this case must survive plaintiffs' constitutional attack.

This conclusion, however, embodies only a view concerning the facial constitutionality of the two disputed provisions. Whether the Esch and Eagleton-Biden Amendments, as interpreted and administered by responsible officers at HEW and the Department of Justice, will have the practical effect of taking the core out of the government's overall Title VI enforcement program is not an issue now before the Court. Should further proceedings in this case reveal that the litigation option left undisturbed by these provisions cannot, or will not, be made into a workable instrument for effecting equal educational opportunities, the Court will entertain a renewed challenge by plaintiffs on an as applied basis. For the present, however, plaintiffs' motion for declaratory and injunctive relief must be denied.

An appropriate order will be issued of even date herewith.

EXHIBIT 2

DESEGREGATION DISCOUNTED—SCANT BENEFITS FOUND FOR BLACK PUPILS

(By Lawrence Feinberg)

Sociologist James S. Coleman, whose massive study in the mid-1960's has been widely used to support school desegregation, now says it is a "mistaken belief" that black students learn better in integrated classrooms.

During the past decade, Coleman said, research throughout the country has shown that "it is not the case that school desegregation, as it has been carried out in American schools, generally brings achievement benefits to disadvantaged (black) children."

In some situations, Coleman said, desegregation has brought slight gains in black achievement, but in many others there has been no change or a slight loss.

Even though he argued a decade ago that "integration would bring about achievement benefits," Coleman said, "It has not worked out this way in many of the school desegregation cases since that research . . .

"Thus, what once appeared to be fact is now known to be fiction," Coleman said.

Coleman, a professor of sociology at the University of Chicago, presented his new conclusions in a paper in April. He repeated them in an interview this weekend.

"Desegregation has turned out to be much more complicated than any of us ever realized," Coleman said. "There appear to be beneficial effects for some black kids, those who are better students, and harmful effects for blacks who are poorer students. It all seems to balance out, which is quite the reverse of the implications of my own research" in the mid-1960's.

Coleman's 1966 report, called "Equality of Educational Opportunity," was authorized by Congress in the 1964 Civil Rights Act and sponsored by the U.S. Office of Education. It still is the most extensive piece of educational research ever conducted, involving tests and surveys of about 600,000 students and 60,000 teachers in 4,000 schools around the country.

Its most widely noted conclusions were that the social class composition of a school had more impact on student achievement than either resources or teaching methods, and that lower-class black children scored somewhat higher on standardized tests in schools with a middle-class white majority than they did in schools where all the children were poor and black.

Coleman stressed that the achievement gain occurred not because of skin color but because of the middle-class background and "educational resources" that many white children bring from home.

After his report, Coleman expressed his views widely, not only in scholarly articles but also in testimony before congressional committees and in school desegregation cases in courts.

Among these was Julius Hobson's suit against the Washington school system. Coleman testified in Hobson's behalf and was cited by U.S. Judge J. Skelly Wright to support the court's finding that "Negro students' educational achievement improves when they transfer into white or integrated educational institutions."

Coleman said he now believes that this view is "incorrect . . . wishful thinking."

In the interview, Coleman said the difference between his conclusions a decade ago and the results of desegregation since then reflects two main factors—a difference in the way desegregation has been carried out, and the availability of new research.

When he collected his data in 1965, Coleman said, nearly all the black children attending integrated schools in the South were well-motivated volunteers under "open enrollment" plans. In the North almost all integration had occurred in neighborhood schools where blacks and whites lived nearby.

Since then, Coleman noted, many school districts have been desegregated through mandatory busing programs, ordered by courts or state agencies, that bring children together from wide areas.

"Much of it has been accompanied by the kinds of things that don't foster achievement," Coleman said. "Often there's been some degree of turmoil and lower standards, with white teachers being afraid to apply the same standards to black students and therefore not teaching them as well."

Coleman said his 1966 report was based on data collected at one time, with conclusions drawn by comparing youngsters in schools with different proportions of black and white students.

Since then, he said, researchers have been able to follow children for several years after they switched to desegregated schools. Although Coleman has not been directly involved in any of this research, he said a review of over 100 desegregation studies in cities around the country—from Boston to Berkeley—shows "no overall gains."

"Some of the most carefully studied cases, such as in Pasadena and Riverside, Calif.," Coleman said, "show either no achievement effects or else losses."

In the South some gains by blacks have been reported by the National Assessment of Educational Progress, but Coleman said these occurred in both segregated and integrated classrooms. He said these gains probably are the result of "the broader impact of desegregation in the South. . . . it drew a lot of attention to schools that used to be the worst in the nation," rather than a direct result of blacks and whites being taught together.

Before going to the University of Chicago in 1973, Coleman taught at Johns Hopkins University in Baltimore. He took part in civil rights demonstrations there, and was arrested in one of them.

He said he still strongly opposes legal segregation and strongly favors integrated schools. But he said mandatory busing in many cities has been "counter-productive" because it has been followed by an extensive loss of white students.

Coleman also rejects "the belief that an all-black school is inherently bad."

"That has a curiously racist flavor," Coleman said, "which I can't accept. There have been, and there are, all-black schools that are excellent schools by any standard."

"What is essential," he said, "is that if a child is in an all-black school, it should be because . . . his parents want him to be there, not because it is the only school he has a reasonable chance to attend."

Coleman said he thinks the best ways of increasing school integration now would be to encourage voluntary transfers between city and suburban schools or to offer vouchers allowing parents to pick any school for their children but providing more funds for integrated schools.

"We ought to take measures so we can become a more integrated society," Coleman said, "but we ought to be clear that integrated education does not depend on maintaining romantic notions that are not true."

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the Brooke amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I yield such time as he may require to the Senator from Delaware (Mr. ROTH).

The PRESIDING OFFICER. There is no time limit on this amendment.

Mr. ROTH. Mr. President, I want to make it clear I strongly support the goal of a society free from racial prejudice. I strongly support the concept of quality education and the neighborhood school. Brown versus Board of Education rejected the invidious policy of separate

but equal schools and recognized equality of educational opportunity as a principle to which our Government must adhere. But in the past decade, HEW has interpreted title VI of the Civil Rights Act of 1964 to allow the assignment of students to particular schools, because of their race, all in the guise of achieving a supposedly "ideal" racial mix in our schools. This is the very practice which the Brown decision condemned as unconstitutional.

The purpose of the Eagleton-Biden language in this bill is to keep the bureaucrats out of busing. We all want the same thing, and that is a colorblind society. But it makes no sense to continue along a path that neither provides quality education for our children, black or white, nor achieves desegregated schools. It is time we quit the experimenting with the lives of tens of thousands of children that is achieving no meaningful good.

I am always deeply disturbed by any accusation that my home State of Delaware has been involved in a case of school segregation, because that is contrary to fact. After the Brown case in 1954, our State proceeded with dispatch and good faith in developing a unitary system. It did so well that, in the 1960's, HEW applauded Delaware for doing the best job that had been done in any State. In fact, as columnist Bill Frank of the Wilmington, Del., News-Journal papers pointed out recently, the dismantling of Delaware's dual school system was accomplished so quickly and so without fanfare that reference to it was all but buried in the News-Journal papers.

In the recent Delaware desegregation case, there was no finding that Delaware had intentionally discriminated, and now Delaware schoolchildren are subject to a court-ordered countywide busing plan which Mr. Justice Rehnquist of the U.S. Supreme Court has likened to a "railroad in reorganization." I strongly believe on the basis of the Dayton case the Supreme Court should reverse this drastic remedy because the Court did not find intentional discrimination in Delaware schools. But while the Delaware busing plan has been implemented peacefully, 21,000 students and all—which is a strong argument in itself that Supreme Court reversal of the plan can also be accomplished peacefully—HEW-ordered busing of only 1,300 students in Philadelphia has brought chaos, as a column by Rose De Wolf in the Philadelphia Evening Bulletin points out.

In short, Mr. President, the results are now coming in on forced busing, and a threefold consensus is developing among local leaders, legal scholars, educators, sociologists and, above all, the American people:

First, a broad majority of Americans, black and white, still oppose busing as a means of achieving equal educational opportunity for all. Opinion polls continue to show that public opposition to forced busing is deeply felt and cuts across all races, colors, and income levels.

Second, busing does not work. That is, busing provides neither higher educational quality for blacks and whites nor better relations between the races. In fact, busing has brought confusion, havoc, and disruption to many of our Nation's best public school systems.

Finally, an emerging consensus of educators, sociologists, and legal scholars ranging from Dr. Nathan Glazer, professor of sociology at Harvard University, to Dr. David Armor of the Rand Corp., and including Dr. James S. Coleman of the University of Chicago, author of the landmark 1966 "Coleman Report" on equality of education in America, and Prof. Raoul Berger, of Harvard University, author of a recent masterwork of constitutional scholarship on the 14th amendment—this consensus concludes that forced busing, far from reducing the inequality of educational opportunity in the United States, has, in fact, had the exact opposite effect: Busing causes a white exodus from the public schools, sharpens the conflict among groups, and lowers the quality of education for all students, black and white.

No scholar in this country has done more to influence the goal of equal educational opportunity for all and a society free from racial prejudice than Dr. James S. Coleman, professor of sociology at the University of Chicago. Dr. Coleman's massive research study in the mid-sixties has been widely used to justify school desegregation as a means of achieving equal educational opportunity for schoolchildren of all races, creeds, and colors in America. But in the last 3 years, Dr. Coleman has subjected his previous research to rigorous self-criticism and evaluation in the light of new data available on educational achievement and the actual methods by which school desegregation has been carried out.

Dr. Coleman now concludes his initial research, the pillar of scholarship upon which so many of our massive metropolitan school desegregation schemes rest, was wrong, dead wrong. Where in the midsixties he once argued that "integration would bring about achievement benefits" for minority children, Dr. Coleman now says:

> It has not worked out this way in many of the school desegregation cases since that research. . . . Thus, what once appeared to be fact is now known to be fiction.

Mr. President, like Dr. Coleman and other national scholars such as Dr. Glazer, Dr. Armor, and Dr. Thomas Sowell, I shall continue to fight for clarity and scholarship in the debate on this important issue of how best to achieve school desegregation. All of us are committed to the same goal: The best possible education for our children of all races, creeds, and colors, in the neighborhood school of their choice.

I urge my colleagues to reject the amendment of the junior Senator from Massachusetts, and I ask unanimous consent that the text of three newspaper articles about Delaware desegregation and Dr. Coleman's new findings be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NOT LIKE THE OLD DAYS AT ALL

(By Bill Frank)

As an oldtimer around this newsroom of the News-Journal papers, I'm supposed to gripe every now and then. "Things ain't like what they used to be."

Almost every other old fuddy-duddy will tell you that.

Well, here we are at the end of the first week of this massive desegregation project in the upper Delaware schools and I must say most emphatically in connection with the News-Journal coverage, "Things most definitely ain't what they used to be around here."

And it's a good thing "they ain't." Otherwise, our Wilmington newspaper coverage of the 1978 court-ordered desegregation story would have been as pallid, skimpy, superficial nonprofessional as it was back in 1954.

1954 was the historic year of racial desegregation in Delaware public schools.

In September of that year, for the first time in the long history of public education in Delaware, black children went to school with white kids. No—not in all the schools of Delaware but in at least 12 of the 108 school districts, including Wilmington, Claymont, Newark, and Hockessin.

True, the little Arden school, near Wilmington jumped the gun, so to speak, and admitted black children to its white school before the State Board of Education or even the attorney general gave permission. But then, Arden was always a village of its own, with its own standards and way of life.

In 1954, Delaware was one of the 17 states that had compulsory school segregation that was banned that year by the U.S. Supreme Court. Delaware had a constitutional provision calling for "separate but equal" schools.

Collins Seitz, who was then chancellor of Delaware, had already ruled that there was no such thing as "separate but equal" but Seitz, now chief judge of the U.S. Circuit Court of Appeals in Philadelphia, noted that this was an issue for the U.S. Supreme Court to resolve.

And the U.S. Supreme Court resolved it in May of 1954. Whereupon Delaware was among the first of the 17 states if not the first, to proceed to implement the court order.

Finally, came September of that year. Wilmington had adopted a procedure to implement "with deliberate speed." So had other school districts which checked in first with the State Board of Education.

And so the schools in and near Wilmington opened with black children inside what had been white schools for the first time in Delaware history.

And how did the Wilmington newspapers treat the story? Abominably off-handedly.

True, the desegregation pattern varied, but it was as one authority put it, "a traumatic experience" for many school officials, parents, and white children even to have a handful of blacks in what used to be all white schools.

The Wilmington newspapers in 1954 treated it all, as if it were routine. The first real story of the desegregation implementation did not appear, for example, on page one of what was then known as Journal Every Evening until a week after school opened. A perfunctory story, at that, without even a single picture.

The desegregation pattern in so-called rural schools, outside of Wilmington was handled chiefly by what were known as "stringers."

Compare, if you please, with how the News-Journal staff covered the desegregation story of this past week. Plans had been under way for more than a year. As the date for school opening approached, the plans were intensified.

Not one, nor two, nor three staff reporters were assigned, but practically the entire

staff was mobilized compared to the 1954 treatment: One story, one reporter.

A book was issued to all staff members which contained every single minute detail of what was expected to take place last Monday. Came last Monday and the corps of reporters fanned out, each to specific schools, all coordinating with editor Ellie Shaw, who had done a great deal of the advance planning with her group of education reporters.

Reporters and photographers were equipped with walkie-talkies and "bell boys"—very expensive equipment, you should know. Every school in the desegregation pattern was covered. Lots of advance briefing, so that each reporter knew where to go and what to do and when.

Back here in the office, the reports were collated, edited and fashioned into the stories that record, once and for all, how northern Delaware schools met the challenge nobly and successfully, at least for the time being.

The historians in years to come will get an outstanding story of Desegregation—1978. All the human interest nitty gritty details in contrast to the superficial juice that made up the 1954 desegregation stories.

"What was the difference between 1954 and 1978?" you might ask, "when it came to reporting such events?"

It is true that recent school desegregations elsewhere have been marked with citizen violence. It is also true there were many fears in Delaware that explosions would occur here, many more fears than prevailed in 1954.

But it is also true that editors and reporters 24 years ago were not as cognizant as they are now of social changes in the community.

Even though desegregation in 1954 moved along without outstanding incident, except in Milford, Wilmington editors and reporters in the 1950s had a strange idea that "good news" wasn't worth investigating and reporting.

I confess all this is heresy for an old-timer to say but again, "things ain't what they used to be" around this newsroom and I want to add "It's a damn good thing they ain't."

DESEGREATION: A TALE OF TWO DISTRICTS

(By Rose DeWolf)

The contrast was startling.

On the first day of the school year in New Castle County, Del., 21,000 children were bused across city and township lines for the first time in order to comply with a court desegregation order. And it went off almost without a hitch.

On the first day of school in Philadelphia, some 1,300 teachers were assigned to different school buildings in the city in order to comply with a desegregation order from the U.S. Department of Health, Education and Welfare. And the result was chaos.

(Some schools ended up with more teachers than calsses, others with more classes than teachers. Some of the transferred teachers found they were only replacing others of the same race. High school teachers were sent to elementary schools. Etc.)

How could it be that Delaware could move 21,000 children while Philadelphia could not manage to move 1,300 adults?

The answer seems to be that although both Delaware and Philadelphia appealed their respective desegregation orders, Delaware officials planned ahead just in case they lost, while Philadelphia officials did not. In this, Philadelphia might be compared to a gambler who bets his last buck. Obviously he hopes he's going to win. Just as obviously, he's a fool not to consider the possibility that if he loses, he won't even have carfare home.

Ten years, ago, the Philadelphia School District was ordered by the State Human Relations Commission to desegregate its faculty. Teachers were to be assigned so that there would be at least 10 percent white faculty in predominately white schools. (Federal guidelines on faculty assignment by race always aimed at even high percentages and the school district was certainly aware of that.)

Even so, as late as last year, there were still schools in Philadelphia with less than that 10 percent. And not, according to HEW investigators, because Philadelphia insists on assigning its teachers on a "color-blind" basis as a matter of principle. The investigators said Philadelphia schools assigned teachers on the basis of race, all right . . . black teachers to black schools and white teachers to white schools.

(The only explanation the school district has offered for this is that "teachers like to live near their schools." Does that mean the reason South Philadelphia High School has so few blacks on its faculty is that no black teachers live in or near South Philadelphia? Oh c'mon.)

Anyway, this year, on June 22, HEW notified the school district that it had better reconsider its teacher assignments forthwith. School officials went to Washington to argue about it. Fair enough. However, they did not at the same time start drawing up lists and working with teachers and making tenative assignments—just in case their arguments were rejected.

Which they were. On August 7, HEW notified Superintendent Michael Marcase that if its guidelines were not met, Philadelphia was risking some $100 million in federal aid. Even then, nothing happened. It was not until August 21 that the school board met and voted to transfer teachers. Only then were lists drawn up, were teachers called in and asked to voice preference for new schools and such.

Any plan put together that hastily was bound to cause havoc. As this one has.

This situation has come about either because School Superintendent Marcase and School Board President Arthur Thomas are, unlike the officials in Delaware, incompetent to handle complex problems or because they deliberately wanted to make the teachers—both black and white—unhappy.

On the other hand, there are those who would say that this is not an either-or situation. More likely it involves a bit of both.

DESEGREGATION DISCOUNTED—SCANT BENEFITS FOUND FOR BLACK PUPILS

(By Lawrence Feinberg)

Sociologist James S. Coleman, whose massive study in the mid-1960s has been widely used to support school desegregation, now says it is a "mistaken belief" that black students learn better in integrated classrooms.

During the past decade, Coleman said, research throughout the country has shown that "it is not the case that school desegregation, as it has been carried out in American schools, generally brings achievement benefits to disadvantaged (black) children."

In some situations, Coleman said, desegregation has brought slight gains in black achievement, but in many others there has been no change or a slight loss.

Even though he had argued a decade ago that "integration would bring about achievement benefits," Coleman said, "It has not worked out this way in many of the school desegregation cases since that research. . . .

"Thus, what once appeared to be fact is now known to be fiction," Coleman said.

Coleman, a professor of sociology at the University of Chicago, presented his new conclusions in a paper in April. He repeated them in an interview this weekend.

"Desegregation has turned out to be much more complicated than any of us ever realized," Coleman said. "There appear to be beneficial effects for some black kids, those who are better students, and harmful effects for blacks who are poorer students. It all seems to balance out, which is quite the reverse of the implications of my own research" in the mid-1960s.

Coleman's 1966 report, called "Equality of Educational Opportunity," was authorized by Congress in the 1964 Civil Rights Act and sponsored by the U.S. Office of Education. It still is the most extensive piece of educational research ever conducted, involving tests and surveys of about 600,000 students and 60,000 teachers in 4,000 schools around the country.

Its most widely noted conclusions were that the social class composition of a school had more impact on student achievement than either resources or teaching methods, and that lower-class black children scored somewhat higher on standardized tests in schools with a middle-class white majority than they did in schools where all the children were poor and black.

Coleman stressed that the achievement gain occurred not because of skin color but because of the middle-class background and "educational resources" that many white children bring from home.

After his report, Coleman expressed his views widely, not only in scholarly articles but also in testimony before congressional committees and in school desegregation cases in courts.

Among these was Julius Hobson's suit against the Washington school system. Coleman testified in Hobson's behalf and was cited by U.S. Judge J. Skelly Wright to support the court's finding that "Negro students' educational achievement improves when they transfer into white or integrated educational institutions."

Coleman said he now believes that this view is "incorrect . . . wishful thinking."

In the interview, Coleman said the difference between his conclusions a decade ago and the results of desegregation since then reflects two main factors—a difference in the way desegregation has been carried out, and the availability of new research.

When he collected his data in 1965, Coleman said, nearly all the black children attending integrated schools in the South were well-motivated volunteers under "open enrollment" plans. In the North almost all integration had occurred in neighborhood schools where blacks and whites lived nearby.

Since then, Coleman noted, many school districts have been desegregated through mandatory busing programs, ordered by courts or state agencies, that bring children together from wide areas.

"Much of it has been accompanied by the kinds of things that don't foster achievement," Coleman said. "Often there's been some degree of turmoil and lower standards, with white teachers being afraid to apply the same standards to black students and therefore not teaching them as well."

Coleman said his 1966 report was based on data collected at one time, with conclusions drawn by comparing youngsters in schools with different proportions of black and white students.

Since then, he said, researchers have been able to follow children for several years after they switched to desegregated schools. Although Coleman has not been directly involved in any of this research, he said a review of over 100 desegregation studies in cities around the country—from Boston to Berkeley—shows "no overall gains."

"Some of the most carefully studied cases, such as in Pasadena and Riverside, Calif., Coleman said, "show either no achievement effects or else losses."

In the South some gains by blacks have been reported by the National Assessment of Educational Progress, but Coleman said

these occurred in both segregated and integrated classrooms. He said these gains probably are the result of "the broader impact of desegregation in the South . . . it drew a lot of attention to schools that used to be the worst in the nation," rather than a direct result of blacks and whites being taught together.

Before going to the University of Chicago in 1973, Coleman taught at Johns Hopkins University in Baltimore. He took part in civil rights demonstrations there, and was arrested in one of them.

He said he still strongly opposes legal segregation and strongly favors integrated schools. But he said mandatory busing in many cities has been "counter-productive" because it has been followed by an extensive loss of white students.

Coleman also rejects "the belief that an all-black school is inherently bad."

"That has a curiously racist flavor," Coleman said, "which I can't accept. There have been, and there are, all-black schools that are excellent schools by any standard."

"What is essential," he said, "is that if a child is in an all-black school, it should be because . . . his parents want him to be there, not because it is the only school he has a reasonable chance to attend."

Coleman said he thinks the best ways of increasing school integration now would be to encourage voluntary transfers between city and suburban schools or to offer vouchers allowing parents to pick any school for their children but providing more funds for integrated schools.

"We ought to take measures so we can become a more integrated society," Coleman said, "but we ought to be clear that integrated education does not depend on maintaining romantic notions that are not true."

Mr. ROTH. Mr. President, I ask unanimous consent that a statement by the senior Senator from North Carolina (Mr. HELMS) on this subject be printed in the RECORD, together with an attachment.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. HELMS

I am pleased to join my colleagues Senator ROTH, Senator EAGLETON and Senator BIDEN in supporting the Appropriations Committee recommendation that none of the funds contained in this year's Labor/HEW Appropriations bill be used to promote or require forced busing of schoolchildren.

On other occasions I have introduced legislation to end this wasteful and costly burden on the schoolchildren of our cities and counties by federal bureaucrats and judges. The amount of gasoline consumption alone involved in forced school busing is enormous. Based upon a study of gasoline used for busing in several of the major metropolitan areas in my State of North Carolina, I estimate that the use of gasoline for busing has more than doubled wherever widespread busing has been introduced under pressure from HEW guidlines or federal court orders.

There is one further dimension to this problem which is even more serious than the misguided use of tax dollars and the ill-contrived consumption of energy. It is the tragic cost paid by the children themselves as a result of schoolbus accidents.

There were 23,000 accidents involving schoolbuses in just 1 year—resulting in 8,500 injuries and 185 fatal injuries. I do not know how many of these injuries occurred during the unnecessary transportation of students to achieve the social engineering of some bureaucrat or judge. But even one crippled or dead child is far too high a price to pay for Federal meddling.

Some of our colleagues may recall that earlier this year I discussed a telecast of the television program "Black Journal" distributed by the Public Broadcasting Service which examined the subject of forced school busing. That program of "Black Journal" urged that "Whites who oppose busing must lose their fear of being called racist and Blacks must stop the automatic adoption of integration as a cure-all for the problems of Black children . . . Both (Whites and Blacks) must embrace a higher principle of truth: It is not necessarily good or bad because it is Black or White. It is good or bad because it does or does not work."

Some of my colleagues may also recall a 1966 report entitled "Equality of Education Opportunity" by Professor James Coleman which concluded that forced integration of schools would automatically improve the educational achievement of black children. The so-called "Coleman Report" became the foundation for many of the HEW ordered and court ordered busing programs throughout the United States.

Professor Coleman has concluded a second report consisting of a review of the experience of busing in many cities. In it Professor Coleman finds that forced busing for purposes of integration does not improve the learning skills of black students. In other words, busing simply does not work. "Thus, what once appeared to be fact is now known to be fiction," writes Professor Coleman.

Because of Professor Coleman's experience and learning on the subject of school integration and the important contribution his new study makes on this subject, I ask that his report entitled: "School Desegregation and City-Suburban Problems" be printed in the RECORD at this point.

The report is as follows:

SCHOOL DESEGREGATION AND CITY-SUBURBAN RELATIONS

(By James S. Coleman)

We have now come to a point at which it is possible to be sober, straightforward, and realistic about school desegregation in major metropolitan areas. In particular, there are three major beliefs about segregation and integration that have finally been shown to be incorrect. With the destruction of these beliefs, each of which, as it played a part in social policy, employed some amount of wishful thinking, it becomes possible to point to policies that are not doomed to failure from the beginning.

It is useful to indicate just what these wrong beliefs have been, and to proceed from there.

First, it was once assumed that elimination of school segregation due to official actions, whether dual school systems in the South or gerrymandering and other school district actions in the North, would eliminate all, or nearly all, racial segregation in the schools. This romanticism may have been held by some of the Supreme Court judges in the Brown decision; but whether it was held by those jurists or not, it was widely held by others, who saw the courts' elimination of de jure segregation as identical to elimination of racial segregation in the schools. In many rural and small-town districts in the South, it was fact, not fiction. But any knowledge of urban areas, and of the residential segregation that develops in urban areas along ethnic, income, and racial lines leads immediately to the recognition that *most* segregation, whether ethnic, or class, or race, in urban areas is due to residential patterns. The Supreme Court has now recognized this as well, in recent rulings on cases in Austin, Texas and Dayton, Ohio, in which it ruled that the remedy for unconstitutional segregating actions must be limited to the extent of the violation—that those actions cannot be taken as cause for eliminating, as unconstitutional, all racial segregation in the city's schools.

The implication of this recognition—that urban populations are residentially separated by ethnicity, class, and race—is that eliminating unconstitutional "official" segregation through the courts will not eliminate most of the segregation that these areas exhibit. This is especially evident now, as white exodus to the suburbs has produced a situation in which most of the largest central-city school systems are majority black, while the surrounding ring remains predominantly white. Such segregation did not arise by official action (unless one wants to argue that the actions of the Courts in instituting racial balance orders which resulted in whites leaving the city are "official segregating acts"), yet this form of segregation is the most important form in most major metropolitan areas.

The further implication of recognizing the fiction as a fiction is that policies to reduce racial segregation in urban areas can no longer use what appeared to be the instant solution: immediate elimination of segregation through court order. Instead, more difficult actions, carried out through other agencies of government, and employing the active cooperation of blacks and whites, are necessary. But before discussing such policies, it is useful to turn to the second fiction.

Second, it was once assumed that integration—at least in majority middle-class white schools—would automatically improve the achievement of lower class black children. I hasten to say that it was research of my own doing that laid the basis for this assumption. That research, carried out under the Civil Rights Act of 1964 and completed in 1966, showed that lower class black children in majority middle class white schools achieved better on standardized tests than did other children like them in all-black schools. And it showed further that there was little decrement in the achievement of whites in integrated schools. I, among others, argued that this meant integration would bring about achievement benefits. Arguments of this sort were used in a number of school desegregation cases, and such an argument helped lead Judge Roth to his decision in the Detroit case, which was later overturned by the Supreme Court.

However, it has not worked out this way in many of the school desegregation cases since that research.

A review of a large number of analyses of effects of desegregation on achievement has recently been carried out, showing no overall gains. In some cases, there seem to be slight gains, in others no effects, in still others slight losses in achievement. Some of the most carefully-studied cases, over a period of years following desegregation, such as in Pasadena and Riverside, California, show either no achievement effects, or else losses. Thus, what once appeared to be fact is now known to be fiction. It is not the case that school desegregation, as it has been carried out in American schools, generally brings achievement benefits to disadvantaged children. It is probably true that desegregation under optimal conditions will increase achievement of disadvantaged children. But that is not the point: very likely *any* school changes, under optimal conditions, will have this effect. What we must look for is the effect that occurs under the variety of actual conditions in which desegregation is carried out.

The implication of this recognition of the actual effects of desegregation on achievement is that no longer should we look solely, or even primarily, to racial balance in the schools as the solution to inequality of educational opportunity. That inequality of opportunity is not something to be easily overcome. If we are looking for policies to help bring about equality of educational opportunity, it is necessary to look more broadly. If we are looking for reasons to implement policies of racial balance in the schools, we must look further.

Third, it was once assumed that policies of racial school desegregation could be instituted, such as a bussing order to create instant racial balance, and the resulting school populations would correspond to the assignments of children to the schools—no matter how much busing, no matter how many objections by parents to the school assignments. It is now evident, despite the unwillingness of some, researchers and others, to accept the fact, that there are extensive losses of white students from large central cities when desegregation occurs in those cities. To be sure, those losses are only extensive when the proportion of blacks in the city is high, or when there are predominantly white suburbs to flee to, or both. But again, this is not the point, for in all large American cities, one of these two conditions holds, and in most, both conditions hold.

There are several policy implications that follow from the recognition of this fact. One is something that should have been seen all along but can no longer be ignored. This is that a child's enrollment in a given public school is not determined by a government decision. It is a joint result of a goverment decision which makes school assignments, and parental decisions, whether to remain in the same residential location, whether to send their child to a private school, whether to move into one school district or another if the family is moving into a metropolitan area. The fact that the child's enrollment is a result of these two decisions operating jointly means that government policies must, to be effective, anticipate parental decisions, and obtain the active cooperation of parents in implementing school policy.

A second implication is a more powerful one. It is that no school desegregation of any appreciable degree can be carried out within a major American city, ignoring the suburbs, and be expected to remain stable. School desegregation that provides an incentive for whites to go to the suburbs—as all bussing plans to achieve integration within a city do—is inherently unstable. It is most unstable when there are extensive white suburbs and a high proportion black in the central city, a condition that is true in most large American cities. And those few large American cities without a high proportion black (like Seattle, Washington, for example), also happen to be those in which the ease of movement to the suburbs with little increase of commuting is greatest.

A third implication is that no school desegregation can be carried out, whether it includes the suburbs or not, that imposes an extreme burden upon parents or children. For if it does, resourceful parents will find a way of improving their situation. They may choose to send their children to private schools, as many have done. They may choose to move beyond the reach of the policy. For example, countywide desegregation in Louisville, Kentucky has led surrounding counties to become among the fastest growing in the nation.

The implication for positive policy is that any desegregation that is to remain stable must be a plan involving the metropolitan area as a whole, and it must be a plan in which the coercive qualities are outweighed by the attractive ones. There are many school policy makers, and many courts (still operating under the fiction that constitutionality requires racial balance) that have not recognized this, so that there are still harmful school desegregation policies being implemented in American cities. Seattle is about to engage in a plan which will almost certainly be unstable. And only last week, the Illinois Board of Education, ignoring the suburban haven altogether, and ignoring Chicago's extensive set of Catholic schools, declared Chicago's plan for voluntary student transfers inadequate because it does not meet a State requirement that all schools in a district be within 15% of the district racial composition. But the Illinois Board is only one of many such bodies still living with the romantic fiction that a government plan of student assignment will result in enrollments matching that assignment. And like many others, the Board is living in the fiction that such actions do no harm to the long-term chances for integration in the metropolitan area.

This set of three incorrect beliefs has led to harmful and destructive school desegregation policy in the past. In the absence of these beliefs, one might believe that the ground is cut out from under school desegregation policy—that these beliefs were necessary to the development of positive policy toward reducing racial segregation in the schools. Indeed, it seems clear that this is why those beliefs have been clung to so long by so many, and why there are some who still hold them despite all evidence to the contrary. Does not the exposure of these beliefs as incorrect undercut desegregation policy generally?

But there is another set of beliefs, also incorrect, which have prevented other avenues to desegregation policy. Just as the former beliefs sustained policies that have been largely harmful to desegregation—and to schooling—in large metropolitan areas, this second set of beliefs has prevented the development of policies that might be helpful to desegregation and education.

First, it has been assumed that lower class black parents, when provided with opportunity for choice in education, will not use it, and if they do, will not use it wisely. This belief is in part a conceit of the educational professionals, who believe they know better than parents or children what is good for the children. In part, it is a lack of trust by black leaders of the intelligence and interest in education of their constituents. In part, it is an arrogance of the white liberal, who believes that he knows what is best for dependent or disadvantaged populations, and that although they should be given benefits, they should never be given choice.

Black families, lower class as well as middle class, have given ample evidence that this belief is wrong. On all surveys of interest in education, interest in education is higher among blacks than it is among whites. College attendance of black and white children of parents with comparable economic and educational levels shows that the black children are more likely to attend; in fact, the proportion of all 18 and 19 year olds in school is now higher among black than whites.

The evidence of active exercise of choice by black parents was even apparent in the "freedom of choice" desegregation plans initiated for a time in the South. Although there were often roadblocks put in the way of blacks wanting to choose to attend a previously white school, they did choose in large numbers to attend such schools where the plans were administered honestly.

The most explicit evidence of choice and interest, however, lies in the widespread use by central city black parents of Catholic schools. These parents, mostly non-Catholic, and mostly poor, have increasingly turned to the parochial schools as means of escape from the low educational standards, disorder, physical danger, and moral risk they see in the public school to which their child has been assigned. It is now the case that in many large cities, there is a substantial number of black parents who manage to save the few dollars a week necessary to send their children to a parochial school.

The implication of all this is that desegregation plans which depend on choices exercised by black parents will not founder because of the parents' failure to exercise that choice in an intelligent way. Thus, a variety of plans that depend on blacks exercising choice, which have been set aside by those who did not trust black parents to make wise choices, can be considered in planning school policy.

Second, there has been a belief that an all-black school is inherently bad. Thus, one criterion used by courts in determining the acceptability of desegregation plans has been whether all "racially identifiable" schools have been eliminated. Here, "racially identifiable" has always been used to mean all black schools, never all white schools.

This belief in the inherent inferiority of an all-black school has a curiously racist flavor. It originated, however, in the attempt by courts to establish a criterion for deciding whether a school district in the South that had maintained a dual system had in fact eliminated its dual system. In such a context, and in localities where there was little residential segregation, this rule of thumb was a reasonable one; the unreason came in elevating this rule of thumb criterion to a principle for judging the quality of the school. The incorrectness of this belief in the inherent inferiority of the all-black school is perhaps a corollary to the incorrectness of the belief in extensive achievement benefits of school integration. When that belief was shown to be incorrect, the incorrectness of this one almost directly follows.

I believe that one source of the error was a confusion, which still persists in the minds of many, between a school that was all black because only black students had, because of the ghetto or because of a dual system, no opportunity to choose to attend another school—a confusion of such a school with a school that was all black despite the fact that its students could choose to attend other schools. Such choice is unfortunately still rare in most cities, but a black school that thrives in its presence is obviously not an inferior school. It is a school to which parents freely choose to send their children.

There have been, and there are, all black schools that are excellent schools by any standard. Thomas Sowell, a black economist at UCLA, has identified striking examples of black high schools that graduated men and women who went on to become outstanding in the world of public affairs, the professions, and government. As another criterion, there are numerous all black elementary schools in which achievement levels are above grade level, using national norms.

The implications of recognizing the error of the belief that all-black schools are inherently inferior are important. Perhaps the most important is the recognition that in the ethnically and culturally pluralistic society of the United States, there will be schools of all sorts: schools which are racially integrated but also schools that are all black, just as there are schools that are all white. What is essential, as I indicated earlier, is that if a child is in an all black school, it should be because he wants to be there and his parents want him to be there, *not* because it is the only school that he has a reasonable chance to attend.

Third, it has been assumed that a child's rights to equal educational opportunity end at the school district boundaries. This belief is based on the long-honored practice of states in delegating to localities (cities, towns, townships, sometimes counties) the control and operation of schools in those localities. But according to the Constitution of the United States, education is a responsibility of the states; and however a state has chosen to delegate that responsibility, a child in the state has a claim upon the state to provide him with educational opportunity. What this means in particular is that the educational opportunities of a child in Detroit or Chicago should not be limited by the boundaries of Detroit or Chicago. He or any child in the metropolitan area should have the right to choose to attend any school within reasonable distance—not, of course, to escape an integrated school, but

to escape the constraints on his schooling that are imposed by his residence. At least one state, Wisconsin, has recognized this. As a consequence, a child in Milwaukee, for example, can choose to attend a school outside Milwaukee, so long as he does not increase racial imbalance by doing so, and the state will compensate the district into which he transfers for the extra costs of the extra pupil. This transfer plan is not the only way such an opportunity can be realized.

The essential point is the recognition that the state has the responsibility to provide its citizens educational opportunity—and that it does not do so when it allows local districts to exclude children who do not live within their boundaries. The state, of course, has the responsibility also to the locality to foot the bill for entering students, and the locality must have the right to limit the number of students entering from outside, within reason. But this does not negate the state's responsibility to the children who reside within it.

The implications of abandoning the belief that the child's educational opportunities end at school district boundaries are, of course, profound. This does not imply abandonment of local control over the content of education, as it is now practiced. Nor does it imply that the state has the right to order a family's children to attend a school in another district. It does imply, however, a limitation on the locality's control of who *else* may attend schools in that locality. In particular, it implies that suburbs do not have an inherent right, except as the state gives them that right, to prevent a reasonable number of children from the city, whose educational opportunity is limited by the constraints on their place of residence, from attending school in that suburb, rather than in the city. Another way of looking at the matter is that parents who can afford to do so should have the right to choose their child's school by their choice of residence, but they should *not* have the right to exclude others by use of the school district boundaries as barriers.

What kinds of policies are feasible and desirable, once the errors of the two sets of beliefs about school desegregation are recognized?

If we once rid ourselves of all the beliefs that I have attempted to show are incorrect, what then? Does this leave any possible policies for the integration of schools, or does it leave us with no feasible policies?

The answer is that it most certainly does leave feasible policies. The policies are wholly unlike the policies of racial balance being imposed through compulsory busing in some cities, and being proposed for others. The policies would have a far higher component of parental choice than do present desegregation policies. The aims would fundamentally differ: not to "eliminate segregation", but to provide opportunity to every child, and to facilitate school integration that would have long-term stability. In the aims of the policy, there would be a recognition of the diversity of schools that would result: some black, some white, some integrated. The insurance that equal opportunity was in fact being provided would not lie in an artificial numbers game with children moved like pawns on a chessboard, but in the range of opportunities available to every child.

The possible policies are based upon the interaction between government decisions and parental decisions, and not upon the assumption that goverment decisions are determining. All the policies I shall describe provide a greater degree of parental choice than is presently the case in most cities, rather than less. And the government decisions, that is the policies, are designed to make those parental choices lead not to segregated schools, but to schools that show a higher degree of integration than at present.

Because the policies I shall describe do not maintain the fiction that the segregation they are attempting to reduce is unconstitutional, and because they are not coercive, they do not elevate school district boundaries to the status of exclusion barriers. They do not, in short, treat suburbs as separate havens, protected by their boundaries, but allow parental choices to range beyond the confines imposed by their residence.

The policies I will describe are not exhaustive; rather, they illustrate how, if we abandon the fictions held for so long, a variety of policies is possible.

1. INTER-DISTRICT VOLUNTARY TRANSFERS

I indicated in my earlier remarks that Wisconsin has embarked on an extraordinarily sensible policy: to allow, not require, children in a metropolitan area to transfer not merely to another school in the district, but to another school in the metropolitan area *outside* their district—so long as they do not, by this move, increase the racial imbalance in the school.

In general, a policy of this sort can allow families to make their choice of school independently of their choice of residence, with reasonable transportation expenses provided. State funds would necessarily follow the child, so as not to increase the financial burden upon the receiving district. And necessarily, each school should be able to limit the number of students coming in—for example, such that no transferring child need be accepted if the proportion of his or her race has reached the average of the metropolitan area as a whole, nor if the school's capacity is exceeded. But below that point, the receiving school would not have the right of rejection.

All that is necessary for such a policy is for the state legislature to decide to do so. This is not to suggest that such a policy would be easy to institute, because suburbs—and their legislators—are likely to oppose it. For them, desegregation has been a fine policy so long as it was the other fellow's district that was being desegregated. But, as the example of Wisconsin already shows, it is not a policy impossible to pass. And as that example will show in the longer run, it is a policy that can lead to improved schools in both suburbs and city. For example, I suspect that from such a policy will emerge a set of specialized high schools in the central city, attended voluntarily by both blacks and whites, which offer technical programs, or programs in the arts, that cannot be duplicated in any suburban schools. It would be romantic to believe this could occur soon; but it would be unfair to future generations of children not to provide a structure within which such educational excellence can grow.

2. VOUCHERS FOR EDUCATION

Perhaps the simplest, cleanest, and most straightforward way to provide equal educational opportunity, independent of race, residence, or wealth, is to give every child a voucher or entitlement, to be used in any accredited school, public or private. Such a plan, which has recently been proposed in Michigan as well as in other states, does not immediately exhibit its potential for encouragement of school integration. But that potential can be quickly realized if the vouchers are worth more in integrated schools. This means that integrated schools would have somewhat higher expenditures, a somewhat richer program, than non-integrated schools. Such a policy, of course, would be objected to by some, but it is hard to see the merit of such objections: for any child, if the parents choose, can attend an integrated school and receive the richer offerings. No one is excluded, by reason of race or any other attribute—except his preference for a segregated school. If he chooses such a school, he pays in the form of a somewhat less rich educational program.

3. A SYSTEM OF INCENTIVES COMBINED WITH CHOICE

A third variation in policy is one that focusses on direct incentives for attendance at an integrated school. The policy, which has been proposed by a Cincinnati school board member, John Rue, is to reward children and parents for the child's attendance at an integrated school. The rewards would be in the form of a postsecondary tuition, so that, for example, attendance at an integrated school for twelve years would result in four years college or other postsecondary tuition—one year for each three years of attendance in an integrated school.

Again, there will be objections to such a policy. But do the objections have merit? Do we want integrated schools or not? And who is expected to be the primary beneficiaries of integrated education? Possibly the children, but just as possibly the larger society, through the increased cohesion and social integration of the society as a whole. If it is the latter, the larger society, that is the primary beneficiary, then the larger society should bear the cost of integration—a cost which is measured by the amount of benefit necessary to provide to families, white and black, in order to achieve the degree of integration desired.

There are, of course, other policies that exhibit the properties I described earlier, but these are a sample. They show that integrated education does not depend on our maintaining romantic notions that are not true. Once we shed these beliefs, the mistaken beliefs on which desegregation policy has rested in the past, and once we shed the other beliefs, the mistaken beliefs that have stifled new ideas that could aid integration, it becomes possible to take the long road toward achieving an integrated society.

Mr. ROTH. Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. BROOKE).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 35, nays 54, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—35

Bayh	Heinz	Moynihan
Bellmon	Humphrey	Muskie
Brooke	Inouye	Packwood
Chafee	Javits	Pearson
Church	Kennedy	Pell
Clark	Leahy	Percy
Cranston	Mathias	Ribicoff
Culver	Matsunaga	Stafford
Durkin	McGovern	Stevenson
Glenn	Melcher	Weicker
Gravel	Metzenbaum	Williams
Hart	Morgan	

NAYS—54

Baker	Garn	Proxmire
Bartlett	Goldwater	Riegle
Bentsen	Griffin	Roth
Biden	Hansen	Sarbanes
Bumpers	Hatch	Sasser
Burdick	Hatfield, Paul G.	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Schweiker
Byrd, Robert C.	Hodges	Scott
Cannon	Huddleston	Sparkman
Chiles	Jackson	Stennis
Curtis	Johnston	Stevens
Danforth	Laxalt	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Thurmond
Domenici	Magnuson	Tower
Eagleton	McClure	Wallop
Eastland	Nelson	Young
Ford	Nunn	Zorinsky

NOT VOTING—11

Abourezk	Haskell	Helms
Allen	Hatfield, Mark O.	Hollings
Anderson	McIntyre	
Case	Hathaway	Randolph

So the amendment (UP No. 1935) was rejected.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UP AMENDMENT NO. 1936

(Purpose: To provide funding for title II of P.L. 95-266 (relating to adoption opportunities))

Mr. HEINZ. Mr. President, in behalf of myself and the Senator from Michigan (Mr. RIEGLE) I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate will be in order. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. RIEGLE, proposes an unprinted amendment numbered 1936.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II of the bill, insert the following:

ADOPTIONS OPPORTUNITIES

To carry out title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (title II of P.L. 95-266), $5,000,000.

Mr. HEINZ. Mr. President, the amendment I am offering will add to this appropriation bill the relatively small sum of $5 million, to carry out the provisions of title II of the Child Abuse Prevention and Treatment Act, Public Law 95-266, which was signed into law on April 24 of this year.

Mr. MAGNUSON. Mr. President, can we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Pennsylvania may proceed.

Mr. HEINZ. Mr. President, I find it ironic and somewhat disconcerting that this $55 billion appropriations measure fails to provide one cent for the vital adoption reform initiatives we passed a short 5 months ago. With such funding important activities could be undertaken including:

Promoting the establishment of model adoption legislation and procedures in the States in order to eliminate jurisdictional and legal obstacles to adoption;

Promoting quality standards for adoption services—including placement, counseling, and standards to protect the rights of adopted children;

Providing for a national adoption and foster care information data gathering and analysis system; and

Providing for a national adoption information exchange system to match adoptable children with prospective parents.

Mr. President, I do believe that alternatives and options to abortion must be available and must be made known to people. Certainly one such viable alternative is the placement of children, who through no fault of their own may be abused, neglected, abandoned, and who are therefore eligible for adoption, in loving, caring homes where they can know the warmth and understanding of adoptive parents. I understand that in this Nation today there are over 120,000 children ready to be but not being adopted. This is due in large measure to the kinds of barriers to interstate adoption that were so ably identified by the distingunshed Senator from California, Mr. CRANSTON, and the Committee on Human Resources when this legislation was brought before the Senate last October. The measure, which subsequently was passed by the Senate, was a responsive, humane, cost-effective approach to removing the legislative barriers to adoption and I strongly concurred with its passage.

I am confident that by appropriating a reasonable amount to allow the Department of Health, Education, and Welfare to go forward with meeting the requirements in Public Law 95-266 we will begin eliminating some of the problems presently plaguing parents who are interested in adoption like:

Fear of having an adoption procedure ruled invalid if they move from one State to another;

Loss of social services or subsidy assistance eligibility if they adopt a child from another State; and

Inability to adopt because of the existence of archaic "importation or exportation of children" laws in some States.

Public Law 95-266 requires that 1 year from now—18 months after enactment—the Secretary of HEW issue, based on the recommendations he receives from a public panel now looking into adoption conditions, practices and laws, proposed model adoption legislation. If we fail to provide funds in fiscal year 1979 for this activity, we will be faced next year with a situation where HEW staff will not have had sufficient time to prepare the documents for publication.

Additionally, we can begin now to encourage the Department of HEW to develop guidelines and put together an administrative mechanism to provide regional focal points for adoption and foster care activities, similar to those they have already established for child abuse.

Mr. President, there are many people in my own State of Pennsylvania who have dedicated their lives to providing loving, permanent homes and families to children with special needs who are in need of love and attention and parents. I think it would be unfair to continue to deny parents across the Nation who are similarly situated the opportunity to obtain and exchange information about rescuing children who are languishing in institutions and offering them a real chance for adoption. I want to insure that organizations like the North American Council on Adoptable Children in Lancaster, Pa., and the Delaware Valley Adoption Council in Philadelphia continue to provide the valuable services they are now contributing to this Nation. With this in mind, Mr. President, I urge the distinguished floor managers of this bill to accept my amendment.

Mr. RIEGLE. Mr. President, will the Senator from Pennsylvania yield?

Mr. HEINZ. I am happy to yield to my distinguished colleague and cosponsor of this amendment.

Mr. RIEGLE. Mr. President, I just want to join my friend from Pennsylvania in commending this amendment to the Senate, and in urging that the chairman of the committee accept the amendment, because it is a good one, it is necessary, and it has clearly bipartisan support.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. CRANSTON. Mr. President, I thank the Senator from Pennsylvania (Mr. HEINZ) for his efforts to obtain funding for the adoption reform provisions of title II of Public Law 95-266. As my colleagues may know, I have been working for the past 7 years on getting an adoption reform measure enacted. Enactment of title II of Public Law 95-266 was the result of many hours of work and the support of many individuals and child welfare organizations who wanted to help bring about the changes necessary to find permanent, loving families for children with special needs.

I and many of the supporters of title II became concerned in the past few months about whether a funding request for implementation of the new law would be included in the administration's request for the 1979 Labor-HEW appropriation. I wrote to the Under Secretary of HEW, Hale Champion, and to Vice President MONDALE, because of his long years of tireless efforts in working for

foster care and adoption reform, urging that the administration specifically request funds for the implementation of the adoption law.

Early last week the Vice President assured me that the administration is fully committed to prompt and effective implementation of the provision of title II of Public Law 95–266. As evidence of this commitment, I am pleased to report that agreement has been reached between HEW and the Executive Office of the President to begin the implementation process by seeking funding for title II as part of a supplemental budget request for fiscal 1979.

I am delighted to have this assurance that the administration will be requesting funds for implementation of the adoption reform provisions of Public Law 95–266 and I hope that the Appropriations Committee will act favorably upon this request when it comes up in the supplemental next year.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HEINZ. I thank the Senator from California. I am happy to yield now to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I just have a short statement; then I think the chairman wants to make a statement.

Mr. MAGNUSON. All right, fine.

Mr. BROOKE. I am, of course, in complete sympathy with the amendment of the distinguished Senator from Pennsylvania, for I was an original cosponsor with Senator CRANSTON and others when Public Law 95–266 was first introduced, and I certainly know and appreciate the kinds of problems that presently exist with the adoption laws from State to State in this Nation.

Many, many dedicated people in the State of Massachusetts have been working tirelessly to attempt to find permanent homes for children who are available for adoption, especially those children who are difficult to place because, through no fault of their own, they are handicapped, minority, older, or because they wish to remain with other brothers and sisters.

These children need love. They need attention just as much as any other child in the world, and we were attempting, by this legislation, to see that they got it.

So I strongly commend and congratulate my distinguished colleague from Pennsylvania for offering this amendment. The distinguished chairman is giving serious consideration, as I understand it, to accepting it. If he does, I certainly will join with him. If he does not, I am certainly sure that we can do something in a future supplemental, whichever the distinguished chairman would do. Certainly, this is a laudatory approach on the part of the distinguished Senator from Pennsylvania. I commend him for it.

Mr. HEINZ. I thank the Senator from Massachusetts. I greatly appreciate his kind remarks. I know he, along with the Senator from California (Mr. CRANSTON), are truly leaders in this regard.

Mr. MAGNUSON. Mr. President, I cannot say too much about this amendment for personal reasons. I am very interested in this. I have been, for many, many years on the board of directors of an organization to find homes for orphans. It happens that the Senator from Washington is an adopted child.

Although I believe we could take this up in a supplemental, I think we ought to make a start right now. It is long overdue. I have watched these things in my own home State.

In what little time I practiced law at home, I became known as a person who, when people wanted to adopt children, I would do it free of charge. I helped many children get adopted and they turned out fine.

I am willing to accept this amendment so we can make a start because I do think it is long overdue.

There are a lot of abuses in the adoption of children. However, I want to clearly emphasize that I believe the Federal Government, though it should help finance this, should not interfere with the State laws on adoption. They are closer to the problem. They know how to handle it. They are making great progress.

If there is no objection and, I know there is not from the Senator from Massachusetts, I would be willing to put the amendment to a vote.

Mr. BROOKE. Mr. President, I continue to be proud or prouder of my distinguished chairman. I am very proud to join with him in the acceptance of this amendment. I again congratulate my distinguished colleague.

Mr. HEINZ. I thank the distinguished chairman of the committee for a very strong and very personal statement. I commend him for his interest in this subject over a very long period of time, we might say his entire lifetime. I am deeply grateful for his interest in this subject and for his interest in the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE Mr. President, I only want to take a moment to commend the chairman of the Appropriations Committee and say how much I appreciate his willingness to accept this amendment.

UP AMENDMENT NO. 1937

(Purpose: To prohibit the use of federal funds for abortions except where the life of the mother is endangered)

Mr. HATCH. Mr. President, I have been asked by the distinguished Senator from Pennsylvania to present his anti-abortion amendment. I call up an unprinted amendment, which I send to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) for himself, Mr. SCHWEIKER, and Mr. HELMS, proposes an unprinted amendment numbered 1937:

On page 45, delete lines 4–9, and insert the following:

SEC. 20. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Mr. HATCH. Mr. President, I ask unanimous consent that a statement by Senator HELMS, together with attachments, be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HELMS

Can we continue to deny the right to life by refusing to deal with the biological humanity of the unborn child? The Supreme Court in its abortion decisions stated simply that it need not resolve the difficult question of when life begins.

Of course, this is the one issue which the Court had to answer to make its decision. Having dragged out all the cliches, all the misstatements of legal history, the Court carefully avoided the bottom line. It is understandable that it did not want to confront the inevitable basic question. The only question that really matters in this debate: the deliberate termination of innocent human life.

Those who advocate abortion do not want to confront the life issue because there is no doubt regarding it. There is no controversy. The facts of human development are very clear and universally recognized.

The development of the unborn child is very rapid. At 24 days from conception there is a regular heartbeat.

At 30 days there is a regular blood flow within the vascular system.

At 43 days electrical brain wave patterns can be recorded.

At 56 days all organs of the unborn child are functioning. From this point, at approximately 8 weeks, all development is simply a refinement and increase in size until the full maturity of that person some 23 years in the future.

The scientific evidence indicates that we are not talking about potential human life, but human life with potential!

At 10 weeks the unborn child moves his eyes and tongue and swallows.

At 12 weeks the unborn child moves his arms and legs, sucks his thumb, inhales and exhales amniotic fluid.

None of the highly quoted arguments we hear day after day to promote abortion deal with these facts. Instead, they rely on Madison Avenue slogans to confuse the issue.

Take for example the slogan, "Abortion is a woman's right to control her own body."

Fine, every person should have the right to be free from unjustified invasions of his or her physical integrity. But since when does a pregnant woman suddenly have two different heartbeats; two different sets of brain waves; and two different blood types?

I find it interesting that when Time Magazine conducted a national survey last year on the views of American women, more women believed that abortion is "morally wrong".

However, both majorities of men and women, 58% of those asked, opposed the use of taxpayers' money to fund abortions that are not medically necessary.

How about the argument "Every child should be a wanted child"? Here again, everyone would agree. However, when pro-abortionists make this statement it is really incomplete. The inference, of course, is every child should be a wanted child, or there should be no child at all.

What if we also say every old person should be a wanted old person; every handicapped person a wanted handicapped person: or every poor person a wanted poor person?

The "wanted child" argument is misleading in another way. It implies that being a

wanted child is like being a healthy child, or a smart child, or an educated child.

It implies that "wantedness" is a characteristic of the child itself when in reality "wantedness" says nothing about the child at all, but quite a lot about the person making the statement. When we say every child should be a wanted child, are we not really talking about ourselves and the society in which we live? What kind of a society is it that does not want children?

Why have proabortionists sought to escape the human life issue through slogans and catch-phrases? The answer was suggested by the journal of the California Medical Association. It stated that:

"It has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices."

Proabortion advocates have the power to end the abortion debate tomorrow. They can put an end to the abortion controversy in Congress.

Simply show us that the unborn child is not a human being. In two years of debate in the Senate on the Hyde Amendment, not one advocate of federal funding of abortion has dared to say that abortion is not the deliberate termination of human life.

I have said several times during earlier debates on this issue that if it can be shown that this is not the taking of human life, I will never say another word on the subject.

We are all familiar with the famous "silent majority" which enjoyed a certain popularity several years ago. But there is also a new "silent minority" in this country today.

It is made up of the thousands of unborn children who the Supreme Court has branded as outlaws. And who we continue to keep outside the protection of the law.

These children are the most defenseless group in American history. They cannot defend themselves; neither can they speak out for their rights.

The term "silent majority" was coined by the poet Homer eight centuries before Christ. It was the term Homer used to describe the dead.

Earlier during consideration of this bill I distributed a letter to our colleagues accompanied by a Time-Life magazine educational reprint—entitled "Life Before Birth". This photo-essay includes the remarkable pictures by Lennart Nilsson of the development of prenatal human life. Mr. Nilsson's photographs of what Life magazine described as "a live baby inside the womb," say more than all the medical textbooks about the undeniable humanity of the child yet-to-be-born.

While it is not possible for the photographs from this educational publication to be printed in the RECORD. I ask unanimous consent that the text of this photo-essay be printed in the RECORD.

Following the text of the Time-Life educational reprint entitled "Life Before Birth," I ask unanimous consent that an excerpt from Mr. M. Stanton Evans' book, "Clear and Present Dangers," entitled "Is Abortion Libertarian?" also be printed in the RECORD.

The material submitted for the RECORD follows:

DRAMA OF LIFE BEFORE BIRTH

[Photographs not reproduced in the RECORD.]

This is the first portrait ever made of a living embryo inside its mother's womb. It is one of an unprecedented set of color photographs—strikingly complete in their clinical detail but at the same time strangely beautiful—of human embryos in their natural state. They were taken by Swedish photographer Lennart Nilsson, who worked seven years on his project. The embryos shown on the following pages had been surgically removed for a variety of medical reasons. But, using a specially built super wide-angle lens and a tiny flash beam at the end of a surgical scope, Nilsson was able to shoot this picture of a living 15-week-old embryo, its eyes are still sealed shut, from only one inch away.

In the Western world a person's life is reckoned from the day he comes out of the womb. But the Chinese overestimating by three months, have traditionally counted a child one year old at birth in recognition of the unceasingly active life that has already taken place. In the 266 days from conception to birth, the single fertilized egg cell becomes a staggeringly complex organization of some 200 million cells, having increased the original weight a billionfold.

This embryonic growth and development has long fascinated photographer Nilsson. Working in cooperation with surgeons at five hospitals in Stockholm, he has been documenting the various prenatal stages. The result is more than a record of an absorbing human episode. By studying pictures like these, embryologists get a deeper and more detailed understanding of the life before birth.

FERTILIZATION

The birth of a human life really occurs at the moment the mother's egg cell is fertilized by one of the father's sperm cells. When an egg is ripe—as the one at right is—it leaves the mother's ovary and moves slowly down the fallopian tube toward the uterus on a current of special fluid. The tiny swarming cells clustered on the egg help nourish it, then drop before fertilization.

The male sperm as they enter the cervix are affected by the presence of the egg. If there is no prospect of an egg, they just mill around aimlessly, as at left. (The sperm here are magnified about 2,000 times.) But while an egg is present—and for a time before and after—they stream purposefully toward it, as in the picture below, which was made under laboratory conditions. (In the body, only about 75% of the sperm would be pointing in the same direction.) Swimming upstream by lashing their tails back and forth, they move at a rate of three inches per hour across the cervix, through the uterus and up the fallopian tube to meet the egg. There are actually more than 200 million sperm engaged in this race—but only one will win and fertilize the egg. The egg, which carries all the food and energy, is about 90,000 times as large as the sperm, but egg and sperm each contributes exactly half of the new individual's total hereditary material.

3½ WEEKS

This photograph is one of the few known to show face and head development at such an early stage—though this embryo is an imperfect one (the blue tissue at right is torn and ragged). At top is the incipient head. The two upper bulges will expand into the two halves of the forebrain, while the bulges just below them will join some time during the eighth week of life to form the lower jaw. At this stage the four bulges surround a central cavity that will become the mouth.

This embryo is so tiny—about a tenth of an inch long—that the mother may not even know she is pregnant. Yet there is already impressive internal development, though not visible here. This embryo has the beginnings of eyes, spinal cord, nervous system, thyroid gland, lungs, stomach, liver, kidney and intestines. Its primitive heart, which began beating haltingly on the 18th day, is now pumping more confidently. On the bulge of the chest, the tiny buds of arms—not yet visible—are forming.

4 WEEKS

In profile view, the red bulge at left is the heart, and the red streak coming up the middle and curving toward the heart is the main artery, the aorta. The heart, in proportion to its body, is nine times as large as an adult's. It has to be powerful to force the blood not only around the embryo but also around the umbilical cord and placenta. Reddish area between heart and aorta is where main blood vessels come together. The bulge at top is side view of forebrain. Below it are two rounded, dull-reddish areas. The one at left is the lower-jaw-to-be, the other smaller one will be the tiny bone the tongue will be attached to. These structures often resemble "gill arcs" in fish embryos. Some scientists believe this is a leftover from earlier evolution, when our ancestors may have breathed through gill-like organs. Others have lately come round to the less romantic view that this is just the way things happen to look at this stage of embryonic growth.

5 WEEKS

Here, as the second month of life gets under way, the embryo has grown to about a third of an inch long. The head takes up about one third of the body's total volume. The dark circle of the eyes—the black pigment layer of the retina—is plainly visible. The fainter inner circle is the lens. To the right of the eye is a vertical cleft which will become part of the ear. The beginning stumps of arms and legs stand out darkly. The embryo's arms develop faster than the legs do. As a matter of fact, all the parts nearer the head develop most rapidly.

At this point a skeleton has barely begun to form. A close look along the backline will reveal the vertebrae of the spine. No bone has yet formed, only cartilage. The pointed tail, curving up out of its bottom, will disappear into the body as the embryo grows. The larger appendage just above the tail is the umbilical cord—which has here been broken off.

During this period it is almost impossible to distinguish a human embryo from any other mammalian embryo. It is a critical time. The rapidly multiplying cells are particularly sensitive to certain chemical substances. From 28 to 42 days, the arms and legs can be deformed by thalidomide. (Some of the famous "thalidomide babies," in fact, were born with flipperlike arms much like those shown here.) The brain, too, is susceptible to damage, and the embryo will shortly be at its most vulnerable to the ravages of the German measles virus if its mother should catch the disease.

6 WEEKS

The rear view at left shows the embryo inside transparent membrane called the amnion sac. (In preceding pictures, embryo had been removed from sacs.) The amnion is filled with a salt solution which bathes the body's cells. In a complex and incompletely understood process, the body recycles the fluid, swallowing some, absorbing some via the gut, expelling some along with waste matter—while at the same time manufacturing more of it. The embryo floats almost weightlessly in the fluid so it is protected from shocks and does not have to fight gravity. Ball at lower left is the yolk sac, attached by a stalk to the umbilical cord (not seen here). It serves temporary function of making blood cells—a task gradually taken over by the liver and bone marrow. The spongy material at lower right is part of the placenta.

6½ WEEKS

Folded over with head lying on chest, the embryo is now more than half an inch long—measured "from crown to rump," the standard among embryologists. The spongy placenta—the blood-vessel network that forms around the embryo in these early stages and passes vital substances back and forth between mother and child—has been partially peeled back here for better visibility. The

amnion sac is wrinkled because some fluid has seeped out. Just over the embryo's head is the vein-lined yolk sac, attached by its blood-filled stalk. The eyes are now wide open, though still without eyelids or irises; the black color is the reflection of the retina at the back of the eye. The fingers, growing fast, have reached the first joint, though they are still webbed—as are the toes.

Rising from the dark, bulbous liver and curving up to the placenta at top of picture is the umbilical cord. Its two arteries and single vein, filled with blood, are plainly visible. Through the placenta the vein brings in food, oxygen and various chemical substances from the mother, while the arteries take back waste material for the mother to get rid of. Though the embryo now weighs only 1/30 of an ounce, it has all the internal organs of the adult in various stages of development. It already has a little mouth with lips, an early tongue and buds for 20 milk teeth. Its sex and reproductive organs have begun to sprout. With all its major bodily systems laid down, the embryo is now becoming much less susceptible to serious damage from outside sources.

8 WEEKS

This is the transition point where an embryo, a Greek word meaning to swell, starts being called technically a fetus, a Latin word meaning young one. The key to this switchover is the formation of the first real bone cells that begin to replace the cartilage. This is seen in the close-up of the feet at right. At far right, in a close-up about 40 times actual size, the eye is still open, but gluey ridges are beginning to form at their edges which will soon seal the eyes shut to protect them in their final delicate formation. They will not open again until the seventh month. The nostrils, seen only as dim shadows, are also plugged up with protective material at this stage.

11 WEEKS

At 11 weeks, the fetus is practically enveloped by the blood-rich placental mass (*above*). But when the placenta is peeled away on one side and the amnion's interior lit (*left*), the fetus, now more than 2½ inches long, is revealed. It floats buoyantly in the amniotic fluid, along with the umbilical cord. The yolk sac now lies useless. The starlike spots around the amnion are merely bubbles in a fluid the photographer has used to support the amnion.

Though totally immersed, the fetus keeps inhaling and exhaling just enough to send the salty fluid into and out of its lungs. But it does not drown because it gets oxygen in the blood brought in by the umbilical cord not from air. Bones, including the ribs, are now rapidly forming. The body wall has grown from the spine forward and is joined at the front—like a coat being buttoned. All the body systems are now working. Nerves and muscles are synchronizing with the young bones so that the arms and legs can make their first movements. Soon, as the fetus' living quarters get more cramped and as it gains steadily in strength, the mother will begin to feel the sharp kick and thrust of foot, knee and elbow.

12 WEEKS

For this photograph, the fetus has been backlighted to show the bone-growing process in the arm and hand. Most of the initial embryonic skeleton is composed of cartilage, the material the soft part of the adult nose is made of. At 8 weeks of age, the permanent skeleton had already begun to form, made of real bone, built up in rigid layers of calcium. The cartilage serves only as a mold. The bone cells actively invade the cartilage and displace it. In the picture above, the dark spots show where true bone areas are taking hold, while the dim outlines show cartilage which the bone has not yet replaced. In the long bones of the arm and leg, bone growth starts in the middle, then moves outward in both directions.

16 WEEKS

In the four weeks that have elapsed between the picture at right and the one above, the fetus' crown-to-rump measurements have increased from barely over 3 inches to nearly 5½ inches. The body has filled out fantastically, quite recognizable now as a human body. It has begun to crowd its living quarters. The head, neck and spine curve to follow the circular uterine cavity. Stretched by the fetus, the uterus occupies all the room in the mother's pelvis. The placenta, now too small to surround the amnion, has fallen to one side but still hangs on to link the amnion with the wall of the uterus. The umbilical cord is seen looping between the baby's arms and down past its leg. The first thin transparent layer of skin begins to replace the temporary protective membrane. The eyes are still closed, but the nose, lips and ears finally look like nose, lips and ears.

18 WEEKS

This fetus, measuring more than six inches from crown to rump, is clearly sucking its thumb. This pre-natal practice prepares the baby to feed spontaneously as soon as it is born.

The new skin is still so transparently thin that the branching blood vessels appear to be right out on the surface. The thinness of the skin makes it exceptionally vulnerable to the baby's fast-growing fingernails. It may put quite a number of scratches on its face before it is born. (Sometimes one of the first things an attending nurse has to do after a baby is born is to clip its long, dangerous fingernails.)

The 18-week-old fetus is active and energetic and does a lot of muscle-flexing. It can make an impressively hard fist, and the punches and kicks are plainly felt by the mother. It can go through the motions of crying, too. It is equipped with a complete set of vocal cords but, without air, it cannot make a sound. It is still totally submerged in salty fluid, but as it grows to take up more and more of the amnion sac, there is less and less room for the fluid. The excess is carried out in the blood through the umbilical cord and placenta, to be excreted eventually by the mother.

28 WEEKS

The growing baby, now over 10 inches long and weighing 2¼ pounds, presses hard against the tough, elastic membrane that drapes it like a veil. This fetal membrane is the "caul" of folklore. At this stage the baby may have hair on its head. The skin is thicker but it needs protection from the long, salty immersion. To do this job, the skin makes for itself a white, creamy coating called the vernix. The cells that glue the now-completed eyes shut are wearing away, and soon the lids will open on a lightless world.

The umbilical cord is seen here passing around the baby's neck. This is not uncommon, and the baby is not in much danger of choking to death. This is because the cord remains stiff, like a full garden hose, and tends to straighten automatically when bent. It stays this way because the blood rushes through it at a speed of about four mph.

At birth, the pressure of the fetal fluid can make the amnion sac expand. Under labor contractions the sac bulges and bursts, spilling forth its fluid; this is the familiar "breaking of the water." Here the development of the fetus is virtually completed, and some premature babies are born no older than this one. The extra time in the womb gives it added strength and health and time to acquire from its mother precious, though short-term, immunity to a number of diseases.

PUSHED OUT INTO A HOSTILE WORLD

(By Albert Rosenfeld)

After the baby has spent his appointed 266-or-so days in the tranquillity of his mother's womb, he is abruptly shoved out—by a 100-pound propulsive force—into the hostile world, full of startlingly unfamiliar conditions. The first shock is the drop in temperature from the mother's cozy 98°F. to a room temperature some 20° lower. His eyes, which have been open to nothing but darkness, are suddenly assailed by light.

He moves from a wet world to a dry one. Until now his oxygen came dissolved in the blood of the umbilical cord. Now he must start getting it directly from the air. So his first breaths must be strong enough to inflate all the tiny air sacs in his lungs, which have never before been used, and get rid of the mucus accumulated there. A good loud cry helps this by forcing the breath through faster. That is why the doctor or nurse will sometimes administer a sharp spank. No tears accompany the crying because the tear ducts will not be working for a few weeks yet. The baby's ears are still plugged with mucus, his nose is still dripping with the salty fluid of the amnion, and his skin—even if he is a Negro baby—is at this point quite light in color.

The most drastic adjustment of all must be made by the heart and circulatory apparatus. Heretofore the umbilical cord brought in fresh blood and carried away the used blood with its waste matter, to be handled by the mother. Now the baby must himself begin to separate the fresh blood from the used To do this, his heart valve must close so that fresh blood will be pumped out through the arteries and used blood circulated back through the veins. And all the waste matter must be filtered out and excreted by his own organs, not the mother's.

Soon after birth, the umbilical cord is cut. But there is no need to worry, as some parents do, that this might make the baby bleed to death. There is a special jelly in the cord which expands as soon as the cord is exposed to air. This constricts the vessels and automatically cuts off the flow of blood.

After the cord is cut, the last thing to come out—which is why it is called the afterbirth—is the placenta.

It is now just a pound or so of leftover material to be discarded and forgotten. But it is an extraordinary organ, one of the most potent and versatile nature ever devised. Only lately have scientists begun to appreciate its remarkable abilities.

The placenta supplies the embryo with all its needs, carries off all its wastes, protects it in a variety of ways from harmful invaders. It does all this through the baby's pipeline to life, the umbilical cord. Contrary to popular belief, there is no direct connection whatever between the mother's circulation and the baby's. In the placenta there are two separate sets of vessels. One set goes to and from the mother; the other goes to and from the embryo. They are side by side but are entirely closed off from one another. The blood vessel walls, however, are permeable. An exchange of ingredients—oxygen, dissolved food, waste matter, etc.—is constantly taking place through the walls. This may seem a peculiarly indirect and inefficient way of effecting the exchanges between mother and embryo. But it is the only way it can be done, for the baby is a parasite. From the day of fertilization, the embryo becomes foreign material. If the circulatory system of the embryo were directly hooked to the mother's system, the mother's body would reject the embryo.

The body, through its immunological system, always tries to reject foreign material—and this is the great stumbling block in all

recent attempts to transplant organs from one body to another. In fact, after the baby is born, if a piece of its skin is transplanted to the mother, the mother does reject it. Yet she tolerates this entire foreign body in her system for nine whole months. She tolerates it only because of the placenta's unique ability to subvert her immunological defenses. This little-understood ability is getting considerable attention these days from researchers interested in the surgical transplantation of organs. If they can figure out the placenta's secret, they may be able to use the knowledge to keep transplanted organs from being rejected.

The fertilized egg cell contains in its tiny nucleus not only all the genetic instructions for building a human body, but also a complete manual on how to construct the complex protective armamentarium—amnion, umbilical cord, placenta and all—that makes possible the embryo's existence in the womb. In the embryo's very earliest days in the uterus it already contains trophoblast cells, which are the primitive precursors of the placenta. One of the first things these cells do is invade the wall of the uterus, usually near the top of it, to build for the embryo what amounts to a little nest. In fact, the process is called nidation, or nesting.

The wall of the uterus is a thick, spongy material. The trophoblast cells dig right into it, destroying the uterine cells, taking nourishment from the blood and passing it along to sustain the first embroyonic cells. Then they use the scar tissue from the healing wound they have inflicted as a temporary protective capsule for the still-microscopic parasite.

The uterus must protect itself against the further incursions of the aggressive trophoblast cells. Exactly how it does this is a mystery, because no other part of the body can do it. A trophoblast implanted anywhere else in the body will eat away whatever tissue it comes in contact with. It was recently discovered that the trophoblast would even eat away cancer cells—a lead that is being hotly pursued by cancer researchers.

Once the embryo is firmy implanted, it starts secreting a hormone that helps keep the uterine lining in place for the rest of the embryo's stay. Without this hormone, menstruation would occur and the embryo would not survive.

Over the course of days, weeks and months, the embryo becomes firmly rooted in the uterine wall, and the trophoblast cells develop into the placenta. A dynamic organ, the placenta changes constantly along with the embryo's changing requirements. It can perform tasks normally reserved for the lungs, liver, kidneys, intestines and endocrine glands, among its other miscellaneous accomplishments. Yet the placenta is basically no more than an intricate filigree of blood vessels and membranes. There is a a lot of it, to be sure—it ultimately grows to a diameter of some eight inches—but no one quite understands how a structure like this acquires such a gamut of biochemical capabilities.

As a substitute lung, the placenta extracts oxygen from the mother's blood and deposits it in the blood of the embryo. The placenta brings in nutrients of all kinds from the mother's blood, often predigesting the dissolved food for the embryo en route. The placenta is so efficient that within an hour or two after the mother takes nourishment the embryo gets some too. If the mother drinks or smokes heavily, some of the alcohol or nicotine will also reach the embryo. In addition to trading off oxygen for carbon dioxide and food for wastes, the placenta safeguards the embryo by keeping out bacteria and bringing in antibodies that bestow immunity to a variety of diseases. The placenta also manufactures vital hormones for the mother to make up for some of the things it takes away.

But the placenta is not perfect. It cannot always screen out everything that might be injurious. Viruses—like the German measles virus—sometimes slip through to cause deformities. Certain damaging drugs manage to breach the barrier too.

When its prodigious tasks are done, the placenta dies. But even after it is dead and gone, some of its effects linger awhile. The baby is born with its external sex organs swollen, a temporary effect of the special hormones long shared with the mother—hormones brought in by the placenta. Because some of these same hormones produce the mother's milk, the new baby also has milk in its breasts known as "witches' milk." Sometimes it is so plentiful that it drips from the baby's nipples, and it makes no difference whether the baby is a boy or a girl.

But in a few days all these effects are gone, and the one thing left over by the placenta is a set of immunities. Whatever diseases the mother was immune to, the baby will also be immune to. These immunities last for about six months, the most vulnerable months of a child's life. By the time these immunities wear off, the baby will have gained some strength and will have been sufficiently exposed to the world to start building up immunities of its own. This is the placenta's final and most precious legacy.

[Excerpt from Clear and Present Dangers]

IS ABORTION LIBERTARIAN?

(By M. Stanton Evans)

Despite its logical and legal defects, the Blackmun decision has been widely acclaimed as a proper libertarian initiative. This view is in keeping with a general attitude in certain sectors of our society that having an abortion is a strictly "private" matter between a woman and her physician. One may argue instead that the effect of the ruling, and of permissive abortion, is the opposite of libertarian, and thus a premier example of that class of issues in which the conventional rhetoric inclines in one direction while the facts of the case are deployed in the other.

The Supreme Court's decision is typical in that it so blandly dismisses all claims to consideration by the unborn child. The abortion is treated as a one-way proposition involving the mother's "right to her own body" with no other rights involved in the decision. The fetus is treated as an insentient "thing"—or is simply not mentioned at all. So long as the discussion is conducted in this way, of course, it is very easy to think of abortion as an expression of personal liberty that need not yield to somebody else's beliefs or values.

Considering the importance of this question in deciding the issue, it is remarkable how little attention abortionists give to what in fact the fetus is. Is it simply a mass of undifferentiated tissue? An egg? A blob of protoplasm? Most usually the question is passed over in silence, the fetus being defined out of existence by the simple device of not bothering to talk about it.

For those who claim to be speaking for modernity against the outmoded claims of religious fanatics, this is a most curious method of proceeding. The reason for it, however, is not so curious. For the truth is that the facts of medical science are all the other way, and the more we learn the more it becomes apparent that the fetus is not a "part of the mother's body" or a "blob of protoplasm" at all. The evidence is irresistible that what is being extinguished by abortion is the life of an individuated, though very tiny, human being—which makes the reluctance of the abortionists to focus on it a bit more understandable.

When conception occurs by the fertilization of the ovum, something altogether different from "the mother's body" comes into being. The new genetic structure thus created consists of 23 chromosomes from the father and 23 from the mother—a package that is distinct from every other human being in the world. In that package are contained all the attributes of a new individual, different from its father and mother alike. Given time and nutrition, the being thus created will grow into an adult person—with exactly the genetic characteristics that were established at conception. None of this is true of any "part of the mother's body," be it her fingernails, her teeth, or her appendix.

The genetic imprint, we now understand, is the root principle of human individuality—and it is interesting to note that the advance of modern science has confirmed and reconfirmed the view that fetal life is separate and individual. In very short order this genetic package blossoms into recognizable human shape—a point established very vividly by photographs that show aborted fetuses are in fact little babies, with perfectly articulated hands and feet and facial features. Through the science of fetology we know what others in centuries past did not: that active, sentient life exists in the womb, and that this life is fully and recognizably human from the earliest days of the child's existence.

Thus blood cells form at 17 days, and the baby's eyes begin to form at 19 days. At 30 days the primary brain is present, and ears and nasal organs have begun. At the end of six weeks, the baby has articulated thumbs and fingers, brain waves are observable, the heart is beating, and the stomach produces digestive juices. Milk teeth buds are present by six and a half weeks. The baby will respond to touching, and by the beginning of the ninth week will also move spontaneously. By the twelfth week he can move his thumb in opposition to his fingers. All of this is before the mother feels any movement from the unborn child.

Dr. Arnold Gesell, the noted child authority, observes that "when the embryo is only four weeks old, there is behavior patterning: the heart beats. In two more weeks slow back and forth movements in the arms and limbs appear. Before the twelfth week of uterine life the fingers flex in reflex grasps." Dr. H.M.I. Liley is equally emphatic on the subject. The fetus, she says, is "neither a vegetable nor an acquiescent tadpole as some have conceived him to be in the past, but rather a tiny human being as independent as though he were lying in a crib with a blanket wrapped around him instead of his mother." And she gives us this graphic description of fetal life as it exists only seven days after fertilization:

"The young individual, in command of his environment and destiny with a tenacious purpose, implants in the spongy lining and with a display of physiological power suppresses the mother's menstrual period. This is his home for the next 270 days and to make it habitable the embryo develops a placenta and a protective capsule of fluid for himself. We know that he moves with a delightful easy grace in his buoyant world, that fetal comfort determines fetal position. He is responsive to pain and touch and cold and sound and light. . . . he gets hiccups and sucks his thumb. He wakes and sleeps. He gets bored with repetitive signals but can be taught to be alerted by a first signal for a second different one. . . . This then is the fetus we know and indeed we each once were. This is the fetus we look after in modern obstetrics, the same baby we are caring for before and after birth, who before birth can be ill and need diagnosis and treatment just like any other patient."

To reiterate, the baby in the womb *can feel pain*. In the practice of fetology, injections can be given to the unborn child—but

for this it must be sedated. Otherwise it would move away from the needle. Dr. Liley observes that "when doctors first began invading the sanctuary of the womb, they did not know that the unborn baby would react to pain in the same fashion as a child would. But they soon learned that he would. By no means a 'vegetable' as he has so often been pictured, the unborn knows perfectly well when he has been hurt, and he will protest it just as violently as would a baby lying in a crib."

Not exactly a blob of protoplasm—but rather easily recognizable human life. And it is this life that must be exterminated to perform an abortion, which explains the reluctance of the abortionists to have us dwell on the matter unduly. Indeed, in their effort to divert attention from what in fact the fetus is, the abortionists have tried to develop a vocabulary of thinghood to describe it. According to the *Wall Street Journal*, abortionists in New York have encouraged the use of such phrases as "products of conception," rather than baby, to convey "maximum meaning with minimal emotional overtones." Unfortunately for this antiseptic approach, some of these aborted "products of conceptions" are born alive.

Dr. Jean Pakter of New York City's Bureau of Maternity Services has reported that, under that state's permissive law (but before the Supreme Court's even more permissive decision), more that 60 aborted fetuses were born showing signs of life. Of these almost all subsequently died; at this report, however, one was living with his parents, and another was hospitalized. It is altogether likely the number of live abortions in New York and elsewhere has been many times this stated figure, since it is routine practice in hysterotomy (Caesarean) abortions for babies to emerge from the womb trying to live and thereafter simply be permitted to die or dispatched by smothering.

The youngest children known to survive premature delivery have been between 20 and 25 weeks old. Dr. Andre Hellegers of Georgetown University says 10 percent of children born in this span will survive, and it is acknowledged that "viability" today is much earlier than in years past. Viability is not a static concept, but a function of the medical art. As our techniques improve, the date of viability becomes progressively earlier. It is therefore illogical to set some arbitrary limit such as the end of the first trimester as if it were graven in stone as a permanent benchmark of viability. Even more to the point, of course, *all* babies are alive before they are aborted; the point of the abortion is, precisely, to kill them.

Concealed by all that antiseptic language about disposing of the "products of conception" is a rather gruesome business. The methods employed are all brutal, hysterotomy being perhaps the least so. The other methods include dilation and curettage, in which the baby is dismembered with a curved knife and then pulled out of the womb piece by piece; suction, in which the baby is sliced up into bits and pieces and then sucked out of the womb in a bloody mass; and saline injections, which simply poison the baby to death, including miscarriage.

Against this evidence, what are we to make of the libertarian argument for abortion? In the name of asserting the mother's "right to privacy," the abortionists and the Supreme Court are telling us the right of the fetus to life itself may be denied. In the scale of civil liberties, this is to subordinate the greater right to the lesser, since manifestly the right to life is prior to all others, and is so denominated in the Declaration of Independence. Unless we are allowed to live, we cannot enjoy the rights of free speech, property, religious association, privacy, or anything else.

The Supreme Court, however, has at a stroke reversed all this and demonstrated rather plainly how precarious are our rights when the guarantees of law may be taken away at the discretion of men with power, and sweeping decisions may be imposed topdown on the entire American nation.

Even without all this, however, the libertarian case *against* abortion would seem to be conclusive. I for one think the evidence of the fetus' humanity is overwhelming, but let me concede for purposes of argument that I am wrong, and that the Supreme Court's professed agnosticism is justified. What is the proper libertarian conclusion? Quite obviously, under libertarian legal (and medical) principles, any doubt whatsoever should be resolved in favor of innocent life—not against it.

Under our system we do not bury someone because we aren't sure he is still alive, or execute someone because we aren't sure he is innocent. So long as any shadow of a doubt remains, the equation is resolved *in favor of life*. Exactly the same considerations apply in the case of abortion: If the fetus is not a person, then refusal to kill it incurs the evil of inconvenience to the mother. But if it *is* a person—and the court explicitly says it cannot determine that it *isn't*—the judges have virtually sanctioned a million murders annually.

The foregoing should be enough to suggest that what is at stake in the abortion debate is not simply someone trying to impose religious or ethical views on someone else as an exercise in theology. Quite clearly, we are dealing here with medical facts as to the existence of life. The genetic record and the evidence unearthed by the science of fetology are matters of fact, not faith. And the question of whether fetal life may be destroyed is no more a "religious" issue than the question of whether any life may be destroyed—which indeed has religious elements but is properly recognized in our society as a quintessential function of secular government.

● Mr. SCHWEIKER. Mr. President, I am proposing an amendment which will restore the House language banning Federal funding of all abortions except where the life of the mother is endangered by the pregnancy.

I have long supported this position because I believe it is necessary to protect the lives of hundreds of thousands of unborn children. Before the enforcement of the Hyde amendment in August 1977, the Department of Health, Education, and Welfare estimated it was financing 300,000 abortions annually at a cost of approximately $50 million. Abortion is only justified when needed to save the life of the mother as when the mother has certain forms of renal disease or other illnesses that make the pregnancy life threatening to her. The life of the unborn child should always be saved whenever possible.

I am opposed to the language adopted by the Senate Appropriations Committee because it establishes a "medically necessary" criteria which could and would be used to provide abortion on demand and because it would also permit abortion in the case of incest or rape.

With reference to the "medically necessary" language I oppose it because it is unnecessary and dangerous. The "medically necessary" language is unnecessary because the actual medical indications for abortion are exceedingly rare and true medically indicated cases would be covered by the "life of the mother" exception proposed by my amendment. Dr. Denis Cavanaugh, professor and chairman, department of obstetrics and gynecology at St. Louis University, when asked about the medically necessary abortions, stated that if "preservation of health" or "medically necessary" abortions were permitted elective abortion would be performed under the guise of mental health indications. He points out that even under a strict liberalization law enacted in California in 1968, 92 percent of the abortions performed in the first year were for "mental health" reasons. Dr. Cavanaugh further points out that if the life of the mother exception is approved the true medical emergencies will be taken care of and the number of abortions will number in the thousands. But if the "medically necessary" loophole is permitted the number of abortions will be in the hundreds of thousands.

It can be maintained that Dr. Cavanaugh is a prominent physician with a strong antiabortion position whose statements on this issue must therefore be taken with care. Let me therefore share a quote from Dr. Alan Guttmacher who was president of Planned Parenthood World Population and the one who moved planned parenthood into the abortion field. According to Dr. Guttmacher, writing in "Abortion—Yesterday, Today, and Tomorrow":

> Today it is possible for almost any patient to be brought through pregnancy alive, unless she suffers from a fatal illness such as cancer or leukemia, and if so, abortion would be unlikely to prolong life much less save life.

In the same vein, Dr. Kenneth R. Niswander, chairman of the Department of Obstetrics and Gynecology at the University of California, a physician known for his support of abortion, has stated that:

> Few abortions need to be performed for organic disease in a well-conducted contemporary medical practice if the traditional demand of hazard to life is followed.

It is when the "traditional demand" or definition of hazard is not followed that I become concerned. I am certain that any "revised demand" would be construed to mean abortion for any reason was medically necessary, an example of the new thinking is a statement by Dr. Jane Hodgson, testifying before the U.S. District Court, Eastern District of New York:

> In my medical judgment one that is not wanted by the patient (is medically necessary), I feel there is a medical indication to abort a pregnancy where it is not wanted. In good faith, I would recommend on a medical basis you understand, and it would be 100 percent . . . I think they are all medically necessary.

In summary I believe all truly necessary abortions would be covered under the life of the mother exception.

It will be stated by my opponents that the pregnancies must be terminated because the mental health of the mother will suffer if it is not. I would suggest to you that the well-documented mental and emotional trauma associated with abortion is an equal danger to the mental well-being of an individual who has already been traumatized by the rape or incest.

On the practical side there can be no question that a rape or incest provision

would invite fraud and compound the problems of law enforcement since one sure way to obtain an abortion is to charge rape.

Also on the practical side it should be noted the reported pregnancies from rape are exceedingly small. The data from studies around the country supports this.

For example:

First. A Chicago study—1967—determined there was no pregnancy from a confirmed rape in over 9 years.

Second. A 1969 Buffalo, N.Y., study—no pregnancy from a confirmed rape in over 30 years.

Third. A 1972 St. Paul, Minn., study—no pregnancy from a confirmed rape in over 10 years.

It should also be noted that a standard treatment for rapes by most medical practitioners is designed to prevent pregnancy. Dr. Ada B. Ryan in a letter to Congressman FLOOD on this issue stated:

> No competent doctor would expose a woman to the hazards of an abortion when a simple medical procedure is available to prevent pregnancy in a true rape. The patient is given estrogen for five days, which makes it impossible for a woman to conceive. As a physician, we are more concerned about venereal disease and tetanus in the rape victim.

The result then of the rape and incest exception would be to encourage fraud and burden law enforcement agencies in an attempt to address a problem which should not be, and probably is not, very significant.

I am, therefore, Mr. President, proposing an amendment which will allow abortion funding only in those cases where the life of the mother is threatened because I believe it is the only justifiable reason. We should not ask the taxpayers of this Nation to finance a program when it is morally and ethically repugnant to many of those taxpayers.●

Mr. HATCH. Mr. President, I rise in strong opposition to the committee language concerning medicaid funding for abortions. The proposed language is identical to that repeatedly rejected by the House last year. It is language which precipitated a 6-month delay in final passage of the Labor-HEW appropriations for fiscal year 1978.

The committee language would provide for taxpayer-supported abortions in those instances in which the life of the mother was at stake, for victims of rape and incest, and where required by medical necessity. Approval of this language is certain to lead to as extended a disagreement with the House as occurred last year. It is certain to tie up as much of this body's time with the issue of abortions as it did last year. And it is certain to create as much acrimony within and among the Houses as it did last year.

The committee language is deserving of opposition not simply on its own merits, but, more importantly, on the merits of the compromise that it promoted last year. So long as Joe Califano is the Secretary of Health, Education, and Welfare, that compromise will be unacceptable to opponents of federally supported abortions.

Any compromise between those who would support medicaid abortions on demand, and those who subscribe to the House position should start, not with the committee language proposed here, but with the language passed into law last year. As interpreted by HEW regulations, last year's language poses almost no obstacle to a medicaid recpient interested in obtaining an abortion. In short, it is no longer seen as a satisfactory compromise by abortion opponents. I believe that the strong House support given recently for the original Hyde amendment language makes it clear that last year's compromise is no longer acceptable.

As observed by the Washington Star earlier this year upon the promulgation of HEW's medicaid regulations:

> On almost every key point in dispute about what congress had meant in the new law, the regulations were closer to the liberal view held generally in the Senate than to the strongly conservative view that prevailed in the House.

Whatever textual concessions may have been made in the compromise from last year's original Senate language, the hard fact is that it is unlikely to lead to even a slight decline in the actual number of medicaid abortions.

Let me briefly refresh the memory of my colleagues on how HEW unraveled what some of us genuinely believed to have been a fair compromise. The Michel amendment, approved rather hastily late in the last session, permitted medicaid abortions only where the life of the mother would otherwise be endangered, or where "severe and long-lasting physical health damage" to the mother would otherwise result. Such damage was required to be verified by two physicians. Funding for "medical procedures" necessary for the victims of rape or incest was also permitted, provided that such rape or incest was "promptly" reported to official authorities.

HEW was explicitly instructed to issue regulations and establish procedures to insure that the Michel provisions were "rigorously enforced."

On January 26 of this year, HEW effectively nullified this compromise: First, there are no attempts at definition for such critical terms as "severe," "long-lasting," or "physical health damage." As a result, there is far less of a check upon the ability of doctors to perform abortions in their own absolute discretion. There is no standard for HEW review. Unscrupulous physicians are given a free rein in deciding whether or not to perform medicaid abortions, while scrupulous ones are provided with almost no legal guidance.

Second, it is not at all clear that HEW acted properly in interpreting the term "medical procedures" to include abortions. Not only did the actual drafters of the language assert on the floor that abortions were not encompassed by the term, but a reasonable interpretation would have assumed that had abortions intended to have been included they would have been expressly included. The clear intent of the amendment was to permit contraceptive procedures short of abortion in the event of rape or incest.

Third, HEW failed entirely to distinguish between statutory and forcible rape. As a result, any medicaid recipient who falls within the age brackets protected by State statutory rape laws is automatically eligible for a free abortion. The requirement specified in the law that the victim report the rape promptly to a law enforcement agency or public health service made it clear to me that Congress had no intention of including statutory rape within the meaning of the term "rape" in the amendment. Neither policy considerations nor the legislative history would suggest otherwise.

Fourth, there is a complete absence of any documentation requirements in the regulations. No evidence beyond a simple physician's signature is demanded to "prove" that the "life of the mother was threatened," or that "severe and long-lasting physical health damage" would result, in the absence of an abortion.

It seems to me that HEW has proven itself more than capable of breeding the most fraud-ridden programs in the entire Government without having to resort to regulations that literally invite program abuse and corruption. What is the use of laboring for months to refine precise statutory language when the administering agency is intent upon making not the slightest effort at insuring that anyone pays any attention to it?

Fifth, HEW defines "prompt" reporting of rape or incest as being 60 days, or nearly 25 percent of the total period of pregnancy. At best, this is simply an exercise in extremely poor judgment. Further, HEW permits the reporting to take place after the actual abortion has occurred, apparently as little more than an afterthought. The "report" may consist of nothing more than a postcard to the proper authorities containing the alleged victim's name, without address and without further description of the circumstances of the rape or incest.

Finally, there is no effort made to establish any sort of check upon the ability of a single physician to perform an abortion on the ostensible grounds of danger to the life of the mother. There is no attempt to draw any line between those circumstances requiring the agreement of two doctors, and those considered of sufficient gravity as to require only the assent of a single doctor. Nor are there any prohibitions upon physicians engaged in a single practice, or performing in a single clinic, from satisfying the two-physician requirement.

Congress should not give its stamp of approval to these regulations by replaying the 1977 negotiations. It is not simply a matter of abortion; it is also a matter of clarifying exactly which body is vested with primary lawmaking authority. HEW's rulemaking authority is not designed to enable it to "amend" the decisions of Congress, or to provide the input of another body in the legislative process. Their regulatory authority has been given to them solely for the purposes of promoting the objectives of this body, not for the purposes of "improving" upon our product.

Mr. President, most of us are thoroughly familiar with the arguments of our

opponents on this issue. There are few original insights that can be offered at this point. I might add that our opponents are just as familiar with our arguments on this issue. It is important, however, for both sides to remember that the issue immediately before us is not abortion per se, but rather who shall pay for a certain class of abortions. While I personally remain totally and unalterably opposed to the practice of abortion, I recognize that there is a more precise issue here.

Proponents of the committee language couch this issue in terms of "equal protection": Are we going to deny women on medicaid the same ease of accessibility to abortions that is currently permitted under the law to other women?

Opponents, including myself, see it instead as a matter of whether or not we are going to impose an obligation upon individual citizens, many of whom characterize abortion in life-and-death terms, to fund this procedure with their tax dollars. Is this body going to recognize the deep-felt concerns of conscience that many in this country feel about abortion?

I would ask my colleagues who feel differently than I do on abortion to consider the depth of the feelings of those in opposition to this practice. While I do not concede at all that a majority of Americans are supportive of abortion, let us for the moment assume that this is the case.

It has always been a basic principle of this Government, and particularly of this body, that an intense, determined minority should not necessarily be at a disadvantage as against a majority lacking that degree of passion. Does the fact alone that a majority of the American people may—and of course I deny that a majority do, but assume for a moment that they may—support abortion outweigh all other considerations in determining whether or not we will make available abortions at public expense? Is it not also proper to consider the relative intensity and depth of feeling of opposing sides?

I suggest that, while many advocates of abortion, particularly leaders in the movement, view the issue in the highest moral terms—reproductive freedom, the woman's right to her own body, or whatever—most supporters simply see it as one of convenience. Abortion can be useful in preventing the suddent imposition of unexpected, new burdens upon one's lifestyle. It is helpful in preventing life in the wrong form, and life at the wrong time.

Most abortion opponents, however, characterize the issue in far more transcendent terms. Abortions are seen as against the nature of women, and against the nature of the unborn child, both of whom have instinctive urges in behalf of the preservation of life. It is unnatural for women to interrupt the natural course of pregnancy, terminating it by killing the child in her womb. Abortion is, at its root, a violent act against an innocent and wholly defenseless being. There is nothing progressive or liberal about taking the life of one who has had so little opportunity to experience it.

It is fundamentally wrong to tell these people that, because they may be slightly outnumbered by those who can contemplate abortion, they must directly contribute to the proliferation of the practice that they abhor. This is true particularly when there are alternatives that would protect the sentiments of abortion opponents while providing access to abortions for medicaid recipients.

Most importantly, there is the opportunity for "charity." There is nothing to prevent those who are concerned about the "equal opportunity to abort" from establishing a private, charitable vehicle to assist poor women.

As a matter of fact, if they feel as intensely as many of them claim to me they do, and I respect that intensity, then they should be, it seems to me, working very hard all over society to create those so-called charitable institutions which can fund the equal opportunity to abort.

There is nothing to prevent medical personnel with this point of view from performing free or discounted abortions for indigents. And there is nothing to prevent all but the poorest of the poor from either exercising increased self-restraint, or from sacrificing on some item or another for a month or two to afford their own abortion. I remind my colleagues that the transfer of abortions from the black market to the free market has done wonders for its cost, something that I hope we may keep in mind when and if wage-price controls confront this body.

Let us not forget that State provisions similar to the most restrictive language that has ever been passed by this body—the 94th Congress version of the Hyde amendment—have been held constitutional by the Supreme Court. It has been held constitutional by the same Court that originally discovered the "right" to an abortion embedded in the Constitution, and by the same Court which has so sharply expanded the scope of the "equal protection" clause for women.

Despite the "equal protection" arguments of those supporting medicaid abortions on demand, the Court has clearly stated that States were not required under the Constitution to subsidize elective abortions as a condition to the receipt of medicare funds, and that nontherapeutic abortions could be prohibited outright at public hospitals.

In *Beall* v. *Doe*, 432 U.S. 438 (1977), the Court held that the decision of a State, Pennsylvania, not to fund unnecessary abortions was fully consistent with the primary objective of the medicaid program—the assistance of needy individuals in securing necessary medical servvices. The express "bias" in Pennsylvania law for childbirth as opposed to pregnancy termination was a "legitimate" State interest.

The "equal protection" argument was broached more directly in the companion case of *Maher* v. *Roe*, 432 U.S. 464 (1977). There, this provision was held not to require a State participating in the medicaid program to pay for nontherapeutic abortions for indigents. It was observed that financial need alone did not identify a suspect class for purposes of equal protection analysis.

As observed by Justice Powell in Maher:

> In a sense, every denial of welfare to an indigent creates a wealth classification as compared to non-indigents who are able to pay for the desired goods and services . . . The indigency that may make it difficult—and in some cases, perhaps impossible—for some women to have abortions is neither created nor in any way affected by [the State's] regulation.

The related case of *Poelker* v. *Doe*, 432 U.S. 519 (1977), relied upon the same reasoning to support the authority of public hospitals to prohibit services for nontherapeutic abortions.

While I applaud these decisions as a short half-step in the proper direction, my enthusiasm is nevertheless tempered by the fact that it is apparently necessary today in our society for a court decision to affirm the right of the Government to adopt policies preferring childbirth to the destruction of the unborn child. One would hope that such a principle would rest on something firmer than a 6-to-3 judicial ruling.

In any event, these decisions do refine *Roe* v. *Wade*, 410 U.S. 113 (1973), to make clear that there has never been conferred an unqualified constitutional right to an abortion. At its most expansive, Roe guarantees only that women have the right to be free from "unduly burdensome interference with her freedom to decide whether to terminate her pregnancy."

Prior to congressional passage of initial restrictions on abortion funding, the Department of Health, Education, and Welfare was spending approximately $50 million annually to pay for nearly 300,000 abortions. Between 1969 and 1976, the Federal Government spent more than one-quarter of a billion dollars to pay for more than 1,300,000 abortions, the overwhelming number of them medically unnecessary in the truest sense of that term.

The Hyde amendment represented an effort, not to outlaw abortion and not to repeal the Supreme Court's abortion decisions, but simply an effort to maintain a position of governmental neutrality in the matter of abortion. If the ability to secure an abortion is placed that high in the pantheon of a woman's values, certainly she is prepared to undergo a slight bit of inconvenience and cost to further this objective. What sort of "right" is it that can be obtained only by a dragooning of the financial support of those in disagreement with that right? Do not ask the rest of us to finance the destruction of innocent life on the grounds that there is an inalienable, God-given right to engage in that destruction.

Whatever moral obedience must be paid to the decisions of the Supreme Court as legal authority, it has not yet become the ultimate moral arbiter for a majority of this Nation. The Supreme Court has, for the moment, stated the law; it has not established any norms or consensus. While the Supreme Court

can carry out its functions in the absence of any broadly shared agreement among the people, it is improper for this body to do the same thing. I believe that a consensus is a precondition to the Government doling out tax dollars for as controversial a matter as abortion. There is no evidence whatsoever that this consensus exists.

I do not believe that I can make any better investment of my time in Congress than by working to save unborn human lives. I would guess that this is a view held by most of those who oppose public funding of abortion. None of us wants to burden the proceedings of this body with constant votes and debates on the abortion issue. There are too many other important issues that must be dealt with. If, however, we managed to save a single life last year, because of the prolonged fight to preserve a meaningful limitation (or so we thought at the time) on medicaid abortions, I would consider it time well spent.

That there are infants today who would have been "terminated" in the absence of that debate is one of the most satisfying legislative achievements that I can imagine. These are infants who are bringing love and happiness to their parents and receiving it in return. While their parents may still be working hard to make ends meet, I wonder how many of them still regret their lost opportunity to have destroyed their child while this was still legally "permissible."

And what child, grown to adulthood, can ever totally misplace their own values knowing that, but for the lack of fortune, they would never have known life in the first place?

Mr. President, Dr. Leon Kass, the University of Chicago biologist, has observed:

> We have paid some high prices for the technological conquest of nature, but none so high as the intellectual and spiritual costs of seeing nature as mere material for our manipulation, exploitation, and transformation . . . Indeed, we are already witnessing the erosion of our idea of man as something splendid or divine, as a creature with freedom and dignity. And clearly, if we come to see ourselves as meat, then meat we shall become.

I urge my colleagues to reject these currents, and oppose the committee language, and to follow the leadership of Senator SCHWEIKER here on the floor and vote for this amendment.

I believe that all consciences would be better. I believe that there are ways of providing these abortions through the private sector for those who desire them. For those who feel otherwise and contrary to my particular beliefs and those who I am representing this evening in talking on the floor, I believe if the intense feelings are so strong, then that intensity ought to translate itself into do-gooding approaches to create charitable institutions which can fund these abortions without taxing the American people who are opposed to them, as we have in the past.

Mr. President, I ask unanimous consent, at this point, that an article written by Sondra Diamond entitled "On Being Alive" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ON BEING ALIVE

(By Sondra Diamond)

I have been physically disabled since birth as a result of brain damage. My disability is called Cerebral Palsy. Many people believe that Cerebral Palsy is synonymous with mental retardation. However, this is not true. When I was born my parents were told that I would never be able to speak, hear or do anything that other children could do. It was suggested that I be put away in an institution. My parents, however, felt that I had as much potential as their two older children.

In the November 12th, 1973 issue of Newsweek Magazine in the Medicine section, there appeared an article title "Shall This Child Die?" It was about the work of Doctors Raymond S. Duff and A. G. M. Campbell at the Yale-New Haven Hospital of Yale University. The article reported that these doctors were permitting babies born with birth defects to die by deliberately withholding vital medical treatments. The doctors were convincing the parents of these children that they would be a final burden; that they had "Little or no hope of achieving meaningful 'humanhood.'" The doctors recognized that they were breaking the law by doing away with these "vegetables," as they choose to call these children, but they felt that the law should be changed to make it legal to let these children die.

I was incensed by this article in Newsweek, although I was glad that the subject finally was coming above ground. For I had been aware of this practice for many years.

Feeling that I had to do something about this article, I wrote a Letter to the Editor of *Newsweek* Magazine. It was published in the December 3rd, 1973 issue, as follows:

"I'll wager my entire root system and as much fertilizer as it would take to fill Yale University that you have never received a letter from a vegetable before this one, but, much as I resent the term, I must confess that I fit the description of a "vegetable" as defined in the article 'Shall This Child Die?' (Medicine, Nov. 12).

"Due to severe brain damage incurred at birth, I am unable to dress myself, toilet myself, or write; my secretary is typing this letter. Many thousands of dollars had to be spent on my rehabilitation and education in order for me to reach my present professional status of a Counseling Psychologist. My parents were also told, 35 years ago, that there was 'little or no hope of achieving meaningful "humanhood"' for their daughter. Have I reached 'humanhood'? Compared with Doctors Duff and Campbell I believe I have surpassed it!

"Instead of changing the law to make it legal to weed out us 'vegetables,' let us change the laws so that we may receive quality medical care, education, and freedom to live as full and productive lives as our potentials allow."

The physically disabled in our society have historically been second class citizens. And, as such, they have been subject to the same indignities that other minority groups have had to endure. Some 10 percent of the population of the United States is physically disabled. And that figure is merely an estimate, for these are the people who are on record in hospitals, agencies, and the like.

For most able-bodied people, willingness to contemplate the problems of the physically disabled is tempered by the fact that they have a set of notions and feelings about people different from themselves, whether they be of a different race, nationality, sex—or the physically disabled. I am, of course, especially interested in the feelings about the physically disabled. These feelings can not be ignored; they must be faced head-on. One tends to examine his feelings about the disabled in terms of his own fears, self-doubts, and his own self-concepts about his own body image. It is too easy to project how you think *you* might feel if you were physically disabled. Being disabled is not the same as thinking about what it would be like if you were disabled. Being disabled is not intrinsically a burden. It only becomes so when society makes it difficult to function as a normal person. Technology allows the disabled to move about and function freely. It is only when society says *stop* that a physical disability becomes a handicap. In view of the fact society sees a physical disability as a burden, it is, for many, a natural assumption that the physically disabled would be better off dead. I cannot agree with such a solution.

Perhaps we should take a closer look at how I feel about being disabled. What is it like to be disabled? It's happy, it's sad, it's exciting, it's frustrating, it's probably just like being non-disabled. You worry what will become of you when your parents are no longer around to help you with your special needs. You want to go places and do things just like everyone else. You have the same sexual drives, the same hopes and dreams for marriage and a family, the same aspirations of a successful life.

Being disabled is also a puzzling experience because people don't react to you the way you feel inside. People look at you and assume that you are retarded or incompetent or a pitiful sight. But you don't feel retarded, incompetent, or pitiful.

The right to life issue affects the disabled in three principal ways: first, there is negative euthanasia which is practiced on newborn infants who are born with physical disabilities and abnormalities. When a child is born with a disability, many members of the medical profession do not administer the necessary supportive medical services. It is argued that the child will be physically disabled the rest of its life anyway. If this were to be done to a child who would not grow up to be disabled, the courts would intervene. There have been many cases where the parents, for reasons such as religion, have not wanted their new born infant to receive medical care. Court orders have been obtained by the physicians so that they could perform the necessary procedures.

Second, euthanasia affects the physically disabled when we are hospitalized for medical problems other than our disabilities. To give you a personal example: in 1962 I was severely burned over 60% of my body by 3rd degree burns. When I was taken to the hospital the doctors felt that there was no point in treating me because I was disabled anyway and could not lead a normal life. They wanted to let me die. My parents, after a great deal of arguing, convinced the doctors that I was a junior in college and had been leading a normal life. However, they had to bring in pictures of me swimming and playing the piano. The Doctors were not totally convinced that this was the best procedure—grafting skin and giving me medication as they would with other patients—but my parents insisted that I be ministered to. Mine was not an unusual case. To take the time and effort to expend medical expertise on a person who is physically disabled seems futile to many members of the medical profession. Their handiwork will come to nought, they think.

The third way euthanasia affects the physically disabled is when a person in adulthood becomes disabled. There are two parts to this problem. Firstly, should that person be treated and rehabilitated if he is not going to lead a normal life? Secondly, what if that person asks to die? If you have never been

disabled you are not aware of the many options in life. Therapeutic rehabilitation techniques, self-help devices, and prosthetic and assistive equipment make the lives of the disabled very functional. It takes a great deal of time to discover these things. First the medical problem must be overcome and this is up to the medical profession. It is only after the critical period of illness that a rehabilitation team can take over. If a person who knows that he will be disabled for the rest of his life asks to die, it sounds like an attractive option to his family: Why should he have to suffer? Intensive psychological counseling is needed to show the individual who will be physically disabled (and his family) that life holds a great deal of potential. We cannot deny that there will be problems, but one can enjoy a full and happy life even though physically disabled, I would not give up one moment of life in which I could have another cup of coffee, another cigarette, or another interaction with someone I love.

Many people ask me about the person who is so severely disabled that he or she can only lie in bed. Shouldn't he be allowed to die? they ask me. We cannot know what is going on in that person's head—especially if he cannot communicate with us through speech. Perhaps he is enjoying the sensual experience of lying on cool sheets or the pleasure of good food, or being held by another human being.

A friend of mine is unable to move as a result of severe arthritis which struck him in adulthood. He cannot see. He can only speak. He is the Editor of a newspaper for disabled people and conducts a very busy telephone life by means of special equipment. Believe me, he inspires many people. My friend is leading a full life and is one of the happiest people I know. Should we put him to death because he can't move the way other people do?

We have posed the problem of euthanasia and its effects on the physically disabled. What can be done to alleviate this problem?

First of all, as I said, you must face your feelings about the physically disabled—the negative ones as well as the positive ones. For you are human beings and must not think "I shouldn't feel this way." In the abstract it is easier to fight against abortion, infanticide, and euthanasia if we know that these children will grow up to be whole human beings. Physical attractiveness has become very important in our society. What I am asking you to do is fight abortion, infanticide, and euthanasia on behalf of people who will be, or are, physically disabled. You can not begin to do this until you throw away your prejudices and preconceived notions about the life of a physically disabled person.

I have concentrated here on the obvious ways euthanasia threatens the disabled, because those dangers are of course most obvious to me. I know that, for most people, the right to life issue means primarily saving the lives of the unborn from abortion. But there is a least common denominator: life itself. It is the right of the disabled to appreciate the gift of life, to celebrate it *for* itself. Thus I think we can help you. I know we *want* to help you, every bit as much as we want you to help us.

Mr. HATCH. Mr. President, I ask unanimous consent that another article found in the Human Life Review, entitled "How Placidly They Accept Aborting So Many Black Babies," dated November 14, 1976, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW PLACIDLY THEY ACCEPT ABORTING SO MANY BLACK BABIES

Some time ago, my distinguished and thoughtful colleague, Carl T. Rowan, wrote a column (*Star*, Oct. 10) on abortion that made me think—and seek out further information.

According to a fact sheet on abortion prepared by Zero Population Growth, in 1974 (the latest figures available) almost 33 per cent of all abortions occurred among women 19 years old or younger. (Women under 25 had two-thirds of the abortions.) Black women had 29 per cent of all abortions. Finally, 73 per cent of all abortions occurred among the unmarried.

Far more than I had realized, abortion is disproportionately a problem of the young, the black, and (overwhelmingly) the unmarried.

Two things surprised me in these figures. First, the shock of contemplating the estimated one million abortions in 1975 still affect me. For those who do not believe that abortion is a form of killing, of course, there is no moral shock.

Many who are sympathetic to the lives of the mothers have no sympathy at all for the children who would have been. Cruelty to the mothers trouble them, cruelty to the unborn less so. Put, otherwise, the act of imagination required for recognizing the human rights of those within the womb is not as highly developed as concern for the needs and desires of their mothers.

Secondly, it surprises me that black leaders so easily go along with the abortion rate among black women. When 15 per cent of the population has 29 per cent of the abortions (I allow for the larger percentage of black women in the age cohort 25 and under), the black population suffers, it seems, disproportionate population loss. In addition, it suffers a disproportionate share of the psychological effects of abortion upon mothers and upon other children. The power to abort is power over life and death of a special kind.

Approximately 300,000 blacks were aborted last year: 1.3 percent of the population of blacks. A staggering figure.

The extent of extra-marital pregnancies among women, white and black, indicates a tremendous breakdown in religious values and practice. Among teen-agers alone, Mr. Rowan notes, more than a million became pregnant. Of these, more than 300,000 had abortions. Over 730,000 abortions among unmarried women occurred last year.

These figures show that abortion is preeminently a way of preventing childbirth for pregnancies out-of-wedlock. Abortion is primarily a device for coping with the unwanted consequences of not following ancient codes of morality. It is a massive means of overcoming the consequences of a massive change in ethics. The use of contraceptives has not caught up with the changes in ethics, especially among the young.

It remains that 27 percent of abortions—almost 270,000—occurred among married women. About 33 percent occurred among women over 25. About 67 percent occurred among white women (including Spanish surname).

A tremendous amount of lobbying goes into extending the range of legal abortions. The Planned Parenthood Federation is extensively supported by tax-exempt money, and so are most of the organizations it lists as lobbying for legal abortion. The list fills three pages.

It is ironic that those who oppose abortions are concerned about the potential offspring of those who don't. One could understand them protecting the rights of their own unborn children. Why should they care about the potential offspring of others?

With only a litle effort, I can imagine a potential situation the reverse of the one we have now. Who now defends the rights of unborn black children? Suppose that abortion were perceived as a racist social program disproportionately aimed at blacks. Who then would be accused of genocide?

Mr. HATCH. Mr. President, I ask unanimous consent that the CONGRESSIONAL RECORD of June 13, 1978, starting with the distinguished Congressman (Mr. MICHEL) and ending with his discussion on House Votes on Abortion Language, 1977, Date, Language, Vote, and Margin, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment to strike section 209, the language in the bill.

So long as Members of this body have been denied the opportunity to debate the abortion issue by the legislative committee, we have had to cope with the issue by way of a limitation on an appropriation bill. It is a bad way to legislate.

The rule under which we are considering the legislation provided for only two amendments, the one offered and pending by the gentleman from Ohio (Mr. STOKES) to strike the language completely, and another amendment that will be offered, I suspect, by the majority leader that would retain the current language that exists in law. I oppose the pending amendment, but do want to include with my remarks the long history of writing and rewriting the language we had to deal with last year.

House Votes on Abortion Language, 1977
Date, Language, Vote, and Margin

6/17/77, House Passed Version: "None of the funds appropriated under this act shall be used to pay for abortions or to promote or encourage abortions." Passed 201–155, 46.

8/2/77, House Conference disagreeing amendment with Report: "None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term." Passed 238–182, 56.

9/27/77, Senate Passed Version: "None of the funds in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or where medically necessary or for the treatment of rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum." Defeated 164–252, 88.

10/12/77, House Conferees Proposal: "None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payment prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. Passed 263–142, 121.

10/13/77, Senate proposal: "None of the funds in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the woman or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum." Defeated 163–234, 71.

11/3/77, Senate proposal: "None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. Or except for medical procedures necessary for the victims of rape or incest. Or except in those instances where severe and long-lasting physical health dam-

age to the mother would result if the pregnancy were carried to term. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced." Rejected 172–193, 21.

11/29/77, Senate proposal: "None of the funds contained in this act shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported to a law enforcement agency or public health service or its equivalent; or except in those instances where severe and long-lasting physical health damage to the mother would result in the pregnancy were carried to term. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced." Rejected, 183–205, 22.

12/6/77, House conferees proposal: "Provided that none of the funds provided for in this paragraph shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of forced rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced." Rejected 170–200, 30.

12/7/77, Senate language: "Provided that none of the funds provided for in this paragraph shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced." Rejected 171–178–1, 7.

12/7/77, Michel amendment: "Provided that none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced." Adopted 181–167–1, 14.

Mr. HATCH. Mr. President, I ask unanimous consent that a very interesting and worthwhile article for all to read who are concerned with this subject entitled "The Legal Case for the Unborn Child," written by Dennis J. Horan, Jerome A. Frasel, Jr., Thomas M. Crisham, Dolores B. Horan, John D. Gorby, John T. Noonan, Jr., and David W. Louisell; and an article entitled "The Supreme Court's Abortion Decisions and Public Opinion in the United States" written by Judith Blake; that both those articles be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LEGAL CASE FOR THE UNBORN CHILD

ABORTION AND CIVIL RIGHTS

Abortion is not a private matter. The destruction of human life, even "incipient" or developing human life in the womb, can never be considered a private matter under our law. The contention that it is a private matter would be too ludicrous and absurd to even argue were it not so often put forth under such intellectually impeccable auspices. Would those civil libertarians who argue that abortion is a private matter argue that the exercise of civil rights is purely a private matter between the Black man and the man that thwarts them? Certainly not. Just as the civil right to vote must be protected by law, so to the most fundamental and basic of all civil rights—the Right to Life—must be protected by law.

Nor is abortion a merely sectarian religious problem or one for the area of "private" morality. Abortion is nothing less than a question of *civil rights:* Does the unborn child have a civil right to life? If he or she does, is it not then the duty of *all* citizens in a pluralistic society, regardless of religious faith or private moral sensitivities, to protect the unborn child's civil rights?

In various sections of this paper we have developed the legal rights of the unborn child in torts, property and equity cases, as well as under the criminal law. We argue, in still another section, that the purpose of the abortion statutes in the criminal law was for the protection of the unborn child. Proponents of abortion on demand have very cleverly convinced a segment of the courts that the historical purpose of abortion laws was merely to protect the health of the mother against the onslaught of young and foolhardy surgeons. Nothing could be further from the truth. Although hundreds of types of surgery are performed, why has only abortion been prohibited by the criminal law? The answer is simple, yet ignored. Because only in abortion are we talking about the destruction of another human life.

The position that our law takes on abortion indicates the position it will take on euthanasia, genetic engineering, cloning, and all of the difficult human life problems facing our society in the years ahead. Those who argue for the unborn child's right to life are arguing not only for the unborn child, but for the civil right to life for every human being—the mentally ill, the aged, the genetically incompetent, the idle, the useless. If the law vacates the protection of the civil rights of the innocent child in the womb, it will one day vacate its protection of the civil right to life of the mentally incompetent, the senile and the hopelessly ill. It will vacate its protection of your civil rights.

The position that the authors take on the abortion issue is simple yet fundamental and was adequately stated by the Supreme Court of Pennsylvania in 1850:

"By the well settled and established doctrine of the common law, the civil rights of an infant *en ventre sa mare* are fully protected at all periods after conception.[1]

"That 'civil rights' includes more than just property rights, and indeed, includes, as we argue, the civil right to life, was stated as recently as 1970 when a three-judge federal court held:

"Once human life has commenced, the constitutional protection found in the Fifth and Fourteenth Amendments imposes upon the state the duty of safeguarding it.[2]

"Not only is that duty imposed upon the state, but also on every good citizen concerned with the protection of those who cannot protect themselves."

ABORTION AND MARITAL RIGHTS

There is an interest of husband and wife to preserve their conjugal relations from state interference.[3] The usual criminal abortion statute [4] does not affect the sexual relations of husband and wife. Limitation on abortion does not entail state interference with the right of marital intercourse. Nor does enforcement of the statute require invasion of the conjugal bedroom.

Assume *arguendo* that a married couple has the right not to have, raise and educate a child they do not want. Although this right may be unlimited before conception, after a new human being has come into existence compelling state interests then enter the picture. The most fundamental of all state interests is the protection of the lives of its people. Although it may be socially desirable that every child be a "wanted child," the parents' attitude cannot under our Constitution be the single criterion which determines the right of a living unborn child to continue its existence.

In this area there has been a gradual evolution of civilized thought. In the Roman Republic the father, by virtue of the *patria potestas*, had the literal power of life or death over his children.[5] As one commentator pointed out: "Within the family the pater familias enjoyed a lifetime despotism." [6]

Over a period of about two thousand years the state has built up a defense in behalf of children, born and unborn, against the aggressive and proprietary instincts of their progenitors. The problem of the "battered" child today is evidence, if evidence is needed, that the state must still by law restrain the freedom of conduct of parents toward their children.[7]

Prior to the seventeenth century the prevailing doctrine had been that of the Aristotelian school. Aristotle taught that forty days after conception the fetus underwent a transformation which made it human. This notion was successfully attacked in 1621 as medical nonsense by Paolo Zacchia in his *Questiones Medico-Legales*, 9.1. Thereafter, the medical profession gradually accepted the view that there was no valid line to be drawn within the womb, and the law slowly but surely followed the medical lead.

Today there can scarcely be a return to the Roman law theory that a parent has absolute dominion over his offspring, or a return to the ancient notion that a fetus is "part" of his mother. The autonomy of the unborn child is established clearly by modern fetology. In the light of this evolution of legal thought and medical knowledge, it would indeed be to turn back the clock to hold that some vague legal notion of martial

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Footnotes at end of article.

privacy can take precedence over a child's right to life.

A fortiori, the same considerations apply to the argument that a woman has a right to destroy any fetus of her own that she, in the most literal sense, finds "unbearable." This contention of a right to an abortion vested in a woman has, of course, no Constitutional precedent. Nevertheless this contention may be the emotional heart of the almost hysterical attacks being made upon the abortion statutes. No such right is referred to in any of the Amendments to the Constitution; therefore, it is necessary to determine whether any such right is implied in any provision of the Bill of Rights or can be found within the penumbra of any of the same.

The claimed right of marital privacy, to a woman's absolute control over her body, is not unconstitutionally restricted by a criminal abortion statute, which logically assigns greater value to the life of the child who will be killed by the abortion.

When one becomes a member of society, he necessarily parts with some privileges which, as an individual not affected by his relations to others, he might retain. It has been said that society based on the rule that each one is a law unto himself would soon be confronted with disorder and anarchy, and that the liberty of one individual must necessarily be subject to the same right in all others. Hence, liberty does not signify unrestrained license to follow the dictates of an unbridled will, individuals may be deprived of life or liberty as punishment for crime. *And one who is prevented from injuring another cannot justly assert that he has himself been deprived of any right.* (emphasis added)[8]

If one recognizes in women the right to possession and control of their own person, then surely they must recognize the same right in their unborn children to possession and control of their own persons.

Constitutional liberty is always a relative term and, at most, means liberty regulated by just and impartial laws; . . . a statute does not deprive a citizen of his liberty in the constitutional sense simply because it imposes burdens, abridges freedom of action, regulates occupations, or subjects individuals to restraints in matters which affect public interests or the rights of others.[9]

The claim of freedom over one's body is, of course, a self-evident right, if it means that a woman should be free to refuse sexual intercourse or free to practice contraception. But as Judge Ainsworth said in speaking for the majority of a three-judge court.

We do not find that an equation of the generalized right of the woman to determine whether she shall bear children with the asserted right to abort an embryo or fetus is compelled by fact or logic.[10]

The criminal abortion statutes in our various states do not require a woman to subject her body to the burden of pregnancy. But the further claim that a woman is free to destroy the being once conceived, makes sense only if that being can be regarded as part of herself, a part which she may discard for her own good. If the child is mere "tissue," a part of the mother, then there cannot be any legal limitation upon what she may do with "it." If the unborn child is a legal person, then no arguments about privacy, eugenics, social problems, etc, can prevail over his or her right to life. He or she is entitled under our Constitution to the same protection as the mother—no more, no less.

PROPERTY RIGHTS OF THE UNBORN PERSON ARE PROTECTED BY LAW

For centuries the English common law of property has recognized the unborn child as an autonomous human being. It has thus reflected a basic psychological evaluation that in law, as in ordinary thought, "child" includes the conceived but as yet unborn. In 1795 an English court interpreted the ordinary meaning of "children" in a will to include a child in the womb: "An infant *en ventre sa mare*, who by the course and order of nature is then living, comes clearly within the description of 'children living at the time of his decease.' "[11] Thereafter another court rejected the contention that this was a mere rule of construction invoked for the benefit of the child: "Why should not children *en ventre sa mare* be considered generally as in existence? They are entitled to all the privileges of other persons."[12] To the argument that such a child was a non-entity that court replied:

"Let us see what this non-entity can do. He may be vouched in a recovery, though it is for the purpose of making him answer over in value. He may be an executor. He may take under the statute of distributions. He may take by devise. He may be entitled under a charge for raising portions. He may have an injunction; and he may have a guardian."[13]

When the English property rules were adopted by American courts, the same approach was taken. In an early Massachusetts decision the issue before the court was whether a bequest to grandchildren "living at my decease" was valid and the court was asked to say that "in esse" was not the same as "living" and that for a child to be "living" the mother must be at least "quick."[14] It was there held that a conceived child fell within the meaning of the language and quoted with approval the English precedent: "The principal reason I go upon is that a child *enventre sa mare* is a person in *rerum natura*, so that, both by the rules of the civil and common law, he is to all intents and purposes a child, as if born in the father's lifetime."[15]

The path of Anglo-American common law has been followed by the statutes. For example, most states provide that: "A posthumous child of a decedent shall receive the same share of his ancestor's intestate estate as if he had been born in his father's lifetime."[16] Numerous cases have interpreted the law, and recognized the rights of the unborn child pursuant to it if the child is born alive.[17] Many Conveyance Acts further provide that a posthumous child will take an interest in real estate "by any conveyance limited in remainder to the son or daughter, or to the use of the son or daughter of any person to be begotten."[18] Some Public Health Codes define a live birth as follows:

"Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such separation breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached."[19]

Other sections of the same statute require a registration of each live birth which occurs in the State,[20] and in the case of a fetal death which occurs after a gestation period of twenty completed weeks or more, it shall be also registered as a regular death is registered by the funeral director or person acting as such who first assumes custody of the fetus.[21]

The significance of these statutes, and of this body of law, is the recognition which they give to the legal existence of the unborn person. These concepts have been in our laws for many generations, and they must be examined, and considered in arriving at a decision on the legal status of the unborn person. It would indeed be a pernicious legal system which would, on the one hand, give to the unborn person the right to inherit property, to own property and recognize his status by requiring the public control over his life and death, as with all other persons, and yet abdicate the protection of his life to the whim of his mother. Consider the mischief which can arise if abortion-on-demand is made legal. The mother who is with child at the time of her husband's death would be free to decide whether she will destroy that child's rights of inheritance by killing the child, and perhaps thereby increase her own share of the inheritance.

These property cases established two propositions: First, the ordinary person when he uses "children" in a will means to designate by the term children those who are conceived but not yet out of the womb. It has been generally accepted as a fair interpretation of the ordinary use of language and of the ordinary person's notion of who are "children." Second, the child in the womb has property rights if there is a will, trust or intestate disposition leaving property to a class of living persons in which he is included.

From these propositions it is our position that the state legislatures may properly defend those whom ordinary language designates as "children," and they may properly prevent the unregulated extinction of such children who may own or inherit property. It would indeed be a strange inversion of values if it were the crime of embezzlement for a parent or guardian to steal an unborn child's property or income, but no crime at all to kill the child who is the owner of that property, or the recipient of that income.

TORT LAW RECOGNIZES AND PROTECTS THE RIGHTS OF THE UNBORN PERSON

In the area of tort law, a dramatic change has been occurring in the status of the unborn. Well into the twentieth century most American decisions denied recovery in tort to the human offspring injured while in the womb. The denial was based in part on the danger of fraudulent claims, in part on the difficulty of proving causation, but principally on the ground that "the defendant was not in existence at the time of his action."[22] The theory followed was that succinctly expressed in an early Massachusetts decision: "The unborn child was a part of the mother at the time of the injury."[23]

The California courts appear to have been the first to hold that a child might sue for an injury caused before birth:

"The respondent asserts that the provisions of Section 29 of the Civil Code are based on a fiction of law to the effect that an unborn child is a human being separate and distinct from its mother. We think that assumption of our statute is not a fiction, but upon the contrary, that it is an established and recognized fact by science and by everyone of understanding."[24]

The District of Columbia did not lag far behind.[25] Since 1946 the California and District of Columbia approach has become general:

. . . (A) series of more than 30 cases, many of them expressly overruling prior holdings, have brought about the most spectacular abrupt reversal of a well settled rule on the whole history of the law of tort."[26]

As another commentator stated:

"The battle in jurisprudence is almost over. The developments of the infant's right of action has illustrated the inherent capacity of legal systems to adjust to new situations."[27]

Until 1953, there existed no cause of action in Illinois, as in most states, for the wrongful death of a child injured in the womb. The issue of whether or not such child must be born alive and then die before there could be a cause of action was then presented to the Illinois Supreme Court. The law of Illinois was changed, and now allows tort recovery for a child injured *en ventre sa mare*, where the child is born alive:

"Upon a reappraisal of the question, we conclude that the reasons which have been

Footnotes at end of article.

advanced in support of the doctrine of nonliability failed to carry conviction. We hold, therefore, in conformity with the recent decisions of the Courts of Last Resort of New York, Maryland, Georgia, Minnesota and Ohio and the District Court for the District of Columbia, that Plaintiff as administratrix of the estate of a viable child, who suffered prenatal injuries and was thereafter born alive, has a right of action against the defendant, whose alleged negligence caused the injury." [28]

In 1961 an Illinois Appellate Court held that a cause of action for prenatal injuries does not depend upon viability.[29] The court there quoted with approval a *Pennsylvania* decision:

"As for the notion that the child must have been viable when the injuries were received, which has claimed the attention of several of the states, we regard it as having little to do with the basic right to recover, when the fetus is regarded as having existence as a separate creature from the moment of conception." [30]

The same court also quoted with approval the following language from a New Jersey decision:

"Medical authorities have long recognized that a child is in existence from the moment of conception, and not merely a part of its mother's body." [31]

For a time there was hesitation as to whether recovery must be restricted to a child who was "viable" or "whether alternatively, that the mother at least be 'quick' at the time of the injury." [32] But the majority of courts have imposed no such limitation upon the right to recover.[33] There seems no reason to condition the rights of a fetus on such a shifting and uncertain standard, no reason to draw a line based upon age or size within the womb. As Professor Prosser observes: "Certainly, the infant may be no less injured, and all logic is in favor of ignoring the stage at which it occurs." [34]

As to action for wrongful death resulting from negligent injuries to the unborn, the situation on a national basis is complicated by the varying provisions of the states' wrongful death statutes. One question has been whether an unborn child is a "person" within the meaning of the controlling statute. A majority of courts passing on this question have said yes and held that an action for the wrongful death of an unborn child is maintainable even when he is stillborn.[35]

It is sometimes argued that a legislature may define "child" for some purposes and exclude it for others. This may be true, but certainly not in the unlimited sense implied. The United States Supreme Court considered this proposition and held:

"To say that the test of equal protection should be the 'legal' rather than the biological relationship is to avoid the issue. For the Equal Protection Clause necessarily limits the authority of the State to draw such 'legal' lines as it chooses." [36]

On the authority of the above U.S. Supreme Court decision, it is readily apparent that a state may not define a person as "legally" beginning at birth, if, in fact, he biologically begins to exist at conception, so as to deny that unborn person equal protection of the laws.

The dean of authorities on tort law notes that all writers [37, 38] on the subject have maintained "that the unborn child in the path of an automobile is as much a person in the street as the mother." [39] Does such a child become less a person when, instead of an automobile, a physician's forceps, curettage or suction machine is directed to his destruction?

The tort development summarized above is taken as a prime example of the effect of scientific development on law by one writer who concluded: "that the meaning and scope of even such a basic term as 'legal person' can be modified by reason of changes in scientific facts—the unborn child has been recognized as a legal person, even in the law of torts." [40]

If the unborn child qualitatively is as much a human being as an adult, as science indicates and modern law has recognized, then the state can no more exclude the unborn child from the law's protection than it could any other segment of humanity. Suppose a state's homicide laws applied only if the victims were between the ages of five and eighty, or only if the victims were white. No citation of law is necessary to observe the clear violation of the Equal Protection Clause of the Fourteenth Amendment by the state in failing to provide equal protection. It may be urged that if the fetus is a human being entitled to the Constitution's Equal Protection, then a state's general laws on homicide would be applicable to an abortion, and that the separate crime of abortion would be unnecessary or unequal in protection since the criminal penalties for the latter are less severe than for other forms of homicide.

The difference in degrees of punishment bespeaks not a difference, qualitatively, in the status of the victim, but rather a difference in the circumstances of killing. There is no general homicide statute; rather, different forms of homicide are recognized in the law with differing criminal sanctions, and this is no less true as regards the crime of abortion. As long as the right of an individual is protected, the legislature has the right to determine the nature and degree of punishment to be executed upon the offender.

The property and tort cases cited herein stand for the proposition that the law recognized the legal existence of the unborn child for those purposes. They are precedent for the recognition of "legal existence" for the purpose of determining whether a state has a Constitutional right to legislate their protection through the enactment and enforcement of laws prohibiting social abortion.

It is sometimes argued that recognition of property and tort rights requires that the child be born alive, therefore the cases prove nothing concerning the child's prior legal existence. We have shown that this is not true in wrongful death actions in many jurisdictions; but even aside from that, it is a fallacious argument. If "nothing" existed at the time prior to birth when the injury occurred or the property interest arose, how then could there be any rights which suddenly came into existence at birth? The fact that some of these rights, in some jurisdictions, have no remedies unless the child is born alive does not negate the child's legal existence when the rights arose. There can be no right to enforce at birth if the person was not in legal existence at the time of the injury or the time the property right first arose.

THE UNBORN PERSON'S RIGHT TO LIFE HAS BEEN PREFERRED BY LAW OVER CERTAIN RIGHTS OF THE PARENTS

Notwithstanding the precedents of property and tort law recognizing the rights of the fetus, it might be argued that the law does accord this recognition where the interests of the unborn child clash with those of his parents. Such modern law, however, as has developed in this unusual area is to the contrary. Where the life of the fetus has been balanced with some lesser interests of the parents, the fetus has been preferred.

One type of case has arisen through the advances of medicine in the science of fetology. Techniques have been developed since 1963 to make life-saving transfusions of blood to fetuses who have developed acute anemia in the womb because of the incompatibility of the fetus' blood with the mother's blood."

A conflict of interests between fetus and parent has occurred where the parent by religious conviction has believed it sinful to permit a blood transfusion. In *Raleigh Fitkin-Paul Memorial Hospital* v. *Anderson*,[42] the mother refused, for religious reasons, to have blood transfusions which had been diagnosed as medically necessary to save her unborn child's life. The New Jersey Supreme Court stated:

"We are satisfied that the unborn child is entitled to the law's protection and that an appropriate order should be made to insure such transfusions to the mother in the event that they are necessary in the opinion of the physician in charge at the time." [43]

The life of the unborn child was treated as a value outweighing even the sacred Constitutional right to the free exercise of one's religion.[44]

Elsewhere, the choice between the interests of the fetus and the civil rights of the parent has been presented in a different context. For example, in *Kyne* v. *Kyne*,[45] the issue was whether a man might be compelled to support a fetus for whose conception he was responsible. A suit seeking support was begun by the fetus' guardian ad litem when the fetus was less than six months old. The court there applied the California Civil Code, Section 196a, providing that: "the father as well as the mother of an illegitimate child must give him support and education suitable to his circumstances." The court held that Section 29 of the Civil Code "must be read together with Section 196a so as to confer the rights of an unborn child through a guardian ad litem to compel the right to support conferred by the Code." [46]

The State has a compelling interest in the welfare of its children whether born or unborn which supersedes even Constitutional rights of the parents.[47] Historically, the law has recognized the inviolability of the unborn child by providing for the suspension of execution of pregnant women under death sentence, at least when "quick." [48] This solicitude continues in modern statutes without regard to the state of the pregnancy.[49]

If an unborn child has rights to support from his parents, rights enforceable by a guardian ad litem and sanctioned by the criminal law of neglect, and his right to life is paramount even to Constitutional rights of his parents, then certainly he has a right to be protected from social abortion. It would be incongruous that an unborn child should be protected by the state from willful harm by a parent when the injury was inflicted indirectly but not when it was inflicted directly.

In these several ways, then, the law has found a well-defined cluster of human rights in the unborn child, from conception. This convergent development of property, tort, welfare, criminal and Constitutional law was not at the dictate of some hidden and impermissible theological impulse. The legislatures, the judges, the commentators, have responded to the reality of life they found within the womb. Such sturdy guardians of secular good sense as Justice Buller and Chief Justice Shaw did not invent some imaginary beings when they said that the unborn child could have rights of inheritance. Such a perspicacious molder of the best modern trends in tort as Dean Prosser did not indulge in metaphysical fancy when he found all commentators treating a fetus in the womb on a par with the mother in the path of an automobile.

That the American approach is not some national aberration is testified to by the action taken by the United Nations. In 1959 the United Nations adopted a "Declaration of the Rights of the Child" which supplemented the United Nations' statement entitled "The Universal Declaration of Human Rights." One reason for the supplementary Declaration was stated in its Preamble as being because "the child, by reason of his physical and

Footnotes at end of article.

mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth." [50] Thus, the representatives of most of the nations of the world recognized that the unborn deserved recognition as children and were entitled to legal protection.

If the unborn child can inherit by will and by intestacy, be the beneficiary of a trust, be tortiously injured, be represented by a guardian seeking present support from the parents, be protected by the criminal statutes on parental neglect, *a fortiori*, the legislature may guard that unborn child from intentional extinction.

THE LAWS PROHIBITING ABORTION EXCEPT WHEN NECESSARY TO PRESERVE THE LIFE OR HEALTH OF THE MOTHER ARE NOT UNCONSTITUTIONALLY VAGUE

To be unconstitutionally vague, the language complained of must be so vague that it fails to give warning to the particular defendants who might be charged under the law. "Vagueness" is essentially objectionable because it is unfair. If a given defendant knows perfectly well that what he is doing under the statute is a crime, he may be convicted under it, even though some hypothetical case could be imagined where someone could genuinely be in doubt about the legality of his conduct. The legislature has, under our scheme of government, the right and responsibility of trying to draw the line between conduct which is socially acceptable and that which is not. Although this line is frequently difficult to define, the legislature's attempt to do so should not be upset by the courts unless there has been a clear failure by the legislature. This proposition was rather forcefully stated by Mr. Justice Frankfurter in his dissenting opinion in *Winters* v. *New York*, where he stated:

"What risks do the innocent run of being caught in a net not designed for them? How important is the policy of the legislation, so that those who really like to pursue innocent conduct are not likely to be caught unaware? How easy is it to be explicitly particular? How necessary is it to leave a somewhat penumbral margin but sufficiently revealed by what is condemned to those who do not want to sail close to the shore of questionable conduct? These and like questions confront legislative draftsmen. Answers to these questions are not to be found in any legislative manual nor in the work of great legislative draftsmen. They are not to be found in the opinions of this Court. These are questions of judgment, peculiarly within the responsibility and the competence of legislatures. The discharge of that responsibility should not be set at naught by abstract notions about 'indefiniteness.'" [51]

THE VAGUENESS ISSUE SHOULD BE MOOT

The United States Supreme Court recently rejected an attack upon the abortion statute of the District of Columbia. In *United States* v. *Vuitch*,[52] the District Court dismissed an indictment against Milan Vuitch on the grounds that the abortion statute was unconstituticnally vague in its prohibition of abortions except as "necessary to the preservation of the mother's life or health." [53]

Mr. Justice Black, writing for the court, upheld the constitutionality of the District of Columbia abortion statute, stating:

"Indeed Webster's Dictionary, in accord with that common usage, properly defines health as "the state of beinz sound in body or mind." Viewed in this light, the term "health" presents no problem of vagueness. Indeed, whether a particular operation is necessary for a patient's physical or mental health is a judgment that physicians are obviously called upon to make routinely whenever surgery is considered.

"We therefore hold that properly construed the District of Columbia abortion law is not unconstitutionally vague, and that the trial courts erred in dismissing the indictments cn that ground."

That decision should have put to rest the vagueness issue; however, it is being treated in this paper because since the *Vuitch* decision, other litigants as well as some lower courts have continued to raise the issue.

Notwithstanding the holding in the case of *People* v. *Belous* [54]—which was that the old California abortion statute granting an exception where the abortion was performed to save the life of the mother was void owing to vagueness—there were, at about the same time as the *Belous* decision, two other decisions which held similar statutes not to be vague. In a New Jersey case, it was held that the statutory exception of "lawful justification" was not vague.[55] The Supreme Court of Massachusetts held that the word "unlawfully" in the abortion statute was not vague in light of prior decisions of that court. The court held:

"We are of the opinion that any uncertainty has been made sufficiently definite by decisions of this Court. In our cases it has been stated over the years that a physician may lawfully perform an abortion if he acts in good faith and in an honest belief that it is necessary for the preservation of the life or health of the woman." [56]

In both the *Belous* case and under the statute in Illinois, it is clearly spelled out that the exception is for the preservation of the life of the woman. How much clearer that is than the word "unlawfully"; yet the Massachusetts court found that doctors in that state could clearly understand that phrase. Although both the *Moretti* and *Kudish* cases were decided about the same time as *Belous*, neither received the wide publicity that attended the *Belous* opinion.

The vagueness argument is so totally without merit that even the court in *Babbitz* v. *McCann*, which held the Wisconsin abortion statute unconstitutional on other grounds, saw the vagueness argument for what it was, and rejected it.[57]

In general, it may be said that the persons customarily charged with crimes of abortion—persons operating secretly in out-of-the-way, non-hospital locales—are fully aware that their behavior is proscribed by the usual statute.[58] Looking at the Massachusetts, New Jersey, Wisconsin and California cases, it is difficult to believe that what is comprehendible to physicians in Massachusetts, Wisconsin and New Jersey, is not comprehendible to those in California.

This vagueness argument has also been rejected in four recent decisions, two of which are by state supreme courts.[59]

Penal Codes contain many prohibitions of conduct depending upon ascertainment, through fallible judges and juries, of a man's intent or motive. Every one of us runs the risk of having a jury of his peers misjudge him if we practice such conduct. Mr. Justice Holmes gave the conclusive answer to the suggestion that the due process clause protects against such hazards when he said:

"The law is full of instances where a man's fate depends on his estimating rightly, that is, as the jury subsequently debates it, some matter of degree. If his judgment is wrong, not only may he incur a fine or a short imprisonment, as here; he may incur the penalty of death." [60]

Justice Holmes later, speaking for a unanimous court in *United States* v. *Wurzbach*, said:

"It is argued at some length that the statute, if extended beyond the political purposes under the control of Congress, is too vague to be valid. The objection to uncertainty concerning the persons embraced need not trouble us now. There is no doubt that the words include representatives, and if there is any difficulty, which we are far from intimating, *it will be time enough to consider it when raised by someone whom it concerns*. The other objection is to the meaning of "political purposes." This would be open even if we accepted the limitations that would make the law satisfactory to the respondent's counsel. But we imagine that no one not in search of trouble would feel any. Whenever the law draws a line there will be cases very near each other on opposite sides. The precise course of the line may be uncertain, but no one can come near it without knowing that he does so, if he thinks, and if he does so it is familiar to the criminal law to make him take the risk." [61]

THE STATUTES PROHIBITING ABORTION WERE INTENDED TO PROTECT THE UNBORN CHILD AS WELL AS THE MOTHER

By prohibiting abortions except when necessary to perserve the life or health of the woman, our legislatures were creating a standard to protect the rights of the unborn.[62] The requirement that the abortion be performed by a physician licensed to practice medicine, and in a licensed hospital or other licensed medical facility, was to safeguard the health of the woman. But note that the abortion cannot even be performed by a licensed physician in a licensed hospital unless it is necessary for the preservation of the woman's life or health, as the case may be under the specific statute. This was the balance struck by the legislatures in measuring life against life.

Some courts have held that the purpose of the abortion statutes is for the protection of both mother and child. A review of American abortion cases, beginning with *State* v. *Howard*,[63] reveals that in the opinion of the courts who commented on the point, the abortion laws under discussion in those cases were either for the protection of the unborn child only or for both the unborn child and the mother. "The statute defining abortion is designed to protect the life of the mother as well as that of the child"; [64] the intention of the lawmakers was to protect the health and lives of pregnant women and their unborn children from those who intentionally and not in good faith would thwart nature by performing or causing abortion and miscarriage"; [65] "the abortion statute . . . was enacted to alter this rule and make abortion a crime even though performed before the fetus had 'quickened,' the object being . . . not only the protection of the unborn child, but to protect the life and health of the mother as well. . . ." [66] "This statute is designed to protect the life of a child *en ventre sa mare*." [67] This same theme recurs in tort cases which have arisen out of abortions: ". . . the abortion statute is not designed for the protection of women" (citation omitted), "only of the unborn child and through it society . . ."; [68] ". . . we hold that the anti-abortion statutes in Oklahoma were enacted and designed for the protection of the unborn child, and, through it society." [69]

The Supreme Court of Virginia reversed a jury verdict for a plaintiff in a tort case and held that a consenting plaintiff had no cause of action against the abortionist who had injured her. This court defined the purpose of the abortion statute as follows:

"This statute was passed, not for the protection of the woman, but for the protection of the unborn child and through it society." [70]

The New Jersey Supreme Court has stated:

"The abortion statute . . . was enacted to alter this rule and make abortion a crime even though performed before the fetus had "quickened," the object being, according to *State* v. *Murphy*, 27 N.J.L. 112, 114, not only the protection of the unborn child, but to protect the life and health of the mother as well. See also *State* v. *Loomis*, 89 N.J.L. 8, 9 (Sup. Ct. 1916) affirmed 90 N.J.L. 216 (E & A 1917)." [71]

In effect, the legislatures in enacting stat-

Footnotes at end of article.

utes prohibiting abortion, adopted a minimal norm of due process and equal protection for the unborn by specifically forbidding taking their lives unless necessary for preservation of the mother's life.

There is nothing unusual, arbitrary, or vague in a legislature exercising its inherent legislative authority to protect the civil rights of the unborn. The progress of our law in recognition of the fetus as a person has been constant and roughly parallel to the growth of knowledge of biology, embryology, fetology, genetics and perinatology. Many urged that abortion statutes be considered only from the viewpoint of the mother, whereas, this paper is intended to show that a fair reading of the language of these acts, coupled with the common understanding of the purpose of abortion statutes as stated by a large number of courts, requires that the subject be considered from the standpoint of both the mother and the unborn child. If this law was designed only to protect women from dangerous surgical procedure, why have the legislatures limited it to abortions? All surgery was dangerous in the nineteenth century, but there was no law making gall bladder operations or tonsilectomies a crime. The abortion statutes recognized what we all now know, that the unborn child is a separate person and the statutes exist to protect his Constitutional right to life. As a three-judge Federal Court said:

"Once human life has commenced, the Constitutional protection found in the Fifth and Fourteenth Amendments imposes upon the state the duty of safeguarding it." [72]

Had the legislatures intended to protect only the mother, then no balancing of rights between those of the unborn and the mother would have been necessary. The legislature, from the mother's point of view only, would have simply limited the statute to the requirement of performance of the abortion by a licensed physician operating in a licensed hospital. By limiting even licensed physicians to those few situations where it was necessary for the preservation of the woman's life, the legislatures could only have intended to protect the life of the unborn in all other situations where the exception did not exist.

ABORTION AND THE CRIMINAL LAW

Prior to the present era there has been no doubt about the state's right (if not the duty) to enact criminal laws which protected human life in the womb. The Code of Hammurabi, which is probably a compilation of much older laws, when promulgated about 1728 B.C., contained prohibitions against abortion.[73] In the twelfth century, B.C., the Assyrian King Tiglath-Pileser I codified certain of their laws, which also contained prohibitions against abortion.[74] The Hittites had somewhat similar laws.[75]

There is a unique continuity between those ancient statutes, the development of laws concerning abortion, and the existence and nature of present abortion statutes. For example, it is sometimes argued that the therapeutic exception in the 1828 New York abortion statute (that abortion may be performed when necessary to save the life of the mother) was the unique creation of the revisers of the New York criminal law in 1828.[76] However, Avicenna taught that abortion may sometimes be necessary where birth would endanger the life of the mother.[77] His medical text, which was translated by Gerard of Cremona about 1150 A.D., became the standard text in European medical schools until the seventeenth century.[78] Thus, the "unique" creation of the New York revisers may, in fact, have been a mere repetition of a medical tradition centuries old.

Anglo-Saxon law before the Norman conquest in 1066 provided both civil penalties and ecclesiastical penalties for abortion.[79] Henry De Bracton, the Chancellor of Exeter Cathedral and a Justicer of the Court, which was soon to become the Court of the King's Bench, in the mid-thirteenth century wrote:

"If there be anyone who strikes a pregnant woman or gives her a poison whereby he causes an abortion, if the foetus be already formed or animated, and especially if it be animated, he commits homicide." [80]

According to Aristotelian embryology, animation, or the infusion of the rational soul into the form of the body, occurred at forty days of gestation in the male and at eighty days of gestation in the female.[81] His embryology became the basis for many philosophical opinions through the ages.[82] Based upon Aristotelian embryology, the theory of late animation or late hominization was accepted by some philosophers.[83] Under this theory, the rational soul was infused into the embryo at some time during its development.[84] Nonetheless, during many centuries when the distinction between civil and ecclesiastical law was slight or nonexistent, both religion and society condemned abortion at any stage of embryological development.[85] Thus, in the mid-thirteenth century when Bracton was writing, abortion after animation or after the early weeks of pregnancy was a homicide event in the modern sense of our use of that word: the killing of a human being.

At the time of Bracton any killing of a human was a homicide.[86] There were no degrees of murder, but only defenses (as we would say now) to the act of homicide.[87] Approximately one century later a commentator on Bracton known as Fleta stated:

"One is rightly a homicide who has pressed on a pregnant woman or has given her a poison, or struck her to produce an abortion . . . if the foetus was already formed and ensouled. . . ." [88]

Between 1248 and 1350 these were apparently the only two extant comments on abortion in what was to become the civil, as distinguished from ecclesiastical or canonical, law. If these comments prove anything, they prove that abortion was practically nonexistent, but that where it existed it was condemned. After ensoulment it was condemned both by canonical and "common law" authorities as a true homicide. It was not a true homicide prior to ensoulment because of the Aristotelian theory of embryological development. That Aristotelian theory became for Lord Coke in the seventeenth century the theory of "quickening."

In 1650 Coke wrote:

"If a woman be quick with child and by a potion or otherwise kills it in her womb, or if a man beat her, whereby the child dies in her body, and she is delivered of a dead child, this is a great misprison and no murder, but if the child be born alive, and dies of the potion, battery or other cause, this is murder; for in law it is counted as a reasonable creature in rerum natura when it is born alive." [89]

"It is often said of this passage from Coke, that prior to quickening (under Coke's understanding) the common law did not consider abortion to be a crime.[90] This is apparently seen from some of the early American cases which considered abortion under the common law,[91] although other American courts strongly disagreed.[92] It is difficult to understand how it can be said that abortion in the early weeks was not "considered" a crime when the first English statute on the subject made abortion at any time after conception not only a crime but a *felony*.[93] Statutes do not spring whole from nothing. They reflect what is generally the common sentiment of thinking persons of that time. Perhaps the explanation for the strict common-law approach to abortion in the early weeks reflects nothing but the procedural difficulty of proof at a time when the criminal law, at least in the courts, was nothing but highly technical warfare."

It is clear from a reading of Blackstone that the common law considered life to be infused at the time of quickening.[94] Since you could not kill what was not alive, there could be no crime for the destruction of a non-living being. Certainly, under this theory the forming human in the womb prior to quickening was considered nothing other than tissue of the mother, which was a very common idea of courts until this century.[95] For example, Blackstone wrote:

"In case this plea [reprieve] is made in stay of execution, the Judge must direct a jury of twelve matrons or discreet women to inquire the fact, and if they bring in their verdict "quick with child" for barely, "with child" unless it be alive in the womb is not sufficient. . . ." [96]

As can be seen from that passage, "with child" was not sufficient to stay execution of a pregnant felon since the foetus was not considered to be alive, whereas "quick with child" was sufficient to stay execution since the foetus was alive and the law would not take the lives of two people where only one had committed the crime.

There was no question in Blackstone's mind, but that at quickening not only was life infused into the child in the womb, but so were all of the rights that belonged to a person. For example, Blackstone stated:

"Life is the immediate gift of God, a right inherent by nature in every individual; and it begins in contemplation of law as soon as an infant is able to stir in the mother's womb." [97]

Modern science, as demonstrated in this book, has proven the absurdity of the common-law notion that "life" is suddenly infused into the fetus at the time of quickening or at about fifteen or sixteen weeks of gestation. Individual human life is a continuum which commences with conception and progresses by orderly biological development until the time of death. There is no point along this continuum where a cellular change can be identified as at one moment non-human and the next human.

Hawkins said that abortion in ancient times of a quickened fetus was murder without regard to the distinction made by Coke as to whether or not the fetus must be born alive before it dies.[98] Any confusion concerning the nature of the crime of abortion at the common law was clarified in 1803 when the English Parliament passed the first English and first modern statute on abortion.[99] This statute removed the requirement originated by Coke and enunciated by Blackstone that the crime of abortion occurred only if the fetus was quickened.

There has been much philosophical debate on the historical purpose of abortion statutes without considering at the same time simple problems in the criminal law. Until 1803 it was very easy for a defendant to win an abortion case because of the difficulties that the state faced in proving that the fetus was alive, or quick, at the time of the abortion.[100] The statute of 1803 cured that difficulty because it made abortion at *any time* a felony. The statute kept a distinction that had grown up in the canonical courts by punishing abortion before quickening less than after quickening.[101]

The important thing to understand, though, is that the statute of 1803 did not in any way change the nature of the crime, which was always considered to be a crime *against the child*. The procedural criminal difficulty of winning a conviction when the woman testified that she had felt no quickening was such an impossible burden that the 1803 statute was passed to correct this situation.[102] Thus, such a similar correction was made in many states where the abortion was a crime even if the woman is not pregnant.[103] This is not to say that the statute was to protect the health of the woman, or

Footnotes at end of article.

that common-law sensitivities were pro-abortion, but was merely to correct the criminal difficulty of proving an attempt at abortion since it is the intent of the performer of the abortion that is the crime.[104] If he or she intends the destruction of the unborn child, then he is guilty of the crime of abortion. Whether or not the woman is pregnant when he makes that attempt is irrelevant under many state statutes.[105] Far from being an argument in support of the unconstitutionality of present-day abortion laws (on the theory that they were originally passed only to protect the woman and not the child), the lack of a pregnancy requirement shows conclusively that abortion laws were created to protect the child's life.[106] Such laws show that the purpose of the abortion statutes was to halt even an attempt at abortion. A necessity to prove the pregnancy could be as difficult a procedural problem as the necessity to prove that the fetus had quickened. Therefore, many abortion statutes do not require even proof of pregnancy.[107] Thus, even these statutes reflect the states' historical purpose to protect unborn life.

Connecticut was the first American state to enact a statute dealing directly with abortion. In 1821 it adopted Section 1 of Lord Ellenborough's Act.[108] Connecticut did not extend the crime to pre-quickening until 1860, at which time abortion was also allowed if necessary to save the child and also when necessary to preserve the life of the woman.[109] Illinois passed its first statute in 1827 and made no distinction with regard to quickening.[110]

In 1803 Thomas Percival, M.D., published his very famous medical juris-prudential text in which he stated:

"To extinguish the first spark of life is a crime of the same nature, both against our Maker and society, as to destroy an infant, a child, or a man; these regular and successive stages of existence being the ordinances of God, subject alone to His divine will . . .[111]

"Percival's book was the standard work in medical ethics throughout the nineteenth century.[112] Such a work was probably the reason that the American Medical Association repeatedly, during the nineteenth century, urged legislators to pass laws protecting the child in the womb from the moment of conception.[113] For example, a review of the *American Medical Association, 1846–1952 Digest of Official Actions* (edited by F. J. L. Blasingame, 1959), at p. 66, lists the repeated attacks by the American Medical Association on the crime of abortion. It will be seen that the great medical battle of the nineteenth century was to persuade legislators to eliminate the requirement of quickening and to condemn abortion from conception. The Association unanimously condemned abortion as the destruction of human life. It was this pressure, during the nineteenth century, on state legislators that did away with the requirement of quickening in many abortion statutes."[114]

Thus it is that American legislators throughout the nineteenth century passed laws protecting life within the womb. Not for any narrow sectarian religious point of view, but because developing human life in the womb was entitled to the law's protection just as is an adult.

By 1967 every state in the union, under its criminal law, protected incipient and developing human life in the womb from destruction. The purpose of these criminal statutes was to protect the life of the child. Certainly there was a concomitant protection for the health of the mother, but that was not the main intent when legislators passed laws against abortion. All of the criminal abortion statutes of the states and territories absolutely prohibited or severely restricted abortion. Several absolutely prohibited it. Most prohibited it unless necessary to preserve or save the life of the mother, although there was an occasional variation in the verbal formula.[115] For example, Maryland proscribed abortion unless ". . . no other method will secure the safety of the mother."[116] New Jersey prohibited abortion done ". . . without lawful justification."[117] Pennsylvania proscribed abortions done with the "unlawful" use of any instrument.[118] In a few states the necessity to save the child's life was an additional authorizing exception.[119] Eventually the District of Columbia and Alabama prohibited abortion unless necessary to preserve the life or health of the mother.[120] Until 1967, when Colorado liberalized its law,[121] the Alabama and District of Columbia statutes were the most liberal in the balance struck between the life of the child and the life of the mother.

In forbidding abortions except when necessary to preserve the life (or health) of the mother, the states were striking a standard of due process and equal protection to protect the life of the unborn child. To be sure, it was a minimal balance, but nonetheless it was a balance struck in measuring life against life—not a mere additional protection of the mother. In effect, the states were enacting a minimum norm of due process and equal protection for the unborn by specifically forbidding killing them unless necessary for the preservation of the mother's life (or health). There is nothing unusual, arbitrary or vague in the states' exercising their inherent legislative authority to protect the civil rights of the unborn.

THE HUMANITY OF THE UNBORN OFFSPRING OF HUMAN PARENTS HAS BEEN THE CRITICAL ISSUE IN LOWER FEDERAL COURT ABORTION CASES

The immediate and intended consequence of an induced abortion is the destruction of life of the unborn. It is in the light of this reality that courts must consider and decide the profound and far-reaching issues in these abortion cases.

Certain courts have decided abortion cases without considering whether the victim, i.e. the unborn, of the abortion has constitutionally protected rights. For example, in *Roe* v. *Wade*,[122] the U.S. District Court for the Northern District of Texas, without once mentioning, discussing or considering whether the unborn is a "person" under the Fifth and Fourteenth Amendments, or otherwise has legally protected interests involved, concluded that the "Texas Abortion Laws must be declared unconstitutional because they deprive single women and married couples of their right, secured by the Ninth Amendment, to choose whether to have children."

In *Doe* v. *Bolton*,[123] the U.S. District Court for the Northern District of Georgia touched, but only in passing, upon the primary issue in this litigation, i.e. the legal "personality" of the unborn for constitutional purposes. At one point in the opinion, the court wrote that it did not ". . . (posit) the existence of a new being with its own identity and federal constitutional rights rights, . . ."[124] Elsewhere in the opinion the court, in denying a reconsideration of the court's previous order revoking another's appointment as *guardian ad litem* for the unborn person, wrote that ". . . the court does not postulate the existence of a new being with federal constitutional rights at any time during gestation."

The *Bolton* court was thus able to conclude that, while procedures for obtaining an abortion may be controlled, the "reasons for which an abortion may be obtained" may not be regulated "because such action unduly restricts a decision sheltered by the constitutional right to privacy."[125]

The *Boulton* court did point out that once conception has occurred and the embryo has formed, ". . . the decision to abort its development cannot be considered a purely private one affecting only husband and wife, man and woman."[126]

Other three-judge federal courts presented with the same clash of "rights" between mother and the unborn have not ignored the developments of many areas of the law which have found rights in the unborn. For example, in *Steinberg* v. *Brown*,[127] the majority gave careful consideration to both the rights of the woman and the unborn, and concluded that ". . . the state has a legitimate interest to legislate for the purpose of affording an embryonic or fetal organism an opportunity to survive."[128] This court concluded that the state did have that right" . . . and on balance it is superior to the claimed right of a pregnant woman or anyone else to destroy the fetus except when necessary to preserve her own life."[129]

In *Rosen* v. *Louisiana State Board of Medical Examiners*[130] the court recognized that it was not dealing merely with the question whether a woman has a generalized right to choose whether to bear children ". . . but instead with the more complicated question whether a pregnant woman has the right to cause the abortion of the embryo or fetus she carries in her womb."[131] Without deciding whether the unborn per se is a person protected by the Constitution, since that was not the issue that court faced, the *Rosen* court concluded that the State of Louisiana had intended to and could legitimately protect fetal life against destruction.[132]

In *Corkey* v. *Edwards*[133] the court concluded also that the issue involved ultimately a consideration of more than just the issue of whether a woman has a right not to bear children:

"The basic distinction between a decision whether to bear children which is made before conception and one which is made after conception is that the first contemplates the creation of a new human organism, but the later contemplates the destruction of such an organism already created."[134]

Finding protection to fetal life an adequate state interest in invading the woman's claimed right to privacy, the *Corkey* court concluded:

"To determine the state interest we shall not attempt to choose between extreme positions. Whether possessing a soul from the moment of conception or mere protoplasm, the fertilized egg is, we think, 'unique as a physical entity,' Lucas, Federal Constitutional Limitations of the Enforcement and Administration of State Abortion Statutes, 46 *N.C.L. Rev.* 730, 744 (1968), with the potential to become a person. Whatever that entity is, the state has chosen to protect its very existence. The state's power to protect children is a well-established constitutional maxim See *Shelton* v. *Tucker*, 364 U.S. 479, 485, 81 S. Ct. 247, 5 L. Ed. 2d 231 (1960); *Prince* v. *Massachusetts*, 321 U.S. 158, at 166–168, 64 S. Ct. 438, 88 L. Ed. 645. That this power should be used to protect a fertilized egg or embryo or fetus during the period of gestation embodies no logical infirmity, but would seemingly fall within the 'plenary power of government.' *Poe* v. *Ullman*, 367 U.S. 497, at 539, 81 S. Ct. 1752, 6 L. Ed. 2d 989 (Harlan, J., dissenting). That there is a state interest has until recently been taken for granted. History sides with the state."[135]

Even this brief review of five federal decisions involving the constitutionality of state abortion laws makes it clear that whether or not courts consider the developing humanity of the unborn is critical in its resolution of the issues.[136]

An expansion of the right to privacy to include the right of a woman to have an abortion without considering the interests of the unborn person decides this question against the unborn. The necessary consequence of that expansion would be a direct and unavoidable conflict between the unborn person's right to life and the woman's

Footnotes at end of article.

extended right of privacy. Assuming such a conflict, it is our position that the more fundamental and established of the conflicting rights must prevail where they clash. The right to life is most certainly the most fundamental and established of the rights involved in the cases facing the courts today.

THE UNBORN OFFSPRING OF HUMAN PARENTS IS A PERSON WITHIN THE MEANING OF THE FIFTH AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION

The standard for decision

The U.S. Supreme Court has considered the constitutionality of legal classifications numerous times. Under the due process clause of the Fifth Amendment, and the "equal protection" clause of the Fourteenth Amendment, the strictness of the standard for decision in cases involving classifications made by legislative bodies varies according to the nature of the right placed in jeopardy; the more fundamental the right involved, the greater the judicial requirement to "carefully and meticulously scrutinize"[137] the classification in light of the following principles:

(a) As the right in jeopardy becomes more fundamental, the more perfect must be the relationship between the classification excluding a human group from the enjoyment of the right and the purpose for which the classification is made.[138]

(b) As the right involved becomes more fundamental, the more "compelling" the state or governmental interest must be in making a classification excluding certain human groups from the enjoyment of the right.[139]

In addition, classification affecting fundamental rights are said to be "especially suspect"[140] or, to use Mr. Justice White's expression, such classifications are "constitutionally suspect."[141]

The courts must apply this same standard to themselves

The court, in interpreting laws, performs a quasi-legislative or a subordinate legislative function.[142] It performs this interstitial legislative function by supplementing the written law with definitions.[143]

In these cases the courts must construe, interpret, and define the expression "person" in the Fifth and Fourteenth Amendments. In fixing the limits of the word "person" in the Fifth and Fourteenth Amendments, the courts will, in essence, perform a classificatory function; in other words, the courts must decide on the basis of some established criteria whether, for the cases at bar, the unborn person belongs to the class of persons encompassed, and therefore protected, by the term "person" as used in the "due process" clause of the Fifth Amendment and "equal protection" and "due process" clauses of the Fourteenth Amendment.

The "due process" clause of the Fifth Amendment and the "equal protection" clause of the Fourteenth Amendment to the United States Constitution require that "Cities, States and the Federal Government . . . exercise their powers so as not to discriminate between their inhabitants except upon some reasonable differentiation fairly related to the object of the regulation."[144] Expressed differently, the Constitution prohibits "invidious discrimination" by the State.

The concepts of "State" and "Federal Government," as used above, refer to the different agencies through which the "State or Federal Government" may act. And this includes judicial authorities[145] as well as legislative and executive authorities. The courts have, therefore, a constitutional duty equal to that of Congress and the various state legislatures to avoid "invidious discriminations" in the course of making classifications in the exercise of their interpretive and quasi-legislative functions.

Application of the standard for decision: the rules of construction applied

By attempting to strike down the criminal abortion statutes of some states, the courts are implicitly deciding whether unborn offspring of human parents are "persons" within the meaning of the Fifth and Fourteenth Amendments, and thereby classifying such offspring as to whether they may be "deprived of life." Since this is the most fundamental of all rights[146] the courts are bound by their own teachings to apply the most strict of standards.

Likewise because of the fundamental nature of life, the most compelling of all interests would have to be shown on the part of a court in order to carve out such a classification, which would exclude the lives of unborn humans from the protection of the law.

Proponents of abortion-on-demand argue that a "compelling state interest" must be shown to justify the restrictions imposed by those criminal abortion statutes on their freedom to have the unborn killed, or their freedom as physicians to perform the abortions. We argue that the "compelling" state interest doctrine instead of limits the right of either State or Federal Government to classify the unborn as "non-person" and thereby permit the deprivation of their lives.

Consequently, in interpreting and construing the word "person" as used in the Fifth and Fourteenth Amendments, courts must be constantly aware (1) that the right in jeopardy is the most fundamental of all legal rights, being necessary and basic to the enjoyment of all other legal rights; (2) that no compelling governmental interest in excluding the unborn from constitutional protection under the Fifth and Fourteenth Amendments has ever been shown, and that classifications affecting fundamental human rights are "especially" or "constitutionally suspect." Based on these rules of construction, the unborn offspring of human parents are to be given every benefit of doubt, to be afforded every advantage.

These standards for decision considered in light of the *scientific fact* that the unborn offspring of human parents is an autonomous human being,[147] and in light of the *legal fact* that the unborn is a legal person in numerous other areas of the law,[148] compel the conclusion that the word "person" as used in the Fifth and Fourteenth Amendments includes unborn persons.

The Fifth Amendment protects all persons against arbitrary action by the State. "No person shall be deprived of life, liberty or property without due process of law." If the word "person" in the Fifth Amendment is construed to mean only born "persons," then all unborn persons who have vested property rights (subject to divestiture if they are not born alive)[149] would have no protection against an arbitrary taking of such property rights by the Federal Government. This would leave an absurd gap in the scope of constitutional protection of individual rights. The unborn person would have legal protection against everyone except the State.

If the unborn offspring of human parents is a "person" within the meaning of the Fifth Amendment for the purpose of protecting its property interests against arbitrary action by the government, it must follow that the life of that "person" is also protected against arbitrary interference by the State.

As Professor Dallin H. Oaks has said:

"The guarantees of due process extend to such rights and to such persons. The due process clause surely protects at least as much "property" as the law recognizes. If an unborn is a legal entity or person for purposes of acquiring property or a cause of action, it is surely a "person" who qualifies to have his property or cause of action protected by the due process clause. And his life as well. The due process clause would be a proper object of ridicule if it allowed the guardian of an unborn child to protect the unborn's right to property but left the guardian powerless to prevent the destruction of its life."[150]

It is submitted that the unborn is a "person" within the meaning of the Fifth and Fourteenth Amendments. Consequently, the unborn's life can be taken only with due process of law, and its life is entitled, like all other persons' lives, to equal protection under law.

The voidance of state abortion statutes by court or legislature is governmental action which deprives the innocent unborn of the right to life, and therefore deprives them of equal protection and due process. Courts should therefore protect the unborn's constitutional rights in any decision they render.

THE UNBORN PERSON IN INTERNATIONAL LAW

Although international protection of human rights is still in the developing stages and the jurisprudence of international tribunals is consequently limited, there are persuasive indications that international law requires that the unborn person's right to life be recognized and protected by law.

UNITED NATIONS DOCUMENTS

Article 6(1) of the International Covenant on Civil and Political Rights provides that "every human being has the inherent right to life." The term "human being" is most certainly broad enough to include unborn as well as born human beings. If "human being" is interpreted in the light of paragraph 5 of Article 6 of this Covenant, which provides that "Sentence of death . . . shall not be carried out on pregnant women," it appears that the drafters intended to protect the right to life of unborn human beings as those already born.

Further support for this position can be found in the Declaration of the Rights of the Child, proclaimed by the General Assembly of the United Nations on 20 November, 1959. Paragraph 3 of the Preamble provides:

Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth. [emphasis added]

The proclamation pargaraph of the Preamble provides:

Proclaims this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles: [Emphasis added]

The fourth of the principles listed in the Declaration of the Rights of the Child provides that "special care and protection shall be provided to [the child] and to his mother, including adequate prenatal and post-natal care [emphasis added]."

ORGANIZATION OF AMERICAN STATES

Article 4(1) of the American Convention on Human Rights of 1969 provides:

Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

Paragraph 5 of this same article provides that "capital punishment" shall not "be applied to pregnant women."

It is clear from this article that the term "person" includes the unborn and that the unborn's right to life is to be protected by law from the moment of conception.

Footnotes at end of article.

To be emphasized is that the United States may some day become or desire to become a party to both the International Covenant on Civil and Political Rights of 1966 and the American Convention on Human Rights of 1969. United States Constitutional theory should not be allowed to become at variance with both universal and regional international human rights theory.

FOOTNOTES

[1] *Mills* v. *Commonwealth of Pennsylvania*, 13 Pa. St. 631 (1850).

[2] *Steinberg, Rhodes*, 321 F. Supp. (N.D. Ohio 1970).

[3] *Griswold* v. *Connecticut*, 381 U.S. 479, 85 Sup. Ct. 1678.

[4] E.g., see note 115.

[5] Biondi, *LaPatria Protestas*. II *Diritto Romano Christiano* (1954), Vol. 3, p. 13.

[6] Buckland and McNair, *Roman Law and Common Law*, p. 35 (1936).

[7] Kempe, *"The Battered-Child Syndrome,"* 181 *American Medical Association Journal*, 17 (1962).

[8] 16 Am. Jur. 2d, Constitutional Law, Sec. 60, pp. 687 and 688.

[9] Ibid., pp. 688 and 689.

[10] *Rosen* v. *The Louisiana State Board of Medical Examiners*, 318 F. Supp., 1717 (E.D. La. New Orleans Div. 1970).

[11] *Doe* v. *Clarke*, 2 H.Bl. 399, 126 Eng. Rep. 617 (1795).

[12] *Thelluson* v. *Woodford*, 4 Ves. 227, 31 Eng. Rep. 117 (1798).

[13] Ibid., at p. 322.

[14] *Hall* v. *Hancock*, 15 Pick. 255 (Mass. 1834).

[15] *Wallis* v. *Hodson*, 2 Atk. 117.

[16] Ill. Rev. Stat., 1969, Ch. 3, § 13.

[17] *Tomlin* v. *Laws*, 301 Ill. 616, 134 N.E. 24 (1922); *Barr* v. *Gardner*, 259 Ill. 256, 106 N.E. 287 (1913).

[18] Ill. Rev. Stat., 1939, Ch. 30, § 13.

[19] Ill. Rev. Stat., Ch. 111½, § 73–1(5).

[20] Ill. Rev. Stat., Ch. 111½, § 73–12.

[21] Ill. Rev. Stat., Ch. 111½, § 73–20.

[22] *Prosser on Torts*, 3d Edition, 1964, Sec. 56.

[23] *Dietrich* v. *Northampton*, 138 Mass. 14 (1884).

[24] *Scott* v. *McPheeters*, 33 Cal. App. 2d 629, 92 P. 2d 678 (1939). petition for re-hearing denied, 93 P.2d 562 (1939).

[25] *Bombrest* v. *Kotz*, 65 F. Supp. 138 (D.D.C. 1946).

[26] *Prosser on Torts*, 3d Edition, 1964, p. 355.

[27] Gordon, *The Unborn Plaintiff*, 63 Mich. L. Rev. 627 (1965).

[28] *Amamn* v. *Faidy*, 415 Ill. 422 (1953).

[29] *Daley* v. *Meier*, 33 Ill. App. 2d 218 (1961).

[30] *Sinkler* v. *Kneale*, 401 Penn. 276, 164 A. 2d 93.

[31] *Smith* v. *Brennan*, 31 N.J. 353, 157 A. 2d 497.

[32] At the common law the unquickened fetus was not considered alive. In 4 Blackstone, *Commentaries on the Laws of England* (concerning reprieves) 394–395 (1769), it is said: " . . and if they bring in their verdict 'quick with child' (for barely, 'with child' unless it be alive in the womb, is not sufficient)." In other words "with child" was not sufficient to stay execution of a pregnant felon because the fetus was not considered to be alive; whereas "quick with child" was sufficient to stay execution since the fetus was alive and the law would not take the lives of two people where only one had committed the crime. Blackstone also said: "Life is the immediate gift of God, a right inherent by nature in every individual; and it begins in contemplation of law as soon as an infant is able to stir in the mother's womb." Blackstone, Book I, Chap. I, Sec i.

[33] *Prosser on Torts*, 3d Edition, 1964, Sec. 56.

[34] Ibid.

[35] *Gullborg* v. *Rizzo*, 331 F. 2d 557 (3rd 1964; Penn. Statute); *Todd* v. *Sandidge Construction Co.*, 341 F. 2d 75 (1964); *Hatala* v. *Markiewicz*, 26 Conn. Supp. 358, 224 A. 2d 406 (1966); *Worgan* v. *Greggo & Ferrara, Inc.*, 50 Del. 258, 128 A. 2d 557 (1956); *Porter* v. *Lassiter*, 91 Ga. App. 712, 87 S.E. 2d 100 (1955); *Wendt* v. *Lillo*, (1960, D. C. Iowa), 182 F. Supp. 56 (applying Iowa law); *Hale* v. *Manion*, 189 Kan. 143, 368 P. 2d.

THE SUPREME COURT'S ABORTION DECISIONS AND PUBLIC OPINION IN THE UNITED STATES

(By Judith Blake)

Between January 1973 and July 1976, the United States Supreme Court handed down three major decisions concerning abortion—two in 1973 and one in 1976. The 1973 decrees struck down most state laws restricting pregnancy termination and ruled that, until after the first trimester, the decision to have an abortion rests with the woman and her physician. The Court said that between the beginning of the fourth month of pregnancy and fetal viability(approximately six months gestation) state regulation should be concerned with measures designed to preserve the mother's health but should not be needlessly restrictive. After viability, the state was held justified in regulating and even proscribing abortion, except where necessary for the preservation of the life or health of the mother. The Court nullified state statutes limiting the performance of abortions to hospitals; invalidated abortion review committees; and abrogated restrictions on migration between states for purposes of abortion. In 1976 the Court specifically refused to legitimate action by interested parties—such as the woman's husband or parents—to veto her free access to abortion.

Implementation of these judicial rulings is turning out to be an arduous process, analogous in many ways to implementation of the earlier decisions of the US Supreme Court on school desegregation. The abortion decisions are beginning to exemplify the increasingly familiar problems involved in the use of judicial review as a means of effecting social change; mobilization of extreme opposition and steady erosion of the Court's intent by means of collateral deterrence.[1]

This article outlines some of the major problems involved in fulfilling the Supreme Court decision on abortion and presents data on public support for voluntary pregnancy termination.

ORGANIZED OPPOSITION TO THE SUPREME COURT DECISIONS

Who has been short-circuiting implementation, and what have they been doing? The most obvious actors have been anti-abortion ("right to life") groups that have burgeoned nationwide since the 1973 decisions. These groups have been remarkably effective in bringing political and social pressure to bear, both locally and in Congress. States have passed legislation that does not comply with the spirit of the 1973 decisions—legislation that heavily regulates abortion clinics; withholds Medicaid (government-financed medical insurance) funds for purposes of abortion; requires doctors to supply detailed statistical information (sometimes including the woman's name) for every abortion; makes spousal or parental consent a condition of abortion; and involves numerous similar efforts at collateral deterrence. The number of abortion-related bills in state legislatures has increased dramatically, as has the proportion of such bills enacted. For example, in 1972, 134 such bills were introduced and 4 enacted. As a result of the Court's decisions in 1973, 260 bills were introduced and 39 enacted, and in 1974 the comparable figures were 189 introduced and 19 enacted.[2]

A recent decision by the US Supreme Court upheld the right of privately administered hospitals to perform abortions.[3] A movement has gained strength to amend the Constitution in an effort to bypass the Court's decisions, and pressures are constantly being exerted on Congress to curtail the use of public funds for purposes of abortion.

It is evident that such efforts are succeeding in making it difficult to obtain a legal abortion. Although approximately one million legal abortions were performed in 1975, most of these (Christopher Tietze estimates about 70 percent) replaced operations whose status would have been illegal prior to the Court's decisions.[4] That is, most legal abortions replaced abortions that would have occurred anyway on an illegal basis. Consequently it is still true that many types of women who could not readily obtain illegal abortions, notably the poor, the very young, and those in nonmetropolitan areas, suffer severe handicaps in obtaining legal ones, even though they are nominally available. Services are concentrated in nonhospital abortion clinics, and the latter are confined to a few large metropolitan areas.[5] In the words of Weinstock, Tietze, Jaffe, and Dryfoos,

The failure of most hospitals to provide abortion services in response to the Supreme Court's 1973 abortion decisions is largely responsible for this inequitable distribution. The default of public hospitals, on which many poor persons traditionally depend for health care, undoubtedly deters many poor women from obtaining abortion services. Several states have enacted statutes to deny Medicaid reimbursements for abortions or to restrict it to medical emergencies. Although these statutes have been consistently overturned by the courts, there remains a chilling effect in states where they exist. In a few states, Medicaid reimbursement is known to be unavailable, while in others it is hedged with medical or procedural restrictions.[6]

Finally, the conviction in 1975 of Dr. Kenneth Edelin on manslaughter charges for aborting a fetus of more than 20 weeks gestation (overturned in 1977) and the prevention of scientific research on fetuses scheduled for abortion are direct spin-offs of increasingly organized "pro-life" groups.[7]

THE PUBLIC AND THE ABORTION DECISIONS

A less obvious, but nonetheless politically important element in undermining implementation is public opposition to the basic content and implications of the Court's position—opposition that antedated the 1973 decisions and that has continued since then.[8]

What currently is the evidence regarding public views on abortion in the United States? I shall use data on public opinion concerning abortion derived from questions that I have commissioned on numerous national Gallup surveys from the late 1960s up through 1977. I shall also use results from nationwide surveys conducted by the National Opinion Research Center (NORC) each year between 1972 and 1975, as well as tabulations from the 1965 and 1970 National Fertility Studies (NFS) commissioned by Charles F. Westoff and Norman B. Ryder. The Gallup and NORC surveys were performed on cross-sectional samples of voting age adults. The National Fertility Studies were of married women in the reproductive ages. The results presented are for all races.

The surveys analyzed here deal with numerous aspects of legalized abortion. One facet concerns public support for elective abortion—abortions for reasons of personal desire rather than health, financial, or other crises. On this topic, it is possible to present the results from all three sources, since all asked specific questions on elective abortion, although wording differed somewhat.

Additional tabulations relate to a number of subissues implicit or explicit in the Supreme Court's major 1973 and 1976 decisions: whether abortion should be permitted after the first three months of pregnancy; when respondents feel that "human life" or the "human person" begins; whether

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Footnotes at end of article.

abortion should be allowed without the consent of the husband; and whether the government should assume any part of the cost of an abortion. Finally, public reaction to possible constitutional amendments that would severely restrict abortion is discussed.

In assessing the results, the reader is enjoined to bear in mind that, among data bases, the sampling differed in some cases, the time periods were not exactly the same, and the questions were not always identical. I shall try to call attention to incomparabilities and analyze their effects on responses; however, the point of my analysis is not to interpret fine shades of difference among replies so much as to outline broadly where the public stands. In general, this is not a difficult task with regard to abortion since, as will be seen, there are major similarities of response level and trend among different data sets. Hence, although surveys regarding some public issues may produce erratic results, as Lipset has recently suggested,[9] systematic consideration of the data on abortion seems to provide encouraging evidence of reliability.

ELECTIVE ABORTION AND PUBLIC OPINION

A controversial issue of the 1973 decisions concerned the Court's support for a woman's right to obtain an abortion without resort to such extenuating justifications as her health, probable malformation of the infant, rape, or financial and emotional stress. The decision that she does not want to continue the pregnancy is sufficient justification for a woman to seek medical help in procuring an abortion.

A variety of data are available concerning public views regarding elective abortion. Before discussing these data, which are summarized in Table 1, we should note that they stem from somewhat different questions.

On the Gallup surveys the question was:

Do you think abortion operations should or should not be legal where the parents simply have all the children they want although there would be no major health or financial problems involved in having another child?

This question was asked after three prior questions concerning the mother's health, possible child deformity, and financial stress as justifications for abortion. The question posed the issue of elective abortion pointedly, calling attention to the difference between not wanting the child despite a lack of physical or financial stress and having such stress-related reasons for desiring to terminate the pregnancy. Also, the word "simply" carries the implication that the reason given is not—or may not be—sufficient. Thus, both the order in which the question was asked and the wording may have engendered a negative bias in respondents.

The National Opinion Research Center asked:

Please tell me whether you think it should be possible for a pregnant woman to obtain a legal abortion if she is married and does not want any more children?

TABLE 1.—ATTITUDES OF U.S. MEN AND WOMEN TOWARD ELECTIVE ABORTION

[Percent distribution]

Source and attitude	1965	May 1968	December 1968	1969	1970	1972	1973	1974	1975	1977
Gallup surveys:										
Approving		11	13	14	23	27	27	31		30
Disapproving		86	81	79	69	67	68	63		63
No opinion		4	6	7	8	6	6	6		7
Total		100	100	100	100	100	100	100		100
Total respondents		(1,611)	(1,517)	(1,560)	(1,525)	(1,513)	(1,550)	(1,583)		(1,549)
NORC surveys:										
Approving						38	46	45	44	
Disapproving						57	51	50	52	
No opinion						5	3	5	4	
Total						100	100	100	100	
Total respondents						(1,613)	(1,504)	(1,484)	(1,490)	
National fertility studies:										
Approving	8				21					
Disapproving	91				76					
No opinion	1				3					
Total	100				100					
Total respondents	(4,810)				(5,981)					

Note: The questions asked on the 3 major data sets differed somewhat. See discussion in the text.

Sources: Nationwide Gallup and National Opinion Research Center surveys of voting age adults and the 1965 and 1970 National Fertility Studies of married women in the reproductive ages.

This item appeared second in a list of questions on abortion beginning with the justification in terms of possible child deformity. The NORC question—both because of the order in which it was asked and because it did not point up any difference between stress and nonstress reasons—avoided a possible negative bias, but may have engendered a positive one. A number of respondents may have responded affirmatively on the grounds of implict stress reasons for not wanting a child. In effect, respondents had no way of knowing that additional questions were going to be asked concerning these reasons (health or finances) and may have injected them into the implicit logic of their responses—a woman may not want any more children because she is ill or in financial difficulties.

The two National Fertility Studies asked:

I'm going to read you a list of several possible reasons why a woman might have a pregnancy interrupted. Would you tell me whether you think it would be all right for a woman to do this if the couple didn't want any more children?

The elective-abortion justification was presented after those concerning the woman's health, the possible illegitimate status of the pregnancy, and financial stress. Instead of asking whether abortion should be legal, these studies asked if it would be "all right." This may have introduced a slight negative bias, since some people feel that, in a pluralistic society, many things should be legal even though given individuals do not consider them "all right."

We see, from the Gallup surveys reported in Table 1, that opposition to elective abortion has clearly declined over the period from the high of 85 percent in 1968 to 63 percent in 1974 and 1977. We may also note that the two surveys in 1968 showed virtually identical results (suggesting high reliability) and that the 1965 and 1970 findings of the National Fertility Studies were very close to those of the Gallup surveys during the same period. Although negative views have declined and positive ones increased over time, it seems clear that the largest changes took place in the late 1960s. Both the Gallup and the NORC surveys evinced relatively little change beginning with 1973.

Regardless of the data base, none of the results shows as many as 50 percent of respondents approving, and most surveys indicate levels of approval that are well below 50 percent. The major incomparability is between the NORC and Gallup surveys: NORC systematically shows higher proportions approving than Gallup. These differences are doubtless due to differences in the wording and order of the questions asked. If, as has been suggested, the Gallup series understates and the NORC series overstates approval of elective abortion, then such approval in the United States in the mid-1970s hovers around 40 percent.

Finally, in an effort to avoid order-effects in questioning and to pose the issue in another way, I commissioned the following question on Gallup surveys in 1972 and 1974:

Do you believe that there should be no legal restraint on getting an abortion—that is, if a woman wants one she need only consult her doctor, or do you believe that the law should specify what kinds of circumstances justify abortion?

Tabulations of responses to this question are presented in Table 2. They conform with the estimate of around 40 percent approving elective abortion in the mid-1970s based on the NORC and Gallup time series.[10]

When we turn to other specific points relating to the decisions—allowance of abortion after three months of pregnancy, consent of interested parties such as the woman's husband, or use of government funds (like Medicaid) for abortions—public opinion diverges even further from the rulings of the Supreme Court.

TABLE 2.—RESPONSES TO A QUESTION WHETHER THERE SHOULD BE NO LEGAL RESTRAINT ON ABORTION OR WHETHER THE LAW SHOULD SPECIFY CIRCUMSTANCES THAT JUSTIFY ABORTION

[Percent distribution]

Sex and response	September 1972	September 1974
Men:		
No legal restraint	40	41
Law should specify circumstances	52	50
No opinion	8	8
Total	100	100
Total respondents	(765)	(790)
Women:		
No legal restraint	37	38
Law should specify circumstances	56	55
No opinion	7	7
Total	100	100
Total respondents	(781)	(793)

Footnotes at end of article.

TABLE 2.—RESPONSES TO A QUESTION WHETHER THERE SHOULD BE NO LEGAL RESTRAINT ON ABORTION OR WHETHER THE LAW SHOULD SPECIFY CIRCUMSTANCES THAT JUSTIFY ABORTION—Continued

[Percent distribution]

Sex and response	September 1972	September 1974
Men and Women:		
No legal restraint	39	40
Law should specify circumstances	54	53
No opinion	7	7
Total	100	100
Total respondents	(1,546)	(1,583)

Sources: Gallup surveys of voting age adults, September 1972 and September 1974.

ABORTION AFTER THREE MONTHS OF PREGNANCY

In 1970 the National Fertility Study asked a national probability sample of approximately 6,000 American married women under age 45 the following question: "Are you in favor of a law which permits a woman to have an abortion even if she is more than three months pregnant?" In April 1975 I commissioned the same question on a Gallup Survey—a national probability sample that included both men and women of voting age and all marital statuses. Again, a negative bias may have arisen from the wording, since "even if" suggests the action may not be acceptable. Results of both studies are presented in Table 3.

Over the five-year period, there clearly was an increase in willingness to allow abortion after three months of pregnancy; however, as recently as 1975, over 70 percent of women (both in the total sample and among those under age 45 who were married) disapproved of abortion after the first trimester. Men were less disapproving and more positive, but approximately 60 percent of men disapproved nonetheless.

TABLE 3.—RESPONSES TO THE QUESTION, "ARE YOU IN FAVOR OF A LAW WHICH PERMITS A WOMAN TO HAVE AN ABORTION EVEN IF SHE IS MORE THAN 3 MO. PREGNANT?"

[Percent distribution]

Response	Married, under Age 45			All Marital Statuses	
	Women 1970	Women 1975	Men 1975	Women 1975	Men 1975
Yes	12	18	27	17	27
No	84	72	61	73	58
Other	4	4	6	5	6
Don't know	3	3	6	5	9
Total	100	100	100	100	100
Total respondents	(5,981)	(327)	(259)	(799)	(800)

Sources: National Fertility Study, 1970, and Gallup survey, April 1975.

In January 1973, during the week following the first two Supreme Court decisions, I commissioned two questions intentionally worded to give favorable responses:

Some states have laws that say abortion cannot be performed after a woman has been pregnant a certain period of time. Do you think there should be some such time limit or do you think there should be no legal restriction concerning the time when abortion can be performed?

[If there should be a limit]

Taking into account that a woman may not know she is pregnant until three or four weeks after conception, after what month of pregnancy do you think it should be illegal to perform an abortion?

Thirty-five percent of men and 47 percent of women said that abortion should be limited to the first three months, while 16 and 17 percent respectively volunteered that they were against all abortion (Table 4). This conforms with the 1975 result of 58 percent of men and 73 percent of women answering negatively when asked whether abortion should be legal after the first three months of pregnancy (Table 3). Similarly, in 1973, 31 percent of men and 24 percent of women would allow abortion after the third month of gestation, compared with 27 percent of men and 17 percent of women in 1975. Given that the 1973 question called respondents' attention to the need for time in order to discover the fact of pregnancy, these results are remarkably similar. A minority of respondents in either survey would approve abortion beyond the third month of pregnancy.

TABLE 4.—VIEWS ON MONTHS OF GESTATION AT WHICH ABORTION MAY BE PERMITTED

[Percent distribution]

View	Men	Women
Abortion should never be performed (volunteered)	16	17
Abortion allowable only if pregnancy 3 mo or less	35	47
Abortion allowable at 4 mo pregnancy duration	6	8
Abortion allowable at 5 or more months [1]	6	5
There should be no legal restriction on timing of abortion	19	11
Other	4	4
No opinion [2]	14	8
Total	100	100
Total respondents	(735)	(773)

[1] 5 mo (40), 6 mo (41), 7 to 9 mo (3).
[2] Combined "no opinion" responses on both parts of the question.

Source: Gallup survey of voting age adults, January 1973.

Why are respondents so concerned about confining abortion to the early months of pregnancy? One reason appears to be that they regard the fetus as a "human life," or a "human person," very early in the gestational period. The data in Table 5 for 1973 and 1975 on when "human life" begins stem from the following question:

It is sometimes said that the morality of abortion rests on the question of when one thinks human life begins. For example, some people believe that it begins at conception, that is, when sperm and egg first meet. Others say that it begins only when the woman first feels movement inside her (what is sometimes called quickening), and still others say that human life has begun when the unborn baby could probably survive if it were born prematurely. Finally, there are those who hold than human life begins only with the actual birth of a baby. Which of these alternatives best expresses your views?

1. Human life begins at conception.
2. Human life begins at quickening.
3. Human life begins when the unborn baby could probably survive on the outside if it were born prematurely.
4. Human life begins only at birth.

A second type of question asked in 1975 attempted to present the respondent with the specific issue of when he or she would view the unborn as a "human person."

With regard to when "human life" begins, the majority of respondents dated it before birth, and in both 1973 and 1975 "at conception" was the modal response. There was a clear differential between the sexes, with men more likely to see life beginning at a later point than women. Respondents were, if anything, more conservative in 1975 than in 1973—perhaps a response to "right to life" propaganda on this specific issue.

TABLE 5.—RESPONSES TO QUESTIONS ON WHEN HUMAN LIFE BEGINS AND WHEN THE UNBORN MAY BE CONSIDERED A HUMAN PERSON

[Percent distribution]

Time	Life begins		Unborn is a person, 1975
	1973	1975	
MEN			
At conception	36	43	33
At quickening	19	15	15
At viability	15	14	22
At birth	19	20	18
Don't know/other	11	8	12
Total	100	100	100
Total respondents	(735)	(794)	(800)
WOMEN			
At conception	50	58	51
At quickening	23	16	18
At viability	12	11	15
At birth	8	10	8
Don't know/other	7	5	7
Total	100	100	100
Total respondents	(773)	(800)	(799)

Sources: Gallup surveys, January 1973 and April 1975.

The question on the "human person" reduced somewhat the proportion of respondents who said "at conception" (especially among men), but left unchanged the proportion placing it before birth. In short, most men and women place both "human life" and personhood early in the gestational process, and this public definition of the situation may be important in coloring attitudes toward the timing of abortion. Moreover, it is a view that is both at odds with that of the Supreme Court and at variance with what the Court believed public opinion to be. For example, in 1973 the Court said,

We need not resolve the difficult question of when life begins. . . It should be sufficient to note briefly the wide divergence of thinking on this most sensitive and difficult question. There has always been strong support for the view that life does not begin until live birth. This was the belief of the Stoics. It appears to be the predominant, though not unanimous, attitude of the Jewish faith. It may be taken to represent also the position of a large segment of the Protestant community, insofar as that can be ascertained.[11]

Table 6 shows that even among non-Catholics, a plurality felt that human life begins at conception. Responses to the question on when the unborn may be considered a person showed a similar pattern by religion (data not shown).

TABLE 6.—RESPONSES BY RELIGION TO A QUESTION ON WHEN HUMAN LIFE BEGINS

[Percent distribution]

Time life begins	Men		Women	
	Catholic	Non-Catholic	Catholic	Non-Catholic
1973				
At conception	49	31	61	45
At quickening	15	20	19	25
At viability	16	15	10	13
At birth	12	21	5	9
Don't know/other	8	13	5	8
Total	100	100	100	100
Total respondents	(200)	(535)	(230)	(543)
1975				
At conception	52	41	75	52
At quickening	17	14	13	17
At viability	15	14	4	13
At birth	13	22	7	11
Don't know/other	5	9	1	7
Total	100	100	100	100
Total respondents	(200)	(594)	(212)	(588)

Source: Gallup surveys, January 1973 and April 1975.

Footnotes at end of article.

ABORTION AND THE HUSBAND'S CONSENT

In its 1973 abortion decisions, the Court did not confront the issues of spousal and parental consent.[12] However, the 1976 decision affirmed the woman's right to obtain an abortion regardless of spousal or parental approval (if she is a minor).

Although no information is available at this time concerning public views on parental approval, public attitudes toward the husband's consent may be considered here. First, we can look at results of a question, "Are you in favor of a law which permits a woman to have an abortion even if her husband is against it?", that was originally asked on the 1970 National Fertility Study and again on a Gallup survey in 1975. Table 7 shows that in 1975 only about one-third of respondents approved a woman's right to have an abortion when her husband opposed it. Close to 60 percent disapproved. As compared with 1970, however, this is an issue where considerable change has occurred—among married women under 45, approval increased from 15 to 35 percent. As perhaps might be expected, although men are generally more favorable toward abortion than women, in this instance they are less so.

TABLE 7.—RESPONSES TO A QUESTION WHETHER A WOMAN SHOULD BE ALLOWED TO HAVE AN ABORTION IF HER HUSBAND OPPOSES IT

[Percent distribution]

	Married, under Age 45			All Marital Statuses	
Response	Women 1970	Women 1975	Men 1975	Women 1975	Men 1975
Yes	15	35	34	33	35
No	81	57	58	56	52
Other	4	5	4	6	6
Don't know		3	4	5	7
Total	100	100	100	100	100
Total respondents	(5,981)	(327)	(259)	(799)	(800)

Sources: National Fertility Study, 1970, and Gallup survey, April 1975.

Next we can look at the results (Table 8) of a question that was worded somewhat more mildly, "Do you think it should be lawful for a woman to be able to get an abortion operation without her husband's consent?", asked in 1972 and 1974 on Gallup surveys. This question also brought out a high rate of disapproval—less the previous question in 1970 and slightly more than in 1975.

In sum, there is a very low rate of approval, even among women, for the woman's right to have an abortion without her husband's consent.

Footnotes at end of article.

ABORTION AT GOVERNMENT EXPENSE

As has been noted already, a number of states have curtailed or forbidden the use of Medicaid funds or other public monies, for purposes of abortion. Pressure on Congress to pass inhibiting legislation concerning this issue continues to be strong. Again, public opinion diverges from the views of the Court. In response to a question asked in the 1970 National Fertility Study and in the 1975 Gallup Survey, "Are you in favor of a law which permits a woman to have an abortion even if it has to be at government expense?", 57 percent of respondents answered negatively in 1975 and 35 percent positively, with virtually no variation by age or sex. American women were somewhat less negative than in 1970, when 66 percent opposed government subsidy, but the five-year period clearly did not greatly change Americans' views. It is possible that a share of negative responses to the question relates to hostility toward government expense generally; however, the political implications are the same. Apparently, publicly financed abortion is, like food stamps, an unpopular government expense.

TABLE 8.—RESPONSES TO A QUESTION WHETHER IT SHOULD BE LAWFUL FOR A WOMAN TO BE ABLE TO GET AN ABORTION WITHOUT HER HUSBAND'S CONSENT

[Percent distribution]

	Men		Women	
Response	1972	1974	1972	1974
Under age 45:				
Should	22	24	24	31
Should not	68	66	68	61
Depends	6	8	7	6
Don't know, no opinion	4	2	1	2
Total	100	100	100	100
Total respondents	(377)	(411)	(406)	(410)
Total sample:				
Should	20	24	22	28
Should not	66	66	66	62
Depends	8	8	7	6
Don't know, no opinion	6	2	5	4
Total	100	100	100	100
Total respondents	(734)	(763)	(797)	(789)

Sources: Gallup surveys, August 1972 and September 1974.

EFFECTS ON PUBLIC OPINION OF THE 1973 SUPREME COURT DECISIONS

None of our time series on public views regarding abortion indicates that the Supreme Court decisions had an important positive effect on opinion. The longest series—from 1968 through 1977 on elective abortion—shows a leveling off of opinion after 1970 and only a modest increase in approval by 1974 that remained unchanged by 1977. This increase can hardly be said to constitute a sharp rise in a long-term upward trend in approval antedating the Court's decisions.

One reason for the apparent lack of effect is that, even by 1975, less than half of American adult respondents were informed about the 1973 decisions. This conclusion stems from response to the following questions:

During the past three years, have you heard of decisions by the Supreme Court concerning abortion?

[If yes,]

As you understand these decisions, which one of these effects would you expect them to have had on a woman's ability to get a legal abortion if she wanted one?

1. Made no change.
2. Made it easier.
3. Made it harder.
4. Other.
5. Don't know.

Twenty-eight percent of men and 22 percent of women had never heard of the decisions, whereas 45 percent of men and 48 percent of women had heard of them and knew that their effect was to make it easier to have an abortion.[13] It seems logical to reason that widespread knowledge concerning the decisions might have induced more favorable views by the public. Indeed, among those who were informed on the 1975 survey, response was more positive concerning the questions on the husband's consent, abortion past three months of gestation, and abortion at government expense (Table 9). Moreover, this result remains even when educational level is controlled. We cannot be sure, however, about the causal direction involved. It may well be that people who were initially more favorable toward abortion were also more aware of Supreme Court decisions concerning it. Only a panel study could answer such a question definitively.

ATTITUDES TOWARD PROPOSED CONSTITUTIONAL AMENDMENTS RESTRICTING ABORTION

If popular support for important aspects of the Court's decisions is weak, does this imply that the public would favor a highly restrictive constitutional amendment regarding abortion—an amendment to outlaw it altogether or allow it only if the pregnant woman's life is endangered?

A variety of data suggest that the public overwhelmingly approves abortion if the woman's health is in danger. From the middle 1960s to 1977 approval of this justification has been well over 80 percent, according to the Gallup and NORC surveys and the National Fertility Studies. Moreover, the consistency of results from all data sets is quite remarkable. However, during September 1976, when a New York Times-CBS national survey asked, "Do you favor an amendment to the Constitution which would make abortions illegal, or do you oppose such a law?", 32 percent were found to approve such extremely severe legislation—legislation that would not even allow abortion to save the pregnant woman's life. Opposition amounted to 56 percent. The remaining respondents did not express an opinion.[14]

TABLE 9.—APPROVAL OF ABORTION IN RELATION TO KNOWLEDGE OF THE SUPREME COURT'S 1973 DECISIONS

[Percent approving abortion]

	Without husband's consent			After 3 mo pregnant			At government expense		
Knowledge of Supreme Court decisions	High school incomplete	Complete high school or more	Total	High school incomplete	Complete high school or more	Total	High school incomplete	Complete high school or more	Total
Men:									
Knows made it easier to get abortion	38	47	45	22	36	33	30	46	42
Does not know of decisions, or wrong effect	19	32	26	15	26	21	19	30	25
Total	25	40	35	17	31	27	22	38	33
Women:									
Knows made it easier to get abortion	27	46	42	13	24	21	32	44	41
Does not know of decisions, or wrong effect	15	31	25	7	16	12	19	30	26
Total	20	39	33	9	20	16	24	37	33

Source: Gallup survey, April 1975.

The surprisingly high percentage favoring such an amendment in 1976 may reflect a deterioration of public approval, or it may reflect an assumption by some respondents that the question meant making abortion illegal except where the woman's health was endangered. The results of a recent Gallup survey are indicative of public views on an amendment outlawing abortion except for health reasons. In late February 1976 Gallup asked:

A constitutional amendment has been proposed which would prohibit abortions except where the pregnant woman's life is in danger. Would you favor this amendment which would prohibit abortion or would you oppose it?

The nation was almost equally divided, with 45 percent favoring such an amendment and 49 percent opposing it. The remaining respondents did not express an opinion.[15]

This result, too, suggests an ambivalence in views concerning abortion since, in surveys taken prior to 1976, rape and child deformity as justifications for abortion were approved by almost as many respondents as the woman's health.[16] For example, in the 1975 NORC survey both rape and child deformity elicited 80 percent responding positively, compared with 88 percent for the woman's health.[17] In any event, the 1976 data serve to buttress our other information on the public's conservatism with respect to the abortion issue.[18]

AND ONE STEP BACK?

Full implementation of the US Supreme Court's decisions on abortion will be complex, involving individuals and agencies ranging from the local to the national levels of the country. Moreover, the issues and rights embedded in the decisions are also intricate. Certainly they are not encompassed by the Court's constitutional reasoning concerning a woman's right to privacy. Indeed, some of the issues seem to involve irreconcilable differences such as cases in which a wife wishes to terminate a pregnancy and her husband strongly opposes it.

The existing combination of a highly organized and vocal opposition to abortion, plus an electorate that largely opposes much of the content of the Court's ruling, suggests that supporters of the decisions must anticipate a long fight in order to realize anything close to full implementation. Actually, just holding present ground is proving to be a constant battle. Hence, although it would be a gross exaggeration to suggest that access to abortion has not undergone extensive liberalization, it would be equally misguided to believe that the Court's intent is not widely and purposively frustrated. In fact, it is by no means clear whether the cause of elective abortion is better or worse off today than it would have been had states been allowed to continue to adopt liberalized abortion statutes without judicial prodding. For those interested in assessing the effectiveness of judicial review as a mechanism of social change, it is a question worth asking.

FOOTNOTES

[1] Collateral deterrence involves indirect means of noncompliance with a judicial ruling, such as, in the case of abortion, overregulation of clinics, withholding of Medicaid (government financed medical insurance) funds, passing statutes requiring that physicians supply elaborate statistical information (including the woman's name) concerning every abortion, reluctance by public hospitals to perform abortions, and similar stratagems. For examples, see Jeannie I. Rosoff, "Is support of abortion political suicide?" *Family Planning Perspectives* 7, no. 1 (January/February 1975): 13—22, and, by the same author, "Pregnancy counseling and abortion referral for patients in federally funded family planning programs," *Family Planning Perspectives* 8, no. 1 (January/February 1976): 43—46. Also Edward Weinstock, et al., "Abortion need and services in the United States, 1974—1975," *Family Planning Perspective* 8, no. 2 (March/April 1976): 58—69.

[2] *Family Planning/Population Reporter* 4 (February 1975): 14. Although, to my knowledge, no one has performed a comprehensive analysis of the legal effects of all of the proposed and enacted legislation, it seems to be agreed that a large share of it, perhaps the major share, is obstructive and unconstitutional. The complexity of such an analysis is illustrated by so-called "comprehensive" state abortion bills, parts of which comply with the Court's decisions and parts of which are definitely obstructionist. An interested reader may wish to scrutinize issues of the *Family Planning/Population Reporter* since the Court's 1973 decisions. The *Reporter* reviews state laws and policies in the population field.

[3] Weinstock, et al., cited in note 1, p. 68.

[4] Christopher Tietze, "The effect of legalization of abortion on population growth and public health," *Family Planning Perspectives* 7, no. 3 (May/June 1975): 123–127.

[5] Weinstock, et al., cited in note 1; also, Willard Cates, Jr., and Roger W. Rochat, "Illegal abortions in the United States, 1972—1974," *Family Planning Perspectives* 8, no. 2 (March/April 1976): 86—92.

[6] Weinstock, et al., cited in note 1, p. 67.

[7] Barbara J. Culliton, "Fetal research: The case history of a Massachusetts law," *Science* 187 (24 January 1975): 237–241; also, by the same author, "Fetal research (II): The nature of a Massachusetts law," *Science* 187 (7 February 1975): 411–413; also "Fetal research (III): The impact of a Massachusetts law," *Science* 187 (28 March 1975): 1175–1176; and "Abortion and manslaughter: A Boston doctor goes on trial," *Science* 187 (31 January 1975: 334–335.

[8] Judith Blake, "Abortion and public opinion: The 1960–1970 decade," *Science* 171 (12 February 1971): 540–549; also, by the same author, "Elective abortion and our reluctant citizenry," in *The Abortion Experience*, Howard J. and Joy Osofsky, ed. (Hagerstown, Maryland: Harper and Row, 1973): 447–467. See, also, Elise F. Jones and Charles F. Westoff, "Changes in attitudes toward abortion: With emphasis upon the National Fertility Study data," in *The Abortion Experience*, pp. 463–471.

[9] Seymour Martin Lipset, "The wavering polls," *The Public Interest*, no. 43 (Spring 1976): 70–89.

[10] Although not related directly to the issue of elective abortion, the results of the following question commissioned by Planned Parenthood on two Gallup surveys in 1972 are frequently cited: "As you may have heard, in the last few years a number of states have liberalized their abortion laws. To what extent do you agree or disagree with the following statement regarding abortion: The decision to have an abortion should be made solely by a woman and her doctor." Agreement in January 1972 was 57 percent and in June it was 64 percent. In another article ("Elective abortion and our reluctant citizenry," cited in note 8), I have devoted some pages to a discussion of the biases involved in this question. Essentially, it suggests abortion for medical reasons only, and indirectly stresses the importance of the woman's resistance to coercion by parents, a spouse or lover, welfare agencies, etc.: by default, it implies that no one has a legitimate interest in the woman's pregnancy but herself. These biases come about through the common fault of the "implied alternative." No explicit alternative is offered in the question, so respondents are free to fill in such alternatives as come to mind. Since no other forms of questioning have found a result of this type, we must suspect that affirmative answers were given by a number of respondents who were actually opposed to liberalizing the abortion laws.

[11] See *Roe* v. *Wade*, *The United States Law Week* 41, (23 January 1973), 4227.

[12] *Roe* v. *Wade*, cited in note 11, p. 4229, footnote 67.

[13] Herbert H. Hyman, Charles R. Wright, and John Shelton Reed have accumulated and tabulated the results of a large number of American surveys containing questions designed to ascertain respondents' levels of information on a variety of public affairs topics. For the early 1970s, the level of information about abortion (47 percent) compares with proportions knowing of Nationalist China, knowing their congressman's name, or knowing the school board head's name. By contrast, 88 percent knew who was the governor of their state or had heard of the Arab-Israeli conflict; whereas only 24 percent knew the names of two Supreme Court justices. These data are derived from Hyman, Wright, and Reed, *The Enduring Effects of Education* (Chicago: University of Chicago Press, 1975), Table 4.1 (no page numbers).

[14] *New York Times*, 10 September 1976.

[15] *San Francisco Chronicle*, 18 March 1976.

[16] See, for example, William Ray Arney and William T. Trescher, "Trends in attitudes toward abortion, 1972–1975," *Family Planning Perspectives* 8, no. 3 (May/June 1976): 117—124.

[17] Arney and Trescher, p. 118.

[18] They suggest, as well, that the decline in approval for all justifications taken individually, found in the 1975 NORC survey as compared with 1974, may have substantive, if not statistical significance. See, for example, Arney and Trescher, cited in note 16, p. 118.

Mr. HATCH. Mr. President, I do not have much more to say about this. We can talk for hours on this subject. To me, it is a moral issue. To those who feel strongly on the other side, they, equally, feel it is a moral issue.

I think it is a religious issue as well, and perhaps some on the other side likewise feel that from their perspective it is a religious issue. Some of the people on the floor of the Senate who are proponents of abortion are among my dearest friends and are among those whom I respect the most. On the other hand, I cannot say that I respect them on this particular issue, because I disagree so violently with them. I do respect them, and I respect the alternative point of view. But I also think that the point of view I have expressed here this evening is extremely deserving of respect. I believe that every Senator here should think it through and consider voting against the committee language by voting for the Schweiker amendment. As I say, probably all of us would feel better in the end.

Mr. PACKWOOD. Mr. President, my distinguished colleague from Utah has well indicated that we have debated this issue numerous times at length. The passions have not subsided. The views in many cases have not changed. But on each occasion that an effort is made to deny Federal funding for those poor women who want abortions, I feel that an argument on the other side should be made. So let me take the arguments one at a time.

First, the argument of equal rights. The Supreme Court did indeed say that Congress has no obligation to fund abortions. The Supreme Court never has declared it, but Congress also has no obligation to fund education. We have no obligation to fund housing. We have no obligation to fund food for the poor. As a matter of fact, we have no obligation to fund medical care. No obligation. We do so because we think it's right and decent that the poor of this country have access to food, to housing, to education, and to medical care; and, for those of us who support the right of a woman to have an abortion, that she has the same right to have the Federal Government fund that abortion, not because there is a constitutional obligation that we must do so, but only that there is the same obligation to provide for all the citizens of this country the minimal—and I emphasize minimal—things that most people of this country take for granted because they can afford it.

Is this country split on abortion? Of course it is. It was split on abortion long before the Supreme Court found that a woman had a right to an abortion, and they did find that she had a right to an abortion. Neither Congress nor the States can deny that right. They do not have to fund it, but they cannot deny it.

So, if you are rich enough, if you can come up with $150, $200, or $225, depending on where you live, you can pay for your own abortion. If you are too poor for that, you can have a baby, and that is your choice.

The Senator from Utah has talked about the strong feelings of those who are opposed to abortion. He refers to it as the taking of life.

Mr. President, there have been others in our history who have had strong opposition to the taking of life. There have been those over the years, ever since the founding of this country, who consistently have been opposed to war and who have gone to prison rather than pay their taxes, have gone to prison rather than serve. We might have reached a zenith of that feeling at the height of opposition to the war in Vietnam. Yet, never, with a few exceptions at the height of that opposition, did we say that those who opposed the war could withdraw from their obligation to fund it so long as this Government supported it.

There are many in this country who oppose capital punishment, which is certainly a deliberate and premeditated taking of life. Yet, no one seriously contends that those people can withhold their tax payments because they are opposed to capital punishment and say they will not allow their funds to be used for that purpose.

So far as abortion is concerned, I would make the same argument to those who are opposed: You have the right to be opposed. You have the right to offer constitutional amendments. You have the right to attempt to elect Members of the House and Members of the Senate who share that viewpoint and want to deny funds to those who want abortion.

But to stand here and say it is perfectly all right to fund food stamps, when there are people in this country who are opposed to it; to fund medical care, when people think you should pay for your own doctors; to fund housing, when many say you should take care of your own housing; and to say, "Don't fund abortions, because I am opposed to it," is an attempt to impose a personal view on this country that is not uniformly shared in this country.

Mr. President, each year at this juncture I have read a list of religious organizations, of medical groups, and of legal groups which support legalized abortion. I am simply going to ask unanimous consent at this stage to have that list printed in the RECORD, rather than reading it.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

RELIGIOUS ORGANIZATIONS WHICH HAVE ENDORSED ABORTION RIGHTS

National Federation of Temple Sisterhood, 1935 (reaffirmed 1975).
Commission on Social Action of Reform Judaism, 1937.
Clergy Consultation Service on Abortion, 1967.
Episcopalian Church, 1967 (reaffirmed 1976).
American Baptist Churches, 1968.
American Friends Service Committee, 1969.
National Council of Jewish Women, 1969 (reaffirmed 1975).
Connecticut Council of Churches, 1969.
Church Women United, 1970.
Presbyterian Church in the U.S., Committee on Women's Concerns and General Assembly, 1970.
Lutheran Church in America, 1970.
B'nai B'rith Women, 1970 (reaffirmed 1976).
Moravian Church in America, Northern Province, 1970.
Council of Churches of Greater Washington, 1970.
Federation of Protestant Welfare Agencies, 1970.
Connecticut Conference of the United Church of Christ, 1971.
Board of Homeland Ministries, United Church of Christ, 1971.
Center for Social Action, United Church of Christ, 1971.
Council of Churches of the Mohawk Valley Area, 1971.
Women's League for Conservative Judaism, 1972 (reaffirmed 1974).
United Church of Canada General Council, 1972.
American Humanist Association, 1972.
American Jewish Congress, Women's Division, 1972.
Board of Church and Society, United Methodist Church, 1972.
Church Women United of Connecticut, 1972.
Church and Society Unit, Women's Program Unit and Washington Office, United Presbyterian Church, USA, 1972.
Church of the Brethren, 1972.
Pennsylvania Council of Churches, 1973.
Baptist Joint Committee on Public Affairs, 1973.
Women of the Episcopal Church 1970 (reaffirmed 1973).
National Association of Laity, 1973.
American Ethical Union, 1973 (reaffirmed 1976).
Young Women's Christian Association, 1973.
Baptist Joint Committee on Public Affairs, 1973.
American Lutheran Church, 1974.
Reorganized Church of Jesus Christ of Latter Day Saints, 1974.
Central Conference of American Rabbis, 1975.
Unitarian Universalist Association and Unitarian Universalist Women's Federation, 1975.
Christian Church (Disciples of Christ), 1975.
Friends Committee on National Legislation, 1975.
United Methodist Church, Women's Division and Board of Global Ministries, 1975.
Union of American Hebrew Congregations, 1975.
American Ethical Union, National Women's Conference, 1975 (reaffirmed 1976).
Reformed Church in America, 1975.
Catholics for a Free Choice, 1975.
United Synagogue of America, 1975.
American Jewish Congress, 1976.
United Methodist Church, General Conference, 1976.

MEDICAL GROUPS WHICH HAVE ENDORSED ABORTION RIGHTS

Medical Committee for Human Rights, 1967.
American Public Health Association, 1968.
American Medical Women's Association, 1969.
American Psychiatric Association, 1969.
New York Academy of Medicine, 1969.
Group for the Advancement of Psychiatry, 1969.
American Protestant Hospital Association, 1970.
American Psychoanalytic Association, 1970.
American Medical Association, 1970.
American Medical Student Association, 1970.
American College of Obstetricians and Gynecologists, 1970.
California Medical Association, 1970.
American College of Nurse-Midwives, 1971.
Michigan Nurses Association, 1971.
National Medical Association, 1971.
Physicians Forum, 1973.
Iowa Medical Society, 1973.
American Association of Planned Parenthood Physicians, 1973.
National Association of Reproductive Health Centers.
American College Health Association.
Physician's National Housestaff Association.

OTHER ORGANIZATIONS WHICH HAVE ENDORSED ABORTION RIGHTS

National Abortion Rights Action League, 1968.
American Civil Liberties Union, 1968.
Planned Parenthood—World Population, 1969.
National Council of Women of the United States, 1969.
American Psychological Association, 1969.
American Society of Mammalogists, 1970.
Chicago Child Care Society, 1970.
National Organization for Women, 1970.
Urban League, 1970.
White House Conference on Children and Youth, 1970.
United Automobile Workers Union, 1970.
American Association of University Women, 1971.
American Home Economics Association, 1971.
National Association of Social Workers, 1971.
National Council on Family Relations, 1971.
National Welfare Rights Organization, 1971.
National Emergency Civil Liberties Committee, 1972.
Community Service Society, 1972.
American Bar Association, 1972.
Child Welfare League of America, 1973.
American Veterans Committee, 1973.
Americans for Democratic Action, 1973.
Women's International League for Peace and Freedom, 1973.
Human Rights for Women, 1973.
National Association of Women Deans, Administrators and Counselors, 1973.

Intercollegiate Association of Women Students, 1973.
Women's Legal Defense Fund, 1974.
Workmen's Circle, 1974.
Americans United for Separation of Church and State, 1974.
National Women's Political Caucus, 1974.
National Organization for Non-Parents, 1975.
National Commission on the Observance of International Women's Year, 1975.
National Conference of Black Lawyers, Women's Task Force, 1976.
National Women's Conference, 1977.
Mexican American Women's National Association, National Training Conference, 1977.
Coalition of Labor Union Women, 1977.
Women's Lobby.
Women's Equity Action League.
Zero Population Growth.
District 1199 of the National Union of Hospital and Health Care Employees.
Sierra Club.
Friends of the Earth.
Environmental Policy Center.
Environmental Action.
Sex Information and Education Council of the U.S.
Center for Law and Social Policy.
Center for Women Policy Studies.
National Conference of Commissioners of uniform State Laws.
American Parents' Committee.
President's Task Force on the Mentally Handicapped.
National Capital Tay-Sachs Foundation.

ORGANIZATIONS WHICH HAVE ENDORSED FEDERAL FUNDS FOR ABORTION THOUGH THEY HAVE NO POSITION ON ABORTION IN GENERAL

National Council of Churches, 1977.
National Association of Community Health Centers, 1977.

Mr. PACKWOOD. Mr. President, the American Medical Association supports abortion. Certainly, few groups are more concerned or deal more closely with life than doctors. The American Bar Association supports abortion. Few organizations can lay greater claim to protection of individual liberties than the American Bar Association.

In this list that I am submitting for the RECORD are many, many churches in this country which support abortion—many of the best known, proper, establishment churches, some of smaller denomination, some regarded as radical, but all religious bodies of good repute which support abortion.

So the issue boils down to this: When a country is split on an issue, does a part of that country have the right to say, "No Federal money shall be used to support the thing we don't like"?

The answer to that question is, "Yes, they have the right to say that if they wish."

Should Congress respond—and whether it would be a majority or a minority if this issue were put to a national referendum is difficult to tell—but should Congress respond to that very passionate group in this country that says, "Do not fund abortions because we think it is wrong," and not fund them, I think that would be wrong.

By the funding of abortions, we are not passing on whether we personally think that we would have abortions. We are not personally saying that anyone has to have an abortion. We simply are saying that for those who are too poor to afford it, we will make available the financial resources to have an abortion if they choose to have one. Nothing more than that. No imposition of our views on the country. No coercion. No threats to welfare mothers that they might be cut off from welfare unlesss they have an abortion. Nothing of that sort.

It is just the opportunity to have a facet of medical care that most doctors in this country say is all right, because that is the section of this bill that it comes in. That is the issue under which it is dealt with in many cases. This is the medical procedure that most doctors support.

We say you can have money for medical care to have a baby if you are poor. That is permissible. Yes, you can have money for medical care to have a mastectomy or an appendix removed. Yes, you can have money. The list is legion of the things for which you can have medical care if you are poor in this country—until we get to the aspect of medical care in order to have an abortion. Then we say, "No, you cannot have that, because we don't approve of that particular part of medical care."

Mr. President, I think that is an arrogant and demeaning attitude for those of us in this body, to say to the people of this country who are too poor to otherwise afford this aspect of medical care, "You can't have it, because we disagree with you."

It is not the function of this Senate to impose its view of morality on the people of this country. To the extent that freedom of choice can be allowed it should be allowed.

I personally have grave misgivings about the language of the bill as presented to us by the Senate committee because I regard that as too strict. But I am also well aware of the battles that went on month after month after month with the House of Representatives last year in an effort to work out a compromise.

I am confident that over time, those of us who feel that women are entitled to have an abortion if they want one will be sufficiently successful that the Federal Government will fund them.

At the moment I am prepared to accept the language that the Senate committee has drafted. I think they should be given every opportunity to attempt to get the House of Representatives to adopt that language.

For that reason, I oppose the amendment of the Senator from Pennsylvania to substitute the language that he is offering.

Mr. BROOKE. Mr. President, the Appropriations Committee, by a 15 to 8 vote, agreed to language allowing Federal medicaid funding for abortions where the life of the mother is endangered, where medically necessary, or for victims of rape or incest. The amendment also provides for the use of drugs or devices to prevent implantation of the fertilized ovum.

This is similar to language the Senate passed last year by votes of 56 to 39 and 60 to 33. This language was necessitated then—and it is necessitated now—by the harshness of the anti-abortion amendment passed by the House of Representatives. The Senate approach is a reflection of our body's concern for the problems of poor women and will give the Senate the latitude it needs to seek a more humane and more realistic compromise from the House when both sides go to conference.

I am sure many of my colleagues remember the days of 1977, but I believe we had about 20 votes here in this Chamber and about 15 votes in the House Chamber; the conference lasted for approximately 5½ months, because the House and Senate had great difficulty coming together in an agreement on the ultimate language that was passed by that conference and by both Houses of Congress.

I am sure that the ultimate language did not satisfy the antiabortion forces in this country, and I respect that. I understand their position. I do not agree with it, but I understand it. And it certainly did not satisfy those of us who feel differently about it, who feel that we should not be here making a choice but that this choice, as the Supreme Court of the United States has said, is a choice to be made by a woman and by her doctor; and because so many people feel so strongly about it religiously we might add also by her God.

But at least it is not our choice to make. It is their choice to make, and it is not a choice that we should make for them.

The 1978 compromise abortion language prohibits the use of medicaid funds for abortions "except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical proceduers necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians."

Mr. President, I remember every word, every period, and every comma, in that language, and we worked with the House of Representatives on every word, every period, and every comma in that language, and all of it had meaning. Much of it had meaning to dilute the strength of the Senate's position and, of course, the House would say much of it had meaning to dilute the strength of the House position.

Frankly, we regarded—and still regard—this compromise language as far too restrictive, although we recognized that it was the best we could get under the circumstances last year.

That, however, was last year. For fiscal 1979 the House rejected reinstatement of the 1978 compromise language and instead passed an antiabortion amendment identical to the harsh language Congress adopted in 1977 and which the House attempted to enact last year. This year's House formulation again permits medicaid payments for abortion only in instances where the life of the mother would be endangered if the fetus were carried to term.

In other words, Mr. President, the House of Representatives has gone all

the way back to its original harsh position.

This version once again makes no provision for instances where a fetus may be deformed or bears an incurable genetic disease. It again makes no provision for the woman whose pregnancy may worsen a serious illness. It again makes no provision for victims of rape or incest where a resulting pregnancy will simply compound an already tragic situation.

The omissions are too numerous to list in detail, in part because there are so many genetic diseases and other impairments that would have to be provided for in any responsible bill. It thus is absurd to believe that 535 politicians, that is what we are, 535 politicians in Congress could agree to, let alone be medically competent to write, a piece of legislation that could cover all of the conditions that have to be accounted for in dealing with abortion.

The House language is designed to deny abortions to poor women who are the most vulnerable segment of our society. The consequences of this will be to force these women once again to resort to self-induced or back-alley abortions, or to continue unwanted pregnancies regardless of the impact this may have on the health of the woman or the fetus, or both. It is important to stress that through such language Congress would impose its judgment on abortions on only one class of American women: those who happen by circumstance to be poor.

Because such women do not have the ability to pay for their abortions, they will be effectively denied the right to choose to have them—a right guaranteed by the Supreme Court in the landmark Roe against Wade and Doe against Bolton decisions of 1973.

(Mr. PROXMIRE assumed the chair.)

Mr. BROOKE. Our committee could not accept language that is so destructive of the rights and needs of poor women in America, that puts Congress in the position of trying to make decisions only doctors can make, and that is such a retreat from the Senate's position on abortion.

Nor can the Senate simply adopt the 1978 compromise language in order to satisfy those who believe that doing so at this stage may avoid another lengthy battle. For were the Senate to take this language, the House likely would view such action not as an end to the struggle, but rather as a sign of weakening in the Senate's determination to protect poor women and as a starting point, a beginning, for extracting further compromises from the Senate.

The Senate cannot accept a version of the Hyde antiabortion amendment that is more restrictive than last year's. Rather, the Senate must work for language that is responsive to the needs of low-income women. Only the "medically necessary" approach gives the Senate the capability of persuading the House to move in this direction, which, I say to you, Mr. President, by law and by morality and by fairness and by justice is in the right direction.

In the face of the House's action, the Senate must be the body that acts responsibly to protect poverty-stricken women who cannot pay for their abortions. The Senate's language not only will cover women faced with life-threatening situations, or who are victims of rape or incest, but also will allow for abortions where medical necessity can be shown.

Through the use of language such as "medically necessary," the Senate would leave it to the woman and her doctor to decide whether to terminate a pregnancy, and that is what the Supreme Court of these United States has said is the law of the land. This is exactly where the decision belongs and is clearly in line with the Supreme Court's 1973 decisions. In Doe against Bolton, the Court defined the words "medically necessary" very broadly to allow, as the Court stated, "The attending physician the room he needs to make his best medical judgment."

I am sure that after careful consideration the majority of my colleagues will agree that the Senate must approve the language recommended by its Committee on Appropriations if there is to be any hope of resolving the abortion issue in a realistic and humane fashion.

Of course, I urge the retention of the committee's language. I think it is essential that the committee's language be retained if we are to even achieve the very minimum, and I call it the very minimum because it is, Mr. President, the very minimum that was achieved between the House and the Senate in conference after 5½ months of deliberation, debate, and confrontation.

I am very pleased to yield to my friend from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, I have not spoken in this debate tonight. I have spoken on many previous debates but, at the same time, I would like to identify myself with the position taken by my colleague from Massachusetts and, although he is not here, BOB PACKWOOD of Oregon.

We are fighting not a rearguard action, Senator. We are right out there in front in the enlightenment of this country, and I predict that in this election Members of our body and the other body will not think there is any mileage in reversing the tide of history and intelligence and human decency, and especially nondiscrimination. That is really the essence of this. The poor use coat hangers and the wealthy go to clinics, abortion clinics.

There are many opportunities to assert these truths, much to be done in the field of health. We have health bills on the floor that I know my colleague on the Appropriations Committee has fought for magnificently, and I want to congratulate him on it and encourage him.

We are in the forefront, not fighting off a rearguard action.

I really feel sad about those who cannot see what the liberation of women means to them. They are over half the population, and they do not see what it means to this world. I am delighted to be joined, as I have been for years, with the Senator in his fight.

Mr. BROOKE. I thank my distinguished colleague from New York who has aptly said he has always been, in this Senator's opinion, in the forefront. As usual, in his wisdom, he has put his finger right on the issue. What they are trying to do by the language that the House has adopted is to put an economic test on the question of abortion. What they really wanted to do was to get a constitutional amendment and, failing to get this constitutional amendment, they targeted on the most vulnerable sector of our society; namely, poor women who could not afford to have an abortion if they made that decision with the consent or advice of their doctor. At the same time, other women who could afford it could make that decision and go into a safe, legal clinic and have an abortion.

As the Senator from New York knows, from his years of experience, abortions for women who have been able to afford them have been going on for a long time. They have been in the name of D and C's and other things, but they have been having them because they could go into a hospital or a clinic and have it, and it would never even be reported as such.

But, as the Senator has always said in his wisdom, we know of the poor women who have had to go into the back alleys and use coat hangers and the like, and we know before the days of antibiotics how many died as a result of poisoning which had set in. So we are in the forefront, and we are moving ahead. I think the country is moving ahead, and I think more people are coming to understand the plight of these unfortunate women.

As I said the other day, it is a related issue. It took 72 years to give women the right to vote; for 55 years we have been trying to give them equal rights. I hope during this session of Congress we are going to do that, too, and that places Congress in the forefront again. Now, in regard to abortion I hope we will not do any worse than we did in 1977, and I hope the day will soon come when we will go further still, because the battle is not over by any means, and we know that. It will be back again. It will be back in 1979, and it will be back in 1980.

I hope the country will recognize what the problems are, realize the necessity for the kind of legislation that we are attempting to get, and recognize also—and I must put this word in—the need for family planning in this country. It is a subject that is so close to me because, being on this committee, I have had an opportunity to chair hearings and to listen to testimony.

I know that we now have a very serious teenage pregnancy epidemic in this Nation, and no one seems to be concerned about it. I see this lack of concern in the budget request for family planning that comes in from the administration and, at the same time, I see it in the paltry sum of money that they spend for sex education. The administration uses the euphemism "health education." Well, they can call it what they will, but you cannot overlook the fact that hundreds of thousands of young girls become pregnant each year. Many of them have to have abortions but others have their babies when they are literally babies themselves. We close our eyes and put

our heads in the sand and say that this problem either does not exist or it is going to go away, maybe it is a problem of the home, the family, the church, the State; I do not know what it is, but it is a problem that is not going to go away. It is a problem we have got to face. It is a reality we have got to come to grips with.

We have to do something in the line of enlightened family planning and sex education in this country, in our public school system. And the need for that kind of education has got to be brought to the attention of the American people across the whole spectrum of our society.

Hopefully, we will begin to do so. Therefore, I am very grateful to our distinguished colleague from the New York for entering into this colloquy with me. I think it has been very helpful, and I am always not only inspired but overjoyed at the contributions that he makes in so many different fields, and certainly in this field of civil rights and equality for the women of this country.

Mr. JAVITS. Mr. President, without detaining the Senate, just two facts, which are, first, that our committee will have a teenage pregnancy bill on this floor very shortly, hopefully in a day or two.

Second, as a part of this litany of tragedy involving sex and sex education, one element which the Senator did not mention, and which I am deeply involved with, is venereal disease. For hundreds of thousands of boys and girls, still the same reticence persists, and masks their ability to get treatment and guidance and counseling.

I thank the Senator.

Mr. BROOKE. Mr. President, I am very happy to hear that a bill will be reported out of the Senator's committee within a few days. We await that; I hope our Committee on Appropriations will respond, and I hope the administration will understand the need for action in this important area.

● Mr. BAYH. Mr. President, once again the Senate is being asked to vote on restricting medicaid funding for abortions to only those women whose life is threatened by the continuation of the pregnancy. The Senate rejected this rigid language last year as it has done on nearly 20 previous occasions.

Last year the Congress spent many long months in deliberations over the abortion language. During these protracted negotiations, the Senate maintained that there should be as few restrictions as possible in the use of Federal funds for abortions, and the House preferred extremely restrictive use of Federal moneys for this purpose. After repeated tries and failures, the Congress finally accepted a compromise which read as follows:

Provided, that none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest where such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum or for medical procedures necessary for the treatment of an ectopic pregnancy.

While I voted for this compromise language, I did so reluctantly for several reasons. Reference to permitting an abortion in cases where the fetus would suffer health damage was eliminated. This particular concession is extremely difficult for me to accept. There are over 2,000 genetic diseases. Some of these disorders which result in certain death or extreme debilitation are able to be detected by the use of a process called amniocentesis. This is true in the heartrending case of Tay-Sachs, but there are still genetic diseases such as Huntington's Disease that have no foolproof test to determine when and if it is present. However, in all cases involving the possibility that the fetus will suffer a severe genetic disorder, the language will do nothing to provide a women eligible for medicaid the option of choosing whether or not to proceed with the pregnancy.

In addition, by including the word "physical" to describe the type of health damage a woman must face in order to be eligible for Federal funds for abortions, the possibility of coverage for mental disorders has been abandoned. I would assume that the only mental disorders which would be covered by the language would be those that have the additional manifestation of physical damage to the health of a woman.

Sadly, on June 13, 1978, the House deleted this compromise language and returned to its most extreme position of last year. In light of this development, the Senate Appropriations Committee has substituted language approved by the full Senate last year, allowing funding of abortions which are deemed "medically necessary." Only if we retain this language, can we hope to emerge from the conference with the House with last year's compromise.

Unfortunately, we are once again being asked to go back to the House position. We are being asked to turn our backs on those women with severe physical health problems such as heart disease. We are being asked to ignore, as well, those young women who are the innocent victims of rape or incest. While I remain personally opposed to abortion, I cannot support a policy such as this which would create a double standard—one set of rules for the rich, one for the poor; one set of rules for those who are life-endangered, another for those with severe long-lasting disease. We are told that last year's compromise language has virtually created "abortion on demand." This is foolishness. According to the Department of Health, Education and Welfare, abortion funding with last year's restrictive language in fact represented only 1 percent of the abortions funded during fiscal year 1977.

Once again I urge the Senate to reject a return to the so-called Hyde language. Hopefully, in future years it will not be necessary to continue to compromise the lives of poor women. They deserve better treatment by the Federal Government, and I will be working to see that they receive it. The issue of abortion is a deeply religious and moral one; it should not be decided on the basis of financial status alone.●

Mr. President, I ask for the yeas and nays on the amendment offered by the distinguished Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. HATCH). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. BIDEN). May we have order in the Senate?

Mr. MAGNUSON. Mr. President, may we have the Senators not take their accustomed seats, which are usually in the well, but have them take their regular seats?

The PRESIDING OFFICER. Will Senators please take their regular seats? There will be order in the Senate. In addition to taking their regular seats, will Senators who wish to converse please take their conversations to the cloakroom.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting the Senator from West Virginia (Mr. RANDOLPH), would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "yea."

The result was announced—yeas 30, nays 55, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—30

Bartlett	Ford	McClure
Biden	Garn	Melcher
Byrd, Harry F., Jr.	Goldwater	Proxmire
Curtis	Griffin	Roth
Danforth	Hatch	Schweiker
DeConcini	Hatfield, Paul G.	Stone
Dole	Huddleston	Talmadge
Domenici	Johnston	Thurmond
Durkin	Laxalt	Young
Eagleton	Lugar	Zorinsky

NAYS—55

Baker	Hart	Nunn
Bayh	Hayakawa	Packwood
Bellmon	Heinz	Pell
Bentsen	Hodges	Percy
Brooke	Humphrey	Ribicoff
Bumpers	Inouye	Riegle
Burdick	Jackson	Sarbanes
Byrd, Robert C.	Javits	Sasser
Cannon	Kennedy	Schmitt
Case	Leahy	Sparkman
Chafee	Long	Stafford
Chiles	Magnuson	Stevens
Church	Matsunaga	Stevenson
Clark	McGovern	Tower
Cranston	Metzenbaum	Wallop
Culver	Morgan	Weicker
Glenn	Moynihan	Williams
Gravel	Muskie	
Hansen	Nelson	

NOT VOTING—15

Abourezk	Hathaway	Scott
Allen	Helms	Stennis
Anderson	Hollings	
Eastland	Mathias	
Haskell	McIntyre	
Hatfield, Mark O.	Pearson	
	Randolph	

So the amendment (UP No. 1937) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1938

(Purpose: To limit the use of Federal funds for abortion)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1938.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I am going to take only 10 minutes. I would like to have the ears of the Senators, because I think I have an amendment that they will be interested in. It is a compromise between a wide-open amendment and the restricted amendment which they just voted down.

It reads this way:

On page 45 delete Section 210 and add the following:

"SEC. 210. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or for rape when such crime is reported to law enforcement authorities within 48 hours after the incident unless due to physical impairment the victim is prevented from making such report; or, for the victim of incest, as that crime is defined by the law of the state where the offense occurred. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

Mr. President, I have never been in favor of the Federal Government becoming involved with the abortion issue. I do not, frankly, think that under the Constitution, they have the authority to go into this field. But it seems we are already in the field. This matter would best be left to each individual State to decide. However, it is apparent that the Federal Government, through HEW, is going to get involved with this issue. Therefore, I am proposing this amendment to severely restrict abortions through Federal funds but also provide funds for abortions under certain circumstances.

Mr. President, this amendment substantially reinstates the current restrictions on HEW for the funding of abortions. It does not contain wide and vague language which allows a federally funded abortion almost on demand but holds it within reasonable limits.

If we are to allow abortions for poor women through Federal funds, then doing so when a person's life is in danger is indeed appropriate. A woman should not be forced to put her life in danger because of her lack of money to pay for an abortion. I think this is a topic in which we are all in agreement.

However, Mr. President, it is also appropriate to give consideration for low-income women who become victims of rape, one of the most heinous crimes that can be inflicted upon a human being. The latest National Crime Survey figures show that 4.6 of the rapes per 1,000 population are inflicted upon people from families of less than $7,500. This is higher than any other economic class of people in this country.

This amendment would allow a federally funded abortion where a rape victim makes a prompt report of the crime to law enforcement authorities. To avoid a misunderstanding by HEW in drafting its regulations, the amendment specifically states that the report must be made within 48 hours unless the victim is prevented from making the report due to physical impairment.

Mr. President, if a woman has been forcibly raped, then her economic class should not be used to prevent her from having an abortion. Carrying the pregnancy to term could result in serious psychological problems for the victim which she could avoid if she could afford an abortion. The trauma of the rape, coupled with the pregnancy caused by someone she undoubtedly hates, could cause other serious problems like suicide or abuse of her body in an attempt to abort the pregnancy herself.

I am aware of the argument that many rape victims escape pregnancy through standard medical treatment, usually administered after the incident. However, for those who, for some reason, either do not receive proper care or for whom the treatment does not work, this amendment provides funds for an abortion if needed.

Many of the arguments that apply to rapes also apply to the crime of incest. The trauma resulting from this is usually just as great and sometimes even more so due to the close family relationship of the perpetrator and the victim. In addition, the same basic concept applies that a woman who is the victim of a crime should not be prevented from having an abortion because of her economic class.

I cannot and will not support any provision permitting the Federal funding of abortions with vague and broad language like "where medically necessary." It would be tantamount to creating a new and enormous free abortion clinic. That is not the purpose of HEW or of this Government.

Mr. President, last year, Congress confronted this same roadblock. We finally reached agreement with language similar to that in my amendment. I am positive that if we go to conference with the language now in the bill, a heated debate will ensue which may jeopardize the entire bill. It is probable that if we go to conference with the language in my amendment, we can reach agreement quickly and settle this matter. Therefore, I urge my colleagues on both sides of this issue to join me in this compromise and support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, I have examined, as has the distinguished chairman of the Appropriations Committee, the amendment offered by our colleague from South Carolina. Actually, this amendment is much worse in its import than the language which ultimately was agreed upon by the Senate and the House after 5½ months of conference last year.

Some of the Senators were not in the room when we had the debate on the previous amendment. I do not want to prolong the night, because I believe that this is the last amendment prior to final passage of this bill. I shall be brief, only to say that Senator MAGNUSON and I, and the members of the full Appropriations Committee, this year adopted almost the same abortion language which the Senate agreed to last year prior to conference. Thus, among other matters, the language which is contained in this bill provides for "medically necessary" abortions. This is basically the same language we took to conference with the House last year.

Mr. MAGNUSON. I think we voted for it five or six times.

Mr. BROOKE. There were many, many votes on the abortion amendment last year.

Let me say in addition that the House has sent over to the Senate a continuing resolution, for Defense appropriations and for HEW, which has the identical abortion language that we ended up with last year.

If we are ever to get even that language, we shall have to go into conference with the language which is presently in the Senate bill.

Therefore, most respectfully, I urge the rejection of the amendment offered by the Senator from South Carolina.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I join with the Senator from Massachusetts. I think we have got to go back to the House with this matter and see if we cannot work out something. The amendment of the Senator from South

Carolina is just stymieing in any negotiations we may have on what we think is a very severe amendment, the Hyde amendment

We have got a negotiating position. Therefore, I hope that the Senate will vote against the amendment.

The PRESIDING OFFICER. The question is on agreeing to UP amendment No. 1938 of the Senator from South Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 19, nays 66, as follows:

[Rollcall Vote No. 418 Leg.]

YEAS—19

Byrd, Harry F., Jr.	Ford	Lugar
Byrd, Robert C.	Goldwater	McClure
Chiles	Griffin	Nunn
Church	Hansen	Proxmire
DeConcini	Hatfield, Paul G.	Stone
Dole	Johnston	Talmadge
		Thurmond

NAYS—66

Baker	Gravel	Muskie
Bartlett	Hart	Nelson
Bayh	Hatch	Packwood
Bellmon	Hayakawa	Pell
Bentsen	Heinz	Percy
Biden	Hodges	Ribicoff
Brooke	Huddleston	Riegle
Bumpers	Humphrey	Roth
Burdick	Inouye	Sarbanes
Cannon	Jackson	Sasser
Case	Javits	Schmitt
Chafee	Kennedy	Schweiker
Clark	Laxalt	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stevens
Curtis	Magnuson	Stevenson
Danforth	Matsunaga	Tower
Domenici	McGovern	Wallop
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Williams
Garn	Morgan	Young
Glenn	Moynihan	Zorinsky

NOT VOTING—15

Abourezk	Hathaway	Scott
Allen	Helms	Stennis
Anderson	Hollings	
Eastland	Mathias	
Haskell	McIntyre	
Hatfield, Mark O.	Pearson	
	Randolph	

So the amendment (UP No. 1938) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. MAGNUSON. Mr. President, so far as I know, there are no more amendments to this bill. I ask for third reading. Then I intend to yield back the remainder of my time. I am sure the Senator from Massachusetts will do the same. Then we can have final passage of the bill.

Mr. BROOKE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER (Mr. SARBANES). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, the bill making appropriations for the Departments of Labor, HEW, and related agencies for fiscal year 1979, H.R. 12929, is the largest appropriations bill for domestic programs. It is second in size only to the defense appropriations bill.

This bill is massive and complex. Within the Department of Labor, numerous programs require funding—ranging from mine safety and health to the Bureau of Labor Statistics. Within the Department of Health, Education, and Welfare, activities are diverse.

HEALTH

The health programs contain numerous research projects carried out by the National Institutes of Health—which is actually composed of 11 separate Institutes devoted to particular areas of study such as cancer, heart, lung, and blood diseases, and eye and neurological disorders. In recent years, two of these Institutes, Aging and Environmental Health Services, have taken on particular significance. The elderly are a steadily growing portion of our population; their health care needs are proportionately greater than those of other citizens and require special attention. Additionally, few issues are attracting as much attention and concern as the effect of the environment on health.

The Department of Health, Education, and Welfare conducts more than half of the Nation's biomedical research into cancer and other diseases. However, the Federal effort in this area goes beyond research. Our goals are to provide health education and adequate health care for all Americans. It is estimated that more than 49 million Americans now live in medically underserved areas. The Public Health Services Administration is working to extend health care delivery to those who are underserved, disadvantaged, or in special need—such as those suffering from chronic disease, mental retardation, or multiple handicaps.

The bill would fund other health Institutes, such as the Center for Disease Control which investigates and identifies diseases and their causes, provides health education and immunization, in addition to undertaking occupational safety research, training, and grant programs. Funding is also provided for research, training, education, and community grant programs which deal with the problems of alcoholism, drug abuse and the mentally ill or incompetent. These problems affect millions of people—directly or indirectly. For example, alcoholism is considered a factor in 9,000 suicides, 10,000 homicides, and 23,000 automobile accidents annually.

The bill and its report reflect the Appropriations Committee's careful study and evaluation of the problems and the promise of these diverse health programs. The bill itself provides for specific staff levels for each program. It is the committee's strong belief that proper staffing is essential for the efficient operation of these programs; and that this action will help to assure that funds are used for the purposes which Congress mandates. The report reflects the committee's recognition of the interrelationships among many health problems; numerous directives in the report stress the importance of a well-organized exchange of information between the health organizations. Additionally, the report directs that specific increased appropriations should be used to expand necessary services to States which do not currently participate in some programs.

EDUCATION

The recommended funding levels for education programs administered by the Department of HEW reflect the committee's concern with the continued effectiveness of these programs. Almost $3 billion is recommended for title I education programs, from which more than 6 million disadvantaged children stand to benefit. The intended beneficiairies are children from low-income families, children of migratory workers, neglected and delinquent children in State institutions, handicapped students in State-operated or State-supported institutions.

The committee also recommends an increase in assistance for bilingual education programs. This, Mr. President, reflects an increasing awareness of the special needs of schoolchildren who suffer the consequences of a language barrier. Approximately $1 billion, much of it in State grants, is recommended for education programs designed to meet the special needs of handicapped children.

Impact aid, Mr. President, is a very controversial issue. The committee recommended that funding for this program be maintained at the 1978 level—representing a decrease of about $56 million compared to the budget request and the House bill. This program was originally designed to compensate communities with military installations, since they could not tax the bases but had to provide many services for Federal employees. Gradually, however, the scope of the program has expanded to give aid to communities—rich or poor—having just about any kind of Federal facility. By its action, the committee seeks to bring under control the rapid and costly growth of the impact aid program.

Occupational, vocational, and adult education programs receive additional

funding in the committee bill. Programs such as these are becoming increasingly important in today's complicated and technological society. They help bridge the gap between education and work so that participants will have the skills and training necessary to obtain and keep jobs.

Overall, the committee's recommendations for the education division reflect the serious consideration given to the Nation's educational needs. Selective cuts and increases reflect the experienced and thoughtful understanding of the bill's many and varied programs by the subcommittee chairman Mr. MAGNUSON, and the ranking minority member Mr. BROOKE, and by all the subcommittee and committee members.

The committee's recommendations are informed by a sense of fiscal responsibility and restraint. The total amount of approximately $3.26 billion is almost $200 million below the House allowance and is almost $1 million less than the President's request.

OTHER DOMESTIC PROGRAMS

The bill also contains funding recommendations for "support services" which do not fall neatly into the health or education category; these are provided by various entities, primarily by the Office of Human Development which, through State grants, provides Federal financial assistance for social services to children, the poor, and the elderly.

In addition, the bill provides funding for 11 independent, related agencies as diverse as the National Labor Relations Board and the Corporation for Public Broadcasting. Several "special institutions" such as the American Printing House for the Blind and Gallaudet College, which provides higher education to the deaf, also receive assistance.

It is important to note that a large portion of the Federal spending for domestic assistance is accounted for by "uncontrollable" or entitlement items. The expenditures, or annual costs of an entitlement program cannot readily be controlled by the appropriations process; these are funds which, by law, must be made available. Principal items in this category are the unemployment compensation, social security, and railroad retirement trust funds. For fiscal year 1979, it is estimated that the new budget authority for the trust funds is slightly more than $154 billion.

In H.R. 12929 itself, a total of $20.6 billion is included for welfare payments to poor families, medicaid, and title XX social services. These are State-administered grant programs over which the appropriations process has extremely limited control.

Mr. President, I want to extend my most sincere compliments to Senator MAGNUSON, who serves as chairman of the full Appropriations Committee and as chairman of the Subcommittee on Labor, Health, Education, and Welfare. The numerous agencies and departments which are within that subcommittee's jurisdiction make this appropriations bill one of the most complicated. Many days of hearings, and many days of markup went into the writing of this bill. Again, I wish to commend the hard work of Senator BROOKE, the ranking minority member.

The result reflects a commitment to control Government spending and Government waste while maintaining adequate levels of Federal support to the many programs which affect the lives of so many Americans. I congratulate the committee for its excellent recommendations.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) and the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 71, nays 13, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—71

Baker	Dole	Long
Bayh	Domenici	Magnuson
Bellmon	Eagleton	Matsunaga
Bentsen	Ford	McClure
Biden	Glenn	McGovern
Brooke	Gravel	Melcher
Bumpers	Griffin	Metzenbaum
Burdick	Hart	Morgan
Byrd, Robert C.	Hatfield, Paul G.	Moynihan
Cannon	Heinz	Muskie
Case	Hodges	Nelson
Chafee	Huddleston	Nunn
Chiles	Humphrey	Packwood
Church	Jackson	Pell
Clark	Javits	Percy
Cranston	Johnston	Ribicoff
Culver	Kennedy	Riegle
Curtis	Leahy	Sarbanes
Danforth	Schmitt	Sasser
Schweiker	Stevenson	Wallop
Sparkman	Stone	Weicker
Stafford	Talmadge	Williams
Stevens	Thurmond	Young
	Tower	Zorinsky

NAYS—13

Bartlett	Garn	Laxalt
Byrd, Harry F., Jr.	Goldwater	Lugar
DeConcini	Hansen	Proxmire
Durkin	Hatch	Roth
	Hayakawa	

NOT VOTING—16

Abourezk	Hathaway	Randolph
Allen	Helms	Scott
Anderson	Hollings	Stennis
Eastland	Inouye	
Haskell	Mathias	
Hatfield, Mark O.	McIntyre	
	Pearson	

So the bill (H.R. 12929), as amended, was passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. PROXMIRE, Mr. HOLLINGS, Mr. EAGLETON, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. INOUYE, Mr. BROOKE, Mr. CASE, Mr. SCHWEIKER, Mr. MATHIAS, and Mr. YOUNG conferees on the part of the Senate.

Mr. MAGNUSON. Amen, Mr. President.

DEPARTMENT OF AGRICULTURE APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on H.R. 13125 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SARBANES). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13125) making appropriations for the Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 18, 1978.)

Mr. EAGLETON. Mr. President, the conferees on H.R. 13125, the Agriculture appropriations bill for 1979, met on Friday, September 15, and again Monday, September 18. After a total of 8 hours of deliberations they agreed to a very

reasonable compromise on the bill. The conference committee was marked by a very amicable spirit of compromise and cooperation on the part of all of the House conferees and staff, and I wish to compliment them on their excellent handling of the bill.

Mr. President, the conference agreement includes new budget authority of $18,288,201,000, a direct and insured loan level of $7,981,600,000, and a guaranteed loan level of $1,600,000,000. It also includes an authorization of $425,500,000 for a rural rental assistance program. As reported by the conference committee, budget authority is $274,172,000 above the House bill and $5,077,563,000 less than the Senate bill. The bill is $198,049,000, or 1 percent above the President's budget.

Mr. President, I ask unanimous consent that a table showing the specific amounts in the conference agreement, as well as the differences between the House and Senate versions, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Agency and title	New budget (obligational) authority enacted to date fiscal year 1978	Budget estimates of new (obligational) authority fiscal year 1979	New budget (obligational) authority recommended in House bill 1979	New budget (obligational) authority recommended in Senate bill 1979	New budget (obligational) authority recommended by Conferees	Increase or decrease (−) conference recommendations compared with—			
						1978 enacted	1979 budget estimate	1979 House bill	1979 Senate bill
TITLE I—AGRICULTURAL PROGRAMS									
Production, Processing, and Marketing									
Office of the Secretary	$2,829,000	$4,473,000	$3,791,000	$4,310,000	$4,310,000	+$1,481,000	−$163,000	+$519,000	
Departmental administration	15,042,000	17,696,000	17,483,000	18,647,000	18,597,000	+3,555,000	+901,000	+1,114,000	−$50,000
Economic management support center	3,171,000	(1)	(1)	(1)	(1)	−3,171,000			
Office of the Inspector General	21,161,000	32,186,000	22,945,000	31,564,000	22,945,000	+1,784,000	−9,241,000		−8,619,000
Transfer from food stamp program	(8,619,000)	(2)	(8,619,000)		(8,619,000)		(+8,619,000)		(+8,619,000)
Total, Office of the Inspector General	(29,780,000)	(32,186,000)	(31,564,000)	(31,564,000)	(31,564,000)	(+1,784,000)	(−622,000)		
Office of the General Counsel	10,030,000	10,325,000	10,251,000	10,251,000	10,251,000	+221,000	−74,000		
Federal Grain Inspection Service: Salaries and expenses	17,488,000	22,708,000	22,680,000	22,680,000	22,680,000	+5,192,000	−28,000		
Agricultural Research Service: Research	338,338,000	323,088,000	334,100,000	337,991,000	338,416,000	+78,000	+15,328,000	+4,316,000	+425,000
Special fund (reappropriation)	2,000,000	(2,000,000)	(2,000,000)	(2,000,000)	(2,000,000)				
Buildings and facilities	(3)	500,000	35,720,000	15,000,000	35,720,000	+35,720,000	+35,220,000		+20,720,000
Scientific activities overseas (special foreign currency program)	5,750,000	7,500,000	5,750,000	5,750,000	5,750,000		−1,750,000		
Total, Agricultural Research Service	346,088,000	331,088,000	375,570,000	358,741,000	379,886,000	+33,798,000	+48,798,000	+4,316,000	+21,145,000
Animal and Plant Health Inspection Service: Disease and pest control	208,529,000	220,213,000	230,817,000	230,150,000	232,141,000	+23,612,000	+11,928,000	+1,324,000	+1,991,000
Meat and poultry inspection	241,581,000	(4)	(4)	(4)	(4)	−241,581,000			
Total, Animal and Plant Health Inspection Service	450,110,000	220,213,000	230,817,000	230,150,000	232,141,000	−217,969,000	+11,928,000	+1,324,000	+1,991,000
Food Safety and Quality Service [4]	14,000,000	271,475,000	271,019,000	271,104,000	271,104,000	+257,104,000	−371,000	+85,000	
Cooperative State Research Service	143,150,000	158,150,000	163,057,000	190,020,000	174,395,000	+31,245,000	+16,245,000	+11,338,000	−15,625,000
Extension Service	257,562,000	262,047,000	276,747,000	266,926,000	275,399,000	+17,837,000	+13,352,000	−1,348,000	+8,473,000
National Agricultural Library	7,113,000	7,631,000	7,527,000	7,527,000	7,527,000	+414,000	−104,000		
Statistical Reporting Service	38,855,000	(5)	(5)	(5)	(5)	−38,855,000			
Economic Research Service	32,441,000	(5)	(5)	(5)	(5)	−32,441,000			
Farmer Cooperative Service	3,585,000	(5)	(5)	(5)	(5)	−3,585,000			
Economics, Statistics and Cooperative service	(5)	80,008,000	79,860,000	80,137,000	80,112,000	+80,112,000	+104,000	+252,000	−25,000
Agricultural Marketing Service: Marketing services	50,283,000	49,231,000	46,502,000	49,070,000	46,502,000	−3,781,000	−2,729,000		−2,568,000
Payments to States and possessions	1,600,000		2,000,000		1,600,000		+1,600,000	−400,000	+1,600,000
Total, Agricultural Marketing Service	51,883,000	49,231,000	48,502,000	49,070,000	48,102,000	−3,781,000	−1,129,000	−400,000	−968,000
Packers and Stockyards Administration	6,598,000	(6)	(6)	(6)	(6)	−6,598,000			
World food and agricultural outlook and situation board	(7)	1,009,000	1,009,000	1,009,000	1,009,000	+1,009,000			
Total, production, processing, and marketing	1,421,106,000	1,468,240,000	1,531,258,000	1,542,136,000	1,548,458,000	+127,352,000	+80,218,000	+17,200,000	+6,322,000
Farm Income Stabilization									
Agricultural Stabilization and Conservation Service: Salaries and expenses	228,428,000	227,816,000	227,552,000	217,527,000	227,527,000	−901,000	−289,000	−25,000	+10,000,000
(Transfer from Commodity Credit Corporation)	(100,942,000)	(99,865,000)	(99,865,000)	(99,865,000)	(99,865,000)	(−1,077,000)			
Total, salaries and expenses, ASCS	(329,370,000)	(327,681,000)	(327,417,000)	(317,392,000)	(327,392,000)	(−1,978,000)	(−289,000)	(−25,000)	(+10,000,000)
Dairy and beekeeper indemnity program	4,050,000	3,240,000	3,240,000	3,240,000	3,240,000	−810,000			
Total, Agricultural Stabilization and Conservation Service	232,478,000	231,056,000	230,792,000	220,767,000	230,767,000	−1,711,000	−289,000	−25,000	+10,000,000

Agency and title	New budget (obligational) authority enacted to date fiscal year 1978	Budget estimates of new (obligational) authority fiscal year 1979	New budget (obligational) authority recommended in House bill 1979	New budget (obligational) authority recommended in Senate bill 1979	New budget (obligational) authority recommended by Conferees	Increase or decrease (—) conference recommendations compared with— 1978 enacted	1979 budget estimate	1979 House bill	1979 Senate bill
Federal Crop Insurance Corporation:									
Administrative and operating expenses	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000				
Federal Crop Insurance Corporation fund	(12,418,000)	(12,669,000)	(12,669,000)	(12,669,000)	(12,669,000)	(+251,000)			
Subscription to capital stock	50,000,000	(1)	(1)	(1)	(1)	−50,000,000			
Total, Federal Crop Insurance Corporation	(74,418,000)	(24,669,000)	(24,669,000)	(24,669,000)	(24,669,000)	(−49,749,000)			
Commodity Credit Corporation:									
New borrowing authority		4,509,100,000	4,509,100,000	9,509,100,000	4,509,100,000	+4,509,100,000			−5,000,000,000
(Liquidation of contract authority)		(990,900,000)	(990,900,000)	(990,900,000)	(990,900,000)	(+990,900,000)			
Total new authority to borrow		(5,500,000,000)	(5,500,000,000)	(10,500,000,000)	(5,500,000,000)	(+5,500,000,000)			(−5,000,000,000)
Reimbursement for net realized losses	524,342,000	990,900,000	580,000,000	990,900,000	990,900,000	+466,558,000		+410,900,000	
(Limitation on administrative expenses)	(45,750,000)	(50,100,000)	(50,100,000)	(45,898,000)	(50,100,000)	(+4,350,000)			(+4,202,000)
Total, Farm Income Stabilization	818,820,000	5,743,056,000	5,331,892,000	10,732,767,000	5,742,767,000	+4,923,947,000	−289,000	+410,875,000	−4,990,000,000
Total, title I, new budget (obligational) authority, agricultural programs	2,239,926,000	7,211,296,000	6,863,150,000	12,274,903,000	7,291,225,000	+5,051,299,000	+79,929,000	+428,075,000	−4,983,678,000
TITLE II—RURAL DEVELOPMENT PROGRAMS									
Rural Development Assistance									
Farmers Home Administration:									
Rural housing insurance fund:									
Direct loans	(15,000,000)	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)	(+9,000,000)			
Insured loans	(3,379,000,000)	(3,588,200,000)	(3,774,200,000)	(3,776,000,000)	(3,776,000,000)	(+397,000,000)	(+187,800,000)	(+1,800,000)	
Guaranteed loans	(900,000,000)			(500,000,000)	(500,000,000)	(−400,000,000)	(+500,000,000)	(+500,000,000)	
Construction defects authorization		(5,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(+1,000,000)	(−4,000,000)		
Rent supplement authorization	(349,072,000)	(370,013,000)	(370,013,000)	(462,500,000)	(425,500,000)	(+76,428,000)	(+55,487,000)	(+55,487,000)	(−37,000,000)
Reimbursement for interest and other losses	327,402,000	320,192,000	320,192,000	320,192,000	320,192,000	−7,210,000			
Reimbursement for rent supplement payments	17,000,000	43,740,000	43,740,000	49,240,000	47,040,000	+30,040,000	+3,300,000	+3,300,000	−2,200,000
Total, rural housing insurance fund	(4,638,402,000)	(3,981,132,000)	(4,163,132,000)	(4,670,432,000)	(4,668,232,000)	(+29,830,000)	(+687,100,000)	(+505,100,000)	(−2,200,000)
Agricultural credit insurance fund:									
Insured real estate loans	(620,000,000)	(625,600,000)	(875,600,000)	(875,600,000)	(875,600,000)	(+255,600,000)	(+250,000,000)		
Soil conservation loans	(27,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(+3,000,000)			
Operating loans	(825,000,000)	(825,000,000)	(825,000,000)	(825,000,000)	(825,000,000)				
Emergency loans [2]	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)				
Reimbursement for interest and other losses	164,735,000	143,565,000	143,565,000	143,565,000	143,565,000	−21,170,000			
Total, agricultural credit insurance fund	(1,836,735,000)	(1,824,165,000)	(2,074,165,000)	(2,074,165,000)	(2,074,165,000)	(+237,430,000)	(+250,000,000)		
Rural development insurance fund:									
Reimbursement for losses	75,547,000	107,276,000	107,276,000	107,276,000	107,276,000	+31,729,000			
Water and sewer facility loans	(750,000,000)	(800,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	(+150,000,000)	(+100,000,000)		
Industrial development loans	(1,000,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)	(+100,000,000)			
Community facility loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)				
Total, rural development insurance fund	(2,075,547,000)	(2,257,276,000)	(2,357,276,000)	(2,357,276,000)	(2,357,276,000)	(+281,729,000)	(+100,000,000)		
Rural water and waste disposal grants	300,000,000	265,000,000	300,000,000	265,000,000	282,500,000	−17,500,000	+17,500,000	−17,500,000	+17,500,000
Very low-income housing repair grants	9,000,000	24,000,000	24,000,000	19,000,000	19,000,000	+10,000,000	−5,000,000	−5,000,000	
Rural housing for domestic farm labor	7,500,000	38,000,000	38,000,000	33,000,000	33,000,000	+25,500,000	−5,000,000	−5,000,000	
Mutual and self-help housing	9,000,000	16,500,000	16,500,000	13,500,000	13,500,000	+4,500,000	−3,000,000	−3,000,000	
Self-help housing land development fund				1,000,000	1,000,000	+1,000,000	+1,000,000	+1,000,000	
Rural community fire protection grants	3,500,000		3,500,000		3,500,000		+3,500,000		+3,500,000
Rural development planning grants	5,000,000		5,000,000		5,000,000		+5,000,000		+5,000,000
Rural housing supervisory assistance grants			2,500,000		2,500,000	+2,500,000	+2,500,000		+2,500,000
Rural development grants	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				

Agency and title	New budget (obligational) authority enacted to date fiscal year 1978	Budget estimates of new (obligational) authority fiscal year 1979	New budget (obligational) authority recommended in House bill 1979	New budget (obligational) authority recommended in Senate bill 1979	New budget (obligational) authority recommended by Conferees	Increase or decrease (−) conference recommendations compared with— 1978 enacted	1979 budget estimate	1979 House bill	1979 Senate bill
TITLE II—RURAL DEVELOPMENT PROGRAMS—Continued									
Salaries and expenses	195,733,000	209,891,000	219,566,000	217,582,000	218,432,000	+22,699,000	+8,541,000	−1,134,000	+850,000
(Transfer from loan accounts)	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)				
Total, salaries and expenses	(199,233,000)	(213,391,000)	(223,066,000)	(221,082,000)	(221,932,000)	(+22,699,000)	(+8,541,000)	(−1,134,000)	(+850,000)
Total, Farmers Home Administration	1,124,417,000	1,178,164,000	1,233,839,000	1,179,355,000	1,206,505,000	+82,088,000	+28,341,000	−27,334,000	+27,150,000
Rural Development Service	1,738,000	(10)	(10)	(10)	(10)	−1,738,000			
Rural Electrification Administration:									
Rural electrification and telephone revolving fund: [11]									
Electric loans	(750,000,000)	(735,000,000)	(850,000,000)	(850,000,000)	(850,000,000)	(+100,000,000)	(+115,000,000)		
Telephone loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)				
Total, loans	(1,000,000,000)	(985,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)	(+100,000,000)	(+115,000,000)		
Capitalization of rural telephone bank [11]	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)				
Salaries and expenses	23,814,000	24,833,000	24,905,000	24,658,000	24,805,000	+991,000	−28,000	−100,000	+147,000
Total, Rural Electrification Administration	23,814,000	24,833,000	24,905,000	24,658,000	24,805,000	+991,000	−28,000	−100,000	+147,000
Total, rural development assistance	1,149,969,000	1,202,997,000	1,258,744,000	1,204,013,000	1,231,310,000	+81,341,000	+28,313,000	−27,434,000	+27,297,000
Conservation									
Soil Conservation Service:									
Conservation operations	250,360,000	258,659,000	262,491,000	255,296,000	255,466,000	+5,106,000	−3,193,000	−7,025,000	+170,000
River basin surveys and investigations	16,472,000	16,487,000	16,487,000	16,487,000	16,487,000	+15,000			
Watershed planning	12,587,000	5,759,000	12,587,000	5,759,000	11,847,000	−740,000	+6,088,000	−740,000	+6,088,000
Watershed and flood prevention operations	[12] 269,324,000	227,522,000	169,607,000	227,522,000	169,607,000	−99,717,000	−57,915,000		−57,915,000
Resource conservation and development	31,979,000	6,797,000	31,979,000	16,797,000	25,000,000	−6,979,000	+18,203,000	−6,979,000	+8,203,000
Great Plains conservation program	22,073,000	8,023,000	23,288,000	13,288,000	18,288,000	−3,785,000	+10,265,000	−5,000,000	+5,000,000
Nonpoint source pollution control-grant agreement and technical assistance				60,000,000					−60,000,000
Total, Soil Conservation Service	602,795,000	523,247,000	516,439,000	595,149,000	496,695,000	−106,100,000	−26,552,000	−19,744,000	−98,454,000
Agricultural Stabilization and Conservation Service:									
Agricultural conservation program:									
(Liquidation of contract authority)	(201,600,000)	(115,000,000)	(115,000,000)	(115,000,000)	(115,000,000)	(−86,600,000)			
Advance authorization (contract authority)	226,600,000					−226,600,000			
Appropriation		100,000,000	190,000,000	190,000,000	190,000,000	+190,000,000	+90,000,000		
Nonpoint source pollution control			25,000,000	20,000,000				−25,000,000	−20,000,000
Forestry incentives program	15,000,000	10,000,000	15,000,000	17,500,000	15,000,000		+5,000,000		−2,500,000
Water Bank Act program	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Emergency conservation measures	30,000,000	10,000,000	10,000,000	10,000,000	10,000,000	−20,000,000			
Total, Agricultural Stabilization and Conservation Service	281,600,000	130,000,000	250,000,000	247,500,000	225,000,000	−56,600,000	+95,000,000	−25,000,000	−22,500,000
Total, conservation	884,395,000	653,247,000	766,439,000	842,649,000	721,695,000	−162,700,000	+68,448,000	−44,744,000	−120,954,000
Total, title II, rural development programs: New budget (obligational) authority	2,034,364,000	1,856,244,000	2,025,183,000	2,046,662,000	1,953,005,000	−81,359,000	+96,761,000	−72,178,000	−93,657,000
TITLE III—DOMESTIC FOOD PROGRAMS									
Food and Nutrition Service:									
Child nutrition programs	1,488,344,000	1,281,535,000	1,364,535,000	1,281,535,000	1,285,535,000	−202,809,000	+4,000,000	−79,000,000	+4,000,000
(Transfer from sec. 32)	(1,014,557,000)	(1,411,575,000)	(1,336,575,000)	(1,411,575,000)	(1,411,575,000)	(+397,018,000)		+75,000,000	
Total, child nutrition programs	(2,502,901,000)	(2,693,110,000)	(2,701,110,000)	(2,693,110,000)	(2,697,110,000)	(+194,209,000)	(+4,000,000)	(−4,000,000)	(+4,000,000)
Special milk program	155,000,000	142,000,000	142,000,000	142,000,000	142,000,000	−13,000,000			
Special supplemental food program (WIC)	247,000,000	555,000,000	580,000,000	569,000,000	569,500,000	+322,500,000	+14,500,000	−10,500,000	
Food stamp program	5,627,000,000	5,779,200,000	5,779,200,000	5,779,200,000	5,779,200,000	+152,200,000			
Food donations program	31,400,000	12,800,000	12,800,000	12,800,000	12,800,000	−18,600,000			
Elderly feeding program	30,000,000	(13)	(13)	(13)	(13)	−30,000,000			
Food Program Administration	68,268,000	72,223,000	71,300,000	74,275,000	74,275,000	+6,007,000	+2,052,000	+2,975,000	
Total, title III, new budget (obligational) authority, domestic food programs	7,647,012,000	7,842,758,000	7,949,835,000	7,859,310,000	7,863,310,000	+216,298,000	+20,552,000	−86,525,000	+4,000,000

Agency and title	New budget (obligational) authority enacted to date fiscal year 1978	Budget estimates of new (obligational) authority fiscal year 1979	New budget (obligational) authority recommended in House bill 1979	New budget (obligational) authority recommended in Senate bill 1979	New budget (obligational) authority recommended by Conferees	Increase or decrease (−) conference recommendations compared with— 1978 enacted	1979 budget estimate	1979 House bill	1979 Senate bill
TITLE IV—INTERNATIONAL PROGRAMS									
Foreign Agricultural Service	46, 806, 000	51, 663, 000	53, 645, 000	56, 403, 000	53, 645, 000	+6, 839, 000	+1, 982, 000	.....	−2, 758, 000
International development staff	(14)	199, 000	199, 000	199, 000	199, 000	+199, 000	.....	.....	.....
Public Law 480:									
Titles I and III—Credit sales	276, 865, 000	339, 400, 000	339, 400, 000	399, 400, 000	339, 400, 000	+62, 535, 000	.....	.....	.....
Title II—Commodities for disposition abroad	646, 020, 000	466, 500, 000	466, 500, 000	466, 500, 000	466, 500, 000	−179, 520, 000	.....	.....	.....
Sales manager	(3, 474, 000)	(4, 202, 000)	(4, 202, 000)	.....	(4, 202, 000)	(+728, 000)	.....	.....	(+4, 202, 000)
Total, Public Law 480	922, 885, 000	805, 900, 000	805, 900, 000	805, 900, 000	805, 900, 000	−116, 985, 000	.....	.....	.....
Total, title IV, new budget (obligational) authority, international programs	969, 691, 000	857, 762, 000	859, 744, 000	862, 502, 000	859, 744, 000	−109, 947, 000	+1, 982, 000	.....	−2, 758, 000
TITLE V—RELATED AGENCIES									
Department of Health, Education, and Welfare									
Food and Drug Administration:									
Salaries and expenses	286, 733, 000	294, 304, 000	289, 854, 000	295, 454, 000	295, 145, 000	+8, 421, 000	+850, 000	+5, 300, 000	−300, 000
Buildings and facilities	6, 665, 000	11, 984, 000	10, 459, 000	10, 459, 000	10, 459, 000	+3, 794, 000	−1, 525, 000	.....	.....
Total, Food and Drug Administration	293, 398, 000	306, 288, 000	300, 313, 000	305, 913, 000	305, 613, 000	+12, 215, 000	−675, 000	+5, 300, 000	−300, 000
Independent Agencies									
Commodity Futures Trading Commission	13, 950, 000	15, 804, 000	15, 804, 000	14, 974, 000	15, 304, 000	+1, 354, 000	−500, 000	−500, 000	+330, 000
Farm Credit Administration (limitation on administrative expenses)	(9, 942, 000)	(15)	(10, 575, 000)	(10, 575, 000)	(10, 575, 000)	(+633, 000)	(+10, 575, 000)	.....	.....
National Alcohol Fuels Commission [16]	.....	.....	.....	1, 500, 000	.....	.....	.....	.....	−1, 500, 000
Total, title V, new budget (obligational) authority, related agencies	307, 348, 000	322, 092, 000	316, 117, 000	322, 387, 000	320, 917, 000	+13, 569, 000	+1, 175, 000	+4, 800, 000	−1, 470, 000
RECAPITULATION									
Title I—Agricultural programs	2, 239, 926, 000	7, 211, 296, 000	6, 863, 150, 000	12, 274, 903, 000	7, 291, 225, 000	+5, 051, 299, 000	+79, 929, 000	+428, 075, 000	−4, 983, 678, 000
Title II—Rural development programs	2, 034, 364, 000	1, 856, 244, 000	2, 025, 183, 000	2, 046, 662, 000	1, 953, 005, 000	−81, 359, 000	+96, 761, 000	−72, 178, 000	−93, 657, 000
Title III—Domestic food programs	7, 647, 012, 000	7, 842, 758, 000	7, 949, 835, 000	7, 859, 310, 000	7, 863, 310, 000	+216, 298, 000	+20, 552, 000	−86, 525, 000	+4, 000, 000
Title IV—International programs	969, 691, 000	857, 762, 000	859, 744, 000	862, 502, 000	859, 744, 000	−109, 947, 000	+1, 982, 000	.....	−2, 758, 000
Title V—Related agencies	307, 348, 000	322, 092, 000	317, 117, 000	322, 387, 000	320, 917, 000	+13, 569, 000	−1, 175, 000	+4, 800, 000	−1, 470, 000
Total, New budget (obligational) authority	13, 198, 341, 000	18, 090, 152, 000	18, 014, 029, 000	23, 365, 764, 000	18, 288, 201, 000	+5, 089, 860, 000	+198, 049, 000	+274, 172, 000	−5, 077, 563, 000
Transfer from sec. 32	1, 014, 557, 000	1, 411, 575, 000	1, 336, 575, 000	1, 411, 575, 000	1, 411, 575, 000	+397, 018, 000	.....	+75, 000, 000	.....
Total obligational authority	14, 212, 898, 000	19, 501, 727, 000	19, 350, 604, 000	24, 777, 339, 000	19, 699, 776, 000	+5, 486, 878, 000	+198, 049, 000	+349, 172, 000	−5, 077, 563, 000
Consisting of:									
1. Appropriations	12, 969, 741, 000	18, 090, 152, 000	18, 014, 029, 000	23, 365, 764, 000	18, 288, 201, 000	+5, 318, 460, 000	+198, 049, 000	+274, 172, 000	−5, 077, 563, 000
2. Reappropriations	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	.....	.....	.....	.....
3. Contract authorizations	226, 600, 000	.....	.....	.....	.....	−226, 600, 000	.....	.....	.....
4. Direct and insured loan level	7, 066, 000, 000	7, 332, 800, 000	7, 979, 800, 000	7, 981, 600, 000	7, 981, 600, 000	+915, 600, 000	+648, 800, 000	+1, 800, 000	.....
5. Guaranteed loan level	1, 900, 000, 000	1, 100, 000, 000	1, 100, 000, 000	1, 600, 000, 000	1, 600, 000, 000	−300, 000, 000	+500, 000, 000	+500, 000, 000	.....
6. Rent supplement authorization	349, 072, 000	370, 013, 000	370, 013, 000	462, 500, 000	425, 500, 000	+76, 428, 000	+55, 487, 000	+55, 487, 000	−37, 000, 000
Memoranda:									
1. Appropriations to liquidate contract authorizations	201, 600, 000	1, 105, 900, 000	1, 105, 900, 000	1, 105, 900, 000	1, 015, 900, 000	+904, 300, 000	.....	.....	.....
2. Appropriations including appropriations to liquidate contract authority	13, 171, 341, 000	19, 196, 052, 000	19, 119, 929, 000	24, 471, 664, 000	19, 394, 101, 000	+6, 222, 760, 000	+198, 049, 000	+274, 172, 000	−5, 077, 563, 000
3. Transfers from sec. 32	1, 014, 557, 000	1, 411, 575, 000	1, 335, 575, 000	1, 411, 575, 000	1, 411, 575, 000	+397, 018, 000	.....	+75, 000, 000	.....
4. Transfers from Commodity Credit Corporation	100, 942, 000	99, 865, 000	99, 865, 000	99, 865, 000	99, 865, 000	−1, 077, 000	.....	.....	.....

[1] Functions of this account are now included in departmental administration and the new ESCS.
[2] The budget requested new budget authority in lieu of the transfer.
[3] This is a new line item previously included in "Research," above.
[4] The new FSQS now performs the meat and poultry inspection functions of APHIS, as well as certain AMS functions.
[5] SRS, ERS, and FCS have now been combined into the new ESCS.
[6] PSA functions are now performed by AMS.
[7] This is a new organizational entity created by the Secretary on June 3, 1977.
[8] As a result of heavy crop losses, in fiscal 1978 there has been a total of $30 million in new authority to enable the Secretary of the Treasury to subscribe and pay for capital stock of the Federal Crop Insurance Corporation.
[9] The budge request and bill provide no limitation for emergency loans. Funds are available in amounts necessary to meet the needs resulting from natural disasters.
[10] The budget request and bill provide for the activities previously carried out by the Rural Development Service to be conducted henceforth by the Farmers Home Administration.
[11] These amounts are excluded by law (Public Law 93-32) from the budget totals.
[12] Includes $110 million for sec. 216 emergency repair work.
[13] The budget request and bill include no funds for this program, which is now budgeted under the Department of Health, Education, and Welfare.
[14] This is a new organizational entity created by Secretary's Memorandum 1926 on Sept. 27, 1977.
[15] The budget requested deletion of the limitation.
[16] Senate bill proposed creation of a new commission.

Mr. EAGLETON. Mr. President, I do not intend to go into the details of the bill at this time. The action of the conference committee is well detailed in the conference report and the statement of the managers, both of which appeared on pages 29923–29930 of the RECORD of September 18, 1978, and also as House Report 95–1579. I ask unanimous consent to have printed in the RECORD a summary highlighting many of the key programs and the conference agreement relating to them.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF MAJOR ACTIONS TAKEN BY THE CONFERENCE COMMITTEE ON H.R. 13125, FISCAL YEAR 1979 APPROPRIATIONS FOR AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

OFFICE OF INSPECTOR GENERAL

Appropriates $22,945,000 for the Office of the Inspector General as proposed by the House, instead of $31,564,000 as proposed by

the Senate. This continues the transfer of $8,619,000 from the food stamp program, as proposed by the House, but gives flexibility to the Inspector General to allocate his funds so as to meet critical audit or investigative issues. This would permit him to use a portion of the funds transferred for non-food stamp purposes, if it is to pursue such critical issues.

Also, in regard to the appropriation for the Inspector General, both the House and the Senate made a reduction of $600,000 in a $2 million increase for contract audit functions. In making this reduction and providing additional funding of $1.4 million for audits, it was the intent of the Conferees to fund an additional 44 in-house audit positions as proposed by the House, instead of providing for contract audit assistance, as proposed in the budget.

AGRICULTURAL RESEARCH SERVICE

The Conference agreement provides $338,416,000 for the Agricultural Research Service (ARS) instead of $334,100,000 proposed by the House and $337,991,000 proposed by the Senate. The Conferees basically split differences between Houses on reallocation of in-House to contractural work in the area of small scale farm production, integrated pest management, and energy conservation and climatic stress. The Conference agreement permits the Department to drop lower-priority projects and redirect work to a higher priority field of research where this would be appropriate and essential.

With the exception of $1.4 million, all of the in-house laboratory funding for processing, storage, and distribution efficiency research was restored. This provides a total sum of $54,630,000 for this research and does provide for termination of some low-priority research items.

The Conference agreement includes numerous other smaller items, such as $2.2 million for tropical and subtropical agricultural research, $1.5 million for a children's nutrition laboratory at Baylor College of Medicine, and $2.5 million for a regional veterinary school at Virginia Polytechnic Institute, and $1,550,000 for nutrition research initiatives.

Also, for the Agricultural Research Service is the inclusion of funding for construction and planning for several new laboratories, including a Plant Stress Center in Lubbock, Texas, a Human Nutrition Center at Tufts University, a North Central Dairy Forage Research Center at the University of Wisconsin, and a Soil Erosion Center at Purdue University.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

The Conference agreement provides $232,141,000 for the Animal and Plant Health Inspection Service. This includes $64,355,000 for brucellosis eradication, $4,620,000 for control of cattle fever ticks, and $5,370,000 for cattle scabies. No funding was included for a cropland grasshopper control program since this has traditionally not been within APHIS' scope of normal operation. Also included in the Conference agreement is $750,000 for a control and regulatory program of noxious weeds.

COOPERATIVE STATE RESEARCH SERVICE

The Conference agreement provides $174,395,000 for the Cooperative State Research Service, instead of $163,057,000 as proposed by the House and $190,020,000 as proposed by the Senate. The Conference agreement includes $109,066,000 for payments to agricultural experiment stations under the Hatch Act, $15 million for continuation of the competitive grants program, and $15 million for animal health research composed of $10 million in special grants and $5 million for grants under Sections 1433 and 1434 of last year's farm bill.

EXTENSION SERVICE

For the Cooperative Extension Service a total of $268,856,000 is included in the Conference agreement. This includes $177,831,000 for extension work under the Smith-Lever Act, as proposed by the Senate instead of $176,031,000 as proposed by the House. Also included are earmarked funds for urban gardening, rural development, and farm safety programs.

AGRICULTURAL MARKETING SERVICE AND PAYMENTS TO STATES AND POSSESSIONS

For the Agricultural Marketing Service, the Conference agreement includes $46,502,000 as proposed by the House instead of $49,070,000 as proposed by the Senate. Included in the Conference agreement is restoration of $2 million for the wholesale market development program, proposed by the House, and previously funded under the Agricultural Research Service. Also, the program for payments to states and possessions under the 1946 Agricultural Marketing Act is included at the $1.6 million level.

COMMODITY CREDIT CORPORATION

The Conference agreement provides $5.5 billion for new borrowing authority as proposed by the House, instead of $10.5 billion as proposed by the Senate. In addition, the agreement includes $990.9 million to fully reimburse prior year losses as proposed by the Senate instead of $580 million as proposed by the House.

FARMERS HOME ADMINISTRATION

The Conference agreement contains funding for a number of rural development programs under jurisdiction of the Farmers Home Administration, including those operated under the Rural Housing Insurance Fund, the Agricultural Credit Insurance Fund, and the Rural Development Insurance Fund. The Conference agreement includes an additional $7 million for 594 new Farmers Home personnel to be located outside the metropolitan Washington area. Rural water and waste disposal grants are funded at the $282.5 million level in the Conference agreement, very low-income housing repair grants at $19 million, rural housing for domestic farm labor grants at $33 million, mutual and self-help housing grants at $13.5 million, rural community fire protection grants at $3.5 million, rural development planning grants at $5 million and rural housing supervisory assistance grants at $2.5 million.

SOIL CONSERVATION SERVICE

The Conference agreement includes $255,466,000 for conservation operations instead of $262,491,000 as proposed by the House and $255,296,000 as proposed by the Senate. Watershed planning is funded in the Conference agreement at $11,847,000, and watershed and flood prevention operations at $169,607,000. The Conferees agreed to incrementally fund the water projects, and defer consideration of the President's proposal for full funding until consideration of the 1980 budget. For resource conservation and development, $25 million is provided, including the authorization of six new areas instead of 10 proposed by the House. In carrying out the 1979 program, the Department is expected to give every consideration to the funding of the Pocono Northeast RC&D district in Pennsylvania.

CONSERVATION PROGRAMS

The Conference agreement provides $190 million for the Agricultural Conservation Program under reformed language that permits the program to operate in accordance with the intent of the 1977 Farm Bill, placing emphasis on enduring practices and not permitting the funding of practices that are primarily production oriented or that have little or no conservation or pollution abatement benefits.

The Conferees have agreed to provide $1,772,000 of ACP funds for the Grand Valley Salinity Control Project. These funds should not be counted against any state's ACP allocation.

The Conference agreement provided no funding for nonpoint source pollution control, which is also known as the rural clean water program. Funding for two differing clean water programs had been included in the House and Senate bills, but the Conferees agreed to delete the funds without prejudice and await a supplemental request since the funds had not been requested in the 1979 President's budget.

CHILD NUTRITION PROGRAMS

The Conference agreement agreed to fund $75 million of the child nutrition programs by transfer from Section 32 as budgeted and proposed by the Senate, instead of direct appropriation as proposed by the House. The equipment assistance program was funded at $24 million, and the Conferees agreed that formulated grain-fruit products may be served only where there are insufficient facilities or personnel to provide a regular breakfast and only through the school year now beginning.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

The Conference agreement appropriates $569.5 million as proposed by the Senate instead of $580 million as proposed by the House for the Special Supplemental Food Programs, including the Women, Infants and Children program.

PUBLIC LAW 480

The Conference agreement eliminates a House proviso prohibiting PL 480 aid to Korea.

OTHER AGENCIES

The Conference agreement provides $295,154,000 for the Food and Drug Administration and $15,304,000 for the Commodity Futures Trading Commission. No funding was provided for the National Alcohol Fuels Commission, since this Commission has not been authorized. The Senate had included $1.5 million.

GENERAL PROVISIONS

The Conference agreement retains a House section providing for a floor on permanent positions for the Agricultural Stabilization and Conservation Service, Farmers Home Administration, Soil Conservation Service and Foreign Agricultural Service. Foreign Agricultural Service figures were adjusted to reflect a level consistent with those for the other agencies. The conferees also agreed to strike out a House section which would have prohibited the availability of any funds to pay the expenses of parties intervening in regulatory proceedings. Compliance with Comptroller General rulings in this matter, as well as a reporting requirement has been substituted. The Conference Agreement deleted a Senate-added provision which would have prohibited the Farmers Home Administration from implementing new thermal insulation standards for concrete masonry. The Department is to publish revised standards, if indicated necessary by a study to be completed within 90 days of enactment of this act.

Mr. EAGLETON. Mr. President, when the Senate was considering H.R. 13125, I noted that the Appropriations Committee had spent a great deal of time and made significant changes to a House bill that the administration indicated was unacceptable to them. The programs funded in this bill are too important to run the risk of a stalemate that might result from a veto. The administration made it clear that a veto was a distinct possibility had the House bill not been changed significantly.

I can say in all honesty that I believe all of the crucial issues in the bill that brought about the threat of a veto have been resolved in a manner that should be fully acceptable to the administration. I shall go over the list very briefly. The administration objected to:

Additional funds provided for the Agricultural Conservation Program and nonpoint pollution control, and inclusion of undesirable appropriation language for the Agricultural Conservation Program. The Conference agreement deleted $80 million for the nonpoint source pollution control program pending a supplemental, and provided for reform of the bill language for the Agricultural Conservation Program along the lines recommended by the Administration. This will direct Federal funds away from production enhancement practices and towards higher priority pollution abatement practices.

Increases above the budget in the House version for grant programs of the Farmers Home Administration. *The Conference agreement* deleted some, but not all of these grant program increases.

Increased funds for the Agricultural Research Service and the Cooperative State Research Service, and in the House version of the bill, the failure to permit a shift in funding to higher priority research. *The Conference agreement* maintained a high level of funding for the Agricultural Research Service, but came out in between the House and Senate bill for programs of the Cooperative State Research Service. In addition, the Conference agreement specifically permits a shift in funding to higher priority research.

Expanded funding of low-priority activities of the Soil Conservation Service. *The Conference agreement* made sizable reductions in Soil Conservation Service programs. These totaled $15.7 million in reductions below the House bill (excluding nonpoint source pollution), and provided modest increases above the Senate bill, once financing adjustments are made for funding treatment of water projects.

A financing adjustment in the House bill that appeared to offset program increases by a reduction in the appropriation to reimburse the Commodity Credit Corporation (CCC) for its prior year losses. *The Conference agreement* fully funds reimbursements for prior year losses, and eliminates this House financing adjustment.

Provision of separate appropriations for "personnel compensation and benefits" and for "other expenses." The Administration considered this to be an unwarranted legislative encroachment on Executive Branch responsibilities that could seriously impede the President's ability to administer Federal programs efficiently. *The Conference agreement* eliminated this split, and provides for single consolidated appropriations for "salaries and expenses" as requested in the budget and strongly supported by the Administration. The Conferees do believe that where Administration funding priorities have been altered, changes should be made in personnel ceilings to reflect these new funding levels—that is, there should not be arbitrary administration of personnel ceilings.

I am very pleased with the outcome of the conference. You can see from the rundown I just presented that the conferees have not done everything exactly the way the administration wants, but we have done it in a way that I believe should be totally acceptable.

I yield to our distinguished colleague from Oklahoma who, with his experience as a practical farmer and member of the Senate Committee on Agriculture, Nutrition, and Forestry, has provided far more in expertise and sage advice on the bill than I could ever contribute.

Mr. BELLMON. I thank my friend from Missouri.

Mr. President, the report as agreed to by the committee of conference totals $18,288,201,000 in budget authority and $11,271 million in outlays. This is well within the preliminary allocation under the budget resolution, which are projected at $21.9 billion in budget authority and $12.5 billion for outlays. This accomplishment is especially satisfying to me, both as ranking minority member of the Senate Budget Committee and as ranking minority member of the Agriculture Appropriations Subcommittee.

Much of the credit for this bill is due to the outstanding efforts of the chairman of the subcommittee, the distinguished Senator from Missouri. He was determined throughout this long budget year to assure that the measure remained fiscally responsible, and his dedication to effective governmental programs is evident in the thorough consideration of each budget item in the bill.

I would also like to pay tribute to the members of the staff of the subcommittee, Stephen Kohashi and Cathy O'Connor on the minority side, and Dick Lieberman, Ken Auer, and Irma Hanneman on the majority side.

As the chairman has already given a thorough summary to the conference agreement, I would like to note only a few items of special concern.

AGRICULTURAL RESEARCH

Through the Science and Education Administration, the Department of Agriculture finances much of our Nation's agricultural research. It is alarming to me that despite the grave projections of global food shortages and the economic imperative of increased agricultural productivity, the administration proposed a cut in agricultural research funds in constant dollar terms.

The Congressional consideration of the President's budget estimate added $45 million for these program activities, which barely adjust the funding for research to keep pace with inflation. Budgetary constraints prevented a more significant increase, but I remain hopeful that the President's budget for the next fiscal year will more realistically address this critical need in agricultural and human nutrition research.

CONSERVATION COST-SHARING PROGRAMS

The conference committee was confronted with a particularly difficult problem in the conservation programs of the Soil Conservation Service and the Agricultural Stabilization and Conservation Service. The administration had proposed to consolidate the Great Plains conservation program, the rural clean water cost-sharing program, and the agricultural conservation program at a level totaling only $100 million. Thirty years ago, ACP alone was funded at a $500 million level. This is one of few Government spending programs where funding has been cut. The stresses and demands on our cropland demand greater, not lesser, attention today, yet the committee feels strongly the responsibility to hold the line on spending even in essential programs.

As a consequence, the administration's proposal was rejected and the initiation of the nonpoint water pollution program was delayed, pending a fuller assessment of the Nation's conservation needs. Agriculture is basic to our Nation's economy, and our Nation's soil resource is basic to agriculture and to our Nation's survival. Reducing Federal expenditures in this area is far offset by the long-term costs to this vital renewable natural resource.

COMMODITY CREDIT CORPORATION

The conference agreement contains two appropriations for the Commodity Credit Corporation, $5.5 billion for new borrowing authority and $990 million for reimbursements for prior year losses. The Commodity Credit Corporation finances the U.S. Department of Agriculture price support programs and the funds contained in this bill will allow the CCC to adequately address its legislatively mandated activities.

It is important to note that the increase in borrowing authority is $5 billion less than what was originally in the Senate bill. This reduction is based on the most recent estimate of financing needs of the CCC. The conference agreement also allows for the full reimbursement of prior-year losses incurred by the Corporation, even though a partial reimbursement might have been adequate. I believe this represents a sound precedent in honestly showing the full cost of the price support programs, and provides a realistic basis for evaluating the real size of this appropriations bill.

Mr. President, the administration has repeatedly indicated that this bill, would be subject to a veto if it significantly exceeded the President's budget request. I am pleased that the conference action on the bill reflects a reduction in programmatic funds of $78 million from the Senate-passed version of the bill, and a reduction of $137 million in program funds from the House version thereby lowering the bill total to within $198 million of the request—an increase of about 1 percent. The conference agreement also deleted provisions in the House bill which would have mandated personnel levels which the administration had expressed a particular objection to. In short, this bill is very responsive to the budgetary constraints confronting the Federal Government.

Consideration of this bill was especially tough, and I should note that next year promises to be an even more difficult vear from the budget perspective. I believe this bill demonstrates that no longer should the Senate take for granted full funding of heretofore "sacred" programs. As the spending choices become harder, our careful consideration of program priorities will become more critical. I believe that the measure we have before us today reflects an important first step in that direction. I urge my colleagues to join me in the adoption of this conference report.

Mr. EAGLETON. I thank my distinguished colleague. Although we are moving with a degree of haste, I would like

to take a few seconds to acknowledge, as did he, the absolutely spectacular staff work done on this bill, both on the majority and minority sides. Better participation on a bipartisan level I have never seen in my years in the Senate. I mean that most sincerely.

I might add, Mr. President, that there is no finer gentleman to work with in this body than the distinguished Senator from Oklahoma (Mr. BELLMON). He is a prince among princes; and he may use that in any campaign for reelection he may so desire, in the State of Oklahoma or elsewhere.

I am pleased to yield at this time to the distinguished Senator from Montana (Mr. MELCHER), who wishes to speak on this conference report.

Mr. MELCHER. I thank the distinguished chairman.

Mr. President, I would note that the Senate, by a vote of 67 to 23, voted for an amendment I offered to this agriculture appropriation bill to add $20 million for the Animal Health Research Act, Public Law 95–113. Sections 1433 and 1434 of that public law provide for the distribution of appropriated funds for animal health research. The $5 million agreed to by the conference is a reduction of $15 million from the $20 million voted into the bill by the Senate vote of 67 to 23 that I referred to.

The $5 million amounts to such a small sum that distribution under sections 1433 and 1434 of the public law I have mentioned would be handicapped for a viable research program. I have asked the Secretary of Agriculture if other funds in the bill could augment this $5 million in carrying out the purposes of the act, and I have received from Secretary Bergland a letter dated today, of which I will read certain excerpts:

That portion of the appropriation which would be allocated—

Mr. EAGLETON. May I suggest to the Senator that he put the entire letter in the RECORD?

Mr. MELCHER. Mr. President, I ask unanimous consent that the entire letter of the Secretary of Agriculture be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 27, 1978.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MELCHER: The conference report to accompany H.R. 13125, appropriations for Agriculture, Rural Development, and Related Agencies for Fiscal Year 1979, which is scheduled for consideration by the Senate, would appropriate $5 million for animal health and disease research authorized by Sections 1433 and 1434 of the Food and Agriculture Act of 1977 (P.L. 95–113).

That portion of the appropriation which would be allocated under Section 1433 would be divided among the States on a formula basis; that part which would be allocated under Section 1434 by the Secretary with the advice of persons expert in the field.

Allocations to the States according to the formula set forth in Section 1433 may result in allocations to some States which would not be adequate for the level of animal health and disease research they would desire.

To the extent possible, it would be the Department's intention to use Section 1434 discretionary authority to augment formula funds, and to use a part of the $10 million appropriated elsewhere in the Act for special grants for animal health research to provide a viable program for the States.

In addition, some States could choose to use Hatch Act funds made available elsewhere in the appropriations Act.

The use of Hatch Act funds in combination with Section 1433 animal health and disease research funds would be possible, of course, only in those States in which the veterinary school or veterinary research institution is connected with the land grant college or university recipient of Hatch Act formula funding.

Sincerely,

BOB BERGLAND,
Secretary.

Mr. MELCHER. I ask the distinguished chairman and the ranking member, who have the letter in their possession, and, I assume, have reviewed it, if they would agree with the findings of the Secretary.

Mr. EAGLETON. I have gone over this matter in person with the distinguished Senator from Montana. This has been a deep and continuing interest of his, and very properly so. He did secure this excellent letter from the Secretary of Agriculture.

I fully agree with the letter of the Secretary. I believe my distinguished colleague does as well. I believe those views are identical with the views of the distinguished Senator from Montana.

Mr. MELCHER. Mr. President, I would say they are. I hope my friend from Oklahoma (Mr. BELLMON) finds it acceptable.

Mr. BELLMON. Mr. President, I have read the letter. I do understand there will be more emphasis on animal health and disease. I would also like to commend the distinguished Senator for the work he has done in making these funds available. I certainly join in the statement made by our chairman that the letter from the Secretary would seem to make the funds available as already explained.

Mr. MELCHER. Mr. President, I thank the Senator from Oklahoma and the Senator from Missouri for their gracious understanding and acceptance.

Mr. EAGLETON. Mr. President, I thank my colleague from Montana.

Mr. President, I move that the conference report be adopted.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. EAGLETON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the first amendment in disagreement.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the amendments in disagreement en bloc.

The PRESIDING OFFICER. Without objection, the amendments in disagreement will be stated.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$338,416,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$232,114,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

, except that no participation in the Agricultural Conservation Program shall receive more than $3,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community): *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation material, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out enduring conservation and environmental enhancement measures and practices, as specified in section 1501 of Public Law 95–113 (including those practices or programs which are deemed essential to maintain soil productivity, prevent soil depletion, or prevent increased cost of production, thus assuring a continuous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy) as determined by the County Committees, approved by the State Committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment and strike out the matter inserted by said amendment.

Mr. EAGLETON. Mr. President, I move that the Senate concur, en bloc, to the amendments of the House of Representatives to the amendments of the Senate numbered 10, 14, 82, and 84.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

H.R. 5289—NATURAL GAS POLICY ACT REPORT 95–1126 SUMMARY OF MAJOR PROVISIONS

Mr. ROBERT C. BYRD. Mr. President, on August 25, 1978, I submitted for the RECORD a copy of a summary of the major provisions of the "Natural Gas Con-

ference Report." Yesterday, Senator BARTLETT brought to my attention certain inaccuracies in that summary.

I have checked with the Energy Committee and found that I probably was sent inadvertently a summary of an earlier draft of the conference report. In order to correct the RECORD, I ask unanimous consent that the appropriate summary be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS

Sec. 1. Short Title; Table of Contents
Sec. 2. Definitions

TITLE I—WELLHEAD PRICING

Subtitle A—WELLHEAD PRICE CONTROLS

Sec. 101. Defines inflation adjustment; equals inflation as measured by Gross National Product implicit price deflator, converted to a monthly price adjustment factor.

Prices will take effect upon enactment. Prices are ceiling prices only; contract price controls, if lower.

Sec. 102. Establishes ceiling price for "new" gas. Price starts at $1.75 as of April 20, 1977 and increases at a rate equal to inflation, plus .2%, plus 3.5% until April, 1981; 4% thereafter. New natural gas onshore includes gas produced from (1) a new well 2.5 miles or more from a marker well; (2) a new well with a completion location 1,000 feet below the nearest, deepest completion location within 2.5 miles; (3) a new reservoir onshore. New natural gas offshore includes gas produced from (1) new leases; (2) new reservoirs in old leases. "Behind-the-pipe" gas and "withheld" gas are excluded from onshore new gas definition.

Sec. 103. Establishes ceiling price for new, onshore production wells. Price starts at $1.75 as of April 20, 1977 and increases at a rate equal to inflation. That portion of this gas which was not committed or dedicated to interstate commerce on April 20, 1977 gets deregulated in 1985. That which does not get deregulated gets a special ceiling price escalator after January 1, 1985. New onshore wells into old reservoirs (with certain restrictions) qualify under this section.

Sec. 104. Covers all other natural gas which is required to be sold in interstate commerce. Price starts at $1.45 as of April 20, 1977 (which was then the Natural Gas Act "just and reasonable" price) and increases at a rate equal to inflation.

Sec. 105. Covers natural gas under an existing contract. Price is the lower of (1) the contract price; or (2) the new gas price. Prices increase at a rate equal to inflation. The operation of certain "indefinite price escalator" clauses in existing intrastate contracts is limited.

Sec. 106. Covers natural gas under a "rollover" contract which is a contract that expires at the end of a fixed term.

Interstate rollovers get the higher of (1) the applicable "just and reasonable" price under the Natural Gas Act; or (2) $.54.

Intrastate rollovers get the higher of (1) the contract price; or (2) $1.00.

All price ceilings increase at a rate equal to inflation.

State or Indian royalty production gets the new gas ceiling price for intrastate rollovers.

Sec. 107. Certain specified categories of "high-cost" gas are deregulated approximately one year after date of enactment. FERC is given authority to allow "incentive" prices for other categories of high-cost gas.

Sec. 108. Natural gas wells producing up to 60 Mcf per day get special stripper well price treatment. Price starts at $2.09 as of May, 1978 and increases at a rate equal to inflation plus 3.5% until April, 1981 and 4.0% thereafter.

Sec. 109. Covers all other categories of natural gas. Same price treatment as sec. 104.

Sec. 110. State severance taxes and other production-related costs borne by the seller may be added to the ceiling prices.

SUBTITLE B—DECONTROL OF CERTAIN NATURAL GAS PRICES

Sec. 121. Eliminates ceiling price regulation as of January 1, 1985 for (1) new natural gas; (2) deep new, onshore production wells; (3) existing intrastate contracts which are over $1.00 on December 31, 1984. Certain high cost gas is deregulated upon the effective date of the first incremental pricing rule. Certain shallow new onshore production wells are deregulated on July 1, 1987, or upon the last day that price controls are in effect if reimposed.

Sec. 122. Either the President or Congress may reimpose price controls for one 18 month period. Authority to do so under this section exists from July 1, 1985 until June 30, 1987. Either the House or the Senate may veto the President's reimposition. Both Houses must act to reimpose price controls without the President. Expedited procedures to assure a floor vote are provided.

TITLE II—INCREMENTAL PRICING

Sec. 201. FERC is required to develop an incremental pricing rule within 12 months for industrial boiler fuel facilities served directly or indirectly by interstate pipelines.

Sec. 202. FERC is required to develop an amendment to the first rule within 18 months to broaden the application of incremental pricing to other industrial facilities. This rule is subject to Congressional review and may be vetoed by either the Senate or the House.

Sec. 203. Certain portions of interstate pipelines' acquisition cost for natural gas are required to be passed through to incrementally priced industrial facilities.

Sec. 204. Any costs subject to passthrough are required to be placed in a special account. Incrementally priced industrial facilities are required to pay these surcharges until the price they pay for natural gas is equal to the cost of substitute fuel at the burner-tip. The cost of substitute fuel, or alternative fuel, is to be determined by FERC on a regional basis. It may be as high as the price of No. 2 fuel oil or as low as the price of No. 6 fuel oil. Once an incrementally priced industrial facility reaches the alternative fuel price, the passthrough is limited to the amount necessary to keep the facility at the alternative fuel price.

Sec. 205. Local distribution companies are required to pass through the surcharges to incrementally priced industrial facilities. Either the Attorney General or the FERC may enforce this provision.

Sec. 206. Certain small industrial boiler fuel facilities and certain agricultural uses are exempted from the requirements of incremental pricing. Residences, small commercial users, schools, hospitals, and other institutions and electric utilities are also exempted.

FERC may provide other exemptions, or partial exemptions, subject to Congressional review.

Sec. 207. Existing imports are provided a grandfather clause exempting them from the operation of incremental pricing. The price treatment for projects awaiting FERC certification is handled under the Natural Gas Act.

Sec. 208. Natural gas produced from Prudhoe Bay and transported to the Lower 48 is required to be given rolled in pricing for both the basic wellhead price and the transportation cost.

TITLE III—ADDITIONAL AUTHORITIES AND REQUIREMENTS

SUBTITLE A—EMERGENCY AUTHORITY

Sec. 301. The President is authorized to declare a natural gas emergency, based upon certain findings, which triggers the operation of this subtitle.

Sec. 302. The President may authorize any interstate pipeline, or local distribution company served by an interstate pipeline, to make emergency purchases from certain producers under contracts of limited duration.

Sec. 303. The President may order allocation of certain natural gas supplies in times of emergency. He may allocate supplies of gas to interstate pipelines and local distribution companies to meet high-priority needs. He is required to follow a priority system for allocating gas and may exercise his authority if certain conditions are met. The priority system is: (1) gas from boiler fuel users who have alternative sources of fuel supply served by either interstate or intrastate pipelines; (2) gas from general interstate pipeline supply; (3) user-owned gas transported by interstate pipelines. Gas may not be allocated until the emergency sales authority has been exhausted. The President may not take natural gas away from users in one State in order to serve the same priority of users in another State. Compensation is required.

Sec. 304. Miscellaneous provisions (most are taken from the Emergency Natural Gas Act of 1977, which has expired).

SUBSTITUTE B—OTHER AUTHORITIES AND REQUIREMENTS

Sec. 311. FERC may allow interstate pipelines to transport gas on behalf of intrastate pipelines or local distribution companies at "just and reasonable" rates. FERC may also allow intrastate pipelines to transport gas on behalf of interstate pipelines or local distribution companies served by interstate pipelines at fair and equitable rates and charges calculated according to specified criteria. FERC may also allow sales of natural gas from any intrastate pipeline to any interstate pipeline and local distribution company served by an interstate pipeline. Rates and charges must be fair and equitable as determined by FERC according to specified criteria. Sales contracts are limited to two years.

Seec. 312. FERC may authorize any intrastate pipeline to assign its contractual right to receive surplus intrastate natural gas to any interstate pipeline or local distribution company served by an interstate pipeline.

Sec. 315. FERC is given authority to specify the minimum duration of any contract; to require that an interstate pipeline shall have a right of first refusal for gas it has under contract; and to require purchasers to file copies of contracts and ancillary agreements.

TITLE IV—NATURAL GAS CURTAILMENT POLICIES

Sec. 401. Agricultural uses of natural gas are given a curtailment priority (second only to residences; small commercial uses; schools, hospitals, or similar institutions; and other use the curtailment of which the Secretary of Energy determines would endanger life, health, or maintenance of physical property). Agricultural uses are defined.

Sec. 402. Essential industrial process or feedstock uses are given a curtailment priority just below the uses specified in sec. 401. Uses covered are defined.

TITLE V—ADMINISTRATION, ENFORCEMENT, AND REVIEW

Sec. 501. FERC is given general rulemaking authority.

Sec. 502. Special administrative procedures, similar to the Administrative Procedure Act,

apply to rules or orders issued under this Act. Oral presentation and special grievance procedures are provided.

Sec. 503. The State or Federal agency having regulatory jurisdiction over natural gas production makes the determination of the category for which production from a given well qualifies. State or Federal agency determinations are subject to review by FERC under the substantial evidence test. FERC determinations are also subject to review under the same substantial evidence test. Provision is made for collection of maximum lawful prices pending State or Federal agency determinations and court review of such determinations.

Sec. 504. Enforcement procedures similar to those in the Natural Gas Act are provided. Civil penalties are provided for "knowing" violations; criminal penalties are provided; a statute of limitations is included.

Sec. 505. The Secretary of Energy is given authority to intervene in State proceedings concerning natural gas production.

Sec. 506. Judicial review is similar to that in the Natural Gas Act.

Sec. 507. Provides expedited procedures for Congressional review of certain FERC and Presidential actions.

TITLE VI—COORDINATION WITH NATURAL GAS ACT; MISCELLANEOUS PROVISIONS

Sec. 601. Deems prices paid under this Act to be "just and reasonable" under the Natural Gas Act; limits FERC's non-price regulatory authority under the Natural Gas Act; guarantees the right of a pipeline to pass through acquisition costs if not in excess of the ceiling prices established by this legislation.

Sec. 602. States are given authority to establish or enforce lower ceiling prices than provided by this legislation.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I believe there are two or three measures on the calendar which have been cleared for action by unanimous consent. I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders numbered 1124 and 1161.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, these items are cleared on our calendar and we do not object to proceeding to their consideration and their passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELF-DETERMINATION SINGLE CONSOLIDATED GRANTS

The Senate proceeded to consider the bill (S. 2460) to amend the Indian Self-Determination and Education Assistance Act, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That the Indian Self-Determination and Education Assistance Act is amended by adding at the end thereof the following new title:

"TITLE III—ELECTION TO RECEIVE SINGLE CONSOLIDATED GRANTS

"SINGLE CONSOLIDATED GRANTS

"SEC. 301. (a) Any Indian tribe or tribal organization entitled, under this Act, to enter into contracts with the Secretary of the Interior or the Secretary of Health, Education, and Welfare, or to receive grants from any such Secretary, for the purpose of enabling such tribe or tribal organization to plan, conduct, and administer programs and projects for, and provide services to, Indians or to carry out certain functions, authorities, and responsibilities previously carried out by the Secretary of the Interior or the Secretary of Health, Education, and Welfare, may elect to receive a single consolidated grant in each fiscal year in lieu of or in addition to contracts under sections 102 and 103 of this Act.

"(b) The Secretary of the Interior and the Secretary of Health, Education, and Welfare are authorized and directed to make such grants provided for in subsection (a) of this section to each Indian tribe or tribal organization having an approved plan submitted in accordance with this title.

"(c) For the purposes of this title: (1) 'Secretary' shall mean either the Secretary of the Interior, if the grant is from the Bureau of Indian Affairs, or the Secretary of Health, Education, and Welfare, if the grant is from the Indian Health Service. (2) 'A single consolidated grant' shall mean the award of funds based on that portion of the comprehensive tribal plan, as approved in section 302 of this title, which includes all such programs and services intended to be administered by the applicant tribe or tribal organization. The Secretary shall deem that portion of the plan for a given fiscal year as the annual application for a single consolidated grant for the year prior to such fiscal year.

"(d) The Secretary shall waive any provisions of law or regulations which he determines are not appropriate for the purposes of the grant involved or inconsistent with the provisions of this Act.

"(e)(1) If at the election of the tribe or tribal organization, the tribal comprehensive plan incorporates an application for the services or programs or other agencies pursuant to the Joint Funding Simplification Act of 1974 (42 U.S.C. 4251 et seq.), the Secretaries of the Interior and of the Health, Education, and Welfare shall apply all of the provisions of such Act as mandatory rather than discretionary.

"(2)(A) Effective ninety-days following the date of the enactment of this Act, the head of any Federal agency (as defined in section 12(4) of the Joint Funding Simplification Act of 1974) shall receive and consider any complaint filed with such agency head, in writing, by any tribe or tribal organization within the purview of section 301 of this Act, charging the officers or employees of such agency with refusing or otherwise failing to carry out the intent of Congress with respect to the administration of the Joint Funding Simplification Act of 1974.

"(B) Upon receipt of any such complaint, the head of such Federal Agency shall investigate the complaint and, after due notice to all appropriate parties, shall conduct a hearing to determine whether or not the charges contained in such complaint are accurate. If, on the basis of such hearing, the head of the agency determines that the charges contained in such complaint are accurate, he shall take appropriate administrative action to insure that the intent of the law is met and shall discipline the individual at fault if warranted. A copy of the complaint and the final determination of the agency head shall be published in the Federal Register no later than ninety days after the initial receipt of the complaint.

"PLANS: TECHNICAL ASSISTANCE AND APPROVAL

"SEC. 302. (2) Any Indian tribe or tribal organization which elects to receive a single consolidated grant in lieu of or in addition to the contracts authorized under sections 102 and 103 of this Act shall submit to the Secretary a plan for providing or carrying out any, some, or all such programs, projects, functions, activities, or services referred to in section 303 of this title. Such plan shall be submitted to the Secretary on a date consistent with the Department budget cycle for the fiscal year in which the plan is to be implemented, to insure that the plan will be considered and, if approved, incorporated in the agency budget. Such plan shall set forth a comprehensive description of the programs, projects, functions, activities, and services to be carried out or provided by such tribe or tribal organization from the proceeds of such grant. The plan will cover a period of at least three years but, at the election of the tribe or tribal organization may be for a period of up to ten years to allow for long-term planning. Either before the grant is awarded or after a reasonable period of implementation the tribe or tribal organization may amend the plan.

"(b)(1) The Secretary shall upon the request of an Indian tribe or tribal organization provide technical assistance for the formulation and implementation of their plan. The Secretary shall not authorize the expenditure of such funds unless a tribe or tribal organization has requested such technical assistance or expressly approved such expenditure, nor will technical assistance funds be used for the salaries of civil service employees without the express approval of the tribe or tribal organization. The Secretary is directed to provide whatever assistance and expertise is needed to implement the plans with respect to (A) equipment, (B) bookkeeping and accounting procedures, (C) substantive knowledge of the programs within the plan, (D) community understanding of the grant, (E) adequately trained personnel, and (F) other necessary components.

"(2) In the awarding of contracts or grants for technical assistance, if such funds are not awarded directly to the tribe or tribal organization, preference shall be given to an organization designated by the tribe or tribal organization. In the event there is not a tribal designation, the Secretary shall give preference to Indian organizations.

"(c)(1) Upon the receipt of a plan or its amendments submitted by a tribe or tribal organization, the Secretary shall have sixty days to review and make a determination on whether (A) the service to be rendered to the Indian beneficiaries of the particular program or function planned will be adequate; (B) adequate protection of trust resources is assured; (C) the proposed project or function in the plan can be properly completed or maintained by the tribe or tribal organization.

"(2) In the event the Secretary disapproves all or any portion of a plan, or its amendment, he shall (A) state his objections in writing to the tribe or tribal organization within sixty days of the receipt of the plan, (B) provide to the extent possible assistance to the tribe and tribal organization to overcome his stated objections, and (C) within thirty days following the receipt of such statement of objections, provide that tribe or tribal organization with a hearing at its request under such rules and regulations as he may promulgate, and an opportunity for appeal on the objections raised.

"(3) If the Secretary does not send any written notification of disapproval of all or any portion of such plan or its amendment within sixty days of its receipt, such plan or its amendment shall be deemed to be approved in its entirety and shall be implemented.

"(4) Tribal determinations of need, priorities, and substantive programing as expressed in the plan or its amendment shall

only be evaluated by the Secretary on the basis of the criteria set forth in section 302 (c)(1) above and not on the basis of whether the tribal policies reflected in the plan or its amendments are consistent with the judgment of the reviewing official or officials.

"(5) The amount of funds provided under the terms of the single consolidated grant for direct costs shall not be less than the Secretary would have otherwise provided for his operation of the program, or portion thereof, for the period covered by the grant, unless at the option of the tribe or tribal organization a lesser amount is requested. In addition, the indirect costs and administrative costs which a tribe or tribal organization necessarily incurs in assuming responsibility for the operation of such programs shall be provided on the basis of the formula contained in the Office of Management and Budget Circular 74-4 as amended from time to time (but in no event shall such amendment be applicable if its effect is to reduce the allowable indirect costs for tribes and tribal organization). However, the formula may include tribal officers' salaries and expenses when in accordance with the purposes of this Act.

"(6) Sections 102(c) and 103(c) of this Act with regard to liability insurance shall apply to this title.

"SEC. 303. All programs, projects, functions, activities, or services which the Interior Department or the Indian Health Service is authorized to perform for Indians may be included in any plan submitted pursuant to this title, subject to the provisions of section 302(c)(1). Nothing in this title is intended to limit the provisions of section 7(b) of this Act.

"SANCTIONS

"SEC. 304. (a) Regardless of the length of time for which the single consolidated grant is planned, the Secretary shall conduct an annual audit of the use of the consolidated grant funds in order to insure that the total amount granted under the plan was expended for the intended purposes. Such audit shall be conducted by the Secretary at no expense to the funds allocated to the tribe or tribal organization. The tribe or tribal organization shall retain the right to determine the priorities with the plan provided the total amount is spent in accordance with the plan.

"(b) If the audit finds that funds were used for purposes outside the scope of the plan, then the Secretary shall notify such tribe or tribal organization that, if corrective action is not undertaken within ninety days, further payments may be withheld to such tribe or tribal organization under that portion of the plan affected by the misuse of funds. If no corrective action is taken, the Secretary is further authorized to notify such tribe or tribal organization to return to him all or any part of the unexpended sums paid under this title during the fiscal year pursuant to the affected portion of the plan.

"CONTINUATION OF SERVICES

"SEC. 305. (a) In any case in which the Secretary has taken an action under section 304 of this title which results in services not being provided to individuals who were the beneficiaries of such service under such plan, the Secretary shall take such action as may be necessary to provide for the continuation of such services for the fiscal year covered by such plan.

"(b) If the tribe or tribal organization subsequently determines that the appropriations for the fiscal year for which such plan has been submitted are inadequate, the tribe or tribal organization may retrocede its grant. In any case in which the tribe or tribal organization determines to so retrocede, it shall be required to give the Secretary notice of such intention within a period of not more than thirty days following the date of the enactment of any law appropriating funds for such grant. Upon such notice, the Secretary shall take such action as may be necessary to provde for the continuation of services.

"PROMULGATION OF RULES AND REGULATIONS

"SEC. 306. (a) Each Secretary shall promulgate rules and regulations to implement the provisions of this title not later than ten calendar months following the date of enactment of this title. The provisions of section 107 of this Act providing the time and manner for the promulgation of regulations shall govern the development and issuance of such regulations. The new regulations for this title shall read simply and be uniform as between the two agencies, to the extent possible.

"(b) In the event that the Secretary of the Interior or the Secretary of Health, Education, and Welfare fails to comply with the provisions of section 107 of this Act, the appropriate United States district court shall have original jurisdiction over any civil action brought by a tribe or tribal organization within the purview of section 301(a) for the purpose of securing compliance with section 107 and such district court shall have jurisdiction to hear and consider such action without regard to the amount in controversy.

"PAYMENTS

"SEC. 307. Payments made pursuant to this title shall be obligated on October 1 of each fiscal year and shall be advanced in quarterly increments and shall remain available until expended. The Secretary may make necessary adjustments on account of overpayments or underpayments as the Secretary may determine.

"AUTHORIZATIONS

"SEC. 308. The Secretary of the Interior is authorized to provide any approved plan with funds appropriated for the benefit of Indians pursuant to the Act of November 2, 1921 (42 Stat. 208), and any Act subsequent thereto.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report. (No. 95-1200), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND

The Indian Self-Determination and Education Assistance Act, Public Law 93-638, was enacted by the Congress on January 4, 1975, and administrative regulations were published by the Interior Department in December of 1975. Special appropriations to implement the grant, technical asistance, and contract support provisions were included in the fiscal 1976 Interior Department budget. The act has been in effect for 3½ years: implementing regulations have been effective for 2½ years; and special appropriations have been available for the same time period.

Public Law 93-638, the Indian Self-Determination and Education Assistance Act, was passed in response to the desire of Indian peoples for maximum participation of Indian tribes in programs and services conducted by the Federal Government for Indians. The act provides that tribes and Indian groups can contract to provide those services that Government agencies otherwise deliver.

The committee was advised of tribal expressions of dissatisfaction with the implementation of the act by the Bureau of Indian Affairs and the Health, Education, and Welfare's Indian Health Service. The committee held oversight hearings which focused on policy considerations and related technical and factual issues which have been identified as constituting obstacles to the effective implementation of the law.

As a result of this examination, S. 2460 was drafted as an attempt to provide tribes with a more effective option than contracting. Several specific issues—such as indirect costs and technical assistance which are recurring problems—are also addressed in S. 2460.

NEED

In the extensive testimony by Indian tribes and tribal organizations before the committee, witnesses stressed the point that in their experiences contracting under Public Law 93-638, administrative control over programs and services continued to be maintained by the agencies. Among other reasons, such control was maintained because under the terms of the contract, the contracting officials could ensure that the tribe had to administer the programs in the same manner as the Agency. Not only were tribes kept from adjusting the programs to meet the unique needs of the Indian beneficiaries but the tribes had almost no flexibility in policy determinations. The realities of the day to day tribal governing process and the difficulty tribes have encountered in responding effectively to a service system which is designed for the convenience of the Federal agencies, coupled with the unwillingness of the agencies to relinquish control, have necessitated changes in Public Law 93-638.

S. 2460 addresses several needs which were not identified at the time Public Law 93-638 was enacted. The work of the American Indian Policy Review Commission and the record development by this committee have made manifest the need for a means for combining tribal long term economic planning with the variety of federal programs and services impacting on reservations. The policy of Self-Determination as incorporated in S. 2460 recognizes the right of the tribe to set tribal priorities, to choose how to develop tribal resources and to choose what services are most important to the Indian people.

To be able to set realistic priorities, the tribe should have the option of incorporating into the comprehensive tribal plan all of the potential tribal revenue sources. Consequently S. 2460 does not restrict the tribal plan to Bureau of Indian Affairs and Indian Health Service funding, since such a restricted plan would constitute more of a grant proposal rather than a helpful economic tool. As the administration pointed out, in hearings on S. 2460, the Joint Funding Simplification Act already exists as a tool to draw together varied Federal sources for units of local governments, and states including Indian tribes. S. 2460 incorporates the Joint Funding Simplification Act into the Self-Determination Act to facilitate the tribe's use of that system.

The committee heard testimony that there is considerable reluctance on the part of many agencies, including Bureau of Indian Affairs and Indian Health Service, to enter into integrated funding under the Joint

Funding Simplification Act. The tribes have very little power to persuade the agencies to overcome their reluctance, therefore, the amendment requires that if the tribal application under title III of the Self-Determination Act incorporated the Joint Funding Simplification Act, then the Department of the Interior and the Department of Health, Education, and Welfare, are to regard the Joint Funding Simplification Act as mandatory rather than discretionary.

In addition, because there was an indication that many agencies did not take joint funding action "to the maximum extent permitted" [42 U.S.C. 425(c)] the new amendment affords the tribes a complaint or remedial process. A complaint which charges that an employee is frustrating the intent of Congress may be filed with the head of any agency. The head of the agency is directed to take appropriate action to resolve the matter. Memoranda submitted to the committee by the legislative counsel and the Congressional Research Service indicated that the incorporation of the Joint Funding Simplification Act into S. 2460 with an altered application is an accepted legislative method. The tribes have requested these provisions, they are a logical addition to the plan and the record shows that the tribes need some sanction to overcome the obstacles encountered in trying to obtain joint funding.

The third major new addition to the Self-Determination Act is the effort to integrate it into the budget process. The committee's oversight hearings developed a record which indicated that many of the problems encountered in implementing the act resulted from Public Law 93–638 contracts and award decisions being out of accord with the budget and appropriation process of the agencies. The primary problem is that tribes have found it almost impossible to engage in effective long range planning based on Public Law 93–638 contracting, when the present budget system only allows for a year-to-year funding cycle. Although placing the grant in conformance with the budget process still subjects it to the actual appropriations, only a significant change in the agency budget levels will drastically alter the long range plans developed by the tribes. If tribal grants applications in the form of comprehensive plans are carefully formulated and submitted to the agencies a year before the actual appropriation requests, many of the problems resulting from the year-to-year funding cycle may be avoided or minimized. It is the committee view that integration of the grant and the agency budget is a necessary first step in developing a more rational scheme of fiscal planning and accountability.

LEGISLATION HISTORY

The committee held oversight hearings on the implementation of the Self-Determination Act on June 7 and 24 of 1977. The committee received testimony from some 48 tribes and tribal organizations. The oversight hearings uncovered great dissatisfaction with the way Public Law 93–638 was being carried out. As a direct result of the major problems presented (with the exception of the definition of an Alaskan tribe) the original S. 2460 was drafted.

S. 2460 was introduced on January 31, 1978 by Senator Abourezk. It has not yet been introduced in the House of Representatives.

Hearings on the original bill were held on March 14 and 22, 1978. The committee received testimony from 29 agencies, tribes, and organizations, in strong support of the thrust of the bill. Witnesses provided valuable advice on some ways to alter the language of the bill so that it would be more practical in its application.

The administration's opposition to the bill was primarily based on the rationale that there are alternate authorizations for some of the provisions in S. 2460. However, the record is clear that the agencies have not exercised such existing authorities. Testimony was received from tribes criticizing the Bureau of Indian Affairs' attempt to provide for "consolidated" contracts. For example, instead of nineteen contracts, a tribe had nineteen sections within one contract with no actual reduction in administrative requirements.

NATIONAL FAMILY WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 29) to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week," which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "annually";

On page 1, line 6, strike "of each year" and insert "1978";

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week beginning on the Sunday preceding the fourth Thursday in November 1978, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such day with appropriate ceremonies and activities.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A joint resolution to authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week".

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the resolution, as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1238), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the joint resolution is to authorize the President to designate that week in November 1978, which includes Thanksgiving Day, as "National Family Week."

STATEMENT

By designating that week in November 1978 which includes Thanksgiving Day as "National Family Week," a specific time will be set aside for recognizing the significance of the family in the American way of life.

The committee believes it appropriate that the President proclaim that week in November 1978 which includes Thanksgiving Day as "National Family Week."

Senator Quentin N. Burdick of North Dakota made the following statement when introducing this resolution to the Senate:

Mr. President, I am today introducing a joint resolution authorizing the President to issue an annual proclamation designating the week in November which includes Thanksgiving as "National Family Week." The purpose of this resolution is simple: It sets aside a specific time each year to recognize the importance of the family in American life and the fundamental role it has played in forming the values upon which the Nation is founded. The resolution picks the Thanksgiving week—a time when families traditionally gather—as an appropriate time to recognize the contributions family life has made to our shared values of liberty, justice, equality and compassion.

While I realize many people are skeptical about a proliferation of official holidays it is important to remember that "National Family Week" is not commercial or promotional. Its purpose is not to encourage sales or promote festivities. It is simply a way of encouraging people to pause for a moment and reflect, each in his own way, about the role families have played in our lives and in the course of our Nation.

Nearly every State in the Union has set aside some time for a celebration of this kind over the past few years. With the strong backing of the American Legion, the Committee for a National Family Week, and the Mormon Church, both the 92d and 94th Congress approved resolutions authorizing National Family Weeks. In the last Congress, 22 Senators joined me in cosponsoring this measure. This support combined with President Carter's desire to emphasize the importance of the family in American life, makes this year the time for passage of a resolution authorizing National Family Week on an annual basis. I hope it will be quickly enacted.

COST

The enactment of this legislation involves no direct additional expenditure to the Government.

Accordingly the committee recommends favorable consideration of Senate Joint Resolution 29 without amendment.

Mr. BURDICK. Mr. President, I am delighted to see the Senate approve my resolution authorizing National Family Week this year. Assuming the House approves this resolution also—and I would hope that they will do so soon—this will be the third consecutive year we have authorized the President to proclaim the week in November in which Thanksgiving is celebrated as National Family Week. I hope this trend continues and that, in the near future, we will be able to enact a resolution establishing a permanent celebration.

Support for National Family Week has grown each year. Thirty-eight Senators cosponsored this resolution. Over half the House Members are cosponsoring a similar resolution in that body. In addition, numerous churches and organizations have worked for this celebration. The General Federation of Women's Clubs and its president, Mrs. Don Shide of Larimore, N. Dak., have been outstanding in their efforts for this resolution. The American Legion, the Home Economics Association, and the Mormon Church have also been extremely helpful.

The basic purpose of National Family Week is simply to set aside a specific time to recognize the basic and essential role the family plays in American life.

The role of families has changed dramatically in this century. Fifty years ago, the family fulfilled most physical, social, and emotional needs. It often was an independent economic and social unit that provided food, shelter, and clothing for its members.

Today the family plays a much less central role. For many, especially in our

urbas areas, the family unit is breaking down. Certainly, the extended family living together is almost a thing of the past. There are many reasons for this—our highly mobile society, changing morals, and our advanced economy that reduces family reliance on its members.

Despite changes in our society, however, the family is still the basic moral and economic social unit for most of us. Because of this, I believe it is imperative that we recognize its importance and do all we can to preserve the family as our most fundamental social institution. National Family Week both honors this institution and calls on American citizens to remember its essential role in our society.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the following Senators to attend the North Atlantic Assembly, to be held in Lisbon, Portugal, November 26-30, 1978: the Senator from Rhode Island (Mr. PELL), Chairman; the Senator from Washington (Mr. JACKSON); the Senator from New Hampshire (Mr. McINTYRE); the Senator from Iowa (Mr. CULVER); the Senator from Vermont (Mr. LEAHY); the Senator from New York (Mr. JAVITS); and the Senator from Michigan (Mr. GRIFFIN).

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations beginning with New Reports.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, once again the items on the Executive Calendar beginning with New Reports, being those for the U.S. International Trade Commission and the Social Security Administration, are cleared on our calendar and we have no objection to proceeding to their consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. INTERNATIONAL TRADE COMMISSION

The assistant legislative clerk read the nomination of Paula Stern, of the District of Columbia, to be a member of the U.S. International Trade Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY ADMINISTRATION

The assistant legislative clerk read the nomination of Stanford G. Ross, of the District of Columbia, to be Commissioner of Social Security of the Department of Health, Education, and Welfare.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:09 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1265. An act to amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services;

H.R. 1920. An act to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and bear lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale;

H.R. 10822. An act to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes; and

H.R. 13745. An act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. MORGAN).

At 12:10 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 13125, an act making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate numbered 83 and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 10, 14, 82, and 84, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 11870. An act to amend the Act of July 19, 1940, to authorize additional appropriations, and for other purposes;

H.R. 12603. An act to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots on the Great Lakes; and

H.R. 13372. An act to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes.

At 1 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 8533. An act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax;

H.R. 11861. An act to amend the Merchant Marine Act, 1936, to direct the Secretary of Commerce to cooperate with the Secretary of the Navy and the maritime industry in establishing an adequate and well-balanced fleet;

H.R. 12264. An act to designate certain lands in the State of Wisconsin as wilderness;

H.R. 12352. An act to amend the Internal Revenue Code of 1954 to provide that income from certain railroad rolling stock shall be treated as income from sources within the United States; and

H.R. 13597. An act to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes.

HOUSE BILLS HELD AT DESK

The following bills were read by title and held at the desk, pursuant to order of September 26, 1978:

H.R. 11870. An act to amend the Act of July 19, 1940, to authorize additional appropriations, and for other purposes;

H.R. 12603. An act to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots on the Great Lakes; and

H.R. 13372. An act to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read by their titles and referred as indicated:

H.R. 8533. An act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax; to the Committee on Finance.

H.R. 11861. An act to amend the Merchant Marine Act, 1936, to direct the Secretary of Commerce to cooperate with the Secretary of the Navy and the maritime industry in establishing an adequate and well-balanced fleet; to the Committee on Commerce, Science, and Transportation.

H.R. 12264. An act to designate certain lands in the State of Wisconsin as wilderness; to the Committee on Energy and Natural Resources.

H.R. 12352. An act to amend the Internal Revenue Code of 1954 to provide that income from certain railroad rolling stock shall be treated as income from sources within the United States; to the Committee on Finance.

H.R. 13597. An act to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes; to the Committee on Environment and Public Works.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 27, 1978, he presented to the President of the United States the following enrolled bill:

S. 1265. An act to amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services.

ORDER TO HOLD H.R. 11035 AT DESK

Mr. MATHIAS. Mr. President, I wish to propound a unanimous-consent request. I ask unanimous consent that when a bill comes from the House of Representatives, H.R. 11035, introduced by the gentleman from Texas (Mr. PICKLE), that it be held at the desk.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, until I have cleared on the side of the aisle I have to reluctantly object. I have to get clearance.

Mr. MATHIAS. I have consulted the chairman of the Judiciary Committee.

Mr. ROBERT C. BYRD. I will have to clear it. My policy staff says it has not been cleared. As soon as I can clear it I will advise the Senator.

Mr. MATHIAS subsequently said: Mr. President, I ask unanimous consent that at such time as it may be received, H.R. 11035 be held at the desk, pending further disposition.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, this matter now has been cleared on this side of the aisle. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations and the Committee on Human Resources, jointly, with an amendment:

S. 3309. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for assistance to new refugees, and for other purposes (Rept. No. 95–1245).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, and with a preamble:

S.J. Res. 166. A joint resolution to designate October 14, 1978, as "National Jogging Day" (Rept. No. 95–1246).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BELLMON (for himself, Mr. BAYH, Mr. LUGAR, Mr. WALLOP, Mr. CLARK, and Mr. GARN):

S. 3527. A bill to authorize funds for the Robert A. Taft Institute of Government; to the Committee on Human Resources.

By Mr. BARTLETT:

S. 3528. A bill for the relief of Ted, Kazuko, and Yoko Shimizu; to the Committee on the Judiciary.

By Mr. ANDERSON:

S. 3529. A bill for the relief of Anthony McCartney; to the Committee on the Judiciary.

By Mr. STEVENSON (for himself, Mr. CANNON, Mr. FORD, Mr. GOLDWATER, Mr. CRANSTON, Mr. BROOKE, Mr. MATHIAS, Mr. ZORINSKY, Mr. HAYAKAWA, Mr. RIEGLE, and Mrs. ALLEN):

S. 3530. A bill to establish national space policy and program direction, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN (for himself, Mr. PERCY, and Mr. THURMOND) (by request):

S. 3531. A bill to improve the physical security features of the motor vehicle and its parts, increase the criminal penalties of persons trafficking in stolen motor vehicles and parts, and to curtail the exportation of stolen motor vehicles, and for other purposes; to the Committee on the Judiciary and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

By Mr. THURMOND (for himself, Mr. EASTLAND, Mr. KENNEDY, Mr. ABOUREZK, Mr. WALLOP, Mr. DECONCINI, Mr. BAYH, Mr. HATCH, and Mr. LUGAR):

S.J. Res. 166. A joint resolution to designate October 14, 1978, as "National Jogging Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BELLMON (for himself, Mr. BAYH, Mr. LUGAR, Mr. WALLOP, Mr. CLARK, and Mr. GARN):

S. 3527. A bill to authorize funds for the Robert A. Taft Institute of Government; to the Committee on Human Resources.

ROBERT A. TAFT INSTITUTE OF GOVERNMENT TRUST FUND ACT

● Mr. BELLMON. Mr. President, there are several fundamental principles which shape and guide our representative form of government, foremost of which is that of majority rules, minority rights. This principle embodies every facet of our democratic process. It is a basic principle. It provides for the orderly operation of Government as well as safeguarding fundamental rights for dissent. Majority rules, minority rights can be accorded no more significance than in this very body. It is very simply the means by which a representative government exercises its right to govern.

Mr. President, there is no clearer example of this principle than the American two-party political system. By providing a basis for choice, the two-party system has encouraged direct participation by the citizens of this Nation in our self-governing experience. Such participation, as we all know, is the very foundation for any true elective process. Throughout our Nation's history the two-party system has done a great deal to foster the principles of majority rules, minority rights.

Mr. President, there has been considerable discussion over the last several years which forecasts the decline and ultimate demise of the two-party political system. Although the accuracy of such forecasts are quite debatable, much like the next day's weather, there is a growing concern that our basic party structure is eroding. A lack of participation by our citizens in the political process is often cited as the primary cause for this impending decline. While there are numerous contributing factors which have led to this lack of citizen participation—insensitivity and disenchantment toward Government, the political system, elected officials and political parties—it is essential we do all we can to reverse this trend by promoting the role of the individual in the elective process. In short, Mr. President, majority rules, minority rights cannot be exercised effectively unless the citizens of this Nation take an active role in their Government.

A basic understanding of American political systems, the supporting two-party system, and the essential role of the individual citizen will go a long way in promoting the necessary participation.

Mr. President, there is an organization to which many of us in the Congress are familiar, which has dedicated its work to the very subject I have been discussing. I am referring to the Robert A. Taft Institute of Government, located in New York. Founded in 1961 as a memorial to the late Senator from Ohio, the Taft Institute is a nonprofit, bipartisan orga-

nization which directs its work toward enhancing understanding of American politics and Government, developing knowledge of the supporting two-party system and creating awareness of the political role and responsibilities of individual citizens.

Working from a premise that the people of this country, and particularly young people need to be fully informed concerning the basic principles of American self-government, the Taft Institute conducts seminars in behalf of elementary and secondary school teachers. At these seminars, teachers gain knowledge and insight into the operation of the American political system. They are also better equipped to develop in young people a commitment to participate in the process.

Mr. President, we cannot overemphasize the critical role of teachers in transmitting understanding of the principles and processes of government of children and high school students. While it is assumed that teachers have this responsibility, it is alarming to find that many teachers, very able ones at that, are not prepared academically or practically to teach government classes. A 1976 Taft study of 800 government teachers revealed not only that 20 percent had never taken a political science course, but also that many were relatively naive about the political system. The Taft seminars for teachers are designed to meet this need.

Mr. President, Taft seminars are sponsored by colleges and universities, award graduate level credit, and are conducted mostly in the summer for 2 or 3 weeks. Each seminar, of which there are approximately 36 per year, enroll between 30 to 35 teachers. The 1978 seminars, conducted on 36 campuses in 30 States, have had the participation of 1,100 elementary and secondary school teachers. Each seminar, a rigorous course in political science and practical politics, is directed by a political science professor who is a faculty member of the sponsoring institution.

In addition, at each seminar, 20 or more experienced politicians, political party leaders, elected officials, Republicans and Democrats, meet with the teachers and explore ways in which teachers can effectively teach their government classes and help their students understand their responsibilities in a self-government. Having participated in these seminars, as have many in this Chamber, I can personally attest to the effectiveness and overall quality of Taft Seminars for Teachers.

Mr. President, since 1963, the year in which the Taft Institute began its seminars for teachers, the institute has relied totally upon private contributions. While the ability to raise funds to finance these seminars has been remarkably successful, the institute needs major financial support to sustain and broaden its political education program. It has the reputation and the expertise well suited to building a substantially larger program, specifically by expanding the Taft Seminars for Teachers to include all 50 States as well as additional seminars in States already participating. By expanding the program to include every State of the Nation, Taft seminars would be able to reach, at a minimum, 700 additional teachers. Based on the 1978 enrollment of 1,100 teachers, such an increase would be substantial. It is not inconceivable for the institute to double its program through additional seminars in States which are already participating in the program.

To this end, Mr. President, I am today introducing legislation (for myself and Mr. BAYH, Mr. LUGAR, Mr. WALLOP, Mr. CLARK, and Mr. GARN) which would authorize Federal-matching assistance for the Robert A. Taft Institute of Government, to help further its goal of promoting the role of the individual in our democratic society.

This legislation would establish a trust of $15 million, the income from which would be matched on a 50–50 basis with private contributions secured by the institute. By establishing a matching fund, the institute will continue its efforts to raise private contributions rather than rely on Federal assistance alone.

Mr. President, the institute has been operating on a budget of approximately $750,000 per year. A trust of $15 million, invested wisely, will undoubtedly yield income enough to match the private contributions raised by the institute, assuming private contributions equal that of the past several years. In the event the trust generates income in excess of the matching requirements, the excess will be returned to the General Treasury. This trust will be administered by the Commissioner or Secretary of Education.

Mr. President, I could speak for a long time on the attributes and ultimate value of the Taft Institute and its programs. Encouraging participation by young people in our elective process is an important undertaking. The Taft program does exactly this. While there are a number of organizations which direct their work in various ways toward specific areas of the governmental system, there is no other national organization which focuses its chief efforts toward developing an understanding of the benefits and the necessity of America's two-party system for American democracy. I know of no other organization which is providing education on the essential roles of the Republican and Democratic Parties and encouraging participation in those parties beginning at the precinct level, helping individuals understand they can have the greatest amount of influence in selecting their representatives for local, State, and national legislative bodies by working through a political party. This is sound reasoning, Mr. President, and we should emphasize such principles to the greatest degree.

Mr. President, American political history has been the story of a two-party system in action; yet there is too little understanding among the majority of the country's citizens of the importance of two strong political parties, forming our basic political arrangement—one party in power and one party in opposition. In other words, majority rules, minority rights. The Taft Institute has dedicated its work toward the understanding of these principles. There is a great deal left to be done. This legislation will help emphasize the importance of the Taft program and the work it performs. I am convinced that this is a valuable contribution to our political and governmental process—and a wise investment of dollars. I urge the favorable consideration of this legislation so we can get on with the responsibility of providing better public understanding and appreciation of government of the people, by the people, and for the people.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Robert A. Taft Institute of Government Trust Fund Act".

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "Commissioner" means the Commissioner of Education;

(2) "Fund" means the Robert A. Taft Institute Trust Fund established in section 4;

(3) "Institute" means the Robert A. Taft Institute of Government located in New York, New York; and

(4) "Secretary" means the Secretary of the Treasury.

GRANTS FOR DEVELOPMENT

SEC. 3. (a) In recognition of the public service of Senator Robert A. Taft, the Commissioner is authorized to make grants from the Fund established in section 4 to assist in the development of the Robert A. Taft Institute of Government, located in New York, New York.

(b) The total amount of grants under this section in any fiscal year may not exceed the lesser of (1) the total amount of private contributions received by the Institute in the fiscal year prior to the fiscal year in which the grants are made, or (2) the income of the Fund generated in the fiscal year prior to the fiscal year in which the grants are made.

(c) No payment may be made under this Act except upon an application at such time, in such manner, and containing or accompanied by such information as the Commissioner may require.

ESTABLISHMENT OF FUND

SEC. 4. (a) There is established in the Treasury of the United States a trust fund to be known as the "Robert A. Taft Institute Trust Fund". The Fund shall consist of amounts appropriated pursuant to subsection (f).

(b) It shall be the duty of the Secretary to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(c) Any obligation acquired by the Fund may be sold by the Secretary at the market price.

(d) Except as provided in subsection (e), the interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to form a part of the Fund.

(e) Within 30 days after the end of each fiscal year, the Secretary shall determine the total amount of private contributions re-

ceived by the Robert A. Taft Institute during such fiscal year and the total amount of income generated by the Fund in such fiscal year. If the Secretary determines that the total amount of income generated by the Fund in any fiscal year exceeded the total amount of private contributions received by the Institute in such fiscal year, the Secretary shall transfer from the Fund to the General Fund of the Treasury an amount equal to the difference between the income generated in such fiscal year and the amount of private contributions received in such fiscal year.

(f) There are appropriated to the Fund $15,000,000.

EFFECTIVE DATE

SEC. 5. This Act shall take effect on October 1, 1979.●

By Mr. STEVENSON (for himself, Mr. CANNON, Mr. FORD, Mr. GOLDWATER, Mr. CRANSTON, Mr. BROOKE, Mr. MATHIAS, Mr. ZORINSKY, Mr. HAYAKAWA, Mr. RIEGLE, and Mrs. ALLEN):

S. 3530. A bill to establish national space policy and program direction, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SPACE POLICY ACT OF 1978

Mr. STEVENSON. Mr. President, I introduce today for myself and Senators CANNON, FORD, GOLDWATER, CRANSTON, MATHIAS, ZORINSKY, HAYAKAWA, RIEGLE, ALLEN, and BROOKE, the "Space Policy Act of 1978." This legislation establishes policies and goals to guide civilian space activities of the United States during the first decade of the space shuttle era.

NEW ERA IN SPACE

The United States stands today on the threshold of a "new era in space." Since the early 1960's, the space program has been built largely around spectacular events in manned flight and scientific missions to expand our knowledge of the solar system and the universe. Although the pursuit of scientific knowledge will continue to be a major goal of the U.S. space effort, the new era in space—inaugurated with the launching of the space shuttle late next year—will be characterized by an entirely different concept, that of "routine utility." The prospect of conducting frequent trips to near Earth orbit—up to 60 per year according to current projections—aboard the shuttle opens a range of applied and scientific activities not feasible with expendable rockets; 20 years after Sputnik, the space program is at a takeoff point where the environment of space can be developed to bring useful and economically productive services directly to people. The responsibility of Congress is to establish the policies and program goals that will capitalize on this opportunity.

Twenty years ago, with enactment of the National Aeronautics and Space Act, Congress and the Executive recognized the importance of space and made a commitment to seek U.S. leadership in this fledgling field of science and technology. These decisions have served the Nation well. Our achievements have surpassed what most legislators in the late 1950's believed possible. Now the changing nature of our opportunities in space require new policies and new goals.

Today efforts to plan the Nation's future in space lack the foresight and imagination of these earlier decisions. In recent years, the planning process has been little more than annual encounters between Congress and the Office of Management and Budget. Although spending levels for line items in the NASA budget have been hammered out, there has been no agreement, or even serious debate, concerning the longer-term purposes of these expenditures. As a consequence, U.S. leadership in space has begun to erode. Morale in the space program has declined. And the public is understandably confused over the reasons to sustain a U.S. presence in space.

There is considerable irony in this situation. Never has the potential been greater for using the space environment to serve human needs. Remote-sensing satellites can provide vital information in climate and weather research, environmental and pollution monitoring, crop forecasting, plant disease control, drought and flood control, mineral and natural resource exploration and management, land use planning, geodesy, mapping, earthquake research and prediction, and search and rescue missions. The potential for generating electric power in space and for space manufacturing is real. Advanced communications satellites will open up new services to commercial and public users, including educational and medical applications. Advances such as electronic mail and wrist radios are within reach. And we stand on the verge of mankind's most exciting era of scientific exploration. Within the next decade, we can unravel many of the mysteries of the origin and evolution of our solar system and the universe beyond.

The nature of space also provides unique opportunities for international collaboration. Intelsat, the international consortium which manages satellite communications, demonstrates the feasibility of cooperation among nations to exploit the benefits of space. The United States has 968 cooperative space agreements with countries, territories, and international organizations in such areas as remote-sensing, communications, weather, and space sciences. Several nations are contributing equipment for the space shuttle and certain U.S. scientific space missions. But these are only the initial steps in building mutually beneficial relationships among nations through cooperation in space.

RECENT ACTIVITIES

During the past 18 months, Congress has conducted hearings and symposiums concerned with new space policies and programs. In these hearings, spokesmen of the administration have been unable to move beyond general statements acknowledging the important opportunities made possible by the space shuttle. Congress, for its part, has enacted no comprehensive policies.

The Office of Science and Technology Policy, directed by Dr. Frank Press, the President's science adviser, has been the focal point in the executive branch for the administration's consideration of space policy. At present, the Space Policy Review Committee, also chaired by Dr. Press, of the National Security Council is considering recommendations that will be considered by President Carter later this month. I am most hopeful that President Carter will set forth a civilian space program of substance and purpose.

While we have been marking time in planning the U.S. future in space, other countries have been pushing ahead. The Soviet Union has developed what now appears to be a permanently manned space station. We should expect a series of impressive Soviet space achievements during the next several years.

The European Space Agency is developing its own expendable launch vehicle, the Ariane, which will compete with the space shuttle for commercial business. France is developing a remote-sensing satellite comparable to the U.S. Landsat. And Japan, Germany, and France are making rapid strides in satellite communications systems. The unchallenged lead in space technology that the United States forged during the 1960s is slipping away.

FACTORS AFFECTING A NEW SPACE POLICY

In determining a new civilian space policy, several factors should be taken into account. First, building a space effort of "routine utility" depends on achieving tangible and continuing economic and social benefits. Testimony before the Subcommittee on Science, Technology and Space indicates the strong likelihood that such economic benefits can be realized. Dr. Klaus Heiss, president of ECON, Inc., has estimated that by the early 1980s the potential market for land resources and ocean observation information acquired by satellites of the Landsat-Seasat type is in the range of $.5 billion to $1 billion per year. In the communications area Heiss estimates annual revenues to be in the range of $2 billion by the mid-1980s. Electric power generation in space and space manufacturing should produce net economic returns later in this century. Of course, there are important benefits to people, such as improved weather prediction, flood control, crop forecasting, and public service communication, which are more difficult to quantify but nonetheless real.

Mr. President, I ask that a table of benefits and costs of a U.S. global information system and civilian communications as prepared by ECON, Inc. be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—1980's GLOBAL INFORMATION SYSTEMS BENEFITS AND COSTS (U.S. BENEFITS ONLY)

LAND RESOURCES (LANDSAT/LACIE)

Application area	Annual benefits
Agricultural crop information	294–581
Petroleum-mineral exploration	64–260
Hydrologic land use	22
Water resources management	13–41
Forestry	7
Land use planning and monitoring	15–48
Soil management	5–9
Annual benefit range	420–968
Annualized systems costs (at 10-percent interest rate)	60–80

OCEAN OBSERVATIONS (SEASAT)

Application area	benefits Annual
Arctic operations	10–29
Coastal zones	0.3–0.8
Marine transportation	22–53
Ocean fishing	27–143
Offshore oil and natural gas	21–34
Annual benefit range	80–260
Annualized systems costs (at 10-percent interest rate)	80–100

CIVILIAN SPACE COMMUNICATIONS

	Space systems		For comparison
	1976	Mid 1980's	ATT 1977
Market system investments	[1] $1	[2] $5	[1] $100
Annual system revenues	[3] 500	[2] 1.5–2	[1] 36

[1] Billion.
[2] Billion, estimate.
[3] Million.

Mr. STEVENSON. The second factor to take into account is the contribution which the civilian space program makes to maintaining this country's research and technology base. For example, it is acknowledged that this country's present position of leadership in computer and information technology is directly linked to requirements of the manned space program of the 1960's. Until recently, this country held unchallenged leadership in communications technology due to pioneering efforts in satellite communications. However, the decision in the early 1970's to suspend communications research and development by NASA has resulted in serious erosion of this technological lead. The space program has been the driving force in developing the basic technology of solar cells for direct conversion of sunlight to electricity. There are literally thousands of secondary applications of space technology each year by American industrial firms.

The United States is today facing vigorous industrial competition from Japan, West Germany, France, and other countries in many high technology areas. This is no time to withdraw from an arena where the United States has been the world's leader for the past 50 years.

The third factor to consider is the controllable nature of the U.S. space budget and the evolutionary nature of our space program in the 1980's. The current NASA budget is less than one-half of what the Nation supported in the mid-1960's—$4.35 billion in fiscal year 1979 compared to $11.4 billion in fiscal year 1965, in 1979 dollars—and less than 1 percent of the present Federal budget. Unlike many Federal programs which operate under fixed expenditure formulas, the space budget has been controlled by the number of funded projects and the pace of these projects. Also, NASA projects typically require funding for a specific number of years; once the project is completed, all funding ceases.

As a consequence, NASA's budget since the early 1970's has remained relatively level, although eroded by inflation, because the number of new starts has been strictly controlled and the pace of these projects has been keyed to available funds.

The Space Policy Act of 1978 directs that the U.S. civilian space program in the 1980's proceed in a step-by-step building-block manner. For example, technology developed in building space structures will be directly applicable in a solar power satellite program and in constructing communications platforms. Advances in communications technology will be used in transmitting remote-sensing data and information. It only makes sense to proceed in a systematic and logical way, keying the pace of activities to the rate of technological progress that is achieved. There is no reason to set arbitrary deadlines such as motivated Project Apollo, that is, a manned Moon landing by the end of the 1960's.

In sum, the adoption of goals for the civilian space program need not lead to excessive or uncontrolled Federal expenditures.

The final factor to consider in developing new civilian space goals for the United States is less tangible than economic or budgetary considerations, and less practical than the social benefits people will receive. This dimension was discussed by Norman Cousins, editor of the Saturday Review, at a symposium on the future of space applications and space science conducted by the Subcommittee on Science, Technology and Space last February. Mr. Cousins noted that:

> The case for space exploration has to do with our philosophy as a people and as a nation—how we see life; how we think about our place in the world's future; how much value we assign to the possibility that knowledge can contribute to the quality of life; and finally whether we attach any importance to our uniqueness as members of the human species.

Mr. President, I ask that the full text of Norman Cousins' statement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

STATEMENT OF NORMAN COUSINS, EDITOR, SATURDAY REVIEW, NEW YORK, N.Y.

This Committee was heard, and doubtlessly will continue to hear a great deal of testimony on the practical value of space exploration. This is understandable; the Congress is expected to produce tangible benefits when it spends the money of the American people.

My statement, however, is not concerned with material returns. I believe the case for space exploration rests on a far more substantial base than theoretical or actual practical value. Ultimately, the case for space exploration has to do with our philosophy as a people and as a nation—how we see life; how we think about our place in the world's future; how much value we assign to the possibility that knowledge can contribute to the quality of life; and finally whether we attach any importance to our uniqueness as members of the human species.

The greatness of any society in history has seldom rested on its physical prowess. The vaunted military power of ancient Athens has long since disappeared, but ideas of ancient Greece retain their power and their radiating effect. The words of Aristotle and Socrates stand as tall and as powerful as they did 2,400 years ago, but the weapons of Greece are nowhere to be found.

Our space ships are important not because they are capable of breaking out of the Earth's gravitation field, but because they are extensions of the human mind. They represent a new language that enables us better to understand our own potentialities as human beings. The language connects us to new options of growth as a nation and as a species. The scrapings from the surface of the moon that we examined in our laboratories are less spectacular than the new perceptions we carried back to Earth in our minds and added to our individual and collective intelligence. The highest manifestation of education is an enlarged perspective—the ability to see new relationships; the ability to adjust to ever-increasing complexity; the ability to ascend to ever-higher plateaus of awareness. What outer space has most to offer is the discovery of inner space.

The universe of the mind is the greatest arena of all, for the mind is the only instrument that can transcend infinity. It is only in the human mind that the meaning of infinity can come into focus. In many ways the mind is the mirror to an expanding universe. The billions of neurons in the mind are locked into a system of unimaginable complexity and functional wizardry.

It is this system of neurons that represents the essence of human uniqueness, for the end product is an intelligence that enables a human being to translate words into markings, markings into meaning, and meaning into comprehension of the past and anticipation of the future, perceiving the connection between cause and effect, and converting abstractions into great working designs.

We belong to an unfinished species. We have no way of knowing how high the mind can reach. We know only that it can reach higher than the highest space ship. We know, too, that the threats to life on Earth are as real as they are complex. These threats do not originate in outer space. They originate in a divided and confused humanity. The political and scientific intelligence is only partially free to counter the total jeopardy in which our species finds itself.

Inevitable questions emerge from the accumulating dangers. First, are human beings smart enough to survive? Is intelligence in humans fixed at a level that does not extend to the well being of the species as a whole? Are we capable of recognizing obligations to the next generation? Is there a basis for a common resolve among humans that can transcend their difficulties and antagonisms? Space exploration creates a context for the pursuit of answers.

Some people may say that we have no business journeying beyond the planet until we make our own Earth safe and fit for human habitation. Yet it is precisely because our species is in jeopardy that we need new perspectives to enable us to think and act as a species rather than as members of hostile tribes.

Human history has always been a race between combat and cooperation, between concepts of service and concepts of power. If that race is to end auspiciously, new unifying principles must be discovered and put into operation. The species must develop a sense of the rarity of life-support systems in the universe, an understanding of the limitless capacity of human beings to meet all dangers to their collective existance once their awareness is fully developed and their will to live fully engaged.

It is in this perspective that space exploration must be seen. Anything that ignites the human mind, anything that sets the collective intelligence to racing, anything that creates a new horizon for human hopes, anything that helps to engage the vocabulary of common heritage and common destiny—anything that does this is of incalcuable value.

If we ask what it is we get in return for our venture into the solar system, the answer is that we get a chance to develop a proper appreciation of our station in the universe. In so doing, we may bring the world's peoples a little closer to one another.

If we can replace apocalyptic fears with hopeful prospects, we will have made the greatest investment in the human future on this planet it is possible to make. Americans can congratulate themselves that they are in a position to take giant steps beyond our planet—not just for themselves, but for the astonishingly varied, gifted and vulnerable species of which they are a part.

Mr. STEVENSON. Historians of Earth in the next millennium are likely to remember the United States principally for its initial leadership in space exploration. Leaving the confines of our planet to travel, explore, and do useful work in space is a dividing line in human experience that will stand throughout recorded time. We can be proud of our accomplishments to date. But we should be thinking far more creatively than we are of ways to build on these beginnings.

SPACE POLICIES AND PROGRAM

The Space Policy Act of 1978 has two principal objectives: First, to describe the changing nature of the space program and to indicate the new opportunities that now exist for routine and productive uses of space, and, second, to establish policies and programmatic goals that will give purpose and direction to the Government's annual expenditures for space. These goals will help identify and focus research and technology initiatives; they are also essential for efficient management of space expenditures within a limited Federal budget.

The findings of the bill describe the new opportunities and applications in space which are made possible by the development of the space shuttle. The bill then declares fundamental policies that will govern U.S. activities in space. Among the more important declarations of policy are:

That the United States rejects any claims over outer space or over natural celestial bodies;

That space systems for peaceful purposes have the right to operate in space without interference;

That the United States will continue to participate in cooperative international space activities; and

That there should be close coordination among the space activities of the departments and agencies of the Government to avoid unnecessary duplication and achieve maximum use of resources.

The bill identified a series of goals in space and terrestrial applications and in space science to be achieved within 10 years after the date of enactment.

The goals have been identified on the basis of testimony before the Subcommittee on Science, Technology and Space and consultation with experts in space applications and space science. Among these goals are:

Design and construction in space of a first generation of structures for the purpose of communications, remote-sensing, experiments in electric power generation and human habitation;

Design of prototype systems for electric power generation and the testing in space of such prototype systems if they are found to be environmentally safe and economically attractive;

A resumption of communications research and development and the establishment of a public service communications system;

Design and testing of technologies to determine the scientific and economic feasibility of space-based manufacturing; and

The establishment and operation of a system of remote-sensing of the Earth's resources, environment, and related conditions.

In space science the bill establishes goals to maintain U.S. leadership in planetary and lunar exploration, the study of the dynamic relationships between the Sun and the Earth, the understanding of astrophysical phenomena, and the study of life sciences as they are related to human performance in space and the origin and distribution of life in the universe.

One of the more promising discoveries of the past decade has been the realization that planets can serve as laboratories for expanding our knowledge about the Earth and its environment.

Therefore, the bill requires that the knowledge gained through space science programs be used in understanding Earth-related problems, such as the probable effect of increased amounts of carbon dioxide in the Earth's atmosphere.

The bill requires that these goals be pursued in a step-by-step, building-block manner in order to develop the necessary scientific and prudent use of public funds. The provision will also help avoid the peaks and valleys that have characterized Federal space budgets in the past.

PRESIDENTIAL SCHEDULE

To assist in this orderly and systematic development, the President is required to submit to Congress a 5-year schedule, including proposed annual outlays, that will identify specific missions, projects, or programs to achieve the goals in space applications and space science. The schedule will be annually revised to take account of the progress that has been made. The President also has authority to propose to Congress additional or revised goals.

Finally, the legislation provides that the various missions, projects, and programs to achieve the act's goals will have to be authorized by subsequent legislation. The annual authorization and appropriation process remains unaffected.

In summary, the legislation will provide realistic and useful goals to guide this Nation's space program without disrupting the normal budgetary processes in the executive branch and Congress. The President retains the initiative to set the pace and priority of specific missions and projects, subject to congressional authorizations and appropriations. The major difference from our present circumstances is the establishment of general objectives to guide these annual expenditures.

COST OF PROGRAM

In this period of limited Federal funds, it is necessary to face squarely the budgetary impact of a revitalized U.S. space program. Testimony before the Subcommittee on Science, Technology, and Space indicates the feasibility of supporting a space program of this magnitude at the level of recent NASA budgets, adjusted for inflation. A commitment to a new era in space will not require a return to Apollo program expenditures. The only requirement is that funds which have been used to develop the Space Shuttle, in the range of $750 million to $1 billion annually, be shifted to other space activities as they become available over the next several years. In other words, a level NASA budget, adjusted for inflation, is sufficient to support a forward-looking and productive effort in space by the United States.

In addition, new opportunities will be opened for greater financial participation by the private sector. Unlike the Apollo program which was supported entirely by Federal funds from start to finish, the new era in space will be characterized by an expanding role for nongovernmental participants. As technologies mature, the potential economic returns from space-based services will generate increasing private entrepreneurial activity.

However, a commitment by the Federal Government is needed to initiate this new era in space. With the launching of the space shuttle approximately 1 year away, we are at a watershed. Decisions during the next year or so will more than likely set the course of U.S. space activities for the balance of this century. A balanced and reasonable program, as set forth in this legislation, will insure this Nation's leadership in developing the space environment for the benefit of people in this country and around the world.

I am introducing this legislation in the closing days of the 95th Congress to enable Members of the Senate and House, officials in the executive branch, and persons in the private sector to consider and evaluate the objectives of the legislation. It is my present intention to reintroduce the legislation at the beginning of the 96th Congress and to schedule hearings before the Subcommittee on Science, Technology and Space early in 1979, prior to hearings on the NASA authorization for fiscal year 1980. With Senator WENDELL FORD of Kentucky, I also plan before adjournment to introduce legislation to establish an operational remote-sensing system. The subcommittee will also give this legislation priority in the next session.

Mr. President, I ask that the text of the Space Policy Act of 1978 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Space Policy Act of 1978".

PURPOSE

SEC. 2. It is the purpose of this Act to establish national space policy and program direction that will enable the United States to maintain leadership in space science and technology and, in collaboration, where appropriate, with other countries and international entities, to develop and use the space environment for the benefit of humanity.

FINDINGS

SEC. 3. The Congress finds that—

(1) the United States space program has established the scientific and technological leadership of the United States in space ac-

tivities devoted to peaceful purposes for the benefit of humanity;

(2) scientific and technological progress has produced new opportunities for developing and using the space environment;

(3) the Space Shuttle provides the United States with an economical and flexible space transportation system capable of helping to develop the space environment for the benefit of humanity;

(4) the operational capabilities of the Space Shuttle will change the nature of space activities from unique spectacular events to productive, cost-effective, and routine uses of the space environment that can materially assist the United States and other nations in the solution, control, and management of Earth-based problems;

(5) progress in data processing and analysis, together with enhanced methods of acquiring and transmitting data from space, provide new opportunities for developing useful information and services in such areas as climate and weather research and prediction, environmental and pollution monitoring, crop forecasting, plant disease control, drought and flood control, mineral and natural resource exploration and management, land use planning, geodesy, mapping, earthquake research and prediction, and search and rescue missions;

(6) the Space Shuttle will provide the capability of building structures in space to be used for many purposes including communications, remote-sensing, manufacturing and industrialization, energy development, and a variety of manned activities;

(7) the nature of space activities will provide new opportunities for international cooperation and collaboration in the realization of benefits for humanity;

(8) the successful development and use of the space environment for scientific and applied purposes depends on continued research and development efforts conducted by the government and private sector; and

(9) the productive development and use of the space environment by the government and the private sector require new policies, procedures, and institutional entities.

POLICY

SEC. 4. The Congress declares that it is the policy of the United States that—

(1) the United States is committed to the exploration and use of outer space by all nations for peaceful purposes and for the benefit of mankind;

(2) the United States is committed to the exploration and use of outer space in support of its national well-being;

(3) the space programs of the United States will be conducted to increase scientific knowledge about the Earth and universe, develop and use space technology, maintain United States leadership in space science and technology, apply space science and technology for the benefit of mankind, and further domestic and foreign policy objectives of the United States;

(4) the United States rejects any claims of sovereignty over outer space or over natural celestial bodies or any portion thereof;

(5) the United States considers the space systems of all nations and international organizations to be the property of such nations and international organizations, respectively, and that space systems for peaceful purposes have the right of passage through and operation in space without interference; and that interference with space systems will be viewed as an infringement on sovereign rights;

(6) the United States will continue to participate in cooperative international space activities;

(7) close coordination will be maintained among the space activities of the departments and agencies of the United States Government to avoid unnecessary duplication and allow maximum use of all resources;

(8) data and information from the space program of the United States will be, to the extent practical, fully disseminated.

PROGRAM

SEC. 5. (a) Consistent with the provisions of this Act, the President shall assure that the space program of the United States will proceed toward the achievement of the goals in space and terrestrial applications and in space science described in subsections (b) and (c).

(b) The goals in space and terrestrial applications to be achieved during the 10 years after the date of enactment of this Act are—

(1) the pursuit of scientific and technical knowledge to support the continued leadership of the United States in the development and use of space for peaceful purposes and the benefit of mankind;

(2) the design and construction in space of a first generation of structures for the purpose of communications, remote sensing, experiments in electric power generation, human habitation, and other applied and scientific uses;

(3) the design of prototype systems for generation of electric power to be transmitted to earth and, upon a favorable determination of the effect on humans and the environment and favorable economic and reliability comparisons with alternative energy systems, testing in space of such prototype systems;

(4) the design and development, in collaboration with the private sector, of advanced communications systems in space, including systems which expand communications services available to individual users, such as electronic mail and data transmission, and emergency and personal security systems;

(5) the establishment, in collaboration with the private sector, as appropriate, of communications systems in space to meet public needs such as educational and instructional television, medical and health care, public access to governmental institutions and personnel, and other public services and activities deemed appropriate;

(6) the design and testing in space of technologies and procedures to determine the scientific and economic feasibility of space-based manufacturing in such areas as materials and pharmaceuticals; and

(7) the establishment and operation of a system of remote-sensing of the Earth's resources, environment, and related conditions.

(c) The goals in space science to be achieved during the 10 years after the date of enactment of this Act are—

(1) the continued United States leadership in all of the space sciences;

(2) the pursuit of planetary and lunar science, and exploration, with emphasis on the comparative studies of bodies of the solar system directed to a better understanding of Earth (including its atmosphere and space environment) and to understand the origin and evolution of the solar system;

(3) the expansion of man's understanding of the Earth and its environment and the dynamic relationships between the Sun and the Earth and the physical processes that transfer matter and energy between the Sun and Earth;

(4) the expanded study of astrophysical phenomena in order to understand the origin and continuing evolution of the cosmic environment and the fundamental laws of physics that govern observed cosmic phenomena;

(5) the continuation of research in the life sciences to insure human health, safety, and effective performance in space flight and to further use the space environment and space technology in the advancement of knowledge in medicine and biology and to understand the origin and distribution of life in the universe; and

(6) the interpretation and application of these advancements in scientific knowledge to the preservation of the Earth and its environment and to meeting related human needs.

(d)(1) The achievement of the goals specified in subsections (b) and (c) will proceed in a step-by-step manner in order to develop the required scientific and technological knowledge and expertise and to insure the efficient and prudent use of public funds.

(2) No later than one year following enactment of this Act, the President shall prepare and submit to Congress a five-year schedule, including proposed annual outlays, that will identify specific missions, projects, or programs to achieve the goals described in subsections (b) and (c) of this section.

(3) The President shall revise the schedule during each fiscal year to reflect the progress that has been achieved in meeting the scientific and technological goals specified in subsections (b) and (c). The revisions shall be submitted to the Congress as part of the annual budget message.

(4) If the President deems that it is necessary, he may propose to Congress additional goals or a revision of the goals described in subsections (b) and (c) of this section.

(5) Not later than the end of the second fiscal year prior to the end of the 10-year period established in this section, the President shall prepare and submit to Congress proposed goals for the space program to be followed to the year 2000.

(e) The President shall, to the extent practical, carry out the program required by this section through the National Aeronautics and Space Administration.

(f) Notwithstanding the provisions of any other law, no appropriation may be made to carry out the provisions of this Act unless previously authorized by legislation hereafter enacted by the Congress.

By Mr. BIDEN (for himself, Mr. PERCY, and Mr. THURMOND) (by request):

S. 3531. A bill to improve the physical security features of the motor vehicle and its parts, increase the criminal penalities of persons trafficking in stolen motor vehicles and parts, and to curtail the exportation of stolen motor vehicles, and for other purposes; to the Committee on the Judiciary and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

MOTOR VEHICLE THEFT PREVENTION ACT OF 1978

● Mr. BIDEN. Mr. President, I rise today to introduce, upon request of the administration, the Motor Vehicle Theft Prevention Act of 1978. Although I do not feel wedded to every provision of the administration's bill, I am introducing it today because auto theft has reached epidemic proportions and has increasingly become the province of organized crime auto theft rings.

As the Justice Department's letter of transmittal points out, auto theft as a crime has changed significantly in the past decade:

(1) Auto theft has increased by 33 percent in 10 years and now constitutes over 50 percent of all reported larcenies costing consumers and taxpayers over 2 billion dollars annually;

(2) Auto theft has become an increasingly professional crime. The solution rate of auto theft cases has dropped from 24.3 percent in 1967 to 14.1 percent in 1976.

The decrease in the solution rate is the area of gravest concern to the FBI and other law enforcement agencies. It indicates, in the words of the Justice Department's letter,

That professional thieves have increasingly entered into the stolen motor vehicle area of crime.

We have a major problem with auto theft in my home State in Delaware. Indeed, according to the Department of Justice, Delaware is in the top dozen worst States in auto theft. In reviewing the recent FBI crime statistics for Delaware, I see the same trend that the Justice Department points out in its letter. The number of auto thefts solved by Delaware law enforcement is down 10 percent over the last year. This is not meant as a criticism of Delaware law enforcement authorities, but only points up the increasing professionalization of auto theft that is possibly also going on in Delaware. Another possible explanation for the serious auto theft problem in Delaware is its location on Interstate 95, a favored trafficking route for stolen car rings.

I ask unanimous consent that the Justice Department's letter be inserted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal which would improve the physical security features of the motor vehicle and its parts, increase the criminal penalties for persons trafficking in stolen motor vehicles and parts, and curtail the exportation of stolen motor vehicles.

Motor vehicle related theft is a serious national crime problem. Thefts of the motor vehicle, its contents and its accessories accounted for nearly 50 percent of all larcenies reported to law enforcement in 1976. The combined costs to the public attributable to these thefts easily exceeded $2 billion in 1976. Of course, all of us as consumers and taxpayers must bear the costs of these vehicle related crimes.

Motor vehicle theft has over the last ten years evolved more and more into a professional crime. While juveniles arrested for motor vehicle theft still constitute more than 50 percent of those arrested, the juvenile participation arrest rate has been declining. In fact, the solution rate itself for motor vehicle theft has declined from 24.3 percent in 1967 to 14.1 percent in 1976. This represents a decline of 41.8 percent. Moreover, the value recovery rate of 86 percent of all stolen motor vehicles in 1967 has dropped to 59 percent in 1976. These statistics clearly indicate that professional thieves have increasingly entered into the stolen motor vehicle area of crime.

Recognizing the alarming trend in motor vehicle theft, the Federal Interagency Committee On Auto Theft Prevention was formed in March 1975. Its goal was to reduce motor vehicle theft by 50% by 1980. The Committee is composed of representatives of the Departments of Transportation, Justice, State, Treasury, and Commerce as well as the Office of Management and Budget.

Although the Committee still encourages the utilization of many different voluntary and coordinated approaches to deal with the various aspects of the complex motor vehicle theft problem, the Committee eventually realized that additional legislation was necessary both at the national and state levels. The bill being submitted is a product of the efforts of the Committee and represents a legislative effort which we feel should be pursued at the federal level.

Presently the various anti-theft standards of the Department of Transportation (Standards 114 (locks) and 115 (Vehicle Identification Number)) must have a "safety" nexus. Such a "safety" nexus is easily demonstrated for that portion of the vehicle theft known as "joyriding" because statistics show that a stolen automobile has a greater accident rate potential. But today's emerging motor vehicle thief does not "joyride" the vehicle. Instead he cuts the vehicle up for parts in so-called "chop shops" which are fenced in the legitimate market for the repair of damaged vehicles; retitles the vehicle using a salvage switch modus operandi or a counterfeit title; or transports or exports the vehicle out of the country.

Title I of the bill makes a series of findings and states the purposes of the Act. Title II of the bill would give the Secretary of Transportation specific "security" authority over the manufacturing of the motor vehicle. This would allow both stronger locking systems and permit a requirement that certain key components of the vehicle be identified in order to curtail the present "chop shop" activity.

Title III of the bill strengthens the federal criminal laws as they pertain to professional motor vehicle theft.

Title IV gives the Secretary of the Treasury authority to issue regulations concerning the exportation of used motor vehicles.

Title V of the bill requires the preparation of various reports including one on the growing theft of agricultural and construction vehicles.

The enactment of the proposed legislation will provide the government with important new tools and weapons in its fight against professional crime. The criminal penalties are comparable to those in present federal statutes. It is realized that should S. 1437, the Criminal Code Reform Act of 1977, be enacted by the Congress the provisions relating to Title 18 in this bill would have to be folded into the new federal criminal code. This task will not be difficult. The Department of Justice accordingly urges the prompt consideration and passage of this bill.

The Office of Management and Budget advises that the enactment of the proposed legislation would be consistent with the objectives of the Administration.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General

Mr. BIDEN. In conclusion I would like to make it clear that there are at least three areas in which I have concerns which I believe must be explored in early hearings before the Subcommittee on Criminal Laws and Procedures which I chair. First, I would like to hear from auto manufacturers on the cost of placing identification numbers on parts and whether there needs to be some limits on the authority we give to the Department of Transportation to issue regulations for auto-security as opposed to auto-safety. Second, we must study carefully the expansion in Federal criminal jurisdiction contemplated by this bill. Finally, I am a bit concerned about the concept of forfeiture of stolen automobiles to the Federal Government instead of returning the stolen car to its original owner.

There may be other technical matters that arise in the hearings or as I have time to study the bill more carefully. Of course in pointing out these potentially controversial areas I do not intend to detract from my own general endorsement of concept behind this legislation.

I ask unanimous consent that the bill, a section-by-section analysis and an outline of the Motor Vehicle Theft Prevention Act of 1978 be printed at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Vehicle Theft Prevention Act of 1978".

TITLE I—FINDINGS AND PURPOSES

SEC. 101. The Congress finds:

(a) the annual number of reported motor vehicle thefts is approaching 1,000,000 vehicles; that the recovery rate of stolen vehicles has significantly decreased over the past decade; and that approximately 50 percent of all larcenies reported to law enforcement in the United States are directed against the motor vehicle, its accessories, or its contents;

(b) the theft and disposition of stolen motor vehicles and their parts is becoming more professional in nature and seriously affects interstate and foreign commerce; moreover, it has brought increased and unnecessary burdens to the automobile consumer and the taxpayer as the national financial cost of motor vehicle related theft offenses now exceeds $2 billion annually;

(c) the cooperative efforts of the Attorney General, Secretary of Transportation, Secretary of the Treasury, Secretary of State, and Secretary of Commerce in the formation of the Intergovernmental Agency on Auto Theft Prevention are to be commended and these officials are urged to continue and expand upon their prior fruitful efforts;

(d) some national and international uniformity on certain standards is required in order to facilitate commerce and prevent criminal abuse;

(e) a cooperative partnership between the various states and the Federal Government is required to devise appropriate interrelated systems in the area of motor vehicle titling and registration in order to help curb motor vehicle theft;

(f) the theft of motor vehicles and their parts and the unlawful disposition thereof can be significantly curtailed through the effective use of the facilities of the National Crime Information Center (NCIC) by both law enforcement and the state motor vehicle registrars working in concert;

(g) the cooperation and assistance of the automobile insurance industry is needed to develop insurance policies and automobile anti-theft campaigns at the local level which will help prevent motor vehicle theft by increasing citizen involvement and enhancing motor vehicle security systems;

(h) an increased vigilance by used motor vehicle dealers, motor vehicle dismantlers, recyclers and salvage dealers and motor vehicle repair and body shops is crucial to curtail their important industries from being used to facilitate crime through the disposition of stolen motor vehicles in whole or in part;

(i) the shippers and the operators of the nation's vessels, railroads, and aircraft must cooperate with the governmental regulations aimed at hindering the exportation of stolen motor vehicles; and

(j) the assistance and cooperation of our sovereign neighbors Canada and the Republic of Mexico are key ingredients necessary to aid us in our efforts to protect our citizens' property by limiting the opportunity for stolen motor vehicles to successfully enter their respective countries from the United States.

SEC. 102. The purposes of this Act are to:

(a) improve the locking devices for motor vehicles;

(b) improve the identification numbering systems for motor vehicles and their major components;

(c) increase the federal criminal penalties for those persons trafficking in stolen motor vehicles and their parts; and

(d) establish regulatory procedures to reduce the opportunity for the criminal to export stolen motor vehicles.

TITLE II—IMPROVED SECURITY FOR MOTOR VEHICLES AND THEIR PARTS

SEC. 201. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392), is amended by adding at the end the following new subsection:

"(j) Standards established by the Secretary under this section may include standards to reduce the theft of the motor vehicle and its parts by taking into account:

"(1) the cost of implementing the standard and the benefits attainable as a result of the implementation of the standard;

"(2) the effect of the implementation of the standard on the cost of automobile insurance;

"(3) savings in terms of time and inconvenience; and

"(4) considerations of safety.".

TITLE III—ANTI-FENCING MEASURES

SEC. 301. Chapter 25 of title 18 of the United States Code is amended by adding after section 509 the following new sections:

"§ 510. Altering or removing motor vehicle identification numbers.

"Whoever knowingly removes, obliterates, tampers with, or alters any identification number for any motor vehicle or part thereof required under regulations issued by the United States Department of Transportation shall be fined not more than $5,000 or imprisoned not more than five years or both.

"§ 511. Forfeiture of motor vehicles and their parts which have altered or removed identification numbers.

"(a) Any motor vehicle or motor vehicle part required to have an identification number pursuant to regulations issued by the United States Department of Transportation which has had such number removed, obliterated, tampered with or altered shall be forfeited to the United States.

"(b) Whenever any person interested in any motor vehicle or motor vehicle part seized under subsection (a) files, before the disposition thereof, with the head of the department which made the seizure a petition for the remission or mitigation of such forfeiture. the head of such department, or his delegate, if he finds that the violation that resulted in the forfeiture occurred without any recklessness on the part of the petitioner or without any intention on the part of the petitioner to violate the law or finds the existence of such mitigating circumstances as to justify remission or the mitigation of such forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just.".

SEC. 302. The chapter analysis of chapter 25 of title 18 of the United States Code is amended by adding at the end thereof the following:

"510. Altering or removing motor vehicle identification numbers.

"511. Forfeiture of motor vehicles and the parts which have altered or removed identification numbers.".

SEC. 303. Section 2311 of chapter 113 of title 18, United States Code, is amended by inserting in the definition of "Securities" immediately after the words "voting trust certificate;" the words "motor vehicle title until it is canceled by the state indicated thereon or blank motor vehicle title;".

SEC. 304. Chapter 113 of title 18 of the United States Code is amended by adding after section 2318 the following new section:

"S2319. Trafficking in motor vehicles or their parts which have altered or removed identification numbers.

"Whoever buys, receives, possesses, or obtains control of, with intent to sell, transfer, distribute, dispense or otherwise dispose of, any motor vehicle or part thereof knowing that an identification number required pursuant to regulations issued by the United States Department of Transportation has been removed, obliterated, tampered with, or altered shall be fined not more than $25,000 or imprisoned not more than 10 years or both.".

SEC. 305. The chapter analysis of chapter 113 of title 18 of the United States Code is amended by adding at the end thereof the following:

"2319. Trafficking in motor vehicles or their parts which have altered or removed identification numbers.".

SEC. 306. Section 1961(1) of chapter 96 of title 18, United States Code, is amended by:

(a) inserting immediately after the words "section 1955 (relating to the prohibition of illegal gambling business)," the words "sections 2312 and 2313 (relating to the interstate transportation of stolen motor vehicles),"; and

(b) inserting immediately after the words "sections 2314 and 2315 (relating to the interstate transportation of stolen property)," the words "section 2319 (relating to the trafficking in motor vehicles or their parts which have altered or removed identification numbers),".

SEC. 307. Section 3002 of chapter 30 of title 39 of the United States Code, is amended by:

(a) adding to the heading of section 3002 after the word "keys" the words "and manipulative devices";

(b) deleting the letter "(b)" following the word "subsection" as found in subsection (a) and inserting in its place the letter "(c)";

(c) redesignating subsections (b) and (c) to read as subsections (c) and (d), respectively;

(d) inserting immediately after "subsection (a)" as found in the redesignated subsection (c), the words "and subsection (b)";

(e) inserting a new subsection (b) to read as follows:

"(b) Except as provided in subsection (c) of this section any manipulative type device which is designed or adapted to operate, circumvent, remove, or render inoperable the ignition switch, ignition lock, door lock or trunk lock of two or more motor vehicles or any advertisement for the sale of any such manipulative type device is nonmailable matter and shall not be carried or delivered by mail."; and

(f) adding a new subsection (e) to read as follows:

"(e) Upon evidence satisfactory to the Postal Service that any person is engaged in a scheme or device for obtaining money or property through the mail by advertising or offering for sale any motor vehicle master key or manipulative device made nonmailable by this section, the Postal Service may issue an order of the same kind and with the same incidents as that authorized by section 3005 of this title.".

SEC. 308. The chapter analysis of chapter 30 of title 39 of the United States Code is amended by adding after the word "keys" in the heading of section 3002 the words "and manipulative devices".

SEC. 309. Section 1716A of chapter 83 of title 18 of the United States Code is amended by adding after the word "keys" in the heading of section 1716A the words "and manipulative devices".

SEC. 310. The chapter analysis of chapter 83 of title 18 of the United States Code is amended by adding after the word "keys" in the heading of section 1716A the words "and manipulative devices".

TITLE IV—IMPORTATION AND EXPORTATION MEASURES

SEC. 401. Chapter 27 of title 18 of the United States Code is amended by adding after section 552 the following new section:

"§ 553. Unlawful importation or exportation of stolen motor vehicles, vessels, or aircraft.

"(a) Whoever imports, exports, or attempts to import or export (1) any motor vehicle, vessel, aircraft or part of a motor vehicle, vessel or aircraft knowing the same to have been stolen or (2) any motor vehicle or part of a motor vehicle with the knowledge that its identification number has been removed, obliterated, tampered with or altered shall be fined not more than $10,000 or imprisoned not more than five years or both.

"(b) For purposes of this section, the term—

"(1) 'motor vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) 'vessel' has the meaning given to it in section 401 of the Tariff Act of 1930, as amended (19 U.S.C. 1041); and

"(3) 'aircraft' has the meaning given to it in section 101(5) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(5)).".

SEC. 402. The chapter analysis of chapter 27 of title 18 of the United States Code is amended by adding at the end thereof the following:

"553. Unlawful importation or exportation of stolen motor vehicles, vessels, or aircraft.".

SEC. 403. The Tariff Act of 1930, as amended, is amended by adding after section 624 (19 U.S.C. 1624) the following new sections:

"Sec. 626. Unlawful Importation Or Exportation Of Stolen Motor Vehicles, Vessels, Or Aircraft—Civil Penalty

"(a) Whoever imports, exports, or attempts to import or export (1) any stolen motor vehicle, vessel, aircraft or part of a motor vehicle, vessel, or aircraft or (2) any motor vehicle or part of a motor vehicle on which the identification number has been removed, obliterated, tampered with or altered shall be subject to a civil penalty, in an amount determined by the Secretary, which shall not exceed $5,000 for each violation.

"(b) Any violation of this section shall make such motor vehicle, vessel, aircraft or part thereof subject to seizure and forfeiture under this Act."

"Sec. 627. Inspection Of Used Motor Vehicles To Be Exported—Definitions

"(a) A person who exports or attempts to export a used motor vehicle must present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing that vehicle which includes the vehicle identification number, either before lading if the vehicle is to be transported by vessel or aircraft or prior to export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject the exporter to a penalty of not more than $500 for each violation.

"(b) For purposes of section 626 and this section, the term—

"(1) 'motor vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) 'aircraft' has the meaning given to it in section 101(5) of the Federal Aviation

Act of 1958, amended (49 U.S.C. 1301(5)); and

"(3) 'used' refers to any motor vehicle other than a new motor vehicle being exported by the original manufacturer or by such manufacturer's authorized agent.".

SEC. 404. The Tariff Act of 1930, as amended, is amended by adding after sections 588 (19 U.S.C. 1588) a new section 589 to read:

"Sec. 589. Additional Authority For United States Customs Service

"A customs officer, as defined in section 401(i) of this Act, as amended, may (1) carry firearms, execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under the authority of the United States and (2) make arrests without warrant for any offense against the United States committed in his presence or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such a felony.".

SEC. 405. Section 7607 of Subchapter A of chapter 78 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7607), is repealed.

SEC. 406. (a) Prosecutions for any violation of law occurring prior to the effective date of section 405 shall not be affected by the repeal made by such section or abated by reason thereof.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of section 405 shall not be affected by the repeal made by such section or abated by reason thereof.

SEC. 407. The table of sections for Subchapter A of chapter 78 of the Internal Revenue Code of 1954, as amended, is amended by striking out the words "Sec. 7607. Additional authority for Bureau of Customs." and inserting in lieu thereof the words "Sec. 7607. Repealed.".

TITLE V—REPORTING REQUIREMENTS

SEC. 501. (a) Within eighteen months after the date of the enactment of this Act the Attorney General, after consultation with the Secretaries of Agriculture, Commerce, Transportation and the Treasury, shall submit to the Congress a report on the developments in the area of vehicle identification of off-road motor vehicles. Included in the report shall be:

1. the progress being made by the various manufacturers of off-road motor vehicles to develop identification numbering systems effective in identifying such vehicles;

2. the effectiveness of the location and manner by which such identification numbers are affixed to the off-road motor vehicle by the manufacturer including the affixing of such number in a confidential location;

3. the degree to which the various manufacturers are reporting the characteristics of their numbering identification systems for off-road motor vehicles to the National Crime Information Center (NCIC) so that appropriate edit controls over entries and inquiries can be established by NCIC;

4. the establishment within the off-road motor vehicle industry of an industry wide unique identification numbering system;

5. the degree to which manufacturers of off-road motor vehicles have affixed unique identification numbers to the major components of the vehicle;

6. the degree to which manufacturers of off-road motor vehicles have established record systems which permit a cross-referencing between the identification numbers of the vehicle and those of the major components;

7. changes to the format and procedures of the National Crime Information Center to better deal with the theft of off-road motor vehicles and their major components;

8. the degree of cooperation of the various manufacturers of such off-road motor vehicles with the nation's law enforcement community to reduce the theft problem in this area;

9. the efforts being made by the owners of existing off-road motor vehicles to affix to such vehicles and the major components thereof an owner applied number (OAN);

10. the passage of any state laws relating to the titling or deeding of off-road motor vehicles;

11. the passage of any state laws which make it a state crime to remove, obliterate, tamper with or alter the identification number affixed by the manufacturers to any off-road motor vehicle or major component of such vehicle;

12. the passage of any state laws permitting the seizure by law enforcement for investigative purposes and possible forfeiture of any off-road motor vehicle or major component thereof which has had its manufacturers affixed identification number removed, obliterated, tampered with or altered.

(b) For purposes of this section, the term "off-road motor vehicle" means any self-propelled vehicle used or designed to run on land but not on rails which is used in the agricultural and construction industries. The term "major component" of an off-road motor vehicle also includes for purposes of this required report any attachment to such vehicle having an original retail value of $1,000 or more.

SEC. 502. On or before the first June 30 which occurs at least fifteen months after the enactment of this legislation and on or before each June 30 thereafter for the following four successive years, the Attorney General, in consultation with the Secretary of Transportation, the Secretary of the Treasury, and the Postmaster General, shall submit to the Congress a report on the implementation and development of Titles II, III, and IV of this Act and the effectiveness of said actions in helping to prevent and reduce motor vehicle related theft.

SECTION-BY-SECTION ANALYSIS OF THE MOTOR VEHICLE THEFT PREVENTION ACT OF 1978

Title I—Findings and Purposes

Section 101 makes a series of findings by the Congress.

Section 102 states the primary purposes of the legislation.

Title II—Improved Security for Motor Vehicles and Their Parts

Section 201 amends section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) by adding a new subsection which would give the Secretary of Transportation authority to issue standards whose purpose would be to deter motor vehicle related thefts. Currently, the National Highway Traffic Safety Administration (NHTSA), the agency which implements this Act, is limited to issuing standards with a clear safety benefit. The new authority would permit issuing anti-theft standards. Such new standards could require improving the locking devices for the ignition, doors, trunk, and hood of motor vehicles as well as identification numbering systems for certain key components of the motor vehicle in addition to the motor vehicle identification number itself.

The former would "harden" the motor vehicle and its parts against thefts primarily by the amateurs. The latter, when coupled with the exercise of the additional authority being sought by a separate proposed amendment to Section 402 of Title 23 of the United States Code (Highway Safety Act of 1966), would make it more difficult for the professional thieves to dispose of the stolen motor vehicle or its parts. The separately proposed amendment to the Highway Safety Act of 1966 was introduced in the second session of the 95th Congress as S. 2541 and H.R. 10656. This separate proposal would authorize the Secretary of Transportation to issue standards for the 50 states relating, among other things, to the theft prevention of motor vehicles by incorporating various measures in the national standards concerning the titling, registration, and inspection of motor vehicles and the licensing of salvage motor vehicle dealers by the respective states. Pursuant to section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. § 1392(d)) any federal standard issued in regard to component identification would preempt any such state legislation when the federal regulation became effective.

Title III—Anti-Fencing Measures

Section 301 creates a new federal offense in section 510 of title 18, United States Code, relating to the alteration and removal of motor vehicle identification numbers required by the Secretary of Transportation. New section 511 of title 18, United States Code would allow forfeiture to the United States of any vehicle or part which has its identification number altered, removed, obliterated, or tampered with. Section 511 is patterned after section 492 of title 18, United States Code relating to counterfeiting paraphernalia. At present the Department of Transportation has issued regulations relating to only a vehicle identification number (VIN). Under title II of this proposed legislation, it will be given regulatory authority to require identification numbers for key parts of the vehicle also. Consequently, after the enactment of Section 510 it would be a federal crime to remove or alter the VIN on any existing or future motor vehicle since such identification number is already required by Department of Transportation regulations. On the other hand, the removal or alteration of the identification number for certain components would only become a federal crime when such occurred after the effective date of a Department of Transportation regulation requiring an identification number for such component. Neither Section 510 nor 511 are intended in any fashion or manner to restrict or preclude the states from passing their own criminal laws relating to the removal or alteration of identification numbers affixed by the manufacturer to the motor vehicle and its components. The definition of "motor vehicle" for sections 510 and 511 is found in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. § 1391(3)).

Section 302 is self-explanatory.

Section 303 amends the definition of "Securities" in section 2311 of title 18, United States Code to specifically include motor vehicle titles. At present a fully executed motor vehicle title would qualify as a "security" under the provision "document evidencing ownership of goods, wares, and merchandise" in the definition of "securities" in section 2311 of title 18, United States Code. (See *United States* v. *Dickson*, 462 F. 2d 184 and *United States* v. *Canton*, 470 F. 2d 861.) However, a blank certificate, like a blank check, would not be a "security". Furthermore, to avoid the problem of when a motor vehicle title ceases to be a "security" it is felt necessary to expressly state when such character terminates. (see *United States* v. *Teresa*, 420 F. 2d 13.) In view of the fact that the regulatory scheme for vehicle retitling recommended by the Department of Transportation envisages the sending of old titles back to the state of original issuance, at the time of retitling, it is felt, for purposes of a possible prosecution under 18 U.S.C. 2314 involving a counterfeit title, that it should be clear that the title remains a title until it is canceled by the state of issuance. There is ample justification for federal prosecution in these situations. First, there is an interstate crime which by its nature normally causes problems if left solely to state prosecution. Secondly, the victim, i.e. the true owner of the vehicle, is in another state and the state which received the counterfeit title could be

less disposed to use its criminal resources to protect the property of a citizen of a different state. And finally, the situation involving counterfeit titles will almost always involve ring and organized criminal activity. The federal jurisdiction will be generated by the defendant presenting a counterfeit out-of-state title and asking for a new title. The defendant by his actions causes the interstate transportation of the counterfeit title when it is sent back to the state of original issuance.

Section 304 creates a new section 2319 to deal with traffickers in stolen motor vehicles or their parts which have had their identification numbers removed, obliterated, tampered with, or altered. The statute, consistent with the thrust of the present Dyer Act policy of the Department, requires that the illegal possession of such a vehicle or part include an intention on the part of the possessor to dispose of the vehicle or part. The language of the statute is patterned after that contained in proposed section 1732 of the new Federal Criminal Code (S. 1437) which relates to trafficking in stolen property. As such, it is aimed at the dealers and peddlers of such stolen items. The statute is not designed to reach an individual who possesses such a vehicle or part for his own personal use even where the individual knows that the vehicle or part's identification number has been removed, obliterated, tampered with, or altered. It is felt that those singular offenses, although certainly condemnable, should not inundate the Federal courts, which should concentrate on organized ring activity. The singular matter would be better handled by prosecution under appropriate state and local laws. The definition of "motor vehicle" for section 2319 is contained in section 2311 of title 18, United States Code.

Section 305 is self-explanatory.

Section 306 amends section 1961 of title 18, United States Code, commonly known as the RICO statute (Racketeer Influenced and Corrupt Organizations), to allow prosecution under this statute of those individuals and businesses which traffic in stolen vehicles and their parts. The presence of this coverage and a few prosecutions under it should have a significant deterrent impact upon those businesses engaging in the receipt and disposition of stolen vehicles and their parts.

Section 307 amends the Master Key Act (39 U.S.C. 3002) to prohibit the mailing of manipulative devices which are designed to open or make inoperable any of the locks on two or more motor vehicles. The provision also prohibits the mailing of any advertisement for such a device and authorizes the United States Postal Service to issue a mail stop order in an appropriate case. Violations of this section would be within the investigative jurisdiction of the United States Postal Service.

Sections 308–310 are self explanatory.

Title IV—Importation and Exportation Measures

Section 401 creates a new federal offense in section 552 of title 18, United States Code within the investigative jurisdiction of the United States Customs Service relating to the importation or exportation of stolen motor vehicles, vessels, aircraft and the parts thereof and the importation or exportation of motor vehicles and motor vehicle parts which have had their identification number removed, obliterated, altered or tampered with. The section also defines "motor vehicle", "vessel", and "aircraft". The section would obviously not be applicable to the importation or exportation of the conveyance or part by the lawful owner or his agent.

Section 402 is self-explanatory.

Section 403 creates two new sections in the Tariff Act of 1930. Section 626(a) subjects any individual who imports, exports, or attempts to import or export any stolen motor vehicle, vessel, aircraft, or parts thereof or any motor vehicle or motor vehicle part having its identification number removed, obliterated, tampered with or altered, to a civil penalty of $5,000 per instance. Section 626(b) makes any of the above described motor vehicles, vessels, aircraft or parts subject to seizure and forfeiture if they are imported or exported. This section would likewise not be applicable to the importation or exportation of the conveyance or part by the lawful owner or his agent. Section 627(a) authorizes the Secretary of Treasury to issue regulations concerning the exportation of used motor vehicles. Section 627(b) defines "motorvehicle", "aircraft" and "used" motor vehicle.

Section 404 creates a new section in the Tariff Act of 1930 giving Customs officers the same powers of arrest as presently possessed by other Federal law enforcement officials. Under current law a Customs officer has authority to make an arrest without warrant only for violations of the narcotic drug and marihuana laws under section 7607 of the Internal Revenue Code (26 U.S.C. 7607) and for violations of the customs or navigation laws or any law respecting the revenue under section 581 of the Tariff Act of 1930, as amended (19 U.S.C. 1581), where the violation is committed in his presence or where he has reason to believe that the person to be arrested has committed or is committing such violation. The Customs officer because of his strategic physical location is often able to detect fugitive felons entering the United States and violators of other Federal criminal laws such as the statutes prohibiting theft from interstate and foreign shipments (18 U.S.C. 659) and the interstate and foreign transportation of stolen property (18 U.S.C. 2312 and 2314). He cannot, however, under present law make an arrest in such situations. He must seek the assistance of another law enforcement official who has the proper arrest authority. This can be difficult depending upon the time of day and his geographical location. The present limited arrest authority for a Customs officer is inconsistent with the arrest authority provided other Federal law enforcement officials and hampers effective enforcement of Federal criminal laws. Section 404 of the bill corrects this deficiency and is in accord with section 3013 of S. 1437, the "Criminal Code Reform Act of 1977", which would likewise grant a Customs officer the same arrest authority possessed by other Federal law enforcement officials.

Section 405 repeals the provision in the Internal Revenue Code of 1954, as amended, giving Customs officers statutory arrest authority only for narcotic offenses.

Section 406 and 407 are self-explanatory.

Title V—Various Reports

Section 501 requires the Attorney General to file a report with Congress 18 months after the passage of the Act dealing with the growing problem of the theft of "off-road" motor vehicles in the agricultural and construction industries. The report will be prepared in consultation with the Secretaries of the Departments of Agriculture, Commerce, Transportation and Treasury. The section specifies those areas on which the Attorney General should report developments.

Section 502 requires the Attorney General to file with Congress a series of annual reports concerning the implementation and effectiveness of Titles II, III, and IV of the Act. The reports are to be prepared in consultation with the Secretary of Transportation, Secretary of Treasury, and the Postmaster General.

OUTLINE OF THE PROPOSED MOTOR VEHICLE THEFT PREVENTION ACT OF 1978

Title I. A series of findings and purposes are set forth.

Title II. The National Traffic and Motor Vehicle Safety Act of 1966 would be amended to give the Secretary of Transportation authority to issue regulations which would help prevent the theft of the motor vehicle, its major components, and its contents taking into consideration several factors.

Title III. Title 18 of the United States Code would be amended to:

(1) Make it a federal crime to alter or remove any motor vehicle or vehicle part identification number required by the Secretary of Transportation;

(2) Make any motor vehicle or vehicle part which has a removed or altered identification number required by the Secretary of Transportation subject to seizure and possible forfeiture;

(3) Amend the definition of "securities" in the National Stolen Property Act (18 USC 2311) to cover motor vehicle titles until cancelled by state of issuance;

(4) Make it a federal crime to traffic in motor vehicles or motor vehicle parts which have had their identification numbers required by the Secretary of Transportation removed or altered; and

(5) Amend the RICO statute (Racketeer Influenced and Corrupt Organizations—18 U.S.C. 1961 et seq.) to include as a racketeering activity trafficking in stolen motor vehicles and their parts. This would be done by incorporating the present Dyer Act (18 U.S.C. 2312/2313) and the new trafficking statute described above within the definition of racketeering activity.

The Master Key Act in Title 39, United States Code (39 U.S.C. 3002), would be amended to cover other manipulative devices designed to open, circumvent, or make inoperable any of the locks of two or more motor vehicles. This change would prohibit the mailing of both the device itself and any advertisement of such devices.

Title IV. The Secretary of the Treasury would be given authority to issue regulations concerning the exportation of used motor vehicles.

Title V. The Attorney General would prepare a report on the growing problem of the theft of "off road" motor vehicles (i.e. construction and farm equipment). The Attorney General would also advise Congress in a series of annual reports on the effectiveness of the Act.●

● Mr. PERCY. Mr. President, when most Americans think of the crime of automobile theft, they think of teenagers hotwiring a car and cruising down the nearest interstate until the car runs out of gas. The teenagers then abandon the car and try to hitch a ride home before their parents discover they are gone. The car is recovered, usually undamaged, and returned to the relieved owner the next day.

However, few Americans realize that the crime of automobile theft is no longer just a lark. The recalcitrant youth interested in thrills is being quickly replaced by the streetwise criminal who sees the opportunity to make big money at low risk. The stolen car is not recovered the next day: it is never seen again. Upward of $4 billion are lost to the consumer and taxpayer in stolen cars and enforcement efforts annually. Much of the losses wind up as unreported profits pocketed by organized crime. Like all of organized crime's profits today, these moneys are then used to buy into legitimate businesses, and to finance insidious narcotics, prostitution, and gambling operations.

The reason for this significant change in the crime of auto theft is the emergence of the "steal-to-order" auto parts

racket. The FBI says this nationwide operation is "the most lucrative, illegitimate business today."

The Justice Department estimates the national cost for automobile theft today is approximately $4 billion annually. With stakes so high, it is no wonder that organized crime is viciously fighting among its own ranks for the lion's share of the profits. In Chicago alone, at least 11 persons have been murdered reportedly because of their automobile theft activities. Almost all these murders have taken place in the last 3 years and none have been solved. The latest victim was discovered September 7, 1978, in an automobile trunk at Chicago's O'Hare International Airport parking lot. The victim had been shot once in the head and twice in the chest.

The impact on the consumer is overwhelming. One car is being stolen every 32 seconds in this country. And, auto theft coverage is skyrocketing nationally. In Chicago alone, automobile insurance rates were recently increased 16 percent. Delaware, a State that most of us consider safe, ranked 12th in the Nation in car theft in 1976. It had 484.4 cars stolen per 100,000 inhabitants, compared with the national average of 446.1.

Without Federal law enforcement assistance and new legislation to deal with the emerging "chop shop" syndrome, local police are stymied in their efforts to curb its escalation both in terms of numbers and profits.

In response to the alarming trend in motor vehicle theft, the Federal Interagency Committee on Auto Theft Prevention was formed in March 1975. The Committee consists of representatives of the Office of Management and Budget, and the Departments of Transportation, Justice, State, Treasury, and Commerce. Its goal is to reduce motor vehicle theft by 50 percent by 1980. It was determined by the Committee that the Federal law enforcement agencies, as well as State and local police units, lacked even the minimal enforcement tools needed to deal with these highly sophisticated and well-organized operations which are closely linked to organized crime.

Consequently, the Committee drafted legislation which aggressively attacks the problem. Title II is the backbone of the bill. It requires automobile manufacturers first, to install more secure locking systems, and second, to place vehicle identification numbers (VIN) on all principal body parts. The first provision will make it much more difficult to steal a car. The second provision will facilitate identification, dramatically reducing the marketability of the stolen body parts. If police officers suspect a body part is stolen, all they would have to do is check the identification number on the part to determine if it came from a stolen auto.

The bill also provides for:

Making it a Federal offense, punishable by a $5,000 fine or 5-year imprisonment, or both, to alter the VIN. Professional "chop shop" operators could be fined $25,000 or imprisoned 10 years, or both.

Amending the National Stolen Property Act to include vehicle titles, so as to restrain fraudulent titling schemes.

Expanding the racketeering influenced and corrupt organizations (RICO) statute to cover "chop shop" operations. Those individuals who traffic in stolen vehicles and their parts could have their businesses seized by Federal authorities, and forfeited.

Prohibiting the sale or advertisement of devices used to break into automobiles.

Permitting the U.S. Custom Service to arrest individuals attempting to export a stolen auto. Currently, Customs agents can only arrest narcotics or navigation law violators.

Giving authority to the Secretary of Treasury to issue regulations to make it more difficult to export stolen motor vehicles.

Directing the Attorney General to conduct a comprehensive study of the growing theft of agricultural and construction equipment.

The Senate Permanent Subcommittee on Investigations has recently held important hearings into organized crime activities and will continue to do so. We have seen some significant patterns in organized crime activity. For example, time and again, we have seen organized crime find new sources of revenue in nontraditional areas.

In the case of the recent, highly professionalized auto theft operations, this legislation would provide the means necessary to thwart the professional automobile thieves and organized crime elements. Placement of identification numbers on various sheet metal parts is reliably estimated to cost the manufacturer no more than $5. This is a small price to pay to deter these criminals and deny them illicit profits. Elimination of these stolen car operations would save American consumers billions of dollars annually in reduced insurance and police enforcement costs.

As Americans continue to drive in greater numbers, and as the need for automobile transportation increases because of urban sprawl, professional auto theft will surely continue to grow exponentially if left unchecked. Through the Motor Vehicle Theft Prevention Act of 1978, we have an opportunity to provide our law enforcement agencies with the means to successfully fight organized crime. All that remains is for the Congress to implement this well-targeted plan.●

● Mr. THURMOND. Mr. President, I am pleased to co-sponsor the Motor Vehicle Theft Prevention Act of 1978 today introduced by my distinguished colleague, Senator BIDEN.

Mr. President, this legislation is in response to a serious national crime problem. In 1976, thefts of motor vehicles, their contents and accessories, constituted nearly half of all larcenies reported to law enforcement agencies, constituting a cost to the public of over $2 billion. Motor vehicle theft is no longer restricted to large metropolitan areas. In 1976, South Carolina had an automobile theft rate of 250.9 thefts per 100,000 inhabitants. The cities of Charleston and Columbia had theft rates per 100,000 inhabitants of 377.5 and 346.8 respectively. The national average was 446.1 thefts per 100,000 inhabitants with some States as high as 1,312 thefts per 100,000 inhabitants.

Over the last 15 years, motor vehicle theft has evolved more and more into a professional crime. Highly organized criminal rings have developed sophisticated distribution systems whereby the vehicles are disassembled and sold in component parts in the legitimate market for the repair of damaged vehicles. Often the ring has a legitimate business which is used as a "front" for the operation, making detection even more difficult. Many vehicles or their component parts are shipped out of the United States. As a result, value recovery rates have plummeted from over 90 percent of all on road motor vehicles stolen in the early 1960's to 59 percent in 1976.

This bill will aid law enforcement officials and deter thefts by requiring certain key components of the vehicle to be encoded within an identification numbering system which will enable parts to be traced after disassembly.

The bill also provides authority for the Secretary of the Treasury to issue regulations concerning the exportation of used motor vehicles. These provisions complement sections of the bill which strengthen the Federal criminal laws as they pertain to professional motor vehicle theft.

The problem with off road vehicles is even more severe. Although no studies have been made of the precise demensions of the problem, it is known to be extensive. The recovery rate for off road vehicles is only 5 to 10 percent of value. To further compound the situation, expensive agricultural and construction vehicles are often required to be left at remote work sites.

This bill authorizes the Secretary of Transportation to adopt antitheft standards for motor vehicles which will require stronger locking systems to deter motor vehicle and related thefts. This will be of particular benefit in combating thefts of vehicles required to be left in isolated areas.

At a time when skyrocketing housing costs are prohibiting many families from realizing the American dream of owning their own home, thefts of valuable construction vehicles force prices even higher as contractors must buy replacements and costs are passed onto the consumer.

At a time when the American farmer is struggling for financial survival, the theft of a farm vehicle costing thousands of dollars can be disastrous.

At a time when the American taxpayer is drastically overburdened with taxes, the theft of Federal and State-owned heavy construction and maintenance vehicles, each costing tens of thousands of dollars, is pushing taxes even higher.

Mr. President, the time for legislative action has come. I welcome the support of my colleagues and look forward to the prompt enactment of this measure.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Motor Vehicle Theft Prevention Act of 1978 introduced by the Senator from Delaware (Mr. BIDEN) be referred jointly to the

Committee on the Judiciary and the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 3414

At the request of Mr. WALLOP, the Senator from Montana (Mr. MELCHER), the Senator from Tennessee (Mr. BAKER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3414, a bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

S. 3425

At the request of Mr. HATHAWAY, the Senator from New Hampshire (Mr. DURKIN) and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 3425, the Community Mental Health Assistance Act.

S. 3496

At the request of Mr. BAYH, for the Senator from Kansas (Mr. DOLE) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 3496, the Small Business Nonprofit Organization Patent Procedures Act.

S. 3503

At the request of Mr. SASSER, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 3503, to amend certain provisions of the Tennessee Valley Authority Act of 1933, relating to the charge rates for power of the Tennessee Valley Authority.

S. 3506

At the request of Mr. HATHAWAY, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3506, a bill to expand participation in the PSRO's program.

S. 3508

At the request of Mr. HATHAWAY, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 3508, a bill to add homemaker services as a home health benefit under Title 18 of the Social Security Act.

SENATE RESOLUTION 534

At the request of Mr. HART, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of Senate Resolution 534, regarding social security financing.

AMENDMENT NO. 3658

At the request of Mr. MUSKIE, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of amendment No. 3658 intended to be proposed to S. 2, the Program Reauthorization and Evaluation Act of 1978.

SENATE RESOLUTION 570—SUBMISSION OF A RESOLUTION TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. WILLIAMS (for himself and Mr. PROXMIRE) submitted the following resolution, which was referred to the Committee on the Budget:

SENATE RESOLUTION 570

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(c) of such Act are waived with respect to consideration of S. 50, a bill to establish and translate into practical reality the right of all adult Americans able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to combine full employment, production, and purchasing power goals with proper attention to balanced growth and national priorities; to mandate such national economic policies and programs as are necessary to achieve full employment, production, and purchasing power; to restrain inflation; and to provide explicit machinery for the development and implementation of such economic policies and programs, and for other purposes. Such a waiver is necessary because, while the bill as reported authorizes no new programs or activities other than studies, analyses, reports and reviews by existing entities of the Executive Branch and the Congress, it contains in section 403 a technical authorization of such sums as may be necessary for these purposes, and because the date specified in section 402(a) of the Congressional Budget Act of 1974 for reporting authorizations for fiscal 1979 has passed.

S. 50 was ordered reported prior to such date by the Committee on Human Resources, to which the bill had been referred jointly with the Committee on Banking, Housing, and Urban Affairs, but could not be reported to the Senate without the concurrence of the latter committee. Because of the complexity of the legislation and the need for its thorough consideration, the Committee on Banking, Housing, and Urban Affairs was unable to complete consideration of the bill before the reporting date specified for authorizations in such section 402(a). The practical budget impact of S. 50 would be negligible, and its consideration would not significantly affect the congressional budget nor delay the appropriations process.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF ENERGY CIVILIAN PROGRAM AUTHORIZATIONS, 1979—S. 2692

AMENDMENT NO. 3665

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT (for himself, Mr. BELLMON, Mr. BENTSEN, Mr. CURTIS, Mr. DOLE, Mr. DOMENICI, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HATCH, Mr. MARK O. HATFIELD, Mr. HELMS, Mr. LAXALT, Mr. LUGAR, Mr. MCCLURE, Mr. MELCHER, Mr. SCHMITT, Mr. SCOTT, Mr. STEVENS, Mr. TOWER, and Mr. WALLOP) submitted an amendment intended to be proposed by them, jointly, to S. 2692, a bill to authorize appropriations for the civilian programs of the Department of Energy for fiscal year 1979, and for other purposes.

FEDERAL PUBLIC TRANSPORTATION ACT—S. 2441

AMENDMENT NO. 3666

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to S. 441, the Federal Public Transportation Act of 1978.

AMENDMENT NO. 3667

(Ordered to be printed and to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to S. 2441, supra.

EQUAL RIGHTS AMENDMENT DEADLINE EXTENSION—HOUSE JOINT RESOLUTION 638

AMENDMENTS NOS. 3668 THROUGH 3673

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted six amendments intended to be proposed by him to House Joint Resolution 638, a joint resolution extending the deadline for the ratification of the equal rights amendment.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PARKS AND RECREATION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of two public hearings before the Subcommittee on Parks and Recreation of the Committee on Energy and Natural Resources.

The hearings are scheduled for October 3 and October 5. Both hearings will begin at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

The hearing of the 3rd will be on S. 2866, a bill to provide for the establishment of the New River Gorge National River in the State of West Virginia. The hearing scheduled for the 5th will be on S. 3429, a bill to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana.

For further information regarding the hearings, you may wish to contact Ms. Suzan Fetchko at 224–7146.

Those wishing to testify or who wish to submit a written statement for the record should write to Subcommittee on Parks and Recreation, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES

● Mr. JACKSON. Mr. President, the hearing scheduled for October 2, 1978 by the Public Lands and Resources Subcommittee of the Senate Committee on Energy and Natural Resources on the implementation of the Surface Mining Act has been postponed subject to the call of the Chair. Anyone having questions on this matter should contact R. D. Folsom, Subcommittee Counsel, at 224–0611.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate today, beginning at 1:30 p.m., to hold a markup session on S. 2094, a bill to amend the jurisdiction of Federal courts in the di-

versity of citizenship cases, and other committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC ASSISTANCE SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, this request was cleared with the minority on yesterday and, through inadvertence, I failed to get consent.

I ask unanimous consent, retroactively, that the Public Assistance Subcommittee of the Committee on Finance be authorized to have met during the session of the Senate yesterday beginning at 5 o'clock p.m. to hold a hearing on H.R. 12972 and H.R. 10848, legislation relating to the disability program of supplemental security income.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, another unanimous-consent request that I inadvertently failed to get today: I ask unanimous consent, and this has been cleared on both sides, that the Committee on Energy and Natural Resources be considered as having been authorized to meet during the session of the Senate today to mark up the Alaska d-2 land legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GROWTH OF GOVERNMENT BUREAUCRACY

● Mr. SASSER. Mr. President, I think most Members of the Senate share my concern with the growth of Government bureaucracy. Many of us believe that with this growth has come increasing insensitivity by some departments and agencies of the Federal Government. I would like to bring to the attention of my colleagues one Government department which is attempting to take action contrary to the best interests of many sections of our country.

On June 22, the Department of Commerce published proposals which would change the criteria for designation of standard metropolitan statistical areas (SMSA's). Officials in the Department of Commerce drafted these regulations and printed the proposals in the Federal Register without consulting elected officials from the affected areas. For instances, I was contacted although the proposals could affect four SMSA's in Tennessee: Tri-Cities, Chattanooga, Knoxville, and Nashville. I have spoken with a number of my colleagues in the Senate and the House, and apparently not a single Member of Congress was told the Department's proposals were to be published or that these proposals would affect their States and districts.

Once these proposals were printed, I received many letters from my constituents protesting this proposed action by the Department of Commerce. On two occasions I have written the Department's Office of Federal Statistical Policy and Standards outlining the concerns of my constituents. Today I have written to the Secretary of Commerce urging that she personally review this situation and halt further consideration of these proposals at this time.

Mr. President, I cannot understand the rush to effect these changes since these proposed changes would not go into effect until after the 1980 census has been taken. Changes in the SMSA criteria should be proposed after the 1980 census is taken—not now. It escapes me how the Federal Committee on Standard Metropolitan Statistical Areas can possibly draft a relevant criteria change before the raw data from the 1980 census is available.

These proposed changes could have an extremely detrimental impact on the affected SMSA's. SMSA designation has a great deal to do with the flow of Federal funding into various parts of the country. In addition, it helps SMSA's attract business and industry, and relates to advertising rates.

These untimely proposals, drafted without the consultation of elected officials or affected communities, should not be permitted to go into effect. I hope the Secretary of Commerce will direct that further action on these proposals be deferred.●

HART SENATE OFFICE BUILDING

● Mr. GARN. Mr. President, I was pleased to join yesterday with Senator CHARLES PERCY and others in introducing Senate Resolution 569 expressing the sense of the Senate with regard to modifications in the architectural design of the proposed new Hart Senate Office Building.

I am sure that I do not need to draw my colleagues' attention to the great public outcry that has risen all across this country regarding the grandeur and opulence of the proposed new palatial quarters for the U.S. Senate. Since the issue was drawn to the public attention by the efforts of the distinguished Senator from Rhode Island, Senator CHAFEE, efforts which I was pleased to support, my own mail has dramatically demonstrated the concern of the taxpayers over what they consider to be an extravagant and unnecessary use of their tax dollars.

As you know, those efforts failed in the Senate, but were revived in the House of Representatives, where the proposed additional funding was deleted. However, the plans for the new building remain unaltered. It is the intent of this resolution to remedy that situation.

Mr. President, I know that the reason many of our colleagues supported the additional funding for the Hart Building was based on the incredibly overcrowded working conditions in which all of us are forced to operate. That our offices are overcrowded and our working conditions, especially those of our staff, are difficult, cannot be disputed. If one considers the increased demands on congressional staff, as Members are asked to do more and more for constituents and as the Congress exercises its oversight responsibilities to an unprecedented degree, it might well be that the dramatic increase in the numbers of congressional staff members in recent years is justified. But, Mr. President, there has got to be a limit. No additional office space should be justified in order to make room for even more staff. Only if added space will provide an improved working environment and thereby increase the efficiency of existing staff can that space be justified. Certainly, if one accepts the justification for more space, there can be no justification for the elaborate and expensive facilities proposed in the present design for the Hart Building.

We do not need luxury, Mr. President. We need utilitarian, efficient working space. We do not need a fancy new dining room, for the exclusive use of Senators; we do not need a new gymnasium or ornate interior decor. Most of us would be delighted to have an extra storage closet, let alone a marble mausoleum.

This resolution makes it very clear what the intent of the Senate is in allowing the construction of the Hart Building to proceed. It specifies certain aspects of the design that should be altered, and charges the Architect of the Capitol to make a general review of the building design, with a view toward eliminating unnecessary frills and expense. It also expresses the sense of the Senate regarding the use of existing office space. There is no question that the space we now have could be utilized better, and this resolution further directs that an examination be made in this regard.

My own preference would have been to avoid the tremendous costs of constructing a new office structure. That option, however, appears now to be closed to us. We will have a building. Given that situation, I feel compelled to support this resolution which attempts to make the best of a bad situation.

I encourage my colleagues to join in supporting this proposal. We must let the American people know that we have heard their concerns, and are responsive to them, to the best of our ability under the present circumstances. This resolution represents the only responsible course for us to take, and I urge its rapid consideration and adoption.●

THE MISSING CREW OF THE LOBSTA I

● Mr. PELL. Mr. President, on Saturday afternoon, a passing oil tanker discovered the capsized hull of a Rhode Island lobster fishing vessel, the *Lobsta I*, 54 miles south of Point Judith, R.I. Today, despite an intensive search by the Coast Guard, no sign has been found of the captain and four crew members. The hull apparently has sunk in about 240 feet of water.

The most urgent task at this time, Mr. President, is to insure that the search for missing men is pressed as hard as possible. I have today urged the Coast Guard to continue the search.

I know the misery and the anguish being suffered by the families of the missing men, and I know that my colleagues join me in sending our deepest sympathy to the families and friends of Capt. Stephen Hoyt,, and the crew members, David Patty, Bradford Williams, Stephen Stickley, and Nigel Allan.

At this time, Mr. President, what happened to the *Lobsta I* remains a mystery. She left Galilee, R.I., on Friday night. No distress calls were heard between that

time and the sighting of the capsized hull on the next afternoon. The weather was good, the seas were calm, and the *Lobsta I* was a modern, steel-hulled, 76-foot vessel in excellent condition.

On Monday, I personally asked the Coast Guard, in addition to its search efforts to conduct an investigation of the possibilities of a collision or ramming of the vessel, to include an examination of the *Angela F*, a Greek-registered tanker which reported sighting the hull and which subsequently left the scene en route to its scheduled port of call in the Virgin Islands.

The Coast Guard has informed me that personnel of the *Angela F* will be interviewed to see if they can provide additional information that would be helpful.

In light of the unusual circumstances surrounding this apparent tragedy, I believe the Coast Guard should take every possible step to determine both the fate of the men who are still missing, and what happened to the *Lobsta I* between the time she left her Rhode Island port on Friday night and the time her hull was sighted on Saturday afternoon.●

LATIN AMERICAN REGIONAL ARMS RESTRAINT

Mr. SPARKMAN. Mr. President, on August 4 of this year, I wrote to Secretary of State Vance expressing my concern about the willingness of the executive branch to sell $220 million worth of Vulcan/Chaparral air defense equipment to Ecuador. As I informed Secretary Vance:

> This sale was of concern because of its size; because of its possible implications for spurring an arms race among the traditional rivalries in the Andean region; and because it comes at a time when several Latin American nations have expressed renewed interest in regional arms control arrangements.

In Secretary Vance's absence, Acting Secretary of State Warren Christopher responded to my inquiry on September 22. The response emphasizes that the Vulcan/Chaparral system is purely defensive in nature; that the sales offer is consistent with our policy efforts designed to restrain arms exports to the Western Hemisphere region; that the administration is optimistic about the establishment of an effective conventional arms control regime for the region and that the United States is ready, willing and able to help the nations of Latin America establish such a regime.

Mr. President, I am glad to have this restatement of the administration's policy in support of Latin America's efforts to place effective constraints on the flow of conventional weapons to the Western Hemisphere. I believe Secretary Christopher's letter serves to reinforce our commitment to this goal and I ask to have my letter of August 4 and Secretary Christopher's letter of September 22 printed in the RECORD.

The letters follow:

U.S. SENATE,
Washington, D.C., August 4, 1978.

HON. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: During the past month, the staff of the Foreign Relations Committee has had an opportunity to review the proposed sale of $220 million worth of air defense equipment for Ecuador. This sale was of concern because of its size; because of its possible implications for spurring an arms race among the traditional rivalries in the Andean region; and because it comes at a time when several Latin American nations have expressed renewed interest in regional arms control arrangements.

Thus, despite the defensive nature of the proposed sale, I remain concerned about it and, in particular, its potential impact on Latin American initatives to control the flow of conventional weapons to the region. As you know, on June 22 eight Latin American nations, including Ecuador, met in Washington to sign a declaration of intent reaffirming their pledge to develop effective arms control restraints. The sale in question was transmitted to Congress only four days after the declaration was signed. Obviously, the decision by the Executive Branch to make the sale antidated the issuance of the declaration.

In view of these circumstances, I would appreciate a restatement of the Department's position with respect to arms sales to Latin America. In providing the Committee with such a statement, I would appreciate your addressing the following questions: Does the United States fully and unequivocally support the Latin American initiative on conventional arms control limitations as evidenced by the declaration recently signed in Washington? When the eight countries which signed this declaration meet again later this summer what, if anything will be the U.S. contribution to their efforts? Have we approached other arms suppliers, including the Soviet Union, in an effort to gain their support for this arms control initiative? Are additional significant U.S. arms sales to Latin America expected in the near future?

I appreciate your consideration of this matter and I look forward to hearing from you about it.

Sincerely,

JOHN SPARKMAN,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., September 22, 1978.

HON. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to thank you for your letter of August 4 concerning the proposed sale of the Vulcan/Chaparral air defense missile system to Ecuador and the relationship of that sale to U.S. arms transfer policy in the hemisphere and to regional arms transfer restraint initiatives.

President Carter has made restraint a major component of United States conventional arms transfer policy. In an effort to encourage multilateral restraint, we have approached both recipients and suppliers, including the Soviet Union. We have met three times with the Soviets and are tentatively scheduled to meet again in December.

In furtherance of this policy, we fully support arms transfer restraint initiatives in Latin America. Just as we expressed our strong support for the objectives set forth in the Declaration of Ayacucho when it was first announced in Deecmber 1974, so the United States welcomed the signatories' reaffirmation of their commitment in June of this year. And, in his speech to the Organization of American States in June, President Carter emphasized to the nations of the hemisphere that the United States stands ready to support this and other efforts aimed at the development of a regional conventional arms restraint regime.

We have reiterated President Carter's message through diplomatic channels and made known our readiness to contribute, through assistance by U.S. specialists or provision of data and analyses, to future Latin American meetings on this subject—should our contribution be desired. In addition, in our approaches to other arms suppliers, including the Soviet Union, we have sought support for this arms control initiative. The Department of State is also studying the feasibility of other ways in which we could support Latin American arms restraint proposals. We are optimistic that, given time, an effective arms transfer restraint regime in the Western Hemisphere can be achieved.

We do not view the proposed sale of the Vulcan/Chaparral air defense missile to Ecuador as inconsistent with our commitment to arms restraint or with the Ayacucho initiative. We believe the justification, emphasizing Ecuador's defense needs, which we submitted at the time the Congress was notified of the proposed sale, remains valid. Because Vulcan/Chaparral is a purely defensive system, and consequently does not pose any threat to Ecuador's neighbors, we do not believe its acquisition by Ecuador will contribute to or initiate an arms race in the region. We believe Ecuador will have a better chance to make successful transition from military to democratic rule and will be more likely to participate in meaningful arms restraint agreements if it is confident that its legitimate defense needs have been met.

A letter formally offering the missile system to Ecuador was delivered to the Ecuadorean Embassy on August 2. The Ecuadorean government has until October 31 to decide whether to purchase the system. No other major U.S. arms sales to Latin America are currently being negotiated or considered by the U.S. Government. Should a major request be received, a variety of policy considerations, including the impact of the proposed sale on the arms restraint initiatives, will determine our response.

I hope this clarifies the Administration's arms transfer restraint policy in the hemisphere and places the Vulcan/Chaparral sale to Ecuador in perspective. If you have any further questions, please let me know.

Warm regards.

Sincerely,

WARREN CHRISTOPHER,
Acting Secretary.

DEEP SEABED MINERAL RESOURCES ACT

● Mr. ABOUREZK. Mr. President, the Congress is called upon increasingly often to consider legislation which is international in scope. Some say that even the natural gas bill, which does little more than increase the price of domestic gas is really a piece of international monetary policy.

Despite this broadening impact of our actions, we have not examined whether our usual means of doing business is sufficient to cover this new dimension. Each Member of Congress represents a variety of interests, with one or another dominant on a given issue. This process usually yields some sort of concensus that serves the larger interest, and everyone goes home satisfied that we have policies which will endure because they benefit everyone's long-term interest.

But how are the interests represented when the issue goes beyond the boundaries of our country? How are 536 legislators from a single country to know what is good international policy? How are we to avoid mistaking the self-interest of a few transnational businesses as our national interest? And how are we to arrive at good international policy where no other nations are represented?

All of these questions occur powerfully in the case of the Law of the Sea. Questions of military and commercial navigation, fisheries, pollution control, and deep sea mining are the concerns of all nations and, while nation's interests may vary on each of these, the need for a comprehensive and stable resolution is an interest shared by all.

Several nations have been meeting since 1970, and regularly since 1974, to see whether we can do by an international treaty arrived at through inclusive negotiations what would be impossible otherwise. The Law of the Sea Conference has been able to reach accord on most provisions of an agreement which links all ocean issues in a consistent and comprehensive way. This is promising not only as a structure for developing good international policy, but also as a means for agreeing on the difficult question of access to the ocean's mineral resources. The question of access to these mineral resources is one which can be resolved properly only in an international forum.

We should expect progress on this issue to be slow: it is not only a physical frontier, but a frontier in international cooperation. But the success of the Law of the Sea Conference so far seems to indicate that the nations of the world are capable of meeting this challenge—if only their work is not undermined. The great progress in creating an international forum, and in crafting a comprehensive and durable law of the sea would be lost if private groups in any country succeed in getting their interests attended to unilaterally.

Such an effort is underway in the United States right now, where it takes the form of legislation to promote ocean mining activities of a few multinational corporations based in the United States—Kennecott Copper United States Steel, International Nickel Co., and Lockheed are included. These corporations want legislation to preserve and protect any advantages they may gain prior to the adoption of any international agreement.

This would obviously jeopardize the achievement of any treaty in the first place. The companies expect to obtain legislation that would be more generous to them than the likely treaty would be, so they would increase their efforts to prevent a treaty accord once they succeeded in obtaining legislative assistance.

Second, there is no reason to take any action at this time, since the international market for nickel, copper and other minerals likely to be the fruits of seabed mining is currently suffering from oversupply.

ARGUMENTS AGAINST THE PASSAGE OF THE DEEP SEABED MINERAL RESOURCES ACT

The Deep Seabed Mineral Resources Act (S. 2053) would create the legal and administrative machinery for the Federal Government to license U.S. corporations to mine manganese nodules in international waters. It would set up a system for: First, granting Federal licenses for exploration and permits for mining; second, recognizing "reciprocating states"—that is, other nations—that proceed to regulate seabed mining in a manner similar to the United States, and third, protecting the investments of the mining corporations from the impact of a law of the sea (LOS) treaty should the United States become party to such a treaty at some future date.

The major criticisms of this legislation are set forth below:

First, it is special interest legislation.

The primary purpose of this legislation is to promote the exploitation of the deep seabed by a small number of very large corporations. Four international consortia, three of which are dominated by U.S. companies which include Kennecott, Copper Corp., United States Steel, Sun Oil, and Lockheed, are preparing to mine in international waters for manganese nodules at depths of 15,000 feet or more. These nodules contain potentially valuable deposits of nickel, copper, and cobalt, as well as manganese. However, current market conditions dictate that commercial recovery of these minerals will not become economically feasible before 1986. Nevertheless, these special interests wish to secure Government sanction of their activity now in order to control the U.S. negotiations at the U.N. Law of the Sea Conference (UNCLOS). Passage of this legislation would virtually obligate our representatives at UNCLOS to maintain a narrow, special interest bargaining position on the deep seabed mining issue, even if a more flexible approach could lead to concessions to the United States on other equally important issues. This obligation would arise out of the so-called grandfather rights contained in title II of the bill, which is, in the view of the mining companies, the key provision of this legislation.

But even if all grandfather rights were eliminated, problems would remain. As long as this legislation places less burdens on the companies than an anticipated LOS treaty, the companies can be expected to use their power to sabotage the treaty process. Kennecott is in an especially advantageous position in this respect, having hired as a lobbyist the former chief negotiator on the seabed mining issue. This Kennecott employee has been serving as a "public advisor" to the U.S. delegation at UNCLOS.

Second. It jeopardizes the achievement of an international agreement on the world's oceans.

Since 1970, the United States has been participating in the Third U.N. Conference on the Law of the Sea. This is an unprecedented attempt at international cooperation involving 150 nations. Meeting for less than 2 months a year since detailed negotiations began in 1974, the participating states have reached tentative agreement on the breadth of the territorial sea, the legal status of the economic resource zone, the rights of states in that zone, transit through international straits, conservation of fisheries, protection of the marine environment, promotion of scientific research, and methods of settling disputes.

All of this is now in jeopardy due to the threatened unilateral action by the United States on seabed mining. Although the administration initially opposed such unilateral action for fear it would have irreparable effects on UNCLOS, lately Ambassador Elliot Richardson has been supporting legislation on the grounds that it will give him "leverage" in negotiations with the developing countries. Judging from recent news reports, however, the initial administration position was correct. Even Ambassador Richardson admits that the threatened U.S. action has been negative on the session that began August 21.

Much of this negative impact stems from the fact that by proceeding with unilateral legislation, the United States would be acting in violation of a 1970 U.N. resolution declaring the international seabed to be the "common heritage of mankind". "The seabed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction * * *, as well as the resources of the area, are the common heritage of mankind. The area shall not be subject to appropriation by any means, by states or persons * * * and no State shall claim or exercise sovereignty or sovereign rights over any part thereof." This statement of the "common heritage" principle was signed by 108 nations, including the United States, and became the basis for convening the Third UNCLOS. It is apparent that if the United States now acts unilaterally it will be reneging on a fundamental building block of UNCLOS, and the prospect of achieving a successful treaty will very likely be doomed.

Third. It is unnecessary.

Proponents have asserted that this legislation is needed to avoid imminent shortages of important minerals, either through depletion of land-based resources or through OPEC-like cartel action. The Department of Defense has analyzed the size of world reserves of each of these minerals, and has found that, at the 1976 annual rate of production, cobalt will not be depleted for at least 40 years; copper, 62 years; manganese, 220 years; and nickel, 69 years. "In sum," says Assistant Secretary McGiffert, "from a DOD point of view, we see no immediate need for mineral resources from deep seabed mining. By contrast, there are vital U.S. defense interests that would be served by a satisfactory LOS treaty."

The feasibility of cartel action for each mineral has been investigated by Richard Raymond, assistant director of the ocean policy project at Johns Hopkins School of Advanced International Studies. He found that:

> The existence of diverse producers, the elasticities of demand for and supply of the four minerals, and the implausibility of export discipline and policy cohesion among producers argue strongly against the possibility of sustained influence over the international market in any of the four minerals found in manganese nodules.

In brief, shortages are not imminent, and thus there is no immediate need to pass this legislation.

Fourth. It exempts the mining companies from effective antitrust safeguards.

The legislation provides for "antitrust review" by the Federal Trade Commission and the Department of Justice prior to the issuance or transfer of a license or permit. However, the Secretary of the agency responsible for promoting the industry is given the authority to reject the recommendations of Justice or the FTC.

Even this toothless "review" does not apply to the modification, revision, or renewal of licenses or permits.

Fifth. It excludes citizens from participating in vital regulatory actions.

The legislation provides for the determination of the terms, conditions, and restrictions of a permit or license; the modification, suspension, revocation, or renewal of a permit or license, and the amendment of regulations, all without comment or participation by the public. Not even the most rudimentary form of notice and comment has been provided for in those sections, let alone the additional requirement that an evidentiary hearing be held to resolve issues of fact.

Furthermore, by adopting a restrictive provision regarding the public disclosure of information, rather than referencing the Freedom of Information Act, the legislation denies citizens information needed to comment fully and effectively on administrative decisions.●

THE TREATY OF TLATELOLCO

● Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations has been considering Additional Protocol I to the Treaty for the Prohibition of Nuclear Weapons in Latin America, also known as the Treaty of Tlatelolco. The protocol was transmitted to the Senate by the President on May 24, 1978.

The Treaty for the Prohibition of Nuclear Weapons in Latin America established the first nuclear free zone in any populated region in the world. Twenty-two Latin American States have become party to the treaty since it was opened for signature in February 1967. The Latin American parties to the treaty are obligated to prohibit in their respective territories the manufacture, testing, use, storage, deployment, or possession of nuclear weapons, whether by the parties themselves or by anyone else. In addition, parties are prohibited from engaging in nuclear weapons activities anywhere in the world.

Although non-Latin American nations are not eligible to join the treaty itself, a number of nations are eligible to adhere to Additional Protocols I and II, which were agreed upon together with the treaty. Protocol II, which applies to nuclear-weapon states, obligates those states to respect the nuclear free zone, not to contribute to any treaty violations, and not to use or threaten to use nuclear weapons against parties to the treaty. Protocol II was ratified by the United States on May 12, 1971, pursuant to Senate advice and consent to ratification. France, the People's Republic of China, and the United Kingdom also have ratified Protocol II. The Soviet Union signed Protocol II on May 19, 1978, but has not yet ratified.

Protocol I, which is now under consideration, was transmitted by the President on May 24, 1978. The President has asked that the Senate give its advice and consent to ratification with the same understandings and declarations which applied to U.S. ratification of Protocol II, and with additional understandings and declarations concerning transit and transportation privileges, exercise of the freedom of the seas, and passage through territorial waters. Protocol I is designed to extend the nuclear free obligation to cover all territories within the treaty zone. If ratified, Protocol I would obligate the United States not to test, use, store, or deploy nuclear weapons in the principal territories of Puerto Rico, the Virgin Islands, Guantanamo Naval Base, and the Panama Canal Zone, as well as the Swan Islands, Navassa, Quito Sueno Bank and Roncador Bay, Serrana Bank and Serranilla Bank, and the Corn Islands. Upon entry into force of the Panama Canal Treaties, the canal will be included in the nuclear free zone, since Panama is a party to the treaty. Of the other states eligible to adhere to Protocol I, the Netherlands and Great Britain have ratified the Protocol, and France has not taken any action.

The committee held a hearing with executive branch witnesses on Protocol I on August 15, 1978. In the course of the hearing, Members questioned in some detail the implications of a statement by the Soviet Union made in connection with its signing of Protocol II on May 19, 1978. The Soviets stated at that time:

> The final act of the preparatory commission for the declaration of Latin America as a nuclear free zone interprets the treaty in the sense that granting permission for transit of nuclear weapons at the request of states not adhering to the treaty is within the competence of each contracting party. With respect to this, the Soviet Union affirms its position that permission for transit of nuclear weapons in any form would contradict the goals of the treaty, according to which, as is specifically stated in the preamble, Latin America should be completely free of nuclear weapons, and would be incompatible with the non-nuclear status of the contracting parties and with the obligations defined in Article I of the Treaty.

The Department of State is recommending that certain declarations and understandings be adopted by the Senate in its resolution of ratification. Secretary of State said in his letter of submittal of Protocol I to the President:

> These declarations are intended, in part, to clarify and assure that the transit or use for transport of United States vessels and aircraft carrying nuclear weapons through the zone of application (including port visits and aircraft landings) will not be affected by the provisions in the Treaty relating to the possession of nuclear weapons.

Following the hearing, the committee asked the Department of State to provide materials which would clarify two key points: First, whether, under the treaty and protocol, the transit or use for transport of U.S. vessels and aircraft carrying nuclear weapons would be assured, and second, whether a differing Soviet position on rights of transit could affect the U.S. rights or treaty regime.

The Department of State has replied in detail and the responses have been informative. However, some members of the committee believe that it is important to await the outcome of the Department of State's efforts to gain clarification from the Soviets as to their position on transit and transport.

Another matter bears on committee consideration of this matter. In an August 7 article in The Washington Post, columnists Rowland Evans and Robert Novak alleged that the Joint Chiefs of Staff were instructed in a memorandum to Secretary of Defense Brown from Zbigniew Brzezinski, Assistant to the President for National Security Affairs, to give "complete and unequivocal support to Protocol I to the Treaty of Tlatelolco." I asked Mr. Brzezinski for a copy of the alleged memorandum and asked Gen. David C. Jones, Chairman of the Joint Chiefs, for clarification. I have received a response from Christine Dodson, Staff Secretary of the National Security Council, and from General Jones. I shall submit for the RECORD my letters to Mr. Brzezinski and General Jones and his response and that of Chistine Dodson.

Mr. President, I thought that this background information would be of interest to my fellow Senators. The committee will continue to explore the questions now raised. Obviously, given the busy Senate schedule before adjournment, it will be impossible for there to be an additional Protocol I to the Treaty of Tlatelolco this year.

The letters follow:

THE JOINT CHIEFS OF STAFF,
Washington, D.C., September 14, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter replies to yours of September 1, 1978, concerning the Evans and Novak article appearing in the Washington Post on August 28, 1978.

Brigadier General Graham's testimony, on behalf of the Joint Chiefs of Staff in support of Additional Protocol I to the Treaty of Tlatelolco, reflected a decision which was made on December 9, 1977. At that time, under procedures established by the Joint Chiefs of Staff, ratification of the Protocol, with the understandings set forth in the transmittal documents, was favorably endorsed. The memorandum cited by the Evans and Novak article was dated August 7, 1978, long after the decision was made to support ratification. Furthermore, I am not aware of the existence of any other instructions from higher authority which affected the decision of the Joint Chiefs of Staff.

I want to emphasize that the Protocol has the unanimous support of the Joint Chiefs of Staff. I am unaware of any personal views of the Chiefs to the contrary. Brigadier General Graham's testimony was an accurate representation of the JCS position.

Sincerely,

DAVID C. JONES,
General, USAF, Chairman, Joint Chiefs of Staff.

NATIONAL SECURITY COUNCIL,
Washington, D.C., September 12, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR SENATOR SPARKMAN: This is in response to your letter of September 1, 1978 to Dr. Brezezinski relating to the Committee's consideration of Protocol I of the Treaty of Tlatelolco.

As you know, the President attaches great importance to our ratifying Protocol I of that Treaty, as it will bring the world one step closer to a nuclear weapons free zone in Latin America and will demonstrate that the U.S. is genuinely committed to non-proliferation. To demonstrate his unequivocal support, the President signed the Protocol on May 26, 1977 and transmitted it to the Senate for its consideration. Any communication between the White House and heads of the departments of the Administration was only to ensure that all such departments were aware of his unequivocal support.

Concerning your request for any such communication, as you can well understand, as a matter of policy, the Administration does not release interagency memoranda outside the executive branch.

We very much hope that the Committee will give prompt and favorable consideration to this very important Treaty.

Sincerely,

CHRISTINE DODSON,
Staff Secretary.

SEPTEMBER 1, 1978.

General DAVID C. JONES,
Chairman, Joint Chiefs of Staff,
The Pentagon, Washington, D.C.

DEAR GENERAL JONES: In a newspaper column on Monday, August 28, in the Washington Post, Rowland Evans and Robert Novak allege that the Joint Chiefs of Staff were instructed to give "complete and unequivocal support" to Protocol I of the Treaty of Tlatelolco.

Brigadier General Irwin P. Graham testified on behalf of the Joint Chiefs before the Committee on Foreign Relations on August 15. General Graham told the Committee that the Joint Chiefs support Protocol I to the Treaty of Tlatelolco with understandings as set forth in the transmittal documents.

The Evans and Novak column raises questions which should be resolved before the Committee completes consideration of Protocol I. On behalf of the Committee, I would appreciate your advising as to whether the alleged memorandum described in the article was known to the Chiefs at the time they decided to endorse the Protocol and, if so, whether that memorandum or any other instructions had any bearing upon the Joint Chiefs' decision. In addition, I would like to know whether the Chiefs, individually and collectively, support Protocol I, and whether their personal views differ from their official views in support of ratification of additional Protocol I.

Since the Committee is currently engaged in consideration of additional Protocol I, I would appreciate a response at your earliest convenience.

Sincerely,

JOHN SPARKMAN,
Chairman.

SEPTEMBER 1, 1978.

Mr. ZBIGNIEW BRZEZINSKI,
Assistant to the President for National Security Affairs, The White House, Washington, D.C.

DEAR MR. BRZEZINSKI: In a Washington Post column on Monday, August 28, Rowland Evans and Robert Novak allege that you sent a memorandum on August 7 to Secretary of Defense Harold Brown ". . . demanding 'complete and unequivocal support' by the Joint Chiefs of Staff for the treaty establishing a nuclear-free zone around Latin America."

As you are aware, the Committee is in the midst of consideration of Protocol I to the Treaty of Tlatelolco. A matter of central concern in this consideration is the attitude of the Joint Chiefs of Staff in regard to the treaty.

In order to determine the validity of this allegation, if such a memorandum exists, I would appreciate your providing a copy of it to this Committee.

Sincerely,

JOHN SPARKMAN,
Chairman.●

DELAYS IN FOOD STAMP REFORMS

●Mr. CANNON. Mr. President, 1 year ago this week, the President signed into law the Food and Agriculture Act of 1977, Public Law 95–113, including major reforms in the food stamp program.

Section 1303 provides that the Secretary of Agriculture shall implement those changes "as expeditiously as possible consistent with the efficient and effective administration of the food stamp program." To date, the food stamp law as it existed before September 29, 1977, is the one being administered by the States. Implementing regulations for the new law have not been published.

I thought I was reading year-old mail when a constituent of mine, age 74, complained to me recently about being required to purchase his food stamps with money he does not have. He wrote:

I would appreciate very much if somebody in the Senate would send me $15.00 so we can get our food stamps and be able to get something to eat . . . Why can't they take $15.00 off the food stamp allotment so we can have our stamps to buy food?

Why can't they indeed? It is because the Congress has abolished the purchase requirement for the food stamp program, but the Department of Agriculture has not.

In the year that this law has been on the books, the 2.5 million needy who were to gain access to the food stamp program, including many elderly poor, have not been admitted. The problems of the purchase requirement have continued, thwarting the intention of Congress to simplify administration of the program, to eliminate a major barrier to participation by the needy, to reduce administrative cost, and to reduce the potential for fraud in the handling of cash.

The liability of the State governments grows with each passing day, should anyone challenge the inordinate delay that has accompanied implementation of the new law.

The Food and Nutrition Service defends its tardiness by stating that it attempted to quickly implement this part of the new law, which was signed by the President on September 29, 1977, but was required by a Federal district court in Indiana to implement the entire food stamp reform legislation at one time. Given the complexity of the new law, the Food and Nutrition Service states that it will not have final implementing regulations out before next month, at the earliest. While recognizing the administrative burdens of promulgating new regulations, I cannot believe that the task is still not complete as we observe the first anniversary of this new law.

I have expressed my displeasure to the Secretary of Agriculture over the extraordinary slowness of his department in carrying out a congressional mandate. This delay simply stretches to the outer limits the meaning of implementing a law "as expeditiously as possible." I also wanted to bring this matter to the attention of my colleagues for their consideration.●

MEDICARE-MEDICAID REFORM ACT

● Mr. TALMADGE. Mr. President, there has been a great deal of fanfare, furor, fuss, and feathers with respect to legislative consideration of hospital cost containment proposals.

On August 11 the Finance Committee reported to the Senate H.R. 5285, the Medicare and Medicaid Administrative and Reimbursement Reform Act.

From the time that report was submitted, we have been prepared and have urged the leadership to have the bill brought up before the Senate.

Senator KENNEDY and Senator NELSON have far-reaching and significant amendments to H.R. 5285 intended, in the case of one, to establish limitations on all hospital revenues and, in the case of the other, to potentially establish controls on all hospital revenues.

Those are proposals which, while they do not have my support, should be voted upon by the Senate.

All the attention has been focused on the hospital reimbursement provision of H.R. 5285, namely section 2 of the bill.

However, this 35-section bill contains other important provisions designed to bring about necessary administrative and reimbursement reform of medicare and medicaid.

Sections of the bill are designed to moderate inequities in the reimbursement of physicians under medicare, as well as to encourage doctors to accept medicare reasonable charges as the full charge for their services.

Every Senator has received many, many letters from older people complaining and lamenting the fact that doctors often, for one reason or another, will not accept the medicare payment as payment in full, but charge considerably more than that.

H.R. 5285 has provisions which make a significant effort to ease that burden upon millions of older Americans.

The bill contains sections strengthening the effectiveness of the health planning process by assuring that medicare and medicaid will not pay for capital and operating costs which are not approved by an appropriate planning agency.

The bill also provides a means of dealing with surplus hospital capacity through the making of payments to facilitate the closing down or conversion to other uses of excess hospital beds.

A section of the bill deals with making available more long-term care beds in rural areas where there is a shortage of such beds today.

Provision is made in our bill to establish a means for timely revocation of the certification of substandard nursing homes.

Another section provides statutory authorization for regional pediatric pulmonary centers which provide leadership and treatment for many thousands of children with breathing disorders.

Other sections of the bill are designed to cut out redtape in the medicare and medicaid programs through use of a common audit procedure under both programs, and by authorizing States to negotiate contracts for laboratory services under medicaid.

These are important and necessary amendments.

Senate floor consideration of important and vital changes to the medicare program covering kidney disease was subjected to a "hold" until I committed myself to make every effort to assure that a bill would be brought to the floor which could serve as a vehicle for the Human Resources Committee approach to putting "flat cap" price controls on hospital revenues.

Mr. President, we have kept our promise.

H.R. 5285 is an appropriate vehicle for the offering of the flat cap across-the-board hospital price control amendment.

I do not know what else the Finance Committee can do.

We are willing to have H.R. 5285 considered by the Senate with or without a time agreement.

As I have indicated, we have been prepared to take up this important legislation since the day the report was filed 7 weeks ago.

If the Senate does not act to consider hospital price control amendments such as Senator KENNEDY's and Senator NELSON's I am hopeful that this statement will lay to rest any possible contention that the Committee on Finance is to blame for the lack of action.

We have done—and are doing—everything we can to bring H.R. 5285 up before the Senate.

Again I ask the leadership to do all it can to schedule this bill.●

TEACHERS OPPOSE DEPARTMENT OF EDUCATION

● Mr. SCHMITT. Mr. President, the Senate may soon be considering S. 991, the bill to establish a separate Cabinet-level Department of Education. Unfortunately, this profound change in the role of the Federal Government with regard to education has not been debated as fully as such a far-reaching change warrants. As I have already pointed out, this proposal is much more than just a reorganization; in fact, it represents a weakening of the role of parents and of local and State education authorities over the education of children.

Historically, the role of the Federal Government has been that of adviser. Of course, there have been occasions in the past when the Federal Government overstepped its role of adviser and used the limited financial assistance provided to the States to exert control over local decisionmaking. Who would be so bold as to claim that this tendency by Federal education authorities would not increase if the Office of Education were elevated to a Cabinet-level department? Such a claim would fly in the face of experience and fact.

Mr. President, a great deal of attention has been focused on the fact that the National Education Association (NEA) has endorsed the creation of a Department of Education. The impression has been left that the education community is united in its support of this proposal. I wish to point out to my colleagues that there is considerable disagreement in the education community as to whether a department should be established and, if one is, what programs should be included in it.

Therefore, I direct to the attention of my colleagues a recent letter which was sent by Albert Shanker, president of the American Federation of Teachers (AFT). In this letter, Mr. Shanker states the strong opposition of the AFT to S. 991. That opposition is based on concerns which are similar to those expressed by myself and many of our colleagues in both Houses of Congress. I hope the members of the Senate will carefully consider these points before voting on this bill.

Mr. President, I ask that Mr. Shanker's letter be printed in the RECORD.

The letter follows:

SEPTEMBER 22, 1978.

Hon. HARRISON H. SCHMITT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHMITT: The American Federation of Teachers strongly opposes S–991, the Department of Education Organization Act. This bill will create an isolated Federal education bureaucracy without first establishing a clear direction for Federal education policy.

The original concept of the Federal department of education envisioned the creation of an agency that would organize a great variety of Federal education activities under one central authority on the theory that this would increase programmatic coordination and provide for a more active and coherent Federal role in education. Even if one believed that creating a Federal education department would further these goals, S–991 is not a bill that can achieve these ends.

With only a few exceptions, programs outside the education division of the HEW have been excluded from the proposed legislation. Given the trend of events it is extremely likely that more education-related Federal programs will be out of the Department than are in it. The reason for this is that while many individuals and groups tacitly support a Federal department, their support is conditioned upon the exclusion of their program from the Department's jurisdiction.

S–991 will not result in increased coordination of Federal education efforts. What is likely is that a new Federal education department would magnify the Federal role in education policy decisions that have previously been viewed as state and local matters. Federal departments are designed to deal with policy and administration. There is, of course, a Federal system of justice for the Department of Justice to administer. The obvious need for national control over Defense and Foreign policy speaks for itself. Education, however, has traditionally been a state and local responsibility supplemented by an important but clearly limited Federal role. The Federal responsibility in education has been primarily to promote equal educational opportunity for historically neglected and unserved populations, such as educationally disadvantaged and handicapped youngsters, and to provide poor- and middle-income families with the financial aid necessary to pursue post-secondary education.

Implicit in the creation of a Federal department is a new Federal role that exceeds these previous limitations. While changes in the Federal role may be warranted, options should be considered in advance of restructuring not following from it. I am forwarding for your information an article which examines this issue entitled, "A Department of Education?"

Senators should also know that the American people do not support a Federal education department. A Gallup poll published in September, 1977, shows that no group of Americans support the idea and the only real question is to what extent they oppose it. In every group surveyed a plurality opposes the creation of a Federal department of education. The percentages of parents with school age children opposed are higher than the population in general. I am also enclosing for your information this poll and editorials from the New York Times and the Washington Post opposing the department.

The Federal department of education is a non-solution to the very real problems facing education, such as the reported decline in achievement and competency and the continuing search for the best way to remedy the problems of basic skills instruction. No evidence has been presented that leads to the conclusion that a new Federal education department could do anything that needed improvements in the existing structure could not do. S–991 is a triumph of form over substance and deserves to be rejected.

I urge you to vote against it.

Sincerely,

ALBERT SHANKER,
President.●

THE INTERSTATE HORSERACING ACT

● Mr. STONE. Mr. President, I am pleased the Senate passed S. 1185 yesterday. I support this much-needed legislation, which will protect the racing industry in the State of Florida. According to statistics prepared by the National Association of State Commissioners, horseracing provided $700 million in direct revenue to State governments in 1977, $22 million of which went to the State of Florida. Because of the substantial revenue produced, the employment generated, the "satellite" businesses racing supports, and the growing interest in interstate wagering, I consider racing an "identifiable national interest," as the bill does, and I think the Congress must act to protect it.

There is a need for Federal legislation in this very limited area. The State and the individual citizen cannot adequately and easily protect itself in this area from the actions of another State. Nonetheless, this bill is not a statement by the Congress endorsing the expansion of racing or interstate off-track wagering in States that do not desire it. That is a decision that is and should be left to a particular State. This bill does not affect intrastate racing or off-track betting. Again, decisions regarding that should be left to the State. What the bill does do, however, is protect the domestic commerce of one State from the unwarranted intrusion of another State. It says that before one State may offer off-track betting on races in another state, all the parties involved in providing the show—the tracks, the horsemen, the off-track betting interests, and the States themselves must agree, either directly or indirectly, to the terms and conditions under

which such wagering may occur. Without the requirement for an agreement, the State hosting the race cannot be assured of compensation for the use of their race by out-of-State off-track betting systems, out-of-State bettors can have a smaller percentage of their bets going to the parimutuel pool than in-State bettors, and horsemen have no real assurance they will receive an equitable share of the wagers for purses.

This latter consideration is particularly important in light of what occurred in Florida last year. New York off-track betting entered an agreement with various Florida tracks and the State to offer wagers in New York on races in Florida. The State itself expressed no interest in the additional revenues produced by this commerce. A controversy arose regarding the distribution of this additional revenue between the tracks and the horsemen providing the races. While this controversy was resolved, it was resolved with some unfortunate fallout. This bill provides that before a track can enter into an agreement with respect to interstate off-track wagering on its races, it must have an agreement with its horsemen with respect to the terms and conditions under which it might give its consent. The bill in effect provides a "game plan" for the taking of interstate off-track wagers in the future. All the parties involved will know exactly what is expected of them and problems such as those I described will be avoided.●

● Mr. LUGAR. Mr. President, I would like to comment briefly upon several issues raised in the recent testimony of Mr. Ben K. Sollars of the Diamond Chain Co., Indianapolis, Ind., before the House Ways and Means trade subcommittee. Mr. Sollars and his associates have highlighted well certain problems in the enforcement of our trade laws.

I believe that Americans are best served by a policy which encourages both imports and exports, and which relies fundamentally upon a healthy and competitive private sector. Our trade laws are designed to insure a reasonable and continuing competition between American firms and foreign firms which, in the long run, is conducive to the well-being of everyone. Yet our trade laws are only as effective as their enforcement, and there are currently very serious defects in their enforcement procedures.

The case of Mr. Sollars and the roller chain industry illustrates these defects. As long ago as 1973, the Federal Government officially determined that Japanese roller chain producers were dumping their product in American markets. The collection of dumping duties, however, has been so ineffectual that roller chain imports from Japan have actually increased in the interim.

There are two reasons for this, both of which require legislative remedy. First, the assessment of dumping duties is at present a hopelessly complex and time-consuming process. The complexity of the assessment process invites ways to circumvent its intention, and foreign firms have not been slow to discover these ways. Its complexity requires injured American firms to supply, at considerable cost to themselves, specific kinds of information which are not readily available. The roller chain industry, for example, has spent many thousands of dollars attempting to supply customs with sufficiently specific information to enforce a finding made over 5 years ago.

Second, the process of assessing dumping duties is so far behind that it provides no check whatever upon foreign firms which have been found to be dumping in this country. In the case of roller chain, dumping margins of between 15 and 30 percent were found for various Japanese manufacturers. Dumping duties, on the other hand, have in practice amounted to less than one-half percent of the wholesale value of roller chain.

Mr. President, the current situation breeds contempt for our trade laws on the part of all parties, foreign and domestic. If we are to have trade laws at all, we should see to it that they are effectively enforced.●

CONSUMERS AND FOOD POLICY IN NORTH AMERICA

● Mr. McGOVERN. Mr. President, I commend to the attention of my colleagues a recent address by Assistant Secretary Carol Tucker Foreman. Her comments entitled: "Consumers And Food Policy in North America," was given at the Conference of American Agricultural Economics Association and Canadian Agricultural Economic Society last month. I think Secretary Foreman aptly outlines how agricultural policy and food and nutrition policy are rapidly becoming united in one overall food and agricultural policy.

I ask that Assistant Secretary Foreman's remarks be printed in the RECORD.

The address follows:

CONSUMER AND FOOD POLICY IN NORTH AMERICA

Anything more than a cursory look at our more successful agricultural policies will demonstrate that they have usually been based on the economic and policy research of people such as you. I applaud your past successes. But I come before you today to ask you to help forge new successes: to turn more of your talents to public policy and social science research in the food and nutrition fields.

We meet at an exciting time for you and your profession. I feel relatively certain that none of you chose agricultural economics as a vocation in the fond hope that you would wind up as lead editorials in the New York Times or the Wall Street Journal. The Economics Journal, maybe. Not Wall Street's.

But you may have been wrong. Food is news today. And two interesting and important things are happening right now—both of which involve you.

First, the traditional debate over "agricultural" policy has been expanded into a debate over food and nutrition policy. We are no longer concerned only with the mechanisms for producing, processing and distributing food, and what kinds of economic returns are available to producers, processors and distributors. Within the past few years the traditional agricultural arena has been enlarged to include a debate over food composition, nutritional values, chemical additives, and costs to consumers. And these new issues may have an enormous impact on the economy of production, processing and distribution.

Second, we have reached a point in our national life when the people of this country, while still willing to use government action to attack a wide variety of problems, are quite rightly unwilling to tolerate unforeseen, unintended and unfortunate consequences of those actions. We are, it seems to me, in desperate search of competence in government.

Both of these developments are of enormous importance to your profession. You, in turn, can play a crucial role in resolving the problems which they present.

First, let's look at the debate over a food and nutrition policy. It's interesting that it is a debate. Does anyone, anywhere raise food for its own sake? Or because the plants look so pretty popping out of fields? We produce, process, package and market food so that people will buy it, eat it, and be nourished by it. In food, more clearly than any other sphere of the economic world, the consumer is the sole end of production.

But, until recently, government food policy has tended to be overwhelmingly concerned with increasing production, improving processing and enhancing distribution. These are good and worthwhile aims. At one time they were the only things we needed to be concerned about. Now they ignore some very current problems. Let me outline some of the most pressing.

We have for years used chemicals at various points in the food system to increase production, retard spoilage and preserve foods. They seemed a stunningly successful solution to those problems. Now they are presenting problems themselves as we learn that some of the same chemicals, which had such beneficial effects on food, treat the human body rather less kindly.

We have become so dependent upon food processing and upon nationwide food distribution systems that the farm value of production bears little relationship to final costs of food.

Although millions of Americans still are unable to get enough to eat without assistance, for millions of others nutritional problems are a result of consuming too much food.

For those why simply cannot afford an adequate diet, nutrition research and education and food safety regulations are irrelevant.

Another problem area is the dramatic change in American lifestyles over the past 15 years. Educators and nutritionists alike are becoming increasingly concerned about the capability of consumers to make food choice decisions that provide nutritionally sound diets.

Finally, government policies encourage certain kinds of production and marketing and discourage others through support prices, research, and regulation. But we know little about the impact of these programs on nutrition and on consumer prices. Government must deal with these problems. The goal that I would seek is the development of policies that will provide an adequate supply of safe, high quality and nutritious food at reasonable prices, while providing a reasonable return on investment to those who produce and distribute food, and assuring some assistance to those at home and abroad who cannot afford an adequate diet even at reasonable prices.

Obviously, no one program will achieve this goal. It requires a mixture of public and private action. Perhaps more than anything it requires wise, rational, well thought out public policies. Which brings me to my second point—the need for competence in government action. You and your professional cohorts hold important keys to competency in government action.

When I look back over some of the issues I have wrestled with since entering the government 18 months ago, the potential for your influence and the need for your exper-

tise is overwhelming. The gaps created by their absence are sometimes appalling.

For example, in food assistance programs, one of the very first issues that confronted us was the debate over President Carter's welfare reform program and whether food stamps should be "cashed out."

We know that food stamps account for about $6 billion a year in federal tax dollars, going to some 16 million people each month. However, with the exception of the work done by my long-time friend, Sylvia Lane, we have little research on the impact of the food stamp program. We have little information on the impact of "cash out" on the nutritional well-being of food stamp families; on the total purchase of food; or on the prices received by farmers.

There isn't much research on school feeding programs either. To a greater and greater degree, schools want processed foods. They don't want whole chickens. They want precut, pre-breaded, pre-cooked frozen chickens because that reduces labor costs for the school. But what impact does that have on the producer? What impact does it have on the budget of the program at the federal level and the state level? What impact does it have on the nutritional adequacy of the school lunch?

Let's talk about superdonut and its friends. There is a perfect example of the need for your expertise. The superdonut is a formulated grain-fruit product. It is used in the school breakfast program to take the place of both the cereal-bread and vegetable-fruit portions of the breakfast. Usually a school must serve a 3-component meal. With this product, only two components are necessary. But, there is no fruit in the grain-fruit product. It is a donut or cupcake fortified with vitamins and iron. It is also high in sugar and fat.

It was originally introduced in order to encourage schools with no cafeteria facilities to take part in the breakfast program. But, we now know that most of the schools which use it have cafeterias. It is a convenient way to save money on school breakfast. But its use means that vitamin C manufactured in a laboratory is substituting for vitamin C manufactured by a citrus farmer. Further, the superdonut may be teaching children that a sugary, high-fat product is an appropriate item to have for a nutritous breakfast. Surely, it increases the child's sugar and fat consumption. These are unintended, unanticipated and unfortunate results of a government action taken to resolve one problem. It didn't resolve that problem. It created potential new ones. The problems could have been and should have been avoided. They might have been if there had been adequate analysis before we started to use them. We never had any kind of analysis until it was done by Bill Boehm and his staff last year.

Is the superdonut a trivial issue? It is typical of child nutrition problems and child nutrition programs cost $35 billion per year.

Let's take another example. No issue has been more hotly debated in the agricultural community over the past couple of years than the Senate Nutrition Committee's dietary goals. Nutritionists are debating the scientific validity of the goals. Cattle producers are screaming that the goals portend their economic ruin. Do they?

I don't know. You haven't told me. I'm not aware that you have written about the potential economic impact on cattlemen if consumers follow the guidelines, and you haven't analyzed whether cattlemen might gain economically from less grain feeding. You haven't written about whether the production of leaner cattle would reduce consumer prices; reduce imports of lean beef, or any of the other myriad possible results. You haven't analyzed the costs to society of time lost from work as a result of diseases that may be diet-related.

Every time new nutritional and dietary information comes to light, tremors run through the affected industry—understandably so. Egg producers, or hog raisers, or cattle feeders are told the government is out to get them and that they are going to be driven out of business. Their very natural reaction is to attempt to refute the scientific data or prevent any attempt to act on it. That's normal and natural. It may also be the wrong reaction in terms of national health. But worst of all, it may be a great waste of energy. Perhaps the recommended changes will not cause great economic dislocation. We won't know if we don't have the research. Even if change must come, public policy can be shaped to reduce the burdens of that change—if we have research and analysis that will provide policy options.

Let me turn for a moment to regulatory decisions and the absence of economic data on which to base our actions. Nitrite is a good example. The USDA and the meat industry have known for 10 years that the sodium nitrite used in curing meat is implicated in the formation of cancer-causing nitrosamines. We know that this causes the meat to be adulterated under the definition in the Meat Inspection Act. The impact on the industry and the public may be very great. But I cannot find any economic or policy research, except a little done by the affected industry, on the extent of that impact, or on policy strategies that will help us comply with the law and reduce the impact on the industry and the public.

I believe strongly that we must act to protect the public health through vigorous enforcement of food safety laws. When the evidence is clear and strong, I am not much persuaded when the economic health of an industry is used as an argument against an action to protect the physical well-being of the public.

However, we can and should choose the public policy alternative which reduces the economic impact, or at least spreads it as broadly and equitably as possible. To do so requires development of policy alternatives based on economic research data.

These problems aren't going to go away. They're going to increase and in the absence of solid research it will be increasingly difficult to make good policy judgments.

Two years ago your former president, Ken Farrell, gave an address to this association in which he urged you to expand your vision of your field. He chided you then for failing to address the most important policy problems in the food system. I frequently seem to follow Ken's lead and so I guess much of what I've said today has the ring of "Amen, Brother." Not without reason. I read your Journal from time to time. And I have looked in vain for results of research relevant to the new food agenda. Perhaps you have expanded your research and analysis projects since Ken's speech, but I must confess I have seen little evidence of it. I was pleased to see some items on your agenda here. I hope you would agree that a 2-year gestation period is long enough.

In the past and even today you might plead that you've lacked sufficient funds to do this work. It is a legitimate complaint. Secretary Bob Bergland, Howard Hjort, Ken Farrell and even I are working to end that.

The USDA's $5 million competitive grants program for human nutrition research includes for the first time a category for funding studies relating to the social science aspects of nutrition. In addition, the Secretary has noted the need to devote increased resources to the various agencies within USDA responsible for economic research and policy analysis of food and nutrition related issues. Clearly, we are committed to do more than has been done in the past to free money for research on such issues.

Recently, Secretary Bergland announced as a goal of the Department of Agriculture to "improve the analytical capabilities in order to determine the cost effectiveness of nutrition research, education, distribution, food safety and quality regulations and other nutrition programs; as well as the agricultural pricing and stabilization programs as they affect food and nutrition policy within USDA."

Now, you know we need you and you know we're willing to come up with some money. Next comes my "wish list" of the research we need. I hope you will consider devoting resources to some of the following areas.

First, we need to know a lot more than we do now about the intricate web of factors which make people decide what to eat. Singly, and in combination, we should evaluate the influence of education, income, race, region, sex, age, advertising, labeling, and lifestyles on food choice decisions. We should also determine how all these factors and resulting choices relate to health and to farm income. It would also be useful to identify the relationship between the consumer demand for nutrients and the demand for marketing services. Conceptual developments in this area are as old as your profession, but we haven't gotten much beyond a conceptual understanding.

This research can provide the foundation for policy analyses and evaluations of federal programs in nutrition education, food labeling and food quality regulation. It would also help us understand the nutrition-related consequences of federal agricultural production, marketing and income stabilization programs.

Some nutritionists contend that food industry practices, including advertising, are important factors in nutritional decline. In large measure these industry practices are a reflection of, and are encouraged by, technological changes in food processing and retailing. We badly need economic research to evaluate the extent to which these changes actually result in lower per unit costs for consumers. What good is all this technological advance if consumers do not benefit through lower costs?

Economists have long recognized the important trade-off between technical and pricing efficiency. Now we need research to document the magnitude of the relationship. Fritz Mueller and his colleagues believe the effect of inadequate competition in retail food markets is substantial "monopoly overcharges." Others point out the weaknesses of these studies. We must get beyond the point-counterpoint stage.

Research in this area must also deal directly with the economic consequences of such practices as the use of universal product code (UPC) and electronic funds transfer (EFT), vitamin fortification and the proliferation of packaging. It must also deal with the costs and benefits of economic regulation on industry practices. Backhaul regulations would appear to be an obvious case in point.

The third item on my agenda would be analyses to determine the impact of food safety regulations. Surely you can sense that one of the most frustrating aspects of my job at USDA has been the lack of research on the economic impact of various food safety alternatives. Research of this type could help us ease the burden of changing government policies on food system participants.

The fourth item, research in food quality, is probably the one most familiar to agricultural economists. Most of the present food grades and standards are products of the agricultural establishment. But are they meaningful to today's consumers? Do they even know what the grades mean? Evaluation of present regulations is badly needed and I cannot encourage too strongly the initiation of such research.

Finally, it is essential that we know more about how our various domestic food assistance programs actually contribute to nutrition and to farm income, other than encouraging the consumption of surplus products.

"Cash-out" of food stamps appears to be postponed at least for now, but Congress did pass legislation last September to eliminate the purchase requirement for food stamps, and to extend its benefits to an estimated 3 million more needy people.

In addition to the school breakfast and lunch programs, the Women, Infants, Children (WIC) food program has perhaps the greatest potential to use food and nutrition to improve health. It provides prescription food packages to vulnerable persons at nutritional risk during the most critical phase of human growth and development—that is, to pregnant women, nursing mothers and young children.

WIC legislation was not part of the Food and Agriculture Act of 1977, but amendments are pending now in the Congress. It is important that we research the nutritional contributions of all these programs because they affect people who cannot afford an adequate diet, and because they are taxpayer-supported. I don't have to tell you that we need to get the most of our government's money.

That's a pretty hefty agenda. I present it to you because I believe agricultural economists have the tools and the training to resolve many of these complex issues. Or, at the very least, to shed light rather than heat on them.

To do so will, of course, require an investment of human capital. You'll have to learn as much about food and nutrition programs as you already know about commodity prices, income supports, and marketing order programs. But you'll be playing a very large role in a very important decision-making process.

I ask you to seize the moment. If you do not, the work will be relegated to analysts who know little or nothing about agriculture. I don't want that to happen, and I don't think you do either. But surely you understand that we will decide and we will act. The absence of good data to help resolve a problem doesn't make the problem go away.

We in government who carry a responsibility for human nutrition do not like to pull and tug at the scientific community. We would much rather follow you. John Dewey once wrote that "every great advance in science has issued from a new audacity of imagination." Or one could simply say, "Behold the turtle, he makes progress by sticking his neck out."

I hope you will help us proceed in a more rational fashion to deal with food and nutrition issues.●

PRESIDENT CARTER'S NATIONAL EXPORT PROGRAM

● Mr. CANNON. Mr. President, yesterday, the President unveiled a 12-point national export program to improve the U.S. international trade performance. His announcement was timely because this morning the Department of Commerce released figures which show that the August trade deficit was $1.62 billion—down from $2.99 billion deficit in July. The August deficit was the second lowest of the year and is headed in a welcome direction.

The President's national export program contains the following points:

Increased National Priority for Exports.

Increased Export-Import Bank Funding and Flexibility.

Retargeting of SBA Loans to Exporters.

Exploration of Appropriate Export Tax Incentives.

Additional Funding for Commerce/State Export Development Programs.

Continued Financial and Promotional Support for Agricultural Exports.

Directive to Consider Export Consequences of Domestic Regulations.

Directive to Consider Export Consequences and Foreign Availability in the Use of Export Controls for Foreign Policy Purposes.

Clarification of International Application of U.S. Environmental Regulations.

Guidelines Clarifying the Foreign Corrupt Practices Act.

Expediting of Justice Department Antitrust Review Procedures.

Revitalized President's Export Council.

The President is to be commended for his effort and his personal commitment to export expansion. Never before has a President identified himself so publicly with the objective of expanding exports. In his speech Monday before the International Monetary Fund-World Bank joint meeting, he pledged that he would take action in three areas: First, exports; second, inflation; and third, energy. In doing so, he has accorded export expansion a priority which it has never before had.

As the President said yesterday, it is an "opening of the door," and he is committed to a long-term effort to reduce the trade deficit, including, when necessary, additional projects to supplement this program. The battle to improve the export competitiveness of the United States will not be won in 1 year or 2. Nor can it be won without the cooperation of the broad cross section of the American public, which will be the ultimate winners of a strong dollar, a strong international monetary system, and a competitive domestic economy.

In retrospect, the persistence of the trade deficit has made it clear that the 1971 merchandise trade and the current account deficits were not aberrations but indicators of fundamental problems in our economy. In the period immediately following the 1971 deficit and the establishment of the floating exchange rate regime, it was widely believed by academic economists that trade deficits would automatically be eliminated by the discipline of the markets. The stagnation of American and British exports and the success of the Germans and Japanese in maintaining and enhancing their trade positions in spite of the appreciation of their currencies have discredited the reliance on floating rates as the solution. Advocates failed to foresee the imperfections of the currency markets and the disruptive effects which would result from unstable monetary markets. President Carter's pledge Monday to the IMF-World Bank meeting to maintain a strong dollar was an unequivocal statement that he understood the dangers of a weak dollar.

The trade and current account deficits have also been aggravated by the divergence in the growth rates of our trading partners and our costly oil imports. The robust growth of the German and Japanese economies should narrow our deficits with those countries. The implementation of phase II of the President's anti-inflation program should also make our goods more price competitive.

If the President's energy program works as planned, the burden on our economy imposed by the oil price increases should diminish, and a significant contribution to our balance of trade could be seen within the next year.

All of these factors—a strengthened export promotion program, a tough anti-inflation program, the convergence of growth rates, and an energy program—should help to reduce the merchandise trade and current account deficits.

However, the President also noted on Tuesday that he was deeply concerned about the fact that our rate of productivity was the lowest of any major industrial nation. Together with his May directive establishing an Industrial innovation policy review, it is clear that he comprehends the possibility that structural changes may underlie the trade deficit and that the deficit is a leading indicator that the U.S. economy's comparative advantage in manufacturing is declining. If this is true, the areas of structural weakness must be identified and appropriate policies to cope with them must be devised.

I commend the President for his initiative and pledge my support for the attainment of our mutual objectives. I agree with him that the program he announced on Tuesday should be seen as only the first step in revitalizing American trade and industrial competitiveness. I know the Members of the Senate look forward to cooperating with him in developing the programs and legislation which will come before the Congress in the months ahead.●

CUTTING THE SOVIETS DOWN TO SIZE

● Mr. BAYH. Mr. President, the President's veto of the Defense Authorization bill has, among other things generated a resurgence of interest in the balance between forces of the NATO Alliance and the Warsaw Pact. In this regard, a recent article in the August issue of Army magazine examines some very real vulnerabilities in the present Soviet military posture in the European theater. I think it is important to bring this thoughtful treatment of a neglected aspect of the current debate on defense to the attention of my colleagues and constituents.

In order to plan with prudence and confidence for the deterrence of a Soviet conventional attack on Western Europe which could escalate into a strategic nuclear exchange, it is important to diminish the "ten-foot-tall" Soviet image which runs through many analyses on the subject. At the same time, we must remain appropriately concerned about the steady Soviet build-up of conventional forces. Sound judgment will be required to allocate the resources necessary to meet the challenge we face. Analytical contributions such as the one by Col. John D. Baker, Jr. can only aid us in this task. I ask that his article be printed in the RECORD.

The article follows:

WHERE THE SOVIETS ARE VULNERABLE

Most examinations of the Soviet Army properly stress its strengths, and these are many both quantitative and qualitative;

however, as is true of all armies, weaknesses exist. In order to diminish somewhat the "ten-foot-tall" aura which surrounds Soviet forces, attention must be given to these potential weak areas.

Very little can be found on this subject in either open or classified writings. A classified pilot study I prepared while in U.S. Army, Europe, was the first attempt to address the topic in depth. Although my study was received favorably, I believe there is a lot more which can be done.

The pilot study was largely my own work, but several "bull sessions" with other analysts proved most valuable. This type of exchange, once minds are focused on the problem, has great potential for further exploitation of Soviet weaknesses.

A note of caution is required. The identification or exploitation of a Soviet weakness is a very complex matter and has to be weighed together with significant Soviet strengths and balanced against friendly capabilities. We might decide that a particular Soviet aircraft is decidedly inferior to a particular friendly aircraft on a one-to-one basis, but when we consider that, in combat, the ratio of Soviet aircraft to friendly could be five to one or even higher depending on circumstances, the advantages of the individual friendly aircraft could quickly become moot.

This principle also applies to almost any other piece of equipment (with some of the Soviets possessing qualitative advantages over that of armies friendly to us, and to tactics and doctrine. One of the Soviet Union's biggest advantages is quantitative superiority in aircraft, tanks, armored personnel carriers (APC's), air defense weapons, numbers of ships and troops. Thus, the identification of a weakness and the ability to exploit it are not necessarily equivalent issues.

Many weaknesses might exist which we cannot exploit because we, ourselves, have greater ones. However, the study of the question can offer valuable results by enabling us to use our limited resources to best advantage.

What, then, is a weakness? It can be a variety of situations, whether equipment and technical deficiencies, operational and training deficiencies, or other factors. In the pilot study, several key areas of weakness were identified: doctrinal and tactical; equipment; logistical; electronic warfare considerations, and others.

A separate annex was devoted to Soviet self-criticism derived from open-source Soviet publications. The pilot study suffers from a critical shortcoming in my view, that is, insufficient time to conduct in-depth research and discuss the results with experienced combat personnel, thereby to develop a balance between expert knowledge of Soviet forces with a similar expertise of friendly forces. This relationship of expertise on both sides offers real value for the end product.

Thus, official studies should balance these qualities through a committee-type study which might yield an animal more in the image of a horse than a camel.

The Soviets emphasize the offensive throughout their doctrine. Their units are organized for swift offensive operations and not for prolonged war. The tank is the mainstay of the Soviet Army and its presence in large numbers on the battlefield represents a formidable strength. In the face of mobile, well-deployed and effectively used NATO antitank weapons, however, this armor-heavy strength can be limited.

In the Soviet concept, a three-front headquarters will be employed against the Central European area of operations; two or perhaps three main attacks will be launched within this area, attempting to break through friendly defenses. Within the broad strategic two or three main-attack efforts, there would be a number of main and secondary efforts conducted by divisions. When main-axes efforts fail, the Soviets shift emphasis to their secondary efforts, which then become main efforts.

If the Soviets believe themselves capable, they could attempt to achieve surprise, thereby finding friendly forces still in garrison areas with no strong defensive positions established. Once through the main defensive lines, the Soviets will employ the meeting engagement to endeavor to defeat in detail friendly forces moving forward. Strongpoints will be bypassed by first echelons, leaving them to be eliminated by following echelons. Exploitation of these advances will concentrate on deep penetrations, disruption of the rear-area functions and movement toward deep, key objectives.

The Soviets envisage a short war lasting two to three weeks. In this scenario, their strategic objectives may be limited to seizing West Germany and the Benelux countries or may be expanded over a longer time to seize all of Western Europe. Recognizing the terrain difficulties and numerous river obstacles involved in Europe, the Soviets have provided all Warsaw Pact forces with extensive bridging and engineer support capabilities.

The PMP bridge, for example, can be assembled rapidly and is extensively deployed within Pact forces during peacetime in the forward area (East Germany, Czechoslovakia, Poland, and Hungary).

A decision to attack will be made at the highest political level and will be announced on an absolute need-to-know basis. It is extremely unlikely that NATO would have any prior knowledge which firmly points to this decision. Implementing this decision will offer some possibilities of obtaining warning of the attack.

Based upon past Soviet actions and the events leading to the 1973 Mideast war, the cover of large-scale exercises close to the borders of West Germany could be used to screen attack intentions. Radio silence will be used extensively and only at the last moment will the people be informed of the attack. The Soviets will have to weigh the delicate balance of achieving massive superiority in tanks, troops and artillery against the element of surprise.

In spite of growing indications of an attack, the Soviets achieved surprise in the Manchurian Campaign against Japan in August, 1945, and the Egyptians and Syrians achieved a good deal of initial surprise in their Soviet-style attack in October, 1973.

Part of the difficulty in correctly predicting an impending attack rests in the process of convincing friendly forces that an attack might occur when this possibility is sometimes ruled out by preconceived opinions or by not being in keeping with established friendly perceptions of enemy intentions.

The fact that intentions are extremely difficult to define is well-known, but they must be weighed in conjunction with capabilities in an open-minded manner to make the best estimate of possible enemy actions.

Given the decision to attack, the Soviets can be expected to use all possible means to protect this information. The decision to attack Japan was not as closely held as was the timing and place to attack. The later information was made available only to the highest political and military leadership, filtering down to division-commander level only hours prior to the attack. A diversion in an unrelated area of the world is quite possible to draw attention away from the area of main effort.

In short, an elaborate cover and deception plan at both the strategic and theater levels may be expected to protect the decision to launch an offensive; this factor, in itself, can serve as an indication of intent.

Pact forces might be expected to use a large-scale exercise or a series of smaller scale ones to cover preparations for an attack. This training-exercise cover would place combat-ready units into areas close to the political border just before D-day. A holiday could be selected for the attack to provide further cover for the operation. Adverse weather conditions would provide protection from enemy air attack and could be a requirement for an attack.

Units would move into assembly areas under radio silence, while existing borderguard units and units normally close to the border would maintain normal radio traffic. The attack would begin at a prearranged time and could consist of massive artillery barrages or, given a light defense, conversely could consist of a quick thrust across the border.

Regimental assembly areas are typically located 40 to 70 kilometers behind the forward edge of the battle area (FEBA) and battalion assembly areas are about ten kilometers behind the FEBA. As units approach the FEBA in column formations, the regiments deploy into battalion columns eight-12 kilometers from the FEBA; battalions into company columns four-six kilometers from the FEBA; companies into platoon columns two-three kilometers from the FEBA; and, platoons into battle formations 300 to 1,000 meters from the FEBA.

Tanks normally lead in the battle formations with APCs providing fire support. Tanks will be approximately 100 to 150 meters apart. APCs 50 to 100 meters apart and 100–400 meters behind the tanks. Normally, troops will remain mounted in their APCs when attacking hastily prepared defensive positions. Two echelons are employed, with the second echelon serving as an exploitation force. First-echelon units will attempt to find gaps in the defensive lines to penetrate and; thus, enable the second-echelon force to pass through and exploit.

Flanks are not heavily defended; Soviet units normally provide their own flank security and allocate ten to 30 percent of their combat power to this security force. Attacking the flanks can cause a disruption of logistical resupply or an isolation of the main attacking force. Attacking the exposed flanks will force the enemy to redistribute his combat power to protect his flanks, thus, at least, slowing the main attack. The maneuver may be difficult, as the Soviets have flexible mine-laying capabilities and the situation will be fluid and uncertain. It will require finely tuned intelligence on the friendly side.

The Soviet concept of bypassing strongpoints offers friendly exploitation possibilities since they can bring attacking forces under fire as they move by. The use of a concept which employs platoon, company and battalion strongpoints could represent an attempt to exploit this aspect of Pact doctrine.

The Soviet concept for attacking strong defenses emphasizes concentration. For a division attack, main and secondary attack axes normally are selected—or the entire division could concentrate on only one main attack axis. The Soviets desire decisive superiority in the main axis of attack and doctrinally attempt to obtain favorable ratios in tanks, artillery and infantry of 3–5:1, 6–8:1, and 4–5:1, respectively.

The width of breakthrough sectors will be two–eight kilometers, if the attack uses a main and secondary effort, or five–ten kilometers for one main attack. Normally, two regiments are in the main attack sector. Extensive artillery support is provided with possible on-line massing of artillery pieces up to 100 for each kilometer.

Organic divisional artillery will be reinforced by army and possible *Front* artillery and close air support. An area of 1,000 to 1,500 meters on either side of the breakthrough sector will be neutralized by artillery fires. The BM–21 multiple rocket launcher provides a unique area-saturation

weapon which will be used extensively. Antitank weapons and missiles, plus the use of close air support aircraft or the Mi–24 Hind assault helicopter, will somewhat reduce the Soviet requirement for artillery support but not the support available.

Artillery preparations will begin as battalion columns begin deploying about eight–12 kilometers from the FEBA. Concentrations usually will last 20 to 40 minutes and will be heaviest at the beginning and end of the fires.

As artillery fires switch to deeper targets upon the approach of the assaulting forces, smoke may be used to blind enemy antitank weapons and forces.

As in the attack against hasty defenses, the Soviet flanks will not be heavily defended and can be attacked if resources are available. The concept of concentration offers a lucrative target but only if NATO target acquisition and response is rapid. The Soviets recognize the weakness in concentrating forces and emphasize that the concentration be made and dispersed swiftly. Possible massing of artillery may offer another profitable target as these pieces generally will be on line and not dug in; medium or heavy bombers dropping strings of improved conventional munitions (ICM) bombs could have devastating effects on Soviet artillery support.

A counter to this suggestion is the extensive Soviet air defense systems provided down to the lowest levels, the carpet bombing techniques used in Vietnam, however, would likely be extremely effective in the European theater due to the vast amounts of military materiel which would present targets. Introducing a NATO equivalent of the Soviet BM–21 would be useful for counterbattery fires and for area attacks against concentrated formations.

The West Germans have this capability and it would also be beneficial to the U.S. Army. In World War II, the Germans used the technique of preparing two separate main lines of defense, utilizing the forward line as a deception to be attacked by Soviet artillery. The second, true main defense line, received very little artillery fire and was able to inflict severe losses on Soviet advancing forces before the deception was discovered.

The Soviets are, of course, aware of this as a lesson of history. However, it might be effective again since those aware of the deception are by now dead, out of the service or in high positions of command and staff. Proper terrain orientation and placement of defensive weapons, especially antitank and antiaircraft missiles, together with tank defensive positions that take advantage of the depression-elevation limitations of the main gun of the T26 and T54/55 (–50, +180), will give the defender the most advantage.

These exploitation possibilities presume that sufficient time is available to prepare fortifications and to properly emplace defensive weapons. Mine fields are an integral part of any defense and should be used extensively to channel attack forces into areas which can be exploited by the defenses.

The Soviets consider the meeting engagement to be the classic battle between two mobile forces both on the conventional and nuclear battlefield. The aim of this maneuver is to destroy the opposing force, normally by envelopment. The Soviets expect that this action will be used extensively by exploitation forces, disrupting counterattacks and reinforcements.

The concept of operations is that after discovering the enemy, a holding action is begun while they determine the axis of main thrust. The holding action can be conducted by a unit as small as a company and will consist of a frontal attack on the main body of the advancing enemy unit. The main attack normally is to go against a flank of the enemy or, if the situation warrants, against the enemy's front. Fire support will be used to disrupt the enemy's movements and formations.

Soviet flanks will be vulnerable during the attack. The Soviets recognize this and will provide primarily antitank weapons to reinforce their flanks. An important fact to recognize is the sequence of events. If friendly units encounter a holding action, they should be aware that an envelopment through their flank may be imminent and should take immediate action to protect the flanks. U.S. doctrine has a weakness in this area, since normally, upon encountering a strong attack, our commanders prepare to defend. We must be aware that the attack may very well be conducted by a smaller unit than the one being attacked and that an aggressive response coupled with close attention to the flanks may be successful.

Soviet doctrine stresses that the decisive defeat of an enemy can be achieved only by exploitation of tactical advantages, including the pursuit, encirclement and destruction of withdrawing enemy forces. As those forces attempt withdrawal, Soviet forces will follow closely, maintaining constant pressure. They may also use heliborne and/or airborne troops, air and artillery strikes, and nuclear or chemical barriers to block or delay the enemy at key terrain features.

Simultaneously, the Soviets will attempt to send tank-heavy units on the same or parallel axes of advance to attempt to attack the rear and flanks of the enemy and defeat him in detail. These same units will also have additional missions to disrupt rear areas, destroy nuclear-capable weapon systems, and capture bridges, key road crossings, make reconnaissance of rear areas, and similar activities. It has been reported that the Soviets are using truck drivers to deliver goods throughout Western Europe and, according to press reports, some have been identified as Soviet intelligence officers and tank unit commanders. If true, this indicates that much of the reconnaissance of routes, and probably of water obstacles as well, has already been performed.

Regiments or reinforced battalions will act as forward detachments in the exploitation phase and move 40–60 kilometers ahead of the main body; these units will avoid detailed engagements and move swiftly forward to prearranged objectives. Axes of pursuit will be assigned with gaps between regiments and division. Immediate and subsequent objectives will be assigned and sufficient information provided on future operations to ensure that forward movement is continuous.

As noted, flanks will be vulnerable; the Soviets recognize this, however, and have made provision to protect their flanks by assigning axes of advance to two divisions-regiments which cover a flank of each but have an open flank on the far side for dispersion. Every opportunity to attack the flanks should be taken, as this will slow down the Soviet advance, force them to divert forces for flank protection as well as deny forward forces logistical support.

Strong defense of key terrain features such as crossroads, bridges, passes and the like will seriously interfere with the Soviets' concept of moving deep and dispersing to disrupt the rear.

In planning for airborne operations the Soviets divide them into four categories:

Strategic—operations in divisional strength at a considerable distance to the rear with the aim of opening new operations in the theater of military operations. Immediate linkups with ground forces are not anticipated.

Operational—operations up to regimental strength at depths of 200–400 kilometers from the FEBA. This operation aims to aid exploitation efforts of ground forces in support of the front offensive. Linkup is expected in two-three days.

Tactical—operations in regimental or battalion strength in support of army or divisional operations to a depth of about 200 kilometers with linkup in about 48 hours.

Special—operations in battalion or company strength with missions of sabotage, rear-area disruption, destruction of nuclear delivery and control means, intelligence collection and similar functions. Depths could vary and linkup may not be provided for.

The development of helicopter operations has allowed the Soviets to plan the use of airborne forces for deeper targets. Airborne forces likely will be employed with their vehicles, especially the BMD air-droppable armored infantry combat vehicle, which is similar to the BMP, mounting a 73-mm gun, Sagger anti-tank missiles and machine guns. Additional equipment could consist of ASU–57 and ASU–85 tracked assault guns, BRDM–Saggers and SD–44 antitank guns.

The Soviets have studied the U.S. use of helicopters in Vietnam and have adapted certain techniques for their own use. Missions will normally be aimed at close in (one-ten kilometers from the FEBA) support of ground operations, such as capture of water-crossing sites, destruction of command posts, nuclear delivery and control means, and containing counterattacks, cutting off withdrawal routes or destruction of logistical supplies and routes.

The heavily armed Hind helicopter materially improves Soviet capabilities; the Hip and Hook will be used for troop lift and heavy lift, respectively. Vehicles would not normally be included in these operations, but all infantry support weapons will be available, including the manpack Sagger antitank guided missile (ATGM), RPG–9 manheld antitank grenade-launched missile, SA–7 SAM, and possibly mortars. Units selected to conduct heliborne operations will normally be drawn from second-echelon motorized rifle regiments.

Terrain study and prior planning are possibly the most valuable elements for exploitation. Possible drop or landing sites in a commander's area of responsibility should be examined and integrated into the fire-support plan. Possible approach routes should be examined and air defense coverage provided for. There has been some speculation that the Soviets will use the same ingress and egress routes; if so, air defense assets could prepare to engage aircraft on their return trips, or to engage other aircraft using the same route toward a different target. It is recognized that this tendency may be changed, and it is not certain that it does, in fact, exist.

Soviet doctrine relies on high rates of advance in the attack, especially under conditions of nuclear warfare. Against covering forces and in exploitation and pursuit operations, they expect to advance up to 50 kilometers a day in conventional warfare and up to 80 to 100 kilometers in nuclear warfare. When breaching defenses, however, they expect to advance between 15 and 30 kilometers a day, again depending on the tactical environment.

If these rates are achieved, a maximum logistical effort will be required to sustain the forward momentum of the attack. Soviet transportation elements have fair-to-good cross-country mobility to support combat elements, but without traffic controllers, the Soviet drivers will probably become lost on secondary and poorly marked road systems. Maximum disruptive measures should be taken to create confusion, such as removing road signs or reversing them. Soviet unfamiliarity with maps, the Western Alphabet, and Western languages will also contribute to confusion.

In the attack, tanks normally lead against strong defenses, followed by dismounted

infantry and APCs. Intervals are up to 100 meters between tanks and dismounted infantry and another 200–400 meters between dismounted infantry and APCs. NATO forces may be able to exploit these large spaces. Also, both reverse and forward slope defense take maximum advantage of the tank main gun elevation-depression limitation referred to previously.

Attack by defensive artillery fires should first direct efforts against dismounted infantry, then APCs and then tanks. This sequence would disrupt the infantry-APC support for the tanks and render tanks more vulnerable to concentrated antitank fires. Once the infantry dismount, the attack would be slowed. Use of ICMs would then assist in separating the infantry from the armor.

Since Soviet command vehicles are normally located near the center of a formation, some priority should be devoted to identifying and placing fires on these targets. Thus, APCs standing alone in the area behind the main attack or tanks in similar positions, should be priority targets, especially if they have multiple antennas.

In the attack, artillery pieces are not usually dug in. Since much of the Pact artillery is towed, these weapons afford no inherent protection to crews and are especially vulnerable to counterbattery fires. The Pact's new 122- and 152-mm self-propelled artillery pieces provide armor protection and actually carry more ammunition than their NATO counterparts. Resupply for an artillery piece, through a small hull porthole, appears to be slow and cumbersome and limits the capabilities of the piece.

Additional general deficiencies or weaknesses of Soviet forces exist, but some of these are not susceptible to exploitation.

Deception. The Soviets and their allies stress and practice deception, camouflage, the construction of dummy positions, vehicles, tanks and aircraft, and other measures to protect their forces, confuse the enemy, and cause him to expend ammunition on false targets. This is a capability friendly forces should develop.

Planners must determine now the deception methods and practices to be used in future wars and train in the use of these practices during peacetime. Deception has not been practiced extensively in the West in the past. Therefore, if the practice of deception measures is protected, its use in wartime could be most effective.

Centralized control. Soviet doctrine stresses centralized control of all operations and tends to restrict flexibility and initiative. Any interference with communications among command posts (CP) could have an immediate adverse effect. Regimental and divisional main CPs would be especially lucrative targets. The Soviets encourage individual initiative officially but may negate this emphasis, as mistakes resulting from initiative are heavily punished in practice.

Psychological aspects. In general, both Soviet and non-Soviet Warsaw Pact (NSWP) forces have weaknesses which could be exploited by psychological warfare units. For example, there are minority and officer-NCO conscript problems within Soviet units and reliability problems with the NSWP forces. (It can be bluntly stated that Soviet minorities and Pact nationalities, with the exception of the Bulgarians, do not like Russians.) These problems are not major short-term weaknesses, but may be susceptible to exploitation in a protracted war by carefully designed psychological warfare programs.●

PERCY AIDE HONORED

● Mr. PERCY. Mr. President, in the August issue of Ebony magazine, the editors selected "Fifty Leaders of the Future." I was particularly proud that a member of my staff, Mr. Lawrence Grisham, was one of those chosen for this honor.

In the 16 months that Mr. Grisham has been a member of my staff, he has distinguished himself as one of my most capable legislative aides. His expertise in a wide-ranging number of issues and his knowledge of problems in Chicago have been a valuable resource to me.

Before Mr. Grisham joined my staff, he was a legislative aide for Congressman RALPH METCALFE for 4 years and worked on many issues with great skill. In fact, from graduating first in his class and serving as valedictorian of Providence-St. Mel High School in Chicago through his college years at Northwestern University, he has continually marked himself as a man of unlimited potential and a witty, thoughtful human being. I count him as a friend and am delighted to have him as a valued key member of my staff.

I ask that the article from Ebony be printed in the RECORD.

The article follows:

50 LEADERS OF THE FUTURE

Even though the New Generation is often thought of as fun-loving and carefree, within its confines are also countless very serious-minded individuals who are concerned about the future of Black people. Ebony surveyed the nation to find the following outstanding young people of the New Generation who are in leadership positions or who show extraordinary potential for future leadership roles. This list is by no means all-inclusive; there are many thousands of young Blacks between the ages of 18 and 30 who are well-trained, progressive, and dedicated to service, and who may assume leadership roles in the near future. However, we feel that the 50 men and women featured here are representative of the New Generation—young persons in whom Blacks invest a great deal of hope. They range from high school graduates who are preparing to enter college this fall to leaders on college campuses to those who hold important elected or appointed positions in their communities and in local, state and national governments.

Michael Lomax, who at 26 was appointed as director of the Atlanta Bureau of Cultural and International Affairs, recently resigned as commissioner for the Dept. of Parks, Libraries and Cultural Affairs to be a candidate for the Fulton County (Ga.) Commission. And in Washington there is Alexis M. Herman, 30, who was appointed by President Carter to head the U.S. Labor Dept. Women's Bureau. There is James H. Lucien II of Columbus, Ohio, who at 22 is Midwest Regional Youth Field Director for the NAACP; and Lewis Myers, 30, who is general counsel for the National Conference of Black Lawyers in New York City, adjunct professor at the organization's law school in Chicago, and also executive director of the North Mississippi Rural Legal Services in Tupelo, Miss.

These are some of the young people who will, we believe, have a great impact on the nation during the next 20 years as they develop strategies for the further liberation of Black Americans and Black people around the world.

NATURAL GAS CONFERENCE REPORT

● Mr. BROOKE. Mr. President, it is with no enthusiasm that I have voted against the natural gas compromise. I realize the heartbreaking decisions that the members of the Energy Conference Committee have had to make. I realize, too, that a perfect bill by any single Senator's standard is impossible to achieve. And, finally, I would very much like to vote for a definitive energy policy—one which includes a gradual deregulation of natural gas prices structured to protect residential and small business consumers.

In fact, this bill has been presented as being such a measure. But after long and careful study, I have concluded that it is not what it seems to be. Mr. President, I must admit that if this bill were to be implemented exactly as its proponents claim it could be, it would not be a bad bill for consuming regions like New England. Estimates prepared by the New England Economic Research Office indicate that, if all the regulatory decisions fall our way, gas prices in 1985 could be lower in New England than under current policies. But that is too big an "if" for me. I have looked at the provisions with a lawyers' eye, and what I see there are years of litigation and the potential for a wide range of regulatory disasters.

For example, 298 additional Federal regulators will have to be hired according to Federal Energy Regulatory Commission Chairman Charles Curtis. The present Natural Gas Act is already a regulator's paradise. Anything which requires so many more rulemakers must be suspect.

Next, many pricing decisions are left to regulatory commissions in the producing States and their bias against consumers is well known. The contention made by the bill's supporters that FERC can review these decisions is not a responsible one. FERC needs procedural grounds to even reexamine a State's decision. It must prove the decision was not made on the basis of substantial evidence. In any case, Chairman CURTIS has already said FERC is only capable of spot reviews, even with the hundreds of new personnel it will bring on.

In addition the information requirements for figuring out which industrial users use how much boiler fuel gas and how much of it is old gas are staggering. The initial research and reporting will involve mountains of paperwork to be undertaken by business people with more production ways to spend their time.

The list of problems goes on. Overriding all of them is the insurmountable truth that this radically new system for pricing natural gas will be fought over in many courts. And a suit filed the day the bill became law would probably not reach the Supreme Court until well after the 1985 date at which the pricing rules are no longer in effect. Mr. President, this means the bill defeats its own purpose of establishing some certainty in the marketplace so as to get gas production moving again.

Perhaps the single most troubling aspect of the legislation is that even if a miracle did occur and the regulatory system produced rational rules favorable to consumers, including an incremental pricing rule in 18 months, the entire system can be undone politically. The political one-House veto of the "second incremental pricing rule" which is the key to protecting New England consumers is fraught with dangers. After too many hard experiences of trying to defend con-

suming States energy needs I have no confidence that both Houses of Congress can be counted on to defend residential consumers by upholding incremental pricing. The combination of political and regulatory uncertainty is too great a stumbling block—I just do not think it can work.

It is also difficult for me to say no bill at all is better than this proposal. But I think we could improve the existing regulatory system as established by the original National Gas Act to make it better. I have been urging these improvements a long time. Last year I joined other Senators and public interest groups in filing a legal brief before FERC asserting our belief that existing law permits extension of the interstate rules to the intrastate system. This action alone would correct many of the shortrun problems in today's gas markets. Furthermore, we suggest improved pricing formulas to encourage new production while protecting high priority users. These changes could give us more supplies for a year or two during which we can try for a better bill. Finally, I have twice introduced legislation to phase out all utility boiler fuel use of gas; ending this wasteful practice is the single most important policy to free up gas supplies. Yet it was removed from the pending bill as part of the compromise.

Mr. President, I believe some claims made by both opponents and proponents have overstated the merits or demerits of this bill. It is a bad bill and it is also bad not to have a bill. I have made my difficult choice between two bad options as I believe best. But no one voting either for or against this bill can rejoice. Should it also pass the House of Representatives we will have before us years of difficulties requiring careful monitoring. Should it fail to pass, we face months of hammering out a new, hopefully better, proposal. In any event we are far from having established the orderly market in which the new gas supplies we need can be developed.●

FEDERAL LAW ENFORCEMENT NOW ON NOTICE: ARSON-FOR-PROFIT IS A NATIONWIDE SCOURGE

● Mr. PERCY. Mr. President, the Senate Permanent Subcommittee on Investigations recently completed 4 days of hearings on the subject of arson-for-profit. Arson is a highly sophisticated crime which in 1976 cost insurance companies $2 billion and claimed 1,000 lives. Arson authorities estimate that the crime is increasing at the rate of 25 percent a year.

Arson-for-profit saps the vigor of the inner cities, reduces property tax bases, while robbing every American fire insurance policyholder through higher premiums just as surely as if the arsonist or "torch" had stolen the money from the policyholder at gunpoint on the street.

The alarming arson loss statistics tell us something else: If the present increases continue, billions of dollars in property tax revenues—now taken for granted by our major cities for funding essential services—may be lost in the rubble.

One would expect that, in view of the seriousness and growth of this crime, the Federal Government would be hard at work helping to reduce the incidence of arson-for-profit. However, as the subcommittee testimony showed, this is not the case at all.

The Federal Government has also been woefully deficient in providing assistance to worthwhile State and local antiarson programs. Despite the growing need for such programs, the Law Enforcement Assistance Administration until now has chosen to ignore requests for funding assistance, while putting out press releases announcing its concern. The GAO reported that only one-tenth of 1 percent of LEAA's $2 billion in local assistance funds have gone to arson control in the past 3 years. This response is ludicrous in light of the frightening human and financial losses resulting from arson each year. Consider some of the testimony from the hearings:

A torch from Minneapolis confessed that he had burned down more than 100 buildings in that city with impunity, earning money enough for several wives, new cars, and numerous trips to Las Vegas.

Another torch, from Rochester, N.Y., where he was a member of the mob, gave a vivid account of how arson-for-profit works there, with the organization counting on this crime as a regular source of substantial income.

Another torch, from Philadelphia, testified about how his landlord induced him into the arson business in exchange for which he was able to stay in an apartment owned by the landlord.

An insurance adjustor, convicted for his participation in a Tampa arson conspiracy testified about how easy it was to help his co-conspirators defraud insurance companies, who have lax adjustment and underwriting policies which allow overinsurance of properties and quick settlements, even when there was reason to believe that arson had been committed.

An insurance company official from California testified that "about 25 per cent of adjustors would succumb to proposals to participate" in an arson-for-profit defrauding scheme.

An arson investigator for the Houston Fire Department testified about how difficult it was for him to get any help from the federal Law Enforcement Assistance Administration to develop a laboratory capable of analyzing suspicious materials at the fire scene.

The chief of police in San Jose testified that LEAA, despite a recommendation from the federal strike force attorney on the West Coast, turned down a request for funding a regional arson intelligence system in the San Francisco Bay area.

The testimony from these and other witnesses made it clear that arson-for-profit is raging out of control all across the country, claiming lives and damaging property, while arsonists and their conspirators frequently get off scot-free.

It was unfortunate that the subcommittee had to go to the lengths it did to demonstrate these facts to the Federal agencies which have a law enforcement responsibility in this field. But, I think we are now beginning to see results. On September 11, FBI Director William H. Webster advised me that he had directed all 59 Bureau offices to target arson-for-profit operations as a priority law enforcement interest. His response to the evidence presented to the subcommittee makes it clear that the FBI is on notice that this is a nationwide problem and must be addressed by the most efficient and professional law enforcement organization in the Government.

During the hearings, James H. Gregg, Acting Administrator of the Law Enforcement Assistance Administration, also responded positively to the accumulated evidence. LEAA is in the process of advising all state LEAA agencies of the critical need to begin funding arson control programs in cities and towns throughout the United States.

It is this sort of response which appropriately will lead to a reduction in the incidence of arson around the country. While local law enforcement agencies have the principal responsibility for dealing with this crime, they cannot do it without help and this help can now be brought to bear from the LEAA and the FBI.

I was also heartened to hear that the Justice Department, now more concerned about arson, has commissioned a study to evaluate the appropriateness of the Federal Government's response to the arson problem and to determine if other initiatives are in order. I am heartened by this response, just as I am by that of the Alcohol, Tobacco and Firearms Bureau, which is setting up special arson task forces in 18 cities around the country to cooperate with local law enforcement agencies now targeting this raging crime.

These commitments given to the subcommittee, although significant, are only the first of many steps which must be taken by the Federal Government if it intends on having a serious impact on the arson epidemic. These commitments must be total—whatever resources are necessary to combat this crime. Arson is tearing apart the social fabric of our cities by displacing families, exiling businesses, spreading blight and vandalism, and robbing the taxpayer and homeowner of hard-earned moneys through increased property taxes and skyrocketing insurance premiums.

These agencies cannot simply commit a predetermined amount of money to a problem of this magnitude and believe that the problem will go away. Nothing short of a total commitment will do.

After 4 days of hearings, I trust that those Federal agencies responsible for enforcing the arson laws have reached the same conclusion and conviction that we have, and that their verbal commitments will be promptly implemented. Furthermore, I trust that their verbal commitments are representative of a total commitment they are now planning on making to rid America of this most devastating of crimes.

However, we on the subcommittee realize that more than a verbal assurance on the part of these agencies may be required to deal with this problem. Legislation may be needed. More money may be required from the Congress. Local law enforcement agencies may want to come forward with requests to these agencies or to the Congress with new and innovative approaches. I believe that the agencies involved will now be more

receptive for requests for help from local law enforcement agencies.

This subcommittee now has an obligation to make certain that the Federal Government follows through. We will be monitoring the activities of these agencies through checks in the field with the same sources we developed in the course of this inquiry, as well as with others. We will perform whatever follow-up investigation is necessary. If more hearings are indicated, they will be convened.

We want these hearings to serve as a starting point for the agencies affected: As a signal to them that the Congress will no longer tolerate inaction and disinterest.

In closing, I want to thank Senator NUNN, the vice chairman of the subcommittee, and Senator GLENN, whose contributions in this regard have been unique, for their continuing support and interest in dealing with this important issue.●

ERA AMENDMENTS

● Mr. GARN. Mr. President, today, I submit for printing in the RECORD additional editorials from around the country. The publishers and editorial writers of this country are extremely troubled about the manner in which some are attempting to grant an extension of time for consideration of the Equal Rights Amendment. They are particularly troubled by the fact that extension is being attempted in a one-sided manner that will preclude full debate across the country.

The amendments I am supporting will help insure that debate continues full and free in all parts of the country, and that any extension passes by the same two-thirds majority that seems plainly necessary to uphold the legality of extension. I am hopeful that many of our colleagues will support these two amendments to guarantee fair play and constitutional integrity. These two amendments will improve any extension, and I am pleased that Senators who have many different opinions on the merits of ERA itself will be supporting these amendments.

So that our colleagues will have the benefit of editorial opinion from many parts of the country, I ask for a number of editorials to be printed in the RECORD. It will be especially interesting for readers to note the number of newspapers which favor ERA itself but which have serious reservations about the manner in which extension is being debated and acted upon:

EXTENDING THE ERA

[From the Pittsburgh Post-Gazette, Aug. 18, 1978]

The temptation for supporters of the federal Equal Rights Amendment—a group which includes the Post-Gazette—is to welcome the proposed extension of the amendment's ratification period. But this week's approval by the House of Representatives of an ERA extension bill demonstrates why the extension is a dubious means to a desirable end.

A majority of the House approved the 39-month extension but refused to attach to it an amendment authorizing states which have already ratified the ERA to rescind their support in the future. The "recision" issue is only the most perplexing and dramatic example of the legal confusion and political controversy which is likely if the Senate follows the House's example.

When Congress established the original seven-year deadline for ratification, it obviously expected the contemporaneous consensus traditionally required for changes in the Constitution to materialize well before 1979. That consensus has not developed, for a number of reasons. One ironic but eminently plausible explanation for the ERA's slow progress is the fact that the movement towards substantive sexual equality has continued steadily without an equal rights amendment. Relying largely on the Fourteenth Amendment, which guarantees equal protection to all "persons," courts have outlawed most forms of governmental discrimination. As for private sexual bias—which would not be affected by the ERA in any case—the 1964 Civil Rights Act prohibits employment discrimination in private industry and education.

Precisely because the ERA is largely a symbolic proposal, with few substantive implications, extremists on both sides of the issue have tended to turn the ratification debate into a confrontation between "old-fashioned values" on the one side, and radical feminism on the other. As the rhetoric and lobbying efforts wandered away from the simple theme of sexual equality before the law, nervous state legislators became cautious and ratification slowed to a halt.

Proponents of an extension of the ratification period argue that such political complications have prevented legislators from reflecting the true views of their constituents. Perhaps, but it is interesting that public-opinion polls show that nearly half of ERA supporters oppose the extension of the deadline.

The stage is thus set for a rancorous public debate over the propriety of the extension, a debate which will probably overshadow the desirability of explicitly enshrining sexual equality in the Constitution. ERA supporters believe that such a controversy is preferable to starting all over with the ratification process. But even if they prevail in Congress and the courts, the success of the extension may prove to be a Pyrrhic victory. The anti-ERA forces will have been provided with a new weapon in their campaign against the amendment—the argument that the ratification process itself has been tampered with to guarantee a given result.

[From the Atlanta Journal, Aug. 18, 1978]

ERA SYMBOLISM

We have supported extension of the time period for ratification of the Equal Rights Amendment. However, we regret that the House of Representatives, in granting a 39-month extension, failed to acknowledge the authority of a state to rescind a previous ratification.

The intent of the amending procedure was to provide for a reflection of any national consensus for constitutional change. For that consensus to be meaningful over a period of years, the grant of additional time to ratify ought to be accompanied by additional time to rescind—the consensus, in the language of constitutional authorities, should be as nearly "contemporaneous" as possible.

Apart from the constitutional argument, political considerations should indicate that if there is indeed growing support for ERA then it ought also to be able to withstand pressures for rescission.

With the federal courts now repeatedly declaring sex-based distinctions in the law to be unconstitutional on the basis of the 14th Amendment (which guarantees "equal protection of the laws" to all persons), the major argument both for and against ERA is becoming, more than ever, a symbolic issue—a symbol of a raised national consciousness of the dignity of women. As a symbol, however, its value is proportionate to its acceptance in an overwhelming vote for ratification.

The extension issue now goes to the Senate, which should consider both constitutional and symbolic aspects. The best way to do that would be to couple extension with recognition of the right to rescind.

[From the Mankato (Minn.) Free Press, Aug. 17, 1978]

"EQUAL" LOSES MEANING—ADVANTAGE FOR ERA

The word "equal" in Equal Rights Amendment lost its meaning in the votes Tuesday of the House of Representatives to allow a 39-month extension for ratification and to deny states that have ratified the ERA the power to withdraw support.

In the first place, extending the seven-year deadline for the ERA is not playing fair in the way constitutional amendments are to be ratified. Time limits have applied to amendments since 1917, and they are part of the system which allows for debate and timely resolution of issues. Supporters of the extension said that more time is needed for reasoned debate over the ERA. Certainly seven years should be enough time to fully air the issues. It was given an equal chance to win approval by the required number of states and it lost. But apparently this "equal" opportunity wasn't enough for the ERA supporters. They had to ask for special treatment, something we thought they were patently opposed to in their concern for equality.

Even further advantage was accorded the ERA when the House defeated the Railsback amendment that would allow states to reverse their stands on the ERA. It was argued that a "one-way extension" would not be fair. But fair play apparently was not on the minds of the ERA supporters who defeated the amendment.

The votes in the House were close—233–189 on the extension and 227–196 on the Railsback amendment. We commend Congressmen Hagedorn and Quie for voting for fair play and against the extension. Congressman Fraser voted for special treatment for ERA.

The bill now goes to the Senate. There it will probably meet head-on with something that also does not meet the democratic test of equality—the filibuster.

The way the ERA amendment was treated in the House, we think the ERA extension and the Senate's device of filibuster deserve each other.

[From the Fort Scott (Kans.) Tribune, Aug. 18, 1978]

POOR PROCEDURE

Despite our support for formal recognition that women are people too, through adoption of the Equal Rights Amendment, it's with a bit of uneasiness that we view the House of Representatives vote to extend the ratification date.

As Rep. Tom Railsback, R–Ill., noted in arguing against the extension, the whole thing smacks of a power move to ram an unpopular proposition down the throats of the people.

Even though polls suggest a majority of the American people support ERA, that does not change the fact that the House action could set a precedent that would make possible future constitutional changes by legislative power plays.

It is significant that while the House voted to extend the ratification date three years, it also voted not to let those states that have already ratified ERA reconsider their votes.

The two votes together suggest the possibility of future ugliness. Suppose an unpopular constitutional proposition with strong Washington backing was initially turned down by most states.

In light of the ERA precedent, Congress could vote itself all the time it needed to bring some pressure to bear. Given enough time, have no doubt that pressure could produce the desired reaction.

Of course, this does nothing to change the monumental tragedy that ERA ratification needed to be extended at all. It is simply a certification of basic human rights, and one that apparently has the support of most Americans.

Perhaps the fate of ERA to date suggests another needed constitutional amendment—one that would give the people a direct voice.

As it now stands, the American public has no direct influence on the supreme law of their land, the United States Constitution. All changes to the constitution must be channeled through state legislatures.

It was a procedure established by the founding fathers, and probably with good reason. In the 18th Century, it was rightly assumed that state officials would be in a better position to judge the merits of proposed constitutional changes.

Mass communication as we now know it didn't exist then. But at the same time, neither did all the financial strings exist then that now run from Washington to state capitols.

If a majority of the American people want ERA, they should have the right to say so directly. If they don't, then it's an idea whose time has not yet come.

Either way it would be decided by those who will be affected, without all the questionable legal maneuverings the question is being subjected to now.

[From the Monroe (La.) World, July 24, 1978]

ERA Ratification Time Violates Fair Practice

The Equal Rights Amendment is an issue that one can feel two ways about. While another amendment might only clutter a system that offers redress already, one can remain supportive of full rights for women and back the ERA.

The current move to extend the period of state ratification of the ERA, however, is not nearly so difficult. That would do violence to the Constitution and to the principle of fair competition that the amendment itself is supposed to be all about.

That, perhaps, is the most striking thing about the new emphasis of the ERA debate as the deadline for its ratification (next March) approaches—that one of the first things sought for a measure termed equal should be special treatment.

By the deadline, this amendment will have had the full seven years allotted to all constitutional amendments for debate and action by legislatures representing the people. No amendment has ever had more than seven years. No amendment has ever required as many as four of those permissible seven years to be decided. The first 10 were ratified in 27 months. The last, lowering the voting age, took only four months.

Great former Supreme Court Chief Justice Charles Evans Hughes explained why the seven year period is reasonable: "Ratification must be sufficiently contemporaneous in the required number of states to reflect the will of the people in all sections at relatively the same period of time."

Many there are, then, who roundly endorse the ERA—despite the existence of the fifth and 14th amendments—but draw the line at extending the ratification period. Fair play and equal treatment are the reasons both times.

[From the Davenport (Iowa) Quad City Times, Aug. 20, 1978]

Another ERA Round

Advocates of extending the deadline for ratification of the Equal Rights Amendment are half-way home.

The U.S. House has approved a new lease of 39 months, leaving the Senate as the only remaining hurdle.

But that hurdle will be a high one. Foes of the extension are already threatening to filibuster. And that would bring one more bitterly divisive round to the ERA fight.

Indeed, bitter divisiveness has been encouraged by both sides in the great controversy.

Some ERA foes have resorted to emotionalism and scare tactics to head off the ratification drive.

ERA backers have most recently done their part to fuel the fracas by attempting to change the rules during the contest. The push for an extension has left many Americans with a feeling that the proponents of the amendment are not playing fair and square.

That feeling was intensified when the House rejected a proposal from Rep. Tom Railsback, R-Ill., that would have made a new lease for ERA more palatable.

Railsack unsuccessfully sought to amend the extension legislation to allow states that had ratified ERA during the original period to rescind their action.

Railsback's concept was eminently fair. Those who were in opposition said it would establish a dangerous precedent, but they themselves are flirting with a dangerous precedent.

Would ERA enthusiasts, who think extra time for ratification would be fine and dandy in this case, be willing to go along with such an extension for a proposed constitutional amendment to ban abortions?

The extension decision involves more than a standoff between those who favor ERA and those who oppose it.

That is why it should be approached without emotion and with a special eye toward fairness and long-range impact.

[From the Cedar Rapids Gazette, Aug. 8, 1978]

Unfairly Chasing Fairness

Hearings have begun before a Senate Judiciary subcommittee on extending the states' deadline for approval of the Equal Rights Amendment, with full congressional support appearing likely in due course. If that develops as expected, it will be another case of worthy ends (the ERA's adoption) being sought by shabby means.

The central issue in extension of the deadline for another term of years beyond March 22 next year is simply one of playing fair. A basic inconsistency, along with heavy irony, discolors seeking preferential treatment for something that proposes general equality before the law.

This approach would change the rules to benefit one side near the end of the game. It has been likened aptly to football officials' suddenly decreeing a fifth quarter so that the trailing, favored team has a better chance to win.

Even many of the voices always calling loudly for the ERA's approval (ours included) see damages and dangers in this sneak-through effort at the end.

The New York Times: "The very process of amending the Constitution is at stake. If the ERA were given a second seven-year term for ratification by the states, it would be a clear case of manipulating the process in an effort to achieve a desired result. . . . Any retroactive change, . . . because the set period did not produce a desired result, would plainly offend the solemn spirit of the amendment process."

The Washington Post: "If Congress is going to give more time for reconsideration by those states that have expressed themselves in a sense, by not doing anything about the ERA, it should in fairness offer an equal opportunity for reconsideration by those states that have acted affirmatively."

Often blistered by the ERA's worst enemies, these notables among the press are trying to be fair. The Congress, it appears, is not. Nothing in an afterthought extension, anyway, remotely would assure that three more states (at least) will come around to ratify the ERA before its newer deadline falls.

If the Equal Rights Amendment specifying no more sex discrimination is as strong, as worthy and as popular as most of its enthusiasts have reason to believe, another start for it from scratch in Congress would be feasible and fair. If its necessity seems dimmed for some because equality for women has been strengthened on foundations other than the ERA's, the net effect will still be to the good.

In either case, when the goal of the game is assurance of fairness for millions, the way the game is supervised and played should be fair, too.

[From the Arizona Republic, Aug. 17, 1978]

Talk It To Death

Whether or not Congress has the constitutional power to extend the deadline for ratification of the Equal Rights Amendment is a question we hardly feel qualified to answer.

Sam Ervin, who, as a senator from North Carolina, was generally considered the foremost constitutional expert on Capitol Hill, insists that it does not. We are impressed by his arguments, but, of course, Ervin is not the Supreme Court.

If the Senate approves the extension, as the House already has done, it will be the court that has the final say.

We hope the Senate kills the extension.

To begin with, we consider the amendment totally unnecessary.

Congress already has the power, under the 14th Amendment, to pass any legislation it wishes guaranteeing equal rights for women. It already has passed several laws doing so, and government agencies have issued hundreds of regulations spelling out those laws, including such inanities as the ban on all-boys choruses and the ban on father-and-son dinners.

If there are any rights that women's organizations feel the existing legislation does not grant them, they can press for additional laws. This is the proper remedy for any injustices that may now exist.

In pressing for the 39-month extension of the deadline, Rep. Elizabeth Holtzman, D-N.Y., declared: "We are just asking for a reasonable debate." Congress originally voted to provide seven years for debate. How can anyone say that isn't enough?

No amendment has taken more than a couple of years to ratify. The last, the 26th, lowering the voting age to 18, was ratified in three months. The 19th, giving women the right to vote, was ratified in 14.

A constitutional amendment is supposed to represent a consensus. Can an amendment that requires more than 10 years to ratify possibly represent such a consensus? Already there are tens of millions of Americans who were not of voting age when their state legislatures approved the enactment of ERA. And tens of millions of voters alive then are now dead.

There have been vast changes in public opinion since Congress proposed the amendment on March 22, 1972, as witness the fact that four states that ratified it have rescinded their action.

And this brings up another question. In extending the deadline, the House also denied

state legislatures the right to rescind. Proponents of ERA were given an opportunity to persuade legislatures, which voted down ERA, to change their minds. Opponents were not given the same right to work on legislatures which voted for ERA.

This is manifestly unfair. The House has changed its mind about the deadline. It wants to give legislatures, which rejected ERA, a chance to change their minds. It will not give the same privilege to states which approved ERA.

In all probability, it will take a filibuster to kill the ERA extension in the Senate. That's one filibuster we will applaud.

[From the San Diego Union, Aug. 17, 1978]

ERA: CORRECT IT OR REJECT IT

Tuesday's House vote extending by 39 months the deadline for ratification of the Equal Rights Amendment raises fundamental questions of fairness and political philosophy. The vote, if seconded by the Senate, also makes it far more likely that the courts, not the states, will ultimately decide the fate of the amendment.

The ERA extension passed by the House would permit states that have rejected ratification, Illinois for example, to change their minds. But the House specifically defeated an amendment that would have allowed the converse: States that have ratified to rescind their action. That rightly strikes many on both sides of the ERA debate as unfair.

Legally, the extension would almost certainly cast the entire ratification process and ultimately the amendment itself into limbo.

Twenty-four of the 35 states that have ratified the ERA indicated at the time of their action that the original seven-year time limit was a material consideration in their decision. Ten of the states were explicit in their insistence that their ratification was conditioned upon the seven year limitation.

If the 39-month extension approved by the House becomes law, there can be little doubt that some of the ratifying states and/or ERA opponents will go to court to determine if these ratification actions remain binding. They will have a persuasive case to make.

Indeed, there is even a question of whether Congress, having submitted to the states a proposed constitutional amendment together with its ratification time limit, can extend that limit. This, too, is almost certain to be litigated.

Finally, there is the profound question of the political wisdom of a ratification extension.

The ratification process itself is clearly intended to insure that amendments to the Constitution enjoy the widest possible popular support as a condition of their addition to the Constitution.

In the case of the ERA, its popular support may be eroding rather than increasing. Certainly, its opposition has grown and deepened in the six and one-half years the states have considered the amendment.

Thirty of the 35 states that have ratified the ERA did so within a year of its submission to the states. Since 1973, only five additional states have ratified and four states that originally approved the amendment have rescinded their action. Three states—Wisconsin, New York and New Jersey—have rejected the amendment in referendum votes on adding it to their state constitutions.

Under these circumstances, we cannot support an extension of the ratification deadline and we urge the Senate to correct it, including the rescinding language, or to reject it.

[From the Gainesville, (Ga.) Times, July 20, 1978]

DEADLINE DELAY IS UNWARRANTED

The Equal Rights Amendment has easily won distinction as one of the most persistently controversial—and emotional—issues in American history.

And, unfortunately, a determined effort is being made to extend the heated debate well into the next decade.

It was on March 11, 1972 that Congress gave its approval to the 51-word resolution designed to become the 27th Amendment to the Constitution of the United States.

Within three years 34 states had voted ratification. But, since then—more than three years later—only one more has been added. The current total, 35, is three short of the 38 needed to meet the three-fourths majority requirement and the seven-year deadline prescribed expires in less than seven months.

From the beginning Illinois was regarded as a keystone for adoption of the amendment. That position was earned because of its size and importance as a "northern industrialized" state and, as the "Land of Lincoln", its prestige in the cause of human rights.

But Illinois' role has, thus far, been a great disappointment—to us and to the many supporters who believe the Equal Rights Amendment is imperative to assure justice for all.

During its annual session concluded last month, the Illinois General Assembly again failed to provide its ratification of the ERA. Another effort is expected during the all-too-brief "veto session" late this fall or in the next regular session early next year.

But time is running out—fast.

That has prompted backers of ERA to seek an extension of the time limit. And with limited success.

A marginal victory came last week when the House Judiciary Committee approved a proposed 39-month extension of the ratification period. A prolonged and passionate discussion is almost certain when the measure is brought up in the House for a vote, probably next month. Realists among the hard-core ERA supporters are not optimistic that congressional approval will be given.

While we have endorsed the Equal Rights Amendment as an essential addition to our proclaimed national philosophies, we do not support the proposal to delay the deadline.

We oppose the extension because:

1. There is a serious question of the legality of the maneuver—and the possible nullification of the 35 ratifications already won.

2. Such action is almost certain to stiffen the opposition—already a substantial factor—and, what's worse, possibly disenchant crucially wavering borderline votes in some state legislatures still considering ERA.

3. We do not subscribe to changing rules in the middle of the game—and especially when we don't like the way the tide of the game is going.

4. Never before in our nation's history has a constitutional amendment required even four years time to win ratification. If ERA cannot become a reality within the seven year period, it should be quite evident that the time is not yet ripe for widespread acceptance of the proposal.

We urge, instead, that the pro-ERA supporters muster their forces for an all-out effort to win a complete victory the way it was intended in the first place.

[From the Gainesville, Ga., Times, July 20, 1978]

LET STATES RESCIND RATIFICATION OF ERA

If the states are to have three additional years to act on the Equal Rights Amendment, it seems only fair that Congress should permit state legislatures, if they wish, to recind their ratification.

The House Judiciary Committee, in recommending the three-year extension by a margin of one vote, sidestepped a proposal that would allow the states to take back approval of the amendment.

Since the Justice Department has said it is up to Congress to decide, the question of honoring rescissions is sure to come up on the House floor. The Justice Department says it is up to Congress to decide the legality of such actions.

There is nothing sacred about the seven-year deadline for ratification originally written into the ERA legislation and there is no firm precedent for handling rescissions. Congress has a right to extend the deadline and a similar right to grant states the right to rescind.

Few questions in recent years have been debated in this country with the fervor that has marked the debate on the Equal Rights Amendment. There seems to be no middle ground. Many voters have chosen this one issue as their litmus test for supporting or opposing a congressional candidate.

The proponents of the amendment wanted a seven-year extension of the ratification deadline. The opponents wanted to cut off ratification process in 1979, as the legislation now provides.

A three-year extension seems a reasonable compromise—one that will give those who favor the amendment ample opportunity to pick up additional states. They can't claim they were robbed.

But it is also reasonable to allow legislatures, which presumably represent the current thinking of their constituents, to take themselves off the list of ratifying states.

[From the St. Louis Post Dispatch, Aug. 17, 1978]

FOR ERA, NOT EXTENSION

In the course of the debate over extending the time limit for ratifying the Equal Rights Amendment, Rep. Elizabeth Holtzman was only stating the obvious when she declared, "Women in the United States are still subject to discrimination in pay, in employment and throughout our society. If anyone wants to say our present laws protect women from discrimination, they are wrong, flat wrong." Looked at from this perspective, focusing narrowly on the very real need for the ERA, the recent House vote to extend the deadline for ratification of the ERA to June 30, 1982, from March 22, 1979, would be laudable. But what Congress does with the ERA sets a precedent for future changes to the Constitution and, in this broader context, we believe that the House's vote violated principles of fair play and the framers' intention of making the Constitution difficult to amend.

The framers were silent on the subject of deadlines for ratification. Until the 18th Amendment, in fact, no time limit had been placed on the process. Thus, it seems almost certain that Congress has the right to change the time limit. And, as the limit in this case is part of the resolution rather than part of the amendment itself, Rep. Volkmer's contention that changing the limit requires the same two-thirds majority as proposing an amendment deserved the rejection it received.

There is nothing sacrosanct about a seven-year limit on ratification, but once it has been made a part of a proposal passed by Congress and put before the states it should remain. The states apparently did not discount the time limit, for the vast majority of those that have ratified the ERA did so with specific mention of the seven-year limit. This is not to say that any state that has ratified would not have done so had the limit been 10 years or 15, but some states might well have had second thoughts if they had known that, pending failure in the allotted time, an extension would be granted.

Much of the debate on the extension concerned whether such a move ought to be linked with an authorization for those states that wanted to do so to rescind their ratification. But Congress has never authorized rescission, and we see no compelling reason for it to do so now or even to get involved in this issue. Neither, evidently, did the House, as it voted down the rescission proposal.

Many ERA supporters tried to make the amendment the issue in the recent vote, but it was not. What was at issue in the case or difficulty of changing the Constitution, and we believe with the document's framers that the altering of this fundamental charter ought not to be made simple. To say that, however, it is no manner to suggest that the ERA would not be a useful—indeed essential—addition to the Constitution. Many believe that there is no chance for the ERA to get the required 38 states by the original March 22 deadline. If it does not, and if there is no extension, the proponents need to gear up for another attempt.

ERA supporters have shown their best political organization and strongest use of their numbers in working Capitol Hill for the extension. And, it is encouraging to know that such forces may be working here in Missouri and in Illinois soon for the amendment. But, where have those politically savvy campaigners been in the past? They were needed then and they are needed now to work to make the Equal Rights Amendment part of the Constitution.

[From the St. Louis Globe-Democrat, Aug. 17, 1978]

HOUSE CAVES IN ON ERA

The vote of Missouri's congressional delegation is one encouraging note to be salvaged from the House cave-in on extending the time for ratifying the Equal Rights Amendment. Of the 10 Missouri members in the House, 8 voted against the unwarranted and unreasonable 39-month extension. Rep. William L. Clay, D-St. Louis, and Rep. Richard Bolling, D-Kansas City, are the only two Missourians who voted for the extension.

Even some vigorous ERA supporters have expressed opposition to changing the rules in the middle of the game. In that spirit the Senate will do well to let the proposal for extra innings die, either through inattention or filibuster.

Constitutional authorities are agreed that apart from one's preferences on ERA, tampering with the process for amending the Constitution should not be permitted.

Fair-minded persons will concede that ERA proponents have had all the time required to push their cause. If ERA were needed or wanted, it would have been adopted long ago. The unfairness of those demanding extra time is compounded by their unwillingness to recognize the right of states that have rescinded ERA to have second thoughts.

[From the Panama City (Fla.) News-Herald, July 26, 1978]

ANOTHER ERA

In the world of baseball the letters ERA mean "earned and run average".

A team can win a ballgame by earning its runs. Or it can win by the other team's miscues.

It's the pitcher, however, who is really concerned about that ERA. His fortune can rise and fall on his particular ERA.

Times change, however, and so do acronyms. One speaks of ERA today in the public square and he must be prepared to speak for or against the Equal Rights Amendment.

Right now, the Equal-Rights-Amendment folks don't have much of an Earned-Run-Average. They have won a few, lost a few and had a few rained out. The forecast is cloudy and wet and don't expect any more contests in the days ahead.

MacNelly's cartoon comes through like a clean single into center field. The game ends with ERA losing 1-0 but the girls are demanding that the game go into extra innings.

Although the time is fast running out on adoption of a constitutional amendment, proponents of ERA are now saying that they want an extension of time. They believe that if given a few more years, they can score with a homerun over the left-field bleachers.

Somebody's missing some of the sports pages in recent weeks. The people are the players and they have said in California's Proposition 13 and elsewhere that they not only are tired of taxes but are weary of ERA.

When you strike out in baseball, you might argue with the ump momentarily, but every player knows that such debates are merely a waste of breath.

When you are out, you are out.

In baseball or politics.

[From the Redwood City (Calif.) Tribune, July 26, 1978]

THE BEST PROCEDURES FOR ACHIEVING EQUALITY

It was a close vote, but supporters of the Equal Rights Amendment for Women won an important preliminary round when the House Judiciary Committee voted to extend the deadline for grafting the amendment onto the U.S. Constitution. The matter now must be debated before the full House, and the whole process repeated in the Senate before the extension becomes law. We hope it fails.

We do not oppose equal rights for women, only the method chosen by women's activists to achieve it in the case of ERA. They are asking for special treatment—a time extension—to further a cause which seeks properly to obliterate special treatment for women. Only a zealot could miss the irony there.

The way events are running, the amendment probably will not be ratified by three-quarters of the states in time to meet the March, 1979, deadline established by Congress nearly seven years ago. The women's movement, therefore, sought a seven-year extension of the deadline, a figure the House Judiciary Committee reduced to 39 months. At the same time, the House committee action forbids any state from rescinding its prior ERA ratification.

We object to all this because ERA supporters knew the rules before the game started. To argue the cause is worthy enough to require a rule change suggests that we should have no law at all and function as a society on narrow legislative majorities alone. We hope Congress sticks to its original time frame.

Anyway, the ERA discussion has become a technicians' argument, not one of major substance, similar to whether women, or a given woman, should or should not be addressed as "Ms." It's up to the woman, we say, and let's get on from there and redress the wrongs women as a class have suffered through the years. Symbolism is important, but the pursuit of it should not obscure the major objectives of a reform movement.

In the nearly seven years since Congress sent ERA to the states with two-thirds majorities from both houses, conditions for women have changed dramatically. They have changed so dramatically, we would argue, that ERA has become merely a symbol and should not be enshrined in the nation's basic law. Actually, women have fared so well since 1972 that the proposed amendment now has a counterproductive effect when it is discussed in many of the councils responsible for the changing attitudes toward sexual equality.

To say that more must be done does not mean it will be done with an ERA amendment. Progress toward sexual equality in America's public and private life has been accomplished so far without it. Real equality can be achieved without ERA.

[From the Santa Monica (Calif.) Outlook, Aug. 17, 1978]

CONSTITUTION CHEAPENED

The House has voted to extend the time needed to ratify the Equal Rights Amendment (ERA). The extension passed on the strength of a simple, rather than a two-thirds, majority vote. How does that square with the Constitution?

It doesn't. Article V of the Constitution states in no uncertain terms that the Congress may propose amendments to that document only "whenever two-thirds of both houses shall deem it necessary."

The ERA, in our opinion, is unnecessary and, as written, potentially troublesome. Nevertheless, the precedent that could be set if the amendment is allowed to be passed on the basis of a simple majority is far more hazardous than the ERA itself. If that happens, even the Bill of Rights would become vulnerable to easy tampering by slim majorities in the Congress. And if the two-thirds rule is waived in Washington, the constitutional requirement that amendments must be ratified by at least three-fourths of the states would be in jeopardy, too.

Frankly, we doubt whether any federal judge who takes his constitutional duties seriously ever would sustain a constitutional amendment passed in any form by anything less than a two-thirds vote of the Congress. We have a hunch many in Congress who voted for the simple majority extension feel the same way, and just are putting on a cynical political show for overzealous ERA supporters who may neither understand nor care for the damage that may be done to the Constitution.

But be that as it may, Congress shouldn't play games with the Constitution. And all Americans—including ERA advocates—who look to the Constitution for protection should resent political efforts to cheapen and weaken it by watering down the amendment process.

[From the Contra Costa (Calif.) Times, Aug. 17, 1978]

THE ERA GAME

Two stories appearing on page one of Wednesday's edition of the Times point out a contrast between the public and the House's opinions on the Equal Rights Amendment and its extension.

There is no doubt that a majority of the polled public and our representatives are in favor of passing the ERA. However, the split comes over whether there should be an extension on the amount of time the states have to vote on the proposed constitutional amendment.

In the first Associated Press article, 54 percent of the men and women polled favor the ERA. But of those same persons only 34 percent think there should be an extension.

In the second AP story, the House of Representatives voted to approve a 39-month extension.

We wonder if the representatives' votes are truly representative of the American population.

We support the ERA, believing it is important to outlaw discrimination based on sex. On the other hand, we also realize that Congress has never extended the deadline for ratification of a constitutional amendment, although until the prohibition amendment was submitted to the states in 1917, no time limits were set.

By the House's vote Tuesday, the majority of the representatives are changing the rules in the bottom of the ninth inning when the score is obviously close but not in their favor.

[From the Waterbury (Conn.) Republican, July 20, 1978]

KEEP ERA RULES FAIR

The major theme surrounding the Equal Rights Amendment has always been equality. Supporters contend the ERA must be ratified to guarantee equal rights for women. Opponents contend women have been gaining

equal rights without the all-encompassing mandates of the ERA.

The apparent failure of ERA-supporters to win ratification within the normal seven-year period has put the issue of changing the ratification rules squarely in the hands of Congress. On this matter too, equality is all-important.

But the House Judiciary Committee showed it did not want to treat both sides impartially when it voted to approve a bill to extend the ERA ratification deadline while rejecting a proposal to permit states to rescind previous approval.

The deadline extension of more than three years was a compromise. ERA supporters had wanted another seven-year period in which to win ratification in the required 38 states. Opponents want no extension. Four of the states which ratified the amendment have voted to rescind those earlier votes, although Kentucky's bill to rescind the ERA approval was vetoed by the acting governor.

The committee's action means the ERA extension will be considered by the full Congress, where its fate is uncertain. It would not be fair to give ERA supporters special treatment by extending the deadline. But if that is the decision Congress makes, it must be equally fair to opponents by letting states rescind their votes. Handling the issue any other way would be a sham in the guise of equality.

[From the Waterbury (Conn.) American, July 27, 1978]

RIGHTS AND RESPONSIBILITIES

When activists push for rights for groups of individuals they often ignore the importance of responsibilities that go with those rights. Such phrases as equal rights, welfare rights, citizenship rights and property rights should also have the additional phrase "and responsibilities."

Some advocates of the Equal Rights Amendment, which supposedly would promote equality for women, ignore the effects of their efforts on equality for men. They want both equality and special privileges for women.

Those who are seeking an extension of ratification by the states of the ERA ignore the inequality caused if states which already have ratified the amendment are denied the right to reverse their vote.

Welfare rights are recognized for the poor, but with those rights go the responsibility for those who are able to work to look for jobs and become productive.

Citizenship rights should be balanced with the responsibility to become voters, to participate in community affairs and to help others to enjoy the American way of life.

Those who have property rights also have the responsibility to keep up their property, to be good landlords and good neighbors.

Those who seek rights for themselves have the responsibility to be fair to others, whether civil rights, equal rights or any other individual rights are involved.

For every action there is a reaction and for every right that a person has there is a responsibility. Concern over rights should not be so overpowering that responsibilities are forgotten.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

UNITED STATES-CANADIAN WHEAT TALKS

Mr. McGOVERN. Mr. President, earlier today in the Senate caucus room an important meeting took place on the subject of international cooperative pricing agreements. These discussions were a continuation of talks held in late June in Winnipeg, Canada in which Senator BELLMON, Senator MELCHER, and I represented our Senate Committee on Agriculture. Senator Hayden Argue, the chairman of the Canadian Senate Agriculture Committee, led his delegation at both the Winnipeg and Washington meetings.

Let me say that I consider these meetings to be helpful and constructive. I look forward to a continuing relationship with our good neighbors from Canada. We think that this meeting established the framework for such a working relationship.

For the information of other Senators I ask unanimous consent that my opening statement together with the opening statement of Senator Argue be printed in the RECORD at this point.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GEORGE MCGOVERN

(This meeting is a continuation of talks between bi-partisan groups of Senators from each of our two countries which were initiated at a conference in Winnipeg, Manitoba, Canada on June 30, 1978.)

We are here to explore further the feasibility of cooperation between the United States and Canada to increase the selling prices of our wheat in the world market to levels that will cover our farmers' costs of production, including a modest return on the farmers' labor and investment.

According to studies by the U.S. Department of Agriculture, the bare cost of producing wheat in the United States in 1978 was $3.61 to $3.92 per bushel. These calculations allow the farmer only $3.02 per hour for his labor, and approximately 8 percent as a return on the farmers' investment. Costs for the 1979 crop, now being planted in much of our country, will be substantially higher. We concluded in our discussions in Winnipeg that a modest and reasonable price objective to seek through a program of international cooperation would be $4 per bushel at the farm (in U.S. currency).

PRESENT PRICES ARE NEAR RECORD LOW

Producers of wheat and other grains in the United States are suffering a devastating depression. The real purchasing power of prices received by farmers for wheat throughout the past three years have been at the lowest levels since the Great Depression of the 1930's. The supplemental payments that are being received this year by wheat farmers will provide only for a partial substitution for the income that would normally be realized from the acreage that has been diverted from production under the set-aside program.

This situation is grossly unfair to the farm families who produce our daily bread. The prices received by farmers in the United States and Canada are among the very lowest in the entire world. The returns on labor and investment received by American grain farmers are far, far below those that would be considered acceptable by workers and investors in any other productive industry or profession. And they are even further below the actual rates of return that are being realized today in other economic sectors.

This situation is unfair and destructive to farmers. It is also gravely dangerous for consumers and for the public interest.

The present policies simply are not working, and they cannot work. Because of the unique character of the agricultural economy, farm commodity prices can never rise significantly above severe loss-levels excepting during times of actual and immediate shortages.

We cannot afford to be deceived by the fact that farmers can and do go on producing for several years despite prices that fail to cover their production costs and family living expenses. Once established in farming, most farm families have no choice but to go on farming so as to reduce their losses on their fixed costs.

THREAT TO FAMILY FARM SURVIVAL

But the farmers who are now established, and are therefore locked into the agricultural economic treadmill, eventually grow old and must retire. And it is economically impossible at the levels of grain prices during the past three years for young farm couples to buy the farms of retiring farmers and make enough to pay their interest and taxes and production costs and family living expenses.

No young farmer can start farming today unless he inherits a farm or marries a farm owner. If young farm families cannot replace the older farmers as they retire, then our system of family farming cannot survive. The present policies are taking us inexorably to the extinction of the family farm system.

We must not think for a minute that big corporations can afford to farm at prices too low for family farmers to survive.

Nor can we count on the hobby farmers, nor the rich doctors and lawyers who are farming for tax shelters, nor the land speculators, to produce our food for the long pull.

Our present system simply does not and cannot work in the long run. We must have a different and better and more responsible farm price policy in order to provide equity to farm families today, and to assure ample food at reasonable cost for all of us tomorrow.

PROPOSED PLAN IS SIMPLE

The new approach that we have begun to explore is surprisingly simple. It would require no great and radical change in the operations of our present farm program machinery.

Indeed, what we are proposing is simply to increase our price support loan levels modestly higher than those now established. Our price support system itself would function in the same way that it now does, but with market prices of wheat for both export and domestic use reflecting the higher floor level established by the price support loan.

For their part, we have been assured by the Canadian authorities that the selling price of Canadian wheat would be raised immediately to a par with the higher price established for wheat from the United States. We received this assurance from the Honorable Otto Lang, the Minister in the Trudeau Government who is responsible for wheat sales policies. We received this assurance from W. E. Jarvis, Chief Commissioner of the Canadian Wheat Board, who, with the entire membership of the Wheat Board, met with us in Winnipeg.

We received firm assurances of support for this policy on the part of Canada from the distinguished members of The Senate of Canada Standing Committee on Agriculture who participated in the Winnipeg meeting.

The United States and Canada together account for two-thirds of all the wheat that enters world trade. In the marketing year 1977–78 which just ended, the United States originated 43 percent of total world exports of wheat, and Canada accounted for 23 percent.

Australia accounted for an additional 15 percent of total world wheat exports, and our conference in Winnipeg received a message from Sir Leslie Price, Chairman of the Australian Wheat Board, that his government would cooperate fully in the program to raise wheat prices which we are proposing.

The three-country share of total world wheat exports is 81 percent. We are confi-

dent that Argentina, the fourth main wheat exporter, would also cooperate in such a plan, raising the total share of world exports of wheat participating in the plan to about 85 percent.

There is no doubt that the remaining 15 percent of total wheat exports, of which 8 percent is from Western Europe countries and the balance from a few intermittent small exporters, would be priced for sale in the world market at levels related to the U.S. price support loan rate, just as is the case at present.

U.S. PRICE SUPPORT SETS WORLD PRICE

It is almost universally recognized by students of the world market of wheat that, whenever supplies are not in immediate shortage, the fundamental determinant of the world trading price is the price support loan rate in the U.S. The price support loan rate establishes the approximate minimum price at which wheat farmers in the U.S. will sell their wheat and make it available to the world market. The governments of every other country whose wheat enters world trade in any significant amount fix the price at which their wheat is sold at approximately the selling price in the U.S., adjusted for location and quality.

This is true whether prices are high or low

In the case of Canada, all wheat sold from that country is priced and sold by the Canadian Wheat Board. Similar government agencies perform the same functions in all other countries except for the U.S.A.

The present approach of "confrontation" in place of "cooperation" in the marketing of wheat works to the special disadvantage of the United States and American farmers. In our marketing system, decisions to sell wheat are made independently by nearly a million independent family farmers. In every other wheat exporting country, selling and pricing decisions are made by an agency of the government. The half-dozen or so national grain marketing agencies with which our farmers must compete in the world market can always manage to dispose of all the wheat they wish to sell at the best price available based on the U.S. price support loan rate. The inevitable result is that the United States serves as the "residual supplier" to the world.

No matter how low the U.S. price may go, the other exporting countries will have no choice but to follow the price on down and sell for whatever the market will bring.

This would be true even if the United States would resort to the use of export subsidies, as some of the multinational grain trading company spokesmen are advocating, to force the market price even further below the cost of production.

As for Canada, to the extent that they have had supplies available, extremely low prices have made it necessary to cut into their normal reserves and increase the volume of their sales in order to maintain the total cash flow to their farmers at the best level attainable.

U.S. IS BIG LOSER UNDER PRESENT SYSTEM

The acute disadvantage to the United States of the present policy of "confrontation" is wheat pricing and sales policies illustrated by what occurred in the year just passed, when wheat prices were at the lowest point in real terms for forty years.

In the U.S. the price support loan rate for wheat in 1977 was $2.25 per bushel. This is too low to sustain the U.S. wheat farmers, and a deficiency payment by the government of 65¢ per bushel was paid. For 1978, the amount of the potential deficiency payment has been increased to $1.05 per bushel. The cost of wheat deficiency payments to the U.S. Treasury was $1.2 billion for the 1977 crop and could be even higher this year.

The result of holding down the world trading price of wheat to the present unrealistically low levels has not been, as some claim it would, to increase the U.S. share of the total market. It has been exactly the opposite. While the total world carryover of wheat declined by 377 million bushels last year, the amount of the United States carryover increased by 93 million bushels.

The results for the other wheat exporting countries are in sharp contrast from those experienced by the United States.

In Canada exports reached a record of 16 million tons despite severe transportation problems, and Canadian stocks on July 31 were close to recent lows.

Australia as usual exported almost all of its supplies above domestic needs.

Argentina, as it has in the past, exported all supplies above domestic needs.

The E.E.C.'s agricultural policies so thoroughly insulate its wheat trade from market forces that no conceivable change in the U.S. loan rate would affect its competitive position in world markets.

Turkey, Sweden, and other small and intermittent exporters of wheat subsidized their foreign sales of wheat so as to reduce the cost to buyers to the "world price" set by the low U.S. loan rate. They sold all the wheat they had available above domestic requirements, and this is exactly what they would do whether the world price might be lower or higher.

For the United States to penalize its own farmers and burden its own Treasury by keeping the price down has no effect whatsoever upon the volume that most other exporting countries offer for sale in the world market. It probably forces Canada to increase its volume of sales, so as to maintain total cash receipts of its farmers at closer to necessary levels.

IMPORTING COUNTRY GOVERNMENTS SKIM-OFF PROFITS

Yet another result of the present policy that is particularly galling to me is the fact that the low prices at which we sell our wheat enables the governments of the very countries with which we have the most serious balance of payments difficulties to skim-off enormous profits when they re-sell our wheat to their own flour mills. These foreign governments are making much more in windfall profits on our wheat than the total price received by the farmers who produce it!

The price received by farmers in the United States for wheat averaged $2.31 per bushel in 1977.

The Japanese Food Agency, the exclusive buyer of imported wheat in Japan, is selling American wheat to Japanese flour mills for $9.22 per bushel. Allowing a dollar per bushel for freight and handling costs, this gives the Japanese Government a profit of $5.91 per bushel on the wheat for which farmers received only $2.31.

Last week the European Commission skimmed-off an import levy of $3.54 per bushel on wheat imported from the United States—a clear profit to the European governments above the purchase price and shipping and handling costs.

It is not the Japanese and the European Governments that should be blamed for cashing in on this bonanza for their Treasuries. We have no one to blame but ourselves.

If the farm price of wheat were raised to $5 per bushel, the United States economy would earn an additional $1.4 billion in foreign exchange. This would make a big dent in the alarming balance of payments deficits which have driven the United States dollar to the cheapest value since the Civil War.

All of these results could be made quite different under conditions of cooperation between the United States and Canada to maintain wheat prices at levels more fair and adequate for our farmers. I am sure Australia and most other exporters would join in the effort too, adding to the potential advantages for us:

Our family farming system would be enabled to prosper and survive, with a new generation of young farm couples replacing the older farmers as they retire;

Our balance of payments deficit would be reduced substantially, while the grotesquely unfair enrichment of the Treasuries of the strong currency importing countries would be reduced, contributing doubly to strengthening our dollar in international trade.

The burden of carrying reserve stocks for the world, now unfairly concentrated upon the United States, could be distributed more realistically among the world's grain exporting countries.

RESERVE STOCKS SHARING IMPORTANT

The matter of reserve stocks requires some special attention.

In the first place, we must recognize that it is essential to provide for reserves of grain against the short crops that are certain to occur somewhere in the world during every decade.

Contrary to the general impression, present world supplies of grain are no more than barely ample to off-set the possibility of a short crop in a substantial production area of the world. The world's total carryover of grain from the expected 1978 crops will provide a margin of reserve equal only to the same percentage of total world consumption that actually existed in 1972, at the beginning of the world food crisis. A crop disaster in 1979 comparable to those actually experienced in 1965, 1966, 1970, 1972 and 1974, would draw down the reserves of grain now existing and leave the world's cupboard as bare as it was after the Soviet Union's large grain purchases in 1972.

With reserves at barely ample or less-than-adequate levels, there is no justification for prices received by farmers to be held down to depression levels. In the second place, the necessity for carrying reserves of grain must be faced in a realistic and responsible manner.

Carrying reserve stocks costs money. But the costs of maintaining reasonable reserves with prices at fair levels must be measured against three primary considerations:

(1) These costs would be far lower than the costs to consumers and livestock industries of running short—as happened earlier in this decade;

(2) These costs would be far lower than the sacrifice of income by farmers, and of balance of payments gains for the two countries' national economies that results from selling wheat below the cost of production, as has been done throughout the past year; and

(3) These costs are not greatly different from the direct costs of carrying unsold supplies even while prices are below the cost of production, as at present.

In the past, the U.S. and Canada together have provided almost the entire reserve of wheat that has been available for export to wherever in the world it might be needed. The cost to the two countries, and to their farmers, has been substantial.

But if Canada and the United States demonstrated their readiness to lead in a cooperative endeavor to maintain prices at fair levels and to share in the responsibility to carry reserve stocks, the other countries that mainly account for the small remainder of total wheat exports probably could be persuaded to increase the shares of total world wheat reserves that they would carry.

An effective means for allocating the responsibility among the cooperating countries for carrying reserves exists in the national grain marketing systems. The U.S. price support loan system establishes the effective "floor price" in world trade. The grain marketing agencies of other exporting countries

can govern with fair precision the quantities of their wheat that they will retain unsold by pricing their wheat in an appropriate relationship to the selling prices of U.S. wheat.

The determination of the appropriate shares for each country to maintain the total world wheat reserve is a matter to be negotiated between governments of the respective countries. Account should be taken of historical patterns of production and marketing, as well as the need to adapt to changing conditions.

SELLING PRICE SHOULD REFLECT STORAGE COSTS

In the first instance, the cost of maintaining reserve stocks would be distributed among the exporting countries sharing in the responsibility for maintaining the total wheat reserve. But in the end, the cost of storage would need to be compensated by the users when the reserve stocks are used.

Under the price support loan system of the United States, a highly practical means exists for maintaining practically the entire American share of grain reserves under the ownership and control of farmers, either on the farms or in commercial elevator storage rented by the farmers. This could be done simply by offering to the producer the opportunity to extend his price support loan year-by-year so long as stocks are not needed in the market, as demonstrated by market prices remaining at or near the loan rate. The other exporting countries' marketing systems could be operated so as to maintain reserve stocks by simply retaining appropriate quantities unsold within the system.

The cost of carrying reserve stocks can be recovered in much the same way as any other businessman recovers the cost of carrying his inventory—by reflecting the cost in the selling price. In part this cost could be reflected in the prices at which wheat is sold under normal supply conditions. For many reasons, it would be both practical and economically desirable to cover most of the reserve storage costs by allowing the selling price to rise during times of shortage, when it is necessary to draw down against the reserve supplies.

I suggest that this be done by establishing a "release" mechanism under our loan program which would insure that stocks would be moved out of storage and into use when supplies in the market are short and prices rise moderately above the floor established by the price support loan rate. I suggest that this "release price" should be ample to compensate the farmers for the cost of holding stocks in reserve until they are needed.

The grain marketing agencies of the other exporting countries should adjust their prices accordingly to correspond to market prices in the United States as they rise toward and ultimately reach the "release price" at which United States reserve stocks would begin to move into use. This would compensate them also for performing their share of the reserve-carrying obligation.

Importing countries usually maintain their own reserve stocks to the extent they consider it economically prudent to protect their own consumers against shortages. But the main problem to which an international reserve system must address itself is the shortages that might arise unexpectedly almost anywhere in the world.

I consider it both impractical and economically unsound to provide for reserve stock for this purpose to be held in importing countries. Stocks originating in the United States or Canada and stored in Japan or Germany simply cannot economically be re-shipped to India or the Soviet Union to meet a shortage problem if it should arise there, for example. The best place for such reserves to be stored is on the farm where produced, or in country or regional elevators nearby, so that they can be shipped to any part of the world where the need arises without incurring back-haul or unnecessary transportation expenses.

ORDERLY MARKETING GOOD FOR ALL

By the procedures I have outlined here, it would be entirely feasible for the United States and Canada to insure orderly marketing of wheat in the world market, and ultimately of other grains, too.

International cooperation according to such principles would be in no way inimical to the interests of the world community.

Indeed, the actual procedures would be no different in principle from what is being done right now—and throughout the decades since World War II. The U.S. loan rate establishes the "floor" under the world trading price, and every other wheat exporting country fixes its price in relationship to that price.

The only change would be that the same basic system would be operated so as to secure prices that are more fair to farmers, to give the United States and other wheat exporting countries balance of payments benefits which they fully deserve, and to provide for more realistic sharing in the function of carrying reserves.

Rather than being damaging to the world community, international cooperation in this manner would further the prospects for world food security and provide reasonable price stability in the prices and supplies of man's basic foodstuff. Thus it would merit the approval and support of all countries.

In keeping with that intent and spirit, the guiding principles and operating practices by which such cooperation would be achieved should be offered openly and freely to the scrutiny of the world community through the mechanism of an International Wheat Agreement, such as is currently the subject of negotiations among the governments of the world.

COMMITTEE REQUESTS FEASIBILITY STUDY

In initiating these discussions with our counterparts of The Senate of Canada, and in offering the proposals and suggestions that we have, it should be understood that I and the other United States Senators concerned do not in any sense purport to negotiate for or to commit the Government of the United States. Our role is strictly investigative and exploratory, and it is related strictly to our responsibilities, as representatives of the legislative branch of our government, for consideration of the posssible needs for legislation and for legislative oversight of programs operating under existing statutory authority.

Senator Bellmon and Senator Melcher and I addressed a letter to the President of the United States following our discussions in Canada on June 30. We reported on the matters discussed and our conclusions thereon, and we recommended that the Executive Branch respond to the suggestion arising from our Winnipeg discussions that a joint task force of technical people from the two governments be appointed to work out the operating details of a cooperative arrangement on wheat pricing. We have as yet had no reply from the President, but we have had preliminary discussions of the matter with a number of officials of the Administration.

In the meantime, the U.S. Senate Committee on Agriculture is continuing and extending its investigations of the matter. The Chairman, Senator Herman Talmadge, has initiated a study to be undertaken by outstanding agricultural economists of our State Universities and Land Grant Colleges of the feasibility of cooperation between the United States and Canada, and perhaps with other governments as well, with the object of increasing the prices that can be realized from sales in world trade of wheat and other grains from the United States. A report on the findings and conclusions of this study is expected in about four months. We expect that it will give us a well-balanced and authoritative view of the merits of such action and the practical steps that might be taken so as to realize its objectives.

INTERNATIONAL COOPERATION IN THE PRICING OF WHEAT FOR EXPORT

(By Senator Hazen Argue)

Mr. Chairman, thank you. My colleagues and I are delighted to have this opportunity to come to Washington to meet with you and the distinguished members of the Committee on Agriculture, Nutrition, and Forestry and with the other Senators present this morning.

You and your Committee have invited us here to continue the discussions on cooperation among exporters in the pricing of wheat which we began in Winnipeg on the last day of June with Senators George McGovern, Henry Bellmon and John Melcher. That historic meeting took place upon the initiative of your distinguished colleagues. Also present at the discussions were our Minister Responsible for the Canadian Wheat Board, the Honourable Otto Lang, Mr. Roy Atkinson, Chairman of the Advisory Committee to the Canadian Wheat Board and all the Commissioners of the Canadian Wheat Board. They were free and frank discussions which we are certain have laid a firm foundation for today's session.

We are today, as we were in Winnipeg, interested primarily in one objective: to institute ways and means by which producers will be assured a fair and reasonable price for wheat, a price that is prevented from falling below the costs of production. Or, to put it another way, we are interested in seeing that the consuming nations pay this fair and reasonable price for our wheat. It is our opinion that the best way to achieve this objective is for the wheat exporting countries of the world to co-operate with each other to assure our producers this price.

Canada and the United States are the two major exporters. We have together, over many years, supplied between 60 and 70 percent of the wheat and flour traded in the world market. If Australia and Argentina can be involved, these four exporting nations have traditionally accounted for between 80 and 90 percent of the world wheat trade. It is our belief that by co-operating, even bilaterally, we can significantly increase the revenues obtained by our producers in times of surplus. However, the many benefits will not just happen. Our governments must take the initiative—more particularly the Government of the United States must do so as your share of the market has consistently been twice our own.

If your government were to act they would find our government willing to support it. In Winnipeg, our Minister Responsible for the Canadian Wheat Board stated:

"It is Canada's intention to manage our grain marketing system in such a way as to not undermine direct actions by the U.S. or other countries to assure a fair producer return from the international market."

Indeed, last Thursday morning when we met with the Minister he was even more positive in his assurances and in his support for what we are doing here today. The position of the Canadian Wheat Board is equally clear and positive.

THE CANADIAN MARKETING SYSTEM

Before I set out the ideas which we have about this co-operative effort, I think the Canadian marketing system should be explained for the benefit of those here who are not as familiar with it as are those of us who have lived and worked with it for many years.

In Canada, the Canadian Wheat Board is the sole marketing agent for wheat, oats and barley grown in the Prairie Provinces and sold interprovincially or internationally. The Wheat Board was established by an Act of Parliament in 1935. It is an agency of the Crown but its mandate is clearly to act in the best interests of wheat producers by marketing their grain at the optimal

price. As an institution it has the full support of Western Canadian wheat producers in good times and in bad. This support is both traditional and current. Traditional because the wheat board was long a goal of the western wheat farmer in his search for equity and stability; current because these objectives have been met and continue to be met by the assurance which the board gives to each producer that he will receive his fair share of market returns through its price pooling system.

Our grain marketing system is highly organized, highly co-ordinated and finely tuned. The Canadian Wheat Board, through its control over farm deliveries, transportation, and the sale and pricing of Prairie grain, has the powers it needs to control very specifically the supplies of wheat which enter the world market or remain in Canada.

The Wheat Board controls all the country elevator deliveries of western Canadian grains through a system of delivery quotas. Only farmers are eligible to obtain a board permit book—these being in so many words licenses to deliver. Each year each farmer assigns in his permit his acreage base in the mix which he envisions will best satisfy his delivery intentions in the up-coming crop year. These acreage assignments determine directly the deliveries that he will be able to make; although, it should be understood that they do not necessarily correspond to seeding intentions. The wheat board uses its knowledge of the individual and total assigned acreages to set quotas as equitably as possible throughout the crop year.

Along with equity, orderly marketing is a primary purpose of the quota system. The wheat board is able to co-ordinate the movement of grain off farms and through the grain handling and transportation system so as to most efficiently and advantageously fulfill its domestic and export commitments by type, grade, protein level and port of shipment.

The quota system also functions to control supplies because low quotas are a clear signal to the producer of limited marketing opportunities in the export market. They will result in the build-up of on-farm stocks of that particular grain. This will, in turn, affect future production decisions and lead to cutbacks in acreage sown and production, as well as changes in the future assignment of acreage for quota purposes.

The quota system as it stands today is an effective mechanism of supply management for the wheat economy of Western Canada. Indeed, we consider it to be the most effective system which we could use even when compared to acreage diversion programs.

The Wheat Board's powers, which you may be thinking are quite broad enough as I have described them, extend into control of the grain transportation system as well. Without the power to co-ordinate the transportation of western Canadian grains, both Board and non-Board, from the country elevator to the port terminal the Board's ability to engage in orderly marketing would be severely curtailed. The Board has therefore been given this power by Parliament.

In this the Board co-operates closely with the line-elevator companies, which in Canada are primarily co-operatives owned by farmers, and the railway companies. Through the use of a block shipping system, advance planning and a detailed knowledge of the supply and disposition of wheat and other grains, the commitments of the Board for wheat, oats and barley and of the Trade for grains such as flax and rapeseed can be met.

Basically, this system of quotas and grain movement gives the Canadian Wheat Board control over inventories at each level in the grain handling system beyond the farm gate. This provides it with the flexibility it needs as a major seller in the world market and would enable it to easily play its role in any co-operative effort.

Of equal importance in terms of an exporter arrangement is the fact that the Canadian Wheat Board, as the sole marketing agent, has full authority over the sale and pricing of western Canadian grain destined for the export market. It can adjust quickly to changes in the market situation. This capability can be used to meet the competition, as it is being used this very day, or to engage in co-operative action with other exporters, as we hope it will be called upon to do in the near future.

The Canadian system is such that once the terms of co-operation between Canada and the United States are agreed upon we can give you an absolute assurance: first, that Canada would not engage in price-cutting or undermine in any other way the agreement, and, second, that our wheat board marketing system, including as it does quotas on producer deliveries, very effectively affects production and acreage and more importantly still, would prevent a surplus of wheat from undermining export prices.

WHY COOPERATE?

As I stated earlier our primary objective today is to discuss with you the means of obtaining better prices for the product of our wheat producers thus assuring the importing countries of the world an adequate supply in the future. Without farm-gate prices which cover the production costs of the efficient but recently established farmer, wheat production in the exporting countries can not continue at the levels required to feed an ever-expanding world population, nor should consumers expect it to.

Estimates made available to our Committee forecast that world grain production needs to increase by at least a billion bushels each year just to keep pace with the increase in population. The challenge which we, as grain exporting countries, have is to expand both our production and our export capabilities. It is in our interests to do so but the vagaries of production, even very small ones, can result in drastic price reactions which are not in either our interests or those of the consumers.

Our discussions in Winnipeg led us to the conclusion that production costs in Canada and the United States, discounted for currency exchange differences, are very similar. On this year's crop our producers will require about four dollars per bushel to cover their costs. This figure can be expected to rise in the future if input costs continue to increase at between 12 and 15 percent per annum as they have in this decade.

If the producers in the exporting countries are to be assured this level of fair and reasonable returns, co-operative action during surplus periods will be necessary. The importers for the most part already isolate either their producers or their consumers from the instability of the world market. By so doing they add to our problem by exporting their own instability and benefit from it by "skimming-off" into their treasuries the difference between the world price and their domestic price. A year ago when world prices were very depressed, the American farmer was, we are informed, selling his wheat for just over $2.00 per bushel. At the same time the Japanese government was buying it for about $3.00 per bushel, then selling it to the millers at $6.50 thus making a profit of $3.50 or one and one-half times the distress price received on the farm. Japan and the European Community continue these practices today. The current resale price of imported wheat in Japan is $10.79 per bushel and the import levy on wheat imported into the European Community is $3.54 per bushel.

Other countries too have isolated their markets. The centrally planned economies buy what they need when they need it without affecting their internal situation. Even the Indian farmer, now one of our competitors in the export market, has been able to sell his wheat at over four dollars per bushel this past summer.

Yet we as exporters have followed a course of action from which not one of us has benefited—cut-throat competition. While the United States Government has recently taken initiatives to bolster wheat prices—initiatives that we welcome—it still follows a policy of low loan rates and thus effectively sets the floor of the world market at a very low level; indeed, at a level substantially below the costs of production of almost all its producers.

If this policy has been pursued, as we have been told it is, because it is feared that a higher loan rate would stimulate production, reduce domestic feeding and render American wheat uncompetitive in world markets thus reducing your share of the export market, then we must confess our inability to discover where it has succeeded. The world wheat market can, unfortunately, be as competitive as your government chooses to make it. While various factors influence the central marketing agencies in Argentina, Australia and Canada the results are the same—the American export price no matter how low will be matched by the others.

Sir Leslie Price, Chairman of the Australian Wheat Board, clearly stated the position of his board at the most recent annual convention of your National Association of Wheat growers when he said.

"Each exporting country has established a percentage share of the market and also a proportion of the increase. I think it would be less prudent for any exporter to believe that the other sellers will allow what they consider their share to be pilfered."

He went on to say that he did not believe the theory "that overall world trade of wheat will be increased by reducing the price" and with these conclusions we are in full agreement.

The marketing position of Canada is similar. Since we divorced the income support function from the Canadian Wheat Board and established our new contributory income stabilization plan, the Board feels free to follow down the American price no matter how low it goes. Clearly nothing can be gained by the policy currently being pursued by the United States, yet much is being lost.

Last year (1977) the United States paid its wheat producers deficiency payments of 65¢ per bushel or about 1.2 billion dollars. This year the potential payment has been increased to $1.05 per bushel. We believe that these sums could have been recouped from the market had the loan rate been raised and a cooperative arrangement implemented. Indeed, our estimates suggest that the benefits to the United States would have been much greater than this in dollar terms.

Research done by the Canadian Wheat Board indicates that the aggregate gain to the major exporters that would result from "co-operative action" at the level of your current target price ($3.40) would be about 5½ billion dollars. This figure includes the increased returns from the international marketplace, the reduced treasury outlays for deficiency payments and the appreciation in the value of the exporters' grain inventory. Of this total the wheat producers and the government of the United States would realize over half, about three billion dollars. The remainder would accrue to the other major wheat exporters.

Thus, it is our contention that co-operation would have considerable benefits to all the major exporters. We believe that it is a step which is definitely in Canada's self-interest. We fully believe that co-operation among the exporters is quite clearly in the interest of the United States as well. Your country is the largest producer and the largest exporter of wheat. It has the most to gain and it has lost the most from the failure of

our respective governments to take the matter in hand and initiate an appropriate agreement.

To pursue the matter of benefits for just a moment longer, it should be recognized that the dollar benefits mentioned above are not the only ones to be gained. The balance of payment positions of our two countries would be improved by the extra revenues gained on each and every bushel of wheat exported. The cost burden of carrying stocks would be more equitably distributed between ourselves and among the importers. But most important of all, in our opinion, would be the benefits reaped by the rural economy and those that produce in and for it. Wheat farming would be able to attract the skilled young people which it requires in this highly technological and managerially advanced age. Producers who were assured of paying their production costs would themselves adopt a more stable expenditure pattern which in turn would reduce the swings in production and price in the agricultural support industries with great benefit to the national economy. Benefits of equal or even greater importance would accrue to the domestic economy from the greater stability of wheat prices to consumers and to other agricultural producers. The disruptions to livestock production and meat consumption which resulted from the drastic price increases of five years ago are still being felt today. Livestock producers and grain farmers should not be caught in a cruel trade-off involving a "beggar thy neighbour" situation. Stability can be promoted in the grains sector and in the livestock sector by a proposal such as that which we are discussing today. The benefits from such an effort are just too great to ignore.

A CO-OPERATIVE ARRANGEMENT

The co-operative arrangement which we envision the governments and marketing agencies of the exporting countries entering into is not a hard and fast international agreement with a multitude of sub-clauses and qualifications. What is necessary is a commitment, a clear public undertaking, to co-operate in maintaining a fair and reasonable price at the farm gate, that being no less than four dollars per bushel. Once we have a commitment we must each prepare ourselves to fulfill it.

We see this arrangement as being necessary whether or not the current negotiations toward a new International Wheat Agreement involving both exporters and importers come to a successful conclusion. The type of International Wheat Agreement that is being discussed will not assure the fair and reasonable price that our wheat producers require. Indeed, the range of indicator prices being discussed would lead to bankruptcy for many producers. It is clear that co-operative action on the part of the exporting nations is necessary to maintain a reasonable floor in the world market.

On the part of the United States we can see only one way that you can assure that wheat will not be exported at a lower than the agreed-to price and that is to raise your loan support rate. You could of course establish a central marketing agency as we have and as the Australians have, a step we can from experience heartily recommend, but this is unlikely to happen. Therefore your only course of action is to raise the loan rate for it is recognized everywhere that because the United States is the dominant factor in the market, you could call it the price leader, your loan rate does in fact establish the market floor.

Our role which we are, as a country, ready to assume right now—the Minister Responsible for the Canadian Wheat Board has given this assurance—would be to use the powers vested in the Canadian Wheat Board to price our exports in an appropriate relationship to the selling price of American wheat and to govern with fair precision the quantities of Canadian wheat that will be sold or retained. The Australian Wheat Board, if it was also "co-operating", could operate similarly.

The co-operative effort, which we believe must be entered into, could successfully work through such an arrangement. It would involve considerable consultation and a desire to accommodate the interests of all parties. We do not have all the answers to the technical questions which is why those of us, Canadian and American Senators, who were present at the Winnipeg meeting have recommended to our governments that a joint task force be established to outline the means by which this arrangement could be implemented. We hope that this will soon be done.

What is required of us all is a commitment to co-operation and an end to confrontation or cut-throat competition. Our wheat producers should not suffer because we have failed to come to terms with the facts.

Our Government, our Canadian Wheat Board, our Senate Agriculture Committee and our wheat producers are convinced that a co-operative arrangement between our two nations is practicable and necessary. We hope that these discussions today will advance this objective.●

THE SACRIFICE OF HIGHER FOOD PRICES

Mr. McGOVERN. Mr. President, on Tuesday, September 27, the Labor Department reported that the Consumer Price Index increased 0.6 percent in August.

This monthly increase sustains the 9.8-percent annual rate of inflation that we have experienced this year. Furthermore, higher consumer costs in August were coupled with a decrease in the purchasing power of an average hour's pay. I share the concern of the Director of the Council on Wage and Price Stability, Barry Bosworth, when he recently responded to this trend as evidence of inflation "worsening."

The major inflationary component during the first half of this year has been food. Though I am pleased to see that food prices remained stable in August, the rate of annual inflation for food is solidly fixed in the double-digit category of 14.3 percent. This rate of inflation for food is harshly translated into sacrifice by the American consumer.

Mr. President, I ask unanimous consent that the following article which appeared in the Washington Post on September 27, 1978, be printed at this point in the RECORD. I believe that the sentiments of the Washington consumer, whose food prices were 14 percent lower just 1 year ago, are indicative of the attitudes of the American consumer in general.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AREA GROCERY STORE PRICES RISE SLIGHTLY IN AUGUST WHILE FALLING ELSEWHERE

(By William H. Jones and LaBarbara Bowman)

Grocery store prices in the Washington area rose only moderately in August after seven consecutive months of sharp monthly increases, the Labor Department reported yesterday.

But wary shoppers, faced with food costs that have increased 14 percent in the past year, said they were seeking new ways to cut back on grocery spending.

"Everything costs too much. You can't afford to buy the (groceries), it's just ridiculous," said Earlene Gaines, 23, of 1745 T St. SE, who was shopping yesterday at the Anacostia Safeway, 14th Street and Good Hope Road SE.

Looking down at the few items in her basket, Gaines said she had to watch her pennies because she has been out of work for six months.

According to the government report yesterday, food store prices here last month rose 0.2 percent from July. Although the statistics indicated some relief from soaring grocery bills after average monthly increases of 1.6 percent for the first seven months of 1978 here, Washington area price increases continued to exceed national averages.

In all U.S. cities, grocery store prices declined by 0.1 percent during August and stood at a level about 11 percent above prices during the same month in 1977. But Washington area prices continued to increase last month and were about 14 percent higher than a year ago.

Labor Department officials said "significant" price increases here last month for a few items—eggs, oranges, fish, seafood and most frozen foods—failed to offset price reductions for most fresh vegetables, cola drinks, fresh chickens, beef, veal, coffee, pork and white bread.

Spokesmen for Safeway Stores Inc. and Giant Food Inc., the area's two major grocery chains, have cited higher wages for labor and transportation costs from major agricultural states as factors that have made prices increase more rapidly in metropolitan Washington.

In Northern Virginia, for example, the cost of an average market basket of groceries jumped 14.6 percent in the most recent 12 months compared with increases of 9.9 percent in the Norfolk-Virginia Beach region and 9.7 percent in the Richmond area.

For Phillip Haskins, 46, of 308 Kentucky Ave. SE, who was shopping yesterday at the Safeway at 14th and D Streets SE, food prices are going only one way—up.

To economize, he and his wife are taking lunches to work instead of buying midday meals, Haskins said in front of his cart, which had two lunch meat varieties.

"I can fix my lunch at night and I don't have to worry about stopping at McDonald's," he said, adding that the new arrangement should save his family some $12 a week.

"We're not poor but still you try to maintain a budget. But every week everything is higher," Haskins said.

Marguerite Winter, 46, of 707 17th St. SE, said she maintained her budget by refusing to buy expensive items and by shopping in the suburbs, where she believes some prices are lower.

"I only buy the cheapest brands," said Earlene Gaines. Picking out a can of beans from the basket, she said: "These are four for $1 today. You rarely can get that. Peanut butter and jelly are sky high."

The only reason Gaines can buy food at all is because of food stamps, she said.

A few aisles over, Madeline Settles, 40, of 1438 Cedar St. SE, a teacher, had stopped by on her way home. "The prices are outrageous," she said. But in the next breath, Settles added: "If I want it and I'm working, I'll buy it."

Statistics on Washington area grocery store prices are gathered each month by the Labor Department's Bureau of Labor Statistics. The next complete report on all area consumer prices, published six times a year, will be issued in a month.

SAVE THE BUSINESS BARONIES

Mr. THURMOND. Mr. President, I call the attention of my colleagues to a recent article titled "Save the Business Baronies," in the Washington Post. This interesting and informative article by Profs. Marshall I. Goldman and Louis T. Wells, Jr., provides discussion about the policy question of how should the United States handle antitrust matters with respect to our foreign competitors.

This is a unique and complex subject area that requires our careful deliberation. Many of our major foreign competitors receive support from their governments to aid their consolidation and competitive strengths. In contrast, many of our largest U.S. manufacturers and exporters find themselves faced with possible court actions in the United States for alleged similar activities.

Mr. President, as the ranking minority member on the Senate Committee on the Judiciary and its Subcommittee on Antitrust and Monopoly, I assure you and my other colleagues here in the Senate that we are diligently seeking avenues and processes through which we can develop and recommend appropriate antitrust and monopoly legislation. Principally, our attention has been directed toward those problems that deal with the domestic activities of U.S. firms, industries, consumers, and governmental units. We feel that these domestic problems deserve the priority we have given them but we recognize also that the international aspects are becoming increasingly critical each year.

Our subcommittee began a series of hearings in 1964 on the international aspects of antitrust and continued them to the early 1970's. However, we must continue to study more carefully now the nature of this foreign competition, determine how our American antitrust policy is related to it and, most importantly, identify what our future antitrust policy should be. The attached article, dated September 17, 1978, describes the problem area and suggests the need for new policy approaches. This new policy should be directed toward improvement in our U.S. competitive situation and, at the same time, provide much needed international economic and political accord.

Mr. President, I ask unanimous consent that the Goldman-Wells article, to which I have referred, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SAVE THE BUSINESS BARONIES

(By Marshall I. Goldman and Louis T. Wells, Jr.)

With good reason, those concerned with efficiency, low prices and effective competition have supported rigorous enforcement of antitrust laws. Critics like Ralph Nader would agree with industrial reformer Charles E. Mueller when he declares that "Breaking up the stifling, gluttonous masses which characterize many American industries is obviously the superior solution" to the antitrust problem.

But while such a policy made sense in the past, it is increasingly not only shortsighted but detrimental in many cases today. Indeed, the need now in important instances may be to alter antitrust law and enforcement to encourage the concentration of economic power.

Does it make sense, for example, to tie up the courts with cases seeking to restrain or break up companies like IBM, General Motors or Xerox when countries like Japan and Germany are considering how to consolidate and strengthen their computer, auto and copying industries so they can outproduce their American counterparts? Certainly it is ironic that, at a time when we need to improve our balance of trade and bolster the troubled dollar, many of our largest manufacturers and exporters find themselves in court because they have been too effective.

Part of the difference between U.S. policies and policies abroad, of course, lies in the American fear of concentrated economic power and the resulting concentration of political power. However, in many cases our antitrust policy is interpreting that sensible fear in a way that seems outmoded in today's world.

Previously, our definitions of monopoly and relative competitiveness have focused almost entirely on production within the United States. This was reasonable because, for the most part, overseas producers of most manufactured goods had an insignificant share of the American market. Thus economic power typically could be measured by the share of U.S. production controlled by three or four of the largest American-based firms.

But that kind of measurement is no longer appropriate for many U.S. industries, and a continued reliance on it is likely to weaken U.S. performance abroad and lead to perverse results at home.

The American market today is no longer insulated by high shipping costs and tariffs. Imports have risen from 4 percent of the gross national product in 1970 to 8 percent in 1977. And those figures dramatically understate the role of foreign competition in certain industries. In the manufacturing of television and radio sets, for example, little U.S. production takes place at all anymore.

Although this onrush of foreign competition for the most part has not been due to the impact of American antitrust policy, a continuation of present U.S. policy is likely to lead to even more foreign inroads.

What is called for is a new policy that reflects the reality of a U.S. market open to foreign competiton. Slavishly copying other government's policies is no solution. Relying on government officials to choose which firms should expand, which should merge, and which should shrink would hardly fit our view of the proper relationships between private business and the state. Although there are some elements of such a policy in our defense procurement, especially for export, another approach is required in dealing with most U.S. industry.

The first element of such a new policy would be an explicit recognition of the role of foreign competition in disciplining U.S. firms.

Consider the U.S. automobile industry. By traditional measures, it is highly concentrated. U.S. manufacturers, according to the conventional wisdom, exercise undue influence over the market. However, with imports accounting for almost 20 percent of U.S. car sales, the consumer has a wider choice than the domestic concentration figures suggest. And the manufacturers' complaints about low margins on small cars produced in the United States demonstrate the effectiveness of import competition in curbing the much-criticized Big Business practice of administered pricing or raising prices regardless of changes in demand.

A recognition of this new reality should cause some redirection of efforts to deal with concentrated economic power. Not only can the government devote its resources to the real problem areas, but business itself may be able to redirect some of its management time as well as corporate resources from dealing with antitrust to facing up to foreign competition. The consumer and the U.S. economy would be the winners.

At a minimum, Justice Department and Federal Trade Commission lawyers should consider the factor of foreign competition when deciding whether to begin antitrust proceedings. When a private suit is instituted by a rival American corporation, the judge should also take cognizance of such factors. It may be that we need new legislation.

It is wasteful, to say the least, to see a company like IBM spend several million dollars a year for almost 11 years on legal fees for its Justice Department antitrust suits. It seems particularly ill-advised now that Hitachi has announced plans to introduce a computer that will operate 60 percent faster than existing IBM computers and store double the amount of data. Success in the marketplace should not be penalized if in the process of applying a cure, foreign competitors become the chief beneficiaries.

This is not to urge a carte blanche policy for every corporation that wishes to expand or merge at home. Effective antitrust policy is more necessary than ever to hold down conglomerate mergers of unrelated enterprises where the merger is brought about by sheer command of capital. Similarly, industries which have neglected their technology and have rested instead on their tariffs and other import-inhibiting devices must not be allowed to gain even more protection. The old policy is appropriate where U.S. industry is insulated from the discipline of the international marketplace. In addition, unfair trade practices must be policed with equal or even greater vigor.

Recognition of the new realities also requires a new attitude toward antitrust policy overseas. Agreements between American and foreign companies should not be tolerated if they are likely to lead to market sharing. A joint venture between IBM, or GM, and a major foreign competitor, even though outside the United States, ought to continue to be a major concern of U.S. antitrust policy.

However, it may be appropriate to permit or even encourage American companies to join together overseas to compete with Japanese or German groups. In theory, this is already possible under existing law. But because of jurisdictional disputes, the effectiveness of U.S. law in influencing behavior of U.S. companies abroad has been, at best, uncertain.

What is also called for is an international agreement to handle antitrust problems that arise when business agreements cross national borders. Once firms of different nationalities (or regions, to take account of Common Market policy) are involved, arrangements among firms should become the concern of other governments and fall under the terms of this kind of agreement. The time is ripe for such an international accord.

Those who oppose any change in present antitrust policy should recognize that failure to alter that policy may lead to the very thing they fear most: more concentration of industry. In some cases, foreign enterprises are likely to increase their control over the U.S. market and their political influence in this country. And if American firms are driven to a minority position in an industry, it will become all but impossible to enforce antitrust policy; the Justice Department is, as a practical matter, unable to exercise its enforcement power over such matters in foreign jurisdictions.

In that event, the most likely course is that the Congress would feel compelled to act and try to gain control through the imposition of import restraints. Needless to say, this does nothing to increase the relative productivity of either foreign or American producers.

Sooner or later the Justice Department or the Congress will decide to act. The danger is that if it is later, it may be too late.

ORDER TO RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VITIATE SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the two orders for the recognition of Senators on tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF MASS TRANSIT BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders are recognized under the standing order tomorrow, the Senate proceed to the consideration of the mass transit bill, Calendar Order No. 788.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. This item is cleared on our calendar for consideration tomorrow. My calendar shows a notation of "hold budget." I understand that that, instead, refers to an amendment by members of the Budget Committee, rather than a budget waiver.

Mr. ROBERT C. BYRD. That is my understanding.

Mr. BAKER. With that understanding, Mr. President, we have no objection to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow morning.

The motion was agreed to; and at 10:01 p.m., the Senate recessed until Thursday, September 28, 1978 at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 27, 1978:

THE JUDICIARY

B. Avant Edenfield, of Georgia, to be U.S. district judge for the southern district of Georgia vice Alexander A. Lawrence, retired.

Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and southern districts of Iowa vice William C. Hanson, retired.

CALIFORNIA DEBRIS COMMISSION

Col. John Miley Adsit, [redacted], U.S. Army, to be a member of the California Debris Commission, under the provisions of section 1 of the Act of Congress approved 1 March 1893 (27 Stat. 507) (33 U.S.C. 661), vice Col. Henry Augustus Flertzheim, Jr., reassigned.

CONFIRMATIONS

U.S. INTERNATIONAL TRADE COMMISSION

Paula Stern, of the District of Columbia, to be a member of the U.S. International Trade Commission for the term expiring June 16, 1987.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Stanford G. Ross, of the District of Columbia, to be commissioner of social security of the Department of Health, Education, and Welfare.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, September 27, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

God has not given us the spirit of fear; but of power, and of love, and of a sound mind.—II Timothy 1: 7.

Eternal God, our Father, who has been the strength of your people in every age and who is our strength in this present hour, come anew into our hearts as we worship You in spirit and in truth. May this moment of prayer make us so aware of Your presence that we can face the duties of this day with courage and good will. Fill our minds with truth, our hearts with faith, and our hands with gracious deeds that we may walk in straight paths toward clear goals for the best interests of our beloved country and the greater good of our world. For Your name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on September 22, 1978 the President approved and signed bills of the House of the following titles:

H.R. 8112. An act to repeal chapter 27 of title 44 United States Code;

H.R. 9471. An act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps;

H.R. 12915. An act to amend section 2301 of title 44, relating to the National Archives Trust Fund Board; and

H.R. 13087. An act to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11302) entitled "An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes".

The message also announced that the Senate receded from its amendment to a bill of the House of the following title:

H.R. 1445. An act conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Commander Edward White Rawlins, U.S. Navy (retired).

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 10126. An act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service.

The message also anounced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 2704. An act to promote a more adequate and responsive national program of water research and development, and for other purposes.

The message also announced that the Senate insists on its amendment to the bill of the House (H.R. 8200) entitled "An act to establish a uniform law on the subject of bankruptcies," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. EASTLAND, Mr. DECONCINI, Mr. BIDEN, Mr. THURMOND, and Mr. WALLOP, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10173) entitled "An act

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CRANSTON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. STAFFORD, Mr. THURMOND, and Mr. HANSEN to be the conferees on the part of the Senate.

The message also announced that the Senate further disagrees to the amendments of the House to the bill (S. 1566) entitled "An act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. ABOUREZK, Mr. METZENBAUM, Mr. BAYH, Mr. BIDEN, Mr. MORGAN, Mr. HATHAWAY, Mr. THURMOND, Mr. SCOTT, Mr. GARN, Mr. MATHIAS, and Mr. WALLOP, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2493) entitled "An act to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. MAGNUSON, Mr. STEVENSON, Mr. FORD, Mr. STEVENS, Mr. SCHMITT, and Mr. DANFORTH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1398. An act for the relief of Jin Suk Park;

S. 1778. An act for the relief of Luzbella Y. Imasa, doctor of medicine;

S. 2315. An act for the relief of Savita Nandini;

S. 2451. An act for the relief of Tso Tung Tang;

S. 2670. An act for the relief of Janet Abraham, also known as Janet Susan Abraham;

S. 2834. An act for the relief of Kyung Hee Kim, Dong Choon Kim, and Dong Ho Kim;

S. 2841. An act for the relief of Yang Soo Ko;

S. 3106. An act for the relief of Debbie Agatta Hepburn; and

S. 3169. An act for the relief of Rocio Edmondson.

INCREASED INSURANCE BENEFITS FOR MEMBERS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, last night's Washington Star carried an article which caused me considerable concern. The article noted passage of a bill, H.R. 14125, to provide special treatment for retiring Members of Congress with regard to conversion of their insurance benefits.

To be quite frank, I am not sure if the bill is a good one or not. I intend to look into that today. But regardless of the bill's merits, I think there is something fundamentally unfair about bringing a bill like this upon the floor under a unanimous-consent procedure without any hearings or advance notice to Members and on the same day the bill was introduced. We are going to be held accountable to our constituents and not too far down the road. We need to be able to respond to their questions, and you can be sure that articles like the one in last night's Star will prompt questions.

I would urge the leadership to be particularly careful in bringing up bills under unanimous consent that affect the benefits of Members of this body. Regardless of their merits, handling of bills of that type in such an off-the-cuff manner cannot help but look bad to the American taxpayer.

FAREWELL AND GOOD LUCK TO THE HONORABLE SHIRLEY N. PETTIS

(Mr. JOHNSON of Colorado asked and was given permission to address the House for 1 minute.)

Mr. JOHNSON of Colorado. Mr. Speaker, I take the well to inform my colleagues that this will be the last day on which our colleague, the gentlewoman from California, SHIRLEY N. PETTIS, will be with us.

Under doctor's orders, she will be leaving tomorrow and will not be able to return. Therefore, I expect that most of my colleagues would like to know that and would like to wish SHIRLEY farewell, and good luck, and Godspeed. She came to the Congress under particularly trying circumstances. She has proved to be a gallant woman and a competent, able, Congressperson.

Mr. Speaker, I know that all of the Members will join me in wishing Congresswoman SHIRLEY N. PETTIS a fond farewell.

THE NATIONAL WOMEN'S CONFERENCE, A TURNING POINT IN AMERICAN WOMEN'S LONG STRUGGLE FOR EQUALITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–387)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying paper, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

By mandating International Women's Year, Congress set in motion a series of fifty-two regional meetings that brought together women of all races, incomes, ethnic backgrounds and religious beliefs to consider the major issues confronting women. The culmination of International Women's Year was the National Women's Conference held in Houston on November, 1977. That conference was a turning point in American Women's long struggle for equality. In Houston, delegates elected at the regional meetings developed the *National Plan of Action*—a national agenda to achieve women's full rights and equality.

In response to the Plan's recommendations, the Administration has reviewed our programs designed to improve the opportunities for women. This Message summarizes the results of that review and forwards to the Congress the more detailed status report on Administration action on the IWY resolutions.

A keystone toward achieving equality for women would be the addition of the Equal Rights Amendment to the Constitution. By passing this Amendment, the Congress recognized the need to provide Constitutional guarantees against discrimination on the basis of sex. More than any other single act, ratification of the Equal Rights Amendment will affirm the right of women to participate fully in American life. To ensure that women do not lose the opportunity to secure that precious right, the deadline for ratification should be extended.

Because I feel very strongly about women's equality, I sent a memorandum last month to the heads of all departments and agencies. In that Memorandum, I directed the head of each department and agency (1) to emphasize the Administration's commitment to the Equal Rights Amendment; (2) to review the Federal Women's Program in their agency or department to determine how it can be strengthened; (3) to designate a policy-level representative from their agency or department to serve on the Interdepartmental Task Force on Women; and (4) to provide adequate staff for that representative.

However, we must not stop here. We must make every effort to help women assume their rightful place in every part of American life. This is in the national interest, for we cannot meet the important challenges of the coming decades without full participation of all our citizens, including women.

As President, I have acted upon my firm commitment to equity for women in my appointments, programs, and policies. I believe that the Federal government should serve as a model of nondiscrimination, and I shall continue to take steps toward that goal. In my Administration, women are serving in the Cabinet and at all levels of government. Still, much more remains to be done. That is why I have set in motion the Interdepartmental Task Force on Women, National Advisory Committee for Women, other key task forces, and departmental studies to recommend additional action.

My Administration is dedicated to eliminating discrimination against women. Among the crucial issues which demand our attention:

Passage of the Equal Rights Amendment and the Resolution for Extending the Deadline for Ratification;

Passage of pending legislation which improves the status of women as recommended in this report;

Enforcement of all civil rights laws, particularly Title IX of the Education Amendments of 1972, which prohibits sex discrimination in Federally-financed education programs; and

Development of improved statistical information to permit adequate evaluation of the impact of Federal programs and practices on women.

THE STATUS REPORT

International Women's Year helped raise the expectations and conciousness of American women, who now look to government, private industry, and the community for bold and energetic responses. In accepting the final report of the National Commission for International Women's Year, I reaffirmed my commitment to equality for women and my determination to help keep the spirit of Houston alive. At that time, I directed that a status report be prepared on the Administration's initial steps to implement the *National Plan of Action*. Today I am pleased to present that report with my recommendations to the Congress.

To assess our progress toward the goals described in the *National Plan of Action*, each department and agency was asked to report all current legislative and executive actions reflecting the aims and spirit of Houston. More than three hundred women, both from inside and outside the Federal Government, and representing a wide range of interests, reviewed the agency surveys. Many of their suggestions were incorporated into the final report, and I am grateful for their help.

A set of detailed recommendations for implementation of the *National Plan of Action* separate from this report was developed as part of this work. I shall transmit these recommendations to the Interdepartmental Task Force on Women and the National Advisory Committee for Women for review and advice.

Part I of the report sets forth those portions of the *Plan's* twenty-six resolutions calling for Federal action, and indicates the major Administration legislative and executive initiatives in the first eighteen months in those areas. In the months ahead we shall continue to *start* new initiatives to improve equity for women in areas included in *The Plan of Action* and beyond. Part II of the report describes other legislative measures which represent efforts to approach these issues in different ways.

REPORT HIGHLIGHTS

The report summarizes more than seventy-five important initiatives taken during the first eighteen months of this Administration to provide greater equity for women. These include new laws and programs, increased funding, and improved administration in areas addressed by the *National Plan of Action*. Let me highlight some of our major steps:

More than 21 percent of my appointments within the White House and the executive branch have been women, an all-time high for any Administration. In response to my instructions, Cabinet members and agency heads also sought out and appointed women to important positions. We shall continue to do so.

My Administration has acted:

(1) to improve Federal employment opportunities for women;

(2) to examine and make recommendations to address the problems women business owners face in obtaining Federal grants and contracts:

(3) to enforce existing civil rights laws (*i.e.*, The Equal Credit Opportunity Act of 1974, the Fair Housing Act, Title IX of the Education Amendments of 1972, and The Civil Rights Act of 1964);

(4) to improve the collection and dissemination of data on the status of women and

(5) to increase funding and visibility of programs serving women's needs.

My Reorganization Plan #1 of 1978, a major reorganization effort of the Administration, strengthens and consolidates within the Equal Employment Opportunity Commission Federal enforcement of laws and executive orders against job discrimination based on sex and race.

I have signed and am fully implementing several important new laws—Protection of Children Against Sexual Exploitation Act of 1977, The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, the Social Security Amendments of 1977, and The Age Discrimination in Employment Act Amendments of 1978.

My Administration in its first eighteen months has initiated and supported legislation aimed at meeting the needs of women in many areas identified in the *National Plan of Action*. I urge Congress to act upon this legislation quickly.

Some of the resolutions in the *National Plan of Action* require structural as well as policy changes. My Administration has developed new operations to improve the Federal government's response to women's needs:

The Interdepartmental Task Force on Women and the National Advisory Committee for Women were created by Executive Order in March, 1978, to advise me of additional action necessary to implement the *Plan of Action*.

The Department of Justice Task Force on Sex Discrimination is working with each agency to survey and eliminate sex discrimination from programs and procedures throughout the Federal government. The Task Force will recommend needed changes in existing laws.

The Interdepartmental Task Force on Women Business Owners, coordinated by the Department of Commerce, has identified barriers to business ownership for women and has made recommendations to remove them. On July 10, 1978, I asked my Cabinet to respond to the Task Force recommendations.

The Department of Commerce Office of Federal Statistical Policy and Standards was established to coordinate data collection and to set guidelines and definitions for demographic variables.

During my Administration, other Federal programs designed to meet the needs of women have been expanded:

The Women's Bureau in the Department of Labor, which focuses on the needs of women in the labor force, was upgraded, giving the Bureau Chief direct access to the Secretary of Labor. The Women's Bureau provides support for the Interdepartmental Task Force on Women and the National Advisory Committee for Women, operates significant programs designed to serve women, and publishes information on employed women.

The Federal Women's Program which is in the Office of the Chairman of the Civil Service Commission, aides Federally-employed women. In conjunction with the Federal Women's Task Force on the U.N. Decade for Women, the Federal Women's Program is playing a more active and visible role in shaping Federal employment policy.

The National Advisory Council on Women's Educational Programs is a Presidentially-appointed council which makes recommendations to Federal officials on equity for women and girls in education. During my Administration, the Council has been given an expanded mandate to help implement laws prohibiting sex discrimination in Federally-assisted education programs.

These are only a few high points of the report which surveys our progress over the past eighteen months. My Administration has been able to achieve this record in large part because of the unstinting efforts of the many dedicated women within the Government. For these efforts I am grateful.

RECOMMENDATIONS TO THE CONGRESS

For 131 years after the ratification of the U.S. Constitution, American women could not vote. Since women's suffrage in 1920, there has been considerable progress in legislative and executive action to provide equity for women. That progress has accelerated in my Administration. From 1923 to 1972, the Equal Rights Amendment languished in Congress. In 1972, Congress took a bold and affirmative step to guarantee equal rights for women. It only remains for three more states to join the majority of our Nation in passing this historic amendment. ERA must be passed not only for ourselves, but to free our sons and daughters to participate fully in our Nation's future.

Our Nation benefits when women, as well as men, are freed from stereotypes and given a broader range of choices. Our Nation benefits when all women may enter the mainstream of American life, and their talents and abilities are valued and rewarded. Our Nation benefits when the freedom of all Americans is enhanced by greater freedom for American women. We can increase this freedom.

I ask you now to join with me in guaranteeing full equity for women in the United States, and to pass in an acceptable form without delay:

—H.J. Res. 638 and S.J. Res. 134 *Extension of the Deadline for Ratification of the Equal Rights Amendment.*

—H.R. 11086 (H.R. 12452) and S. 2570 *Comprehensive Employment and Training Act.*

—H.R. 50 and S. 50 *Full Employment and Balanced Growth Act of 1978 (Humphrey-Hawkins Bill).*

—H.R. 6075 and S. 995 *Pregnancy Disability Act.*

—H.R. 11280 and S. 2640 *Civil Service Reform Act.*

—H.R. 9030 (H.R. 19050) and S. 2084 *Better Jobs and Income Act (Welfare Reform).*

These bills, which are pending before Congress, will greatly enhance the civil rights, employment and economic opportunities of women. Extension of the Deadline for Ratification of the Equal Rights Amendment recently passed the House by an overwhelming majority. I congratulate the House and call upon the Senate to take similar action. The Equal Rights Amendment is needed as a constitutional protection against discrimination on the basis of sex. The Comprehensive Employment and Training Act (CETA) and the Better Jobs and Income Act (Welfare Reform), will, among other things, enable employment training and support services for displaced homemakers and low income women. In addition, CETA will protect against sex role stereotyping in Federal training programs and sex discrimination in placement in Federally-subsidized jobs. The Civil Service Reform Act and the Humphrey-Hawkins Bill will improve employment opportunities for the most recent entrants to the labor market—women and youth. And, the Pregnancy Disability Act, which is now in conference, will protect the health benefits of pregnant workers by making it unlawful for employers to discriminate on the basis of sex.

Through enactment of these bills in the appropriate form, we ensure continued progress toward the goal of full equality so that future generations of Americans—male and female—have choices and opportunities not fully realized today.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1978.*

FURTHER LEGISLATIVE PROGRAM

(By unanimous consent, Mr. WRIGHT was allowed to proceed out of order.)

Mr. WRIGHT. I take this time, Mr. Speaker, to discuss our plans for legislative sessions during the following 2-week period and to ask at the end two unanimous-consent requests. It is the plan of the leadership that on next Monday, October 2, we will have general debate only. On Tuesday, October 3, we will take up 20 or more suspensions, but assuming unanimous consent is granted, rollcall votes on those shall be put over until the following day, Wednesday, October 4.

The purpose of that, of course, is to accommodate those Members of the House for whom these 2 days are high religious holy days. Then on Monday, October 9, a national holiday, Columbus Day, the House will not be in session.

On Tuesday, October 10, we will have a regular session, but will not have any votes after 4 o'clock p.m., this again in recognition of the high religious holy day of Yom Kippur which begins at sundown on Tuesday, October 10. There will be no votes after 4 o'clock on Tuesday, October 10.

On Wednesday we will have a session and hope to achieve as much business as can be achieved, but I shall also ask unanimous consent that any votes which otherwise would occur on Wednesday, October 11, be postponed until the following day, Thursday, October 12.

Mr. Speaker, I do at this moment ask unanimous consent that any rollcall votes scheduled for Tuesday, October 3, may be postponed until Wednesday, October 4, and that any rollcall votes scheduled for Wednesday, October 11, may be postponed until October 12.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Reserving the right to object, I would like to ask the majority leader whether or not this announcement of schedule in any way changes the previous statement that he made about the intention of the leadership to adjourn the Congress on or about October 14.

Mr. WRIGHT. If the gentleman will yield, absolutely not. It is our firm intention to utilize these days as effectively as we can to dispose of as much debate and general business of the House as possibly can be done, therefore, not losing the time entirely but respecting the religious convictions of our Members who want to observe these high holy days.

Mr. BAUMAN. The gentleman from Texas, I think, earlier told the House that it was his intention at some point to meet with the minority leadership and decide upon the remaining legslation that would be called up as priority matters. It occurs to me that if we are scaling down the number of remaining legislative days, and in fact setting 2 days with essentially nothing but debate, I am not quite sure what legislation remains that could be handled in this remaining time. We might better consider adjourning sine die earlier instead of just having meaningless debate for 2 days on legislation that might never see the light of day.

Mr. WRIGHT. If the gentleman will yield further, with respect to his first observation, there have been meetings between the Speaker and the majority leader and the minority leader to discuss remaining business. In regard to the second observation, it still is our plan, our intention, and our hope that we shall be able to complete the business of the Congress and to adjourn sine die on Saturday, October 14. It is my opinion, buttressed by advice and expressions I have received from numerous Members on both sides of the aisle, that it would serve the convenience and the wishes of the membership if, indeed, we can finish and be done with it rather than having to come back into a postelection session.

So it is to that end that we are trying to advise Members of what plans the House would pursue and ask their cooperation in utilizing the time as effectively as we can, while still respecting the religious convictions of our Members who want to observe these religious holidays.

Mr. BAUMAN. Mr. Speaker, I would like to say to the gentleman that a sine die adjournment is something to be devoutly wished by not only the Congress, but the country at large.

Does the majority plan any Saturday sessions in view of these shortened weeks?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, in response to the gentleman's question, there is no immediate plan for Saturday sessions, save and except for the probability of a session on Saturday, October 14, at which time we ardently hope we shall be able to adjourn the Congress; but I would not foreclose any possibility of a Saturday session, if by having one we can serve the end purpose of a sine die adjournment.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for that elucidation.

Mr. Speaker, I withdraw my reservation of objection.

Mr. MILLER of Ohio. Mr. Speaker, reserving the right to object, and I shall not object.

I understood from the remarks by the majority leader that rollcall votes called for on the 3d will be taken on the 4th, and the rollcall votes called for on the 11th will be taken on the 12th; also, there will be no rollcall votes on Monday, the 2d, but I did not understand when those votes would be taken if they were called for.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, in response to the gentleman's question, votes that otherwise would occur on Monday, the 2d, just like the votes which otherwise would occur on Tuesday, October 3, would have to be taken on Wednesday, October 4.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like it thoroughly understood that if there are procedural votes on those days, we would have to take the procedural votes; for example, resolving into Committee of the Whole; if there were an objection to going into Committee, that would be a procedural vote and the Chair would put the question upon that procedural vote at that time. Otherwise, any other votes, other than votes on procedural matters, I would hope, would be covered by the agreement under the unanimous-consent request of the gentleman.

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, on the observation of the Speaker, which is absolutely correct, I think all of us agree with the majority leader on the need to expedite business as much as possible in the next 2 weeks. I think all of us will cooperate to that end. Hopefully, the schedule will be pared down a little bit. I know at the last minute everybody has something they want to bring before the House. With mutual cooperation, I think we can keep procedural votes to a minimum and expedite business to accommodate those who want to be home.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the majority leader?

There was no objection.

ETHICS IN GOVERNMENT ACT OF 1977

Mr. DANIELSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. DANIELSON).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 6, answered "present" 3, not voting 58, as follows:

[Roll No. 840]

YEAS—365

Abdnor	Carr	Flippo
Addabbo	Carter	Flood
Akaka	Cavanaugh	Florio
Alexander	Cederberg	Flynt
Ambro	Chisholm	Foley
Anderson, Calif.	Clausen, Don H.	Ford, Mich.
Andrews, N.C.	Clawson, Del	Ford, Tenn.
Andrews, N. Dak.	Clay	Forsythe
Annunzio	Cleveland	Fountain
Applegate	Cohen	Fowler
Archer	Coleman	Fraser
Ashbrook	Conable	Frenzel
Ashley	Conte	Frey
Aspin	Corcoran	Fuqua
AuCoin	Corman	Gammage
Badham	Cornell	Garcia
Bafalis	Cornwell	Gaydos
Baldus	Cotter	Gephardt
Barnard	Coughlin	Gibbons
Baucus	Cunningham	Gilman
Bauman	D'Amours	Ginn
Beard, R.I.	Daniel, Dan	Glickman
Beard, Tenn.	Daniel, R. W.	Gonzalez
Bedell	Danielson	Gore
Bellenson	Davis	Gradison
Benjamin	de la Garza	Grassley
Bennett	Delaney	Green
Bevill	Dellums	Gudger
Biaggi	Dent	Guyer
Bingham	Derrick	Hagedorn
Blanchard	Derwinski	Hall
Blouin	Devine	Hamilton
Boland	Dicks	Hanley
Bonior	Dodd	Hannaford
Bowen	Dornan	Harkin
Brademas	Downey	Harris
Breaux	Drinan	Harsha
Breckinridge	Duncan, Oreg.	Hawkins
Brinkley	Duncan, Tenn.	Heckler
Brodhead	Early	Hefner
Brooks	Eckhardt	Hightower
Broomfield	Edgar	Hillis
Brown, Calif.	Edwards, Ala.	Holland
Brown, Mich.	Edwards, Calif.	Hollenbeck
Brown, Ohio	Edwards, Okla.	Holt
Broyhill	Eilberg	Holtzman
Burgener	Emery	Horton
Burke, Fla.	English	Howard
Burke, Mass.	Erlenborn	Huckaby
Burleson, Tex.	Ertel	Hughes
Burlison, Mo.	Evans, Ga.	Hyde
Burton, John	Evans, Ind.	Ichord
Burton, Phillip	Fary	Jacobs
Butler	Fascell	Jeffords
Byron	Fenwick	Jenkins
Caputo	Findley	Jenrette
Carney	Fisher	Johnson, Calif.
	Fithian	Johnson, Colo.
		Jones, N.C.
		Jones, Okla.
		Jones, Tenn.
		Jordan
		Kasten
		Kastenmeier
		Kazen
		Kelly
		Keys
		Kildee
		Kindness
		Kostmayer
		Krebs
		Lagomarsino
		Le Fante
		Leach
		Lederer
		Lent
		Levitas
		Livingston
		Lloyd, Tenn.
		Long, Md.
		Lott
		Lujan
		Luken
		Lundine
		McClory
		McCloskey
		McCormack
		McDade
		McDonald
		McEwen
		McFall
		McHugh
		Madigan
		Maguire
		Mahon
		Mann
		Markey
		Marks
		Marlenee
		Marriott
		Martin
		Mattox
		Mazzoli
		Meeds
		Metcalfe
		Meyner
		Michel
		Mikva
		Milford
		Miller, Ohio
		Mineta
		Minish
		Mitchell, N.Y.
		Moakley
		Moffett
		Mollohan
		Montgomery
		Moore
		Moorhead, Calif.
		Moorhead, Pa.
		Moss
		Mottl
		Murphy, Ill.
		Murphy, Pa.
		Murtha
		Myers, Gary
		Myers, John
		Myers, Michael
		Natcher
		Neal
		Nedzi
		Nichols
		Nolan
		Nowak
		O'Brien
		Oakar
		Oberstar
		Obey
		Ottinger
		Panetta
		Patten
		Patterson
		Pease
		Perkins
		Pickle
		Pike
		Poage
		Pressler
		Price
		Pritchard
		Pursell
		Quie
		Quillen
		Rahall
		Railsback
		Rangel
		Regula
		Reuss
		Rhodes
		Richmond
		Rinaldo
		Roberts
		Robinson
		Rodino
		Roe
		Rogers
		Roncalio
		Rooney
		Rose
		Rosenthal
		Rostenkowski
		Rousselot
		Roybal
		Rudd
		Runnels
		Russo
		Ryan
		Santini
		Satterfield
		Sawyer
		Scheuer
		Schroeder
		Schulze
		Sharp
		Shuster
		Sikes
		Sisk
		Skelton
		Skubitz
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Solarz
		Spellman
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Stark
		Steed
		Steers
		Steiger
		Stockman
		Stratton
		Studds
		Stump
		Symms
		Taylor
		Thompson
		Thornton
		Traxler
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Waggonner
		Walgren
		Walker
		Walsh
		Wampler
		Watkins
		Waxman
		Weaver
		Weiss
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wirth
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Mo.
		Zablocki
		Zeferetti

NAYS—6

Collins, Tex.	Hammer-schmidt	Quayle
Dingell	Lloyd, Calif.	
Goodling		

ANSWERED "PRESENT"—3

Evans, Del.	Mikulski	Wilson, Bob

NOT VOTING—58

Ammerman	Hansen	Pepper
Anderson, Ill.	Harrington	Pettis
Armstrong	Heftel	Preyer
Boggs	Hubbard	Risenhoover
Bolling	Ireland	Ruppe
Bonker	Kemp	Sarasin
Buchanan	Krueger	Sebelius
Burke, Calif.	LaFalce	Seiberling
Chappell	Latta	Shipley
Cochran	Leggett	Simon
Collins, Ill.	Lehman	Slack
Conyers	Long, La.	Stokes
Crane	McKay	Teague
Dickinson	McKinney	Thone
Diggs	Mathis	Tsongas
Evans, Colo.	Miller, Calif.	Wiggins
Fish	Mitchell, Md.	Young, Alaska
Flowers	Murphy, N.Y.	Young, Tex.
Giaimo	Nix	
Goldwater	Pattison	

Mr. D'AMOURS changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 20, 1978, title II of the amendment in the nature of a substitute offered by the gentleman from California (Mr. DANIELSON) H.R. 13850, which is being read as an original bill for the purpose of amendment, had been considered as having been read and open to amendment at any point.

Are there any further amendments to title II?

AMENDMENTS OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer amendments to title II.

Mr. Chairman, I ask unanimous consent that amendments 2, 3, 5, and 6, be considered en bloc, in that they are technical amendments and could be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

Mr. HARRIS. Reserving the right to object, Mr. Chairman, may I ask the gentlewoman from Colorado this question: I know she is familiar with the amendments I have with respect to page 21, line 11. Would the gentlewoman's amendments in any way foreclose the offering of those amendments by me?

Mrs. SCHROEDER. Absolutely not.

Mr. HARRIS. Mr. Chairman, I thank the gentlewoman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mrs. SCHROEDER:

Page 32, line 25, strike the period and insert in lieu thereof ", if the reporting is an officer or employee of the agency at the time the application is received."

Page 33, after line 23, insert the following: "Such remedy shall be in addition to any other remedy available under statutory or common law.".

Page 35, line 6, after "part." insert "Section 205 (a), (b), and (d) shall not apply with respect to any such report.".

Page 35, after line 18, insert the following:

AUTHORITY OF COMPTROLLER GENERAL

SEC. 208. The Comptroller General shall have access to financial disclosure reports filed under this part for the purposes of carrying out his statutory responsibilities.

Page 35, line 20, strike out "208." and insert in lieu thereof "209.".

Page 36, line 2, strike out "209." and insert in lieu thereof "210."

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and I further ask unanimous consent that where amendment No. 2 reads "Page 32, line 25," that line number "25" be changed to read "line 21," and that the word "individual" be inserted in the amendment after the word "reporting."

The CHAIRMAN. Is there objection to the requests of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, the amendment to page 32 (No. 2) is a technical amendment suggested by the administration. This amendment simply removes the requirement in the substitute that former executive branch employees be tracked down—even 5 years after they have left their jobs—to tell them that somebody has inspected a report they once filed.

The bookkeeping which would now be required by the bill is tremendous. This amendment corrects this oversight.

The amendment to page 33 (No. 3) is explained as follows:

This amendment is a clarifying amendment which evolved from a question I asked Russell T. Baker of the Department of Justice when he was testifying before my Subcommittee on Employee Ethics and Utilization on June 16, 1977, (see Post Office and Civil Service Committee hearings, Serial No. 95–19).

The amendment makes it clear that the Attorney General's authority to sue a person who unlawfully uses a financial disclosure report does not preempt a cause of action by any other person who suffers damage through the unlawful use.

The conversation with Mr. Baker and a paragraph from a followup letter from him (also printed in the hearings) further explain the intent of the amendment. They follow:

Mrs. SCHROEDER. Let me ask some more questions—

On pages 11 and 12 section, 105c(2) of H.R. 6954, that section says that "an unlawful use of disclosure statements would invoke a civil action by the Attorney General for up to $5,000." My question is, Will that section preempt a civil action by whomever's disclosure statement it was that was illegally used? Is the Justice Department attempting to preempt actions by the employees whose disclosure statement was inadequately or unlawfully used?

Mr. BAKER. I had never thought of that before. I wouldn't think that that would be the purpose behind that provision. If you like, I can look into that with the staff assistants and give you a firm answer. That is not my understanding.

The paragraph of the letter follows:

As I indicated in my testimony, I am not aware of any intention on the part of the Administration to preempt any private rights of action which may exist for employees whose disclosure statements are used for an unlawful purpose. H.R. 6054, does give the Attorney General a civil right of action for abuse of disclosure statements, but this provision is intended to be an additional remedy, not an exclusive one.

The amendment to page 35, line 6 (No. 5) is explained as follows:

Mr. Chairman, this is an amendment to clear up an ambiguity present in the bill which is unintentional.

Section 205 requires all reports filed pursuant to the part to be made public. Section 207 of the part, however, authorizes confidential reports. This amendment simply clears up the resultant ambiguity by providing that reporting required by 207 may not be made public under section 205.

The amendment to page 35, (No. 6) after line 18, is explained as follows:

(Access of Comptroller General to reports.)

This amendment assures that the General Accounting Office will have access to reports filed under part A of title II of the Ethics in Government Act.

Two categories of forms will be filed under this part. First, the publicly available forms. Second, the confidential forms which may be required by section 207 of the part.

The Comptroller General can obviously obtain public forms by filling out an application for them under section 205(b) of the act. However, because the Ethics in Government Act intends to supercede the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Comptroller General's authority, under 5 U.S.C. 552a(b)(10) to obtain copies of confidential statements without permission of filing individuals, if at all, is rather hazy.

I believe my amendment meets this issue properly. It permits, with regard to either public or confidential disclosure statements, that the Comptroller General have simple access, without notice or permission, so that he may carry out his responsibilities.

The CHAIRMAN. The question is on the amendments, as modified, offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendments, as modified, were agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hyde: On page 44 of the substitute, insert the following after line 9:

PART C—SPECIAL PROSECUTOR

SPECIAL PROSECUTOR

SEC. 226. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following new chapter:

"Chapter 39—SPECIAL PROSECUTOR

"Sec.
"591. Appointment.
"592. Prosecutorial jurisdiction; authority.
"593. Removal or termination.
"594. Final report; congressional oversight.
"595. Presentations by Attorney General and Solicitor General.
"596. Special panel of the court.
"597. Termination of effect of chapter.

"§ 591. Appointment

"(a) Upon receiving any specific information that any of the persons described in subsection (c) of this section has—

"(1) knowingly authorized or engaged in any Federal criminal act or omission involving the abuse of Federal office;

"(2) knowingly authorized or engaged in any act or omission constituting a violation of any Federal criminal law regulating the financing or conduct of elections or election campaigns; or

"(3) violated any Federal criminal law relating to the obstruction of justice or perjury, or conspired to violate any such Federal criminal law or to defraud the United States;

the Attorney General shall conduct, for a period not to exceed sixty days, such preliminary investigation as the Attorney General deems appropriate to ascertain whether the matter under investigation is so unsubstantiated that no further investigation or prosecution is warranted.

"(b) Upon receiving any specific information that any of the persons described in subsection (c) of this section has committed a violation of the Ethics in Government Act of 1977, as set forth in section 204 of such Act, the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(c) The persons referred to in subsections (a) and (b) of this section are as follows:

"(1) The President or Vice President.

"(2) Any individual serving in a position compensated at level I of the Executive Schedule under section 5312 of title 5 of the United States Code.

"(3) Any individual working in the Executive Office of the President and compensated at a rate not less than the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

"(4) The Director of the Federal Bureau of Investigation or the Director of Central Intelligence.

"(5) Any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President.

"(6) A national campaign manager or chairman of any national campaign committee seeking the election or reelection of the President.

"(7) A Member of Congress (including a Delegate to the House of Representatives or Resident Commissioner in the House of Representatives).

"(d) If the Attorney General finds the matter subject to preliminary investigation in accordance with subsection (a) of this section is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall file a memorandum with the special panel of the court. Such memorandum shall contain a summary of the information received and the results of any preliminary investigation.

"(e) If, after the filing of a memorandum under subsection (d) of this section, the Attorney General receives additional specific information about the matter to which such memorandum related, which information, in the judgment of the Attorney General, warrants further investigation or prosecution, the Attorney General shall, not later than thirty days after receiving such additional information, apply to the special panel of the court for the appointment of a special prosecutor.

"(f) If the Attorney General finds the matter subject to preliminary investigation in accordance with subsection (a) of this section warrants further investigation or prosecution, or if sixty days elapse from the receipt of the information and the Attorney General has not yet determined that the matter is so unsubstantiated that the matter does not warrant further investigation, then the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(g) If, in the course of any Federal criminal investigation, the Attorney General determines that the continuation of the investigation or of a resulting prosecution or the outcome of such investigation or prosecution may so directly and substantially affect the political interests of the President, of the President's political party, or of the Attorney General as to make it inappropriate in the interest of the administration of justice for the Department of Justice to conduct such investigation, then the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(h) Any memorandum or application filed under this section with the special panel of the court shall not be revealed to any third party without leave of the court. In the case of any such application, the application shall contain sufficient information to assist the special panel of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(i) Upon the receipt of an application under this section, the special panel of the court shall appoint an appropriate special prosecutor and shall inform the Attorney General and the Congress of, and make public, the name of such special prosecutor.

"(j) The Attorney General may request that the court assign new matters to an existing special prosecutor or that the prosecutorial jurisdiction of such a special prosecutor be expanded, and the special panel of the court may make appropriate orders for such assignment or expansion. A special prosecutor may accept a referral of a matter by the Attorney General, if the matter relates to a matter within the prosecutorial jurisdiction established by the special panel of the court.

"(k) The Committee on the Judiciary of either House of the Congress may request that the Attorney General apply for the appointment of a special prosecutor under this section. Not later than thirty days after the receipt of such a request, the Attorney General shall notify the committee making the request in writing of any action the Attorney General has taken under this section, and, if no application has been made to the special panel of the court under this section, why such application was not made. Such written notification shall not be revealed to any third party except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such notification as will not in the committee's judgment prejudice the rights of any individual.

"(l) Upon application of a majority of majority party members or a majority of all nonmajority-party members of the Committee on the Judiciary of either House of the Congress, the United States District Court for the District of Columbia may issue any appropriate order (including an order in the nature of a writ of mandamus) commanding the Attorney General to comply with any provision of this chapter.

"§ 592. Prosecutorial jurisdiction; authority

"(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, all the investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice.

"(b) A special prosecutor appointed under this chapter shall receive compensation at a per diem rate equal to the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. For the purposes of carrying out the duties of the office of special prosecutor, such special prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as such special prosecutor deems necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceding the maximum rate provided for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code.

"(c) A special prosecutor appointed under this chapter may make public from time to time and shall send to the Congress at least annually such statements or reports as such special prosecutor deems appropriate.

"(d) There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any special prosecutors in the carrying out of this chapter.

"§ 593. Removal or termination

"(a) A special prosecutor appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the special panel of the court and only for extraordinary impropriety, or such incapacitation or other condition as substantially impairs the performance of such special prosecutor's duties.

"(b) The office of a special prosecutor shall terminate upon the submission by such special prosecutor of notification to the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such special prosecutor, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such matters. No such submission shall be effective to terminate such office until after the completion and filing of the report required under section 594 of this title.

"(c) The special panel of the court may, either on such panel's own motion or upon suggestion of the Attorney General, terminate the office of special prosecutor at any time, on the grounds that the investigation of all matters within the prosecutorial jurisdiction of the special prosecutor, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such matters.

§ 594. Final report; congressional oversight

"(a)(1) In addition to any reports made under section 592 of this title, a special prosecutor appointed under this chapter shall, at the conclusion of such special prosecutor's duties, submit to the special panel of the court a report under this section.

"(2) A report under this section shall set forth fully and completely a description of the work of the special prosecutor, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such special prosecutor which was not prosecuted. The report shall be in sufficient detail to allow determination of whether the special prosecutor's investigation was thoroughly and fairly completed.

"(3) The special panel of the court may release to the Congress, the public, or to any appropriate person, such portion of a report made under this section as the special panel deems appropriate. The special panel of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and prevent undue interference with any pending prosecution. The special panel of the court may make any portion of a report under this section available to any individual named in such report for the purpose of receiving within a time limit set by the special panel any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may in the discretion of such special panel be included as an appendix to such report.

"(4) A special prosecutor, where appropriate, shall promptly advise the chairman and ranking minority member of the House committee having jurisdiction over impeachments of any substantial and credible information which such special prosecutor receives that may constitute grounds for an impeachment. Nothing in this chapter shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(b) The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any special prosecutor appointed under this chapter, and such special prosecutor shall have the duty to cooperate with the exercise of such oversight jurisdiction.

"§ 595. Presentations by Attorney General and Solicitor General

"Nothing in this chapter shall prevent the making by the Attorney General or the Solicitor General of a presentation to any court as to issues of law raised by any case or appeal.

"§ 596. Special panel of the court

"The special panel of the court to which functions are given by this chapter is the division established under section 49 of this title.

"§ 597. Termination of effect of chapter

"This chapter shall cease to have effect five years after the date on which it takes effect, except as to the completion of then-pending matters, which in the judgment of the special panel of the court require its continuance in effect, with respect to which matters it shall continue in effect until such special panel determines that such matters have been completed."

(b) The tables of chapters for title 28 of the United States Code and for part II of such title 28 are each amended by inserting immediately after the item relating to chapter 37 the following new item:

"39. Special prosecutor."

ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT SPECIAL PROSECUTORS

SEC. 227. (a) Chapter 3 of title 28 of the United States Code is amended by adding at the end the following new section:

"§ 49. Assignment of judges to division to appoint special prosecutors

"(a) Beginning with the two-year period commencing on the date this section takes effect, the chief judge of the United States Court of Appeals for the District of Columbia shall assign three persons who are judges or justices for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the special panel of the court for the purposes of chapter 39 of this title.

"(b) Except as provided under subsection (f) of this section, assignment to the division established in subsection (a) of this section shall not be a bar to other judicial assignments during the term of such division.

"(c) In assigning judges or justices to sit on the division established in subsection (a) senior retired circuit judges and senior retired justices.

"(d) The chief judge of the United States Court of Appeals for the District of Columbia may make a request to the Chief Justice of the United States, without presenting a certificate of necessity, to designate and assign, in accordance with section 294 of this title, retired circuit court judges of another circuit or retired justices to the division established under subsection (a) of this section.

"(e) Any vacancy in the division established under subsection (a) of this section shall be filled only for the remainder of the two-year period in which such vacancy occurs and in the same manner as initial assignments to the division were made.

"(f) No judge or justice who as a member of the division established in subsection (a) of this section participated in a function conferred on the division under chapter 39 of this title involving a special prosecutor shall be eligible to participate in any judicial proceeding involving a matter which involves such special prosecutor while such special prosecutor is serving in that office or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office."

(b) The table of sections for chapter 3 of title 28 of the United States Code is

amended by adding at the end the following item:

"49. Assignment of judges to division to appoint special prosecutors."

DISQUALIFICATION OF OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE

SEC. 228. (a) Chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"§ 528. Disqualification of officers and employees of the Department of Justice

"The Attorney General shall promulgate rules and regulations which require any officer or employee of the Department of Justice, including a United States attorney or a member of his staff, to disqualify himself from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office."

(b) The table of sections for chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"528. Disqualification of officers and employees of the Department of Justice."

Page 44, line 10, strike out "C" and insert in lieu thereof "D".

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DANIELSON. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from California (Mr. DANIELSON) reserves a point of order against the amendment.

Mr. HYDE. Mr. Chairman, since the body is determined to legislate "Ethics," I suggest we disarm those who will accuse us of insincerity—by including an effective enforcement mechanism in this legislation—of course, I refer to my amendment authorizing appointment of a special prosecutor under certain defined circumstances.

Former Special Prosecutor Archibald Cox told a Senate Judiciary Subcommittee in 1975 that a servant cannot investigate his master. After Mr. Cox was fired, the then-president of the American Bar Association, Chesterfield Smith, said:

It clearly was and is improper for an investigation of the Executive Branch of the government (to be conducted) by a prosecutor who is under the control or direction of either the President himself or some other person who himself is under the direction and control of the President.

We know that the Attorney General has the power to appoint a special prosecutor and did so during Watergate after public and congressional pressure became intense. But public opinion is not always easy to mobilize and it is foolish to wait until a grave crisis has developed before establishing workable procedures to meet that crisis.

With both Houses of Congress and the executive branch under control of one party, the checks and balances that might prompt more vigorous oversight are lacking, and the need for having an effective procedure to appoint a special prosecutor is all the more necessary.

My amendment puts teeth into the ethics bill, by providing a triggering mechanism authorizing the appointment of a special prosecutor under certain carefuly defined standards.

The officials covered include: First, the President and Vice President; second, Cabinet-level officials; third, Executive Office employees earning at least $39,900 per year; fourth, the Director of the FBI and the Director of the CIA; fifth, anyone who held any post in one through four as listed above during the incumbency of the President or of the last preceeding President if that President was of the same political party; sixth, a national campaign manager or chairman of a national campaign committee seeking the election or reelection of the President; and seventh, Members of Congress.

The amendment requires the Attorney General to apply for the appointment of such a special prosecutor if he determines that the investigation or prosecution of any Federal criminal wrongdoing may so directly and substantially affect the political interests of the President, the President's party, or of the Attorney General himself that it would be inappropriate for the Justice Department to conduct the investigation.

The special prosecutor is appointed by a panel of three judges of the U.S. Court of Appeals for the District of Columbia Circuit. The judges on the panel are disqualified from participating in the decision of any case involving a special prosecutor appointed by the panel. In addition to appointing the special prosecutor, the panel also defines that prosecutor's area of prosecutorial jurisdiction. Within that jurisdiction, the special prosecutor is independent of the Justice Department and may exercise all of the powers of the Attorney General.

This amendment also provides a procedure whereby a majority of either the majority or nonmajority members of the House or Senate Judiciary Committee may apply in writing to the Attorney General for the appointment of a special prosecutor.

The special prosecutor is subject to removal from office by the panel of judges for extraordinary impropriety or for such incapacitation or other condition as substantially impairs the performance of that prosecutor's duties. The office of special prosecutor terminates when the special prosecutor notifies the Attorney General that the investigation and prosecution of all matters within the office's prosecutorial jurisdiction have been completed or so substantially completed that it would be appropriate for the Justice Department to complete them.

This amendment will not only remove partisan bias from a sensitive area, but also the public's perception of such bias.

This ethics bill will be trumpeted to the American people as a victory for clean government.

I submit to my colleagues that it is not all that its supporters claim. Requiring full financial disclosure does not necessarily bring about clean good government or even good government.

My amendment strengthens the ethics bill by including certain Federal criminal offenses:

Crimes involving abuse of Federal office.

Crimes involving the financing or conduct of elections and election campaigns.

Crimes involving obstruction of justice, perjury, or conspiracy to obstruct justice, commit perjury or defraud the United States.

Some opponents of my amendment claim it is not needed now that Watergate is over.

I disagree. One need only think back a few short months to instances where a special prosecutor might have produced the truth—

First. The alleged bribery of Congress by South Koreans;

Second. The Bert Lance affair;

Third. The Peter Bourne affair involving allegations of serious criminal activity within the administration's official family. (I have twice written the Attorney General requesting an investigation, the first time being July 24. To date I have received no response.);

Fourth. The burgeoning GSA scandal, now reported to include HEW, HUD, the Veterans' Administration, and the Small Business Administration, and involving possibly $25 billion in fraud. Certainly a special prosecutor would be more impartial than the President's personal friend and "observer" Mr. Kirbo; and

Sixth. The "Vesco" allegations.

The other body has already included a provision for a special prosecutor in its legislation, the Public Officials Integrity Act, S. 555.

Our Judiciary Committee recently reported out a bill, H.R. 9705, which is similar in many instances to my amendment, although the committee bill does not include Members of Congress as subjects of investigation or prosecution.

We have an opportunity today to show the American people that the 95th Congress has that respect for law which can only exist in an atmosphere of faith and trust in our governmental institutions and in the fair and fearless prosecution of those who betray their public trust for personal or political gain.

I commend this amendment to you for your support.

The CHAIRMAN. Does the gentleman from California insist on his point of order?

Mr. DANIELSON. Mr. Chairman, I insist on the point of order.

The CHAIRMAN. The gentleman will be heard.

POINT OF ORDER

Mr. DANIELSON. Mr. Chairman, I make the point of order that the gentleman's amendment is not germane.

Mr. Chairman, the gentleman's amendment seeks to add new language to title II of the bill. The new language amends title 28 of the United States Code to provide a mechanism for the appointment of a Special Prosecutor. It appears to be identical, save for one important change, to H.R. 9705, a bill reported favorably by the Committee on the Judiciary last June 19. The reach of

the gentleman's amendment goes far beyond the subject matter and scope of title II of the bill.

Title II is entitled "Executive Personnel Financial Disclosure Requirements." It is limited exclusively to people in the executive branch of Government. The provisions of the gentleman's amendment are not limited to people in the executive branch. His amendment covers people who are not even in the government—national campaign managers—as well as people in another branch—Members of Congress.

Title II of the bill is concerned with the disclosure of personal finances and provides for a civil penalty for failure to file or falsifying a disclosure report. The gentleman's amendment deals with criminal conduct that is not related to the financial disclosures required by title II. The criminal conduct covered includes obstruction of justice and criminal violations of the Federal election laws.

Mr. Chairman, the gentleman's amendment goes far beyond the scope and subject matter of title II and, I submit, is therefore not germane.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard on the point of order?

Mr. HYDE. Yes, Mr. Chairman.

Mr. Chairman, the proposed amendment, I feel, is clearly germane. The basic test of germaneness is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII Cannon's Precedents of the House 2911: Deschler's Procedure, 28: 5). The title of the bill gives some indication of its purpose and its text further underscores that purpose, that is, to effect ethics in government.

My amendment creates a mechanism to effect ethics in government as well as to enforce the provisions of section 204 of H.R. 1. Consequently, the fundamental purpose of the amendment is closely aligned with that of the bill itself.

Another test of germaneness is whether the subject matter of the amendment relates to the subject matter under consideration. (Deschler's Procedure, 28: 3). Here, too, the relation of the amendment to the bill is clear. The subject matter of the bill is in broad terms the ethics of Government officials, which the subject matter of the amendment is the enforcement of these same ethical standards.

Another test of germaneness is whether the subject matter of the amendment lies within the jurisdiction of a committee other than that reporting the bill. This test is more clearly met than any other since the Judiciary Committee has reported in separate legislation a variant of the amendment I am offering.

Furthermore, it should be noted that the rule under which H.R. 1 is being considered specifically waives any points of order on grounds of germaneness against the substitute embodied in H.R. 13850. I submit that the language of this waiver is broad enough in both its letter and its spirit to also permit consideration of this amendment.

It is also noteworthy that the Senate passed bill (S. 555), of which H.R. 1 was one title, contained another title on appointment of Special Prosecutors. If H.R. 1, or the substitute, is passed by the House, there necessarily will be a conference pitting the Senate's comprehensive approach to ethics against a House-passed bill that covers only a fraction of the ground.

The CHAIRMAN (Mr. BOLAND). The gentleman from California (Mr. DANIELSON) makes a point of order against the amendment offered by the gentleman from Illinois (Mr. HYDE) on the grounds it is not germane to title II of the bill to which it is offered.

The gentleman from Illinois (Mr. HYDE) has made some very persuasive arguments with respect to the germaneness of the amendment to the entire bill, but the amendment offered by the gentlman from Illinois goes to title II of the bill, and for the reasons stated by distinguished gentleman from California (Mr. DANIELSON), the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAZZOLI: On page 32, strike out lines 2 through 6 and insert in lieu thereof: States. Notwithstanding any other provision of this part, reports filed by such-individuals shall be reviewed solely by the Director of the Office of Government Ethics under security procedures determined by the Director of Central Intelligence and approved by the President. In addition, such individuals may be authorized notwithstanding section 204(a), to file such additional reports reflecting an ostensible employer and salary as are necessary to protect the identity of such individuals from public disclosure if the President first finds that such filing is necessary in the national interests."

Mr. MAZZOLI. Mr. Chairman, what my amendment seeks to do is to change that section of the committee bill which deals with reporting as to assets by members of the intelligence community of the Nation.

Under the committee bill, H.R. 13850, members of the intelligence community will file correct reports—correct as to assets and correct as to employment—with the agency by which they are employed. If the President makes a requisite finding, these reports need not be made public.

Furthermore, the President can make a finding and allow for the false filing of assets by members of the intelligence community, and under the bill these false filings may be falsified as to any aspect: Employer, salary level, or assets held. These false filings, which are publicized if the President makes the requisite finding, are reviewable only by the agency head and by the President.

Just to go back one step, Mr. Chairman, I must say that one of our problems was that the subcommittee did not hear from the Intelligence Agency during the markups on our bill. But now having heard from them and having engaged in extensive discussions with the agencies, I have reached a compromise agreement and that is what has just been read by the Clerk.

My original feeling was that we should strike the entirety of the false reporting section and mandate the same filings of the intelligence community as we do for a member of the Department of Agriculture or a member of the Department of Defense or a Member of Congress.

But after discussions, the intelligence community made what I consider to be a reasonable argument in behalf of having, first of all, some opportuntiy to file incorrect information to maintain and to protect cover. That information to which I have agreed to permit filing, if the House will go along with this amendment, is as to salary level and as to the employer.

Under the committee bill, let me once again state, any amount of information can be filed falsely. That is under the committee version of the bill. If the compromise agreement is agreed to, the only things which can be falsified are the ostensible employer and the salary level.

Under the compromise amendment those false filings could be reviewed by the Director of the Office of Government Ethics. Under the committee bill the only reviewing agency would be the agency of hire and the President.

It seems to me the Office of Government Ethics ought to have a right, under security provisions which are set forth by the President, to examine the data filed.

Next year the Select Committee on Intelligence, which is headed by the gentleman from Massachusetts (Mr. BOLAND), will have a very heavy committee agenda, and one of the main items on that agenda will be charters for the intelligence community, the CIA and the FBI. Legitimately falling in the purview of that subject matter would be whether or not there should be cover arrangements of our intelligence community agents. I am not satisfied that that type of cover is necessary anymore, but that is a question which can be decided upon when we get to the charter legislation.

Mr. Chairman, I am prepared to accept, if the House is willing to agree to this committee compromise, a compromise to the pending committee bill which would permit cover at least until we have a chance to get to the charter legislation.

Mr. Chairman, I am prepared to answer any questions. If there are no questions, I urge the committee to approve this amendment, and I yield back the balance of my time.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if the gentleman from Kentucky (Mr. MAZZOLI) would be kind enough to respond to a couple of questions with respect to the amendment.

Mr. MAZZOLI. Yes.

Mr. DANIELSON. The gentleman knows that at the time the bill was going through markup, and since that time, I have been concerned that we should be able to protect the legitimate needs of confidentiality and secrecy that our intelligence agents must have if we are to receive the kind of intelligence that we need in this day in which we live.

First, is this amendment a substitute for the amendment which the gentleman earlier had published in the RECORD?

Mr. MAZZOLI. If the gentleman will

yield, I would answer the question in the affirmative. This is a substitute amendment. What the Clerk has just read is the pending amendment.

Mr. DANIELSON. Can the gentleman tell me, has he consulted with the intelligence community—by that I mean, specifically, the CIA. the National Security Council, the FBI, the Intelligence Division of the Defense Department—as to whether or not they feel they can carry out their responsibilities if this should become law?

Mr. MAZZOLI. I can answer the gentleman's question in the affirmative. We have made such checks, and the intelligence agencies are in agreement and will accept this amendment as a proper measure of permitting their agents' cover to be maintained, at least until the charter amendments are looked at next year, and, at the same time, to bring them into inclusion of the ethics in Government bill.

Mr. DANIELSON. Does the gentleman know whether the intelligence community people have cleared this with the Office of the President?

Mr. MAZZOLI. That is certainly my understanding, and I can assure the House that if the Committee supports the compromise amendment, the intelligence agencies are prepared to accept this proviso.

Mr. DANIELSON. My concern, I would like to state, is that it should not be thought that we are indulging in some kind of a fiction to the effect that we are letting intelligence agents lie. That is not the point at all. The way the bill has been drafted, the intelligence agents, the CIA agents, espionage agents abroad, and the like, have to file an absolutely truthful report. The distinction we made in the original bill was that that report remain confidential and not subject to public scrutiny. I think anyone in his right mind would know that agents of a less friendly power would probably, as a first order of business, check the public records every day to find out who was committing espionage. If we try to get some information in other countries, that would defeat our whole purpose, and we might as well throw in the sponge and quit.

Having been involved in work of that nature at one time in my life. I am acutely sensitive about all of this, and for that reason we put provisions in the bill to permit intelligence agents to file an additional report which would have some cover information in it in order to protect their identity.

But if the gentleman assures me that the intelligence people, who, I hope, know their business, can live with this, then I may have no objections to the amendment.

Mr. MAZZOLI. I thank the gentleman.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think at the outset it is important that we understand my good friend and colleague, the gentleman from Kentucky (Mr. MAZZOLI), is not talking for the Intelligence Committee, as I understand it, and I do not believe he is talking for the intelligence community. I hope my friend, the gentleman from California, will pay close attention to what I say because I think it is in some contradiction to what my good friend has said.

Mr. Chairman, I think if you check with the intelligence community, the position of the intelligence community, they obviously would prefer the amendment the gentleman has presented today to the amendment that he previously had which would strike the whole section. But I do not believe you can interpret that as an outright support of his amendment.

Second, I say to my friend and colleague, the gentleman from Kentucky, making reference to the Department of Agriculture and talking about Intelligence Committee employees in the same context as the Department of Agriculture employees certainly does not do justice to the type of work that these important intelligence officials conduct throughout the world.

My only point is to illustrate there is a real world of intelligence out there. I think we have got to be awfully careful before we take the first step to peel that first layer of bark of anonymity that these men must have if they are to operate throughout the world.

There is something we must not lose sight of, which is that we do not just endanger the lives of these people if we carelessly write legislation which will help make their identity become public in an easier manner. We do not just endanger them but we also endanger second parties, because the reason we have the people out in the real world is because they are making contact with other people, sometimes themselves in danger, individuals who at the jeopardy of their own life and limb supply information to this agent which is vital to the future security of this country. So we do not just talk in terms of our agents but also the second parties and individuals who are contacted by our agents throughout the world.

There is a very vital reason why they should have a cloak of secrecy. I know that any time anybody talks about a cloak of secrecy we get upset because we think that here is where the plots and the conspiracies and all of these terrible things happen. But in the real world of intelligence it is absolutely necessary that we have men and women stationed throughout the world who do not have a badge which says: "I am with the CIA" or "I am with the Defense Intelligence" or "I am with the U.S. Government."

It is very clear for that reason that we do have out in that real world individuals who may look like they are bankers or who may look like they are businessmen or who may look like they are salesmen, but who in fact do some of the important work for our country which must be done.

My friend, the gentleman from Kentucky would peel that first layer of bark off of their cloak of secrecy by making one more agency, one more individual, possibly one more staff to have access to this secret information.

I believe the committee bill in the beginning wisely recognized the important area of intelligence gathering and recognized that if we are indeed to have people who may be working for the Government while holding out to the public that they are doing something in private pursuits, someone should know and someone should have their report and that would be the agency and the President of the United States. To take a second step, as my friend the gentleman from Kentucky would do would be to give one more agency and possibly one more staff access to the information, in my opinion, and I hope it is the opinion of members of this committee, would be to jeopardize those men and women to an extent that is not necessary.

My friend and colleague, the gentleman from Kentucky, makes a point on which I will agree. Next year we will have charter legislation. Next year the Intelligence Committees of the House and the Senate will look into charters for the FBI and the CIA. I would hope we would wait until that time to see if it is necessary to make these reports accessible to one more Government group. I would hope we would wait until charter legislation, and for that reason I hope the committee rejects this amendment.

There are groups out there, the Philip Agee's and others, who are continuously working to expose and to identify our Government agents, agents who are working in the field of intelligence. I do not think we should in any way make it easier for those people to be identified.

I know we have had leaks in the House in our Ethics Committee, in our Assassination Committee, in our prior Intelligence Committee, the Pike committee. We know the problems we have had in tight security right here in our own body and to make these vital records, to make these secrets accessible to one more governmental group only endangers, in my opinion, the security of these men and women who are working in intelligence. I know that is not the intent and the purpose of my friend, the gentleman from Kentucky, but I think that would be the actual result.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, we have been reading in articles in magazines and newspapers lately about security leaks that have exposed some of our people overseas.

As you expand the number of people that have access to this kind of secret information, are you not increasing the possibility of exposure of our intelligence people and thereby putting their lives at stake?

Mr. ASHBROOK. In the ideal sense I would say probably not. In the real sense, and that is what I meant when I

said I think we are dealing with the real world, what you fear follows as logically as night follows day. That is what I meant when I was talking about peeling that first bark, that first layer off of their intelligence security. It may sound responsible but in my opinion it is not a step we should take and what it will do will be to help dry up the sources that are necessary, the very sources these men and women in the intelligence community are developing throughout the world.

Mr. MOORHEAD of California. I strongly believe we must protect the identity of our security people in the name of national security. To loosen this up, to this extent, we are seriously endangering the sources of information that are the life stream of our Nation's intelligence effort.

I urge a no vote on the amendment.

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman's observations, and the gentleman makes an important contribution to the debate, as he does in our intelligence committee, but I would just ask the gentleman were not leaks and revelations occurring long before the Congress of the United States got into the area of intelligence? And therefore it is not to say that even making revelations under the committee version of the bill would not at some point wind up out in the public?

Mr. ASHBROOK. The gentleman is absolutely correct. The CIA has the same problem. They have the problem of the faithless employees, they have the Phillip Agees who are working openly overseas, disclosing the names of our intelligence agents. There are newspapers that print the names of our agents within a few weeks after they arrive at our overseas port. That thing does happen.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MAZZOLI, and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield still further, and I do not want to prolong this unduly, but if that be the case, and I appreciate the gentleman's comments, then I think what the House is faced with is a vote on what might be called a sort of a philosophical situation, that is, should there be a ethics in Government bill which would contain within it a total removal of material from the public's view, and, furthermore, a falsification of information which is made public?

I guess basically we have reached the point, if the gentleman's view prevails, that then the House will have said that in a ethics in Government bill we ought to have false information and that is in the national interest. If the amendment offered by the gentleman from Kentucky, which has been agreed to in the intelligence community, and I think the Members of the Senate have approved it, then I think, philosophically, we are saying to the extent that we can, without endangering people or "blowing" their cover, we need correct information.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, in response to the gentleman from Kentucky, Mr. MAZZOLI, let me say that one point has not been made, I would add to what my colleague and friend has said. You start with the problem with the CIA itself. Sure, there could be leaks there. Then we have the White House. There can be leaks there, too. We have already had one buffer placed between the CIA, the White House and the public, which we have not mentioned up to this point, and that is the Intelligence Committee. There is an Intelligence Committee in the Senate and there is an Intelligence Committee in the House. If the 13 members of that Intelligence Committee come even close to doing their job, we stand as a buffer to prevent these secret operations from getting out of hand. That is our precise purpose.

There is no problem that our committee has had in getting information. My point is that we have a CIA, we have a President, we now have legislative committees. I myself think it would be a danger to take one additional layer, one additional group and make any additional person privy to the same secrets that the President and the CIA and the Intelligence Committees, representing the Congress, and supposedly the people, at this point have in the way of access.

One more group, to go back to your original question, only magnifies the problem for dissemination of information to the wrong persons.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I would be glad to yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I want one thing to appear in the RECORD, not because anyone here is misstating what he or she believes, but we keep hearing this reference to an ethics bill allowing false statements to appear. That is not an accurate statement.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(On request of Mr. DANIELSON and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. DANIELSON. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. Certainly, I will yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, that is not an accurate reflection of what the bill provides for. The bill provides that these intelligence agents as well as everyone else must file a truthful statement with his or her agency. The only thing that is different in the case of the intelligence community is that in addition to—I repeat—in addition to the truthful statement, they may file a cover statement, a statement in which, instead of being known as "John Smith," the person is known as "John Doe," whatever it may be, enough to cover that person, to protect his or her personal integrity and security when the agent is carrying out duties for the Government, as well as to insure that their own informants, their own sources of information, will feel free to communicate with them.

However, this bill does not eliminate the need for them to file an absolutely true and accurate statement with the appropriate authorities. This is simply the mask which permits them to carry out their responsibilities, and I see absolutely nothing wrong with that.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague, the gentleman from California (Mr. DANIELSON).

If I could close my participation in the well, I think we have spent long, tortured hours in coming up with this language. I think it would be very dangerous in a few moments of debate to alter that language by this amendment. I would prefer an absolute cover for our intelligence agents but that doesn't seem possible now.

For that reason, Mr. Chairman, I think the amendment should be rejected. Next year in the charter legislation we can take another look at this matter.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would suggest to the gentleman that that is exactly one of the problems I had. Our committee did not have hearings on this issue. We did not have information from the intelligence community. We woke up one morning in the midst of markup, and this landed full blown on us. Indeed, we did not have the assurance we needed. Had we had the hearings, we might have achieved language something like this in the beginning.

Mr. ASHBROOK. That is true but we might not have accepted it either. That is why we should wait until next year so that we can hold exactly those hearings we are talking about.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, before we give detailed consideration to the Mazzoli amendment, I think it is well to understand what the committee bill already does.

It is bad enough, Mr. Chairman; it should not be made worse by the addition of the Mazzoli amendment.

Bear in mind that a person whose cover must be protected must file, under the committee bill, an accurate statement; and then it authorizes that he be permitted to file an additional cover statement. The mere fact of filing two statements tends to highlight and pinpoint those sensitive individuals who we would wish would not be called to public scrutiny.

It is true, of course, that these additional statements and the original statement need not be made public; but it is also true that such sensitive information is available to the Office of Government Ethics, which, as has been stated by the gentleman from Ohio (Mr.

ASHBROOK), is simply one more bureaucratic level having access to sensitive information. That is in the present bill.

Mr. Chairman, if we were truly to improve the present bill, we would directly authorize such persons not to file additional statements, but to file cover original statements. That is a false statement, I admit; but in the interest of national security, it ought to be authorized.

Mr. Chairman, let us look at the Mazzoli amendment. It deals only with the language on page 32. It strikes only lines 2 through 6. Lines 2 through 6 provide for the additional statement. The Mazzoli amendment makes two substantive changes in that sentence. First, it provides for review solely—and I emphasize the word solely—by the Director of the Office of Government Ethics. Bear in mind that that section 206 of the bill would therefore be in conflict with this new section because that section authorizes, in this case, the Director of the CIA to conduct a review. This would preempt that power and say that the review is solely by the Director of the Office of Government Ethics.

Mr. Chairman, I think that is an unwise change.

The second change, Mr. Chairman, adds merely six words. It adds after the word "reports," the following: "reflecting an ostensible employer and salary."

Bear in mind that the existing language permits the additional report to contain such information as will protect their identity from the public if public disclosure is made. Here the additional reports can only reflect an ostensible employer and salary.

Mr. Chairman, the very fact that we may wish to keep secret is the name of the person filing the report. We have limited that power now to only reflecting an ostensible employer and an ostensible salary. That is an unnecessary limitation.

Mr. Chairman, what should we do in the premises? In my opinion, the amendment, of course, should be rejected because it is in conflict with 206, and it limits the scope of an additional report. But I would hope that this House and the conference later on will reflect upon the wisdom in terms of the national interest of permiting certain designated persons, designated by the President of the United States, to file false reports rather than additional reports, because the price we will pay for a secret agent filing a true report and a companion false report is simply to highlight that he is in a sensitive position. That is an unnecessary risk to the national security.

Mr. Chairman, I urge rejection of the amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. Of course, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

First, the gentleman compared the review portion of the Mazzoli amendment to that of the committee bill. I am not sure about the words themselves, but certainly what the amendment is designed to do is to allow a review by the Director of the Office of Government Ethics by way of an examination. But, these forms and these reports would still have to be filed with the agency head, so they would still be in the possession of the Director of Central Intelligence or the National Security Agency, for example, for examination as well.

Mr. WIGGINS. Let us not be too sure on that point, because it says notwithstanding any other provision of this entire part, review shall be solely by the Director of the Office of Government Ethics.

Mr. MAZZOLI. I guess when we talk about review, it is a word which in the author's judgment suggests a different meaning from simply looking at the material.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MAZZOLI, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. If the gentleman would yield further, review would be the official act of looking materials over, checking them out, making the computations, and seeing whether, in fact, the false reporting sections as to ostensible employer and the ostensible salary have been complied with.

Mr. WIGGINS. What about the man's name?

Mr. MAZZOLI. No. He or she would not be able to file a report with a false name. Again, I go back to the fact that this, what is before the committee today, reflects quite a few weeks of work and discussions and submissions which really were not done at the subcommittee or full committee level. But, now that they have been undertaken. they do reflect what the intelligence agencies feel is a matter, whether they support, or at least can live with. They would not object to this language and feel that they can still do their job until such time as the charter legislation has been examined by the Committee on Intelligence and the Committee on the Judiciary to decide whether or not there is a need for any false reporting.

The gentleman from California's position is that there should be false reporting ab initio and no secondary filings. The gentleman from Kentucky feels that maybe we ought to do away with false filings entirely because I am not sure that the cover arrangements are necessary any more. That I think is a subject of fundamental examination for the 96th Congress.

Pending that, the gentleman from Kentucky feels that review is different from simply the examination of the reports and second, he thinks that the only two items which ought to be falsified are the salary and the ostensible employer.

Mr. WIGGINS. I respectfully disagree and urge a no vote on the amendment.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know that we have struggled with this issue a great deal. The problem I have with the amendment is that in our effort to help the gentleman from Kentucky reconcile his position with the necessities of the intelligence agencies which require certain individuals to operate under cover, we are causing confusion. The amendment appears to be a kind of a papering over, or perhaps a temporary solution. However, I question whether or not we should accept this compromise. It seems to me that we have stated accurately in the language of the committee bill what we want as far as protection of the CIA and other intelligence agency individuals are concerned. I do not believe, as the gentleman from California (Mr. DANIELSON) has said, that in the bill as written there is any escape from any full, complete, and accurate filing of and disclosure of financial information, which is what this legislation is all about.

The gentleman from Kentucky, it seems to me, is injecting another subject into this legislation, namely the whole question as to whether or not we should have individuals operating under cover. That is not something that we should be called upon to decide here today. We should not reconcile ourselves to the fact that on a temporary basis we are going to continue the status quo and then in the charter legislation or at some later time we are going to review the entire subject of intelligence agents operating under cover.

Now, the gentleman from Kentucky persists in talking about false statements. I reject that description completely. It is no more a false statement for a CIA agent to file a statement relating to his ostensible position than it is to provide a psuedo name of some kind, or an identification which permits a person to operate either as an informant or as an agent for an intelligence agency.

We are talking about protection of our national security here. It does not seem to me that in this measure dealing with ethics in Government we can get into this kind of a discussion as to whether or not we are going to permit or not permit persons to operate under cover in connection with this legislation.

In rereading the language in the bill, it seems to me that we have adequately covered this subject there. I am apprehensive about the amendment offered by the gentleman from Kentucky. I know that the gentleman has tried to compromise this subject. I applaud him for that, but I do not think this compromise is necessary or desirable. I think if we are going to take some further action with regard to limiting cover for intelligence agents we should deal with that subject directly and we should not paper it over with this kind of proposal.

Mr. MAZZOLI. Mr. Chairman. will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding and I appreciate his comments.

I would advise the gentleman that, to the best of my knowledge, the Senate bill, with which we will go into conference with the House-passed version, does not have any exemption for any kind of false filing, or if the gentleman prefers another term, some other kind of pseudonymous filing.

The Senate bill says that everybody

who is a Federal employee will file a truthful report with the Office of Government Ethics, and that is it. The House, at least the House Committee on the Judiciary, decided to set up a special category of false filing.

I would certainly suggest to the gentleman that the Senate is not composed of people who want to expose our inteligence operatives or do any damage to national security. Yet it felt as did the administration which sent the bill up orignally—that this kind of concession was not necessary.

Mr. McCLORY. I think if we are going into conference, we should go in with the strongest possible position, and if we have to compromise, compromise there and not here.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I have before me a copy of the Senate bill, S. 555. At page 75, commencing at line 14, there is a statement to the effect that the President may exempt any individual in the Central Intelligence Agency, et cetera, from the requirement to file a report; so it really provides for a total exemption, rather than for the filing of a truthful report, plus a cover report, as we do in our bill.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to commend the gentleman from Kentucky (Mr. MAZZOLI) for the work he has done on this amendment.

The gentleman from Ohio (Mr. ASHBROOK) has stated that the gentleman from Kentucky does not, with his amendment, state the position of the Permanent Select Committee on Intelligence. I cannot directly refute that.

I will say, however, Mr. Chairman, that I have discussed this matter with the chairman of the Permanent Select Committee on Intelligence, the gentleman from Massachusetts (Mr. BOLAND), who is the presiding officer now, and certainly we feel that the views I will expound here would be the majority view of our committee. I will have to admit we have not taken a vote on it, however, so the bottom line is that I am speaking for myself only.

Mr. Chairman, I believe it is important to retain the language of section 205 so that our intelligence agencies use of "cover" is not precluded by the provisions for public financial disclosure by Government empolyees.

I also recognize, however, the importance of outside review in the cases where the exemption in section 205 is employed. Accordingly, I support the amendment of the gentleman from Kentucky as it provides that the reports which intelligence officers must file for their "cover" jobs only misstate their true employer and the salaries they earn. Further, such reports will be reviewed only by the Director of the Office of Government Ethics under security procedures proposed by the Director of Central Intelligence and approved by the President.

Mr. Chairman, this language has been worked out with the full participation and approval of the Director of Central Intelligence. It clearly defines what information can be misstated and it provides for outside review which will not compromise the identity of intelligence officers. I believe it satisfies the concern of the gentleman from Kentucky while permitting the continuation of important intelligence activities in a way that protects the actual intelligence officers.

Mr. Chairman, without section 205, the lives of many of our intelligence officers at home and abroad will be seriously endangered. Surely it is not asking too much to make a disclosure exception when it is necessary to protect the lives of American citizens and Government employees. But the provision in the bill is not only to protect lives. It is also to protect our agents from foreign identification, assessment, targeting, and potential recruitment. The provision will also serve to preserve the willingness of intelligence services of our allies to cooperate with our CIA. If this section were not included, the Congress would be outdoing Phillip Agee and other traitors of our country who are seeking the eradication of our intelligence officers and the destruction of our democracy.

Section 205(a) does not require that all employees of the intelligence agencies be exempted, but only "if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would compromise the national interest of the United States."

Nor does section 205(a), nor this amendment, permit all employees of these intelligence agencies to file false statements. This is permitted only "if the President first finds that such filing is necessary in the national interest." And it should be remembered that section 205 (a) does not exempt intelligence officers from filing reports. Rather, it exempts those reports from being made public.

Section 205(a) is essential to this bill and the amendment of the gentleman from Kentucky does it no great harm.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I am delighted to yield to my friend, the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I rise in strong applause of what the gentleman from Missouri (Mr. BURLISON) has said. The gentleman is a very, very valuable member of the Permanent Select Committee on Intelligence and a Member whose work on the intelligence authorization bill has already been of such measure as to bring great credit to our committee.

What the gentleman from Missouri has said is exactly right. With this measure, as amended, our national intelligence effort can still go forward and nobody will be hurt. Without the Mazzoli type of an amendment, I think the House will not have done what needs to be done.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. BURLISON) has expired.

(On request of Mr. WIGGINS, and by unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 1 additional minute.)

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to my friend, the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I hope the gentleman in the well will acknowledge this fact: That the present section 205 and the amendment to it would provide a list in the custody of the Office of Government Ethics of those individuals, listed by name and most probably by address, who occupy positions of such unique sensitivity that the national interest would be compromised if their reports were disclosed.

Mr. BURLISON of Missouri. I would modify the gentleman's statement to this effect: Under the legislation, only the Director of Ethics himself would have access, and then only under security provisions as provided by the Director of Central Intelligence.

Mr. WIGGINS. I acknowledge that. But let us fully understand that we are providing a list of a most sensitive nature in the Office of Government Ethics.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. MAZZOLI).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MAZZOLI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 53, noes 347, not voting 32, as follows:

[Roll No. 841]

AYES—53

Bellenson	Garcia	Richmond
Bingham	Giaimo	Rodino
Boggs	Harrington	Rosenthal
Boland	Holtzman	Roybal
Bonior	Jenrette	Scheuer
Brodhead	Kastenmeier	Schroeder
Burlison, Mo.	Maguire	Seiberling
Burton, John	Mazzoli	Simon
Burton, Phillip	Mikulski	Solarz
Carr	Mikva	Stark
Conte	Mineta	Stokes
Dellums	Moffett	Vento
Downey	Murphy, Pa.	Volkmer
Drinan	Nolan	Walgren
Duncan, Oreg.	Oberstar	Weiss
Edwards, Calif.	Obey	Whitley
Fascell	Pease	Yates
Fraser	Rahall	

NOES—347

Abdnor	Baldus	Brinkley
Addabbo	Barnard	Brooks
Akaka	Baucus	Broomfield
Alexander	Bauman	Brown, Calif.
Ambro	Beard, R.I.	Brown, Mich.
Anderson, Calif.	Bedell	Brown, Ohio
Andrews, N.C.	Benjamin	Broyhill
Andrews, N. Dak.	Bennett	Buchanan
Annunzio	Bevill	Burgener
Applegate	Biaggi	Burke, Fla.
Archer	Blanchard	Burke, Mass.
Ashbrook	Blouin	Burleson, Tex.
Ashley	Bolling	Butler
AuCoin	Bonker	Byron
Badham	Bowen	Caputo
Bafalis	Brademas	Carney
	Breaux	Carter
	Breckinridge	Cavanaugh

Cederberg	Holland	Pettis
Chappell	Hollenbeck	Pickle
Chisholm	Holt	Pike
Clausen, Don H.	Horton	Poage
Clawson, Del	Howard	Pressler
Clay	Hubbard	Preyer
Cleveland	Huckaby	Price
Cohen	Hughes	Pritchard
Coleman	Hyde	Pursell
Collins, Ill.	Ichord	Quayle
Collins, Tex.	Ireland	Quie
Conable	Jacobs	Quillen
Corcoran	Jeffords	Railsback
Corman	Jenkins	Rangel
Cornell	Johnson, Calif.	Regula
Cornwell	Johnson, Colo.	Reuss
Cotter	Jones, N.C.	Rhodes
Coughlin	Jones, Okla.	Rinaldo
Crane	Jones, Tenn.	Risenhoover
Cunningham	Jordan	Roberts
D'Amours	Kasten	Robinson
Daniel, Dan	Kazen	Roe
Daniel, R. W.	Kelly	Rogers
Danielson	Keys	Roncalio
Davis	Kildee	Rooney
de la Garza	Kindness	Rose
Delaney	Kostmayer	Rostenkowski
Dent	Krebs	Rousselot
Derrick	LaFalce	Rudd
Derwinski	Lagomarsino	Ruppe
Devine	Latta	Russo
Dickinson	Le Fante	Ryan
Dicks	Leach	Santini
Dingell	Lederer	Satterfield
Dodd	Leggett	Sawyer
Dornan	Lent	Schulze
Duncan, Tenn.	Levitas	Sebelius
Early	Livingston	Sharp
Eckhardt	Lloyd, Calif.	Shuster
Edgar	Lloyd, Tenn.	Sikes
Edwards, Ala.	Long, La.	Sisk
Edwards, Okla.	Long, Md.	Skelton
Eilberg	Lott	Skubitz
Emery	Lujan	Smith, Iowa
English	Luken	Smith, Nebr.
Erlenborn	Lundine	Snyder
Ertel	McClory	Spellman
Evans, Colo.	McCloskey	Spence
Evans, Del.	McCormack	Staggers
Evans, Ga.	McDade	Stangeland
Evans, Ind.	McDonald	Stanton
Fary	McEwen	Steed
Fenwick	McFall	Steers
Findley	McHugh	Steiger
Fisher	McKay	Stockman
Fithian	Madigan	Stratton
Flippo	Mahon	Studds
Flood	Mann	Stump
Florio	Markey	Symms
Flynt	Marks	Taylor
Foley	Marlenee	Thompson
Ford, Mich.	Marriott	Thornton
Ford, Tenn.	Martin	Traxler
Forsythe	Mathis	Treen
Fountain	Mattox	Trible
Fowler	Metcalfe	Tsongas
Frenzel	Meyner	Tucker
Frey	Michel	Udall
Fuqua	Milford	Ullman
Gammage	Miller, Ohio	Van Deerlin
Gaydos	Minish	Vander Jagt
Gephardt	Mitchell, Md.	Vanik
Gibbons	Mitchell, N.Y.	Waggonner
Gilman	Moakley	Walker
Ginn	Mollohan	Walsh
Glickman	Montgomery	Wampler
Gonzalez	Moore	Watkins
Goodling	Moorhead, Calif.	Waxman
Gore	Moorhead, Pa.	Weaver
Gradison	Mottl	Whalen
Grassley	Murphy, Ill.	White
Green	Murtha	Whitehurst
Gudger	Myers, Gary	Whitten
Guyer	Myers, John	Wiggins
Hagedorn	Myers, Michael	Wilson, Bob
Hall	Natcher	Wilson, C. H.
Hamilton	Neal	Wilson, Tex.
Hammer-schmidt	Nedzi	Winn
Hanley	Nichols	Wirth
Hannaford	Nix	Wolff
Harkin	Nowak	Wright
Harris	O'Brien	Wydler
Harsha	Oakar	Wylie
Heckler	Ottinger	Yatron
Hefner	Panetta	Young, Fla.
Heftel	Patten	Young, Mo.
Hightower	Patterson	Zablocki
Hillis	Pattison	Zeferetti
	Perkins	

NOT VOTING—32

Ammerman	Aspin	Cochran
Anderson, Ill.	Beard, Tenn.	Conyers
Armstrong	Burke, Calif.	Diggs
Fish	McKinney	Shipley
Flowers	Meeds	Slack
Goldwater	Miller, Calif.	St Germain
Hansen	Moss	Teague
Hawkins	Murphy, N.Y.	Thone
Kemp	Pepper	Young, Alaska
Krueger	Runnels	Young, Tex.
Lehman	Sarasin	

Messrs. TUCKER, CHARLES WILSON of Texas, and LOTT changed their vote from "aye" to "no."

Messrs. RODINO, BONIOR, RICHMOND, MOFFETT, GARCIA, and DOWNEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: On page 43 after line 21, insert the following new section.

SEC. 224. In promulgating rules and regulations pertaining to financial disclosure, conflict of interest and ethics in the executive branch, the Commission shall issue rules and regulations in accordance with section 553, title 5, United States Code. Any person may seek judicial review of any such rule or regulation.

Renumber subsequent sections accordingly.

Mr. RAILSBACK. Mr. Chairman, I ask unanimous consent that I be permitted to make a modification in the amendment to strike "section 553" and substitute in its place "chapter 5."

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. DANIELSON. Reserving the right to object, would the gentleman tell me is he saying that where the language now says "section 553" he would strike that and insert "chapter 5"; is that correct?

Mr. RAILSBACK. Yes, "chapter 5." There is no substantive change.

Mr. DANIELSON. Mr. Chairman, I have no objection, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

On page 43 after line 21, insert the following new Section.

SEC. 224. In promulgating rules and regulations pertaining to financial disclosure, conflict of interest and ethics in the executive branch, the Commission shall issue rules and regulations in accordance with chapter 5, title 5, United States Code. Any person may seek judicial review of any such rule or regulation.

Renumber subsequent sections accordingly.

Mr. RAILSBACK. Mr. Chairman, I wish to speak in support of my amendment which is really clarifying in nature. This amendment assures that the public's right to know—the fundamental reason for this legislation—is fully safeguarded and not vitiated by weak disclosure or conflict of interest regulations. It is my belief that this amendment reflects the intent of the sponsors of the legislation.

Let me explain: Title II of this legislation provides for the establishment of an Office of Government Ethics in the Civil Service Commission. The Commission is given the responsibility for issuing rules and regulations detailing the specifics of required financial disclosure, and spelling out the appropriate conflict of interest rules. Although under the pending bill it is by implication rather than an express grant. While the bill outlines the general parameters of the required disclosures and the general framework of conflict of interest rules, many of the required nitty gritty details to make these requirements effective will have to be specified in regulation.

So, in the first place, my amendment assures that these rules and regulations are promulgated in accordance with the provisions of the Administrative Procedure Act. The APA mandates that public notice and an opportunity for comment are provided when rules and regulations are issued. Also, the Administrative Procedure Act allows the Civil Service Commission to hold hearings and take oral comments on these rules. This open process, with a full opportunity for public participation, is likely to result in well thought out, specific and realistic rules.

The second thing that my amendment provides is that any interested party may seek judicial review of these rules and regulations. Without this language, it would be unclear whether someone not subject to the requirements of these rules and regulations would have legel standing to challenge their validity. Since I believe that the fundamental purpose of this legislation is to safeguard the public's right to know about the financial influences on our high government officials, I think that a court should, even without this amendment, confer standing on a citizen who asserts that a regulation is inadequate. I am offering this amendment to make it absolutely clear that outside individuals can oversee the implementation of this statute by the Civil Service Commission. Unless citizens can participate in the development of and challenge these rules and regulations, I suspect that the Commission might be inclined to issue weak provisions in response to pressure from the government officials who are covered.

Hence, my amendment clarifies and does not substantially alter what I see to be the intent of this bill. I urge its adoption.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, it is my understanding of the gentleman's amendment that he wants the rule and regulating power to be governed by the Administrative Procedure Act.

Mr. RAILSBACK. That is correct.

Mr. DANIELSON. Mr. Chairman, if my understanding is correct, I have no objection to the amendment.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 47, line 9, strike out "O–6" and insert in lieu thereof "O–7".

Mr. STRATTON. Mr. Chairman, I rise to offer a perfecting amendment of the Committee on Armed Services to part C of title II of H.R. 13850, the conflict of interest portion of the bill.

This amendment occurs at page 47, line 9, of H.R. 13850, and would strike out "O–6" and insert in lieu thereof "O–7".

The committee purpose in offering the amendment is to insure uniform application of the 1-year prohibition on a former employee contacting the department or agency by which he had been employed. The bill presently applies that prohibition to civilian employees in positions classified at GS–16, while it applies it to officers of the uniformed services at pay grade O–6.

The civilian grade of GS–16 is generally considered the equivalent of the military pay grade of O–7, that is, brigadier general or the lower half of rear admiral. Since O–7 is the generally accepted equivalent of GS–16, our committee believes that the bill should be amended to apply the prohibition consistently.

On April 11, I received a letter from the General Counsel of the Department of Defense in which she objected to the language of H.R. 1 in this subsection. She noted that "in most military organizations, positions at the O–6 to O–8 levels are operational and not policymaking." She also stated, "the military and civilian application of the limitation would be comparable if the military grade level requirements were raised to the O–9 level." While I don't agree with the General Counsel that only uniformed services officers in pay levels O–9 and O–10 should be affected by this section, I see no reason to apply its prohibition to the O–6 level of uniformed services personnel. I believe that this amendment should be adopted in order to obtain a uniform application of the prohibition.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I will be glad to yield.

Mr. DANIELSON. Mr. Chairman, I have studied the amendment. It really carries out what we intended to do in the first place. I urge adoption of the amendment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would also encourage adoption of the amendment and have no objection to it.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, we support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 49, line 16, insert "with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned or" after "shall not apply".

Mr. STRATTON. Mr. Chairman, this second amendment of the Committee on Armed Services would amend subsection (f) of the bill to exempt communications for the purpose of furnishing scientific or technological information from the prohibition against former Government employees contacting the agency or department by which they had been employed.

The amendment to subsection (f) would occur at page 49, line 16. It would provide that the prohibition of subsections (a)(b) and (c) shall not apply "with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or".

H.R. 1's outright prohibition on "any written or oral communications on behalf of any other person" by former Government officers or employees caused great concern in the scientific community. As a result several scientists, from both industry and Government, urged our committee to provide an exception for communications, which were scientific or technological in nature, as distinguished from those which were intended to promote a program or product of a commercial employer. The scientific personnel thought that, unless such an exception were provided, they might be prohibited from furnishing information to their former agencies which could assist research and development programs. The committee considered that proposal as reasonable and, with the assistance of the Department of Defense, included in its amendments to the bill the language which we are now offering as an amendment.

Our committee sought to make the exception as restrictive as possible. The amendment would permit a very limited form of communications by the former employee with the agency or department by which he formerly had been employed. Any contacts which do not fall within that very narrow exception would be prohibited to scientists and technological personnel, just as they are to all other former Federal officials. At the same time, however, I believe that the amendment is sufficiently broad to relieve the anxiety of the scientific community.

Now I anticipate that opponents of this amendment will argue that it is unnecessary, since the subsection already provides that the head of a department or agency, in consultation with the Director of the Office of Government Ethics, can certify that a former employee can be exempted from the prohibition because of his outstanding scientific or technological qualifications. I have been advised by representatives of the scientific community, however, that they do not believe that exemption procedure is adequate since it is discretionary with the head of the agency, and the scientist will not know whether the exemption is to be granted until after completion of his Government employment.

I understand that many scientific and technological personnel would be unwilling to accept Government employment if they were required to serve under this cloud of uncertainty. The prohibitions of this section can severely impact the ability of an individual to earn a living. I do not believe that we can ask these highly trained and very valuable people to accept Government employment if, by doing so, they place their futures in the hands of bureaucrats who can summarily prevent them from returning to their chosen fields by refusing to grant an exemption after completion of faithful service to the Government. I believe we should assure our scientists that they can accept Government employment, and after its completion be able to communicate with their former Government agencies so long as their contacts are for the purpose of furnishing scientific or technological information.

Mr. Chairman, I believe that both these amendments would improve this legislation; the first by applynig it consistently to military and civilian personnel, and the second by permitting scientific communication which our committee believes is essential for national defense purposes. Accordingly, I urge the support of my colleagues in the adoption of these amendments.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I will be glad to yield.

Mr. DANIELSON. Mr. Chairman, I accept the amendment with all dispatch.

Mr. STRATTON. Mr. Chairman, I commend the gentleman for his wisdom.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I will be delighted to accept it also.

Mr. STRATTON. Mr. Chairman, I thank the gentlewoman.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, the second of our committee amendments to part C is an effort to insure that our Government will have access to all the scientific and technological expertise available. During our subcommittee hearings, we were con-

tacted by a number of scientists who expressed concern over the breadth of the prohibition on the contacts former Government employees might have with their former agencies or associates in those departments or agencies. They believed the language was broad enough to prohibit a contact which was solely for the purpose of conveying scientific or technological information. Such a broad prohibition, they believed, could work to the detriment of the United States. For example, it might prohibit a former Government scientist from passing along the benefit of his experience on a particular problem to his successor. To deprive the Government of the benefit of such information, which could expedite research, would be a very short-sighted policy.

Accordingly, I urge you to adopt this amendment of the Armed Services Committee.

Mr. STRATTON. Mr. Chairman, in view of the statement of the gentleman from California (Mr. DANIELSON), I will yield back the balance of my time, but first let me simply say that considering what happened the other day with regard to the Presidential veto override, it appears that the Committee on Armed Services is back in the good graces of House again.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 21, strike out line 11 and all that follows down through "fixed for GS–16;" where it appears on line 19 and insert in lieu thereof the following:

(3) each individual holding a civil service position in the executive branch whose rate of basic pay is fixed by the Executive Schedule of subchapter II of chapter 53 of this title, by reference to such Executive Schedule (determined without regard to section 5308 of this title, or any comparable pay ceiling), or by the Postal Executive Schedule and such individual is at grade 33 or higher of such schedule;

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, I am offering an amendment to insure that the financial disclosure reports of all career employees covered by the bill—GS–16 and up—be kept confidential.

Specifically, my amendment deletes career, merit system employees from the bill and leaves in the bill section 207 which authorizes the President to require officers and employees in the executive branch to file confidential reports.

This approach is similar to the current practice under Executive Order 11222, under which the President determines which positions should be covered. Under the Executive order, for example, individuals in positions involving investigation, inspection, or auditing with respect to civil or criminal law enforcement or persons involved in awarding grants, subsidies, licenses, contracts or other monetary benefits are required to file confidential reports with their agency.

Thus, my amendment does not prevent the President from requiring disclosure reports from career employees. He retains that authority, but it makes it clear that the reports of career personnel would not be available to the public.

The reports of these employees could be audited and employees could be disciplined for violations. Conflicts of interest could be deterred. But these reports would remain within the agency and be handled confidentially.

I hope my colleagues will support this amendment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think this is a fine amendment, because, if I understand it correctly, the public is still protected in that if the President feels in order to maintain the integrity of the Government these matters should be made public in certain cases, they can be made public; is that correct?

Mr. HARRIS. Mr. Chairman, with regard to this amendment, the President would keep all of them confidential. May I say that if this amendment is not adopted, it would be my intent to make that point to which my colleague refers at another time.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding. I wish to commend the gentleman from Virginia (Mr. HARRIS) for offering this amendment. This amendment will help to minimize the penalties imposed by this legislation on civil servants simply because they demonstrated the skill and aptitude to rise to a position of trust in the GS–16 through GS–18 category. If this amendment is not adopted, many potential candidates for upper level management with distinguished credentials will be deterred from applying for such positions simply because they refuse to have revealed to their friends, neighbors, and colleagues information of a delicate nature that would cause embarrassment to that civil servant and his or her family.

Accordingly, I urge my colleagues to support this amendment.

Mr. HARRIS. Mr. Chairman, I am pleased to hear my colleague's comment.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, the gentleman has three amendments, and I want to be sure which one this is. Is this the one on page 21 that strikes out line 11 and all that follows?

Mr. HARRIS. Mr. Chairman, this amendment strikes out line 11 and all that follows down through "fixed for GS–16;" where it appears on line 19.

Mr. DANIELSON. This is an amendment, then, that was published in the RECORD a few days ago?

Mr. HARRIS. That is correct.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I understand the amendment, it will strike out on page 21 starting on line 11, the language of line 11 down through the designation GS–16, on line 19, and substitute the following language:

. . . each individual holding a civil service position in the Executive Branch whose rate of basic pay is fixed by the Executive Schedule of subchapter II of chapter 53 of this title, by reference to such Executive Schedule . . . or by the Postal Executive Schedule and such individual is at grade 13 or higher of such schedule.

Is that correct?

Mr. HARRIS. Yes, the gentleman is correct.

Mr. DAINELSON. Does this mean that people in Executive Level 1 must report, and their reports must be made public?

Mr. HARRIS. Absolutely.

Mr. DANIELSON. Also level 2?

Mr. HARRIS. Yes.

Mr. DANIELSON. Level 1 being the secretaries of the various departments, and Executive Level 2 being deputy secretaries, under secretaries, administrators of agencies, and chairman of agencies. Executive Level 3, would they also be required to make public reports?

Mr. HARRIS. The chairman is correct.

Mr. DANIELSON. We are getting down to solicitors general, Under Secretary of the Treasury, Chairman of the SEC, et cetera.

Then the Executive Level 4, they must report, and the reports must be made public?

Mr. HARRIS. Yes, sir.

Mr. DANIELSON. These are assistant secretaries of the departments, members of the Federal Home Loan Bank Board, et cetera. Executive Level 4, must they report and their reports be made public?

Mr. HARRIS. That is correct.

Mr. DANIELSON. These are assistant secretaries or lower, apparently, echelon.

And how about Executive Level 5?

Mr. HARRIS. They would be covered in the public disclosure.

Mr. DANIELSON. Public disclosure. Then what the gentleman is talking about here, the Director of the U.S. National Museum, the Smithsonian Institution, and they must report and the reports must be made public?

Mr. HARRIS. The chairman is correct.

Mr. DANIELSON. But what the gentleman is reaching is the civil service grades 16, 17 and 18, and the comparable grades in the Postal Service; is that correct?

Mr. HARRIS. That is correct, and, if I may say, only those who are in the competitive service. The political appointees in those grades should still have to report publicly.

Mr. DANIELSON. But what the gentleman is talking about are civil service employees who are GS–16 and above?

Mr. HARRIS. GS–16, GS–17 and GS–18; yes, sir.

Mr. DANIELSON. And, as I recall it,

the opening salary of GS–16 today is something like $42,400; am I approximately right?

Mr. HARRIS. The gentleman is approximately right.

Mr. DANIELSON. Mr. Chairman, my purpose in this colloquy is to establish for the RECORD, and also for the benefit of Members who are present and may vote, precisely who it is we are talking about. Most of us are not as intimately familiar with the civil service categories as the gentleman from Virginia.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Chairman, I think I may have misinterpreted the amendment when I first saw it. I think the gentleman from Virginia has a second amendment which I like much better than this one, because I think the second amendment balances much better the rights of privacy against the public's right to know. I think we really do want to maintain the integrity of the professional employees, as well as of the political employees, and that says that they will be confidential unless the President saw some reason for them to be published.

So I am reluctant and sorry that I cannot support this amendment, and I certainly hope the gentleman from Virginia will offer his second amendment.

Mr. DANIELSON. In effect, the gentlewoman is revising and extending her earlier remarks and is manifesting less than enthusiastic support for the amendment.

Mrs. SCHROEDER. If the gentleman will yield, the gentleman from California has interpreted the remarks of the gentlewoman from Colorado very well.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding, from reading the press, that there is widespread corruption in the GSA and, apparently, at some of the higher levels, including, possibly, GS–16, GS–17 and GS–18.

I wonder whether or not we are eliminating from the public disclosure requirements the reports that would be required to be filed by their high level career civil servants in the GSA?

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has expired.

(On request of Mr. HARRIS, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. That is my question. I want to know whether we are removing from the public disclosure requirements those executive civil servants.

Mr. DANIELSON. I would like, respectfully, to defer to the gentleman from Virginia (Mr. HARRIS) who can answer that better than I.

Mr. HARRIS. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman yielding.

The response is "no." May I read to the gentleman the language that will be in the bill if this amendment is adopted. The language says that the President may require officers and employees in the executive branch, including the U.S. Postal Service and uniformed services not covered by this part to submit confidential reports in such form as required by this part. It would mean all these personnel, GSA and otherwise, could be required to file a report. It would mean the reports would not be made public, but they would be filed.

Mr. McCLORY. Mr. Chairman, there would be no public disclosure of GSA officials at these levels, and it seems to me that the amendment violates the entire purpose of this legislation.

Mr. DANIELSON. Mr. Chairman, would the gentleman from Virginia respond on that?

Mr. HARRIS. Mr. Chairman, if the gentleman will yield, I think quite the contrary. When the Agency in fact was being investigated these reports would have been available, not on a public basis but on a confidential basis, and they would in fact have given the basis for a very good investigation.

Mr. DANIELSON. I thank the gentleman.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, any time a line is drawn in legislation, the legislation is subject to criticism because it may be seen irrational with respect to those who fall on either side of that boundary. We have drawn the GS–16 line in this legislation primarily for the reason that GS–16 pay is comparable to those at the lowest executive schedule, all of whom are covered.

The gentleman's amendment raises this level to GS–18. My basic concern is: Why do we do it?

Certainly one could not argue that a GS employee lacks an opportunity for conflict contrary to the national interest but that an executive schedule appointee does have that opportunity. That distinction lacks rationality.

Indeed I see no reason to exclude personnel who are in the upper civil service levels from the mandatory disclosure requirements if we are to have that requirement at all.

The beauty—if there is beauty—in the committee bill is that it draws a line on the basis of pay. People who are in comparable pay levels will be compelled to make comparable reports. The amendment is an exception from that standard, and since the exception cannot be justified in my mind, I think we would be wise to adhere to one that at least admits of some rationality; namely, like pay shall have like duties.

I urge rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 2, noes 25.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS:

Page 31, line 12, strike out "Each" and insert in lieu thereof "Except as provided in subsection (e) of this section, each".

Page 34, after line 13, insert the following new subsection:

(e)(1) Except as provided in paragraph (2) of this subsection, reports of officers and employees referred to in section 201(f)(3) and of officers and employees of the Postal Service shall not be made available to the public pursuant to this section if the Director of the Office of Government Ethics determines that withholding such reports from such public availability would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

(2) No report of an officer or employee who is in a position which is excepted from the competitive service by reason of being of a confidential or policymaking character may be withheld from public availability under paragraph (1) of this subsection.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, this amendment keeps all the requirements in the law that are currently in the bill but it does open open up one little recognition of privacy for those categories that the Director of Ethtics may consider would be best not to be made public.

All the reporting requirements remain the same. They are still mandatory. All of them are made public except where the Director of Ethics indicates that those categories can be kept confidential without jeopardizing the integrity of the Government.

I would urge my colleagues to adopt this amendment.

It gives, as my colleague across the aisle would have said, one element of balance here that says it is possible that there are positions in this area that can be excluded from making public the disclosure, without jeopardizing the integrity of the Government. I think we ought to give that much flexibility to the Director of Ethics.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, let me say, in my enthusiastic support that I tried to give the last time, this time will stick. I think this is a good amendment. I think the gentleman from Virginia (Mr. HARRIS) has worked very, very hard on this. In essence this is what many of the members of our committee thought should have been done at the time we were discussing this issue.

I compliment the gentleman from Virginia (Mr. HARRIS) for weighing and balancing the public's right to know against individual privacy here and has come up with a good balance.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, is the effect of the gentleman's amendment to authorize the Director of the Office of Ethics in Government to exclude from public disclosure any filing made by an employee at the executive branch level of GS–16 through 18, if the Director makes a finding that public disclosure would not in some way adversely affect the integrity of the Government?

Mr. HARRIS. That is basically correct.

If I may respond to my colleague, with just one refinement, it would apply only to competitive career service employees. In reply to your question, it gives that flexibility in regard to career employees in those particular grades.

Mr. WIGGINS. Would the gentleman yield further?

Mr. HARRIS. Yes.

Mr. WIGGINS. Mr. Chairman, I have these comments: I would hope that the overwhelming number of reports filed under this title would not disclose that the integrity of the Government is jeopardized, and, in fact, would simply provide those curious individuals an opportunity to investigate into the finances of people who serve in Government. In other words, the exception is liable to consume the rule. It would only be in the rarest of cases, I think, that an impropriety might be evident on the face of the report, compelling the Director to order its public disclosure. If that exemption is wise, since it covers most people why is it not wise with respect to Members of Congress?

I think the general story will be that most Members reveal no misconduct, or even a hint of misconduct. In other words, we are giving a special benefit to career civil servants that we do not give to others and I would like the gentleman to justify it.

Mr. HARRIS. I know it is difficult for Members of Congress who have chosen the public, political, elective life, after having requirements imposed upon them, not to say it should apply to everyone else just the same. Many may say you are making me live in a fishbowl and so whether the person is a GS–16 or a GS–17, whether he is a professor from the California Institute of Technology who is here for a brief time, he is coming in here and he has got to spread his financial affairs before all of his neighbors in Prince Georges County, for example, as to what his holdings are and how much he paid for his house, and what have you. I simply say with regard to the professional employees, all right, keep the requirement in if you will that they must make the disclosure, keep the requirement in that most of them will be made public, but at least let the Direcor of Ethics have some flexibility with regard to groups of employees where no purpose of public policy will be served, to make those particular groupings live in this sort of public fishbowl.

I suppose I approach this with a spirit of charity that we should not necessarily impose upon everybody else the requirements we are imposing on those who fill the office of elected Members of Congress.

I know it is difficult, I will say to my colleagues.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. HARRIS) has expired.

(On request of Mr. WIGGINS and by unanimous consent, Mr. HARRIS was allowed to proceed for 1 additional minute.)

Mr. WIGGINS. Mr. Chairman, will the gentleman yield further?

Mr. HARRIS. I am happy to yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, just in conclusion, I did not wish my comments to be misunderstood as opposition to the amendment. Indeed, I support the amendment because it is a breath of fresh, rational air in this bill.

Mr. HARRIS. I thank my colleague, the gentleman from California, Mr. Chairman.

Mr. WIGGINS. However, it does emphasize the irrationality of what we do with respect to everybody else. Indeed, we ought to follow the gentleman's pattern with respect to Members of Congress, it seems to me.

Mr. HARRIS. Mr. Chairman, I appreciate my colleague's comments.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment of the gentleman from Virginia. I do so based upon my respect for the concepts behind the Privacy Act of 1974 which I had the pleasure of supporting and over which the Government Operations Committee has legislative responsibility.

I do understand that in this difficult area of public financial disclosure versus privacy there are complex and competing policy issues which I am sure the Judiciary and the Post Office and Civil Service Committees had to deal with. I believe, however, District Court Judge Gesell was correct when he stated in a recent opinion:

> In this immediately post-Watergate period, the view exists that conflicts of interest can be expunged by forcing intimate disclosures from those dealing with or acting for the government. Within limits this may be sound, but we must beware lest excessive zeal in this direction destroy more precious fundamental values. People, even people working for the government, have within reason the right to be left alone. (*American Federation of Government Employees, Local 421, et al.* v. *Schlesinger*, Civ. Action No. 77–1985, January 13, 1978, p. 3.)

In line with that sentiment, we ought to give the Director of the Office of Government Ethics the responsibility and flexibility of determining whether some financial reports by high-level career civil service employees need not be publicly disclosed. I am aware that the Post Office and Civil Service Committee did find that there were serious problems in the present executive disclosure system which did not include public disclosure.

However, Mr. Chairman, we now have a completely new system with an independent Presidentially appointed director and staff and I suggest that before we mandate across-the-board public availability of the disclosure filings for all our career executives that we build in some flexibility when we are dealing with such precious fundamental values as privacy.

In this complex society, big government constantly impinges on all of us, including career Government employees. As Alexandr Solzhenitsyn wrote in Cancer Ward:

> As every man goes through life he fills in a number of forms for the record, each containing a number of questions * * * There are thus hundreds of threads in all. If these threads were suddenly to become visible, the whole sky would look like a spider's web, and if they materialized as rubber bands—buses, trains, and even people would all lose the ability to move, and the wind would be unable to carry torn-up newspapers or autumn leaves along the streets of the city. They are not visible, they are not material, but every man is constantly aware of their existence. . . . Every man, permanently aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads.

The U.S. Congress has on a number of occasions in recent years stood up for the right of our citizens to be protected from the indiscriminate publication of personal information. There is no compelling case at this time to treat career Government employees as second-class citizens who are to be denied those basic protections.

Before we mandate across-the-board public disclosure for our career employees, I recommend we first try the procedure outlined in the gentleman from Virginia's amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

The only problem I find with this amendment—and I think it really goes to the basic purpose or purport of the bill—is this, that we are mandating public disclosure on the one hand, but then we are delegating, through the gentleman's amendment, to this one individual, who is an appointive official, the right to exempt from the mandate a certain group of individuals who will not be required to make public disclosures such as the public disclosures which are required of Members of the Congress, Federal judges, and Presidential appointees.

I think that it, perhaps, points up the folly of the pending legislation insofar as it is a broad sweep which includes not only Members of the Congress but also the executive department and the judiciary. I think that what the gentleman points out is that this legislation just is not good legislation insofar as it affects these individuals in the executive branch.

Mr. BROOKS. I think the gentleman is absolutely right.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it appears to me that this amendment does just about what the previous amendment offered by the gentleman from Virginia sought to do, and that is to repeal title II of the bill.

What seems to have been done here is that we have created 30 pages of legislative language to provide for disclosure, and then if we pass the gentleman's amendment, we will allow one official to eliminate all of the disclosure.

I think I probably would be willing to vote to strike the title, but I do not think I am willing to create the whole title, create all the administration for the filing of many thousands of reports, and then provide that the reports will not be disclosed. I believe that there are somewhere about 15,000 of these reports required to be filed under title II, and under the Harris amendment they would be filed for no purpose at all. No one will ever see those reports. It seems to me the Harris amendment would totally invalidate the purposes of disclosure.

I would like to ask the gentleman, are there not 15,000 of these employees who could be exempted under his amendment?

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

The total number, as I recall, of the grade levels that we referred to would be about 9,200. Presumably, under this amendment only a well-identified group and relatively small group would be designated by the Director of Ethics where disclosure would be continued to be required, and, of course, the Director of Ethics would see them. But with respect to those groups the disclosure would not be made public. This gives the Director some flexibility where it serves no public purpose not to exempt them.

Mr. FRENZEL. If the Director of Ethics exempts one person because his job does not require disclosure, I do not see how he can decide that the next person who holds the job requires disclosure. It seems to me the gentleman literally exempts all of these people from the effects of title II. It may be good policy to exempt a few people, but if we do, then why do we not exempt all the rest? I can see no reason to draw the distinction between the gentleman's subparagraph (1) and (2).

Mr. Chairman, I am going to vote against the amendment. I am not a great admirer of the title itself, but I see no reason to create a title with a lot of administrative work attached to it and then suddenly to almost repeal all of its effect.

I yield back the remainder of my time.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am an enthusiastic supporter of the title and of the bill, unlike the gentleman from Minnesota, but I share his reservations and those expressed by others, including the gentleman from California (Mr. WIGGINS), who suggested that here the exception may, indeed, prove the rule.

As the gentleman from Illinois (Mr. MCCLORY) earlier pointed out, if the GSA, for example, were somehow exempted, we still would not have the disclosures the public would surely feel that they were entitled to. The criteria really are so broad, that which would not obviously affect the integrity of the Government or public confidence therein, as really to be no guide at all to the Director of Ethics in this case. The committee rather painfully exempted intelligence agents from public disclosure under rather elaborate circumstances in the House bill.

We had a prolonged debate about that particular exemption. If this exemption were agreed to, it would make all of that discussion irrelevant, because one of the primary reasons for exempting our intelligence agents was the very fact that someone exempted them would tend to point them out; but if we are exempting other classes of personnel, and these are people at the highest level, grades 16, 17, and 18, then there is no point for expressly exempting the agents we have in the preceding section.

I think this undercuts the whole purpose of the bill. As the gentleman from Minnesota suggested, it makes a loophole in the title as large as the title itself.

Mr. Chairman, I believe the amendment ought to be rejected.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I share many of those sentiments, although frankly I support the amendment. It is well to point out that we have here in the legislative branch many staff persons who will be covered and who are not favored by the effect of this amendment. These people are career people in a sense and are in the GS–16, –17, and –18 pay level. Their reports must be disclosed whereas similar executive employees in the same pay category would not.

Mr. KASTENMEIER. Mr. Chairman, I appreciate the gentleman's comments. It suggests how unevenly this amendment falls. I urge it be rejected.

Mr. BURKE of Massachusetts. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to this amendment.

I believe the House should be very careful about what they do today in this amendment. There are investigations and allegations going on about the GSA. If some of those are proved, this House could be in a very embarrassing position. I think we ought to be very careful and oppose this amendment. There is nothing wrong with the provisions in this bill. It calls for people in high positions to reveal what we are obliged to reveal. If we have a code of ethics in this Government, it should be broadened out. It should include those people in a position to make decisions, and particularly those with special interests.

I do not think we would act properly if we adopted the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and on a division (demanded by Mr. HARRIS) there were—ayes 9, noes 22.

Mr. HARRIS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. FOWLER). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Virginia (Mr. HARRIS) for a recorded vote.

Mr. HARRIS. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: Page 34, strike out line 14 and all that follows down through line 23 and insert in lieu thereof the following:

REVIEW OF REPORTS

SEC. 206. (a) Each designated agency official or Secretary concerned shall make provisions to ensure that each report filed with him under this part shall be reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics only shall review those reports transmitted to him under this part within 60 days after the date of transmittal.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford him a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance.

(3) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official reaches an opinion

under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, he shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in his opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such regulations as the Director of the Office of Government Ethics or a Secretary concerned, as the case may be, may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate future action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the uniformed services, the Secretary concerned shall take appropriate future action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any officer or employee the matter shall be referred to the head of the appropriate agency for further appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recomend to the Governors of the Board of Governors of the United States Postal Service the further action to be taken.

(7) For purposes of assisting employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, each Secretary concerned and designated agency official (including the President in the case of the individuals employed in the Executive Office of the President) shall maintain a list of those circumstances or situations which have or may result in noncompliance with such laws or regulations. Such list shall be periodically published, and shall be furnished to those individuals employed within the agency who are required to file reports under this part. The absence of any situation or circumstance from such a list shall not be construed as an indication that an individual in such circumstance or situation would be in compliance with such laws or regulations.

(8) The preceding provisions of this subsection shall not apply in the case of the President or Vice President, or a candidate or nominee for such office.

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. FOWLER). Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, section 206 of the substitute—H.R. 13850, page 34, lines 15 to 20—provides very simply that the agency heads and Director, Office of Government Ethics, shall "assure" that reports are filed. Thus, there is no assurance that reports are complete or that any conflicts of interest contained in reports are corrected unless—and this is a big contingency—the reports are reviewed by outside parties; for example, the press or a public interest group.

Title II of the substitute will require over 10,000 financial reports to be filed. Most assuredly, the reports of the 500 or so executive branch bigwigs will be reviewed upon release by the press, and so forth. However, not many of the other 9,500 reports will be so reviewed. Instead, they will receive public examination once a scandal surfaces—well after an initial review, which could have prevented or corrected the conflict of interest situation.

The General Accounting Office found two faults in its examination of the present executive branch financial disclosure setup. First, that reports are not filed, the item section 206 takes care of. Second, that reports are not reviewed.

Not having in-house review defeats the entire purpose of financial disclosure. It is like having tax laws and no audits or traffic laws and no traffic police. Filers of forms do not know if they are filing them right. The public has no assurance they are complete.

My amendment requires each report to be reviewed. The review does not have to be in great depth. Just assurance that all blanks are filled in and a determination that information filed which on its face looks like a conflict of interest is found to be or not to be a conflict of interest, so that corrective action—such as moving an employee to a part of an agency where his investment cannot be a conflict—will be taken before it creates the headlines, destroys the Government's case, or cancels the contract.

In addition, to help employees avoid conflicts in their own right it requires each agency to maintain a list of conflict situations which should be avoided. In this way, the person at the Interstate Commerce Commission can know in advance that, for example, the conglomerate in which he is thinking of buying stock owns a trucking firm he regulates.

These two requirements are not a new burden. They are exactly the kind of things that the present Executive Order 11222 requires, but upon which, the GAO says, agencies have placed no emphasis. The lack of review for which section 206 in the substitute offers no correction cannot be permitted to continue.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The question was taken; and on a division (demanded by Mrs. SCHROEDER) there were—ayes 10, noes 8.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 49, immediately after line 24 insert the following new subsection:

"(g) The prohibitions contained in subsection (c) of this section shall not apply with respect to any formal or informal appearance before or communication to a department or agency by a person who is a member in good standing before, and is licensed or certified to practice in a profession by, any Federal or State licensing or certifying authority for such profession, if the following conditions are met:

"(1) Such person is subject to discipline, including suspension or revocation of such person's license or certification to practice, by the licensing or certifying authority on account of—

"(A) a failure to possess the requisite qualifications to represent others,

"(B) a lack of character or integrity, or

"(C) engaging in unethical or improper professional conduct.

"(2) Such department or agency has in effect standards of ethical conduct—

"(A) for its officers and employees which, at a minimum, prescribe and subject such officers and employees to disciplinary action, including suspension or dismissal, for—

"(i) using public office for private gain,

"(ii) giving preferential treatment to any person,

"(iii) impeding Government efficiency or economy,

"(iv) compromising independence or impartiality,

"(v) making a Government decision outside official channels, or

"(vi) affecting adversely the confidence of the public in the integrity of government; and

"(B) for its former officers and employees which, at a minimum, provide for disciplinary action, including the suspension or revocation of the privilege of appearing or practicing before it, upon a finding (after notice and an opportunity for hearing) of—

"(i) failure to possess the requisite qualification for representing others,

"(ii) lack of character or integrity; or

"(iii) engaging in unethical or improper professional conduct.

"(3) Such appearance before, or communication to such department or agency is of a category exempted from the prohibitions contained in subsection (c), for purposes of this subsection, by general rule or regulation promulgated by the department or agency, in consultation with the Director of the Office of Government Ethics, and published in the Federal Register.

"(4)(A) A file containing—

"(i) any such written communication (and responses thereto),

"(ii) memoranda stating the substance of any such oral communication (and responses thereto), and

"(iii) all written communications (and responses thereto) and memoranda stating the substance of all oral communications (and responses thereto) in connection with any such appearance,

is made available for public inspection and copying immediately upon request, notwithstanding any provision of section 552(a)(6) of title 5, United States Code.

"(5) Such appearance is not before, or communication is not with, any person under the direct supervision and control of such former officer or employee, while employed with such department or agency.

"(6) Such former officer or employee files a written declaration with the department or agency that he or she is currently qualified to appear in a representative capacity before the department or agency, and that the appearance or communication is not intended to have, and cannot reasonably be expected to have, any effect described in paragraph (2)(A)(i) through (vi) of this subsection.

For purposes of this subsection, the term 'State' includes the District of Columbia and any territory or possession of the United States."

Page 49, line 25, strike out "(g)" and insert in lieu thereof "(h)".

Page 50, line 21, strike out "(h)" and insert in lieu thereof "(i)".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, this is an amendment which is, in effect, a fallback amendment from the Moorhead amendment introduced the other day to strike the 1-year period during which there would be an absolute prohibition against an ex-employee appearing before an agency if he fell in the category of a former policymaking employee. That is the Moorhead amendment introduced the other day which was passed by those having heard the argument on the floor, but ultimately defeated by the vote of those who came to the floor later.

Mr. Chairman, I think most of the arguments which were raised in favor of the Moorhead amendment the other day are also applicable to this amendment. However, some of the criticisms with respect to striking altogether the 1-year absolute prohibition, I think, are removed in this amendment.

In the first place, with respect to the 1-year period in which a person who is employed in a capacity which is policymaking may not appear before the agency, that 1-year period may not apply if the agency discretely determines areas in which such prohibition should not be applicable and if the employee involved belongs to a professional association which is licensed by the Federal or State government, as, for instance, the bar of a State, and that association provides standards of conduct which would prohibit conflicts of interest and, in addition, the agency has standards of conduct which require ethical practice before the agency, and we set forth the minimum standards in the amendment. The minimum standards described in the amendment would generally comport to that type of standard which a bar of a State would require.

The standards of the agency with respect to former and present employees are framed pretty largely after the standards now applicable to the Securities and Exchange Commission. It seems to me that this is a reasonable protection with respect to employees who have been formerly employed by the agency appearing before that agency in matters in which they did not have supervisory authority and were not engaged in the enforcement of the governmental procedure, in the first place.

We do not, of course, change provisions of existing law which prohibit former employees from appearing before an agency in a matter in which they were previously involved in behalf of the agency.

Mr. Chairman, I will say to my colleagues here that this is not a partisan proposal. Our colleague, the gentleman from North Carolina (Mr. BROYHILL), appears on the "dear colleague" letter supporting this amendment. I think that the gentleman from North Carolina (Mr. BROYHILL) and I are not merely volunteers in an area in which we have not previously been engaged. The subcommittee we are on, as chairman and as ranking minority member, deals with more of these agencies than does any other subcommittee. The SEC, of course, is a perfect example of the problem involved.

We also have the name of the gentleman from Illinois (Mr. MCCLORY) on the letter, just as we do that of the gentlewoman from Texas (Miss JORDAN).

May I say, Mr. Chairman, that I am not a newcomer to this question.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman. I appeared before the subcommittee and made the point I am making here.

I would suggest to the Members that we too frequently use terms like "revolving door" or "sunset" or some other catchy term; and then we decide issues merely upon those slogans.

I would suggest to the Members that the evil is not with respect to the revolving door.

The revolving door is in the front of the building. You see who goes in the revolving door. You see men like Manny Cohen who traveled through that revolving door into the SEC and into private practice, a man of impeccable character. You see former Attorney General Katzenbach; Clark Clifford; many others—men of integrity and ability—you see them all moving in and out of Government and in and out of private practice.

I suggest to the Members that our economy is essentially an enterprise system in which government must know something about business and business something about government. It is not evil that there be an interplay between the two.

The door we want to stop is not the revolving door. The door we want to lock is the back door, the back door to the commissions. What we are dealing with here is persons of high level, very much in the public eye, in the glass revolving door, who all the public knows are in governmental practice, and they know when these persons go into private practice. The fact that they are related to business at one time and to Government at another time is not per se evil. It is evil to breach the ethical limitations of the profession or of the agency, and we provide clearly in this amendment that there shall be no exception to the 1-year bar unless there are ethical standards promulgated by the profession which would permit removal of one's license in case of unethical practices, and unless the agency also has such rules to prevent unethical conduct.

As I said before, this does not in any way permit persons engaged in the actual case, while a person was in Government, to go into private practice and appear in the same case.

I suggest to the Members that this is a moderate amendment, a reasonable one. It strikes a balance between a very stiff limitation of the 1-year period and the amendment which struck the section altogether.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, with great reluctance I must rise to oppose the amendment offered by the gentleman from Texas (Mr. ECKHARDT). This is another amendment which is offered in the greatest of good faith and in all sincerity, but which has the common denominator we find throughout all these amendments or proposed amendments to the bill, namely, it seeks to exempt a specific category from the provisions of the bill.

I know that within this committee, within the House, there is not a unanimity of opinion as to whether or not this bill is good at all, for any reason. There are many who feel that it is a good bill and that we should have public disclosure of certain financial transactions and regulations regarding the revolving door or conflict of interest, and there are others who feel just as strongly and just as honestly that these provisions are not necessary. But I respectfully submit that what we are trying to do in this bill is not to correct something that has already happened; what we are trying to do is to prevent undesirable things from happening in the future. It is preventive in nature. That is the purpose of this bill.

We are requiring financial disclosure, the reporting of financial transactions not because of something that has happened in the past. We are not going to catch something that has happened in the past. We are requiring these things to prevent any corruption, any conflict from happening in the future. It is preventive; it is an inoculation; it is a vaccination; it is something to prevent evil.

Along that line let us not forget that when people have served in the Government for a number of years, when they have occupied high-level positions, they have of necessity because of human nature established a psychological superiority or advantage over those who worked for them in the past.

What we are trying to do is to prevent those people from coming back into the same office where they were the boss last year and to try to exert something on behalf of a client who is paying them. Obviously, having been working in the agency in a top-level position just a few weeks or a few months ago, they would have a psychological advantage over the people working in that agency and they can exert an influence, which by its very nature is superior and better than that which can be exercised by other people. That is what we are trying to prevent.

The bill as it is now drafted puts this inhibition only on the very top-level peo-

ple. We are not preventing some young man out of law school who worked for a year at the SEC from going out and getting a job, but we are preventing the man who was the head of the department of SEC coming back day after tomorrow and representing a client to his advantage.

Mr. Chairman, the difficulty with this bill, and all the amendments to this bill, I should say, is that we are trying to keep the foxes out of the chicken coop. It does not do any good to say that this particular fox is not going to eat any of the chickens, because the chickens do not believe it. You and I may believe it, but the chickens do not. Let us keep the fox out of the henhouse. That is exactly what this is for. If we chip away these restrictions one by one, the fox is going in there and what is going to happen, the feathers are going to fly. That is certain.

Now, as to the gentleman's amendment itself, it has a lot of inherent problems. For example, most of these people are attorneys. They are coming into these agencies to represent a client as an attorney. The amendment requires the agency to make a file, reporting every communication, every oral communication by memorandum between the agency and the former employee. And it is a public record. Are they not going to be breaching the attorney-client privilege? When I practiced law, I would have thought so. They are going to destroy the confidentiality of tax and business information. They are going to destroy the confidentiality of Government matter; so it is going to be extremely burdensome. Every time one of these people comes into the agency, you are going to have to update the fact that at 2:05 p.m. he came in; at 2:10 he walked down the hall and talked to John Bureaucrat; at 2:15 he left John Bureaucrat's office and has to dictate a memorandum and say, "While I was there, I saw X, Y, and Z."

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman is correct, that he has to report to whom he talked, but he does not have to reveal everything he said.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. DANIELSON. Mr. Chairman, I made the cardinal error of all who argue a cause. I forgot to tell you, I hope you will vote this amendment down out of hand. It is nothing but the successor to the one we defeated overwhelmingly on Wednesday last. I urge a "no" vote.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it seems to me that this is a very good amendment. It will encourage individuals, including those in the professions, for example, accountants, lawyers, and engineers, to go into Government service. It will provide that kind of latitude so that a person who has completed his governmental service may return to engage in his profession as he did before he undertook the service. At the same time, it provides the discipline which it seems to me is essential and is really what we are talking about, the discipline which would punish a person or discipline a person for any kind of professional misconduct including improprieties in dealing with Federal agencies or departments.

I do not know that we are going to be able through this legislation, or any legislation for that matter, to legislate human and public morals. I think we are going to provide some things which can help lay more facts and more information before the public. I think we can encourage appropriate conduct, but we should not undertake to deprive a person of certain individual rights. And that is what we are talking about; it is not an exemption. It is a ban, it is a prohibition against a person engaging freely in his individual business or profession, which is something it seems to me we should not legislate against. At the same time we are providing in this amendment that if the person who was formerly in the Government service is engaged in any wrongdoing, that person is going to be subject to discipline.

It was suggested here in the argument the other day, when we talked rather facetiously about the law of "Danielson & Eckhardt" or something like that, that while they would be barred from any contact with an agency, somehow or other they could engage somebody else to contact a Government agency in their behalf.

Now, is that the attitude of those who are promoting this legislation? Are they suggesting that we can prohibit something being done directly but that by acting indirectly one can violate the provisions of this law? And yet without this amendment we are saying that one can do that; we are authorizing it, we are supporting it, and we are countenancing it?

It seems to me that is certainly not the attitude we should be taking. We should be taking the attitude, in the first place, that most people in Government, just as in the business community and in the professions, are by and large honest, honorable individuals.

It was suggested that unless we defeat this amendment, we will demean the integrity of virtually everyone in the public service, because it is suggested that unless we retain this language which provides the complete bar for a year, all those in the public service who have had contact with somebody at a higher level are going to be subject to their influence and subject to their connivance, and they are going to be able somehow to deviously accomplish something that otherwise would not be accomplished in the bureaucracy.

I just cannot support that kind of concept of those in the public service, and I do not think it is justified. It seems to me that unless we adopt this amendmest, what we are really doing, as the gentleman from Washington (Mr. FOLEY) said the other day, is mandating and legislating mediocrity in the executive branch of Government. It does not seem to me that in providing for public disclosure we would want to take that step.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding.

I was surprised at the analogy of the gentleman from California (Mr. DANIELSON) of the fox in the chicken coop. I am not quite sure how a "chicken" working for the Government becomes a "fox" when he goes into private practice, but I do understand that if we discourage talented people in Government practice, those who do enter the Government service will be weak "chickens" indeed.

Mr. McCLORY. Mr. Chairman, I understood that the gentleman from California (Mr. DANIELSON) talked about the chicken in the henhouse, and I was a little confused by that description which I had not heard before. However, if it is the rooster in the henhouse that, of course, could cause a lot of problems there.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, in answer to the comment of the gentleman from Texas (Mr. ECKHARDT), the magic formula by which one changes from the chicken to the fox is a little thing called abracadabra, and that, I will say to my dear friends, enables a chicken immediately to turn into a fox, particularly once he has gone off the Government payroll and represents a private interest.

Mr. McCLORY. Mr. Chairman, I am delighted to have that astute interpretation. I shall ask unanimous consent to revise and extend my remarks, particularly with regard to my last answer.

Mr. Chairman, I yield back the balance of my time.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Eckhardt amendment.

My feelings about subsection (c) were made known during the debate last week. I think this section needs some measure of flexibility, and that is what the Eckhardt amendment would permit. It gives the agency the power to set rules and regulations covering those instances when a former employee could come in during that 1-year period. It would allow appearances before an agency only under certain specified conditions.

There are many times when there would be no conflict of interest whatsoever. There are many times when someone who had previously worked for the Department might want to come in on a totally noncontroversial matter, on some new matter, or on some matter that was agreed on, where his expertise would be of great assistance. To allow

an agency to set those rules and not the individual himself will totally protect the American people from any possible conflicts.

I think the Eckhardt amendment is an outstanding amendment. It moderates the most arbitrary provisions in this legislation, and I urge an "aye" vote on the Eckhardt amendment.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I support the Eckhardt amendment, although in a moment I will ask the gentleman a few questions about matters that are uncertain in my mind.

I was not present last week as we debated section 207 and particularly the amendment to strike subsection (c) which was offered by my friend, the gentleman from California (Mr. MOORHEAD). I certainly would have supported that amendment had I been present.

Mr. Chairman, this is the most bizarre section in a bill that is bizarre enough. Under the heading of "conflict of interest" we punish a person who, by definition, has no conflict and do so because we do not have faith in Government employees to be objective. We heap no burden upon the employee, but the former employee, who has lost his conflict, is subject to prohibitions. It is, Mr. Chairman, a repudiation of advocacy. That is all we are talking about. We do not trust a former employee to advocate a point of view before a present one, because we fear that the present employee will not have the guts or the objectivity or the integrity to make a proper decision. And, of course, the penalty is not upon the present employee but, rather, upon the former employee. It is ludicrous, Mr. Chairman.

We should have stricken section (c) at the outset, and we should have—and I hope we will—make further amendments to section 207 in the bill.

It is my understanding that the provisions of the pending amendment tend to moderate subsection (c), and I am in support of that objective. But, if I may have the attention of the gentleman from Texas (Mr. ECKHARDT), I will ask him to turn to page 4 of his amendment and explain to me the meaning of sections 4 (A) and (B).

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, the governmental agency will keep a file containing any written communications or summary of any contact during that period of time.

Mr. WIGGINS. And under what circumstances is the content of that file made public?

Mr. ECKHARDT. It is made available to the public for inspection and copying.

Mr. WIGGINS. Well, that troubles me.

Mr. ECKHARDT. We are assuming, that the person making the contact is attempting to convince Government of a particular point. Now, the person making a contention is like a lawyer in a court. He must act within those restrictions during that period of a year, because we agree that there should be an opportunity for some special surveillance on the nature of the communications.

Mr. WIGGINS. I am troubled by the notion of making available to the public correspondence from an attorney on behalf of his client to the Government or the substance of any oral communication made by that attorney to the Government on behalf of a client. There may come a time when a proceeding goes forward in which the record is available to the public, but as the gentleman knows, a lot may precede that point, which at least raises some questions in my mind as to the necessity of opening up the contents of correspondence which may reveal very private matters affecting a client.

Will the gentleman respond to that?

Mr. ECKHARDT. Mr. Chairman, I understand the gentleman's concern about this question. But we are, of course, not limiting the client to employ only that person as a representative. And we feel that, with respect to representation by such a person, for example, in a rulemaking proceeding, the type of representation should be just as open as if it were before the agency in an open hearing or in court.

I am not suggesting that the attorney should reveal confidential information.

Mr. WIGGINS. I do not believe we have necessarily perfected this language, although I support the gentleman's amendment and believe it is a basis to go forward.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 30 additional seconds.)

Mr. WIGGINS. Mr. Chairman, as we further consider this matter in conference I hope we will reflect upon the necessity of public availability of communications on the part of a lawyer who acts on behalf of a client in all of his contacts with the various governmental agencies. It may indeed be inappropriate to make that broad mandate of public disclosure in all cases and some exceptions would be in order in the future.

Mr. ECKHARDT. If the gentleman will yield further, what we are talking about must be made public is the fact that he advocacy is taking place and a general statement regarding the substance of that advocacy.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has again expired.

(One request of Mr. ECKHARDT, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. On page 4, it is provided that those communications which are now described in clauses (i) and (ii) and (iii) of subparagraph (A) with respect to any matter referred to in section 552(d)(6) of title 5, United States Code, shall not be made available for public inspection.

Mr. WIGGINS. That section of title 5 is the Government in sunshine section, as I remember, and to say it shall not be made available is a strange citation. I want to support the gentleman's amendment, but let us understand we will not be locked in concrete here and some refinement of it may be necessary.

Mr. ECKHARDT. I am sorry, I intended to refer to section 552(b).

Mr. GLICKMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I strongly favor the Eckhardt amendment. Going back to the fox and the chicken coop argument of the gentleman from California (Mr. DANIELSON), I think without this amendment we will end up with the chickens; that is, the Federal employee, who will be puny and low in nutritional value.

Quoting the gentleman from California, he says the purpose of this bill is to prevent undesirable things from happening. That is what I think the gentleman from Texas is trying to do. What we are trying to do is to prevent a weak, unresponsive, unimaginative and inexperienced, know-nothing, Federal bureaucracy that will know nothing about the private sector they are intending to regulate and nothing about the day-to-day problems of the types of people they have to deal with all the time.

I contend with the amendment of the gentleman from Texas we will permit an incentive for people to come from the private sector to serve in Government in high-level positions and serve as role models for thousands and thousands of bureaucrats who can use the positive reinforcement that these people can offer, and then have these people go back into the private sector and serve in certain positive capacities.

This is the way to bring competent and responsible people into the high-level positions and have them serve their country for a period of time and then have them go back out into the private sector.

I might add we have seen President Carter has brought in many such high-level people into his administration. There is no reason why we cannot permit such people to come into the agencies such as the Securities and Exchange Commission and the Federal Trade Commission and other such commissions. There is no reason not to permit that.

All of us are concerned about having a high-level person such as a general, leave the Pentagon and then go into a company such as General Dynamics and other such companies. This amendment would prevent that. It permits certain high-level advocates in fields which are subject to licensing, and so on, and it still gives the agency the power to determine whether they should or not do that.

Coming from a small town, I feel without this amendment we are going to require that these particular people, if they are prohibited for 1 year from doing anything with the Government, go to work with large law firms, with large corporations for that 1-year period of time, be-

cause their partners—I repeat, their partners—or their associates are not prohibited from making contact under the bill.

I repeat that under the bill their partners or their associates are not prevented from making contact with the agency again and will prevent a lawyer who works for the SEC and wants to go back to a small town and practice securities law, and that is all that person knows when he goes into practice on his own, from having any contact whatsoever with the SEC or other agencies for 1 year. I think that is unfair, since it would not serve as a prohibition from that person going to work in a large law firm, or corporation, and having one of his associates from making the contact. I think that reflects a tendency in so many things that we pass here that have a strong rationale but that end up hurting the little guy, the little people, not the big people, because the big ones do not file under this bill; because all the partners of this particular person who goes back to private practice will be able to do all the work they want to do, but the person who wants to go back and practice by himself cannot do it.

I think the Eckhardt amendment is a fair compromise so as to bring the highest level of people back into the Government which we so desperately need.

Miss JORDAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

What is important, Mr. Chairman, is that we pass this ethics bill and that this bill serve, in some way, to restore a little bit of the faith and confidence that the public ought to have in public officials. But we need to be careful that in the passage of this bill we do not codify mediocrity, that we do not, somehow, enforce a lower standard, or below excellent standard for the people who work in the Federal Government.

It is important that, in our exuberance over ethics that we do not become so exuberant that we deny to the Government the kind of talent, the know-how, and expertise that the Government needs.

I think the provision in the bill now has that danger of denying to the Government access to those minds, that technique and that know-how which the Government certainly stands in need of.

This amendment which has been offered by the gentleman from Texas (Mr. ECKHARDT) is a good alternative. It does not deny that there are ethical considerations in a person who has at one time worked for a Federal Government agency and then returning to begin practice before that agency. As a matter of fact, it takes careful, careful cognizance of the necessity for ethical standards being observed by persons who are exempted from the revolving door provisions of the bill.

I would ask us to think carefully about what we are doing. That if people have the know-how, if people have the experience, if people have worked in agencies and developed the kind of knowledge which is necessary for Government, we do not want them to be dissuaded from a period of Government service, because of our extreme exuberance over ethics.

So, Mr. Chairman, I would urge the members of the Committee to vote for this alternative. We do not want to fall into the trap of people who can look smugly and say what we have done, and then look back in the future and regret what we have done.

I urge the adoption of the Eckhardt amendment.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment offered by the gentleman from Texas and urge that it be adopted. At the present time the bill contains a 1-year absolute ban on all contact with an agency by a former high from the broad sweep of the total ban, however, does not make any sense, since there may be any number of situations in which it is totally ethical and proper for an ex-staff person to appear before his former agency. The amendment seeks to delineate those situations. Specifically, when the ex-staff person is subject to a professional licensing authority which can impose disciplinary action for unethical conduct, such as an attorney or a CPA, then the agency could, by rule, exempt certain categories of appearances from the broad sweep of the total ban. Further, before the agency could promulgate rules exempting certain classes of appearances, it would have to put in place rules governing the ethical conduct of its present employees, as well as its former employees.

Mr. Chairman, in my view, the proposed amendment makes sense. It strikes a logical balance between the need perceived by some to close the so-called revolving door, and the need to treat former employees in a fair and rational manner. I am fearful that if we do not pass this amendment and the provision now in the bill is enacted, we will be constructing a very real impediment to Federal employment. If the effect of enactment of this bill is to discourage bright young professionals from joining Government service for several years, then all we have really achieved in closing tight the revolving door is a pyrrhic victory.

The proposed amendment would stop the kinds of abuses the bill's authors cite as inappropriate. The present provisions of the bill are an example of good intentions resulting in legislative overkill. I hope my colleagues will join me in supporting the amendment offered by the gentleman from Texas.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. DANIELSON. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mrs. SCHROEDER: Strike out part B of title II (beginning on page 39, line 21, and ending on page 44, line 9) and insert in lieu thereof the following new part:

PART B—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

SEC. 221. (a) Chapter 11 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—OFFICE OF GOVERNMENT ETHICS

"1111. Establishment of Office of Government Ethics

"(a) There is established in the Office of Personnel Management an office to be known as the Office of Government Ethics.

"(b) There shall be at the head of the Office of Government Ethics a director (hereinafter in this chapter referred to as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate.

"1112. Functions of Office

"(a) The Director shall provide overall direction of executive branch policies relating to preventing conflicts of interest on the part of employees within the executive branch.

"(b) The responsibilities of the Director shall include —

"(1) monitoring and investigating compliance with the provisions of part A of title II of the Ethics in Government Act of 1978 by individuals appointed or employed (other than in the uniformed services) in the executive branch;

"(2) auditing on a random basis financial reports submitted by such individuals under part A of title II of such Act for the purpose of determining whether such reports are complete and accurate;

"(3) establishing a program under which advisory opinions relating to conflicts of interests may be provided, on request, to any person by the Director or designated agency official;

"(4) supervising and defining the duties and responsibilities of ethics counselors;

"(5) evaluating the effectiveness of the provisions of laws and regulations relating to conflicts of interest and reporting to the Office of Personnel Management for transmittal to the Congress any recommendations for legislative or administrative action he considers appropriate;

"(6) establishing, after consultation with the Attorney General, an effective system for reporting allegations of violations of conflict-of-interest laws to the Attorney General, as required by section 535 of title 28; and

"(7) providing information on and promoting understanding of ethical standards in the executive branch.

"1113. Administrative provisions

"At the request of the Director, each agency in the executive branch is directed to—

"(1) make its services, personnel, and facilities available to the Director and ethics counselors to the greatest practicable extent for the performance of his functions; and

"(2) except when prohibited by law, furnish to the Director or any ethics counselor all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

"1114. Ethics counselors

"(a) Such ethics counselors as the Director may determine necessary (not to exceed 75 positions) shall be appointed by and subject to the control of the Director. Such counselors shall be assigned between and among

the various agencies in the executive branch on a rotating basis. One such counselor may be assigned to two or more of such agencies in circumstances in which the Director determines it appropriate to do so. One ethics counselor assigned to an agency shall serve as that agency's designated agency official.

"(b) Ethics counselors shall—

"(1) be appointed without regard to section 3503(a) of this title, and

"(2) be subject to removal only under the procedures under section 7521 of this title, relating to administrative law judges.

"1115. Regulations relating to disclosure of financial interests and conflicts of interest

"(a)(1) Subject to paragraph (3) of this subsection—

"(A) any regulation under part A of title II of the Ethics in Government Act of 1978, and

"(B) any regulation relating to conflicts of interest applicable to employees or classes of employees within the executive branch,

shall, except as provided in paragraph (2), be prescribed only by the Director and shall be prescribed in accordance with section 553 of this title, notwithstanding any exception therein for matters relating to agency management or personnel.

"(2) Paragraph (1) of this subsection shall not apply with respect to—

"(A) any exercise of authority vested in and performed by the President; or

"(B) any exercise of authority vested in a Secretary concerned.

"(3)(A) Regulations to which paragraph (1) of this subsection applies shall not take effect unless approved by the Dierctor of the Office of Personnel Management. Unless disapproved by the Director of the Office of Personnel Management within 30 days after transmittal of the proposed regulations to them, such regulations shall be deemed approved.

"(B) In addition to the approval required under subparagraph (A) of this paragraph, any regulation to which paragraph (1) of this subsection applies shall not take effect unless the Director transmits to the Congress a copy of such regulation, as approved under subparagraph (A) of this paragraph, and before the close of the 60-day period of continuous session beginning on the date of such transmittal neither House of the Congress has adopted a resolution the matter after the resolving clause of which states: 'That the hereby disapproves the regulation transmitted to the Congress by the Director of the Office of Government Ethics on .', the blank spaces therein being filled in appropriately.

"(C) For the purpose of subparagraph (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(b) Any interested person may seek judicial review under chapter 7 of this title of any regulation to which subsection (a)(1) of this section applies."

(b)(1) Chapter 11 of title 5, United States Code, is further amended by inserting after section 1101 the following:

"SUBCHAPTER II—OFFICE OF PERSONNEL MANAGEMENT"

(2) The analysis for chapter 11 of title 5, United States Code, is amended—

(A) by inserting before the item relating to section 1101 the following:

"SUBCHAPTER I—OFFICE OF PERSONNEL MANAGEMENT"; and

(b) The analysis for chapter 11 of title 5, United States Code, is amended by inserting at the end thereof the following:

"SUBCHAPTER II—OFFICE OF GOVERNMENT ETHICS

"Sec.

"1111. Establishment of Office of Government Ethics.

"1112. Functions of Office.

"1113. Administrative provisions.

"1114. Ethics counselors.

"1115. Regulations relating to disclosure of financial interests and conflicts of interest.".

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(144) Director of the Office of Government Ethics, Office of Personnel Management.".

(c) No individual employed by the Government on the date of the enactment of this Act shall be separated or reduced in grade, rank, or compensation by reason of the transfer of any duties resulting from the amendments made by this title.

(d)(1) There are authorized to be appropriated, for each of the fiscal years 1979, 1980, and 1981, such sums as are necessary for the compensation of ethics counselors appointed under section 1114 of title 5, United States Code (as added by this Act).

(2) There is authorized to be appropriated for each of the fiscal years 1979, 1980, and 1981, the sum of $1,000,000 to carry out the purposes of the amendments made by this section and section 201 of this Act, other than purposes for which appropriations are authorized in paragraph (1) of this subsection.

(e) Not later than one year after the date of the enactment of this Act, the Director of the Office of Government Ethics shall—

(1) conduct a comprehensive review of existing laws and regulations relating to conflicts of interest; and

(2) submit to the Congress a report on such review, together with such recommendations for legislative or administrative action as the Director considers appropriate.

(f) Section 1308(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting "; and" in lieu thereof; and

(3) by adding at the end thereof the following new paragraph:

"(5) a report to be prepared by the Director of the Office of Government Ethics which shall include—

"(A) a summary of the activities of the Director and ethics counselors appointed under section 1114 of this title in carrying out the functions of the Office of Government Ethics; and

"(B) any recommendations of the Director for legislative or administrative action considered to be appropriate by the Director.".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, first, the confidential financial reporting system now operating in the executive branch is a disaster. In the past 3 years, the GAO has issued 21 reports testifying to its faults. Among GAO's findings are the rules are not evenly applied in all agencies and that agency ethics counselors only work part time on their responsibilities. Both these faults are the result of agency heads being responsible for governing their own ethics programs. We need look no further than the recent disclosures of activities of the General Services Administration to see how bad things can be.

The substitute (H.R. 13850) continues to place ethics program responsibility upon agency heads and to envision part-time ethics counselors. My amendment creates full-time ethics counselors under the complete control of the Director of the Office of Government Ethics. I want to point out that although the administration opposes my amendment, the President himself, in employing Charles Kirbo to step into the GSA scandals, is following its philosophy. The amendment is also quite similar in concept to the independence we voted overwhelmingly to give agency Inspector Generals.

Second, my amendment does not hide the cost of administering the ethics program in the form of agency budget submissions for their own ethics counselors all over the budget. The GAO stated in its comments on the provision that—

Overall, the cost to the Government could be the same whether the counselors were controlled by the agencies or the Office.

Under my amendment we can tell what they are.

Third, the reason for the Ethics in Government Act is to assure the public that Federal employees are not financially involved in decisions they make. My amendment requires all executive branch regulations concerning the act to be made subject to the rulemaking procedures of the Administrative Procedures Act, gives the right to interested persons to go to court to modify or enforce the rules, and finally, permits Congress to veto the rules.

In its February 28, 1977, report (FPCD-77-59, p. 7), the General Accounting Office described some of the problems with agency financial disclosure systems as follows:

Problems in agencies' financial disclosure systems for employees arose because of the low priority assigned to the systems in terms of staffing, funding, and agency and executive branch support. In most agencies, ethics counselors and deputy counselors had full-time responsibilities in addition to their ethics duties. Too frequently, the program, from implementation to operation, was being handled casually and on an ad hoc basis.

The effect of these deficiencies became apparent in our reviews of financial disclosure statements in 3 departments and 13 agencies. We found that:

10 percent (735 of 7,193) of the financial disclosure statements required to be filed were not filed and

12 percent (793 of 6,458) of the financial disclosure statements filed disclosed interests that were questionable in light of the employees' duties.

Our sample reviews of positions with no requirement for filing statements showed that over 2,500 employees should have been filing statements based on their duties and responsibilities.

Areas in which agency systems must be improved are:

Policy and criteria tailored to agency responsibilities;

Procedures with adequate criteria for collecting, reviewing, and controlling disclosure statements;

Procedures for monitoring; and

Methods for creating employee awareness.

The one inescapable conclusion that has emerged from the various GAO studies as well as my subcommittee's hearings on financial reporting and disclosure systems is that the present system, under which the responsibilities for financial reporting and disclosure programs remain with the individual agencies, simply has not worked. Establishing an Office of Government Ethics with a presidentially appointed Director to monitor agency conflicts of interest and financial reporting programs should improve agency performance in these areas.

Given the general political climate and the administration's sincere commitment to correcting the shortcomings of the existing Executive order program, most agency heads will place sufficient emphasis on ethics and financial reporting programs to insure that they work in an acceptable manner.

To insure, however, that financial reporting and disclosure systems will receive not just at the present but also in the future the attention they require, it is essential that those individuals responsible for monitoring and administering the program, the agency ethics officers, be accountable to one person, not to a myriad of different agency heads. Such accountability can only be achieved if the Director is given the authority not just to oversee the performance of agency ethics counselors, but also to appoint, direct, and supervise those counselors.

Accordingly, my amendment establishes a pool of full-time ethics counselors (not to exceed 75 positions) who will be appointed by and responsible to the Director of the Office of Government Ethics.

One ethics counselor will be designated as the designated agency official of each agency. In the case of smaller agencies, one counselor may serve as the designated agency official for two or more agencies.

The ethics counselors will be full-time ethics counselors. Since they are accountable to the Director rather than an agency head, they are free to make difficult decisions regarding conflict-of-interest problems with regard to agency employees without concern as to whether a particular decision could adversely affect their tenure in the agency. Independence of the ethics officers is further enhanced by the requirement that they be rotated on a periodic basis between the agencies.

The amendment strikes out title II, part B, of the substitute and inserts a new text. Section 201(a) of the substitute amends part II of title 5, United States Code, relating to the Civil Service Commission, by inserting after chapter 11 a subchapter II consisting of five new sections (5 U.S.C. 1111–1115) relating to the Office of Government Ethics. The provisions of the new subchapter are explained below by code section reference. Because the reorganization plan affecting the Civil Service Commission will be in effect on or before the effective date of the bill we are considering, references are made henceforth to the Office of Personnel Management.

ESTABLISHMENT OF OFFICE OF GOVERNMENT ETHICS

Subsection (a) of section 1111 creates an Office of Government Ethics within the Office of Personnel Management. Subsection (b) states that the Office of Government Ethics will be headed by a Director who will be appointed by the President, by and with the advice and consent of the Senate. The position of Director is established as an executive level V position ($47,500).

Subsection (a) of section 1112 provides that the Director of the Office of Government Ethics will be responsible for the overall direction of executive branch policies related to the prevention of conflicts-of-interest on the part of employees within the executive branch.

Subsection (b) of section 1112 delineates the specific responsibilities of the Director of the Office of Government Ethics.

Paragraph (1) provides that the Director shall be responsible for monitoring and investigating compliance with the provisions of part A of title II of the Ethics in Government Act relating to financial reporting and disclosure. This includes the responsibility for overseeing the manner in which designated agency officials and other agency officials are fulfilling their responsibilities with respect to receiving and reviewing financial disclosure reports, and making such reports available to the public as provided under the act.

Paragraph (2) provides that the Director shall be responsible for auditing, on a random basis, financial reports submitted under the subchapter to determine whether those reports are complete and accurate. The auditing required under this paragraph will be of two types. First, the Director may audit certain reports for purposes of determining whether, on the basis of the information submitted on the reports, individuals have complied with applicable laws and regulations pertaining to conflicts of interest, and not to determine if the report itself is accurate. This review will be conducted in much the same manner as the review by the designated agency official within each agency. In other words, the review consists of comparing the individual's financial holdings as stated in his report with the duties and responsibilities of his employment to see whether conflicts-of-interest problems exist. The second type of review requires the Director to audit a random sample of statements to determine whether the statements themselves are complete and accurate.

Paragraph (3) requires the Director to establish a program under which advisory opinions relating to conflicts of interest may be provided on request to any person by the Director or an agency ethics officer. There is a similar provision in S. 555 (section 402(b)(1)), although that provision requires a more formalized procedure with respect to the issuance of such opinions (see, S. Rept. 95–170, 95th Cong., 1st sess., pp. 148–149). This is in addition to the Director's responsibility to assist agency ethics counselors and to give informal advice and advisory opinions to individuals who file their financial disclosure statements with the Director. Under this paragraph any person may request an advisory opinion, although the actual issuance of an opinion is discretionary with the Director or agency ethics officer. These advisory opinions will have substantial impact on employees other than the individual requesting the opinion and might involve issues of interest to many employees throughout the executive branch and to interested private citizens.

This paragraph does not require the Director himself to render an advisory opinion to any person who requests one. For example, most advisory opinions to employees will probably be rendered by agency ethics counselors. However, when an important matter of first impression or a matter of general applicability arises, the Director should be the one to render the opinion, not a designated agency official. When the Director decides that such an issue is involved, he should, whenever possible, provide interested parties with an opportunity to transmit written comments with respect to the issue.

It is important that advisory opinions of the kind described in this paragraph be compiled, published, and made available to designated agency official employees, and the public.

Paragraph (4) provides that the Director is responsible for supervising and defining the duties and responsibilities of ethics counselors. It should be noted that section 1114 of title 5, as added by this bill, provides that ethics counselors shall be appointed by and subject to the control of the Director. Paragraph (4) places with the Director the additional responsibility of supervising and defining the duties and responsibilities of these ethics counselors.

Paragraph (5) requires the Director to evaluate the effectiveness of the provisions of laws and regulations relating to conflicts of interest and to report to that Office of Personnel Management for transmittal to the Congress any recommendations he considers appropriate.

Paragraph (6) requires the Director to establish, after consultation with the Attorney General, an effective system for reporting allegations or violations of conflicts of interest to the Attorney General as required by section 535 of title 28, United States Code. Under section 535 of title 28 any information, allegation, or complaint received in a department or agency relating to violations of law involving Government employees must be reported to the Attorney General by the agency head. It is the responsibility of the Director to establish, after consultation with the Attorney General, such a referral system (see also, S. Rept. 95–170, 85th Cong., 1st sess., p. 149).

Paragraph (7) requires that the Director provide information on and promote understanding of ethical standards in the executive branch. It is anticipated

that under the section the Director will conduct an ongoing program to inform executive branch employees of the requirements of the law and of regulations governing their conduct and establish procedures to promptly notify employees of any changes in those laws and regulations. The lack of an effective informational program in the past has been well documented. While it is possible that the Director might delegate to an agency head or ethics counselor responsibility for informing employees of individual agencies of rule changes by that agency, the Director retains the primary supervisory responsibility for insuring that adequate notice is rendered to the individual employee. In addition procedures should be established for notifying individually of rule changes and these notices must precisely explain the regulation, its application, and the consequence of failure to comply (see also, S. Rept. 95–170, 95th Cong., 1st sess. p. 149).

ADMINISTRATIVE PROVISIONS

Section 1113 provides that each executive branch agency at the request of the Director shall (1) make its services, personnel, and facilities available to the Director and to ethics counselors to the greatest extent practicable for the performance of his functions relating to financial reporting and disclosure, and (2) except when prohibited by law, furnish to the Director or any agency ethics counselor all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

ETHICS COUNSELORS

Section 1114 provides for the appointment and assignment of agency ethics counselors. Subsection (a) provides that the Director may appoint not to exceed 75 ethics counselors. These counselors are to be subject to the control of the Director and assigned by the Director between and among the various agencies in the executive branch on a rotating basis. It should be stressed, that although these ethics counselors are appointed by and responsible to the Director (and therefore, not under the supervision, direction, or control of the agency at which they serve) it is intended that each counselor work closely with agency heads and other appropriate agency officials with respect to matters which are under their responsibility.

Subsection (a) specifically provides that one counselor may be assigned to two or more agencies in cases where the Director determines such action is appropriate. For example, one ethics counselor could serve as the designated agency official for three or more small agencies. At the same time, two or more ethics counselors could be assigned to a single large agency provided that one of those counselors is designated to serve as the agency's ethics officer. I anticipate that ethics counselors will be rotated on a 2- or 3-year basis.

Subsection (b)(1) of section 1114 provides that ethics counselors shall be appointed without regard to section 3503 (a) of title 5, United States Code, relating to transfer of functions. Section 3503 (a) generally provides that when a function is transferred from one agency to another, employees who are preference eligibles are entitled to be transferred with the function. The Director, in appointing ethics counselors under section 1114, should be free to choose from those who are currently serving as ethics counselors as well as any other individuals he may consider qualified. He should not be required to appoint, as an ethics counselor, any particular individual simply because in the past that individual had served as such a counselor.

Subsection (b)(2) provides that ethics counselors shall be subject to removal only under the procedures under section 7521 of title 5, relating to administrative law judges. These procedures are specified in part 930 of title 5, Code of Federal Regulations, and generally provide for removal only for good cause, established and determined by the Commission, after opportunity for a hearing on the record (5 CFR § 930.214(a)).

REGULATIONS RELATING TO DISCLOSURE OF FINANCIAL INTERESTS AND CONFLICTS OF INTEREST

Section 1115 provides for the prescription and approval of regulations relating to financial reporting and disclosure and conflicts of interest. Subsection (a)(1) provides that regulations issued under part A of title II of the Ethics in Government Act of 1978, relating to financial reporting and disclosure, and any regulations relating to conflicts-of-interest applicable to employees or classes of employees within the executive branch shall be prescribed only by the Director and should be prescribed in accordance with the rulemaking procedures set forth in section 553 of title 5 (formerly the Administrative Procedure Act), notwithstanding any exception in that section for matters relating to agency or personnel.

It is the intent of this provision that Government-wide regulations relating to financial disclosure and conflicts of interest (other than members of the uniformed services) be prescribed by the Director, and that individual agency regulations relating to financial reporting and disclosure and conflicts of interest shall also be prescribed by the Director. In the latter case, agencies shall submit to the Director proposed regulations and that those regulations would then be subject for public comment under section 553 prior to being prescribed by the Director. This is similar to the procedure followed under Executive Order No. 1122 which now requires Civil Service Commission approval of standards of conduct regulations issued by the various agencies. New section 1115(a), however, insures that such regulations will be subject to public comment prior to their being prescribed. Paragraph (a)(2) provides two exceptions to the requirement. First, exercises of authority vested in and performed by the President. Second, regulations concerning uniformed personnel made by a Secretary concerned.

Subsection (a)(3) provides for administrative approval and congressional review of regulations prescribed by the Director. Paragraph (2)(A) provides that these regulations shall not take effect unless approved by the Director of the Office of Personnel Management (OPM). If the Director (OPM) fail to disapprove such regulations within 30 days after transmittal of the proposed regulations to them, the regulations are deemed to have been approved.

Subsection (a)(3)(B) provides for a one-House veto of regulations prescribed by the Director. Clause (i) of subsection (a)(3)(B) provides that regulations prescribed by the Director shall not take effect unless the Director transmits a copy of those regulations, as approved by the Director (OPM) and before the close of the 60-day period of continuous session beginning on the date of such transmittal, neither House of Congress has adopted a resolution disapproving the regulations.

Clause (ii) provides that continuity of a legislative session shall be considered to be broken only by an adjournment of Congress sine die, and that days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

JUDICIAL REVIEW

Subsection (b) of section 1115 provides that any interested person may seek judicial review under chapter 7 of title 5 (formerly the Administrative Procedure Act) of any regulation prescribed by the Director under subsection (a)(1) of section 1115.

The basic purpose of this bill is that the public has a right to a Government of officers and employees who avoid conduct which affects adversely the confidence of the public in the integrity of the Government. This purpose can only be carried out if the public has a method of assuring that the purpose is not thwarted by inaction, bad interpretation, unjustified changes in policy, favoritism, and the like.

For purposes of determining whether an individual would have standing to seek judicial review of a regulation prescribed by the Director, the term "interested person" must be given the broadest possible meaning. Standing for review is not limited only to those who might be required to report or who might have their conduct regulated. The right of a member of the general public is sufficient to give such a member a personal stake with respect to any controversy related to regulations prescribed by the Director.

MISCELLANEOUS PROVISIONS

Section 221(b)(1) of the amendment amends the analysis of part II of title 5, United States Code, to reflect the addition of the new subchapter relating to the Office of Government Ethics.

Section 221(b)(2) amends section 5316 of title 5, to include the Director of the Office of Government Ethics, Office of Personnel Management, in level V of the executive schedule.

Section 221(c) provides that no individual employed by the Government on the date of enactment of the act shall be separated or reduced in grade, rank, or compensation by reason of a transfer of any duties resulting from the amendments made by title II of the bill.

AUTHORIZATION OF APPROPRIATIONS

Section 221(d) authorizes, first for each of the fiscal years 1979, 1980, and

1981 such sums as are necessary for the compensation of ethics counselors appointed under section 1114 of title 5, United States Code (as added by this act); and second, for each of the fiscal years 1979, 1980, and 1981 $1 million to carry out the purposes of the amendments made by title II of the bill.

REPORTS

Section 221(e) requires that the Director, not later than 1 year after the date of enactment of the act, first, conduct a comprehensive review of existing laws and regulations regarding conflicts-of-interest, and second, submit to the Congress a report of such review together with his recommendations for legislative or administrative action.

Section 221(f) amends section 1308(a) of title 5, United States Code, relating to annual reports, by adding a requirement that the annual report of the Office o' Personnel Management (formerly the Civil Service Commission) include a report to be prepared by the Director o the Office of Government Ethics. The Director's report is required to include, first, the summary of activities of the Director and ethics counselors appointed under section 1114 of title 5, as added by the bill, and second, any recommendations of the Director or legislative or administrative action which he considers appropriate.

The costs of the amendment and the bill are derived from the report of the Congressional Budget Office on the provision similar to my amendment in the Committee on Post Office and Civil Service bill (H.R. 6954, part I). The CBO statement is included, as follows:

SEPTEMBER 22, 1977.

1. Bill No.: H.R. 6954.

2. Bill title: Ethics in Government Act of 1977.

3. Bill status: As ordered reported by the House Committee on Post Office and Civil Service, September 21, 1977.

4. Bill purpose: The bill is designed to preserve and promote ethical standards throughout the executive branch. Title I establishes financial disclosure requirements for Government personnel in the executive branch. Title II establishes an Office of Government Ethics in the Civil Service Commission. The purpose of the office will be to monitor and review procedures established under this act. In addition, the bill authorizes the appointment of up to 75 ethics counselors to be assigned between and among the various agencies in the executive branch, and the bill authorizes the appropriation of such sums as may be necessary for their compensation, $1 million is authorized to be appropriated in fiscal years 1978 through 1981 to carry out other purposes of the act.

5. Cost estimate by fiscal years:

	Millions
Authorization level: [1]	
1978	$1.0
1979	1.0
1980	1.0
1981	1.0
1982	----
Estimated cost:	
1978	2.9
1979	3.3
1980	3.4
1981	3.5
1982	----

[1] Does not include estimate of amounts required for compensation of ethics counselors for which a specific amount is not authorized. The costs of this bill fall within budget function 800.

6. Basis of estimate: Because of the nature of the work of the ethics counselor, it is assumed that the average compensation paid to the counselors will be at the GS–15 grade level ($33,800) plus 18 percent benefits. Because several executive agencies currently have full time ethics counselors (pursuant to executive order 11222 issued in 1965) it is assumed that only 50 of the authorized 75 positions will actually result in new positions. The total cost for compensation of the 50 new ethics counselors is estimated to be $2 million in 1978. Subsequent year costs are increased based upon CBO projected Federal salary increases.

This estimate also assumes that the full authorization level ($1 million) will be appropriated each year and that approximately 90 percent of the funds will be spent in the year appropriated, and the remainder in the following year.

7. Estimate comparison: None.

8. Previous CBO estimate: On September 9, 1977, CBO prepared a cost estimate for the version of H.R. 6954 referred to the House Committee on the Judiciary This cost estimate is higher due to the cost for compensation of the authorized ethics counselors.

9. Estimate prepared by: Thomas Elzey.

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum, Assistant Director for Budget Analysis).

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Schroeder substitute.

The 14,000 executive branch employees located throughout the world, filing public financial disclosure statements under H.R. 13850, present a far different form of administrative headache than the filing of public disclosure statements by either the judicial or legislative branch. This is why the Subcommittee on Employee Ethics and Utilization, on which I am the ranking minority member, and which drafted the Post Office and Civil Service Committee proposal, now embodied in the gentlelady's amendment, spent a significant portion of its 6 days of hearings on ethics and financial disclosure legislation on the mechanics of establishing an Office of Government Ethics, whose responsibility will be the regulation of the ethical behavior of employees within the executive branch.

The organizational structure for the Office of Government Ethics, that the Subcommittee on Employee Ethics and Utilization so carefully devised in this amendment is a much different animal than the one contained in H.R. 13850. It has the clout and resources to assure that financial disclosure and conduct rules are evenly applied in the executive branch. It offers assurances that the dismal record of disclosure and conduct regulation in the executive branch—a record lambasted in 21 General Accounting Office reports in the last 3 years—can be reversed. The Post Office and Civil Service Committee proposal accomplishes this by: First, placing ethics counselors organizationally within the Office of Government Ethics under the supervision of one director, rather than leaving them under the scattered control of agency heads; second, laying guidelines for rulemaking; and third, permitting a congressional veto of rules to assure that ethical conduct regulations do not weigh more heavily upon one group of employees than another.

The Post Office and Civil Service Committee proposal to place ethics counselors under the Office of Government Ethics has been criticized as being a "novel" approach. This is simply not true. It is based upon the system under which administrative law judges have been working effectively for 30 years. It also is quite similar in concept to H.R. 8588, the bill we passed on April 18 by a 388-to-6 vote providing for the establishment of Offices of Inspector Generals within certain executive departments and agencies.

If we are concerned about the costs of establishing an Office of Government Ethics as we have been, we want to point out that right now most of the costs of ethics counselors are being wasted on an unproductive system, which GAO has repeatedly criticized and which H.R. 13850 intends to perpetuate. As the GAO stated in its comments on the Post Office Committee's Office of Government Ethics:

> Overall, the cost to the Government could be the same whether the counselors were controlled by the agencies or by the Office.

Very simply, H.R. 13850's version of the Office of Government Ethics hides the true cost of the program deep in agency budgets where Congress will have no more of a handle on those costs than we do now.

Accordingly I urge support of the Post Office and Civil Service Committee's version of the Office of Government Ethics as offered by Representative SCHROEDER as a substitute for part B of title II of H.R. 13850.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I very strongly oppose this amendment. The bill as it is presently structured provides for an Office of Government Ethics and a director thereof, who shall have the power to make rules and regulations, and so forth, after consulting with certain officials and to supervise generally the fact that the provisions of the bill are implemented, are carried out.

This amendment, I respectfully submit, rewrites, in effect, the entire provision on the Office of Government Ethics and it creates a monster—an absolute bureaucratic monster—to take care of the provision of ethics included in this bill. Under the terms of the bill which is now before you, within each Government agency some person or persons will be designated as the agency official to see to it that the terms of the bill are carried out. This amendment would create within the Office of Government Ethics a sort of an independent police force, a band of roving commissars, who will be sprinkled throughout the various Government agencies willy-nilly on a rotating basis to look under every leaf and twig, to turn every page to find out whether a member of this bureau or that bureau has adequately complied—adequately in the sense of the opinion of his Director of Government Ethics, with his concept of what the situation ought to be.

The CHAIRMAN pro tempore. (Mr.

PHILLIP BURTON). The time of the gentleman from California has expired.

(At the request of Mr. MOORHEAD of California, and by unanimous consent, Mr. DANIELSON was allowed to proceed for an additional 5 minutes.)

Mr. DANIELSON. Mr. Chairman, I thank the gentleman.

Mr. Chairman, this would be an intolerable burden on the agencies of our Government. Can you imagine, you are running a Government agency, some commission, the FCC, the SEC, you name it, and here comes one morning Johnny Bright Eyes, and says, "I am the ethics counselor. I am going through your agency. I am going to look through these ethics reports and I am going to go through them and if I do not like anything, I am going to counsel you. I am going to be your nanny. I am going to tell you in the future what you will have to do."

Can you not imagine how the morale of the employees in Government will be absolutely shattered by this monstrosity?

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to my colleague, the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, I strongly support the statement of the gentleman from California (Mr. DANIELSON).

I believe in our deliberations in the subcommittee we worked out a very good compromise for this problem. The office will have all the teeth that it needs. At the same time, we will not be building a bureaucratic monstrosity, as the gentleman suggests.

I wonder if we did get such a department, who would police the 200 to 300 people we would be placing in the Bureau of Ethics we had created.

I would hope this amendment would be defeated and that we move forward with this legislation in a positive way with the high caliber legislation we have developed in the committee.

Mr. DANIELSON. Mr. Chairman, I thank the gentleman for his contribution.

It is true that we need teeth in this legislation, but we do not need that many teeth, we do not need Jaws.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, as a lover of monsters and sharks, I think the gentleman has overplayed what this really does.

Let us assume in the Equal Employment Act or another act that we had allowed every employer to name someone under him to police his own Coca-Cola Co., or whatever it was, on equal employment or OSHA or anything, I think we would find we had not moved as far as we have moved. We have several Johnny Bright Eyes that go in to see people and, granted, they are not over receptive and recommended every single time, but we are doing that.

I am saying if you look at the record of the Federal Government on ethics enforcement, you find it is abominable. That is what the Committee on Post Office and Civil Service did. That is why it proposed this as an alternative for a much more uniform application.

Mr. DANIELSON. Mr. Chairman, if the gentlewoman will let me reclaim a moment of my time, I thank the gentlewoman for her contribution; but I respectfully say she is wrong, in my judgment.

The point I am getting at is this, we do not need a special corps of counselors, who must presumptively be so ethical that they are able to run around and tell everybody else what is the standard of ethics.

They must be measured against their own standard. That tends to be a little bit presumptuous, in my opinion.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

I would like to pose a question to the gentleman from California. Do we know what the present system of administering the financial disclosure system costs and how many full- and part-time counselors within the various agencies there are?

Mr. DANIELSON. I will reply by saying that we do not have a system presently for these counselors, and that is why we have this legislation before us. The legislation before us provides a good system, with a Director of Ethics, but we let our agencies appoint some designated official within the agency to keep track of the filing of reports, to see that they are in good form, and to see that everything is answered.

Mr. Chairman, we do not presently have such a system, and that is why I urge a no vote on the amendment and an aye vote on the bill.

Mr. GILMAN. Mr. Chairman, will the gentleman yield further?

Mr. DANIELSON. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, that is precisely the point. We need a centralized organization to monitor and enforce the financial disclosure system, and so that we can accurately determine the true cost of this operation, and finally have a handle on the number of ethic counsellors operating within the executive branch.

Mr. DANIELSON. Mr. Chairman, let me reply by saying that I just cannot in good conscience support anything that would create a special elite corps of snoopers who worm their way in and out through the various agencies to examine these ethics reports.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has expired.

(On request of Mrs. SCHROEDER, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would just like to repeat what the Comptroller General's Office told our committee as to this section. They said they felt that what this section and this amendment were proposing would be very good because it would establish for the first time "a professional corps of ethics counselors trained and experienced in ethics law and regulations, with full-time responsiblity for all matters of ethical conduct * * * "

Mr. DANIELSON. Mr. Chairman, if the gentlewoman will allow me to reclaim my time, the Comptroller General's Office said in that same letter that there is a question whether the ethics counselors will be able to obtain the confidence of agency employees and it would be a serious question since they themselves would not be agency employees.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, this shows that the GAO knows what the problem is, and that is why I say this is a necessary amendment to the bill to make sure it is enforced uniformly.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this bill is created, because there is still somehow a belief abroad in the land that more laws will somehow make this Government better. More laws will only make the Government bigger.

We have enacted all kinds of laws in the last few years. We have made changes in the rules which will keep anybody honest who wants to remain honest. We have set guidelines. We have changed the rules which are necessary to keep those things from happening that have happened in recent years in this Congress and in this House.

Now we are creating in this legislation the Office of Government Ethics. We are creating a Director of Government Ethics. We are in fact creating our own "Vatican" that will oversee the way the Government will function. Not just what the laws themselves are but what the ethics are.

I took a minor in philosophy when I was in college in undergraduate school. I took all kinds of courses in philosophical concepts. In all that time I never heard anyone tell me what ethics itself consists of. Ethics are an individual interpretation of moral law.

We have major religions in this country and in the world which have substantial differences, because their leaders cannot agree on what ethics consists of, let alone the theology of even their own religion.

We have now created a Director of Ethics in this bill, and we are now going to create the "priesthood" of ethics counselors.

I have learned certain things about the Moslem religion in the Near East, and in the more strict countries such as Saudi Arabia, in the middle of the afternoon, this is what happens: I have forgotten the name of the man in the tower who cries out for prayer, but I know the name of those who are required by the laws of Islam to be religious police; they

are the mullahs. They go about the towns with a stick in hand and physically they exercise their capacity to push and bully a citizen who has not arrived at the mosque in time. For those shopkeepers who do not get their gates down fast enough, they beat on the gate and they call in the regular police and have the shopkeepers arrested.

For what? For violations of religion.

We are creating here an office which will allow a new "religion" to be established, a new office to promulgate not laws but ethics.

What is ethics? It is whatever the Director of Ethics says it is. And now we will have mullahs to enforce whatever the Director says it is—or she, I guess, in our time now—whover it is who says this is what is "ethics" today. The mullahs of the U.S. Government under this bill will now go around to the various agencies and say what ought to be. I cannot think of anything that would slow down our system of the reasonable function of government than a kind of religious police, policing whatever ethics there are from the Director in his office, sitting there being the ultimate authority, with no challenge.

Some time ago this House defeated the Consumer Protection Agency bill. One of the major reasons for defeating the Agency, I believe, was because no one could say what the consumer interest was or define what a consumer interest would be at any given time. Is saccharin to be banned or not? What is the consumer interest? We do not know.

I would have to say that we are trying again to create some kind of a moral person here who would have his own religious force and who is unchallengeable by any other means except a change in the law here. We should not have a religious mullah in this system of government. It is a step backward, obviously, in the conduct of good, sound, and sensible government.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield.

Mr. RYAN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Mr. Chairman, if I understand the amendment correctly, the amendment would not set up a set of individuals who would develop criteria for ethics, but would be responsible to see whether the law was being carried out.

Mr. RYAN. No, not the law. The ethics, as interpreted by the Director of Government Ethics. And who does he report to?

Mr. GARY A. MYERS. As I understand it, the individuals who would be working for the agencies, their responsibility would simply be reviewing and attempting to have in compliance individuals employed in the agencies, and if they are not in compliance, to apprise them of that and bring them into compliance.

Mr. RYAN. But whose interpretation is that? That becomes the job of the religious police, the agency counselors, or call them what you will. That becomes their objective judgment, which can be overruled only by the Director of Government Ethics and no one else.

The CHAIRMAN. The time of the gentleman from California (Mr. RYAN) has expired.

(On the request of Mr. GARY A. MYERS and by unanimous consent, Mr. RYAN was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. If the gentleman will yield for one more question, would the gentleman agree that it would be better for an individual to have an administrative person reviewing his compliance or noncompliance and apprising him of the results than to have nothing done until the Department of Justice brings some sort of legal suit against him for noncompliance?

Mr. RYAN. If we follow the gentleman's reasoning, the only time the Justice Department becomes involved is when there is a legal suit. The gentleman and I know that the Justice Department and the various elements within the Justice Department constantly receive suggestions for investigation. In the last election, when I was running for reelection, my opponent asked for an investigation of me, alleging a conflict of interest. Within days the U.S. attorney in San Francisco asked the FBI to come down and look around. I am happy to say that they found nothing of a conflict of interest. The work of this "thieves" department of the FBI was done.

Mr. GARY A. MYERS. If the gentleman will yield further, that sort of makes my point—the point being that if you have administrative people whose responsibility it is to assure the individuals who are responsible for compliance that they are in compliance by the current filings, it would give them a much more comfortable situation than, sometimes, for one reason or another, within their own agency, perhaps unintended, but somehow or another they had drifted into noncompliance.

Mr. RYAN. Would they then be more comfortable with an ethics counselor than an FBI investigation?

Mr. GARY A. MYERS. It seems to me that the objective of an ethics counselor is to prevent a situation materializing where an individual would be in substantial noncompliance and therefore under the threat of an FBI investigation.

Mr. RYAN. But noncompliance of what?

Mr. GARY A. MYERS. In meeting the mandates of the law, of the ethics standards.

The CHAIRMAN. The time of the gentleman from California (Mr. RYAN) has expired.

(On request of Mrs. SCHROEDER and by unanimous consent, Mr. RYAN was allowed to proceed for 2 additional minutes.)

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, first of all, I would like to assure the gentleman that we believe in freedom of religion—and there will not be religious police. We do not impair the constitutional right to practice one's religion freely.

Mr. RYAN. When you deal with ethics you deal with religion.

Mrs. SCHROEDER. I would like to explain to the gentleman how this will work, and I think the gentleman was pointing that out. The head of the ethics office will be answerable to the President, and the rulemaking procedures will be under the Administrative Procedures Act, with the right of interested parties to go to court.

And finally the bill also permits a congressional veto of regulations on ethics.

Mr. RYAN. May I ask the gentlewoman a question on that point?

Mrs. SCHROEDER. I would be happy to have the gentleman ask a question.

Mr. RYAN. What is the difference in the gentlewoman's mind between ethics as she sees it and law as she sees it?

Mrs. SCHROEDER. We are setting down some criteria for ethical conduct and defining it so it is not vague.

Mr. RYAN. The law already says you shall not steal.

Mrs. SCHROEDER. I think we will define ethical conduct so we have a nice bright line as to proper conduct.

Mr. RYAN. Who makes the line?

Mrs. SCHROEDER. It comes out of the Office of Ethics.

Mr. RYAN. How do they determine that line?

Mrs. SCHROEDER. First of all, there are many ethical laws already on the books, which I would be happy to read to the gentleman, which I think he would not want to take the time of the House to have read.

Mr. RYAN. No. But how is this different from the laws on the books?

Mrs. SCHROEDER. It refines further ethical criteria and standards.

Mr. RYAN. The gentlewoman thinks we need more than we have already?

Mrs. SCHROEDER. The gentleman is making two different arguments. He is making the argument where we need no further laws. That is one argument.

The second argument is, if we have futher laws or even if we enforce all the laws currently on the books, which I will be happy to show the gentleman, how can we best enforce them? My feeling is it is best to have uniform enforcement so everyone can be sure each agency is complying with the law, in the same way. Otherwise someone can spring up and say, "Ah hah, your agency did not comply. You have violated the law." I think uniformity of enforcement protects both the employees and the public. Whether or not we need more laws is not the issue in front of us. I think in the Post Office and Civil Service Committee they worked hard on the question of how do we best enforce the ethical laws on the books and the additional ones we will be passing? My amendment is their proposal.

Mr. RYAN. I think a less-than-fertile imagination will indicate why we should not be voting for this particular amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The question was taken; and on a division (demanded by Mrs. SCHROEDER) there were—ayes 4, noes 22.

So the amendment was rejected.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, last week the committee adopted several amendments to title I. The sections in title I which were amended are also contained in title II and deal with substantially identical subjects. Therefore, it would normally be necessary to conform title II to reflect those changes made by the committee to title I.

I have discussed this matter with the gentleman from California (Mr. DANIELSON). In order to avoid the necessity of considering 4 or 5 separate amendments to title II so as to bring it into conformity with title I, I have decided merely to move to strike the last word and to point up that these changes in title II will be necessary and trust that the committee in conference will deal with them as technical amendments and will bring title II into conformity with the amendments adopted by the committee to title I.

Mr. DANIELSON. Mr. Chairman, the gentleman from California (Mr. WIGGINS) has spoken with me about this. The amendments are conforming amendments for the purpose of achieving uniformity, and I appreciate his courtesy in not imposing upon the time of the committee and not bringing up some items which will be necessary to conform anyway and trust we will make these changes in conference.

Mr. WIGGINS. I thank the gentleman.

AMENDMENTS OFFERED BY MR. LEACH

Mr. LEACH. Mr. Chairman, I offer two amendments that are at the desk, of a similar nature, to titles II and III, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. LEACH: Page 30, after line 14, insert the following new section:

SPECIAL REPORTS TO CONGRESS

SEC. 204. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 201(b), the Director shall transmit a report containing the information required under subsection (b) of this section to the Committee on Post Office and Civil Service of the House of Representatives, the Committees on Armed Services of the House of Representatives and the Senate, the Committee on Governmental Affairs of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 201(b), together with a written statement by the Director as to whether or not, in the opinion of the Director, the nominee is in compliance with applicable laws and regulations.

(2) A written statement by the Director, by the reporting individual, and by the head of any agency with respect to which, during the period covered by the report under section 201(b), the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Director by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is reported under paragraph (2), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph; and

(2) an individual shall be considered to be affiliated with any entity if such individual, or any relative of such individual, has a substantial interest in such entity or held any position in such entity which is required to be reported under this title.

Page 30, line 16, strike out "204" and insert "205" in lieu thereof.

Page 31 line 12, strike out "205" and insert "206" in lieu thereof.

Page 32, line 3, strike out "204(a)" and insert "205(a)" in lieu thereof

Page 34, line 15, strike out "206" and insert "207" in lieu thereof.

Page 35, line 2, strike out "207" and insert "208" in lieu thereof.

Page 35, line 20, strike out "208" and insert "209" in lieu thereof.

Pagee 36, line 2, strike out "209" and insert "210" in lieu thereof.

Page 61, after line 19, insert the following new section:

SPECIAL REPORTS TO CONGRESS

SEC. 304. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 301(b), the Committee shall transmit a report containing the information required under subsection (b) of this section to the Committees on the Judiciary of the House of Representatives and of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 301(b), together with a written statement by the Committee as to whether or not, in the opinion of the Committee, the nominee is in compliance with applicable laws and regulations.

(2) Written statements by the Committee, by the reporting individual, and by the head of any agency with respect to which, during the period covered by the report under section 301(b), the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsiole in the position to which nominated (as determined by the Committee by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is reported under paragraph (2), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph; and

(2) an individual shall be considered to be affiliated with any entity if such individual or any relative of such individual, has a substantial interest in such entity or held any position in such entity which is required to be reported under this title.

Page 61, line 21, strike out "304" and insert "305" in lieu thereof.

Page 62, line 11, strike out "305" and insert "306" in lieu thereof.

Page 64, line 13, strike out "306" and insert "307" in lieu thereof.

Page 65, line 4, strike out "307" and insert "308" in lieu thereof .

Page 66, line 2, strike out "308" and insert "309" in lieu thereof.

Page 66, line 6, strike out "309" and insert "310" in lieu thereof.

Mr. LEACH. (during the reading) Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the amendment that is offered to title III?

There was no objection.

Mr. LEACH. Mr. Chairman, my amendments focus exclusively on Presidential nominees but impose no new obligations on these nominees. They simply require that the reports filed under this bill be forwarded to both Houses of Congress with a written statement from the Director of the Office of Government Ethics that the nominee is in compliance with applicable law. However, the amendments do impose certain new obligations on the Director of the Office of Government Ethics and in some cases on Federal agencies and departments must report whether the nominee

has been involved in civil, criminal, or administrative proceedings which may be relevant to the position to which the nominee is proposed.

The purpose of these amendments is to underline that the House at its discretion may choose to exercise a role during the confirmation process.

Since World War II only eight Cabinet nominees and 16 Subcabinet nominees have been turned down. One writer has even described the confirmation process as "half rubber and half stamp." My feeling is that with regard to ethics and conflicts of interest, Members of this body have an appropriate role to play during the confirmation process, with the clear understanding that the constitutional responsibility to confirm Presidential nominees resides exclusively with the other body.

Mr. Chairman, I urge adoption of these amendments.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, these amendments in effect call for the Director of Government Ethics to send the reports on a nominee to both the Houses of the Congress. I respectfully submit that this is in contravention of the constitutionally established procedure—I am not going to say it is unconstitutional—but I say it is constitutionally surplusage, it is unnecessary and redundant. The Constitution requires that many Presidential appointments be subject to the advice and consent of the Senate. There is no such requirement with respect to the House of Representatives with the exception of the nomination of a new Vice President under the 25th amendment.

I would submit that having this requirement would be, in the first place, redundant, it would be placing the House of Representatives in a position where it might be viewed as impinging upon the functions of the Senate, which is undesirable.

I point out that it calls for full financial reports for nominees who have at least—at one time it was 5 years, for your information I understand that the current form of the gentleman's amendment has the 5-year limitation stricken. So I suppose that goes back to the time beyond which the memory of man runneth not to the contrary.

It is entirely possible that the nominee may not have maintained such minute records back to time immemorial. This would involve excessive paperwork. Information of 10 years ago might not be sufficiently complete to enable discovery of what is factual and what is not.

It would require, under this amendment, that the Director of Government Ethics, and the head of any agency with which the nominee, or his family, or a member of his family, or any entity with which he has been affiliated, had control or regulatory relations, to certify that the nominee, or the affiliated entity, was not the subject of criminal investigation.

This would be extremely burdensome for a person who has been working, for example, for a large corporation, which has contracts with many agencies, because in most cases there would be absolutely nothing to report, nevertheless there would have to be an extensive investigation to find out whether someone who worked for Texas International Airways or the Ford Motor Co. had ever had a Government contract and whether any of these were presently being investigated.

It would have no relevancy to the qualifications of the individual under consideration. This would be very cumbersome. It would be expensive, and it would be an undue invasion of privacy.

Anyway, Mr. Chairman, it is totally unnecessary since I have been informed that the other body, in the exercise of its advice and consent function, does conduct rather thorough investigations. They have their own sources of information, and they have the right to interrogate the nominee himself. Therefore, any information they want from the nominee can be obtained by the other body from the nominee.

Mr. Chairman, I say that these amendments are not necessary to the bill. In fact, they tend to impair its effectiveness.

Therefore, Mr. Chairman, I urge a "No" vote on these amendments.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Chairman, I have just two points of clarification. One, there is no new reporting requirement of the nominee. It is a 1-year period, exactly as in the bill. Therefore, all that is expected from the nominee is what is currently expected through the provisions of the bill.

There is a new reporting requirement from the Federal Government, but only related to those Federal agencies and departments to which the nominee is most directly related in his proposed new position.

Second, with respect to the constitutional issue, I agree that, at first glance, it may look like there is a new function for House Members. However, we have asked the Library of Congress to express a legal opinion.

I would like to read from that opinion very briefly.

The Library of Congress states the following:

> The issue raised is whether such a qualification or precondition interferes with the constitutional prerogatives of the President and/or the Senate in the appointment process by limiting the choice available to the President or by implicating the House in the confirmation process. We think not.

Later, the opinion concludes with this statement:

> * * * Moreover, requirement that the report be submitted to House committees as well as appropriate Senate committees does not implicate the House or those committees in the confirmation process, * * *

Mr. DANIELSON. Mr. Chairman, I believe the gentleman from Iowa (Mr. LEACH) simply repeated what I said in my argument, which is that I see nothing unconstitutional about this matter. However, I do see an encroachment by the House on what is a constitutionally delegated responsibility of the other body.

Mr. Chairman, I think it would be unbecoming of us to take this step. I fervently oppose it.

Furthermore, Mr. Chairman, I respectfully submit that the Library of Congress is not the lawyer for the Government, and I do not defer to the Library of Congress on this question.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. LEACH).

The amendments were rejected.

AMENDMENT OFFERED BY MR. RYAN

Mr. RYAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. RYAN: Page 51, after line 22, insert the following:
>
> SEC. 243. Unless otherwise provided by any statute enacted after the date of enactment of this act, the amendments made by this title are hereby repealed effective on the first day of the first calendar month beginning 5 years after the date of the enactment of this Act. If such provisions are repealed by reason of this subsection, any reference to the Director of the Office of Government Ethics shall be deemed to be a reference to the Chairman of the Civil Service Commission or his designee, and any reference to any agency ethics counselor or officer shall be deemed to be a reference to such Federal employee or officer as the Chairman of the Civil Service Commission may prescribe.

Mr. RYAN. Mr. Chairman, please do not misunderstand. I read this ethics bill from front to back, line by line. I do not agree with those who believe that somehow creating still another new agency will, in fact, in the imagination we all have, somehow cause all of the ills of Government to go away, if we just find, somehow, a single agency which will make us all good and ethical.

The fact is, Mr. Chairman, this Government works pretty well in my mind, right now. Obviously, there are others who believe differently.

However, if we are to have this radical change—and it is a radical change—to place this in the statutes now for the entire Federal Government, ought we not at least say that this is an idea worthy of experiment which may work? We all know that when an agency is created, no matter how small or large, no matter what its function, even if the function is done away with because of changes in history which occur, such as the end of the Korean war and the Contract Renegotiation Board, which still exists 22 years later along with others like it, once that agency is created, it tends to go on and on.

My suggestion here is that we take this new idea and try it out, and if we, the Congress, are not satisfied that this particular agency has some real positive useful function within our Government, we simply say, "Expire. It is not enough. We will try something else."

Five years is an adequate length of time to try this experiment. Do we begin a wholly new concept in Government with a permanent agency? The Members know as well as I do—in fact, it is a law around here if there is ever one once created, it is never taken apart. If we

have this agency, let us take a look at what it does to show that it is somehow needed.

Read the language on page 38 of the bill, on line 13:

. . . (4) conducting the review of financial statements . . . to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

What is an ethical problem to be corrected? Who will do it? How will it be enforced, and on what basis?

At the bottom of page 38 it says:

interpreting rules and regulations issued by the President or the Commission governing conflict of interest and ethical problems and the filing of financial statements;

No. (7) on page 39, line 3:

consulting when requested, with agency ethics counselors. . . .

We would eliminate agency ethics counselors with my last amendment, but they are still there. If this amendment fails, I suggest that someone try to eliminate the reference to agency ethics counselors, because I believe the Director of the Commission will then put them into effect anyway, in spite of congressional intent—

consulting when requested, with agency ethics counselors—

To which I have referred earlier—

and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

What does that mean? I know of nothing in the law that tells us or gives us any indication of where we should go from there except the Director of the Ethics Agency himself who has this broad cachet paragraph. Now on page 39 again, No. (8):

ordering corrective action on the part of agencies and employees which the Director deems necessary;

Any appeal from that order the Director says or he deems necessary—

requiring such reports from executive agencies as the Director deems necessary;

The paperwork becomes a blizzard.

No. (10):

assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments;

"Assisting the Attorney General." Now we have that dark shadow or blinding light standing just behind the left shoulder of the Attorney General, assisting him in the determination of who is clean, who is ethical, who is not in conflict.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. RYAN was allowed to proceed for 1 additional minute.)

Mr. RYAN. I can go on, Mr. Chairman. One cannot say that this particular section is not a revolutionary change, an experiment in what we are trying to get done here. Is there anything wrong with setting some kind of limits so that the agency has to come back in 5 years and tell us what they did? What is wrong with that? More importantly, in case there is some good in here and there is need for continuity and we do not continue it ourselves, do they have any relief? They certainly do. The agency itself becomes part of the Civil Service Commission that I presume for the last 200 years has had something to do with ethics and the conduct of Government employees. This, then, is a new concept. Any new concept ought to be placed in the position of being probationary, and that is exactly what this amendment does.

I urge its adoption.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. GONZALEZ, and by unanimous consent, Mr. RYAN was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. The reason I rise is because I am trying to locate that section the gentleman is referring to, pages 38 and 39, but I believe the gentleman had reference to the original H.R. 1.

Mr. RYAN. Whatever version this is. It is section 222, beginning with subsection (4).

That is where I began to make reference:

"The Director shall provide, * * *" under "Authority and Functions." That is the section.

Mr. GONZALEZ. The gentleman referred to page 38 and page 39, but I am afraid it is not page 38 and page 39 of H.R. 13850. I was wondering if the gentleman knew what the equivalent page number of H.R. 13850 was.

Mr. RYAN. I do not know. I have only H.R. 1 here, with the House report.

Mr. GONZALEZ. The gentleman is referring to the House report?

Mr. RYAN. Yes.

Mr. GONZALEZ. Well, that clarifies it. I thank the gentleman.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wonder if the gentleman from California (Mr. RYAN), will be kind enough to respond to some questions?

Mr. RYAN. I would be happy to.

Mr. DANIELSON. Mr. Chairman, in the first place, I want to ask the gentleman's indulgence and forgiveness. I failed to make a point of order to the gentleman's second section, which would insert a section 310, which is in title III, which is not the bill before the House, and also contains language which would not fit title III, since the Director of Government Ethics is not even involved in title III. It was an oversight on my part.

Mr. RYAN. Mr. Chairman, I am not sure what the gentleman means.

Mr. DANIELSON. I am looking at the gentleman's amendment as it appeared in the CONGRESSIONAL RECORD.

Mr. RYAN. Well, I have my own copy here. I do not know.

Mr. DANIELSON. Well, I will skip over that for a moment; but I want to ask this very pertinent question. What the gentleman really is seeking in this amendment, as I understand it, is to put a 5-year sunset on the bill.

Mr. RYAN. Precisely.

Mr. DANIELSON. The gentleman made a very eloquent argument and touched on a number of very pertinent points; but the thrust of the amendment is to put a 5-year sunset on the bill.

Mr. RYAN. That is right, on title II of the bill.

Mr. DANIELSON. To title II only?

Mr. RYAN. Yes.

Mr. DANIELSON. To title II of the bill?

Mr. RYAN. Yes.

Mr. DANIELSON. Mr. Chairman, I oppose the amendment. I respectfully submit, this does not require very extended debate. The issue is clear. Should we have a 5-year sunset or should we not have a 5-year sunset?

I submit that the Members of the committee can make up their minds on that very quickly.

I will urge a "no" vote. I know the gentleman from California has urged an "aye" vote. I suppose the next thing would be to call for the question and let the chips fall where they may.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. RYAN).

The question was taken; and on a division (demanded by Mr. DANIELSON) there were—ayes 9, noes 8.

Mr. DANIELSON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. Chairman, if enough Members will rise for a recorded vote, I will withdraw my point of order of no quorum.

Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman from California withdraws the point of order of no quorum.

RECORDED VOTE

Mr. DANIELSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 266, not voting 28, as follows:

[Roll No. 842]

AYES—138

Akaka	Conable	Florio
Ashbrook	Corcoran	Flowers
Barnard	Coughlin	Forsythe
Baucus	Crane	Fountain
Beard, Tenn.	Daniel, Dan	Frenzel
Bedell	Daniel, R. W.	Fuqua
Bevill	Davis	Gibbons
Bowen	de la Garza	Gilman
Breaux	Devine	Goldwater
Broomfield	Dickinson	Gonzalez
Brown, Mich.	Dodd	Gore
Brown, Ohio	Dornan	Gradison
Broyhill	Early	Guyer
Burke, Fla.	Edwards, Ala.	Hall
Burleson, Tex.	English	Hanley
Butler	Erlenborn	Hannaford
Caputo	Ertel	Heftel
Carter	Evans, Colo.	Hightower
Cavanaugh	Evans, Del.	Holland
Cederberg	Findley	Horton
Clawson, Del	Flippo	Hubbard
Collins, Tex.	Flood	Hughes

Jacobs	Miller, Ohio	Shuster
Jeffords	Mineta	Sikes
Johnson, Colo.	Mitchell, N.Y.	Sisk
Jones, N.C.	Montgomery	Smith, Iowa
Jones, Okla.	Moorhead,	Stangeland
Jones, Tenn.	Calif.	Stanton
Kasten	Myers, John	Steiger
Kelly	Nichols	Stockman
Kostmayer	Panetta	Stratton
Krebs	Pettis	Stump
LaFalce	Poage	Symms
Lagomarsino	Pressler	Vander Jagt
Lent	Quayle	Waggonner
Levitas	Quillen	Walsh
Lloyd, Calif.	Rahall	Wampler
Lott	Rhodes	Weaver
Lujan	Roberts	White
McClory	Robinson	Whitehurst
McDade	Rousselot	Wiggins
McDonald	Rudd	Winn
McEwen	Ruppe	Wolff
Marlenee	Ryan	Yatron
Martin	Satterfield	Young, Fla.
Mattox	Schulze	
Meyner	Sebelius	

NOES—266

Abdnor	Edwards, Okla.	Markey
Addabbo	Eilberg	Marks
Alexander	Emery	Marriott
Ambro	Evans, Ga.	Mathis
Anderson,	Evans, Ind.	Mazzoli
Calif.	Fary	Meeds
Andrews, N.C.	Fascell	Metcalfe
Andrews,	Fenwick	Michel
N. Dak.	Fisher	Mikulski
Annunzio	Fithian	Mikva
Applegate	Flynt	Minish
Archer	Foley	Mitchell, Md.
Ashley	Ford, Mich.	Moakley
Aspin	Ford, Tenn.	Moffett
AuCoin	Fowler	Mollohan
Badham	Fraser	Moore
Bafalis	Frey	Moorhead, Pa.
Baldus	Gammage	Moss
Bauman	Garcia	Mottl
Beard, R.I.	Gaydos	Murphy, Ill.
Beilenson	Gephardt	Murphy, Pa.
Benjamin	Giaimo	Murtha
Bennett	Ginn	Myers, Gary
Biaggi	Glickman	Myers, Michael
Bingham	Goodling	Natcher
Blanchard	Grassley	Neal
Blouin	Green	Nedzi
Boggs	Gudger	Nolan
Boland	Hamilton	Nowak
Bolling	Hammer-	O'Brien
Bonior	schmidt	Oakar
Bonker	Harkin	Oberstar
Brademas	Harrington	Obey
Breckinridge	Harris	Ottinger
Brinkley	Harsha	Patten
Brodhead	Hawkins	Patterson
Brooks	Heckler	Pattison
Brown, Calif.	Hefner	Pease
Buchanan	Hillis	Perkins
Burgener	Hollenbeck	Pickle
Burke, Mass.	Holt	Preyer
Burlison, Mo.	Holtzman	Price
Burton, John	Howard	Pritchard
Burton, Phillip	Huckaby	Pursell
Byron	Hyde	Quie
Carney	Ichord	Railsback
Carr	Ireland	Rangel
Chappell	Jenkins	Regula
Chisholm	Jenrette	Reuss
Clausen,	Johnson, Calif.	Richmond
Don H.	Jordan	Rinaldo
Clay	Kastenmeier	Risenhoover
Cleveland	Kazen	Rodino
Cochran	Kemp	Roe
Coleman	Keys	Rogers
Collins, Ill.	Kildee	Roncalio
Conte	Kindness	Rooney
Conyers	Latta	Rose
Corman	Le Fante	Rosenthal
Cornell	Leach	Rostenkowski
Cornwell	Lederer	Roybal
Cotter	Leggett	Russo
Cunningham	Lehman	Santini
D'Amours	Livingston	Sawyer
Danielson	Lloyd, Tenn.	Scheuer
Delaney	Long, La.	Schroeder
Dellums	Long, Md.	Seiberling
Derrick	Luken	Sharp
Derwinski	Lundine	Simon
Dicks	McCloskey	Skelton
Dingell	McCormack	Skubitz
Downey	McFall	Smith, Nebr.
Drinan	McHugh	Snyder
Duncan, Oreg.	McKay	Solarz
Duncan, Tenn.	Madigan	Spellman
Eckhardt	Maguire	Spence
Edgar	Mahon	St Germain
Edwards, Calif.	Mann	Staggers
Stark	Udall	Whitley
Steed	Ullman	Whitten
Steers	Van Deerlin	Wilson, Bob
Stokes	Vanik	Wilson, Tex.
Studds	Vento	Wirth
Taylor	Volkmer	Wydler
Thompson	Waigren	Wylie
Traxler	Walker	Yates
Treen	Watkins	Young, Mo.
Trible	Waxman	Young, Tex.
Tsongas	Weiss	Zablocki
Tucker	Whalen	Zeferetti

NOT VOTING—28

Ammerman	Krueger	Shipley
Anderson, Ill.	McKinney	Slack
Armstrong	Milford	Teague
Burke, Calif.	Miller, Calif.	Thone
Cohen	Murphy, N.Y.	Thornton
Dent	Nix	Wilson, C. H.
Diggs	Pepper	Wright
Fish	Pike	Young, Alaska
Hagedorn	Runnels	
Hansen	Sarasin	

Messrs. AuCOIN, MARRIOTT, HAMMERSCHMIDT, WIRTH, and TAYLOR changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: page 35, line 2: strike all of line 2 through line 11; at line 11, insert "The" in lieu of "Such".

Mr. DANIELSON. Mr. Chairman, I reserve two points of order on the amendment.

The CHAIRMAN pro tempore (Mr. FOWLER). The gentleman from California (Mr. DANIELSON) reserves two points of order against the amendment.

Mr. GONZALEZ. Mr. Chairman, my amendment addresses itself to page 35 of the bill before the Committee of the Whole, section 207.

Mr. Chairman, the fact that the bill is brought up at this point in time I think is deplorable because of many reasons, but mostly because I am convinced that had the Committee itself and the individual members had a chance to do this in a dispassionate, calm atmosphere, and not in an election year, and not under the pressures of professional "Congress haters"—I do not care what the House ever does, we are going to have to come up each year with a new ethics bill if we are to try to satisfy the professional "Congress haters" that have always existed throughout the history of our Nation.

However, Mr. Chairman, section 207 says in subparagraph (a) the following:

The President may require officers and employees of the executive branch not covered by this title to submit confidential reports in such form and manner as he shall prescribe.

In subparagraph (c) this language appears.

The provisions of this title requiring the reporting of information shall supersede any general requirement . . .

Later, Mr. Chairman, I hope to offer an amendment to strike section 307 in the next title because there the same power is given to the judicial conference.

Mr. Chairman, what this sets up is an inquisitor magnificent in the person of the President, the Chief Executive of the United States. He can require confidential information with respect to any hapless employee, not the ones which the bill is palmed off to us as affecting. The bill has been palmed off to us in the House as affecting the upper-level employees.

Mr. Chairman, this section makes the President a total czar. He can require any kind of confidential information. He can say that he would be interested in knowing the sex habits of a general at the Pentagon. Under this section there is nothing to prohibit that.

Mr. Chairman, I am not saying that that is undesirable. Maybe it is desirable in some people's minds; but I think the Members certainly do not see the need for this section. If this section is included in the bill, then we can do away with the rest of the bill which has to do with the executive branch of the Government. Why have that? This paragraph gives the President this enormous power. Can any Member imagine what could happen and what could be done in the future with individuals who, through arrogance or through willful misuse of power, could compel a subordinate to do things that he should not do?

After all, what about the travail of the Nation just 3 years ago when countless numbers of employees did things under the order of whom? Ostensibly the President.

Mr. Chairman, I think that if every Member had a chance to make an inquiry of the professional staff of these committees, they would agree with me that this section can be done away with and should be done away with, without in any way harming the main thrust of the bill as presented in the remaining sections.

Mr. Chairman, I hope that this amendment will be adopted and that we will do something which I think will redound to the credit of the House in subsequent days and months when we soberly reflect on what we are doing here.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my friend, the gentleman from Texas, has read into section 207 matters which I do not believe are in fact there. Earlier on during the consideration of this bill, broad authority was given to the President to require any information of any Government employee and to make that information public. That broad discretion was subject to much criticism before the Committee on the Judiciary, and instead much narrower language was adopted. Now, under section 207(a), the President may require of those employees who are not covered confidential reports, and I quote now from the bill "in such form as is required by this part."

It was the intent of the drafters of that language to limit the power and the discretion of the President to require only such information from noncovered employees as would be compelled of covered employees under this bill. He would not, for example, be permitted to inquire into the sex habits of generals in the Pentagon

or any other matter of a personal nature unless that information were compelled in this bill.

I admit, Mr. Chairman, there is some ambiguity in the language "in such form as is required by this part," and in order to clear up that ambiguity, I will ask for the attention of the gentleman from California (Mr. DANIELSON) to inquire whether he agrees with my interpretation of the word "form" as meaning that the discretion of the President to require additional information applies only to that information which is required in the bill. Is that true?

Mr. DANIELSON. If the gentleman will yield, is the gentleman referring to section 207 on page 35?

Mr. WIGGINS. Yes, I am.

Mr. DANIELSON. Yes, "in such form as is required by this part," that is, this part of title II of the bill, the executive branch aspects of the bill.

Mr. WIGGINS. Is it not true that the the President could not compel the confidential report of information which was not required to be disclosed under this bill?

Mr. DANIELSON. That is correct. This bill reaches only certain categories of people, generally determined by their compensation level. The President would have a right to require officers and employees who are not covered by this part, let us say a grade 15—I am just pulling a number out of the air—to submit his confidential report but in a form which is prescribed by this part.

Mr. WIGGINS. Yes.

Mr. Chairman, in conclusion, I think it is absolutely essential that the Chief Executive Officer who is at least a nominal supervisor of all the employees in the Federal branch should have the power to compel disclosure of information on a private basis which may bear upon the performance, integrity, and capacity of individuals who work in the executive branch. That is not to say that that private information should be made public, but certainly an employer should have a right to review the conduct of his employees on a confidential basis.

Mr. DANIELSON. If the gentleman will yield for one moment more, I fully concur. These additional reports contemplated by section 207 should not be a public record, but they are important to the President in making his decisions, but they are not required to be made public as are the other reports.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

Although I was hoping the gentleman would agree with the reason why this section should be deleted, he does explain that there is a possibility of ambiguity here. But look at that subsection (b):

The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest.

That raises further problems of ambiguity because under this general definition of conflicts of interest are apparent conflicts of interest. Such things as this possibility I referred to do not seem as outlandish at all in the reality of what happens day in and day out on occasions.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. GONZALEZ, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. WIGGINS. I yield to the gentleman.

Mr. GONZALEZ. I thank the gentleman for yielding.

Does not the gentleman see that subsection (b) further enlarges the area of ambiguity?

Mr. WIGGINS. No, I do not. I think it is explicit. It says that this bill shall supersede existing law with one exception, namely, the Foreign Gifts and Decorations Act. What could be clearer than that?

The CHAIRMAN. Does the gentleman from California (Mr. DANIELSON) insist on his point of order?

Mr. DANIELSON. No, Mr. Chairman, I do not at this point.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, in essence I agree with what both gentlemen from California were saying. I just want to point out to the body that actually if this amendment were to pass, we would be going back to a much broader power in the President. We would be going back to section 7301 of title 5 of the United States Code, under which it says that the President can prescribe regulations for the conduct of employees in the executive branch. That is a very broad mandate of Executive power.

What we are addressing in section 207 (a) and 207(b) of this bill is a limitation on that broad definition of Presidential power in title 5.

Therefore, I would urge this amendment be defeated, because if it passes we would lose this limitation of power.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was rejected.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, everyone in this body is certainly concerned about ethics. So, too, does every one of us consider ourselves ethical, honest and dedicated servants of our constituencies. Many have argued in favor of this bill stating that it was absolutely necessary to not only keep Members honest, but to eliminate in the minds of the public even the perception of possible conflict of interest, This argument was used most frequently in support of an outside earnings limitation for Members—a provision I vigorously opposed.

I do, however, intend to vote for the final passage of the legislation even though it includes this onerous, unnecessary and constitutionally suspect provision. I feel very strongly that the full disclosure sections are the most important and are all that are necessary to remove any conflicts of interest or even hints of conflict of interest.

I would like to state quite clearly, however, my reasons for objecting to the outside earnings limitation and why I feel it is unconstitutional. I fear we may lose the whole law because of that provision.

The issues in limiting a Member's income are not clear cut. On the question of a Member's work representing his constituency, whether he is doing a satisfactory job or not should be up to the voters of his District—not the U.S. Congress. In fact, that is the way the Founding Fathers wanted it in drawing up the Constitution. They specifically rejected a limitation on outside activities. If a Member fails to vote on issues affecting his district, fails to provide a level of services demanded by his constituents, fails to answer his mail or meet with the people he represents, I assure you the voters will turn the slacker out. Similarly, with full disclosure of finances, if a constituency feels that a Member has been unduly influenced by outside sources or is unable to adequately serve them due to too many outside interests, they will have the information available to vote him out of office.

It seems ridiculous to presume that a limitation will encourage Members to work better or create a greater atmosphere of ethics in the House. If a Member wants to earn additional income, there are enough loopholes in the rule and the law that will permit it. In fact, the likely result of the rule as written is to cause Members to take circuitous routes to obtain the earned income.

The most condemning aspect of the rule is its discrimination against Members with certain earned income as opposed to unearned income or income from a family business.

I would venture to say that a Member with a vast portfolio of stocks and other investments that pay him handsome dividends—exempt from the rule of course—is just as likely to spend a great deal of time obtaining that income as someone earning income from a law practice, for example. More importantly, though, it might put him in a position of greater conflict of interest, yet we only rely on public disclosure to keep such a Member honest.

Similarly, a Member with a family business to run is going to commit a great deal of time and worry to that business, but he is exempt. Would the Member who is able to earn a high fee from speaking engagements spend any more time in obtaining the income than the Member who heads a family business? I think not.

The earnings limitation affects a limited number of Members while exempting a great deal of other Members

with vast incomes from other sources. The rule hits the people who work for a living rather than those who enjoy vast profits from personal business enterprises or investments. Instead of a body formed of representatives of the people, we will have an exclusive club of wealthy investors and corporate heads who can continue to earn vast sums of money despite the intent of these rules. The net effect will put more and more Members out of touch with the public they seek to serve. Wealth has a tendency to breed separatism and wealthy Members—inexperienced novices—will be the only ones to survive the implementation of this rule.

Others argue that there are ample numbers of individuals who are willing to serve in Congress even with the limitation. This may be true, but will they be the most qualified to serve in the Congress? While it is difficult to demonstrate to an individual making $10,000 to $20,000 a year that maximum earnings permitted is inadequate, those serving now know that the caliber of individual who is able and capable of serving is also able and capable of working outside the Congress at substantially higher levels of income. They should not be required to forgo that income as long as they can adequately serve their constituents. We have seen many capable and highly skilled members retire because of it; and there are many individuals, who would have made excellent representatives, but who declined the nomination to run for office.

This job of a Congressman does not have any civil service protection or tenure. We can be thrown out of office every 2 years. Why should anyone who has the skills and expertise to do well forfeit all of that and risk being out on the streets in 2 years?

Many of us here have argued against the outside earnings limitation for older Americans receiving Social Security. It works the same way. It limits the amount an individual can earn by his own industry, but not what he can earn from investments.

Thus, the over-65er who cannot survive on social security payments and must work to pay his bills loses social security, while the individual with substantial income from investments is permitted to receive all his social security payments whether he needs them or not.

Our rule is even more discriminatory since those who earn income from family businesses are still permitted to retain that income source, while those who earn income from certain partnerships are not.

I frankly wonder how many Members would be willing to accept an absolute limitation of earnings regardless of source. I suspect the overwhelming majority would not enact such a rule, yet they enact this rule because it only affects a few and it does not affect them.

We just recently took up the equal rights amendment. During debate on that issue, many Members talked about equality as a matter of principle. I have been a consistent supporter of human rights everywhere and have fought against discrimination of any sort anywhere, even in the U.S. Congress. I get greatly disturbed, though, when I see otherwise sincere Members of the House, who are actively involved in such doctrinal rights issues as the ERA, decide to selectively avoid similar fights for equal rights on an issue such as outside earnings limitations for Members.

These considerations are a question of political and moral judgment. There are other considerations which are far more weighty and strike at the very substance of the outside earnings limitation provision. There are five key areas of constitutional dispute. Some of these issues may be resolved as the case of Laxalt against Kimmitt wends its way through the appeals process. Others will have to await a new case. However, I want to outline these issues for my colleagues.

First, there is the argument that a restriction on outside compensation earned by a Member on his own time imposes an additional qualification for holding congressional office. The Constitution sets certain specific standards for office. The House and Senate may detail rules of conduct for its Members, but this restriction sets a specific condition for holding office that does not relate to conduct.

Proponents of the measure have argued that the limitation is necessary to remove even the hint of possible conflict of interest. They readily admit that outside income per se does not present a conflict of interest or mean an individual is unethical—only certain types of earned income. Moreover, by permitting a certain amount of earned income, it would seem that the proponents are admitting that earned income does not represent a conflict of interest in all instances.

Thus, in an effort to establish a code of conduct to prevent conflict of interest and part-time work by Congressmen, they have set an arbitrary barrier to private enterprise on the part of all Congressmen. There were countless other methods that could have been used to prevent conflicts of interest or to encourage full-time work, and they should have been used rather than this arbitrary and questionable method.

A second constitutional argument closely related to the first is that such a provision limiting income deprives a person of property without due process of law. This aspect is particularly compelling as it relates to sitting Members. Many will have to divest themselves of assets in order to continue to serve in the House. Similarly others who seek office will have to divest themselves of assets prior to or subsequent to election to office.

A third consideration is that prohibiting Members from collecting reasonable fees for public speaking may make such public speaking undesirable. Similarly, due to the outside earnings limitation, a Member's ability to freely associate or be engaged in legal activities is restricted due to his inability to collect compensation for such associations or activities. This seems to me an unjust violation of the free speech and debate clause and the free association clause of the Constitution without an overriding interest in protecting other constitutionally guaranteed rights. Certainly, if such a restriction were placed on members of the press, the freedom of the press issue would be quickly raised. We do not question the potential conflict of interest between a newspaper's journalistic responsibilities and their advertising income. The former is given full protection under the Constitution seemingly without regard to any other rights. Yet the potential for conflict of interest in that area is high.

A fourth constitutional consideration is that such a limitation will discourage or deter participation in the electoral process. Clearly placing more restrictions on an individual seeking to run for office will result in fewer individuals competing for a seat in the Congress. While some have argued this limitation does not specifically bar anyone from running since all they have to do is forfeit their income, it does in fact create a situation that will preclude many from running. This will severely limit the number of qualified individuals from which candidates can be selected.

A fifth, and very serious consideration is that the limitation discriminates against certain Members with earned income, while exempting Members with unearned income. The arguments of proponents was that they would have liked to apply the provision across the board, but that treatment of earned income was easier to handle than treatment of unearned income. I submit that such an argument on its face demonstrates that the provision is discriminatory.

The question then becomes whether it is discriminatory within the framework of the Constitution. The Supreme Court in *Ferguson* v. *Skrupa* (372 U.S. 726, 732 (1963)) stated that it is " 'invidious discrimination' which offends the Constitution." The Court is attempting to draw a difference between certain types of discrimination and indicated further that "discrimination may be so unjustifiable as to be violative of due process" (*Bolling* v. *Sharp* 347 (U.S. 497).

Thus, if the discrimination is rationally related to the end sought by the legislation and is not arbitrary, it might be permitted. Similarly, if other constitutional considerations are stronger, the discrimination might be tolerated. In the instant case, it seems clear that with numerous over avenues available, the Congress could have accomplished the laudatory legislative goal of an honest Congress without resorting to the limitation on income which the sponsoring committee admits is discriminatory. This may be the most serious argument against the provision.

Finally, it is important to remember the words of our Founding Fathers in explaining the desire of the Constitutional Convention in setting out the requirements for being elected to the Congress:

No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subjects on which he is to legis-

late. A part of this knowledge may be acquired by means of information which lie within the compass of men in private as well as public stations. Another part can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it. (Madison: Federalist Paper No. 53.)

Our Founding Fathers knew the dangers of having only, say, property owners or individuals of great wealth in the legislature. They knew also the dangers of having "lifetime" Congressmen. It is clear from all readings of the commentaries on the Constitution that it was hoped that the House of Representatives, particularly would be composed of men from all stations of life, who would maintain an active role in those stations, so as to bring to this great representative body the feelings, interests and views they gathered in their day-to-day lives. This provision clearly subverts that intent.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 29, strike out lines 8 through 10 and insert in lieu thereof the following:

(g) Political campaign funds, including campaign receipts and expenditures, shall not be included in any report filed pursuant to this part.

Mr. WIGGINS. Mr. Chairman, this amendment deals with the question of whether political campaign funds are to be reported. We deal with that problem in the following language in title II:

(g) Political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported under this part.

I want to call the Members' attention to the manner in which we dealt with the identical problem with respect to the legislative branch in title I. That language is found on page 8, lines 20 through 21 of the bill. There, with regard to the legislative branch, we say:

Campaign receipts or expenditures shall not be included in this report.

Accordingly, Mr. Chairman, it is clear that we deal with the same subject matter in different words. In the case of the executive branch, we say:

Campaign funds received shall not be reported.

In the case of the legislative branch, we say:

Campaign receipts or expenditures shall not be reported.

The essential difference is the omission of the words "campaign expenditures" with respect to the executive branch.

Now, those of us who have been troubled with our campaign reports know that there is a lot of information that is required on the expenditure side, as well as on the receipt side. For reasons which I think are largely inadvertent, we failed to make any mention at all of campaign expenditures with respect to employees in the executive branch.

My amendment, Mr. Chairman, intends to bring title I and title II into conformance. I do so by requiring or including campaign expenditures, as well as campaign receipts, as matters which need not be reported.

It is to be understood, of course, that reports will be filed with the FEC concerning all campaign expenditures and receipts.

I would like to believe, Mr. Chairman, that this is in the nature of a technical amendment about which there should be no controversy and I urge adoption of the amendment.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, my understanding of what the gentleman is seeking to do by this amendment is the following: The language in section 202(g) of the bill provides that political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported.

Mr. WIGGINS. Yes.

Mr. DANIELSON. The gentleman's amendment expands that to be "receipts or expenditures."

Mr. WIGGINS. Yes; unless that amendment is made, the reporting of expenditures would be required and it would be a duplication of the reports filed with the FEC.

Mr. DANIELSON. The change that the gentleman's language proposes changes the sentence structure somewhat, but is not intended to change the substantive effect.

Mr. WIGGINS. That is correct.

Mr. DANIELSON. It is not to be included.

Mr. WIGGINS. That is correct.

Mr. DANIELSON. Mr. Chairman, I have no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ:

Page 44, line 1, strike "$1,000,000" and insert in lieu thereof "$600,000"; and at line 2, strike "$1,000,000" and insert in lieu thereof "$675,000".

Mr. GONZALEZ. Mr. Chairman, I have made some calculations with respect to the cost of operating the office that is supposed to be charged under this bill with administering the act, and using the figures that the committee report includes, I found that the cost per capita of administering title II is nearly twice as great as the per capita cost of administering title III.

My amendment is intended to allow $50 per capita to administer this program. That is, for every person who is required to file I would permit a cost of $50 to administer the ethics program. I have also allowed for an inflationary increase in the future years of the program.

It seems illogical to me that we would have a higher precept of what I call the sanctity or holiness quotient in the executive branch than we do in the other, because apparently the bill will cause us to pay more for the ethics patrolling of the Executive than it will for the other. I fail to see the logic behind that.

My amendment will simply reduce it to a common denominator and recognize that there is a uniform holiness quotient among the Executive as well as the judiciary branch. It provides slightly more, as I repeat, than $50 a person to administer the Office of Ethics, $50 for each person who is required to file. I think that should be enough.

Mr. Chairman, this will give us a chance to save a few hundred thousand dollars. It seems that economy is the mood of the House and the Nation as well, so I for the life of me cannot understand why this amendment would not be acceptable.

Mr. HARRIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not believe this amendment needs a great deal of discussion. What the amendment does is this: After setting up a very important program with regard to disclosures and ethics and the enforcement thereof, we would now inadequately authorize funds with regard to the conduct of the program. I presume that if we are going to have these requirements and are going to set up a program at this point, the least we can do is to authorize the necessary funds.

I do not think we can take on the function of the Committee on Appropriations at this point. The Committee on Appropriations, of course, must look at the various funding requests and requirements in the future. In my opinion, the cost could be below this figure, but I do not think we serve any purpose by reducing the maximum figure. That is all we are doing by this amendment.

Mr. Chairman, I think it is absolutely essential that the amendment not be adopted, and that we put in an adequate amount of funding to implement and enforce the program that we spent so much time designing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 37, line 9, insert immediately before the semicolon "or State or local governments or political subdivisions thereof".

Mr. WIGGINS. Mr. Chairman, section 209 of the bill is a definition section. Section 209(3) defines a gift. The definition of a gift is in broad language. But it lists four specific exemptions from a gift. One of them is food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the U.S. Government. My

amendment adds, after "United States Government," "or State or local government or political subdivision thereof."

Mr. Chairman, my amendment adopts the definition which this House accepted with respect to gifts as applied to Members of Congress.

On page 17 of the bill, in title I, we also define gifts for the legislative branch. We also exempt transportation, lodging, food, or entertainment provided by Federal, State, or local governments or political subdivisions thereof.

Therefore, Mr. Chairman, the purpose of my amendment is to bring the definition of gifts for title II in conformity with that of title I.

I again hope that this would not be subject to great controversy and that it would be regarded as a technical amendment which improves the bill.

Mrs. SCHROEDER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I understand what the gentleman from California (Mr. WIGGINS) is saying about how we have exempted legislators in title I, and I think that his point is important. But I think if we adopt his amendment we must be aware of what we are doing—and my awareness makes me reluctantly oppose the gentleman's amendment.

It seems to me that if we adopt the amendment, then it would allow people from HUD, the grant people, to be entertained by local government or governmental political subdivisions and not have to report it, or the HEW people, or the municipal bond people in the Internal Revenue Service, or Indian tribes, or anyone else who gives or takes money to receive unreported benefits from groups their decisions benefit. And I am sure that is the kind of thing we are trying to stop in the bill. So I think the bill as written in title II in re the executive branch is what we want. I hear what the gentleman is saying in re the legislative branch. He is pointing out the dual standard. But both branches are not the same. People who control these gigantic grants and sums of money should have to report gifts they receive from beneficiaries. Otherwise the potential appearance of wrongdoing is very broad. I think we should stay with the bill the way it is and defeat the amendment.

Mr. WIGGINS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentlewoman for yielding.

Mr. Chairman, I am prepared to go either way, but not both ways. at the same time. I am prepared to accept the logic of the gentlewoman's argument for people in the executive branch but would have to apply the same logic for those of us in the legislative branch. However, we did opt for a narrow definition with respect to ourselves, and my purpose is to be consistently right or wrong.

Mrs. SCHROEDER. I agree with what the gentleman says, and I think I would support the bill's standard for us, also. But we are past that title, unfortunately. And I think the people in the executive branch have a much more direct involvement in allocating grants and other funding than we do. We could make the argument to the legislative branch we are much more generalist as to funding and the executive branch is much more specific.

Mr. Chairman, I would urge rejection of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

AMENDMENT OFFEED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 51, after line 19, insert the following new section and renumber accordingly:

"SEC. 243. Except where the employee's Agency or Department shall have more restrictive limitations on outside earned income, all employees covered by this Act who are compensated at a pay grade in the General Schedule of Grade 16 or above shall be limited in outside earned income to not more than fifteen percent of their salary."

Mr. DANIELSON. Mr. Chairman. I reserve a point of order on the amendment.

Mr. ASHBROOK. Mr. Chairman, many of the members of the committee recall when we had the civil service reform bill before us I offered an amendment of this type. There were three major criticisms of that amendment at that time, which I feel have been corrected in this particular amendment.

First, it was said that was not the place to amend it and we should wait until we got to H.R. 1, and this is H.R. 1.

Two, that amendment was at the level of GS–12 and many Members afterward said that was too low at approximately $16,000. This amendment now is at GS–16, which is the level reflected throughout this entire bill.

Third, it was pointed out by my colleague, the gentlewoman from Colorado (Mrs. SCHROEDER), that there were some agencies and some departments that had more restrictive limitations on outside earned income than my amendment at that time envisioned, so that is why the amendment starts out: "Except where the employee's agency or department shall have more restrictive limitations * * *"

I understand in consultation with my colleague, the chairman, the gentleman from North Carolina (Mr. PREYER), that my colleague, the gentleman from Minnesota (Mr. FRENZELL), will offer an amendment to further restrict this amendment of mine, but I think generally if we are willing to extend the ethical thrust, that outside income above a certain point raises questions of conflict of interest, and so forth, that we should make it general. That is why I offer it to title II. That is why I offer this amendment. I hope it will be supported.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California (Mr. DANIELSON) persist in his point of order?

Mr. DANIELSON. Yes, I do at this point.

The proposed amendment in the first place by its terms applies to employees covered by this act. The act has three titles: Title I which is on the legislative branch; title II, executive branch; and title III, judicial branch. We are here presently dealing only with title II, the executive branch. Therefore the amendment is broader than the subject matter pending before the committee under the rule and would be subject to a point of order.

Second, the other point of order I would like to raise is that this bill by its terms is a financial disclosure act. It is to require certain officers and employees of the United States to answer as to their income and financial holdings and transactions and report as to those. It does not limit income.

A limitation of income is within the rules of the House and by special mention in the rule under which this bill is being heard, an amendment by the gentleman from Tennessee (Mr. QUILLEN) could have been entertained, but that I submit respectfully is not a broad enough exemption to the rule to permit the entire bill to reach earnings limitations in addition to the financial disclosure.

I submit my point of order.

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) desire to be heard on the point of order?

Mr. ASHBROOK. Yes; Mr. Chairman, the gentleman from California is correct. As a matter of fact, that is one of the things I was going to ask unanimous consent to change, and it was my understanding the gentleman from Minnesota (Mr. FRENZEL) would be offering an amendment to accomplish that.

Mr. DANIELSON. Mr. Chairman, if the gentleman would yield, I would certainly consent to the amendment being amended so as to relate to the less broad category. That is not the main purpose of my point of order.

Mr. ASHBROOK. Mr. Chairman, will the gentleman from California withhold his point of order until I ask unanimous consent to change the word "act" to "title"?

MODIFICATION OF AMENDMENT

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) ask to modify his amendment so as to conform it to this title?

Mr. ASHBROOK. That is the intention. I would ask unanimous consent to change the word "act" to "title" in the amendment. That is the intention of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Does the gentleman from California insist on his point of order?

Mr. DANIELSON. Yes. As to the other point of order, as to the scope of the bill, the earnings limitation as opposed to the financial disclosure, yes.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on that point of order?

Mr. ASHBROOK. Yes. I think the entire thrust of the bill does relate, as we have said particularly as to income having a relationship to ethics, and I think on that point my amendment would be germane.

The CHAIRMAN (Mr. BOLAND). The Chair is ready to rule.

Title II approaches the issue of the ethical conduct of executive branch employees in three diverse ways, one, disclosure; two, creation of the Office of Ethics to monitor employee conduct; and, three, imposition of civil penalties for conflicts of interest. The amendment suggests a fourth approach to the issue of ethical conduct of executive branch employees and as modified is germane to title II as a whole.

The Chair overrules the point of order.

AMENDMENT OFFERED BY MR. FRENZEL TO THE AMENDMENT OFFERED BY MR. ASHBROOK, AS MODIFIED

Mr. FRENZEL. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL to the amendment offered by Mr. ASHBROOK, as modified:

In the matter proposed to be inserted by the amendment strike out "shall be limited in outside income to not more than fifteen percent of their salary" and insert in lieu thereof "and who occupy positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary".

PARLIAMENTARY INQUIRY

Mr. DANIELSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DANIELSON. Mr. Chairman, my parliamentary inquiry is this: it is my understanding that the Chair sustained the point of order previously made, is that correct?

The CHAIRMAN. No, the Chair overruled the point of order with reference to the amendment as modified.

Mr. DANIELSON. Mr. Chairman, a further point of order. The Chair understands that my point of order was that by reaching an earnings' limitation, that is not germane and exceeded the scope of the legislation that is pending?

Has that point been overruled or sustained?

The CHAIRMAN (Mr. BOLAND). The Chair determined that the amendment was germane to title II and overruled the point of order.

Mr. DANIELSON. I thank the Chairman. I did not so understand.

Mr. FRENZEL. Mr. Chairman, may we have the Clerk read the amendment to the amendment again?

Without objection the Clerk reread the amendment as follows:

Amendment offered by Mr. FRENZEL to the amendment offered by Mr. ASHBROOK: In the matter proposed to be inserted by the amendment, strike out "shall be limited in outside income to not more than fifteen percent of their salary" and insert in lieu thereof "and who occupy positions appointment to which . . .".

Mr. FRENZEL. Mr. Chairman, I ask that the Clerk suspend the reading at that point.

Mr. Chairman, this amendment was entered on page 31770 of the CONGRESSIONAL RECORD. As it was given to the Clerk it leaves a word out between the words "occupy" and "positions," and that word is "full-time" and I would ask unanimous consent that the amendment to be considered be the amendment that was included in the CONGRESSIONAL RECORD and include the word "full-time."

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, I have another unanimous consent request, and that is to insert the words "nonjudicial" in front of the word "full-time." It was my intention to do so. I have discussed the matter with the gentleman from California (Mr. DANIELSON) and the gentleman from Ohio (Mr. ASHBROOK).

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The amendment is so modified.

The gentleman from Minnesota (Mr. FRENZEL) is recognized for 5 minutes.

Mr. FRENZEL. Mr. Chairman, this amendment seeks to modify the Ashbrook amendment in a couple of ways.

I am restructuring his amendment so that it applies only to the employees covered under title II. This makes a correction in his amendment which he really intended to make in the first place. Next, the income limit is restricted to only earned income. And that was the intention of the gentleman from Ohio (Mr. ASHBROOK), too.

But my amendment further limits the number of employees so that those who qualify for this limitation are only those who are appointed by the President who are not in the judiciary and who are full-time employees.

I am told that this restricts coverage of the Ashbrook amendment from about 14,000, as it was originally offered, to about 750 of the key presidentially appointed policymakers.

It is my opinion that the limitation on these individuals is responsible, that it gets at the problem that most of us think might occur in the case of income limitations, and it will be easier to administer than the broader scope of the original Ashbrook amendment.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman for yielding.

With passage of the comprehensive reform of the Civil Service, how is it that you can, in recognizing that we are suggesting that the executive branch shall consist of a certain number of employees, and up to 10 percent of those individuals will be appointees, and 90 percent will have supposedly come up through the Civil Service, under the regular Civil Service, but, as a matter of fact, there would be a mixture and they would be working at 10 percent of the jobs?

Why is it that only 10 percent of those employees are to be restricted to the outside earned income while the others are not?

Mr. FRENZEL. The maker of the amendment was not trying to anticipate the passage of any particular act. I was simply trying to find a convenient classification of employees without including everybody in the world. Therefore, I thought those who were appointed by the President, who were fulltime, and who were not in the judicial branch were the significant group which we wanted to get at, so I included them.

I could have used other designations. I did not, however, know how that civil service conference committee was going to come out at the time this was drafted.

Mr. GARY A. MYERS. If the gentleman will yield further, he does agree, though, that the concept of the Senior Executive Corps is that we really would not be able to distinguished among those who were political appointees and those who were not, and that there should be no difference in their responsibilities within the executive branch? That is what bothers me about selecting only that 10 percent.

Mr. FRENZEL. The difficulty is that we are restricted by placing amendments in the RECORD before we go ahead here. I do not know how the Senior Executive Corps has been worked out, or I do not know if it has been worked out. Consequently, the best I could do was to pick what I thought would be an area of employees whose incomes might be restricted without creating an undue administrative burden or an undue burden on the members of the civil service.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, we are nearing the moment when the House will vote this bill up or down. There are sections and features of it, I do not favor. Some of these I identified at the beginning of this debate, and some later during the amending process.

Nevertheless, as one of the original sponsors of the House resolution that contained our ethics rules, and as one who helped work out that resolution's final form on the Commission on Administrative Review, I will strongly support the final passage of H.R. 13850 and urge my colleagues to vote for it also.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to have a very brief colloquy with the gentleman from Minnesota (Mr. FRENZEL), if he will consent.

To boil it down, it is my understanding that the amendment which the gentleman has offered would impose the 15 percent earnings limitation on full-time executive branch employees who are subject to appointment by the President, on advice and consent of the Senate; is that correct?

Mr. FRENZEL. If the gentleman will yield, Mr. Chairman, yes, that is the limitation which the amendment establishes; no more employees than the gentleman has described.

Mr. DANIELSON. Mr. Chairman, I believe the Members all understand the issue clearly enough and that further debate, on my part at least, is not necessary.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL), as modified, to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as modified.

The amendment, as modified, to the amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as modified, as amended.

The amendment, as modified, as amended, was agreed to.

AMENDMENT OFFERED BY WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 44, line 18, strike out "or judicial".

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I have examined the amendment. It is very proper, and I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 44, line 24, strike out ", or," and all that follows through "to" on page 45, line 2.

Mr. WIGGINS. Mr. Chairman, this is an amendment to section 207, the so-called conflict-of-interest section.

The committee has seen fit to expand the scope of section 207 significantly.

Present section 207 does not prohibit incidental contacts with agencies by former employees. Rather, it prohibits direct representation of a client in any proceeding in which that individual had personally participated. We have seen fit in this bill to add new language to the code, and it is that new language which I seek to strike out by my amendment. The language which is to be deleted is as follows:

or, with the intent to influence, makes any written or oral communication on behalf of any other person (except the United States).

That language, Mr. Chairman, is intended to prohibit a former employee from writing a letter or making a phone call. Heretofore we have seen fit to prohibit a former employee from participating directly in any proceeding in which he personally participated if he did so in a substantial capacity. But now we have gone far beyond that.

I do not think it is necessary, Mr. Chairman, to prevent the writing of a letter nor to prevent the making of a phone call on the assumption that the person who receives the letter or who receives the phone call will be so overwhelmed by the presence of a former employee that a decision would be made contrary to the national interest. These sections, Mr. Chairman, carry with them criminal penalties. We should be very careful about extending them unnecessarily. To my knowledge, there is no case that has yet been made demonstrating that the occasional phone call by a former employee or a letter written by a former employee on behalf of a client is so overwhelming in its impact that the decisionmaker, that is, the current employee, has been improperly persuaded to do that which is contrary to the national interest.

In summary, Mr. Chairman, I am merely returning in part the law to where it now is and refuse by my amendment to expand it to these incidental contacts which in my view do not prejudice the public interest.

I urge support of my amendment.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment. It is a little bit farther reaching than it would appear on its surface. One must look at line 24 on the bottom of page 44 and realize that the written or oral communications on behalf of another which the bill would prohibit are those made with the intent to influence. These are not simply idle comments, a casual oral conversation, a phone call of no import. These are communications made, as the bill provides and I quote, "with the intent to influence" and "on behalf of any other person." If we were to adopt this amendment, it would be certainly possible for the person in question to do his communicating with members of the agency, members of the board, either oral communication or by telephone or otherwise. It could be written communication, so long as he did not appear in a proceeding. A telephone call which seeks to influence, an oral conversation which seeks to influence, a written communication which seeks to influence but is less than a formal appearance would be exempt from the provisions of the law.

I respectfully submit that this will do harm to the bill. I respectfully submit that the amendment should be rejected.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman for yielding.

I do not think we should make too much out of the fact that the communication is made with the intent to influence. I stipulated that. Of course, that is why a former employee representing another would contact a governmental agency.

It is not the advocacy of a point of view that is evil. The evil is that the Government employee may react improperly to it. We are punishing the wrong end of that equation. We ought to punish the Federal employee for yielding to what may be deemed by him to be improper pressure, rather than punish the simple advocacy of ideas.

Mr. DANIELSON. I would like to respond twofold. In the first place, the language of the currently existing section 207 of title 18 in effect has this same provision there. I say, in effect, because it prohibits the knowingly acting as agent or attorney for anyone other than the United States. That is what is prohibited in existing law.

When this bill was drafted, we had described, first of all, formal or informal appearances before agencies. The other language that the gentleman seeks to strike is the other side of the coin, representation by an agent or attorney, namely, making a written or oral communication on behalf of another with the intent to influence.

As to the last comment, that maybe we should punish the Government employee for responding to the influence, but not the one who seeks to exert the influence, I respectfully submit that is about is illogical as saying we should let the briber go, but the bribee is the one to punish.

I would submit that the knife is just as sharp on either edge.

I respectfully urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 48, line 8, strike out "or" and all that follows through "both" on line 9.

Mr. WIGGINS. Mr. Chairman, this amendment affects the criminal penalties for violating section 207.

The Members should remember that section 207 is that section which prohibits former employees of the Government from making appearances or now writing letters or making telephone calls to an agent of the Federal Government. It is not that he has done anything wrong, Mr. Chairman. This is not a bribe. This is simply advocacy of a point of view. We have adopted a per se rule that a former employee should not appear, should not call, should not contact a present governmental employee, even for a wholly decent purpose.

To enforce that per se rule, we subject the former employee to a $10,000 fine and 2 years in jail. Mr. Chairman, that is going a bit too far.

My amendment splits it down the middle and says that if we are going to have such a rule and that it needs to be enforced by penalties, a fine is an adequate penalty and we need not submit a former employee who has served us well to a 2-year jail term for simply advocating a point of view.

Mr. Chairman, I urge acceptance of the amendment.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendment.

I would like to point out that the penalty provision to which the gentleman

addresses the amendment, appearing on page 48 of the substitute bill on lines 8 and 9, is precisely the language which is in the presently existing section 207 of title 18 on page 45, lines 14 and 15, of H.R. 1.

It is precisely the same, and that language has been on the books since October 23, 1962, having been passed in the 87th Congress.

Section 207 of title 18 is a very wholesome provision of our penal code which prohibits conflicts of interest of the grosser varieties. It has been on the books for 16 years, it has served a useful purpose, and all we are doing in this bill is carrying it forward into the existing law. We change certain parts of section 207, but we have not changed this part of section 207.

Mr. Chairman, I urge that the amendment be not agreed to.

The CHAIRMAN pro tempore (Mr. FOWLER). The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we conclude our consideration of section 207 with this following subparagraph, which I find strange to say the least. On page 50, we find the following language:

Nothing in this section—

And that is section 207—

shall prevent a former officer or employee from giving testimony under oath or from making statements required to be made under penalty of perjury, or from giving any testimony or makng any statement or communication, of such former officer or employee receives no compensation. . . .

Mr. Chairman, let us bear in mind what we are trying to prevent. We are trying to prevent the overreaching effect of a former employee contacting a present Government employee, but we say it is all right if he does it without compensation.

Whether or not the employee receives compensation is about as relevant to the issue of conflict as what suit he wears that day. It has nothing to do with the problem to which the section is addressed.

I am not going to offer an amendment to strike this section because it does provide some modest "out," but I take this time only to point out how irrational it is to say that former employee cannot contact a present employee if he is paid for doing so but he may do so gratuitously, even though the substance of his advocacy may be identical in each case.

Mr. Chairman, I hope the Members will remember this little statement on my part because it does demonstrate how irrational section 207 is.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my purpose in rising is so that the legislative record shall contain some comments on this point in addition to those of the gentleman from California (Mr. WIGGINS).

The subsection to which the gentleman refers—subsection (h) on page 50, line 21 and following lines—was a committee amendment added in the full Committee on the Judiciary, and it was done for the purpose of making clear that none of the provisions in this bill could be construed as preventing a former officer or employee of the Government from testifying for example, in court, before a committee, or any other place where he might be called upon to serve as a witness.

The latter part of the subparagraph even points out that there should be no compensation for such testimony, et cetera, "other than that regularly provided by law or regulation for witnesses."

Mr. Chairman, this is, we might say, simply an overabundance of caution to make it clear that none of the inhibitions of this bill should be construed to prevent a former Government employee from testifying.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: On page 43, after line 21, add the following new Section:

COMPLAINT PROCEDURES

SEC. 224. (1) Any person who believes a violation of Title II of this Act or any other statute, rule, or regulation designed to prevent conflicts of interest has occurred may file a complaint with the Office of Government Ethics. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of Title 18, United States Code. The Commission may not conduct any investigation under this subsection or take any other action under this subsection, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) The Office upon receiving any complaint under paragraph (1), shall refer such complaint to the agency in which the officer or employee who is the subject of the complaint works except in the case of complaints involving the President, the Vice President, the head of each agency, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and a full-time member of a committee, board or commission appointed by the President, which shall be investigated by the Office. The agency or office conducting the investigation shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this subsection.

(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this subsection, of reports and statements filed by any complainant under this title.

(4) The agency or office conducting the investigation shall afford any person who receives notice of an alleged violation under paragraph (2), a reasonable opportunity to demonstrate that no action should be taken against such person by the agency or Office under this Act.

(5) Thirty days after a matter was referred to an agency under paragraph (2), the agency shall report to the Office on what action has been taken on the complaint and the agency shall report to the Office every thirty days thereafter on the status of such complaint until a final resolution with respect to the complaint has been reached by the agency.

(6) Upon the conclusion of an investigation of a complaint filed under this subsection, the complainant and the subject of such a complaint shall be notified of the resolution of such complaint and the reasons therefor.

(7) If the agency or office conducting the investigation determines that a violation has occurred, it may: (A) take appropriate administrative action; and (B) refer the matter to the Department of Justice for civil or criminal enforcement.

(8) In any case in which the agency or Office conducting an investigation refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Office with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 60-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

Redesignate the existing sections 224 and 225 as 225 and 226, respectively.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, the purpose of this amendment is to provide for a complaint procedure similar to that required for the filing of complaints under the Federal election laws and also required for the filing of complaints against Senate or House Members under our ethics code. It is essentially to provide for a sworn and notarized complaint and a procedure for investigating those complaints.

The point is that the bill as it stands now really does not provide for a mechanism that protects both the person who makes the complaint as well as the person who is charged by the complaint for violating conflictive laws. I believe, in regard to the person making the complaint, that he should have the assurance that the complaint will be investigated and pursued by the agency looking into the matter. With regard to the person charged with the conflict, that that person be only subject to a complaint that is sworn to and that is notarized, so that he is not subject to a specious attack.

At the present point, a complaint need not be signed or sworn to or notarized. And, second, there is really no requirement contained in the bill that the investigation into the matter has to be handled expeditiously and conclusively.

My amendment would do several things. One, it would require that the complaint be signed and sworn to, notarized, and presented to the Office of Government Ethics. Second, that the Office of Government Ethics would then refer that matter to the agency for investigation, and that the person who is charged with the possible conflict would also be notified and be given an opportunity to respond. Third, that there would be a time frame for this investigation, requiring 30 days for a report from the agency to be made back to the Office of Government Ethics, with the recommendation that the matter either be dismissed or that administrative action

would be taken or that the matter would be referred to the Department of Justice for civil or criminal enforcement.

The last point I would like to make is that I do not expect that this would require any additional personnel but would simply require a time frame to carry out investigations which I assume would be made under this time, in any event.

What I am trying to provide here is simply an enforcement mechanism that protects both the public and the individual charged with conflict. This is the same administrative procedure that is now required when a person moves against a Member of the Senate or the House under our ethics code or under the Federal election laws. I do not think there should be a separate status for executive or judicial branch officers and employees.

Mr. Chairman, I urge the adoption of my amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman tell me what the complainant must swear to?

Mr. PANETTA. I think the complainant would be swearing to the facts of the allegation that he would make within the complaint.

Mr. WIGGINS. And I further understand, by reason of the last sentence, that the Commission may not commence an investigation on the basis of a complaint which has not been sworn to or where the identity of the complainant may not be known?

Mr. PANETTA. That is correct.

Mr. WIGGINS. Would it be possible for the Commission to undertake an investigation on its own, without having a sworn complaint filed with it?

Mr. PANETTA. I would assume that information coming to the attention of the office, whether it be by press stories or allegations that might be made through other means, that it would be possible and proper for the office to conduct such an investigation.

Mr. WIGGINS. Even though no complaint has been filed?

Mr. PANETTA. That is right.

Mr. WIGGINS. I think that fact needs to be emphasized here because, in all probability, there will be, in the normal course, press disclosures. There is no certainty at all that the disclosures are true. Certainly it cannot be expected that Jack Anderson, for example, would come forward and sign a sworn complaint with respect to the accuracy of the matters which he reports as true. In that case, however, I do not think it is the gentleman's position, nor certainly is it mine, that the Commission would be impotent to investigate the complaint sua sponte?

Mr. PANETTA. In that instance I think it certainly would be proper that the office should proceed with the investigation.

My concern is specifically with regard to an individual who charges that a person has violated conflicts laws. I think that person ought to make a sworn complaint so that we do not have a number of unfounded complaints flowing into the Commission.

Mr. WIGGINS. I think that our colloquy is somewhat at odds with the language of the amendment, but if it is the gentleman's understanding, and certainly it is my understanding, that the Commission is not limited as to initiating investigations, then I would not argue further.

Mr. PANETTA. That is correct.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I urge that this amendment be voted down. I would like to point out that within the four corners of the bill we already have some rather elaborate enforcement procedures. We have proposed to go much further than the Government has ever gone before on the subject relating to ethics. In fact we have gone so far as to cause a great deal of discussion and dissension among the Members themselves.

I would like to point out that any one of the 220 million Americans could file a sworn complaint with the Office of Ethics apparently alleging someone has done something wrong prohibited by this act, and that would immediately trigger an investigation. The office or agency which is going to conduct the investigation must immediately notify the subject, the person complained of, and that agency must report back to the Office of Government Ethics every 30 days on the status of the complaint.

Let us suppose we have an honest to goodness complaint where there is really something corrupt. What havoc would this cause to an ordinary investigation the moment the complaint is filed and the investigating agency has to notify the suspect that "Ah hah, we have caught you with your finger in the cookie jar or very nearly thereto and so now we are going to investigate you." He immediately covers up his tracks, and if there is a good case it is going to be ruined by premature disclosure. That is bad.

But even worse, how many times in the gentleman's career has he found that someone for some reason, good or bad, dislikes him, and what is there to stop that someone from filing a sworn complaint that in his opinion something the gentleman has done is in violation of this law? That means an investigation must be triggered forthwith, the complaint must go to the agency in which the gentleman is employed or, if he is a sufficiently high-level person, it must go to the Office of Government Ethics and the investigation must begin, and if it does continue, if it looks like something may have occurred, it must go to the Attorney General, and while it is at his office the Attorney General must report back every 60 days, and in the meantime the Office of Government Ethics can publish reports on the status of all this referral to the Attorney General.

How many people would be pilloried by the adverse publicity, only to find later, when it is too late, that the complaint is not well-founded, the prosecution was found ill-founded and dismissed?

No, I submit, Mr. Chairman, this goes too far. We have an orderly means in the bill for the resolving of complaints and for the carrying out of investigations, and we certainly should not go so far as to make complainants out of 220 million Americans across the land.

I urge a "no" vote.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, I would just repeat, it seems to me when an individual is required to swear to and sign and have the complaint notarized, that that really is a check within the system rather than an opening up of the door. Not to require those elements would really open the door. It seems to me that has been the experience with the complaints brought under the Federal election laws and complaints against the Members. I think this requires a person to think twice before he or she makes that kind of complaint.

Mr. DANIELSON. I appreciate the gentleman's comment. Mine remains unchanged. I do not think we should make this a nation of 200 million Sherlock Holmeses. It is enough to have the Attorney General and the investigating agencies.

Then there is the press. We cannot put them out of work. What are they going to do if they cannot rummage through our disclosure reports and find something amiss? Let us leave it to our friends in the press gallery to find our misdeeds.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not thinking that this amendment is going to create 200 million Sherlock Holmeses. I would like to ask the gentleman from California (Mr. PANETTA) if any citizen cannot walk in off the streets today to his friendly U.S. attorney and make a compliant if he or she thinks the law has been violated? Is that not correct?

Mr. PANETTA. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. FRENZEL. So, if under the gentleman's amendment that person is allowed to make a complaint with the specific Ethics Commission, then the Commission might be able to engage in conciliatory or mitigation practices. Under that procedure, it seems to me, we would do a lot better to solve some of those problems rather than letting a complaint get turned loose in the Justice Department. Is that not the intent of the gentleman's amendment?

Mr. PANETTA. If the gentleman will yield, that is exactly the intent, to allow that individual to be able to go, other than through the U.S. attorneys, to be able to go through the Office of Government Ethics.

Mr. FRENZEL. I thank the gentleman for his further elaboration.

It seems to me, Mr. Chairman, that the amendment offered by the gentleman from California (Mr. PANETTA) is one that would be very helpful in this particular bill. It would give any citizen who thought there was a violation of law a specific and specialized place to take his or her complaint, and that particular office, I think, would be better prepared to deal with the complaint and to investigate in an informal and then in a formal way and, if necessary, under certain conditions, to pass it on to the Justice Department.

But I would hope that in most cases the cases would not have to be referred to the Justice Department.

In my judgment, the gentleman's amendment, while it seems a little cumbersome in its length, really simplifies the law. I intend to support the amendment.

I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mrs. SCHROEDER. Mr. Chairman, I rise, reluctantly, in opposition to the amendment offered by the gentleman from California (Mr. PANETTA).

I would briefly like to point out to the gentleman from California (Mr. PANETTA) that I really think his amendment duplicates what we have done in the civil service reform legislation. In that legislation we have created "whistle-blower" protections and all sorts of other protections for the public. So many of the things the gentleman from California is worried about have already been taken care of in civil service reform. I think we would be only duplicating what we have already done and creating another layer of bureaucracy by the acceptance of this amendment. So I urge its rejection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was rejected.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to address a couple of questions to the distinguished chairman of the subcommittee, the gentleman from California (Mr. DANIELSON) concerning section 205(A), the last sentence thereof, which is at the top of page 32.

With the defeat of the Mazzoli amendment, this bill, as I understand it, would still permit the filing of false reports by persons who are employed by the CIA, the DIA and the NSA, or any other individual engaged in intelligence activities in any agency in the United States, if the President finds that such filing is necessary to the national interest.

I do not see any guidelines here indicating, for example, whether the President must make a written certification specifying in what ways it is in the national interest. In fact, the phrase "in the national interest" does not impose any restriction at all, in fact, on the President. Looking back to the days of Watergate, it seems to me that this could have been a case where the President or individuals around the President could so evade the intention of this bill as to make almost meaningless all of the other reports which are required.

How are we going to know whether a report is, in fact, true or false if some people can be allowed to file false reports, and what guidelines are there for the President to follow in making these certifications?

Could the gentleman enlighten me in that regard?

Mr. DANIELSON. Mr. Chairman, if the gentleman will yield, we had rather extensive debate on this point earlier today, this morning, in fact.

At the risk of repeating—and I do not wish to repeat too much of it—first of all, we have to look at all of section 205, which begins on page 29. This is the section which provides that all of the reports shall be public records, and then it contains these exceptions:

except that this section does not require public availability of the report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would compromise the national interest of the Federal Government.

There are no more guidelines in the bill than those which I have read.

However, I respectfully submit that they are adequate guidelines. We are dealing with an extremely sensitive, an extremely difficult area of our national effort when we are talking about the intelligence agencies and particularly the cutting edge of those intelligence agencies, the persons who have to go out and actually seek the intelligence.

I submit that we have to place some faith somewhere in our Government. I am not adverse to placing my faith in the President. After all, if we are going to repose it somewhere, I would say that that is about as good a place in which to repose it as we can get. He is restricted with respect to the category of people to whom he can grant this exception. There are certain named agencies and persons engaged in intelligence activities.

I respectfully submit that it begs one's credulity to think that an intelligence agent in the forefront of his work can afford to tear away the mask which shields him from public view to the extent that he can carry out his job.

I know that this plan is not perfection, but I respectfully submit that there can be no perfection in the intelligence activity. We have to put our faith somewhere. We have to protect these agents if we are going to have any effective intelligence work. I, for one, am one who believes that we must have foreign intelligence.

Mr. SEIBERLING. Mr. Chairman, may I respond by saying that I agree with what the gentleman has said. Nevertheless, there is this nagging doubt which remains.

I am sure that the gentleman, since he and I served together in the impeachment investigation, remembers the White House "Plumbers" and G. Gordon Liddy. All of those people, whether properly engaged or not, were engaged in intelligence activities. They were wrongful intelligence activities, in many cases; and yet, the President could have authorized them, under this language, to file false reports.

The CHAIRMAN pro tempore (Mr. FOWLER). The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. If a President could authorize such people to file false reports, that makes all the reports suspect. Who is going to know which reports are true and which are false under the circumstances permitted by this bill? Moreover, if a President wrongfully authorized it, he would nevertheless not have violated the law because he has complete discretion, as I read this bill.

Mr. DANIELSON. If the gentleman will yield further, Mr. Chairman, the answer, unfortunately, has to be in more than one part.

In the first place, what the gentleman says as to what transpired at 1600 Pennsylvania Avenue a few years ago is entirely true. But the gentleman will also recall we threw the rascals out. That is also entirely true. So I respectfully submit that sometimes the evil does come to the surface and something can be done about it.

Another aspect of the answer that is necessary for the gentleman is the one of who is going to know which report is false and which is true? The answer: hopefully, no one. That is the whole idea of filing the cover report. If you have an intelligence agent whose mission is to try to find out what is going on in Moscow, the whole reason you permit him to file a cover report is so that no one does find out, hopefully, that he is such intelligence agent.

Mr. SEIBERLING. That is my problem.

Mr. DANIELSON. I would like to come to that. The third point is that the gentleman has a feeling of doubt. On that I can only say that he is going to have to trust his President, and if he turns out to be wrong, as has happened very rarely in our national history, we are just going to have a job on our hands to root him out. But the gentleman must put his confidence somewhere.

I submit that if you go to the doctor and he slices you open to remove your appendix, you have some confidence in him when he gives you the gas. At least I would have to have confidence. You go to the hospital and they open your chest and do a heart bypass, do you have confidence in that doctor? If not, you do not belong there.

I have similar confidence in our President, be he Republican or Democrat, or, hopefully, someday a lady. Whoever he or she may be, I have to have confidence in our President; otherwise let us just forget it.

The practical fact is that if we do not have this type of protection, we cannot

have a intelligence operation, and in the day in which we live, if we do not have an effective intelligence operation, we might as well forget all about our security because, even though we have foregone covert actions, and we have foregone dirty tricks, and we have foregone many of the things people complain about, the other nations of the world have not done so.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

While the gentleman from Ohio (Mr. SEIBERLING) is here, I would like to engage him for just a minute.

It is a truism to say that the gentleman from California (Mr. DANIELSON) is a very hard act to follow because he really is. He is eloquent and he is committed. But let me just put this thing into .. little perspective because I worked on this bill pretty carefully both on the Intelligence Committee and the Committee on the Judiciary.

It begs the gentleman from California's credulity, he has said, to suggest that the committee bill will lead to wholesale abuse. It strains the credulity of the gentleman from Kentucky that the matter of false reporting would have come full blown to our committee without hearings, that it would have wound up in the subcommittee print, in the full committee print, here on the floor of the House, probably to become a part of the House-passed version. It comes full blown without committee hearings and without the very kind of serious debate the gentleman from Ohio recommends. That is what really strains the gentleman from Kentucky's credulity, much more so than reposing faith in the President to do the right thing under the law as to false reporting.

I share the gentleman from California's feeling that our Presidents are patriotic people, and we wish them well, and we do invest in them certain fundamental judgmental functions. But there has not just been Watergate. There have been several other incidents in this Nation's history which have suggested that the Congress ought not to be anything less than eternally vigilant about oversight of Executive activities in the area of official secrecy and about examining about preparing and about passing the right kind of law in this area. I suggest to the gentleman that he is on a very important point.

Had the amendment offered by the gentleman from Kentucky to the committee bill been agreed to, the final product would have been less than perfect since my original judgment was to strike the entirety of the false reporting provision. But, it would have been a step forward at least.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

I certainly share the gentleman's feeling that we ought to be able to do a more careful job of delineating the circumstances under which the President can make these findings. They should be set forth in statutory guidelines so that he will have something to relate to, for his own protection and for the protection of all of the individual as well as the public interests. I am going to vote for this bill, I believe, because I think that perhaps in conference the conferees will have another opportunity to discuss this and perhaps to do a little better job of laying down some standards and guidelines.

Mr. MAZZOLI. Mr. Chairman, it is a very important topic the gentleman brings up, because as I mentioned earlier today in the debate on the Mazzoli amendment, the Senate version of the bill does not permit any kind of false filing. It merely says all Federal employees should file. There can be an exemption from publication, but every Federal employee must file an accurate financial report.

The House version is to the other side of the spectrum, so as the gentleman suggests, there is room in the bill for compromise when it goes to conference with the Senate version.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, everyone under the bill will have to file a true report, but then the President can authorize a false public report.

Mr. MAZZOLI. That is right.

Mr. SEIBERLING. If I am a reporter or a Congressman or a committee making an investigation, how in the world am I ever going to find out whether the reports I am reading are true or false?

Mr. MAZZOLI. You cannot under the committee bill. You would under the amendment of the gentleman from Kentucky, because the head of the Office of Government Ethics would have a chance to review these filings.

If the gentleman will permit one last observation, the gentleman from Ohio (Mr. SEIBERLING) will be a very valuable Member of the 96th Congress and I hope the gentleman brings to the Commitee on Intelligence and our own Committee on the Judiciary, when we take up next year the charters for the CIA and the FBI, the matters we talked about today. They will be a very legitimate part of our inquiry, and I think the gentleman will make a very vital contribution to disclosure requirements with respect to the final state of this law.

The CHAIRMAN pro tempore. Are there any other amendments to title II?

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 48, line 8, strike all after "$10,000 and all of line 9; and page 50, line 19, strike the comma after "$5,000" and insert a period; and strike all of line 20.

Mr. GONZALEZ. Mr. Chairman, this amendment simply strikes out the criminal sanctions contained in this bill. If it is not a criminal offense to file incorrect information, and if it is not a criminal offense to misuse this information, there is no reason to exact prison sentences for other ethical related acts, like coming in contact with a Government agency too soon after leaving Government employment. Actions of this kind can take place on a simple mistake.

Not long ago a former GSA employee was accused of wrongdoing because he went to work for a company that sells furniture to GSA. He says he had no contact with the Agency, but only advised his employer, and in his opinion had done nothing improper. He resigned his public job with the Agency, anyway, to save his employer embarrassment.

Now, would this have been a criminal act under this bill as written? It could be interpreted as such, I believe, because we are dealing here with judgmental questions. There is no need for us to set up a higher standard for one type of activity than another. Criminal sanctions, I am convinced, have no place in this bill.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I would like to point out that this amendment is substantially the same as that offered by the gentleman from California (Mr. WIGGINS) just a short while ago. It differs only in that it not only strikes the possibility of imprisonment, but also reduces by cutting in half the amount of the fine to be applied.

My argument that that time is exactly the argument that I have now. This provision of the bill is already a part of our existing section 207 of title 18. There is nothing new being added in this bill. We are simply repeating the language of existing law.

We are talking about a criminal offense here. It has been on the books for some 16 years.

Mr. Chairman, I urge that the amendment be defeated.

Mr. WIGGINS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the statement just made by my friend, the gentleman from California (Mr. DANIELSON), is only partially correct. It is true that the fine of $10,000 and the imprisonment for not more than 2 years has been on the books for a long time, but what has been changed is the manner in which one can violate that criminal section.

We have expanded the section greatly to include these incidental contacts such as writing letters or making telephone calls. That is not presently in the law.

There is another change which was pointed up, I believe, by our friend, the gentleman from Texas (Mr. GONZALEZ), who cited the case of a former GSA employee who went to work for a furniture manufacturer. In the case cited, the former employee would not have been in violation of the present law and would not have been subjected to criminal penalties; but in the new law, the one we have before us today, we cover the fact of aiding and assisting another. It is not necessary that one act directly with the Federal agency, but if one aids or assists another who may do so, he is vulnerable to criminal penalties. That is an expansion of the law.

Mr. Chairman, in view of this rather significant expansion and all the hazards carried with it, I think this question of reducing the criminal penalties

by eliminating the risk of jail time and reducing the amount of the fine is entirely in order, and I hope the committee will accept the amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in the interest of brevity, I will simply rise in opposition to the amendment and say that in essence we are just expanding on what is already in the law. There are already penalties provided. I think we should stay with the bill as it is.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The question was taken; and the Chairman pro tempore being in doubt, the Committee divided, and there were—ayes 8, noes 13.

Mr. GONZALEZ. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN pro tempore. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 843]

Ambro	Evans, Ga.	Pressler
Ammerman	Florio	Pursell
Anderson, Ill.	Flowers	Reuss
Andrews, N.C.	Forsythe	Risenhoover
Armstrong	Garcia	Roncalio
Ashbrook	Hansen	Rosenthal
Ashley	Harrington	Rousselot
AuCoin	Harsha	Roybal
Beard, R.I.	Krueger	Runnels
Beard, Tenn.	Leggett	Ruppe
Blanchard	Lehman	Sarasin
Brademas	Lloyd, Calif.	Scheuer
Brown, Mich.	Lundine	Seiberling
Brown, Ohio	McCloskey	Shipley
Burke, Calif.	McDonald	Shuster
Burleson, Tex.	McEwen	Slack
Burton, John	McKay	St Germain
Burton, Phillip	McKinney	Steed
Caputo	Marlenee	Teague
Clay	Mathis	Thone
Cohen	Mikva	Thornton
Conyers	Milford	Tucker
Cornwell	Miller, Calif.	Udall
Davis	Moorhead, Pa.	Waxman
Dent	Moss	Wilson, C. H.
Diggs	Murphy, N.Y.	Wright
Dingell	Nolan	Wylie
Drinan	Pepper	Young, Alaska
Duncan, Oreg.	Pettis	Young, Tex.
Emery	Pike	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SISK) having assumed the chair, Mr. FOWLER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 1, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 343 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Texas (Mr. GONZALEZ) for a recorded vote.

Does the gentleman insist upon his demand?

Mr. GONZALEZ. I do, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 269, not voting 34, as follows:

[Roll No. 844]

AYES—129

Addabbo	Gonzalez	Nichols
Alexander	Goodling	Nix
Annunzio	Gradison	O'Brien
Badham	Guyer	Patten
Barnard	Hagedorn	Pettis
Bauman	Hall	Pickle
Beard, Tenn.	Hammer-schmidt	Poage
Bevill	Harsha	Pritchard
Boggs	Heckler	Pursell
Bowen	Hightower	Quillen
Breaux	Holt	Rhodes
Brooks	Horton	Roberts
Broomfield	Huckaby	Robinson
Brown, Mich.	Hyde	Roncalio
Broyhill	Ireland	Rousselot
Burke, Mass.	Jenkins	Runnels
Butler	Jones, Okla.	Ryan
Carter	Jones, Tenn.	Satterfield
Chappell	Jordan	Schulze
Clawson, Del	Kazen	Sebelius
Cleveland	LaFalce	Shuster
Collins, Tex.	Lagomarsino	Sikes
Conable	Livingston	Sisk
Crane	Lloyd, Tenn.	Smith, Nebr.
Daniel, Dan	Long, La.	Snyder
Daniel, R. W.	Lott	Stanton
de la Garza	Lujan	Steed
Dent	McClory	Steiger
Derwinski	McDonald	Stockman
Dickinson	McEwen	Stump
Dingell	McKay	Symms
Dornan	Mahon	Treen
Duncan, Oreg.	Mann	Ullman
Erlenborn	Marks	Vander Jagt
Evans, Colo.	Marriott	Waggonner
Evans, Del.	Martin	Wampler
Fary	Mattox	Whitehurst
Fish	Metcalfe	Whitten
Flippo	Montgomery	Wiggins
Flowers	Moore	Wilson, Bob
Flynt	Moorhead, Calif.	Winn
Forsythe	Murtha	Wright
Gibbons		Zeferetti
Goldwater		

NOES—269

Abdnor	Breckinridge	Danielson
Akaka	Brinkley	Davis
Ambro	Brodhead	Delaney
Anderson, Calif.	Brown, Calif.	Dellums
Andrews, N.C.	Buchanan	Derrick
Andrews, N. Dak.	Burgener	Devine
Applegate	Burke, Fla.	Dicks
Archer	Burlison, Mo.	Dodd
Ashley	Burton, John	Downey
Aspin	Byron	Drinan
AuCoin	Carney	Duncan, Tenn.
Bafalis	Carr	Early
Baldus	Cavanaugh	Eckhardt
Baucus	Cederberg	Edgar
Beard, R.I.	Chisholm	Edwards, Ala.
Bedell	Clausen, Don H.	Edwards, Calif.
Bellenson	Cochran	Edwards, Okla.
Benjamin	Coleman	Eilberg
Bennett	Collins, Ill.	Emery
Biaggi	Conte	English
Bingham	Conyers	Ertel
Blanchard	Corcoran	Evans, Ga.
Blouin	Corman	Evans, Ind.
Boland	Cornell	Fascell
Bolling	Cornwell	Fenwick
Bonior	Cotter	Findley
Bonker	Coughlin	Fisher
Brademas	Cunningham	Fithian
	D'Amours	Flood
		Florio
Foley	Long, Md.	Roe
Ford, Mich.	Luken	Rogers
Ford, Tenn.	Lundine	Rooney
Fountain	McCloskey	Rose
Fowler	McCormack	Rosenthal
Fraser	McDade	Rostenkowski
Frenzel	McFall	Rudd
Frey	McHugh	Ruppe
Fuqua	Madigan	Russo
Gammage	Maguire	Santini
Garcia	Markey	Sawyer
Gaydos	Mathis	Scheuer
Gephardt	Mazzoli	Schroeder
Giaimo	Meeds	Seiberling
Gilman	Meyner	Sharp
Ginn	Michel	Simon
Glickman	Mikulski	Skelton
Gore	Mikva	Smith, Iowa
Grassley	Miller, Ohio	Solarz
Green	Mineta	Spellman
Gudger	Minish	Spence
Hamilton	Mitchell, Md.	St Germain
Hanley	Mitchell, N.Y.	Staggers
Hannaford	Moakley	Stangeland
Harkin	Moffett	Stark
Harrington	Mollohan	Steers
Harris	Moorhead, Pa.	Stokes
Hawkins	Moss	Stratton
Hefner	Motti	Studds
Heftel	Murphy, Ill.	Taylor
Hillis	Murphy, Pa.	Thompson
Holland	Myers, Gary	Traxler
Hollenbeck	Myers, John	Trible
Holtzman	Myers, Michael	Tsongas
Howard	Natcher	Tucker
Hubbard	Neal	Udall
Hughes	Nedzi	Van Deerlin
Ichord	Nolan	Vanik
Jacobs	Nowak	Vento
Jeffords	Oakar	Volkmer
Jenrette	Oberstar	Walgren
Johnson, Calif.	Obey	Walker
Johnson, Colo.	Ottinger	Walsh
Jones, N.C.	Panetta	Watkins
Kastenmeier	Patterson	Waxman
Kelly	Pattison	Weaver
Kemp	Pease	Weiss
Keys	Perkins	Whalen
Kildee	Pressler	White
Kindness	Preyer	Whitley
Kostmayer	Price	Wilson, Tex.
Krebs	Quayle	Wirth
Latta	Quie	Wolff
Le Fante	Rahall	Wydler
Leach	Railsback	Wylie
Lederer	Rangel	Yates
Leggett	Regula	Yatron
Lehman	Reuss	Young, Fla.
Lent	Richmond	Young, Mo.
Levitas	Rinaldo	Zablocki
Lloyd, Calif.	Rodino	

NOT VOTING—34

Ammerman	Hansen	Sarasin
Anderson, Ill.	Kasten	Shipley
Armstrong	Krueger	Skubitz
Ashbrook	McKinney	Slack
Brown, Ohio	Marlenee	Teague
Burke, Calif.	Milford	Thone
Burleson, Tex.	Miller, Calif.	Thornton
Burton, Phillip	Murphy, N.Y.	Wilson, C. H.
Caputo	Pepper	Young, Alaska
Clay	Pike	Young, Tex.
Cohen	Risenhoover	
Diggs	Roybal	

The Clerk announced the following pairs:

On this vote:

Mr. Burleson of Texas for, with Mrs. Burke of California against.

Mr. Teague for, with Mr. Pepper against.

Mrs. LLOYD of Tennessee and Mr. JONES of Tennessee changed their vote from "no" to "aye."

Mr. ICHORD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—JUDICIAL PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PERSONS REQUIRED TO FILE

SEC. 301. (a) Upon assuming the position of a judicial employee, an individual shall file a report as required by section 302(b).

(b) Upon the transmittal by the President to the Senate of the nomination of an individual to be a judicial officer, such individual shall file a report as required by section 302(b).

(c) Any individual who is a judicial officer or employee during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report as required by section 302(a).

(d) Any individual who occupies a position as a judicial officer or employee shall on or before the thirtieth day after termination of employment in such position, file a report as required by section 302(a), unless such individual has accepted employment in another position as a judicial officer or employee.

(e) For purposes of this title, the term—

(1) "judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the courts of appeals; district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands; Court of Claims; Court of Customs and Patent Appeals; Customs Court; and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior; and

(2) "judicial employee" means any employee of the judicial branch of the Government, not described in paragraph (1), who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5, United States Code.

(f) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Judicial Ethics Committee established by section 303(a) of this title (hereinafter in this title referred to as the "Committee"), but the total of such extensions shall not exceed ninety days.

CONTENTS OF REPORT

SEC. 302. (a) Each report filed under subsections (c) and (d) of section 301 shall include a full and complete statement, in such manner and form as the Committee with the approval of the Judicial Conference of the United States may prescribe, with respect to the following:

(1) The source, type, and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owned to the reporting individual by a relative.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse, or

(ii) in stocks, bonds, commodities future, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positons held on or before the date of filing during the current calendar year (and, for the initial report, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution. This paragraph shall not require the reporting of positions held in any religious social, fraternal, charitable, or political entity.

(7) A description of the date, parties, to terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed under subsections (a) and (b) of section 301 shall include a full and complete statement, in such manner and form as the Committee with the approval of the Judicial Conference of the United States may prescribe, with respect to information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the sources and amounts of earned income and other payments for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 301(d) of this Act, any reference to the preceding calendar year shall be considered to include that part of the current calendar year up to the date of the termination of employment.

(d) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) or in subsection (e) are as follows:

(1) up to $5,000;

(2) from $5,000 to $15,000;

(3) from $15,000 to $50,000;

(4) from $50,000 to $100,000; and

(5) greater than $100,000.

(e)(1) Each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person which exceed $1,000.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported other than items (i) which the reporting individual certifies represents the spouse's role financial interest or responsibility, (ii) which are not in any way, past or present, derived from the income, assets or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(2) Each report shall also contain all information listed in paragraphs (3) through (5) of subsection (a) respecting any dependent child of the reporting individual other than items (A) which the reporting individual certifies represent the dependent child's sole financial interest or responsibility, (B) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (C) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(3) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f) The holdings of and the income from a trust or other financial arrangement from which the reporting individual, spouse, or dependent child receives income or in which such person has a beneficial or equity interest must be reported according to the provisions of this section; except that in the case of a reporting individual other than a judicial officer or a judicial employee who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, if the trust or financial arrangement is a blind trust approved under regulations prescribed by the Committee, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable laws and regulations, the report shall so indicate and need only include (in addition to a statement of the income from the blind trust in accordance with section 302) a copy of the instrument or agreement establishing such blind trust and, to the extent known or readily ascertainable, the identity and category of value of assets contained in the trust or arrangement at the time it became a blind trust, and the identity and category of value of assets subsequently added to the blind trust.

(g) Political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported under this title.

FILING OF REPORTS

SEC. 303. (a) The Judicial Conference of the United States shall establish a Judicial Ethics Committee which shall be responsible for receiving and making available, in accordance with the provisions of this title, the reports described in section 302.

(b) Each judicial officer and judicial employee shall file the report required by this title with the Committee.

(c) In the performance of its functions

under this title, the Committee with the approval of the Judicial Conference of the United States shall—

(1) promulgate such rules and regulations as may be necessary;

(2) monitor and investigate compliance with the requirements of this title;

(3) provide for the availability of reports as required by section 305;

(4) conduct, or cause to be conducted, the reviews required by section 306;

(5) cooperate with the Attorney General in enforcing the requirements of this title;

(6) submit to the Congress and the President recommendations for legislative revision of this title;

(7) perform such other functions as may be assigned by the Judicial Conference of the United States.

(d) The Committee shall, within one hundred and twenty days after the date of enactment of this Act, develop and, with the approval of the Judicial Conference of the United States, promulgate a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this title.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 304. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report under section 101. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The Committee shall refer to the Attorney General the name of any individual the Committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to file information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 305. (a) The Committee shall make each report filed with it under this title available to the public in accordance with subsection (b) of this section.

(b)(1) The Committee shall require each person requesting inspection or a copy of a report under subsection (a) of this section to execute an application stating—

(A) his name, occupation, address, and telephone number;

(B) the name, address, and telephone number of the person or organization, if any, on whose behalf he is making the request; and

(C) that the information obtained by such inspection or from such copy shall not be used for any purpose prohibited by subsection (c) of this section.

(2) Upon receipt of an application required by paragraph (1) of this subsection, the Committee shall promptly forward a copy of such application to the reporting individual. The Committee shall permit inspection by or furnish a copy of the report to the requesting person within fifteen days after the report is received by the Committee. The Committee may require the requesting person to pay a reasonable fee in an amount which the Committee finds necessary to cover the costs of reproduction and mailing of such report.

(3) Once the requesting person has inspected or received a copy of a report, his name and address and the name and address of the person or organization, if any, on whose behalf the inspection or copy was requested, shall be made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

(d) Any report received by the Committee shall be held in its custody and be made available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section 301(b) and was not subsequently confirmed by the Senate, such reports shall be destroyed one year after the individual is no longer under consideration by the Senate.

COMPLIANCE PROCEDURES

SEC. 306. (a) The Committee shall establish procedures for the review of reports sent to it under section 303 to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) Such procedures shall include provisions for conducting a review each year of financial statements filed in that year by judicial officers and employees to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review.

ADDITIONAL REQUIREMENTS

SEC. 307. (a) Nothing in this title shall be construed to prevent the Committee, with the approval of the Judicial Conference of the United States, from requiring officers or employees of the judicial branch not covered by this title to submit confidential financial statements.

(b) The Committee may require the reporting and disclosure of information pertaining to reporting individuals and their spouses and dependent children in addition to that required by this title for the purpose of furthering compliance with laws, regulations, and codes governing the conduct of officers and employees of the judicial branch or insuring the confidence of the public in the integrity of the Government.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law or regulation.

(d) The provisions of this title requiring the reporting of information shall not supersede the requirements of section 7342 of title 5, United States Code.

EFFECTIVE DATE

SEC. 308. This title shall take effect on January 1, 1979, and the reports filed under section 301(a) on May 15, 1979, shall include information for calendar year 1978.

DEFINITIONS

SEC. 309. For the purposes of this title, the terms "income", "relative", "gift", "honoraria", "estimated value", "personal hospitality of any individual", "blind trust", "dependent child", and "reimbursement" have the meanings set forth in section 209 of this Act.

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title III be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENTS OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer a series of amendments to title III.

The Clerk read as follows:

Amendments offered by Mr. DANIELSON: Page 57, line 22, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 58, after line 19, insert "Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual, contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.".

Page 58, line 20, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 59, line 4, after "benefit." insert "Each report referred to in subsection (b)' of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.".

Page 62, line 2: Strike "101" and insert "302".

Page 64, lines 17 and 18: Strike "appropriate committee" and insert "Committee".

Page 65, lines 9 through 16, strike: "(b) The Committee may require the reporting and disclosure of information pertaining to reporting individuals and their spouses and dependent children in addition to that required by this title for the purpose of furthering compliance with laws, regulations, and codes governing the conduct of officers and employees of the judicial branch or insuring the confidence of the public in the integrity of the Government."

Page 65, line 17 strike "(c)" and insert "(b)".

Page 65, line 22, strike "(d)" and insert "(c)".

Page 66, line 3: Strike "(a)" and insert "(c)".

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that these amendments, all of which are technical amendments, and copies of which have been provided to the minority, and which amendments refer to pages 57, 58, 59, 62, 64, 65, and 66 be considered en bloc, be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I am happy to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Chairman, we have no objection to the amendments.

Mr. DANIELSON. I thank the gentleman.

Mr. Chairman, as I stated before, these are all technical amendments and amendments which conform title III to the provisions of titles II and I, as they apply to the different branches of the Government.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from California (Mr. DANIELSON).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 52, strike out line 1 and all that follows through page 66, line 10.

Mr. WIGGINS. Mr. Chairman, I am happy that we have more Members in the Chamber to consider the amendment which I have just offered.

I feel as strongly about this amendment as any other that could be made or has been offered this afternoon. The amendment is simplicity in itself. It strikes title III. In other words, it removes from the coverage of this bill judges, and designated officers and officials in the judicial branch of the Government.

Mr. Chairman, so far as I know, there has not been, nor has there ever been in the history of this Republic, persistent scandals of any magnitude with regard to the conduct of our judges. No ugly questions have been raised as to whether or not they have been guilty of impropriety by reason of conflicts of interest or whether their holdings may have improperly influenced their decisions.

Now there have been exceptions, and I admit them, but, on the whole, I hope that the Members here will accept that we have a fine Federal judiciary, which is held in the highest respect and esteem by the people of this country.

In short, Mr. Chairman, with respect to judges, we do not have a problem which needs fixing.

The second point which needs to be made is that for some years the Judicial Conference of the United States has had in place and operating a code of ethics for judges. Under that code, judges have been requested to make financial disclosures and, obviously, are precluded from participating in any case in which they have even the slightest potential for conflict of interest. In my experience, Federal judges have been most sensitive to this code, and have bent over backward to excuse themselves from any matter which involved, or which might give the appearance of involvement in a conflict of interest.

In summary, then, with respect to point two, the existing system has been working.

Most fundamentally of all, Mr. Chairman, if law in this country is going to exist, people have to respect it. People have to respect and obey the decisions made by our Federal judiciary, or our magnificent system of justice is going to collapse.

We do a great deal to give our judges the appearance of wisdom and majesty. We make them the high priests of justice. We invest them with robes. They sit on high benches in impressive courtrooms. And they dispense justice. Respect for the Court, and adherence to its judgments, is enhanced by the special status we accord judges. If such respect is to continue, we cannot expose them to exacting personal scrutiny, unless compelled to do so by an overriding public purpose. In the case of judges, that need has not been demonstrated.

If, for one moment, the people begin to doubt the integrity, the wisdom, and the objectivity of judges, this whole system of law which in a democracy is based upon popular consent is threatened.

Under this bill, Mr. Chairman, I fear that we will give to the people a basis upon which their confidence and their faith in justice and judges is apt to be questioned and hence eroded.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I am inclined to agree with the distinguished gentleman from California (Mr. WIGGINS). It is a fine, idealistic, and altogether appropriate approach for an attorney. I belong to that honorable profession, as does the gentleman in the well.

Mr. Chairman, may I ask the gentleman this question: If it is so true that title III of the bill should be stricken, why should there be any bill at all? Why should we be subject to this ourselves when the people themselves check on us every 2 years as lawmakers? Are we not at the same level and are we not deserving of the same consideration and respect which judges and members of the judiciary receive, since we are the ones who write the laws of this land?

Mr. Chairman, I ask the gentleman to respond to that particular observation.

Mr. WIGGINS. Mr. Chairman, I agree with the gentleman. I am going to vote "no" on the bill. Perhaps the gentleman's question should be directed to someone else.

Mr. Chairman, let me proceed for a moment by saying that it is absolutely essential that the public view of our judges not be eroded.

It has been said, I think of liver sausage, that if one wants to maintain a taste for it, he cannot look too closely at the manner in which it is made. One cannot look at anyone minutely and continue to have the same perfect respect for him or her that one might otherwise have.

Mr. Chairman, if every Federal judge in the United States is going to have to disclose the assets he owns, the liabilities that he may have incurred, the income which he has received, the transactions in which he engages, and the gifts that he receives, every disappointed litigant in the country is going to examine that financial statement to see whether he or she can develop a theory of conflict of interest which does not, in fact, exist.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. WIGGINS) has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. The Members know that this kind of scrutiny of Federal judges will not enhance the reputation and the public perception of our Federal judiciary. I do not know how to convey my thoughts more clearly than I have done so already. I feel so strongly about this, I beg the Members not to do this to our Federal judges. For God's sake, think about what you are doing to yourselves. If you are willing to assume the questions and cynicism which will follow, it is your fault. If you are willing to impose this burden upon the executive branch, and I hope you will not, perhaps we can tolerate that decision. But the notion that we should impose such a burden on the Federal judiciary is unacceptable. The entire system of justice will suffer. I strongly urge the Members to vote for my amendment, striking the Federal judiciary from this bill.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose the amendment offered by my good friend and most distinguished member of the Committee on the Judiciary, the gentleman from California (Mr. WIGGINS). I would like to point out that I share with him fully his respect for our judiciary. I will not play a second role to anyone in my admiration for our system of administrative justice and for those who have the key role, our judges. But I want to point out that we have come to a crossroads in our society, in our Government, in our mores, in our concept, our perception of what government officials should be, and the people of America today demand something in addition to what they have had in the past. They want some type of a way to examine into, to look at, to analyze, to evaluate the financial transactions of people in the key roles of Government, and I submit that that includes judicial personnel.

This bill is not the first venture of our Government to provide some access to the financial records of our judiciary. The judicial branch itself has provided, and I show the Members the pamphlet which they themselves put out which relates to the Judicial Conference Committee's concern with ethical standards in the Federal judiciary. They themselves have requirements on reporting within the judicial branch. They also have a form which is part of their report that each member of the judicial branch is asked to execute, submit, and file of record with the judicial branch. So we are not breaking ice; we are simply putting into the law something which the judicial branch already has in its regulations, and we are doing it in a manner in which, I respectfully submit, we have watched out for and protected the interests of the judicial branch as far as it is possible to do in general legislation.

We recognize that they are a separate branch of Government. The legislative branch will not be governing them. The executive branch will not be controlling their disclosures. We have authorized, in fact we have mandated, that the judicial branch itself should set up a Judicial Ethics Committee. It will be set up by the Judicial Conference of the United States. The Judicial Conference through its Judicial Ethics Committee will run its own show. They will prescribe their own regulations. They will handle the filing and the review of reports. We have left enforcement of this entirely within the judicial branch, out of full respect for the separation of powers. We have not had any serious complaints from the

judiciary in connection with the working up and presentation of this legislation. We have had a few informal gripes, as we have had from the legislative branch and occasionally from the executive branch. But the judicial branch has not been very outspoken in opposing this legislation. We have left enforcement with them. We have left the custody of the reports with them. We have tried to make the basic parameters of disclosure conform to those which we have demanded of the executive and legislative branches.

I think this is a wholesome provision in the law, and although I join with my good friend, the gentleman from California (Mr. WIGGINS) in regretting the fact that we have come to this stage in our national existence as applies to the legislative and the executive, and the judicial branches, I submit that this is a proper title in the bill, and I respectfully urge that there be a no vote on the amendment.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I would like to join the gentleman in opposing this amendment. As chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of the Committee of the Judiciary, we are aware that the judges presently file the form to which the gentleman referred. Some do not file because, of course, there is no penalty and because they insist, among other things, that the Justices of the Supreme Court need not file and, as a result, there is a very uneven administration of that in-house judicial requirement.

It seems only fair while we are treating all three branches of the Federal Government that the judicial branch not be neglected in terms of this reassertion of public confidence.

Mr. Chairman, I join the gentleman in suggesting and agreeing that not many judges have been held up to criticism, but we have seen questions raised even involving the Supreme Court itself in the past 10 years or so in which at least matters have been alluded to which this bill certainly would go a long way in answering.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. HOLLAND, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. HOLLAND. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from South Carolina.

Mr. HOLLAND. Mr. Chairman, I would only ask two questions about this. Quite frankly I have some reservations. I know that the judiciary has not come to your committee with its concerns. If you look at their code of ethics, they are pretty well precluded from influencing your committee and this Congress. I do not know how long it has been since most of the Members of this body have been in a courtroom, but there is something about the judicial system in America that should be pointed out that makes it different from our function or the executive function. They are engaged across this land in trying to administer justice and bringing to trial the most unsavory elements in our national structure—people who are unscrupulous, who would do anything to get their hands on this type of information and in some way intimidate the judges and pervert our system of justice.

There is a growing number of cases where the courts have to bring the press itself before the bench of justice. The press itself would have an opportunity to use these documents if they felt threatened and lay them in front of the public to thwart true justice where its own members are involved.

I think the judiciary has been set up by us to be above this petty type of inspection.

Mr. Chairman, I urge passage of the amendment.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Wiggins amendment and take this opportunity to emphasize the highly inconsistent, I would say almost chaotic approach that has been taken by proponents. Awhile ago I offered an amendment to decriminalize selective areas that for some judgmental decisions the committee saw fit to include, where they denied to other areas of infractions in this same bill.

Now, here I wholeheartedly agree that the gentleman from California, if he did not say so, certainly insinuated that we are encroaching, and I think improperly, if not in the actual letter of the law, certainly in the spirit of the violation of the law, in the separation and independence and coequality of these three branches of Government.

All this ado about victimizing the third branch is because we have flagellated ourselves and are now about to go to the executive branch and, therefore, we ask how in the world can we justify leaving out the judiciary?

I think the real issue here is in this language by which for the first time we are going to expose the judiciary by commandeering from the legislative branch the type of reporting that is susceptible of great misuse. We provide in it for the publication of information derived from a most private and confidential source. Then to compound the confusion we provide this: We say, "Oh, maybe the possibility of misuse is there," so we enumerate the possibilities of misuse of this information and say, "But this information shall not be used for such things as checking on or establishing the credit rating of a judge," et cetera.

But what is done to enforce that? Next to nothing. The only penalties here are civil penalties. How come the committee did not impose criminal sanctions on some of the misbehavior that might result and which the committee anticipates could reasonably result?

What we are doing now, I think, is showing again that the House is acting under pressure of a political nature. It is trying to indulge in baths of purity, which will not satisfy the demands that are being made by those who, as I said earlier, are professional haters of the Congress. Nothing is going to appease them.

I can refer the Members to editorials that appeared in the U.S. News & World Report just a week or two ago. After all the reform that the Congress has bragged about so much for 2 or 3 years, the best that these editorials could give us credit for is that we are just scrounging around seeking reelection, and they say that we are still in need of further reform.

We are now compounding the problem by getting the hapless judiciary involved in these legislative machinations. I think the least we could do would be to delete this section and find alternatives to stimulating the judiciary to enhance what we think they need as far as their procedures along these lines are concerned.

Mr. Chairman, we should certainly not ask the judiciary to accept the kind of mandate this bill provides for in this title III.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WIGGINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 75, noes 316, not voting 41, as follows:

[Roll No. 845]

AYES—75

Annunzio	Gonzalez	O'Brien
Boland	Goodling	Quillen
Breaux	Guyer	Robinson
Breckinridge	Hammer-schmidt	Roncalio
Brooks	Harsha	Rostenkowski
Broomfield	Hillis	Roybal
Burgener	Holland	Ryan
Burton, Phillip	Hollenbeck	Sebelius
Butler	Howard	Shuster
Clawson, Del	Hughes	Sisk
Collins, Tex.	Jeffords	Skelton
Conable	Jenkins	Snyder
Corman	Jenrette	Stanton
Crane	Lagomarsino	Steed
Daniel, Dan	McClory	Steiger
Daniel, R. W.	McCloskey	Symms
Dent	McDonald	Taylor
Duncan, Oreg.	McKay	Treen
Eckhardt	Mann	Waggonner
Evans, Colo.	Michel	Wampler
Fary	Minish	Whitehurst
Forsythe	Moorhead, Calif.	Wiggins
Fraser	Murtha	Winn
Gaydos	Nix	Yatron
Gibbons		Zablocki
Goldwater		

NOES—316

Abdnor	Bauman	Brodhead
Addabbo	Beard, R.I.	Brown, Calif.
Akaka	Beard, Tenn.	Brown, Mich.
Ambro	Bedell	Broyhill
Anderson, Calif.	Beilenson	Buchanan
Andrews, N.C.	Benjamin	Burke, Mass.
Andrews, N. Dak.	Bennett	Burlison, Mo.
Applegate	Bevill	Byron
Archer	Biaggi	Carr
Ashley	Bingham	Carter
Aspin	Blanchard	Cavanaugh
AuCoin	Blouin	Cederberg
Badham	Boggs	Chappell
Bafalis	Bolling	Chisholm
Baldus	Bonior	Clausen, Don H.
Barnard	Bonker	Cleveland
Baucus	Bowen	Cochran
	Brademas	Coleman
	Brinkley	

Collins, Ill.	Ireland	Poage
Conte	Jacobs	Pressler
Corcoran	Johnson, Calif.	Preyer
Cornell	Johnson, Colo.	Price
Cornwell	Jones, N.C.	Pritchard
Cotter	Jones, Okla.	Pursell
Coughlin	Jones, Tenn.	Quayle
Cunningham	Jordan	Quie
D'Amours	Kastenmeier	Rahall
Danielson	Kazen	Railsback
Davis	Kelly	Rangel
de la Garza	Kemp	Regula
Delaney	Keys	Reuss
Dellums	Kildee	Rhodes
Derrick	Kindness	Richmond
Derwinski	Kostmayer	Rinaldo
Devine	Krebs	Risenhoover
Dickinson	LaFalce	Roberts
Dicks	Latta	Rodino
Dingell	Leach	Roe
Dodd	Lederer	Rogers
Dornan	Leggett	Rooney
Downey	Lehman	Rose
Drinan	Lent	Rosenthal
Duncan, Tenn.	Levitas	Rousselot
Early	Livingston	Rudd
Edgar	Lloyd, Calif.	Runnels
Edwards, Ala.	Lloyd, Tenn.	Ruppe
Edwards, Calif.	Long, La.	Russo
Edwards, Okla.	Long, Md.	Satterfield
Eilberg	Lott	Sawyer
Emery	Lujan	Scheuer
English	Luken	Schroeder
Erlenborn	Lundine	Schulze
Ertel	McCormack	Seiberling
Evans, Del.	McDade	Sharp
Evans, Ga.	McFall	Sikes
Evans, Ind.	McHugh	Simon
Fascell	Madigan	Smith, Iowa
Fenwick	Maguire	Smith, Nebr.
Findley	Mahon	Solarz
Fish	Markey	Spellman
Fisher	Marks	Spence
Fithian	Marlenee	St Germain
Flippo	Marriott	Staggers
Flood	Martin	Stangeland
Florio	Mathis	Stark
Flowers	Mattox	Steers
Flynt	Mazzoli	Stockman
Foley	Meeds	Stokes
Ford, Mich.	Metcalfe	Stratton
Ford, Tenn.	Mikulski	Studds
Fountain	Mikva	Stump
Fowler	Milford	Thompson
Frenzel	Miller, Ohio	Thornton
Frey	Mineta	Traxler
Fuqua	Mitchell, Md.	Trible
Gammage	Mitchell, N.Y.	Udall
Gephardt	Moakley	Ullman
Giaimo	Moffett	Van Deerlin
Gilman	Mollohan	Vander Jagt
Ginn	Montgomery	Vanik
Glickman	Moore	Vento
Gore	Moorhead, Pa.	Volkmer
Gradison	Mottl	Walgren
Grassley	Murphy, Ill.	Walker
Green	Murphy, Pa.	Walsh
Gudger	Myers, Gary	Watkins
Hagedorn	Myers, John	Waxman
Hall	Myers, Michael	Weaver
Hamilton	Natcher	Weiss
Hanley	Neal	Whalen
Hannaford	Nedzi	White
Harkin	Nichols	Whitley
Harrington	Nolan	Whitten
Harris	Nowak	Wilson, Bob
Hawkins	Oakar	Wilson, Tex.
Heckler	Oberstar	Wirth
Hefner	Obey	Wolff
Heftel	Ottinger	Wright
Hightower	Panetta	Wydler
Holt	Patten	Wylie
Holtzman	Patterson	Yates
Horton	Pattison	Young, Fla.
Hubbard	Pease	Young, Mo.
Huckaby	Perkins	Zeferetti
Hyde	Pettis	
Ichord	Pickle	

NOT VOTING—41

Alexander	Conyers	Pike
Ammerman	Diggs	Santini
Anderson, Ill.	Garcia	Sarasin
Armstrong	Hansen	Shipley
Ashbrook	Kasten	Skubitz
Brown, Ohio	Krueger	Slack
Burke, Calif.	Le Fante	Teague
Burke, Fla.	McEwen	Thone
Burleson, Tex.	McKinney	Tsongas
Burton, John	Meyner	Tucker
Caputo	Miller, Calif.	Wilson, C. H.
Carney	Moss	Young, Alaska
Clay	Murphy, N.Y.	Young, Tex.
Cohen	Pepper	

Mr. HYDE and Mr. MADIGAN changed their vote from "aye" to "no."

Mr. ECKHARDT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer amendments, and I ask unanimous consent that my amendments number 8, 9, and 10 to title III be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mrs. SCHROEDER: Page 63, line 3, strike the period and insert in lieu thereof ", if the reporting individual is an officer or employee in the Judicial branch at the time the application is received."

Page 64, after line 3, insert the following: "Such remedy shall be in addition to any other remedy available under statutory or common law."

Page 66, line 10, strike out "209" and insert in lieu thereof "210".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, these three amendments are strictly technical and are intended to conform title III to title II.

I think we adopted the same ones in title II, and I would ask that they be adopted.

Mr. DANIELSON. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I have looked over the amendments. I am aware of them. I believe the minority side is aware of them also.

Mr. Chairman, I agree to accept the amendments.

Mr. MOORHEAD of California. If the gentlewoman will yield, Mr. Chairman, we will be happy to accept the amendments.

Mr. CHAIRMAN. The question is on the amendments offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 65, line 4: strike all of line 4 through line 8.

Mr. GONZALEZ. Mr. Chairman, my amendment deletes section 307 on page 65 for substantially the same reasons as I offered the amendment to delete section 207, except with additional strings, I believe, in this case, because this provision is, I think, overkill.

It demands information of a confidential nature even with respect to the lowliest of employees working for the courts or the judicial system, including spouses.

Subsection (b) reads as follows, for example:

The Committee may require the reporting and disclosure of information pertaining to reporting individuals and their spouses and dependent children in addition to that required by this title for the purpose of furthering compliance with laws, regulations, and codes governing the conduct of officers and employees of the judicial branch or insuring the confidence of the public in the integrity of the Government.

Mr. Chairman, that section is certainly vain, to say the least; and certainly, even under the strictest of interpretations, the requirement is susceptible to great abuse.

We are not only now going after the poor old judges, we are now going to go get their wives, kids, and everybody else and make them very much susceptible to the malice that oftentimes arises in public life.

In hearing the debate on this type of legislation, and hearing the previous discussion by some of the members of the committee defending it, one would think that we are writing legislation for angels to carry out, and we well know through experience that in formulating laws we have got to assume that the laws that we are shaping can be used by the worst depraved men and are not necessarily going to be carried out by angels. I hope that in our zeal to get this high moral quality of ethical behavior all over the place that we will not succumb to this overcharged type of legislation, and I urge the adoption of this amendment that will strike section 307 that the bill can live very comfortably without.

Mr. DANIELSON. Mr. Chairman, I rise to oppose the amendment. A comparable amendment was offered in title II to reach a similar provision as related to title II. We went through it at some length at that time. This is to permit the Judicial Conference to require the officers and employees of the judicial branch to submit confidential financial statements. They are to be done in harmony with the other provisions of the bill, and it simply gives the Judicial Conference this right within its own branch. I urge a "no" vote.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

The gentleman's remarks are directed primarily to section 307(a). The gentleman from Texas spoke primarily to the evils of section 307(b). I understand that 307(b) is not in the bill, having been taken out earlier by a technical amendment by the gentleman from California. Would the gentleman tell me if that is true or not?

Mr. DANIELSON. Yes: in the technical amendments which we adopted just a little bit ago—the minority committee counsel who is seated beside the gentleman is aware of them—subsection (b) was stricken.

Mr. WIGGINS. I thank the gentleman. I know it will be a matter of interest to the gentleman from Texas. The gentleman is clearly right that section 307 (b) must be out of the bill in order to be worthy of any support at all.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

I think the gentleman from California as always has shown his competence. The fact that the amendments are technical amendments and were offered en bloc and were not discussed did not give me an opportunity to reason or know that deletion of subsection (b) was included. So I thank the gentleman. This is exactly what I was seeking, so I am glad to hear that.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

● Mr. WOLFF. Mr. Chairman, I rise today in strong support of the bill H.R. 1, Ethics in Government Act. The thrust of this important legislation is to codify the disclosure requirements adopted by the House in 1977 and to extend these requirements to high ranking persons in the executive branch and to the Federal judiciary. In addition, this bill includes some new conflict-of-interest restrictions for the executive branch and extends the disclosure requirements to candidates for Congress.

Mr. Chairman, the American people deserve no less.

The time has come for financial disclosure to become a statutory requirement for high level officials in all three branches. I strongly supported the actions by this House in adopting last year the strong code of conduct and I urge the passage of this legislation in adopting statutory governmentwide financial disclosure. Enactment of this legislation is an important step in fulfilling our commitment to integrity and efficiency in the conduct of government.

In March of 1977, by a vote of 402 to 22, the House, with my support, passed House Resolution 287 which amended House rules to strengthen financial disclosure requirements, prohibit unofficial office accounts and lameduck travel, and increase restrictions on the franking privilege and outside earned income by Members of Congress. These new provisions are now part of the Rules of the House of Representatives, but have not yet been enacted into law.

The bill before us now takes the necessary steps of making the rules part of the law by putting "teeth" into them and by providing for civil and criminal sanctions for violations of the act. Previously, the House beat back, with my support, an attempt to weaken the code of conduct by removing those key provisions relating to limits on outside earned income for Members of Congress.

I favor an earnings limit because I believe congressional office is now a full time job for which a full time salary is paid. It is not unreasonable to expect Congressmen to be full time legislators. Just take a look at the crowded congressional calendars and the magnitude of the problems with which we are confronted, if you have any doubts about this.

I also support the extension of financial disclosure requirements to candidates for Federal office—incumbent and nonincumbent alike. I firmly believe that disclosure by all candidates is necessary for voters to fully evaluate a candidate. Lack of full disclosure by some candidates has caused problems in the past, something that I hope will be corrected. In the final analysis, candidates for office voluntarily place themselves in the same public position as elected officials and should be held to the same high standards.

This bill strikes the necessary and appropriate balance between the need for public disclosure and the privacy interests of those required to report. The light of public disclosure is an effective deterrent to improper or unethical behavior on the part of Government officials. Moreover, it will help to dispel the suspicion of impropriety, even in cases where there is no impropriety in fact.

This bill deserves the support of the American people. I urge its adoption.●

The CHAIRMAN. If there are no further amendments to title III, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions, pursuant to House Resolution 1323, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. WIGGINS. I am opposed to the bill, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit. The Clerk read as follows:

Mr. WIGGINS moves to recommit the bill, H.R. 1, to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. WIGGINS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 30, answered "present" 1, not voting 33, as follows:

[Roll No. 846]

YEAS—368

Abdnor	Cornwell	Hall
Addabbo	Cotter	Hamilton
Akaka	Coughlin	Hammer-schmidt
Ambro	Cunningham	Hanley
Anderson, Calif.	D'Amours	Hannaford
Andrews, N.C.	Daniel, R. W.	Harkin
Andrews, N. Dak.	Danielson	Harrington
Applegate	Davis	Harris
Archer	de la Garza	Harsha
Ashley	Dellums	Hawkins
Aspin	Dent	Heckler
AuCoin	Derrick	Hefner
Bafalis	Derwinski	Heftel
Baldus	Devine	Hightower
Barnard	Dickinson	Hillis
Baucus	Dicks	Hollenbeck
Bauman	Dingell	Holt
Beard, R.I.	Dodd	Holtzman
Beard, Tenn.	Dornan	Horton
Bedell	Downey	Howard
Beilenson	Drinan	Hubbard
Benjamin	Duncan, Tenn.	Huckaby
Bennett	Early	Hughes
Bevill	Eckhardt	Hyde
Biaggi	Edgar	Ichord
Bingham	Edwards, Ala.	Ireland
Blanchard	Edwards, Calif.	Jacobs
Blouin	Edwards, Okla.	Jeffords
Boggs	Eilberg	Jenkins
Boland	Emery	Jenrette
Bolling	English	Johnson, Calif.
Bonior	Ertel	Johnson, Colo.
Bonker	Evans, Del.	Jones, Okla.
Bowen	Evans, Ga.	Jones, Tenn.
Brademas	Evans, Ind.	Jordan
Breaux	Fary	Kastenmeier
Breckinridge	Fascell	Kazen
Brinkley	Fenwick	Kelly
Brodhead	Findley	Kemp
Broomfield	Fish	Keys
Brown, Calif.	Fisher	Kildee
Brown, Mich.	Fithian	Kindness
Broyhill	Flippo	Kostmayer
Buchanan	Flood	Krebs
Burgener	Florio	LaFalce
Burke, Fla.	Flowers	Lagomarsino
Burke, Mass.	Flynt	Latta
Burlison, Mo.	Foley	Le Fante
Burton, John	Ford, Tenn.	Leach
Burton, Phillip	Fountain	Lederer
Byron	Fowler	Leggett
Carney	Fraser	Lehman
Carr	Frenzel	Lent
Carter	Frey	Levitas
Cavanaugh	Fuqua	Livingston
Cederberg	Gammage	Lloyd, Calif.
Chisholm	Gaydos	Lloyd, Tenn.
Clausen, Don H.	Gephardt	Long, La.
Clay	Giaimo	Long, Md.
Cleveland	Gibbons	Lott
Cochran	Gilman	Lujan
Coleman	Ginn	Luken
Collins, Ill.	Glickman	Lundine
Conable	Goldwater	McClory
Conte	Goodling	McCloskey
Conyers	Gore	McCormack
Corcoran	Gradison	McDade
Corman	Grassley	McEwen
Cornell	Green	McFall
	Gudger	McHugh
	Guyer	McKay
	Hagedorn	

Madigan	Pease	Staggers
Maguire	Perkins	Stangeland
Mahon	Pettis	Stanton
Mann	Pickle	Stark
Markey	Poage	Steed
Marks	Pressler	Steers
Marlenee	Preyer	Stockman
Marriott	Price	Stokes
Martin	Pritchard	Stratton
Mathis	Pursell	Studds
Mattox	Quayle	Stump
Mazzoli	Quie	Taylor
Meeds	Quillen	Thompson
Metcalfe	Rahall	Thornton
Meyner	Railsback	Traxler
Michel	Rangel	Trible
Mikulski	Regula	Tucker
Mikva	Reuss	Udall
Milford	Rhodes	Ullman
Miller, Ohio	Richmond	Van Deerlin
Mineta	Rinaldo	Vander Jagt
Minish	Risenhoover	Vanik
Mitchell, Md.	Roberts	Vento
Mitchell, N.Y.	Robinson	Volkmer
Moakley	Rodino	Walgren
Moffett	Roe	Walker
Mollohan	Rogers	Walsh
Montgomery	Rooney	Wampler
Moore	Rose	Watkins
Moorhead, Calif.	Rosenthal	Waxman
	Rudd	Weaver
Moorhead, Pa.	Runnels	Weiss
Mottl	Ruppe	Whalen
Murphy, Ill.	Russo	White
Murphy, Pa.	Santini	Whitehurst
Myers, Gary	Satterfield	Whitley
Myers, John	Sawyer	Whitten
Myers, Michael	Scheuer	Wilson, Bob
Natcher	Schroeder	Winn
Neal	Schulze	Wirth
Nedzi	Sebelius	Wolff
Nichols	Seiberling	Wright
Nix	Sharp	Wydler
Nolan	Shuster	Wylie
Nowak	Simon	Yates
Oakar	Skelton	Yatron
Oberstar	Smith, Iowa	Young, Fla.
Obey	Smith, Nebr.	Young, Mo.
Ottinger	Snyder	Young, Tex.
Panetta	Solarz	Zablocki
Patten	Spellman	Zeferetti
Patterson	Spence	
Pattison	St Germain	

NAYS—30

Annunzio	Duncan, Oreg.	Rousselot
Badham	Erlenborn	Ryan
Brooks	Evans, Colo.	Sikes
Butler	Forsythe	Sisk
Chappell	Gonzalez	Steiger
Clawson, Del	McDonald	Symms
Collins, Tex.	Murtha	Treen
Crane	O'Brien	Waggonner
Daniel, Dan	Roncalio	Wiggins
Delaney	Rostenkowski	Wilson, C. H.

ANSWERED "PRESENT"—1

Holland

NOT VOTING—33

Alexander	Ford, Mich.	Pike
Ammerman	Garcia	Roybal
Anderson, Ill.	Hansen	Sarasin
Armstrong	Jones, N.C.	Shipley
Ashbrook	Kasten	Skubitz
Brown, Ohio	Krueger	Slack
Burke, Calif.	McKinney	Teague
Burleson, Tex.	Miller, Calif.	Thone
Caputo	Moss	Tsongas
Cohen	Murphy, N.Y.	Wilson, Tex.
Diggs	Pepper	Young, Alaska

The Clerk announced the following pairs:

Mr. Burleson of Texas with Mr. Anderson of Illinois.

Mr. Teague with Mr. Caputo.

Mr. Ammerman with Mr. Sarasin.

Mr. Krueger with Mr. Thone.

Mr. Shipley with Mr. Ashbrook.

Mr. Charles Wilson of Texas with Mr. Skubitz.

Mr. Murphy of New York with Mr. Young of Alaska.

Mr. Pepper with Mr. Cohen.

Mr. Miller of California with Mr. Brown of Ohio.

Mr. Garcia with Mr. Hansen.

Mr. Diggs with Mr. McKinney.

Mr. Roybal with Mr. Pike.

Mr. Slack with Mr. Tsongas.

Mrs. Burke of California with Mr. Alexander.

Mr. Moss with Mr. Jones of North Carolina.

Mr. Ford of Michigan with Mr. Kasten.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DANIELSON. Mr Speaker, pursuant to the resolution (H. Res. 1323), I call up from the Speaker's table the Senate bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

The Clerk read the title of the Senate bill.

Mr. DANIELSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DANIELSON moves to strike out all after the enacting clause of S. 555 and insert in lieu thereof the provisions of H.R. 1, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Ethics in Government Act of 1978".

TITLE I—LEGISLATIVE PERONNEL FINANCIAL DISCLOSURE REQUIREMENTS

COVERAGE

SEC. 101. Each Member, officer, principal assistant to a Member or officer, employee of a Member, officer, or committee who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule, and any individual who becomes a candidate in any election for the office of Member shall file annual reports as prescribed by section 102. Each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule shall designate at least one principal assistant on his personal staff for purposes of this section.

FILING OF REPORTS; DUTIES OF CLERK AND SECRETARY

SEC. 102. (a)(1) Except as provided in paragraph (2), each individual required to file a report under section 101, other than an individual who becomes a candidate in any election for the office of Member, shall not later than May 15, 1979, and by May 15 of each year thereafter, file a report on a form developed and made available by the Clerk or Secretary, disclosing certain financial information as provided in section 103 in the following manner:

(A) Each individual whose compensation is disbursed by the Clerk or the Sergeant at Arms shall file the report with the Clerk.

(B) Each individual whose compensation is disbursed by the Secretary shall file the report with the Secretary.

(2)(A) Any individual who becomes a candidate in any election for the office of Member need not include in the report any information referred to in paragraph (2) or (3) of section 103(a).

(B) Any individual who holds a position or office referred to in section 101 need not include in any report any items referred to in paragraph (2) or (3) of section 103(a) and received while such individual does not hold any such office or position.

(b) Each individual who becomes a candidate in any election for the office of Member shall, not later than November 1, 1978, or within fifteen calander days after becoming such a candidate, whichever occurs later, file a report disclosing certain financial information as provided in section 103 in the following manner:

(1) Each individual who becomes a candidate in any election for the office of Senator shall file the report with the Secretary.

(2) Each individual who becomes a candidate in any election for the office of Representative in the Congress or Delegate or Resident Commissioner to the Congress shall file the report with the Clerk.

(c)(1) A copy of each report filed by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk or Secretary, as the case may be, to the appropriate State officer as designated in accordance with section 316(a) of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 439(a)) of the State represented by the Member or in which the individual is a candidate, as the case may be, within the seven-day period beginning the day that the report is filed with the Clerk or Secretary.

(2)(A) Before June 15, 1979, and by June 15 of each year thereafter, the Clerk shall compile all reports filed with him by Members within the period beginning on January 1 and ending on May 15 of such calendar year and have them printed as a House document, which document shall be made available to the public.

(B) Before June 15, 1979, and by June 15 of each year thereafter, the Secretary shall compile all reports filed with him by Senators within the period beginning on January 1 and ending on May 15, of such calendar year and have them printed as a Senate document, which document shall be made available to the public.

(d)(1) A copy of each report filed under this title with the Clerk shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the seven-day period beginning the day that the report is filed.

(2) A copy of each report filed with the Secretary shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the seven-day period beginning the day that the report is filed.

(e) In carrying out their responsibilities under this title, the Clerk of the House and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis, a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

(f) In order to carry out his responsibilities under this title,

(1) the Clerk may, after consultation with the Committee on Standards of Official Conduct of the House of Representatives, and

(2) the Secretary may, after consultation with the Select Committee on Ethics of the Senate,

promulgate rules and regulations.

CONTENTS OF REPORTS

SEC. 103. (a) Each report required to be filed under this title in a calendar year shall contain the following:

(1) The source, type and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the

reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year.

(C) Any gift with a fair market value of $35 or less need not be aggregated for the purposes of this paragraph.

(3) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(4) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposit of $5,000 or less in a personal savings account which bears interest.

(5) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; or

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(6) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse, or

(ii) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employee.

(b) For purposes of paragraphs (4), (5), and (6) of subsection (a) or subsection (d) the person reporting need not specify the actual amount or value of each item required to be reported under such paragraphs, but such person shall indicate which of the following categories such amount or value is within:

(1) not more than $5,000,

(2) greater than $5,000, but not more than $15,000,

(3) greater than $15,000, but not more than $50,000,

(4) greater than $50,000, but not more than $100,000,

(5) greater than $100,000.

(c) Campaign receipts or expenditures shall not be included in this report.

(d)(1) Each report shall also contain information listed in paragraphs (1) through (6) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person in excess of $1,000.

(B) in the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (4), (5), and (6), all information required to be reported other than items which the reporting individual certifies represent the spouse's sole financial interest or responsibility and which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual; and from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(2) Each report shall also contain all information listed in paragraphs (4), (5), and (6) of subsection (a) respecting any dependent child of the reporting individual other than respecting items which the reporting individual certifies represent the dependent child's sole financial interest or responsibility and which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual; and from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(3) No report shall be required with respect to the interests of a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(e) Except as provided in this paragraph, each report shall also contain information respecting the holdings of and income from a trust or other financial arrangement from which the reporting individual or the spouse or dependent children of such individual receives income or in which such person has a beneficial or equity interest. The identity of the holdings and the sources of a trust's income need not be disclosed if the reporting individual, his spouse, and dependent children have no knowledge of the contents or sources of income of the trust. However, where the identity of the holdings and the sources of income of a trust need not be disclosed, the reporting individual must list the category of value of his interest in the total trust holdings under paragraph (4) and must list the amount of income from the trust under paragraph (1).

ACCESSIBILITY OF REPORTS

SEC. 104. (a) Within fifteen calendar days after a report is filed with the Clerk under this title, the Clerk shall make such report available for public inspection at reasonable hours. A copy of any such report shall be provided by the Clerk to any person upon written request.

(b) Within fifteen days after a report is filed with the Secretary under this title, the Secretary shall make such report available for public inspection at reasonable hours. A copy of any such report shall be provided by the Secretary to any person upon written request.

(c) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

(d) Any report filed under this title with the Clerk or Secretary shall be available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section (102)b and was not subsequently elected, such reports shall be destroyed one year after the individual is no longer a candidate for election to the office of Member.

(e)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

REVIEW AND COMPLIANCE PROCEDURES

SEC. 105. (a) The Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate shall establish procedures for the review of reports sent to them under section 102(d)(1) and section 102(d)(2) to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) In order to carry out their responsibilities under this Act the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate, have power, within their respective jurisdictions, to render any advisory opinion, in writing, to persons covered by this title. Notwithstanding any other provisions of law, the individual to whom an advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any sanction provided in this Act.

GENERAL ACCOUNTING OFFICE STUDY

SEC. 106. (a) Before November 30, 1980, and regularly thereafter, the Comptroller General of the United States shall conduct a study to determine whether this title is being carried out effectively and whether timely and accurate reports are being filed by individuals subject to this title.

(b) Within thirty days after completion of the study, the Comptroller General shall transmit a report to each House of Congress containing a detailed statement of his findings and conclusions, together with his recommendations for such legislative and administrative actions as he deems appropriate. The first such study shall include the Comptroller General's findings and recommendations on the feasibility and potential need for a requirement that systematic random audits be conducted of financial disclosure reports filed under this title, including a thorough discussion of the type and nature of audits that might be conducted; the personnel and other costs of audits; the value of an audit to Members, the appropriate House and Senate committees, and the public; and, if conducted, whether a governmental or nongovernmental unit should perform the audits, and under whose supervision.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 107. The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report under section 103. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

DEFINITIONS

SEC. 108. For purposes of this title, the term—

(1) "candidate" means an individual, other than a Member, who seeks nomination for election, or election, whether or not such individual is elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, (A) if he has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) if he or his principal campaign committee has taken action to register or file campaign reports required by section 304(a) of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 434(a));

(2) "Clerk" means the Clerk of the House of Representatives;

(3) "committee" means any committee of the Senate or House of Representatives or any subcommittee of any such committee or any joint committee of Congress or any subcommittee of any such joint committee;

(4) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter, and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(5) "election" means (A) a general, special, primary, or runoff election, or (B) a convention or caucus of a political party which has authority to nominate a candidate;

(6) "employee" means any individual, other than an officer or Member, whose compensation is disbursed by the Clerk or Secretary;

(7) "estimated value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(8) "officer" means an elected officer of the Senate or House of Representatives who is not a Member;

(9) "relative" means as individual who is related to the reporting individual as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance of fiancee of the reporting individual;

(10) "Secretary" means the Secretary of the Senate;

(11) "Member" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(12) "gift" means a payment, advance, forebearance, rendering, or deposit of money, or anything of value, unless consideration of equal or greater value is received, but does not include—

(A) inheritances;

(B) political contributions;

(C) transportation, lodging, food, and entertainment provided (i) by Federal, State, and local governments, or political subdivisions thereof, or (ii) by a foreign government within a foreign country;

(D) communications to the offices of a Member, including subscriptions to newspapers and periodicals;

(E) suitable mementos of a function held in honor of the Member, officer, or employee;

(F) consumable products provided by home-State businesses to a Member's office for distribution; and

(G) food and beverages consumed at banquets, receptions, or similar events;

(13) "reimbursement" means any payment or other thing of value received by a reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government, the District of Columbia, or any State or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5 of the United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(14) "honoraria" means payments of money or any thing of value for an appearance, speech, or article, except that there shall not be taken into account for reporting purposes any actual and necessary travel expenses incurred by such person to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed; and

(15) "income" means all income from whatever source derived, including but not limited to the following items: net compensation for services, including fees, commissions, and similar items; net income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

SEC. 109. The provisions added by this title, and the regulations issued thereunder, shall supersede and preempt any State or local law with respect to financial disclosure by reason of candidacy for Federal office or employment by the United States Government.

TITLE II—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PART A—FILING REQUIREMENTS

PERSONS REQUIRED TO FILE

SEC. 201. (a) Upon assuming the position of an officer or employee designated in subsection (f), an individual shall file a report as required by section 202(b).

(b) Upon the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a grade or rank in the uniformed services for which the pay grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O–6 below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report as required by section 202(b).

(c) Upon becoming a candidate for nomination or election to the office of President or Vice President, as determined by the Federal Election Commission, an individual shall file a report as required by section 202(b).

(d) Any individual who is an officer or employee designated in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report as required by section 202(a).

(e) Any individual who occupies a position designated in subsection (f), shall on or before the thirtieth day after termination of employment in such position, file a report as required by section 202(a), unless such individual has accepted employment in another position designated in subsection (f).

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) the President;

(2) the Vice President;

(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified at GS–16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS–16; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined to be of equal clasification;

(4) each officer or employee appointed pursuant to section 3105 of title 5, United States Code;

(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS–16; and

(7) the Director of the Office of Government Ethics and each designated agency official.

(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Director of the Office of Government Ethics established by part B of this title, but the total of such extensions shall not exceed ninety days.

CONTENTS OF REPORTS

SEC. 202. (a) Each report filed under subsections (d) and (e) of section 201 shall include a full and complete statement, in such manner and form as the Director of the Office of Government Ethics may prescribe, with respect to the following:

(1) The source, type, and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or

entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reportiing individual by a relative.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse; or

(ii) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year (and, for the initial report, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed under subsections (a), (b), and (c) of section 201 shall include a full and complete statement in such manner and form as the Director of the Office of Government Ethics may prescribe, with respect to information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the sources and amounts of income for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 201(e) of this Act, any reference to the preceding calendar year shall be considered to include that part of the current year up to the date of the termination of employment.

(d) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) or in subsection (e) are as follows:

(1) up to $5,000;

(2) from $5,000 to $15,000;

(3) from $15,000 to $50,000;

(4) from $50,000 to $100,000; and

(5) greater than $100,000.

(e)(1) Except as provided in the last sentence of this paragraph, each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person which exceed $1,000.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported other than items (i) which the reporting individual certifies represent the spouse's sole financial interest or responsibility, (ii) which are in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.".

(2) Except as provided in the last sentence of this paragraph, each report shall also contain all information listed in paragraphs (3) through (5) of subsection (a) respecting any dependent child of the reporting individual other than items (A) which the reporting individual certifies represent the dependent child's sole financial interest or responsibility, (B) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (C) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit. Each report referred to in subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.

(3) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f) The holdings of and the income from a trust or other financial arrangement from which the reporting individual, spouse, or dependent child receives income or in which such person has a beneficial or equity interest must be reported according to the provisions of this section; except that if the trust or financial arrangement is a blind trust approved under regulations promulgated by the Civil Service Commission, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable law and regulations, the report shall so indicate and need only include (in addition to a statement of the income from the blind trust in accordance with section 202 of this Act) a copy of the instrument or agreement establishing such blind trust and, to the extent known or readily ascertainable, the identity and category of value of assets contained in the trust or arrangement at the time it became a blind trust, and the identity and category of value of assets subsequently added to the blind trust.

(g) Political campaign funds, including campaign receipts and expenditures, shall not be included in any report filed pursuant to this part.

FILING OF REPORTS

SEC. 203. (a) Except as otherwise provided in this subsection, the reports required under this part shall be filed by the reporting individual with the designated agency official at the agency by which he is employed or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

(b) The President and the Vice President shall file reports required under this part with the Director of the Office of Government Ethics only.

(c) Copies of the reports required to be filed by candidates for the office of President or Vice President, and Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal service, designated agency officials, and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress shall be transmitted to the Director of the Office of Government Ethics.

(d) Reports required to be filed by the Director shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this part.

(e) Each individual identified in section 201(c) shall file the report required by this part with the Federal Elections Commission.

(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 204. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any indivdual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report under section 202. The court in which such action in brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The head of each agency, each Secretary concerned, and the Director of the Office of Government Ethics shall refer to the Attorney General the name of any individual they have reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

(c) The President, the Vice President, the Secretary concerned, and the head of each agency, or the Civil Service Commission, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 205. (a) Each agency shall make each report filed with it under this title available to the public in accordance with the provisions of subsection (b) of this section, together with a copy of the official position description of the Government office or position held by the reporting individual involved (if available) which shall be added to such report by such individual's designated agency official or Secretary concerned, except that this section does not require public availability of the report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would compromise the national inter-

est of the United States. In addition, such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds that such filing is necessary in the national interest.

(b)(1) The agency shall require each person requesting inspection or a copy of a report under subsection (a) of this section to execute an application stating—

(A) his name, occupation, address, and telephone number;

(B) the name, address, and telephone number of the person or organization, if any, on whose behalf he is making the request; and

(C) that the information obtained by such inspection or from such copy shall not be used for any purpose prohibited by subsection (c) of this section.

(2) Upon receipt of an application required by paragraph (1) of this subsection, the agency shall promptly forward a copy of such application to the reporting individual, if the reporting individual is an officer or employee of the agency at the time the application is received. The agency shall permit inspection by or furnish a copy of the report to any requesting person within fifteen days after the report is received by the agency. The agency shall require such requesting person to pay a reasonable fee in an amount which the agency finds necessary to cover the costs of reproduction and mailing of such report.

(3) Once the requesting person has inspected or received a copy of a report, his name and address and the name and address of the person or organization, if any, on whose behalf the inspection or copy was requested, shall be made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report filed with an agency, or transmitted to the Director of the Office of Government Ethics, pursuant to this part shall be retained by such agency or the Office of Government Ethics, or both, as the case may be. Such report shall be made available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President.

REVIEW OF REPORTS

SEC. 206. (a) Each designated agency official or Secretary concerned shall make provisions to ensure that each report filed with him under this part shall be reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics only shall review those reports transmitted to him under this part within 60 days after the date of transmittal.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such option on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford him a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance.

(3) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, he shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in his opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such regulations as the Director of the Office of Government Ethics or a Secretary concerned, as the case may be, may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate future action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the uniformed services, the Secretary concerned shall take appropriate future action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under pargaraph (3) by any other officer or employee the matter shall be referred to the head of the appropriate agency for further appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the further action to be taken.

(7) For purposes of assisting employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, each Secretary concerned and designated agency official (including the President in the case of the individuals employed in the Executive Office of the President) shall maintain a list of those circumstances or situations which have or may result in noncompliance with such laws or regulations. Such list shall be periodically published, and shall be furnished to those individuals employed within the agency who are required to file reports under this part. The absence of any situation or circumstance from such a list shall not be construed as an indication that an individual in such circumstances or situations would be in compliance with such laws or regulations.

(8) The preceding provisions of this subsection shall not apply in the case of the President or Vice President, or a candidate or nominee for such office.

ADDITIONAL REPORTING REQUIREMENTS

SEC. 207. (a) The President may require officers and employees in the executive branch (including the United States Postal Service and members of the uniformed services) not covered by this part to submit confidential reports in such form as is required by this part. Section 205 (a), (b), and (d) shall not apply with respect to any such report.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, or regulation.

AUTHORITY OF COMPTROLLER GENERAL

SEC. 208. The Comptroller General shall have access to financial disclosure reports filed under this part for the purposes of carrying out his statutory responsibilities.

EFFECTIVE DATE

SEC. 209. The provisions made by this part shall take effect on January 1, 1979, and the reports filed under section 201(d) on May 15, 1979, shall include information for calendar year 1978.

DEFINITIONS

SEC. 210. For the purposes of this part, the term—

(1) "income" means all income from whatever source derived, including but not limited to the following items: net compensation for services, including fees, commissions, and similar items; net income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual.

(3) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country; or by the United States Government; or

(D) food and beverages consumed at banquets, receptions, or similar events.

(4) "honoraria" means payments of money or any thing of value for an appearance, speech, or article, except that there shall not be taken into account for reporting purposes any actual and necessary travel expenses incurred by such person to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed;

(5) "estimated value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(7) "blind trust" means a trust of other financial arrangement administered by a trustee independent from and unassociated with the reporting individual and such individual's spouse and dependent children and administered in a manner which insulates the reporting individual, such spouse, and dependent children from the knowledge of the holdings and sources of income of the trust;

(8) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(9) "reinbursement" means any payment or other thing of value reecived by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(10) "Secretary concerned" has the meaning set forth in section 101(8) of title 10, United States Code, and, in addition, means—

(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

(B) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(11) "designated agency official" means an officer or employee who is designated to administer the provisions of this part within an agency.

PART B—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

SEC. 221. (a) There is established in the Civil Service Commission (hereinafter referred to as the "Commission") an office to be known as the Office of Government Ethics.

(b) There shall be at the head of the Office of Government Ethics a Director (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate.

AUTHORITY AND FUNCTIONS

SEC. 222. (a) The Director shall provide, under the general supervision of the Commission, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency, as defined in section 105 of title 5, United States Code.

(b) The responsibilities of the Director shall include—

(1) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations establishing procedures for the filing, review, and public availability of financial statements filed by officers and employees in the executive branch as required by part A of this title;

(2) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to the identification and resolution of conflicts of interest;

(3) monitoring and investigating compliance with the public financial disclosure requirements of part A of this title by officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available such statements;

(4) conducting a review of financial statements to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

(5) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

(6) interpreting rules and regulations issued by the President or the Commission governing conflict of interest and ethical problems and the filing of financial statements;

(7) consulting, when requested, with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

(8) ordering corrective action on the part of agencies and employees which the Director deems necessary;

(9) requiring such reports from executive agencies as the Director deems necessary;

(10) assisting the Atttorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments;

(11) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Commission and the agencies regarding conflict of interest and ethical problems, with a view toward making such rules and regulations consistent with and an effective supplement to the conflict of interest laws;

(12) cooperating with the Atttorney General in developing an effective system for reporting allegations of violations of the conflict of interest laws to the Attorney General, as required by section 535 of title 28, United States Code; and

(13) providing information on and promoting understanding of ethical standards in executive agencies.

(c) In the development of policies, rules, regulations, procedures, and forms to be recommended, authorized, or prescribed by him, the Director shall consult when appropriate with the executive agencies affected, and the Attorney General.

(d) Pursuant to the Director's responsibilities under subsection (b)(1), the Director shall, within one hundred and twenty days after the date of enactment of this Act, develop and recommend to the Commission, and the Commission shall promulgate, a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this Act.

ADMINISTRATIVE PROVISIONS

SEC. 223. Upon the request of the Director, each executive agency is directed to—

(1) make its services, personnel, and facilities available to the Director to the greatest practicable extent for the performance of functions under this Act; and

(2) except when prohibited by law, furnish to the Director all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

SEC. 224. In promulgating rules and regulations pertaining to financial disclosure, conflict of interest and ethics in the Executive Branch, the Commission shall issue rules and regulations in accordance with chapter 5 of title 5, U.S. Code. Any person may seek judicial review of any such rule or regulation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 225. There are authorized to be appropriated to carry out the provisions of this title, and for no other purpose—

(1) not to exceed $1,000,000 for the fiscal year ending September 30, 1979;

(2) not to exceed $1,000,000 for each of the four fiscal years thereafter.

ANNUAL PAY

SEC. 226. Paragraph (122) of section 5316 of title 5, United States Code, is amended to read as follows:

"(122) Director of the Office of Government Ethics.".

PART C—CONFLICT OF INTEREST

AMENDMENT TO TITLE 18, SECTION 207

SEC. 241. (a) Section 207 of title 18, United States Code, is amended to read as follows:

§ 207. Disqualification of former officers and employees: disqualification of partners of current officers and employees

"(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, makes any written or oral communication on behalf of any other person (except the United States) to—

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

"(b) Whoever, (1) having been so employed, within two years after his employment

has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed in a position designated pursuant to subsection (c) of this section, within two years after his employment has ceased, knowingly aid or assists in representing any other person (except the United States) in any formal or informal appearance before—

"(1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

"(c) Whoever, having been so employed—

"(i) at a rate of pay specified in subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority; or

"(ii) at a rate of pay equal to or in excess of the minimum established for positions classified at GS–16 of the General Schedule prescribed by section 5332 of title 5, United States Code, and in a position excepted from the competitive service by reason of being of a confidential or policymaking character; or

"(iii) on active duty as a commissioned officer of a uniformed service assigned to a pay grade of 0–7 or above as described in section 201 of title 37, United States Code; or

"(iv) in a position designated by the Director of the Office of Government Ethics pursuant to subsection (d) of this section—

within one year after his employment under these circumstances has ceased, knowingly acts as agent or attorney for or otherwise represents any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to—

"(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

"(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

"(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

Shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"(d) Within six months of the effective date of this Act, the head of each department or agency shall recommend to the Director of the Office of Government Ethics which positions in the department or agency in addition to those designated pursuant to clauses (i), (ii), and (iii) of subsection (c) are occupied by an officer or employee who has a role in the formulation of agency policy that is substantially similar to that exercised by persons designated pursuant to clauses (i), (ii), and (iii) of subsection (c) of this section. After reviewing such remommendations and consulting further with the heads of the departments and agencies, the Director shall, within one year of the effective date of this Act, publish regulations designating the additional positions referred to in paragraph (iv) of subsection (c). The Director, upon the recommendation of or in consultation with the head of the department or agency concerned, may thereafter publish such amendments to the list of positions designated pursuant to this subsection as are necessary to satisfy the purposes of this subsection.

"(e) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate 'department or agency': *Provided,* That this designation shall not apply to former heads of designated bureaus or agencies or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

"(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other specialized discipline and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

"(g) The prohibitions contained in subsection (c) of this section shall not apply with respect to any formal or informal appearance before or communication to a department or agency by a person who is a member in good standing before, and is licensed or certified to practice in a profession by, any Federal or State licensing or certifying authority for such profession, if the following conditions are met:

"(1) Such person is subject to discipline, including suspension or revocation of such person's license or certification to practice, by the licensing or certifying authority on account of—

"(A) a failure to possess the requisite qualifications to represent others,

"(B) a lack of character or integrity, or

"(C) engaging in unethical or improper professional conduct.

"(2) Such department or agency has in effect standards of ethical conduct—

"(A) for its officers and employees which, at a minimum, prescribe and subject such officers and employees to disciplinary action, including suspension or dismissal, for—

"(i) using public office for private gain,

"(ii) giving preferential treatment to any person,

"(iii) impeding Government efficiency or economy,

"(iv) compromising independence or

"(v) making a Government decision outside official channels, or

"(vi) affecting adversely the confidence of the public in the integrity of government; and

"(B) for its former officers and employees which, at a minimum, provide for disciplinary action, including the suspension or revocation of the privilege of appearing or practicing before it, upon a finding (after notice and an opportunity for hearing) or—

"(i) failure to possess the requisite qualification for representing others,

"(ii) lack of character or integrity; or

"(iii) engaging in unethical or improper professional conduct.

"(3) Such appearance before, or communication to such department or agency is of a category exempted from the prohibitions contained in subsection (c), for purposes of this subsection, by general rule or regulation promulgated by the department or agency, in consultation with the Director of the Office of Government Ethics, and published in the Federal Register.

"(4) (A) A file containing—

"(i) any such written communication (and responses thereto),

"(ii) memoranda stating the substance of any such oral communication (and responses thereto), and

"(iii) all written communications (and responses thereto) and memoranda stating the substance of all oral communications (and responses thereto) in connection with any such appearance,

is made available for public inspection and copying immediately upon request, notwithstanding any provision of section 552(a)(6) of title 5, United States Code.

"(5) Such appearance is not before, or communication is not with, any person under the direct supervision and control of such former officer or employee, while employed with such department or agency.

"(6) Such former officer or employee files a written declaration with the department or agency that he or she is currently qualified to appear in a representative capacity before the department or agency, and that the appearance or communication is not intended to have, and cannot reasonably be expected to have, any effect described in paragraph (2)(A) (i) through (vi) of this subsection.

For purposes of this subsection, the term "State" includes the District of Columbia and any territory or possession of the United States.

"(h) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, or any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for any other person (except the United States) before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(i) Nothing in this section shall prevent a former officer or employee from giving testimony under oath or from making statements required to be made under penalty of perjury, or from giving any testimony or making any statement or communication, if such former officer or employee receives no compensation for such testimony, statement, or communication, other than that regularly provided by law or regulation for witnesses.".

(b) The item relating to section 207 in the table of sections at the beginning of chapter 11 of title 18, United States Code, is amended to read as follows:

"207. Disqualification of former officers and employees; disqualification of partners of current officers and employees.".

APPLICABILITY

SEC. 242. The amendments made by section 241 shall not apply to those individuals who left Government service prior to the effective date of such amendments or, in the case of individuals who occupied positions designated pursuant to paragraph (iv) of subsection (c) of section 207, title 18, United States Code, prior to the effective date of such designation: *Provided*, That any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation.

SEC. 243. Except where the employee's Agency or Department shall have more restrictive limitations on outside earned income, all employees covered by this title who are compensated at a pay grade in the General Schedule of Grade 16 or above and who occupy non-judicial full-time positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary.

EFFECTIVE DATE

SEC. 244. The amendments made by section 241 shall be effective on July 1, 1979.

TITLE III—JUDICIAL PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PERSONS REQUIRED TO FILE

SEC. 301. (a) Upon assuming the position of a judicial employee, an individual shall file a report as required by section 302(b).

(b) Upon the transmittal by the President to the Senate of the nomination of an individual to be a judicial officer, such individual shall file a report as required by section 302(b).

(c) Any individual who is a judicial officer or employee during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report as required by section 302(a).

(d) Any individual who occupies a position as a judicial officer or employee shall on or before the thirtieth day after termination of employment in such position, file a report as required by section 302(a), unless such individual has accepted employment in another position as a judicial officer or employee.

(e) For purposes of this title, the term—

(1) "judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the courts of appeals; district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands; Court of Claims; Court of Customs and Patent Appeals; Customs Court; and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior; and

(2) "judicial employee" means any employee of the judicial branch of the Government, not described in paragraph (1), who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5, United States Code.

(f) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Judicial Ethics Committee established by section 303(a) of this title (hereinafter in this title referred to as the "Committee"), but the total of such extensions shall not exceed ninety days.

CONTENTS OF REPORT

SEC. 302. (a) Each report filed under subsections (c) and (d) of section 301 shall include a full and complete statement, in such manner and form as the Committee with the approval of the Judicial Conference of the United States may prescribe, with respect to the following:

(1) The source, type, and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse, or

(ii) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year (and, for the initial report, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed under subsections (a) and (b) of section 301 shall include a full and complete statement, in such manner and form as the Committee with the approval of the Judicial Conference of the United States may prescribe, with respect to information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the sources and amounts of earned income and other payments for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 301(d) of this Act, any reference to the preceding calendar year shall be considered to include that part of the current calendar year up to the date of the termination of employment.

(d) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) or in subsection (e) are as follows:

(1) up to $5,000;
(2) from $5,000 to $15,000;
(3) from $15,000 to $50,000;
(4) from $50,000 to $100,000; and
(5) greater than $100,000.

(e)(1) Except as provided in the last sentence of this paragraph, each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person which exceed $1,000.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the sources and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported other than items (i) which the reporting individual certifies represent the spouse's sole financial interest or responsibility, (ii) which are not in any way, past or present, derived from the income, assets or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual, contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.

(2) Except as provided in the last sentence of this paragraph, each report shall also contain all information listed in paragraphs (3) through (5) of subsection (a) respecting any dependent child of the reporting individual other than items (A) which the reporting individual certifies represent the dependent child's sole financial interest or responsibility, (B) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (C) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit. Each report referred to in

subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.

(3) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f) The holdings of and the income from a trust or other finanical arrangement from which the reporting individual, spouse, or dependent child receives income or in which such person has a beneficial or equity interest must be reported according to the provisions of this section; except that in the case of a reporting individual other than a judicial officer or a judicial employee who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, if the trust or financial arrangement is a blind trust approved under regulations prescribed by the Committee, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable laws and regulations, the report shall so indicate and need only include (in addition to a statement of the income from the blind trust in accordance with section 302) a copy of the instrument or agreement establishing such blind trust and, to the extent known or readily ascertainable, the identity and category of value of assets contained in the trust or arrangement at the time it became a blind trust, and the identity and category of value of assets subsequently added to the blind trust.

(g) Political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported under this title.

FILING OF REPORTS

SEC. 303. (a) The Judicial Conference of the United States shall establish a Judicial Ethics Committee which shall be responsible for receiving and making available, in accordance with the provisions of this title, the reports described in section 302.

(b) Each judicial officer and judicial employee shall file the report required by this title with the Committee.

(c) In the performance of its functions under this title, the Committee with the approval of the Judicial Conference of the United States shall—

(1) promulgate such rules and regulations as may be necessary;

(2) monitor and investigate compliance with the requirements of this title;

(3) provide for the availability of reports as required by section 305;

(4) conduct, or cause to be conducted, the reviews required by section 306;

(5) cooperate with the Attorney General in enforcing the requirements of this title;

(6) submit to the Congress and the President recommendations for legislative revision of this title;

(7) perform such other functions as may be assigned by the Judicial Conference of the United States.

(d) The Committee shall, within one hundred and twenty days after the date of enactment of this Act, develop and, with the approval of the Judicial Conference of the United States, promulgate a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this title.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 304. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report under section 302. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The Committee shall refer to the Attorney General the name of any individual the Committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to file information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 305. (a) The Committee shall make each report filed with it under this title available to the public in accordance with subsection (b) of this section.

(b)(1) The Committee shall require each person requesting inspection or a copy of a report under subsection (a) of this section to execute an application stating—

(A) his name, occupation, address, and telephone number;

(B) the name, address, and telephone number of the person or organization, if any, on whose behalf he is making the request; and

(C) that the information obtained by such inspection or from such copy shall not be used for any purpose prohibited by subsection (c) of this section.

(2) Upon receipt of an application required by paragraph (1) of this subsection, the Committee shall promptly forward a copy of such application to the reporting individual, if the reporting individual is an officer or employee in the Judicial branch at the time the application is received. The Committee shall permit inspection by or furnish a copy of the report to the requesting person within fifteen days after the report is received by the Committee. The Committee may require the requesting person to pay a reasonable fee in an amount which the Committee finds necessary to cover the costs of reproduction and mailing of such report.

(3) Once the requesting person has inspected or received a copy of a report, his name and address and the name and address of the person or organization, if any, on whose behalf the inspection or copy was requested, shall be made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report received by the Committee shall be held in its custody and be made available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section 301(b) and was not subsequently confirmed by the Senate, such reports shall be destroyed one year after the individual is no longer under consideration by the Senate.

COMPLIANCE PROCEDURES

SEC. 306. (a) The Committee shall establish procedures for the review of reports sent to it under section 303 to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the Committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) Such procedures shall include provisions for conducting a review each year of financial statements filed in that year by judicial officers and employees to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review.

ADDITIONAL REQUIREMENTS

SEC. 307. (a) Nothing in this title shall be construed to prevent the Committee, with the approval of the Judicial Conference of the United States, from requiring officers or employees of the judicial branch not covered by this title to submit confidential financial statements.

(b) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law or regulation.

(c) The provisions of this title requiring the reporting of information shall not supersede the requirements of section 7342 of title 5, United States Code.

EFFECTIVE DATE

SEC. 308. This title shall take effect on January 1, 1979, and the reports filed under section 301(c) on May 15, 1979, shall include information for calendar year 1978.

DEFINITIONS

SEC. 309. For the purposes of this title, the terms "income", "relative", "gift", "honoraria", "estimated value", "personal hospitality of any individual", "blind trust", "dependent child", and "reimbursement" have the meanings set forth in section 210 of this Act.

Amend the title so as to read: "An Act to require certain officers and employees of the United States, and candidates for Federal office, to file reports as to their income and financial holdings and transactions, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1) was laid on the table.

REQUEST FOR CONFERENCE WITH SENATE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 555) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 1, just passed.

The SPEAKER. Is there objection to

the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2493, AIR TRANSPORTATION REGULATORY REFORM ACT OF 1978

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following conferees: Messrs. JOHNSON of California, ROBERTS, ANDERSON of California, RONCALIO, LEVITAS, HARSHA, and SNYDER.

There was no objection.

INSPECTOR GENERAL ACT OF 1978

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8588), an act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act be cited as the "Inspector General Act of 1978".

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans Administration;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in each of such establishments an Office of Inspector General.

APPOINTMENT AND REMOVAL OF OFFICERS

SEC. 3. (a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(b) An Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities, relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

DUTIES AND RESPONSIBILITIES

SEC. 4. (a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established—

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the programs made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall—

(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

REPORTS

SEC. 5. (a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period; and

(6) a listing of each audit report completed by the Office during the reporting period.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing any comments such head deems appropriate.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector

General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–18 of the General Schedule by section 5332 of title 5, United States Code; and

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b) (1) Upon request of an Inspector General for information or assistance under subsection (a) (3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a) (1) or (a) (3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

EMPLOYEE COMPLAINTS

SEC. 7. (a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disegard for its truth or falsity.

SEMIANNUAL REPORTS

SEC. 8. (a) (1) The Secretary of Defense shall submit to the Congress semiannual reports during the period ending October 1, 1982, summarizing the activities of the audit, investigative and inspection units of the Department of Defense. Such reports shall be submitted within sixty days of the close of the reporting periods ending March 31 and September 30 and shall include, but not be limited to—

(A) a description of significant instances or patterns of fraud, waste, or abuse disclosed by the audit, investigative, and inspection activities during the reporting period and a description of recommendations for corrective action made with respect to such instances or patterns;

(B) a summary of matters referred for prosecution and of the results of such prosecutions; and

(C) a statistical summary, by categories of subject matter, of audit and inspection reports completed during the reporting period.

(2) Within sixty days of the transmission of the semiannual reports, the Secretary shall make copies of such reports available to the public upon request and at a reasonable cost.

(3) If the Secretary concludes that compliance with the reporting requirements in pargaraphs (1) and (2) of this subsection would require inclusion of material that may constitute a threat to the national security or disclose an intelligence function or activity, the Secretary may exclude such material from the report. If material is excluded from a report under this subsection, the Secretary shall provide the chairmen and ranking minority members of the appropriate committees or subcommittees with a general description of the nature of the material excluded.

(4) The Secretary may delegate his responsibilities under paragraphs (1) through (3), provided that the delegation be to an official within the Office of the Secretary of Defense who is a Presidential appointee confirmed by the Senate. In preparing the reports, the designee of the Secretary shall have the same access to information held by the audit, investigative or inspection units as the Secretary would.

(5) In order to effectuate the purposes of this Act with respect to the Department of Defense, the Secretary of Defense shall submit, not later than March 31, 1981, proposed legislation to establish appropriate reporting procedures, for the period after October 1, 1982, concerning the audit, investigative and inspection activities of the Department of Defense.

(b) (1) The Secretary of Defense shall establish a task force to study the operation of the audit, investigative, and inspection components in the Department of Defense which engage in the prevention and detection of fraud, waste, and abuse. The Secretary shall appoint the Director and other members of the task force, provided that the Director shall be a person who is not an employee of the Department of Defense. The Director shall have the authority to hire such additional staff as is necessary to complete the study.

(2) The Director and members of the task force and, upon the request of a member or the Director, the staff of the task force shall have access to all information relevant to the study and held by the audit, investigative, and inspection components in the Department of Defense including reports prepared by such components, provided that—

(A) such information or reports may be withheld if a component head determines that disclosure would compromise an active investigation of wrongdoing;

(B) the Inspectors General of the Military Departments may delete the names of individuals in a report prepared by them if the Inspector General determines that the inclusion of the names would affect the ability of the Inspector General to obtain information in future investigations and inspections; and

(C) no classified information shall be released to the task force unless the members and staff who will have access to the classified information have the appropriate clearances.

Upon the request of the Director, the Secretary of Defense and the Secretaries of the Military Departments shall assure that the task force has access to information as provided in this subsection.

(3) The task force shall prepare a comprehensive report that shall include, but not be limited to—

(A) a description of the functions of the audit, investigative and inspection components in the Department of Defense and the extent to which such components cooperate in their efforts to detect and prevent fraud, waste and abuse;

(B) an evaluation of whether such components are sufficiently independent to carry out their responsibilities;

(C) the relationship between such components and the Criminal Division of the Department of Justice; and

(D) recommendations for change in organization or functions that may be necessary to improve the effectiveness of such components.

(4) The task force shall submit its final report to the Secretary of Defense and the Director of the Office of Management and Budget. The Secretary and the Director of the Office of Management and Budget may, in the form of addenda to the report, provide any additional information that they deem necessary. The Secretary shall submit the report and the addenda to the Congress not later than April 1, 1980. The task force

shall be disestablished sixty days following such submission.

(5) Any matter concerning the intelligence or counterintelligence activities of the Department of Defense and assigned by regulation to the Inspector General for Defense Intelligence shall be excluded from the study of the task force.

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(D) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(E) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

(F) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

(G) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

(H) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(I) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(J) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(K) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

(L) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and (2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without break in service, is appointed in an Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 10. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(122) Inspector General, Department of Health, Education, and Welfare.

"(123) Inspector General, Department of Agriculture.

"(124) Inspector General, Department of Housing and Urban Development.

"(125) Inspector General, Department of Labor.

"(126) Inspector General, Department of Transportation.

"(127) Inspector General, Veterans' Administration).".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(144) Deputy Inspector General, Department of Health, Education, and Welfare.

"(145) Inspector General, Department of Commerce.

"(146) Inspector General, Department of the Interior.

"(147) Inspector General, Community Services Administration.

"(148) Inspector General, Environmental Protection Agency.

"(149) Inspector General, General Services Administration.

"(150) Inspector General, National Aeronautics and Space Administration.

"(151) Inspector General, Small Business Administration.".

(c) Section 202(e) of the Act of October 15, 1976 (Public Law 94-505, 42 U.S.C. 3522), is amended by striking out "section 6(a)(1)" and "section 6(a)(2)" and inserting in lieu thereof "section 206(a)(1)" and "section 206(a)(2)", respectively.

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Office" means the Office of Inspector General of an establishment; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

EFFECTIVE DATE

SEC. 12. The provisions of this Act and the amendments made by this Act shall take effect October 1, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WYDLER. Reserving the right to object, Mr. Speaker, and I probably will not object, depending on the colloquy that I am about to have with the chairman of the committee, the gentleman from Texas (Mr. BROOKS).

I think the House should be aware of exactly what has transpired and what we are doing by agreeing to this unanimous-consent request.

The bill places inspector generals in many of the departments in the Federal Government.

Mr. Speaker, it took us much more than a year to pass this legislation. The administration opposed the bill for unknown reasons for a great deal of time, many months, in fact, and finally agreed to allow it to come forth on the floor of the House after a great deal of discussion and debate. Frankly, I would compliment the chairman of the committee, the gentleman from Texas (Mr. BROOKS) for pressing for action on the bill, but apparently the administration did not want this bill even though it is a very good bill whose purpose is to try to work out fraud and corruption in the Federal Government and in the executive agencies.

In any event, we finally acted on the bill here in the House some time ago and it was sent over to the Senate. I have the feeling the administration worked in that body, and they sent their version of the bill which we, in effect, now, are accepting. In general it is a good version but some of the things that this bill does are incomprehensible to me.

One of the Senate amendments says that Congress will not get a report—and I repeat—Congress will not get a report on completed investigations that take place within an agency.

Why they eliminate completed reports is unexplainable or unknown to me. They justify it because they say they do not want to let people know on the outside what they are investigating.

But if an investigation has been completed, certainly the fact of reporting that to the House and Senate would not reveal it to anyone concerned.

I understand the legislative problems we face here today and in the closing days of the session, and I do not want to obstruct the passage of this bill, because it is a very important one, and it would do a lot of good when passed. But I would like to hear from the chairman of the committee, the gentleman from Texas (Mr. BROOKS) how he is going to continue the fight to get this legislation straightened out and straightened around and make holy, as it should be, in either this or the next Congress.

I yield to the gentleman from Texas for that purpose.

Mr. BROOKS. Mr. Speaker, I want to say to my distinguished friend, the gentleman from New York (Mr. WYDLER)

that I appreciate his support and his longtime understanding of the need for inspector generals in these Government agencies.

I want to say that the Senate did a good job on this legislation. Most of their amendments I found were very constructive and strengthening and some of them were not quite that good, but they are acceptable and workable. I think this is desirable legislation in that when we pass it tonight, if we do, that the President can, without any hesitation, sign it with pleasure.

Now the question about the filing of investigative reports and the availability of them, let me say that the Senate deleted a requirement that the inspector generals include in their semiannual report a listing of each investigative report completed during the reporting period. The basis for this deletion was their belief and their feeling that it would be improper and undesirable and basically unnecessary to have the names of persons under investigation routinely made a part of a public document.

I would point out, however, that it would still be possible for congressional committees to request and obtain such a listing under its own authority if so desired.

Mr. WYDLER. And I would hope that the gentleman ask that we exercise that at any time he felt it was necessary in the future:

Further reserving the right to object, Mr. Speaker, I still do not understand whom we are protecting. Why should not the department or agency involved report to the Congress the titles and the facts as to completed investigations. Certainly, if a person is innocent, the completed investigation is going to reveal that fact. I do not see how he can possibly be hurt, so I really am at a loss to understand that there is any sense to that deletion from the information which is going to be reported to the Congress.

Mr. BROOKS. If the gentleman will yield further, I understand the gentleman.

I would say that the Senate felt that it was not necessary to list people in a public document when the investigation was over.

The list of investigated individuals is fully available to congressional committees at any time, and we could put in a standing order to get them if we needed them.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks on the bill at this point in the RECORD.

Mr. BAUMAN. Mr. Speaker, there is a pending request, is there not?

The SPEAKER pro tempore. The gentleman is correct. There is a reservation of objection pending.

Mr. WYDLER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for yielding, Mr. Speaker.

I listened carefully to what both the gentleman from New York and the gentleman from Texas had to say.

The gentleman from New York (Mr. WYDLER) seemed to indicate that the other body has written in a prohibition against giving congressional committees reports concerning the investigations made by Inspectors General which is the entire purpose of this bill, as I understand it.

Is there an absolute prohibition against giving this information to a Member of Congress or to congressional committees?

Mr. WYDLER. No, I do not think that that is what the Senate has done. What the Senate has done, as I understand it, is to say that in reporting to the Congress, the agency or department does not have to give the Congress the names of the investigations which have been completed or does not have to list the investigations which the agency or department has completed during that period, so that that information would not be on the report which is submitted to Congress.

The only thing I can make out of what the gentleman from Texas (Mr. BROOKS), the chairman, said is that we should ask for that information as a committee or each individual committee should ask for it.

The only thing I can see with respect to that is that that would not necessarily be information which would be available to the press, whereas the information in the report would be. Otherwise, I do not see any distinction between the two situations.

I really still do not understand why we have that provision. I do not think it is a good provision. I was hoping that the chairman would say that he would work to try to amend this bill at the first opportunity so as to get that provision out of it. That is what I was hoping, I would say frankly. I am sorry that the chairman did not because I do not think the bill as it stands is a sound piece of legislation insofar as that provision is concerned.

Mr. BAUMAN. If the gentleman will yield further, Mr. Speaker, is the gentleman saying that these agencies where the Inspectors General will be created by this bill will not be obligated to give the full reports to the committees upon their request or to an individual Member upon request?

Mr. WYDLER. No, no, I do not understand that. I think the committees, as they request any information, will get it. What they will not have to do, and that is what the Senate has eliminated, is to routinely report to the committees and the Congress the names of the investigations which the agency or department has completed in the particular period.

I do not understand why we should not know how many cases they have been working on—that, it seems to me, should be a matter of public record—and which investigations have been finished.

Mr. BAUMAN. It would just seem to me to be pointless to pass this legislation unless, as part of each committee's oversight function, the committee had complete access to all records of the investigations of these Inspectors General. Otherwise, the bill is unnecessary.

Mr. WYDLER. I would agree with the gentleman.

Mr. BROOKS. If the gentleman will yield further, Mr. Speaker, we will have complete access to the records if we request them. It just will not be part of the routine.

I would say to my distinguished friend, the gentleman from Maryland (Mr. BAUMAN), that there is no prohibition with respect to filing all the information which Congress wants. We will be able to get it. There is no problem about it. It is just that it will not be routinely printed in the semiannual reports.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding.

I would like to commend the chairman of the full committee, the chairman of the subcommittee, and the ranking member for this excellent piece of legislation.

If the Inspector General offices which are being created by this bill come anywhere close to being as effective in the first year as the Inspector General legislation we passed in the last Congress was in the case of the Department of Health, Education, and Welfare, I think we, as a Congress, will be going a long way to clearing up a major portion of the fraud, waste, and abuse in Government. It may not be the full answer, but this is a major step forward.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WYDLER. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Further reserving the right to object, this is the time of the year when the snakes crawl through here, and just out of an abundance of caution, I want to ask the gentleman from Texas whether any of the other body's amendments were nongermane to this legislation.

Mr. BROOKS. If the gentleman will yield, I thought they were all germane.

Mr. BAUMAN. Were they or were they not all germane?

Mr. BROOKS. They were all germane, yes.

Mr. BAUMAN. I thank the gentleman for his assurances. I withdraw my reservation of objection.

● Mr. FOUNTAIN. Mr. Speaker, when H.R. 8588 passed the House on April 18 last, I made the statement that, when finally passed and properly implemented, it will turn out to be one of the most monumental laws ever passed by this or any other Congress.

I want to reiterate that statement at this time. I say this because this bill, like similar legislation which I introduced, and which became law in 1976, establishing the office of Inspector General in the Department of Health, Education, and Welfare, will provide the agencies involved with the investigative and auditing tools which have so long been needed to promote economy and efficiency and to prevent and detect fraud, waste, and abuse.

While I have minor reservations about one or two of the Senate changes, I do not believe that any of them will cause serious problems. In my judgment, the overall effect of the Senate changes is to strengthen—not weaken—H.R. 8588.

The Senate Governmental Affairs Committee had recommended several additional changes in H.R. 8588 which might have been cause for some concern; however, these changes were deleted during floor action on the bill in order to help avoid necessity for a conference.

Consequently, I urge the House to concur in the Senate amendments.

As most of you know, I have been working for several years to help secure the establishment of statutory Offices of Inspector General in Federal departments and agencies.

The civilian departments and agencies covered by this bill are responsible for expenditure of around $100 billion annually and have more than 600,000 employees.

The need for Offices of Inspector General in these establishments was clearly demonstrated last year through an extensive inquiry by the House Government Operations Subcommittee, which I chair. This inquiry, which included 9 days of public hearings, disclosed serious deficiencies in auditing and investigative organization, procedures, and resources, such as—

Multiple audit or investigative units within a single agency, organized in fragmented fashion and without effective central leadership;

Auditors and investigators reporting to officials who were responsible for the programs under review or were devoting only a fraction of their time to audit and investigative responsibilities;

Lack of affirmative programs to look for possible fraud or abuse—some agencies did not even require employees to report evidence of irregularities;

Instances in which investigators had been kept from looking into suspected irregularities, or even ordered to discontinue an ongoing investigation;

Potential fraud cases which had not been sent to the Department of Justice for prosecution; and

Serious shortages of audit and investigative personnel, even though such personnel more than repay their cost in savings and recoveries.

Several agencies admitted they had only one-third to one-fifth the number of auditors or investigators needed.

One Department had only six trained criminal investigators to look into irregularities in the expenditures of some $25 billion annually.

Other agencies had audit cycles as long as 20 years; some activities had never been audited.

These and other serious deficiencies are fully documented in the committee report (H. Rept. 95–584) and the subcommittee hearings.

Recent disclosures of widespread fraud and corruption in the General Services Administration are added evidence of the need for this bill.

Enactment of this legislation will—

Insure that each covered agency has a high-level official with no program responsibilities, required by law to give undivided attention to promoting economy and efficiency and combating fraud and program abuse.

Help to coordinate, within each agency and throughout the Government, the work of numerous audit and investigative units which are now disorganized and without effective leadership; and

Help to insure that agency heads and the Congress receive information needed to promote economy and efficiency and to combat fraud and abuse.

Waste, inefficiency, fraud, and abuse in federally financed programs is impairing the accomplishment of program objectives and imposing an intolerable and inexcusable burden on this country's taxpayers.

The House can and should do something about this deplorable situation today by concurring in the Senate amendments, thereby sending this badly needed legislation to the President for his signature.

Over the years, this legislation has the potential for saving the taxpayer untold billions of dollars.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7010, VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, by direction of the Committee on the Judiciary, I move to take from the Speaker's table the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. MANN).

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. RODINO, Mr. MANN, Ms. HOLTZMAN, and Messrs. HALL, GUDGER, EVANS of Georgia, WIGGINS, and HYDE.

There was no objection.

FIRST ANNUAL REPORT ON SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

To the Congress of the United States:

I am pleased to submit to the Congress the first annual report on science and technology as required by the National Science and Technology Policy, Organization, and Priorities Act of 1976.

Science and technology contribute in significant ways to many of our social needs—maintaining economic growth and productivity, feeding the world's people, improving our health and environment, and preserving our national security. They also reveal the basic structure of nature. Moreover, our science and technology draw the respect and admiration of nations throughout the world.

I believe this report, and its successors, can play an important role in providing a foundation for informed debate on scientific and technological issues, and thereby can help assure that our scientific and technological capabilities remain strong.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1978.*

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. HOWARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11733, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, September 22, 1978, title I had been considered as having been read and open to amendment at any point.

Are there any further amendments to title I?

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIBBONS: Page 140, line 24, after the period insert the following: Each State shall annually there-

after report to the Secretary its current inventory.

Page 141, line 2, after the period add the following: Each State shall annually thereafter report to the Secretary its current inventory.

Page 141, strike out lines 9 through 24, inclusive, and insert in lieu thereof the following:

(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code.

(d) Section 141 of title 23, United States Code, is amended to read as follows:

"§ 141. Enforcement of Requirements.

"(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

"(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

"(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

"(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States."

(e) Section 141(c)(2) and (3) of title 23, United States Code, shall be applicable to certifications required by such section 141 to be filed on or after January 1, 1980.

Mr. GIBBONS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Madam Chairman, I offer a set of amendments to title I of H.R. 11733 as reported. Mr. HOWARD agreed to these amendments during consideration of title V, the funding title, before the Ways and Means Committee.

Several of these amendments are of a technical nature in that they relate to reporting requirements. Each State is required to report annually to the Secretary of Transportation on the inventories required by subsections 144 (a) and (b) regarding its system of penalties for violations of the weight laws and its system of special permits for overweight or oversize vehicles. Further, the Secretary must report this information, along with his findings and recommendations, to Congress each year. The Secretary must also report to Congress annually on the certifications that States submit pursuant to section 141(b) regarding their vehicle weight and size enforcement efforts.

The amendments proposed to section 141 are designed to improve Federal and State enforcement efforts on maximum vehicle weights and sizes. This section also contains provisions on enforcing speed limits but these provisions are unchanged. As to weight and size enforcement, present law requires annual State certifications on enforcement efforts and imposes a 100-percent penalty against the annual apportionments of Federal aid highway funds for any State which fails to make such a certification. These proposed amendments would reduce this penalty from 100 percent to 10 percent for a failure to certify and for enforcement efforts that are determined to be inadequate by the Secretary. Further, the amendment provides that States shall submit with their certifications such information as the Secretary determines is necessary to evaluate the certification.

Madam Chairman, these amendments are needed if we are to insure improved enforcement of vehicle weight laws by the Federal and State governments. Further, such enforcement is critical to the preservation of our irreplaceable and most expensive highway system. The amendments are consistent with provisions contained in the Senate highway bill and have the endorsement of Mr. HOWARD and others who have studied these issues extensively. I therefore move their adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. GIBBONS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 110, line 14, strike out the period and insert in lieu thereof a comma and the following: "except that the Secretary, in approving any project under this section during fiscal year 1979 or 1980, may increase the Federal share of the cost of such project to 100 per centum if the Secretary determines that (1) the State seeking approval of such project is unable to provide all of any part of the non-Federal share of the cost of such project due to the authorization levels contained in this section, and (2) such increased Federal share is consistent with the purposes of this section."

Mr. GARY A. MYERS. Madam Chairman, the intent of this amendment is to address a situation which I fear might occur as a result of the rapid increase of the Federal contribution to the specialty bridge program. Members are fully aware that the committee originally intended to move the specialty bridge program from $180 million a year up to $2 billion. That has been adjusted down to $1.5 billion in Federal money, as the result of a previously adopted amendment; but we must consider what the increased commitment to the Federal level will actually be out in the States as far as getting the job done of replacing the bridges or repairing them. If you take the level of Federal involvement prior to this bill and the matching ratio of $180 million that we authorized before on a 75–25-percent match, it required the States to come up with approximately $50 million to get that $180 million into action and working. If you take the $1.5 billion that we now have in this bill, and even considering the fact that we are moving the match from 75 to 25, to a 90 to 10 split, it will require the States to come up with essentially 3 times the amount of money they need to now fully utilize the Federal program.

There are many States which will not be able to respond quickly enough to get their financing in order to be able to take advantage of this rapid increase, and therefore, I think we run the risk of the specialty bridge program, in which we are all interested, becoming stagnant in a number of States over a period of the first few years of introduction.

Originally in committee I had offered an amendment which was similar to this amendment but which would have required the Secretary to allow 100 percent of Federal funding over the first 3 years. This is a moderation of that amendment in that it permits the Secretary, if he or she determines that a State is unable to fully utilize the Federal contribution during the first 2 years of the program, to permit the States to use the Federal contribution or share as 100-percent money with no payback.

I believe what this will accomplish is a speedy development of a program of replacing and repairing badly needed bridges in many situations. I think it will prove to be an efficient move, because even if we consider the fact that a State may be delayed for 1 year from picking up the money, at the current rate of inflation the program will lose almost 10 percent of its effective value, from the estimated 1979 dollar level.

Some people fear a concept like this may make the States less than fully responsible. I believe it will not make the States treat the money as gold-plating money, and that the States will realize this will only be a 2-year program. I believe they will in fact still be encouraged to pick out the worst of their bridge

situations for repair. We have to keep in mind that this does not mandate action by the Secretary, but it simply gives him the flexibility, if a State cannot pick up the money that he feels is consistent with the intent of this bill, he may allow the States to do this with 100 percent Federal financing. It will give the Secretary and the States that flexibility.

There is also the question about the responsibility of the States in regard to what they are willing to do as far as the gas is concerned. I also agree that some States are in difficulties because their State legislatures have failed to do what is responsible by providing adequate funding to pick up and provide the State match for the Federal dollars. But we have to respond also to the situation that many States have at least a 9-cent gas tax while the Federal tax is 4 cents, so we cannot ignore the fact that there is some responsibility already exhibited by their actions.

There is a suggestion that what we ought to do, if we are going to do anything like this, is create a payback situation. I would just like to discuss my feelings about a payback scheme.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, if we took an example where a State was going to have a $90 million commitment from the Federal Government, that would normally mean a $10 million match on a full program from the State, for a total of $100 million in any given year. If we accept this amendment and the Secretary believes the State cannot come up with a match, then the Federal share of $90 million would be able to be utilized in the bridge program, and we would have $90 million worth of repairs and the State would benefit by $90 million. But if we tacked on a provision like this, a requirement that the State pay back 10 percent because we are concerned about the lack of a 10-percent match, then we have to ask ourselves the question: Pay back to whom and pay back what?

If the State is required to pay back 10 percent of the $90 million, that means the bottom line of the effect of this provision is that the State pays back $9 million, 10 percent of $90 million, and they come out with $81 million, where they should have been getting $90 million.

So all we are doing by this amendment is permitting the States to use the money on a 100-percent basis. It will impact on the 20-year program in that the States may have put 10 percent less for 2 years in the total program.

However, I think the benefits of getting the program off the ground quickly and getting at unsafe bridges, reducing the number of traffic tie-ups, delays, and highway inefficiencies that these bridge problems are causing around the country, will far outweigh the negative impact of the States' contribution during these 2 years.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, until this legislation the Congress had committed a mere $180 million per year for bridge construction and repair. In this legislation, as it came to the floor, we not only increased that to $2 billion per year for each of the 4 years of the program but we increased the Federal-State share from the existing 75–25 formula up to 90–10.

With the possible exception of emergency situations, we do not have and never have had a program in this Federal-State relationship, which is title 23, which is our highway program, with 100 percent Federal participation and no requirement for participation by the States.

We would like the Members to know also that, in recommending a great deal lower amount of money for bridge reconstruction in the other body, they changed the Federal-State share from 75–25 down to 70–30. So we feel we are going to have a difficult enough time in holding our position when we go to conference. We have looked into 100-percent funding on many projects and have determined that they would not work unless there is a dedicated share put in by the States. So I urge rejection of the amendment.

Mr. SHUSTER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, although my own State of Pennsylvania would benefit from this preferential amendment, I must reluctantly oppose it for six reasons.

First. It penalizes those States which are in good financial shape.

Second. It is disincentive for States to make tough decisions to increase revenue.

Third. It is unfair because no paybacks are required.

Fourth. It sets a bad precedent. It would be only a matter of time before someone tries to do the same thing with other amendments.

Fifth. Congress traditionally has opposed so-called bailout schemes, of which this is one.

Sixth. It was fully considered in hearings before the committee rejected and, indeed, soundly defeated it in markup.

For those reasons, Madam Chairman, I would reluctantly urge disapproval of this amendment.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding, and I would like to commend the gentleman for his comments. I am also from the State of Pennsylvania, and I, too, oppose the Myers amendment. I think the gentleman from Pennsylvania (Mr. SHUSTER) has made a good list of points against this amendment, and I urge its defeat.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GARY A. MYERS. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Pennsylvania (Mr. GARY A. MYERS) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HORTON

Mr. HORTON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HORTON: Page 108, after line 3, insert the following new section:

ADVERTISING BY NONPROFIT ORGANIZATIONS

SEC. 118. Section 131(c) of title 23, United States Code, is amended—

(1) by striking out "and (4)" and inserting in lieu thereof "(4)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.".

Renumber the succeeding sections of title I accordingly.

Mr. HORTON (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HORTON. Madam Chairman, I rise to offer an amendment to section 118 of the Surface Transportation Assistance Act of 1978. The purpose of my amendment is quite simple. It will allow nonprofit groups to advertise free coffee on interstate and primary roads.

The need for this amendment first became apparent when the New York State Department of Transportation announced last July that it would prohibit the advertising of free coffee on I–490 outside Rochester, near the thruway. State officials advised a local citizens band radio group that has given free coffee to thousands of holiday motorists in the last 4 years, that advertising was in violation of State and Federal law. The group was warned that their adver-

tising could jeopardize Federal highway assistance funds.

To give you an idea of the number of people who have been benefited by the free coffee service, over the July 4 weekend last summer, the Rochester area CB Radio REACT group provided free coffee to 5,500 mortorists at a rest area on I–490 near the thruway entrance at Victor, N.Y. Over the Memorial Day weekend 3,800 motorists were served. Since there are CB Radio REACT groups all across the Nation, I am certain that these figures are fairly representative of many congressional districts.

I find it hard to believe that those of us who supported congressional enactment of the Highway Beautification Act of 1965 intended to prevent this kind of community service.

The chairman of the REACT group in my area put it this way:

> You try to do something good for the community and this is what you get for it. It's a low punch. A lot of people stop to get a free cup of coffee. It gives them a chance to stretch their legs until they feel they can go on without pushing it.

My amendment does not advocate nor intend that we allow advertisements to spring up on every federally funded highway year round. Instead, it is proposed as a solution to a problem that occurs only on holiday weekends. The most equitable solution to this problem is to change the law. I urge its adoption.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I just wish to compliment the gentleman from New York (Mr. HORTON) on his amendment.

We have these programs throughout the United States. There should not be any deterrent to them. We have them in my own State of New Jersey, and I believe the gentleman's amendment is a fine addition to the bill. It clears up any question which may arise.

Therefore, Madam Chairman, we accept the amendment on this side.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HORTON. I am glad to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we have studied this amendment. We think it is a good one, and we accept it on this side.

Mr. HORTON. Madam Chairman, I thank the gentleman.

Mr. CONABLE. Madam Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from New York.

Mr. CONABLE. Madam Chairman, I would like to compliment the gentleman from New York (Mr. HORTON).

These groups have been very active up in our area. They are in the best tradition of the American volunteer.

I think the initiative which the gentleman in the well has taken with respect to this matter is very much to be commended, and I am very pleased to associate myself not only with his initiative and his splendid judgment, but with the remarks he has already made.

Mr. HORTON. Madam Chairman, I thank the gentleman from New York.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HORTON).

The amendment was agreed to.

Mr. EDGAR. Madam Chairman, I move to strike the last word.

Madam Chairman, section 128 of this legislation improves and expands Federal promotion and encouragement of voluntary commuter carpooling and van pooling programs. Carpools have been around for years, and they are a well-known component of any program with a goal of reducing vehicle miles traveled. Van pools are less well known, the first formal program having been established just 5 years ago by the 3–M Co. in St. Paul, Minn.

Van pooling is an innovative and cost effective expansion of carpooling, utilizing 12 to 15 passenger vans driven by a volunteer worker-driver. In a typical employer-sponsored program, a company purchases or leases a van, designates a worker-driver, and helps find worker-passengers. The driver receives a free ride, use of the van on weekends for a small mileage fee, and a percentage of the fare of the 10th and 11th passenger. All operating, maintenance, and vehicle amortization costs are paid by the passengers in a monthly fee. Companies usually absorb administrative costs.

As pointed out by virtually every witness before the Surface Transportation Subcommittee during hearings on van pooling held on May 13, 1977, these programs have many benefits to the Nation, to participants, and to sponsoring companies.

The Nation benefits from energy conservation, pollutant reduction, reduced traffic congestion, reduced highway construction requirements, the saving of consumer dollars which can be spent for American goods instead of adding to OPEC coffers, and also by allowing prime land to be used for productive purposes instead of parking lots. Each commuter van annually saves an average of 5,000 gallons of gasoline, according to the Department of Energy. According to the Environmental Protection Agency, each commuter van reduces pollutants an average of 1.8 tons annually.

The van pooler benefits by reducing commuting costs, freeing a commuting vehicle, escaping the hassels of rush hour commuting by car, and having preferential parking at work.

The participating company benefits from saving on parking construction and maintenance costs, increasing its labor pool radius, relieving traffic congestion near the plant, and improving employee morale and productivity.

Overall, I feel strongly that ridesharing programs can made significant contributions toward achieving national transportation, energy, and environmental goals.

During the May 1977 hearings, the Surface Transportation Subcommittee learned of the experience of some of the almost 100 existing formal vanpooling programs, which have a total of more than 2,000 commuter vans on the road in 35 States and the District of Columbia. Generally, there are three types of van sponsorship—programs administered by companies for their own employees, programs run by areawide public agencies, and vans operated and administered independently by individuals.

During these hearings, the subcommittee heard testimony about the unique characteristics of vanpool programs, and about their unique problems. During subcommittee and committee markup on H.R. 11733, I introduced amendments to address some of these problems. Even before final action occurred on this bill, it contained a number of provisions which I feel will be helpful in efforts to eliminate some of the barriers to increasing ridesharing participation.

Section 3 of the Emergency Highway Energy Conservation Act (Public Law 93–239), as amended, authorizes States to set aside part of their Federal aid urban systems highway construction apportionments for demonstration carpooling and vanpooling programs. Ridesharing projects have already demonstrated their effectiveness in saving energy, reducing pollution, and relieving traffic congestion. For this reason, the committee deleted the word "demonstration" from the act, to establish these projects as an ongoing, eligible program.

The committee also amended the act to assure that stationwagons could not be financed by Federal aid urban systems funds. The committee approved several other amendments to the program—reducing the Federal share for these projects to 80 percent, thus making the Federal share consistent with most other transportation construction projects as provided in H.R. 11733. The committee also deleted the $1 million limitation on the Federal share for any single project, and authorized Federal aid primary funds to be available to States for financing these projects.

I offered three amendments in committee to further ridesharing efforts. In approving the first of these amendments, the committee recognized that ridesharing lacks an effective public or private sector constituency so it designated the Secretary of Transportation to fill that role. While it clearly is in the national interest to promote ridesharing, certain institutional, social, and political forces have worked to the disadvantage of this mode. I believe that ridesharing efforts require a strong advocate to voice the needs of this mode and to make Federal policy sensitive to the special needs of ridesharing.

Examples of these needs are Federal taxing and Federal parking policy which could promote ride sharing. In offering this amendment, I did not intent that the Secretary favor ride sharing at the expense of other modes; rather the Secretary should actively work to assure that the interests of ride sharing are sufficiently represented in all Federal rule and regulation making in which ride sharing has a significant interest.

My amendment authorizes $1 million for each of the next 3 fiscal years for the

Secretary to establish a program to assist in the establishment of new voluntary ride sharing programs, to encourage the public sector in removing legal and regulatory barriers to ride sharing, to support existing ride sharing programs by disseminating up-to-date information of interest to ride sharers and ride sharing project operators, and to provide related technical assistance.

I believe that identifying legal and regulatory barriers to ride sharing can make a substantial contribution to increasing participation in this mode. These barriers include the lack of insurance at reasonable fees and levels of coverage, unresolved questions about coverage under workers' compensation laws, labor relations questions such as which programs are eligible for exemptions under the Fair Labor Standards Act, local zoning law questions, and Federal, State, and local tax questions.

Already, at least 12 States have exempted van pools from regulation by public utility commissions. It is my intent that the Secretary under this section would be authorized to develop model State and local legislation to assist State and local governments in resolving these problems.

Subsection (h) of this section is an amendment I introduced to exempt from regulation by the Interstate Commerce Commission vehicles carrying up to 15 persons in a single daily round trip for the purpose of commuting to and from work. This provision is intended to exempt interstate van pools from economic regulation by the ICC. However, most van pools are intrastate, and are subject by regulation by the States. The approval of this provision by the Congress, in my opinion, would serve as a signal to all States that it is in the public interest to remove regulatory barriers at both the State and Federal level.

The Secretary is also authorized to help establish ridesharing programs where they are needed and desired. It was my intent in offering this amendment to establish within the Department of Transportation a ridesharing "strike force" with a capability of bringing in a team of trained ridesharing professionals to advise those who wish to start a ridesharing program. It is my hope that such a team would have sufficient experience in the start-up of programs to avoid repeating the mistakes and bad experiences of administrators of other programs. The team would provide technical assistance in the form of marketing and promotional help, and make the transition to ridesharing as easy as possible—and then turn over the reins permanently to local control. The team would continue to be on call to provide technical help, and in addition would facilitate the acquisition of financial assistance which may be available from both the public and private sector.

The committee shared my view by approving my amendment that it is necessary to provide a stable funding source for ridesharing projects. Existing funding is inadequate to meet the expected demand for financial assistance. Many States are reluctant to set aside funds apportioned to them for highway construction. For this reason, a separate category for ridesharing projects will promote more participation and ridesharing.

Section 128 repeals an existing but unfunded $7.5 million categorical grant program for carpooling demonstration projects in favor of a new, broader program of grants and loans. In offering the amendment to establish this new program, it is my intention that eligible projects should include matching ridesharers with other ridesharers, establishing ridesharing offices to administer programs, evaluating ridesharing programs, studying the feasibility of establishing ridesharing projects, financing "abort" agreements to guarantee a ridesharing project operator against loss of investment in a ridesharing program, providing marketing information to potential ridesharers, designating existing parking facilities for preferential ridesharing parking, designating existing highway lanes as preferential ridesharing lanes or preferential ridesharing and bus lanes, and providing for ridesharing traffic control devices and signs.

None of the grants could be used for the purchase or lease of vehicles. It is also my attempt that none of the funds could be used for normal operating expenses for vanpooling projects other than for administrative expenses. These programs are self-sustaining. Participant fees are charged in an amount which covers vehicle amortization, and operating and maintenance expenses. Nothing in this section was intended to preclude the use of these funds for low interest or interest-free loans for the purchase or lease of appropriate ridesharing vehicles under terms and conditions as the Secretary deems appropriate.

My amendment authorizes $15 million for fiscal year 1979 and $20 million for fiscal year 1980 to finance the program I have just described.

Vanpooling and carpooling have commanded the attention of several Federal agencies which see ridesharing as supportive of their mandates. The Department of Energy sees ridesharing as a tool to conserve energy. It should be noted that as a result of an amendment I introduced, the Federal Energy Administration vanpooling promotion program was transferred to the Department of Transportation last October. The Environmental Protection Agency encourages ridesharing as a way to reduce urban smog. The Urban Mass Transportation Administration is funding four demonstration vanpooling programs to study how vanpooling can improve the peak-to-base ratio of public transit systems, thus reducing system deficits.

The Federal Highway Administration administers the previously mentioned program authorized by Public Law 93-239, as amended. I feel that none of these programs has adequate resources to respond to the need for financing and technical assistance, and there is only minimal coordination among these programs despite their similar functions. By approving one of my amendments, the committee endorses my view that if these programs were consolidated into a single office, the elimination of duplication and the increase in efficiency could increase the delivery of services without additional need for funding. Such a "National Office of Ridesharing" would offer "one stop shopping" for those who are searching for ridesharing financing, technical promotional or marketing assistance, or for those who would benefit from a clearinghouse for ridesharing information.

My amendment proposes to authorize $125,000 to finance a study to determine the costs and benefits of creating such a "National Office of Ridesharing." Following the study, the Secretary would submit a plan to the Congress proposing a plan to centralize the programs, if necessary, to make them more efficient, cost-effective, and to avoid duplication of effort.

Section 128 also provides that the Secretary of Transportation shall not approve any project under section 3 of the Emergency Highway Energy Conservation Act, as amended, which will have an adverse effect on any public transit system. This provision would also apply to the new categorical grant and loan program.

Generally, there is little evidence that projects funded under that act have had an adverse effect on public transit. The average vanpool trip is 25 miles one-way compared to the average one-way public transit trip of 6 miles. However, vanpool programs can be tailored to interface with public transit. UMTA is presently funding four projects under authority of the UMT act section 6 demonstration program, to assess the benefits of vanpooling projects to public transit. The theory is that vanpooling could be an effective strategy for reducing public transit deficits which accrue during the peak hour. Increase in transit deficits occur during this peak because vehicles and drivers are idle for much of the day. UMTA is also taking a look at how vanpooling can substitute for conventional public transit in areas where rider density is too low to be economical.

The four UMTA-funded vanpool projects are demonstrating that vanpools complement public transit. It was my intention by adding language protecting public transit that these projects not result in significant financial harm to this conventional mode. While I am not aware of any existing vanpool project which would meet this criterion for disapproval, I feel it is important to maintain the financial viability of public transit systems, which have an important role in moving people efficiently in urban and urbanized areas.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: On page 150, delete line 23 and all that follows through line 10 on page 151.

Mr. GARY A. MYERS. Madam Chairman, there is a sizable commitment by the committee in section 108 of the bill, page 97, to completing the interstate in a timely fashion.

One of the provisions of that section would prevent the Secretary from redesignating any newly released sections of the interstate to other highways around the country, except that if we go to page 150 and read section 158, we find this wording:

Notwithstanding the amendments made by section 108(b) of this Act, the Secretary of Transportation shall, not later than sixty days after the date of the enactment of this Act . . .

Madam Chairman, it goes on to explain that there are three sections of highway in the United States which ought to be excluded from this provision in section 108.

I believe this is special interest legislation if I have ever seen it. I offered an amendment in the committee to strike it. The committee would not support it. I offered an amendment in the committee to allow any other qualified highway in the United States to be able to be designated if the Secretary chose, but somehow the committee has found that these 29 miles of highway which are in California and in New York are so important that they deserve a special section of the bill and will not be handled the same as all other Federal highways in all the rest of the United States. I would not object to that if there were only 29 miles which States had previously requested to have redesignated, but the truth of the matter is that there exists now more than 5,000 miles of requests for highways to be designated as Interstate.

The other truth of the matter seems to be that these highways have been before the Secretary for more than 10 years, or at least in the middle 1960's, as I understand, on which the Secretary has never determined that they were so important that they should be designated as Interstate even though during that same course of history there were miles released and redesignated in other sections of the country. With 5,000 miles being requested, it would seem to me that virtually every State is probably affected by this, and probably the majority of the congressional districts. I wondered why in the committee, members would vote against their States' being able to receive this same benefit, because what I found even in my own State was that States have asked for this so-called 90–10 split, and that is usually what it gets down to. The States want a 90–10 split.

The House just rejected my proposal to relieve the States of 10 percent funding with regards to special bridge programs and safety programs where bridges are collapsing—I forget what number the chairman said—collapse daily around the country. Yet what we are doing here is taking 29 miles of highway in very special legislation and forgiving these two States of 20 percent of their obligation to build them. If the States feel they are so important, they should go ahead and build them, but I do not see that they merit special Federal legislation.

If this amendment fails, and that means if we fail to strike this, I intend to offer an amendment which would expand it so all States in the United States could compete for mileage as it is released. I would hope that people who represent States that have a desire to be handled fairly with New York and California would find it in their minds that they would best represent their constituents by voting for that second amendment. My first hope is that this amendment passes because it is special legislation which is not defendable, I do not believe, by any merits of the situation. I think that we would be most responsible if we make these 29 miles in California and in New York to be dealt with exactly the same way as we expect those other 5,000 miles that are on application, and perhaps again another 5,000 that would be requested during the next few years.

Mr. ANDERSON of California. Madam Chairman, I rise to oppose the amendment.

This amendment is essentially the same as one the gentleman offered in committee that was rejected 37 to 4. Not only would it gut the intent of the committee, but it also is opposed by the California Department of Transportation, the Los Angeles Board of Supervisors, the Los Angeles County Transportation Commission, Los Angeles City Mayor Tom Bradley, the Southern California Association of Governments, and the Southern California Rapid Transit District.

Madam Chairman, we need section 158. The 7 million people in Los Angeles are looking to the Harbor Freeway as their hope for the beginnings of a regional transit system.

We need to encourage these people to get out of their cars and into buses.

We need such a system to help meet the clean air mandates. For unless we do, these stringent requirements will force a shut-off of all Federal funds to an area larger in population than 42 States. This freeway transit system that section 158 will allow hinges on the Harbor Freeway as its backbone. The system will never be realized unless we get the increased Federal participation that goes with Interstate System designation.

Madam Chairman, this is not special interest legislation that benefits a few. More people moved into the Los Angeles area from 1950–70—3 million—than live in half the States of this country.

As I said earlier, this area is larger than 42 States in population. UMTA recognizes that 800,000 people are riding buses every day in this area. Since we could double this number and save millions of gallons of fuel with the Harbor Freeway transit system, the UMTA Regional office fully supports the route designation and indeed recommended that the Federal Highway Administrator move to designate the Harbor Freeway as Interstate administratively.

Secretary Brock Adams told the committee that the Clean Air Act mandated that priority be given to projects addressing nonattainment areas like Los Angeles. Yet, his Federal Highway Administration has moved to designate nearly 50 miles elsewhere while this project waits in limbo.

This is unfortunate and section 158 corrects this by mandating Interstate System designation within 60 days of enactment. This is fully consistent with the report of the Interstate and Foreign Commerce Committee on the Clean Air Act amendments. I quote:

The committee urges that agencies . . . make available any relevant program assistance to the states and regions involved in order to meet these (Clean Air) obligations.

Madam Chairman ,because of the clean air mandates, because of the unified local support, because of the committee's strong support, and because of the urgent need, I oppose this amendment and urge its rejection so that we can support the committee's bill.

I have been forced to speak in the negative on this because of the gentleman's amendment. Let me include in the RECORD now the positive side of this matter—a side accepted overwhelmingly by the committee in markup and by the full House tonight.

THE ROUTE DESIGNATION SECTION OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Section 158 directs the Secretary of Transportation to designate certain routes as part of the Interstate System not later than 60 days after enactment of this Act. Let me explain the reasons for one route mentioned in this section.

Section 108 of this bill prohibits the Secretary from designating mileage as Interstate after the date of enactment. Exempt from this requirement is specified mileage in California and New York.

The 20.5 miles in California is presently State Route 11 (SR 11). This existing freeway is a "back-bone" transportation corridor connecting the proposed Century Freeway (I–105), the Artesia Freeway (State Route 91), and the San Diego Freeway (State Route 450). This freeway grid, serving nearly 9 million people in Los Angeles County, connects the Los Angeles/Long Beach Ports with the Central Business District (CBD) of the City of Los Angeles.

When designated as Interstate, this existing highway can be improved by building high occupancy vehicle and rapid transit lanes that are critical if Los Angeles is to meet Congressionally mandated national ambient air quality standards. I remind my colleagues that the Clean Air Act mandates that each Federal department, agency, or instrumentality must give priority in the exercise of the authorities in the implementation of State Implementation Plans (SIP).

NONATTAINMENT AREAS

Since many urban areas of the country, and Los Angeles in particular, cannot achieve national air quality standards, Sections 171 and 172 of the Clean Air Act permit five or ten year deadline extensions. However, in return for any extension, exhaustive action and proof of achievements throughout this period are required.

DOT Secretary Brock Adams, in answer to my questions during our committee hearings on this bill, stated that he was required to give priority to projects which would help non-attainment areas comply with these standards.

Notwithstanding these comments, DOT has since designated nearly 50 miles of highways across the nation as Interstate, while the SR 11 application remains in limbo. Though the stated purpose of the SR 11 designation is to lay the groundwork for a regional public transit network in a severe non-attainment area under threat of a complete cut-off of all HUD, highway, and public works projects, the request for SR 11 to be

designated as Interstate has gone unanswered.

Very specific provisions forbidding either approval or funding of projects by Federal agencies unless an implementation plan has been submitted are included in the Clean Air Act. However, without the increased Federal match that goes with Interstate designation, we can hardly fault local transportation planners for not including air quality improvement measures like these high occupancy vehicle lanes unless they could afford to pay for them. With the existing 70–30 match this is not possible.

On the other hand, a 92% Federal share basis would allow these planners to move to create a public transit grid that will serve this area of Southern California and its 9 million residents. Without this increased Federal assistance, we may see DOT and, indeed, all Federal agencies, withholding grants to this area.

THE STATE PLAN FOR SR 11

The Harbor Freeway (SR 11) is presently an 8-lane freeway. Interstate System designation is requested in order that an exclusive bus/car pool guideway can be constructed as part of a Regional Freeway Transit System (RFTS).

The estimated cost of Segment One of the freeway transit project along SR 11 is $75 million. This would include 2 miles of aerial guideway and 5½ miles of widening along the freeway to accommodate buses and car pools. In addition, three on-line stations are proposed to be financed with non-highway funds.

South of proposed I–105, buses and car pools will use the existing SR 11 mixed-flow freeway lanes until Segment Two begins. Five on-line stations are proposed.

The proposed Interstate System designation and the existing southerly leg of SR 11 (Segment Two) would provide connections with I–10 and I–405, and with the proposed I–105. This continuous system ties Los Angeles' CBD to the southern and western portions of Los Angeles County.

SR 11 ties the CBD and its 200,000 jobs to the Los Angeles/Long Beach Port area and its 100,000 jobs.

SR 11 is a key element in the operation of a tentative 370-mile, one hundred station FTS. This system is Los Angeles' only hope to attain national ambient air quality standards and thus avoid a cut-off of all Federal funds after 1982. Patronage forecasts for 1990 of the freeway transit element indicate that the SR 11 corridor will carry the highest patronage in Los Angeles County.

The "People Mover" for downtown Los Angeles has termini at the Union Station to the east and the Convention Center to the west. The SR 11 freeway transit project will connect with the "People Mover" terminus at the Convention Center, located just north of I–10.

UMTA SUPPORT STRONG

On April 28 Dee V. Jacobs, Director, UMTA Region IX, sent a memorandum to Urban Mass Transportation Administration Administrator Dick Page urging UMTA to advise the Federal Highway Administration of "UMTA's very strong support in principle for this designation."

PRIOR PLANNING

During 1975 and 1976, a comprehensive transit alternatives analysis was conducted by concerned agencies in the Los Angeles region. Based upon the findings of the analysis, a four part Regional Transit Development Program was developed and endorsed by the Southern California Rapid Transit District (SCRTD), the California Department of Transportation (Caltrans), and the City of Los Angeles.

The four elements of the plan are: a transportation system management plan (TSM); a high-level bus-on-freeway service to be commonly known as "Freeway Transit"; a "People Mover"; and a rail rapid transit system.

Former DOT Secretary Coleman stated that UMTA and FHWA are prepared to provide the requested funds for preliminary engineering and environmental impact analysis for the first three elements. (Letter dated December 22, 1976)

SR II, a major north-south freeway through central Los Angeles, is a key element in the operation of the tentative 370-mile, one hundred station FTS.

Preliminary planning indicates a need for nine on-line stations along the 20.5 mile route of SR II. These stations would intercept local east-west bus lines providing widespread access to hospitals, universities, schools, shopping centers, major sport complexes, and employment areas like the Los Angeles/Long Beach Ports—all at a cost of $125 million.

The "People Mover" has termini at the Union Station to the east and the Convention Center to the west. It is planned to extend the El Monte busway westerly to the Union Station to interface with the "People Mover." The SR II freeway, the back-bone of the entire system, will connect with the "People Mover" termini at the Convention Center, located just north of I–10, and east of and adjacent to SR II. With efficient transfer facilities to the "People Mover", the SR II designation will be a significant factor in the success of the people mover operation.

Los Angeles is presently negotiating with the International Olympic Committee, to host the 1984 Olympic Games. If Los Angeles is successful, many of the activities will be centered at or near the Convention Center and the Los Angeles Coliseum/Sports Arena. The SR II freeway is so located that it will be the main transportation arterial between the two complexes.

Presently, plans are being prepared for the implementation of ramp meters on the northbound SR II on-ramps between SR 47 and I–405. On SR II between I–405 and I–10, the on-ramps in both directions are currently being metered. However, with the completion of proposed I–105, the ramp control programs on SR II will be a major mitigating measure for lessening the impact from I–105.

SR II TODAY

Heavy congestion during peak commuting hours is a common, every day occurrence on SR II. At times, coupled with the commuters is traffic generated by two major sport complexes near SR II—the Dodger Stadium just north of the Los Angeles CBD(and the Los Angeles Coliseum/Sports Arena, south of the CBD.

The present SR II traffic volumes range from 40,000 vehicles daily at the junction of SR 47 to 205,000 at both I–10 and proposed I–105. As can be expected, the major cause of accidents on SR II is directly related to the congestion and in some cases, to the older design standards used in the construction of the freeway in the mid-1950's and early 1960's. Major programs that could be financed with Interstate System designation on SR II would go a long way in reducing accidents.

JUSTIFICATION FOR THE SR 11 DESIGNATION

Following is a list of characteristics which the committee feels contributes to the justification of Section 158:

SR 11's freeway transit project is included in the Southern California Association of Government's (SCAG) Regional Transit Development Program.

SR 11 provides service to the Los Angeles Convention Center, a proposed Regional Transportation Center, with connections to the proposed "Downtown People Mover"/ Union Station/El Monte Busway.

SR 11 provides a vital and direct link between LA Harbor/San Pedro and related port activities, and the Los Angeles CBD.

SR 11 provides the most direct route between Los Angeles International Airport (LAX) and the Los Angeles CBD via proposed I–105.

SR 11 provides the most direct route between Terminal Island including the U.S. Naval Base and Naval Shipyard and Long Beach Harbor and the Los Angeles CBD.

SR 11 has the highest potential projected transit patronage of any of the various freeway corridors in the 370-mile transit system.

SR 11 provides access to the recreational/ beach activities of the San Pedro/Palos Verdes coastal areas.

SR 11 has continuous heavy use because land-use in this corridor runs the gamut from light/heavy density residential to commercial-industrial.

CONCLUSION AND SUMMARY

Designation of SR 11 between I–10 and SR 47/San Pedro as a part of the Interstate System will accomplish several objectives for the region.

Eligibility for Interstate funds would accelerate and provide adequate funding for the freeway transit element. In addition to providing a better traffic service and a safer facility, by inducing a large diversion from the auto mode to the freeway-transit mode, it would result in reduction of fuel consumption, congestion on freeways, especially during peak commuting hours, and more importantly, reduction of air pollution in the Los Angeles Basin.

On the other hand, without this designation, funding for this critical proposal would need to compete with other funding sources, eg. FAU, FAP, and UMTA. This would add considerably to the burden of the region as it must then consider the tradeoffs and delaying of other needed regional projects funded from other sources.

Overall, it is apparent that SR 11 in line with national goals could play an important role early in the implementation of the entire Freeway Transit System. With the anticipated extension of the El Monte Busway westerly to the Union Station; the implementation of the "Downtown People Mover" between the Union Station and the Convention Center; the rail rapid transit system between the San Fernando Valley and the Los Angeles CBD; the proposed I–105 Freeway connection to LAX; and the Interstate Freeway links between I–10, I–105, and I–405, SR 11 plays a key role in transportation planning in Los Angeles County.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, I also rise in opposition to the amendment.

Madam Chairman, the 1978 Surface Transportation Assistance Act directs a new focus for the interstate highway system, with provisions inserted for speeding completion of the system and an expansion of the focus on resurfacing and rehabilitating existing roadways.

In keeping with the committee's intention to get projects underway quickly, section 158 of the bill directs the Secretary of Transportation to expeditiously designate—within 60 days after enactment—certain routes selected by the committee as necessary components of an effective interstate highway system.

I am personally familiar with the pro-

posed addition of 4.2 miles of the planned Lockport Expressway near Buffalo, N.Y., to the interstate system. The highway will serve an interregional and interstate function in an area poorly served by free interstate facilities.

The Lockport Expressway is an essential element of the transportation plan for the Niagara frontier. It enjoys vast public support and is the highest priority major highway project within the urban area. Environmental impact analyses and design for the route have already been approved by the Federal Highway Administration. With interstate designation, the project will proceed in a timely manner to serve the metropolitan area.

The route will provide access to the new State University of New York campus at Amherst and will establish an appropriate connection to Interstate Route 290, while reducing congestion, accidents, energy consumption and air pollution on local streets and roads.

As an integral component of the regional transportation plan, the highway will provide better suburban access to public transportation facilities, including the regional bus network and light rail rapid transit system currently being funded under grants from the Urban Mass Transportation Administration and the State of New York.

The amendment authorizing Interstate designation for the Lockport and two other needed projects in New York and California was included in the bill after careful consideration of the alternatives. I would urge Members in the Committee of the Whole to look to the action in the full committee when a similar amendment by the gentleman on this section was rejected by a vote of 37 to 4 and call for Members to maintain section 158 in the bill.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I thank my colleagues, the gentleman from California and the gentleman from New York, for their statements. This was gone into very deeply and felt to be necessary and was adopted by the full committee.

Madam Chairman, I urge defeat of the amendment.

Mr. WALSH. Madam Chairman, I strongly oppose the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS). The gentleman introduced this same motion in committee, and it was soundly defeated.

I–481 will be a strong link in the interstate system around Syracuse, N.Y. The Syracuse Metropolitan Transportation Study Policy Committee and the State of New York recognized the importance of the planned northeast extension of I–481 as a needed link in the urban expressway system. This link will provide access to the industrial expansion in the northeast quadrant of Syracuse and also provide a more direct access route to traffic destined for Oswego and other points north of the Syracuse area. Since 1958, New York State has attempted to obtain interstate designation for this extension of I–481. In 1968, New York listed the interstate designation of this highway link as highest priority in an application submitted under the provisions of the 1968 Highway Act. The outcome of this action was that the FHWA agreed on signing this route as I–481 but did not approve its construction using interstate funds. In the most recent attempt to obtain interstate designation for this link, FHWA did not dispute the merits of placing it on the interstate system but turned the application down administratively due to a lack of mileage.

Currently, New York is completing the FEIS for I–481 and expects to send the report to FHWA in the near future. The project is scheduled for letting in the spring of 1981 assuming the availability of interstate funding.

The project enjoys a rate of return that allows the users to receive benefits that equal approximately two and one-half times the investment cost of the improvement. Included in this return are the following:

First. Distance savings—44 percent over existing expressway routes;

Second. Time savings—66 percent over existing expressway routes;

Third. Energy savings amounting to 650 billion gallons of fuel per year;

Fourth. Accident rates being less than one-half those of statewide averages.

Extending I–481 would provide the necessary improved access to major transportation terminals such as Hancock International Airport, 25 trucking terminals and the Port of Oswego.

This link will offer strategic bypass capabilities and better serve the:

First. U.S. Air Force Syracuse Station;

Second. U.S. Marine Corps Reserve Training Center;

Third. New York Air National Guard Base;

which are located at Hancock International Airport. In addition, four major industrial defense plants (Chrysler, GM, GE and Crouse-Hinds) would realize increased access security from the interstate network.

Unemployment statistics have shown Syracuse to be above the national average. Any public works activity that would improve access to 60 major and minor industries in the immediate vicinity of this highway would insure a positive effect on the employment situation in the Syracuse area. A positive effect would also be realized by State recreational attractions such as Lake Ontario, Oneida Lake, and State parks located in the surrounding area.

Mr. HANLEY. Madam Chairman, it is essential to the northeast extension of I–481 in New York State that the Myers amendment be defeated. The link provides access to the industrial expansion in the northeast quadrant of Syracuse and points north. Since 1968, New York listed this link as highest priority.

Currently, New York is completing FEIS for I–481 and expects to report to FHWA in the near future. Hopefully the contract will be let in 1981.

The rate of return has users receiving benefits that equal about two and half times the investment cost.

The Myers amendment would indeed be penny wise and pound foolish. I urge its defeat in concurrence with committee judgment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 151, line 1, delete "shall" and insert in lieu thereof "may".

Page 151, line 7, delete "and".

Page 151, line 10, delete the period and insert in lieu thereof a comma and the following: "or any other qualified Federal-aid highway."

Mr. GARY A. MYERS. Madam Chairman, what we have done for New York and California we can do for all the rest of the country. By adopting this amendment it will put in exactly the same situation any other qualified Federal highway system road which would qualify under the circumstances in a category that the Secretary may, in fact, redesignate unused mileage as interstate. That means that any State on any of the 5,000 miles which are now on application could be chosen by the Secretary on the basis of some criteria or priority.

Now, I hesitate to challenge my chairman on the statement about how well the committee looked at this, but I would like to put in perspective that the committee did not even know how many miles were presently before the Secretary for redesignation. I do not know that the committee brought one other road project up in discussing this subject. I was in the committee when it was offered. I did not hear any support for any other project or discussion of how much more important this was than those other 5,000 miles.

All we would do here by adopting this amendment is to say to the Secretary that when the mileage becomes available over the next 60 days, "You can choose among any of the projects that lay before you that you consider qualified."

I respect the Secretary. If he thought one, two, or three of these projects were the most important in the country, he should pick them. I do not have any dispute with that, but it is sort of surprising to me if these applications have laid before several Secretaries since the mid-sixties that we have found it necessary for a legislative mandate that he must do this.

I think in all fairness to any State—you name it—that we ought to tell the Secretary we really do not mean section 108 for the next 60 days. What we mean is that for the next 60 days you can redesignate.

Mr. HOWARD. Madam Chairman, I rise in reluctant opposition to the amendment.

Madam Chairman, I think the one thing we should look at is the third portion of this amendment, which states:

On page 151, line 10, "delete the period and insert in lieu thereof a comma and the following: 'or any other qualified Federal-aid highway.' "

That merely means that the Secretary of Transportation may at the request of a State add to the Interstate Highway System any other qualified Federal-aid highway.

We have many thousands of miles of Federal-aid highway, and we have in the Interstate System 42,500 miles of highway.

We have been trying for years and years, since the 1950's, to complete this system. We felt this was designed to meet the national security needs back in the 1950's, and that is why it was called the Interstate and Defense Highway System. This amendment would wipe that out, with no limitation, and we could have virtually every part of the Federal-aid highway system declared an interstate, and it would be able to get funding under those circumstances.

Therefore, Madam Chairman, I think this amendment would do a great deal of damage, if not destroy the entire highway program.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I would be glad to yield to the ranking minority member, the gentleman from Pennsylvania (Mr. SCHUSTER).

Mr. SHUSTER. Madam Chairman, I thank the distinguished chairman of the subcommittee for yielding.

If I understand the explanation given to us by the chairman, this means, for example, that even a two-lane secondary road which is in the Federal-aid highway system could qualify to become an interstate road, if it meets the standards?

Mr. HOWARD. No. If it is a four-lane highway in the Federal-aid highway system, yes.

Mr. SHUSTER. But there are still thousands of highways that could qualify?

Mr. HOWARD. That is true.

Mr. SHUSTER. Then this might be considered as a "Katie-bar-the-door" amendment?

Mr. HOWARD. I am not sure what the gentleman means, but I think I agree with him.

Mr. HARSHA. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. HARSHA. Madam Chairman, I think that if the Members pay close attention to the amendment, they will see that what it really does is give every State a hunting license to add more roads in the interstate system.

In addition to that, we are gutting the provision in the bill. Although we give the Secretary of Transportation the discretion to designate these three routes, he will never do it. In other words, we are not only giving every State a hunting license to add more roads to the interstate system, but we are in effect taking away what the committee has already designated and what is made mandatory by the language of the bill.

Mr. HOWARD. Madam Chairman, the gentleman is correct. The gentleman says that we would give every State a hunting license, but we would in fact give the Secretary the only gun.

Mr. HARSHA. Or for sure we would be giving him the only bullets.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Madam Chairman, I think all of us on the committee are familiar enough with the law to know that the Secretary cannot expand the number of miles on the Interstate Highway System as a result of this committee's action beyond what has been previously authorized. I believe that we all could agree that the amendment would only extend during the period of time during the three highways that were previously suggested ought to be redesignated be available for all qualified highways and that is for 60 days. It only applies to that period. That would not give them very much time to get their hunting license in order.

The fact of the matter is that some 5,000 miles of applications are already before the Secretary, and my feeling is that we are dealing unfairly with some States by passing this special legislation which only pulls out and approves only 29 miles of highway.

Mr. HOWARD. Madam Chairman, I would like to state to the gentleman, however, that in this act, on pages 156 and 158, which apparently is going to stand as it is now, with the authority given the Secretary in the first five lines on page 151 and the language on page 150, where it does state routes, if the gentleman's amendment is agreed to, then he would have an opportunity and would be able to include and expand the 42,500 miles by any amount he wants beyond what is specifically written in the act.

Mr. GARY A. MYERS. Madam Chairman, if the gentleman will yield further, it is my understanding of the language on page 158 that there must be mileage released before these can be redesignated. If that is not the case, then I think the committee was misled, because we were led to believe it was not creating any new authority for interstates. All I am saying is that this amendment would fit in at the end of the section, and it would also require there would be a release of mileage from other projects around the country.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HOWARD) has again expired.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 30 additional seconds.)

Mr. HOWARD. I would just like to state that there was a great deal of discussion with it as to how it could be written in that way. Then what finally came out of the committee after this discussion was the language as it is now, which would make it open-ended.

Madam Chairman, I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GARY A. MYERS. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One-hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The pending business is the demand of the gentleman from Pennsylvania (Mr. GARY A. MYERS) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. VOLKMER. Madam Chairman, I move to strike the last word.

Madam Chairman, I would like to direct a question to the gentleman from New Jersey (Mr. HOWARD), the chairman of the subcommittee.

One aspect of the Surface Transportation Assistance Act of 1978 that I am interested in is the section regarding priority primary routes.

In the Committee report several segments of priority primary routes are mentioned as worthwhile projects including the Illinois leg of the Chicago-Kansas City Expressway.

The Missouri segment of the expressway was not mentioned in the committee report, however the State Highway Commission has endorsed a resolution that the segment in Missouri of this route be considered as a worthwhile project for funding under the priority primary authorizations.

If the next step in the process, the designation of the Missouri segment as a priority primary route by the Federal Highway Administration, is taken in the next year I would hope the committee would consider this project for a portion of that priority descretionary funding.

I direct this comment to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. If the gentleman will yield, Madam Chairman, I would like to state that I do agree with him. The matter has been discussed. The gentleman has spent some time on this matter. I know of the consideration he has for his own State.

I would like to say that certainly, should the next step be taken by Missouri designating this as a priority primary route, the committee certainly will consider funding this as a portion of the priority primary program.

Mr. VOLKMER. Madam Chairman, I thank the chairman of the subcommittee.

Mr. HOWARD. Madam Chairman, I move to strike the requisite number of words.

Mr. COLEMAN. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Missouri.

Mr. COLEMAN. Madam Chairman, I would like to obtain the advice of the gentleman as it relates to the funding of a priority-primary road between Chicago and Kansas City. On page 8 of the report to accompany this bill (No. 95–1485), language was included to indicate to the Department of Transportation that Congress considered certain routes worthy of consideration for funding as part of the priority-primary highway system.

That language included only that portion of the Kansas City to Chicago route between Quincy, Ill., and Chicago. At the time the report was prepared, Missouri had not dedicated any portion of the route as primary route. Since then, however, the Missouri Highway Commission has adopted a resolution favoring the construction of this route.

My question of the gentleman is this: Does the language in the report in any way stop the Department of Transportation from considering the full route from Kansas City to Chicago since the obstacle to earlier inclusion in the report has been removed by the Missouri Highway Commission's adoption of the resolution?

Mr. HOWARD. If the gentleman will yield, Madam Chairman, I would like to respond in this way to the gentleman: since the designation does not at this time exist, but should this be presented to the Congress as a request from the State of Missouri, we will certainly do everything we can to comply with that request and look into it.

I congratulate the gentleman for his statement and thank him for bringing it before the committee at this time.

Mr. COLEMAN. Madam Chairman, may I say to the gentleman that the designation may not yet have been received by the Congress, but the Commission has already performed this act, and the request will be forwarded to us.

I would join with my colleague in hoping that we could get this matter before the Congress next year for further authorization.

Mr. HOWARD. I would say to the gentleman that it is my hope that all of us will be here at that time so as to take care of the matter.

Mr. COLEMAN. Madam Chairman, I thank the gentleman.

Mr. ANDERSON of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, during the mark-up of this bill by our Public Works and Transportation Committee, I offered an amendment that now appears as section 131. I want to thank Chairman JIM HOWARD and our excellent committee staff for their cooperation and assistance in the development of this section. I also want to thank two gentlemen with the League of American Wheelmen, Ralph Hirsch and Will Jourdin, for their technical expertise. Thanks also go to Sandra Spence, legislative representative for the California Department of Transportation here in Washington, and to the many Members of this House who joined in this effort to assist the bicycling community.

The bicycle has played a major role in this country's history.

Though that role is now largely forgotten, the enactment of this section will once again assure the bicycle and its enthusiast their role in contributing to health and physical fitness, to energy conservation, and to the shaping of a better urban environment.

Section 131 authorizes the Secretary of Transportation to make grants to States and municipalities for the construction of bikeway projects—$25 million is provided for each of the fiscal years 1979–82, of which $12.5 million is from the highway trust fund and $12.5 million from general revenues. The Federal share of any project would be 80 percent of the total cost.

This amendment increases the flexibility of the States in responding to the convenience of bicyclists.

We have included the addition of shoulder construction as an eligible project type under the act. In my home State of California, as bicycle travel has increased, so have the complaints from cyclists indicating that they want to use selected segments of freeway shoulders for bicycling because these shoulders are both safer and more convenient than the alternate routes available.

In the course of developing this section, we have worked closely with the League of American Wheelmen and the California Department of Transportation. We found that in many locations, some of the highest priority needs for cyclists are the addition of roadway width to provide for safe and convenient bicycle travel on existing roads used extensively by cyclists.

Section 131 will allow States to make bikeway improvements incrementally by shoulder construction, lane widening, or by building exclusive bikeways.

BICYCLE SAFETY

Over 500 miles of freeway shoulders in California are presently open for cycling. This has created virtually no reported problems. Accident data for the past 4 years shows that those bicycle accidents occurring on freeway shoulders are consistent with such accidents on other streets and highways and do not appear to present unusual safety problems.

UNINTERRUPTED ACCESS FOR CYCLISTS

The committee has recognized the importance of not reducing access for bicycle traffic by amending section 109 of title 23, United States Code, to insure that routes heavily traveled by bicycles are not severed or destroyed by any highway project under this title unless such project provides a reasonably alternate route or such a route exists.

We intended that section 131 encourage more bicycle use on shoulders and that other States look to the California experience in maintaining safety while at the same time making as many shoulders available for bicycle traffic as possible when it is not feasible to construct exclusive bikeways.

As author of this section, I intend that those States restricting shoulder traffic by bicyclists move expeditiously to encourage uninterrupted travel by cyclists. This section recognizes that the prohibition of a certain class of travelers from the public roads ultimately raises constitutional questions. Restrictions on freeway use do not substantially reduce the freedom to travel so long as reasonably alternate routes are available, but when these are lacking, shoulders should be opened to bicycle traffic or new, exclusive bikeways be constructed.

As the California Association of Bicycling Organizations stated:

> It is important to note that "freeway bottlenecks" are found only on freeways (in California) funded before 1970. After then, the legislature amended the Streets and Highway Code to require either that the freeway remain open to the class of usually prohibited users or that an alternate route be preserved or built anew. The legislature hence recognizes that freeway bottlenecks work an injustice.

In recognition of this injustice, section 131 encourages the States to give bicyclists the right to reach all points served by the public road network. We anticipate no disruption of the title 23 program to result from this action. This does not mean that bicyclists have the right to use all roads, but it does mean that they have the right to use any road providing a unique access.

DESIGN AND CONSTRUCTION STANDARDS

Section 131(e) directs the Secretary to establish design and construction standards for projects authorized by the section and section 217 of title 23, U.S.C. Our report lists criteria that shall be addressed. I would like to comment on five criteria of specific concern to the committee.

Shoulder width is a concern to bicyclists regardless of the type of facility. Freeways usually have a 4-foot shoulder, which is adequate if maintained. Normally, shoulders are less than 4 feet only in mountainous areas where the constructed shoulder width has not been maintained, or in metropolitan areas where the freeway has been restriped for additional lanes. We feel that the problem of narrow shoulders can often be helped by placing edge stripes in the 12-foot position rather than encroaching on an already narrow shoulder. We realize that the shoulders on alternate routes are probably even narrower and tend to be swept clean for more of its width due to the flow of traffic.

High-volume ramps and weaving sections are a real concern to bicyclists and usually exist in urban settings where the cyclist will be using the local network

of streets—not the freeway. Bicyclists avoid this situation and are aware of the difficulty of crossing a high-volume ramp with their backs to traffic. These problems should be noted and efforts taken to reroute cyclists over the ramps themselves, exiting and reentering the freeway on the ramp shoulders. At some locations, a separate bikeway may be necessary to provide routing around a specific barrier.

The lack of maintenance is of particular concern to the committee. We feel that almost no effort is spent to keep the shoulders free of debris. Maintenance personnel need to become educated and priorities need to be altered. Aside from the debris problem, very little maintenance will be required.

Narrow bridges, and especially long bridges, are a serious problem. A responsible cyclist could probably handle a short bridge by waiting for a break in motorized traffic. Longer bridges with no shoulders, on an otherwise adequate section of freeway, may need to be widened or provided with an outboard walkway if the user demand dictates. In the case of a structure with an interchange, it may be possible to route the cyclist around the bottleneck by use of ramps or with a short bike way. Each case must be studied individually.

Railing height is not a really critical issue, especially on a bridge with wide shoulders. Obviously, some barrier is quite comforting, particularly on a high-level structure. In any event, we intend that a low railing in itself shall not be a reason to prohibit bicycles.

Most freeway riding takes place during daylight hours. Ankle lights, flashing beacons, rear lights are currently available to cyclists. They should be used by night cyclists. Roadside debris is very hard to see at night and thus experienced cyclists usually avoid night travel. However, a ban on all night cycling by regulation would be contrary to our intent and shall be avoided.

ELIGIBLE PROJECTS

Section 131(a)(2) lists several eligible projects. This list is not exhaustive.

For example, the construction of shower facilities, clothes changing facilities, restrooms, and so forth, are all eligible. Also, it has come to our attention that the San Diego Transit Authority has started an experiment in which bicycle racks are mounted on the rear of the city's bus fleet enabling cyclists to pedal to certain bus stops, load their bikes on the racks, and then ride the bus to another site where within a minute they can unload their bikes for more cycling. The racks are marketed at a very minimal price ($10 each) and have been found to meet all requirements of the State of California.

We congratulate the San Diego Transit Authority and intend that the cost of these racks be an eligible project under the definition of bikeway in section 131. In addition, any unit of government having already made purchase of such racks, shall be eligible for reimbursement under this section.

SUMMARY

Madam Chairman, the committee has recognized that bicycles burn cholesterol and calories and not gasoline and their use is to be encouraged. I now include at this point in my remarks an excellent history of the use of bicycles prepared by the League of American Wheelmen. I am sure my colleagues will find it to be interesting reading.

Thank you for allowing me this opportunity to explain the intent of section 131 of H.R. 11733.

THE BICYCLE'S EARLY HISTORY

Nearly a century of European experimentation with early forerunners of the bicycle preceded its introduction in the United States. Some primitive models without pedals were developed in the late 1700's. The first boom was brought about by the hobbyhorse or dandyhorse around 1820. This was the first bicycle with a steerable front wheel, and consisted of two wheels connected by a wooden bar; it was propelled by pushing off with the feet.

Several pedal-operated bicycles were built in Scotland, France and Germany in the 1840's and 1850's, but the first machines that proved to be a practical success were developed by Michaux and Lallement in Paris in 1861. By 1865 the annual output of the Michaux factory was 400 machines (known as "velocipedes") and other manufacturers had started production. British factories also began producing bicycles, and an annual volume of 400 "boneshakers" was reached by the Coventry Sewing Machine Company in 1868. The Franco-Prussian War of 1870–71 effectively killed the budding French bicycle industry, and Britain became the European center of bicycle manufacturing. Some early American velocipedes were made in 1868–69 in Boston, Dayton, Philadelphia, and Poughkeepsie, New York.

The velocipede had two wheels of roughly equal size, usually between 32 and 38 inches in diameter, with cranks and pedals fixed directly to the front wheel. The resulting low gear ratio sharply limited the speed attainable on a velocipede.

In the 1870's the high-wheeler was introduced, with a front wheel of as much as 5 feet in diameter and a back wheel of 20 inches or less. It offered much higher gear ratios and hence greater speed also known as the "ordinary", the high-wheeler was shown at the Centennial Exposition in Philadelphia in 1876. Within a few years several workshops in the United States began to make ordinaries. Although hazardous to ride the ordinary caught on rapidly, and soon the first great bicycle boom was under way. By 1879 bicycle tours were being organized, and the first bicycle organization in the country, the League of American Wheelmen, was formed in Newport, Rhode Island in May 1880.

The second great bicycle boom, which far eclipsed the first, came after the first successful "safety" bicycle, the Rover, was introduced from England in 1885. The safety had two wheels of 25 to 30 inch diameter, an iron frame, saddle and pedals set between the wheels, and a chain-and-sprocket drive. The smaller wheels practically eliminated the danger of taking a "header" that had limited the appeal of the high-wheeler chiefly to athletic males, and the sprocket drive provided the higher gear ratios (and speeds) that cyclists wanted. Thus the major defects that had kept many people from going into bicycling had been eliminated, and with the introduction of the pneumatic tire in 1890 the basic features of the modern bicycle were complete.

The public responded with great enthusiasm, and the market moved to fill the demand. According to the Census of 1890 there were 27 firms that made bicycles and tricycles. By 1900 the number had risen to 312, and the capital investment had risen nearly fifteenfold. While bicycle sales skyrocketed, prices dropped sharply; the safety sold for about $60 in the 1890's, compared to $150 for the ordinary, and by 1900 a new safety bicycle could be bought for as little as $18. Ten million bicycles were estimated to be in use in the 1890's.

IMPROVING THE ROADS

At the time the bicycle started to become popular, America's roads were "rough and rutted, muddy in the spring, sandy and dusty all summer." The early turnpikes, privately owned and operated, had become unprofitable due to competition from the railroads. Road construction and maintenance were the responsibility of cities and towns, not of the state or federal governments.

The League of American Wheelmen led the drive for road reform in the 1880's and 90's. A note in the League's 1898 Pennsylvania Road Book points out that "no organization in existence has done a tithe of the work in the interest of improved highways as has the L.A.W. The organization has spent more than $150,000 in that movement alone, and many hundreds of miles of improved roads are the result of its influence." In 1893 the League's efforts resulted in the creation of a federal agency, the Office of Public Roads Inquiries, and by 1895 sixteen states had appropriated money to improve their roads. Several states, Massachusetts and New Jersey being the first, established state control of roads through highway commissions; in Massachusetts, all members of the highway commission were L.A.W. members.

Through its direct efforts the League greatly improved the road network and the systems of supporting services. The League built road signs to mark danger spots, and its Committee on Danger Signs would send these signs free to any place in the country. It also set up signposts with direction and distances to neighboring cities.

L.A.W. members surveyed and mapped many thousands of miles of roads, evaluated them according to the standards set forth by the League, measured travel distances, and reported topographical and other problems. The road books published by the League were the standard guides for personal travel (and served as forerunners of the maps and guidebooks later published by the oil companies for auto travel).

Hand signals and the first systematic rules of the road were developed by bicyclists in order to make travel safer. The League lobbied successfully for statutes to require cyclists to keep right except when passing, and to require that names and addresses be exchanged in case of accident. Because cyclists could outdistance policemen mounted on horseback, many cities began to equip squadrons of bicycle cops, and the League called for and encouraged strict enforcement to enhance safety on the roads.

TECHNOLOGY AND INDUSTRY

In its evolution from "bone-shaker" to modern form, the American bicycle made the first extensive use of numerous technical and production innovations, proving their value for later use in automobiles and aircraft. In the 1870's the bicycle first used tubular frames, ball bearings, the differential gear, and chain-and-sprocket drive for the rear wheel. The pneumatic tire appeared in 1890, tubeless tires less than ten years later. About 1899 the hub gear and derailleur were introduced, followed by coaster brakes and drum brakes to supplement the earlier spoon and caliper brakes.

American bicycle makers perfected manufacturing methods to standardize and increase their production. Faced with demand for precision parts in large quantities, they adopted assembly-line techniques. Such standardization allowed parts fabrication

and bicycle assembly to take place on a large scale in separate locations. The industry was thus able to meet the rapidly-growing demand for bicycles and the accompanying demand for bicycle repairs, equipment, and accessories.

Eventually a number of U.S. bicycle manufacturers adapted their facilities and production methods to the making of automobiles. Among the early American automobile designers who began as bicycle makers or mechanics were such illustrious names as Olds, Pierce, Pope, Winton, and the Duryea brothers (who built the first American automobile in 1893).

THE SOCIAL IMPACT OF THE BICYCLE

Before the bicycle's advent, urban and rural dwellers alike had a choice of moving on foot, by horse or carriage, or by railroad. The bicycle offered a new mobility, with enormous consequences for Americans. Relatively inexpensive, easy to ride, and convenient, the bicycle could cover long distances while being enjoyable and healthful to use. Suddenly the range of activities and places within reach of the average person was greatly enlarged. City families took outings on Sundays to the countryside and to neighboring towns, often traveling 30 to 50 miles in a day. Workers had more choice about where to live, and many chose to move to the outskirts of the city and commute by bicycle.

The new independence had particular significance for women, once the drop-frame safety bicycle appeared in the 1890's. For the first time, unchaperoned bicycle outings with young men became socially proper. Full dresses gave way to more comfortable and practical clothing within a few years during the "Gay Nineties". Bloomers, which had existed for years, became socially acceptable only after women in large numbers adopted them for cycling. All these were permanent changes; along with increasing educational opportunities and the movement for women's suffrage, bicycling marked the beginning of political and economic equality for women.

Of course these changes did not occur without opposition. Some denounced the new clothing styles as scandalous and indecent. Articles and sermons foretold the impaired health and moral decline which were sure to overtake the woman cyclist. Some religious authorities initially opposed any cycling on the Sabbath, but as the boom continued most accepted it. Eventually many clergymen took part; an 1896 article in the Spectator advised that it was proper for a bishop to ride a bicycle, as long as he did not "coast downhill on his bicycle with his legs up."

The bicycle had become a multi-purpose vehicle, with advocates in all social classes and in towns of all sizes. Full acceptance of the bicycle in American life created growing demand for personal mobility which the private automobile eventually came to fill. In this way the social changes brought by the bicycle phenomenon prepared Americans for the age of the automobile. They were a preview of the larger changes to come later, when the auto would provide almost unlimited mobility and choice of residence, and would have a lasting impact on the patterns of urban development.

BICYCLING FOR FUN AND SPORT

As spectator sport and for recreation, bicycling was immensely popular in the 1880's and 90's. Beginning in the days of the ordinary, bicycle racing became a popular pastime among athletic young men, and somewhat later among young women.

Bicycle racing tracks were built throughout the country, and tournaments were set up for amateurs and professionals. Six-day bicycle races attracted many thousands of spectators. The bicycle racing champion Arthur Zimmerman became the idol of American youth, and earned $40,000 a year, an astronomical income in the 1890's. With the increasing financial pressure on professional bicycle racing, the L.A.W. in 1895 took over the supervision of the sport to keep it honest.

Interest in bicycle racing waned in the United States in the early 20th century as auto racing became more popular, but in recent years under the United States Cycling Federation there has been a marked resurgence of popular interest in bicycle racing. Training facilities and techniques have improved greatly, and the performance of Americans in recent international competition has been highly encouraging and augurs well for the future.

Recreational cycling grew rapidly after the introduction of the safety cycle in the eighties. Family outings, with each person on a bicycle or tricycle of appropriate size, became a regular feature of American life. Clubs were organized, some of them around specific types of cycle such as the tandem. The L.A.W. gained rapidly in membership and numbered 150,000 members in 1900, and its magazine and other publications provided much useful information on all aspects of recreational cycling.

The start of the 20th century saw a decline of interest in recreational cycling among adults, although the bicycle remained popular among children and youths below legal driving age. Following a period of slow growth in bicycle sales in the early 1960's, the third U.S. bicycle boom came in the 1970's with a tremendous increase in recreational cycling among adults.

Lightweight ten-speed bicycles, incorporating various improvements in materials and refinements in components, were sold by the million; since 1970, new bicycle sales in the U.S. total more than 74 million, compared to less than 69 million new automobiles sold.

Long-distance bicycle touring became increasingly popular: more than four thousand persons rode the 4,500 mile Bikecentennial trail across the United States in 1976. On both coasts touring trails were developed. The California Pacific Coast Trail stretches 1,000 miles from north to south, and the East Coast Bicycle Trail covers over 800 miles between Boston and Richmond.

According to the best available estimates, about 100 million persons in the United States now bicycle in some degree, thus making bicycling the first or second ranking recreational activity in the country.

TOWARD BICYCLING'S SECOND CENTURY

With the growing shortage of energy, the bicycle is seen by many as an increasingly important and attractive option for local transportation. Over the past few years the federal government and many states have moved to improve the environment for bicycling by the elimination of hazards on the roads, by constructing bikeways where necessary, and by providing better training for bicyclists and motorists.

Perhaps the most important aspect of increased bicycle use will be the opportunity for many millions of people to have regular exercise in a pleasant way. More than a century ago, the Eclectic Medical Journal for January 1869 recognized the possibility when it commented on the newly introduced velocipede:

"We look upon this mode of exercise . . . as one of the most brilliant discoveries of the nineteenth century: the grand desideratum that will emancipate our youth from muscular lethargy and atrophy that is so common."

ACKNOWLEDGMENTS

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League of American Wheelmen, *Best Routes in Pennsylvania, Southeastern Section*, 1897.

S. H. Oliver and D. H. Berkebile, *Wheels and Wheeling*, Smithsonian Institution, 1974.

S. S. Wilson, "Bicycle technology", *Scientific American*, March 1973.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Madam Chairman, I would like to commend the gentleman from California (Mr. ANDERSON) for his work on this particular section of the bill.

I think it is very important for us at the Federal level to focus in on bikeways and bike paths. As an avid bicyclist, I know the value of these paths.

Madam Chairman, I commend the gentleman for his outstanding work.

AMENDMENT OFFERED BY MR. WINN

Mr. WINN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WINN: Page 100, after line 4, insert the following:

URBAN SYSTEM DISCRETIONARY GRANTS

SEC. 109. Subsection (a) of section 104 of title 23, United States Code, is amended by inserting "(1)" immediately after "(a)" the first place it appears and by adding at the end thereof the following new paragraph:

"(2) In addition to the deduction authorized by paragraph (1), the Secretary shall deduct an amount equal to 10 per centum of the sums authorized to be appropriated in each fiscal year for expenditure on the Federal-aid urban system. The sum so deducted shall be available for expenditure at the discretion of the Secretary for grants to States and to political subdivisions of States for projects on the Federal-aid urban system in accordance with those provisions of this title otherwise applicable to such projects unless the Secretary finds any such provision to be inconsistent with the purpose of this paragraph. No grant shall be made under this paragraph to any State which has not obligated all of the funds apportioned to such State for such fiscal year for expenditure on the Federal-aid urban system. No grant shall be made under this paragraph to any political subdivision of a State which has not obligated all of the funds made available to such political subdivision for such fiscal year for expenditure on the Federal-aid urban system. Any sum deducted by the Secretary under this paragraph shall remain available until expended. Sums apportioned to a State under paragraph (6) of subsection (b) of this section unexpended at the end of the period of their availability shall lapse as provided in section 118(b) of this title and shall thereupon become immediately available for expenditure, at the discretion of the Secretary, in accordance with this paragraph.".

Mr. WINN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. WINN. Madam Chairman, my amendment would create a discretionary fund within the Federal-aid urban system program to be channelled by the Secretary of Transportation toward those urban areas which have demonstrated an ability to use and a need for funds over and above the amounts apportioned to them under the Federal-aid urban system apportionment formula.

The amendment would in no way increase the funding level authorized in H.R. 11733 for the Federal-aid urban system, but merely assure that these funds be distributed according to greatest need and capacity for utilization.

One of the greatest shortcomings of the Federal-aid urban (FAU) program has been a significant backlog of unobligated funds in some areas of the country, while in other areas, shortages of funds have prevented the implementation of needed—and otherwise realizable—urban transportation projects.

Out of the total $3.820 billion in apportionments attributable to urban areas, over $1.222 billion have not been obligated or put into use as of July 1, 1978—almost one-third. Meanwhile, cities such as Omaha, Kansas City, Peoria, St. Louis, and Minneapolis-St. Paul lack the funds necessary to undertake new projects.

This year over $27 million in fiscal year 1974 FAU funds will lapse and be lost to the FAU program simply because these funds were not obligated within the time frame allowed by law.

To remedy this situation, a flexible yet objective approach is preferable to a rigid reformulation of the existing apportionment formula. The discretionary fund proposed in this amendment would be distributed by the Secretary of Transportation according to simple and objective criteria: the applicant must propose a needed, feasible project and maintain an insufficient unobligated balance of funds to realize it.

This discretionary fund would have two components: First, an initial 10 percent of the sums authorized each year for the FAU program; and second, all apportioned funds which have lapsed each year at the end of their period of availability.

Those urban areas and States which have developed a consensus on urban highway priorities, efficient administrative procedures within their metropolitan planning organizations, and a high degree of administrative coordination with the State highway agencies would thus be allowed adequate funds to construct needed projects when so many FAU dollars go unused by others nationwide.

I again urge your support of this amendment which will put FAU funds to the use they were intended: responding to the needs of those urban transportation systems which can and must be modernized.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I have checked with officials at the Federal Highway Administration and they tell me that, as of the end of August, only $10 million of the $800 million fiscal year 1975 authorization remains unobligated and is in danger of lapsing: Hawaii, $2.7 million; Pennsylvania, $6.6 million; Vermont, $0.7 million. We have since checked with those States and all have indicated an intention to obligate those funds by the end of the month. We have never had any funds lapse in this program, Mr. Speaker, and it appears the same will be true again this year.

I see no reason to tamper with this program. The current population formula is equitable. Reports from the department of Transportation show a high correlation between urban population and urban highway needs. We do not need to give the Secretary any discretion over the allocation of these funds.

I urge the rejection of the amendment.

Mr. HARSHA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to commend the gentleman in the well, the author of the amendment. He has worked very hard on this proposition. He has pointed out to me on different occasions the problem confronting the area to which he alluded in his remarks in support of the amendment; but one of the problems is that urban system funding now in the bill is the same as fiscal year 1978 funding. We have not increased the amount one dime. To take 10 percent of that amount and set it aside would obviously leave only 90 percent of that pot to deal with. So the balance of the States, those that are not eligible under the gentleman's amendment, would be getting only 90 percent of what they would be getting under the formula that distributes the money.

It is a very difficult problem the gentleman raises. He has worked hard on it and makes a very eloquent plea for his amendment; but until the funding level is raised so that no State would be adversely affected by the 10 percent set-aside, I would have to oppose the gentleman's amendment.

Mr. WINN. Madam Chairman, I thank the gentleman from New Jersey and the gentleman from Ohio for their consideration.

Madam Chairman, I withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOWARD: Page 103, strike out lines 8 through 16, inclusive.

Renumber the succeeding sections of title I accordingly.

Mr. HOWARD. Madam Chairman, I offer this amendment on behalf of the gentleman from New York (Mr. BIAGGI). This deals with some regulations concerning buses for the elderly and handicapped, the Transbus. The regulations had not been promulgated by the director of UMTA at the time it was passed out of the full committee. The Secretary has since promulgated this and that would make this section unnecessary.

Mr. HARSHA. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. HARSHA. Madam Chairman, as far as we are concerned, there is no objection to the amendment.

Mr. JOHNSON of California. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from California.

Mr. JOHNSON of California. Madam Chairman, I would like to commend the gentleman from New Jersey (Mr. HOWARD), and the ranking minority Member, the gentleman from Pennsylvania (Mr. SHUSTER) for working this out and coming here and offering this amendment here tonight. It clears up a great shortcoming in the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HOWARD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MITCHELL OF MARYLAND

Mr. MITCHELL of Maryland. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MITCHELL of Maryland: Page 103, immediately before line 8, insert the following:

ADVANCES TO STATES

SEC. 114. Section 124 of title 23, United States Code, is amended by inserting immediately before the first sentence thereof the following: "(a)". Such section 124 is further amended by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate System then, upon request of the State highway department, the Secretary shall, at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

"(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

"(2) 25 per centum within two years of such date of opening, and

"(3) 25 per centum within three years of such date of opening.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the Interstate System. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.".

Renumber succeeding sections and references thereto accordingly.

Mr. MITCHELL of Maryland (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MITCHELL of Maryland. Madam Chairman, the amendment which I have introduced to H.R. 11733, the Surface Transportation Act of 1978, would authorize the Secretary of Transportation to advance to States the local share of the construction cost of any project which has been determined by the Secretary of Transportation to be an "essential gap" in the Interstate System and which is constructed under section 129 of title 23, United States Code; that is, major bridge and tunnel toll crossings. My amendment requires that this advance be repaid by the locality to the Highway Trust Fund over a 3-year period following completion of the project. For those of you who may not have familiarized yourselves with my Dear Colleague letter on this issue, let me point out that 50 percent of the advanced funds are to be repaid within 1 year of the opening date of the facility; and, 25 percent of these funds are to be repaid within 2 and 3 years respectively.

According to the Federal Highway Administration, there are two "essential gaps" in the Interstate system which would benefit from this amendment; namely, the Boston I–90 airport spur tunnel, which is in a very preliminary status. and the new I–95 tunnel in my own State of Maryland. This tunnel is planned to relieve the existing Baltimore-Harbor Tunnel, which, in mv estimate, represents the eptiome of congestion within the Northeast corridor.

The existing harbor tunnel through Baltimore, which was opened in 1957, is a four-lane narrow tunnel which becomes congested due to rush-hour traffic and/or vehicle breakdowns in the tunnel itself, on a daily basis. Those of you who may be Northeast Corridor commuters are certainly familiar with the exasperating experience of being stalled in the traffic buildup for the Baltimore Harbor Tunnel. Since the new I–95 tunnel will be an an eight-lane roadway, completing Interstate 95 through Baltimore, its completion will halt the occurance of these devastating incidences.

The existence of a unique funding arrangement in Baltimore Citv has detained initial construction actions with regards to the tunnel; Maryland law provides for a separation of financing authorities, which. in turn, places the burden of providing the entire local share of the construction. maintenance, and operation of all highwavs and streets within its corporate limits, including 1,400 miles of streets and a $1.9 billion 32 mile Interstate System. The new I–95 tunnel is the final 2 miles of Interstate 95 which remains to be completed within the State of Maryland.

The estimated cost to the city of Baltimore for the interest charges. on their construction bonds during the construction period for the new I–95 tunnel is $25 million. I believe that this is an enormous amount of money for Baltimore City to pay in interest costs to finance a project which clearly benefits the entire east coast transportation network, particularly in light of their $210 million investment in local funds to complete the other sections of their interstate program.

Let me emphasize that my amendment will not require any additional outlay or budget authority. Further, as is clearly mandated in my amendment Baltimore City is prepared to repay the additional 10 percent Federal advance within 3 years after the tunnel is completed. Finally, it should be noted that the advances made to a State for the instances in question will come from the State's own Interstate System apportionments.

Under the provisions of section 129, the new I–95 tunnel would be a toll facility until such time as the local costs are recovered. By alleviating the need for Baltimore City to pay interest on construction bonds during the construction period and thus, reduce the bond issue required, my amendment would bring about one of the noted goals of the Federal Highway Administration—the elimination of toll facilities on the Interstate System at the earliest possible date.

Madam Chairman, the problem which I am addressing is certainly not new. The Maryland State Highway-Administration has been working on the issue of financing this essential gap for several years. I might add that they have done a very thorough job of analyzing all the alternatives in this situation; their initial efforts of determining that a Federal advance was necessary, immediately culminated in the seeking of opinions from the other States on this amendment. If I may again refer to my dear colleague on this issue, 43 States, as of this date, have responded, with only three of these expressing opposition.

Let me reiterate that the new I–95 tunnel has been in planning and design for some time. It has received the necessary environmental clearances. At this juncture, it is ready to go. The Secretary of Transportation has designated it as a route that must be completed to connect an intercity system—that is, an "essential gap." Some estimates conclude that at current funding levels, some portions of the system may not be completed until the 21st century. With spiraling construction rates, this could mean that the remaining 10 percent of the system will cost as much as that completed in prior years. The new I–95 tunnel in Baltimore is one of those last vital links, which, if further delayed, could result in costing the Highway Trust Fund substantially more than its present estimate.

The passage of my amendment would alleviate a serious local financing problem that, as you know, is unique to Baltimore and the State of Maryland. Further, it would expedite completion of the Interstate System in the Northeast corridor.

I certainly hope that my colleagues will join in this effort to secure passage of an amendment that would greatly assist Baltimore City in funding the new I–95 tunnel project, result in the early completion of an essential gap of the Interstate System, and result in the project becoming a toll-free facility at the earliest possible date.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, we have discussed this amendment, and I would like to point out a few facts.

First of all, this comes out of present apportionment funds; so it does not burden the total program in any way.

Second, as I understand it, this would be paid back, it is estimated, within 3 years from tolls on the tunnel.

Mr. MITCHELL of Maryland. The gentleman is correct.

Mr. HOWARD. And at that time the tunnel would become free.

Mr. MITCHELL of Maryland. The gentleman is correct.

Mr. HOWARD. There is also a provision in this amendment that would insure that this money would be used only for that purpose by eliminating the possibility of transferring interstate funds into other programs. In other words, this tunnel money can be used only to build the tunnel.

Mr. MITCHELL of Maryland. The gentleman is absolutely correct. The funds would be used only for that purpose.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we have studied this amendment, and particularly with the removal of the interstate transfer program, we support it and urge its adoption.

Mr. MITCHELL of Maryland. Madam Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. MITCHELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BAFALIS

Mr. BAFALIS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAFALIS: Page 85, line 21, after "which are" insert "either".

Page 85, line 22, after "System" and before the first comma insert the following: "or which, on the date of enactment of this Act, have approved final environmental impact statements required by the National Environmental Policy Act of 1969".

Page 86, line 9, after the period insert the following:

In obligating funds under clause (1) of the preceding sentence, the Secretary shall give priority to projects on which construction can be commenced within the period such funds can be obligated by the Secretary.

Mr. BAFALIS. Madam Chairman, the purpose of this amendment is to make

sure that we get the maximum acceleration of ready-to-go projects on the Interstate System under the discretionary funding provisions in section 102(b) of the bill.

We in Florida have been looking to this legislation for additional impetus to complete construction of segments of Interstate 75. My State department of transportation has strongly supported the discretionary provision.

Last week this body accepted the amendment of the gentleman from New Jersey, the chairman of the Surface Transportation Subcommittee, reducing the over-all funding in the bill, with the result that the $500 million in the discretionary fund was reduced to $200 million.

Therefore, my amendment is needed to refine the provision to get maximum mileage from the funds available. My language giving priority to projects capable of going to construction within the year of availability of discretionary funds should assure that ready-to-go projects in my State and any others receive first consideration on a fair and equitable basis.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, this involves one-half of the $200 million that is left in the discretionary part of the interstate money. It does not in any way involve the formula money that all the other States are entitled to at this time.

Mr. BAFALIS. The gentleman is correct.

Mr. HOWARD. Madam Chairman, the gentleman discussed this with me after the vote last week. We have had an opportunity to review his language on this side and feel that he has a valid point and that this is a worthwhile amendment.

In combination with other interstate acceleration provisions of the bill, it would certainly help speed up the program and clarify our intent that ready-to-go projects in any area be speeded up under 102(b). The gentleman's I–75 projects are an excellent example of our intent in terms of funding and eligibility for priority. The amendment should provide useful guidance to the Secretary in this regard. We accept the amendment.

Mr. BAFALIS. Madam Chairman, I thank the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we have studied this amendment. It is an excellent amendment, and we urge its adoption.

Mr. BAFALIS. Madam Chairman, I thank the gentleman from Pennsylvania. I urge the committee to adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. BAFALIS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FOWLER

Mr. FOWLER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOWLER: Insert at the end of section 108 the following new subsection:

(f)(1) Section 103(e) of title 23, United States Code, is amended—

(A) in paragraph (4), by striking out the last sentence;

(B) by redesignating paragraph (5) as paragraph (7); and

(C) by inserting after paragraph (4) the following new paragraphs:

"(5) Notwithstanding any other provision of law—

"(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

"(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest: *Provided*, That the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

"(6) Nothing in this subsection shall in any way alter rights under state law of persons owning property within the right-of-way immediately prior to such property being obtained by the State.The Federal share of the cost of property sold or otherwise transferred to previous owners under state law shall be refunded and credited to the unobligated balance of the state's apportionment for interstate highways."

(2) The amendment made by paragraph (1) of this subsection shall apply to any withdrawal of approval before the date of the enactment of this subsection.

Mr. FOWLER (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. FOWLER. Madam Chairman, I offer this amendment on behalf of myself and my Georgia colleague (Mr. LEVITAS), a member of the committee.

My amendment would permit the conversion of abandoned interstate highway lands to public conservation/recreation areas, alternative transportation projects, or other uses determined by the Secretary of Transportation to be in the public interest. The goal of my amendment is to establish a major neighborhood revitalization program at no additional cost to the taxpayer.

Madam Chairman, in 11 States approximately $70 million have been expended from the highway trust fund for the purchase of rights-of-way for interstate segments that have been canceled. These lands are, at present, unused and are subject to illegal dumping and vandalism, thus contributing to urban blight. The greatest stumbling block to the development of these lands is the payback requirement in existing Federal law. Under current law, should a State elect to discontinue an interstate segment, 90 percent of the recoverable moneys must be returned to the trust fund. Due to the extensive financial drain that would result from payback, all affected States have contested the legality of the existing law. It should be pointed out that the relative burden of the payback provision is much greater on State governments than the equivalent loss of revenue would be to the highway trust fund should the payback provision be altered.

The moneys have already been appropriated from the Highway Trust Fund and are for the most part unrecoverable, although what is recoverable through the payback provision would be a burden to State governments. This amendment does not call for any additional Federal outlays.

The potential public benefits of reuse of these lands are enormous. Parks, hospitals, schools, or recreational areas could be developed on these now barren lands whose future is complicated by a mass of conflicting statutes and regulations.

In a letter to Secretary of Transportation, Brock Adams, Interior Secretary Cecil Andrus pointed out that my amendment would provide an opportunity to respond directly to the recommendations of the National Urban Recreation Study. In referring to my amendment, Secretary Andrus stated:

> . . . the greatest urban recreation deficiencies for land and facilities exist in the inner cores of the Nation's largest cities. It is precisely in these areas that the abandoned interstate segments lie. Implementation of these provisions would permit the transfer of these properties to other federal agencies, states, and localities at no cost. To attempt to duplicate a similar effort through land acquisition today would be prohibitive due to the costs involved.

The Department of Transportation is in agreement with the principles and objectives of this amendment. In a related effort, DOT has proposed regulations to implement a similar policy. Due to the vague statutory basis for such regulations, I feel it important that the Congress express its intent to achieve this goal. Already, the other body has adopted a similar provision in its transportation bill.

There are situations, however, in which highway projects not on the Interstate System are abandoned or changed, leaving significant parcels of property which States and cities could use for public interest purposes. I do not intend this amendment to restrict the authority of the Secretary of Transportation to apply the approach which this amendment takes to noninterstate situations. The Secretary has already done so in one instance of which I am aware, in Milwaukee, Wis. It is my hope that the Secretary will continue to apply this policy in noninterstate situations.

The objectives of this amendment are in keeping with the goals of President Carter's urban policy: to keep our city

neighborhoods livable and to renew the partnership between local and Federal governments in determining how our cities grow. I ask my colleagues to join with me in supporting this amendment to H.R. 11733.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. FOWLER. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Madam Chairman, we have discussed this at some length. As we understand it, the amendment deals only with portions of the highway program that have, in the enactment of this legislation, been taken off of the highway system. It is not intended in situations where the States, knowing they are not going to build a highway, get the highway money, and then change their minds. It is only in existing situations created in good faith around the country. With that understanding of the limitations of the amendment, we are happy to accept the amendment on this side.

Mr. FOWLER. I thank the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. FOWLER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, I thank the gentleman for yielding, and we accept the gentleman's amendment.

Mr. FOWLER. I thank the gentleman.

Mr. MINETA. Madam Chairman, will the gentleman yield?

Mr. FOWLER. I yield to the gentleman from California.

Mr. MINETA. Madam Chairman, I rise in strong support of the amendment offered by my colleague from Georgia (Mr. FOWLER,), which will permit alternative uses for abandoned interstate highway lands.

Even though none of the interstate segments to which this amendment addresses itself are located in my own State of California, I nevertheless joined as a cosponsor of the amendment, because I believe that it goes to the very heart and philosophy of our urban policy goals.

Urban land, by its very definition, is a precious commodity. The use to which such land is put can have a critical affect on its surroundings.

This amendment recognizes that abandoned land in our urban areas is a psychological and financial drain on the community in which it is located. By permitting the conversion of this abandoned land to public conservation purposes, recreation purposes, or other uses determined by the Secretary to be in the public interest, the amendment also recognizes the philosophy underlying urban redevelopment: That the proper use of urban land can be just the catalyst required to breathe new life and energy into our urban neighborhoods.

Allowing this abandoned land to be utilized in a productive manner will enhance our urban areas—at no additional cost to the Federal Government. I urge the adoption of this amendment.

Mr. GREEN. Madam Chairman, I rise in support of the Fowler amendment to the Surface Transportation Assistance Act of 1978. As the cosponsor of the bill, H.R. 13095, upon which this amendment is based, I am pleased that the House has this opportunity to permit alternative uses for abandoned interstate highway lands.

The Fowler amendment would provide that when an interstate highway project is terminated, States and localities receiving Federal money for the project would be permitted to apply those funds for alternative transportation projects and/or for public conservation or recreation purposes. Under present law, the Federal funds must be returned or used to build another highway project. The amendment before us would allow more imaginative use of such funds. As the National Audubon Society pointed out in a letter I received this morning in support of the Fowler amendment:

> With the growing citizen concern for the environment, dramatic movement of people back into our inner city neighborhoods and de-emphasis on the automobile, it is important that the States be given other alternatives for use of these abandoned rights-of-way than those now allowed by law.

Across the Nation, approximately $70 million has been expended from the highway trust fund for purchase of rights-of-way for interstate segments that have been canceled. The Fowler amendment would free this money to be used for conservation, recreation, or other transportation projects.

In New York City, sections of I–78, I–478, and I–878 are affected and the sum that would be available for such other projects is $11,957,615.

It is my understanding that this amendment has the endorsement of the Secretary of the Interior, the Secretary of Transportation, the League of Cities, National Association of Counties, State of New York, Sierra Club, Congress Watch, Consumer Federation of America, Friends of the Earth, National Wildlife Federation, Environmental Action, Wilderness Society, National Audubon Society, National Recreation and Park Association, and the Natural Resources Defense Council.

I commend the gentleman from Georgia (Mr. FOWLER) for his excellent work on behalf of this proposal, and I urge my colleagues to vote in favor of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. FOWLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR: Page 115, line 21, insert "(a)" immediately after "SEC. 120.".

Page 116, after line 8, insert the following new subsection:

(b) Section 148(a)(5) of title 23, United States Code, is amended to read as follows:

"(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section, except for parks, recreational areas, and historical sites operated by State or local governments where admission fees may be charged to cover operational costs.".

Mr. OBERSTAR. Madam Chairman, the amendment that I offer is simply to clarify a provision of existing law dealing with the fees that the States would like to charge for entrance to recreational and historic facilities that are constructed along the Great River Road. This arises out of a misunderstanding with the Department of Transportation. I think the amendment will clarify the provisions of existing law.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding, and I would like to say that this amendment clarifies the law concerning parks and areas where they do charges fees and their ability to build roads and facilities in those areas. We have discussed this. I want to congratulate the gentleman for all of the work he has done on the committee and on the Great River Road itself, with all of its ramifications. I certainly will accept the amendment on this side of the aisle.

Mr. OBERSTAR. I thank the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Madam Chairman, we have studied this amendment. I understand that the Members from the gentleman's State on this side of the aisle have worked closely with the gentleman on this matter, and we accept the amendment.

Mr. OBERSTAR. Madam Chairman, in particular, I would like to commend the gentleman from Minnesota (Mr. QUIE) who has had a great interest in the Great River Road throughout his service in the Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR: Page 116, line 4 after the word "with" strike everything up to and including "to" on line 6.

On line 8 delete "." and insert the following "using existing bridges, when such features be no further from the Mississippi River than the Great River Road at its farthest point, lies from the river.

Mr. OBERSTAR. Madam Chairman, the purpose of this amendment is to clarify further the operation of the Great River Road in the matter of bridges that cross over fom one side to another. At the outset of this program it was fully agreed upon that the Great River Road would not consist of two new roadways on either side of the Mississippi, particularly where there are already highways on one or another side, but merely

to help link those two sections and save costs and save on construction of the Great River Road.

The purpose of this language is simply to tie down or make very clear that we do not intend for spurs to go any greater distance than necessary from the Mississippi River, which this language makes clear:

. . . no farther from the Mississippi River than the Great River Road at its farthest point, lies from the river.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, the language of this amendment says that we use existing bridges when such features be no farther from the Mississippi River than the Great River Road at its farthest point, road to road, from the river, and that would certainly help to straighten out a problem that was in a sense left hanging.

Mr. OBERSTAR. That is right. It ties it down and limits it very carefully.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Madam Chairman, we have examined the amendment and find it acceptable.

Mr. OBERSTAR. I thank the gentleman.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Madam Chairman, the gentleman from Minnesota Congressman QUIE has worked very hard on this as well.

Some of the notable sites on the Minnesota side that are not now served by the Great River Road are the Anderson Hotel at Wabasha which has been just named to the Register of Historical Sites and is the oldest operating inn in Minnesota; the Camp NOK-SI-LA, a camping area on Lake Pepin; the historic "Old Frontenac," which is an early settlement and fort; and Winona, a historical river town.

I thank my colleague for offering the amendment which was worked out between himself and our good colleague Congressman AL QUIE.

I thank the gentleman very much, and I support the amendment.

Mr. OBERSTAR. I thank the gentleman for his cooperation. Although his district lies some distance from the main construction activity on the Great River Road, that Great River does rise in the gentleman's district, and he has a proper paternal interest in this matter.

Congressman QUIE, from the First District where the Great River leaves the State of Minnesota, has had an abiding interest in the Great River Road for many years, which he has demonstrated by his continued leadership on this issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS: On page 108, after line 3, insert the following and renumber accordingly:

SEC. 118. The first three sentences of section 138 of title 23, United States Code, are amended to read as follows: "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, historic sites, and the navigable waters of the United States. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, Agriculture, and Army, the Administrator of the Environmental Protection Agency, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed and to maintain the navigable waters of the United States. After the effective date of the Federal-Aid Highway Act of 1968 in the case of land, and after the date of enactment of the Surface Transportation Act of 1978 in the case of the navigible waters of the United States, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, State, or local significance as so determined by such officials, or which requires dredging and filling of navigable waters of the United States, unless (1) there is no feasible and prudent alternative to the use of such land or the dredging and filling of such navigable waters, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, historic site, navigable waters resulting from such use or such dredging and filling. After the date of enactment of the Surface Transportation Act of 1978, the Secretary shall not enter into any obligation on behalf of the Federal Government to pay any sum with respect to any such program or project (including any such program or project approved before such date of enactment) unless such program or project is consistent with the provisions of this section and will be carried out in a manner consistent with the provisions of this section. Any determination made under this section that the project or program is consistent or inconsistent shall be published in the Federal Register with a complete explanation for the reasons thereof.

Mr. WEISS. Madam Chairman, this amendment would require the Secretary of Transportation not to approve highway construction involving the dredging and filling of navigable waters unless there is no prudent or feasible alternatives. This amendment amends section 138 of the Federal Highway Act, which is exactly the same as section 4(f) of the Transportation Act, which already requires the Secretary not to approve highway construction which—

Requires the use of any publicly owned land from a public park, recreation area or wildlife and waterfowl refuges.

My amendment would merely extend this wise protection to navigable waters, an important natural resource, which deserves to be included in this section.

I should state at this point, Madam Chairman, that although the impetus for this amendment arises from a local condition in my district, it has national consequences and implications.

Madam Chairman, during the 5-year period between 1972 and 1977, we spent $18 billion in Federal funds to clean up the Nation's waterways and improve water quality. Under the Clean Water Act of 1977, enacted by this Congress in December, another $24.5 billion has been authorized for the next 5-year period. Programs authorized under the Toxic Substances Control Act of 1976 will further invest large sums in water quality improvement efforts. In addition the private sector is making a huge investment in changing its waste disposal practices and becoming less and less reliant on waterways for this purpose.

This investment has paid excellent dividends: The President's Council on Environmental Quality reported the substantial improvement of at least 50 bodies of water in the United States as a result of our efforts in its annual report. The Detroit River, CEQ reported is once again a welcomed fishing spot for fishermen. Walleye, pike, and other marine life are being seen in renewed quantities. It was considered a dead river in the late 1950's and early 1960's. There are other examples as well where our national investment in water treatment facilities is reaping benefit.

What spurs us to make such a tremendous investment? We need water that is safe for drinking, swimming. We need water that is habitable for aquatic life and usable for agriculture and industry. And we need water that once again we can see is actually clean and not unsightly.

I am offering an amendment to H.R. 11733, the Surface Transportation Act, to protect this important investment. My amendment would provide that the Secretary of Transportation must find that there is no prudent or feasible alternative before approving a construction of a highway involving dredging and filling of navigable waters.

Dredging and filling activity when necessary is a highly desirable method for man to manipulate the environment and manage resources for the benefit of all. But when it is unnecessary and avoidable it is an environmental disaster.

The adverse effects of dredge and fill activity are well known: it stirs up toxic substances causing the release of toxic organic compounds; it increases land erosion and can alter the flow of water; it destroys acquatic habitat and ruins marine life; and can create the hazard of flood. A sampling of the bottom sediments (subject to dredging activity) by the Environmental Protection Agency in 1971 revealed the existence of heavy metal pollutants such as lead, zinc, cadmium, mercury, chromium, and copper. In addition there was found oil and grease deposits.

We are currently at a stage of develop-

ment of dredge and fill techniques—the state of the art—where we do not really know enough about the environmental impact of this activity and thus are taking great risks of further damaging the environment. A General Accounting Office (GAO) report of June 28, 1977, concluded:

In fact, the long-term effects of contaminated dredged material on the environment have not been determined.

It is apparent, that we should only allow dredge and fill activity when there is no prudent or feasible alternative for highway construction.

Indeed, current law already attempts to deal with this problem by setting guidelines for avoiding this activity. Section 109 of the Federal Highway Act (title 23 U.S.C.) requires the Secretary of Transportation to maintain regulations to eliminate and minimize water pollution and soil erosion. My amendment would merely make explicit the preference to avoid dredge and fill activity that does indeed lead to the adverse effects mentioned in section 109.

As I indicated earlier current law already recognizes a need to give special preference in highway construction to avoiding the adverse effects of highway construction on natural land areas. I am proposing now that we enlarge this section to include a major natural resource—waterways. Section 138 was enacted in 1966 out of recognition for the fact that the Federal Government has a unique responsibility to insure the integrity of public lands that might otherwise be harmed by federally funded highway action. As the Supreme Court pointed out in the case of Overton Park in Memphis (Citizens to Preserve Overton Park against Volpe) cost-benefit analysis will always find it preferable to build through natural open spaces rather than around them. In a similar manner many developers and construction companies may prefer to construct highways through navigable waters rather than around them or at least in a way that will minimize adverse effects.

Every action of Congress and the executive branch points to the fact that the Federal Government has already indicated that dredge and fill activity should be avoided where possible and minimized when it is not possible to completely avoid it.

The Clean Water Act of 1977 specifically states:

The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

The Corps of Engineers in promulgating final regulations in response to this act specifically states:

Discharges of dredged or fill material into waters of the United States should be avoided or minimized through the use of other practical alternatives.

In the Executive order of May 24, 1977, on floodplain management, the President set an explicit policy of avoiding the adverse environmental effects of modifications of floodplains. Floodplains have been identified in the order to mean lowlands and relatively flat areas adjoining inland and coastal waters. The order clearly states that all Federal agencies avoid filling in land wherever practicable.

Since avoidance of fill and dredge activity is already a stated preference of the Federal Government and our large expenditures of funds have occurred in order to enforce this preference, then it is only consistent and logical to expect this preference to be yielded in highway construction action authorized by Federal highway legislation.

The final conclusion of our own deliberations in this body over the Clean Water Act was to realize the biological need and role of navigable waters (including wetlands) to ecosystems and the orderly use of waterways. For example, wetlands serve to recharge ground water supply and provide natural protection from floods and storms. We do not have to redebate the Clean Water Act to realize that highway construction employing dredge and fill activity will denigrate our progress in maintaining wetlands and waterways. My amendment incorporates in Federal highway statute the appreciation of the role of navigable waters in our environment.

Without this amendment we will be foolishly squandering our important investment in improving water quality. Because for example, on a river we may on the one hand be spending millions of dollars on municipal waste treatment and on the other hand, foil the progress of that treatment by allowing highway construction on that very same river. We cannot afford to allow this lack of coordination in our environmental and spending policy.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I rise in opposition to the proposed amendment and urge that it not be approved. The amendment purports to protect the navigable waters of the United States. What it actually does, and I am sure that it is not the gentleman's intent, is to create unnecessary and unreasonable delays and additional complications for the bridge replacement program as well as for highway projects which may cross or parallel navigable waters.

The amendment has apparently been offered to resolve a difficult local problem. But the result would be to create a grandaddy of a national problem well beyond anything that could reasonably have been contemplated.

There are already a number of laws which protect the integrity of the navigable waters of the United States.

Let me give a few examples:

First. Authority to regulate dredging and other construction work in navigable waters of the United States is provided under sections 9, 10, 11, and 14 of the River and Harbor Act of 1899. Permits are issued only if the proposed work would, in the opinion of the Secretary of the Army, be in the public interest.

Second. Section 404 of the Federal Water Pollution Control Act regulates the disposal of dredged or fill material in navigable waters. A permit for such activities is required from the Secretary of the Army.

Third. Section 402 of that same act regulates other types of discharges, and requires a permit by either the Administrator of the Environmental Protection Agency or by the appropriate State in which the discharge occurs.

Fourth. The general bridge acts of 1906 and 1946 require a permit from the Secretary of Transportation for any bridge over the navigable waters of the United States.

Fifth. Additional protection is provided by the requirement for an environmental impact statement under the National Environmental Protection Act prior to the issuance of any permit under these provisions. An environmental impact statement is also required for projects planned and constructed under title 23. The preparation of the EIS requires consideration of alternatives—which is precisely what I understand the amendment would require.

Madam Chairman, I submit there is no need for this proposed amendment, and I urge its rejection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. WEISS. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from New York (Mr. WEISS) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 119, after line 23, insert the following:

(c) In any case where an Appalachian development highway on the Federal-aid primary system, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially-zoned area containing not less than 70 commercial and industrial establishments which is authorized under Section 205 of the Flood Control Act of 1948, the Secretary of Transportation shall provide to the State highway department so much of the costs, not to exceed $1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project.

Mr. ERTEL (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. HARSHA. Madam Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) reserves a point of order against the amendment.

Is there objection to the request of the gentleman from Pennsylvania (Mr. ERTEL)?

Mr. JOHN T. MYERS. Madam Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read the amendment.

The Clerk concluded the reading of the amendment.

Mr. HARSHA. Madam Chairman, I reserve a point of order against the amendment.

Mr. ERTEL. Madam Chairman, I would request that we argue the point of order at this time to save time.

POINT OF ORDER

The CHAIRMAN. The gentleman from Ohio will state his point of order at this time.

Mr. HARSHA. Madam Chairman, the amendment the gentleman offers is in violation of House rule XVI, clause 7, which prohibits nongermane amendments.

The amendment seeks to provide moneys for the completion of a flood control project by way of amending the bill providing for an increase in the Federal share for highway construction projects under the Appalachian Regional Development Act.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. The obvious fundamental purpose of the gentleman's amendment is to permit completion of a flood control project for a certain city in Pennsylvania.

The fundamental purpose of the bill is to make authorizations for highway construction, highway safety, and mass transportation. Flood control projects are in no way within the ambit of this legislation.

Clearly, the amendment does not relate to the subject matter under consideration. I would direct the Chair's attention to a precedent contained in the CONGRESSIONAL RECORD July 3, 1968, on pages H11926 through H11927. The bill being read in that case was the Federal-Aid Highway Act to which a Member offered an amendment allowing any Governor of a State to permit the diversion of funds apportioned to a State from highway construction to urban mass transit.

The Chair in that case held such an amendment was not germane.

A basic rule of germaneness is that an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill.

Even assuming that the basic purpose of the gentleman's amendment is to actually complete the highway, this test is not met, because an ancillary purpose is to complete this flood control project. This is not closely allied to the method encompassed in the bill, which is simply highway construction, unrelated to any flood walls or levees.

A further reason this amendment does not meet the test of germaneness is that it creates a new class by providing relief for a different group of people. Those aided by this bill are motorists in need of good highways, while the gentleman's amendment instead is aimed at providing flood control relief to the citizens of a particular borough in Pennsylvania. Clearly, it violates the rule. These beneficiaries are clearly not in the same class and would rarely if ever be the same people.

The gentleman's amendment broadens the scope of the original bill by providing a general purpose which is not germane to the specific subjects of the original bill. This legislation builds bridges, highways, and mass transit systems; the gentleman's amendment builds flood control levees.

I urge, therefore, that the Chair rule the gentleman's amendment out of order, because it is clearly not germane.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. ERTEL) desire to be heard on the point of order?

Mr. ERTEL. I do, Madam Chairman.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. ERTEL. Madam Chairman, this is an amendment to complete the Appalachian Development Highway on the Federal-aid primary system, and it is clearly germane to the bill.

It is true that this is to complete final sections of that highway, and that is the purpose: To build the base for the highway.

That is the purpose of this amendment, and any flood control project or any flood control benefit which might result has already been appropriated and is incidental. The primary purpose of this is to complete the Appalachian highway regional system in order to connect regional highways together.

Therefore, Madam Chairman, the amendment is germane.

The CHAIRMAN. Does the gentleman from New Jersey (Mr. ROE) wish to be heard on the amendment?

Mr. ROE. I do, Madam Chairman. I wish to speak against this point of order.

For the benefit of the Members of the House, including my dear friend, the gentleman from Ohio (Mr. HARSHA), the distinguished member of the committee from the minority, let me say that I inspected this area myself on behalf of the committee, and I want to report that the Appalachian development highway program and the regional program are part of this program, and this particular link that is to be connected in Pennsylvania is an integral part of the highway program. It had to be approved by the Environmental Protection Agency, and it is part of the comprehensive planning of the Appalachian program.

Now, the question is whether or not the roadbed per se is a matter of flood control versus a highway.

You could not complete this program without putting this highway on about a 52-foot fill. It happens to be because the elevation and the terrrain is in that direction. Therefore, Madam Chairman, it is obvious that, whether it serves as an ancillary purpose and does benefit the flood situation in the area, you could not complete this highway without building it on the 52-foot fill. Therefore, I would respectfully suggest to the Chairman that this is not, in my judgment, nongermane and the point of order should be defeated.

The CHAIRMAN (Miss JORDAN). The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. ERTEL) has offered an amendment to section 125 of the bill, the section entitled "Appalachian Development Highways."

The gentleman from Ohio (Mr. HARSHA) argues that the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) is not germane because it is violative of the fundamental purpose of the bill, which is to build highways and not to engage in flood control.

The fundamental purpose of the bill is not only to build roadways. This is a surface transportation bill. There are a number of ancillary highway-related activities and projects which are authorized under the terms of the bill.

The gentleman from New Jersey (Mr. ROE), in arguing in opposition to the point of order, has contended that it would be impossible to complete a certain highway without the construction contemplated on this amendment. That the roadbed will be part of a flood control project is ancillary to the main thrust of the amendment. The completion of a highway is apparently its fundamental purpose, since the highway could not be completed without going into a flood control area and completing the highway with the authorization provided in the amendment.

Consequently, the Chair overrules the point of order raised by the gentleman from Ohio (Mr. HARSHA).

The Chair recognizes the gentleman from Pennsylvania (Mr. ERTEL) for 5 minutes in support of his amendment.

Mr. ERTEL. Madam Chairman, the purpose of this amendment is simple. The Appalachian Development Act of 1965 is recognition by the Congress that the Appalachian region of the country has not shared fully in our Nation's prosperity and requires special assistance to acquire a self-sustaining economic base. This amendment will insure that authorized flood control projects protecting certain commercial and industrial developments and jobs are not delayed, because of a delay in highway construction. Because some States do not have the funds to match all available Federal highway money, we may face the situation where associated flood-control projects also are delayed. This amendment will permit highway projects to proceed, to the extent that the flood control projects are completed.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, as the gentleman from New Jersey (Mr. ROE) stated, the committee has looked thoroughly at the project. It is part of a larger highway project which will be part of the regular Federal highway system and program, and it is a part of the staged construction which has a unique quality about it in that it is not otherwise normal in a highway project.

There is also in the gentleman's amendment a maximum figure of $1.8 million.

Madam Chairman, we would be happy to accept the gentleman's amendment.

Mr. ERTEL. I thank the gentleman.

Mr. HARSHA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to ask the author of the amendment if the part of this project over which the so-called road goes is not a contemplated levee in a flood control project.

Mr. ERTEL. I am sorry. I could not quite understand the gentleman's question. Would the gentleman be kind enough to repeat it, please?

Mr. HARSHA. Madam Chairman, I would ask the gentleman whether or not the area encompassed by the gentleman's amendment completes a flood control project as well as the completion of this highway.

Mr. ERTEL. If the gentleman will yield, this is a general amendment, but if it were used for the specific area I think it should be used for, it will have in it an impervious core for which a sum has already been set aside by the Corps of Engineers. This is to build the embankment for the road itself.

The impervious core which would be built would be funded by the Corps of Engineers. That is inside, but we need the base of the road to get up to where we surface the road.

Mr. HARSHA. But the base of the road would serve as part of the levee for the flood control project; would it not?

Mr. ERTEL. It would serve a dual purpose. The money has already been set aside by the corps for the care of the embankment.

Mr. HARSHA. The gentleman from New Jersey said he came up and looked at the project.

Mr. ERTEL. That is correct.

Mr. HARSHA. Maybe he did not go as a subcommittee. Maybe he just went at the gentleman's personal request. I do not know that.

Mr. ERTEL. If the gentleman will yield, there was to my knowledge no testimony before the gentleman from New Jersey (Mr. ROE) and the subcommittee that I am aware of.

Mr. ROE. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Madam Chairman, I know the gentleman from New Jersey knows under our jurisdiction is the Appalachian program, as the gentleman knows, and this particular highway is an integral part of the Appalachian road program which is already in this bill.

Factually, forgetting the hearing or anything else involved—now hear me out—OK, I will ask for my own time.

AMENDMENT OFFERED BY MR. HARSHA TO THE AMENDMENT OFFERED BY MR. ERTEL

Mr. HARSHA. Madam Chairman, I offer an amendment to the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The Clerk read as follows:

Amendment offered by Mr. HARSHA to the amendment offered by Mr. ERTEL: At the end of the proposed subsection (c), add the following new sentence: "The Federal share of the total cost of any complete Appalachian development highway a portion of which receives assistance under this subsection shall not exceed (including all assistance under this subsection) that percentage of such total cost which, but for this subsection, would otherwise be applicable to such development highway.".

Mr. HARSHA. Madam Chairman, the purpose of my amendment is to assure that the normal Federal share of costs allocable to the highway projects not be exceeded.

As a result of my amendment, that portion of any highway project which is necessary to the flood control project can be built with full Federal financing when the flood control project is ready to go. It need not wait until the total highway project has been brought to a point where construction is ready to commence.

At the same time, it would assure that when elements of the highway project that are totally unrelated to the flood control improvements are constructed, the Federal share will be reduced by the amount necessary to assure that the total highway project does not exceed the share normally applicable under the statutory authority governing its construction.

In specific terms, this means that if the strictly highway portion is to be financed as a primary highway, the Federal share will be 80–20, as provided in this bill. It will be up to 90–10 if the highway is constructed under the provisions of this bill allowing for a combination of Federal-aid primary funds and Appalachian development highway funds. In any case, the requirement for the non-Federal share will be preserved as in general provisions of law.

Mr. ERTEL. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. HARSHA).

Madam Chairman, quite frankly, I did not quite follow the gentleman from Ohio's discussion, but as I analyzed this amendment, it cuts back exactly on the purpose of the particular amendment which I have offered. The reason I have offered it is to get this program started, to do this unique function which is to connect the ends of the Appalachian regional highways which are not completed, to complete the project and, second, to do the levee. The levee is 100-percent financed and does not come out of these funds, that is paid for by the Corps of Engineers. He is trying to cut back on the 90–10 formula that is in the bill, and I oppose the amendment.

Mr. ROE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, first of all there is a provision in the bill that allows a 90–10 matching program on Appalachian programs. I think that is No. 1, which is highway financed, and I think, No. 2 is that the Corps of Engineers is going to put up $1.3 million of water resources moneys, so to speak, to build the core of this under highway bed, you might say, the bed of this highway which will be built 52 feet in the air. The gentleman from Ohio (Mr. HARSHA) says, and quite rightly so, that he only wants fair play and that if we are going to be using highway money it should only be the 90–10. But, one must remember that the Corps of Engineers will put in an additional $1.3 million which is about two-thirds of the cost of the roadbed, because of the 52-foot elevation. So, in any case, if that were not going to be serving as an ancillary purpose, which in my view is a bonus, and we had to use highway money to build that whole particular roadbed we would be spending another $1.3 million out of the highway trust fund.

So it seems to me that what the gentleman from Pennsylvania (Mr. ERTEL) is trying to do is to serve two purposes and I think he is doing a splendid job and I do not think he should be penalized for doing it.

Mr. HARSHA. Madam Chairman, if the gentleman will yield, I am not trying to penalize him at all. I am trying to keep him from getting a windfall. All that I am trying to do is to assure that whatever money is spent on highways will be spent in the same Federal-State matching ratio as every other Appalachian highway is funded.

Now, this does not prevent the project from going ahead one bit; you can go ahead with the project. What his amendment does is authorize $1,800,000 to build the levee. It does not authorize enough money to build a highway. You cannot build a highway, in the first place, with the money in this amendment.

It authorizes the full funding of $1.8 million to build the levee.

What I am saying in my amendment is when they go back and build the highway, then the cost of that portion of the levee which is attributable to the highway should be charged against the highway so that the rest of the country is treated equitably and fairly.

Mr. ROE. I do not believe the gentleman understands the technical problem involved.

Mr. HARSHA. I understand it.

Mr. ROE. I am just trying to clarify the point, just as the gentleman is.

It is not the fact that we have a chicken and egg situation. If there was not any flooding in the area whatsoever, if there was no flood control involved whatsoever, they would not have to construct the roadbed 52 feet high to connect the two pieces, so it is just an ancillary advantage which we are receiving.

What I am trying to get at is that it is not a question of building a levee or whatever. This is an integral part of that roadbed. We are going to get an

added advantage, because of its being built at the elevation it is being built on.

Mr. HARSHA. If the gentleman will yield further, Madam Chairman, of course, if that were the case, there would be no problem, because they have already gotten Appalachian money. They could go ahead and build the road under the Appalachian program. Certainly they can. They have moneys allocated to them.

Mr. ROE. That is not so.

Mr. HARSHA. They have an allocation for that.

The primary purpose of this whole thing is to build the levee at 100 percent Federal money and then, hopefully, the highway will be completed. That is all right if that is what the committee wants to do.

Mr. ROE. There is no way they can complete the highway if they do not build the levee. It is an integral part of the road.

Mr. HARSHA. They could build a bridge.

Mr. ROE. No. The gentleman apparently has not inspected the area. I know the gentleman's sincerity of purpose.

That bridge would probably cost about $50 or $100 million in order to close that gap.

Mr. HARSHA. If the gentleman will yield further, what I am saying is that the levee is not an integral part of the highway because the highway could be constructed in any number of ways.

Mr. ROE. It is designed. It has been approved by the Federal Highway Department. That department has approved its design.

It is an added bonus to the great State of Pennsylvania, because there is no other way they can build it short of paying three times as much to build a bridge, which is not even feasible.

Mr. HARSHA. My amendment would not stop them from proceeding to build a levee or whatever they want to build. The only purpose of my amendment is to say that they do not get more than 80–20 or up to 90–10 or whatever it may be, but nothing more, as the Federal share of a highway project.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA) to the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HARSHA. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announced that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Pending before the House is an amendment offered by the gentleman from Ohio (Mr. HARSHA) to an amendment offered by the gentleman from Pennsylvania (Mr. ERTEL), and the pending business is the demand of the gentleman from Ohio (Mr. HARSHA) for a recorded vote.

All those Members in favor of taking the vote on this amendment by a recorded vote will please rise and remain standing until they are counted.

Mr. HARSHA. Madam Chairman, I ask unanimous consent to withdraw my request for a recorded vote.

Mr. JOHN T. MYERS. Madam Chairman, I object.

The CHAIRMAN. The Chair will state that since she has not announced the count of those requesting a recorded vote, the Member requesting the recorded vote may withdraw the request without unanimous consent. Does the gentleman from Ohio (Mr. HARSHA) withdraw his request?

Mr. HARSHA. Madam Chairman, I withdraw my request for a recorded vote.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) withdraws his request for a recorded vote.

Mr. HARSHA. Madam Chairman, I just want to make certain I am not withdrawing my amendment. I am withdrawing my request for a recorded vote.

Mr. HOWARD. Madam Chairman, on that I demand a division.

On a division (demanded by Mr. HOWARD) there were—ayes 60, noes 2.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL), as amended.

The amendment, as amended, was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. JOHN T. MYERS

Mr. JOHN T. MYERS. Madam Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. JOHN T. MYERS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Indiana (Mr. JOHN T. MYERS) is recognized for 5 minutes in support of his preferential motion.

Mr. JOHN T. MYERS. Madam Chairman, it is regrettable that I offer this motion because this bill is very badly needed. It is a very important bill to our Nation.

However, here we are 5 minutes to 9, with just 62 Members voting on the last vote on a most important bill.

It is regrettable that each year we come up—and for the past several years this has happened—in the closing days of the session of Congress with a most important bill, the highway bill. I hope that in future sessions we will bring this legislation to the floor in a more timely manner, earlier in the session and earlier in the day. I will not ask for a record vote and take this time only to register a dissatisfaction with the procedure which is shared by many here tonight and obviously by many others who are not interested enough in this legislation to be present tonight.

Highways are very important to the commerce, to the transportation of our country. Why is it that every year we wait until the closing down of a session to come up with this very important piece of legislation and then do it with so few Members present on the floor? Madam Chairman, it is rather obvious tonight that we have not had any recorded votes, and maybe we have not needed any. But there has been a protection here this evening in the fact that we have not had any votes, and we have been protected in the fact that we have had a lack of quorum. Just a moment ago, when we had a noticed quorum, it took 12½ minutes to get 100 Members present on the floor. There is not a majority of the Members of the House present to conduct business for a most important piece of legislation. We are considering legislation that affects the highways of our country, the safety of our highways and the bridges on the roads and highways in our country which are so inadequate—and other surface transportation. In my own State of Indiana it has been estimated there are more than 10,000 bridges which are inadequate—and yet we are passing legislation tonight with fewer than 100 Members—in fact, just 62 Members—on the floor of the House to conduct this important business of the House. I do not think this is really the way the people of this country want our laws to be written.

So it is with regret that I offer the motion that we do now rise, but I think it would be better that this legislation be brought up tomorrow, with a majority of the Members of the House present so they know what is going on concerning this very important legislation. It is obvious we cannot finish this legislation tonight.

So, Madam Chairman, I have reluctantly offered this motion only for the purpose of the fact that we do not have a sufficient number of Members on the floor tonight to carry on with this important legislation.

Mr. HOWARD. Madam Chairman, I rise in opposition to the motion.

I would like to state to the gentleman from Indiana that I heard him so eloquently speak on the water projects legislation last week while I was not on the floor—I was watching the proceedings in my office on television. He stated we could not just look at the people here, but there may be hundreds or thousands of people back in the buildings who are watching the gentleman this evening. I want to thank him for his statement.

Madam Chairman, I urge defeat of the motion.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Indiana (Mr. JOHN T. MYERS).

The motion was rejected.

The CHAIRMAN. Are there further amendments to title 1?

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS, Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 151, after line 10, insert the following new section:

FEDERAL PARTICIPATION IN PREVIOUSLY INCURRED COSTS

SEC. 159. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Federal participation in previously incurred costs

"(a) If, prior to the time that any sums apportioned to a State for expenditure on any Federal-aid system lapse pursuant to section 118 of this title, the State requests that such sums be available for payments to such State for expenditures made by such State for a project in such State which was constructed during the period that such sums were available for expenditure in such State without any Federal assistance, the Secretary shall enter into an agreement with such State for the payment of 50 per centum of the cost of such project if the Secretary determines that—

"(1) the project would, at the time of its construction, have been eligible for Federal financial assistance under this title;

"(2) such agreement will not adversely affect the public interest;

"(3) construction of such project was in substantial compliance with all Federal statutory requirements and that there was no willful violation of any other Federal requirements;

"(4) the cost to the United States under such agreement will not exceed what would have been the cost to the United States at the time of construction if Federal assistance had been provided; and

"(5) the project has been fully and adequately maintained since construction.

"(b) The total Federal expenditure in any State in any fiscal year under this section shall not exceed the amount of such State's apportionment which would have lapsed in such fiscal year under section 118 of this title but for this section.

"(c) Any request submitted under subsection (a) of this section shall provide information as the Secretary shall require.".

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"159. Federal participation in previously incurred costs.".

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. GARY A. MYERS. Madam Chairman, I assume the chairman is confident that everybody knows what is in the amendment. Maybe that will permit me to act more expeditiously by his asking unanimous consent that the amendment be considered as read.

However, what the amendment is intended to do is face up to the fact that some States, for different reasons, have found that occasionally some of the funds which were previously available from the Federal Government will lapse because of the inability of the State to provide sufficient matching money within the period of time that the money was available to them. One of the problems could be that a State during the period the Federal Government had money available to them was running two companion programs, one in which they were going along the line and matching the Federal money and picking it up and building highways, and in companion using State money on a 100-percent State money basis and building highways without attempting to pick up the match because they were already picking up as much as was available. Then, due to some economic situations, they find they cannot continue with that two-part program and in fact find that during the 4-year period that the money is available they are going to have to retrench and will not be able to come up with sufficient match at the end of that time.

What I am attempting to do here is to permit the Secretary to apply retroactively State highways which were 100 percent State funded and which would substantially comply with all other conditions for a Federal highway, for a match that the State could have otherwise gotten if they had not gone the projects alone.

There are a couple of conditions. First of all, that retroactive application would only be permitted if in fact the States were going to see some of their funds lapse. The State highways would have had to have been built during the same period that the Federal money that was about to lapse was available to them and the Secretary was able to determine that they were in substantial compliance with Federal regulations and laws.

There are a number of States which might see substantial amounts of money lapse, and in all fairness to those States they were in many cases contributors to the highway program. In other words, they contributed more than they actually got out.

I admit in many of the cases their problems will be due to either bad planning by the States or irresponsible action by the State legislatures from the standpoint of not providing an adequate amount of State highway funding. But, for whatever the reason, I think we have to give consideration to the fact that they are about to lose a substantial amount of money and this would only permit the States to use those roads which they had funded fully on their own in good faith.

The amendment also provides a substantial penalty for a State that comes this way; in other words, the match would be only on a 50 per centum basis, so this amendment would not encourage the States to go this route. In other words some States might think if the match were not to be reduced they would be encouraged to build roads with State funds then come back and retroactively attempt to get the money.

It is not my intent to permit that to happen. It is not my intent to permit a road which was built prior to the time frame in which the money was available to be acceptable. I offer this amendment and hope that the committee can support it as a compromise in a spirit of fairness to those States which find very difficult situations within their departments of transportation.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

I would like to point out a few things, and one of them is very basic.

No. 1. When these roads were built, they were built with 100 percent State money and no environmental impact statements were required nor other statements as far as the Federal Government is concerned. What it would do is take Federal money and take what would be a larger share and then permit the States to use that as a smaller share on the Federal program, calling again for a much larger Federal share.

This was not the intention when the roads were built and, also, if you look at the amendment carefully the very objectionable point is that if the Federal money comes to a State there is no provision as to specifically where that money may be spent; it may be spent in any place in the State and not necessarily for highways, not necessarily for highway safety, not necessarily for mass transportation; it could go into anything; so it really would not work for the improvement of the highway systems in the country.

I urge a no vote on the amendent.

Mr. WRIGHT. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I would be happy to yield to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Madam Chairman, I have asked the gentleman from New Jersey (Mr. HOWARD) to yield in order that I might make a comment with respect to the bill and to our scheduling.

As soon as this bill is completed, if we can complete it in 20 minutes, that is all we will do tonight. There will be no other business scheduled if the House can complete this bill tonight.

In any event, we will rise at 10 o'clock. But I would suggest to the House that I have been visiting with the manager of the bill, the gentleman from New Jersey (Mr. HOWARD) the chairman of the subcommittee, and it appears that most of the amendments remaining will be accepted by the chairman of the subcommittee. There appear to be only two or three that would project any disagreement, and if there were any general sense of cooperation it is altogether possible that we could wrap this up and conclude tonight's business.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was rejected.

Mr. ANDERSON of California. Madam Chairman, I move to strike the last word.

Madam Chairman, section 156 of H.R. 11733 calls for a study of all factors involving the Clean Air Act Amendments of 1977, the Energy Policy and Conservation Act, the National Mass Transportation Assistance Act of 1974, and this act, the Surface Transportation Assistance Act of 1978.

Why another study? This is not just another study. Let me explain.

The Clean Air Act Amendments of 1977 contain major provisions that will have a direct impact on our cities. Under threat of Federal sanctions, State, local, and regional governments are required to develop and implement plans to attain clean air standards by July 1, 1987.

A January 1979 interim deadline for the adoption of these plans draws near. No Federal department, including the Department of Transportation (DOT), will be allowed to engage in support, or approve any activity like a highway project, for example, which does not conform to this clean air plan.

There exists a very real possibility that all title 23, United States Code assistance will come to a halt in urban areas in the very near future. In the next 10 years, virtually all of urban growth, development, and Federal funding to urban areas will be predicated on the degree to which urban areas of the country comply with Clean Air Act requirements and plans to attain air quality standards.

This section 156 study is absolutely necessary if we are to reconcile the various requirements of each of these very important laws and make certain that we have the necessary information to resolve conflicts that are caused by wasteful duplication and overlapping rules and regulations.

Such duplication has been blamed for the taxing of local, State, and regional agency resources. Conflicting demands by Federal agencies wanting to meet the objectives of their specific laws exceed the available resources.

There is a clear and immediate need to examine these laws and their companion rules and administrative actions together and to identify all resources, both Federal and non-Federal, currently available to local, regional, and State agencies to achieve the objectives of these laws and to determine if any legislative changes are required or if additional resources are needed.

CLEAN AIR ACT RELATIONSHIP TO DOT AND DOE PROGRAMS

In recent years the Congress and the executive branch have initiated a series of legislative and administrative actions in the areas of air quality, energy conservation, and transportation management. Each of these actions seek similar objectives, but integration at the national policy level is lacking.

This lack of "agency-talking-to-agency" by the Environmental Protection Agency (EPA), Department of Energy (DOE), and DOT is disturbing when we know that they have responsibility over air quality, energy conservation, and transportation, respectively.

Section 156 will allow these agencies to report to Congress on the progress being made to coordinate—as OMB has directed.

For the benefit of Members I would like now to outline the relevant sections of law and administrative regulation that this section 156 study will address.

CLEAN AIR ACT

When Congress enacted the Clean Air Act in 1970, a provision was included requiring all States to develop State Implementation Plans (SIP) outlining specific actions to achieve national air quality standards. Section 110(a)(2)(B) also requires Transportation Control Measures (TCM).

There have been a number of problems regarding implementation of the TCM. For example, information on the effectiveness, cost, and implementability of transportation options in 1973 was limited. The extremely tight court-imposed time constraints did not allow for the investigation of the social and economic effects on a case-by-case basis.

As mentioned earlier, January 1979 marks the date that these plans must be submitted. After July 1, 1979, permits for new major stationary sources will be granted only if a plan has been submitted. Then, by 1982, the plan must have enforceable measures to assure attainment by July 1, 1987. No Federal department will be allowed to engage in support or approve an activity which does not conform to the plan. In addition, each Federal department, agency, or instrumentality must give priority in the exercise of their authorities in the implementation of the plan.

The section 156 study will document that this priority is in fact being given and will address the problems which stem from the lack of funds to implement transportation measures; that is, improved public transit.

ENERGY POLICY AND CONSERVATION ACT

Section 362 of the 1975 act provides for the preparation of State energy plans (SEP). These plans are eligible for Federal assistance if they include a number of measures, including programs to promote the availability and use of carpools, vanpools, and public transportation.

In November 1976, and later in May 1977, rules were published outlining, among other things, minimum criteria for required program measures. Under the section on program measures to promote availability and use of carpools, vanpools, and public transportation, specific actions were required.

Our section 156 study will include a discussion of these requirements as they relate to subsections (a)(1)(2)(3)(4).

NATIONAL MASS TRANSPORTATION ASSISTANCE ACT

In September 1975, DOT issued final rules instituting a transportation improvement plan (TIP). Among other things, TIP instituted an urban transportation planning process, required to be coordinated with air quality with consideration given to energy conservation.

A significant required component of TIP is an annual preparation of a transportation system management (TSM) element. TSM is designed to meet short-term transportation needs and thus emphasizes making efficient use of existing facilities. The emphasis on short-range measures is consistent with EPA's need to achieve air quality standards as expeditiously as practicable. DOT identified specific TSM measures employing a variety of locally conceived operating, regulatory, and pricing policies to bring about a more rational organization of the public transportation system and a better balanced use of the private automobile.

Many of these kinds of measures are currently being required by EPA imposed SIP transportation control plans. But there are basic differences between DOT and EPA on these related actions. For example, DOT requires only approval of the process leading to the plan, whereas, EPA actually approves the plan; DOT does not prescribe specific objectives, but rather requires that the transportation plans meet broad criteria of efficiency and cost effectiveness, while EPA requires the plan to achieve national ambient air quality standards; DOT does not impose rigid deadlines for implementing certain measures, while EPA requires the plan to achieve the objective by a deadline.

Our section 156 study requirements under subsections (a)(1)(2)(3)(4) will explore this situation which has placed a very heavy cumulative burden on planners at the local, regional, and State level. This study is necessary when we consider that proper management—without excessive or duplicative requirements—of the existing transportation system has a vital role to play in urban conservation efforts. Judicious management of automobile access and greater attention to the needs of pedestrians, supported by efficient and attractive local circulation services, can give new economic stimulus to downtown districts, enhance the livability of inner city residential neighborhoods and preserve our central cities.

SUMMARY

It would seem reasonable that the integration of Federal programs and policies, coordination of Federal funding and the paralleling of Federal requirements should be a part of the process now underway to develop a national urban and regional policy. Such action could assure that activities by EPA, DOT, DOE, OMB, HUD, and the Department of Commerce are designed and in fact do meet our objectives contained in the Clean Air Act Amendments, the Energy Policy and Conservation Act, the National Mass Transportation Act of 1974, and this Surface Transportation Assistance Act of 1978.

The section 156 study will provide Congress with an outline of the efforts underway to bring various requirements and activities together into a single, coherent and mutually supportive set of Federal and local objectives, implementing regulations, funding supports, intergovernmental relationships, and administrative reviews and approvals.

Section 156 is not just another study. Section 156 shows the desire of Congress to assist local, regional, and State agencies—who do not have the resources necessary to reconcile conflicting Federal requirements—come to grips with unnecessary and duplicative administrative actions.

Unless this occurs, the possibility exists that none of the worthwhile objectives of the laws I have mentioned will be met.

I'd like to thank Congressman PAUL ROGERS, chairman of the Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee, for his support for this section 156 study. His April 14 letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,

Washington, D.C., April 14, 1978.

Hon. GLENN M. ANDERSON,
House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR COLLEAGUE: This is in response to your letter of April 11, 1978, enclosing a copy of your proposed amendment to the "Federal Aid to Highway Act of 1978" and inquiring whether the adoption of the enclosed amendment would lead me to seek referral of the bill.

I appreciate your past support for strong Clean Air legislation, and I agree with you that effective implementation of the Highway Act requires coordination with the Clean Air Act, the National Mass Transportation Assistance Act, and the Energy Policy and Conservation Act. A study such as you propose seems to me to make a great deal of sense.

I would have jurisdictional concerns about the amendment, however, if it could in any way be construed to amend, delay, stay, or restrict any duty or authority under the Clean Air Act. From staff conversations, however, I gather this is not in any way your intent. All that your amendment would do is to mandate a study and investigation, as I read it.

To make this point absolutely clear, I would recommend the inclusion of the following language in your amendment:

"(c) Nothing in this section shall be construed to amend, stay, or in any other way restrict or limit any authority or duty under the Clean Air Act, the Energy Policy and Conservation Act, or the National Mass Transportation Assistance Act."

With the addition of this language and upon the advice of the House Parliamentarian's Office (Pete Robinson) that section 144, as so amended, would not make Clean Air Act amendments germane in this bill, I would support your amendment and would not seek referral of the bill because of your amendment.

I appreciate your consideration of my concerns in this matter. I also want to express my appreciation for the very cooperative spirit evidenced by Mr. John Ingram of your staff in dealing with this question.

Sincerely,

PAUL G. ROGERS,
Chairman, Subcommittee on Health and the Environment.

Mr. McFALL. Madam Chairman, I move to strike the last word.

Madam Chairman, I take this time not to offer an amendment, but to ask a question of the members of the committee and the chairman of the subcommittee, the gentleman from New Jersey, Mr. HOWARD, about section 154 which I personally consider a rather unfortunate section that is in the bill, and that, as the Members of the House may know, if they have copies of the bill, refers to the Dulles Airport Highway Access. It reads:

Notwithstanding any other provision of law, the Secretary of Transportation shall permit carpools and vanpools to enter and leave the Dulles Airport Access Highway during rush hours using those entrances, exits, and ramps which are in existence on the date of enactment of this Act.

I would ask did the committee have hearings on this particular section?

Mr. HOWARD. Not on this particular section, if the gentleman would yield, I would say, but certainly we have had hearings for several years on what we could do to try and tie in our transportation legislation with our energy conservation. What we want to do is to get as many people per vehicle as we can on the roads, and certainly where we have a road where you might encourage that sort of thing we should do it.

I might point out to the gentleman that in the overall this Nation spends $45 billion a year for imported foreign oil.

It is a tremendous drain on our Nation and on our economy.

We have an average of 1.2 persons per vehicle in our automobiles in this Nation. If we could just double that to 2.4 or add in a mix of mass transportation, we would not have to import one barrel of oil into the country.

Therefore, the subject of trying to encourage people to use mass transit, to have preferential bus lanes, and lanes with a maximum number of people in automobiles has been a goal of the committee for several years.

Mr. McFALL. Madam Chairman, will the gentleman allow me to reclaim my time so that I may say something about it.

I understand that there is some serious opposition to this matter in the other body. I would hope that in considering this matter in conference, the committee would take into consideration the views of the Air Transport Association as expressed by the president of that association, Paul Ignatius. I have a copy of the letter which he sent to the chairman of the committee, the gentleman from California (Mr. JOHNSON).

The letter says the following:

AIR TRANSPORT ASSOCIATION OF AMERICA,

Washington, D.C., September 13, 1978.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The airlines serving the Washington, D.C. Metropolitan area are deeply concerned about the current effort to open the Dulles Airport access road to vanpool and carpool traffic as proposed in Section 154 of H.R. 11733. We believe Section 154 would seriously compromise the basic purpose of the access road, and it is respectfully requested that the non-airport traffic restriction be reaffirmed when H.R. 11733 is considered by the House.

During the development of Dulles Airport, it became clear that its distance from downtown Washington, and the lack of public transportation, would require an alternative system assuring fast and efficient access. The alternative system decided upon was the special access road. Congress was assured by the Federal Aviation Administration when the road was authorized, and when funds for its construction were appropriated, that it would be used exclusively for airport traffic. In this connection, access and egress originally were controlled so that the road could only be used by airport traffic. In 1971, however, the U.S. Department of Transportation authorized conditional use of the road for the Reston buses, and for people attending functions at Wolf Trap Farm. At that time we expressed concern that such precedential action would stimulate other groups to request similar use of the road. Since then, various groups have requested access to this vital airport artery but all such requests properly have been denied.

Air travelers enroute to Dulles Airport already are subject to congestion and traffic delays on sections of the beltway and Virginia State Route 123, which are major arteries leading to the access road. The most recent proposal to open the access road to vanpools and carpools during commuting hours, as set forth in Section 154 of H.R. 11733, would cause additional heavy traffic congestion at times of peak airport activity, and bring the congestion problem closer to the airport. The resulting delays will deny air travelers and other airport users the efficient, rapid airport access for which the roadway was authorized and constructed.

There is growing public concern about delays being encountered by air travelers because of ground access problems at some of the major airports in the United States. An indication of this concern occurred when the Senate Committee on Appropriations, in June 1977, directed the Federal Aviation Administration to undertake a comprehensive study of the constraints imposed on air travel and airport capacity by inadequate ground access. We understand this report is nearing completion and is expected to be submitted to the Senate Committee shortly.

In view of heavy air traffic demand, and the continued absence of public transportation, it is more important than ever that the current vehicular capacity of the access road not be diminished. We believe use of the access road by non-airport traffic should continue to be restricted, and we urge you to reassert the intent of Congress in this connection when H.R. 11733 is considered by the House.

Sincerely,

PAUL R. IGNATIUS.

Madam Chairman, it takes a person an hour to get to the access road. Once one gets onto it, then he can get to the airport.

Mr. SMITH of Iowa. Madam Chairman, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Madam Chairman, I appreciate the gentleman's yielding.

The gentleman is the chairman of the Subcommittee on Transportation of the Committee on Appropriations, and he knows that for years now they have been trying to open up this access road. The reason more people do not use Dulles Airport and thus save energy instead of circling Chicago for an hour to make a connection with another airline is that it takes so long to get to Dulles.

Madam Chairman, if there is any sure way to finish killing Dulles Airport, this provision is the way to do it, because then it will take so long to get from the access road to Dulles, on top of the time which it takes to get to the access road, that the two together may make it practically impossible to use Dulles after 3:30 in the afternoon.

Mr. McFALL. Madam Chairman, I

agree with the gentleman from Iowa (Mr. SMITH).

The CHAIRMAN. The time of the gentleman from California (Mr. MCFALL) has expired.

(By unanimous consent, Mr. MCFALL was allowed to proceed for 1 additional minute.)

Mr. MCFALL. Madam Chairman, it seems to me that we are not going to be saving energy. We are going to be losing energy in this way because we are not going to be able to get to Dulles Airport. Those of us who use Dulles Airport and have to leave here in order to get out there in a hurry are not going to be able to do it.

Mr. LLOYD of California. Madam Chairman, will the gentleman yield?

Mr. MCFALL. I yield to the gentleman from California.

Mr. LLOYD of California. Madam Chairman, I thank the gentleman for yielding.

I would like to concur with the gentleman. I would only say that the object of opening this road, no matter how it comes across to others, comes across to me as being some service to selfish interests which have no interest in aviation or in aviation transportation. All they are trying to do is to open up some areas out there for commercial enterprise.

I say that we would do a tremendous disservice to air transportation if we get involved in opening up that access road to anything but air transportation.

Madam Chairman, I would remind this House that the major way of traveling today is by air.

Mr. MCFALL. Madam Chairman, that road was built so that extra roads could be built on the side, and the bridges were built so that other roads could be built down there.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HOWARD, and by unanimous consent, Mr. MCFALL was allowed to proceed for 1 additional minute.)

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. MCFALL. I yield to the gentleman from New Jersey.

Mr. HOWARD. I certainly want to thank the gentleman for his statement. I would like to say that the members of the subcommittee are not part of any interest in commercial activity along the Dulles Airport Road. Many of us had a good goal in mind, and that was to try and relieve congestion on our roads; also when we get to the Beltway. But I certainly appreciate the gentleman's bringing it up to the House. I think it is a very important matter we will consider. As the gentleman said, the other body had some great reservations on it. I am sure that it will be looked at in depth, and I am sure the gentleman's position will be enhanced by his bringing it before the attention of the whole House this evening.

Mr. MCFALL. I have great respect for the committee and the judgment of the committee. I bring it up this way rather than through an amendment because I know once the Members look at it, they will come to a very good conclusion.

Mr. BOLAND. Madam Chairman, will the gentleman yield?

Mr. MCFALL. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman for yielding.

With his typical magnificent personality, the gentleman would bring it up in this way and that is to his credit. However, it is too bad someone does not offer an amendment to knock this section out of the bill. It ought to be out of it.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BOLAND, and by unanimous consent, Mr. MCFALL was allowed to proceed for 1 additional minute.)

Mr. BOLAND. If the gentleman will yield further, this section ought to be in the bill. This road was built by the Federal Aviation Agency. As the gentleman so well knows, he succeeded me as the chairman of the Subcommittee on Appropriations for the Department of Transportation. This is not a new issue. We have been fighting this issue for a good number of years, and for years there has been an effort made by the people living along that particular road to open it up. There is a effort being made really to open up the great areas down in that area. It does impact on the ability of the people to get from Washington and the surrounding areas into Dulles timely and in a convenient manner. It ought not be in this bill.

Mr. MCFALL. I understand that both Senators from Virginia and the county of Fairfax are opposed to it, so perhaps in the conference we might have some hope that it might be knocked out.

Mr. POAGE. Madam Chairman, I move to strike out the last four words.

Madam Chairman, I take this time not to make legislative history but to try to see that we understand legislative history. The report accompanying this bill contains a provision for the extension of Interstate 27 from Lubbock, Tex., south to Interstate 10. For a long time it has been the understanding, I think, by most of the Members from Texas that it was proposed to make provision for an interstate highway from Lubbock down to Interstate 10 at whatever point the Department of Transportation might decide that they wanted. That is what many of us have told our constituents. Frankly, I have told some as late as 5 o'clock this afternoon that the exact location was not going to be decided by the Congress. There are about seven routes that could be followed, and all of them make out a good case. Five of them go through the district I represent, including Federal Highway 87. The bill does not name this highway. The bill does exactly what we all thought, and I want the record to show clearly that this bill does not designate a route between Lubbock and Interstate 10. I would ask the Chairman if I am not correct.

Mr. HOWARD. If the gentleman will yield, the gentleman is absolutely correct. I believe that it may in the other body, but in this bill it does not designate it. It is only mentioned in the report.

Mr. POAGE. That is right. The report suggests that this route is worthy of the consideration of the Department. I am not criticizing the use of Highway 87. It is one of the six or seven or eight roads that is quite practical. I simply want to make it perfectly clear that neither I nor anyone else in the 11th District of Texas has attempted to say which one of these routes should be used. But I would hope that when we finally wind up, they would all be considered so that we might have a free-for-all contest, so that everybody could present the merits of their route, which is the shortest, which is the cheapest, which serves the most people. The bill does not attempt to do it, and I want the record to show clearly that the bill does not confine the possible route to Highway 87.

Mr. JOHNSON of California. Madam Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from California.

Mr. JOHNSON of California. I thank the gentleman for yielding.

I want to assure the gentleman it is not in the bill at the present time. This was brought to us by another Member of the Texas delegation, and we gave consideration to it. We thought at that time that he had spoken to the other two Congressmen who are affected.

We knew nothing about this until tonight. Now, in the other body, it is in their bill. It is designated as Route 87, as a demonstration project.

We will give consideration to this when we go to conference with the Senate. I am sure between the other body and ourselves we will be able to work this out to the satisfaction of the Texas delegation.

Mr. POAGE. I hope so. I appreciate the effort of the committee and I want to commend the committee. I am not criticizing anybody's action and I am not criticizing the use of Highway 87. It is one of the several routes that is perfectly practical but they should all be open to consideration.

Mr. SHUSTER. Madam Chairman, I move to strike the requisite number of words.

I yield to the distinguished gentleman from Virginia.

Mr. WAMPLER. Madam Chairman, I thank the gentleman for yielding.

During consideration of the Surface Transportation Assistance Act. I wish to take the opportunity to draw the attention of my colleagues to a unique situation regarding the need for highway bridge replacement in Virginia.

Because of the unique terrain of southwestern Virginia, the primary and secondary roads serving the area are also energy roads, over which numerous heavy vehicles must travel in connection with the coal mining industry of that region. Other areas in the Nation are impacted in much the same manner. Many of the bridges that must be traveled are unsafe, either due to outmoded construction or from heavier than anticipated usage over the years. For the safety of all citizens of the region it is imperative that funds be available for the repair and replacement of these bridges.

Under the provisions of this legislation, Virginia would receive substantial funds for the bridge replacement program. With the provision included in the bill that at least 25 percent and up to 35 percent of the apportioned funds may be obligated for bridges on public roads not in the Federal-aid system, and with the increased apportionment, many of these unsafe and dangerous bridges can be repaired or replaced. The safety of the citizens, and the enhancement of our energy resources delivery routes will be positive results of the use of these funds.

Mr. HARRIS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to ask the distinguished chairman a question.

First, I say to the distinguished chairman of the committee how much I think the bill, H.R. 11733, can contribute to our Nation as we reach for a balanced transportation system. I compliment the Members for the bill.

I do have grave reservations with respect to the notion of placing an artificial cap on the amount of interstate transfer funds that can, in fact, be used for mass transportation, when the local decision is made that the transportation needs will be better served by going the mass transportation mode, rather than the highway mode.

I note that the other body does not contain such an artificial cap.

I would ask the distinguished chairman if the committee might not have an open mind as it enters into consideration with the other body on this matter.

Mr. HOWARD. Madam Chairman, if the gentleman will yield, we certainly do have an open mind. In fact, we have been discussing some possibilities with the other body as to the cap or no cap.

We all know that many areas have in desperation looked toward interstate transfer money, because there was such insufficient public transportation money available to them.

What we hope and what we feel is that with the kind of public transportation legislation we will come out with, that this whole idea of looking to interstate transfer money may become moot, except in areas where they do not need this.

Members of the other body are going to be discussing it. We do not want to hold back any interstate transfers.

Mr. HARRIS. Madam Chairman, I thank the gentleman.

Madam Chairman, I am glad to rise in support of H.R. 11733. I continue to be a strong believer in a balanced program of public transportation and highway improvements around the country. Of course, I am particularly interested in moving forward with the continuing program to improve public transportation in the National Capital region and H.R. 11733 has some features that are necessary to accomplish that goal.

However, much of the recent progress of the National Capital area's Metro System has been made possible by the use of interstate highway transfers. It also appears that progress in the immediate future will depend upon the continuing use of such transfers.

Consequently, I am concerned about two provisions of H.R. 11733. This bill contains, for the first time, a severe restriction on the flexibility of the Congress to appropriate such grants to State and local governments by placing a ceiling of $675 million on the total amount that can be transferred. By placing in law such an unnecessary and inflexible ceiling, the development of important public transportation projects could be curtailed—a particularly undesirable situation since these projects are usually the product of difficult political decisions by State and local officials.

The second provision of H.R. 11733 that is of concern to me relates to matching ratios. Currently, the Federal Government pays 90 percent of the cost of an interstate highway project. If the area elects to exercise its option and substitute public transportation and/or other highway projects for the interstate, only 80 percent of the cost of these new projects will be supported by the Federal Government. This 10-percent reduction represents a significant disincentive to transfer, even if a local area decides that an interstate is not the most desirable project to meet its transportation needs.

If a city is designated to receive $90 million in Federal assistance for a $100 million interstate highway project and elects to transfer the funds, the Federal Government will put up the $90 million only if this amount represents 80 percent of the total cost of the substitute projects. In other words, the new total project cost must then be increased to $112.5 million (the figure of which $90 million represents 80 percent). The local share would then have to be raised from $10 million to $22.5 million ($112.5 million less $90 million) if the city is to receive the full $90 million in Federal aid. If the city can only put up the original $10 million it committed, it will then only receive $40 million in Federal money (since the Federal share of the total cost for the substitute project cannot exceed 80 percent). Simply by virtue of the decision to transfer, the city would then lose $50 million in Federal assistance.

Equalizing the Federal share will therefore facilitate decisions which are based on the merits of a project rather than on the amount of State or local funds necessary to match the Federal funds. A 90-percent Federal share for interstate substitutions will permit the most rational mix of transportation projects and prevent skewing transportation decisions toward the largest pot of Federal money.

Substitution can be made only for those routes considered nonessential to the completion of a unified and connected interstate system; the integrity of the interstate systems would therefore not be threatened by the proposed change.

Controversial interstate sections now subject to transfer are concentrated in densely populated areas which often have inadequate transportation service; this situation in turn results in the substantial waste of economic and human resources. If there are substitute projects which promote national transportation goals similar to those of the interstate system—such as energy conservation, adequate transportation service, and economic development—but in a different manner, local areas should be permitted to choose those substitute projects without sacrificing Federal funds. This change in the law would allow them to do so.

It is my understanding that the public transportation legislation under consideration by the other body does not place such a limit on the transfer fund, and sets the matching ratio for substitutions at 90-percent Federal, 10-percent State and local. Consequently, in view of the importance of the interstate transfer process to this region and other regions across the country, I would hope that the managers for the House in conference would look carefully at this issue again when the conferees meet on this legislation and adopt these provisions as they exist in the legislation of the other body.

Mr. HOWARD. Madam Chairman, if the gentleman will yield, I want to state to the gentleman that I do also have a provision that was put in the bill the last time that this interstate transfer could also be used for roads and highways other than interstate. In this bill that would be 80 to 20, just as mass transit is.

So it is not completely accurate to say that if this interstate money is used for highways at 90 to 10, it cannot be used for other roads, because it is used at the rate of 80 to 20. If it is used for other highways, it is at 80 to 20, and it is on the same level as mass transit.

There is a difference of opinion as well within our own subcommittee on this. If interstate money is put somewhere, ought it to be used at the rate at which it is taken, or ought it to be at the rate it is put in the program.

The gentleman is correct; the other body has decided to leave it at the original rate of 90 to 10, and that will be a subject for conference. I will say there is nowhere unanimity even in our own committee on this, let alone in the conference.

Mr. HARRIS. Madam Chairman, I thank the gentleman.

Mr. GREEN. Madam Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from New York.

Mr. GREEN. Madam Chairman, I want to commend the gentleman from Virginia (Mr. HARRIS) for pointing out the importance of making these funds available for mass transit. I think State and local governments ought to have the maximum possible freedom to use these funds for mass transit if they feel that is the best mode for their citizens.

I think it is a very important point that the House conferees on this bill be sensitive to giving State and local governments maximum flexibility in this respect, and I thank the gentleman for bringing this issue to our attention.

Mr. HARRIS. Madam Chairman, I am pleased to get an ally from the other side of the aisle.

Again I wish to point out how much

I admire the great advances we are taking toward a balanced transportation system in this bill, and I thank the gentleman from New York (Mr. GREEN) for the great leadership he has shown in that endeavor.

AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of California: Page 97, line 2, insert "(a)" after "SEC. 107.".

Page 97, after line 8, insert the following:

(b)(1) The definition of "forest road or trail" in section 101(a) of title 23 of the United States code is amended to read as follows:

"The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving the National Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.".

(2) The definition of "forest development roads and trails" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest development roads and trails' means a forest road or trail under the jurisdiction of the Forest Service.".

(3) The definition of "forest highway" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest highway' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.".

Mr. JOHNSON of California (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHNSON of California. Madam Chairman, this amendment to the definition of "forest highway" deletes the requirement that such roads be on the Federal-aid system and clarifies the respective role and responsibility of the Federal and State governments.

The amendment is necessary to reflect Federal needs and considerations in selecting forest highway projects as well as local needs.

The Federal-Aid Highway Act of 1970 amended the definition of a forest highway to require that such roads be on a Federal-aid system.

This requirement permitted forest highways to be funded from the Highway Trust Fund but it also made many miles of forest roads (those that were not on the Federal-aid system) ineligible to be improved with forest highway funding whether or not they provided vital access to the National forests.

In essence, this created a "gap" between forest development roads and Federal-aid system roads.

Roads within this "gap" frequently provide the essential link between the forest and the Federal-aid system but they cannot be improved with Federal funds.

This "gap" further increased with the enactment of the 1973 Federal-Aid Highway Act, which forced a reduction of the Federal-aid system by establishing new criteria and classification requirements for roads on that system.

Thus, forest roads which could not meet the new Federal-aid classification requirements which were effective in 1976 had to be removed from the Federal-aid system and, subsequently, could not be improved with forest highway funding.

It is estimated that the combined effect of the 1970 and 1973 Federal-Aid Highway Acts resulted in 5,000 miles of forest roads becoming ineligible for forest highway funding even though they provide essential access to National forest land.

This amendment will alleviate that problem. I urge its adoption.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the chairman of the subcommittee.

Mr. HOWARD. Madam Chairman, I thank the distinguished chairman of the committee for yielding.

I know that this is merely a redefinition of "forest highways" to clarify certain things that have not been made clear before. I believe this point was made also by the gentleman from California (Mr. DON H. CLAUSEN) in committee, and I am happy to accept the amendment.

Mr. DON H. CLAUSEN. Madam Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Madam Chairman, I am pleased to join my colleague from California, the distinguished chairman of the full committee, in supporting this amendment.

The problem it addresses involves the eligibility of forest highways not on Federal systems for funding from the Highway Trust Fund. An estimated 5,000 miles of forest roads have become ineligible for such a funding as a result of the combined effects of Federal-Aid Highway Acts of 1970 and 1973.

The gap thus created is a severe problem in areas where forest access roads in fact have as much economic significance as many roads on our primary and secondary systems. Certainly the prominence of the forest products industry in my own district in northern California and elsewhere in the State bears that out, in terms of my own personal observation.

At a time when we are recognizing other off-system needs, as in the case of the greatly expanded bridge program, it strikes me as altogether appropriate that we remedy this defect in existing law. Furthermore, the responsibility of Federal Government with respect to our National forests also argues strongly for this amendment. I urge its adoption.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, the gentleman from California (Mr. JOHNSON) has offered an excellent amendment, and we vigorously support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHNSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALGREN

Mr. WALGREN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALGREN: Page 151, after line 10, insert the following new section:

INCREASED FEDERAL SHARE

SEC. 159. (a) Notwithstanding any other provision of law, the Federal share of any project approved by the Secretary of Transportation under section 106(a), and of any project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this section and ending on the last day of the one-year period beginning on such date of enactment (both dates inclusive), shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum, provided such commitment of funds is required to prevent any funds authorized under title 23 from lapsing.

(b) The total amount of such increases in the Federal share as are made pursuant to subsection (a) of this section for any State shall be repaid to the United States by such State before September 30, 1982. Such repayments shall be deposited in the Highway Trust Fund. No project shall be approved under section 106 or section 117 of title 23, United States Code, for any project in any State which has failed to make its repayment in accordance with this section until such repayment has been made.

Mr. WALGREN. Madam Chairman, I will be very brief at this hour.

I think that in the long run this country will look back at the work of this committee with a great deal of respect because of the increase in bridge funding under this bill.

I come from a district where our bridges are literally closed down. We have taken four-lane bridges and built bulwarks down the middle to reduce them to two lanes, and where loads have been required we have hung huge metal shields across the top of the bridge superstructure so that the height of the vehicle will be restrained at the pain of being destroyed.

So I think in the long run we are going to look back at the literally eightfold increase in bridge money that this bill provides and see it as a great change in national highway policy that is very much needed by our country.

However, I dc feel that we are overlooking a great need, and that is on the temporary inability of States to come up with matching shares. This amendment that I offer would simply defer the payment of the States' share to prevent any lapses of moneys that would otherwise go to highways during the next calendar year.

It is clear, from my State, that there are a number of States that need the flexibility of time that this would give them to put their own financial house in order so that they can take advantage of the extra moneys that are going

to come to the municipalities under this bill.

Madam Chairman, I urge the adoption of the amendment.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I would like to commend the gentleman from Pennsylvania (Mr. WALGREN) for his activities on behalf of the bridge program, the bridge need, in coming to the committee before he was a Member of this body. As to the 100-percent payback, we have gone through this one time several years ago, when former President Ford, in combating an economic situation, released suddenly, on February 12, 1975, $2 billion out of the Highway Trust Fund that had been impounded in those days. At that time it was in the middle of a budget year. Many States were caught unprepared to match this, because they had set their budgets up for the year, and this money we wanted to get out within 45 days. At that time we did advance the States' share. We did provide for a payback. We found that we had a great deal of difficulty with that. In the 1976 act, on behalf of one State we were a little embarrassed to have to extend that payback again. There was an attempt in the full committee this year to extend that payback from the Ford years again. And we found that this does not seem to work. I think we have been very generous with the States by raising the 75–25 bridge Federal-State match to 90–10 at this point. It would be unwise, unworkable, and we may live to regret it if we accept this amendment. So, Madam Chairman, I reluctantly oppose the amendment.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Madam Chairman, I join the gentleman from New Jersey (Mr. HOWARD) in reluctantly opposing this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALGREN).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1978".

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For carrying out in accordance with section 402 of title 23, United States Code, section 154 of such title (relating to the national maximum speed limit), out of the Highway Trust Fund, $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of the Highway Trust Fund, $2,000,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For carrying out section 151 of title 23, United States Code (relating to pavement marking), out of the Highway Trust Fund, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(8) For projects of high-hazard locations under section 152 of title 23, United States Code, and for the elimination of roadside obstacles under section 153 of title 23, United States Code, out of the Highway Trust Fund, $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(9) For carrying out section 406 of title 23, United States Code (relating to schoolbus driver training), out of the Highway Trust Fund, $7,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For carrying out section 407 of title 23, United States Code (relating to innovative project grants), out of the Highway Trust Fund, $5,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.

RAIL-HIGHWAY CROSSINGS

SEC. 203. (a) The first sentence of paragraph (1) of subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93–87) is amended by striking out "and $125,000,000" and inserting in lieu thereof "$125,000,000", and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) The first sentence of subsection (c) of section 203 of the Highway Safety Act of 1973 is amended by striking out "and $75,000,000" and inserting in lieu thereof "$75,000,000", and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(c) Subsection (d) of section 203 of the Highway Safety Act of 1973 is amended by adding at the end thereof the following: "If a State fails to obligate all of the funds apportioned to it for the transition period ending September 30, 1976, or for fiscal year 1977 or 1978 under subsection (c) of this section by the end of the first fiscal year after the fiscal year or period for which such funds were apportioned, the unobligated amount may be reapportioned by the Secretary of Transportation to any State which has obligated all of the funds apportioned to it under such subsection (c) for such fiscal year or period. The Secretary of Transportation shall reduce future fiscal year apportionments under subsection (c) to any State to whom funds are reapportioned under this subsection by the amount reapportioned to such State and shall increase the future fiscal year apportionment of any State whose apportionment was so reapportioned by such amount.".

MINIMUM APPORTIONMENT

SEC. 204. The sixth sentence of subsection (c) of section 402 of title 23, United States Code, is amended by striking out ", except that" and all that follows down through the period at the end thereof and inserting in lieu thereof a period.

NATIONAL MAXIMUM SPEED LIMIT

SEC. 205. Section 154 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary.

"(f)(1) For the twelve-month period ending September 30, 1978, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1980.

"(2) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 55 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981.

"(3) For the twelve-month period ending September 30, 1980, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

"(4) For the twelve-month period ending

September 30, 1981, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

"(5) For the twelve-month period ending September 30, 1982, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 15 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984, and for each succeeding fiscal year thereafter.

"(g) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.".

ACCIDENT DATA

SEC. 206. There is authorized to be appropriated out of the Highway Trust Fund, to the Secretary of Transportation not to exceed $10,000,000 per fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for the acquisition, storage, and retrieval of highway accident data and for establishing procedures for reporting accidents on a nationwide basis.

HIGHWAY SAFETY PROGRAMS

SEC. 207. (a) The last sentence of subsection (a) of section 402 of title 23, United States Code, is amended by inserting immediately after "one or more States," the following: "including, but not limited to, such programs for identifying accident causes, adopting measures to reducing accidents, and evaluating effectiveness of such measures,".

(b)(1) Subparagraph (A) of paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by striking out "State agency" and inserting in lieu thereof "State highway safety agency".

(2) The amendment made by paragraph (1) of this subsection shall take effect January 1, 1979.

(c) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by inserting immediately after "State highway safety program" the following: "(other than planning and administration)" and by inserting immediately after "non-Federal share of the cost of any project under this section" the following: "(other than one for planning or administration)".

INNOVATIVE PROJECT GRANTS

SEC. 208. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 407. Innovative project grants.

"(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States.

"(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

"(c) Any State may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

"(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

"(e) The Secretary shall submit an annual report to the Congress which provides a description and evaluation of innovative projects carried out with grants made under this section.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"407. Innovative project grants.".

HIGHWAY SAFETY EDUCATION AND INFORMATION

SEC. 209. (a) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall carry out six pilot projects designed, through the use of television and radio, to develop and evaluate techniques, methods, and practices to achieve maximum measurable effectiveness in reducing traffic accidents, injuries, and deaths.

(b) Each pilot project authorized by this section shall be in operation not later than the one hundred and eightieth day after the date of the first appropriation of funds made under authority of this section, and shall be conducted for a one-year period. Not later than the ninetieth day after the end of each such one-year period, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall report to Congress the results of such project, including, but not limited to, an evaluation of the effectiveness of such project and a statistical analysis of the traffic accidents and fatalities within the project area during such one-year period.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out subsections (a) and (b) of this section, $6,000,000, to remain available until expended.

(d) Not later than the one hundred and eightieth day after the date of submission of the final report to Congress required by subsection (c) of this section, and utilizing those techniques, methods, and practices determined most effective, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall conduct a national highway safety campaign utilizing the local and national television and radio to educate and inform the public of techniques, methods, and practices to reduce the number and severity of highway accidents.

(e) Such campaign is authorized to be conducted in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, and shall utilize to the extent possible nongovernmental professional organizations equipped and experienced to conduct such compaign.

(f) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall engage such private firms or organizations as he determines necessary to conduct an on-going evaluation of the national campaign authorized by subsection (d) of this section to determine ways and means for encouraging the participation and cooperation of television and radio station licensees, for measuring audience reactions to on-going highway safety programing for evaluating the effectiveness of such programs in terms of the number of lives saved and the reduction in injuries, and for the purpose of developing new programs for the promotion of highway safety. Such evaluation shall include determinations of those programs designed to encourage the voluntary use of safety belts which are most effective and shall include recommendations for new methods and approaches which will result in greater voluntary utilization of safety belts by the public.

(g) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall submit a report to the Congress on July 1 of each year in which the campaign is in progress on the results of such evaluation and on the steps being taken by the Federal Highway Administration to implement the recommendations of such evaluation.

(h) For the purpose of carrying out subsections (d), (e), (f), and (g) of this section, there is authorized to be appropriated out of the Highway Trust Fund, $10,000,000, to remain available until expended.

MOTORCYCLE HELMET STUDY

SEC. 210. The Secretary of Transportation shall make a full and complete study of the effect of the provision contained in the eighth sentence of subsection (c) of section 402 of title 23 of the United States Code relating to requirements, or lack thereof, concerning the wearing of safety helmets by operators and passengers on motorcycles. Such investigation and study shall include, but not be limited to, deaths, accidents, severity of injuries, length of time of recuperation, and permanent disabilities. The Secretary shall report the results of such study, together with his recommendations, to Congress not later than one year after the date of enactment of this section.

STUDY OF OUTSIZED VEHICLES

SEC. 211. The Secretary of Transportation shall make a complete study of outsized vehicles for operation on the highways constructed in a manner which exceed the standardized industry configurations. The Secretary shall report the results of his study to Congress, with his recommendations, not later than six months after the date of enactment of this section.

NATIONAL DRIVER REGISTER

SEC. 220. (a) There is hereby established an automated register in the Department of Transportation to be known as the National Driver Register, which shall be administered by the Secretary in accordance with section 402, title 23, United States Code, to assist the States in electronically exchanging information regarding the motor vehicle driving records of certain individuals.

(b) The Secretary shall maintain the Register which shall contain an index of the information which is reported under section 221.

REPORTS

SEC. 221. (a) The chief motor vehicle official in each State shall transmit a report to the Secretary containing the information required under section 222 regarding any individual who, as a matter of record—

(1) was denied a motor vehicle operator's license by such State, except for a routine failure to pass a written or driving test;

(2) was issued, by such State, a motor vehicle operator's license which has been—

(A) canceled;

(B) revoked;

(C) suspended; or

(3) has been convicted in such State of any traffic offense involving the operation of a motor vehicle while under the influence of, or impaired by—

(A) alcohol; or

(B) a controlled substance.

(b) Any report required to be transmitted under subsection (a) of this section shall be transmitted by the chief motor vehicle official of the State involved as soon as practicable after the date of conviction or the date of the adverse licensing determination.

REQUIRED INFORMATION

SEC. 222. Any report on an individual transmitted by any chief motor vehicle official under section 221(a) shall contain the following information as appropriate:

(1) a description of any action or occurrence specified in subsection (a) (1), (2), and (3) of section 221 and the license denial, cancellation, revocation, suspension, or conviction dates;

(2) the State in which such individual was most recently issued a motor vehicle operator's license;

(3) the social security number and any identifying number of such license;

(4) such individual's legal name, date of birth, sex, height, weight, eye color; and

(5) the date of reinstatement of the license or the date of eligibility for reinstatement.

REQUESTS FOR INFORMATION

SEC. 223. (a) Subject to such form and according to such procedures as the Secretary shall determine by regulations prescribed by the Secretary, any authorized person may request any information which the Register contains regarding any individual identified by the authorized person.

(b) Subject to section 552a of title 5, United States Code, and any other applicable Federal law, the Secretary shall transmit to any authorized person the information requested under subsection (a) of this section.

(c) Any prospective employer of any individual who seeks employment as a driver of a motor vehicle, and any employer of any individual who is employed as a driver of a motor vehicle may request his employee or prospective employee to request the chief motor vehicle official in the State in which such individual seeks employment, or is employed, to request information under subsection (a) regarding himself, and to receive information transmitted under subsection (b) to such chief motor vehicle official regarding himself in order that this information may be provided to his employer or prospective employer.

RESTRICTION ON ISSUANCE OF LICENSES

SEC. 224. No State shall issue or reissue any motor vehicle operator's license to any individual unless the chief motor vehicle official in such State has submitted a request under section 223(a) regarding such individual.

PENALTY

SEC. 225. Effective October 1, 1984, funds apportioned under section 402 of title 23, United States Code, to any State whose chief motor vehicle official is not in compliance with section 221 or 224 of this title, shall be reduced by amounts equal to not less than 50 per centum of the amount that would otherwise be apportioned to such State under such section 402, until such time as the Secretary determines that such official is in compliance. The Secretary shall consider the gravity of such noncompliance in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if the Secretary determines that such official has come into compliance before the end of the fiscal year for which the funds were withheld. If the Secretary determines that there was not compliance within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with such section 402 not later than thirty days after the date the determination is made.

COMPUTER EQUIPMENT

SEC. 226. The Secretary shall secure, by October 1, 1982, automatic data processing equipment and electronic communication equipment necessary to carry out the provisions of this title.

REGULATIONS

SEC. 227. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this title.

REPEAL OF EXISTING STATUTE

SEC. 228. (a) The Act entitled "An Act to provide for a register in the Department of Commerce in which shall be listed the names of certain persons who have had their motor vehicle operator's license revoked", approved July 14, 1960 (Public Law 86-660; 74 Stat. 526), and amended September 9, 1966 (Public Law 89-563; 80 Stat. 730), is hereby repealed.

(b) The Secretary of Transportation shall determine whether any information contained in any record maintained under the Act described in subsection (a) of this section shall be maintained in the Register, except that no such information shall be maintained in the Register if maintaining such information is inconsistent with the provisions of this title. Any other record maintained under such Act shall be disposed of in accordance with chapter 33 of title 44, United States Code.

DEFINITIONS

SEC. 229. For purposes of sections 220 through 230 this title—

(1) the term "authorized person" means—

(A) the chief motor vehicle official of a State, or his designated agent, for the purpose of requesting information regarding any individual who is applying or reapplying for a motor vehicle operator's license in that State;

(B) the head of any Federal department or agency, or his designated agent, for the purpose of requesting information regarding any individual who drives, or may drive, any motor vehicle as a basis for the individual's employment with such department or agency; and

(C) the Administrator of the Federal Aviation Administration or his designated agent, for the purpose of requesting information regarding any individual who has applied for, or received, any license to pilot any aircraft as a basis for a pilot's license determination regarding any such individual.

(2) the term "chief motor vehicle official of a State" means the official in a State who is authorized to maintain the motor vehicle operator's license records of such State and has the authority to grant, deny, revoke, cancel, or suspend the driving privileges of the State's citizens;

(3) the term "controlled substance" has the meaning given such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(4) the term "motor vehicle" means any vehicle driven or drawn by mechanical power and manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails;

(5) the term "motor vehicle operator's license" means any license or permit issued by any State which authorizes an individual to operate a motor vehicle;

(6) the term "Register" means the National Driver Register established in section 220(a) of this title;

(7) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

EFFECTIVE DATE

SEC. 230. Sections 220 through 230, inclusive, of this title shall take effect on October 1, 1978.

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLEVELAND: Page 159, after line 16, insert the following:

(c) Paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(G) provide for programs (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers of, and passengers in, motor vehicles."

Redesignate the succeeding subsection accordingly.

Page 171, after line 14, insert the following new sections:

SAFETY BELT PROGRAM

SEC. 230. Each State shall expend each fiscal year not less than 3 per centum of the amount apportioned to it for such fiscal year of the sums authorized by section 202(1) of this title, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

SAFETY BELT STUDY

SEC. 231. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of methods of encouraging the use of safety belts by drivers of, and passengers in, motor vehicles, including, but not limited to, the use of various types of financial incentives and financial disincentives to encourage such use. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than one year after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by this section.

Renumber the succeeding section and references thereto accordingly.

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. CLEVELAND. Madam Chairman, as coauthor of this language with the gentleman from Georgia (Mr. GINN), I offer this amendment to remedy a grave defect in our highway safety program.

No one questions the fact that seatbelts are enormously effective in saving lives and reducing injuries. The National Highway Safety Needs Report ranks them No. 1 in both lifesaving potential and cost-effectiveness. If everyone used

belts, we might prevent 89,000 deaths and 3 million injuries over a 10-year period.

Yet, only a little over 18 percent of the public uses them, according to a recent study of 16 cities by the National Highway Traffic Safety Administration. Not nearly enough.

A problem in this country, a problem of government, is that we have an all-or-nothing approach. We mandate things, we require things, we apply the coercive force of law to promote their use. And it does not work. The public rebels. So we go back to nothing. In the absence of seatbelt laws in the States, government at State and Federal levels has done far too little to explore the potential of persuasion, incentives. Thus a vast middle ground out there is being ignored.

Incentives are the purpose of this amendment. Nothing in it mandates the use of seatbelts. All it requires is that States use 3 percent of their section 402 funds—$6 million a year—for programs to encourage seatbelt use. Thus, it adds nothing to the cost of the bill.

We are not telling the States how to go about it. We simply provide that those programs may include financial incentives and disincentives. Accordingly, an overall State program might include efforts to encourage—or even to require, if appropriate—insurance companies to recognize seatbelt use in the structuring of their premium schedules for automobile coverage.

We also direct the Secretary to enter into appropriate arrangements with the National Academy of Sciences to investigate methods of encouraging seatbelt use. These would include financial incentives for their use and disincentives for failure to use them.

This amendment is a direct outgrowth of hearings on seatbelt use in Puerto Rico, held by our Subcommittee on Investigations and Review, the only American jurisdiction with a mandatory seatbelt law. There, we learned the limitations of the mandatory and gained some insights into incentives. At followup hearings in Washington, we learned that at least four insurance companies offer incentives for belt use, mostly as an automatic increase in medical payments for a policyholder who is injured while wearing a seatbelt. But much more in this area obviously needs to be done.

In concluding, I want the legislative history clear that this provision in no way involves the airbag issue one way or another. Regardless of the merits of airbags, we must remember that their utility is limited to certain types of accidents. Even with airbags, drivers and occupants will need to wear seatbelts for full protection. Plus which, the airbag mandate will not start to bring them into use until the 1980's.

Seatbelt protection is needed now, in the 1980's and beyond. This amendment offers the opportunity to get a start on doing what needs doing now, providing the ground work for expansion of the incentives approach in future years. I urge adoption of my amendment.

Mr. GINN. Madam Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Georgia (Mr. GINN), the distinguished chairman of the Subcommittee on Investigations and Review, who has done so much work on these seatbelt problems that our amendment addresses.

Mr. GINN. Madam Chairman, this amendment which Mr. CLEVELAND and I offer today does not call for any additional funds to be authorized for highway safety programs, nor does it require the development of new and exotic devices. What it does do is require that each of the States initiate programs to encourage the use of safety belts by drivers and passengers in motor vehicles. There is no attempt to make it mandatory that safety belts be worn, nor do we expect that any such attempt will be undertaken as a result of this amendment, and we certainly do not attempt to spell out what kind of program each State shall undertake. We recognize the freedom of choice which many motorists have stressed with regard to other safety requirements and that each State should be free to develop its own program.

This is not to say that we agree that anyone who chooses not to wear safety belts has made the wisest decision. It is to reflect our concern over a once more increasing death toll on our Nation's highways with the resultant drain on our national economy.

Some 4 years ago we applauded the reversal of a steadily increasing death toll which at that time had reached upwards of 55,000 deaths per annum. The credit for that reversal has been attributed to the oil embargo and the introduction of the national speed limit of 55 miles per hour. Some of the decline must also be attributed to the ongoing highway safety programs which emanated from the 1966 traffic safety and motor vehicle acts as amended, and also to the efforts of those who labored long and hard in the vineyards of traffic safety.

But once again the death toll is slowly and steadily climbing to the point where it now appears the 1978 figure will again surpass the 50,000 mark.

Madam Chairman, we can no longer stand either the multibillion dollar economic cost or this devastating drain on our greatest national resource—human life—or the uncounted misery and suffering endured by the accident victims and society in general.

The Secretary of Transportation in his recent report to the U.S. Congress on highway safety placed the 1977 annual cost of traffic accidents at $43 billion. We can ill afford to accept this as our annual tribute to this Nation's love affair with the automobile.

What then can we do? Traffic accidents are complex events. It would be foolish—no, tragic—to believe that we can wait until some magic formula is developed which will begin to stem the tide in this gruesome struggle. The measures to correct the problem must be practical, intelligently conceived, and suited to the need.

Madam Chairman, when we consider the fact that more Americans have died in traffic accidents since the advent of the automobile than have been killed in all the wars in which this Nation has ever been involved, we realize that our efforts to date, admirable as they might be, are simply ineffective.

A few years ago the Congress enacted the Highway Safety Act of 1973, a section of which required the U.S. Secretary of Transportation to report back to the Congress on the most cost effective countermeasures which could be employed to reduce the annual carnage on our highways. It was no surprise to the Public Works and Transportation Committee when the list was compiled revealing the most effective of 37 such countermeasures to be mandatory safety belt usage. What was a surprise, was the difference in the number of lives to be saved and the costs involved between that countermeasure and the second-ranked countermeasure—the 55-mile-per-hour speed limit. Safety belts were credited with having the potential to save 89,000 lives over a 10-year period, 57,000 more than the 55-mile-per-hour speed limit and more than the combined total of the next 10 listed countermeasures.

The Public Works and Transportation Committee had already become convinced that if more people used the safety belts already installed in their vehicles we could expect a marked reduction in traffic fatalities and serious disabling injuries. That same legislation authorized an incentive grant to any U.S. jurisdiction subsequently adopting legislation to require safety belt use.

Madam Chairman, earlier this year our Subcommittee on Investigations and Review undertook to examine the results of a mandatory safety belt use law which had been enacted in Puerto Rico in response to the 1973 act. While the results were somewhat less than we had hoped for, we heard excellent and reassuring testimony from medical doctors, who labor daily with traffic accident victims, that safety belts are extremely effective when used.

In their hospitals, these trauma unit physicians have a practice of questioning each accident victim as to whether or not they were wearing safety belts. Suffice it to say their testimony clearly showed that when safety belts were used the injuries were far less serious. Testimony of other witnesses reenforced and strengthened the doctors' statements.

In June the subcommittee held 3 days of hearings in Washington on safety belt usage. Once again the testimony clearly showed that in those countries where mandatory safety belt laws are in effect, these statistics on death and serious disabling injuries have begun a downward trend. The purpose of our hearings was twofold. First, to demonstrate that safety belts can and do perform well when properly used, and second, to see if we could develop information on how better to inform our motorists that safety belts are as important and as useful as stereos, tape decks, and citizen band radios.

We heard a number of proposals, including mandatory use laws. I'm certain this approach is not the answer, simply because of the enormous task of enforcing what would surely be an unpopular law.

But it was somewhat disheartening to

hear the Federal officials charged with responsibility for traffic safety programs echo the often repeated claim that their previous campaigns have come to naught and that usage remains at only 15 to 20 percent. Obviously a large portion of the population does not wear safety belts and seemingly does not want to wear them.

Madam Chairman, there was a disturbing overtone to much of what we heard, an aura of defeatism and resignation. We simply cannot congratulate ourselves and walk away from the problem in smug satisfaction now that passive restraints have been mandated. There is no quarrel here with air bags or other passive restraints, nor are we attempting to Monday morning quarterback a Department of Transportation decision.

Those devices will surely help, but what about the 100 million plus vehicles on the road today which are equipped with safety belts? Do we just continue to write off human lives for the next 15 or 16 years until 100 percent of the Nation's motor vehicles have passive restraint systems? We think not. To do so would be to refrain from our task to influence citizens to do what is socially responsible and consistent with the highest aspirations of a democratic society.

Madam Chairman, we believe a positive approach must be made to make the public realize the total price we now pay for this indifferent attitude toward the use of safety belts—the deaths, the disabling and disfiguring injuries and yes, even the erosion in the soul of a society that such indifference represents.

We can go before our citizens with better information, with education efforts, with appeals to commonsense and prudent behavior, but we should not wait until tomorrow.

The National Highway Traffic Safety Administration has a clear leadership role in this regard, and we expect to see more of an effort out of that Agency than has heretofore been the case, and that Agency must work in unison with the respective Governor's representative in each State.

Just because certain endeavors have not achieved maximum success in the past does not mean we should stop trying. Public attitudes can be changed and they must be. There may be incremental gains to be had by directing safety belt campaigns on certain population groups, for example, teenagers, those undergoing driver education, and the users of Government vehicles at all levels.

Madam Chairman, we have also included in our amendment section 231 to require the Secretary of Transportation to enter into an appropriate agreement with the National Academy of Sciences to conduct a comprehensive study and investigation of methods of encouraging the use of safety belts by drivers and passengers and to report back to the Congress not later than 1 year from the date of enactment of this act. We believe the Transportation Research Board of the National Academy of Sciences to be eminently equipped to undertake and fulfill the study.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Madam Chairman, I would like to thank the gentleman from Georgia (Mr. GINN), the chairman of the Subcommittee on Investigations and Review, and the gentleman from New Hampshire (Mr. CLEVELAND) for the work they have done concerning seatbelts and seatbelt safety. This is an amendment that will provide for a study in depth on seatbelts and their use in the Nation, and it would also provide that 3 percent of the 402 safety money would be utilized to promote the use of seatbelts by people in the country.

I wish to congratulate the gentlemen and the subcommittee, and we accept the amendment.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, the evidence is overwhelming that if more people wore seatbelts, more lives would be saved. This amendment goes to that problem. We vigorously support it and urge adoption of this amendment.

Mr. CLEVELAND. I thank the gentleman from Pennsylvania.

Mr. JOHN T. MYERS. Madam Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Madam Chairman, does this have anything to do with the other safety devices such as airbags and all that business?

Mr. CLEVELAND. No, it does not. In fact our hearings proved conclusively that the safety people downtown, because they are so enamored of those airbags, are ignoring the seatbelts, and this is an attempt to address that problem.

Mr. JOHN T. MYERS. If the gentleman will yield further, it has only to do with examining into the use of seatbelts?

Mr. CLEVELAND. And encouraging the use of the seatbelts.

Mr. JOHN T. MYERS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: Page 155, strike out line 19 and all that follows down and including line 18 on page 158, and insert in lieu thereof the following:

"(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

"(f)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 60 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 50 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1985, and for each succeeding fiscal year thereafter.

"(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section would result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

"(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

"(i)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection

(e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 50 per centum, the Secretary shall make an incentive grant to such State.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 40 per centum, the Secretary shall make an incentive grant to such State.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 30 per centum, the Secretary shall make an incentive grant to such State.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 20 per centum, the Secretary shall make an incentive grant to such State.

"(6) An incentive grant made to a State under this subsection shall be equal to 12.5 per centum of the apportionment to such State for the fiscal year on the basis of the data for which such incentive grant is to be made. The apportionment on which such incentive grant is based shall be that made under section 402(c) of this title for carrying out those provisions of section 402 relating to highway safety programs administered by the National Highway Traffic Safety Administration. Incentive grants made under this subsection may be expended for carrying out any provision of section 402 of this title.".

Page 152, line 14, after the parenthesis insert the following: ", other than subsection (1)".

Page 152, line 15, strike out "$100,000,000" and insert in lieu thereof "$75,000,000".

Page 152, line 17, after the period add the following:

For carrying out in accordance with section 402 of title 23, United States Code, section 154(1) of such title, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

Mr. HARSHA (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HARSHA. Madam Chairman, the purpose of this amendment is to improve enforcement of the 55-mile-per-hour speed limit, while at the same time taking steps to insure that we preserve this important safety measure.

I have thoroughly reviewed the provision in H.R. 11733 relating to the 55-mile-per-hour speed limit. While I agree with the general thrust of the provision, I have concluded that certain changes need to be made.

I fear that the strict compliance schedule in the bill, and the penalties associated with it, will imperil the national speed limit because of the opposition which is sure to develop when the penalties are assessed, as they are sure to be.

Madam Chairman, the 55-mile-per-hour speed limit was not enacted into law solely as a safety measure. It was proposed as a device to conserve fuel. And, to a modest degree, it has accomplished that objective.

But it has also produced a huge lifesaving bonus. Estimates indicate that 36,000 Americans may owe their lives to the 55-mile-per-hour speed limit.

In addition to saving lives, it has reduced the number of significant injuries. The Epilepsy Foundation of America recently issued a report that states:

> The 55-mile-per-hour speed limit has proved to be the single most important preventive for new cases of epilepsy because it has reduced the number of head trauma injuries resulting from automobile accidents.

The report estimated that the speed limit has prevented at least 90,000 epilepsy-causing head injuries each year.

Yet, it is extremely doubtful that the country would ever have accepted a national speed limit if advanced solely as a safety measure. Absent the stimulus of the fuel crisis, I don't think 55 would ever have been approved.

Now, despite the splendid results being achieved, in frustration over lack of enforcement by some States, the administration has proposed—and the committee has incorporated in H.R. 11733—a series of cumulative penalties to force all States to raise adherence to the 85 percentile. I applaud the end sought to be served by this measure. But I do not think that penalties alone are wise or will accomplish the results intended.

My observation convince me that penalties alone don't work. Attempts to enforce them against the States inevitably move opponents to organize to wipe the slate clean of the offending penalty. That's what happened when NHTSA threatened to impose penalties against States to require them to pass motorcycle helmet laws. And that's what happened with the interlock.

There is open hostility to the 55-mile-per-hour speed limit in certain quarters in this country. Some motorists and some drivers strenuously oppose it. Even some police organizations around the country are less than enthusiastic—despite the life-saving record achieved.

What I fear is that if the proposed provision requiring increased compliance under threat of cumulative penalties goes on the statute books and is sought to be enforced, the enemies of 55 will organize and, because of their strength and influence, and the antagonisms engendered by these penalties, may succeed in making changes whose practical effect will be to kill the 55-mile-per-hour speed limit. If that happens, 9,000 American lives will be forfeited each year.

So I ask: In view of our past experience with using penalties alone, is it worth it to risk this marvelous lifesaving tool in the quest for full enforcement—a laudable but unachievable goal? I think not.

To say this, however, does not mean that we should curtail our efforts to encourage adherence to the national speed limit. The 55-mile-per-hour speed limit has proven to be the most effective highway safety measure ever devised. I strongly support it and I believe that we must take firm measures to insure its continued effectiveness.

Therefore, I have developed an amendment to improve enforcement of the 55-mile-per-hour speed limit, while at the same time providing additional flexibility and establishing more realistic deadlines and goals. My amendment would do six things:

First, the final deadline for compliance is extended from the end of fiscal year 1982 to the end of fiscal year 1983.

The 5-year compliance schedule currently in the bill starts in fiscal year 1978 and runs through fiscal year 1982. I propose to shift the compliance schedule by 1 year, so that it would run from fiscal year 1979 through fiscal year 1983. This will give NHTSA and the States time to gear up for this program and will allow the States to revise as necessary their data collection system.

Second, the final compliance goal would be lowered from 85 percent compliance to 70 percent compliance. The compliance goals under my amendment would be as follows:

[Percent compliance]

Fiscal year:	
1978	--
1979	30
1980	40
1981	50
1982	60
1983	70

Lowering the compliance goal from 85 percent to 70 percent gives the States a goal within their grasp. The 85 percent figure has been used historically as a way of determining what the speed limit on a road ought to be. If 85 percent of the motorists on a road tend to drive at or below a particular speed, that speed has been considered a reasonable speed. With the 55-mile-per-hour speed limit, we have imposed a limit much lower than that usually determined by the 85th percentile method, and I believe we must acknowledge this fact in the goals we set for the States. This is not to say that the speeds will not in many States continue to drop so that fewer than 30 percent of the motorists are exceeding 55, but only that 30 percent is a reasonable goal for a nationwide program.

Third, the penalty approach in the committee bill would be augmented by a system of incentives.

My amendment provides incentive grants for any State which achieves 10 percent greater compliance than is called for by the compliance schedule. The incentive grant would be equal to 12½ percent of the highway safety funds apportioned to the State and could be used for any highway safety purpose under section 402 of title 23, United States Code.

I submit that in addition to using the

"stick" to encourage enforcement, we should try the "carrot." After all, a spoonful of sugar not only helps the medicine go down, it may even make the patient eager to take it. We can do this through the use of incentives.

Incentives are tried and true mechanisms which have frequently been used with great success to encourage positive action in both the public and private sector.

Tax deductions encourage home ownership. Tax credits encourage business expansion. Tax supports encourage farmers to grow or not to grow crops.

President Carter in his recent State of the Union message announced his intention to use incentives in several new legislative areas. For example, his new policy for urban areas contains an incentive program likely to run as high as $3 billion a year for States that develop coherent growth plans which target public investment to communities in need.

Incentives also receive high marks from the private sector. Commenting on Government regulation, Henry Ford II had this to say in a recent speech:

> It seems to me that we have made too little use of incentives in attempting to resolve many of our most difficult social and environmental problems . . . even a donkey will respond to a carrot as well as a stick.

Given their proven record of success in stimulating action, and given the stakes involved in the 55-mile-per-hour speed limit, we should use incentives, as well as penalties, to encourage enforcement action by the States.

Fourth, $25 million of the $100 million annual authorization for enforcement of the 55-mile-per-hour speed limit would be earmarked for the incentive grants provided for in my amendment. No additional funding would be required.

Fifth, the method used to measure speeds would be changed to reflect the speeds of all vehicles, not just the fastest.

Currently, statistics on compliance are based on the "free-flow" monitoring system. Basically, this means that only certain vehicles are measured—vehicles driving under the best road conditions, without cars in front of them, on straight, flat roads. Obviously, this produces artificially high statistics on the speeds of vehicles and lowers the level of compliance with the 55-mile-per-hour speed limit. Now that we are going to start penalizing States for noncompliance, it is important that we change our statistical base to include the speeds of all vehicles. In addition, the amendment requires that statistics take into account the effect of inaccurate speedometers on speed.

And finally, the Secretary would be given the authority to postpone the imposition of sanctions for 1 year in situations where a State was faced with an unusually difficult compliance problem. In my view, such a safety value provision is necessary to reduce friction in the administration of the program.

Madam Chairman, these changes in no way limit our commitment to the 55-mile-per-hour speed limit. They do, however, establish more realistic compliance goals as well as a more realistic time frame for reaching those goals.

I have discussed these changes with the NHTSA Administrator Joan Claybrook. She has no objections and generally agrees that they would be a positive step forward in our efforts to improve enforcement of the 55-mile-per-hour speed limit.

In closing, Madam Chairman, I would like to urge my colleagues to adopt this amendment. By doing so, we would be sure to preserve the national speed limit as we improve enforcement.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the chairman of the subcommittee.

Mr. HOWARD. Madam Chairman, I thank the gentleman for yielding.

We have gone over this for quite some time and we do know the number of lives that have been saved year after year by at least some partial adherence to the 55-mile-per-hour speed limit. What we hope to do is to be able to provide the States with the tools so that they will be able to better enforce this program and provide incentives for the States which will meet the goals or exceed the goals we state in the bill by at least 10 percent, so it is not throwing money away.

I congratulate the gentleman for working it out and hope more lives will be saved in the future.

We accept the amendment on this side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HARSHA

Mr. HARSHA. Madam Chairman, I offer a series of amendments dealing with this same section. They are in the nature of technical amendments and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. HARSHA: Page 160, line 8, after "States" insert ", political subdivisions thereof, and nonprofit organizations".

Page 160, line 10, after "States" insert ", political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate".

Page 160, line 16, strike out "private" and insert in lieu thereof "nonprofit".

Page 160, line 17, after "State" insert ", political subdivision thereof and nonprofit organization".

Page 161, line 2, strike out "and" and insert in lieu thereof the following: "of each application received for a grant under this section and an".

Mr. HARSHA (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HARSHA. Madam Chairman, this is a noncontroversial technical amendment and is intended to remedy an oversight in this bill; namely, the inadvertent exclusion of local government and nonprofit organizations from a constructive role in the innovative grants program being instituted by H.R. 11733.

This is the program, established by section 208 of the bill, designed to support and stimulate the focus of greater imagination and energy on development of innovative approaches to highway safety.

I am convinced that local government and nonprofit organizations represent an important source of innovative ideas in the field of highway safety. Yet, since its establishment in 1966, the overall program has been dominated by Federal and State Government, principally the former.

Surely, at a time when we are launching an effort to infuse new thinking into the program, it is particularly appropriate to correct the imbalance at least to the extent of including these entities as eligible participants.

As written, section 208 limits eligible participants to the States. Therefore, my amendment would make political subdivisions of the States and nonprofit organizations eligible to apply for and receive project grants under criteria devised by the Secretary. And, as in the case of the States, the Secretary would be required to consult with these entities in developing procedures for selection of grant applications.

Another provision of section 208 in the bill as reported needs strengthening. I refer to subsection (e), which requires the Secretary to submit a report to the Congress annually, including a description and evaluation of projects selected and carried out under this section. To provide the Congress greater insight into the potential of this program—and the manner in which it is being administered—my amendment also would require the Secretary to include a description of all applications rather than just those approved for funding.

Madam Chairman, nonprofit organizations have proven themselves to be deeply dedicated to—and thoroughly informed on—highway safety and the needs of the program. They have earned enormous credibility with the public. For their part, units of local government, are often closer to the everyday problems of real life; they now have some share in the program and this role should be expanded as appropriate.

To exclude them from this new initiative could well limit the program's achievements right from the outset.

I urge the adoption of my amendment.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, we thank the gentleman from Ohio. Certainly in this country he is a leading force concerning highway safety and has been for many years. As I understand it, this broadens and enlarges the innovative grants program regarding safety to the nonprofit organizations and other groups involved with safety.

It is a very acceptable amendment on this side of the aisle.

Mr. HARSHA. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. HARSHA).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 169, after line 17, insert the following new section:

"MARIJUANA REPORT

"SEC. 229. The Secretary shall report to Congress not later than December 31, 1979, concerning the progress of efforts to detect and prevent marijuana use by operators of motor vehicles. Such report shall include, but not be limited to, information concerning the frequency of marijuana use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana by motor vehicle operators, and a description of Federal and State projects undertaken into methods of detection and prevention. The report shall include the Secretary's recommendations on the need for legislation and specific programs aimed at reducing marijuana use by motor vehicle operators."

Page 169, line 19, renumber Sec. 229; delete "230" and insert in lieu thereof "231".

Page 171, line 16, renumber Sec. 230; delete "230" and insert in lieu thereof "231".

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered and read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. GARY A. MYERS. Madam Chairman, I am offering a modest amendment to simply require a report from the Secretary of Transportation on the current status of efforts to detect and prevent marihuana use by drivers on our Nation's highways.

In August of this year, I read a statement by the former Director of the National Institute on Drug Abuse indicating that "probably 15 percent of the auto accidents in this country today are associated with marijuana intoxication." I asked my staff to dig out additional information on marijuana use and driving and the results of my inquiries indicate to me a need for the type of amendment I offer today.

The area of marihuana use by drivers, as well as the detection and prevention of that use, is a complex subject fraught with contradictory evidence and theories. The same former Director of NIDA whom I quoted earlier has stated that "we are left to guess at the impact of marijuana use on highway safety," but he then went on to say that "our best guesses are frightening."

According to NIDA, 34 percent of citizens of driving age have used marihuana at some time, while 60 to 80 percent of regular users indicate that they sometimes drive while cannabis intoxicated. Alcohol, of course, continues to be our No. 1 driving intoxication problem, but it is unsettling to note (once again according to NIDA) that 8 percent of recent high school graduates use marihuana daily as opposed to 5.9 percent who report daily alcohol use.

Madam Chairman, virtually everyone studying the subject of driving and intoxication cites the need for more study on marihuana and driving, and this amendment is intended to stimulate further research.

I am aware, Madam Chairman, that some researchers have argued that marihuana merely causes intellectual or emotional changes without "disrupting the everyday efficiencies of skilled sensorymotor acts" (Heimann, Reed, and Witt). Others have claimed that marihuana may even improve perceptual acuity among regular users (Weil, Zinberg, and Nelson), or that marihuana users compensate for intoxicating effects by exercising extra care.

The overwhelming evidence is to the contrary, however. I ask my colleagues to listen for just a moment to these comments from studies compiled by NIDA: A 1975 study by the American Association of Automotive Medicine: "impairment by marihuana presents considerable risk in driving * * * driving skills are likely to be impaired * * *"

A 1969 article from Science: "When subjects experienced a marihuana 'high', they accumulated significantly more speedometer errors on a simulator * * *"

A 1974 study on "alcohol, marihuana, and risktaking:" "The marihuana subjects tended to overestimate time required to complete passes (of other vehicles)".

human motor and mental performance". macologia: "results confirm * * * impairment on the ability to detect central and peripheral signals when the operator has to divide his attention between two signal sources."

A 1970 study in Clinical Pharmacology: "Smoking a * * * marihuana cigarette produced significant decrements in human motor and mental performance".

The 1972 book Current Research in Marihuana: "Marihuana does impair visual perceptual performance to a large degree and potential users should be warned that it is likely to lead to accidents."

Madam Chairman, I could go on with a listing of these studies, but the implication is clear. Marihuana and driving do not mix, and the more we know about detecting and preventing marihuana use by vehicle operators, the more we will be able to develop programs to prevent deaths and maiming injuries on our Nation's roads.

I urge support for this amendment requiring a departmental status report on this subject.

Mr. HOWARD. Madam Chairman, if the gentleman will yield, let me say that we know we do have a problem with alcohol because we have been studying it a great deal, as to alcohol-related automobile accidents in this country and we know that it is involved in over 50 percent of all fatalities on our highways. As to marihuana and its effect on the highway users, as yet we do not know that much. As I understand it, the gentleman's amendment would direct the Secretary of Transportation to make a study as to that 15 percent, or it may be more, and to see what we can do to try to save lives. I do not know which highway Assistant Secretary of Transportation might be involved in reporting to the Congress after the study is made. However, I believe the amendment is a worthy amendment and we were certainly happy to accept it on this side.

Mr. GARY A. MYERS. Madam Chairman, I thank the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Madam Chairman, we have studied the amendment proposed by our colleague, the gentleman from Pennsylvania (Mr. GARY A. MYERS). We think it is a good amendment and urge its adoption.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Madam Chairman, I thank the gentleman for yielding, and I want to commend him on offering this amendment. I also want to indicate that the gentleman has served well in the Committee on Public Works and Transportation. I know that the gentleman is retiring from the Congress this year, and I want to thank him for all of the hard work that he has done on that particular committee.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. MINETA. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from California (Mr. MINETA).

Mr. MINETA. Madam Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) and to thank the gentleman for the work that he has done in this field.

Madam Chairman, I believe Mr. MYERS' amendment requiring the Secretary of Transportation to report to Congress on the status of Federal efforts to detect and prevent marihuana use by vehicle drivers is a good amendment.

As my colleagues may be aware, one of the numerous States which have recently decriminalized the possession of marihuana is my own State of California. In fact, California itself has begun to conduct tests to determine the incidence of marihuana use in traffic accidents. As more States decriminalize the possession of marihuana, I believe it will be important to have in place a reasonable—and responsible—policy relating to drug use while driving. This policy should be one which recognizes and establishes standards to evaluate intoxication.

I am sure our predecessors here in Congress had to deal in much the same way with the issue of alcohol use by vehicle drivers. The underlying issue—that is, the necessity to protect an individual's civil liberties—has been addressed with respect to alcohol use by establishing standards which approximate intoxication.

With regard to the amendment offered

by Mr. MYERS, I believe it would be prudent to indicate to the Secretary that the study required by the Myers amendment also focus on an evaluation of the level of marihuana intoxication which would interfere with driving. The ultimate goal, of course, would be to establish standards of THC levels in the blood which would approximate inebriation. This is an important factor since studies have shown that traces of THC can exist in the blood up to 8 days after use.

I hope that my colleague (Mr. GARY A. MYERS) shares my views in this matter, and will agree that this discussion should serve to create legislative history to advise the Secretary to include in his study an evaluation of the level of marihuana intoxication which would interfere with driving.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 166, line 5, insert the following new subsection:

"(c) Any report submitted to the Secretary shall be updated at least once each year following the date of enactment of this act by the chief motor vehicle official of the State involved, except in instances where no further official action by such State official regarding the status of the individual's operator's license or driving history remains to be taken."

Mr. GOLDWATER (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. Madam Chairman, I yield to my colleague, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Madam Chairman, I would ask the gentleman whether this is the amendment that is numbered 1, combined with the gentleman's previously noted amendment, No. 3?

Mr. GOLDWATER. Yes, that is correct. It requires the Secretary to update the National Driver Register on a yearly basis so that we can be assured of the accuracy of the information. I offer this amendment because of my concern for the protection of a person's privacy.

Mr. OBERSTAR. The gentleman from California (Mr. GOLDWATER) and I have discussed this amendment at great length and I share the gentleman's concern for accuracy and currency in information and I, on behalf of the chairman of the full committee and the subcommittee, I am prepared to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 167, line 24, after "SEC. 225." and before the word "effective" insert "(a)".

And, on page 168, after line 16, insert the following new subsection:

"(b) Any individual who knowingly transmits or causes to be transmitted to the Secretary for inclusion in the files, records, or reports of the National Driver Registry any information regarding the operator's license status or driving history of any individual which is inaccurate or false shall be liable for criminal prosecution for such act, and, upon conviction, shall be fined in an amount not to exceed $10,000, or sentenced to a prison term not to exceed five years, or both."

Mr. OBERSTAR (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. GOLDWATER. Madam Chairman, the purpose of this amendment is to, again, comply with the intent and the purpose of the Privacy Act of 1974 as well as the recommendation of the Privacy Commission of July of 1977.

Madam Chairman, I have discussed this amendment with my colleague, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Madam Chairman, I thank the gentleman for yielding.

We have had an extensive discussion. It has been my purpose, in writing this provision in the bill, to extend the Privacy Act to it and to make sure that the Privacy Act covers the National Driver Registry.

The gentleman from California (Mr. GOLDWATER) has a concern based on his considerable experience with the Privacy Act that it may not cover some aspects, including the acceptance of State officials. We have agreed to discuss the matter further, to look into it, and if the provisions of the Privacy Act apply in the way I understand them to, we can agree to adopt this provision in the conference.

Mr. GOLDWATER. Madam Chairman, the gentleman is correct. The purpose is to try to cover all the bases so as to cover any individual, including private citizens, who would knowingly abuse the National Driver Registry or influence an official to misuse it. This is to put some kind of teeth into the law.

Madam Chairman, the gentleman is absolutely correct. If we find, upon further examination, that we can make some modification prior to the conference, I certainly agree to that.

Mr. OBERSTAR. However, we are clear that the amendment applies to Federal officials or that the Privacy Act applies to Federal officials administering the National Driver Registry, and the question is with respect to State officials.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 168, line 21, after the word "title" strike out the period and insert the following new proviso: "; *Provided*, That, no funds authorized for the procurement of automatic data processing equipment and electronic communication equipment under this section shall be expended until the Secretary has reported to the Public Works and Transportation Committee of the House of Representatives, and the Commerce, Science, and Transportation Committee of the Senate the total procurement and installation costs of such equipment, and the anticipated costs to be or already incurred by the States in meeting the requirements of Sections 221, 222, 223 and 227 of this title;

"*And provided further*, That such report shall have been before such committees for 30 legislative days prior to procurement."

Mr. GOLDWATER (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GOLDWATER. Madam Chairman, I will be brief with respect to this amendment. We are in this bill creating fully computerized National Driver Registry which will provide message switching services. We already have a National Driver Registry, which is a manual system. I would suggest that it leaves something to be desired.

Madam Chairman, that is why the gentleman from Minnesota (Mr. OBERSTAR) is offering to automate this system through his amendments to this particular bill.

My rising in the well as I do is to register concern for the potential invasion of privacy that may occur due to this automation. In addition to that, we are going into the procurement of a new system of computers nationwide, with terminals across the country.

Madam Chairman, it is my intent by this amendment to require the Secretary to submit to the Congress the Department of Transportation plans, programs, and most particularly, total system costs, as well as total costs to the State, and allow that submission to lay over for 30 days so that Members of Congress will have an opportunity to review its cost figures and to review its implications.

Also, I am concerned that we establish proper safeguards to protect personal privacy. It gives the Congress 30 days to look things over, prior to the Secretary's going ahead with bids and buying this multimillion dollar computer system on a nationwide basis. I think it is reasonable to assure the Congress, in view of its oversight responsibility, 30 days in which to review this program

prior to going out for bids, and I would be hopeful that the committee would accept this amendment.

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I would be very happy to yield to the gentleman.

Mr. OBERSTAR. I thank the gentleman for yielding.

My only concern with the provision that the gentleman offers is that it interrupts a continuous flow of action on the driver register, and that we can still accomplish the purposes of the gentleman by appropriate committee review as the NDR is going through the motions of acquiring this computer equipment. I understand the gentleman's amendment to mean that the committee would take a look at the status of plans of the National Driver Registry, that the committee might want to hold a hearing at an appropriate time, might decide that there is nothing amiss with what the NDR is proposing to do with its computer programing, but that this is not intended to be a stop-and-go process, that the NDR program will continue looking ahead with adapted information from the existing register to the automated one while perhaps we are taking a more careful look at it.

Mr. GOLDWATER. That is correct. The gentleman is absolutely correct. It is giving the Congress an opportunity just to take a look before we spend millions of dollars for a new nationwide computer and communications system. I think we owe it to our constituents to at least be able to tell them what this is going to cost.

Mr. OBERSTAR. In that sense, so long as we are sure that we can have a continuous flow of the development of this new program, I am prepared to accept the gentleman's amendment.

Mr. GOLDWATER. It is not the intention of the amendment to interrupt or disrupt the process of automating this system because obviously it will give us greater capacity to track down all the drunks, the alcoholics, and those abusing our system of driver's license registration. I support the gentleman's intent. It is just an effort on my part by this amendment to account for the expenditures and the program itself, not to disrupt it but to allow us to take a look.

Mr. OBERSTAR. If the gentleman would yield, I said I am prepared to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 170, after line 8, strike out lines 9 through 14, inclusive and renumber succeeding lines accordingly.

Mr. OBERSTAR. Madam Chairman, if the gentleman would yield, this is the amendment dealing with the Federal Aviation Administration?

Mr. GOLDWATER. That is correct.

Mr. OBERSTAR. It is our understanding that we will, during the committee hearings next year on the authorization for FAA, come back to this provision and hold hearings on it as the NDR would apply to the FAA.

Mr. GOLDWATER. That is my understanding.

Mr. OBERSTAR. In that sense, I accept the gentleman's amendment.

Mr. GOLDWATER. I can give the gentleman my word that I will follow up with the FAA to find out why they want this information and what the implications of their proposal is as well. I will give the gentleman my word, but I think before we authorize the FAA access to this information, we ought to know first why they need it, what they are going to use it for, and during the current authorization hearings we will pursue that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 171, after line 14, insert the following:

PROHIBITION

SEC. 230. None of the funds authorized by this title (including any amendment made by this title) shall be expended for the purchase, directly or indirectly, of any passive restraint system for any motor vehicle owned by any State (including a political subdivision of a State) or by the United States, except for a motor vehicle primarily used in an educational program.

Redesignate the succeeding section and references thereto accordingly.

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SHUSTER. Madam Chairman, this is a simple amendment. It says that none of the funds authorized by this title shall be expended for the purchase of any passive restraint system for any motor vehicle owned by any State or by the United States, except for a motor vehicle primarily used in an educational program.

Madam Chairman, a year ago, National Highway Traffic Safety Administrator advised the States that section 402 safety funds could be used to equip State and local government vehicles with airbags. That ruling is not consistent with congressional intent regarding the use of 402 funds.

Regardless of how you feel about airbags—and there are Members supporting my amendment who favor and oppose airbags—regardless of your position on airbags, it is impossible to justify the use of these safety grant funds to purchase airbags for State fleets. It is not a legitimate use of these funds.

Madam Chairman, 402 funds are intended to carry out State highway safety programs designed to reduce traffic accidents and deaths. Driver training programs are an example of the kind of program that would qualify for 402 funds. The safety projects must have the capability of resulting in statewide improvement in traffic accident and death statistics.

The use of 402 funds for airbags has never been authorized by the Public Works and Transportation Committee or the Congress which has jurisdiction over 402 funds nor were we ever consulted about using these safety funds for that purpose.

The NHTSA simply overstepped its bounds in authorizing this use in its zealous effort to promote airbags.

The safety needs of the States are enormous. We are still slaughtering 45,000 people on our highways every year. Alcohol is still a leading cause of traffic deaths. There are still plenty of "killer curves" and "dead man's bluffs" and "cemetery stretches" around. We have more safety needs than we have safety funds to address those needs.

We cannot permit a further dilution of these important funds. We cannot permit them to be used to try to make the case for airbags.

I do want to point out, however, that my amendment would not totally prohibit the use of highway safety funds for the installation of passive restraints. Safety funds could be used for passive restraints in driver education programs and police training programs. And of course, in those limited situations where safety funds are used to purchase the entire vehicle—such as an ambulance—passive restraints would be eligible for Federal assistance.

Madam Chairman, I urge the adoption of my amendment.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I believe it says that the 402 general safety information money may not be used for the States to be able to put airbags into State-owned vehicles.

I believe what we are hoping to do, and the gentleman and I are on opposite sides of the airbag issue itself, but I believe if we are going to try to promote airbags and get people around the country to pay $300 or $400 to put them in, I do not think we should be using our educational funds to put them in State-owned vehicles.

Madam Chairman, I agree with the gentleman. We accept the amendment.

Mr. SHUSTER. The use of State funds is improper in this regard.

Mr. ECKHARDT. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Madam Chairman, I would like to set forth my understanding of the language being used. It says that no funds during the 4-year period of authorization be expended for the purpose of a passive restraint system for any motor vehicle owned by the State or the Federal Government.

I believe that this language would prohibit the funding of restraint system equipment to be installed on State vehi-

cles that are not funded as part of a State safety program.

I would agree that "any passive restraint for any vehicle" makes this clear; however, the purchase of a vehicle that comes equipped with a passive restraint system is not prohibited by this language. Other language in the amendment being offered could be confused to suggest that the purchase of vehicles originally equipped with these safety devices is somehow touched by the proposal of the gentleman from Pennsylvania (Mr. SHUSTER).

I presume, however, that the sentence does not intend to reduce the level of safety equipment available to the public by such a reading; is that correct?

Mr. SHUSTER. Madam Chairman, the gentleman's interpretation is absolutely correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 166, after line 21, insert the following proviso: "*Provided*, That no chief motor vehicle official of a State shall include in any report the Social Security number of any individual, unless the individual's social security number is the official operator's license identification number and the use of such number by the State is specifically provided for and required by State law."

Mr. OBERSTAR (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. GOLDWATER. Madam Chairman, the purpose of my amendment was to clarify the intent of the provisions of the act which require, as part of the information to be submitted to the National Driver Register, the social security number and any other identifying number of such license.

I have a deep concern, and I think I speak for many Americans, over the pervasive use of the social security number to identify people in the society. It is the intent of my amendment that this not be a mandatory requirement, but that it only apply to those States where, in fact, it is required by State law and is already in use.

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Madam Chairman, as with the other amendments, we have discussed this extensively. It is the purpose of our discussion here to make it clear for the legislative history that as the bill language itself states, this is only an optional provision. There is nothing required of the States.

The history of this language here is the section 1211 of the Tax Reform Act of 1976, which permitted States to use the social security number for licensing purposes, if a State chooses to do so. It does not require it. It is permissive.

All we are doing in the NDR is building on that previous record of legislative history. Therefore, section 222 of this bill does not force a State to use a social security number.

I think that responds to the gentleman's argument.

Mr. GOLDWATER. Madam Chairman, therefore, it is not mandatory under the provisions of this bill. Section 222 would only apply where required by State law and we are not by enactment of this act requiring each and every State to request the social security number of its licensees?

Mr. OBERSTAR. Madam Chairman, the gentleman's understanding is correct.

Mr. JOHN T. MYERS. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Madam Chairman, it appears that the intention of this provision is that drivers ineligible to drive in one State would not be eligible to drive or obtain a license in another State.

What protection does society have to make sure just because people have the same name, without any other identification, how can we be sure we have the right individual and protect the innocent?

Mr. GOLDWATER. Madam Chairman, the gentleman asks a good question. There are ways of identifying people other than by numbers.

For instance, the National Drivers Register today, as it exists, first uses the name and the date of birth as primary identifiers and then uses sex, height, weight, and eye color to discriminate among records of people with similar or identical names and birth dates. The social security number is in some cases used to facilitate this discrimination process, but it is not available for all drivers listed in the system.

So, therefore, the point I am making is that the system today does not require the social security number to identify people. They are using such identifiers as sex and height and weight, as well as other identifying features. This works very well without the social security number, and the social security number facilitates this identification.

Mr. JOHN T. MYERS. Madam Chairman, if the gentleman will yield, let me ask this:

In States that do use social security numbers, then, the numbers would be given in those instances; is that correct?

Mr. GOLDWATER. That is my understanding. This act does not require every State to solicit or to impose a social security number on its licenses, but if the State does require it now, then that is part of the identifying information which is submitted to the National Drivers Register.

Mr. JOHN T. MYERS. It does not prohibit the use of social security numbers?

Mr. GOLDWATER. That is correct.

Mr. JOHN T. MYERS. If the States do use them, they will be used as part of this information?

Mr. GOLDWATER. The gentleman's understanding is accurate.

Madam Chairman, with that understanding, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. The gentleman from California (Mr. GOLDWATER) asks unanimous consent to withdraw his amendment.

Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Urban Mass Transportation Act Amendments of 1978".

LOAN PROGRAM

SEC. 302. The first sentence of subsection (b) of section 3 of the Urban Mass Transportation Act of 1964 is amended by striking out "including the net cost of property management" and inserting in lieu thereof the following: "including reconstruction, renovation, the net cost of property management,".

REPEAL

SEC. 303. Subsection (h) of section 3 of the Urban Mass Transportation Act of 1964 is hereby repealed.

FEDERAL FINANCIAL ASSISTANCE AUTHORIZATIONS

SEC. 304. Subsection (c) of section 4 of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding paragraph (1) of this subsection or any other provision of this Act, no part of the authorizations contained in paragraph (1) of this subsection shall be obligated after September 30, 1978.

"(3) There is authorized to be appropriated for grants and loans under sections 3 and 9 of this Act, per fiscal year, for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $1,860,000,000.

"(4) Each fiscal year during the four-year term of the authority provided under paragraph (3), 3½ per centum of appropriations pursuant to such authority shall be available for grants under section 9 of this Act.

"(5) Each fiscal year during the four-year term of the authority provided under paragraph (3), 30 per centum of appropriations pursuant to such authority shall be available for grants for the modernization and rehabilitation of existing public mass transportation systems.

"(6) Each fiscal year during the four-year term of the authority provided under paragraph (3), 12 per centum of appropriations pursuant to such authority shall be available for purchase of rolling stock used in all varieties of fixed-rail public mass transportation service assisted under this Act.

"(7) Each fiscal year during the four-year term of the authority provided under paragraph (3), 38 per centum of appropriations pursuant to such authority shall be available for construction of new fixed-guideway public mass transportation systems and extensions of existing fixed-guideway public mass transportation systems.

"(8) The remainder of appropriations each fiscal year pursuant to the authority of paragraph (3), after subtracting the reservations required by paragraphs (4), (5), (6), and (7) shall be available for grants and loans under section 3 of this Act including, but not limited to, grants and loans for the

acquisition of buses and bus-related facilities (in those cases where applicants have exhausted capital assistance funds under section 5 of this Act for bus and related facilities acquisition), emergency needs, multimodal transportation facilities, and transit-related urban development activities.

"(9) The amount made available each fiscal year under each of the paragraphs (4), (5), (6), (7), and (8) of this subsection may be transferred by the Secretary from one paragraph to another paragraph except that the total of all amounts transferred in any one fiscal year from one paragraph shall not exceed 15 per centum of the amount available for such fiscal year under that paragraph.

"(10) Within one year after the date of enactment of this paragraph, the Secretary of Transportation shall report to the President and the Congress the level of need for transit capital expenditures for each year during the ten-year period beginning after the end of such one-year period, and, thereafter, shall submit an update of such report at the end of each succeeding year for the ten-year period beginning after the end of such succeeding year.".

ADVANCE APPROPRIATIONS

SEC. 305. Section 4 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(e) Appropriations authorized by subsection (c) of this section and section 319 of the Urban Mass Transportation Act Amendments of 1978, may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation, and shall remain available for three years following the close of the fiscal year for which such appropriation is made.".

URBAN MASS TRANSIT PROGRAM

SEC. 306. (a) The first sentence of paragraph (1) of subsection (b) of section 5 of the Urban Mass Transportation Act of 1964 is amended by striking out "1980" and inserting in lieu thereof "1982", and by striking out "subsection (c)." and inserting in lieu thereof "subsection (c) (1) and (2).".

(b) Paragraphs (2) and (3) of subsection (b) of section 5 of such Act of 1964 are amended to read as follows:

"(2) The Secretary shall apportion for expenditure in fiscal years 1979 through 1982 the sums authorized by subsection (c)(3). Eighty-five per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of 750,000 or more, and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(A) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(B) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

"(3) The Secretary shall apportion for expenditure in fiscal years 1979 through 1982 the sums authorized by subsection (c)(3). Fifteen per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than 750,000 and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(A) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(B) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

"(4) The Governor, responsible local officials, and publicly owned operators of mass tranportation services, in accordance with the procedures required under subsection (g)(1), with the concurrence of the Secretary, shall designate a recipient to receive and dispense all funds apportioned under paragraphs (1) and (3) that are attributable to urbanized areas of two hundred thousand or more population and to receive and disepnse all funds apportioned under paragraph (2). In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction, and operation, directly by lease, contract, or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term 'designated recipient' as used in this Act shall refer to the recipient selected according to the procedures required by this paragraph.

"(5) Sums apportioned under paragraphs (1) and (3), not made available for expenditure by designated recipients in accordance with the terms of paragraph (4) shall be made available to the Governor for expenditure in urbanized areas or parts thereof in accordance with the procedures required under subsection (g)(1).".

(c) Paragraph (1) of subsection (c) of section 5 of such Act of 1964 is amended by adding at the end thereof the following new sentences: "In addition to all other sums authorized to be appropriated for carrying out this section for the fiscal year 1980, there is authorized to be appropriated for such fiscal year the additional amount of $125,000,000. There is authorized to be appropriated for grants under this section $900,000,000, per fiscal year for the fiscal years ending September 30, 1981 and September 30, 1982.".

(d) Paragraph (2) of subsection (c) of section 5 of such Act of 1964 is amended to read as follows:

"(3) There is authorized to be appropriated to be expended only for grants for the purchase of buses $400,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(3) There is authorized to be appropriated for grants under this section, $250,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(4) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned in accordance with paragraph (1) of subsection (b) of this section and shall be available for the same period as apportionments made for the fiscal year during which such reapportionment is made, except that any funds authorized by paragraph (2) of this subsection which are so reapportioned shall remain subject to the limitations applicable to the original appointment of such funds.".

FELLOWSHIP ASSISTANCE

SEC. 307. Section 10 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS FOR TRAINING PROGRAMS

"SEC. 10. The Secretary is authorized to make grants to States, local public bodies, and agencies thereof (and operators of public transportation services) to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the public transportation field. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the public transportation industry. The recipient of a fellowship under this section shall be selected by the grantee on the basis of demonstrated ability and for the contribution which he or she can be reasonably expected to make an efficient public transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $12,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the training institution in connection with the fellowship and billed to the grant recipient, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grant recipient).".

LIFE CYCLE COSTS

SEC. 308. (a) Subsection (b) of section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "After September 30, 1979, contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance under this Act, may be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.".

(b) The Secretary of Transportation shall make an evaluation of the procurement process utilized for the purchase of rolling stock and other technical equipment purchased with Federal financial assistance under the Urban Mass Transportation Act of 1964, and from whom purchased. Such evaluation shall consider the benefits of more widespread utilization of negotiated procurements. The Secretary shall, not later than July 1, 1979, report to Congress the results of such evaluation together with his recommendations for necessary legislation.

DEFINITIONS

SEC. 309. (a) Section 12(c) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(6) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or acquisition of facilities and equipment for use in public mass transportation, including designing, engineering, location surveying, mapping, acquisition of right-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing;

"(7) the term 'elderly person' means any person who is sixty years of age or older;

"(8) the term 'handicapped person' means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any individual who is wheelchair bound, or who has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize mass transportation facilities and services effectively;

"(9) the term 'Governor' means the Governor, or his designate, of any one of the fifty States or of Puerto Rico, and the Mayor of the District of Columbia; and

"(10) the term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in the case of any such area, encompass the entire urbanized area within the State as designated by the Bureau of the Census.".

(b) Subsection (a) of section 5 of the Urban Mass Transportation Act of 1964 is hereby repealed.

GENERAL AUTHORIZATION

SEC. 310. Subsection (d) of section 12 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There is authorized to be appropriated to carry out this Act, other than sections 3, 5, 9, 11(b), 16, 18, 20, 21, and 22, $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

INTERSTATE COMMERCE ACT EXEMPTION

SEC. 311. Subsection (e) of section 12 of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(e)"; and by adding at the end thereof the following new paragraphs:

"(2) A State or a local public body may petition the Interstate Commerce Commission for an exemption from part II of the Interstate Commerce Act for mass transportation services provided by such State or local public body or provided to such State or local public body by contract. Not later than one hundred and eighty days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from part II of the Interstate Commerce Act with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless such Commission finds that—

"(A) the public interest would not be served by such exemption,

"(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

"(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

"(3) Any State or local public body granted an exemption under paragraph (2) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (2) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.".

REPORT OF FUNDING

SEC. 312. Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall submit to Congress not later than the twentieth day of each calendar month which begins after the date of enactment of this subsection a report on (1) obligations, commitments, and reservations by State, designated recipient, and applicant, made under authority of this Act during the preceding calendar months, (2) the cumulative amount of obligations, commitments, and reservations by State, designated recipient, and applicant, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated, uncommitted, and unreserved apportionments of each State under this Act, by fiscal year, and (4) the balance of unobligated, uncommitted, and unreserved sums available for expenditure at the discretion of the Secretary under this Act for that fiscal year.".

REPORTING SYSTEM

SEC. 313. Section 15 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall, not later January 1, 1979, report to Congress on the systems prescribed under authority of this section, together with his recomemndations for any further legislation, if any, he deems necessary in connection with such systems.".

SET ASIDE FOR ELDERLY AND HANDICAPPED

SEC. 314. The last sentence of subsection (b) of section 16 of the Urban Mass Transportation Act of 1964 is amended to read as follows: "Of the total amount authorized to be appropriated pursuant to section 4(c)(3) of this Act, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs)."

RAIL PASSENGER SERVICE

SEC. 315. (a) Section 17 of the Urban Mass Transportation Act of 1964 is hereby repealed.

(b) Subsection (b) of section 18 of the Urban Mass Transportation Act of 1964 is amended by striking out "(1)" and "; and (2) rail passenger service required by section 304(e)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e))".

(c) Subsection (d) of section 18 of the Urban Mass Transportation Act of 1964 is hereby repealed.

(d)(1) Subsection (a) of section 18 of the Urban Mass Transportation Act of 1964 is amended by inserting immediately after "for the cost of" the following: "modernizing and rehabilitating rolling stock, publicly owned road bed, and".

(2) Such subsection (a) of such section 18 is further amended by striking out "rail passenger service provided by railroads designated as Class I." and inserting in lieu thereof "commuter rail passenger service.".

(e) Subsection (c) of section 18 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(c)(1) The Secretary shall equitably distribute financial assistance authorized by subsection (a) of this section on the basis of an apportionment formula which the Secretary shall establish not later than 90 days after the date of enactment of the Urban Mass Transportation Act Amendments of 1978, except that no eligible applicant shall receive in any fiscal year less than one-half of 1 per centum or more than 30 per centum of the amount authorized for such fiscal year to carry out this section. As soon as practicable after the establishment of such apportionment formula all sums authorized by this Act for the fiscal years 1979 through 1982 shall be apportioned in accordance with such formula.

"(2) No Federal grant for the payment of subsidies for operating expenses shall exceed 50 per centum of the total operating losses of rail passenger service eligible for assistance under this section. No Federal grant for modernizing or rehabilitating rolling stock or publicly owned road bed shall exceed 80 per centum of the cost of such modernization or rehabilitation.".

(f) Subsection (f) of section 18 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(f) There is authorized to be appropriated to carry out this section not to exceed $100,000,000 for the period beginning November, 16, 1977, and ending September 30, 1979, and $100,000,000 per fiscal year for the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982. Such sums shall remain available until expended.".

LONG-TERM AUTHORIZATIONS

SEC. 316. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"AUTHORIZATIONS

"SEC. 19. There is authorized to be appropriated to carry out this Act and section 315 of the Urban Mass Transportation Act Amendments of 1978, $4,500,000,000 per fiscal year, for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.".

TERMINAL DEVELOPMENT PROGRAM

SEC. 317. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"TERMINAL DEVELOPMENT PROGRAM

"SEC. 20. (a) The Secretary is authorized, in accordance with this Act, and on such other terms and conditions as he may prescribe, to make grants to States and local bodies and agencies thereof to acquire, construct, or alter facilities (directly operated, operated through a lease, or otherwise) primarily for use in providing intercity bus service and in coordinating such service with other modes of transportation. Eligible facilities include, but are not limited to, real property, bus terminals, intermodal terminals, and bus passenger loading areas (including shelters). No grants shall be provided under this section unless the Secretary determines the applicant has or will have (1) the legal, financial, and technical capacity to carry out the proposed project, and (2) satisfactory continuing control, through operation, lease, or otherwise, over the use of the facilities.

"(b) The Secretary is further authorized, in accordance with this Act, and on such other terms and conditions as he may prescribe, to make grants to States and local bodies and agencies thereof to acquire, construct, or alter facilities (directly operated, operated through a lease, or otherwise) to improve the coordination between public transportation and other forms of transportation, and to enhance urban economic development. Eligible items include, but are not limited to, real property, facilities and equipment for intermodal transfer facilities, joint development projects, and other public transportation related projects which enhance urban development and incorporate private investment.

"(c) No financial assistance shall be provided under this section to any State or local public body or agency thereof for the acquisition, contruction, or alteration of eligible facilities unless the Secretary finds that fair and equitable arrangements have been made for the use of such facilities by privately

owned bus companies. Assistance under this section shall encourage, to the maximum extent feasible, the participation of private enterprise and the use of the facilities assisted under this section by other modes of transportation.

"(d) A grant for a project under this section shall be for 80 per centum of the net project cost determined in accordane with section 4(a) of this Act. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds.

"(e) There is authorized to be appropriated to carry out subsection (a) of this section $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982; and to carry out subsection (b) of this section there is authorized to be appropriated $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

INTERCITY BUS SERVICE

SEC. 318. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"INTERCITY BUS SERVICE

"SEC. 21. (a) The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service for residents of rural areas and residents of urban places designated by the Bureau of the Census as having a population of five thousand or more which are not within an urbanized area as defined in section 12 of this Act. As used in this subsection and subsection (b) of this section, the term 'intercity bus service' means transportation provided to the public by a private bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (1) between one urban place as designated under this subsection and another such urban place, (2) between an urban place designated in accordance with this subsection and an urbanized area, or (3) between one urbanized area and another urbanized area, through rural areas or urban places, or both. Such term does not include local service.

"(b) Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 50 per centum of the net cost of such an operating expense project. The remainder of such cost shall be provided in cash from sources other than Federal funds and other than revenues from the operation of such intercity bus service. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may deem necessary to promote the initiation, improvement, or continuation of privately owned and operated intercity bus service. In making any such grant, preference shall be given to a private bus operator who lawfully has provided intercity bus service to a rural area or urban place during the one-year period preceding the date of application for such a grant over routes or within the general area for which financial assistance is to be provided, over any other operator to provide such service in such area or place.

"(c) There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(d) The Secretary shall, in cooperation with States, local public bodies, and intercity bus carriers, make an evaluation of the needs of the intercity bus industry for public subsidy of expenses incurred in the provision of intercity bus service as it serves local transportation needs in areas other than urbanized areas. The Secretary shall, not later than September 30, 1979, report to Congress the results of this evaluation together with his recommendations for necessary legislation.".

SUBSTITUTE PUBLIC MASS TRANSIT PROJECTS

SEC. 319. (a) There is authorized to be appropriated, for liquidation of obligations incurred for public mass transit projects substituted for routes on the Interstate System under section 103(e)(4) of title 23, United States Code, $675,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(b) Notwithstanding the seventh sentence of section 103(e)(4) of title 23, United States Code, the authorization contained in subsection (a) of this section shall be the only authority for appropriations for liquidation of obligations incurred for public mass transit projects substituted for routes on the Interstate System under such section 103(e)(4) of title 23, United States Code.

LOAN FORGIVENESS

SEC. 320. (a) The Secretary of Transportation may convert equipment and facilities loans heretofore made under section 3(a) of the Urban Mass Transportation Act of 1964 or title II of the Housing Amendments of 1955 (42 U.S.C. 1492), to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 3(a) may provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to mass transportation projects in the urbanized area, on a schedule acceptable to the Secretary, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for projects eligible for funding under section 3(a), and may not be used to satisfy the local matching requirements for any other grant project.

BASIC TRANSPORTATION SYSTEM STUDY

SEC. 321. The Secretary of Transportation shall make a full and complete investigation and study of establishing and operating a mass transportation system, in whole or in part, which would provide basic services with a minimum of amenities, at low costs. Such Secretary shall report to the Congress the results of such investigation and study not later than one year after the date of enactment of this section.

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

SEC. 322. (a) The Secretary of Transportation shall carry out a demonstration project using high-speed waterborne transportation equipment and facilities and operating in, and in the vicinity of, New York, New York, for the purpose of determining the feasibility of utilizing this technology in providing certain public mass transportation service. Such Secretary shall report to Congress the results of such project no later than September 30, 1980, together with his recommendations.

(b) There is authorized to be appropriated, not to exceed $30,000,000 to carry out this section.

RULE REEVALUATION

SEC. 323. (a) The Secretary shall reevaluate the rule relating to buses which is set forth in section 609.15 of title 49, Code of Federal Regulations and report to Congress the results of such reevaluation not later than January 1, 1979.

(b) The reevaluation required by subsection (a) of this section shall include a three-month inservice test to compare the effectiveness of a front door ramp with a low floor and a lift device at either door with current floor heights. Such test shall be conducted under the supervision of the National Academy of Engineering in cooperation with interested groups and organizations.

MAINTENANCE OF EFFORT

SEC. 324. Subsection (f) of section 5 of the Urban Mass Transportation Act of 1964 is amended by inserting immediately after "and property leases," the following "excluding reimbursement payments for the transportation of school children,".

RURAL ASSISTANCE PROGRAM

SEC. 325. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"RURAL ASSISTANCE PROGRAM

"SEC. 22. (a) The Secretary is authorized to make grants to States, local public bodies, and nonprofit corporations for public transportation assistance (including construction and operating assistance) in areas other than urbanized areas, as defined under section 12 of this Act. To finance grants under this section, there is authorized to be appropriated not to exceed $125,000,000 per fiscal year, for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Appropriations pursuant to the authority of this section may be made in the appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation, and small remain available until expended.

"(b) On or before the commencement of each fiscal year the Secretary shall apportion the remainder of the sums appropriated under this section for that fiscal year, among the States in the ratio which the population of areas other than urbanized areas in each State bears to the total population of areas other than urbanized areas in all the States as shown by the latest available Federal Census. Sums apportioned under this subsection shall be available for obligation by the Governor for a period of three years following the close of the fiscal year for which the sums are apportioned, and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year. States may utilize sums apportioned under this section for purchase of service agreements with private providers of public transportation service to provide local transportation service, as defined by the Secretary, in areas other than urbanized areas. The funds apportioned to any State under this section shall be expended within such State on a fair and equitable basis. The State may distribute funds to eligible recipients within the State to carry out the purposes of this section. Eligible recipients may include State agencies, local public bodies and agencies thereof (including counties and Indian tribes), nonprofit organizations, and public operators of public transportation services.

"(c) Whenever an apportionment is made of sums apportioned under this section, the Secretary may permit a sum, in such amount not to exceed 15 per centum of the amount apportioned, to be used by each State for administering this section and for providing technical assistance to recipients of funds under this section. Such technical assistance may include project planning program development, management development, coordination of public transportation programs (public and private), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in areas other than urbanized areas.

"(d) Grants under this section shall be subject to such terms and conditions as the Secretary may prescribe. In setting forth such terms and conditions, the Secretary is authorized to waive such provisions of this Act as he may deem inconsistent with the special needs of public transportation in areas other than urbanized areas. Nothing under this subsection shall affect or discharge any responsibility of the Secretary under any other provision of Federal law.

(e) The Federal grant for any construction project under this section shall not exceed 80 per centum of the net cost of such construction project, as determined by the Secretary. Federal grants for any project for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 per centum of the net cost of such operating expense project.

(f) The Secretary shall, in cooperation with State regulatory commissions, make an evaluation of the escalation if insurance rates for operators of public transportation in rural areas and for providers of special transportation services for elderly and handicapped persons. The Secretary shall, not later than January 1, 1979, report to Congress the results of this evaluation together with his recommendations for necessary legislation.".

RAIL RETROFIT EVALUATION

SEC. 326. (a) Beginning in fiscal year 1979, the Secretary of Transportation shall provide Federal financial assistance under section 9 of the Urban Mass Transportation Act of 1964 to operators of fixed-guideway public mass transportation systems for the purpose of developing detailed estimates of the cost of making improvements to existing fixed-guideway public mass transportation systems (excluding light-rail systems) to make such systems accessible to and usable by handicapped persons. Not later than January 30, 1980, the Secretary shall compile the results of these evaluations and report to Congress the results, together with his recommendations for such legislation as may be necessary to finance the improvements set forth in the cost estimates.

(b) In developing detailed estimates of the cost of improvements needed to make existing fixed-guideway public mass transportation systems accessible to and usable by handicapped persons, operators of such system shall provide comments on the desirability of the improvements, taking into account projected use of the improvements, the operational characteristics of the system, and such other factors as the operators may deem appropriate. Under rules set forth by the Secretary of Transportation, operators shall submit all such comments and cost estimates to organizations representing handicapped persons. Such organizations shall be afforded ninety days to submit comments to the Secretary.

(c) Cost estimates developed with assistance under this section, to the extent they are not deemed unreasonable by the Secretary of Transportation, may serve as the basis for cost estimates in plans required by the Secretary for meeting the requirements of section 504 of the Rehabilitation Act of 1973.

LIGHT RAIL EVALUATION

SEC. 327. (a) The Secretary of Transportation shall make an evaluation of the light-rail public mass transportation mode (including trolleys, streetcars, cablecars, and other fixed-guideway conveyances utilizing at-grade rights-of-way portions of which are shared with other street traffic) and the commuter rail public mass transportation mode to determine ways to make, and the desirability of making, such modes accessible to and usable by handicapped persons. The Secretary shall report to Congress the results of this evaluation not later than September 30, 1980, together with his recommendations for legislation necessary to clarify or to change Federal laws or provisions pertaining to accessibility requirements affecting the light-rail and commuter rail modes.

(b) Notwithstanding any provision of the Rehabilitation Act of 1973 or the Urban Mass Transportation Act of 1964, pending completion of the evaluation conducted pursuant to subsection (a) of this section and six months following the date such evaluation is submitted by the Secretary to Congress, projects involving the construction or improvement of light-rail or commuter rail public mass transportation systems (or involving purchase of rolling stock for such systems) shall not be disapproved or otherwise delayed by the Secretary of Transportation as a result of failure to comply with Federal handicapped accessibility requirements provided that such projects do not create conditions which will preclude, at some future date, use of any facility by handicapped persons.

TRANSPORTATION CENTERS

SEC. 328. Subsection (b) of section 11 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b)(1) In addition to grants authorized by subsection (a) of this section, the Secretary is authorized to make grants for the purpose of establishing and operating transportation centers at nonprofit institutions of higher learning.

"(2) The institutions receiving assistance under this subsection shall be selected by the Secretary, in coordination with State transportation agencies or departments, on the basis of demonstrated research and extension resources capable of contributing to the solution of State and regional transportation problems. A private institution may be selected for assistance under this subsection if no public institution in the region meets the selection criteria.

"(3) The responsibilities and duties of each transportation center shall include, but not be limited to, the conduct of competent research investigations, both scientific and policy oriented, and experiments of either a basic or practical nature in relation to transportation problems.

"(4) In order for an institution to receive Federal funds under this subsection, subject to the conditions set forth therein, such institution, in coordination with the State in which the institution is located (or, in the case of multi-institutional programs authorized under paragraph (6) of this subsection, in coordination with the States in which the participating institutions are located) shall submit to the Secretary for his approval a program or programs of proposed projects for the academic year for the utilization of such funds. The Secretary shall act upon programs submitted to him by March 15 preceding the fiscal year for which application for assistance is made (except in the case of fiscal year 1979, for which the Secretary shall act upon programs submitted to him as soon as practicable).

"(5) As a condition to project approval, the State in which a selected institution is located must equally match from other than Federal funds, the amount of the Federal grant.

"(6) Upon the joint application of two or more institutions of higher learning, the Secretary may approve a multi-institutional program to address regional transportation problems, subject to conditions set forth in this subsection.

"(7) On or before July 1 of each fiscal year for which funds have been appropriated under this subsection, each participating institution shall submit a report to the Secretary on its activities and progress in solving transportation problems. On or before October 1 of each such fiscal year, the Secretary shall submit a report to Congress on the activities and progress of the program authorized by this subsection in solving transportation problems and achieving national transportation policy objectives.

"(8) For purposes of carrying out this subsection, there is authorized to be appropriated $10,000,000 per fiscal year for the fiscal years 1979, 1980, 1981, and 1982. Such sums shall remain available until expended.".

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

● Mr. KEMP. Madam Chairman, I am very happy to give my full support to this Surface Transportation Assistance Act which is being considered here tonight. And I particularly commend my colleaque, Congressman NOWAK, for sponsoring an amendment in the committee to include the first 4.2-mile segment of the proposed Lockport Expressway in Amherst, N.Y., as part of the Interstate Highway System, so important to my district and our community development.

The people of Amherst and Erie County have fought long and hard for this proposed roadway and Congressman NOWAK is to be congratulated for spearheading the action necessary to realize this objective. Particularly important was his having obtained the committee's specific listing of the Lockport Expressway in the bill to make certain it was given priority claim.

The $12.5 million which will be made available by this designation should be enough to hasten the construction start and will save taxpayer's money by diverting traffic and reducing maintenance costs on town and county roads. As a member of the Appropriations Committee, I will do all I can to see that the necessary funds are forthcoming to make this section of the Interstate Highway System a reality.●

Mr. HOWARD. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the Chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United

States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5289) entitled "An act for the relief of Joe Cortina of Tampa, Florida."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 8 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12928) entitled "An act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes.".

The message also announced that the Senate agree to the House amendments to the Senate amendments numbered 2 and 24, to the above-entitled bill.

GOVERNOR BROWN DEMANDS AN IMPERIAL AND DICTATORIAL PRESIDENCY

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, Governor Brown of California advocates far more power for Federal regulatory agencies—the OSHA's and EPA's which are interfering with and disrupting every part of our productive economic life. Worse, he wants to use these agencies' rulemaking authority to prevent Congress from exerting its constitutional powers to set national policy. That is the only interpretation one can give his speech to the liberal National Urban League.

Speaking to the National Urban League, Governor Brown said:

> I think if you want the business muscle of America to go into the inner cities, then I think what you've got to do is get the Federal Reserve Board to get the Antitrust Division, to get the Internal Revenue Service, to get the Interstate Committee Commission, to get the Comptroller of the Currency, to get the Federal Home Loan Bank, the Federal Trade Commission, the Federal Communications Commission—that's where the muscle is. Corporate America depends on the regulatory power of Washington. And if that regulatory power was used not just for profit and to prop up existing privilege but to renew the cities of America, they'd be renewed.
>
> They won't be renewed until those powers are used for that purpose. It's just that simple. And I think a tax incentive is just one small piece. Because the life blood of corporate America is in the hands of the Executive Branch of America. And when those hands start squeezing, the corporate life blood will flow in the right direction.

It is impossible to mistake what this statement amounts to. Nowhere in it is there any mention of the Congress. Quite the opposite: The whole purpose is to put pressure on business for inner city projects which Congress would refuse to approve.

Nobory should be surprised that Brown takes this position. Brown at first opposed Proposition 13, but when it passed, he acted as if he had invented it. He was against nuclear power, but when the people of California approved it 2 to 1, he suddenly came out for it. But for all that opportunism, Brown is in fact a hardline, standard liberal, just like President Carter and Teddy Kennedy.

Like Carter in 1976, Brown will talk about being for tax cuts and limited Government. But once in office, he will pull the same aboutface Mr. Carter did, and use the powers of regulatory agencies against the businessman and the working man, just as Mr. Carter has done.

The facts of political life are very, very simple: If you want conservative policies, you are going to have to vote conservative. Businessmen's Political Action Committees (PAC) usually play what they think is a smart game: They give equally to both parties, and they give as generously to a liberal Republican as to a conservative one. Then they receive 200 pages of forms to fill out, and a book of business-destroying regulations from the Environmental Protection Agency. Soon after, JOHN ASHBROOK and other conservatives, get stacks of letters from businessmen, demanding to know "where this outrage came from."

Well, Mr. Businessman, you remember that PAC you sent your money to, the one that played the smart, middle-of-the-road game? That is where those regulations came from. Because of such "smart" policies, there were not enough conservatives in Congress to protect the businessman and worker from power-grabs by the anti-industry bureaucrats. Politics, like medicine, is nine-tenths prevention. Once you let a disease like liberalism go until it is too advanced to ignore, treatment does little good. In political terms, this means that once the program has gotten by a liberal and middle-road Congress, and is in the hands of the bureaucrats, it is too late to do much about it.

The problem is that liberals play even smarter games. The people of California voted 2 to 1 for nuclear power, and Brown switched his public position and came out for it. But the State Energy Board of California, one of those regulatory agencies Mr. Brown recommends so highly to the Urban League, simply overruled the people of California. They refused to license a single new power facility in the State of California. The result is that the votes of Californians do not make a bit of difference.

The no-growth, antinuclear lobby is happy with California's Democratic Administration. At the same time, hundreds of thousands of pronuclear power Californians will vote for their publically pronuclear friend, Governor Brown. A few years from now, these voters will be writing their conservative representatives, demanding to know why jobs are disappearing, because of the growing energy shortage in California. The answer is that jobs will disappear, because people tried to get conservative policies by voting for a liberal opportunist.

What is happening is that regulatory agencies are doing the dirty work, while Governor Brown poses as a conservative. So when Jerry Brown tells his fellow liberals they can use regulatory agencies to defy the will of the people, he knows exactly what he is talking about.

PRESIDENT CARTER'S FOREIGN POLICY FAILURE IN LATIN AMERICA

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, while President Carter is being praised for his apparent success so far in providing a framework for peace in the Middle East, his foreign policy closer to home in Latin America has been a failure of tragic proportions.

This foreign policy failure was initiated by the President's error in putting the entire weight and prestige of his office behind new treaties to turn over U.S. sovereignty and control of the Panama Canal to an unstable country ruled by a dictator sympathetic to Fidel Castro.

Underscoring the President's naivete and the misguided nature of his administration's entire program in Latin America, he was quoted by United Press International last weekend as boastfully saying that his efforts to obtain U.S. Senate approval of the new Panama treaties to surrender this vitally strategic waterway to Panama was "the most difficult undertaking of my political life, including my campaign for the Presidency itself.

As he made this statement to UPI, Panama's dictator was personally involved in helping the current Communist insurgency to topple the government on a longtime United States ally in Nicaragua.

Panama dictator Omar Torrijos has played a key role in this insurgency, by giving support and sanctuary to the Sandinista guerrillas who recently seized the President's National Palace in Nicaragua, and then fled to Panama with $500,000 in cash which they extorted in exchange for their 1,000 hostages.

Torrijos is expected to help the Sandinista terrorists to return to Nicaragua, where they will no doubt resume their guerrilla warfare, by making it possible for them to slip into Costa Rica as they did in 1974 when they returned from guerrilla training in Cuba.

Arizona Republic Latin affairs editor, Harold K. Milks, noted in a news analysis last Sunday that U.S. withdrawal from its military facilities adjoining the Panama Canal is also symbolic of the further erosion of U.S. influence and power throughout Latin America.

That power is being supplanted by the involvement and control of the Soviet Union, which Mr. Milks reports has more military advisers in just one country than the United States has U.S. personnel administering defense assistance programs throughout Latin America.

Moreover, the U.S. decision to cut off military aid and credit arrangements for purchase of U.S. weapons by longtime allies, such as Nicaragua, on the questionable grounds of "human rights" considerations, has caused these countries to seek such support elsewhere, further deteriorating our influence and position.

The President has followed the line set down by far left elements in our own country and abroad, who have so far succeeded in their efforts to have our Government disavow and thereby help topple the duly constituted Government of Nicaragua, and maybe other Latin American countries.

These extremist critics of Nicaragua's constitutional government have made wild and irresponsible statements to the effect that U.S. support for the Sandinistas, or anyone opposing President Somoza, is necessary in order to avert another Castro-type revolutionary government from coming to power in Latin America.

This is pure propaganda. The Sandinistas are Castro-type revolutionaries. And they will be more likely to succeed in putting together a successful Communist revolution—in terrorizing the people in order to overthrow the legitimate Government of Nicaragua—if the United States continues to fail to speak out vigorously in support of our longtime friends who are confronted by guerrilla insurrection.

Undoubtedly other Latin American nations will also fall under Communist rule if Nicaragua goes. Communist guerrillas being trained elsewhere in Latin America will be encouraged and incited by revolutionary successes in Central America.

Even guerrilla setbacks, as in Nicaragua, will be perceived as a temporary defeat of a so-called "popular democratic movement" by more powerful opposition, unless our own Government honestly and properly speaks out and acts in behalf of a legitimate government subjected to armed guerrilla insurrection.

Mr. Speaker, the President has attempted to mislead our people, and the people of the world, by stating that he seeks stability and "human rights" in Latin America, but does not want the United States to intervene in the affairs of sovereign nations.

Continued instability or outright Communist rule is inevitable in Nicaragua and elsewhere in Latin America, unless the United States vigorously supports in every possible way the current legitimate government's right to defend itself against guerrilla insurgency.

Withdrawal of U.S. support from Nicaragua's Government in the face of such insurgency is the most blatant kind of action in behalf of that country's pro-Communist enemies.

Failure to publicly condemn support for the guerrilla insurgency by Panama Dictator Torrijos, or any other foreign government, is a reckless and immoral abdication of responsibility and leadership by our Nation's top Government leaders.

It is important for us to recognize the seriously adverse impact of these actions, for the people of the affected countries in Latin America and for our own long-range security and freedom.

The President and his administration, through their negligent foreign policy in Latin America as well as in Africa, are opening the way for Soviet military domination throughout the world.

That impact in Latin America is already well known by keen observers, such as the Arizona Republic's Harold Milks, who recently toured throughout Central America. I would like to include his latest analysis confirming these unfavorable trends at this point in the RECORD:

(From the Arizona Republic, Sept. 24, 1978)

UNITED STATES CUTBACKS HURT RELATIONS IN SOUTH AMERICA

(By Harold K. Milks)

Albrook Field, a long-time U.S. Air Force base on the edge of the Panama Canal Zone facing Panama City, for many years was a symbol of U.S. power in Latin America.

Today, it is little more than an elongated landing pad for Army helicopters attached to the U.S. Southern Command in Panama.

Similary eroded under the influence of Washington policies, sharply questioned by military leaders, has been the influence of the United States on the guiding and training of military forces in South America and Central America. The U.S. position as the prime supplier of military equipment including handguns, fighter planes and warships also in endangered.

Military men with whom this writer talked during a recent swing through Central America agreed that current U.S. policies have cost them valuable contacts with the men who someday may be the military leaders of their Latin American nations.

There was a time when senior officers in Latin America prized the opportunity to take courses in our higher military schools in the states, or to send their younger officers to the Canal Zone to the U.S. Army's School of the Americas," said one ranking officer in the Canal Zone.

"Today, for a variety of reasons, we have lost or are losing those contacts. Some countries have turned to others for training and assistance. In Peru today, you can probably find more Soviet military advisers than there are U.S. officers and men administrating defense assistance programs in all of Latin America."

Some U.S. officers in Panama said approval of the treaties signaling the end of U.S. domination in the Canal Zone by the year 2000 "is definitely speeding the end of an era in which we worked with, trained and knew on a first-name basis our opposite numbers in the armed forces throughout Latin America."

Part of the change resulted from Washington's refusal to supply requested military equipment to various Latin American nations.

Another reason, military officers said, was President Carter's human rights campaign, which drew sharp opposition from military governments in Latin America.

The Army's School of the Americas was so popular in the 1960s that many applicants were turned away. Colombia, unable to send as many candidates as it wished started one of its own, which has been highly successful.

Today, with the changed political climate, teams of U.S. army officers have toured Latin America, seeking candidates for the school. Enrollment has dropped from a high of 1,700 to 901 last year.

"This school and our general staff schools in the United States were, in the past, valuable means of maintaining contact with the governments and leaders of Latin America," a high-ranking U.S. Navy officer said.

"Since its foundation in 1946, over 36,000 Latin Americans have passed through the School of the Americas. They include the present heads of government of six Latin American nations among them Gen. Omar Torrijos Herrera of Panama."

U.S. military leaders stationed in Latin America who would discuss the loss of military guidance and of the sales of military equipment in the area were sharply critical of U.S. policies.

Several recalled that four countries in the area—Argentina, Brazil, El Salvador and Guatemala—renounced U.S. military assistance last year in disputing Carter's human rights campaign. The U.S. State Department refused approval for arms exports to other Latin American countries.

"These countries will obtain the arms they want elsewhere," one officer said. "Our factories will lose the business and the arms makers in France, Britain, West Germany, Israel, and even the Soviet Union will benefit. Peru already has made major purchases from Russia, and others may follow suit."

Under the canal treaties, the United States and Panama have five years to decide whether the School of the Americas should be continued.

Unless there is a sharp change in attitudes between Washington and most Latin American countries, there may be no need for such a school long before then.

SOVIET SPACE ACTIVITY SHOULD NOT BE IGNORED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I have had an opportunity to read a most worthwhile article by Allen Neuharth, president and chief executive of Gannet News. Writing in the trade publication for the National Space Institute, Insight, Neuharth warns of the consequence of surrendering to the Soviets our leadership in the space race. I believe Mr. Neuharth is raising an issue which we in Congress have ignored for too long.

When President Kennedy took office, he set as a national goal the exploration of space. As Theodore Sorenson wrote:

President Kennedy was convinced that a second rate, second place space effort was inconsistent with the country's security, with its role as a world leader and with the New Frontier spirit of discovery.

The 1960's were a most productive era in the realization of this goal.

Since our Moon landing, however, it seems as if we have abandoned our commitment to proceed with a viable space program. As Mr. Neuharth points out, we have ceremoniously commemorated our achievements in the space program, but should we not devote equal attention to our inaction in the space program over the past several years?

The Soviet Union, over the past 5 years, has averaged more than 107 space missions annually. The United States, on the other hand, has averaged only 24.

The advancements of the Soviets are cause for concern, Mr. Speaker. Our budget for NASA has dropped dramatically over recent years, to the extent that the present funding levels would operate the Department of Health, Education, and Welfare for just 9 days.

Our complacency in recent years has given the Russians a decided advantage in the space race. This is a dangerous prospect, because the Soviet Union is clearly taking this opportunity to develop its space technology for military purposes. At the present time, there are approximately 15 Russian satellites orbiting overhead with nuclear reactors.

On our own planet, we have seen how difficult it is to compete with the Russians in the area of national defense. Already we are trying to reach an agreement to limit the buildup of arms in the Soviet Union. By allowing the Soviets to get such a jump in the space race, we will be at a strategic disadvantage in any efforts to limit the advancement of technology beyond our planet.

Planning by the Congress to avoid the consequences of a Soviet advantage in the space race is a priority we should not disregard, Mr. Speaker. Our NASA budget should be reviewed seriously, keeping in mind the problems we will encounter by our continued inactivity.●

HIGH HOLY DAYS 5739

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Jewish high holy days begin this year on October 1 and 2 with Rosh Hashanah and conclude on October 11 with Yom Kippur. This is a period of piety, holiness, and spirituality for Jewish people all over the world, and I am happy to join my colleagues in the Congress and my constituents and friends of the Jewish faith in observing the advent of this significant holiday period.

Rosh Hashanah marks the beginning of the Jewish New Year, and traditionally, is a joyous holiday. On Rosh Hashanah, religious services are conducted in synagogues throughout the world where Jews pray for forgiveness and a year of peace and happiness for themselves and the world. It is also a time spent with family and friends discussing the events of the past year.

The high point of Rosh Hashanah is the blowing of the shofar, or ram's horn, which symbolizes the beginning of the high holidays, and its shattering sound is meant to awaken man's conscience to renew his faith and return to his God.

October 11, the Day of Atonement, or Yom Kippur, is the climax of 10 days of penitence and is the holiest of all the Jewish holidays. The entire day is spent in prayer, fasting, and worship. On the Day of Atonement, the Jewish people seek to be in harmony with the world by expressing a true feeling of repentence through prayer. It is a day during which years gone by are recalled and loved ones who have passed away are remembered in prayer.

Rosh Hashanah and Yom Kippur evoke in the Jewish people a sense of awe, high seriousness, and especially obedience to God's law. The meaningful practice of the Jewish faith, I believe, has influenced Jewish moral law far beyond the confines of practicing Judaism. The historic Jewish concepts of social justice and individual human dignity have done much to guide the course of Western democracy and, in particular, to shape the philosophical system of government created by the American Founding Fathers.

Especially during the High Holy Days, the Jewish people look to the universal establishment of the principles of compassion and tolerance for which Judaism has so long and painfully fought. Unfortunately, the Jews have not received this same compassion and tolerance, but instead, under Nazi persecution, have suffered incomprehensible brutality and have been the subject of mass murders. It was for this reason that I strongly supported House Joint Resolution 1014, which passed the House on August 17 and is now Public Law 95–371. This legislation designates April 27–29, 1979, as "Days of Remembrance of Victims of the Holocaust," and authorizes and requests the President to issue a proclamation calling upon the people of the United States to observe those days with appropriate ceremonies and activities.

I should like, on this occasion, as the Congressman for the 11th District of Illinois, to extend my greetings and best wishes for the holiday season to my constituents and my many friends of the Jewish faith. Let us continue our hopes and prayers for a lasting Mideast peace, the prospects of which were so brightened by the recent Camp David summit conference. In the coming year, may the Jewish people know freedom from persecution, from which they have particularly suffered, and may they experience peace, well-being, prosperity, and spiritual enlightenment.●

THE 1978 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, the 1978 Captive Nations Week made its imprint on our national life, as had the preceding nineteen annual observances. Its main imprint is the constant structure of international life—the basic division between the totalitarian world and the nontotalitarian one. The captive nations under Communist domination clearly and unambiguously make up the totalitarian world. The observance of Captive Nations Week never allows our citizens to confuse this reality with authoritarian abuses that may occur in the nontotalitarian world.

Further examples of this fact have been reported for the 1978 Captive Nations Week by the Central National Captive Nations Committee, and I append them to my remarks as follows: First, a proclamation by Gov. Brendan Byrne of New Jersey; second, Resolution 407 of the Texas American Legion delegation; third, July 25 editorial in the China Post, "Successful Conclusion of Captive Nations Week"; fourth, an editorial in the Hartford, Conn., Courant, "Cruelty and Captive Nations"; and fifth, an address by Dr. Henry Lane Hall at the congressional seminar on captive nations, as published in the Rappahannock Record, Kilmarnock, Va.:

PROCLAMATION

Whereas, the greatness of the United States is in large part attributable to its ability through the democratic process to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas, this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas, the enslavement of a substantial part of the world's populations by communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas, submerged nations look to the United States, as the citadel of human, freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas, it is fitting to manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence;

Now, therefore, I Brendan Byrne, Governor of the State of New Jersey, do hereby proclaim July 16–22, 1978 "Captive Nations Week" in New Jersey.

RESOLUTION 407 (TEXAS)—CAPTIVE NATIONS

Whereas, the Captive Nations now represent the enslavement of more than one billion people, more than 30% of the world's inhabitants, and all are oppressed by communist-led dictatorships; and

Whereas, people living in the Captive Nations are denied such basic human rights as free speech, free press, freedom to vote for a choice, freedom of assembly and freedom to criticize those in authority; and

Whereas, the Captive Nations now include Armenia, Azerbaijan, Byelorussia, Cossakia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia, and the Soviet Union, known as the Union of Soviet Socialist Republics; plus the fiercely independent Baltic Republics of Latvia, Lithuania, and Estonia; plus the Eastern European Nations of Albania, Bulgaria, Yugoslavia, Poland, Romania, Czechoslovakia, Hungary, East Germany; plus the Asian nations of Mainland China, Tibet, North Korea, North Vietnam, South Vietnam, Cambodia and Laos; plus the Western Hemisphere's Cuba; and

Whereas, other nations including Panama, Angola, Mozambique, Somalia and Ethiopia are seriously threatened with communist enslavement; and

Whereas, such anti-communist governments as Taiwan, South Korea, Rhodesia, Republic of South Africa, Republic of Transkei, the Kingdoms of Lesotho and Swaziland are under heavy pressure to surrender to communist pressures; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, that we urge the leaders of the United States Government as the world symbol of life, liberty and the pursuit of happiness to speak out forthrightly in support of human rights for those enslaved inside the Captive Nations whose communist leaders deny the existence of God

and the spiritual dimension of life, and whose avowed purpose is to destabilize non-communist governments by destroying their purpose, values, traditions and social systems; and, be it further

Resolved, that we call upon the President and the Congress of the United States to exert the same political and economic pressures against communist governments on behalf of human rights as has been done against non-communist governments.

[From the China Post, July 25, 1978]

SUCCESSFUL CONCLUSION OF CAPTIVE NATIONS WEEK

The Captive Nations Week observance was successfully concluded last Saturday evening with a gigantic rally at the Taipei Municipal Stadium with the attendance of 50,000 people from all walks of life.

The successful observance was unprecedented in both the large number of outstanding anti-Communist leaders from many nations and the colorful programs smoothly carried out during the week. It was easily one of the best observances of the Captive Nations Week since its inauguration in 1959.

All the speakers, however, reminded the free people that unfortunately during that period of nearly two decades, except for the freedom seekers none of the captive people were freed from their enslavement and none of the captive nations had gained freedom and independence. Instead more free nations lost their freedom as a result of the ill-advised policy of detente which replaced containment and confrontation by negotiation. The loss of the three Indochinese states was a catastrophe of major proportions which tipped the balance of freedom and slavery in favor of the Communists. The Communist manipulation on the continent of Africa is another effort to put the free world in a disadvantageous position.

It is quite obvious that unless the free nations and people wake up to the dire peril of Communist advances and resist further encroachment, more free nations and people will be captured by the Communist slave masters and freedom will face even greater danger. If so the people will surely be mercilessly slaughtered as the Cambodians, South Vietnamese and Laotians were killed after their countries were overrun by the Communists.

President Jimmy Carter was urged not to recognize the inhuman Chinese Communist regime because "diplomatic recognition of such a regime would amount to an open statement that the Chinese Communists can continue their enslavement of the 800 million innocent individuals." The message to President Carter by the Captive Nations Week rally was accompanied by another message to the U.S. Congressional leaders urging them to see to it that "the U.S. will abide by her treaty obligations and defense commitments toward the ROC so as to safeguard the common security of the entire Asian-Pacific region."

The futility of detente has received ample proof by the Soviet anti-American attitude and moves. It shows that negotiations with the Communists will only lead to irreparable losses by the free world while the Communists remain adamant in maintaining their position.

The importance of the Republic of China has received reaffirmation by the visiting anti-Communist leaders from all the continents of the world. They are convinced that if the 800 million people on the mainland should be liberated to rejoin the democratic camp, then the Communist threat to the free world will be greatly eased. They agreed with Dr. Ku Cheng-kang's view that "to liberate the 800 million captive people on the mainland is the key to solving the China problem."

The Captive Nations Week observance this year has been a great success. But we must not be limited to its observance once a year. As U.S. Congressman John M. Ashbrook so rightly pointed out that "Our brothers and sisters behind the iron and bamboo curtains live in slavery 52 weeks a year, not just one week. We must be freedom fighters 52 weeks a year, until our brothers and sisters are free."

In the United States, the Captive Nations Week was also observed by rallies in New York and Washington. In Washington, the U.S. House granted a one-hour special order to Congressman Daniel Flood (D. Penn.) during which he cited the Captive Nations Week Resolution of 1959. Congressman William Broomfield (R-Michigan) and Robert Lagomarsino (R-Calif.) also spoke against Chinese Communist enslavement and inhuman rule. Congressman Edward Derwinski (R-Illinois) emphasized the importance of the Captive Nations Week to the World freedom movement and described the mainland of China as "the largest prison camp in the world."

[From the Hartford, Conn., Courant, July 16, 1978]

CRUELTY AND CAPTIVE NATIONS

Captive Nations Week, which begins today, has a special significance this year. It comes at the conclusion of the infamous trials in Russia of two men accused of anti-Soviet activities. Their only real transgression is disagreeing with Communist tyranny. People can be kept cruelly captive as well as nations.

President Carter has condemned the trials of Anatoly B. Shcharansky and Alexander Ginzburg as "an attack on every human being who lives in the world who believes in basic human freedom and is willing to speak for these freedoms or fight for them." It was one of his strongest human rights statements to date.

The President's proclamation for Captive Nations Week went beyond the oppression of the Soviet Union. He championed liberty everywhere in the world and urged Americans "through appropriate ceremonies and activities . . . to renew their dedication to the cause of all people who seek freedom, independence and basic human rights."

Prime examples of captive countries are Latvia, Estonia and Lithuania, which were annexed by Russia in 1940, their national identities quickly crushed. East Germany, Czechoslovakia and other Communist bloc countries in Eastern Europe are nominally independent but the presence of large numbers of Soviet troops keeps them captive, too.

Oppression of the kind denounced by Mr. Carter is not limited to the Communist orbit. The United Nations Commission on Human Rights has condemned the lack of liberty in such widely-separated countries as Idi Amin's Uganda, Chile, Iran and Israeli-occupied Arab lands.

Captivity occurs whenever mankind is entrapped by tyrannical government—a condition to be particularly deplored in this commemorative week.

[From the Kilmarnock (Va.) Rappahannock Record]

DR. HENRY LANE HULL ADDRESSES SEMINAR ON CAPTIVE NATIONS

This past week President Carter designated as National Captive Nations Week, following a custom begun in 1959 when Congress authorized the President to proclaim the third week in July each year as a period of recognition of the various peoples denied national self-determination by communist rule over them. As part of this year's observances the United States Senate and the House of Representatives each sponsored commemorative programs.

The following is the text of the remarks delivered by Dr. Henry Lane Hull, a resident of Wicomico Church, who is a professor at the University of Alabama in Huntsville, at the program held in the Rayburn House Office Building in Washington on July 20.

Today as we address ourselves to the topic of Human Rights and Captive Nations, it is interesting to begin by focusing our attention on some of the parallel developments over the twenty years in which Captive Nations Week has been commemorated. Analogously, then, we can see what developments have transpired over this period. First, however, at the risk of sublime oversimplification, let us state: the Captive Nations are there. They are no fantasy as was recently charged by Mr. Stephen S. Rosenfeld of the Washington Post in his editorial. While we have been making our annual observances the peoples who comprise the membership of the Captive Nations List have made little progress in liberating themselves from the militarily-imposed, totalitarian yoke of Marxian imperialism.

They may have a few more consumer goods to lessen slightly the toil and utter grayness of life under such a system, but by our Western standards their plight is no better; in truth it is worse. Their lives are more rigidly surveyed by computers and other means of technology provided in many cases by Western firms gleefully selling the ropes with which capitalism will be hanged, to paraphrase Lenin. Their system "protects" them more competently than twenty years ago with a burgeoning military capacity and a navy of frightening proportions in every sea on the face of the globe, by an "International" abroad staffed by Soviets, Cubans or other surrogates, undermining freedom wherever and whenever a crack in its breastplate may be found, and by orbiting devices designed to spread their dominion even to the stars. Also, let us not forget that their shoreline and borders are more proficiently clogged with merchanisms to isolate them from the message of freedom. Nevertheless, under this monolith, the peoples remain; they suffer; they endure.

On the other side, what has the West achieved over the last twenty years? Most dramatically, in 1960 President Kennedy, then a candidate, promised to put a man on the moon before the end of that decade. Nine years ago today that pledge was fulfilled. Civil rights and liberties comprising a plethora of social legislations have been brought forth in this country to preserve and advance liberty, the most all-encompassing of human rights. Yet in the end, despite this impressive record over these twenty years, not a single Captive Nation has been set free. On the contrary, the List of Captive Nations has grown significantly: Cuba, Cambodia, Laos, South Vietnam. Even such mild aberrations as Czechoslovakia-1968 have been brutally blotted out, and the hopes for national fulfillment in much of the world remain unredeemed.

Thus if we as a people, a nation, have not succeeded in producing concrete results in the Captive Nations, to what may we attribute our failure, and how may we improve in the period of renewed attention to human rights just now unfolding? For a start, we can listen. The Captive Nations speak to us today, sometimes in oblique tones with muted resonances, but more often in martial cadences for all the world to hear. The Poles who loudly respond to the prayers of their priests at Masses in churches always packed to the doors, the Georgians who demand that their native language be given precedence over Russian, a foreign tongue, in their homeland, the East Germans who still give their lives to get over, or under, or through,

the Wall—all give testimony to the survival of nationalism and freedom. In the last two weeks alone Alexander Ginzberg and Anatoly Sharansky have left us in awe over the majesty of their quest for freedom, dignity, and truth.

Each of the Captive Nations is telling us that Marxism has failed, and that nationalism has survived as the strongest collective statement of freedom, just as it did under Tsarist domination before and under Nazi rule during the Second World War. Thus let us listen to the captive peoples aware that their voices of protest need our support and encouragement.

Secondly, let us remember that legitimate nationalism has not only survived in the U.S.S.R., but remains our strongest weapon against Soviet totalitarianism. This concept is particularly difficult for Americans to understand. Our national evolution has been unique. We have not shared in the traditional process common to most European states. If we look at modern nations such as Italy, Germany, Belgium, we see that the peoples of those countries first recognized their common identity, be it of language, religion, culture, economy, and then set out to establish a state as the political expression of that national existence. In our case the Founding Fathers also recognized their commonness apart from the Mother Country, but the State that they created from 1776 until 1789 has expanded the definition of nationalism far beyond any consciousness they may have envisioned. Their legacy became the melting pot nation of freedom, the unique example of a governmental structure in which all people were bound together by the desire to be free. Hence the American foundation was able to draw from many sources to form a single nation: E PLURIBUS UNUM. We Americans tend to overlook the nature of national formations which were historically different from our own, and which unfolded differently from their origins. The words of John Dos Passos written nearly forty year ago are still accurate: "In spite of the ritual invocation of the names of the Founding Fathers round election time, Americans as a people notably lack a sense of history." (The Ground We Stand On, p. 3). Thus if our knowledge is wanting on the nature of our own national composition, how much weaker we must be about the national heritage of the various Captive Nations. The abiding nationalism within each of the Captive Nations forms the weakest link in the chain of totalitarianism.

Thirdly, if the Captive Nations speak to us, we in turn must not only listen, but speak back to them as well. It is important, however, that our speech be true. We cannot continue to apply a double standard towards different peoples denied human rights. The rights are the same for all mankind. The truths we hold concerning human rights have universal application. They are not true because we hold them, but rather we hold them because they are true. As we apply our basic beliefs in analyzing and defining human rights in one country we must be consistent and follow the same methodology for each other country. If we are concerned about oppression in one area of the world, we must be equally concerned everywhere. We cannot expect to be treated as a Great Power, to be respected as the Light of Freedom, if we condone political persecution, whether it be at the individual or the national level, in one state and overlook it in another.

Most particularly, our own national aspirations, not to mention those of the Captive Nations, are grossly violated by irresponsible and untrue pronouncements by uninformed Americans, whether from a President or an Ambassador. Mr. Ford's denial of Soviet domination of Eastern Europe in his debate with Mr. Carter during the 1976 presidential election and Mr. Young's remark last week about "political prisoners" in the United States offer two vivid examples of the dangers of treating the subject of the Captive peoples ignorantly or carelessly. The war of words and ideology between totalitarianism and freedom is waged each and every day; our public officials must learn to accept the responsibilities entrusted to them and speak accordingly. President Carter is to be commended for his genuine concern for human rights, and encouraged to probe more deeply, to sharpen his definition, and to see the historical roots of structures that block the path to freedom at the personal and at the national levels.

It is totally erroneous to surmise that "captive nationality" will wither away within the Marxian milenium. Marxist ideology finds this dilemma to be its greatest contradiction. If the state is to wither with the triumph of the dictatorship of the proletariat, and if man is to emerge in a post-national mode of existence, then why is nationalism today strongest in those peoples under communist domination? Imperialism may have triumphed militarily, but it has never triumphed spiritually. The consent of the governed has never been achieved in the Captive Nations. Regardless of whether we examine the Tsarist or the Soviet model, the imperial structure has been unpopular and foreign to the peoples over whom it rules, especially to the non-Russian minorities of the U.S.S.R. "Moscow III Rome," the bedrock ideology of Muscovite and Russian imperialism, appears today with its Marxian cover-up, but its psychology remains constant. If we can contain its spread, the national structures engulfed therein may have a chance for expression, but if we fall before it in its path towards world domination, how will future generations know the meaning of freedom? There will surely be no books to tell them about it and the course of twenty-five hundred years of intellectual growth from the Ancient Greek philosophers down to the present will have to be cut from the rock again. As the Captive Nations struggle to exist, to be free, to prevail under oppression, we should join with them in manifesting the courage to be free. We possess the nucleus of all liberty, namely, intellectual freedom. It allows us to examine any subject we choose with the blessings of freedom of inquiry, freedom of analysis, and freedom of conclusion. These gifts are the birthright of all mankind. Let us use them wisely and morally; if we do, someday all men and all nations may possess them as well.●

MEMBERS OF CONGRESS INTRODUCE HOUSE CONCURRENT RESOLUTION 720, TO PROTEST PLAN OF SOUTH AFRICAN GOVERNMENT TO DESTROY "CROSSROADS"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, on September 20, 1978, I introduced, together with my distinguished colleagues, the gentleman from Illinois, the Honorable JOHN ANDERSON, chairman of the House Republican Conference; the gentleman from Maryland, the Honorable PARREN MITCHELL, chairman of the Congressional Black Caucus; the gentleman from New Jersey, the Honorable PETER RODINO, chairman of the Judiciary Committee; the gentleman from New Jersey, the Honorable ANDREW MAGUIRE, and the gentleman from New York, the Honorable THOMAS DOWNEY, cochairmen of the Ad Hoc Monitoring Group on South Africa; the gentleman from Michigan, the Honorable CHARLES DIGGS, chairman of the Subcommittee on Africa of the Committee on International Relations; and 72 other Members of the House of Representatives, House Concurrent Resolution 720, which expresses the concern of Congress for the safety of the residents of the black community in South Africa known as Crossroads.

The concurrent resolution urges the Government of South Africa to reconsider its plan to destroy Crossroads and calls upon that government to recognize the rights of the residents of Crossroads to continue to live there.

Mr. Speaker, Crossroads is a community of 20,000 black people who reside just outside Cape Town, South Africa. The South African Government has declared its intention to destroy the community in the very near future, despite the protests of the residents of the community, thousands of residents of Cape Town, church leaders and other concerned people inside and outside South Africa.

Mr. Speaker, Crossroads was established in 1975 for squatters who have lived, on the average, for over a decade in the Western Cape region. Some have lived in Cape Town for over 25 years. Most of the residents moved to Crossroads after having been evicted from other squatter camps in the area. The people live in 3,000 shanties which they have built.

It is estimated that over 84 percent of the men and 45 percent of the women of Crossroads are gainfuly employed and are members of the productive labor force in the Cape Town area. In fact, estimates are that only 6 percent of the heads of households in Crossroads are unemployed—a lower unemployment rate than prevails nationally in South Africa. The average household head in Crossroads has been living in Cape Town for 18 years and his wife has been in Cape Town for over 11 years.

Most of the wives live in Crossroads illegally. They chose to live in the squatter community in order to be with their husbands and families. Most of the men arrested during the recent South African police raids on Crossroads were charged with illegally harboring their wives.

It should be noted, Mr. Speaker, that the residents of Crossroads have begun to form a community of self-government. There is an elected committee which is responsible for overseeing the community. The community has built its own educational, recreational, and sanitary facilities.

Mr. Speaker, the residents of Crossroads have taken a barren and ugly area and have sought to turn it into a flourishing, thriving community. They have made a courageous attempt to convert something of baseness into something of beauty. The residents now ask nothing more than to be able to continue to live in the homes they have created.

Mr. Speaker, the situation in Cross-

roads and the impending confrontation between the Government and the squatters represent another example of the effects on human life of the South African policy of apartheid. In this connection, I note that the Government of South Africa is now preparing to change its leadership as Prime Minister Vorster plans to leave the stage of South African politics. In an editorial in the Christian Science Monitor of September 22, 1978, on "South Africa's future," that newspaper notes of Mr. Vorster that "his commitment to separation of the races has been total and recent years have seen a brutal suppression of black leaders and of opponents of the present system. Only recently the Government cruelly raided a black squatter camp outside Cape Town in preparation for demolishing it."

Mr. Speaker, the camp to which the Christian Science Monitor refers is, of course, Crossroads, and it would not appear that the upcoming change in leadership in South Africa will mean significant moderation in the policy of separate development.

Moreover, with the announced intention of the South African Government unilaterally to proceed with elections in Namibia (Southwest Africa), neither does the government of South Africa appear to have any plans to moderate its policies in favor of any sort of government by majority rule.

This, Mr. Speaker, is some of the context in which this resolution is introduced.

Its sponsors hope that the resolution will be expeditiously considered by the Committee on International Relations in order to make clear to the government of South Africa that Members of Congress disapprove of the inhumane and undemocratic policies which it has followed of which the plan to destroy Crossroads is an example.

We can recall, Mr. Speaker, that just about a year ago, following the death, while in detention, of Stephen Biko, the black leader, and after the arrest of hundreds of South Africans who were opposed to the policy of apartheid, our Government expanded the arms embargo against South Africa.

The demolition of Crossroads and the probable loss of life that will result from the violent removal of the people who live there mean the potential of another tragedy in South Africa.

I hope very much, Mr. Speaker, that our own Government will urge the government of South Africa to avoid the violence and disruption that would occur with the physical destruction of Crossroads.

Mr. Speaker, I insert at this point in the RECORD the text of an article from the Christian Science Monitor of September 15, 1978, entitled "Conscience vs. Apartheid: Cape Town Police Raid Squatters Camp."

[From The Christian Science Monitor, Sept. 15, 1978]

CONSCIENCE VS. APARTHEID: CAPE TOWN POLICE RAID SQUATTERS CAMP

(By Humphrey Tyler)

CAPE TOWN.—It looks as if there is to be no mercy for Crossroads, the populous squatter camp on the fringe of Cape Town which has become a burning crisis of conscience for thousands of South Africans.

Hundreds of armed police raided the camp twice on Sept. 14 starting soon after midnight. When residents massed into angry crowds, tear gas and dogs were used to disperse them. One man was slain, and a woman was wounded. Hundreds have been arrested for being in the area "illegally."

Eyewitnesses also saw police hitting people with sticks.

The current raids, which followed another raid just eight days ago, is considered a clear indication that the government is determined to destroy the camp, as it has announced it will, before the end of the year.

"Better in fact that they come with bulldozers and knock our houses down than that they kill us," said one Crossroads resident, referring to the man who was shot dead.

TWO VERSIONS

According to the police, the man was killed when a policeman was cornered by residents. But another version is that the man in fact was simply running up a sand dune to see what was happening when he was shot.

South Africa is bitterly divided over Crossroads. To blacks and many whites, it is the symbol of resistance to unjust racial laws that prevent black migrant workers from distant country areas bringing their wives and children to live with them when they get jobs in the city.

Instead of moving into the bleak, barrack-like "single quarters" in the black townships as they should by law, the men of Crossroads have built simple wood and iron shacks for themselves and their families on open land in a clearing in the bush. About 20,000 people live there at present.

Technically, the women and children are there illegally, and must be sent away.

So to the government, Crossroads is the symbol of open defiance of its apartheid decrees, and Cabinet ministers and officials have given notice repeatedly that the camp will be demolished.

However, as a concession, the government did agree to delay this until after the winter rains and the worst of the cold weather.

Now the people of Crossroads are perhaps the only community anywhere who pray for cold and rain, and who shiver with apprehension when the sun shines.

But the winter is ending now. The days are growing longer and warmer. Spring flowers are out on the lovely mountains in the distance round the camp. And the police have come as well.

There have been determined attempts to dissuade the government from destroying Crossroads. Petitions have been circulated and signed by more than 30,000 people in and around Cape Town. The churches have sent deputations to see officials. And the main white opposition party, the Progressive Federal Party, has launched appeal after appeal.

NO "GIVE" OFFERED

But the government has refused to bend.

And among those arrested Sept. 14 were two church ministers.

One of the remarkable things about Crossroads is that in spite of its humble shacks, its winding streets full of holes, and its lack of most basic amenities, there is a remarkable community spirit. Two schools are packed daily with bright-eyed children, and the affairs of the camp are controlled very effectively by two committees, one male, the other female.

There also is a community guard—a sort of civilian police force—which enforces rules the residents make.

The community also has its own system for warning residents when a police raid is imminent.

However, they were caught unaware when the police left, then returned within a few hours, catching many of the residents in their beds. Then the police moved quickly from shack to shack, checking documents, and making arrests.

Mr. Speaker, I insert an article from the Washington Post of September 23, 1978, entitled "A Shantytown With Pride."

[From the Washington Post, Sept. 23, 1978]

A SHANTYTOWN WITH PRIDE

(By Peter Grothe)

In "Cry, the Beloved Country," Alan Paton's classic novel about South Africa, the black clergyman says about the whites:

"I have one great fear in my heart, that one day when they are turned to loving, they will find we are turned to hating."

Those words were written 32 years ago. As events like the recent shooting by the South African riot police at Crossroads, a black squatters' community outside Capetown, would suggest, the South African government is trying its best to make a prophet out of Paton.

Crossroads is a shantytown of 3,000 shacks housing approximately 20,000 blacks. The government has promised to bulldoze Crossroads within the very near future. What is it about Crossroads that has so profoundly moved so many of us international visitors who have been there? It is a squatters' camp, which connotes poverty and squalor, but it is much more.

It is a model of community development and community pride. And most important, and perhaps most threatening to the regime, it is a model of what black-white relations could be in South Africa. The relations between the blacks and the white church workers and white social workers at Crossroads are, to recall Paton's words, "lovely beyond any singing of it."

The blacks built shacks of corrugated iron in the scrub and sand dunes near the Capetown airport. They painted the outsides, wallpapered the insides, laid down solid flooring. They planted vegetable gardens. They built two schools, two churches and an adult center where literacy classes are taught.

Crossroads, until the police started arresting people, was not a depressing place. It had a vitality and vibrancy about it. According to a study, 94 percent of the heads of households are employed, either in Capetown or in the economic infrastructure of Crossroads. In short, Crossroads is a going concern. It provides housing in a city desperately short of housing. It is a viable community, making an economic contribution. There has been virtually no crime. Why then has the government pledged to demolish it?

The answer is that the very existence of Crossroads strikes at the heart of the government policy of separate development. Under that policy, the 70 percent of the population that is black will live in the so-called "independent homelands," which will constitute 13 percent of the land. The men can live legally in the cities on a year-to-year contract basis, but the great majority of the families must remain in the homelands and can only see the men two to three weeks a year. Thus, most of the women and children are at Crossroads illegally, and the husbands are guilty, according to the government, "of harboring their wives and children."

"Yes, I am here illegally, so that our children and I can live with my husband," a mother of four told me three weeks ago. "I wonder whether our government ministers would be content to see their families two weeks a year. I am having to go outside the law in order to uphold my marriage vows."

A woman leader said, "We just had a meeting with 220 women, and we vowed to stay in our shacks with our children when the bulldozers come. We can't fight the police. We have no arms. But we are prepared to die here."

If the women do what they vowed to do, Crossroads could become a flashpoint, another Sharpville or Soweto, and it is doubtful that the impact could be contained within South Africa's borders. There have already been demonstrations and prayer meetings about Crossroads in northern Europe. The American government has made representations to Pretoria, and last week 17 members of the House of Representatives pleaded for the saving of Crossroads. Rep. Andrew Maguire (D-N.J.) said the demolition of Crossroads would be "a *cause celebre* in this country and throughout the world. It would have a significant impact on the current debate in the Congress and in the nation on American investments in South Africa."

After an intensive month of speaking with whites and blacks throughout South Africa, I was struck by the fact that the black and white communities seem to be ships that pass in the night. Very little real communication takes place. The Afrikaners maintain their strange mixture of piety and callousness and the blacks—especially the younger ones—seem to be becoming more bitter and militant. It is not inconceivable that Crossroads—or another Crossroads a year or two down the road—could spark an explosion.●

Mr. Speaker, at this point in the RECORD I insert the text of House Concurrent Resolution 720 together with the list of the cosponsors of the resolution:

H. CON. RES. 720

Whereas the community of squatters known as Crossroads was established in 1975 near Cape Town, Republic of South Africa, so that black workers could live with their families;

Whereas Crossroads is the only remaining community in the Cape Town area where black workers are able to live with their families;

Whereas the twenty thousand residents of Crossroads have built their own homes; have provided their own educational, recreational, and sanitary facilities; and have contributed to the economic success of the area through the legally recognized employment of 73 per centum of the men and 25 per centum of the women and the informal employment of an additional 11 per centum of the men and 20 per centum of the women;

Whereas on September 5, 1978, armed riot police forces of the Republic of South Africa broke into homes in Crossroads and arrested between four hundred and five hundred individuals for illegal residency and for the illegal harboring of family members;

Whereas on September 14, 1978, in a massive show of force using tear gas and police dogs, members of the armed riot police forces of the Republic of South charged into Crossroads beating many residents of the community, arresting over one hundred and fifty individuals including community leaders and persons of all races who supported the continued existence of the community, and causing the death of three individuals and the injury to many others including women, children, and religious leaders;

Whereas, to enforce the racist policies of apartheid and separate development, the Government of the Republic of South Africa has repeatedly stated that it will demolish Crossroads by the end of 1978, an action which would cause families to be divided and individuals to be separated from their homes and jobs; and

Whereas political and religious leaders from many nations have condemned the callous actions of the Government of the Republic of South Africa regarding Crossroads: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress is deeply concerned for the safety of the residents of the South African black community known as "Crossroads" and strongly urges the Government of the Republic of South Africa to reconsider its plan to destroy Crossroads and to recognize the right of the residents of Crossroads to continue to live in the community which they built.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 9281, RELATING TO THE DEDUCTIBILITY OF FOREIGN CONVENTION EXPENSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on September 27, 1978, the Committee on Ways and Means ordered favorably reported to the House H.R. 9281 with amendments. The bill would replace the restrictions imposed on the deduction of foreign convention expenses by the Tax Reform Act of 1976 with a new set of rules which would be easier to understand by taxpayers and easier to enforce by the Internal Revenue Service.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of H.R. 9281 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule which would provide:

First. Committee amendments, which would not be subject to amendment;

Second. One hour of general debate, to be equally divided;

Third. Waiving all necessary points of order; and

Fourth. One motion to recommit with or without instructions.

I anticipate that H.R. 9281 will be officially reported to the House and the committee report filed in the very near future. It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.●

TOXIC SUBSTANCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

● Mr. LAFALCE. Mr. Speaker, I am inserting in the RECORD the following two articles from the Buffalo Courier-Express in order to delineate further for my colleagues the terrible problems we face across the country from toxic waste neglect.

The articles follow:

BURY NOW, PAY LATER: LOVE CANAL TOPS LIST OF DISASTERS

(By Michael Desmond)

New York State has a prominent place among centers of industry.

But, it is also the location of at least five major environmental disasters involving hazardous chemical wastes. They are:

1. The Love Canal area in Niagara Falls, where a closed waste dump has begun to leak a variety of dangerous chemicals, at least one of which cause human cancer, forcing the evacuation of hundreds of families.

2. Extensive contamination of the Hudson River and its fish with the toxic PCB chemical family.

3. Contamination of drinking water wells on Long Island with chemicals, including the cancer-causing vinyl chloride.

4. Spills into Lake Ontario from a bankrupt chemical waste processing plant in Oswego and an expensive program to clean up waste left behind by the company.

5. Contamination of Lake Ontario and its fish by the dangerous pesticide Mirex, a contamination so bad that at one point the state banned catching fish from the lake.

LOVE CANAL DUMP

The Love Canal, a chemical waste dump in Niagara Falls, was closed in 1953. About two years ago, the dump began to leak dangerous chemicals, at least one of which is known to cause cancer in humans. The leaking chemicals are forcing the evacuation of hundreds of families. It isn't known if they will ever be allowed to return.

As a result of the Hudson River PCB spill and the Lake Ontario Mirex situation, New York is probably far ahead of other states in its program to systematically sample and look for chemical contamination.

Yet the state still is in the early stages of finding out how serious its toxic waste problem really is.

Three days ago the State Department of Environmental Conservation said it has asked regional officials to find out where the hazardous waste dump sites are throughout the state.

The list is expected to be completed by the end of next week.

HEAD START FOR STATE

So, despite the head start afforded New York State by its series of environmental disasters, the state obviously is far from gaining the upper hand on its chemical waste mess.

Charles Goddard is chief of the Hazardous Waste Management Section of the Division of Solid Waste Management of the New York State Department of Environmental Conservation. He recently declared:

"In New York State, industry generates approximately one million metric tons of hazardous waste per year. In more descriptive terms this quantity would cover a square mile to a depth of slightly greater than one foot."

New York must control this waste carefully, not only because the material can be dangerous but also because the state has 5.2 million persons who obtain their water supply from ground water.

The most extreme example of this is on Long Island. In the heavily populated counties of Nassau and Suffolk, all 2.5 million people drink water which comes from wells. To protect this area the federal Environmental Protection agency established special regulations went into effect Sept. 1.

SPECIAL LIMITS

Limits on dissolved solids were established because the underground water table is the principal source of drinking water; if the water table were contaminated, it would create a significant hazard to public health.

Long Island became aware of drinking water problems in 1972, when taste and odor problems were reported at wells serving the 20,000 workers of the Grumman Aerospeace Corp. in Bethpage in Nassau County.

It was not until March 1974, that an in-

dustrial waste dump at Grumman was found to contain the human cancer causing chemical vinyl chloride and chemical solvents.

A nearby Nassau County plant of the Hooker Chemicals & Plastics Corp. that was making polyvinyl chloride was also found to have both vinyl chloride and chemical solvents in its wells. In Oct. 1975, two Grumman wells were found to contain the known animal cancer-causing solvent trichloroethylene along with tetrachloroethylene.

VINYL CHLORIDE FOUND

Vinyl chloride was found in one well. Both were immediately shut down. Further testing of wells across Nassau County showed a wide variety of chemicals, including chloroform and carbon tetrachloride, two other chemicals that can cause cancer in animals.

The County Health Department has limited use of a number of wells. Much of the contaminants apparently come from household and commercial activity that entered the ground water after being dumped down drains. The state and county are trying to remove many products from use and to limit casual commercial dumping.

New York's reaction to this is complicated by its knowledge that more than 200 lakes in the Adirondack State Park are too acidic for fish, apparently because airborne chemicals are washed from the sky by rain.

The Empire State has vast recreational programs, especially in fishing. In two areas, chemical waste has crippled those programs:

1. Several years ago, it was learned that the General Electric Co. had dumped significant amounts of PCBs from two plants near Albany.

BURNING PERMIT FOR PCBS

Now, GE has the only permit in the country to burn PCB in a special incinerator for its own use. It is not licensed to handle PCB for any one else.

But, the PCBs have ruined fishing in most of the Hudson because levels are so high. Apparently, the actual bottom of the river will have to be dredged in various places, and the material carried away some place to be buried.

2. Mirex is a different situation. Canadian scientists found this strong pesticide, used against fire ants in the South, in Lake Ontario fish. It is closely related to the pesticide Kepone which contaminated Virginia's James River and part of Chesapeake Bay, shutting their fishing industry.

Hooker has long since stopped making or processing mirex in its Niagara Falls plant. But, it has sent 153 tons of it to the SCA Pollution Control Services Corp. plant in the Niagara County Town of Porter for storage.

FISHING BAN

Initially, New York banned the taking of fish from Lake Ontario. Later, the ban was modified to advise to eat only a limited amount of Lake Ontario fish. Pregnant women were advised by the state to eat none of it. The state also has a program for women from Lake Ontario areas to check mother's milk for Mirex. The chemical is thought to cause liver damage in humans and is known to cause birth defects in animals.

Exactly what can be done about the chemical isn't really known.

Ironically, new research indicates the fire ant might not be such a bad thing after all. It apparently is the mortal enemy of boll weevils, the curse of cotton growers because they damage cotton crops.

The priority concern in New York right now is Pollution Abatement Services, the bankrupt chemical waste processing plant on the shore of Lake Ontario in Oswego. The Coast Guard has spent $1.9 million to try cleaning up the chemical mess.

SEEKING INFORMATION

"Right now, we are negotiating to find out what is there. The company has no records," Goddard said of the 15,000 drums of material left behind by the company.

The state's proposed supplemental budget contain $750,000 to pay for testing to find out what is in the drums. Then, the state will apparently have to pick up the tab for treating the chemicals and disposing of the drums.

Chemical waste drums can be cleaned and reused. But, usually the most decrepit drums are used to ship the materials to waste treatment sites.

Goddard claims New York now has its waste problem pretty well under control, saying: "Most of it now goes to proper disposal sites."

TWO DISPOSAL OPERATIONS

The state benefits from having two of the best known companies in the disposal field within its boundaries. SGA in the Town of Porter and Newco Chemical Waste Systems Inc. in Niagara Falls.

In addition, the state cooperates with other states to keep track of wastes shipped from one state to another. Without the rules under the Federal Resource Conservation and Recovery Act (RCRA), there is no system to keep track of wastes shipped across state lines.

For example, a company seeking to dispose of wastes could give New Jersey a form showing the material was sent to New York. But, without cooperation among the states, there would be no guarantee it actually went.

Goddard is annoyed at federal EPA for its delays in getting out the RCRA rules.

"MORE DISCOURAGED"

"I'm getting more and more discouraged at what I'm seeing of their time schedule," he said.

EPA was supposed to have the rules last April, 18 months after the act became law. Now EPA, headed by Douglas M. Costle, administrator, says it will not issue the rules until January 1980, 39 months after enactment.

Part of Goddard's unhappiness involves his state's Industrial Hazardous Management Act.

REGULATIONS DELAYED

As a result of bargaining with Associated Industries of New York, an industrial lobbying group, the state law will not take effect until the EPA rules are issued.

Currently, New York has increasingly tighter controls on industrial waste, including transportation and design rules for hazardous waste treatment facilities and secure dumps.

Goddard noted, "In the last few years and especially in recent months, industry has become acutely conscious of the problem."

TEXAS COAST ATTEMPTING COMEBACK AFTER YEARS OF TOXIC WASTE NEGLECT

(By Michael Desmond)

Working inland from the Gulf of Mexico along the Houston Ship Channel in Texas is one of the nation's greatest industrial complexes, a complex traditionally not fettered by any government rules on pollution controls.

Then a tropical storm or a hurricane would sweep in from the Gulf every once in a while and flush the channel clean for a new season of dumping.

In 1971, the Federal Environmental Protection Agency (EPA) said the Ship Channel each day was receiving 55,000 pounds of oil and grease, 7,900 pounds of zinc, 5,000 pounds of cadmium, 1,600 pounds of lead, 1,000 pounds of cyanide, 400 pounds of phenol and 200 pounds of chromium.

The only surprising thing is that one day the chemicals didn't mix and turn the whole thing solid.

After the EPA estimate, it called for a limit on dumping in the channel. "The Texas Water Quality Board scoffed at this," noted Keith Ozmore, environmental assistant to Rep. Bob Eckhardt, D-Texas, to The Courier-Express.

He added, "The Water Quality Board did not do very much about reductions from industry along the channel."

NEW DEPARTMENT SET UP

At the same time, a couple of environmental messes have attracted some attention.

The Houston Ship Channel was one, although it has been partially cleaned up. Another involved French Ltd. of Houston Inc., a waste disposal firm, with a dump in Crosby, near Houston.

"The odor would gag a maggot," a neighbor told a Courier-Express reporter when the dump was operating.

In discussing what happened there, EPA put it rather succinctly: "Environmental damage—Contamination of ground and surface waters. Air pollution from occasional fires. Destruction of local vegetation."

WASTES GO IN RIVER

Over a period of about six years at French Ltd., 70 million gallons of waste were dumped into an unlined sand pit near a truck stop. Then, on June 15, 1973, a heavy flood flushed the disposal site, removing most wastes into the San Jacinto River. Later, a $5,000 fine by a state court was ordered paid to Harris County. The site was turned over to the state instead of paying a separate state fine.

This may all be in the past, at least according to J. C. Newell, director of permits for the Waste Waters Division of the Texas Water Resources Department.

Texas now requires permits for dumping solid industrial waste, monitors the waste and requires a manifest system to indicate where it goes. The dump site permits also include the requirements for closing a site.

He cited the Ship Channel as an example, "It's not suitable for swimming. But, considerable progress has been made."

Eckhardt agrees. The Deer Park Democrat must balance between the environment and a district of which he admits, "I really do have more of the chemical industry in my district than any other congressman."

SPONSORED CONTROL ACT

He has been a leader against dumping of chemicals in the Gulf of Mexico and was the key sponsor of the Toxic Substances Control Act (TOSCA), one of the greatest forward steps ever by government in attempting to get a control on the alchemists of industry.

TOSCA gives EPA the authority to regulate the production and use of all chemicals harmful to public health or to the environment. The law requires EPA to list all such chemicals now on the market, to limit the use of those found to be harmful and if necessary to ban their production.

This law also banned the manufacture of PCB.

The EPA has been slow in implementing TOSCA.

It also has been slow in drawing up the regulations to implement the Resources Conservation and Recovery Act (RCRA) signed into law in 1976.

EPA SLOW TO START

That law gave EPA 18 months—until April, 1977—to draft the implementing regulations. The deadline has passed. Now, EPA—headed by Administrator Douglas M. Costle, an appointee of President Jimmy Carter—has announced it will not have the regulations

ready until January, 1980. That would be 39 months after enactment of RCRA and 21 months after the deadline established by Congress.

Meanwhile, EPA admits it doesn't have a handle on the problem of hazardous chemical wastes which the regulations would help to control.

TOSCA was written after scientists made public that vinyl chloride, a common industrial chemical, caused a rare and invariably fatal form of liver cancer in chemical workers.

There had already been several previous cases of common industrial chemicals or materials turning out to be cancer causing. These include asbestos and a series of coal tar dies.

TOSCA COMPLEMENTS RCRA

Ironically, the federal government has just discovered the EPA offices in New York City are located in a building filled with asbestos used in construction.

TOSCA amounts to a companion to RCRA. TOSCA will control what chemicals are allowed into industry and which should be removed; RCRA will regulate the disposal of industrial chemicals.

"Of course the toxic substances act is relatively new and it has a very small budget," Eckhardt noted. He hinted why it may have a small budget. "Perhaps industry is willing to go along and they feel they could kill it by not putting up money."

One area in which Eckhardt feels he has been successful is ocean dumping of chemical wastes. It's a long standing practice to dump drums of waste in the Gulf of Mexico. Many contain sodium sludge and will explode if exposed to water. The idea is to put holes in the drum and then it is supposed to explode under water. But, some have blown up in fishermen's nets or, in one case, on the boat itself.

It was open season for chemistry. Said Eckhardt: "I started to complain a long time ago. People were shipping drums down the Ohio River to dump in the Gulf of Mexico."

There is an underwater coral reef not far from Houston in a dump area, the congressman noted.

"Lord knows what damage they may have done in terms of the marine life and beauty of the area," he said.●

INTRODUCTION OF H.R. 14159

(Mr. RANGEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANGEL. Mr. Speaker, on behalf of the Task Force on Employee/Independent Contractor Issues appointed by Chairman AL ULLMAN of the Committee on Ways and Means, I am introducing H.R. 14159, a bill to help taxpayers involved in employment tax status controversies with the Internal Revenue Service.

During the last 2 months, the task force held a series of meetings on problems arising from IRS reclassifications of individuals, whom taxpayers generally had treated as independent contractors, as employees. During these meetings, the task force considered the difficulties such reclassifications cause for taxpayers, as well as the concern of the Internal Revenue Service about compliance with the tax laws. The task force concluded that the short time remaining for legislative action in this session would not be sufficient to resolve the many complex issues involved in this problem. Therefore, the task force is recommending that full consideration of this area be deferred until next year when work to develop a comprehensive solution should be undertaken.

However, the task force believes that before this session ends, the Congress should provide interim relief for taxpayers facing large employment tax assessments resulting from reclassifications. The bill which I am introducing is cosponsored by all members of the task force as an interim measure for consideration by the full Committee on Ways and Means. The report of the Task Force on Employee/Independent Contractor Issues, which includes a technical explanation of H.R. 14159, has been forwarded to Chairman ULLMAN.

I include the task force report in the RECORD at this point.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 25, 1978.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, Washington, D.C.

DEAR MR. CHAIRMAN: After a series of meetings during the last two months, the members of the Task Force on Employees/Independent Contractors concluded that the short time remaining for legislative action in this session would not be sufficient to resolve the many complex issues involved in this problem. Therefore, we recommend that full consideration of this area be deferred until next year when the Committee should work on the problem in order to formulate a proposal for a comprehensive solution.

However, the members of the Task Force agree that the Congress should provide interim relief for taxpayers who are involved in employment tax status controversies with the Internal Revenue Service and who face large assessments as a result of the Service's proposed reclassifications of workers whom the taxpayers generally treated as independent contractors.

On September 14, 1978, the Task Force adopted an interim measure for consideration by the full Committee on Ways and Means, a bill, H.R. 14159, to provide relief from employment tax liability to taxpayers involved in such controversies unless the taxpayers had no reasonable basis for not treating the workers as employees. Eligible taxpayers are relieved of all liability for Federal income tax withholding, Social Security (FICA) and unemployment (FUTA) taxes with respect to their workers for any period ending before January 1, 1979, during which time the workers were not treated as employees.

The Task Force also believes it necessary to minimize taxpayers' uncertainty about the proper employment tax treatment for workers during the year in which we intend to develop a comprehensive solution. Therefore, the bill also relieves taxpayers prospectively through December 31, 1979, of potential liabilities based on employment status classifications, unless the taxpayers have no reasonable basis for not treating the workers as employees. It is contemplated that legislation developed and adopted in 1979 would apply to taxable years beginning on or after January 1, 1980.

The bill does not change in any way the liabilities of an individual whose employment status is at issue. However, this issue also should be addressed next year in the context of a comprehensive solution.

In addition, the bill prohibits the Department of the Treasury (including the Internal Revenue Services) from publishing any regulation or Revenue Ruling, with respect to individuals' employment tax status, after enactment of this proposed legislation and before January 1, 1980, or the effective date of any legislation clarifying the employment tax status of individuals, whichever is earlier.

A report, including a copy of the bill, H.R. 14159, which is cosponsored by all the members of the Task Force and an explanation of the bill, is enclosed.

Sincerely yours,

CHARLES RANGEL,
Task Force Chairman.

Enclosures.

H.R. 14159

A bill relating to the interim treatment of controversies involving whether certain individuals are employees for purposes of the employment taxes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF CERTAIN EMPLOYMENT TAX LIABILITY FOR PERIODS BEFORE 1980.

(a) IN GENERAL.—If, for purposes of the employment taxes, the taxpayer did not treat an individual as an employee for any period ending before January 1, 1980, then, for purposes of applying such taxes for such period with respect to the taxpayer, the individual shall be deemed not to be an employee unless the taxpayer had no reasonable basis for not treating such individual as an employee.

(b) STATUTORY STANDARDS PROVIDING ONE METHOD OF SATISFYING THE REQUIREMENTS OF SUBSECTION (a).—For purposes of subsection (a), a taxpayer shall in any case be treated as having a reasonable basis for not treating an individual as an employee for a period if—

(1) all Federal tax returns (including information returns) required to be filed by the taxpayer with respect to such individual for such period were filed on a basis consistent with the taxpayer's treatment of such individual as not being an employee, and

(2) the taxpayer's treatment of such individual for such period was in reasonable reliance on any of the following:

(A) judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer;

(B) a past Internal Revenue Service audit of the taxpayer in which there was no assessment attributable to the treatment (for employment tax purposes) of the individuals holding positions substantially similar to the position held by this individual; or

(C) long-standing recognized practice of a significant segment of the industry in which such individual was engaged.

(c) CONSISTENCY REQUIRED IN THE CASE OF 1979 TAX TREATMENT.—Subsection (a) shall not apply with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, and before January 1, 1980, if the taxpayer (or a predecessor) has treated any individual holding a substantially similar position as an employee for purposes of the employment taxes for any period beginning after December 31, 1977.

(d) REFUND OR CREDIT OF OVERPAYMENT.—If refund or credit of any overpayment of an employment tax resulting from the application of subsection (a) is not barred on the date of the enactment of this Act by any law or rule of law, the period for filing a claim for refund or credit of such overpayment (to the extent attributable to the application of subsection (a) shall not ex-

pire before the date 1 year after the date of the enactment of this Act.

SEC. 2. PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.

No regulation or Revenue Ruling shall be published on or after the date of the enactment of this Act and before January 1, 1980 (or, if earlier, the effective date of any law hereafter enacted clarifying the employment status of individuals for purposes of the employment taxes) by the Department of the Treasury (including the Internal Revenue Service) with respect to the employment status of any individual for purposes of the employment taxes.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) EMPLOYMENT TAX.—The term "employment tax" means any tax imposed by subtitle C of the Internal Revenue Code of 1954.

(2) EMPLOYMENT STATUS.—The term "employment status" means the status of an individual, under the usual common law rules applicable in determining the employer-employee relationship, as an employee or as an independent contractor (or other individual who is not an employee).

INTERIM REPORT OF THE WAYS AND MEANS TASK FORCE ON EMPLOYEES/INDEPENDENT CONTRACTORS

A. BACKGROUND

Present law

With certain limited statutory exceptions, the classification of particular workers or classes of workers as employees or independent contractors (self-employed persons) for purposes of Federal employment taxes must be made under common law rules. A determination of an employer-employee relationship is important because a certain amount of wages paid to employees generally is subject to social security taxes imposed on the employer and employee under the Federal Insurance Contributions Act (FICA) and unemployment taxes imposed on the employer under the Federal Unemployment Tax Act (FUTA). On the other hand, payments to independent contractors are subject to the tax on self-employment income (SECA). In addition, Federal income tax must be withheld from compensation paid to employees, but payments to independent contractors are not subject to withholding.

For calendar year 1978, both employers and employees must pay FICA taxes amounting to 6.05 percent each on the first $17,700 of an employee's wages, that is, a maximum of $1,070.80 each. The FUTA tax is levied on employers at a rate of 3.4 percent currently on wages up to $6,000 paid to each employee for a maximum of $204 per employee. However, a 2.7 percent credit against Federal tax liability is provided to employers who pay State taxes under an approved State unemployment compensation program. If a State has an approved unemployment compensation program, the effective FUTA tax rate is 0.7 percent.

Individuals with annual net self-employment earnings in excess of $400 must pay a tax of 8.10 percent on self-employment earnings up to $17,700, that is, a maximum of $1,433.70 for calendar year 1978.

Generally, the basis for determining whether a particular worker is an employee or independent contractor is the common law test of control. Under Treasury regulations, if a person engaging the services of another has "the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which the result is accomplished," the relationship of employer and employee is deemed to exist. On the other hand, the absence of a right to control generally indicates that the person performing the services is an independent contractor. In interpreting the Treasury regulations, twenty factors are used in determining whether workers are employees or independent contractors.

Enforcement of law

In the late 1960s, the IRS increased its enforcement of the employment tax laws. Previously, employment tax audits had been superficial or sporadic and only occasionally entailed examination of employment status issues. Many controversies developed between taxpayers and the Service about whether individuals treated as independent contractors should be reclassified as employees. If the IRS prevailed on a reclassification, the taxpayer became liable for employment taxes—withholding, social security, unemployment—which neither had been withheld nor paid to the Treasury.

In some cases, the assessments were for liabilities already paid directly by workers, who paid their own income and self-employment taxes. The IRS has agreed to allow taxpayers certain income tax and FICA–SECA offsets, if they provide the Service with their workers' names and social security numbers. However, many taxpayers lack such information about their workers and cannot benefit from this procedure.

Many taxpayers have complained that proposed reclassifications involve a change of position by the Internal Revenue Service in interpreting how the common law rules apply to their workers or industry. Some taxpayers have prior private letter rulings or technical advice memoranda from the Service in which the Service said that the workers were independent contractors. Others have pointed to prior audits in which their treatment of workers as independent contractors was not challenged. Before the 1970s, however, most audits did not focus on employment tax status determinations; so most taxpayers relied on their own judgment, industry practice, or, in a few industries, published revenue rulings.

During the last few years, the IRS published pairs or groups of revenue rulings which contain one or more restatements of earlier rulings determining workers to be independent contractors and other rulings determining that workers in the same general industry, but under somewhat different circumstances, are employees. Taxpayers also have pointed to these so-called "bracketed rulings" as evidence of changes in IRS positions.

Recent legislative action

Tax Reform Act of 1976

During the 1976 Tax Reform Act conference, House and Senate conferees included in the Statement of Managers a request that the IRS "not apply any changed position or any newly stated position in this general subject area to past, as opposed to future taxable years" until the completion of a study by the staff of the Joint Committee on Taxation on the problems of classifying persons as employees or independent contractors.

Senate action

On August 23, 1978, the Senate attached an amendment offered by Senator Dole to H.R. 7320. The amendment would prevent the Internal Revenue Service from applying any changed position or any newly stated position, which is inconsistent with a general audit position, a regulation, or a ruling in effect on January 1, 1976, in determining whether an individual is an employee for purposes of FICA taxes, FUTA taxes, and Federal income tax withholding.

In addition, the Internal Revenue Service would not be allowed to reclassify as employees any individuals whom a taxpayer, in good faith, consistently treated as independent contractors for employment tax purposes. If all Federal tax returns required to be filed by a taxpayer were filed on a basis consistent with his or her treatment of individuals as independent contractors, the taxpayer would be deemed to have acted in good faith provided that he or she treated the individuals as independent contractors in reasonable reliance on any of the following:

(1) prior Internal Revenue Service audit practice with respect to the taxpayer; (2) published rulings or judicial precedent; (3) recognized practice in the industry of which the taxpayer is a member; or (4) long-standing treatment by the taxpayer of such individuals as independent contractors for employment tax purposes. However, a taxpayer will not be considered to have acted in good faith if his or her treatment of individuals as independent contractors would, on the basis of the pertinent facts and circumstances, constitute negligence, intentional disregard of rules and regulations, or fraud within the meaning of section 6653 of the Code.

The provisions of the amendment would apply with respect to the determination of the employment status of individuals for all calendar quarters for which, as of the date of enactment, assessment of an underpayment of employment tax, or refund of an overpayment of employment tax, is not barred by the operation of any law or rule of law. They would remain in effect until the end of the calendar year in which Congress enacts terminating legislation.

B. EXPLANATION OF H.R. 11459

The Task Force bill, H.R. 14159, provides an interim solution for controversies between the Internal Revenue Service and taxpayers involving whether certain individuals are employees under interpretations of the common law by—

(1) terminating certain employment tax liabilities for periods ending before January 1, 1979,

(2) allowing taxpayers, who had a reasonable basis for not treating workers as employees in the past, to continue such treatment for periods ending before January 1, 1980, while the Committee works on a comprehensive solution, without incurring employment tax liabilities, and

(3) Prohibiting the issuance of Treasury regulations and Revenue Rulings on employment status before 1980.

1. Termination of Certain Pre-1979 Employment Tax Liability:

The Task Force bill provides relief from employment tax liability to certain taxpayers involved in employment tax status controversies with the Internal Revenue Service as a result of the Service's proposed reclassifications of workers, whom taxpayers have considered as having independent contractor status or some other status (e.g., customer), as employees. For purposes of determining such taxpayers' employment tax liabilities, the bill provides that workers shall be deemed not to be the taxpayers' employees, unless the taxpayers had no reasonable basis for not treating the workers as employees.

Liabilities terminated under the bill are those for Federal income tax withholding, Social Security (FICA), and unemployment (FUTA) taxes for any period ending before January 1, 1979, during which the taxpayers did not treat the workers as employees.

Generally, the bill grants relief if a tax-

payer had any reasonable basis for treating workers as other than employees. The Task Force intends that this reasonable basis requirement be construed liberally in favor of taxpayers.

In addition, the bill establishes several alternative statutory standards which constitute "safe havens," and thus, when met, qualify a taxpayer for the termination of employment tax liability. The bill provides that a taxpayer shall be treated as having had a reasonable basis for not treating an individual as an employee for a period if (1) the taxpayer filed all required Federal tax returns (including information returns) with respect to such individual on a basis consistent with the treatment of the individual as other than an employee, and (2) the taxpayer can demonstrate that he fulfilled one or more of three statutory "reasonable basis" tests.

The first statutory reasonable basis standard is met if a taxpayer's treatment of an individual as not being an employee for a period was due to reasonable reliance on judicial precedent, published rulings, technical advice with respect to the taxpayer, or a ruling, for example, a "letter ruling," or a "determination letter," issued to the taxpayer. Under this test, the precedent or published ruling upon which a taxpayer reasonably relied does not have to relate, necessarily, to the particular industry or business in which the taxpayer is engaged.

Under the second statutory "safe haven" standard, a taxpayer shall be treated as satisfying the reasonable basis test for the treatment of an individual for employment tax purposes, by showing reasonable reliance on a past Internal Revenue Service audit of the taxpayer. Such an audit need not have been for employment tax purposes. However, a prior audit would qualify as a "safe haven" basis for a taxpayer's reliance only if the audit entailed no assessment attributable to the taxpayer's treatment (for employment tax purposes) of individuals holding positions substantially similar to the position held by the individual whose treatment is at issue. However, a taxpayer does not meet this second test if in the conduct of a prior audit an assessment attributable to the taxpayer's treatment of an individual was offset by other claims asserted by the taxpayer.

The third statutory method for a taxpayer to establish a reasonable basis for the treatment of an individual as other than an employee is to show that such treatment coincided with a long-standing, recognized practice of a significant segment of the industry in which the individual whose status is at issue was engaged. This test does not require that a practice be uniform throughout an entire industry.

The three statutory methods for fulfilling the requirement that a taxpayer had a reasonable basis for the treatment of an individual as other than an employee are not the exclusive ways of meeting the bill's reasonable basis requirement. A taxpayer who can demonstrate a reasonable basis for the treatment of an individual in some other manner also is entitled to termination of employment tax liabilities.

Termination of employment tax liabilities under the bill is made available to taxpayers who are under audit by the Internal Revenue Service or who are involved in administrative or judicial processes with respect to assessments based on employment status reclassifications. Relief also is extended to any claim for a refund or for a credit of any overpayment of an employment tax resulting from the proposal's termination of liability, provided the claim is not barred on the bill's date of enactment by any law or rule of law.

Taxpayers who have entered into final closing agreements under section 7121 or compromises under section 7122 with respect to employment status controversies are ineligible for relief under the bill, unless they have not completely paid their liability. Thus, for example, a taxpayer who has agreed or compromised a liability for an amount which is to be paid in installments, but who still has one or more installments to pay, is relieved of liability for such outstanding installments. Taxpayers who settled employment status controversies administratively with the Internal Revenue Service or who unsuccessfully litigated such cases are eligible for relief, provided their claims are not barred by the statute of limitations or by the application of the doctrine of *res judicata*. However, an unsuccessful litigant in an employment status case who fulfills the bill's requirements, can avoid collection of any unpaid employment tax liabilities, regardless of the doctrine of *res judicata*.

2. Employment Tax Liability for 1979:

Until the Congress enacts legislation clarifying the employment tax status of individuals, taxpayers will remain uncertain about the proper treatment of many workers under common law interpretations. Therefore, the bill allows taxpayers to continue to treat workers as other than employees through 1979, unless the taxpayers have no reasonable basis for not treating the workers as employees. Thus, the bill prospectively relieves taxpayers of liabilities which they might incur next year. The Task Force believes that work on formulating comprehensive legislation on the employment tax status controversy should be undertaken during this period.

Taxpayers' eligibility for the prospective relief from 1979 liabilities shall be determined under the same tests and the same liberal interpretations of the tests which determine eligibility for pre-1979 relief.

It is expected that legislation developed during 1979 to clarify the employment tax status of individuals would become effective January 1, 1980, or the date of enactment of clarifying legislation, whichever is earlier, and would replace present law for all periods thereafter.

3. Anti-abuse Provision:

To prevent taxpayers from changing the way they treat workers for employment tax purposes solely to take advantage of the relief provisions, the bill denies relief in such circumstances. The bill prohibits the termination of any potential employment tax liability with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, and before January 1, 1980, if the taxpayer (or a predecessor) has treated an individual holding a substantially similar position as an employee for any period beginning after December 31, 1977. The application of this provision to taxpayers and their predecessors is intended to prevent evasion of this rule, for example, by reincorporations.

4. Refunds or Credits of Overpayments:

The bill allows taxpayers at least a one-year period for filing claims for refunds or credits attributable to the relief provided in the bill. If a taxpayer's claim for refund or credit is not barred on the bill's date of enactment by any law or rule of law, the taxpayer will have at least until the date one year after the bill's date of enactment for filing a claim. If the taxpayer is entitled to a longer period under the general statute of limitations for filing such claims, the longer period will apply.

Generally, taxpayers should file refund or credit claims asserting grounds for relief under the bill with the Internal Revenue Service. If the taxpayer already has an open claim filed with the Service, or is involved in litigation over such a claim with the Department of Justice, the original claim shall qualify as a claim for relief under this bill, provided the taxpayer notifies either the Service or the Department of Justice, whichever is appropriate, within the proper time period, of the taxpayer's basis for relying on the bill for relief.

5. Penalties and Interest:

If a taxpayer is relieved of liability for any tax under this bill, any liability for interest or penalties attributable to such tax liability is forgiven automatically. This relief shall apply to all such interest and penalties for both pre-1979 and 1979 liabilities, whether charged directly against the taxpayer or personally against the taxpayer's officers.

The bill does not change in any way the liabilities of an individual whose employment status is at issue.

6. Prohibition Against IRS Revenue Rulings and Regulations:

In addition, the bill prohibits the Department of the Treasury (including the Internal Revenue Service) from publishing any regulation or Revenue Ruling classifying individuals for purposes of employment taxes under interpretations of the common law. This prohibition becomes effective on the date of enactment of the bill and would remain in effect until January 1, 1980, or, if earlier, the effective date of any law subsequently enacted to clarify the employment status of individuals for purposes of employment taxes.

The prohibition applies to Revenue Rulings having precedential status but does not apply to the issuance of private letter rulings requested by taxpayers. Moreover, the prohibition does not extend to regulations or Revenue Rulings based on statutory provisions dealing with the employment tax status of particular workers, such as certain fishermen, which do not involve the application of common law standards; nor does the prohibition apply to the determination of matters such as effective dates, which do not entail issues of common law employment status for purposes of employment taxes.

C. TASK FORCE VOTE

The Task Force agreed to this bill and recommended consideration of it by the full Committee on Ways and Means by voice vote. The bill, H.R. 14159, is co-sponsored by all members of the Task Force.

LEAVE OF ABSENCE

Mr. YOUNG of Alaska (at the request of Mr. RHODES) for September 27, 28, and 29 on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GARY A. MYERS) to revise and extend his remarks and include extraneous materials:)

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. SHARP) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO for 5 minutes today.

Mr. GONZALEZ for 5 minutes today.

Mr. FLOOD for 5 minutes today.

Mr. BRADEMAS for 5 minutes today.

Mr. ULLMAN for 5 minutes today.

Mr. LAFALCE for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RANGEL, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $903.

Mr. WALSH, with respect to section 158, of H.R. 11733, immediately after the debate on the Gary A. Myers amendment to delete line 23 on page 150, through line 10 on page 151.

Mr. HANLEY, with respect to section 158, of H.R. 11733, immediately after the debate on the Gary A. Myers amendment to delete line 23 on page 150, through line 10 on page 151.

Mr. GREEN, immediately before the vote on the Fowler amendment to H.R. 11733 in the Committee of the Whole today.

(The following members (at the request of Mr. GARY A. MYERS), and to include extraneous matter:)

Mr. EMERY.
Mr. LENT.
Mrs. HECKLER.
Mr. GRASSLEY in two instances.
Mr. RUDD.
Mr. WHALEN.
Mr. JOHN T. MYERS.
Mr. WYDLER.
Mr. MICHEL.
Mr. CRANE.
Mr. SNYDER.
Mr. DORNAN.
Mr. STEERS.
Mr. BROWN of Michigan.
Mr. KEMP in three instances.
Mr. MARTIN.
Mr. MCCLORY.
Mr. GARY A. MYERS.
Mr. DERWINSKI.
Mr. BROWN of Ohio in four instances.
Mr. KELLY.

(The following Members (at the request of Mr. SHARP) and to include extraneous material:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. FARY.
Mr. DOWNEY.
Mr. PEPPER in two instances.
Mr. MATHIS.
Mr. GAYDOS in six instances.
Mr. BENJAMIN.
Mr. HAMILTON.
Mr. HARRIS.
Mr. MCDONALD.
Mr. APPLEGATE.
Mr. FASCELL in five instances.
Ms. MIKULSKI.
Mr. SOLARZ in two instances.
Mr. VANIK in two instances.
Mr. D'AMOURS.
Mr. RYAN.
Mr. SIKES.
Mr. GINN.
Mr. CARNEY.
Mr. LAFALCE in two instances.
Mr. LEHMAN.
Mr. SANTINI.
Mr. ROGERS.
Mr. MINETA.
Mr. FISHER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1398. An act for the relief of Jin Suk Park; to the Committee on the Judiciary;

S. 1778. An act for the relief of Luzbella Y. Imasa, doctor of medicine; to the Committee on the Judiciary;

S. 2315. An act for the relief of Savita Nandini; to the Committee on the Judiciary;

S. 2451. An act for the relief of Tso Tung Tang; to the Committee on the Judiciary;

S. 2670. An act for the relief of Janet Abraham, also known as Janet Susan Abraham; to the Commitee on the Judiciary;

S. 2834. An act for the relief of Kyung Hee Kim, Dong Choon Kim, and Dong Ho Kim; to the Commitee on the Judiciary;

S. 2841. An act for the relief of Yang Soo Ko; to the Committee on the Judicary;

S. 3106. An act for the relief of Debbie Agatta Hepburn; to the Committee on the Judiciary; and

S. 3169. An act for the relief of Rocio Edmondson; to the Committee on the Judiciary.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 26, 1978 present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 3702. To amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes;

H.R. 8449. For the relief of Lourdes Hudson;

H.R. 8812. To name a certain Federal building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building";

H.R. 9071. To confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight;

H.R. 11291. To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration;

H.R. 11567. To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes;

H.R. 12222. To amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of U.S. development-related policies and programs, and for other purposes;

H.R. 12443. To amend section 201(a), 202(c), and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy;

H.R. 12508. To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children;

H.R. 12598. To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes;

H.R. 12841. To prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes;

H.R. 12936. Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes;

H.J. Res. 1007. Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week"; and

H.J. Res. 1088. Providing financial assistance for the city of New York.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following title:

S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes;

S. 409. An act to designate the Meat Animal Research Center located near Clay Center, Neb., as the "Roman L. Hruska Meat Animal Research Center";

S. 425. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lt. Gen. Ira C. Eaker, U.S. Air Force (retired);

S. 1267. An act to amend section 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents;

S. 2946. An act to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control;

S. 2951. An act to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs;

S. 3036. An act to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes;

Examined and found truly enrolled Sept. 27, 1978.

S. 3045. An act to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products;

S. 3274. An act to designate the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the Carl Hayden Bee Research Center";

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the Standing Bear Lake"; and

S.J. Res. 154. Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979.

ADJOURNMENT

Mr. SHARP. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Thursday, September 28, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS,

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5041. A letter from the Secretary of Health, Education, and Welfare, transmitting a report of a violation of the Antiefficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

5042. A letter from the Mayor of the District of Columbia, transmitting his response to the Comptroller General's report entitled "District of Columbia's Rent Establishment Policies and Procedures Need Improvement," pursuant to section 736(b)(3) of Public Law 93–198; to the Committee on the District of Columbia.

5043. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassadors-designate Goodwin C. Cooke and Donald K. Petterson, and by members of their families, pursuant to section 6 of Public Law 93–2126; to the Committee on International Relations.

5044. A letter from the Administration, Agency for International Development, Department of State, transmitting a determination waiving the prohibition against use of Southern African Special Requirements Funds in Zambia, pursuant to section 533(c)(2) of the Foreign Assistance Act of 1961, as amended (91 Stat. 618); to the Committee on International Relations.

5045. A letter from the Secretary of Commerce, transmitting the annual report of the U.S. Travel Service for calendar year 1977, pursuant to section 5 of the International Travel Act of 1961, as amended; to the Committee on Interstate and Foreign Commerce.

5046. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the International Energy Program to be held on September 28 and 29, 1978, in Pittsburgh, Pa.; to the Committee on Interstate and Foreign Commerce.

5047. A letter from the Director, Bureau of the Census, Department of Commerce, transmitting the final results of the 1976 survey of registration and voting, pursuant to section 207(c) of the Voting Rights Act of 1965, as amended (89 Stat. 404); to the Committee on the Judiciary.

5048. A letter from the president, Jewish War Veterans U.S.A. National Memorial, transmitting a report on the organization's audit for the year ended March 31, 1978, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

5049. A letter from the Comptroller General of the United States, transmitting a report on St. Elizabeths Hospital (HRD–78–31, September 27, 1978); jointly, to the Committees on Government Operations, and the District of Columbia.

5050. A letter from the Comptroller General of the United States, transmitting a report on efforts to recover U.S. Government costs in foreign military sales (ID–77–56, September 27, 1978); jointly, to the Committees on Government Operations, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13553. A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes; with amendment (Rept. No. 95–1635). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 13692. A bill granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia. (Rept. No. 95–1636). Referred to the House Calendar.

Mr. DANIELSON: Committee on the Judiciary. H.R. 11580. A bill to amend title 18 of the United States Code to make lawful certain activities concerning certain foreign and domestic legal lotteries; with amendment (Rept. No. 95–1637). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 11035. A bill to incorporate the United States Capitol Historical Society; with amendment (Rept. No. 95–1638). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COCHRAN of Mississippi:

H.R. 14179. A bill to establish maximum hours of service for air-traffic-control-tower operators; to the Committee on Public Works and Transportation.

By Mr. LAGOMARSINO:

H.R. 14180. A bill to amend the Surface Mining Control and Reclamation Act of 1977 with respect to designation of lands unsuitable for noncoal mining; to the Committee on Interior and Insular Affairs.

By Mr. McDADE:

H.R. 14181. A bill to amend title XVIII of the Social Security Act with respect to reimbursement of physicians' services in teaching hospitals; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. McDONALD:

H.R. 14182. A bill to amend section 154 of title 23, United States Code, to increase the national maximum speed limit to 65 miles per hour; to the Committee on Public Works and Transportation.

By Mr. NOWAK:

H.R. 14183. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of the portion of certain charges which is allocable to the construction and maintenance of waste treatment works; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 14184. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. TRIBLE (for himself and Mr. SARASIN):

H.R. 14185. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 14186. A bill to improve the congressional budget process by the establishment in the House of Representatives of a two-step budget procedure for the consideration of a first required concurrent resolution on the budget; to the Committee on Rules.

By Mr. BROWN of Ohio (for himself, Mr. ROUSSELOT, and Mr. WHITEHURST):

H.R. 14187. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. JENKINS, Mr. TUCKER, Mr. ROSE, and Mr. LEACH):

H.R. 14188. A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain single purpose enclosures or structures for raising poultry or hogs or for use as greenhouses; to the Committee on Ways and Means.

By Mr. RANGEL (for himself and Mr. PANETTA):

H.R. 14189 A bill relating to the interim treatment of controversies involving whether certain individuals are employees for purposes of the employment taxes; to the Committee on Ways and Means.

By Mr. ERTEL (for himself, Mr. MURPHY of Pennsylvania, Mr. GAMMAGE, Mr. EVANS of Georgia, Mr. CAVANAUGH, Mr. DUNCAN of Oregon, Mr. RINALDO, Mr. CORCORAN of Illinois, Mr. RYAN, Mr. SKELTON, Mr. GLICKMAN, Mr. GOODLING, Mr. PEASE, Mr. QUAYLE, Mr. D'AMOURS, Mr. EDWARDS of Oklahoma, Mr. GUDGER, Mr. RUSSO, and Mr. GORE):

H. Res. 1384. Resolution to amend the Rules of the House of Representatives to provide that a motion to suspend the rules and pass a bill or resolution shall not be in order if it makes or authorizes appropriations which may be in excess of $100 million for any fiscal year; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

484. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Santa Ana River flood control, to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON:

H.R. 14190. A bill for the relief of Solomon Mani; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 14191. A bill for relief of Junior Edmund Moncrieffe; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

545. By the SPEAKER: Petition of the City Council, New York, N.Y., relative to direct funding by the Department of Defense for the publication "Stars and Stripes"; to the Committee on Armed Services.

546. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to characterization of military discharges; to the Committee on Armed Services.

547. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to representation of veterans' organizations on local prime sponsors planning councils and State manpower services councils under the Comprehensive Employment and Training Act; to the Committee on Education and Labor.

548. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to the Veterans Preference Act; to the Committee on Post Office and Civil Service.

549. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to indexing of veterans benefits to consumer prices; to the Committee on Veterans' Affairs.

550. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to defense posture; jointly, to the Committees on Armed Services, International Relations, and Merchant Marine and Fisheries.

551. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to Cuba; jointly, to the Committees on International Relations, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10909

By Mr. SATTERFIELD:

—Page 11, line 5, strike out "not more than five".

H.R. 11488

By Mr. ROGERS:

—Page 67, line 18, insert after "Act" the following: "(other than in section 115(1))".

Page 71, strike out the close quotation marks and the period following in line 18 and insert after that line the following:

"(13) The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate.

"(14) Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services.".

Page 83, beginning in line 17, strike out "subclauses (III) and (IV)" and insert in lieu thereof "subclauses (IV) and (V)".

Page 84, line 2, strike out the close quotation marks and the period following and insert after that line the following:

"(III) include (through consumer and provider members) individuals who are knowledgeable about mental health services (including services for substance abuse),".

Page 84, line 3, strike out "(III)" and insert in lieu thereof "(IV)".

Page 84, line 8, strike out "(IV)" and insert in lieu thereof "(V)".

Page 84, line 10, strike out "(IV)" and insert in lieu thereof "(V)".

Page 84, line 18, strike out "(V)" and insert in lieu thereof "(VI)".

Page 85, line 1, strike out "(IV)" and insert in lieu thereof "(V)".

Page 94, line 5, insert "(1)" after "amended", and insert before the period in line 8 the following: ", and (2) by inserting after the first sentence the following: "The HSP of the agency shall include goals for the delivery of mental health services in its health service area which goals shall be developed under a procedure under which persons (acting as an advisory group or subcommittee appointed by the agency or, if the agency requests and is authorized by order of the Secretary to use an existing group, acting as part of such a group) knowledgeable about such services (including services for substance abuse) will be consulted with respect to such goals."."

Page 94, line 11, strike out "and (B)" and all that follows through line 13 and insert in lieu thereof the following: "and (B) determine the statewide health needs of the State after providing reasonable opportunity for the submission of written recommendations respecting such needs by the State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor for the purpose of making such recommendations, and after consulting with the Statewide Health Coordinating Council"."

Page 94, line 14, insert "(1)" after "amended" and insert before the period in line 16 the following: ", and (2) by inserting after the first sentence the following: "In carrying out its functions under this paragraph, the State Agency shall refer the HSP's to the State health authority, the State mental health authority, and other agencies of the State government (designated by the Governor to make the review prescribed by this sentence) to review the goals and related resource requirements of the HSP's and to make written recommendations to the State Agency respecting such goals and requirements."."

Page 94, insert after line 16 the following:

(C) Subsection (a) of section 1523 is amended by adding after and below the last paragraph the following: "If in determining the statewide health needs under paragraph (1)(B) or in preparing or revising a preliminary State health plan under paragraph (2) the State Agency does not take an action proposed in a recommendation submitted under the applicable paragraph, the State Agency shall when publishing such needs or health plan make available to the public a written statement of its reasons for not taking such action.".

Page 97, line 24, strike out the close quotation marks and the period following and insert after that line the following:

"(D) In carrying out its functions with respect to the goals and resource requirements for mental health services of the State health plan, the SHCC may establish a procedure under which persons (acting as or as part of an advisory group or subcommittee appointed by the SHCC) knowledgeable about mental health services (including services for substance abuse) will have the opportunity to make recommendations to the SHCC respecting such services.

"(E) The State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor, shall carry out those parts of the State health plan which relate to the government of the State.".

(i)(1) Section 303(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (16) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

(2) Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended by adding after and below paragraph (13) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

Page 112, strike out lines 6 through 8 and insert in lieu thereof the following:

(3) The first sentence of section 1513(e)(1)(B) is amended by striking out "under title IV, VII, or VIII of this Act" and all that follows in such sentence and inserting in lieu thereof the following: "for research or training unless the grants or contracts are to be made, entered into, or used for the development, expansion, or support of health resources which, in the case of grants or contracts for training, would make a significant change in the health services available in the health service area or which, in the case of grants or contracts for research, would change the delivery of health services, or the distribution or extent of health resources, available to persons in the health service area other than those who are participants in such research."

Page 121, line 11, strike out "107" and insert in lieu thereof "106".

Page 122, line 8, strike out "and"; line 13, strike out the period and insert in lieu thereof ", and", and after line 13 insert the following:

(3) by adding at the end the following: "The authority of the Secretary to enter into contracts under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

Page 123, line 20, strike out "such" and insert in lieu thereof "health systems".

Page 127, line 4, insert "private" after "nonprofit".

H.R. 13471

By Mr. UDALL:

—Page 85, line 15: Immediately following "Sec. 112.", add "(a)".

Page 86, following line 3: Add the following new subsection (b):

(b) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking the word "or" at the end of subsection (12), striking the period at the end of subsection (13), and inserting "; or" at the end of subsection (13), and insert the following new subsection (14):

(14) shares of a savings and loan association if not less than 20 per centum of such shares was owned by such bank holding company on June 30, 1968 and if such association was a subsidiary of such bank holding company on June 30, 1969.

H.R. 14042

By Mr. SNYDER:

On page 39 add the following new section:

COMMISSARY BAGGERS

SEC. 818. Notwithstanding any other provision of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department or the Panama Canal Company may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.

EXTENSIONS OF REMARKS

"CAMP DAVID—WILL THE AFTERGLOW LAST?"

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. LENT. Mr. Speaker, Can the spirit of cooperation and good will which achieved the breakthrough at Camp David be sustained through the difficult weeks and months of negotiations that lie ahead? To me, that is the major unresolved question from the summit at Camp David. It is already clear that the "Framework for Peace in the Middle East" has resolved a number of problems. But it is also clear that some very serious differences still exist. And settling these issues will be far more difficult and certainly more time consuming than were the lengthy meetings at Camp David which produced the blueprint for peace in the Middle East.

This is not to deride the very real accomplishment of President Carter at the summit. As one who in the past has lamented Jimmy Carter's ineptness in handling foreign policy matters, I was encouraged by the way the President plunged into the dangerous field of personal diplomacy with determination and skill. He saw possibilities that escaped most everyone else; took risks that were not necessary, and came out with a major achievement.

I was particularly heartened by the President's decision to try the step-by-step process of working toward peace in the Middle East. He had previously disdained such procedures, seeming to prefer instead "comprehensive settlement" at Geneva with all the warring factions present. But the "Framework for Peace" adopted at Camp David is structured for the step-by-step process, with each step becoming a foundation for further progress. It provides the basis for the agreements that must be made to achieve a complete, just and permanent settlement between Egypt and Israel and eventually throughout the troubled Middle East.

We all know the achievement of peace is not going to be an easy, automatic process. The President himself, in his remarks at the conclusion of the summit, warned all of us of the "great difficulties that remain and the hard issues still to be settled." And certainly there are many, as indicated by the PLO complaints, the objections from Syria and other Arab states and by the fact that even Prime Minister Begin and President Sadat did not reach accord on all issues between their countries while at Camp David. But a fine start has been made. And the important thing is to keep the momentum toward peace.

Let us hope and pray that the spirit of cooperation and good will which produced this "Framework for Peace" will continue to obtain in the delicate and widespread discussions, meetings and negotiations that will be necessary to implement it. The "framework" has set up a process through which the interested parties can work out their new relationship. It will take all of the skill President Carter displayed at Camp David to keep the peacemaking process moving forward. ●

ADDITIONAL SUPPORT FOR CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. DERWINSKI. Mr. Speaker, additional material is driving on the recent 20th observance of the Captive Nations Week. By all evidence, this week was a highly successful one, both here and abroad. Much to the chagrin of Moscow, Peking and other red capitals, it is a constant reminder of the Nationalism in over 27 nations held in Communist bondage.

As part of the record under Public Law 86–90, I wish to submit the following exemplifying items. (1) a proclamation by Gov. James A. Rhodes of Ohio (2) An American Legion resolution, Resolution 295, Virginia (3) an editorial, "Inconsistent Concern" which appeared in the Phoenix Gazette (4) an article in the Detroit Free Press "Ivan Brucky—Activist Son of Now-Captive Byelorussia (5) an article by Dr. Lev E. Dobriansky on "Captive Nations Week and Mock Trials" in the Taylorville, Ill., Breeze-Courier (6) a report on a captive nations rally in the San Diego Union and (7) a letter in the New Haven Register "Captive Nations Week Time to Speak Out:"

PROCLAMATION IN RECOGNITION OF CAPTIVE NATIONS DAY

Whereas, the United States, as a great democracy, founded upon the principles of freedom, equality and justice for all, is looked upon by the captive nations of the world as a symbol of hope and peace; and

Whereas, Ohio, shares with the rest of the nation, the concern for human rights and self-determination for all the people of the nations of Eastern Europe; and

Whereas, we, as a concerned people possess a warm and understanding sympathy for the determination of these people to achieve a just and lasting peace; and

Whereas, we must strive to keep the aspirations of the people of these captive nations steadfastly alive:

Now, therefore, I, James A. Rhodes, Governor of the State of Ohio, do hereby designate Monday, July 17, 1978, as Captive Nations Day in the State of Ohio and command this observance to our citizens.

In witness whereof, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus, this 10th Day of July, in The Year of Our Lord, One Thousand Nine Hundred and Seventy-Eight.

JAMES A. RHODES, *Governor*.

RESOLUTION 295 (VIRGINIA)

"CAPTIVE NATIONS"

Whereas, the Captive Nations now represent the enslavement of more than one billion people, more than 30 percent of the world's inhabitants, and all are oppressed by communist-led dictatorships; and

Whereas, people living in the captive nations are denied such basic human rights as free speech, free press, freedom to vote for a choice, freedom of assembly and freedom to criticize those in authority; and

Whereas, the captive nations now include Armenia, Azerbaijan, Byelorussia, Cossakia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia, and the Soviet Union, known as the Union of Soviet Socialist Republics; plus the fiercely independent Baltic Republics of Latvia, Lithuania, and Estonia; plus the Eastern European Nations of Albania, Bulgaria, Yugoslavia, Poland, Romania, Czechoslovakia, Hungary, East Germany; plus the Asian nations of Mainland China, Tibet, North Korea, North Vietnam, South Vienam, Cambodia and Laos; plus the Western Hemisphere's Cuba; and

Whereas, other nations including Panama, Angola, Mozambique, Somalia, and Ethiopia are seriously threatened with communist enslavement; and

Whereas, such anti-communist governments as Taiwan, South Korea, Rhodesia, Republic of South Africa, Republic of Transkei, the Kingdoms of Lesotho and Swaziland are under heavy pressure to surrender to communist pressures; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, That we urge the leaders of the United States Government as the world symbol of life, liberty and the pursuit of happiness to speak out forthrighty in support of human rights for those enslaved inside the captive nations whose communist leaders deny the existence of God and the spiritual dimension of life, and whose avowed purpose is to destabilize non-communist governments by destroying their purpose, values, traditions, and social systems; and, be it further

Resolved, That we call upon the President and the Congress of the United States to exert the same political and economic pressures against communist governments on behalf of human rights as has been done against non-communist governments.

INCONSISTENT CONCERN

President Carter's rhetoric on human rights has been inconsistent.

Speaking out on the trial of two Soviet dissidents, Carter told French and German television correspondents that the trials constituted an "attack on every human being who lives in the world who believes in basic human freedom and is willing to speak for these freedoms or fight for them."

Well and forthrightly put. Unfortunately, this statement came on the heels of another Carter statement on human rights that was anything but well and forthrightly put.

Required by law to issue a proclamation on Captive Nations Week, observed this past week, Carter put out a perfunctory statement.

Lee Edwards, executive director of the National Captive Nations Committee, said that

"the occasion called for eloquence and commitment. What Mr. Carter gave us was bureacuratese and vapidness."

Edwards pointed out that the Carter proclamation contained "no mention of dissidents, the Soviet Union, Helsinki, communism or even totalitarianism of the right as well as the left." It "screamed indifference," he said.

As Human Events notes, last year Carter almost became the first President since Congress initiated the observance in 1959 not to issue a proclamation. Only after an uproar of public protest did he relent and put one out three days into last year's Captive Nations Week.

Carter's concern for the human rights of individuals in the clutches of an oppressive regime would carry more weight if he showed at least equal concern for whole nations of individuals being denied basic human freedoms.

IVAN BRUCKY—ACTIVIST SON OF NOW-CAPTIVE BYELORUSSIA

(This is one in a continuing series about Detroiters involved in the city's ethnic festivals. The Arab Festival continues from noon until 11 p.m. Saturday and Sunday at the corner of Michigan and Third. The Captive Nations Festival was held last weekend.)

(By Polk Laffoon)

Byelorussia. What romantic images the name connotes. Cossack riders and onion-domed spires. Flower-flecked villages and the vast Russian plain.

But how many Americans could pinpoint it on a map? Or say for sure that it was once an independent nation?

Ivan Brucky (pronounced Brooski) could. Brucky was born in Byelorussia, he has a family that still lives there, he works—when he is not on the job as a civil engineer for Swindell Dressler in Detroit—for the preservation of its cultural integrity through the Byelorussian-American Association.

And there is nothing romantic about Brucky.

"We have our own language, our own customs," he says, stressing the "we."

"Byelorussia lies between Poland and Moscow with a capital at Minsk. It was once a grand duchy of Lithuania; in 1795 it was overtaken by the Russians and they have had it most of the time since."

He pauses. "They want to destroy our culture."

Byelorussia is not alone, of course. Along with Lithuania, Latvia, Estonia, the Ukraine, Georgia and Armenia, it is one of many "captive nations" that are satellites of the Soviet Union and "republics" in name only.

Brucky describes life there in these words:

"If you don't join the Communist youth, you won't be allowed to go to school. I had a friend, an older man, who was asked by the authorities to be an informer—one who reported on others when they spoke against the state. He told them he wouldn't do their dirty work. He was put in jail for 10 months without a trial. He went to Siberia."

When Brucky was born, in 1926, Byelorussia was a part of Poland. In 1939 the Russians reassumed power and he tasted for the first time the grim reality of a totalitarian regime. When the Nazis took over in 1943 and deported him to Germany for manual labor, Brucky had time to reflect:

"I decided not to go back. I saw the conditions from '39 to '41. I didn't think it was a good place to be."

Displaced persons' school in Germany. Emigration to Canada. Graduation from the University of Manitoba with an engineering degree. Jobs in Ontario, Detroit, Los Angeles, Cleveland, Detroit. He was to see his mother once again only, on a visit to Poland. His relentless Byelorussian activism left no alternative.

"My outspokenness against the system makes me a man who would not be in good standing with the present government," says Brucky (after three decades here, his syntax remains stiff). "I'm trying to preserve our culture in this country, so I'm not in good standing. If I went there, I'm afraid I might not be allowed to return."

Superficially mild, Ivan Brucky projects an inner fire as he talks. Two years ago he was the chairman of the Captive Nations Ethnic Festival, he reports, and he delivered a speech against Communism.

Ask him to define his activities with the festival now—or indeed, with the Byelorusian community yearlong—and he answers inscrutably: "Organizing, I organize." He has no wife or children; his country of birth is his cause.

All of which adds up to predictable zeal for the Captive Nations Ethnic Festival—but not for predictable reasons. Not for Byelorussian pride here does Brucky labor every summer; he labors for the encouragement that Detroit's celebration will lend to Byelorussians abroad.

"Whatever we do here is felt over there," he explains. "Radic Free Europe, the Voice of America. One way or another, the people take note. And so does the government.

"And because they are trying to perpetuate the false idea that Byelorussia is a 'republic,' they match what we do here. If we name a new head of our Byelorussian Autocephalic Orthodox Church here, they name one there. Even though he's a figurehead only.

"But the result is, the more Byelorussian activity we have here, the more our people there may be allowed to do, Always we receive word: 'More, more!"

Big brother is watching, and Brucky is glad.

CAPTIVE NATIONS WEEK AND MOCK TRIALS

(By Lev E. Dobriansky)

The mock trials of leading human rights activists in the Soviet Union have drawn vehement protests from all over the world.

In May 1976, Dr. Yuri Orlov formed in Moscow a group to monitor Soviet compliance with the Helsinki accords. The Helsinki Watch group was quickly joined by similar citizens' groups in Ukraine, Lithuania, Georgia and Armenia. Founders of the groups have even since undergone savage repression. The Kremlin's suppression drive climaxed in recent weeks with the use of phony charges to convict Arlov, Vladimir Slepack. Zviad Gamaskhurdia and others, and the harassment of American newspapermen who have refused to disseminate Soviet slanders.

DOWN WITH COMMUNISM

Members of the U.S. Congress have urged the Carter administration to express "in the strongest terms the opposition of the Helsinki Watch group." Prominent U.S. scientists, including three Nobel laureates, boycotted a scientific meeting in the Soviet Union while the largest U.S. organization of computer sciences discontinued its cooperation with Moscow.

British Prime Minister Callaghan voiced his government's "abhorrence at the show trials." Norway stated that the sentences "contradicted Soviet promises and declarations."

Even Communist parties in Europe were unable to conceal their disgust. The Spanish Communist party expressed "our condemnation," while its British counterpart called on Moscow "to rescind the sentences." L'Humanite, the French Communist party's organ, termed the crackdown "unacceptable." An official newspaper in Tirana, Albania, disclosed that hundreds of thousands in Georgia and Lithuania have staged demonstrations against Moscow's repression of dissidents and intensified process of Russification.

Yet, the most significant protest came from usually hardline Communist Bulgaria. In Sofia, a flag reading "Down With Communism" was flown from a roof in the heavily-guarded city center and leaflets carrying the same slogan were scattered on the crowd.

YOU ARE NOT ALONE

This past January, Sen. Henry M. Jackson (D. Wash.) told the relatives of Andrei Sakharov, Anatoly Shcharansky and Vladimir Slepack at a Washington, D.C., human rights meeting, "You are not alone."

In October 1976, Democratic Presidential candidate Jimmy Carter sent Slepack a telegram, "I want you to know of my deep personal interest in the treatment that you and your colleagues receive." As a President, Carter personally defended physicist Shcharansky against Soviet charges. Carter also wrote in a personal letter to Nobel laureate Sakharov, "We shall use our good offices to seek the release of prisoners of conscience."

Now Orlov is alone in a Soviet cell. So is Slepack. So is Gamsakhurdia. The untrials of Shcharansky and Ginsburg held on the eve of Captive Nations Week have triggered a new wave of awareness and indignation. This kind of timing is by no means new for the annual observance of the Week.

Sakharov has predicted that Moscow's travesty of justice was a "test of the resolve of the West to insist on the fulfillment of the principles proclaimed at Helsinki."

The other day, Radio Moscow trumpeted that "a suitable riposte was given to the actions of the U.S. which speculates on the human rights issue," and that "other future actions will be met with a similar fate."

The die has been cast. Captive Nations Week is a redeeming opportunity for the Carter administration to redefine and reassert its human rights policy.

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200 AT RALLY FAVOR AID TO CAPTIVE NATIONS

A rally showing support for citizens of countries under Communist domination was attended by more than 200 people yesterday at the Community Concourse, concluding the 20th annual Captive Nations Week.

The rally, sponsored by the California Captive Nations Committee, included speakers, music and dance groups representing some of the 31 nations of the world that are under Communist rule.

Countries represented at the rally were China, Cambodia, Vietnam, Cuba, Romania and Russia.

In 1959, Congress adopted a resolution authorizing the President to issue a Captive Nations Week proclamation each year until "freedom and independence have been achieved for all the captive nations of the world."

City Councilman Bill Mitchell attended the rally, and read a proclamation from the council supporting Captive Nations Week.

Capt. Henry E. Phelps, USN, ret., committee chairman, said the purpose of the observance is to alert the American people to the threat of the "domino theory" of communism. Many countries have fallen in the wake of Russian rule, he said, and the United States must come to their aid as well as protect itself.

"There are no other dominoes after us," he said. "We're the last one. We must put our efforts into supporting the captives rather than the captors. If we support these people, there will be no war."

He said that support for the captive nations would lead to disintegration of the Soviet Union's drive for world dominance.

Phelps said that peace is the answer, not war, but that military superiority is essential for aiding captive countries.

Other speakers from the California committee, comprised of the San Diego Friends of Free China; Alpha 66, a Cuban freedom group, and various Eastern Europe organizations, asked Americans to band together to fight communism.

Said one, "You must teach that there is nothing more precious than freedom."

CAPTIVE NATIONS WEEK TIME TO SPEAK OUT

In the United States, July is the month when "Captive Nations Week," is observed. The resolution which established Captive Nations Week was passed by Congress in 1959 and signed by the late President Eisenhower. It requests that future presidents issue an appropriate proclamation "until such time as freedom and independence shall have been achieved for all the captive nations in the world."

Last year, the proclamation of Captive Nations Week was almost forgotten by the new administration. However, this year, the president did issue an appropriate proclamation in observance of Captive Nations Week.

Coincidentally, Captive Nations Week was observed only two weeks after our joyous and glorious 4th of July. Perhaps this is an excellent time for all Americans, after celebrating our independence, to examine the plight of the captive nations and to reflect on how much we, in the U.S.A., should appreciate the freedom that our forefathers gave us.

In the last 20 years, we note an increased roster of captive nations throughout the world, a record of which the Soviet Union leaders must be very proud.

May we strongly suggest that our leaders not only issue proclamations as a routine gesture, but start acting according to the principles and beliefs on which our Constitution is based?

In the past few weeks, our president spoke out more often on the human rights issue even though the issue may be touchy to the Kremlin rulers. The basic human rights issue is also very dear to us. If we do not speak out in support of basic freedom for people within the Soviet Union, then who will? Those who speak up for human dignity and self-determination in the Soviet Union are usually sentenced to insane asylums and concentration camps.

SALT II agreement is very important to humanity, but on what basis can we have a guarantee since any agreements between the Soviet Union and the U.S.A. have been repeatedly violated by the Soviet Union. One should only refer to the Helsinki Agreement which is by now probably in the cartoon section of the Pravda newspaper.

Let's not wait another 20 years to see the list of captive nations grow to the point where free civilization will be threatened by an unsatiable Soviet Communist appetite. Let's counteract and speak out!

As an example, Ukraine was probably the first victim of Soviet Communist Imperialism. We call on our government to take a strong stand and start to support the Ukrainian people in their desire for independence from Soviet domination. By such action, Ukraine could be the first captive nation to be free again and others would follow. We know it's a tremendous undertaking but one has to start somewhere.

We hope that someday each nation of this exclusive club of captive nations, will be free again and able to take their rightful place in the family of free nations.

Therefore, we call on all freedom loving people of the United States to support the basic human rights of those people who have lost their freedom and are without hope of regaining their own dignity unless we help them.

Connecticut Branch, Ukrainian Congress Committee of America, New Haven.●

"THE ROAD TO PROSPERITY—PART XX—GEORGE MEANY SHOULD LISTEN TO HIS BROTHERS IN THE LABOR UNION MOVEMENT"

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. STEIGER. Mr. Speaker, the AFL–CIO has been one of the few organizations to oppose the stimulation of capital formation by reducing the tax on capital gains. It is a strange posture because capital is necessary for new job creation, productivity improvement and greater economic benefits for everyone. President Kennedy, who was strongly supported by labor, recognized the role of capital when he originally proposed the cut in capital gains taxes which has now been incorporated in the Revenue Act of 1978 by the Long-Hansen amendment.

Many union members understand the role of capital in bettering their lives. I have talked with union members who have never supported me, but agree with my position on lowering the capital gains tax.

Today, I would like to insert in the RECORD two letters. One is from a union president, the other from a union member. Both support a reform of the capital gains tax as embodied in the Investment Incentive Act. I would urge George Meany to read their letters.

BLE LEADER OBJECTS TO TAX EDITORIAL IN "LABOR" AS "SIMPLISTIC POPULISM"

President John F. Sytsma of the Locomotive Engineers has sent a letter to the editor of LABOR, objecting to an editorial on tax reform carried in the July 26 issue.

(Editor's note: The editorial hit congressional dawdling on tax reform, condemned congressional proposals to reduce capital gains taxes and widen certain "loopholes." Also, it approvingly quoted criticism of those proposals, made by President Carter and the AFL–CIO).

Sytsma, whose Brotherhood is one of the owners of LABOR, said the editorial "trumpets the somewhat simplistic populism that has been the hallmark of LABOR for all these many years."

"In view of the economic gains made by organized labor—particularly railroad labor—in recent years, don't you think that our railroad employes' newspaper should by now be playing a more sophisticated tune?" the BLE leader asked.

CITES EFFECT OF TAX LAWS

Sytsma cited estimates that railroad workers now average almost $20,000 a year. He added that "some crafts, including locomotive engineers, earn between $25,000 and $50,000 annually." He continued:

"These are workers who own homes, have savings accounts and invest in the stock market. When they sell their homes at a price that has been greatly inflated due to the economic spiral, they find that they are being forced to pay a large capital gains tax on the so-called profit that has resulted because of inflation.

"Those who are fortunate enough to have a profit in stock investments are also forced to pay a large tax on their gains due to the restrictive tax laws that Rep. William Steiger wishes to modify. Many railroad employees saved all their lives to buy homes and other investments and will benefit immeasurably if the Steiger legislation is passed.

"Certainly, we cannot equate these people with the 3,000 millionaires' who would benefit most from tax revision, according to the statements made by President Carter.

RELUCTANCE TO INVEST

"It is no secret that our nation has lost ground economically in recent years, and this is due in part to the reluctance of investors to risk necessary capital to underwrite industrial expansion. This reluctance is due in no small part to the restrictions on incentives that have been written into our tax laws over the past several years.

"If, as advocated by the AFL-CIO, Congress should be foolish enough to close out capital gains provisions over a three-year period, this would not only hurt hundred of thousands of ordinary hard-working citizens but it could have the effect of further pushing the country along the road of economic stagnation, with detrimental results to all of us.

"INCREASINGLY SOPHISTICATED"

"It is my observation that the typical American unionized worker, particularly in the railroad industry, is becoming increasingly sophisticated in economic matters and will not buy the simplistic 'soak the rich' demagoguery espoused by some politicians. This kind of propaganda is a direct affront to the intelligence of the people we represent, and they certainly should not be subjected to it in our railroad labor publication.

(Note: LABOR does not necessarily agree with all of President Sytsma's views, but respects his right to express them in LABOR).

TO THE EDITOR:

I just finished reading your comments about the "rich bitches" and the "stockholders." You made them sound like good subjects for the gas chamber.

Better you should tell your workers that when he pushes the button that starts his $250,000 drill press, hone, or what have you with which he makes his living that that piece of machinery was bought for him by a "stockholder"

Yes, there are fewer and fewer small stockholders as the big blocks of stock are held by institutions. Who are these institutions? Namely big labor unions, pension funds which pay our pensions when we retire, college endowment funds, and mutual funds.

A mutual fund, in case you don't know, is owned by small people who do not have enough money to buy 100 shares of stock. They pool their money in one fund (some have assets over a billion dollars) and the funds buy and sell stocks with the hopes of making a profit for their many small investors. Since 1970, mutual funds have performed rather badly except in isolated cases but they do control huge amounts of stock. Also, your life insurance companies probably hold large amounts of stock in leading industries. . . .

I grew up with some of your "rich bitches" and the truly big shots that I knew all had one thing in common: a belly full of poverty when they were young. A couple of tenant farmers' sons for example now own thousands of acres in Ohio. Another small farmer's son I knew now has in addition to thousands of acres, three banks, is chairman of a large insurance company, along with other real estate and manufacturing companies.

Others that I have read about who became disgusted with poverty are Kemmon Wilson, head of the Holiday Inns. At age 12, he lived in a room over a restaurant where his mother waited tables and helped support her by selling popcorn in theatres. Ray Kroc who established the successful McDonald hamburger empire was a peddler of malted milk machines at age 58 before he took over and started the McDonald operation. The guy who invented and promoted the fabulous Xerox copying machine was a blue collar

machinist who only lived a few years after he hit it big and thus only had a small estate of $29,000,000 when he passed on. . . .

There will, like I say, always be a few "rich bitches." I don't dislike them. I would like to join them (I think) but I don't want to pay the price. Let them pile up big success and I will continue to buy a few shares of their stock when I have an extra buck or two. I sort of look on them in a way as my employes.

HERMAN TODHUNTER,
AIW Local 879.●

KASPAR WIRE WORKS MARKS 80TH ANNIVERSARY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. PICKLE. Mr. Speaker, I would like to share with my colleagues an article that appeared in the Shiner Gazetter last week. The article provides a history of the Kaspar Wire Works which was founded in Shiner, Tex., in 1898.

Through four generations, the Kaspar family has built this business into one of the leading industries in central Texas. It all began with August Kaspar who handwove wire feed baskets in his backyard. Today, Don Kaspar and his two sons, David and Dan, manage the large, diversified company that employs more than 400 people. They have become the dominent supplier of coin-operated newspaper racks in the United States and their products are sold worldwide.

For eight decades, Kaspar Wire Works has made a tremendous contribution to the economy of central Texas and under its present outstanding leadership, I am sure that the company will continue to grow.

KASPAR WIRE WORKS NOTES 80 YEARS OF PROGRESS

(By Bobby Strauss)

It started out with one man, a pair of pliers and some discarded wire, but eight decades and three generations later Kaspar Wire Works stands proudly on the outskirts of Shiner shipping their products around the world.

In the mid 1890's, ordinary wire was something nobody wanted in South Texas, except a man named August Kaspar who saw a future in the product. The wire was available almost for the asking as farmers and ranchers were discarding it in favor of the newly introduced barbed wire.

Kaspar studied the situation, began picking up the discarded wire, and started handweaving it into shuck baskets and horse muzzles.

A backyard shop and kitchen were his "plant," a pair of pliers his tool and the bed of a rented wagon was his salesroom with friends and neighbors becoming the first customers of what would later be known as Kaspar Wire Works, Inc.

HOW IT ALL STARTED

August Kaspar was a native of Texas born on October 10, 1871 at High Hill in Fayette County. He came to the Shiner area around 1890 when he first worked as an employee of the Fred Kokernot Ranch. A few years later, Kaspar bought some land outside of Shiner and began farming on his own. He was married to Miss Emma Stindt on December 29, 1897.

It was around the turn of the century when Kaspar first made a wire feed basket, using the unwanted barbless smooth fence wire and a pair of pliers. The first basket was made for his own use, but was later sold to a neighbor for one dollar. He sold several more baskets to other neighbors, then began selling his handmade product from the bed of a rented wagon and mule team.

Kasper's skillful hands then went to work on the first wire horse muzzles, which sold faster than he could make them. As the demand increased, Shiner's leading stores began stocking his products.

By 1905, the wire basket and horse muzzle was a full time business, so Kaspar sold his farm and bought a house and a two-acre tract in the new town of Shiner. Kaspar continued the business in a small shed in the backyard, shipping baskets and muzzles all over South Texas, via the newly formed S.A. and A.P. Railway.

The business flourished for about a quarter of a century, but the demand for the farmers' feed baskets and horse muzzles gradually declined as farming became more and more mechanized. With tractors replacing horses and mules, the demand for the muzzles decreased, and ground mixed feed plus baled hay ended the need for the baskets. Thus, the first phase of the business came to an end.

SECOND GENERATION—ARTHUR KASPAR

Arthur H. Kaspar joined his father after he finished high school in 1918. Florist easels and wire wreath frames were the first of the new products engineered by the youthful Kaspar and his helpers. These early products where laboriously made with crude hand tools; however, it marked the beginning of diversification at the Wire Works.

THIRD GENERATION—DON KASPAR

After graduation from Texas A&M University in 1949, Don G. Kaspar became associated in the business and to a large extent was responsible for the steady growth and expansion which has resulted in the employment of over 400 people in 1978.

Around 1958, newspapers began asking for coin-operated racks to replace the so-called 'honor' racks then in use. KWW pioneered this field and developed a wire cage controlled by a simple coin mechanism which solved the problem. The coin-operated models collected more than 90% as compared to less than 50% for the honor racks and frequently paid for themselves in a week or two on the busy street corner.

Continuous research and development with constant improvement in manufacturing facilities established Kasper as the dominant supplier of coin-controlled newspaper racks in the United States. About a dozen different models are now being offered by KWW to meet every newspapers need.

Starting in 1977, KWW newspaper racks are regularly being exported to Germany, Austria, Switzerland and Holland. Sales increase of the racks jumped over 23% in 1977 over 1976.

The wire products division also expanded as hundreds of new items are being produced. This includes display racks for every conceivable purpose, motor mounts and grills for the air-conditioning industry, special wire components for other manufacturers, paper guides for the computer industry and many more.

The next new product was wire coat hangers, also made with primitive equipment. It was at this time that some of the operations were powered by a gasoline engine, which was hooked up to the family washing machine, certainly marking a first for home laundry.

During the early twenties, welded wire products began to appear on the American market about the same time electricity came to Shiner. The gasoline engine was replaced with an electric motor and the first electric spot welder was purchased by KWW in 1928. The first welded products shipped from the Wire Works were checking baskets for swimming pools and gym baskets for high school and college gymnasiums. Both sold nationwide.

Shopping baskets with rubber covered handles were started in the thirties, but the shopper was required to carry the basket around the store. This led to the world's first shopping cart on wheels, made by KWW for Weingarten's in Houston. Handy-Andy of San Antonio also thought it was a good idea to become the second user of these new carts, starting a new industry which spread across the entire nation.

During World War II all production stopped except for a few military contracts for frying baskets and handles for ammunition boxes. Only two employees were retained and it was necessary to completely start over when the war ended.

Arthur and his wife, Josephine, reside at 320 E. 10th St. in Shiner.

On November 24, 1970 Kaspar Wire Works received a HISTORICAL MARKER which was sponsored by The Lavaca County Historical Committee. The growth and success of the firm was officially recognized in 1967 by the bestowal of the first annual expansion award under the auspices of the Texas Industrial Commission, the same award KWW will receive later this year in Austin.

Don and his wife, the former Jean Welhausen of Yoakum, reside at 1020 N. Ave. C in Shiner.

Don and Jean have always been active and interested in all community affairs. They volunteered the use of the new Kaspar Wire Works factory building for the Benefit Dance, the initial kickoff event for the fund-raising campaign for the Shiner Hospital Foundation Building Fund.

As chairman of the Bicentennial Committee Jean worked untiringly with her committee members to make the Bicentennial Year one long to be remembered by the Shiner community.

FOURTH GENERATION—DAVID AND DAN

David and Dan, sons of Don Kaspar, joined the management team at KWW in 1976 and 1977, respectively. The pair mark the fourth generation to head Shiner's largest industry.

After graduating from Shiner High School in 1971, David went on to receive a Bachelor's Degree in Business Management from Texas A&M University. David and his wife, Josh, reside at 220 Montana Drive in Terrace West.

Dan is also a graduate of Shiner High and Texas A&M. He earned his high school diploma in 1973, then received a Bachelor's Degree in Agricultural Economics in 1977. Dan's new home built in the same spot his grandfather's backyard shop stood in the early 1900's, is nearing completion.

MORE HELP ON THE WAY

Besides David and Dan, Don and his wife Jean, have two more sons, Douglas and Dennis. Doug is a junior at Aggieland where he is majoring in Industrial Engineering. Dennis, one of the Shiner Comanche's promising young athletes, is a freshman at the local school.

Kaspar Wire Works has grown with Shiner throughout the years. The expansion of this local industry into one of the leading wire works manufacturers in the United States has proven itself an incalculable asset to our community.●

CLINICAL LABORATORY IMPROVEMENT ACT

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. ROGERS. Mr. Speaker, on September 19, 1978, I notified colleagues of my intention to offer an amendment to

the Clinical Laboratory Improvement Act (H.R. 10909). I am today submitting the text of that amendment which includes three additional changes not reflected in my remarks of September 19, 1978; these changes, which are technical in nature, are to pages 17, 37, and 39 of the Union Calendar bill.

The amendment is found in the RECORD with other announced amendments to pending legislation.●

AFL–CIO SUPPORTS SPECIAL PAROLE FOR CAMBODIAN REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. SOLARZ. Mr. Speaker, on Wednesday the House is scheduled to consider the conference report on H.R. 12934, fiscal year 1979 State-Justice-Commerce appropriations. The House conferees will recommend that the House recede and concur to a Senate amendment, sponsored by Senator DOLE and supported by Senator KENNEDY, which expresses the sense of the Congress that the Attorney General exercise his parole authority under the Immigration and Nationality Act to admit, over a 2-year period, 15,000 Cambodian refugees presently in camps in Thailand.

Much has been said of late regarding the continuing reign of terror in Cambodia. The President has labeled the Government of Democratic Kampuchea as the world's worst violator of human rights. The Senate amendment, which the House will now have an opportunity to vote on, offers us the opportunity to do something for those few Cambodians who have been able to escape from what many have called an Asian holocaust. We will have the opportunity to go on record as supporting action by the Attorney General to grant a special waiver of our immigration procedures to allow these survivors of the Khmer Rouge, who are now waiting in refugee camps in Thailand, to come to the United States over the next 2 years.

I would like to take this opportunity to call to the attention of my colleagues a letter I received today from George Meany, president of the AFL–CIO, strongly supporting the concept of a special parole for the Cambodian refugees and urging its support as a means of translating the American ideals of human rights into meaningful action.

I would also like to include the copy of a letter sent by Mr. LAGOMARSINO, Mr. WAXMAN, Mr. SIMON, and myself to our colleagues urging their support for this humanitarian gesture which in no way would preclude our ability to enact at a later date the much needed comprehensive revision of our immigration policy.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

September 26, 1978.

HON. STEPHEN J. SOLARZ,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SOLARZ: I am writing to commend you for your tireless efforts to focus attention on and ease the plight of Cambodian refugees, who, despite incredible odds, have escaped the autogenocide that is taking place in their tragic country.

While the United States is powerless to stop the slaughter and starvation being perpetrated by the policies of Pol Pot, we are in a position to help the lucky few who have made the perilous escape into neighboring Thailand. To this end, I urge the Secretary of State in May to recommend that the United States admit 15,000 Cambodians into the country over the next two years.

In the meantime the Senate has passed the Dole Amendment, which calls upon the Attorney General to exercise his parole authority on behalf of these Cambodian refugees. I understand that the Dole Amendment will be voted upon by the House today. Your efforts to gain its passage have the full support of the AFL–CIO.

Our nation faced a similar moral issue when thousands of Jews desperately sought refuge from Hitler's genocide. Our response then was woefully inadequate. It is my fervent hope that the House of Representatives will, by its favorable action, reaffirm our tradition as a place of refuge for the oppressed. Passage will, also, clearly demonstrate to the world that the American people remain willing to translate the ideals of human rights into meaningful action.

Sincerely,

GEORGE MEANY, *President.*

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 25, 1978.

DEAR COLLEAGUE: We are writing to urge your support for a humanitarian approach to the Cambodian refugee situation.

When the Conference Report on the State-Justice-Commerce Appropriations bill is brought to the floor next Tuesday, the House Conferees will recommend that the House should recede and concur to a Senate amendment, sponsored by Senator Dole and supported by Senator Kennedy, which urges the Attorney General to allow 15,000 Cambodian refugees to enter the United States over the next two years under the terms of a special parole.

Most of these Cambodian survivors have been waiting in four refugee camps in Thailand for over three years for a resettlement opportunity. Previous paroles announced for Indochinese refugees have allowed very few Cambodians to enter the United States because the criteria for admission have been weighted to favor (1) those with close relatives in the United States, (2) those who have been previous employees of the United States, or (3) those who had close ties with the United States. Through no fault of their own, however, very few Cambodians meet these criteria. Consequently, unless we adopt the Senate amendment, very few Cambodian refugees will actually be able to come here, since virtually none of them qualify under the existing parole program for Indochinese refugees.

Despite these compelling humanitarian considerations, Congressmen Eilberg and Fish recently circulated a "Dear Colleague" letter indicating that they would oppose this sense of the Congress resolution, because they felt it would hinder their efforts to develop a long-range comprehensive revision of our immigration laws, and would also hurt American efforts to obtain a wider international response to the Indochinese refugee situation.

But this is not the intent, nor would it be the result, of the Senate amendment. The supporters of this special humanitarian effort, also support the adoption of a comprehensive long-range refugee policy, as does the Administration itself. Unfortunately, time is running out in this session of Congress, and no such comprehensive immigration legislation is about to come before us. In any case, there is absolutely no reason why a special parole for several thousand Cambodian refugees should in any way prejudice the possibilities for a broader and more comprehensive reform of our immigration laws.

Furthermore, the Administration has already discussed with other countries the possibility of convening an international conference on Indochinese refugees. We hope that such a conference, if it is convened, will produce an expanded international effort in terms of both financial and resettlement aid, for these refugees. But we also remember refugee conferences such as Evian and Bermuda where, after long deliberations, no concrete actions emerged. And if relief for the victims of the Cambodian Holocaust is made to depend on an international conference on Indochinese refugees, the chances are they will languish forever in the squalid camps where they currently reside. In any case, a decision on our part to admit the Cambodian refugees, who constitute less than 15 percent of the total number of Indochinese refugees, need not in any way detract from our ability to convene such a conference.

Apparently, what the opponents of the Senate amendment intend to do is offer a substitute amendment which would, among other things, call upon the Administration to change the criteria for admission under the existing parole program in such a way as to enable a larger number of Cambodian refugees to qualify for admission to the United States. The problem with this approach, however, is that it would mean that any additional Cambodian refugees who come here would be coming in place of other Indochinese refugees. And, while we very much want to help the Cambodians, we want to avoid doing it at the expense of other deserving refugees. The Senate amendment, on the other hand, calls upon the Administration to permit the limited number of Cambodians, who have managed to escape from the clutches of the Khmer Rouge, to come here in addition to the Indochinese refugees who are already eligible under the terms of the existing parole program. The total estimated cost of such a program, by the way, would only be around $13 million for FY 1979.

Some may ask why the Cambodians should be treated differently than any of the other Indochinese refugees. There is no question that all the refugees, regardless of their country of origin, are desperately in need of assistance. But as bad as conditions may be in Laos and Vietnam, they are infinitely worse in Cambodia. And it is precisely because they are the survivors of a Holocaust, and only refugees from repression, that we are morally obligated to extend a helping hand to them.

Many of the major religious and charitable organizations of this country, both Christian and Jewish, have urged us not to turn our backs on these victims of a murderous regime as we once did to the victims of the European Holocaust. At present, there is little we can do for those who remain in Cambodia. But we can assist the few who have escaped, at great risk to themselves and their families, as positive proof of our support for human rights.

The AFL–CIO has testified that it supports this special parole for Cambodians and that they see these people as no threat to the American economy or the American worker. It is also supported by Senators Dole and Kennedy, as well as such prominent private citizens as Roger Baldwin and Coretta Scott King.

We hope, therefore, that when the Conference Report on the State Department Appropriations bill is brought up on the floor, you'll vote with Chairman Slack and the Committee to recede and concur to the Senate amendment (thereby permitting some relief for the survivors of this Asian Holocaust) and against the substitute amendment offered by Congressmen Eilberg and

Fish (which, if adopted, would pit one kind of Indochinese refugee against another).

Sincerely,

STEPHEN J. SOLARZ,
HENRY A. WAXMAN,
ROBERT J. LAGOMARSINO,
PAUL SIMON.●

FASCELL BILL WOULD MANDATE COLLISION AVOIDANCE SYSTEM TO PREVENT FURTHER AIR DISASTERS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. FASCELL. Mr. Speaker, once again, the Nation is shocked by the grisly details of an aviation disaster claiming more than 100 lives.

The tragic crash of a passenger liner with 135 persons aboard, and a small private plane with which it collided, offers fresh proof that our aviation safety system is in drastic need of improvement.

Today, I am introducing legislation designed to prevent a recurrence of such an accident. My bill would require the U.S. Department of Transportation to coordinate the development of a "Collision Avoidance System" (CAS) for use on all civil aircraft of the United States.

This bill is similar to one I first introduced more than 10 years ago. Sadly, there is just as much need for such legislation now as there was then.

Despite years of debate, studies, and efforts to improve air safety, I am still convinced that the single most positive step we could take to end aviation disasters would be to require the installation of a CAS in every plane.

I recognize that many aircraft owners would be concerned over the cost involved. My bill specifically requires that such devices be produced at a reasonable cost that will not place an undue economic burden on anyone.

We cannot ignore the tremendous human cost of crashes such as the one in San Diego. For those who have lost a family member or loved one, there can be no sufficient compensation.

Many private firms have been seeking to develop the technology for a CAS that will provide timely warning to a pilot of another approaching aircraft. With governmental leadership, I believe that mass-production can be stimulated so that the price is held to a reasonable figure.

Unfortunately, as found by a 1972 study by the House Government Operations Committee, the FAA has appeared more interested in development of a CAS system so costly that it can only be used in large aircraft. Other planes would be protected by improving ground-based air traffic control systems.

I believe that American technology can mass produce a "black box" that can be installed on all aircraft, even small, single-engine private aircraft so that pilots will be given a positive audible and visual warning of approaching planes. This kind of system is favored by the pilots themselves, and by other experts who have studied the problem of increasing air collisions.

I hope that this legislation will receive early attention, so that we can seek to prevent further air disasters. It is imperative that we do all we can to improve air travel safety, rather than wait for further tragedies.●

BLACK SCHOLARS OFFER PROMISING ALTERNATIVES TO FORCED BUSING

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. GRASSLEY. Mr. Speaker, forced busing continues to be one of the most divisive issues within American education. Despte the human and fiscal costs, busing has proven to be one of the most disappointing of educational enterprises. The evidence now strongly suggests that neither minority nor majority children have derived benefits from mandated racial balancing. It is time to reconsider busing effects and to come forward with educational innovations which genuinely advance the cause of integration. In any such consideration I suggest that major rethinking my have to come from minority educators who have witnessed, first hand, the actual impact of mandated desegregation.

Dr. Arthur Davis, Jr., associate professor of education at Northeastern University, is one member of a cadre of black scholars who now urge us to take a fresh look at busing. Long active in civil rights, Dr. Davis marshalls impressive credentials. He has authored "Racial Crisis in Public Education: A Quest for Social Order" and is editor of the books "Crucial Issues in Race, Culture, and Urban Education" and "Crucial Issues in Education and Culture."

On August 29, 1978, Dr. Davis participated in a symposium at the 86th annual conference of the American Psychological Association in Toronto. He addressed himself to the issue of improving education and urged a new cultural mentality if we are to successfully meet our social and educational obligations to American youth of all races. I urge those who seek new perspectives on improving minority education to consider the merits of Dr. Davis' statement.

Mr. Speaker, I insert the following remarks by Dr. Davis to be printed in the RECORD.

The remarks follow:

School integration in the United States has arrived at its present condition in the face of a diversity of plans, and with a still greater diversity in execution. As a result, black and white communities across the nation have developed a physical rather than a psychological basis of existence; in suburbs and inner-cities, there is a natural aggregation of people which has developed a community of belonging, of likemindedness. This is the essence of racial segregation. Busing disrupts the pattern of likemindedness which opposes a rapid population change and there is, consequently, strong resistance to forced "integration."

"In truth, there is no viable formulated philosophy of education for school integration. A philosophy is like a blueprint. Anything which is complicated, anything which is difficult, must have a blueprint. Moreover, anything which is done well has to be done with a clear idea of what one intends to accomplish. If carefully conceptualized, a philosophy of education for integration can serve as a framework of basic principles which expresses convictions on such essential points as the scope of responsibility in carrying out a plan for integration, the nature of the educative process, desirable types of student learning activities, and the outcomes to be attained. The philosophy should give direction to all objectives and effect every policy and activity. It should express in explicit terms the ideal of integration and not be the ideals of desegregation.

"For years, we held in high esteem northern style *defacto* segregation while southern states wrestled with the problem of trying to eliminate *de jure* school systems. But suddenly, with the intervening of the federal courts to desegregate by busing, school desegregation became a national problem. The current hysteria that is sweeping our country over busing has further irritated black and white race relations. Busing is not quality education; busing is not equal education; and desegregating neighborhoods cannot insure integration or quality education. What is needed, and in my opinion, what is missing, is a deep and strong national commitment to integration. Our national sights need to be set on achieving integration through changing our way of thinking by cultivating a whole new mind set. What we need is a philosophy of education for integration whereby we breed a new kind of human product . . . a new cultural mentality.

A cultural mentality where children will be taught educational and social realities and thus encouraged to think of a pluralistic society in which all individuals are seen to have equal worth. An appropriate curriculum can enable students to think as integrated beings regardless of where they live or go to school. However, as long as integration is conceived only in terms of litigations, the essential elements will be neglected. There can be no integration of schools so long as we are dominated by fears, blinding prejudices, racism and the courts. In America we face a real dilemma in what to do to successfully achieve integration in education as the white population outflow from cities combines with blacks in migrations and political opposition to busing serves to polarize the races.

"In the meantime, the inability of the big-city schools to adapt to the special needs of minority students has failed to adapt to the needs of a majority of their students, most of whom are black. Our nation is split: it is bifurcated culturally and racially, largely between blacks and whites, which makes it difficult to sustain a movement for true integration of schools. As long as the cities are surrounded by a collection of autonomous suburbs, middle class citizens will continue to move to those areas where they could control their own schools as they choose. The only alternative left is through the schools as they are situated, and through creation of a philosophy of education which, at its core, emphasizes not the moving about of bodies but the meaningful use of curriculum to permit growth in personal competencies and respect for all individuals.

"The curriculum is the backbone of our schools. Many aspects of the present curricula stress knowledge, sentiments and values that have no relevance to racial integration. The curriculum should be the goal. It should be the outward expression of the educational philosophy of integration. It should be the device by which integrational thought is given reality. Thus the task is to build a curriculum that will achieve a set of consistent ideas and values for racial integration in which all members of society can share.

"The administrators of American schools are in a position, if once they can be brought to see the necessity for systematic work on

the curriculum, to command support for this large enterprise.

"There is nothing new about this concept. Horace Mann in the spirit of the nineteenth-century evangelist, the reformer crusading for common schools, preached a ritualistic sermon urging school leaders to synthesize the ethnic colonies to produce what he called an American culture and thus to unify the nation. Horace Mann viewed the school, whether pauper or truly common, as an assimilation and stabilizing mechanism, a way of achieving a new national cohesion; a vehicle to American wholeness. This dream of cohesion was the answer to a sprawling expanding country of autonomous communities, discrete social entities that established their own techniques of enforcement.

"We today in America, if it is our goal to achieve integration of schools, need to establish a philosophy of education for integration whose logical objectives consist of a linear, step by step process to integration so often expressed by the metaphor of a maturing plant. The objectives emanating from the philosophical principles for integration should be reduced to specific objectives that serve as sign-posts along the school integration road. The objectives for the program will be drawn in accordance with its statement of philosophy. If we could just inculcate, through the curriculum, the proper habits, and attitudes, the mold of integration would be set. By any modern standards, education with this scheme would be a challenge.

"A curriculum organized to afford the best exercise of the faculties of the mind for integration purposes should be given serious thought by curriculum developers. The idealist vision of an education that would place racial integration at its core is the only logical means left if we are determined to achieve school integration. Looking at school integration as a distinct kind of school administrative work in itself, this philosophy, therefore, visualizes three principal aspects of such work, namely:

1. Planning—to determine what objectives should be established to utilize the human and material resources of the curriculum to achieve a measure of integration within a pluralistic society.

2. Organizing—to determine how the human and material resources of the school are to be utilized in a clear, well classified organization structure for integration purposes.

3. Measuring—to evolve standards, to devise measuring mechanisms to analyze progress and performance.

"I conclude that American society has no other choice but to utilize the curriculum as the basis for a new cultural mentality if integration is our goal. This choice can produce an integrated society and allow an integrated form of public education without busing. In setting our sights on a new cultural mentality with integration as its core, we are declaring an idealistic position. That is, we will be trying to bring about conditions that call for changes in schooling.

"Our history provides us with too many examples of success in producing change in our social system to surrender to the doctrine that we should abandon our ideals and accept our imperfections because the task of change is too great."●

INTERNATIONAL POLICE OLYMPIC

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. APPLEGATE. Mr. Speaker, it is a privilege for me to address this House and announce a noteworthy accomplishment of one of my constituents.

Mr. Leon Stinson, an outstanding patrolman on the Steubenville, Ohio, police force, recently competed in the International Police Olympics held in San Diego, Calif., on August 25, 26, 27, and 28. He finished first in the weightlifting competition in the 220-pound division.

This is no easy feat as is demonstrated by what Leon had to do to finish first. He lifted a total of 1,540 pounds in three types of lifts. He first lifted 570 pounds in a squat position, followed by 350 pounds in a bench lift, and 620 pounds off of a dead lift. By any standard, this is certainly an accomplishment!

A graduate of Steubenville Big Red High School, Leon served in the Marine Corps before returning to his hometown to join the police force. He has served the people well and deserves recognition on a job well done.

On behalf of the 18th Congressional District of Ohio, I congratulate Leon Stinson on his Police Olympics Award and wish him continued success in the future.●

DAVID L. RIKE, A GREAT DAYTONIAN

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. WHALEN. Mr. Speaker, I was very pleased to learn that Wright State University (Ohio) saw fit to honor one of Dayton's leading citizens, David L. Rike, by naming the new school of business administration building after him.

Dave Rike has truly been one of the Dayton area's great citizens in the fullest sense of the word. His life has reflected a deep love and genuine concern for community which has been translated not merely into words on his part but substantive actions. I have been privileged to know him for many, many years and have had a deep affection and respect for him and his good works.

A member of one of Dayton's leading families, Dave Rike easily could have fallen into the pattern of "going through the motions." Instead, he chose to make a sincere commitment while attempting to avoid a high profile in the process. He has done far more than has been expected of him and thus has earned the praise of his fellow citizens. In the words of the 16th century writer Edmund Spenser: "All for love and nothing for reward."

I am happy to commend Dave Rike for his many good works and to insert at this point in the RECORD an appropriate column written by Dennis Shere, the editor of the Journal Herald, one of the daily newspapers in my district.

The column follows:

[From the Journal Herald, Sept. 13, 1978]

DAVID L. RIKE: MORE THAN AN "INSTITUTION"

(By Dennis Shere)

They broke ground at Wright State University last Friday for the School of Business and Administration's new building. As ground breakings go, this one was probably routine—gold-plated shovelfuls of dirt and all.

I was drawn to the event because of David L. Rike. The new building will be called Rike Hall. The university had wanted his name alone to grace the structure but Rike, whom WSU President Robert Kegerreis describes so accurately as "gentle" and "self-effacing," insisted not he but his family reap the honor.

There are precious few Daytonians who genuinely qualify as community "institutions." One is David Rike. Another is Mrs. Virginia Kettering Kampf. They, along with a handful of citizens out of the city's past—men like John F. Patterson, Charles F. Kettering and Col. Deeds—deserve the accolades they receive.

The problem is that being described as an "institution" sounds cold and impersonal. David Rike's friends and associates regard him as warm and caring. But the character of the man has generally been obscured while his image grew as a community institution.

Rike has never been terribly comfortable accepting the tributes that have come his way. Once, long ago, as he waited to be feted as the nation's "Retailer of the Year," Rike asked a reporter, "Know any way we can wave a wand and make these next three hours disappear?"

Yet he seemed pleased that Kegerreis and other WSU officials would salute him for his contributions to the university. And at the conclusion of a Racquet Club dinner capping the affair, he said it had been the "best day" of his life.

Rike has given Dayton far more good days in return. Consider some of his diverse achievements, gleaned from a thick batch of newspaper clippings accumulated over the years:

Long-time volunteer leader of the Community Chest (forerunner of the United Way).

Member of the boards of Antioch College, the University of Dayton and WSU.

Benefactor of the Dayton Art Institute.

Chairman of the Air Force Museum fund drive in greater Dayton.

President of the Miami Valley council of the Boy Scouts of America.

Head of a campaign to renovate the downtown YWCA; the family contributed $70,000 to that effort.

President of the Miami Valley Hospital board of trustees, and instrumental in a fund drive to raise $2.5 million for the institution.

Rike also has headed a family foundation which has given to a variety of causes. Recipients of large gifts have included Otterbein College ($300,000 for a physical education building), and Miami Valley Hospital ($400,000 to purchase a betatron machine, for x-ray and radiation treatment of cancer patients).

Rike money has gone as well to the "little people." It has financed a redwood cabin at Camp Kern, a fashion scholarship to New York for Dayton area girls, equipment to send local Boy Scout troops to national jamborees and swimming instructions.

David Rike's influence has extended well beyond the department store which his grandfather founded and which he headed for many years before retiring from active management in 1970. Someone joked, though, that he was the community's most powerful leader when he ran Rike's, because women "owed more to Dave Rike than any other man in Dayton."

Rike will turn 74 in October. He suffered a stroke in May which has forced him to negotiate with a cane. But he is still actively running the family foundation, out of an office in the Winters bank tower, and continuing to support his hometown in many ways.

And while age may have taken its toll, it hasn't dulled the gleam in David Rike's eyes. Or hardened his friendly smile.

A NAVY SHIPBUILDING SETTLEMENT THAT MAKES THE LOCKHEED DEAL LOOK GOOD

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. DOWNEY. Mr. Speaker, I would like to submit for the RECORD a recent article written by Mr. Patrick Sloyan of the Newsday Washington Bureau.

This article strongly supports some of the arguments I have raised concerning the Navy's proposed settlement of shipbuilding disputes with General Dynamics' Electric Boat Division and Litton Industries' Ingalls Ship Yard. Although Mr. Sloyan's article concentrates on the General Dynamics' settlement, he raises issues which are central to both disputes. That is, are the proposed extra-contractual settlements granting relief in excess of the responsibility of the Government and will the settlements set a bad precedent for the future?

I wish to share this article with my colleagues as it conveys some interesting and, in my opinion, disturbing insights.

NAVY SETTLES SHIPBUILDING DISPUTES

(By Patrick J. Sloyan)

WASHINGTON.—With little fanfare, President Carter has approved a windfall payment to General Dynamics Corp. that is far more generous in important respects than Richard Nixon's controversial bailout of Lockheed Corp.

One reason there has been little controversy over Carter's action is that administration officials had proclaimed that General Dynamics would suffer a "substantial loss" as a result of the recent settlement of a 3-year-old dispute over $1.4 billion worth of nuclear-powered submarines of the 688 class.

But Wall Street isn't buying the administration line. General Dynamics stock soared 14 points after it was announced June 9 that the Navy would pay $484 million on $544 million in disputed cost overruns in the submarine program. In return, General Dynamics agreed not to seek settlement of $300 million in additional claims for which it had not yet formally applied. The Navy had acknowledged responsibility for less than one-fifth of the formal claims.

It was the largest payment in Navy history, both in amount and percentage, on a shipbuilder's formal claim.

The settlement is subject to a veto in Congress. Sen. William Proxmire (D-Wis.) said he is waiting for formal submission of details of the settlement before deciding whether to challenge it, but a fight is likely.

In 1971, Nixon approved a $681-million payment to Lockheed, despite bitter Democratic protests. But the Lockheed settlement was so stringently drawn that it is hobbling the firm's recovery seven years later The settlement with General Dynamics that was approved by Carter—who has sometimes been a populist critic of the "unholy alliance" between Washington politicians and corporations—will turn a short-term "loss" into a long-term gain.

The settlement of such disputes between the Pentagon and its contractors is vital to any President's domestic and foreign policies. Legal contracts are the Defense Department's only tool in controlling skyrocketing costs for military hardware, which devours more than $50 billion a year of the federal budget. Unless contracts are enforced, mismanagement and waste by both parties routinely double costs of weapon systems, aggravating inflation and eroding U.S. defense capabilities. A president's threats in strategic arms talks with the Soviet Union may have a hollow ring if the Kremlin estimates Washington cannot afford costly weapons programs.

Those were the pressures on Nixon and Carter:

In Nixon's case, Lockheed said it was threatened with bankruptcy, possibly disrupting production of the front-line nuclear deterrent, the MIRV missile that armed the Poseidon submarine fleet. From a single rocket, the Lockheed warhead could guide 14 nuclear bombs at targets hundreds of miles apart. Lockheed wanted Nixon to pay for cost overruns in an array of Army, Navy and Air Force hardware programs, including a doubling of costs (from $1 billion to $2 billion) for the C–5 military cargo jet.

With Carter, General Dynamics threatened to halt operations at its Electric Boat Division in Groton, Conn., where work is under way on seven Trident submarines, the mammoth successors to the Polaris-Poseidon submarine fleet. General Dynamics wanted Carter to pay cost overruns of $544 million on $1.4 billion worth of new nuclear-powered attack submarines, the Los Angeles 688 class.

A major reason the two disputes were settled differently can be traced to the men picked by the two Presidents to negotiate with the hard-nosed conglomerates.

Nixon selected Deputy Defense Secretary David Packard, a shrewd, successful veteran of the California aerospace community. He devoured details of all programs in dispute between the military and Lockheed, laying the groundwork for an omnibus settlement.

In the end, Lockheed was awarded $781 million in additional funds by the Pentagon. Although the firm said the settlement would mean a $480-million loss, Packard didn't agree. He knew such losses disappear when they are offset by high profits from other corporate divisions doing business with the Pentagon, such as Lockheed's space and missiles division.

To add sting to the settlement, Packard insisted on—and Lockheed was forced to accept—a $200-million fixed loss. No matter what happened, Lockheed had to pay that sum out of profits as a penalty, and it served as a warning to large defense contractors to improve performance and control costs. Half of it came immediately, reducing the government payment to Lockheed to $681 million. The rest was in $10-million payments over a 10-year period.

The Packard settlement sent Lockheed stock to record lows as Wall Street interpreted the $200-million fixed loss. Despite $2 billion a year in operations by big defense contractors, few have profits as high as $50 million a year.

To handle General Dynamics, Carter picked Navy Secretary W. Graham Claytor. His expertise was in railroading, with little knowledge of the Navy, defense contracts and shipbuilding. Carter's selection of such a relatively low-level Pentagon official tended to give General Dynamics the upper hand in the negotiations. Had Deputy Defense Secretary Charles W. Duncan, Packard's counterpart, been designated, the firm's tough talk might have evaporated: Duncan has a major say on about $1.3 billion a year of other General Dynamics contracts. Moreover, Claytor negotiated in what the Navy viewed as a crisis situation for its shipbuilding program, with delays in submarine production threatening national security.

To settle General Dynamics' claim of $544 million, the Navy agreed to pay the $484 million.

Claytor said the settlement included the $300 million the firm had planned to add to the formal, $544-million claim on the attack submarines. But Claytor's last-minute acceptance at face value of General Dynamics' demand for the additional $300 million was an unprecedented move. A Navy analysis of the original $544-million claim had found only $120 million to be legitimate, that is, extra, costs created by Navy officials. On a portion of the claims, the Navy found evidence of fraud by General Dynamics. Those criminal charges are now the subject of investigations by both the Justice Department and the Securities and Exchange Commission. "I know nothing of the validity of the claims," Claytor told newsmen. "We tried to avoid evaluation of the claims."

According to Claytor, it was a case of "rough justice" to both the firm and taxpayers that would end the rift between the Navy and the contractors. He argued that it was a settlement that actually would impose a loss of more than $350 million on General Dynamics.

But that loss, after taxes, was reduced to $187 million for this year, with the balance carried back to offset past years' profits. That "carryback" feature enabled General Dynamics to get a $68.4-million income-tax refund for 1976, for example, even though it had net earnings of $99.5 million that year.

David Lewis, president of General Dynamics, followed Claytor's cue, termed it a "painful settlement" for the firm.

But Wall Street took a different view. The firm's stock, closing at 63 before the settlement was announced last month, rocketed to 77 on the New York Exchange a week later—its highest level in almost a decade.

Market analysts read the $484-million Navy payment as a windfall for General Dynamics, a remarkably generous action in light of past Navy shipbuilding claims settlements, which traditionally ended with the contractor getting only a quarter or a third of the formal claim. Left unaltered was the Navy contract with General Dynamics on the Trident submarine program, with $2.8 billion in cost overruns to be covered by taxpayer money.

Claytor said the Navy would make payment to General Dynamics despite the continuing criminal fraud investigation by the Justice Department.

The General Dynamics settlement was exactly what Carter's old mentor, Adm. Hyman Rickover, had warned the President against making. Carter told newsmen in January that he had discussed the dispute with Rickover, whose demands on General Dynamics played a role in the cost overruns. Although Rickover has refused to comment on the settlement, he had warned earlier that an overly generous bailout would only encourage other contractors with billions in shipbuilding claims. "It is just like when somebody tastes blood and he knows he can get more," Rickover said.●

SAMUEL DESIMONE, SR.

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. FLORIO. Mr. Speaker, I would like to pay tribute to an outstanding gentleman who lives in the Southern New Jersey community of Gibbstown.

Mr. Samuel DeSimone, Sr., a native of Penne, Italy, immigrated to this country in 1919 at the age of 18. He found work as a coal miner in the mines of Pennsylvania before settling in South Jersey.

In 1924, he established his own busi-

ness, the Royal Meat Market, in Gibbstown and has been able not only to maintain a fine reputation as a small businessman but became an active and contributing member of his community.

Sam DeSimone is a fine example of the "pioneering" spirit that built our country. I certainly commend him for his achievements and wish him the best during his retirement.●

UNITED STATES ON CHINA: UP A TREE?

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. SNYDER. Mr. Speaker, every time I hear the whispers which periodically make the rounds about the possibility of normalizing relations with Communist China at the expense of our longtime friend and ally, the Republic of China, I am reminded of the old Benjamin Franklin saying:

Any nation that gives up a friend and ally to obtain a measure of temporary safety, deserves neither friends nor safety.

It is unfortunate that the administration is apparently unable to see the truth in those words—or the wisdom.

Of course, Mr. Franklin was not the first man in history to recognize the value of friendship, nor was he the first to note that anyone who treats allies cavalierly deserves neither friendship nor trust. I recently ran across a letter in the Christian Science Monitor in which the writer, a Mr. S. T. Tung, cited one of Aesop's Fables which carries the same moral.

I would like to share this letter with my colleagues. Aesop's Fables like Benjamin Franklin's sayings have been around for a long time. But some things never go out of date—among them honor, friendship, and wisdom.

Possibly by reviewing the wisdom of the past we can find the wisdom to face the future.

The article follows:

U.S. ON CHINA: UP A TREE?

(By S. T. Tung)

The Carter administration should be warned to think twice before plunging into the normalization of U.S. relations with Communist China on the latter's terms: namely that of breaking relations with Taiwan. The U.S. has recognized the Republic of China (now on Taiwan) ever since it came to existence in 1912. During World War II, the two countries were allies against Japan. They became allies again in 1954—this time the enemy was no other than Communist China.

Presidents Eisenhower, Kennedy, and Johnson have declared that the U.S. would never abandon an ally although it desired to normalize the relations with Peking. Nixon said that the normalization cannot be made at the expense of old friends, when he went to China in February, 1972, and issued the Shanghai communique. What would the pledge of the Presidents of the U.S. be worth, if it could be so easily ignored and repudiated?

As to the cancellation of the mutual defense treaty of the U.S. with the Republic of China, Uncle Sam should be reminded of the story of "the travelers and the bear" of Aesop's fables. Two men traveling together through a forest promised to help each other whenever danger threatened them. (They became allies.) They had not traveled far when a bear rushed at them, and one man climbed up a tree, but the other, seeing that he had no chance alone against the bear, fell flat on the ground and pretended to be dead. The bear came up, sniffed at him, and thinking him dead, went off without hurting him. The tree climber came down the tree and asked his companion what the bear had said to him.

"He told me to tell you," replied the other, "that you were a great coward . . . and that in the future I should not trust those who make fine promises but will not stand by their friends in danger."

What would the world become if its citizens regarded the U.S. as a great coward, who made fine promises but would not keep them?

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NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. MICHEL. Mr. Speaker, the National Society of Professional Engineers, a nonprofit organization headquartered in Washington and representing 80,000 individuals engaged in virtually all disciplines of engineering practice, recently held the society's 44th annual meeting of its board of directors. This year's meeting was held in St. Louis, Mo.

At the St. Louis meeting, House Minority Leader JOHN J. RHODES appeared as the featured speaker. His remarks were warmly received by the professional engineers, but more to the point, what the gentleman from Arizona had to say is of great importance to all Americans in general and to those of us here in Washington, in particular.

In order that all my colleagues in the House might benefit from Minority Leader RHODES' remarks, I insert the text of his address to the professional engineers, plus his answers to questions from the floor, into the RECORD:

SPEECH OF THE HONORABLE JOHN J. RHODES

Thank you very much for your gracious welcome. I have to tell you though that it bothers me when people stand like that because the first thing that goes through my mind is that everyone is leaving before I say what I came to say. But I do thank you and it certainly is a pleasure for me to appear before this Board to talk about the condition of our government and the upcoming election.

Government today is the nation's biggest business and it has become a pervasive force that employs one of every six workers and takes 40 percent of our gross national product. Even government is worried about itself. How would you like to be the head of the Internal Revenue Service and know that all of the $300 million coming in has to come through the U.S. mail?

Foreign policy, or what passes for it under this Administration, has been in the headlines. The SALT talks have been peppered with criticism. Cuban conquistadores roam Africa. The communists are mopping up in Asia. And the United States has steadily lost influence around the globe for the past 18 months. This Administration's first major foreign policy move I think has turned out to be a blunder of monumental proportions.

I'm sure that most Americans support human rights but when you try to tell the Soviet Union that Soviet-American relations hinge on their internal policies being conducted according to our demands, you're looking for trouble. Communism is not based on equal rights. In fact, they really don't know what equal rights or human rights are. The Russians have never known anything about human rights. They've been oppressed and imprisoned without trial ever since time immortal.

Certainly, if it was possible to push a button or turn a tap and guarantee human rights for everyone in the world, just as we have them under the Constitution of the United States, we would all do it eagerly. But when the Administration, President Carter, gathers headlines with a barrage of human rights statements, he also sank detente. He further damaged the chance for more Jewish immigration from Russia. Jewish immigration is now down from 35,000 immigrants in the last year of the Ford Administration to fewer than 10,000 a year now.

The Soviet response to Mr. Carter's jibes has been to step up repression against dissidents. The gains of detente now are just a memory of the Ford Administration's endeavors to find common ground for compromise between two strong nations whose ideals and principles move in divergent directions. The goal of our foreign policy should be to create an international climate in which our American system can survive and prosper in peace. And the key words are "in peace." Under this Administration, we have not seen the cause of peace advanced. Talking certain rights and then caving in by unilaterally disarming, makes no sense whatsoever. The Carter foreign policy borders on being an unmitigated disaster which will have serious economic and military repercussions over the years ahead.

Domestically, there is a fever in the land which reportedly started with the success of Proposition 13 in California. However, I don't think it started with Proposition 13. I think Proposition 13 is just a manifestation of a feeling that existed before and went largely undetected until Proposition 13 was voted. People suddenly are beginning to realize that "bigger" government is not better; nor is it inevitable. They are beginning to see the power of the vote. They are waking up to the fact that through complacency they have become servants to a government that has grown greedy, demanding and repressive. People now recognize that an army of non-elected, unresponsive bureaucrats really run the country. What few realize is that Congress largely is to blame.

That is the job ahead of us. We must point out that 24 years of one party rule of Congress has produced a government that is the private domain of the big spenders and the power grabbers who view themselves as modern Robin Hoods, taking from those who work and earn and giving to those who can't or too often won't. Nearly $250 billion was "redistributed" by the United States last year and only one of four recipients had to show any need for the largesse that he got from the Federal government.

Congress created our massive federal establishment. Congress overfunded and undercontrolled the agencies that have become bloated and arrogant. Congress failed to use its oversight function and allowed federal abuses to multiply. Bureaucracy has become a whipmaster because Congress has given federal agencies nearly blanket authority.

I think the American people are ready for what I call Proposition 96. They are ready to elect a prudent, hardworking 96th Congress. The country needs it worse than it needs anything else. It's a challenge for all of us who want to save our nation from sliding into socialism, to save the dollar from

becoming a shin plaster and regain the freedoms and opportunities our forefathers envisioned for America. One of my jobs is to make sure that people know that the only way to change the course of government is to change the makeup of Congress.

Today, I'd like to talk with you about the three big issues in this fall's campaign: inflation, taxation, and regulation. The polls show that inflation is the most worrisome issue to the general public. The policies of the Carter Administration and Congress have produced promises but yet we have double digit inflation. Would you believe, and I imagine some of you remember, that back in 1939 some people worried over the fact that no one seemed to think or care about balanced budgets. They predicted that the dollar, if inflation wasn't halted, wouldn't even buy a postage stamp. Of course, back in those days the postage stamp sold for 3 cents. Would you believe that the 1939 dollar is now worth only 17 cents. Literally, the dollar is down to the point where it will just only buy a postage stamp and have 2 pennies left.

That's what's happened and it happened because Congress has not seen fit to do anything about the deficits which have been running this government for all these years. Inflation is the product of the action of the Federal government and I say that because during these years we have seen deficits mount up to where we have an $800 billion federal debt. The deficit for the next year is some $50 billion, but the accumulation of deficits add up to $800 billion in debt. And you will remember, I think, that back in 1964, Lyndon Johnson was doing his very best to hold the budget of the Federal government under $100 billion. He did it with something like $99.8 billion, but it was under $100 billion. Well, that was back in 1964, fourteen years ago. Well, that $100 billion budget is now $500 billion. And if this type of thing continues, you can see what the result will be. It will not only be more inflation, it will be increased inflation by geometric progression. And we're going to find that the dollar that is now worth 17 cents is going to be worth less and less and less.

So what can we do about it? Well, our group, the Republicans in the House of Representatives, have just put together, we just finished yesterday, the final work on what we call our legislative agenda. Now this agenda is not what we are going to do this year, but rather it's what we would do if we were a majority. And bear in mind that every legislative body takes on the tinge, the hue of the majority.

It's true that the minority, in Congress, every now and then, can get together with some members of the majority and stop some bad things. We were able to stop the common situs picketing bill. We were able to stop the consumer protection agency, that great big bloated bureau that was not needed by anybody but was a part of the program in this Administration and the majority of Congress. We've been able to stop some pretty bad things. I think the labor law reform bill really is dead even though people keep trying to bring it back. And yet you know that for every vote that we win, we probably lose 10 because the majority will have its say and be able to get its program through when given enough time. So the really important thing for you to understand is it's been too long since we've been able to adopt a positive program to help the free enterprise system prosper rather than simply hang on by its fingernails.

What we really have to do, I believe, is change the majority of Congress so the new majority can go to work with a legislative program that is pro-free enterprise. This would be a welcome change from just concentrating our efforts on trying to stop legislation which is anti-free enterprise. It's about that simple. Let's do positive things, instead of just being negative all the time. This country wasn't built on negativism and negativism, although it's important to have it when we need it, cannot last for a long period and it cannot be beneficial for a long period of time either.

It's interesting that in travelling around the country, I find that people refuse or are unable to think of Congress as an "institution." Frequently, they think of Congress as being an individual congressman, either theirs or somebody else's. If they like their congressman, and they quite often do, if he answered his mail and telephone calls, comes home and talks to people, and makes fine speeches, they quite often will vote for him even though they often don't have the vaguest idea what his voting record is. Well, I think it's necessary for people to look at a congressman as one who wears two hats. The hat they are looking at, the one I just described, is the hat that he wears as the "ambassador" of his people to the nation's capital, and that's an important hat and don't ever doubt it. Nevertheless, it's not the only hat, and probably not the most important hat that a congressman wears. The other hat, the one he wears as a Federal official, the one he wears when he goes to the House of Representatives or to his committees and votes on legislation is the important hat because that is the type of activity which sets the course of government for years to come. Therefore, I think it is very important that people look at Congress as an "institution" and vote for or against the challenger or incumbent on the basis of what he or she will do, or what he or she has done, when becoming a part of Congress—the institution.

Now I guess I wandered a little bit but let me talk to you now about taxation because we are, I think, going to have a tax bill this year. I hope it is going to be a good one. I think that the Steiger amendment will be part of that tax bill. And it isn't because the Administration wants it to be a part, it's because the people of the United States want it to be a part of the tax bill. If we are going to do all the things that are so important for this country in the years to come, if we are going to put ourselves in the position where we are at least somewhat self-sufficient in energy, if we are going to update the industrial plants of our nation so we can once again be competitive in the world markets, then it is necessary for us to form capital at a rate higher than we are now doing. One of the problems with international trade, and I think the main problem, is that the other nations of the world are trading partners and are doing a better job of capital formation than we are. Therefore, they have more up-to-date industrial plants than we do and, consequently, they are more efficient than we are and their products, in many instances, are better than ours and in almost every instance, cheaper than ours. The only way to stop that trend is to increase capital formation. The Steiger amendment would cut the capital gains tax back to where it was before it was raised a few Congresses ago; back to 25 percent.

The Republican idea of an actual tax cut is, I think, important to all of us. It isn't just a hit or miss cut. We believe in the Kemp-Roth formula which says that you cut taxes 10 percent a year for the next 3 years. That's a total of 30 percent. Also the cut would be across the board and that is important. The last tax cuts were concentrated on the lower income brackets. You know it has been sort of a popular idea to help the poor. Well, I want to help the poor too, but what I mainly want to do is to help them by raising the capital necessary to provide more and better jobs for them. It takes spending of at least $75,000 before anybody gets a job and the question is where do you get the $75,000. I saw a statistic the other day which literally bowled me over. It was on the front page of the Washington Post and it said that 94 percent of the dollar that goes to the Internal Revenue system comes from people who make over $20,000 a year. Now let me repeat that, 94 percent of every dollar, of all the dollars, that go into the Internal Revenue system from personal income tax payments comes from people who make over $20,000 a year. So where are we going to get the savings to provide the $75,000 capital. Well, obviously you are going to get the $75,000 from that bracket of individuals who make over $20,000 a year. There's only 6 percent of the dollar that comes from people that make under $20,000. So the tax cut must help the higher brackets because that's where the savings will be. And that's where you get the tools to make this economy start making sense once again. So this is the Republican idea of what is to be done.

Now, I would like to contrast it very briefly with what I understand to be the Administration's program. The Administration wants a $15 billion tax cut and, of course, it is somewhat selective. There would be some cut in corporate rates but it is just a one shot affair and people who invest funds in corporations can't depend upon it being repeated in the next year as they can under the Kemp-Roth formula. Also, the cut is not adequate. The reason it isn't adequate is because it will leave us in a situation where the American people will be paying more dollars in taxes next year than they paid this year. Now that has to be deflationary in some ways but it's deflationary in a destructive sort of way that can't be tolerated by the economy.

Let me tell you why the Carter proposal is actually an increase as far as taxes are concerned. The reason is taxflation. Taxflation, the shorthand term for describing a phenomenon of which you are all aware, is the situation where more inflation provides more dollars to go to the Federal government. Consequently, the only entity in the country that profits from inflation is the Federal government. The reason is that as your income goes up in inflationary dollars and you are put into a progressively higher tax bracket, you pay more tax dollars and the government consequently collects more money. The estimate is that this phenomenon will take $13 billion more from the American people in the next fiscal year than it has in this one. Now, add onto that the $8 billion which has already been voted in social security tax increases and you're already up to $21 billion. And if the Carter energy program goes through with its various tax proposals, then you're up to somewhere between $25 and $30 billion which the Federal government is going to take next year which it didn't take this year. Well, the talked about $15 billion tax cut looks a little bit picayune when you compare it to those numbers. These are some of the things that I think Americans have to be looking at.

I'm not going to mention energy too much except to say that I don't think we are going to have an energy bill that will do the job. I'm afraid that what we're going to get is something that's cosmetic, that looks like an energy program but really isn't. The only real energy program that will make any sense is deregulation of natural gas. You know the majority in this Congress still has not yet been able to repeal the laws of supply and demand. They are still here.

Every economy can pretty well be measured by the amount of energy it consumes. Sure we waste a lot and we shouldn't. But to deliberately attempt to cut down on the supply of energy is going to cut down on the velocity and size of the economy and you are going to be losing jobs instead of making them. So

what we need to do is to look at our domestic supply. We can't keep relying on the OPEC nations. It's not because they don't have it, it's because of two things. One, they don't really want any more dollars; they have all the dollars they need in view of the dollar's devaluation. And two, we can't afford to buy it.

We have a $30 billion deficit largely caused by the fact that we have had to purchase so much oil abroad. So we need to increase initially the supply of domestic oil and natural gas. We need also to do a better job of using coal. I have to admit that I have some qualms about the coal conversion feature of the so-called energy package. I felt better about it before the coal strike but now when the government says you have to convert to coal, the answer is "what coal are you talking about?" And sometimes the answer is not really apparent. Nevertheless, we can and should do a better job using coal. Then, of course, there is oil shale. But the big demand, the big thing, has to be fusion of the atom followed by solar energy. Solar energy that would come from satellites, earth satellites which we will someday build far, far out in space. If the space shuttle works, it is within the technology ability of this country to actually build satellites which contain photovoltaic cells capable of transforming sunlight directly into electric energy that can be sent to earth by microwaves and then be distributed over the existing power grids. I get excited about space and things like that. I used to be on the Independent Offices Subcommittee of the Appropriations Committee. In fact, I was on that subcommittee when we decided to fund man's space flight. You know I'm thought of as a conservative and I think of myself as a fiscal conservative, but I hope I know a bargain when I see one and I saw one in man's space flight and I see a real bargain in this idea of solar satellites. This is something that we've got to be looking at in the almost immediate future, if we're going to be able to provide the energy that we need on earth to take care of the expanding economy and needs of our people.

Well as usual, the lawyer in me wouldn't let me stop as soon as I wanted, so now I'm going to stop and if you have questions, I will certainly be glad to do my best to answer them.

Q. Thank you, Mr. Congressman. I have several questions and maybe that's more than my share but the first one I would like to mention is the problem of equity capital versus borrowed capital and its effect on our industry. The second one deals with political fund raising activities; there isn't a day in which I don't get letters from congressmen inviting me to make contributions. Isn't there a way of getting this more efficiently done. Finally, how bad an effect does the influx of foreign money to banks and to industry have on our national economy?

A. I hope you have lots of time. Let me talk to you first about this political fund raising. I know what you're talking about, I sympathize with you and I agree with you 100 percent. I wish there was some way that we could stop people from mailing this stuff out in such great volumes but unfortunately, if they can afford the postage there is just no way to do it. If I were you, I would be very selective in my giving. My advice to people is first, you ought to give to the candidates you know and approve, that's the first priority. Also, I think, the political party of your state. Next, I would suggest the National Committee. Naturally, I've got my own favorite party but if its not yours, give to your party. Then after that I would be very, very choosey about the rest because you do get a lot of requests and some of them come from people with huge computers and mailing lists who profit from their efforts much more than the person whose name is being used. So I would just be very careful about it and give only to those situations in which you have some familiarity.

Now as far as equity capital versus borrowing capital, of course, that is what I had in mind when I was talking about capital formation. We've been in a situation in this country where we have not formed equity capital at the rate that we should have. Therefore, to expand we have been dependent on borrowed capital. I think that we need to form equity capital at a greater rate so we can get a better ratio of equity to borrowing capital. That's what I had in mind when I talked about the Kemp-Roth bill and the Steiger amendment. I think that those two items will have more effect on the increase of equity capital than anything else. In other words, if you can invest realizing that if your investment prospers you can sell it and make a profit without paying all the money to Uncle Sam, you're quite likely to invest. This will provide more risk capital, which I think is what you're talking about.

Foreign money—I think all of us are somewhat worried about how we are going to recycle dollars which we have scattered around the world by our various deficits in the balance of payments. Of course, every time you have a deficit in a balance of payments, it means that there are that many more dollars in the world than there were the year before. Somehow those dollars have to be repatriated and we'd like to repatriate them by having the people buy our goods.

Q. Congressman, I have one question. I have followed your comments about tax reduction and the investments of capital. Everybody is on the band wagon on tax reduction but nobody out campaigning is talking about cutting the deficit in the budget. What are we going to do in terms of limiting the amount of money that we appropriate? Inflation is bad, yet nobody is coming up with any kind of a plan to reduce deficit budget so we don't have the inflations.

A. Good question and I apologize because I stopped talking too soon. That would have been the next topic. I know that you're absolutely right. It isn't enough to cut taxes, you have to balance the budget. If we don't we're going to keep fueling inflation. I think the earlier statement that I made was that the main reason for inflation is governmental deficit. Okay, what do we do. The thing that the Republicans want to do, and the Democrats too, and I'll contrast the plans in a moment, is provide for cost containment and review of the governmental agencies, doing our best to cut them down.

In the legislative agenda I mentioned, we promise that the first session of the first Republican Congress will be largely given to legislative oversight. You know for years, the government has created agency after agency. Traditionally, if you have a new problem come up, you just establish a new agency, you don't wait to see if some other agency can handle it. So we've got them stacked up like cord wood and what the Republicans want to do is look at each one of them, decide if it's relevant, decide if it's necessary, decide if it's cost effective and if it isn't, do away with it. If we create any more, and I hope we don't, we're going to have a sunset feature so it self destructs in five or six years if it isn't renewed in that period of time. Now this will not save money, it will save harassment. We recognize the fact that business, professions, just ordinary people, have been harassed by the Federal government to the extent that it is almost unbearable. I believe that it is caused by this plethora of agencies.

We can, and we must, balance the budget. We think the Laffer curve will work. We think, in other words, that by cutting taxes at the proper time, and we think this is the proper time, the dollar revenue will go up in a healthy way and cause an increase in the velocity of the economy. In 1983, if the expenditure curve, instead of pointing up, is leveled off, income and expenditures will meet out there somewhere in fiscal year 1983. Now, the important part of this is that we are going to do that with revenues that will equal 18.6 percent of the gross national product. We're spending right now 19.8 percent, so we are going to cut initially 1.2 percent.

The Democrats also seem to be thinking in terms of a balanced budget, and I say seem to because they really aren't very clear about it. They propose balanced budget in fiscal 1985, which is two years after we propose. Also, another difference is that they would balance their budget at 25 percent of the gross national product, instead of 18.6 percent. So your point is very well taken.

Q. Congressman, in your concern, which we share, for productivity and efficiency many of us find ourselves tied up in knots by the flood of federal regulations. Could you address the prospects for regulatory reform giving Congress more control over the implementation of laws?

A. Yes, I just mentioned legislative oversight. What we have in mind is the cutting down on the number of agencies involved in regulatory measures. I am also in favor, if it's constitutional and I hope we can make it so, of having every regulation that any governmental agency promulgates submitted to Congress on the basis that that if Congress doesn't do something about it in the negative sort of way within 60 days, it will become effective. But if Congress decides it doesn't like the regulation, it can veto it and send it back to the regulatory body. I think it is necessary for Congress to do this.

Q. Congressman Rhodes, my question relates to the one just asked on regulations but more specifically what effect does environmental regulation, and I think many of us agree over-regulations, have on our ability to compete in the international market?

A. It has a devastating effect. There is no doubt about it. We in this country have offered to clean up our air and water, and that's fine. I think the determination to do this is laudatory and I support it. But the timing is important because we have to understand that we didn't get dirty overnight, and we're not going to get clean overnight. We need to work it gradually. We need to work at it in a framework that can be supportive so that we don't end up with a pristine atmosphere of unemployed people. I don't think we deserve to end up in cold dark caves. That's not the American way of doing things. The point you make about competition is something that not enough people understand. The nations with whom we trade are not as zealous about cleaning up the atmosphere as we are. Therefore, we spend our capital on this and they spend their capital on more production. Most of the capital we expend on cleaning up is a human investment, which is important. We have to be very careful as to the pace we follow.

Q. Congressman, one more question with respect to regulatory reform. I think that most everybody here is in favor of a certain amount of regulation that reasonably interprets the law and provides a guide. But the process of public hearing is a one-way street. I wonder if any serious consideration has been given to the requirement for a least a representative of the industry being regulated to be a part of a team to write the regulations.

A. Of course every regulation is supposed to be published in the Federal Register. The reason we require that is so the people regulated can have something to say or some opportunity to be heard on the regulation. But quite often that's about all it is, just an opportunity to be heard, then the agency goes ahead and does what it wanted to do anyway. And that's the reason that I think it is important that Congress has some ability to veto the regulation when convinced that that regulation is not benign but is destruc-

tive. This I think is the part that will be handled by the plan which I just outlined.

Thank you very much for allowing me to be here today.●

HUD RIPOFF?

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. EMERY. Mr. Speaker, the work of the Department of Housing and Urban Development is quite often commendable. Housing shortages, especially for low-income elderly and the handicapped, are being alleviated by HUD's approach to housing construction, rehabilitation, and housing assistance. Many of their programs deserve our continued support.

In the State of Maine, there are communities where the shortage of housing is as critical as anywhere in the country. To date, HUD has been a great help in providing needed assistance. However, I believe HUD is about to go overboard with one particular housing project in Maine. I am referring to the Cotton Mill apartment project in Hallowell, Maine.

The Cotton Mill apartments will eventually evolve from the now abandoned shoe factory on Hallowell's Water Street. The apartment complex is designed to contain 12 two-bedroom units and 44 one-bedroom units. Eligibility for occupancy in the apartments will include elderly people at least 62 years of age, with low or moderate income, and those considered handicapped. The maximum income for each tenant is to be $9,300 for a couple and $8,150 for a single person. The rents charged tenants will be approximately 25 percent of the individual's adjusted gross income. HUD will subsidize the remainder.

On the surface, this project seems laudable. More housing will be provided for the low and moderate income groups of elderly and handicapped, and, somewhat of an eyesore in town will be rehabilitated and put to use. Yet, there is growing opposition to, or should I say frustration, with the Cotton Mill apartments, from all quarters including the elderly and the middle income taxpayer.

The reason for this growing frustration deals with the rents to be charged. As publicized right now, the monthly rent for a one-bedroom apartment will be $428. The two-bedroom unit will rent for $523.

Mr. Speaker, I know HUD goes through a very thorough process in establishing what is considered fair market rents for its subsidy programs but I must say, $400 and $500 apartments in Maine are probably as scarce as $200 apartments in Washington. In fact, the proposed rents for these apartments are a good deal more than many apartments right here in the District. It would seem that HUD used the wrong figures in assessing the market price of apartment rents in Maine.

What all this means, and what frustrates the taxpayers of Maine, is that HUD, at the Cotton Mill complex alone, could be spending up to $375 per month on the subsidy for each apartment. On an annual basis, this could mean almost $190,000 in subsidies for Cotton Mill. To the hard-working citizen of Maine, this is an unexcusable expenditure of their tax money.

Mr. Speaker, the people of Maine are a friendly, down-to-earth people. They do not begrudge the elderly for their housing needs. Nor do they object to the Federal Government's attempt to assist those who need help. But the people of Maine are a practical people and when they see the Federal Government subsidizing apartments for the low-income at $500 per month with impunity, when the average, hard-working man in Maine must scrape to pay $200 per month in rents or $350 per month in mortgage payments, they become very frustrated and very bitter. I believe, in the case of Cotton Mill, their frustrations are justified.

In conclusion, I would like to share two articles with my colleagues. One is an editorial which appeared in the Kennebec Journal and the other is a letter I received from one of my constituents.

[From the Kennebec Journal, Sept. 20, 1978]

THE COTTON MILL

Perhaps Sen. Proxmire will consider the Hallowell "Cotton Mill" apartments a candidate for his monthly Golden Fleece award. He bestows these in shining instances of taxpayer ripoff, always—as in this instance—when the action is perfectly legal.

But before we get in touch with the Senator, consideration should be given to the social, economic, and philosophic conditions that enabled Cotton Mill apartments and similar enterprises to come into being, supposedly with the consent of the governed.

The big, ugly brick box on Hallowell's Water Street had been empty for several years. No one could say it exudes charm, but most recently it had served a productive function as a shoe factory. In some previous reincarnation it was a cotton mill, hence the name.

A national housing shortage affects Maine as grievously as elsewhere. Apartments—clean, livable, affordable to the working stiff and the pensioner—are in short supply.

Congress met this situation by authorizing the Housing and Urban Development Department to pay portions of the rent on behalf of low income families. This is consistent with belief, as indicated by polls, that as a nation we favor food, clothing and housing assistance to the poor. The subsidy route to enlarge the shelter pool seemed a reasonable one.

The subsidy also made construction of new rental units extremely attractive as investments. More recently it gave an equal boost to the rehabilitation of existing structures which also had the effect of establishing a tax haven for investment capital. Last year, 30 percent of the projects financed by the Maine State Housing Authority were rehabilitative, utilizing funds from HUD's Section 8. That figure is expected to rise this year, meaning there will be more $528 apartment units being subsidized by taxpayers who could not afford to pay that much themselves. At Cotton Mill, tenants will probably pay about $50 to $75 a month of their own money. More than $375 per month per unit will come out of the public purse.

The defense of this outrageous imbalance is that these are reasonable costs for newly-built apartments; that these are "fair market rents" as agreed to by HUD and MSHA; that the rent includes heat, utilities and other amenities; that the return to the investors is no more than 6 percent.

Then what, we might ask in frustration, has so shattered the rightness of things that the workingman must labor for the $200 monthly rent he pays, all in addition to the tax he is assessed, in order that less affluent neighbors may live at a $528 a month level? It is the contradictions, anomalies and abuses such as these in government that led to Proposition 13's success. If rents are to be subsidized must they be subsidized so grandly? New construction, which is essentially what Cotton Mill will be, is not necessary for clean and comfortable housing. In California the sullen taxpayer found he could not decide how his money was to be spent and decided to cast a vote for not spending it at all.

Government has changed from a deliverer of services to an instrument for reordering society. Helping a neighbor is part of the dues we gladly pay for our humanity, but when such a human impulse makes Cotton Mill apartments possible then something was clearly lost in the translation.

Giroux & Perry Agency,
Augusta, Maine, September 20, 1978.

To the Editor:

I have just finished reading "The Cotton Mill" editorial. I don't know who the honors go to, but he or she did a super job of expressing what the general public feels . . . frustration . . .

The reaction and comments of everyone I've talked to think, it is absurd that low income apartments should be renting for $528/mo. I wish I could sell investment real estate, with projected income of that caliber—I'd be able to buy my own politicians.

We see the poor middle income class daily, come into our office, proud of the fact that they've scraped up the down payment and closing costs on a modest $35,000 home—they budget every penny to meet the $200/mo. payment and the ever-increasing tax burden passed on to them without their approval, so that their hard-earned money can pay the 150% more rental for the less fortunate, than they themselves can afford.

Does anyone realize that you could buy a $70,000 home and finance a $50,000 mortgage for 20 years at 11% for $516/mo.? That's $12.00 less a month than your HUD approved 2 bedroom units. The irony of it is ridiculous!

The economic situation can only be passed on to us the taxpayer—for letting the government rip us off, and it will continue along these lines with no end in sight, unless we adopt our own "proposition 13".

As Mainers, we don't have too much to be proud about concerning our Legislative Special Session. who elected to go home last week without resolving the tax issue. Unfortunately, they speak a different language than the people who choose to elect them.

To the KJ Editors, I hope the UPI picks up your editorial and blasts it across the front pages of all major newspapers. I for one, am sending a copy of it to Sen. Wm. Proxmire for his Golden Fleece award, and our own State Representatives, so they may stand up and take notice.

JOAN L. GIROUX,
Realtor.●

HON. CORNEAL A. DAVIS: 36 YEARS OF PROGRESSIVE LEADERSHIP

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. FARY. Mr. Speaker, during the 200-plus years of this Nation's political and social development, we Americans

have established a reputation for turning out a vast array of progressive and courageous leaders—men such as Jefferson, Lincoln, Kennedy, and King, all of whom have helped lead this land through its many difficult and trying times and who, through their acute awareness of social justice, have championed those causes aimed at establishing a truly egalitarian society, where there is liberty and justice for all and favoritism toward none.

With this in mind, it is my pleasure to inform my distinguished fellow colleagues of the deeds and accomplishments of another great American—the Honorable Corneal A. Davis from the State of Illinois and a member of the Illinois House of Representatives.

Throughout his 36 years in Springfield, Representative Davis has fought for the rights of minorities and women, for fair employment practices, for the care and protection of children and has supported legislation to aid both business and community. Whether speaking from the floor of the general assembly or conversing with a friend, he is steadfast in his commitment to upholding the freedom and dignity of all people.

Elected to 18 terms as the State representative from Chicago's 22d District, Representative Davis serves as dean of the Illinois House and assistant majority leader and as an ex officio member of all house committees. Since first taking office in the State capitol in 1943, he has been the recipient of a countless number of awards and citations, including recognition as the first black man to be named Public Citizen of the Year by the Chicago chapter of the National Association of Social Workers, an award for Outstanding Leadership and Service to the cause of Fair Employment Practices Commission of the State of Illinois, a trophy "in appreciation of total dedication and fearless leadership" from the Illinois House of Representatives Black Caucus, and an honorary doctor of laws degree from his alma mater, Tougaloo College in Tougaloo, Miss. However, one of his most cherished honors came in 1965, when he was asked by the family of the late Adlai Stevenson to deliver the final prayer and remarks over the remains of the former Governor in the capitol rotunda in Springfield.

In an illustrious public service career marked by confrontation, Representative Davis has been in the forefront of progressive change. In 1943, after addressing a meeting of the Cairo Chapter of the NAACP, he was approached by several local black teachers who protested the vast disparity between their salaries and those paid their white counterparts. When Representative Davis attempted to discuss the matter with county authorities, he was summarily ordered to leave town. Enlisting the aid of attorneys C. C. Wimbish, Ballard and Thurgood Marshall (now Supreme Court Justice), he sued the local board of education and ultimately won an injunction against the board, which paved the way for black teachers to secure pay, not only in Cairo but in many other communities throughout southern Illinois.

In June 1978, Representative Davis was applauded by many of his colleagues and constituents for his stand on the equal rights amendment when his motion to discharge the amendment from committee passed the Illinois House of Representatives with 89 votes, keeping it alive for future debate. In other significant legislation, Representative Davis introduced, sponsored and obtained passage of the first Fair Employment Practices Commission legislation in Illinois, initiated and secured the passage of a law requiring the teaching of black history in Illinois Public Schools, helped provide scholarships for qualified black athletes before they were given membership on University of Illinois athletic teams, initiated and secured passage of allied civil rights bills in the areas of education, equal job opportunity, equal pay for teachers, housing and job promotion, introduced and secured passage of a resolution establishing a Commission on Child Care Study, and introduced and secured passage of initiatory power legislation for the Fair Employment Practices Commission.

Mr. Speaker, as a former Illinois State Representative for 20 years and an ex-colleague of Representative Davis, I can attest to the courage and integrity of this great American and furthermore feel that he is one of the finest men that I have ever had the pleasure of knowing. Therefore, it is an honor for me to inform those Members present here today that on September 10, in the beautiful Palmer House Hotel in Chicago the Hon. Corneal A. Davis was the guest of honor at a testimonial banquet given by the Currency Exchange Division, State of Israel Bonds, in appreciation for his countless contributions to the people of Chicago, the State of Illinois, and to all those who have benefited from his progressive leadership. It is in this spirit that I, too, pay tribute to this devoted public servant and wish him many more years of continued success.●

ILLINOIS BASE REALINEMENTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. CRANE. Mr. Speaker, on April 26 of this year the Department of Defense proposed a massive base realinement for all sectors of the Armed Forces. This restructuring, ostensibly undertaken to trim the fat off the defense budget, is in itself a laudable and overdue move. However, as an Illinois Representative I feel that my State is being asked to bear an inordinate burden in this base realinement.

If the Department of Defense plan is implemented, Illinois, one of the largest contributors to the Federal Government, will be severly hurt by the closings and cutbacks. We will be left with only one untouched military base; a pitiful situation. At a time when so many of our military bases are concentrated in the South and Western portions of our country, I sincerely question the logic behind accelerating this process.

The economic impact of these proposed base closings on neighboring communities will be immense. Employment, business, and school systems will all be adversely affected, resulting in substantial dislocations. In Illinois, with four installations scheduled for closing or curtailment, the economic ramifications will far exceed what we can reasonably be asked to bear. Illinois would shoulder the brunt of this base realinement, losing approximately 68 percent of the total jobs earmarked for elimination. Additionally, my State would lose around 75 percent of the total proposed payroll cuts. In my own district 2,553 jobs would be lost, a figure which would have the gravest impact on the neighboring communities. Mr. Speaker, I ask you in all sincerity, why is Illinois being singled out in this latest round of base closing? One can only wonder.

Mr. Speaker, I would like to submit for the RECORD an article from the St. Louis Post Dispatch of June 18, 1978, detailing the economic burden that Illinois is being asked to endure.

The article in part follows:

[From the St. Louis Post-Dispatch, June 18, 1978]

ILLINOIS WOULD BEAR ECONOMIC BURDEN IF MILITARY BASES CLOSE, STUDY SAYS

(By Martha Shirk)

WASHINGTON.—Illinois would bear a disproportionate economic burden under military base closings proposed by the Defense Department last April, a study commissioned by several members of Congress says.

The study was done by the Northeast-Midwest Institute, a non-profit, Washington-based research firm that works with the Northeast-Midwest Congressional Coalition, of which several Illinois congressmen are members.

The study said also that options to closing the Illinois Air Training Command at Chanute Air Force base in Rantoul, Ill., have not been adequately considered. The Illinois Air Training Command, about 180 miles northeast of St. Louis, is the only one in the country with Minuteman training facilities, the report said.

Other Illinois installations scheduled for closing or curtailments are the Great Lakes Naval Training Center near Chicago, Fort Sheridan at Highland Park, and the Rock Island Arsenal.

The study, made public Wednesday by the congressional coalition, contends that 68 percent of the jobs proposed for elimination nationwide are in Illinois. The state would bear $83 million of the $110 million nationwide payroll loss, it said. At least 4,150 of the jobs lost in the realignment would be from Chanute, which would be closed.

At a press conference, coalition members laid the groundwork for an assault on the proposed base closings, which must undergo public hearings and further scrutiny by the Defense Department before they receive final approval.

The congressmen criticized the Defense Department for proposing actions that they said would create economic problems for their states and an economic boon for other states, mostly in the South and Southwest. The defense jobs would be transferred there.

On April 26, the Defense Department proposed a massive base realignment for all sectors of the armed forces. It would eliminate 8,600 civilian jobs and transfer 14,600 military personnel in an effort to save $337 million a year. More than 100 installations in 30 states would be affected in some way.

Champaign County, which includes Chanute, has a "moderate unemployment rate

of 4.5 percent," the study says. "The Air Training Command Technical Training Base Review projects a future unemployment rate, as a result of Chanute's closing, of anywhere from 5.7 percent to 10.3 percent (as well as) a 7.6 percent reduction in personal income for the area."

"These figures take on added significance given the dependence of the Rantoul community on the Chanute facility. More than 17 percent of the local school system is comprised of military dependents. Closure is expected to reduce the area population by 12 percent, and the vacancy rate in housing is expected to rise from 2.1 percent to 18.4 percent," the study says.

The study also predicts that Illinois would lose 6,840 more civilian jobs because of the effect of a lower payroll—and hence less spending—in the state. The secondary payroll loss would amount to $91 million, the study contends.●

AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS—FIRST ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. BIAGGI. Mr. Speaker, as chairman and founder of the Ad Hoc Congressional Committee for Irish Affairs I wish to take note of our first anniversary. I am especially pleased to note that the committee has acquired 3 more members bringing our 1 year total to 114.

During our first year, we have encountered our share of controversy—but we have not yielded in our objectives to advance a more constructive U.S. role in bringing peace and justice to Ireland.

We begin our second year with a sense of optimism about the ad hoc committee making a significant contribution to the cause of peace in Ireland. We base this on the increasing support we are receiving from Ireland and the Irish American community for a proposed peace forum which we have been asked to sponsor. I hope to provide my colleagues with some more specific information on this proposal in the near future.

It is somewhat inappropriate to call today a celebration. We the members of the ad hoc committee cannot and will not be satisfied until peace and respect for human rights comes to Northern Ireland. We remain profoundly concerned about the appealing violations of human rights occurring especially in prisons under British control. We remain totally astonished at the absolute silence of the administration about the human rights situation in Ireland which has already been the subject of reports by the European Commission and Court of Human Rights, Amnesty International, and the Association for Legal Justice. We hope the administration will change its policies in this area as soon as possible.

The situation in Ireland demands continued attention in the pursuit of resolution. We renew our complete condemnation of violence no matter if perpetrated by the IRA, the UDA, the British Army, or the Royal Ulster Constabulary. Violence is at the root cause of many of the evils in Ireland and must be ceased.

The ad hoc committee welcomes any other members who wish to join. We hope to continue our growth in the year ahead.●

FEDERAL AID TO STATE AND LOCAL GOVERNMENTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for September 27, 1978, into the CONGRESSIONAL RECORD:

FEDERAL AID TO STATE AND LOCAL GOVERNMENTS

Federal aid has become big business.

This year federal aid to state and local governments will exceed $80 billion—a tenfold increase since 1960. As a percentage of the federal budget this aid has more than doubled in the last two decades, so it is not surprising that state and local governments have come to be highly dependent on it. Federal aid is now a more important source of revenue to them than are their long-standing taxes on sales and property. The number of governmental units receiving federal aid has also risen significantly. Where once only the states and a few urban areas were beneficiaries, today all local governments, almost all school districts, some 2,000 sub-regional bodies and many special authorities get federal money. The reach of federal aid is sweeping, extending into virtually every activity of state and local governments and many private groups as well. Some of these activities, traditionally considered to be wholly the responsibility of state and local officials, are now run hand-in-hand with the federal government.

A 1976 count of federal aid initiatives included one major revenue sharing program, five block grant programs and 442 categorical grant programs. Revenue sharing is a program in which funds are channeled to general purpose governments with few or no restrictions on how the money will be spent. Block grants are distributed to state and local governments by formula with the recipient free to use the funds in a broad area according to its own priorities. Categorical grants, the oldest and most prevalent form of federal aid, account for about three-quarters of all federal assistance and can be used only in narrow areas. These grants are distributed by formula, are used for special projects or are offered on an open-ended basis.

Although the trend is not apparent in a simple breakdown of programs by number and kind, the federal aid system is changing. The newer revenue sharing and block grant programs are intended to give more discretion to state and local officials and return power to state and local levels. The dollar figures show that these aims are being met and that local duties in particular have been widened. In 1976 30 percent of all federal aid went directly to localities. The remaining 70 percent flowed to states, but 30 percent of this sum was passed through to local governments.

Increased local control is a welcome change, but much more will have to be done to make the federal aid system work better. To begin, the system is too fragmented. Many of the categorical grant programs meet similar needs—23 are for pollution control, 36 for social services and 78 for education. It is also too restrictive. A community that wants to help crippled children may not benefit from a program for crippled children who are retarded. To correct these defects the President should be given the go-ahead, with the approval of Congress, to consolidate related categorical grant programs.

The "strings" on federal aid represent yet another problem. Guidelines that are very desirable in themselves—equal opportunity for all, clean air and water, greater citizen participation in government—have become extremely burdensome to state and local officials. They raise costs, cause delay and make it difficult to deliver services. There are 31 generally applicable conditions that apply across-the-board to all grant programs. There are another 12 administered by several agencies to eliminate discrimination. Obviously, we need fewer guidelines and a single, simplified administration of them.

Most officials who work with federal aid programs mention red tape as the most serious problem they encounter. Too much time and effort are spent in the application, review and approval process. Getting interpretations, complying with requirements for reporting, auditing and accounting, and consulting with the many groups involved in any program also cause delay and waste. The remedy is to improve both the communication among various levels of government and the general management procedure. We should standardize application forms, provide clearer regulations, use uniform requirements and rely more on state and local auditors.

Finally, Congress needs to increase its own involvement in federal aid programs. The programs must be better designed in the initial legislation. In addition, the enactment of "sunset" provisions would insure that the programs were monitored more effectively.

Much more thought must be given to the issue of the appropriate role for each level of government in the federal aid system. This is really the basic issue. What we ultimately decide will determine how the federal aid programs are to be handled.

(The material for this newsletter was drawn from an assessment of federal aid of the Advisory Commission on Intergovernmental Relations.)●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. McDONALD. Mr. Speaker, on Tuesday, September 26, 1978, I was unavoidably absent and missed certain votes. I requested to be paired on each vote missed, but did not receive a live pair on each vote. Therefore, I would like to explain how I would have voted if I had been present.

"Yes" on rollcall No. 832. Passage of S. 274, prohibition of union organization in the Armed Forces.

* "No" on rollcall No. 833. Passage of H.R. 9333, hydroelectric powerplants authorizations.

* "No" on rollcall No. 834. Passage of H.R. 12728, Susan B. Anthony Dollar Coin Act of 1978.

* "No" on rollcall No. 835. Passage of S. 2727, Amateur Sports Act of 1978.

* "Yes" on rollcall No. 837. An amendment to H.R. 12005 prohibiting the use of funds to bring action to require di-

* Live pair received.

rectly or indirectly the busing of students to a school other than the school nearest the student's home.

* "No" on rollcall No. 838. Passage of H.J. Res. 1139, continuing appropriations, fiscal 1979.

"No" on rollcall No. 839. Passage of conference report to H.R. 13125, agriculture appropriations.●

INFLATION

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. GRASSLEY. Mr. Speaker, I would like to call to the attention of my colleagues a special section on inflation in the October 2, 1978, edition of U.S. News & World Report. This article provides a concise and quite revealing look at inflation—what it has done to the purchasing power of the dollar and what we can expect in the years to come.

For example, it shows that for the average married worker with two children his real take-home pay in 1967 dollars has increased from $4,725 in 1967 to $4,871 in 1978. At the same time the annual pay for this same worker was increasing from $5,296 in 1967 to $10,838 in 1978. Quite a difference I would say.

Following are three cases where individuals have actually lost buying power in the last 5 years.

A Retired Person:	*Per Month*
January, 1973—$300 private pension, plus Social Security benefits	$470.00
September, 1978—Pension, plus increased Social Security benefits	545.30
Buying power of today's income in January, 1973, dollars, after adjusting for inflation	354.09
Loss in buying power (25 percent)	115.91
Buyer of U.S. Savings Bond:	
Paid for bond in January, 1973	75.00
Interest to date	25.20
Cash value now	100.20
Buying power in January, 1973, dollars, after adjusting for inflation	65.06
Loss in buying power (3 percent)	9.94
Average Private Worker:	
(nonfarm, head of family of four)	*Per Week*
After-tax pay in 1973	$127.41
After-tax pay in July, 1978	184.25
Buying power in 1973 dollars, after adjusting for inflation	124.66
Loss in buying power (2 percent)	2.75

In 1970 the Federal spending was $196.6 billion with a deficit of $2.8 billion. In 1978 the official estimates for the spending is $452.3 billion with a deficit of $51.1 billion. Just during this time period we have added over $289 billion to the Federal debt. Astounding to say the least.

Following are six economic indicators which indicate the forces behind the inflation in the United States.

FEEDING THE PRICE RISE

Six economic indicators that show major forces behind U.S. inflation:

Red ink.—The federal budget has piled up 289 billion in deficits so far in the 1970s, with more to come.

Lots of money.—Checking accounts and currency expanded 6.1 percent per year in 1970–77, up from an average of 3.2 percent in 1950–70 and much faster than potential output of goods and services.

Lagging productivity.—Private output rose only 1.7 percent a year for every man-hour worked during 1970–77, compared with 2.8 percent in 1950–70.

Bigger raises.—Workers' hourly pay jumped more than 8 percent a year on average in 1970–77, faster than the 5.5 percent annually in 1950–70.

Higher costs.—Sluggish productivity and more pay sent labor cost of goods up 6.2 percent a year in 1970–77, from 2.6 percent in 1950–70 years.

Expensive oil.—U.S.-produced crude oil now costs more than twice what it did in 1973; price of Saudi Arabian oil is nearly five times what it was.

As we all know the value of the dollar has been eaten up by inflation. For example, today's dollar is worth little more than half the value of the dollar an individual earned just 10 years ago and only one-fifth of that of 1939.

WHAT INFLATION HAS DONE TO THE DOLLAR

Dollar's value in terms of what it will buy:

	Cents
1939	100.0
1946	71.1
1947	62.2
1948	57.7
1949	58.3
1950	57.7
1951	53.5
1952	52.3
1953	51.9
1954	51.7
1955	51.9
1956	51.1
1957	49.4
1958	48.0
1959	47.6
1960	46.9
1961	46.4
1962	45.9
1963	45.4
1964	44.8
1965	44.0
1966	42.8
1967	41.6
1968	39.9
1969	37.9
1970	35.8
1971	34.3
1972	33.2
1973	31.3
1974	28.2
1975	25.8
1976	24.4
1977	22.9
1978 (July)	21.2

It is my understanding that there has been some discussion of the possibility of imposing wage and price controls. Following is an excerpt from the article outlining why the experts oppose controls and I agree with their reasons whole heartedly.

WHY EXPERTS OPPOSE CONTROLS

Almost all economists say that compulsory wage and price controls are not the answer to inflation, even though public-opinion polls show that a majority of people think they will do the trick.

The opposition to controls is shared by conservative economists, who generally oppose any government meddling in the economy, and liberals, who usually prefer a government that takes an active role in managing it.

Why are these authorities so opposed to controls? Here are the reasons most often cited:

Controls distort the normal allocation of resources. Whenever goods are in short supply in a free-market economy, prices should rise. Then, as a result, production of that product will be increased to eliminate the shortage and thus reduce inflationary pressure. In a controlled economy, there are no such price signals, so that shortages which hamper production become more frequent. The shortages often lead to the development of black markets where people pay exorbitant prices for things they want or need.

Controls only affect domestic prices. If these prices are held below the prices available in world markets, U.S. producers will be encouraged to export more, and this can lead to inflationary shortages here at home. A government economist recalls that, when prices were controlled in 1971–73, fertilizer prices abroad climbed to about three or four times their domestic levels. The result was a sharp increase in fertilizer exports and demands for export quotas.

Controls are inherently unfair. They tend to freeze price and wage relationships as they exist, at one moment in time, preventing adjustments that are necessary as circumstances change. In a free economy, someone is always ahead and someone else is always trying to catch up. The only way to deal with these inequities is to create a large bureaucracy to rule on applications from businesses and workers for exceptions from the controls.

Controls only delay inflation. Some economists argue that controls helped hold prices down in late 1971 and in 1972. But as controls were lifted, prices shot up 8.8 percent in 1973 and 12.2 percent in 1974. Some experts even say the inflation in those years was worse than it would have been, because the controls led to shortages.

Controls deal only with symptoms, not the causes of inflation. Inflation, basically, requires an increase in the supply of money that exceeds the supply of goods and services. So long as this condition persists, inflationary pressures will increase and eventually explode in higher prices and wages.

Mr. Speaker, this article provides some valuable insight into what inflation is doing to our country and provides some possible ways we as Americans can attack this problem. I urge my colleagues to look at this article carefully.●

CONGRESS AND GOVERNMENT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. STEERS. Mr. Speaker, the Members of this body must face many national problems each day; including inflation, unemployment, saving our environment, and a wide spectrum of very serious national concerns. One of the greatest problems I have found is a great skepticism of the Congress and Government in general.

Last year's pay raise, and the lack of a vote on the specific question of the Members' raise reinforced the belief of many Americans that the Congress is unwilling to debate and vote on matters that will directly benefit Congressmen.

The passage last week of H.R. 14125 is an example of such an act. Without hearings in committee or even a word of debate, this measure providing certain insurance benefits to Members was passed.

In light of the fact that no notice was given to Members prior to the "consider-

ation" (or nonconsideration) of this bill, I would like to, at this point, express my disagreement with the manner in which it was passed. I would suggest to my colleagues that actions such as the passage of H.R. 14125 will only serve to strengthen the cynical attitude that Americans have toward their Congress.●

LAW ENFORCEMENT IMPEDED BY FEDERAL FREEDOM OF INFORMATION AND PRIVACY ACTS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. RUDD. Mr. Speaker, an excellent news article concerning the adverse effect of the Federal Freedom of Information and Privacy Acts on law enforcement efforts was published today by the Wall Street Journal.

The Journal article by reporter Jonathan Kwitny correctly analyzes the serious problems created by these statutes—particularly in forcing the destruction of vital files containing raw data collected during investigations of the Federal Bureau of Investigation and other law enforcement agencies.

It is important for Congress to remedy these problems by passage of legislation to exempt certain classes of law enforcement investigative files from public disclosure. To this end, the Wall Street Journal has performed a valuable public service by reporting the nature and extent of the problems created by these Federal laws.

I would like to include the Journal article at this point in the RECORD:

[From the Wall Street Journal, Sept. 27, 1978]

FBI AGENTS RAP POLICY OF BURNING FILES, LINK IT TO PUBLIC ACCESS ACTS

(By Jonathan Kwitny)

The extortion letter looked familiar to Detroit FBI agents when it was brought to their office earlier this year by a frightened citizen. As an agent relates the incident, the style of the letter was that of a man who had been investigated because of a similar threat three years ago.

Until recently, agents could have pulled the suspect's file, done a quick check and perhaps protected the frightened citizen. This year, however, they couldn't. The file, like hundreds of thousands of other FBI files, had been destroyed under a policy that is reducing more than half the bureau's files to ashes.

The bureau says it has to destroy the files because it is running out of room to store them. But many veteran agents say that the records are being destroyed because of the federal Freedom of Information and Privacy acts, generally referred to together as FOIPA. The acts have produced a deluge of requests from the public to see the files.

"I think we've all assumed a cause-and-effect relationship" between the acts and the destruction of the files, one agent says. "I don't think they (FBI officials) ever said that, but anybody who knows anything about the act (FOIPA) has got to come to that conclusion."

JOGGING MEMORIES

Whatever the motives, many agents say the file burning could impede law enforcement. "We were looking for a guy here in the northern Virginia area," one veteran agent says. "You say, well, look for old what's-his-name who was running with him. But nobody remembers old what's-his-name's name, and the file's gone."

Destruction of records is only one of several blows that law-enforcement officials complain of in connection with FOIPA. What distinguishes records destruction is that it has been hushed up. On other fronts, the FBI has openly complained that scores of agents (mostly law-school graduates) and hundreds of support employees are being tied up dealing with requests for information when they are badly needed in the field to fight crime. The FBI says the cost is $9.2 million a year—money that also is badly needed elsewhere.

Moreover, the FBI says, confidential informants have been clamming up because of fear that their identities will be revealed by the disclosures. Since wiretapping and bugging were greatly restricted by a 1968 law, such informants have become the FBI's sole effective weapon in many organized-crime cases.

CONGRESS IN THE ACT

Congress may have to deal with these issues this fall because of growing pressure from various law-enforcement agencies for some sort of revision of the two acts. Both acts were passed over President Ford's veto in the post-Watergate concern about the secret political misuse of law enforcement. Many FBI agents and other critics of the two laws say they agree with the general intent of Congress, but they also say that the sweeping language of the laws has invited widespread abuse.

The Freedom of Information Act—originally passed in 1966 but drastically changed in 1975—was designed to open all government documents for public inspection unless there was a good reason to keep them secret. The Privacy Act was designed to allow individuals to see any files the government kept on them, supposedly so they could challenge inaccuracies and eliminate material of a purely personal nature.

Officially, the FBI hasn't taken a stand on what it wants Congress to do about the two acts. But the bureau has been cooperating with the General Accounting Office on a study clearly designed to show that the acts interfere with law enforcement. "My personal feeling is that there has been (such interference)," says John Ols, assistant director of the GAO, "but our finding is that it has been very difficult to document. And that is what we set out to do." The GAO is to report its findings to the Senate Judiciary Committee early next month.

GOOD BUSINESS MANAGEMENT

The report won't cover problems created by records destruction, however, because the FBI's official position is that the destruction has nothing to do with FOIPA. "It's just good business management principles," says James Awe, section chief of the bureau's records management division in Washington.

The destruction policy started in April 1976, when the bureau told its field offices to eliminate records of cases that had been closed more than 10 years. In October 1977, the period was reduced to five years. And that represented just a small part of the destruction; it applied only to files in the so-called office of origin, the main FBI field office involved in each case.

Files in so-called auxiliary offices often contain as much information as the files in the office of origin, and these auxiliary files are being burned after only six months. The auxiliary files exist because, as a rule, agents don't travel on their cases; if questioning or other work needs to be done in other cities, as frequently happens, the field offices in the other cities do the work and forward copies of their reports to the office of origin. Under the new rules, the auxiliary offices don't even keep an index card referring to the work they have done. (In the case of the Detroit extortionist, an agent happened to remember which office of origin had the file, and eventually retrieved it; in two more years, however, even this file would have been destroyed.)

The file-destruction policy exempts files of particular historical interest, files involved in litigation where there is particular reason to believe the case will become active again. For example, the bureau says, nobody is burning any files in the Jimmy Hoffa case.

Agents concede that the bureau has files it doesn't need, such as cases started on tips that turned out to be baseless. But they contend that hundreds of thousands of files with solid information are being destroyed under the new policy.

One agent, a specialist in Mafia prosecutions, notes that Anthony Provenzano, the Mafioso Teamster official, only this summer was convicted of a murder committed 17 years ago. The conviction came about when new evidence surfaced during the FBI's investigation of the Hoffa case and was pieced together with other crucial items from the moldering file on the unsolved murder. "The Provenzano case absolutely couldn't have been prosecuted if the files had been destroyed, because of the value of the evidence developed in the 1960s," the agent says. "Often you find the information you need where it's least suspected and where it's been for quite a time."

Mr. Awe, the bureau's official spokesman, says that summaries of all significant information in FBI files are preserved in a central file at bureau headquarters in Washington. Agents, however, say that only a small part of the information in a field-office file winds up in the central file. Moreover, the FBI has asked the archivist of the U.S., James B. Rhoades, for permission to destroy even the central files in criminal cases after they are 10 years old. Mr. Rhoades approved the destruction of the field-office files because, he says, agencies usually know best about their own files; but now he is withholding approval of the request to destroy central-office files and is seeking advice from Congress.

AVOIDING EMBARRASSMENT?

Mr. Awe says the destruction of aging records was experimented with in some offices late in 1974 and so couldn't have been linked to FOIPA. But many agents disagree. "I don't give a damn what the bureau says," asserts one agent who reluctantly helped in the destruction. "Those files were destroyed for one specific reason: They had to cough them up. It had been thoroughly embarrassing to that point and promised to get even more embarrassing." As an example, he cites a disclosure under FOIPA of material about an alleged and previously unpublicized romance between Eleanor Roosevelt and a military officer.

"The really hypocritical thing about the whole situation is that although we had this stuff in our files, we weren't releasing it to anybody—and I have seen some really scurrilous stuff come out of these investigations," the agent says.

A colleague of his adds, "On balance, I would rather see a little bit of embarrassment for the administrators than handicap the whole investigative effort. This destroying of records after six months is a terrible mistake." He says that the records of a criminal whose name has frequently been in the news are being destroyed under the new policy before the criminal has finished serving his current jail term.

Beyond the controversy over whether files are being destroyed to avoid embarrassment,

everyone involved agrees that the burden of looking through files whenever someone sends a request is enormous. Mr. Awe and other FBI spokesmen note that prior to release, every file has to be examined page by page by senior clerical employes under the supervision of FBI agents with law degrees. Many kinds of information are supposed to be deleted from the documents before disclosure, including material that might identify confidential informants, violate the privacy of third parties or disclose law-enforcement techniques.

DEADLINE FOR REPLIES

The law says that information requests must be answered within 10 days. But about 19,000 requests a year have been pouring in. The FBI's original FOIPA staff of 140 persons fell 12 or 13 months behind in its processing by 1976, and Congress demanded faster action.

That demand resulted in the FBI's "Project Onslaught," in which 300 field agents from around the country were brought to Washington for several months to attack the backlog. With some 650 persons working full time, the bureau whittled down the backlog ot 30 days by the end of last year.

Then a judge ordered the release of the Julius and Ethel Rosenberg file—400,000 pages. A special team has been assigned to clear 40,000 of these pages a month. Meanwhile, the FBI says, the rest of the backlog has lengthened to between 90 and 120 days.

The FBI says that no more than 1% or 2% of the requests for information are from journalists or historians, who were expected to be the chief beneficiaries of the Freedom of Information Act. About 40% of the requests come from citizens who want to know if the FBI has a file on them but on whom no FBI file exists. Many thousands of other requests come from prison inmates purportedly looking for grounds for appeal. Skeptical agents, however, suspect the prisoners often are trying either to find out who informed on them or to kill time by harassing the FBI.

REQUESTS FROM MAFIA?

The bureau also says it has reliable evidence that the Mafia in at least one major city has instructed all its members to write requesting their files. "The sole purpose of this process is to attempt to identify informants," an FBI spokesman says. He adds that if a crook can glean even a hint that he is under investigation at a particular time, he can become much more circumspect until the heat's off.

Another problem is that plaintiff lawyers often want to use the FBI as a cheap investigative service. Agents tell of a recent homicide case on the high seas. Shipping executives told the FBI that they had previously been aware that the suspect was mentally unstable. Learning this under FOIPA, a lawyer for the victim's heirs has greatly enhanced his damage suit against the shipping company. Agents fear such episodes will imperil future investigations. One agent says witnesses now "are thinking not in terms of telling simply what happened, they are thinking of, God, if I say the wrong thing, the company's negligent."

Many agents say that because of FOIPA, they can't any longer in good faith guarantee anonymity to a source. "I can say that we'll do whatever we can, and that's usually pretty substantial, but I can't guarantee it," says an agent who has handled some of the bureau's most publicized cases. He adds, "You're assuming a lack of intelligence on the part of the applicant who gets the records that he won't be able to piece together who the source is. You're relying on the people who review the records (in Washington), and you just don't know how careful that guy is going to be."

"Often the people doing the processing aren't even aware that it's informant information," says another agent. One field official confides that he disobeys instructions from headquarters in some instances to keep information from being destroyed or disclosed. Agents in another office say they keep what they call "hip-pocket sources," whose identities are never recorded, against bureau regulations.

The FBI has compiled a list of examples of past informants who won't talk now because of the danger of disclosure under FOIPA. A spokesman says that more than 20 local or state police agencies have written "indicating that their intelligence units are fearful that furnishing information to us may jeopardize their own sources." He cites Los Angeles, Milwaukee and Phoenix police. Earlier this year, the bureau says, a federal judge declined to provide information about a candidate for another federal judgeship because he said he feared his derogatory remarks would come back to him through FOIPA.

Even civil-liberties lawyers who support FOIPA tend to oppose the file destruction, arguing that citizens whose rights have been violated may need the files to press suit against the government. Lawyers for the American Civil Liberties Union say they favor sealing old records so that only a judge can unseal them after a court hearing.

Whatever the solution, confusion and controversy have surrounded the bureau's destruction policy. An agent in the Northeast notes recent bureau instructions to make more use of the Racketeering in Interstate Commerce, or RICO law. RICO, designed to combat Mafia-type crime, provides heavier penalties for violators who have established a pattern of racketeering activity. To invoke the law, the FBI must offer proof of prior acts consistent with the specific criminal act being charged. "The RICO statute says go back 10 years, and the files are destroyed after five years," the agent complains. "You figure it out."●

AIR SERVICE IMPROVEMENT ACT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. LEHMAN. Mr. Speaker, after some initial misgivings about airline deregulation, I decided to vote in favor of H.R. 12611, the Air Service Improvement Act of 1978.

I was concerned that our air transport system would be destabilized and that jobs would be threatened in the ensuing upheaval. Our experience, however, with the recently relaxed regulation of the CAB has demonstrated that competition can increase rather than decrease profits and expand rather than limit job opportunities. I am encouraged by the current well-being of the industry and of its workers. I believe that the gradual deregulation bill which overwhelmingly passed the House last week will allow for a stable transition into the world of free competition.

I took special note of the fact that the bill contained a provision to insure that airline employees will be protected by fair and equitable arrangements if they should suffer under this legislation. I also voted in favor of the amendment terminating the mutual aid pact which has severely strained labor-management relations during the past 10 years. These improvements in the legislation will help make airline employees more secure as deregulation proceeds.

The goal of H.R. 12611 is to provide lower fares and better service to consumers without sacrificing the high degree of safety we have come to expect in air travel. This bill takes a necessarily cautious approach which will give the industry time to adjust to changes and allow us to deal more effectively with any negative results which may arise.

I endorse this approach, and I am hopeful that the next few years will fully demonstrate the benefits of deregulation to all Americans.●

CONGRESSMAN JOHN W. WYDLER INAUGURATES LOCAL GOVERNMENT AWARD

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. WYDLER. Mr. Speaker, few institutions of America have played as great a role in the shaping of our national character and in the protection of our constitutional rights as the many and varied organizations of local government. For our Pilgrim Fathers, it was the New England town meeting. In Virginia, it was before the local House of Burgesses that Patrick Henry rose to utter his challenge, "Give me liberty, or give me death."

Today, more than ever in our history, as we realize that big government is not always good government, it is important that we pause and pay homage to those who serve in our home communities.

Back in New York, in Nassau County, we have a multitude of active and concerned local public officials. In county government, in the towns and villages, and in special districts, we can speak with some pride of the achievements attained over the years which have improved the quality of life in our part of Long Island.

That is why I am establishing an annual local government award for our fabulous Fifth Congressional District. In some small way, it will allow a certain strong recognition at the Federal level of what is being done in the units of government closest to the individual citizen.

With no small pride, I will be presenting the first annual Fifth Congressional District Local Government Award to Mayor Nicholas Farina of Cedarhurst, N.Y., who will be honored on October 17, 1978, as outgoing president of the Nassau County Village Officials Association.

"Nick" Farina has distinguished himself, not only as head of a group representing 500,000 residents in 64 different villages but also on a more local, more intimate level. As mayor of the Village of Cedarhurst, as an educator for some four decades, and as an individual who has participated in almost every civic, charitable, sports, and service group in the

five towns area in his time here, it is more than fitting that Mayor Farina should receive this award.

He is a good man and, I am proud to say, a good friend. He and his wife, Kitty, and their family are most representative of what we here in Washington work hard to preserve in the best sense of the American dream.●

NICARAGUA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. McDONALD. Mr. Speaker, under provisions of the special order obtained by the gentleman from New York (Mr. MURPHY) on September 21, 1978, I wish to revise and extend my remarks on Nicaragua by including in the RECORD as appendices to my statement, the following three items:

"Non-Intervention in Nicaragua," a report from the Information Digest of June 17, 1977 (appendix I).

"The Reds Attack Strategic Nicaragua Seeking To Destroy President Somoza," an article by John Rees appearing in the Review of the News on September 14, 1977 (appendix II).

"The Plot To Destabilize Nicaragua," an article by John Rees appearing in the Review of the News on February 22, 1978 (appendix III).

NONINTERVENTION IN NICARAGUA

Despite the loss of its most subtle and articulate spokesman and organizer, the late Soviet "agent of influence" Orlando Letelier, the human rights campaign trageted against Latin American countries facing serious threats from Cuban-backed terrorist movements continues to gain momentum.

Among the "human rights" groups on Latin America is Non-Intervention in Nicaragua (NIN), operating from P.O. Box 21124, Los Angeles, CA 90021 [213/487-0286], from P.O. Box 1959, San Francisco, CA 94101; and P.O. Box 28568, Washington, DC 20005.

Associated with Cuban-oriented groups as the North American Congress on Latin America (NACLA), Non-Intervention in Chile (NICH), and the Washington Office on Latin America (WOLA), NIN states:

"Nicaragua was the scene of the U.S.'s first Vietnam in the 1930's. Today, as it did in Vietnam, the U.S. Government is supporting an imposed dictatorship against the will of the Nicaraguan People. We, as Americans, can no longer support this policy. * * *

"Strategically located in the heart of Central America, Nicaragua is important to the Pentagon and the U.S. Government for several reasons: as the main 'domino' from which to control and repress the peoples of other Central American countries * * *, as an alternate site for an interoceanic canal and a key to controlling the Caribbean (including Panama and Cuba), as a staunch defender of U.S. policies internationally, and as a guaranteed investment for U.S. companies and banks which held interests worth $308 million there by 1974."

NIN states it is a "national support organization" of people who "recognize our responsibility to oppose U.S. imperialism everywhere, and in particular, Nicaragua." NIN notes that "through organized support" it can "compliment and advance" the work of Nicaraguan "solidarity committees" in Panama, Mexico, Honduras, Costa Rica, "etc."

The "etc." doubtless also includes Cuba, which since the early 1960s has openly proclaimed its support for a revolutionary terrorist movement, the Frente Sandinista de Liberacion Nacional (FSLN), the Sandinist National Liberation Front named for a Nicaraguan general, Augusto Sandino, whose guerrilla campaign (1927–33) against the U.S. military presence in Nicaragua made him a hero to the Comintern as well as present day Castroites

A Nicaraguan Marxist trained at Moscow's Friendship University named Carlos Fonseca Amador, with assistance from the Soviet ambassador in Nicaragua, recruited the founding members of the FSLN in the late 1950s and early 1960s. The initial FSLN recruits, as well as many of those since, received extensive training in terrorism in Cuba.

Fonseca and his FSLN comrades waged a desultory rural and urban terrorist campaign during the 1960s and 1970s. The FSLN sharply increased its activities following a highly publicized December 1974 raid on a holiday party attended by leading Nicaraguans and foreign dignitaries. The FSLN terrorists, a number of their jailed comrades and a million dollar cash ransom were flown to Havana.

As the FSLN heightened its activities, the North American Congress on Latin America early in 1976 devoted considerable space to attacks on Nicaragua and its President whose family has controlled the country since the 1930s. The terrorist campaign received serious setbacks in the fall of 1976 when Fonseca and other FSLN leaders were killed in confrontations with the Nicaraguan national guard.

The NIN organization, whose activists include Daniel Berrigan; Martha Cline; Robert Colen; Roberto Vargas; Gregorio Gomez, coordinating secretary of the Los Angeles chapter; Timothy Harding, a sponsor from California State University in Los Angeles; former priest Blase A. Bonpane, now a Cal. State professor of political science; and Norma Chinchilla, a "professor of comparative cultures" at the University of California Irvine campus.

The FSLN's "social justice" goals have the support of the left wing of the Roman Catholic heirarchy in Nicaragua. The archbishop has expressed sympathy for the FSLN, and the U.S. support groups are capitalizing on a letter signed by a number of Nicaraguan bishops charging that the Nicaraguan national guard is waging a campaign of torture and "genocide" against Nicaraguan peasants and religious figures. In 1976, Fr. Ernesto Cardenal, described by his friends in Panama as a "*revolutionary*," testified on "human rights abuses" before the House International Relations Committee.

On April 21, 1977, Fr. Miguel d'Escoto, Director of Communications of the Maryknoll missionary order in New York, testified before the House Appropriations Committee against military or economic aid to Nicaragua on grounds of human rights violations. As documentary exhibits a lengthy "and as yet unpublished article by Penny Lernoux who visited Nicaragua within the last month * * *. Penny Lernoux is Latin American correspondent for The Nation, Colombia correspondent for Newsweek, frequent contributor to McGraw-Hill Publications, Newsday and the Washington Post."

The Lernoux article repeating the charges of "repression" against the Nicaraguan national guard, was eventually published by the Washington Post some two months later, on June 13, 1977, the day before the House Appropriations Committee voted to cut off all military assistance to Nicaragua and Uruguay, and to refuse military credits to Argentina, Brazil, El Salvador and Guatemala because "human rights" were violated during anti-terrorist campaigns.

THE REDS ATTACK STRATEGIC NICARAGUA SEEKING TO DESTROY PRESIDENT SOMOZA

(By John Rees)

Since February 1976, Congress has been the focus of a massive and concentrated lobbying and media campaign designed to destroy the Government of Nicaraguan President Anastasio Somoza. This campaign, directed against a longstanding ally and proven friend of the United States in the strategically vital area of Central America, shows every sign of being coordinated with terrorist and slander operations run from Moscow and Havana.

The attack on our Nicaraguan ally was launched in this country by the North American Congress on Latin America (N.A.C.L.A.), an organization of Castroite activists and academics with undeniable ties to Cuba's secret police, the K.G.B.-dominated D.G.I., which has performed extensive research and analysis of Nicaragua's economic, political, and social systems with a view to finding the most vulnerable pressure points in each. The attack by the NACLA was followed shortly by shots from assorted "Liberal" human-rights activists whose concerns in this case lie with protecting the "right" of Marxist terrorists systematically to impose a Moscow-oriented dictatorship on this friendly Free World country.

Leading the attack on Nicaragua in Washington has been Congressman Edward Koch, the professional bleeding heart who serves as the Democratic Representative from New York's "silk stocking district" and who is so far to the Left that two years ago he was persuaded by the (Communist) Socialist Workers Party to seek a visa for Fourth International terrorist leader Hugo Blanco of Peru. Koch has been combining his aspirations to be elected Mayor of New York City with his headline-gaining campaign against Nicaragua.

Joining with Mr. Koch in a campaign of personal vilification, half-truths, distortion, and wild allegations have been nationally syndicated columnist Jack Anderson; the Washington Office on Latin America (W.O.L.A.), a church-related group whose concern for "human rights" appears limited to countries fighting Castro-backed terrorism and subversion; the Washington Post, whose editor's recent long junket in Cuba brought Castro continuing favorable publicity; and, Senator Edward Kennedy, who delivered an emotional and irrational attack on Nicaragua on the day the Senate adjourned for the August recess.

Earlier this year, Representative Lawrence Patton McDonald, the Georgia Democrat who is the foremost congressional authority on terrorism, visited Nicaragua. Representative McDonald produced several detailed reports on the growth of the Moscow and Havana-backed terrorist movement in that country. The Georgia Congressman reported that the terrorist Sandinista National Liberation Front (F.S.L.N.) was recruited in Nicaragua during the late 1950s and early 1960s by Carlos Fonseca Amador, a Nicaraguan educated in Moscow at Friendship University (now called Patrice Lumumba University), which is the Soviet Union's principal indoctrination center for "Third World" revolutionaries. Fonseca has had the backing of the Cuban Communists and of the Soviet Ambassador to Nicaragua. McDonald provided considerable details, noting:

"The FSLN is named after Agusto Cesar Sandino, a Nicaraguan general who fought a 6-year guerrilla campaign (1927–33) against the U.S. military presence. Sandino was widely supported by the Communists. The 1928 Sixth Congress of the Communist In-

ternational in Moscow adopted a resolution proposed by the Communist Parties of the United States and Mexico which sent "fraternal greetings to the * * * heroic army of national emancipation of General Sandino, which is carrying on a brave, determined struggle with the imperialism of the United States." Sandino's private secretary was the Salvadorean Communist leader Augustin Marti. Although the Communists later denounced Sandino, the Communists use his name as an anti-U.S. symbol of armed insurrection."

Congressman McDonald proceeded with his briefing:

"The FSLN terrorists * * * were defeated by the Nicaraguan National Guard in 1963, 1965, 1967, 1969, and in succe sive outbreaks. After each defeat, Fonseca and the surviving terrorists returned to Cuba for additional training and set about developing additional recruits. Following the serious earthquakes in December 1972 and 1973, the FSLN again moved into action to take advantage of the disruption.

"In December 1974, an FSLN band invaded a pre-New Year's party attended by prominent businessmen and diplomats, killing three people and taking hostages. Three days later the terrorists, along with 14 comrades released from jail and one million dollars in ransom, were flown to Cuba."

Representative McDonald reported that when the F.S.L.N. terrorists arrived in Havana they were given a heroic welcome; and the Cuban Communists introduced the leader of that F.S.L.N. operation, Eduardo Contreras, in a Havana radio interview as the man who "one day would impose a Communist regime in Nicaragua." Not so. Fonseca and Contreras were killed in shootouts with the Nicaraguan National Guard in the fall of 1976. Their deaths were a blow to the F.S.L.N., but the organization is large and highly organized. As Congressman McDonald has observed: "Considerable numbers of FSLN supporters and members are reported to be living in Honduras, El Salvador and Costa Rica. Costa Rican authorities report approximately 500 FSLN sympathizers in their country. Some 35 FSLN members are said to be attending the Honduran University."

McDonald also summarized the findings of the lengthy public trial of 35 captured F.S.L.N. terrorists which concluded in February. He noted that the F.S.L.N. trial record "produced evidence of some 2 dozen bank robberies and the kidnappings and murders of over 110 people, mostly unarmed villagers, women and children, and village leaders serving as 'justices of the peace'." A medical doctor and surgeon whose life has been devoted to healing and saving lives, Congressman McDonald denounced the terrorists, concluding: "The public record of the F.S.L.N. shows the only 'liberation' it holds is a liberation from life into dealth by the most brutal and degrading methods its torturers could devise."

But the facts of the F.S.L.N.'s long terror campaign against the people of Nicaragua have little or no meaning to the Jack Andersons, Edward Kochs, and Ted Kennedys who continue to press to cut off necessary military assistance to the Nicaraguan National Guard in its continuing battle to protect the people of their country against Castro's F.S.L.N.

The most recent, and perhaps the least informed, attack on Nicaragua was the one launched on the Senate floor by Edward Kennedy on August 5th. At that time Senator Kennedy attempted to change the Foreign Aid Appropriations for 1978 by a parliamentary move he described as "a very simple amendment. It basically strikes out the military aid and assistance for next year for Nicaragua."

As "reasons" for the cut-off that were provided by Senator Kennedy were the usual fake claims of "arbitrary arrest, political suppression, murder, and atrocity," compounded by "systematic torture" by the Nicaraguan Government. It was the same bunkum previously peddled by the U.S. Castroites, the W.O.L.A., the N.A.C.L.A., Jack Anderson, and Representative Koch. This time, however, the Senator attributed all of this to an Amnesty International report. While Senator Kennedy was quoting from "current Amnesty International evidence based on its latest mission to Nicaragua," no other Senator was able to challenge him—because, as his office later admitted to this reporter, no such Amnesty International report had been released, and all of the alleged "information" had been provided in telephone calls between his staff and Amnesty International.

A London-based pseudo-research operation founded by a Fabian Socialist, Amnesty International has an undistinguished record of supporting terrorists and Marxist subversives under the guise of protecting human rights. Americans can best judge this group's accuracy and slant by considering who it says are U.S. "political prisoners." They are, claims Amnesty International, Martin Sostre—a now-paroled militant whose long prison term came after his third felony conviction, which was for selling heroin; the Wilmington Ten, convicted of arson and conspiracy in North Carolina, whose appeals have been repeatedly denied in our "Liberal" courts; and, Gary Tyler, a lifer convicted in Louisiana of having murdered a 13-year-old boy during a school bussing protest when Tyler was 16 years old.

Now that the Amnesty International report cited by Kennedy has been released and examined, it is obvious that its claimed "documentation" of abuses by the Nicaraguan Government and National Guard is based upon third- and fourth-party hearsay from persons long personally opposed to the Government headed by President Somoza. Senator Kennedy and Amnesty International both made use of complaints from Left-leaning sectors of the Roman Catholic Church in Nicaragua, and by a group of American Capuchin monks who published reports they claim were "by, or about, individuals they have known personally." Ah, religious persecution! This nonsense ignored an opposing statement signed by 29 Catholic priests denying there is any interference with religious freedom in Nicaragua, or abuse of the Church, or harassment of priests performing their religious functions.

One of the 29 signers of the ignored statement, Fr. Carlos Caballero, a Jesuit who has lived in Nicaragua for 27 years, delivered a detailed attack on "certain Nicaraguan and foreign priests who have let themselves be carried away by the politics of parties or groups." He continued by saying that "it is clear these have not always adhered to honesty and truth but have deviated into the fields of exaggeration, lies, rumors and false interpretation."

Fr. Caballero, a voice of reason, also criticized those who demand absolutely impeccable behavior from societies under terrorist attack while calling for the "maximum consideration" for "political liars" and negotiating for the release of hostages "in their manipulation of the law in a game in which corpses are used as bargaining chips."

Clearly the eloquent Fr. Caballero was outraged, and he also delivered a not very veiled condemnation of fellow priest Fr. Ernesto Cardenal, an admitted Marxist revolutionary and Havana visitor who has admitted his admiration for the F.S.L.N. gangsters.

Cardenal is a favorite source of "atrocity" charges for both Senator Kennedy and hypocritical frauds at Amnesty International. In 1970, Cardenal was a "literary judge" at the Cuban Casa de los Americas in Havana, a huge complex of buildings which provides a "cultural cover" for operations of the D.G.I. spies and agents. This Red priest actually appeared before the House Foreign Relations Committee in 1976 to provide one of the opening salvos in the phony "human rights campaign" aimed at depriving our allies of the means to defend themselves against Communist terrorists murdering and maiming their people.

Cardenal claims to be a "poet" using his art as a "means of pro hetic denunciation." He appeared at a W.O.L.A. press conference in Washington, D.C. in February of this year. At the press conference, Cardenal was asked if he would take up arms himself like the Castroite terrorist priest Camilo Torres in Colombia. His reply: "No, my battle is with other arms. * * * I can do more by writing." Comrade Cardenal concluded his press conference with the assertion, There must be an integration of the Church and Marxism."

Yet Senator Kennedy quotes this Communist again and again to attack America's friend President Somoza. The Massachusetts Seantor went so far as to assert that the emergency measures decreed early in 1975 following the F.S.L.N.'s hostage-taking raid and subsequent flight to Havana "have gone far beyond those needed to deal with what close observers now regard as a minimal security threat." Amnesty International, which has liberally salted its report with such embarassing modifiers as: "It may be presumed," "if true," "allegedly," and so forth, noted without any qualification however that "only recently had one of the alleged perpetrators of that assault returned from Cuba and been captured."

Senator Kennedy may see the F.S.L.N. as "a minimal security threat" since he is not likely to be kidnapped, tortured, and murdered by them. Their supporters and members in the United States don't see it that way, as was shown by a March article in the Castroite Communist newspaper, Guardian, which reported:

"Students, workers and peasants are uniting behind the FSLN, which has waged armed struggle against Somoza and U.S. imperialism for 15 years. Notwithstanding the recent deaths of two FSLN leaders during combat * * * the revolutionary campaign continues to escalate.

"A FSLN communiqué points out that the number of armed cadres has more than doubled since December 1974. Over 75 encounters have taken place over the last year along four separate fronts established and held in the mountains of northern Nicaragua.

"In the cities, students and workers have taken the struggle onto the streets in a series of protests. . . ."

The Communists' own account of the rise of FSLN terrorism concluded significantly:

"The overthrow of Somoza by a popular anti-imperialist movement may well prove a critical turning point in the regional struggle for national liberation. U.S. imperialism and its allies are all too aware of their fragile grip on this strategically vital area—of the explosive situation in Panama, the strength of the progressive forces in Costa Rica, the deep unrest in El Salvador, * * * the organized revolutionary movement in Honduras and Guatemala, the nationalist surge in the Caribbean and, of course, the towering influence of socialist Cuba."

Clearly the Communists know why Nicaragua is a priority target in Central America. And so do many Senators. While Edward Kennedy's anti-Nicaraguan amendment failed this time, Americans as well as the people of Nicaragua must recognize that the Communist enemy has opened a pro-

tracted struggle for the subversion of this American ally which can only be defeated by determined military resistance.

THE PLOT TO DESTABLILIZE NICARAGUA

(by John Rees)

NICARAGUA has become the main Communist target in Latin America. The Communist strategists recognize that Nicaragua is the point "domino" in their Central American campaign. This attack on Nicaragua is three-pronged. Two of these are clearly controlled by the Communists and operate inside Nicaragua to exert the maximum pressure on lawful authority. The first is a Marxist terrorist organization, the Sandinist National Liberation Front (F.S.L.N.). The second component of the attack is a coalition of middle-class Leftists whose leadership is larded with Communists and Castroite supporters of the F.S.L.N. But the third prong of the attacking forces is a Leftist clique in Washington with members inside the Carter groups with orientations ranging from conservative to Christian Democrat to Communist. The Nicaraguan Socialist (Communist) Party, at its secret party congress held in Managua in October 1973, had called for formation of a "united front incorporating all labor unions, students, peasant organizations, committees for defense and improvement of people's conditions, democratic political parties, elements of the middle class, progressive Christians, democratically-minded military," and all other opponents of the Nicaraguan Government. This is it.

The U.D.E.L. was formed in 1974, several months after the above-cited Communist meetings; its head was Pedro Chamorro, a "Liberal" opposition leader and newspaper publisher whose family has been an opponent of the Somoza family for over two generations. Chamorro's murder early this year—likely an *agent provocateur* operation—was used as the excuse for U.D.E.L. groups to organize a massive economic strike and rioting which lasted almost twenty days, but which has failed to bring down the Government.

Political Officer Martin's report noted that despite the serious upsurge in F.S.L.N. attacks the National Guard, which "has successfully put down numerous insurrectionary challenges" and has been able to thwart F.S.L.N. attempts "to foment a popular revolution," has "stood their ground, and there are no signs of fissures within" the military. The political report goes on to note that in spite of customary dissatisfaction among ambitious members of a younger generation, the business community and ruling Liberal Party "can be counted on to support the regime" unless some new and more attractive "alternative" can be created "which would not be prejudicial to their interests."

Areas of opposition, as the report noted, include businesses owned by anti-Somoza forces, and the Nicaraguan Church which "has been adopting the new role of social activism signalled by the Vatican II and Medellin conferences." The U.D.E.L.'s attempts to build a grassroots movement are dismissed as having "had little impact." The report expresses the view that U.D.E.L. may develop more of a threat after the lifting of martial law (which took place on September 19, 1977), but that "the alliance of different political philosophies it represents makes it inherently unstable."

As for the terrorist F.S.L.N., which originated with a Moscow-trained revolutionary, one would do well to notice that its leaders have received training in terrorism and insurgency in Cuba. The Political Officer's report comments that "recently increased dissatisfaction with the regime, and new pressures on it from the U.S., the Church, and the private sector have created an environment in which the guerrillas have the potential for greater recruitment and impact."

The Political Officer of the U.S. Embassy in Nicaragua continued: "The recent emergence of a new line Administration and on Capitol Hill.

The tactic of the anti-Nicaragua clique in the State Department is to establish what is being called a policy of "non-intervention." That may appear balanced and fair on the surface but in fact it is designed to hurt the Government of Nicaragua because it has been used to block the vital military, economic, and political support needed to resist Communist military and political assault.

This Carter Administration betrayal of Nicaragua, a country with which we have enjoyed a friendly, stable relationship for decades, is being achieved without protest from the American people because of a media smear campaign against the Government of President Anastasio Somoza consisting of lies, half-truths, distortions, and evasions.

THE CLASSIFIED DOCUMENTS

The Review Of The News has obtained official U.S. Government documents, some of them classified "Secret," which establish that the truth about conditions in Nicaragua is being kept from the American people by the "new foreign policy" clique.

For example, the draft of a "Secret" telegram of nine pages sent to the State Department by the Political Officer at our Embassy in Managua, Jack Martin, has been obtained by this reporter. Mr. Martin's report takes note of the well-organized political and economic campaign against the Nicaraguan Government, supported as it is by "pressure from the U.S." But he says President Somoza "despite his recent heart attack still appears to be in firm control and able to resist the pressure for change." This is in direct contradition of the mass-media reports presenting President Somoza as being in precarious health. Also it is particularly interesting that this major State Department political report avoids mentioning that the "pressure for change" results from a guerrilla terrorist campaign and an economic strike directed by the Communists.

It is particularly significant that these on-the-scene political reports from Nicaragua by State Department political officers have not been made available to the U.S. Congress which must vote on all allocations for military and economic aid to foreign countries. Political Officer Martin's lengthy report is entitled "Pressure For Change: Regime Instability." The use of the word "regime" as if to denote illegitimacy hardly indicates neutrality toward the Government of Nicaragua on the part of Jack Martin. The report states:

"The coalition of anti-Somoza regime forces includes the FSLN guerrillas, all sectors of opposition political sentiment, the Nicaraguan Catholic Church, and significant segments of the private business community."

The opposition coalition is called U.D.E.L., the Democratic Union of Liberation, characterized in January and July 1977 in the C.I.A.'s "National Basic Intelligence Factbook" as a united front "composed of anti-Somoza political movements and labor in the FSLN which is open to accepting collaboration with non-Marxist-Leninist opponents of the regime is causing the democratic opposition to reevaluate forming a common front with the guerrillas."

The Nicaraguan National Guard has received counter-insurgency training from the United States and its ability to withstand the F.S.L.N.'s attacks is such that it was given a backhanded compliment even by Political Officer Martin. He writes: "The recent attacks on the GN [Guardia Nacional] were an important test of regime stability. They demonstrated that the GN is prepared to defend itself rather than surrender or fall apart under attack, and that there is as yet no sign of popular masses ready to arise to follow the lead of the FSLN. It will apparently require a much greater expenditure of lives on the part of the FSLN before the GN is significantly weakened or there is popular willingness to get involved."

The State Department's political evaluation notes the "salami effect" in raising demands that President Somoza step down. It suggests that the guerrilla attacks will either force the President to yield to some of the opposition political pressure so as to be better able to cope with the insurgency, or it will cause him to refuse to make accommodations so as not to appear weak. If the anti-Communist President does not yield to his enemies, "It is likely that political-revolutionary pressures on the regime will increase. . . . [This] likely would result in a deteriorating economic climate which would lead to further private sector aggressiveness." Any accommodation by President Somoza with his enemies, although "as minimal as he judges necessary" and "accomplished as much as possible on his terms," will cause the Nicaraguan Government to be "slightly weakened" and may provide "an opportunity for further changes."

Even so, the State Department's Political Officer in Managua admitted twice in his conclusions that "there is no indication of the imminent collapse of the regime" and that "it seems unlikely that Somoza could be forced to step down from his control of the regime before the end of his term [as President, he may not succeed himself] in 1981."

HARRINGTON KILLS TESTIMONY

As part of the continuing campaign against President Somoza, plans had been carefully made for the House Subcommittee on International Development, chaired by Representative Michael Harrington (D.-Massachusetts), to hold a Hearing about the situation in Nicaragua on Wednesday, February 9th. The principal witness was to have been Terence A. Todman, Assistant Affairs, and many observers expected that Mr. Todman would join the claque attacking Nicaragua for oppressing the "human rights" of the F.S.L.N. terrorists and rioters. To the contrary!

In accordance with standard procedure, copies of Mr. Todmans' testimony were delivered to Chairman Harrington and the other Subcommittee members on February 7th in advance of the Hearing. Later that day, and without warning, the Hearing was cancelled. After a time it was "rescheduled" for the middle of March.

In these unusual circumstances, *The Review Of The News* began to ask questions and was soon able to obtain a copy of the testimony that Assistant Secretary Todman had intended to present. It was a strong and balanced statement that exposed as lies many of the allegations current in the press about the Nicaraguan Government and President Somoza. When we raised the matter, a spokesman for the notoriously radical Congressman Harrington, Gary Jefferson, claimed that the Hearing had been cancelled at the request of the State Department so as not to add to the problems of Nicaragua in the midst of riots and a general strike. He explained that the decision to cancel was a bi-partisan move arranged between Representative Harrington and Congressman Larry Winn (R.-Kansas), the ranking minority member, Jefferson admitted that Harrington had studied the Todman testimony.

When Representative Winn was interviewed he said that he had not seen the Todman statement prior to the cancellation, and that he had *not* discussed it with Representative Harrington. If Mr. Winn had learned of its content he would not have

agreed to cancelling the Hearing and Nicaragua's position would be the stronger.

Assistant Secretary Todman's prepared statement sought to focus "primarily on the purpose and effectiveness of our economy and security assistance to Nicaragua, and the linkage that the current human rights situation has to this assistance." Mr. Todman noted that the purpose of providing funds through the U.S. Agency for International Development was to help the very poor, and thus "our efforts in Nicaragua focus primarily on small farmer development programs; on solving basic problems in nutrition, health delivery and family planning; and on developing more relevant and less costly forms of education." His statement noted that A.I.D. funds support the Nicaraguan Government's "rural development plan." Todman's statement noted that "despite the demands of Managua's earthquake reconstruction, Government services to agricultural development have grown from $7 million in 1970 to $25 million in 1976. . . . Expenditures for public education and health have increased silghtly, as a percent of rising gross domestic product."

Furthermore, the Nicaraguan Government has established a Small Farmer agency which since 1975 has made over 11,000 loans to 7,000 small-farm owners, extended technical assistance, made rural enterprise loans, and is helping small farmers to form voluntary cooperatives. After enumerating education programs in nutrition, health, sanitation, water supply, etc., the Todman statement nailed down the Big Lie about alleged embezzlement and corruptions, as claimed in the "Liberal" press, stating: "Since the 1972 earthquake twenty-eight major audits, two separate Congressional Staff surveys, and a General Accounting Office report on reconstruction activities have been completed. We are pleased to note that no diversion or misuse of official U.S. assistance has been revealed by these reports."

Mr. Todman went on to explain that the security assistance program was designed to guide Nicaragua "towards a rational arms procurement policy," and that the training program is "intended to promote U.S. concerns for democracy, human rights and standards of military professionalism." He stated that "we desire to seek the maintenance of stability in the Central American region and the fulfillment of our commitment to hemispheric collective security under the Rio Treaty. We believe our assistance helps to provide the Central Americans with the sense of security which is important for social, economic and political developments. . . . Security assistance also helps to maintain our cooperative political relationship with that country. Nicaragua has consistently supported U.S. positions in the UN, the OAS, and other international fora."

With regard to respect for human rights, Assistant Secretary Todman's prepared statement said "it is our opinion that marked progress has been manifested in recent months." He continued: "We recognize that the Government has a duty to protect the population from terrorism and acts of violence. . . . Although terrorist acts have continued since last February, we have noted a significant diminution in reported incidents of violations of the person by the National Guard. On September 19, the state of siege was terminated with the immediate re-assertion of a free, vocal opposition press, the restoration of the right to habeas corpus, outdoor assembly and civil court authority."

The Assistant Secretary of State's intended statement noted that "Despite the mid-January rioting and attacks by guerrillas on National Guard barracks February 1 and 2 which resulted in a number of deaths, the National Guard has thus far reacted in a generally restrained manner throughout the past weeks of crisis." His lone concession to the press smear of Nicaragua was merely to note that "some here questioned the degree of non-deadly force used against protestors." Municipal elections were held on February 5th, he noted, "with some opposition candidates running, even though the opposition Conservative Party had called for postponement of the elections." It is significant that although the opposition party generally receives in open voting only 5 to 8 percent of the vote, it is guaranteed a minimum of 40 percent of the seats in the Nicaraguan legislature by a provision of the constitution. Not surprisingly, the U.D.E.L. calls for election boycotts were generally ignored by the people. So much for "repression."

THINGS TO CONSIDER

Representative Michael Harrington of Massachusetts will be remembered by readers of this magazine as the Congressman whose travel expenses to a Communist-organized anti-Chile conference in Mexico City were paid by Soviet K.G.B. agent Orlando Letelier. That is a fact supported by considerable documentary evidence.

Readers will further remember that the K.G.B.'s agent Letelier was not a mere spy seeking defense information but a top "agent of influence" whose mission was to coordinate the phoney "human rights" campaign in order to isolate the anti-Communist Latin American Governments from U.S. economic, military, and political support. His targets were U.S. Congressmen, congressional staff aides, other government officials, and leaders of the "Liberal" academic and political sectors. It is interesting to note in this context that career Foreign Service Officer Terence A. Todman has been the target of continuing sharp attacks by the so-called "human rights" lobbying cabal, particularly by the Council on Hemispheric Affairs, set up according to its director with input by Communist agent Letelier following that anti-Chile Communist conference in Mexico attended by Congressman Harrington.

Now Representative Harrington has canceled Subcommittee Hearings that would have authoritatively exposed the truth about conditions in Nicaragua. The Todman testimony would have been instrumental in freeing the 1977 U.S. assistance funds for Nicaragua, and in ensuring that assistance for 1978 is forthcoming as previously. Now Assistant Secretary Todman's testimony has been consigned to the trash can by the arrogant actions of Chairman Harrington.

As Congressman Larry McDonald (D.-Georgia) noted after seeing a copy of the intended Todman testimony: "This document makes it plain that the new policy of 'hands off Nicaragua' being advocated by some sections of the State Department is simply part of the Leftist campaign to turn that nation over to the Communists."

We would do well to remember that the attacks on friendly Nicaragua were set up by a Moscow-trained Nicaraguan Red named Carlos Fonseca Amador, killed late in 1976 in a shootout with the National Guard. It is an undisputed fact that the F.S.L.N. leadership received terrorist training in Cuba, and over the years has repeatedly used Cuba as a refuge following defeats at the hands of the Nicaraguan National Guard. It is yet another fact that the F.S.L.N. have a reciprocal and cooperative arrangement with the Castroite terrorist bands in Costa Rica, El Salvador, and Honduras—Nicaragua's neighbors—and that considerable contingents of F.S.L.N. cadre are training in camps located in remote areas along the borders for future attacks. Anti-Communist Nicaragua deserves our support. Especially in view of trouble coming in nearby Panama no matter what happens to the pending treaties.●

FEDERAL WORKER PAY A POLITICAL FOOTBALL

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. HARRIS. Mr. Speaker, on September 6, I introduced a resolution in the House (H. Res. 1336) to disapprove President Carter's plan to hold this October's pay adjustment for Federal civilian and military employees to 5.5 percent. I felt then, as I do now, that Federal workers should receive the full 8.4 percent increase the Labor Department, Civil Service Commission and White House Budget Office all agree is required under the 1970 Comparability Act to keep Federal wages comparable to jobs in business and industry.

When President Carter announced in April, his intention to impose an arbitrary wage freeze on Federal workers, he said he hoped it would serve as an example of restraint that business and industry would follow as part of his anti-inflation program. However, a new Congressional Budget Office study concludes that "in truth, a cap on Federal pay is largely symbolic" and the savings "would not be large enough" to dampen inflationary pressures on the economy. And a recent Business Week article on private-sector wages indicates that pay raises for white-collar workers are going as high as 11 percent in some companies, "with no downward trend in sight."

All the available evidence shows that a symbolic freeze on people who send out social security checks and guard our defense bases will not ease the budget squeeze of American families. What this amounts to is a political football, not a solution to our Nation's economic ills.

Since introducing my resolution favoring the 8.4 percent adjustment, I have tried to present the facts supporting my resolution, but they have fallen on deaf ears. Many colleagues say they sympathize with my position, but say they would not vote for the resolution this close to an election. Still others refused to even attend a Civil Service Committee meeting I requested to consider the merits of the resolution. Some told me they hoped I would bring it to a floor vote so they could register an appealing anti-Washington vote to tell constituents back home about during their reelection campaigns.

In light of these attitudes among some of my colleagues, I conferred over the past few days with representatives of various Federal employee and military groups, who concluded that it would be unwise to seek a record vote in the House on my resolution. While it appears we would not have the votes to win, I am more concerned that it would provide an opportunity for some Members to capitalize on the rhetoric of an anti-Washington vote in this election year. So, in an effort to prevent dedicated Federal

and military workers from being unfairly used in political campaigns, I have decided not to call for a rollcall vote to overturn the President's 5.5 percent pay lid.

Congress must lead the fight against inflation, but this so-called symbolic action will not help ease the high price of groceries, hold down utility bills, or reduce housing costs. Federal workers are not the cause of inflation, they are the victims of it and I regret that they are being used as scapegoats for our economic problems. The American people expect more than symbolism to fight inflation, and Federal workers expect to be treated fairly with other sectors of the economy.●

THE FEDERAL BUDGET FOR THE FISCAL YEAR 1979

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. FISHER. Mr. Speaker, Congress has now established Federal budgetary limits for the next fiscal year that begins in October. The conference report on the second budget resolution for the fiscal year 1979 contains a projected deficit of $39 billion, with a spending ceiling of $488 billion and a revenue floor of $449 billion.

The deficit figure represents a slight improvement from the resolution that the House approved in August which contained a deficit of $40 billion. It is a much greater improvement over what was being considered earlier this year when talk of $50 and $60 billion deficits were commonplace. I voted to support the second budget resolution primarily because of the reduction in the deficit figure.

But the deficit is not as low as I would like. I believe that it can be reduced still further while retaining a significant tax cut and without cutting into the effectiveness of Federal programs. This can and should be done through a prudent review of ongoing Federal activities with an eye toward increased efficiency.

Reduction of the Federal deficit must be the order of the day if we are to win the fight against inflation. A lower Federal deficit will not singlehandedly solve the inflation problem, but it represents an important step. During the debates on the budget resolutionns this year, I fought to reduce overall spending levels and to cut funding for specific programs in an effort to keep the deficit down. The spending totals have come down, but mostly through re-estimates of how fast appropriated funds can be spent. There will be opportunities throughout the year to reduce the deficit further through real cuts in spending. In my opinion, spending could be cut in a practical way by several billion dollars more. I urge the administration and the Congress to take every possible action in the direction of further deficit reduction.●

DONALD A. ABRAHAM, A MAN OF THE PEOPLE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. GAYDOS. Mr. Speaker, on July 24, 1978, the Commonwealth of Pennsylvania lost of one its most promising young legislators in a tragic automobile accident. Donald A. "Donny" Abraham, the 47-year-old representative from the 36th District, was killed when an oncoming car crossed the medial strip and crashed head on into his vehicle. Donny was en route to visit his mother in a hospital when the accident occurred.

His death was a shock to all who knew Donny. In just a few short years he had won the respect of his colleagues in State government and the love of the people he served. He had proven himself a competent, sincere, compassionate man dedicated to helping others, particularly the elderly and the handicapped.

On September 14, 2 months after his death, Donny was eulogized at a unique memorial service in the union hall of local 1397, USWA, in Homestead, Pa., The setting for this solemn gathering was the annual corn roast for pensioners of the Steel Valley.

Now, that may seem a bit strange to some people, combining a memorial service with a corn roast, but it was a fitting means for these retired steelworkers to remember Donny Abraham. The corn roast has been a pet project and labor of love for Donny and his longtime friend, Mayor William Knight of Munhall Borough, for more than a decade. Nothing delighted these two gentlemen more than to doff their official robes of office and don aprons to shuck corn, cook hotdogs and swap tall stories with the pensioners.

On September 14, more than 400 of them joined a host of dignitaries from all levels of government across the State to pay tribute to their deceased friend. One after another in voices choked with emotion the speakers groped for the words to describe their feelings about Donny Abraham. Perhaps Mayor John Dindak of West Homestead, who lost his mother the same day Donny died, spoke for everyone when he told the assembly:

> Donny was good to me, my family and the people of West Homestead as he was to everyone. When I buried my mother, I buried a brother too. We all did.

The eulogies to Donny included formal resolutions of sorrow presented his family by the Commonwealth and various governmental subdivisions, an announcement the pensioners were establishing a scholarship fund to perpetuate his memory, plans for naming a new high school after him and last, but not least, the proclamation by Mayor Knight that henceforth the second Thursday in September—the traditional day for the corn roast—would be known as "Donny Abraham's Day."

The tributes to Donny continued for more than 2 hours until James F. "Rick" Lawry, president of Local 1397's Pensioners Association, rose and declared the memorial service closed and the corn roast open. Within minutes the solemnity that had filled the hall was replaced by the sights and sounds of people indulging in good food and fellowship. Donny would have liked that; his people enjoying themselves on his day.

Mr. Speaker, on behalf of my colleagues in the Congress of the United States, I extend our sincere sympathies to the family of Donny Abraham. May they find comfort in the knowledge their loss is shared by many who knew Donny Abraham to be a man of the people, one who truly loved serving others.●

CHISM RETIRING AS PELHAM'S GRID ANNOUNCER

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. MATHIS. Mr. Speaker, I want to share with my colleagues a newspaper article concerning my good friend James Barney "Bull" Chism of Pelham, Ga., who is retiring from local sportscasting as well as leaving his post as editor is chief of the Pelham Journal.

[From the Thomasville (Ga.) Times-Enterprise, Thursday Sept. 21, 1978]

CHISM RETIRING AS PELHAM'S GRID ANNOUNCER

(By Wendy Freedman)

PELHAM.—These days J. B. "Bull" Chism is being seen more and heard less.

After 33 years, the voice of the Hornets has a different pitch. Chism retired from announcing the Pelham High School football games this year, and was recently presented a life-time pass to the press box so he won't entirely miss being the man in the sky.

And, he has turned over the duties of editor-in-chief of the Pelham Journal to his son, Neal, 31.

But the Chism's influence probably will be felt in this tobacco-belt community for some time.

The stocky, chatty 64-year-old Chism was raised with the newspaper and assumed the editorship when his father died in 1956.

"I grew up with it," said Chism. "All I ever knew is newspapering. I learned to walk when I pulled up on the back of a linotype machine. I used to nap at the paper."

J.B. Chism Sr.,—Bull's father—was a printer's devil in Nashville, Ga., from the time he was 9. The apprentices were so named because they "played hell so much," Chism explained. The elder Chism was a linotype operator in Quitman before he bought the Pelham paper in 1925.

The nickname Bull comes from a 1925 incident when young Chism reluctantly went to dentist Dr. John O'Neil, shortly after moving to Pelham.

"I needed a tooth pulled," he said. "I began screaming, and the dentist, to calm me down, asked me what the J.B. in my name stood for. I told him 'John Bull,' and it stuck, said James Barney Chism.

During the years he was editor, the Pelham Journal changed from a four-column to eight-column format, and moved to the old Hand Trading Co. building on McLaughlin Street. There, Chism grinds out his weekly column and fondly oversees the editorial and paste-up operation.

"At one time," he said proudly, "it was the only weekly in Georgia which was a member of the Associated Press."

Chism remembers when newspaper offices were a lot different.

"With hot type," he said, "you worked day and night. It was noisier, too." Hot type involves letters punched into lead. About 10 years ago, the paper changed to computerized offset printing.

But the news concept stayed basically the same over the years.

"I've always tried to run it the same way," he said. "After offset came, at least I could spend more time writing."

"I try to report the news. That's what the paper's for—to report the news accurately. There have been many criticisms over the years but all articles will make half the people glad and half mad."

While other weekly newspapers lean toward being town cheerleaders, the Pelham Journal has managed to headline controversial issues.

When a group of parents recently blasted the Pelham Board of Education for the physical condition of the schools, the story was spread across the top of the front page.

"In a small town of course, you have to be careful of hurting anyone," Chism said. "My daddy told me if you can't say anything nice, don't say it at all. But we do have to tell it like it is.

If Chism has a grasp of what goes on at complicated government meetings, it is because he knows the system inside and out. He was both a city councilman and a school board member, as well as honorary coach of the Hornets, Rotary member and active in the Methodist Church.

Now, son Neal runs the paper, under Chism's watchful eye. The youngest Chism son, a graduate of the University of Georgia journalism school, is a public relations officer with Coats and Clark at Toccoa.

"I always wanted my children to follow in my footsteps," said Chism. He has high hopes for his three grandchildren.

Not content to totally sit back and watch, however, Chism still covers meetings and regularly writes his column, "Down the Chism Trail," a collection of anecdotes and words of wisdom, which he has written for the past 25 years.

"I enjoy the column," he said. "I can just sit down and have my say."

Although the most enjoyable thing about his years in Pelham is "just producing the paper every week," Chism will always have a soft spot in his heart for the Hornets.

"Thirty-three years ago someone had a public address system in the back of a truck and needed an announcer. I said I'd do it, and I never stopped." Except for serving in the Armed Forces, Chism has only missed one game.

"I tried to have fun with it," he said. "Sometimes you make an error, and you have to make some comical, cover-up remark."

Over the years, even the games have changed. Initially, there was no press box or bleachers, and fans just ran up and down the sidelines, he said.

But Chism, who accepts change, will probably find Friday nights hard to get used to.

"I'll probably still go to the press box and head for the mike," he said.●

THE CASE OF THE FRADKIN FAMILY WHO ARE DETAINED IN RUSSIA

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. SIKES. Mr. Speaker, I am pleased to join in the "vigil for freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Government's repressive emigration policies.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

Unfortunately, the Soviet Government has disregarded the human rights provisions of the Final Act.

Today, I bring to my colleagues' attention the case of Daniel Fradkin of Leningrad. He, his wife, Sara, and their children, Wolf and Faina, have filed applications to emigrate to Israel six times, but have been refused each time. The reason for refusal was ostensibly because of Daniel's access to secret documents in 1963, despite the fact that in the course of the following 9 years he worked as a lecturer of mathematics in the Institute of Electrical Communication in Leningrad with no access whatever to secret information. In 1972 he was discharged and deprived of work in his field. He is now working as a postman. All of his and his wife's relatives are in Israel and the Fradkin family are very eager to join them. His father is sick and elderly, and pleads for help to enable his son to leave the U.S.S.R. It is my hope that this vigil for freedom will result in early emigration to Israel for this family.●

CONSUMERS OPPOSE AGRICULTURE COMMITTEE SUGAR BILL

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. VANIK. Mr. Speaker, the House will soon have the opportunity to vote on sugar legislation. There will be a clear choice between a version reported by the Agriculture Committee and a version reported by the Ways and Means Committee. The Ways and Means Committee version will save the consumers $3.5 billion compared to the Agriculture Committee's proposal.

Today's Washington Star editorializes on some of the differences between the two bills:

TOO SWEET FOR CONSUMERS

The Sugar Stabilization Act scheduled to come before the House this week would be more appropriately named the "Consumer Rip-off Act."

The White House estimates the legislation drafted by the House Agriculture Committee would cost consumers $4 billion over the next five years. A congressman who spoke out against it the other day—Rep. Dave Stockman, R-Mich. — estimates the five-year cost to consumers could reach $6 billion.

Ostensibly the bill is designed to help some 13,000 U.S. sugar growers. In fact, the biggest beneficiaries would be some two dozen corporations that dominate the sugar industry. The bill for this Federal largesse would be paid by 216 million U.S. consumers.

The bill would raise the raw sugar support price from 14 cents a pound to 16 cents and would provide for quarterly increases through 1983. Representative Stockman claims the quarterly escalator provision could send the raw sugar price skyrocketing to 25 cents a pound by 1982.

The bill also would require more extensive use of quotas and fees to limit sugar imports in order to keep the price of U.S.-produced sugar artificially high. Erecting such additional barriers to foreign sugar not only could be disastrous to the recently negotiated International Sugar Agreement, which is designed to stabilize the world price of raw sugar, but it also might seriously hamper the U.S. effort to open foreign markets to more U.S. agricultural products.

The Ways and Means Committee has prepared a substitute bill which would establish a support price of 15 cents a pound and eliminate the quarterly escalator provision of the Agriculture Committee bill. Even this is above the administration's recommendation of a 14.5 cents-a-pound price support floor, but it's infinitely better than the Agriculture Committee's bill and a similarly inflationary sugar bill already passed by the Senate.

In a letter to members of the House, the director of the administration's Council on Wage and Price Stability, Barry Bosworth, protested that the Agriculture Committee's bill could have serious effects on White House efforts to restrain inflation. "If we are to be successful in moderating inflation, the trend of enacting special interest legislation that raises consumer prices must be reversed," he said.

The question members of the House ought to ask themselves is: Whose interests are uppermost—13,000 sugar growers (of which a couple of dozen corporate giants will benefit the most) or 216 million consumers who already are staggering under the impact of runaway food prices? ●

RED CROSS CERTIFICATE OF MERIT

HON. GARRY BROWN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. BROWN of Michigan. Mr. Speaker, in these times when it seems only the bad, the ugly, or indifferent capture the attention of the public and the media, I am pleased to bring to the attention of my colleagues a noteworthy act of mercy performed by one of my constituents, Mr. Neil C. Herndon, Jr., of Hastings, Mich.

Mr. Herndon has been awarded the Red Cross Certificate of Merit, which is the highest award given by the American Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross in first aid, small craft, or water safety. The certificate bears the original signatures of the President of the United States and Frank Stanton, the honorary chairman and chairman, respectively, of the American Red Cross.

The act of mercy performed by Mr. Herndon upon which the award is based occurred on July 28, 1978, near Mr. Herndon's home in Hastings, Mich. On this occasion, Mr. Herndon, who was trained in Red Cross advanced first aid, water safety, and cardiopulmonary resuscitation (CPR), was in his home when he was alerted to a traffic accident which

occurred on his street. Rushing to the scene, Mr. Herndon found several victims, one of whom had a severed leg. Mr. Herndon placed a tourniquet above the severed point, stopping the flow of blood from the wound. He then applied first aid to another man who had severe head wounds and attended several other victims as well.

In the words of the president of the American Red Cross, George M. Elsey:

Without doubt, the use of first aid by Mr. Herndon saved the victim's life . . . This meritorious action exemplifies the highest ideals of the concern of one human being for another who is in distress.

Mr. Speaker, I am sure all of my colleagues join me in extending to Mr. Herndon my sincere congratulations upon his receipt of this award and my deep thanks for his service to his fellow man.●

MRS. ERMA R. JONES OF YOUNGSTOWN, OHIO, HONORED AS GRAND WORTHY MATRON, ORDER OF THE EASTERN STAR

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. CARNEY. Mr. Speaker, on November 4, 1978, a recognition banquet will be held for Mrs. Erma R. Jones of Youngstown, Ohio, who has attained the highest honor that the Order of the Eastern Star can bestow.

On August 9, 1978, Mrs. Jones was elected and installed as the Grand Worthy Matron of Amaranth Grand Chapter, Inc., Order of the Eastern Star, State of Ohio, during its 91st annual communication held at Stouffer's Dayton Plaza Hotel in Dayton, Ohio.

Mrs. Jones was born in Tennessee and raised in Akron, Ohio. She is the eldest of 12 children born to Mrs. Evie Ashley Gibson and Mr. Chester L. Gibson, both deceased. Her father, a dedicated member of every branch of Prince Hall Masonry, was elevated to the office of Most Excellent Grand High Priest of Royal Arch Masons, Prince Hall, in 1959.

The wife of Richard C. Jones, Erma Jones received her elementary and secondary education in the public schools of Akron. After her graduation from Garfield High School in Akron, she continued her education through private tutoring, self-study, and by attending Youngstown State University.

An accomplished musician, Mrs. Jones was taught the rudiments of music by her father, later developing a God-given talent through the tutoring of Dr. Nathaniel Armstrong of Akron, and Dr. Richard Einsel of the Dana School of Music, Youngstown State University.

Widely known in the Youngstown, Akron and western Pennsylvania religious and civic circles, Mrs. Jones has been the minister of music for the Price Memorial A.M.E. Zion Church in Youngstown, for 30 years. As pianist, organist, and director, she has received many awards and accolades for the excellent concerts and cantatas performed by her versatile choirs. Through her aid and encouragement, many of her talented young proteges have been inspired to further their education and have become teachers, noted singers and musicians.

Mrs. Jones is a member of the 20 Year Club of Strouss, a division of the May Co., having been employed there for 24 years as a clerk in the control offices of the furniture department. She retired in 1975.

An active member of the National Council of Negro Women, Mrs. Jones is also affiliated with the NAACP, the YWCA, and the Youngstown Area Urban League. She is self-employed as a teacher of organ and piano to private students. She is also a bridal consultant, coordinating beautiful weddings from the simplest to the most elaborate.

Fraternally, Mrs. Jones is a past matron of Convenant Chapter No. 48, Order of the Eastern Star. She has served Amaranth Grand Chapter as the pianist of the third district for many years and on a State level as grand deputy of the third district and as grand assistant organist. After her election to the office of grand associate conductress in 1972, she served as director of youth activities for girls assembly, State of Ohio, and chairman of many committees, including chairman of ways and means. Mrs. Jones is the founder of Excelsior Court No. 7, Heroines of Jericho, and has served as assistant grand organist of the Most Ancient Grand Court, Prince Hall, Heroines of Jericho, State of Ohio. She is a daughter of Al Kaf Court No. 144, daughter of Isis, Akron, Ohio, and she is a candidate for Bezaleel Assembly No. 19, Order of the Golden Circle, Cleveland, Ohio.

Mr. Speaker, these are the highlights of the life of Mrs. Erma R. Jones. Her life represents a lifetime of service—fraternally, humanly, and spiritually—to God and to all her brothers and sisters, be they black or white.

I want to take this opportunity to congratulate Mrs. Erma R. Jones on receiving the highest honor awarded by the Order of the Eastern Star, and to commend her for her dedicated service to her fellow man. When her many friends join in honoring her at the recognition banquet, I hope to be there.●

WORDS ARE THE TOOLS FOR GIRLS AND BOYS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. PEPPER. Mr. Speaker, I would like to call the attention of our colleagues to a group of prize-winning poems written by grade school students at Vineland Elementary, Frank C. Martin Elementary School, Everglades Elementary, and Pine Lake Elementary, Dade County, Fla. These poems have appeared in the Sunday Neighbors section of the Miami Herald.

The hopes of today and the promise of tomorrow are eloquently stated by the words of these young laureates. Inducing a sense of nostalgia, these poems reflect a period of childish innocence we all once dearly cherished. These young poets deserve our highest praise and should be very proud of their creative accomplishments.

Hundreds of Dade County students and their parents and teachers participated in this poetry contest and it is my pleasure to share with you these beautiful pieces of children's literature. I request permission for the insertion of these poems at this point in the RECORD:

This prize winning poem was composed by a third grade student at Vineland Elementary. Principal: James Gould; SVP Contact: Ms. Mischia; Teacher: Linda L. Thweatt.

GRACEFUL SWANS

How graceful are the swans
With their long necks held high
Gliding across blue pond
Like clouds across the sky.

Jennifer Carter, age 8.

These prize winning poems were composed by the sixth grade students at Frank C. Martin Elementary School.

Principal: Alma P. Holton; Asst. Principal: Beulah H. Richards; Media Specialist: Judith A. Sattler; Teachers: Sylvia Campbell, Anne O'Grady, Ione Bridenstine, Eve Golden, Mary Nickerson, Phyllis Klomparens, Lois Sweeting, Jack Seidner, Kathryn Chisholm and Mary Gates.

FLORIDA

Florida is a lovely State,
Its people friendly, as you know,
They welcome you so happily
With friendly smiles, with warm hellos.
This poem is for our great State,
Florida is its lovely name;
I hope that when my kids grow up,
Our Florida will be the same.

Adam Neijna, age 11;
Poet Laureate of Frank C. Martin.

YOUR FRIENDSHIP

Friendship should always be cherished,
So that it will never perish;
For it means love, it means to share,
To show someone you really care.

Friendship is two or can be all,
Friendship is big, friendship is small;
So give a smile to all you see,
This is what friendship means to me.

Melaine Chin, age 11.

SAD CLOWN

Dear little clown why are you sad,
For life can't really be that bad;
Why are your eyes filled with big tears,
Is that a trick to bring good cheers?
You make me laugh dear little clown,
Your sad face takes away my frown;
All the happiness that I see
I still need more, please, just for me.

Amy Spalter, age 11.

THE BELLE-BUOYS

In light of day and dark of night,
I often see this lovely sight;
Of Belle-Buoys swaying to-and-fro,
Tolling all ships their way to go.

They bounce and dance on top of waves
But never-ever misbehaves
For they are faithful to each one
Who goes to sea in night or sun.

Bharat Chatani, age 10.

DEBUT—THE NAME FITS HIM

Debut is my expensive cat,
He eats so much and gets so fat;
Then he jumps from couch to wall
Landing upon my soccer ball.

He thinks he's neat and full of soul
When he circles his dinner bowl;
Debut—Debut, precious kitten,
With all your charms I am smitten.

Julie Disalvarore, age 11.

MY DACHSHUND

My dachshund is so very cute,
But I wish that her name was "Boot";
Her name is really "Sugar S.",
And of all dogs she is the best.

She is so short, so very small,
She is our little baby doll;
She barks so loud night after night,
She scares robbers, gives them a fright.

Larry Spiegelman, age 11.

MY FRIEND

I have a friend whose name is "Stool",
And she is very very cool;
On sunny days we laugh and play,
On rainy days we hide away.

My friend is short, but she thinks tall,
We're closest friends, we have a ball;
Of those I love in our great land,
My friend is "Tops", she's really grand.

Nicole Gabai, age 11.

LET THERE BE LIGHT

Long ago before there were trees, birds, and bees, there wasn't a thing anywhere, but soon there would be. God was there!

He said the words, "Let there be light!"
Then all the world was bright. Trees, birds, bees, and trees grew from the sand. It was nice: "God Gave a Hand."

Jacqui Morgan, age 11.

MY NEW PET

Once on a warm hot sunny day,
I had an urge to go and play;
It was so nice and beautiful,
I jogged along then felt a pull.

To my surprise it was a dog
I saw he also liked to jog
It continued to follow me
I took it home and paid no fee.

Karen Span, age 11.

MY MOTHER

When I strike out or lay a bomb,
I can always count on my Mom;
She perks me up when I am low,
And makes me feel like I'm aglow.

She is, in all, my true best friend,
And I can trust her to the end;
For me there will be no other
To replace, my dear sweet Mother.

Keith Robinson, age 12.

MY FAMILY

Five people in my family,
And each one is "Special" to me;
My father goes to work each day,
My mother helps in her own way.

My family is important too,
To all my friends there's no taboo;
For in their love they fill my need,
My family knows—I will succeed.

Durshan Daswani, age 10.

BLACK HISTORY

I love to read "Black History",
It reveals my ancestry;
It's like something special I pursue,
In search of roots to hold on to.

Yes, I can be proud of my past,
For what was built was built to last;
Wonderful thought I think each day,
For past and future—I now pray.

Alison Bothel, age 12.

WHAT YOU ARE

It does not matter what you are
If your goal is a distant star;
It matters not color of skin
If you can find quiet peace within.

It matters not if rich or poor
If what you have you feel secure;
What matters most, and this is true,
To be thankful that you are you.

Valerie Price, age 12.

THE OCEAN BLUE

As I sat dreaming on the beach
The pretty waves seemed as to reach
Stretching way up onto the sand
Reaching—reaching to touch my hand.
The ocean is a shocking blue
Sometimes it's green and aqua too;
Its foam is like a bubbling light
Lighting the beach through the dark night.

Joanne Field, age 11.

YOUR MAILMAN

Your mailman comes through sun or snows,
He keeps your mail in nice neat rows;
He brings your letters straight to you,
Some make you happy, others blue.

On your mailman, you can depend
He's almost like your closest friend;
You wait for him to pass your way,
His friendly smile helps make your day.

Sharon Brown, age 12.

YOUR SHADOW

Your shadow follows you around,
You only see it on the ground;
Sometimes it's big and sometimes small,
There's time you don't see it at all.

Your shadow moves both up and down,
It's like a clown without a frown;
Your shadow is a part of you,
Whose favorite game is peekaboo.

Tracey Bratz, age 11.

THE SEA

I love to see the sea so blue,
It's there for me, it's there for you;
In its warm waves we jump and swim,
Its soft sounds like a lovely hymn.

The sea is blue, sometimes it's green,
And in a storm it acts real mean;
I love the waves rolling so high,
They're like my mother's lullaby.

Peggy Woodward, age 11.

The following prize winning poems were composed by the fifth and sixth grade students at Everglades Elementary. Principal: Dr. Frazier Cheyney; SVP Contact: Nancy Dohlin; Media Specialist: Ellie Angel; PTA Contact: Mrs. Doris Folliard; Teachers: Gertrude Park, Anne Sparks, Eleanor Sager, Jim McCloskey, Ann Cohen, Harriet Brookman, Berrie Shaw, and Norman Houlberg.

A SEAHORSE

A seahorse in the ocean blue,
But this horse doesn't have a shoe;
A creature filled with poise and grace,
The sea must be it's rightful place.

I've never heard it make a sound,
At least not while I've been around;
It wouldn't surprise me at all,
If it could make a horse like call.

Lila Quintiliani, age 10.

GALAXY

The galaxy isn't any empty place
It's filled with stars and within that space
There are also planets and meteorites,
Interspersed with rockets and satellites.

Is this a place where life abounds?
Can there be laughter and eerie sounds?
The galaxy is filled with mysterious things,
From Jupiter's moons to Saturn's rings

Chris Proietti, age 10.

BLUE

Blue is the color of the sky so high,
Blue is the color of a T shirt dye;
Blue is the color of our private plane,
Blue is the color of the rain.

Blue is the color of sadness and sorrow,
Blue is the color of tomorrow;
Blue is the color of ink in my pen,
Blue is the color of my father's den.

Kimberlee Hutchins, age 11.

THE FRAGRANCE AFTER THE RAIN

There is a fragrance after the rain,
Brought by the wind right past the lane;
Good memories it brings indeed,
Also helps the flowers in need.
That fragrance once came right to me,
And opened up my eyes to see;
The lovely sight that nature is,
Created by those hands of His.

Antonio Galan, age 11.

RED AS

Red as a rose on a green vine,
Red as my toes in a straight line;
Red as my nose, oh, when it glows,
Red as a lady in a pose . . .

Red as my math teacher's kind face,
Red as the mud on one shoe lace;
Red as lobster on sandy beach,
. . . My face when I must make a speech.

Amy Hobbs, age 11.

MY PET

I have a pet so neat and clean,
Prettiest eyes I've ever seen;
It doesn't crawl, it doesn't walk,
I've never ever heard it talk.

It does not rock and roll or sing,
In fact, not much of anything;
If the answer you did not get,
A tropical fish is my pet!

Karen Clar, age 12.

I WONDER

I wonder why I love him so,
I wonder why I really care;
I wonder what would happen if
By chance that I should not be there?

I wonder if he loves me too,
I wonder wonder night and day?
Except the times when I'm with him,
Then all my wonders wash away.

Lysette Arocha, age 12.

MY BEST FRIEND

I love my horse, that is my bag,
About his gait I always brag;
He is a pacer, yes indeed,
I braid his mane and give him feed.

I barrel race him most every day,
He's my best friend and loves to play;
I clean his hooves when we are through,
His nose thanks me—our love is true.

Stefanie Betts, age 11.

The following prize winning poems were composed by the fourth, fifth and sixth grade students at Pine Lake Elementary. Principal: Mrs. Charlene Houghton; Assst. Principal: Mrs. Marta Kloverkorn; Teachers, Mrs. Grace Samoriski, Dr. Nancy B. Maiztal, Ana R. Driggs.

NATURE

Nature is such a lovely thing,
With all the birds in time to sing.
Earth is filled with the touch of trees,
The air is a soft rushing breeze.

Deer in the forests are awake,
That hunters might give them a scare.
Silence is brewing near and far,
Hoping to see a falling star.

Angelina M. Colmenar, age 12.

CAMELBACK

The first time I saw her was from the air,
She was down on the desert inhaling the sand;
I thought the plane's engines would divert her stare,
But she kept her head down on that parched land.

Phoenix's camel had long been carved
By time, sand, and the windy weather;
In spite of stone mouth she's never been starved,
For the earth and she are always together.

Denise Conlin, age 11.

SEASONS

When Spring is here we laugh and play,
We're filled with joy throughout the day.

When Summer comes we almost die,
Because it's hot, and that's no lie.

When Winter's here I'm cold as ice,
To write this poem was really nice.

Jim Lewis, age 11.

TRUE GRACE

A good ballet dancer she is,
She moves with grace across the floor;
Just like a swan on clear water,
There's nothing else you could ask for.

Her costume is so beautiful,
It's pink and black but nothing more;
It sways so nicely in the breeze,
It's like nothing you've seen before.
Kelly Fryda, age 12.

JUST YOU WAIT

The nervous, perspiring batter nears the plate,
The winning of the game is in his fate.
Watching the approaching hard pitched ball,
Hearing the anxious cheering crowd call:

"Swing your bat and make that hit!"
Three times the ball flew into the catcher's mitt.
With head held low he leaves the plate,
Next year will come—just you wait.
Michale Halberg, age 8.

U.S.S. GAMBIER BAY

Yes it was sunk, the Gambier Bay,
Broke Grandpa's heart that fatal day;
But our Navy was still so great
That it could stand this blow from fate.

There is one thing that all should know,
Navy's courage will grow and grow,
I hope some day I'll go to sea,
And make my grandpa proud of me.
Mike Robertson, age 11.

MY DIESEL TRUCK

When I grow up I want to truck,
Drive open road have lots of luck;
And when I drive my truck at night,
I will not speed, cause others fright.

On Nation's highways I shall roam,
My truck my home away from home;
I'll truck produce Summer and Spring,
My cab will be—throne for a king.
Shawn Warley, age 13.

THE SEA SHELL

Sea Shell, sea shell,
Sing me a song. O' please!
A song of ships and sailor men.
Of parrots, tropical trees,
Of islands lost in the Spanish Main
Which no man ever may see again;
Of fishes and coral under the waves
And sea horses stabled in great green caves.
Midge Martelly, age 9.●

BISHOP MUGAVERO CELEBRATES 10TH ANNIVERSARY ALONG WITH THE 150TH ANNIVERSARY OF THE FOUNDING OF THE DIOCESE OF BROOKLYN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. SOLARZ. Mr. Speaker, September marks two very special anniversaries for the Catholic community of Brooklyn, and indeed for New Yorkers of all faiths.

This month is the 150th anniversary of the founding of the diocese of Brooklyn and also the 10th anniversary of the Most Reverend Francis Mugavero's tenure as bishop of the diocese.

A truly good and gentle man, Bishop Mugavero shepherds the church with a special dedication to the temporal and spiritual lives of the faithful.

In addition to his role as a religious leader, he has placed great emphasis on involvement in civic affairs. He recognized that he could not divorce himself from the daily life of the community, and he has spent countless hours in trying to keep New York City a desirable place in which to live. His perception of problems and his ability to develop solutions has made him one of the persons to whom the community turns during times of crisis. He can truly be described as one of the most outstanding leaders in the Catholic community, not only of our city, but of the country.

Bishop Mugavero, like his predecessors for the last century and a half, has always been available to help anyone who might need assistance and his kindness and understanding has set an example few can equal.

I know that my colleagues join me in saluting this outstanding religious and civic leader on his personal anniversary and for the diocese itself. I am enormously proud and deeply privileged to be able to serve within the diocese of Brooklyn and to be able to call Bishop Mugavero a friend.●

FINANCIAL REPORT OF THE CONGRESSIONAL STEEL CAUCUS: QUARTERLY STATEMENT OF EXPENSES AND FUND BALANCE

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. BENJAMIN. Mr. Speaker, in accordance with Executive Committee Order No. 1, I am respectfully submitting herewith the quarterly financial report of the Congressional Steel Caucus for insertion into the RECORD:

QUARTERLY REPORT, FUND BALANCE STATEMENT, HOUSE OF REPRESENTATIVES, CONGRESSIONAL STEEL CAUCUS

Fund balance statement

Total revenues (Clerk Hire and Membership Dues)	$22,677.50
Less expenses:	
January	0
February	2,000.00
March	3,574.20
April	3,287.25
May	3,312.75
June	3,057.15
Total caucus expenses	15,231.35
Unexpended revenues (as of June 31, 1978)	7,446.15

QUARTERLY REPORT, STATEMENT OF EXPENSES, HOUSE OF REPRESENTATIVES, CONGRESSIONAL STEEL CAUCUS

Salaries	$13,827.50
Travel	0
Stationery	329.95
Postage	26.00
Publications	88.53
Telephone	246.36
Equipment	581.01
Miscellaneous	132.00
Total expenses (as of June 31, 1978)	15,231.35

CONGRESSIONAL STEEL CAUCUS MEMBERS WHO HAVE PAID DUES AS OF JUNE 30, 1978

Gaydos, Joseph; Seiberling, John; Bevill, Tom; Walgren, Douglas; Daniel, W. C.; Young, Bill; Kindness, Thomas; Walker, Robert; Yatron, Gus; Pattison, Edward; Duncan, Robert; Metcalfe, Ralph; Mikulski, Barbara; Carney, Charles; Ertel, Allen; Evans, Frank; Gilman, Benjamin; Mitchell, Donald; Mollohan, Robert; Pease, Donald; Railsback, Thomas; Roe, Robert; Long, Clarence; Walsh, William.

Weaver, Jim; Evans, David; Dent, John; Myers, Michael; Cavanaugh, John; Coleman, E. Thomas; Ruppe, Philip; Shuster, E. G.; Murphy, Morgan; Oberstar, James; Nowak, Henry; Patten, Edward; Annunzio, Frank; Udall, Morris; Murphy, Austin; Murtha, John; Jenrette, John; Myers, Gary; Hanley, James; Regula, Ralph; Lundine, Stanley; Russo, Martin; Michel, Robert; Addabbo, Joseph.

Stratton, Samuel; Brown, George; Buchanan, John; Zefferetti, Leo; Mann, James; McClory, Robert; McEwen, Robert; McKay, Gunn; Marks, Marc; Murphy, John; Luken, Thomas; Applegate, Douglas; Pursell, Carl; Oakar, Mary Rose; Moorhead, William; O'Brien, George; Rooney, Fred; Miller, Clarence; Hillis, Elwood; Le Fante, Joseph; Mottl, Ronald; Harsha, William; Benjamin, Adam; Risenhoover, Ted.

Pettis, Shirley; Cornwell, David; Holland, Kenneth; Ammerman, Joseph; Dingell, John; Corcoran, Tom; Lloyd, Jim; Ichord, Richard; Fithian, Floyd; Gammage, Bob; Ford, William; Flood Daniel; Kostmayer, Peter; Lederer, Raymond; Flowers, Walter.●

PLANS FOR CURBING INFLATION

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mrs. HECKLER. Mr. Speaker, I would like to bring to the attention of my colleagues an article that appeared in the Christian Science Monitor on June 5, 1978. The article sets forth the essence of three proposals for curbing inflation, as offered by Frank C. Genovese, a Babson College economist. The article outlines a unique plan to trim inflation: People receiving wages and salaries should be encouraged to take a larger portion of them, particularly increases, in the form of future pension benefits rather than as additions to current income. In effect this proposal would reduce the constant pressure on prices and would increase the flow of funds to financial intermediaries who manage pension funds. This in turn would spur investment. The lack of such capital formation has been a recurring symptom of our inflationary ills.

In addition Mr. Genovese proposes other plans to check inflation. One would allow parents to prepay college tuition by depositing tax-free payments on a regular basis with a college or university of their choice. Those funds could then be invested by the school and income from them credited toward future tuition obligations. Besides encouraging savings, under this plan parents could beat the inflationary impact of future tuition rate hikes by implementing prepayment plans.

The article follows:

[From the Christian Science Monitor, Monday, June 5, 1978]

PENSION PLAN PROPOSED FOR CURBING INFLATION

(By David R. Francis)

Many economists look on inflation much as the fundamentalist preacher views sin. Those who sin must suffer, say the preachers. Those who sin economically by creating inflation must suffer a recession, says the economic fundamentalist.

Other economists try to devise techniques to cure inflation without a recession and rising unemployment. None has so far proved very successful.

Former President Nixon imposed wage and price controls. They did work for a while. But once they were removed prices soared upward once again. Indeed, some calculations indicate that nothing was gained by the exercise.

President Carter is attempting to restrain wages and prices by "jawboning"—that is, by talking labor and business executives into voluntarily holding down wage and price increases. It has had some limited success so far in that a few corporations have promised to limit executive pay increases or prices. But the trade unions have shown little indication of going along.

OTHER PROPOSALS

Moreover, it could be that restraint in one sector of the economy will be offset by larger increases elsewhere.

There are other offbeat ideas for dampening inflation. Dr. Henry C. Wallich, a governor of the Federal Reserve Board, and Dr. Arthur Okun, a Brookings Institution economist, have proposed a carrot-and-stick tax technique to reduce increases in wages and fringe benefits. The government would reward companies (and workers) that held the line on wages by reducing their income taxes, or it would penalize companies that did not do so with stiff tax increases. That idea has won considerable publicity and attention in Washington.

Now, a Babson College economist, Frank C. Genovese, has come up with another plan to trim inflation. He suggests the government use its jawboning to encourage employees to take a substantial portion of their annual increase in benefits in the form of higher pension contributions rather than immediate wage gains. This would restrain consumption and prices, he predicts.

Moreover, it would have these other benefits, Professor Genovese says:

1. It would boost future pension levels. As it is, many workers have seen inflation sadly reduce the real value of their pensions.

2. It would provide the capital markets with new money. The pension funds would be invested in stocks or bonds, lowering interest rates and possibly raising stock prices. This would help firms either to borrow money at lower interest rates or sell shares on the stock market. Thus industry might be better able to finance capital investments that increase the capacity and productivity of industry.

3. With lower interest rates, the Federal Reserve System would be under less pressure to tighten credit drastically.

4. With industry seeing a slowing down of the increase in consumer power, it probably would be less inclined to boost prices and more inclined to bargain hard with trade unions.

TAX INCENTIVES, TOO?

Mr. Genovese figures that with labor worried about its pensions and business concerned about adequate supplies of capital, the climate of public opinion is favorable for presidential adoption of his plan. "This would be jawboning with a purpose and a rationale."

If necessary, he adds, tax incentives could be devised to encourage its adoption. Employees might, for instance, have to pay extra taxes on any increase in income from the previous year, unless that increase was matched by extra contributions to a pension plan.

Mr. Genovese notes that the system would have to be scaled so as not to dampen purchasing power too much.

The Babson College professor has two other ideas for trimming inflation. First, he would encourage parents to save for their children's university costs by allowing them to deposit tax-free with a university a certain amount of savings. The university would add the money to its endowment funds for investment. When the child reached college age, the money would be withdrawn to pay his tuition and other expenses.

Mr. Genovese thinks this plan would be better than the tuition tax credit plan now moving through Congress, in that it would encourage savings and thus investment.

MORE PRICE INFORMATION

His third idea is to have Congress pass legislation forcing businessmen always to list prices or price ranges when advertising specific products or services. This, he reckons, would encourage price competition and discourage price hikes. Buyers could choose products more intelligently by having more price information available for comparisons.

Dr. Genovese is curious what other economists think of his proposals. "Maybe they have ideas of their own," he says.

Fundamentalist economists, however, will probably be skeptical. The only hope they usually offer is termed "gradualism"—bringing down the size of federal deficits and the growth of the money supply slowly enough over several years that the nation goes through a period of slow growth but not a serious recession.●

SEARCH AND DEVELOP ENERGY SOURCES

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. RYAN. Mr. Speaker, the need to search for and to develop alternative energy sources is important if the United States is to achieve its goal of energy independence. We cannot afford to rely on any one form of energy whether it is petroleum, coal, nuclear, or solar.

One important alternative for the United States and the rest of the world is the commercial energy development of geothermal resources. It is an especially attractive energy source, because it does not contribute to the amounts of carbon dioxide in the atmosphere, an increasingly significant problem. As with solar, the United States may want to help develop, market, and encourage the use of geothermal energy abroad, since both these energy sources are relatively inexpensive and help lessen the dependency of lesser development countries on wood and fossil fuels.

I was impressed by the initiative taken by people in Hawaii to tap their geothermal resources as is brought out in the following Washington Post article by Lou Cannon. Geothermal energy development activity in California appears to be moving ahead. Hopefully, development will increase in the near future since the Bureau of Land Management is beginning to recognize the need and value of developing such resources on its lands.

The article follows:

HAWAII TAPS A VOLCANO FOR POWER

(By Lou Cannon)

KILAUEA, HAWAII.—The volcanoes that created this largest and lushest of the Hawaiian islands and occasionally endanger it now hold the promise of making this tourist-laden state energy self-sufficient and industrialized.

Design work has begun on a $6 million generating plant financed by federal, state and local governments with the assistance of the Hawaiian Electric Co. The pilot plant will be powered by steam from the world's hottest geothermal well.

At the same time, Hawaii is encouraging various consortiums pioneering in the undersea industry of manganese nodule mining to build a refining plant here that will make it economically worthwhile to develop the vast geothermal resources underlying the Kilauea volcano.

"We have a new ball game here," says Hideto Kono, state director of planning and economic development. "Petroleum is no longer a dependable source. Activities will grow in places where there are dependable alternative sources of energy."

The potential "dependable sources" of energy in Hawaii are not limited to geothermal ones alone.

The island of Hawaii already obtains more than a third of its electrical energy from burning of bagasse, a sugar cane residue that resembles crumpled straw. On the crowded island of Oahu, where most of the state's 800,000 residents live, contracts will be awarded within the next few weeks for the collection of solid waste that will be compacted and used as fuel.

More exotic forms of energy development lie ahead, ranging from eucalyptus tree farms for firewood to the researching of ocean thermal energy to an experimental 16-story energy-generating windmill.

But it is geothermal energy, where the expected resource is large and the technology well developed, that Hawaii's future seems brightest.

The island of Hawaii, most southern and easterly of the chain that comprises the nation's 50th state, is twice the size of Delaware, rich in volcanoes and sparse in population.

Six years ago the University of Hawaii organized the Hawaii Geothermal Project and after long study drilling commenced on a four-acre site near the town of Pahoa in the eastern rift zone of the Kilauea volcano.

Two years ago the drillers were rewarded with the discovery of an unusually hot well—676 degrees Fahrenheit—at the relatively shallow level of 6,450 feet. The well has been tested periodically since, most recently with 42 days of continuous operation, and has continued to produce high-quality steam. Now, with federal and county assistance, the state has decided to build a three-megawatt pilot generating plant on this site.

Bill H. Chen, the University of Hawaii engineering professor who directs the geothermal project, believes that the intensely hot waters tapped by the well may be part of a vast underground, lake that runs from the crater of the volcano to the ocean nearly 40 miles away. The reserves are presently incalculable, but could produce thousands of megawatts of electrical energy.

Development of the geothermal steam is planned in stages. After the pilot plant has been completed and tested in 1980, plans call for construction of a 23 megawatt plant. After that, Kono envisions a 110 megawatt plant that will serve a manganese nodule refinery a decade from now. Ultimately, says Kono, the geothermal well could produce 500 megawatts of electrical energy annually, energy enough to provide power for a city of a half-million for a year.

In terms of energy availability alone this may be severely understating the resource because other volcanoes in Hawaii are thought to possess similar underground reservoirs. But the economics of development are more difficult.

While most regions in the United States are hard-pressed to meet the energy needs of their populations, the big island of Hawaii must find a use for the excess energy it is capable of generating.

Potential uses include development of an energy intensive alumina bauxite refining industry or piping the energy to the Puna Sugar Mill 15 miles away where another federally funded study is trying to determine the feasibility of using geothermal steam in sugar processing.

But the best long-term prospect appears to be the manganese nodule industry, which, because of the huge capital investment needed for deepsea mining, is expected to locate in countries with stable governments and in states that desire industrial development. Hawaii is strategically located near the richest field of manganese nodules in the Pacific, a band stretching from about 1,000 miles south of the island toward the coast of Baja, Calif.

But in the economic calculus for the project there are many variables, ranging from the world price of petroleum to the now-depressed world price of nickel, one of four minerals extracted from the manganese nodules.

But the biggest variable is the volano. Because of the same intense volcanic activity that produces the steam, Kilauea holds peril as well as promise for potential developers.

Within sight of the well are two irregularly shaped mounds that were the vents—the places where lava escaped—in a 1955 eruption. From these vents a lifeless river of gray rock now extends to the sea.

The volcano erupted again last year at a site 20 miles away from the well. Because of the volcanic hazards, the Hawaiian Electric Co. is unwilling to participate in extensive commercial development until a costly back-up system—which could be activated if the geothermal plant were threatened—is built.

This has led the state and county to think in terms of a government-developed system that would be devoted to industry rather than residential use.

"It's an unacceptable proposition to have your electricity interrupted for a few days at home because of a volcanic eruption," says Chen. "But a large industry could live with this risk if its potential profit is great enough."

Chen believes that a power plant can be located in a relatively safe place and the wells dispersed so that a volcanic eruption would leave most of the system intact.

There appears to be substantial public support for the geothermal plant and accompanying industrialization. Government and private employers here are deluged with job applications, many of them from island residents who have left and want to return.

"People think of Hawaii as grass shacks and hula skirts, and we're responsible for it because we promoted it," says John P. Keppeler, managing director for the county of Hawaii.

"But it isn't an accurate image. We have a skilled labor force here and one that needs work because sugar is depressed, and we have lots of resources. The story up to now has been Oahu and Maui. The story of the next 20 years is going to be development and energy on the big island of Hawaii."●

"GROWING OLD IN AMERICA"—CHICAGO TRIBUNE BEGINS SERIES ON ELDERLY AMERICA

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. BIAGGI. Mr. Speaker, as a ranking member of the House Select Committee on Aging I wish to advise my colleagues of a most important series which began this past Sunday in the Chicago Tribune. It is the culmination of a 6-month nationwide investigation which was conducted by a special Tribune task force examining aging in Amerca.

The first article provides the demographic background on the extent to which the American society is aging. Their data parallels findings which my Subcommittee on Human Services has uncovered during five hearings which we conducted on the "Future of Aging." The elderly population of this Nation could almost double in the next 50 years with the largest increase among those aged 75 or older. It has great implications on all facets of our society from social, to economic to political. This demographic phenomenon presents, as the Tribune article states, a rising challenge to a nation.

I am pleased to insert into the RECORD the first of the Tribune series. The series promises to be one of the most important statements on aging in America in recent memory. I urge my colleagues to read this article closely and I especially commend its comprehensive nature:

THE AGED: RISING CHALLENGE TO A NATION

(My money runs out at the last of the month. I never go out. I read my prayers at night. I listen to the radio. It's not much.—Mrs. Isabel Hansen, 71, widow.)

(I am old. As soon as you can say that, you're over the hump. It's not a dirty word. I've earned every one of these gray hairs, and I'm not ashamed of them.—Stella Francis, 74, president, Chicago Gray Panthers.)

(I buy secondhand clothes; I don't mind. They say these are the Golden Years, but you can't prove it by me. Caroline Arangelovich, 71, retired waitress.)

(There are many persons who are retired from a job but who do not wish to retire from life. I'm not satisfied with sitting around looking out the window; that's a great way to deteriorate.—Henry Grant, 70, retired teacher.)

They are a mixed chorus, the voices of the elderly in America. Some, bowed by age, declining health, and loss of income, would agree with Ptah-hotep, an Egyptian philosopher, who wrote in 2500 B.C.: "Old age is the worst of misfortunes that can afflict a man."

Others cling fiercely to their pride and self-esteem and see old age as a period not to be endured but savored.

For all, it is a time of sudden and sometimes painful adjustments. They must contend with loss of spouses and friends, loss of income, a gradual loss of physical well-being, and a loss of the sense of belonging in a youth-oriented, highly mobile society.

Most of them, no matter how fortunate their circumstances in old age, are burdened with a degree of fear—of being alone, sick, helpless, abused, disdained, or ignored. Some also are afraid of dying; others, in their despair, long for it.

The Tribune Task Force has spent six months assembling a portrait of the elderly in America today. Reporters worked undercover in nursing homes, boarding homes, home health agencies, insurance companies specializing in health insurance for the elderly, and firms that sell retirement properties.

They interviewed scores of experts on problems of the aged throughout the country and examined the operation of public and private programs designed to benefit the elderly.

The picture that emerged is no more uniform than the voices of the old.

America has made big strides in the last two decades in enabling its growing population of elderly to live out their lives in security and dignity. But the elderly remain particularly vulnerable to the greedy and rapacious, to confidence men and to common criminals. And some government programs for the elderly fall far short of their goals.

A national survey found that the major concerns of the old are crime, poor health, declining income, and loneliness.

Although few old people will experience the personal disasters that they dread, the catalog of troubles they can encounter is substantial, the Task Force learned.

Medicare, the government health insurance program for the aged that was begun in 1966, often covers only a fraction of medical expenses, forcing many of the elderly to make huge out-of-pocket payments. Sometimes it takes months for Medicare to come through with reimbursements.

Salesmen exploit the fears of elderly persons about poor health and high medical costs to sell expensive health insurance, some of it worthless or nearly so.

Sizable numbers of the elderly, financially unable to move out of decaying neighborhoods, are easy victims of muggers, purse-snatchers, and home invaders. Their recourse is to imprison themselves in their homes.

Many nursing and boarding homes are filthy and short-staffed, provide inadequate services, and keep elderly patients drugged to make them easier to handle. At one home, a reporter working undercover was left alone on the night shift with seriously ill residents, though she had said her only previous work experience was as a waitress.

Control over the homes is divided among a bewildering array of federal, state, and city bureaucracies—with the result that there is little control at all.

Home health care, touted by many government officials as a means of serving the elderly outside nursing homes, is being financially exploited by some private, not-for-profit companies that charge three to five times as much as profit-making ones.

Retired persons who buy property in the Sun Belt, hoping to live out their years in a comfortable climate, sometimes find they have bought uninhabitable patches of barren land, without water or electricity and miles from the nearest town and shopping facilities.

Such problems, if not corrected now, are likely to multiply in the decades ahead, when old people are expected to be the fastest-growing segment of the American population.

In 1900, American 65 and older—the usual definition of "elderly"—numbered 3 million, or just 4 per cent of the population. Today, numbering 23 million, they constitute nearly 11 per cent of the population, and the percentage is rapidly rising: Every day, more than 1,000 people in the United States reach age 65.

By the year 2000, according to most projections, there will be at least 30 million el-

derly. And by 2025, when the post-World War II "baby boom" generation reaches old age, they will number 45 million, or 14 per cent of the population.

Those projections may be too conservative. The Futures Group, "a think tank" organization in Glastonbury, Conn., believes that increases in life expectancy will be so dramatic that 72 million people aged 65 or over will be alive in 2025—roughly 22 per cent of the projected population.

Life expectancy at birth has increased by about 25 years since 1900. Then a person could expect to live 47 years; today, the average is 72 years (77 for women, 69 for men). The average age of Americans, 29.4 today, is expected to be 41 in the year 2000.

The Futures Group predicts that life expectancy at birth will average 86 by 2025.

The trend toward a more elderly population will have profound implications for the American economy and lifestyle. Social Security, pensions, health care costs, the job market, and retirement policies all will be affected.

America's preoccupation with youth will have to be tempered; instead of such films as "Saturday Night Fever," we may in 20 years be deluged with movies about life and romance in a retirement community.

"This trend will affect every institution one can imagine," said Robert C. Benedict, U.S. commissioner on aging.

"It will have an impact on how we teach doctors to practice medicine, architects to design buildings, and community planners to do their job."

As America's population gets older and improvements in health care extend life expectancy, the group that University of Chicago gerontologist Bernice L. Neugarten calls the "old-old"—those 75 and over—is expected to grow fastest of all.

Today the elderly include 14.5 million persons who are 65 to 74, 6.7 million who are 75 to 84, and 2 million who are 85 or older.

The "young-old"—the 65–74 group—are expected to increase by only 39 percent between 1975 and 2010, but the 75–84 group will grow by 52 percent and those 85 and older by 111 percent.

That alone portends a boom for the nursing home industry. Only 5 percent of the elderly—about 1 million persons—are in nursing homes and similar institutions today.

"By the time we get to a doubling of the 65-plus population, we will have 2½ to 3 million people in nursing homes," said Dr. Robert N. Butler, director of the National Institute on Aging.

Most old people who enter nursing homes die there; the average stay is 1.1 years.

In an earlier time, most old people lived in the same home as their children, and families bore most of the burden of supporting them and caring for them when illness and disability struck.

That is still largely true in the black and Latino communities. But in an age marked by rapid mobility, it is no longer the case for most whites.

Contrary to popular myth, however, vast numbers of old people have not been deserted by their children or dumped in institutions to put them out of the way.

"Nursing homes are a last choice, not the first," said Dr. Ethel Shanas, a University of Illinois gerontologist whose studies on how families care for their elderly have done much to explode the myth.

Even though old people are less likely now to live with their children, 48 percent of those living alone have a child within 10 minutes of their home, Shanas found. Three out of four see one of their children at least once a week—more than half do so nearly every day—and only 11 percent go more than a month at a time without seeing at least one of their children.

But in a modern, urban society, care of the elderly increasingly is seen as a responsibility of the entire society rather than of the family alone. This concept developed in Europe many years ago but is relatively new to the United States.

Just 20 years ago, vast numbers of old people lived in poverty and misery. Social Security payments often were inadequate; few people were covered by private pensions, and some who were found that the pensions vanished as firms went bankrupt. The cost of health care turned many into paupers.

Since then, Medicare and Medicaid—the government health insurance program for the indigent—have been enacted, Social Security coverage has been greatly expanded, private pensions have spread with safeguards built into them, and a broad range of new federal, state, and city programs for the elderly have come into being.

The number of elderly living in poverty has declined steadily. Today, according to federal estimates, 15 per cent of the elderly—slightly more than 3 million persons—fall below the official poverty line [$3,417 annually for couples and $2,720 for individuals], compared with 11.8 per cent of the general population who do. The government says another 10 per cent of old people live in "near poverty."

Prof. James H. Schulz of Brandeis University, perhaps the nations' foremost authority on the economics of aging, believes the true figure for the elderly poor is 5 to 12 per cent when nonmoney income—such as food stamps, Medicare, and Medicaid—is considered.

Whether the figure is 1 million or 3 million, it represents people who have to struggle merely to survive in this affluent society. They bring the median income for all persons 65 and over to just $161 a week for families, $67 for individuals.

At the other end of the scale, nearly 8 million older persons live in households with incomes of $15,000 or more. Many of America's elderly are doing quite well, and the public emphasis on problem areas tends to obscure the fact that this is generally the most prosperous, healthiest, and best-educated older generation in the nation's history.

As noted, 95 per cent of the elderly manage to live outside institutions, and 81 per cent enjoy sufficient health to be able to move about independently. More old people own their own homes than do persons under 65, and 82 per cent of the elderly homeowners have paid off their mortgages.

Although life remains bleak for a minority of the elderly, University of Chicago gerontologist Robert Havighurst says: "I don't think the elderly are especially poorly treated in this country. The middle-class elderly can take care of themselves. The problem is with people living alone."

Statistical evidence bears that out. Except for minority groups, those facing the most severe problems in income, housing, and health are elderly widows or people who never married, and they constitute only a small segment of the elderly.

"We always talk about gaps in services, and that reflects an assumption that all old people need services," said Jack Ossofsky, executive director of the National Council on Aging in Washington.

"One-third of the elderly need significant help. Largely, they are the older of the old. But as we deal with the vulnerable old and the socially isolated, society thinks we are talking about all old people. This reinforces the negative stereotype of the elderly that prevails in this country."

But even most government programs for the elderly make no distinction as to need, and the costs have become immense.

Joseph Califano, Secretary of Health, Education, and Welfare, recently estimated that such programs cost $112 billion a year—5 per cent of the gross national product and 24 per cent of the federal budget.

Several experts on aging have challenged his figures, but even allowing for a margin of exaggeration it is clear that the elderly represent a major cost to the American economy.

Nonetheless, the United States continues to lag behind some European countries—notably the Scandinavian countries, West Germany, and the Netherlands—in the care it gives its old people.

These countries have achieved higher standards of care by taxing themselves at a higher rate than Americans pay. A major question for American society is how much its citizens are willing to pay to assure a decent life for their grandparents, their parents, and ultimately themselves in old age.

Some press reports have forecast a developing "intergenerational warfare," with the shrinking number of younger persons in the work force rebelling at the burden of supporting a growing army of oldsters.

The recent approval by California voters of Proposition 13, which sharply reduced that state's property taxes, has fueled that argument.

But a Louis Harris survey found widespread support among younger people for programs to benefit the elderly, even if it means higher taxes. And most experts on aging discount the reports of "intergenerational warfare."

"The political system will work out change with compromise," said Schulz. "The young won't get everything they want, and neither will the old.

"The whole discussion is framed somewhat improperly. We continue to focus on the idea of somebody providing support for somebody else. But economists argue that the correct way to view it is the extent to which you are willing to defer income for your own old age."

Even if there are no major new programs for the elderly, Califano estimates, the cost of serving them will reach $350 billion by 2010 and, in the 15 years after that, will jump to $635 billion—more than 10 per cent of projected GNP and more than 40 per cent of the federal budget.

Commissioner Benedict agrees that there will be increased costs in serving the elderly in the years ahead—but he sees pluses as well.

"To the extent that the elderly require services, it means jobs," he said. "Just as there was a boom in the electronics industries after World War II, in the next half century a whole new services field for the elderly will start to develop, and it will bring jobs with it."

He predicts a boom not only in the nursing industry but also in nursing and other services to the elderly in their homes.

At least one expert worries that the elderly may be demanding too much.

"Any day now, the old can be in the same boat with the minorities, finding they have used up their potential for demanding more," said Dr. Wilma Donahue, 77, director of the International Center for Gerontology in Washington.

"It may be that we don't have much choice but to ask the family to provide more services to the old that they can't provide themselves. At the same time, we may have to evaluate more stringently how we determine who must have services so as not to give them to old people who are able to care for themselves."

This selective approach may not be politically acceptable, but it may require consideration in view of the rapid growth in the numbers of the elderly.

As Benedict puts it: "The demographics are alarming. Older people are increasing by 500,000 each year, and 80,000 to 100,000

of these need assistance and care of some kind."

The only alternative to meeting these needs, Ossofsky said with a touch of hyperbole, "is what once was called the Final Solution. We have to react with greater humanity to people who are vulnerable."●

NUCLEAR POWER—A SAFE ELECTRIC POWER SOURCE

HON. GARY A. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. GARY A. MYERS. Mr. Speaker, I have previously reported on the results of a Canadian study—CONGRESSIONAL RECORD of September 20, 1978—which concluded that the use of nuclear generated electric power posed a lesser health risk to the public than other energy sources. The American Medical Association recently provided another assessment of the health risk associated with generating electric power and have also concluded that the use of nuclear power is safer than that of coal and oil. The essence of the AMA article reinforces the conclusion of the Canadian study.

HEALTH EVALUATION OF ENERGY-GENERATING SOURCES*

The AMA House of Delegates, at its December 1976 Clinical Convention, requested that an evaluation be made of the health hazards of nuclear, fossil and alternative energy-generating sources, both for employees of energy-producing facilities, as well as for the general population. This report is a summary evaluation of such hazards prepared in response to the House of Delegates' request.

*Revised and corrected version of report adopted by American Medical Association House of Delegates, June 21, 1978.

The comparative consequences to health of these various sources of energy has been an interest in occupational health, environmental impact, and controversy over nuclear power. A number of studies have been initiated to consider these problems and all of these have encountered difficulties in making estimates that have a common basis for comparison. Problems exist in varying methodological approaches and in relating equivalence of efforts, estimates of morbidity, and evaluation of long-term health efforts, such as carcinogenesis and genetic effects.

Despite varying degrees of difficulty, quantitative assessments have been made of the mortality and morbidity associated with each of the fuel cycle components. The data from several authors are combined in summary form in Table 1 for coal, oil, nuclear, and natural gas fuel cycles. The table gives a range of estimates for the components of the fuel cycle of a 1000–MWe power plant, which roughly provides the electricity required by 1,000,000 people.

TABLE 1.—COMPARISON OF HEALTH EFFECTS OF ALTERNATIVE FUEL CYCLES FOR ELECTRIC POWER PRODUCTION[1]

Effect	Coal	Oil	Nuclear	Natural gas
Occupational deaths	0.54– 8	0.14– 1.3	0.035– 0.945	0.06– 0.28
Nonoccupational deaths	1.62–306	1 –100.0	.01 – .16	
Total deaths	2.16–314	1.1 –101.0	.045– 1.1	.06– .28
Occupational impairments	26 –156	12 – 94.0	4 –13	4 –24

[1] Per 1,000–MWe per year.

The data in Table 1 reflect deaths and injuries in coal mining, including coal workers' pneumoconiosis (black lung disease), accidents involving trains transporting coal, and the difficult-to-estimate mortality and morbidity of air pollution from coal-fired generating plants. Similarly, it includes estimates of deaths and injuries in uranium mining as well as fractional death and morbidity estimates for the other components of the nuclear fuel cycle. On the basis of these tabulations, a coal-fired power plant each year results in from 48 to 285 times more deaths than does an equivalent nuclear-powered generating station, 2 to 3 times more than an oil-fired plant, and 36–1120 times more than one fueled by natural gas.

These four modes of electricity generation contribute unequally to the total electric power production in the United States. (Hydroelectric power is not considered here because the health impact is so low as to be negligible unless a dam breaks.) Table 2 analyzes the data from Table 1 in terms of relative contribution of each fuel cycle of the 1975 electric power production in the United States. Again, the large number of non-occupational deaths from coal are estimates that include the effects of air pollution that contribute to premature or excess deaths.

TABLE 2.—COMPARISON OF HEALTH EFFECTS FOR ALTERNATIVE FUEL CYCLES FOR ELECTRIC POWER PRODUCTION IN UNITED STATES IN 1975

Fuel	1975, KWhe × 10^9	Equivalent number of 1000-MWe plants	Estimated deaths		Estimated occupational impairments
			Occupational	Nonoccupational	
Coal	844	128	69.0–1,024	207.0–39,168	3,330–20,000
Oil	292	44	6.0– 57	44.0– 4,400	530– 4,100
Gas	297	45	3.0– 13		180– 1,080
Nuclear	168	26	.9– 25	.3– 4	100– 340
Total	1,601	243	9.0–1,119	251.0–43,572	4,140–25,000

It should not be overlooked that combustion of coal leads to a release of radon-222 from the radium-226 that it contains. The radon continues to be released from the fly ash long after combustion, and produces a chain of radioactive daughter nuclides. The long-term effects of carbon dioxide production from combustion of fossil fuel have not been considered here. Each 100–MWe coal plant discharges 7.5 to 10.5 million tons of CO_2 per year to the atmosphere and the load from hundreds of fossil fuel plants may be greater than the atmosphere and the oceans can absorb. Predictions have been made of increased global atmospheric temperatures that might eventually result in drastic changes in climate with unanticipated health effects.

Comar and Sagan have summarized the quantitative assessments of health effects in the general population from electric power production in the United States in terms of enhanced risk of death per year. Table 3 provides an abbreviation of their analysis and demonstrates again a greater adverse effect on health by fossil fuel when compared to nuclear fuel for electric power production.

TABLE 3.—ENHANCED RISK OF DEATH PER YEAR FROM ELECTRICITY PRODUCTION[1]

	Normal risk of death/year	Enhanced risk of death per year[2]	
		Coal and oil	Nuclear
Age:			
10	1 in 3,800	1.38 in 3,800	1.0008 in 3,800.
25	1 in 700	1.07 in 700	1.0001 in 700.
45	1 in 200	1.02 in 200	1.00004 in 200.
65	1 in 40	1.004 in 40	1.000008 in 40.
All ages	1 in 100	1.01 in 100	1.00002 in 100.

[1] Adapted from Comar and Sagan.

[2] Risk of death per year from natural gas as fuel for electric power production is equivalent to the normal risk (col. 2).

In summary, this brief report provides a range of estimates of the occupational and nonoccupational health effects of several predominant modes of electric power production. It appeared that coal and nuclear power will be the principal fuels for electric power production in the next 25 years. At the present time, coal has a much greater adverse impact on health than does nuclear power production, and efforts need to be directed toward reducing both the health and adverse environmental impacts of all forms of energy production.●

WILLIAM J. DWYER

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. BYRON. Mr. Speaker, I would like to take this opportunity to honor the memory of a Washington County resident and highly respected citizen of Hagerstown, Md.

Bill Dwyer, an attorney of Hagerstown, was deeply admired by all who knew and loved him. He fought a kidney ailment which led to a successful kidney transplant, followed by cancer. During those years he was devoted to his family, church, and community. He kept his sense of humor and was a true inspiration to everyone. Mr. Dwyer found time to run for public office and had just successfully won the primary for reelection as county commissioner.

William Dwyer will be greatly missed

by his wife, Sarah, his five children and all who knew him. I know my colleagues will join me in extending the official sympathies of the House to the family of this unselfish and civic-minded American.

I include the following article from the Morning Herald, September 27, 1978, in the RECORD at this point:

WILLIAM J. DWYER

"More than anything else," County Commissioner Keller Nigh said Tuesday, "Bill wanted to serve another term."

Nigh, who talked to Bill Dwyer privately last week, said Dwyer was "really glad he made it as a county commissioner."

William James Dwyer, 59, who died Tuesday morning at the Washington County Hospital, was born in Chicago. He was a son of the late Michael A. and Florence W. Walker Dwyer.

He completed his pre-law study at DePaul University in Chicago and was a graduate of Eastern College of Law in Baltimore. He opened a law office at 10 Jonathan St.

A World War II veteran, he was a member of the Morris Frock Post of the American Legion. He was also a Grand Knight of the Pangborn Council of the Knights of Columbus, a presiding justice of Elks Lodge, and a member of the local chapters of the Moose and Eagles.

He served as Lector at St. Ann's Church, regional vice-president of the Archdiocesan Catholic Men and was active in the Confraternity of Christian Doctrine at St. Mary's and St. Ann's parishes.

Dwyer served as a local trial magistrate from 1959 to 1962.

In 1974, the Democrat entered the race for County Commissioner. Though not well-known except as an attorney, Dwyer won the fifth highest number of votes in the general election and a seat on the county board.

He favored the development of parks and wanted to provide public housing for the elderly. He pushed a plan for a bike path along abandoned railroad tracks until the idea proved too costly.

The only issue which constantly drew his ire was the tax-cutting promises made by political opponents. He often wondered aloud how taxes could be reduced without cutting services.

Dwyer's health problems had begun a few years before he became a commissioner. His kidneys had failed, he had been placed on dialysis unit and in 1972 he received a kidney transplant.

Commissioner Burt Hoffman said Dyer had to be given medicine to narrow the chances that the kidney would be rejected. "The doctors told him that five percent of those who take the medicine develop stomach cancer . . . and wouldn't you know it, Bill was in the five percent," Hoffman said.

Dwyer entered Johns Hopkins last November. He was in and out of the hospital for months before he returned home and to the commissioner's weekly meetings regularly about a month ago.

Undaunted by his illness, Dwyer filed for re-election and won in the Democratic primary.

Dwyer is survived by his wife, Sarah B. Grove Dwyer, of 1132 Beechwood Drive; one daughter, Mrs. Lois M. Blumenthal of Miami, Fla.; four sons, William J. Dwyer Jr. and Daniel P. Dwyer, both of Glenville, W. Va., Michael P. Dwyer, at home, and Timothy J. Dwyer, of Clear Spring; two sisters, Mrs. Mary Jane Coleman of Chicago and Mrs. Joan Gill, of Evergreen Park, Ill.; and one brother, Robert E. Dwyer, of Chicago.

A mass of Christian burial will be celebrated at St. Ann's Catholic Church on Friday at 10 a.m. by the Rev. Father James R. Schaefer. Burial will be in the Boonsboro Cemetery.

The family will receive friends at the Bast Funeral Home in Boonsboro Thursday evening from 7 to 9. Prayers will be said at 7 p.m.

The family requests that flowers be omitted. Memorials may be made to the Western Maryland Dialysis Center, 1500 Pennsylvania Ave., Hagerstown.●

WHAT THE ADMINISTRATION AND CONGRESS CAN LEARN ABOUT TAXES AND ECONOMIC GROWTH FROM WEST GERMANY AND JAPAN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. KEMP. Mr. Speaker, the National Taxpayers Union is running a public plea for reduced capital gains tax rates in the Nation's newspapers, and I applaud them for it.

This ad has been designed to show that the administration's thinking about capital gains taxes is inconsistent with historical examples, including our own, and damaging to the economy. It does an effective job of it.

The ad shows the correlation between high capital gains tax rates and declining growth, the grossly unfair way in which the tax works to destroy the savings and investment we must have to create jobs for the presently unemployed and for a growing labor force, what the administration and Congress ought to be doing to reduce the burden of capital gains tax rates, and how the individual can help shape the administration's and Congress response to the problem.

Reducing capital gains tax rates would help restore our economy by restoring the confidence which would arise from its sending of a clear signal to the market that people are going to keep more of the reward for their work, saving, investing. That is not speculation. Look at the reaction of the stock market indicators to news on what the administration and Congress are doing on the capital gains issue. When either sends a signal that the rates are going to be kept at an unnecessarily and counterproductively high rate, the market reacts by dropping or at best remaining unchanged. But when it looks credibly like there will be a reduction in the rate; for example, when the House Committee on Ways and Means or the Senate Committee on Finance look as if they are going to reduce the rate. the market indicators turn upward.

I commend the National Taxpayers Union. Their plea on behalf of our taxpayers follows:

WHAT PRESIDENT CARTER CAN LEARN FROM WEST GERMANY AND JAPAN: ELIMINATING CAPITAL GAINS TAXES BRINGS RAPID ECONOMIC GROWTH

It is no secret that America is not the economic leader it should be.

Every year, the situation gets worse. Our balance of payments deficit grows larger. The dollar declines. We have less investment. Slower growth. Smaller increases in productivity.

You pay for this through a lower standard of living. If the American economy had grown as fast as the German and Japanese economies over the past twenty-five years, the average American would be 50 percent richer today.

The average American family is actually poorer today than ten years ago. After taxes and inflation, the average family has about $250 less real spending power than a decade ago.

WHO IS TO BLAME FOR AMERICA'S DECLINING GROWTH?

There is a reason that America is falling behind. But we don't think it is because Americans have lost the spirit of initiative and enterprise. Far from it. We are just as capable, imaginative and willing to work as Americans always have been.

There's just one problem. You have a burden which people in fast-growth economies do not have to bear.

Americans pay staggeringly high capital gains taxes. Even such notoriously over-taxed peoples as Englishmen and Swedes have capital gains burdens 40–50 percent lower than you. The Germans, Japanese, French, Italians, Swiss and most other Western people pay virtually no capital gains taxes whatsoever.

CAPITAL GAINS TAXES ARE UNFAIR

The combination of inflation and high capital gains taxes almost guarantees that you can never increases your wealth. Under current conditions, your assets would have to double in 6 years, triple in 10 years and quintuple in 16 years for you just to stay even.

The impact falls most severely upon the middle class investor. Harvard economist Martin Feldstein has shown that if you earn less than $100,000, you probably pay an effective capital gains rate of over 100 percent. No wonder 6,000,000 small investors have dropped out of the capital markets since capital gains taxes were doubled in 1969.

When confiscatory capital gains deprive small business of equity capital, the effect is to stifle innovation and smother the spirit of enterprise. Even Treasury Secretary Michael Blumenthal, who opposes reduced capital gains taxes, has admitted that "the problem is greatest for new companies, and for small and medium sized ones trying to market new ideas and new technologies."

No wonder America is declining economically. While the German, Japanese and other governments reward risk taking and economic innovation by imposing no capital gains taxes, our politicians have imposed the steepest, most punishing capital gains rates anywhere.

WHAT CAN BE DONE

President John F. Kennedy understood the harmful effects of high capital gains taxes. In his tax message of 1963 he proposed to drastically reduce capital gains tax rates.

But Congress did not act on President Kennedy's recommendations. Instead, in 1969, Congress increased capital gains taxes. Economically, America has been going downhill ever since.

It's not too late to correct the situation. The House of Representatives recently passed a tax bill which included a modest cut in capital gains taxes. The Senate is now considering more substantial cuts.

Unfortunately, one of the main obstacles to this necessary and overdue legislation is President Carter. He is using the full power of his office to block reduction of capital gains taxes. It is up to you to help counteract the President's bad judgment on this issue.

WHAT YOU CAN DO

It will only cost you 15 cents—the price of a stamp—to he'p put some life back in the economy. That's a good investment, just in terms of the money you might save if capital gains taxes were reduced. But it's

more than that. By filling out the coupon at the bottom of this ad, or sending a letter of your own directly to your Representative in Washington, you will be helping to put America back on its feet. That will mean a better standard of living for you, and a better future for your children.

Once you've voiced your support for lower capital gains taxes, get your friends to do the same. The politicians in Washington are slow to learn. With them, it's volume that counts. Each name is a possible vote. The more names, the more votes. Make yours count.●

SOLID WASTE: A NATIONAL PROBLEM WHICH MUST HAVE A NATIONAL SOLUTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. LaFALCE. Mr. Speaker, solid waste disposal is a national problem. Every industrialized area has solid waste disposal problems. The question the owners of most firms must ask themselves is: "How am I going to dispose of the solid toxic wastes produced as by products of the manufacturing process in which my company is engaged?"

The Supreme Court of the United States in a decision, city of Philadelphia against State of New Jersey et al., handed down on June 23, 1978, ruled that it is a violation of the interstate commerce clause of the U.S. Constitution for one State to ban the shipment of solid wastes from one State to another State just because the wastes originated in another State.

Citizens who live near landfill sites feel that their life and property are being unfairly jeopardized, because wastes are being dumped in their backyards not only by local manufacturers but by ones from other regions of the country. The Supreme Court, when it handed down its June 23 decision, reasoned that the wastes from another State could not be banned solely on the basis of origin, unless there is a compelling reason to treat the wastes differently.

The citizens have legitimate concerns. I am inserting in the RECORD today two more articles from the Buffalo Courier-Express which gives specific examples of environmental and health consequences of the handling, hauling, and dumping of solid wastes in an unregulated manner.

If the U.S. Environmental Protection Agency drags its feet any longer and fails to implement regulations for the Resource Conservation and Recovery Act of 1976, it is going to find that the public opinion in this country will not permit any dumping in this country, even if the regulations are promulgated, because the public will have experienced too many environmental and health disasters from the shipment and dumping of wastes in the past.

The U.S. Environmental Protection Agency must implement RCRA now. Congress passed this law in 1976, because it foresaw the problems being created by our demands for more and more products manufactured by nonbiodegradable materials. Then, the Supreme Court made its historic ruling regarding the shipment of solid wastes.

Both the legislative and judicial branches of this country have recognized that solid waste disposal is a national problem and a solution to the problem must be resolved on the national level. It is now incumbent upon the U.S. Environmental Protection Agency, as the Federal executive branch agency charged with implementation of RCRA, to promulgate regulations and enforce existing laws on a national level.

Secure solid waste landfills must exist in order for this Nation to continue to be a world leader in the industrial world. If we are going to prevent future Love Canals, we must enforce RCRA to protect our citizens from irresponsible handling of toxic substances. We cannot leave the enforcement of solid waste laws to the States alone. We must shoulder the responsibility of being an industrialized nation equally across the country and have uniformity of law and enforcement on a national level.

The EPA must recognize that these problems will only increase with time and any delay in implementation of RCRA regulations may make it more difficult for the public to accept the secure landfill concept due to tragedies that have occurred in the interim. I demand that the EPA fulfill its responsibilities and redirect all of its available resources within the Agency to address this situation as expeditiously as possible and to promulgate RCRA regulations without delay.

The articles follow:

CHEMICAL WASTE HAUNTS LOUISIANA SWAMP

(By Michael Desmond)

Early one morning in late July, Kirtley Maurice Jackson, 19, of Plaquemine, La., drove out to a chemical waste lagoon in a swamp area of that state, perhaps enjoying the hot windless day.

Jackson was driving a tank truck which belonged to a company owned by his father, Stanley H. "Jackie" Jackson, the chief deputy sheriff in charge of investigation for Iberville Parish, a parish that is essentially a swamp between Baton Rouge and New Orleans.

Iberville is a throwback parish in what is a heavily industrialized state. For many years, it was run by Sheriff Jessel Ourso. When the sheriff died two weeks ago, after a prolonged illness, there was even a black stallion with reversed boots to help carry him to his grave, in an old military tradition.

Out in the swamp, Clean Land, Air and Water Corp. (CLAW) operated a deep well where various chemical wastes were pumped two miles into the ground. A report prepared by the state Office of Conservation indicates 39 different companies used the well to bury everything from toluene waste water to recycled styrene.

Kirtley Jackson was driving the SHJ Inc. truck to the lagoon which also was operated by his father's company. What was in the lagoon isn't quite clear, because the records showing what was dumped in it are missing.

ACIDIC SAMPLES

Parish Coroner Dr. C. E. Blunck Jr. said samples taken later indicated there was sulfuric acid, alcohol and sludge from an oil refinery catalytic cracker. All were acidic.

What was in Jackson's truck? "It was a combination of corrosive materials, many of which should have gone into a deep well," the coroner told The Courier-Express.

When Jackson began to empty his tank truck, there was a "dead calm," an unusual situation in the southern areas of Louisiana. The air and gases from the lagoon were simply sitting there.

But the waste from the truck turned on the youth. The reaction of the alkaline waste from the truck and the acidic lagoon generated massive amounts of deadly hydrogen sulfide gas.

Apparently, Jackson went to the cab of the truck and tried to drive away.

"By the time anyone got to him, he was dead," Dr. Blunck said. "He had absorbed about six times the lethal dose."

It took more than six weeks of investigation to precisely determine the cause of death. The coroner said the body of the youth was checked for all forms of drugs and alcohol to see if his reactions might have been slowed by them. Nothing was found.

Tangling the investigation, the coroner said, was his inability to get the "true sequence of what was disposed of into that pit in the preceding 48 hours."

HIGHLY INDUSTRIALIZED

In a state with limited environmental interest, the case caused an uproar.

Louisiana may have the image of a sleepy southern state. In some ways, it is. But, it is also highly industrialized, with an industry built on oil and gas and the salt from far under the ground.

A visitor to the state capital in Baton Rouge travels to a towering Capitol built by Huey Long, once the state's governor and U.S. Senator. From the airport, the visitor passes what may be the largest single chemical and industrial complex in the world. On a cloudy day, it requires no vision to detect it, only a nose.

Visible from the Capitol, between the complex and the river, is a chemical waste dump.

It's the sort of state where Attorney General William J. Guste has one assistant working on environmental matters. Before a budget cut, he had two. At the same time, he does have the former executive director of the Louisiana Wildlife Federation Inc. stashed away on his payroll as a research assistant.

MORATORIUM DECLARED

About one month after Jackson's death, the waste disposal problem heated up to the point that Gov. Edwin Edwards took action. He declared a moratorium on new hazardous waste permits.

"I am taking this action to insure the health and safety of our citizens. Proper regulation of the transportation, storage and disposal of hazardous wastes is essential if we are to protect the public and the property of our state," he noted in a statement.

This action of Gov. Edwards seems to have given him some political courage to do a little more. Last Thursday, he said, "When opting for industry or the risk, I will take a position against industry."

"There is no need for a multiplicity of industry if it destroys the very reason for our being," he told the Louisiana Environmental Protection Association.

Five years ago, he told environmentalists he didn't want to hear their concerns or listen to their advice. Now, he plans to go to the State Legislature in April for stronger controls on waste.

This may also partly have been caused by the State Health Department banning fishing in Lake Providence, a prominent fishing spot, on Sept. 12 because of contamination of a deadly pesticide.

At the same time, this concern has not been extended to the State Office of Science Technology and the Environment. The office is preparing the state rules under the federal Resource Conservation and Recovery Act (RCRA) of 1976. The rules go out to the public for 15 days for comment, officially

starting Thursday. No copies are available yet.

The office has two people working on the federal law.

RCRA is the congressional answer to the whole problem of generation, shipment and processing of hazardous waste. But the federal Environmental Protection Agency has never issued the rules to put it into effect.

DELAY UNTIL 1980

The EPA rules were due in April. But EPA, headed by administrator Douglas M. Costle, now says it won't issue the rules until 1980.

Louisiana has a new law to regulate hazardous wastes. But, in a replay of the problems of the EPA, regulations to implement the law haven't been written.

Louisiana is one of the many states that have serious chemical waste problems.

One test of this is the widespread contaminating chemical family of PCBs. A 1977 study of water and sediment samples by the EPA in Louisiana waters found widespread PCBs, but admitted testing methods were not adequate.

In releasing the figures, EPA noted the method used to look for PCBs isn't very good. As a result there could be PCBs present, just not measured.

Water pollution in Louisiana is under the jurisdiction of the Stream Control Commission. But, the commission is something of a bureaucratic fiction. It is made up of the heads of a number of state agencies and has no staff of its own. Under the new law, jurisdiction will pass to the Department of Natural Resources.

"NO APPROPRIATION"

The commission has "no appropriation and no budget," according to Dale Givens, its assistant director. Givens suggested the PCBs are coming down from the air in rain.

He doesn't think there is any particular problem with the state's vast water supplies, but admits no one is really looking. The standard state tests of water are for biological oxygen, suspended solids and the "PH" of the water. The current expanded program is more for heavy metals and some pesticides.

"Which really don't tell you a hill of beans about whether there is a low level of something, that might cause cancer," he noted.

In a few areas, PCBs are so high in water that they can be measured. This indicates they are hundreds of times above the safe level set by the Federal Food and Drug Administration.

Government action on the state level is slow, but the citizens of New Orleans seem to have an unconscious reaction. The old city is a heavy user of bottled drinking water.

REGULATIONS URGED

Dr. Robert H. Harris of the Environmental Defense Fund in Washington, D.C., recently attacked proposals to delay EPA drinking-water regulations. He told an EPA hearing in New Orleans:

"Furthermore, EPA should be reminded that a large segment of the public in New Orleans, as well as elsewhere, has lost confidence in the safety of local water supplies. By seeking expensive alternatives, such as bottled water and home water treatment devices, they are paying many times the rate increase the EPA regulations will require."

A 1974 EPA study found 20 chemicals in the New Orleans drinking water which have the capacity to cause cancer. Some are pesticides. But others are industrial wastes, such as benzene and hexachlorobenzene.

Harris estimated there would be 250 extra cancer deaths a year in New Orleans caused by the local drinking water.

Citizens are suspicious because they know the Bayou Sorrel lagoon where Jackson died is an area where high water would flush it out once or twice a year, putting the wastes into the local water.

The state produces vast amounts of wastes a year. Much of it is dumped down deep wells. Much of it probably just disappears. Givens commented:

"I would safely say there is no report, or one point, where you could go to find out about waste."

BURY NOW, PAY LATER—TOXICS RATTLE NEW ENGLAND, TOO

(By Michael Desmond)

The New England states solve the hazardous waste problem by shipping their dangerous materials to other parts of the country.

The Northeast corner of the nation has no good waste disposal site. But, as would be expected in a heavily industrialized area, there are industrial and hazardous wastes.

BAY STATE MESS

Massachusetts is the possessor of one of the great chemical messes of our time: The Silresim Chemical Corp. in Lowell firm went broke, leaving behind 15,000 drums—55 gallons each—of various chemicals and hundreds of thousands of gallons of all kinds of liquids in tanks.

The citizens of Methuen and Lawrence, Mass. get their drinking water from an intake downstream from where chemicals from Silresim are leaching into the Merrimack River.

In Rhode Island, the residents are starting to worry about chemicals leaching into the Pawtuxet River from a land fill.

In Connecticut, John Housman, principal Environmental Protection, admits there are problems. Asked if the state's wastes are being properly disposed of, he could only say, "Right now, I have no way of knowing."

VILE ODOR

In Maine, the little town of Gray found out one day that the vile odor and strange color which turned up in their drinking water in 1975 came from chemicals dumped at a site outside of town. Eventually, the site was closed down.

Gray Town Council Chairman Michael Gibbs put his finger on the issue.

"We discovered our problem pretty much by accident. I shudder to think what some other towns might be drinking in their water."

It's serious point.

DATA LISTED

The New England Regional Council recently attempted just to get a handle on how much waste there was in the six states. It came up with figures of 18.4 million gallons of reclaimable wastes, that is waste oil and solvents; 5.6 million gallons of treatable wastes; 5.9 million gallons of waste that has to be incinerated; and 17.9 million gallons of waste which has to be landfilled.

How accurate the figures are is anybody's guess. Housman would only term them "rough estimates."

There are unusual industries in the area. Providences has a large jewelry industry with highly acidic waste. Much of that goes into city sewers, according to Frank Stevenson, a senior sanitary engineer with the Division of Land Resources of the Department of Environment Management.

LOSING TRACK

"We are also losing track of the sewage discharge," he noted. The city is getting a system to pretreat jewelry waste before it goes into the regular system.

Vermont and New Hampshire are believed to produce minimal amounts of hazardous wastes.

Connecticut has a similar water case in the Town of Plainfield where chemicals were dumped into a regular landfill. The state has already spent $600,000 there, including an $80,000 study of underground water. There are a number of drinking water wells nearby and William Hegner, a principal engineer with the Oil and Chemical Section of the Water Compliance Bureau, agrees the chemicals could turn up in the water.

"There is a potential for that," he admitted.

BRIDGEPORT PROBLEM

The state also had a cleanup problem in Bridgeport, where chemicals were dumped into a gravel area. The contaminated gravel had to be dug up and hauled away. Much of it went to the SCA Chemical Waste Services Inc., formerly ChemTrol, in Niagara, N.Y.

But, the biggest chemical waste problem in New England is Silresim. The State Legislature has been asked to put up $1.5-million for a cleanup based on a report from Fred C. Hart Associates, in an environmental research firm in New York City. The Hart report said:

"Results of studies conducted for this contract indicated significant on-site contamination of surface water bodies after the spring thaw. High concentrations of toluene and trichloroethylene were detected in soil and ground water sampled at the facility. High concentrations of total organic carbon were also detected in on-site wells and local sewers."

CAUSES DEPRESSION

Toluene causes depression of the central nervous system, addiction, muscular fatigue and can kill in high concentrations.

There are two forms of trichloroethylene. High exposure to either can kill. Either may also cause kidney or liver damage.

AIR TANKS

The situation is so bad that the federal Environmental Protection Agency (EPA) has ordered any of its employees visiting the scene to wear air tanks, rather than filtering masks.

The site has been a problem almost since it opened in 1973. It began as more of a storage site than anything else. But, gradually its owner, Dr. John Miserlis, began to try to turn it into a chemical waste re-processing plant.

In July 1975, the state Division of Water Pollution Control (DWPC) threatened to revoke its license unless changes were made.

When the 1976 license limited what could be handled on site, the corporation took the state to court and the judge removed the restrictions. Some new ones were set in the court order but were apparently never adhered to.

BY BANK

In October 1976, the site was taken over by the bank which held the mortgage. The bank studied the situation and reopened the site. Last year, the firm went into bankruptcy, even though the site itself was still in operation.

A year ago, Lowell city workers were overcome by toluene fumes in the sewer. Apparently at that point the city and citizens became aware of how bad the situation had become.

The court order had required the removal of 500 barrels a month to cut down the accumulation. The Hart report indicates the materials in the deteriorating drums were simply dumped into some of the large tanks on the site.

Now the state and the federal government are asking companies to come in and make bids on the cleanup. The Hart report indicates part of the cleanup will include sealing the underground water and putting some sort of cap on the surface to control runoff and air pollution.

"We generally know what's there," commented Hans Bonne of the state DWPC.

At one point, Dr. Miserlis used an aerial photo of the site to take a variety of government agencies on a tour of chemistry. For example, he could tell them area 27 contained

chlorinated benzene from Solvent Chemical Co. Inc. of Niagara Falls, N.Y. Or, he could tell them he had no idea what was in area 23. Area 14 had six storage tanks with a combined capacity of 80,000 gallons containing hexane, toluene, methylene chloride, water acetone and what was described by him as "miscellaneous hydrocarbons."

STORAGE TANK

There is even one 100,000 gallon storage tank filled to the top. In warm weather, the Hart report said, "Due to a decrease in density upon warming, the materials stored in the 100,000-gallon storage tank will likely overflow as soon as warm weather arrives since the tank is full to the top."

The material inside is in three parts. There is a one-foot residue layer on the bottom. About that is 50,000 gallons of water with a variety of dissolved hydrocarbons. On top is 50,000 gallons of such things as toluene, cancer causing benzene and mineral spirits.

Right now, it's all still there.

Dr. Charles A. Johnson is technical director of the National Solid Waste Management Association, a trade group in Washington, D.C. He called Silresin a "classic example" of commercial plans to recycle chemical and hazardous wastes.

"He couldn't make it pay," was the verdict.

21 MONTHS LATE

Despite problems encountered at Silresin and elsewhere, the EPA has just announced it would be at least 21 months late issuing regulations that could control improper waste disposal. EPA is headed by Douglas M. Costle, an appointee of President Jimmy Carter.

The regulations were required to be issued last April, 18 months after the 1976 Resource Conservation and Recovery Act (RCRA) became law. But those 18 months proved not to be sufficient for EPA to come up with the regulations necessary to institute the RCRA. Last Friday, EPA said it would be unable to come up with the rules until January 1980.

That means the agency will have taken 39 months to complete work on the regulations. Despite the delay, EPA has only 161 of its nearly 11,000 employees nationwide working in the area of hazardous wastes.●

REPRESENTATIVE CLARENCE D. LONG OF MARYLAND DISCUSSES HOW THE EXPORT-IMPORT BANK THREATENS AMERICAN WORKERS AND INDUSTRIES

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. CARNEY. Mr. Speaker, our distinguished colleague, Hon. CLARENCE D. LONG of Maryland, has made the Congress and the American public aware of the harm that the Export-Import Bank is doing to American producers of steel, textiles, sugar, copper, and other products.

As chairman of the Subcommittee on Foreign Operations of the House International Relations Committee, Congressman LONG has led the fight to stop the Export-Import Bank from making loans to America's foreign competition. These Export-Import Bank loans are being used by foreign companies to make products which compete with the products made by American workers and businesses. The same type of long-term, low-interest loans which the Export-Import Bank now makes available to foreign companies should be made available to American companies which employ American workers.

Congressman LONG's leadership in making America's foreign economic policies more responsive to the needs of American workers and businesses is deserving of the highest praise. As chairman of the Congressional Steel Caucus, which was created to restore and maintain a healthy domestic steel industry and to protect the jobs of its workers, I urge the gentleman from Maryland (Mr. LONG) to continue his efforts to correct the injustices created by the Export-Import Bank.

Congressman LONG recently discussed the relationship between the Export-Import Bank and the decline of Bethlehem Steel's Sparrows Point plant in an article he wrote for the Baltimore Sun. Mr. Speaker, I would like to insert that article in the RECORD at this time for the information and consideration of my colleagues:

SPARROWS POINT AND THE EXPORT OF JOBS

(By CLARENCE D. LONG)

WASHINGTON.—At Bethlehem Steel's Sparrows Point plant, annual steel production has declined by nearly 3 million tons since 1970 and 4,500 workers there have been fired, laid off or have had their hours reduced because of import competition. In the United States as a whole, steel imports rose between 1976 and 1977 by 35 per cent, to an all-time record of 19 million tons. Some steel plants in Ohio, Pennsylvania and New York have closed completely, even though U.S. demand for steel in 1977 was the third highest of any year in history.

Faced with this, should we restrict steel imports through tariffs or quotas? Import restrictions permit the steel industry to inflate its prices and to live with inefficiency. Should we then subsidize American steel to make it more competitive? I am reluctant to launch on this unchartered sea of government expenditure. I believe in free enterprise, and that's the point. If free enterprise means no government subsidy of domestic industries, how can it mean, as a recent *Sun* article implies, Export-Import Bank subsidy of foreign competition?

The Export-Import Bank provides loans to foreign companies to finance the purchase of American goods. The bank's intended purpose is to increase American exports. Since the bank's reorganization in 1945 it has provided $38.7 billion in loans.

There is no doubt that the Export-Import Bank has promoted foreign projects that have harmed U.S. producers—not only in steel, but in textiles, sugar and copper. In steel alone, the Export-Import Bank admits to having helped create over 37 million tons of new foreign steel-making capacity since World War II, equal to one-quarter of our entire steel-making capacity in the United States. Of the $2.3 billion that the Export-Import Bank has loaned out for foreign steel-making capacity, about 85 per cent of it went to 11 countries. From these 11 countries steel exports to the United States increased 19-fold in a 20-year period.

In effect, Export-Import Bank loans have constituted subsidies of our foreign competition. James Collins, senior vice president of the Iron and Steel Institute, said in testimony before the House Foreign Operations Subcommittee of which I am chairman, "Exim loans are at subsidized rates in terms of the ability of our steel companies to obtain such loans at those interest rates in U.S. capital markets." A recent article stated that "the Export-Import Bank, taking advantage of its preferred access to capital as a government agency," has offered credits "at far more favorable terms than are available to most private borrowers." Who wrote the article? None other than a former vice president of the Export-Import Bank.

Even at present levels, steel imports are large enough to cut deeply into the profitability and growth of U.S. producers. The whole profit situation in steel is touch and go. Basically the difference between success and failure is this extra business—lost to foreign competition—which could keep the furnaces burning as they must, 24 hours a day, seven days a week.

The president of the Export-Import Bank testified before my subcommittee that adverse impact on U.S. employment would weigh heavily in the bank's evaluation of foreign steel projects. Shortly thereafter, the Export-Import Bank notified Congress that it planned to provide $73.7 million in loans for a steel plant in Trinidad, a plant which will export 275,000 tons of steel to the United States annually.

Exim defends this plan by arguing that the plant will be built anyway by the Germans, Japanese and Canadians who have agreed to 30 per cent of the project. And, the bank contends, if Exim does not support the project, the Germans, Japanese and Canadians will assume the U.S. share and jobs will be lost by our steel equipment industry. Sounds good. But the fact is, the Trinidad plant will have to export most of its steel production into the United States over the next 30 years of its operating life because the countries building the plant will not allow the steel products of the Trinidad plant to be sold in their own markets.

Yet what if the United States were at some future time to impose import barriers, thereby destroying the plant's economic profitability? Horrors. How to prevent it? Ummm . . . Why not get Exim to put U.S. money into the Trinidad project? Once U.S. capital is committed to the deal, any future attempt by Congress to impose import barriers will be met by the argument that this would destroy the possibility of repayment of the U.S. investment. Far, then, from being an opportunity the United States should take advantage of, Exim participation in the Trinidad plant is a must for the promoters since without this U.S. investment as hostage to our continued purchase of their steel, the plant would be a doomed undertaking.

Exim loans to foreign industries will not help the U.S. trade deficit as some of my colleagues in Congress contend. To begin with, where is the evidence that government subsidies increase exports as a whole? France, Germany, Japan, Italy and Britain have increased exports over the past year, but the Export-Import Bank itself concluded in its annual report that, "these results cannot be explained in terms of significant increases in the level of official government support for exports . . ." Government support for exports—through their own export-import banks—declined in France, Italy and Japan and increased only modestly in Germany and Britain.

Clearly not helped by Exim loans are the developing nations that have to maintain these prestigious "black elephants" at the expense of food, health, housing and education for their poor. A single job in the steel industry in a poor country costs between $100,000 and $200,000, a great waste of capital for poor nations which can provide jobs at $100 each in capital-saving enterprises producing food, clothing and housing and thereby directly helping the poor feed and clothe themselves.

Finally, U.S. steel firms cannot get capital to modernize if we keep subsidizing the export of capital. The *Wall Street Journal* said several years ago, "There is no way he [William Casey then chairman of the Export-Import Bank] could persuade us that

wrestling capital away from America, then forcing it abroad through subsidy mechanisms, does anything but distort relative prices, misallocate resources and diminish revenues with zero effect on the trade balance . . . There being no economic justification for the bank, Congress should feel no qualms about letting its authority lapse . . ."

Congress has come close to doing this in recent years but firms that make money out of Exim are as uninterested as most pressure groups in what is good for the nation and the taxpayer. And how many taxpayers will plough through an article like this one in order, first, to consider the facts, then to insist that their congressman vote an end to this self-defeating exercise in mercantilism?●

HOSPITAL COST CONTAINMENT

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. MARTIN. Mr. Speaker, recently, Mr. R. Zach Thomas, Jr. executive director of the Charlotte Mecklenburg Hospital Authority was presented with the highest award of the American College of Hospital Administrators; the Gold Medal Award for excellence in hospital administration.

Mr. Thomas's Gold Medal Award cited his "superlative planning masterful reorganization and enlightened leadership of a model medical complex with a capacity of 1,300 beds and geared to providing integrated levels of patient care for acute, rehabilitative, convalescent and extended care services."

Mr. Thomas has been president of the North Carolina Hospital Association and the American College of Hospital Administrators; chairman of the public general hospital section of the American Hospital Association, and of the association's committee of commissioners and was an at-large delegate; secretary of the Joint Commission on Accreditation of Hospitals, and chairman of the board of directors of the Hospital Research and Development Institute.

Mr. Thomas has been called "one of the best speakers" nationally on hospital costs, and one of the most active participants in national hospital activities.

On August 31, 1978, Mr. Thomas spoke at a health care cost containment luncheon presented by the Greater Charlotte Chamber of Commerce and offered a probing look at the country's health care system and needs of the consuming public.

Mr. Speaker, I know that you and the Members of the House of Representatives join with me in congratulating Mr. Thomas on his award. I commend to you his observations on health care cost containment.

STATEMENT BY R. ZACH THOMAS, JR.

There is no reason to debate the question of inflation—we have it!

There is no reason to debate the question of the punishing effect inflation has on our life-styles—it has reshaped them!

There is no reason to debate the question of the unusual escalation of health care costs. They have climbed to unbelievable heights!

Nor is there dispute or denial that health care costs have risen more rapidly than the overall average cost of living and that such costs are representing an increasing percentage of the Gross National Product.

To leave those statements to stand alone without inquiring into the forces which worked upon the field of medical science and hospital service is to practice a deception which leaves me with a feeling akin to dishonesty. May I, therefore, attempt to place in a reasonable perspective the influencing elements which as I view the picture helped to aid and abet the impactor labeled "inflation" and which, when viewed as a composite, form the mosaic of today's pattern of health care costs.

First, shall we look briefly at the truism that the hospital is a labor intensified entity, maintaining a far greater percentage of its operating costs in employees than any other business. Add to this cost base the fact that hospitals must operate every hour of every day and cannot close their gate and turn off their lights when the 5 o'clock whistle blows, necessitating 4½ employees to each one in ordinary industry. And hospitals are still in the "catch-up" stage of equating employee pay and fringe benefits to those industries already in compliance with such practices. Thus, hospitals find themselves in a cost rise syndrome brought on by the cost of minimum wage legislation and employee fringe benefits which had already been met, by and large, by the general industrial world. Multiply that un-even employee-to-employee comparison by 4½ because of the previously stated respective hours of operation.

Of dramatic importance is the historical record of the past decade which embodies an explosion in medical technology, the first shock waves of which penetrate that peaceful building on the side of the hill we know as the local hospital. Historically, it has been the nature and purpose of that hospital to do all in its power to respond to these forces and to accommodate the physician and the sick person by securing the tools and the machinery and the equipment and the medical supplies which will make possible the diagnosing, the treating and the curing of illness.

Dr. John H. Knowles, President of the Rockefeller Foundation, recognized this fact and added a note of caution in a recent article when he stated, "The American people have clearly come to expect much from medicine, especially in recent years, but they have matched these rapidly rising expectations with rising anxieties over the cost, quality, and accessibility of health services. Many within the profession believe that both the expectation and the anxieties are the result of a definition of health that has become much too broad and that certain limits on the responsibility to society of the medical profession need to be established." This area of how-much-medical-care-is-enough is becoming more and more of a question which must be researched and must be addressed and must be answered if we ever expect to harness health care costs. As you can see, this in itself is a subject which is deserving of separate sermonizing but which I must not further explore unless I impose upon my colleagues time.

Another very real element which shapes the cost level of sickness and its care is the increasing demand for care. The doctors office is jammed with patients who are saying, "put me in the hospital, I have several good insurance policies!" Government and private insurance have insulated the patient from the shock of the cost of the doctor's bill and the hospital bill and the flood of requests for care is receiving a great amount of acceptance. Many such episodes are non-emergency. Many are non-urgent. Many are not even necessary. Recognizing this fact, the Federal government decided to police the use of hospitals and physicians by those insured under governmental programs such as Medicare and Medicaid; they passed appropriate legislation (P.L. 92–603 and P.L. 93–641) which established a nationwide network of surveillance—peer review systems—utilization review programs—justification programs.

The medical staff in the local hospital is required by the accreditation bodies to show documented evidence that they routinely follow the practice of a doctor committee looking into the very pattern of patient management by their fellow medical staff members. What type of laboratory tests were ordered? Why was this X-ray taken? Is this expensive medicine compatible with an accepted course of chemo-therapy for a patient with this diagnosis? Inadequate results, which do not measure up to pre-set norms of care are punishable by refusal to certify that patient's bill for payment! Much of this surveillance is constructive and quite necessary to ferret out the exploiters and those individuals and institutions which are prone to discover ways in which they can unfairly siphon dollars from the Federal pots.

I am happy to state that such unscrupulous individuals and hospitals are very few in number but their actions are sufficient to discolor a vast volume of those who strive to comply with the law. But the actual cost of the regulatory process is a story in itself and one which I am sure causes discomfort even to an honorable legislator such as my colleague, Jim Martin. A research project conducted jointly by the Duke Endowment and the Kellogg Foundation attempted to fix the dollar cost impact which the Federal regulatory process actually had on patient day costs in South Carolina. A fair estimate of the average cost per patient stay caused by regulations of one sort or another was pegged at $44.00.

Within recent months, the American Hospital Association published a report of its Special Committee on the Regulatory Process. This committee was given the task of studying regulations imposed upon the hospital and to delineate what might be done to relieve the growing entanglement which was seen as ultimate strangulation. Some of their findings follow:

The 1964 Hill-Harris Amendment expanded the regulatory procedures under the Hill-Burton construction program and marked the beginning of an explosion in hospital regulation. Safety codes, many of which were badly needed, were accepted by hospitals. Congress built such standards into the Medicare-Medicaid legislation. Thus, the physical condition of hospital buildings had to be in conformity with such standards as a condition for participation by that hospital in the Federal patient care programs.

The National Fire Protection Association (NFPA), the Joint Commission on Accreditation of Hospitals, local state and jurisdictional building codes, the multiple level of governmental ordinances and codes all seemed to begin their separate and inadequately coordinated growth processes and started boiling on separate bureaucratic burners. The overlapping, conflicting, duplicative process that emanated was not only confusing, frustrating and exhausting but created an expense which worked a real hardship on the hospital books. This expense, be it a comprehensive building renovation program, a new cast of employees or a new system of operating various medical departments did indeed find its way into the patient's bill for hospital care. Costs were made to soar. I am happy to state that a cooperative approach to untangling some of the duplication and overlap of surveys, inspections, compliance reports, etc. with certain of the regulating bodies seems to be making some headway. I wish that I could see encouraging signs of such cooperation between the hospital industry and the Department of Health, Education and Welfare, but I feel that brother Califano does not wish to do

anything which resembles the sharing or the coordination of regulatory review, survey and oversight of the health care arena.

An element which struck a dramatic blow at the hospital expense report during recent times was that of malpractice insurance with which I am sure we are all familiar. Premiums for such insurance coverage were known to jump from an annual rate of $35,000 to $1 million in a one year period, a 30 fold increase. This, too, found its way to the patient charge structure. Physicians and hospitals throughout the nation were being sued at the drop of a hat, and it seemed that suddenly the courts were finding it popular to make fabulous awards in the millions to patients dissatisfied with the care given them by the hospital or by their physician. "Why wasn't an x-ray made?" "Why didn't they recognize a black widow spider bite?" "Why wasn't the patient put in body restraints?" "The doctor and the hospital and the nurse knew or should have known, etc. . ." A natural sequence to this epidemic of unfortunate jurisprudence was a defensive and protective reaction by the doctor and the hospital. And so the extra xray became more popular—the extra care was added—the monitoring process was intensified so as to be not caught wanting by the courts in similar clinical instances. This, too, found its way as a cost item to be recovered by inclusion on the patient's hospital bill.

It is not my purpose to belabor you with a laundry list of the cost increases felt by hospitals as they shopped the market place for routine items of equipment and supply required in their daily performance of providing health care, but I would mention a few just to demonstrate that it was not only the labor overload which burdened the hospital's expense roster:

X-ray films—26 percent increase during the past 3 years.

Intravenous solutions—75 percent during the past 3 years.

Gauze bandages—33 percent during the past 3 to 4 years.

Catheters—2 percent during the past 8 months.

Elastic bandages—30 percent during the current year.

Cardiac pacemakers—100 percent during the past 3 years.

Tubing for Kidney Dialysis Machines—13 percent during past 8 months.

To say nothing of electrical power, paper goods, linens and other expendable items, all of which have doubled the pace of the average domestic inflationary cost.

Los Angeles County Medical Association lends perspective to a decade of rising costs with 1967 to 1977 comparisons . . . hospital charges up 194 percent . . . physician fees up 214 percent . . . legal fees up 220 percent . . postal fees up 226 percent . . . Social Security taxes up 308 percent . . . HEW budget up 364 percent . . . federal budget up 400 percent and cost of running Congress ahead of all with 422 percent increase! (and this does not include the Senate's new $135 million office palace.)

A quietly ticking social time bomb—America's rapidly aging population—which, according to Philip Schabecoff of the N.Y. Times, is due to explode in 20 years or so with potentially revolutionary effect on the nation's economy, has already proven its capacity to escalate the hospitals operating costs.

The problems created by an inexorable demographic trend toward an older population are being exacerbated by a soaring demand for medical care. These older people are also sicker people. Their bones break more easily. Their muscle power is weaker. They cannot or do not have the will or the ability to practice good health habits which might fend off illnesses. When they come to the hospital, they require more care, more feeding, more changes of linens, more medication, more monitoring, more bedside care, which—simply translated spells more costly health care. The average life expectancy in 1940 was 62.9 years—in 1950, 68.2 years—in 1960, 69.7 years—in 1970, 70.9—in 1975, 72.5 years and thru June of 1978, 72.8 years. In 38 years, we have a new strata of citizens in the age parentheses of 63 to 73 which did not exist until now. Califano projects that by the year 2030 some 55 million people, nearly one-fifth of the population, will be 65 years old or older. Actually, the layer of 80 to 90 to 100 year olds geometrically compound the index of health care needs. And because we are living longer and living as persons more subject to illness and disease and living more dependent upon watch care by others which is the product of such demography, we are creating more costs in the health care arena. While we may be tempted to view these data somewhat in the abstract as applying to some unidentifiable class of citizenry, we should not ask for whom the bell tolls—it tolls for me and for thee!

In response to a challenge by Rep. Dan Rostenkowski of Illinois, Chairman of the Sub-Committee of Health of the Committee on Ways and Means on which Rep. Martin also serves, that the hospitals in America show their true grit by demonstrating what they themselves could do to stem the 15 to 16% annual increase in health care costs, the nation's hospitals picked up his glove and agreed to marshall all its 8000 institutions in an all out Voluntary Effort to contain the rise in hospital costs. The American Hospital Association established for its membership stringent goals, knowing that a failure to accomplish such would be tantamount to surrendering the health care program to Federal control and mandate which could easily cause the six hundred new or proposed health related regulations which were issued by Health, Education and Welfare last year to multiply astronomically. Hospitals agreed to take every possible means to reduce the rampant rate of increase in health care costs by 2% in 1978 and by an additional 2% in 1979. Secondly, we have pledged not to increase the number of hospital beds in 1978. Thirdly, we shall restrain new hospital capital investments. The first results of our performance are impressive—almost dramatic! For the first quarter of 1978, the annualized rate of increase was 13.0%. This compares to a 16% rate increase for the first quarter of 1977. For the first 4 months of 1978 the rate of increase in total expenses was 12.7%. This compares to a 15.8% rate of increase for the first 4 months of 1977. This slowdown in health care cost rise was accomplished despite a two percent increase in hospital admissions throughout the nation and in spite of increasing inflation in the general economy.

Rep. Rostenkowski was so impressed by this record that he issued a reaction which contains a sentiment shared by many: "I have never believed that the Federal government could solve all of the problems of the American people. Government should intervene selectively where it can be of assistance. Otherwise, the private sector should be relied upon to act on its own initiative. I am pleased by the seriousness and purpose of the goals of the so-called Voluntary Effort. Even your harshest critics must be impressed. I am heartened to find the provider and community focus on the real alternatives to the cost problem."

Our most recent giant step toward the realization of pulling ourselves up by our own bootstraps might have been made by Rep. Jim Broyhill's amendment to HR-6575, the President's proposed hospital cost containment legislation. This amendment, adopted by the Commerce Committee, removes all mandatory control provisions from the Administration bill. In a recent letter from Rep. Broyhill to me on this subject, he stated, "(This) was a significant and critical victory for all Americans committed to curbing a Federal bureaucracy ever growing and intruding into our daily lives.

"Fortunately, many members of Congress are becoming increasingly aware that all the problems of our nation cannot be solved by the wave of the magic, Federal wand."

I believe there is no aspect of our lives which has become more complex and more difficult to bring to a comfortable operating relationship between free enterprise and the government than that of the health care of our populace. How much health care is enough? How deeply should the medical researchers probe? Is it safe and moral to develop a test tube population? Is the supply of dollars for underwriting health problems infinite? If not, where do we set the control speed? All of these questions—and many more—have a bearing on costs. Until answers are found, how can we expect a transition to a reasonable, adequate, effective, affordable health care system?

I conferred with my colleagues in the community to determine just what their approach has been to the cost containment effort, and I got some very interesting feedback. I would like to share some of the areas being addressed by them toward attaining these goals. First, let me say that you should be proud to be a citizen of this community, for the excellence of physicians and the quality of hospital facilities are assets second to no other similar community in the South.

Programs of training in nearly every phase of health care produce a steady stream of highly qualified technical, medical and administrative experts, many of whom establish permanent roots here. Permit me to acknowledge and again thank the one institution which has had more to do with this "quality enhancement" effort through the years than any others by their financial sponsorship, The Duke Endowment. Mercy Hospital, Presbyterian Hospital, Charlotte ENT Hospital, Charlotte Memorial Hospital, Charlotte Rehabilitation Hospital, Charlotte Community Hospital and Huntersville Hospital have each developed their institutions to a point of excellence which has gained for them full 2 years accreditation by the Joint Commission on Accreditation of Hospitals, the highest standard setting agency for hospitals in the nation.

Here are a few examples of what these hospitals have done and are doing in the cost containment program:

All have established Cost Containment Committees.

All have accepted the challenge and have set their performance goals to the American Hospital Association formula.

Rehab Hospital has actually hired a specialized visiting nurse to keep patients out of their hospital by visiting discharged patients periodically in their homes. This has reduced the readmission rate by 10%, an estimated dollar saving to these patients of $151,305.

Mercy Hospital looked at their power bill and did something about it, monitoring peak hour consumption, reducing the lighting, cutting off equipment when not needed, placing timers on other equipment such as air handlers, etc. and by such vigilence reduce their power bill by $22,830.82 per year, and they estimate a $100,000 annual savings on Cooperative Purchasing of medical and surgical supplies through the Sisters of Mercy group.

Huntersville Hospital reduced their stores inventory by 35% thus releasing capital for other needs; joined hands with other Authority hospitals in the purchase of fuel oil for an $11,000 savings and held their food cost increase to less than 1% over the previous year. Their Board level Cost Containment Committee works in concert with staff in cost monitoring.

Presbyterian Hospital is now studying the possibility of returning to the use of reusable operating room gowns where disposables are

now used and estimate a $50,000 annual savings. This hospital was the leader in the establishment of the N.C. Hospital Association Insurance Trust Fund which reduced their escalating malpractice insurance premium for a savings of approximately $27,500 and expect an ultimate annual savings of $41,800. They also sought out the use of tax exempt revenue bonds to finance their building program, the lower interest rate judged to save patients approximately $6 million over the life of the bonds.

Charlotte Community Hospital stepped up its meal producing capacity a bit and now prepares meals for the 90 to 100 patients at Charlotte Rehabilitation Hospital, both institutions benefiting by considerable cost savings due to volume production. Community Hospital has also worked out a program where approximately $200 per month is saved in a new system of floor waxing throughout the hospital. They found that there were many little ways of saving small amounts of money such as buying used office furniture instead of new, the savings amounting to almost 66⅔% of the cost of new furniture.

Charlotte Memorial Hospital does not yet have a report from the Federal Government on the power conservation accomplished by its 171 solar panels recently installed on the roof of its newest building. It is known, however, that all of the water heating and a portion of the electrical current for lighting has been generated by this source. Memorial estimates that savings in excess of $100,000 have been accomplished through membership in the national purchasing program known as the Hospital Bureau wherein hundreds of hospitals in the nation pool their requests and thereby create mammoth savings by volume purchases. It is estimated that $40,000 annual savings will be the result of Memorial's program of recycling office waste paper in cooperation with the Weyerhauser Company. An actual saving of $53,653.00 was accomplished when Memorial decided to purchase its own microfilming equipment for processing the volumes and volumes of paper work and records which accumulate in the Medical Records Department.

Charlotte EN&T Hospital is pledged to the goal of holding its cost increase budget to a rate of 9.1% for their fiscal year beginning October 1, 1978. Their all out effort to conserve on utilities has already demonstrated a $500 per month savings. Another example of a savings amounting to $17,600 annually is effected by leaving 2 positions unfilled.

As you see, these are random examples of what can be done by tightening down and oiling up the hospital mechanisms. My colleagues hasten to tell me that most of these programs are adaptations or amplifications of ongoing efforts which pre-dated the current crisis.

Who's to blame for high health care costs? No one person—no one thing—no one medical discovery—no one governmental mandate—no one regulation—no one employee—no one diagnostic procedure—no one surgical miracle. Rather, all of these elements mixed into a cauldron heated to boiling level by an inflationary fire—a difficult and often impossible process to bring under control. Let's hope, and work toward, the fire burning out—and soon!●

SUPPORT FOR BRITISH WITHDRAWAL GAINS SUPPORT—AMONG PEOPLE OF BRITAIN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. BIAGGI. Mr. Speaker, a most important poll was released recently in a number of newspapers, most prominently the London Times, about the views of people in Britain, Scotland, and Wales regarding British withdrawal from Northern Ireland. The results are clear—only 28 percent of those surveyed felt Britain should remain in the north.

This poll gives further credence to a growing sense of opposition to the continued presence of British troops in the north.

Not only are the people expressing their opposition so too are an increasing number of public officials. Most recently the deputy leader of the British Liberal Party, Mr. John Pardoe, expressed his support for a British withdrawal.

I have sponsored along with some 25 cosponsors House Concurrent Resolution 478 which calls on Britain to make a declaration of intent to withdraw from Ireland. I intend to work to have this measure be considered by the full Congress next year, I believe such an expression of support from the Congress could provide real momentum to the withdrawal movement thus speeding the road to peace in Ireland.

I wish to insert the article, in the London Times of September 20, discussing and analyzing the results of the poll. The Ad Hoc Congressional Committee for Irish Affairs of which I am chairman continues to view the eventual withdrawal of Britain from Ireland as a necessary prerequisite for peace in Ireland and hope Britain will heed the call of her people.

BRITISH POLL SHOWS MAJORITY WANT GOVERNMENT DECLARATION OF INTENT ON ULSTER WITHDRAWAL

Most Britons would like the Government to declare its intention of withdrawing troops from Northern Ireland, according to an opinion poll conducted in England, Scotland and Wales earlier this month by the Gallup Organization.

Although every opinion survey conducted in Britain since June, 1974, has shown a majority in favour of withdrawal, a principal demand of the Provisional IRA, the latest poll has gained significance because of the growing number of public figures and organizations now advocating that policy as a solution to the apparently intractable Ulster question.

The latest demand came at the weekend from Mr. John Pardoe, deputy leader of the Liberal Party. He said that a third of his parliamentary colleagues and a third of active Liberal Party members supported the idea. Earlier the policy had received editorial support from the *Daily Mirror*.

Based on a sample of 1,050 interviewees, the new poll was commissioned by RTE, the Irish state broadcasting company. A limited section of the results were used on its new current affairs programme this week.

RTE said 55 per cent of those questioned favoured either an immediate troop withdrawal or a phased withdrawal over a maximum period of five years. Only 28 per cent said troops should remain in Northern Ireland until an agreed settlement was reached, a view that is closest to the present agreed policy of the three main British political parties.

Of those favouring withdrawal, 55 per cent gave as their main reason the number of soldiers killed or wounded. Another 29 per cent said that the troops were serving no useful purpose and 21 per cent said too much taxpayers' money was being spent in Northern Ireland.

In another section, 56 per cent said that the Government should declare its intention of withdrawing entirely from Northern Ireland and only 33 per cent argued that it should declare an intention not to pull out: A 48 per cent sample thought that withdrawal without the consent of the two communities would cause an increase in violence, 6 per cent a decrease and 31 per cent that it would mean little change.

Political observers said yesterday that the most surprising result was that showing the extent of concern about the Northern Ireland issue felt by British voters. Asked to classify, on a scale of importance three of the main difficulties facing Britain, 54 per cent rated Northern Ireland as very important, as against 46 per cent for race relations and only 6 per cent for Scottish devolution.

Among other points, the poll showed that 49 per cent were against continuing economic subsidies to Northern Ireland after British withdrawal. Only 19 per cent felt that the Dublin Government was doing its best to defeat the Provisional IRA.

Supporters of withdrawal were criticized by Mr. John Biggs-Davison, a Conservative spokesman on Northern Ireland, yesterday. In a BBC interview, he said it might lead to a civil war in which the Roman Catholic minority would suffer terribly and which would not be contained in Northern Ireland.

He continued: "When people like Mr. Pardoe and newspapers like the *Daily Mirror* suggest that the troops should be taken out, that Britain should kick the Ulster people out of the United Kingdom, that is a gift to the IRA. Movements like that, minority terrorist movements, live on hope and if they think that the British can be either blasted or bored into submitting to their demands, then they are encouraged to carry on."

IRA targets: The Belfast unit of the Provisional IRA said yesterday that all unmarked cars leaving army premises in Ulster would be considered legitimate targets (the Press Association reports).

The announcement prompted fears that wives taking children to school from army bases would be at risk.

The IRA gave the reason for its change of policy as "the increase of plain-clothes surveillance and the constant use of unmarked cars" by the Army. Undercover police officers and troops in unmarked cars have often fallen victim to the Provisional IRA.

The Army said later: "All sorts of people enter military bases, such as community leaders, cleaners, members of the public and even dependants of those in military custody."●

H.R. 11488—HEALTH PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS OF 1978

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. ROGERS. Mr. Speaker, later this week the House will consider H.R. 11488, the "Health Planning and Resources Development Amendments of 1978." I would like to inform the Members of a number of technical and perfecting amendments that I plan to offer and ask for consideration en bloc during the consideration of this bill. The amendments would do the following:

First, provisions in section 203 of H.R. 12460, the "Health Centers Amendments of 1978," would be added to the bill. These amendments were reported by the Committee on Interstate and Foreign Commerce on May 15, 1978 (H. Rept. 95–1186), and passed by the House on October 19. They seek to assure the active involvement of persons knowledgeable

about mental health services, including substance abuse, in the health planning process. These amendments also seek to bring about better coordination between health and mental health planning. Since these provisions amend the planning law it is appropriate that they be included in H.R. 11488.

Second, an amendment would be added which will clarify existing policies regarding the health systems agency review of proposed uses of Federal funds to support research and training. The amendment would require review of training grants or contracts only in the case in which a grant or contract is used to support health resources which make a significant change in the health services available in the health service area or require a review of research grants or contracts only in a case in which a grant or contract would change the delivery of health services or the distribution or extent of resources available to persons in the health service area other than those who are participating in the research project.

Finally, amendments would be added which are technical in nature including one required to bring the bill into conformity with the requirements of the Budget Act by limiting contract authority of the Secretary to such extent or in such amounts as provided in advance in appropriation acts.

The text of the amendments follow:

AMENDMENTS TO H.R. 11488, AS REPORTED

Page 67, line 18, insert after "Act" the following: "(other than in section 115(1))".

Page 71, strike out the close quotation marks and the period following in line 18 and insert after that line the following:

"(13) The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate.

"(14) Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services.".

Page 83, beginning in line 17, strikes out "subclauses (III) and (IV)" and insert in lieu thereof "subclauses (IV) and (V)".

Page 84, line 2, strike out the close quotation marks and the period following and insert after that line the following:

"(III) include (through consumer and provider members) individuals who are knowledgeable about mental health services (including services for substance abuse),".

Page 84, line 3, strike out "(III)" and insert in lieu thereof "(IV)".

Page 84, line 8, strike out "(IV)" and insert in lieu thereof "(V)".

Page 84, line 10, strike out "(IV)" and insert in lieu thereof "(V)".

Page 84, line 18, strike out "(V)" and insert in lieu thereof "(VI)".

Page 85, line 1, strike out "(IV)" and insert in lieu thereof "(V)".

Page 94, line 5, insert "(1)" after "amended", and insert before the period in line 8 the following: ", and (2) by inserting after the first sentence the following: 'The HSP of the agency shall include goals for the delivery of mental health services in its health service area which goals shall be developed under a procedure under which persons (acting as an advisory group or subcommittee appointed by the agency or, if the agency requests and is authorized by order of the Secretary to use an existing group, acting as part of such a group) knowledgeable about such services (including services for substance abuse) will be consulted with respect to such goals.'.".

Page 94, line 11, strike out "and (B)" and all that follows through line 13 and insert in lieu thereof the following: "and (B) determine the statewide health needs of the State after providing reasonable opportunity for the submission of written recommendations respecting such needs by the State health authority, the Senate mental health authority, and other agencies of the State government, designated by the Governor for the purpose of making such recommendations, and after consulting with the Statewide Health Coordinating Council".".

Page 94, line 14, insert "(1)" after "amended" and insert before the period in line 16 the following: ", and (2) by inserting after the first sentence the following: 'In carrying out its functions under this paragraph, the State Agency shall refer the HSP's to the State health authority, the State mental health authority, and other agencies of the State government (designated by the Governor to make the review prescribed by this sentence) to review the goals and related resource requirements of the HSP's and to make written recommendations to the State Agency respecting such goals and requirements.'.".

Page 94, insert after line 16 the following:

(C) Subsection (a) of section 1523 is amended by adding after and below the last paragraph the following: "If in determining the statewide health needs under paragraph (1)(B) or in preparing or revising a preliminary State health plan under paragraph (2) the State Agency does not take an action proposed in a recommendation submitted under the applicable paragraph, the State Agency shall when publishing such needs or health plan make available to the public a written statement of its reasons for not taking such action."

Page 97, line 24, strike out the close quotation marks and the period following and insert after that line the following:

"(D) In carrying out its functions with respect to the goals and resource requirements for mental health services of the State health plan, the SHCC may establish a procedure under which persons (acting as or as part of an advisory group or subcommittee appointed by the SHCC) knowledgeable about mental health services (including services for substance abuse) will have the opportunity to make recommendations to the SHCC respecting such services.

"(E) The State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor, shall carry out those parts of the State health plan which relate to the government of the State.".

(i)(1) Section 303(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (16) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

"(2) Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended by adding after and below paragraph (13) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

Page 112, strike out lines 6 through 8 and insert in lieu thereof the following:

"(3) The first sentence of section 1513 (e)(1)(B) is amended by striking out 'under title IV, VII, or VIII of this Act' and all that follows in such sentence and inserting in lieu thereof the following: 'for research or training unless the grants or contracts are to be made, entered into, or used for the development, expansion, or support of health resources which, in the case of grants or contracts for training, would make a significant change in the health services available in the health service area or which, in the case of grants or contracts for research, would change the delivery of health services, or the distribution or extent of health resources, available to persons in the health service area other than those who are participants in such research.' ".

Page 121, line 11, strike out "107" and insert in lieu thereof "106".

Page 122, line 8, strike out "and"; line 13, strike out the period and insert in lieu thereof ", and", and after line 13 insert the following:

"(3) by adding at the end the following: The authority of the Secretary to enter into contracts under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.' ".

Page 123, line 20, strike out "such" and insert in lieu thereof "health systems".

Page 127, line 4, insert "private" after "nonprofit".●

TOXIC WASTE DISPOSAL IS A NATIONAL PROBLEM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. KEMP. Mr. Speaker, over the past week I have brought to the attention of my colleagues newspaper articles regarding threats to the environment and public health from the improper, often illegal, disposal of toxic substances, usually chemical byproducts of industry.

The majority of these articles have been from a first-rate series by Michael Desmond in the Buffalo Courier-Express. Mr. Desmond has traveled nearly 12,000 miles throughout the country, interviewing Government officials and spokesmen for industry, inspecting proper and improper disposal sites, meeting with citizens affected by improper disposal. But he has done more than report on what is wrong, the nature of the threat: He has also offered insight and suggestions on what ought to be done to correct the problem, in terms both of adequate enforcement of existing laws and ordinances and of new legislative initiatives.

One of the points which I made earlier is the subject of two new articles which I wish to bring to the attention of the House this afternoon. It is the national, the nationwide, scope of the problem. It affects all regions of the country.

In these two additional articles, the extent of the problem in New England and in the Western States:

BURY NOW, PAY LATER: TOXICS RATTLE NEW ENGLAND, TOO

(By Michael Desmond)

The New England states solve the hazardous waste problem by shipping their dangerous materials to other parts of the country.

The Northeast corner of the nation has no good waste disposal site. But, as would be expected in a heavily industrialized area, there are industrial and hazardous wastes.

BAY STATE MESS

Massachusetts is the possessor of one of the great chemical messes of our time: The

Silresim Chemical Corp., a Lowell firm went broke, leaving behind 15,000 drums—55 gallons each—of various chemicals and hundreds of thousands of gallons of all kinds of liquids in tanks.

The citizens of Methuen and Lawrence, Mass. get their drinking water from an intake downstream from where chemicals from Silresim are leaching into the Merrimack River.

In Rhode Island, the residents are starting to worry about chemicals leaching into the Pawtuxet River from a land fill.

In Connecticut, John Housman, principal Environmental Protection, admits there are problems. Asked if the state's wastes are being properly disposed of, he could only say, "Right now, I have no way of knowing."

VILE ODOR

In Maine, the little town of Gray found out one day that the vile odor and strange color which turned up in their drinking water in 1975 came from chemicals dumped at a site outside of town. Eventually, the site was closed down.

Gray Town Council Chairman Michael Gibbs put his finger on the issue:

"We discovered our problem pretty much by accident. I shudder to think what some other towns might be drinking in their water."

It's serious point:

DATA LISTED

The New England Regional Council recently attempted just to get a handle on how much waste there was in the six states. It came up with figures of 18.4 million gallons of reclaimable wastes, that is waste oil and solvents; 5.6 million gallons of treatable wastes; 5.9 million gallons of waste that has to be incinerated; and 17.9 million gallons of waste which has to be landfilled.

How accurate the figures are is anybody's guess. Housman would only term them "rough estimates."

There are unusual industries in the area. Providence has a large jewelry industry with highly acidic waste. Much of that goes into city sewers, according to Frank Stevenson, a senior sanitary engineer with the Division of Land Resources of the Department of Environmental Management.

LOSING TRACK

"We are also losing track of the sewage discharge," he noted. The city is getting a system to pre-treat jewelry waste before it goes into the regular system.

Vermont and New Hampshire are believed to produce minimal amounts of hazardous wastes.

Connecticut has a similar water case in the Town of Plainfield where chemicals were dumped into a regular landfill. The state has already spent $600,000 there, including an $80,000 study of underground-water. There are a number of drinking water wells nearby and William Hegner, a principal engineer with the Oil and Chemical Section of the Water Compliance Bureau, agrees the chemicals could turn up in the water.

"There is a potential for that," he admitted.

BRIDGEPORT PROBLEM

The state also had a cleanup problem in Bridgeport, where chemicals were dumped into a gravel area. The contaminated gravel had to be dug up and hauled away. Much of it went to the SCA Chemical Waste Services Inc., formerly Chem-Trol, in Niagara County, N.Y.

But, the biggest chemical waste problem in New England is Silresim. The State Legislature has been asked to put up $1.5-million for a cleanup based on a report from Fred C. Hart Associates, in an environmental research firm in New York City. The Hart report said:

"Results of studies conducted for this contract indicated significant on-site contamination of soils and ground water and the potential for contamination of surface water bodies after the spring thaw. High concentrations of toluene and trichloroethylene were detected in soil and ground water sampled at the facility. High concentrations of total organic carbon were also detected in on-site wells and local sewers."

CAUSES DEPRESSION

Toluene causes depression of the central nervous system, addiction, muscular fatigue and can kill in high concentrations.

There are two forms of trichloroethylene. High exposure to either can kill. Either may also cause kidney or liver damage.

AIR TANKS

The situation is so bad that the federal Environmental Protection Agency (EPA) has ordered any of its employees visiting the scene to wear air tanks, rather than filtering masks.

The site has been a problem almost since it opened in 1973. It began as more of a storage site than anything else. But, gradually its owner, Dr. John Miserlis, began to try to turn it into a chemical waste re-processing plant.

In July 1975, the state Division of Water Pollution Control (DWPC) threatened to revoke its license unless changes were made.

When the 1976 license limited what could be handled on site, the corporation took the state to court and the judge removed the restrictions. Some new ones were set in the court order but were apparently never adhered to.

BY BANK

In October 1976, the site was taken over by the bank which held the mortgage. The bank studied the situation and reopened the site. Last year, the firm went into bankruptcy, even though the site itself was still in operation.

A year ago, Lowell city workers were overcome by toluene fumes in the sewer. Apparently at that point the city and citizens became aware of how bad the situation had become.

The court order had required the removal of 500 barrels a month to cut down the accumulation. The Hart report indicates the materials in the deteriorating drums were simply dumped into some of the large tanks on the site.

Now the state and the federal government are asking companies to come in and make bids on the cleanup. The Hart report indicates part of the cleanup will include sealing the underground water and putting some sort of cap on the surface to control runoff and air pollution.

"We generally know what's there," commented Hans Bonne of the state DWPC.

At one point, Dr. Miserlis used an aerial photo of the site to take a variety of government agencies on a tour of chemistry. For example, he could tell them area 27 contained chlorinated benzene from Solvent Chemical Co. Inc. of Niagara Falls, N.Y. Or, he could tell them he had no idea what was in area 23. Area 14 had six storage tanks with a combined capacity of 60,000 gallons containing hexane, toulene, methylene chloride, water acetone and what was described by him as "miscellaneous hydrocarbons."

STORAGE TANK

There is even one 100,000 gallon storage tank filled to the top. In warm weather, the Hart report said, "Due to a decrease in density upon warming, the materials stored in the 100,000-gallon storage tank will likely overflow as soon as warm weather arrives since the tank is full to the top."

The material inside is in three parts. There is a one-foot residue layer on the bottom. Above that is 50,000 gallons of water with a variety of dissolved hydrocarbons. On top is 50,000 gallons of such things as toulene, cancer causing benzene and mineral spirits.

Right now, it's all still there.

Dr. Charles A. Johnson is technical director of the National Solid Waste Management Association, a trade group in Washington, D.C. He called Silresin a "classic example" of commercial plans to recycle chemical and hazardous wastes.

"He couldn't make it pay," was the verdict.

21 MONTHS LATE

Despite problems encountered at Silresin and elsewhere, the EPA has just announced it would be at least 21 months late issuing regulations that could control improper waste disposal. EPA is headed by Douglas M. Costle, an appointee of President Jimmy Carter.

The regulations were required to be issued last April, 18 months after the 1976 Resources Conservation and Recovery Act (RCRA) became law. But those 18 months proved not to be sufficient for EPA to come up with the regulations necessary to institute the RCRA. Last Friday, EPA said it would be unable to come up with the rules until January 1980.

That means the agency will have taken 39 months to complete work on the regulations. Despite the delay, EPA has only 161 of its nearly 11,000 employees nationwide working in the area of hazardous wastes.

WEST IS LAUNCHING SITES FOR MISSILES NOW USED FOR HAZARDOUS WASTES

(By Michael Desmond)

Two $55 million relics of the missile age have become one of the more ingenious methods of disposing of the hazardous wastes of the industrial age.

Wes-Con Inc. of Twin Falls, Idaho, owns two complexes each built to launch three Titan missiles. The siloes are 160 feet deep and 50 feet across. The concrete is 16 feet thick at the bottom and 11 feet thick on the sides. The sites were built about 20 years ago and were closed in 1964.

The firm has already filled two of the three silos at a near-desert site near Grand View, Idaho, and is well on the way to filling the third. A second site about 40 miles away in Bruneau, is being prepared to take waste in its three siloes.

Perhaps 300 miles away, in an equally dry area of eastern Oregon, Chem-Nuclear Systems Inc. of Bellevue, Wash., operates a disposal site based on the ability of dry desert air to dry out wet waste. Chemical wastes are simply put out in 400,000 gallon ponds and left to dry in the sun.

CALIFORNIA A LEADER

California has some hazardous waste treatment sites which use the same approach. That state may also have the nation's best system of rules and regulations governing disposal of hazardous chemicals. California also has more good disposal sites than any other state, according to James Stahler, environmental engineer in the San Francisco regional office of the Federal Environmental Protection Agency covering California, Arizona, Hawaii and Nevada.

"It's one of the most aggressive, progressive states in the union," Stahler said of the state's hazardous waste program.

He should know. Stahler was loaned by EPA to California in 1973 to write the state regulations governing solid and hazardous wastes. That was three years before Congress passed the Resource Conservation and Recovery Act of 1976 (RCRA) which is supposed to handle the problem on a national basis.

"Before RCRA was a dream," he commented, California was working on its law.

But, EPA is years away from putting the regulations to implement RCRA into effect.

MUCH WASTE IN STATE

California has to watch the chemical disposal problem: The state has an estimated 10 percent of the national total of 92 billion pounds of hazardous waste.

The Golden State now has nine hazardous waste sites licensed to handle hazardous wastes. When the law took effect on July 1, 1973, there were 18. The steady expansion of the state—"urban encroachment"—has cut into the total.

Recently a site near San Diego was closed because the operator decided residential areas were closing in on the location. A closed site like this in a residential area opens up the possibility of a situation similar to that of the Love Canal in Niagara Falls. There, a hazardous waste dump went bad forcing the evacuation of the neighborhood.

There is plenty of need for more sites in California.

"I cannot think of anything that this state doesn't produce or use or throw away," he commented on the state's industries.

Until recently, Stahler noted, "perhaps 50 percent" of hazardous waste disposal or treatment "left something to be desired."

QUARRY SITE DANGEROUS

There are bad past sites. Perhaps the worst is in Riverside, Calif., just outside Los Angeles. A quarry company operated a dump site there for several years, mostly taking heavy metal sludge and acids. The wastes were dumped in a series of pits running down a hillside on the edge of residential Pyrite Canyon.

"When the stuff was dried up, they would dig out the middle of the pit and dump it on the side," explained Stephen Herrera, staff engineer with the Santa Ana Regional Water Quality Board.

The site has been closed for five years and the previous owners "just walked away," he said.

But, last year, heavy rains washed into the pits, threatening to wash the entire complex and everything it contained down the hill and into a residential area. So, perhaps a million gallons of water and waste were pumped out into a nearby stream. The stream then overflowed onto adjacent land.

SCHOOL AFFECTED

The pollutants also somehow seeped into the well of an elementary school 7,000 feet away, according to Mrs. Ruth Kirkby, secretary of a citizens group agitating for a cleanup of the entire site.

It isn't completely clear what went into the site. But, it is known to have received a variety of acids and a lot of metal sludges, especially from metal plating operations.

Mrs. Kirkby has been so involved in trying to get the site cleaned up she has even talked to Dr. Roger Herdman, New York State director of public health. She said she talked to Dr. Herdman because of the Love Canal situation in Niagara Falls.

She explained that she was worried that the air and water pollution in the area of the Pyrite Canyon might create the same sort of environmental disaster that occurred in Niagara Falls, where dangerous chemicals seeping from a closed dump have forced evacuation of a whole neighborhood.

$375,000 FOR CLEANUP

California has appropriated $375,000 to clean up the Pyrite Canyon scene. Stahler has some doubts that the money is anywhere near enough.

"Like Love Canal, they were first talking $4 million, then $8 million," he said. "Now they're talking $10 million."

Said Mrs. Kirkby:

"We just wish we knew what to do about this. It's a terrible thing."

Both the Chem-Nuclear Oregon site and the two Wes-Con Idaho sites are attempts to get around the location problem. That is also true of a site in Beatty, Nev. All four sites are located in extremely isolated, nearly desert areas.

The sites are located in far, out of the way places, with essentially no neighbors. In addition, the soil on the site will not carry waste materials far away. Ground water is so far below the site, it is not likely to flush waste away to threaten neighbors.

For example, at the Chem-Nuclear Oregon site, if a pond were filled with 53 inches of water on Jan. 1 of an average year, it would be dry on Dec. 31 of the same year because of evaporation. There is negative precipitation there.

TIGHT STATE RULES

The site operates under rigid controls by the State of Oregon. The state must approve every waste material which goes into the site.

"Our policy is that if a chemical can be recycled, we require it," Eduardo G. Chiong, an engineer in the Hazardous Waste Section of the Oregon Department of Environmental Quality, told the Courier-Express.

Ironically, the man who set up the Oregon system as a state chemical engineer is now on the other side of the fence. Patrick H. Wicks is now manager of chemical disposal and treatment for Chem-Nuclear.

Oregon agents make frequent visits to the site. The company relies on the producer of the waste for analysis of the contents.

"We don't do any testing. That's done before it's shipped. It would be prohibitive. It's up to the integrity of the manufacturer," said Frank Dement, site manager.

"BATHTUB RINGS"

Chem-Nuclear has five work areas. Two are essentially waste lakes. These are 400,000 gallon areas. One contains acids and the other contains basic wastes. The basic waste lake has rings of color around it from the different wastes, like rings on a bathtub.

Another pit started out as 500 feet long and 30 feet deep. It is gradually being filled from one end with a variety of solid wastes. In its bottom is a vast, sealed concrete box. It contains road and roadside materials which were contaminated when a tank truck load of pure cyanide was wrecked and spilled onto the highway.

A wrecked truck is also buried at Chem-Nuclear. It was contaminated in a highway wreck and simply buried because it wasn't worth cleaning and fixing.

The Oregon area has two large pits for liquid waste, other than the acid and basic tanks. Here also, the dry air is used to simply dry out the waste. As with much chemical waste, there is a lot of water in it.

DIRT CAP APPLIED

The firm has piled up to 11 feet of sludge in the bottom of two other pits used for other liquids in 30 months of operation. When 27 feet thick, the dumping will be stopped and the material allowed to dry. Then, a three foot thick dirt cap will be put on it.

At the Grand View Idaho site, Wes-Con has a little different approach. The site in use now is located in the middle of a vast natural deposit of the special "bentonite" clay used to seal hazardous wastes. So, a machine just digs the clay out and piles it up to be used as back fill.

The drums of waste are put into the hole with a special bucket and covered over with clay. Originally, drums of chemical wastes were just dropped into the hole. But, there were fires and explosions and government objections. So, the procedure was changed.

Most of the material going into the silos comes from agriculture, according to Gene Reinbold, the company president. This covers pesticides, wastes from making pesticides and related materials and pesticide containers. A small underground room is used for disposal of aerosol containers, many of them full of varying types of chemicals.

VALUABLE COPPER STORED

There are about 3,000 cardboard drums of copper sludge stored around the Idaho site. Reinbold said the material is about 30 percent copper.

"We're now trying to get an engineer to get the copper out," he said. "There's a million dollars worth of copper out there."

The Wes-Con site in Bruneau is now different. In about six months, Reinbold said, dumping will start in the three siloes there. Now, in a site tour conducted for The Courier-Express, it can be seen where the $55 million went, when the Air Force built this missile site.

Both the Grand View and Bruneau sites are located not far from Mountain Home (Idaho) Air Force Base, which is still operating.

One vast, vaulted underground room held a complete power plant to operate the entire complex without outside power. Another three story area held the living quarters and the control center. Seemingly endless tunnels link the sections.

DEEP WATER TABLE

In both Grand View and Bruneau, the water table is 2,000 feet down below the site. (At Chem-Nuclear in Oregon, the water is only 800 feet down, but there are two layers of hard rock in between.)

Wes-Con is licensed to take solid materials contaminated with PCB, but it can't take liquid PCB.

Reinbold said he plans to use underground areas in addition areas beside the six silos for special storage.

"We haven't decided yet. It depends on what we get. We want to use it for long term heated storage of some materials which can be recycled four or five years down the line," Reinbold said.

Materials for the site come from all over, he said. Some come from as far east as New Jersey, he told The Courier-Express.

Various wastes, also especially PCB, come in from Canada.

Roger Fuentes, a chemical engineer with the EPA regional office in Seattle, was unable to say how much chemical waste comes from Canada, however, he said:

"We don't have the information as far as movement of hazardous waste. We don't have the facilities to keep track of that without RCRA."

LAW NOT IMPLEMENTED

RCRA is a federal law which provides for "cradle to grave" handling of hazardous waste. But, EPA has not yet been able to provide the regulations to implement the law in the almost two years since it became law.

As a result, the law is essentially a dead letter.

There doesn't seem to be much urgency about the hazardous chemical waste situation in some western states.

Washington, for example, has no hazardous waste disposal site yet. But, it does have an elaborate set of rules which took effect Aug. 1 to define what is an "extremely hazardous" waste. The state estimates there are somewhere between 20,000 and 60,000 tons generated each year of extremely hazardous waste.

"They are currently very soft numbers," according to Tom Cook, head of the hazardous waste section of the Department of Ecology in Olympia, Wash., meaning the estimates are very rough.

Cook said firms in his state can treat the waste, store it on site or send it out of state. That sent out of state usually goes to Wes-Con in Idaho or Chem-Nuclear in Oregon.

SMALL CHEMICAL INDUSTRY

The State of Idaho keeps an eye on Wes-Con. The firm takes care of one of the state's problems, the disposal of empty pesticide drums.

Jerome Jankowski, senior environmental quality specialist in the Solid Waste Section in the Idaho Department of Health and Welfare, noted, "We don't have much in the way of a chemical industry."

Perhaps the longest shipments are from

Hawaii. EPA's Stahler said there are no chemical waste regulations in Hawaii. All Hawaiian waste ostensibly is shipped to the U.S. mainland. However, there is some evidence of improper dumping of chemical wastes in the Aloha state.

Arizona is now completing its hazardous waste regulations, with a target date of Nov. 1 for effectiveness. Stahler said they are based on the California rules. The state will lease a treatment and dump site to a private operator for hazardous waste after the regulations are completed.

An isolated site is being considered.

Stahler put his finger on one of the key issues when he told The Courier-Express:

"Nobody wants a garbage dump in their backyard. But, God knows the stuff has to go somewhere."●

FIRE ANTS—A DANGER TO THE PUBLIC

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. GINN. Mr. Speaker, the fight against the imported fire ant is slowly being lost due to Government inaction, indecision, and indifference. I have appealed many times to the Department of Agriculture, the Environmental Protection Agency, and others to clear the way for an effective treatment program to eradicate these ants. Unfortunately, the response to date has been totally inadequate.

Many individuals in sections of our country which have yet to be infested by fire ants do not understand the danger they present to public health. This threat to the public was tragically illustrated recently when a young man in Vidalia, Ga., was killed by the bite of a fire ant. Late last year, an elderly man in Holden Beach, Fla., was also killed by the venom of the fire ant. Without objection, I ask that press accounts of these deaths be reprinted in the RECORD at this point, along with a report by the Department of Agriculture on the death of the Vidalia man.

[From the Atlanta Constitution, Sept. 26, 1978]

GEORGIAN'S DEATH BLAMED ON FIRE ANT

(By Jim Lee)

MACON.—A U.S. Department of Agriculture official confirmed Monday that Georgia apparently has recorded its first death directly attributed to the sting of a fire ant.

R. H. Prestage, director of the Plant Protection and Quarantine Division of USDA in Georgia, said the death occurred Sept. 13 in Vidalia after several of the large ants invaded the bedroom of Ron Seaburn, 21, and one stung him on the foot.

Prestage said no formal announcement of the death had been made by his office because final reports from a USDA representative, medical authorities and the local police were needed. He said his office received the reports last week.

Prestage said several ants taken from the bedroom were subsequently sent to a USDA laboratory in Gulfport, Miss., where they were identified as the imported variety.

Prestage said the presence of the ants in Seaburn's bedroom was verified by Vidalia police officer William Varnadoe and Antone Rasmussen, a friend of the victim who had arrived from Illinois the previous night.

Reports by a local physician and a medical examiner stated that Seaburn died of cardiac arrest brought on by "an allergic reaction" to the venom of the ant.

The medical reports stated that Seaburn had a history of acute sensitivity to insect bites.

Rasmussen submitted a written statement in which he said Seaburn was observed spraying the ants with some type of insect spray. He said Seaburn called to him a few minutes later, saying ne had been stung and directing Rasmussen to "get me to the hospital right away."

U.S. DEPARTMENT OF AGRICULTURE,
ANIMAL AND PLANT HEALTH INSPECTION SERVICE,
September 19, 1978.

To: Mr. R. H. Prestage, District Director.
From: T. H. Murphy, PPQ Officer.
Subject: Report of Death by Fire Ant Sting.

On September 13, 1978, this writer was called by Georgia Health Official, Mr. Don Curry, and the Vidalia, Georgia Police Chief, Mr. Joel Joyner, concerning the sudden death of Mr. Ron Seaburn.

Mr. Seaburn resided at 621 E. 7th St., Vidalia, Georgia.

Mr. Seaburn, White, Male, 25 years of age, was reportedly bitten on the foot by an ant while he was getting dressed in the bedroom of his house.

The Investigating Officer, Policeman William Varnadoe, collected several ants from the bedroom. The ants were tentatively identified as the Imported Fire Ant. Specimens have been sent to the Gulfport Laboratory for determination. Entomologist Homer Collins of the Gulfport laboratory has identified the ants as: Solenopsis saevissima invicta. (Imported Fire Ant).

TURNER H. MURPHY, *PPQ Officer.*

FIRE ANT BITES BLAMED IN DEATH

HOLDEN BEACH.—The death of an elderly Holden Beach man whose body was found in a woods on Dec. 1 with a lit flashlight in his hand has been attributed to cardiac failure and an acute asthma attack brought on by fire ant bites.

Tommy Gilbert, Brunswick County medical examiner, said this week that an autopsy had determined that 20 to 40 fire ant bites contributed to the cardiac arrythmia and asthma that killed O'Neil Steele, 67, of Route 1, Holden Beach.

"He probably would not have gone into cardiac arrythmia and the asthmatic attack if he had not been bitten by the ants," Gilbert said.

Steele, who had a history of asthma, was walking though a lightly wooded area from a neighbor's house to his own home on the night of Dec. 1 when he died, Gilbert said. The medical examiner said Steel's flashlight was still lit when the body was found.

Gilbert said Steele's was the first recorded death from fire ant bites in Brunswick County.

Fire ants get their name from their painful bite, which merely stings most people but can be dangerous to those allergic to bee stings or other insect bites. Fire ants build large mounds that can hamper harvesting, and the ants attack ferociously when disturbed.

Efforts to control fire ants have been controversial because the most popular chemical used to combat them, Mirex, breaks down into Kepone, a poison that attacks the nerves and can cause cancer, when it enters the environment.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 28, 1978, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 29

9:00 a.m.
Human Resources
Labor Subcommittee
To mark up proposed National Labor Relations Procedures and Remedies Act.
4232 Dirksen Building

9:30 a.m.
Conferees
On H.R. 10173, to improve pension programs for veterans and their survivors.
S–146, Capitol

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on problems of small business defense contractors.
5302 Dirksen Building

Energy and Natural Resources
To resume consideration of proposed legislation designating certain Alaska lands as national parkland.
3110 Dirksen Building

Joint Economic
To hold hearings on the inadequacies of U.S. export policy.
S–207, Capitol

1:30 p.m.
Conferees
On H.R. 12467, to extend programs established under the Rehabilitation Act, and to establish a comprehensive services program for the severely handicapped.
S–146, Capitol

SEPTEMBER 30

9:00 a.m.
Human Resources
To mark up proposed National Labor Relations Procedures and Remedies Act.
4232 Dirksen Building

OCTOBER 2

10:00 a.m.
Finance
International Trade Subcommittee
To hold hearings on H.R. 11711, to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act.
2221 Dirksen Building

OCTOBER 3

8:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on the Government's handling of certain export licenses transferring U.S. oil and gas well drilling technology to the Soviet Union.
3302 Dirksen Building

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2866, to provide for the establishment of the New River Gorge National River, West Virginia.
3110 Dirksen Building
Human Resources
To hold hearings on the nominations of Armando M. Rodriquez, of California, and J. Clay Smith, Jr., of the District of Columbia, to be members of the Equal Employment Opportunity Commission.
4232 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To hold oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 4

9:00 a.m.
Government Affairs
Civil Service and General Service Subcommittee
To hold hearings on S. 1390, to authorize certain National Guard employment to be credited for civil service retirement, and S. 1821, to provide paid leave for Federal employees participating in athletic activities as an official representative of the U.S.
3302 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 5

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 3429, to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, Montana.
3110 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 9

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 10

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building
9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 11

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To continue hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

OCTOBER 13

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume hearings on national health insurance programs.
4232 Dirksen Building

CANCELLATIONS

OCTOBER 2

10:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To resume hearings on proposed Interior Department regulations to implement the Surface Mining and Reclamation Act (P.L. 95343).
3110 Dirksen Building

SENATE—*Thursday, September 28, 1978*

(Legislative day of Tuesday, September 26, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the 27th Psalm:

Wait on the Lord: be of good courage, and He shall strengthen thine heart: wait, I say, on the Lord.—Psalms 27: 14.

O Thou who art the Way, the Truth, and the Life, we beseech Thee to be with us in the toil of this day. In weakness give us strength, in stress give us quiet confidence, in moments of uncertainty may we hear Thee say, "This is the way."

O Lord, preserve us from impatience, from being too simplistic with complicated subjects, or too naive with profound considerations or too hasty with what ought to have time for mature judgment. Make us good workmen who seek ever to know and to do Thy will for this Nation and the advancement of Thy kingdom.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 28, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee is recognized.

SENATOR JESSE HELMS RETURNS TO THE SENATE

Mr. BAKER. Mr. President, I have no need for my time and no requests for it, but I note that our colleague, the distinguished Senator from North Carolina has returned from his medical treatment and is present in the Chamber this morning. We are happy to have him back and we are pleased to see him look so well.

Mr. HELMS. Will my friend yield?

Mr. BAKER. I am glad to yield to the Senator.

The ACTING PRESIDENT pro tempore. The Chair will comment that we are very pleased to have the Senator return.

Mr. HELMS. I thank the Chair and I thank the distinguished minority leader. I can assure you that it is good to be back with my friends in the Senate.

I have heard many times about the danger of being stabbed in the back in political campaigns. I never thought it would happen to me, but it did—after a fashion. It was done by a dear friend of mine, a distinguished surgeon, Dr. Leroy Allen of Raleigh, whose skill has brought permanent relief from rather severe discomfort.

I am glad to be back. I feel good, and I deeply appreciate the many expressions of concern that came to me from so many Senators, staff members, the Senate pages, the security officers, and countless others.

I am delighted to see my good friend, the majority leader. You have been active while I have been gone.

Mr. ROBERT C. BYRD. I have been active on the telephone. I enjoyed my telephonic conversations with you.

I, too, am delighted to see my friend from my native State back in the Senate. I hope he has fully recuperated and, judging from his appearance, he has.

Mr. HELMS. I thank my good friend, who I often say with pride was born in North Carolina, but is now from West Virginia. I assure him it is good to be back and I meant everything I said in my several telephone conversations with the distinguished majority leader when he so graciously called me at the hospital. I am proud to have him as my friend, and to be his.

I thank the Senators very much and I thank the Chair.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the House bill, H.R. 50, be read the first and second time.

Mr. BAKER. Mr. President, reserving the right to object, would the Chair, or would the majority leader, identify for me what item that is?

Mr. ROBERT C. BYRD. Yes. That is the Humphrey-Hawkins bill.

The ACTING PRESIDENT pro tempore. That is the House version.

Mr. ROBERT C. BYRD. It is the House version of the Senate bill which, I believe, is also numbered 50.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it occurs to me that, in respect to the matter that the majority leader suggested, from the standpoint of orderly proceeding and predictability, the minority would be happier if the majority leader would consider making a request simply to take this matter to the calendar as if after first and second reading and after the procedural steps that are necessary then to take it to the calendar.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I withdraw my request and ask unanimous consent that H.R. 50 be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be considered to have been read twice and will be placed on the calendar.

Mr. PROXMIRE. Mr. President, I congratulate the distinguished majority leader on getting on the calendar the Humphrey-Hawkins bill. This is a bill we should pass. I have my own views on how it should be modified, but I think it is an excellent action by the majority leader, and I congratulate him.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes remaining.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished majority leader.

CARTER ON TARGET ON SPENDING

Mr. PROXMIRE. Mr. President, last night President Carter told a Democratic fundraising dinner that the future of the Democratic party depends on the administration's and Congress ability to eliminate wasteful Government spending in the fight against inflation.

He said this:

Now is the time to put all of our efforts into solving the most complicated and intractable and corrosive problem of all—that is the problem of inflation, he said.

I would like to caution all you Democrats—those in my administration and in the Congress—that we here in Washington must set an example. We cannot pass legislation that is identifiably wasteful. If we do, it will sap away the strength we have to inspire the American people to solve this very difficult problem on their own.

If we fail here it will be almost impossible to succeed elsewhere. This is the most pressing of the hundreds of large and small restraints that are necessary to win this battle. This is the future of the Democratic Party—the future in which we maintain our vision.

Mr. President, in my judgment the President is exactly on target. His pleas to cut down on spending were—according to newspaper accounts—greeted with silence. But he is absolutely 100 percent right, and Democrats had better recognize it or our majorities in this Congress will melt away like snow on a red-hot oven. What is more important, if we do not control spending, a rampaging inflation will push us into a deep recession.

Consider a few ironies, Mr. President.

Yesterday President Carter called on the Federal Reserve to ease up on their monetary restraint so that the painfully high interest rates that are plaguing our country do not lead to recession. Carter is right, but only—and I emphasize only—if we also restrain spending at the same time. The Federal Reserve has no alternative but to put the squeeze on interest rates, if Congress is going to continue reckless deficit spending. Any other course for the Federal Reserve would guarantee inflation. If Members of Congress want to make it possible for the Fed to ease monetary restraint and the pressure on interest rates, we must reduce the huge increases we have been providing in spending.

For example, just yesterday, this body approved a conference report for Public Works which, as I pointed out, is a slambang $1.8 billion over the budget recommended by President Carter if a fair comparison is made. By skillful use of gimmicks, the committee report on the bill claimed it was more than $800 million under the budget. But remove the bookkeeping legerdemain, the slight of hand phoney comparisons, and the conference report stood revealed as a budget buster that would provide for 2,300 more bureaucrats in the Corps of Engineers.

Just yesterday, the Senate passed an HEW appropriation bill that is more than $4 billion over last year's swollen appropriation.

Two days ago, this body affirmed a $541 million giveaway to two shipbuilders to pay off on an overrun. That half billion did not buy a sub, a rowboat, or even a mop to swab the deck. It was entirely above the claims determined by navy professionals as owing to the shipbuilders.

In each of these cases, Mr. President—Public Works, HEW, shipbuilding bailout—the Senate voted overwhelmingly for the expenditure. Democrats and Republicans alike voted by massive majorities for these goodies.

Mr. President, it is time that all of us took a much more serious and critical look at what we are doing. Do we really believe in fighting inflation by keeping down Government spending, or do we only believe it if it is easy, convenient, and is not opposed by any significant group of constituents?

The record of the administration on economy is far less than it ought to be, but the record of Congress is much worse.

The words of President Carter last night in pleading for spending restraint should be heard by all Senators, so I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT AT DEMOCRATIC NATIONAL COMMITTEE FUNDRAISER

I just heard the introduction of me by the Vice President and of all the witty, clever, intelligent introductions, his is the most recent. (Laughter, applause)

This is the most successful Presidential Democratic Fundraiser in the history of the United States. (Applause) And a great deal of credit is certainly due to our great Chairman, John White, to Evan Dobelle—(applause)—to all those who sold tickets, and to

the famous people who are here who helped us draw a crowd.

Bob Strauss, our former Chairman, is here. As you know, a lot has been written about Bob. (Applause) Just this morning I was reading about him. I read that he is the best politician in the Carter Administration—(laughter)— that he is the number one troubleshooter in the United States of America; that he is the least appreciated public official that has ever been known; that he has a personal savoir-faire that inspires the American people to reach for greatness and to try to emulate him; that he is one of the best dressed men in the Nation; and a lot more. If you would like to read the entire memo from Bob, I will share it with you later. (Laughter, applause)

One of the other great people that always attracts a crowd was introduced a little earlier—my mother, Lillian. (Applause) She always has the ability to put her finger right on the most incisive element in a certain episode, no matter how small or great. As soon as I returned from Camp David with President Sadat and Prime Minister Begin, I had the brief television program with them, went upstairs, the telephone was ringing, Mother was on the phone. She was campaigning for someone in Arkansas.

She very quickly asked me the most important question. She said, "Jimmy, is Anwar Sadat already married?" (Laughter, applause)

She is the only one in the family that knows how to handle the press. She stays in Plains—sometimes she stays in Plains. Not too long ago—this is a true story—she had a young woman who came to interview Mother about me from a very famous newspaper in Paris. And the young woman was cross-examining Mother, and she doesn't like women news reporters very much as it is. (Laughter) But the questions got more and more aggressive and abusive and finally she said, "I understand your son says he would never tell a lie." Mother said, "That's right."

She said, "Is your son absolutely honest?" Mother said, "I think he is reasonably honest, yes." She said, "He wouldn't tell any kind of lie?" Mother said, "Well, I think on occasion in his life he has told maybe a little white lie." The woman turned on her tape recorder very quickly. She said, "What do you mean by a little white lie?" Mother said, "Well, just a little white lie." And the woman said, "Well, define it for me, define it." Mother said, "I don't know how to define a little white lie." The woman said, "Well, at least you can give me an example." Mother sat there a while. She said, "Well, I guess I could. Do you remember a few minutes ago when you came in the front door and I said you were a very attractive young lady?" She said, "That was a little white lie." (Laughter, Applause)

I am proud of our Democratic Party officials. I am proud of Bob Strauss, the other people that serve with me. I am proud of my family, my mother, my wife, my sons and their wives. I am proud of the team we have created in the last two years to serve our nation.

Two years ago, I completed a long travel through this country, promising the people that we would try to create a government as compassionate and as competent as were the American people themselves. Our party has always been known as a party of compassion. But in the last two years, we have also proven that we have a party of competence.

Along with effective new programs, we have proved that the Democratic Party is the party of fiscal responsibility.

I would like to announce to you that I have just received the news reports from the wire services—AP, UPI, Reuters, Jerusalem Television, State Department and the OPS Center—that the Knesset voted for peace, 85; against the removal of the settlements, 19. So we have made a great step forward. (Applause)

That is indeed good news, and it is sure proof of the tremendous courage of Prime Minister Begin, the Israeli members of the Knesset who have now formed a possible partnership for the rest of our lives with their neighbors; the Egyptians, under the leadership of President Sadat. I am very proud of this decision by them.

We have a great country, and we have great friends and partners around the world.

Ours is a party that believes in a strong United States, strong not just in military weapons; we are the strongest on earth in military weapons—not just the strongest economically—not just the strongest in our political structure; we are the strongest politically and in our societal structure. But we are strongest as well in our commitment to basic principles that never change, principles that are challenged now and then under the most difficult circumstances by war, by corruption, by embarrassment, by failure on the part of some leaders. But the American people always stand staunch and never falter in our commitment to higher ideals and a greater nation in the future.

The Democratic Party represents those commitments, those ideas in the purest sense of all. Ours is the oldest political party on earth. It is also the youngest political party on earth, always eager for new ideas, always eager to meet change without fear, always eager to reach a hand out to someone not quite so fortunate as we—not down with a condescending air or as though we were doing someone else not quite so good as we a favor, but a party that believes in other people and the fact that they should have a right to take whatever God-given talents they might own and use those talents to the utmost.

We have corrected some of the defects in our party. In the past, at least in the South where I come from, we have always had the image of a party with a big heart. Our Members of Congress, even our most conservative Senators, have always voted for Social Security, Medicaid, Medicare, to give people a chance in life. But quite often we have had the wrong impression in the minds of the American people about our party's commitment to effective management, how to make government be efficient.

And after the last few years of embarrassment under Republican Administrations, I thought it was particularly important for us in this new Administration to run the government well, to take control of it and let the people know that someone was in command. And the partnership that we have between the Executive and Legislative Branches of Government now is proving that we have achieved that very difficult task successfully.

Republicans talk about tax cuts. Democrats cut taxes. Republicans talk about balanced budgets and then run up huge deficits which we inherited. Democrats draw up responsible budgets and we cut back Republican deficits. Any person who is lucky enough to be President and smart enough to be a Democrat—(Laughter)—knows that his success, my success, is based on a long party history of great national and international purpose—the desire to keep the United States sound and strong; the desire to assure peace and liberty throughout the world; the desire to help those who are poor and weak and timid and inarticulate; the desire for vigorous and sustained economic growth to give us confidence in the future; the desire to protect our great American natural beauty of pure air, of clean water; the desire to keep power, political power, where it belongs, in the hands of our people, in the hands of government closest to the people, no matter whether they might be young or old, consumers or producers, wage earners, retired people, farmers, city dwellers.

We not only reach out to people, but we bring them into the heart of things, into our hearts individually and personally and into the heart of our political organization to let their own lives be magnified and influenced. This is the essence of the Democratic Party, the party of Thomas Jefferson. That is why our party produces great leaders like my colleague, Fritz Mondale, the best Vice President I guess this country has ever had. (Applause)

Others have had perhaps equal potential. I don't know about that. But Fritz takes on the full duties of a President on occasion. He is an equal partner with me. There is nothing that I do that he doesn't share. Our great Speaker Tip O'Neill, who preceded Fritiz Mondale, Majority Leader Bob Byrd, who won a remarkable victory today in the Senate—and I thank him for it; (Applause) Jim Wright, Alan Cranston, all of our Democratic leaders, leaders in the House and Senate, chairmen and other members who have constructed already for the 95th Congress a superb record—we have a Congress that will not be forgotten.

The people won't forget that Congress helped to shore up crucial partnerships, crucial to us with our historic allies around the world who had begun to feel neglected. They won't forget the Congress that worked with me to strengthen NATO and to strengthen our defense around the world. They won't forget the Congress which has helped to restore the moral authority of our Nation. As I have said recently in some campaign speeches, when I was Governor of Georgia, when I was a candidate, I actually used to shrink up every time this year when the United Nations General Assembly convened, because I knew my Nation, which I love, would be the butt of every joke and the target of every attack for more than two-thirds of the nations in the world. And I am proud that in the last two years that has not been the case and we have now got new friends among the poor nations, the small nations, the new nations, and the nations whose people are black and brown and yellow.

We have made hundreds of new friends and I am proud of that.

These are some of the promises that I made to the American people during my two years of campaigning that are part of our Democratic platform, as you well know. Two years ago I promised the American people a responsible government, one that was lean and efficient and manageable. That is what the Congress has helped me give them.

Two years ago I promised the American people we would get control of the bureaucracy, restore incentives in the work ethic to our Civil Service system, let good employees be rewarded, let poor employees be inspired to do better, or transferred or programs discharged, let managers manage, let our Government be a source of pride and not despair, admiration and not condemnation. That is what we have done.

Two years ago I told the American people that Democrats believed that competition and market forces in a free enterprise system should determine prices, and we proved what we meant by making good progress on the airline deregulation bill, which I hope will pass, and by administrative decisions of the CAB that have lowered fares and boosted profits of the airlines of the United States. I am proud of that, too. (Applause)

Two years ago I said the Democrats believed in a free economic system with minimum intrusion by Government in the private affairs of American citizens, and we proved it by eliminating regulations, almost as fast as the other party used to write them, and we are beginning to rewrite the ones that are left in plain English so that ordinary Americans, even Democrats—(laughter)—can understand them.

And two years ago, I promised to maintain our national security and keep our Nation strong and we have done that. The defense

establishment has never been so strong, but we have done more than quarantee our basic security with military strength. We have cut wasteful military expenditures.

We put in a superb new management team under Harold Brown and the new Joint Chiefs of Staff to head our military establishment. We have brought our strategic thinking into the 21st Century. We are now working the last phases of a SALT agreement with the Soviet Union, which I hope to consummate very soon. And we have stopped the spread of nuclear weapons and the capability to have nuclear explosions around the world. The Congress did that. I am grateful to them.

But that is not all we have done. Two years ago I said that peace is more than just an absence of war. Peace is the unceasing effort to preserve human freedom and to preserve basic human rights. And we have made that effort. It is becoming increasingly successful. There is not a day that I have been President that we have not sought to narrow the gap between the values we hold most dear as a people and our actions abroad in dealing with other people.

Our goal is freedom and peace and justice for all. That is America's most cherished purpose, and we are strong in the pursuit of it.

I said two years ago that we would remove fraud, waste and corruption from the Government, and we are doing it, not overnight. It took a long time to create the mess that we inherited, and we cannot eliminate it in one year. But we will get rid of it, and you can depend on it. (Applause)

Two years ago I promised the American people that we would get control of our runaway energy problem. It has been the most difficult legislative task, I believe, that the Congress has ever undertaken in the history of our Nation. At long last we are getting the tools to do this job. I was excited by the work that Scoop Jackson has done in the Senate, and others who worked with him.

Two years ago I promised the American people that we would revitalize our educational system and focus the attention of it on the poor, and the deprived children who haven't had an adequate chance in life, whose parents perhaps are illiterate and haven't had the will or the motiavtion or the vision to inspire those little kids.

Even compared to the halcyon days of Lyndon Johnson, the Congress has voted the largest increases in funds for schools and education in history, and has focused actively on those who need it most.

Two years ago when I campaigned around this country, the common question asked me by almost every group that had elderly citizens in it is "How are we going to deal with a bankrupt Social Security system?" I promised them we would act responsibly and restore integrity to that system. We have kept that promise. It hasn't been easy, politically speaking, but we have done it.

Two years ago I said my Administration would have an urban policy for the first time to revitalize our cities, to inspire the mayors and others, private citizens, in a new partnership. And we have that policy now.

Two years ago I told the American people we had to bring our Federal budget under control. The last full year before my election in 1976, the budget deficit was $66 billion. We cut that deficit the first year to $51 billion. We will get it down, with the great help of the Congress, at least to $40 billion this year, maybe a little lower. And we are going to cut it significantly further next year. And we are going to keep right on cutting the budget deficit with good management and sound programs as fast as the strength of the economy permits.

We have kept that promise without yielding our commitment to let Americans have a better life.

One of the biggest problems we inherited, as you well know, was ten million American adults who could not find a full-time job; six or seven million who couldn't find a job at all. In just the short period of a year and a half, we have got a net increase of about six-and-a-half million full-time jobs in the United States.

The unemployment rate has dropped 25 percent in the short time, and we are going to keep it going down. (Applause)

And you ought to realize that we have cut the budget deficit, given jobs, better education, strengthened our defenses. At the same time, last year we had a multi-billion dollar tax cut and we have on schedule now another tax cut for the American people of about $20 billion.

That is the kind of fiscal responsibility that the American people deserve, to meet our people's needs while balancing the Nation's books.

Of course, Democrats have always believed in service, but carefully-budgeted, efficiently-delivered services.

We can cut crime; we can build roads; we can deliver jobs; we can feed our people without huge deficits if we eliminate the waste and the bloat in Government. This is responsible leadership. This is sound fiscal policy, and the American people know it. (Applause)

It is not calloused or hardhearted for a government to deliver food to a hungry person without waste, with efficiency. It is not callous nor hardhearted management to give our children a better education without waste and efficiently.

For the first time in political history, a recent Gallup Poll showed that twice as many of the American people now believe that Democrats are fiscally responsible as believe that Republicans are fiscally responsible. The Republic has finally woken up to the truth, to Democratis as compared to Republicans, and I am thankful for that. (Applause)

Well, let me say in closing that we are getting control of our energy problems. We are getting control of the bureaucracy. We are bringing new efficiency to government. We are taking control of foreign affairs. Our nation is strong again, proud again, secure again in its place in the world. And we have made a good start on the most difficult task of all, solving our economic problems in the areas of unemployment, in budget deficits. Now it is time to put all of our efforts into solving the most complicated and intractable and corrosive problem of all, and that is inflation.

Inflation hurts every one of us, not just the poor, not just the elderly. It saps away our national strength and will and confidence. Very soon I will announce a new package of anti-inflation measures. They will be tough. They will require sacrifices from business, from labor, from government, from every family, every segment of our society. They will be tough, but they will be fair.

I would like to caution all of you Democrats—those in my Administration, those in the Congress—that we here in Washington must set an example. We cannot pass legislation that is identifiably wasteful. If we do, it will sap away the strength that we have to inspire the American people to solve this very difficult problem on their own.

The best birthday present I could get from the Congress is to pass the deregulation bill, to pass the hospital cost containment bill, to send me appropriations and authorization bills that are solid and firm and cut to the bone without any waste. This is how the Congress can show its determination to join the fight against inflation.

If we fail here, it will be almost impossible to succeed elsewhere. This is the most pressing of the hundreds of large and small restraints that are necessary to win this battle. This is the future of our Democratic Party, a future in which we maintain our vision, even heighten our vision, while governing with prudence and responsibility that builds the confidence of our people in us.

I am proud of what we have achieved in the last year and a half. I am proud of the grand work we have laid for future achievement. But there is more to do if the United States is to realize the full promise of our people. We must succeed in giving the women of America equal rights. (Applause) And we must succeed in honoring the greatest of all Democrats, Hubert Humphrey, in meeting the yearnings of the poor people of our nation by passing a full employment bill with his name on it, the Humphrey-Hawkins Bill. (Applause)

It is obvious to me, I am sure it is obvious to you, that we cannot rest on past achievements. We cannot be complacent. We have work to do, as Democrats and as Americans. Let's do this work for our country together.

Thank you very much. (Applause)

THE CONTINUING TRAGEDY IN CAMBODIA INDICATES A CLEAR NEED FOR SENATE RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, just over a week ago, I spoke of the urgent situation in Cambodia and the need to ratify the Genocide Convention. Continuing reports from that country indicate that the situation is becoming more desperate daily.

News accounts make it all too clear that the Cambodian regime is apparently engaged in one of the worst cases of genocide since the Nazi regime.

Mr. President, the dimensions of this change are awesome. An estimated 1 million people—1 million, Mr. President—have been executed or starved to death by the leaders of this Communist Government, the Democratic Kampuchea.

Last Thursday, Lon Nol, the former leader of Cambodia, came to Washington, pleading for international support to bring this reign of terror to an end.

Lon Nol spoke with deep sincerity when he asked "all nations, in the name of God and every group who has also been a victim of genocide—the Jews, the Armenians, the Irish and our brothers and sisters in the Third World—to help us."

The need for some response by the world community to this senseless carnage is clear.

Senator McGOVERN has suggested military action by the community of nations. Others have suggested economic sanctions. Lon Nol and his supporters have suggested expulsion of Cambodia's delegates from the United Nations as well.

It is not clear what course of action the world community will decide to take.

But there is one action that this body can take—and take now.

Mr. President, we can ratify the Genocide Convention.

Unless we ratify this important human rights convention, we leave ourselves defenseless to charges of hypocrisy—accusing others of a crime that we fail to formally condemn and sanction ourselves.

This failure has undermined our efforts to halt genocide in the past, particularly during the tragic Nigerian civil war.

We cannot let this inaction by the

Senate undermine our humanitarian policies any longer.

As Cambodia demonstrates, there are clear and continuing threats to human rights throughout the world—urgent situations—that require a strong voice by the United States.

Mr. President, we simply cannot afford the luxury of further delay. We must ratify the Genocide Convention now.

RECOGNITION OF LEADERSHIP

Mr. STEVENS. Mr. President, is there time remaining on the minority leader's time?

The ACTING PRESIDENT pro tempore. Approximately 3 minutes remain. The Senator from Alaska is recognized.

OLYMPIC JOB OPPORTUNITY PROGRAM

Mr. STEVENS. Mr. President, we are all aware of the many demands the Federal and State governments make on private industry. For the most part, the business community has always come through as requested. Rare, although not uncommon, is the case of private businesses who set the pace for not only other businesses but the governments as well.

Such is the case with the Canteen Corp., a Chicago-based firm which has embarked on a commendable and far-reaching program to assist the U.S. Olympic athletes throughout the Nation through their Olympic job opportunity program. The Canteen Corp. of America has placed numerous athletes in their corporate jobs. Many of these athletes currently training for the 1980 Olympic games, could not continue training were it not for programs such as that sponsored by the Canteen Corp. This is a commendable program, and one which I hope the Federal Government will emulate.

Pending in committee is S. 1821, legislation the distinguished former Senator from Minnesota, Hubert Humphrey, and I introduced which would follow the example of the Canteen Corp. by providing leave time and flexible hours for Olympic athletes.

Mr. President, I ask unanimous consent that an article, "Jobs for Olympians: Business Pitches In," published in the June 12, 1978, issue of Business Week be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOBS FOR OLYMPIANS: BUSINESS PITCHES IN

The 1976 Summer Olympics in Montreal struck Howard C. Miller, president of Canteen Corp. in Chicago, as unfair—not the games themselves, but the sight of state-subsidized athletes competing against Americans whose only support came from family and friends.

Instead of complaining about "the Russians and East Germans subsidizing amateur athletics," Miller addressed himself to the apparent inequity. The result is the Olympic Job Opportunity Program, an organization that has already found corporate jobs with flexible hours and paid time off for 23 U.S. Olympic hopefuls now in training. Some 80 major companies have endorsed the idea, and Miller envisions companies supporting up to a quarter of the 600 U.S. athletes who will compete in the 1980 summer games in Moscow and winter games at Lake Placid, N.Y.

"The U.S. has been losing three out of four classes of super athletes who do not happen to graduate from college during an Olympic year," he maintains. "They have no place to go but work." Although swimmers peak at 18 or 19, the average age of U.S. Olympic athletes is 25.

NO HANDOUTS

To aid these athletes, Canteen began organizing the job opportunity program in late 1976. It sent out letters to the nation's 500 largest companies and got responses from nearly 300. "We're asking for a full-time job, not a handout for three years," Miller emphasizes. Salaries of the two dozen athletes placed so far average $12,000 to $15,000 a year, and, even if the individual trains and competes half of the time, that only costs the company $3,000 or $3,750 after tax.

Since last year, Canteen has built up the largest corporate team of Olympic contenders. It includes long-distance runner Tom Burleson, hurdler Charles Dobson, and 1976 gold-medal speed-skater Peter Mueller. While Mueller works as a maitre d' at a Canteen restaurant in Milwaukee, his wife, 1976 silver-medal speed-skater Leah Paulos, works as a youth-market sales representative for Coca-Cola Co.

Rower Carol Brown, a 1976 bronze-medal winner, is working in the marketing department of Pepsi-Cola/Seven-Up Bottling Co. of Seattle. Race walker August Hirt is an accountant for Continental Illinois National Bank & Trust Co. of Chicago. And biathlon athlete Peter Hoag works for Samsonite Corp. in Denver, where he has access to both skiing and a shooting range. Other companies hiring Olympic contenders include Montgomery Ward, General Mills, Standard Brands, Johnson & Johnson, and Wilson Sporting Goods. Last October, Wilson employed sprinter Stanley Vinson as a $9,000-a-year customer-service representative in the team sports promotion program.

"There was little support in the job market for athletes wanting to continue to compete," says Vinson, who had an assortment of moving and dishwashing jobs before Wilson hired him. Without the job opportunity program, he emphasizes, "I was at the end of my athletic career." Now he sells Wilson sporting equipment and voluntarily trains in Wilson T-shirts and jogging shoes.

COKE AND SHOWER HEADS

Companies participating in the job program are advised not to expect publicity from their involvement. But Miller acknowledges that if athletes do bring home the gold, later commercial endorsements are "a benefit that may accrue."

The job opportunity program is, of course, just one aspect of the U.S. effort, which, the U.S. Olympic Committee predicts, will cost $26 million between 1977 and 1980—double the previous four-year budget. About 85% of this cost is split between private donations and the corporate identification program, which allows companies to identify products with the U.S. Olympic Committee and team for $50,000 and up. There are more than 50 commercial categories, from candy and cosmetics to orange juice and toothbrushes.

Companies are starting their Olympic-related advertisements earlier, says Arthur I. Kuman, director of the Olympic Committee's corporate participation program. "It's intelligent repetition that counts," he adds. Already, Coca-Cola and Pollenex shower heads are being advertised, and Toyota Motor Co. and its 1,000 domestic dealers have embarked on the largest corporate identification program ever, dubbed "the million dollar dash for the 1980 Olympics." Between Apr. 24 and June 30, Toyota will contribute at least $1 million—about $10 per vehicle sold—to the U.S. Olympic Committee.

All of these programs are important, but Canteen's Miller suggests the job opportunity program "seems to be the only logical system for mustering the full potential of our amateur athletes."

THE FUTURE OF ALASKA

Mr. STEVENS. Mr. President, recently the Los Angeles Herald Examiner printed an editorial entitled, "The Fure of Alaska—it hits home." I believe this article raises some interesting and intriguing points. For instance, the editorial compares the d–2 legislation to a class "Motherhood" bill. Just as it is hard to be against motherhood and apple pie, who can say they are against a law which sets aside massive segments of land as perpetual wilderness?

But, this first reaction is one which ought to be carefully reexamined. Setting aside massive amounts of land as wilderness without considering the long-term affects and needs of all concerned as well as dealing with the specific details of the management is simply not good policy.

As the editorial points out, this is not a battle of development versus nondevelopment. There is not, as I have pointed out before, an army of bulldozers waiting to descend upon Alaska. Alaskans are not intent upon the destruction of their heritage. In fact, Alaska has the best environmental record in the United States.

There are lands in Alaska which are of national significance and these lands should be added to the various management systems. Alaskans ask only that a balanced and reasonable approach be taken to this legislation. It is my hope that a bill can be devised which gives Alaska a high amount of environmental protection while allowing for the reasonable development of Alaska's resources.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD at this time.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE FUTURE OF ALASKA—IT HITS HOME

The Senate Energy and Natural Resources Committee is debating its own version of a measure which could lock up more than 100 million acres of Alaska in federal coffers. The proposals before the Senate are more moderate than a resolution passed by the House of Representatives, which would put as much as 110 million acres of the state under federal lock and key.

Despite the political polemics involved, and an unprecedented degree of pressure from environmental groups—as well as the Carter administration—the proposals signal a new era of governmental colonialism which could sweep through the rest of the states like a brush fire. For if passed, the legislation would establish precedent for similar land grabs in other states—including California—under next year's Roadless Area Review and Evaluation Program (RARE II), involving 62 million acres of National Forest lands.

At first glance, the legislation affecting Alaska resembles a classic "Motherhood" bill. Who could be against a law setting aside massive segments of land as perpetual wilderness?

We are.

For the arguments in favor of this bill are steeped in deceit and treachery, raising the

spectre of extremes which do not in fact exist, and gutting the agreements by which Alaska was admitted into the union. And despite guarantees and assurances, lands promised to the state and native peoples have been stalled, circumvented or totally ignored by a variety of federal agencies.

Specifically, environmental groups and representatives of the media—including the Los Angeles Times—have perpetrated a misconception in suggesting the battle over lands is one of either development or non-development. The facts—stripped of ringing environmental rhetoric—suggest otherwise. And though the state has been cast in the role of villain in an ongoing, Congressional morality play, Alaska's record of environmental concern and controls is far more substantial than that of the federal government. On the North Slope, for example, federal lands resemble a garbage dump, whereas adjacent state lands have been cleared of industrial debris by the joint efforts of state, business and native leaders.

The real issue, however, dates back to statehood, approved by Congress in 1958. Simply, the federal government has reneged on its promises. Whereas the state, and later, native corporations, were guaranteed more than 140 million acres in selections, less than 30 million acres have been conveyed. And lands which had been selected are now claimed by the federal government as part of the new legislative package.

Supporters of the legislation, moreover, suggest its passage represents a "last-ditch" stand; that without it, lands under consideration will be forever lost as potential wilderness. These claims are little more than distortions and exaggerations, for fully more than 220 million acres of Alaska will remain under federal control. The myth that bulldozers are poised on the edge of proposed parklands has no basis in fact. And though Congress is supposed to make its land selections this year, little would be lost by a delay.

Already the federal government has bitten off more than it could possibly chew—or manage. Some lands have been chosen in clear violation of the 1971 Native Claims Settlement Act, which authorizes only 80 million acres of land for federal selection. In addition, the government has purposefully bypassed its own regulations which specify established procedures governing land selections, including inventorying of resources. The pending legislation represents pork-barrel politics at its highest—and most sinister—level.

Does it make sense to lock up areas which may contain valuable energy resources, without first determining what those resources are? Is it sound policy to carve up Alaska, without input or a well-defined policy from the Department of Energy? Is it moral, or reasonable, to disavow the promises of statehood? We think not.

Alaska is too complex a state culturally, geologically and ecologically, to be neatly segmented by the crayons of bureaucratic land planners far removed, or used as an environmental dart board for hit-or-miss politics.

If Congress is so foolish as to support any form of the pending Alaska legislation, the public will in effect be barred from access to many lands supposedly held in public trust. Already the state has ceded the major share of park and wilderness areas extant throughout the nation today, and millions of acres which the state has chosen for its own holdings are earmarked for additional park lands.

This is a time for our elected officials to proceed with deliberation and caution, and not yield to artificial deadlines which could preempt the promises and planning forming the basis for statehood. Otherwise, what has been hailed as a great environmental trade-off of lands will surely become a rip-off.

And the odds are, it won't end with Alaska.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, if there is no further request for time on this side, I yield back the remainder of the minority leader's time.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2441, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2441) entitled the 'Federal Public Transportation Act of 1978.'

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that during the consideration of S. 2441, the following members of the staff be allowed unlimited access to the floor: Howard Menell, David Yudin, Jerry Buckley, Jim Schuyler, Ken McLean, Tony Cluff, and John Daniels.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I make the same request for Dan Duedney.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is S. 2441.

Mr. STEVENS. Is there a time agreement on this bill?

The ACTING PRESIDENT pro tempore. There is no time agreement on this bill.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I wonder if it might be possible to get a time agreement on this bill. There had been some indication earlier that there might be a willingness to get a time agreement. Mr. MORGAN expressed interest in saying that if there were a time agreement, he had an amendment on which he would want a certain amount of time.

Mr. MORGAN. About 15 or 20 minutes on our side.

Mr. WILLIAMS. That is agreeable to me.

Mr. ROBERT C. BYRD. Mr. President, for the moment, I will not make any request. Senator BROOKE is not present in the Chamber.

I thank the Senator from North Carolina.

Mr. WILLIAMS. Mr. President, today the Senate takes up S. 2441, the Federal Public Transportation Act of 1978. This legislation will make major strides toward a balanced transportation program in the United States. It would reaffirm our national commitment to more effective public transportation services as a key element in our overall transportation policy, and in our efforts to develop workable environmental, energy, and urban policies.

Mr. President, let me summarize and highlight several of the major features of S. 2441 and the changes it would make in the Federal public transportation program:

First, the bill would reauthorize both the section 3 discretionary grant program and the section 5 formula grant program for fiscal years 1979 through 1982. The total authorization in the committee bill is $14.8 billion.

Second, the bill includes the transit portion of the President's urban initiative to promote transit-related urban development and encourage intermodal transportation facilities.

Third, the bill would restructure the formula grant program to simplify its administration and improve the distribution of formula funds through a more equitable approach which targets funds to the areas of greatest transit need.

Fourth, the bill would establish a specific program of both capital and operating assistance for public transportation services in small urban and rural areas.

Fifth, the bill would make headway toward a new, unified planning program to assure balanced planning for all urban transportation modes.

Mr. President, this legislation marks the first reauthorization and major revision of the public transportation program since passage of the Landmark National Mass Transportation Assistance Act of 1974. Following a decade of experience in public transportation, that act signaled a substantial Federal commitment to the further development, improvement, and continued operation of mass transit systems in our urban areas.

Since 1975, the Senate has recognized the need for revisions and improvements to this program. Twice we have passed legislation that would accomplish needed changes.

Last year, on July 23, the Senate passed S. 208, the Urban Mass Transportation Assistance Act of 1978. The fact that it passed on a voice vote attests to the widespread recognition within the Senate and across the United States of the need to establish an assured long-term transit program, with an adequate level of funding for both operating and capital needs.

In January of this year, President Carter transmitted to Congress his comprehensive proposals for a surface transportation program. The President's stated objective was:

To develop a well balanced national transportation policy, one which takes account of our increased sensitivity to the effects of transportation on the social and economic life of our cities and rural communities . . . (and) to make certain that the Nation has an effective transportation system, which uses energy more efficiently, enhances the quality of life in our urban and rural areas, and helps expand our economy.

I introduced the public transit portion of the President's package as S. 2441. In March, the Committee on Banking, Housing, and Urban Affairs held 3 days of hearings on this legislation.

The message at these hearings was clear: We must reaffirm and strengthen our commitment to public transit; we need a simplified program; we need funding levels that allow us to preserve and improve our existing systems, and we need to tighten up the administration of the program.

As reported by the committee, S. 2441 would preserve the fundamental concepts contained in the original bill. Like the introduced version, the committee bill would advance the purposes identified by the President. First, it would strengthen transportation planning and encourage improved coordination between highway and public transportation programs. Second, S. 2441 would simplify funding categories developed in the past in a piecemeal manner and at the same time allow greater flexibility in the use of available public transportation funds. Third, S. 2441 would establish a predictable funding mechanism for the most routine public transportation capital and operating needs.

In addition, the bill contains many features and provisions considered by the committee and approved by the Senate in recent years. In its totality, I believe the reported bill, S. 2441, reaffirms the Federal commitment to public transportation, responds to the increasing public acceptance of public transportation, and will maximize the potential role that public transportation services can have on solving the problems of energy conservation, urban development, and environment preservation.

While the bill supports and reflects the administration's recommendation in most cases, the committee received testimony demonstrating the need for two major changes. The first change concerns the funding levels which the committee increased by $3.5 billion over the administration's recommended levels. Second, the committee restructured and revised the section 5 formula to make additional operating assistance available in future years under an expanded and better-focused formula which reflects levels and kinds of transit service. Other than these departures, the administration's basic initiatives—developed by Secretary Adams and UMTA Administrator Page—have been preserved.

Mr. President, let me turn away from the bill for a moment to put the Federal transit program in perspective for the Members of the Senate.

In the last several years, the public transportation program has played an increasingly important and productive role in our total transportation system. Almost 30 postwar years of declining transit ridership have ended. In every year since 1973, ridership has increased. On a nationwide basis, ridership has increased 10 percent since 1973—an increase of almost 500 million riders annually.

This trend toward greater public awareness and use of transit is continuing. Recent public opinion polls indicates strong and rising support for good transit systems. According to a recent Harris poll, more than two-thirds of the American people believe it is very important to improve transit services. Another poll found that almost two-thirds of the people believe the Government should increase spending for transit. Perhaps the most significant and telling such poll is a 1977 study by the Department of Transportation that indicates that 40 percent of Americans expect to have to change their transportation habits in the next few years.

But the best evidence of the renaissance we are now experiencing in public transportation is the patronage. The most recent statistics show impressive nationwide increases. In the first 6 months of 1978, total transit ridership increased 5.5 percent over the same period in 1977. This represents an additional 200 million passenger trips during that period. Much of this increase is due to major service improvements in many cities where Federal transit resources has been well used. These investments are paying off handsomely in such places as Minneapolis (up 10.5 percent); Denver (up almost 24 percent); Elgin, Ill. (up 20 percent); Grand Rapids, Mich. (up 15 percent); Boise, Idaho (up 30 percent); and Brockton, Mass. (up 41 percent). Even many of our more extensive existing systems are recording startling ridership gains: The New York City subway system is up 4 percent; Cleveland, up 10 percent overall; and Chicago is up 5 percent overall.

These statistics underscore the fact that people want to and will use transit, expecially where service improvements make it more attractive and more convenient.

(Mrs. HUMPHREY assumed the chair.)

Mr. WILLIAMS. Madam President, when we attract onto public transit, when these systems become an accepted part of the life of a community—as it is right here in Washington, D.C.—we are going to help solve our energy and environmental problems.

Public transportation services can affect energy consumption patterns. Very simply, cities with extensive transit systems consume less energy than cities without them. In New York, for example, per capita energy usage is 47 percent of the national average. In Chicago, average gasoline use per driver is less than 7 gallons per week, while in cities like Houston, and Los Angeles, the average is 14–16 gallons per week. Finally, electric-powered rail transit systems reduce our need for petroleum, since the electricity can be generated by other energy sources such as hydroelectric power or coal.

In terms of our environment, better transit services help solve an area's air quality problems. Even with improvements in pollution controls, automobile emissions are still a major factor in air quality problems. Reductions in auto travel and increases in transit usage can significantly reduce most forms of air pollution, particularly carbon monoxide and hydrocarbons.

The recently issued joint DOT/EPA guidelines implementing the Clean Air Amendments of 1977 stress the role of a carefully reviewed transportation planning process in helping to meet ambient air quality standards. The thrust of the guidelines is to encourage local plans to improve transit services and discourage excessive automobile use.

Madam President, an effective transit program is a critical element in any comprehensive plan to preserve our environment, conserve our energy resources and solve our urban problems. To make the transit program more effective, we need to make it more flexible and enhance its ability to help each community meet its own transportation and transportation related needs. There is no one system or technology which is the right answer for all communities. Differing geographical, population, development, and historical considerations mean that each area must find the combination of transportation modes and services which will meet its unique needs.

The catalog of mode and system choices has become much larger in recent years. In great measure, this is due to the 10 years of UMTA-assisted development of new methods and new technology, and the Federal commitment to improved transit that this program represents.

Technological development has led to highly sophisticated rapid rail systems; new generations of buses, rail cars and light rail vehicles; downtown people-movers; and exclusive corridors for buses and carpools.

We have also developed a wide variety of systems and methods to maximize the effectiveness of available facilities. these include traffic management devices such as contraflow bus lanes, bus priority signals, auto restricted zones and innovative approaches such as club bus programs and vanpools.

I am stressing here that the transit program represents a broad catalog from which each community must make hard, well-reasoned choices.

This legislation—S. 2441—would vastly improve the framework in which these choices must be made. It would provide a more flexible program that allows our communities, regions and States to examine their transportation needs, plan a rational, balanced approach to meeting these needs, and, in partnership with the Federal Government, finance the programs and projects that are decided upon.

This legislation represents a positive, carefully developed approach to meeting our public transportation needs. It is a strong reaffirmation of the national commitment to effective public transportation services. It represents a modest but important increase in funding levels which assures our ability to make the capital investments necessary to carry out this commitment. And it recognizes the Federal responsibility to participate in operating costs since there is an important national interest involved.

Madam President, support for this bill has come from all regions of the United States. The U.S. Conference of Mayors, the National Association of Counties, the National Conference of State Legislatures, the American Association of State Highway and Transportation Officials, the American Public Transit Association, the Environmental Action, Highway Action Coalition, the Sierra Club, as well as individuals from every area of our

Nation stressed the urgent need for the prompt enactment of this legislation.

The enactment of S. 2441 is of the utmost necessity if we are to continue our progress in providing efficient public transportation throughout our Nation. The Federal commitment contained in this proposed legislation will encourage development and further improvement of public transportation. If we are to reach our goals of alleviating air pollution, traffic congestion, rebuilding our inner cities and resolving the energy crisis, the Congress must assume the responsibility and the initiative to prevent any interruption of the highly successful public transportation program.

Madam President, I ask unanimous consent that a section-by-section analysis of the bill be printed at this point in my remarks.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 2441

Title I—Public Transportation.

Sec. 101—Findings and purposes.

This section of the bill describes the need for a reaffirmation of the national commitment to continued improvement of public transportation services. It also states that the purposes of the public transportation program are to provide a stable, flexible and equitable program of Federal aid, and to encourage the development of a more effective transportation planning process.

Sec. 102—Discretionary grant or loan program.

This section of the bill amends the section 3 capital assistance program. Revised section 3 will be the source of assistance for the following activities:

The construction of new fixed guideway systems and extensions to existing fixed guideway systems. The cost of detailed alternatives analysis for such systems is also eligible;

The costs of acquisition, construction, reconstruction and improvement of mass transportation facilities and equipment. This category includes the purchase of rail rolling stock; the modernization of existing rail facilities; and acquisition of real property and improvements needed for an efficient and coordinated public transportation system. This is intended to be a general provision for most capital activities, subject to the limitation that projects for the replacement or purchase of buses or for the construction of bus related facilities would not be approved under section 3 unless the Secretary makes the finding that the project cannot reasonably be funded out of the bus replacement factor in section 4(a)(2)(F) of the formula program;

The deployment of new technology into public transportation service;

"Joint development" projects, involving the acquisition and preparation of real property for urban development purposes to enhance the effectiveness of transit projects, and which are physically and functionally related to such transit projects and

"Urban initiative" projects for facilities and equipment to improve the coordination between public transportation and other forms of transportation, and to enhance urban economic development.

There is a yearly limit of $200 million on joint development projects and urban initiative projects. Although there may be some projects that meet the characteristics of both joint development and urban initiative projects, these categories are not identical, nor is one category to be totally subsumed under the other.

Section 3 would be amended to require a designated recipient for major fixed guideway projects. Where a statewide or regional agency is responsible for the financing construction and operation of public transportation services, that agency may be designated as the recipient.

A new requirement would be added to authorize the Secretary to announce an intention to obligate for a project under section 3 of the Act through the issuance of a letter of intent. This letter would not be deemed an obligation or an administrative commitment, but as an intention to obligate from future available budget authority. The amount covered by letters of intent would not exceed the amount authorized for section 3, less amounts necessary for other section 3 activities. This new section is not intended to affect the validity of letters of intent issued before enactment of this legislation.

Section 3(g) of the Act would be amended to provide for a complaint procedure and discretionary sanctions in the event of a violation of the schoolbus operation agreement required by this subsection.

Section 3(h) which allows capital funds to be used for operating assistance by local authorities under certain conditions and repayment arrangements, would be repealed.

Sec. 103.—Authorizations.

Section 103 of the bill would amend section 4 of the Urban Mass Transportation Act to provide a consolidated source of all UMTA authorizations.

Several planning and program requirements would be deleted from section 4(a) of the Act. These requirements would be amended and relocated in the consolidated planning provisions which the bill would add as new section 8 of the Act.

Section 4(c) would be amended to repeal the existing provision which earmarks $500 million of the existing authorization for the section 3 discretionary grant program exclusively for assistance in areas under 50,000 in population. This earmarking would no longer be necesssary because a new program for small urban and rural areas would be established by section 18 of the Act (section 110 of the bill).

Section 4(c) would be amended to extend the funding of the section 3 discretionary grant program for 4 years, through fiscal year 1982. $6.2 billion would be authorized for the 4 year period. Because the Congressional Budget and Impoundment Control Act of 1974 no longer permits contract authority, except with user fee trust funds, the new funding would be based on budget authority. Any remaining unobligated contract authority would be unuseable and would lapse in 1980.

Authorizations for the section 5 program, as well as authorizations for miscellaneous expenses (administrative, research and development, training grants, university research, etc.) currently found in section 12 (d) are moved into section 4. Authorizations for the small urban and rural program are also contained in section 4.

Section 5 authorizations for fiscal years 1979–1982 are in the form of new budget authority. Remaining contract authority will not be useable.

Amended section 4 also contains set asides for planning (2% of the gross amounts authorized for sections 3, 5 and 18) and for deployment of innovative technique and methods (1½% of section 5).

The following chart indicates authorization levels for each major program category:

UMTA FUNDING LEVELS

[In millions]

	Fiscal year—			
	1979	1980	1981	1982
Sec. 3 discretionary	$1,400.0	$1,600.0	$1,600.0	$1,600.0
2 percent set-aside (planning)	28.0	32.0	32.0	32.0
Net discretionary	1,372.0	1,568.0	1,568.0	1,568.0
Sec. 5 total	1,762.0	1,876.0	1,990.0	2,103.0
Formula	1,635.0	1,685.0	1,735.0	1,785.0
2 percent (planning)	32.7	33.7	34.7	35.7
1.5 percent (innovative methods)	24.0	24.7	25.5	26.2
Net to be apportioned	1,578.3	1,626.3	1,674.8	1,723.1
Sec. 5(d)(1) (for areas not receiving 50 percent of deficits)	127.0	191.0	255.0	318.0
Net sec. 5	1,705.3	1,817.3	1,929.8	2,041.1
Small urban and rural	100.0	100.0	100.0	100.0
2 percent (planning)	2.0	2.0	2.0	2.0
Net to be apportioned	98.0	98.0	98.0	98.0
Miscellaneous	100.0	105.0	110.0	115.0
Total	3,362.0	3,681.0	3,800.0	3,918.0

A new section 4(i) is added which authorizes such sums as may be necessary to carry out public transportation projects substituted for Interstate highway projects pursuant to 23 U.S.C. 103(e)(4).

New section 4(j) adds two new reporting requirements. One requires an annual report to the Congress on the status of the public transportation program; the other requires reports, scheduled for October 1, 1979 and October 1, 1981, on projected authorization requests for the sections 3 and 5 programs.

Sec. 104. Formula Grant Program for Urbanized Areas.

Section 5(a) is amended to provide that for fiscal year 1979 and subsequent years, the formula under which section 5 funds are apportioned for each urbanized area will be revised to contain the following factors and weights:

27 percent on the basis of relative urbanized area population.

27 percent on the basis of population density.

4.5 percent on the basis of relative number of commuter rail train miles.

4.5 percent on the relative number of fixed guideway route miles (excluding commuter rail).

14 percent on the basis of modified population/population density: 85% to be apportioned to urbanized areas over 750,000; 15% to be apportioned to urbanized areas under 750,000.

23 percent on the basis of (i) relative bus seat miles, and (ii) a factor for the replacement of buses. Both the weights of (i) and (ii), and the replacement factor are to be determined by the Secretary.

Section 5(a)(3) is added to create the program for deployment of innovative methods utilizing funds set aside in section 4(g).

The section 5(b)(1) designated recipient provision is amended to require a "fair and equitable" distribution of funds by the Governor to urbanized areas of less than 200,000; and to require an annual report to the Secretary of allocations to these areas.

A provision is added in section 5(c) to bar the use of remaining contract authority after September 30, 1978. As of fiscal year 1979, the section 5 program would switch to budget authority to comply with the Budget Act of 1974.

The period that apportioned section 5 funds are available is increased from 3 to 4 years. Funds remaining unobligated at that time would be added to the amount available for apportionment.

Section 5(d)(1)(B) is amended to require the Secretary to make grants for additional operating assistance to assure, to the maximum extent possible, that section 5 assistance covers 50% of operating deficits. In the event that appropriations for the section 5 program are less than authorizations, the formula portion of the program must be fully funded before any funds are available for grants under this provision.

A new section 5(d)(2) is added to allow use of all formula apportioned funds for either operating or capital projects, except funds apportioned under 5(a)(2)(F) which are to be used for bus purchases and other bus related capital projects. Existing section 5(d)(2) regarding regulations has been deleted in favor of the new general regulation provision in section 12.

The Federal share of section 5 capital projects shall continue at a maximum of 80%, however, Federal participation in operating assistance would be limited to 33⅓% of total operating costs (in lieu of current limit of 50% of operating *deficits*). A grandfather provision is included for those areas already receiving more than one-third of total operating costs out of section 5, which would allow those areas to remain on the current system for one additional year and gradually phase into the one-third requirement as operating costs increase.

The section 5(f) maintenance of effort (MOE) provision is amended to allow proportional reduction in Federal assistance in the event of a locality's failure to meet required MOE. It is also amended to exclude reimbursements for school transportation services from the MOE calculation, and to allow proportionate reductions in required MOE where an area has been able to effect cost savings due to operating efficiencies.

Sec. 105—Technical Studies.

Section 9 of the Act would be repealed since its provisions and purposes would be transferred to other sections. Planning and technical studies would be authorized and funded under the new section 8 planning section (see title II of the bill). Preliminary engineering activities and detailed alternatives analyses, both currently funded out of section 9, would be eligible section 3 activities under this bill.

Sec. 106—Fellowship Assistance.

The following restrictions on the section 10 program of grants for training fellowships in the mass transportation field would be removed:

1. The number of fellowship grants UMTA can make in a year.

2. The 12½ percent State limitation on the number of fellowships awarded to any one State; and

3. The requirement that grants be made for training in institutions of higher learning offering programs of graduate level studies.

4. The limit of $12,000 in Federal participation in each fellowship.

Sec. 107—Definitions and General Provisions.

Several definitions would be added to section 12(c) of the Act. The definitions currently in section 5, including the definitions of "Governor" and "urbanized area" and a revised definition of "construction" would be consolidated in section 12(c) and, thereby would be made applicable to the entire Act. The definition of construction as added to section 3 would be consistent with the definition in the highway law (23 U.S.C. 101(a)). The definition of "handicapped person" would be moved from section 16, but would permit the Secretary to establish a modified definition of that term appropriate for the section 5(1) half-fare program, or to continue the current practice of leaving that determination to local operations.

The term "fixed guideway" would be defined to mean a public transportation facility which utilizes a separate right-of-way for the exclusive use of public transportation services. "Public transportation" would be defined to mean the same as "mass transportation." Definitions of "small urban area" and "rural area" are added, in light of the new small urban and rural public transportation program in section 18.

Several general provisions are added or amended by the bill. The sex discrimination prohibition in section 12(f) of the Act would be deleted because the new section 19 of the Act would cover this subject.

New section 12(e) would prohibit the UMTA assisted purchase of the assets of one public body by another public body. The language is intended to prevent the generation of additional Federal assistance in an area by the paper transfer of assets which are used in the same system before and after that transfer.

New section 12(f) would authorize the Secretary to review and approve the design of projects assisted under the act. This is intended to clarify the Secretary's authority to establish, where appropriate, criteria, standards and specifications for UMTA assisted capital projects, including both fixed facilities and rolling stock.

New section 12(g) would authorize the Secretary to issue regulations necessary to administer the UMTA Act.

Sec. 108—Amendment to sec. 16.

The bill changes the funding base for the elderly and handicapped special transportation program. The existing set-aside of up to 2% of section 3 funds would be deleted in favor of a section 5 funding base. The recipients of section 5 assistance would determine jointly with the Secretary what portion of the section 5 allocation is appropriate for section 16 activities.

The definition of handicapped currently found in section 16(d) would be moved to section 12.

Sec. 109—Commuter Rail Operating Assistance.

Due to the inclusion of a factor for commuter rail operating assistance as part of the section 5 program, the existing section 17 program would be terminated as of September 30, 1978, and the section 18 program would be repealed.

Sec. 110—Formula Grant Program for Small Urban and Rural Areas.

This legislation establishes a new section 18 as a separate program of capital and operating assistance for small urban and rural areas. It is intended that this program shall be administered by UMTA since it is an integral part of overall Federal public transportation program.

There is an authorized funding level for this program of $100 million per year for fiscal years 1979 through 1982. Under section 18(a), funds would be made available to the Governors on a formula based on non-urbanized area population. Funds for small urban areas would be distributed on a fair and equitable basis. Subsection (b) would provide that appropriated funds would be available for a total of 4 years and any apportioned funds remaining unobligated at that time would be added to the amounts to be apportioned in the next fiscal year. Subsection (c) would require the State to develop a plan and program for use of the funds in a manner consistent with the section 8 planning process and in coordination with other federally assisted transportation programs.

Eligible projects may include any projects eligible under the Urban Mass Transportation Act (capital, operating, planning, research and development, etc.) which are appropriate for a small urban or rural area. Recipients may include local public bodies, nonprofit organizations, and operators of public transportation services.

Section 18(e) would permit the Secretary to establish the terms and conditions of the program as he deems necessary and appropriate. This includes the authority to establish the Federal share of operating and capital projects in rural areas, but Federal participation in overall operating costs for rural projects may not exceed 50 percent. For small urban areas (5,000-50,000) the Federal share will be 80 percent of the cost of capital projects, and 50 percent of operating deficits.

The Secretary of Labor would be permitted to waive provisions of section 13(c) of the Urban Mass Transportation Act.

Sec. 111—Nondiscrimination.

A new section 19 nondiscrimination provision is added under which no person, on the grounds of race, color, creed, national origin, sex or age my be excluded from participation in or denied the benefits of, or be subject to discrimination under, UMTA funded activities. These provisions are specifically applicable to employment and business opportunities and are intended to be in addition to title VI of the Civil Rights Act of 1964.

The Secretary is required to take affirmative action to assure compliance with this section, and to take appropriate remedial actions in the event of a failure to comply. This remedial action would include directing that no further UMTA assistance be provided to the person not in compliance; referring the matter to the Attorney General with a recommendation for appropriate civil action; exercising the powers and functions under title VI; or any other actions available under present law.

Sec. 112—Human Resource Program.

A new section 20 is added creating a human resources program. This section would authorize the Secretary to undertake or assist programs that address human resource needs as they apply to public transportation activities. These projects can include employment training programs; outreach programs to increase minority and female employment; research on manpower and training needs; minority business enterprise programs; and other appropriate activities.

Sec. 113—Loan Forgiveness.

This section authorizes the Secretary to convert outstanding loans made under section 3 to grants. The Secretary is authorized to compute the local matching share that would have been required had the amount forgiven been the Federal share of a project undertaken when the grant was made, and provide in the grant agreement that such amount shall be contributed to mass transportation capital projects within the urbanized area. Such funds may not be used to satisfy the local share requirement of any other Federal project.

Title II—Planning and Consolidated Planning Fund.

Title II contains a revision and consolidation of the planning requirements applicable to both the Federal public transportation and Federal highway programs to create a unified highway and public transportation planning program.

This provision would amend the highway planning provisions in 23 U.S.C. 134 and add a new public transportation planning section in the Urban Mass Transportation Act to create parallel planning requirements for both programs. This amendment would consolidate all existing UMT Act planning requirements into a new section 8.

The same language in the new section 8 would be incorporated into section 134 of title 23 to subject the highway and public transportation projects in urbanized areas to the same statutory planning requirements.

New section 8(a) would require transportation plans and programs to be based on considerations of transportation needs, land use plans, development objectives, and overall social, economic, environmental, system performance and energy conservation goals and objectives. It would require review of alternative operating strategies and investment potentials to make more efficient use of exist-

ing resources and to provide a basis for the selection of major transportation investments. It would also require the planning effort to be continuing, cooperative and comprehensive to the degree appropriate for the complexity of an area's transportation problems.

Section 8(b) would establish that planning in urbanized areas shall be conducted by local officials acting through the metropolitan planning organization (MPO) in cooperation with the State. For small urban and rural areas, the planning process would be carried on by the State in cooperation with local officials and shall provide for coordination with local planning activities.

Section 8(c) would specify the procedures for designating or redesignating MPO's in urbanized areas. Within one year of enactment, by unanimous agreement of all local governments, an MPO designation could be changed; otherwise, designations of MPO's would be by agreement among units of general purpose local government and the Governor.

Section 8(d) would provide that the Secretary shall not approve any program of transportation projects unless the planning process is being carried on as required and the program is based on the planning process.

For urbanized areas with a population of 1 million or more, subsection (e) would establish a requirement that the metropolitan planning organization submit their transportation plans to the Secretary for review and evaluation.

Subsection (f) creates a consolidated planning fund to finance State and local transportation planning activities. This fund would be derived in part by setting aside 2 percent of the funds available under sections 3, 5 and 18 of the UMT Act. It would also require set aside of a percentage of highway funds available under 23 U.S.C. 104 and 133. This section would also be the source of funds for technical studies eligible under the proposed section 8(g) of the UMT Act.

The Secretary would be required to distribute the planning funds as follows: 35 percent to MPO's in urbanized areas over 200,000; 60 percent to States (subject to a hold harmless provision that States would not receive less than they received in fiscal 1978 under 23 U.S.C. (c)(1) and (c)(2); and 5 percent to be retained for discretionary use by the Secretary.

Grants under this section will be made directly to MPO's in urbanized areas with a population of 200,000 or more. For areas between 50,000 and 200,000 the State would allocate the funds on the basis of a formula based on population, transportation needs and status of planning.

Two other subsections are included in section 8, which have been transferred from other portions of the UMT Act. Section 8(g) incorporates the private enterprise language currently found in section 4(a). Section 8(h) authorizes special studies which are currently authorized under section 9.

Mr. WILLIAMS. Madam President, I have worked over the years side by side with the distinguished Senator from Massachusetts (Mr. BROOKE), and it has been a very productive, constructive, and very pleasant relationship.

Last year we came to the Senate with S. 208, which we jointly managed and which was unanimously acepted by this body. Obviously, the House did not act. The President then came on with his contributions this year. We put it all together and we are here side by side again, Senator BROOKE and I. It is a pleasure to be working with the Senator on anything, but particularly on this transit bill that means so much to our urban areas which this bill will expand now to the rural America too.

Mr. BROOKE. Madam President, I thank the Senator. I certainly share the views of my distinguished colleague from New Jersey (Mr. WILLIAMS), and I am very grateful to him for the generous words he has spoken in my behalf.

He certainly has been a leader in the entire field of mass transit. He is one of the very few Members of Congress who so early recognized the great need for mass transit in this country. In the Senate, he has really been the leader of the mass transit movement. It is a movement which has been slow in beginning, but it must accelerate if we are not to have our cities and even our towns clogged with traffic and our businesses disrupted because of the lack of viable mass transit systems throughout this country.

So it is with great pleasure that I have worked with Senator WILLIAMS on mass transit legislation. I applaud him and commend him for his outstanding service in this field, as well as in the field of human resources, where he serves as the distinguished chairman of that Committee. On the Banking, Housing, and Urban Affairs Committee, where we have jurisdiction over national mass transit legislation. We are fortunate to have the distinguished Senator from New Jersey as our leader.

Madam President, the distinguished Senator from New Jersey has outlined the major provisions of Senate 2441, the Federal Public Transportation Act of 1978, which will be offered as an amendment to Senate 3073. This is a most significant bill which reaffirms our national commitment to urban mass transit programs. As approved by the Banking, Housing, and Urban Affairs Committee, this bill would assure adequate funding and equity in the funding of operating assistance to all local transit systems, and would provide substantial new capital funding to meet our long-term public transportation needs in future years. It would also assist transit systems which are being developed and expanded in smaller urban and rural areas.

I would just like to highlight some of the important objectives of this legislation.

First. The funding levels in this bill reflect the belief that public transportation is an essential element of our national strategy to conserve energy, to improve our air quality, to promote revitalization and economic development in our central cities and rural areas, and to improve mobility for all of our citizens—including the elderly and the handicapped. For these reasons, it seems to me that there is no clearer case of need for increased Federal support than for assistance to our urban mass transit systems. Yet the Carter administration—without regard to national energy or urban policy objectives—has strongly urged the Senate to cut back our commitment to mass transit and to reduce significantly the funding levels in the committee bill. I hope that my colleagues will resist that temptation and will support the reasonable balance which has already been achieved in the committee bill.

Second. Under the committee bill, the discretionary section 3 capital grant program would be funded at $6.2 billion over the next 4 years. This would permit orderly completion of capital projects which are now under construction or approved by the Urban Mass Transportation Administration and expansion of the program to cities which are planning new rail systems or extensions of existing rail systems.

Third. Regarding operating assistance for local transit systems, the bill provides over $1.2 billion in fiscal year 1979 to be distributed under a revised section 5 operating assistance formula. This formula is an improvement over the existing population and population density formula because it recognizes several factors which reflect the nature and extent of existing services provided. However, I believe that the new formula for section 5 operating assistance is still too heavily weighted toward population factors which are largely unrelated to local transit service or to the local financial commitment to transit.

In order to provide a more equitable and objective basic for measuring transit "need," I proposed a supplemental operating assistance provision which is included in the bill. This provision seeks to assure that, to the extent possible, mass transit systems receive up to 50 percent of their operating expenses, net of farebox revenues, from the Federal Government. The provision is intended to promote equity among recipients of operating assistance funds. Under the operating assistance program, current law provides for a "cap" of 50 percent of a transit system's operating deficit which is available as operating assistance. Many cities, such as Los Angeles and Houston, already receive the full 50 percent funding for operating assistance. And some cities receive additional funding under the section 5 formula which may not be used for operating purposes, but has been used for the purchase of buses. At the same time, other cities which are dependent upon rapid transit or are developing new transit systems, such as San Francisco, Boston, Washington, D.C., and Atlanta, have received far less than 50 percent funding under the section 5 program. For example, San Francisco and Boston currently receive about 15 percent of their operating deficit funded under the section 5 program; Atlanta and Washington, D.C. receive only about 25 percent. This provision would target assistance at those local transit systems which have made substantial local commitments to transit and which have been shortchanged under the current section 5 program.

I am aware that there will be an amendment offered to delete this provision from the bill. But I would urge my colleagues to evaluate this provision carefully, and to disregard the misinterpretations of the effect and impact of this provision which have been presented, particularly by the administration in its intense lobbying for the amendment to delete the so-called Brooke amendment.

The Brooke amendment would not establish a "radical" or "expensive" new policy concerning operating assistance for urban mass transit systems. As I

have already discussed, this interpretation ignores the reality of the current funding mechanism which provides funding to some cities at levels of 50 percent of operating deficit and even higher. In addition, a specific authorization of $127 million in fiscal year 1979 and $891 million over the 4 year life of the bill is provided to fund this provision. Estimates of a $2 billion or $3 billion cost for this provision which have been attributed to the Department of Transportation and the Congressional Budget Office are based upon a misreading of the provision and ignore the fact that a specific dollar authorization is provided for each of the next 4 years.

I am certain that we will have an opportunity to discuss these and other issues regarding the Brooke amendment during the debate on the amendment to delete that provision. But I did feel constrained to correct some of the distortions and misconceptions which have been raised concerning the impact of the supplemental operating assistance program.

Finally, I would like to note that this bill contains a new formula grant program for small urban and rural areas which is funded at $100 million a year for the next 4 years. This provision recognizes the importance of establishing an ongoing program of capital and operating assistance for smaller communities. And the availability of operating assistance for the first time in smaller communities represents a national commitment to encourage the development and expansion of public transportation services.

Madam President, this is a fine bill which I enthusiastically support. Much of the credit should be given to my distinguished colleague from New Jersey who has led the fight for urban mass transit programs since he succeeded in establishing a permanent mass transit program in 1964. I strongly urge my colleagues to support this major legislation which provides for an effective and equitable national public transportation program.

Before I conclude, Madam President, I would like to include in the RECORD by unanimous consent the names of the distinguished and very hard-working members of the majority and minority staff of this committee, who have worked together with Senator WILLIAMS and with me in putting together what I believe to be a really fine bill, which I hope that the Senate will pass overwhelmingly.

There being no objection, the names were ordered to be printed in the RECORD as follows:

Howard Menell, David Yudin, and James Schuyler.

UP AMENDMENT NO. 1939

(Purpose: To authorize public mass transportation systems to apply for exemption from certain economic regulations)

Mr. HUDDLESTON. Madam President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1939: On page 64, line 17—

Mr. HUDDLESTON. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, line 17, strike out the end quotation marks and the last period.

On page 64, strike out line 18, and insert in lieu thereof the following:

"(h)(1) A State or a local public body may petition the Interstate Commerce Commission for an exemption from part II of the Interstate Commerce Act for mass transportation services, assisted under section 3 or 5 of this Act, provided by such State or local public body or provided to such State or local public body by contract. Not later than 180 days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from part II of the Interstate Commerce Act with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless the Commission finds that—

"(A) the public interest would not be served by such exemption,

"(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

"(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

"(2) Any State or local public body granted an exemption under paragraph (1) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (1) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.".

Mr. HUDDLESTON. Madam President, this amendment is to address a particular problem that develops when, in a metropolitan area that includes two or more States, the public transit systems attempt to work out agreements relating to fares or transfer of passengers in order to move people from the outlying areas into the inner city, or vice versa.

Under the existing act, there have been some prohibitions against this kind of cooperation. My amendment would merely permit the ICC to make exceptions in these cases, so that this kind of cooperation and joint arrangement can be facilitated.

The amendment provides for notice and reasonable opportunity for hearing, and gives the ICC the authority to limit the duration of the exemptions and reconsider and modify or reject the exemptions if it finds material grounds to do so.

Mr. President, the Transit Authority of Northern Kentucky (TANK) was created by joint action of Kenton, Campbell, and Boone Counties to serve the needs of more than 250,000 residents. Located immediately across the Ohio River from Cincinnati, Ohio, more than 50 percent of all northern Kentucky jobholders work in Cincinnati or Hamilton County, Ohio. All TANK routes utilize the Suspension Bridge across Ohio River and terminate in the Dixie Terminal Building, located on 4th Street in downtown Cincinnati. These routes provide thousands of northern Kentuckians with the daily opportunity to work and shop in metropolitan Cincinnati.

For several years, officials of the TANK Board have met with officials of the Southwest Ohio Regional Transit Authority (SORTA) and Queen City Metro (public operators of the Cincinnati bus system) to discuss intersystem methods of cooperation such as honoring each other's transfers and direct route service to places of employment on a contract or charter basis. For example, many Kentuckians work at the General Electric and Procter & Gamble plants in Ohio, while many Cincinnatians work or travel to the Internal Revenue Service Center, the Latonia Race Track, or the Greater Cincinnati Airport in Kentucky.

A major obstacle to cooperation between the two public transit systems has been the Interstate Commerce Commission (ICC). According to present law and regulations, a transfer system would constitute interstate commerce and require each system to obtain a certificate of public convenience and necessity issued by the ICC. Along with this certificate would go the control of routes, schedule, and fares.

The exception provided in 40 United States Code section 303(b)(8) for operations within municipalities or commercial zones and utilized by private carriers is unfortunately not workable for public transit because neither public system is authorized to spend tax dollars on intrastate routes in another State. The end result is that cooperation between the systems in the metropolitan Cincinnati area is at a standstill because of ICC rules and regulations.

It should be noted that Queen City Metro has no regular scheduled routes that are interstate, and implementation of the transfer system would daily place that system in interstate commerce. TANK on the other hand is in a situation where every route crosses the State line and there is no alternative but to continue the daily service in spite of statement by ICC officials that would seek court injunctions to stop TANK buses on the Kentucky side of the bridge.

The irony of this situation is that the Federal Government, through the Urban Mass Transportation Administration (UMTA), has provided capital and operating grants to TANK involving millions of dollars to transport Kentucky passengers to work and shop in Cincinnati. For example, one Federal grant already approved is for the renovation of the Dixie Terminal Building in order to attract additional passengers into downtown Cincinnati. How one arm of the Federal Government can encourage taking passengers into Cincinnati, while another arm wants to stop the buses at the bridge is somewhat hard to explain.

My amendment is offered to give some

specific relief by providing authority for the ICC to exempt from part II of the ICC Act State or local public bodies which provide mass transportation services, upon their application for the exemption. The amendment provides for notice and reasonable opportunity for a hearing, gives the ICC authority to limit the duration of the exemption, and, to reconsider, modify, or revoke the exemption if it finds material grounds to do so.

The concept of this amendment has been discussed with attorneys for the Urban Mass Transportation Administration, as well as the ICC, and their suggestions for safeguards have been incorporated into the amendment. You will note that the exemption can be denied if it would not be in the public interest, or if it constitutes an undue burden on interstate or foreign commerce, or if approval of the exemption would not leave the transit authority under control of any State of local public body.

A further safeguard in the amendment would make certain the exemption would not interfere with normal Federal jurisdiction over matters of safety, collective bargaining, retirement, and other benefits, as well as laws relating to employer-employee relations.

I believe that all possible interests are fully protected. At the same time, it does make it possible for the kind of arrangements necessary to have an effective and viable public transportation system in metropolitan areas where two or more States may come together.

I believe this amendment has been cleared on both sides of the aisle and is acceptable to the managers of the bill.

Mr. BROOKE. I am fully aware of it, Madam President, and I am ready to accept the amendment of the distinguished Senator from Kentucky.

Mr. WILLIAMS. Madam President, this does address itself to problem areas. We know there are many urban areas that involve two States. This is a barrier to the effective organization of the community for the most efficient transportation. I compliment the Senator from Kentucky and favor the amendment. As manager of the bill, I accept it.

Mr. HUDDLESTON. I thank the distinguished floor managers.

Madam President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUDDLESTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT 3667

(Purpose: To aid rural bus lines by improving their use of Federal funds)

Mr. LEAHY. Madam President, I ask unanimous consent that the Senate move to the immediate consideration of printed amendment No. 3667.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes amendment numbered 3667.

Mr. LEAHY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, line 3, after "share", insert "under this Act".

On page 68, line 6, after "share", insert "under this Act".

On page 68, starting on line 8, amend the second sentence of paragraph (2) to read as follows: "At least 50 per centum of the remainder shall be provided in cash from sources other than Federal Funds or revenues from the operation of public mass transportation systems.".

Mr. LEAHY. Madam President, the intent of my amendment is understood by all and it is endorsed by the Department of Transportation. This amendment would enhance the abilities of rural and smaller urban areas to provide public transportation services.

Currently, S. 2441's funds for the rural and smaller urban program can cover up to 50 percent of operating deficits and 80 percent of capital costs, the remainder of the funds having to come from non-Federal sources. This is an excessively stringent requirement for smaller cities and rural areas to meet with their limited tax bases. My amendment would ease this requirement and still retain significant local and State commitment to these transit systems.

This amendment would allow rural and smaller urban transit systems to use other nonrestricted Federal moneys to help pay the costs of operating their lines and purchasing their capital equipment. Specifically, these lines would be able to use other Federal moneys to cover 50 percent of those costs not borne by S. 2441. Local and State commitment to a bus program would still be significant in that their share would be at least 10 percent of capital costs and 25 percent of operating deficits.

It is the intent of this amendment that Federal funding sources for rural and smaller bus lines be better coordinated and that cumbersome redtape be kept to a minimum. My amendment would accomplish these ends. And because my amendment calls for no new Federal moneys, it will not cost this Government a penny.

Madam President, I ask that the Senate accept this amendment and incorporate it into the Federal Public Transporation Act of 1978 which has been so capably managed and developed by the eminent Senator from New Jersey, (Mr. WILLIAMS), and the distinguished Senator from Massachusetts (Mr. BROOKE), and Mr. SCHMITT, on behalf of the minority.

Madam President, if there are no objections to my amendment, I shall move for its adoption. I yield first to the distinguished Senator from New Jersey.

Mr. STAFFORD. Mr. President, I wholeheartedly support the amendment proposed by my good friend and fellow Vermonter. It is constructive and tailored to the needs of nonurbanized areas.

Mr. President, urban mass transit bills in the past have had limited meaning to Vermont, which is one of two States lacking any urbanized area.

Existing law provides only capital assistance for small urban or rural areas, while in large cities operating subsidies are available as well. Capital funds are, of course, helpful, but there is an urgent need for operating assistance if small urban and rural areas are to have any form of public transportation.

In my own State there are several small systems providing efficient service to their communities. Their needs, on a national scale, are not great, but the relatively small Federal subsidies they require will make the difference between mobility and isolation for many people.

I was therefore very pleased to see section 110 included as a part of S. 2441. This section provides formula grants to States to help support the operation of small urban and rural transit systems.

The Senate has passed bills with similar provisions before, but these bills have, for other reasons, never been finally enacted.

I compliment the distinguished Senators from New Jersey and Massachusetts and the whole Banking Committee for including in S. 2441 this provision which is so important to Americans living outside large cities.

I believe that these smaller communities need greater flexibility in matching requirements than is provided larger cities. The pending amendment increases this flexibility and encourages better use of Federal funds from various sources for transportation purposes. For these reasons I think the amendment should be adopted.

Mr. President, there is much we do not know about the best ways to encourage public transportation in small communities. Section 110 of this bill, with the changes made by the proposed amendment, is a good start.

I pledge my continuing interest and assistance in developing a workable and beneficial Federal program.

Mr. WILLIAMS. Madam President, I commend the Senator from Vermont for his most constructive, indeed, creative efforts in making sure that the promise of public transportation is nationwide and goes to all areas. One of the most difficult problems over the years has been that of finding ways for the resources to reach rural areas effectively for public transportation. We have significantly improved the transportation opportunities for rural America in this bill. This amendment, in my judgment, advances us greatly in that objective. I compliment the Senator from Vermont.

Madam President, I ask unanimous consent that a letter from the Department of Transportation, signed by Mr. Page of the Urban Mass Transportation System, be printed in support of this amendment.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, D.C., September 27, 1978.

HON. HARRISON A. WILLIAMS, JR.
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: In my letter of September 26, 1978, I clarified the position of the Department of Transportation concerning the definition of "States" in the proposed rural assistance program of S. 2441.

I would like to take this opportunity to comment on a potential problem that exists with local share requirements for small urban areas.

Under the provisions of section 18(e)1 currently proposed by section 110 of S. 2441, the Secretary of DOT is allowed great flexibility in developing terms and conditions for transit capital and operating assistance in areas whose population is less than 5,000. However, the language proposed in section 18(e)2 for areas whose population is between 5,000 and 50,000 is very restrictive as far as matching requirements are concerned. The second sentence of (e)2 says:

"The remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems."

This language is identical to the language in the existing section 5 formula assistance program for areas whose population is greater than 50,000. The language has been interpreted to forbid the use of contributed services or the use of Federal funds from other Federal programs unless the enabling statute of the other Federal program clearly allowed those funds to be used for local matching purposes. While this requirement has worked well in urbanized areas, we believe that such a stringent requirement will impede the development of coordinated, cost effective services in small urban areas. We believe that the Secretary of the Department should be able to develop regulations which encourage local public bodies to integrate and expand existing transportation services that receive local funding or receive Federal funds from agencies such as the Department of Agriculture, the Department of Labor and the Department of Health, Education, and Welfare. We believe that one effective means of encouraging local integrated and coordinated service is to permit a portion of the local share to be developed using contributed services and/or funds made available through programs of other Federal agencies.

Language which would provide this flexibility is shown in the enclosure. The amendment would revise the second sentence of section 18(e)2 to read:

"At least 50 per centum of the remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems."

This language would require local governments to demonstrate their local commitment to proposed transit projects by mandating that at least 10% of capital projects and at least 25% of operating deficits come from the same sources of state and local share as the section 5 program. The remainder can come from sources such as contributed services and other Federal programs where there is not a statutory prohibition against intermingling of Federal funds.

It is the intent of this amendment to permit sources of Federal funds to be utilized as fully as possible to coordinate transportation services. It is my hope that the legislative history would encourage Federal agencies who provide funds for transportation services to review their grant regulations and remove unnecessary restrictions that impede coordinated transportation services in areas outside urbanized areas.

I hope that you accommodate this change during the floor debate on S. 2441. I believe that this amendment would enhance the ability of local governments to coordinate available sources of funding and would minimize red tape.

Thank you for your continuing support.

Sincerely,

MARGARET M. AYRES,
(Acting for Richard S. Page).

Mr. LEAHY. Madam President, I appreciate the kind words of the Senator from New Jersey, who has really been the leader in mass transportation for this country. He has been of great help to those of us who live in rural areas in helping bring about, with the Federal Government, the realization that mass transportation can be effective in different ways in rural areas, as well as in the urban areas.

Mr. SCHMITT. Madam President, we have no objection whatsoever to the amendment of the Senator from Vermont, on this side. Again, like everyone else, I compliment him for thinking of the rural States. Those of us from other rural States have similar problems, and we think he has done a very creative piece of work in the amendment.

Mr. LEAHY. I thank the Senator from New Mexico. I hope that both he and I can trade rides in our individual States. I have been to New Mexico in his rural areas, and I know he has been a visitor in Vermont. We hope to have him up there in Vermont to ride in our rural mass transportation.

Mr. SCHMITT. I must say to the Senator from Vermont, I have ridden in his rural mass transportation up the ski slopes already. I find it not only enjoyable to ride but very enjoyable to ski and see his beautiful State. I hope he will do the same in some of our ski areas in New Mexico.

Mr. LEAHY. I look forward to it.

Madam President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LEAHY. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1940

Mr. WILLIAMS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes unprinted amendment numbered 1940.

Mr. WILLIAMS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, line 12, strike the word "and".

On page 46, line 14, add a comma after "1982," and insert the following: "and $1,580,000,000 for the fiscal year ending September 30, 1983:"

On page 46, line 15, strike "1982" and insert in lieu thereof "1983".

Mr. WILLIAMS. Madam President, the purpose of this amendment can be stated very briefly. It would add an authorization of $1.58 billion for the section 3 discretionary capital grant program for fiscal year 1983.

While the purpose of the amendment can be stated briefly, the explanation will take a little more time. I offer the amendment on the basis of discussions I have had with my colleagues here in the Senate and with officials of the administration. I believe it provides a reasonable avenue of compromise on a difficult issue which, as usual, has no easy answer. This issue is the conflict between the genuine need for a well-funded, stable, and effective public transportation program on the one hand, and the undeniable importance of balancing this need against the challenge of battling the chronic problems of inflation on the other.

The tension between these twin objectives has had a major impact on the consideration of this bill. The original funding levels contained in S. 2441, as proposed by the administration, were clearly inadequate to continue the great strides that we have made in public transportation, especially in recent years. This is not only my opinion, it is the opinion of every witness that appeared before the Senate Banking Committee with the exception of the Department of Transportation. Some excerpts from this testimony illustrate these concerns:

THE NATIONAL ASSOCIATION OF COUNTIES

We do not support the proposed authorization levels contained in S. 2441. We realize that the commitment of federal resources must be determined within some overall limits. We also recognize the need to work for a balanced federal budget and that difficult budgetary choices have to be made about the future direction of our nation. More importantly, we do believe that increased attention to public transportation programs is one of our nation's crucial requirements. We must now decide to make this commitment to public transportation so that it can continue to play an important role in the achievement of our Nation's transportation, energy and environmental goals.

NATIONAL LEAGUE OF CITIES, THE UNITED STATES CONFERENCE OF MAYORS

The League of Cities and the Conference of Mayors find that the public transportation legislation proposed by the Administration is characterized by much needed structural reform but is funded on an inadequate basis. This funding shortfall not only inhibits the benefits of structural reform, it also jeopardizes the recent gains made by public transit in U.S. cities and makes new gains dubious.

THE NATIONAL GOVERNOR'S ASSOCIATION

The National Governors' Association encourages the Administration to increase its request for funding levels in both the highway and transit areas. The amounts proposed are insufficient to meet the Nation's needs.

THE NATIONAL CONFERENCE OF STATE LEGISLATURES

A $3 billion program . . . regardless of how the funds are distributed, is still basically a no-growth program. Without growth, without new programs to meet the needs of our urban and rural areas, without improving our existing systems, we will not be able to attract people away from the automobile and toward more energy efficient transportation modes.

AMERICAN PUBLIC TRANSIT ASSOCIATION

APTA believes the proposed Administration transit and highway legislation provides an inadequate level of funds to finance critically needed bus fleet replacement and expansion, modernization of existing rail transit systems and construction of new fixed guideways and extensions. In addition, the Administration's proposal does not address the need for additional federal operating as-

sistance to maintain the local, state and federal partnership established in 1974 to improve and continue public transportation services.

Madam President, based upon this record, the committee met to consider this bill in early May. At that time, I placed before the committee a proposal to substantially increase the funding levels for public transportation over the next 4 years to a level that comports with the actual needs, the demonstrated successes of the program to date, and the expectations of the American people.

During markup of the bill, I reduced the proposed authorization for the discretionary and formula programs by $1.2 billion in order to meet the objections of some members who felt my proposed levels were too high.

With that reduction, the committee approved the bill as it is presently before us. Almost concurrent with the committee action, the Congress as a whole indicated its commitment to transit spending levels higher than the original administration proposals by approving $3.65 billion for transit in the 1979 budget resolution, and by passing the transportation appropriation's bill more recently.

At the same time, in light of concern expressed by some of my colleagues, and the amendments pending before the Senate to reduce the authorization levels as reported by the committee, there is at least an indication that some Members are not convinced that the spending level issue has been resolved satisfactorily.

Madam President, the committee report and my opening statement both discuss at length the importance of the Federal transit program. Suffice it to say that I have worked for years to develop an effective public transportation program in this country. I think the national ridership increases, and our increased awareness of the usefulness of transit systems, prove that our efforts are paying off. And, I firmly believe that we have to keep working at having good public transportation systems in place so that we can be prepared for the energy, environmental, and urban problems of the future. But I respect the view of those who maintain that even the modest spending proposed in S. 2441 would be inflationary.

Madam President, I think it is possible to maintain the progress made toward a sound public transportation program in areas throughout the United States without directly exacerbating our problems in bringing raging inflation under control. I believe the proper balance would be struck by both approving this amendment and adopting the amendment which I understand my colleague from North Carolina (Senator MORGAN) will offer later today. If my amendment is not accepted, I must pledge myself to resist any reductions whatsoever in S. 2441 spending levels.

If my amendment is adopted, I plan to, of course, accept the reduction amendment that will be offered by the Senator from North Carolina, which does reduce the bill by, in round figures, $1 billion.

The amendment adding a fifth year to the section 3 program will offset some of the problems I perceive in the Morgan amendment. That amendment would cut a billion dollars from the committee bill, most of it coming from the capital grant program. Without a fifth year authorization, the drastic reductions in the capital grant program proposed in the Senator's amendment come dangerously close to requiring a moratorium on all of those major transportation projects which are on the immediate horizon but for which no Federal commitment has yet been made. No new commitments could be made for the life of the authorization in the committee bill. Projects affected by these constraints could include those now planned or under way in Atlanta, Los Angeles, Baltimore, New York, Chicago, Philadelphia, Houston, Boston, Detroit, and several other cities.

Adding a fifth year to the section 3 capital grant program would help provide the long-term assurance of stability so necessary for the conduct of preliminary planning for new and major transportation investments. And it will help both localities and the Federal Government schedule the progress of these important new projects. It will also help us assure reasonable progress on vitally important modernization programs for many of our existing rail systems. The seven major rail cities—New York, Chicago, Philadelphia, Boston, Pittsburgh, Cleveland, and San Francisco—have long-term modernization needs of at least $15 billion. It is crucial that we provide a long-term assurance to these cities so they can undertake these high-priority projects to avoid continuing deterioration.

Madam President, by adding a fifth year to the authorization, we can allow for a reasonable reduction in the first 4 years of the authorization levels in the bill without risking damage to the continuity of the capital grant program. I should add that the administration's original bill proposed a 5-year discretionary program for the very same reasons that I am offering it today: to provide stability, to encourage States and local governments to continue the long, painstaking process by which major transportation decisions are made, to allow the Federal Government to plan and schedule its projects, and to acquire the continuity of the Federal transportation program. As the administration recognized in its original bill, it is possible over a 5-year authorization to permit UMTA to write letters of intent for new projects, while at the same time minimize the impact on Federal spending on an annual basis. For this reason, the administration supports this amendment.

Madam President, I urge my colleagues to support this amendment in the spirit of compromise to an effective public transportation program, but it also recognizes the Federal responsibility to do its share to minimize the consequences of inflation.

This has all been laboriously developed and worked out, discussed, and agreed to, by members, not only members of the committee, but the administration also. I believe the amendment puts everyone on a common course, both in terms of the years we will be addressing ourselves to, 5 years of authorization, and to get the money levels that I believe Senator MORGAN and the administration find acceptable.

Madam President, I have a letter dated September 26, 1978, from the Secretary of Transportation, Brock Adams, that affirms that which I have just stated. I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 26, 1978.

Hon. HARRISON A. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: This is to reaffirm the position of the Administration regarding the authorization levels in the transit legislation which I stated at our meeting of September 19.

The Administration strenuously objects to the additional $891 million authorization in Section 104(c) of S. 2441, and supports the Muskie-Proxmire amendment to strike those funds.

Apart from the striking of this $891 million authorization, pursuant to our agreement the authorizations for the transit program in FY '79, '80, '81 and '82 would be reduced by a total of $1 billion dollars. A new fifth year of Section 3 funding for FY '83 would be added at an authorization level of $1.58 billion. The new authorization figure for the transit legislation, exclusive of Interstate Transfers, would be $12.870 billion for FY '79–'82, plus the additional fifth year authorization for Section 3.

The Administration supports this approach to funding with the understanding that these authorizations represent the upper limit on the funding levels that are acceptable during the time frame covered by S. 2441. It is my strong desire that this point be emphasized when the House and Senate Conferees meet to resolve the differences on future highway and transit funding.

I deeply appreciate the effort which you have made to achieve this agreement. I believe that the transit legislation which has been developed in the Senate will enable the national public transportation program to maintain and expand vital services for millions of our citizens.

Sincerely,

BROCK ADAMS.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER (Mr. HODGES). The Senator from New Mexico.

Mr. SCHMITT. Mr. President, the managers on this side understand the linkage—pardon the expression—between the Senator from New Jersey's amendment and that of the Senator from North Carolina and concur in that linkage and in the motivations that lie behind it.

I think on balance this provides a very workable compromise for these two proposals.

We are willing to accept the amendment.

Mr. WILLIAMS. Mr. President, before we put the question, I thank the Senator from New Mexico. I also say that I welcome him to comanagership of this legislation.

I know Senator BROOKE has been called to important matters in our committee, which is simultaneously meeting, even though this comes from the Banking, Housing, and Urban Affairs

Committee. We have two acts in progress, a committee meeting and we have this legislation on the floor.

This is unique. My name is Harrison and my comanager's name is Harrison. There are two Harrisons in all Washington and here we stand side by side as partners on this bill.

Mr. SCHMITT. That is a good opening hand, I believe, a pair of Harrisons.

Mr. WILLIAMS. I would say that my life has been lightened a lot because most people do not call me by that name. I think the Senator has a nickname, too.

Mr. SCHMITT. I have, although a certain member of my immediate family, namely, my mother, does not like it very well.

But I assume the Senator has the same problem.

Mr. WILLIAMS. No, on the contrary, it was my grandfather, my mother's side, who said the name was too much and called me Pete a couple of minutes after I was born. But she likes it because it was her father's.

Mr. SCHMITT. We might also note your daughter-in-law, or son-in-law, happens to be a former resident of the town in which I was born in New Mexico. So the linkage is even greater between the two.

Mr. WILLIAMS. Good.

Well, we are in a cooperative venture here in many ways.

Mr. SCHMITT. Let us hope, as a result of our cooperation here, irreparable damage is not being done in the committee.

Mr. WILLIAMS. Mr. President, we have no further discussion.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

So the amendment (UP No. 1940) was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 3310

(Purpose: To provide for a study to determine a mass transit allocation formula which takes air pollution into account)

Mr. HASKELL. Mr. President, I call up my amendment No. 3310 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an amendment numbered 3310.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, lines 17 and 18, insert the following:

STUDY

SEC. 114. (a) The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environmental and Public Works of the Senate and the Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs of the House of Representatives, within one year of the date of enactment of this section, recommendations (including draft legislative proposals to accomplish such recommendations) as to ways and means by which Federal mass transit funds can be allocated on a basis which considers the nature and extent of air pollution as a criterion for the distribution of such funds. In formulating such recommendations, the Secretary (in consultation with the Administrator) shall consider and report back to such committees his findings with respect to, but not limited to, the following:

(1) the most appropriate and feasible standards of air quality to be utilized as a criterion of air pollution, including, but not limited to, standards for ozone, carbon monoxide, nitrogen oxide, and hydrocarbons;

(2) the most appropriate and reliable methods for measuring and monitoring the above air quality standards, including, but not limited to, measuring devices, placement of such devices, frequency of readings, and other procedures relating to measuring air quality;

(3) the most appropriate, feasible, and equitable manner in which air pollution measures can be adjusted to take into account seasonal, meteorological, and other variations so that air measures accurately reflect average air quality over a reasonable period of time;

(4) which Federal mass transit program funds should be allocated on a basis utilizing air pollution as a criterion, including, but not limited to, programs under sections 3 and 5 of the Urban Mass Transportation Act of 1964;

(5) the relative weight which such air pollution criterion should be given for the purpose of allocating funds under the above Federal mass transit programs; and

(6) alternative approaches to modifying criteria for allocating Federal mass transit funds which would assure that areas with extensive air pollution receive a proportionately greater amount of funds than areas with a lesser extent of air pollution.

(b) There is authorized to be appropriated such amount as is necessary to carry out the provisions of this section.

Mr. HASKELL. Mr. President, the purpose of my amendment is to bring the resources of the Federal mass transit program to bear on the problems of urban air pollution with greater force and sense of purpose. This amendment directs the Department of Transportation, in consultation with the Environmental Protection Agency, to conduct a study to determine the feasibiltiy of including the nature and extent of an area's air pollution as a criterion in the distribution of mass transit funds. In conducting the study, the Department of Transportation and the Environmental Protection Agency would be required to determine the most appropriate and reliable means of defining and measuring air pollution, to determine those mass transit programs which most easily and appropriately lend themselves to using air pollution as a factor, and to consider the relative weight which such an air pollution criterion should be given in devising any revised funding formula. The study additionally directs the Department of Transportation to identify any alternative approaches to modifying the criteria for allocating mass transit funds which would assure full recognition of the vital role mass transit has to play in combating air pollution.

Mr. President, the Senate has frequently expressed its concern over the plight of our cities. Our cities are plagued with the problems of pollution and congestion, and the problems grow worse each day. The quality of life in our cities is deteriorating, they are no longer healthy places in which to live.

Part of the rationale for funding and developing mass transit is to reduce reliance on the automobile and thereby make headway in ridding our urban areas of unhealthy air. The automobile is presently the major source of air pollution, even in urban areas of heavy industrialization. According to the Environmental Protection Agency, the amount of automobile-related pollution is as high as 90 percent in some cities and accounts for at least 50 percent even in those areas with major sources of stationary pollution.

It is because of the automobile that 103 out of 105 urban areas do not meet the national ambient air quality standards for ozone, as required under the Clean Air Act. These 103 urban areas, where more than 100 million people reside, consistently experience oxidant levels above the standards. Mass transit programs which will reduce these dangerous emissions are imperative if we are to truly commit ourselves to resolving the problems of air pollution in our cities.

Despite the major role of mass transit in reducing air pollution, the funding formulas in current mass transit programs do not directly take into account the significant contributions which an effective mass transit system can make toward reducing urban air pollution. Mr. President, my amendment would provide the Congress with the factual information necessary to intelligently discuss this possibility. The study called for in my amendment will lay the necessary empirical groundwork for the Congress to devise a funding scheme which directly takes into account the extent of an area's air pollution in distributing mass transit funds. It is a sound and responsible beginning toward solving a problem—air pollution—which if left unattended will literally choke our cities.

Mr. President, I would like to close by expressing my great appreciation to Senator WILLIAMS for his support and assistance in getting this amendment adopted by the Senate. I would also like to extend my warmest thanks to Senator BROOKE for his cooperation and support.

Mr. President, I have discussed this amendment with the distinguished manager of the bill. I understand it is satisfactory to him. I wish to express my great appreciation for his support and assistance.

I have also discussed this with Senator BROOKE, although I have not had an opportunity to discuss it with Senator SCHMITT, not realizing that he would be the minority manager of the bill, but I hope this amendment is satisfactory to him.

Mr. WILLIAMS. Mr. President, I have had the opportunity to discuss the amendment offered by the distinguished Senator from Colorado. I discussed this

at length, and over many weeks. The more I know of this, the more I see its importance, and how this study and knowledge can advance significantly what we know is one of the most beneficial objectives of public transportation in urban areas; namely, reducing aid pollution. This kind of knowledge can be significant in advancing one of the major missions of public transportation. I strongly support it.

Mr. HASKELL. I thank the Senator very much.

Mr. SCHMITT. Mr. President, this seems to be a very useful effort to make, although I think one should be very cautious in predicting the outcome of the study.

As the Senator from Colorado is well aware, in some mass transit systems, for a variety of reasons, there may actually be a net contribution to pollution, because of low ridership or old buses or some other factor that is unique to a particular system.

I think it is important to understand that, if only to determine what needs to be done in order to bring mass transit systems specifically into compliance, if you will, with air pollution requirements.

So this side accepts the amendment and compliments the Senator on his proposal.

Mr. HASKELL. I appreciate the comments of the distinguished Senator from New Mexico.

Mr. SCHMITT. Also, I hope the record shows, as a result of this, that there is a requirement on the industry and on the Federal Government to look at the technological advancements that are required in order to solve whatever pollution problems may exist within mass transit systems.

Not too many years ago, I was overseeing in NASA a study for the Department of Transportation, looking at alternative propulsion systems for buses. In the process of that study, it became clear that there certainly were better systems even presently available, in terms of technology, although not quite available in terms of economics, that would tend to solve some of the problems of which we are all aware.

I hope that in the process of this study, those responsible for it will look at that NASA study as well as other information, to determine not only a formula question, but also the technological question of where we should be headed in the long term.

Mr. HASKELL. I think the Senator's comments are extremely well taken, and I appreciate the Senator's dialog.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1941

(Purpose: Exempt retread tire manufacturers from recordkeeping provisions of section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966)

Mr. FORD. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 1941.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III thereof, add the following new section:

"SEC. 114. Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting ", except the manufacturer of tires which have been retreaded," immediately after "or tires" in the first and second sentences thereof.".

Mr. FORD. Mr. President, I have talked with both sides of the aisle with reference to this amendment. It is identical to one that was passed by the Senate previously without any objection whatever.

We are trying to be very careful to assure the removal of unnecessary regulations that are being imposed upon small businesses, such as retread tire manufacturers and sellers, be eliminated.

Since the people at the Department of Transportation indicate that this regulation is not needed, it would save the handling of millions of forms and approximately $3 to $5 million annually.

The regulation provides that you have to file a report on every tire that is recapped, in case you might have to recall that tire. There have been 66 million reports that have been filed, but only eight retread tires have been recalled over the last 6 years. So I do not believe there is any necessity for the placing of these burdensome regulations on small businessmen, and I hope that the managers of the bill will accept this amendment.

Mr. WILLIAMS. Mr. President, I am happy to have the Senator from Kentucky bring forward this amendment. This is a measure that has passed the Senate before.

Mr. FORD. It did, without objection.

Mr. WILLIAMS. I am in favor of it and am happy to have the opportunity to be associated more intimately with this matter. It is another of our objectives here—to reduce the unnecessary burdens of paperwork upon business.

Mr. FORD. The Senator from New Mexico probably particularly understands that this amendment is a small step for eliminating regulation, but a giant step for the small businessman.

Mr. WILLIAMS. Probably the Senator from New Mexico wishes he had said that. [Laughter.]

Mr. SCHMITT. The Senator from New Mexico definitely wishes he had said the original words that were just paraphrased by the distinguished Senator from Kentucky. Unfortunately, No. 12 is not too bad, but "it ain't No. 1."

The Senator from Kentucky is absolutely correct in his remarks about this amendment, and we support it fully on our side.

I add, however, that on occasion the Senator from Kentucky and I disagree on how best to relieve paperwork burdens and regulatory burdens. But I think we certainly are in agreement that that should be done. Wherever we can take a small step for the small businessman, such as this, we certainly should cooperate and do so.

Mr. FORD. I thank the distinguished Senator from New Mexico and the distinguished Senator from New Jersey for their cooperation in this matter.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. I thank both my colleagues for their cooperation.

UP AMENDMENT NO. 1942

Mr. WILLIAMS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1942.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 11, strike out "and".

On page 42, line 13, strike the period and insert in lieu thereof "; and".

On page 42, between lines 13 and 14, insert the following new paragraph:

"(F) the modification of equipment and fixed facilities (other than stations) which the Secretary determines to be necessary to avoid any adverse effects resulting from the implementation of the Northeast Corridor project pursuant to title VII of Public Law 94-210. Notwithstanding the Federal share provisions of section 4(a) of this Act, the Secretary is authorized to make grants for 100 per centum of the net project cost of projects assisted under this subparagraph.

On page 46, line 18, before the period, insert a comma and the following: "and not more than $45,000,000 of the total amounts appropriated pursuant to this paragraph shall be available for projects approved under subparagraph (F) of section 3(a)(1)".

Mr. WILLIAMS. Mr. President, the purpose of this amendment is to add a category of capital grant assistance to those activities already eligible under section 3 of the UMTA Act as amended by S. 2441. The new category is designated to meet the needs that have become clear for commuter services operating in the Northeast Corridor. The amendment would not increase the funding in the bill.

Mr. President, the Northeast Corridor improvement project was enacted in 1976 to create the first high speed, high quality rail passenger service between the major

urban centers from Boston to Washington. The Corridor project was intended to result in major improvements in service for intercity and commuter passengers. Unfortunately, because of a compromise at the time of enactment with the Ford administration, the funding was cut back to the existing level, and a number of project elements were deleted, including rolling stock, certain station improvements, and so forth.

Certain portions of the physical plant involved are in need of replacement. The Corridor as a whole needs a substantial amount of work simply to overcome the decades of deferred maintenance under the ownership of the private railroads. The electrification system, for example, is over 40 years old and operates on a type of electricity that will no longer be produced within a few years.

Replacement of electrification and extension of it to Boston from New Haven with modern, commercially available electricity, will be of great benefit to all users of the corridor, but at the same time it presents problems for existing users—both intercity and commuter. One obvious problem is that the existing rolling stock will not operate on the new system. For the commuter agencies, this means that as a result of this Federal project, they will need to either reelectrify their brancn lines or retrofit their cars to operate with the dual capability on both kinds of electrification.

Since the Northeast corridor project has insufficient funds currently authorized to even complete the needed Physical plan improvements, diversion of funds from this source (as has been proposed by the DOT in order to "save" money) will only result in an inability of this improvement project to meet its statutory goals, to the detriment of both commuters and intercity passengers. The existing project simply cannot afford to reelectrify lines used by commuter agencies or in the alternative buy them rolling stock with dual capability. Furthermore, it is entirely possible in various locations that the relevant commuter authorities might want to undertake additional improvements concurrently with the improvements being undertaken as part of the corridor project in order to increase line capacity, operating flexibility, and so forth.

Mr. President, this amendment would provide a solution to some of the problems experienced by the corridor project and the commuter services operating on the corridor. The Secretary of Transportation would be given discretion to fund projects for the modification of equipment and fixed facilities (other than stations) which he determines to be necessary to avoid any adverse impacts caused by the corridor project. In a departure from the match requirements under section 3, any grants approved under this amendment would not require any local share, as provided in the "4–R" Act of 1976. Under the amendment, not more than $45 million may be used for this activity.

Mr. President, I believe the amendment is entirely consistent with the Secretary's present efforts to coordinate the actions of the Urban Mass Transportation Administration and the Federal Railroad Administration to assure that funds are used efficiently in the corridor. The law (45 U.S.C. 854(c)) already requires the Secretary to determine that tion facilities in the corridor by the various modal administrations be accomplished in a complementary manner in order to maximize public benefit.

Mr. President, I urge the adoption of the amendment.

Mr. President, again I state this is not an addition. This opportunity for section 3 funds to go into the corridor project will not add any money. It just clarifies and makes it possible for the existing money to be available for this purpose and it certainly advances not only the specific purpose of this legislation but makes it possible to keep the corridor project advancing on the schedule that we hope for.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, we have not had a chance to study this particular amendment in detail on this side, but it is my understanding that it is merely a clarification of authority for section 3 funds to be utilized in the Northeast corridor. There is no suggestion here of increased funding or anything other than if the Senator will respond, something that already happens in many areas. Is that correct? Is it a clarification?

Mr. WILLIAMS. This kind of capital activity and capital needs is what section 3 money is available for, yes. And as to the funding, while it does not increase the funding under section 3, the money could come from section 3 for these purposes and at the discretion of the Secretary and the funding would be as it is for because this is in the Northeast corridor project. It would be on a same basis but using this fund for that purpose rather than getting more, seeking more money for the Northeast corridor.

Mr. SCHMITT. Based on this colloquy, I see no reason why the minority side would have any objection to this amendment. I might also add a personal note that I cannot very well have an objection, because so many people now served by the Northeast Corridor transportation system seem to be thinking about moving to New Mexico so I certainly would not want to do anything that would hurt their transportation needs.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following staff members of the Environment and Public Works Committee be granted the privileges of the floor during this debate. Dick Harris, Kathy Cudlipp, Larry Roth, Lee Fuller, and Barbara Webb.

This is during consideration of title III of S. 2441, which will go to third reading and then will be combined with S. 3073.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there further amendments to be proposed?

Mr. WILLIAMS. Yes.

UP AMENDMENT NO. 1943

(Purpose: To change the planning provisions of the bill)

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1943.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, in the matter between lines 10 and 11:

(1) Strike out—

"TITLE I—PUBLIC TRANSPORTATION"

(2) After "Sec. 105.", strike out "Technical" and insert in lieu thereof "planning and technical", and

(3) Strike out—

"TITLE II—PLANNING

"SEC. 201. Planning and consolidated planning fund.".

On page 36, strike out line 11.

On page 38, line 7, strike "and highway".

On page 48, strike lines 4 through 8, and insert in lieu thereof the following:

"(f) In each fiscal year, 2 per centum of the funds appropriated under subsections (c) (3), (d), and (e) of this section shall be set aside and used for planning activities and technical studies under section 8 of this Act.

On page 60, strike lines 1 through 3 and insert in lieu thereof the following:

PLANNING AND TECHNICAL STUDIES

SEC. 105. (a) Sections 8 and 9 of the Urban Mass Transportation Act are repealed.

(b) The Urban Mass Transportation Act is amended by inserting after section 7 the following new section:

PLANNING AND TECHNICAL STUDIES

"SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation resources and to meet needs for new transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

"(b)(1)(A) The urbanized area planning process shall be carried on by local officials acting through a metropolitan planning organization in cooperation with the State.

"(B) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 percent of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area redesignate as the metropolitan planning organization any representative organization.

"(C) Except as provided in subparagraph (B), after the date of enactment of this subsection, designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

"(2) The planning process for areas not within urbanized areas shall be carried on by the State in cooperation with local officials and shall provide for coordination with local planning activities.

"(c) A program of projects eligible for assistance under this Act shall be submitted for approval to the Secretary. The Secretary shall not approve any program of projects in whole or in part unless (1) the Secretary finds that the planning process on which the program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(d) The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary.

"(e) The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.".

Beginning with page 72, line 18, strike out all through page 78, line 19.

Mr. WILLIAMS. Mr. President, this amendment is a substitute for title II of S. 2441. The amendment would amend section 105 of S. 2441 to create a single new planning section for the UMTA program. It would incorporate the existing requirements and authorizations for planning activities currently scattered throughout the UMTA Act into a new section 8.

This new section 8 is intended to simplify and clarify the planning and technical studies activities conducted pursuant to the UMTA Act. It is consistent with the joint planning process currently required by DOT regulations, and can be a basis for the further evolution of joint highway and transit planning.

The new section 8 would establish the basic requirement that plans be based on transportation needs and related matters such as social, economic, energy, and environmental goals and objectives. It underscores the need for alternatives analysis, and requires that the level of planning effort be related to the complexity of an areas problems.

It would establish a statutory mandate that planning in urbanized areas should be conducted by local officials acting through the metropolitan planning organization (MPO) in cooperation with the State. This is the same requirement that is currently contained in joint FHWA/UMTA planning regulations. For small urban and rural areas, the planning process would be carried on by the State in cooperation with local officials.

The procedures for designating or redesignating MPO's in urbanized areas would be specified. Within 1 year of enactment, by agreement of 75 percent of local governments, an MPO designation could be changed. Otherwise, designations of MPO's must be by agreement between local government and the Governor.

Funding the UMTA planning program will be through a set-aside of 2 percent of the appropriated funds for the discretionary formula, and small urban and rural programs.

Mr. President, S. 2441 contains a unified transit and highway planning program which I believe is an important step in the direction of a balanced approach to meeting our surface transportation needs.

This concept of a unified planning program was included in President Carter's original transit and highway legislation. In my judgment, it is one of the most progressive and important provisions of the legislation. Neither highway nor transit planning can be done independently of the other; these two systems are closely intertwined. Plans for each are clearly dependent on the other.

Currently, the Department of Transportation has been able to achieve a significant degree of joint planning by using its administrative powers. The bill would go even further by strengthening, simplifying, and supplementing that process. It would also resolve many of the doubts and uncertainties that have inhibited the program because of its direct and non-statutory origins.

The planning provision, as reported by the Banking Committee, modifies the original proposal but retains the essential concept of a new balance of responsibilities between State and local governments. It would recognize the important role that metropolitan planning organizations have in making highway and public transportation decisions in our larger cties. I believe it is important to assure the proper role of MPO's in the local planning process. This legislation would carefully structure a framework for balancing the legitimate interests and roles of both the States and the local entities in that process.

It is with some reluctance and disappointment that I must concede the insurmountable difficulty—at least at this time and in this bill—of overcoming the elements of distrust and protectionism that too often seems to govern relations between States and localities.

Controversy has swirled around the idea of truly consolidated planning since it was first proposed. The administration, working with the Banking Committee and the Environment and Public Works Committee worked long and hard to find a common ground for a unified program acceptable to both State and local interests.

Unfortunately, it appears that the time is not ripe to develop a strong, balanced, and mature planning process. Nevertheless, I believe this is a goal we should continue working toward and I urge the respective parties to sit down and hammer out a new approach to planning that will assure the adequate representation of all interests, and more importantly encourage a planning process focused on transportation needs without geographical or modal bias.

Mr. President, I offer this amendment as a satisfactory interim substitute for a truly unified planning process. I urge its inclusion in this legislation, while I also urge that greater efforts be made to resolve the differences that have prevented us from taking a step toward more effective planning.

Mr. President, this has been developed, this amendment, and a resolution at this time of some of these difficulties has been worked out with the most distinguished Senator from Texas (Mr. BENTSEN) who handled the other part of this bill with such great distinction here on the floor a few weeks ago, and who is greatly interested in this aspect. His ideas were brought to this method of approach we are using as a result of this amendment to the planning process.

● Mr. BENTSEN. Mr. President, I commend my distinguished colleague from New Jersey, Senator WILLIAMS, for his efforts on behalf of unified transportation planning. The respective staffs of the Banking and Urban Affairs Committee and the Environment and Public Works Committee diligently pursued a workable framework for joint highway and transit planning, and they, too, are to be commended.

Unfortunately, I must concur in Senator WILLIAMS' remarks concerning the insurmountable difficulties in achieving agreement on this issue at this point in time. While we can all perceive the advantages of consolidated planning, there are problems inherent in the divergent structures of the highway and mass transit programs which, for the moment at least, preclude a workable solution.

The Federal-aid highway program is a federally assisted State program. What this means is that the States, not cities or counties, are responsible for the programing of projects, their actual construction, and their subsequent maintenance.

This basic framework meshes well with the realities of highway planning in urbanized areas. Metropolitan highway planning, as opposed to transit planning, must grapple with factors that transcend regional boundaries, such as intra- and interstate traffic patterns, and connectivity and continuity of routes. This sort

of planning requires the coordination which can only be provided at the State level.

The need for such State coordination is confirmed by reference to a second basic principle of the highway program. Federal highway assistance has always been limited to routes of national or statewide importance, and this policy is embodied in the concept of Federal-aid highway systems. The intent to exclude routes of purely local significance is manifest in even the most localized system, the urban system, which consists of arterial routes and collector routes in each urbanized area.

It is for these reasons that we have been unable to accept the subject amendment and applaud its withdrawal. All is by no means lost, however. Federal policy already encourages multimodal transportation planning, and Department of Transportation regulations already provide for a joint highway/mass transit planning process for metropolitan planning organizations. Nevertheless, I join with the distinguished chairman of the Banking and Urban Affairs Committee in calling for renewed efforts in the future to improve coordination of transportation planning activities.●

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, we have no problems with this amendment on this side, and we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1944

(Purpose: To encourage single programs to meet transportation needs on an intermodal basis, encompassing capital expenditures for both rail and bus projects, and a combination of funds available under section 3 and section 5)

Mr. WILLIAMS. Mr. President, I have an amendment that I send to the desk which I am introducing for myself, my colleague Senator CASE, and the Senators from New York (Mr. JAVITS and Mr. MOYNIHAN).

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and others, proposes an unprinted amendment number 1944.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, strike out lines 12 and 13 and insert in lieu thereof the following:

(d) Section 3(h) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(h) Notwithstanding any other provision of this Act, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under sections 3 and 5 of this Act, but in any such project, none of the funds available under section 3 may be expended in connection with the acquisition of buses, bus equipment, or bus related facilities unless the combined project includes new buses, bus equipment, or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 5(a)(2)(F).".

Mr. WILLIAMS. Mr. President, this amendment would add a new provision to the Urban Mass Transportation Act of 1964 in place of existing section 3(h) which will be repealed. The purpose of the amendment can be stated very simply. It would amend S. 2441 to encourage and permit comprehensive programs to be developed in order to meet transportation needs on an intermodal basis, encompassing capital expenditures for both rail and bus and using a combination of funds available under sections 3 and 5 of the UMTA Act, as revised by this bill.

As reported by the committee, S. 2441 would place restrictions on the availability of section 3 funding for bus and bus-related programs. The restrictions are intended to channel most routine bus purchases and bus related construction activities into the section 5 formula grant program; However, section 3 funds would remain available for these activities under limited and special circumstances. This would be a significant improvement over current law because most routine bus related capital activities are predictable and recurring and should not have to compete with activities funded through the discretionary grant program.

While some degree of rigidity is appropriate from both an administrative and grantee standpoint, if the two major grant programs are too inflexible, the effect may be to stifle innovation and creative thinking in the public transit field. This may be precisely the effect of S. 2441 on a major breakthrough in financing transportation improvements in my own State of New Jersey. The problems have been brought to my attention by the State of New Jersey, the Port Authority of New York and New Jersey, and by the New Jersey department of transportation.

The State of New Jersey has developed a combined plan of rail and bus transportation improvements and submitted them as a single project to UMTA. The single program would be supported by the port authority's contribution of $120 million to be used as the local match. Using the Port Authority moneys as a local match in this fashion would provide up to a total of $600 million in rail and bus improvements for the people of New Jersey. A similar proposal is now under consideration for the State of New York.

Mr. President, this is a novel approach to financing public transportation. Unless S. 2441 is further amended, it is not altogether clear that UMTA could approve and fund this innovative approach, although it would be permitted to do so under present law and although UMTA is enthusiastic about the plan.

In a letter to Mr. Allen Sagner, chairman of the port authority of New York and New Jersey, UMTA Administrator Richard S. Page endorsed this new concept in financing and implementing the public transit program in the New York and New Jersey area. To quote Dr. Page:

It seems to be most promising and when developed and processed through implementation, will greatly enhance the quality of transit service provided in Northern New Jersey. We are pleased to work with you and the State of New Jersey in its refinement. Further consideration and official approval of this concept will be contingent upon the *development of a single project that encompasses both bus and rail improvements* (and) favorable Congressional action on pending public mass transit legislation . . . (emphasis added).

Mr. President, this program for capital improvements may be complicated—unintentionally and unnecessarily—by the pending legislation.

Mr. President, in those cases in which a State or local public body is not reasonably able to fund capital improvements for either rail or bus, but is able to fund one particular mode, this amendment would permit the State's 20 percent share of the total program to be made up of capital or new capital facilities related to one mode rather than a pro rata share of each of them.

This amendment will insure the availability of intermodal funding by permitting the use of section 5 bus funds for railroad funding, but only if an equivalent amount of bus funding is provided by the local public body.

In New Jersey and New York, where funds are available for buses and bus related facilities through the joint agency of these two States, but funds are not available for railroad improvements, the amendment would permit port authority funds to be treated as the local share to draw down the available section 5 funds even if the Federal funds are used for purposes not related to buses.

Mr. President, I move the adoption of my amendment. It is supported by UMTA and the Department of Transportation.

Mr. President, I ask unanimous consent that the correspondence concerning the amendment between myself and Secretary Adams be printed in full in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR PETE: Thank you for your letter of July 25, 1978 that proposed a new subsection 3(h) to make clear that Congress intends to encourage the development of large bus, bus facility and rail projects that combine expenditures from both section 3 and section 5 capital funds. I appreciate the initiative that you have taken to clarify the proposed language.

The Administration's proposed transit bill provided for the funding of routine capital projects with section 5 capital funds and to use section 3 funds only for non-routine projects such as major fleet expansions and new starts. We believe that this mechanism would minimize red tape for applicants and help state and local govern-

ments regularize transit programing decisions.

S. 2441 as it was reported from Committee, retained this concept but applied it only to buses and bus facilities. It would forbid the Secretary of DOT to approve a bus or bus facility project under the discretionary section 3 program unless he finds that "such project cannot reasonably be funded" from section 5 capital apportionments. We support this provision because it will ensure that applicants turn first to section 5 formula apportionments for bus and bus facility projects.

The new subsection 3(h) that you propose would allow the Secretary to approve a combined project that uses both section 3 and section 5 funds provided that the "scope of the combined project" includes a bus and bus facilities component which "would amount *at least* to the amount of funds that would have been available for that purpose under subsection 5(a)2(F)." (emphasis added). This language would undoubtedly provide the flexibility to fund a massive bus and rail project where enough buses and bus facilities will be purchased to exhaust all of the subsection 5(a)2(F) funds. I believe, however, that it places an unnecessary and unwise precondition on the scope of the combined project because DOT could not approve any such combined project unless the applicant spent an amount equivalent to "at least" all of the section 5(a)2(F) funds on the buses and bus facilities. In certain instances the requirement would require applicants to develop oversize bus projects to take advantage of this provision.

The Department supports the basic concept that you propose because it holds the promise of providing additional flexibility to local public bodies while still maintaining the integrity of routine bus and bus facility purchases under section 5. We have discussed these issues with your staff and the Department believes that the following language will achieve your objectives while, at the same time, establishing a procedure that is easy for the Department to administer.

Notwithstanding any other provision of this Act, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under sections 3 and 5 of this Act; Provided, however: that in that project no section 3 funds shall be expended in connection with the acquisition of buses, bus equipment or bus related facilities unless the combined project includes new buses, bus equipment or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 5(a)2(F).

The language up to "Provided" permits the Secretary to approve combined projects that use Federal funds from sections 3 and 5. This combined project will not affect the authorization or appropriation process since Federal funds flow to the combined project from the traditional section 3 and section 5 categories. What this phrase does do is to permit greater flexibility for local governments to "package" the size, scope, and delivery of capital grant funds and to develop local share match funds.

The language beginning with the word "Provided" establishes a statutory safeguard for this combined project to ensure that applicants for bus and bus related funds look first to the section 5 program to fund these routine needs. You might wish to emphasize on the floor of the Senate that the Secretary should consider subsection 5(a)2(F) apportionments available in the current year, prior years, and future years before approving the use of section 3 funds for bus and bus related facilities in a combined project. This would ensure that applicants do not program their bus expenditures to follow the letter, but not the spirit, of this proviso.

Thank you for the opportunity to comment on your amendment. I look forward to working with you in the issues that face the pending transit legislation.

Sincerely,

BROCK ADAMS,

U.S. SENATE,
Washington, D.C., July 25, 1978.

HON. BROCK ADAMS,
Secretary of Transportation,
Washington, D.C.

DEAR SECRETARY ADAMS: S. 2441, the Federal Public Transportation Act of 1978, will be scheduled for consideration by the full Senate in the near future. As a result, I would like to receive the Department's comments on the following floor amendment which I intend to offer.

As you are aware, as reported by the Committee, S. 2441 would repeal existing section 3(h) of the Urban Mass Transportation Act of 1964. In place of existing section 3(h), I propose to add the following:

"Notwithstanding any other provision of this Act, the Secretary may, upon application of a local public body, utilize funds available to such local public body under subsection 5(a) 2(F) of this Act for any purpose for which funds may be utilized under section 3; provided, however, that the scope of the combined project must include a level of replacement and purchase of buses and related equipment or the construction of bus related facilities the estimated cost of which to the public body would amount at least to the amount of funds which would otherwise have been available for that purpose under subsection 5(a) 2(F)."

The purpose of the amendment is to encourage the development of innovative approaches to financing public transportation. In its present form, because of the rigid structure of the section 3 and section 5 programs, S. 2441 may preclude the development of comprehensive approaches to public transit capital expenditures. Without further clarification, the success of the programs now in development involving the States of New York and New Jersey and the Port Authority would be dependent upon interpretations of admittedly unclear language and Congressional purpose. The problem arises because of the requirement in S. 2441 that section 5 formula bus apportionments must first be fully utilized before any routine bus capital expenses are eligible under the section 3 capital program. The purpose of this amendment would be to make clear that public policy encourages the development of large bus, bus facility and rail projects that combine expenditures from both section 3 and section 5.

Since it is likely that S. 2441 will be scheduled for floor action in early August, I would very much appreciate your prompt attention and reply to this letter.

With every good wish, I am

Sincerely,

HARRISON A. WILLIAMS, Jr.

Mr. WILLIAMS. Briefly stated, this is a cooperative effort of the two States represented in the offering of this amendment, New York and New Jersey. It will make it possible for us to greatly improve our effort to rationalize and make more efficient and effective transportation within the bistate area.

Mr. SCHMITT. Mr. President, we have no difficulty with this amendment. I again would not want to do anything but to increase the transit capabilities of the residents of New York and New Jersey. We enjoy very much the transplants we have had in New Mexico—not that I think it is because of the bad transportation systems that they come and see us, but, nevertheless, I think we ought to improve transit services for that area.

Mr. WILLIAMS. With this cooperative feeling it might occur to me to create some more amendments.

[Laughter.]

I appreciate the comments so much and the friendship so much of the Senator from New Mexico. I thank the Senator from New Mexico.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the committee substitute? The Senator from Maine.

AMENDMENT NO. 3458

(Purpose: To reduce the authorization for operating subsidies)

Mr. MUSKIE. Mr. President, I call up my amendment 3458.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE), for himself, Mr. BELLMON, Mr. PROXMIRE, and Mr. LUGAR, proposes an amendment numbered 3458.

Mr. MUSKIE. Mr. President, I will ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, beginning with "$1,762,000,000" on lines 4 and 5, strike out all through the colon on line 12.

On page 48, strike out lines 4 through 14 and insert the following:

"(f) In each fiscal year, 2 per centum of the funds appropriated under subsections (c)(3), (d), and (e) of this section shall be set aside and used for consolidated planning activities under section 8(e) of this Act.

"(g) After the deductions required by subsection (f) of this section have been made, there shall be set aside, for the purposes of section 5(a)(3) of this Act, not to exceed 1½ per centum of the remaining funds appropriated under subsection (d) of this section."

On page 50, lines 24 and 25, strike out "the second sentence of".

On page 55, line 7, insert "(2)" after "5(d)".

Beginning with page 55, line 9, strike out all through page 56, line 11.

Mr. SCHMITT. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. Yes.

Mr. SCHMITT. The Senator from Massachusetts would very much like to be here to assist the Senator in his efforts. I wonder if we could have a brief quorum call until we ascertain his whereabouts? I believe he is on his way over here, but we are not absolutely sure. Is that permissible?

Mr. MUSKIE. It is perfectly agreeable to me.

Mr. WILLIAMS. Of course, the Senator from Maine knows Senator BROOKE desires to be, and really needs to be, here. I wonder if we could lay his amendment aside, if there is going to be a little delay, just to do some technical amendments on the bill?

Mr. MUSKIE. The Senator has some technical amendments?

Mr. WILLIAMS. Just a few, and we can stop that when the Senator from Massachusetts appears.

Mr. SCHMITT. It is my understanding it will not be longer than 5 minutes, probably less. He is on his way.

Mr. MUSKIE. I have no objection to laying the amendment aside temporarily for the purpose of considering technical amendments. I would like my amendment to be considered following those amendments.

Mr. WILLIAMS. I am sure they are technical. There might be problems, but if there are, we would lay them aside.

Mr. MUSKIE. I will agree to laying this aside so that the distinguished floor manager can proceed as suggested.

Mr. SCHMITT. Mr. President, I believe then there is a unanimous-consent request pending?

The PRESIDING OFFICER (Mr. CLARK). Without objection. the amendment of the Senator from Maine will be temporarily laid aside.

UP AMENDMENT NO. 1945

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1945.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) On page 44, line 10, after the period, insert the following:

"The amount stipulated in the letter, when issued for a fixed guideway project, shall be sufficient to complete an operable segment."

(b) On page 44, line 18, strike out the period, insert a comma and add the following:

"nor shall the total amount covered by new letters issued exceed any limitation that may be specified in an appropriations act."

On page 56, line 24, redesignate subsection (c) of section 104 as subsection (d), and redesignate succeeding subsections of section 104 as subsections (e) through (i) respectively.

On page 64, line 18, strike "Act".

Mr. WILLIAMS. This amendment contains three technical changes to S. 2441, and one change which is in the nature of a technical amendment.

The first amendment modifies the language of section 3(a)(4) of the UMT Act as in appears in section 102(a) of S. 2441, to clarify that letters of intent shall be issued only in amounts sufficient to cover operable segments. It has been agreed by the administration and representatives of the relevant Senate committees that this is the intent of this provision, therefore specific language should be added to clarify this point.

Similarly, it is the general purpose of the letter of intent provision that the total outstanding amount covered by letters of intent will not exceed either total authorizations or any limitation that may be specified in the appropriation process. This amendment adds clarifying language to that effect. While it is not required that such a limitation be imposed in the appropriations process, this language is added to assure that the appropriations process is not unduly restricted.

The second amendment corrects a mistake in the lettering of subsections under section 103 of the bill due to inadvertant inclusion of two subsections "(c)."

The third amendment corrects a typographical error in the printed bill.

Mr. SCHMITT. Mr. President, it is my understanding that the second and third of these amendments are truly technical. The first one has some additional substance and implications, but they are ones which are clearly of interest to the Budget and Appropriations Committees. Therefore, on this side, we have no objection to them.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHMITT. I ask unanimous consent that Patty White of Senator HAYAKAWA's staff be granted the privileges of the floor throughout the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1946

Mr. WILLIAMS. Mr. President, I send to the desk another amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1946.

Mr. WILLIAMS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In page 61, strike lines 23 and 24;

On page 62, strike lines 1 and 2 and substitute the following:

"(3) the term 'Governor' means the ranking executive officer or his designate for each of the jurisdictions included in the definition of 'States'; ";

On page 63, strike lines 16 through 18 and substitute the following:

"(11) the term 'States' means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, including the Northern Mariana Islands; and ".

Mr. WILLIAMS. Mr. President, this amendment would revise the definitions of the terms "States" and "governor" in the Urban Mass Transportation Act. This amendment is offered on the request of the Department of Transportation.

The existing definition of "States" includes "the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States." So long as the UMTA program has been an "urban" program, the question of which possessions or territories of the United States were eligible for transit grants presented little problem. However, S. 2441 would establish a formula program of grants for small urban and rural areas. Since funds would be specifically apportioned to each eligible area, the question of which possessions are eligible becomes relevant.

This amendment proposes to clarify the question by adopting the same list of jurisdictions that are eligible to receive Federal highway funds under title 23, United States Code—including the new territorial highway program proposed in S. 3073. Under this provision the following jurisdictions would be eligible in addition to the States: Puerto Rico; the District of Columbia; Guam; American Samoa; the Virgin Islands; and the Trust Territory of the Pacific Islands, including the Northern Mariana Islands.

Under this approach, we avoid the ambiguity of the current language and lessen the chance that funds would be apportioned to rural areas and not be obligated.

This amendment also conforms the definition of "Governor" to be consistent with the definition of "State."

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Administrator of the Urban Mass Transportation Administration, Mr. Page, together with enclosures.

There being no objection, the material was ordered to be printed in the RECORD as follows:

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION

Washington, D.C.

Hon. HARRISON A. WILLIAMS, JR.
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: As we approach Senate floor debate on the provisions of S. 2441, I hope that we can continue the helpful exchange of ideas that have characterized the development of the new bill. There are, of course, a number of important issues that will face the Senate and later the Conferees as the Congress charts the course for Federal assistance to public transportation in the next decade. However, I would like to take this opportunity to clarify one issue that we have been discussing with the staff of the Senate Banking Committee. I would be glad to discuss any other issues at your convenience.

S. 2441 and its companion bill in the House, H.R. 11733, repeat the definitions of "States" and "Governor" that are in the existing Act.

"States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the *possessions of the United States*. (emphasis added)[1]

"Governor" means the Governor or his designate, of any one of the fifty states or Puerto Rico, and the Mayor of the District of Columbia or his designate.[2]

Under these definitions, we have provided Federal transit funds to possessions of the United States such as Guam and the American Virgin Islands. We have denied assistance to the Trust Territory of the Pacific Islands since it is not a United States possession but is administered by the United States on behalf of the United Nations. The inclusion of "possessions of the United States" in the definition of State has created very few problems while we were administering an "urban" mass transportation program.

However, both the Senate and House bills propose to create within U.S. DOT a rural transit assistance program that would be apportioned to each "State"[3] on the basis of non-urbanized population. Possessions of the United States that could be included within the definition of State, depending on the Congressional intent, are: American Samoa; Baker, Howland and Jarvis Islands; the Canal Zone, Canton and Enterbury Islands; Guam; Johnston Island; Kingman Reef; Midway Island; Navassa Island; Palmyra Island; Virgin Islands and Wake Island. Puerto Rico and the Trust Territory of the Pacific Islands are not considered possessions and the legal status of the Line, Ellice, Phoenix, Tokelau and Northern Cook Islands are the matter of an international dispute.

We would propose to clarify this issue by adopting the same list of jurisdictions that are eligible to receive Federal Highway Administration funds under the provisions of the definition of "State" in section 101 of Title 23, United States Code or under the "Territorial highway program" of section 215 of Title 23, United States Code, as it would be amended by section 104(a)(18) of S. 3073 and section 104(a) of H.R. 11733. The language for this revised definition is shown in Enclosure No. 1. This language would avoid the ambiguity of the current language and would lessen the chance that funds would be apportioned to rural areas and not be obligated. Of course, if a jurisdiction were apportioned funds and chose not to use those funds, those funds would be reapportioned under the provisions of section 18(b) as proposed by section 110 of S. 2441.

An ancillary problem exists with the definition of Governor described on page 1. The definition of Governor does not describe who should act as the executive officer in areas other than the 50 states, Puerto Rico, and the District of Columbia. This is an anomaly of the current law. Enclosure No. 2 presents language for a conforming amendment.

Thank you for the opportunity to comment on this issue. I would appreciate your efforts to clarify this issue so that we can avoid a lengthy administrative rulemaking process that would otherwise be necessary before we could apportion funds to any rural area.

Sincerely,

RICHARD S. PAGE.

ENCLOSURE NO. 1: AMENDMENT TO S. 2441

On page 63, strike lines 16 through 18 and substitute the following:

"(11) the terms 'States' means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands, including the Northern Mariana Islands; and"

ENCLOSURE NO. 2: AMENDMENT TO S. 2441

On page 61, strike lines 23 and 24 and on page 62 strike lines 1 and 2 and substitute the following:

"(3) the term 'Governor' means the ranking executive officer or his or her designate for each of the jurisdictions included in the definition of 'States';"

Mr. SCHMITT. Mr. President, this amendment obviously corrects an inequity that has gradually resulted as we changed the scope of the program, and we have no objection to it on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. SCHMITT. I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHMITT. Mr. President, I ask unanimous consent that James Lockemy and Eddie Twilley of Senator THURMOND's staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I have developed, with the Senator from Indiana (Mr. LUGAR), a colloquy dealing with the joint development and urban initiative features of S. 2441. The Senator from Indiana was very constructive in his thoughts about and specific additions to the bill in the committee. This colloquy develops some very helpful thoughts in relationship of the joint development urban initiatives that are provided in this bill, and I ask unanimous consent that this amplifying colloquy be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. LUGAR. Mr. President, I would like to discuss section 3(A)(1)(D) of the bill with you in order to more clearly understand the purposes and scope of the joint development projects to be funded by the Secretary of Transportation.

Mr. WILLIAMS. I would be most happy to discuss this important section of the legislation with the Senator from Indiana.

Mr. LUGAR. The committee report, 95-857, states: "This provision—would authorize the Secretary to make grants—to finance the additional cost incurred in connection with projects. These 'joint development' projects would involve the coordinated planning and development of transportation facilities and the adjacent land in order to maximize the economic and social return of the public investment, foster more efficient use of urban land and bring about urban development—development purposes which are physically and functionally related."

Would a project which would reduce congestion in a city and increase transit ridership by connecting a private development project with the central transfer point of a metropolitan transit system be eligible for funding under this section?

Mr. WILLIAMS. Yes, I assure my colleague that such a project would not only be eligible under the bill, but it would be the kind of project envisioned as a joint development project.

Mr. LUGAR. Specifically, the city of Evansville, Ind., is in the process of developing a $40 million downtown development project with private investors. The buildings in this project will be connected by a series of skywalks. The city would like to link the new project with the central transfer point of the Evansville transit system by building a 3-block connecting skywalk. Would this project be eligible for funding by UMTA as a joint development project?

Mr. WILLIAMS. Yes, it would be eligible. The committee report is quite clear with respect to this kind of project. The report states in part:

Examples of activities which would be financed under this section include: foundation work and the utility capacity that would accommodate both a transportation facility and a nontransportation facility, walkways or tunnels from a transportation facility to a nontransportation facility, open space serving both the transit and nontransit facility, and land adjacent to a transportation improvement but not for the building erected on such land.

Thus, the walkway you suggested would be a perfect example of a desirable joint development project. I think that this type of project captures the spirit of the law by insuring the coordinated development of mass transit and other commercial and residential activities in our cities to maximize the economic and social returns of investment, both public and private.

Mr. LUGAR. I thank the Senator for his assistance and support.●

Mr. WILLIAMS. The same request is made in connection with discussions that have been held on the elderly and the handicapped and their relationship to program efforts in transportation. The very distinguished chairman of the Special Committee on Aging (Mr. CHURCH) and I have discussed this matter, and have formed our thoughts and put them into a colloquy that I ask unanimous consent to have printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. CHURCH. If I may make an inquiry, there are several transit issues which are of concern to me, as chairman of the Committee on Aging. The first is the so-called Transbus issue, involving the redesign of new transit buses obtained with Federal funds. In order to comply with congressional mandates, the buses must be accessible to the elderly and other citizens with mobility impairments. It is my understanding that the dispute over the regulations for Transbus, issued by Secretary Adams in May 1977, has now been resolved in a manner which meets the objections, and satisfies the needs, of transit operators, manufacturers, and elderly and handicapped individuals.

Mr. WILLIAMS. That is correct. Secretary Adams' original mandate, which called for all such vehicles ordered after September 30, 1979, to have low floors and a ramped front entrance, was mod-

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[1] Section 12(c)1 of the UMT Act of 1964, as amended.

[2] Section 5(a)2 of the UMT Act of 1964, as amended.

[3] Section 18(a) as proposed by Committee Print of S. 2441. Section 22(b) as proposed by Committee Print of H.R. 11733.

ified on September 14. These modifications meet the concerns that have been raised by some manufacturers and transit operators by permitting the front entrance to be equipped with either a ramp or a wheelchair lift, and by providing for flexibility in delivery dates to accommodate the very large task of tooling up for a major, but needed, change in bus design. It is my understanding that groups representing the elderly and handicapped are also satisfied with these changes, because they assure that, within a time certain, buses with low floors that can be utilized by those groups will come into nationwide use.

Mr. CHURCH. I am glad to learn that Transbus has been resolved in a way which is acceptable to all concerned parties and guarantees eventual full fleet accessibility.

However, it is clear that this accessibility will take some time to achieve. For the foreseeable future, the regular transit system must be supplemented with special services for the elderly and other groups. Also, we need to continue support for rural transit programs.

Mr. WILLIAMS. I concur completely. Even in my own State of New Jersey, which is highly urbanized, there is a clear need in many areas for special and rural transit programs. The bill before us today should help to meet these needs better through a new funding mechanism for small urban and rural transit. Also, while the section 16(b)(2) program of grants for special transit vehicles is eliminated as a permissive statutory setaside, this should not result in any diminution of such activity.

Mr. CHURCH. On this subject, I want to point out that Senator DOMENICI, the Committee on Aging's ranking minority member, and I made an inquiry to Secretary Adams in February. While I will include the entire text in the RECORD, I would like to point out that Secretary Adams' reply states:

> We believe that at least as much money will be spent under our proposal as is currently utilized under the administrative setaside.

The Secretary also points out that new funding sources will also become available for the operating expenses of these transit services.

May I just say that I hope that the Banking and Aging Committees can join in a cooperative oversight function, once this legislation becomes law, to assure that there is continuing adequate funding for special transit operators.

Mr. WILLIAMS. I see no reason why such joint oversight could not take place.

Mr. CHURCH. Thank you.

There is one other transit issue which, while outside the scope of this bill, is of great concern to rural and special transit operators around the Nation—the need for affordable, nonrestrictive insurance. The Committee on Aging focused on this in a July 1977 hearing, and found that many operators, in all geographic regions, were being forced to curtail services. Since that time the committee has established a constructive working relationship with a White House Rural Task Force headed by Mr. Jack Watson; and with Dr. Frank Davis of the University of Tennessee, who is studying the insurance problem under a DOT grant.

It appears that solutions for this problem, which can be implemented at the State level, may soon emerge from these efforts. I recently received a letter from Secretary Adams, which expresses his willingness to help Congress find an answer to this insurance crisis. He points out that a remedy takes on added importance given the pending proposal for rural and small urban transit assistance.

I ask that this letter and the one which I referred to earlier be printed at this point in the RECORD.

The letters follows:

Washington, D.C.,
September 14, 1978.

Hon. FRANK CHURCH,
Chairman, Special Committee on Aging,
U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: Thank you for bringing to my attention your statement in the Congressional Record regarding the insurance problems of rural and special service transit providers.

I am very concerned about this problem, particularly in view of the pending program proposals for Federal financial assistance for rural and small urban transit services. As you know, this particular insurance problem is both very complicated and not well or widely understood. Your Committee has performed a great service in raising the visibility of the problem and in encouraging the many diverse interests affected to focus on potential solutions. For its part, the Department of Transportation, through its University Research Program, has sponsored the work of Dr. Frank Davis at the University of Tennessee in his investigation of possible remedies.

Let me assure you and the Committee, the Department is prepared to assist in any way it can in solving the insurance problems of rural and special service transit providers.

Sincerely,

BROCK ADAMS.

LETTER FROM SENATOR FRANK CHURCH, CHAIRMAN, AND SENATOR PETE V. DOMENICI, RANKING MINORITY MEMBER, SENATE SPECIAL COMMITTEE ON AGING, TO HON. BROCK ADAMS, SECRETARY, DEPARTMENT OF TRANSPORTATION, DATED FEBRUARY 15, 1978, AND REPLY DATED APRIL 11, 1978

DEAR MR. SECRETARY: We are planning to seek a clarification of the effect of President Carter's proposal for the improvement of Federal highway and transportation programs, as embodied in S. 2440 and S. 2441, upon transportation services for older Americans in both urban and rural locales. Your responses to the following preliminary questions will greatly assist this Committee in assuring that the Nation's elderly are served by adequate, accessible, and affordable transit services:

To what extent will new public transportation services funded under the "small urban and rural formula grant program" utilize the experience and findings of demonstration projects funded under the old section 147 Rural Highway program? What improvements in the quality and availability of transportation services for the rural elderly can be expected under the proposed legislation?

How is the repeal of the 2 percent set-aside for grants for special transportation, under section 16(b)(2) of the Urban Mass Transportation Act, expected to affect the funding level for such activities? While we are aware that this is a permissive rather than a mandatory reserve of funds, the full funding authorization has been utilized during the existence of the program.

Will assistance for operating expenses now be available to transportation service providers receiving funding under section 16(b)(2)? Will any such assistance be adequate to alleviate the threat caused to many such programs due to the rising costs of vehicle maintenance and insurance?

Will the new planning requirements set by the proposed bills be utilized to address the problems of duplication and fragmentation which currently exist in special transportation programs receiving assistance from DOT and other Federal sources? What role does DOT envision for such special transportation programs during the period in which existing mass transit providers transform their bus fleets to accessible vehicles in accord with your "Transbus" decision of last May; and after all such bus fleets are fully accessible?

Will the nondiscrimination provisions of section 19 of S. 2441 apply to the access of elderly persons to programs funded under the small urban and rural provisions of S. 2440? If not, please provide your rationale.

In regard to section 102(b)(2) of S. 2441, we would suggest that the language be expanded to make it clear that public transportation services must be operated in a manner which provides services which may be effectively utilized by all citizens; and that the term "transportation disadvantaged" be defined elsewhere in the bill.

May we say that, while we have not yet reviewed all provisions of these bills, we are in accord with the President's goal of establishing a more uniform and coordinated system of Federal transportation assistance. In addition, we applaud your own personal commitment to equal transit rights for the elderly and handicapped, as evidenced in the "Transbus" decision. The nondiscrimination section of S. 2441, by including "age" as an invalid ground for denial of public transit benefits, is a welcome statutory embodiment of this principle.

With best wishes,

Sincerely,

FRANK CHURCH,
Chairman.
PETE V. DOMENICI,
Ranking Minority Member.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 11, 1978.

Hon. FRANK CHURCH,
Chairman, Special Committee on Aging,
U.S. Senate,
Washington, D.C.

DEAR FRANK: Enclosed is the Department of Transportation's response to your recent letter to me on behalf of the Special Committee on Aging, which set forth six questions regarding the effect of the Administration's proposal for the improvement of Federal highway and transportation programs (S. 2440 and S. 2441) upon transportation for older Americans.

Please let me know if we can be of further assistance on this matter.

Sincerely,

BROCK ADAMS.

[Enclosure.]

RESPONSE TO QUESTIONS RE THE EFFECTS OF THE PRESIDENT'S PROPOSAL FOR THE IMPROVEMENT OF FEDERAL HIGHWAY AND TRANSPORTATION PROGRAMS UPON TRANSPORTATION SERVICES FOR OLDER AMERICANS

(1) *Question:* To what extent will new public transportation services funded under the "small urban and rural formula grant program" utilize the experience and findings of demonstration projects funded under the old section 14 rural highway program? What improvements in the quality and availability of transportation services for the rural elderly can be expected under the proposed legislation?

Response: The Department of Transportation views the section 147 program as a proving ground for what might work in rural and small urban areas to enhance public transportation.

The Department is presently funding approximately 100 demonstration projects in 48 States that encompass a wide variety of types of services and service levels, under varying climates and geographical conditions. The Department expects that these demonstration programs will: (a) develop parameters of what reliability and costs local governments can expect from their rural transit providers; (2) provide data that the Department can use in developing regulations for use in monitoring performance at the local level without burdening grantees with excessive redtape; and (3) develop models for coordination of funds and services as a means of improving the quality and quantity of transportation services.

The Department expects to make available the experience and findings of the ongoing rural highway public transportation demonstration program to all State and local transportation agencies and special service providers at the completion of the program. This information will assist them in designing and operating public transportation programs that can best meet local needs. Currently, as an integral part of the demonstration program, annual regional workshops are held to exchange information among operators and sponsors. These workshops are advancing the state-of-the-art in this developing transportation field.

The elderly can expect at least four improvements in the quality and availability of transportation services:

There will be more rural service for everyone because of the new sources of funding for rural and small urban transportation. Under the proposed small urban and rural (SUR) transportation assistance program, each state may decide the amount of its apportionment to spend on public transportation, provided that at least 10 percent is dedicated to these projects. Thus, a state could conceivably spend its total SUR apportionment on public transportation, which far exceeds the amount of funds available under the demonstration program. Also, the formula would assure that funds would be distributed more evenly among the States. Since more public transportation projects could potentially be advanced under the legislative proposals, the opportunities for the elderly to travel will likely be enhanced.

The public transportation services provided will have to incorporate special efforts in the planning and design of the systems so that they can be used effectively by elderly persons.

The section 147 demonstration program should provide data which planners can use to minimize the delays in starting new services.

The new legislation will enable providers of transportation services to expand on the successes of the section 147 demonstration program.

(2) *Question:* How is the repeal of the 2 percent set-aside for grants for special transportation under section 16(b)(2) of the Urban Mass Transportation Act, expected to affect the funding level for such activities? While we are aware that this is a permissive rather than a mandatory reserve of funds, the full funding authorization has been utilized during the existence of the program.

Response: Although the administration's proposal does not include statutory language describing a section 16(b)(2) permissive setaside, it is the intention of this administration to strongly encourage States and local areas to use section 5 funds for section 16(b)(2) programs. We believe that at least as much money will be spent under our proposal as is currently utilized under the administrative set-aside.

(3) *Question:* Will assistance for operating expenses now be available to transportation service providers receiving funding under section 16(b)(2)? Will any such assistance be adequate to alleviate the threat caused to many such programs due to the rising costs of vehicle maintenance and insurance?

Response: Although the Department does not anticipate expanding the scope of section 16(b)(2) itself to include assistance for operating expenses, there are other mechanisms for private nonprofit corporations to receive operating funds. In addition to farebox revenues, contract services, and grants from social service agencies, 16(b)(2) operators in urbanized areas can receive operating funds from the public agency that is the recipient of section 5 funds. In rural and small urban areas, the State can provide operating funds directly to 16(b)(2) operators under the language proposed in section 133(f).

(4) *Question:* Will the new planning requirements set by the proposed bills be utilized to address the problems of duplication and fragmentation which currently exist in special transportation programs receiving assistance from DOT and other Federal sources? What role does DOT envision for such special transportation programs during the period in which existing mass transit providers transform their bus fleets to accessible vehicles in accord with your "Transbus" decision of last May, and after all such bus fleets are fully accessible?

Response: One of the most obvious ways to decrease the cost of special transportation programs is to eliminate the duplication and fragmentation of the providers of service. This has been a thrust of the Department's Urban Mass Transportation Administration (UMTA) for several years. It is showing results in places such as Delaware, where a single state agency is the recipient of UMTA and HEW funds for specialized transportation services. In Portland, Oregon, the transit authority is serving as the provider of special transportation programs, and social service agencies are contracting with it for client services. Language in regulations issued by the Department, which require that the planning "process shall consider all modes of transportation," will reinforce, enhance and expand such activities throughout the country.

(5) *Question:* Will the nondiscrimination provisions of section 19 of S. 2441 apply to the access of elderly persons to programs funded under the small urban and rural provisions of S. 2440? If not, please provide your rationale.

Response: Yes. Current highway program directives require that public mass transportation facilities and services be planned, designed, constructed, and operated to allow effective utilization by elderly or handicapped persons. This requirement will remain in force.

(6) *Question:* In regard to section 172(b)(2) of S. 2441, we would suggest that the language be expanded to make it clear that public transportation services must be operated in a manner which provides services which may be effectively utilized by all citizens; and that the term "transportation disadvantaged" be defined elsewhere in the bill?

Response: We do not believe it is necessary to define the term "transportation disadvantaged" because it is not used to create a separate category of individuals for Federal assistance.

We believe the current language, coupled with the language of section 16(a) and section 504 of the Rehabilitation Act of 1973, combine to express adequately the concept embodied in your suggestion.●

Mr. WILLIAMS. Mr. President, we suspended the consideration of the amendment offered by the Senator from Maine for the purpose of taking care of these, not technical but noncontroversial, matters. I now yield the floor, so that we can go back to his amendment.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Maine.

Mr. MUSKIE. Mr. President, I understand that the Senator from North Carolina has an amendment that will take very little time, that the committee is willing to accept. Perhaps by the time the consideration of that amendment is concluded, Senator BROOKE may be able to return to the floor. So for that reason, and in order not to waste the time of the Senate, I am happy to yield at this point to the distinguished Senator from North Carolina (Mr. MORGAN) so that he may call up his amendment.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from North Carolina will be in order.

UP AMENDMENT NO. 1947

(Purpose: To reduce the level of authorizations)

Mr. MORGAN. Mr. President, I call up my amendment which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN), for himself, Mr. PROXMIRE, Mr. BAYH, Mr. EAGLETON, Mr. MCINTYRE, Mr. HART, Mr. LUGAR, Mr. CANNON, and Mr. HATCH, proposes an unprinted amendment—

Mr. MORGAN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, line 9, strike out "$1,400,000,000" and insert in lieu thereof "$1,250,000,000".

On page 46, line 10, strike out "$1,600,000,000" and insert in lieu thereof "$1,325,000,000".

On page 46, line 11, strike out "$1,600,000,000" and insert in lieu thereof "$1,405,000,000".

On page 46, line 13, strike out "$1,600,000,000" and insert in lieu thereof "$1,490,000,000".

On page 47, line 3, after "section 5" insert "(a)(2)".

On page 47, line 3, after "Act" insert "and for purposes of subsections (f) and (g) of this section,".

On page 47, beginning with the first dollar sign on line 12, strike out all through line 17, and insert in lieu thereof the following: "$1,504,000,000 for the fiscal year ending September 30, 1979; $1,586,000,000 for the fiscal year ending September 30, 1980; $1,735,000,000 for the fiscal year ending September 30, 1981; and $1,785,000,000 for the fiscal year ending September 30, 1982. Appropriations pursuant to the authority of this subsection shall remain available for four years following the close of the fiscal year for which such appropriations are made.".

On page 48, line 18, strike out "$100,000,000" and insert in lieu thereof "$90,000,000".

On page 48, line 19, strike out "$105,000,000" and insert in lieu thereof "$95,000,000".

On page 48, line 20, strike out "$110,000,000" and insert in lieu thereof "$100,000,000".

On page 48, lines 21 and 22, strike out "$115,000,000" and insert in lieu thereof "$105,000,000".

Mr. MORGAN. Mr. President, on behalf of myself and Senators PROXMIRE, BAYH, EAGLETON, MCINTYRE, HART, LUGAR, CANNON, and HATCH, I offer this amendment to the Federal Public Transportation Act Amendments of 1978 (S. 2441). This amendment would have the effect of reducing authorizations in this bill by $1 billion over the next 4 years. This amendment will cut $730 million from the capital budget (sec. 3), $230 million from the Federal operating subsidy (sec. 5), and $40 million from administration and research. This amendment will reduce the authorizations by $291 million in 1979, $384 million in 1980, $205 million in 1981, and $120 million in 1982. This amendment will reduce the 4 year authorization levels from $13.870 billion to $12.870 billion.

Reduction of the authorization levels in S. 2441 to this level will still allow a substantial increase over past transit spending and over the administration's proposals, which in themselves contained a 15 percent increase in transit spending over present spending levels.

I want to emphasize that S. 2441 will contain a substantial increase in spending over present levels even after the incorporation of this amendment. But in its unamended form, S. 2441 promises an acceleration of Federal assistance far beyond what we can afford or what will realistically be appropriated. At a time when the Federal Government is running a deficit of nearly $40 billion, the increases contained in S. 2441 are out of line with the type of tightening of the belt we are going to have to exercise in this country to return fiscal soundness to our affairs.

Since the creation of a Federal urban mass transit program in the early 1970's the Federal Government's contribution to this program has grown at a rapid rate. In 1974 the Federal contribution was $581 million, not counting Washington Metro funding and interstate transfers. In 1978, the Federal contribution had ballooned to $2.365 billion. There are few programs in the history of our Nation that have grown so rapidly. In its unamended form S. 2441 would increase Federal spending for urban mass transit by almost $1 billion between this year and next. This is simply too great an increase for the Nation to afford or for the cities to absorb wisely.

During the growth of this program, there has been a broad base of support for rapid increases in the Senate Banking, Housing, and Urban Affairs Committee. Regardless of origin or party, Senators on this committee supported increases in a program that was widely perceived to be in the national interest. The legislative history of S. 2441 before the committee indicates that this broad bi-partisan base of support has been severely eroded by the fiscal excesses of S. 2441 as reported. In a series of key votes the committee split 7 to 8. Senators PROXMIRE, LUGAR, and MCINTYRE, members of the Banking Committee and supporters of a sound transit program, have joined me in bringing this amendment before the entire Senate.

The bill as reported by the committee is substantially above the budget resolution totals established in May and reconfirmed in September. The Budget Committee, in trying to bring overall fiscal soundness to the Federal budget, has been more than generous in endorsing substantial increases in the Urban Mass Transit Administration's budget. In fact the budget resolution totals are substantially in excess of the generous increases proposed by the Carter administration for UMTA. Unless we bring the numbers in S. 2441 into line with the budget resolution figures the bill may never become law at all since the President has indicated his intention to the Congress to veto a bill that is substantially out of line with reasonable growth levels.

Since introducing this amendment some months ago, my office has received calls and letters lamenting my "anti-transit" amendment. I want to set the record clear. Neither I nor the other sponsors of this amendment are anti-public transit. But there are limits to Federal generosity that we need to be more aware of. This year the Federal Government is going to spend almost $40 billion more than it will take in. At the State and local level, many units are decreasing taxes and running surpluses. Yet, these same State and local governments tell me that I am anti-transit because I want to reduce the growth rate in a Federal program that is already paying the cost of 80 percent of the transit investments being made in this country. I think these attacks indicate that there has been a serious loss of perspective on the nature of our Federal system and the appropriate roles of the Federal, State, and local governments in that Federal system.

The Federal Government does not have the responsibility to fund programs that benefit people in a local community. This is the role of State and local government. We do not have a centralized welfare system in this country. This is the responsibility of each locality and State. We do not have a centralized education system in this country. Each community has the responsibility for educating the children in its domain. Similarly with mass transit. This is a service that cities should provide for themselves. In all of these areas the Federal contribution has grown greatly in recent times. This is not a change which is compatible with the long-term survival of our Federal system.

It often perplexes me that when I tell people this, as I often do, they respond by saying, "Yes, but only the Federal Government can afford these programs. State and local governments lack the ability to raise taxes to pay for them." This statement, and the type of thinking it represents, is at the core of the fiscal crisis we face in this Nation today. First of all, let us set the record straight on the ability to tax; State and local governments can and do tax to raise revenue. The barrier here is that people on the State and local level will not pay for the tax increases necessary to fund increased services when they are confronted with the choice of doing so. For reasons that are not too clear they perceive Federal moneys to be free. People want the Federal Government to pay for services that they would not pay for on their own if given the choice in their communities. This is particularly paradoxical since they are paying for the Federal programs just as surely as they pay for programs at the State and local level.

The Federal Government can deal with this climate of expectations only by funding programs through means that are not readily visible or immediately felt by the public. Deficit spending is the most favored and widespread technique for hiding the costs of benefits which people receive. But, as we know all too well from recent experience, deficit spending results in the hidden and pernicious tax of inflation which we all eventually have to pay.

State and local governments must begin to approach their problems with more of a spirit of self-reliance and independence. They must begin telling their citizens that they must pay for their services or else go without them.

Before closing, I would like to return to the specific program which my amendment addresses, the public transportation program. In recent years several cities have invested billions in Federal and local moneys into the construction of heavy fixed rail transit systems. Washington, San Francisco, and now Atlanta have heavily mortgaged their future on these fixed rail systems. The record of performance, public acceptance, and costs of these systems is not so unambiguously favorable that further massive Federal investments in heavy fixed rail systems for cities with even lower population densities is justified. Yet passage of S. 2441 as reported would provide sufficient funds for several major new starts in cities where the chances for viable operation are even lower than in the cities where the systems are currently running into difficulties.

The limited success which the new starts have had in achieving the goals that inspired their construction must cause us to question the link between more money and better transportation. It is clear to me that how we spend the money is more important than the total amount of money that we spend. Recent studies by CBO have made clear that there is a whole host of very low cost alternatives to expensive capital investments that can be as effective or more effective in improving transportation. For instance, the use of bus priority lanes can drastically improve the efficiency and speed of transit at a very low cost. Similarly the use of buses in the place of heavy rail systems can lower costs, increase flexibility, and save energy. We need to do a better job encouraging the localities who are interested in massive Federal subsidies to try these cost saving performance improving techniques before we pour Federal money into projects that will have a difficult time even meeting operating costs.

There is one instance which I would like to relate which bears out several of

these observations. During consideration of S. 2441 in the Banking Committee, a local official came to my office and beseeched me not to support cuts in the transit bill before the committee. It happens that this official was from a county that had tried to establish bus priority lanes to improve the efficiency of the transit system, reduce pollution and lower the bus system's operating deficits. It turned out that this county had abandoned this plan because motorists who had to drive in the more congested remaining lanes were irritated by the longer time they had to spend commuting to and from work. Because the county had abandoned this plan they wanted Federal money to put a fixed rail transit system down the center of the same freeway—with Federal money. The same officials who refused to incure the wrath of the irate commuters wanted the Federal Government to fund an enormously expensive fixed rail system. I might also add that this county is in a State where the voters recently enacted a great decrease in property taxes.

It is particularly ironic that there is such a widespread attack on the property tax in many cities at the same time that the transit systems in these same cities are incurring massive operating deficits. This is the more ironic because the value of transit systems cannot be recovered at the fare box since the value accrues to the property base. Transit advocates often point out that the Federal Government spends much more money on highways than on transit, thus insuring the inadequacy of public transportation. This analysis fails to note that the highway system, unlike the transit system, is user funded, funded by user taxes that are levied in rough proportion to the use of the system. This is, of course, not the case in the transit area where virtually no public transit system even meets operating costs from fare box receipts—transit "user fees." It is, of course, possible to devise a tax scheme that would recover the cost of the transit system from the place where that value accrues—the property base. Only the property tax can do this, and the Federal Government cannot—fortunately—tax property. Thus it turns out that the cost recovery scheme most appropriate for truly putting the transit systems of this Nation on an equal competitive basis with the highways is in the hands of the local governments and they are not willing to exercise that power.

The amendment before the Senate today will not solve these problems but it is a small step in the direction of reducing the Federal deficit and will hopefully be a message to the cities, counties, and States that they must take steps to spend their money more wisely and on those projects which the citizens of their communities truely want. It is my hope that the Senate will join me in making this modest step toward fiscal responsibility.

Mr. SCHMITT. Mr. President, as indicated earlier in the colloquy between the Senator from New Jersey and myself, this amendment is a part of a package that is a very reasonable package, and the minority has no objection to the adoption of the amendment.

Mr. WILLIAMS. Mr. President, I certainly support the amendment offered by the distinguished Senator from North Carolina. In my opening statement, I described the evolution of this legislation to the point where we added a year to make to make it a 5-year program.

With the Morgan amendent we will be reducing the money in this bill by $1 billion. It all comes together as a sound approach; sound in every way in terms of the length of the programs and the amounts of money for the public transportation program.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. SCHMITT. Mr. President, I am advised that although the Senator from Massachusetts (Mr. BROOKE) personally would not oppose this amendment, he did want to express his concern that the Carter administration's strong support for the Morgan amendment reflects the President's policy to cut back on our Federal commitment to mass transit, in contrast to the prior administration, which worked for increased funding for transit. This administration's program runs directly counter to what Senator BROOKE believes to be a rational environmental, energy, and urban policy. Senator BROOKE expressed the hope that I would make that clear, and draw the attention of the Senate to his remarks in his opening statement expressing such concern.

However, he will not oppose the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Maine.

Mr. MUSKIE. Mr. President, I understand that Senator BROOKE will be on the floor shortly, so I would like to reserve my amendment until that time. I have some further comments on the bill to make before that time. The distinguished ranking Republican member of the Budget Committee (Mr. BELLMON) is here with some comments of his own. So, pending time for Senator BROOKE to arrive and to get into the issue raised by the provisions of the bill which is identified with his name, I will proceed with my general comments.

Mr. President, the Senate now has before it S. 2441, the Federal Public Transportation Act of 1978. This is a major multi-year, mass transit authorization bill, and I am certain the Senate will want to know the implications of its enactment on the congressional budget ceilings. Before I get into that subject in detail, however, I want to say that I support most of the provisions of the bill. The major exception is section 104 (c), which would establish an expensive new policy regarding Federal mass transit operating subsidies. That particular provision stands out so clearly as a "budget buster," that I believe the Senate has no alternative but to eliminate it from the reported bill.

I commend Senator WILLIAMS, the manager of the bill, for his skill in defining the transit problems that we have in our urban areas, and for his many contributions to solving those problems with Federal assistance.

I can recall when he began those efforts years ago, when I, myself, was a member of the then Senate Banking Committee. I remember what a struggle it was for him to get a start in establishing Federal policy dealing with mass transit. I have watched his efforts over the years and I want to take this opportunity to commend him for those efforts.

Although I have serious concerns regarding certain aspects of the bill, as I just mentioned, I want to say that I believe my colleague from New Jersey has made another substantial contribution to mass transit by shaping this major authorization legislation now before us.

Mr. President, I should like to take a few minutes to report to the Senate on the potential impact of this bill on the Federal budgets for fiscal year 1979 and future years.

To begin with, S. 2441 provides specific UMTA authorizations of $14.8 billion over a 4-year period beginning in fiscal year 1979, plus indefinite authorizations for interstate transfers—that is, transfers from the highway program—which are expected to require a further $2.7 billion over the same period. Annual program authorizations total approximately $4.0 billion in fiscal year 1979, and increase steadiily thereafter to $4.6 billion in fiscal year 1982.

As chairman of the Budget Committee, I regret to say that these authorization levels could cause serious budgetary problems. The spending ceilings agreed to by the Congress in the second budget resolution allow for a substantial but responsible 16-percent increase in mass transit program levels. This increase substantially exceeds the overall 11.1-percent increase in the budget for fiscal year 1979 and reflects the priority that the Congress attaches to mass transit programs. But, full funding of S. 2441 would produce an immediate 32-percent increase in program levels and cause the budget ceilings in function 400, transportation, to be exceeded by $0.4 billion in budget authority and $0.3 billion in outlays in fiscal year 1979 alone. Further, full funding would cause the 5-year transportation targets to be breached by at least $2.5 billion in budget authority and $2.2 billion in outlays.

Fortunately, Mr. President, unlike existing mass transit legislation, S. 2441 does not provide "backdoor" spending which automatically provides full funding. Rather, in accordance with the requirements of the Budget Act, it provides only authorizations for appropriations. This should result in a significant improvement in the Congress' ability to control mass transit spending.

This new control may already be in evidence in the form of the recently approved fiscal year 1979 Department of

Transportation Appropriations Act that provides mass transit funding which is consistent with congressional spending ceilings and much lower than would be authorized by S. 2441 or companion House legislation. However, I must caution that the regular appropriations bill does not include funds for several programs and projects which would be authorized by S. 2441 and could be funded with supplemental appropriations.

Mr. President, I have reviewed the list of possible transportation supplementals very carefully, and I believe that if there is no unwarranted expansion of established Federal policy toward mass transit; then we can expect the Appropriations Committee to assure that the Congress stays within its fiscal 1979 transportation spending ceilings.

The important queston, then—and I am now approaching the question of my amendment—is whether S. 2441 includes any provisions which would fundamentally alter Federal mass transit spending policy, and in so doing jeopardize the Appropriations Committee's ability to hold spending within the congressional budget ceilings.

Unfortunately, there is one such policy change in S. 2441 as reported, and I believe its budgetary implications are so unfavorable that the Senate must remove that provision from the bill. I refer, Mr. President, to section 104(c), which would establish a new and expensive policy regarding Federal assistance for the financing of mass transit operating deficits.

AMENDMENT NO. 3458

The amendment I call up at this time would strike this section from the bill. I am joined in this amendment by my distinguished colleagues (Senator PROXIMIRE) the chairman of the Banking Committee which reported S. 2441; Senator BAYH, chairman of the Transportation Subcommittee of the Appropriations Committee; and Senator BELLMON, the ranking member of the Budget Committee. Also cosponsoring the amendment are Senators DOMENICI, LUGAR, and SASSER. Mr. President, I ask unanimous consent that Senators MCINTYRE, EAGLETON, BENTSEN, HATCH, MCCLURE, and THURMOND, be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, enactment of section 104(c) would redefine mass transit policy to provide Federal operating subsidies to all transit operators up to the point where the total amount of these subsidies is equal to one-half of each transit operator's operating deficit. The only limitation is one that is included in a separate section of the bill, and provides that the subsidies cannot equal more than one-third of the recipient's total operating expenses.

Under current policy, 50 percent of the transit operating deficit represents a ceiling above which Federal operating subsidies cannot rise. Section 104(c) would fundamentally change this policy, by converting the ceiling to a floor.

There is a song that was popular not long ago which suggests that there is no real difference between a ceiling and a floor, that it is all a matter of perspective. In the words of Paul Simon's song, "one man's ceiling is another man's floor." Well, Mr. President, in case any of my fellow Senators live in high-rise apartments where that message has a ring of truth, let me assure them that, at least as far as Federal spending is concerned, there is a very significant difference between a ceiling and a floor, as analysis of this provision makes very clear.

As reported, S. 2441 includes an authorization for section 104(c) that starts at $127 million in fiscal year 1979 and increases each year thereafter, reaching $318 million by fiscal year 1982. These authorization amounts are based upon the critical assumptions that transit deficits are under control and that the proposed new Federal policy will not influence transit operators, local transit unions and city officials to alter existing approaches to transit financing. However, those assumptions are totally unrealistic.

In fact, it is very likely that enactment of section 104(c) would have a very significant impact on future decisions related to transit fares and transit operating costs, and therefore also on the level of Federal operating subsidies required to implement the new policy.

Were the provision to be enacted, the perception would be that the Federal Government stands ready to pay for all increases in each transit operator's costs and deficit until the size of those payments reaches one-half of the operating deficit, or one-third of total operating costs. This 100 percent Federal share would provide a clear financial incentive for local transit operations to allow wages and other costs to rise and fares to fall—or fail to rise with continued increases in costs, until one of the two limiting conditions applicable to the size of Federal subsidies became operative.

For example, assume that a particular transit operation currently has annual operating costs of $200 million, operating revenues of $100 million and therefore an annual deficit of $100 million as well. Assume further that the local government is financing $75 million of the deficit and that the Federal Government is providing operating subsidies of $25 million, equal to 25 percent of the deficit. Enactment of section 104(c) would establish the "proper" level of Federal subsidy at 50 percent of the deficit, or $50 million. Because of a "maintenance of effort" provision in the law, the local government could not reduce its subsidy of $75 million. Therefore, the only way in which the transit operation could receive the additional Federal subsidies to which it was now "entitled" would be for it to allow its deficit to rise. It could do this by any of several methods, including the tactic of simply acquiescing to high-cost wage settlements which add $50 million to operating costs. Total annual operating costs would then be $250 million. As before, operating revenues would be $100 million and the local subsidy $75 million. The Federal subsidy, however, would increase by $50 million, to $75 million, equal to one-half of the new deficit. The result, therefore, would be that the Federal Government paid for 100 percent of the increase in operating cost and in the deficit.

Theoretically, it would be possible to contain Federal subsidies by limiting the authorization and appropriation amounts. However, this would prove extremely difficult, if not impossible. Under section 104(c), transit operations which are not already eligible for assistance under the new policy would become eligible in the future as their costs and deficits rise. Since this ultimately would lead to transit operations in essentially all cities being eligible, the pressure on the Congress to provide additional funding would be extremely strong.

Enactment of section 104(c) thus could result in significantly greater additional Federal spending than the specific authorizations in S. 2441 suggest. For example, UMTA has estimated that the radical policy change could quickly result in additional costs of as much as $2 billion per year. The Congressional Budget Office, even though using a much more conservative method to project transit deficits, still estimates that the additional annual cost of this section alone would climb to over $1 billion by fiscal year 1983.

Mr. President, in terms of the level of Federal operating subsidies, CBO's estimate—which, again, is much more conservative than that of UMTA—shows that setcion 104(c) by itself could cause Federal operating subsidies to approximately double in 3 short years. In terms of the congressional budget, section 104(c) by itself could cause the fiscal year 1979 through fiscal year 1983 spending targets to be exceeded by nearly $4 billion.

Mr. President, given this situation I see but one possible conclusion: The section 104(c) provision in S. 2441 represents an unwise new direction for mass transit policy, the cost of which is seriously understated.

Others have recognized this to be the case. I note that the provision was extremely contentious in committee, where it was approved by only 1 vote, 8 to 7. No less than five members, including the chairman of the committee, filed dissenting views. It is also strenuously opposed by the administration and by the League of Cities and U.S. Conference of Mayors, all of which see very clearly the fiscal irresponsibility which the provision entails.

Mr. President, I would conclude by reminding the Senate of two points. First, section 104(c) is a problem not only because it would cause the Congress to break its own budget, but also because it represents very bad mass transit policy. If enacted, it would provide incentives for cities to mismanage their transit operations. Second, defeat of this provision will in no way shortchange the cities with regard to Federal operating subsidies. Even without section 104(c), S. 2441 still provides for an immediate increase in annual authorizations available for operating subsidies of about 48 percent or $400 million, most of which is earmarked for the same large cities that would benefit the most under section 104(c). No one can charge that the Senate is being stingy with mass transit.

I urge the Senate to vote "aye" on our amendment to strike this unwise and excessively costly policy provision from the

Federal Public Transportation Act of 1978.

Mr. President, at this point, I am happy to yield to my good friend from Oklahoma, the ranking Republican on the Budget Committee (Mr. BELLMON), for such time as he may wish.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend, the Senator from Maine.

I strongly support the Muskie amendment, of which I am a cosponsor.

The distinguished Senator from Maine has made several important and telling points against the amendment, and much of what I want to say will simply reinforce the position he has taken.

The amendment would strike portions of section 104 from S. 2441. The problem, as I see it, is that the new policy, established by the amendment relating to mass transit operating subsidies established in section 104, sends all the wrong signals to local transit authorities. In essence, it encourages such transit systems to act in an irresponsible manner as regards the control of operating deficits because the bill provides full assurance that the Federal Government will pick up the check for any adverse financial results.

Heretofore, our policy with respect to Federal assistance to mass transit operations has been one which limited Federal exposure to no more than 50 percent of operating deficits. This new policy, envisioned in section 104, would provide additional operating subsidies of no less than one-third of total operating costs or 50 percent of operating deficits. Thus—and Senator MUSKIE made this point—what was formally a ceiling will now become a floor.

Transit systems would then have no reluctance to permit costs to rise or fares to remain static in the face of rising costs, since the Federal subsidy would increase, leaving them financially no worse off and politically better off than they were before.

In addition to establishing bad transit policy, the new provisions of section 104 are authorized at unrealistically low levels and therefore subvert future budgets. The authorization suggests that $1.3 billion would adequately fund the purposes of this section between now and 1982. CBO however, has estimated that, as local transit operators change their behavior and flock to the Federal feast, an additional $2.6 billion would be required, if the purpose of this section were to be realized.

It has been alleged that the appropriations process could be used to prevent such escalating costs. However, we all recognize that as virtually all transit systems became eligible for the subsidy, intense pressure to fatten up the subsidy would be put on the appropriations process. Certainly it is undesirable to create such a situation with full knowledge and seemingly by design.

Finally, Mr. President, I feel compelled to point out that initially two cities, Boston and New York, would receive over 50 percent of the incremental funding associated with section 104 operating subsidies. In the case of Boston we would be rewarding a transit system whose fares according to DOT are among the lowest (25 cents) and its employees among the highest paid in the Nation, over $8 an hour. In short, by "bailing out" the Boston transit system, we would be rewarding profligate behavior and encouraging others to adopt the same theory of operation which has created a crisis in that city. Should that come to pass, the extent of Federal commitments to mass transit subsidies become virtually limitless. Resources are scarce and Federal support must be limited and constrained in such a manner that its implementation improves rather than destroys local initiative and responsibility.

I encourage my colleagues to support this amendment, which reaffirms existing public policy and precludes the establishment of a new, expensive and undesirable alternative.

Mr. BENTSEN. Mr. President, I strongly support the Muskie amendment, and I congratulate the Senator from Maine for his diligence in trying to see that we have some legislation to help the taxpayers get some results for their money. I think we have to strike section 104(c) from the Federal Public Transportation Act.

My opposition to this provision stems not from any innate bias against mass transit. I have been a strong supporter of mass transit, as the Senator from Maine well knows from the 1974 fight, in which I helped him. I recognize the pressing need to improve these facilities and encourage their use.

In chairing the Transportation Committee, I held hearings in New York; in Watts, Los Angeles; in Chicago, and in Atlanta, involving the mass transportation systems, and I saw how effective they can be and saw how much waste can occur with poor management.

I do not want a situation in which we have rewards for bad management, and that is what this provision would do. I appreciate the vital role of mass transit in urban areas of this country. I understand the energy saving and environmental advantages of mass transit.

I submit, however, that we have an obligation to approach even the most commendable objectives in a rational, fiscally responsible manner.

Inflation is the most difficult problem facing this country today. We do have finite resources, and we do have competing objectives. Mass transit is one of the very high priorities, and seeing that we accomplish it effectively is our responsibility.

Section 104(c) is neither rational nor fiscally responsible. It is generous to a fault. It will encourage waste and inefficiency in the management of our mass transportation resources.

Mr. President, the Federal Government has recognized and accepted an obligation to help meet the deficits of local mass transportation systems. Last year we spent $750 million in this endeavor; we picked up 30 percent of the mass transportation deficits in this country. That is not an insubstantial effort; it is a commitment of major importance.

Some may argue that allocation formulas for offsetting grants have traditionally been unfair or inadequate since they have been based in the past on population and population density.

Many of these concerns and objections are addressed in the pending legislation, which adds to the formula such factors as age of bus fleets, bus seat miles, fixed guideway route miles, and community rail miles.

Section 104(c), however, goes too far. It constitutes fail-safe insurance for mass transportation systems, regardless of management practices or demonstrated need. By guaranteeing that the American taxpayer will pick up half of any deficit, providing it does not exceed one-third of total operating revenues, 104(c) constitutes an open invitation to inflationary mismanagement.

Let me cite an example of what this provision would entail. Let us assume that city X has a mass transportation system with operating expenses of $1 million and a deficit of $100,000. Let us further assume that the Government, under current legislation, picks up 45 percent of that deficit. The local taxpayers, in other words are out $65,000.

If 104(c) becomes law, it will not be long before local officials sense the significance of the legislation. The people in city X might reduce bus prices or they might raise salaries. And well they should. Let us assume that the local deficit rises 30 percent—to $130,000. The Government pays half and the city pays half, $65,000 apiece. The local jurisdiction, in other words, could purchase an additional $30,000 of deficit at no additional cost to itself.

I submit that such a provision is clearly lacking in logic and deserves prompt and overwhelming rejection by the Senate.

Mr. President, there are many worthwhile programs and problems in this country that could effectively absorb more resources than we can afford to commit to them. Mass transportation is a legitimate and worthwhile contender. It deserves our serious, sympathetic consideration.

But, like other problems and issues, it also demands a sense of fiscal responsibility; a rational allocation of finite resources; sound management practices, and a recognition that we simply cannot ask the American taxpayer to foot 50 percent of any mass transit incurred by an urban area.

The deficiencies of 104(c) are not limited to logic; the provision is costly in the extreme. It is estimated that 104(c) would cost about $900 million over the next 4 years. But this is only the beginning—it sets a policy which the urban mass transportation administration estimates could eventually require $2 billion per year to fully fund.

Let us do what we can for mass transit, Mr. President. But let us also recognize the constraints of the possible and delete section 104(c) from this bill.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BENTSEN. I am happy to yield.

Mr. BROOKE. Does the distinguished Senator from Texas realize that his city of Houston already gets 50 percent of its operating deficit from the section 5 formula?

Mr. BENTSEN. I say to the Senator

from Massachusetts that as this bill is structured—and we are seeing a major change in the mass transit system of Houston and it is long overdue—but as this one is structured, there is nothing to encourage management to be more efficient. There really is a bonus, in effect, for mismanagement. I do not believe that is a proper way to approach this.

Mr. BROOKE. That is a separate issue. The Senator talks about fiscal responsibility. There should be something called fiscal equity as well as fiscal responsibility.

I am just pointing this out to my distinguished colleague from Texas, and I am not saying that it is irresponsible or anything of that nature, that Houston already receives at least 50 percent of its operating deficit under the section 5 formula.

Mr. BENTSEN. I say to the distinguished Senator from Massachusetts that providing fiscal equity does not make it right. With this provision, I cited the example of how transit authorities could raise their salaries substantially and they would not pick up any of it. They would let the Federal Government foot the bill.

Whether it is Houston, Austin, San Antonio, or Boston, we should try to think about the taxpayers of this country and see if they can get their money's worth, and we should encourage effective and efficient management in this country.

Mr. BROOKE. I could not agree more with the Senator from Texas. That is exactly what I believe in. I think that the Senator from Maine, the Senator from Oklahoma, certainly the Senator from New Jersey and I all agree that we have to be concerned about the American taxpayer. But we also should be concerned about the fairness of the allocation mechanism. Should population be the principal means of allocation or should it be commitment to mass transit? Many of the cities do not want mass transit at all. They do not want to put any money into it. They can solve their problems otherwise. But there are some cities that are committed to mass transit. They have done a lot for mass transit. Their whole economy depends upon mass transit systems, and that commitment cannot be measured by the population of the particular city.

Rural areas are also concerned about the need for mass transit, because they see that it is cost effective. It takes people to their jobs and it creates jobs.

Mr. BENTSEN. Let me say to the Senator from Massachusetts I held hearings in New York, Chicago, Detroit, Los Angeles, and Atlanta, on mass transit. I think Houston is late coming to the party. They have done a very poor job on mass transit. They have just passed a very substantial bond issue to try to do something about it. They advise me that the way they are going to fund it is by an increase in revenue and a substantial one.

But again whether it is Houston or any other city in my State, I am not going to support something that I think really does not put the incentive in there for more effective and efficient management. In fact it is the very contrary.

Mr. BROOKE. I think the Senator is absolutely correct. On the other hand, I do want to see equity for those cities that are committed to mass transit, those cities which are not faring equitably under the existing formula, and it is very difficult to get congressional legislation which takes that into effect.

It seems now that we are moving in the direction of revenue sharing, revenue sharing based upon population. And I am just suggesting to the distinguished Senator from Texas that in this amendment which was adopted by our committee we look at other criteria when we develop a formula that is going to be used for the distribution of mass transit funds. But I am certainly not picking on Houston by any means and I want the Senator from Texas to understand it. I simply pointed that out to him.

Mr. BENTSEN. I am picking on Houston myself, and I am glad to aid and abet.

Mr. BROOKE. I just mentioned Houston as a matter of personal knowledge that they do receive 50 percent or more of their operating deficit.

But, at any rate, I thank the Senator for yielding, and I do have a statement that I wish to make regarding the amendment which is proposed by the distinguished Senator from Maine and supported by the distinguished Senator from Oklahoma, the distinguished Senator from Texas, and others.

Mr. President, I must strongly oppose the amendment of my distinguished colleague from Maine.

Let me first explain what the supplemental operating assistance provision in this bill will actually do. The specific language of this provision tends to be overshadowed by the rhetoric about "guaranteed 50-percent funding," "inflation," "inefficiency," and "open-ended commitments."

Those are the words that I have heard this morning. Those are the words that I have heard before. I repeat them.

Guaranteed 50-percent, funding, inflation, inefficiency, and open-ended commitments, words with which we all disagree. I think that all of us here in the Senate and certainly the President, would find these words anathema.

The additional operating subsidy provision would be available for those local transit systems, or "urbanized areas," as they are called in this legislation, which do not receive 50 percent of their operating deficits under the section 5 formula for operating assistance.

If I may have the attention of the Senator from Maine, as the Senator from Maine recognizes, what we have tried to do in this legislation is to focus upon those urbanized areas, as they are called, which do not receive 50 percent of their operating deficits from the existing section 5 formula. That was the purpose of this provision, not inflation, not guaranteed 50-percent funding, not inefficiency, and certainly not open-ended commitments. That was the purpose of my amendment when it was introduced and that is what is would do. In order to promote an equitable distribution of funds, and I am sure the Senator from Maine understands the necessity for equity in this instance, this provision would provide that the Secretary of Transportation shall use the funds authorized in this section to bring those transit systems up to either a 50-percent level or to one-third of total operating expenses in accordance with the limit of maximum Federal participation established in this bill, whichever is the lower.

Therefore, even if the provision were fully funded, not all cities would receive full 50-percent funding, because of the cap of one-third of total operating expenses.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. MUSKIE. No. 1, with respect to the point the Senator made earlier, I, of course, do not quarrel at all with the intent or motivation of this amendment. What concerns me is its effect. I say in that connection that there seems to be general consensus that the current law did result in inequities. I am not sufficiently expert on all of the city transportation systems to comment in detail on that, but there was general consensus. And, as I understand the second tier of funding for operating subsidies, it was put together after a long and strenuous effort on the part of people concerned in trying to ameliorate those inequities and deal with them.

The Senator's proposal is supplementary to that second tier funding.

Our estimates of the costs are, first, with respect to the fiscal year 1979, the resulting costs would exceed the budget as it stands. Second, with respect to the estimates of future funding costs, those estimates have not been based upon the assumption that all cities support would rise to 50 percent of deficit, because you do have the one-third control.

But one of those estimates, the most pessimistic of them, comes from UMTA itself, and amounts to $2 billion; the CBO estimate is more conservative at $1 billion. No one really knows for certain how many cities will rise to the bait of 100-percent Federal support of higher deficits, therefore of higher wage settlements or of lower fares. But there is definitely an incentive for them to move in that direction.

Mr. BROOKE. Mr. President, if the Senator will yield, the Senator is well aware of the limitation. There is an authorization limitation in the first year of $127 million, in 1980 of $191 million, in 1981 of $255 million, and in 1982 of $318 million. That is the limitation.

Mr. MUSKIE. I also understand the pressures for meeting the eligibility for funding in response to this formula. I mean, I saw evidence of it on the floor today. Your justification for the bill, in part, rests upon the fact that Houston now gets 50 percent of its deficit supported. Well, that is your argument for Boston. I imagine that a similar argument will be raised for every city offering a mass transit system anywhere in the country, and I cannot believe those pressures will be resisted if we establish this policy of this eligibility formula in this bill.

Mr. BROOKE. Mr. President, if the Senator will yield, let me assure the Sen-

ator from Maine that cognizant as I am of the budgetary problems which he faces as chairman of our Budget Committee and, as he knows, I have supported him in his endeavors to stay within the budget, that is why the limitation was placed in the authorization.

What the Senator is suggesting is that we may not be able to hold to that limitation.

Mr. MUSKIE. I just recognize from 4 years with the budget process the kind of pressures that generate future years' spending. The time to apply the discipline is at the point where you create the pressure-generating policy. If it is not the intent that this policy should result in the kind of future year budget costs that I tried to project, then we ought to have a different formula. We ought to have a different policy. We ought not to deliberately put in place a policy that has this kind of pressure-generating potential, and I just think it has that potential.

I have looked over the pressure process, which is something of an education in a variety of fields, I might say. Every time I come to the floor I learn more things. I am not sure they are all stored in this inadequate head, but in any case, I do understand it.

There is, of course, wide diversity in the circumstances of mass transit systems in our cities across the country. Differences are reflected in fare levels, they are reflected in deficits, they are reflected in revenue responses, in the fare box revenues, and so on. There is great diversity, and I understand the difficulty of having to establish a policy that applies to those diverse circumstances.

But I just think that this proposal will generate pressure that Congress will not be able to resist, pressure to provide funding to the levels that will equal, hopefully, the conservative estimate of what those levels might be, and potentially to provide the higher levels estimated by UMTA, and it is for that reason that I am concerned. All this is in addition to the fact that the immediate effect of the formula is to breach the fiscal year 1979 budget levels.

(Mr. MELCHER assumed the chair.)

Mr. BROOKE. Let me assure my colleague from Maine——

Mr. MUSKIE. Let me emphasize, too, that the Senator has been a supporter of the budget process, so I would not want that ambiguity to be in the RECORD.

Mr. BROOKE. I thank the Senator.

I just want to say that being cognizant of that, in an attempt to be reasonable while at the same time attempting to correct what I believe, and I believe the Senator from Maine has already agreed, although he may not understand the extent to which inequities exist in funding for the various rapid transit systems around the country, that what we have tried to do in this bill is to try to correct those inequities while, at the same time, giving serious consideration to the budgetary problems we knew could exist. Therefore, the limitations are clearly contained in the authorization. I certainly would be one to resist the pressures, and I am quite aware that pressures would build. I have seen them build around here, and I know the Senator from Maine sees them every day. As a matter of fact, almost every bill we have on the floor requires his attention constantly, both in authorizations and in appropriations, to see to it that the pressures that build to go beyond our budget ceilings are rejected.

But I just wanted to assure the Senator that when I hear such language, as I said before, as "inflation, inefficiency, and open-ended commitments," that that was not the intent of the proposer of this amendment or my distinguished chairman, Senator WILLIAMS, or the members of the Banking, Housing, and Urban Affairs Committee on which the distinguished Senator from Maine once served himself.

It is a very serious-minded and very conservative committee, as he well knows. While there was not an overwhelming vote in the committee I must confess, at least the committee did vote on this provision with full knowledge of what its impact would be, and I think the deciding factors were based upon the inequities that presently exist in the formula.

There are many cities which we are trying to help here that are committed to mass transit and need increased mass transit. They have already demonstrated their desire to have a viable transit system by their own expenditures. So what we would be doing here is to correct an inadequate formula so that it would be a formula which did not short change those cities that want mass transit and have demonstrated not only their desire for it, but their intention to construct and to operate mass transit systems, which are so sorely needed in those cities.

I thank the Senator and I would just like to proceed and get back to another subject.

There is a second limitation also present in the bill. Recognizing the budgetary constraints and the fact that 50 percent funding is actually a goal—it is a goal and not a mandate—I want to point that out, because I think I heard language on the floor this morning which would indicate that some thought it was a mandate—I repeat it is not a mandate, it is just a goal—the bill provides that if appropriations in any given year are insufficient to finance fully the 50-percent provision, then those cities which are eligible for assistance under this provision would take a pro rata reduction in supplemental assistance.

I think that is a real safeguard, and that was put in for a specific and obvious reason.

As I have stated, the 50-percent provision, far from being a floor, as some have claimed—and I heard this morning that it was a floor, and it is not a floor—it is rather a goal, which would represent the achievement of equity for those eligible cities under the operating assistance program.

This provision does not establish the principle that a city is entitled to receive 50-percent funding of its transit deficit. It recognizes the reality that some cities are currently receiving 50-percent funding and more under the formula, and that other cities, which are constrained by an inequitable population formula allocation, are not receiving their just share of funding. I think that is a laudable purpose, and it is based upon a material existing fact.

The city of Houston, as I pointed out, receives 50 percent or more under the present formula, and there are other cities which, because they have an inequitable formula allocation, are just not receiving their equitable share of the funding. In fact, the 11 cities which would gain under this provision represent a majority, almost 60 percent, of the transit ridership in the Nation, in the entire Nation, and I think that is very significant.

We are talking about people, we are talking about transporting people from job to home or wherever they need to be transported, and 60 percent of the entire ridership in the whole Nation would gain under this provision in these 11 cities.

Those three cities which are cited as major beneficiaries of the provision are New York, Boston, and San Francisco. They carry nearly 50 percent of our Nation's riders. Can you imagine, just three cities whose transit systems carry nearly 50 percent of our Nation's riders?

Now, mass transit operating assistance is not a general revenue-sharing program. It was never intended to be a general revenue-sharing program. Nor is it the same as a community development block grant program.

These funds are to be targeted at those local transit systems with demonstrated needs, those systems which provide substantial transit service, in localities which are willing to make a real local financial commitment to transit.

I somewhat liken it to the debate concerning the Department of Housing and Urban Development's UDAG program, which we considered on the floor earlier this year. The program provides discretionary money which the Secretary of HUD distributes to cities which have developed specific programs. Many believe that UDAG should be just another revenue-sharing program, when the purpose of that bill was to aid distressed cities wherever they may be in the country—cities that are really economically distressed and are deteriorating. It is not intended that all cities be eligible for that special program.

Some claim that, say, my own hometown of Newton, Mass., which by no means could ever be classified as a distressed city, should share UDAG funds with, say, some of the cities around the country that are really distressed such as Detroit, for example, or Newark, N.J., or Washington, D.C.

(Mr. NELSON assumed the Chair.)

Mr. BROOKE. I say again, under this provision we are not concerned with all cities, we are concerned with those cities that need and are committed to and are willing to make a real financial commitment to additional mass transit services.

I am proud to say that cities and towns across my own State of Massachusetts have made and continue to make that kind of substantial commitment to mass transit. They are aware of the energy shortage, of the pollution and congestion from just too many automobiles, and the need to serve our low-in-

come families, our elderly, and our handicapped, who just cannot be transported from one place to another.

In fact, among Massachusetts mayors alone, this is not looked upon as an urban transit bill, it is called the Property Tax Relief Act of 1978. And any increased funds received by the Massachusetts Bay Transportation Authority would be used to reduce the share paid by property taxes in all the cities and towns in the MBTA area. The tax-rate savings would be substantial—at least $10 in Boston, Revere, and Somerville, with similar substantial savings in at least six other Boston area communities. I would hope that other localities which have tax funds specifically committed to transit would propose similar savings for their localities under this program. As the mayor of Oakland, Calif., has written in support of this provision:

The communities of the San Francisco-Oakland urbanized area have made a substantial commitment to transit. Oakland taxpayers support their respective shares of both the Bay Area Rapid Transit District and the Alameda-Contra Costa Transit District. The supplemental operating provision will provide funds that will bring the percentage of Federal contribution closer to the 50-percent level of net operating expenses which is provided in other areas of the country.

In fact, it is not just the older, developed transit systems which gain under this provision. The Washington, D.C.-Maryland-Virginia Metro system, the Atlanta MARTA system, Denver, Portland, and Seattle are all expending large sums of money to develop and expand their transit systems and would all benefit under the supplemental assistance program.

It is an unfortunate fact of life that transit systems do run operating deficits. And it is also true that transit systems which are developing, expanding, upgrading, or purchasing new equipment are likely to face more substantial deficits. New systems, in particular, are likely to keep fares low in order to attract transit ridership.

We have seen that happen here in the District of Columbia, when the Metro first opened. It was a question of getting people to get out of their cars and into rapid transit, learning how to use it, rather than clogging up downtown Washington by creating traffic jams, which we have enough of with the tourist business in the city. And this happens not only in Washington, but in all the major cities of the country.

I believe that it would be a cruel deception for the Federal Government to provide substantial assistance to localities to build new transit systems and to upgrade and expand existing systems and then not provide adequate funding so that these systems may operate.

In other words, you let them build the system, and what can you do when the system does not have sufficient operating funds. You just cannot price this service out of the market. People are paying so much now to ride rapid transit systems that they just cannot afford increase fares in many cities. If it is not more economical for them to ride the transit system than it is for them to come into town with an automobile, and pay a high parking lot fee, then people will not use transit. And most cities today do not even have parking lots to adequately take care of people who come in with their cars, and then they just park illegally. It is getting so now you cannot even find an illegal place to park any more in many cities of this Nation; so that they really have a very serious transit problem on their hands.

There is one final point which I would like to address. I know the strong feelings of the administration in opposition to my provision. I know the strong feelings of the distinguished chairman of the Budget Committee, not on the issues I am talking about, because I think he agrees with me on the issues I have raised. He is only talking from his position as chairman of the Budget Committee, and I understand that and respect that position, and I feel the same with respect to the Senator from Oklahoma (Mr. BELLMON).

So I shall not prolong this debate. I do want to call for the yeas and nays, after my distinguished chairman (Mr. WILLIAMS) has an opportunity to talk.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. BROOKE. Yes, I yield to my friend from New York.

Mr. JAVITS. I just wish to record myself as being for the Brooke formula, for one critical reason. It is the best way in which fair weight can be given to transit ridership those who are saving gasoline and energy for the country. Failure to give weight to that item has resulted in very serious disadvantages to the major urban mass transit systems in the country. Three of these, New York, Boston, and San Francisco, have 50 percent of the transit riders in the country. New York alone has about 30 percent and yet receives only about 11 percent of Federal financial assistance. Cities over 1 million receive from the Federal Government approximately 6 cents per rider. By contrast, cities between 50,000 and 200,000 receive about 25 cents per rider.

Finally, as to the regulator—the fact that this will be handled temperately—municipalities have to come up with the other 50 percent of the operating deficit. I can assure you that in New York, that is an absolutely rigorous regulator. So I shall support Senator BROOKE's position.

Mr. BROOKE. I thank my colleague from New York. I have always said whenever you have problems in any city of this country, you can find them multiplied in the city of New York.

I know we have problems in transit, and this is a problem we will have to address. These three cities that I mentioned, New York, Boston, and San Francisco, actually carry 60 percent of the Nation's ridership.

But rather than belabor this debate, since we have had a very spirited debate, the chairman and the ranking Republican member of the Budget Committee, primarily, for budget reasons as I understand it, not that they are against rapid transit systems, have made their positions known. I see that our colleague on the Banking, Housing, and Urban Affairs Committee, the distinguished former mayor of the city of Indianapolis, and now a very distinguished member of our committee, is here to support this amendment. I believe that he would similarly raise the fiscal problems—none of my colleagues, I think, are against mass transit. And they recognize that at sometime in the near future we have to develop a formula which is more equitable than the formula which exists at the present time.

The final point I should like to stress before yielding to the chairman of the committee is whether this provision promotes inefficiency and inflation in the operating assistance program, as some critics have stated. As I have said, the cities eligible for this provision are subject to two caps: One, 50 percent of the operating deficit, which would mandate a 50-percent local share—localities would have to come up with a 50-percent matching share— and one-third of total operating expenses. Those cities eligible for supplemental assistance are the only cities which must operate under both of these caps.

Under the existing formula, that does not exist. But under this formula, they would have to operate under both of those caps.

I believe that these two requirements constitute the most significant constraints against inflationary increases in the bill. Those are pretty severe constraints, when you have to come up with 50-percent local money, No. 1, and you are constrained by a one-third cap on operating expenses.

On the other hand, this bill eliminates the existing cap of 50-percent funding of operating deficits by the Federal Government and substitutes the "one-third of operating expense" maximum of Federal participation. I have yet to hear any complaint about the inequity and inflationary incentive of providing increased operating funds for those cities currently receiving 50-percent funding under the formula.

I never hear that. It is very strange, for those cities without the cap, there is no complaint at all.

Rather, the administration and my colleagues who support the amendment of the distinguished Senator from Maine target their attack—I am not talking about the Senator from Maine, I am talking about others—at those cities

which have been unfairly treated under the existing formula and which are trying to "catch up" to those cities which are unfairly rewarded by the operation of the formula.

That is my charge. These cities are being rewarded and they are being rewarded unfairly, because they are really not even committed to mass transit. Yet they are getting the benefits without the liabilities or without the commitment, so to speak. The proponents of this amendment have certainly set a selective standard of fiscal responsibility.

May I add that once those cities eligible for supplemental operating assistance receive 50 percent of their operating deficits, they would have to provide one-half of any increase in operating expenses in order to receive increased Federal assistance. That would be likely to require increases in State or local taxes—such as property taxes—which, as we all know, will be very difficult for local officials to propose. Requiring an increase in State and local tax dollars is a most effective disincentive to increasing local operating deficits.

I do not think you will find many mayors out there now or many city councilors out there now who are prepared to increase property taxes. They have heard of proposition 13. They have read about it. They know about it. For them to increase taxes, you can bet your bottom dollar they will do so only under the closest scrutiny and only for the best and most compelling reasons; namely, the necessity to have a viable mass transit system.

Mr. President, I believe that the Committee on Banking, Housing and Urban Affairs has developed a legislative package which would provide a strong and equitable Federal commitment to urban mass transit. The amendment of my distinguished colleague from Maine severely distorts the equity and balance which the bill sought to achieve in the area of operating assistance.

It is the cost of operating transit systems which stands as the most severe impediment to the development and expansion of public transportation services in our urban areas. These costs represent a significant portion of State and local budgets. At the same time, all local tax sources—not just the property tax—are under great pressures today. I do not believe that it is a wise Federal response to cut back an important Federal program in an area of critical national interest which could reduce the burden placed on local tax sources.

I am aware that the Carter administration strongly supports the amendment of my distinguished colleague from Maine. It is impossible to understand how this administration can argue for a rational effort to address the problems of the scarcity and cost of energy and not recognize the critical role of mass transit in reducing energy consumption.

We talk about new sources of energy. We talk about capturing the wind and the waves and the Sun. But the best and sole source of energy is conservation. Conservation is one of the best sources of energy we have. If you do not use it, if you conserve it, you do not need to have any more. The more you can cut back, the less you will have to find; there is no question about that. Certainly, mass transit is one of the most important steps that we can take for conservation of energy in this country. I think everyone recognizes that.

If we could get more people out of the gas-guzzling automobiles and into mass transit, you have no idea what we can do so far as solving our national energy problems is concerned. I think that this program we are recommending here today is one that will do it. I just cannot understand how this is not understood downtown.

I believe that this administration has sent a clear message to the cities of Boston, San Francisco, Atlanta, Denver, Portland, Seattle, and other cities which are planning major investments in transit in the future. They are saying that the Federal Government is not prepared to make a definite and long-term commitment to the operation of mass transit in this country.

Therefore, Mr. President, though I know what the opposition is, I still, in good conscience strongly urge my colleagues to reject this amendment and to let our cities know that the Federal Government is prepared to act as a full partner in the most critical area of public transportation.

Mr. WILLIAMS. Mr. President, the Senator from Massachusetts has done a most able job of describing his amendment that is in the bill, that the amendment of the Senator from Maine would strike from the bill. Therefore, I am not going to take a great deal of time in stating here that I supported the Brooke amendment in the committee and support it here on the floor. I think it might be useful to take just a moment, however, to think through some of the problems we have when we are developing the distribution of funds under a formula. I think this is one of the toughest problems we have here in the Senate: to find equity as we direct the funds to the designed need that we have legislated for.

We see this in many areas.

Now, in transportation, we had a national program of urban mass transportation in the area of capital fronts for 10 years before we developed any program of support to the urban areas for the expenses, the operating costs, of running their systems.

Of course, within that period, the program was broadened in many ways and we tried to reach the small urban and rural areas. It took us 10 years to realize the necessity and, then implement what we realized the necessity of—a contribution to the costs of operations.

We knew this was necessary. We could see the decline and abandonment of transit systems even while we were prepared to make contribution for capital purposes.

So, in order to keep old systems alive and help defray the operating expenses, the Congress put in the operating assistance in 1974.

Now, in the original formula so that it would have a national reach, we restored to the simplest approach. We used population and population density factors. For practical reasons this was and approach which we are all familiar with.

That population-population density approach, however, did not reflect effort, and the intensity of transit operations, in many of our areas.

Transit intensity was not reflected in that formula. That is why we had these disparities in communities that could get 50 percent of their operating deficits out of section 5. That is why those highly intense transit areas, New York, Boston, Atlanta, and many others, were way short of that percentage of their operating deficit—way short.

This year with this bill we have improved the formula distribution and we get a lot closer to a realistic reflection of transit operations within the various areas.

But, even with that, there was not that fine tailoring of this legislation to all of the urban areas that are making a significant effort. This amendment of the Senator from Massachusetts is in response to that.

We know the areas that clearly would be reached by the Brooke amendment are those areas that have done a significant amount of work in the last few years to expand, improve, modernize, and to generally make transit all that it can be within those areas.

Take Atlanta, I believe that is one of the areas that has expanded so greatly to improve its mass transportation, public transportation systems and would receive money under the Brooke amendment. There are others, too.

Again, it comes down to the everlasting search for the equity in the situation the Brooke amendment represents, and I support it and hope it will stay in the bill.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to support the Senator from Maine in an effort to delete this amendment. I do so in spite of the fact that I know that if the amendment remained in the bill it would be good for the community in which I live—Cleveland. I am told it would mean $20 million extra in the next 4 years.

It is very difficult for any Member of this body to stand up and oppose legislation that helps his own community. But I do so because I am concerned about the manner in which the Regional Transit Authority in Cleveland has been expending their funds.

I am concerned when I read about their hiring practically every executive who has worked for them in recent

years on a consultant basis and paying them tremendously high fees, the purposes for which are not easily explained.

I am concerned when I read about the Regional Transit Authority in my own community sending people to various conferences, or making other kinds of expenditures, and then responding and saying, "Well, the Federal Goverment will pay 80 percent of it."

I believe in fiscal responsibility, whether or not it is the Federal Government's money, or whether it is the State government or the Regional Transit Authority, or any other particular body.

I have not seen that kind of fiscal responsibility on the part of the Regional Transit Authority in the largest community in Ohio. I have not seen them using competitive bidding, at times when they should have been using competitive bidding, but, rather, negotiating contracts that I questioned their negotiating, and saying that it is in the community's best interest.

So, although I know that it is difficult to oppose a proposal that is going to help one's own community, because I do live in a suburb of the Cleveland area and the RTA does serve my community, I believe that this is my way of saying to the RTA: "Look, it's time for you to take stock in yourself. There just is not an unlimited amount of money available to you at the Federal level, and somewhere along the line you ought to start to economize; you ought to look at the salaries paid to your executives because they are very high, indeed."

But no, they say that the Federal Government is going to pay 80 percent of it and they do not have to give that kind of concern.

I am concened about lower fares for the people who ride the RTA in Cleveland. I would hope these moneys would cause those lower fares to result. But I also feel that maybe we have to say to an executive body such as this: "Quit thinking that the Federal Government has an unlimited amount of money available to you."

This is an instance in which I think we ought to send a message to some of the transit systems around the country, because I do not believe that Cleveland is alone in the wasteful expenditure of funds. I believe that they are typical of many other transit authorities throughout the country, because one of the answers has been, "Well, we're only paying the same amount of money that is being paid in other parts of the Nation."

I believe the people ought to be paid well, but I think those salaries ought to be comparable to other people in industry and in the governmental service.

Therefore, I rise to support the Senator from Maine in his effort to delete the amendment of the Senator from Massachusetts in this area.

Mr. BROOKE. Will the Senator yield?

Mr. METZENBAUM. I certainly will.

Mr. BROOKE. I certainly admire and respect the Senator's courage in what he has said. If he has that kind of situation existing in his city, and I regret to find that he does, then I think he is certainly within his right to do everything he can to alleviate that condition.

However, I want to point out to the Senator when he talks about 80-percent funding, that refers to capital assistance. When a city wants to construct a rapid transit system, they are eligible for 80 percent.

But this amendment does not direct itself at all to that 80-percent funding. I just wanted the Senator to be sure. We are here talking about operating expenditures, and that alone.

Cleveland gets less than 50 percent of its operating expenses. It gets about 25 percent, which is considerably less than other cities. The reason is that the section 5 formula, under which we are working, is an inequitable formula.

I know the Senator was not here during the debate, but the point I was trying to make—and the Senator has every right to support the amendment of the Senator from Maine to delete this from the bill—is that all the committee tried to do in adopting this provision was to bring equity into this whole question of operating deficits. It established two caps: a 50-percent cap and a one-third cap for operating expenses. It also would require a matching local 50 percent. The cities would have to come up with 50 percent themselves, and it would have to be cities, obviously that were committed to the program and that really were suffering.

Cleveland may have a unique problem. Cleveland has had several unique problems, as I have been reading recently, and I sympathize with that city.

I assure the Senator that this has nothing to do with the 80 percent. If they have been misusing that, if they have been hiring consultants they do not need, that should be corrected, not only in Cleveland but also anywhere we find it. We cannot waste Federal taxpayers' dollars or local taxpayers' dollars. If they are getting 25 percent under the existing formula, most of the money they are wasting, as the Senator from Ohio has said, is coming out of the local taxpayers' property taxes, I would assume, rather than from the Federal Government, because they are not getting it from the Federal Government. I think that should be brought to the attention of the Governor and the officials in the city of Cleveland.

But that is not my concern. My concern is merely to point out to the Senator that we are not concerned here with capital; we are concerned with operating deficits and an attempt to bring some equity into a situation which is inequitable at this time and has been inequitable—namely, the section 5 formula. This amendment would try to do exactly that and would do exactly that, even though, as the Senator from Maine pointed out, it could potentially have some budgetary problems.

Mr. METZENBAUM. I appreciate the clarification of the Senator from Massachusetts, and I do not take issue with him.

The 80 percent I mentioned was the quotation I used from the newspapers. I think they were somehow charged in as capital expenditures, to go to conventions and things of that kind, and to hire consultants. One way or the other, it comes out the same way.

I agree with the Senator from Massachusetts that the present formula is inequitable, and I share his concern about changing that formula. I am not certain that this is the manner in which to do it, but I feel that the formula should be changed, because I think my community is shortchanged. I am not certain that I am prepared to support changing it in this manner, but I hope that along the way we can make that change.

Mr. President, I ask unanimous consent that during the consideration of this bill, Mr. Tom Hall, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. MUSKIE. There are other points I would like to make in response to the Senator from Massachusetts and the Senator from New Jersey, along with the comment that the Senator from Ohio made, and to emphasize what was said earlier in the debate.

Independent of the Brooke amendment, the pending bill does undertake to reform the formula. For example, with respect to the additional amounts provided, independent of the Brooke formula, the city of Cleveland will get an increase of 72 percent over current law for its operating costs. It is one of the highest. Boston gets an increase of 118 percent. San Francisco, another city mentioned by Senator BROOKE, will get an increase of 98 percent. Philadelphia gets an increase of 131 percent. Chicago gets an increase of 94 percent and Cleveland 72 percent, and all others are under that.

Those changes are a reflection of the change in the formula that is in the bill if the Brooke amendment is stricken out of the bill. So Cleveland will get some relief. I thought the Senator would like to know that.

Mr. METZENBAUM. I appreciate the statement of the Senator from Maine.

I know that Cleveland will gain from it. I think we need that assistance. But I thought I should address myself to some of these practices that have concerned me over a period of months.

Mr. MUSKIE. I appreciate that comment, because it is a point that needs to be made with respect to the Brooke amendment and with respect to the widely varying circumstances in which the mass transit systems of many cities find themselves.

I have before me a table which I ask unanimous consent to have printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SELECTED TRANSIT OPERATING STATISTICS FOR MAJOR URBANIZED AREAS

Urbanized area: Year	Operating ratio [1] (percent)	Operating Revenue per passenger (cents)	Operating deficit per passenger (cents)	Operating cost per passenger (cents)
Nation: [2]				
Calendar year	59.9	34.6	23.2	57.8
Calendar year	54.0	35.5	30.2	65.7
Calendar year	53.7	38.1	32.8	70.9
Calendar year	53.0	39.8	35.4	75.2
4-yr average	54.9	37.0	30.4	67.4
Boston:				
Fiscal year 1974	30.6	35.7	81.0	116.7
Fiscal year 1975	28.8	36.7	90.8	127.5
Fiscal year 1976	28.5	38.2	96.2	134.4
Fiscal year 1977	25.4	40.2	118.0	158.2
4-yr average	28.0	37.8	96.9	133.7
Chicago:				
Fiscal year 1974	78.9	58.0	15.5	73.5
Fiscal year 1975	69.7	40.3	17.5	57.8
Fiscal year 1976	66.3	40.0	20.3	60.3
Fiscal year 1977	63.5	39.4	22.6	62.0
4-yr average	69.0	43.2	19.4	62.6
New York:				
Fiscal year 1974	67.2	43.9	21.4	65.3
Fiscal year 1975	63.9	47.0	26.5	73.5
Fiscal year 1976	55.3	48.0	38.7	86.7
Fiscal year 1977	51.1	55.1	52.7	107.8
4-yr average	58.5	48.3	34.2	82.5
Philadelphia:				
Fiscal year 1974	60.6	42.7	27.8	70.5
Fiscal year 1975	55.6	37.8	30.2	67.0
Fiscal year 1976	34.6	37.3	70.4	107.7
Fiscal year 1977	[3] NA	NA	NA	NA
3-yr average	48.9	39.5	41.3	80.8

[1] Operating revenue/operating expenses.
[2] American Public Transit Association, Transit Fact Book, 1977–78 Edition, 1978.
[3] Not available.

Note: While these data probably represent the most complete information available, the results are not always comparable from year to year or from urbanized area to another.

Source: Calculations by Congressional Budget Office using unpublished survey data collected by UMTA for individual urbanized areas and by APTA for the nation as a whole.

Mr. MUSKIE. Mr. President, the table shows the relationship between operating revenues and operating expenses as well as operating deficits in Boston, Chicago, New York, Philadelphia, and in the Nation as a whole. This table reflects widely varying differences in these particular measures of the health and operating policies of these large mass transit systems.

For example, in the Nation as a whole, revenues over a 4-year period are 55 percent of operating expenses. That means that operating revenues are running about one-half of operating expenses in the Nation as a whole.

However, in Boston, for example, operating revenues are only 28 percent of operating expense levels. In Chicago, they were 69 percent of operating expenses; in New York, 58 percent; in Philadelphia, about 50 percent.

So there is a difference. Those differences reflect the effectiveness of management. They reflect possibilities of waste. They reflect differences in wage scales and wage policies, differences in pressures to control costs.

There are many stories I could put in the record, if I were aiming my remarks at particular cities, of poor management and wasteful management in our mass transit systems. All I am trying to focus on is not a catalog of mistakes or shortcomings by management of our mass transit systems but instead the incentives in the proposed policy with respect to wasteful and inefficient management.

I understand that about 75 percent of transit operating expenses represents wages. If the formula written into the bill by the Brooke amendment makes it possible to increase operating expenses by increasing wages entirely at Federal expense, the Senator understands, I think, what kind of pressures there will be for higher wage settlements because Uncle Sam will pick up the entire tab.

Mr. President, in the course of the debate, the distinguished Senator from Massachusetts has identified three cities particularly as cities that would be treated inequitably under the present formula—Boston, New York, and San Francisco. Under the committee bill, without the Brooke amendment, Boston, one of those three cities, would get increased apportionments for operating expenses of 118 percent—without the Brooke amendment.

New York would get an increase of 92 percent without the Brooke amendment. San Francisco would get an increase of 98 percent without the Brooke amendment. Only a few other cities get increases above 50 percent.

So that the bulk of the assistance for operating expenses provided by the committee bill, without the Brooke amendment, goes to the three cities which the Senator from Massachusetts has identified as three of the situations representing inequities under current law. So, obviously, without the Brooke amendment, the committee has gone a long way to correct the inequities represented in current policy.

The second point I should like to make with respect to the observations of the Senator from Massachusetts is this: He says he is not setting a policy of 50 percent, or 33 percent if the cost measure is controlling. But it is striking to me that he said his proposal originated out of the fact that in some cities, the Federal Government was covering 50 percent of the deficit. Obviously, he chose that as the norm toward which we should move. So if we adopt this policy, we are saying that it should be the policy. How fast we fund it will depend upon the budget resolutions, says Senator BROOKE.

But he is adopting it as a policy; 50 percent Federal funding of local mass transit deficits or one-third of operating costs, whichever is the lower.

So what he is saying is that it is policy, and if we can find the money in the Federal budget then we should try to find it to increase Federal assistance up to funding of 50 percent of local mass transit deficits or up to one-third of local operating costs. To the extent that Federal assistance in any community is below either of those policy objectives which are established by the Brooke amendment, we create incentives to increase operating deficits, to increase operating expenses, whether or not those increases are justified in terms of better service, more efficient service, or better management.

We are also taking the pressure off any incentive there may be to increase the fare, the fare box revenue in these cities. If operating costs, if wages can be increased without increasing fares on local riders, what local resistance then could there conceivably be? We should be asking the riding public in a community to carry a fair share of the burden of funding the expenses of the system.

So, Mr. President, our objection to this is not the shortcoming of any particular transit system. The appropriate committees, the appropriate Federal agencies have a responsibility under the current law as well as the pending bill to try to ride herd on things of that kind.

But what we are concerned about is the incentive that the Brooke amendment creates for further mismanagement, for further waste, for further expensive cost increases, for holding fares down when they should be increased. Whatever the policy mix one should have to get a better managed system, a more soundly financed system, the Brooke amendment creates pressures in the opposite direction.

The paymaster will be Uncle Sam's Treasury and that we cannot afford.

One further observation: With respect to the increases in operating subsidies which this bill provides, independent of the Brooke amendment, the total is $425 million of which $379 million or about 90 percent will go to the largest cities.

Mr. President, I ask unanimous consent that a table reflecting that fact be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

OPERATING AID APPORTIONMENTS FOR MAJOR URBANIZED AREAS

[In millions of current dollars]

Urbanized area	1978 [1]	1979 [2] (current law)	H.R. 11733 [3]	S. 2441 [4] (without Brooke)	Percent increase in authorization (without Brooke)
Atlanta	6.2	6.9	9.4	9.2	+48
Baltimore	11.4	12.6	17.7	17.0	49
Boston	16.9	18.5	31.7	36.9	118
Buffalo	7.9	8.6	11.7	11.6	47
Chicago	49.5	54.4	92.3	95.8	94
Cincinnati	6.5	7.1	9.7	9.6	48
Cleveland	11.0	12.0	16.4	18.9	72
Dallas	6.4	7.0	9.5	9.4	47
Denver	6.3	6.9	9.4	9.4	49
Detroit	27.0	29.7	41.0	40.1	49
Houston	9.5	10.4	14.2	14.0	47
Kansas City	5.5	6.0	8.2	8.1	47
Los Angeles	61.9	67.9	92.7	92.5	49
Miami	8.5	9.3	12.6	12.5	47
Milwaukee	6.7	7.4	10.0	9.9	48
Minneapolis-St. Paul	8.6	9.5	12.9	12.9	50
New York	137.8	151.2	324.6	264.8	92
Philadelphia	29.9	32.8	60.0	69.2	131
Pittsburgh	10.4	11.4	16.1	18.4	77
San Diego	6.8	7.5	10.2	10.1	49
San Francisco	19.9	21.9	31.0	39.4	98
San Jose	6.3	6.9	10.1	9.7	54
Seattle	6.9	7.6	10.3	10.3	49
St. Louis	12.1	13.3	18.1	17.9	48
Washington, D.C.	17.8	19.5	26.7	29.5	66
Total	497.7	546.3	906.5	877.1	[3] +76
Total, all urbanized areas	775	850	1,200	1,200	[4] +48

[1] Sec. 5 only, excludes sec. 17, commuter rail operating subsidy. Source: "Formula Apportionment of Capital and Operating Assistance Funds," Federal Register, vol. 42, No. 192, Oct. 4, 1977 pp. 54126–54145.

[2] Sec. 5 only, excludes sec. 17 and sec. 18, commuter rail operating subsidy. Source: UMTA.
[3] Includes commuter rail subsidy. Source: UMTA.
[4] Includes commuter rail subsidy. Source: UMTA.

Mr. MUSKIE. Mr. President, the committee bill goes a long way without the Brooke amendment to deal with the problem which Senator BROOKE has described through most of his presentation here this morning.

Mr. President, I have nothing further that I need to add to the debate. I think Senator BROOKE indicated he wishes a rollcall vote.

I shall suggest the absence of a quorum so that we might try to corral the number of Senators required to request a rollcall vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 74, nays 15, as follows:

[Rollcall Vote No. 420 Leg.]

YEAS—74

Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Bellmon	Hart	Nunn
Bentsen	Hatch	Pell
Biden	Hatfield, Paul G.	Percy
Bumpers	Hayakawa	Proxmire
Burdick	Helms	Randolph
Byrd, Harry F., Jr.	Hodges	Ribicoff
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chiles	Humphrey	Sasser
Church	Inouye	Schweiker
Clark	Jackson	Scott
Cranston	Laxalt	Sparkman
Culver	Leahy	Stafford
Curtis	Long	Stennis
Danforth	Lugar	Stevens
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	Matsunaga	Thurmond
Eagleton	McClure	Tower
Eastland	McGovern	Wallop
Garn	Melcher	Young
Glenn	Metzenbaum	Zorinsky
Goldwater	Morgan	

NAYS—15

Brooke	Heinz	Sarbanes
Case	Javits	Schmitt
Chafee	Kennedy	Stevenson
Durkin	Moynihan	Weicker
Gravel	Packwood	Williams

NOT VOTING—11

Abourezk	Ford	Hathaway
Allen	Haskell	Johnston
Anderson	Hatfield, Mark O.	McIntyre
Bayh		Pearson

So the amendment (No. 3458) was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, may I——

Mr. WILLIAMS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HEINZ. I yield.

Mr. WILLIAMS. I ask unanimous consent that Tom Dougherty of Senator GLENN's staff have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I make the same request for Jay Urwitz of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Same request for John MacIlroy and John Brooks of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Pennsylvania yield so that I might ask a question of the manager of the bill?

Mr. HEINZ. Mr. President, I am going to ask a question of the Senator from New Jersey myself. It is a very brief question.

Mr. President, our colleague from New Jersey (Mr. WILLIAMS) merits the gratitude of the Members of the Senate for his excellent work on this legislation.

Through the Senator's foresight and work, many of the inadequacies of the current mass transit programs were recognized and improved. For the first time, the Senate has directed that cities which have made substantial contributions and which carry many more riders than comparably sized cities should be eligible for equitable assistance.

There is one issue on which I know my distinguished colleague from New Jersey shares my thinking. That issue is people. It is important to me that we bring this issue into perspective. I would guess that we have already spent some tens of millions of dollars for new technology testing in Pueblo. In fact, just to maintain the testing facilities there costs millions of dollars annually. By way of contrast, current UMTA training programs, largely devoted to broad planning concepts, represent an annual investment of only about $2 million.

It is clear that where the significant investment in new technology has had very little feedback, a more modest investment in providing innovative programs for promising employees of a transit system would yield immediate primary and secondary benefits to the public. After all, it makes little sense to continue to provide vast sums of money to rebuild the Nation's transit systems if

there is to be no funding for developing the skills of the men and women who are responsible for their operations.

In the initial legislation submitted to the committee by Senator WILLIAMS, a specific portion of the funds authorized by the bill was to be used to fund section 20, the new human resource program. Unfortunately, this set-aside was removed in the markup of this bill. I strongly supported this original language. It seems to me that if a State or local public transit authority identifies promising employees, or is able to identify minority or female applicants for employment, there should be a means to tailor a specific program which would enable those employees or applicants to experience upward mobility. In many instances, this might well involve on-the-job training or an exchange program with another transit authority, with UMTA, et cetera. Such a program might also enable an employee to continue to work part time. To me, it is important that inner city residents be offered an opportunity to be a responsive part of the systems which are designed to serve their neighborhoods—and that this part not be menial. Those persons who, because of their environment and background, do not have the same opportunities for employment or advancement should be given the chance to assume responsible positions in a public service.

For that reason, I wonder if the Senator from New Jersey could assure me that section 20 programs would, in fact, qualify for funding out of the section 3 discretionary grant program. Would the Senator from New Jersey answer that question?

Mr. WILLIAMS. Yes, I am happy to respond to the question of the distinguished Senator from Pennsylvania.

Where there are provisions in this bill that call for action, and where there is no specific designation of the source of funding—we do have areas that specifically designate the source of funding, section 5 and others—I assure him the section 3 money will be there and available for section 20, purposes.

Mr. HEINZ. Then, if I correctly understand the Senator from New Jeresy, the answer is clearly, "Yes": The section 20 programs, which do not have a separate source of funding identified, therefore would qualify for funding out of the section 3 discretionary grants program?

Mr. WILLIAMS. That is correct.

Mr. HEINZ. I thank the Senator from New Jersey.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from New Jersey yield for a question?

Mr. WILLIAMS. Be happy to.

Mr. HARRY F. BYRD, JR. The Senator from Virginia has a meeting with the Secretary of Defense. Before going to third reading, will the Senator from New Jersey ask the staff to notify the Senator from Virginia? I do not want to hold up the Senate but I would like to be present before this bill goes to third reading.

Mr. WILLIAMS. We are getting close to that time.

Mr. HARRY F. BYRD, JR. It is close to that time now?

Mr. WILLIAMS. Yes. I believe the Senator from Massachusetts (Mr. KENNEDY) has an amendment. I do not know of any others. The Senator from Michigan (Mr. RIEGLE) and the Senator from California (Mr. CRANSTON) have amendments. But it will be shortly.

UP AMENDMENT NO. 1948

(Purpose: To assist meritorious transit systems.)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1948.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, line 13, strike the period and insert the following:

"and for incentive grants to transit systems whose performance the Secretary determines to be particularly meritorious. In making this determination, the Secretary may take into consideration increases in a transit system's ridership, energy conservation and such other factors as he may deem appropriate."

Mr. KENNEDY. Mr. President, this is an amendment in behalf of myself and my colleague (Mr. BROOKE). In section 5 of the legislation, 1.5 percent of the funds are set aside for innovative grants. These grants are for technological innovation efforts, to be made in different transit systems. This amendment would also allow these funds to be used for incentive grants for good performance—for transit systems which have done a good job by increasing ridership, cutting down on energy consumption and the like. Those systems which have performed these tasks are more likely to continue to add to their ridership and to come up with innovations—in service as well as technologically—and so, they should be eligible for incentive grants as well.

I had the opportunity to talk with the manager of the bill. There is no money involved. It seems to me to be a useful addition to this legislation.

Mr. WILLIAMS. Mr. President, I certainly agree and am happy to support this amendment. Obviously, the Senator from Massachusetts (Mr. BROOKE) is, too.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

BUS PURCHASES BY ANCHORAGE

Mr. GRAVEL. Mr. President, there is a change in focus in the section 3 discretionary capital grant and loan program with regard to projects for the routine replacement or purchase of buses. In the committee report, the committee's intentions seem to be to encourage funding for bus purchases to come out of the section 5 capital apportionment program. Section 5 funds in the past have largely been used for operating assistance. In fact, the city of Anchorage used section 5 moneys solely for operational assistance, which is no doubt the case for other municipalities across the Nation.

Anchorage, along with other still-growing communities in the United States, has a public transit system which has yet to pass out of the development stages. It has relied heavily on the discretionary authority granted to the Secretary under the section 3 program to meet its capital needs. The capital needs of a newly developing system are proportionally greater than a system which has been established for some time. Anchorage intends to add 10 buses to its present fleet of 40 buses for each of the next 5 years. Although Anchorage will receive an increase of approximately $200,000 in its section 5 apportionment over last year's apportionment under this bill, you and I know that $200,000 will not purchase many buses. It costs Anchorage $100,000 per bus.

The committee has indicated its desire for flexibility in the administration of the section 3 program in report language stating that "major or substantial expansions of bus fleets" would still qualify for section 3 funds. Anchorage will be increasing its fleet by 25 percent in the next year alone. Is this the type situation intended to qualify for consideration by the Secretary for section 3 funding?

Mr. WILLIAMS. Mr. President, I am pleased to respond to my colleague.

In developing this legislation, the committee was concerned with the need to stabilize and routinize the bus purchase program. At the same time, it was also concerned with the needs of many cities, such as Anchorage, that are taking steps at present to expand their transit fleets.

Specifically, the committee was aware of the greater capital needs of newly developing and growing bus systems. That is exactly why the committee report includes the statement that "major or substantial of bus fleets would be eligible under section 3." While the specific definition of "major or substantial" would be left to the Secretary, it is the clear intent of this language to encompass situations such as the one in Anchorage, where the 40-bus fleet will be more than doubled over a 5-year period.

The section 5 formula grant program in the bill is designed to be the primary resource for bus purchases, particularly routine replacements and minor expansions. I want to stress, however, that it is not intended—nor are sufficient funds provided for—that all bus purchases are to be made out of the formula grant apportionment. Referring once again to the committee report, it states quite clearly that "minor expansions" should come out of the section 5 apportionment "where section 5 is sufficient to meet those needs." I assure my colleague that this language would allow the Secretary to meet legitimate bus purchase needs as a section 3 activity where the section 5 apportionment is insufficient.

So in response to my friend and colleague from Alaska, the answer to his inquiry is yes. This strikes me as precisely

the situation envisioned by the bill and I am pleased we had this illuminating exchange.

UP AMENDMENT NO. 1949

Mr. RIEGLE. Mr. President, I sent an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 1949:

On page 64, between lines 18 and 19 insert the following new subsection:

"(h) In the case of any buses acquired with Federal financial assistance provided under this Act, the Secretary shall permit the State or local public body which is acquiring such buses to provide in advertising for bids for passenger seats specifications (which equal or exceed the performance specifications prescribed by the Secretary), based on that State or local body's determination of local requirements for safety, comfort, maintenance and life cycle costs. This subsection shall apply to the initial advertising for bids for the acquisition of buses occurring on or after the date of enactment of the Federal Public Transportation Act of 1978."

Mr. RIEGLE. Mr. President, I am offering this amendment, and Senator GRIFFIN of my State is a cosponsor of this amendment.

I ask unanimous consent at this time that Mr. Marc Steinberg of his staff and Gus Franklin of my staff may be granted the privilege of the floor during the course of the debate on this amendment and any other amendments and any votes that may occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I allowed the amendment to be read in toto so that everyone in the Chamber could hear it and understand that this is clearcut, precise language designed to deal with a very specific problem. I want to take a minute to familiarize the people here who are concerned about this question with an aspect of the problem that has arisen that puts in great jeopardy a particular company in my State that is in the business of manufacturing bus seats. The case problem is to me almost a perfect illustration of what happens when the administrative branch of the Federal Government really does not do its job the way I think it ought to and the way I think Congress intends for it to.

The situation we are faced with is this: We are, in this country today, designing, at the Federal Government level, an ultimate bus, transbus, that, at some future date, will be specified in terms of its specific components. At that time, any buses in the country that are purchased, with Federal Government assistance, will have to meet that uniform national transbus design. But that is at some point in the future. We are not there yet. No one knows right now exactly what that design will look like, because we are just not at a point where we are ready to lock in on it in a final sense.

I might say, by the way, that when we get to that point, anybody who wants to bid on a bus or provide components for the bus will have to meet whatever specifications are laid out by the Department of Transportation. That is understood by everybody. No one here has any complaint about that.

But we are not there yet. So there is no way of knowing what, exactly, that design is going to look like. So, for the time being, we are in a "time being" period; we are in an interim period. We do not know how long it is going to last. It may last a year, two, three, it is impossible to say, before we finally decide what this master plan will look like for the transbus.

Obviously, that creates a great deal of uncertainty for anybody who happens to be in the bus business in this interim period, to know exactly what the rules of the game are going to look like when this process is finished and how they can maintain themselves and remain viable in this period. In this interim period, by the way, from the point of view of terminology, the in-between bus is called the advance design bus.

The problem is that the specifications for the advance design bus, at one time, were of a certain sort. But then the people in the Department of Transportation continued to work with the specifications. And, as often happens—in fact, I have never seen it not happen—at a certain point in time, they changed their minds. They decided that the first design they were considering for the interim bus was not really what they wanted, that it took into account too many factors—factors like safety, comfort, life-cycle costs, and a variety of features. That was the initial instruction to people who wanted to be in the bus business, that they would have to meet these specifications.

This company in my State, American Seating, being in the bus seat business and in the seat business for a period of many years, a very reputable firm, proceeded in good faith and took these instructions from the Department of Transportation and built a bus seat—a very good one, I must say.

After they spent their money to tool up for the design work to produce this bus seat and got it completed, what happened? The Department of Transportation changed its mind and decided that it was going to go to a different criteria specification and, at this particular time, instead of these earlier specification items of safety and life-cycle cost and comfort and other things that relate to the design and the construction of a bus seat, they now have come up with what they call a performance standard which is basically a sort of minimum, streamlined, bare-bones kind of seat, which is identified various ways and, some of the time, is the least expensive one that can be built.

There are several problems. First of all, it is changing the rules in the middle of the game.

Second, if that is allowed to stand, that late administrative fiat is allowed to stand, instead of two companies in the bus seat manufacturing business, there is going to be one. Our firm in Michigan has a relatively small share of the market, but nonetheless a significant share, maybe on the order of one-third, with the other company. Flxible, a very substantial firm dominating this particular industry, will have it all, because our firm will not be able to compete. They will have been ruled out of the competition, not because there is not interest in their seat in the marketplace, but because the Government, by this change in the ground rules and by administrative fiat, has ruled their product right out of the competition.

I do not think that is fair. I do not think it is in the public interest.

I think in this interim period we would be much wiser to not reduce ourselves to one supplier, but to maintain two suppliers, which is not coercive to anybody because what has to happen in the end is that a local transportation agency has to decide itself which bus seat it prefers. If in some area of the country a local transportation agency should decide that they would rather have the better seat, one that is more comfortable, one that is safer, one that will last longer, and one whose life cycle cost, not just its initial cost, but its cost over the life of the seat, may well be less, that they would have the option to indicate they preferred that seat to the competitive seat and to put the bids out in that fashion and allow the competition to take place.

But, unless we make some changes here, unless we can work out an agreement on adopting this amendment, the way things are set right now is that that arbitrary change in direction by the Department of Transportation will put this particular firm on the sidelines.

We have working for that company today in the Grand Rapids area of my State about 15,000 UAW employees. They are good people.

But it seems to me that what is happening here is the classic illustration of mindless Government, where somebody in the bureaucracy who is designing this master bus keeps changing his mind, is behaving in a fashion that reputable companies who have been proceeding in good faith get run right out of the game in the middle of the process, and they will not be around at the other end when we get a final decision on what this bus will look like. It just does not make sense.

So we have had a lot of meetings about it. Senator GRIFFIN and I and Members of the House, both parties, have talked to people in the Transportation Department, to people in the White House. They are sympathetic, but they are not quite sure yet what they can do about it, or what they want to do about it.

I remember the discussions with the Department of Transportation. Mr. Bingam came over to see me and said, "You know, you're right, it wasn't really our intent to change the rules in such a way that we knocked out somebody in this business who had been operating on a good faith basis. We didn't mean to do that, so we'll change our specification because that wasn't our intent. It is not our purpose. We don't want to go down to one supplier. We want to maintain competition."

So they agreed to change it. Then, a

few weeks later they got back and said, "We've changed our mind again even though we were prepared to do this before and took that step. We have to reverse ourselves now and go back to where we were previously."

I must say I do not have much patience for what is a special interest case argument. Somebody says, "I don't like this rule because it hurts me or my State in a given way."

I think this particular case cuts much deeper than that. It goes to the issue of whether or not the local people will have any say in the configuration of these buses.

To the question of whether a Federal administrative agency is allowed to change the rules in the middle of the game, and cause bona fide suppliers to sink a lot of money into development and building of a product and then seeing the rules change and all that money go down the drain, the firm and the workers jobs jeopardized, it goes to the efficiency of the decisionmaking in this company.

This company, and I assume any other company, is fully prepared to meet whatever performance specifications are finally going to be required, but they cannot do this every week, or every 2 or 3 months, or every time some part of the bureaucracy changes its mind. That is unreasonable. This situation exemplifies why the Government does not work very well, and the private sector cannot function that way. Not all firms are sitting there with billions of dollars in the cash account where they can afford to participate on that kind of basis. I do not think it is in the public interest.

I certainly do not think it is in the public interest to take a firm that today, in the case of the dominant firm in this industry, has 70 percent of all the business for 1979, 80 percent of all the business of 1977 and 1978 in which there was competition, and expand that market's share to 100 percent. That is exactly what we are talking about here.

My amendment is very straightforward. It does not prejudice anybody. It just keeps the game open and pertains to the firm that has proceeded in good faith and is building a fine seat. If there are people out there at the local community level that want to opt for this seat, they will be in a position to do so.

I think that is a reasonable way for us to proceed.

The basic point I would make is this, we are not talking about doing this over an extended period of time, or permanently. We are talking about an interim period. We are talking about what happens between stage 1 and stage 3. We are talking about what happens between stage 1 and stage 3. We are in stage 2 and we want to keep the competition alive and viable, especially when everybody has been proceeding on the basis of good faith.

I might say, there was a court case in Houston, a Federal court case in which a judge held in a similar situation that the Federal Government had an obligation not to change the ground rules in the middle of the game. To do so in an abrupt fashion causes material, economic damage to that company.

So, there is even a basis in recent legal history to suggest that this kind of behavior by the agencies is not what is intended by the law, and that, when it does damage companies and workers and, in effect, to the whole American economic system, that is something that has to be acted against.

I talked this over with the chairman of the committee. I have talked it over with some other colleagues that have expressed interest in this particular subject. I would hope the committee would see fit to accept the amendment.

I would ask the chairman this question. I know we discussed this before. I know he has had problems of the same sort in the past on other items. We talked one time about Federal specifications on brakes, and the whole question as to how those were arrived at.

I know the chairman is familiar with problems of this kind. I wonder if the chairman would be of a mind to think this would be an amendment the committee could accept.

Mr. WILLIAMS. I was speaking to someone about the railroad situation, and I missed the latter part of the Senator's remarks.

Mr. RIEGLE. We talked about this before, and the chairman has seen other problems similar to this one and knows the difficulty we have with firms trying to remain viable while these specifications are changing all along the way.

I was wondering if the committee would be of a mind to accept the amendment.

Mr. WILLIAMS. I can speak only for myself. I have discussed this problem at length with the Senator from Michigan. He has illuminated it in a way that satisfies me that he is reaching a situation that should be taken care of—and, of necessity, at this point by legislation.

So far as accepting it at this point is concerned, I have been on notice that there is a Member who does want to be called here and discuss this matter with the Senator from Michigan. So unless the Senator wants to proceed further, I would have to suggest the absence of a quorum, to alert the other Senator to be here.

Mr. RIEGLE. Why do we not do this: The cosponsor of the amendment, Senator GRIFFIN, is here, and I believe he wants to make some remarks. Perhaps we could do that while we wait for any other Member who wants to discuss the issue. I hope we can settle it.

Mr. GRIFFIN. Mr. President, I am pleased to cosponsor the amendment proposed by the junior Senator from Michigan.

This amendment authorizes local transit authorities, when advertising for bids on buses, to determine specifications for bus seats based on local requirements of safety, comfort, maintenance and life cycle costs.

Unfortunately, under current regulation adopted by UMTA, this is not the practice. Now, local authorities have no discretion whatsoever in specifying the type of bus seat which local conditions may require nor do local authorities have the prerogative to evaluate product quality, style, comfort, maintenance, and life cycle costs. And, most importantly, local authorities under UMTA regulations have no right to assess the safety quality which a particular bus seat might afford.

I must stress that these procedures established by UMTA were only adopted in April 1977. Before that time, local transit authorities, through the competitive bidding process, had the authority to specify components, including bus seats, to meet their individual needs.

The result of the UMTA standard has been to create a virtual monopoly in the transit bus seat business. Such a situation gravely threatens the survival of one of Michigan's manufacturers which employs 1,400 Michigan employees, American Seating Co. To shut down a viable manufacturer and to cause loss of employment for over 1,400 persons over a nonsensical and bureaucratic regulation is inexcusable.

Let me emphasize that this amendment, which permits local authorities to specify seats based on local conditions, is fiscally responsible. By allowing local authorities to determine their own standards based upon local needs, particularly that of safety, product quality, and life cycle usage, the American taxpayer and public will greatly benefit.

In conclusion, this amendment is not only good for Michigan; it is good for the American public in helping to assure greater safety in our buses. And, this amendment once again tells the bureaucrats that they are not going to get away with promulgating regulations that threaten our American manufacturers and workers.

I urge my colleagues to support this amendment.

Mr. CRANSTON. Mr. President, is it in order to call up an amendment now, without unanimous consent?

Mr. GRIFFIN. Mr. President, could we act on the pending amendment? I have some other business that I have to take care of. I thought we could have a voice vote.

The PRESIDING OFFICER. The Chair advises that it would require unanimous consent to set aside the pending amendment.

Mr. GRIFFIN. For how long?

Mr. CRANSTON. I would take 2 minutes.

Mr. GRIFFIN. For not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3666

(Purpose: Establishes September 30, 1981, as the expiration date for present maintenance of effort requirements and allows fare increases to be counted in MOE in the interim)

Mr. CRANSTON. Mr. President, I call up my amendment No. 3666.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) calls up an amendment numbered 3666.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 9, strike the first sentence of subsection (f) and insert in lieu thereof the following:

(f) Federal funds available for expenditure for mass transportation projects under this section and apportioned for fiscal years ending no later than September 30, 1981, shall not be in substitution for the average amount of State and local government funds and other transit revenues such as advertising, concessions, and property leases, excluding reimbursement payments for the transportation of schoolchildren, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available: *Provided however,* That if such State and local government funds or other transit revenues are reduced, there shall be no loss of Federal assistance under this section if such reduction is offset by an increase in operating revenues through changes in fare structure: *And provided further,* That nothing in this sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project for purposes of the preceding sentence.

Mr. CRANSTON. Mr. President, this amendment would meet two desirable goals. It would end, in 1981, the complex and cumbersome maintenance of effort provisions in the current Urban Mass Transportation Act. In the interim, my amendment would allow an increase in fares to count toward maintenance of the non-Federal matching funds. This is not allowable under present law.

These two provisions build on the outstanding legislation the committee has brought before us. They provide definite improvements in the way State and local governments will finance public transit in the future, in part by restoring much-needed local flexibility.

Originally, the administration had proposed that not more than one-third of total operating costs should be paid for Federal funds and that maintenance of effort be eliminated. On March 1, 1978, Secretary Adams testified:

The one-third limitation permits elimination of the existing cumbersome matching and maintenance of effort requirements. These changes will produce a significant streamlining of UMTA's administrative procedures and allow the balance of operating costs to be met through a locally-determined mix of farebox revenue and subsidy resources.

The committee bill includes the one-third cap on Federal funds, with a reasonable "hold harmless" provision to prevent a reduction in actual dollars. However, the maintenance of effort provisions were retained, largely in response to the serious concerns of local transit operators. Since passage of our landmark transit legislation in 1974, transit operators around the Nation have been working with their local government officials and with State governments to work out a reasonable and balanced approach to sharing the non-Federal portion of operating costs. Many of these officials feared that an abrupt removal of maintenance of effort would upset their diverse and complex local fiscal situation.

My amendment, therefore, does not eliminate MOE requirements until 1981, thus giving State and local officials 3 years to revise existing contracts and agreements and build a new and stable pattern of transit funding.

The second provision of my amendment will provide, at local option, the counting of farebox revenues as a part of maintenance of effort while MOE is in effect. This gives transit operators a new and highly desirable flexibility. Presently, fares are not allowable in calculating maintenance of effort. So, if a local transit system loses State or local tax revenue support and then raises fares to compensate for the loss, the fare increase revenues cannot be counted in the non-Federal match. I believe this is unrealistic and unfair.

To fill the deficits, many transit systems are facing the tough choice of either raising fares or cutting service. Many are developing skillfull combinations of cuts in less-used services, small fare increases, no cost-of-living pay raises, and other budget-tightening measures.

But a poll conducted by the Southern California Rapid Transit District, which serves greater Los Angeles County, showed that district patrons would prefer a small fare increase to keep current levels of bus service rather than keeping fares the same and thus sacrificing bus routes and service frequency.

Yet current Federal law discriminates against this local decision by not allowing an increase in fares to count toward maintenance of the non-Federal match. My amendment provides a remedy to the lack of flexibility in Federal law by allowing local government and transit operators more independence in choosing the best combination of measures to meet their unique local needs.

My amendment is supported by the American Public Transit Association, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the California Department of Transportation, among others.

I understand the amendment is acceptable to the distinguished floor managers of the bill.

Mr. WILLIAMS. That is correct. It meets all the criteria that we have in maintenance of effort. It is a change necessitated by certain situations with which the Senator from California is familiar. I think it makes a lot of sense, and I support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. I thank the Senator very much.

The PRESIDING OFFICER. The question recurs on the amendment by the Senator from Michigan.

Mr. RIEGLE. Mr. President, I spoke to Senator MORGAN, and I know he does have an interest in wanting to discuss this matter, and I am reluctant to proceed until he arrives. I hope that, between us, we can resolve the issue.

When we spoke earlier—this is not in any way to speak for him—he expressed concern about any situation arising that would lead to a sole source. I agree with his concern about that. I do not want any situation arising, either, that would lead to a sole source situation or to any procedure which would specify that a product would be taken from a particular single manufacturer, because I feel very strongly that that would be inappropriate.

Our amendment goes in exactly the opposite direction. In other words, it is the same concern that Senator MORGAN has expressed to me which is at the heart of our amendment. In fact, that is why we drafted our amendment so that we will not end up in a situation in which there is a single source and, in effect, there is a locked-in monopoly for one supplier.

What we want to do in this interim period is to keep the competition alive. We think it is healthful and constructive and in the national interest that there be at least two firms in the business of competitively developing and offering bus seats.

As I have said, when the Department of Transportation finally makes up its mind as to the ultimate specifications for the transbus, that is fine. When that happens, everybody is locked in, and I fully expect any company in my State or any company in the other 49 States to be locked in and to meet those performance specifications, and they will.

The problem is that we are not there yet. We do not know what those ultimate specifications are going to be; and, because we do not, we are not in a position to see the future.

Mr. President, I wonder whether we could have a quorum call for 2 or 3 minutes, so that we might have a chance to discuss this matter among ourselves. With that expectation, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that Donna Maddox, of my staff, be accorded the privilege of the floor during discussion and votes on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I am pleased to support S. 2441, the "Federal Public Transportation Act of 1978". The

bill represents the kind of forward-looking and balanced approach to public transportation which I believe is vital. The bill as amended strikes a good balance between recognition of the tremendous promise which public transportation holds for addressing problems of urban congestion, energy consumption and the environment, and the constant need to hold Federal spending to reasonable limits.

Public transportation has sometimes been regarded as the province of older cities with established rail systems. However, it is more and more apparent that newer, growing cities have a stake in Federal public transportation programs. The voters of the city of Houston, for example, only a few weeks ago approved a referendum to establish a new transit authority, and other Texas cities are likewise taking steps to improve their transit systems. The referendum in Houston commits substantial local funds through a tax increase to the growth and improvement of its transit system. The tax increase represents an undertaking to devote an estimated $1.3 billion of local funds over the next 10 years to public transportation.

The fact that such a referendum passed in the wake of a movement toward tax-cutting measures elsewhere shows that the citizens of Houston are ready to make a strong commitment to the development of public transportation. Once such a decision has been made locally, it is imperative that the Federal Transportation program be adequate and flexible enough to provide that assistance which is needed, even though the transit needs of a city such as Houston may be far different from those where established transit systems already operate.

The bill is structured in a way which, when properly administered, will accomplish that result. The new formula created by the bill for providing operating assistance as well as certain routine capital expenditures is designed to create a rational and predictable basis upon which local transit officials can anticipate the extent of Federal assistance for transit programs. While expressing a strong Federal commitment to public transportation, the formula will also establish incentives for local transit officials to operate efficiently, so that each Federal dollar spent will yield a return. In addition, the bill provides substantial funds for nonroutine capital expenditures including both expansion of bus fleets and capital expenditures for fixed transit systems. Since it is clear to me that public transportation programs are likely to become more and more important in the future, I believe that it is appropriate to provide sufficient funding now to take meaningful steps to encourage development of good transit systems for tomorrow.

Failure to act in a responsive manner today would have unfortunate consequences, including delay in the time when we will begin to enjoy the benefits of a far sighted transit policy and vast increases in the costs of implementing that policy.

I am on record in support of a substantial Federal commitment to public transportation, because of the great contributions which a properly administered program can make. Recent increases in transit usage in many parts of the country demonstrate that transit systems are likely to be accepted by the public as an alternative to automobile use, if the systems are efficient and reliable, and that those who do not use the system will nevertheless benefit from its existence. But every dollar that is spent must be spent judiciously, and the bill as structured takes steps to assure that this is the case.

The authorization levels recommended by the administration when this bill was introduced were simply not high enough to address the Nation's transit needs responsibly, but the bill as amended strikes an appropriate balance between the country's pressing transit needs and the need to hold down Federal spending. The bill allows sufficient funds for reasonable growth in transit funding without creating the inflationary pressures which would arise from an excessive program.

With the amendments which have been made, the Senate will have produced a responsible, workable public transportation policy capable of addressing effectively energy, environmental and urban problems.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

UP AMENDMENT NO. 1950

(Purpose: A technical amendment)

Mr. WILLIAMS. Mr. President, I offer a technical amendment, and ask that it be stated.

The PRESIDING OFFICER. The Chair will say to the Senator from New Jersey that there is an amendment pending at this time. Does the Senator request unanimous consent to set aside the pending amendment?

Mr. WILLIAMS. I ask unanimous consent that the pending amendment be set aside, and that I may present this amendment. It deals with a subject that has been amended twice. This is a technicality which can be stated. I will explain the problem that arose.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report and the amendment will be considered in order.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted technical amendment numbered 1950.

Mr. WILLIAMS. I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. Notwithstanding the fact that the same matter has been amended twice previously, this amendment will be in order.

Mr. WILLIAMS. Mr. President, the situation is this: I had offered an amendment, and it was accepted. Later the Senator from Maine offered an amendment which was accepted. It involved the same section.

The wording of the amendment of the Senator from Maine was such that part of the amendment I had offered earlier was wiped out, erased. This technical amendment will preserve both the amendment I had offered and had accepted and the amendment of the Senator from Maine, which was offered and accepted.

The amendment is as follows:

On page 48, in subsection (f) of the Muskie amendment No. 3458, strike the words "consolidated planning activities" and insert in lieu thereof: "planning activities and technical studies"

After "section 8" strike "(e)"

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. WILLIAMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, we have had a chance to discuss this problem at some length with a number of colleagues who have an interest in it. We have not been able to resolve the matter completely. I think we are at a point with those who have had reservations about what they see as the broad policy implications of this amendment, the fact that it might have a bearing on other issues unrelated to bus seats has caused them to want us not to proceed with an amendment at this time. I can understand some of that concern; that is why we have attempted to draft this amendment in the most narrow possible form.

I think, having discussed it and having had a full exchange of views with those most directly involved, we are in a position with the House of Representatives where, if I were to withdraw the amendment, we could sit down with the House of Representatives, who have passed an equivalent amendment—in fact, a much broader amendment. We could work something out that would deal with the problem, perhaps find a way for us not to be in a position where there is only one firm that would be able to provide bus seats in this interim period.

Therefore, recognizing that there is some desire on the part of the principals here to see if some means cannot be found for solving this problem, and believing that, perhaps, by working together in that fashion, we can make some progress, I am prepared to ask unanimous consent to withdraw the amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment, no time agreement having been entered into. Does the Senator wish to withdraw his amendment?

Mr. RIEGLE. I would as soon do it on a unanimous-consent basis and allow the Senator from Ohio to speak.

The PRESIDING OFFICER. Would the Senator like to ask unanimous consent that he have the right to ask unanimous consent to withdraw his amendment?

Mr. RIEGLE. The Senator withdraws his amendment.

The amendment was withdrawn.

Mr. GLENN. Mr. President, I did not plan to object to the unanimous-consent request. I did want to make a couple of comments.

We have had lengthy discussions behind the scenes on this and I commend the Senator from Michigan for withdrawing the amendment, because I think it can be worked out in view of a similar amendment that has already been passed by the House.

I do have concerns about this proposal from several aspects. We are trying to develop a Federal procurement system that sets certain performance specifications, and then lets the free market system go at it. It seems to me we can never and should never address ourselves to all the changes in procurement rules and regulations that may be occurring from time to time in the various departments pursuant to carrying out what they view, from the legislative history and from actual legislation, to be the mandate of Congress. If every firm impacted were somehow to get Federal relief or some special treatment in law that would then extend them a particular competitive advantage during a certain time period, we would be tied up here on the floor of the Senate and in the House of Representatives with literally, and I do not exaggerate, thousands upon thousands of such cases. None of the firms that supply the needs in this particular market are small firms. They are all reasonably large, some larger than others, and have the economic capability to retool.

We have a letter here from Mr. Lester Fettig, Administrator of the Office of Federal Procurement Policy. He has stated that performance specifications are a superior way to assure truly competitive procurement and to keep costs down. He has said that being able to use "brand name or equal" has been used in the past to stifle competition.

That is, in effect, what they would be effecting with the legislation the Senator is withdrawing.

DOT and UMTA have developed current methods of performance specifications over a period of years and feel they are best, although they are still in a changing status. I agree that is unfortunate. I am sorry they have not been able to come up with one final performance specification, but I am not sure such finality is even possible.

GAO and the Office of Federal Procurement Policy have urged all Federal agencies to go to this type of procurement. This type of amendment would prevent UMTA from realizing the advantages of real competition.

While I realize this amendment deals, at least specifically, with bus seats, this approach would reopen the procurement "Pandora's box," literally, and could frustrate current efforts by the GAO and the Office of Procurement Policy to make Federal procurement more cost-effective.

Current Government procurement is about $80 billion. I have very much supported Senator CHILES' work to both simplify and make cost-competitive Federal Government procurement processes and policies.

I have several other questions that I should like to have printed in the RECORD.

Mr. President, while the following questions are not all inclusive, they nevertheless indicate the types of concerns I believe must be addressed regarding this amendment:

First. What would be the cost difference between current-level procurement of seats and if the Riegle amendment were accepted?

Second. If the State or local transportation authority wants the better seat, should the Federal Government have to pay more as its 80-percent share of the total procurement?

Third. What would be the cost increases if "local option" procurement were extended to other components of buses, subway, and light rail rolling stock?

Fourth. Will not this amendment encourage the type of "custom made" procurement which made the cost of BART and Metro rolling stock so expensive?

Fifth. Would it not be better to standardize, as much as possible, procurement specifications and the process itself?

Mr. President, this matter has not been discussed before any committee of the Congress. Senate debate on the matter has not been of a nature which would permit us to vote as carefully as I would like. The House has passed an amendment similar in nature to the one the Senator from Michigan (Mr. RIEGLE) has just withdrawn. The matter will be before the upcoming conference and will be discussed in depth. While I realize the matter will be before the conference, my closing remarks here should not be construed as approval of any conference language which may appear to approve the procurement policy implications of the Riegle amendment or its House companion.

I also ask unanimous consent to have printed in the RECORD the letter from Mr. Fettig which describes the current situation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 25, 1978.

Hon. DAVID BONIOR,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. BONIOR: It is my understanding that you are considering offering an amendment to H.R. 11733 which would affect the manner in which manufacturers of rolling stock for mass transit systems select subcomponent suppliers. Specifically, the Department of Transportation (DOT) would be forbidden to require so-called "performance specifications" for passenger seats, interior lighting, public address systems, and destination and route signs that are subcomponents of rolling stock purchased with grant-in-aid funds.

We believe strongly that the use of specifications that define desired performance characteristics ("performance specifications") are superior to the use of brand name or approved equal. We believe that performance specifications should be used wherever performance criteria can be developed.

The first problem with specifying subcomponents solely by brand name is that it implicitly authorizes a kind of back-door, sole-source procurement. For instance, the new General Motors and Flexible buses have entirely different approaches to the manufacturing of destination signs and both are approvable within the terms of performance specifications. However, a grantee could skew the entire bidding process to one manufacturer by specifying a brand name destination sign that is unique to one bus or the other.

The use of "brand names or equal" has been abused in the past to stifle competition. This had led both the General Accounting Office and our Office to press Federal agencies to abandon their use and go to performance specifications—exactly what DOT has done for bus specifications.

As they developed standard performance specifications for new transit coaches, they consulted widely with transit providers and manufacturers to define the performance characteristics of various components so that they will meet the needs of the user. These specifications provide stability and continuity for both manufacturer and operator by stating at the outset the criteria of eligibility that must be met. The use of brand name or equal could return us to the era when rolling stock was so highly customized that manufacturing economies of scale were lost.

Achieving more effective competition is one of the major objectives of our ongoing effort to update the current statutory and regulatory basis for procurement. S. 1264, "The Federal Acquisition Act for 1977", would establish the use of performance specifications as a norm, and would severely limit the use of detailed specifications. This would facilitate wider participation by commercial firms in bidding on Government requirements. The Office of Federal Procurement Policy (OFPP) testified on behalf of the Administration in support of this bill last year at hearings held by the Subcommittee on Federal Spending Practices and Open Government of the Senate Committee on Governmental Affairs. In addition to our support of S. 1264, OFPP has established the policy of procuring commercially available products whenever they meet the Government's requirements. This policy has already resulted in elimination of hundreds of detailed product specifications which limited competition or in many cases resulted in noncompetitive procurement.

Regarding the issues that American Seating has raised, it should be noted that American Seating seats have always been judged to meet the UMTA performance specifications, and in fact their seats have been furnished in some new buses already delivered. Because transit buses must be procured competitively, the costs of each bus component must be carefully considered by the manufacturers in their selection of suppliers. American Seating seats may not have been selected in some procurements because they are more expensive than other seats which also meet the specification. It thus appears to be largely cost rather than the specification itself which has led manufacturers to select other suppliers or to produce their own seats. I recognize that, in this cost

competitive situation, American Seating may be required to make changes in its current seat, as it had done in the past, to continue to be a leading and successful competitor in this market.

I am seriously concerned with the rising cost of both direct Federal procurement and those programs where cost of products is paid with Federal assistance funds. Real competition among component suppliers is the best way I know to keep down costs to the taxpayer. I respectfully urge you therefore not to place the Department of Transportation in a position where—by legislation—we are prevented from realizing these competitive advantages.

Thank you for the opportunity to comment on the proposed amendment.

Sincerely,

LESTER A. FETTIG,
Administrator.

VISIT TO THE SENATE BY THE FINANCE MINISTER OF SRI LANKA

Mr. GLENN. Mr. President, I understand that we have a distinguished visitor with us. I yield the floor to the distinguished visitor with us. I yield the floor to the distinguished chairman of the Committee on Foreign Relations so he may introduce him.

Mr. SPARKMAN. I thank the Senator from Ohio.

Mr. President, I should like to take this opportunity to introduce the Finance Minister of Sri Lanka, His Excellency, Ronnie de Mel. Most of us old hands remember Sri Lanka as Ceylon. We have had him before the Foreign Relations Committee. (Applause).

RECESS FOR 5 MINUTES

Mr. SPARKMAN. Mr. President, I ask unanimous consent that we might have a 5-minute recess in order that His Excellency may take a position back here and let the Senators greet him.

There being no objection, the Senate, at 2:28 p.m., recessed until 2:33 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHILES).

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

Mr. WEICKER. Mr. President, I move that the Senate move to the consideration of House Joint Resolution 638, Calendar 1159, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion. As many as are in favor——

Mr. WILLIAMS. Well, I will suggest the absence of a quorum. I am not in the leadership here, but I was on the bill that was up.

The PRESIDING OFFICER. The clerk will call the roll and ascertain the presence of a quorum.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Arkansas without losing my right to the floor.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ark Monroe and Greg Jones, of my staff, be granted privilege of the floor during this debate and also on S. 3116 when it comes up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The question is on the motion to proceed to the consideration of House Joint Resolution 638, also called the equal rights amendment.

Mr. ROBERT C. BYRD. All right.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 10 seconds.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is agreeing to the motion to adjourn. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 54, nays 35, as follows:

[Rollcall Vote No. 421 Leg.]

YEAS—54

Bentsen	Cannon	Durkin
Biden	Chiles	Eagleton
Bumpers	Church	Eastland
Burdick	Clark	Ford
Byrd, Harry F., Jr.	Cranston	Glenn
Byrd, Robert C.	Culver	Gravel
	DeConcini	Hart
Hatfield, Paul G.	Magnuson	Ribicoff
Hathaway	Matsunaga	Riegle
Hodges	McGovern	Sarbanes
Hollings	Melcher	Sasser
Huddleston	Metzenbaum	Sparkman
Humphrey	Morgan	Stennis
Inouye	Moynihan	Stevenson
Jackson	Muskie	Stone
Kennedy	Nelson	Talmadge
Leahy	Nunn	Williams
Long	Proxmire	Zorinsky
	Randolph	

NAYS—35

Baker	Hansen	Roth
Bartlett	Hatch	Schmitt
Bellmon	Hayakawa	Schweiker
Brooke	Heinz	Scott
Case	Helms	Stafford
Chafee	Javits	Stevens
Curtis	Laxalt	Thurmond
Danforth	Lugar	Tower
Dole	Mathias	Wallop
Domenici	McClure	Weicker
Garn	Packwood	Young
Goldwater	Percy	

NOT VOTING—11

Abourezk	Griffin	Johnston
Allen	Haskell	McIntyre
Anderson	Hatfield, Mark O.	Pearson
Bayh		Pell

So the motion was agreed to.

ADJOURNMENT

Thereupon, at 2:58 p.m. the Senate adjourned for 10 seconds.

AFTER ADJOURNMENT

THURSDAY, SEPTEMBER 28, 1978

The Senate met at 2:58 p.m., pursuant to adjournment, and was called to order by Hon. LAWTON CHILES, a Senator from the State of Florida.

Mr. ROBERT C. BYRD. Mr. President——

Mr. WEICKER. Regular order.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings be dispensed with.

Mr. WEICKER. Mr. President, reserving the right to object, for the last several weeks this Senator and others on this side of the aisle have sat and listened to some very explicit and inflammatory rhetoric relative to Republican obstructionism on the issue of ERA and the concideration of the equal rights amendment.

I think it important to point out at this juncture what has just transpired. This Senator made the motion to proceed to the immediate consideration——

Mr. ROBERT C. BYRD. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will come to order.

Mr. ROBERT C. BYRD. The Senator is speaking. He is entitled to be heard.

Mr. WEICKER. The Senator made the motion to proceed to the immediate consideration——

Mr. ROBERT C. BYRD. What Senator?

Mr. WEICKER. Of the Equal Rights Amendment.

The motion to adjourn by the distinguished majority leader was in fact no more than a motion to table or to do away with the motion of the Senator from Connecticut.

I had not had a chance to look over the vote tally, but I think it fairly certain that almost every Member on the Republican side of the aisle voted against adjournment, in other words, for immediate consideration of the Equal Rights Amendment.

Now we know where the blame lies. with the distinguished majority leader, it is a matter of his scheduling. It is a matter of doing everything but getting to the substance of this very important matter.

I am just informed by the distinguished minority leader that the vote on this side of the aisle was unanimous against adjournment; unanimous that we proceed immediately to the consideration of the equal rights amendment.

No amount of rhetoric is going to do away with what just occurred on the floor of the Senate. I have no doubt there are many on the other side who feel just as strongly on the matter of ERA, and it is not to them I direct my remarks but rather to remarks directed at this side of the aisle by the distinguished majority leader, remarks that have no substance, remarks that were political in nature, remarks that were meant to imply fault or lack of sensitivity where none existed.

Now, let an explanation come from the majority leader as to why it is we are not considering the equal rights amendment today.

I have reserved the right to object, and I do intend to object. I do not want to foreclose any comments that the distinguished majority leader would like to make. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the Journal.

The assistant legislative clerk proceeded to read the Journal of Tuesday, September 26, 1978.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there morning business? If there is no morning business, morning business is closed.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of House Joint Resolution 638.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of House Joint Resolution 638.

The motion to proceed was agreed to.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Calendar 1159, H.J. Res. 638, extending the deadline for the ratification of the Equal Rights Amendment.

The Senate proceeded to consider the joint resolution.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on H.J. Res. 638, a joint resolution extending the deadline for the ratification of the Equal Rights Amendment.

James Abourezk, John Glenn, John C. Culver, Paul S. Sarbanes, Edward M. Kennedy, Harrison A. Williams, Jr., Wendell R. Anderson, Birch Bayh, Patrick J. Leahy, Dick Clark, Donald W. Riegle, Jr., Muriel Humphrey, Jennings Randolph, Edmund S. Muskie, Howard M. Metzenbaum, Spark M. Matsunaga.

Mr. ROBERT C. BYRD. Mr. President, now that we have seen this initiative on the part of the Senator from Connecticut, I want to state that my purpose in adjourning was two-fold: First, to kill a motion to proceed that was made by a Member of the Senate who is not in the leadership. He was, of course, perfectly within his rights to move to proceed to another matter. Any Senator can do that, but traditionally this has been the prerogative of the majority leader.

With adoption of the motion to adjourn that motion died.

It was my intention then to move to proceed, as I did—having seen this sudden spirit of sweetness and cooperation on the part of the Senator from Connecticut—to proceed to take up the ERA resolution.

Because of the cooperation of the junior Senator from Connecticut, I also felt it would be opportune to let morning business come to a close and then move to proceed to call up ERA. That motion was not debatable at the time I made it. So, it not being debatable, the Senate now has before it the resolution, thus eliminating the necessity for a cloture vote next Tuesday on the motion to proceed to take up the resolution on ERA.

I am ready now to enter into a time agreement to vote up or down on the resolution. I regret that I have to say to my friend from Virginia (Mr. SCOTT)—to whom I had given assurance that I would give him notice 2 days before moving to take up the resolution—that events have now overtaken me in this matter. I regret that I cannot live up to the promise which I obviously could not keep under the circumstances that have suddenly been thrust upon the Senate.

REQUEST FOR A TIME-LIMITATION AGREEMENT

So I ask unanimous consent that a vote occur up or down on the resolution itself, tomorrow at 2 p.m., with an opportunity for Mr. GARN to call up his rescission amendment.

Mr. STEVENS. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. May I complete my request?

I will be glad to mold this agreement in any way to suit my friends on the other side who voted solidly against the motion to adjourn. I will recommend that they be given an opportunity to vote on the rescission amendment. I will recommend that we vote on a certain hour tomorrow, which is Friday—I thank the distinguished Senator from Mississippi for correcting me, I was thinking today was Wednesday—but I will be glad to work out an agreement, now that the Senator from Connecticut (Mr. WEICKER) is so eager to reach a vote on ERA. I will try to mold any kind of an agreement for a vote up or down on that resolution. I am quite willing to allow the rescission amendment to be a provision in that agreement.

So, Mr. President, without yielding my right to the floor, I yield to the distinguished minority leader. Perhaps he has a recommendation as to when we might vote up or down on the ERA resolution.

Mr. BAKER. Mr. President, I thank the Senator for yielding. I was about to reserve on his request, but he has graciously given me the chance to speak at this time.

Mr. President, there is not now nor has there ever been a filibuster on the motion to proceed to the consideration of the extension of ERA. There is a serious and significant difference on this side of the aisle, and I suspect on that side of the aisle, about whether and how this amendment should be extended.

But I think, Mr. President, it is entirely possible that we can arrive at a time. I thought we could yesterday. I think the distinguished Senator from Utah tried in good faith to negotiate such a settlement.

I do not think there ever was a threat of a filibuster, nor is there now.

So, Mr. President, my response to my good friend, the majority leader, who has graciously yielded to me at this time, would be the same as it was yesterday and on Saturday, which is that we need to take a few minutes and explore this matter. Let me check with the Members on this side who are directly involved. Let us take, say, 30 minutes to see if we can, in fact, shape and fashion an order that will permit us to vote on the amendments that may be offered and on the resolution itself.

Now that, Mr. President, is my earnest reply to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

So that Senators will have a basis on which to deliberate, I ask unanimous consent that there be 6 hours of debate on the ERA resolution to be equally divided between Mr. BAYH or his designee and the distinguished minority leader or his designee;

That there be a time limitation on any amendment of 2 hours, to be equally divided between the offeror of the amendment and Mr. BAYH or his designee; and

That a final vote occur on the ERA resolution no later than 3 o'clock tomorrow afternoon;

Provided further, that there be a time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its discussion, of 30 minutes; and

That the agreement be in the usual form;

Provided further, that an amendment by Mr. GARN dealing with rescission, even though it not be germane, be in order.

I think that is an excellent proposal. I would hope that the distinguished minority leader and his colleagues would consider agreeing to this request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Would the majority leader consider adding to that that the Senate stand in recess for 45 minutes?

Mr. ROBERT C. BYRD. I do not think the Senate needs to stand in recess for 45 minutes. I would suggest that in the meantime the Senate continue on the mass transit bill. There is no need to recess for a matter of this kind. The Senator will be fully protected against votes, he will be fully protected against any surprise motions, and the Senate can continue its work on mass transit.

I ask unanimous consent that the Senate proceed with the further consideration of the mass transit bill for the next hour. This gives the minority leader an hour. If need be, we can extend that another hour to consider the proposal I have made.

Several Senators addressed the Chair.

Mr. HUDDLESTON. I object.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

The PRESIDING OFFICER. Did the Senator from Kentucky object?

Mr. HUDDLESTON. I have objected.

Mr. ROBERT C. BYRD. Mr. President, I would hope the able Senator from Kentucky would withdraw his objection temporarily.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, I have great respect for the majority leader, as the Senate knows and the distinguished Senator from West Virginia knows.

However, I come from an area of the United States 4,500 miles away. The last time I sent a registered letter to my State of Alaska, it took several days to get there, notwithstanding modern transportation and communication. I have been meaning to state this to the Senate for some time, and I think now is a good time to do it.

To date, I have served in the Senate almost 10 years, and, God and Alaskans willing, I will be here a lot longer. But I do not intend to vote for the first or second cloture motion again as long as I serve in the Senate, unless the national security of the United States is involved.

I say that for the reason that I think we are acting in haste. The Senate is supposed to be a deliberative body, and, with all due respect for my good friend from West Virginia, there seems to be a bit of strain and heat overriding the considerations of the Senate in these last days of the session that I fear may jeopardize the very friendships which have endured among members on both sides of the aisle.

I think it ought to be known that as far as I am concerned, a cloture motion to cut off debate on a bill just brought before the Senate, which could lead to a request for a final vote as early as tomorrow, would establish a difficult precedent for those of us who have to travel long distances. Just think what that would mean if we had a bill here, and I am not talking about our Alaska lands bill, but the same conditions could come into play if we had before the Senate a measure affecting the Western States, especially my own State, in terms of fishing, for example. It would be impossible for me or other Senators from far away States to have enough time to let our constituents analyze the possible ramifications of a bill and determine whether or not it serves our best interests. We had an airline deregulation bill that went back and forth to Alaska at least three times before it was finally satisfactory. I do not pretend to know everything about my State which is 4,500 miles away, and whose size is so vast and immense that one can travel an additional 1,800 miles and still be within its borders. There should be some consideration for geography and time in the deliberative process, and I hope the Senate will remember that.

I intend to vote against the cloture motions the first and the second time, on any cloture motion that is filed unless national security is involved. I am for extending the ERA deadline, but I will vote against the first cloture motion and the second cloture motion, and I intend to object to unanimous-consent requests that would serve to accelerate the consideration of extremely controversial legislation before the people of my State can be informed of what the issue is, and before I can ascertain how I can best represent their interests.

I hope other Senators will consider what is going on in terms of this process. We can, in an orderly way, schedule the matters to be considered by the Senate, and take into account the problems that we have with regard to transportation and communication. The precedent that would be involved in this action, with a cloture motion being filed the moment the matter is brought before the Senate, and an attempt to have it voted upon tomorrow at 1:00, would be intolerable as far as most issues of a controversial nature that would affect my State are concerned.

I am, perhaps, out of order to state it at this time, but I think something has to be done to bring about an agenda for the Senate that gives us time to check with our people at home and to get their interpretations on proposed legislation, and to see how that legislation would affect our States, before we consent to vote on matters of such controversy. That is indirectly involved in this issue. As I say, I am for the extension of the equal rights amendment, but I certainly will not vote to cut off debate this quickly.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, there are a number of ground rules that I would have to know about before agreeing to any time limitation.

For example, in my judgment, it would take a two-thirds vote to change the proposed constitutional amendment.

A period for ratification of 7 years is specified in the preamble or in the body of the proposed amendment. Congress, in 1972, did propose a constitutional amendment, the equal rights amendment, and specified 7 years for its ratification. Now we could change that, and I am told that the effort will be made to change it by majority vote.

You do not change an amendment to the Constitution by majority rule; you change it by two-thirds vote of both the House of Representatives and the Senate. The House, I understand, has passed this proposal by a majority vote, and unless the Senate leadership agrees that we will have a two-thirds vote on this, I am not going to agree to any time limitation at any time, and that is as broad as I know how to state it. If it could be stated more broadly, of course, I would. We need only look at article V of the Constitution:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States.

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order.

Mr. SCOTT. Mr. President, I think the Constitution means exactly what it says. I believe that the courts have held——

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. A Senator has the floor. A parliamentary inquiry is not in order unless the Senator yields.

Mr. SCOTT. Mr. President, I shall not yield until I finish my statement.

The PRESIDING OFFICER. The Senator does not yield.

Mr. SCOTT. I am going to talk but a very short time. I am certainly not beginning any filibuster. I merely want to state the premise upon which there might be a time agreement.

One would be that this would be considered as an amendment to the Constitution, not as a resolution that could be decided by a majority vote and not even be signed by the President. Whether or not it is signed by the President, to

me, does not make any difference. I think we ought to follow the plain language of the Constitution. I believe Mr. Justice Marshall said that a long time ago, that the regular interpretation, the regularly understood meaning shall apply in interpreting the Constitution. It says a two-thirds vote.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will suspend until we have order.

Mr. SCOTT. Mr. President, I believe that, under the rules of the Senate, an amendment does not have to be germane until cloture is invoked. I have a series of amendments that have been sent to the desk to be printed. I assume that, by this time, they have been printed. Among those are two amendments, stated somewhat differently, with regard to the rights of States to rescind their ratification. Four States have rescinded of the 34 States that have ratified the proposed amendment.

(Mr. DECONCINI assumed the chair.)

Mr. SCOTT. A number of additional States, 20-some, and I am speaking without notes, Mr. President, but 20-some additional States have prefaced their ratification with phrases that ratification be accomplished within the 7 years. So if we extend the time, it would seem reasonable that they should have an opportunity to rescind their ratification.

It was conditional ratification, conditioned upon the necessary three-fourths of the States ratifying within 7 years. I would certainly want the right to offer any amendment that I have had printed or any other amendment that I or any other Senator felt he should offer.

To me, to say that one amendment or one type of amendment shall be in order before cloture is invoked is contrary to the rules of the Senate, because our amendments do not even have to be germane under the rules. This is the real thrust of my remarks, Mr. President. Unless there are some preliminary conditions laid down, then I am not willing to agree, speaking only as one individual Senator. If we can agree on some of these. I have no desire to filibuster. But we have to have a premise of some type—and these are my own thoughts—before a time agreement can be entered into.

Mr. ROBERT C. BYRD. Mr. President, I rephrase my request. I ask unanimous consent that a vote up or down on the ERA resolution occur next Tuesday at 11 o'clock a.m., the time originally set for vote on the cloture petition; provided further that there be a time limitation for debate of 6 hours, equally divided between Mr. BAKER and Mr. BAYH or his designee, and a time limitation for Mr. GARN on his rescission amendment——

Mr. GARN. I should like to reserve the right to object, but I shall not object at this moment. I suggest to the distinguished majority leader that for 2 days on the floor we have knocked about my pursuing a time agreement. This was forced upon all of us. Right at this moment, I could not agree, if I did, on other than my own amendment and not for other people. I would suggest that, rather than propounding the unanimous-consent agreement right now, if the majority leader could give us the guidelines he started to, then the minority leader, Senator SCOTT, and I, and others on this side could have the hour the Senator talked about to discuss our options and clear our amendments, time limits. Mr. SCOTT has some valid concerns. We could all discuss them together. He or I can only speak for ourselves and not for other Members. If he and I could have that hour, discuss it with the majority leader, and come back, perhaps we could reach that agreement and have discussions with other colleagues.

I am perfectly willing to pursue it in that manner. I cannot agree to a time limitation right now until we have discussed it.

Mr. ROBERT C. BYRD. All right.

Mr. President, I shall ask unanimous consent, which would be in the interest of the Senate, in the interest of having this issue disposed of, and in the interest of completing our work by October 14—that there be a time agreement which will provide for a final vote on the ERA at a specific time on a specific date; that there be a provision that would allow a rescission amendment to be offered; that there be a provision for time on each amendment, to be equally divided and controlled; that there be a time limitation on the amendment which would deal with the question of whether this should be adopted by a two-thirds vote or a majority; that there be a time limitation on debatable motions, appeals, or points of order, if such are submitted to the Senate, and that the remainder of the agreement be in accordance with the usual form so as to rule out nongermane or dilatory amendments, and which would also provide for the Senate, in the meantime, to continue with its work on mass transit and other legislation.

The proposal would be for a vote on passage of ERA at some point next week or within the next 3 days, and which would allow for the Senate to continue to work on other matters in the meantime. This would seem to me to be a reasonable agreement. It would give Senators a specific date, a specific time on which to vote; it will allow Mr. GARN to bring in his rescission amendment. And it would not hold up the work of the Senate.

(Mr. GRAVEL assumed the Chair.)

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. Mr. President, the majority leader has made a suggestion that, on our side of the aisle, we shall be glad to consider. It will take a while, as I indicated earlier.

I propose now, Mr. President, that we simply proceed either with the recess of the Senate or with other business, and that we confer on this a little later this afternoon.

Mr. ROBERT C. BYRD. Very well.

Mr. SCOTT. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. I have not made a request.

Mr. SCOTT. I misunderstood the distinguished Senator.

Mr. ROBERT C. BYRD. I have only outlined what I think would be a reasonable agreement. I have not made the request.

Mr. SCOTT. Mr. President, I have outlined the basis on which I would object unless there were something worked out in advance and I am not sure that the distinguished majority leader met those conditions.

I am speaking again only as an individual Senator. But I would hope perhaps we could continue with the transportation bill and give us time, and then the distinguished majority leader might renew his request, if he cares to offer it, with an opportunity for those of us who have an interest in this to be on the floor at the time he makes his request.

Mr. ROBERT C. BYRD. Yes.

Mr. President, the Senator makes a very reasonable observation and request. I am sure the distinguished minority leader will be discussing the matter with the distinguished Senator from Virginia.

But if a time agreement can be worked out, Mr. President, it would obviate the necessity for a cloture vote on this matter. By obviating a cloture vote, the Senator from Virginia (Mr. SCOTT) and the Senator from Utah (Mr. GARN) would be assuring themselves an opportunity to vote on a rescission amendment—which, if cloture is invoked, would in all likelihood be nongermane.

I would like to see them have the opportunity to vote on a rescission amendment.

So I hope an agreement can be worked out which would eliminate the need for a cloture vote, and which would allow the Senate to proceed with other business prior to the final vote on the ERA resolution.

Now, Mr. President, I ask unanimous consent that the Senate resume consideration of the mass transit bill and thus give the distinguished minority leader an opportunity to confer with his colleagues on his side of the aisle on the agreement.

Mr. WEICKER. Reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. This means the ERA is still the pending business?

Mr. ROBERT C. BYRD. Oh, yes.

Mr. WEICKER. Before the Senate?

Mr. ROBERT C. BYRD. Yes.

Mr. WEICKER. Indeed, it is the mass transit legislation coming in under the unanimous-consent at this time?

Mr. ROBERT C. BYRD. The mass transit bill became the unfinished business with the adjournment.

A call for regular order would bring up the mass transit bill.

Mr. WEICKER. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. What is the pending business before the Senate?

The PRESIDING OFFICER. Not until the close of morning hour.

Mr. WEICKER. I am sorry, a parliamentary inquiry.

What is the pending business before the Senate?

Mr. ROBERT C. BYRD. After morning hour, of course, mass transit could be brought up by a call for regular order.

The PRESIDING OFFICER. The pending business is House Joint Resolution 638, and will remain pending until the close of the morning hour.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I think we have a little bit of misunderstanding. I do not think it should persist.

I do not intend to object at all, but I think Seantor GARN is talking about a rescission amendment, and I thoroughly agree with my colleagues, both majority and minority.

But I think the Senator from Virginia is talking about other nongermane amendments.

I, for one Senator, give notice that I would like to know what those are before I agree to a unanimous consent.

Mr. SCOTT. If the Senator will yield, my amendments are printed, or at least I submitted them for printing yesterday.

But I would like the right to offer other amendments, if I see fit.

Frankly, I do not want any time agreement. So the distinguished Senator from New York will not offend the Senator from Virginia by objecting to any time agreement at all.

Mr. JAVITS. Well, the Senator from New York wants the ERA extension and has no desire or purpose to object to a consent agreement.

I will read the Senator's amendments. Obviously, he has already stated they are not all-inclusive, and I just wanted the majority leader to let me know what the deal is before I, as one Senator, agree.

Mr. ROBERT C. BYRD. Mr. President, at what time did the Senate reconvene?

The PRESIDING OFFICER. 2:58.

Mr. ROBERT C. BYRD. 2:58.

Then at 4:58 p.m.——

The PRESIDING OFFICER. The morning hour would close.

Mr. ROBERT C. BYRD. Yes.

The morning hour would close at 4:58, at which time a call for regular order would automatically force the mass transit bill back before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I would hope that would not be necessary.

I ask unanimous consent that the Senate proceed now to resume the consideration of the mass transit bill; and that on the disposition of that measure the Senate resume consideration of the Department of Education bill on which there is a time agreement.

In the meantime, the distinguished minority leader and his colleagues may confer with respect to a possible time agreement on disposition of the ERA resolution, and, hopefully, this will result in an agreement.

The PRESIDING OFFICER. Without objection——

Mr. BAKER. Reserving the right to object, I am advised now that there is one Senator on this side who expressed an interest in being here, or at least to speak on the question of the presentation of the Department of Education bill—Senator GRIFFIN, I believe.

So I would hope the majority leader might delete that reference from his unanimous-consent request, if it was included in his request.

Mr. ROBERT C. BYRD. Is Senator GRIFFIN not here?

Mr. BAKER. We will have to locate him.

Mr. ROBERT C. BYRD. All right. I can make that request later.

Mr. BAKER. That will be fine.

As the majority leader knows, I support the Department of Education and I want to see it brought up, but I have the obligation to check with one other Senator.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. Is there objection to the request?

Mr. ROBERT C. BYRD. I modify the request to eliminate, for the time being, the Department of Education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, may I ask the Chair, under an order previously entered, is it not within the prerogative of the majority leader to call up the Department of Education bill, to resume consideration of that after consultation with the minority leader?

The PRESIDING OFFICER. The Senator is absolutely correct.

Mr. ROBERT C. BYRD. I thank the Chair.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1978

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Senate will be in order. People will please confine meetings to the cloakrooms.

The Chair recognizes the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. What is the pending business?

The PRESIDING OFFICER. The pending business is S. 2441.

The question is on agreeing to the committee substitute.

Mr. WILLIAMS. Is there an amendment pending?

The PRESIDING OFFICER. Only the committee amendment.

Mr. WILLIAMS. The Senator from Michigan was——

The PRESIDING OFFICER. The Senator from Michigan withdraws his amendment.

Mr. WILLIAMS. It has been withdrawn.

I have no notice of any other amendments, with one exception, and that is the possibility of an amendment to be offered by the Senator from Montana (Mr. MELCHER).

Otherwise, I know of no other Senators who will be offering amendments.

I am happy to yield to the Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the debate and votes on the ERA extension: Gordon Jones, Lincoln C. Oliphant, Vern Dell-Piana, Jeff Bingham, Dean Grzanka, and Grover Rees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I believe there is an amendment about to be discussed, perhaps offered. I have no other requests at this point. This will be only a matter of minutes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask Tim Lynch, Doug Svendson, and Matt Scocozza be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1951

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1951:

On page 72, between lines 17 and 18, insert the following:

AMTRAK ROUTE SYSTEM

SEC. 114. At least 60 days prior to October 1, 1979, if any train or trains or routes are not required under the Final Route Reexamination Recommendations proposed by the Secretary of Transportation, the Corporation shall formally notify the Governor and legislature of each State in which the train or route is operated, and post in every station, depot, or other facility served thereby notice of the proposed discontinuance. If any State, region, or local agency, whether or not it loses service under the Secretary's route restructuring proposal due December 31, 1978, requests continuation of the service and agrees prior to October 1, 1979, to reimburse the Corporation for a reasonable portion of any operating losses and capital costs associated with the continuation of service beyond October 1, 1979, the Corporation shall continue operations of such train, route, or service for the period covered by a contract between the Corporation and the State, regional, or local agency, under the terms of section 403(b) of the Rail Passenger Services Act.

Mr. MELCHER. Mr. President, the amendment is quite self-explanatory.

The Secretary of Transportation will be sending up to Congress at the end of this year his final proposed plan for Amtrak.

After that is received and up until October 1, 1979, the existing Amtrak route and service will be maintained. That is to provide Congress an opportunity to review the proposal of the Secretary and give the Congress a chance to disagree on portions of it or agree on all of it, but if there is a disagreement on portions of it then the Secretary, during that period of time during the next Congress, would be making adjustments.

We know that in some cases in our part of the Northwest the Secretary may very well recommend a discontinuation

of one or more trains. We are trying under this amendment to do two things:

We are attempting to make sure that there is proper notice served on the Governors and the legislatures and serving notice on the public by posting in the depots of the proposed discontinued line that that is going to happen after October 1, 1979. That discontinuation would occur then.

The second part we are attempting to do in the amendment is to draw the attention of the legislatures that will be meeting in these States in January of next year to the fact that they may make application singly or jointly for continuation of the service that would be proposed to be discontinued providing they are willing to pick up a reasonable part of the costs under section 403(b) of the existing act.

I think it is a timely amendment to acquaint the legislators, the Governors, and the people out in these States that this may happen. If they wish to take some action to provide some funds and make application for picking up the reasonable costs, they can do so while they are in session next year.

My State legislature will adjourn after 60 legislative days and will not be sitting probably at the time the final route plan is agreed to sometime next summer.

So, this kind of serves notice on them. If they want to participate by putting up a reasonable share of the costs they better be taking the proper steps during that legislative session next year.

I am sorry to inconvenience the managers of this bill by waiting for this amendment, but I can assure them that it will be most helpful and I hope the managers of the bill can accept it.

Mr. WILLIAMS. Mr. President, it should be noted, of course, that this is subject matter that is not within the legislative jurisdiction of the committee that brought the pending bill to the floor. Housing, Banking, and Urban Affairs has nothing to do with Amtrak, as the Senator knows.

But during the interim period here I did have a discussion with the chairman of the Commerce Committee, and I know that he is familiar with this and has talked to the Senator from Montana about this amendment. While it is not our jurisdiction, this is a transportation vehicle; therefore, it is being presented at this time.

As far as this Senator is concerned, as manager on this side—and I would look to the other side—certainly if this is added, in conference we will do our best to represent the Senate's position here on this amendment. I am agreeable to accepting it.

Mr. SCHMITT. Mr. President, I apologize to both of my colleagues for coming in late on this discussion. I understand there may be some inconsistency between the amendment of the Senator from Montana and some Amtrak legislation which has previously been considered by the Commerce Committee and by the Senate.

I wonder if it would be possible for the Senator to lay this measure aside just for a few minutes so I can find whether or not it is inconsistent.

Mr. MELCHER. I can assure the Senator that the Department of Transportation representatives and the Senate Commerce Committee staff have been going over this for the last hour and they believe it does fit in with the previous legislation. Some of the staff members of the Senate Commerce Committee are on the floor right now.

Mr. SCHMITT. Would the Senator mind——

Mr. MELCHER. I have no objection at all.

Mr. SCHMITT. I understand it may relate to two or three lines in New Mexico, and I would like to understand what that relationship is before we proceed.

Would the Senator from New Jersey mind laying this aside while we examine it?

Mr. WILLIAMS. Lay it aside or just have a quorum call?

Mr. SCHMITT. What is that, a quorum call? I thought there was another amendment——

Mr. WILLIAMS. Yes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HOLLINGS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, having finally caught up with the train here, I understand that the staff of the Commerce Committee has, in fact, worked out the apparent inconsistency in the original proposal that had been seen relative to the Amtrak conference report. and the wording is consistent with that report. I have no further objection to their proceeding to the adoption of the amendment. I apologize to the distinguished Senator from Montana for this brief delay. There were so many other things going on that I just did not quite catch up with it.

Mr. MELCHER. I thank my friend from New Mexico, and I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. PROXMIRE. Mr. President, this bill, as I understand it, has been amended substantially by the Muskie amendment and other amendments. As reported, however, it authorizes $14.8 billion for mass transit during the next 4 years, an increase of $3.5 billion over the $11.3 billion requested by the administration. The bill is also $800 million over the amount contained in the first budget resolution for fiscal year 1979. The Secretary of Transportation has said in a letter to the committee that he does not believe the President will approve a bill with increases in the amounts approved by the committee.

While I support increased funding for mass transit, I believe an increase of $3.5 billion over the administration's request is clearly excessive. Unrestrained spending increases of the kind embodied in S. 2441 can only lead to larger budget deficits and runaway inflation. I believe the Congress must call a halt to excessive Federal spending increases in all programs, including mass transit.

A case might be made for increasing the administration's requested authorization amounts if these amounts represented a sharp cut from prior levels. However, just the reverse is true. Program obligations for mass transit increased by 14 percent in fiscal year 1978 and the administration proposed a further increase of 13 percent in fiscal year 1979. Under the reported bill, the 1979 authorization is 42 percent over the program level for 1978. I seriously doubt that the Urban Mass Transit Administration has the administrative capacity to assimilate an increase of this magnitude.

I am especially concerned about an amendment which the committee narrowly approved by a vote of 8 to 7. This amendment added $891 million in operating subsidies to be used to guarantee that every transit operator received up to 50 percent of its operating deficit, but not to exceed one-third of operating costs.

This amendment is a formula for inflationary cost increases in our mass transit systems. I agree with the Department of Transportation when it observed to the committee that:

> The acceptance of this provision would create a situation in which an urbanized area can increase its share of Federal funds simply by increasing its costs, since the Federal Government would be required to absorb half of all increases in deficits. The incentive to eliminate such deficits would certainly be reduced . . . Every additional dollar of revenue generated by a transit system or every dollar saved in improved operations would mean a loss of 50¢ in potential federal aid. This plan would decrease the incentive to adopt money-saving efficiencies or to develop fare structures commensurate with cost increases.

By injecting operating deficits into the distribution formula, the committee's amendment departs from an objective measurement of need. This "welfare approach" to mass transit assistance can only undermine efficient management and lead to runaway Federal subsidies.

The Federal commitment under the committee's amendment would essentially be openended. Although the funds to implement the amendment are ostensibly limited to $891 million over the next 4 years, the Department of Transportation is estimating that potential operating deficits of all mass transit systems could increase by billions of dollars into the 1980s if transit operators attempt to maximize their Federal contributions. Once the principle is established that a city is entitled to receive 50 percent of its mass transit deficit, pressures will be created to increasing the funding level under the committee's amendment to support the increase in these deficits.

Accordingly, Mr. President, I want to

congratulate the Senator from Maine (Mr. MUSKIE) and the Senator from North Carolina (Mr. MORGAN) for offering their amendments to reduce the funds in the bill to the amounts contained in the budget resolution and to the amounts approved or likely to be approved by the Appropriations Committees. Even with these reductions, the mass transit program would still enjoy a considerable increase over last year. Moreover, the program would continue to receive increased authorizations in the years ahead.

So we are by no means turning our backs on the mass transit program in approving the Muskie and Morgan amendments. On the contrary, we are providing the program with increased funds. However, at a time when inflation is our number one domestic problem, we simply must find a way to hold back on Federal spending and to reduce the size of our colossal budget deficit. I am pleased, therefore, to support the two amendments offered by Senator MUSKIE and Senator MORGAN.

I thank the distinguished manager of the bill.

● Mr. HART. Mr. President, as the Senate considers S. 2441, which provides new authorizations for urban mass transit systems, we will have before us a delicate task. We must strike a chord between controlling the Federal budget, while providing the necessary financial incentives for the expansion of mass transit.

In the past decade, funding for mass transit has undergone tremendous increases. The total authorization in 1974 was $581 million. We will soon vote on a bill authorizing close to $17 billion over a 4-year period. This, in my view, represents a substantial commitment on the part of the Senate to mass transit. Simultaneously, it represents massive Federal expenditures.

In certain areas of my home State of Colorado, serious air pollution exists, threatening the health and safety of thousands. I have consistently supported strong clean air measures and aggressive mass transit programs. But, I also recognize that the Congress must gain control over the budget. We should establish fiscal goals and objectives, and more importantly, begin the constructive work toward those goals.

The people of Colorado want to control and reduce the "brown cloud" that hovers over Denver and much of the Front Range, endangering the lives of residents.

The people of the Denver area also want a more effective and efficient mass transit system for their city. But, I am equally convinced that those very same people want a balanced Federal budget and controlled Federal spending.

Mr. President, the choices we make today are not easy ones. But, we have a responsibility to control the Federal budget, and we must not shirk that responsibility. The Federal budget process is complex, and reductions should not be made with a meat axe. The deliberations must be thoughtful and precise, with particular consideration given the fine tuning of mass transit procedures.

Mr. President, I am confident the Senate will approve and send to conference, an urban mass transit authorization bill which provides sufficient incentives for reasonable growth, while coupling that directive with a firm stance on responsible Federal spending.●

SMALL URBAN AND RURAL PROGRAM

Mr. LEAHY. Mr. President, I would like to express my strong support for the proposed new program of public transportation capital and operating assistance for small urban and rural areas. This is an important and long overdue addition to our public transportation program. I know that the Senate has tried for a number of years to pass legislation that would create a useful source of assistance for nonurbanized areas. Capital funds have been available for these areas since passage of the National Mass Transportation Assistance Act of 1974. But this program was crippled from birth by the inability to receive operating assistance. The Senate has twice passed legislation that would have the funds set-aside for nonurbanized areas to be used for operating assistance, but neither of those bills were enacted.

I believe that the current proposal to create a specific formula program for small urban and rural areas is the best opportunity we have had to develop effective transportation services to help meet the urgent needs of our small urban and rural areas.

Also, Mr. President. I want to take this opportunity to thank the Senator from New Jersey (Mr. WILLIAMS) for his diligent efforts to make public transportation a reality for a too often overlooked sector of this nation. small town America. His work in this field has been invaluable and I know it is appreciated by the 60 million Americans living in rural and smaller urban America.

Mr. President. I would like to seek some clarification from the Senator from New Jersey and how he envisions the creation and operation of this program. My concerns are twofold—first will we see a rapid start-up of this program so that the many services and programs which are operating now on a shoestring, because no operating assistance is available, will not go under while the Department of Transportation ponders what sort of guidelines. regulations. and other requirements to impose on the program. My primary concern here is the requirement in section 18 that services assisted must be included in a "State plan and program for small urban and rural public transportation programs which is developed in accordance with section 8 of this act." It seems quite possible to me that a State plan of this sort could take many months to develop. If no assistance can be given until this plan is developed and submitted. I fear that, at best, thousands of residents of my State will be deprived of several months of improved service, and at worst many of these existing services may fold for lack of available funding. I hope we can encourage the Department of Transportation to take some interim steps to get this important program going as soon as possible.

My second concern is how this program will be administered. We are concerned with a public transportation program that will serve both rural areas and small urban areas, including some larger cities. In fact, the largest city in my State falls within the category of a "small urban area" since it has a population of less than 50,000. I think it is important that a public transportation program of this nature be administered as part of the overall Federal public transportation program so that the necessary expertise and sensitivity can be brought to bear on the very real problems of providing useful services in these areas.

Mr. WILLIAMS. Mr. President, I welcome the support from the Senator from Vermont on this very important part of the public transportation legislation. Senator LEAHY's contributions to this proposed legislation are many and consistent with his wide-ranging interest in the improvement of life quality for American citizens living in rural and smaller urban areas. From his seat on the Appropriations Committee, Senator LEAHY has helped to insure adequate funding for this program and his efforts have contributed to moving the Department of Transportation toward a firm commitment of getting the regulations for the administration of this program developed and implemented most expeditiously.

It is certainly true that we have not done enough to help develop transportation services in our rural and small urban areas. Our small cities and rural communities contain half our population and it is vitally important that the Federal Government be more responsive to their needs for improved public transportation services. As the Senator from Vermont mentioned, Congress created a program of capital assistance for nonurbanized areas in 1974. But without operating assistance this program has been ineffective. In the 94th Congress, the Senate passed a bill opening up the nonurbanized area funds for use as operating assistance. Last year, the Senate passed S. 208 which contained the same provision. The House never acted on either of these bills.

The Banking Committee hearings on both S. 2441 and S. 208 underscored the need for the program. Last year we had a judge from Greene County, Ala., come up and tell us how important rural transportation services are. He talked about "black market" transportation services by unlicensed private individuals who exploit rural Americans who can't afford their own cars. The Judge told us:

> Unless we can get something done for rural transportation many of our citizens are going to be handicapped. We have found that, in many rural counties, inadequate transportation is the key deterrent to improved health and social services.

This is a good assessment of the problem. Rural residents often must travel great distances for basic necessities, such as work, food and medical services. A recent survey in the publication Country News reported that of 307 low-income residents of Macon County, Ala., who were interviewed, 272 said they needed

public transportation to buy their groceries, 268 said they needed it to get to a doctor, and 184 needed it to get to the food stamp office.

A Department of Transportation study on the problems of transportation in nonurbanized areas concluded that:

> To be without access to a car in a small town is to be immobilized. . . . the elderly, the poor and the handicapped therefore suffer a second disability. The nearly complete dependence on the private automobile is the most difficult and complicated issue facing small towns.

I believe that this new program will help reduce the isolation of rural poor and elderly, and will help lessen the dependence on cars in our small towns and cities.

Mr. President, I would like to respond to the concerns raised by the Senator from Vermont on the implementation of this program.

We intended that the small urban and rural program be one that is very simple to administer, with a minimum of redtape.

Funds will flow through the States to local agencies and operators. The State is required to develop a plan for the use of its allocated funds, which I believe is necessary to assure the fair distribution of Federal dollars, and the coordination of services to maximize the usefulness of the program.

It is not our intent however to delay implementation of this program while DOT creates a complex planning requirement that could take months to fulfill. There is nothing in the language of this section that would prevent DOT from accepting an interim plan, a list in essence, of those services the State intends to fund along with a proposed distribution of the funds. This interim plan could be developed and submitted within a few weeks of passage. I believe DOT would still require development of a more formal and comprehensive plan within perhaps a year, but in the meantime the funds could be flowing to keep these existing worthwhile services operating.

I want to stress my agreement with the Senator from Vermont on the importance of a quick start-up process for this program, and I encourage both the Department of Transportation and the appropriate State agencies to act as quickly as possible once this program is created.

With respect to the Senator's concern about the administration of the small urban and rural program. I share his belief that it should be part of the Federal public transportation program, which is administered by UMTA. In reporting this legislation, the Committee on Banking, Housing and Urban Affairs deliberately chose not to combine this program with a small urban and rural highway program. The committee believed that a separate program, utilizing the expertise and public transportation orientation of UMTA would be the most effective way to focus both Federal and local attention on the need for effective public transportation services in these areas. I have in fact sent a letter to Secretary Adams in which I stressed my belief that the program can be better administered within UMTA.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, having completed deliberations on S. 2441, the mass transit bill, the three parts of the transportation authorization legislation are ready for conference committee. The legislation renews the Federal commitment to maintain and improve highway and public transportation as well as highway safety. The three titles are innovative, reform-minded, and fiscally responsible.

The Federal-aid highway title will improve greatly the ability of my State, West Virginia, to resolve two of our most serious and long-standing highway problems.

Federal highway assistance to West Virginia will increase by $70 million annually. It will help to construct an essential bridge over the Ohio River at Huntington. It also will facilitate upgrading an 86-mile stretch of a major north-south artery between Charleston and Beckley. At last, the West Virginia Turnpike can begin to be transformed from a hazardous bottleneck to an interstate highway comparable to the standards of two existing interstate routes with which it interconnects, I–64 and I–70.

The very location of these two projects and their traffic mix means that taxpayers other than West Virginians also will benefit. Moreover, of national import are the policies prescribed in this title which authorize Federal contributions to these two projects.

One policy sets a date certain for completion of new interstate construction. It assures that essential segments of the Interstate System are among those completed within the time limit. Almost every State has at least one of these "essential gaps" like the 86-mile stretch between Charleston and Beckley.

The Environment and Public Works Committee found that, in general, States are having difficulty financing maintenance of the Interstate System as well as other highway systems, including bridges. Indeed, the most pressing rehabilitation needs are on bridges. The other project represents an adjunct to the policy to assist in the rehabilitation and preservation of the existing Federal highway network.

In 1970, Senator RANDOLPH, the chairman of the Environment and Public Works Committee, sponsored the special bridge replacement program. He rightly recognized that the highway program would be incomplete without rehabilitating or replacing old or unsafe bridges.

The cost of bridge construction is soaring, particularly bridges over major waterways. Engineers at the Federal Highway Administration estimate that constructing a new bridge over a major waterway could cost between 5 and 10 times as much as constructing a new highway over land. Depending on local conditions, it could be even greater.

The committee realized that in some States bridge needs do not fall into any existing assistance category, yet the bridge is a necessary component of the Federal-aid primary, secondary, or urban network. Considering how strapped the States already are for highway funds, the committee thought it prudent to provide the Secretary of Transportation with discretionary funds.

The purpose is to assist a State with construction of a new bridge over a major waterway which would carry a high volume of urban traffic. The funds could be used when construction is beyond the capability of the State to fund in a reasonable time.

Adjusting Federal-aid highway policies to changing conditions and State needs to a hallmark of the committee's highway legislation since Senator RANDOLPH assumed the chair in 1966. He chairs the committee so that every Senator may make a contribution to the final bill.

I believe this is to the credit of Chairman RANDOLPH and taxpayers in general. Senator RANDOLPH recognizes that although every State has highway needs, the value of a national highway program depends on meeting the specific needs of each State.

Moreover, Chairman RANDOLPH appreciates the imperative of fashioning national highway programs which respond to each State's needs without penalizing a State just because it might not conform to the norm. This appreciation, which underpins Federal highway policy, probably has been influenced by the unique characteristics of West Virginia.

Our State's hilly terrain, among other things, makes highway construction difficult and costly. Its geography makes highway transportation an essential element of accessibility, and its central location makes it a national crossroad.

I believe that every State has benefited from our national highway program in part because of Senator RANDOLPH's perspective and his leadership policies. The modern Federal-aid highway program was initiated in 1965 with the establishment of the Highway Trust Fund. Senator RANDOLPH was first elected to the Senate in 1958 and became chairman of the Public Roads Subcommittee in 1963. His longstanding membership on the committee and his experience as Public Roads Subcommittee chairman also help to explain why Federal highway policies are consistent and coherent, despite adjustments to meet changing needs.

Our national highway policies have been modified just about every 2 years, and the highway legislation is exemplary of the committee's practice to update highway transportation policy regularly.

One of the most notable results of this practice is that the highway trust fund is still intact. Its future health, however, could be jeopardized by declining revenues. Although a greater number of vehicle miles is driven each year, fuel consumption no longer is increasing at the pace to which the Highway Trust Fund is accustomed.

Under the stewardship of Senator

BENTSEN, chairman of the Transportation Subcommittee, the legislation provides that the fund's expenditures and revenues will be kept in balance, thus assuring that any future tax increases would not have to be considered in a crisis context.

The new energy environment which has dampened fuel consumption rates also has necessitated other changes in our Federal-aid highway program. Enforcement of the 55-mile-per-hour national speed limit is strengthened. The legislation permits States to use Federal highway funds for car pool and van pool projects.

It sounds rather easy, but actually it is quite challenging to design a national highway policy yet adapt it to the changing needs of each State. To accomplish this, the committee must inject flexibility and discretion at both the Federal and State level but maintain sufficient standards so that the Highway Trust Fund is used to finance a coherent national program.

Recognizing these challenges in carrying out its legislative responsibilities, it is with great pride that I commend the senior Senator from West Virginia, Mr. RANDOLPH, the distinguished chairman, and the Senators who serve with him on the Environment and Public Works Committee.

The mass transit title contains almost all of the President's recommendations. Under the leadership of Chairman WILLIAMS, the father of the national mass transportation program, the Banking Committee refined and, in some instances, improved upon the administration's original proposal.

For example, the formula to determine the amount of grants or loans has been fashioned so that there is no regional bias. Infant systems which need assistance to expand are on equal footing with longstanding systems which need maintenance and rehabilitation assistance.

The formula provides funds according to the level and kind of public transportation service. It would enable the Urban Mass Transportation Administration to streamline administration. Thus, recipients would have greater certainty of funding over a longer time frame. Their ability to plan would be enhanced significantly. I commend the committee for designing a system which is fair and equitable as well as businesslike.

The committee pursued these same goals by making another reform. Benefits would be extended for first time to small urban and rural areas. This is a reform that the Senate supported in 1975 and 1977. This time the chances of making it to the President's desk look better than ever.

Another very significant reform for which the President and the committee should be credited is putting the UMTA and its programs into the congressional budget process. Congress would be able to scrutinize the UMTA through regular authorization and appropriations processes.

The fiscal discipline built into this measure goes beyond the congressional budget process. Senator Morgan's amendment adopted today by the Senate would limit the growth rate of the capital assistance program. If the underlying rate of inflation exceeds 6 percent, it would represent a no-growth policy over the next 4 fiscal years.

Given the importance of working toward balancing the budget in fiscal year 1983, the fiscal discipline which the Senate has built into this bill is exemplary. Senator William's amendment, also adopted by the Senate today, gives assurance that the Nation's need to build, upgrade, and diversify public transportation services will not go unmet. By adding the fifth year, originally proposed by the administration, mass transportation systems can plan ahead for their capital assistance.

The ability to plan is critical to meeting three overriding goals of mass transportation: energy conservation, environmental quality, and urban revitalization. The bill adopted by the Senate today will further these goals more equitably than under existing law and will tighten fiscal discipline.

I commend Senator WILLIAMS, the floor manager of the bill, and Senator BROOKE, the minority floor manager for their outstanding efforts in guiding this complex bill to passage in such an expeditious manner.

Mr. WILLIAMS. Now, Mr. President, under the unanimous consent agreement, it is my understanding that the majority leader will call up S. 3073. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield, without losing my right to the floor, to the Senator from Georgia (Mr. TALMADGE).

Mr. TALMADGE. I thank the distinguished majority leader.

HUMANE METHODS OF SLAUGHTER ACT OF 1978

Mr. TALMADGE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3092.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3092) entitled "An Act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Humane Methods of Slaughter Act of 1978".

SEC. 2. Section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) is amended by inserting "(a)" immediately before the first sentence and adding at the end thereof a new subsection (b) as follows:

"(b) For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaugthered or handled in connection with slaughter at such establishment by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.".

SEC. 3. Section 10 of the Federal Meat Inspection Act (21 U.S.C. 610) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) a new subsection (b) as follows:

"(b) slaughter or handle in connection with slaughter any such animals in any manner not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906);".

SEC. 4. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by inserting after the first sentence a new sentence as follows: "No such carcasses, parts of carcasses, meat or meat food products shall be imported into the United States unless the livestock from which they were produced was slaughtered and handled in connection with slaughter in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906).".

SEC. 5. The Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906) is amended by—

(a) inserting before the period at the end of section 2(b) "and handling in connection with such slaughtering";

(b) repealing sections 3, 4(c), and 5;

(c) striking out "for purposes of section 3 hereof" in section 4(b);

(d) inserting "and" after the semicolon at the end of section 4(a); and

(e) striking out the semicolon at the end of section 4(b) and inserting a period in lieu thereof.

SEC. 6. Nothing in this Act shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this Act, in order to protect freedom of religion, ritual slaughter, and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this Act. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with section 2(b) of the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1902 (b)).

SEC. 7. The provisions of this Act shall become effective one year after the date of enactment. However, such provisions shall not apply to a person, firm, or corporation for such additional period of time, not to exceed eighteen months, as may be determined by the Secretary, if the Secretary, upon application, finds that compliance with the provisions of this Act on its effective date would cause undue hardship on such person, firm, or corporation.

Amend the title so as to read: "An Act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.".

Mr. TALMADGE. Mr. President, S. 3092—The Humane Methods of Slaughter Act of 1978—amends the Federal

Meat Inspection Act to require that all meat inspected and approved under that act be produced from livestock slaughtered in accordance with the methods set out in the Humane Slaughter Act of 1958. Under the 1958 act, only meat that is sold to the Federal Government must be produced from livestock slaughtered in a humane manner.

Since the Humane Slaughter Act was enacted, the risk of injury to slaughterhouse employees who must work near animals has been considerably reduced. Humane handling and slaughter also reduce the incidence of injury to animals, which increases the amount of usable product per carcass. Far less meat is condemned due to bruising or other accidents in the slaughter process using humane methods. This means better returns to farmers, lower prices to consumers, and better productivity for the meat industry. Unfortunately, reports of continued cruelty to and abuse of livestock at the few plants that are not already using humane methods justify the imposition of a humane slaughtering and handling requirement for all meat sold in the United States.

In addition, S. 3092 prohibits the importation into the United States of inhumanely slaughtered meat.

The exemptions for ritual slaughter and the handling of livestock in connection with such slaughter, currently contained in the Humane Slaughter Act of 1958, are retained in S. 3092.

The House of Representatives made two changes in S. 3092, which are technical in nature.

In lieu of language in the Senate-passed bill that would permit the Secretary of Agriculture to refuse to provide meat inspection to a slaughtering establishment until it adopts humane methods of slaughter, the House amendment provides that the Secretary may refuse to provide inspection to a new establishment until it adopts humane methods. In this context, "new" would include an existing establishment that begins to slaughter additional species after the effective date of the bill. The authority of the Secretary in the Senate bill to suspend meat inspection at existing establishments until the establishments are slaughtering meat in a humane manner was not changed.

The House also adopted an amendment with respect to the effective date of S. 3092. The bill is to become effective 1 year after enactment. However, under certain circumstances, the Secretary of Agriculture could grant additional time if he finds that compliance with the legislation on the effective date would cause an undue hardship. The additional period of time that could be granted by the Secretary was limited by the House to not to exceed 18 months.

I wish to commend our distinguished colleague (Mr. DOLE) who has worked so diligently on the legislation. He introduced S. 3092 and took an active role during the hearing on the legislation conducted by the Subcommittee on Agricultural Research and General Legislation.

All of the witnesses who appeared at the hearing supported the enactment of the legislation. The witnesses included Sydney J. Butler, Deputy Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture; Patricia Forkan, representing the Humane Society of the United States; Christine Stevens, representing the Society for Animal Protection Legislation; and Dewey Bond, representing the American Meat Institute.

With respect to the provisions of S. 3092 relating to ritual slaughter, the Committee on Agriculture, Nutrition, and Forestry received valuable assistance from Mr. Nathan Lewin.

Senator DOLE introduced this bill, and did yeoman work to secure its passage. I congratulate him on it.

Mr. President, I move that the Senate concur in the House amendments.

Mr. DOLE. Mr. President, I support the amendment of the House to S. 3092, the Humane Methods of Slaughter Act of 1978.

The amendment clarifies the way in which an interruption of Federal inspection would be used in enforcing humane slaughter requirements.

Operations in an existing slaughter plant could be temporarily suspended when a Federal inspector finds a violation, and would not be resumed until plant management makes satisfactory changes and assurances that further slaughtering will be conducted in compliance with the law.

Slaughter plants applying for a new grant of Federal inspection would be required to show that slaughtering will be conducted humanely before the Secretary of Agriculture would permit federally inspected operations to begin.

The amendment also sets 18 months as the maximum extra time that could be granted by the Secretary to establishments which show they would suffer undue hardship by compliance with the new law on its effective date of 1 year after enactment.

This provision is designed to give State legislatures sufficient time to change State laws to conform to the new Federal requirements.

Mr. President, I urge the Senate to agree to the House amendment to this bill.●

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia.

Mr. SCHMITT. Mr. President, I would ask the distinguished Senator from Georgia if he has talked with the other members of the Agriculture Committee.

Mr. TALMADGE. Oh, yes. The ranking minority member (Mr. DOLE) introduced the bill, and it has been cleared with him.

Mr. SCHMITT. Mr. President, if I may, I would like to have a moment to confer with the distinguished assistant minority leader. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I do not yield for that purpose. I do not yield for the purpose of suggesting the absence of a quorum.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. STEVENS. Mr. President, a parliamentary inquiry. What is the procedural situation? Is there a motion pending?

Mr. TALMADGE. Mr. President, there is a motion to concur in the House amendments to a Senate bill. It is a motion which has been cleared with the Senator from Kansas, by whom the bill was introduced.

Mr. ROBERT C. BYRD. Mr. President, this is the normal procedure here. The distinguished chairman of the committee has stated that the ranking Republican member has agreed to it. I would hope the Senator from New Mexico would not question the authenticity of that statement or the integrity of the chairman (Mr. TALMADGE).

Mr. SCHMITT. Mr. President, if the Senator will yield just for a comment, I have nothing against the measure at all, except that on our side neither the secretaries nor the leadership have any information about an agreement, and there is more than just the ranking Republican member of the committee to consider. I am sure everything the Senator from Georgia has said relative to Senator DOLE is correct, but without that additional information, I think it would be inopportune to proceed. If you will just allow us 1 or 2 minutes——

Mr. ROBERT C. BYRD. Mr. President, the distinguished Republican whip (Mr. STEVENS) was on the floor to protect the rights of the minority and was here when Mr. TALMADGE proceeded as he did. I felt that the minority was being adequately protected by the distinguished Senator from Alaska (Mr. STEVENS), who always does a more than exemplary job in protecting the rights of the minority, and is always most cooperative, and understanding. I would hope that the Senator from New Mexico would allow the matter to go forward. The Senator from Alaska is agreeable; I would think that the Senator from New Mexico would not feel compelled to stand in the way of it.

Mr. SCHMITT. If the Senator will yield further, the distinguished Senator from Alaska was not on the floor when the matter was brought to my attention, and I had absolutely no information about it. Being the representative on our side at the moment, I felt it imperative that I ask those questions.

We have now been informed that there is no objection on our side at all to the acceptance of the House amendments, as moved by the distinguished Senator from Georgia, and I have no further need for the floor.

Mr. ROBERT C. BYRD. Mr. President, I would like to ask the distinguished Republican whip if there is any objection to proceeding.

Mr. STEVENS. I say in response that my good friend the Senator from New Mexico has stated it correctly: We are informed that this matter is cleared. We are happy to see it cleared, and appreciate the attention of the Senator from Georgia to matters that affect the Senator from Kansas so vitally.

Mr. TALMADGE. I thank the distinguished acting minority leader, and also the distinguished Senator from New Mexico, and also the distinguished majority leader.

Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia.

The motion was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader and the distinguished Senator from New Mexico, and I thank the distinguished Senator from Georgia.

FEDERAL-AID HIGHWAY ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, with respect to the mass transit legislation, I ask that the Senate proceed to the consideration of S. 3073.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3073) to amend title 23, United States Code, to authorize Federal-aid highway programs through fiscal year 1980, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask that the language of S. 2441, as amended, be inserted as title III of S. 3073. This is in accordance with the order agreed to some time ago, when the Senate had before it the Federal highway legislation.

The PRESIDING OFFICER. Pursuant to the previous order, the amendment is agreed to.

Mr. STEVENS. Was the order that the majority leader sought concerning title III of S. 3073, granted in accordance with the order?

The PRESIDING OFFICER. It was.

Mr. ROBERT C. BYRD. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 3073) was ordered to be engrossed for a third reading, and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, it is not the desire of the leadership to proceed to passage of this bill at the present time. The Senate has now acted in conformity with the order previously entered.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill (S. 991).

Mr. ROBERT C. BYRD. At this time, Mr. President, I ask that the Senate resume its consideration of the Department of Education bill. In accordance with the order previously entered, Mr. President, I was to consult with the distinguished minority leader.

Mr. STEVENS. I may state I have discussed this with the distinguished minority leader and we are prepared to proceed in accordance with the majority leader's wish on this matter.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 991) to establish a Department of Education, and for other purposes.

Mr. STEVENS. Mr. President, may I inquire? There were orders entered into. It is my understanding the Senator from New Mexico (Mr. SCHMITT) was to call up three amendments under controlled time, and after that my amendment was to be subject to debate and to a vote. It is my understanding that the Senator from North Carolina has a noncontroversial amendment we may wish to consider first. Is that correct?

Mr. RIBICOFF. He is not here. I would like to have the opportunity to look at it. If it is the same amendment we saw last week, we would accept it.

Mr. STEVENS. Is the Senator from New Mexico prepared to present his amendments at this time?

Mr. SCHMITT. I am prepared to present my amendments. I would ask to make an opening statement on the bill, if that is agreeable. It will be short.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I certainly have no objection. If the Senator would allow me, I would like to make a very brief statement.

It is my hope that the Senate will complete action on this bill today. Therefore, I would anticipate a fairly lengthy session today and several rollcall votes. I hope both cloakrooms will announce to Senators that we do expect rollcall votes and expect a late session in an effort to complete action on this bill today. I have no objection to the Senator from New Mexico proceeding.

Mr. STEVENS. Mr. President, are we under controlled time now?

The PRESIDING OFFICER. The Senate is under controlled time now.

Mr. STEVENS. If the Senator from New Mexico calls up his first amendment, he would then have 1½ hours at his dosposal on that first amendment.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. SCHMITT. I have the floor now and I would be happy to yield.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

ORDER THAT S. 2441 AND S. 2541 BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. I ask unanimous consent that calendar order No. 788, S. 2441, a bill entitled the "Federal Public Transportation Act of 1978," and calendar order No. 800, S. 2541, a bill to amend chapter 4 of title 23 of the United States Code to authorize appropriations for certain highway safety programs, and for other purposes, be indefinitely postponed. This is in conformity with the agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. SCHMITT. Mr. President, while we are getting organized, I will ask the distinguished Senator from Alaska if he wishes to proceed to his amendment. I understand he is under some specific time constraint. I would be happy to present my opening statement and then lay my amendment aside until his amendment is dispensed with.

Mr. STEVENS. I would be happy to do it after the Senator from New Mexico presents his first amendment. I would be very appreciative if the Senator from New Mexico would permit me to call up my amendment so that the vote will take place before 7 o'clock because we do have a markup at 7 o'clock, which I must attend. So any time we can call up the matter before 7 o'clock and have the vote before 7 o'clock, I would appreciate it.

Mr. SCHMITT. Then we will proceed to the first Schmitt amendment with the understanding that the amendment of the Senator from Alaska will be next. I would presume that will take unanimous consent, which I am sure the Senate will grant.

Mr. HAYAKAWA. Will the Senator yield for a unanimous-consent request?

Mr. SCHMITT. I am happy to yield.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent for Dr. John Backer of my staff to be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. I also ask unanimous consent that Eugene Iwanciu of my staff be granted the privileges of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. And Sally Rogers of my staff and James Lockemy from the Judiciary staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. May I ask also for Letitia Chambers of my staff to be granted the privileges of the floor?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Will the Senator yield further to allow me to make a comment for a half-minute?

Mr. SCHMITT. I am happy to yield.

Mr. DOMENICI. I want to thank my colleagues, Senator RIBICOFF, and Senator PERCY for working out the arrangement which will permit us to conclude this measure today. I have had a genuine interest. Because of time problems, I was concerned that I would not be around when we voted on it. I greatly appreciate the efforts to conclude the matter. Whether we agree or not on the issue, I am very grateful and I want to indicate that.

Mr. SCHMITT. I appreciate the comments of the distinguished senior Senator from New Mexico. His wishes and needs in this matter are a major part

in the consideration of this measure today.

AMENDMENT NO. 3620

(Purpose: To delete the transfer of agencies and functions from the Department of Defense to the Department.)

Mr. SCHMITT. Mr. President, I call up my amendment No. 3620 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an amendment numbered 3620.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

The amendment is as follows:

On page 49, line 10, strike out "section 203(11)" and insert "section 203(10)".

On page 49, line 15, strike out "(13)" and insert "(12)".

On page 49, strike out lines 17 through 23.

On page 49, line 24, strike out "(f)" and insert "(e)".

On page 50, line 4, strike out "(g)" and insert "(f)".

On page 50, line 6, strike out "(f)" and insert "(e)".

On page 51, strike out lines 7 through 9.

On page 51, line 10, strike out "(9)" and insert "(8)".

On page 51, line 12, strike out "(10)" and insert "(9)".

On page 51, line 15, strike out "(11)" and insert "(10)".

On page 51, line 23, strike out "(12)" and insert "(11)".

On page 51, line 24, strike out "(13)" and insert "(12)".

On page 52, line 5, strike out "(14)" and insert "(13)".

On page 52, line 8, strike out "(15)" and insert "(14)".

On page 52, line 12, strike out "(16)" and insert "(15)".

On page 56, strike out lines 1 through 14.

On page 56, line 16, strike out "SEC. 211." and insert "SEC. 210.".

On page 58, line 16, strike out "SEC. 212." and insert "SEC. 211.".

On page 59, line 6, strike out "section 305" and insert "section 304".

On page 59, line 11, strike out "SEC. 213." and insert "SEC. 212.".

On page 60, line 4, strike out "SEC. 214." and insert "SEC. 213.".

On page 60, line 12, strike out "SEC. 215." and insert "SEC. 214."

On page 66, line 2, strike out, "SEC. 216." and insert "SEC. 215.".

On page 76, beginning with line 1, strike out through line 11 on page 77.

On page 77, line 14, strike out "SEC. 305." and insert "SEC. 304.".

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 82, line 24, strike out "section 211" and insert "section 210".

On page 83, line 11, strike out "section 211" and insert "section 210".

On page 106, strike out lines 10 and 11.

On page 106, line 12, strike out "(145)" and insert "(144)".

Mr. SCHMITT. Mr. President, this Nation, any democratic nation, in fact, will rise or fall on the quality of its educational system. An informed and literate electorate is the one essential ingredient for the survival of a representative democracy. The society in general, and the electoral process in particular, requires a continuous rejuvenation of the imagination and innovation of the people they serve.

Our success as a Nation is the result of a continuous tapping of a uniquely American reservoir of individual and geographic diversity. This has been accomplished through our ancestors' foresight in the constitutional encouragement of a locally controlled educational system.

Unfortunately, this locally controlled educational system is under attack by those who believe, as Alexander Hamilton did, that there is a national elite which can better govern the people than can the people themselves. I only wish that Thomas Jefferson, Hamilton's protagonist in these matters, could join once again in the congressional debate in the issue of a Federal department of education.

Now, debate in the Senate has focused on a bill which would create a new Federal department for the educational elite. Under the proposed bill, the "E" would be taken out of HEW, and educational programs, which are presently scattered throughout numerous agencies and departments, would be consolidated into a new, all-encompassing unit—a Department of Education. The result, according to proponents of the bill, would mean greater coordination and efficiency in the administration of educational programs.

While its supporters have argued that the new department is nothing more than a "reorganization" which will result in greater efficiency, there is reason to question this view as to both the result and the motivation. John Royer, president of the National Educational Association, the primary driving force behind the creation of this department, stated:

Creating a department of education is, indeed, a profound step in which the Federal Government will be recognizing for the first time, that it has a responsibility for education in and of itself.

Mr. President, this view differs substantially from that of the claim that the proposed department is "just a reorganization." Again, Mr. Royer states:

The Federal Government has a responsibility for education in and of itself.

That is hardly just a reorganization.

Education in the United States has traditionally been the responsibility of local and State authorities. By its silence on education, the Constitution specifically leaves control to the individual States. Thus, it has been the local parents, teachers, and school boards who have set policies and have decided what is to be taught. This diversity of education has helped preserve our reservoir of national diversity. A Department of Education is clearly a long first step toward the destruction of much of this diversity.

During the last decade, the Federal Government has become more and more involved in education. What started out as assistance, primarily financial assistance, to State and local authorities, has emerged as de facto control through the threat of withholding funds upon which local systems had become dependent. The creation of a Department of Education obviously will strengthen this trend toward centralized decisionmaking in the field of education.

Proponents of a separate Department of Education have argued that all major Western nations have an Education Ministry and that it is time for the United States to make a similar commitment to education. Two points must be kept in mind in analyzing this argument. First, education in other nations traditionally has been centralized, while in the United States it has traditionally been decentralized. To quote from the dissenting views of members of the House Government Operations Committee:

In France, a nation with a ministry (of education), one can enter any third or fourth or fifth grade classroom in the country at a given time of day and find the same subjects being taught in the same way. That is the worst possible argument for a department!

I agree. That is the worst possible argument for a Department of Education in the United States.

Then there is the argument that the United States must make a greater commitment to education. I think it is clear throughout the world that this country traditionally has made a great commitment to education, probably the greatest overall commitment to public education of any nation in the world. And I agree that we must make greater commitments to education. But, Mr. President, we must make them as a society, not as a central government.

One need only look at the spending of the Federal Government to know that major new financial commitments have been made in recent years. In special educational needs, and in increasing the equality of educational opportunity, much progress has been made. Ironically, however, as we have been spending more money on education, as we have seen more and more Federal control and manipulation of education, the general quality of education has been declining. Obviously, more money and more bureaucratic control has not improved education overall. Money and lack of Federal control clearly are not the principal problems.

The proposed department is expressly designed to provide more money and more Federal control of education. No one, I think, will deny that. It is not difficult to imagine this department establishing national "advisory" standards at some point in the future. Later, the department could require adherence to the compulsory standards, if Federal aid is to be continued. Next, standard tests, developed by the Federal Government, could be mandated to check whether the compulsory standards are being met. Last, State and local authorities will be coerced into acceptance of a standardized curriculum as the "only possible" guarantee of meeting compulsory standards. This classic bureaucratic process, one which we have seen again and again

in recent decades, is the last thing that education in the United States needs and the last thing most Americans want.

Proponents of the new department will argue that it is clear in both the Senate and House bills that the Department of Education is only to assist State and local authorities, and not to impose regulations upon them in contrast to the arguments I have just presented. This, however, is claimed at the present time by the existing Office of Education and existing educational groups. Yet regulations are being imposed through financial coercion. The proposed Department of Education would accelerate the process of bureaucratic takeover of our educational system. The Federal Government provides about 10 percent of the finances spent on elementary and secondary education in this country. However, as education is marginally financed—Mr. President, I emphasize that phrase, "marginally financed." It is not profitmaking, it is marginally financed. As it is, it permits almost 100 percent control in many school districts, if not most, in the country. No educational system can afford to lose 10 percent of its funds off the top once they have become dependent on them. Thus comes the mechanism of Federal control.

The people of the United States want less government and not more. They want less governmental control and not more. They want less regulations and not more. Yet, the creation of this new department will result in more government, more governmental control, and more regulations in education than we have ever seen before.

A strong indication of the direction that this new department will take is in the proposal regarding Department of Defense schools, to which the pending amendment is directed. The Defense Department operates 267 overseas schools for the children of military personnel. At the present time, there are about 135,000 students enrolled in these schools. These children have very special needs and concerns related to their unique and changing social environment. The Department of Defense has successfully administered these schools for 30 years. The supporters of the proposed Department of Education insist that these schools be transferred under the jurisdiction of the new department.

Proponents of the department argue that the department will only assist education in this country. Yet, they insist that the department administer, on a day-to-day basis, the equivalent of the 11th largest school district in the United States, namely, those of the Department of Defense. Clearly, the camel's nose would be in the tent, with an organized special interest group pushing hard from the rear.

The fear that this education department may become the national school board has prompted from various groups, including Republicans and Democrats, liberals and conservatives, the American Federation of Teachers, and leading newspapers such as the New York Times and the Washington Post.

There is no question that the United States must have a deep commitment to education; our future depends on that commitment. The commitment, however, must be met through local and State control of education with appropriate assistance from the Federal Government to insure that there is equal educational opportunity. Although the goal of equal educational opportunity may require block grants on a selective basis from the Federal Treasury, there is no reason to believe, nor is there any historical evidence to prove, that the quality of education will be improved by the increased Federal control that a new Department of Education would encourage.

If education in the United States is in need, what then is the answer, if a Department of Education is not the answer? The answer may be an independent agency for education that takes over HEW's educational responsibilities, and acts to assist, but not interfere with, local efforts. I shall discuss this concept further in a later amendment. Assistance should be in the form of block grants where equal educational opportunity can only be insured by more money, in the form of research on setting educational standards that meet local needs, and in the form of research on improvement of the quality and quantity of basic education. There is need for improvement there, which is obvious to everyone today in this country. The special educational needs associated with most existing Federal departments and agencies, other than HEW, can be best met by leaving the responsibility for such education in the mission agencies.

That is the thrust of the pending amendment. It will be the thrust of another amendment by the Senator from New Mexico. It will also be the thrust of an amendment by the Senator from Alaska.

Mr. President, it is hoped that our efforts to improve Government will soon lead us to the realization that bureaucratic bigness is not bureaucratic goodness. Thus, we must begin to decrease the number of unnecessary departments in favor of independent agencies with clearly bounded charters. At the same time, the Congress must take on more explicit responsibility for the prior review and approval, or disapproval, of the actions of these agencies.

Mr. President, in these general remarks, I would bring to my colleagues' attention a letter dated today from the American Federation of Teachers. It reads as follows:

AMERICAN FEDERATION OF TEACHERS,
Washington, D.C., September 28, 1978.
Hon. HARRISON H. SCHMITT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHMITT: It has come to my attention that you intend to offer an amendment to S. 991, the Department of Education Organization Act to eliminate the proposed transfer of the Overseas Dependent School System included in the Department of Education Bill.

As you know from previous correspondence, the AFT strongly opposes S. 991 and urges all Members of the Senate to vote against it. We do, however, support your amendment and urge its adoption. The Overseas Federation of Teachers, AFT Local 1470 opposes the transfer of this school system. It is their belief that because of the extremely difficult logistics involved in having a Washington-based federal education department involve itself in the overseas schools that the needs of the children and of the teachers would be better served by improving the relationship that currently exists between these schools and the military bases they serve. They also point out this transfer would place a layer of bureaucracy between the schools who would be administered by a federal education department in Washington and the constituency of these schools, the parents and the children stationed overseas.

We see little value in the transfer and we urge all Senators to vote for your amendment.

Sincerely,

GREGORY A. HUMPHREY,
Co-Director of Legislation.

Mr. President, I would go now into more detail with respect to the pending amendment, relative to the transfer of the overseas schools from the Department of Defense to the Department of Education.

First, Mr. President, the mission of these overseas schools is to serve the military communities and, literally, no one else except for their broader responsibility to serve the Nation. The schools and those communities are intertwined in ways that are unlike schools in the States.

The schools must depend upon the military for many service functions—personnel, travel, supplies, maintenance, and food service. The costs of duplicating those services for the schools alone would be prohibitive, and it is foolish to believe that the bureaucracices of two Cabinet agencies will cooperate to prevent duplication.

There is very little indication in our experience to show that.

Costs very probably would go up 10 to 15 percent in the operation of these schools.

Teaching personnel depend upon DOD for food and supplies through access to base exchanges and, in many locations, for housing. Transfer will cut that access and throw teaching staff on the economy in most areas. Given dollar exchange rate problem, that will be disastrous for many of the individuals, if not most, related to this teaching establishment in the overseas schools.

Schools are used for other base activities. With a transfer, that use will evaporate, or at least be subject to another layer of bureaucracy. The bureaucratic problems of paying for fuel, lights, and maintenance will be overwhelming, again, if our experience with interdepartmental coordination has anything to teach us.

More than 99 percent of new department's energies and attention will be focused on the grants process. That is largely the function now of the Department of HEW. The problems and personnel required to run a school system of 150,000 children are simply incompatible with this other completely unrelated bureaucratic process of grant approval.

Finally, all the Department of Defense needs is another agency helping out on its bases which are critical to our national defense structure.

Mr. President, I would interrupt my remarks at this point to ask unanimous consent that Jim Lockemy and Hugh Hadden of Senator THURMOND's staff be

granted privilege of the floor; and that Senator HAYAKAWA and Senator THURMOND be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, in addition, there is a great concern among many individuals who may even favor establishment of a Department of Education, but are concerned about the question of the overseas schools, that this new Department of Education will seek to use these schools for experimentation.

These schools are probably unique in our educational system in that there is a crying need for stability.

The reason for this is the transfer of military personnel, after a 2- or 3- or sometimes 4-year period, from one base to another and the need within that environment, somewhat destabilizing in itself, to have stability in the education system of the children of these military personnel.

The normal tour of duty at a given military base for overseas personnel is about 3 years. That results in children changing schools every 3 years. That change may be to another overseas base or to a stateside school.

In either event, the importance of a consistency in curriculum and educational program among the overseas schools is obvious so that the child's educational experiences can proceed with a minimum of adjustment problems.

This has been, clearly, the goal, and it is a goal which has been met, to a large part, by the Department of Defense over the last several decades.

Currently the DOD schools' personnel are staff members in the Department of Defense, have full security clearances, and receive advance information on troop transfers so that plans may be made for school operation when the children arrive at a new base.

Clearly, this transfer of the overseas school responsibility to a new Department of Education would interfere in the educational planning and the related national security problems that come with them.

Under the "split agency" arrangement, those operating the schools might not be apprised in sufficient time to plan for school operation. Transfer to a Department of Education would require security clearances for those personnel involved in the budgetary planning and various other functions related to the operation of the schools.

Additionally, Mr. President, under operation by a Department of Education, cost efficiency factors might dictate closing of a school even though the military interests might be to maintain a school as an evidence of a national commitment to an area or as a means of maintaining a relatively high level of troop morale through the presence of the family. Specific examples at the moment are at Guantanamo Bay and Bahrain on the Persian Gulf.

Budget cutters in a Department of Education might want to close the schools so that the budget could be reduced even though the total national interest might suggest another course of action.

I do not expect, by these remarks, that the budget of the Department of Education ever will be reduced in any significant amount once it is created.

Since the DOD schools would be the only agency operating K–12 schools that would be in the Department of Education, it would be essentially an appendage subservient to the whims of the Secretary and planners of the agency. This could constitute a serious problem of uncertainty if there should be as many Secretaries of Education as there have been Commissioners of Education in the past 16 years—8 appointed and 4 additional as acting. The importance of continued attention to quality education for military dependents suggests that the entity should be in an organization with relative continuity of leadership.

Currently, in the transfer of personnel, when children have a need for a special type of educational program, consideration is given to that particular need of the child in determining the next duty location. A concrete example may be found in the transfer procedures for Air Force personnel. One can only speculate whether or not this cooperation would be maintained under the proposed transfer. If it were not, the Department of Education could be subjected to continuing complaints about program inadequacies.

Perhaps the greatest concern, although there are many who oppose on the outside the transfer of the overseas schools into the proposed Department of Education, is that those schools will suffer because of a divided interest in the agency.

Various concerns have been raised about the new Department being an operating agency, but perhaps the most critical concern would be the divided attention of the top leadership as attention—or neglect—would be required for the effective operation of the DOD schools and evolving functions of the Department with reference to the ongoing elementary, secondary, and postsecondary institutions located in the United States.

Mr. President, I think it would be useful, for the purpose of the record, to have somewhat more detail with respect to the basic relationship that now exists between the Department of Defense schools and military support systems within specific bases and within the Department of Defense as a whole

Currently, the Department of Defense schools are dependent on the military for a wide variety of support services. The transfer of the schools to a new Department of Education would unquestionably endanger the availability of these services.

Housing. In many cases, on-base housing is provided for teaching personnel, particularly in areas where bases are isolated such as in Turkey or where off-base housing is not available to American staff such as in Iceland. Where housing is available off base, teachers have access to the Housing Referral Service which utilizes U.S. standards of housing in determining availability of off-base facilities.

Teacher relocation. Teachers are now able to borrow from the base quartermaster a number of personal household furnishings such as refrigerators, stoves, and cooking utensils until those items are shipped to them from the States. This loan of goods may last up to 90 days.

Base exchange and commissaries. Teachers have access to the base exchange and commissary for the purchase of groceries, clothing, and other personal items. In many countries these are the only places where U.S. goods are available except on the black market. BX and commissary use is carefully controlled by the military.

Officers' clubs and mess halls. In many instances the officers' clubs and mess halls are the only facilities on or near a base that provides three hot meals a day. For single teachers on a base, these facilities are essential.

Health care. The military health facilities are the best available to teachers overseas. Teachers are entitled to emergency care and depend upon the base for health and medical supplies. In many places health care is simply not available offbase.

Personnel services. The military personnel offices process all teachers' personnel papers, including passports, shipping arrangements, and transportation.

Facilities. The construction of new buildings or additions to existing facilities is now worked out with the civil engineer on the military base. Without access to that military expertise, the schools would not have the ability to make those arrangements onsite. Custodial contracts are arranged for by the base commanding officer for the entire base. The cleaning of the school is only a small part of that contract. In many instances it would be economically impossible to arrange custodial services for a single facility such as the schools.

Repair and maintenance. The repair and maintenance of school facilities is handled through the base civil engineer. This includes arrangements for emergency repairs in instances where water pipes freeze, furnaces explode, windows are broken, et cetera. It would be economically impossible for each school to have the personnel and equipment to handle its own repair and maintenance.

Supplies. Schools are entirely dependent upon defense shipping and supply lines for books, equipment, and all other school supplies. Schools receive supplies directly on a drop shipping basis from the military warehouse in Richmond. The duplication of this system would be the most costly and difficult logistical support service.

Bus transportation. In no instance do the schools operate their own buses. Transportation is contracted with the military department at that base with the commander making arrangements with the school superintendent or principal. Transportation is worked out between school authorities and the base transportation officer. Because the schools are able to use military buses already at those facilities, costs are kept to a minimum. Transportation is a very important element of the overseas schools since the vast majority of students are bused to school.

Mail. Currently teachers have access to military mail systems which involve the use of APO and FPO numbers. This reduces cost for mailing and provides for expedited delivery in service.

Teacher transportation. Teachers are able to use military flights on space-available basis for transportation to regional curriculum development meetings, and central office administrators are able to use these military flights in order to maintain contact and liaison with the schools in that area. Teachers are also able to use space-available flights for recreational leave and other purposes.

Other facilities and services. Other facilities and services offered by the military whose availability might be jeopardized include gasoline and automotive services, dry cleaning and laundry facilities, recreational facilities, and the provision of drivers' license and automobile tags. In most areas the military recreation facilities are the only ones which exist within a reasonable distance of the base for use by teachers and their families.

Mr. President, I do not proceed with this list for the sole purpose of saying that those arrangements cannot conceivably be made. In theory, they can. But, again, I remind Senators that we are talking about two major bureaucratic elements of the U.S. Government working out in extreme detail the kinds of relationships between people that now exist very efficiently within the Department of Defense. I do not believe that in many of the cases I have just enumerated such arrangements can be worked out easily or, at the very least, can be worked out efficiently.

Mr. President, there have been a number of hearings on this issue, not only in the Senate but also in the other body; and I think that some of the comments that have come out of those hearings are important for consideration here today.

For example, in a hearing before the Subcommittee on Labor Standards and the Subcommittee on Elementary and Secondary Vocational Education of the House Committee on Education and Labor, on February 1, 1978, in dealing with the Defense Dependents' Education Act of 1978, Dr. Thomas D. Minter, Deputy Commissioner, Bureau of Elementary and Secondary Education, was questioned by Representative John Erlenborn, the ranking minority member of the Subcommittee on Labor Standards. In their discussion, the following took place:

Mr. ERLENBORN. How do you personally feel about the Office of Education or HEW being in the business of operating schools?

Mr. MINTER. Well, I don't believe that we should be in the business of operating schools, certainly. I don't think that it is our function and I don't think that it is the intent of Congress.

Mr. President, obviously, that is the intent of this bill that is before the Senate at this time. It is not only the intent; it will be the law.

Similarly, at a hearing before the Subcommittee on Labor of the House Committee on Education and Labor, on April 24 and 25, 1974, dealing with H.R. 3157, the National Overseas Education Act of 1973, Dr. Anthony Cardinale, Director of Dependents Education, Office of the Deputy Assistant Secretary of Defense for Education, said as follows:

Since all schools are located on military installations or are on leased facilities under control of the local military commander, operation of these schools by an outside agency could possibly create more problems than would be solved.

The department of Defense has a moral commitment to its members, both military and civilian, to insure that the minor school-age dependents continue to receive a quality education.

Personnel residing on military installations or stationed overseas look to the Department of Defense to provide all required support, including education. Thus, we do not consider it feasible or desirable to remove this important responsibility from the Department of Defense.

Through the many resources already available within the Department of Defense, such as transportation, communication, logistical and administrative support channels, the educational needs of the dependents are being met.

The logistical support system necessary to maintain the worldwide dependents education program is now provided by the base commander through the military departments. To remove the budgetmaking process and budget decisions from the military departments and the Department of Defense places both in an inoperative position.

In summary, we have a good educational system. The current management review, which is based on solid sources, will make the system even more effective and responsive to those it serves.

Therefore, it does not appear appropriate at this time to make any additional substantive changes which would result in disruption or the loss of present continuity.

Similarly, Mr. President, in the hearing on the H.R. 3157 Representative JOHN DENT, chairman of the Subcommittee on Labor Standards said as follows:

An overseas school system would not, in my opinion, ever be able to be divorced from the Department of Defense as such but it would be administered as a school system and not, as is now the case, as a small appendage of a defense operation.

Carol Kimmel, president of the National Congress of the PTA said in a letter, October 8, 1975 to Representative ALBERT H. QUIE, ranking minority member, House Committee on Education and Labor:

With control in a central office in Washington, military commanders no longer will have any responsibility for the schools and the schools, as a result, will be denied vital logistical support from the military. Such services, for example, transportation of students would have to be contracted out. . . .

We seriously question whether parents of the children attending Overseas Dependents Schools can be meaningfully involved in the decision making process when control and total responsibility for their schools are placed in a central office in Washington, D.C.

Finally, Rufus E. Miles, Jr., in his article, "A Cabinet Department of Education: Analysis and Proposal," American Council on Education, 1976, said as follows:

The Department of Defense has a system in being that is operated overseas where the logistic support is adjunct to its other logistic support of bases and personnel. A Department of Education would have no such logistic support, nor any other advantage that would make it wise to consider transferring the operation to a Department of Education. The costs would rise because of the need to duplicate such a support system. Again, the argument against the operation of any schools by a Department of Education should, alone, be decisive.

It is recommended that responsibility for dependents schools remain with the Department of Defense and such other agencies as operate them overseas.

And I might add that Rufus E. Miles, the author of the preceding remarks, is a major authority on the Department of Education, and he supports the Department of Education but clearly does not support, and with good cogent argument, the transfer of the overseas schools to that Department.

Mr. President, I also cite as somewhat of an authority the Office of Management and Budget. In their report on the Department of Education they concluded that the Department of Defense schools had many problems. However, steps to straighten out the problems should be made, not transferred to the Department of Education.

They cite the potential disadvantages of moving the dependent schools to include:

1. Problems of coordinating logistical and housekeeping support for the schools would be increased. The schools now rely completely on the military for logistical and housekeeping support. It is the most readily available and seems to be the most efficient and economic source of such support. If the schools were transferred to the Department of Education, the acquisition of these kinds of support from the military would become cumbersome and bureaucratic, and the schools would suffer as a result. A transfer would in effect be recreating, at least in part, an excessively layered structure, which is the very thing DOD is attempting to eliminate. This could require an excessive amount of time of officials in higher reaches of both departments and produce adverse effects on the attainment of goals.

2. Removing control and operation of the schools from the Department of Defense would have a negative impact on military personnel. It is highly likely that the military hierarchy, the Congressional supporters of the armed services, and some of the parents of the school children would see a transfer of the schools as a serious undermining of their control and traditional responsibilities. Some parents of the children, in particular, may see the transfer of the schools as an attempt to set their children up in a vast experimental laboratory. The schools are no doubt seen as being an intricate part of the defense family. They are in effect an employee benefit. From what we have learned thus far, the educational programs are generally adequate. To set off a furor among the military simply for the sake of consolidating the schools with other activities in the Department of Education seems not to make much sense.

3. There is some concern that transfer would lead to intrusion in the educational programs of the schools. The schools might be viewed as an opportunity to experiment by many education staff. At least at the outset, there could be an irrepressible urge to observe, study and tinker with the programs of the schools.

4. There would be no advantages to the large majority of Americans from the transfer of the schools.

The problems highlighted here are being worked on in the Defense Department by tightening management controls and by reorganizing the Dependents' Schools. There seems to be little opportunity for the new Department of Education to address the

problems more effectively than can the Department of Defense. In fact, the new department might find this responsibility to be incredibly burdensome.

Although transfer of the schools is not recommended at this time, the following options are suggested:

The President's Reorganization Project should monitor closely the reorganization of the Overseas Dependents' Schools which is currently underway. Upon its completion, an evaluation should be made of the extent to which it has improved the effectiveness of the operation. Recommendations for further change may be in order.

A linkage should be developed between the Defense Department and the Department of Education by giving the latter legislative authority for oversight and evaluation of the Overseas Dependents' Schools (as well as other Federally operated schools) and to report results to the President and Congress. This oversight relationship should be similar to one between a State Department of Education and a local school district.

There should be created legislatively an Educational Policy Advisory Board composed of Federal and public education officials, administrators and teachers to review and advise the Director of the Overseas Dependents' Schools on the educational directions of the schools. The system seems to border on being a closed society; it could benefit from the insights and experience of those at various levels of public education.

The remarks of the Office of Management and Budget.

Mr. President, I do not concur completely with the recommendations of OMB, although I read them in their entirety. I do feel, however, we should pay very close attention to their analysis of the effect and of the problems associated with the transfer of the overseas schools to the proposed Department of Education.

Finally, Mr. President, in summary of this issue, I think there is no question in all of the expert opinion that I have encountered in my examination of this issue, including that of the Office of Management and Budget, the American Teachers Federation, the numerous individuals around the country and in New Mexico that I have talked to, there can be any value whatsoever derived from the transfer of the school system to the proposed Department of Education.

There is no question that the bureaucratic load on both Departments would increase, and who is ultimately hurt by this bureaucracy? The students, the teachers, and the parents in the school system itself.

The costs will almost certainly increase because of this increased bureaucracy and the need to duplicate in many circumstances the increase of the logistical support of the school system, and I am afraid there is going to be considerably less understanding of the needs, the very special needs, of the overseas schools.

Most importantly, the Department of Education, in this Senator's opinion, should never, if it is created, have an operating school system under its jurisdiction. It is not only beyond the intent of the Constitution, it is beyond any reasonable need, any reasonable perception of need, of this great country.

There is no question but what, at first, there will be a tremendous temptation by the Department of Education to experiment with the school system that they now own lock, stock, and barrel.

Beyond that, it would provide the first step toward a national school system and that, I think, Mr. President, would be one of the worst mistakes this country could ever make.

At the very least, I think we should postpone any consideration of the transfer of the overseas school system to the Department of Education until some time in the future when that department, if it is in fact created—and I hope it is not, but if it is created—has time to get its own act in order, and then let us evaluate the pros and cons of that transfer in the light of the two existing departments, not in the light of the department that does exist, and is operating a school efficiently and well, and a department which does not exist, which is just right now a gleam of hope in the eyes of many of the educational elite.

Mr. President, it is my understanding that the majority leader would like to work on a unanimous-consent agreement, and I would be happy to yield to him if I do not lose my right to the floor, and request unanimous consent that I can proceed after he is through.

The PRESIDING OFFICER (Mr. BENTSEN). The majority leader is recognized.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time agreement on the pending measure, the Department of Education bill, be modified as follows: that there be 1 additional hour under the control of Mr. SCHMITT, and that a final vote occur no later than 9:30 p.m. today with paragraph 3 of rule XII waived.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object, and I am sure I will not object, I will just ask, for the RECORD, and for my colleagues, I presume that takes into account the pending unanimous-consent agreement and for the various amendments and the total time up to the final vote is a cumulative total?

Mr. ROBERT C. BYRD. The pending agreement would not change it in any respect, beyond what I have requested. That the Senator from New Mexico (Mr. SCHMITT) have 1 additional hour and that a final vote occur on the passage of the bill at no later than 9:30 p.m. today.

Mr. HAYAKAWA. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. If the Senator from New Mexico will yield for that purpose.

Mr. SCHMITT. I have yielded for the purpose of adopting this time agreement. I will yield now to the Senator from California.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HAYAKAWA. Mr. President, may I ask the distinguished majority leader with respect to my amendment in this unanimous-consent agreement, it does not touch mine?

Mr. ROBERT C. BYRD. I believe, if the Senator will look at the calendar, he will find the answer; the reason I say this is that I am unable to remember just what the details were with respect to Mr. HAYAKAWA's amendment.

The PRESIDING OFFICER. The Senator from California will call up an amendment on which there will be 2 hours equally divided.

Mr. ROBERT C. BYRD. Mr. HAYAKAWA, I believe, would have 1 hour on an amendment and 1 hour on a motion to recommit, equally divided.

Mr. HAYAKAWA. I thank the Senator.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from New Mexico for yielding. I thank all Senators for the agreement that the Senate complete its business before 9:30.

Mr. SASSER. Mr. President, will the Senator from New Mexico yield for a unanimous-consent request?

Mr. SCHMITT. I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that Howard Orenstein of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time so that the distinguished Senator from Connecticut or the distinguished Senator from Illinois may have a chance to respond.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RIBICOFF. Mr. President, I rise to oppose the amendment of the distinguished Senator from New Mexico. The Governmental Affairs Committee gave serious and thorough consideration to the transfer of the Defense Department's overseas dependents schools to the new Department of Education.

We devoted 1 day of hearings to the transfer of these important schools. This transfer is supported by nearly all parties involved, including the Overseas Education Association—which holds exclusive recognition for the 7,000 DOD teachers—the European Congress of American Parents, Teachers, and Students, and the Department of Defense.

If the DOD school system were within the continental United States, it would rank as our 12th largest elementary and secondary school system.

If we are going to create a Federal Department of Education, I think it would be unfortunate not to allow this school system to participate in education programs serving the rest of the country's children.

The DOD schools exist for a specific purpose—to provide education for dependents of our military personnel. They are one of the very few public school systems operated by the Federal Government.

When the committee studied the creation of the Department of Education, we

asked ourselves which agency of the Federal Government would be in the best position to provide the highest quality education to the 135,000 students in the DOD schools.

Looking objectively at the merits of the issue, I think there is an overwhelming case to be made for the transfer.

We should not expect the Defense Department to have the expertise of running a public education system. Obviously, the purpose of the DOD schools is more in line with the mission of the Department of Education than of Defense.

These schools are not integrally related to the maintenance of the national defense posture. The schools do not prepare its students for any purposes related to the military. They are regular American elementary and secondary schools.

The schools are not a priority at the Defense Department. How could a $350 million public school system receive the professional attention it needs in a $100 billion Department?

The expertise in the field of education will be in the Department of Education. The many and varied educational programs in the new Department should be made available for the improvement of these schools. Programs for gifted and talented children, academic facilities improvement, and educational research—to name a few—are all badly needed functions which will benefit the DOD schools in the new Department.

I believe locating the dependents schools in the new Department of Education will result in a wide range of benefits for the schools. Being administered in the Education Department, the schools will be kept in touch with the latest education trends and technologies. The Secretary of Education will be the most knowledgeable Federal official in the field. He or she will have broad access to a wide range of experts and materials which could help with problems in the DOD schools.

The transfer will provide continuity for students alternating from DOD schools and continental U.S. public schools. The average term of duty for members of the military overseas is usually 3 years or less. So there is a great amount of movement for students between the various school systems. Students will learn more if they can simply pick up where they left off after leaving one system for the other.

And, most importantly, S. 991 will provide the DOD schools with a legislative base upon which to operate. As my colleagues know, these schools have been authorized in the past only by the congressional appropriations committees. Congress will then be in a better position to more effectively oversee the efficient and quality operation of the schools, and recommend necessary changes.

Mr. President, the dependents schools have had a troubled history. As late as 1976, the schools were found to have serious deficiencies in curriculum planning, educational testing, teacher qualifications, academic standards, and academic facilities. While the situation has improved somewhat over the years, there is still much room for improvement. I ask unanimous consent that a two-part series of articles of the "Dependents Schools in Europe—A Disorganized System in Danger of Flunking," written by Rick Barnard for the Times magazine, be inserted in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

DEPENDENTS SCHOOLS IN EUROPE: A DISORGANIZED SYSTEM IN DANGER OF FLUNKING

(By Richard C. Barnard)

Marleah Reed, a senior at Nuremberg American High School in Germany, stood in front of her debate class and exhibited her drawings as she delivered a point-by-point argument designed to convince her teacher and classmates that a fetus is a human being and, therefore, abortion is murder.

She then sat and listened as her two opponents read through page after page of technical jargon they obviously had copied verbatim from some medical text. One debater didn't know the meaning or correct pronunication of many of the words she used. Yet no one in the class, including the teacher, seemed surprised that Marleah's opponents had done no original work of their own.

Marleah received excellent marks for her presentation and her two opponents—who had demonstrated little more than the ability to crib—were given passing marks.

"That gives you an idea of what goes on here," said Marleah as she walked down the school's dark, grimy hallway after class. "My last school was in Washington state. The teachers there had us doing term papers in our sophomore year. Here, we never do term papers. Some of the teachers just seem to skim over the top to get you by. In some classes, about all you have to do is show up every day."

ARE THE SCHOOLS GOOD OR BAD?

The debate was a minor episode, a small part of the classwork required of Marleah and her fellow students. But it is an example of the problems faced by the schools operated in Europe for the sons and daughters of American military people.

The results of a four-month investigation of the dependents school system in Europe by the Times magazine indicate that the failure of school administrators to plan and evaluate their academic programs adversely affects the educational growth of military children.

The school system has no educational objectives or academic standards. Its program of standardized tests has been poorly administered and has shown inconclusive results. Therefore, school administrators have no systematic way to monitor the academic growth of their pupils and gauge the effectiveness of their educational programs.

The lack of educational planning and minimum standards of achievement in the dependents school system means that many teachers and students are left to "do their own thing" in the classrooms with decidedly mixed results.

The purpose of the dependents school system in Europe is to provide military children with educational opportunities that are "of high quality . . . comparable in all respects to the better school systems of the United States." according to Department of Defense directives.

Many parents and teachers in Europe believe the schools fail to meet that goal. In interviews with the Times magazine they talked about teachers who hand out "A's" and "B's" like playing cards, principals who say pupils should not be required to take basic academic courses they don't want and children who go to school without the workbooks and texts that students elsewhere take for granted.

The mother of a girl in the second grade at the Nuremberg Elementary School annex said, "my father was in the Army and I went to Stuttgart High myself. Back then, I couldn't see any difference between public schools back home and the dependents schools. I can't say that now. My kid spends every Frday afternoon in school doing macrame or playing chess or going bowling. I just don't feel she's getting the best."

Others disagreed. Emily Johnson, who has a daughter in the Wiesbaden schools, said, "My child is getting as good an education as she could get anywhere."

Despite disagreement over its quality there is one obvious certainty about the dependents school system in Europe: The children of most Army people (and of many Air Force and Navy personnel) will obtain part of their education there.

"Europe is where the action is," said Gen. George S. Blanchard, commander of the U.S. Army in Europe, in a recent speech to parents. "The ambitious guy wants to come here and get into the thick of it.

"But I want him to want to come here because his family is going to get something out of it as well. And that means, among other things, a quality education. [To military people] the schools are the most important thing in the world."

WHAT IS THE DEPENDENTS SCHOOL SYSTEM?

The dependents school system in Europe has been in existence for 30 years. In 1946, 38 elementary schools and five high schools—some no more than a collection of tents and quonset huts—opened their doors to 1297 military children who trudged to class through the ruins of a defeated Germany.

As military families poured overseas at the end of World War II, the military departments opened schools around the world. Most were—and still are—in the European area. Last year there were 211 schools and 110,452 students in Europe compared to 57 schools and 30,557 students in the Atlantic and Pacific areas combined.

For nearly 22 years, the Army, Navy and Air Force each operated the schools on their own bases. In 1968, the Secretary of Defense signed a directive that organized the schools into a single, unified school system under the Department of Defense (DoD).

The military departments were not out of the picture, however. The new system was divided into three school districts along geographical lines and the service with the most money and manpower in each district was to build the schools and supply them. The Air Force took responsibility for schools in the Pacific, the Navy for schools in the Atlantic and the Army took over schools in Europe.

Academically, the schools would be run by a DoD director of dependents education in the Pentagon who would establish educational policy and develop a common curriculum. This was supposed to solve the myriad problems and parental complaints caused by such things as the 31 different reading programs which required different textbooks, different teaching aids and different methods of instruction. Unification was supposed to cut costs and enable military children to transfer from one overseas school to another without falling behind due to the maze of different educational programs.

But that is not what happened, at least not in Europe. The DoD Director of Dependents Education, Dr. Anthony Cardinale, never took control of academic programs there because the Army interpreted the new directive to mean that it would not only build and supply the schools but run them as well.

Cardinale could not communicate directly

with the chief of dependents schools in Europe, Dr. Joseph A. Mason. Instead, any order or suggestion or inquiry from Cardinale had to go to the Office of the Army Adjutant General. Perhaps his missives would reach Mason and perhaps not. Any that did went through 10 separate layers of Army bureaucracy and often toofl 30 days one way.

Cardinale complained to his boss, Roger T. Kelley, then Assistant Secretary of Defense for Manpower and Reserve Affairs, that the Army's reading of the directive left him powerless. Kelley okayed the Army interpretation though he never gave it his formal, written approval, according to a 1973 House Appropriations Committee report on the schools. Thus the unified school system that existed on paper never existed in fact.

The school system in Europe went its own independent way with Mason at the helm. Last year, it had 5600 teachers, a budget of $147 million and ranked in size among the top 25 school systems in the U.S. In size and student population, it is roughly equal to the school system in St. Louis, Mo.

Dependents schools are spread from Norway to Turkey to North Africa. The Army did not build any schools in the Sixties and still has not caught up with the demand for school facilities, despite the expenditure of $58 million on new construction in the last three years.

London Central High School is housed in a converted Air Force barracks. Rumor has it that Frankfurt, Jr. High was once a Nazi women's prison.

Frankfurt Elementary School No. 1 looks exactly like what it is: An outdated, rundown institution painted government gray. The floors are filthy, the water faucets leak and the kids are scrunched nose to nose like those cute little puppies you see in wire cages at the dog pound.

The school was built 24 years ago for 1,000 pupils. The enrollment last year was 1,600. Some teachers had 35 students in their classes, which is far too many by any standard.

Not all of the dependents schools are dilapidated. Upper Heyford High School in England is so new it has the smell of a Cadillac fresh off the assembly line. Its electronic lab, automative shop and home economics center bristle with brand new equipment. Unlike other dependents schools in Europe, Upper Heyford High has a lunch room large enough to feed all the children who go to school there.

EUROPE SCHOOLS: THE REPORTS WERE BAD

After years on its own, the school system in Europe is independent no longer. Following an investigation by the House Appropriations Committee, Congress in 1974 ordered DoD schools around the world unified once and for all.

The committee's 1973 report on the dependents schools in Europe criticized, among other things, the lack of effective counseling to prepare high school students for college and the "proliferation of ineffective curricula." Academic programs that had failed in some schools and should have been shelved were instead spread to still more schools, much like a contagious disease.

That report came hard on the heels of a damning report on the lack of effectiveness of the dependents school system in Europe published in 1973 by the Army Audit Agency (AAA). The AAA report stated that certain educational programs were not effective "because they were not controlled closely enough by management."

The AAA found, for example, that achievement test scores were not analyzed by principals and teachers and that the tests were not used to improve the academic growth of military children.

In one high school, Army auditors selected 83 students who had attended overseas schools for one year or more and compared their achievement test results to their intelligence test results. The auditors said in their report: "We found that 63 of these students were achieving below their ability in one or more of the six areas (such as reading, math, and science) covered by the achievement test."

The poor showing by the 63 students was "an indication that the educational program at the school was not fully effective. . . . If test results had been analyzed, this problem could have been detected," according to the AAA report.

To obtain better management of educational programs for military children, Congress took budget authority for the schools away from the military departments and gave it to DoD effective July 1 this year. From an organizational standpoint, the schools are right back where they started in 1968. Only this time, Congress intends to make the unification stick.

Cardinale, who kept his title all along, is now director of all dependents schools in fact as well as in name. Mason, director of dependents schools in Europe, now reports to Cardinale instead of to the commander of the U.S. Army in Europe. Cardinale has begun organizing the school system's academic programs and plans to give regular achievement tests in all schools beginning in September 1977.

The reports on the schools by the House Appropriations Committee and the AAA were soon followed by a third evaluation, this one published in September 1974 by the General Accounting Office, the investigative arm of Congress. It read much like the first two reports, saying that educational programs are poorly managed and that efforts to evaluate the quality of education provided by dependents schools in Europe "have been sporadic and inadequately coordinated and monitored and have shown inconclusive results."

WHAT SHOULD YOU "GET OUT OF SCHOOL?"

That was two years ago. What have school administrators done to correct problems of the past? How effective are the dependents schools in Europe today? To find out, I visited 14 schools in Germany and England and interviewed 182 people—educators, students and parents—in Europe and Washington.

Some of those interviewed wanted more order and discipline in the schools. Others—parents and teachers alike—wanted "more basics." But most had one thing in common. They were after that slippery, vaporous prize sought by almost everyone concerned about good teaching—"a quality education." Yet finding a solid definition of that phrase is as likely as catching a black cat in a thick fog.

The educators and parents of children in the dependents schools face the same basic questions as their counterparts in the States: What should one "get" out of school? What is the best way to provide it? And what is a reliable way to check and see what kind of job the schools are doing?

Dr. Louis G. Zeyen, deputy director of the American Association of School Administrators in Arlington, Va., said, "For successful teaching, you must begin with four essentials. You've got to have an idea of the abilities of your students, an established set of curriculum objectives, a text and a method of measuring your results."

The administrators of the dependents school system in Europe have failed to provide those four essentials. They have no organizational plan that encourages good teaching. Instead, Mason and his subordinates have produced an educational free-for-all.

They have long overlooked a basic precept of education: That school systems should have a standard set of curriculum objectives—general lists of topics in each subject area to be covered at each grade level.

This and other criticisms expressed here might apply in varying degrees to other school systems as well. The problem with the dependents school system in Europe is that its administrators have an apparent affection for the status quo. They have been told repeatedly over the years that their educational programs are weak but, as we shall see, have done little about it.

WHAT—AND HOW—SHOULD TEACHERS TEACH

A school superintendent without a standard set of curriculum objectives is like a warring general without an attack plan. Both need a way to tell their people what ground they are expected to cover.

Teachers in the States use curriculum objectives to plan their classwork and keep a running check on what their pupils are learning.

In Montgomery County, Md., Public Schools (considered one of the better school systems in the U.S.), for example, one of the 21 general objectives in third grade math is that children should be able to divide two-place dividends by a one-digit number—"Okay, kids, what's 15 divided by 3?" The list of objectives is an indication to teachers that most of their students should master those skills before the year is out.

Each child in Montgomery County has a check-off chart on the basic skills. Teachers use the chart to keep track of what each student learns. The chart is a part of each child's permanent record and follows him from one grade to the next.

That way, Johnny's new teacher can read the chart in September and get a good idea of how much he doesn't know. That's important because the simple knowledge that the 30 children in Miss Custer's class are all in the third grade means little. Some may be at the fifth grade level in reading and at the second grade level in math. Different children with different parents and different backgrounds learn at different rates. That's why curriculum objectives are important. They are an outline of what most children should learn at a given grade level.

But the dependents school system in Europe has no such minimum standard. As a result, some subjects are virtually ignored in many classrooms while course work in others is needlessly repeated. Principals and teachers have only the foggiest notion of what their students learn from one grade to the next.

When asked about her science curriculum, a teacher at Wuerzberg Elementary School replied, "Oh, I hit it a lick every now and then. The administration hasn't sent us a thing on science in years. Sometimes I borrow a science book from a teacher down the hall and type up some lessons." What about history? "I ad lib it," said the teacher. "We didn't have any books this year."

Dick Knapp, a fifth grade teacher at Frankfurt Elementary School No. 1, is slim and short and dresses in muted browns. He has short brown hair, blue eyes and still bounces with enthusiasm for teaching despite his conclusion that doing a good job at Frankfurt is nigh on to impossible.

"Teaching here is really different," said Knapp. "When I first got here, I had no workbooks and no materials. The only thing I had for my class was a few torn-up textbooks. I had never taught fifth grade before so I looked around for a guideline of what should be covered. There was none. We have no structure here, no continuity. In teaching, you've got to have building blocks; you've got to present the material in sequence. In American History, we teach the same thing in the fifth grade as we do in the sixth grade."

Knapp was soon named chairman of the school's curriculum development committee and began pushing for a set of objectives.

But many teachers didn't like the idea, according to Knapp. "They thought it would take away from their flexibility in the classroom," he said. "But that's not true. Objectives are a guideline of *what* to teach. Each teacher decides *how* to put the material across."

An art teacher is Wiesbaden said, "We have a course outline but it's old, old, old. I think it was written in 1956. There's not a lot of planning going on around here."

Bonnie Giles, a fourth grade teacher at Wuerzberg Elementary School, said, "The curriculum is based on nothing. You never build on what the child learned the previous year. Learning is not reinforced and we're not taking the child one more step at each grade level."

Audrey Haynes, a teacher for 13 years including three in dependents schools, said, "In Cleveland, we had curriculum objectives and the teachers met to plan what they wanted to accomplish. But here, every teacher does his own thing. We stay in our classrooms, in our own self-contained little worlds."

WHY SCIENCE TEACHING IS MISSING

Most elementary teachers interviewed admitted they do little science teaching. Traditionally, elementary teachers are weak in science and tend to shy away from the subject, so a strong curriculum is needed.

To provide it, school administrators in Europe purchased a prepackaged science program developed by the American Association for the Advancement of Science (AAAS).

The AAAS program has been successful in other school systems, but in the dependents schools it bombed.

The failure of AAAS—and the waste of $750,000 it cost—is a prime example of how the lack of educational planning in the dependents school system adversely affects the education of military children.

Basically, the AAAS program consists of a teacher's guide and student kits designed to use a series of experiments to teach children about the processes of scientific inquiry. It is a new and somewhat complex approach to science teaching.

The first requirement of AAAS or any other prepackaged course is to train the teachers how to use it. Dependents schools administrators sought to do that by inviting a comparative few elementary teachers to attend voluntary AAAS workshops on their own time. According to many teachers interviewed, there were not enough workshops and the instruction in those that were held was sketchy at best.

However, Dr. Allen Dale Olson, community relations coordinator for the dependents school system in Europe, said, "The AAAS workshops were fairly widespread. The company that sold us the kits provided a training service. They teamed up with our curriculum people and visited the schools on an invitational basis."

Regardless of the number of workshops, many teachers who received the AAAS program didn't know how to use it. Those who did use the program said they were never resupplied with the items needed for student experiments, therefore the AAAS kits soon became useless.

In contrast to the dependents school system, in-service training for AAAS science in the Dade County, Fla., school system consisted of weekly classes throughout the school year. Teachers also were offered a 15-hour crash course in AAAS. "You couldn't say that we required teachers to attend, but they were strongly advised to take the course and most did," said Harriet Ehrhardt, consultant on science education to Dade County Schools.

The Dade County program has met with considerable success. In dependents schools, it was obvious by 1974 that the AAAS program had failed. What have school administrators replaced it with? "Nothing," said Barbara Rudometkin, a fifth grade teacher at Karlsruhe Elementary School. "There's practically no science teaching done in my class or in any other elementary class."

Her principal, Fred Mossinger, said, "Science is our weakest subject. The responsibility for the science curriculum has been laid on the individual teacher."

As a result, when children in dependents schools enter junior high school, "They don't know an ant from a centipede," said Carol Stopplecamp, a seventh grade science teacher at London Central High School. "They [elementary schools] are spending too much time on frills. My boy is in the fourth grade and he has four hours of swimming every Friday."

An elementary teacher in the Amberg, Germany, schools said, "When I was a seventh grade science teacher I always wondered why the kids came into class knowing nothing about science. Now I know why. There is no science teaching in the elementary schools. I'm a biology teacher, but I still need a guide to teach science."

WHY THE SCHOOLS HAVE NO STANDARDIZED CURRICULUM

The administrative staff at the dependents schools central office in Karlsruhe, Germany, includes 14 curriculum coordinators who supposedly help plan educational programs and introduce them into the schools. Yet Mason's method of developing curriculum objectives—a chief function of management—was to tell the principals of each school to form a committee and write their own. Had all the schools done so—some didn't—the dependents school system would have ended up with 211 different educational programs.

Mason, director of schools in Europe, believes that having a standard curriculum for all schools would be a disservice to some pupils.

Mason said, "In some of the schools near our headquarters areas, most of the children want to go to college. In other areas where you have a high concentration of troops, few of the children want to go to college. That is my concern. How can you have a standard curriculum for every school?"

However, many educators and parents the Times Magazine interviewed believe children should be taught the same basic skills regardless of whether they want to be plumbers or engineers.

Dr. Joan M. Gibbons, curriculum coordinator of language arts (English) for the dependents school system in Europe, said teachers know "where the kids are [academically]" and can best decide what curriculum objectives are needed. "You change your curriculum to meet the needs of your students," said Gibbons. "We sometimes have complete shifts in missions at various posts. Our student populations keep changing."

That is precisely why other educators believe curriculum objectives should be systemwide. Dr. Gordon Cawelti, executive director of the nationwide Association for Supervision and Curriculum Development in Washington, D.C., said standardized objectives "are especially important for military children who move around a lot."

And in a resolution passed at its annual meeting last May, the 31,000-member European Parent-Teacher and Student Association (PTSA) called for the dependents school system in Europe to standardize curriculum objectives. It did this because "A wide variation of course content in individual subjects exists even within a single school . . . [which] can be detrimental" to the education of military children who often are transferred from one dependents' school to another.

THE ELECTIVES DEBATE: FUN VS. TOUGH COURSES

The PTSA resolution is part of a sharp and sometimes angry debate being waged in the dependents school system in Europe over what should be taught in the classrooms and how the academic curriculum should be presented.

The debate centers around the decision by school system administrators to permit secondary schools to reduce the number of required basic courses in English and social science. Over the last decade, about 25 of the 37 dependents high schools and many junior high schools have replaced their required courses in those two subjects with electives.

The switch to electives reflected a fundamental shift in educational philosophy. The freedom to choose became a priority in many dependents schools in Europe. To accommodate that priority, the dependents school system three years ago reduced its graduation requirement from four years of English to three so that pupils could take minority studies and more electives, such as art and music, that they would enjoy.

The reduction was made in the face of hard evidence that the ability of dependents school students (and those across the nation) to read and write was on the decline.

The way to stop that decline, some believe, is to concentrate on the essentials of reading, writing and arithmetic.

According to many teachers and parents the Times Magazine interviewed, the electives system does not provide students with enough instruction in the skills crucial to academic development: reading, grammar, mechanics of writing and vocabulary building. And as a result, schools which use electives some times fail to deliver on their fundamental promise to parents: To teach their children how to read a simple article and write a lucid paragraph.

In a series of three resolutions passed last May, the PTSA declared that military children "are not being provided enough instruction in the basics" and demanded that Mason order the schools to abandon electives in favor of a traditional English curriculum in which students "are exposed to comprehensive instruction in the mechanics and technique" of effective writing.

Educators and teachers critical of the electives system say it doesn't work because students skip from one course to the next like so many butterflies in a daisy field, missing much of the instruction they would receive in a program of required courses.

These critics believe students select fun courses such as drama rather than tough courses such as composition, that most teenagers are unable to do the long-range planning necessary to select the courses they need and that the academic curriculum is not presented in a logical sequence.

Nancy McGee, an English teacher at Wuerzburg High School, said, "There comes a time when you have to explain that a sentence starts with a capial letter and ends with a period. Then you teach them how to write an essay."

Sonia Zenk, who last year was executive vice president of the PTSA and had two sons in Frankfurt High School, said, "We have children taking 'Humor in the Media' who don't know how to write a good paragraph. They take grammer in the last quarter of the ninth grade rather than the first quarter of the seventh grade. The elective system just doesn't work."

Some educators in Europe agree and are cutting back on electives. John G. Korslund, principal of Wuerzburg High School, said, "A few years ago there was a swing toward more innovative practices, but we're not really doing right in neglecting the basics. There must be a certain amount of grammar and spelling. This year, we had schoolwide spelling bees for the first time in years."

Korslund is adding required English classes at the seventh and eighth grade level and offering more remedial courses for high school students "who aren't proficient in English."

The principal of Upper Heyford High School, David L. Schlesinger, said, "We're taking a hard look at our electives English program. Teachers in other departments become very concerned when they find the kids can't read and write."

Karen West, a junior at Nuremberg High School, said, "I liked the old way of teaching better. You could learn more. All my friends dodge the harder courses and so do I. My English teacher is really great though. He cares about whether you learn or not."

Her teacher, James H. Mulder, said it once was true that students could pick and choose courses, but that grammar and composition courses have been added in the seventh and eighth grades. Nuremberg will stick with the electives approach, however.

Many teachers in dependents schools say electives work because teenagers who select their own courses and instructors are more interested in their classwork and more receptive to good teaching.

For some people, that's true. The wife of an Army sergeant with a daughter in Nuremberg High School said, "Sherry gets to select her own books now and she's reading lots better."

Karen Beckler, 16, who attended Frankfurt High School for more than a year and now lives in Gwinn, Mich., said electives made school more interesting "because you get to pick your own courses and change classes a lot [every nine weeks]. When I got back to the States, it was the old grind. Everything is taught right out of the book."

Gibbons, language arts coordinator for the school system, said one advantage of electives is that teachers specialize in a single subject instead of teaching grammar, composition and literature in a year-long required course.

"Ultimately, it's not the way you organize the curriculum that counts," Gibbons said. "It's the quality of the teacher and I do not believe for one minute that the basics have been neglected" in dependents schools.

DO ELECTIVES MEAN POOR SCORES?

However, almost every available measure of academic achievement indicates that the ability of high school students to read and write has been declining for more than a decade.

The national average score on the verbal portion of the Scholastic Aptitude Test (taken by most college-bound students) has shown a steady decline over the last 12 years. Recent studies by the National Assessment of Educational Progress show that the essays of 13 and 17-year-olds are far more awkward and disorganized than the efforts of those tested in 1969. The studies also showed that the writing ability of nine-year-olds had improved compared to 1969. And in an investigation of declining academic achievement in the nation's colleges and schools, *Los Angeles Times* reporters Jack McCurdy and Don Speich found that, "It is the fundamental and massive shift from basic academic requirements to an array of electives that seem to be the most direct contributor to the achievement decline in schools and colleges."

McCurdy and Speich examined results from the Graduate Record Examination taken by most college graduates bound for graduate school and found that: "In areas where electives have blossomed, such as the social sciences, the scores have dropped sharply. Conversely, in the natural sciences where there are more requirements and fewer electives, scores have risen."

What about students in the dependents schools? Have their reading abilities declined also? Do they write better or worse than military children who sat in the same classrooms three years ago? The answer is that nobody knows for sure. Neither the teachers nor principals nor Mason himself can demonstrate with any degree of certainty whether or not the dependents schools are effective. The dependents school system does not systematically monitor student achievement in such basic skills as reading and math. Most large school systems in the States use standardized tests to measure student progress in the basics and spot weaknesses in their academic programs.

For example, Dr. Roberta Keiter, coordinator of testing for Montgomery County Public Schools, said, "About six years ago, our overall score on the language arts portion of the tests fell to the 42d percentile [meaning 58 percent of students in a national sample scored higher than Montgomery County students]. And we found it was the way the curriculum was being implemented. They were teaching all this creative stuff in the schools. You know, do your own thing. It was all literature, poetry and drama and nothing to reinforce the English skills. We had to tell them to knock it off."

THE SCHOOLS ADOPT AN ELECTIVE APPROACH TO MANDATORY TESTING

The dependents schools began a mandatory program of standardized tests in 1969 using the Iowa Tests of Basic Skills (ITBS) which measure scholastic achievement in English, math and study skills. The ITBS currently is used by school systems in Houston, Milwaukee and dozens more cities across the country.

The testing program in dependents schools didn't last long, however. When students tested low in certain English and math skills in 1969 and 1970, school administrators in Europe failed to take a hard look at their educational programs to see what, if anything, was wrong. Instead, they simply cancelled the tests in violation of DoD regulations that made the testing program mandatory. DoD officials later suspended the testing program.

In 1974, the suspension was lifted and students in a sample of schools were given the ITBS. Once again, the results were disappointing. In 1975, the same sample testing was done, and the results were the same as 1974—disappointing.

Test results from the dependents schools in Europe were not made available to parents, as is done in many Stateside school systems. But Mason, director of dependents schools in Europe, occasionally announces the results himself. In a speech last May to the European PTSA, for example, he claimed test scores of students in dependents schools compared favorably with the national average.

That is not completely true. Available test results indicate that average scores from dependents high schools in Europe were usually above the national average while average scores from elementary schools were generally below it (see story on page 40).

In 1969 and 1970, the DoD testing program included a series of intelligence tests. Therefore, educators could measure the difference between ability, as measured by the intelligence tests, and achievement, as measured by the ITBS.

At the request of The Times Magazine, all available test results were reviewed by Dr. William E. Coffman, professor of educational measurement at the University of Iowa, and director of the statewide testing program in Iowa.

Coffman said intelligence test scores indicate that pupils in the overseas schools "appear to be at least as able and possibly a bit more able" than pupils in a national sample of students tested by the Houghton Mifflin Co., which publishes the tests.

However, low achievement scores from the ITBS in 1969 and 1970 indicate that "the achievement of pupils was not quite as high as one might reasonably expect" on the basis of intelligence tests, Coffman said.

To find out why achievement scores were low, "One would look at factors in the school situation [such as] the nature of the curriculum, the quality of teaching or the frequent moves [by military children] from one school to another," Coffman said.

The lowest achievement scores were in math. Most dependents schools teach modern math concepts which were not covered by the regular ITBS at that time. When a special modern math supplement to the ITBS was given to 1300 students after the first test results came back in 1969, math scores rose.

Test results from 1974 suggest there still may be a relatively low performance in math problem solving which is covered by the regular ITBS.

However, the comparison of average performance of students in dependents schools to a national sample in any particular year is of little meaning, according to Coffman. What is important is that "by comparing test performance of one year with performances in previous years—or performance on one subject with that in other subjects—[teachers and principals] can begin to formulate educated guesses about what is happening to pupils in the school system."

Used effectively, test results can help teachers and counselors determine the academic level of each pupil and plan their students' classes around the subject they need most. This is especially important in schools that use the elective system.

But that kind of planning doesn't happen in the dependents school system. The students were tested in only four of the last seven years. And in 1974 and 1975, the tests were given in only 20 percent of the schools.

WITHOUT STANDARDS, FEW STUDENTS ARE FAILED

In the interviews with the Times Magazine, several principals admitted they don't know the reading levels of their high school seniors and have no clear idea of what and how much their pupils are learning.

Furthermore, it is impossible to tell exactly what military children are required to learn. The dependents school system has no academic standards. Students are not required to demonstrate proficiency in English, math or anything else. They are promoted from grade to grade and given high school diplomas regardless of their ability to read a book, write an essay or perform basic arithmetic computations. A diploma is little more than a certificate of attendance.

The dependents school system has no grading criteria or standard grading symbols. The "A" math student in one class may be no more proficient than the "C" student down the hall. And without educational goals or system-wide tests or academic standards, neither parents nor educators can differentiate between the two.

Some civilian school systems, worried about declining achievement, are toughening up. In Los Angeles, students must pass a proficiency test in reading before they can graduate from high school. A new Florida law requires proficiency tests in grades three, five, eight and 11. All who fail are given remedial tutoring at state expense.

Students in Maryland must pass proficiency tests every year from the second grade on. Those who fail are retained in grade or receive special help. The school system in Denver, Colo., long has required pupils to pass proficiency tests in English and math before they graduate.

Those who fail receive a certificate of attendance, not a diploma. In years past, proficiency was determined by the classroom teacher. Students who did adequate work were promoted and those who didn't were retained in grade. But it's standing policy in the dependents school system that children may not be retained without permission of the parents and a child study committee. That is the conventional wisdom among most educators today. Few children are held back. Many believe retention does more harm than good. Fred Mossinger, principal of Karlsruhe Elementary School in Germany, said, "If we

had an active retention program, we would just retain the same kids every year. All you do is make the child feel like a loser."

But Lynne Holland, international president of the Overseas Education Association, the largest teacher's union in dependent schools, said the school system's policy against retention "simply promotes illiteracy."

"I'm certain you could come up with lots of empirical data on the emotional trauma suffered by a child who's retained," Holland said. "But compare that to the emotional damage done to a 16-year-old who's in high school and can't read. He's always at the bottom of his class and may be a disciplinary problem too."

An elementary teacher in Wiesbaden said, "If you have a slow learner in the first or second grade, that's the time to retain him. After that, it's too late. The decision is supposed to be made by a child study committee in each school. But even when parents want their own child retained, they [committee members] say, 'Oh, no, your child has an IQ of 130 and we wouldn't think of retaining him.' They talk the parents right out of it. And the child may be low in motivation and everything else."

Ann Hetherman, a social studies teacher at Frankfurt Jr. High School, said, "If the children are a certain age, they're supposed to be in a certain grade. so the [school] system just keeps moving them up. That's why they graduate from high school and still can't read."

In the dependents school system, the lack of academic standards has an obvious effect on some students.

Kenneth Griffith, a retired Army sergeant now living in Security, Colo., who returned to the States last March, said, "I had six kids in the Frankfurt schools and they're still trying to recover from the effects. Before we left, they were all good readers. Now half of them are in remedial reading because they fell behind overseas.

"And they didn't have much to do in class. They rarely had homework and that hurts. They picked up a lot of bad study habits that they have to get rid of."

An administrator for Army schools at Fort Knox, Ky., said, "The elementary children that come here from Germany have a hard time keeping up. They're reading way below grade level. There's been a downhill trend over the last five years."

DESPITE THEIR FAULTS, THE SCHOOLS HAVE THEIR GOOD POINTS

Despite the lack of educational planning in the dependents school system in Europe, the schools have their good points. The system's minority studies program was described by several teachers as second to none. The school system has a strong host nation program in which foreign nationals conduct courses—complete with field trips—about the culture of their country.

Many observers, including the investigative staff of the House Appropriations Committee which evaluated the school system three years ago, have said there are many excellent teachers in the schools. In allowing each school to decide its own objectives and curriculum, Mason, director of dependents schools in Europe, clearly relied on a generally strong teaching staff to develop solid educational programs for military children. Many did.

Zee Spain, a teacher at Wuerzberg Elementary School, developed her own science curriculum, keeps a weekly record of what her pupils learn and sends a report home to parents every Friday. Her teaching methods are burdensome and take extra time, but she thinks the results are worth it.

Two teachers at Wiesbaden Elementary School, Cheryl Peterson and Suzanne Sackett, knocked out a wall in an old classroom to make two large rooms where three had existed. They worked for weeks to develop their own curriculum in every subject area.

Mornings, Peterson and Sackett's children are grouped according to their abilities for three hours of language arts and math. Afternoons, the children learn by doing. They plant seeds to see how things grow, visit a farm to learn how animals are born and inspect the sewer plant and fire station on base to find out how things work.

At first, the parents were horrified. They wanted their children at their desks reciting their lessons. But Peterson and Sackett gradually won them over. They now have a waiting list of parents who want their children in the program.

As I followed two boys down the hall at Nuremberg High School, one chortled that he had just rewritten an article out of Newsweek and handed it in as his own work. His friend said, "Bet you wouldn't try that in Miss Boerchinger's class." When I asked why not, the student said, "She's tough, man. Tough, but fair"—high praise from any 16-year-old.

Mary Boerschinger, chairperson of the social science department, said, "The first thing I tell my students when they enter this class is that everyone has the right to fail." I met lots of other teachers who seemed just as demanding.

Dr. Jerald E. Bloom, principal of Frankfurt High School, said most parents don't care about standardized tests or how the curriculum is organized. "What they care about is can they get their kids into college," he said. "And at this school, the answer is yes; we graduated 400 in June and 45 percent of them will show up at the college door." Bloom keeps a chart showing that many of his graduates are accepted at the military academies, Ivy League schools and state universities across the nation. He said, "The colleges look favorably on our students." Proof, he believes, that his school is as good as any.

WHY THE EUROPEAN SCHOOLS ARE "FUN CITY" FOR STUDENTS

The dependents school system in Europe has some good programs and some excellent teachers.

But the failure of its administrators to plan and evaluate their curriculums and establish minimum standards of achievement for teachers and students has resulted in the near total absence of a science curriculum in elementary schools.

In addition, the low scorces on the English and math skills portions of the ITBS standardized tests cannot be explained away in view of intelligence test results that show dependents school system students are at least average in potential ability.

The tests are inconclusive, but they are a strong indication that school administrators should take a critical look at their educational programs.

In the past, school administrators have failed to do that. A 1970 analysis of test results showed that the ability of dependents schools pupils in grades one through eight to read and write was declining. One year later school administrators began to water down their high school graduation requirement in English so that students could take more electives they might like.

What's important to school administrators, it seems, is not what the children learn in school but how much they enjoy it.

Perhaps the school system's level of concern about academic standards is best exemplified by its attendance requirements. There aren't any. In most states, it is a law that school children have to go to school. In Alexandria, Va., public schools, for instance, students who miss more than 25 days must make up the work or stay back a grade.

But students in overseas schools may miss an unlimited number of days without penalty. When asked why, Dr. Dichard H. Coss, who until July was deputy director of the dependents school system in Europe, replied, "That's a dumb question." Asked why it was dumb, Coss said, "Well, it just is."

How naive. I found out about the lack of attendance requirements because one teacher after another complained during interviews that all too many parents yank their kids out of school for a three-week tour of the Rhine or a trip to sunny Spain.

When the students return, they won't make up the work, their parents won't make them, and there is little the teachers can do about it. In the dependents schools, promotion to the next grade is as certain as the sunrise, and the kids know it.

COMING NEXT ISSUE

As will be reported in the second of two articles about dependents schools in the next issue of the Times Magazine, the problems faced by educators, parents and students overseas do not end with poorly planned curriculums.

An investigation of the school system by the Times magazine shows that some military children go to school in veritable slum conditions and that many teachers are hampered by a serious shortage of textbooks and supplies they need to do their jobs.

In addition, the Times Magazine will explore the complaints of principals who say they cannot remove incompetent teachers from the classrooms.

We also will take a look at the high school dormitories—home to scores of military children whose parents are stationed far from the schools. And we will examine the policies and personality of Dr. Anthony Cardinale, the new director of DOD dependents schools around the world.

DEPENDENTS SCHOOLS IN EUROPE: A DISORGANIZED SYSTEM IN DANGER OF FLUNKING

(By Richard C. Barnard)

As she carefully opened the cardboard box and pushed it slowly across the table toward me, the young woman with light blonde hair, blue eyes and a doleful expression on her face said, You see, sometimes the box comes in December and sometimes it doesn't come until April or May. And when it finally gets here, you open it up and find only half of what you wanted."

She sounded like a disappointed child complaining that Santa is never good to her at Christmas. In fact, the young woman was a teacher at Frankfurt Jr. High School explaining why she often does without the materials she needs to help educate the sons and daughters of American military people.

Other teachers overseas face the same problem.

The results of THE TIMES MAGAZINE'S investigation of the dependents school system in Europe indicate that its supply system operates only slightly better than its academic programs.

The school system has no educational objectives or academic standards. As a result, many students and teachers are left to "do their own thing" in the classrooms with decidedly mixed results. The failure of school administrators in Europe to plan and evaluate their academic programs adversely affects the educational growth of military children (see THE TIMES MAGAZINE Oct. 18, 1976).

In addition, interviews with students and educators in Europe indicate that teachers often receive classroom materials when the school year is almost over rather than before it begins and that some schools frequently run out of such basic supplies as toilet paper, scissors and chalk.

The parents, educators and students interviewed by THE TIMES MAGAZINE also said that many school buildings are rundown and over-

crowded and that principals are unable to fire the few incompetent teachers in Europe.

In addition, our investigation found that the instructional materials that are available are distributed unfairly. Some elementary school children in Frankfurt and Wiesbaden do without the texts and workbooks that children at another school in Germany, Karlsruhe Elementary School, take for granted.

Teachers said that when school funds are exhausted or classroom materials fail to arrive, they sometimes buy supplies with their own money, depend on donations from NCO and officers wives clubs or obtain money from the European Parent-Teacher and Student Association (PTSA).

WHY CAN'T THEY GET BOOKS?

The lack of books and supplies is caused in part by long supply lines and poor coordination between the dependents school system in Europe and the Defense General Supply Center (DGSC) in Richmond, Va.

The 211 dependents schools in Europe are located in 12 countries and spread over 9.5 million square miles, an area more than twice the size of the United States. In addition, school books and other instructional materials have a low priority for military shipment to Europe. These two factors combined often are responsible for the late delivery of teaching materials to the classrooms.

Last summer, for example, 70 tons of books and supplies sat for weeks in warehouses on the East Coast awaiting shipment to dependent schools in Europe. Gen. George S. Blanchard, commander of the U.S. Army in Europe, learned of the delay in August and ordered the materials airlifted to Germany on an emergency basis. Nevertheless, some did not arrive in the schools until after classes began this fall.

Textbooks and instructional materials such as reading booklets and test tubes are ordered through a cumbersome four-step process. Orders placed by each teacher are sent to the dependents schools administration office in Karlsruhe, Germany. From there, they go to the Defense General Supply Center in Richmond and then to book publishers and suppliers. DGSC keeps no classroom materials in stock.

In a 1976 review of management problems in dependents schools, Christopher T. Cross, minority aide to the House Committee on Education and Labor, found that communications between the school system and DGSC "seem to be poor and apparently result in some funds being turned back because ordered equipment was not available and the schools were not told to place other orders."

In an interview with the Times magazine, Cathy Silver, a fourth grade teacher at Wuerzburg Elementary School, said that last year she ordered her reading texts and workbooks months ahead of time. The texts came nine weeks after the beginning of school, but the workbooks never arrived.

In addition to long supply lines and poor coordination with DGSC, Dr. Joseph A. Mason, director of schools in Europe, said that in late May he had received only $2.4 million for books, supplies and maintenance "instead of the $8 to $10 million normally required."

His press spokesman, Dr. Allen Dale Olson, said in September that the school system was still severely short of money for books and supplies.

However, Dr. Anthony Cardinale, director of DoD dependents schools worldwide (and Mason's boss), said the dependents schools in Europe have adequate funds to buy the books and instructional materials needed.

"I sat down with Dr. Mason and his supply people in early May," said Cardinale. "They said they needed $300,000 to cover the costs of outstanding orders for books. I released $500,000. At the end of May, I released another $500,000. Half of that was for books."

In August, Mason received an advance credit of $1.4 million to purchase books and instructional materials for the school year that began in September, Cardinale said.

However, the dependents school system in Europe receives less money than many of the larger school systems in the States, according to a cost-comparison prepared by Cardinale's staff.

Last year, the school system's budget of about $147 million amounted to $1273 for each student. In comparison, the Montgomery County, Md., school system spent $1710 per student while Baltimore spent $1318. Arlington, Va., spent $1771 on each student, and Washington, D.C., spent $1378, according to the school system's analysis.

The cost comparison also showed that 20 of the larger school systems in the U.S. averaged $1687 per student. The school system in Europe had far less money to educate its students than many school systems across the nation."

"WE CALL IT THE BAKE SALE SCHOOL SYSTEM"

Regardless of the amount of money available this year, a shortage of books, instructional materials and supplies has long been a chroic problem for the dependents school system in Europe.

Last May, for example, lack of funds forced administrators at Illesheim Elementary School (which has grades one through eight) to cancel plans to offer a "hands on" science program in the seventh and eighth grades that involved almost daily lab work.

Frankfurt Elementary School No. 1 is one of the largest dependents schools in Europe. Yet its total budget last year for classroom materials—from textbooks to pencils—was $16,000.

"That's an example of why we call this the bake sale school system," said a teacher at the school. "Back in the States, you sell brownies to buy uniforms for the basketball team or horns for the band. Here you do it to buy the basic stuff you need in the classroom.

"Some of the parents are wonderful, but most don't support the school. We have 1,600 kids here but only 40 or 50 parents show up at PTA meetings. Those are the people we depend on and they can give us only so much money and eat only so many brownies."

Several schools in Europe depend on donations from parents to buy library books, reading books, art supplies and underwrite the salaries of a handful of teachers and teachers' aides. At Frankfurt Elementary No. 2, money contributed by parents last year was used to pay the salary of a physical education teacher.

A sixth grade teacher at the school said, "When I walked into class last year, all I had was one set of math books. The covers were gone and some had pages missing.

"We had no reading books—none! So the kids and I decided to buy our own. We sold popcorn until it was coming out of people's ears and bought the Reader's Digest reading kit for $485."

In addition to textbooks and instructional materials, many teachers and principals interviewed said some schools occasionally run short of basic supplies.

"When I taught in Nuremberg, we got two pieces of chalk each year," said an elementary teacher. "We had no Scotch tape, no tacks and no scissors. We just didn't get the basic things you need for a classroom."

The schools buy their basic supplies at local Army supply stores, which are not always well stocked. At a few bases, military supply sergeants get first pick of available supplies and school supply clerks get what's left.

Lynne Holland, international president of the Overseas Education Association, the largest teachers union in dependents schools, said, "The basic problem is the supply system here. The military supply people will let you know right quick that their first job is to support the Army's mission. The schools come second."

Though some schools in Europe sometimes run short of books and supplies, that is not true of all dependents schools. Prior to July 1, when dependents schools were unified into a single school system, schools in the Pacific were operated by the Air Force and those in Europe were run by the Army.

Several parents and educators interviewed said the Air Force provided much better support to the schools than did the Army.

Libby Piercley, an elementary teacher in Stuttgart, said, "When I taught in Okinawa, the Air Force gave us all kinds of supplies and materials that are considered not essential in Europe. Remedial reading texts, for example, are hard to find here, but we had plenty in the Pacific."

WHY ARE SCHOOL FACILITIES SO ANCIENT?

During the winter months, the faculty and students at Nuremberg High School look like studio extras for *M*A*S*H*, the TV show about the wacky adventures of an Army medical unit in Korea.

At Nuremberg, teachers and students on the bottom floor of the school wear their overcoats in the classroom while those on the top floor open the windows to avoid heat prostration.

An erratic heating system is only one of the problems faced by faculty and students at Nuremberg High.

The hallways and classrooms are littered with trash. The electrical wiring is so bad that when one teacher plugs in a movie projector, the lights in nearby classrooms dim and sometimes go out.

The library reading room is out in the hallway. Students who study there are sometimes disrupted by others who use the hall to get to art class. The equipment and tables in the library's tiny audio-visual study room are always covered with a fine layer of dirt simply because no one ever cleans them.

Nuremberg High is not typical of all dependents schools in Europe. Several of the schools are new. Six of the 14 schools I saw were clean and well-equipped. Though Karlsruhe Elementary School is housed in an older building, it is neat and well-run because the principal, Fred Mossinger, and local Army officials have worked hard to keep it that way. Five of seven teachers interviewed in that school described it as "a beautiful place to teach."

School administrators in Europe say that 80 percent of their school facilities are adequate, including Nuremberg High School, which indicates how dilapidated some schools are.

One reason why some schools in Europe are in sad shape is that the Army built no schools in the 1960's except those to replace school buildings vacated when DeGaulle kicked U.S. forces out of France. The Army still has not caught up with the demand for new school buildings despite the expenditure of $58 million on construction in the last three years.

Responsibility for the dependents schools in Europe is divided between DoD school administrators, who run the educational programs, and Army officials, who build the schools and maintain them.

One of the sillier consequences of this divided authority is that school principals in Europe have no power to tell the janitors in their own schools what to do. The janitors report to the local post facilities engineers, not to the principals.

Another consequence is that new schools are not built by the people who are going to use them, which sometimes causes problems. For instance, at Ramstein Elementary School,

completed in 1974, the urinals were built too high for the elementary-age children.

As a result of the slow pace of construction, many dependents schools in Europe are run-down and overcrowded. Lindsey Elementary School in Wiesbaden is housed in an ancient barracks. Last year, several teachers there had 38 pupils in their classes.

The school was so crowded that some single "classrooms" consisted of two small rooms with a door in between, a situation which forced teachers to dodge from room to room in order to keep watch over their students.

Erma Hayes, a social worker at the school, said, "Don't ask me how they teach with all those kids in one little classroom. When a child in the back of the room wants to leave, you have to move the desks so he can get out. It's tragic."

Army Lt. Col. Theodore H. Taylor, chief of personnel and community affairs at Wiesbaden, said, "It's true that there were 38 kids in a class at the beginning of the year. But that was due to a shortage of teachers. We got more teachers within a few weeks and the problem was alleviated."

SOME STUDENTS LIVE IN DORMITORIES

"The facilities here are okay," said Turney Moore, chief counselor at the dormitory at Frankfurt High School. "One of the biggest problems here is that some military families arrive [in Europe] to find out they have to give up their kids for an entire year. Some of them are bitter about it and I don't blame them."

In the dependents school system in Europe, there are 10 high schools with adjoining dormitories. Students in the ninth through 12th grades who live more than one hour's commuting distance from school must live in the dorms Monday through Friday. The Army provides transportation to and from school on weekends.

However, high school students who live more than two hours commuting distance from school live in the dorms from September through June with vacations home only at Christmas and Easter. This year, about 900 of the roughly 21,500 high school students in Europe live in the dormitories.

For students in grades one through eight, the maximum commuting distance is 45 minutes. Families with grade school children who live further than that may send their children to private school at the Army's expense.

"But a problem in Germany is that there are only a handful of private schools that offer what might be called an American education," said Lee Bartley, administrative assistant to the director of DOD schools. Some grade school students who live far from school must make do with correspondence courses.

WHY INCOMPETENT TEACHERS CAN'T BE FIRED

During my interviews in Germany and England, I had a standard list of questions for the dozen or so principals I planned to interview.

And there was always one question that caused them to stop, lean toward me and say in a lowered voice: "I'll discuss that with you, but it'll have to be off the record."

The question was: "You must have a couple of incompetents on your staff—every school does. Why don't you fire them?"

Most principals said they had one or two teachers on their staffs who shouldn't be in the classroom, but that the school system's personnel rules made it impossible to get rid of them. This means that 200–400 of the 5600 teachers in Europe are viewed by principals as being incompetent.

One principal said, "To fire someone, you have to catch them doing something blatantly wrong. It has to be documented. The personnel rules, say that even when you have an obvious incompetent, you have to take a positive approach with him. You have to show that you've counseled the teacher about his shortcomings. That has to be documented too."

Most teachers acknowledged that principals have little power to fire them. A math department chairman said, "The only way they can fire me is if they get me on a morals charge."

The principal of an elementary school in Germany said that firing a teacher "is like preparing for trial. You've got to build a file on the guy. You give him a statement of charges. He gives you a rebuttal. Then there are appeal procedures all down the line. The union gets involved and the teacher may try to get the local IG [inspector general] on your back. Once you've been involved in something like that you'll never try again."

Union president Holland said, "It's not true that principals have no way to weed out incompetents. Six teachers were severed last year.

"Each teacher has a probationary period of three years. If administrators can't weed out incompetents by then, I question their ability to do their jobs at all.

"I question how much [principals] really desire to get involved in the process of evaluating and firing people. I question the quality of administrators [in the dependents school system in Europe].

"Our school system is rather unique in that you don't have to be certified as a principal in order to be hired as a principal. I would guess that 50 percent of our principals aren't certified."

The dependents school system in Europe has no certification standards for principals or teachers and keeps no record of who is certified.

Most state departments of education examine the college transcripts of prospective teachers and principals before certifying them as eligible for employment in the public schools.

Dr. Anthony Cardinale, director of DOD dependents schools, wants to establish new employment standards and certify teachers and principals every five years. Those who can't meet the new standards would be dismissed under Cardinale's proposal.

However, any such program must be negotiated with the union.

Holland said, "Administrators have a right to evaluate us. Our concern is the procedures they use. I'm sure we can come up with something livable."

CONCLUSIONS AND RECOMMENDATIONS

In the last two issues the Times magazine has examined the dependents school system in Europe. We found many weak areas, and a few bright spots. However, if the dependents schools intend to achieve their goal of top-quality education, they should take remedial action in certain parts of the system in Europe where quality is far short of the best.

As shown by our investigation, the dependents school system in Europe has a personnel system which promotes job security at the expense of professional competence in the classroom. The schools system should adopt new employment standards. It also should institute a certification program for teachers and principals.

The Europe schools system has no core curriculum in the basic academic skills. It has no minimum standards of achievement for teachers or students. And it has no systematic way to check on what kind of job each of the 211 schools is doing. One result of this is the appalling fact that teachers and principals in Europe do not have the slightest idea of how well (or poorly) their high school seniors can read.

It is time for school administrators to develop an administrative framework that encourages good teaching. And that means a core curriculum in the basic academic skills, such as reading, that every child needs, regardless of his or her life's goals.

Although most Stateside schools have testing programs, Europe schools do not. It is time for school administrators to provide military children a comprehensive testing program. That means, at the very least, giving aptitude tests and yearly achievement tests. Those test scores should be made available to parents, along with a clear explanation of what the scores mean.

It is time for the Army to get serious about modernizing the school facilities in Europe. In the Wiesbaden area, for example, several classes are conducted in attics and basements. Yet the Army's $25.5 billion budget this year includes a paltry $6.5 million for two elementary schools in Germany.

Parents don't have a say in how the schools are run. In Europe, the schools are organized into five school districts. The school system should have a school board in each one, with all positions elected. And perhaps there should be a big school board for all of the schools in Europe.

The boards should have authority for budget priorities. For instance, should available funds be spent for remedial reading books or remedial reading specialists? School boards also could decide on new school buildings and apply pressure on the Army and DoD to modernize existing facilities. The Army has been dragging its feet on facilities for decades.

In the States, parents have a voice—through elected school boards—in the operation of the schools their children attend. Military parents pay federal taxes which support the overseas schools. There is no reason why military parents should be disenfranchised simply because they're serving overseas.

The DoD director for dependents schools, Dr. Anthony Cardinale, has set up advisory boards. While this is a step in the right direction, it is not enough. The boards should be policymaking, not advisory. Parents should have a say in how money is spent. Money is power, and Cardinale controls the money, and the power.

Dr. Joseph A. Mason, chief of dependents schools in Europe, says parents have a voice in their children's education because they are allowed to sit on curriculum developemnt committees in most schools. But the practice is different from his pronouncements.

Most parents don't know about the curriculum development committees. And in some schools—London Central High School, for example—parent-members can come to committee meetings but they have no vote.

The dependents schools in Europe have come a long way since the postwar days of converted barracks and pioneer hardships. But when compared to many community school systems in the States, the dependents schools are an embarrassment.

Military children deserve better.

Mr. RIBICOFF. Mr. President, I also ask unanimous consent that a letter to our Senate colleagues from Senators HENRY JACKSON and SAM NUNN of the Armed Services Committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
Washington, D.C., September 26, 1978.

DEAR COLLEAGUE: We want to communicate to you our opposition to the Schmitt Amendment (No. 3620) to the Department of Education bill (S. 991), which would delete the transfer of the Department of Defense Overseas Dependents Schools to the new Department.

This transfer was unanimously supported by the full Committee on Governmental Affairs and is supported by the Overseas School

Administrators, the Overseas Education Association, the European Congress of Parents, Teachers, and Students, and the Department of Defense. Simply speaking, the proposed transfer is endorsed by all the parties involved.

These schools are regular American public elementary and secondary schools serving the dependents of military personnel who are stationed abroad. Their purpose is to educate American children and is not integrally involved with the mission of the Department of Defense. We believe that the 135,000 students in these schools deserve the opportunity to benefit from the great educational resources of the new Education Department. If they remain under the jurisdiction of the Department of Defense, they will continue to be isolated from the rest of the educational arena in the United States.

We do not agree with the contention by the opponents of this transfer that the DOD overseas schools will become "test tubes" for the experimentation of unorthodox teaching methods. Anyone familiar with the DOD Overseas Schools recognizes that one of the great problems with the schools has been their failure to have minimum educational standards, updated teaching material and innovative techniques for the use of the teachers. It will be the function of the new Department of Education to provide this material and these techniques for the use of these overseas schools so that they can be on a par with educational systems in the United States. The Department of Education, however, will have the authority to provide this information, not impose it on the schools. The availability of such information should upgrade the quality of education for our American children overseas.

S. 991 does not take the schools off military bases. The DOD Schools will always remain an important part of the military community, and it is unrealistic to assume that, as a result of the transfer, parents would take their children out of the only American school in a foreign country. We share the support of the European PTSA for the transfer on the grounds that the schools will fare much better in an agency whose main concern is education.

Finally, transfer of these schools will not make the provision of logistical support more difficult. Interservice support agreements already exist within the Department of Defense between the three Departments of the Navy, Air Force and Army, and they are working well. After the transfer, the same kinds of relationships would continue. Agreements would be worked out between a Cabinet Secretary of Education and three subcabinet secretaries in DOD, thereby improving and elevating the working relationship. Further, the DOD Schools are gradually building up their own support staff and in the near future will become self-sufficient.

We believe that the students in the DOD Overseas Dependents Schools could best be served by the new Department of Education. We hope you will join us in opposing the Schmitt Amendment and in supporting the transfer of this important school system to the new Department of Education.

Sincerely,

SAM NUNN,
HENRY JACKSON,
Senator MCINTYRE.

Mr. RIBICOFF. The legislation before us today provides for a 3-year phase-in period, so that the schools can be transferred with little disruption. The bill requires the Secretary, in the 3-year phase-in period, to make recommendations for increasing parent, teacher, student, and military participation in the schools' operation and administration.

S. 991 also provides for an administrator and an Office of Education for overseas dependent children at executive level V, reporting directly to the Secretary of Education. This will insure a minimum of redtape and a maximum of high-level attention to the schools.

Mr. President, I would hope the Senate would concur with the unanimous recommendation of the Governmental Affairs Committee that the DOD dependent schools be transferred to the Department of Education.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RIBICOFF. I yield to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, with regret, I also must oppose the amendment offered by the distinguished Senator from New Mexico (Mr. SCHMITT) to delete the transfer of the Department of Defense's overseas schools for dependent children. Neither I nor the rest of the committee were persuaded that these schools should continue to be run by the military. These are regular American elementary and secondary schools. The students are the same as students attending schools in any school district in this country. The only difference is that, since they are the children of parents who are serving in the military overseas, their classrooms are located overseas. Other than that, the curriculums, teachers, and other aspects of education are the same.

I would in particular like to bring to the attention of my colleagues the testimony given to the committee by the Overseas Education Association. This organization represents the 7,000 teachers who teach in the overseas dependents schools. In his testimony, Carl D. Moore, executive director of the organization, states:

Our teachers have long felt that important educational policies have been inhibited, ignored, and misconstrued by a bureaucracy whose expertise and objectives are not educationally oriented. Important education concepts, already widely accepted in public school systems in the States, are often difficult to realize even when the Association, teachers and the DODDs administration support them. We cannot help but believe that our system will improve and prosper if it is nurtured in an environment dedicated to education.

Mr. President, I am happy to yield to our distinguished colleague from Oklahoma for a unanimous-consent request.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Hazel Elbert of my staff be accorded the privileges of the floor during all stages of the consideration of this legislation.

The PRESIDING OFFICER. This date?

Mr. BARTLETT. This date.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, Mr. Moore's comments should not be regarded as an effort to find fault with the Department of Defense. I continue quoting from his testimony before the committee:

The Members of this Congress, and the people of the United States, do not expect the Department of Defense to make as one of its chief goals the efficient and productive operation of the nation's twelfth largest school district. Nevertheless, it is exactly for that reason that our system does not maintain the quality level of education that it should. And it is exactly for that reason that our system should be moved into a Department whose primary goal is education.

Problems such as the ones cited by Mr. Moore illustrate the need to transfer these schools. Another problem which I would like to mention is the transition of the Overseas Dependents Schools' students to schools back here in the States. The terms of duty for many military personnel is 3 years. As a result, there is considerable movement between the overseas dependent schools and schools here. One of the problems which the committee was told about was the difficulties which students make when they go through this transition between schools. It is important that these students be given a sense of continuity. By placing jurisdiction for these schools with the new Department of Education, the resources available to schools here in the States would be much more readily available to the schools overseas.

Educators, not military personnel, are better equipped to run a school. Educators should be running the overseas dependents schools. Unfortunately, too often untrained military personnel have too much authority over how these schools should be run. For those reasons, Mr. President, I urge my colleagues to vote against this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter that I have received from Hal Mosher, president of the Overseas Education Association, Inc., dated September 25, 1978, in support of the position that the managers of the bill have taken.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OVERSEAS EDUCATION
ASSOCIATION, INC.,
September 25, 1978.

Hon. CHARLES PERCY,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: It has come to our attention that Senator Schmitt is planning to introduce an amendment to S. 991 to eliminate the Department of Defense Dependents Schools (DODDS) from the bill.

Our Association holds exclusive national recognition for the 7,000 teachers in the DODDS system. We believe the members of the armed services stationed overseas deserve the best possible educational program for their children, and this can be achieved only if education is recognized as the highest priority. The teachers in our system strongly believe that education does not receive the priority consideration within the Department of Defense that it would in the Department of Education. Our view is obviously shared by the military parents inasmuch as the European Parent-Teacher-Student Association enthusiastically supports the transfer of DODDS into the Department of Education. Our informal polls also indicate that most of the school administrators support this transfer. The parents and professional educators involved in the system are almost unanimous in their support of the transfer

of DODDS into the Department of Education.

During the hearings on this legislation, a question was raised regarding logistical support from DOD for a Department of Education organization. Our General Counsel pointed out that for two years DODDS has been separate from direct control by the military departments. Logistical support has been provided through interservice support agreements. The Director of DODDS concurred that support has been equal if not superior to past direct support arrangements. Therefore, any potential logistical support problems are already being resolved and should not be considered a negative factor in considering this transfer.

It is our sincere hope that you will support the transfer of DODDS into the Department of Education, and vote against the Schmitt amendment to S. 991.

Sincerely,

HAL MOSHER,
President.

Mr. SCHMITT. Mr. President, I realize and have attempted to understand the position and belief of the distinguished Senator from Connecticut and the distinguished Senator from Illinois, but I literally fail to see, admitting the troubled history of these schools, how putting them in another bureaucracy will change that, particularly a bureaucracy that is going to have the problems of transition, the problems of creating itself and of dealing with everything else it is almost certainly going to have to deal with in education, including competing demands, and also somehow take over the management of the 11th largest school system in this country or associated with this country, and to do this in association with another bureaucracy—and anyone who has been associated with the military certainly cannot claim it is not a bureacracy. Even the Office of Management and Budget says it is best to work out the problems of the overseas schools within the Department of Defense rather than by transferring them to another department.

I am sorry that the distinguished Senators have not dealt more specifically with how they expect this belief to be realized. I am willing to say that in 2 or 3 or 4 years, after the Department is up to speed, if it is in fact created, and I guess there is some doubt about that, but let us assume it will be created, we might then examine this problem and see whether or not the Department of Defense has solved its problems with the overseas school system, or whether, in the view of a functioning Department of Education, they could be better solved in that group.

I just fail to see how anything worthwhile is going to be realized in that school system, that very special school system, by its transfer into the Department of Education.

I would also remind my colleagues that another group, admittedly smaller, but another group representing about 2,000 teachers within the overseas school system, that is, the Overseas Federation of Teachers, associated with the American Federation of Teachers, AFL–CIO, have come to a different conclusion. That is not a large group, but it is a significant minority, and if the situation is anything like I find in this country, the rank and file of the teacher organizations that support the creation of a Department of Education are not necessarily as strongly in favor or even in favor of its creation. I find that there is really only one organizational group that is strongly in favor of this particular measure, and that is the NEA.

I remind my colleagues that there is a great tendency in the NEA to become, or to attempt to become, an elitist, special-interest group for "education," and it is a special interest that I personally believe goes counter to the long-term educational interests of this country, which comes from the diversity of our educational system and its ability, in turn, to tap the diversity of the American people through local control.

I am tremendously troubled by this creation, now, of a Federal school system specifically within a Department of Education. Obviously the overseas school system is a Federal school system, but it is not under the control, the Cabinet-level control, of a vested interest in education. It is under the control of the vested interest of the Department of Defense, and in fact its schools are run with that vested interest in mind. I have tried to describe what that interest is; it is a legitimate interest, in this Senator's opinion, and one which best serves the students of that school system.

Mr. President, if the distinguished chairman of the committee is willing to yield back the remainder of his time, I would be happy to yield back mine.

Mr. RIBICOFF. The Senator from Georgia wishes to make some remarks; then I will be prepared to yield back the remainder of my time.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I will move, at the proper time, to table the amendment. I ask for the yeas and nays on the motion to table.

Mr. NUNN. Mr. President——

Mr. RIBICOFF. I will not move to table now but I ask unanimous consent that I may now ask for the yeas and nays on a motion to table.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on such a motion at this time? Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I rise in opposition to the amendment by Senator SCHMITT that would delete from S. 991 the transfer of the Department of Defense overseas dependents schools. I do this from a unique position of being a primary sponsor of S. 991, a member of the Governmental Affairs Committee who chaired hearings on this particular aspect of the bill, and a member of the Armed Services Committee.

It is always a difficult decision to move certain programs from one department to another. After carefully considering all sides of this issue, I have determined that the DOD overseas dependent schools could function more effectively and provide a better quality education to the children of our military personnel if their administration were moved to the Department of Education. I support this transfer for the following reasons:

First. There are approximately 135,000 students in 267 DOD dependents schools scattered across 24 different foreign countries. The fiscal year 1979 budget estimate for the schools is $307 million. Altogether, there are approximately 10,000 employees in the school system. Despite the fact there is so much money involved and so many children whose education is dependent on these schools, there is no statutory authority for the schools. In more than 30 years of their "temporary" existence, the DOD schools' authorization has been contained in appropriations bills. S. 991 provides, for the first time, a statutory base for these schools.

Second. Although I firmly believe that the future of our military personnel's children is vitally important, I recognize that the Department of Defense and the congressional Armed Services Committee do not give these schools the attention they deserve. This is not a criticism of DOD or the committees. It is perfectly understandable that the administration of these schools is not the primary function or the No. 1 priority of the Department of Defense or the Armed Services Committees of the House and the Senate. Under this legislation, the overseas defense schools will be administered by a level 5 official in the new Department of Education who will report directly to the Secretary. This high level official will provide these schools with more attention and oversight than they have received in their 30-year history. I believe that such attention will improve the quality of the schools and will make a positive difference in the minimum educational standards, acquisition of pertinent educational supplies and the availability of knowledge into new trends and methods of teaching.

Third. The inclusion in a new Department of Education will also facilitate the transition for these students, who are temporarily overseas and away from our Nation, into our public school systems. Since military families are subject to frequent moves, we should strive to provide a sense of continuity in education for these students. The Department of Education would be more attuned to the trends in American public education than the Department of Defense and could provide valuable assistance to the school administrators in sensing, adjusting and responding to these educational trends.

Fourth. The Department of Education could also bring to these overseas schools the vast educational resources which will be available to schools throughout this Nation. The Department of Education can make strong efforts to encourage the participation of these overseas schools in vocational educational programs, services for the education of the handicapped, gifted children, library and aca-

demic facilities and other Federal programs which could benefit the schools. The children of our Nation's military personnel should not be deprived of participation in these programs just because their families are stationed overseas.

Fifth. There would be no disruption in the operation of these schools during the transition. This legislation provides for a 3-year "phase-in" period, during which time the Secretary is required to develop a comprehensive plan for effecting the transfer. Also, section 505(A) of the bill insures that the agreements between the schools' present administration and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer. Also, the committee report recommends that the Secretary of Education investigate the practicality and feasibility of the creation of a board or commission, made up of parents, students, educators, school administrators and the military, which could assume some measure of input over operation and policy responsibilities for the school system. Such a board would facilitate logistical support by including military personnel as members to insure cooperation by the various armed services and the local base commander. The board could also serve as an effective insulator to minimize the direct involvement in the future of the schools by the Secretary of Education.

Overall, I believe that the language which was included in the bill will provide a sound, workable administration for the DOD overseas schools. Because of their unique role in educating the children of American military personnel stationed overseas, these schools will, of necessity, be administered by a Federal agency that is far removed from the actual operation of the schools. The quality of education offered these students will receive a higher priority in the proposed Department of Education than it presently does in the Department of Defense.

This proposed transfer is not only endorsed by the Senate Committee on Governmental Affairs. It has the strong support of the administration, the Department of Defense, the Overseas Education Association, the majority of the overseas school administrators and the European PTSA. The need for this change is perhaps further emphasized by the fact that this is probably the only transfer in this bill that is fully supported by all affected parties.

I believe that the aforementioned consensus that these student could best be served by the Department of Education is a fair assessment of the needs in the overseas dependent schools, and I urge the Senate to reject the Schmitt amendment and support the transfer.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. SCHMITT. Mr. President, the Senator may want to withhold that.

Mr. President, I am still very greatly troubled by the litany of beliefs that we have heard in support of not only the bill as a whole but particularly in opposition to the amendment of the Senator from New Mexico relative to the transfer of the overseas dependent school system to the Department of Education. Where I have tried to list those factual situations where difficulties more than likely will occur, we have not seen in this debate, at any rate, the rebuttal of why those difficulties will not occur, except the belief that they will not occur. Again, I think that at least a postponement of the inclusion of the overseas dependent school system in the new Department of Education, if it is in fact created, would be the much wiser path to take.

In a measure, I believe, before the other body of the Congress, it is proposed to give statutory authority to the overseas dependent school system. I see no reason why that should be any kind of an argument against my amendment whatsoever. That can be done. Congress can do that at any time. Much more serious, I believe, is the basic constitutional intent. I will not say that a transfer necessarily is unconstitutional. I am not a constitutional lawyer. I would be on very tenuous ground to say that. But I would say that the lack of mention of education in the Constitution, along with the reservation of powers to the States, strongly suggests to this Senator that there was never any intent by the Founding Fathers nor any intent subsequently, through recent decades, to have the Federal Government involved in any significant way in the policymaking, in the administration, or other activities of the educational system of this country.

There is one unassailable fact, that if the overseas dependent school system is transferred to the Department of Education when it is formed, the Federal Government will be in the business of operating a school system, and a large school system.

It has been said that the administration favors this transfer. The favors of the administration are very often transient. Not long ago, the OMB, as I have already read into the RECORD, opposed it. The Department of Defense has opposed it in the past. They now give not strong support as suggested by the Senator from Georgia, but I would say very lukewarm support for this proposal, and I think it may well be provided under duress.

I do not think the majority of the American people have any desire whatsoever to have the Federal Government operating a school system as large, or any size but certainly not one as large, as that which is going to be transferred under S. 991. As a matter of fact, just this morning I inserted into the RECORD a poll taken recently that indicated 45 percent of the American people opposed the Department of Education in general, and only 40 percent supported it.

Anybody who believes that we are dealing with some strong national consensus, or even a consensus, among the military personnel of this country that the Department of Defense overseas dependents schools should be included in a Department of Education is just fundamentally wrong.

If the Senator from Connecticut has no further need of his time, I yield back the remainder of my time. I urge the rejection of his tabling motion and I urge the adoption of my amendment.

Mr. RIBICOFF. Mr. President, I move to table the amendment. I believe I have already asked for the yeas and nays on the motion to table.

The PRESIDING OFFICER. The Chair was waiting for the motion to be laid before it.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "yea."

The result was announced—yeas 65, nays 23, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—65

Bartlett	Glenn	Metzenbaum
Bellmon	Gravel	Moynihan
Bentsen	Hart	Muskie
Biden	Hatfield, Paul G.	Nelson
Brooke	Hathaway	Nunn
Bumpers	Heinz	Pell
Burdick	Hodges	Percy
Byrd, Robert C.	Hollings	Proxmire
Case	Huddleston	Randolph
Chafee	Humphrey	Ribicoff
Chiles	Inouye	Riegle
Church	Jackson	Sarbanes
Clark	Javits	Sasser
Cranston	Kennedy	Schweiker
Culver	Leahy	Sparkman
Danforth	Long	Stafford
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Domenici	Matsunaga	Talmadge
Durkin	McGovern	Weicker
Eagleton	Melcher	Williams
Ford		Zorinsky

NAYS—23

Byrd, Harry F., Jr.	Hansen	Roth
Cannon	Hatch	Schmitt
Curtis	Hayakawa	Scott
Eastland	Helms	Stennis
Garn	Laxalt	Stevens
Goldwater	Lugar	Thurmond
Griffin	Morgan	Tower
	Packwood	Wallop

NOT VOTING—12

Abourezk	Haskell	McIntyre
Allen	Hatfield, Mark O.	Pearson
Anderson	Johnston	Young
Baker	McClure	
Bayh		

So the motion to lay on the table amendment No. 3620 was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order. The Senate will sus-

pend until Senators cease conversations and take seats.

The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Carol Minton of Senator BUMPERS' staff be granted privilege of the floor during consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I believe that under the agreement, I am to be recognized for the next amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct, and the Senator from New Mexico has been recognized.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield to the Senator from Washington, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I am going to vote for this bill for several reasons, but one of the main reasons is that I happened to handle the very complex Labor-HEW appropriation bill, a big, complex department——

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order, and we will not proceed until the Senate is in order.

Mr. MAGNUSON. I said that I was for this bill for many reasons. But one of the main reasons—I think the distinguished manager of the bill understands what I am talking about—is that Labor-HEW is a great, big, complex organization. It is almost bigger than the Defense Department.

They now have 1,144,000 people employed, for whom the Federal Government pays. Within that Department, they have the problems of education.

For housekeeping purposes alone, if that were the only consideration I had, I would vote for this bill. No one knows better what I am talking about than the distinguished manager of the bill, the Senator from Connecticut, who was Secretary of HEW.

The removal of education from this big, complex department is going to do a great job, I think, not only for housekeeping, but also, it is going to save money; it is going to put education where it should be—by itself, independent. It probably never should have been there to begin with.

I just wanted to make that statement as one of the reasons why I am for this bill. There are other reasons, also.

Mr. RIBICOFF. Mr. President, will the Senator yield on my time?

Mr. SCHMITT. I am happy to yield, on the time of the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, when I came to the Senate in 1963, the first conversation I had in this body was with the distinguished Senator from Washington. He said to me:

Abe, you're out of HEW and you're now in the United States Senate. Please help me get education out of HEW.

I said:

Warren, I can tell you that from the first week I was in HEW, I felt that education did not belong there.

HEW was and has become a bureaucratic monster. It is impossible for them to handle all the constituencies affected by it.

We are the only country in the world that puts together in one department health, education, and welfare.

Mr. MAGNUSON. And labor.

Mr. RIBICOFF. What is very interesting is that in a period of 12 years, we have had 13 different Commissioners of Education. A Commissioner of Education goes in HEW with stars in his eyes, feeling he is going to do something for education; and he is so closed in and inundated by the bureaucracy that nothing happens with education.

We are spending billions of dollars for education, and we really are not giving the taxpayers of this country or our children what they should be getting from the taxpayers' money.

In 1963, I introduced a bill for a Department of Education. I felt then and all these years that the time has come, and the time is now, to give the children of this country, a Department of Education to help them, not hinder them, because education has been deteriorating in this country.

Mr. MAGNUSON. I thank the Senator.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. SCHMITT. Mr. President, I yield to the Senator from Alaska for the purpose of his moving in sequence ahead of my next amendment and to offer his amendment relative to Indian education.

The PRESIDING OFFICER (Mr. RIEGLE). The Chair will recognize the Senator from Alaska as soon as we have order in the Chamber. I ask the Senator to suspend for a moment.

Mr. STEVENS. I thank the Chair.

Mr. PRESIDENT, I ask unanimous consent that the order for presentation of my amendment be changed so that it will follow the first Schmitt amendment and that his two other amendments follow the vote on my amendment which would then become pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3588

(Purpose: To eliminate the transfer of Indian education programs from the Secretary of the Interior to the Secretary, and for other purposes)

Mr. STEVENS. Mr. President, I call up the amendment again.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 3588.

The amendment is as follows:

On page 48, strike out line 1.

On page 48, line 2, strike out "(C)" and insert "(B)".

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 48, line 13, strike out "(J)" and insert "(I)".

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, strike out lines 3 through 7.

On page 51, beginning with the word "programs" on line 3, strike out through the word "individuals" on line 6 and insert "certain programs relating to the education of Indians, Alaskan Natives, and Aleuts".

On page 56, line 8, strike out "section 304" and insert "section 303".

On page 56, beginning with line 15, strike out through line 13 on page 58.

On page 58, line 16, strike out "SEC. 212." and insert "SEC. 211.".

On page 59, line 6, strike out "section 305" and insert "section 304".

On page 59, line 11, strike out "SEC. 213." and insert "SEC. 212.".

On page 60, line 4, strike out "SEC. 214." and insert "SEC. 213.".

On page 60, line 12, strike out "SEC. 215." and insert "SEC. 214.".

On page 66, line 2, strike out "SEC. 216." and insert "SEC. 215.".

On page 75, strike out lines 7 through 24.

On page 76, line 3, strike out "SEC. 304." and insert "SEC. 303.".

On page 77, line 14, strike out "SEC. 305." and insert "SEC. 304.".

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 82, beginning with line 23, strike out through line 12 on page 83 and insert the following:

"(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.".

On page 86, between lines 9 and 10, insert the following:

"(J) Office of Indian Education;".

On page 86, line 10, strike out "(J)" and insert "(K)".

On page 86, line 11, strike out "(K)" and insert "(L)".

On page 87, strike out lines 9 and 10.

On page 87, line 11, strike out "(4)" and insert "(3)".

On page 87, line 14, strike out "(5)" and insert "(4)".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 107, beginning with line 20, strike out through line 15 on page 112.

On page 112, line 18, strike out "SEC. 511." and insert "SEC. 510."

On page 113, line 2, strike out "SEC. 512." and insert "SEC. 511.".

On page 113, line 19, strike out "SEC. 513." and insert "SEC. 512.".

On page 40, in the table of contents, strike out item Sec. 211. and redesignate items Sec. 212. through Sec. 216 as items Sec. 211 through Sec. 215., respectively.

On page 40, in the table of contents, strike out item Sec. 303. and redesignate items Sec. 304 through Sec. 309, as items Sec. 303. through Sec. 308., respectively.

On page 41, in the table of contents, strike out item Sec. 510. and redesignate items Sec.

511. through Sec. 513. as items Sec. 510. through Sec. 512., respectively.

Mr. STEVENS. Mr. President, I ask unanimous consent that Paul Cooksey, of Senator SCHWEIKER's staff, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, will the Senator yield for a similar request?

Mr. STEVENS. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Polly Gault, Carol Minton, Michael Maloof, and Mary Ann Simpson have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, for the information of the Senate, I presented this statement and had a discussion with the manager of the bill last week.

We have 40 minutes on each side. It is my hope that we can agree to have a vote at 6:30, because there are two committee meetings scheduled to start at 7.

I would like to vote on this amendment at 6:30, and we would enter into an agreement to share the time, if the manager would agree.

Mr. RIBICOFF. It is satisfactory to me.

Mr. GOLDWATER. I have spoken at great length on this. I would like to offer a few words.

Mr. STEVENS. I will reserve 5 minutes of my time for the Senator from Arizona.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered.

Mr. STEVENS. Will the Chair inform me when I have 5 minutes remaining, so that I may yield that time to the Senator from Arizona?

The PRESIDING OFFICER. The Chair will do so.

Mr. STEVENS. Mr. President, I am pleased to say that Senator JACKSON, who has been the chairman for many years of the committee having jurisdiction over Indian affairs, as well as Senator GOLDWATER, Senator YOUNG, Senator CHILES, Senator ANDERSON, Senator BARTLETT, Senator CHURCH, Senator HUMPHREY, Senator HANSEN, Senator BURDICK, Senator GRAVEL, Senator MATHIAS, Senator MCCLURE, Senator HAYAKAWA, Senator STONE, and Senator MORGAN support this amendment and are cosponsors of it.

With a few exceptions, we represent Indian country, and we have been asked to speak for the Indian people who, if they were here, would plead with Senators not to transfer the functions of the Bureau of Indian Affairs to the new Department of Education without their consent.

Last week, the National Congress of American Indians, representing 143 tribes, met at Rapid City, S. Dak. They unanimously—I repeat, unanimously—passed a resolution in support of this amendment.

In addition, the National Indian Education Association, the American Indian Higher Education Consortium, the Coalition of Indian Controlled School Boards, the American Indian Scholarships, the Association of American Indian Physicians, and the Governors' Interstate Indian Council all are on record, as well as the National Tribal Chairmen's Association, which represents 190 tribal chairmen, in asking us to present this amendment and to secure its adoption in the Senate.

I could repeat all the arguments that have been made; but, for myself, the argument that makes the most sense is the one they presented themselves when I chaired the hearings of our committee on the subject.

They told me:

> Self-determination and the Educational Assistance Act have not been in place long enough for us to make the progress that should be made on our own in managing and controlling our own destiny.

They asked me for additional time before their programs are combined with those of the Department of Education. It is not a position that says that they would never consent to merging the functions of Indian education with the Department of Education.

They say that if self-determination means anything, the Indian control over Indian issues, on which we promised we would listen to them, then the whole spirit of self-determination, will be violated if Congress does not listen to them as they represent their people in telling us they do not support this move.

The chairman, I am sure, will say there has been consultation. Yes, we sent them questionnaires. He will say, and others will say, there are important Indian people who support the bill and oppose my amendment. That is true. But the overwhelming majority of those who are elected to represent Indian people in their councils and in national organizations support this amendment and pleaded with me as a representative of our committee when just by chance I was selected to chair the hearings that day. I committed to them that I would present this amendment and I would urge the Senate to listen to them as elected representatives of the Indian people in their plea to Congress not to do this, not to transfer the Indian functions of education to the new Department of Education without their consent.

I would be pleased to answer any questions any Member of the Senate might have on this issue, but, as I said, for myself it is a matter of representation. The people, the Indians and the Alaska Natives have elected to represent them in their councils and to come and present their views to Congress did come and they almost without exception—stated to the committee on the record, and have communicated with us since this amendment was filed, the overwhelming mandate they have from the Indians and Native people of the country to oppose this transfer at this time.

I hope the Senate will listen to these people who have been elected to represent those of our citizens who are of Indian or Native descent.

Let me yield to my good friend from Arizona. I am proud to have his support on this amendment.

Mr. GOLDWATER. I thank my friend from Alaska.

Mr. President, what we are dealing with here are not children of families that speak English. In fact, what very few of us realize is that there are 400 Indian tribes living in the continental United States and there are 300 more living in the State of Alaska. The great majority of these tribes still speak their native tongue.

In my State where 20 percent of all the Indians of America live, we have 15 different tribes who speak three different basic languages.

This is a problem that we are not faced with in the non-Indian or white man schools where they speak a common language, but that is only the beginning, Mr. President.

They not only speak a language that is completely and absolutely foreign to us or any of our academics, I know of only two Indian languages that are being taught in this country, and it is virtually impossible to learn one of them.

On top of that, Mr. President, we have their culture, and I have to say this sadly. For many, many years it was one of the purposes of the BIA to try and convince the Indians that their culture had to go. We have been successful, I have to say, in the last 10 or 15 years in convincing the Bureau of Indian Affairs that Indian culture is probably the only basic culture we have in this country.

I do not care whether you live in Maine or California or Texas or North Dakota, the Indians were here first, and the culture that they developed is still the basic culture that affects our lives, affects the names of our States, the names of our cities, and the names of our streets. It is the culture that has developed the beautiful artifacts that we now find almost impossible to buy on the market, the culture that is making it possible for Indians to make a decent living now and it is becoming more and more so.

Then we have the matter of religion. This is something we do not have to put up with with our children. As to our white children, when they go to school, be they Gentile or Jewish, regardless of the religion they are following, the education has no bearing on it. They do not try to influence them.

However, for years it was the effort of the Bureau of Indian Affairs to convince the Indian family that our God was better than theirs. Now, thank that same God, we have been able to convince the BIA that this is bad

I am not convinced that an educational organization such as is being sought here would not go right back to the ideas of the BIA because we do not have enough experienced people in the National Education Association. I do not know one of them who would not have a hard time telling an Indian from a white man.

So I am for this Stevens amendment, representing as I do 20 percent of the Indians in this country. It is not that I am standing up here and saying that the Bureau of Indian Affairs has done a fantastically good job in education. They have done a bad job. In fact, it would be hard to conceive of a worse job being

done. But I do not have the kind of respect for the National Education Association that many people do. I do not think that education in the primary schools of our country has improved one bit under the Department of Health, Education, and Welfare. I think it has gotten worse. I do not think there is a country in the world that has a worse system of education to educate their young people in the elementary levels than we have today.

I do not want to see my Indians turned over to a group like that. I know it sounds good to turn all of these children, regardless of their background, over to one educational system. I would much rather as one individual have something to say about the education of my grandchildren at the elementary level. I do not want somebody sitting back here 2,500 miles away in the city of Washington describing the kind of a teacher or the kind of books or the curriculums that my grandchildren are going to have to put up with in Arizona and California.

I would like to see us doing it the old-fashioned way, and I will guarantee you when I went to grammar school I was not the brightest thing that ever came around the post, but, by golly, I learned how to write and read and get 2 and 2 to come out 4.

Today what do we find in our colleges? Almost every college in America has a noncredit freshman class to teach students who graduated from high school how to read, write, and add. And yet we want to make a Department of Education. Frankly, I would like to do away with any Federal education.

If we are going to give the money, write out a check and send it to the Governor and say, "This is for education." But do not send along a lot of bureaucrats who do not know anything about it to tell the people in our States how to spend it.

And that is particularly true in an area where we are just beginning to know something about what these Indians want in the way of education. They want to learn English. But they do not want to be told that English is the language that they have to use.

They want to learn Apache, they want to learn Hopi, they want to learn Navajo, and at the same time learn English.

They want to be taught about their culture. We have classes out in my State now that will teach a Navajo girl how to weave a blanket, one of the most beautiful basic cultural arts in this country, and yet the BIA was trying to tell them they should not waste their time weaving blankets; they ought to be doing something else. What, I do not know.

The PRESIDING OFFICER. The Senator's time has expired.

UNANIMOUS-CONSENT REQUEST

Mr. STONE. Mr. President, I ask unanimous consent that I be permitted to call up a House message for the purpose of appointing conferees and that the time not be charged to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the distinguished Senator from Connecticut, the floor manager, for allowing me to make this request.

AGRICULTURAL TRADE ACT OF 1978

Mr. STONE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3447.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3447) entitled "An Act to strengthen the economy of the United States through increased sales abroad of American agricultural products", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Agricultural Trade Act of 1978".

TITLE I—AGRICULTURAL COUNSELORS

SEC. 101. Title VI of the Agricultural Act of 1954 is amended—

(1) by amending the title to read "TITLE VI—FOREIGN MARKET DEVELOPMENT";

(2) by inserting immediately before section 601 the subtitle designation "SUBTITLE A—GENERAL";

(3) by inserting immediately before section 602 the subtitle designation "SUBTITLE B—AGRICULTURAL COUNSELORS AND ATTACHES";

(4) in section 602(a), by striking out "this title" and inserting in lieu thereof "subtitle A";

(5) in sections 602(b), 602(e), 604(a), 604(b), and 605, by striking out "this title" and inserting in lieu thereof "this subtitle";

(6) in section 602(b), by (A) striking out "Attache" and inserting in lieu thereof "Counselor, Agricultural Attache,", and (B) adding at the end thereof the following new sentence: "An Agricultural Counselor shall be appointed in any country—

"(1) to which a substantial number of governments with which the United States competes directly for agricultural markets in such country assign agricultural representatives with the diplomatic status of counselor or its equivalent; or

"(2) in which—

"(A) the potential is great for long-term expansion of a market for United States agricultural commodities, and

"(B) competition with other countries for existing and potential agricultural markets is extremely intense."; and

(7) in section 604, by adding at the end thereof the following new subsection:

"(c) Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to officers and employees appointed and assigned to a post abroad under this subtitle in the performance of the functions of such officers and employees. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities made so available.".

TITLE II—ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

SEC. 201. Title VI of the Agricultural Act of 1954 is amended—

(1) by inserting immediately before section 606 the subtitle designation "SUBTITLE D—REGULATIONS AND AUTHORIZATION FOR APPROPRIATIONS"; and

(2) by adding immediately after section 605 the following new subtitle:

"SUBTITLE C—UNITED STATES AGRICULTURAL TRADE OFFICES

"SEC. 605A. (a) The Secretary of Agriculture shall establish abroad not less than six and not more than sixteen United States Agricultural Trade Offices at locations where the Secretary, with the concurrence of the Secretary of State, determine that such establishment could contribute significantly to the development, maintenance, expansion of international markets for the United States agricultural commodities.

"(b) Each United States Agricultural Trade Office shall be administered by a United States Agricultural Trade Officer who by reason of training and experience is exceptionally qualified to carry out the purposes of this title. Such Officer shall be appointed by the Secretary of Agriculture and may be an Agricultural Counselor or Attaché appointed under subtitle B of this title.

"(c) Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that (1) no Agricultural Trade Officer may be paid basic pay at a rate in excess of the maximum annual rate of basic pay then payable for GS-17 of the General Schedule under section 5332 of such title, and (2) no such Officer may be paid at a rate in excess of the highest rate paid to an Agricultural Counsel or Attaché, as the case may be, who is appointed under subtitle B to the country in which such Officer is to serve.

"(d) Each Agricultural Trade Officer shall be responsible for the exercise of the functions of the United States Agricultural Trade Office, and shall have the authority to direct and supervise all personnel and activities thereof.

"(e) In order to carry out the functions of the United States Agricultural Office, the Secretary of Agriculture may appoint such other personnel as he determines to be necessary and may, with the concurrence of the Secretary of State, assign such personnel abroad and employ local nationals for necessary professional and clerical help.

"(f) No employee of the United States Agricultural Trade Office while serving in such position may engage in any business, vocation, or other employment or have other interests which are inconsistent with his official responsibilites.

"(g) Upon the request of the Secretary of Agriculture, the Secretary of State shall request the host country to provide to Agricultural Trade Officers and personnel of United States Agricultural Trade Offices diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

"(h) Each Agricultural Trade Officer shall, through the Agricultural Counselor or Attache appointed under subtitle B who is attached to the United States Diplomatic Mission in each country in which the United States Agricultural Trade Office administered by such Officer exercises its functions, keep the Chief of each such Mission fully and currently informed with respect to all activities and operations of such Office.

"SEC. 605B. In addition to such other functions as the Secretary of Agriculture, in consultation with the Secretary of State, may designate, the functions of each United States Agricultural Trade Office shall be to—

"(1) increase the effectiveness of United States agricultural export promotion efforts, provide services and facilities for foreign buyers and trade representatives, and coordinate market development activities sponsored by the Department of Agriculture;

"(2) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

"(3) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities would aid in the conduct of market develop-

ment activities, and cooperate, to the maximum extent practicable, with such cooperators, groups, and individuals to expand the level of United States agricultural exports:

"(4) develop and maintain a current listing of trade, government, and other contacts for each commodity area and make available such listing to persons with a bona fide interest in exporting or importing United States agricultural commodities;

"(5) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

"(6) supervise project agreements with United States cooperators, and coordinate the activities of the United States Agricultural Trade Office with those of the cooperators; and

"(7) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means.

"SEC. 605C. Each United States Agricultural Trade Office shall carry out its functions pursuant to section 605B in the country where the United States Agricultural Trade Office is located and in such other countries as the Secretary of Agriculture, in consultation with the Secretary of State, may prescribe in order to carry out the purposes of this subtitle.

"SEC. 605D. Upon the request of the Secretary of Agriculture, the Secretary of State may use the authorities contained in the Foreign Service Buildings Act, 1926, to acquire sites and buildings, including living quarters, for the purpose of establishing United States Agricultural Trade Offices.

"SEC. 605E. United States Agricultural Trade Offices should be centrally located in order to facilitate foreign trade contacts and foreign trade reliance on such Offices for assistance in marketing activities.

"SEC. 605F. Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to a United States Agricultural Trade Office in the performance of its functions. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities made so available.

"SEC. 605G. Any Agricultural Trade Officer and either the Agricultural Counselor or Attaché assigned to a country, as the case may be, may, under regulations prescribed by the Secretary of Agriculture, be entitled to receive a representation allowance in an amount determined by considering (1) the extent to which such Agricultural Trade Officer, Counselor, or Attaché can effectively utilize such funds to further the purposes of this title, (2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary, and (3) customs and practices in the country where such Agricultural Trade Officer, Counselor, or Attaché is assigned.

"SEC. 605H. The provisions of section 604 (a) of this title shall app'y with respect to personnel appointed and assigned under this subtitle.".

TITLE III—INTERMEDIATE COMMERCIAL CREDIT

SEC. 301. Section 4 of the Food for Peace Act of 1966 (89 Stat. 1538; 7 U.S.C. 1707a) is amended—

(1) by inserting "(a)" immediately after "SEC. 4.";

(2) by striking out the second sentence thereof; and

(3) by adding at the end thereof the following new subsections:

"(b) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation. Such credit may be extended only for—

"(1) the sale to a foreign country of grain necessary to establish or maintain a reserve stock of such grain pursuant to obligations of such country under any international grain agreement; or

"(2) the sale of breeding livestock, including the cost of export freight.

"(c) The Secretary of Agriculture shall, before any extension of credit under subsection (b) is approved, consult with the Secretary of State concerning such extension.".

TITLE IV—TRADE WITH NONMARKET ECONOMY COUNTRIES

SEC. 401. Subject to the provisions of section 402, notwithstanding any other provision of law denying nonmarket economy countries eligibility to participate in programs of the Government of the United States, any such country may be eligible to participate in any program carried out by the Commodity Credit Corporation (other than under the Agricultural Trade Development and Assistance Act of 1954) under which credit, credit guarantees, or investment guarantees, not to exceed three years, are extended, directly or indirectly.

SEC. 402. The Commodity Credit Corporation may not extend any credit, credit guarantee, or investment guarantee to any country, as provided in section 401, for the purchase of any agricultural commodity during a calendar year—

(1) unless such country purchases during such calendar year a quantity of such commodity which exceeds the average annual quantity of such commodity purchased by such country during the three-calendar-year period of 1975–1977; and

(2) unless the Corporation receives reasonable assurances from such country of repayment by the country in accordance with the terms under which such credit, credit guarantee, or investment guarantee is extended.

Such credit, credit guarantee, or investment guarantee may be extended only with respect to the excess referred to in paragraph (1).

SEC. 403. No country within the meaning of section 103(d)(1) of the Agricultural Trade Development and Assistance Act of 1954 shall be eligible to participate in any program referred to in section 401.

TITLE V—REORGANIZATION

SEC. 501. It is the policy of the Congress to emphasize the importance of commodity programs and international affairs and to upgrade these functions in the administrative structure of the executive branch.

SEC. 502. (a) There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise the functions and perform the duties related to foreign agriculture and to agriculture stabilization and conservation (described in 7 CFR 2.21 (1977)) and shall perform such other duties as may be required by law or prescribed by the Secretary of Agriculture.

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof a new paragraph (67) as follows:

"(67) Under Secretary of Agriculture for International Affairs and Commodity Programs.".

(c) The position of Assistant Secretary of Agriculture for International Affairs and Commodity Programs is hereby abolished.

SEC. 503. The provisions of this title shall take effect on October 1, 1978.

TITLE VI—GENERAL PROVISIONS

SEC. 601. (a) The Secretary of Agriculture shall implement the provisions of this Act as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs.

(b) The Secretary may issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 602. The Secretary of Agriculture shall submit to the Congress each year a report providing a comprehensive statement of the activities and accomplishments of the Department of Agriculture, including specifically those of the United States Agricultural Trade Offices, in developing, maintaining, and expanding foreign markets for United States agricultural commodities.

SEC. 603. The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing the effectiveness of the export sales reporting provisions of section 812 of the Agricultural Act of 1970. The Secretary shall submit, not later than January 3, 1979, a report of the findings of the task force, including legislative recommendations for improving such reporting provisions, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

SEC. 604. Within six months following the enactment of this section, the Secretary of Agriculture shall submit to the Congress a report detailing the impact on American agriculture of title IV of the Trade Act of 1974, including a recommendation as to whether the provisions of such title should be repealed or amended.

SEC. 605. Nothing in this Act shall be construed to diminish the authority of the Secretary of State, or any Chief of a United States Diplomatic Mission, under any other provision of law.

Amend the title so as to read: "An Act to strengthen the economy of the United States through increased sales abroad of American farm products.".

Mr. STONE. Mr. President, I move that the Senate disagree to the amendments of the House on S. 3447 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. CLARK, Mr. STONE, Mr. ZORINSKY, Mr. HODGES, Mr. DOLE, Mr. BELLMON, and Mr. LUGAR conferees on the part of the Senate.

Mr. STONE. Mr. President, I thank the Chair, and I thank the distinguished chairman and floor manager, the Senator from Connecticut.

DEPARTMENT OF EDUCATION ORGANIZATION OF 1978

The Senate continued with the consideration of the bill.

Mr. RIBICOFF. Mr. President, Indian education in this country is a mess. The achievement rates of Indian students are below the national average. Dropout rates for Indian children at the elementary and secondary level exceed 50 percent. Dropout rates for Indian students in posteducation institutions exceed 75 percent.

I would like to read from a letter sent to all our colleagues by Senator ABOUREZK who is chairman of the Senate Select Committee on Indian Affairs. I do not be-

lieve there is another Member of this body who has been devoted and so involved with the problems of Indians. I quote:

There is not an Indian in this country who can honestly say that the BIA has been sufficiently responsive to the educational needs of Indian people.

For the past 130 years, the BIA has failed miserably in providing Indian people with a quality education. I have no reason to expect that it will ever make any real effort to improve Indian education.

The proposed transfer does not represent a long-term attempt to dismantle the BIA. Nor will such a transfer change the special relationship between the government and the Indian tribes and Indian people in any way.

I believe that S. 991 protects the interests of Indian people and represents a sincere effort by the Federal Government to improve the quality of Indian education in this country.

Mr. President, I ask unanimous consent that the letter of Senator ABOUREZK, dated September 26, 1978, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 26, 1978.

DEAR COLLEAGUE: Within the next few days the Senate is expected to vote on final passage of S. 991, the Department of Education Bill. S. 991, as reported by the Senate Governmental Affairs Committee, provides for the transfer of both HEW's Office of Indian Education and the education functions of the Department of Interior's Bureau of Indian Affairs (BIA) into the proposed Department of Education.

Currently pending is an amendment by Senator Stevens which would delete the transfer of Indian programs out of the BIA in the Department of the Interior into the newly created Department of Education.

My position on this amendment represents one of the most difficult decisions I have made since I have been in politics. As Chairman of the Senate Select Committee on Indian Affairs, my policy has always been to attempt to accomplish legislatively what the tribes have indicated they want done to further their progress toward self-sufficiency. This marks the first time that I have significantly departed from that policy.

As you are aware, a great many of the Indian tribes—not all of them, but a great many—are opposed to the transfer of Indian education functions out of the BIA. The relationship of the Indian tribes and the BIA is a kind of love-hate relationship. In fact, the tribes severely and vehemently dislike the BIA and the patronizing attitude and manner with which the BIA treats tribes and Indian people. Yet, they are protective of the BIA because they feel that it is all they really have. There is not an Indian in this country who can honestly say that the BIA has been sufficiently responsive to the educational needs of Indian people.

Without doubt, the quality of educational programs being offered to Indian children today is simply and unjustifiably bad. There is no comprehensive Federal strategy for Indian Education. Under existing policy, there is a Deputy Commissioner for Indian Education in the Office of Education in HEW and a Director of Education in the BIA—with little or no coordination between the two. Since 1966 the average tenure of the Director of Education in the BIA has been nine months.

For the past 130 years, the BIA has failed miserably in providing Indian people with a quality education. I have no reason to expect that it will ever make any real effort to improve Indian education. No amount of in-house reorganization in the BIA will ever correct the severe institutional deficiencies which thwart the delivery of effective educational services. Clearly, the BIA's record over the past 130 years does not warrant maintaining educational programs in that agency.

The proposed transfer does not represent a long-term attempt to dismantle the BIA. Nor will such a transfer change the special relationship between the Government and the Indian tribes and Indian people in any way.

The goal of S. 991 is to improve the delivery of educational services to Indian people, while maintaining these special relationships. It is my sincere hope that by placing the various Federal educational programs in one Department, the Congress will for the first time mandate a comprehensive and responsible approach to the delivery of Indian education services.

As someone who has been active in Indian issues for a great many years, I take particular interest in this piece of legislation. I believe that S. 991 protects the interests of Indian people and represents a sincere effort by the Federal government to improve the quality of Indian education in this country. It is for these reasons that I urge you to support S. 991, as reported by the Senate Governmental Affairs Committee, with the improving Dominici amendments, and to oppose any efforts to delete the transfer of Indian education programs from S. 991, the Department of Education Bill.

If you have any further questions or need any additional information on this matter, please feel free to contact Mimi Mager of my staff (45852).

Sincerely,

JAMES ABOUREZK,
Chairman, Senate Select Committee on Indian Affairs.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I have spoken on this issue before. I am particularly concerned about the high rate of unemployment among the American Indians. We have had a great many migrate to Chicago, and our principal problem is one of finding employment for them. We have some 20,000 there, and their biggest problem has been the lack of education.

Our primary responsibility now, I should think, would be to insure, after all these years, that we find a method of giving the highest possible quality education to them. Unfortunately, education is not the primary responsibility of BIA.

Just like with the Department of Defense, where an amendment to delete that transfer was tabled by an overwhelming margin just a few moments ago, the same reasoning prevails here. BIA's responsibility is not education. In S. 991 we do establish an Office of Indian Education headed by an Assistant Secretary for Indian education, thus assuring priority attention in the new department.

I would simply say, as one Senator deeply concerned about the state of the American Indians—and we have our distinguished colleagues who know a great deal about it and who have lived with it most of their lives—we have a great responsibility in the Senate, if we do move Indian education into the Department of Education to oversee, to make absolutely certain that very high priority is placed on Indian education by the Department of Education, and that we do not have a continuation of the abysmal situation we now have.

For these reasons, and the reasons I have previously given, I do oppose the amendment offered by our distinguished colleague.

Mr. RIBICOFF. Mr. President, I yield the remainder of my time to the distinguished Senator from New Mexico.

Mr. GOLDWATER. Mr. President, will the Senator yield so that I might answer one small point the Senator has made?

Mr. DOMENICI. Surely.

Mr. GOLDWATER. Mr. President, the figures the Senator from Illinois has used are correct. But you have to look at the basic problem. The largest Indian tribe in this country is the Navajos. Almost 22 percent of all the Indians we have are Navajos. They are a semi-nomadic people. They do not live in towns. They live in little groups, family groups, maybe 10 or 12 people.

It may be 150 miles to the nearest school. This is the problem you have in Chicago, we have in Phoenix, you have in Los Angeles. When an Indian leaves the reservation and you say he is not educated, it is virtually impossible under any system to get these children to go to school, No. 1. The families need them to herd the sheep; they need them to pick the piñon nuts, so they grow up to be young men and women without having been exposed to school.

When they have the chance to go to school they are superb students. There is no child in America with a higher IQ than the Hopi child.

Mr. RIBICOFF. Mr. President, will the distinguished Senator yield? I only have 5 minutes left and all this is being charged to us.

Mr. GOLDWATER. I thank the Senator.

Mr. DOMENICI. I was delighted to yield to my good friend from Arizona.

It is not with great pleasure that I am here opposing two of my best friends who know a lot about Indian problems, my good friend from Arizona and, as I indicated the other day, Senator STEVENS from Alaska, whose interest in Indian problems is second to none. But I come from a State also with a substantial Indian population. I have 19 pueblos. They are a different kind of Indian than the Navajo, but, nevertheless, they are native American Indians.

There is a substantial disagreement among Indian people on what we ought to do. But those particular Indian people, the 19 pueblos in my State, support the transfer. I am going to just tell the Senate why I think they do.

First of all, I believe they are completely convinced that while the Bureau of Indian Affairs may have great expertise in some areas, there can be no question that they have run a less than second-rate Indian education program. It is absolutely a disgrace. The facts have been cited.

My Indian people are saying, "So long as you protect certain rights that are ours, the trust relationship, the fact that there will be Indian preference, the fact that Indians ought to be involved in advising, the fact that there will be a department or a special arm of this new department that will help with Indian education," they say, "we cannot lose."

The reason they say it is because things are not working now. I know the good Senator, Senator RIBICOFF, had the same problem on Indian health. At some point in American history we decided that the way to help our Indian people was to have a Bureau of Indian Affairs, and then as delivery systems evolved in this country we put them all under this Bureau, so we had them delivering health when they did not know anything about health.

We finally took it away from them and gave it to the professionals who deliver health. There is nobody who can argue that their health problems are such that they are not significantly better off than they were under the Bureau of Indian Affairs.

The same thing exists here, and I believe the Senate ought to exercise the responsibility here to say since it is not working, since we protected the Indian people's rights, and their rights are very peculiar and sacred, since we have a trust relationship with them nationally, it is not just whether or not we want to educate; with the Indian people we have a trust relationship that we are going to furnish them with education.

I think there is little gamble here. As Senator ABOUREZK indicated the other day, some Indian leaders are afraid because the Bureau of Indian Affairs has them worried that this is the beginning of the dismantling of the relationship. It is dismantling nothing in terms of the trust relationship. We are just saying, "Let us try the Department of Education to professionally run education for Indian children."

It is with regret that I have to oppose the good Senator from Alaska, but I believe the Senate would be making a decision in favor of helping the young Indian people of our country have a chance at education, where we have failed miserably to this point.

I fail to see the risk. If it does not work, it is not working now. If it does not work, they have not lost a trust relationship, they have not lost any of the things that they have.

Maybe we can find some other way to deliver the service. but all the risks are on the side of right here, of trying to do what we should have been doing from the beginning in spite of the difficult circumstances.

I agree with the good Senator from Arizona that it is difficult to develop a program of education in this field. But why should we assume that the Bureau of Indian Affairs under the Department of the Interior is apt to do a better job than the Department of Education?

I do believe this is one instance when we ought to go ahead and do what is right.

The only argument I have heard is that we did not counsel with them in advance, and that does have an impact on me. But I believe in the process of developing this legislation they have been counseled with. I have read the record and they have been here from all over the country. They have appeared and testified and stated their concerns.

I say to my good friend from Alaska that every one of their major concerns, as they testified in opposition, has now been included in this bill either as it came to the floor or when we proposed and adopted the Domenici amendment, which added four additional protections and desires they were talking about in the hearings.

So I truly believe that there is no gamble here at all, because when there is a gamble usually you think there is a chance of losing. I submit there is no chance for the Indian people to lose here. What can they lose, when we have done such a poor job to this point? We protected their rights in committee, and we are giving them a fresh start and a golden opportunity for finding ways to provide education for the young Indian people of our country.

I hope that the Senate will vote against the Stevens amendment, and transfer this function to the Department of Education.

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, I ask unanimous consent to have 30 seconds to put in the RECORD a resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. The National Congress of American Indians passed a resolution last week which took note of the Domenici amendment, and stated this:

Whereas, there is pending legislation to create a separate Department of Education (S. 991/H.R. 13343) that would transfer many education programs presently housed in other agencies into this Department, and

Whereas, the overwhelming majority of Tribes have gone on record in opposition to transferring B.I.A. Education into the new Department, and

Whereas, the U.S. House of Representatives has respected the wishes of Tribes in its actions thus far by deleting the transfer of B.I.A. Education from their version of the bill (H.R. 133430), and

Whereas, Senator Stevens and twelve other Senators have cosponsored an amendment in concert with the wishes of the overwhelming majority of the Tribes, which will delete the transfer of B.I.A. Education from the bill, and.

Whereas, Senator Domenici and Senator Melcher have introduced a conflicting "Indian" amendment that transfers B.I.A. Education, and

Whereas, the simultaneous introduction of two different "Indian" amendments has created confusion for Senators who do not know which Indian amendment the Tribes want them to support;

Now therefore be it resolved, that the Tribes of the National Congress of American Indians oppose the Domenici/Melcher Indian Amendment;

Be it further resolved that the Tribes of NCAI endorse and support the Senator Stevens Indian Amendment.

The resolution was adopted by representatives of 143 tribes on September 19, 1978.

● Mr. KENNEDY. Mr. President: I applaud consideration on the Senate floor of legislation to establish a Department of Education. As a cosponsor of this measure and a member of the Subcommittee on Education, I strongly urge my colleagues to support it.

Education is essential to the well-being of our democracy, for, in an ignorant country the people cannot choose. And. education is essential to the well-being of the people who reside in our democracy for it is the basis of the developments in the arts and sciences which are the hallmark of a progressive and civilized society.

That is why the people of America care so much about education. State and local governments spend more on education—close to 40 percent of their budgets—than on any other item. Schooling is universally available and universally required. The proportion of children who start school earlier and continue longer has increased year by year.

It is time, Mr. President, that we show the same concern on the Federal level. The Federal Government must not usurp the place of the States and localities in providing education. But, we must insure that we do all that we can to help the States and localities provide equal opportunity education of high quality. Education in this country needs help today, and we must give our assistance. The bill which the distinguished Senator from Connecticut has crafted and brought to the floor does this admirably.

It is difficult to focus Federal attention on educational needs within the HEW context. HEW is overwhelmingly concerned with health and welfare issues and the Secretary has little time to devote to education. Education should become the focus of a Cabinet official, who has the resources and the time to devote to making the Federal effort more effective. The offices that have been established within this new Department indicate the increased attention we will be able to give to the various aspects of education: offices for elementary and secondary education; postsecondary education; occupational, adult and community education; civil rights; research and improvement; special education and rehabilitative services.

Mr. President, this legislation not only increases Federal attention to education but achieves many other objectives as well

The bill emphasizes the need for citizen involvement in the educational process. Such involvement can be the touchstone for better education. It has always been a primary concern of mine—from parental involvement in the education of native Americans, to parental involvement in education for the educationally disadvantaged. As the committee report notes:

One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required by law and to encourage the involvement of parents, students and the public in the development and implementation of the Department's programs.

The bill strengthens our ability to insure equal educational opportunities for all individuals. The Office of Civil

Rights in the Department is given more prominence, is insulated from programmatic pressures, and its Director will report directly to the President, Secretary, and Congress.

The new Department will allow for much better coordination of Federal programs for elementary and secondary education. In addition, an assistant secretary who is responsible for the delivery of all services to students, schools, and boards of education will have the capacity to respond to the overall needs of these people. The current fragmentation leaves educators on the local level no one to turn to when their problems go beyond the specific legislation administered by some official. An important focus of the new Assistant Secretary will be to insure the availability of Federal programs to all those who are eligible. Fewer than half the eligible students are being served through title I of the Elementary and Secondary Education Act; fewer than 10 percent of the eligible students are being served by bilingual education programs. The Assistant Secretary should see how we can most effectively utilize our resources in these areas.

The new Department would also be able to make substantial contributions to the effective support of post-secondary education and of occupational, adult, and community education by the Federal Government.

Altogether, a new Department of Education will indicate that we, at the Federal level, recognize the Federal responsibility to assist local and State governments in their educational efforts. No more should education take a back seat. For, in education lies the future.

Mr. President, I have two concerns with the Department of Education bill before us. One, the transfer of Indian education to the new Department, I will address now. The other, the place of science education, I will address at the appropriate time.

In the 91st Congress I chaired the Special Subcommittee on Indian Education of the Committee on Labor and Public Welfare. The hearings and investigations of the subcommittee filled 4,077 pages in 7 volumes. We found the condition of Indian education was no less than shocking. Compared to other Americans, far more Indians were illiterate; the average level of education was far lower; the dropout rates in secondary schools were far higher; far fewer Indians went on to college and far fewer of those who went subsequently graduated.

In response to our findings, the subcommittee made 60 recommendations for changes in the way Indian education programs are run. Among them, we recommended a series of specific objectives for educational opportunities for Indians and the establishment of a Select Committee for Indians. We suggested vastly increased participation and control by Indians of their own education programs; that the BIA Commissioner in Interior be raised to an Assistant Secretary; that a National Indian Board of Indian Education be established with the authority to set standards for Federal Indian schools; and that Indian boards of education be established for Indian school districts. We recommended special programs to meet the needs of Indian children—for culturally sensitive curricula and bilingual educational efforts. Stimulated in part by these recommendations, then Senator WALTER MONDALE and I authored title IV of the Indian Education Act of 1972. But our special subcommittee made no recommendation as to whether educational efforts should be removed from BIA, stating instead:

> Because we believe it critically important that the Indians themselves express their voices on this matter, we have suggested that it be put high on the agenda of the White House Conference on American Indian Affairs.

That conference never took place and the position of Indian education in the Federal structure was left open.

The bill reported by the committee moves all of the educational programs currently run by the Bureau of Indian Affairs to the new Department of Education. It establishes an Assistant Secretary position and a separate office to run Indian education programs.

I understand the concerns being addressed by the committee in making this change, nonetheless, I disagree with the decision and will vote against the transfer.

The Governmental Affairs Committee notes in its report on this bill that Indian education is divided between programs in BIA and the Office of Education. The quality of the programs run by BIA is still not acceptable. The Director of Education is submerged within the BIA and Interior bureaucracies, meaning that educational concerns are not given the attention that they deserve. The position of education in this hierarchy is reflected in the fact that Directors of Education have lasted an average of 9 months each in the last 12 years.

But, when these facts are considered in context, the argument for transfer is seriously weakened. Educational quality has increased in BIA in the last 10 years. Changes in the structure of the BIA and its educational efforts have recently been enacted by both the House and Senate in the Elementary and Secondary Education Act and these changes promise an even more responsive BIA program.

Bifurcation of Indian programs between Education and BIA will make it more difficult for tribes to develop comprehensive tribal planning. Most importantly, the vast majority of the tribes deeply desire for the programs to stay in BIA. This last consideration—the voice of the Indian people—was the consideration which moved us 9 years ago; it is the consideration which must be most powerful now.

While we must do all we can to further improve the educational opportunities for Indian children, we should not denigrate those strides which have been made in the last 10 years, under BIA. The number of students in the higher education grant program has gone from 2,660 to 20,000; the daily attendance in BIA schools is now up to an average of 82 percent. This is still too low, but is better than attendance in many big city systems. The number of tribally operated contract schools has gone from 2 to 35; in the past 5 years the number of Johnson-O'Malley contracts has gone from 4 to 121. Boarding school enrollment has decreased by 9,000. Changes in BIA structure, incorporated in the ESEA reauthorization, which make the local educators responsive to the national Director of Education rather than the BIA Area Administrator promise a better performance in the future.

So, too, we must consider the place of education in the total tribal context. Separation of programs and their dispersal throughout the Federal bureaucracy will hinder Indian self-determination efforts. Different regulations, different forms, different definitions will make it more difficult for tribal governments to enter comprehensive government-to-government relationships with the Federal Government. So, too, the fragmentation of Federal efforts for Insponsibility. This must be a grave consistent application of Federal trust responsibility. This must be a grave concern. There must be a place in the Federal Government which is primarily responsible for overseeing the Federal relationship with Native Americans.

Finally, the most important factor which leads me to conclude that education should stay in BIA is the overwhelming desire of those affected by the program that it stay there. There is an elementary principle of self-determination. While it is true that the Federal Government can organize itself as it wishes, the fact is that, in this instance, we are organizing to be of service to Indians; their views on how we can best be of service should receive foremost consideration. The groups which reflect the concerns of Native Americans have stated their desire that education stay in BIA: the National Tribal Chairmen's Association wants it there, the National Congress of American Indians wants it there.

Mr. President, for these reasons I believe that this body should decide to leave education of Indians in BIA, and should not transfer it to the Department of Education. There is no question that the Governmental Affairs Committee has addressed itself to real concerns in making the transfer. There is no question that the committee has tried to meet many of the concerns which have been voiced about the transfer. But many of the concerns cannot be safeguarded in the new Department, but inhere in the transfer itself. Their concerns are fundamental. Native American education should stay in the Bureau of Indian Affairs.●

The PRESIDING OFFICER. All time has expired.

Mr. GOLDWATER. Mr. President, I ask unanimous consent to have 30 seconds to respond to the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GOLDWATER. I do not want the Senator from New Mexico to think I am defending the BIA. If you want to introduce an amendment to do away with the BIA, I will support it, or vice versa.

I have talked with six different Presidents to do away with the BIA.

But my argument is that American elementary education being in the mess it is in, I do not want to mess up Indian education further by turning it over to a bunch of people who are making our American educational system the worst in the world.

Mr. DOMENICI. Now I want 30 seconds, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. If we had a resolution in to get rid of the Bureau of Indian Affairs, we would have unanimous Indian resolutions here, just as we do in this case, saying "Don't get rid of them."

Mr. GOLDWATER. No, you would not.

Mr. DOMENICI. Yes, you would, because the fear of God has been put into them that if the Bureau goes, they lose all their rights. So it would have no more support from the Indian people than the transfer proposal before us has.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment (No. 3588) of the Senator from Alaska (Mr. STEVENS). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Arkansas (Mr. HODGES), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. ABOUREZK) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Idaho (Mr. MCCLURE) would each vote "yea."

The result was announced—yeas 47, nays 39, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—47

Bartlett	Garn	Morgan
Brooke	Goldwater	Nelson
Bumpers	Griffin	Packwood
Burdick	Hansen	Sarbanes
Byrd, Harry F., Jr.	Hart	Sasser
Byrd, Robert C.	Hatch	Schmitt
Chafee	Hatfield, Paul G.	Scott
Chiles	Hayakawa	Stafford
Church	Helms	Stennis
Cranston	Hollings	Stevens
Curtis	Humphrey	Stone
DeConcini	Inouye	Thurmond
Dole	Jackson	Tower
Durkin	Kennedy	Wallop
Eastland	Laxalt	Weicker
Ford	Lugar	

NAYS—39

Bellmon	Heinz	Pell
Bentsen	Huddleston	Percy
Biden	Javits	Proxmire
Cannon	Leahy	Randolph
Case	Long	Ribicoff
Clark	Magnuson	Riegle
Culver	Matsunaga	Roth
Danforth	McGovern	Schweiker
Domenici	Melcher	Sparkman
Eagleton	Metzenbaum	Stevenson
Glenn	Moynihan	Talmadge
Gravel	Muskie	Williams
Hathaway	Nunn	Zorinsky

NOT VOTING—14

Abourezk	Haskell	Mathias
Allen	Hatfield, Mark O.	McClure
Anderson	Hodges	McIntyre
Baker	Johnston	Pearson
Bayh		Young

So the amendment (No. 3588) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Knox Walkup of Senator SASSER's staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

When we proceed, we have additional amendments by the Senator from New Mexico. As soon as we are in order, I shall recognize the Senator for his amendments.

AMENDMENT 3621

(Purpose: To delete the transfer of programs from the National Science Foundation to the Department)

Mr. SCHMITT. Mr. President, the next amendment I shall offer, I shall try to go through as briefly as possible. I think some setting of the record is important. It has to do with the transfer of the education programs from the National Science Foundation to the proposed Department of Education.

The PRESIDING OFFICER. The Chair has to interrupt to ask the Senator to call up his amendment so it may be reported.

Mr. SCHMITT. Mr. President, I shall do that if the clerk can pick that amendment out. I have lost track of the number right now.

The PRESIDING OFFICER. The Chair asks, Is it the one that deals with the transfer of the National Science Foundation?

Mr. SCHMITT. It deals with the National Science Foundation.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT proposes an amendment numbered 3621.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, beginning with the word "Improvement" on line 21, strike out through the dash on line 23, and insert the following: "Improvement all functions transferred from the Secretary of Health, Education, and Welfare—".

On page 58, line 24, strike out "(A)" and insert "(1)".

On page 58, line 26, insert "and" after the semicolon.

On page 59, line 1, strike out "(B)" and insert "(2)".

On page 59, line 3, strike out the semicolon and the word "and" and insert a period.

On page 59, strike out lines 4 through 6.

On page 77, beginning with line 12, strike out through line 10 on page 78.

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 40, in the table of contents, strike out item "SEC. 305. Transfers of functions from the National Science Foundation.".

On page 40, in the table of contents, renumber items SEC. 306. through SEC. 309. as items SEC. 305. through SEC. 308., respectively.

Mr. SCHMITT. Mr. President, the importance of science and technology in providing for both the high standard of living which we find in the United States and the defense needs of our Nation cannot be overestimated. The answer to many of the problems which we as a Nation face lies with advances in science and technology. The transfer of science education programs from the National Science Foundation will not meet the goal of improving science education in this Senator's opinion. As Charles Saunders of the American Council on Education stated in testimony before the House Subcommittee on Legislation and National Security:

> The location of the Education Directorate within the National Science Foundation affirms the importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both . . .

Mr. President, I have to agree wholeheartedly with that statement, having had most of my active professional career and associated both with science education and scientific research.

The science community is strongly opposed to this proposed transfer. The American Association for the Advancement of Science, the National Science Board, and Representative RAY THORNTON, chairman of the House Subcommittee on Science, Research and Technology testified against this transfer, as have many others.

Higher education associations are also opposed to this provision of S. 991. Ten organizations including the American Association of State Colleges and Universities, the American Council on Education, and the National Association of State Universities and Land-grant Colleges were represented in House testimony against the proposed transfer.

The House subcommittee by a vote of 5 to 2 deleted from the House version of S. 991 the provision which transfer science education programs from the National Science Foundation to the Department of Education. The full Committee rejected an attempt to reinstate this transfer into the bill by a vote of 3 to 21.

I hope my colleagues will find that they can support this particular amendment.

Mr. President, as I have indicated, the science community is strongly opposed to the proposed transfer. This includes the American Association for the Advancement of Science. Up until very recently, it included the National Science Foundation and it does include the National Science Board.

Mr. President, I should like to quote extensively from the statement by the National Science Board relative to this matter as adopted unanimously at their April 21 and 22, 1977, meeting:

The possible establishment of a Department of Education in the Federal Government involves a wide variety of considerations, most of them not primarily involving science. The National Science Board therefore takes no position on the issue of establishing such a Department.

THE NATIONAL SCIENCE FOUNDATION AND THE SUPPORT OF SCIENCE

It has been recommended by some that the National Science Foundation (NSF) be made part of a new Department of Education. The National Science Board strongly opposes any such suggestion. The fundamental objective of the Foundation is and should remain the health of basic science in the Nation, including both its research and education components.

This Senator emphasizes the expression "both its research and education components."

Science focuses on the creation of new knowledge, and its effective teaching depends on that knowledge. The process of research is an activity distinct from education, and its impact extends far beyond education. Hence, an independent agency is science effectively.

The present organization has served the Nation well, in part because of the special nature of the policy oversight and quality control responsibility of the National Science Board. Through the National Science Board and the peer review process, a close and effective relationship between the scientific community and NSF has developed. The Board and the Foundation have been remarkably successful in effectively using limited resources to support and develop a high quality basic science program in the United States.

The National Science Board concludes that this would not be in the best interests of science or the Nation, because activities in scientific research and science education are inextricably linked.

In particular, the National Science Board believes that it is important that the initiatives for science education remain close to the science community, for at least three reasons:

Science education must reflect current scientific knowledge and techniques.

The science content of science education must be accurate as well as current.

A major purpose of the science education enterprise is to ensure an adequate and continuous flow of talented people into scientific work.

The present arrangement provides for an effective linkage between science education and research. It has achieved maior successes in the past two decades, despite quite limited resources. The National Science Board strongly recommends that this arrangement be maintained.

Mr. President, the Vice Chairman of the National Science Board, my good friend, Dr. Grover E. Murray, formerly of Texas Tech University, testified before the Subcommittee on Legislation and National Security in the House of Representatives. I should like to present now excerpts from that testimony:

The National Science Foundation deals with educational institutions of all levels and at all locations. Science education, therefore, contributes substantially to the geographic distribution of NSF funding.

For these and other reasons, therefore, the National Science Board considers science education an integral part of the Foundation's scientific activities, as has the Congress since 1950.

In its wisdom in 1950, the 81st Congress, which included at that time my Congressman, Mr. Mahon, passed Public Law 507, the NSF Act of 1950. In that Act the Congress welded together scientific research, technology, and science education, and directed the National Science Board and the director to do certain things, which are spelled out in the statutory act, sections 3(a)(1) to (5), 3(d) and 3(e), and others, and I would appreciate it if they are entered into the record.

Mr. President, I ask unanimous consent to have those sections printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM SECTION 1 (PUBLIC LAW 507—81ST CONGRESS) (64 STAT. 149) (S. 247) AS AMENDED.

FUNCTIONS OF THE FOUNDATION
(42 U.S.C. § 1862)

SEC. 3. (a) The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 10, scholarships and graduate fellowships in the mathematical, physical, medical, biological, engineering, social, and other sciences;

(3) to foster the interchange of scientific information among scientists in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific methods and technologies, primarily for research and education in the sciences;

(5) to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups.

(d) The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

(e) In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be an objective of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

This union has worked well. For nearly 30 years the National Science Foundation has contributed significantly to the improvement of education in science, engineering, technology, and related fields.

Quoting again:

Additionally, Mr. Chairman, and gentlemen, the National Science Board believes that pluralism in science education is as important as pluralism in science support. Neither will profit from a single centralized support base. We believe that monopoly is as bad and as detrimental as duplication; that neither is strictly desirable, and that an intermediate position is needed, for example, some pluralism, plus coordination.

The Board believes additionally that science should be represented in any Department of Education which is created. But we do not believe that it should be concentrated or isolated there. We feel that science and technology are too important to the Nation to be organized or to be structured in such a manner that they could conceivably be dominated detrimentally by other things or activities.

Quoting again:

Finally, I am deeply impressed that a very large, vast majority of the national higher educational organizations of this country which have testified before you to date, representing all levels and qualities of performance and including the 50-odd Land Grant Colleges and State Universities, have advocated that continuation of the present system would be in the interest of the health of our scientific and technological educational efforts. And I speak only about the National Science Foundation and science education programs there and not about the Department of Education.

Mr. President, I think, although one might argue the scientific community is speaking with a vested interest, the unanimity of this vested interest has to carry a great deal of weight in this deliberation.

If we in the Congress and in the Government are going to ignore the recommendations of all of the people most expert in a given field, then we are going to do so at very great peril to the Nation.

Mr. President, initially, as late as April 10, 1978, the National Science Foundation was on record as opposing the transfer of its educational functions to the Department of Education. Since that time they have come into line with the administration position.

But let me quote from the April 10, 1978 letter by Richard Atkinson, Director of the National Science Foundation, to the President:

NATIONAL SCIENCE FOUNDATION,
Washington, D.C., April 10, 1978.

PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I agree with your view that a Department of Education could enhance the ability of the Federal Government to serve the cause of quality education for all of our citizens.

Given a well-conceived plan for a Department of Education, an argument can be made for transferring the National Science Foundation's (NSF) Science Education programs to that department. However, the new department, as proposed by the Reorganization Committee, does not have a discernible rationale and does little more than add the

science education programs of NSF to the general education programs of HEW. Such a department would not provide effective management for science education activities. I urge you to reject the Reorganization Committee's recommendations regarding the transfer of NSF programs for the following reasons:

NSF's Science Education programs are highly specialized activities and qualitatively different from the education programs of HEW. If NSF's Science Education programs are kept intact in the new department, they will form an anomalous unit that will be too small to be effective (less than 1/200 of the department's budget); if instead they are dispersed throughout the new department, they will lose their identity and effectiveness.

Science Education at NSF, though relatively small (about $78 million or 1/12 of the NSF budget), continues to have an enormous impact on the quality of American education. This is because of the thorough integration of NSF's education programs with its research activities and because science education at NSF attracts and encourages the Nation's best scientists to become active in education. Uncoupling science education and scientific research would have a negative effect at all levels—elementary schools, high schools, and colleges.

For these reasons, the National Science Board joins me in strongly opposing the transfer of the NSF Science Education programs to the proposed Department of Education.

Sincerely yours,

RICHARD C. ATKINSON, *Director*.

Mr. President, since that time, of course, it is only fair to say Mr. Atkinson has changed his mind.

Finally, Mr. President, I would direct the attention of my colleagues to the testimony of Charles B. Saunders before the Subcommittee on Legislation and National Security, Committee on Government Operations, House of Representatives.

Mr. Saunders is vice president for governmental relations, American Council on Education, a council that represents many of the major associations and councils involved with education, particularly education at the college and university level.

Mr. President, I ask unanimous consent that a list of those associations be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

American Association of State Colleges and Universities.

American Council on Education.

Association of American Colleges.

Association of American Universities.

Association of Catholic Colleges and Universities.

Association of Jesuit Colleges and Universities.

Council for the Advancement of Small Colleges.

National Association of Independent Colleges and Universities.

National Association of State Universities and Land-Grant Colleges.

Mr. SCHMITT. Mr. President, I quote briefly from Mr. Saunders' testimony:

H.R. 13343 would transfer a number of programs from other agencies to the new Department. We oppose transfer of the National Science Foundation's Education Directorate (or for that matter any other part of that appropriately independent Foundation), as provided in Section 305. Most members of the higher education community believe that the location of the Education Directorate within the National Science Foundation affirms the importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both, by depriving them of their mutually supportive relationship.

These programs should be developed and administered with a sensitivity to the science and research environment on campus in which they will function. They should be staffed by professionals, some on temporary assignments from colleges and universities, who are familiar with existing NSF academic science research and training programs and with emerging educational needs and training opportunities. A staff in a separate Department, isolated from the Foundation's research environment, in our view, would neither bring the same perceptions and experience to these programs nor attract the quality of experienced individuals drawn to them by the unique research environment of the Foundation. We see no reason to disrupt the present relationship, with the reduced effectiveness which would be bound to occur, for the sake of adding another agency to the new Department of Education.

Mr. President, there is one consistent theme throughout everything that has been said by others on this issue. It is a theme I personally would reemphasize again and again.

Again quoting from Mr. Saunders, as well as others:

The importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both, by depriving them of their mutually supportive relationship.

Mr. President, I do not know what else can be said but to emphasize that that is the essential unanimous opinion of everybody who has been involved in science, scientific research, and scientific education.

I have been involved in all of those for most of my professional life. I am still involved in it. I cannot say too strongly to my colleagues that this is probably one of the most serious mistakes we are going to make if we continue along this line with the creation of the Department of Education.

Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF addressed the Chair.

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I oppose the amendment of the Senator from New Mexico. It should be kept in mind, the total science education programs in NSF are $77.6 million. The programs transferred are $56.3 million of that amount—approximately 7 percent of the overall NSF budget this year. The programs transferred are concerned with faculty development, school and undergraduate programs, which include science teaching and curricula. The graduate research training and scientists-nonscientist communications programs and certain ethical, value and science policy issues which are applicable to NSF's broader agency mission would remain at NSF.

The transfer does not preclude the NSF from launching new science education initiatives. S. 991 specifically states that NSF's authority is not prohibited from initiating any new programs with respect to science education. NSF would be in a position to complement Department of Education activities by focusing on innovative projects. The new department will work closely with NSF.

Basic research is a highly important national investment, and NSF will pioneer some major new research projects in the physical and biological sciences over the next decade. During these years, the Department of Education will concentrate on translating the research information and findings to school-age students and their teachers.

Responsibility for encouraging more women, minorities and persons who are physically handicapped—all of whom are terribly underrepresented in scientific and technical careers, will also remain in the NSF.

Thus, this move will not take NSF out of those areas of priority to which Congress has designated in both authorizing and appropriation language.

The transfer of these programs was supported unanimously by the Governmental Affairs Committee. The committee's support includes that of Senator JOHN GLENN, whose subcommittee has jurisdiction over Government research joins with me in supporting this transfer.

The bill provides for an Office of Educational Research and Improvement. The science and education functions would be transferred intact to this Office. This Office will be involved in assisting educational research, development, and improvement. These science education programs transferred are concerned with these activities and, because they are transferred intact, will be highly visible in this Office. Thus, the programs transferred fit well with the entire mission of this Office and with the new Department.

The education division now supports projects worth millions of dollars which deal with science education and curricular development, such as environmental education, metric education, and science and math projects. It supports research relating to teaching subjects including science, math, and the use of instructional technologies. For example, the Department of Education can be expected to assist with problems associated with the poor quality of science and mathematics programs in our schools, but only if it has the appropriate resources and scientifically trained staff—which this bill provides. The programs transferred to the new Department would help provide a unified focus in this area and will allow teachers and educators to work with the scientific community so that scientific curriculums and materials are well developed. Thus educators will be able to lend their support for science education.

We are aware of declining trends in scientific achievement among school-aged children. The National Assessment of Educational Progress reports this year that "in high schools, youth continue downward trend in science despite the ever-growing demands of a technological society."

The main responsibility for improving science knowledge and skills among all youths and adults will lie with our 16,000 schools systems, community colleges, and

State departments of education. These are the institutions that will work closely with, and will be served by, the Department of Education. The priority and emphasis of improving science in our schools can be reinforced by establishing at the outset a strong and visible science unit in the Office of Educational Research and Improvement, established by S. 991.

In testimony before the committee Phil Smith, Assistant Director, Office of Science and Technology Policy testified that the transfer of these programs would offer distinct advantages in those cases where there is a desirability of implementing on a wide basis activities characterized by knowledge dissemination, the widespread introduction of new educational technologies and the training of professionals, such as teacher training programs. The programs transferred are consistent with this approach.

In summary, science education transfers from NSF, which represent less than 7 percent of NSF's entire budget, will not change the overall mission of the NSF.

Our transfer will assure visibility and status for science education, as Science education programs will be no less than one-fourth the size of the newly created "Research and Improvement Office."

The opportunity to influence and improve science education and related programs by their placement in the new Department will be increased. Programs relating to science education already existing in the Office of Education would be combined with NSF's programs to give science education even more prominence in the new Department. Committee report language assures close linkages between the Department of Education and NSF.

NSF will continue its role to initiate science education programs deemed necessary, and to monitor the research and science education programs of all Federal agencies, including the Department of Education.

Continuation of graduate-level fellowships and traineeships and almost all of its science and society education programs (over $20 million of funds) would remain in NSF.

I urge defeat of the Schmitt amendment to delete this transfer.

Mr. President, I ask unanimous consent that a statement by the Senator from Massachusetts (Mr. KENNEDY), together with attachments, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. KENNEDY

I comment on the pending amendment to remove from the Department of Education legislation those provisions which require the immediate transfer of science education programs from the National Science Foundation to the new Department.

The Subcommittee on Health and Scientific Research, which I chair, has had the opportunity to review science education programs in considerable detail over a period of close to ten years. During that time we have heard extensive testimony on the accomplishments which have been made in science education through N.S.F. support, as well as on some areas where improvement still remains to be made.

Most recently, we heard testimony from a number of science education groups, from the Director of the National Science Board and from the Director of the National Science Foundation. They pointed out some very valid concerns with regard to the proposed transfer.

Following the hearings, the Subcommittee heard from a wide range of individuals and groups who expressed strong opposition to the immediate transfer of these programs. These groups include:

American Association for the Advancement of Science.

National Science Teachers Association.

American Association of State Colleges and Universities.

American Council on Education.

Association of American Colleges.

Association of Jesuit Colleges and Universities.

Council for the Advancement of Small Colleges.

National Association of Independent Colleges and Universities.

National Association of State Universities and Land-Grant Colleges.

National Catholic Educational Association's College and University Department.

National Science Board.

Director, National Science Foundation.

Committee on Minorities in Engineering, National Research Council.

American Chemical Society.

Mathematical Association of America.

American Mathematical Society.

We have also been in touch with the Science Advisor to President Johnson, Dr. Donald Hornig; the Science Advisor to President Kennedy, Dr. Jerome Weisner; and the Science Advisor to President Nixon, Dr. Edward David. All have expressed their opposition to the proposed immediate transfer. The text of Dr. David's letter together with a recent editorial from Science magazine follows:

AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE,
Florham Park, N.J., July 31, 1978.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to urge you to oppose the reorganization legislation which would transfer NSF's principal science education programs to the new Department of Education.

Over the years, the Science Foundation has been quite successful in putting genuine science and mathematics into the school curriculum. The Foundation has also had a substantial beneficial effect on teaching at all levels. This effectiveness of the NSF Program is to be admired because of the narrow line they have to tread between federal and local authority in determining the curriculum content. As you well appreciate, NSF has not always avoided such politically-based pitfalls, but overall its performance has been remarkedly good in my opinion. Today there is a new role to be played by NSF in science education. It is that of educating the non-science student for living in a technologically-based world. This goal of technological literacy will in my opinion be even more difficult to achieve than bringing true science into the curriculum as NSF has already done.

I believe that the transfer of these programs to a new large Department of Education would submerge them to a low priority and relegate them to ineffectiveness. The primary concern of the education people is and will continue to be instructional techniques, teaching theory and educational evaluation, not the substance of new curriculum materials. The essential interaction between the NSF education programs and the research activities of the Foundation would be lost. This is a critical coupling for first rate science education development.

I would be glad to amplify these remarks should you so desire. I hope you can play the important role of maintaining science education programs where they can be most effective; namely, in the Science Foundation.

Yours sincerely,

EDWARD E. DAVID, Jr.

SCIENCE

ANOTHER GO AT FEDERAL EDUCATION

There is something beautiful and good in the vision of Cabinet rank for education. There is to be a seat at the table at last, in the heady company of defense, foreign affairs, and energy. There is a hopeful glimpse of new political power, built on a unified education constitutency. Such is the spell wrought by the sorcery of reorganization.

Whether a remodeled government architecture ensures more equality and vitality in education in the United States is by no means clear. To paraphrase Thomas Huxley, size is not grandeur and territory does not make an educated nation. In the past three decades, federal education priorities have zigged and zagged and it is hard to put a name to what has come out of them, although there is evidence that federal leverage played a large role in opening up educational opportunity and that science curricula took a turn for the better. But given the built-in aversion to federal authority over the education process, expectations for striking change were too optimistic. The President sees balkanization of federal responsibility as a problem, and to an extent he is right. But pretentious efforts at reorganization are unlikely to make a difference unless driven by new consensus strategies, which to date have not turned up.

If little is to be gained by reorganizing federal education programs, the next question is whether something is to be lost. It is not an idle question, given the jarring news that the National Science Foundation is to be stripped of most of its science education programs. Although science education in NSF is not what it once was, it still commands and deserves respect in the scientific community. The prospect of its assimiliation by the conglomerate department of education is unsettling, since no bill of particulars has been presented to show that a superagency would do more than distribute mediocrity uniformly.

Time was when science education made up half of the NSF budget, compared with only 8 percent of a larger budget now. If we understand the government's intentions, NSF's statutory charter for science education would not be revoked even though its programs would be handed off. Puzzling as that may be, what is even more troubling is the severing of science education from the major-purpose agency concerned with the state and progress of science. In a new education department dispensing $18 billion the forlorn science education component would amount to two-tenths of a percent. One recalls a cherished footnote in federal budgets: "Totals may not add due to rounding." It is hard to believe that so frail a unit in so vast an empire could compete effectively in a contest of priorities.

In the absence of wars and space competitions, the importance of science education may not seems impressive to the reorganization experts. But only weeks ago the President was stressing the importance of science to our principal national purposes and calling for a new surge of technological innovation. He was right on both counts. If scientific research is a necessary public investment, surely it follows that science education is an equally necessary investment. Indeed, if a choice had to be made between more dollars for research and greater efforts in science

education, the case for the latter would be stronger. Human resources make or break investment in research.

Science education is not a priority that we have outgrown. As the knowledge base expands, increasing pressure is put on teaching. Both the proficiency of instruction at the secondary level and the effectiveness and competence of career counseling have profound meanings for higher education. A public which is asked to cope with difficult problems of choice in matters of health, consumerism, energy, and environmental balance can hardly assess uncertainty in the absence of better science education. There is a large and vexing job to be done. Government, which calls most of the signals for science, should be the first to understand this.

Mr. KENNEDY. Moreover, earlier this month the Office of Technology Assessment, on whose Governing Board I serve, issued a report entitled "Impact of a Department of Education on Federal Science and Technology Activities". That report which was issued just a few days before the beginning of the floor debate in the Senate, raises some serious concerns about the impact of the proposed immediate transfer.

The following excerpt from our most recent Committee Report on scientific research and education programs summarizes our Committee's view of the problems which must be taken into account in considering the transfer of science education programs from the NSF to the Department of Education:

DEPARTMENT OF EDUCATION

The creation of a separate Department of Education has potential for improving the quality of education and expanding educational opportunities. Nevertheless, the committee is concerned about the advisability of transferring the Nation Science Foundation's science education programs to the new Department. The committee will want to be assured that science education functions are placed where they can be of the greatest value and where they can be managed most effectively. Experience gained in almost three decades of funding science through the NSF shows that science education benefits greatly from close ties with basic and applied research. These ties must be retained if quality science education is to be achieved.

The National Science Board, in a statement regarding the role of science in the proposed Department of Education, has pointed out that activities in scientific research and science education are inextricably linked, and that science education can only be kept current when direct and continuous contact is maintained between the research and science education communities. Maintaining accuracy as scientific research reports and results are transformed into materials suitable for scientific instruction also requires close contact between the scientific research and science education communities. Well balanced programs with adequate numbers of well prepared students in appropriate courses at the elementary, secondary, undergraduate, and graduate levels are also required in order to insure that the Nation's scientific research effort does not falter.

Major successes with limited funds can be achieved only through careful agreement on objectives and personal communications among scientists and science educators. The committee is concerned that this balance may not be maintained in an agency with the divergent priorities and restraints that would be inherent in the much broader mission of general-purpose assistance to education.

The committee is concerned that science education might not receive sufficient emphasis in a large departmental setting. Federally supported science education efforts are a very small fraction of total educational costs funded at the national level. They account for less than one half of 1 percent of more than $17 billion in programs that are now planned for transfer to the new Department of Education. It is important that science education not be submerged or subordinated to other educational goals. Continued U.S. scientific and technological strength depend on a vigorous and healthy science education enterprise. To promote the necessary leverage to effect beneficial change, science education activities must have clear visibility in any reorganization of federally supported education activities. While these concerns could be met in a new Department of Education, they raise questions concerning the advisability of transferring the NSF science education programs to the new Department. For these reasons, the committee advises caution in reorganization actions involving the transfer of science education functions which are now the responsibility of the National Science Foundation.

The transfer of NSF's science education activities to a new Department would also have a dramatic effect on the distribution of NSF support. Science education programs account for total NSF support to more than 300 colleges and universities now participating in NSF activities. These institutions are widely dispersed geographically, and a transfer of the Foundation's science education activities to the new Department would significantly narrow the geographical distribution of NSF awards. NSF has used science education as a means for upgrading the capacity of academic institutions in various fields of science. These efforts have been closely integrated with Foundation supported basic and applied research activities. These coordinated efforts have made it possible to involve these institutions in a wider range of NSF activities. Separating science education from the Foundation's research activities would seriously impair these complementary activities.

The committee recognizes that the structure and format of the new Department of Education might satisfy all of the above concerns. However, since the future strength of U.S. science is at stake in the proposed reorganization, the committee urges all involved to take note of the concerns expressed in this report. An objective should be to maintain a highly visible and strong science education program that will retain close ties with the U.S. scientific community.

Before proceeding to a more detailed discussion of the persuasive arguments which have been made against the proposed immediate transfer I would like to thank the distinguished and able Chairman of the Committee on Government Affairs (Senator Ribicoff) for the dedicated efforts that he and his staff have made to make S. 991 responsive to the concerns of scientists and science educators. His Committee Report makes it very clear that there will be a continuing role of N.S.F. in science education. The bill itself specifies that the following N.S.F. supported programs are to be exempt from the proposed transfer:

(1) fellowships and traineeships integral to the support of scientific research and development

(2) ethical, value, and science policy programs

(3) programs which communicate science information to nonscientists.

The bill maintains the N.S.F.'s statutory authority to initiate and conduct science education programs, and provides for consultation between the Secretary of the new Department and the Director of the N.S.F.

I appreciate the effort the Committee has made to adjust the provisions of S. 991 to meet some of the concerns which have been raised. Nevertheless, I continue to feel that the Senate should work for final approval of legislation which does not include immediate transfer of science education programs. Some of the most persuasive arguments in support of this position follow:

(1) The transfer of science education programs from the National Science Foundation may result in reduced participation by the scientific community in the substance of science education programs. This participation has been a key element in the success of N.S.F.'s science education programs. It is carried out smoothly and effectively by the Foundation, which is in continuing contact with the Nation's leading experts in all fields of science. Mr. President. I am concerned that in the new Department this close cooperation will be difficult to achieve. The scientific research community is not expected to have the same kind of on-going contacts with the new Department that now exist with the N.S.F. And although the Committee report calls for continuation of this participation, this directive will be extremely difficult to implement.

(2) Science and science education should not be separated. The N.S.F. has been able to achieve significant improvements in science education because the Foundation is involved not only in the educational process but in new developments in all disciplines of science. The Foundation has a strong record in assuring that its efforts to stimulate pre-college and college students to pursue careers in science are undertaken in a manner which takes into account emerging fields of science and the need for a balanced scientific workforce. N.S.F. programs provide a continuum of encouragement beginning in a student's earliest years and follow that student through graduate, post-graduate and research activities. I am concerned that the proposal to place graduate and undergraduate science education programs in separate agencies of government will stand in the way of the development of the scientific human resources we need to maintain our nation's preeminent position in scientific research.

(3) N.S.F.'s pre-college and college science education programs have helped to strengthen the awareness of the scientific research community of the need for stronger ties and cooperation with the public as a whole. In the past, the scientific research community has not placed high priority on the participation of non-scientists or on the need to increase public understanding of the impact of science and technology. This is a responsibility to which the research community is now beginning to respond. In recent years, significant steps have been taken towards resolving the lack of communication which has characterized relationships between scientists and non-scientists. An important element in that process has been the presence in the N.S.F. of programs which focus on the needs of persons who require a sound understanding of scientific principles—even though they may not plan to go on to careers in science. To move these programs—programs conducted primarily in two and four year colleges—away from the N.S.F. and out of the immediate sphere of concern of the scientific community may stand in the way of continued progress in the constructive dialogue which has developed in recent years.

(4) the statute of N.S.F. as an independent agency contributes importantly to the ability of science education and research programs to be free of partisan considerations. Through its 25 year history as an independent agency. Its Director serves a 6 year term. The legislation authorizing its programs and their implementation by the

Foundation have been moved forward with a minimum of partisan differences and have won wide support on both sides of the aisle. The scientific community, the public and experts in a wide range of science and science education fields have played key roles in assuring that N.S.F. programs respond not to partisan pressure but to needs evaluated and met through careful peer review and consultation with independent experts. This process, while it has not always been without short-comings, is a far better one than a process which may be susceptible to inappropriate intervention. The new Department may not provide this remarkable nonpartisan atmosphere and may result in a situation in which inappropriate intervention could threaten the integrity of science education.

(5) The N.S.F. Science Education Directorate is now headed by an educator with both scientific and educational credentials. The appointment of Dr. James Rutherford to be Assistant Director of N.S.F. for Science Education was a major step toward further strengthening these programs. Dr. Rutherford is highly respected in both the scientific research and education communities. Since he came to the Foundation, science education programs have increased their focus on a range of issues too long neglected. This new emphasis includes increased participation by minorities, women and handicapped in science. It includes a new awareness of the needs of precollege students—both those who will go on to careers in science and those who need a fundamental understanding of the principles of science in order to function effectively in a society in which science and technology are playing an increasing role. An interruption in this new emphasis and strong direction should be avoided in order to maintain the important progress which has been made.

(6) The $56 million in N.S.F. science education programs proposed for transfer in the Committee bill would have little or no leverage or visibility in a Department with a budget of close to $20 billion. The science education program is a small one. It has been able to maintain its momentum in the N.S.F.—a much smaller agency than the agency envisioned in the Committee bill. Placing this small program in a very large agency may result in a lack of oversight and weak direction. The science education programs may be lost in the efforts of the Congress and the Executive Branch to come to grips with a new multi-billion dollar agency. This situation could seriously affect the continued progress of science education and the ability to monitor emerging needs.

(7) The N.S.F. Act assigns N.S.F. the responsibility for science education. Without a change in the enabling legislation, a shift of N.S.F.'s operating programs could place N.S.F. in an untenable position. N.S.F. will continue to be responsible for science education—but will have virtually no programs through which to carry out that responsibility. This split in authority could cause significant problems in assuring a concerted effort to strengthen science education—and may make it impossible for N.S.F. to carry out its statutory mandate.

(8) The proposed transfer is not essential to the success of the new Department and could be accomplished once the new Department is in place and the future of science education programs could be better assured. The success of the new $20 billion Department does not hinge on whether or not $56 million in science education programs become a part of its authority at the outset. A hasty transfer may result in a situation in which the transferred science education programs are brought to a standstill for a period of 12 to 18 months while the new Department gets underway. There is no compelling reason for this kind of interruption. Once the new Department is established, it may be possible to move the science education programs smoothly to it, without the kind of disruption which would be caused by an immediate transfer. This nation cannot afford an interruption in the improvement of science education—particularly when transfer at a later time could be accomplished without this kind of disruption.

I have discussed these concerns with the Chairman of the Senate Committee on Governmental Affairs. He has assured me that every effort will be made to respond to them.

We have agreed that a good opportunity to deal with these issues, rather than through the amendment being offered today, would be in the House-Senate Conference on S. 991 and the companion bill in the House has eliminated the N.S.F. from the new Department. This was done in the House by roll call vote in Subcommittee and reaffirmed by a roll call vote in the full Committee.

I want, at this time, to give my full support to the efforts of Senator Ribicoff to go into that Conference with the most comprehensive legislation possible. The pending amendment would remove one key element from the agenda for negotiation with the House. I do not support this course.

Rather, I urge the Chairman and the Senate Conferees, if we are successful in turning back the pending amendment, to evaluate carefully the position taken by the House when they go to Conference. It is my own view, as well as the view of virtually every science educator with whom I have spoken, that the correct policy position would be one which resulted in a final bill which did not require immediate transfer of science education programs to the new Department.

I hope this objective can be achieved through Conference with the House, after the Senate conferees have had the opportunity to review the information which has been developed since the Committee's initial action on S. 991.

I urge my colleagues who support the concept of a Department of Education to join in the position I have taken with regard to resolving the science education issue in conference.

Mr. SCHMITT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I have comments that probably would take 3 or 4 minutes. I will be happy, if there is any time pressure on our colleagues, to yield for a colloquy at this time.

Mr. ROTH. Mr. President, during consideration of S. 991 in the Governmental Affairs Committee, I was pleased that my colleagues unanimously consented to amendments offered by Senator Danforth and myself to clarify the language in the bill to assure the rights and prerogatives of State and local governments in the educational process. There has been a long tradition in this Nation of local control over education. This tradition is guaranteed by the constitutional requirements of the 10th amendment, which have been underscored by the Supreme Court in the case of National League of Cities against Usery. In that case the justices held that the States have the freedom under the 10th amendment "to structure integral operations in areas of traditional governmental functions." The court said these functions are those "which governments are created to provide, services which the States have traditionally afforded their citizens." (*Usery*, 426 U.S. 833, 851, 852 (1976).) No tradition in this country is stronger than local control over schools, and no local governmental function in America is more traditional than education. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent. It should be made explicitly clear that the intention of S. 991 is to preserve the prerogative of the traditional role of education as a function of State and local governments and private institutions.

There are currently approximately 300 Federal education programs scattered throughout 40 Federal agencies. In creating a Cabinet Department of Education it is hoped that the management and coordination of these programs can be substantially improved and ease the burden on the State and local governments of the multiple, duplicative, and often conflicting regulations which have resulted from this fragmentation of the education effort. It should be noted, however, that effective management does not mean more control. The responsibility for education policy and curriculum will remain at State, local, and private levels. The rights of State, local, and tribal governments and public and nonpublic education institutions shall be maintained and protected in the areas of program content and administration of programs as well.

A Cabinet-level Department of Education should supplement and complement the efforts of State, local, and tribal governments, the private, public, and nonpublic institutions, education research institutions, community organizations, and parents and students to improve the quality of education for all Americans. This is where the resources at the disposal of the Federal Government can best be used. The bill establishes an Intergovernmental Advisory Council on Education. The purpose of this council is to conduct studies and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education. It will serve as a forum to bring the opinions and ideas of those persons involved in the educational process to the attention of the Department. From this perspective the Council is a valuable component of the new Department to supplement and complement State and local efforts to meet the Nation's education needs.

I can think of nothing else that so affects all Americans as education. I can think of no other area where Americans insist more upon a strong local control than education. Education is vital to our country's sustenance and well-being. Education is crucial for good government as it provides the road for an informed public which is the key to an effective democracy. I believe that education is a priority which deserves Cabinet-level status and thus I have cosponsored this bill. My distinguished colleague Mr. Ribicoff, as chairman of the

Governmental Affairs Committee and chief architect of this bill has once again demonstrated his leadership ability and his continuing concern with the important issue of education. I believe my able colleague Senator DANFORTH would also like to address the concern of local control over education, and following his remarks, I would be interested in the chairman's observations on this important matter.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. ROTH. I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, it is my hope that in this colloquy which I hope will transpire with both the majority and minority managers of the bill, we can establish a clear legislative history on this bill.

On August 6, an article appeared in the Washington Post entitled "Uncle Sam's Growing Clout in the Classroom." The subtitle was "Creating a New Department as a Backdoor Way To Establish a U.S. Responsibility for Education Itself."

The article begins as follows:

With virtually no public debate over the central issue at stake, the Carter administration and the Congress are moving toward creating a federal department of education with the potential to transform the way education is governed by the United States.

Contrary to widespread belief, the proposed department is not chiefly an issue of reorganizing or consolidating federal education efforts, of increasing the time or money spent on education, or of deciding which existing agency should or should not be absorbed by a new department. Establishing a Cabinet-level department is a backdoor way of *creating* a national education policy, of breaking with the long tradition of a limited federal involvement in education and of virtually no federal responsibility for schools and colleges themselves.

Mr. President, it is my hope in this colloquy to establish clearly the fact that this article is not true; that it is absolutely not correct; that, as a matter of fact, this question was covered very carefully in committee hearings and during the markup; that Senator ROTH offered an amendment to the bill which provided that the Federal Government is available to assist and supplement, but never supplant State and local and tribal governments in developing educational policies.

Mr. RIBICOFF. Mr. President, will the Senator yield at that point?

Mr. DANFORTH. I yield.

Mr. RIBICOFF. The Senator is absolutely correct. The article has no basis whatsoever.

As the chief author of this bill, it was never my intention, and still is not my intention, to carry forward the thesis made by the writer of that article. I reject that completely. Wherever that comes from, it certainly does not come from the author of the bill or the respective cosponsors.

There is no question of the contribution that the Senator from Delaware and the Senator from Missouri have made. It is clearly set forth. The colloquy we have will reemphasize our positions.

I thank the Senators for their contribution. Before we are through with the colloquy, the record and the legislative history will reject clearly the thesis in the article just quoted.

Mr. DANFORTH. I want to make clear, speaking for one Senator who ended up voting to report the bill out of the Governmental Affairs Committee and who will vote for the bill on final passage, that this was the main concern I had, going into consideration of the bill: That by consolidating the Federal effort on education we were somehow vesting the Federal Government with a greater role in making decisions for education which heretofore had been made at the local level.

And that is something that I think would be a very, very bad step in the wrong direction.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I thank both Senators ROTH and DANFORTH for their outstanding contribution in further clarifying the intergovernmental functions of the Department and in reaffirming the fundamental notions upon which the Department will be founded.

S. 991 specifically states:

The primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities and families.

The purpose of the bill states that the Department of Education will supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents and students to improve the quality of education. This is done acknowledging the right of these entities to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs.

The Federal presence in education does not mean control. Local control of schools is traditional and historical. The Federal Government is involved in assisting State and local governments to insure equal opportunity and equal access to education programs. It provides assistance to States and localities for programs for the disadvantaged and handicapped. It funds programs to assist with educational research, environmental education, community education, and provides assistance to needy children.

Senators ROTH and DANFORTH improved in the committee's markup the functions and purposes of the Intergovernmental Advisory Council on Education. The Council established in the bill provides a vehicle to improve Federal-State and Federal-local relations in education programs. The Council will provide a forum for representatives of State and local government to discuss and impact on Federal education programs and policies. Its representatives would be 22 nonpartisan representatives from State and local government, State and local education agencies, and private citizens. It will review the impact of Federal education policies, including rules and regulations, upon State, local, and tribal governments and public and nonpublic educational institutions.

In addition to the Council the intergovernmental relations functions of the Department will be performed by an Assistant Secretary who will have direct access to the Secretary and will work with the Council. These structures will help to insure that Federal policies recognize that education is primarily a State and local responsibility and that State and local governments have a strong voice in determining Federal education objectives.

The Department will lead to improved assistance and support for education programs at the State and local levels by increasing the visibility and status of education and improving the management and coordination of education programs. It will also provide a mechanism where input can be provided from among citizens, particularly parents and students. One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required and to encourage the involvement of parents, students, and the public and the implementation and development of all the Department's programs.

I believe no other groups fear Federal encroachment in the area of education more than parents, teachers, students, and administrators—those people closest to education. Such groups as the American Association of University Professors, American Association of School Administrators, National Committee for Citizens in Education, National Governors Association, National School Boards Association, National Student Association, and National Student Lobby support the Department. These groups do not fear that a Cabinet Department of Education means Federal encroachment upon their prerogatives to develop their own curriculum and policies. The National Congress of Parents and Teachers' (PTA) testimony on the Department of Education legislation reflects the importance as well as the limitations of the Federal involvement in education.

The PTA has long endorsed the concept of the local control of education and continues its support of this concept. The Federal role in education, however, has assumed increasing importance since the passage, in 1965, of the Elementary and Secondary Education Act. Since then the nature and extent of Federal involvement in education has changed. Far from being an obstacle to the local control of education, the National PTA feels that the establishment of a Department of Education would produce successful cooperation among Federal, state, and local education agencies in their appropriate roles.

The establishment of a Department of Education would make clear the lines of Federal responsibility and authority in the educational effort. It would make it more possible for parents, educators, and other citizens . . . to make [education programs] more fully responsive to their needs.

A Department of Education will increase accountability for education—it will provide a mechanism for State and local governments to impact upon administration of Federal education programs—it will, in other words, provide for improved management of Federal programs—it will not in any way lead to Federal control or dominance of education.

Mr. ROTH. I say to Senator RIBICOFF, from our colloquy on the subject of local control of the educational process, I am given to understand and wish to make explicitly clear for all of those persons who have an intense interest in this subject that:

First. The formulation of policies in our schools in regard to education is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Second. The choice of curriculums is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Third. The administration of educational programs in our schools is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Fourth. The choice of program content is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students.

Fifth. Educational objectives in our schools are to be determined by State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Sixth. And finally, in the establishment of a separate Cabinet-level Department of Education we are in no way suggesting, condoning, or implementing and entity to exercise Federal influence over the formulation of policies, choice of curricula, administration of programs, choice of educational objectives and program content, or anything which could be construed as the establishment of a national educational policy.

Mr. RIBICOFF. Yes; that is correct, I agree with the Senator that education is a State and local matter. It is not the intent of this bill, nor will this bill change the present intergovernmental relationship in education. The Government does of course, have special responsibilities in operating schools for Indians and dependents of military personnel where education is not otherwise available. It does not seek to change or enlarge the Federal Government's role in education in any way or to erode State or local control.

Mr. SCHMITT. Mr. President, I wish to enter into this colloquy very briefly, if the Senator will yield on my time, because I think it is far one-sided, and I commend the Senator from Delaware and the Senator from Missouri for their initiatives in this area.

I think it is exactly an appropriate initiative and I support their initiative wholeheartedly and would have if I had been in the committee. However, I am afraid they are doomed to failure, because they established purposes in this bill that are completely inconsistent with the statutory language in the bill, as well as the creation of a new bureaucracy.

They think HEW has been overzealous. Wait until they have the Cabinet-level Department doing the same thing. I hope they are right, but I am fraid they are going to be wrong. The bill and the bureaucracy are just inconsistent with the kind of colloquy that has just taken place.

I am sorry to add that downbeat note to a very positive colloquy, but I just am seriously concerned that it will not come about the way these Senators hope it will.

I thank the Senator for yielding.

Mr. GARN. Mr. President, will the Senator from Delaware yield?

Mr. ROTH. I yield to the Senator from Utah.

Mr. GARN. Mr. President, I associate myself with the remarks of the Senators from Missouri and the Senator from Delaware.

As a former mayor, I share their concerns for the interference of Federal agencies with local government.

One of the most difficult things I had to deal with was the various agencies like HUD and HEW, so I want to emphasize how much concern I have about the creation of this new department, and if it does make possible more interference.

The Senator from Delaware mentioned the Fair Labor Standards Act Amendments of 1974 that were taken to court. I came back as the first vice president of the National League of Cities, lobbied Congress not to impose those new work rules on local government. They turned us down.

It bothered me so much that I went home and decided I was going to start a suit in Salt Lake City and took it to the National League of Cities. So I was very familiar with that suit. I originated it in the National League of Cities, and I was fortunate to have it result in our favor in the U.S. Supreme Court.

The PRESIDING OFFICER. I apologize to the Senator for interrupting, but can we find out on whose time he is speaking?

Mr. GARN. The Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware does not control the time.

Mr. RIBICOFF. I am willing to yield to the Senator on my time. Have I used up my time?

The PRESIDING OFFICER. The Senator from Connecticut has 10 minutes remaining on this amendment.

Mr. GARN. I will only take 30 seconds to say, on whomsoever time this is, that I support this view and I hope the new department, when it is created, will not infringe more on the right of local governments. The revenue-sharing approach does make a great deal more sense than the control that goes with categorical programs.

Mr. RIBICOFF. Mr. President, may I comment that the Senators from Delaware and Missouri had the findings and purposes of the original bill changed to assure that local control would be preeminent, and this new department would really supplement, complement, and assist local governments.

The Danforth-Roth amendments were adopted unanimously by the committee. If you know the makeup of the Governmental Affairs Committee, I believe it is the least doctrinaire of any committee in Congress, with all due respect to the other committees. It is a committee that is concerned with realities. It is concerned with organization. It is concerned with the encroachment of the Federal Government on localities and States.

We do work out these problems, and you will find that practically all the legislation that comes out of our committee comes out unanimously because we worked out a basic common philosophy.

The contribution of the Senator from Delaware and the contribution of the Senator from Missouri was adopted.

As you listen to the colloquy—and I think even the fears of the Senator from New Mexico, Senator SCHMITT, who is concerned with what is happening at the present time with education—those complaints should be lodged against the present HEW.

One of the concerns of the Senator from Washington, Senator MAGNUSON, as expressed earlier in the evening, was due to the fact that, as chairman of the Subcommittee on Appropriations that always had jurisdiction over HEW appropriations, his concern was with the way these problems were handled or adopted. As I stated then, and still state, he is the man who has been after me more than anyone in the Senate to do something and to have a separate Department of Education so that we can remedy some of the defects of education with respect to HEW. The way to do it was to do it this way.

I think that by enactment of this bill, we will have a very substantial improvement. The irony is that what the Senator from New Mexico complains about should be lodged really against the present Department of HEW in the way education is presently treated.

I think what we have done in the bill is to obviate some of his concerns, and that is why you will find the strong support of the Senator from Delaware and the Senator from Missouri, who are as concerned with these problems as the distinguished Senator from Utah and the Senator from New Mexico and, may I say, the Senator from Connecticut.

Mr. GARN. I thank the Senator from Connecticut.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I should now like to comment on the amendment of the distinguished Senator from New Mexico.

Mr. President, I do oppose the amendment offered by my distinguished colleague from New Mexico to delete the transfer of the science education programs.

I would like to remind my colleagues that the entire Science Directorate of the National Science Foundation is not being transferred, as was originally proposed. Following our hearings on this issue, the committee recommended that the research and training programs

aimed at recruiting and training scientific researchers remain in NSF. Only those programs aimed at students and teachers at the elementary, secondary, and postsecondary levels will be transferred.

The reason why these particular programs should be transferred is the need to upgrade and expand science education in our schools, particularly at the elementary and secondary levels. Presently, this effort is divided between the Office of Education in HEW and the Science Directorate in NSF. This division has led to a fragmentation of the Federal effort directed at science education.

At a time when our country is faced with many problems which require technical and scientific answers, for example, our search for alternative energy sources, we need better coordination of Federal science education programs if we are to develop the scientists and researchers who will be needed.

Placing these programs in one department will greatly facilitate the achievement of this goal.

Mr. President, the legislation which established the Office of Science and Technology Policy provided a role for the OSTP Director in assessing the strength of science and technology, and also the education and training of scientific personnel and the citizens of a nation highly dependent on science and technology in all of its activities.

In testimony before the Governmental Affairs Committee on April 18, 1978, Philip M. Smith, Assistant Director, Office of Science and Technology Policy, strongly supported including science education in the Department of Education. He said:

> We in OSTP were led to conclude that a broadly based Department of Education such as that proposed in S. 991 and which is proposed by the President, would offer very distinct advantages in those cases where there is a desirability of implementing on a wide basis activities characterized by knowledge dissemination, the widespread introduction of new educational technologies, the training of professionals such as teacher training programs, or special assistance programs to help improve the opportunities for sectors of our society such as minorities, women and the handicapped. The widepread implementation or dissemination of either education or research, especially applied research, has never been a major function at the NSF. The NSF Act, in fact, prohibits such activities, thus focusing the NSF or its primary role—the one that it fulfills with a high degree of excellence—namely the support of innovative, experimental projects in basic and applied research and in science education. We have concluded that it is desirable to have a continuing role for NSF in those programs most closely related to science such as the fellowships or those programs where there is a close tie between science and learning. We expect therefore that the NSF will have a continuing and important role in educational research specifically directed at science, knowledge and understanding for both formal education and in broader education of our citizenry concerning science and technology.

For the reasons given I urge my colleagues to vote against the amendment, although I do so with some concern always because my distinguished colleague is a preeminent expert in the field of science and technology. However, I would in this case defer to those who are experts in the field of education.

Having lived through the experience of seeing what can be done to strengthen the role of science and technology in our entire educational process, that it should be an integrated whole, I feel that a Department of Education would be incomplete if we did not make this particular transfer.

Mr. SCHMITT. Mr. President, I appreciate the colloquy that has occurred and the statement just made by the Senator from Illinois. I feel that I not only personally have been involved in science and technology, I have been a part of the science education system ever since I can remember. That system has been closely integrated with science and scientific research.

To sever that integration, as will almost certainly happen with the cleavage as is proposed in the bill before us, will, I think, only accelerate the downward trend that has been taking place in the deterioration in the quality of basic science, mathematical education within our elementary and secondary school system.

That downward trend, by the way, coincides directly with increased Federal involvement, both monetary and in terms of control. I see no way that immersing science in a new fledgling Cabinet-level bureaucracy is going to do anything but make matters worse.

I realize that is a judgment call, but I think it is a judgment call based on experience in the outside world of science education rather than on the judgment of the Washington community, and that community that has the most to gain from their own vested interest, the educators in this kind of transfer.

So I strongly recommend to my colleagues that they support my amendment.

The PRESIDING OFFICER. Does the Senator from New Mexico yield back the remainder of his time?

Mr. SCHMITT. I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time. I move that the amendment be laid on the table, and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. EAGLETON assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 62, nays 23, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—62

Bartlett	Griffin	Moynihan
Bellmon	Hart	Muskie
Bentsen	Hatfield,	Nelson
Biden	Paul G.	Nunn
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Byrd, Robert C.	Hodges	Proxmire
Cannon	Hollings	Randolph
Case	Huddleston	Ribicoff
Chiles	Humphrey	Riegle
Church	Inouye	Roth
Clark	Jackson	Sarbanes
Cranston	Javits	Sasser
Culver	Kennedy	Schweiker
Danforth	Leahy	Stafford
DeConcini	Long	Stennis
Durkin	Magnuson	Stone
Eagleton	Matsunaga	Talmadge
Ford	McGovern	Wallop
Glenn	Melcher	Williams
Gravel	Metzenbaum	Zorinsky

NAYS—23

Baker	Garn	Morgan
Brooke	Goldwater	Packwood
Byrd,	Hansen	Schmitt
Harry F., Jr.	Hatch	Scott
Chafee	Hayakawa	Stevens
Dole	Helms	Stevenson
Domenici	Laxalt	Thurmond
Eastland	Lugar	Tower

NOT VOTING—15

Abourezk	McClure	Pearson
Allen	Hatfield,	Sparkman
Anderson	Mark O.	Weicker
Bayh	Johnston	Young
Curtis	Mathias	
Haskell	McIntyre	

So the motion to lay on the table was agreed to.

Mr. GLENN. Mr. President. I move to reconsider the vote by which the motion was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, if the Senator will yield for a comment, the Senator from Illinois would certainly have not put his name to this legislation if there were the vestige of possibility that the events outlined in the article that has been read could possibly occur.

The Senator from Illinois has always felt that additional financial assistance is required because there is a ceiling on how much you can extract from property owners. There is a limit on how much you can get, how high you can take other taxes that are levied at the local and State level, and we do have a 90-percent Federal monopoly on the progressive income taxation system in this country.

The Senator from Illinois has constantly used the revenue-sharing principle we do what we can do best at the Federal level. We raise money extraordinarily well. We ought to grant that money with the least strings attached. The absolute preeminent program in this

field is revenue sharing, the administrative costs of which are one-thirtieth of 1 percent. That I think is an example of what can be done if we really set our minds to granting funds but without strings and without controls.

Mr. DANFORTH. Mr. President, if the Senator will yield at that point, I think that is a very important point to make because it has been something of a tradition of the Federal Government in its distribution of funds to condition the granting of funds to local governments on local governments' meeting certain requirements and, as a matter of fact, in the field of supporting local education some of those requirements have at times been really ridiculous. For example, prohibitions against boy-girl choirs or father-and-son picnics, and that sort of thing.

It seems to me to be an almost irresistible impulse for Federal agencies to condition their assistance to local governments or to local school boards on meeting certain requirements that we in Washington may think desirable but that people in the local school districts think are far from desirable, and I hope that this bill in no way could possibly be construed as in any way expanding the opportunity of a Federal department or Federal officers to manipulate decisions which really should be made at the local level.

Mr. PERCY. In this particular case, I point out a fact that my distinguished colleague from Missouri well knows. We have the most unique possible situation in the creation of this department because the author of the legislation who has worked so long on it is the floor manager of the bill and not only that but he was a former Secretary of HEW in the executive branch of Government. The legislative history that we are now making is being made by a man who has been on both sides of the fence, the executive branch and the legislative branch, and his imprint and his oversight over this activity and this creation of this new department will be an extraordinary opportunity for us to see that the intent of Congress is fully carried out.

Mr. RIBICOFF. Mr. President, if the Senator will yield, the complaints and the concerns of the Senator from Missouri are addressed to the present HEW that is giving these guidelines and conditions and not the Department of Education, so it is in existence without the Department. What we have done in creating this Department is spell out specifically our concerns, our protections, and our affirmations of local control. So once this Department is created with this legislation, the language, the report, and the legislative history, we are really in a position to assure that the mistakes that HEW is guilty of in, I think, their overzealous grab for power will be eliminated, and I think it is being accomplished on the floor right now.

Mr. DANFORTH. I thank the floor managers.

On the basis of these representations and on the basis of the amendment that Senator ROTH offered successfully in the Governmental Affairs Committee I am supporting the bill.

Mr. PERCY. I only add this to Senator ROTH's initiative in this regard. The bill does establish an Intergovernmental Advisory Council on Education. The very purpose of it would be to conduct studies, make recommendations to the Secretary, the President, and Congress for improving the intergovernmental system for developing and carrying out educational policies. But represented there would obviously be the various layers of government, Federal, State, and local, tribal governments, public and nonpublic institutions, communities, parents and students, who must be participants in the Federal education process.

The Federal Government role is one of many roles, not the least of which is our dependence upon family structures and organizations, parent-teachers associations, and others, the assets of which we simply do not want to destroy. We want to enhance those, but again add a sense of direction and a focus and a sense of importance by the creation of a full department to put high priority on education, far higher than it is now.

I hope to overcome some of the great problems we have had with a multiplicity of categorical programs that force educational institutions at the local and State levels to twist and conform their structure to what the Federal Government apparently in its omniscience wants them to do.

It should be the other way around. We should be, in a sense, greatly responsive to the leadership we have at the local level, but certainly not be a director.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, the distinguished Senator from California has asked to move ahead in sequence prior to the introduction of my next amendment. I ask unanimous consent that the amendment of the Senator from California be considered at this time without prejudice to the time agreement relative to my amendment No. 3619, which would normally be pending at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California is recognized.

UP AMENDMENT NO. 1952

(Purpose: To require the Director of the National Institute of Education to conduct a study concerning the establishment of a department of education)

Mr. HAYAKAWA. Mr. President, I am most grateful to my distinguished colleague from New Mexico for his consideration in this matter.

I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1952.

Mr. HAYAKAWA. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, beginning with line 19, strike out through line 10 on page 115 and insert the following: That this Act may be cited as the "Department of Education Study Act of 1978".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—

(1) education is fundamental to the development of the individual and to the growth of the Nation;

(2) the current structure of the executive branch fails to give adequate recognition to the importance of education;

(3) the responsibility for education has and must continue to reside primarily with State, local, and tribal governments, public and non-public institutions, communities, and families;

(4) there is a continuing need to insure equality of educational opportunity, and to improve the quality of education; and

(5) the number, fragmentation, and complexity of Federal education programs have created management problems at the Federal, State, local, and institutional levels.

STUDY BY THE NATIONAL INSTITUTE OF EDUCATION

SEC. 3. (a) The Director of the National Institute of Education (hereinafter referred to as the "Director") is authorized and directed to undertake a thorough evaluation and study concerning the organization of education and education related programs within the Federal government. The study shall specifically examine the need for a separate cabinet level department devoted to eucation and education-related programs. The study shall examine—

(1) the effect of the establishment of a cabinet level department on State and local control of education;

(2) efforts for equal educational opportunity, including the appropriate Federal structure for insuring such efforts;

(3) the relationship between education programs and programs relating to vocational rehabilitation and training and child nutrition;

(4) the special relationship between the Federal government and Indian peoples and the maintenance and protection of that relationship with respect to educational services;

(5) methods for the promotion by the Federal government of quality education and education relevant to individual needs, with a special emphasis on basic skill development;

(6) the improvement of effective partnerships among Federal, State, local, and tribal governments, the private sector, public and non-public institutions, community organizations, and families in order to improve the vitality and quality of education; and

(7) such other issues and areas as the Director finds to be appropriate.

(b)(1) Within 90 days after the date of enactment of this Act, the Director shall submit to the Congress a plan for the study required under this section. The Director shall deliver such plan to both Houses of Congress on the same day and to each House while it is in session. The Director shall not commence the study required under this section until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty day period.

(c) Within one year after the date of submission of the plan to the Congress under subsection (b), the Director shall make a

final report to the Congress. Notwithstanding any other provision of law, the Director shall submit the report directly to the Congress without prior review by any officer or employee outside the National Institute of Education.

FUNDING

SEC. 3. Amounts necessary to carry out the provisions of this Act shall be transferred to the National Institute of Education from funds appropriated to the President for contingent expenses.

Amend the title so as to read: A bill to require the Director of the National Institute of Education to conduct a study concerning the establishment of a department of education.

Mr. HAYAKAWA. Mr. President, the amendment to S. 991 which I am offering reflects my lifelong professional and conscientious concern with the creation of a Department of Education. It is my understanding that the bill has the enthusiastic support of President Carter, the somewhat less than enthusiastic support of Secretary Califano and—most important—the support of 52 Members of the Senate. I am told, however, that the situation in the House is quite different and that in the other Chamber the forces opposing the bill will probably prevail. I wish them luck because I, too, feel obliged to oppose this bill, at least at the present time.

Some of my colleagues may not be aware that the United States had a Federal Department of Education before. Its record was certainly not inspiring. Created by legislation in 1867, it was headed by Henry Barnard, one of America's foremost spokesmen for education. The Department, however, accomplished so little that within a short time, it was reduced to the status of a bureau in the Department of the Interior. The experiences of that time may not be relevant today, but this first failure is certainly not a good omen.

Mr. President, the issue emerged again in 1923 when a congressional Joint Committee on Reorganization published a report that called for a Department of Education and Relief. President Harding, as well as President Coolidge, endorsed the report, but Congress decided to take no further action. The idea of a Department of Education came up again in 1964 when President Johnson appointed a task force on Government reorganization. Since that time, all of the studies of the issue have reached negative conclusions. Among them were the Corson study of HEW and the Heineman Task Force study, both completed in 1966 and the Ash Council study reported in 1971.

So far, Mr. President, I have not a single scholarly study which suggests that the creation of a Department of Education at this time would be a desirable step. Among educators, the issue has, of course, been discussed for many years, and I always had a great interest in the topic. It, therefore, came as a surprise to me to see how this terribly important question has been approached by the Senate. Under the rules of this august body, the Governmental Affairs Committee has considered and reported S. 991. I was given the opportunity to read some of the extensive testimonies which I found quite unconvincing. There were also some modest efforts—I believe from the Republican side—to refer the bill subsequently to the Human Resources Committee where the subject could have been explored in more depth. For reasons unknown to me, there were some consultations, but the referral did not take place.

Mr. President, I wish to go on record as protesting a procedure by means of which the Committee on Human Resources was entirely omitted from the consideration of this very, very important matter which has to do with education. I thought the bill, S. 991, had to do, among other things, centrally with education, but it was just skipped over.

As a result, Mr. President, I find myself today in the position of having to vote without adequate information on an issue which is of great concern to me. There can be no doubt that we have serious and complex problems in this general area. Our national efforts to improve public education have been largely ineffective. Federal outlays for education in the last 10 years have tripled while at the same time, our educational standards have deteriorated even further. Is the creation of a Department of Education going to be the answer? I frankly do not know. Moreover, I imagine the great majority of my colleagues do not have the answer, either. It is precisely for this reason that my amendment has been introduced.

Mr. President, before asking for a vote, I want to mention my principal reservations about this bill. The most fundamental one, of course, pertains to the Federal role in the field of education. Article I, section 8 of the Constitution lists the powers given to Congress. As we all know, the power to regulate education is not among them. We also know that the Federal Government, regardless of constitutional restrictions, has often been able to encroach on States rights. The reasons why this was done were actually honorable. When millions of GI's returned after the Second World War, the GI bill of rights was the logical answer to the threat of widespread unemployment. The post-sputnik programs supported science education, teacher preparation and graduate education. They were enacted in the fifties under the National Defense Education Act as parts of America's defense efforts. And when the enforcement of civil rights and the war on poverty became national goals, the Elementary and Secondary Education Act of 1965 became the tool to implement national policies. In all of these huge programs, aid to education was an incidental aspect. The problem of education policy did not come up, nor was there a need to the fundamental question who actually would make policy.

Mr. President, I am obliged to point out that the drafters of S. 991 sidestepped this issue of the Federal role in education. On one hand, they expressly say that "the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities, and families."

On the other hand, the authors of the bill state that "the Department of Education will supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, and so forth." The crucial questions how policies will be arrived at and under whose authority policy decisions for all the States will be made are left open.

Mr. President, our public education is built upon a system of control by local school boards. The impact of a Federal Department of Education on the existing structure is hardly mentioned and not seriously discussed in this strange bill. Moreover, to the best of my knowledge, none of the plans to create a new department addresses this crucial and complex question.

What then, are the respective roles of the Federal Government and of the States in establishing educational policies going to be? I do not believe anybody in this Chamber is able to offer a clear and unequivocal answer. Have the supporters of this bill given any thought to the significant fact that the United States has not a single Cabinet-level department which is responsible for an area that the Constitution has left to the States? I wonder.

As indicated, Mr. President, the Federal Government has found a method of getting around this important provision in our Constitution by lavishly distributing money with categorical strings attached. In other words, the objections of the States to Federal involvement were usually silenced by increased funds. But let us not forget, the conflict remains. There is a tendency on the Hill to pay lipservice to the relevant basic prerogatives of the States. At the same time, the 50 States of the Union remain very much aware of these prerogatives and will promptly resist transgressions against them wherever and whenever they might be. This year, I personally had a significant experience in this regard when I recently attempted to introduce legislation authorizing voluntary—not compulsory—national tests in reading, writing, and arithmetic. Voluntary tests, Mr. President. The States and individual school boards could have used or rejected the tests. Up went a hue and cry that the Federal Government was trying to take over education. Today, they cried, the tests would be voluntary, tomorrow obligatory, and the next step, there would be nationally mandated curricula. I am citing the example because it shows the prevailing complex conditions.

They do not want Federal intervention in education, even supplying of voluntary tests for achievement and competency, saying that is going to lead to Federal control of education, and now we want to set up a Federal Department of Education.

The American Council on Education offers the following significant comment in this regard: "The Federal Government is perceived by various state officials as contributing some 8 percent of elementary and secondary school budgets and behaving as if it were the senior and managing partner of the educational enterprise. Governors, legislators, chief State school officers, and State boards

concerned with all levels of education generally feel that they have been inadequately consulted and even ignored in considering the design of legislation and the development of regulations affecting the programs for which they have primary responsibility."

Is it not irresponsible to set up a Department of Education before this thorny and fundamental conflict has been resolved? Are we not putting the cart before the horse?

Mr. President, there is one more point I would like to make. Supporters of the bill argue that there are about 300 separate Federal educational programs spread over 40 different departments and agencies with a total expenditure of about $25 billion. Only about 120 of these programs are currently administered by HEW. It is asserted that by putting most of the Federal educational programs under one roof, we will increase coordination and accountability in education programs. This argument has some superficial appeal, but it disregards the fact that there were excellent reasons for assigning these programs to the places where they presently are. These reasons are equally valid today.

There are good reasons why child nutrition and the USDA graduate school should be a responsibility of the Department of Agriculture. It is equally logical why the educational programs of the Bureau of Indian Affairs ought to be administered by the Department of the Interior. There are excellent reasons why overseas dependent schools should be under Defense and so on.

Mr. President, I have, so far, seen no unbiased scholarly analysis which examines the pros and cons of the suggested transfers. It should be clear to any objective observer that by transferring overseas dependent schools to a new agency, we create the problem of how to coordinate this program with the Department of Defense. By transferring science education programs, we create a problem for the National Science Foundation and by moving the responsibility for college housing construction loans, we make operations more difficult for HUD. These are only a few examples. The point I am trying to make is that the advantages and disadvantages of the transfers have not been properly and systematically studied. We have seen contradictory and often politically motivated testimonies, but no systematic and distinterested analysis of the complex issues involved.

Mr. President, once the suggested study has been made, I may still be able to come out in favor of a Department of Education. There can be no question that our national educational efforts ought to be reviewed and strengthened. We are spending, on the Federal level, about $20 billion annually for education and Johnny still cannot read. Clearly, something is wrong. I believe a thorough and extensive examination of the issue is urgently needed and this is what my amendment, if accepted, would accomplish. It seems to me that the creation of a Department of Education without such an inquiry would simply be a bureaucratic escape from reality.

Mr. President, I ask for the yeas and nays and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I do not know whether the distinguished Senator from California is through.

The PRESIDING OFFICER. Does the Senator from California yield the floor?

Mr. HAYAKAWA. Yes, indeed.

Mr. RIBICOFF. Mr. President, I have the highest respect and admiration for the distinguished Senator from California. In his own right, he is a great educator and a great realist who understands not only education, but human nature.

Long before I met him in this body, I read his works. I use his textbook "Language in Thought and Action," and my admiration is of the highest.

I would like to point out to the distinguished Senator from California, when he talks about referring this bill to the Human Resources Committee, that 11 members of the Human Resources Committee are cosponsors, including the chairman (Mr. WILLIAMS) and the chairman of the Subcommittee on Education (Mr. PELL).

When we were ready to report out this bill, we deferred the reporting out of the bill for 2 weeks. We referred the bill informally to the Human Resources Committee where it was examined. Yet they came back with recommendations, and we modified the bill to incorporate the recommendations of the Human Resources Committee.

I would also like to point out that the concept of a separate Department of Education has been around since the late 1860's. There may be more, but I know of 15 different studies over the last 60 years which touched on the issue in some detail. The last comprehensive study was by Rufus Miles, sponsored by the American Council on Education. This study recommended the creation of this Department. In addition the Office of Management and Budget's reorganization project has been studying education reorganization for more than a year.

I would also like to point out that the chairman of the Appropriations Committee (Mr. MAGNUSON), who has had the responsibility for appropriations for HEW, which, of course, includes Education, is one of the most ardent, consistent, and impassioned pleaders for this department, because he feels the time is long overdue.

I came out of the HEW secretaryship with the feeling this was a desperately needed creation, because it was lost in the Department of HEW. It is absolutely important that we create it.

I think the distinguished Senator from California can realize the low status that the Commissioner of Education now has when he considers that in the last 12 years there have been 13 Commissioners of Education. There has been complete frustration by these men of outstanding character and ability and national reputation as educators. When they saw that their position of commissionership was lost in the Department, they quit in frustration.

I want to point out, too, that the Governmental Affairs Committee has been engaged in a serious, thorough, and ongoing study of the issues since January 1977. We heard testimony from 100 witnesses in 10 days of hearings, and we have debated the bill for a long period of time. I think it is time for Congress to act.

All I know is that from more than 40 years in one way or another with Government, the only way to kill something and get rid of it is to create another study. I would say the archives of this Government have gathered thick with dust with the various studies made, and nothing has ever happened until another study covered the same ground.

So I see nothing to be gained by another study, and I oppose this amendment.

Mr. PERCY. Mr. President, I know our distinguished colleague from California is, himself, a preeminent expert in the field of education and has distinguished himself. But I think he would probably be the first to say that we can study things to death sometimes.

When I read carefully the statement of findings of the Congress as embodied in his amendment, I certainly concurred with many of those. But also when I looked to see what the study he proposes shall accomplish and do, it would seem to the Senator from Illinois a great many of those studies have already been carried out ad infinitum and that we have now, finally, reached the stage where we are ready to bite the bullet and come down and reach a conclusion.

I think the Department of Education Act has been well thought through for many years, as my distinguished colleague, the manager of the bill (Mr. RIBICOFF), has said.

Certainly, education has always been one of my own highest priorities. I have been privileged to serve on the board of Cal. Tech. and the University of Chicago, now, for 30 years. I have worked intimately with primary and secondary education through the years and still consider it, as a U.S. Senator, one of the highest priorities on my own time that I should assign.

I think it should be one of the Nation's highest priorities, as well.

That has not always been the case, however. Presently, education has a relatively low status in the Federal Government.

It is a malnourished component of the Department of Health, Education, and Welfare, where only 6 percent of that Department's budget is devoted to education. In addition, the bulk of education programs in HEW are administered by a Commissioner of Education, and the Assistant Secretary of Education has few responsibilities and even less weight within HEW.

This is a question of national priorities.

I think it is about time we really state that education must be one of our highest priorities. It is the duty and the responsibility of the Governmental Affairs Committeee of the U.S. Senate to

take a look at the structure of the Government for education to determine whether or not the structure assigns a high enough priority to education when it is buried so deep in a department that spends 95 percent or 94 percent of its resources in some other areas.

Three-tenths of our population is in some way involved in education—either as students, teachers, or administrators. Governmental expenditures for education at all levels will be more than $100 billion during this fiscal year.

In a Harris survey of last year, 89 percent of the public felt that "achieving quality education for children" was very important.

What has been the Federal response? Federal expenditures for education have actually declined, from approximately 12 percent in the late 1960's to a little more than 8 percent today. This has occurred at a time when school districts throughout the country are faced with severe financial difficulties. Many schoolchildren will miss valuable days in school simply because their school system is broke.

For some reason or other, we are not able to get adequate impact in school district after school district. Local referendums are turning down money for education. Education facilities are being contracted at a time when we should be strengthening them, if we assign high priority to them.

In addition, the Federal education effort is greatly fragmented, resulting in an uncoordinated approach to solving the many problems facing our Nation's schools.

Just as we acknowledge that the strength of a nation rests with its people, we must also realize that its greatest natural resource is its children. We must do more to develop that precious resource. Raising education to a Cabinet-level position in our Government will symbolize our commitment to provide quality educations to all of our children. For that reason, I believe that the passage of S. 991 will be one of the most significant acts of this Congress, and urge its support by the full Senate.

It is extraordinarily difficult to know how a study will turn out. The Senator from Illinois really cannot imagine that we would not somehow have a study that would end up with the same conclusion, that what we really need in this country is a Department of Education. I think the time has come. The idea is here. This is the time to implement it.

For that reason—with deep regret and great respect—I oppose the amendment offered by the distinguished Senator from California.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. HAYAKAWA. I am glad to yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, with this amendment, I have a chance to sit back and listen to the colloquy, and a couple of additional thoughts come to mind.

One is that I cannot help listening to what the distinguished Senator from Illinois has just said, and I refer back to the colloquy that occurred previously among the Senator from Delaware, the Senator from Missouri, and the two distinguished floor managers of the bill.

I keep hearing two different signals. The first signal in the colloquy was that we were going to maintain State and local control. The second signal I heard was that we are going to increase Federal control and Federal funding and Federal priorities of education.

That is what has so disturbed me about this whole process: that in spite of the good intentions written into the purposes of this bill, unfortunately, the attitudes and the words and the statute itself are going entirely in the opposite direction.

I would only add to that an additional concern I have about this body, in my first session in Congress, and the distinguished Senator from Illinois has made the comment, also. We have access to the background and experience of the distinguished Senator from California. He is an educator par excellence in this country, in his field and related fields, and there is no one who anybody would put up against him. And what do we do? We reject his advice.

Time and time again in this body I have noted that when somebody has background and experience in a subject, that weighs for not one ounce in the deliberations of something that has been around for a long time.

That is what I am afraid, I say to the Senator, is the problem. The idea of a Department of Education has been around for a long time, and a few people who were questioning that idea as an idea whose time has come cannot question it on the basis of our own background and experience in this field and say, "Hey, let's wait; let's pause and let's consider," as the Senator has proposed in his amendment.

Is this really the right study for this time in our history? Maybe it is. But, I, for one, am unconvinced. I think the Senator's amendment would give us that additional time to pause, to look at the issue objectively, if that is now possible, and I think it is, to look at the attitudes of our distinguished friends in the other body which are different from many of our own here. We can then decide whether this is really an idea whose time has come.

I think we will find that some polls now show that it certainly is not an idea whose time has come with the American people. I will discuss that shortly. The polls are not with the proponents of this bill. The polls are against them.

I certainly would take that into account in this election year, but it should be taken into account every election year, when it comes to creating a new departmental level bureaucracy.

I thank the distinguished Senator from California for yielding.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. HAYAKAWA. Mr. President, I am grateful to the Senator from New Mexico for his comments and his raising the question about whether or not this is an idea whose time has come.

As the distinguished Senator from Connecticut has said, this idea has been around for a long, long time. It has been discussed over and over again. It has not been acted upon for the precise reason that it is an idea whose time has not come and will not come for some time. It certainly has not come to the House.

The fact that the Commissioner of Education does not have a lot of power and authority does not mean that education has a low priority in this country. Education has enormous priority in every city, town, and village, most of whose taxes go to education.

It has enormous priority in every State budget which supports such enormous educational systems as the University of Texas system, the University of Wisconsin system, the two systems of the University of California. Education has enormous priority in this country, independently of the actions of the Federal Government.

I was told not long ago that the State of California was putting up one new community college a month, for the past couple of years. That may be an exaggeration, but it certainly is true that, all over California, we have seen community colleges proliferating.

Education has enormous priority in this country, and it is not dependent upon the commissioner of education in Washington nor upon a putative Secretary of Education in Washington.

What I am saying is that we should leave as much of it as possible in the hands of the regents of the various State university systems, in the private hands of the Governors and regents of the distinguished private universities, such as Harvard or Yale or Stanford or Cal Tech.

There are many people who are taking responsibility and pouring money into this.

The idea that all this activity can be coordinated by a Federal Secretary of Education seems to me totally illusory, and that is why this idea has been around a long time without having been acted upon.

I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, I would like to make one comment.

The distinguished Senator from California asked, "Why can't Johnny read?" All I can say is that if school districts required as part of their curriculum that every student read the works authored by the distinguished Senator from California, my feeling is that every Johnny and Susie in America could read.

Mr. PERCY. Mr. President, I should like to comment on a statement made by the distinguished Senator from New Mexico, in which he said a great deal has been said about increasing control and increasing the intervention of the Federal Government in the educational process in this country.

I want it a matter of record that at no time in the 30 or 40 years the Senator from Illinois has addressed himself to the problems of education has there been even the slightest hint of that. In fact, it has been totally to the contrary.

I do feel that we will have to increase our funding of education, and I have stated that flatly many times throughout

the course of my travels in the country as well as in the State of Illinois.

I again point out the shining example of how the Federal Government can grant money without strings and without controls in Federal revenue sharing. Let that be a shining example of how we collect money and then dispense it in such a way that we allow State and local government and the federal system of Government to use that money in a way which will best benefit the children for whom they have the direct responsibility.

Mr. SCHMITT. Mr. President, if the Senator will yield, I hasten to add that his record in this area is absolutely clear and commendable. I was merely listening to the words, and I would be the first to commend the distinguished Senator from Illinois on his efforts to move equality of opportunity into the educational system.

Equality of opportunity, I think the Senator will agree, does not always mean equality of funding. It means putting the funds in the places where equality can be bought, if you will. It is equality of opportunity by Federal funds.

I only add, though, that if primarily the Senator's intention is to have a department that distributes funds, then I think it is a mistake to make it a department. We can talk about that in connection with my next amendment having to do with agency.

However, unfortunately, that is apparently the primary focus of the creation of a Department of Education. It appears to be dominated in fact in terms of sheer numbers by the takeover of the overseas schools now administered by the Department of Defense. It also has many other facets brought into it where projects and programs, Federal projects and programs, are being undertaken rather than the idea that we are going to take those steps necessary without interference with State and local programs to improve the quality of education.

I know that is the Senator's goal. I commend him for it and I hope that in other ways we can work together to see that that happens. I just find that I will have to disagree with him that this is the mechanism at this time.

I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. RIBICOFF. Mr. President, has the time been consumed?

The PRESIDING OFFICER. Time remains on the amendment.

Does the Senator yield back his time?

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from California yield back the remainder of his time?

Mr. HAYAKAWA. I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I move to table the amendment of the Senator from California and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The motion is not debatable.

The question is on agreeing on the motion to lay on the table the amendment of the Senator from California.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 70, nays 14, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—70

Bartlett	Gravel	Moynihan
Bellmon	Griffin	Muskie
Bentsen	Hart	Nelson
Biden	Hatfield, Paul G.	Nunn
Brooke	Hathaway	Packwood
Bumpers	Heinz	Pell
Burdick	Hodges	Percy
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Ribicoff
Case	Humphrey	Riegle
Chafee	Inouye	Roth
Chiles	Jackson	Sarbanes
Church	Javits	Sasser
Clark	Kennedy	Schweiker
Cranston	Leahy	Stafford
Culver	Long	Stennis
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Matsunaga	Talmadge
Domenici	McGovern	Thurmond
Durkin	Melcher	Wallop
Eagleton	Metzenbaum	Williams
Ford	Morgan	Zorinsky
Glenn		

NAYS—14

Baker	Hansen	Proxmire
Byrd, Harry F., Jr.	Hatch	Schmitt
Garn	Hayakawa	Scott
Goldwater	Helms	Stevens
	Laxalt	Tower

NOT VOTING—16

Abourezk	Haskell	McIntyre
Allen	Hatfield, Mark O.	Pearson
Anderson	Johnston	Sparkman
Bayh	Mathias	Weicker
Curtis	McClure	Young
Eastland		

So the motion to lay on the table UP amendment No. 1952 was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. SCHMITT. Mr. President, I would be happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New Mexico.

Mr. President, I am about to propound a unanimous-consent request on the ERA extension.

Mr. SCHMITT. Mr. President, may I ask a question? This is not on my time. I do not know how rapidly this request is going to go. If it begins to impact on the 9:30 time agreement, I hope there will be no objection to the continuation of our discussion on the Department of Education bill and amendments thereto.

The PRESIDING OFFICER. The Chair observes there are 1½ hours on the Schmitt amendment; 2 hours on the amendment by Mr. HELMS; 1 hour on a motion by Mr. HAYAKAWA to recommit, 4½ hours of time, and final passage no later than 9:30.

Mr. SCHMITT. That was my purpose in bringing this up.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time utilized in discussing the proposed unanimous-consent agreement not come out of the Senator's time, and that the time for final vote be modified accordingly, which means that if we take 10 minutes in this discussion the final vote will occur no later than 9:40 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—(HOUSE JOINT RESOLUTION 638) ERA EXTENSION

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader has consulted with his colleagues and has come back with the following proposal, and I think it is a good one. I therefore propound it.

I ask unanimous consent that there be a 4-hour limitation on each of two amendments on rescission by Mr. SCOTT;

That there be a 4-hour time limitation on one amendment by Mr. SCOTT dealing with the question as to whether or not a two-thirds majority or a simple majority is required in this situation;

There there be 4 hours on one amendment by Mr. GARN dealing with prospective rescission;

That there be 6 hours on the bill, the 6 hours to be equally divided between the Senator from Indiana (Mr. BAYH) and the Senator from Tennessee (Mr. BAKER) or his designee;

That there be 1 hour on any other amendment;

That the agreement with respect to the control and division of time be in the usual form;

That only amendments relevant to the issue be in order;

That the consideration of the resolution begin no earlier than 10 a.m. on next Tuesday;

That at no later than 10 p.m. on next Wednesday, the measure be advanced to third reading;

That the vote on final passage be put off until Friday morning at 10 a.m., with paragraph 3 of rule 12 waived;

That there be 1 hour of debate begin-

ning at 9 a.m. on Friday, to be equally divided in accordance with the usual form between Mr. BAKER or his designee and Mr. BAYH or his designee.

And that in the meantime, of course, other measures may be called up.

This would mean that only Tuesday and Wednesday of next week would be taken for debate and amendments, and that the final vote would occur, as stated, on Friday at 10 a.m.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I am happy to say that this agreement has been worked out over a period of time with Members on this side and with certain Members on the other side. I think it reflects an accommodation to the maximum of our ability of the requirements of many Senators. I think it is a good agreement. I think it presents to the Senate an opportunity to dispose of this issue on a fair and just basis, and I hope and trust there will be no objection to it.

I might say, Mr. President, that I intend to assign the control of the time on this side to the distinguished Senator from Virginia (Mr. SCOTT), who is the ranking Republican member of the Jurisdictional Subcommittee.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I believe a great deal of effort has taken place to try to accommodate me, and I am grateful; but I think we left one thing out of the unanimous-consent agreement, and that has to do with the Garn prospective rescission.

It is my understanding that the timing is right as far as how much time is allowed; but the consideration of that amendment is to occur on Wednesday at all events, and I do not believe that is in the unanimous-consent request as propounded.

Mr. ROBERT C. BYRD. I had not been informed of that. I modify my request to include that proviso.

Mr. DOMENICI. Could I ask——

Mr. ROBERT C. BYRD. Is that to be Wednesday morning or Wednesday before a certain hour?

Mr. GARN. Mr. President, reserving the right to object, and I will not object, we did overlook saying in the agreement that it would occur on Wednesday. I have no objection to setting a time to vote on that amendment to accommodate the Senator from New Mexico. I would suggest possibly—I know there is a problem on your side after 12. I would suggest possibly an 11:15 or 11:30 a.m. vote on Wednesday on my amendment.

Mr. ROBERT C. BYRD. Could we make it 11?

Mr. GARN. That would be fine.

Mr. DOMENICI. Would that be it? At the hour of 11?

Mr. ROBERT C. BYRD. A vote on the amendment by Mr. GARN would occur on Wednesday, on the prospective rescission amendment, at 11 a.m.

Mr. BAKER. Mr. President, reserving the right to object, I see the distinguished Senator from New York (Mr. JAVITS) on the floor and on his feet. I believe this germaneness language was of his derivation; I wonder if we could ask him what that means, please.

Mr. JAVITS. Mr. President, the unanimous-consent request calls for the agreement to be in the usual form. The Senator from Tennessee said that all the amendments were to be relevant to the issue. I do not think he quite means that. Let me explain, and see if he and others will adopt this formulation:

The amendments are to be in the usual form, except for germaneness. As to germaneness, the identified amendments will be germane according to the unanimous-consent agreement. As to other agreements, covered by the 1-hour rule, which are not identified, they are to be relevant to the issue of equality of rights under the law for women.

I am using the words of the amendment. That would exclude, which was my desire and everybody seemed to agree, things like abortion, busing, prayer, et cetera.

I have checked that with the Parliamentarian, and he agrees with that formulation of words as expressing our purpose. So may we consider the unanimous-consent request to be phrased that way?

Mr. ROBERT C. BYRD. Yes, indeed. I believe the unanimous-consent request as propounded would cover the precise language the Senator from New York has stated, because I said, with respect to the words "usual form," they would be effective only in controlling division of time. But I think the Senator's explanation is pertinent, it is needed, and it makes perfectly clear exactly what is intended.

Mr. JAVITS. I thank the majority leader.

Mr. SCOTT. Mr. President, so that certain matters may be clarified further, I have an amendment with respect to women in the military. Of course, that would be considered germane, and the Senator from New York indicated that it would be. But we were talking about final passage at 10 on Friday.

If the distinguished Senator from West Virginia will recall, I brought up the question of a possibility of 1 hour on Thursday. I do not care whether we have the 1 hour or not, but if we had 1 hour after the third reading to be equally divided, then I would suggest that we begin the 1 hour at 10, and then vote at 11. I do not care whether we have the 1 hour or not.

Mr. ROBERT C. BYRD. Mr. President, if I said Thursday with respect to the 1 hour, which I do not believe I did, I meant Friday.

Mr. SCOTT. Friday, I am sorry. My mistake.

Mr. BAKER. Mr. President, if the Senator will yield to me, that, I must say, will cause some problems on this side that I am aware of. I wonder if we could do one of two things: either have the hour on Thursday evening before the vote——

Mr. SCOTT. Or we could waive it altogether, and not have any discussion whatever on Friday morning before the vote.

Mr. ROBERT C. BYRD. Yes, that would be all right. I will so modify the request, if it is in accordance with the wishes of the Senators present, that on Friday there be no further debate, simply a vote up or down, at 10 a.m.

Mr. SCOTT. If the Senator will yield further, there was discussion of my proposal with regard to a two-thirds vote. I would offer an amendment to require a two-thirds vote on final passage. I just wanted to clarify that. It would be in the nature of an amendment.

Mr. ROBERT C. BYRD. Yes. But the amendment would be offered and voted on on either Tuesday or Wednesday, is that correct?

Mr. SCOTT. That is correct.

Mr. PERCY. Will the Senator yield for a question?

Mr. SCOTT. Yes.

Mr. PERCY. It was the understanding of the Senator from Illinois after talking with Senator GARN that we would finish this by Wednesday night. In a sense, that is true, and there is no purpose in having the final vote delayed until 10 a.m., Friday, other than to accommodate certain Senators who would not be here that late on Wednesday.

Mr. SCOTT. The Senator is correct.

Mr. PERCY. So there is not sense in the space intervening other than to insure the maximum number of Senators present.

Mr. SCOTT. That is correct.

Mr. HUDDLESTON. If the Senator will yield, would it be more accommodating to have it later on Friday? The last word I heard was that the vote would be Wednesday.

Mr. ROBERT C. BYRD. Mr. President, I will be glad to get the distinguished Senator a pair if he has any problem, and I will vote any way just to give him a pair on Friday.

Mr. HUDDLESTON. That will not be necessary.

Mr. ROBERT C. BYRD. I would hope that this would meet with the approval of the Senate. It is possible it will discommode someone, but the Senate will be in session on Friday and Saturday. I would hope that by next Friday the Senate will be discussing the tax bill. That will probably require a good many votes on that day.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, might I just once again thank the leader, Senator BAKER, and Senator GARN. I have to be in my State on Thursday and my turn-around time is a half day to get back and forth. I do thank the majority leader. I will make arrangements for my vote on final passage.

Mr. ROBERT C. BYRD. I thank the Senator. The Senator from Nevada (Mr. CANNON) has the same problem, coming from a very far distance. The vote was put over to Friday to accommodate Senators in that situation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

I ask unanimous consent that the motion to invoke cloture on the ERA resolution, which under the rule would automatically be voted on this coming Saturday, now be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I do not need to do this because the motion to invoke cloture on the motion to proceed which would have occurred next Tuesday is automatically negated. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. There are several important bills in conference and many of those conferences will be concluded during the time this is going on. Do I understand that a conference report has priority if one wants to bring it to the floor during the course of this discussion on ERA?

Mr. ROBERT C. BYRD. Conference reports are privileged and can be brought up at any time. However, if the Senate is working under a time agreement, they can only be brought up if Senators in control of time will yield time. There could be a problem, but I will point out that under the agreement the debate on the measure is not to begin any sooner than 10 a.m. on Tuesday. It could begin at 10, it could begin at 11, it could begin at 12.

Mr. MAGNUSON. The conference reports on the appropriation bills may not be concluded. I do not think many of them will be controversial, but at midnight on Sunday the fiscal year ends and people will not get paid. They involve the life of HEW, for instance. If we can get a conference report, I would like to have some kind of an agreement, if not under the rules sort of a gentleman's agreement, with these people who are more interested in ERA than Health, Education, and Welfare at this particular time. I am interested in it, too. but we do have to get these bills through. I am sure we can get a time agreement on most of them.

The Senator from Mississippi has the most important conference going on. It is on defense. Otherwise, when we come to October 14 we will be working under continuing resolutions, which are not good. In HEW it is the same way.

I was just hoping that the Senator from Virginia, the Senator from Utah, or others, if we find we have a conference report, and we would not take it out of their time under this agreement, would allow us to go ahead. Say there was a time agreement for 1 hour on the conference report. Allow us to do that and it would not be taken out of the time under the unanimous-consent agreement. We really have to get these appropriations bills finished.

Mr. ROBERT C. BYRD. Mr. President, I believe as we reach each of those situations as it arises——

Mr. MAGNUSON. We will take them one at a time.

Mr. ROBERT C. BYRD. I feel we will be able to deal with them. I believe the Senator from Kentucky will have a conference report, hopefully this week. I do not believe we will have a problem. If we do, we will deal with it at the time.

Mr. MAGNUSON. I am only suggesting to the Senator from Virginia and the other people who are so interested in this ERA thing, and I am, too, if we do come up with a conference report and we can get a time agreement of an hour, without taking it out of the time of the agreement just made, we want to bring it up. The Interior report may be ready. I am hopeful we will have HEW next week, but I think it will come right in the middle of the debate. In the meantime, many of the people in Virginia who work in Washington will not get paid. I would think we would have some priority, even if we have to stay here until midnight on a certain night.

If the majority leader will allow us at 10 o'clock at nght to bring up our conference report, we can finish it by midnight.

Mr. ROBERT C. BYRD. We are going to bring up two of them tonight.

Mr. MAGNUSON. I just want to warn the Senate that we have about five conference reports on appropriations bills. There is also the one on which the Senator from Mississippi has worked so hard. We ought to get those passed before we get out of here.

Mr. STENNIS. Mr. President, reserving the right to object, I think the Senator is making a very important point. We have an authorization bill for the military to replace the one which was vetoed, which is the foundation for the appropriation bill. It supports the whole Defense Department all over the world. It would be tragic, Mr. President, for us to have to go through with a continuing resolution and run that huge Department just to get up a bill of this kind. This agreement has displaced almost everything else. Now "must" bills will have to stand by. These other bills could be taken up later, but the bills to which I refer must be taken care of. I feel some provision has to be made so that the conference reports can be taken care of.

Mr. ROBERT C. BYRD. Mr. President, I do not see any problems. If we will just wait until the problems arise, we will deal with them. I do not see any problems.

Mr. MAGNUSON. Sometimes the problems arise around here and we cannot deal with them.

Mr. ROBERT C. BYRD. I agree with the Senator.

Mr. MAGNUSON. It is not the fault of the majority leader.

Mr. ROBERT C. BYRD. No. But I think we will be able to work these things out. I believe with a little luck, and we always bet on a little luck, we will be able to adjourn on October 14. Mr. President, I yield the floor.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the unanimous-consent agreement we will vote on final passage not later than 9:50.

The Senator from New Mexico has the floor under the agreement.

Mr. SCHMITT. In honor of this great feeling of cooperation and comity which has suddenly appeared in the Chamber of the Senate, I will do everything I can to get the vote off by 9:30 as we originally had thought would happen. I will also say that I do not believe I will call up my third amendment and, instead, will speak for a few minutes in general terms about the bill. We can move to final passage hopefully by 9:30, depending upon the response of any of the distinguished floor managers.

Mr. President, I guess it is fairly obvious by now that a few of us who have been involved in education as much as or maybe more than most have some very serious reservations about the action the Senate appears to be about to take if previous votes are any indication.

We have largely had our say. I just want to add to the final record a few of the comments of those who live outside these Chambers and offices.

I begin with the editorial comment of two of the major newspapers of this country, which, strangely enough, in recent years, I have found myself not agreeing with very much, but which illustrate the great diversity of ideologies that now seem to be joining together in opposition to this move toward a Department of Education.

The Washington Post, for example, wrote:

> The collection of various bureaucracies and instrumentalities into one seemingly logical place is a fairly common element of governmental-reform schemes—that has had at best mixed results. The bureaucratic bits and pieces that became HUD, for example, hardly underwent a galvanic revitalization by virtue of sharing a roof and a set of executive managers. And to look at either the Labor Department, say, or the Commerce Department is to know that gathering units of government around a single large, controlling subject hardly guarantees their energy or efficiency.
>
> We don't cite the Labor and Commerce departments casually: To the extent that they are basically one-constituency organizations of government, they provide another cautionary note. One of the principal risks of creating a separate education department is that it will become a creature of its clientele. That clientele would not necessarily be the schoolchildren and their parents affected by the federal government's education programs. Much more probably it would be the National Education Association, the organization of teachers and school administrators who already exert a great deal of influence on education policy in Washington. In a way, this would be giving them their own department.

The New York Times, in its editorial of January 16, 1978, wrote as follows:

> We welcomed the creation of the Department of Energy last year; it meant not fragmentation but centralization of functions scattered around the Government and dealing with an issue of overriding importance. There is no such sudden, overriding importance to justify creating a Department of Education. To do so would keep a campaign promise; it would tickle the education world's sense of importance; it could, at best, make present education programs more orderly and efficient. But it is hard to see, beyond that, what such a reorganization would do to benefit actual education.

Mr. President, I also add that just the problem of having an additional Cabinet-level person seeking the attention of the White House and the very concept of a cabinet has been eroded with the proliferation of executive departments. The original Cabinet of five departments in-

creased to just nine departments in the first 160 years of our history. Yet, in the past 25 years, we have created four new departments with proposals pending for two more. Before long, the Cabinet will need to be superseded by another entity just to be manageable.

I draw my colleagues' historical attention to what the Romans learned empirically many, many centuries ago; that the No. 10 seems to have a very magic managerial connotation. That is that it is about the limit that human beings can deal with at any particular level. We are already at 12 Cabinet positions. We are seeking to create a 13th. As I said, there are proposals for even more.

The President, frankly, is saturated. All you have to do is look at the attention the President and the White House staff can give to certain other departments. They cannot give attention to departments nearly as much as we would like them to, depending on our own particular interests. This is not going to make the problem any easier. It is going to make it much worse. Rather than creating departments, we should be looking at how to break up some of the more unmanageable ones into independent agencies that can be responsible within certain bounds of the charter to the Congress. I hope that will become the trend once we have dealt with this particular problem of creating a Department of Education.

Mr. President, earlier today, I discussed the other organization of teachers and administrators who are opposed to this bill. The NEA has often been cited as being in favor of it. Well, the American Federation of Teachers of the AFL–CIO is very undisposed toward this kind of legislation. I quote again:

S. 991 will not result in increased coordination of Federal education efforts. What is likely is that a new Federal education department would magnify the Federal role in education policy decisions that have previously been viewed as state and local matters. Federal departments are designed to deal with policy and administration. There is, of course, a Federal system of justice for the Department of Justice to administer. The obvious need for national control over Defense and Foreign policy speaks for itself. Education, however, has traditionally been a state and local responsibility supplemented by an important but clearly limited Federal role. The Federal responsibility in education has been primarily to promote equal educational opportunity for historically neglected and unserved populations, such as educationally disadvantaged and handicapped youngsters, and to provide poor- and middle-income families with the financial aid necessary to pursue post-secondary education.

Implicit in the creation of a Federal department is a new Federal role that exceeds these previous limitations.

Mr. President, I again emphasize and underline everything the AFT has said. Of course, the inclusion of the overseas school system as a major system of 135,000 pupils in the Department of Education exceeds these previous limitations on the Federal role. The inclusion of other educational activities of mission agencies in this Department again exceeds these previous limitations on the Federal role.

I think the AFT is particularly well qualified to discuss this matter, because, as the statement of Gregory Humphrey, codirector of legislation of that organization has said before the House Subcommittee on Legislation and National Security:

The AFT represents more college professor members than any other organization in this country, we are deeply concerned with their point of view and they tend to be even more skeptical of this proposal than other AFT members. Twenty-five percent of higher education funds come from the federal level while only 9% of elementary and secondary education funds are federal. Research funds for institutions of higher education come from practically every department in the federal government. Their administration probably never could, or should be consolidated. We do not believe that post-secondary education would benefit from a federal department that encompasses an education division, of HEW and little else.

I add only in slight correction to that statement the fact that it includes much more than HEW. That is the education system now run by the Department of Defense, which, in fact, will constitute more than a majority of employees of the new department in its initial phases.

Mr. President, we have tended to forget those people out there in this debate who have to deal with the Federal bureaucracy. I should like to bring one such individual onto this floor by proxy, a Mr. Walter E. Smith, of the Los Alamos, N. Mex., School System, who, on his own, independently, having had a great deal of experience in that system, did a study which he entitled "Federal Regulations and Paperwork; What Is the Cost to Local Educational Agencies?"

I quote now from his introduction to that study:

Educators welcomed federal aid to education because it permitted program expansion and improvement. However, greater direct federal involvement in education has created additional work for educators at all levels. Local educators are questioning the value of the funds received because of the problems created by regulatory demands.

More and more regulations have been imposed upon school districts for project preparation and evaluation, which has resulted in increasing demands on educators' time. The amount of required paperwork is astounding, and becoming greater each year. An example of burdensome federal regulatory demands is evident in the redundancy of project applications. The school district must prepare and submit demographic information for each and every federal project. Educators must comply with these regulations—there are no alternatives. Complaints of these redundant procedures seem to fall on deaf ears.

Mr. President, somehow, I am supposed to assure Mr. Smith that joining all of this together in one big super bureaucracy is somehow going to improve or eliminate the problem they are faced with.

I would just quote to my colleagues here on the floor Mr. Smith's compilation of the cost of complying with Federal regulations by State at the present time, and based on a weighted sample cost per student of $3.46. This would be the figures, I believe, for 1977.

Connecticut—the distinguished Senator from Connecticut is managing this bill—it costs something on the order of $2.2 million.

Illinois,the cost was almost $7.9 million.

Missouri, $3.4 million.

Oklahoma, $2.0 million.

New Mexico came in under $1 million, just barely, though; $968,000.

So the cost now, just with the activities within HEW, is running in those kinds of figures.

Again, I do not see right now that I can assure Mr. Smith that is going to change. In fact, I can only probably assure him it will probably get worse with the new Department.

But what about the people as a whole? We are getting close to the final vote on this, how are the people now looking at us—some of us, at least, as a condition for reelection—going to perceive this particular vote this evening?

Well, the question was asked by Mr. Gallup in his polls recently, published in September, 1977:

In your opinion, should education be taken out of the present Department of HEW and made a separate department of the Federal Government, or not?

Mr. President, the national totals were as follows: Those who favor making education a separate department, 40 percent; those opopsed, 45 percent. The don't knows and no answers were 15 percent.

If we look at a breakdown of that in terms of those who have children in schools, it was 40 to 42 opposed. Those public school parents, 40 to 49 opposed. Those parochial school parents, 42 to 47 opposed.

So, however we look at it, the people now appear to be close, but still significantly opposed to this particular effort.

Finally, Mr. President, all the evidence that I am familiar with, after many years in the educational systems and many years as an observer and researcher on educational problems outside the context of the committees of the Congress, indicates to me that the Federal presence in education should be reduced and not increased.

There is no question that the efficiency of education, that is, the time a good teacher has to spend with a child, is going down, largely because of the Federal presence in education, there is no question in this Senator's mind, after working with the educators and teachers of New Mexico.

In addition, it is claimed in the report on this measure that there will be no new regulatory impact because of this bill. If there will not be, why do we need 50 new supergrade positions attached to this agency?

I am afraid, Mr. President, every parent will regret our actions if they lose more and more controls over the lives of their children to the Federal Government.

We are, in fact, bucking the general trend that I think all of us are beginning to feel very strongly against big, impersonal Government.

Our casework that we perform for our constituents is almost entirely dealing with the impersonality of Government.

Local school boards are elected and

parents have some control over their election. I am afraid my constituents are asking what control they will have over the Department of Education, another large group of unelected bureaucrats.

The feeling is in this Senator's mind, and I believe in the minds of many others, that national standards will come, that national tests will fall, national curriculum will soon fall behind.

The Federal control and the concept of big brother in education is very rapidly coming upon us.

As I said earlier when I first began this discussion, it is diversity in education and local control of that diversity that has made this Nation's educational system second to none. It should be our attempt to improve and increase the ability of our educational systems to tap diversity, rather than taking any step such as this one toward the homogenization of the educational system of this great country.

Mr. President, I appreciate the indulgence of the managers of this bill. I think we have had a good discussion. I think the record will be useful for whatever purposes our friends in the other body may put it.

I do hope they will protect us from ourselves on this issue, at least for this year, and maybe next year, with due consideration, some other means can be found to better coordinate, better control, the educational activities that are presently somewhat out of control in the Federal Government.

The distinguished Senator from Connecticut, the distinguished Senator from Illinois, are to be complimented for their sincere efforts in putting together a bill of this kind. I am very sorry that I cannot agree with them that this is the right approach. I would much rather agree with my colleagues than disagree. But, nevertheless, they have put in a great many years on this effort and that effort must be recognized for its sincerity.

Mr. President. I reserve the remainder of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment has not been called up.

Mr. SCHMITT. I request the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, the Schmitt amendment strikes at the very heart of this legislation.

The 62 Senators who have cosponsored this bill recognize that education is an important, fundamental function in the United States. It directly involves more than one-quarter of our population every day.

Cabinet status means improved accountability—something we rarely get from the education officials buried in the bureaucracy of HEW.

Cabinet status drastically improves the access of our highest ranking education official to the President. It actually encourages and demands Presidential involvement. When the President wants to get involved in education at the Federal level, who can he go to? The HEW Secretary will be too busy administering the other $170 billion in his large department. The education officials four levels below have virtually no policy responsibility.

Education in the Federal Government has the size, scope, and character to deserve Cabinet status. This new Department, which will not gain any new programmatic authority under this bill, will rank in size larger than six existing Cabinet departments.

Cabinet status attracts the most capable and qualified leadership. I consider the U.S. Office of Education an "independent agency" within HEW. But that agency has a hard time holding onto its leaders. The Commissionership of Education, for example, has changed hands 13 different times in the last 12 years.

In our hearings on this bill, most State education officials told the committee they could not afford to take the top Federal education post. It is a terribly frustrating job. Giving education continued independent agency status would do little to improve this situation.

Cabinet status means improved coordination of Federal education programs. It has been said that the greatest coordinating body of all is the Cabinet. This bill consolidates more than 170 education programs in one department. Another 100 will stay outside, mainly because they are integrally related to the mission of their parent agency. Coordinating all these programs will be a difficult job which only a strong, high-level Cabinet Secretary can do.

If education is relegated to independent agency status, I fear the chances are great we will never hear or see our top education officials again. They would be ignored and forgotten by higher-ranking Cabinet Secretaries and the President.

Making education an independent agency would only serve to isolate education even more from all the other agencies and departments having related human services functions, when what we really should be doing is developing more linkages.

Cabinet Secretaries can relate to one another because they are on an equal footing with one another, and they all share in the high honor and duty of being a member of the President's Cabinet. These good working relationships simply would not exist between Cabinet Secretaries and the head of an independent education agency.

The Governmental Affairs Committee, which is charged with creating and abolishing agencies, has studied this bill thoroughly. The committee unanimously recommended the creation of a Cabinet post, because the institutional deficiencies can only be remedied through Cabinet status.

We could have recommended Cabinet status for the consumer protection agency, or a Cabinet Department of Administration in place of GSA—but Cabinet status was clearly not warranted in those instances.

But in the case of education, there is a sore need for a Cabinet department.

Basically, the whole point of this legislation is to elevate the status and improve the management of education in the Federal Government. The Schmitt amendment would have the effect of maintaining the status quo.

As floor manager of the bill, I strongly oppose the Schmitt amendment.

Mr. President, I ask unanimous consent that Leon Billings and Jim Case of Senator MUSKIE's staff, Al From and Jim Davidson of the Governmental Affairs staff, and Karl Braithwaite and Robert Van Heuvelen of the Environment and Public Works Committee staff be accorded privileges of the floor during consideration of and votes on S. 991, the Department of Education bill, S. 3077, the Export-Import Bank bill, and House Joint Resolution 638, the equal rights amendment extension.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. After the colloquy, I will yield 7 minutes to the distinguished Senator from South Carolina.

I yield to the distinguished Senator from Oklahoma.

Mr. BELLMON. Mr. President, I appreciate the courtesy of the Senator from Connecticut.

I am concerned, as others are, about transferring responsibility for vocational rehabilitation at the Federal level to the new Department. I support the creation of the new Department. I am concerned about the effect the transfer may have upon the administration of vocational rehabilitation at the State level.

I believe that it is critically important that we interfere as little as possible in decisions such as State government organization. There are dramatic differences among States, constitutionally and in terms of organizational necessities. I want to be certain that we are not treading on this dangerous ground. To this end, I would like to ask the distinguished floor managers two questions: first, am I correct in my understanding that Senator CHILES' amendment specifically precludes the Federal Department of Education from attempting to influence State decisions as to where the vocational rehabilitation program will be administered?

Mr. RIBICOFF. The distinguished Senator from Oklahoma is absolutely correct. The committee believed that because the focus of many of the programs at training, and training is directly related to education, these programs would best be joined with those administered by the Buerau of Education for the Handicapped in the Department of Education at the Federal level. However, the committee intentionally did not suggest where these types of programs would best operate at the State level. In fact, Senator CHILES' amendment, adopted unanimously by the committee, specifically states that nothing in the section establishing the Office of Special Education and Rehabilitative Services shall require any particular organizational structure of vocational rehabilitation programs at the State level.

Mr. BELLMON. I thank the distinguished floor manager.

I should like to propound an additional question:

Do the managers agree with me that the Senate's decision to move vocational rehabilitation into the new Federal Department of Education reflects no judgement at all about the proper locus of responsibility for that program at the State level, and that, to the contrary, it would be advisable to accept the judgements of Governors and State legislatures about organizational arrangements for the program?

Mr. RIBICOFF. Once again, the Senator from Oklahoma is correct. The transfer of vocational rehabilitation programs to the Department of Education was made by the committee because it believed such a move would consolidate Federal programs directed toward the education of the handicapped and would provide a continuum of rehabilitative services for the handicapped children and adults at the Federal level. This transfer makes no judgment at all about the locus of responsibility for these programs at the State level. I certainly agree it is advisable to accept the judgments of Governors and State legislatures about organizational arrangements for these programs at the State level.

Mr. BELLMON. I thank the floor manager of the bill. I am greatly reassured by his response.

Mr. RIBICOFF. Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I have always been a supporter of a strong and effective educational system in this country. With the insight provided as a former school teacher, high school coach, and county superintendent of education, I can attest that the education of our children is one of the most important goals of a continuing free society. As a State senator and as Governor, I initiated and supported many laws advancing education in our State, such as the area trade schools, which were the foundation of our present technical school system, the best in the Nation.

Over the years, as a citizen, I have illustrated my deep concern for education by using my honorariums, and other funds which I obtained, to establish 27 scholarships in 23 educational institutions in South Carolina for the benefit of needy, worthy students. Also, I established the Strom Thurmond Foundation to aid needy, worthy students to attend college or technical schools, and it is now assisting between 40 and 60 young people a year to further their education and training.

Therefore, Mr. President, as I rise today in support of S. 991, which establishes a separate Department of Education, I speak not as a politician in Washington aloft from the real needs of education in this country, but as one who has been there and who is aware of the needs and importance of education.

Yesterday, this body passed the Labor/HEW appropriations measure, the second largest appropriations bill to come before the Congress. The budget of HEW will rise to about $180 billion this year, which is more than one-third of the entire Federal budget. In such a large department, it is understandable that one segment could be the victim of neglect.

An examination of the hearings on this bill illustrates time and time again that the primary interest of HEW has been with health and welfare programs and not with education. In the $180 billion budget I mentioned earlier, at least $168 billion will be expended for health and welfare. Mr. President, that leaves only $12 billion, or a mere 6 percent of the total HEW budget for education. This is not, of course, to cast a bad light on health and welfare programs because they are very important parts of the Department; but the point is that education needs to be placed in a separate department not dominated by these other programs.

There are other concerns which mandate a separate department of education. The $25 billion that this Government will spend on education this year will come from more than 300 separate programs operated by nearly 40 different Federal agencies. Under this system, each agency promulgates its own rules and regulation and its own paperwork requirements.

The overlap and duplication that inevitably occurs due to these administrative burdens are a tremendous hindrance to the educators over this country in performing their duties. This legislation will stop this fragmentation and duplication and join all of these functions under one roof where they can be administered more efficiently and effectively.

Mr. President, with the creation of this new Department, we will have a responsible, high-level Federal official whose only concern will be education. This person will be held accountable not only when there are advances in education, but also when there are failures. Education will have an advocate in Washington for its needs and to work hard toward solving its problems. When the Congress or the public desires to inquire into the status of education in this country, there will be one central office, a Cabinet-level Department, from which the information can be obtained.

Finally, Mr. President, I want to emphasize my understanding that this bill, with all of its benefits through centralization and effective management, will not mean more control. I am bitterly opposed to Federal control of education. By this, I mean that the policy decisions and curriculum to be taught in local schools will remain at the State and local level where it belongs. A new Department of Education can do an important job by assisting the States and localities without infringing on their rights to establish their individual educational needs.

Mr. President, today we have a great opportunity to advance the role of education in our country more significantly than ever before. The establishment of this new Department will be a sign of our unabating commitment to education. I urge my colleagues to examine the need for this legislation closely, and then I am confident they will do as I will do and vote favorably on this bill.

In closing, Mr. President, I compliment the able and distinguished Senator from Connecticut and the able and distinguished Senator from Illinois for the excellent job they have done on this bill.

● Mr. ROTH. Mr. President, I would like to clarify a matter with the distinguished chairman of the committee about this bill regarding the applicability of the Eagleton-Biden anti-busing amendment to the expenditure of funds by the new Department of Education. Mr. President, the fiscal 1979 Labor-HEW appropriations bill, H.R. 12929, as passed by both the House and the Senate, contains language identical to that contained in previous HEW appropriations bills. This language prohibits HEW from using any funds to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

Section 501(a) of the Department of Education bill we are considering today provides for the transfer of unexpended funds for education functions to the new Department as follows:

> Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

It is my understanding from this language in S. 991 under section 501(a) that the Eagleton-Biden amendment as enacted as part of the fiscal 1979 Labor-HEW appropriations bill prohibits the new Department of Education from using any unexpected funds transferred to the Department to require, directly, or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

Furthermore, because the language in section 501(a) stipulates that unexpended funds which are transferred to the new Department may be used only for the purposes for which they were originally authorized and appropriated, I am given to understand that functions which are transferred to the new Department that have been funded through other different appropriations measures may not be used to circumvent the intent of the language of the Eagleton-Biden amendment by using the moneys contained in these measures to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

I wish to ask the Senator from Connecticut if I am correct in my understanding of this matter.

Mr. RIBICOFF. Mr. President, I would answer the Senator from Delaware's question on the application of the Eagleton-Biden antibusing amendment as enacted, to the use of appropriated funds by the Department of Education, as follows: Yes, it is clearly the intention of this legislation and the intention of the committee in drafting the bill that section 501(a) of this legislation clearly re-

quires that any appropriated funds transferred to the new Department shall be subject to the identical restrictions and requirements they were subject to when originally authorized and appropriated. As far as the Eagleton-Biden language is concerned, this means the new Department of Education would be prohibited from expending any funds transferred to it from the HEW appropriations bill so as to require busing of schoolchildren under title VI of the Civil Rights Act of 1964. We would expect that no funds which have been appropriated under different measures for any functions transferred to the new Department could be used to circumvent the intent of the language of the Eagleton-Biden amendment.●

● Mr. CULVER. Mr. President, as a cosponsor of S. 991, I am pleased that the Senate is considering this legislation to create a U.S. Department of Education. After years of discussion, the concept of a separate Department of Education has finally received the serious consideration and widespread endorsement it deserves, and its consideration by the Senate today indicates the high priority of our educational needs.

The Committee on Governmental Affairs has conducted extensive hearings on S. 991, which demonstrated the broad support for this proposal. During the course of these hearings, excellent arguments in support of such a Cabinet-level agency were made by many experienced educators and administrators.

While there have been varied opinions as to the structure of the new Department, I am confident these differences will be resolved during this debate, and that we will move closer toward our goal of assuring effective and equal educational opportunities for all Americans. The needs of education have greatly increased during this century, and today it is one of our most important public investments. More than 50 million people in the United States are directly involved with education today. When HEW was first established in 1953, the budget of the Office of Education was $400 million, and today it has a budget of $12.8 billion.

S. 991 is designed to consolidate and coordinate the education programs which are currently scattered throughout the Department of Health, Education, and Welfare (HEW) and other departments. The Secretary of HEW must deal with such vital public issues as social security, welfare reform, and health care in addition to education, and cannot always give the necessary attention to the demands of contemporary education because of the complexity of these other responsibilities.

In addition to the vast educational network at HEW, there are over 100 educational programs scattered and fragmented throughout more than 40 other Federal agencies. This legislation would provide an effective framework for managing these programs and for reducing the present waste and duplication that ultimately lowers the quality of education.

A major goal in establishing a separate Department of Education is to provide a cohesive structure which will simplify the administrative procedures for recipients of Federal education funds. I have heard countless complaints from State and local school officials in Iowa about the confusing mandates being passed down to school systems and about administrators going from agency to agency for program support. S. 991 is designed to eliminate these unnecessary problems and provide for improved cooperation between Federal, State, and local education agencies. Our educational services would be more efficient.

This legislation would strengthen the Federal Interagency Committee on Education to assure coordination of Federal programs affecting education, and would establish an Office of Inspector General to supervise auditing and investigative activities in the Department. In addition, it establishes an Intergovernmental Advisory Council to assist the Secretary in the formulation of education policy and to review the administration and operation of Federal education programs.

Mr. President, by giving Cabinet-level status to education, we are not only providing an uninterrupted focus for establishing a coherent Federal policy but we are also expressing a national commitment to meeting the educational needs of all Americans. Many Iowans have expressed their strong support of this vital legislation to me, and I am confident it will greatly enhance the quality of education in the United States. I commend Senator RIBICOFF and the other members of the Senate Governmental Affairs Committee for their dedicated efforts to bring this bill to the floor of the Senate this year, and I urge my colleagues to approve S. 991.●

● Mr. NUNN. Mr. President, I rise in support of S. 991, the legislation to create an independent Department of Education in the executive branch of the Government.

As an original sponsor of S. 991, I feel that the establishment of a separate Department of Education is a needed and sensible step in our efforts to improve the administration and oversight of all educational programs and policies for the Federal Government. S. 991 is not the first legislation which has been introduced in Congress to create such a Department.

Senator RIBICOFF, the primary sponsor of this bill and the able chairman of the Governmental Affairs Committee, introduced such a measure in the 89th Congress. But I believe that the need for such a Department has become more apparent in the last 10 years when the role of the Federal Government in education has expanded. Today, we bring this bill to the Senate floor with over 50 bipartisan cosponsors who share the view that our Government has no national educational policy and no coordinated system of providing educational services to the State and local educational agencies, our colleges and universities, and most importantly, our Nation's youth. It is our hope that a separate Department of Education will help alleviate this problem and bring some guidance to our fragmented educational programs.

The able floor manager of this bill, Mr. RIBICOFF, has already described the provisions of this measure, and I do not intend to repeat the details of this reorganization. I would, however, like to make some comments as to why I feel strongly that we need a Cabinet-level Department of Education.

I believe that the Federal involvement in education, with its primary goal of equalizing opportunities for all citizens, is a commendable one. These programs have made a great difference in the education of many socially, physically, and economically handicapped children.

But the price for these benefits has often been confusion, fragmentation, duplication, delay, and general frustration with the paperwork and painstaking slowness of Federal bureaucratic processes.

Federal regulations require days, even weeks, of administrative time, often at great expense to school systems. But the mandates do not stop at the administrative levels. Teachers also must spend hours of their time in complying with Federal requirements and completing nebulous and often inane forms when time and effort could be better expended in fulfulling the educational needs of the students.

And all of this time and effort is expended at a price. Only 8 percent of the cost of public education is assumed by the Federal Government.

There is a reason for the burdensome paperwork, for the regulations and for the guidelines. It may not be a good reason, but it is a simple one. The paperwork, the regulations and the guidelines fill the vacuum created by the unconscionable absence of a Federal education policy.

This is not the fault of the executive branch alone. In a very real sense, Congress must share the blame, because Capitol Hill is responsible for the extraordinary fragmentation in education programs that is now so severe that only a reorganization of Government can respond to the problem.

For example, in addition to the education division of the Department of Health, Education, and Welfare, 37 other departments and agencies run 130 education programs of their own. We have also played musical chairs with our Commissioners of Education—there have been 13 individuals holding this position in the past 13 years. With continuity of leadership like that, there is little wonder that bureaucrats write regulations, guidelines and prepare new forms to their hearts content.

And, although the Secretary of HEW is ultimately responsible, it is difficult for even the most competent and concerned HEW Secretary to be a real spokesman for education when the massive health and welfare needs, with their concurrent extraordinary expenditures, demand all his time and energies.

But not only is the Commissioner of Education's responsibilities fragmented his voice and opinion have little authority and receive little attention. In hearings on the Department of Education which I chaired in the Governmental Affairs Committee, former Commissioner of Education Terrel Bell, testified:

The Commissioner is an executive level 5 in the government structure, and in HEW that is one of the lowest forms of human life.

He also stated that during his 2 years' service as Commissioner of Education, he had the opportunity to meet directly with President Nixon on only one occasion and that was when he was appointed.

This is just one sad example of the frustration of being U.S. Commissioner of Education, and is perhaps one reason why this job changes hands so much. The Commissioner of Education has almost no opportunity for policy input. His decisions and recommendations on education budgets are usually overruled. He is buried within the HEW bureaucracy with very little access to the Secretary of HEW, much less anyone higher.

All the aforementioned problems describe a generally deplorable situation, yet, such is the state of education at the Federal level. It is incumbent on us now to take steps to remedy this problem.

I believe that the first step we must take is to establish a Cabinet-level Department of Education. I am not going to pretend that I believe that a separate Department of Education will solve all our educational problems or guarantee that the quality of these endeavors will be improved. But I do strongly believe that an identifiable, Cabinet-level department which consolidates existing programs, streamlines administration and establishes direct lines of authority can go a long way toward the improvement of education.

But even more importantly, Congress and the American people need a visible, responsible, high-level Federal official who can be held accountable for the successes or failures of educational programs and policies at the Federal level. Education also needs a strong advocate in the executive branch to delineate its priorities and to assist in solving its problems. A Department of Education can go a long way toward meeting these needs.

But I feel I must take a moment to emphasize that the effective management which will accompany a Department of Education should not mean more control. The Committee on Governmental Affairs, with my strong concurrence, has stated emphatically in its report on the Department of Education bill that the responsibility for education policy and curriculum will remain at the State, local and private levels. However, a Secretary of Education can mean improved accountability, coordination and advocacy, all of which are important if the Federal Government is going to make its involvement in education meaningful.

As I previously stated, the Department of Education is by no means a new idea, but during the 95th Congress, it has come to life. The Governmental Affairs Committee held 10 days of hearings on this measure and heard from more than 100 witnesses. The committee has also received excellent cooperation from the administration in the development of a workable reorganization proposal.

I would like to commend Senator RIBICOFF for his excellent leadership in introducing and encouraging the passage of this measure. I would also like to thank Miss Marilyn Harris and Mr. Bob Heffernon of the Governmental Affairs Committee staff for their dedication, cooperation, and diligence in formulating a measure which will best serve the needs of education in our Nation.

Education is an investment of no small measure in our Nation. In 1977, the American people spent $140 billion on education—this is 8 percent of our gross national product and more than we spend on national defense. Today, nearly 3 out of every 10 Americans—63.7 million citizens—are directly involved in education. And, education is by far the largest expenditure of State and local governments, accounting for more than one-third of their budgets.

The bill which we are considering today reflects the goals and concerns of citizens throughout our Nation who are interested in improving education opportunities and wisely spending our educational dollars. I believe that the result of the long months of work on S. 991 is an excellent measure which will reorganize our Federal educational effort, reduce fragmentation, give priority attention to these urgent needs and provide more responsive educational services to the youth of our Nation.

Mr. President, I urge that the Senate adopt this important legislation.●

● Mr. DOLE. Mr. President, I support S. 991, a bill which would create a new cabinet level Department of Education. The impetus behind a separate Department of Education has been growing for approximately 125 years. Nourished with this record of longevity, the idea of a new Department of Education has grown more attractive in recent years as we have watched the proliferation of education programs become entangled in the bureaucracy of the Department of Health, Educaton, and Welfare.

Much work has gone into this bill, and I appreciate the efforts of my colleagues as they have worked to insure that just those programs which are most pertinent to education are included in the new Department. I especially want to thank the Senator from Illinois (Mr. PERCY) for his efforts to delete the nutrition programs from being included in the Department.

Several Members were quite concerned that if this component was in fact transferred to the proposed Department as the original bill mandated, nutrition programs would no longer have the heavy emphasis placed on them which they are now beginning to receive within the Department of Agriculture. I just want to take this opportunity to express my appreciation to Senator PERCY and his staff for all of their efforts on the amendment to delete nutrition programs from the list of services being transferred.

PROBLEMS IN EDUCATION

Most parents and educators have serious concerns about the state of education in the United States today. Few persons, if any, are satisfied with their public school system. Students are often disruptive, teachers often unmotivated, and parents often apathetic. The results of standardized achievement tests show a steady decline in test scores. In reaction to this phenomenon, any number of theories have been formulated to explain where education has gone wrong. Over and over again, the suggestion is made that a separate Department of Education would help the situation. If this were to be done, education would receive a new visibility and an enlarged realm of influence which should help bolster education programs.

FEDERAL SPENDING

Federal spending has increased many times over from the days the Office of Education was created within the Department of Health, Education, and Welfare in 1953, and when it operated on a $400 million budget. Under President Johnson and his initiatives in social legislation, Federal spending for education increased 10 times over, reaching $4 billion. Now, Federal spending in this area is about $10 billion annually. Given this tremendous surge in Federal spending, it is clear that the Congress perceives education as a legitimate national concern, and one which merits Cabinet level attention.

Mr. President, I do not think it is overstating the situation to say that the future of our country rests on our educational system. Every day, millions and millions of children—the Presidents, Senators, professors, journalists, and engineers of the future—sit in classrooms across America and absorb or fail to absorb intellectual concepts and ideas. I believe it is our responsibility to see that these young citizens receive the best education we can provide, and I feel that a new Department of Education is one way toward that goal.

CONCLUSION

When I look at the many studies which have been done on the question of whether or not a separate Department of Education is in our Nation's best interest, I am impressed with the near unanimity with which researchers have answered "yes." This topic has been debated throughout this century, and I am hopeful that by a favorable vote on S. 991, we are taking a sizeable step toward improving the educational structure in our government.

I share with the sponsors of this bill a feeling of anxiety over the future of our educational process, and am pleased to join with them in this effort to come to grips with the programmatic shortcomings found in the Office of Education.●

● Mr. HEINZ. Mr. President, I join my colleague and the distinguished chairman of the Governmental Affairs Committee, Senator RIBICOFF, in support of S. 991, the Department of Education Act of 1978, and I strongly urge its passage by the Senate.

As one of the original cosponsors of the bill, I am committed to the idea of giving education the high status and visibility it rightly deserves in the Federal Government.

Education in the United States is the key to higher living standards for millions of people. We must work therefore to provide equal education and training opportunities for all Americans. At pres-

ent the Federal Government's effort to improve our educational system is disorganized. Today there are more than 300 separate Federal education programs involving expenditures reaching nearly 25 billion dollars. These programs are spread out over at least 40 Federal departments and agencies which are involved in educational grants, services and regulations. This fragmentation of Federal education programs results in ineffective and inefficient leadership in our Federal education effort. We as a nation must focus more attention on assigning the task of coordinating education programs, raising the priority of education in our Federal Government, as well as giving status to education in America.

During these times of decreased public confidence on the part of the American people in the capabilities of our education system, improved management of Federal education programs is needed now more than ever. The creation of a Cabinet-level Department of Education to centralize as well as coordinate the Federal effort should provide the constructive direction necessary to bring order out of chaos. The best efforts of the Department of Health, Education, and Welfare, have not been sufficient to provide an answer to the distinct and unique problems that exist in our educational system. We need only look at the declining competency levels in our Nation's schools to realize that a major change is necessary. While the proposed Department of Education will not entirely solve the problem, it is the necessary first step in the right direction.

I am pleased that President Carter has given his full support to the creation of the Department of Education. It is my strong hope that, in the spirit of cooperation and compromise, we can complete action on this legislation before the end of the 95th Congress.●

Mr. BAKER. Mr. President, as a cosponsor, I am pleased to rise in support of S. 991, legislation which would create a new Department of Education. I want to commend my colleagues for the imagination and exhaustive effort that has gone into this landmark legislation, particularly the distinguished chairman of the committee, Senator RIBICOFF.

S. 991 marks a new and exciting day for education in the United States. I believe it will help to usher in an era of improved coordination and cooperation in education programs across the country.

One need only look at the declining test scores in our schools and the multitude of education programs to realize that a change in this area is necessary. As an ardent advocate of high educational goals, I wholeheartedly embrace the concept of a separate Department of Education.

It is essential that the Federal Government be organized in such a way as to maximize the educational opportunity for everyone. While I generally oppose expansion of the Federal bureaucracy, I am more concerned with the effect of unorganized, uncoordinated and inefficient Federal education programs. That is the system that exists today. Our present education system consists of hundreds of Federal programs which are now located in more than 40 different agencies. This bill will bring the vast majority of these programs into a central and cohesive working organization at the Cabinet level.

While differences may exist as to which programs ought to be included under the umbrella of the new Department of Education, the need for a separate Cabinet-level Department is unquestionable.

Education like charity begins at home. For this reason I feel that the decisions concerning education should remain as close to home as possible—that is in the hands of local school boards. I have no desire to see the Federal Government assume a central or controlling role in our educational structure. Rather I believe that we must maintain a decentralized approach to education.

At the same time I realize that many Federal programs are not being effectively utilized because of a failure on the part of the Federal structure to coordinate its role in the educational system. It is my sincere hope that this Department will allow the Federal Government to become an effective and efficient partner in the educational process.

Mr. President, S. 991 has had a broad base of support since it was first introduced in this Congress. Members on both sides of the aisle have joined as cosponsors of this legislation. Educators and educational organizations have joined in enthusiastic support of this measure.

In my own State, the Tennessee Education Association feels that this legislation is the most important education measure we have considered in many years. I share that view and am proud to cast my vote in favor of the establishment of a new and necessary Department of Education.

● Mr. WILLIAMS. Mr. President, I am pleased to support this legislation to create a separate Department of Education. As chairman of the Human Resources Committee, I wish to commend the Governmental Affairs Committee for their efforts in working with us on this legislation.

The education of our children and students is vital to the future of the United States. Since the beginning of the Republic, our Nation's leaders have recognized the importance of education for the sustenance of a free democratic society. We can be justly proud of the accomplishments of our educational system. It has provided opportunities for economic advancement for generations of citizens and provided the skills and knowledge required to make the United States competitive in business and commerce with the rest of the world.

Early in the history of this country the tradition of State and local control over our schools was established. This tradition must be perserved, and the Federal commitment to education strengthened. We can assist in accomplishing this goal by establishing a Cabinet-level Deparement of Education. It is time for us to create new partnerships and reinforce old ones that will enhance the role of the States and local communities in educating our Nation's children.

As our society has developed, the economic aspects of education have undergone a radical transformation. By the mid-1980's the United States will be spending more than $150 billion annually on education—the primary activity of more than 63 million Americans. With a population of over 200 million people, nearly 3 out of every 10 persons are directly involved in the schooling of our citizens. If any area requires national attention and Cabinet-level status in our Government, it is education.

Education is the most valuable instrument at our Nation's disposal to enrich individual lives, offer economic opportunity and to enhance social justice. And the contemporary educational system goes far beyond our formal schools, colleges, and universities. Ancillary educational resources at our disposal are both diverse and substantial. We cannot ignore the important role of other institutions such as families and churches, libraries and museums, radio and television networks, journals, books and newspapers, the workplace, cultural and arts institutions and community organizations. In order to reflect more accurately the reality of education in today's America where learning and teaching are lifelong activities, we must recognize the need for broad and innovative approaches and opportunities for learning experiences outside the traditional classroom and educational institution. Similarly, the responsibility for our students does not stop at the classroom, but extends to all of the services provided by our schools.

One responsibility of a Cabinet officer is to bring a departmental perspective to solving our Nation's problems. For example, during the national gas shortage 2 years ago, the Secretaries of Treasury and Commerce stepped forward to minimize the negative effects on business that gas allocations would cause. However, there was no one to consider the effect on the public schools, hence a number of schools were unnecessarily closed during the energy crisis, temporarily bringing classes to a halt. Paradoxically, more energy was consumed by students at home than they would have experienced in schools with moderately lowered temperatures.

Further, changes in the way the Unemployment Trust Fund treats State and local governments could seriously affect the ability of schools to provide services. Yet when such changes are proposed, no Cabinet officer has the interests or the undivided time to represent the interests of education.

Education, as an enterprise, is experiencing a period of enormous revision. Competition for resources has increased, severe inequities in financing education still exist, while demands for increased excellence and ouality must be addressed. The establishment of a Department of Education will provide a better administrative mechanism through which the Federal Government can tackle these national problems.

I am especially pleased with S. 991's

creation of the Office of Occupational, Adult and Community Education. This Office will provide for the effective administration of Federal vocational, adult and community education assistance to State and local programs. A broad-based Department of Education will bring into sharper focus the wide range of Federal educational programs.

A Department of Education must also have a strong science education component. My colleagues well know the current decline in the quality of science and mathematics education in our schools. The program being transferred will provide the Department with an opportunity to grapple with this problem especially in the areas of teacher training, student orientation to science, institutional support, science education research and development, and public understanding of science programs. These programs fit well into the scope of the new Department and can enhance the Department's Office of Educational Research and Improvement.

We in the United States are concerned with the lives of our youth and the future of our Nation. It is our obligation to correct the persistent problems that prevent students from achieving their potential and from obtaining the best possible preparation for life that our country can offer. A Department of Education can provide the kind of leadership and coordination necessary to approach these goals. I strongly urge my colleagues to support this legislation.●

● Mr. BIDEN. Mr. President, I support the proposed Department of Education bill.

I have had my doubts about the need for a Department of Education.

I do not believe that creating a new department in and of itself will make a substantial difference in improving the quality of education in our schools.

It will not make our children read better, it will not curb grade inflation in our universities and colleges and it will not insure that parents are actively involved in our schools.

While the committee has listed a number of advantages which the Department of Education is supposed to provide; for example, higher visibility, greater access to Congress and the President, many of these advantages are problematic.

What we may be doing is simply creating another Federal bureaucracy which seeks greater involvement in the affairs of local schools.

I believe that giving education greater focus and higher visibility is a desirable goal.

There are many problems in education today and unfortunately too little attention has been paid to these problems.

The Federal Government can play a valuable role in pointing out the problems but not at the expense of experimenting and intervening in such local educational matters as curriculum and school assignment.

This raises a second point of concern.

For many of the proponents of the Department of Education, the department is just a first step toward establishing a "national educational policy."

I believe that it is necessary to reexamine educational policies periodically.

However, I do not agree with the argument that to have a national educational policy it must be financed and promulgated in Washington, D.C.

Historically, our education system has been founded on the premise of neighborhood schools and community control.

The lack of parental and community involvement plus changes in student attitudes toward learning have been the primary factors contributing to the decline of educational standards in our schools.

The Federal Government has played a constructive role in solving some educational problems such as underachievement by disadvantaged children by providing compensatory aid.

But other Federal initiatives such as busing have caused massive disruption and very little positive educational benefit.

There is a natural tendency within bureaucracies once they have identified a problem, to label existing efforts as inadequate and fragmented.

The "solution" then is to establish a comprehensive national policy to deal with the problem.

The national policy almost inevitably calls for more Federal spending and a greater Federal Government role in local affairs.

In the case of education I have doubts as to whether a greater Federal role is desirable.

Our greatest need is for a fundamental rededication of parents, teachers, students, administrators, and the Federal Government to the concept that our schools are the primary place for learning basic educational and occupational skills.

That, I believe, is the key to revitalizing American education.

Devoting additional resources to education may help.

Consolidating educational programs under a single existing authority may improve the management of these programs.

But until this rededication to basic education occurs, I doubt whether we will see improvement in the ability of our children to read, and write.

The Department of Education can play a large role in promoting revitalization of American education.

By creating a separate, Cabinet-level Department of Education the problems of American education will be brought into greater focus and will have a higher visibility, both here in Congress and in the executive branch.

Perhaps the greatest single benefit of this bill will be to make the delivery of health, education, and social services more manageable within the Federal Government.

The Department of Health, Education, and Welfare, no matter how capably administered, cannot give adequate consideration to health, education, and human services.

It is just too big a job.

I do not share the view that there will be a significant loss of coordination between health and social services programs and education programs.

This coordination has never been adequately achieved in the past and I am not sure that it will ever be achieved within the context of the present framework of HEW.

By creating a separate, Cabinet-level Department of Education, it may also be possible to attract the leadership and personnel necessary to enable the Federal Government to perform its role in the area of education.

Holding onto the services of first-rate educators has been extremely difficult in the past.

During the past 12 years we have had 13 Commissioners of Education.

This is not the type of educational leadership we need.

In conclusion, Mr. President, I believe that it is desirable to create a Department of Education.

S. 991 provides an efficient and simple framework for creating such a Department.

But I do have misgivings about establishing an entity which could unnecessarily increase the role of the bureaucracy in education.

If we are to make significant progress in improving the quality of education in the United States it must be because we get involved at the grassroots level and commit ourselves to improving our schools.

Increased Federal involvement in education will not do it alone.

What we can do is to create a supportive environment in the Federal Government for these renewed efforts at the State and local levels.

The Department of Education could provide this supportive environment.●

UNANIMOUS-CONSENT AGREEMENT TO STRIKE DOMENICI UP AMENDMENT NO. 1841 FROM THE BILL

Mr. RIBICOFF. Mr. President, in conformance with the Stevens amendment, which was adopted a few moments ago, I ask unanimous consent that Senator DOMENICI's unprinted amendment No. 1841, with respect to Indian education, be stricken in its entirety from S. 991.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I think it is very near the time to vote. I certainly hope we have a reasonable turnout for that vote.

I shall finally add two points to the record before the vote.

One is that we are dealing with a constitutional issue, and I think that will be discussed further in the next Congress, assuming that our colleagues in the House of Representatives do their duty.

Second, the taxpayer is going to find an additional burden imposed upon him.

The estimate is now that the additional cost of this department in fiscal year 1979 will be $3.3 million; fiscal year 1980, $5.7 million; fiscal year 1981, $8.6 million; fiscal year 1982, $10.441 million; and fiscal year 1983, $11.1 million.

I think Senators can see where that trend is going to. It is going to have a

significant economic impact and have a significant regulatory impact.

I urge my colleagues to consider twice and vote against final passage.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. RIBICOFF. Mr. President, I think that we have before us no committee amendment.

Mr. SCHMITT. I think there is some confusion on that.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. The Senator from New Mexico did not offer his third amendment.

The PRESIDING OFFICER. That is correct.

The vote was on the committee amendment, as amended, in the nature of a substitute.

Mr. RIBICOFFF. The Senator from New Mexico did not offer his amendment?

Mr. SCHMITT. I did not offer my third amendment. I am sorry. I guess the Senator from Connecticut missed that point.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. The vote now is on final passage.

The PRESIDING OFFICER. The Senator is correct.

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote today.

Mr. STENNIS. Regular order, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from Utah (Mr. GARN) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Utah would vote "yea" and the Senator from Arizona would vote "nay."

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 72, nays 11, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—72

Baker	Griffin	Nelson
Bartlett	Hart	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield, Paul G.	Pell
Biden	Hathaway	Percy
Brooke	Heinz	Randolph
Bumpers	Hodges	Ribicoff
Burdick	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schweiker
Chiles	Javits	Stafford
Church	Kennedy	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Wallop
Domenici	McGovern	Weicker
Durkin	Melcher	Williams
Eagleton	Metzenbaum	Zorinsky
Ford	Muskie	
Glenn		

NAYS—11

Byrd, Harry F., Jr.	Helms	Proxmire
Hansen	Laxalt	Schmitt
Hayakawa	Morgan	Scott
	Moynihan	Tower

NOT VOTING—17

Abourezk	Garn	Johnston
Allen	Goldwater	McClure
Anderson	Gravel	McIntyre
Bayh	Haskell	Pearson
Curtis	Hatfield, Mark O.	Sparkman
Eastland		Young

So the bill (S. 991) was passed, as follows:

S. 991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1978".

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—GENERAL PROVISIONS

Sec. 101. Statement of findings.
Sec. 102. Purposes.
Sec. 103. Definitions.

TITLE II—ESTABLISHMENT OF DEPARTMENT

Sec. 201. Department of Education.
Sec. 202. Principal officers.
Sec. 203. Functions of the Department.
Sec. 204. Office for Civil Rights.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Postsecondary Education.
Sec. 207. Office of Occupational, Adult, and Community Education.
Sec. 208. Office of Special Education and Rehabilitative Services.
Sec. 209. Office of Education for Overseas Dependent Children.
Sec. 210. Office of Educational Research and Improvement.
Sec. 211. Office of Inspector General.
Sec. 212. Office of General Counsel.
Sec. 213. Intergovernmental Advisory Council on Education.
Sec. 214. Federal Interagency Committee on Education.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Sec. 301. Transfers of agencies and functions from the Department of Health, Education, and Welfare.
Sec. 302. Transfers of agencies and functions from the Department of Defense.
Sec. 303. Transfers of functions from the National Science Foundation.
Sec. 304. Transfers of programs from the Department of Justice.
Sec. 305. Transfers of functions from the Department of Housing and Urban Development.
Sec. 306. Transfer of the Advisory Council on Education Statistics.
Sec. 307. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Annual authorization of personnel.

PART B—GENERAL PROVISIONS

Sec. 411. Authority of the Secretary.
Sec. 412. Delegation.
Sec. 413. Reorganization.
Sec. 414. Reporting relationships.
Sec. 415. Rules.
Sec. 416. Contracts.
Sec. 417. Technical advice.
Sec. 418. Regional and field offices.
Sec. 419. Acquisition and maintenance of property.
Sec. 420. Facilities at remote locations.
Sec. 421. Use of facilities.
Sec. 422. Copyrights and patents.
Sec. 423. Gifts and bequests.
Sec. 424. Working capital fund.
Sec. 425. Funds transfer.
Sec. 426. Seal of the Department.
Sec. 427. Annual report.
Sec. 428. Relationship to General Education Provisions Act.
Sec. 429. Authorization of appropriations.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Technical amendments.
Sec. 509. Amendment to the Comprehensive Employment and Training Act.
Sec. 510. Amendment to the Elementary and Secondary Education Act of 1965.
Sec. 511. Redesignation.
Sec. 512. Transition.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institution, communities, and families;

(4) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands;

(7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

SEC. 102. (a) It is the purpose of this Act to establish a Department of Education in order to—

(1) insure that education receives the appropriate emphasis at the Federal level;

(2) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(4) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, which acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs;

(5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education, including the development and improvement of education programs and services;

(6) promote the quality and relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities;

(7) broaden approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions;

(8)(A) provide assistance in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level;

(9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(10) assess the potential contribution of educational institutions, including institutions of higher education, to the improvement of education by creating mechanisms by which such institutions may bring problems to the attention of appropriate departments and agencies and may make recommendations to foster the continuing vitality of such institutions.

(b) It is the intention of the Congress in the creation of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependent Children;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(2) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Occupational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) two additional Assistant Secretaries;

(H) an Inspector General; and

(I) a General Counsel.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall report directly to the Secretary and shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section 203(13) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education, including programs under part B of title V of the Economic Opportunity Act of 1964;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of programs pertaining to career education;

(5) administration of education grants and other programs for which the Department has responsibility under law;

(6) administration of programs relating to special education and rehabilitative services;

(7) administration of certain programs relating to the education of Indians, Alaskan Natives, and Aleuts

(8) administration of schools for the overseas dependent children of personnel of the Department of Defense;

(9) enforcement of the civil rights laws relating to education;

(10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(12) public information;

(13) planning and evaluation of the programs of the Department and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(14) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(2)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Occupational, Adult, and Community Education the functions of the Bureau of Occupational and Adult Education transferred under section 301(b)(1)(A) (other than administrative and support functions). The Secretary, through the Assistant Secretary for Occupational, Adult, and Community Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agenices. The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. (a) There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(2)(A)(xi) (including the functions of the Bureau for the education and training of the handicapped) and 301(b)(2)(H), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENT CHILDREN

SEC. 209. There is established in the Department an Office of Education for Overseas Dependent Children, to be administered by the Administrator appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 303, relating to the Office of Dependents Schools of the Department of Defense and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(2)(A)(i), relating to the Fund for the Improvement of Postsecondary Education;

(B) under section 301(b)(2)(F), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 304.

(b) The Assistant Secretary for Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INSPECTOR GENERAL

SEC. 211. (a) There is established in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202(c).

(b) The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary under section 301(b)(2)(D), and shall perform such functions with respect to all functions of the Secretary or of the Department, or of any officer or component thereof. The Inspector General of the Department shall be appointed and removed in the same manner, and shall have the same status, as the Inspector General of the Department of Health, Education, and Welfare.

(c) The Inspector General shall be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provision which might otherwise apply.

OFFICE OF GENERAL COUNSEL

SEC. 212. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high-quality, and effective education.

(2) In carrying out its function under subsection (a), the Council may review rules or regulations proposed by the Department concerning Federal education programs prior to the promulgation of such rules or regula-

tions in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions.

(c)(1) The Council shall be composed of twenty-two members, to be appointed by the President—

(A) six members from among representatives of elected State, local, and tribal officials;

(B) six members from among representatives of the public, including parents, students, and public interest groups;

(C) five members from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and

(D) five members from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

(2) In making appointments under this subsection, the President shall consult with various organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors.

(3) Not more than eleven of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The President shall designate one of the members of the Council as the Chair of the Council.

(f) Twelve members of the Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Council shall not affect its power to function.

(g)(1) In carrying out the provisions of subsection (b)(2), the Council shall establish a subcommittee to review proposed rules or regulations concerning Federal education programs in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. In reviewing such rules or regulations, the Council may provide parties to be affected by such rules or regulations an opportunity to comment on such rules or regulations, and shall consider any comments received in reviewing such rules or regulations.

(2) The Council may submit a report containing the results of its review of any such rules or regulations to the Secretary. Any such report shall be submitted by the Council within the time established for public comment on such rules or regulations. The Secretary shall place any report received from the Council on the record of the proceedings concerning such rules or regulations, and shall make such report public. Within thirty days of the receipt of such report, the Secretary shall submit a written public response on the record which addresses the recommendations made by the Council concerning any rule or regulation reviewed, and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations made by the Council in such rule or regulation.

(h) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(j) The Secretary shall appoint an executive director for the Council. Such executive director shall be compensated at the rate provided for GS-17 of the General Schedule contained in section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their work life.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior officials of that department or agency who are responsible for the formulation of policy in that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are—

(i) Department of Agriculture;

(ii) Department of Commerce;

(iii) Department of Defense;

(iv) Department of Energy;

(v) Department of Justice;

(vi) Department of Health and Human Services;

(vii) Department of the Interior;

(viii) Department of Labor;

(ix) Department of State;

(x) National Aeronautics and Space Administration;

(xi) National Endowment for the Arts;

(xii) National Endowment for the Humanities;

(xiii) National Science Foundation;

(xiv) Veterans' Administration;

(xv) Commission on Civil Rights; and

(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b)(5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are hereby transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education; and

(5) the Office for Handicapped Individuals of the Department of Health, Education, and Welfare.

(b)(1) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the

Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(C) the Institute of Museum Services of the Department of Health, Education, and Welfare; and

(D) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare—

(A) principally involving education including functions—

(i) under the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) under section 808 of the Elementary and Secondary Education Act of 1965;

(iii) under the Emergency School Aid Act;

(iv) under the Higher Education Act of 1965;

(v) under the Emergency Insured Student Loan Act of 1969;

(vi) under the Act of August 30, 1890 (26 Stat. 417);

(vii) under the Environmental Education Act;

(viii) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(ix) under the International Education Act of 1966;

(x) under the National Defense Education Act of 1958;

(xi) under the Education of the Handicapped Act;

(xii) under the National Commission on Libraries and Information Science Act;

(xiii) under the Vocational Education Act of 1963; and

(xiv) under the Career Education Incentive Act.

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to the Office of Inspector General of the Department of Health, Education, and Welfare relating to the functions transferred by this section;

(E) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(F) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(G) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(H) (i) with respect to and being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals, respectively;

(ii) under section 405(a)(5) and section 405(c) of the Rehabilitation Act of 1973; and

(iii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(3) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(4) There are transferred to the Secretary all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(5) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense.

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependent children of personnel of the Department of Defense.

(b) The Secretary is authorized to operate a program for the education for overseas dependent children of personnel of the Department of Defense and for education of dependent childern of personnel of the Department employed in such program.

(c) In addition to authorities available to the Secretary under this or any other Act, the authorities available to the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(d) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recomemndations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 303. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs, as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM DEPARTMENT OF JUSTICE

SEC. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the law enforcement and education program and the law enforcement intern program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 306. (a) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

(b) There are transferred to the Secretary all functions of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but

notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS–16, GS–17, and GS–18 all positions in such grades assigned and employed on August 1, 1978, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(c)(1) In addition to the number of positions which may be placed at the GS–16, GS–17, and GS–18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may appoint—

(A) for the Office of Educational Research and Improvement, professional and technical employees, in a number not to exceed one-third of the total number of employees of such office; and

(B) not more than fifteen transitional employees; without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter 53 of such title, except the Secretary may not compensate any such personnel in excess of the maximum rate prescribed for GS–18 of the General Schedule contained in section 5332 of title 5, United States Code.

(2) The authority of the Secretary to appoint and compensate personnel under paragraph (1)(B) shall expire three years after the effective date of this Act.

(d)(1) There are authorized for the Dement seventy-one additional positions in the competitive service at levels GS–16, GS–17, and GS–18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one of the positions authorized under this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of each such position and make any necessary reductions in such grade level.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS–16, GS–17, or GS–18 under section 5108(a) of title 5, United States Code of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 percent shall be deemed GS–16 positions, 25 percent shall be deemed GS–17 positions, and 12 percent shall be deemed GS–18 positions.

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

(f)(1) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) provided that such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under subsection (a) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. (a) Notwithstanding any other provision of this Act—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1978, and ending September 30, 1979, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within 120 days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a deparment or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(h)(1) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, he may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 per centum of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within one hundred and twenty days after the effective date of this Act.

PART B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

SEC. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) Subject to the provisions of section 202(g) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;

(B) Teacher Corps;

(C) Community College Unit;

(D) National Center for Education Statistics;

(E) National Institute of Education;

(F) Office of Environmental Education;

(G) Office of Consumers' Education;

(H) Office of Libraries and Learning Resources;

(I) Office of Indian Education;

(J) Institute of Museum Services; and

(K) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) The Secretary may not alter, consolidate or discontinue the Office of Career Education, or reallocate the functions vested in such Office by the Career Education Incentive Act, section 406 of the Education Amendments of 1974, or any other statute prior to October 1, 1983 unless (A) funds are not appropriated to carry out the provisions of such Act for any fiscal year preceding such date and (B) a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action. After October 1, 1983 such Office shall not be altered, consolidated or discontinued, or its functions reallocated unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action.

(d) On the effective date of this Act, the following entities shall lapse:

(1) The Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) The Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) The Bureau for the education and training for the handicapped of the Department of Health, Education, and Welfare; and

(4) The Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out the functions of the Secretary in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patients), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a)(1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Department of Defense to the Department under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such periods as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472 (e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. gifts, bequests, and devises of money and

proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department; and

(C) the coordination of the functions of the Department;

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments. expenditures, and numbers of teachers and other categories of professional and related personnel;

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas; and

(C) the performance of the American educational system, as measured by such indicators as the overall results of student testing on generally recognized standard examinations for entrance to secondary and postsecondary institutions;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from such agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of

the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capactiy of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(67) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) Assistant Secretaries of Education (8).

"(123) Director of the Office for Civil Rights of the Department of Education.

"(124) Inspector General of the Department of Education.

"(125) General Counsel of the Department of Education.".

(f) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(144) Administrator of Education for Overseas Dependent Children of the Department of Education.

"(145) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Human Services, the Department of Education,".

AMENDMENT TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 511. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of thist Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 512. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title and

(2) the Secretary may promulgate degulations pursuant to section 50(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secertary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on

the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 991.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I would like to especially thank Senator PERCY and all the Senators and their staffs on the Governmental Affairs Committee. I want to especially thank Senator MURIEL HUMPHREY for her support. Senator Hubert Humphrey had been such an ardent supporter of this legislation for so many years. I want to also thank those on the Human Resources Committee, and the other Senators of this body and their outstanding staff who have worked so hard to make this legislation possible. Their dedication and hard work has brought this department into reality.

I want to pay special tribute to Marilyn Harris of the Governmental Affairs staff who worked so tirelessly and constructively throughout the entire conception up to final passage of this bill.

I also want to pay tribute to Richard Wegman and Jonathan Greenblatt who worked diligently to see this bill to completion tonight, and special tribute to Robert Hefferman, who devoted tireless energy and provided valuable assistance.

Mr. President, I ask unanimous consent that the names of the following staff members who worked so diligently on the bill be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

Lawrence Grisham, John Childers (Senator Percy).

Brian Conboy, Alan Bennett, Greg Fusco (Senator Javits).

Nancy Anderson, Link Hoewing (Senator Roth).

Jill Porter (Senator Mathias).

Mary Anne Simpson, Carl Flair (Senator Stevens).

Martina Pearson (Senator Heinz).

Chris Brewster and Harrison Fox (a former member of Senator Danforth's staff) (Senator Danforth).

Carnie Hayes (Senator Chiles).

Terry Jolly (Senator Muskie).

Cheryl Davis (Senator Nunn).

Reg Gilliam (Senator Glenn), and Evelyn Jacobs (a former member of Senator Glenn's staff).

Marcia McCord (Senator Eagleton).

Howard Orenstein and Dru Smith (Senator Sasser).

Charlotte Tsoucalas (Senator Jackson).

Tom Cator (Senator Humphrey).

Letitia Chambers (Senator Domenici).

Franklyn Zweig (Senator Williams).

Jean Frohlicher (Senator Pell), Patria Forsythe (Senator Randolph).

Mr. ROBERT C. BYRD. Mr. President, with the passage of S. 991, the Department of Education Organization Act of 1978, the Senate has taken what can legitimately be regarded as a giant step forward toward the goal of upgrading and improving this country's educational system.

For too long now our schools and educational programs have been the poor stepchildren of a huge Department of Health, Education, and Welfare. With a budget only one-eighteenth that provided for health and welfare programs, it was almost inevitable that the Department's Education Division would "get lost in the shuffle" and that our educational programs would not receive the attention or be given the priority that they deserve. This is precisely what has happened.

At the same time, with a current budget of over $10.5 billion, the Education Division itself is easily large enough to constitute a separate department. This budget already exceeds that of the Departments of the Interior, Commerce, Justice, and State.

S. 991, which the Senate has passed today, will serve to correct this situation and further evidence this Nation's commitment to provide the people of this country with the best possible education. For the first time our Government will have a Cabinet-level Department of Education devoted solely to the needs of the educational system.

The creation of the new Department of Education will insure that education receives appropriate emphasis at the Federal level and help to end the piecemeal approach to education-related problems that presently exists. It will also serve to continue and strengthen the Federal commitment to insuring access to equal education opportunities.

Mr. President, the passage of this legislation by the Senate today is directly attributable to the tremendous effort on its behalf by the distinguished chairman of the Governmental Affairs Committee, who has so skillfully managed the bill, Senator RIBICOFF. Senator RIBICOFF's longstanding interest in and concern with the entire field of education and ways in which it can be improved are well-known to every Member of this body. His expertise in this area is exceeded by no one and goes back well beyond his service as Secretary of Health, Education, and Welfare in the Cabinet of President Kennedy. Thanks to his hard work, diligence, and skill, what has been the goal of so many for so long will hopefully become a reality in the near future. He is deserving of a great debt of gratitude.

Credit must also be given, of course, to the distinguished Senator from Illinois (Mr. PERCY) for the role that he has played in bringing this bill to passage today. His skill and cooperation, which go beyond this particular legislation, have made a great contribution to what we have achieved today.

Mr. President, I wish to congratulate the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Illinois (Mr. PERCY) on their signal accomplishment. This was a bill that was supposed not to pass, that it would not pass, but due to the fine and splendid cooperation of everyone on both sides of the aisle the bill has now been enacted.

Mr. RIBICOFF. Mr. President, I want to pay special tribute to the majority and minority leaders. During the closing days of the session, I know how difficult it is to program legislation, and it is only because of the cooperation of the majority and minority leaders and their commitment to this bill that it was possible to bring this bill up and get the Senate to take action. My feeling is that because the Senate has acted so overwhelmingly, we can now expect positive action in the House, and then the signature of the President of the United States.

Mr. BAKER. Mr. President, I would like to join the majority leader in extending my congratulations and thanks to the distinguished manager of the bill, the able and distinguished Senator from Connecticut (Mr. RIBICOFF), and the distinguished manager of the bill on behalf of the minority, the senior Senator from Illinois (Mr. PERCY), my classmate. They have worked diligently and hard to bring us to this point.

I have had the privilege of conferring with both of them on the question of scheduling this matter. It appeared, as the majority leader indicated earlier, for a while that it could not be scheduled. But by their perseverence and persistent effort and cooperation, it has now been scheduled and disposed of in the Senate. I think this is a milestone piece of legislation, and I commend them for their efforts; and I thank the majority leader for his cooperation.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I want to include in my expressions of gratitude a special measure of thanks to the distinguished minority leader and those on the minority side for their cooperation in arranging for a time agreement on this matter, which enabled it to be considered and concluded.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, in order that the Senator from South Carolina and others may speak and call up conference reports, et cetera, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

REPORT OF PROPOSED RESCISSION IN EMPLOYMENT AND TRAINING FUNDS—MESSAGE FROM THE PRESIDENT—PM 222

The PRESIDING OFFICER laid before the Senate the following message

from the President of the United States, together with accompanying papers, which was referred to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $10.8 million in employment and training funds appropriated to the Department of Labor.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1978.*

PROPOSED LEGISLATION TO WAIVE APPLICATION OF COUNTERVAILING DUTIES—MESSAGE FROM THE PRESIDENT—PM 223

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Finance:

To the Congress of the United States:

I am today submitting to the Congress a proposal for legislation to extend for a brief period the authority of the Secretary of the Treasury under Section 303 (d) of the Tariff Act of 1930 to waive the application of countervailing duties. I hope that the Congress will be able to enact the necessary legislation before adjournment *sine die*.

If not extended, the waiver authority will expire on January 2, 1979. This would seriously jeopardize satisfactory conclusion of the Multilateral Trade Negotiations (MTN) underway in Geneva. Unless the waiver authority is extended to cover the period during which the results of the MTN will be under review by the Congress, our ability to press ahead with the negotiations would be sharply limited.

As stipulated by the Congress in the Trade Act of 1974, negotiation of a satisfactory code on subsidies and countervailing duties is a primary U.S. objective in the MTN. The United States is seeking through such a code improved discipline on the use of subsidies which adversely affect trade. In our view, a satisfactory subsidy/countervailing duty code must include (1) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests insofar as they are adversely affected by such subsidies, and (2) more effective provisions on notification, consultation and dispute settlement that will provide for timely resolution of disputes involving the use of subsidies in international trade.

My Special Representative for Trade Negotiations has informed me that the prospects for reaching agreement by year end on a subsidy/countervailing duty code which meets basic U.S. objectives are good—provided that the waiver authority can be extended until such a code has been submitted to, and acted upon, by the Congress under the procedures of the Trade Act of 1974. In this connection, the legislation I am proposing would provide that the countervailing duty waiver authority will expire as scheduled on January 2, 1979, unless we are able to report to the Congress before that date that a subsidy/countervailing duty code has been negotiated among the key countries participating in the MTN and that the MTN itself has been substantially concluded.

Under the countervailing duty waiver authority, the imposition of countervailing duties may be waived in a specific case only if "adequate steps have been taken to eliminate or substantially reduce the adverse effect" of the subsidy in question. This provision and the other limitations on the use of the waiver authority which are currently in the law would continue in effect if the waiver authority is extended. Thus, U.S. producers and workers will continue to be adequately protected from the adverse effects of subsidized competition.

A successful conclusion to the MTN is essential to U.S. economic policy. If the waiver authority is not extended, such a successful conclusion will, as I have noted, be seriously jeopardized. Accordingly, I urge the Congress to act positively upon this legislative proposal as quickly as possible.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1978.*

FIRST ANNUAL REPORT ON SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT—PM 224

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources, jointly, by unanimous consent:

To the Congress of the United States:

I am pleased to submit to the Congress the first annual report on science and technology as required by the National Science and Technology Policy, Organization, and Priorities Act of 1976.

Science and technology contributes in significant ways to many of our social needs—maintaining economic growth and productivity, feeding the world's people, improving our health and environment, and preserving our national security. They also reveal the basic structure of nature. Moreover, our science and technology draw the respect and admiration of nations throughout the world.

I believe this report, and its successors, can play an important role in providing a foundation for informed debate on scientific and technological issues, and thereby can help assure that our scientific and technological capabilities remain strong.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1978.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, transmitting the first annual report on science and technology, as required by the National Science and Technology Policy, Organization, and Priorities Act of 1976, be jointly referred to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS REPORT ON INTERNATIONAL WOMEN'S YEAR RESOLUTIONS—MESSAGES FROM THE PRESIDENT—PM 225

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs, the Committee on Governmental Affairs, the Committee on Human Resources, and the Committee on the Judiciary, jointly, by unanimous consent:

To the Congress of the United States:

By mandating International Women's Year, Congress set in motion a series of fifty-two regional meetings that brought together women of all races, incomes, ethnic backgrounds and religious beliefs to consider the major issues confronting women. The culmination of International Women's Year was the National Women's Conference held in Houston on November, 1977. That conference was a turning point in American Women's long struggle for equality. In Houston, delegates elected at the regional meetings developed the *National Plan of Action*—a national agenda to achieve women's full rights and equality.

In response to the Plan's recommendations, the Administration has reviewed our programs designed to improve the opportunities for women. This Message summarizes the results of that review and forwards to the Congress the more detailed status report on Administration action on the IWY resolutions.

A keystone toward achieving equality for women would be the addition of the Equal Rights Amendment to the Constitution. By passing this Amendment, the Congress recognized the need to provide Constitutional guarantees against discrimination on the basis of sex. More than any other single act. ratification of the Equal Rights Amendment will affirm the right of women to participate fully in American life. To ensure that women do not lose the opportunity to secure that precious right, the deadline for ratification should be extended.

Because I feel very strongly about women's equality, I sent a Memorandum last month to the heads of all departments and agencies. In that Memorandum, I directed the head of each department and agency (1) to emphasize the Administration's commitment to the Equal Rights Amendment; (2) to review the Federal Women's Program in their agency or department to determine how it can be strengthened; (3) to designate a policy-level representative from their agency or department to serve on the Interdepartmental Task Force on Women; and (4) to provide adequate staff for that representative.

However, we must not stop here. We must make every effort to help women

assume their rightful place in every part of American life. This is in the national interest, for we cannot meet the important challenges of the coming decades without full participation of all our citizens, including women.

As President, I have acted upon my firm commitment to equity for women in my appointments, programs, and policies. I believe that the Federal Government should serve as a model of nondiscrimination, and I shall continue to take steps toward that goal. In my Administration, women are serving in the Cabinet and at all levels of government. Still, much more remains to be done. That is why I have set in motion the Interdepartmental Task Force on Women, National Advisory Committee for Women, other key task forces, and departmental studies to recommend additional action.

My Administration is dedicated to eliminating discrimination against women. Among the crucial issues which demand our attention:

Passage of the Equal Rights Amendment and the Resolution for Extending the Deadline for Ratification;

Passage of pending legislation which improves the status of women as recommended in this report;

Enforcement of all civil rights laws, particularly Title IX of the Education Amendments of 1972, which prohibits sex discrimination in Federally-financed education programs; and

Development of improved statistical information to permit adequate evaluation of the impact of Federal programs and practices on women.

THE STATUS REPORT

International Women's Year helped raise the expectations and consciousness of American women, who now look to government, private industry, and the community for bold and energetic responses. In accepting the final report of the National Commission for International Women's Year, I reaffirmed my commitment to equality for women and my determination to help keep the spirit of Houston alive. At that time, I directed that a status report be prepared on the Administration's initial steps to implement the *National Plan of Action*. Today I am pleased to present that report with my recommendations to the Congress.

To assess our progress toward the goals described in the *National Plan of Action*, each department and agency was asked to report all current legislative and executive actions reflecting the aims and spirit of Houston. More than three hundred women, both from inside and outside the Federal government, and representing a wide range of interests, reviewed the agency surveys. Many of their suggestions were incorporated into the final report, and I am grateful for their help.

A set of detailed recommendations for implementation of the *National Plan of Action* separate from this report was developed as part of this week. I shall transmit these recommendations to the Interdepartmental Task Force on Women and the National Advisory Committee for Women for review and advice.

Part I of the report sets forth those portions of the *Plan's* twenty-six resolutions calling for Federal action, and indicates the major Administration legislative and executive initiatives in the first eighteen months in those areas. In the months ahead we shall continue to *start* new initiatives to improve equity for women in areas included in *The Plan of Action* and beyond. Part II of the report describes other legislative measures which represent efforts to approach these issues in different ways.

REPORT HIGHLIGHTS

The report summarizes more than seventy-five important initiatives taken during the first eighteen months of this Administration to provide greater equity for women. These include new laws and programs, increased funding, and improved administration in areas addressed by the *National Plan of Action*. Let me highlight some of our major steps:

More than 21 percent of my appointments within the White House and the executive branch have been women, an all-time high for any Administration. In response to my instructions, Cabinet members and agency heads also sought out and appointed women to important positions. We shall continue to do so.

My Administration has acted:

(1) to improve Federal employment opportunities for women;

(2) to examine and make recommendations to address the problems women business owners face in obtaining Federal grants and contracts;

(3) to enforce existing civil rights laws (*i.e.*, The Equal Credit Opportunity Act of 1974, the Fair Housing Act, Title IX of the Education Amendments of 1972, and The Civil Rights Act of 1964);

(4) to improve the collection and dissemination of data on the status of women; and

(5) to increase funding and visibility of programs serving women's needs.

My Reorganization Plan #1 of 1978, a major reorganization effort of the Administration, strengthens and consolidates within the Equal Employment Opportunity Commission Federal enforcement of laws and executive orders against job discrimination based on sex and race.

I have signed and am fully implementing several important new laws—Protection of Children Against Sexual Exploitation Act of 1977, The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, the Social Security Amendments of 1977, and The Age Discrimination in Employment Act Amendments of 1978.

My Administration in its first eighteen months has initiated and supported legislation aimed at meeting the needs of women in many areas identified in the *National Plan of Action*. I urge Congress to act upon this legislation quickly.

Some of the resolutions in the *National Plan of Action* require structural as well as policy changes. My Administration has developed new operations to improve the Federal government's response to women's needs:

The Interdepartmental Task Force on Women and the National Advisory Committee for Women were created by Executive Order in March, 1978, to advise me of additional action necessary to implement the *Plan of Action*.

The Department of Justice Task Force on Sex Discrimination is working with each agency to survey and eliminate sex discrimination from programs and procedures throughout the Federal government. The Task Force will recommend needed changes in existing laws.

The Interdepartmental Task Force on Women Business Owners, coordinated by the Department of Commerce, has identified barriers to business ownership for women and has made recommendations to remove them. On July 10, 1978, I asked my Cabinet to respond to the Task Force recommendations.

The Department of Commerce Office of Federal Statistical Policy and Standards was established to coordinate data collection and to set guidelines and definitions for demographic variables.

During my Administration, other Federal programs designed to meet the needs of women have been expanded:

The Women's Bureau in the Department of Labor, which focuses on the needs of women in the labor force, was upgraded, giving the Bureau Chief direct access to the Secretary of Labor. The Women's Bureau provides support for the Interdepartmental Task Force on Women and the National Advisory Committee for Women, operates significant programs designed to serve women, and publishes information on employed women.

The Federal Women's Program which is in the Office of the Chairman of the Civil Service Commission, aids Federally-employed women. In conjunction with the Federal Women's Task Force on the U.N. Decade for Women, the Federal Women's Program is playing a more active and visible role in shaping Federal employment policy.

The National Advisory Council on Women's Educational Programs is a Presidentially-appointed council which makes recommendations to Federal officials on equity for women and girls in education. During my Administration, the Council has been given an expanded mandate to help implement laws prohibiting sex discrimination in Federally-assisted education programs.

These are only a few high points of the report which surveys our progress over the past eighteen months. My Administration has been able to achieve this record in large part because of the unstinting efforts of the many dedicated women within the Government. For these efforts I am grateful.

RECOMMENDTIONS TO THE CONGRESS

For 131 years after the ratification of the U.S. Constitution, American women could not vote. Since women's suffrage in 1920, there has been considerable progress in legislative and executive action to provide equity for women. That progress has accelerated in my Administration. From 1923 to 1972, the Equal Rights amendment languished in Congress. In 1972, Congress took a bold and affirmative step to guarantee equal rights for women. It only remains for three more states to join the majority of our nation

in passing this historic amendment. ERA must be passed not only for ourselves, but to free our sons and daughters to participate fully in our, (,offio

Our nation benefits when women, as well as men, are freed from stereotypes and given a broader range of choices. Our nation benefits when all women may enter the mainstream of American life, and their talents and abilities are valued and rewarded. Our nation benefits when the freedom of all Americans is enhanced by greater freedom for American women. We can increase this freedom.

I ask you now to join with me in guaranteeing full equity for women in the United States, and to pass in an acceptable form without delay:

H.J. Res. 638 and S.J. Res. 134 *Extension of the Deadline for Ratification of the Equal Rights Amendments.*

H.R. 11086 (H.R. 12452) and S. 2570 *Comprehensive Employment and Training Act.*

H.R. 50 and S. 50 *Full Employment and Balanced Growth Act of 1978 (Humphrey-Hawkins Bill).*

H.R. 6075 and S. 995 *Pregnancy Disability Act.*

H.R. 11280 and S. 2640 *Civil Service Reform Act.*

H.R. 9030 (H.R. 19050) and S. 2084 *Better Jobs and Income Act (Welfare Reform).*

These bills, which are pending before Congress, will greatly enhance the civil rights, employment and economic opportunities of women. Extension of the Deadline for Ratification of the Equal Rights Amendment recently passed the House by an overwhelming majority. I congratulate the House and call upon the Senate to take similar action. The Equal Rights Amendment is needed as a constitutional protection against discrimination on the basis of sex. The Comprehensive Employment and Training Act (CETA) and the Better Jobs and Income Act (Welfare Reform), will, among other things, enable employment training and support services for displaced homemakers and low income women. In addition, CETA will protect against sex role stereotyping in Federal training programs and sex discrimination in placement in Federally-subsidized jobs. The Civil Service Reform Act and the Humphrey-Hawkins Bill will improve employment opportunities for the most recent entrants to the labor market—women and youth. And, the Pregnancy Disability Act, which is now in conference, will protect the health benefits of pregnant workers by making it unlawful for employers to discriminate on the basis of sex.

Through enactment of these bills in the appropriate form, we ensure continued progress toward the goal of full equality so that future generations of Americans—male and female—have choices and opportunities not fully realized today.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1978.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, transmitting a status report on the action on International Women's Year resolutions, be jointly referred to the Committee on Banking, Housing, and Urban Affairs, the Committee on Governmental Affairs, the Committee on Human Resources, and the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on September 26, 1978, he approved and signed the following acts:

S. 3075. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes;

S. 3119. An act to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; and

S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia.

The message also reported that on September 27, 1978, he approved and signed the following acts:

S. 1103. An act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State; and

S. 2556. An act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 4:24 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes;

S. 409. An act to designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center";

S. 425. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired);

S. 1267. An act to amend section 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents;

S. 2946. An act to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control;

S. 2951. An act to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs;

S. 3036. An act to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes;

S. 3045. An act to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products;

S. 3274. An act to designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center";

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake"; and

S.J. Res. 154. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. EASTLAND).

The message also announced that the House has agreed to Senate Concurrent Resolution 106, authorizing the printing of 5,000 additional copies of the eulogies to the late Senator Hubert H. Humphrey, without amendment.

The message further announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 415. An act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn; and

S. 1215. An act to provide for grants to tribally controlled community colleges, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, each with amendments in which it requests the concurrence of the Senate:

S. 274. An act to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the armed forces, and for other related purposes;

S. 2249. An act to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission;

S. 2466. An act to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes;

S. 2534. An act to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations;

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in United States agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings;

S. 3447. An act to strengthen the economy of the United States through increased sales abroad of American agricultural products;

S. 3467. An act to designate the United States Department of Agriculture Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field Station", and to designate the United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat and Animal Research Center"; and

S.J. Res. 16. A joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis.

The message further announced that the House insists upon its amendments to the bill (S. 2493) to amend the Fed-

eral Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. ROBERTS, Mr. ANDERSON of California, Mr. RONCALIO, Mr. LEVITAS, Mr. HARSHA, and Mr. SNYDER were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to H.R. 8588, an act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing, and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to H.R. 10965, an act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation."

The message also announced that the House agrees to the amendments of the Senate to H.R. 10581, an act to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation.

The message further announced that the House agrees to the amendments of the Senate to H.R. 11886, an act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 7010, an act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RODINO, Mr. MANN, Ms. HOLTZMAN, Mr. HALL, Mr. GUDGER, Mr. EVANS of Georgia, Mr. WIGGINS, and Mr. HYDE were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 3816, an act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters, and for other purposes; and that the bill and the amendment of the Senate are hereby laid on the table.

The message also announced that the Speaker has appointed Mr. PICKLE a conferee in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12050, an act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition, vice Mr. BURLESON of Texas, excused.

The message further announced that the House disagrees to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, and 8, and the amendment to the title of H.R. 9251, an act relating to extensions of time for the existing tax treatment of certain items; that the House insists on its amendment to the amendment of the Senate numbered 3; insists on its disagreement to the amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. WAGGONNER, Mr. CORMAN, Mr. CONABLE, and Mr. FRENZEL were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 9214, an act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

The message further announced that the House agrees to the amendment of the Senate to H.R. 8200, an act to establish a uniform law on the subject of bankruptcies, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes;

H.R. 8389. An act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy;

H.R. 9486. An act to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement, and for other purposes;

H.R. 9937. An act to amend the Bank Holding Company Act Amendments of 1970;

H.R. 10661. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal years 1979 and 1980, and for other purposes;

H.R. 11002. An act to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies;

H.R. 12509. An act to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes;

H.R. 12631. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes;

H.R. 13488. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of United States citizens and resident aliens from sources outside the United States, and for other purposes;

H.R. 13643. An act to provide for the striking of medals in commemoration of the life and ideals of Doctor Martin Luther King, Junior; and

H. J. Res. 1139. A joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes.

HOUSE BILLS HELD AT DESK

The following bill was read by title and held at the desk pursuant to order of September 26, 1978:

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were read twice by title and referred as indicated:

H.R. 8389. An act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 9486. An act to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement, and for other purposes; to the Committee on Foreign Relations and the Committee on Armed Services, jointly, by unanimous consent.

H.R. 9937. An act to amend the Bank Holding Company Act Amendments of 1970; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 12509. An act to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes; to the Committee on the Judiciary.

H.R. 12631. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes; to the Committee on Governmental Affairs.

H.R. 13488. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of United States citizens and resident aliens from sources outside the United States, and for other purposes; to the Committee on Finance.

H.R. 13643. An act to provide for the striking of medals in commemoration of the life and ideals of Doctor Martin Luther King, Junior; to the Committee on Banking, Housing, and Urban Affairs.

H.J. Res. 1139. A joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 352. A bill for the relief of Benjamin N. Mascarenas (Rept. No. 95–1247).

S. 809. A bill for the relief of Chatchai "Rick" Chatranon (Rept. No. 95–1248).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 487. A bill for the relief of Samson Kossivi Kpadenou (Rept. No. 95–1249).

S. 536. A bill for the relief of Reynaldo S. Miranda (Rept. No. 95–1250).

S. 652. A bill for the relief of Reina Estela Olvera (Rept. No. 95–1251).

S. 3109. A bill for the relief of Ricardo Rosas Salazar (Rept. No. 95–1252).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 540. A bill for the relief of Doctor Rolando Reyes Perez and his wife, Aurora Sevilla Alonzo Perez (Rept. No. 95–1253).

S. 1292. A bill for the relief of Doctor Francisco Dozon and his wife, Luzviminda Dozon (Rept. No. 95–1254).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments, and an amendment to the title:

S. 147. A bill for the relief of Doctor Antonio Panganiban Serrano, his wife, Doctor Lesley B. Tiongko Serrano, and their son Kenneth Neil Serrano (Rept. No. 95–1255).

S. 454. A bill for the relief of Nick F. Flangas (Rept. No. 95–1256).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S. Res. 572. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3309. Referred to the Committee on the Budget.

OMNIBUS JUDGESHIP BILL—CONFERENCE REPORT

Mr. EASTLAND, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges, and for other purposes (Rept. No. 95–1257).

WHITE HOUSE PERSONNEL AUTHORIZATION—CONFERENCE REPORT

Mr. SASSER, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes (Rept. No. 95–1258).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

H. Brooks Phillips, of Mississippi, to be U.S. marshal for the northern district of Mississippi.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

John Gunther Dean, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Lebanon.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: John Gunther Dean.
Post: Ambassador to Lebanon.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, not applicable.
5. Grandparents names, not applicable.
6. Brothers and spouses names, not applicable.
7. Sisters and spouses names, not applicable.

By Mr. EASTLAND, from the Committee on the Judiciary:

Richard T. Mulerone, of Minnesota, to be a Commissioner of the U.S. Parole Commission.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LAXALT:

S. 3532. A bill for the relief of Gisella Maria Johanna Dunfield; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 3533. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings; to the Committee on Finance.

By Mr. CURTIS:

S. 3534. A bill for the relief of Teodoro A. Ando; to the Committee on the Judiciary.

By Mr. DOLE:

S. 3535. A bill for the relief of Carlo Lim, M.D., his wife Cecilia Lim, and his son Ronald Christopher Lim; to the Committee on the Judiciary.

S. 3536. A bill for the relief of Reginald Carlson Lim; to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S.J. Res. 167. A joint resolution authorizing and requesting the President to issue a proclamation designating the month of October of each year as "National Fire Prevention Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE:

S. 3533. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings; to the Committee on Finance.

SAVINGS ACT OF 1978

● Mr. McCLURE. Mr. President, Americans are saving far less of their money than citizens in other industrial countries. Studies indicate that American willingness to save has been diminishing over the last 10 years. This trend is especially alarming at a time of growing uneasiness over the U.S. economy. Today I am introducing a bill which I believe will reverse this dangerous trend.

The bill is entitled the Savings Act of 1978. It is designed to encourage and assist Americans to save and invest. These activities have become next to impossible for many of our citizens because of the rate of inflation we are experiencing.

The bill allows a tax credit of 50 percent for additions to all types of bank and savings accounts, stock and taxable bond holdings, insurance, and assets of small businesses. For many years our tax system has encouraged consumption by penalizing savings. This bill will sharply increase the reward for saving, and will, for the first time in years, allow many of our citizens to have a real return after taxes and inflation on their savings. Many Americans have attempted to set aside sufficient funds for the purchase of a home, payment of tuition or medical expenses, a secure retirement, as well as many other goals, only to be robbed of their hard work by taxes and inflation. This bill will enable Americans to reap the fruits of their hard work.

Much of the inflation we have faced today is a result of attempting to fund investment and economic growth through money creation by the Federal Reserve. This bill, by adding to the supply of saving, facilitates far more investment in plant and equipment out of savings and therefore would reduce inflation. We have declared full employment and no inflation as national goals. These goals can be achieved through economic growth—greater investment in plant and equipment, the modernization of thousands more factories, and the creation of hundreds of thousands of additional jobs each year all can be accomplished as this bill creates the incentives to reallocate savings into projects of the greatest value in terms of economic growth.

The United States has long had the lowest rate of saving and investment in the Western World. As a consequence, every other major Western nation has a better employment record, and a faster rate of growth of real wages and fringe benefits than the United States. The U.S. after-tax rate of saving hovers around 5 percent while Canada has a saving rate of 9.8 percent, West Germany 14 percent, and Japan over 21 percent. It should not be surprising to note that these nations actively encourage saving. For example, Canada permits tax exempt deposits in special savings accounts. Germany subsidizes interest rates in a similar program. Japan, as part of its new budget package to promote more rapid growth, will allow a tax deduction for stock purchase of up to $5,000. The nationwide benefits from such programs appear to be high. There is no reason why the United States should not enjoy the same gains.

Last year, before the Joint Economic Committee, a panel of experts on growth and capital formation focused on the

bias our tax code has against savings. Income is taxed when earned. If it is saved, the service—interest or dividend—is taxed a second time at higher tax rates. The experts recommended removing saving from taxable income as the best way to return the tax code to neutrality between consumption and saving. Taxes would remain on the earnings of saving, but we would no longer be double-taxing both savings and its earnings. This bill is a major step in that direction.

We all recognize the difficulty lower income taxpayers have in saving. This bill recognizes that by providing a progressive tax credit rather than an exemption or deduction. Lower income taxpayers would receive a credit on all eligible savings. While middle and upper bracket taxpayers, who have historically saved higher percentages of their incomes, would receive a credit only on eligible savings done in excess of the normal percent of income saved by people in their income bracket. By establishing this credit on the marginal savings, we sharply reduce the cost of the bill, while encouraging additional savings.

The savings credit will result in a shifting of saving from the current ineffective but tax-sheltered projects to a straightforward savings in basic U.S. industry, small business and homebuilding. A 50 percent credit restores the attractiveness of straightforward saving by doubling the reward to such taxable investment and saving for any given interest rate or dividend. Thus, this credit will produce a reallocation of saving into projects of the greatest value in terms of economic growth and modernization of American plant and equipment.

An increase in saving is essential to capital formation and would achieve the orderly and sustained growth of the economy we all seek. Removing tax disincentives to employment and investment is an essential precondtion for meeting the Nation's social and environmental goals. This savings proposal will spur the Congress to get right to the heart of our economic problems. It will provide the key to full employment, rising living standards, and produce a substantial increase in the U.S. growth rate for years to come.

I ask unanimous consent that my bill, a technical explanation, and a Wall Street Journal article which documents the poor performance of the United States in saving and growth be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter I of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. Eligible Net Savings.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the excess of—

"(1) the eligible net savings of the taxpayer for the taxpayer year, over

"(2) the threshold saving amount of the taxpayer for such year.

"(b) THRESHOLD SAVING AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'threshold saving amount' means an amount equal to the modified adjusted gross income of the taxpayer for the taxable year multiplied by the applicable percentage determined in accordance with the following table:

"If the modified adjusted gross income is:	The applicable percentage is:
Not over $10,000	0
Over $10,000 but not over $12,000	1
Over $12,000 but not over $15,000	2
Over $15,000 but not over $20,000	3
Over $20,000 but not over $25,000	4
Over $25,000 but not over $50,000	5
Over $50,000 but not over $100,000	6
Over $100,000 but not over $200,000	8
Over $200,000	10

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income minus the deductions allowed by section 151 (relating to personal exemptions).

"(c) ELIGIBLE NET SAVINGS.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible net savings' means the excess at the close of the taxable year of net savings over ineligible debt.

"(2) INELIGIBLE DEBT.—For purposes of paragraph (1), the term 'ineligible debt' means the sum at the close of the taxable year of net increases in debt of the taxpayer other than debt for—

"(A) the purchase or repair of real property,

"(B) the repair of property, and the purchase of insurance, securing any debt of the taxpayer, or

"(C) the payment of medical and tuition expenses of the taxpayer, his spouse, or any dependent of the taxpayer.

"(d) NET SAVINGS.—For purposes of this section, the term 'net savings' means the sum of items described in paragraphs (1), (2), (3), (4), and (5).

"(1) SAVING IN CERTAIN BUSINESS.—The taxpayer's share of the change in the book value of a farm or nonfarm proprietorship, partnership, or closely held corporation, plus new money invested in such businesses, plus purchases of new businesses less sales, plus changes in loans to such businesses in the taxable year.

"(2) SAVING IN LIQUID ASSETS.—

"(A) SAVING IN CHECKING ACCOUNTS.—The change in the balances in the taxpayer's personal checking accounts between the end of the preceding taxable year and the end of the taxable year.

"(B) SAVING IN SAVINGS ACCOUNTS.—The change in the balances in the taxpayer's savings accounts at savings and loan institutions, mutual savings banks, credit unions, and commercial banks between the end of the preceding taxable year and the end of the taxable year.

"(C) SAVINGS IN U.S. SAVINGS BONDS.—The purchases of nonmarketable bonds issued by the United States minus redemptions in the taxable year.

"(3) SAVING IN CERTAIN INVESTMENT ASSETS.—

"(A) SAVING IN PUBLICLY TRADED STOCK.—Purchases of common and preferred stock in domestic corporations (other than closely held corporations), shares in mutual funds and other investment companies, and shares in investment clubs, plus increases in credit balances at security dealers, less sales of such stock and shares, less increases in debit balance at security dealers, less increases in loans secured by such stocks either newly purchased or formerly held, in the taxable year.

"(B) SAVING IN CERTAIN MARKETABLE SECURITIES OTHER THAN STOCK.—Purchases of bills, certificates, notes, bonds, and debentures, issued by the United States or by domestic corporations, less sales of such securities, less increases in loans secured by such bonds either newly purchased or formerly held, in the taxable year.

"(4) SAVING IN MORTGAGE ASSETS AND INVESTMENT REAL ESTATE.—The saving in mortgage assets and investment real estate, consisting of—

"(A) the net of amount loaned less the principal payments received during the year on loans secured by mortgages, and

"(B) the net of purchases of, plus improvements in, less sales of, and less changes during the year in debt secured by, real estate owned by the taxpayer, other than owned homes and real estate connected with a business or profession. Included are houses owned for investment purposes, properties put to commercial use, structures used for industrial purposes, and undeveloped land held for investment or building purposes.

"(5) SAVING IN COMPANY SAVINGS PLANS, RETIREMENT PLANS, AND LIFE INSURANCE.—The saving in company savings plans, retirement, and life insurance, consisting of—

"(A) the net contributions by members of the consumer unit to savings plans sponsored by companies for which they worked, less lump sum withdrawals;

"(B) the net of the taxpayer's contributions to retirement plans less lump sum withdrawals from such plans, not including social security contributions; and

"(C) premium payments on, less borrowing against, whole life or term life insurance.

An amount shall not be taken into account under this subsection for the taxable year if a deduction for such amount is allowed under this chapter for such year.

"(e) INCREASE IN TAX WHERE ELIGIBLE NET SAVING IS LESS THAN ZERO.—

"(1) IN GENERAL.—If for any taxable year the eligible net saving of the taxpayer is less than zero, the tax imposed by this chapter for the taxable year shall be increased by an amount equal to the lessor of—

"(A) an amount equal to 50 percent of the excess of—

"(i) zero, over

"(ii) the eligible net savings of the taxpayer for such year,

"(B) an amount equal to the amount of the credit allowed by subsection (a) for the period of 5 taxable years preceding the taxable year.

"(2) EXCEPTIONS.—

"(A) INDIVIDUALS WHO ATTAIN AGE 65.—

"(i) IN GENERAL.—Paragraph (1) shall not apply to any individual who has attained age 65 before the close of the taxable year and who makes an irrevocable election, at such time and in such manner as the Secretary may by regulations prescribe, not to seek the benefits of this section for all subsequent taxable years.

"(ii) SATISFACTION OF AGE REQUIREMENT BY ONE SPOUSE.—In the case of a husband and wife who file a joint return under section 6013 for the taxable year, if—

"(I) one spouse satisfies the age requirement of subparagraph (A), and

"(II) both spouses make the election under such subparagraph,

both spouses shall be treated as satisfying such age requirement.

"(B) NO DOUBLE RECOVERY OF CREDIT.—For purposes of applying subparagraph (B) of paragraph (1) for the taxable year (hereinafter in this subparagraph referred to as the 'computation year'), if—

"(i) there was an increase in tax under paragraph (1) for any taxable year preced-

ing the computation year (hereinafter in this subparagraph referred to as a 'prior computation year'), and

"(ii) any taxable year in the 5-year period described in such paragraph (hereinafter in this subparagraph referred to as a 'base period year') is taken into account under paragraph (1) both with respect to the computation year and a prior computation year, then the amount taken into account under such subparagraph (B) for the computation year shall be reduced by the increase in tax for the prior computation year to the extent that such increase exceeds the credit allowed by subsection (a) for base period years described in clause (ii).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) INFLATION ADJUSTMENT FOR MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—Not later than December 1 of each calender year, the Secretary shall prescribe a table which shall apply in lieu of the table contained in subsection (b)(1) with respect to taxable years beginning in the succeeding calendar year.

"(B) METHOD OF PRESCRIBING TABLE.—The table prescribed under subparagraph (A) with respect to subsection (b)(1) for taxable years beginning in a calendar year shall be the same as the table contained in such subsection except the amounts of modified adjusted gross income (as in effect for the immediately preceding calendar year) shall be increased by an amount equal to the product of each such amount of modified adjusted gross income and the price index percentage for such preceding year.

"(C) DETERMINATION OF PRICE INDEX PERCENTAGE.—

"(i) PRICE INDEX PERCENTAGE DEFINED.—For purposes of this paragraph, the term 'price index percentage' means, with respect to any calendar year, the percentage (if any) by which—

"(I) the price index for such year exceeds

"(II) the price index for the immediately preceding calendar year.

"(ii) Price Index Defined.—For purpose of this paragraph, the term 'price index' means, with respect to any calendar year, the average of the monthly Consumer Price Indexes for All Urban Consumers published by the Bureau of Labor Statistics for the 1-year period ending on September 30 of such year.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for the taxable year shall not exceed the amount of tax imposed by this chapter for such year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43."

(b)(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44B the following new item:

"SEC. 44C. Eligible net savings."

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (b) of section 6096 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

DESCRIPTION OF SAVINGS ACT OF 1978

The first part of the bill creates a nonrefundable credit against the personal income tax equal to 50 percent of Eligible Net Saving (defined below), insofar as the saving exceeds certain required levels.

The required levels, called Threshold Saving Amounts, are based on the taxpayer's adjusted gross income less personal exemptions. The thresholds (see Table) rise with income to reflect the fact that as a family's income rises, its saving, as a percent of its income, also rises. Only saving in excess of the threshold level is eligible for the credit.

Adjusted gross income less exemptions:	Percent of income less exemptions which saving must exceed to qualify
Not over $10,000	0
Over $10,000 but not over $12,000	1
Over $12,000 but not over $15,000	2
Over $15,000 but not over $20,000	3
Over $20,000 but not over $25,000	4
Over $25,000 but not over $50,000	5
Over $50,000 but not over $100,000	6
Over $100,000 but not over $200,000	8
Over $200,000	10

Thus, a family earning $9,000 which saves $500 in eligible assets receives a 50 percent tax credit on the full amount. A family earning $18,000 would be expected to save 3 percent, or $540, before being eligible for the credit. If it saved $1,000, it would receive a credit on the $460 in excess of the required $540. A family earning $36,000 would be expected to save 5 percent, or $1,800, before being eligible for the credit. If it saved $3,000, it would receive a credit on the excess $1,200.

The bill then defines Eligible Net Savings as the sum of Net Savings less Ineligible Debt.

Net Savings is:

(1) Saving in Certain Business—

The taxpayer's share in the increase in book value (largely cash increases, inventory increases, investment in additional equipment and structures) of small businesses such as partnerships, proprietorships, and closely held corporations, plus purchases of and loans made to small business. These amounts are readily available, since they are already calculated for tax purposes;

(2) Saving in Liquid Assets—

Saving in checking accounts, savings accounts, and savings bonds. Amounts in accounts at commercial banks, savings and loan institutions, mutual savings banks, and credit unions at the end of the year would be compared to the amounts on deposit at the end of the previous year. The net increase would be part of Eligible Net Savings, as would savings bond purchases less redemptions;

(3) Saving in Certain Investment Assets—

Stock purchase minus sales, and purchases of taxable bonds (Federal or private sector) minus sales are eligible. These records are already kept for tax purposes;

(4) Savings in Mortgage Assets and Investment Real Estate—

Investment in mortgages or real estate, plus improvements, less loans repaid or property sold; and

(5) Saving in Company Savings Plans, Retirement Plans, and Life Insurance—

Payments into plans or on premiums, less withdrawals from or borrowing against such plans or policies.

Ineligible Debt must be subtracted from Net Saving. Not only is debt a form of "negative" saving, but this provision prevents borrowing on existing assets to make deposits solely to get the tax credit. Ineligible Debt is debt acquired in the tax year other than for the purchase or repair of a home or other property or the payment of medical or tuition expenses of the taxpayer or dependents.

Another safeguard is a recapture provision for credits on savings not left in some form of eligible assets for five years. This provision would not apply to withdrawal from savings for retirement income.

The income levels attached to each threshold percent would be indexed to prevent inflation from making the credit harder to receive over time.

[From the Wall Street Journal, May 17, 1978]

AMERICANS SAVE FAR LESS OF THEIR EARNINGS THAN CITIZENS ELSEWHERE, AND THE GAP GROWS

(By Alfred L. Malabre, Jr.)

Americans are saving far less of their money than citizens in other industrial countries.

At a time of growing uneasiness over the U.S. economic outlook, the disparity has received few headlines. Yet, it is enormous, and it has grown over the years. Many economists find the pattern deeply disturbing.

A willingness to save, of course, is fundamental to economic growth. Paul A. Samuelson, the Nobel-laureate economist at Massachusetts Institute of Technology, has observed that "to the extent that people are willing to save—to abstain from present consumption and wait for future consumption—to that extent society can devote resources to new capital formation."

DIVERSE TRENDS

American willingness to save is low, as the accompanying chart shows, and it has been diminishing. Meanwhile, saving rates abroad have risen. The following table traces these diverse trends over the last decade. In the six major industrial countries, it pinpoints consumer saving, as a percentage of consumer disposable, or after-tax, income.

Rate of saving

[In percent]

	1977	1967
United States	5.1	7.5
Canada	9.8	6.2
Britain	13.9	8.5
West Germany	14.0	11.3
France	16.1	15.9
Japan	21.5	18.5

It is impossible to know whether the propensity to save will continue to decline in America, or keep expanding abroad. Inevitably, much will depend on the extent to which governmental policies tend to encourage or discourage saving. And who can foresee with precision the economic plans that political leaders may be hatching?

Whatever does develop, the present disparity is significant on a number of counts. It suggests a greater *potential* for economic growth abroad than in America. "If people don't save, there can't be sufficient investment, and eventually economic growth suffers," says Martin S. Feldstein, president of the National Bureau of Economic Research, a nonprofit business-analysis organization based in New York.

Noting the remarkable rise of savings in Canada, Robert Baguley, an economist at Royal Bank of Canada in Montreal, declares: "Canadians possess the capability to increase their spending sharply." No such cushion exists in the U.S., says Paul Wachtel, an economics professor at New York University. "There is a strong argument that Americans should be saving more."

To many analysts, the relatively low rate of saving in America suggests that the U.S. economy is particularly susceptible, in the event of brisk expansion in coming months, to interest-rate increases. By the same token, these analysts maintain that interest

rates are likely to rise relatively little in countries where a large portion of income is being plowed into savings. Sharply climbing interest rates, of course, act to inhibit economic activity inasmuch as they discourage borrowing for business expansion projects, homebuilding and other endeavors.

Economic growth in America has indeed tended to lag during the last decade. This is apparent, for instance, in data showing industrial production, an economic indicator expressed in physical terms and therefore not distorted by rising prices. Since 1967, industrial production in the U.S. has risen slightly over 40 percent. Among the major countries, only Britain shows a smaller gain. The comparable increase in Japan is 97 percent. West Germany, France and Canada also show far larger gains than the U.S.

By no coincidence, capital spending in the U.S. is relatively small in terms of overall economic activity. Last year, according to a U.S. Commerce Department analysis, capital investment amounted to 17 percent of America's gross national product. This was a lower percentage than for any other major nation. The report shows the latest comparable rates to be 30 percent in Japan, 23 percent in France and Canada, 21 percent in West Germany and 19 percent in Britain.

International comparisons of economic data, to be sure, involve a particularly high degree of risk. It is easy to find oneself comparing oranges and apples. Different countries compile statistics in different ways. Definitions vary from country to country. Statistics involving savings are no exception.

ORANGES AND APPLES

"These are somewhat messy statistics that should not be taken as precisely accurate," warns Gerard Villa, consulting economist of Banque Bruxelles Lambert in Brussels. He notes, for example, that in much of Western Europe "spending by self-employed small businessmen on their own businesses is counted as a part of personal savings." This would not normally be so in the U.S., he adds.

Such distinctions, however, are hardly sufficient to explain the large lag in savings in America. "This is not simply a case of comparing oranges and apples," declares Edward F. Denison, an economist at the Brookings Institution, a nonprofit business-research group based in Washington. "People really do save much higher percentages of their incomes abroad than in the U.S."

There is no single explanation for this U.S. tendency to spend or the propensity elsewhere to save. Various factors appear to be at work.

Mr. Feldstein, who also teaches economics at Harvard University, maintains that Americans have relatively extensive insurance against old age through such programs as Social Security. He finds the U.S. coverage "substantially greater" than, for example, in Japan. Not surprisingly, he says, the typical Japanese worker feels obligated to set aside a relatively large fraction of pay for the retirement years.

BIG BONUSES

Mr. Denison notes that workers in some countries derive a considerable percentage of their yearly pay through annual or semi-annual bonuses. In Japan, he says, bonus money recently has approximated one-quarter of annual earnings. No precise figures are available, but he estimates that the comparable U.S. rate is "far lower." Bonus money, he explains, is likelier to be put into savings than regular pay.

The sharp rise of saving in Canada apparently reflects in part governmental efforts to induce thrift. Mr. Baguley of Royal Bank of Canada mentions, for example, the advent of government-sponsored plans, set up within the last decade, that provide tax breaks on various forms of saving. One plan encourages saving for retirement and another saving for home-buying.

Tax considerations are cited by many analysts. U.S. taxation of capital gains, for instance, is deemed relatively heavy. And this, many observers claim, acts to discourage key forms of saving in America. Mr. Villa maintains that the absence of a Belgian capital-gains tax on individual savings is a major reason that his country's saving rate is up around 18%. Countries that either exempt such gains from taxation or levy less of a tax than Uncle Sam also include Australia, West Germany, Italy, Japan, the Netherlands, Britain, Sweden, France and Canada.

Proposals have recently been in the Congress to trim capital-gains taxation in the U.S. However, the Carter administration makes clear that it opposes such measures. The dispute has caused a delay in congressional consideration of President Carter's entire tax "reform" package.

Demographic factors may also work to hold the U.S. saving rate below levels elsewhere. Over the next decade, forecasters project an increase of only 470,000 among Americans aged 45 to 64, a group that tends to save a relatively high percentage of income. In the period, a 6.4 million increase is foreseen among Americans aged 25 to 44 years when only a small portion of income typically is saved. Generally, these demographic patterns are more pronounced in the U.S. than in other industrial countries.●

By Mr. DOLE:

S. 3535. A bill for the relief of Carlo Lim, M.D., his wife Cecilia Lim, and his son Ronald Christopher Lim; to the Committee on the Judiciary.

S. 3536. A bill for the relief of Reginald Carlson Lim; to the Committee on the Judiciary.

● Mr. DOLE. Mr. President, today I am introducing two private relief bills, one of which will provide permanent residence for Dr. Carlo Lim, his wife Cecilia, and son Ronald Christopher, and the other for the child this family has had to leave in the Philippines due to their present status, Reginald Carlson Lim.

Mr. President, Dr. Lim, accompanied by his wife and first son, came to the United States from the Philippines in 1974 for the purpose of taking postgraduate training in internal medicine at Bethany Medical Center in Kansas. Dr. Lim completed his training and went on to become a licensed physician in both Kansas and Missouri, and in conjunction his wife became a licensed registered nurse.

Mr. President, we are all familiar with the shortage of physicians in the United States, particularly in rural areas. Because of the acute shortage of medical care for rural communities, many universities, like the University of Kansas, have established outreach programs that will place physicians in these needy areas. In 1978, Dr. Lim applied with the University of Kansas outreach program and was informed that the community of Sedan, Kans., was in need of a physician. However, the problem of a foreign-born practicing medicine in the United States does not depend on his securing a license to practice, but on securing a permanent visa. Mr. President, this barrier has confronted many of these physicians wanting to practice medicine in these areas.

Mr. President, I have been contacted by numerous townspeople and those physicians involved with the Kansas University outreach program regarding Dr. Lim and his family. I have no doubt that this family would not only meet the medical needs of the community and surrounding area, but serve as a significant addition to the community itself.

Mr. President, it is my hope that this bill, along with the one submitted for the son remaining in the Philippines, be given immediate consideration.

I ask unanimous consent that the text of these two measures, along with supportive documents, be printed in the RECORD at this point.

There being no objection, the bill and letters were ordered to be printed in the RECORD, as follows:

S. 3535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (14) and (32) of section 212(a) of the Immigration and Nationality Act, for purposes of such Act, Carlo Lim, M.D., his wife Cecilia Lim, and his son Ronald Christopher Lim shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of such Act.

S. 3536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled, That notwithstanding the provisions of section 203(a) of the Immigration and Nationality Act, in the administration of such Act, Reginald Carlson Lim shall be granted a visa and be lawfully admitted to the United States for permanent residence, if otherwise qualified, upon filing an application for a visa and payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of such Act.

PLEASANT VALLEY MANOR,
Sedan, Kans., August 22, 1978.

Hon. ROBERT DOLE,
2327 New Senate Building,
Washington, D.C.

DEAR SENATOR DOLE: As Administrator of Pleasant Valley Manor Nursing Home in Sedan, Kansas, I wish to express my feelings on our desperate need of physicians in our community. I am informed we now have two doctors who are waiting to practice in Sedan but because of legal technicalities with their visas, we are unable to obtain them. We are in a critical position with only two physicians for this community.

We have a 56 bed hospital and a new 66 bed Intermediate Care Home which is filled to capacity at its present licensure.

With a community population of 1,500 and a large percent being 60 years of age and older, you can readily see our concern and need.

If there is any possible way to speed up the legal process on these visas, we would appreciate your influence and efforts on this.

Sincerely,

CARMALETA LORENZ, *Administrator.*

CHAUTAUQUA COUNTY COMMUNITY UNIFIED SCHOOL DISTRICT NO. 286,
Sedan, Kans., August 24, 1978.

Senator BOB DOLE,
4213 Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: As superintendent of schools, I believe Sedan is in dire need of additional physicians. We have two physicians at this time and they do a tremendous job but there is not enough time in the day for them to handle all the needs of the district.

USD No. 286 covers three hundred eighty-two square miles and we bus 330 of a total of 545 students into Sedan. The need for additional physicians to provide medical service, counseling services and occupational guidance is quite apparent.

Any help you and your staff can provide in helping Sedan to secure additional physicians will be greatly appreciated.

Sincerely,

JIM HARRIS, *Superintendent.*

ROBBINS & HOUSE,
Sedan, Kansas, August 24, 1978.

Hon. ROBERT DOLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: The City of Sedan, Kansas, has for the last several years attempted to recruit physicians to come to our community.

We now have an opportunity to obtain the services of Dr. Carlos Lim and his wife, Mrs. Lim, who is a registered nurse.

The Lim's are citizens of the Philippine Islands, and it is our understanding that the present immigration laws might create some obstacles in either or both of them coming to Sedan. I am also told that a similar situation exists concerning two doctors recruited to come to Howard, Kansas, which is approximately 25 miles north of Sedan.

I have been advised that your office is considering special legislation to remedy the situation in Sedan and Howard so that we can obtain the badly needed help of these physicians, and your assistance in the matter will be greatly appreciated not only by the citizens of Sedan, but also the surrounding area which is served by our hospital.

Yours truly,

GARY HOUSE.

SEDAN, KANS., *August 18, 1978.*

U.S. Senator ROBERT DOLE,
Washington, D.C.

HON. SENATOR DOLE: As a member of the health profession, I see a definite need for another physician here in Sedan, Kansas.

We have been able to locate a gentleman, Dr. Lim, who is serving a residency at Truman Medical Center in Kansas City. He seems to be willing to come to our county to practice medicine, but he is not a natural citizen of the United States.

As a result of the above situation, Dr. Lim is unable to come to our town with assurance of being able to stay.

We at Sedan would like to ask for your help in resolving Dr. Lim's immigration problems.

Sincerely,

Dr. JOHN L. BROWN, D.D.S.

SEDAN CITY HOSPITAL,
Sedan, Kans., August 18, 1978.

Hon. Senator ROBERT DOLE,
Dirksen Building,
Washington, D.C.

HON. SENATOR DOLE: I would like to share a few moments of your time to discuss a matter very important to me and the community of Sedan.

While being Administrator of Sedan City Hospital, I have been witness to a steadily declining annual patient census. In 1970 Sedan lost a Physician and to date has been unsuccessful in replacing him. Coincidently, since that point in time the patient census at our Hospital has steadily declined.

At present we have two Physicians working in Sedan and doing an excellent job. Both Physicians are, however, approaching that point in time when they will want to retire.

Looking back on the situation and seeing how difficult it has been for us to even get a Physician to look at our Community, I feel it extremely important that we give every applicant to our Medical Community the necessary consideration and support available.

At present we have a Physician interested in coming to Sedan, his name is Carlo Lim. Dr. Lim is from the Philippines and here on a temporary Visa. This becomes our greatest problem to overcome. We need your support and help in dealing with the Immigration authorities and make it possible to locate Dr. Lim in our Community. Any and all support you can give will be greatly appreciated.

Sincerely,

GARY MARTIN, *Administrator.*

SEDAN, KANS., *August 24, 1978.*

Hon. U.S. Senator ROBERT DOLE,
Dirksen Senate Building,
Washington, D.C.

DEAR SENATOR DOLE: In reference to physician placement in the rural communities, I am one of the physicians covering Elk and Chautauqua County for medical care and have done so for 30 years.

There is an acute need for additional physician coverage in this area because we physicians here have too many patients to adequately take care and examine thoroughly. I also feel the need to slow down and morally can hardly see how this can be done until we get an increase in the physician coverage of the area.

Our hospital is adequately equipped for broader patient coverage but is severely under staffed for physician coverage.

We are 40 miles or more from a medical center in any direction and the need for patient care in a rural hospital is definitely in Sedan and I feel that a physician in Howard and one in Sedan would be a great asset to the hospital, the nursing homes and the communities involved.

I have tried for 15 years with transient success to get another physician into the community.

Dr. Carlo Lem has expressed his interest and desire to come to this community and I am willing to sponsor him for a reasonable length of time. Hopefully there can be a speedy clearance on his visa so he can practice on his own.

Sincerely,

WM. K. WALKER, M.D.●

By Mr. HUDDLESTON:

S.J. Res. 167. A joint resolution authorizing and requesting the President to issue a proclamation designating the month of October of each year as "National Fire Prevention Month"; to the Committee on the Judiciary.

NATIONAL FIRE PREVENTION MONTH

● Mr. HUDDLESTON. Mr. President, although the United States has the most effective and dedicated firefighting forces in the world, we still suffer greater fire losses per person than any other industrialized country. Too many fires get started in the first place—an estimated 32 million every year. Carelessness and indifference are major factors affecting the increasing incidence of potentially serious fires. Fire prevention activities have received relatively little emphasis up to now, but they certainly deserve a great deal more attention if our fire losses are to be substantially reduced.

The Federal Government's role in fire prevention has grown quite a bit in the past 25 years. The Federal fire program now includes education and training programs, improved data collection, and fire research and technology.

Despite these efforts, fire protection remains primarily a community responsibility. A large portion of the costs of fire prevention and control is paid through municipal resources. These costs are staggering: The total, including destruction of property, fire department operations, medical care, and productivity losses, could exceed $13 billion this year. Every year fires cause 7,500 deaths and over 300,000 injuries.

It is impossible to calculate the extent of human suffering these figures represent. In addition, hard-pressed taxpayers and local governments surely cannot continue to pay this price.

Much of the appalling waste of life, health and resources is due to negligence and ignorance. What we may think of as "minor" fires, those started through cooking accidents and cigarette smoking, cause the most residential fire deaths and injuries. Setting aside a special month devoted to fire prevention should encourage the development of educational programs and other activities which will show citizens what they can do to prevent fires.

The Commonwealth of Kentucky has permanently established October as "Fire Prevention Month." Activities planned by the fire prevention committee of the Campbell County Firefighters Educational Association in northern Kentucky provide an example of how communities might choose to take advantage of such an occasion. Their program includes memorial services for firefighters; instruction for teachers, cooks, and others whose jobs might suggest the need for a thorough knowledge of fire prevention; and demonstrations of various fire safety techniques to heighten the public's awareness of this issue.

The expansion and further development of such activities throughout the Nation could provide direct, inexpensive, effective ways to reduce the number and seriousness of fires. Therefore, I am introducing a resolution which would establish October as "National Fire Prevention Month."

By setting aside a full month, we will encourage an emphasis on public educa-

tion, community involvement, and cooperation between the public and private sectors in finding innovative solutions to the devastating problem of destructive fires. I urge the support of the Senate for the speedy passage of this joint resolution.●

ADDITIONAL COSPONSORS

S. 3414

At the request of Mr. WALLOP, the Senator from Alabama (Mrs. ALLEN) and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 3414, a bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

S. 3426

At the request of Mr. DOLE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3426, a bill amending title XX of the Social Security Act.

S. 3433

At the request of Mr. TALMADGE, the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. ROTH), and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 3433, a bill to eliminate disputes over what agricultural structures are eligible for investment tax credits.

S. 3503

At the request of Mr. SASSER, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 3503, a bill to amend certain provisions of the Tennessee Valley Authority Act of 1933, as amended, relating to the charge rates for power of the Tennessee Valley Authority.

AMENDMENT NO. 3581

At the request of Mr. SCHWEIKER, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of Amendment No. 3581 intended to be proposed to H.R. 5285, Tariff Treatment of Film, Sheets, and Plates of Certain Plastics or Rubber.

AMENDMENT NO. 3582

At the request of Mr. SCHWEIKER, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Amendment No. 3582 intended to be proposed to H.R. 5285, Tariff Treatment of Film, Sheets, and Plates of Certain Plastics or Rubber.

AMENDMENT NO. 3583

At the request of Mr. SCHWEIKER, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Amendment No. 3583 intended to be proposed to H.R. 5285, Tariff Treatment of Film, Sheets, and Plates of Certain Plastics or Rubber.

AMENDMENT NO. 3584

At the request of Mr. SCHWEIKER, the Senator from Texas (Mr. TOWER) and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Amendment No. 3584 intended to be proposed to H.R. 5285, Tariff Treatment of Film, Sheets, and Plates of Certain Plastics or Rubber.

AMENDMENT NO. 3588

At the request of Mr. STEVENS, the Senator from Florida (Mr. STONE) and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of Amendment No. 3588 proposed to S. 991, a bill to establish a Department of Education, and for other purposes.

SENATE RESOLUTION 571—SUBMISSION OF A RESOLUTION CONDEMNING VIOLENCE IN LEBANON

Mr. DOLE (for himself and Mr. HOLLINGS) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 571

Whereas, the nation of Lebanon has been violently disrupted by the illegal intrusion of Palestinian terrorist groups;

Whereas, the army of the Government of Syria presently occupies a large portion of Lebanon;

Whereas, the Christian community in Lebanon is threatened with violence and destruction at the hands of Palestinian terrorists, Arab extremists, and the Syrian Army; and

Whereas, the violent situation in Lebanon threatens the lives of thousands of civilian Lebanese; Now, therefore, be it

Resolved, That the Senate of the United States:

(1) Deplores and condemns the activity of the Syrian forces in Lebanon;

(2) Appeals to the Syrian military forces in Lebanon to cease the destruction and persecution of the Christian community in that country;

(3) Appeals to all nations of the world to assist in bringing the violence and disruption caused by Palestinian forces to an end;

(4) Urges the Attorney General to use his parole authority under Section 212(d)(5) of the Immigration and Nationality Act to allow for the emergency immigration to the United States of those refugees able to escape the situation in Lebanon.

Mr. DOLE. Mr. President, I have a resolution which addresses a situation that approaches civil war and demands the attention of all responsible nations. I am referring to the situation in Lebanon.

LEBANON AN IMPORTANT LINK IN MIDDLE EAST PEACE

Mr. President, the situation in Lebanon deserves special attention in light of the recent events at Camp David. Lebanon continues to be ravaged by a conflict which threatens to break out into open civil war. While both Israel and Egypt stand behind fairly secure borders, Lebanon is ridden with Arabs, Christian, and Palestinian Forces whose fighting threatens to cast Lebanon into another bloody civil conflict.

SYRIA A DISRUPTIVE FORCE

Throughout this conflict, the Government of Syria has played a major belligerent role, through their support of Arab terrorist groups in Lebanon and hostile elements of the Lebanese community. The Christian community has been put under tremendous pressure by the presence of Syrian Military Forces. The Christian suburbs of Beirut have been shelled heavily by the Syrians, ostensibly to knock our Christian snipers, causing great loss of human life and destruction of property, and creating Christian refugee communities. The Syrians have also moved against the Christian communities in the north, using helicopter forces and paratroopers. The Syrians have been entirely destabilizing and aggressive.

THE PLO SUPPORTED BY THE SYRIANS

For the past 2 months, the Palestinian Liberation Organization, under the obvious direction of the Syrians, and the Syrian Army itself, have been involved in military action in Lebanon, where they are attempting to eradicate the Christian Militia, with whom the PLO and Arab terrorist groups have been fighting for a long time. In the process, Lebanon has been torn apart, thousands of Lebanese civilians have been murdered, and a United Nations peace-keeping force has been beleaguered. Syria's military operations, designed to destroy or disrupt the Christian population, have been a gross violation of human rights, and are detrimental to U.S. objectives of regional stability.

CONCERN FOR LEBANESE FOREMOST

Mr. President, my greatest concern in this matter is the safety and future of the Christian people of Lebanon. These people, represented by Christian Militia groups fighting for their lives, are being terrorized by the PLO, other terrorist groups, and the Syrian Army. The Syrian Army has been implementing a campaign of kidnaping, threats, and killing of civilians in the Christian villages to control the population through terror. The hostile fragmentation of Lebanon, so close to breaking into civil war again, is being unjustly capitalized upon by the Syrians, who are supporting their own Arab factions and are directly fighting the Christian Militia under the ruse of a "peace-keeping force." Israel has warned the Syrians against pressing the Christians further.

ARE THE LEBANESE TO BE MARTYRED?

The military action and shelling of the Syrian Forces has cost, in the last month alone, at least 800 lives to the Christian community of Lebanon. The occupation of that country by the forces of Syria has caused the destruction of a great deal of property and the exodus of some 200,000 persons, including women, children, and the elderly, into refuge in schools, monasteries, or makeshift camps. This kind of slaughter and disruption cannot be allowed to go on without protest and some kind of positive sign of concern on the part of the United States. Are we to let the Christian people of Lebanon be martyred? If we do not give these people a way out, they will most certainly join the ranks of the many victims of Middle East violence.

The Syrians and Palestinians have the Lebanese Christians limited to approximately 50 square miles of territory in Lebanon. It is feared that in a short period of time these people may be eliminated. Just this week the Syrian Forces poured more than 700 rockets and mortar shells into the Christian sector of Beirut, directed against the strongholds of the Christian Militia. This type of unwarranted action shows no sign of ceasing.

On the contrary, this conflict has been steadily escalating, and dangerously threatens to overwhelm the Christian communities.

LEBANESE RESOLUTION

Mr. President, with these concerns in mind, I submit a resolution of appeal on the behalf of the Lebanese people, a people who appear to have been forgotten in the flurry of activity surrounding the Camp David summit. This resolution condemns the violent action of the Syrian Forces and the Palestinian terrorist groups in Lebanon. At the hands of these people, the Lebanese Christian community is threatened with destruction. I also appeal to all nations of the world to use any means at their disposal to assist in bringing this tragedy to an end. Finally, I think the United States should offer sanctuary to those Lebanese Christians who are fortunate enough to escape the encirclement of the Syrian and Palestinian forces. The United States has always shown itself willing to fulfill its responsibility as a defender of freedom by helping those in need and providing shelter and sanctuary to those refugee victims of violence and destruction. Our hand was extended to the Hungarians in 1956, to the Cubans in 1961, and to the Vietnamese in 1974. I urge the Attorney General to use his parole authority to allow the immigration of those Lebanese who can find a way to escape the murder and destruction being wrought on their country. I call upon all Americans to pray for these people and to appeal for their rescue.

SENATE RESOLUTION 572—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 572

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3309. Such waiver is necessary to allow the authorization of $36,000,000 in funds to assist in the resettlement of Indochinese refugees.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1978, deadline because the continuing and unexpectedly large influx of Indochinese refugees precluded computation of exact costs and depleted funds already authorized for smaller numbers of refugees. Thus, the Administration did not send S. 3309 to the Congress until July 17, 1978. Further, in light of the swollen numbers arriving in 1978 and likely to continue into the future, a new formula was necessary to enable states to effectively organize their programs. This formula was not agreed to by the Administration until late August 1978.

The effect of defeating consideration of this authorization will be to severely curtail support services from the states to Indochinese refugees and exacerbate domestic welfare services. Refugees are likely to remain on welfare rolls given their inability to obtain language and skill training as provided by the various state programs.

The desired authorization will not delay the appropriation process and could be accommodated in a supplemental appropriation.

This authorization is sufficiently small that it will not significantly affect the Congressional budget.

SENATE RESOLUTION 573—SUBMISSION OF A RESOLUTION OF CONCERN OVER THE SHORTAGE OF CATTLE HIDES

Mr. HATHAWAY (for himself and Mr. MCINTYRE) submitted the following resolution, which was referred to the Committee on Banking, Housing, and Urban Affairs:

SENATE RESOLUTION 573

Whereas the United States supplies 70 per centum of all cattle hides found in world commerce; and

Whereas the United States provides Japan with 85 per centum of its supply of imported cattle hides; and

Whereas a reduced U.S. slaughter and constant world and domestic demand have resulted in sharply increased prices for hides; and

Whereas foreign consumption of U.S. hides deprives U.S. tanners of their primary raw material and deprives U.S. manufacturers of a supply of leather suitable for shoes, boots, bags, and other manufactured products; and

Whereas the Japanese market is open to imported hides but not to shoes, leather, or other finished products made from leather; and

Whereas the export of hides is of great importance to American cattlemen; and

Whereas Japan has been unwilling to this time to consume more than token amounts of beef and other edibles; and

Whereas the United States has the ability to reconcile these interests and reach a solution satisfactory to tanners, ranchers, manufacturers, exporters, and consumers: Now, therefore, be it

Resolved, That is the Sense of the Senate that the President ought to take such action as may be necessary:

(1) to assure domestic tanners of an adequate supply of hides; and

(2) to enlarge export possibilities in Japan for footwear and tanned leather; and

(3) to maintain favorable opportunities for domestic cattle producers in the export of hides.

● Mr. HATHAWAY. Mr. President, I am pleased to submit today a resolution expressing to the President the concern of the Senate over the present shortage of cattle hides—a situation which affects tanners, shoe and boot manufacturers, and other consumers of leather. And Senator MCINTYRE joins me in sponsoring the resolution.

It is indeed ironic that one of the principal causes of this problem is the ability of the United States to export cattle hides.

Several years ago, low beef prices and high feed grain prices made cattle ranching a discouragingly expensive proposition for the Nation's ranchers. Naturally, the result was an increase in the slaughter of cattle to enable the rancher to obtain short-term relief in the form of reduced expenses. And, for the long run, ranchers needed a better market for their steers.

As a result, there are fewer cattle being brought to slaughter today than there were several years ago.

The United States is the major exporter of hides, supplying about 70 percent of all hides traded on the international market. Most other countries which produce hides keep them for domestic manufacture. Even Argentina, once a substantial exporter, now retains its hides for tanning, production of shoes, bags, and clothing and ultimate export of manufactured goods made of leather.

For the foreseeable future, therefore, demand for U.S. hides will be intense.

Japan, for example, imports most of the hides which its tanneries require. The United States supplies Japan with 85 percent of its hide imports.

However, in order to aid its tanning and shoe industries, Japan is reluctant to import our leather or our shoes.

Thus, the price of hides rises, putting up prices for our tanners, shoe manufacturers, and consumers, while potential export markets for our tanners and footwear manufacturers remain under severe restriction.

This seems like the worst of all possible worlds.

My resolution is intended to underscore our concern for the well-being of all the parties to this problem.

Focusing attention on this matter will help the President to take steps to give domestic tanners an adequate supply of hides so that industries using leather will be able to continue to operate on a competitive basis.

At the same time, we must not penalize the ranchers. Their momentary good fortune only partially compensates for recent bad years. And for the future, we need a solution that encompasses rancher, tanner, and manufacturer together—since it is destructive to all if any one is neglected.●

AMENDMENTS SUBMITTED FOR PRINTING

EQUAL RIGHTS AMENDMENT DEADLINE EXTENSION—HOUSE JOINT RESOLUTION 638

AMENDMENTS NOS. 3674 THROUGH 3676

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted three amendments intended to be proposed by him to House Joint Resolution 638, a joint resolution extending the deadline for the ratification of the Equal Rights Amendment.

NOTICE OF HEARING

COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 4, 1978, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

Carin Ann Clauss, of Virginia, to be U.S. district judge for the District of Columbia vice Howard F. Corcoran, retired.

B. Avant Edenfield, of Georgia, to be U.S. district judge for the southern district of Georgia vice Alexander A. Lawrence, retired.

Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and

southern districts of Iowa vice William C. Hanson, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold on oversight hearing on national export policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BETHLEHEM STEEL IN SPARROWS POINT, MD.

● Mr. MATHIAS. Mr. President, Charles Frederick Abbott once said that—

To manage a business successfully requires as much courage as that possessed by the soldier who goes to war. Business courage is the more natural because all the benefits which the public has in material wealth come from it.

That courage is reflected in what happens at Sparrows Point, Md. today.

Bethlehem Steel unveils today the largest, most modern blast furnace in the Western Hemisphere. It will produce 8,000 tons of molten iron a day. This step in modernization by Bethlehem represents a commitment to the community. It represents an effort on the part of Bethlehem, as part of its $4 billion national program of expansion and improvement, to keep pace with requirements of harsh competition. I applaud this effort and extend congratulations to Bethlehem Steel.

I ask that a message about this new furnace which appeared in this morning's Washington Post be printed in the RECORD.

The material follows:

TODAY, AT SPARROWS POINT, MARYLAND, BETHLEHEM WILL UNVEIL THE LARGEST, MOST MODERN BLAST FURNACE IN THE WESTERN HEMISPHERE

Towering almost 300 feet above ground level, blast furnace "L" is the first in the U.S. of the world's new generation of blast furnaces. It will produce 8,000 tons of molten iron a day.

This new blast furnace represents one of the largest single expenditures in the history of Bethlehem Steel.

"L" furnace will replace four old furnaces. In addition to providing the economies of the latest ironmaking technology, it will aid our Sparrows Point plant in its environmental control efforts. "L" furnace is equipped with advanced air and water quality control facilities.

This new blast furnace is a multi-million-dollar investment in Bethlehem's future . . . and in the future of the American steel user who wants the reliable source of supply only a strong domestic steel industry can provide.

NEARLY $4 BILLION IN TEN YEARS

In the past ten years, Bethlehem has invested nearly $4 billion to modernize, expand and maintain production facilities and install environmental control facilities.

In 1978 alone, a number of other efficient Bethlehem production and service units were also completed. For example:

A new steel plate mill—a marvel in steel technology—at our Burns Harbor, Ind., plant.

A new steel bar mill—the world's most technologically advanced—at our Lackawanna, N.Y., plant.

A new 1,000-foot-long Great Lakes boat that carries 60,000 tons of iron ore pellets—and unloads itself.

Modernizing is something we work at all the time at Bethlehem—to the best of our financial ability.

A capital expenditure of nearly $4 billion over the past ten years isn't peanuts—especially when you consider that our investment in recent years was made in the face of record tonnages of low-priced steel imports, rising costs, heavy expenditures for environmental controls, and inadequate profits.

We're proud of the job we're doing. We've moved ahead under difficult circumstances to modernize our facilities and upgrade productivity. Today Bethlehem is lean and technologically advanced. We intend to remain so.●

REDUCING NONPOINT SOURCE POLLUTION

● Mr. CULVER. Mr. President, the conference report on the agricultural appropriations bill, H.R. 13125, which was considered late yesterday, provides funding for many urgently needed programs. It does not, however, include appropriations for the rural clean water program.

The rural clean water program was created by an amendment I offered last year to the Federal Water Pollution Control Act of 1972. My amendment established a program of financial and technical assistance to farmers and other rural landowners to implement "best management practices," those conservation measures specifically identified by the Environmental Protection Agency (EPA) and the Soil Conservation Service (SCS) for reducing the pollution of our streams, lakes, and rivers caused by runoff from highly erosive farmland. The administration of this program was delegated to the Secretary of Agriculture. In order to make this program consistent with the broader water pollution control effort, the Administrator of the Environmental Protection Agency must concur in USDA's design and management of the program.

Two hundred million dollars was authorized for fiscal year 1979 and $400 million was authorized for fiscal year 1980 under this program. It is designed to assure that these conservation funds be applied to those areas with the most critical nonpoint source water pollution.

Hearings I held in Le Mars, Iowa, and hearings held by other members of the Environmental Pollution Subcommittee last year on nonpoint source pollution established firmly the need for Federal assistance to help farmers meet the forthcoming requirements for controlling nonpoint source pollution—agricultural runoff—from forest and cropland. In addition, GAO recently indicated that the 1984 goal of "fishable and swimmable" waters "cannot be achieved in many regions because of nonpoint pollution."

Pollution from agricultural land is a problem that has to be addressed primarily by farmers themselves and by the Department that most thoroughly understands the needs and characterics tics of our great food production system. In addition, the U.S. Department of Agriculture is the only department with a nationwide network of technical experts in controlling agricultural runoff—the Soil Conservation Service. Any program aimed at establishing good soil conservation to reduce nonpoint source pollution must call on the technical expertise of the SCS.

The hearings also demonstrated the need for a high degree of State and local control over this program to make it consistent with section 208 of the Federal Water Pollution Control Act of 1972. The States must have the primary responsibility for developing area- or State-wide plans for reaching our clean water goals. Section 208 of the Federal Water Pollution Control Act of 1972 established a framework within which we can address this increasingly critical problem. Many States will begin to implement the area-wide plans for controlling nonpoint source pollution in fiscal year 1979, which starts on October 1, 1978. A Federal cost-sharing program, however, must also provide a mechanism for evaluating areas of greatest need nationally if funds are going to be targeted to the severe problem areas.

The rural clean water program would provide for a priority targeting of funds according to the magnitude of the problem.

The legislative history of the rural clean water program clearly establishes that it is not the intention of Congress to create another federally run cost-sharing program. The statute explicitly states that:

The Secretary shall, where practicable, enter into agreements with soil conservation districts, state soil and water conservation agencies, or state water quality agencies to administer all or part of the program . . .

The chief Federal role is intended to be that of making technical evaluations of need and providing technical assistance to local administrators and landowners participating in the program. SCS was named in the original Senate amendment as the agency to carry out the Federal role in the rural clean water program because of its technical qualifications.

As this provision was considered by Congress last year, concern was raised that the Secretary of Agriculture's ability to employ the full resources of the department in implementing the program might be constrained by naming only the SCS in the statute. To assure the needed flexibility, the conference committee on the Clean Water Act of 1977 decided to modify the provision by indicating that the Secretary of Agriculture would act through the Soil Conservation Service and "such other agencies of the Department of Agriculture as the Secretary may designate."

Responding to this statutory authority, Secretary of Agriculture Bob Bergland, on February 3, 1978, designated the SCS as the agency responsible for "leadership and program design to im-

plement section 35 of the 1977 Clean Water Act." He also established a Rural Clean Water Coordinating Committee, to be chaired by the Administrator of the Soil Conservation Service. Other members of the committee include the administrators of the Agricultural Stabilization and Conservation Services (ASCS); the Economics, Statistics, and Cooperative Services; the Farmers Home Administration; the Forest Service; the Science and Education Administration; and the Environmental Protection Agency.

In addition to its role as a member of the coordinating committee, the ASCS was delegated other specific responsibilities in the rural clean water program. While our nonpoint source pollution control effort is primarily a State responsibility, Secretary Bergland recognized that some States would not have the capability to disburse funds to numerous individuals over large areas of the State. Consequently, Secretary Bergland decided that in such cases the local ASC county committees could make the cost-sharing payments. He also provided that the local ASC committees would, in those counties selected for participation in the rural clean water program, "represent the Secretary of Agriculture in determining priority of assistance among individual landowners and operators."

I believe, Mr. President, that this administrative structure offers the greatest potential of achieving the goals of the Federal Water Pollution Control Act without imposing unnecessary and unrealistic demands on American agriculture. A recent series of articles, entitled "Environmental Crisis Down on the Farm," by Mr. James Risser in the Des Moines, Iowa, Register, makes it clear that our national efforts to control soil erosion and other sources of pollution from agriculture have been inadequate. The responsibility for this failure cannot be laid entirely upon the farmer. Many farmers have long practiced good conservation. On the other hand, some farmers have not, either because of a lack of concern or, more prominently, a lack of resources to carry out this expensive undertaking.

We have received evidence in recent years that our Federal investment for soil conservation programs has been misdirected. The USDA and many farmers themselves have worked to put these cost-sharing funds to better use, but more needs to be done. The fiscal year 1979 agricultural appropriations bill makes important reforms in this regard, too. Improving the use of inadequate funds, however, is only part of the answer. It does little to close the gap between our rhetoric of conservation and the actual commitment we have made. We must also appropriate the necessary funds for the rural clean water program.

If we continue to lose our precious topsoil at the rate of 2 to 4 billion tons annually, we will soon lose the agricultural base that has made this Nation strong. The additional threat of continued water-quality degradation from soil erosion only accentuates the need for a major national commitment to meeting head-on this approaching agricultural and environmental crisis.

I regret that no funds were appropriated in H.R. 13125 for the rural clean water program. The conferees on this bill made a very difficult but necessary decision to delete the funding for the rural clean water program. The appropriations bill passed by the House directed the funding for the rural clean water program to the ASCS, while the Senate bill appropriated the funds to the SCS, with a smaller amount to the ASCS. The Senate action was based on an estimate of the amount of funds that would be dispersed by each agency respectively under the division of responsibilities assigned by the Secretary of Agriculture.

The House action was not consistent with the 1977 Clean Water Act and was contrary to Secretary Bergland's administrative decision that, because the primary Federal role in the program is a technical one, leadership should be delegated to the Soil Conservation Service. In spite of the importance of this program, however, I agree with Senator EAGLETON that no appropriation should be made under circumstances that would require the Senate to accept a change in the authorization of the rural clean water program.

Under the rural clean water program, the commitment to voluntary conservation is reaffirmed. At the same time, the program is a recognition that conservation demands a national commitment, rather than one by farmers only. It recognizes the legitimate interest of society as a whole in sustaining the productivity of our Nation's soil and in protecting the quality of our water.

The environmental crisis on the farm, of which Mr. Risser writes, reaches far beyond the farm gate. The solution to this pending crisis will require imagination, commitment, and sacrifice from all of us. It will require cooperation both from the Government and the private sector; and it will require money.

Mr. President, we have, for the moment, lost an opportunity to take a major step forward to assure this Nation's environmental integrity and the continued productive capacity of our matchless farmland. We will have another opportunity next year.

I am hopeful that the President, the Secretary of Agriculture, and the Congress will, during the next few months, seriously reflect on the consequences of a continued failure to make this essential investment. I hope we will be able to reach an agreement on the proposed administrative structure for the rural clean water program and provide the necessary funds at the next appropriate stage. Only then will we be able to reduce our soil erosion and the consequent pollution of our streams.●

MAJORITY OPPOSE DEPARTMENT OF EDUCATION

● Mr. SCHMITT. Mr. President, at some point in the future, the Senate may be called upon to act on the proposal to create a new executive department, the Department of Education. While this proposal has been suggested for many years, it has not received a great deal of attention—surely not the attention and consideration which such an important proposal deserves.

Before the Senate embarks on a policy which has major implications for the future of education in this country, more thought and greater consideration should be given to this proposal. The opposition to the creation of a Cabinet-level Department of Education is widespread. According to a recent Gallup poll, 45 percent of the people polled opposed an Education Department and only 40 percent supported the proposal. The opposition to a department is among all age groups, from parents with children in school and those without school children, in almost all size communities, and in all parts of the country with the exception of the East.

As I pointed out yesterday, the American Federation of Teachers, a major teacher union, is opposed to the creation of a Department of Education. Most of the education associations who have endorsed this proposal have admitted that it is definitely not high on their priority list of legislative initiatives.

Mr. President, newspapers throughout this Nation have expressed their opposition to such a fundamental change in the structure of education in this country. The shift from local and State control of education to Federal control is a major change and one that should not be made in haste. I hope that the Senate does not act quickly on a proposal which will deprive parents and local education authorities of control over the education of their children. Such a proposal needs and deserves careful consideration.

At this time, Mr. President, I ask that two editorials from the New York Times of January 16, 1978, and February 11, 1978, be printed in the RECORD.

The editorials follow:

[From the New York Times, Jan. 16, 1978]

THE HIGH PRICE OF CHEAPENING THE CABINET

The President is reported ready to propose creation of a Cabinet-level Department of Education. We hope the report is wrong; or that the Administration can be persuaded to change course. It is an empty, even harmful idea, bad for the President, bad for the Cabinet, bad for education.

Mr. Carter advocated such a new department in his campaign after persistent prompting from such interest groups as the National Education Association. The rationale is that "elevating" education to full Cabinet status would assure the nation's schools and colleges of greater Federal attention and financial support.

One set of arguments on behalf of a separate department turns on the symbolism of power. Supporters argue that the present Office of Education is too small a component of the huge Department of Health, Education and Welfare—and that the Commissioner of Education is too low on the totem pole—to command sufficient attention from the Secretary of H.E.W. let alone the President and Congress. There is substance to the point. Even the most able commissioners—and Ernest Boyer, the incumbent, is surely in that category—have fared badly in competition with the giant welfare and Social Security budgets and concern over health, food and drug regulation.

A second set of arguments involves coherence and effectiveness. The present Office of Education encompasses only about half the total Federal spending on education. The Administration is said to be considering the inclusion also of many other education ac-

tivities. That could give the new department a budget of up to $20 billion and make it perhaps the third largest in terms of spending. There is unquestionable merit to these arguments, also. For example, the vocational education work of H.E.W. and the manpower training work of the Department of Labor are often duplicative, competitive and wasteful.

Still, it is one thing to seek order and efficiency, another to pay the political price. To achieve a broadly restructured department, the Administration would have to pay a high price indeed. In the face of such a reorganization, the Veterans Administration, for instance—and its interest groups and Congressional supporters—would be just as tenacious in protecting their turf as, say, the National Education Assoication would be pleased to raid it. And that is only one of a number of foreseeable conflicts. Even if the Administration is willing to spend political capital generously, the legislative bargaining process is quite likely to erode the scope of a broad new department, perhaps leaving no more than a new label for the old Office of Education.

The symbolism of power, then, would be merely an illusion. To call it a department and to address its head as "Secretary" might mean the incumbent sits closer to the salt at Washington dinner parties. But it would not alter any real power relationships. Education interests would have no more or less muscle on Capitol Hill. The Secretary would have no necessarily greater capacity to summon the President's attention. Indeed, he might have less, without a powerful H.E.W. Secretary to turn to for support.

Meanwhile, the Administration would be paying another price, less easily described but still harder for the President and the Cabinet to pay. Does increasing the number of Cabinet officers ease a President's burdens? Does it increase the number of minutes in his day? On the contrary. The Cabinet, with 12 departments now, is so parochial that its capacity to deal with related problems is severely limited. The issues a President deals with, meanwhile, keep getting broader. It is not hard to imagine issues—whether to build an SST, what to put in an energy policy—that involve five, six and more departments. The evident need is to consolidate, not to fragment further.

And there is danger of still further fragmentation. The success of one interest group seeking Cabinet status would surely encourage others who seek a Department of Environment, a Department of Women, a Department of Children, a Department of Older Americans.

We welcomed the creation of the Department of Energy last year; it meant not fragmentation but centralization of functions scattered around the Government and dealing with an issue of overriding importance. There is no such sudden, overriding importance to justify creating a Department of Education. To do so would keep a campaign promise; it would tickle the education world's sense of importance; it could, at best, make present education programs more orderly and efficient. But it is hard to see, beyond that, what such a reorganization would do to benefit actual education.

If the President is in fact persuaded that the Commissioner of Education needs more respect, then he can pay that respect now, whatever the incumbent's title. If the President thinks education spending should be increased, he has abundant authority now to ask Congress to agree with him. The issue should be education, not bureaucratic trappings. As Robert Frost once wrote of tennis courts: "We are on them not to see if the lines are straight, but to play tennis."

[From the New York Times, Feb. 11, 1978]

HOW TO CAPITALIZE THE "E" IN H.E.W.

President Carter's budget makes good on his campaign promise to give education the priority it was denied by his Republican predecessors. He rightly emphasizes expanded opportunities for the disadvantaged and handicapped as well as a means of giving tuition aid to hard-pressed middle-income families. With an overall increase of 15 percent in education spending, the President appears intent on rescuing the most positive aspects of Lyndon Johnson's education program, but with a new concern for educational quality.

Precisely because his budgetary approach is on the right track, it is a pity that Mr. Carter still considers himself bound to a promise, given in the heat of the election campaign, to establish a separate Department of Education.

The pledge was a convenient campaign shorthand message to call attention to the candidate's belief in the importance of education. It assured Mr. Carter of wholehearted support by the politically influential National Education Association, which speaks primarily for the elementary and secondary school establishment.

We have opposed a separate Department of Education in part because we believe the Cabinet should not be further fragmented and in part because of the danger that such a department would be dominated by the public school bureaucracy. That this is the wrong solution, however, does not imply that there is no problem. There is. The United States Commissioner of Education remains a low man on the totem pole in the giant Department of Health, Education, and Welfare. In terms of spending, a badge of power in Washington, the "E" in H.E.W. has, in fact, been slipping—from 8 percent of the department's funds in 1970 to only 5.6 percent today. For the current fiscal year, the Office of Education suffered a 15.9 percent cut in its budget request, compared with 4 percent for the department as a whole.

All of this indicates that education is not well taken care of by H.E.W. But would education's interests fare better standing alone? We believe not. Neither the public nor Congress tends to assign high priority to education. An independent Secretary of Education would have far less clout than the Secretary of H.E.W., the head of the largest department of Government. There is sound logic in the grouping together of health, education and welfare. Detaching education may do less to liberate it than to set it adrift.

There is another way to help make a huge department more manageable and at the same time give education an effective voice: Adapt the Defense Department scheme with its three Secretaries representing the military services under the umbrella of the Secretary of Defense. Such a step would provide Secretaries for health, education and welfare—under the Secretary of H.E.W. It would combine more effective management with the consolidation of now-scattered education functions that is at the heart of President Carter's reorganization plan.●

COMMONSENSE ABOUT NICARAGUA

● Mr. CHURCH. Mr. President, on Tuesday, September 26, the Statesman in Boise, Idaho, carried an editorial entitled "Samoza Must Go." It is an editorial filled with commonsense, and I encourage my colleagues to read it.

Calling on the United States to "do what it can to hasten Somoza's departure without interfering within the country," the editorial makes its case forcefully with these words:

Either he can leave voluntarily and allow moderate forces to begin rebuilding his despoiled country, or he will be toppled eventually by the leftist guerrilla forces. His days are numbered either way.

Mr. President, the United States should repudiate, publicly, the corrupt Somoza regime. We should serve notice that our blessings go to the moderates within Nicaragua who seek the restoration of democratic government. We should encourage other governments in the hemisphere to lend their own good offices to the cause of a peaceful transition to democratic government.

Our refusal to repudiate Somoza will help the cause of the extremists, and hasten the day when they might take control of the revolution now underway. If that happens, then we will be faced with the emergence of a new, left-wing Castro-style government in Central America.

Mr. President, I ask that the Statesman editorial for September 26 be printed in the RECORD.

The editorial follows:

SOMOZA MUST GO

Peace of sorts has come to Nicaragua again. But as the Archbishop of Managua said, it is the peace of the cemetery, not a dynamic peace of the living.

That cannot come until President Anastasio Somoza is gone. Either he can leave voluntarily and allow moderate forces to begin rebuilding his despoiled country or he will be toppled eventually by the leftist guerrilla forces. His days are numbered either way. If he insists on remaining until the last number is drawn, it will be at the expense of still greater suffering for the people and most probably his own life.

The leftists have been stilled for now. They are off in Costa Rica and other neighboring countries to lick their wounds and prepare future assaults on Somoza. And those assaults surely will come. The miniwar Nicaragua has just undergone was more a spontaneous teen-aged eruption than a well-planned military operation. Experienced guerrillas were noticeably absent. Next time Somoza most likely will not be so lucky. The shock of this shooting war and the faces of the dead have forced many Nicaraguans to make a decision they hoped they would never have to make—to take up the gun. Their dictator appears to have won, but in victory his fate has been sealed.

The United States should do what it can to hasten Somoza's departure without interfering within the country. It had hoped to work through the Organization of American States, but that group has rejected even mild activism in mediating the Nicaraguan strife. The military regimes that comprise the OAS majority apparently were more sympathetic to their fellow dictator than to the suffering people of Nicaragua.

Furthermore, the United States has little direct influence with any of the Nicaraguan factions, given our previous meddling and the fact that the repressive and corrupt Somozan family carries a "Made in the U.S.A." label.

President Carter says the United States is working with "friends and well-meaning neighbors" in Central and South America to mediate the dispute. We don't know quite what that means. If it means the United States is giving support and encouragement to mediation efforts by Colombia, Mexico, the

Dominican Republic and others, we're all for it.

However, Carter can and should suspend all economic aid to the Latin American country. The best, perhaps only, chance for nonviolent resolution to the conflict is for Somoza to be forced to bow to the pressure exerted by the Catholic Church and the nation's striking businessmen. Economic aid simply enhances Somoza's ability to hold out against these forces of moderation. However long ago, the United States inflicted the Somoza family on Nicaragua. Now we must help judiciously to insure that burden is removed as quickly and non-violently as possible.●

EFFECT OF RECENT LEGISLATION ON LAW ENFORCEMENT

● Mr. HATCH. Mr. President, I have become increasingly concerned about the impact of Federal policies upon the ability of both public and private agencies to collect information and gather intelligence on matters of legitimate concern.

Stuart Knight, the Director of the Secret Service, recently testified before the Senate Subcommittee on Criminal Laws that there had been a reduction of more than 50 percent in recent years in the amount of intelligence received by his agency. In New York City, the police department has been forced to destroy more than 98 percent of the cards in its intelligence files during this same period, while the State of Texas Public Safety Department has destroyed its entire political intelligence records. Even the FBI has been engaged in a massive effort to purge its files.

Much of this has developed in response to legislation such as the Freedom of Information Act and the Privacy Act. In a laudatory effort to protect and enhance individual rights of privacy, these acts have sometimes lost sight of other equally important rights, including the right to be secure from crime and from foreign adversaries. A better balance must be drawn if ours is not to become a "defenseless" society.

I would like to print in the RECORD an excellent article on this subject from yesterday's Wall Street Journal.

The article follows:

FBI AGENTS RAP POLICY OF BURNING FILES, LINK IT TO PUBLIC-ACCESS ACTS

(By Jonathan Kwitny)

The extortion letter looked familiar to Detroit FBI agents when it was brought to their office earlier this year by a frightened citizen. As an agent relates the incident, the style of the letter was that of a man who had been investigated because of a similar threat three years ago.

Until recently, agents could have pulled the suspect's file, done a quick check and perhaps protected the frightened citizen. This year, however, they couldn't. The file, like hundreds of thousands of other FBI files, had been destroyed under a policy that is reducing more than half the bureau's files to ashes.

The bureau says it has to destroy the files because it is running out of room to store them. But many veteran agents say that the records are being destroyed because of the federal Freedom of Information and Privacy acts, generally referred to together as FOIPA. The acts have produced a deluge of requests from the public to see the files.

"I think we've all assumed a cause-and-effect relationship" between the acts and the destruction of the files, one agent says. "I don't think they (FBI officials) ever said that, but anybody who knows anything about the act (FOIPA) has got to come to that conclusion."

JOGGING MEMORIES

Whatever the motives, many agents say the file burning could impede law enforcement. "We were looking for a guy here in the northern Virginia area," one veteran agent says. "You say, well, look for old what's-his-name who was running with him. But nobody remembers old what's-his-name's name, and the file's gone."

Destruction of records is only one of several blows that law-enforcement officials complain of in connection with FOIPA. What distinguishes records destruction is that it has been hushed up. On other fronts, the FBI has openly complained that scores of agents (mostly law-school graduates) and hundreds of support employes are being tied up dealing with requests for information when they are badly needed in the field to fight crime. The FBI says the cost is $9.2 million a year—money that also is badly needed elsewhere.

Moreover, the FBI says, confidential informants have been clamming up because of fear that their identities will be revealed by the disclosures. Since wiretapping and bugging were greatly restricted by a 1968 law, such informants have become the FBI's sole-effective weapon in many organized-crime cases.

CONGRESS IN THE ACT

Congress may have to deal with these issues this fall because of growing pressure from various law-enforcement agencies for some sort of revision of the two acts. Both acts were passed over President Ford's veto in the post-Watergate concern about the secret political misuse of law enforcement. Many FBI agents and other critics of the two laws say they agree with the general intent of Congress, but they also say that the sweeping language of the laws has invited widespread abuse.

The Freedom of Information Act—originally passed in 1966 but drastically changed in 1975—was designed to open all government documents for public inspection unless there was a good reason to keep them secret. The Privacy Act was designed to allow individuals to see any files the government kept on them, supposedly so they could challenge inaccuracies and eliminate material of a purely personal nature.

Officially, the FBI hasn't taken a stand on what it wants Congress to do about the two acts. But the bureau has been cooperating with the General Accounting Office on a study clearly designed to show that the acts interfere with law enforcement. "My personal feeling is that there has been (such interference)," says John Ols, assistant director of the GAO, "but our finding is that it has been very difficult to document. And that is what we set out to do." The GAO is to report its findings to the Senate Judiciary Committee early next month.

"GOOD BUSINESS MANAGEMENT"

The report won't cover problems created by records destruction, however, because the FBI's official position is that the destruction has nothing to do with FOIPA. "It's just good business management principles," says James Awe, section chief of the bureau's records management division in Washington.

The destruction policy started in April 1976, when the bureau told its field offices to eliminate records of cases that had been closed more than 10 years. In October 1977, the period was reduced to five years. And that represented just a small part of the destruction; it applied only to files in the so-called office of origin, the main FBI field office involved in each case.

Files in so-called auxiliary offices often contain as much information as the files in the office of origin, and these auxiliary files are being burned after only six months. The auxiliary files exist because, as a rule, agents don't travel on their cases; if questioning or other work needs to be done in other cities, as frequently happens, the field offices in the other cities do the work and forward copies of their reports to the office of origin. Under the new rules, the auxiliary offices don't even keep an index card referring to the work they have done. (In the case of the Detroit extortionist, an agent happened to remember which office of origin had the file, and eventually retrieved it; in two more years, however, even this file would have been destroyed.)

The file-destruction policy exempts files of particular historical interest, files involved in litigation or an unresolved FOIPA request, and files where there is particular reason to believe the case will become active again. For example, the bureau says, nobody is burning any files in the Jimmy Hoffa case.

Agents concede that the bureau has files it doesn't need, such as cases started on tips that turned out to be baseless. But they contend that hundreds of thousands of files with solid information are being destroyed under the new policy.

One agent, a specialist in Mafia prosecutions, notes that Anthony Provenzano, the Mafioso Teamster official, only this summer was convicted of a murder committed 17 years ago. The conviction came about when new evidence surfaced during the FBI's investigation of the Hoffa case and was pieced together with other crucial items from the moldering file on the unsolved murder. "The Provenzano case absolutely couldn't have been prosecuted if the files had been destroyed, because of the value of the evidence developed in the 1960s," the agent says. "Often you find the information you need where it's least suspected and where it's been for quite a time."

Mr. Awe, the bureau's official spokesman, says that summaries of all significant information in FBI files are preserved in a central file at bureau headquarters in Washington. Agents, however, say that only a small part of the information in a field-office file winds up in the central file. Moreover, the FBI has asked the archivist of the U.S., James B. Rhoades, for permission to destroy even the central files in criminal cases after they are 10 years old. Mr. Rhoades approved the destruction of the field-office files because, he says, agencies usually know best about their own files; but now he is withholding approval of the request to destroy central-office files and is seeking advice from Congress.

AVOIDING EMBARRASSMENT?

Mr. Awe says the destruction of aging records was experimented with in some offices late in 1974 and so couldn't have been linked to FOIPA. But many agents disagree. "I don't give a damn what the bureau says," asserts one agent who reluctantly helped in the destruction. "Those files were destroyed for one specific reason: They had to cough them up. It had been thoroughly embarrassing to that point and promised to get even more embarrassing." As an example, he cites a disclosure under FOIPA of material about an alleged and previously unpublicized romance between Eleanor Roosevelt and a military officer.

"The really hypocritical thing about the whole situation is that although we had this stuff in our files, we weren't releasing it to anybody—and I have seen some really scur-

rilous stuff come out of these investigations," the agent says.

A colleague of his adds, "On balance, I would rather see a little bit of embarrassment for the administrators than handicap the whole investigative effort. This destroying of records after six months is a terrible mistake." He says that the records of a criminal whose name has frequently been in the news are being destroyed under the new policy before the criminal has finished serving his current jail term.

Beyond the controversy over whether files are being destroyed to avoid embarrassment, everyone involved agrees that the burden of looking through files whenever someone sends a request is enormous. Mr. Awe and other FBI spokesmen note that prior to release, every file has to be examined page by page by senior clerical employes under the supervision of FBI agents with law degrees. Many kinds of information are supposed to be deleted from the documents before disclosure, including material that might identify confidential informants, violate the privacy of third parties or disclose law-enforcement techniques.

DEADLINE FOR REPLIES

The law says that information requests must be answered within 10 days. But about 19,000 requests a year have been pouring in. The FBI's original FOIPA staff of 140 persons fell 12 or 13 months behind in its processing by 1976, and Congress demanded faster action.

That demand resulted in the FBI's "Project Onslaught," in which 300 field agents from around the country were brought to Washington for several months to attack the backlog. With some 650 persons working full time, the bureau whittled down the backlog to 30 days by the end of last year.

Then a judge ordered the release of the Julius and Ethel Rosenberg file—400,000 pages. A special team has been assigned to clear 40,000 of these pages a month. Meanwhile, the FBI says, the rest of the backlog has lengthened to between 90 and 120 days.

The FBI says that no more than 1 percent or 2 percent of the requests for information are from journalists or historians, who were expected to be the chief beneficiaries of the Freedom of Information Act. About 40 percent of the requests come from citizens who want to know if the FBI has a file on them but on whom no FBI file exists. Many thousands of other requests come from prison inmates purportedly looking for grounds for appeal. Skeptical agents, however, suspect the prisoners often are trying either to find out who informed on them or to kill time by harassing the FBI.

REQUESTS FROM MAFIA?

The bureau also says it has reliable evidence that the Mafia in at least one major city has instructed all its members to write requesting their files. "The sole purpose of this process is to attempt to identify informants," an FBI spokesman says. He adds that if a crook can glean even a hint that he is under investigation at a particular time, he can become much more circumspect until the heat's off.

Another problem is that plaintiff lawyers often want to use the FBI as a cheap investigative service. Agents tell of a recent homicide case on the high seas. Shipping executives told the FBI that they had previously been aware that the suspect was mentally unstable. Learning this under FOIPA, a lawyer for the victim's heirs has greatly enhanced his damage suit against the shipping company. Agents fear such episodes will imperil future investigations. One agent says witnesses now "are thinking not in terms of telling simply what happened, they are thinking of, God, if I say the wrong thing, the company's negligent."

Many agents say that because of FOIPA, they can't any longer in good faith guarantee anonymity to a source. "I can say that we'll do whatever we can, and that's usually pretty substantial, but I can't guarantee it," says an agent who has handled some of the bureau's most publicized cases. He adds, "You're assuming a lack of intelligence on the part of the applicant who gets the records that he won't be able to piece together who the source is. You're relying on the people who review the records (in Washington), and you just don't know how careful that guy is going to be."

"Often the people doing the processing aren't even aware that it's informant information," says another agent. One field official confides that he disobeys instructions from headquarters in some instances to keep information from being destroyed or disclosed. Agents in another office say they keep what they call "hip-pocket sources," whose identities are never recorded, against bureau regulations.

The FBI has compiled a list of examples of past informants who won't talk now because of the danger of disclosure under FOIPA. A spokesman says that more than 20 local or state police agencies have written "indicating that their intelligence units are fearful that furnishing information to us may jeopardize their own sources." He cites Los Angeles, Milwaukee and Phoenix police. Earlier this year, the bureau says, a federal judge declined to provide information about a candidate for another federal judgeship because he said he feared his derogatory remarks would come back to him through FOIPA.

Even civil-liberties lawyers who support FOIPA tend to oppose the file destruction, arguing that citizens whose rights have been violated may need the files to press suit against the government. Lawyers for the American Civil Liberties Union say they favor sealing old records so that only a judge can unseal them after a court hearing.

Whatever the solution, confusion and controversy have surrounded the bureau's destruction policy. An agent in the Northeast notes recent bureau instuctions to make more use of the Racketeering in Interstate Commerce, or RICO, law. RICO, designed to combat Mafia-type crime, provides heavier penalties for violators who have established a pattern of racketeering activity. To invoke the law, the FBI must offer proof of prior acts consistent with the specific criminal act being charged. "The RICO statute says go back 10 years, and the files are destroyed after five years," the agent complains. "You figure it out."●

FAIR EMPLOYMENT PRACTICES IN THE SENATE

● Mr. CLARK. Mr. President, it was over a year and one-half ago that the Senate passed the Code of Official Conduct. Included in that document was rule L, prohibiting discrimination against Senate employees in hiring and salaries on the basis of race, color, religion, sex, national origin or state of handicap.

The Government Affairs Committee was charged with recommending to the Senate a mechanism for implementing rule L, and in fulfillment of that, the committee developed Senate Resolution 431.

Senate Resolution 431, for the first time, would bring the Senate into compliance with some of the same principles that we have prescribed for the private sector. As you know, I was the author of rule L, and I am a strong supporter of Senate Resolution 431. As a result, I am very concerned that the Senate has not taken up the matter this session, and may indeed let it die on the Senate calendar. I think the Members of this body should be aware of the consequences of our inaction, and I ask that editorials on the subject from the Washington Star and the Washington Post be printed in the RECORD.

The material follows:

[From the Washington Post, Sept. 27, 1978]

NO FAIR HIRING IN THE SENATE

Last Spring it appeared that the Senate would soon fulfill the pledge it made in 1977 to protect its employees against job and salary discrimination. After months of deliberation, the Governmental Affairs Committee had approved a proposal creating a fair employment practices program—the unfinished business left from the code of ethics the Senate adopted for itself last year. The fair-employment measure was sensitive to both the employment rights of workers and to the special political workings of the Senate. And its passage seemed ensured: What senator would want publicly to support continuation of the Senate's documented discriminatory employment practices? Well, now no senator will have a chance to vote on the measure at all this year because the democratic leaders have decided not to bring it to a floor vote before the Senate adjourns.

The Democratic Policy Committee and the party's chairmen of major committees are responsible for this not-unexpected, but nevertheless disappointing decision. Their action will likely slow the push for a similar measure in the House, which now has only a voluntary structure for investigating discrimination complaints. Significantly, the senators reached their decision during a closed meeting and by consensus rather than by vote—the better to leave no particular senator's tracks.

Some members have contended that the Senate's calendar is just too crowded to give the measure consideration now. Nonsense. The proposal has been under study for over a year. It is not complex. It already had been fine-tuned and approved by two committees. As it amounted to only the creation of a formal grievance panel with authority to judge complaints and to seek ways of improving fair-employment practices, it should have provoked little, if any debate on the floor. The simple truth is that the Senate's Democratic leadership did not want the measure voted on this year. In other words, they wanted to delay the time when the Senate, and the House as well, will have to abide by the same hiring policies Congress has legislated for everyone else.

[From the Washington Star, Sept. 25, 1978]

STILL THE "LAST PLANTATION"

Capitol Hill is still the "last plantation" and seems likely to stay that way a while.

Senate leaders refused the other day to bring to the floor a resolution designed to reduce discrimination in Senate employment against minorities and women.

The measure, approved by two Senate committees, would have established a six-member board to hear complaints of discrimination in hiring, advancement and pay and to review Senate employment practices. Sen. John Glenn, D-Ohio, who sponsored the resolution, said the decision against bringing it to the floor was made at a "private meeting" of the Democratic Policy Committee and chairmen of the major Senate committees.

That kills it for the 95th Congress, which plans to adjourn in a couple of weeks. It's apparent that Senate leaders don't want to bring the matter to a floor vote because they don't want to be put on the spot. They wish to retain existing employment practices but they don't want to vote publicly against scrapping the discriminatory system. If the resolution ever got to the floor it almost assuredly would pass.

Things aren't much better in the House. It has an almost useless committee that was set up to police a voluntary agreement to adhere to fair employment practices. Only 107 House members, about one-fourth of the membership, have signed the agreement and the committee has no enforcement power.

A resolution similar to the one killed in the Senate has been introduced in the House by Reps. Morris Udall, D-Ariz., and Patricia Schroeder, D-Colo. It isn't going anywhere this year either.

Senators and House members supporting the resolutions want to end Capitol Hill's reputation as the nation's "last plantation." They want Congress to follow the anti-discrimination practices that it has required other government agencies and private industry to follow. Obviously the House and Senate aren't ready for that yet. ●

SENATOR ABOUREZK ON INDIAN ISSUES

● Mr. McGOVERN. Mr. President, I ask that the statement made by my colleague, the junior Senator from South Dakota (Mr. ABOUREZK) before the Associated Press, Managing Editors Panel on Indian Affairs in Portland, Oreg., be printed in the RECORD.

The statement follows:

STATEMENT BEFORE THE ASSOCIATED PRESS MANAGING EDITORS PANEL ON INDIAN AFFAIRS

Shortly after the end of the Wounded Knee siege in 1973, I scheduled hearings on the Pine Ridge Reservation in South Dakota to try to determine the underlying cause of the conflict.

I called a journalist who worked for the Washington Post and told him I thought the hearings would be fairly important and suggested that he cover them. His response was that while he agreed with me, his editors would not send him out to any such hearings because they were interested in Indian stories only so long as the Indians were shooting each other. There is more than one tragedy in that story. The one that concerns us here today is the nature and extent of press coverage of issues which affect American Indians. In a democracy the ideal is that everyone will understand everything that is happening in such areas as Indian affairs and will act humanely to insure their proper stewardship by the U.S. government. The reality is that press coverage of government mismanagement of Indian affairs is at best skimpy, and at worst non-existent, which enables the Indian bureaucracy to commit the crimes against humanity which they have gotten away with over the past several decades.

Unless you are a student of Indian affairs, there is no way for you to know that the government has experimented for years with the lives of Indian people as though they were so many laboratory animals. At one point in its history, the BIA sought to eliminate the Indian problem by eliminating Indians. So its policy consisted of summarily removing Indian children from their homes, their parents and grandparents and dropping them in Indian boarding schools where the use of their language or other manifestations of Indian culture were totally forbidden. This effort to make Whites out of Indians resulted only in increasing the desperation, hopelessness, and psychological problems of the Indians who were made a part of that program. Later the key word was "relocation." The government determined that if Indians could be coaxed away from the reservations and relocated into cities, with a job provided, their assimilation into white society would be virtually painless.

Relocation only changed the location of the ghetto from the reservations which afforded relative security to harrassed Indian families, to the nation's large cities where Indians became a minority of minorities, but with all the pleasures and delights attendant to the powerless and the poor in our urban areas. In fact, the American Indian Movement was founded by the bitter and cynical children of relocated families who organized AIM as a means of both political expression and of finding their way back to the land, so to speak, on the Indian reservations.

The most recent government policy has been that of benign neglect, with Congress appropriating several hundred million dollars a year into the Indian budget, hoping that it is enough to keep the Indians and their problems off its collective back. But most of the money never reaches the Indians, and Congress still finds it must deal with the issues. The Carter Administration has appointed a practiced bureaucrat to run the Indian department who can bring the BIA's most recent policy to fruition; i.e., survival management. Survival, not of the Indian people, but of the bureaucracy itself. The Indian Self-determination Act which was designed to decrease the bureaucracy by allowing Indians to run their own federal programs has succeeded only in increasing personnel in the BIA, who have become expert in stonewalling many of the tribes in their efforts at self-determination.

Without going into horror stories in depth, suffice it to say that the Carter Administration could never have gotten away with washing its hands of Indian affairs if this story had been reported with only 1/10th of the press emphasis given to Anatoly Scharansky, for example. There is in the press neither criticism of bad government Indian programs nor approval of good government Indian programs. And since information is the currency of a democracy, the lack of information to me indicates that democracy in the area of Indian affairs is totally bankrupt. ●

TRANSPORTATION DEVELOPMENT CORPORATION

● Mr. GLENN. Mr. President, the third annual convention of the Minority Trucking-Transportation Development Corp. will be held October 26 through October 29 at the Shoreham American Hotel in Washington, D.C. The president of the MTTDC is Mr. William Hall of Cleveland, Ohio. Mr. Hall is also president and owner of Industrial Transport and Warehouse of Cleveland.

MTTDC is the Nation's largest minority trucking association. In only 3 short years, it has been quite successful in aggressively seeking a fair and equal share in the Nation's transportation industry. I have joined MTTDC and my distinguished colleague from Maryland Representative PARREN MITCHELL in supporting ex parte MC–107 before the ICC. MC–107 is a proposed regulation which would give small and minority businesses a greater share of and easier access to Government business in the transportation field. I also support MTTDC's efforts to effect regulatory modernization that will allow greater entry opportunity for small and minority truckers in the licensed carrier field. I have also strongly supported MTTDC in its efforts to assure greater minority representation on the policy councils in the transportation field.

The MTTDC convention will provide a forum for discussing these and other vital policy issues in transportation. The convention will bring together many representatives of the public and private sectors. Hopefully, this will help stimulate greater coordination and cooperation in the effort to expand minority business opportunities. I plan to participate in portions of the convention and to have my staff represent me at portions. I urge my colleagues to join in participating.

I would like to have printed in the RECORD a September 1978 article on Open Road magazine entitled "Minority Truckers: They Have a Dream" which describes the great progress of the MTTDC and the excellent work of its very able executive director, Milton H. Boyd.

The article follows:

[From the Open Road magazine, September 1978]

MINORITY TRUCKERS: THEY HAVE A DREAM

(By Tom Burke)

His words were spoken at history's largest civil rights march in Washington, D.C., in 1963. They were powerful words. Penetrating words. The kind of words that are not easily forgotten.

"I have a dream," said the black man, waving a clenched fist. "I have a dream that my four children will one day live in a nation where they will not be judged by the color of their skin, but by the content of their character. . . .

"I've been to the top of the mountain . . . and I've seen the promised land . . . my eyes have seen the glory of the coming of the Lord."

The man, of course, was Rev. Dr. Martin Luther King, Jr. A man whose life was suddenly and tragically taken by an assassin's bullet on April 4, 1968, in Memphis, Tenn.

Today, however, more than 10 years after his death, Dr. King's dream still lives on—in the minds of thousands of blacks and other minorities. They're seeking a dream that pictures all men and women of all races and conditions living and working together in freedom and dignity. The dream has not yet fully come true, but it is well on its way.

And it's well on its way in almost every phase of society and business, including the trucking industry.

The main group striving to make the dream come true for small minority truckers is the Minority Trucking-Transportation Development Corporation (MTTDC).

A non-profit group, MTTDC is headquartered in Washington, D.C., and its executive director is M. Harrison Boyd. Founded and incorporated in 1975, MTTDC's first prime target was and is to help minority truckers—blacks, Hispanics, orientals, etc.—obtain ICC rights, although it will offer help in any trucking area. The 700–member group, whose members consist mainly of trucking companies, operates in part with a $250,000 U.S. Department of Commerce grant, with a majority of its funds coming from membership dues.

"The new trend in corporation names is to create an aura of mystery by putting together a 'non-word' that, in itself, means nothing, like Avco, Alcoa, Amax, Aamco, Exxon," said Boyd. "But when the frustrated small minority truckers of this country decided it was time to quit being small and banded together to get 'big,' they chose a name that belies the trend because the name Minority Trucking-Transportation Development Corporation tells exactly what the corporation is up to.

"MTTDC is using every legal means to get a proportionate share of motor carrier business for companies owned by minorities, who make up about 20 percent of the population. And that's a tough job. As of right now, minority truckers get only about one-half of one percent of the nation's trucking business. And they figure their proper share is 20 percent.

"Now you're going to ask, as everybody does, 'With all the government has been doing for the minorities, how come they're still only getting one-half of one percent? Are they lazy? Why don't they work harder?"

Boyd said such questions display an ignorance of the way things work in Washington.

"With apologies for borrowing an idea from the Bible, we can put the whole program in a single sentence," explained Boyd. "The government giveth, and the government taketh away. And that leaves small minority truckers empty-handed."

Being more specific, Boyd capsuled what his group believes to be happening. He said a "compassionate" administration announced awhile back that it had set aside 20 percent of government business to be given exclusively to small businesses and minorities.

Boyd contended, however, that when the small trucker, including the minority trucker, goes to the Interstate Commerce Commission for an ICC license to haul his share, the door is slammed in his face. Thus, he said, the big truckers keep on getting the business set aside for the small ones.

"This situation exists because the ICC continues to base its decisions on outdated precedents, and on rules and regulations that are decades behind," said Boyd. "The overall result is that interstate trucking has become a 'closed club,' from which all but 'big' truckers seem barred.

"Now here's the MTTDC. It is sponsored and assisted financially by the same government that's trying to give minorities a share of the trucking business with one hand, and snatching it away with the other (the ICC). So. MTTDC has got a delicate job that requires battle strategy tempered by diplomacy."

Boyd said MTTDC accomplishes this by sending its legal arm to argue its case before the ICC, while at the same time its educational arm is walking the halls of Congress explaining the contradiction between the government's offer of help and the regulatory agency's refusal to let it go to those it is meant for.

"The plain truth is," said Boyd, "it's all but impossible for the small trucker to satisfy all the demands made by the ICC before it grants an interstate license to haul regulated freight. Often the cost involved is too great for the man who operates only one or just a few trucks.

"Even more often, the Commission rules that (big) carriers already are giving 'enough' service to areas where government business has been offered to the small trucker. So, the small companies are effectively barred from what was set aside for them."

In the same breath, though, Boyd said all this is changing. Slowly, but it's definitely changing. And he believes MTTDC is part of the reason changes are occurring.

"MTTDC is helping its members to skirt the barriers to small business through a national marketing program," explained Boyd. "It has set up a national data bank to keep its members aware of the ebb and flow of business opportunities. And its national office is equipped to give technical and management assistance to any members who ask for it.

"On the battlefield, the MTTDC is mobilizing congressional and administration support for a proposed new regulation, Ex Parte MC–107, which would give small businessmen in every field a greater and easier access to government business.

"The Congressional black caucus, of course, has given its support to MC–107. But more important, the MTTDC also has pledges of support from 60 other members of Congress, and from most of the government agencies that have anything to do with trucking and transportation. The job of mobilizing the support of public opinion always is the toughest, and takes the longest. But MTTDC has made a good start."

Boyd also said that beginning in September MTTDC will publish a new monthly newspaper, to be called NEWSFLEET, which will have national circulation. It will be edited by a professional journalist, Howard M. Norton, who has won a Pulitzer Prize for public service.

"The newspaper will put the spotlight on areas of discrimination," explained Boyd. 'In the editorial stating its policy, in the first issue, it promises to expose manmade barriers that tend to curtail the participation of small businesses of any kind in the mainstream of American business.'"

Boyd added that the newspaper also will keep MTTDC's membership informed of new developments and future trends in the transportation industry. It has been launched as an eight-page tabloid-size and will cost 50 cents a copy.

Boyd also added that preparations are underway for MTTDC's third annual national convention in Washington. It will be held at the Shoreham-Americana Hotel Oct. 25–28.

Additional information can be obtained by writing MTTDC, Suite 1104, 1730 K Street, NW., Washington, D.C. 20006 or by calling 202/293–5851.

NUTRITION RESEARCH AND EDUCATION

● Mr. McGOVERN. Mr. President, the Senate has completed floor action on the fiscal year 1979 Labor/HEW appropriations bill and has completed the conference on the agriculture appropriations bill. I would like to take this opportunity to commend my colleagues, particularly the members of the Appropriations Committee, who have supported programs and funding for nutrition research and nutrition education. More specifically, the following report language is exemplary of the increased emphasis the Appropriations Committee has placed on nutrition research at NIH:

The Committee continues to stress the importance of increased emphasis and inter-institute cooperation on nutrition research programs. Out of the sums provided over the President's request a portion of each of the participating Institutes efforts in nutrition programs should be increased. A report relating to nutrition research spending plans should be submitted by December 1, 1978. This report should distinguish those expenditures which involve clinical applications of nutritional research, those which seek fundamental knowledge primarily related to nutrition, and those basic research activities which will contribute to nutritional information only as one of several possible applications.

I am pleased that the Appropriations Committee has requested that NIH submit by December 1, 1978, a report on its future plans for funding nutrition research. Hearings before the Select Committee on Nutrition and Human Needs and the Nutrition Subcommittee have clearly indicated the importance of resolving the on-going debate over what is definitely nutrition research, and what is basic research which may later prove to have a nutritional application. This issue and others were raised at the nutrition research conference held at NIH this past June at which scientists, consumers, and policymakers participated, including Senator BELLMON and staff from the Senate and House Agriculture Committees, and the Senate Human Resources and Budget Committees.

As for the individual institutes, it is encouraging that the Senate has agreed to raise by almost $15 million the budget of the National Institute on Aging (NIA). In September 1977, Dr. Robert Butler, the Director of the NIA, came before the Select Committee on Nutrition and Human Needs to explain that Institute's interest in and proposals for investigating nutrition and aging. This past summer the NIA held a conference to obtain the expert opinion of scientists who have been working on nutrition as it relates to aging and the disease process.

On September 1, 1978, the NIA announced plans to establish a research program on nutrition and aging. I commend Dr. Butler and NIA for their commitment to this critical area of research, and request that the National Institute on Aging's announcement of a grants and contracts program on nutrition in relation to the health of the aged and aging process be printed in the RECORD at the end of my statement.

Similarly I applaud the efforts by the National Institute of Child Health and Human Development as described in the following Appropriations Committee report language:

The Committee is pleased to learn that the Institute plans to expand research on nutrition, particularly regarding the effects of nutrition on maternal health and fetal development. Nutrition has been demonstrated as a critical factor in the development of immunologic capabilities of the fetus, and, as one mode of preventive and therapeutic treatment, has been shown to be effective in the management of high risk pregnancies, particularly those of the adolescent.

The work of the Select Committee on Nutrition and Human Needs, and the continuing oversight by the Nutrition Subcommittee, has reinforced my belief that we must act on our current, although imperfect nutrition knowledge. At the same time one of the wisest investments we can make is in nutrition research.

Nutrition education in medical schools and training grants for research in nutrition are two other funding priorities. The Nutrition Subcommittee's recent hearing on nutrition education in medical schools elucidated this critical need that must be addressed in current medical school curriculums. Thus, I am encouraged that the Appropriations Committee has included $10 million for interdisciplinary training and curriculum development, with special emphasis on nutrition as explained in the report language below:

The Committee is concerned that physicians and other health professionals being trained in the Nation's medical schools and other institutions only in rare cases receive quality instruction in human nutrition. The growing evidence that diet plays a significant role in health added to the reality that most Americans turn to their private physicians

or to the medical care delivery system for guidance in matters of nutrition leads to the conclusion that this deficiency in curricula needs to be remedied. Many health educators desire to create such instructional capacity, but lack the funds needed to begin and sustain a high-quality effort.

The Committee does not intend to mandate such improvements in curricula, considering that some few institutions already have nutrition courses on a required or elective basis, that experience with appropriate and effective means for equipping physicians and other health professionals with nutritional knowledge is limited, and that present available nutrition education materials and professionals are scarce.

Of the amount appropriated, a significant amount shall be allocated for the development and conduct of interdisciplinary education in human nutrition in universities, medical schools and other qualified institutions. The Secretary is directed to develop a program of support for those institutions willing and able to undertake the innovation of nutrition courses for health professionals, and he is directed to implement a competitive grant program according to such reasonable criteria as he deems necessary. It is the intent of the Committee to insure that the recipient institutions require satisfactory completion of nutrition education courses of all students as a condition of graduation.

The Secretary is encouraged to evaluate alternative methods of instituting nutrition education for health professionals so as to be in the best possible position to recommend effective steps for institutions which decide to incorporate human nutrition into their curricula in future years. Finally, the Secretary is directed to report the activities begun and accomplished under the program of support to the Committee at the time of next year's hearings.

We have also made significant gains at the Department of Agriculture by agreeing to expand our national human nutrition research program through the development of two new regional research centers at Tufts and Baylor Universities. Tufts will specialize in geriatric nutrition, and Baylor will focus on pediatric nutrition. The importance of these centers and their relationship to the National Institute of Aging and the National Institute of Child Health and Human Development is discussed in the following report language from the Agriculture appropriations bill:

The conferees have agreed that the centers at Baylor and Tufts are to be operated by the Science and Education Administration of the Department of Agriculture, and be a part of a coordinated nutrition research program conducted by the Department. Members of the nutrition centers faculty may hold joint appointments with the university, subject to the approval of the responsible Department of Agriculture officials. The directors of the human nutrition centers will be appointed after approval of the Secretary of Agriculture or his designee and be responsible only to the Department of Agriculture. The conferees are concerned that the purpose of the research program at the centers be consistent with the research program at the National Institutes of Health, and that the centers support similarly high-quality programs. Therefore, the conferees direct the USDA to establish a Board of Scientific Counselors, external to the centers, to review and advise the Department as to the scope and quality of the research.

Further, the conferees direct the USDA and the directors of the centers to insure that there is close cooperation and coordination with the National Institutes on Aging and Child Health and Human Development, as appropriate, of the Department of Health, Education and Welfare, that the research and program plan of the centers is consistent with the purposes of the Institute, and that the USDA and the National Institutes of Health develop appropriate interagency mechanisms to insure coordination of this program, and advise the appropriate committees of Congress of the procedures, their implementation, and effectiveness.

Finally, it is my hope that the conferees on the Defense appropriations bill will accept the Senate figure of $2 million for human nutrition research at the Letterman Army Institute of Research (LAIR). This action would maintain the capabilities of the fine research staff at LAIR while the Department of Defense completes its studies on the future of LAIR and the army complex at the Presidio, an USDA determines the potential of LAIR for inclusion as part of the regional human nutrition centers.

The announcement follows:

NUTRITION IN RELATION TO HEALTH OF THE AGED AND AGING PROCESSES, NATIONAL INSTITUTE ON AGING

I. BACKGROUND INFORMATION

The National Institute on Aging (NIA) was established in 1974 to conduct and support biomedical, social, and behavioral research and training related to the aging processes and the diseases and other special problems and needs of the aged.

Basic to this responsibility is the development of a research program on nutrition and aging. The overwhelming influence of nutrition and dietary patterns on the health, disease incidence and prevalence, psychological and social integrity of the aged requires that NIA increase its commitment to the development of a research program aimed at establishing the relationships between nutrition and health of the aged adult, as well as aging processes.

II. GOALS AND SCOPE

This announcement from the National Institute on Aging is intended to encourage the increased development of research on clinical and basic nutrition over the full spectrum of interrelationships between nutrition, aging processes, disease prevention, health status and optimal health maintenance with age. Clearly, nutrition influences all life processes. It is of primary importance in aging research aimed at limiting the major detrimental physical and mental processes that occur with advancing age. A variety of pathophysiologic processes can be linked to excessive or deficient dietary intake of essential nutrients, vitamins, and minerals. These impaired functional processes include a decline in immune function and selected endocrine responses, osteoporosis, hypertension, loss of lean body mass, and decline in mental function and sensory acuity. This is frequently compounded by psychological, social, economic, and environmental factors that undoubtedly contribute significantly to the dietary practice and health of the aged.

In support of the development of a research program on aging, health, and nutrition, the National Institute on Aging has sought the advice and guidance of the scientific community to identify through consultations, conferences, and workshops the important issues and critical research areas that should be encouraged for the development of research on nutrition and aging. The areas selected for emphasis in encouraging research grant applications on nutrition in relation to health of the aged and urging processes are:

A. Epidemiologic and clinical research on the relationship between aging, nutrition status, dietary intake, and health status of the aged adult. This may include clinical nutrition research, for example, in general clinical research centers, health survey assessments or reassessment of existing data, i.e., HANES, ongoing longitudinal studies or epidemiologic studies in defined or characterized populations.

B. Studies on special nutrition-related problems in the aged adult. These studies may include the effects of specific diseases on nutritional status, interactions of nutrients with therapeutic agents, surgical procedures, or preventive regimens.

C. Investigations on the effects of aging on nutrient utilization, digestion, absorption, and metabolism and their relationship to nutrient requirements.

D. Basic and clinical nutrition studies of the interrelationships between aging and:

1. factors which may regulate changes that occur in lean body mass, body composition, energy balance and regulation of metabolic processes, and disease susceptibility with increasing age. This includes studies on effects of diet, weight, and physical exercise in modifying immune, endocrine, and metabolic processes with age, as well as the effects of excessive caloric intake and levels of obesity on the health of the aged adult;

2. the effects of nutritional deficiencies of essential nutrients, vitamins, minerals, and trace elements on long-term health and longevity, including the effects of protein and ascorbic acid intake on the absorption and utilization of heavy metals and trace minerals, such as iron and calcium, zinc, and chromium;

3. nutrition and age-related mental deterioration and loss of neural function, particularly senile dementia, including decline in sensory sensations of taste and smell, motor coordination, and cognition.

Although this announcement has selected research areas of nutrition and aging for special emphasis, research grant applications in response to this announcement are not limited to the specific areas addressed above.

III. MECHANISM OF SUPPORT, FUNDING

The support for this program will be via the traditional NIH research project grant. Applicants are expected to plan and execute their own research programs. Support of grants pursuant to this announcement is, of course, contingent upon ultimate receipt by NIA of appropriated funds for this purpose. The intent is to budget funds specifically for this program.

IV. REVIEW PROCEDURES AND CRITERIA

A. Application Review:

Upon receipt, all applications will be assigned by the Division of Research Grants according to accepted Referral Guidelines to an Initial Review Group for scientific merit review and to an appropriate Institute or Division for final review by their National Advisory Council/Board.

B. Review Criteria:

Applications must be relevant to the goals of this announcement. The factors considered in evaluating applications are:

Scientific merit of the research design, approaches, and methodology;

Adequacy of existing and proposed facilities and resources;

Qualifications and experiences of the principal investigator and proposed staff for the conduct of the proposed investigations;

Reasonableness of the subject and duration in relation to the proposed research, and

Adequacy of time to be devoted by proposed project staff.

V. METHOD OF APPLYING

A. Application Procedure:

Use the standard research grant application PHS 398. If the Institution's Business Office or Central Application Control Office does not have this form an individual copy may be requested by writing to the Office of Grants Inquiries, Division and Research Grants, National Institutes of Health, or by calling (301) 496-7441.

Type the phrase "NIA Nutrition Program" on the face page of the application. Enclose a covering letter stating that the application is in response to this announcement. Send the NIA a copy (see below).

Following the instructions with the application form PHS 398 making sure that the items noted in Section IV of this announcement are covered appropriately. Forward to:

Division of Research Grants, Room 240, Westwood Building, 5333 Westbard Avenue, National Institutes of Health, Bethesda, Maryland 20014.

Receipt dates for research grant applications in response to this announcement are no later than: November 1, March 1, and July 1.

VI. INQUIRIES AND CORRESPONDENCE

Inquiries and correspondence should be directed to:

Associate Director for Extramural and Collaborative Research Programs, National Institute on Aging, 9000 Rockville Pike, Bethesda, Maryland 20014.

Attention: Don C. Gibson, D.V.M., M.P.H., Chief, Biophysiology and Pathobiology Aging Program.

Telephone: (301) 496-1033.●

PCP: ABUSE OF "DEMON DRUG" GROWS

Mr. PERCY. Mr. President, over the past year, I have noted with alarm the ever-increasing abuse of the drug phencyclidine (PCP) by our Nation's youth. Within the past few years, PCP—commonly referred to as angel dust—has developed into one of the most popular drugs of choice among young people. Reports indicate that last year the number of youths trying PCP nearly doubled. According to the National Institute on Drug Abuse, more than 7,000,000 people in the United States have used PCP, and that is a "conservative estimate." As its use has increased, so has the casualties of PCP's terrible effects: Last year, the drug was linked to an estimated 100 deaths and to over 4,000 hospital emergency room cases. More and more, we are learning that angel dust is really a devil in disguise.

PCP was developed in the 1950's for use as a sedative and as an anesthetic. Although PCP continues to be used as a veterinary tranquilizer, its medical use for humans was discontinued in 1965 after numerous reports of patients suffering from hallucinations, disorientation, and, in some cases, schizophrenic-like psychosis.

PCP first hit the streets in 1967. It quickly gained a bad reputation for its unexpected effects, and practically disappeared from the drug scene. But mysteriously, in the last few years, PCP has once again reappeared—and this time with a vengeance. It is readily available, inexpensive, and easy to manufacture. PCP is sold primarily in liquid or powder form and is typically mixed with marihuana and smoked. Users feel that by taking the drug in this fashion, they can better control the dosage, and, thus, the effects. But, all too often, they are sadly mistaken.

The effect is wildly unpredictable. Reactions to PCP vary from user to user, and seem to be unrelated to the amount of the drug taken. Reported effects range from feelings of intense isolation, apathy, and paranoia to bizarre, spontaneous outbursts of violence. Long-term use may drastically impair concentration, learning and memory functions, reaction time, sensory perceptions, and physical coordination.

A tragic example of what a PCP user can do was recently reported in Chicago. An 18-year-old youth, with no prior criminal background, tried some PCP given to him by his uncle. For no apparent reason, he brutally killed his aunt, whom he sadly described later as his favorite. He cannot explain why he murdered her.

PCP has also been linked to suicides, the result of the depression it can induce; drownings, the result of sedation and disorientation; self-inflicted wounds and injuries, caused by hallucinations and delusions of super-human strength; and violence, caused by stimulation and psychosis.

Recent reports indicate that PCP's disastrous effects may have been greatly underestimated in the past. The coroner in San Antonio, Tex., reported last month that five deaths, the causes of which had baffled the authorities, were found, after autopsies were conducted, to be related to PCP usage.

The increasing chronic use of PCP by teenagers is particularly disturbing. A March 1977, study of drug users in 39 States indicated that the average starting age of PCP users was 14. Increasing numbers of junior high schoolers, as young as age 12, are reported to be regularly using the drug. PCP's relatively low cost and easy availability help to explain its upsurge in popularity among our youth. And, unfortunately, it is young people, least capable of handling an intensive drug experience, that are most susceptible to PCP's "freak-out" potential.

PCP is relatively simple, and very inexpensive, to make. A convicted manufacturer has stated that for $5,000, he could easily obtain the necessary chemicals to produce, in 1 day, 50 pounds of PCP. He could then sell each pound for $5,000, and make $250,000.

PCP represents one of the most difficult drug problems America will face in the 1980's and beyond. Instead of clandestine shipments of narcotics being smuggled across our borders, small laboratories—manufacturing illicit, easily produced, highly profitable, psychoactive chemicals—will be tucked away on inconspicuous city and suburban streets and in rural areas. Uncovering these labs is already a needle-in-the-haystack problem for law enforcement agencies, and it promises to become increasingly difficult.

The Drug Enforcement Administration (DEA) has already increased its efforts to crack down on this debilitating drug. Congress can aid them in controlling this growing menace by acting promptly on two pieces of legislation. One measure is the Criminal Code Reform Act, S. 1437, which overwhelmingly passed the Senate by a vote of 72 to 15 in January. At that time, I introduced, and the Senate accepted, two amendments to this bill. One would reclassify PCP among the most dangerous drugs—alongside heroin—in schedule I of the Controlled Substances Act. The second amendment would increase the penalty for the manufacture or sale of PCP from 5 to 10 years, and up to 20 years for a sale to a minor.

In addition, my distinguished colleague (Senator LLOYD BENTSEN) introduced S. 2778, the PCP Criminal Laws and Procedures Act of 1978. I was happy to be a cosponsor of this legislation, the provisions of which have become title II of S. 2399, the Psychotrophic Substances Act. S. 2399 as amended passed the Senate on July 27, 1978, and included provisions to increase the penalties for unauthorized manufacture or distribution of PCP similar to those which I had previously introduced. It would also require reporting procedures for buyers of piperidine, a vital ingredient for PCP manufacture. Such a reporting requirement would make PCP production more difficult, and could significantly reduce the illegal manufacture of the drug.

According to DEA administrator Peter Bensinger, only 110 of the 247 PCP trafficking cases tried last year in federal courts resulted in jail terms. The average prison sentence was 2 years, which often means release after only 8 months in jail. It is my fervent hope that through these Senate actions, judges and prosecutors around the country will be alerted to the necessity of taking a harder line on PCP dealers by imposing stiff fines and sentences.

The Senate's actions on S. 2399 and the Criminal Code Reform Act were important first steps in stopping the PCP menace. I am hopeful that the Congress will act decisively this session on these measures.

Just last week, on September 18, the House passed its own version of S. 2399, which did not include provisions to limit PCP. Thus, the fate of these provisions will soon be decided in a joint House-Senate conference. I would strongly urge the House and Senate conferees to make sure that the sections relating to PCP, essential to controlling the epidemic of angel dust in our country, be included in the final version of the Psychotropic Substances Act.

Recently, three articles appeared, further detailing the dangers of PCP. Mr. President, I ask unanimous consent that the following pieces entitled "'Angel Dust'—the Unpredictable Killer," by Florence Isaacs, published in the September 1978 issue of Reader's Digest, "High on PCP," by R. W. Dellinger, published in the June 1978 issue of Human Behavior, and an article of mine "Angel Dust—Devil in Disguise," which appeared in the July issue of Drug Enforcement, be printed in the RECORD following my re-

marks. I also ask unanimous consent that the tragic account of PCP violence in Chicago, "Murder Defense: A Sniff of Madness," which appeared in the September 17, 1978 Chicago Tribune be printed in the RECORD following my statement. Each of these articles is a compelling case for the urgent need for action to deal with our current PCP epidemic.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Reader's Digest, September 1978]

"ANGEL DUST"—THE UNPREDICTABLE KILLER

(By Florence Isaacs)

In Baltimore a 25-year-old college student, believing he has seen something too horrible to bear, gouges his eyes out with his own hands. Afterward, he cannot recall what it was he thought he saw.

In California a 15-year-old youngster, troubled by terrifying visions, seeks help at a medical center. Back home two days later, he throws a light cord over a garage beam and hangs himself.

In New York a 26-year-old welfare recipient stabs and kills his mother during a conversation in her kitchen, then writes on the wall: "I love her and didn't mean to kill her." He has no memory of the grisly episode.

All three of these young people were high on a deadly drug, phencyclidine hydrochloride, also known as PCP, angel dust, rocket fuel, super joint, peace weed, hog, and a host of other street names. PCP can be eaten, injected, snorted or smoked. Its milder effects include general disorientation or "spaciness." At its worst, it can cause wild hallucinations, schizophrenia-like psychosis, violence, convulsions, coma and death.

Drug-abuse workers report that up to 65 percent of their cases now are PCP users. According to the National Institute on Drug Abuse (NIDA), about 7 million people in the United States have used PCP—three times the number for heroin (2.3 million), not far behind cocaine (9.8 million). Last year alone, PCP took an estimated 100 lives and sent more than 4000 victims to hospital emergency rooms. The executive vice precident of the American Medical Association has declared PCP a "prime medical concern," while NIDA has named it the country's new top-priority problem drug.

"PCP is the most horrendous thing we've had to deal with, including heroin," says Dr. Regine Aronow of the Children's Hospital of Michigan in Detroit. It's easy to see why. A medium dosage can produce uncontrolled aggression, making PCP users dangerous not only to themselves but to innocent bystanders. And a bad trip can happen to anyone, anytime.

Cheap, readily available, PCP seems to have turned up in every state in the nation. In 1977 the Los Angeles coroner's office found traces of PCP in 66 of the bodies it autopsied. In New York City an estimated 40 percent of the high-school students in drug-counseling programs have tried the drug, according to Dr. Mitchell S. Rosenthal, president of Phoenix House Foundation, the nation's largest therapeutic community for drug abusers. Outside the cities the problem is almost as bad. "I call it the heroin of the suburbs," says Lt. John Hinchy, head of the Chicago police department's narcotics section.

PCP started out as a legal drug in the 1950s, used as an anesthetic for surgical operations. Because of its dangerous side effects, it was removed from the market for human use in 1965—though under the name Sernylan it is still legally used as a veterinary anesthetic. In 1967 the drug made its illicit debut in San Francisco. Used in tablet form, it earned the nickname "peace pill." But it quickly developed a bad street reputation and lost much of its following.

Then about three years ago PCP suddenly reappeared, to gain instant popularity. Users discovered they could better control dosage in powder form ("angel dust"). They began sprinkling it on oregano, mint leaves, parsley, ordinary tobacco and—especially—marijuana, and smoking it. Then, some drug-rehabilitation workers believe, with the advent of marijuana-decriminalization laws and the surge in teen-age pot smoking, PCP won a wide new audience. (According to some studies, the average age of first users is 14½.)

PCP acts on the central nervous system; it may stimulate or depress, depending on the amount taken. Most users have a pleasurable first experience. They feel the effects in one to five minutes, remain high for four to six hours, and take 24 to 48 hours to come back down to earth again. Low doses may produce distortions in perception, muscular incoordination, inability to verbalize, difficulty in concentrating, feelings of estrangement or apathy, and a dulling of the senses. The user can actually burn or maim himself without feeling pain. Effects vary widely, and it's impossible to be sure of receiving a low dosage or a good reaction. Kids have killed after using less than two joints.

Chronic users (those who take the drug at least three times a week for three months) experience memory and speech problems lasting six months to a year, plus mood disorders, depression, anxiety and violent behavior. Some users have taken five years to get over the effects. Users in a violent condition—called a "whack attack" in street language—think they're supermen, and have superhuman strength. They often believe they're fighting off imagined attacks. "When I hear it takes six people to hold a guy down, I know it's PCP," says Dr. Aronow.

Since the drug distorts the sense of movement and space, users don't know which way is up, and drownings are not uncommon. In one case, California police arrested a woman for driving erratically. Left unattended in the shower during the booking process, she wound up drowning herself in a few inches of water. Other PCP users have fallen off cliffs, jumped off buildings, or been hit by a car while walking down the middle of a highway.

To be sure, not every user goes into convulsions or gets psychotic and tries to murder someone. But the risk is always there. A person can take PCP regularly for years with no ill effects and suddenly have a bad trip; others have a pleasurable trip one day and a "bummer" a week later. In greatest danger are small children, who seldom have much tolerance. Dr. Aronow has treated 38 children under the age of eight—five of them less than a year old. All survived, but some came close to death.

Is there permanent brain damage among hard-core users? Doctors disagree. The drug hasn't been around long enough, or studied enough, for them to know.

The biggest problem of all is the drug's availability. "If you can follow a cookbook recipe, you can make PCP," says Robert E. Willette, chief of the research technology branch of NIDA. The basic chemicals are available from most large industrial supply houses. Thus, manufacturers and dealers make enormous profits even while keeping the price of PCP low. Most teen-agers cannot afford cocaine, but a marijuana/PCP joint might sell for as little as $2 and is so potent that up to five youngsters can get a buzz out of it.

Widespread use has created huge law-enforcement problems. In New York's Queens County, local police have had to set up a special squad of investigators just for tracking down PCP dealers and users. Last year in Maryland, the Montgomery County police narcotics section devoted 70 percent of its time to PCP cases.

The federal Drug Enforcement Administration has intensified efforts to close down illicit laboratories manufacturing PCP. Sixty-four were raided last year, a 50-percent increase over the preceding two years. But new ones spring up as fast as the old ones are shuttered. The agency has also tightened its controls on the two major PCP ingredients permitting their sale only to legal, licensed manufacturers. But to be effective, these efforts must be coupled with stiffer penalties and tighter enforcement of existing laws.

The federal penalty for PCP possession with intent to distribute is a maximum of five years in jail and a $15,000 fine for a first offense; double that for multiple offenses. Heroin penalties are much tougher: 15 years and a $25,000 fine for a first offense, double that for multiple offenses. But present judicial attitudes allow many PCP dealers to get off with a slap on the wrist and go right back into business.

PCP was reclassified by the Drug Enforcement Administration in February 1978. The Controlled Substances Act ranks substances from Schedule 1 to Schedule 5, according to how dangerous they are to society, their potential for abuse and addiction, and whether there is an accepted medical use. Heroin and marijuana are Schedule 1; PCP, which had been Schedule 3, has been moved to 2, joining cocaine (which is used legally as a local anesthetic), certain amphetamines and other drugs. While this does not change possible penalties, the hope is that it will cause judges, juries and prosecutors to take a dimmer view of PCP offenses, with the result that dealers will receive maximum fines and sentences more often.

Sen. Charles Percy (R., Ill.) has introduced two amendments to the Criminal Code Reform bill—to move PCP up to Schedule 1, and to double the penalty for dealers. "If we get tough legislation, word will spread through the subculture like wildfire," says Kevin McEneaney, a top assistant at Phoenix House. "But if the message is lenient, we'll be saying the drug isn't really dangerous."

Meanwhile, national groups, states and school districts are launching educational programs in schools, warning against the dangers of PCP. The National Institute of Drug Abuse will spend $1 million in research in the next year, aimed at getting better estimates of PCP usage, frequency of bad reactions, biological implications, and ways to discourage use. It has begun a national blitz of TV announcements in which, projecting an appropriately "hip" image, Robert Blake, TV star of "Baretta," warns youngsters: "PCP is no good. It's a rattlesnake and it'll kill you. Don't go near it."

[From Human Behavior, June 1978]

HIGH ON PCP

(By R. W. Dellinger)

The dream is the only thing that's real to Philip anymore. The aggravated assault charge, the days lying on a cement floor in a jail cell wanting to tear his eyes out, the woman in court with a 10-inch purple scar ringing her neck like a collar—they don't mean a thing.

In the dream, Philip always saw a man

standing under a tree in some far-off land. Because it was early in the morning and very foggy, he couldn't quite make out who it was. But when it cleared up, he could see a good-looking dude with blocklike features and porkchop sideburns. And he knew this human being. It was himself.

The man in the dream had two monkeys deep inside him, arguing, fighting, trying to get hold of his mind. After a while, Philip realized that one wanted to trap him—not in a cage, but in his own words and logic. He soon learned he had nothing to worry about, though. For whenever he found himself cornered, the other monkey would show him a way out.

Philip, a tall six-footer, has just finished his Friday afternoon therapy with Dr. David Smith, founder and medical director of the Haight-Ashbury Free Medical Clinic. At his side is a friend with upswept hair, dressed in a white turtleneck and a camelhair coat. Her name is Jeannie.

"One afternoon last September, they say I cut a woman downtown around six o'clock." Philip says in a soft baritone. "She was sitting in a car talking to her boyfriend, and I walked past and cut her with a straight razor. And she had a hundred stitches put on the side"—he brings his hand up to his throat and makes a five-inch slash—"right here."

There's a reason why Philip doesn't remember any of this. For three weeks before it happened, he had been smoking five joints a day laced with PCP.

All Philip says he knows is that when he came to, after dreaming the dream, he was in a patrol car, then in a dark cell. When he heard the cell door opening and slamming, he rubbed his eyes and saw his new roommate, a drunk. "The first thing that hit my mind was that the cops put this guy in to hurt me," says Philip.

Philip couldn't shake his paranoia. He got to feeling so badly that he asked for a doctor. All he got was a transfer to the county jail, where they took his black leather jacket away and put him inside a strip cell. There was nothing in there except a hole in the floor for a toilet. Philip wanted to tear his eyes out because he didn't want to see any of this.

Later, when he was released—amazingly, on his own recognizance—Philip went home. He stayed there. He lost 27 lbs. and thought he was losing his mind. So did other people.

"I called him up, and he didn't even know what day it was. He didn't know what month it was." says Jeannie. Thinking that Philip was having a nervous breakdown, she went to her family physican.

Philip wound up in San Francisco General Hospital, where it was discovered that his problem wasn't mental. It was physical. It was "angel dust".

Since Philip got out of the hospital he and Jeannie have been coming to this three-story Victorian house on narrow Clayton Street to see Dr. Smith an expert in drug treatment.

"He says it'll make you go off and do things that's unbelievable, but at the time, to you, are real," says Philip. "So you cannot act. You cannot make no decisions. You have to be awful careful and find somebody to talk it out with. You can't try to deal with it by yourself. It'll hurt you if you try to deal with it.

"I didn't believe, you know. So I said, 'Now I know I got to find out what happened.'" When told what he had done. "I had tears all over my eyes. I said, "I don't want to hear it no more.'" .

Jeannie can't contain herself any longer. "It wasn't him. It was not him," she says. "I mean, it wasn't." Philip is 38. He works as a hall aide at a San Francisco school, a job he enjoys because he likes kids. Philip smokes grass but says he's never dropped acid, shot up smack or taken speed.

Last September, some friends came calling on Philip with some "green dust," which piqued Philip's curiosity because a long time before he had smoked some really good grass called green dust.

"After I bought it, first I sampled it, and I knew that the weed was too strong," he says. "This is the way I looked at it: it was some good weed, but it was too strong. So what I'd do is buy me a little bit and sprinkle it over my other weed and then smoke it.

"And then, the next thing I know. I was involved. And I don't remember nothing next until I came out of it.

"There's no way heroin would make you do shit like that. Heroin won't make you trip like that. I mean, I've talked to people, you know, who've been on heroin. I have a brother who's been on heroin. I still got one on heroin. And he'll tell you right now—do not mess with angel dust!"

The following Tuesday, at two o'clock in the afternoon, the law would start deciding whether or not Philip should be held responsible for what he did.

"I don't even know what the trial is all about," Philip says. "I don't even care, because they're telling me something that I don't know nothing about."

According to David Smith, a case such as Philip's isn't all that rare. "Well, I don't see anything but the bad part of it," he snaps. "I think it's the most dangerous drug I've seen. I've been in this business full-time for 12 years, and I've seen every imaginable drug. And the worst reactions I've seen have come from PCP."

Smith has attended to some 200 cases. About Philip he simply says: "He got into it accidentally but had a really horrible reaction to it."

Twenty-one years ago, after pharmacological toxicological and metabolic tests on mice, rats and monkeys, the United States government decided that PCP or Phencyclidine could be used as an anesthetic. At first surgeons thought PCP was one great drug. Administered intravenously in doses of .25 mg per kg of body weight, it induced an unresponsive state and total anesthesia although the eyes remained open and the patient appeared to be awake. It didn't interfere with breathing or decrease blood pressure as had a number of other anesthetics.

Parke-Davis & Co., who put out PCP under the trade name Sernyl, soon cornered the market. And in 1963, the Detroit-based pharmaceutical house got the U.S. patent.

A not-so-funny thing happened then. Patients started waking up after their appendectomies wondering where their heads were. Or why the surgeon who operated on them had turned into a South American vampire bat with a 10-foot wingspan and four-inch claws.

So, on January 22, 1965, Parke-Davis wrote to the Food and Drug Administration asking that clinical use of PCP on humans be stopped. Two years later, the federal government got around to ruling that the drug, now under the trade name Sernylan, could be made and sold only as an animal tranquilizer.

But the story of PCP doesn't end there.

In the summer of 1967, it popped up in the Haight Street area of San Francisco. The hippies called it the peace pill. A year later, it appeared in New York City as hog. But most of the time during the late '60s and early '70s, PCP was passed off on users as LSD, cocaine or THC.

PCP is no longer a drug of deception. It has come out of the closet as "angel dust" or "crystal." It has broken out of black ghettos and brown barrios and moved into lily-white neighborhoods.

"It's clearly the drug of choice among white suburban teenagers," Theodore Vernier, director of the Drug Enforcement Agency in Detroit, told the *U.S. News & World Report*. In March of 1977, a study of drug users in 39 states found out that teenagers first tripped on PCP at an average age of 14. In 1976, it had been 19. Seventh and eighth graders have walked into David Smith's clinic, and he thinks that there's a PCP teenage culture forming based on a kind of daredevil challenge. "It's like the fastest gun in the West," he says. "If you can handle PCP, you can handle anything."

There's a thin line between getting off and getting psychotic on PCP. Last year 4,000 Americans were treated in emergency rooms because of the drug. The Drug Abuse Warning Network, which samples emergency rooms, crisis centers and medical examiners across the country, not long ago reported that PCP, either alone or in combination with other substances, increased from 13 percent of all hallucinogens recorded in the summer of 1973 to 43 percent during the last three months of 1976.

Last year, the National Youth Polydrug Study found that a third of the youngsters in drug-abuse treatment programs had tried it. Girls used it as much as boys.

When the National Institute of Drug Abuse (NIDA) reviewed the client records last year at a psychiatric facility, it discovered that 15 percent of the clients had used PCP. The institute promptly put out a statement that as much as 20 to 30 percent of admissions to mental hospitals in America may be linked to its use.

The Phoenix House Adolescent Drug Rehabilitation Program in New York City reported in the fall of 1977 that almost half of its last 50 admissions were for PCP.

Twenty to 30 dust overdoses are treated at crisis centers and emergency rooms every day in the East Bay Area near San Francisco.

Early this year, a disgruntled Los Angeles assemblyperson named Maxine Waters put the problem in terms she knew her constituents would understand. "In 1977, the taxpayers of Los Angeles County spent an estimated $2½ million on 'angel dust'-related services—2,500 arrests, over 275 deaths. God knows how many medical patients, police injuries, auto accidents, and court costs," she reported.

Also early in this year, California's Governor Jerry Brown announced that PCP will be his state's number-one dope target for the next two years. Brown wants to spend $3 million of his next budget to fight dust.

The Drug Enforcement Administration states that in the last four year's PCP has become a major drug of abuse, overtaking LSD as the big hallucinogen on the street. Dr. Robert DuPont, director of NIDA, says: "It appears that PCP use has become epidemic."

Phencyclidine behaves like both a hallucinogen and a central nervous system stimulant. But pharmacologists aren't sure where or how the drug works. Many think it acts on the sensory cortex, thalamus and midbrain to scramble internal stimuli.

David Smith says the drug can produce mind-body dissociation, catatonic rigidity, psychoticlike symptoms and amnesia. There are three stages that users go through, he says. The initial acute toxic state can last up to 24 hours. After that, the person can have a psychoticlike reaction that can go on for a week. The user may then slip into a condition that is almost indistinguishable from schizophrenia. Smith knows one person who's been in a San Francisco hospital for over a month in such a state.

"You don't become physically dependent upon it," he says. "But there are people who are using it chronically and have developed a psychological dependence."

During the fall of 1973, Dr. Paul Luisada, a deputy medical director for the National Institute of Mental Health, noticed something strange. All of a sudden, the admis-

sion rate for what seemed to be long, severe and treatment-resistant schizophrenic psychosis tripled at the Area D Community Mental Health Center at St. Elizabeth Hospital in Washington, D.C. Many of the patients were violent and aggressive when they came in.

After three or four weeks in the hospital, each of these people admitted to having smoked something called angel dust. Similar epidemics occurred at the end of 1974 and in 1975 and 1976.

Ever since the first case—an 18-year-old high school senior who kept muttering that he had a knot in his head—caught Luisada's attention, he's taken note of the PCP psychosis. Eventually, he wrote a paper about it entitled, "The PCP Psychosis: A Hidden Epidemic."

"Behavior is extremely unpredictable," wrote Luisada. "These patients may be reluctantly cooperative one minute and violently assaultive the next. Some carry lethal weapons to protect themselves from their imagined persecutors. Bystanders have often been furiously, unpredictably and unremittingly attacked without provocation because the psychosis may include both extreme global paranoia and delusions of superhuman strength."

Dr. R. Stanley Burns used to be on the staff of both the rock medicine section of the Haight-Ashbury Free Medical Clinic and the San Francisco Polydrug Project. He quit both jobs to start R. Stanley Burns, MD. & Associates with Steven Lerner. The organization has one purpose—to study PCP.

Burns and Lerner have closely observed some 400 people who used dust daily for two to six years. Two clinical patterns of intoxication emerged, depending on the dosage.

Low-dose users, who were brought to the emergency room by the police often because they were driving erratically or acting strangely after a car accident, were usually confused, restless, agitated or excited. They stared blankly and purposelessly. They didn't know where they were or what time it was. They were euphoric, combative or regressive. Their ability to speak came and went.

Their muscle tone was rigid. Hardly any could feel a pinprick. Their blood pressure was up when PCP was the only drug used. They also always had both horizontal and vertical nystagmus, a condition in which the eyes move up and down or back and forth much like those of a doll.

A few vomited again and again for three hours. Many drooled and sweated. They bumped into things and fell down.

Users who took a higher dose—say 10 to 20 mg—arrived in a stupor or coma. If they had just been smoking dust, they might be on their feet and talking in 30 minutes. But the people who swallowed a really massive dosage were out for as long as 72 hours. And it took some of these patients 15 days to recover completely.

Although Burns admits that PCP can be pharmacologically toxic, he says that this probably accounts for less than 20 percent of all deaths. "We find more and more confirmation that the drug's behavioral toxicity is the really great danger," he told the magazine Emergency Medicine. "Under its influence people fall off cliffs and die of the trauma or into the sea and drown. They paddle out to sea on inner tubes or rafts and fall off and drown; they even drown in swimming pools. They die in fires, they die in auto accidents or while walking blindly on the freeway. They don't decide that they can fly and dive out of windows—but they certainly do commit suicide when their comedown depression is severe enough, either by shooting themselves or taking an overdose of anything they can find."

Burns says that in a group of 28 chronic users he and Lerner studied three died in a four-month period. Two drowned in swimming pools; the other one burned to death in a fire. All were high on PCP.

Gloria Keyes has been interested in drugs ever since she became a psychiatrist in 1969. For the past four years, she's taught psychopharmacology to residents at Martin Luther King Hospital in Los Angeles. Trained in community psychiatry. Keyes is currently director of a Los Angeles County committee that meets once a month to keep informed on the growing angel dust problem.

"Actually, PCP has a multisystems effect as far as the human body goes," says Keyes. "For example, it has an effect on the eyes. An individual may also have ataxia, a kind of neurological disorder where persons lose their balance or can't determine if they step down how far it goes before you touch the ground."

But the biggest neurological problem, she says, is memory loss. The larger the doses, the worse the loss.

The main thing is the schizophrenic-like reaction with delusions and paranoia. "They have false beliefs like something is going to hurt them or somebody's going to do something to them. Or maybe you might look like a monster to them."

All of this amounts to quite a problem for clinicians—how do you tell the difference between a schizophrenic reaction that's due to PCP and one that is a true functional disorder?

"Some of my colleagues will say: 'Well, gee, I know because they're crazier than a schizophrenic person'," says Keyes. "But you can't always tell. You have to go by history, and you have to have an adequate examination." But this is complicated by the fact that you can't talk with them, she says. They have no judgment or reason, especially the chronic users or those who have had a large dose.

"One thing about PCP is that you don't feel any pain," says Keyes, because the drug acts as an anesthetic and analgesic. And this is important because pain monitors behavior, because when a person is hurt, there is a kind of withdrawal. But a PCP person does not have that capacity to withdraw. And that puts the person in a dangerous position.

"After you see some of these people on PCP, you begin to think that it causes an irreversible brain damage," she says. "I'm not certain that anybody has documented this, but you get the feeling that it does because for extended periods of time they do not use their mentation in a normal fashion.

"I guess when I think back over what I have seen, the thing that perhaps impresses me most is the emptiness and the vacuousness in the lives of people who have been on the drug any extent of time. In terms of your whole process, your ability to function, your ability to care about yourself and be concerned and to be involved in life has been removed. And there's a possibility that you'll never get it back again."

Keyes is somewhat surprised to see PCP in the black community, because blacks have always stayed away from mind-altering drugs. LSD was never big in the ghettos. She thinks PCP has both political and psychological implications.

"If you wanted to eliminate being bothered by a whole group of people, then just dust everybody out," she says. "They would just withdraw. And that's what's happening with these people. They can't make any decisions. They don't know what's happening in the world. They couldn't care less.

"The most frightening part is that you make a nonperson. You make an automaton. You make a person who doesn't feel anything. Who cannot remember anything. And who is not in control. That's scary."

Each of these professionals thinks we are playing catchup as far as our knowledge about PCP goes. The National Institute of Drug Abuse, the research agency that's supposed to know more about dust than anyone, admits it has a lot to learn. "We don't know why some people seem to have a sensitivity to it or will have adverse side effects, psychotic reactions, and other people don't," says Mary Carole Kelley, NIDA's press officer. "We also don't know why some people can smoke it for a very long time and then have a reaction and other people will have a reaction the very first time. These are unanswered questions. There is a lot we do not know about this drug. There's no question about that."

Although the police knew what PCP could do a couple of years before social scientists did, they still haven't figured out how to deal with it. Part of the problem is the tremendous strength the users seem to have. "I don't know what you do with them," says Lt. Dan Cooke, spokesperson for the Los Angeles Police Department. "They [the users] throwing a lot of people around like ten pins."

The LAPD had a case recently where a nude man, high on PCP, raped a woman. As he was making his getaway, four of L.A.'s finest confronted him. The suspect grabbed one of the officers' batons. All four officers wound up in the hospital.

"Two of the major problems are the violence that accompanies it and their inability to feel pain," says Cooke. "They're just impervious to pain."

Cooke hasn't the slightest idea why people are using it right now. All he knows is that more and more of them are and that LAPD officers are having more and more problems.

"All we're left with is just the result of it," he says.

"Yes, it's creating some problems," says Sgt. Eugene Rudolph, the Los Angeles County Sheriff's Department's resident angel dust expert. "Now you take an individual who's under the influence of PCP. What is it affecting? It's affecting his ability to reason. All right then, when he's put into a situation where authority—not necessarily the police, but any type of authority—challenges him in any way, he's going to resist it."

Rudolph is a narcotics training officer. He lectures at a patrol school to officers who are just going out into the field. They were all worried about PCP users. They all want to know how to handle someone who is loaded.

Rudolph didn't have any special PCP techniques to lay on them. He says there aren't any. You just protect your ass and make the collar.

"I said—and I've said this ever since I've been a policeman for 22 years, and I was told this when I first became one—'Man, if you can talk, use your mouth, 'cause you're not paid to fight. And there's guys out there that can whip you.' "

PCP powder, anywhere from 1 mg to 100 mg, is sprinkled on dried parsley and mint leaves or marihuana. In the last year or two, it's more likely to be dissolved in a liquid and then sprayed onto the leaves or grass. A really strong joint—called superkools or Sherman's—is made by diping the organic base into liquid PCP. Sometimes people swallow tablets or capsules. But most chronic users smoke it so they can control the dosage.

The first effects from a joint hit in about two minutes and peak in 15 to 30. The high lasts for four to six hours. It usually takes between 24 to 30 hours before the user is back to ground zero.

Dust is cheap. A quarter of a gram of mint leaves sprayed with the liquid makes one joint. It sells for a buck or two. Two people who put up $20 apiece can stay loaded for a month if it's good stuff.

"The PCP on the street today is not diverted from legitimate sources—it is manufactured in clandestine laboratories," says Robert DuPont of NIDA. "It is a frightening model of what can happen when a potent drug is easily synthesized at low cost from easily available chemical processors."

According to the Drug Enforcement Administration (DEA), the major illicit pro-

duction centers are Washington, D.C., Detroit, Los Angeles and San Francisco.

"Dave," who prefers to remain anonymous, is a narc—a DEA agent, who says he's 35 going on 90. He's spent the last five years busting up PCP labs, which run the gamut from small garage operations that make a pound or two a week to big commercial operations. Dave says the typical setup is two to six people churning out six to 10 lbs. a week.

"Generally, a case will start with information—either it can come from neighbors complaining about strange and unusual odors in their area or the lab will blow up, which is happening more and more of late around here.

"The thing that's distressing me now is we're starting to see shootings. There was a case in Inglewood—I was talking to the officers last week—where when they kicked in the door and the guy tried to throw a beaker of chemicals in one officer's face, they had to shoot him. And that was the third PCP incident like that in the last month that I know of.

"You've got toxic chemicals or caustics like lye—sodium hydroxide. You've got acids—hydrochloric and sulfuric acids. Now a fistful of those chemicals in your face can really cause some problems. And this apparently is what some of these people are doing. When the door goes down, they're getting the chemicals and starting to throw them at the officers. So this is going to require riot-type face shields to be worn. And it does present a problem—especially for the first one or two guys in the door, usually me."

There's another danger from PCP labs that keeps Dave awake at nights: explosions. "What I would hate to see," he says, "and it's going to happen, is some turkey's going to be making this in one of these highrise apartment buildings, and it's going to blow an apartment building up."

The people who make PCP are in it for the money—pure and simple, according to Dave. Just $150 will buy all the chemicals needed to make a pound of the stuff. That pound can be sold for at least $8,000. And unlike heroin or cocaine, there's nobody to be paid off to get it through customs, there's no smugglers to be hired.

Dave thinks the Drug Enforcement Agency is doing its job, but the courts aren't doing theirs. The DEA has to catch a guy cooking PCP red-handed three or four times before a judge will send him to jail.

Working labs has been a real education for Dave. There's one thing that sticks in his mind. "I've learned that if I don't do my job, then my kids might be exposed to it when they go to school—and I've got three boys. My job is to prevent some yoyo from selling dope in the schools. And I think that's what the bottom line is."

"Donna" works no more than 30 feet from Dave's desk. She's 5'2", 115 lbs., and doesn't seem like much of a match for big-time dope dealers. Since July 1976, Donna's been working back a network that distributed PCP in Detroit. The trail eventually led to Southern California.

It started in 1969 when a young man from San Francisco moved to Los Angeles and set up a PCP lab. More importantly, from 1970 to 1977, he gave or sold the formula for PCP to at least 10 other people. The new people would open up their own labs in Los Angeles, but by 1972, many of their distribution networks had branched out to Chicago, New York, Miami—and Detroit. The operation spread so far and so fast, the DEA couldn't keep track of—let alone stop—it.

But last December, Donna and her coagents made an attempt. In a simultaneous, citywide bust, 15 of the biggest PCP people on the West Coast were arrested, including the young man from San Francisco.

All this should make Donna happy. It doesn't. "Say you have a heroin organization," she explains. "Because of the distribution, it always starts in Mexico. Someone makes it in Mexico, and someone slips it across to someone over here. It's pretty easy to identify the organization.

"With PCP, you start out with, like in our case one guy that had the formula. Then he taught Peter and Peter taught this person, who in turn taught these three people, who in turn each taught four other people. You can't. You just can't stop it."

But there's another reason why Donna is discouraged. After giving two years of her life to this case, the 15 men she arrested are facing maximum sentences of five years.

A two-story building at 2249 South Hobart, Los Angeles, is a detoxification induction center run by a Christian organization called Teen Challenge. Through its door go heroin addicts, alcoholics, glue sniffers and PCP freaks.

Inside, in the back in an office that holds three desks but should only hold two, Rich Bills, who is in charge of induction, and Ernie Martinez, his assistant and an ex-addict, are rapping about angel dust.

"I remember my first experience with it," says Martinez. "We were smoking dust, you know, and I don't know how much I was smoking at the time. But the next thing I knew, I woke up the next morning, and I couldn't talk. I was stuttering. That whole day I didn't smoke any dust, but it was still in my system. And I was lost in my own hometown.

Bills says he tried it when he was 18, and again at 21 when it became more fashionable. He can recall the last time he took it.

"After smoking a joint about two inches long, after taking one or two hits, I remember it actually felt like nerve cells on my spine. I just felt a rush up there. And then there was a mass disorientation—time, space.

"I remember walking outside. And walking seemed really hard to do. And there was extreme paranoia associated with it also—a lot of paranoia. I felt that I was going to get caught and that something was going to happen to me. It kept on lasting. And there was paranoia of 'when am I going to come down from it?' But there were also times when there was an elation. I felt very relaxed. It went through stages. It wasn't just one kind of thing."

Bills says it was a good high. Better than grass. A little like a hallucinogenic trip. The walls seemed high. He felt tall, then short. His senses were more aware. All of this lasted six hours.

"There's no concentration on time," says Bills. "I remember walking. Walking seemed very difficult. Almost as if my feet were shackled. You know how shackles are? How you've got so much play. I couldn't take a full stride. Things were really slow."

Martinez interrupts: "I always felt tall."

Both young men agree that what effect each person gets from the drug depends upon many factors—some physical, some social. Bills thinks the person's mood is important. Every time he smoked dust, it was different depending on whom he was with and how he felt.

Bills hasn't found many people over 30 who are using it on any regular basis. Most of the PCPers he works with are under 21. But that's the only commonality. "I talk to homosexuals, they use it," he says. "I talk to high-income blacks, low-income blacks, white middle class—all kinds of whites—transients, Mexicans, Indians. And they all use PCP."

Both agree it's the drug of the '70s.

"It's a way of escaping reality, and nowadays everybody is looking for that easy out," says Martinez. "And for a dime, $10, maybe you get five joints out of it or six. And it takes you one joint to escape reality."

"A lot of people don't want to take acid anymore," adds Bills, "so they go to PCP. But there's a whole thing, that hallucinogenic value, people like. Remember in the late '60s, you'd take a hallucinogenic to become more aware of yourself and all that stuff. I guess they feel the same way now. But about PCP."

Sam Heilig also believes that PCP is the drug of the '70s. But unlike the Teen Challenge workers who say they've never witnessed the violent part of it, Heilig has seen too much. He says the unpredictableness of the drug is one of its real peculiarities. He would guess that over 90 percent of the time users get what they describe as a good high. They might get a little crazy. But they don't do anything violent. They just feel mellow.

"Maybe 95 percent don't have any problem," says Heilig. "Maybe 98 percent. But there's some percentage we know.

"If you monitor the coroner's office, as I have, you will find that in '75 I think there were 13 deaths that were picked up with PCP-involvement—not just PCP overdose, but there were 13 deaths related to PCP. There were 26 in '76. In '77, I count 66. So it's more than doubled, you see.

"It's a large number of deaths. And those are the ones that are found. It's a significant number of people."

Heilig has just started looking at how the two are connected. He thinks many users are looking to get themselves killed. Heilig hopes to study 50 cases where people died because of PCP. He wants to interview families, friends and lovers. He wants to trace back lives to find out why.

"I've got 17 of them analyzed with some meaning," he says. "You find a lot of crazy behavior, which is very threatening to whoever witnesses it. And people get killed. A lot of people get killed. It's not an unusual kind of event where somebody just acts bananas, scares the ——— out of whoever is there—most often its the family and friends, not police.

"Now eight of the 17 that I've looked at this far were homicide deaths. They were killed. They got themselves killed. Four were suicides. And one-quarter were accidental deaths. One was a natural death.

"I was interested in the homicides. One was killed by his roommate. One was killed by a friend at a party. One was killed in a barroom brawl. One was killed by his stepfather. One was killed by a neighbor. Two by strangers, street acquaintances. And one by the police."

Heilig thought all the PCP fatalities would be kids. But 25 percent of the 66 people who died in 1977 were over 30. One was a 77-year-old woman. The racial mix was about what he expected—six out of the 17 were black. So was the male-female ratio—14 males to three females. Heilig thought it strange that three of the fatalities involved drownings.

"These are police reports of investigators who are on the scene," Heilig says as he leafs through a batch of papers in front of him. "There's a case in here where a guy was busting windows down Hollywood Boulevard with an ax handle. The cops tried to stop him. He threatened them with the handle, and they blew him apart. And that's a common sort of event. People get wild, threatening, unpredictable. And there's no restraining them."

There's one more homicide case Heilig wants to read. He says it tells people a lot about what the drug can do. A security guard discovered a 23-year-old man hiding inside a parking lot. When the guard asked him what he was doing there, he said that he was stronger than God. The man then reached for the guard's revolver. The guard, backing away, pulled his gun and fired once into the air as a warning. He fired again. The man laughed and reminded the security guard that he was stronger than God. He then lunged at the guard who in turn fired once into his chest. The man fell to the ground but rose to attack the guard. At point-blank

range, the guard fired another shot. The man fell dead.

"He thought he was God," says Heilig. "You talk about the superhuman strength of people on PCP. It's not superhuman. It's that they're crazy. And that scares people. You can imagine what this guard was thinking. He warned him. He tried to subdue him. He shot him once. The guy kept coming. That's PCP."

The other kind of angel dust death that intrigues Sam Heilig is suicide.

He says human beings—especially Americans—use drugs as a self-medicating way to deal with depression or anxiety. The middle and upper classes take Valium. People on the street take anything they can get their hands on.

In another study, Heilig discovered that 75 percent of a group of addicts said they were using heroin to keep from killing themselves. He suspects there's some of that going on with PCP. And he wants to find out so he can intervene.

Heilig tells of one more report: an alcoholic woman with a stomach disorder, chronic back pain, an ulcer, who had had one operation after another during the past year. For two months she talked about killing herself because of her health. The night before her death, she had been over at her boy friend's apartment. He thought she was in good spirits. At 11:30 the next morning, he found her lying in his kitchen. The coroner's office hasn't filed a complete toxicology report yet. But one of the drugs in her was PCP.

Heilig picks up a yellow pencil. He spins it, then passes it back and forth between his hands. He says there's no way to measure the number of problems this drug is causing people and society. "There are guys who get off on dust who beat the ——— out of their wife and kids. Nobody knows about that. But you know damn well that happens a lot, the same as with booze. How many rapes occur with PCP? Is the Hillside Strangler a PCP user? Who the hell knows?"

[From Drug Enforcement, July 1978]

ANGEL DUST—DEVIL IN DISGUISE

(By CHARLES H. PERCY)

"Angel Dust"—the common name for phencyclidine (PCP)—has become the fastest growing drug of abuse among young Americans. Too many are discovering too late that while PCP is a powerful animal tranquilizer which can soothe a raging gorilla, it is also capable of unleashing the darkest demons in the human mind.

Last year alone the number of youths trying PCP nearly doubled. And in a California drug raid last December, federal agents of the Drug Enforcement Administration (DEA), working with local law enforcement officials, seized upwards of 900 pounds of the drug worth over $50 million from a single illicit operation.

PCP has clearly become a problem of epidemic proportions. Most users mistakenly believe that PCP is simply a strong form of marihuana. On the street, it is often mixed in a marihuana cigarette and sold as a "super-joint" without further identification.

But PCP is anything but harmless—it's a monster of a drug. Medical experts warn that it is the most unpredictable drug ever to gain widespread use, so dangerous that it was never licensed for medical use on humans.

In research on psychiatric patients, PCP was uniformly described as more frightening than LSD because it produces a more heightened and recurring sense of fear. Yet today PCP has supplanted LSD as a drug of choice.

Apart from fear, and unlike so many other drugs that have tranquilizing effects, PCP actually breeds violence. Its potential to produce bizarre and unpredictable behavior is its more perilous feature. Acts of spontaneous, irrational rage are far more common among PCP users than among users of other drugs.

A noted doctor at St. Elizabeth's Hospital in Washington, D.C., says, "PCP has no equal in its ability to produce psychoses nearly indistinguishable from schizophrenia." The founder and head of the famed Haight-Ashbury Free Medical Clinic in San Francisco terms it "the most disruptive drug I've seen."

Users report extreme feelings of isolation, apathy, paranoia, and an inability to control thought and action. The likelihood of psychological harm is greatest when PCP intensifies preexisting negative feelings. Chronic PCP-users frequently show signs of paranoia, hallucinations, and severe depression and anxiety. Long-term use may drastically impair concentration, learning and memory functions, reaction time, sensory perceptions, and physical coordination.

The increasing chronic rather than occasional use of Angel Dust by teenagers is particularly alarming. Young people, least capable of handling an intensive drug experience, are most susceptible to PCP's high "freak-out" potential. The problem is compounded by the fact that PCP is highly toxic even in small doses. There is an extremely thin line between getting "high" and an accidental, dangerous overdose.

The tragedy can be a never-ending nightmare. One youth who thought he was buying bargain-priced cocaine wound up with a PCP high he'll never forget. He spent five days in a coma and remained highly psychotic for a month. Later, he was confined to a community mental health facility with frontal-lobe brain damage.

Purchasers have no way of knowing PCP's purity or potency. The white crystalline powder presents the perfect fraud for conniving dealers. It is often disguised as any of a number of other drugs: for example, when THC—the active ingredient of marihuana—is offered for sale on the streets, it almost always turns out instead to be PCP. Reportedly, one gram of PCP sold on the street for $65 to $75 can be dusted on marihuana to make some 4–8 "knock-out" joints, 10–15 "heavy" joints, or 18–24 "street" joints. This variation, coupled with the extreme range in its purity, makes it nearly impossible to predict its effects. A PCP-laced joint could contain anywhere from a negligible to a massive dose of the drug. Users end up playing hallucinogenic Russian roulette.

And invariably many have lost. In the past three years, DEA reports at least 93 deaths due to Angel Dust have been reported nationwide. But hundreds have probably gone unreported. Some 20 percent of the *reported* deaths due to the drug are directly caused by overdose. But the vast majority of PCP-related deaths stem from the drug's behavioral effects. Most accidents occur when users try to engage in normal activities, such as driving or swimming, while coordination and perception are distorted. These accidents are rarely attributed to PCP. Emergency room personnel and coroners, unaware of the effects and extensive use of PCP, often fail to conduct tests to establish its presence in suspicious homicides, suicides, and accidents.

The drug's relatively low cost and easy availability explain its upsurge in popularity among teenagers. The chief of the Chicago police narcotics division warns that PCP is fast becoming "the heroin of the suburbs."

Phoenix House in New York City, a major drug rehabilitation center, estimates that 30 to 40 percent of that city's high school students now use PCP. Children as young as 9 and 10 years are experimenting with it.

These figures are distressing. They connote lives, mostly young lives. They come just when community leaders have begun to proclaim that the drug menace has stabilized. But in reality, the most fearsome chemical potion ever to spring from Pandora's test tube is spreading through our schools and into our homes.

In many ways, PCP represents the typical drug problem America will face in the 1980's and beyond. Instead of clandestine shipments of narcotics being smuggled across the nation's borders, small laboratories—manufacturing illicit, easily produced, highly profitable, psychoactive chemicals—will be tucked away on inconspicuous city and suburban streets and in rural areas. Uncovering these labs is already a needle-in-the-haystack problem for law enforcement agencies.

I have been in close contact with DEA, in particular, on the startling rise in the manufacture and use of PCP. Its recent seizures demonstrate a well-coordinated commitment to crack down on this debilitating drug. DEA first recognized the accelerating illicit abuse of the drug and took immediate steps to alert relevant officials in federal and local treatment and prevention programs. Under the leadership of Administrator Peter Bensinger, the success DEA has had in tracking down and dismantling PCP laboratories has probably been the single most effective response to the current problem. As with so much else of the agency's work which is done outside of the public limelight, it sometimes takes years for citizens to come to know and understand what an outstanding service is being done on their behalf.

At my urging, the Senate has voiced its strong concern about this growing menace. It approved two amendments that I introduced to the Criminal Code Reform bill, S. 1437. First, since PCP has no recognized human medical use, it would be reclassified among the most dangerous drugs, alongside heroin, in Schedule I of the Controlled Substances Act. Second, the penalty for the manufacture or sale of PCP would be doubled from 5 to 10 years, and up to 20 years and a $100,000 fine for sale to a minor.

But this legislation must still be approved by the House. In the meantime, I have urged the Carter Administration to take these immediate concrete steps to halt the growing abuse of PCP:

First, PCP must be accorded priority attention by federal law enforcement officials. Simultaneously, drug abuse treatment and prevention resources should be redirected to deal with this most hazardous drug.

Second, the Administration should convene, as soon as possible, a White House conference on PCP abuse. No better means exists for alerting citizens, educators, medical authorities, and local law enforcement officials as to the pernicious nature of the problem. We must move to close the substantial gap between society-at-large and drug specialists who have had first-hand contact with the disturbing effects of PCP.

For today PCP pervades not only our universities but our high schools and junior high schools as well. Parents and youth must become aware of its mindcrippling effects. That awareness will certainly save lives, and is our best hope for halting the accelerating use of Angel Dust—in truth, a devil in disguise.

[From the Chicago Tribune, Sept. 17, 1978]

MURDER DEFENSE: A SNIFF OF MADNESS

(By John O'Brien)

Corey D. Johnson, 18, used to play chess, tootle the flute, and work mathematics problems.

Now, he says, he has a dream in which he is trying to apologize to his uncle for having killed his aunt.

Corey Johnson dreams his dream in Cook County Jail, and it is based on reality. He did kill his aunt. He stabbed her with a butcher knife and beat her with an iron bar. He will be tried, and his defense will be that he was in a state of "toxic psychosis" at the

time of the murder—from "angel dust" the uncle had given him.

"Angel dust" is the dread PCP, an animal tranquilizer also known as "DOA," "tic" and "tac." It is a poison of Johnson's generation.

Those snorting or swallowing it become disoriented and may suffer "acute psychotic reactions," says the Illinois Dangerous Drug Commission.

A person in such a state can turn on loved ones, as Johnson did.

On May 5, Johnson, then 17, went to the home of his "favorite aunt and uncle," Mr. and Mrs. Ocie McQueen, at 7746 S. Luella Av.

They were relatives of Johnson's father and young enough—Ocie, 34, and Bertha, 33—to be easy for him to talk to and, apparently, both used drugs. [Two months after the murder, McQueen was arrested for possession of cocaine, marijuana, and three guns.]

The drug factor in the case is disturbing in retrospect; but the McQueens were good to Corey. He would visit them often, he and McQueen would play chess and smoke marijuana; the aunt cooked dinner.

And that's how it was that Friday night in May, except, Johnson says, McQueen gave him some "tac" to sniff through a tube; then a "reefer" as they pushed their pieces around the chess board.

The aunt came in. She didn't feel like cooking. Why didn't the men go and bring back some hamburgers? "My head was spinning," Johnson says. They got the burgers. He had another reefer on the drive back. McQueen went to feed a neighbor's dog.

Johnson felt woozy. He walked around. The aunt polished her nails, then headed toward the bathroom. He picked up an iron bar used to bar the door to the basement and hit her in the head. She tried to run out of the house. He pulled her back inside, and hit her. Again. Again. Again. A butcher knife was in his hand. He must have stabbed her. He doesn't remember.

He dragged her body into a storeroom. McQueen returned. Johnson was scared about all the blood. They fought. Johnson cut him. They shattered a glass-topped table in the living room. McQueen pushed a couch against Johnson and ran away. He ran, too. He was arrested later, under a bed in the home of strangers at 7812 S. Paxton Av.

The residents said Johnson asked to hide, saying he had been robbed. He confessed the crime and was charged with murder and aggravated battery. A pertrial hearing in Criminal Court is set for Oct. 16.

"The reason this defense will succeed is the uncle was providing the stuff," says attorney Rick Halprin. He and his sister, Judith A. Halprin, are defending the youth.

"There is no aggressive behavior in his background and no arrests," Halprin says. "Corey loved his aunt and uncle very much. But they turned him on to marijuana and then supplied him with Tic.

"Now, who is responsible for what happened?"

To the question, prosecutors in the Cook County state's attorney's office reply: Corey Johnson is responsible.

"Toxic psychosis is not a legal defense to criminal activity, and we would oppose any move to dismiss the charges based on that notion," says a spokesman for the prosecution.

At the request of the Halprins, Dr. Melvin N. Seglin conducted a psychiatric examination of Johnson Aug. 7, one month after his 18th birthday. The above description of the attack is from that interview. [When arrested, Johnson told police he attacked his aunt after she "stared" at him for 10 minutes and he feared that she was going to attack him with karate.]

Seglin asked, why kill Aunt Bertha? "Don't know why I did it; she was my favorite aunt," Johnson said.

He told Seglin he has had "very disturbing dreams." In one, he says, "he saw himself being killed by Ocie. He tried to apologize, but his uncle attacked him with a knife. He has lost his appetite. He suffers from insomnia . . ."

Seglin gives Johnson's history: Lives with mother and stepfather; a good relationship with father; "minor" shoplifting; once took mother's car without permission, but "does not appear to have a criminal orientation. He appears to be naive and trusting."

Johnson, says Seglin, was suffering from "a toxic psychosis" during the murder. "In my opinion, the act was totally implusive, without premeditation, without comprehension for the circumstances.

"It would appear that his aggressiveness on this one occasion was due to the ingestion of some strong unknown substance which rendered him bereft of reason and judgment."

Johnson's mother, Mrs. Bobbye Simmons, of 7717 S. Yates Av., a nurse, said she told the MQueens not to give any of her four children [Corey has an older brother and two younger sisters] marijuana. "They asked if I would rather they get it on the street."

Mrs. Simmons said Johnson dropped out of high school after his junior year and worked as a busboy. But she says, he played the flute and worked math problems for fun. When she saw him in the police station, "he was not the usual, happy-go-lucky boy I raised."

She said he told her McQueen gave him marijuana and tac.

"The result was Bertha's death," she says.

DR. ROBERT G. LEE

Mr. THURMOND. Mr. President, a distinguished clergyman, Dr. Robert Greene Lee, passed away recently after almost three-fourths of a century of ministry in the Baptist church.

When I was a young man, Dr. Lee was the pastor of the First Baptist Church of Edgefield, S.C., of which I was a member. He had a profound influence on my life as I was growing up, and I shall never forget his inspirational sermons and his willingness to help all the people in the community.

After holding 17 pastorates throughout the South, Dr. Lee became pastor of Bellevue Baptist Church in Memphis, Tenn. When he preached his first sermon at Bellevue in 1927, it had 1,439 members and approximately $39 in assets. Under his leadership, Bellevue grew to become the second largest Baptist church in the world with 9,200 members and $642,871 in receipts at his retirement.

I have never known an abler preacher than Dr. Robert Lee. He was a preacher's preacher. He was a wonderful orator and a great evangelist. He served an unprecedented three terms as president of the Southern Baptist Convention and four terms as president of the Tennessee State Baptist Convention.

Throughout his long and distinguished career, he brought thousands of people to know Christ. He was known and loved by millions of people throughout the world and, as Billy Graham said, "only eternity will reveal the vast multitude of people who were profoundly affected by him."

The son of a sharecropper, Dr. Lee was born near Fort Mill, S.C., in a three-room cabin. Rather than remain on the farm, however, he was determined to preach the teachings of Christ. Entering Furman University with only 36 cents in his pocket, he quickly got a morning paper route in Greenville. He said that he often ran the 4-mile route from the downtown campus to the homes of his subscribers and back. He explained that it was a good way to keep in shape for the college track team, of which he was a star, and it was the only way to get back to school in time for breakfast.

Not only was Dr. Lee a preacher, but he was a dedicated scholar as well. He held a doctorate in international law and was the author of more than 50 books. He was eulogized as "a giant in the realm of language" and the author of books with "eternal value."

One of Dr. Lee's last books bore the title of his most famous sermon—"Pay Day Someday." This sermon was first preached by Dr. Lee in 1919 in Edgefield, S.C. During his career he preached it more than 1,000 times, and it was made into a movie, translated into several foreign languages, and used as the theme of a sacred opera.

Dr. Lee was truly a great man and a dedicated Christian. He was a devoted friend, and I consider it an honor to have known such a person. He was one of the ablest and greatest preachers of our time, and I and millions of others will never forget him.

My deepest sympathy is extended to Dr. Lee's two daughters, Mrs. Edward R. King, and Mrs. Hildred Phillips; son, Mr. Roy DeMent Lee; brother, Mr. David Frank Lee; and five grandchildren and eight great-grandchildren.

Mr. President, in order to share various newspaper articles concerning the death of Dr. Lee with my colleagues, I ask unanimous consent that they appear in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Fort Mill Times, July 27 and Aug. 3, 1978]

DR. "BOB" LEE, FAMED FORT MILL NATIVE DIES AT 91

With the death late last week of Dr. Robert Greene Lee, 91, Fort Mill lost one of its most famous natives. Born and reared on a farm just outside this little city, Dr. Lee laid aside the strenuous labors of the farm when a young man to pursue a clear call to become a minister of the gospel.

As a youth he was a member of Fort Mill's First Baptist Church and was ordained into the ministry by that church three-quarters of a century ago.

After completing his theological training at Furman University and elsewhere, Dr. Lee rose rapidly in the ministry of the Southern Baptist Convention. Churches he served were located at Edgefield, Charleston, New Orleans, and finally, the largest church in the denomination, Bellevue Baptist Church, Memphis, Tenn., which has in excess of 12,000 members. He served at Bellevue during the final 33 years of his ministry and it was during this period that he gained national fame as an evangelist, minister and pastor. He was elected and served three terms as president of the Southern Baptist Convention, and four terms as president of the Tennessee State Convention.

Dr. Lee's dedication and oratorical style made him an instant favorite wherever he spoke. He was also an author of numerous books published, and was the subject of several books and numerous articles telling of his life and the enormous spiritual influence he exerted.

The famed minister was born in a three-room cabin on a farm operated by his father and brothers on Doby's Bridge Road four miles east of Fort Mill. The adulations of the members of Bellevue Church was such that following his retirement from the church's pastorate in 1960, the little home, long since abandoned, was taken apart and transported by truck to Memphis where it was reconstructed as something of a shrine.

As long as his health permitted, Dr. Lee was a frequent visitor to his old hometown and friends and relatives here. All of his immediate family, except one brother, Frank, a patient in a Rock Hill nursing home preceded him in death. However, two nieces do reside here, Mrs. Mildred Lee Adair and Mrs. Elva Dorothy Lee Cantrell.

Dr. Lee was the subject of a long and laudatory obituary in one of the Memphis dailies the day following his death. We quote therefrom:

Dr. Robert G. Lee, pastor emeritus of Bellevue Baptist Church and internationally known preacher and author, died early yesterday at his home at 508 Stonewall after a long illness. He was 91.

Services will be at 10 a.m. tomorrow at Bellevue, which Dr. Lee led for 33 years, with burial in Forest Hill Cemetery Midtown. His body was placed on view at Bellevue where it will remain until the funeral. Church officials expect a minimum of 3,000 persons to pass through the sanctuary each day. Memphis Funeral Home has charge.

The man known as "Mr. Southern Baptist" retired from Bellevue's pulpit in 1960, but continued preaching and writing at a pace befitting a young evangelist until he suffered a heart attack in April, 1977, while preparing for a revival in Oklahoma City.

He had been hospitalized several times since and spent the last few months confined to bed at his home. He was pronounced dead at 4:20 a.m. yesterday at Baptist Hospital.

Dr. Lee, who rose from humble origins to the pinnacle of a mighty oratorical style and a deep religious conviction, served an unrivaled three terms as president of the Southern Baptist Convention. He was elected president of the Tennessee Baptist Convention four times.

Nationally prominent Southern Baptists paid tribute yesterday to Dr. Lee, whose name was frequently mentioned at the 13-million member denomination's last two conventions despite the fact that he was unable to attend.

"We have to rejoice in the home going of Dr. Lee as much as we loved him and as much as we are going to miss him," said Dr. Adrian P. Rogers, Bellevue's current pastor and himself one of the foremost of the denomination's preachers. "We believe in the scripture that says, 'Precious in the sight of the Lord is the death of His saint.' We believe that God has answered our prayers and taken him home.

"He was an unusually gifted man among preachers and ministers. He would have been successful in any field he entered.

"He was a great friend of mine, and I've never felt worthy to unlace his shoes, much less pastor the church he once pastored. He was known as a man without peers and was truly a remarkable man."

Billy Graham, who, along with George Beverly Shea and other members of his evangelistic team sang for Dr. Lee during a visit to his home last May, called him "one of the towering spiritual giants of this century."

"He was a great preacher, a great writer, a great student of the word of God," Graham said from his home in Montreat, N.C. "He firmly stood for the truth of Christ, regardless of the opinions of others.

"He preached as few men have preached in our age, but, more than that, he lived as few men have lived—with total dedication, integrity and love for his fellow man. Only eternity will reveal the vast multitude of people who were profoundly affected by him."

Dr. Jimmy Allen, current SBC president and pastor of First Baptist Church in San Antonio, Texas, said, "The American church scene has lost its outstanding pulpiteer of the old school of oratory . . .

"It (Dr. Lee's death) really speaks of the passing of an era in Southern Baptist life. The day of that kind of preacher was a day of great meaning in the Southern Baptist heritage . . . He was a man of unique gifts. We probably won't have another Robert G. Lee to emerge."

The fifth of David and Sally Lee's eight children, Dr. Lee was born Nov. 11, 1886, in a three-room log cabin near the Catawba River in York County, S.C.

Daily prayer at the family altar was an important part of his early life, which also included walking three miles to take Latin lessons for 50 cents each. He once said he trapped rabbits, sold broom straw and subscriptions to a little publication called Comfort to earn lesson money.

Three days shy of his 21st birthday, young Lee left home bound for work on the Panama Canal so he could earn enough to go to college and study for the ministry. He had promised to never waver from three things his mother taught him: always believe the Bible; always hate liquor; always treat women with honor.

He returned in August, 1908, with 36 cents in his pocket and entered Furman University in Greenville, S.C. He was a track star at Furman, from which he graduated in 1913. He raised tuition money by getting up at 3 a.m. to deliver newspapers.

Dr. Lee, who also held a doctorate in international law from Chicago Law School and numerous honorary degrees, was ordained in his boyhood church in 1910 and held 17 pastorates—12 of them as a student—before accepting the call to Bellevue in 1927.

When he preached his first sermon at Bellevue on Dec. 11, 1927, the church had 1,430 members, 254 of whom could not be found. The financial account showed a balance of $39.49 at the end of 1927.

Fifteen people joined the church that first Sunday. By the end of 1928, 600 new members had come in.

At his retirement in April, 1960, Bellevue, with 9,200 members, was the second largest church in the SBC. Receipts for 1960 totaled $642,871.

He wrote more than 50 books. His substantial library will be donated to Union University in Jackson, Tenn.

He planned his funeral five years ago, specifying Dr. Rogers to preach along with seven other ministers.

Dr. Lee, whose trademark became the white suit and shoes he wore for every sermon after the new Bellevue sanctuary opened in 1952, was famous for his sermon, "Pay Day—Someday." He preached it more than 1,000 times, and it was made into a movie, translated into several foreign languages and used as the theme of a sacred opera.

"It's just as fresh now as it was when I gave it in 1919," he said of the sermon in an interview three years ago. "I get tired physically now because it is one solid hour of preaching."

Dr. Lee said his life was lonely after his wife, Mrs. Beulah Gentry Lee, died in 1971.

"I get lonely since my wife went away. I lived with her for 57 years. It is a difficult adjustment to live after that. The Lord Jesus is with me and I enjoy life. I enjoy sleep when I sleep and work when I'm working. I love folks. I really love them. Some have ways I don't like, but I like folks."

He leaves two daughters, Mrs. Edward R. King of Shelbyville, Tenn., and Miss Hildred Phillips of Memphis; a son, Roy DeMent Lee of Jacksonville, Fla.; a brother, David Frank Lee of Rock Hill, S.C., five grandchildren and eight great-grandchildren.

The family requests that any memorials be sent to Bellevue Baptist Church or Union University in Jackson, Tenn.

[From the Baptist Courier, Aug. 3, 1978]

R. G. LEE DIES AFTER LONG ILLNESS

Robert G. Lee, South Carolina native and former president of the Southern Baptist Convention, died at his home in Memphis July 20 after a long illness. He was 91.

Born near Fort Mill as the son of a sharecropper, Lee worked his way through Furman University. He later earned the Ph. D. degrees from Chicago Law School.

He was pastor of churches in the greater Greenville area while a student at Furman, and later served other churches in the state as pastor before moving to Memphis 51 years ago.

Lee was pastor of Bellevue Church, Memphis, from 1927 to 1960. During this time the church grew from 1400 to 9200 members to become the largest Southern Baptist church east of the Mississippi River and at that time second in size in the SBC.

Lee served three terms as president of the Southern Baptist Convention in 1949–51. He also was president of the Tennessee Baptist State Convention. He wrote 53 books, most of them collections of sermons or dealing with preaching topics.

WORKED AS STUDENT

As a Furman University student, Lee had a morning paper route in Greenville. He said that he often ran the four mile route from the downtown campus to the homes of his subscribers and back. He explained that it was a good way to keep in shape for the college track team, but his main reason was that it was the only way to get back to school in time for breakfast.

One of his first churches was Lima in northern Greenville County. He sometimes rode a bicycle on Saturday to the community, spent the night in the Stagecoach Inn, preached on Sunday morning, and rode the bicycle the 20 miles back to Furman.

Graduating from Furman in 1913 and from Chicago in 1919, he returned to South Carolina as pastor of First Church, Edgefield. Later he was pastor of First Church, Chester, and Citadel Square Church, Charleston, before accepting the call to Bellevue.

POWERFUL LEADER

Lee was generally regarded as one of the most powerful preachers of his day, and was in the opinion of many without peer among Southern Baptists. The following incidents serve well to illustrate his stature:

While pastor in Edgefield in 1919 he first preached "Pay Day Someday." He was to preach the famous sermon over 1300 times in several countries, record it on tape, and publish it in book form.

At the 1949 Southern Baptist Convention, shortly before he took the gavel as president, a motion was presented that threatened to divide the Convention. It appeared to have considerable support. Lee went to the podium and said, "Brethren, this motion is a mistake; it ought not to pass. I move that the whole matter be tabled." It was.

For almost 20 years, until his health failed a year ago, Lee was the closing speaker for the annual Pastors Conference that precedes the Southern Baptist Convention. At this meeting he usually preached for more than an hour, with 10,000 pastors held in apt attention.

SOUTH CAROLINA TIES

Although living more than half his life in Memphis, Lee maintained close ties with family and friends in South Carolina. He visited often, both in the Fort Mill area and half a dozen communities of Greenville County.

Following his retirement from the pastor-

ate in 1960 Lee kept an even busier pace as pulpit guest and revival preacher than he had previously. He said two years ago that he had "Preached on every continent and been in a pulpit somewhere every week" since retirement.

Lee's wife of 57 years died in 1971. Survivors include two daughters, a son, and five grandchildren.

The funeral service was July 22 in Bellevue Church, with burial in Memphis.

[From the Memphis Press-Scimitar July 21, 1978]

DR. ROBERT G. LEE

You don't have to be a Southern Baptist to appreciate Dr. Robert Greene Lee. His tireless ministry earned him the respect of thousands outside his own denomination. And his death yesterday at 91 caused many heads to bow in tribute.

For half a century—since taking over as pastor of Bellevue Baptist Church in December, 1927—Dr. Lee had a major impact on the spiritual life of this community. He was truly gifted in the pulpit, gaining wide recognition as a preacher and as a three-term president of the Southern Baptist Convention. But as a pastor he also believed strongly in a personal ministry, and devoted much time to visits with church members and others in need.

Under Dr. Lee's leadership Bellevue grew from 1,430 to 9,200 members, it is now the second largest Baptist church in the nation. It is a testimony to this great preacher's unflagging spirit that he maintained a busy preaching schedule even after retiring in 1960 at the age of 73. He kept it up for 17 more years, and was in fact about to start a revival series in Oklahoma City when he suffered a heart attack on April 3 of last year. He recovered from the attack, spending the remaining months of his life at his home at 508 Stonewall.

Dr. Lee's fiery oratory has been stilled. No longer will his famous "Pay Day Someday" sermon ring from the pulpit. But his good works will live on through those whose lives were lifted to a higher plane by his inspiration.

[From the Memphis Press-Scimitar, July 22, 1978]

DR. ROBERT G. LEE

Dr. Robert G. Lee held many titles, degrees and posts, but none of them enhanced his reputation in the way his mighty evangelistic projection from the pulpit did.

He was, as Billy Graham has said, "a great preacher, a great writer, a great student of the word of God," and a "towering spiritual giant."

One can only guess at how many persons he touched in his decades as pastor of Bellevue Baptist Church, but they are spread throughout the fabric of this community—and far beyond.

His 91 years were full and beneficent because he was active and dynamic. In a stygian world, Dr. Lee brought a presence of spiritual discovery, an inheritance valued by the many who flocked to his side.

[From the Memphis Press-Scimitar, July 23, 1978]

1,000 ATTEND DR. LEE'S FUNERAL

Dr. Robert G. Lee would have been proud of the funeral he planned for himself.

More than 1,000 persons listened intently yesterday as speakers eulogized the 91-year-old pastor emeritus of Bellevue Baptist Church, who died early Thursday at his home at 508 Stonewall.

"You are his monument," Dr. J. D. Grey, a former president of the Southern Baptist Convention, told those in attendance.

Dr. Grey's words rang true as the very old, who had heard "preacher's preacher" preach, and the very young, who had only heard of his greatness, all wept in grief over the loss of the man who led Bellevue Baptist for 33 years before retiring from the pulpit in 1960.

Seven ministers, including Dr. Adrian P. Rogers, Bellevue's current pastor, spoke at yesterday's services. All said they had been touched by Dr. Lee in some way before and during their ministries. All are foremost ministers in their own right.

Each paid tribute to different facets of the internationally known preacher and author's life.

Dr. J. Ralph McIntyre recalled Dr. Lee as a pastor.

"Those of us who were fortunate enough at some time in our lives to have had a relationship with Dr. Lee know he is our pastor. Everyone of us could speak concerning the little, beautiful, often amusing, sometimes hilarious events (in the pastor's life).

"He was a pastor. He was a pastor's pastor. And the number of preachers and pastors in this congregation and all over the world, who have loved him and admired him, attest to the fact that Robert G. Lee—there was a great one," Dr. McIntyre said.

Further, Dr. McIntyre said Dr. Lee was "singular in his purpose. He knew why he was here and he was at the task . . . He loved us, and it was a genuine, deep and abiding love."

Dr. E. J. Daniels eulogized Dr. Lee, who wrote more than 50 books, the writer and author.

"It is my privilege to speak of him as a giant in the realm of language and as an author," Dr. Daniels said. "He was perhaps the greatest master of the English language . . . of all time."

Dr. Daniels said Dr. Lee's writings had an "eternal value" to them and the minister wrote about things "that are just as important today as they were 2,000 years ago and will be 1,000 years in the future. As a writer and an author, Dr. Lee has no equal."

Dr. Lee, known as "Mr. Southern Baptist," received his greatest acclaim as a preacher. In fact, he continued preaching and writing at a pace befitting a young evangelist until he suffered a heart attack in April, 1977.

Dr. Padgett C. Cope reflected on Dr. Lee's evangelistic accomplishments and then described the minister as a "legend in his time. A pulpit giant. A king of preachers. A preacher's preacher."

Dr. Cope said Dr. Lee "spoke like a machine gun. The words poured forth from the pulpit. . . . His sermons had insight and power."

He said the evangelist revolutionized preaching with his "pictorial style" of delivering a sermon, filling it with life and color.

"What William Shakespeare was to English prose, Robert G. Lee was to the pulpit," Dr. Cope said.

Shortly after Dr. Lee's death, ministers and evangelists recalled his willingness to help young ministers.

It was Dr. Ernest Campbell's task to speak on this part of the late minister's life yesterday.

Recalling his own experiences, Dr. Campbell said young ministers were amazed at Dr. Lee's "accessibility, at his availability, at his willingness to share himself, his wisdom, his spiritual manner and his insight with them.

"Constantly he encouraged, strengthened, blessed, renewed and rescued the ministry of many . . . Robert G. Lee left footprints for us all."

The service, which Dr. Lee planned about five years ago, was somewhat joyful as persons came to honor a man who had left a legacy for all to follow. There were no mournful hymns, no heart-tearing eulogies.

"There was nothing sad about Dr. Lee's life," one minister said.

Dr. Rogers read a telegram from Billy Graham, who was unable to attend the funeral because of prior commitments.

Graham said Dr. Lee "was one of the towering spiritual giants of this century. He was a great preacher, a great writer and a great student of the word of God . . . He preached as few men have preached in our age. But, more than that, he lived as few men have lived . . ."

Dr. Rogers said the world had suffered a great loss and "we will deeply miss him. Somehow, I believe that up in heaven he is still praying for us."

[From the Memphis Press-Scimitar, July 23, 1978]

DR. LEE'S PERSONAL TOUCH LIVES ON

A lot of people undoubtedly were remembering a lot of things yesterday about Dr. Robert G. Lee's remarkable life. Dr. Lee, who died Thursday at 91, touched thousands of people in as many ways before, during and after his 33 years in the pulpit at Bellevue Baptist Church.

Prominent ministers—Billy Graham, Dr. Adrian P. Rogers, Dr. Jimmy Allen—have spoken of the impact Dr. Lee had on their lives. A less well-known minister remembered yesterday the impact the man whom Graham called "one of the towering spiritual giants" had on his life.

Rev. Charles B. Burgs was a young black man who wanted to be a preacher when he met Dr. Lee in 1946.

Mr. Burgs had been working for a woman who was a member of Bellevue and he told her of his desire to become a minister and asked for her advice. She, perhaps knowing of Dr. Lee's often-demonstrated willingness to help young ministers, suggested that Mr. Burgs go to Dr. Lee.

He went and found the advice "was just right—it was just it."

In the spring of that year, Dr. Lee broke ground for a church for Mr. Burgs. In June, 1947, Dr. Lee preached the dedication sermon and made the first contribution ($500) to what was then called Bellevue Baptist Church Colored. The church still exists, now bearing the name New Bellevue Baptist Church, at 875 Crockett Place.

Later, Mr. Burgs said, Dr. Lee paid "just about all" of his educational expenses, first at American Baptist Theological Seminary in Nashville, then at Bishop College in Dallas and finally at LeMoyne-Owen College here.

The association continued through the years, with Dr. Lee sending Mr. Burgs—who has been pastor of Greater Galatian Baptist Church for 24 years—one of his books each year, the most treasured being the one with the title of Dr. Lee's most famous sermon, "Pay Day—Someday."

"Many people don't know what kind of man Dr. Lee was," Mr. Burgs said yesterday. "A lot of our people don't know it, but back in those days, it was just different."

Mr. Burgs' story, of course, is just one of many about the man who led Bellevue to become the second largest Baptist church in the world, who served three terms as president of the Southern Baptist Convention and four as president of the Tennessee Baptist Convention.

More can be said of Dr. Lee than a newspaper can print. There will be mention of the more than 50 books he wrote, of the honors he received and important posts he held.

His image, kneeling in white suit and shoes at the pulpit and then delivering his unrivaled fiery sermons, is burned in thousands of memories.

But people like Mr. Burgs will also remember that Dr. Lee, despite being a man of great position and influence, was always on call for people who needed help, wrote notes to church members when new babies were born and averaged 10 to 12 personal visits a day.

Services for Dr. Lee will be at 10 a.m.

today at Bellevue with burial in Forest Hill Cemetery Midtown. Memphis Funeral Home has charge.

[From the Memphis Press-Scimitar, July 20, 1978]

DEATH CLAIMS DR. R. G. LEE, FAMED BAPTIST EVANGELIST

Dr. Robert Greene Lee, pastor emeritus of Bellevue Baptist Church and world-renowned evangelist and author of religious books, died today at his home at 58 Stonewall after 16 months of ill health. He was 91.

Dr. Lee, who had been living in semi-seclusion since having a massive heart attack in April 1977 while leading a revival in Oklahoma City, was pronounced dead at Baptist Hospital at 4:20 a.m. A family spokesman said he apparently died in his sleep.

Dr. Lee's heart attack last year curtailed a preaching career that the three-time president of the Southern Baptist Convention had energetically continued to pursue since he retired in 1960 after 33 years as pastor of Bellevue Baptist.

After leaving Bellevue, Dr. Lee was quoted as saying he had "resigned" but was "not retired." To prove his point, he continued to write and preach, traveling the length of the United States and to some foreign countries to conduct revivals.

Calls and tributes began pouring in as news of Dr. Lee's death spread today. Dr. Adrian P. Rogers, pastor of Bellevue, said: "Dr. Robert G. Lee was truly a great man—a legend in his own time. He will be remembered by succeeding generations as the prince of preachers."

Dr. Lee went to Oklahoma City, his last engagement, against the orders of his physician, to preach "old-fashioned religion" to the First Baptist Church congregation there.

He was best known, perhaps, for his famous sermon, "Payday Someday," which he preached more than a thousand times and which eventually inspired the title of one of his last books—Payday Everyday, published in 1975, an autobiographical account of his ministry.

During his nearly 70 years of ministry, Dr. Lee wrote 56 books. He was a prolific writer and a dedicated reader.

He was a man with piercing eyes and a large frame, capable of projecting power in his person and in his preaching voice. Fearless in his ministry, he probably was the last remaining pupit orator who displayed the "fire and brimstone" style of preaching once common in the rural South.

In the 33 years he served as Bellevue Baptist's minister, the congregation grew from 1,430 to 9,200, making it the second largest Southern Baptist congregation in the world.

In 1927, when Dr. Lee was asked to become pastor at Bellevue, he said he was not impressed by the church's offer. The attendance at the Memphis church averaged about half what he already had at Citadel Square Baptist Church in Charleston, S.C. He turned down the Bellevue offer, but he changed his mind and accepted it three weeks later.

"I just felt like the Lord wanted me here," Dr. Lee was quoted as saying. He added that there was nothing tangible about the Bellevue offer that caused him to accept it.

Dr. Lee became a mainstay of the Southern Baptist Convention. He served an unprecedented three terms as its president. He was elected four times as president of the Tennessee Baptist Convention.

Born in a log cabin in rural South Carolina, one of eight children, Dr. Lee was known throughout his life for his total abstinence from both tobacco and alcohol. He attributed his long life, in part, to his "clean habits."

He said in a 1976 interview that his longevity was the result of a combination of supernatural and common sense factors.

"First, the goodness of God, and second of all, hard work," he was quoted as saying. "I've worked hard all my life. There is praying and observing clean habits."

He was ordained to the ministry at Fort Mill Baptist Church in Fort Mill, S.C., on April 3, 1910. In 1913 he was graduated from Furman University with a bachelor's degree (magna cum laude) and in 1919 received a doctorate from Chicago Law School.

The Lee Memorial Garden at Bellevue and Court was named in his and his late wife's honor, and the Robert G. Lee Chapel at Baptist Bible Institute in Graceville, Fla., also was named for him.

His wife of 57 years, the former Beulah Gentry of Anderson, S.C., died on March 6, 1971, also at the couple's home on Stonewall.

He leaves a brother, Frank Lee of Rock Hill, S.C., two daughters, Mrs. Edward R. King of Shelbyville, Tenn., and Mrs. Hildred Phillips of Memphis; a son, Roy DeMent Lee of Jacksonville, Fla.; five grandchildren; and eight great-grandchildren.

Memphis Funeral Home has charge of funeral arrangements, which were not complete.

The family asked that any memorials be sent to Bellevue Baptist Church or to the Reading Room of Union University at Jackson, Tenn.

[From the Baptist Standard, July 26, 1978]

R. G. LEE IS DEAD AT 91

Robert G. Lee, three-term president of the Southern Baptist Convention and a leading SBC pastor for 50 years, died at home July 20 after a long illness. He was 91.

Lee, son of a former South Carolina share cropper, was pastor of Bellevue church in Memphis for 33 years, during which time the congregation grew from 1,430 to 9,200—the largest SBC church east of the Mississippi and then the second largest in the convention.

He retired in 1960 at age 73, but continued to keep a full schedule of evangelistic services until a series of heart attacks hospitalized him 15 months ago in Oklahoma City where he was preaching during a revival meeting. Lee convalesced at home before he began having heart problems again three months ago.

Lee was best known for his "Pay Day Someday" sermon, first preached at the First Baptist Church, Edgefield, S.C. in 1919 and over 1,300 times since. The slow but powerfully developed story of divine retribution takes a full hour to preach, has been filmed, recorded and translated into several other languages.

Lee wrote 53 books, averaged 12 visits to church members and prospects per day and baptized converts every Sunday he was in the pulpit at Bellevue.

When asked by a young preacher in 1949 the secret of his renowned preaching, Lee "shook with emotion," a letter from the admirer said. "His voice trembled. His heart broke open."

"'I suppose,' Lee said, 'it is that I love Jesus. I love Him more than anything in the world. He is so real to me. I would die for Him. I would be a human bonfire for Him.' He turned to wipe tears away. 'I love my wife. I love my daughter,' he sobbed lightly, 'but I love Jesus more. There is nothing I would not do for Him.'"

Lee planned his funeral in detail five years ago, specifying the "present pastor" of Bellevue (Adrian Rogers) to preach the main message. He put a time limit on each participant.

[From the Baptist and Reflector, Aug. 3, 1978]

R. G. LEE PRAISED DURING SERVICES

MEMPHIS, TENN.—Pay day arrived for R. G. Lee on July 20.

The 91-year-old pastor emeritus of Bellevue Baptist Church, who gained international fame for his sermon "Pay Day Someday," was eulogized during memorial services at the church he pastored for 33 years.

Six Baptist preachers praised Lee's ministry, describing him as "the greatest orator and pulpiteer of all time," the "peerless prince of preachers," "the greatest master of the English language of all time," "a preacher's preacher and a pastor's pastor," "a legend in his time," "a defender of the faith," and "a giant among us."

"What William Shakespeare was to English prose, Robert G. Lee was to the pulpit," said Padgett C. Cope, pastor of Ruhama Baptist Church in Birmingham, Ala. Describing his sermons as "painted canvasses" preached with a "pictorial style" filled with life and color, Cope said Lee's sermons were equal to any sermons by such greats as Charles Haddon Spurgeon, Dwight L. Moody, Jonathan Edwards, or Charles Fuller.

Describing Lee as a prolific writer and author of 56 books, E. J. Daniels, an evangelist and publisher from Orlando, Fla., called Lee "the greatest master of the English language of all time."

Adrian Rogers, pastor of the Bellevue church, read a telegram from evangelist Billy Graham, expressing regret that he could not be present and describing Lee as "one of the towering spiritual giants of this century."

Both Daniels and Rogers quoted Lee's sermon and book on The Place Called Heaven, in which he sought to describe the beauty of heaven. Rogers said that in the last few days of his life, Lee longed for heaven and "saw a vision of heaven."

Rogers said that as Lee lay on his death bed, he lifted his hands and told his daughter, Hildred Phillips, "I see a bright light. It's heaven. I see Jesus."

"I tried to describe heaven," he told his daughter, "but my words were so woefully inadequate. I wish I could tell the people how beautiful it really is." Then Lee said he saw another figure beside Jesus. "It's mother," he said. "She's beautiful."

Rogers said that although his sight was failing, Lee had a clear glimpse into another world during those last few days. "And now he is there in heaven, which he described so beautifully for us all." (BP)

[From the Baptist and Reflector, Aug. 3, 1978]

LEE'S LEGACY

The death last month of 91-year-old R. G. Lee brought to an end the 68-year ministry of Southern Baptists' powerful pulpiteer.

Throughout his long and fruitful ministry, he was recognized by our denomination and others as one of the greatest preachers of the gospel who ever stood behind a pulpit.

Two things characterized his preaching—his eloquence and his deep love of Jesus Christ.

Lee's eloquence grew out of his rich Southern heritage and his early training as an attorney. He seemed to make a sincere attempt to avoid the shop-worn cliches used by most preachers and to seek creative ways to communicate the unsearchable riches of the gospel.

Anyone who ever heard Lee preach or has read his sermons must be impressed that his dominant theme—his only theme—was his deep, personal love for Jesus Christ. His compassion for our Saviour was not forced, phoney declaration, but was a natural outpouring of a personal minute-by-minute relationship with the Lord.

In 1949 he was asked what was the secret for his renown as a preacher. His reply was, "I suppose it is that I love Jesus. I love Him, more than anything in the world. He is so real to me. I would die for Him. I would be a human bonfire for Him. I love my wife. I love my daughter. But I love Jesus more. There is nothing I would not do for Him."

Tennessee Baptists have been exception-

ally blessed by his ministry, because he ministered among us for over 50 years.

In this day when most Southern Baptist leaders are known for what they do or the offices they hold, it is tremendously exciting to note that R. G. Lee will be remembered because of what he preached. This is the wonderful legacy he leaves to today's ministers.

[From the Baptist and Reflector, July 27, 1978]

R. G. LEE "PRINCE OF PREACHERS," DIES AT MEMPHIS HOME, JULY 20

R. G. Lee, Southern Baptists "prince of preachers," died at his home in Memphis on Thursday, July 20. He was 91.

His death ended a ministry which spanned nearly 70 years. Over 50 of those years were spent in Tennessee.

Lee came as pastor of Bellevue Church in Memphis in 1927 and remained until his retirement in 1960. During that time, the membership grew to over 9,000, making Bellevue the largest Southern Baptist church east of the Mississippi River.

He led Tennessee Baptists as a state convention president from 1931–35, and from 1949–51, served as president of the Southern Baptist Convention. Additionally, he was a member of the TBC Executive Board in 1955 and 1956.

After he left the pulpit at Bellevue, he furthered his ambitions in writing, leading revivals, and speaking at numerous gatherings. His sermon "Pay Day, Someday," was delivered by its author over 1,200 times. He authored 53 books.

Lee had been confined either to the hospital or to his home since suffering a heart attack 16 months ago in Oklahoma City while speaking at First Church.

A native of South Carolina, Lee graduated from Furman University, Greenville, S.C., in 1913. While in college, he was the recipient of several honors. In 1919 he earned the Ph. D. degree in international law from the Chicago Law School. He was ordained to the gospel ministry by the Fort Mill Church, Fort Mill, S.C. in 1910.

Before coming to Tennessee he was pastor at Citadel Square Church, Charleston, S.C.; First Church, New Orleans, La.; First Church, Chester, S.C.; and Edgefield Church, Edgefield, S.C.

Services for Lee were held at Bellevue Church, July 22, with Pastor Adrian Rogers officiating. Burial was in Forest Hills Cemetery, Memphis.

Lee is survived by two daughters: Mrs. Edward King, Shelbyville, and Hildred Phillips, Memphis; a son, Roy Lee, Jacksonville, Florida; five grandchildren; a brother David Frank Lee, Rock Hill, S.C. His wife, the former Beulah Gentry, preceded him in death in 1971.

[From the Baptist Messenger, July 27, 1978]

R. G. LEE DIES IN MEMPHIS AT AGE 91

Robert Greene Lee, famed Baptist preacher and pastor emeritus of Bellevue Church in Memphis, Tenn., died early July 20 at his home in Memphis. Funeral services were held July 22 at Bellevue Church following a program outlined by Lee five years ago. Burial was at Forest Hills Cemetery, Memphis. Lee was convalescing at his home following a series of heart attacks and being hospitalized at various times during the past three months. Lee suffered a heart attack and was hospitalized at Baptist Medical Center, Oklahoma City in April, 1977 when he was in Oklahoma to preach at Oklahoma City, First.

The 91-year-old preacher had planned his funeral in detail, specifying that "the present pastor" of Bellevue Church (Adrian Rogers) was to preach the main message. Lee included time limits on each speaker. Ramsey Pollard who succeeded Lee at Bellevue gave the invocation at the service.

Lee served as the only three-term Southern Baptist Convention president in this century. His presidency spanned 1949–51 and included the convention held in Oklahoma City. He was pastor at Bellevue for 33 years during which time he baptized converts every Sunday and averaged 12 visits per day to members and prospects

The author of 53 books, Lee preached his famous hour-long sermon, "Payday Someday," for the first time in 1919 while pastor of First Church, Edgefield, S.C. Since then he had preached the sermon more than 1,300 times.

Lee graduated from Furman University in 1913 and the Chicago Law School in 1919. He retired as pastor of Bellevue Church in 1960 but until last year he had kept active in speaking engagements across the country. His wife died in 1971. They had been married 57 years at the time of her death. Lee is survived by two daughters and a son.

[From the Memphis Press Scimitar, July 20, 1978]

DEATH CLAIMS "PRINCE OF PREACHERS," FAMED EVANGELIST DR. ROBERT G. LEE

Dr. Robert G. Lee, who warned of the danger of hellfire and damnation for nearly three score and 10 years, and made a sermon, Payday Someday, known world wide, died early today at his home at 508 Stonewall after 16 months of ill health. He was 91.

Dr. Lee, pastor emeritus of Bellevue Baptist Church and known internationally as an evangelist, had been living in semi-seclusion since having a massive heart attack in April 1977 while leading a revival in Oklahoma City. He was pronounced dead at Baptist Hospital at 4:20 a.m. A family spokesman said he apparently died in his sleep.

Funeral services will be at 10 a.m. Saturday at Bellevue Baptist Church with interment at Forest Hill Midtown. The body will lie in state at the church from 3 p.m. today until the funeral. Memphis Funeral Home has charge.

Dr. Lee's heart attack last year curtailed a preaching career that the three-time president of the Southern Baptist Convention had energetically continued to pursue since he retired in 1960 after 33 years as pastor of Bellevue Baptist.

After leaving Bellevue, Dr. Lee was quoted as saying he had "resigned" but was "not retired." To prove his point, he continued to write and preach, traveling the length of the United States and to some foreign countries to conduct revivals.

Calls and tributes began pouring in as news of Dr. Lee's death spread today.

Dr. Adrian P. Rogers, pastor of Bellevue, said: "Dr. Lee was a man among men for all time. He was superior intellectually, physically and spiritually. He will be remembered by generations to come as a prince of preachers."

Dr. Jimmy Allen, president of the Southern Baptist Convention and pastor of First Baptist Church in San Antonio, Texas, said, "He made more home visits than any minister I ever knew. His preaching was fashioned not only on his biblical knowledge but also by keeping in constant touch with humanity. He was a great orator but his greatest gift was his pastor's heart.

"He had a great sense of humor. He often told us, 'On the day of my funeral, if someone gets up and says that everyone loved me, I'll sit up and say it was a lie. A man can't stand for truth and have everybody love him.'"

Dr. Allen said he is re-arranging his schedule to attend the funeral in Memphis.

Dr. Billy Graham said from his North Carolina home, "He certainly had a profound effect on my life and ministry, both by his example and his constant and wise counsel.

"Just a few weeks ago, during our Memphis crusade, I stood at his bedside and once again I thanked God for giving me the privilege of having known Dr. Robert G. Lee as a personal and deeply beloved friend.

"He was one of the towering spiritual giants of this century. He was a great preacher, a great writer and great student of the word of God. But more than that he lived as few men have lived—with total dedication, integrity and love for his fellow man. Only eternity will reveal the vast multitude of people who were profoundly affected by his ministry."

Dr. Tommy Lane, minister of music at Bellevue, with Dr. Lee many years, said, "Dr. Lee used to say that music is the only art of heaven we employ on earth and the only art of earth that we take to heaven. He was not musical except that he used to love to play hymns on his harmonica. He will be missed by millions but he will still live on through his pen and spoken work."

Dr. Lee went to Oklahoma City, his last engagement, against the orders of his physician, to preach "old-fashioned religion" to the First Baptist Church congregation there.

He was best known, perhaps, for his famous sermon, "Payday Someday," which he preached more than a thousand times and which eventually inspired the title of one of his last books—*Payday Everyday*, published in 1975, an autobiographical account of his ministry.

During his nearly 70 years of ministry, Dr. Lee wrote 56 books. He was a prolific writer and a dedicated reader.

He was a man with piercing eyes and a large frame, capable of projecting power in his person and in his preaching voice. Fearless in his ministry, he was a pulpit orator who displayed the "fire and brimstone" style of preaching common in the rural South.

In the 33 years he served as Bellevue Baptist's minister, the congregation grew from 1,430 to 9,200, making it the second largest Southern Baptist Congregation in the world.

In 1927, when Dr. Lee was asked to become pastor at Bellevue, he said he was not impressed by the church's offer. The attendance at the Memphis church averaged about half what he already had at Citadel Square Baptist Church in Charleston, S.C. He turned down the Bellevue offer, but he changed his mind and accepted it three weeks later.

"I just felt like the Lord wanted me here," Dr. Lee was quoted as saying. He added that there was nothing tangible about the Bellevue offer that caused him to accept it.

Dr. Lee became a mainstay of the Southern Baptist Convention. He served an unprecedented three terms as its president. He was elected four times as president of the Tennessee Baptist Convention.

Born in a log cabin in rural South Carolina, one of eight children, Dr. Lee was known throughout his life for his total abstinence from both tobacco and alcohol. He attributed his long life, in part, to his "clean habits."

He said in a 1976 interview that his longevity was the result of a combination of supernatural and common sense factors.

"First the goodness of God, and second of all, hard work," he was quoted saying, "I've worked hard all my life. There is praying and observing clean habits."

He was ordained to the ministry at Fort Mill Baptist Church in Fort Mill, S.C., on April 3, 1910. In 1913 he was graduated from Furman University with a bachelor's degree (magna cum laude) and in 1919 received a doctorate from Chicago Law School.

The Lee Memorial Garden at Bellevue and Court was named in his and his late wife's honor, and the Robert G. Lee Chapel at

Baptist Bible Institute in Graceville, Fla., also was named for him.

His wife of 57 years, the former Beulah Gentry of Anderson, S.C. died on March 6, 1971, also at the couple's home on Stonewall.

He leaves a brother, Frank Lee of Rock Hill, S.C.; two daughters, Mrs. Edward R. King of Shelbyville, Tenn., and Mrs. Hildred Phillips of Memphis; a son, Roy DeMent Lee of Jacksonville, Fla., five grandchildren; and eight great-grandchildren.

The family asked that any memorials be sent to Bellevue Baptist Church or to the Reading Room of Union University at Jackson, Tenn.

RURAL AMERICA

Mr. ROBERT C. BYRD. Mr. President, throughout much of our history, the trend of economic activity and population movement has been one of increasing concentration in urban areas. The massive migration of Americans from rural to urban areas during the years following World War II and up through the 1960's has been well documented. Millions of people left rural areas in search of jobs, higher incomes, and better living conditions. As this trend continued, many disadvantaged and poor citizens were left behind in our rural lands. They are forgotten, in a sense, by many of us.

During the past decade, there has been a renewed economic and population growth in our rural areas. Since 1970, over 2 million Americans have moved from metropolitan to rural areas. Between 1970 and 1975, rural areas absorbed nearly 37 percent of our population growth. The number of rural residents employed during this period accounted for nearly 40 percent of our national growth in employment. This migration to the nonmetropolitan sections of our country is more than just a continuation of urban sprawl. After years of steady decline, rural counties which are not adjacent to cities have begun to experience a kind of renaissance.

RENEWED RURAL GROWTH

Between 1970 and 1976, the population of nonmetropolitan counties grew by nearly 8.0 percent. The corresponding increase for metropolitan counties was approximately 4.7 percent. For those years, the rate of population increase for rural counties not adjacent to metropolitan counties was about 7.3 percent.

Throughout the 1970's, rural areas have experienced relatively higher rates of employment growth than have metropolitan. From 1970 to 1977, the nonmetropolitan and metropolitan rates of employment growth were approximately 26.9 and 12.0 percent, respectively.

The reasons for this renewed rural growth are varied and somewhat interrelated. Economic barriers against making a "decent living" in rural areas have been reduced. The availability of credit—to buy, build, or improve homes and businesses—has grown tremendously in rural regions, making investment more feasible.

Not only have rural employment opportunities increased, but the character of employment has been changing. U.S. manufacturing industries have been decentralizing their locations and branching out into nonmetropolitan areas. The number of service-performing jobs in rural areas has been increasing. Retirement and recreational activities have been expanding in some rural sections of the country. State colleges and universities, junior colleges, and vocational and technical centers have been increasing in number throughout many rural regions.

Additionally, with expansion of roads, electrification, telephone service, and water and sewage facilities, the inconveniences sometimes associated with rural living have been reduced. These services are essential in maintaining the well being of residents and can be crucial to a community's economic development.

THE RESOURCES

The economic and population growth turnabout in nonmetropolitan regions suggests that many people are taking a fresh look at our rural areas. Comprising 87 percent of the Nation's land mass, America's rural regions are the repository for our resources such as coal and minerals. The current energy crisis has heightened our sense of the the importance of these resources. In addition to the natural beauty of forests, lakes, rivers, and streams, rural America holds this country's most valuable resource—the land on which our food is produced. Food and fiber for 215 million people is produced on rural lands by just over three percent of our population. Food products have become one of our primary instruments of international cooperation. Through agriculture, we are able to aid other nations and to improve our own position in world trade.

And then, there is the human factor to consider—a nation's greatest resource is its people. The greatest strength—actual and potential—of America's rural regions is the people who live there. They constitute a steadily growing proportion of our population. Over 60 million people live in rural areas—27 percent of our population. They contribute productively to our country.

INCOME LEVELS

Despite the economic and social progress that has been made in rural areas, many rural families continue to be disadvantaged in terms of education, employment opportunities, income levels, adequate housing, and access to health care and other essential public services.

In 1970, nonmetropolitan family median income was just under 77 percent of that in metropolitan areas. By 1976, rural family median income was closer to 80 percent of that in metropolitan areas. However, the absolute dollar gap in median incomes actually increased during this time.

Less than one-third of our citizens live in nonmetropolitan areas, yet almost 60 percent of all poverty-level individuals live in these areas. The composition of rural poverty is different from that found elsewhere. The traditional stability of rural families has tended to work against welfare coverage since approximately 70 percent of the rural poor are members of two-parent families. There is a relatively higher incidence of "working poor" in rural areas—rural workers are often "underemployed." The rural poor, like the poor living elsewhere, are white, black, Hispanic, and of varied descent. However, a disportionate number of white poor live in these areas.

HEALTH CARE

Poverty makes access to health care more difficult. Lower-income groups can least afford medical care. Moreover, the aspects of poverty—inadequate nutrition, sanitation, and housing—tend to make the health care needs of the poor proportionately greater than those of other citizens. This is a particular hardship for older citizens, many of whom live in rural areas. The median income of elderly households in the United States is considerably below that of all households. It is lowest by far in rural areas. In 1975, the elderly living in rural areas received about 80 percent of the median income of those living in metropolitan areas. In 1976, almost 20 percent of the rural elderly were living on incomes below the poverty-level.

Age-adjusted mortality rates are higher in nonmetropolitan areas and are declining at a slower rate relative to metropolitan areas. The incidence of infant and maternal mortality, chronic illness, dental problems, nonimmunized children, and malnutrition is significantly higher among rural residents than among metropolitan. The death rate from accidents is nearly four times as high in rural areas as in urban.

Health care manpower shortages exist in many rural areas. Approximately one-third of all rural Americans are living in areas officially designated as medically underserved. Other rural areas do not qualify for this designation but contain geographic pockets in which access to health care is a serious problem. The more time-consuming and costly it is for people to reach medical care, the less likely they are to be adequately served.

Urban areas have approximately three times as many primary care physicians as do rural. In 1974, rural counties with fewer than 10,000 residents averaged one doctor for every 2,440 people. Urban areas have proportionately more dentists. Understandably, rural people tend to see doctors and dentists less frequently than do metropolitan.

It is difficult to obtain recent data on the quality of health care services in rural areas. Many rural hospitals were built shortly after World War II, and are now badly in need of repair. Services are limited and there is a lack of equipment needed for more sophisticated and up-to-date treatment.

Proportionately fewer rural residents than metropolitan have health insurance. Just over 81 percent of Americans living in metropolitan areas under the age of 65 have private hospitalization insurance. Less than 75 percent of rural nonfarm residents under the age of 65 have hospitalization coverage. For rural farm residents the figure is under 62 percent. Even for those who can afford health insurance there is evidence that rural residents, in general, receive less per health insurance dollar than do urban dwellers. This is due to the nature

of employment situations in rural areas, most of which do not offer group insurance policies, and to the nature of the private insurance industry. A disproportionate number of rural residents are insured by individually purchased policies. Individual insurance policy holders, in general, pay higher premiums or have less coverage for the same dollar amount as group policy holders. Therefore, their return per health insurance dollar is less than that in group policies.

HOUSING

Substandard housing is—as one would expect—primarily occupied by the poor. It is estimated that 50 percent of the Nation's substandard housing is found in rural areas. While metropolitan households outnumber nonmetropolitan 2 to 1, approximately equal numbers of nonmetropolitan and metropolitan families live in housing units which either lack complete plumbing or are dilapidated.

Plumbing is the most often used single indicator of housing quality. Over 6 percent of nonmetropolitan homes lack complete plumbing, in contrast with fewer than 2 percent of all metropolitan housing units.

Much progress has been made in reducing the magnitude of rural substandard housing. However, rural substandard housing persists as a major problem for particular groups of people—the migrant farmworkers, minorities, the elderly, and above all, the poor.

The Farmers Home Administration (FmHA) has become the primary Federal housing agency for nonmetropolitan Americans. Congressional action over the last 15 years has focused on expanding FmHA services to more rural residents, with priority on meeting the housing needs of low-income families. Despite this effort, in recent years, proportionately fewer and fewer families assisted under FmHA programs have been those with relatively lower incomes.

Some FmHA housing programs aimed at aiding low-income families have not always operated at significant levels, due to administrative reluctance to obligate funds appropriated by the Congress. Other FmHA programs which would directly or indirectly aid low-income groups' housing problems are just now being implemented.

Rural families find it difficult to secure credit to buy, build, or improve their homes because few private lending institutions operate in rural areas. Housing programs aimed at lower income groups obviously involve greater risks and potentially higher costs. When above moderate-, and low-income individuals are in competition with each other for limited amounts of Federal assistance, it is clearly in the FmHA's own interest to make the loans involving the least risks. It is less costly for FmHA's limited staff to service the safer loans.

The high correlation between low-income groups and substandard housing occupancy is well established. Without programs that can assist more of these households, the worst of rural housing problems will remain.

EDUCATION

The preponderance of small school districts in rural areas makes the organization of rural education considerably different from that in other localities. Over 85 percent of the Nation's school districts with enrollments of under 300 students are located in rural areas. Undoubtedly, relatively smaller school districts have some advantages. Classroom sizes are generally smaller in rural schools which permits more teacher-student interaction. Decentralization allows for more local control over schools so that educational needs of a particular area can be stressed. However, given the predominance of many low-income residents in these areas, smaller school districts—by their size—can be further financially constrained.

Rural school expenditures per pupil and teacher salaries are lower than elsewhere. Rural schools have proportionately less specialized staff, such as librarians, guidance counselors, audiovisual technicians, than schools elsewhere. Schools in nonmetropolitan areas spend proportionately less on capital investments and proportionately more on student transportation services. Federal and State sources provide proportionately more funding to rural schools than to urban.

The percentage of adults who have completed fewer than 5 years of school is greater in nonmetropolitan areas than elsewhere. The median number of school years completed is less for adults living in rural areas than for those living elsewhere.

Attendance by rural children for prekindergarten and kindergarten schools is considerably below the national average. A higher percentage of rural youth are not enrolled in secondary schools compared with those living elsewhere. However, between 1970 and 1975, the percentage increase in high school completion rates was even greater for nonmetropolitan students than for metropolitan. The educational gap between rural and metropolitan youth narrowed at the secondary level.

Low levels of educational attainment—whether at the individual or community level—are often associated with low levels of income, inadequate health care, and substandard housing. Low-income individuals tend to have less adequate health care and housing. Individuals with poor health cannot learn or work up to their potential. This tends to influence their level of income.

RURAL DEVELOPMENT

Most nonmetropolitan governments serve relatively small, highly dispersed populations. This makes delivery of community services more complicated, if not more costly, than in more populated regions. In most cases, rural communities lag behind metropolitan in per capita expenditures for water and sewerage, transportation, education, and health facilities.

Since World War II, many rural communities have had great difficulty in supplying the community services necessary to maintain the well-being of their residents. During this time, technological advancement brought a decline in the traditional forms of rural employment—in the "natural resource industries" of agriculture, mining, and forestry. Employment losses, in turn, spurred migration from rural regions. While their financial capabilities diminished, rural communities were faced with the need to provide an even greater and more costly level of services in order to generate economic and population growth.

The increased migration to rural areas does not signify an end to our country's rural problems. Geographic pockets of stubborn poverty persist. Economic and social disadvantages continue for many rural families.

The Congress has recognized the value—realized and potential—of our rural lands. The Rural Development Act of 1972 commits us to improve the economic and social conditions in the rural sections of this country as a means of achieving national balanced growth.

In the Senate, there are several committees and subcommittees examining different aspects of rural development. The members of the Rural Development Subcommittee of the Agriculture, Nutrition, and Forestry Committee have held many days of hearings this session studying more efficient and equitable ways of administering Federal rural development programs. The members of the Health Subcommittees of both the Finance and Human Resources Committees work to improve health care in rural regions. Members of the Committees of Energy and Natural Resources, and Environment and Public Works study ways of developing the resources of rural areas so that the environmental degregation of past development efforts will not become the future.

Rural development cannot be treated as an isolated economic and social objective. Historic, cultural, social, and economic relationships of interdependence bind the regions of our country together. These relationships are ever-changing ones. We cannot be blinded by past notions of seemingly never-ending urban concentration; and of decline, abandonment, and outmigration from rural areas. Equity and efficiency between our country's diverse regions and between the people who live in these regions must be our goal.

America's rural residents are diverse—in needs, resources, capabilities, and problems. Some rural communities have difficulty in maintaining economic growth, while others have difficulty in managing rapid economic and population growth. Thomas Jefferson once said, "The inhabitants of the commercial cities are as different from the country people as any two distinct nations." This Nation's greatest resource is its people. In the end, it is our diversity of people which gives us our strength.

THE 169TH TACTICAL FIGHTER GROUP FINDS ITS WAY TO ENGLAND

Mr. THURMOND. Mr. President, it is with great personal pride that I call to

the attention of the Senate today the successful deployment of the 169th Tactical Fighter Group of Eastover, S.C., to London, England, in a training exercise this summer.

As one who had a hand in the location of the A–7D fighter aircraft at McEntire AFB, it is most gratifying to see this evidence of the success of this Air National Guard unit.

This unit proved that our part-time guardsmen can deploy overseas rapidly, refueling over the Atlantic in route, and once deployed can carry out a heavy sortie schedule.

Mr. President, I wish to commend Col. Robert A. Johnson, the group commander, and all of the personnel of the 169th. Their dedication to the defense of our country, high state of readiness and unit esprit, reflects great credit on the Air National Guard as a peacetime, low cost military force.

In connection with this accomplishment by the 169th, I ask unanimous consent that a news story entitled "Air National Guard A–7D's Quickly Reinforce Europe", which appeared in the August 31, 1978, issue of the Vought Corp. newspaper, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AIR NATIONAL GUARD A–7D'S QUICKLY REINFORCE EUROPE

The 169th Tactical Fighter Group, whose pilots primarily are South Carolina civilians, proved in Exercise Coronet Teal that the A–7D Corsair II Air National Guard units can quickly deploy across the Atlantic and do a "really fine job."

The 169th, led by Col. Robert A. Johnson, deployed from McEntire Air National Guard Base, Eastover, S.C., to Royal Air Force Base Wittering (about 60 miles north of London) as part of their summer training program.

All 18 A–7Ds refueled over the Atlantic and arrived ready to operate. The South Carolina pilots flew orientation/safety flights for the first two days, then launched a three-day "sortie surge" program just as they would operate in a combat environment.

On the first day, the A–7Ds flew 45 missions, and on the second day 40. The final day of the surge found severe weather all over England and much of the European continent, but the 169th flew 34 missions.

Not a single mission was lost once an A–7D was launched. Sortie launches during the deployment totaled 283 and the zero air abort mark was coupled with a 2.4 percent ground abort rate and a "full military capability" mark of 92 percent—a tribute to the support and maintenance personnel who kept the A–7Ds humming and ready.

While deployed, the 169th expended more than 450 practice bombs and approximately 4,500 rounds of ammunition from the internally mounted "Gatling gun" cannon.

"It was a very fine deployment," said Johnson. "We did what we set out to do—a really fine job. We have the capability to move anywhere in the world with the proper tanker and airlift support."

The tankers were there during the flight over the Atlantic to England and return. C–141 aircraft transported about 275 operations and support personnel and their necessary equipment. Midway through the three-week exercise, another 90 Air Guardsmen deployed to replace a similar number already in the British Isles.

The deployment to England was part of a continuing program by the Tactical Air Command to familiarize Air Force and Air Guard units with the procedures and logistics in NATO nations. Colorado and New Mexico ANG groups flew A–7Ds to The Netherlands last year as part of the TAC familiarization program.

The exercises in England were one of three long-distance, off-site operations accomplished by the South Carolina ANG organization in a little more than a year. In May 1977, the Air Guardsmen took their A–7Ds to Hawaii in Exercise Cope Elite, which involves close support/interdiction roles for Army infantry troops having maneuvers. And in October 1977, six A–7Ds from McEntire ANG Base were deployed to Nellis AFB, Nev., to take part in TAC's very realistic Red Flag exercises—described as the best possible air combat training obtainable under peacetime conditions.

FUTURES TRADING ACT OF 1978—CONFERENCE REPORT

Mr. LEAHY. Mr. President, I submit a report of the committee of conference on S. 2391 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MATSUNAGA). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1978.)

Mr. LEAHY. Mr. President, S. 2391, as reported by the committee of conference, represents the results of over 1 year of extensive congressional oversight and investigation into the operation of the Commodity Futures Trading Commission. In addition to the congressional Agriculture Committees, the General Accounting Office and the Subcommittee on Agriculture, Rural Development, and Related Agencies of the House Committee on Appropriations conducted extensive investigations into the operations of the Commission.

NEW LEVEL OF MEDIA AWARENESS

This year also marked a new level of media awareness of the operation of the CFTC. Our deliberations on S. 2391 took place against a setting that included disclosures of rampant fraud in the marketing of "London" commodity options, the controversy surrounding the appointment of David Gartner to the Commission, and warnings of the potential for new fraudulent schemes in the marketing of certain leverage contracts.

These reviews and coverage, both positive and negative, have focused our attention on the significance of the futures markets on our economy and the need for regulation of the commodity exchanges and the transactions for future delivery of commodities that are not currently traded on exchanges.

EXCELLENT EFFORTS BY CONFEREES

I am pleased to state that the conference substitute incorporates the major provisions of the Senate-passed bill. Under the able leadership of Chairman TALMADGE and Chairman FOLEY of the House Committee on Agriculture, the conferees were able to resolve all of the differences between the Senate bill and the House amendment. The excellent efforts of the other Senate conferees, Senators HUDDLESTON, CLARK, STONE, DOLE, BELLMON, and LUGAR, are to be commended.

FOUNDATION FOR THE FUTURE

The conference substitute extends the authorization for appropriations for the Commodity Futures Trading Commission for 4 years. The conferees recognized the dynamic nature of the futures markets and included provisions that will enable the CFTC to address changing situations in these markets as they develop or in anticipation of their development.

It has become clear that the CFTC simply does not have the necessary manpower and other resources to investigate and enforce every violation of the Commodity Exchange Act. Rather than seeking to expand significantly the Commission, the conference substitute authorizes the use of other investigatory and enforcement forces.

JURISDICTION OF THE STATES

S. 2391 creates a statutory cause of action, in Federal district courts, for States to seek injunctive relief or damages, or both, for violations of the Commodity Exchange Act or Commission regulations thereunder, that would exist in addition to any causes of action under State general civil or criminal antifraud laws that are not preempted by the Act. During hearings on this legislation, we heard representatives of several States express a desire to become once again involved in this area. This bill provides the means for accomplishing that involvement and it is now up to the States to make their desires a reality. S. 2391 exempts from State prosecutions under the Commodity Exchange Act alleged violations committeed by contract markets, floor brokers, and clearing corporations.

REGISTERED FUTURES ASSOCIATIONS

S. 2391 authorizes the Commission to register registered futures associations whose rules contain a compulsory membership provision. This change removes the most formidable obstacle to the creation of such associations. When registered, these associations will be able to relieve the Commission of some of its market surveillance and related enforcement responsibilities.

"REVOLVING DOOR" PROVISION

S. 2391 as agreed to by the conference committee contains a conflict-of-interest provision, which has been characterized as a "revolving door" provision, applicable to CFTC personnel classified at a GS–16 level and who are in a position expected from the competitive service by reason of being of a confidential and policymaking character. This provision is more lenient than the comparable pro-

vision contained in S. 2391, as passed by the Senate. However, this provision will be supplanted by whatever the ultimate resolution of this issue is by the conferees on S. 555 or other Governmentwide ethics legislation. There is no reason to single out the CFTC for different treatment once a Governmentwide postemployment prohibition is in effect.

USER FEE PLAN

The conference substitute incorporates the provision offered by Senator Eagleton during the Senate floor debate on S. 2391 that authorizes the Commission to develop and implement a plan to change and collect reasonable user fees. This provision was strengthened by the Conference committee by specifying that the user fee plan must provide that any fees collected would be paid into the Treasury and disbursed in accordance with the appropriations process.

POTATO FUTURES STUDY

S. 2391, in recognition of the concern of potato farmers, requires the Secretary of Agriculture to conduct, within 1 year after enactment of the bill, a study of potato marketing and potato futures trading, including CFTC and exchange rules and regulations governing this trading. The results of the study, and any recommendations for legislative or regulatory changes that the Secretary may wish to make, would be submitted to Congress. This study should provide the data necessary to make the decisions on what should be done in the future in reference to potato futures. The efforts of Senators HATHAWAY and MUSKIE contributed greatly to making this provision part of the law.

SUMMARY OF CONFERENCE SUBSTITUTE

I ask unanimous consent that a summary of the major provisions of S. 2391 as agreed to by the committee of conference be printed at this point in the RECORD.

There being no objections, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS OF S. 2391 AS AGREED TO BY THE COMMITTEE OF CONFERENCE

The major provisions of S. 2391, as agreed to by the committee of conference, are as follows:

1. *Composition of the Commission.*—The bill provides that the Commodity Futures Trading Commission will be composed of five Commissioners, one of whom will be appointed by the President as Chairman to serve at the President's pleasure. (Under existing law, the individual appointed as Chairman serves as Chairman of the five-member Commission for a 5-year term.) (Secs. 2(2)–2(5))

2. *Functions of the Chairman.*—The bill provides that—

(a) the use and expenditure of Commission funds, over which the Chairman has control, will be according to budget categories, plans, programs, and priorities established and approved by the Commission; and

(b) the Chairman in carrying out the executive and administrative functions of the Commission will be governed by plans, priorities, and budgets approved by the Commission, in addition to the general policies of the Commission as provided in existing law. (Secs. 2(7)–2(8))

3. *Senate confirmation of the Executive Director.*—The bill removes the requirement for Senate confirmation of the Commission's Executive Director. (Sec. 2(6))

4. *Conflict of interest.*—The bill prohibits any Commissioner or GS–16 or higher Commission employee in a position excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C appointees) from transacting business for others with the Commission for 1 year after leaving the Commission. These prohibitions will not become effective until four months after the date of enactment of the bill. (Sec. 2(10))

5. *Liaison with Department of Agriculture.*—The bill removes the requirement that the Commission establish and staff a liaison office within the Department of Agriculture and substitutes a requirement for maintenance of liaison. (Sec. 2(12))

6. *Liaison with other agencies.*—The bill—

(a) requires the Commission to maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission (i) to keep them fully informed of Commission activities related to their responsibilities; (ii) to consider the relationship between the volume and nature of investment and trading in futures, compared to securities and financial instruments under their jurisdiction; and (iii) to obtain their views on those activities; and

(b) provides that if a board of trade applies for designation as a contract market for contracts for future delivery of securities issued or guaranteed by the United States or any agency thereof, the Commission must promptly deliver a copy of the application to the Department of the Treasury and the Federal Reserve Board. The Commission is prohibited from approving any such application until the Commission receives the views of these agencies, or until forty-five days after delivery of the application to these agencies, whichever is sooner. Any comments received from these agencies must be included in the public record, and their views must be considered by the Commission in approving, refusing, suspending, or revoking such designations or in taking any emergency action affecting such designated contract markets. The Commission is also required to consider the effect of designation, suspension, revocation, or emergency action on the debt financing requirements of the United States and the continued efficiency and integrity of the underlying market for government securities.

These provisions will not create any rights, liabilities, or obligations upon which the Commission may be sued. (Sec. 2(13))

7. *Option transactions.*—The bill—

(a) prohibits commodity options transactions, except "trade" options that are sold to a commercial entity, until (i) the Commission transmits evidence to the congressional agriculture committees of its ability to regulate these transactions, including a copy of the Commission's proposed regulations, and (ii) 30 days of continuous session of Congress pass following transmission of the justification statement;

(b) allows American grantors of options on a physical commodity who were in that business and who were in the business of buying, selling, producing, or otherwise using the commodity on which the option was granted on May 1, 1978, to continue in business until 30 days following the effective date of Commission regulations issued under this bill:

(c) requires the Commission to issue regulations concerning the granting and offering of options on physical commodities, that would include as minimum requirements certain specified requirements regarding the grantor's net worth and customer protection practices;

(d) allows the Commission to permit persons not domiciled in the United States to grant options in this country on physical commodities under requirements substantially equivalent to those applicable to domestic options grantors;

(e) requires the Commission to hold a hearing before terminating a person's right to grant, offer, or sell options on physical commodities, including a finding that the continuation of the right is contrary to the public interest, but allows the Commission to suspend that right pending a hearing if the Commission determines that such right presents a substantial risk to the public interest; and

(f) allows the Commission to prohibit all or any commodity options transactions on physical commodities after notice and opportunity for a hearing on the record, if it determines that such options are contrary to the public interest. (Sec. 3)

8. *Customers' funds and property.*—The bill authorizes the Commission to permit futures commission merchants to commingle customers' segregated funds for different classes of transactions subject to such terms and conditions as the Commission may prescribe. (Sec. 4)

9. *Registration of commodity trading advisors and commodity pool operators.*—The bill removes the requirement that the registration of any commodity trading advisor or commodity pool operator will become effective 30 days after the Commission's receipt of a registration application (unless denied as provided elsewhere in the Act). (Sec. 9(1))

10. *Exemption from registration.*—The bill exempts from the Act's registration requirements any dealers, processors, brokers, and sellers in cash market transactions involving agricultural commodities and the products thereof and nonprofit, voluntary membership, general farm organizations that provide advice on the sale and purchase of cash commodities if such advice is solely incidental to the conduct of their business. (Sec. 8)

11. *Prohibition on fraudulent transactions by commodity trading advisors and commodity pool operators.*—The bill makes it clear that the antifraud provisions of the Commodity Exchange Act apply to all commodity trading advisors and commodity pool operators regardless of whether they have registered or whether they are required to register. (Sec. 10)

12. *Process for approval of bylaws, rules, regulations, and resolutions of contract markets.*—The bill—

(a) requires the Commission to publish in the Federal Register, at least 30 days prior to Commission approval, any proposed changes in contract market bylaws, rules, regulations, and resolutions of major economic significance as determined by the Commission, which determination shall be final, in order to afford interested persons an opportunity to comment on the proposed changes; and

(b) allows the Commission 60 days, after receipt of the proposed changes, if it determines that the changes are of major economic significance, to approve the changes, unless it notifies the contract market that the proposed changes are in violation of the Act or the Commission's regulations and an opportunity for a hearing is provided. (If the Commission does not publish the proposed changes, it would approve the proposed changes within 30 days of their receipt unless it notifies the contract market that the proposed changes are a violation of the Act or the Commission's regulations and an opportunity for a hearing is provided.) (Sec. 12)

13. *Commission subpena power.*—The bill makes the Commission's power to conduct investigative proceedings independent from authority in existing law based on the Interstate Commerce Act. (Sec. 13(3))

14. *Hearing on the record.*—The bill requires that a hearing on the record be afforded a board of trade whose designation as a contract market has been denied, suspended, or revoked, and that a hearing on the record take place before the Commission issues a cease and desist order, or imposes a civil money penalty against a contract market for noncompliance with the Act or regulations thereunder. (Secs. 13(1), 13(2), and 14)

15. *Jurisdiction of the States.*—The bill creates a statutory cause of action for States, in Federal district courts, to seek injunctive relief or damages, or both, for violations of the Commodity Exchange Act or Commission regulations thereunder, that would exist in addition to any causes of action under State general civil or criminal antifraud laws that are not preempted by the Act. (Sec. 15)

16. *Limitations on disclosure to the public of names and positions of traders on boards of trade.*—The bill—

(a) prohibits the Commission from publicly disclosing or publishing or including in any report any data or information that, with respect to particular traders, discloses their market position, business transactions trade secrets, or customer names, until such data or information has been disclosed publicly in a Commission administrative proceeding. a judicial proceeding, or a congressional proceeding (this category of information is to be sent to the appropriate congressional committee conducting a proceeding only upon that committee's specific request); and

(b) removes the requirement that the Commission make public the information it has available on traders on boards of trade (including their market positions) when such information is provided to a congressional committee. (Sec. 16)

17. *Fingerprinting of applicants for registration.*—The bill authorizes the Commission to require fingerprinting of applicants for registration. (Sec. 17(1))

18. *Disclosure of improper transactions.*—The bill removes the Commission's authority to publish the open market positions of any traders when the Commission communicates with exchange business conduct committees or officers concerning transactions or market operations that the Commission believes will endanger the market or are otherwise harmful or against the best interests of producers and consumers. (Sec. 17(2))

19. *Registered futures association.*—The bill amends the enabling authority in existing law under which, subject to the Commission's approval and at its discretion, persons registered under the Commodity Exchange Act and in the commodity trading business may establish voluntary associations for regulating the practices of the members. The bill would—

(a) allow the Commission to approve the rules of a futures association that requires persons eligible for membership in such associations to become members of at least one such association;

(b) increase the upper limit for the amount in controversy in customer arbitration proceedings before an association from $5,000 to $15,000; and

(c) authorize the Commission to permit a registered association to perform any part of the registration functions with respect to registered persons. (Secs. 22(4), 22(2), and 7(2)).

20. *Disclosure of results of exchange disciplinary proceedings.*—The bill requires each exchange to make public its findings and the reasons therefor in any disciplinary or denial of membership proceeding. However, the exchange is not to disclose the evidence in such proceeding except to the person who is the subject of the action and to the Commission. (Sec. 18)

21. *Criminal penalties.*—The bill—

(a) makes it a felony knowingly to violate the provisions of the Act relating to engaging in prohibited commodity options transactions and leverage transactions;

(b) makes it a felony knowingly to violate the provisions of the Act relating to (i) the requirement that futures transaction be executed only on or subject to the rules of designated contract markets; (ii) cheating, defrauding, making false reports or records, deceiving, and bucketing in connection with futures transactions; (iii) perpetration of any fraud or deceit by commodity trading advisors or commodity pool operators; (iv) the requirement that futures transactions be executed only by or through a member of a designated contract market; and (v) making false representations respecting registration of a contract market member as a futures commission merchant;

(c) makes it a felony knowingly to make any false or misleading statement of a material fact in any registration application or report filed with the Commission or to omit in any registration application or report filed with the Commission any material fact that is required to be stated therein;

(d) increases from $100,000 to $500,000 the maximum fine for felonies under the Act (sections 9(a) and (b)) committed by persons other than individuals; and

(e) increases from $10,000 to $100,000 the maximum fine for felonies committed by Commissioners, employees, or agents of the Commission. (Sec. 19)

21. *Authorization for appropriations.*—The bill extends the authorization for appropriations for the Commission for 4 years (fiscal years 1979 through 1982). (Sec. 20)

22. *Reparations.*—The bill—

(a) makes it clear that reparations proceedings may be instituted by persons aggrieved by the actions of any person who is registered or required to be registered under the Act; and

(b) provides that in reparation cases where the damages claimed do not exceed $5,000, a hearing is not required. (Sec. 21)

23. *Leverage transactions.*—The bill—

(a) prohibits leverage transactions involving agricultural commodities enumerated in section 2(a) of the Commodity Exchange Act prior to 1974;

(b) requires the Commission to regulate leverage transactions in silver bullion, gold bullion, bulk gold coins, or bulk silver coins;

(c) authorizes the Commission to prohibit or regulate leverage transactions involving all other commodities by October 1, 1979; and

(d) authorizes the Commission to regulate any leverage transaction as a futures contract if it determines the transaction to be a contract for future delivery under the Commodity Exchange Act. (Sec. 23)

24. *Use immunity.*—The bill authorizes the Commission to grant use immunity to witnesses appearing before the Commission. (Sec. 25)

25. *Potato futures study.*—The bill requires the Secretary of Agriculture to conduct, within one year after enactment of this bill, a study of potato marketing and potato futures trading, including Commodity Futures Trading Commission and exchange rules and regulations governing such trading. The results of the study, and any recommendations for legislative or regulatory changes that the Secretary may wish to make, would be submitted to Congress. (Sec. 27)

26. *Plan for user fees.*—The bill authorizes the Commission to develop and implement a plan to charge and collect reasonable fees ("user fees") to cover the cost of regulating transactions under its jurisdiction. Prior to implementing the plan, the Commission would be required to report its intention to do so to the congressional agriculture committees, including the feasibility and advisability of collecting the fees, and both committees would have to approve the plan. Any user fees collected would be paid into the Treasury and disbursed in accordance with the appropriations process. (Sec. 26)

CONCLUSION

Mr. LEAHY. S. 2391 addresses the emerging issues over which the Commodity Futures Trading Commission has jurisdiction. The bill provides the foundation upon which the Commission can bring commodity options and leverage transactions under control. This is legislation that we can be proud of. The oversight activities of the CFTC by the Committee on Agriculture, Nutrition, and Forestry will be intensified. The spirit of cooperation between the Commission and Congress that has marked the reauthorization process will serve as a foundation for future efforts.

I urge my colleagues to join me in supporting the conference report on S. 2391.

● Mr. HUDDLESTON. Mr. President, I urge the adoption of the conference report on S. 2391.

The commodity futures industry is booming. The new American Commodity Exchange began trading on September 12, 1978. New contracts are constantly being submitted to the Commodity Futures Trading Commission for approval. The recent events in world money markets have resulted in renewed interest in precious metals futures and options and foreign currency futures.

I am pleased that the commodity options and leverage transactions provisions of the conference substitute are substantially the same as the comparable provisions that appeared in the Senate-passed bill. My concern has been consistently that there are legitimate commodity option and leverage contract grantors and dealers who should not casually be put out of business by Congress because of the misdeeds of others. S. 2391 satisfies my concern on this point.

The bill prohibits all commodity options, except "trade" options that are sold to a commercial entity, until the Commission transmits evidence to the Congressional Agriculture Committees of its ability to regulate these transactions, including a copy of the Commission's proposed regulations, and 30 days of continuous session of Congress pass following transmission of the justification statement. American grantors of options on a physical commodity who were in that business on May 1, 1978, and who were in the business of buying, selling, producing, or otherwise using the commodity on which the option was granted, would be allowed to continue in business until 30 days following the effective date of Commission regulations issued under this bill. During the 30-day period that these firms would have to apply under the new regulations, they would be subject to the Commission regulations in

effect on August 17, 1978, the day the committee of conference completed its deliberations on the bill.

The Commission would be required to issue regulations governing the granting and offering of options on physical commodities that would include, as minimum requirements, criteria substantially similar to those contained in the Senate-passed bill.

S. 2391 allows the Commission to permit persons not domiciled in the United States to grant options in this country on physical commodities under requirements substantially equivalent to those applicable to domestic options grantors.

The bill includes provisions and criteria for suspending or terminating any individual's right to grant, offer, or sell options on physical commodities, or to prohibit any or all such option transactions.

The public is protected and reputable firms can continue in business with the opportunity for new firms to enter this field. These provisions should not be viewed as a wholesale invitation to off-exchange options trading. It is the conferees' intent that the Commission move ahead, consistent with the requirements of S. 2391 and its available resources, with exchange trading of commodity options. When exchange traded commodity options become a reality, there is a distinct possibility that off-exchange trading in these instruments will cease or be greatly diminished by virtue of the competitive framework of exchange trading and the universal availability of price information.

The problem with leverage contracts is somewhat unique. The Commodity Futures Trading Commission Act of 1974 requires the CFTC to regulate leverage transactions in silver bullion, gold bullion, bulk silver coins, or bulk gold coins. The Commission has never adopted a regulatory scheme in this area. S. 2391 continues this authority. The conferees urge the Commission to move expeditiously toward issuing its regulations in this area in order to insure the financial solvency of the transactions and prevent manipulation or fraud. Under the bill—as under existing law—if the Commission determines that a leverage transaction is a contract for future delivery, the Commission is to treat the transaction as a futures contract and regulate it as such under the other provisions of the Commodity Exchange Act.

However, the firms that were selling gold and silver leverage contracts in 1974 and that continue to market these instruments should not casually be put out of business by a hasty decision by the Commission that all such leverage transactions are futures contracts. As stated in the conference report, the conferees expect that the Commission will not take final action on the CFTC staff recommendation that all leverage contracts in gold and silver are contracts for future delivery until the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry have an opportunity to receive testimony on the issue. There are, of course, other firms marketing leverage contracts who only began this activity when the imminence of a Commission imposed ban on options trading became apparent. The Commission, under the conference substitute, should, therefore, regulate gold and silver leverage transactions to insure the financial solvency of the transactions and prevent manipulation or fraud, and take appropriate actions against leverage firms for any violations of the act prior to making any final determination that all gold and silver leverage contracts are futures contracts.

S. 2391, as reported by the committee of conference, prohibits leverage transactions in basic agricultural commodities and authorizes the Commission to prohibit or regulate leverage transactions in all commodities other than the basic agricultural commodities, gold bullion, silver bullion, bulk gold coins, and bulk silver coins by October 1, 1979. With respect to this class of leverage transactions, I believe that the following language from the Senate report on S. 2391 (S. Rept. 95–850, at p. 27) is applicable:

> By requiring the commission to act on leverage contracts by October 1, 1979, the committee beleives that the commission will undertake the necessary analysis and conduct the necessary hearings to enable it to make a determination of how these transactions should be regulated, if they are to be permitted at all.

The media has recently disclosed the widespread potential for fraud in the marketing of leverage contracts in diamonds. The Commission, under new section 19 of the Commodity Exchange Act, will have the authority to regulate or ban leverage transactions in diamonds, emeralds, or other commodities on which leverage transactions are offered. It is my hope that this new authority, coupled with the Commission's acquired experience over the past 3 years, will insure that the scandals with "London" options will not be repeated with leverage transactions.

Chairman FOLEY of the House Committee on Agriculture, who chaired the conference committee, should be commended for his diplomatic and thorough treatment of the highly technical issues presented. Chairman TALMADGE, Senators LEAHY, CLARK, STONE, LUGAR, BELLMON, DOLE, and the House conferees worked diligently to produce the best possible bill. I urge the Senate to approve this conference report.●

Mr. LEAHY. Mr. President, I would like to state, in addition, for the record, that while this is a major piece of legislation, it has been passed by the Senate and agreed upon in conference because of the cooperation of a great number of people. I would like to note especially the tremendous help that we have received from the chairman of our committee (Mr. TALMADGE), who has given encouragement, enlightenment, and aid at every step along the line.

Certainly I would want to single out the efforts of the distinguished ranking minority member of our committee (Mr. DOLE), who has been there with help at every step along the line.

I would want too mention the ranking Republican member of my own subcommittee (Mr. LUGAR), who helped throughout the subcommittee hearings. And, of course, I want to mention with special praise the Senator from Kentucky (Mr. HUDDLESTON), who submitted the bill in the first place.

But I think it would be fair to state that all of us needed the help of our dedicated staff, not only Liam Murphy of my staff, but also Henry Casso, Carl Rose, Steve Storch, Bill Lesher, and Stu Hardy, who worked far more hours than it was reasonable to ask anybody to work on this matter.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. LEAHY. I am delighted to yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I wish to express my support for the conference report on S. 2391.

The reauthorization of the Commodity Futures Trading Commission has resulted in one of the most exhaustive reviews of a regulatory agency by Congress that I can remember. Futures trading and the regulation of futures trading are unique and highly technical matters. A lot of homework has to be done to get a basic grasp of the issues in this area. I am pleased to say that this homework was done by the Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture. The bill being reported by the conference committee is legislation that will help insure the continued vitality of our futures markets and provide the necessary protection to persons who engage in transactions over which the CFTC has jurisdiction.

In 1974, Congress decided to place the regulatory responsibility for all futures trading in an independent agency, the Commodity Futures Trading Commission. I believe that Congress made the right decision, and nothing that has taken place since that time has caused me to change my mind.

It is true that there has been substantial growth in the financial futures, futures contracts based on mortgage pass-through securities guaranteed by the Government National Mortgage Association (GNMA) and Treasury bills. Regardless of what the underlying commodity on which a future contract is written, a futures contract is a futures contract. The Department of the Treasury, the Securities and Exchange Commission, and the Office of Management and Budget submitted legislative proposals that would have divided the regulatory responsibility over various classes of futures contracts among several Federal agencies. I am pleased to say that S. 2391 leaves the regulatory jurisdiction of the CFTC intact.

The conference committee recognized the legitimate concerns of other agencies and departments that have jurisdiction over the underlying commodities on which futures contracts are written or may be written.

The conference substitute requires the Commission to maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission to keep them fully informed of Commission activities related to their responsibilities; to consider the relationship between the volume and nature of investment and trading in fu-

tures, compared to securities and financial instruments under their jurisdiction; and to obtain their views on those activities.

S. 2391, as reported by the conference committee, further provides that if a board of trade applies for designation as a contract market for contracts for future delivery of securities issued or guaranteed by the United States or any agency thereof, the Commission must promptly deliver a copy of the application to the Department of the Treasury and the Federal Reserve Board. The Commission is prohibited from approving any such application until 45 days after delivery of the application to these agencies, whichever is sooner. Any comments received from these agencies must be included in the public record, and their views must be considered by the Commission in designating or refusing, suspending, or revoking the designation of a board of trade as a contract market or in taking any emergency action affecting a designated contract market. The Commission is also required to consider the effect of designation, suspension, revocation, or emergency action on the debt financing requirements of the United States and the continued efficiency and integrity of the underlying market for Government securities.

These provisions will not create any rights, liabilities, or obligations upon which the Commission may be sued.

I believe that by including these provisions in the Commodity Exchange Act, the interagency squabbling can be reduced and the CFTC will be able to act in the best interests of the public.

Farmers and other members of the agricultural community have been concerned with the situation in forward contracting in agricultural commodities. S. 2391, as passed by the Senate, contained a provision authored by Senator BELLMON that would require the Commission to monitor forward contracting in agricultural commodities. The conference committee voted not to include this provision in the conference substitute. This action was based on the fact that these contracts are transactions in the cash market over which the Commission does not have direct regulatory jurisdiction. However, recognizing the interest in and the importance of these forward contracts, the conferees agreed that Chairman FOLEY of the House Committee on Agriculture and I would send a letter to Secretary of Agriculture Bergland requesting him to undertake the monitoring and evaluation of these forward contracts. I ask unanimous consent that the letter to Secretary Bergland be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C., September 22, 1978.

HON. BOB BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: Forward contracting in agricultural commodities has long been of concern to farmers.

S. 2391, the Commodity Futures Trading Commission legislation as passed by the Senate, contained a provision requiring the Commission to monitor forward contracts on domestic agricultural commodities and maintain records on defaults on these contracts for the six-year period beginning October 1, 1978, and ending September 30, 1984. This provision was deleted from the bill approved by the conference committee.

However, the conferees agreed that we would request the Department of Agriculture to evaluate forward contracting in domestic agricultural commodities. Funds otherwise available to the Department should be sufficient for this purpose. We should appreciate your providing us with the results of the study by January 1, 1980, together with any observations, recommendations, or comments on fordward contracts and their regulation or the need for legislation in this area.

With every good wish, we are,
Sincerely,

HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture, Nutrition, and Forestry.
THOMAS S. FOLEY,
Chairman, House Committee on Agriculture.

Mr. TALMADGE. Chairman FOLEY did an outstanding job of leading the conference committee through the many complex areas addressed in this bill. The Senate and House conferees worked diligently to produce the best possible bill. I am pleased with the results of our combined efforts, and urge my colleagues to join me in supporting the conference report on S. 2391.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LEAHY. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I urge the adoption of the conference report on S. 2391, the "Futures Trading Act of 1978."

A great deal of work has gone into this legislation and special recognition should be given to Senator HUDDLESTON, Senator LUGAR, Senator LEAHY, and of course, to Senator TALMADGE—the distinguished chairman of the Agriculture Committee—for their leadership, dedication and persistence in achieving the best possible reauthorization bill.

A DIFFICULT MISSION

Mr. President, nearly 4 years have passed since the creation of the Commodity Futures Trading Commission. During this period, the commodity futures business became a boom industry. The number of futures contracts nearly tripled. The volume of contracts traded annually more than doubled. And the dollar volume on the commodity exchanges broke the one trillion dollar mark.

The CFTC's predecessor agency, the USDA's Commodity Exchange Authority, had limited jurisdiction largely directed to overseeing seven commodity exchanges and auditing those brokers trading in certain agricultural commodities.

In contrast, the CFTC is charged with regulatory oversight of 10 exchanges, including the newly regulated commodities: metals, lumber, foreign currencies, and the new financial instrument futures. The Agency's jurisdiction and powers were vastly expanded, including the power to rewrite contract terms and exchange rules. Regulatory jurisdiction was expanded to cover all sales activities of 36,000 commodity sales persons, and the Commission was charged to oversee the implementation of uniform standards on all exchanges and in all brokerage houses regardless of what commodity is traded where and by whom.

Given this vast and difficult regulatory mission, it is little wonder that the new Agency's initial performance has not always been satisfactory.

There have been many difficult crisis periods during the past 4 years, but in almost every instance, the CFTC's management problems and operational shortcomings can be traced back to the Agency's inevitable growing pains, and to the enormous task it had to confront from the day of its birth.

SCOPE AND PURPOSE OF S. 2391

The Futures Trading Act of 1978 (S. 2391) provides CFTC with the tools it needs to carry out efficient, expeditious regulation of the large and growing futures industry.

The scope and purpose of this legislation can be stated in simple and concise terms. The bill extends for 4 years the authorization of the Commodity Futures Trading Commission, and improves oversight of the Nation's $1.1 trillion futures industry in order to protect investors and the general public from fraudulent schemes and crooked speculation.

It is also intended to provide greater stability in futures trading, which significantly affects prices farmers receive for agricultural commodities.

The bill's significant provisions are briefly as follows:

A suspension of all trading in commodity options—except "trade" options—until the CFTC provides documentation to the Congress of its ability to regulate options trading.

Creation of a statutory cause of action for States, in Federal district courts, to seek injunctive relief for violations of the Commodity Exchange Act that would exist in addition to any causes of action under State general, civil, or criminal antifraud laws.

Higher criminal penalties—in terms of both fines and prison sentences—for persons who are convicted of market manipulation, fraud, theft and other unlawful activities.

A study by the U.S. Department of Agriculture of potato marketing and potato futures trading. Recommendations for legislative or regulatory changes growing out of the study will be submitted to Congress.

A "revolving door" requirement that former members of the Commission or former CFTC employees with a civil service classification of GS–16 or higher who are schedule "C" appointees will be prohibited from having any business or professional dealings with the CFTC for 1 year after leaving the Commission.

Other provisions of the bill lift unnecessary regulatory burdens from the commodity futures industry and make possible a greater degree of industry self-discipline and self-regulation. They speed up the processing of complaints from the commodity trading public and bring a temporary halt to scandal-tainted leverage transactions.

Mr. President, I urge adoption of the conference report on S.2391, the Futures Trading Act of 1978.

Mr. LEAHY. Mr. President, I think the type of work that the Committee on Agriculture, Nutrition, and Forestry has done on this measure, under the able leadership of Mr. TALMADGE and Mr. DOLE, is exemplified by the fact that after all the months and months of hard work and hours and hours of conference committee and regular committee work, we are finally finishing this up at well after 10 at night on a Thursday evening.

This represents two things: Not only our dedication, but the heavy whip that our distinguished majority leader (Mr. ROBERT C. BYRD), who is here on the floor, wields over all of us. Mr. BYRD is not aware of the minimum wage laws when it comes to Members of the Senate; and I am delighted to have a chance to finally bring this matter to a conclusion.

Mr. President, I urge its acceptance.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I would like to add further for the RECORD that I do feel a debt of gratitude to the majority leader (Mr. ROBERT C. BYRD) and the minority leader (Mr. BAKER).

Senator BYRD knows this has been a matter of a great deal of interest and concern to me. I thank him publicly here in the Senate for his efforts in making sure this matter could come up especially this week, as he knows I wanted, for a number of reasons, to have it passed this week.

I extend my appreciation to the very distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator for his remarks.

CIVIL RIGHTS COMMISSION ACT OF 1978—CONFERENCE REPORT

Mr. METZENBAUM. Mr. President, I submit a report of the committee of conference on S. 3067 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission to effect certain changes to comply with other changes in the law, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1978.)

Mr. METZENBAUM. Mr. President, I ask unanimous consent that a statement by the Senator from Indiana (Mr. BAYH), who is necessarily absent today, be placed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BAYH

S. 3067, a bill extending the U.S. Commission on Civil Rights, was considered and passed by the Senate on June 27, 1978 and subsequently considered, amended, and passed by the House on September 6, 1978. Those House amendments resulted in five areas of disagreement between the Houses which I am happy to report were resolved by the committee on conference. Before describing the action taken by the Conference, I would like to take the time to thank my colleagues, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maryland (Mr. MATHIAS), and the Senator from Utah (Mr. HATCH) who served on the Conference Committee and who deserve a great deal of credit for its successful outcome. I would also like to thank the Senator from Virginia (Mr. SCOTT) whose valuable assistance made it possible for the Senate to originally consider S. 3067.

During that debate, I stated that Senator SCOTT and I had reached an agreement, which would allow the Senate to move quickly to consider S. 3067 if the Commission's extension period was reduced from 5 years to 3 years and if the authorization period was limited to fiscal year 1979 only. Senator SCOTT felt these conditions were necessary so the Judiciary Committee and the Senate could closely scrutinize the Commission's activities each year rather than at the end of the extension period as was the case in the past. While I did not favor these changes I agreed to include them in the interest of letting the Senate vote on extending the Commission and then allowing it to proceed with other business. Nevertheless, I believed that it was my duty to uphold this agreement as the Senate's position in conference if there were disagreements on either of these two issues. In fact, there was disagreement on both questions, however, I believe that the Report supports my agreement with Senator SCOTT and thus the Senate's position, in this matter.

The Senate and the House were in disagreement in five substantive and several technical areas all contained in the two House amendments to S. 3067, one to the text of the bill and the other to the title.

The first two differences were contained in Sections 3 and 7 of the bill. Section 3(b) extended the Commission for 3 years in the Senate version and for 5 years in the House version. Section 7 of the Senate bill authorized spending by the Commission for one year, fiscal year 1979, while the House authorized a 2-year spending total of $26.7 million. The House had rejected a reduction of the extension period from 5 years to 3, but had expressed a desire to continue close Congressional oversight of the Commission. The conferees were able to agree on a compromise of a 5-year extension (the House position) and a 1-year authorization (the Senate position) that apparently satisfied both sides. By providing that the Commission must return each year for authorization scrutiny but allowing the Commission 5 years to plan and carry out studies, consultations and other civil rights programs in both its current and new jurisdictions, the Conferees answered the Senate's concern for Commission's work and the House demand for both oversight and work continuity at the Commission.

A third area of disagreement came in section 5, relating to the State Advisory Committees (SACs) of the Commission. Both the House and Senate received hearing testimony overwhelmingly supporting the SACs in their present form. The disagreement lay solely in the language mandating their continuation—the Senate emphasizing the flexibility given the Commission to create other advisory commissions in addition to those in the States, the District of Columbia, Puerto Rico and the Virgin Islands, while the House emphasized the make-up of membership of the SACs—that they consist of citizens of the state each committee is in. The Conferees were able to resolve this question by writing new language including both Houses' concerns.

The final two disagreements were over amendments offered and passed on the House floor. The first added a new paragraph to Section 3(a)(7) of the bill to prohibit the Commission from studying the question of abortion. The second was to add a new Section 7(b) to the bill prohibiting the Commission from "lobbying."

The Conferees felt that the Commission had been clearly within its jurisdiction when researched and reported the study entitled "Constitutional Aspects of the Right to Limit Childbearing," its only study of abortion in its 21 years of existence. However, the Conferees also noted that the Congress was able to restrict the Commission's jurisdiction as it saw fit. While I felt that this was an unwarranted intrusion into an independent agency's freedom of action especially in light of the lack of testimony or other information on the Commission's activity in this area, I felt I had to accept this amendment on behalf of the Senate. The House Conferees argued against its deletion and expressed a belief that the Conference Report would not be accepted by the House without it, citing the 234–131 record floor vote adding it to S. 3067. It was with great reluctance that the majority of both House and Senate conferees accepted this amendment.

The second amendment, the "anti-lobbying" amendment which could have been interpreted as prohibiting the Commission from reporting their findings on civil rights to the Congress, a primary function of the Commission required by Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c (b)), was deleted by the Conferees. This action was taken because of the possible misinterpretations as well as the fact that the Commission has never had the authority to lobby nor is there evidence in the record alleging such violations by the Commission. If such an abuse occurs, the Conferees believed that the present administrative and criminal penalties (18 U.S.C. 1913) are available and sufficient to deal with the situation.

I believe that the Conferees have written a Report that is acceptable to both Houses, the President, the Commission, and the American people. I, once again, wish to thank my colleagues who served on the Conference Committee and would urge all other Senators to support this Conference Report.

Mr. METZENBAUM. Mr. President. I join the Senator from Indiana in supporting adoption of the conference report on S. 3067, a bill that will extend for 5 years the life of the Commission on Civil Rights.

This measure has received overwhelming support in both Houses of Congress. That support reflects the success that the Commission has had in the past in the struggle for equal rights for all Americans. But it also reflects wide agreement that the struggle is far from over. Much remains to be done.

Mr. President, the Commission on Civil Rights is the only independent agency whose sole function is to monitor the state of civil rights in our country. The

Commission has produced factual reports and sound recommendations that have served the Nation well.

In the 1960's, for example, the work of the Commission provided an impetus for passage of landmark civil rights legislation.

More recently, the Commission's findings have played an important role in passage of such measures as the equal credit opportunity act, the civil rights attorneys' fees act, and the nondiscrimination provisions of the State and Local Fiscal Assistance Act.

But once again, Mr. President, much remains to be done.

Hearings earlier this year before the Judiciary Committee's Subcommittee on Citizens and Shareholders Rights and Remedies, which I chair, established that a pervasive pattern of discrimination exists in the insurance industry against whole classes of consumers. That discrimination is directed particularly against those who reside in our major cities.

Earlier this year, the Judiciary Committee focused a good deal of attention on the problem of police brutality while considering S. 35, the Brooke-Mathias Civil Rights Improvement Act of 1978.

In both of these areas—and in countless others—the Commission on Civil Rights has much to contribute. It is a source of experience and expertise that the Congress and the Nation at large urgently requires.

It will be a glorious day, Mr. President, when we can say that the Commission on Civil Rights is no longer needed.

But that day has not arrived. And until it comes, the Commission deserves our full support.

Mr. President, I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, as an original cosponsor of this legislation, I take a great deal of pleasure in speaking in support of the conference report on the bill that would extend the life of the Civil Rights Commission.

As all of my colleagues know, the Commission on Civil Rights was established in 1957 to make certain that all Americans enjoy equal protection under the law as guaranteed by the Constitution. For 20 years, the Commission has exposed violations of the Constitution and has helped Congress fashion remedies for those who were denied their rights.

The current extension is particularly noteworthy, in that it extends the mandate of the Commission to cover discrimination against both the handicapped and senior citizens.

For the first time, the Commission will focus on the problems of the elderly—especially discrimination in housing and hiring, and the continuing problem of forced retirements.

It will also study for the first time the problems faced by the handicapped—discrimination in housing, transportation, employment, voting, administration of justice, and public accommodations.

I hope that the rights won by other groups as a result of the Commission's work will soon extend to our handicapped and senior citizens.

I urge all of my colleagues to support the conference report.

Mr. HATCH. Mr. President, I applaud the efforts of the managers for this bill from both Houses in reaching agreement on some potentially difficult issues.

I am personally pleased that agreement was reached to prohibit the Civil Rights Commission from further involving itself in the area of abortion. I believe that there are more than enough areas of legitimate civil rights concern to keep the Commission busy without issuing a stream of reports, and lobbying Congress on this issue.

For the record, I would like to make two brief points with respect to this prohibition. First, it was the express intention of the managers that this provision becomes effective immediately upon the passage of this legislation, and that the Commission is not to pursue any pending reports or studies that it may have in this area. Second, I would like to clarify that I do not personally subscribe to the managers' statement on this bill "recognizing" that the issue of abortion has, until this time, been "clearly within the Commission's * * * jurisdiction." I am in agreement with the authors of this provision in the House that the Commission has exceeded its present jurisdiction in assuming authority over the matter of abortion.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. METZENBAUM. I move to reconsider the vote by which the conference report was agreed to.

Mr. MELCHER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House to the title of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUCKSKIN AWARD

Mr. MELCHER. Mr. President, the senior Senator from Wisconsin (Mr. PROXMIRE) each month draws our attention to a particular singular Federal Government expenditure that is questionable on its face and apparently either flagrantly wasteful or foolish. The Senator then, on behalf of the Nation's taxpayers, awards his "Golden Fleece" to the Government official or agency that is responsible for the expenditure.

The Senator from Wisconsin, in making the "coveted" award, sometimes spices it with humor and often with gentle correction, but he always attempts to demonstrate to the Senate that we have the obligation to be prudent and searching in not only our capacity as legislators in approving appropriations but also as Senators in oversight functions of the various Federal departments and agencies.

I know of no other similar recognition for those occasions when Federal officials demonstrate the capacity to intelligently and quickly perform a function of wisely unraveling the intricate appropriations bills to spend the taxpayer's dollars in the best possible way so that taxpayers get the best bargain for their buck.

However, that does happen and I am today presenting my first monthly "Buckskin Award" to Secretary Bob Bergland for his prompt and intelligent response yesterday in telling the Senate how to give the taxpayers the most go for their money in animal health research and thereby saving some of the skin from the poor taxpayers' hides.

These are the details. The Senate, by a vote of 67 to 23 added $20 million to the agricultural appropriations bill to fund the Animal Health Research Act. The House had not appropriated any funds for this purpose and the conference committee, in shaving the bill, had agreed to cut the amount back to $5 million but in another part of the bill agreed to appropriate $10 million, most of which was designated for research on animal health. Late in the afternoon I telephoned Jim Webster, Director of Legislative Liaison, to as that Secretary Bergland send me a letter clarifying that the Department of Agriculture would use the $5 million for section 1133 of the Animal Health Research Act and would use the major portion of $10 million in a different part of the appropriations bill for section 1134 of the animal health research bill.

The obvious advantage of using the funds in this way was to assure the best possible plan for research by utilizing those veterinary colleges and veterinary research laboratories throughout the country that will tackle the most pertinent and needed research of regional or national significance.

Secretary Bergland late yesterday afternoon was returning from a trip to the Midwest; quickly approved and signed the letter outlining the Department's intention to use the two separate items in the appropriations bill in this manner; and the letter was delivered to my office by Jim Webster in the absolute record time of 1 hour and 39 minutues from the time that I called.

I know of no other comparable speed from the time of the telephone call to an agency or department office and getting a response in writing in that amount of time.

The managers of the agricultural appropriations bill, Chairman TOM EAGLETON and ranking minority member Senator HENRY BELLMON, of the Senate Agriculture Appropriation Subcommittee, welcomed the Secretary's letter which reflected clear legislative intent to follow the method outlined in the use of these funds and made it part of the record when the Senate unanimously adopted the conference report.

This prompt and intelligent action by Secretary Bergland and his assistants in record time deserves recognition, and I am happy to give him my "Buckskin Award" of the month for intelligently recommending a wise use of the taxpayers' buck.

RUSSIA PASSES US UP ON DEVELOPMENT OF MAGNETOHYDRODYNAMIC GENERATING PLANTS

Mr. MELCHER. Mr. President, the Russians, with help from American technicians, have outstripped us by at least a decade in the development of the magnetohydrodynamics process of generating electricity from coal.

It is a process that produces 50 percent more energy from the coal, minimizes air pollution and uses far less water than conventional steam generators.

As most Senators know, I have been pressing for increased appropriations for MHD research and development work in order to hasten the time when we can have commercial MHD generating stations "on the line" meeting our electric energy needs, as well as causing no straining of EPA air standards, and requiring only small amounts of water.

I was pleased that the Energy Department recently concluded that it was time to move ahead at an accelerated pace on MHD research and development, giving at least tacit support to my efforts to increase MHD research and development appropriations from the $72 million originally requested by the administration to the $100 million the Senate voted to appropriate.

I am currently disturbed by reports that there is pressure on conferees to cut this figure back to the original administration recommendation. This would not be "economy" in any sense of the word. It would mean more ultimate dollar cost, due to inflation, to get MHD power stations on the line. It would mean unnecessary consumption of fossil fuels resulting from delay in use of this fuel saving process. It would forfeit economies in generating plant construction which might be achieved if we bring MHD to commercial use as quickly as possible.

Last Sunday in the Washington Star, John Fialka, a prominent reporter for the Star whom many of us remember when he covered the Congress, and who is now stationed in Russia for the Washington Star, reported in detail the results and the success of the Russian work on the magnetohydrodynamics using, in cooperation with us, the superconducting magnet which we have been able to develop, although in all other parts of magnetohydrodynamics research they are well ahead of us.

They are starting to build a plant of 500-megawatt size this year, and expect by the end of the century to have 20 plants in operation to utilize their coal in a very efficient way and save their oil.

I ask unanimous consent to have printed at this point in the RECORD an article which appeared in the Washington Star, September 24, on Russia's progress in MHD development by Mr. John Fialka, a newspaperman who is well known to many of us, formerly covering the Washington scene but now stationed in Moscow.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIETS DEVELOP IDEA ORIGINATED BY U.S. INTO EFFICIENT POWER PLANTS

(By John J. Fialka)

Moscow.—Using technology originally developed by the United States, the Soviet Union is preparing to make a major stride toward solving its energy problems by building a commercial power plant that is far more efficient than conventional plants.

Dr. E. M. Shelkov, a top Russian scientist, will visit the United States next month to invite U.S. cooperation in the project, which will use a process called magnetohydrodynamics, or MHD for short.

According to Shelkov, who spoke to a group of visiting American reporters at the Soviet Academy of Science's Institute of High Temperatures, the proposed MHD plant will be able to use as much as 60 percent of the heat energy from the fuel it burns.

Current power plants are able to make electricity from only about 40 percent of the heat produced from burning coal or oil. The rest of the heat energy is simply lost, going up the stacks and out into the atmosphere.

Shelkov, the head of the institute that has been experimenting with MHD for 15 years, said that the Soviets hope to build 10 to 20 of the plants by the turn of the century, using them as a way of extending coal reserves and saving oil for the export market.

MHD, an exotic process which uses superheated gases and supercooled magnets, has been known in theory to scientists since the 19th century. In 1959 two U.S. companies, Avco and Westinghouse, built the first test models of the process, proving that it can generate electricity.

In essence, MHD eliminates the need to turn heat energy into the rotary power needed to turn massive generator turbines.

Instead, the heat is turned into electricity directly. Fuel is gasified and heated to temperatures as high as 4,500 degrees. The superheated gas, called a plasma by scientists, is then "seeded" with chemicals to make it conduct electricity. After that it is passed at high speed between the poles of a massive magnet where electricity is created in much the same way as the spinning armature creates it in a generator.

After the process was developed in the United States, the Russians took a major interest in it, but U.S. government research scientists largely ignored it, preferring to concentrate nearly all of the nation's energy research effort on nuclear power, a move that Shelkov describes as a mistake.

Pumping considerable amounts of research money into MHD research, Soviet scientists developed a small pilot facility in an old power plant near the Kremlin and began producing power from it.

In the early 1970s the Russians built a somewhat larger facility in a northern suburb of Moscow, and in 1975 it began producing small amounts of power for the Moscow power grid.

U.S. interest in MHD finally was reawakened in 1972 when President Nixon signed an agreement with the Russians authorizing a joint MHD research project.

While the Russians had developed the system for heating and circulating the gaseous fuel, they lacked the technology for creating superconducting magnets, magnets which are made extraordinarily powerful by cooling them to temperatures near absolute zero.

The United States recently contributed such a magnet to the Russian program and will probably be approached for help in designing a larger magnet for the proposed, commercial-size MHD plant which will generate 500 megawatts of electricity when it is completed in the mid 1980s.

The development is particularly important to the Soviets because it is believed that their oil and coal supplies east of the Urals are running out and that massive reserves in remote Siberia will take much money and time to develop.

It could also ease Soviet pollution problems, for, as one Soviet scientist pointed out, "Where we used to pull three cars of coal up to the plant, now we can get the same energy out of two."

The U.S. Department of Energy has recently begun devoting more time and money to MHD research and, according to a recent congressional report, is beginning to try to catch up to the Russians.

The first MHD facility in the United States, a small pilot plant, is scheduled to open next year in Butte, Mont.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING REPORT ON H.R. 13511

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Finance Committee have until midnight Sunday to file a report on H.R. 13511, the tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN EARNED INCOME ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9251.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 3 to the bill (H.R. 9251) entitled "An Act relating to extensions of time for the existing tax treatment of certain items", with the following amendment:

Restore the matter stricken by said amendment, and in lieu of the matter inserted, insert on page 5, after line 2:

TITLE II—FOREIGN EARNED INCOME ACT OF 1978

SEC. 201. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Foreign Earned Income Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. EARNED INCOME FROM SOURCES OUTSIDE THE UNITED STATES.

(a) SECTION 911 EXCLUSION.—Subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"(a) GENERAL RULE.—The following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) BONA FIDE RESIDENT OF QUALIFIED FOREIGN COUNTRY.—In the case of an individual who is a citizen of the United States and who

establishes to the satisfaction of the Secretary that he has been a bona fide resident of a qualified foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) PRESENCE IN QUALIFIED FOREIGN COUNTRY FOR 17 MONTHS.—In the case of an individual who is a citizen or resident of the United States and who during any period of 18 consecutive months is present in a qualified foreign country or countries during at least 510 full days in such period, amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed, as a deduction from his gross income, any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deductions allowed by sections 217 (relating to moving expenses) and 913 (relating to deduction for certain expenses of living abroad)."

(b) LIMITATIONS ON AMOUNT OF EXCLUSION.—Paragraph (1) of section 911(c) (relating to special rules) is amended to read as follows:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—The amount from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (B), $20,000, or

"(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a qualified foreign country or countries for an uninterrupted period of 3 consecutive years."

(c) DEFINITION OF QUALIFIED FOREIGN COUNTRY.—

(1) IN GENERAL.—Section 911 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsection:

"(d) QUALIFIED FOREIGN COUNTRY DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified foreign country' means any foreign country which is not listed below:

"Andorra, Austria, Belgium, Canada, Denmark, Finland, France, Germany (Federal Republic), Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, United Kingdom.

"(2) OVERSEAS POSSESSIONS, ETC., MAY BE TREATED AS SEPARATE COUNTRY.—For purposes of this section, the Secretary may by regulations provide that an overseas territory, department, province, or possession may be treated as a separate country.

"(3) PRESENCE ON CERTAIN NORTH SEA EQUIPMENT TREATED AS PRESENCE IN A QUALIFIED FOREIGN COUNTRY.—For purposes of this section—

"(A) PRESENCE.—Presence for any full day on equipment for exploring or exploiting natural resources from the seabed and subsoil of the submarine areas of the North Sea shall be treated as presence in a qualified foreign country (and the individual shall be treated as satisfying the requirements of subsection (a)(2) with respect to such day) if—

"(i) the individual's principal place of work is such equipment, and

"(ii) such day falls within a period for which the individual would satisfy the requirements of subsection (a)(2) if presence in any foreign country constituted presence in a qualified foreign country.

"(B) INCOME.—Income which is attributable to services performed on equipment described in subparagraph (A) shall be treated as income received from sources within a qualified foreign country."

(2) CONFORMING AMENDMENT.—Subsection (f) of section 911 (relating to cross references) is redesignated as subsection (e).

(d) REMOVAL OF REQUIREMENT AS TO PLACE OF RECEIPT.—Paragraph (8) of section 911(c) (relating to requirement as to place of receipt) is hereby repealed.

(e) CLERICAL AMENDMENTS.—

(1) The section heading for section 911 is amended to read as follows:

"SEC. 911. INCOME EARNED IN QUALIFIED FOREIGN COUNTRIES."

(2) The table of section for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Income earned in qualified foreign countries."

(3) The heading of subpart B of part III of subchapter N of chapter 1 is amended by striking out "Citizens" and inserting in lieu thereof "Citizens or Residents".

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out "citizens" in the item relating to subpart B and inserting in lieu thereof "citizens or residents".

(5) Sections 43(c)(1)(B), 1302(b)(2)(A)(1), 1304(b), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to earned income from sources without the United States" and inserting in lieu thereof "relating to income earned in qualified foreign countries".

SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

(a) ALLOWANCE OF DEDUCTION.—Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens and residents of United States) is amended by adding at the end thereof the following new section:

"SEC. 913. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who is a citizen or resident of the United States and whose tax home is in a foreign country for any portion of the taxable year, there shall be allowed as a deduction the sum of the following amounts for such portion of the taxable year:

"(1) The qualified cost-of-living differential.

"(2) The qualified housing expenses.

"(3) The qualified schooling expenses.

"(4) The qualified home leave travel expenses.

"(b) DEDUCTION NOT TO EXCEED NET FOREIGN SOURCE EARNED INCOME.—

"(1) IN GENERAL.—The deduction allowed by subsection (a) to any individual for the taxable year shall not exceed—

"(A) such individual's earned income from sources outside the United States for the portion of the taxable year in which such individual's tax home is in a foreign country, reduced by

"(B) the sum of—

"(i) the amount excluded from gross income for the taxable year under section 911,

"(ii) any earned income referred to in subparagraph (A) which is excluded from gross income under section 119, and

"(iii) the allocable deductions.

"(2) ALLOCABLE DEDUCTIONS DEFINED.—For purposes of paragraph (1)(B)(iii), the term 'allocable deductions' means the deductions properly allocable to or chargeable against the earned income referred to in paragraph (1)(A), other than—

"(A) that portion of the deductions so allocable or chargeable which is disallowed by the last sentence of section 911(a), and

"(B) the deduction allowed by this section.

"(c) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified cost-of-living differential' means a reasonable amount determined under tables (or under another method) prescribed by the Secretary establishing the amount (if any) by which the general cost of living in the foreign place in which the individual's tax home is located exceeds the general cost of living for the metropolitan area in the continental United States (excluding Alaska) having the highest general cost of living. The tables (or other method) so prescribed shall be revised at least once during each calendar year.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

(A) COMPUTATION ON DAILY BASIS.—The differential shall be computed on a daily basis for the period during which the individual's tax home is in a foreign country.

"(B) DIFFERENTIAL TO BE BASED ON DAILY LIVING EXPENSES.—An individual's cost-of-living differential shall be determined by reference to reasonable daily living expenses (excluding housing and schooling expenses).

"(C) DIFFERENTIAL MAY VARY WITH FAMILY COMPOSITION AND WITH INDIVIDUAL'S INCOME CATEGORY.—The differential prescribed for any foreign place may vary depending on—

"(i) the composition of the family (spouse and dependents) residing with the individual (or at a qualified second household), and

"(ii) the income category of the individual.

"(D) STATE DEPARTMENT'S INDEX TO BE TAKEN INTO ACCOUNT.—The Secretary, in determining the qualified cost-of-living differential for any foreign place, may take into account the Department of State's Local Index of Living Costs Abroad as it relates to such place.

"(E) NO DIFFERENTIAL FOR PERIODS DURING WHICH INDIVIDUAL IS ELIGIBLE UNDER SECTION 119.—Except as provided in subsection (g)(1)(A)(ii), an individual shall not be entitled to any qualified cost-of-living differential for any period for which such individual's meals and lodging are excluded from gross income under section 119.

"(d) QUALIFIED HOUSING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified housing expenses' means the excess of—

"(A) the individual's housing expenses, over

"(B) the individual's base housing amount.

"(2) HOUSING EXPENSES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of the individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. Such term—

"(i) except as provided in clause (ii), includes expenses attributable to the housing (such as utilities and insurance), and

"(ii) does not include interest and taxes

of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

"(B) PORTION WHICH IS LAVISH OR EXTRAVAGANT NOT ALLOWED.—For purposes of subparagraph (A), housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(3) BASE HOUSING AMOUNT.—For purposes of paragraph (1)—

"(A) 1/6 OF BASE COMPENSATION FOR QUALIFIED PENSION PLAN PURPOSES.—

"(i) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the term 'base housing amount' means 1/6 of the individual's base compensation.

"(ii) DEFINITION OF BASE COMPENSATION.—For purposes of clause (i), the term 'base compensation' has the meaning given to such term under any qualified plan of deferred compensation within the meaning of section 401 in which the individual participates (or would be eligible to participate but for his failure to satisfy any applicable age or service requirements under such plan).

"(B) DETERMINATION BASED ON EARNED INCOME.—If an individaul's base ho"sing amount cannot be determined under the method prescribed in subparagraph (A), the term 'base housing amount' means 10 per cent of the excess of—

"(i) the individual's earned income (reduced by the deductions properly allocable to or chargeable against such earned income (other than the deduction allowed by this section)), over

"(ii) the sum of—

"(I) the housing expenses taken into account under paragraph (1)(A) of this subsection,

"(II) the qualified cost-of-living differential,

"(III) the qualified schooling expenses, and

"(IV) the qualified home leave travel expenses.

"(C) BASE HOUSING AMOUNT TO BE ZERO IN CERTAIN CASES.—If, because of adverse living conditions, or for the convenience of his employer, the individual maintains a household for his spouse and dependents at a place other than his tax home which is in addition to the household he maintains at his tax home, the base housing amount for the household maintained at his tax home shall be zero.

"(4) PERIODS TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—The expenses taken into account under this subsection shall be only those which are attributable to housing during periods for which—

"(i) the individual's tax home is in a foreign country, and

"(ii) except as provided in subsection (g)(1)(B)(iii), the value of the individual's housing is not excluded under section 119.

"(B) DETERMINATION OF BASE HOUSING AMOUNT.—The base housing amount shall be determined for the periods referred to in subparagraph (A) (as modified by subsection (g)(1)(B)(iii)).

"(5) ONLY ONE HOUSE PER PERIOD.—If, but for this paragraph, housing expenses for any individual would be taken into account under paragraph (2) of subsection (a) with respect to more than one abode for any period, only housing expenses with respect to that abode which bears the closest relationship to the individual's tax home shall be taken into account under such paragraph (2) for such period.

"(e) QUALIFIED SCHOOLING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified schooling expenses' means the reasonable schooling expenses paid or incurred by or on behalf of the individual during the taxable year for the education of each dependent of the individual at the elementary or secondary level. For purposes of the preceding sentence, the elementary or secondary level means education which is the equivalent of education from the kindergarten through the 12th grade in a United States-type school.

"(2) EXPENSES INCLUDED.—For purposes of paragraph (1), the term 'schooling expenses' means the cost of tuition, fees, books, and local transportation and of other expenses required by the school. Except as provided in paragraph (3), such term does not include expenses of room and board or expenses of transportation other than local transportation.

"(3) ROOM, BOARD, AND TRAVEL ALLOWED IN CERTAIN CASES.—If an adequate United States-type school is not available within a reasonable commuting distance of the individual's tax home, the expenses of room and board of the dependent and the expenses of the transportation of the dependent each school year between such tax home and the location of the school shall be treated as schooling expenses.

"(4) DETERMINATION OF REASONABLE EXPENSES.—If—

"(A) there is an adequate United States-type school available within a reasonable commuting distance of the individual's tax home, and

"(B) the dependent attends a school other than the school referred to in subparagraph (A),

then the amount taken into account under paragraph (2) shall not exceed the aggregate amount which would be charged for the period by the school referred to in subparagraph (A).

"(5) PERIOD TAKEN INTO ACCOUNT.—An amount shall be taken into account as a qualified schooling expense only if it is attributable to education for a period during which the individual's tax home is in a foreign country.

"(f) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent from the location of the individual's tax home outside the United States to a place in the United States and return.

"(2) ONE TRIP PER 12-MONTH PERIOD ABROAD.—Amounts may be taken into account under paragraph (4) of subsection (a) only with respect to one round trip per person for each continuous period of 12 months for which the individual's tax home is in a foreign country.

"(g) SPECIAL RULES WHERE INDIVIDUAL MAINTAINS SEPARATE HOUSEHOLD FOR SPOUSE AND DEPENDENTS BECAUSE OF ADVERSE LIVING CONDITIONS AT TAX HOME.—

"(1) IN GENERAL.—For any period during which an individual maintains a qualified second household—

"(A) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(i) ALLOWANCE DETERMINED BY REFERENCE TO LOCATION OF QUALIFIED SECOND HOUSEHOLD.—Paragraph (1) of subsection (c) shall be applied by substituting 'the qualified second household' for 'the individual's tax home'.

"(ii) DISREGARD OF SECTION 119 RULE.—Subparagraph (E) of subsection (c)(2) shall not apply with respect to the spouse and dependents.

"(B) QUALIFIED HOUSING EXPENSES.—

"(i) EXPENSES WITH RESPECT TO QUALIFIED SECOND HOUSEHOLD TAKEN INTO ACCOUNT.—For purposes of subsection (d), the expenses for housing of an individual's spouse and dependents at the qualified second household shall be treated as housing expenses if they would meet the requirements of subsection (d)(2) if the individual resided at such household.

"(ii) SEPARATE APPLICATION OF SUBSECTION (d).—Subsection (d) shall be applied separately with respect to the housing expenses for the qualified second household; except that, in determining the base housing amount, the housing expenses (if any) of the individual for housing at his tax home shall also be taken into account under subsection (d)(3)(B)(ii).

"(iii) CERTAIN RULES NOT TO APPLY.—Paragraphs (4)(A)(ii) and (5) of subsection (d) shall not apply with respect to housing expenses for the qualified second household.

"(C) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—

"(i) IN GENERAL.—The requirement of subsection (h)(3) that the dependent or spouse of the individual (as the case may be) reside with the individual at his tax home shall be treated as met if such spouse or dependent resides at the qualified second household.

"(ii) SUBSTITUTION OF HOUSEHOLD FOR TAX HOME.—In any case where clause (i) applies, paragraphs (3) and (4) of subsection (e), and paragraph (1) of subsection (f), shall be applied with respect to amounts paid or incurred for the spouse or dependent by substituting the location of the qualified second household for the individual's tax home.

"(2) DEFINITION OF QUALIFIED SECOND HOUSEHOLD.—For purposes of this section, the term 'qualified second household' means any household maintained in a foreign country by an individual for the spouse and dependents of such individual at a place other than the tax home of such individual because of adverse living conditions at the individual's tax home.

"(h) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section—

"(A) EARNED INCOME.—The term 'earned income' has the meaning given to such term by section 911(b) (determined with the rules set forth in paragraphs (2), (3), (4), and (5) of section 911(c)), except that such term does not include amounts paid by the United States or any agency thereof.

"(B) TAX HOME.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

"(C) RESIDENCE AT TAX HOME.—A household or residence shall be treated as at the tax home of an individual if such household or residence is within a reasonable commuting distance of such tax home.

"(D) ADVERSE LIVING CONDITIONS.—The term 'adverse living conditions' means living conditions which are dangerous, unhealthful, or otherwise adverse.

"(E) UNITED STATES.—The term 'United States', when used in a geographical sense, includes the possessions of the United States and the areas set forth in paragraph (1) of section 638 and so much of paragraph (2) of section 638 as relates to the possessions of the United States.

"(2) LIMITATION TO COACH OR ECONOMY FARE.—The amount taken into account under this section for any transportation by air shall not exceed the lowest coach or economy rate at the time of such transportation charged by a commercial airline for such transportation during the calendar month in which such transportation is furnished. If there is no such coach or economy rate or if the individual is required to use first-class transportation because of a physical impairment, the preceding sentence shall be applied by substituting 'first-class' for 'coach or economy'.

"(3) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—

Except as provided in subsection (g)(1)(C)(i), amounts may be taken into account under subsection (e) with respect to any dependent of the individual, and under subsection (f) with respect to the individual's spouse or any dependent of the individual, only for the period that such spouse or dependent (as the case may be) resides with the individual at his tax home.

"(i) CERTAIN DOUBLE BENEFITS DISALLOWED.—An individual shall not be allowed—

"(1) as a deduction (other than the deduction under section 151),

"(2) as an exclusion (other than the exclusion under section 911, or

"(3) as a credit under section 44A (relating to household and dependent care services), any amount to the extent that such amount is taken into account under subsection (c), (d), (e), or (f).

"(j) REGULATION.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules.—

"(1) for cases where a husband and wife each have earned income from sources outside the United States, and

"(2) for married individuals filing separate returns."

(b) DEDUCTIONS ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.—The deduction allowed by section 913."

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"Sec. 913. Deduction for certain expenses of living abroad."

SEC. 204. MOVING EXPENSES.

(a) SPECIAL RULES FOR FOREIGN MOVES.—Section 217 (relating to moving expenses) is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

"(h) SPECIAL RULES FOR FOREIGN MOVES.—

"(1) INCREASE IN LIMITATIONS.— In the case of a foreign move—

"(A) subsection (b)(1)(D) shall be applied by substituting '90 consecutive days' for '30 consecutive days',

"(B) subsection (b)(3)(A) shall be applied by substituting '$4,500' for '$1,500' and by substituting '$6,000' for '$3,000', and

"(C) subsection (b)(3)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500", and by substituting "$3,000" for "$6,000".'

"(2) ALLOWANCE OF CERTAIN STORAGE FEES.— In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b) (1) (A) include the reasonable expenses—

"(A) of moving household goods and personal effects to and from storage, and

"(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

"(3) FOREIGN MOVE.—For purposes of this subsection, the term 'foreign move' means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

"(4) UNITED STATES DEFINED.—For purposes of this subsection and subsection (i), the term 'United States' includes the possessions of the United States.

"(i) ALLOWANCE OF DEDUCTIONS IN CASE OF RETIREES OR DECEDENTS WHO WERE WORKING ABROAD.—

"(1) IN GENERAL.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

"(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

"(B) the limitations of subsection (c)(2) shall not apply.

"(2) QUALIFIED RETIREE MOVING EXPENSES.— For purposes of paragraph (1), the term 'qualified retiree moving expenses' means any moving expenses—

"(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

"(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

"(3) QUALIFIED SURVIVOR MOVING EXPENSES.— For purposes of paragraph (1), the term 'qualified survivor moving expenses' means moving expenses—

"(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

"(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense."

SEC. 205. MEALS OR LODGING FURNISHED TO EMPLOYEES UNDER CERTAIN CONDITIONS.

(a) GENERAL RULE.—Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended—

(1) by striking out "furnished to him by his employer for the convenience of the employer" and inserting in lieu thereof "furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer", and

(2) by striking out "There shall" and inserting in lieu thereof "(a) MEALS AND LODGING FURNISHED TO EMPLOYEE, HIS SPOUSE, AND HIS DEPENDENTS, PURSUANT TO EMPLOYMENT.—There shall".

(b) SPECIAL RULE FOR FOREIGN MEALS OR LODGING.—Section 119 is amended by adding at the end thereof the following new subsection:

"(b) FOREIGN MEALS OR LODGING.—

"(1) IN GENERAL.—The value of meals or lodging furnished to an employee, his spouse, and dependents at a location outside the United States by or on behalf of his employer shall be excluded from gross income of an employee if either—

"(A) the requirements of subsection (a) are satisfied, or

"(B) such meals or lodging are camp-style meals or lodging, as defined in paragraph (2).

"(2) CAMP-STYLE MEALS AND LODGING DEFINED.—For purposes of this subsection—

"(A) MEALS.—Meals shall be considered camp-style meals if—

"(i) such meals are furnished in a common eating area which normally serves 10 or more employees and is not available to the public, and

"(ii) the employee is furnished lodging the value of which is excludable from gross income under this section.

"(B) LODGING.—Lodging shall be considered camp-style lodging if the requirements of any of the following clauses are met:

"(i) 2 or more unrelated employees are required by the employer to share the same living quarters.

"(ii) The lodging is furnished in a common area not available to the public which common area normally accomodates 10 or more employees.

"(iii) In the case of housing located in a qualified foreign country (as defined in section 911(d))—

"(I) the housing is assigned on the basis of family size or other nonincome, nonjob description basis,

"(II) the employer assigns housing in the immediate geographic area to 100 or more employees who are United States citizens or residents, and

"(III) the employee lives in housing occupied soley by employees (and their families) of the employer.

"(3) UNITED STATES DEFINED.—For purposes of this subsection, the term 'United States' includes the possessions of the United States."

SEC. 206. SUSPENSION OF RUNNING OF THE PERIOD UNDER SECTION 1034 FOR PURCHASING A NEW PRINCIPAL RESIDENCE.

Section 1034 (relating to sale or exchange of residence) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) INDIVIDUAL WHOSE TAX HOME IS OUTSIDE THE UNITED STATES.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in section 913(h)(1)(B)) outside the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

SEC. 207. MISCELLANEOUS AMENDMENTS.

(a) WAGE WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or" and by adding at the end thereof the following new paragraph:

"(18) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad."

(b) PLACE FOR FILING RETURNS.—Clause (iii) of section 6091(b)(1)(B) (relating to place for filing tax returns) is amended by inserting "section 913 (relating to deduction for certain expenses of living abroad)," before "section 931".

(c) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate."

SEC. 208. REPORTS BY SECRETARY.

(a) GENERAL RULE.—As soon as practicable after the close of the calendar year 1979 and

after the close of each second calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth with respect to the preceding 2 calendar years—

(1) the number, country of residence, and other pertinent characteristics of persons claiming the benefits of sections 911, 912, and 913 of the Internal Revenue Code of 1954.

(2) the revenue cost and economic effects of the provisions of such sections 911, 912, and 913, and

(3) a detailed description of the manner in which the provisions of such sections 911, 912, and 913 have been administered during the preceding 2 calendar years.

(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).

SEC. 209. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this title shall apply to taxable years beginning after December 31, 1977.

(b) WAGE WITHHOLDING.—The amendment made by section 207(a) shall apply to remuneration paid after the date of the enactment of this Act.

Resolved, That the House insist upon its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, and 8 to the aforesaid bill.

Resolved, That the House insist upon its disagreement to the amendment of the Senate to the title of the aforesaid bill.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate insist on its amendments Nos. 1, 2, 4 and 8, and to the title of the bill, that the Senate disagree to the amendment of the House to Senate amendment No. 3, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. BYRD of Virginia, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. ROTH, and Mr. LAXALT conferees on the part of the Senate.

UNEMPLOYMENT COMPENSATION AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12232.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 12232) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes and requesting a conference with the Senate on the disagreement votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LONG, Mr. TALMADGE, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. ROTH, and Mr. DANFORTH conferees on the part of the Senate.

FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12380.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 12380) to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such act, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LONG, Mr. TALMADGE, Mr. NELSON, Mr. HATHAWAY, Mr. CURTIS, and Mr. LAXALT conferees on the part of the Senate.

H.R. 9486 JOINTLY REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 9486, which was received today from the House of Representatives, to authorize a contribution by the United States to the tin buffer stock, established under the Fifth International Tin Agreement, be jointly referred to the Committee on Armed Services and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION OF PRESIDENT CARTER OF THE UNITED STATES, PRESIDENT SADAT OF EGYPT, AND PRIME MINISTER BEGIN OF ISRAEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of House Concurrent Resolution 715 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 715) commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. SPARKMAN be printed in the RECORD at this point:

STATEMENT OF SENATOR SPARKMAN

On Thursday last, the Committee on Foreign Relations ordered favorably reported an original resolution commending President Carter, President Sadat and Prime Minister Begin on the Middle East peace arrangements worked out at the recent Camp David summit conference.

The resolution ordered reported by the Committee is identical to H. Con. Res. 715, which the House passed on the same day that the Committee acted on its original resolution. The House resolution is now pending before the Committee.

This resolution is non-controversial. It passed the House without opposition. Its principal purposes are (1) to commend President Carter, President Sadat of Egypt, and Prime Minister Begin of Israel, on their leadership and courage in devising a framework for peace in the Middle East, and (2) to have the Congress go on record as endorsing their efforts.

I hope the Senate will approve this resolution without further delay.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 715) was agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPEALING CERTAIN SECTIONS OF THE IMMIGRATION AND NATURALIZATION ACT—H.R. 13349

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from consideration of H.R. 13349 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 13349) an act to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes.

The PRESIDING OFFICER. If there are no amendments to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 13349) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF ACT CREATING THE INDIAN CLAIMS COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives, H.R. 9945, and I ask unanimous consent that the bill be considered as having been read the first and second times and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection. it is so ordered.

The PRESIDING OFFICER laid before the Senate H.R. 9945, to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of commissioners during the 2 years following their terms of office.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third, reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF THE GREAT LAKES PILOTAGE ACT OF 1960

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House, H.R. 12603, and I ask unanimous consent the bill be considered having been read the first and second times and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER laid before the Senate H.R. 12603, an act to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for U.S. registered pilots on the Great Lakes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1337.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 1337) entitled "An Act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera", with the following amendments:

Page 3, line 25, of the Senate engrossed amendments, strike out "age", and insert: age,

Page 4 of the Senate engrossed amendments, strike out lines 1 through 3 and insert: age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater."

Page 8, line 7, of the Senate engrossed amendments, strike out "(4).", and insert: (4)).".

Page 8, lines 12 and 13, of the Senate engrossed amendments, strike out "the first section of this Act" and insert in lieu thereof: this section

Page 8 of the Senate engrossed amendments, strike out all after line 15 over to and including line 9 on page 13, and insert:

SEC. 4. PARTIAL ROLLOVERS OF LUMP SUM DISTRIBUTIONS.

(a) PARTIAL ROLLOVER FROM EMPLOYEES' TRUSTS PERMITTED.—Paragraph (5) of section 402(a) of the Internal Revenue Code of 1954 (relating to rollover amounts) is amended to read as follows:

"(5) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in a qualified trust is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any qualifying roll-over distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the fair market value of all the property the employee receives in the distribution, reduced by the employee contributions.

"(C) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Subparagraph (A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFYING ROLLOVER DISTRIBUTION.—The term 'qualifying rollover distribution' means 1 or more distributions—

"(I) within 1 taxable year of the employee on account of a termination of the plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan, or

"(II) which constitute a lump sum distribution within the meaning of subsection (e)(4)(A) (determined without reference to subsection (e)(4)(B)).

"(ii) EMPLOYEE CONTRIBUTIONS.—The term 'employee contributions' means—

"(I) the excess of the amounts considered contributed by the employee (determined by applying section 72(f)), over

"(II) any amounts theretofore distributed to the employee which were not includible in gross income.

"(iii) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(iv) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(I) an individual retirement account described in section 408(a),

"(II) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(III) a retirement bond described in section 409,

"(IV) a qualified trust, and

"(V) an annuity plan described in section 403(a).

"(E) SPECIAL RULES.—

"(i) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer described in subparagraph (A) to an eligible retirement plan described in subclause (I), (II), or (III) of subparagraph (D)(iv) shall be treated as a rollover contribution described in section 408(d)(3).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—An eligible retirement plan described in subclause (IV) or (V) of subparagraph (D)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan."

(b) PARTIAL ROLLOVER OF ANNUITY CONTRACTS PERMITTED.—Subsection (a) of section 403 of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following new paragraph:

"(4) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (E) of section 402(a)(5) and of paragraph (6) of section 402(a) shall apply for purposes of subparagraph (A)."

(c) TAXATION OF PORTION NOT ROLLED OVER.—

(1) IN GENERAL.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which paragraph (5)(A) applies, paragraph (2) of subsection (a), and paragraphs (1) and (3) of subsection (e) shall not apply with respect to such lump sum distribution."

(2) CONFORMING AMENDMENTS.—Paragraph (6) of section 402(a) of such Code is amended—

(A) by striking out "For purposes of paragraph (5)(A)(i)",

(B) by striking out "A complete" in subparagraph (A) and inserting in lieu thereof "For purposes of paragraph (5)(D)(i), a complete", and

(C) by inserting "For purposes of paragraph (5)(D)(i)—" after "ASSETS.—" in subparagraph (B).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1974.

(2) VALIDATION OF CERTAIN ATTEMPTED ROLLOVERS.—If the taxpayer—

(A) attempted to comply with the requirements of section 402(a)(5) or 403(a)(4) of the Internal Revenue Code of 1954 for a taxable year beginning before the date of the enactment of this Act, and

(B) failed to meet the requirements of such section that all property received in the distribution be transferred,

such section (as amended by this section) shall be applied by treating any transfer of property made on or before December 31, 1978, as if it were made on or before the 60th day after the day on which the taxpayer received such property. For purposes of the preceding sentence, a transfer of money shall be treated as a transfer of property received in a distribution to the extent that the amount of the money transferred does not exceed the highest fair market value of the property distributed during the 60-day period beginning on the date on which the taxpayer received such property.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senator concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVOCATION OF ELECTION TO RECEIVE RETIRED PAY AS A TAX COURT JUDGE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8811.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 8811) entitled "An Act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court", with the following amendments:

Page 1, strike out lines 2 and 3, and insert:

SEC. 3. TREATMENT OF GROUP LEGAL SERVICE PLAN CONTRIBUTIONS FOR PURPOSES OF UNEMPLOYMENT AND SOCIAL SECURITY TAXES.

Page 2, strike out lines 9 through 13, and insert:

(1) by striking out "or" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(17) any contribution, payment, or service proj-

Page 5, strike out lines 2 through 7, and insert: to such qualified replacement property—

"(1) the 15-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property, and

"(ii) the phaseout period under paragraph (3) of subsection (c) shall be appropriately adjusted to take into account the extension referred to in clause (i),

Page 6, lne 21, strike out "paragraph (2)(B)", and insert: paragraph (3)(B)(ii)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to. The motion was agreed to.

INTERNATIONAL TRADE COMMISSION AUTHORIZATIONS, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11005.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 11005) entitled "An Act to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979", with the following amendment:

In lieu of the sum proposed by said amendment, insert: "$12,963,000".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders are recognized under the standing order, Mr. STAFFORD be recognized for not to exceed 15 minutes and that Mr. HEINZ then be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized, Mr. HARRY F. BYRD, JR., be recognized for 15 minutes, as I understand, prior to the recognition of Mr. STAFFORD and Mr. HEINZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding from a conversation with Mr. STAFFORD that he wanted to be recognized around 9 or 9:15 tomorrow morning. I therefore ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. tomorrow; that Mr. STAFFORD be recognized immediately after the two leaders; and that the time of the two leaders be reduced to 2 minutes each to accommodate Mr. STAFFORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 2474, PUBLIC HEALTH SERVICE BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators have been completed, the Senate proceed to the consideration of Calendar No. 791, the Public Health Service bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MAJORITY LEADER'S THANKS

Mr. ROBERT C. BYRD. Mr. President, I wish to express my appreciation to the distinguished minority leader for his cooperation and to commiserate with him in having to stand on this floor at 10:30 p.m. on this night of Thursday in order to complete the business of the Senate.

Mr. BAKER. Mr. President, if the Senator will yield, I am happy that we were able to complete as much as we did today. I think it has been a good day, and I am delighted that, notwithstanding the long hour, it has come out well.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Tennessee was here when the Senate opened this morning, as he is practically every day, and is here when it closes, as he is practically every day. This is no small chore, with these long sessions. I thank him, and I thank all members of the Senate and everyone else who is forced to stay by virtue of the fact that the Senate is in session.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9:15 a.m. tomorrow.

The motion was agreed to; and at 10:31 p.m., the Senate recessed until tomorrow, Friday, September 29, 1978, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, September 28, 1978*

The House met at 10 a.m.

Rev. Brady B. Forman, pastor, Kenner United Methodist Church, Kenner, La., offered the following prayer:

Almighty and merciful God, the Father of us all, we honor You and seek Your blessings as we try to fulfill our responsibilities today in a manner acceptable to You.

Today when we are tempted to compromise our standards of justice and honesty because of pressure, without and within, may Your Holy Spirit become our source of strength and wisdom.

Keep us from being impressed with our own importance and help us to handle wisely and with love the power that has been intrusted to us.

We thank You for meeting all our needs and ask that You help us to be responsive to the needs of others.

For we pray in the name of Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

THE REVEREND BRADY B. FORMAN

(Mr. TREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TREEN. Mr. Speaker and colleagues, it is a unique honor for me to have as the visiting minister today my boyhood friend and first cousin, Rev. Brady Forman of the United Methodist Church in Kenner, La.

Brady has had several ministries in the United Methodist Church, including his present pastorate. Of particular interest was his 7 years on the campus of Southeastern Louisiana University, at Hammond, La. He received his academic training at Louisiana State University, at Centenary College, Shreveport, La., and obtained his master of theology from the Candler School of Theology, Emory University, in Atlanta.

As is the case with most Protestant ministries, it is teamwork that is involved. Rev. Brady Forman has his lovely wife, Carol, with him today. They have been a team for many years. I am also pleased that my first cousin, and his sister, Evelyn Freneaux, is also here with her husband, Chuck Freneaux.

Mr. Speaker, I know all the Members will join me in welcoming Rev. Brady Forman.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 12026. An act to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2852. An act to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases; and

H.R. 12929. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12929) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes," disagreed to by the House; request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. PROXMIRE, Mr. HOLLINGS, Mr. EAGLETON, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. INOUYE, Mr. BROOKE, Mr. CASE, Mr. SCHWEIKER, Mr. MATHIAS, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13125) entitled "An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes."

The message also announced that the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 10, 14, 82, and 84 to the above-entitled bill.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1185. An act to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes;

S. 3114. An act for the relief of Shavji Purshottam Dusara, Vasanti Shavji Dusara, and their child, Shreedhar Dusara; and

S. 3486. An act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The message also announced the Vice President, pursuant to Public Law 84–689, appointed Mr. PELL (chairman), Mr. JACKSON, Mr. MCINTYRE, Mr. CULVER, Mr. LEAHY, Mr. JAVITS, and Mr. GRIFFIN to attend the North Atlantic Assembly, to be held in Lisbon, Portugal, November 26–30, 1978.

CONFERENCE REPORT ON H.R. 11003, EMPLOYMENT OF PERSONNEL IN WHITE HOUSE

Mrs. SCHROEDER submitted the following conference report and statement on the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–1639)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1 and agree to the same.

That the Senate recede from its amendment numbered 2.

ROBERT N. C. NIX,
MO UDALL,
PAT SCHROEDER,
EDWARD J. DERWINSKI,
Managers on the Part of the House.

ABE RIBICOFF,
LAWTON CHILES,
JIM SASSER,
CHARLES H. PERCY,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SENATE AMENDMENT NO. 1

The House bill requires annual reports concerning, among other things, (1) the number and names of individuals detailed to the White House; and (2) the name, general title, and general job description of, and the amount of money paid to, every individual employed in the White House.

The Senate amendment deletes the House requirement that the names, general title, and general job description, and the amount of money paid to every individual employed in the White House be reported, and with respect to detailees, requires reporting on only those individuals detailed to the White House for 30 days or more.

The House recedes.

The conferees recognize that the House requirement for reporting names, general title, job description, and salary of every individual employed in the White House, is contrary to Government-wide rules, developed to conform with both the Freedom of Information Act and the Privacy Act, that are tailored to provide for protection of the privacy of individuals involved. In addition, the conferees have received assurance from the Administration that, as in the past, this information will be provided to the Congress upon request.

SENATE AMENDMENT NO. 2

This amendment is a "sunset" amendment which provides that budget authority under the Act will terminate after September 30, 1983, unless reauthorized by the Congress.

There is no comparable provision in the House bill.

The Senate recedes.

The conferees point out that the detailed reporting requirements (notwithstanding Senate amendment numbered 1) contained in both bills, provide an adequate basis for future congressional oversight with respect to this authorization. The conferees stress that the decision of the conference committee on this issue should not be construed to reflect on the conferees' position with respect to general "sunset" legislation which is currently being considered by the Congress. The conferees do believe, however, that a distinction should be made between general sunset provisions which require reauthorization of programs and the "sunset" provision in this amendment which would require reenactment of budget authority for the President to hire staff.

FOOD ADDITIVES—NITRITE CARCINOGENICITY

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, in the past three decades we have witnessed a phenomenon unique in man's history on Earth—the introduction on the planet of potent chemical agents which have gone largely untested for adverse public-health effects. As mass food production by large companies has replaced the self-efficient family unit around the campfire and then the wood stove as the producer of food, the use of preservatives and chemicals in food has grown extensively. Each individual consumes about 9.3 pounds per year of food additives. Even though there is a continuing proliferation of approved additives by FDA, most food additives are given little, if any, FDA or USDA surveillance.

It is for this reason that I bring to the attention of my colleagues and the American public the recent study done by the Department of Nutrition and Food Science at MIT which cites evidence of nitrite carcinogenicity. This is an especially important finding since cancer rates have nearly tripled since 1900 and have gone up 1 percent a year since 1933. The FDA is now considering a ban on the nitrites, which are used in over 9 billion pounds of various meat products, including bacon, hot dogs, luncheon meats, and cured meats.

Opponents of the FDA ban state that nitrites are necessary because they prevent the formation of botulinum toxin. However, adequate heat processing and packaging of meats in commercial establishments and adequate heat in home preparation of meat afford effective protection against botulism. Therefore, the contention that nitrites are necessary as a preservative in meat is completely open to question.

The evidence of nitrite carcinogenicity cannot be ignored. The mechanics of cancer causation are not completely understood. Neither is the quantity of a carcinogen nor the length of exposure to it required to produce cancer clearly known. However, until such scientific technology is available, FDA and USDA have the responsibility to administer their respective legal authority in a prudent and cautious manner to protect the public health and to minimize public exposure to any food additives known to produce cancer in man or animals.

We simply do not know as much as we should about the possible conversion of food preservatives in our body to cancer. But we ought to be finding out.

H.R. 12028, VETERANS' HOUSING BENEFITS IMPROVEMENT ACT OF 1978

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12028) to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Veterans' Housing Benefits Improvement Act of 1978".

SEC. 2. Section 802 of title 38, United States Code, is amended by striking out "$25,000" and inserting in lieu thereof "$30,000".

SEC. 3. Section 1802 of title 38, United States Code, is amended by—

(1) amending subsection (a) by—

(A) striking out in the first sentence "World War II or the Korean conflict" both places it appears and inserting in lieu thereof "World War II, the Korean conflict, or the Vietnam era"; and

(B) striking out in the second sentence "Entitlement" and all that follows through "World War II, has" and inserting in lieu thereof "In the case of any veteran who served on active duty in two or more periods specified in the preceding sentence, or in section 1818 of this title, for which eligibility for the benefits under this chapter may be granted, entitlement derived from service during the most recent such period (1) shall cancel any unused entitlement derived from service during any earlier such period, and (2) shall be reduced by the amount by which entitlement from service during any earlier such period has"; and

(2) amending subsection (b) by—

(A) inserting "(A)" after "(1)";

(B) striking out "and" after the semicolon in subclause (A) of clause (1) (as redesignated by subclause (A) of this clause) and inserting in lieu thereof "or";

(C) striking out "(2)" at the beginning of clause (2) and inserting in lieu thereof "(B)";

(D) redesignating clause (3) as clause (2); and

(E) striking out in the material following clause (2) (as redesignated by subclause (D) of this clause) "clauses (1) and (2)" and inserting in lieu thereof "clause (1)".

SEC. 4. Section 1803 of title 38, United States Code, is amended by—

(1) striking out in subsection (a)(1) "World War II or Korean conflict veteran," and inserting in lieu thereof "veteran eligible for benefits under this chapter,";

(2) amending subsection (c)(1) by—

(A) inserting "(A)" before "Loans";

(B) inserting a comma and "except as provided in subparagraph (B) of this paragraph," after "chapter, and" in subparagraph (A) (as redesignated by subclause (A) of this clause) of such subsection (c)(1); and

(C) inserting at the end thereof the following new subparagraph:

"(B) Loans guaranteed or insured under this chapter for the purposes of energy-related improvements, as described in section 1810(a)(7) of this title, may bear interest at a rate higher than that specified by the Administrator pursuant to subparagraph (A) of this paragraph, but not in excess of such rate as the Administrator may from time to time find the loan market demands for loans for such purposes, except that in establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Secretary of Housing and Urban Development so that, to the maximum extent possible, a coordinated policy on interest rates on federally guaranteed or insured loans for such energy-related improvements may be carried out.".

SEC. 5. Section 1810 of title 38, United States Code, is amended by—

(1) amending subsection (a) by—

(A) amending clause (6) to read as follows:

"(6) To purchase a one-family residential unit in a condominium housing development or project, provided such development or project is approved by the Administrator under criteria which the Administrator shall prescribe in regulations."; and

(2) striking out in subsection (c) "$17,500" and inserting in lieu thereof "$25,000".

(B) inserting below clause (6) and above the last sentence of such subsection the following new clause:

"(7) To improve a dwelling or farm residence which is to be or is owned and occupied by the veteran as the veteran's home by either installation of solar heating, solar heating and cooling, or combined solar heating and cooling, or application of a residential energy conservation measure. As used in this clause, the terms 'solar heating', 'solar heating and cooling', and 'combined solar heating and cooling' shall be defined as defined in clauses (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502) and shall, in addition, include a passive system based on conductive, convective, or radiant energy transfer; the term 'passive system' includes, but is not limited to, window and skylight glazing, thermal floors, walls and roofs, movable insulation panels (in conjunction with glazing), portions of a residential structure which serve as solar furnaces so as to add heat to residences, double pane window insulation, or other components designed to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence as determined by the Administrator; and the term 'residential energy conservation measure' means—

"(A) caulking and weatherstripping of all exterior doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, and floor insulation;

"(E) water heater insulation;

"(F) storm windows and doors;

"(G) heat pumps; and

"(H) such other measures as the Administrator may by regulation identify for purposes of this clause."; and

SEC. 6. Section 1811(d)(2) of title 38, United States Code, is amended by—

(1) striking out in subparagraph (A) "$17,500" both places it appears and inserting in lieu thereof "$25,000"; and

(2) amending subparagraph (B) to read as follows:

"(B) The original principal amount of any loan made under this section for the purposes described in section 1819 of this title shall not exceed an amount which bears the

same ratio to $33,000 as the amount of guaranty to which the veteran is entitled, under section 1819 of this title, at the time the loan is made bears to $17,500. The guaranty entitlement of any veteran who is granted a loan under this section, or who, before the date of the enactment of the Veterans' Housing Benefits Improvement Act of 1978, was granted a loan under this section, shall be charged with an amount which bears the same ratio to $17,500 as the amount of the loan bears to $33,000.".

SEC. 7. The second sentence of section 1816 (a) of title 38, United States Code, is amended to read as follows: "Before suit or foreclosure, the holder of the obligation shall notify the Administrator of the default; and, within thirty days thereafter, the Administrator (1) shall, under regulations which the Administrator shall prescribe, investigate, with due regard for any reasonable forebearance by the Administrator for the benefit of the veteran, the desirability of paying the holder of the obligation the unpaid balance of the obligation plus accrued interest and receiving an assignment of the loan and security, and (2) after such investigation may, at the Administrator's option, pay the holder of the obligation such unpaid balance and accrued interest and receive such assignment.".

SEC. 8. (a) Section 1818 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "and prior to August 5, 1964, or after May 7, 1975," after "January 31, 1955,";

(2) striking out in subsection (a)(3) "active duty after such date" and inserting in lieu thereof "such active duty";

(3) inserting in subsection (a) "and section 1802(a) of this title" after "of this section";

(4) striking out subsection (b) in its entirety and redesignating subsection (c) as subsection (b); and

(5) striking out in the catchline "Veterans who serve after January 31, 1955" and inserting in lieu thereof "Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975".

(b) The table of sections at the beginning of chapter 37 of such title is amended by striking out

"1818. Veterans who served after January 31, 1955."

and inserting in lieu thereof

"1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.".

SEC. 9. Section 1819 of title 38, United States Code, is amended by—

(1) amending subsections (a) and (b) to read as follows:

"(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

"(A) The purchase of a lot on which to place a mobile home already owned by the veteran.

"(B) The purchase of a new or used single-wide mobile home.

"(C) The purchase of a new or used single-wide mobile home and a lot on which to place such home.

"(D) The purchase of a new or used double-wide mobile home.

"(E) The purchase of a new or used double-wide mobile home and a lot on which to place such home.

"(2) A loan for any of the purposes described in paragraph (1) of this subsection may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the installation of utility connections, sanitary facilities, and paving and the construction of a suitable pad.

"(3) Any loan made for the purposes set forth in subparagraph (C) or (E) of paragraph (1) shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or separate loan instruments for (A) that portion of the loan which finances the purchase of the mobile home, and (B) the portion which finances the purchase of the lot, plus necessary preparation of such lot.

"(b)(1) Use of entitlement under this section for the purchase of a mobile home unit shall preclude the use of remaining entitlement for the purchase of an additional mobile home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

"(2) The Administrator shall restore the entitlement of the veteran to all loan guaranty benefits under this chapter when the conditions prescribed in section 1802(b) of this title have been met.";

(2) amending subsection (c) by—

(A) amending paragraph (1) to read as follows:

"(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to loan closing except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in mobile home financing warrants such exemption.";

(B) striking out the first sentence of paragraph (3) and inserting in lieu thereof the following: "The Administrator's guaranty shall not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $17,500. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator."; and

(C) inserting at the end of paragraph (3) the following new paragraph:

"(4) The amount of guaranty entitlement available to a veteran under this section shall not be more than $17,500 less such entitlement as may have been used under this section. Use of entitlement under section 1810 or 1811 shall reduce entitlement available for use under this section to the same extent that entitlement available under section 1810 is reduced to less than $17,500.";

(3) amending subsection (d) to read as follows:

"(d)(1) The maturity of any loan guaranteed under this section shall not be more than—

"(A) fifteen years and thirty-two days in the case of a loan for the purchase of—

"(i) a lot only,

"(ii) a single-wide mobile home only, or

"(iii) a single-wide mobile home and a lot, or

"(B) twenty years and thirty-two days in the case of a loan for the purchase of—

"(i) a double-wide mobile home only, or

"(ii) a double-wide mobile home and a lot.

"(2) Nothing in paragraph (1) shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, or to a reasonable extension of the term or reamortization of such loan.";

(4) amending clause (4) of subsection (e) to read as follows:

"(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

"(A) with respect to the portion of the loan to purchase a new mobile home, such cost factors as the Administrator considers proper to take into account;

"(B) with respect to the portion of the loan to purchase a used mobile home, the reasonable value of the property, as determined by the Administrator;

"(C) with respect to the portion of the loan to purchase a lot, the reasonable value of such lot as determined by the Administrator; and

"(D) with respect to the portion of the loan to cover the cost of necessary site preparation, an appropriate amount as determined by the Administrator;";

(5) striking out subsection (g) in its entirety;

(6) redesignating subsections (h) through (n) as subsections (g) through (m), respectively;

(7) striking out the last sentence of subsection (h) (as redesignated by clause (6) of this section) and inserting in lieu thereof the following: "For the purpose of assuring compliance with such standards, the Administrator shall from time to time inspect the manufacturing process of mobile homes sold to veterans utilizing benefits under this chapter; and, for such purpose and the additional purpose of monitoring safety factors involved in the installation of such homes, the Administrator shall from time to time conduct random onsite inspections of mobile homes purchased with such assistance. Notwithstanding the preceding sentence, the Administrator may, at the Administrator's discretion, delegate to the Secretary of Housing and Urban Development the authority and responsibility of the Administrator to inspect such manufacturing process, subject to (1) the acceptance of such delegation by such Secretary, (2) a requirement that the Administrator promptly be provided the full results of such Department of Housing and Urban Development inspections, and (3) the right of the Administrator at any time to withdraw such delegation in whole or in part and for such period or periods of time as the Administrator determines to be appropriate.";

(8) striking out in subsections (i), (j), and (l) (as redesignated by clause (6) of this section) "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)"; and

(9) striking out in subsection (l) (as redesignated by clause (6) of this section) "subsection (j)" and inserting in lieu thereof "subsection (i)".

SEC. 10. Section 906 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) The headstone or marker furnished under subsection (a) or (b) of this section may be of any material, including but not limited to marble, granite, bronze or slate, requested by the person entitled to request such headstone or marker, if such requested material is determined by the Administrator to be cost effective and, when the headstone or marker is to be placed in a national cemetery, aesthetically compatible with the cemetery area in which it is to be placed."

SEC. 11. None of the provisions of, or amendments made by, this Act, other than amendments creating new spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 (Public Law 93-344), shall be deemed to authorize, directly or indirectly, the enactment of new budget authority.

SEC. 12. Section 1798 of title 38, United States Code, is amended by—

(1) amending subsection (a) by inserting before the period "and criteria established under subsection (g) of this section".

(2) amending subsection (e)(3) to read as follows: "The Administrator shall report to the appropriate committees of the Congress on February 1 of each year the results of the continuing review required by subsection (g) of this section, the cumulative and most recent twelve-month default experience (broken down with the maximum feasible detail and specifying the default experience and default rate at each educational institution along with a comparison of the

collective default experience and default rate at all such institutions, separately with respect to loans made under this section the repayment of which is accelerated under section 1682A of this title and loans made under this section the repayment of which is not so accelerated), and any steps being taken or proposed to be taken to reduce default rates."; and

(3) inserting at the end thereof the following new subsection:

"(g) The Administrator shall conduct, on a continuing basis, a review of the default experience with respect to education loans made under this subchapter On the basis of information developed in the course of that review, and for the purpose of ensuring that approvals of loans made under this subchapter are based on financial need directly related to the costs of education, the Administrator, notwithstanding the provisions of this subchapter, is authorized to apply criteria, established in regulations prescribed after opportunity for public comment, to limit eligibility for loans made under this subchapter and to reduce the loan repayment period in connection with certain types of loans. Such eligibility criteria may prescribe a minimum amount of tuition and fees which an eligible veteran or eligible person must be obligated to pay in order to be eligible for a loan under this subchapter (except that any such criterion shall not apply to loans made as a result of exercise of the delimiting period extension provided for in section 1662(a)(2) of this title.".

SEC. 13. Chapter 24 of title 38, United States Code, is amended by—

(1) adding at the end thereof the following new sections:

"§ 1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

"(a) There is authorized to be appropriated $5,000,000 for the fiscal year commencing October 1, 1978, and $5,000,000, for each of the four succeeding fiscal years. Subject to the conditions set forth in subsection (b) of this section, sums appropriated pursuant to this section shall be used for making grants to any State which submits and has approved by the Administrator, applications for assistance in establishing, expanding, or improving veterans' cemeteries owned by a State.

"(b) The amount granted to any State for the purposes of subsection (a) shall be subject to the following conditions:

"(1) No State may receive a grant or grants in any fiscal year in excess of 20 per centum of the total amount appropriated for that fiscal year.

"(2) The amount granted to a State shall not under any circumstances exceed 65 per centum of the total value of the land and improvements.

"(3) Insofar as a grant made to a State is concerned, the total value of the land, which the State already owns and dedicates to such purpose at the time of the grant, may be considered in determining the amount of the State's contribution. However, the value of such land may only be considered once.

"(4) Where the cost of improvement is less than 65 per centum of the total value of the land and improvements, as determined pursuant to paragraph (3) above, the amount granted to a State shall not exceed the actual cost of the improvements and no future credit for the difference will be established.

"(c) Any grant made under subsection (a) to any State for establishing a cemetery for veterans shall be made on condition that the establishment of such cemetery shall conform to such standards and guidelines relating to site selection, planning, and construction as the Administrator shall prescribe by regulation, taking into account such standards and guidelines, including those provided for in section 1044 (b), (c), and (d) of this title, as are applicable to the National Cemetery System.

"(d) Grants under this section shall be made on such other terms and conditions as may be prescribed in regulations by the Administrator.

"(e) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated.

"§ 1009. Payments to States for the interment of veterans and maintenance of State veterans' cemeteries

"(a) For the calendar year 1979 and each calendar year thereafter the Administrator may pay to any State upon application therefor in such form and containing such information as he may prescribe (1) an amount equal to 65 per centum of the reasonable cost of interment incurred by such State, such amount not to exceed $150 for each eligible person interred in a State veterans' cemetery during that year, and (2) an amount equal to 65 per centum of the reasonable cost of perpetual care maintenance, such amount not to exceed $40 for each eligible person interred in a State veterans' cemetery during that year.

"(b) Payment of funds to any State under subsection (a) for the maintenance of any cemetery for veterans shall be made on condition that such cemetery be maintained in conformity with such standards and guidelines as the Administrator shall prescribe by regulation, taking into account such standards and guidelines as are applicable to the National Cemetery System.

"(c) The Administrator shall, prior to September 30, 1979, and biennially thereafter, conduct a survey to determine the reasonable cost of interment and perpetual care maintenance for the purposes of payment under subsection (a) of this section.

"(d) Payments under this section shall be made on such other terms and conditions as may be prescribed in regulations by the Administrator."; and

(2) inserting at the end of the table of sections at the beginning of such chapter—

"1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries.

"1009. Payments to States for the interment of veterans and maintenance of State veterans' cemeteries.".

SEC. 14. The amendments made by this Act shall become effective on October 1, 1978.

Amend the title so as to read: "An Act to improve the housing programs of the Veterans' Administration, and for other purposes.".

The Clerk read the House amendments to the Senate amendments as follows:

[House amendments to the Senate amendments to H.R. 12028]

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That (a) this Act may be cited as the "Veterans' Housing Benefits Act of 1978".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' HOUSING BENEFITS

ASSISTANCE FOR SPECIALLY ADAPTED HOUSING FOR CERTAIN DISABLED VETERANS

SEC. 101. Section 802 is amended by striking out "$25,000" and inserting in lieu thereof "$30,000."

BASIC ENTITLEMENT FOR HOME, CONDOMINIUM, AND MOBILE LOANS

SEC. 102. (a) Subsection (a) of section 1802 is amended—

(1) in the first sentence, by striking out "World War II or the Korean conflict" both places it appears and inserting in lieu thereof "World War II, the Korean conflict, or the Vietnam era"; and

(2) in the second sentence, by striking out "Entitlement" and all that follows through "World War II, has" and inserting in lieu thereof "In the case of any veteran who served on active duty during two or more of the periods specified in the preceding sentence, or in section 1818 of this title, for which eligibility for the benefits under this chapter may be granted, entitlement derived from service during the most recent such period (1) shall cancel any unused entitlement derived from service during any earlier such period, and (2) shall be reduced by the amount by which entitlement from service during any earlier such period has".

(b) Subsection (b) of such section is amended—

(1) in the first sentence, by inserting "(A)" after "(1)", redesignating clause (2) as subclause (B), and redesignating clause (3) as clause (2); and

(2) in the second sentence, by striking out "clauses (1) and (2) above" and inserting in lieu thereof "clause (1) of the preceding sentence".

BASIC LOAN GUARANTY PROGRAM

SEC. 103. (a) Subsection (a)(1) of section 1803 is amended by striking out "World War II or Korean conflict veteran" and inserting in lieu thereof "veteran eligible for benefits under this chapter".

(b) Subsection (c) of such section is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 1801(a) of this title, the Administrator may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Administrator may from time to time find the loan market demands for loans for such purposes."; and

(2) by striking out "section 1810(a)(4)" in paragraph (3)(B) and inserting in lieu thereof "clauses (4) and (7) of section 1810 (a) of this title".

PURPOSES FOR WHICH HOME LOANS MAY BE GUARANTEED

SEC. 104. Section 1810 is amended—

(1) by striking out clause (6) in subsection (a) and inserting in lieu thereof the following new clause:

"(6) To purchase a one-family residential unit in a condominium housing development or project, if such development or project is approved by the Administrator under criteria which the Administrator shall prescribe in regulations.";

(2) by inserting after such clause the following new clause:

"(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system or through the application of a residential energy conservation measure."; and

(3) by adding at the end of such section the following new section:

"(d) For the purposes of subsection (a)(7) of this section:

"(1) The term 'solar heating' has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

"(2) The terms 'solar heating and cooling' and 'combined solar heating and cooling' have the meaning given such terms in section 3(2) of the Solar Heating and Cooling

Demonstration Act of 1974 (42 U.S.C. 5502 (2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

"(3) The term 'passive system' includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related-components as are determined by the Administrator to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

"(4) The term 'residential energy conservation measure' means—

"(A) caulking and weatherstripping of all exterior doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, and floor insulation;

"(E) water heater insulation;

"(F) storm windows and doors;

"(G) heat pumps; and

"(H) such other energy conservation measures as the Administrator may identify for the purposes of this clause.".

AMOUNT OF VETERANS' ADMINISTRATION LOAN GUARANTIES AND DIRECT LOANS FOR PURCHASE OR CONSTRUCTION OF HOMES

SEC. 105. (a) Section 1810(c) is amended by striking out "$17,500" and inserting in lieu thereof "$25,000".

(b)(1) Subparagraph (A) of section 1811 (d)(2) is amended by striking out "$17,500" both places it appears and inserting in lieu thereof "$25,000".

(2) Subparagraph (B) of such section is amended by striking out "specified by the Administrator" and all that follows in such subparagraph and inserting in lieu thereof "that bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under such section at the time the loan is made bears to $17,500. The amount of the guaranty entitlement under section 1810 (c) of this title of any veteran who is granted a loan under this section, or who before the date of the enactment of the Veterans' Housing Benefits Act of 1978 was granted a loan under this section, shall be charged with the amount that bears the same ratio to $17,500 as the amount of the loan bears to $33,000.".

ELIGIBILITY FOR HOME LOANS FOR VETERANS WHO SERVED AFTER JANUARY 31, 1955

SEC. 106. (a) Section 1818 is amended—

(1) by inserting "and prior to August 5, 1964, or after May 7, 1975," in subsection (a) after "January 31, 1955,";

(2) by striking out "active duty after such date" in subsection (a)(3) and inserting in lieu thereof "such active duty";

(3) by inserting "the provisions of section 1802(a) of this title and" in subsection (a) after "subject to";

(4) by striking out subsection (b) and redesignating subsection (c) as subsection (b); and

(5) by striking out "Veterans who serve after January 31, 1955" in the catchline and inserting in lieu thereof "Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975".

(b) The item relating to section 1818 in the table of sections at the beginning of chapter 37 is amended to read as follows:

"1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.".

MOBILE HOME AND MOBILE HOME LOT LOANS

SEC. 107. (a) Subsections (a) and (b) of section 1819 are amended to read as follows:

"(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

"(A) To purchase a lot on which to place a mobile home already owned by the veteran.

"(B) To purchase a single-wide mobile home.

"(C) To purchase a single-wide mobile home and a lot on which to place such home.

"(D) To purchase a double-wide mobile home.

"(E) To purchase a double-wide mobile home and a lot on which to place such home.

"(2) A loan for any of the purposes described in paragraph (1) of this subsection may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the mobile home.

"(3) Any loan made for the purposes described in clause (C) or (E) of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the mobile home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

"(b)(1) Use of entitlement under this section for the purchase of a mobile home unit shall preclude the use of remaining entitlement for the purchase of an additional mobile home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

"(2) The Administrator shall restore entitlement to all loan guaranty benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.".

(b)(1) Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in mobile home financing warrants such exemption.".

(2) Paragraph (3) of such subsection is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "The Administrator's guaranty may not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $17,500. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator.".

(3) Such subsection is further amended by adding at the end thereof the following new paragraph:

"(4) The amount of guaranty entitlement available to a veteran under this section shall not be more than $17,500, less the amount of any such entitlement as may have been used under this section. Use of entitlement under section 1810 or 1811 of this title shall reduce entitlement available for use under this section to the same extent that entitlement available under such section 1810 is reduced below $17,500.".

(c) Subsection (d) of such section is amended to read as follows:

"(d)(1) The maturity of any loan guaranteed under this section shall not be more than—

"(A) fifteen years and thirty-two days, in the case of a loan for the purchase of—

"(i) a lot;

"(ii) a single-wide mobile home; or

"(iii) a single-wide mobile home and a lot; or

"(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

"(i) a double-wide mobile home; or

"(ii) a double-wide mobile home and a lot.

"(2) Nothing in paragraph (1) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.

(d) Clause (4) of subsection (e) of such section is amended to read as follows:

"(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

"(A) with respect to any portion of the loan to purchase a new mobile home, such cost factors as the Administrator considers proper to take into account;

"(B) with respect to any portion of the loan to purchase a used mobile home, the reasonable value of the property, as determined by the Administrator;

"(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

"(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator;".

(e) Such section is further amended by striking out subsection (g) and by redesignating subsections (h), (i), (j), (k), (l), (m), and (n) as subsections (g), (h,) (i), (j), (k), (l), and (m), respectively.

(f) Subsection (h) of such section (as redesignated by subsection (e) of this section) is amended (1) by inserting "(1)" before "No loan", (2) by striking out the third sentence of such subsection, and (3) by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of mobile homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for the additional purpose of monitoring safety factors involved in the installation of mobile homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of mobile homes purchased through the utilization of such assistance.

"(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of mobile homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by

the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw any delegation under the preceding sentence at any time and in whole or in part.".

(g)(1) Subsections (i), (j), and (l) of such section (as redesignated by subsection (e) of this section) are amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)".

(2) Subsection (l) of such section (as redesignated by subsection (e) of this section) is amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (i)".

EFFECTIVE DATES

SEC. 108. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on October 1, 1978.

(b) The amendment made by clause (1) of section 104 of this title shall take effect on July 1, 1979, except with respect to the authority to prescribe regulations for the implementation of such amendment, which shall be effective on the date of the enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

EDUCATION LOAN PROGRAM ELIGIBILITY AND REPORTS ON DEFAULT EXPERIENCE

SEC. 201. Section 1798 is amended—

(1) by inserting "and the criteria established under subsection (g) of this section" before the period at the end of subsection (a);

(2) in subsection (c)—

(A) by striking out "and" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and";

(C) by inserting after clause (2) the following new clause:

"(3) satisfies any criteria established under subsection (g) of this section.";

(3) in subsection (d)(1)—

(A) by inserting "(A)" before "over"; and

(B) by inserting a comma and "or (B) over such shorter period as the Administrator may have prescribed under subsection (g) of this section" after "such date";

(4) by striking out paragraph (3) of subsection (e) and inserting in lieu thereof the following:

"(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include in maximum feasible detail—

"(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans;

"(B) data regarding the default experience and default rate at each educational institution (i) with respect to loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) with respect to other loans made under this section; and

"(C) comparisons of the collective default experience and default rates with respect to such loans at all such institutions to the default experience and default rates with respect to such loans at each such institution";

(5) by striking out "1701(l)" in subsection (f)(3) and inserting in lieu thereof "1701(a)(1)"; and

(6) by adding after subsection (f) the following new subsection:

"(g)(1) The Administrator shall conduct, on a continuing basis, a review of the default experience with respect to loans made under this section.

"(2)(A) To ensure that loans are made under this section on the basis of financial need directly related to the costs of education, the Administrator may by regulation establish (i) criteria for eligibility for such loans, in addition to the criteria and requirements prescribed by subsections (c) and (d) of this section, in order to limit eligibility for such loans to eligible veterans and eligible persons attending educational institutions with relatively high rates of tuition and fees, and (ii) criteria under which the Administrator may prescribe a repayment period for certain types of loans made under this section that is shorter than the repayment period otherwise applicable under subsection (d)(1)(A) of this section. Criteria established by the Administrator under clause (i) of the preceding sentence may include a minimum amount of tuition and fees that an eligible veteran or eligible person must pay in order to be eligible for such a loan (except that any such criterion shall not apply with respect to a loan for which the veteran is eligible as a result of an extension of the period of eligibility of such veteran for loans under this section provided for by section 1662(a)(2) of this title).

"(B) In prescribing regulations under subparagraph (A) of this paragraph, the Administrator shall take into consideration information developed in the course of the review required by paragraph (1) of this subsection.

"(C) Regulations may be prescribed under subparagraph (A) of this paragraph only after opportunity has been afforded for public comment thereon.".

BURIAL BENEFITS

SEC. 202. (a) Subsection (b) of section 903 is amended to read as follows:

"(b) In addition to the benefits provided for under section 902 of this title and subsection (a) of this section, in the case of a veteran who is eligible for a burial allowance under such section 902, or under such subsection, and who is not buried in a national cemetery or other cemetery under the jurisdiction of the United States—

"(1) if such veteran is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (B) is owned by a State or by an agency or political subdivision of a State, the Administrator shall pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran; and

"(2) if such veteran is buried in a cemetery, or a section of a cemetery, other than as described in clause (1) of this subsection, the Administrator shall pay a sum not exceeding $150 as a plot or interment allowance to such person as the Administrator prescribes, except that if any part of the plot or interment costs of a burial to which this clause applies has been paid or assumed by a State, an agency or political subdivision of a State, or a former employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities.".

(b)(1) Chapter 24 is amended by adding at the end thereof the following new section:

"Section 1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

"(a)(1) Subject to subsection (b) of this section, the Administrator may make grants to any State to assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State. Any such grant may be made only upon submission of an application to the Administrator in such form and manner, and containing such information, as the Administrator may require.

"(2) There is authorized to be appropriated $5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years for the purpose of making grants under paragraph (1) of this subsection.

"(b) Grants under this section shall be subject to the following conditions:

"(1) No State may receive grants under this section in any fiscal year in a total amount in excess of 20 per centum of the total amount appropriated for such grants for such fiscal year.

"(2) The amount of any grant under this section may not exceed an amount equal to 50 per centum of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

"(3) If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph (2) of this subsection, but the value of such land may not be used for more than an amount equal to 50 per centum of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section.

"(4) If a State that has received a grant under this section to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

"(c)(1) In addition to the conditions specified in subsection (b) of this section, any grant to a State under this section to assist such State in establishing a veterans' cemetery shall conform to such standards and guidelines relating to site selection, planning, and construction as the Administrator may by regulation prescribe. In prescribing regulations for the purposes of the preceding sentence, the Administrator shall take into account the standards and guidelines for site selection, planning, and construction that are applicable to cemeteries in the National Cemetery System, including those provided in subsections (b), (c), and (d) of section 1004 of this title.

"(2) The Administrator may by regulation prescribe such additional terms and conditions for grants under this section as the Administrator considers appropriate.

"(d) Sums appropriated under subsection (a) of this section shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated. If all funds from a grant under this section have not been utilized by a State for the purpose for which the grant was made within three years after such grant is made, the United States shall be entitled to recover any such unused grant funds from such State.".

(2) The table of sections at the beginning of chapter 24 is amended by adding at the end thereof the following new item:

"1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries.".

HEADSTONES AND MARKERS

SEC. 203. (a) Section 906 is amended by adding at the end thereof the following new subsections:

"(c) A headstone or marker furnished under subsection (a) or (b) of this section may be of any material, including but not limited

to marble, granite, bronze, or slate, requested by the person entitled to request such headstone or marker if the material requested is determined by the Administrator (1) to be cost effective, and (2) in a case in which the headstone or marker is to be placed in a national cemetery, to be aesthetically compatible with the area of the cemetery in which it is to be placed.

"(d) In lieu of furnishing a headstone or marker under subsection (a)(2) or (b) of this section, the Administrator, in the Administrator's discretion, having due regard for the circumstances in each case, may reimburse the person entitled to request such headstone or marker for the actual costs incurred by or on behalf of such person in acquiring a non-Government headstone or marker for placement in any cemetery other than a national cemetery in connection with the burial or memorialization of the deceased individual. Reimbursement under the preceding sentence may be made only upon the request of the person entitled to request the headstone or marker and may not be made in an amount in excess of the average actual cost, as determined by the Administrator, of headstones and markers furnished under subsections (a) and (b) of this section.".

(b) Section 902 is amended—

(1) by striking out "in his direction" in subsection (a) and inserting in lieu thereof "in the Administrator's discretion";

(2) by striking out "as he prescribes" in subsection (a) and inserting in lieu thereof "as the Administrator prescribes"; and

(3) by striking out "his death" in subsection (b) and inserting in lieu thereof "the death of such veteran".

TECHNICAL AMENDMENTS TO LAW NAMING A CERTAIN VETERANS' ADMINISTRATION HOSPITAL

SEC. 204. Section 203 of Public Law 95-353 is amended—

(1) by striking out "designed" in the first sentence and inserting in lieu thereof "designated"; and

(2) by inserting "map, record," in the second sentence after "document,".

EFFECTIVE DATES

SEC. 205. (a) Except as provided in subsection (b), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) The amendment made by section 202 (a) of this title shall take effect on October 1, 1978.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to improve the housing benefits programs of the Veterans' Administration, to authorize the Administrator of Veterans' Affairs to pay an allowance to a State for expenses incurred in the burial of eligible veterans in cemeteries owned and operated by or for such State solely for the interment of veterans, to authorize a program of grant assistance to States for the establishment, expansion, and improvement of State veterans' cemeteries, and for other purposes."

Mr. BRINKLEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Georgia?

Mr. HAMMERSCHMIDT. Mr. Speaker, I reserve the right to object, and I do not plan to object, but I do so in order to yield to the gentleman from Georgia, the chairman of the Subcommittee on Housing of the Veterans' Affairs Committee, to explain to the House what is involved here.

Mr. BRINKLEY. Mr. Speaker, on July 17, the House passed H.R. 12028, the Veterans' Housing Act of 1978, by a vote of 373 to 0. The bill would substantially improve and update the veterans' housing programs. The Senate amended the bill to include additional veterans' benefit provisions, some of which had already been passed by the House.

The proposed House amendments reflect the agreement reached with the Senate concerning various housing, education, and burial benefits programs administered by the Veterans' Administration.

The proposed amendments would provide for the following:

First. Increase the maximum specially adapted housing grant from $25,000 to $30,000, for certain severely service-connected disabled veterans;

Second. Reduce from 181 to 90 days, the active-duty service required for Vietnam-era veterans to be eligible for VA home loan benefits (the same as for World War II and Korean conflict veterans);

Third. Authorize the Administrator of Veterans' Affairs to guarantee loans for energy-related and other home improvements at a rate of interest which may be higher than the interest rate allowed for the acquisition of a home or condominium. Generally, the interest rate would be lower than that charged for conventional home improvement loans. It would allow veterans the opportunity to make home improvement loans without having to refinance their existing mortgage as is presently the case. It would also save veterans closing costs and the increased rate of interest generally incurred when refinancing the total indebtedness.

Fourth. Authorize the Administrator of Veterans' Affairs to guarantee loans for the purchase of a one-family residential unit in a VA-approved converted condominium housing development or project.

Fifth. Increase the maximum VA loan guaranty amount from $17,500 to $25,000.

Sixth. Restructure the VA mobile home loan program to more closely parallel that for conventionally built homes. It would eliminate the current multiple statutory maximum loan amounts and substitute a maximum guaranty in the amount of $17,500. It would increase the maximum term of years for which loans are financed from 12 years and 32 days to 15 years and 32 days. It would impose the same criteria for restoration of entitlement as apply to restoration of entitlement used for conventionally built homes. Finally, it provides that a veteran who obtains a mobile home loan will have the opportunity to use his or her partial or remaining entitlement.

Seventh. Authorize the Administrator of Veterans' Affairs to delegate the responsibility for inspection of the mobile home manufacturing process to the Secretary of the Department of Housing and Urban Development. It would also require that the VA monitor safety factors involved in the installation of mobile homes and conduct random onsite inspections to assure compliance with standards of safety.

In addition, the proposed amendments would:

First. Provide authority for the Administrator of Veterans' Affairs to establish and apply criteria for the receipt of GI education loans in order to insure that such loans are made on the basis of financial need directly related to the costs of education.

Second. Permit the Administrator of Veterans' Affairs to pay a cash amount (not to exceed the average actual cost of a Government headstone or marker) as reimbursement for the actual costs incurred by a veteran's survivors in acquiring a headstone or marker for placement in any cemetery, other than a national cemetery, in connection with the burial or memorialization of the deceased veteran.

Third. Provide that the headstone or marker furnished by the Administrator of Veterans' Affairs, when requested by the person entitled to request such headstone or marker, may be made of any material (marble, granite, bronze, slate, or other) so long as it is esthetically compatible with the cemetery and durable enough to be cost-effective.

Fourth. Provide authority for the Administrator of Veterans' Affairs to enter into 50–50 matching grant agreements with States for the establishment, expansion, and improvement of State veterans' cemeteries. It permits a State to count up to 50 percent of the value of land set aside for this purpose as a portion of its share.

These are the major provisions of the proposed House amendments.

Mr. HAMMERSCHMIDT. Mr. Speaker, under my reservation, I wish to say that I concur in what the distinguished chairman of the subcommittee, the gentleman from Georgia (Mr. BRINKLEY) has said.

Mr. Speaker, I am pleased to rise in support of the gentleman's request to concur in the Senate amendment to H.R. 12028 with an amendment.

The amendment we are presenting here today for the consideration and deliberation of the House is the result of many long hours of negotiation and compromise between the Veterans' Affairs Committees of the House and Senate to lessen the differences between the initial versions of this legislation as originally passed by each body.

As it was initially considered and passed by the House of Representatives, the bill included four significant provisions:

First, it increased the maximum specially adapted housing grant from the current $25,000 to $30,000 to assist the severely disabled service-connected veterans in acquiring suitable housing adapted to the nature of their disabilities;

Second, it increased the maximum loan guaranty for conventional housing from the present $17,500 to $25,000;

Third, it restructured the mobile home loan program in a way which more closely follows the Veterans' Administration's program for conventionally built homes; and

Fourth, the bill put the Vietnam veteran on par with those of World War II and Korea by reducing from 181 to 90 days the minimum amount of active duty service required to qualify for Veterans' Administration loan benefits.

In addition to these provisions, which the House passed unanimously by a vote of 373 to 0 on July 17, 1978, several other provisions have now been added to which I call my colleagues' attention and urge their acceptance. The additional provisions to which I have just referred are—

First. To permit VA loan guarantees for converted condominiums. Those of us residing in the Metropolitan Washington, D.C., area are especially conscious of the condominium conversion problem. Under current VA regulations, the veteran cannot avail himself of the loan guarantee program to purchase a condominium which has recently been converted from a rental unit. The inclusions of this provision will for the first time permit our veterans to purchase these units;

Second. To provide for energy efficient loans to be approved by the Veterans' Administration. Currently, home improvement loans are generally permitted by the VA, but this addition is directed primarily toward conservation. We are all well aware of the energy problem facing our country today and the acceptance by the House of this additional provision will indeed significantly promote the conservation of our Nation's energy;

Third. The final significant addition is the inclusion of a grant program to assist the States in the establishing of veterans cemeteries. We are all well aware that many of our national cemeteries are unavailable to our veterans because of the lack of space, and this provision, together with the inclusion of H.R. 12252, which passed the House on July 18 by a vote of 407 to 9 authorizing the payment of the burial allowance to State cemeteries, will significantly reduce the pressure on our national cemetery system. And, it will have the added beneficial effect of enabling our Nation's veterans to be buried closer to home with the families, neighbors, and comrades.

Mr. Speaker, for the many reasons just enumerated, I strongly urge the House favorably consider H.R. 12028, as amended.

● Mr. ROBERTS. Mr. Speaker, earlier this year we reported H.R. 12028 to the House, and it was adopted unanimously. It is a good bill. It will provide veterans some relief to offset the continuing rise in the cost of housing and it will make more readily available to veterans, loans for home improvements, including energy related improvement loans. Since most of the increased benefits will be made available through home loan revolving funds, this measure is not very expensive. It will cost $4.4 million during the next fiscal year.

Mr. Speaker, I want to compliment the distinguished gentleman from Georgia, the very able chairman of the Housing Subcommittee, JACK BRINKLEY. He has done an excellent job in working out the differences between the House and Senate bills with the other body. Because of his leadership and hard work, we expect the other body to quickly concur in the proposed House amendments and send the measure on to the President.

Mr. Speaker, I also want to acknowledge the outstanding contribution of the gentleman from South Dakota, JIM ABDNOR, the ranking minority member of the Housing Subcommittee. He always does a great job, and this agreement could not have been reached without his cooperation and support. The quality of his work is such that we usually accept his recommendations without question. I am grateful to him and all the members of the Subcommittee on Housing for a great job in reaching agreement on the Housing Benefits Act of 1978.

Mr. Speaker, I also want to call to the attention of my colleagues one provision of the proposed amendments that is most important to State and local governments. This bill includes a provision that would direct the Administrator of Veterans' Affairs to pay a $150 plot allowance to a State or political subdivision of a State as reimbursement for expenses incurred when an eligible veteran is buried in a veterans' cemetery owned by a State or local government. A ranking member of our Subcommittee on Cemeteries and Burial Benefits, the Honorable EDWARD BEARD of Rhode Island, is the chief sponsor of this provision. As my colleagues know, the so-called Beard bill, H.R. 12252, passed the House overwhelmingly on June 18, 1978. Following passage there was some indication that the other body would not favorably consider the bill this year; however, because of the determination and hard work of the very able gentleman from Rhode Island, the Senate has agreed to include the provision of his bill in this compromise agreement. I want to personally thank him for carrying through on this issue, as it will mean a great deal to States who have established and now operate veterans cemeteries.

The gentleman from Rhode Island, in working out this agreement, was also instrumental in bringing about a provision of the proposed amendments that would provide new authority for the Administrator to enter into agreements with States, on a 50–50 matching grant basis, to establish, expand, or improve State owned cemeteries. It is an excellent compromise and I am very pleased that we have been able to reach agreement with the other body. I applaud the gentleman from Rhode Island for his efforts in bringing about these provisions of the proposed amendments.

There is also one other provision of the proposed amendments that should be noted. Section 201 of title II would authorize the Administrator of Veterans' Affairs to establish and apply criteria for VA education loan eligibility so as to insure that such loans are made on the basis of financial need directly related to the costs of education.

The Veterans' Administration education loan program was established by Public Law 93–508. When established, an eligible veteran could obtain a VA education loan of up to a maximum of $600 for each academic year if the eligible person was going to school at least on a half-time basis in a course leading to a standard college degree, or a non-college degree for a professional or vocational objective requiring 6 months or more to complete.

As originally passed by Congress, the veteran or dependent had to demonstrate to the Veterans' Administration that they had been denied a loan under the guaranteed student loan program handled by the Department of Health, Education, and Welfare.

Before the loan was approved, an agreement had to be made which provided that repayment of the loan, with interest, must begin 9 months after the veteran ceases to take courses at least half-time and the repayment to be completed by 10 years later.

The 94th Congress increased the maximum loan entitlement to $1,500 per school year with a mandate for the Veterans' Administration to make a more active effort so that more veterans would be aware of this new program. In 1977, the VA loan program was liberalized by the 95th Congress, with a sharp increase in the maximum loan from $1,500 to $2,500 and dropping the requirement that the veteran must have been denied an HEW loan as a prerequisite to eligibility for a VA loan.

In each of these three laws, starting with Public Law 93–508, the official reports accompanying the education and training bills which became law expressed the views and motives of the Congress in establishing and liberalizing the VA education loan program. Throughout the consideration of legislation on this education loan program, there was a stated common agreement and understanding on the part of Congress that the loan program was to be for veterans attending higher cost schools.

For example, the 93d Congress stated quite plainly that the Veterans' Administration education loan program established in Public Law 93–508 was "for those veterans choosing to pursue a course of education leading to a standard college degree and attending certain higher cost institutions," needing additional sums above the amount provided in the GI bill (S. Rept. 93–907). In approving Public Law 94–502, it was reaffirmed by Congress that the extent and scope of the education loan program was for those veterans "attending higher cost institutions who will require loans in addition to the VA monthly educational assistance allowances in order to meet education and living expenses" (S. Rept. 94–1243). The House report on the GI Bill Improvements Act of 1977, in a résumé of the educational assistance available for Vietnam era veterans, it was stated in clear unequivocal language, that the purpose of liberalizing and increasing maximum loan entitlement in Public Law 94–502 to $1,500 per school year in 1976 was "to provide additional assistance to veterans attending higher

cost institutions to help meet higher education and living expenses at those institutions" (H.R. 95-586).

These reports, together with explanatory statements on the House and Senate floors by the managers of the bills which authorized and expanded the education loan program express the views and purpose of the Congress and provide sufficient authority and a solid basis for the Veterans' Administration to limit Veterans' Administration educational loans to veterans attending higher cost schools to help meet educational costs over and above GI bill payments and other available income.

During the last several years, one of the issues continuously before the Congress has been the payment of a tuition bonus or supplement to a veteran attending higher cost institutions. In each Congress, this issue has been considered in depth. In the House, this committee held hearings on a number of tuition supplement proposals. In rejecting the tuition bonus, Congress made it clear that the education loan program was being accepted as a substitute for a tuition bonus or supplement. In other words, the atmosphere and conditions under which Congress approved and expanded the education loan program leads to the inescapable conclusion that the loan program was to be utilized by veterans who choose to attend higher cost schools.

Despite this legislative history on the loan programs, the Veterans' Administration program guidelines and regulations have ignored any reference to eligibility for a VA loan being limited to a veteran attending a high cost school. The committee has also taken notice of the huge number of defaults under the HEW student loan program. An examination of the VA education loan program indicated that the VA program was heading in the same direction. Defaults of due and payable loans plus other factors showed something was drastically wrong.

The subcommittee, through staff investigations and spot checks at several regional offices, also learned that the loan program was not being carried out on a uniform basis. For example, at one regional office, it was determined that there were different standards for approving an educational loan depending on which adjudicator had the responsibility.

On May 16, the Subcommittee on Education and Training held oversight hearings on the Veterans' Administration education loan program. The General Accounting Office had reviewed the Veterans' Administration educational loan program at the request of the House Committee on Veterans' Affairs, to determine if the loan program was meeting its primary objective, as stated in the legislative history. The information presented to the subcommittee in the GAO report dated May 11, 1978, stated that while the legislative history indicated that the primary purpose of the Veterans' Administration education loan program is to provide an educational source of financial aid to students attending a high tuition institution, who would otherwise be financially unable to pursue a program of education at such schools, the Veterans' Administration's implementing regulations and program guidelines do not restrict loan eligibility to students attending high tuition schools. As a result, about 72 percent of the loans made through December 1977 in the regions visited by the GAO, were made to veterans attending schools with low tuition, or no tuition at all.

As of December 31, 1977, the loan default rate was scandalously high. For example, 44 percent of all matured loans were in default, with some of the regions that were visited having a default rate as high as 55 percent.

The GAO recommended that Congress amend the law to give the Veterans' Administrator authority to limit program eligibility to veterans attending high tuition institutions and to request repayment of small loans of less than 10 years.

The amendment in title II of H.R. 12028 would give the Administrator of Veterans' Affairs the authority to establish and apply criteria for entitlement to VA educational loans to be limited to veterans attending educational institutions with high rates of tuition and fees and authorize repayment of certain loans earlier than the present requirement.

It should be emphasized that at the hearing on May 16, 1978, the VA furnished the committee with new program guidelines dated May 12, 1978, DVB Circular 20-78-28, entitled "Veterans' Administration Education Loan Processing", which VA spokesmen indicated would correct many of the problems regarding the administration of this program. Regrettably, the new VA program guidelines on this program does not limit loans to veterans attending high cost institutions. Subsequent visits to VA regional offices by staff members of the Committee on Veterans' Affairs, have revealed that most of the loans being made by the VA since the May 16 hearing, are still being made to veterans attending low-cost institutions. Second, the default rate continues at an abominably and unacceptable rate.

For these reasons, I support the Senate amendment relating to the education loan program which will authorize the VA to limit VA education loans to veterans attending high-cost institutions and require repayment of small loans of less than the 10-year period, coupled with a recommendation that the Administrator make a detailed report to the Veterans Committees of Congress, regarding certain information relative to the default program .

In summary, this amendment carries out the two legislative recommendations submitted by the General Accounting Office at the Subcommittee on Education and Training hearing on May 16, regarding improvements needed in the Veterans' Administration education loan program.

Mr. Speaker, there follows a detailed explanatory statement of the bill as originally passed by the House, the Senate amendments, and the compromise agreement:

H.R. 12028, "VETERANS' HOUSING BENEFITS ACT OF 1978"—EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT, AND COMPROMISE AMENDMENT

AMENDMENT

TITLE I—VETERANS' ADMINISTRATION HOUSING BENEFITS PROVISION

Specially adapted housing grant increase

Sec. 101. The House bill and the Senate amendment would amend section 802 of title 38, United States Code, to provide for an increase from $25,000 to $30,000 in the maximum amount of the specially adapted housing grant.

The compromise agreement contains this provision.

Equalization of VA home loan eligibility for Vietnam-era veterans

Sec. 102, 103(a), and 106. The House bill and the Senate amendment would amend various provisions of chapter 37 of title 38 to reduce from 181 to 90 days—the same length of active-duty service required of veterans of other periods of war—the active-duty service required for Vietnam-era veterans to be eligible for VA home loan programs.

The compromise agreement contains this provision.

Higher interest rates for energy-related and other home-improvement loans

Sec. 103(b). The Senate amendment would amend section 1803(c)(1) of title 38 to provide authority for the VA to guarantee loans for energy-related home improvements at an interest rate higher than that set for loans to purchase homes.

The House bill contained no comparable provision.

The compromise agreement contains the Senate amendment with an amendment to include authority to guarantee home-improvement loans at higher interest rates for general home improvements as well as energy-related improvements and with technical amendments.

Guarantees of loans for purchases of converted condominium units and for energy-related home improvements

Sec. 104. The Senate amendment would amend section 1810(a) of title 38 to include among the authorized purposes for VA home-loan guaranties the purchase of a unit in a converted condominium development or project and to define the energy-related home improvements that would qualify for a VA-guaranteed loan at an interest rate (as provided for in the amendment made by section 5(1) of the Senate amendment) higher than the rate set for a loan for the purchase of a new home.

The House bill contained no comparable provisions.

The compromise agreement contains the Senate provisions with technical amendments and a modification of the provision relating to energy-related home-improvement loans to eliminate a clause that would authorize such a loan, at a higher interest rate, for home improvements to "a dwelling or farm residence which *is to be* . . . owned and occupied by the veteran . . ." (Emphasis added.) The Committees feel strongly that, where the veteran desires to have certain energy-related home improvements made to a house that he or she is planning to purchase, such energy-related home improvements should ordinarily be included as part of the total transaction relating to the purchase of the home and thus should be financed as part of and at the same interest rate as the loan for the purchase of the home—not as a separate loan at a higher interest rate. Thus, by removing the provision authorizing the higher interest for VA-guaranteed loans for energy-related home-improvements prior to purchase and occupancy, the Committees intend to encourage

lenders and builders to arrange for the inclusion of the needed loan amounts in the lower-interest, home-purchase loan. The Committees further recognize that there may be instances when such financing may not be obtainable; and, in those instances, the veteran would still have the option of seeking the separate energy-related, guaranteed home-improvement loan after purchase and occupancy of the house if the veteran has remaining home loan entitlement.

The Committees also note that the provisions relating to various solar energy systems are meant to include authority for the Administrator to guarantee loans for solar energy systems that include or are limited to solar domestic hot water systems.

Amount of loan guaranties and direct loans for purchase or construction of homes

Sec. 105. The House bill and the Senate amendment would amend section 1810(c) of title 38 to provide for an increase in the maximum VA loan guaranty amount from $17,500 to $25,000, and make conforming amendments to section 1811(d)(2), relating to the VA's direct loan program, to reflect the amendments raising the loan guaranty maximum to $25,000 and the amendments made by section 1 of the House bill and section 9 of the Senate amendment to restructure the mobile-home loan guaranty program.

The compromise agreement contains these provisions.

Mobile-home and mobile-home lot loans

Sec. 107. The House bill and the Senate amendment would amend section 1819 of title 38 in order to restructure the VA mobile-home loan program by—

Substituting a maximum loan guaranty (50 percent of the loan up to a maximum guaranty of $17,500) for the existing statutory maximum dollar loan amounts;

Increasing the maximum term of years for which a loan for a single-wide mobile home may be financed;

Providing the same criteria for restoration of loan entitlement as in the conventional housing loan program; and

Changing the current mobile-home loan program to allow a veteran to use remaining loan entitlement when moving from a conventionally built home to a mobile home.

The compromise agreement contains these provisions. The Committees note that the provisions relating to purposes for which loans may be guaranteed under the mobile home loan guaranty program include authority for the Administrator to guarantee loans for the purchase of either new or used mobile homes.

Mobile-home inspection requirement

The House bill would delete the existing requirements in section 1819(1) of title 38 that the VA (a) inspect the mobile-home manufacturing process of manufacturers who sell mobile homes to veterans using VA assistance and (b) conduct random onsite inspections of mobile homes purchased by veterans with VA assistance.

The Senate amendment would retain both inspection requirements but allow the Administrator to delegate the responsibility for inspection of the manufacturing process to the Secretary of Housing and Urban Development (HUD), subject to (a) acceptance of the delegation by the Secretary, (b) a requirement that the Administrator promptly be provided the full results of HUD inspections, and (c) the right to revoke the delegation in whole or in part and for such period or periods of time as the Administrator determines appropriate. In addition, the Senate amendment would add a provision to the onsite inspection requirement to require the Administrator to check for safety factors during such inspections.

The compromise agreement contains the provisions of the Senate amendment with two modifications. First, the requirement that the Secretary of HUD provide the results of manufacturing process inspections to the Administrator is limited to those instances where the Administrator requests such results. Second, the provision relating to manufacturing-process inspections was also modified to eliminate the Administrator's authority to withdraw from the Secretary of Housing and Urban Development the delegation of the duty to conduct manufacturing-process inspections "for such period or periods of time" as the Administrator desires. This change was made so that once the Administrator decides to withdraw the delegation, no renewal of the delegation would be permitted except upon terms and conditions agreed to by the Secretary.

Effective dates

Sec. 108. The House bill and the Senate amendment would both become effective on October 1, 1978.

Under the compromise agreement, all provisions relating to VA housing benefits will take effect on October 1, 1978, except that the effective date for the provision (section 104(1)) authorizing VA guarantees of loans for the purchases of units in converted condominium developments and projects is delayed until July 1, 1979, in order to give the Administrator sufficient time to develop and publish regulations incorporating standards for the approval of converted condominium projects.

TITLE II—MISCELLANEOUS PROVISIONS

VA education loan program

Sec. 201. The Senate amendment would amend section 1798 of title 38 to authorize the Administrator, on the basis of information derived from the mandated continuing review of education loan default experience and rates and in order to ensure that such loans are made on the basis of financial need directly related to the costs of education, to establish and apply criteria for VA loan eligibility (a) to limit eligibility to veterans and other eligible persons attending educational institutions with high rates of tuition and fees, and (b) to require repayment of certain loans, especially small loans, earlier than allowed under current law.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision with modifications to require that the Administrator's report on the default experience and rates be submitted to the Congress not later than December 31 of each year (rather than on February 1) and to make certain other technical changes. The Committees note that it is their intention that the second and third elements of the annual report are both to be broken down into two categories: Loans in connection with accelerated payments under section 1682A and other VA educational assistance loans.

State veterans' cemetery assistance

Sec. 202. The Senate amendment would amend chapter 23 of title 38 to establish a program of assistance to the States for the establishment, expansion, improvement, operation, and maintenance of State veterans' cemeteries. The program would use a three-part Federal-State matching-fund approach, each funded on a maximum 65-percent Federal 35-percent State basis, as follows: (a) grants to the States for the establishment, expansion, or improvement of State veterans' cemeteries, with a State being able to take credit for the value of land already owned by the State and dedicated to use as a veterans' cemetery at the time of the grant; (b) payments by the Federal Government to the States toward the cost of the interment of each eligible person in such cemeteries, up to a maximum federal payment of $150 per interment; and (c) payments by the Federal Government to the States toward the annual cost of maintenance of the gravesites of each eligible person buried in such cemeteries, up to a maximum federal payment of $40 per year per eligible gravesite.

The House bill contained no comparable provision; but H.R. 12252, which the House passed on July 18, 1978, would direct the Administrator to pay the currently authorized $150 plot allowance to a State or an agency or political subdivision of a State (instead of to a veteran's survivors) when an eligible veteran is buried in a veteran's cemetery owned by a State or an agency or a political subdivision of a State.

The compromise agreement contains the provisions of the House bill relating to the payment of the plot allowance to a State together with some provisions from the Senate amendment relating to the Federal-State matching grant program for the establishment, expansion, or improvement of State veterans' cemeteries, with modifications to change the Federal-State payment ratio to a 50-percent Federal/50-percent State basis and to require that at least 50-percent of the State's share must be in cash (instead of allowing all of the State's share to consist of land dedicated by the State for the cemetery). The compromise agreement also includes a provision for the recapture of the federal funds from the State if the cemetery ceases to be operated by or on behalf of the State as a veterans' cemetery. The provisions of this new authority were adapted by the Committees to reflect their belief that there is an important role for the Federal Government to play in assisting interested States to establish or expand State veterans' cemeteries but that the States should retain the long-term responsibility for the care and maintenance of such facilities.

Memorial Markers and Headstones

Sec. 203. The Senate amendment would amend section 906 of title 38 to authorize the Administrator to supply a VA headstone or memorial marker made of any material requested, including but not limited to marble, granite, bronze, or slate, when the material is determined by the Administrator to be cost effective and, if the headstone or marker is to be placed in a national cemetery, aesthetically compatible with the cemetery area.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision with a further amendment to section 906 to authorize the Administrator, when requested by the person entitled to request the headstone or marker, to pay a cash allowance in lieu of providing a VA headstone or memorial marker. This provision would limit the cash payment to an amount not to exceed the average actual cost of VA headstones and markers, and would require that the payment be made only as reimbursement for a non-VA headstone or marker actually purchased and only for a headstone or marker for use in a cemetery other than a national cemetery.

Technical amendments to VA hospital-naming law

Sec. 204. On August 28, 1978, H.R. 11579, which provided for the naming of certain VA hospitals, was enacted as Public Law 95-353. Section 203 of the measure as enacted contained two technical errors.

The compromise agreement contains provisions which correct those two errors.

Provisions not included in the compromise agreement

The Senate amendment would clarify that none of the provisions of the Committee bill, other than amendments providing for new spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, would authorize, directly or indirectly, the enactment of new budget authority.

The House bill contained no comparable provision.

The compromise agreement does not contain this provision.

The Senate amendment would amend section 1816(a) of title 38 to require the Administrator to evaluate the desirability—from the standpoint of exercising forbearance enabling the veteran to continue to own the home—of taking an assignment of a VA-guaranteed loan before allowing a lender to take such a loan to foreclosure.

The House bill contained no comparable provision.

The compromise agreement does not contain this provision.●

● Mr. ABDNOR. Mr. Speaker, I am most pleased to rise and offer my support to H.R. 12028 as amended. This bill incorporates the basic principles which improve the Veterans' Administration home loan guaranty program, plus additional improvements the other body has seen fit to add.

As you will recall when the House passed the bill in July we pointed out that it made four important changes in current law. I would like to briefly recount those changes for you.

First, the bill calls for an increase in the specially adapted housing grant from $25,000 to $30,000. This grant is offered on a one-time basis to our severely disabled veterans so they can make modifications on their homes to make locomotion simpler. The grant cannot exceed 50 percent of the total cost of the work. Considering the ever-increasing cost in housing this increase is certainly warranted.

Second, this legislation increases the loan guaranty for conventional home loans from $17,500 to $25,000. I do not have to tell you what the cost of housing is throughout the Nation. Lenders usually use a multiple of four as a benchmark when making loans.

Considering this fact, a loan of $70,000 theoretically could be made. This would certainly cover most cases when it is noted that the average cost of housing in the country today is approximately $38,000. However, some parts of the Nation such as the Washington Metropolitan area, New England, and southern California far exceed this average. This increase will allow veterans seeking housing in these areas to use the VA program.

Third, the House version reduced the service eligibility requirement for Vietnam-era veterans from 181 days to 90 days. Prior to now those veterans who served during the conflict in Southeast Asia had to serve a longer time than those veterans of World War II and Korea. This change modifies the law by making the program more equitable for wartime veterans. The VA estimates that this change will grant eligibility to approximately 168,000 Vietnam-era veterans.

The fourth change was the realinement of the mobile home program. The proposed changes will more closely aline the mobile home program with the conventional program. The major change is the establishment of a $17,500 loan guaranty in place of the maximum loan limits which prevail under current law. Since the mobile home program was created in 1970, we have hoped that it would provide low cost housing for our younger veterans. History has proved us correct. As the program has grown we have made appropriate changes in the law to accommodate the needed improvements. I certainly believe today is the time to make the changes outlined in this bill. It most certainly will stimulate interest in the lending market and provide a good alternative for housing to our veterans.

I would now like to cite a couple of improvements the other body has included in this bill, which I feel deem consideration.

Under current law the VA will not guarantee existing properties which have been converted to condominiums. H.R. 12028 proposed to lift this provision and provide the opportunity to veterans who wish to purchase converted condominiums. I am sure you are all aware of the housing market. I have made notations about it in my statement. This addition will open a new form of housing to our veterans. It will certainly be an added improvement in the program.

Another provision I believe we should accept is the Senate language authorizing the Administrator of Veterans Affairs to make loan guarantys to veterans who wish to upgrade their homes through installation of energy efficient improvements. The language in the bill mandates that the Administrator consult with the Secretary of HUD before making any determination on a loan. The Housing Subcommittee held hearings on a similar proposal in July.

Considering the testimony we received at that time, plus the investigation I have conducted since then, I feel that this amendment merits our support. It certainly will assist our veterans and show that we are most concerned about energy conservation in this Nation.

I am also very pleased that the House and Senate have informally agreed to language similar to that of H.R. 4538 which I introduced earlier in this Congress. This language was not in the House passed version of H.R. 12028. However, I feel that it deserves our strong support. Very briefly, it would offer the survivors of a government procured marker or taking the amount equal to the Government's cost for securing that marker and apply that sum to ward the purchase of a conventional marker. I feel that this is totally a question of equity and will provide our veterans' survivors a choice in selecting an appropriate memorial for their loved ones.

Considering that the points I have covered as well as those others have voiced support for, I believe you will agree that all in all this bill is going to be very helpful to a large number of our Nation's 30 million veterans. I do hope that you will join me in supporting it.●

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Georgia.

GENERAL LEAVE

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the pending legislation, H.R. 12028.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Georgia?

There was no objection.

A motion to reconsider was laid on the table.

PROPOSED RESCISSION IN EMPLOYMENT AND TRAINING FUNDS—FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-388)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $10.8 million in employment and training funds appropriated to the Department of Labor.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1978.*

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. HOWARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 6, not voting 71, as follows:

[Roll No. 847]

YEAS—355

Abdnor	Andrews, N. Dak.	AuCoin
Addabbo	Annunzio	Badham
Akaka	Appegate	Bafalis
Alexander	Archer	Baldus
Anderson, Calif.	Ashley	Barnard
Anderson, Ill.	Aspin	Baucus
		Bauman

Beard, R.I.	Fuqua	Mollohan
Beard, Tenn.	Gammage	Moore
Bedell	Gaydos	Moorhead, Calif.
Beilenson	Gephardt	Moorhead, Pa.
Benjamin	Giaimo	Mottl
Bennett	Gibbons	Murphy, Ill.
Bevill	Gilman	Murphy, N.Y.
Biaggi	Ginn	Murphy, Pa.
Bingham	Glickman	Murtha
Blanchard	Gonzalez	Myers, Gary
Boggs	Goodling	Myers, John
Boland	Gore	Myers, Michael
Bolling	Gradison	Natcher
Bonior	Grassley	Neal
Bonker	Green	Nedzi
Bowen	Gudger	Nichols
Brademas	Guyer	Nolan
Brinkley	Hagedorn	Nowak
Brodhead	Hamilton	O'Brien
Brooks	Hammer-schmidt	Oakar
Broomfield	Hanley	Oberstar
Brown, Calif.	Hannaford	Obey
Brown, Mich.	Hansen	Ottinger
Brown, Ohio	Harkin	Panetta
Broyhill	Harris	Patten
Buchanan	Harsha	Patterson
Burgener	Hefner	Pattison
Burke, Fla.	Heftel	Pease
Burke, Mass.	Hightower	Perkins
Burlison, Mo.	Hillis	Pickle
Burton, Phillip	Holt	Poage
Byron	Holtzman	Price
Carney	Horton	Pritchard
Carr	Howard	Pursell
Carter	Hubbard	Quillen
Cavanaugh	Huckaby	Rahall
Cederberg	Hughes	Railsback
Chappell	Hyde	Rangel
Clausen, Don H.	Ichord	Regula
Clawson, Del	Ireland	Reuss
Cleveland	Jacobs	Rhodes
Cohen	Jeffords	Richmond
Coleman	Jenkins	Rinaldo
Collins, Ill.	Jenrette	Roberts
Conable	Johnson, Calif.	Robinson
Conte	Johnson, Colo.	Rodino
Corman	Jones, N.C.	Roe
Cornell	Jones, Okla.	Rogers
Cotter	Jones, Tenn.	Rooney
Coughlin	Jordan	Rose
Crane	Kasten	Rosenthal
Cunningham	Kastenmeier	Rostenkowski
D'Amours	Kazen	Rousselot
Daniel, Dan	Kelly	Roybal
Daniel, R. W.	Kemp	Rudd
Danielson	Kildee	Ruppe
Davis	Kindness	Russo
de la Garza	Kostmayer	Ryan
Dent	Krebs	Satterfield
Derrick	Lagomarsino	Sawyer
Derwinski	Latta	Scheuer
Devine	Le Fante	Schroeder
Dickinson	Leach	Schulze
Dicks	Lederer	Sebelius
Dingell	Lehman	Seiberling
Dornan	Lent	Sharp
Downey	Levitas	Shuster
Drinan	Livingston	Sikes
Duncan, Oreg.	Lloyd, Tenn.	Simon
Duncan, Tenn.	Long, La.	Skubitz
Early	Long, Md.	Smith, Iowa
Eckhardt	Lott	Smith, Nebr.
Edgar	Lujan	Snyder
Edwards, Ala.	Luken	Solarz
Edwards, Calif.	Lundine	Spellman
Edwards, Okla.	McClory	Spence
Eilberg	McDade	St Germain
Emery	McFall	Staggers
English	McHugh	Stangeland
Erlenborn	McKinney	Stanton
Ertel	Madigan	Stark
Evans, Ga.	Maguire	Steed
Evans, Ind.	Mahon	Steers
Fary	Markey	Steiger
Fascell	Marks	Stockman
Fenwick	Marlenee	Stratton
Findley	Marriott	Studds
Fish	Martin	Stump
Fisher	Mattox	Symms
Fithian	Mazzoli	Taylor
Flippo	Meeds	Thompson
Flood	Metcalfe	Thornton
Florio	Meyner	Traxler
Flowers	Michel	Treen
Flynt	Mikulski	Trible
Foley	Mikva	Tucker
Ford, Tenn.	Miller, Ohio	Udall
Forsythe	Mineta	Ullman
Fountain	Minish	Van Deerlin
Fowler	Mitchell, Md.	Vander Jagt
Fraser	Mitchell, N.Y.	Vanik
Frenzel	Moakley	Vento
Frey	Moffett	Volkmer
Waggonner	Whalen	Wright
Walgren	White	Wydler
Walker	Whitehurst	Wylie
Walsh	Whitley	Yates
Wampler	Whitten	Yatron
Watkins	Wilson, C. H.	Young, Fla.
Waxman	Winn	Young, Mo.
Weaver	Wirth	Zablocki
Weiss	Wolff	Zeferetti

NAYS—6

Collins, Tex.	Lloyd, Calif.	Quayle
Hawkins	McDonald	Wilson, Bob

NOT VOTING—71

Ambro	Evans, Del.	Pepper
Ammerman	Ford, Mich.	Pettis
Andrews, N.C.	Garcia	Pike
Armstrong	Goldwater	Pressler
Ashbrook	Hall	Preyer
Blouin	Harrington	Quie
Breaux	Heckler	Risenhoover
Breckinridge	Holland	Roncalio
Burke, Calif.	Hollenbeck	Runnels
Burleson, Tex.	Keys	Santini
Burton, John	Krueger	Sarasin
Butler	LaFalce	Shipley
Caputo	Leggett	Sisk
Chisholm	McCloskey	Skelton
Clay	McCormack	Slack
Cochran	McEwen	Stokes
Conyers	McKay	Teague
Corcoran	Mann	Thone
Cornwell	Mathis	Tsongas
Delaney	Milford	Wiggins
Dellums	Miller, Calif.	Wilson, Tex.
Diggs	Montgomery	Young, Alaska
Dodd	Moss	Young, Tex.
Evans, Colo.	Nix	

Mr. LEHMAN changed his vote from "nay" to "yea."

Mr. OBEY changed his vote from "present" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11733, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 27, 1978, title III had been considered as having been read and open to amendment at any point.

Are there any amendments to title III?

AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOWARD: Page 188, after line 3, insert the following:

(g) Section 18 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(g) The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

Page 190, line 21, strike out the quotation marks and the final period.

Page 190, after line 21, insert the following:

"(f) The provisions of section 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

Page 193, line 3, strike out the quotation marks and the final period.

Page 193, after line 3, insert the following:

"(e) The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

Page 199, line 13, strike out the quotation marks and the final period.

Page 199, after line 13, insert the following:

"(g) The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Madam Chairman, this amendment is in the form of, perhaps, a technical amendment. During the markup session on the transit end of this bill, there was some doubt as to whether or not provisions of section 13(c), relating to labor provisions, was included in the new portions of the bill. The advice given to the subcommittee at that time was that it was, and the committee members voted on that basis. In further looking at this comprehensive bill, we find that that was not the case, and so all this does is to correct the legislation so that it does reflect what the subcommittee and later the full committee voted on, on the advice of counsel.

So I believe there is no opposition to this at all. We do have in the RECORD the markup session where the gentleman from California (Mr. MINETA) put the question to the staff and received an answer; so I hope the amendment will be agreed on.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Madam Chairman, the gentleman from New Jersey (Mr. HOWARD) accurately states the situation. Because of the misunderstanding surrounding the original interpretation, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HOWARD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THOMPSON

Mr. THOMPSON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON: Page 198, strike out line 15 and all that follows through line 22, and insert in lieu thereof the following:

"(d) Grants under this section shall be subject to such terms and conditions as the Secretary may prescribe. In setting forth such terms and conditions, the Secretary is authorized to waive such provisions of this Act, other than section 3(e)(4) and section 13 of this Act, as he may deem inconsistent with the special needs of public transportation in areas other than urbanized areas. For the purposes of this section, the Secretary of Labor may waive any provisions of section 13(c) of this Act. Nothing under this subsection shall affect or discharge any responsibility of the Secretary under any other provision of Federal law.

Mr. THOMPSON (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Madam Chairman, the amendment I offer today is one that I understand is acceptable to the minority and majority members of the committee and to all of those who have been active in developing this excellent legislation. The amendment offers a small but necessary adjustment to the bill. It simply revises what I believe in an overly broad "waiver" provision now included in section 325 of the bill.

My amendment is in the nature of a substitute waiver provision. The new provision affirms the authority, for the purposes of this section, of the Secretary of Transportation to waive certain provisons of the act when such a waiver would be appropriate. The amendment makes it clear that this waiver authority does not extend to those provisions which assure minimal labor protections, namely section 13 of the act. Only the Secretary of Labor is granted the authority to waive section 13(c) of the act in cases where no employees will be affected by a particular grant. This waiver authority is allocated, in accordance with present law and practice, to the Secretary of Labor who has been responsible for the interpretation, administration, and application of the labor protective provisions of the act.

My amendment preserves the existing language in the bill which states that the waiver authority does not extend to requirements created by any other Federal law.

Section 325 of the bill, provides for a new program of transportation assistance to small urban and rural areas. The section includes within it a proposed new section 22(d) of the Urban Mass Transportation Act which I believe creates an overly broad authority in the Secretary of Transportation. Under the provision, the Secretary of Transportation is granted unlimited authority to waive any substantive or procedural requirement of the act, which the Secretary, in his sole discretion, deems "inconsistent with the special needs of public transportation" in these smaller areas.

However laudable the goal, the waiver authority, as originally drafted, would permit wholesale departures from the many substantive requirements of the UMTA Act which now apply to the overall Federal transit program. Clearly certain statutory provisions designed to protect the public interest, all of which have been mandated for urbanized areas of above 50,000 population, should similarly apply to the smaller urban areas of between 5,000 and 50,000 population which are covered by this program. There seems no justification for the Congress to grant a waiver authority which would allow the Secretary of Transportation to waive any of these provisions, without limitation.

My amendment is in the nature of a substitute provision and would cure this deficiency in the existing bill. Its intent is not in any way to impair the existing authority of the Secretary of Transportation to eliminate redtape and otherwise to lessen the burdens of compliance with any and all substantive requirements which will apply to this program, as to any other.

All my amendment does is make plain that the small urban and rural areas will be brought into the mass transit assistance program under the same basic standards of the public interest as now apply. My amendment does provide, however, that the labor standards provisions applicable to the small urban program, contained in section 13(c), may be waived by the Secretary of Labor in cases where no employees will be affected by a particular grant. It is envisioned that, in some instances, at least, there may well be no employees presently providing mass transportation services in the area of the project and, consequently, no one who would be entitled to the statutory protections at the outset of the program.

Under my amendment, this waiver authority is allocated, in accordance with present law and past practice, exclusively to the Secretary of Labor. It is clear, I believe, that the interpretation, administration, and application of the labor protective provisions of the act should remain the exclusive responsibility of the Secretary of Labor.

Under my amendment the provisions of section 13 (a) and (b) would not be subject to any waiver. The Secretary of Labor would have the authority, where appropriate to waive any or all provisions of section 13(c).

Finally, it should be stated that my amendment intends no wholesale waiver of the section 13(c) labor standards provisions as applied to the small urban program. These standards must be met under the act whenever there are employees of public transportation service providers already working in the service area of the proposed project who could potentially be affected by the grant. These employees must be accorded the full protections as set forth in section 13 (c) of the act. These include appropriate assurances of continued employment, preservation of employee rights and benefits, paid training and retraining programs, and worker reimbursement allowances for any loss of work and earnings which may occur as a result of Federal assistance, under employee protective arrangements approved by the Secretary of Labor, and specified in the contract of assistance for the project.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding, and we certainly accept this amendment offered by the gentleman because it does clarify the fact that in rural areas there may be waivers to sections of the mass transit provision; and also that there would be no delay in the processing of applications or requests for grants under this with the gentleman's amendment in the legislation. There is no stopping or delay in any way in processing, while there is a determination of whether or not any portion of this should be waived. So I would on this side accept the amendment.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, I thank the gentleman for yielding. One of the matters of deep concern to some of us has been the opportunity for rural areas to receive waivers, particularly with regard to redtape. As I understand it, this in no way makes it more difficult to receive redtape type waivers in rural areas.

Mr. THOMPSON. The gentleman is correct. In a very real sense the amendment will expedite the waiver procedures. The Secretary of Labor, who has a similar responsibility under other acts, has expertise which does not reside in the Department of Transportation, and is better staffed and equipped and more able to process a waiver quickly.

Mr. SHUSTER. I thank the gentleman for his explanation. We have no objection to the amendment.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Madam Chairman, I thank the gentleman for yielding. I was impressed with his explanation just a moment ago that this amendment is not intended to add to redtape. I hope that is accurate, because there has been some experience that some of the 13(c) agreements have taken some time.

I just would like to ask the gentleman, since rural transportation programs are new programs intended to provide service where none exists now, what is the intention or the purpose of labor protection in this case?

Mr. THOMPSON. The simple purpose of this is to protect existing contracts and, on the other hand, where there is no existing collective-bargaining contract in a rural area, those workers who are not part of an agreement will be protected if there is any displacement caused by a new transit system.

Mr. EDGAR. If the gentleman will yield further, to make rural transit work effectively, innovative service techniques will have to be devised, such as school buses in off hours, jitneys, taxis, van pooling programs, and so forth. Rural public transportation will not resemble conventional public transportation systems. Is the gentleman confident that the 13(c) process will provide that labor unions are going to give their blessings to these new innovative programs?

Mr. THOMPSON. Yes I am, in the first place. In the second place, I believe these programs can only succeed with the active and thoughtful support of labor, which I believe they should and will provide.

Mr. EDGAR. I thank the gentleman for his comments. As the gentleman knows, this is a new program that we put in the bill, and it is innovative. It is something we hope will establish good alternative transportation services for rural residents. I expect the Secretary of Labor to waive the 13(c) requirements wherever grants provide new service that clearly is noncompetitive with existing services; that is, wherever no on-line

providers will be adversely affected by the grant. In addition, the sense of this debate is that waivers should be granted expeditiously so that redtape is minimized and so that these new services can get on line quickly and efficiently.

Mr. BREAUX. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the major difference in the gentleman's amendment as far as changing what the committee reported is that the authority to grant the waiver of the 13(c) labor provisions is no longer going to reside in the Department of Transportation. The committee bill said that the Secretary—meaning the Secretary of Transportation—when he viewed that a 13(c) agreement was not essential or not in the interests of the program, nor in the interests of a particular area that was going to receive a grant, that the Department of Transportation through the Secretary could grant a waiver. The amendment of the gentleman from New Jersey (Mr. THOMPSON) of course says the Secretary is the Secretary of Labor. I tend to doubt whether we are going to get a lot of waivers of the 13(c) provision from the Secretary of Labor. I think he is going to insist that the process be carried out.

For that reason, I would prefer it be in the Secretary of Transportation office, because I think he is more attuned to the particular problems of a transportation grant, particularly to a rural area that might not be governed by a collective bargaining agreement. I thought the committee bill was more preferable.

However, this language, I understand, is the same language as that adopted by the Senate. My real concern is that we not get involved in going through a drawn out process, and it is indeed a long process where the locality certifies the grant will not affect rights of any workers in that area.

That measure is then sent to the Department of Labor, and then the Department of Labor has to check it out to see whether any local employee rights are going to be affected by this grant. Who does he check with if the local area does not have any collective bargaining agreement? Does he go to the transportation union in another city? Does he go to an international union and ask them in Washington whether this grant to a local area is going to affect the rights of locals in that rural area? I have concerns about it.

I would ask the author of the amendment whether he feels there will be instances when the Secretary of Labor feels it would be in his interest to grant a waiver and the 13(c) section would not have applied, particularly in the rural area, which is the only area we are talking about?

Mr. THOMPSON. I would reply to the gentleman from Louisiana that conceivably in appropriate instances there would be waivers. These waivers would undoubtedly be granted very quickly in the absence of any collective-bargining agreement.

Mr. BREAUX. I thank the gentleman for the answer.

We have discussed his concerns and my concerns. My main concern is that this small section of the bill does not allow there to be delays ad infinitum, as we have seen in some instances there have been delays of a grant to the rural areas.

I understand that is the intent of the gentleman from New Jersey in offering his amendment. I have no objection to it. I hope we can proceed with the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. THOMPSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BONIOR

Mr. BONIOR. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BONIOR: Page 181, after line 7 insert the following new subsection:

(c) (1) Subsection (b) of section 12 of the Urban Mass Transportation Act of 1964 is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) In the case of any contract for the acquisition of any buses or light rail (trolley), which will result in the expenditure of Federal financial assistance under this Act, the Secretary shall permit the State or local public body which is acquiring such buses or light rail (trolley) to provide in advertising for bids for buses or light rail (trolley) specifications which shall be based on the local body's determination of local requirements for safety, comfort, maintenance and life cycle costs for passenger amenities such as passenger seats and interior lighting for such buses or light rail (trolley).

"(3) The amendment made by paragraph (2) of this subsection shall apply to any contract for the acquisition of any buses or light rail (trolley) which will result in the expenditure of Federal financial assistance under the Urban Mass Transportation Act of 1964 if the initial advertising for bids for buses or light rail (trolley) occurs on or after the date of enactment of this subsection."

Mr. BONIOR (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BONIOR. Madam Chairman, I will be very brief.

The amendment addresses a problem that was created through a specification by the Urban Mass Transit Administration, which I think will limit the ability of the transit operators to use buses or trolleys which will attract more passengers by providing more comforts and conveniences. What the ruling of the Department of Transportation did in fact do was take away from the local operator, whether the Metro in Washington, or BART, or the SEMTA in Detroit, their individual right to choose the type of seating and lighting in specific trolleys and buses. This does not mandate but gives them the right to do it, it gives them the right to advertise for bids for comfortable seating, for durable seating and for safe seating.

I have discussed this with the gentleman from New Jersey and I yield to the gentleman from New Jersey.

Mr. HOWARD. We do have a standard minimum basic bus seat that would be available on a lowest bid basis, but as the gentleman brought out we also do have areas where we have in our transportation systems much longer rides for people. We do have areas where there is a great number of senior citizens.

As I understand it, all this does is say that if the local people do wish because of their circumstances to go beyond those minimum specifications and pay the extra money for the other type seating, without using any brand name, and having that specification open to all who wish to participate in the bidding, that would be permitted under the gentleman's amendment.

Mr. BONIOR. That is correct.

Mr. HOWARD. Under those circumstances I think that it is a worthwhile amendment. It gives some flexibility because we have different kinds of needs in public transportation, we have different situations in age groups which are predominant in certain communities. I hope the amendment is agreed to.

Mr. RICHMOND. Madam Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Madam Chairman, I rise in support of the amendment by my friend from Michigan (Mr. BONIOR) to permit local transit operators the right to specify which passenger amenities they feel they need in order to meet local conditions. This amendment will allow local authorities to consider such factors as safety, comfort, styling, maintenance, and lifecycle costs when they select seating, lighting, and other amenities for passenger buses.

I just do not believe it is possible to devise one standard for all the amenities on passenger buses that will satisfy the needs of consumers in congested urban areas like New York City, on the freeways of Los Angeles, and in all the cities and on all the different kinds of terrain in between.

Local transit authorities know their consumers best and they are in the best position to make the decisions about such important factors as safety, comfort, and maintenance costs. Passage of this amendment will assure that local authorities have the option of meeting those identified needs of their riders based upon local conditions.

Survey after survey has found that consumers rank comfort and safety the highest in deciding whether to use public transportation regularly.

If we want to encourage people to cut down on use of private automobiles and to use public transportation, I urge my colleagues to support this amendment.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, I thank the gentleman from Michigan for yielding to me.

Madam Chairman, I thank the gentleman for yielding.

With respect to the gentleman's

amendment, Madam Chairman, let me say that I have spoken with the gentleman from Michigan (Mr. SAWYER) and he has emphasized the importance of it. We construe it as a local option amendment and I think it is a good amendment and urge its adoption.

Mr. TRAXLER. Madam Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Michigan.

Mr. TRAXLER. Madam Chairman, I want to congratulate my colleague, the gentleman from Michigan (Mr. BONIOR) for offering this amendment because it has a great impact and is of considerable importance to our State. I appreciate the gentleman's leadership in this matter. I sincerely hope the amendment is agreed to.

Mr. HARSHA. Madam Chairman, I move to strike the last word.

Madam Chairman, I take this time to ask the author of the amendment, the gentleman from Michigan (Mr. BONIOR), several questions. I might say, Madam Chairman, that I have some reservations about the amendment because under present law UMTA has devised an essentially functional specification for the purpose of the advance design buses and for the subsequent new design—Transbus. Is the purpose of your amendment to permit local bodies to designate a particular manufacturer of a seat, for example?

Mr. BONIOR. No, it is not. It is not designed to do that at all. It is designed to give local bodies, local operators, the option to specify a different type of seat that might, in fact, be manufactured other than is required by UMTA.

Mr. HARSHA. Then it does not contemplate or authorize the use of "brand name or equal" in making these specifications?

Mr. BONIOR. The gentleman is correct.

Mr. HARSHA. Madam Chairman, I have another reservation. If we allow each separate local body to make these particular designations, then we are getting away from standardization. You may have many different standards all throughout the country. This would make the system of procurement much more complicated. Is there anything in the gentleman's amendment that would alleviate this possible situation?

Mr. BONIOR. Well, it just deals specifically not with the total bus, just with amenities. Basically what we are talking about is seating and lighting. I do not anticipate that we are going to get a rash of local operators coming in and asking for specific specifications which differ from what we have now. But there are examples. For instance, the Shirley Highway busline that runs into Washington, it is a long trip and the Metro people asked for a specific type of seating, because of the long trip and the need to attract ridership. Surveys have found that because of that particular type of seat was put into the Metro buses on the Shirley line that it has attracted ridership. So I believe there will be other examples like that. That is what the amendment is intended to do, to meet those problems and provide them with flexibility to do it.

Mr. HARSHA. I can understand that there may be certain situations where a specific local need would require that a bus be designed to meet that need. But I am more concerned that we may be getting into an area where we would be developing numerous specific situations—such as special seats—and that under those circumstances each locality could specify what equipment it wants in the bus to meet those needs. Then a locality immediately adjacent thereto, which has similar needs and requirements, but they are not restricted to a peculiar set of circumstances, could require different standards to meet their needs. Therefore, you have the problem of trying to produce a piece of equipment to fit one set of circumstances and then trying to construct the same equipment to fit similar circumstances but with different specifications. I think that will cause considerable problems in the construction industry because of those specific needs. However, while I do not intend to object to the amendment, I am just pointing out these problems in connection with it.

I am just pointing out these problems with it on the assurance of the gentleman that he in no way contemplates the use of brand names of manufacturing concerns in the identification of these specifications; is that correct?

Mr. BONIOR. That is correct.

Mr. DEVINE. Madam Chairman, I move to strike the requisite number of words.

I would like to direct an inquiry to the author of the amendment, the gentleman from Michigan (Mr. BONIOR).

Was this amendment known originally as the General Motors amendment?

Mr. BONIOR. No. I do not believe General Motors has had an influence in my offering the amendment. In fact, I have never even talked with them about it or had any communications from them on it.

Mr. DEVINE. The reason I direct the inquiry is that I understand the first version of the gentleman's amendment did specify certain bus components by brand name, and then later the gentleman revised the amendment. The second version now removes the objectionable brand name words, but permits the same action to take place in the writing of the specifications; is that accurate?

Mr. BONIOR. The original amendment that I had did specify brand names. There are only two manufacturers of buses that I know of in the country; but because of the concern that that was parochial, we decided that it should be opened up to advertising bids by whomever wanted to compete. Therefore, we changed the language to meet the needs, by the way, of those people who were concerned that it was parochial.

Mr. DEVINE. Yes. I think they are both parochial.

The thing which troubles me under the gentleman's amendment is that it requires local-body determination, which may make the system of procurement of buses a little more complicated.

Would the gentleman have any objection to the insertion of the word "performance" before the word "specification" in his amendment?

Mr. BONIOR. Yes. We discussed the insertion of the word "performance." I talked it over with the gentleman from New Jersey (Mr. HOWARD), and I think what we have now takes care of the situation well. It opens it up to anyone who wants to compete in advertising bids, and I do not think the word "performance" is necessary.

Mr. DEVINE. The gentleman feels that his amendment, as now worded, opens it up to a point where either Grumman Flexible, American Seating, or the other companies involved would have an equal shot; is that correct?

Mr. BONIOR. Any company would have a right to advertise and bid.

Mr. DEVINE. Madam Chairman, I thank the gentleman.

Mr. EDGAR. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I appreciate the gentleman's offering his amendment.

I wonder if I might join in a discussion with the gentleman from Michigan (Mr. BONIOR). I would like to compliment the gentleman for his concern, throughout the markup of the public transit sections of this transportation bill, and for his interest in public transit issues.

I wonder whether the gentleman might agree with me that the one problem with his amendment, which was articulated very well by the gentleman from Ohio (Mr. HARSHA), is that it does force us, as a Congress, to go on record as going counter to what has been perceived up to this point as a national interest, to encourage standardization of mass transit equipment purchased with Federal funds.

It occurs to me that as we look at the amendment, it would allow the grant recipient to determine on its own, without interference by the Secretary, specifications for passenger amenities such as seats and lighting.

In this case, are we not really adding additional cost to the equipment, and have we not been trying to move away from the custom design of fixed-rail vehicles and trolley cars and buses and toward standard designs which not only can be taken off the shelf and put into operation, but will allow for lower costs?

Do we not open up to each particular operator the option to move away further from standardization of design when we allow them to dictate what seating arrangements or what riding arrangements they will have in the interior of buses?

Mr. BONIOR. I think the gentleman raises a good point, that we are moving toward, hopefully, some standardization which would reduce the cost of our public transportation vehicles, particularly buses.

What we are talking about here is the seating which runs anywhere between 2 and 4 percent of the cost of the public bus. In the long run the amendment may, indeed, have the effect of reducing the cost of the bus, and I will tell the Members why. There are certain seats that are more durable than other seats, and there have been studies done on the durability of seats, and there have been studies done on other interior compo-

nents of vehicles. So that has to be looked at in proper perspective and focus.

Second, I would add that if we do not have reasonable seating, safe seating, studies have shown that people look to a number of things from public transportation: One, they want to get to where they are going quickly; two, they do not want to fight the crowds—they want to have the time to themselves on a subway, trolley, bus; three, and most importantly, which ranks closely with the other two, they want a comfortable ride. So if we are making this concerted effort to make people use public transportation to save fuel. then we ought to be offering them something that they will be able to enjoy and want to take.

Studies done in Cleveland, Washington, and other parts of the country indicate that comfort, indeed, is a most important ingredient in that formula.

Mr. EDGAR. I thank the gentleman for his comments. I still have concern about the gentleman's amendment because if the problem is a real one, then the issue can be addressed as part of a comprehensive evaluation of the whole UMTA procurement process. Such a comprehensive evaluation. in fact. is required by section 308 of this bill. Section 308 specifically asks the Secretary to consider, with the full benefit of the industry and labor comment, ways to reform the UMTA procurement system so we can move toward negotiated procurement for highly technical equipment such as rail cars and buses. If local authorities do need more option on such things as interior amenities, I am sure this will come out during the evaluation under section 308 of the bill. It seems to me that by accepting the gentleman's amendment we might be moving away from standardization.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARY A. MYERS. Madam Chairman, I move to strike the last word.

I agree with a great deal of what the gentleman from Pennsylvania (Mr. EDGAR) has said. However, I differ with him in that I do oppose the amendment. I do think that his arguments present a strong case for opposing the amendment, and it would seem to me that if we yield to this temptation, we may find some Members of Congress requesting that we be able to specify tires or doors or certain pieces of equipment inside, such as handles, floors, lights, and one thing or another, only because certain industries or firms are located in their districts or in their States. So I think that what the gentleman from Pennsylvania (Mr. EDGAR) has said, that if the standards are inappropriate by which UMTA is operating, they ought to be revised in a general sense. One would have to ask himself or herself what would be the incentive for any purchaser not designating more expensive pieces of equipment to be placed in the buses. So of the standards are incorrect, we ought to ask UMTA to revise them, but the minimum standards accepted by UMTA, I am sure, would guarantee a safe, comfortable ride to the ridership. So I think the arguments the gentleman from Pennsylvania (Mr. EDGAR) has put forth are reasonable arguments to oppose the amendment which appears to be a special interest amendment which I do not think is merited.

Madam Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BONIOR).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN:

Page 179, after line 11, insert the following:

(e) Subsection (1) of section 5 of such Act of 1964, is amended by striking out "and (2)" and inserting in lieu thereof "(2)"; by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (3) assurances satisfactory to the Secretary that any public mass transportation system receiving financial assistance under such project will not change any fare and will not substantially change any service except (A) after having held public hearings or having afforded an adequate opportunity for such hearings, after adequate public notice, (B) after having given proper consideration to views and comments expressed in such hearings, and (C) after having given consideration to the effect on energy conservation, and the economic, environmental, and social impact of the change in such fare or such service.".

Ms. HOLTZMAN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. HOLTZMAN. Madam Chairman, this is a simple amendment. It would require public hearings before any federally funded mass transit system could raise fares or make major changes in service.

Despite the fact that fare increases and major service changes can have profound consequences for the public, there is presently no Federal requirement that hearings be held. Moreover, some States and cities, including New York, impose no independent requirement for a hearing.

Mass transit fare increases can cause serious problems for those who depend on public transportation. Higher transit fares cut into the pocketbooks of working people and can prevent the unemployed from seeking jobs. For many people, higher fare will cause a significant reduction in their standard of living.

Route and other service changes can have a serious impact on patterns of living—where people will live, and work, how often they will go shopping or to the theater. In this way, they will clearly influence a city's growth and development.

Both fare and service changes will affect the relative attractiveness of public transportation and automobiles. Thus, they can have a very real impact on energy use and conservation.

The amendment I am offering will foster public accountability in key mass transit decisions. It will mean that for the first time changes affecting thousands of people cannot be made behind closed doors. For the first time, the public will be assured of having a voice in the decision to raise fares, shorten hours or cancel routes.

And those making the decision will have to listen to these views expressed by the public.

My amendment would also require that the local transit authorities must consider the social, economic and environmental consequences of any fare or service change before imposing it. Similarily, the amendment would mean that fares could not be raised or substantial changes in service implemented without taking into account the effect on energy conservation.

In short, my amendment would make it virtually impossible to raise mass transit fares cavalierly.

It is my intention that this amendment would require the Secretary, in the grant document, to take appropriate steps to protect the hearing provision. To comply with this amendment, he should provide that the grant could be revoked or payments suspended if hearings were not held and the views expressed and consequences explored not taken into account in arriving at a decision on the proposed change.

Mr. HOWARD. Madam Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I am happy to yield to the gentleman.

Mr. HOWARD. Madam Chairman, we have discussed this amendment. What it does basically is say that when people come to the Federal Government to get 80 percent of a program based on a certain performance and service that they are going to make in that area, that if there is going to be after they receive that money a substantial difference in what they are going to do, compared to what they said they are going to do, there ought to be public accounting, at least, in the form of public hearings.

I believe this is in effect, and operating, in most areas on the fare increase. I believe a change in the service is just as drastic to the riding public.

We have talked this over with many people involved. We have it simplified to the degree where there would be a minimum of redtape.

I think the gentlewoman's amendment is eminently fair and workable. We are happy to accept it.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Ms. HOLTZMAN. I am delighted to yield to the gentleman.

Mr. SHUSTER. Madam Chairman, it is my understanding that nearly all, if not all, State public utilities, already have these kinds of requirements.

Ms. HOLTZMAN. Madam Chairwoman, I would tell the gentleman that neither New York City nor New York State has any such requirement. Fares can be increased without any public hearings. There is no requirement that New York's Metropolitan Transit Authority fares take into account the impact on energy, the impact on the environment, the impact on social conditions that fare increases would have. The same applies with respect to route changes and service changes. I think this amendment would protect the public.

Mr. SHUSTER. Madam Chairman, if the gentlewoman will yield further, the

gentlewoman has come a long way from the original version we saw.

Madam Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: Page 195, strike out line 16 and all that follows down through and including line 2 on page 196.

Renumber succeeding sections and references thereto accordingly.

Mr. BIAGGI. Madam Chairman, I rise to offer this amendment to strike section 323 of the Surface Transportation Assistance Act, H.R. 11733. In reality, my amendment to strike section 323 should bring down a major barrier denying full access to bus transportation of some 13 million elderly and handicapped of this Nation.

I have consulted with Chairman HOWARD with respect to this amendment and have gained his acceptance. I thank him for his support. I respected the reasons he had proposing section 323 but we have reached an acceptable compromise which will allow the Transbus mandate to go forward. I offer this amendment with the distinguished chairman of the House Select Committee on Aging, Mr. PEPPER.

It is necessary to present a brief history of the events which bring us to this point today. The story begins in 1970 with the adoption of my amendment to the Urban Mass Transportation Act declaring it national policy that transportation must be made accessible for the elderly and handicapped.

Implementation of my amendment as well as section 504 of the Rehabilitation Act was abysmally slow. In May 1977, after two administrations, 7 years, and $27 million in studies, the new Secretary of Transportation Adams announced the so-called Transbus mandate. It required that buses purchased with Federal assistance after September 30, 1979, have a maximum 22-inch floor height, capable of lowering to 18 inches or less at the front door, low steps, wide front door, and a front door ramp, the necessary elements for accessibility.

The mandate was hailed by the elderly and handicapped of this Nation. It appeared to signify the end of a long and frustrating battle for a fundamental human right.

Then, earlier this year the elation turned to apprehension when the Public Works Committee included as part of H.R. 11733 section 323 which calls for a reevaluation of the Transbus mandate. The reasons given revolved around the need to provide greater flexibility with respect to certain design features of Transbus.

In the ensuing time since this bill was reported, I and others, including the distinguished chairman of the House Select Committee on Aging, Mr. PEPPER, sought a compromise which would accommodate the need for flexibility with the need not to interrupt further the date of accessible buses for the elderly and handicapped.

Extensive discussions were held with the Department of Transportation and on September 14, 1978 the Urban Mass Transit Authority announced a revision of the original specification. The revised requirements continue to include a maximum 22 inch floor height, capable of lowering to at least 18 inches at the front door, low steps, wide front door and tandem rear axles. Added is an option for either a front door ramp or front door lift for elderly and handicapped service.

Thus we reach this point today, I move to strike section 323 and urge the support of my colleagues.

Anything less would be an unwarranted betrayal of the elderly and handicapped. The Transbus mandate will result in buses which in addition to opening the doors for travel by the elderly and handicapped has other important features. The flexibility announced by the Department of Transportation will mean that in rural areas where there are no curbs and a ramp would prove to be too steep to navigate with a wheelchair, a front door lift could be used.

Transbus has been so successful during demonstrations that a consortium of three cities, Philadelphia, Los Angeles, and Miami have already joined forces to purchase 530 Transbuses. Unfortunately, section 323 has already impacted on this order—it may be withdrawn because of uncertainty in Government specifications. Adoption of my amendment will relieve the uncertainty.

In addition, the companies that were to provide Transbus have been frustrated and threatened to stop production preparations. Uncertainty over Government regulations was cited here too.

The implementation of the Transbus mandate goes beyond mere symbolism. It is a major step forward in the achievement of transportation accessibility. Federal funds are used to finance 4,000 to 7,000 buses per year. It is only right that these funds not be used to deprive people of transportation.

The development of Transbus has been lengthy, the product satisfactory and the mandate clear. Section 323 would delay implementation on a commitment which is long overdue. By striking the section, we would promote the steps necessary to make the right to transportation by the elderly and handicapped a reality.

During the three public hearings which the Department of Transportation conducted on the implementation of section 504, much support was heard for the Transbus, Mayor Ed Koch of New York City who, while our colleague, championed the rights of the handicapped and disabled testified:

I am committed to a fully accessible bus system in New York City. I also support the purchase of low floor, wide door wheelchair accessible transbuses with a preference for the use of ramps over lifts. We need low floor buses not only for handicapped but for all persons.

Adoption of my amendment is a commitment to principle. We have clearly demanded through other legislation that mass transportation systems be made accessible to the elderly and handicapped. We have not yet fulfilled the mandate. It is certainly not the time to retreat on this commitment. Yet to support H.R. 11733 as reported would be a retreat pure and simple. All parties in this matter have operated in good faith and thus we have arrived at this point today.

We promote human rights around the world. Of special concern to us is the respect for the right of people to travel freely between nations. Support of my amendment will be a vote for domestic human rights for we are advancing the right of some 13.3 million elderly and handicapped to travel freely within this Nation.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I certainly compliment the gentleman for his long, untiring efforts on behalf of the elderly and handicapped and for a very close watching of this subject, although the gentleman is not a member of the committee, in the development of regulations concerning the elderly and handicapped and the Transbus. There was a problem at one time that the Transbus ramp would not be appropriate in all places in the country. Where there is a curb, fine, it would work; where there is not a curb, it would not.

I say to the gentleman, thanks to the efforts of the gentleman in the committee and also Mr. Page from the Urban Mass Transit in the committee, when local people apply for the buses for the elderly and handicapped, they will be able to determine an alternative front boarding mechanism, a low floor plan or lift or a ramp.

I believe in this agreement we have and I support the gentleman's amendment to strike this section.

We are happy that this section is not needed and we are happy to accept the gentleman's agreement.

Mr. GREEN. Madam Chairman, will the gentleman yield?

Mr. BIAGGI. I am glad to yield to the gentleman from New York.

Mr. GREEN. Madam Chairman, I rise in support of the Biaggi amendment to strike section 323 of the Surface Transportation Assistance Act of 1978. I commend the efforts of my colleague from New York to make our transit systems more accessible to the handicapped and to senior citizens, and I am pleased to join with him as a cosponsor of this amendment.

Since 1970, Congress has mandated five times that federally funded transportation projects be made accessible to all senior citizens and handicapped persons. The Department of Transportation spent $27 million and 5 years of study on how the goal of accessible transportation could best be met, and the result was the 1977 Transbus mandate.

These Federal regulations stated that all buses purchased with Federal funds after September 30, 1979, must have a special design to accommodate handi-

capped and elderly individuals. Buses must be low-floored and ramp-equipped to make it possible for the disabled and for senior citizens to board without difficulty or delay. I twice testified during September at Department of Transportation hearings in New York and Washington in support of this program.

In his May 19, 1977 decision on Transbus, Secretary of Transportation Brock Adams stated:

It is now within our technological capability to insure that elderly and handicapped persons are accorded access to urban mass transit buses. This access is fundamental to the ability of such persons to lead independent and productive lives. . . . For those communities utilizing standard-size bus service over fixed routes, the Transbus will permit faster and more efficient bus service by minimizing the time required to take on and discharge passengers, including those who are elderly or handicapped. Better accessibility, new styling features and a better ride will attract and retain new ridership, add to the operating revenue of transit operators and enhance the image of mass transportation in every community.

A number of groups representing handicapped and older Americans, such as the American Coalition of Citizens with Disabilities, Paralyzed Veterans of America, and Paralyzed Veterans of New York have contacted me during the past several months to urge my support for the Transbus standards. A letter I received from the Transbus Group, a national coalition representing 5 million Americans concerned with the problems of barrier-free transportation noted:

At stake with the Transbus issue is the opportunity of disabled and elderly Americans to be active, partcipating members of this society, and the realization of the billions of dollars invested in rehabilitation, education and service programs to create equality of opportuntiy.

As the Representative of New York's 18th Congressional District, I wholeheartedly agree with Secretary Adams' findings and the views of the handicapped and senior citizen communities. Thirty-six million older and disabled Americans will especially benefit from Transbus. In addition, the realitv of accessible public transportation—when coupled with the action taken by Congress to raise the mandatory retirement age from 65 to 70—carries with it prospects of increased economic activity. The stimulus created by the addition to the work force of every 100,000 disabled persons now idle because of lack of accessible transportation has been estimated to be over $300 million annually.

It is clear that accessibility pits budget against barrier, dollar versus dignity, and involves alternatives which would reinforce—not break down—the continued stigmatization, segregation, and separation of handicapped persons. The integrated services approach is superior to the concept of separate but equal service which is so vigorously opposed by handicapped organizations. Moreover, suggested transportation alternatives such as special taxi service or separate systems for the handicapped carry an estimated $1.8 billion annual price tag, as the American Public Transit Association has pointed out. It is my firm conviction that modification and new standards provide the better long-term solution.

In an announcement last week, the Urban Mass Transportation Administration of the Department of Transportation issued new specifications and a revised timetable for the implementation of the Transbus program. While making concessions in the delivery dates for the first new buses, now delayed until mid-1983, the handicapped community and the general public won a major victory in this compromise agreement. For once and for all, key requirements of a low-floored bus with a maximum height of 22 inches and the choice of either a front door ramp or lift have been ordered. The ramp would be more appropriate for urban areas, while the lift would have appeal in rural areas.

Until the announcement of this compromise on September 15, the General Motors Corp., one of the three companies (along with AM General Corp. and Grumman Flexible Corp.) involved in the research and manufacture of prototype Transbus vehicles, had lobbied intensively for a change in previous specifications because the bus it had built did not conform to the standards outlined by Secretary Adams in 1977. The bus offered by General Motors, called the RTS, was not the low-floored, wide-front door, ramp-equipped vehicle called for in the Transbus mandate. Instead, the RTS featured a rear door lift and had to be driven within 18 inches of the curb for the lift to be operated effectively. In addition, the bus driver had to leave his or her seat and go to the rear of the bus to operate the lift.

The General Motors RTS bus drew strong criticism from handicapped and elderly groups. In an effort to explore fully the facts of this issue, I helped to arrange, along with Chairman CLAUDE PEPPER of the House Select Committee on Aging and Representative GEORGE O'BRIEN, a noted spokesman on issues affecting the handicapped, a street demonstration of the RTS bus here in Washington last month.

The driver of the bus was unable to pick up handicapped persons at two regular bus stops on Pennsylvania Avenue a few blocks from the Capitol because of street traffic and an illegally parked car—conditions we all know to be normal in crowded major cities. In both cases, General Motors personnel had to leave the RTS and physically assist the persons in wheelchairs down the curb, onto the lift, and onto the bus. The elapsed time at each stop was an incredible 7 to 10 minutes. Such delay and difficulty clearly would pose an additional barrier—an attitudinal barrier—for the self-sufficient handicapped person in an urban area.

Notwithstanding the problems with the RTS bus, General Motors had opposed the Transbus standards and supported section 323 of H.R. 11733 which calls for further evaluation and study of Transbus. It is my understanding that General Motors now supports the new UMTA specifications.

In light of the recent compromise on specifications and timetable, there is no need for further costly studies. Buses, not studies, move people.

I urge my colleagues to vote in favor of our amendment to strike section 323.

Mr. HARSHA. Madam Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Ohio.

Mr. HARSHA. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I rise in support of the amendment, which would remove from the bill a provision no longer necessary to protect the real interests of the elderly and handicapped.

As originally incorporated in the bill, the existing provision was designed to assure that no unrealistic requirement be imposed with respect to accessibility on municipal buses.

The provision was designed to prevent any force-feeding of a single approach to providing accessibility which might prove unfeasible or inferior to available alternatives. If such proved the case, Government would fail in its responsibility to meet the real needs of the elderly and handicapped, and fail in achieving the objective which we all share.

Since the provision was written, however, the Secretary has issued a new policy statement which provides for alternatives, and has adopted a more flexible and realistic stance with respect to a compliance date which can be met.

These moves have met the objections of many of us who feel that the new Transbus technology should provide for a real service, not a symbol, to those needing some mechanical assistance in boarding and leaving a bus.

Therefore, I am pleased to join in supporting the amendment, and express the hope that the Secretary henceforth will administer the Transbus program in a flexible, workable manner.

Mr. SHUSTER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I was the author of the original amendment in the bill which became section 323, and I am in complete agreement with removing it because the Secretary of Transportation has agreed in writing—and I quote his words—to the following:

I have decided no longer to require a ramp on all Transbuses but to provide an opportunity to each buyer to choose the best method of front door accessibility as between a lift and a ramp to meet its needs. I think providing this kind of flexibility is proper and is in the best interests of the handicapped.

There are some of us who have been subjected to rather vituperative attack because we felt that there might be some alternative to the very rigid requirement for a ramp originally mandated by the Department of Transportation, and it is quite regrettable that there are those who saw fit to accuse those of us who felt there might be an alternative of not being interested in the best interests of the elderly and the handicapped.

Madam Chairman, I wish at this point to make reference to an article which appeared in the Altoona Mirror. The article points out that in Pennsylvania,

the Pennsylvania Transportation Commission refused to budget several millions of dollars so that the Southeastern Pennsylvania Transportation Authority in Philadelphia could purchase these Transbuses, and that the Transportation Authority in Blair County came out against the rigid mandate of Transbus. Likewise, across Pennsylvania officials in several counties spoke out against the previous rigid requirements, including the counties of Erie, Lycoming, and Berke.

The point is that there was widespread dissatisfaction with the rigid requirement originally promulgated by the Department of Transportation. I think that should be made a matter of record.

I believe the flexibility now provided by the Secretary is in the best interests of the elderly and the handicapped, and for that reason I vigorously support the amendment offered by the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from New York.

Mr. BIAGGI. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I would like to take this occasion first to congratulate the gentleman from Pennsylvania (Mr. SHUSTER) for his recognition of the problem initially and also for his sympathetic understanding and concern for the elderly and the handicapped.

But for the gentleman's cooperation and understanding and but for the cooperation and understanding of the distinguished chairman of the subcommittee, the gentleman from New Jersey (Mr. HOWARD), this amendment would have had some difficulty, and in the end the elderly and the handicapped would have suffered. I take this occasion to congratulate both gentlemen.

Mr. SHUSTER. Madam Chairman, I thank the gentleman for his remarks.

Madam Chairman, I might say in closing, speaking as one Member who has had a member of his family who is a double amputee and is confined to a wheelchair, we were hard put when we found ourselves being attacked and accused of not being understanding of and in sympathy with the problems of the handicapped.

This is a good amendment, and I vigorously support it.

Mr. PEASE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to extend this discussion of making the public transit system accessible to handicapped individuals.

We have all spoken with constituents who are facing the financial traumas of making all public facilities and services available to the handicapped. And, we also know of the eagerness of the handicapped person to be able to negotiate a trip across town to the library on his or her own. Section 504 of the Rehabilitation Act of 1973 requires handicapped individuals should not "be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." That is a direct quote from the public law. There is no more guidance as to how this is to come about. In the midst of a good deal of controversy, the Secretary of Transportation is now in the process of developing guidelines and timetables for making transportation systems fully accessible to the handicapped.

While this is being done, cities and towns are looking at their skimpy pocketbooks and estimating retrofit costs of millions and billions of dollars. The New York Metropolitan Transportation Authority says it would have to spend $1.4 billion dollars to make its subways accessible. And in Cleveland—very close to my own district—the figure of $66 million has been quoted. Those cities with older rapid rail systems are exactly those cities that can least afford to be burdened with the costs of retrofitting their transportation system. I am now speaking specifically of cities like Cleveland and New York, Chicago, Philadelphia, and Boston.

Sections 326 and 327 of this legislation recognize the financial burden being placed upon transit systems. These sections require a cost evaluation to be conducted by the Department of Transportation on the real costs of refitting existing transit systems. Considering the large sums of money that have been quoted by some of the major cities, I commend the committee's request for such an evaluation. However, I am disappointed that the committee did not address the possibility of giving local transit systems the option of either retrofitting the existing system or providing an alternative transportation service for the handicapped.

My purpose in suggesting this alternative is to open an option for transit authorities as they face full compliance with section 504.

When I speak of a special transportation system for the handicapped, I am referring to door-to-door service. This service means total trip mobility, instead of access to the central link of a trip. The geographical area served would be equal to the existing transit system—but there would be no traveling to the bus stop or subway station, no transfering or curbs and busy intersections to negotiate. The issue of equivalency of service for the handicapped would be defined by the Secretary of Transportation, with the ultimate approval of the Civil Rights Commission at HEW.

I am referring now only to the vehicles of transportation—the buses, commuter trains, and subways. I have no intention of asking that cities and towns and States make any change in their ongoing efforts to have sloping curbs on the sidewalks or ramps on buildings.

Clearly, in either situation there remain further needs of the handicapped which must be met. But by specifically giving the local transportation authority the option to choose, we move closer to best serving the needs of the handicapped in a specific area.

The National Council for the Transportation Disadvantaged, in a letter to all Members of Congress, makes the point that "It is axiomatic that full mobility for the handicapped is infinitely better than full accessibility on urban line haul buses."

Certainly this is a point to be kept in mind. I know that many, many handicapped persons daily face the battles of dealing with inaccessible buses and trains. They also must negotiate high curbs and revolving doors. The best possible situation is a fully accessible downtown. The cities and towns must make that long-term commitment on their own. An important part of that commitment is deciding if local and Federal funds would best be spent to refit existing buses and trains, or to develop a complete special transportation system for the handicapped.

Today, I speak solely to the matter of transportation vehicles and the high cost of requiring retrofit. I remain a strong supporter of accessibility to public services and facilities. But transportation systems now face a double edged sword on the matter of 504 compliance and I feel it is fair to all involved—the handicapped and the transportation authorities and the taxpayers—to specifically provide an alternative to the transit authorities.

I will be writing to Department of Transportation Secretary Adams asking that this option be specifically written into the 504 regulations. I ask the support of my colleagues in this effort.

Thank you.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. PEASE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding, and I would like to commend the gentleman in the well for his comments and I associate myself with his remarks.

For some time I have been concerned about the transportation needs of the elderly and the handicapped and others who are unable to use existing public transit systems. I think we do have an obligation to move toward providing greater mobility for the transportation disadvantaged. But I think the gentleman makes an excellent point concerning fixed rail transit facilities. We have a situation in Philadelphia where modernization of rail stations is being held up because of expensive requirements to make them fully accessible to the elderly and handicapped. Further study is needed before we embark on this path to see if the cost really matches the need.

I think we have to be very concerned that we look at the needs of the elderly and the handicapped and that we consider the cost of retrofitting rail systems. I think the gentleman is right in suggesting that we in Congress have that responsibility to look into this. Transbus may be a good way to go to bring about mobility for the handicapped, but it may not be necessary to retrofit trolley cars, subway cars and subway stations, if more cost-effective and more useful "dial-a-ride" service can be found. Section 326, "Rail Retrofit Evaluation," and section 327, "Light Rail Evaluation," are intended to instruct the Secretary to consider the wisdom of rail retrofitting and to provide Congress with additional data on the cost. I suspect that the alternative

provision of door-to-door mobility services for the severely disabled will be permitted as a local option instead of retrofitting fixed facilities as a result of the data provided by these studies.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. PEASE) has expired.

(On request of Mr. EDGAR and by unanimous consent, Mr. PEASE was allowed to proceed for 3 additional minutes.)

Mr. EDGAR. If the gentleman will yield further, I would just like to say that this is an issue that many of us in Congress are nervous about. We have, on the one hand, the handicapped who are lobbying for full accessibility. On the other hand, we have real budgetary problems. And if you have a billion dollars to spend on modernization of transit, do you spend that billion dollars making the system accessible to the elderly and to the handicapped, or do you make other improvements to keep those systems running safely for the millions of people who rely on them now, while providing special services for the disabled plus accessible Transbus service? This is a matter the present administration has been lax in considering: on the one hand, we have an OMB and White House staff that is against more spending for transit, based on some bad experiences they have had in Atlanta, while on the other hand the DOT is proposing that we spend limited modernization dollars on retrofitting for the handicapped. Congress has to face this issue.

Mr. PEASE. Madam Chairman, I thank the gentleman from Pennsylvania (Mr. EDGAR) for his contribution.

The key is, I think, accessibility. That is the goal. How we reach it is important also. But there ought to be some alternatives.

I will be writing to Secretary Adams, to urge that he provide this alternative, and I would hope that some of my colleagues would join me in that effort.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

Mr. PEASE. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

Madam Chairman, I would like to associate myself with the remarks of both the gentleman from Ohio (Mr. PEASE) and the gentleman from Pennsylvania (Mr. EDGAR). I sit on the Appropriations Committee that tries to find the moneys to fund these innovative programs, and I think it is incumbent upon us to try to get the most out of the dollar that we possibly can. I think that our failure to do so is the reason that people are objecting to "proposition 13's."

I want to commend the gentleman. He has my support.

Mr. PEASE. I thank the gentleman for his comments.

Mr. O'BRIEN. Madam Chairman, I move to strike the requisite number of words.

I rise in support of the Biaggi amendment. I understand the debate has become somewhat moot in view of the letter written by the Secretary of Transportation. I would like to urge just a couple of points to my friends in the House.

"Accessibility" means different things to different people, but the issue is, what does "accessibility" mean to the handicapped? Of the 13.4 million who have difficulty with our methods of transporting people about, about 5.3 million cannot use it at all. Those of the handicapped who are wheelchair-types and crutch-types and cane- and brace-types, in my experience, have been happier with the notion of having a ramped vehicle for transport rather than having a bus with a lift device. I express no personal opinion. I simply refer to the opinions of those who seem to have to face the problem more seriously than we do.

Let me turn to my second point. That is, if we go into production immediately on the Transbus we have talked about so much, which seems to be the bus that is most acceptable, it will still be about 5 years before we get a reasonable number of them on the streets. Hence, with all possible and deliberate speed, I urge we go forward with Transbus. I again offer my support for the Biaggi amendment to eliminate section 323.

Mr. SIMON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman and my colleagues. I am not rising on this particular amendment, but simply to take this opportunity to notify my colleagues that I will ask for a separate vote on one of the Goldwater amendments that was adopted last night. That amendment knocked out the excellent provision that is in the bill which permits the FAA to get information from State drivers license authorities. The FAA believes that it is important for them, in determining information on pilots, that they find out whether potential pilots and pilots have been convicted of driving while intoxicated.

It seems to me that is a very legitimate source of information for the FAA. It does not mean that someone who has been so convicted automatically cannot have a license, but I think that is very legitimate and important information for the FAA to have, to consider in determining whether a person should be a pilot, because we know that a high percentage of air accidents are alcohol-related. No one should be given a pilot's license, for example, if he or she has been convicted several times of driving while intoxicated.

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. SIMON. I yield to the chairman of the subcommittee which had that section before it.

Mr. OBERSTAR. I am not yet chairman of the subcommittee, but I thank the gentleman for yielding.

We did not have as extensive a discussion on this matter on the floor last night as would have been best. The General Accounting Office, in its review of National Driver Register, recommended very strongly that the FAA be permitted access to the Register in order to provide additional information to the FAA in its qualification and licensing of pilots.

The information obtained from the National Driver Register would not, in and of itself, be a prohibition against anyone receiving a pilot's license; it would be but one additional piece of information that would be important, weighed along with other evidence, in determining eligibility for a license.

The FAA has evidenced very strong interest in being able to have access to the National Driver Register. With an updated register under the provisions of this bill, we will have accurate, sound information that would be of immense value to the FAA.

I very much regretted the amendment of the gentleman from California (Mr. GOLDWATER), but accepted it last night only in the spirit that we would be able to come back next year when the FAA authorizations bill comes up in our Public Works Committee and offer the amendment then at which time hearings could be held in the committee.

Frankly, my judgment is we do not have to have extensive hearings on it. There has been a General Accounting Office investigation of this matter and a strong recommendation for allowing FAA access to the Register. It has widespread support. The motor vehicle administrators in the various States support the proposal. The FAA would like to have access. I think it makes good sense to do so.

The gentleman from Illinois, obviously, is perfectly within his right to ask for a separate vote in the House on this amendment.

Mr. SIMON. I appreciate the gentleman's words. I think it can be extremely important.

I simply add that this is a personal matter for the Members of the House. One of the leading causes of death in the House of Representatives has been airplane accidents, and so we have a personal stake in all this.

● Mr. MINETA. Madam Chairman, I rise in support of the amendment offered by my colleague to strike section 323 from the bill H.R. 11733. This section would have required the Secretary of Transportation to reevaluate the rule requiring that all buses purchased with Federal funds after September 30, 1979, meet Transbus specifications.

The Transbus issue has become a symbol to millions of elderly and handicapped Americans who want to be active, participating members of our society. Six years ago this body established a national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services. Congressional action led to a research and development program in the Department of Transportation's Urban Mass Transportation Administration to develop an accessible bus which could make this goal a reality.

After 6 long years of backsliding and delays, Secretary of Transportation Brock Adams, in May 1977, ruled that all transit buses purchased with Federal funds would have to meet Transbus specifications after September 30, 1979.

What seemed at that time to be the long-awaited victory for the elderly and handicapped, proved to be just one more hurdle to overcome, because H.R. 11733, as reported by the committee included section 323 requiring the rule reevaluation.

Although I offered an amendment during the committee markup to strike this

section, my amendment was not accepted, because of the concerns of my committee colleagues that there were still too many unresolved problems to go ahead with the Transbus rule.

Finally, on September 15, 1978, the Department of Transportation announced that a compromise had been reached resolving the difficulties. After extended negotiations with industry representatives, members of the 13-organization coalition representing the elderly and handicapped, and the House Public Works Committee, all parties agreed that the bus program would continue but with several significant compromises to which they all agreed.

Under the compromise plan, a new Transbus could feature either a front-door ramp or a front-door hydraulic lift to be installed at the option of the purchaser, and it will feature a low floor. The compromise also includes an extension of the September 1979 deadline to allow the manufacturers time to fully test the new type of rear axle required under the specifications.

I sincerely commend the Department, the manufacturers, and the elderly and handicapped groups for their concern and their conscientious efforts to resolve this matter.

Transbus is, indeed, a symbol—and a meaningful symbol to millions of Americans. We all look forward to the day when it will be more than a symbol, when Transbus is actually on the streets making mass transit a safer, more efficient, more comfortable, and more accessible reality for all passengers.●

● Mr. O'BRIEN. Madam Chairman, I rise in support of Congressman BIAGGI's amendment to strike section 323. This section would have resulted in further delay of accessible transportation for the handicapped. As a member of the Transportation Subcommittee of the Appropriations Committee I know how important accessible transportation for the handicapped is. In my own district of Joliet, one woman had to pay up to one-third of her salary in transportation costs to and from the job. The Department of Transportation estimates that there are some 13,370,000 handicapped persons who experience difficulty in utilizing existing mass transit. Of this amount, 5.3 million cannot use our mass transit systems at all. To put it simply, accessible transportation for the handicapped has been delayed long enough. There has been a long battle fought by handicapped groups throughout the country to get accessible transportation. At times, this battle has brought the handicapped community into conflict with some of our Nation's major corporations. On August 11, Congressman BILL GREEN and I had an opportunity to ride on a bus produced by General Motors Corp. Though this bus had some positive features, it became clear to me why the handicapped groups had been pushing for over a decade for what is referred to as "Transbus," a low-floored, wide-front-door accessible vehicle. On the demonstration ride it became clear that there was a need for a vehicle that can nose in toward a curb. A wide-front-door vehicle would have such a feature. A bus that can nose in toward a curb will allow easy ingress and egress for individuals with all kinds of handicaps.

In the fight for accessible transportation there are many people who are to be commended. My colleagues, MARIO BIAGGI, CLAUDE PEPPER, and BILL GREEN, are certainly Members of this House that have worked long and hard to help the handicapped and the elderly of our Nation. All of these men have been out front in this most recent effort. Special note must be paid, though, to the handicapped organizations known as Transbus 12, that have worked with Government and with business to accomplish their goal on accessible transportation for the handicapped. The group known as Transbus 12 is made up of the Paralyzed Veterans of America, the American Coalition of Citizens with Disabilities, the Disabled in Action groups of Baltimore, New Jersey, New York, and Pennsylvania, the National Capital Area Paraplegic Foundation, the National Caucus on Black Aged, the National Congress of Organizations for the Physically Disabled, the Pennsylvania Association of Older Persons, the United Cerebral Palsy Association, and the United Cerebral Palsy Association of Pennsylvania. It was the ability of this group of 12 to work within the system and eloquently argue their case for accessible transportation that should be applauded. There remains one major task left to be done, now that all the Government regulations seem to be somewhat in place. We must now take the Transbus off of the drawing board and onto the road. There have been estimates that say it will be years before a Transbus will really be in operation. I urge private industry to now pull together with handicapped groups and the Department of Transportation, and let us get low-floored, accessible transportation on the road as soon as possible. Tuesday of this week I testified at the Department of Transportation hearing concerning transportation for the handicapped. At that time I urged DOT to look at contract incentives as a method of getting Transbus on the road at the earliest possible date.

Professor Tenbroek put the importance of transportation in perspective when he stated: "Movement, we are told, is a law of animal life. As for man, in any event, nothing could be more essential to personality, social existence, economic opportunity, in short, to individual well-being and integration into the life of the community and the physical capacity, the public approval, and the legal right to be abroad in the land." The House's action today will move our Nation's transportation system a step closer to being accessible for all of our people.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 202, line 14, strike out the sentence beginning on that line and ending on line 16.

Mr. SHUSTER. Madam Chairman, this is a simple amendment that corrects an inequity in the bill by removing language that could be interpreted as discriminating against private institutions. Several Members have contacted me and voiced their concern. Despite the intent of the committee, otherwise eligible private schools could have difficulty in qualifying under the program. This amendment simply removes the questionable language to insure that both public and private institutions are treated equally.

I urge its adoption.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the distinguished chairman of the subcommittee.

Mr. HOWARD. Madam Chairman, this has been discussed in depth. The gentleman is eminently correct. We do not want to shut out any legitimate education sources from being able to participate in this. The gentleman's amendment makes it clear they are eligible under this act. I am happy to accept the amendment on this side of the aisle.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, I would add my support to the amendment. It is a good one.

I would like to engage the gentleman from New Jersey, the chairman of the subcommittee and the author of this bill, in a colloquy on the intent of this section.

Mr. HOWARD. I would be pleased to address any concerns the gentleman from New York may have about this section. It authorizes annual funding for the establishment and operation of transportation centers which can engage in long-range research by virtue of a degree of permanency attained through the awarding of annual grants.

Mr. NOWAK. I thank the gentleman. I believe this is an excellent approach to setting up a coordinated program aimed at addressing and solving national and regional transportation problems. I would like to express my view that there are many institutions throughout the country which are excellent candidates for this program—several of which have already come to the attention of the committee. I feel strongly that none comes more highly recommended than the State University of New York system, which has a wide range of transportation and development-related disciplines ideally suited for a variety of research needs. For example, at the SUNY at Buffalo campus, Dr. Robert Passwell—who spent 1 year in a special capacity with the Federal DOT Office of University Research and received a secretarial award for his achievements there—has considerable experience in setting up and coordinating transportation research programs. In recognition of his abilities, Dr. Passwell has recently been assigned the task of coordinating transportation research for the entire statewide SUNY system.

With the comprehensive type of research so decidedly needed in all facets of transportation today—related to energy,

public transportation, marketing, economic development, safety, and an entire range of other fields—the State of New York, with its wide range of transportation modes and sophisticated public transportation systems, would be an excellent geographic location to perform this important research function. I highly recommend the State University of New York system for establishment of a transportation research center.

Mr. HOWARD. I agree completely with the gentleman's remarks. He has discussed this with me previously and has made me well aware of the State university's track record over the last decade with Federal DOT research efforts and I endorse the gentleman's recommendation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Oregon: on page 188, strike line 16 through page 190, line 21, inclusive, and renumber the succeeding sections accordingly.

Mr. DUNCAN of Oregon. Madam Chairman, I find myself in agreement so often with the Committee on Public Works and with the distinguished chairman, the gentleman from California (Mr. JOHNSON), and the distinguished gentleman from New Jersey (Mr. HOWARD), that I have asked and reasked myself if I am correct in my opposition to the section of this bill that starts us out, as I read it, with approximately a $160 million step on what I believe is a $1.5 billion trip to subsidize the construction of bus stations primarily for the benefit of the two giants of the bus industry, Trailways and Greyhound.

In spite of my admiration for the work that the committee has done on this bill and for all of the provisions that have been included that are imaginative, innovative, and farsighted to improve the transportation system of this country, my answer to this rhetorical question has inevitably been yes. We ought not to start down this expensive road, because the costs will inevitably be more than the $1.5 billion, and because I believe that solvent subsidiaries of wealthy conglomerates ought not to be down here in Washington asking for us to put up the capital for investments that they themselves should make.

I offer this amendment to strike from the bill the terminal development program, which is divided into two parts, the distinguishing features of which completely escape me. I know this program will be cloaked in the public interest, and I know I am shooting pretty close to home, because the committee report also instructs funding of projects, one in Pennsylvania, and one in New Jersey. As a member of the Committee on Appropriations, however, that is charged with putting up the money for these projects, I must protest, and I must make the move to try to avoid this new subsidy and perhaps to avoid the agony we now have with Amtrak. I want to emphasize we are not talking about disbursements from the trust funds, we are talking about disbursements from the general fund.

I want it further understood that I am a supporter of mass transit. That I know, with so many demands there is not enough money, in a period of declining appropriations, to finance an item that I consider to be of the lowest priority of all of the imaginative and innovative mass transit programs which this committee has put forth.

Let me tell you how this came to my attention. I am from the city of Portland, Oreg. They have been way out in front of most communities in support of mass transportation. Mayor Goldsmith, over a lot of objection, put in an imaginative transportation mall. Our local bus company took over a faltering private bus system and has done a first-class job of providing public transportation. But, as a part of this new mall our city made a deal with Trailways and with Greyhound, because they would have to vacate their old stations, to go together and build a new one down by the Union Railroad Station.

On the day this agreement was to be signed, Greyhound backed out, after having given strong oral commitments. Within a couple of weeks the president of Trailways was in town lobbying me, and others, to start on this $1.5 billion demonstration intermodular bus station program to be financed largely by the Federal Government.

They argued to us that the stations are dirty, they are poorly located stations and this discourages traffic, and this has resulted in a loss of passengers, a loss of revenue, and a loss of profits. And I agree.

Then I asked the president of Trailways, if I had not read in the paper about a new station that they built themselves up in New Jersey? Yes, he was very proud of it, he said. It was built with Trailways' money, not taxpayers' money.

I said, "Would you tell me what the results of that new station have been?"

He said, "Yes, when we got lighting in there, when we got it cleaned up, traffic increased, revenues increased."

And I said, "Your profits increased, too, didn't they?"

He said, "Yes."

I said, "Well, why is that not a good argument for you to make the same capital investments in your stations that you are making in your buses?"

They have only one argument in my judgment, for coming down here and asking us to put up what I deem to be a proper capital investment, by those companies.

And that is a question of equity. We subsidize Amtrak, we should subsidize the buses. But if we do not want to get into another "Amtrak" then I think we ought not to get into this.

I do not think the answer to one unwise subsidy is to load another unwise subsidy on top of it. It is not just the bus stations, it is the entire industry.

The CHAIRMAN pro tempore (Mr. BARNARD). The time of the gentleman has expired.

(By unanimous consent, Mr. DUNCAN of Oregon was allowed to proceed for 1 additional minute).

Mr. DUNCAN of Oregon. More and more corporations are coming down here opposing any increases in welfare, social security, unemployment compensation, but saying that the public interest demands Federal investment in their business; that it is too risky; that they cannot ask their stockholders to run that risk and invest their equity capital.

I say to them, "I do not blame you. I would not ask my stockholders to run that risk either."

They can come to Washington and get us to open the doors to the Treasury and provide for their capital investment in this way.

They need stations. They need buses. They ought to furnish them themselves. They are solvent.

Madam Chairman, unless we want to nationalize the whole transportation system, I say we should say, "No."

This amendment does not affect the $125 million in the bill for small urban and rural grants for which these companies may compete.

If anyone contends that this is an experiment and a demonstration program, I would say that we have one down here at Union Station, about three blocks away, into which we have already put $50 million and into which we have to put another $50 million. Yet, we still will not have an intermodular station.

If anyone says that it is a new concept in mass transit and that we ought to be able to expedite the exchange of passsengers from one system to another, I answer that it is nothing new or innovative. Chicago did it with the Union Station there many years ago for their railroads. They still have the LaSalle Street Station and the Illinois Central and a few more. It never did work.

Madam Chairman, this, to me, is a direct subsidy to a solvent part of our industry, and I hope the committee votes that provision down.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, one of the difficulties we face in this Nation in trying to conserve energy and in trying to have more people in this country utilize public transportation is the fact that this Nation more than any nation in the world, due to the affluence of the past years, has had our people get almost totally away from the use of public transportation. We all began with mass transit. No other nation on Earth was able to have as many people who were able to use private transportation; so we have a much more difficult job in enticing the people back to public transportation.

Madam Chairman, if we look around the world, we find that our Nation, because we have been ahead of everyone else on so many things, has become the least innovative when it comes to things like public transportation. One of the things we have to do is to improve the total use of public transportation for people in the country.

Madam Chairman, one of the main features in this bill which would be eliminated by the amendment is that we have to have some connection and co-

ordination among bus transportation, train transportation, subway transportation, and taxicab transportation. We can no longer have people coming into Washington, for instance, people wanting to go from a bus to a train, coming into Washington and ending up somewhere down on 15th Street, only to find at that point that they have to locate some other mode of transportation to get them to the train station.

Madam Chairman, what we are hoping to do is to be able to provide in this Nation an operating, effective system of public transportation. This is not for the private sector. These funds go to public bodies, and we hope to be able to create in the towns and the cities across this Nation a terminal in one spot in which we will be able to have the people moving by train, by bus, by light train, by subway, or by taxicab; and this terminal will be located in one area.

Madam Chairman, this may be a futuristic thing, but if we take somebody from Annapolis, Md., who wants to end up in Chicago, and we want him to use public transit, the only public transit to get him to Washington is a bus. If he could come to an intermodular station here in Washington and transfer to the subway, the Metro system, which would take him out to National Airport, at which he could then get a plane to Chicago, that may be a futuristic thing. However, if he could buy all of his tickets at the originating point, if he could check in his luggage at that one point and pick it up at the end, which, I grant, is difficult, just to use one mode these days, but this is the kind of thing we have to look forward to.

As to the amount of money in this, in response to our colleagues, for this program, we made an across-the-board cut in highways and mass transportation for each of the 4 years amounting to $1,400 billion, 8.8 percent. In this particular program we had a reduction of 20 percent. In order to be prudent, in order to be sure that we are not moving too fast and too far, we have cut a great deal out of this program. We think it is one of the vital programs if we are going to get that broad, innovative look that we need in promoting public transportation in this Nation. This will be only paid to public bodies. Will private people use it? Will the taxicabs be able to provide service from this area? Yes, of course, but we think we are going to have to have some kind of coordination in this country between the Government and free enterprise working together if we are going to advance and be able to get many people, more than we have now, using public transportation. I think that the acceptance of this amendment will be a serious blow to the entire program, and I hope that the amendment is defeated.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I will be happy to yield to the gentleman from Oregon. I would like to say that I can certainly understand his feeling. I have been to Portland. I have seen the tremendous innovative mall that they have prepared there, and apparently someone backed down on it. We hope that this program will come up so that everybody will see the general good that will come out of it. We do start with a modest program. It has been taken down by 20 percent from what the subcommittee and committee passed by voice vote, and I just wish to tell the gentleman we are going to be looking at that to see that that great plan, which the gentleman agrees that the plan is, would not be able to be sabotaged in the future.

I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

I would like to ask the gentleman if he did not make a misstatement. He said that he would try to get more funds. Actually my problem here is that we have got too much funds for this particular purpose.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 1 additional minute.)

Mr. HOWARD. I meant to say if I could get more time, not more funds, although time is money. I would like that correction to be made.

Mr. DUNCAN of Oregon. I assumed that what the gentleman meant is more time and not more funds.

I do not think there is anything futuristic about this. I think it is an old idea that we are trying to give new applicability to. As I say, they tried it with Union Station in Chicago; it did not work. We tried it down here with Union Station in Washington, D.C. All we have got is a boondoggle down there.

I would like to say that I agree that this objective that the gentleman has in mind is desirable. First of all, I say that it ought to be at a low priority. Second, I say that it is in the bus company's interest to accomplish these same things, that everything the gentleman hopes to accomplish can be accomplished if Trailways and Greyhound make these investments and put them in the proper location. I want to say, furthermore, that is precisely the agreement that was worked out in the city of Portland until, I submit, the bus companies decided they could get Federal money to make their investment and decided they were going to forgo it.

Mr. HOWARD. I thank the gentleman for his comments. Of course, I do agree that many things we consider innovative in the rest of the country may be old programs for the progressive State the gentleman represents.

I would like to state that it does not only involve a bus company, it also involves railroads which are in many cases semipublic. It involves metro systems which are public operations. We just hope to coordinate them.

The second part that the gentleman mentioned on this whole section has been eliminated totally; so we went from $50 million, a 20-percent cut, down to $40 million and took out the total 50 in apportionment that was recommended in the President's urban program. I think we have been prudent.

I thank the gentleman for his remarks.

Mr. DUNCAN of Oregon. If the gentleman would yield further, I would like the authorizing committee and the constituency behind this particular program to know that at least one member of the Committee on Appropriations is going to try to help the chairman of the subcommittee by being even more prudent with the appropriations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHUSTER. Madam Chairman, I move to strike the requisite number of words.

I rise in vigorous opposition to this amendment and believe that we should be very careful in recognizing the difference between this amendment and the next amendment which the gentleman has said he is going to offer. The next amendment which I understand the gentleman will offer strikes operating subsidies to intercity bus companies. I happen to be the member of the subcommittee who offered the amendment in subcommittee to strike those operating subsidies, and I lost. I offered the amendment in the full committee, and I lost again. I understand, and I am sympathetic with the particular attempt which will be made by the gentleman in the next few moments.

That is vastly different from the amendment we are now considering.

The amendment we are now considering does not deal with any operating subsidies. Indeed, it does not deal simply with the intercity buses, which the gentleman attacks, which I can understand. Perhaps I would be feeling the same heat if I had a project in my hometown delayed by the intercity bus industry. I appreciate the gentleman's personal concern, but we are not talking about only the intercity bus transportation system. We are talking about intermodal intercity bus systems. We are talking about bus, rail, air, subway, local transit, and taxicabs. We believe it is extremely important that we provide some leadership so that intermodal terminals might be made available.

I would emphasize, and this is an extremely important point, that the intercity buses, and I understand the gentleman's reasoning, would not get any free ride or free park, as the case may be. They would have to pay rent. They would have to pay their fair share; so to present this as some kind of free ride for a particular segment of the transportation community simply is not true. They would have to pay rent.

Just this morning the National Transportation Commission, of which I am Chairman, is holding a meeting, and not 2 hours ago it was emphasized in that Commission meeting that in America we are going to have to face up to the problem of finding better ground transportation for our citizens. It was emphasized that we have one of the finest airport systems in the world and sometimes it takes longer to get from the airport into town than it takes to fly from one city to another. It was emphasized specifically that intermodal terminals must be focused upon and more attention must be given, more encouragement must be provided, so that we should fund intermodal terminals to make the whole

transportation system work better in this country.

Therefore, while I am sympathetic to the next amendment the gentleman is going to offer, while I am sympathetic with the personal problem the gentleman has had in his city, I believe it is very wrong, short-sighted, and not in the interest of a sound transportation policy in this country just to turn our backs on this new approach.

Madam Chairman, I therefore urge that we oppose and defeat this amendment before us now.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I would be delighted to yield to the gentleman.

Mr. DUNCAN of Oregon. Madam Chairman, the gentleman is quite correct. There is a provision in this section that requires payment for the facilities which any private carrier would use.

Does the gentleman concede that would require a bus company to amortize the capital investment and the Federal Government would get back its investment in due course?

Mr. SHUSTER. I believe a payment would be required. I think, in fact, the way the gentleman poses the question shows that he is focusing much too narrowly on this, because we are not talking simply about the intercity bus. We are talking about bus, rail, air, subway, taxi, and local mass transit. They will all have to pay their share.

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, but their share would include amortization of the capital investment and that money would return to the Federal Treasury; is that not true?

Mr. SHUSTER. The words in the bill are "fair and equitable." I believe the Secretary of Transportation should make that judgment.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. DUNCAN of Oregon, and by unanimous consent, Mr. SHUSTER was allowed to proceed for 2 additional minutes.)

Mr. SHUSTER. Indeed, I would hope that the Secretary of Transportation would, when he arrived at his so-called fair and equitable consideration, consider the capital cost as one of the factors.

I believe there are social benefits beyond the direct capital costs which also might be considered.

Mr. DUNCAN of Oregon. All right. But, Madam Chairman, if the gentleman will yield further, since we are making some legislative history, I would assume the gentleman is saying that that fair share should include the amortization of the capital investment in the private facilities, and that that money ought to come back to the Federal Treasury?

Mr. SHUSTER. I am saying it is a factor that should be considered and not overlooked.

Mr. DUNCAN of Oregon. But when it is determined, it ought to come back to the Federal Treasury?

Mr. SHUSTER. I am not saying it ought to be returned 100 percent, because there are other factors to be considered.

Mr. DUNCAN of Oregon. That goes to the question of what is a fair price, and I agree with the gentleman completely. But once that fair price is determined and we have been able to determine the extent of the private company's use of those facilities, that money ought to come back to the Federal Treasury; does the gentleman understand that to be so?

Mr. SHUSTER. But not all of it would come back, because much of it, I believe, would be used, for example, for operating the facility.

Mr. DUNCAN of Oregon. So the gentleman is not including in that fair price any amortization of the capital costs? I would assume they ought to pay their fair share of the operating expenses as well as the capital costs.

Mr. SHUSTER. Madam Chairman, I have said, and I will restate what I previously said, that I believe the Secretary of Transportation should consider the capital cost and the capital investment required as one of the factors. I do not say that it should come back 100 percent.

Mr. DUNCAN of Oregon. I am not asking the gentleman to say that, but those amounts attributable to the capital investment items the gentleman mentioned ought to be returned to the Federal Treasury; is that the gentleman's understanding?

Mr. SHUSTER. I believe we have an understanding on that.

Mr. DUNCAN of Oregon. Madam Chairman, that is fair enough.

May I also ask the gentleman if he would understand this has to be a transfer station or a bus center which would interface with, say, only one other form of transportation? Let us take a municipal bus system. Would that qualify under this?

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. SHUSTER) has expired.

(On request of Mr. DUNCAN of Oregon, and by unanimous consent, Mr. SHUSTER was allowed to proceed for 1 additional minute.)

Mr. DUNCAN of Oregon. Or, if I may proceed, would it have to be, as the gentleman from New Jersey (Mr. HOWARD) implied, a bus station or an intermodal transfer station that would truly interface with all, say, rail transportation, intercity and intracity bus, air, et cetera?

Mr. HOWARD. Madam Chairman, will the gentleman yield to me?

Mr. SHUSTER. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, as I said, that is one of the main features of this, but it is not solely for intermodal. It has to be one kind or the other, but there could be dual trips. It may be bus-to-bus or it may be bus-to-train, but I did not imply otherwise. I said the primary objective of this has to do with the intermodal system.

Mr. SHUSTER. I thank the gentleman from New Jersey (Mr. HOWARD), and I urge the defeat of this amendment.

Madam Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, every couple of years or so my father makes a trip to Washington, now that he is retired and has the time to travel. He comes to visit his grandchildren here, and when he comes, he usually takes a bus.

Frankly, I do not like having him arrive at this downtown Washington bus depot, nor do I like to go there to pick him up. I think it is in a dangerous part of town, and I am rather careful to get there on time to make sure I am on hand before his bus arrives. But that is the case in so many cities around this country. We have terrible bus terminals.

More people travel by bus than by both other modes of public transportation, airlines and rail combined.

What we are trying to do with this provision in the bill is to make a public investment in good transportation policy and in a sound energy program for the future. Under this terminal provision we will allow a public entity—not the bus companies but a public entity, a city or a county—to apply to the Department of Transportation for funding to build a terminal and lease it and make arrangements with private operators to utilize that terminal.

As the gentleman has pointed out, in a large metropolitan area it is well and good for private industry to make these investments because they have an enormous volume of passenger service. But let us take the little town of Buhl, Minn., or my own hometown of Chisholm, Minn., which has just over 6,000 people. Those cities do not have the funds and the bus company does not have enough passenger service to justify making the kind of investment needed for a terminal. Yet these small communities are hubs serving a larger rural area where people can come from outlying areas, with a nearby airport, occasionally a railroad stop, and if we can add bus service, we will be offering rural residents regional, multimodal transportation service. With a good bus terminal, we would be serving a much wider public need.

All I am saying is that with this provision we could satisfy public needs to a greater extent, just as we have done in the Airport and Airways Development Act. We have opened that up to allow public funds for terminal construction. We have provided enormous subsidies to the railroads over the last several years to help them develop.

We are here making one more logical extension in helping the buses to carry the burden of transportation in this country.

Madam Chairman, I think this provision offers an enormous opportunity and advantage for this country.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I am delighted to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Madam Chairman, this amendment or my succeeding amendment that I will offer does not touch the provision that is in the bill for rural assistance programs.

I would like to just say, further, if the gentleman will yield for one moment, that he has, in my judgment, expressed

all of my apprehensions more eloquently than I could; because what he is saying here is that we are going to end up building bus stations in every town of 6,000 population in this country, and I do not think we have the money to do that.

Mr. OBERSTAR. Madam Chairman, I will reclaim my time.

The purpose of the language in the bill is not to build a bus terminal in every town of 5,000 population or towns near that size but, rather, where there is an intermodal service, the bill will makes it possible to join several kinds of transportation into one network, make each serve the other, and relieve the burden of energy in the movement of people in this country.

Madam Chairman, I hope the Committee will defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DUNCAN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Oregon: On page 190, strike line 22 through page 193, line 3, inclusive, and renumber the succeeding sections accordingly.

Mr. DUNCAN of Oregon. Madam Chairman, this is the second and last of my amendments. As the gentleman from Pennsylvania pointed out, as he sought to obfuscate my first amendment, the first amendment dealt only with the question of underwriting and subsidizing capital investments. This one is directed toward the problem of operating expenses. I am opposed to this innovative and new and far-sighted program, just as I was the other one, for exactly the same reasons.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

In defense, Madam Chairman, of rural America, what this program is all about is this: We have many, many small towns in this Nation that have but one public transportation service and that is maybe a small bus company going from town to town. There is no other service for them if they do not have an automobile. And what this intends to do is, at the discretion of the Secretary, where we have a system that is going a little bit into the red, where a slight subsidy can keep that system alive and keep those small towns being served by some public transportation, we give him that discretion. As to the amount of money, once again we had a modest program. We cut the entire mass transit bill in our first amendment by 8.8 percent; this program suffered a 40-percent cut. And so it is a minimal program. I would like to say that we are at the present time isolating our own people in our own Nation. There have been 1,700 cities which 10 years ago had some means of public transportation and which have no means of public transportation today. We have tens and hundreds of thousands of people whom we are locking into their own community because of a slight loss of money on this operation. That is what this is meant to do—to prop up these towns. Who are the people we are isolating? Who are the people who use buses? They are, traditionally, the poorest of the poor in this country. We find 60 percent of the people who use these buses have family incomes of below $10,000. We find that 60 percent of these people who use these buses from small town to small town are the very elderly and very young. We find that 60 percent of the people who use this mode are women or young girls. These are the very people that we will shut out again from service in 1,700 cities in this country if we say that they cannot have the basic mobility that every other American ought to enjoy.

The program has been cut 40 percent. It is at the discretion of the Secretary on a case-by-case basis. There is no lump grant to any particular company or any formula basis in there. It is where a small subsidy can keep a line going from town to town that otherwise would have to be abandoned. Also, it can only be used where that line is the only means of public transit available to those people. So, if they have a train service, that will continue.

Mr. HARSHA. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. HARSHA. Madam Chairman, is it not true that under existing law urbanized areas are eligible for operating subsidies up to 50 percent?

Mr. HOWARD. Absolutely. I thank the gentleman for bringing that up. What we have been doing, with what insufficient funds we have had, is to have operating money for urban areas at the most critical points, but public transit did not mean anything to small towns and cities until we brought this bill forward.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I will be happy to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Madam Chairman, the gentleman has placed me in opposition to rural America, and also to mothers and young girls. I am glad he does not accuse me of being in favor of nuclear waste.

I perhaps am incorrect, but I thought, as I studied this bill, that the gentleman had a section 22 in here with $125 million printed as an appropriation for subsidies for rural areas of this country. I thought further that my amendment struck only section 318, which makes eligible for these subsidies only private bus operators authorized to transport passengers in interstate commerce by the ICC or a State regulatory agency.

As I read it, section 318 is available only to the commercial private operators, while the rural assistance program would permit them to compete to provide that service. My friend knows that I am as much in favor of that as anybody else. I agree that we have subsidized the urban population——

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent Mr. HOWARD was allowed to proceed for 1 additional minute.)

Mr. HOWARD. I would like to say that the bill did talk about a program of $125 million which is a rural program for basically local rural transportation to try and bring small cities into the field of public transportation. I remind the gentleman that the $125 million is no longer $125 million. In the cuts that were made, that is down to $110 million, but it has nothing to do with the town-to-town operation which we are talking about now, the intercity operation for the elderly, for women and young girls, and the very poor. I urge opposition to the amendment.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(At the request of Mr. OBERSTAR and by unanimous consent, Mr. HOWARD was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Madam Chairman, the gentleman makes a very strong case, and I support him in his opposition to this amendment. There was a little bus line that started many years ago between Hibbing and Chisholm in northern Minnesota, which no longer serves there. It was then called Bus Andy's Service. It is today called Greyhound. They moved away because there just were not enough people to keep that service operating profitably.

This provision of the bill will permit many small struggling bus lines to offer service in these sparsely settled areas. If there is any deficiency in the provision in the bill, it is that the committee reduced the funding. It simply is not enough money to do an adequate job.

There are towns in my district—and I am sure in those of my colleagues I see here on the floor—which fit the description made by one elderly gentleman back home who said, complaining that his town had no airport, no railroad, and no bus service, "The only way to get here is to be born here."

I do not want that to happen to the rest of rural America. Let us defeat the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DUNCAN).

The question was taken, and the Chairman being in doubt, the Committee divided, and there were—ayes 7; noes 11.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BENJAMIN

Mr. BENJAMIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENJAMIN: Page 179, after line 11, add the following new subsection:

(e) Section 5(e) of such Act of 1964 is amended—

(A) by inserting "(1)" immediately after "(e)";

(B) by striking out "The" in the second sentence and inserting in lieu thereof "Except as provided in paragraph (2) of this subsection, the"; and

(C) by adding at the end thereof the following new paragraph:

"(2) From the amount appropriated for each of the fiscal years ending September 30,

1979, and September 30, 1980, the Secretary may make grants to each Governor and to each designated recipient of an urbanized area for one project for the payment of subsidies for operating expenses which shall not exceed 80 per centum of the cost of such project, or $1,000,000, whichever is less. The remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital. Subsection (f) of this section shall not apply to any grant made under this paragraph.".

Mr. BENJAMIN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BENJAMIN. Madam Chairman, the amendment I offer, with my friend and colleague, the gentleman from Indiana (Mr. FITHIAN), would establish as a 2-year program to permit the Governor or designated recipient of section 5 Urban Mass Transportation Assistance Act funds to permit one project per year to be eligible for an 80–20 matching requirement for section 5 operating expense funding. There is a $1 million Federal share ceiling per year per project under my proposal.

I believe this amendment would facilitate greater local utilization of Federal funds made available under section 5 and permit local and State transportation authorities to more easily fund that part of the area's mass transportation system most in need of financial assistance, without increasing the levels authorized in H.R. 11733 or increasing the funds received by any political subdivision.

Under section 5(e) of the Urban Mass Transportation Assistance Act "the Federal grant for any project for the payment of subsidies for operating expenses shall not exceed 50 per centum of the cost of such operating expense project." As a result of the 50–50 matching requirement for operating expenses, many localities are prohibited from utilizing the moneys that the Federal Government has made available. The Urban Mass Transportation Administration has advised me that $44,427,027 of funds allocated in 1976 under section 5 may lapse on September 30, 1978, as a result of State and local transportation authorities inability to meet the 50–50 matching requirement.

If a State or community is having difficulty raising the necessary moneys to match the Federal share in order to fully cover a mass transportation project's operating expenses, this amendment would permit that transportation authority to provide only 20 percent of total operating expense deficit and thereby continue to provide full commuter service.

As I mentioned in my opening remarks in support of H.R. 11733, several urban areas that are losing the 80–20 matching requirement for operating expenses for their ConRail service under section 17 of the UMTA Act, are faced with an extremely serious financial crisis. These communities must, as of October 1, meet the 50–50 matching requirement for funding of the operating expense deficit for their ConRail service. This drastic increase in local share can be crippling to an area's ConRail service or provide a fatal blow as is the case of the Chicago to Valparaiso ConRail line in northwestern Indiana. My amendment would permit the localities to temporarily continue funding of these necessary services at an 80–20 matching requirement, hopefully giving the communities adequate time to make arrangements for funding at 50–50 match or for developing an alternative means of transportation if the service cannot be continued at the new matching requirement.

By requiring that the Federal share for any project for operating expenses not exceed 50 percent a transportation authority in financial difficulty is unnecessarily prohibited from allocating more moneys to a certain project even if that project is determined to be the hub of the area's mass transportation system. In this situation, the funding decision has been taken out of the hands of the local transportation authority those closest to the situation, prohibiting them from implementing a comprehensive transportation system. My amendment would restore a great deal of flexibility to the local transportation authority's planning process by permitting them to allocate more moneys to a project that they have determined to be vital to their comprehensive mass transportation system while making additional local funds available for other important aspects of the system.

I recognize the concern of the Public Works and Transportation Committee and all of my colleagues who support a ceiling of 50 percent of the Federal share of operating costs for urban mass transportation projects. However, I believe that the irreparable damage that will be realized as a result of an immediate increase of local share from 20 percent to 50 percent as in the case of the Chicago to Valparaiso ConRail line, is unnecessary and contrary to our national urban mass transportation policy.

Please note that my proposal does not alter the funding formula as set forth in section 5(b) of the UMTA Act and so the authorization level in H.R. 11733 will not be increased and the amount of funds allocated to any political subdivision will not be affected.

There is ample precedent for this amendment. Allow me to recall the genesis of H.R. 8346.

Section 808 of Railroad Revitalization and Regulatory Reform Act of 1976 amended the Urban Mass Transportation Act of 1964 by adding a new section 17 to provide emergency operating assistance for commuter rail service adversely affected by the ConRail reorganization of 1973.

The Regional Rail Reorganization Act of 1973 provided 100 percent funding for commuter rail operating defects from April 1, 1976 to April 1, 1977. It further provided 90 percent funding for operating deficits from April 1, 1977, to April 1, 1978, and 50 percent funding from April 1, 1978 to October 1, 1978.

On October 25, 1977, this House adopted H.R. 8346 which increased funding on an 80–20 basis from April 1, 1978 to October 1, 1978. This became Public Law 95–187.

H.R. 11733 repeals section 17 in section 315 of the bill. Consequently, funding for emergency commuter rail assistance will be 50 percent under the terms of this bill. The committee also added considerable funding.

Section 315 of the bill will undoubtedly assist most communties, but it will not assist the ConRail service of northwest Indiana.

Consequently, I ask for your consideration of this forgotten area and the 800 communters adversely affected by any discontinuance of 80–20 funding.

Since we add nothing to the authorization or to the money allocated to any geographical area, but rather offer a new dimension of flexibility, I ask for adoption of the Benjamin-Fithian amendment.

Madam Chairman, I yield now to the cosponsor of the amendment, my colleague, the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Madam Chairman, I thank my colleague for yielding.

Madam Chairman, I appreciate the opportunity to address the House to urge support of H.R. 11733, the Surface Transportation Assistance Act of 1978.

Chairman HOWARD and my colleagues on the committee have worked with selfless dedication to create this substantive legislation to meet the needs of the surface transportation system of the United States.

I would like at this time to urge the House to adopt Mr. BENJAMIN'S amendment which would alleviate economic hardships placed on State and local transportation authorities who may be unable to meet the 50–50 matching funds requirements of section 5 Urban Mass Transportation Assistance Act.

Intense efforts have been made at the local level to avoid discontinuance of the Valparaiso to Chicago ConRail line. State Representative Esther Wilson and Don Erker, chairman of the Chicago Indiana Railroad Commuters Association, have worked diligently to guarantee maintenance of this service on behalf of the 800 passengers of ConRail. The damage that will be realized as a result of this immediate increase of local shares will have a staggering effect on the transportation system in northwest Indiana. My colleagues, Mr. BENJAMIN and DAVID CORNWELL, Indiana's Eighth District Representative and member of the Public Works and Transportation Committee, have devoted tireless and commendable efforts which have benefited not only those whom they immediately represent, but also all citizens in the State of Indiana and the entire country, as:

Indiana, while ranking only 38th in the number of square miles of land surface, ranks 19th largest in the number of highway miles;

In 1975, Indiana ranked 10th largest in the Nation in millions of vehicle miles

traveled with over 37,359 million vehicle miles accrued.

Indiana is a vital link in the Nation's transportation system and has done an outstanding job of using all the dollars made available to complete and maintain our Interstate System without any gaps. Though 800 commuters may seem insignificant on the surface, any additional burdens on the already heavily trafficked highways could create havoc; any additional immediate increases in local funding shares for public transportation—an impossibility in our case—would have a very adverse effect by directly causing even heavier traffic. Con-Rail has posted notices of discontinuance for the Valparaiso to Chicago line as of September 30; if allowed to occur, the damage, I believe, will be irreparable.

Mr. BENJAMIN's request is not for more funds; Mr. BENJAMIN's request is for more flexibility in the use of existing funds. More flexibility is the key to more effective use, the real answer to meeting the needs of individual State and area priorities, and for this reason, I urge your support of this amendment.

Mr. BENJAMIN. Madam Chairman, I thank the gentleman for his supporting remarks.

Although Mr. FITHIAN and I have alluded to the catalyst and motivation for this amendment, it actually would apply to any mass transit function eligible for funding under section 5 of the Urban Mass Transportation Act. It will apply to other communities that want to use their section 5 money in a different mode for one project for less than 2 years requiring less than $1 million of Federal funding. It will not allocate any more section 5 money to a community or provide any more aggregate authorization in the bill. I again urge its adoption.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, we have seen, not only on the floor, in discussion of this legislation, but in past years, the very sensitive area we are in in talking about operating subsidies at all. There has always been a great deal of opposition to this.

When we first were able to obtain some operating subsidies, 50–50 was a very difficult thing because there was a great deal of feeling that if we put in one-third and the local community put in two-thirds, that was a pretty good balance. We do have it now, both in urban and in rural, on the 50–50 basis.

In the gentleman's amendment when he talks about one project may be selected for this, the amendment, as it reads, and as it would operate, says one project for every State, meaning every Governor could pick one. So we have 50 Governors who could pick a project in their own State for this, as well as the approximately 200 designated recipients in urban areas would be able to pick a project. So we would have projects amounting to 250 separate projects, working on an operating subsidy basis, which has tremendous opposition at 50–50, and would certainly be totally unacceptable down the road on an 80–20 basis at all.

I think we have worked out a good arrangement. We feel we have been fair. We have added to all kinds of surface transportation. We have provided rural operating subsidies on the same kind of basis that we have for urban. I think this would disrupt it. It would fund 250 areas.

I urge its defeat.

Mr. HARSHA. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. HARSHA. Madam Chairman, I thank the gentleman for yielding and I want to join the gentleman in opposition to this amendment.

As the gentleman has indicated, there is considerable opposition to operating subsidies in any percentage. Certainly we had to deal with this issue back in 1974. At that time there was considerable support and sentiment for reducing it to 30 percent or even eliminating it altogether. But we did settle on 50 percent.

If we go down this path of increasing operating subsidies to 80 percent, then you are going to have every community in the country coming in and trying to get an 80 percent operating subsidy.

The basis upon which most Members oppose operating subsidies is the fact that operating costs are the least subject to restraint on the part of the recipient localities. There is little incentive to run an efficient or a cost-effective operation if somebody is going to subsidize that operation. So it takes away the incentive to try to run an efficient and cost-effective operation.

For that reason, Madam Chairman, I oppose this particular amendment, not only because of the precedent it will set and because of the extreme pressures that will be exerted on this Congress to increase all operating subsidies to 80 percent, but because it leads to ineffective operations in the systems themselves.

I urge defeat of the amendment.

Mr. SHUSTER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would simply make one point in opposing this amendment, particularly for those who care deeply about increasing the total emphasis on mass transit, the effect of this amendment would be that the total number of dollars committed to mass transportation would be lessened. If you consider that a given sum of money goes from the Federal Government to a city, and the city now must match it with 50 percent, then consider the impact of this amendment where only 20 percent would be required from the locality. The total dollars would be significantly reduced.

I recognize that in some cities because they do not have the money to make the match, this example I use is rhetorical, but it surely is not rhetorical in every city, and if it is more than rhetoric in at least one city, it then means that less total dollars are available for mass transportation.

For that reason I oppose the amendment, and I urge particularly those people who want to see increased commitment to mass transportation to vigorously oppose this amendment.

Mr. BENJAMIN. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Indiana.

Mr. BENJAMIN. Madam Chairman, I appreciate what the gentleman is saying. That is why I have the 2-year limitation in the amendment. I also have a cap of $1 million of Federal funding. The amendment, with these safeguards, allows a local community to make the decision regarding where mass transit funding will be spent.

I know that the chairman of the subcommittee is quite concerned that there might be 250 separate uses of this amendment, and there very well may be 250, although I doubt that all of the communities of this country will need the flexibility desperately needed in northwest Indiana.

However, in every instance I have provided for maximum use of available section 5 funds covered by safeguards to prevent abuse.

Madam Chairman, I would ask the Members to accept this amendment. There are adequate safeguards in its provisions. The major focus is on flexibility and local control. On every Federal program we have ever discussed on this floor we have concluded by saying, "How do we provide local control?" I thank the gentleman for yielding.

Mr. SHUSTER. Madam Chairman, I thank the gentleman for his comment. I would concede that under certain circumstances his amendment may only hurt mass transit for a period of 2 years.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. BENJAMIN).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title III? If not, the Clerk will read title IV.

The Clerk read as follows:

TITLE IV

PLANNING

SEC. 401. (a) Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Planning

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

"(b) The transportation planning process for urbanized areas shall be carried on by the responsible local officials in cooperation with the State.

"(c) A program of projects in any urban area of more than fifty thousand popula-

tion shall not be approved under section 105 of this title unless (1) the Secretary finds that the planning process on which the program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(d) The amount of funds made available to a State attributable to an urbanized area in such State with a population of fifty thousand or more shall be made available by such State to such urbanized area in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to population, status of planning, and metropolitan area transportation needs.

"(e) The Secretary may define these contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary may by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary may, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and may provide assistance including financial assistance to such bodies. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed $500,000 to carry out this subsection.".

(b) The analysis of chapter 1 of title 23 is amended by striking out

"134. Transportation planning in certain urban areas."

and inserting in lieu thereof

"134. Planning.".

(c) Section 8 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"PLANNING

"SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The planning process shall include an analysis of alternative transportation system management and investment strategies to make efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

"(b) The transportation planning process for urbanized areas shall be carried on by the responsible local officials in cooperation with the State.

"(c) A program of projects eligible for assistance under this Act shall be submitted for approval to the Secretary. The Secretary shall not approve any program of projects in whole or in part unless (1) the Secretary finds that the planning process on which the program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(d) The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(e) The Secretary is authorized to conduct special studies such as (1) studies to improve the implementation of the urban transportation planning process; (2) studies relating to management, operations, capital requirements, and economic feasibility of public transportation systems; (3) evaluation of previously funded projects; and (4) other related studies.".

BUY AMERICAN

SEC. 402. (a) Notwithstanding any other provision of law, no grant shall be made under this Act any part of which is to be used for the acquisition of any article, material, or supply (including, but not limited to, steel or rolling stock for fixed rail) unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in the project.

(b) Subsection (a) of this section shall not apply in any case where the Secretary of Transportation determines it to be inconsistent with the public interest, or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

RULE AND REGULATION REVIEW

SEC. 403. (a) Notwithstanding any provision of title 23, United States Code, the Urban Mass Transportation Act of 1964, any other Act amended by this Act, or of this Act, simultaneously with promulgation or re-promulgation of any rule or regulation under title 23, United States Code, the Urban Mass Transportation Act of 1964, any other Act amended by this Act, or of this Act, the Secretary of Transportation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b), the rule or regulation shall not become effective, if—

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by dealing with the matter of , which rule or regulation was transmitted to Congress on .", the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subsection (a).

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

RESTRICTION ON USE OF FUNDS

SEC. 404. No. funds authorized to be appropriated pursuant to part II of the Interstate Commerce Act, as amended, shall be available to enforce Federal Motor Vehicle Safety Standard 121 (49 CFR 571.121) during the two-year period beginning on the day of enactment of this section.

IMPROVED MANAGEMENT

SEC. 405. (a) Within one year after the date of enactment of this section, the Secretary of Transportation, by rule, shall establish timetables for general classes of proceedings utilized in carrying out (1) title 23 of the United States Code, and (2) the Urban Mass Transportation Act of 1964.

(b) The Secretary of Transportation shall annually review the timetables established under subsection (a) of this section and make any modifications in such timetables or establish any new timetables as are necessary to assure that an accurate timetable exists for each procedure described in such subsection.

(c) If during the course of any proceeding described in subsection (a) of this section which begins after the establishment of a timetable for such proceeding under such subsection the Secretary determines that compliance with such timetable is not possible, the Secretary shall publish the reasons for such noncompliance in the Federal Register together with a revised timetable for the completion of such proceeding.

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there any amendments to title IV?

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 210, line 2, strike out "Notwithstanding" and insert in lieu thereof the following: "Except as provided in subsection (e) of this section, notwithstanding".

Page 212, after line 3, insert the following:

(e) This section shall not apply to any rule or regulation promulgated or repromulgated under the Interstate Commerce Act, the Internal Revenue Code of 1954, the Highway Revenue Act of 1956, or the Land and Water Conservation Fund Act of 1965.

Mr. LEVITAS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Madam Chairman, the purpose of this amendment is to clarify the intention of the committee in adopting the legislative veto provision under this legislation and to make it clear that it applies only to the Department of Transportation and not to the Treasury or the Interstate Commerce Commission.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I thank the gentleman for yielding.

We do understand this amendment. We feel it is a good amendment because it makes it very clear that we are not tying up two other agencies. We are directing this only at the main agency, the Department of Transportation.

Madam Chairman, we accept the amendment.

Mr. LEVITAS. Madam Chairman, I thank the gentleman.

Mr. HARSHA. Madam Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. HARSHA. Madam Chairman, I understand the import of the gentleman's amendment, and I certainly know that we will accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: Page 209, after the word "steel" insert a comma.

Page 209, after the word "Act" insert, ", or under any Act amended by this Act and administered by the Department of Transportation,".

Mr. EDGAR (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. EDGAR. Madam Chairman, as I explain this amendment, I would like to gain the attention of the chairman of the subcommittee so that we might engage in a colloquy.

This amendment is an important revision of section 402 of the bill, the so-called Buy American section which I introduced into the bill during the mark-up session. As currently written, section 402 requires that equipment, materials, and supplies purchased with grants made under the bill be substantially mined, produced, or manufactured in the United States. My amendment today would extend this domestic preference to grants made not only under the bill, but also to grants made under the ongoing highway and mass transit programs. Thus, as amended, section 402 will grant a domestic preference to funds authorized under past highway and mass transit acts for which contracts have not yet been let. It is the intent of section 402 that domestic preference apply even where grants have already been made when contracts have not been awarded pursuant to such grants. Does the chairman of the subcommittee concur in this legislative intent?

Mr. HOWARD. If the gentleman will yield, Madam Chairman, the answer is "Yes." I do agree with the gentleman's statement.

Mr. EDGAR. Madam Chairman, this domestic preference section would be administered in a manner similar to the way the current Buy America Act is administered; the Buy America Act applies to direct purchases made by the Federal Government, but not to grants-in-aid. Section 402 would apply the Buy America principle to grants-in-aid made under the highway and mass transit programs. In connection with the use of the word "steel" in subsection (a) of section 402, I wish to emphasize that domestic preference is to be extended to all steel acquired, not simply steel used in connection with the manufacture of rail rolling stock. In addition, in interpreting the consistency of the public interest and reasonableness of cost under subsection (b) of section 402, it is intended that the Secretary shall utilize a system of domestic preference that considers appropriate price adjustments to domestic products sufficient to reflect that portion of each grant likely to be returned to the United States and to the States in the form of tax revenues, and it is further intended that the Secretary give full consideration to employment in the United States. I would like to ask Mr. HOWARD if these views accord with his understanding of the legislative intent of section 402.

Mr. HOWARD. If the gentleman will yield, they certainly do. I would like to take this time to commend the gentleman from Pennsylvania for the efforts he has made in this sensitive area of Buy America. I know it took many months, and the gentleman from Pennsylvania talked with all groups involved—the consumer, labor, the industry itself—in being able to insure that to the maximum feasible extent we will be able to help our own economy with this legislation.

There certainly are reasonable waivers that are put in there before the Secretary of Transportation. We are not going to be unreasonable on price differentials. It certainly cannot be in any way interfering with the national interest. It has to involve itself with the availability of materials. All of these items, or any one of these items, are items where the Secretary may waive this provision, so I believe we have a very good intent on a sensitive subject. I thank the gentleman for his amendment, this amendment which qualifies and nails it down, and I urge adoption of the amendment.

Mr. EDGAR. I thank the gentleman for his comments.

This concludes my colloquy with the chairman. I would like to say a few more words about the need for this "Buy American" section.

Over the past year, it has become apparent to me that the Department of Transportation is engaging in a deliberate policy to entice foreign rail car manufacturers into the United States. The Urban Mass Transportation Administration is doing this, on the advice if not under the order of the Office of Management and Budget. Evidently it is believed that the more companies participating in competition for railcar contracts, the lower the cost of these procurements will be. This cost control effort is being made without regard to the consequences on the domestic railcar industry.

Consider this example which happened only last week. The new Miami rail system and the new Baltimore system are cooperating on a joint procurement of rapid transit cars. Both agencies are asking UMTA to concur in a specification that calls for stainless steel cars in order to prolong the life of the cars. Two foreign manufacturers—Hawker-Siddley of Canada and Societe Franco-Belge of France petitioned UMTA to disapprove this request for stainless steel cars because both foreign companies manufacture only aluminum car bodies. In order to stimulate competition, UMTA is ruling in favor of the request made by the foreign manufacturers despite the well-documented request of Miami and Baltimore for stainless steel cars, and despite the fact that each of America's surviving railcar manufacturers is prepared to supply the cars in stainless steel.

Similar gymnastics by UMTA have seriously eroded the chance that American firms have to win a railcar competition in Philadelphia.

Congress must respond swiftly to this administration policy. It is contrary to our interest in reducing our trade deficit. The administration policy threatens a budding American industry and American jobs.

This Buy American policy will help the American industry not by preventing foreign bids, but by giving the contracts to American suppliers when the cost of doing so is reasonable. This would work by a system of price adjustments, which I have referred to here as "domestic preference." I might add that this preference will help offset the numerous subsidies enjoyed by foreign manufacturers, such as subsidized technology development, export subsidies, and other policies not enjoyed by American firms. In essence, this section helps put an end to the current policy of "foreign preference" and

I urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: Page strike out line 12 and all that follows down through and including line 24 on page 206 and insert in lieu thereof the following:

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs, as determined by the State and local officials, with due consideration given to the national goals set forth in subsection (c) of this section.

"(b) (1) The transportation planning process for urbanized areas shall be carried on, in collaboration with the State, by local officials acting through a metropolitan planning organization or other instrumentality which, at the minimum, shall encompass the entire urbanized area within the State, as designated by the Bureau of the Census. Where an urbanized area encompasses communities in morethan one State the Secretary may, at his discretion and upon the request of the responsible local officials, assist in the development of separate plans and programs for those parts of the urbanized area within a single State.

"(2) Within one year after the enactment of this section, in the absence of State law to the contrary, the local officials of an urbanized area for which a metropolitan planning organization has been designated prior to enactment of this section may, under rules established by the Secretary, redesignate the State or any representative regional instrumentality as the metropolitan planning organization for the purposes of this section.

"(c) (1) On a date established by regulation, and at subsequent two year intervals, the local officials of an urbanized area desiring to avail itself of Federal financial assistance under the Urban Mass Transportation Act of 1964 or under this title shall prepare and submit to the Secretary for approval a comprehensive transportation plan. The planning process on which such plans are based shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. All plans submitted under this subsection for approval by the Secretary shall include both a long-range element and a short-range element.

"(2) The long-range element shall set forth a multiyear program of transportation improvement projects, staged according to priority. The long-range element shall include concise statements relating to multiyear program to each of the following objectives, which are declared to be in the national interest: (A) coordination of the urbanized area transportation system with the statewide transportation system; (B) development and implementation of strategies to reduce transportation improvement costs by making more effective use of existing transportation facilities; (C) development and implementation of strategies to coordinate various modes of passenger transportation; (D) development and implementation of strategies to reduce traffic fatalities and improve other aspects of transportation safety; (E) general improvement of mobility, with special attention paid to the needs of the transportation-disadvantaged; and (F) with respect to urbanized areas of 1,000,000 or more population, reduction of energy consumption and improvement of air quality by development and implementation of strategies to reduce peak hour single-passenger automotive travel to and from major centers of employment.

"(3) The short-range element shall set forth those transportation improvement projects, together with alternative transportation management strategies, proposed for the following two calendar years. The short-range element shall be developed, under supervision of the designated metropolitan planning organization, by an appropriate forum involving the State transportation department (or its equivalent), public operators of mass transportation, and other major actors responsible for implementation of the transportation policies of the urbanized area.

"(d) The Secretary shall approve a comprehensive transportation plan submitted pursuant to the preceding subsection unless he determines that the planning process on which the plan is based has not been carried out in conformance with this section, or unless he finds that the programs contained in the plan, when considered in the aggregate, are plainly inconsistent with and will not promote the national goals set forth under subsection (c) (2) of this section.

"(e) Concurrent with submission to the Secretary, transportation plans submitted to the Secretary pursuant to subsection (c) of this section also shall be submitted to the Governor of the State or States affected, to principal sponsors of projects proposed in the plan, and to the Environmental Protection Agency. If within thirty days thereafter any of the recipients submits comments to the Secretary, the Secretary shall consider such comments before taking final action on the plan. Nothing under this section shall be construed as limiting the authority of the State to develop and submit, pursuant to section 105 of this title programs for projects under this title.

"(f) Approval by the Secretary of any plan submitted under this section shall not prohibit the Secretary from subsequently disapproving any individual project proposed in the plan, pursuant to the provisions of the Urban Mass Transportation Act of 1964, this title, or any other Federal law. Approval by the Secretary of any plan submitted under this section shall not be considered an action or approval for the purposes of the National Environmental Policy Act.

"(g) No project under the Urban Mass Transportation Act of 1964 or under this title and within an urbanized area as designated by the Bureau of the Census, shall be approved by the Secretary after September 30, 1980, unless such project is part of the short-range element to the comprehensive transportation plan submitted by that urbanized area and approved by the Secretary. The Secretary may waive this requirement for projects designed to meet emergency needs.".

Page 207, strike out line 7 and all that follows down through and including line 3 on page 209 and insert in lieu thereof the following:

"SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs, as determined by the State and local officials, with due consideration given to the national goals set forth in subsection (c) of this section.

"(b) (1) The transportation planning process for urbanized areas shall be carried on, in collaboration with the State, by local officials acting through a metropolitan planning organization or other instrumentality which, at the minimum, shall encompass the entire urbanized area within the State, as designated by the Bureau of the Census. Where an urbanized area encompasses communities in more than one State the Secretary may, at his discretion and upon the request of the responsible local officials, assist in the development of separate plans and programs for those parts of the urbanized area within a single State.

"(2) Within one year after the enactment of this section, in the absence of State law to the contrary, the local officials of an urbanized area for which a metropolitan planning organization has been designated prior to enactment of this section may, under rules established by the Secretary, redesignate the State or any representative regional instrumentality as the metropolitan planning organization for the purposes of this section.

"(c) (1) On a date established by regulation, and at subsequent two year intervals, the local officials of an urbanized area desiring to avail itself of Federal financial assistance under this Act or under title 23, United States Code, shall prepare and submit to the Secretary for approval a comprehensive transportation plan. The planning process on which such plans are based shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. All plans submitted under this subsection for approval by the Secretary shall include both a long-range element and a short-range element.

"(2) The long-range element shall set forth a multiyear program of transportation improvement projects, staged according to priority. The long-range element shall include concise statements relating to multiyear program to each of the following objectives, which are declared to be in the national interest: (A) coordination of the urbanized area transportation system with the statewide transportation system; (B) development and implementation of strategies to reduce transportation improvement costs by making more effective use of existing transportation facilities; (C) development and implementation of strategies to coordinate various modes of passenger transportation; (D) development and implementation of strategies to reduce traffic fatalities and improve other aspects of transportation safety; (E) general improvement of mobility, with special attention paid to the needs of the transportation-disadvantaged; and (F) with respect to urbanized areas of 1,000,000 or more population, reduction of energy consumption and improvement of air quality by development and implementation of strategies to reduce peak hour single-passenger automotive travel to and from major centers of employment.

"(3) The short-range element shall set forth those transportation improvement projects, together with alternative transportation management strategies, proposed for the following two calendar years. The short-range element shall be developed, under supervision of the designated metropolitan planning organization, by an appropriate forum involving the State transportation department (or its equivalent), public operators of mass transportation, and other major actors responsible for implementation of the transportation policies of the urbanized area.

"(d) The Secretary shall approve a comprehensive transportation plan submitted pursuant to the preceding subsection unless he determines that the planning process on which the plan is based has not been carried out in conformance with this section, or unless he finds that the programs contained in the plan, when considered in the aggregate, are plainly inconsistent with and will not promote the national goals set forth under subsection (c)(2) of this section.

"(e) Concurrent with submission to the Secretary, transportation plans submitted to the Secretary pursuant to subsection (c) of this section also shall be submitted to the Governor of the State or States affected, to principal sponsors of projects proposed in the plan, and to the Environmental Protection Agency. If within thirty days thereafter any of the recipients submits comments to the Secretary, the Secretary shall consider such comments before taking final action on the plan. Nothing under this section shall be construed as limiting the authority of the State to develop and submit, pursuant to section 105 of title 23, United States Code, programs for projects under title 23, United States Code.

"(f) Approval by the Secretary of any plan submitted under this section shall not prohibit the Secretary from subsequently disapproving any individual project proposed in the plan, pursuant to the provisions of this Act, title 23, United States Code, or any other Federal law. Approval by the Secretary of any plan submitted under this section shall not be considered an action or approval for the purposes of the National Environmental Policy Act.

"(g) No project under this Act or under title 23, United States Code, and within an urbanized area as designated by the Bureau of the Census, shall be approved by the Secretary after September 30, 1980, unless such project is part of the short-range element to the comprehensive transportation plan submitted by that urbanized area and approved by the Secretary. The Secretary may waive this requirement for projects designed to meet emergency needs.".

Mr. EDGAR (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 5 additional minutes.)

Mr. EDGAR. Madam Chairman, I take the microphone here in the well to offer what I think is a very important amendment. This amendment is a planning amendment that strikes the planning language that we put in the bill and provides for a new and what I believe is a creative planning section.

I would like to compliment the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from New Jersey (Mr. HOWARD) for putting together the Federal Aid to Transportation Act of 1978. It is an act that for the first time brings together highways, bridges, highway safety, and public transit. It is an act that recognizes that we have transportation needs that embrace various modes of transportation. But I feel that the language that we have put in the bill which relates to planning, section 401, simply reiterates existing law. It continues to ask local bodies to continue a six-step planning process: A transportation improvement program, an annual transportation improvement planning element, a prospectus summarizing the plan, a transportation system management element, a transportation control plan, and an overall transportation plan.

We have checked with area and regional planners and we have discovered that this current process is a miserable failure. Currently there is little attempt on the part of officials to analyze the impact of the projects they select for Federal funding.

What we have is a planning process that many planners like because it does not work. It has no teeth. Planners can work without supervision by local officials, because the planning process is so complicated, local officials have neither the time nor the inclination to get involved in it.

Let me speak specifically about what my amendment does. My amendment suggests that there be a two-step planning process, instead of a six-step process. The first is a long-range transportation plan developed collaboratively by the States and by designated local officials in metropolitan areas.

The second step of this two-part process requires that every 2 years—not annually, but every 2 years—we ought to look at and focus on the short-range projects and strategies needed to implement the long-range plan.

As under current law, no project would be accepted if it is not included in the plan: in this case, in the short-range element.

Another thing my amendment does, which I think is significant, is pull together six-Federal goals to guide the process. These particular goals already exist in existing law in one place or another, but here we list them under one umbrella.

Let us listen carefully to these six modest goals. First, taken as a whole, programs in each plan would have to help coordinate the urban transportation system with the State system. An important goal.

Second, taken as a whole, the program would have to help coordinate various modes of passenger transportation.

Third, taken as a whole, the program would have to improve use of existing transportation facilities.

Fourth, taken as a whole, the program would have to help reduce traffic fatalities and improve other aspects of transportation safety.

Fifth, taken as a whole, the program would have to help improve mobility in a general sense with special effort made in addressing the needs of the transpotation disadvantaged.

Finally, the sixth goal, taken as a whole, any program submitted by an urban area over 1 million in population would have to show some effort in reducing single-passenger automotive travel to major centers of employment during the rush hour.

These are modest goals and I do not believe they are controversial goals. We have a Federal highway and a mass transit program exceeding $10 billion annually. It is reasonable to expect that this money be used in a logical way and that these goals all be looked at before we grant planning certification and release the flow of Federal dollars.

The chief innovation of this amendment is that it pulls things together. It consolidates several overlapping planning sections now in law. These overlapping sections are what has given us the current planning process, which I call a planning mess.

In summary, this is a clarifying amendment.

I would like to speak just for a moment before I yield about some of the concerns voiced by some of the lobbyists. Some of you may have heard from the Governors or from regional officials who oppose the amendment.

Some Governors point out to us that they oppose the amendment because it gives too much authority to metropolitan planning organizations or local officials. Some local officials say, "We oppose the amendment because it gives too much responsibility to the Governors or to State officials." This bickering is ridiculous.

I would suggest to all Members that many of the people who oppose this amendment have said to me privately: "We think much of your language improves the language in the bill and in the statutes, but we feel that the existing system is safe so we prefer no changes now."

Bureaucrats have never asked for less paperwork. They depend upon it for their livelihood. Those of us who are interested in paperwork and redtape should applaud rather than oppose this type of clarifying amendment.

The initiative is going to have to come from us. We are going to have to stand up to some special interest groups. The planning problem is now so complex, it is difficult for us to get together and put it all together. It is a nitty-gritty oversight issue, not a funding issue. Thus people have not worked on it.

After watching this particular legislative process over the last few weeks, I am disturbed about the quality of this legislation. We spend an awful lot of time looking at project-by-project decisions and not very much time talking about policy issues and redtape in transportation. My amendment gives us an opportunity to look at a serious redtape issue.

Let me close by making this comment to all the Members: I know the pressures the Members are under to reject this amendment, but I would suggest that one of the reasons, as stated in the report of the bill and in the report that we are preparing for floor action today, is, as the committee states, that the language in the bill is simply a vehicle with which we can go to conference and discuss planning. I would suggest that my amendment is better than the language in the bill, and will serve as a better conference vehicle. It will force the Governors, the regional officials, and the planners to develop a new planning process that is simple and makes sense.

Mr. ANDERSON of California. Madam Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from California.

Mr. ANDERSON of California. Madam

Chairman, I thank the gentleman for yielding.

Madam Chairman, the gentleman circulated a "Dear Colleague" letter on September 11, and in this letter he stated that "Our transportation planners are being smothered in burdensome planning requirements," and the gentleman mentioned "the transportation plans, summaries, TIP's, management elements, and control plans."

In reading the gentleman's language in his amendment, however, I find no language calling for the repeal of these burdensome requirements and substituting in lieu thereof the proposed "two-step" process.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. EDGAR) has expired.

(On request of Mr. ANDERSON of California, and by unanimous consent, Mr. EDGAR was allowed to proceed for 3 additional minutes.)

Mr. ANDERSON of California. Madam Chairman, if the gentleman will yield further, I wonder if the gentleman would tell me if my observation is correct. Is this intentional that we not add yet another layer of planning without eliminating those that are already required?

Mr. EDGAR. Madam Chairman. I thank the gentleman for his comments. The gentleman makes an excellent point, and I am glad this matter came up.

The amendment does repeal some existing authority, but it will have to be clarified by report language to say that the existing joint regulations which are administrative requirements be scrapped in favor of these new requirements. Some of the existing authority has not been repealed now, because the current planning process which is based on this existing language will have to continue for at least 1 year while this new process is being phased in. We will have to have a transitional period between the two planning processes.

The report coming out of the conference committee will have to make it clear that we expect this new procedure to supersede the current process in all respects.

Mr. ANDERSON of California. Madam Chairman, if the gentleman will yield further, the "Dear Colleague" letter I mentioned makes reference to the goals and responsibilities of MPO's. I am unclear on the impact the State legislation creating local transportation commissions may have on the two-step process proposed by my colleague, the gentleman from Pennsylvania.

Specifically, in Los Angeles County we have a transportation commission created by State law, and this committee has principal responsibility for planning and programing, which the gentleman's amendment addresses.

Would the author of the amendment comment on how the State-created commission fits into the gentleman's two-step process? Ideally, I envision a planning process to require recognition and direct involvement where an agency has been created under State law with programing and priority setting responsibilities, such as our Los Angeles County Transportation Commission.

Mr. EDGAR. This is meant to be a collaborative planning process, with issues resolved by the State and local officials before the plans are sent to the Secretary.

I understand that southern California has a particularly complicated planning structure, and I hope the conference report will clarify the impact of this new section on southern California's peculiar institutional arrangements.

What I want to stress here is the collaborative nature of this new planning process.

Mr. ANDERSON of California. If the gentleman will yield further, I have one last question.

My initial reading of subsection (f) causes me concern if it is the intent to require this new two-step plan, which will entail considerable time and effort by planners, and then allow it to be filed away at the Department, which, unfortunately, sometimes happens under existing law.

This legislation should reflect the clear intent of Congress that these plans represent realistic funding programs developed by local elected officials and that the Department then take every effort to implement them.

Mr. EDGAR. Madam Chairman, I agree with the gentleman and believe that the Secretary should take these plans seriously and cooperate with State and local officials to ensure full implementation.

Madam Chairman, I thank the author (Mr. EDGAR) and I rise in support of his amendment.

Mr. SHUSTER. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, first I would like to commend the gentleman from Pennsylvania (Mr. EDGAR) for the outstanding contribution he has made in the development of this legislation. He has truly done an outstanding job, and I believe this should be emphasized. It is for that reason that I reluctantly rise to oppose this amendment. But rise I must to oppose this amendment, because I believe it is fundamentally wrong. Indeed, there are three reasons why this amendment should be rejected.

First, this amendment should be rejected, because it gives statutory power—more power, if you will—to the metropolitan planning organizations, the so-called MPO's. I would emphasize that across America these metropolitan planning organizations have been a source of controversy and, in some States, have had the concern that the new impetus given them by proposals similar to this amendment would further dilute State authority and aggravate difficulties with the multijurisdictional disputes in metropolitan areas, particularly in those areas involving more than one State. For this reason this amendment should be rejected.

But it should also be rejected, because it gives more power to the U.S. Secretary of Transportation. For the first time the Secretary of Transportation would be able to approve the substance of the plans of the more than 270 urbanized areas—not simply the process, but the substance. And that, here in Washington, is centralizing still more power in the Secretary's office. I believe that is wrong.

I believe the third reason that this amendment should be rejected is because it reduces the State's role in approving the plans. For example, the State of Pennsylvania. I have in my possession, and I understand all members of the Pennsylvania delegation have received a telegram from the Secretary of Transportation, in which it states they urge the opposition to this plan which we offer. This amendment could destroy the cooperative planning process that has been built within the State of Pennsylvania, and I have heard this objection echoed from many States. For that reason, also, this amendment should be rejected.

Madam Chairman, I certainly do not stand here in defense of the present planning process. It could be improved. However, I would refer to the gentleman who preceded me in the well, who said that something should be repealed by report language. I would suggest that you cannot repeal what is presently on the books by report language. And if his amendment does not deal with any repeal that is required, his amendment, I would respectfully suggest, is defective.

Further, it has been pointed out by the author of the amendment, and in the colloquy with the gentleman from California, that there could be a problem with the State Transportation Commission. Now, the gentleman has said there would be a collaborative process—to use his words—between the metropolitan planning organizations and the State Transportation Commission. Well, I would submit that another term for more collaboration is simply more layers, more delays, more confusion, more redtape, and I believe that for these reasons the amendment should be rejected.

Lastly, I believe the amendment should be rejected for the reason that my good friend and colleague, the gentleman from Pennsylvania, has said that he would hope that aspects of his amendment could be clarified in the conference. Well, I think if there is any clarification that is needed, it should be done right here in the amendment itself. For that reason alone, if we have to wait, in the hope and in the anticipation that maybe something can be solved in conference, then I say we should not be voting on something that may happen. We should oppose this amendment.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Madam Chairman, I wish to raise several points. The first point is that the gentleman knows that the language already in the bill, given the report language, is meant itself to be a vehicle for conference. It says so plainly in the report. This amendment, too, would be a vehicle for conference.

Second, in terms of statutory authority for MPO's, it simply asks that planning be supervised by a metropolitan planning organization or some "other metropolitan instrumentality."

Mr. SHUSTER. I would take back my time on that point simply to respond that if we are talking about that, indeed, it is statutory, as the gentleman has just indicated.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. EDGAR and by unanimous consent, Mr. SHUSTER was allowed to proceed for 3 additional minutes.)

Mr. SHUSTER. As the amendment says, "or some other agency," I would submit that is worse, not better, because it does not even nail down precisely what agency is going to have the responsibility. It is either the metropolitan planning organization or something else.

Mr. EDGAR. If the gentleman will yield further, as the gentleman knows that is precisely the existing practice, that the local metropolitan area designate an MPO or some other organization to do the planning. I would like to speak to the second point in which the gentleman says that my amendment would give the Secretary of Transportation more power, because he would have the opportunity to deal with the substance of the proposal rather than just the process of the proposal. I think the gentleman's argument against my amendment, although it is the very argument that many of my colleagues will find very attractive, is not convincing, because he acknowledges that the current planning process is simply a process. It does not look at the substance or the quality of the proposition involved.

Mr. SHUSTER. I would withdraw my time at this point to respond to that. While it is true, and I believe this, that this kind of power is not under present law reposed with the U.S. Secretary of Transportation, indeed in many States, and certainly in our State of Pennsylvania, as the gentleman knows, the proper vehicle for giving substantive review and approval is the State Transportation Commission. It is an excellent vehicle. It has done its work well, and I think to water down through this language the kind of outstanding work which has been done by the State Transportation Commission at least in the State of Pennsylvania—and I understand in many other States as well, as in California, for example—I think would be going certainly in the wrong direction. So, I thank the gentleman for making that point, and I believe it is one more reason why this amendment should be rejected.

Mr. EDGAR. We have had some experience with that in the Philadelphia region that I am very familiar with, where planning committees will indicate, particularly metropolitan area planning committees or planning authorities, that—

We do not have the jurisdiction to approve substance. All we have jurisdiction to do is recommend process. We can pass that decision to the State.

We then go to the State and say, "Are you going to make the local substantive planning decision?"

The State Department of Transportation, even in Pennsylvania, says:

No. we are going to pass that decision on to the Federal Highway Administration or the Secretary of Urban Mass Transit Administration.

What we have, of course, is everybody passing the buck and no one makes the substantive decisions as to the quality of the projects. They simply say it is the other person's responsibility. I think planning is important, and I think we ought to have a planning section at work.

Mr. SHUSTER. I thank the gentleman. I submit that in coming up with proposals for passing the buck, it passes it in the wrong direction. It should not be passed on Washington, to the U.S. Secretary of Transportation, but should be kept closer to home.

Mr. HARSHA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the amendment. As all of us know, up to now we have had a Federal-State partnership in the highway program, a very effective and highly workable program that has provided us with the best highway system in the world. Now, the effect and import of the gentleman's amendment would be to completely gut, in my opinion, the role that the States have played historically in this Federal-State partnership. The lead would be taken away from the States by the gentleman's amendment.

In addition to the three arguments against the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER), I would like to point out that I have three additional reasons why this amendment should be defeated. It is a proposal which would undermine the basic elements of a Federal transportation plan among all jurisdictions, Federal, State, and local.

To give the Members an example, section (b)(1) provides that in an urban area encompassing communities in more than one State, the Secretary may at his discretion, and upon the request of the responsible local officials, assist in the development of separate plans and programs for those parts of the urbanized area within a single State.

That means that the Secretary could step in and take sides on one part of the whole plan in opposition to one or more of the other States.

To give another example, in section (c)(1), the local officials will send their plans and programs directly to the Secretary, bypassing the State completely and again any assurances of State and local cooperation.

The third point I would like to make is that section (d) says that the Secretary can disapprove an area plan if he determines that the programs in the plan are inconsistent with the national interest goals of section (c). This means that the Secretary can control all the elements of the local plan based on some nebulous measures of national interest. In other words, we are giving the Secretary of the Department of Transportation a complete veto over any project in this particular plan. This in my judgment, Madam Chairman, completely destroys this Federal-State partnership program we have had historically in the development of our highway system.

I congratulate the distinguished gentleman. I think that there is much merit in some of the procedures he offers. I certainly want to commend him on his diligence and hard work in the committee. He is a very effective and persuasive legislator and he has made many contributions to this legislation as well as to others. But in this instance I regret I have to oppose him, because what we are doing is sacrificing on the altar of change, just for the sake of change in my judgment, a program that has worked so well and so effectively over the years.

I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The question was taken; and on a division (demanded by Mr. EDGAR) there were—ayes 5, noes 9.

So the amendment was rejected.

Mr. HOWARD. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would just like to state to our colleagues in the House that we have come to the end of title IV.

Title V is a title from the Ways and Means Committee and deals with the highway trust fund, which is under a closed rule and not open to amendment.

So I would like to say we have come to the end of a long, long trail. There was a great number of amendments to this legislation. I would like to state to my colleagues that this bill was reported out by the subcommittee and the full committee on May 12 of this year. Our committee was ready to come to the floor at that time. However, we were forced into 4½ months of delay in maneuverings and manipulations which delayed our bill for 3 months in the Ways and Means Committee and for over a month with the Giaimo amendment. I believe that had something to do, the 4½ months that this bill was delayed, with the great number of amendments that were presented to the committee here in the five times we have appeared on the floor with this legislation.

This legislation is the result of a cooperative effort over 3½ years in creating what many of us feel is a new era in transportation.

First, Madam Chairman, I would like to thank you for the tremendously efficient way that you have handled the committee during the debate in its five appearances over the past few weeks. I would also like to thank the members of the Committee on Public Works and Transportation and our subcommittee and to thank our staffs, which have been on call so many times, for their ability to keep up with the procedures. I would also like to thank the Members of the House itself for their understanding and cooperation.

We look forward to having the bill passed and sending it to the other body and coming out with a good, responsible bill that the President can sign.

It is the end of a long, long trail other than the conference. I just wanted to thank everyone for the splendid cooperation, because it has not been easy on anyone. I again appreciate their efforts.

The CHAIRMAN. There being no amendments, the Clerk will read.

The Clerk read as follows:

TITLE V—HIGHWAY REVENUE ACT OF 1978

SEC. 501. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1978".

SEC. 502. 5-YEAR EXTENSION OF THE TAXES WHICH ARE TRANSFERRED INTO THE HIGHWAY TRUST FUND.

(a) GENERAL RULE.—The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1979" each place it appears and inserting in lieu thereof "1984":

(1) Section 4041(e) (relating to rate reduction).

(2) Section 4061(a)(1) (relating to imposition of tax on trucks, buses, etc.).

(3) Section 4061(b)(1) (relating to imposition of tax on parts and accessories).

(4) Section 4071(d) (relating to imposition of tax on tires and tubes).

(5) Section 4081(b) (relating to imposition of tax on gasoline).

(6) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(7) Section 4481(e) (relating to period tax in effect).

(8) Section 4482(c)(4) (defining taxable period).

(9) Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles).

(10) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) AMENDMENT OF SECTION 4041(c)(3).—Paragraph (3) of section 4041(c) of such Code (relating to rate of tax) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) is 3 cents a gallon.

(c) AMENDMENT OF SECTION 6412(a)(1).—Section 6412(a)(1) of such Code (relating to floor stocks refunds) is amended—

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 503. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) HIGHWAY TRUST FUND.—Subsections (c), (e)(1), and (f) of section 209 of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended—

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

(b) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(1) by striking out "1979" and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 504. BYRD AMENDMENT MADE APPLICABLE TO ALL APPORTIONMENTS.

(a) GENERAL RULE.—Subsection (g) of section 209 of the Highway Revenue Act of 1956 is amended to read as follows:

"(g) ADJUSTMENTS OF APPORTIONMENTS.—

"(1) ESTIMATES OF AMOUNT AVAILABLE FOR EXPENDITURE.—The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation, estimate the amounts which will be available in the Trust Fund (excluding repayable advances) to defray the expenditures which will be required to be made from the Trust Fund.

"(2) INITIAL PROCEDURE WHERE THERE IS SHORTFALL.—If the Secretary of the Treasury determines that, after all other expenditures required to be made from the Trust Fund have been defrayed, the amounts which will be available in the Trust Fund (excluding repayable advances) will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized to be appropriated from the Trust Fund for any fiscal year—

"(A) he shall so advise the Secretary of Transportation, and

"(B) he shall further advise the Secretary of Transportation as to the amount which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available in the Trust Fund (excluding repayable advances) to defray the expenditures required as a result of the apportionment to the States for such fiscal year.

"(3) DETERMINATION OF PERCENTAGE.—The Secretary of Transportation shall determine the percentage which the amount referred to in paragraph (2)(B) is of the amount authorized to be appropriated from the Trust Fund for such fiscal year for apportionment to the States.

"(4) ADJUSTMENT OF APPORTIONMENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall (after determining a percentage for a fiscal year under paragraph (3)) apportion to the States for such fiscal year (in lieu of the amount which but for the provisions of this subsection would be so apportioned) the amount obtained by multiplying the amount authorized to be appropriated for such fiscal year by such percentage.

"(5) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—Whenever the Secretary of the Treasury determines that there will be available in the Trust Fund (excluding repayable advances) amounts which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available to defray the expenditures required as a result of the apportionment of funds previously withheld from apportionment for any fiscal year, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing expenditures from the Trust Fund to exceed amounts available in the Trust Fund (excluding repayable advances) to defray such expenditures. Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1978.

SEC. 505. EXEMPTION OF TAXICABS FROM EXCISE TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) EXEMPTION FROM TAX ON GASOLINE.—Subsection (e) of section 4221 of the Internal Revenue Code of 1954 (relating to special rules for certain tax-free sales) is amended by adding at the end thereof the following new paragraph:

"(6) GASOLINE USED IN CERTAIN TAXICABS.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4081 on the sale by the manufacturer of gasoline for use by the purchaser in a qualified taxicab while engaged exclusively in furnishing qualified taxicab services.

"(B) QUALIFIED TAXICAB SERVICES.—For purposes of this paragraph, the term 'qualified taxicab services' means the furnishing of nonscheduled passenger land transportation for a fixed fare by a taxicab which is operated by a person who—

"(i) is licensed to engage in the trade or business of furnishing such transportation by a Federal, State, or local authority having jurisdiction over a substantial portion of such transportation furnished by such person, and

"(ii) is not prohibited under the laws, State, or local authority, and is not prohibited by company policy, from furnishing (with the consent of the passengers) shared transportation.

"(C) QUALIFIED TAXICAB.—For purposes of this paragraph, except as provided by subparagraph (D), the term 'qualified taxicab' means any land vehicle the passenger capacity of which is less than 10 adults, including the driver.

"(D) CERTAIN GAS-GUZZLING TAXICABS EXCLUDED.—For purposes of this paragraph, the term 'qualified taxicab' does not include any vehicle if—

"(i) such vehicle was acquired by the person operating such vehicle after 1978,

"(ii) the model year of such vehicle is 1978 or later, and

"(iii) the fuel economy of the model type of such vehicle is less than or equal to the average fuel economy standard applicable under section 502(a) of the Motor Vehicle Information and Cost Savings Act to the model year of such vehicle.

Terms used in the preceding sentence shall have the same meaning as when used in title V of the Motor Vehicle Information and Cost Savings Act."

(b) EXEMPTION FROM TAX ON DIESEL AND SPECIAL MOTOR FUELS.—Subsection (g) of section 4041 of such Code (relating to other exemptions from tax on diesel and special motor fuels) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by inserting after paragraph (4) the following new paragraph:

"(5) on any liquid sold for use or used in a qualified taxicab (as defined in subparagraphs (C) and (D) of section 4221(e)(6)) while engaged exclusively in furnishing qualified taxicab services (as defined in section 4221(e)(6)(B))."

(c) REPAYMENT IF FUEL NOT PURCHASED IN TAX-FREE SALE.—

(1) GENERAL RULE.—Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended—

(A) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and

(B) by inserting after subsection (d) the following new subsection:

"(e) USE IN CERTAIN TAXICABS.—Except as provided in subsection (h), if—

"(1) any gasoline on which tax is imposed by section 4081, or

"(2) any fuel on the sale of which tax is imposed by section 4041,

is used in a qualified taxicab (as defined in subparagraphs (C) and (D) of section 4221(e)(6)) while engaged exclusively in furnishing qualified taxicab services (as defined in section 4221(e)(6)(B)), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel."

(2) TECHNICAL AMENDMENTS.—

(A) Subsections (a)(4) and (b) of section 39 of such Code are each amended by striking out "6427(g)" and inserting in lieu thereof "6427(h)".

(B) Subsections (a), (b)(1), (c), and (d)

of section 6427 of such Code are each amended by striking out "(g)" and inserting in lieu thereof "(h)".

(C) Subsection (f)(1) of such section 6427 (as redesignated by paragraph (1)) is amended by striking out "(a), (b), (c), or (d)" and inserting in lieu thereof "(a), (b), (c), (d), or (e)".

(D) Subsection (f)(2) of such section 6427 (as redesignated by paragraph (1)) is amended by striking out "(a), (b), and (d)", and inserting in lieu thereof "(a), (b), (d), and (e)".

(E) Subsection (h)(2) of such section 6427 (as redesignated by paragraph (1)) is amended by striking out "(e)(2)" and inserting in lieu thereof "(f)(2)".

(F) Sections 7210, 7603, 7604(b), and 7605(a) of such Code are each amended by striking out "6427(f)(2)" each place if appears and inserting in lieu thereof "6427(g)(2)".

(G) Sections 7604(c)(2), 7609(c)(1), and 7610(c) of such Code are each amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(g)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1979.

SEC. 506. REQUIREMENT FOR A COST ALLOCATION STUDY.

(a) STUDY DIRECTED.——The Secretary of Transportation is hereby authorized and directed, in cooperation with the State highway departments, to undertake a full and complete investigation and study of—

(1) the costs occasioned in design, construction, rehabilitation, and maintenance of Federal-aid highways by the use of vehicles of different dimensions, weights, and other specifications, and by the frequency of such vehicles in the traffic stream;

(2) the proportionate share of such design, construction, rehabilitation, and maintenance costs attributable to each class of persons and vehicles using such highways; and

(3) the need for long-term or continuous monitoring of roadway deterioration to determine the relative damage attributable to traffic and environmental factors.

(b) EVALUATION BY CONGRESSIONAL BUDGET OFFICE.—To assist the Secretary of Transportation in the conduct of the investigation and study authorized and directed by subsection (a) of this section, the Congressional Budget Office is hereby authorized and directed ot make an evaluation of—

(1) the procedures to be employed in determining the equitable allocation of highway costs;

(2) the information to be collected to apply the procedures identified pursuant to paragraph (1);

(3) any special studies essential to the conduct of the investigation which can be identified and completed within the deadlines established by this section; and

(4) the procedures to be employed to ensure a continuing equitable allocation of highway costs after study termination.

The Congressional Budget Office shall report its findings to the Congress and to the Secretary of Transportation within 90 days after the date of the enactment of this section. These findings shall be employed by the Secretary as guidelines in the design of the investigation and study authorized and directed by subsection (a) of this section.

(c) REPORTS.—

(1) Within 180 days after the date of the enactment of this section, the Secretary of Transportation shall report to the Congress on a plan for the investigation and study. Such plan shall include, but not be limited to, the data to be gathered; the sources of such data; the method to be used to allocate costs; the method to be used to attribute revenues; the criteria to be employed in arriving at an equitable distribution of the tax burden; the agency or agencies responsible for performance and review of the study; a projected schedule for study performance; and the estimated costs of the study.

(2) On or before January 15, 1980, and January 15, 1981, the Secretary of Transportation shall report to the Congress the progress which has been made in carrying out the study and investigation required by this section. Such progress reports shall include, but not be limited to, a discussion of any changes from the study plan as submitted under provisions of this section and of preliminary findings of the investigation.

(3) The Secretary shall report to the Congress the findings and recommendations of the study no later than January 15, 1982. Such recommendations shall include any alternative tax structures which the Secretary believes would more nearly achieve an equitable distribution of the tax burden among classes of persons and vehicles using Federal-aid highways, and the projected impact of structures on affected industries and other users.

SEC. 507. STUDY OF EXISTING HIGHWAY EXCISE TAX STRUCTURE AND OF POSSIBLE ALTERNATIVES TO SUCH EXISTING STRUCTURE.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall—

(1) review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as ease or difficulty of administration of such tax and the compliance burdens imposed on taxpayers by such tax, and

(2) on or before April 15, 1982, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to the matters set forth in paragraph (1) and other findings, as well as recommendations on—

(A) improvements in excise taxation which would enhance tax administration, equity, and compliance, or

(B) a new system of raising revenues to fund the Highway Trust Fund which would meet the objectives set forth in subparagraph (A).

The recommendations described in paragraph (2) shall be formulated in conjunction with the recommendations of the cost allocation study under section 506 of the equitable distribution of the highway excise taxes.

(b) INTERIM REPORTS.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on or before April 15, 1980, and a second interim report on or before April 15, 1981.

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that title V be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Under the rule, no amendments to title V are in order except amendments recommended by the Committee on Ways and Means.

Are there any amendments from members of the Committee on Ways and Means?

Mr. VANIK. Madam Chairman, I move to strike the last word.

Madam Chairman, under the rule I cannot offer amendments, but my colleagues, the gentleman from Florida, SAM GIBBONS, the gentleman from New York, BARBER CONABLE, the gentleman from New York, OTIS PIKE, the gentleman from California, FORTNEY STARK, the gentleman from Wisconsin, BILL STEIGER, the gentleman from Minnesota, BILL FRENZEL, and the gentleman from Ohio, BILL GRADISON, and I have submitted views on the highway trust fund, which express our concerns. We endeavored to address the attention of our colleagues in the House to vital issues that cannot be corrected under the closed rule under which we consider this section, title 5.

● Mr. ANDERSON of Illinois. Madam Chairman, I rise in support of the Surface Transportation Act of 1978 and wholeheartedly congratulate my colleagues on the House Public Works and Transportation Committee for their efforts in producing the first comprehensive highway measure to be considered by us in the Congress. H.R. 11733 is the result of 3 years of study and hearings and provides for a much-needed long-term improvement plan for the construction and safety of our Nation's highways and mass transit systems. The bill deals with these difficult problems in a sound manner and contains a logical and realistic financial support base. Of particular interest to me is the provision in H.R. 11733 which increases from $50 to $125 million the amount allocated for priority primary routes for the next 4 years. This portion of the bill is illustrative of the positive and progressive improvements found throughout the entire measure.

This legislation provides that $125 million shall be set aside from the highway trust fund for primary highways for use by the Secretary of Transportation for those "projects of unusually high cost or which require long periods of time for their construction." In this respect, the committee examined a number of primary highway plans which were in dire need of Federal assistance including routes in Arizona, Texas, Arkansas, Louisiana, New York, North Carolina, and in my home State of Illinois. I am personally aware of one of the highway projects considered by the committee—the North-South Freeway, a 4-lane highway which would run 156 miles through the center of Illinois.

This route, which would roughly parallel the existing U.S. 51, would connect Rockford and Decatur, the second and fifth largest cities in Illinois, and act as a connector for five interstate routes. U.S. 51 has the highest ratio of truck-car traffic in the State and having frequently traveled on this 2-lane highway, I can attest to the fact that the need to replace it has reached emergency proportions. The traffic load, road deterioration, inadequate sight-distance, and lack of passing room, all make travel on this roadway an unhappy and unsafe adventure. Illinois fatality statistics further bear out the dangerous conditions of the road and the need to expedite the construction of the new 4-lane highway, the North-South Freeway.

Proposals for revision of U.S. 51 have been ongoing for more than 30 years. The roadway was considered as part of every recommended interstate highway system

since 1945, however, it was dropped from the system in final analysis. The State of Illinois has recognized the importance of the reconstruction and has spent over $55 million on design, engineering, and construction. Illinois does not, though, have the capacity or funds to complete this priority primary route and at the same time maintain its other highways. It has been estimated that the remaining cost to complete the North-South Freeway will be between $360 and $415 million and Illinois' highways are already wearing out twice as fast as they can be maintained. At the current pace of funding and construction, completion of the North-South Freeway is more than 10 years away.

By making priority funding available, the time it would take to finish the route would be significantly reduced. The early completion of this project would make an important contribution to our economy through the enlargement of the market potential of the cities and rural areas surrounding the North-South Freeway. Moreover, it would be a vital contribution to the expansion of our Nation's highway capacity. Given the fact that it is anticipated that over the next 15 years traffic in this corridor will exceed 20,000 vehicles per day, it is essential that U.S. 51 be upgraded as quickly as possible.

It is my understanding that the situation facing many other States and their primary highways is quite similar to that of Illinois and route 51. Like Illinois, these States are faced with awesome maintenance and rehabilitation demands which realistically interfere with the funding to the States and I am hopeful you will join me in endorsing this section of H.R. 11733 as well as the entire bill which I believe represents a major step in revitalizing America's transportation policy.●

● Mr. HOWARD. Madam Chairman, the bridge program is one of the most important programs covered by H.R. 11733. There are thousands of examples of bridges which would be covered by the funding under this section of the legislation. One of these is the existing Florence Bridge, located on a heavily traveled Federal-aid primary route connecting central and western Illinois. The entire existing highway route is inadequate to meet traffic demands and is being replaced with a new facility. As part of this project, the bridge at Florence spanning the Illinois River must be replaced. It is both structurally deficient and functionally obsolete.●

● Mr. PEPPER. Madam Chairman, I am pleased to express my support for the amendment offered by the gentleman from New York (Mr. BIAGGI) to delete language that would delay the availability of a full-access mass transit bus, "transbus."

Getting on or off a bus is a simple task for most of us. But for millions of Americans—and that includes millions of older Americans—that two-foot distance between the curb and the bus floor poses an insurmountable barrier.

Transbus represents at least a big part of the solution to overcoming that barrier, and, as chairman of the House Select Committee on Aging, I agree wholeheartedly with the growing chorus saying today, "let transbus proceed."

Back in 1970, the gentleman from New York (Mr. BIAGGI)—who, I am pleased to note, chairs the Aging Committee's Subcommittee on Human Services—added some language to the mass transit law. Since then, it has been the national policy that "elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services."

Eight years have passed since then, and the Federal Government has spent $27 million researching and developing transbus.

Last year, Congressman BIAGGI and I and many others urged our friend and former colleague in the House, Brock Adams, to make transbus the standard mass transit bus for Federal aid. To our delight, he did just that.

He found, as we did, that transbus was accessible, it was comfortable, it was safe, it was cost effective and, perhaps most important, it was overdue. It still is.

My own home city of Miami was eager to buy these barrier-free vehicles—but the language to be deleted by this amendment seemed to present a potential roadblock.

We cannot let that happen. No one contends transbus will solve all of the mobility problems of elderly and handicapped Americans, but it is a giant step, in the right direction.

This is no time to retrench. Transbus should go forward and Congress should help it along in every way possible.

That is why the pending amendment is so important, and so gratifying to those of us concerned about increasing mobility for older and handicapped Americans. The gentleman from New Jersey (Mr. HOWARD) is to be commended for his leadership in this matter. His acceptance of this amendment will permit the transbus to become a production reality instead of a prototype.

A special word of praise is due the gentleman from New York (Mr. BIAGGI). After 8 years of legislative watchdogging, he is about to see one of his most important initiatives bear tangible fruit. The handicapped and older citizens of America owe him a debt of gratitude, and I am proud to have him serve with me on the Select Committee on Aging.

I urge the adoption of the amendment.●

● Mr. JOHNSON of California. Madam Chairman, with final passage by the overwhelming support of this body of H.R. 11733, the Surface Transportation Assistance Act of 1978, we pass another plateau in what has been more than 3 years of detailed consideration, tremendous hard work and inspired dedication by members of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation under the leadership of the subcommittee chairman, my good friend, JIM HOWARD, of New Jersey, and his opposite number, BUD SHUSTER, of Pennsylvania.

The bill the House approved today in such vigorous fashion is a unique one. It combines for the first time funding for three major facets of the transportation program—highways, mass transit, and the safety aspects of many phases of the transportation program. It is a complex and complicated piece of legislation addressing itself to such widespread problems as beautification and bridges. It is indeed the work of people who have given of themselves fully to give this Congress and the Nation the best piece of transportation legislation possible. JIM HOWARD, of New Jersey, has spent untold hours working on this legislation in public hearings, markups, and privately in discussions with leaders in this field from all sections of the country. In all these efforts he has had the full cooperation of the gentleman from Pennsylvania (Mr. SHUSTER).

I would be remiss if I did not include in my remarks the deep debt of gratitude I owe to my colleague and associate, my good friend, the gentleman from Ohio, BILL HARSHA, the ranking member of the committee. He is a leader in every sense of the word and a man who has been a tremendous asset to me as I chair this committee.

A major part of the detailed work on this legislation and the operation thereof is shared by the dedicated staff of the committee, both majority and minority, who are in truth one staff because of their teamwork in handling this legislation.

This is a fine day for the Committee on Public Works and Transportation and again my deepest appreciation and my heartfelt thanks to all concerned.●

● Mr. VENTO. Madam Chairman, I support Mr. FOWLER'S amendment to H.R. 11733, which would relieve States of the responsibility for the repayment of funds paid from the interstate highway trust funds where the property has been withdrawn from construction and the State proposes to use the land for other transportation purposes or for parks or housing or other public uses.

For many valid reasons since the inception of the Interstate System, a number of proposed segments have later been deemed unacceptable to the States or localities for which they were planned. Many of these route-portions are essentially in limbo as the States and the Federal Government seek ways to resolve repayment problems or to work out compromises. The disposition of some of these segments has been the subject of legislation.

Many of us have or have had these most aggravating problems.

My colleague from Georgia (Mr. FOWLER) sponsored this amendment which I think effectively deals with many of the instances which have arisen.

It is my understanding that this amendment will cost little additional money since Federal highway trust funds have already been disbursed. As contemplated by the amendment, the Secretary of Transportation will be given authority to disapprove a State request for waiver of refund if the proposed use of the property is not in the public interest.

The other body has already adopted similar language in its highway bill.

I believe this is a good amendment and am happy it was adopted.●

● Mr. MINETA. Madam Chairman, I would like to take this opportunity to commend my colleague, Mr. HOWARD, for his work in fashioning this bill.

Specifically I would like to comment on his amendment which was accepted last Thursday, September 21, 1978 striking $1 billion from the highway authorization levels and $400 million for mass transit programs, for the fiscal years 1979–82. Included in this amendment is a provision which establishes a capital assistance program for a joint-development intermodal terminal program.

During the markup of H.R. 11733, the committee accepted an amendment which I authored to provide financial assistance to States and local governments to implement a program of public transportation facility improvements.

My amendment was based on the urban policy recommendations of President Carter for a terminal development program designed to enhance urban economic development.

Under the amendment accepted last Thursday, my terminal development program has been moved into section 3 of the Urban Mass Transportation Act and included in a category of programs for which up to $200 million annually would be available.

I supported this change. It is my belief that UMTA, with the specific directives included in H.R. 11733, will commence an aggressive program to assist such terminal development programs which enhance urban economic development at the same time that they contribute to necessary transportation coordination.

Thus, we will be achieving implementation of the urban strategy envisioned by President Carter by: First, targeting Federal funds to the development and redevelopment of our cities; second, using public sector moneys to leverage private financing; and third, improving transportation of people by providing connecting links among various transportation modes.

There is an example in my own State of California of the kind of project which will be supported by this provision. The California Legislature enacted a bill last year sponsored by State Senator James Mills which offers a model for an intermodal link program focused to serve urban objectives.

Program criteria for the California project were developed by Caltrans to assure linkages among as many modes as possible. Examples of the kinds of projects funded in the first year of this program include: Stations connecting Greyhound with BART at Concord and Richmond in the San Francisco Bay area; a Southern Pacific commuter rail connection with buses, automobiles, and pedestrians in Palo Alto; and restoration and conversion of a Santa Fe depot in San Diego to a multimodal terminal connecting rail, bus, auto, pedestrians, and bicycles. In Sacramento, funds were approved as part of a major multimodal transportation center which will include a motel, business offices, and a theater.

The encouragement of private investment in conjunction with this program is an inherent and essential part of such a program.

My colleagues and I who share an interest in urban revitalization anxiously await the realization of this program and will be in close contact with the Department to insure its proper implementation.●

The CHAIRMAN. Are there further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, pursuant to House Resolution 1326, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. SIMON. Mr. Speaker, I demand a separate vote on the so-called Goldwater amendment to strike lines 9 through 14 on page 170.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Clerk will report the amendment upon which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 170, after line 8, strike out lines 9 through 14, inclusive and renumber succeeding lines accordingly.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GARY A. MYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 12, nays 380, not voting 40, as follows:

[Roll No. 848]

YEAS—12

Boggs	Glickman	Preyer
Brown, Calif.	Goldwater	Quillen
Carr	Marlenee	Rousselot
Fish	Miller, Ohio	Symms

NAYS—380

Abdnor	Eckhardt	Lederer
Addabbo	Edgar	Lehman
Akaka	Edwards, Ala.	Lent
Alexander	Edwards, Calif.	Levitas
Ambro	Edwards, Okla.	Livingston
Anderson, Calif.	Eilberg	Lloyd, Calif.
Anderson, Ill.	Emery	Lloyd, Tenn.
Andrews, N.C.	English	Long, La.
Andrews, N. Dak.	Erlenborn	Long, Md.
Annunzio	Ertel	Lott
Applegate	Evans, Colo.	Lujan
Archer	Evans, Ga.	Luken
Ashley	Evans, Ind.	Lundine
Aspin	Fary	McClory
AuCoin	Fascell	McCloskey
Badham	Fenwick	McDade
Bafalis	Findley	McDonald
Baldus	Fisher	McEwen
Barnard	Fithian	McFall
Baucus	Flippo	McHugh
Bauman	Flood	McKay
Beard, R.I.	Florio	McKinney
Beard, Tenn.	Flowers	Maguire
Bedell	Flynt	Mahon
Bellenson	Foley	Mann
Benjamin	Ford, Tenn.	Markey
Bennett	Forsythe	Marks
Bevill	Fountain	Marriott
Biaggi	Fowler	Martin
Bingham	Fraser	Mathis
Blanchard	Frenzel	Mattox
Blouin	Frey	Mazzoli
Boland	Fuqua	Meeds
Bolling	Gammage	Metcalfe
Bonior	Garcia	Meyner
Bonker	Gaydos	Michel
Bowen	Gephardt	Mikulski
Brademas	Giaimo	Mikva
Breaux	Gibbons	Milford
Breckinridge	Gilman	Mineta
Brinkley	Ginn	Minish
Brodhead	Gonzalez	Mitchell, Md.
Brooks	Goodling	Mitchell, N.Y.
Broomfield	Gore	Moakley
Brown, Mich.	Gradison	Moffett
Brown, Ohio	Grassley	Mollohan
Broyhill	Green	Moore
Buchanan	Guyer	Moorhead, Calif.
Burgener	Hagedorn	Moorhead, Pa.
Burke, Fla.	Hall	Moss
Burke, Mass.	Hamilton	Mottl
Burlison, Mo.	Hammer-schmidt	Murphy, Ill.
Burton, John	Hanley	Murphy, N.Y.
Butler	Hannaford	Murphy, Pa.
Byron	Hansen	Murtha
Carney	Harkin	Myers, Gary
Carter	Harrington	Myers, John
Cavanaugh	Harris	Myers, Michael
Cederberg	Harsha	Natcher
Chappell	Hawkins	Neal
Chisholm	Heckler	Nedzi
Clausen, Don H.	Hefner	Nichols
Clawson, Del	Heftel	Nix
Cleveland	Hightower	Nolan
Cohen	Hillis	Nowak
Coleman	Hollenbeck	O'Brien
Collins, Tex.	Holt	Oakar
Conable	Holtzman	Oberstar
Conte	Horton	Obey
Corman	Howard	Ottinger
Cornell	Hubbard	Panetta
Cornwell	Huckaby	Patten
Cotter	Hughes	Patterson
Coughlin	Hyde	Pattison
Crane	Ichord	Pease
Cunningham	Jacobs	Perkins
D'Amours	Jeffords	Pickle
Daniel, Dan	Jenkins	Poage
Daniel, R. W.	Jenrette	Pressler
Danielson	Johnson, Calif.	Price
Davis	Johnson, Colo.	Pritchard
de la Garza	Jones, N.C.	Pursell
Delaney	Jones, Okla.	Quayle
Dellums	Jones, Tenn.	Rahall
Dent	Jordan	Railsback
Derrick	Kasten	Rangel
Derwinski	Kastenmeier	Regula
Devine	Kazen	Reuss
Dickinson	Kelly	Rhodes
Dicks	Kemp	Richmond
Dingell	Keys	Rinaldo
Dodd	Kildee	Roberts
Dornan	Kindness	Robinson
Downey	Kostmayer	Rodino
Drinan	Krebs	Roe
Duncan, Oreg.	LaFalce	Rogers
Duncan, Tenn.	Lagomarsino	Roncalio
Early	Latta	Rooney
	Le Fante	Rose
	Leach	Rosenthal

Rostenkowski	Staggers	Wampler
Roybal	Stangeland	Watkins
Rudd	Stanton	Waxman
Ruppe	Stark	Weaver
Russo	Steed	Weiss
Ryan	Steers	Whalen
Santini	Steiger	White
Satterfield	Stokes	Whitehurst
Sawyer	Stratton	Whitley
Scheuer	Studds	Whitten
Schroeder	Stump	Wiggins
Schulze	Taylor	Wilson, Bob
Sebelius	Thompson	Wilson, C. H.
Seiberling	Traxler	Wilson, Tex.
Sharp	Treen	Winn
Shuster	Trible	Wirth
Sikes	Tucker	Wolff
Simon	Udall	Wright
Sisk	Ullman	Wydler
Skelton	Van Deerlin	Yates
Skubitz	Vander Jagt	Yatron
Smith, Iowa	Vanik	Young, Fla.
Smith, Nebr.	Vento	Young, Mo.
Snyder	Volkmer	Young, Tex.
Solarz	Waggonner	Zablocki
Spellman	Walgren	Zeferetti
Spence	Walker	
St Germain	Walsh	

NOT VOTING—40

Ammerman	Ford, Mich.	Risenhoover
Armstrong	Gudger	Runnels
Ashbrook	Holland	Sarasin
Burke, Calif.	Ireland	Shipley
Burleson, Tex.	Krueger	Slack
Burton, Phillip	Leggett	Stockman
Caputo	McCormack	Teague
Clay	Madigan	Thone
Cochran	Miller, Calif.	Thornton
Collins, Ill.	Montgomery	Tsongas
Conyers	Pepper	Wylie
Corcoran	Pettis	Young, Alaska
Diggs	Pike	
Evans, Del.	Quie	

The Clerk announced the following pairs:

Mr. McCormack with Mr. Sarasin.
Mr. Slack with Mr. Ashbrook.
Mr. Phillip Burton with Mr. Corcoran of Illinois.
Mr. Burleson of Texas with Mrs. Pettis.
Mr. Montgomery with Mr. Quie.
Mr. Pepper with Mr. Cochran of Mississippi.
Mr. Ireland with Mr. Evans of Delaware.
Mr. Ammerman with Mr. Madigan.
Mrs. Burke of California with Mr. Stockman.
Mr. Teague with Mr. Wylie.
Mr. Ford of Michigan with Mr. Young of Alaska.
Mr. Diggs with Mr. Thone.
Mrs. Collins of Illinois with Mr. Leggett.
Mr. Pike with Mr. Holland.
Mr. Krueger with Mr. Gudger.
Mr. Miller of California with Mr. Clay.
Mr. Conyers with Mr. Tsongas.
Mr. Risenhoover with Mr. Thornton.
Mr. Shipley with Mr. Runnels.

Mr. HARSHA and Mr. DAN DANIEL changed their vote from "yeas" to "nays."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GARY A. MYERS. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

Mr. GARY A. MYERS moves to recommit the bill, H.R. 11733, to the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOWARD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 367, nays 28, not voting 37, as follows:

[Roll No. 849]

YEAS—367

Abdnor	Cleveland	Gibbons
Addabbo	Cohen	Gilman
Akaka	Coleman	Ginn
Alexander	Conable	Glickman
Ambro	Conte	Goldwater
Anderson, Calif.	Corman	Gonzalez
Anderson, Ill.	Cornell	Goodling
Andrews, N.C.	Cornwell	Gore
Andrews, N. Dak.	Cotter	Grassley
Annunzio	Coughlin	Green
Applegate	Crane	Guyer
Archer	Cunningham	Hagedorn
Ashley	D'Amours	Hall
Aspin	Daniel, Dan	Hamilton
AuCoin	Daniel, R. W.	Hammer-schmidt
Badham	Danielson	Hanley
Bafalis	Davis	Hannaford
Baldus	de la Garza	Hansen
Barnard	Delaney	Harkin
Baucus	Dellums	Harrington
Bauman	Dent	Harris
Beard, R.I.	Derwinski	Harsha
Beard, Tenn.	Dickinson	Hawkins
Bedell	Dicks	Heckler
Benjamin	Dingell	Hefner
Bevill	Dodd	Heftel
Biaggi	Dornan	Hightower
Bingham	Downey	Hillis
Blanchard	Drinan	Holland
Blouin	Duncan, Tenn.	Hollenbeck
Boggs	Eckhardt	Holt
Boland	Edgar	Holtzman
Bolling	Edwards, Ala.	Horton
Bonior	Edwards, Calif.	Howard
Bonker	Edwards, Okla.	Hubbard
Bowen	Ellberg	Huckaby
Brademas	Emery	Hughes
Breaux	English	Ichord
Breckinridge	Erlenborn	Jacobs
Brinkley	Ertel	Jeffords
Brooks	Evans, Colo.	Jenkins
Broomfield	Evans, Ga.	Jenrette
Brown, Calif.	Evans, Ind.	Johnson, Calif.
Brown, Mich.	Fary	Johnson, Colo.
Brown, Ohio	Fascell	Jones, N.C.
Broyhill	Findley	Jones, Okla.
Buchanan	Fish	Jones, Tenn.
Burgener	Fisher	Jordan
Burke, Fla.	Fithian	Kasten
Burke, Mass.	Flippo	Kastenmeier
Burlison, Mo.	Flood	Kazen
Burton, John	Florio	Kelly
Burton, Phillip	Flowers	Kemp
Butler	Flynt	Keys
Byron	Foley	Kildee
Carney	Ford, Mich.	Kostmayer
Carr	Ford, Tenn.	Krebs
Carter	Forsythe	LaFalce
Cavanaugh	Fountain	Lagomarsino
Cederberg	Fowler	Le Fante
Chappell	Fraser	Leach
Chisholm	Frenzel	Lederer
Clausen, Don H.	Frey	Lent
Clawson, Del	Fuqua	Levitas
Clay	Gammage	Lloyd, Calif.
	Garcia	Lloyd, Tenn.
	Gaydos	Long, La.
	Gephardt	Long, Md.
	Lott	Patten
	Lujan	Patterson
	Luken	Pattison
	Lundine	Pease
	McClory	Perkins
	McCloskey	Pickle
	McDade	Poage
	McEwen	Pressler
	McFall	Preyer
	McHugh	Price
	McKay	Pritchard
	McKinney	Pursell
	Mahon	Quayle
	Mann	Quillen
	Markey	Rahall
	Marks	Railsback
	Marlenee	Rangel
	Marriott	Regula
	Martin	Reuss
	Mathis	Rhodes
	Mattox	Richmond
	Mazzoli	Rinaldo
	Meeds	Risenhoover
	Metcalfe	Roberts
	Meyner	Robinson
	Michel	Rodino
	Mikulski	Roe
	Milford	Rogers
	Miller, Ohio	Roncalio
	Mineta	Rooney
	Minish	Rose
	Mitchell, Md.	Rosenthal
	Mitchell, N.Y.	Rostenkowski
	Moakley	Rousselot
	Mollohan	Roybal
	Moore	Rudd
	Moorhead, Calif.	Ruppe
	Moorhead, Pa.	Ryan
	Murphy, Ill.	Santini
	Murphy, N.Y.	Satterfield
	Murphy, Pa.	Sawyer
	Murtha	Scheuer
	Myers, John	Schroeder
	Myers, Michael	Schulze
	Natcher	Sebelius
	Nedzi	Seiberling
	Nichols	Sharp
	Nix	Shuster
	Nolan	Sikes
	Nowak	Simon
	O'Brien	Sisk
	Oakar	Skelton
	Oberstar	Skubitz
	Obey	Smith, Iowa
	Ottinger	Smith, Nebr.
		Snyder
		Solarz
		Spellman
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Stark
		Steed
		Steers
		Steiger
		Stokes
		Stratton
		Studds
		Stump
		Symms
		Taylor
		Thompson
		Traxler
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vento
		Volkmer
		Waggonner
		Walgren
		Walker
		Walsh
		Wampler
		Watkins
		Waxman
		Weiss
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wiggins
		Wilson, Bob
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wirth
		Wolff
		Wright
		Wydler
		Yatron
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—28

Bellenson	Gradison	Myers, Gary
Bennett	Hyde	Neal
Brodhead	Kindness	Panetta
Collins, Tex.	Latta	Russo
Derrick	Lehman	Stockman
Devine	McDonald	Vanik
Duncan, Oreg.	Maguire	Weaver
Early	Mikva	Yates
Fenwick	Moffett	
Giaimo	Mottl	

NOT VOTING—37

Ammerman	Holland	Quie
Armstrong	Ireland	Runnels
Ashbrook	Krueger	Sarasin
Burke, Calif.	Leggett	Shipley
Burleson, Tex.	Livingston	Slack
Caputo	McCormack	Teague
Cochran	Madigan	Thone
Collins, Ill.	Miller, Calif.	Thornton
Conyers	Montgomery	Tsongas
Corcoran	Moss	Wylie
Diggs	Pepper	Young, Alaska
Evans, Del.	Pettis	
Gudger	Pike	

The Clerk announced the following pairs:

Mr. Burleson of Texas with Mr. Evans of Delaware.
Mr. Teague with Mr. Cochran of Mississippi.
Mr. Krueger with Mr. Madigan.
Mr. Ammerman with Mr. Livingston.
Mr. Diggs with Mr. Quie.
Mr. Slack with Mr. Wylie.
Mr. Shipley with Mr. Young of Alaska.
Mr. McCormack with Mr. Caputo.
Mr. Miller of California with Mr. Corcoran. of Illinois.
Mr. Pepper with Mrs. Pettis.
Mr. Montgomery with Mr. Sarasin.
Mr. Ireland with Mr. Thornton
Mrs. Collins of Illinois with Mr. Leggett.

Mr. Gudger with Mr. Holland.
Mrs. Burke of California with Mr. Ashbrook.
Mr. Conyers with Mr. Tsongas.
Mr. Pike with Mr. Moss.
Mr. Runnels with Mr. Thone.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 11733, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING CLERK TO MAKE NECESSARY RENUMBERINGS, CROSS REFERENCES, AND PAGE AND LINE CHANGES NECESSARY TO REFLECT ACTION OF THE HOUSE ON H.R. 11733, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Clerk may have authority to make necessary renumberings, cross references, and page and line number changes necessary to accurately reflect the action of the House taken on the bill just passed, H.R. 11733, the Surface Transportation Assistance Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING CLERK OF THE HOUSE TO REENROLL H.R. 8149, CUSTOMS PROCEDURAL REFORM ACT OF 1977

Mr. VANIK. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 725) authorizing the Clerk of the House to reenroll the bill (H.R. 8149), to provide customs procedural reform, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 725

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is requested to return to the House of Representatives the enrolled bill (H.R. 8149) to provide customs procedural reform, and for other purposes. The Clerk of the House is authorized to receive such bill if it is returned when the House is not in session. Upon the return of such bill, the action of the Speaker of the House of Representatives and the President pro tempore of the Senate in signing it shall be deemed rescinded and the Clerk of the House shall reenroll the bill with the following correction:

In section 484(a)(1)(B) of the Tariff Act of 1930, as amended by section 102(a)(1) of the bill, after "shall" insert "file".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12577, FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1978

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1641) on the resolution (H. Res. 1385) providing for the consideration of the bill (H.R. 12577) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11979, RAIL SERVICE ASSISTANCE ACT OF 1978

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1642) on the resolution (H. Res. 1386) providing for the consideration of the bill (H.R. 11979) to amend section 5 of the Department of Transportation Act, relating to local rail service assistance, which was referred to the House Calendar and ordered to be printed.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3816, FEDERAL TRADE COMMISSION AMENDMENTS OF 1978

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1356 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1356

Resolved, That during the consideration of the conference report on the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, all points of order against said report for failure to comply with the provisions of clause 3, rule XXVIII are hereby waived.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 1356) waives certain points of order which lie against the consideration of the conference report to accompany the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease-and-desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes.

In a minor, and purely technical manner, the conference report is in violation of clause 3 of rule XXVIII. The rule prohibits a conference agreement beyond the scope of the differences between the two Houses. A single provision of the conference substitute would be subject to a point of order; section 9 of the substitute establishes a system whereby Federal Trade Commission regulations can be vetoed by enactment of a joint resolution. The House bill had provided for a one-House veto and the Senate bill had contained no provision for a legislative review.

As a political matter, it seems clear that a two-House veto is a reasonable compromise between a one-House veto and none. As a parliamentary matter, however, it is outside the scope of the conference.

It is a purely technical violation and it is the only provision of the conference report subject to any point of order. The point of order lies against the consideration of the conference report, however, so the objection of a single Member would prevent the House from voting on this matter. It is for this reason that the Committee on Rules regards waivers of this type as routine, particularly at the end of a session, unless the conferees have genuinely attempted to introduce a new subject matter.

In this case it seems clear that the managers on the part of the House have made a sincere effort to reach a compromise that protects the position of the House. And we are persuaded that any violation of the rules is unintentional and entered in good faith.

The managers have deleted some of the more controversial provisions relating to class actions suits and equitable relief.

The conference report retains a number of useful provisions from both the House and Senate version. It contains strong protection against conflict-of-interest activities by former Commissioners and employees. It transfers appropriate authority over savings institutions to the Federal Home Loan Bank Board; provides for citizens petitions for rulemaking; and establishes a reasonable ceiling on "supergrades." The provision on congressional review also improves the present situation. Although a Member who wished to overturn any regulation can now propose a bill, the conference agreement provides two important changes in the existing situation: First, it will enable a Member to get a vote in the full House whether or not the committee reports; and second, it will insure that the FTC regulation will not take effect during the period that the resolution of disapproval is pending.

Mr. Speaker, our managers are to be congratulated for their tireless efforts in conference. They have defended the

House position well and reached reasonable accommodations where compromise was necessary.

Mr. Speaker, I am hopeful that the conference report will be agreed to but no one will have an opportunity to vote for or against it unless the rule is adopted. The rule will permit the orderly consideration of the conference report and enable the House to work its will. Mr. Speaker, I urge the adoption of the resolution.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me review the situation briefly. The House passed H.R. 3816, the Federal Trade Commission authorization on October 13, 1977. The House-passed version of the bill included a provision enabling Congress to veto Federal Trade Commission rules.

Then, the other body passed its version of the bill, which did not include the provision allowing congressional veto of the Federal Trade Commission rules.

There was a conference. On February 22, 1978, the Senate passed the first conference report on H.R. 3816. The House, however, because of the deletion of the congressional veto provision, voted to reject the first conference report on this bill by a vote of 146 yeas to 255 nays. This should have been a solid indication of House sentiment, Mr. Speaker, but apparently the message did not get through.

A new conference met and a new conference report has been produced. Once again the conferees did not stay with the House position on the subject of congressional veto. Instead they came up with a whole new procedure, which was not in either the House bill or the Senate bill. It is a congressional veto subject to a Presidential veto, which is not at all the House position.

Mr. Speaker, the rules of the House do not permit conferees to put into conference reports items which are in neither the House nor the Senate bill. Yet that is what has been done. And if we adopt this resolution, we are sanctioning this breach of the House rules.

Defeat of the rule will not cause major problems for the Federal Trade Commission. The appropriations necessary to operate the FTC can be made without this conference report.

Other desirable parts of this conference report can be put into a new bill next year, when there is adequate time for reflection. This is a far better solution than rushing through a makeshift compromise in violation of the House rules late in the Congress.

Mr. Speaker, I have no requests for time, and reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, first, I would like to thank the gentleman from Massachusetts (Mr. MOAKLEY) for yielding time to me and to agree with him that I do not oppose the adoption of the rule because I think we ought to vote up or down on this issue. I think we clearly should defeat the conference report.

However, Mr. Speaker, I would like to explain why we are here and why there is a rule.

Mr. Speaker, the gentleman from Ohio (Mr. LATTA) has stated the legislative steps which have occurred. The House of Representatives overwhelmingly, by a 2-to-1 majority, adopted a provision for a congressional veto over FTC rules and regulations having the force of law adopted by elected bureaucrats—I repeat, by a 2-to-1 majority, Mr. Speaker.

Let me explain what was adopted in the House because it has been misrepresented as a one-House veto. It is not.

A one-House veto means that one House, without any interference from the other body, could veto a regulation. That is not what the House of Representatives has adopted.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The gentleman is completely correct on that, and to a certain extent I think it was misstated that his provision was a one-House veto. It was, as I recall, a veto by a concurrent resolution or, alternatively, by a resolution of one House within 60 days without the other House disagreeing within the next 30.

Mr. LEVITAS. That is correct, and I appreciate my distinguished colleague, the gentleman from Texas, clarifying that point because it has been referred to as a one-House veto, and it is not. It requires either the concurrence of both Houses or the action of one House not rejected by the other House within a period of time.

When the matter went to the last conference and a provision was put in called a congressional veto—which in a moment I will point out it was not—it became necessary to get a rule not just because of the technical question of going beyond the scope of the original conference but in order to accommodate the provision written by the conferees. The very Rules of the House had to be amended. It was not just beyond the scope in a general sense, but the Rules of the House had to be amended. So it is a substantive change in the Rules of the House.

Now what provision did the conferees come up with instead of a congressional veto? A one-House or two-House? They devised a three-House veto: the House of Representatives, the other body, and the White House. As every Member of this body knows, that is just exactly the way we pass a law. That is not a congressional veto. That is just a matter of enacting the statute with an expedited procedure for consideration on the floor, and that is not a congressional veto. For that reason we have to have this rule in order to get to the merits and the heart and soul and the guts of this issue.

I want to speak for a moment to my friends on this side of the aisle, the Democrats, regarding some of the well-meaning people who surround the east door and who are talking as we come in and are asking us as Democrats to vote for the conference report. I suggest that they are perhaps misconceiving what is a nonpartisan issue and they would erroneously give to my friends on the other side of the aisle sole credit for wanting to control the Federal bureaucracy. I suggest that some of these people, these well-meaning, fine people over here outside that door, are infected with that disease known as Potomac fever. They do not represent what the people back in our districts are concerned about. They live day and night with unelected bureaucrats. But if we go home and ask the people in our districts whether they want to see unelected bureaucrats at the FTC, five people who have as much legislative power as we do but who have never suffered the inconvenience of running for public office, make the laws that affect their lives, I think the people would say "No."

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman.

I plead with the Members, do not get infected with this communicable disease of Potomac fever. Think for a moment when you go home this weekend, when the days of the November election are fast approaching, are you desirous of representing those people standing outside that east door who represent the bureaucrats of Washington, or are you more concerned about those people on Main Street, U.S.A., who have had it up to their eyeballs with rules and regulations never cleared or passed by anybody elected by anyone? Yes, it may become a political issue in November because today you are going to be counted one way or the other. You can either vote with the bureaucrats, or you can vote with the people.

I am suggesting that this House of Representatives on two occasions—the House of the people—has gone on record saying we want to return the power of lawmaking to the Congress and not to the unelected bureaucrat. I urge you, I plead with you, let us defeat this conference report. Let us send that message downtown and across the Capitol to the other body, and let us get on with returning the power of lawmaking to the people.

Mr. Speaker, I yield back the remainder of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, we are on the rule at the present time and, of course, not on the question of the merits of the conference report before us. I intend to talk on the rule. On this score, I think the gentleman from Georgia (Mr. LEVITAS) and I are on the same side, so we need not get into disputes about the question of the rule.

The rule was necessary, not to create any special or unusual precedure; the rule would have been necessary to perfect the process that the gentleman from Georgia (Mr. LEVITAS) himself was attempting to put into effect. He has correctly said that his original bill called for a concurrent resolution, which would

then have constituted a veto, or in the alternative, what is tantamount to an agreement between the two Houses, veto by one of the Houses with the acquiescence of the other; the other House, in effect, not having vetoed the veto.

Under both circumstances, if the process of legislating review were to have been effective, something like the rule that is asked for would have to have been agreed to.

Now, the gentleman from Georgia (Mr. LEVITAS) is one of the most capable Members of this House with respect to legislation and with respect to the knowledge of what will be subject to a point of order. If the gentleman from Georgia (Mr. LEVITAS) had placed in his original amendment a shortened procedure by which the House or the Senate could have reviewed the action of an agency, if he had attempted to do that, it would have been subject to a point of order, because it would have brought in a new issue, that is, a change in the processes of the House; so his amendment would really not have worked, because there would not have been time for the House to have acted if the subcommittee, the committee, or the Committee on Rules, had held the matter up beyond the particular period of time allowed.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I would like to say that the gentleman is absolutely correct when he says that expedited procedures calling for a change in the rules of the House was not included, because it would have been subject to a point of order.

I would certainly hope that if the House can defeat this conference report and return to conference, that they will bring back a congressional veto with these expedited procedures; but let us make it either one House or two Houses, but not three.

Mr. ECKHARDT. Mr. Speaker, if the gentleman will yield back to me, the gentleman from Georgia knows it is utterly impossible, time wise, to go back to conference. If we could go back to conference, it is my opinion it would be utterly impossible to convince the Senate to get completely off their original position. What we are dealing with is a conference report. We are not taking our first choice. We are attempting to decide the question of what should be the balance between the Senate and the House.

I did not start out to talk about that and I do not want to continue on it. All I want to say is that the rule is essential. It would have been essential, either for the procedure we seek to put into effect under the conference committee report, or it would have been essential with regard to the veto process that the gentleman from Georgia (Mr. LEVITAS) has urged.

I think we agree that we should vote for the rule, and I urge the House to vote favorably for the rule on the conference report.

Mr. MOAKLEY. Mr. Speaker, does the gentleman from Ohio have any further requests for time?

Mr. LATTA. Mr. Speaker, I have no further requests.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3816, FEDERAL TRADE COMMISSION AMENDMENTS OF 1978

Mr. ECKHARDT. Mr. Speaker, I call up the conference report on the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 8, 1978.)

Mr. ECKHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ECKHARDT) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.)

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, as you know, this is the second FTC Conference Report to be considered by the House. The last conference was rejected by the House on February 28, 1978, for two reasons. First, Members were concerned about a provision that would have permitted the FTC to seek "equitable relief" (such as the appointment of a receiver) to preserve a firm's assets for possible consumer redress if the firm was later found to have violated the Federal Trade Commission Act. Second, Members objected to the fact that the conference report did not include a section in the House bill providing for a legislative veto of FTC rules.

The House's action in rejecting the conference did not sit well with the Senate. That is understandable in light of the fact that the Senate supported its original bill by a 90–to–0 margin and accepted the conference report—where the House had prevailed on most of the major issues—on a voice vote. As a consequence, the Senate refused to reappoint conferees for more than 5 months. During that time, as you are all well aware, the FTC appropriations bill was struck down on the House floor on a point of order that there was no authorization.

I point to this background to show you how hard it was just to get back to conference. However, despite these difficulties, we were able to reach another agreement—an agreement which I feel is enormously favorable to the House position. Of the 11 major issues considered by the conferees, the House prevailed on eight, lost only one (a matter which was not contained in the original House bill) and reached compromises on two others.

I will not spend much time discussing most of those issues, since they were not the reason for the failure of the first conference report, but I do want to mention that they generally deal with a number of procedural matters that are designed to expedite FTC producers—an objective we all agree on—as well as authorizations for fiscal 1979, 1980, and 1981. In addition, the bill would exempt savings and loan associations from FTC jurisdiction to the same extent as commercial banks.

Now let me spend some time discussing in detail how the conferees resolved the two issues which caused the defeat of the last conference report. First, the "equitable relief" section was eliminated completely so this bill will not give the FTC authority to seek equitable relief. I might point out that this was a major concession on the Senate's part as they had included an even stronger provision in the bill that they approved by a 90-to-0 vote.

Second, we reached what I believe is an eminently fair compromise on the matter of legislative veto. In order to appreciate how difficult it was to reach this compromise—and thus how fair it is—you must remember that the Senate opposes the legislative veto as strongly as the House favors it. Mr. LEVITAS can attest to the fact that time and again he has attached veto provisions to a House bill, only to see the veto struck in conference. Perhaps an even stronger indication of Senate opposition was expressed on July 20, 1978, when the Senate rejected a one-House veto provision for the Department of Housing and Urban Development by a 65-to-29 vote.

While Mr. LEVITAS will tell you that the HUD vote concerned an executive branch agency, whereas the FTC is an independent regulatory agency, the Senate conferees made it quite clear to us that they do not consider this a distinction that is relevant to the Senate. Even Senator SCHMITT, who has introduced a Levitas-type legislative veto bill in the Senate, indicated at the conference that he did not think that the Senate would agree to such a proposal. Moreover, the chairman and the ranking minority member of the Senate Government Affairs Committee confirmed this view in a letter to the Senate conferees. They pointed to their "study on Federal regulation," which concluded that—

Congress should reject an across-the-board use of the legislative veto for regulatory agency rules, in our opinion, rules and regulation of the Federal Trade Commission should not be subject to legislative veto by the Congress.

Against this background, I think we were extremely fortunate to have reached as favorable a compromise as we did. Before turning to the specifics of the compromise, let me first say that the only other "compromise" anyone was able to suggest was volunteered by Mr. LEVITAS. He suggested that the House provision remain intact but that the veto be subject to a sunset provision and that the bill contain provisions for an expedited court test of the constitutionality of the veto. I offered Mr. LEVITAS' proposal to the Senate conferees first but they would not accept it.

It was only then that I offered a two-House veto by joint resolution. As finally agreed to, the compromise provides for expedited consideration of a joint resolution of disapproval of any FTC Magnuson-Moss trade regulation rule.

Each proposed rule would be submitted to the Congress 90 calendar days prior to its effective date. Thereafter, the following expedited procedures would apply to the House. Within 5 days of the transmittal, a joint resolution would be introduced (by request) by the chairman of the Interstate and Foreign Commerce Committee. The committee would then have 45 days to make its recommendations to the House. If the committee had not reported the joint resolution by the end of 75 days after submission of the rule to the Congress, the committee would be deemed to be discharged from further consideration and the joint resolution would be placed on the House calendar. Thereafter, the resolution would go directly to the floor for a vote. Thus, a vote in the House would be assured. The bill does not contain special procedures for the Senate, because its rules permit any Senator to move to discharge a committee of a resolution and then to proceed to a vote on that motion on the next legislative day.

Thus, the conferees are confident that Commission rules will receive the close scrutiny of both Houses of the Congress.

If a joint resolution is approved by both Houses in the 90-day period, the proposed Commission rule would not take effect, unless the President vetoed the resolution. In that case, the rule would take effect unless the Congress overturned the President's veto.

We adopted the joint resolution approach, because it was the only one available to us in light of the strong Senate and House positions that run in opposite directions. Since the Levitas-type veto was not acceptable to the Senate, the conferees felt that the only constitutionally permissible option was a two-House veto with Presidential signature. While some present laws do authorize the Congress to reject a rule by concurrence of both Houses, such provisions have never been considered by the Supreme Court and the conferees believed that they clearly violate section 7 of article I of the Constitution, which provides:

Every order, resolution or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

I might add that I am sure the gentleman from Georgia (Mr. LEVITAS) has drafted his legislative veto proposal with this provision of the Constitution in mind.

In short, Mr. Speaker, I think the conferees found the only possible compromise ground on the legislative veto. I think it is also important to keep in mind that if this conference report is not adopted, there will be no legislative veto of FTC rules whatsoever. This fact is particularly important to keep in mind, because many major FTC rules are expected to be finalized over the next 6 months.

I urge my colleagues to accept the report.

The SPEAKER pro tempore. The time of the gentleman from Texas has again expired.

Mr. ECKHARDT. Mr. Speaker, I yield myself 8 additional minutes.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, I rise in support of this conference report. As the Members of this House know, we on the Judiciary Committee have been considering various proposals for the "legislative veto" of certain agency regulations. As chairman of the Subcommittee on Civil and Constitutional Rights, I have been particularly concerned that any veto mechanism adopted be consistent with the Constitution. Though I continue to have concerns about "legislative veto" from a policy standpoint, I support this provision, because it is a fair compromise between the strong positions of the two Houses and, most important, because I believe it is constitutional, unlike the so-called "one-House veto."

On policy grounds I have opposed any form of legislative veto, and will continue to do so, because I believe it is unwise, unnecessary, unworkable, and will involve the Congress in day-to-day agency operations in an improper manner. I share the concerns of the administrative conference of the United States, which said last year that—

Legislative veto would not further the ability of Congress to direct agency policy . . . it would bring about undesirable changes in the rulemaking process and in relationships among the agencies, Congress, and the courts.

I know, however, that many Members do favor the legislative veto concept. The compromise agreed to here provides them the additional oversight mechanism that they seek to review agency rules. Most important to me, however, is that this provision conforms with the Constitution, because it provides for the concurrence of both Houses and the President. I know that Mr. LEVITAS has argued in the past that if "one-House veto" is unconstitutional, we should pass it anyway and let the courts decide. I believe that would be an irresponsible action of this House, and this Member, for one, could never vote for anything I know to be of doubtful constitutionality.

This proposed legislative veto is a fair compromise and consistent with the Constitution. I urge a "yes" vote.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to commend the gentleman from Texas for the job he has done in crafting, I think, a very fair compromise under most difficult circumstances.

I would like to ask the gentleman this question: If this authorization bill should be defeated today, are we then going to be in a position where we are not going to be able to get an appropriations bill passed this year? I know there is a lot of concern in the House about not having authorizations, and then going ahead and passing an appropriation bill. As I understand it, we are in a situation now where we are going to have to rely on another continuing resolution. I think that would be a very serious mistake.

Mr. ECKHARDT. This may be true. There may be an appropriations bill passed or a continuing resolution, but in either event the Authorizing Committee, the committee of major jurisdiction, would be completely bypassed. As the gentleman knows, the spirit of the rules of this House is that the Appropriations Committee will not merely extend the life of an agency, and it may not do so by an appropriations bill prior to passage of an authorization bill without certain peculiar circumstances occurring; either the matter originates in the Senate, or we get a waiver of points of order in the House. The reason for that is a very good reason, and it is very well pointed out by what I referred to concerning the matter of the savings and loan associations.

When the Authorizing Committee considers the extension of an agency's authority, it also considers its housekeeping functions. We decided, for instance, that the Federal Trade Commission should not have jurisdiction over savings and loan institutions any more than it does over banks, because both are controlled by their own boards and should not be dually controlled by two agencies. We, therefore, eliminated that.

In like manner, we reviewed certain procedures of the Federal Trade Commission. Of course, in all commissions, if persons are to be properly responded to, these procedures must be perfected, and in every instance when it is possible to do so, shortened and simplified.

Mr. DICKS. So all of this we would lose.

Mr. ECKHARDT. All of this we would lose if we go directly to appropriation; and, more than that, we would lose the principle that the authorizing committee should get the first chance at perfecting legislation which carries an authorization and ultimately results in an appropriation.

Mr. DICKS. If the gentleman will yield for one final question, is it not also true the equitable relief section, which had caused a lot of controversy in the House, has already been deleted in the conference? Is that not true?

Mr. ECKHARDT. That is true. The three controversial issues were these: One was a class action issue in the original bill, which was defeated on a motion on the floor of the House. There was no similar provision in the Senate bill, so that went out.

The second was what was deleted by the Butler amendment, and it was the equitable relief section. So the committee had greatly ameloriated those provisions from what had been recommended by the agency, that the agency have authority prior to going to court to attempt to preserve possible wasted assets by appointment of a receiver prior to initial court action. The amendment offered by the gentleman from Virginia (Mr. BUTLER) struck that section by an amendment in the House. That remained in our first conference report which was rejected. We went back to the Senate and said:

> You have to give in on this because we are willing to compromise with you on the Levitas amendment but we must have your complete surrender on this proposition.

They did surrender on that proposition.

Mr. DICKS. I thank the gentleman for yielding.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

To pursue the question raised by the gentleman from Washington, the conference report provides for a 3-year authorization, as I understand it. In the event the conference report were defeated, is it not true that the continuing appropriation could take care of the funding for FTC for 1 year and let this matter come back up and be decided next year, rather than at the end of this session? Or, alternatively, is it not also true the gentleman from North Carolina and the gentleman from Georgia have represented to the gentleman from Texas that we in no way want to impinge upon the FTC and would agree to a 1-year authorization without this provision in it and without the equitable relief provision?

Mr. ECKHARDT. We simply do not have time to go back and get an authorization for an additional year. As the gentleman well knows, if we do not get the authorization at this time we will simply surrender the jurisdiction of the major committee on the matter. That is the simple fact in the case.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. I thank the gentleman for yielding.

I take note of the fact that in the correspondence I received on this matter I have a letter signed by a number of our colleagues who support the legislative veto, but they are writing and recommending we support this conference report. One of the points they raise is that because of the strong Senate position against the congressional veto concept, they believe if this conference report is not approved we will lose any opportunity this year to enact legislation which gives Congress the opportunity to veto FTC rules and regulations.

I would point out to my colleagues that barring any dramatic change in the thinking of the Senate, an FTC conference in 1979 would then break down over the veto issue in exactly the same way. Moreover the FTC rules on such things as franchising, vocational schools, and the funeral industry will be finalized and without any congressional review procedure the rules will become effective and we will not have even any opportunity provided for in the FTC conference for Congress to have a second look at those regulations.

Mr. ECKHARDT. The gentleman is precisely correct.

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. I think the argument today is very simple on this vote. If we really support regulatory reform and a strong legislative veto, we will vote "no," as we did before.

If you do not want a strong legislative veto and are not particularly concerned about regulatory reform, you will vote "yes," as you probably did before.

To my way of thinking it is about time we stand up to the other body and let them know we are not going to continue passing conference reports where we put on in this House a strong legislative veto only to see it scrapped in conference. I have personally introduced three or four legislative veto amendments during the last two Congresses and they have had that fate. It has happened too many times. It is about time to send a signal to them, it is time, here and now, for both bodies to face the issue and decide it once and for all.

We know that by the Constitution the other body is insulated from public opinion because of their 6-year terms so that they are not evidently aware of the need for and the public demand for regulatory reform. But that is not the case with this body, because in two consecutive Congresses it has voted numerous times by overwhelming margins for a strong legislative veto.

What we have in this conference report is not a compromise legislative veto, it is nothing more than the existing law we have now. All you have to do, they say, is pass a resolution in the House, and then you pass one in the Senate, then you get the President to sign it. That is not much different from a statute. We have that now and it does not work as a check on regulations. Then if the President vetoed it, I guess what we would have to do would be to do it by a two-thirds vote. And certainly that cannot be compared with a legislative veto. That is not a legislative veto mechanism, that is nothing more than a sham that is being given us by the other body because they do not really want to face a strong legislative veto.

The interesting thing I find is the fact that the other body, seems to be for or against a legislative veto as it suits their purpose. In this particular bill they are against a legislative veto because it does not suit their purpose, and so they give us this sham veto of the two Houses passing a resolution and then signing it by the President.

I can show four examples, which I will put in the RECORD at this point, where the other body in the last few recent years has at least, on four occasions availed itself of the one-House veto, and used the one-House veto.

The examples are as follows:

1. S. Res. 429. On April 17, 1978 Senate passed without objection one-House legislative veto of the President's Energy Action Number One regarding the Strategic Petroleum Reserve Plan. Such legislative veto authority was granted in P.L. 94–163, the Emergency Petroleum Conservation Act of 1975.

2. S. Res. 428. Passed Senate April 8, 1976 as a means to disapprove by one-House legislative veto regulations promulgate under the Presidential Recordings and Materials Preservation Act of 1974, P.L. 93–526.

3. S. Res. 244. Senate passed measure on September 11, 1975 as means to disapprove by one-House legislative veto earlier regulations promulgated by the General Services Administration regarding Presidential Recordings and Material Preservation Act, P.L. 93–526.

4. S. Res. 275. Senate passed one-House legislative veto of 2 regulations proposed by the Federal Election Commisison. This resolution of disapproval passed the Senate on October 8, 1975 and was authorized by the Election Campaign Act of 1974, P.L. 93–443.

If they feel so strongly about the unconstitutionality or the undesirability of the legislative veto then why have they used it four times? Because it suited their purpose then. It does not suit their purpose now.

It is about time that we began to suit the purpose of regulatory reform and those of the American people.

Regulations are just as binding as law, but there is one essential difference, they are made by bureaucrats who are not elected and who answer to no one. We are elected by the American people and we answer to them.

Someone has got to check the power of the bureaucracy and we need a strong legislative veto to do it. We know it is costing us money as well as having unchecked awesome power.

A 1976 White House study says it is costing us $130 billion a year. A 1978 Washington University study says the cost of compliance alone, which is nowhere near the total cost, is $103 billion a year.

I also submit the legislative veto is not unconstitutional. The Federal Trade Commission is an independent agency and not a part of the executive branch so we are not infringing on the powers of the executive branch.

Second, it does not violate section 7, article I of the Constitution, as the conferees would have us believe, because that deals with the passage of laws, this is nothing more than a check on a reg-

ulation issued pursuant to existing law, not passing new law.

Lastly, the Supreme Court is the final decider of questions of constitutionality, and not the Congress. We should pass a strong legislative veto because we think it is vitally necessary and leave the ultimate decision of constitutionality to the judicial branch.

In conclusion, support for regulatory reform and a meaningful legislative veto requires a "no" vote on this conference report.

Mr. BROYHILL. Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Speaker, I would like to associate myself with the remarks of my friend and colleague, the distinguished gentleman from North Carolina (Mr. BROYHILL). As a member of the funding committee for the FTC, I have become painfully aware of the increasingly intrusive and expansionist nature of this agency.

As the House knows the appropriations conferees directed that "none of the funds may be used to promulgate a trade regulation rule concerning TV advertising to children" and then on the UPI ticker for September 14 we come up with the following story just 2 days after the conference:

WASHINGTON.—The Federal Trade Commission said today it plans to hold hearings next year on television advertising aimed at children even though Congress is opposed to the FTC regulating such advertising.

Mr. Speaker, much has been said earlier in this debate that the appropriations cannot be made for the FTC if this conference report is not passed. Such is not the case—as a matter of fact the House leadership has scheduled for action today the conference report containing those funds—they will be passed regardless of what action is taken on the bill before us now. As my colleague know, we have given careful consideration to the problems with the FTC during consideration of their fiscal year 1979 budget. Of major importance is the agency's proposed rulemaking on children's advertising. In discussing this proposal both the House and the Senate recognized two important facts—first that the proposal raises serious constitutional questions and second that the rulemakings of this agency need to be subject to congressional veto. A veto that follows the position of the House is the only workable solution available.

We have learned, through the experience of the International Trade Commission, that the involvement of the executive branch in accepting or rejecting decisions of these regulatory bodies is not in the best interest of the people as represented by the Congress.

The Federal Trade Commission has commenced a rulemaking proceeding that includes, among the proposed remedies, a ban on all television advertising to children under 8 years of age, as well as a ban on advertising of sugared food, to children under 12 years of age. It is the considered opinion of many that the proposed bans and the statutes and procedures under which they will be evaluated are violative of the first amendment of the Constitution.

In recent decisions, the Supreme Court has stated that truthful advertising for lawful products cannot be banned, Virginia State Board of Pharmacy against Virginia Citizens Consumer Council, Inc.

Commercial speech is constitutionally protected when it contains "concededly truthful information," "about entirely lawful activity"; in that event, it may not be suppressed merely because the Government is "fearful of that information's effect upon its disseminators and its recipients."

While the FTC staff report makes a short and fainthearted attempt to argue that children's advertising is "deceptive" (pp. 172–175), its major contention is that such advertising is truthful, but "unfair" (pp. 175–220).

As the FTC no doubt recognizes, a total ban on advertising cannot be justified on grounds of deceptiveness. It must be remembered that under the first amendment, "any prior restraint—on speech—is suspect—a remedy, even for deceptive advertising, can go no further than is necessary for the elimination of the deception;" Beneficial Corp. against FTC. Thus, even if valid, the FTC's argument would, at most, support a requirement of fuller disclosure not a complete ban on advertising. For this reason, the FTC relies mainly on the argument that "unfair" advertising may be suppressed, even if truthful. However, the Virginia Pharmacy case, as I outlined, would erase even that argument. That case said that the only permissible role for the Government is to take all reasonable steps to insure that the speech itself flows "cleanly as well as freely."

The fact that the recipient of the truthful information will be children does not change this constitutional conclusion. It is well settled that children are persons entitled to protection under the first amendment; Tinker against Des Moines Community School District. In the Tinker case the court addressed the rights of children and what information they receive—"may not be regarded as closed-circuit recipients of only that which the State chooses to communicate."

The FTC, to circumvent these facts, is relying on Ginsberg against State of New York. However, that case dealt only with obscenity, which is a recognized category of unprotected speech.

All of this clearly points to one outstanding fact—that this agency is in need of better direction from the Congress, and if they continue to persist in such disregard and issue rules along these lines, the Congress must have the mechanism to overrule them through a definitive congressional veto that does not involve the executive branch of Government. We must not allow this agency to spend the taxpayer's money on witchhunts nor allow them to force American companies, who are engaged in lawful activities, to spend millions of dollars in legal defense of those activities, either before the Commission or in the courts, when the issue is so clear to begin with.

This raises, in my mind, the validity of the staff reports that are presented to the Commissioners for their consideration. In the children's advertising case, the FTC has cited agreements with the FDA and FCC as their right to proceed in this matter. The Food and Drug Administration has the authority, and indeed the responsibility, to act on matters of the safety of food as they have the expertise. The FTC itself recognized this fact when they requested the FDA to look into the matter of sugar in 1974. The FDA was not forthcoming with any documentation that substantiated the FTC' s claims. In 1977—in fact, the FTC did not even consult with the FDA on this matter. I would really like to know where the FTC found the expertise in 3 short years.

The FTC has claimed it relied on the results of a National Science Foundation study on children's nutrition, which broached the subject of sugar. However, the researchers who conducted the NSF study have quite a different story about what they did and how the FTC used it.

In the June 1978 issue of the American Psychological Association's Monitor there is an interview with the investigators who did that study.

Gerald Lesser, the senior investigator in the study said:

The research evidence was used in a selective, loose way: it's an affront to the scientific community. The FTC staff pulled out only the research data which supported their position and left the rest.

For this type of activity we are supposed to spend the taxpayer's money? I find that not only an affront to the scientific community, but an insult to the intelligence of the American people. And each of the four main investigators had similar comments.

I can certainly understand the chairman, Mr. Pertschuk, accepting this study on face value, as it follows exactly along the lines of his public statements, statements that were made well in advance of the staff study being made. His lack of objectivity on this matter, in fact his bias, has been the basis of many calls for him to disqualify himself from this proceeding, something he has refused to do. He finds nothing wrong with first stating his feelings on this matter and then directing the Commission's staff to do a study. Congress should certainly find something wrong with this order of procedure.

Recently the chairman has given us yet another indication of the prejudice with which he approaches issues such as children's advertising. In his public statement dealing with the language the appropriation conference committee wrote to express our concern with the rulemaking, he addressed the committee's "reservations about the constitutional implications of a ban on children's advertising, which is one of a number of remedies under consideration."

A remedy to what? Has a problem ever been proved? I was under the impression that the most important part of any Commission proceeding was to see if a problem existed in sufficient proportions to require Commission action.

Here we have Mr. Petrschuk going into these proceedings with the assumption that a remedy is needed to a problem that has yet to be demonstrated.

His statement more clearly than ever demonstrates that FTC rulemaking has

degenerated from a fact-finding procedure to a process whereby prejudiced assumptions are substituted for fact.

His bias in this proceeding, in the face of strong congressional concern, has given us a hint of the degree to which the timely uncumbersome exercise of congressional review of FTC rules will be needed. Mr. Speaker, the Congressional review of FTC rules will be needed. Mr. Speaker, the Congressional review provision contained in the conference report so encumbers Congress, that it makes us bear the weight of these prejudiced FTC rulemaking procedures.

Congress must be able to exercise its review function over such prejudiced "kangaroo-court" goings-on in a smooth fashion, with the least possible disruption of other public business, not possible under the provision proposed by the conference committee.

Getting back to the proceeding I have been discussing, I find serious problems with the FTC even getting into this whole area. As I have said before, FDA has safety of food responsibility and the FCC has broadcast responsibility. The FCC has more than exercised its responsibility on this subject. In 1974, the FCC, acting on a petition from ACT (Action for Children's Television) began an exhaustive study that filled 63 docket volumes and consumed 1,252 pages of testimony.

Before I go further, Mr. Speaker, I would like to point out that this is the same group that brought the petition before the FTC. It is the same petition that had been denied several times previously by the FTC, until the present chairman came along.

The FCC in this study rejected the proposal for any kind of ban on children's advertising. While doing so they also recognized that certain problems do exist. The possibility that children cannot distinguish between program content and commercials was thoroughly examined and properly dealt with. This is a major element in the FTC's "inherently unfair" argument. The FCC concluded that any action should result from a case-by-case approach. "Rules would, in all probability, have been necessary had we decided to adopt ACT's proposal to ban advertising from children's advertising." The FCC further stated:

> We are concerned, however, that such a ban would go so far as to prohibit even the critical mention of products and other comment for which no consideration is received. Such a rule, would, we believe constitute a form of illegal censorship of programming. (FCC 74–1174, Docket No. 19142).

The FCC even approached one aspect of the problems involved that the FTC appeared to overlook. That is the problem of when children are watching TV. The FTC loaded their report with the number of commercials children supposedly watch each year, and the implication was that most of those were on "children's programs." However, the FCC said:

> It is clear that children do not limit their viewing in this manner. They form a substantial segment of the audience on weekday afternoons and early evenings, as well as on weekends. In fact, the hours spent watching television on Saturday and Sunday constitute on an average, only 10 percent of their total viewing time.

The FTC has further said that it has primary responsibility in the areas of advertising. As far as false and deceptive advertisng the FCC agrees. However, when we are talking about abuses and excesses, which would certainly include "unfairness" as defined by the FTC, the FCC said:

> The Commission's statutory responsibilities include an obligation to insure that broadcasters do not engage in excessive or abusive advertising practices.

In that respect, the FCC clearly included the distinction between programs and commercials and the content and intentions of both.

As for crossing into the jurisdiction of the FDA, several of my distinguished colleagues said in a May 22, 1978 "colleague" letter—

> Because the FTC only proposed to address the manner in which a product is advertised, there is no merit to the argument that proposal such as the one dealing with television advertising for children overlap the jurisdiction of the Food and Drug Administration.

Address the manner of advertising? In plain English, the FTC proposes to ban the advertising of all products at certain times and to ban the advertising of certain products that contain sugar.

The intrusion upon the primary jurisdiction of the FDA is clear. In order to ban or otherwise limit the advertising of sugared products on the grounds that they are unhealthy for children, the FTS should have an FDA determination that these products are indeed unhealthy or unsafe. The FTC admitted this when the question first came up in 1974, as I previously stated.

The FDA, however, has found sugar to be generally recognized as safe. So the FTC—which has absolutely no expertise in these matters—is attempting to use its own powers to determine the inherent safety or healthfulness of food products that are allowed to be marketed under Federal laws designed to protect the public from unsafe or unhealthy foods. This determination of danger—which should be made by the FDA—is a necessary precondition which must be satisfied before FTC can limit the advertising on the grounds that it is leading children to harm.

If the FTC is allowed to get away with invading FDA's and FCC's jurisdiction, there is no subject matter it would not ban from advertising on the mere strength of its own determination that the advertising would lead to consumption of dangerous or unnecessary products. Suppose that the FTC determines that automobiles are inherently unsafe, therefore may not be advertised. What about dairy products because of their cholesterol and fat contents? Alcohol? Aspirin?

If my colleagues think this is farfetched—I would like to call to your attention some remarks made by Mr. Tracy Westen, head of the FTC's Bureau of Consumer Protection. He believes that the "nonverbal cues—ir. Geritol ads—translate into something like this 'Take Geritol and your husband will love you.' " He thinks it is highly possible that the Government should ban such ads because "it is highly unlikely that the Geritol manufacturers could prove that the use of their product will inevitably generate a state of marital bliss." Who is protecting whom from what here?

If the FTC is not operating under the "clear and present danger" phrase, to quote their own act—then I submit that such actions are clearly not the intention of this body—and they will continue to intrude, abuse, and insult the American taxpayer.

Not only has this agency insulted us with actions and statements such as I have outlined, they have ignored the very law this body passed to give them the right to start such proceedings.

Under section 202(d) of the Moss-Magnuson Act, the Congress was supposed to receive a report from the agency and a review conference within 18 months of enactment. The law was signed in January of 1975 and we still do not have the report. The agency has received two extensions and a third is pending.

They have cited the fact that no rules had been finalized under the act and therefore, its effectiveness could not be properly judged. However, the "eyeglass" case has been finalized for some time now, and still no report. If this agency will not comply with the law, it is but one more example of why this Congress needs to have tighter control over their activities.

As you know, they have trotted after many industries under this act. Besides food there are over-the-counter drugs, funeral parlors, mobile homes, vocational schools, hearing aids, protein supplements, used cars, ophthalmic goods, health spas, thermal insulators and antacids to name a few. They are now in the process of proposing rules for the insurance industry and new car makers. All of this, good and bad, has come about with little congressional oversight and of course, no say as to whether they should even be doing what they are doing. That, in my opinion, is excessive power of nonelected officials.

One thing we do know they are doing is spending a lot of money to pay for "public participation" in these rulemakings. In fact, as of March of this year the FTC had obligated over $650,000 in attorney fees. One award of $4,500 went to what could be termed "the opposition," the National Association of Home Insulation Contractors; $134,362 was provided, in four awards. to the Americans for Democratic Action in attorney fees alone. Let me interject at this point, Mr. Speaker, that that would bother me just as quickly if the money was given to the Young Americans for Freedom.

The petitioner in the children's advertising case, ACT, has been awarded $49,222 of the total $200,000 allowed for the entire proceeding. That is nearly one-fourth of all available funds. Of even deeper concern is that $13,495 of that award is to fund three studies dealing with this proceeding. It looks like the fox is being paid to investigate the henhouse. There is one individual, closely alined with ACT that has received another $35,230 to do another study. In fact, this same individual has received over $100,000 from the FTC for various efforts.

Another fine example of what this agency is doing with the taxpayers money came to the surface under a Freedom of Information Act request. It was reported that the FTC had hired or was planning to hire a "consultant" for the children's advertising rulemaking. The FTC refused to disclose under FOI or any other inquiry whether or not that was true. Small wonder, the gentleman is the author of a book that advocates the position that the FTC has taken on this issue. This is the "fairness" that the FTC says does not exist in American business?

Secrecy is not confined to the FTC's hiring activities. On many occasions Congress has recognized and accepted the FTC as an "arm of the Congress." So have the courts. The law is clear that only the Congress has supervisory authority over the FTC. The President of the United States has none.

Some recent actions by the Commission make it appear that the FTC regards and is treating Congress as if the Congress is an arm of the Federal Trade Commission. For example, the Commission recently adopted a rule to prohibit information communications from Congress to the FTC commissioners regarding any proposed trade regulation rule.

Thus, the FTC evidently regards Members of this body as "outsiders" without right of access to the Commission and the commissioners.

The Commission made one exception, however. It has ruled that members of its staff may "informally" advocate a proposed TRR to the Commission or any of the commissioners at any time—even though Members of the Congress are denied the opportunity to express even a view.

In addition, the FTC recently adopted another rule which provides that:

> Any person who seeks to present information either orally or in writing, shall also present any studies or surveys in the possession, custody or control of the person . . . which support, contradict or otherwise pertain to the person's presentation.

The presiding officer in one of the Commission's pending TRR proceedings relating to television advertising interpreted that rule of the Commission as follows:

> There is no exemption for the Food and Drug Administration, the Surgeon General's Office, the United States Department of Agriculture, the Federal Communications Commission, . . . or members of Congress. . . .

Now what does that mean? Simply, it means this: If a communication is formally directed from a Member of the Congress to the presiding officer for inclusion in the rulemaking record, that advice, statement or point of view would not be considered unless accompanied by all "other information relevant to the rule in the possession, custody or control" of that part of the Congress or Member of the Congress seeking to express a point of view.

From the foregoing, I believe it is proper to say that the "arm" the FTC is twisting or at least arranging for Members of the Congress to slowly twist and turn in the wind.

In conclusion Mr. Speaker, I would like to point out that any one of the many problems with this agency that I have mentioned would not be so horrible or unacceptable if they were isolated. But I believe I have shown beyond a reasonable doubt that they are not isolated. I have really only centered on one rulemaking—I think that if the responsible committees were to take the same look at all the other proceedings they would find the same picture of abuse, intrusion, and expansionism that I have found. It is on that basis that I call upon my colleagues to reject the compromise and insist on the position of the House regarding the veto provisions. We cannot allow this situation to continue.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I did not mean to mislead anyone. As I understand it, a point of order will lie against the appropriation bill if there is not an authorization. Therefore, the appropriation would not be in order.

Mr. ANDREWS of North Dakota. That is correct on an appropriation bill, I might say, but not on a conference report when it comes back from the Senate.

Mr. DICKS. Mr. Speaker, I think the gentleman is correct.

Mr. ANDREWS of North Dakota. I appreciate the gentleman's pointing that out. I merely wanted to clear that up because of the remarks that have been made by our colleague, the gentleman from Texas (Mr. ECKHARDT), and the misapprehension of the gentleman from Washington (Mr. DICKS).

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, the gentleman from Georgia and I have pledged that we will do everything we can to get the authorization through for this year. The defeat of this conference report will do no harm with respect to the funding of this agency.

Mr. ANDREWS of North Dakota. It cannot do any harm to the agency because the funding is in the conference report on the appropriation bill which, according to the majority leader's schedule, is going to come up this afternoon.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Dakota. I am sorry. The gentleman has time on his side. We are limited on this side.

Mr. ECKHARDT. The gentleman has been speaking to something which is not in the bill.

Mr. ANDREWS of North Dakota. I have been talking about the need for a congressional overlook on the agency's actions on all regulatory agencies' actions. That is the reason for my joining my colleagues on that question.

Mr. BROYHILL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in opposition to the conference report on H.R. 3816 and urge that Members of the House vote against this bill. This legislation has had a long, but less-than-illustrious history before this body. The Members will remember that last fall, when we originally passed this bill, we included—by a vote of 272 to 139—a provision that would require all FTC rules and regulations be referred back to Congress for oversight and possible disapproval. In spite of that overwhelming House vote, the conferees did not include a legislative veto provision in the conference report. Consequently, the conference report was voted down last February by a vote of 255 to 146.

Mr. Speaker, it troubles me greatly that we are here again at this late date arguing the same point. Nevertheless, let me point out once again to the Members that the Federal Trade Commission has very broad authority to write rules prohibiting conduct which is unfair or deceptive. Under this broad language, the FTC can regulate virtually every aspect of America's commercial life. The FTC's rules are not merely narrow interpretations of tightly drawn statutes; instead, they are broad policy pronouncements which Congress has an obligation to study and review. Congress has delegated to an administrative agency the authority to write rules and regulations having the effect of law. It is only appropriate, consequently, that we hold back for ourselves the power to oversee and possibly disapprove those rules when the agency strays too far afield.

Because of the very strong House sentiment on this point expressed in unmistakable terms in two overwhelming House votes, I was dismayed that the House conferees brought back to this body a provision which is totally unresponsive to the wishes of the House on this point. The essence of the so-called conference compromise is to delay the effective date of FTC rules for 90 days. During that 90-day period, both Houses of Congress would have to pass a joint resolution disapproving the FTC rule which would then go on to the President. If the President did not approve the actions of the Congress in this regard, then his veto would have to be overridden by a two-thirds majority of each House. In other words, what the conferees are telling us is that in order to disapprove a FTC rule, we must pass a law, and we must do it in 90 days.

Mr. Speaker, I am both shocked and dismayed that the House conferees would come before us and seriously offer this proposal as a compromise. Frankly, I find it very difficult to believe that the President would not back up his administrative agencies in disputes with Congress. If my fears are correct, then what we are really talking about is a two-thirds vote of the Congress in order to disapprove agency regulations. The House conferees have tried to construct a provision that looks somewhat like a legislative veto. However, they have failed miserably. The difference between the House-passed provision and what the conferees have returned to us is the difference between a thoroughbred and a mule. This so-called compromise must be rejected.

As the subcommittee chairman has pointed out, this legislation also contains authorization for appropriations for the Federal Trade Commission for the next 3 fiscal years. If this conference report is rejected today, then the agency will need a continuing resolution, and I have pledged my support of that resolution. But because it contains authorizations for the next 3 fiscal years if this conference report is approved today, then we will not be able to readdress this question until 1981. If on the other hand the conference report is rejected, we can return to this issue and settle it once and for all early in the next Congress without the time restraints that face us now.

Mr. Speaker, I am sorry to say that, in my view, the House conferees did not follow the directions of the House. The provision they have brought back to us is little more than a sham. Consequently, I cannot in good conscience vote for this conference report, and I urge my colleagues to join me in opposing it.

Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. RUSSO).

Mr. RUSSO. Mr. Speaker, I am very disturbed at what goes on at Federal agencies during rulemaking proceedings—in this case the Federal Trade Commission. We need more and stronger oversight and we need it now. My Subcommittee on Special Small Business Problems of the House Small Business Committee has followed the rulemaking proceeding on the funeral industry closely for 3 years. Last week, I and several other members of the committee sent comments to the Commission opposing the rule, because we see no justification for it.

The Commission received about 1,000 separate filings on the rule. Included were several serious allegations on procedural matters, among them:

First. The presiding officer denied the requests of many interested persons who represented small business enterprises to appear and testify orally during the course of the hearings in this proceeding. The presiding officer so acted despite the fact that the law provides that "the Commission shall conduct any informal hearings required" and "an interested person is entitled to present his position orally or by documentary submissions (or both)." (15 U.S.C. 57a(b)(3) and 57a (c)(A)).

Second. Interested persons were denied their lawful right to cross examine or to have cross examined, even within the limits of restrictions provided for by law and the Commission's rules or practice, the testimony of certain witnesses, to include Commission staff.

Third. Interested small business persons were denied their lawful right to have their representatives determine who would be witnesses selected to appear and testify orally in their behalf and concerning the points of view of small business enterprises involved.

Fourth. Interested persons were denied their lawful right to timely access to documents now a part of the rulemaking record.

Fifth. Interested persons were denied requests to present their oral testimony under oath; also denied requests that the testimony of other witnesses believed to be inaccurate be taken under oath.

Sixth. There are many instances noted in the final staff report to the Federal Trade Commission filed during June 1978, wherein the managing attorney of the FTC staff has seen fit to incorporate and refer to materials outside of the record of the rulemaking proceeding. There are many such instances throughout the final report.

Seventh. Interested persons have not been treated fairly and without discrimination by FTC staff members who allocated funds for public participation in the rulemaking proceedings.

Eighth. The Commission's failure to make an investigation, study, and report of same for inclusion in the rulemaking record of "The Economic Effect of the Rule, Taking Into Account the Effect on Small Business."

As a member of the Small Business Committee, I am disturbed by what they at the Commission say on the one hand and then they do on the other. They have testified before our committee on more than one occasion that their resources are not what they should be, or they would be able to provide even more protection for small business. Yet, let us look at the record.

In recent years, the Commission has begun several rulemaking proceedings. Of all the industries and companies affected, the overwhelming majority have been small businesses. The funeral industry for example is a "small business intensive" industry. More than 92 percent of the firms are small businesses. This one rule alone has cost the taxpayers well over $1 million, perhaps even $2 million. Is it any wonder I question the real role of the Commission?

In conclusion, I am concerned that we have people at a Federal agency making law affecting our economy, yet they do not do any type of decent economic statements. They ignore congressional intent in implementing the laws we pass, and the Congress sits here immersed in so many issues that much of this just slips by. The time is now for the Nation's legislative body to uphold its constitutional duty. If the one House veto is the last resort, then I say, so be it.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. RUSSO) has expired.

Mr. BROYHILL. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Speaker, I thank the gentleman for the 1 minute.

I would just like to say that the issue is, who is going to be making the laws in this country? I would just ask the Members, and I realize it is difficult at this time because we have spent so much time in Washington; but put yourselves back home in your districts and how you think the people in your districts would answer the question on who do they think should be making the laws in our country? Do they think it should be the elected public officials that have to stand for election, in our case every 2 years and on the other side every 6 years; or do they think it should be the unelected bureaucrat who has more power and responsibility in administering and making the laws in this country than does the Congress? I think the answer would be overwhelming in most districts, and perhaps all districts, that they would like their elected Representatives to make the laws and not the unelected bureaucrats.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. QUAYLE. If I have any time left, I will yield.

Mr. ECKHARDT. Mr. Speaker, the answer, of course, is the elected officials.

Mr. QUAYLE. Mr. Speaker, then I presume the gentleman will vote against the conference report.

Mr. ECKHARDT. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference report.

This is the second conference report that has come to the House. The conferees have done the very best they could in bringing back an equitable and just conference report before the House. This bill passed the House twice. I just cannot understand, there has been a lot of different arguments brought up, what is the FTC for, except to watch over the wrongdoings of the Government and business and to protect the consumer?

This does not add any new laws to what the laws are now, not one single item, not one bit more power. Why the kicking?

Someone said, the gentleman who spoke awhile ago would get a free funeral for his speech. I do not believe in anything like that. I think he is very sincere in what he is talking about.

But I wish somebody would tell me where there is one bit more power this gives to the FTC. There is not one bit.

We hear talk about this veto power. If it stays in committee and there is nothing done in 75 days, the committee is dismissed and it comes to the floor. This is not a valid argument, because it would come back to us and we would have an opportunity to vote on it here.

The three objectional things that were in the bill have been taken out. I did object to some of those, but they have been taken out of the bill.

Mr. Speaker, I just do not understand how reasonable people can object to this conference report. People do object because they are against the FTC. The FTC might have corrected some of our people, but after all, it is down there to do that; it is down there to regulate the industry of this Nation and to protect the consumers. When the FTC does not do that, everybody begin hollering and saying, "Look, the FTC is not doing its job."

I can remember 5 or 10 years ago Jack Anderson said in his column that the FTC was sitting down there doing nothing. Then they began to get busy; they began doing something and helping the people of this country. But now we say the FTC is doing too much.

I believe we can reach a meeting of minds some place. The FTC is there to help us. If it does something that is not right, we can certainly intervene and see

that it does do those things that are right.

I say that there is no excuse for any Member not voting for this conference report, because it does not add one single item of new power to the FTC, and we have taken out all the objectionable things. The fact is that the veto is in there, and it is just as strong as if it were for only one House.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Speaker, I appreciate my committee chairman's yielding.

I simply say that I agree with the gentleman that giving the FTC any new power as far as I am concerned, is not the point of the argument.

Just as the President and the Congress are down here trying to do a good job, there is a check on the power of the President and the Congress. There is no check on the power of the FTC.

Mr. STAGGERS. Yes, there is some check. Our committee is authorized to do its job, and the Oversight Committee wants to do its job. That is our job, to provide a check, and we have that authority.

Mr. Speaker, I yield back the balance of my time.

Mr. BROYHILL. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I urge the Members of this House to defeat this conference report because it does not contain a legislative veto over bureaucratic rules and regulations which this House has on two occasions overwhelmingly endorsed.

The fact of the matter is that the other body has never been called upon to take an up or down vote on this issue in this bill, and I think the time has come for this body not to roll over and play dead just because the other body does not want to vote on this issue.

The provision which was agreed to by the conferees is no compromise. The Constitution of the United States provides that an act of Congress can be adopted when two Houses concur and the President agrees. That is all we have in the so-called compromise. It is no compromise. I t is not a congressional veto.

We have before us a 3-year reauthorization of the FTC, which would put this matter beyond the purview of this House, as far as any attempt effectively to deal with this issue for 3 years is concerned.

What the gentleman from North Carolina (Mr. BROYHILL) and I have sought to do is to extend for 1 year the funding, let the FTC continue to operate, and let this issue come back so we will have an opportunity in the next Congress to freely and fully debate the issue and impose a legislative veto on FTC rules.

I might also suggest that there may be some changes in the next Congress if some of my colleagues do not realize that the people of America have had it with the unelected bureaucrats making rules and regulations without effective control by the elected Congress.

This legislative veto is not a new device. It has already been enacted in approximately 130 statutes.

It has been exercised by this House and the other body on a number of occasions. During this very Congress we have adopted a legislative veto on several bills which have been enacted into public law. So we are not seeking a revolution to create something dangerously new. What we are trying to do is focus the attention of the people of America on the rhetoric which a lot of the Members go back and spew out and say how much they are trying to control the bureaucrats. And now when we have an occasion to do something about it let us see if we are going to duck and run for cover.

The Federal Trade Commission has the power to adopt rules and regulations which have the force of law, even though they have never been elected by anybody. The proposal before us in the conference report is a provision which says that the Congress, if it wants to reject regulations by unelected bureaucrats, we have got to enact a statute, passed by both Houses and signed by the President. That is absurd.

You can go back home and explain yourselves and your actions, but the people of America are going to look you in the eye and say, "You said you wanted to control the bureaucracy, but when you had a chance to do it, you did not." That is what this vote is all about. You can dress it up in all types of fancy explanations and excuses, but that is what it comes down to.

The issue is as simple as this: Who should make the laws in the United States—unelected bureaucrats or the Congress elected by the people?

You make the choice, my friends. If you want to vote on the side of the unelected bureaucrats making laws and requiring an act of Congress to repeal them, that is your choice. But I have a sneaking suspicion, from what many of you have said in the last few months, that we have got to get control of the bureaucracy, and the mindless regulations which come out of there have to be controlled by elected representatives responsible to the people. Now is your chance. You can put up or shut up, or maybe get out. But I am telling you that this is the vote that is going to make the difference and is going to separate the wheat from the chaff, because now we are getting right down to it. If this House today rejects this conference report, it will send the loudest message across the Nation and downtown, that the Congress, especialy this House of the people, is really serious about getting control over the bureaucracy, and now is the proper time to do so.

The SPEAKER per tempore. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mr. BROYHILL. Mr. Speaker, I yield 3 additional minutes to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, let me say this: I am not quarreling about the merits of the rules. They may be good, and they may be bad. They may have merit. Some of them I certainly support. But I want to tell you of a rule of the FTC which was adopted this year. It repealed the laws passed by the legislatures of 40 States. An FTC rule, mind you, passed by unelected bureaucrats. I will wager that most of the Members on this floor here cannot even name three of the five Commissioners and some cannot even name one. They are elected by no one, and yet can pass laws. The FTC can repeal the laws of States of this Nation by a rule without the Congress having an effective veto over them.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

Mr. Speaker, I know there are many people who have no quarrel with the bill itself that we are dealing with today. It is necessary to have this amendment put on this bill, is it not, because for two straight Congresses a bill which the gentleman in the well and I, and many others, have sponsored that would set the procedure for every brueaucrat in the country, has been bottled up in the Committee on Rules. Is that the case?

Mr. LEVITAS. The gentleman is absolutely correct. It is only because, even with over 200 cosponsors and yet this House has not been permitted to vote on this overall bill, that it is necessary to take them one at a time, and the FTC is a very good example of where it is needed because of its broad legislative power.

Mr. MOORE. This is the only place we have to wage this fight for the American people who want regulatory reform?

Mr. LEVITAS. This is the only occasion we have to do it.

Mr. BROYHILL. If the gentleman will yield, along that line, is it not also a fact that, time after time, we have voted here in this House for the legislative veto, not just on this bill, but on other bills, and conferees have had the bad habit of coming back here without that amendment?

Mr. LEVITAS. The gentleman is absolutely correct. And I think that this time we have got a chance to make the Senate vote on this issue, and I think we ought to make them vote on it.

Mr. BROYHILL. And we can do that if we have a clean legislative sheet to write on next year?

Mr. LEVITAS. Yes.

Mr. BROYHILL. The gentleman has done a lot of research in this area. Does the gentleman know of any other legislative veto that is written like this, that includes a Presidential veto?

Mr. LEVITAS. I have never heard of a statute called a congressional veto.

Mr. BROYHILL. The gentleman is aware of many other legislative vetoes that are in the law?

Mr. LEVITAS. There are numerous legislative vetoes. If any Member would pick up his copy of Jefferson's Manual, he will find at the rear a whole section on the procedural exercise of congressional vetoes around in the law, such as the Education Act, and the Highway Safety Act, have a concurrent resolution for congressional veto. There are plenty of examples of one or two Houses veto provisions.

Mr. Speaker, I urge the Members to defeat the conference report.

Mr. ECKHARDT. Mr. Speaker, I yield

1 minute to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, Members of the House, I first wish to thank the gentleman from Texas for giving me just a short time here. I wish to commend the gentleman from Texas. I believe this will probably be the first time he has agreed to any type of legislative veto.

I wish to commend the gentleman from North Carolina, the gentleman from Georgia, and the gentleman from Louisiana, because I too feel very strongly, as they do, on the principle of legislative veto. I quite agree with the remarks that the gentleman from Louisiana and the gentleman from Georgia just made, that this is really not the legislative vehicle, though. The legislative vehicle is the statute itself setting up the legislative veto bill of the gentleman from Georgia (Mr. LEVITAS) for all regulatory agencies.

I am sorry that the gentleman from New Jersey, who was here just a few minutes ago, the chairman of the Committee on the Judiciary, is not here to hear this debate, because I feel it is incumbent upon him and other members of that committee and the Rules Committee to see to it that we do have an opportunity to consider legislative veto legislation next year.

Mr. ECKHARDT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Speaker, I rise in support of the conference report. I would like to offer a word of support to those who believe that the Federal Trade Commission is doing a good job. I myself, personally, have grave doubts about the practicality, if not the constitutionality, of a one-House veto. But, if it so be that a majority of my colleagues think that this is an essential element in our legislative armor, then we ought to do, as the gentleman from Missouri has suggested, across the board; not pick and choose agencies, whether we agree with what they are doing or not doing.

For example, my distinguished colleague from Illinois made much of what he finds offensive in the Federal Trade Commission's efforts to look into the funeral industry. The funeral industry, for example, probably has less competition than any other industry in this country. If there was ever an industry that required someone to look into its practices and its procedures and, albeit, its pricing policies, it is the funeral industry. In my personal view, the FTC came late and tardily into that effort, and in my own view they have not moved with the dispatch and vigor that they should have.

But, be that as it may, if one is a believer in the legislative veto—and I myself am not—then we ought to deal with this across the board.

One thing we must remember: Please do not take any venom out against the Federal Trade Commission, because a particular commercial enterprise in one's community is unhappy with what they are doing. The Federal Trade Commission was set up to make sure that industry and commerce in the United States maintain some kind of competition. Competition today in the United States is far less than it was 50 years ago. If the Federal Trade Commission is going to carry out and fulfill the congressional mandate to maintain competition, then they must pursue the kinds of activities that sometimes offend some of the people who support us.

Mr. ECKHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. BROYHILL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GAMMAGE).

Mr. GAMMAGE. Mr. Speaker, I rise in opposition to H.R. 3816, the Federal Trade Commission conference report.

I oppose the passage of the FTC conference report, because the conferees have ignored the expressed will of the House by failing to include a provision for a one-House veto of proposed FTC regulations. The House overwhelmingly approved the modified one-House veto procedure when it was adopted in the original FTC Act amendments by a vote of 272 to 139. When this provision was deleted, we defeated the first FTC conference report by a vote of 255 to 146. I urge my colleagues to continue their support for the one-House veto.

The compromise presented to us in this conference report is no compromise. The language offered to us here provides that the disapproval of a proposed FTC regulation must have the concurrence of both Houses of Congress, plus the signature of the President—the same procedure required for any piece of legislation. I doubt any President would have a desire to veto a proposed regulation promulgated by his own commission, however, independent he may be.

If the President vetoes a concurrent resolution disapproving an FTC regulation, the only recourse left would be to vote to override the veto, which requires two-thirds approval of each House. I feel this procedure is entirely unacceptable, and I urge my colleagues to vote once again for the modified one-House veto, by rejecting this FTC conference report.

Mr. BROYHILL. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I rise in opposition to the conference report on H.R. 3816, the Federal Trade Commission Act amendments.

A vote against H.R. 3816 is a vote in favor of the legislative veto and a vote in favor of regulatory reform.

On October 13, 1977, the House overwhelmingly supported a congressional veto of Federal Trade Commission regulations when it approved a provision giving either the House or Senate the authority to veto a regulation within 60 days of its promulgation by the Federal Trade Commission.

This provision also authorizes the other House the option of overturning that veto within 30 days. This is a well-balanced approach.

On February 28, 1978, the House reaffirmed its support for the "one-House veto" when it voted to reject the first conference report on H.R. 3816, which had been approved by conferees minus a legislative veto provision.

The second conference report on the Federal Trade Commission Act amendments, the report before the House today, contains a legislative veto provision. But, this "compromise" veto provision—requiring the approval of both Houses of Congress and signature by the President before a veto is effective—is cumbersome and unworkable. It does not carry out the mandate of the House.

The congressional veto provision which the House approved on original consideration of H.R. 3816 is simple, effective and workable. It should have been retained by the conferees. Since it was abandoned in conference, the conference report should be voted down.

The most common complaint I hear from my constituents concerns the time, money, and paperwork required to comply with Government regulations.

Americans go to the polls and elect their Representatives to Congress to make the laws of the land. Yet, it is increasingly the unelected bureaucrat who is making the laws through the issuance of administrative rules and regulations.

I wrote the following article for my hometown newspaper on the legislative veto and I include it here, as follows:

[From the The Courier-Journal, July 17, 1978]

TIME FOR LEGISLATIVE VETO IS HERE, MAZZOLI ASSERTS

I respectfully disagree with the conclusions drawn in your June 24 editorial, "Legislative veto is poor way of curbing regulatory abuses," and would like to explain why.

This nation was founded on the principle that our government is based on the consent of the governed; a consent given at the polls.

Americans, by going to the polls and exercising their right to vote, elect their representatives to Congress and entrust them with the profound responsibility of making the laws of the land.

However, it is increasingly the unelected bureaucrat who is making the laws of this land through the issuance of administrative rules and regulations.

Congress delegates its responsibility when it passes to the bureaucrats the power to make laws. Congress shirks its responsibility when it refuses to oversee and reclaim the lawmaking power earlier passed along to the bureaucrats.

Every phase of our life and all of our business activities are controlled by those rules and regulations. As a result, the most common complaint I hear from the taxpayers and business people of the Third District concerns the time, money and paperwork required to comply with government regulations.

Many of these rules and regulations ignore or pervert the intent of Congress. Where these rules and regulations conform to the intent of the Congress, their implementation and enforcement often go beyond what Congress clearly contemplated, and become oppressive and unnecessarily burdensome.

This "government of and by the bureaucracy" is wrong and should not be allowed to continue. Congress must restore to itself its rightful authority to make the laws.

I agree with The Courier-Journal that resolute and unflinching oversight by Congress of the executive branch activities will help to correct today's imbalance.

But, enactment of legislation allowing for congressional veto of administrative rules and regulations is a necessary addition to

the arsenal if Congress is ever to regain its proper authority in lawmaking.

Congress must have the ability to conduct an ongoing review of agency actions and the ability to reject those which clearly overreach congressional intent. The legislative veto provides the suitable mechanism for protecting American citizens against overregulation.

Further, I respectfully, but vigorously, disagree with President Carter's statements in opposition to the legislative veto. Those statements were particularly disappointing since they come from a President of my own party—a President who was elected, in part, at least, because of his espousal of the belief that government must be returned to the people.

Citing "constitutional issues" and "serious practical policy problems"—the same issues raised in your editorial—the administration has concluded, as you do, that legislative veto is an "overreaction to abuses of the past."

To support this conclusion, the President cited the veto by Congress of the regulations concerning disposal of former President Nixon's papers as the only example of the dangers inherent in the use of the legislative veto.

I ask President Carter these questions: (1) Would the American people have been better served by allowing Mr. Nixon to dispose freely of "his" papers—documents actually belonging to the American public? And (2) Was the executive branch likely to have drawn regulations protecting the public's right to know at the President's expense?

I think not. I think this situation—far from providing convincing evidence against the advisability of the legislative veto—is a convincing argument for the absolute need for the legislative veto over executive decision-making.

It is worth pointing out, also, that the administration has been less than consistent in its opposition to the legislative veto.

Mr. Carter insisted that Congress include the "legislative veto" authority in a bill authorizing him to reorganize the executive branch, and it seems comfortable with the congressional veto written into the War Powers Act.

I believe, as does the House of Representatives, which on June 29 voted overwhelmingly to provide a legislative veto over HUD regulations, that the legislative veto is an idea whose time has come.

ROMANO MAZZOLI,
U.S. Representative.

Congress shirks its responsibility when it refuses to oversee and reclaim the lawmaking power it has passed along to the bureaucrats.

Enactment of legislation allowing for congressional veto of all administrative rules and regulations is an idea whose time has come. And, I hope to see such leigslation ushered into the statute books in the very near future. This will, as my article explains, enable Congress to conduct an ongoing review of agency actions and will give Congress the authority to reject those which clearly overreach congressional intent. The legislative veto will provide the suitable mechanism for protecting American citizens against overregulation.

In the meantime, however, we must add workable legislative veto provisions to legislation like the FTC Act amendments to take us a step closer to regaining our proper authority in lawmaking.

Today may be the last chance the 95th Congress has to prove that it is serious about regaining its lawmaking authority from the unelected bureaucrats. I urge you to oppose the second conference report on the FTC Act amendments.

Mr. ECKHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I would like to commend the distinguished gentleman from Texas (Mr. ECKHARDT) and his conferees, for working out what I consider to be a very sound compromise to this difficult question.

I happen to think that the one House veto over rulemaking by the FTC or any other independent agency is probably the worst idea that I have seen in my 8 years in the Congress.

However, I will also say that the gentleman from Georgia (Mr. LEVITAS) has raised a very legitimate question. I think that this approach taken by the conferees is a first constructive step toward giving us some better degree of control over rulemaking, while at the same time not gutting the administrative law process which we have built our whole Government around in the last 50 years.

Mr. Speaker, if we were now to undermine the administrative agencies through the one-House veto approach we would soon find that we had also destroyed the balance between the two Houses as set down in the Constitution. We would also be tied up in knots reviewing thousands of agency regulations each year. It would, I believe be the most serious mistake in this century in terms of Congress ability to deal with its legislative responsibilities. By contrast, the conference committee's approach handles the problem in a responsible and practical way.

Mr. ECKHARDT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, the conference report before us is a needed authorization bill which has been considered for many months by the Congress, and now ought to be enacted. The FTC, as well as other agencies, should be subject to periodic reauthorizations in order to measure their progress and define their goals. But that process cannot be effective unless we in this House take seriously our obligation to consider and pass those authorization measures as quickly as possible.

This measure is also an important regulatory reform bill which mandates many changes to insure that the FTC will function more efficiently and more fairly. Many Members of both the House and the Senate have called for these regulatory reform measures and they are vitally important.

Let me list a few of those reforms. First, the bill requires that the FTC examine, recodify and eliminate, if possible, any unnecessary or duplicative regulations. We have all heard from our constituents how the Government is burdening them with too many regulations. The FTC on its own has recently rescinded over 100 of its old regulations and I applaud them for that effort. But more needs to be done and this bill will insure it.

Second, this bill will introduce new restrictions on former FTC officials from using their former position within the agency for personal gain after they leave the Government. We have all been concerned about the "revolving door" syndrome and these new provisions should help. We should not now reject their efforts.

Third, the bill will remove White House political clearance for all top FTC staff (except the General Counsel) to insure that the Commission is able to choose its own staff. I think it is important to maintain the independence of the Commission from the President and this provision will help in that regard. We are all too painfully aware of attempted White House domination of agencies in the not-too-distant past, and we must act to assure ourselves that such instances can never occur in the future.

With respect to the "legislative veto" provision in this bill, I believe the conferees have reached an appropriate balance between the House and Senate provisions and that this mechanism will provide the House with the additional oversight tools it wants. The "legislative veto" section allows for a 90-day consideration period, a longer time period than earlier proposals. It mandates expedited House procedures and insures that any Member can move to discharge the committee after 75 days of committee consideration. I think it is a fair compromise with the Senate, which has strongly opposed all forms of legislative veto.

Our conferees have done an outstanding job in persuading the Senate to recede on most of the major issues, including the controversial "equitable relief" section, and to achieve agreement on legislative veto. I urge you to vote "aye" on this conference report.

Mr. ECKHARDT. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I rise in support of this conference report, and the job the FTC is doing under present leadership. The issue of the so-called legislative veto is the central issue and I believe that is has been resolved in a satisfactory way in the proposed provision. I have not been a total supporter of the legislative veto concept in all cases in the past because I believe that it is not the best way to conduct effective oversight. But I recognize that a great many Members do agree with the concept and want additional tools to review agency work. I am convinced that the conferees' provision is a responsible way to provide those tools without creating the unworkable and possibly unconstitutional method of the one-House veto.

The method proposed will allow the House to focus specifically on each proposed regulation of the FTC. It provides a longer period than earlier proposals—90 legislative days—to allow the kind of well-considered oversight which we should and must be doing on these complex rules. And, if the committee does not report a resolution of disapproval after 75 days of consideration, it is subject to a simple discharge motion by any Member and becomes a highly privileged matter on the floor.

I must tell you that I do not generally favor such discharge procedures because I believe that the committee system is the most orderly way to do the business of

the House. But I do understand the concern of those Members who want to make sure that the whole House has an opportunity to vote on these resolutions.

I think it should be clear to this House that there is strong opposition in the Senate to any form of legislative veto and that the Senate conferees only reluctantly accepted this proposed version because they were told in no uncertain words that the House would not accept a version of this bill without a veto mechanism. Our conferees have done an outstanding job in persuading the Senate to recede on most of the major issues and to achieve agreement on legislative veto. I urge you to vote "aye" on this conference report.

● Mr. ANNUNZIO. Mr. Speaker, for most of its 64 years of existence, the Federal Trade Commission was a national joke. It was constantly criticized for being totally ineffective, and came close to extinction. Today, the FTC is no longer laughed at, but it is still sometimes criticized—for being too effective. The Federal Trade Commission has become one of the consumer's best friends in Washington, and the bill before us today, H.R. 3816, will allow the agency to better protect the American shopper from the deceptive practices of certain businesses. The Federal Trade Commission amendments will, at the same time, insure that Congress maintains a degree of control over the Commission's activities.

The primary objective of this legislation is to strengthen and expedite the Commission's enforcement of its mandate to eliminate unfair and deceptive trade practices. Currently, businesses are required to pay only a meager fine for ignoring or disobeying Commission subpenas and orders. Under this bill, the FTC would be permitted to fine companies as much as $5,000 per day for not paying heed to its demands. This bill is also designed to hasten enforcement by preventing businesses violating regulations from using delay tactics within the court system.

This bill is particularly pleasing to me because it recognizes the important role consumers can play in regulating business activities. Shoppers are much more aware of their rights than they were a decade ago, and this legislation recognizes this fact by allowing individuals to petition the Commission for the issuance, amendment, or repeal of regulations. As well as allowing consumers to become more personally involved in asserting their rights, this measure increases the possibilities of eliminating unsound practices in the marketplace.

Certainly the most controversial aspects of this bill is the mechanism it creates for a congressional veto of proposed FTC regulations. When this bill initially came before the House, I was opposed to the provision for a one-House veto. As well as violating the basic principles of our Constitution, such a measure would have allowed a minority of Congress, perhaps succumbing to industry pressures, to overrule proposals to protect consumers. Although I support wholeheartedly the effort to enhance Congress oversight role. I believe we must be careful not to exchange Government intervention in the marketplace for abuses of consumers by "free" enterprise. The conference report before us today, which requires both Houses to overrule regulatory proposals, strikes a fair balance between protecting the Federal Trade Commission's independence and assuring that the actions of this agency do not run counter to the wishes of a majority of this Nation's elected representatives.●

● Mr. LUKEN. Mr. Speaker, as a member of the conference committee on the FTC amendments, I would like to express my support for the conference agreement.

The agreement that we reached with the Senate on this bill, was not done easily, as you know. After the House rejected the first conference report last February, it took more than 5 months for the Senate to reappoint conferees. We finally met again in August and worked out an agreement which I believe is a fair one.

Overall, the House conferees prevailed on this bill. We were able to win eight issues, and we only lost one, and compromised on two. In the August conference, we were successful in persuading the Senate to drop the "equitable relief" section, which would have authorized the FTC to seek equitable relief to prevent the wasting of a company's assets if a formal complaint had been made that the company had engaged in unfair practices. This was a major concession for the Senate. We were also successful in persuading the Senate to compromise on the legislative veto provision, to accept the modified legislative veto, which would allow both Houses to veto an FTC rule, with Presidential signature, within 90 days. Expedited procedures for disapproval are provided for. This is a major success in light of the strong Senate opposition to any legislative veto at all.

Mr. Speaker, passage of this report is crucial, since without it, there will be no authorization for funding of the FTC this year, nor will we have any of the new provisions for the FTC which we have worked so hard to develop.

One particular provision which I would like to express my support for is the section of the bill which applies to savings and loan institutions. The House version of the bill, which the Senate agreed to, exempts savings and loans from FTC jurisdiction, which is the same condition which banks have enjoyed since 1914. Since passage of the original bank exemption, savings and loans have matured to the point of being second only to commercial banks in asset size. Savings and loans are regulated, and should continue to be regulated, by the Federal Home Loan Bank Board. Concurrent jurisdiction of the Federal Trade Commission and the Federal Home Loan Bank Board would only have lead to duplication of effort and unnecessary Government regulation.

Let me once again restate my support for the conference report, and urge my colleagues to vote for it.

Thank you.●

● Mr. PURSELL. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 3816, the FTC amendments of 1977. I do not believe that we can accept a conference report which has ignored the overwhelming sentiment of the House of Representatives on a most important issue—congressional veto over the rules and regulations issued by the FTC.

On two occasions the House has indicated its strong support for the one-House veto procedure. On October 13, 1977, I joined my colleagues in a 272–to-139 vote approving congressional veto; and on February 28, 1978, we again indicated our support by rejecting the conference report which had deleted the provision on a vote of 146 to 255. There can be no mistake about our views on this matter—both of these votes were won by a 2-to-1 margin.

I think our message must be made very clear to our constituents and to the Senate—we must have effective congressional control over the broad powers of the FTC to issue rules and regulations governing almost every facet of this country's economic well-being. The powers of the bureaucracy have become vast, and our constituents are telling us that they want to see it controlled. Our forefathers created a system of checks and balances—is it right therefore, to allow unelected bureaucrats to have the power of law without any checking by the elected Members of Congress? Only through congressional veto can we insure that FTC rulemaking will be exercised in a reasonable fashion.

We have heard much rhetoric in recent years about controlling the bureaucracy. If we do not defeat this conference report on the issue of congressional veto, we will have failed our citizens. I urge my colleagues to join me in voting against the conference report on H.R. 3816, and vote for congressional veto.●

● Mr. GOLDWATER. Mr. Speaker, I rise to urge my colleagues to reject the Federal Trade Commission conference report and thereby insist that the final measure contain the congressional veto provision.

The Federal Trade Commission was created in 1914 primarily as a clearinghouse for information but has since become one of the most powerful regulatory agencies in the Federal Government. Its broad mandate has and is being used to cover almost every aspect of business and commerce. The ever increasing use of its rulemaking powers combined with its propensity to go on fishing expeditions at great expense to the companies being baited tells me that at the very least Congress ought to enact some kind of check over the Commission's actions.

In its various capacities as investigator, prosecutor, judge and rulemaker, the FTC has evolved into a quasi-judicial and quasi-legislative agency. It has used its powers to tackle everything from oil company divestitures to breakfast cereals and children's advertising. It has conducted investigations which resulted in absolutely nothing but millions of dollars in expenses to the companies involved and one of the most notorious of these was the massive probe of the home appliance industry.

In short, Mr. Chairman, if the Congress is going to hand this type of power to unelected bureaucrats, it is only reasonable that Congress retain the power to override agency regulations and rulings.

I believe this is of such import that the House should reject the conference report.●

● Mr. LEGGETT. Mr. Speaker, I speak in opposition to this report, and I wish to be brief and to the point.

My opposition to this conference report deals squarely with the unfortunate result of the conference committee action with regard to congressional review of actions by the Federal Trade Commission. It is my strong opinion that this report lacks any resemblance to the language originally passed by the House regarding the procedures for review and possible veto of unwarranted or unsound regulatory actions by the FTC.

One of the failings of Congress over the years has been the lack of aggressive and consistent oversight of our regulatory agencies. The result has been runaway government, and we are all paying a dear price for it.

The Commission of Federal Paper Work recently estimated that Federal forms alone cost about $100 billion to file and process each year, or $1,500 for every American taxpayer. Let me emphasize that these costs are just for reporting, and have nothing to do with the staggering costs of compliance.

For business alone, there are 87 Federal regulatory entities who are infiltrating virtually every corner of private enterprise and establishing standards for everything from smokestack effluence to the shape of toilet seats. The regulators are proposing so many new rules that the Federal Register has ballooned in size to over 70,000 pages annually.

Many of these rules are not only unnecessary but just plain stupid. Frequently, one agency will request information which is already on file with another, and it is not unheard of for the rulings and procedures of two or more agencies, on the same matter, to be in conflict.

A case in point of such duplicity involving the FTC is its rulemaking proceeding regarding mobile homes sales and service. The proceeding began some 5 years ago and has continued on at a cost of many thousands of public dollars, the tying up of thousands of valuable staff resource hours, and hundreds of thousands of dollars in costs to that industry.

While this proceeding was continuing down its free-spending road to rulemaking, the Congress—4 years ago—passed the Mobile Home Construction and Safety Standards Act with implementing authority given to the Department of Housing and Urban Development. This act essentially made the thrust of the FTC's action moot.

Did this stop or even slow the FTC's desire to regulate? No, indeed. It has marched forward for several more years, mounting up, in the process, more and more costs to the taxpayer and the industry involved.

It is clear to me that in our present regulatory environment, to regulate is to survive.

The House took a highly commendable first step in halting this type of Government-run-wild when it passed this act last year. It is alarming to me to see it returned to us now for final action with its original provision for effective regulatory oversight cut, chopped, and mutilated to the extent that it is unrecognizable.

I do not see how any of us can, with any semblance of good conscience, vote to approve this report. To do so would be a demonstration of a lack of will to, for once, make an effort to allow the Congress an effective means of controlling a Government that will, otherwise, run on uncontrolled.●

Mr. ECKHARDT. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ECKHARDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 175, nays 214, not voting 43, as follows:

[Roll No. 850]

YEAS—175

Addabbo	Eilberg	McCloskey
Akaka	Ertel	McFall
Ambro	Evans, Colo.	McHugh
Anderson, Ill.	Fary	Maguire
Annunzio	Fascell	Mahon
Ashley	Fisher	Mann
Aspin	Flood	Markey
Baldus	Florio	Marks
Beard, R.I.	Foley	Mattox
Bedell	Ford, Tenn.	Meeds
Beilenson	Fowler	Metcalfe
Biaggi	Fraser	Mikulski
Bingham	Garcia	Mikva
Boland	Gaydos	Mineta
Bolling	Gephardt	Minish
Bonior	Gibbons	Mitchell, Md.
Bonker	Gilman	Moakley
Brademas	Glickman	Moffett
Brodhead	Gonzalez	Mollohan
Brooks	Gore	Moss
Brown, Calif.	Green	Murphy, Pa.
Burke, Mass.	Hanley	Murtha
Burlison, Mo.	Hannaford	Myers, Gary
Burton, John	Harkin	Myers, Michael
Burton, Phillip	Harrington	Natcher
Carney	Harris	Nolan
Cavanaugh	Hawkins	Nowak
Chisholm	Heckler	Oakar
Clay	Heftel	Obey
Conte	Hightower	Ottinger
Conyers	Hollenbeck	Panetta
Corman	Holtzman	Patten
Cornell	Howard	Patterson
Cornwell	Jeffords	Pattison
Danielson	Jenrette	Pease
Davis	Jordan	Perkins
Dellums	Kastenmeier	Preyer
Dent	Kostmayer	Price
Derrick	Krebs	Pritchard
Dicks	LaFalce	Rahall
Dingell	Le Fante	Railsback
Downey	Lederer	Rangel
Drinan	Lehman	Reuss
Early	Long, La.	Richmond
Eckhardt	Long, Md.	Rinaldo
Edgar	Luken	Rodino
Edwards, Calif.	Lundine	Rogers
Rooney	Stark	Volkmer
Rosenthal	Steers	Walgren
Rostenkowski	Steiger	Waxman
Roybal	Stratton	Weaver
Scheuer	Studds	Weiss
Seiberling	Thompson	Wilson, Tex.
Simon	Thornton	Wirth
Slack	Tucker	Yates
Smith, Iowa	Udall	Yatron
Solarz	Van Deerlin	Zablocki
St Germain	Vanik	
Staggers	Vento	

NAYS—214

Abdnor	Flowers	Moore
Alexander	Flynt	Moorhead, Calif.
Anderson, Calif.	Forsythe	Mottl
Andrews, N.C.	Fountain	Murphy, Ill.
Andrews, N. Dak.	Frenzel	Myers, John
Applegate	Frey	Neal
Archer	Fuqua	Nedzi
AuCoin	Gammage	O'Brien
Badham	Giaimo	Oberstar
Bafalis	Ginn	Pickle
Barnard	Goldwater	Pressler
Baucus	Goodling	Pursell
Bauman	Gradison	Quayle
Beard, Tenn.	Grassley	Quillen
Benjamin	Guyer	Regula
Bennett	Hagedorn	Rhodes
Bevill	Hall	Roberts
Blanchard	Hamilton	Robinson
Blouin	Hammer-schmidt	Roe
Boggs	Hansen	Rose
Bowen	Harsha	Rousselot
Breaux	Hefner	Rudd
Breckinridge	Hillis	Ruppe
Brinkley	Holt	Russo
Broomfield	Horton	Ryan
Brown, Mich.	Hubbard	Santini
Brown, Ohio	Huckaby	Satterfield
Broyhill	Hughes	Schroeder
Buchanan	Hyde	Schulze
Burgener	Ichord	Sebelius
Burke, Fla.	Ireland	Sharp
Butler	Jacobs	Shuster
Byron	Jenkins	Sikes
Carr	Johnson, Calif.	Sisk
Carter	Johnson, Colo.	Skelton
Cederberg	Jones, N.C.	Skubitz
Chappell	Jones, Okla.	Smith, Nebr.
Clausen, Don H.	Jones, Tenn.	Snyder
Clawson, Del	Kasten	Spellman
Cleveland	Kazen	Spence
Cohen	Kelly	Stangeland
Coleman	Kemp	Stanton
Collins, Tex.	Keys	Steed
Conable	Kildee	Stockman
Cotter	Kindness	Stump
Coughlin	Lagomarsino	Symms
Crane	Latta	Taylor
Cunningham	Leach	Traxler
Daniel, Dan	Leggett	Treen
Daniel, R. W.	Lent	Trible
de la Garza	Levitas	Ullman
Delaney	Livingston	Vander Jagt
Derwinski	Lloyd, Calif.	Waggonner
Devine	Lloyd, Tenn.	Walker
Dickinson	Lott	Walsh
Dodd	Lujan	Wampler
Dornan	McClory	Watkins
Duncan, Oreg.	McDade	White
Duncan, Tenn.	McDonald	Whitehurst
Edwards, Ala.	McEwen	Whitley
Emery	McKay	Whitten
English	McKinney	Wiggins
Erlenborn	Marlenee	Wilson, Bob
Evans, Ga.	Marriott	Wilson, C. H.
Evans, Ind.	Martin	Winn
Fenwick	Mathis	Wolff
Findley	Mazzoli	Wright
Fish	Michel	Wydler
Fithian	Milford	Wylie
Flippo	Miller, Ohio	Young, Fla.
	Mitchell, N.Y.	Young, Mo.
	Montgomery	Zeferetti

NOT VOTING—43

Ammerman	Holland	Risenhoover
Armstrong	Krueger	Roncalio
Ashbrook	McCormack	Runnels
Burke, Calif.	Madigan	Sarasin
Burleson, Tex.	Meyner	Sawyer
Caputo	Miller, Calif.	Shipley
Cochran	Moorhead, Pa.	Stokes
Collins, Ill.	Murphy, N.Y.	Teague
Corcoran	Nichols	Thone
D'Amours	Nix	Tsongas
Diggs	Pepper	Whalen
Edwards, Okla.	Pettis	Young, Alaska
Evans, Del.	Pike	Young, Tex.
Ford, Mich.	Poage	
Gudger	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. McCormack for, with Mr. Burleson of Texas against.

Mr. Pepper for, with Mr. Teague against.

Mr. Shipley for, with Mr. Krueger against.

Mr. Diggs for, with Mr. Ashbrook against.

Mr. Stokes for, with Mr. Cochran of Mississippi against.

Mrs. Burke of California for, with Mr. Corcoran of Illinois against.

Mrs. Collins of Illinois for, with Mr. Evans of Delaware against.

Mr. Nix for, with Mr. Madigan against.

Mr. Moorhead of Pennsylvania for, with Mr. Sarasin against.

Mr. Ford of Michigan for, with Mr. Sawyer against.

Mr. Miller of California for, with Mr. Thone against.

Mrs. Meyner for, with Mr. Nichols against.

Until further notice:

Mr. Ammerman with Mr. Caputo.

Mr. D'Amours with Mr. Edwards of Oklahoma.

Mr. Gudger with Mr. Holland.

Mr. Pike with Mrs. Pettis.

Mr. Risenhoover with Mr. Quie.

Mr. Roncalio with Mr. Runnels.

Mr. Tsongas with Mr. Young of Alaska.

Mr. Murphy of New York with Mr. Whalen.

Messrs. TRAXLER, SHARP, and HUGHES changed their vote from "yea" to "nay."

So the conference report was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ECKHARDT moves that the House insist on its disagreement to the Senate amendment.

PREFERENTIAL MOTION OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. BROYHILL moves to lay on the table the amendment of the Senate to the bill, H.R. 3816.

The SPEAKER. The question is on the preferential motion to lay on the table offered by the gentleman from North Carolina (Mr. BROYHILL).

The preferential motion to table was agreed to.

A motion to reconsider was laid on the table.

So the Senate amendment and the bill H.R. 3816 were laid on the table.

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on the bill H.R. 3816.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 7843, PROVIDING FOR APPOINTMENT OF ADDITIONAL DISTRICT AND CIRCUIT JUDGES

Mr. RODINO submitted the following conference report and statement on the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–1643)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges, and for other purposes, having met, after full and free conference, have been unable to agree.

PETER W. RODINO,
JACK BROOKS,
WALTER FLOWERS,
JOHN F. SEIBERLING,
BARBARA JORDAN,
R. L. MAZZOLI,
WILLIAM J. HUGHES,
CHARLES E. WIGGINS,
BILL COHEN,
Managers on the Part of the House.

JAMES O. EASTLAND,
EDWARD M. KENNEDY,
BIRCH BAYH,
ROBERT C. BYRD,
DENNIS DECONCINI,
STROM THURMOND,
WILLIAM L. SCOTT,
ORRIN G. HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges, and for other purposes, report that the conferees have been unable to agree. This is a technical disagreement.

The managers on the part of the House will move that the House recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That (a) the President shall appoint, by and with the advice and consent of the Senate, three additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, three additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California, one additional district judge for the central district of California, two additional district judges for the southern district of California, two additional district judges for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the northern district of Florida, three additional district judges for the middle district of Florida, five additional district judges for the southern district of Florida, five additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, three additional district judges for the northern district of Illinois, one additional district judge for the central district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the southern district of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Kentucky, four additional district judges for the eastern district of Louisiana, one additional district judge for the middle district of Louisiana, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maine, two additional district judges for the district of Maryland, four additional district judges for the district of Massachusetts, three additional district judges for the eastern district of Michigan, two additional district judges for the western district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the eastern district of Missouri, two additional district judges for the western district of Missouri, one additional district judge for the district of Nevada, one additional district judge for the district of New Hampshire, two additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the northern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the northern district of Oklahoma, two additional district judges for the district of Oregon, two additional district judges for the middle district of Pennsylvania, four additional district judges for the district of Puerto Rico, three additional district judges for the district of South Carolina, one additional district judge for the district of South Dakota, one additional district judge for the middle district of Tennessee, three additional district judges for the northern district of Texas, one additional district judge for the eastern district of Texas, five additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, two additional district judges for the eastern district of Virginia, two additional district judges for the western district of Virginia, one additional district judge for the eastern district of Washington, one additional district judge for the western district of Washington, one additional district judge for the southern district of West Virginia, one additional district judge for the eastern district of Wisconsin, and one additional district judge for the western district of Wisconsin.

(b) The existing district judgeship for the eastern and western districts of Washington, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the western district of Washington only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act.

(c) In order that the table contained in section 133 of title 28 of the United States Code will, with respect to each district therein, reflect the changes in the number of judgeships made by this section, such table is amended to read as follows:

"Districts — Judges

Alabama:	
Northern	7
Middle	3
Southern	2
Alaska	2
Arizona	8

"Districts—Continued

Arkansas:	Judges
Eastern	3
Western	1
Eastern and Western	2
California:	
Northern	12
Eastern	6
Central	17
Southern	7
Colorado	6
Connecticut	5
Delaware	3
District of Columbia	15
Florida:	
Northern	3
Middle	9
Southern	12
Georgia:	
Northern	11
Middle	2
Southern	3
Hawaii	2
Idaho	2
Illinois:	
Northern	16
Central	3
Southern	2
Indiana:	
Northern	4
Southern	5
Iowa:	
Northern	1
Southern	2
Northern and Southern	1
Kansas	5
Kentucky:	
Eastern	4
Western	3
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	5
Maine	2
Maryland	9
Massachusetts	10
Michigan:	
Eastern	13
Western	4
Minnesota	5
Mississippi:	
Northern	2
Southern	3
Missouri:	
Eastern	4
Western	5
Eastern and Western	2
Montana	2
Nebraska	3
Nevada	3
New Hampshire	2
New Jersey	11
New Mexico	4
New York:	
Northern	3
Southern	27
Eastern	10
Western	3
North Carolina:	
Eastern	3
Western	3
Middle	3
North Dakota	2
Ohio:	
Northern	9
Southern	6
Oklahoma:	
Northern	2
Eastern	1
Western	3
Northern, Eastern, and Western	2
Oregon	5
Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	7
Rhode Island	2
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	3
Texas:	
Northern	9
Southern	13
Eastern	4
Western	6
Utah	3
Vermont	2
Virginia:	
Eastern	8
Western	4
Washington:	
Eastern	2
Western	5
West Virginia:	
Northern	1
Southern	3
Northern and Southern	1
Wisconsin:	
Eastern	4
Western	2
Wyoming	1 ".

SEC. 2. The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of Kentucky, one additional district judge for the district of Minnesota, one additional district judge for the northern district of Ohio, and one additional district judge for the southern district of West Virginia. The first vacancy in the office of district judge in the judicial districts named in this section occurring five years or more after the effective date of this Act shall not be filled.

SEC. 3. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional circuit judgeship for the first circuit, two additional circuit judgeships for the second circuit, one additional circuit judgeship for the third circuit, three additional circuit judgeships for the fourth circuit, eleven additional circuit judgeships for the fifth circuit, two additional circuit judgeships for the sixth circuit, one additional circuit judgeship for the seventh circuit, one additional circuit judgeship for the eighth circuit, ten additional circuit judgeships for the ninth circuit, one additional circuit judgeship for the tenth circuit, and two additional circuit judgeships for the District of Columbia.

(b) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each circuit, reflect the changes in the number of judgeships made by this Act, such table is amended to read as follows:

"Circuits	Number of judges
District of Columbia	11
First	4
Second	11
Third	10
Fourth	10
Fifth	26
Sixth	11
Seventh	9
Eighth	9
Ninth	23
Tenth	8".

SEC. 4. Section 3 of the Act entitled "An Act to provide that chief judges of circuit courts and chief judges of district courts having three or more judges shall cease to serve as such upon reaching the age of seventy" (Public Law 85-593, approved August 6, 1958 (72 Stat. 497) is amended by striking out ", except that the amendment made by section 136 shall not be effective with respect to any district having two judges in regular active service so long as the district judge holding the position of chief judge of any such district on such date of enactment continues to hold such position".

SEC. 5. (a) Section 46(c) of title 28 of the United States Code is amended—

(1) in the first sentence, by striking out "division" and inserting "panel" in lieu thereof; and

(2) by striking out the third sentence.

(b) The heading of section 46 of title 28 of the United States Code is amended by striking out "divisions" and inserting "panels" in lieu thereof.

(c) The item relating to section 46 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out "divisions" and inserting "panels" in lieu thereof.

SEC. 6. Any court of appeals having more than 15 active judges may constitute itself into administrative units complete with such facilities and staff as may be prescribed by the Administrative Office of the United States Courts, and may perform its en banc function by such number of members of its en banc courts as may be prescribed by rule of the court of appeals.

SEC. 7. (a) The first section and section 2 of this Act shall take effect immediately upon the President's promulgation and publication of standards and guidelines for the selection, on the basis of merit, of nominees for United States district court judgeships authorized by this Act.

(b) The President may waive such standards and guidelines with respect to any nomination by notifying the Senate of the reasons for such waiver.

(c) Following the promulgation and publication of such standards and guidelines, no nomination or appointment to a United States district court judgeship may be invalidated on the basis of the President's failure to comply with this section or with any standards or guidelines promulgated under this section.

(d) This Act, other than the first section and section 2, shall take effect on the date of enactment of this Act.

SEC. 8. The Congress—

(1) takes notice of the fact that only 1 percent of Federal judges are women and only 4 percent are blacks; and

(2) suggests that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, give due consideration to qualified individuals regardless of race, color, sex, religion, or national origin.

SEC. 9. (a) Section 1337 of title 28 of the United States Code is amended to read as follows:

"§ 1337. Commerce and antitrust regulations; amount in controversy, costs

"(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: *Provided, however,* That the district courts shall have original jurisdiction of an action brought under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), only if the matter in controversy for each receipt or bill of lading exceeds $10,000, exclusive of interest and costs.

"(b) Except when express provision therefor is otherwise made in a statute of the United States, where a plaintiff who files the case under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of any interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

(b) Subsection (b) of section 1445, of title 28 of the United States Code is amended by striking out "$3,000" and inserting in lieu thereof "$10,000".

(c) The item relating to section 1337 in the table of sections for chapter 85 of title

28 of the United States Code is amended to read as follows:

"1337. Commerce and antitrust regulations; amount in controversy, costs.".

SEC. 10. Section 5108(c)(3) of title 5, United States Code, is amended to read as follows:

"(3) the Director of the Administrative Office of the United States Courts, subject to the standards and procedures prescribed by this chapter, may place a total of 15 positions in GS–16, 17, and 18;".

SEC. 11. Notwithstanding any other provision of this Act, the first section and section 2 shall not take effect before November 1, 1978.

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The managers on the part of the Senate will move that the Senate agree to the amendment of the House to the Senate amendment.

DESCRIPTION OF PROPOSED SUBSTITUTE

The proposed substitute creates all of the district court judgeships that would have been created in either the House bill or the Senate amendment with the exception of the judgeship for the District of Wyoming (in the House bill) and the temporary judgeship for the Southern District of Florida (in the Senate amendment).

As to roving district judges, the proposed substitute leaves the two existing roving judges in Oklahoma, but creates one way permanent judgeship for each of the Northern and Western Districts. The proposed substitute leaves the existing roving judges in Kentucky.

The proposed substitute adopts the Senate approach to the minimum length of the existence of temporary judgeships created by the bill, so that no temporary judgeship lapses sooner than 5 years after the date of enactment.

The Senate amendment provided for the creation of a new eleventh circuit and a new fifth circuit, but the original House bill had no such provision. The conferees were unable to agree on proposals creating new judicial circuits and were unable to agree on several alternative proposals relating to the operation of large courts of appeals. Agreement was finally reached on the language in section 6 of the proposed substitute. The conferees have every confidence that the language of section 6 will allow each circuit to administer its court in a manner which will further the administration of justice. The Congress always has the power to make necessary changes by appropriate legislation.

The conferees felt that, with respect to the fifth and ninth circuits, it would be appropriate, within 1 year after the date on which the last of the new judges is appointed to the courts of appeals for a particular circuit, for the judicial council of that circuit and the Judicial Conference of the United States, jointly or severally, to submit to the Congress a status report on what rules have been implemented in that circuit, how those rules are working, and recommendations for such additional legislation as may be necessary to provide for the effective and expeditious administration and disposition of the business of that court.

With regard to the issue of the merit selection of district court judges, the proposed substitute contains a compromise provision set forth as section 7.

A compromise provision was also agreed to on the issue of the appointment of members of minority groups to Federal judgeships. This is found in section 8.

The proposed substitute includes a provision relating to positions in the supergrades for the Administrative Office of the United States Courts. In agreeing to include 15 supergrade positions for the Administrative Office, the conferees also agreed that the Civil Service Commission shall continue to set the qualification standards for supergrade positions but that the Director of the Administrative Office shall have the exclusive power to allocate and classify the positions.

The proposed substitute includes the so-called "Marmack amendment provision" (contained in the Senate amendment) which narrows district court jurisdiction by requiring a $10,000 minimum amount in controversy for each receipt or bill of lading in certain Interstate Commerce Act cases.

The proposed substitute also includes a provision (contained in the House bill) revealing the grandfather clause relating to designation of chief judges in district courts.

A delayed effective date provision with respect to district court judgeships is added in the proposed substitute in section 11.

The authorization for appropriations contained in section 12 is thought to be necessary to comply with rule XVI of the Senate.

PETER RODINO,
JACK BROOKS,
WALTER FLOWERS,
JOHN F. SEIBERLING,
BARBARA JORDAN,
R. L. MAZZOLI,
WILLIAM J. HUGHES,
CHARLES E. WIGGINS,
BILL COHEN,
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STROM THURMOND,
WILLIAM L. SCOTT,
ORRIN G. HATCH,
Managers on the Part of the Senate.

DISSENTING VIEWS OF MR. McCLORY ON CONFERENCE REPORT ON H.R. 7843

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. McCLORY. Mr. Speaker, respectfully, I must dissent from the compromise amendment in the nature of a substitute that will be offered to H.R. 7843, the omnibus judgeship bill, because the House conferees failed to prevail on any of the three major issues to be resolved. First, the House took the position that judgeships should not be created solely on the basis of projected needs. The compromise amendment rejects that position. Second, the House took the position that district judges should be selected with the aid of merit selection procedures free from partisan or political influence. The compromise amendment guts the House proposal. Third, the House did not favor dividing the fifth circuit. The compromise amendment, if it has any discernible meaning, probably rejects the House position. In addition, to these House defeats, the maturation of various alternative solutions to the problem of overburdened courts has caused me to doubt the wisdom of this legislation. Additional judgeships are needed, but not in such excess. There follows below a more detailed explanation of my objections.

First, the compromise amendment contains too many district judgeships. The Members of the House should recall that the 10 Members who constituted both the Judiciary Subcommittee and the House Conference Committee made last year a painstaking, objective study of the needs for additional district court judgeships. On study, these 10 Members unanimously reached the conclusion that only 81 additional district court judgeships were justified; H.R. 7843, as introduced by these 10 Members, embodied their recommendation to the full Judiciary Committee. In making this recommendation, it is interesting to note that several of these 10 Members recommended against judgeships in their own States even though such judgeships had been requested by the Judicial Conference or by local judges.

Although it is difficult to generalize from the subcommittee's study of each of the 94 districts, two principles were clear: First, the subcommittee utilized the formerly time-honored standard of 400 weighted filings per judge to assess the district's workload, and second, the subcommittee rejected additional judgeships that could not be justified on the basis of current needs but only on the basis of projected needs.

It is now history that the subcommittee recommendations were rejected in full committee in a bipartisan desire to add judgeships to service constituents. It is important to note, however, that a new standard was formulated in fashioning the committee's recommendation to the House. Instead of the subcommittee's standard of 400 weighted filings, the committee accepted a lower standard of 350. And more important, the committee did not reject the subcommittee's policy precluding judgeships justifiable only on the basis of projected needs.

This policy against additional judgeships based solely on projected needs was based on several significant factors: First, in the past, such projections by the Judicial Conference had proved to be unreliable; second, in the present, such projections were again proving to be unreliable; third, the projections in question were made only in 16 of the 94 districts as a political favor to justify certain judgeships that could not otherwise be justified; fourth, the projections assumed that Congress would pass no legislation to ease the workload whereas Congress was then, as now, considering bankruptcy reform, the abolition of diversity jurisdiction, and the Magistrates Act, each of which might significantly ease the judicial workload; and fifth, constitutionally, Congress cannot repeal judgeships which it has mistakenly created on the basis of erroneous assumptions.

Thus, when the committee ultimately recommended 110 additional judgeships on the basis of a lowered standard, not a single judgeship was justified on the basis of projected needs. And inasmuch as H.R. 7843 passed the House under the suspension procedure which precluded further amendment, that became the House position.

In conference, the Senate passed for the inclusion of nine additional judgeships approved by the Senate but not by the House. Only one of these nine judgeships met the lower standard applied first by the Judiciary Committee and then by the House. Moreover, seven of

the nine judgeships were justifiable solely on the basis of projected needs. In four of the seven districts, recently released statistics were showing a decline in caseload as the conferees met to decide whether to accept the additional Senate judgeships. In fact, so discredited had the projected-needs methodology become that we had already received assurances from the Administrative Office of the U.S. Courts that the methodology would be abandoned in the future.

I circulated a memorandum to the House conferees analyzing the merits of the nine Senate judgeships, but after a discussion of whether the merits of these judgeships should be addressed, the majority decided that these judgeships should not be considered on their individual merits but should be accepted en bloc. But before the House conferees could offer a motion to yield on all the Senate judgeships en bloc, a Senate conferee indicated that the Senators from Wyoming would prefer not to have an additional judgeship for that district as provided by the House. Thereupon, in order to by symmetrical, it was agreed to accept all the judgeships with two exceptions. The additional judgeship for Wyoming provided by the House would be deleted, and the additional temporary judgeship for the southern district of Florida provided by the Senate would be deleted.

Although the net result of this was only to add 7 judgeships to a bill already containing 110, the nature of the discussion had shown that we had gone too far. In deference to the majority of House conferees, I can well understand their plight. We had all tried to be reasonable, and for that we were dunned from every conceivable quarter. We had exercised our courage once, for which we received little gratitude.

That is an explanation. Unfortunately, it is not a justification. It was still open to us to defend the House position against judgeships predicated solely on the basis of projected needs. We should have done so.

Moreover, as we approach the end of the 95th Congress, it is appropriate to reflect on the record to see what we have done to make Federal courts more efficient. It remains clear that Federal judges are overburdened and that we must act to alleviate the problem. However, it appears that H.R. 7843 may well be an overreaction to that problem. It is only one of several bills designed to alleviate those burdens. While each remedy may have merit when examined in isolation, no one has yet to suggest that all of these workload-reduction remedies are compatible or necessary.

For example, H.R. 7843 would increase the number of district judges by about 30 percent. Yet the House passed legislation earlier this year to decrease the workload of the district judges by 25 percent. And that legislation—H.R. 9622, a bill to abolish diversity jurisdiction—still has a good chance of passing the Senate this year.

The point is that I have heard no one even suggest that we need to decrease the workload of the courts by 25 percent while increasing judge power by 30 percent. Perhaps few note the relationship of these two bills lest Congress make the wrong choice by preferring to increase patronage rather than to decrease caseloads by allocating State-law cases to State courts.

In addition, the House is presently to consider another much-needed measure to reduce judicial burdens, S. 1613, a bill to permit magistrates to try civil cases and misdemeanors with the consent of the parties. Since their creation in 1968, magistrates have given valuable assistance to judges in meeting their burdens. Unfortunately, neither their past contributions nor their future contributions were properly taken into account in the Judiciary Committee or in conference in creating 117 new judgeships.

Proponents of the magistrates bill and of the judgeship bill should not be allowed to have it both ways. They should not be allowed to create judgeships as if magistrates did not exist and to expand magistrates' authority to hear cases as if no new judgeships would be created. I do not intend to suggest that the diversity bill or the magistrates bill is not needed. They are both necessary reforms—changes that should be made apart from their impact on judicial workloads. The vice I see is enacting the judgeship bill without reference to the impact of these much needed reforms. In my opinion, additional judgeships should be created only as a last resort.

The conferees' willingness to have it both ways was conclusively illustrated by their agreement to section 9 of the compromise amendment. On the one hand, the conferees agreed to one additional judgeship for Massachusetts because of the staggering number of minor Carmack cases and, on the other hand, agreed to rid that district of the trouble of handling these cases by increasing the jurisdictional amount for this class of cases so that they will have to be heard in the State court. Thus Massachusetts was given an additional judgeship to handle cases that are no longer there. In addition to having it both ways, this agreement violated the principle embodied in the House-passed diversity bill that Federal cases should be heard in Federal courts and State cases in State courts. The agreement was reached even though both floor managers of the diversity bill had informed the conferees by letter that such an agreement would be inconsistent with action taken by the House.

To this conferee, the disposition of the Carmack issue illustrates all too well how, in general terms, the compromise amendment fulfills—or fails to fulfill—our responsibility to the American people.

We should not forget that only 2 short years ago the House Judiciary Committee reported a district judgeship bill containing 49 additional judgeships. This relatively modest bill was itself blocked for political reasons—fear that President Ford might have the opportunity to make 49 appointments—until I offered an amendment to delay the effective date so that only the newly elected President could make the appointments. But even that approach did not satisfy some key Members on the majority side of the aisle. Since it was possible that President Ford might win the election, the bill was delayed in bringing it to the floor so that the House could not act on it before sine die adjournment.

Ironically, some of those who delayed then now bring us this bill—not with 49 but with 117 new district judgeships. One need not be politically astute to conclude that the changes that have converted opponents of 49 into supporters of 117 occurred less in the judicial branch than in the executive branch.

The difference is even greater than it appears. The diversity bill and the magistrates bill were not in contemplation when the bill creating 49 judgeships was found to be politically uacceptable. Today, with the imminent enactment of these workload-reducing bills we are asked to support the creation of 117 additional district judgeships. That extravagant number, equal to 30 percent of all current judgeships, must surely embarrass the bill's supporters.

A similar story might be told regarding circuit judgeships. Whereas there was not enough time in the last Congress to process the bill creating 11 new judgeships, this bill now before us would create 35—a 36-percent increase over the 97 circuit judgeships now existing.

As one conferee I cannot pretend that the judicial workload of the last 2 years can justify this congressional about-face.

Second, the compromise amendment cripples the merit selection proposal of the House. When last year the judgeship bill was in subcommittee, the merit selection proposal was defeated on two separate votes. In all, while Mr. SEIBERLING, Mr. HUGHES, Mr. COHEN, and I favored merit selection, Chairman RODINO, Mr. BROOKS, Mr. FLOWERS, Miss JORDAN, Mr. MAZZOLI, and Mr. WIGGINS opposed it. In full committee, when it became clear that it would pass, Chairman RODINO and Mr. MAZZOLI changed their position to support it, and it passed 20 to 12. However, after the House accepted the proposal as part of the judgeship bill, I moved to instruct the House conferees—the group of 10 that had previously rejected it—to insist on retaining the merit selection proposal as passed.

Although the House voted 321 to 19 to so instruct the House conferees, the House conferees quickly agreed to a compromise without ever requiring the Senate conferees to state their presumed reasons against the House proposal.

The House proposal for merit selection basically embraced two elements: "guidelines" that would help identify individuals of merit and "procedures" for the impartial application of those guidelines. Such guidelines and procedures have been promulgated by the President with respect to court of appeals judges. However, the Senate has institutionally refused to cooperate with respect to district judges. But the majority of House conferees thwarted the House's attempt to coax the Senate into line by striking from the House proposal the "procedures" for impartial application of the guidelines. Thus whatever guidelines might be written, they need only be interpreted by the Senators themselves. This hardly meets President Carter's campaign promise that "all Federal judges * * * should be appointed strictly on the basis of merit without any consideration of political aspect or influence." To place the Senators in charge

of policing merit selection is like putting the proverbial fox in charge of the chicken coop.

The fact that the term "guidelines" has been enlarged to "standards and guidelines" is inconsequential, for it was clearly explained in the conference that "standards" means "guidelines" and that "guidelines" means "standards" and that neither embraces the concept of "procedures."

On occasion, Chairman RODINO has described the deletion of "procedures" for impartial selection and the addition of "standards" to guidelines as merely semantic changes. I certainly wish they were. I would like nothing better than to preserve the essence of the House proposal. It is imperative that we have such a proposal in view of the fact that the compromise amendment would create more judgeships at one time than ever before in our history. But unfortunately, Chairman RODINO was unable, for compelling personal reasons, to attend the conference discussions which made clear that these changes were not semantic but substantive. And in the end, the majority in the subcommittee last year that wanted no merit selection proposal at all favored the weak compromise language in conference while those favoring merit selection were once again in the minority.

The deletion of procedures for the impartial identification of individuals of merit means that the House proposal—endorsed 321 to 19—has been gutted. Although one element has been retained—the existence of standards and guidelines, the indispensable element has been dropped Thus under the compromise amendment, a Senator need only proclaim his nominee to be qualified. That result differs little from what is done today.

And that is unfortunate. For the most recent 3-year period, the American Bar Association evaluates that judicial nominees totally unqualified outnumbered those exceptionally well qualified by 2 to 1. Thus, there is, indeed, a problem that needs to be addressed. Procedures for impartial evaluation of prospective nominees would undoubtedly help. But the compromise amendment merely proposes the status quo in the guise of reform. In view of the unprecedented size of this legislation, the emasculation of the House merit selection proposal is most unfortunate.

Third, the compromise amendment contains unintelligible and confusing language to resolve the issue of whether to divide the fifth circuit into two new circuits. After this ambiguity was agreed to both sides claimed victory on this issue.

As with the issue of merit selection, I favored the House position here that the fifth circuit not be divided. But I fear that an objective and independent onlooker could reasonably conclude that section 6 of the compromise amendment is a substantial rejection of the House position.

One might start with the fact that previously the Senate Judiciary Committee had reported out bills to divide the fifth circuit and the ninth circuit into divisions to facilitate the administration of judicial business. Such divisions were authorized to have their own (a) chief judge, (b) council, (c) circuit executive, and (d) control over designation and assignment of judges within its division. The Senate Judiciary Committee report argued effectively that the above four features were necessary for administrative efficiency.

In conference, Senate conferees pressed similar proposals. The House conferees rejected them as embodying circuit division in everything but express designation. But now under the apparent pressure of losing the entire bill in the closing days of this Congress, the House conferees have succumbed to an almost identical, albeit less ornamented, proposal. The circuit would be permitted to "constitute itself into administrative units." Perhaps, those of us who do not favor circuit division can argue that "units" is something far different from "divisions." I hope so. But I do not see the validity of the argument now.

I am also concerned that the use of the phrase "constitute itself into" implies a structural change in the court itself. And, of course, the reference to "en banc courts"—the plural—only confirms my fear that a court may become two courts under this provision. Thus, I am led to doubt that the House fared well on this issue.

In summary, I must dissent for the above three reasons: (1) The House position against creating additional judgeships solely on the basis of projected needs was rejected, which is particularly aggravating in view of substantial reductions in judicial workloads that will result from the passage of other legislation presently under active consideration; (2) the House position in favor of merit selection was gutted, which is particularly troublesome inasmuch as the compromise amendment offers more judicial patronage than ever before in our history, and (3) the House position against dividing the fifth circuit was probably defeated by the adoption of ambiguous language but which is similar to previous Senate legislation and conference proposals which had the effect of dividing the circuit.

CONFERENCE REPORT ON S. 3067, CIVIL RIGHTS COMMISSION ACT OF 1978

Mr. EDWARDS of California. Mr. Speaker, I call up the conference report on the Senate bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 25, 1978.)

Mr. EDWARDS of California (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. EDWARDS) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. BUTLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Civil Rights Commission Act of 1978, as agreed upon by the committee of conference, is the product of a good faith effort among the conferees to resolve our differences and assure the continuation of the Commission as an independent factfinding agency.

I am pleased to report that each of the conferees recognized the importance of the Commission's work and the need for its continuation. Each of us came to the conference knowing that our points of difference had both philosophical and practical consequences. The result is the Commission will continue as our national conscience and speak to our effort to provide equality of rights to all under the law.

The Senate bill and the House amendments as resolved, focused on the following points of difference:

1. LENGTH OF EXTENSION

The Senate conferees agreed to the 5-year extension set forth in the House amendment in lieu of the 3-year extension in S. 3067.

2. STATE ADVISORY COMMITTEES

The conferees agreed to compromise language which makes mandatory the establishment of one advisory committee in each State and also enables the Commission to create additional volunteer committees where it deems advisable.

3. AUTHORIZATION

The House amendment authorized fixed sums for fiscal years 1979 and 1980. The managers adopted the Senate provision which authorizes the appropriation of sums necessary to carry out the provisions of the act for the fiscal year ending September 30, 1979.

4. LOBBYING

This provision was not in the Senate bill. The managers agreed that the Commission does not have the authority to lobby the Congress of the States and is confident that appropriate administrative and/or criminal remedies are available to prevent such abuses.

5. ABORTION

This provision was in the House amendment only. The managers agree that although this issue is clearly within the Commission's current jurisdiction, the Congress does have the power to limit the Commission's review of this area. The majority of the managers reluctantly acquiesced to this limitation.

6. TECHNICAL AMENDMENTS

The managers agreed to various technical amendments to the bill.

I urge my colleagues to vote for passage of this conference report.

Mr. BUTLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last week the conferees met to resolve the five differences in the House and Senate versions of the Civil Rights Commission Act. We reached agreement rather quickly even though the differences in the two versions were quite substantial.

Like all conferences, we had to surrender to the Senate certain provisions on which House Members had strong convictions. One of the rescissions made by the House conferees should be discussed. The House-passed version provided for a 5-year extension to the Commission's life and a 2-year authorization with amounts fixed at no more than $12,752,000 for fiscal year 1979 and $14 million for fiscal year 1980. The Senate version provided for a 3-year extension and a 1-year, open-ended authorization. The conferees agreed on a 5-year extension but a 1-year, open-ended authorization.

The open-ended authorization troubles me. I think it is a mistake for any agency, particularly one which has strayed so far from its congressionally mandated jurisdiction, to be licensed by the authorizing committee with an open-ended authorization. I am sure that the Commissioners are now lobbying our colleagues on the Appropriations Committee for a large supplemental appropriation for fiscal year 1979.

The Commission was able to operate for under $1 million per annum for its first 7 years of existence. During its first 14 years, the Commission produced several major studies on voting rights, school desegregation, equal employment opportunity, and other civil rights issues at a cost to the taxpayers of no more than $4 million per year. As recently as 1975, the Commission performed its congressionally mandated tasks for less than $7 million. During the last 3 years, however, this agency has received funding increases of close to 30 percent.

Even with a ceiling, the Commission has managed to secure additional funding from the Congress. Five years ago, we set a limitation on the Commission's appropriations at $7 million per year, but last year, we raised that ceiling and approved $10,480,000.

Our action this year is not a precedent. It was necessary only to reach agreement with the Senate. When we consider the Commission's authorization for fiscal year 1980, I will fight to set an appropriation ceiling.

If we are going to hold the line on Federal spending, authorizing committees must set ceilings on appropriations. With its dismal track record for increased expenses, this Commission is a very appropriate place to use this process.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENT ON H.R. 8200, UNIFORM BANKRUPTCIES LAW

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk began the reading of the Senate amendment.

Mr. EDWARDS of California (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the further reading of the Senate amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HYDE. Mr. Speaker, reserving the right to object, I wonder if we could defer this matter for a little while. Otherwise, I will be constrained to object to this procedure. May we defer this for a little while, a half hour or so?

Mr. EDWARDS of California. I agree. Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The request is withdrawn.

CONFERENCE REPORT ON H.R. 9214, IMF SUPPLEMENTARY FINANCING FACILITY

Mr. NEAL. Mr. Speaker, I call up the conference report on the bill (H.R. 9214) to amend the Bretton Woods Agreement Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BAUMAN. Reserving the right to object, I do so only to ask the gentleman from North Carolina (Mr. NEAL) whether there is any particular controversy from the minority point of view, since we have no members of the committee here at this point? I would like to know if indeed there is any controversy?

Mr. NEAL. There is absolutely none that I know of. The gentleman from Ohio (Mr. STANTON) the ranking minority member on the subcommittee and the full committee is in complete agreement on this conference report and we know, as a matter of fact, of no controversy.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, let me say that of course the gentleman from Ohio (Mr. STANTON) has been for the bill from the beginning.

Mr. NEAL. Absolutely.

Mr. ROUSSELOT. Further reserving the right to object, I think what my colleague, the gentleman from Maryland (Mr. BAUMAN) was trying to ask is as to what kind of differences were resolved, et cetera.

My colleague, the gentleman from Iowa (Mr. HARKIN) has contacted me and said he is upset with what has been done. So why does the gentleman not explain what has been done?

Mr. NEAL. I will be happy to explain the bill in a moment, once we have gone through the procedural matters.

Mr. ROUSSELOT. We respectively state that this is the time to do it.

Mr. NEAL. I will do it when the time is right.

Mr. ROUSSELOT. Then we will object and I do object.

The SPEAKER pro tempore. The gentleman from California (Mr. ROUSSELOT) objects.

Mr. ROUSSELOT. Mr. Speaker, permit me to say that we just want the gentleman from North Carolina (Mr. NEAL) to explain the conference report.

Mr. NEAL. I will be happy to do so.

The SPEAKER pro tempore. Does the gentleman from California desire to continue to reserve the right to object?

Mr. ROUSSELOT. Yes, Mr. Speaker, further reserving the right to object, we would like the gentleman to explain the conference report. I do not think that is an unreasonable request.

The SPEAKER pro tempore. The gentleman from California (Mr. ROUSSELOT) reserves the right to object.

Mr. NEAL. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore. The Chair will state that the gentleman from California has reserved the right to object and has control of the time.

Mr. ROUSSELOT. The gentleman may respond to our request.

Mr. NEAL. I thought I had. Let me try to respond. I believe there is no controversy on the minority side.

The SPEAKER pro tempore. The Chair will state that the gentleman from North Carolina will suspend. The gentleman from California (Mr. ROUSSELOT) has reserved the right to object and asks that you explain the conference report.

Mr. ROUSSELOT. Further reserving the right to object, my colleague, the gentleman from Iowa (Mr. GRASSLEY) says he has several questions and he is on his way to the floor. He is certainly a member of the committee though he may not have been a conferee.

Will the gentleman from North Carolina explain what has happened, just inform us about the conference report? And I yield to my distinguished colleague for that purpose.

Mr. NEAL. We have adopted several

amendments in the conference, one that the gentleman referred to concerning the requirement for a balanced budget by 1981, which we enthusiastically endorsed on this side.

Mr. ROUSSELOT. I heard that and thank him for the explanation.

Mr. NEAL. We adopted an amendment, which was a House requirement, that requires a reduction in salaries paid to our Executive Director and the Assistant Executive Director to the IMF.

We have, in conference, accepted a House amendment offered by the gentleman from Nebraska (Mr. CAVANAUGH) which would attempt to insure that public and private creditors are treated the same in any debt rescheduling.

We have adopted a modified House human rights consideration which would give direction to our Executive Director to encourage him to encourage stabilization programs which are designed to meet the basic human needs of all people, and we require an actual improvement of the human rights conditions in those countries receiving IMF loans.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I will yield to my colleague, the gentleman from Iowa (Mr. HARKIN) to explain his position. I received a handwritten note from the gentleman.

Does the gentleman wish to explain his concerns about this bill?

Mr. HARKIN. Yes.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Iowa (Mr. HARKIN) for that purpose.

Mr. HARKIN. Mr. Speaker, I have some serious reservations about the bill and I will, in fact, ask that the conference report be defeated, so that we might hear on the floor a motion that I have at the desk reinstating the provision on the human rights amendment which was adopted by the House and which was completely gutted by the Senate. The Senate took it out completely, and the conference committee came up with some language that sort of walks around the issue.

But, as one of the members of the conference committee last Friday, when I was sitting here said, and I can almost quote from memory: "I hope Mr. HARKIN does not object to this language even though we cut the heart out of it."

So we had human rights language and human needs language in the bill that was completely gutted by the Senate.

I do not think we ought to sit back and let a handful of Senators, actually two or three, dictate what ought to be in this bill and what ought not to be in it.

I think the House has made a clear expression in the past. I think we ought to stick by it.

Those are my reservations.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, does the gentleman from Iowa (Mr. HARKIN) feel that he has an adequate opportunity, by appropriate motion, to protect that position?

Mr. HARKIN. I am sorry. Will the gentleman rephrase his question.

Mr. ROUSSELOT. Does the gentleman from Iowa feel that he has, during this procedure, adequate chance to protect that position other than by defeating the conference report?

Mr. HARKIN. No; I have no other way of doing it, other than defeating the conference report. If the gentleman can enlighten me as to some other way of doing it, I would be more than happy to try to pursue another path. Certainly the gentleman from California (Mr. ROUSSELOT) is a much better parliamentarian than I am. If he can so inform me how to do it, I would be glad to follow his lead; but I know of no other way than defeating the conference report and then, through a preferential motion, taking up the conference report, adding the language back in, and then voting on it.

Mr. Speaker, if the gentleman will yield further, that is entirely my intention, to ask that the conference report be defeated; then to take up, in a preferential way, a motion I have at the desk to put back in the amendment with respect to the human rights-human needs language which the House adopted 9 months ago in February, which was gutted by the Senate; and then to ask the House to pass on that motion at that time.

Mr. ROUSSELOT. I further say to my colleague from Iowa that he could give himself more time by objecting to the request of Mr. NEAL. Further reserving the right to object, Mr. Speaker, does my distinguished chairman wish to respond to that? In fact, is it true that the House position was "gutted"?

Mr. REUSS. If the gentleman will yield, Mr. Speaker, my answer is "No."

With all due respect, we fought for every word of the Harkin language. I think we got a very good piece of it from a very adamant Senate.

The gentleman from Iowa (Mr. HARKIN) is perfectly within his rights to throw the baby out with the bath water and attempt to kill the conference report. We will get to that later.

However, I think the gentleman from California (Mr. ROUSSELOT) deserves, perhaps, a clear answer to the question which brought him to his feet, which was whether the position of the minority was maintained in the conference.

Mr. ROUSSELOT. That was the question of the gentleman from Maryland (Mr. BAUMAN) with respect to the position of the gentleman from Ohio (Mr. STANTON).

Mr. REUSS. If the gentleman will yield further, the position of the minority was thoroughly maintained. The gentleman from Iowa (Mr. GRASSLEY) offered a motion to instruct the conferees before ever we went to conference.

That motion contained two facets: One, go with the Senate on a balanced budget in 1981; and two, go with the Senate on its pretty tough language against countries which play "footsie" with terrorists.

Mr. ROUSSELOT. Right.

Mr. REUSS. On both of those we not only carried out the Grassley mandate, but the gentleman from Iowa (Mr. GRASSLEY) himself was there listening intently. Therefore, I think the minority was well represented.

I am delighted to see the leader of the minority, the gentleman from Ohio (Mr. STANTON), is here now.

Again, I think the position of the gentleman from Iowa (Mr. GRASSLEY) was well maintained.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Iowa (Mr. GRASSLEY), if he has any comment to make at this point.

The SPEAKER pro tempore. The Chair would like to inquire whether the gentleman objects to the reading of the statement.

Mr. ROUSSELOT. I reserve the right to object, Mr. Speaker.

Mr. GRASSLEY. Mr. Speaker, is this the appropriate place?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, this is one appropriate place.

The SPEAKER pro tempore. The Chair will advise the gentleman from Iowa (Mr. GRASSLEY) that the gentleman from California (Mr. ROUSSELOT) is objecting to the statement's being read in lieu of the report or that the gentleman from California is reserving the right to object to this particular request.

Mr. GRASSLEY. Mr. Speaker, I prefer to make my comments later.

The SPEAKER pro tempore. Does the gentleman from California still reserve the right to object?

Mr. ROUSSELOT. I do reserve the right to object.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I would say to my friend, the gentleman from California (Mr. ROUSSELOT), that we are going to have a thorough discussion of all of the issues, hopefully, which went on during the time period allotted to us. I think I can assure him—although I have no control over it—that our chairman will allow sufficient time for that purpose.

Mr. ROUSSELOT. Is the gentleman from Ohio allowed adequate time?

Mr. STANTON. I surely have been.

Mr. ROUSSELOT. As I understand it, time will be yielded to a Member when he needs the time.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 22, 1978.)

Mr. NEAL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. NEAL) will be recognized for 30 minutes, and the gentleman from Ohio (Mr.

STANTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, approximately 1 year ago, I introduced at the request of the administration a bill, H.R. 9214, which would authorize U.S. participation in the supplementary financing facility of the International Monetary Fund (IMF). The House passed the bill February 23, 1978, by a vote of 267 to 125. The Senate passed its version of the bill July 31, 1978, by a vote of 69 to 16. The conference report was filed September 22, 1978, and on Monday of this week, the Senate agreed to the conference report whose provisions are substantially the same as those of the bill passed in the House.

Specifically, the conference report which is now before the House would authorize the United States to invest about $1.9 billion (or about 17 percent) in the $10-plus billion supplementary financing facility of the IMF, the so-called "Witteveen Facility."

The oil exporting nations, whose price increases have created so much of the world's balance-of-payments difficulties, would invest about 48 percent of the total. Thus, oil money would be made available to help solve some of the problems which oil prices have created.

This new fund for the IMF is essential. Without it, trade barriers would be erected, and world confidence would be shaken. Our economic walls, along with those of other countries, would begin to crumble.

Mr. Speaker, a negative vote by the House of Representatives today would send economic shock waves around the globe. More directly, it would adversely affect the U.S. economy and, in fact, the economic well-being of millions of Americans.

If that seems overstated, one needs only to realize the nature of U.S. dependence on world trade—and world trade's reliance on stable monetary behavior—to grasp the economic implications.

For instance, approximately one of every seven manufacturing jobs in the United States produces for export. One of every $3 in corporate profits either comes from exports or is earned abroad. One of every 3 acres of U.S. crops is grown for the export market.

We, in turn, are dependent on imports for many of our critical raw materials (oil being the most obvious example). Like it or not, we are involved in a very interdependent world economy. Many of our jobs, and much of our profits depend on world trade.

Obviously, we cannot maintain a vigorous export trade unless other countries are able to buy from us. We already run a trade deficit of over $30 billion a year, and many other countries have even more severe trade imbalances. If they shut the doors to our exports—as many surely would do without the IMF—our trade deficit would grow, our dollar would weaken, and our economy would be the loser.

Mr. Speaker, it is apparent that a vigorous U.S. economy cannot be achieved or maintained except in the context of a healthy world economy. The fact is, however, that most nations have not yet recovered from the worldwide recession of the mid-1970's. Many countries, beset by inflation and the oil price squeeze, lack the U.S. ability to adjust. They need both time and money to make these adjustments, and the IMF is their best and sometimes only hope.

That is one of the two primary functions of the IMF. It provides short term loans to nations with balance-of-payments difficulties. But it can provide those loans only if the country agrees to adopt policies to overcome its balance-of-payments problems. This is necessary to insure the country once again becomes credit-worthy, will be able to repay its debts, and make its contribution to world economic growth. Thus the IMF functions as a balance wheel in the complicated workings of world economics.

In light of current criticism, it is perhaps even more important to understand what the IMF is not.

Mr. Speaker, the IMF is not a foreign aid program. Borrowing countries must repay their loans with interest. Loans made possible under the legislation now before the Congress would carry an interest rate slightly above the rate on U.S. Treasury securities of comparable maturity. No IMF loan has ever been defaulted. Our participation in the IMF costs the United States nothing.

It is not a development agency which borrows from the wealthy and lends only to lesser developed countries. The United States has drawn from the IMF, on 23 separate occasions, for a total of $3.5 billion. The IMF's most spectacular recent success was a large loan to Britain. The economic policies implemented by the British in conjunction with that loan led to a dramatic improvement in the United Kingdom domestic economy and balance of payments, and Britain has now begun repayment of the loan, ahead of schedule. To qualify for loans from the IMF countries must need money to pay for imports. The money borrowed is not development money for the purpose of exporting palm oil, citrus fruits or anything else.

Mr. Speaker, in a very real and important way the International Monetary Fund furthers the cause of basic human rights to food, clothing, shelter, and so forth, because it gives economies time to adjust to the economic problems they face when their imports exceed their exports. Without the IMF, many countries would face bankruptcy. In others, austerity to the point of human deprivation would be required.

The IMF—like any bank or credit union in America—does require evidence that loans will be repaid, and counsels with countries to establish macroeconomic policies which will, if implemented, allow countries to repay loans. Because programs which reduce public spending are seldom popular, Government leaders often blame the IMF for unpopular policies adopted to solve balance-of-payment problems. But by definition, countries with balance-of-payment problems must make adjustments, and although the IMF cannot be an aid institution or be effective if it imposes moral or political conditions on countries, it does have a 33-year history of success in its limited but important mission.

We would not close down an emergency room, because it cannot perform major surgery. We should not cripple the IMF, because it is not perfect. In the real world the choice is not between the IMF and long term aid or between the IMF and a perfect society; the choice is between the IMF and nothing.

Mr. Speaker, some opponents of the Witteveen Facility have labeled it a bailout of the commercial banks. On the contrary, these funds would not be for the purpose of paying off old debts, to banks or otherwise. Inevitably, the adjustments required to qualify for IMF assistance makes a nation a better credit risk in the private capital market. Historically, bank lending has increased in countries which arrange for IMF loans.

Mr. Speaker, there are other provisions of the conference report which have not been emphasized but which are, nevertheless, important.

The conference agreement would provide that the U.S. executive director of the International Monetary Fund shall not be compensated at a rate higher than level IV of the executive schedule and the U.S. alternate director not higher than level V. The report also would require the U.S. executive director to submit to Congress by February 1, 1979, comprehensive proposals to assure that salaries and other compensation of Fund employees do not exceed those for comparable positions in Federal service and private industry.

Conferees adopted a House provision requiring the Secretary to instruct the U.S. executive director of the Fund to seek to assure that no Fund decision on the supplementary facility undermines U.S. policy regarding comparability of treatment of public and private creditors in cases of debt rescheduling, where official U.S. credits are involved.

Conferees adopted a modified House provision seeking to encourage the IMF to formulate stabilization programs which would, to the maximum extent feasible, foster use of the supplementary facility to fund activities designed to meet basic human needs. An annual report to Congress on human needs effects would be required.

A modified Senate provision would require the Secretary of the Treasury, in consultation with the Secretary of State, to prepare and submit to the Congress an annual report on the status of internationally recognized human rights in countries using the facility.

Conferees adopted a Senate provision to to prohibit U.S. imports from Uganda and U.S. exports, except cereal grain or food products, until the President certifies to the Congress that Uganda no longer consistently and grossly violates human rights.

Conferees adopted a modified Senate provision requiring the U.S. executive director to work in opposition to any Fund financial or technical assistance to terrorist-sanctuary countries.

The conference report would require,

beginning in fiscal 1981, that the Federal Government's budget outlays not exceed its receipts.

Mr. Speaker, although several of these provisions are not germaine to the purpose and function of the IMF, they deal with important concerns and deserve our acceptance.

For example, Mr. Speaker, the matter concerning balancing the Federal budget is one that I consider to be of the highest priority and utmost importance. If the inclusion of this requirement in the conference report now before us hastens the accomplishment of that goal or causes us to work harder toward it, then that alone would make the whole effort worthwhile.

Mr. Speaker, this new fund for the IMF is essential. Without it, trade barriers would be erected, and world confidence would be shaken. Our economic walls, along with those of other countries, would begin to crumble. It would be a tragedy if the Congress did not endorse our participation in this new IMF operation.

I urge my colleague to give it their strongest support.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Speaker, I rise in support of the conference report to accompany H.R. 9214. As the chairman of the committee/subcommittee has just pointed out, the House and Senate conferees have completed their work on the legislation to create the supplementary financing facility within the International Monetary Fund. It is particularly fitting that the House should be considering this conference report today since the Board of Governors of the International Monetary Fund are wrapping up their annual meeting across town. Many of the foreign delegates who have expressed concern as to when the Congress would give final approval to this legislation will be interested to know we are finally fulfilling our obligations.

Even though the world economy is in much better shape today than it was 1 year ago when we began to consider this legislation, a number of countries—mostly smaller countries—continue to suffer severe balance-of-payments difficulties. While these difficulties stem largely from increases in energy costs, they have been exacerbated by the failure of the industrialized countries to maintain high rates of growth. This new facility is needed as much today as it was a year ago to insure these countries sufficient resources to stabilize their economic position.

The essence of this conference report is the same as the bill passed by the House in February. It authorizes a U.S. contribution to the so-called Witteveen Facility of $1.8 billion. There is, however, some new language in the conference report that originated in the Senate. In addition, we have modified the human rights language adopted by the House.

My colleagues will remember that the House conferees were instructed in a motion by the gentleman from Iowa, Mr. GRASSLEY, to bring back from conference two Senate amendments. The more important amendment required expenditures to equal receipts to fiscal year 1981—in other words, a balanced budget. There was an overwhelming vote in favor of this "motion to instruct" in the House (286 to 91) and a similar vote in the Senate (58 to 28). Most of my colleagues realized when they voted in favor of this motion that there was some question as to the effect that the balance-the-budget motion would have. We all realize that there may be circumstances which will prevent a balanced budget or a budget surplus which we cannot foresee today. Nonetheless, it was an important statement of congressional desire to see the President reach his stated goal of a balanced budget in the near future.

The other Senate amendment required the U.S. Executive Director to oppose assistance to countries which harbor terrorists. We accepted this amendment as well, with only a few minor changes in wording to reflect the Fund's unique decisionmaking procedure.

This conference report will be bitterly opposed by the staunchest advocate of human rights in the House, the gentleman from Iowa. But it is important that my colleagues understand that the House and Senate conferees made a genuine attempt to satisfy his demands. With the hope of winning his support for this conference report, we accepted two-thirds of the language he inserted on basic human rights and human needs. He will argue that his amendment has been gutted by the conference because we removed the requirement that the U.S. Executive Director vote against stabilization agreements which did not fulfill his requirements. But the conferees believed this language to be misguided for two reasons. First of all, the stabilization agreements considered by the Fund deal with macroeconomic variables, such as national income policies, value of exchange rates, and export levels. They do not generally discuss in detail microeconomic concerns such as food and shelter for low-income groups. Concern for the human needs of the poor in developing countries is more properly the concern of the World Bank and the other developmental lending institutions. The second reason why his language made little sense is that the Fund almost never takes actual votes. Since it reaches its decisions by consensus, a mandatory no-vote seems to make little sense.

The gentleman from Iowa attended the conference, and we spent considerable time trying to elicit his support for this compromise. We felt that his basic objective had been served—to increase awareness that there was concern within the Congress that stabilization agreements might inadvertently hamper the fulfillment of basic human needs. The language of the gentleman from Iowa, which the conferees left in place, serves this purpose. We have left intact the Senate reporting language on human rights conditions and made minor changes in the House reporting language on basic human needs. I think the conferees are unanimous in their feeling that this represented a realistic and workable compromise on this difficult issue.

The House also accepted a Senate amendment which institutes a trade embargo against the Republic of Uganda. This amendment passed the Senate by a vote of 73 to 1 and was strongly supported in the House by a group of members on the International Relations Committee. I understand, however, that other members of the International Relations Committee feel that a trade embargo is an unnecessarily harsh sanction against Amin's government. Under this amendment, no Ugandan imports could be brought into the United States and no U.S. exports other than food could be shipped to Uganda. I am hopeful that other countries will join us in this embargo and that this amendment will have its intended effect.

I genuinely believe that the conference committee has improved this bill, even though it required our acceptance of Senate amendments which are not totally germane. I urge my colleagues to vote in favor of this conference report.

Mr. NEAL. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. I thank the gentleman from North Carolina for yielding.

I agree with everything that has been said by the gentleman from North Carolina (Mr. NEAL) and by the gentleman from Ohio (Mr. STANTON). I want to congratulate both of those leaders for the long and laborious effort they have been putting intot his IMF file for many, many months.

I would point out that today the world financial leaders are concluding their deliberations in Washington at the International Monetary Fund.

What we do today, whether we show the responsibility to help the poor countries of the world should they run into difficulties because of the oil situation, is a vital message to the world.

If we fail, if for one pretext or another we vote this conference report down, the people who are going to suffer in the world are the poor people in the poor countries who lack the oil and desperately need the help which the International Monetary Fund facility could put into place.

It is significant that for the first time those who have caused most of the trouble with oil, the OPEC countries, are bearing the lion's share of the burden. That is entirely right and proper.

I would also point out that we are in the unique position here of authorizing a measure which I think should have been authorized some time ago. Yesterday the Committee on Appropriations very responsibly completed action on making the appropriation under this, and I see on the other side of the aisle one of those Members who made that contribution, I would like to yield to the gentleman after making the observation that it would be the height of ridiculousness for us now to pull the rug out from under our own Committee on Appropriations, a rather

tight-fisted outfit, I might add, and repudiate the authorization that is needed for their appropriation.

Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, the gentleman from Wisconsin, as usual, is absolutely right. It would be the height of irresponsibility not to pass this conference report. In fact, we worked for 10 solid hours yesterday in conference with the Senate. We have ironed out all our differences in the foreign aid bill, including the appropriation for the Witteveen Facility. It is all over with. It would be ironic to have the appropriation bill go to the President and the authorization bill sitting back here. It would be like putting the cart before the horse.

Mr. REUSS. Mr. Speaker, I thank the gentleman for his observations.

Mr. Speaker, I fully support the conference-reported bill on H.R. 9214, To amend the Bretton Woods Agreements Act to authorize the United States to participate in the supplementary financing facility of the International Monetary Fund. This legislation authorizes the United States to participate in the International Monetary Fund by authorizing to be appropriated 1.45 billion SDR's, or approximately $1.9 billion, which would constitute the U.S. contribution to the facility. Our contribution, together with the contributions of other industrialized countries and the OPEC members of the IMF would provide approximately $11 billion in additional financial resources to the IMF which would be used to provide medium-term balance of payments loans to countries facing serious balance of payments difficulties.

There was no essential difference between the House-passed and Senate-passed legislation concerning the basic authorization and funding in this legislation. Differences did arise, however, concerning other provisions in both bills.

Members of the House will recall that on September 14, 1978, on a motion by Mr. GRASSLEY of Iowa, the House by a vote of 286 yeas to 91 nays, instructed the conferees to H.R. 9214, to insist on two provisions contained in the Senate-passed version of the bill; namely, the provision dealing with antiterrorism and the provision requiring that Federal Government budget outlays shall not exceed its receipts, beginning fiscal year 1981.

Members of the House voting to instruct the conferees in these two instances will be happy to hear that both Senate provisions are contained as section 6 and 7 of the conference-reported bill.

Mr. Speaker, the balanced budget amendment was accepted by the House conferees without change, while a minor wording change was made in the antiterrorism provision. It is important to make clear the significance of the so-called budget balancing provision. On September 20, 1978, I, along with several other members of the conference, received a letter from the Honorable JAMES T. MCINTYRE, JR., Director of the Office of Management and Budget. In this letter Mr. MCINTYRE set forth the import of this budget balancing provision. Mr. MCINTYRE said in his letter:

> This Administration would regard the provision as expressing the desire of the Congress that the Congress itself act within its own budget process to insure a budget balance each year. The Administration will not regard the provision as requiring the President to propose a balanced budget in every year. I reiterate our strong desire to balance the Federal budget. The Administration will propose a budget surplus just as soon as economic circumstances make it appropriate. We urge the conferees to reconsider inclusion of this unenforceable provision in the bill.

I would also like to make clear that this amendment does not provide statutory authority to the President to impound funds without complying with the procedures of the Congressional Budget and Impoundment Control Act.

The conference also agreed to Senate language declaring a total trade embargo on Uganda.

Finally, it should be recalled that the House-passed bill contained the so-called Harkin amendment concerning the Supplementary Financing Facility and human rights and basic human needs. The only language in the Senate bill that dealt with any part of this issue was language directing the Secretary of the Treasury to prepare and submit to the Congress an annual report on the observance of internationally recognized human rights in countries making use of the Supplementary Financing Facility. This Senate language was agreed to by your conferees and is contained in the conference reported bill.

The so-called Harkin amendment in its entirety would have required the Secretary of the Treasury:

To consult with officials within the IMF to encourage the fund to formulate stabilization programs entered into pursuant to the use of the facility which would be designed to meet basic human needs; and

Take all possible steps to assure that the facility transactions and economic programs developed with the use of IMF fund resources do not contribute to the deprivation of basic human needs nor violate basic human rights.

Further, the U.S. director to the IMF would be required under the so-called Harkin amendment to oppose all such transactions which would contribute to such deprivation or violation. Finally, the House-passed bill would have required the Secretary of the Treasury to prepare and submit an anuual report to the Congress with respect to countries using the facility on the effects of the institution of policies concerning the ability of the poor in these countries to obtain adequate food, shelter, clothing, public services, and productive employment.

Initially, the Senate conferees were unanimous in their opposition to the House-passed amendment concerning human rights and needs in its entirety. This reflected the Senate vote of 62–27 against similar language. After substantial debate, the Senate receded from their opposition to the House language in part. The conference-reported bill provides that the Secretary of the Treasury shall submit a report to the Congress indicating the effect loans made under this supplemental financing facility would have on basic human needs in those countries which use the facility and, most importantly, the Secretary of the Treasury is required to instruct the Executive Director to the IMF to initiate consultation with the other country executive directors, and the Managing Director of the IMF to encourage the staff of the fund in formulating stabilization programs entered into under the supplementary financing facility which would foster a broader base of production investment and employment, especially in those activities which are designed to meet basic human needs to the maximum feasible extent.

In many instances the IMF has in the past failed to take into account the results of their progress in developing countries when IMF facilities are being utilized. For the first time by this legislation we are directing the IMF, when supplementary financing facilities are being utilized, to take into account the basic human needs of the population in those countries using those facilities. In my opinion this is a substantial step forward—one which should be encouraged and supported by all Members of the House.

Despite the fact that the Senate by a vote of 62 to 27 turned down similar language to that agreed to in the House regarding human right and human needs, the bulk of the House amendment has been maintained in this conference-reported bill.

The conference-reported bill is a good bill and one which I believe should be supported by all Members of the House.

Mr. Speaker, I thus would bobtail and curtail my appearance here, because I do want to make sure that the opponent of this conference report, whom I admire, has asked me for 5 minutes and I am going to urge the chairman, the gentleman from North Carolina (Mr. NEAL) who is handling this to grant this time in full at the proper time to the gentleman from Iowa (Mr. HARKIN), after other Members have addressed the issue.

Mr. NEAL. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of the conference report on H.R. 9214, which authorizes U.S. participations in the supplementary financing facility or Witteveen Facility of the International Monetary fund.

Mr. Speaker, I think it is important that we recognize the purpose of this facility and that we understand that it is not foreign aid or development assistance, but is part of a major international effort to strengthen the international

monetary system at a time of serious strain.

The funds that we commit to this facility, all of which will be returned to the U.S. Treasury, with interest, are an investment in keeping with our efforts to preserve a strong and orderly international monetary system.

Mr. Speaker, the ceilings in the second budget resolution recognized the need for this facility and included $1.8 billion in budget authority for this purpose. When the appropriation process is completed and these funds are made available to the Treasury, they will be available for loans through the IMF only when needed for balance-of-payments purposes by member countries. The U.S. account at the IMF will be credited with the amounts we make available and the United States could recall those deposits at any time.

In short, Mr. Speaker, this facility is designed to alleviate temporary balance-of-payments problems and to help foster a continued expansion of world trade. It will assist us in our own efforts to increase exports, to improve the U.S. balance-of-payments position, and maintain a strong currency. It deserves our strong endorsement and support.

Mr. STANTON. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this conference committee report. I rise in support of it because of the balanced budget amendment that the House has instructed the conferees to agree to, and which was agreed to.

Mr. Speaker, I originally had opposed the legislation. I think that regardless of the original legislation, the fact that we have a balanced budget amendment in this is so significant that it overrides any reason for not being for the IMF Witteveen facility authorization.

I feel that with the adoption of this language we have for the first time established public policy in this country so that in the very near future, and with enough lead time to accomplish it, we have within sight that day when we will have a balanced budget. That is very much related to some of the worldwide problems that the Witteveen facility is trying to accomplish.

Hence, I want to add that when we debated the motion to instruct conferees on Senator BYRD's amendment, it may have appeared as if we were debating some appendage that was totally unrelated to the IMF. But I want to refer the House to article IV of the IMF agreement, so that the balanced budget amendment will not appear to be so far removed from what our country's responsibilities are to the world community of nations as a result of our signing the IMF agreement some years ago.

Article IV requires that each member nation "direct its economic and financial policies toward the objective of fostering orderly economic growth with reasonable price stability." And then it goes on to say that any signator also agrees "to seek to provide stability by fostering orderly underlying economic and financial conditions."

Mr. Speaker, that is what our country agreed to when we signed the IMF agreement. What will do any more to accomplish those worthy goals of the IMF agreement than bringing our own fiscal house in order? This is what all the economists from the liberal to the conservative end of the spectrum are saying needs to be done.

I say that we not only have the responsibility to do that, but that it is best that we do it before we get ourselves and this country in the condition England was in 2½ years ago when that country had to go to the IMF to be bailed out. Would that not be a sad commentary on our strong Nation if we at some time had to go on bended knees to the IMF as economically weak England had to.

So let me say to the House and to anybody who might oppose the IMF Witteveen Facility Authorization that the balanced budget amendment and the authorization are very closely related and necessary in order for us to fulfill our responsibility to the international community of nations.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I appreciate the gentleman's yielding.

Further than that, let me say that I much appreciate the gentleman's support of this conference report. I would simply like to reiterate what the gentleman said in regard to the instructions to commit the House conferees in regard to a balanced budget in 1981.

We do not want to make light of this. This is a commitment. Under normal conditions and in normal times, this is a goal we will strive to reach.

I believe in colloquy had in the other body it was stated that this is the first time this has ever been able to be accomplished by both bodies in one specific piece of legislation.

Mr. Speaker, I compliment the gentleman from Iowa (Mr. GRASSLEY), and once again I thank him for his support of the conference report.

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman from Ohio (Mr. STANTON).

Mr. Speaker, at this point I would like to add that we should not let some Members belittle the policy which both Houses of this Congress adopted by very wide rollcall votes and have committed ourselves to by saying that this can be overturned, and that one Congress cannot bind a succeeding Congress.

That is, of course, elementary constitutional law, and that applies to any decision we make. Anything we do today we can undo tomorrow, whether it is substantive legislation or whether it is a rider on a bill like this Byrd amendment was. This is a total commitment.

The SPEAKER pro tempore. The time of the gentleman from Iowa (Mr. GRASSLEY) has expired.

Mr. STANTON. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio (Mr. GRASSLEY).

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I understand the gentleman's commitment to the balanced budget approach, but it is true—and I believe the gentleman would agree with me—that subsequent Congresses, through a budgetary process, may adopt a budget resolution which has a deficit in it that would completely make this null and void.

The second point is this, and I will ask the gentleman a question on this:

If the gentleman, who has been a strong supporter of human rights amendments in the past, is satisfied with what happened in the Senate and with what the conferees came up with on this human rights amendment, I wonder why we cannot go ahead and defeat the conference report and add the amendment to it and send it back to conference. I am sure that would not do any harm to the gentleman's balanced budget amendment.

Mr. GRASSLEY. At this point, all I can say to the gentleman from Iowa is that it is very near October 1, and near adjournment. We have worked hard. The gentleman has been very successful in the last 2 years in accomplishing some of the things he wanted to accomplish. The mere fact that the Harkin Amendment is not in the IMF is not a total destruction. The gentleman's efforts have been very fruitful, and I do not think he ought to feel bad that it is not in the conference report.

On his first point, I hope he is not belittling the balanced budget amendment. Of course he is right, it can be overriden at any time. But the point I was making to the gentleman from Ohio (Mr. STANTON) is applicable here to.

It is elementary constitutional law that no Congress can bind a succeeding one. But that does not subtract from the importance of this balanced budget amendment. Both Houses are on record by wide margins for it, and I expect it to be a total commitment that will be respected in future years by the next Congress.

Mr. NEAL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HANNAFORD).

Mr. HANNAFORD. Mr. Speaker, I rise in strong support of this conference report.

Mr. Speaker, I want to commend the gentleman from North Carolina (Mr. NEAL), the gentleman from Ohio (Mr. STANTON), and the gentleman from Wisconsin (Mr. REUSS), the chairman of our committee, for their very diligent work on this legislation. I also want to commend the gentleman from Iowa (Mr. HARKIN) for his ongoing effort to use whatever force we have to bear to improve the lot of the people around the world regarding human rights and human needs. I have heard him use the language today that the human rights language has been gutted in this bill and

in this report. I insist that the gentleman from Iowa has been victorious, and I would invite him to admit victory and support us here, because we have in this report the kind of language which insists that the human rights issue remain at the forefront of the minds of the policymakers as these discussions occur. I think that is what the gentleman wants. To exact more specific language on the human rights subject calls for an accounting that cannot practically be made. But the instruction is there and reiterated that they must—they must—consider human rights and human needs. As I understand the wishes of the gentleman from Iowa, who has worked so successfully on this issue, the conference report accomplishes his desires and my desires in this field. So I do hope that all of our colleagues will support this. It is a splendid piece of work, and I commend the chairman once again.

Mr. NEAL. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. CAVANAUGH).

Mr. CAVANAUGH. Mr. Speaker, I would like to commend the chairman of the subcommittee and of the full committee for this legislation and to urge my colleagues to support this conference report.

I would also specially commend the gentleman from Iowa and associate myself with the remarks of the gentleman from California (Mr. HANNAFORD) in commending the gentleman from Iowa (Mr. HARKIN) and acknowledge the fact that I believe he has substantially accomplished his purpose.

Mr. Speaker, I was earlier in the year outraged by the insensitivity by the Treasury Department in certain transactions regarding the IMF, and particularly concerning South Africa last year, in supporting and encouraging the extension of $400 million in credit in the fiscal year in which South Africa was increasing its military appropriations by that level. I believe it is due to the efforts of the gentleman from Iowa (Mr. HARKIN) that the Treasury Department has been sensitized to the position that international economics is not devoid of moral requirements and the requirements for the sustaining of the U.S. human rights principles throughout all of our relationships.

Mr. Speaker, I commend the conference committee for acknowledging that and sensitizing our Treasury Department to that, and I think that the efforts of that will be ongoing and long lasting.

The simple fact is that the disruption in the international monetary market since 1973 cries out for major adjustment. This is admittedly only a small readjustment to that massive need, but an essential one.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman bringing out a point. I think it is very clear that we just have not completely killed the Harkin amendment, by any stretch of the imagination. The gentleman did a very good job in pointing out that, in title I, which we have left in the bill, clearly the Secretary of the Treasury shall instruct the executive director on the executive board of the IMF to initiate a wide consultation with the managing director of the Fund and other member country executive directors with regard to encouraging the staff of the Fund to formulate stabilization programs entered into pursuant to loans, and so forth, directed toward human needs. There is a provision for reporting back to the Congress within 180 days with respect to the countries involved.

It is a very meaningful thing, and I am surprised; I would think that the gentleman from Iowa would be very pleased, or at least happy with this because, truthfully, this gentleman did not want any language at all.

Mr. CAVANAUGH. I share the gentleman's opinion, because this is a revolutionary change in the approach that the Department of the Treasury will take in instructing the U.S. delegate to the IMF. Previous to this, the Department of the Treasury acknowledged no connection between the IMF and human rights policies. This commands Treasury to acknowledge that connection.

Mr. STANTON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, the IMF, as the world's central monetary institution, differs fundamentally in its purpose and operation from the international development banks.

The IMF provides financing to meet a member country's general balance-of-payments needs—not for financing a particular project as is typically done in development lending.

The IMF is designed to promote:

First, international monetary cooperation; and

Second, an open growing world economy.

Of prime significance is the fact that IFM financing is dependent upon the borrowing member-country implementing a broad—and oftentimes tough—economic stabilization program, designed to correct the balance-of-payments problem and to enable it to repay the loan.

The IMF's resources are used to provide temporary balance-of-payment financing at relatively short-term—average maturity of 5¼—and at market interest rates.

It is useful to bear in mind that there is no one-way flow of funds in the IMF—all member countries provide financing and all have the right to use IMF resources when they have a balance-of-payments need.

The United States has been both a creditor and a debtor of the IMF at various times over the past 30 years. We have drawn foreign currencies from the IMF on 23 occasions—most recently in 1972—in a total amount of $3.5 billion.

Our ability to turn to the IMF when necessary is extremely valuable.

This supplementary financing facility will support our efforts to strengthen the dollar in two ways:

First, it can help us reduce our trade deficit by encouraging a more rapid growth of our major trading partners—a growth that has been inhibited by a lack of confidence on the part of business and consumers.

Also, the supplementary financing facility promotes confidence that countries will deal with their payments problems in an internationally responsible manner—that is avoiding trade restrictions that would be damaging to the United States. By encouraging an open and expanding world economy the IMF helps to create and maintain the export markets we so urgently need to reduce our own trade deficit and thus strengthen the dollar.

Our failure, at this point, to participate in this facility—in which we have played a significant part in negotiating—will have a terrible impact on our credibility and willingness to deal with the serious problems facing us and challenging our world economic leadership. The health of our own economy is directly involved.

This facility involves the commitment by 15 countries—including OPEC countries—to provide financing totaling about $10.8 billion. Our own share is about 17 percent or about $1.8 billion. This is not a gift or donation but will in exchange for a claim that can be encashed at any time upon a showing of balance-of-payments need.

In addition, actual drawdowns will be repaid over 3½ to 7 years with interest adjusted semiannually and equal to the yield on U.S. Treasury securities of comparable maturity.

Eligibility requirements are rigorous—a detailed economic program that will solve a country's problems must be accepted by the IMF before any loans are made.

This is an essential and responsible effort at international economic cooperation—with the OPEC countries putting up almost half of the funds—

I hope we will have the sense to pass this legislation.

Mr. NEAL. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Speaker, I rise today to inform the House that contained within this conference committee report is an amendment which establishes an absolute trade ban with Uganda because of the genocidal poilcies of Idi Amin. I would like to commend the Members of the Senate who originally put this amendment in, and our House conferees for agreeing to leave it in the bill.

Seldom has a nation been asked to sacrifice so little to do so much for another nation. And yet seemingly small actions do sometimes give great inspiration to people who feel nothing but despair. So it is with Idi Amin's Uganda.

For 7½ years, the Ugandan people have endured hell on Earth. There is little wonder that the Ugandan people should feel abandoned and cut adrift from the civilized world. Amidst all of

the sanctimonious condemnation of Amin in recent years, not one country, including the United States, has demonstrated the will to take effective measures to end its support of Amin. In fact, many American companies have seen fit to ignore Amin's genocidal policies in their pursuit of profits. To understand the consequences of our inaction, consider this passage from the book "Idi Amin: Death Life of Africa" by David Gwyn, who has witnessed Amin's reign of terror at close quarters:

There is an equation here which might be worth examining. Associated Press reported from Nairobi on May 8, 1977, that a United States company was airlifting one thousand tons of coffee out of Uganda. We now learn that Amin is getting $2,000,000 a month from exports of Ugandan coffee. This is fine for the housewife in the importing countries and no doubt excellent business. The receipts from the sale of that coffee will, however, go to pay for luxury goods which are flown from England to Uganda and which are one of the few material means by which Amin keeps his killers on a leash to him. Stop this source of supply and many of his band of mercenaries will surely lose interest and drift away, many of them back to the Sudan. They have been using goods and the profits from the confiscated Asian businesses and from extortion in Uganda to build bolt-holes for themselves in the sudan over the last four years. The longer they stay in Uganda the more they will kill. Those who drink this coffee might just as well be drinking the blood of dead Ugandans. That is the effect of this particular business.

Now, at long last, we are in a position to end U.S. commercial support for Amin's genocidal regime. Lest we think this action will have no meaningful effect and will go unnoticed, let me read a letter I recently received from a Ugandan refugee who escaped to Kenya:

You and your colleagues have shown dedication to peace and justice to mankind, in particular to the cause of the Ugandan people, whose human rights have been for the last seven years violated by the military dictatorship of the so-called "Field Marshall, Dr. Idi Amin", now life president of Uganda. The souls of my fellow countrymen, who under the colossal legs of Idi Amin, found themselves dishonourable graves, those alive on Uganda's security torn soils, and the rest languishing in foreign lands as exiles will always honour and respect men who volunteer to contribute to the world's understanding of peace and justice to all people as you are doing . . .

Let me hereby commend you and your colleagues for putting up a case against Idi Amin in the House of Representatives which honestly is a case launched against the enemies of world civilized conduct and humanity in modern times. Through you I request all the American people to follow your example in the fight for world peace and justice. The suppressed people need your help, for America is the world's number one nation. Let God help you. For my people, thank you.

Too often those of us in the Federal Government fail to recognize the psychological and spiritual consequences of our actions or inaction. But I firmly believe that long after Idi Amin is gone, the Ugandan people will remember what the Congress has done today in an effort to hasten the end of their suffering.

The House and Senate conferees deserve much credit for their hard work and service in defense of human rights in Uganda. I urge my colleagues to support the enactment of a Ugandan trade ban provided for in the conference report on H.R. 9214.

Mr. Speaker, I urge support of the conference committee report.

Mr. NEAL. Mr. Speaker, I yield such time as he may consume for purposes of debate only to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, yes, we should send a strong message, a very strong message to the IMF which is meeting here in Washington this week, but that message ought to be that we in our participation in the IMF are going to begin to take very strong measures and strong steps to insure that the conditions that are laid down by the IMF for countries that are not conditions which weigh wholly upon the poor of that country.

Suffer? The chairman of the committee said we cannot afford to defeat this conference report and let these poor countries suffer, but that is why I am asking for the defeat of this conference report, so these poor countries do not suffer by the policies meted out by the IMF.

Just last week a group of 24 of the poorest nations meeting with the IMF petitioned the IMF to change some of its policies, to change in regard to the conditions it lays down on those poor countries, because the conditions they lay down always go to tighten down mostly upon the poor in those countries.

One of the things that is always brought up is that this is unique, that somehow the IMF is unique. We have heard that for the last 3½ years. When we first tried to put a human rights amendment on the foreign aid bill, they said that was unique. But that passed although it was unique. And on the military aid bill, they said that was unique, but it passed and it is law. On the World Bank they said that was unique, but it passed and now it is a part of the law. All of these things have been enacted into law and, wonder of wonders, they have been able to live with these human rights amendments, and I think these human rights amendments have forced these agencies into great progress as far as human rights concerns.

The amendment I want to offer, if the conference report is defeated, will not hinder the IMF. Let me quote to you from Business Week magazine, which called the same Harkin amendment "mild" and "a safe and easy compromise." And the London Economist wrote:

The Harkin amendment is loosely enough worded not to cramp the IMF.

So even these two business magazines reported that they did not think my amendment was so harsh as to prohibit the IMF from going forward.

I would like to just quote some words uttered in this body 9 months ago in the initial debate on this bill, and I do not mean to be throwing it up into his face in any way, but the words spoken by Chairman REUSS 9 months ago were so eloquent that I cannot even surpass them, and I think they go to the heart of what we are talking about in the IMF. I read from the CONGRESSIONAL RECORD of February 23, 1978, and these are the words of the gentleman from Wisconsin, Chairman REUSS:

In the past, from time to time the IMF has displayed tendencies to have ice rather than blood flowing in its veins. They have imposed austerity conditions which, whatever their intent, do grind unduly on the poor of a developing country. I do not think it hurts one bit to tell the Executive Director that he should use his good offices to see that human needs are considered. For example, if under this supplementary facility people on the IMF staff are minded to ratify a country's program, which country's program allows the import without limit of oil for the Mercedes automobiles of the oligarchy, while cutting down on soybeans from the State of Georgia which would give needed protein to everybody. I think our Executive Director should speak up against that.

Now going to the human rights element of the amendment, the gentleman from Wisconsin, Mr. REUSS, the chairman continues:

On the other point, the human rights point, one might quibble with the language. I do not really see much connection between the IMF and torture, but there again some country might come through with a little old austerity program saying that anybody who engages in a strike should be stood up against a wall and shot. These things happen. I would hope the Director would blow his top on that, which is what the amendment suggests.

There are words in the amendment which, if I were drafting it, I would have improved, but basically it is a good amendment.

Next we are told that my amendment will politicize the IMF. I have here some minutes from the IMF, they are confidential minutes, and I would like to read some excerpts from them for the record to show that they discuss politics when they meet at the IMF, they do not just discuss economics.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HARKIN. Will the gentleman from North Carolina yield me additional time?

Mr. NEAL. Mr. Speaker, I would say to the gentleman from Iowa that I only have 4 minutes remaining, 2 for the chairman and 2 for myself so I am unable to yield further to the gentleman.

The SPEAKER pro tempore. Does the gentleman from Ohio (Mr. STANTON) wish to yield time to the gentleman from Iowa?

Mr. STANTON. Yes, I will be happy to yield 3 additional minutes to the gentleman from Iowa.

Mr. HARKIN. Mr. Speaker, I thank the gentleman from Ohio (Mr. STANTON) very much for yielding, because I do want to get these quotes in, and I will not use the names, but Mr. X said:

to experience these conditions over any significant period of time was surely intolerable politically and socially, as well, as from a purely economic perspective.

Quoting from further minutes:

. . . there were always important political and social consequences of introducing the kind of stabilization programs that the Fund, on the basis of its long experience, usually recommended.

These are words from the minutes of their meetings.

Another quote from minutes of the meeting of November 5, 1976:

Therefore, making allowances not only for these considerations but also to some extent for the difficult social and political problems confronting the Jamaican authorities . . .

And on and on.

So we can see they talk about politics and the effects of what they do on the political and social climate in the recipient country.

Mr. Speaker, I want to speak briefly about human rights. Why human rights? Sure, this goes to human needs, but why human rights? Let me read five different headlines that appeared in the Washington Post all within a few weeks of each other. No. 1:

Peru Unable To Pay Its Creditors; U.S. Said To Reject Bid For A Loan.

No. 2:

Austerity Measures Stiffened By Peru.

No. 3:

Peru Crisis: A Dilemma.

No. 4:

Peru Placed Under Martial Law As Regime Moves To Halt Rioting.

No. 5:

General Strike In Peru Triggers Violent Confrontations; Five Dead.

No. 6:

Peru Death Toll 31.

And:

. . . general strike against government price increases for basic foods, fuel and transportation imposed—

And I repeat:

imposed by the IMF.

And that is why it is so important for us to defeat this conference report, not to defeat the IMF, not to make the poor countries suffer, but to defeat the conference report and take up the preferential motion which I have at the desk, add on the human rights and human needs amendment. It will not go back to conference, it will go directly back to the full Senate. And believe you me, this late in the session, they are not going to turn it down.

I will remind my friends that 1 year ago this month in September, the same situation arose with the IFI where we had a human rights amendment. The conferees took it out. We defeated the conference report here, I had the preferential motion, we put the human rights language back in and we sent it back to the Senate. They accepted it and it is still a part of the law. And I ask the same thing today.

Mr. NEAL. Mr. Speaker, I yield 2 minutes to the committee chairman, the distinguished gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I shall be very brief. I appreciate the reading by the gentleman from Iowa (Mr. HARKIN) of my remarks of last February 23.

Incidentally, I stand by every syllable I said last February 23, which is that the IMF in days gone by has been inconsiderate of human needs. To rectify this, we fought with might and main in conference against the Senate. The Senate had voted down, 62 to 27, the Harkin amendment.

But I honestly believe that we have retained the heart of the Harkin amendment.

It is in the conference report—language that our managing director should use his good office with all the other countries to encourage stabilization programs which will foster activities designed to meet basic human needs.

Mr. Speaker, that language is in there. We want the IMF to shape up. The gentleman from Iowa (Mr. HARKIN), it seems to me, has won 98 percent of his battle, but he has not won 100 percent.

As I said in my remarks which have just been quoted, the Harkin amendment is not drafted in as careful a way as I would have liked to have seen it. The Senate is absolutely adamant—and I think with good reason—that it is foolish to tell the IMF and the U.S. Governor of the Fund by statute that on these purely balance-of-payment loans—project loans or program loans—it has to tell, in writing, 180 days after the close of each calendar year what its loans have to do with the following—and I am quoting from the Harkin amendment:

(1) an adequate supply of food with sufficient nutritional value to avoid the debilitating effects of malnutrition;

(2) shelter and clothing;

(3) public services, including health care, education, clean water, energy resources, and transportation;

(4) productive employment that provides a reasonable and adequate wage.

Those are all good things, but the Senate, I think properly, said that they can not reasonably be related to balance-of-payments loans.

It is now proposed by our friend, the gentleman from Iowa (Mr. HARKIN), to destroy the conference report, to knock down the whole edifice, to tear down the temple, so that the matter can be sent back to the Senate.

Mr. Speaker, in the two remaining weeks, which are heavily festooned with Italian holidays and Jewish holidays and the extracurricular filibusters in the other body, I can assure the Members that the fate of this bill is going to be that there is not going to be any bill at all, and that the wretched of the world, the nonoil LDC's who are ready to make their applications to the IMF, are going to have the IMF window slammed down on their fingers.

Therefore, Mr. Speaker, with great respect for the gentleman from Iowa (Mr. HARKIN)—and I was his spear-bearer; I supported his language here, and I did my best in the Senate—I say let us not pull down the temple just because the gentleman did not get every word he wanted in the conference report.

Mr. Speaker, I urge that the conference report be adopted.

Mr. STANTON. Mr. Speaker, I yield myself the balance of my time.

In concluding the debate, Mr. Speaker, on this conference report on our side, I think we certainly all should give great credit to President Carter in his bringing out not only to the American people, but to the world, that respect for human rights and satisfaction of basic human needs are fundamental elements of U.S. foreign policy.

We have in one degree or another carried this program forward with the Eximbank, through the lending institutions, the international lending institutions, and through our own AID programs and so forth.

Mr. Speaker, I think many weeks ago we certainly decided in this body that the International Monetary Fund is a monetary institution. It is not a bank. It has no relationship to these other international lending institutions of which I have spoken.

Countries have certain obligations. They have certain rules and regulations.

Mr. Speaker, this institution was formed in 1949. Its articles of agreement clearly state that the financial considerations will only be taken into consideration when this comes about.

Mr. Speaker, I feel so strongly about this matter—and I will be very honest—for one specific reason. There was a time when the United States controlled and dominated the International Monetary Fund, as it did all international lending institutions. That is not the case today. A good example is that in this institution, for the first time in any time in the history of the world, Saudi Arabia, one of the Arab countries, is putting up more money for international purposes than any other country, including the United States of America. In the history of this Fund we have never had any political considerations of any type attached to it. It is intended to help improve the economic conditions of a country. We borrow from it. We ourselves borrowed from it 23 times in the last 20 years. We will borrow from it again. We lend to it. During the time of all of the wars of Egypt, Israel, the Far East, and all over, the International Monetary Fund has gone on unencumbered by any political consideration. I feel so strongly about this, Mr. Speaker, that we have a good conference report. We have language that instructs our representative on the Witteveen agreement, and I strongly urge the Members of this House to overwhelmingly support the conference report.

Mr. Speaker, I yield back the remainder of my time.

Mr. NEAL. Mr. Speaker, there are very few issues more important than adopting this conference report today. Passage will send a strong message to the world economic community that we are serious about stability in the world economy. Passage of this conference report will not cost the United States money. It will mean a sound investment in our own economic future.

On the question of human rights, we built good solid meaningful human rights language into the bill. As the chairman of our committee said, it does not go as far as the gentleman from Iowa would like but we have done what makes sense for this institution.

The gentleman from Iowa keeps saying that the International Monetary Fund lays down conditions on countries and forces them to adopt policies they do not want to adopt. That is simply a

misunderstanding of how the Fund operates. The Fund provides money for a country if it can show that it can repay the money. It forces no country to borrow. If the country does not want to borrow, it does not have to.

The IMF is probably the most important financial institution in the world. We benefit greatly from it. Let us send a signal to the world economic community that we mean business in the area of international financial matters. I urge my colleagues to give us a vote today that is overwhelming. Let's send a strong signal to the international community and to the people of this country that we are serious about economic stability.

Mr. Speaker, I yield back the remainder of my time.

I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARKIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 138, not voting 56, as follows:

[Roll No. 851]

YEAS—238

Addabbo	Cotter	Howard
Akaka	Danielson	Hubbard
Alexander	Delaney	Hughes
Ambro	Derrick	Hyde
Anderson, Calif.	Derwinski	Jacobs
Andrews, N.C.	Dicks	Jeffords
Andrews, N. Dak.	Dingell	Johnson, Calif.
Annunzio	Downey	Johnson, Colo.
Ashley	Duncan, Oreg.	Jones, N.C.
Aspin	Eckhardt	Jordan
AuCoin	Edwards, Ala.	Kastenmeier
Baldus	Ertel	Kazen
Barnard	Evans, Colo.	Keys
Baucus	Evans, Del.	Kildee
Beard, R.I.	Fary	Kindness
Bellenson	Fascell	Kostmayer
Biaggi	Fenwick	LaFalce
Bingham	Findley	Le Fante
Blanchard	Fish	Leach
Blouin	Fisher	Leggett
Boggs	Flippo	Lehman
Boland	Flood	Lent
Bolling	Foley	Levitas
Bonker	Forsythe	Lloyd, Calif.
Brademas	Fowler	Long, La.
Breaux	Fraser	Long, Md.
Breckinridge	Frenzel	Luken
Brodhead	Gephardt	Lundine
Brooks	Giaimo	McClory
Broomfield	Gibbons	McCloskey
Brown, Calif.	Ginn	McDade
Brown, Mich.	Glickman	McEwen
Brown, Ohio	Gradison	McFall
Broyhill	Grassley	McHugh
Burke, Fla.	Green	McKay
Burke, Mass.	Guyer	McKinney
Burlison, Mo.	Hagedorn	Mahon
Carney	Hamilton	Mann
Carter	Hannaford	Marks
Cavanaugh	Harrington	Mattox
Cederberg	Harris	Mazzoli
Chappell	Hawkins	Meeds
Chisholm	Heckler	Meyner
Cohen	Hefner	Michel
Collins, Ill.	Heftel	Milford
Conte	Hightower	Mineta
Corman	Hillis	Minish
Cornell	Hollenbeck	Mitchell, Md.
	Horton	Mitchell, N.Y.
		Moakley
Mollohan	Rinaldo	Thompson
Moore	Roe	Thornton
Murphy, Ill.	Rooney	Traxler
Murphy, N.Y.	Rose	Treen
Murtha	Rosenthal	Tucker
Myers, Gary	Rostenkowski	Udall
Myers, Michael	Ruppe	Ullman
Natcher	Ryan	Van Deerlin
Neal	Scheuer	Vander Jagt
Nedzi	Sebelius	Vanik
O'Brien	Sharp	Vento
Oberstar	Sikes	Waggonner
Obey	Simon	Walsh
Ottinger	Sisk	Whalen
Patten	Skelton	White
Patterson	Skubitz	Wiggins
Pattison	Smith, Iowa	Wilson, C. H.
Pease	Smith, Nebr.	Wilson, Tex.
Perkins	Snyder	Winn
Pickle	Solarz	Wirth
Preyer	Spellman	Wolff
Price	St Germain	Wright
Pritchard	Stangeland	Wydler
Quayle	Stanton	Wylie
Rahall	Steed	Yates
Railsback	Steiger	Yatron
Rangel	Stockman	Young, Fla.
Regula	Stokes	Young, Mo.
Reuss	Stratton	Zablocki
Rhodes	Studds	Zeferetti

NAYS—138

Abdnor	Evans, Ga.	Mikulski
Applegate	Evans, Ind.	Miller, Ohio
Archer	Florio	Moffett
Bafalis	Flowers	Montgomery
Bauman	Flynt	Moorhead, Calif.
Beard, Tenn.	Ford, Tenn.	Mottl
Bedell	Fountain	Murphy, Pa.
Benjamin	Frey	Myers, John
Bennett	Fuqua	Nichols
Bevill	Gammage	Nolan
Bonior	Garcia	Nowak
Bowen	Gaydos	Oakar
Brinkley	Gilman	Panetta
Buchanan	Goldwater	Quillen
Burgener	Gonzalez	Richmond
Burton, Phillip	Goodling	Roberts
Butler	Gore	Robinson
Byron	Hall	Rogers
Carr	Hammer-schmidt	Rousselot
Clausen, Don H.	Hansen	Roybal
Clawson, Del	Harkin	Rudd
Clay	Harsha	Russo
Cleveland	Holt	Santini
Coleman	Holtzman	Satterfield
Collins, Tex.	Huckaby	Schroeder
Conyers	Ichord	Schulze
Cornwell	Ireland	Seiberling
Coughlin	Jenkins	Shuster
Crane	Jenrette	Staggers
Cunningham	Jones, Tenn.	Stark
Daniel, Dan	Kasten	Steers
Daniel, R. W.	Kelly	Stump
Davis	Kemp	Symms
de la Garza	Krebs	Taylor
Dellums	Lagomarsino	Trible
Dent	Latta	Volkmer
Devine	Livingston	Walgren
Dickinson	Lloyd, Tenn.	Walker
Dodd	Lott	Wampler
Dornan	Lujan	Watkins
Drinan	McDonald	Weaver
Duncan, Tenn.	Maguire	Weiss
Edgar	Markey	Whitehurst
Edwards, Calif.	Marlenee	Whitley
Emery	Martin	Whitten
English	Mathis	Wilson, Bob

NOT VOTING—56

Ammerman	Ford, Mich.	Pressler
Anderson, Ill.	Gudger	Pursell
Armstrong	Holland	Quie
Ashbrook	Jones, Okla.	Risenhoover
Badham	Krueger	Rodino
Burke, Calif.	Lederer	Roncalio
Burleson, Tex.	McCormack	Runnels
Burton, John	Madigan	Sarasin
Caputo	Marriott	Sawyer
Cochran	Metcalfe	Shipley
Conable	Mikva	Slack
Corcoran	Miller, Calif.	Spence
D'Amours	Moorhead, Pa.	Teague
Diggs	Moss	Thone
Early	Nix	Tsongas
Edwards, Okla.	Pepper	Waxman
Eilberg	Pettis	Young, Alaska
Erlenborn	Pike	Young, Tex.
Fithian	Poage	

The Clerk announced the following pairs:

On this vote:

Mr. Slack for, with Mr. Eilberg against.

Mr. Moorhead of Pennsylvania for, with Mr. Burleson of Texas against.

Mr. Krueger for, with Mr. Teague against.

Mr. Conable for, with Mr. Shipley against.

Mr. Anderson of Illinois for, with Mr. Runnels against.

Mr. Erlenborn for, with Mrs. Burke of California against.

Mr. Madigan for, with Mr. Risenhoover against.

Mr. Sawyer for, with Mr. Ashbrook against.

Mr. Diggs for, with Mr. Cochran of Mississippi against.

Mr. Ford of Michigan for, with Mr. Corcoran of Illinois against.

Mr. Pepper for, with Mr. Young of Alaska against.

Mr. Lederer for, with Mr. Badham against.

Until further notice:

Mr. Ammerman with Mr. Edwards of Oklahoma.

Mr. Nix with Mr. Marriott.

Mr. Miller of California with Mr. Sarasin.

Mr. Mikva with Mr. Quie.

Mr. McCormack with Mrs. Pettis.

Mr. Metcalfe with Mr. Thone.

Mr. Rodino with Mr. Moss.

Mr. Waxman with Mr. Pursell.

Mr. John L. Burton with Mr. Pressler.

Mr. Early with Mr. Roncalio.

Mr. Fithian with Mr. Holland.

Mr. Pike with Mr. Caputo.

Mr. Gudger with Mr. Jones of Oklahoma.

Mr. Tsongas with Mr. D'Amours.

Messrs. SNYDER, GINN, and LEVITAS, and Mrs. SMITH of Nebraska changed their vote from "nay" to "yea."

Messrs. TAYLOR, FUQUA, KELLY, FLOWERS, BEVILL, and DEL CLAWSON changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDING EXPORT-IMPORT BANK ACT OF 1945

Mr. NEAL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 1140) to amend section 8 of the Export-Import Bank Act of 1945.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I wonder if the gentleman could tell us for how long this authority is extended.

Mr. NEAL. Mr. Speaker, if the gentleman will yield, it is extended until December 31 of this year.

Mr. ROUSSELOT. December 31; otherwise, it expires when?

Mr. NEAL. September 30, 1978.

Mr. ROUSSELOT. Saturday?

Mr. NEAL. Yes.

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, I ask my colleague from Ohio (Mr. STANTON) what the cost would be to this agency if it terminates on Saturday?

Mr. STANTON. Mr. Speaker, if the gentleman will yield, as the chairman of the subcommittee just said, this is an extension of 90 days for the Eximbank. The gentleman should have really explained what this legislation was for.

Mr. ROUSSELOT. I did not give him much chance.

Mr. STANTON. What would happen if we did not extend this—the gentleman is absolutely right—is that it would cost us considerably more money to let this expire than to pass this temporary extension for the simple reason that: No. 1, mechanically, if the legislation expires October 1, there would have to be over 1,200 some telegrams sent out and contacts made throughout this country and the world. All operations which take place would cease and desist. We are told the cost will far exceed if it is not extended. They do not prudently think it is necessary.

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, the more prudent thing to do is to extend the time for 90 days in order to save extensive termination costs. My understanding is that there is legislation under process relating to continuing authority and authorization. Is that correct?

Mr. STANTON. The gentleman is absolutely correct.

Mr. ROUSSELOT. I appreciate the gentleman's comment.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES 1140

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Export-Import Bank Act of 1945 is amended by striking out "September 30" and inserting in lieu thereof "December 31".

Mr. NEAL. Mr. Speaker, this Saturday the Export-Import Bank of the United States loses its authority to do business. In recognition of the vital role played by Exim in correcting our trade deficit and strengthening our domestic economy, the House in July voted overwhelmingly—314 to 47—to reauthorize the Bank for another 5 years and to increase the amount of money it could commit in support of U.S. exports.

The Senate, while concurring in the 5-year extension of the Bank's expiration date and the increase in its commitment authority, has been bogged down in a controversy regarding the application of the National Environmental Protection Act to Exim. This issue apparently has been resolved by the White House, and the Senate intends to consider the bill this Friday. However, since a conference committee will be required, the Senate action comes too late to prevent the Bank from having to shut down operations temporarily.

House Joint Resolution 1140 would simply prevent the Bank from going out of business this weekend. The resolution extends Exim's expiration date from September 30 to December 31, 1978. This extension would of course be superceded by the expiration date contained in the conference report, assuming the House approves it.

Mr. Speaker, this is an interim measure that will save taxpayers' dollars by preventing the Bank from the needless expense of having to shut down operations until the conference report is passed. It deserves our unanimous support.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

UNIFORM LAW ON BANKRUPTCIES

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment.

Mr. EDWARDS of California (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the House amendment to the Senate amendment, as follows:

H.R. 8200

In lieu of the matter inserted by the Senate amendment, insert:

TITLE I—ENACTMENT OF TITLE 11 OF THE UNITED STATES CODE

SEC. 101. The law relating to bankruptcy is codified and enacted as title 11 of the United States Code, entitled "Bankruptcy", and may be cited as 11 U.S.C. § , as follows:

TITLE 11—BANKRUPTCY

Chapter
1. General Provisions.
3. Case Administration.
5. Creditors, the Debtor, and the Estate.
7. Liquidation.
9. Adjustment of Debts of a Municipality.
11. Reorganization.
13. Adjustment of Debts of an Individual With Regular Income.
15. United States Trustees.

CHAPTER 1—GENERAL PROVISIONS

Sec.
101. Definitions.
102. Rules of construction.
103. Applicability of chapters.
104. Adjustment of dollar amounts.
105. Power of court.
106. Waiver of sovereign immunity.
107. Public access to papers.
108. Extension of time.
109. Who may be a debtor.

§ 101. Definitions

In this title—

(1) "accountant" means accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized;

(2) "affiliate" means—

(A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

(D) entity that operates the business or all or substantially all of the property of the debtor under a lease or operating agreement;

(3) "attorney" means attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law;

(4) "claim" means—

(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured;

(5) "commodity broker" means futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer, as defined in section 761 of this title, with respect to which there is a customer, as defined in section 761(9) of this title;

(6) "community claim" means claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) of this title is liable, whether or not there is any such property at the time of commencement of the case;

(7) "consumer debt" means debt incurred by an individual primarily for a personal, family, or household purpose;

(8) "corporation"—

(A) includes—

(i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

(ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

(iii) joint-stock company;

(iv) unincorporated company or association; or

(v) business trust; but

(B) does not include limited partnership;

(9) "creditor" means—

(A) entity that has a claim against the

debtor that arose at the time of or before the order for relief concerning the debtor;

(B) entity that has a claim against the estate of a kind specified in section 502(f), 502(g), 502(h) or 502(i) of this title; or

(C) entity that has a community claim;

(10) "custodian" means—

(A) receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

(B) assignee under a general assignment for the benefit of the debtor's creditors; or

(C) trustee, receiver, or agent under applicable law, or under a contract that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors;

(11) "debt" means liability on a claim;

(12) "debtor" means person or municipality concerning which a case under this title has been commenced;

(13) "disinterested person" means person that—

(A) is not a creditor, an equity, security holder, or an insider;

(B) is not and was not an investment banker for any outstanding security of the debtor;

(C) has not been, within three years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor;

(D) is not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C) of this paragraph; and

(E) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor or an investment banker specified in subparagraph (B) or (C) of this paragraph, or for any other reason;

(14) "entity" includes person, estate, trust, governmental unit;

(15) "equity security" means—

(A) share in a corporation, whether or not transferable or denominated "stock", or similar security;

(B) interest of a limited partner in a limited partnership; or

(C) warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B) of this paragraph;

(16) "equity security holder" means holder of an equity security of the debtor;

(17) "farmer" means person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person;

(18) "farming operation" includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state;

(19) "foreign proceeding" means proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization;

(20) "foreign representative" means duly selected trustee, administrator, or other representative of an estate in a foreign proceeding;

(21) "governmental unit" means United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government;

(22) "indenture" means mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor;

(23) "indenture trustee" means trustee under an indenture;

(24) "individual with regular income" means individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13 of this title, other than a stockbroker or a commodity broker;

(25) "insider" includes—

(A) if the debtor is an individual—

(i) relative of the debtor or of a general partner of the debtor;

(ii) partnership in which the debtor is a general partner;

(iii) general partner of the debtor; or

(iv) partnership in which the debtor is a general partner;

(B) if the debtor is a corporation—

(i) director of the debtor;

(ii) officer of the debtor;

(iii) person in control of the debtor;

(iv) partnership in which the debtor is a general partner;

(v) general partner of the debtor; or

(vi) relative of a general partner, director, officer, or person in control of the debtor;

(C) if the debtor is a partnership—

(i) general partner in the debtor;

(ii) relative of a general partner in, general partner of, or person in control of the debtor;

(iii) partnership in which the debtor is a general partner;

(iv) general partner of the debtor; or

(v) person in control of the debtor;

(D) if the debtor is a municipality, elected official of the debtor or relative of an elected official of the debtor;

(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) managing agent of the debtor;

(26) "insolvent" means—

(A) with reference to an entity other than a partnership, financial condition such that the sum of such entity's debts is greater than all of such entity's property, at a fair valuation, exclusive of—

(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and

(ii) property that may be exempted from property of the estate under section 522 of this title; and

(B) with reference to a partnership, financial condition such that the sum of such partnership's debts is greater than the aggregate of, at a fair valuation—

(i) all of such partnership's property, exclusive of property of the kind specified in subparagraph (A)(i) of this paragraph; and

(ii) the sum of the excess of the value of each general partner's separate property, exclusive of property of the kind specified in subparagraph (A)(ii) of this paragraph, over such partner's separate debts;

(27) "judicial lien" means lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding;

(28) "lien" means charge against or interest in property to secure payment of a debt or performance of an obligation;

(29) "municipality" means political subdivision or public agency or instrumentality of a State;

(30) "person" includes individual, partnership, and corporation, but does not include governmental unit;

(31) "petition" means petition filed under section 301, 302, 303, or 304 of this title, as the case may be, commencing a case under this title;

(32) "purchaser" means transferee of a voluntary transfer, and includes immediate or mediate transferee of such a transferee;

(33) "railroad" means common carrier by railroad engaged in the transportation of individuals or property, or owner of trackage facilities leased by such a common carrier;

(34) "relative" means individual related by affinity or consanguinity within the third degree as determined by the common law, or individual in a step or adoptive relationship within such third degree;

(35) "security"—

(A) includes—

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) debenture;

(vi) collateral trust certificate;

(vii) pre-organization certificate or subscription;

(viii) transferable share;

(ix) voting-trust certificate;

(x) certificate of deposit;

(xi) certificate of deposit for security;

(xii) investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of such Act (15 U.S.C. 77c(b)) from the requirement to file such a statement;

(xiii) interest of a limited partner in a limited partnership;

(xiv) other claim or interest commonly known as "security"; and

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but

(B) does not include—

(i) currency, check, draft, bill of exchange, or bank letter of credit;

(ii) leverage transaction, as defined in section 761(13) of this title;

(iii) commodity futures contract or forward commodity contract;

(iv) option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;

(v) option to purchase or sell a commodity;

(vi) contract or certificate specified in clause (xii) of subparagraph (A) of this paragraph that is not the subject of such a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or

(vii) debt or evidence of indebtedness for goods sold and delivered or services rendered;

(36) "security agreement" means agreement that creates or provides for a security interest;

(37) "security interest" means lien created by an agreement;

(38) "statutory lien" means lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute;

(39) "stockbroker" means person with re-

spect to which there is a customer, as defined in section 741(2) of this title, engaged in the business of effecting transactions in securities—

(A) for the account of others; or

(B) with members of the general public, from or for such person's own account; and

(40) "transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest.

§ 102. Rules of construction

In this title—

(1) "after notice and a hearing", or a similar phrase—

(A) means after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances; but

(B) authorizes an act without an actual hearing if such notice is given properly and if—

(i) such a hearing is not requested timely by a party in interest; or

(ii) there is insufficient time for a hearing to be commenced before such act must be done, and the court authorizes such act;

(2) "claim against the debtor" includes claim against property of the debtor;

(3) "includes" and "including" are not limiting;

(4) "may not" is prohibitive, and not permissive;

(5) "or" is not exclusive;

(6) "order for relief" means entry of an order for relief;

(7) the singular includes the plural; and

(8) a definition, contained in a section of this title that refers to another section of this title, does not, for the purpose of such reference, affect the meaning of a term used in such other section.

§ 103. Applicability of chapters

(a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, or 13 of this title.

(b) Subchapters I and II of chapter 7 of this title apply only in a case under such chapter.

(c) Subchapter III of chapter 7 of this title applies only in a case under such chapter concerning a stockholder.

(d) Subchapter IV of chapter 7 of this title applies only in a case under such chapter concerning a commodity broker.

(e) Except as provided in section 901 of this title, only chapters 1 and 9 of this title apply in a case under such chapter 9.

(f) Except as provided in section 901 of this title, subchapters I, II, and III of chapter 11 of this title apply only in a case under such chapter.

(g) Subchapter IV of chapter 11 of this title applies only in a case under such chapter concerning a railroad.

(h) Chapter 13 of this title applies only in a case under such chapter.

§ 104. Adjustment of dollar amounts

The Judicial Conference of the United States shall transmit to the Congress and to the President before May 1, 1985, and before May 1 of every sixth year after May 1, 1985, a recommendation for the uniform percentage adjustment of each dollar amount in this title and in section 1930 of title 28.

§ 105. Power of court

(a) The bankruptcy court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.

(b) Notwithstanding subsection (a) of this section, a bankruptcy court may not appoint a receiver in a case under this title.

§ 106. Waiver of sovereign immunity

(a) A governmental unit is deemed to have waived sovereign immunity with respect to any claim against such governmental unit that is property of the estate and that arose out of the same transaction or occurrence out of which such governmental unit's claim arose.

(b) There shall be offset against an allowed claim or interest of a governmental unit any claim against such governmental unit that is property of the estate.

(c) Except as provided in subsections (a) and (b) of this section and notwithstanding any assertion of sovereign immunity—

(1) a provision of this title that contains "creditor", "entity", or "governmental unit" applies to governmental units; and

(2) a determination by the court of an issue arising under such a provision binds governmental units.

§ 107. Public access to papers

(a) Except as provided in subsection (b) of this section, a paper filed in a case under this title and the dockets of a bankruptcy court are public records and open to examination by an entity at reasonable times without charge.

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

§ 108. Extension of time

(a) If applicable law, an order entered in a proceeding, or an agreement fixes a period within which the debtor may commence an action, and such period has not expired before the date of the filing of the petition, the trustee may commence such action only before the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; and

(2) two years after the order for relief.

(b) Except as provided in subsection (a) of this section, if applicable law, an order entered in a proceeding, or an agreement fixes a period within which the debtor or an individual protected under section 1301 of this title may file any pleading, demand, notice, or proof of claim or loss, cure a default, or perform any other similar act, and such period has not expired before the date of the filing of the petition, the trustee may only file, cure, or perform, as the case may be, before the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; and

(2) 60 days after the order for relief.

(c) Except as provided in section 524 of this title, if applicable law, an order entered in a proceeding, or an agreement fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor, or against an individual with respect to which such individual is protected under section 1301 of this title, and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; and

(2) 30 days after notice of the termination or expiration of the stay under section 362 or 1301 of this title, as the case may be, with respect to such claim.

§ 109. Who may be a debtor

(a) Notwithstanding any other provision of this section, only a person that resides in the United States, or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

(b) A person may be a debtor under chapter 7 of this title only if such person is not—

(1) a railroad;

(2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, or credit union; or

(3) a foreign insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, or credit union, engaged in such business in the United States.

(c) An entity may be a debtor under chapter 9 of this title if and only if such entity—

(1) is a municipality;

(2) is generally authorized to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter;

(3) is insolvent or unable to meet such entity's debts as such debts mature;

(4) desires to effect a plan to adjust such debts; and

(5)(A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(C) is unable to negotiate with creditors because such negotiation is impracticable; or

(D) reasonably believes that a creditor may attempt to obtain a preference.

(d) Only a person that may be a debtor under chapter 7 of this title, except a stockbroker or a commodity broker, and a railroad may be a debtor under chapter 11 of this title.

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000, or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000 may be a debtor under chapter 13 of this title.

CHAPTER 3—CASE ADMINISTRATION

SUBCHAPTER I—COMMENCEMENT OF A CASE

Sec.
301. Voluntary cases.
302. Joint cases.
303. Involuntary cases.
304. Cases ancillary to foreign proceedings.
305. Abstention.
306. Limited appearance.

SUBCHAPTER II—OFFICERS

321. Eligibility to serve as trustee.
322. Qualification of trustee.
323. Role and capacity of trustee.

324. Removal of trustee or examiner.
325. Effect of vacancy.
326. Limitation on compensation of trustee.
327. Employment of professional persons.
328. Limitation on compensation of professional persons.
329. Debtor's transactions with attorneys.
330. Compensation of officers.
331. Interim compensation.

SUBCHAPTER III—ADMINISTRATION

341. Meetings of creditors and equity security holders.
342. Notice.
343. Examination of the debtor.
344. Self-incrimination; immunity.
345. Money of estates.
346. Special tax provisions.
347. Unclaimed property.
348. Effect of conversion.
349. Effect of dismissal.
350. Closing and reopening cases.

SUBCHAPTER IV—ADMINISTRATIVE POWERS

361. Adequate protection.
362. Automatic stay.
363. Use, sale, or lease of property.
364. Obtaining credit.
365. Executory contracts and unexpired leases.
366. Utility service.

SUBCHAPTER I—COMMENCEMENT OF A CASE

§ 301. Voluntary cases

A voluntary case under a chapter of this title is commenced by the filing with the bankruptcy court of a petition under such chapter by an entity that may be a debtor under such chapter. The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

§ 302. Joint cases

(a) A joint case under a chapter of this title is commenced by the filing with the bankruptcy court of a single petition under such chapter by an individual that may be a debtor under such chapter and such individual's spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under such chapter.

(b) After the commencement of a joint case, the court shall determine the extent, if any, to which the debtors, estates shall be consolidated.

§ 303. Involuntary cases

(a) An involuntary case may be commenced only under chapter 7 or 11 of this title, and only against a person, except a farmer or a corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced.

(b) An involuntary case is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title—

(1) by three or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or an indenture trustee representing such a holder, if such claims aggregate at least $5,000 more than the value of any lien on property of the debtor securing such claims held by the holders of such claims;

(2) if there are fewer than 12 such holders, excluding any employee or insider of such person and any transferee of a transfer that is voidable under section 544, 545, 547, 548, 549, or 724(a) of this title, by one or more of such holders that hold in the aggregate at least $5,000 of such claims;

(3) if such person is a partnership—

(A) by fewer than all of the general partners in such partnership; or

(B) if relief has been ordered under this title with respect to all of the general partners in such partnership, by a general partner in such partnership, the trustee of such a general partner, or a holder of a claim against such partnership; or

(4) by a foreign representative of the estate in a foreign proceeding concerning such person.

(c) After the filing of a petition under this section but before the case is dismissed or relief is ordered, a creditor holding an unsecured claim that is not contingent, other than a creditor filing under subsection (b) of this section, may join in the petition with the same effect as if such joining creditor were a petitioning creditor under subsection (b) of this section.

(d) The debtor, or a general partner in a partnership debtor that did not join in the petition, may file an answer to a petition under this section.

(e) After notice and a hearing, and for cause, the court may require the petitioners under this section to file a bond to indemnify the debtor for such amounts as the court may later allow under subsection (i) of this section.

(f) Notwithstanding section 363 of this title, except to the extent that the court orders otherwise, and until an order for relief in the case, any business of the debtor may continue to operate, and the debtor may continue to use, acquire, or dispose of property as if an involuntary case concerning the debtor had not been commenced.

(g) At any time after the commencement of an involuntary case under chapter 7 of this title but before an order for relief in the case, the court, on request of a party in interest, after notice to the debtor and a hearing, and if necessary to preserve the property of the estate or to prevent loss to the estate, may appoint an interim trustee under section 701 of this title to take possession of the property of the estate and to operate any business of the debtor. Before an order for relief, the debtor may regain possession of property in the possession of a trustee ordered appointed under this subsection if the debtor files such bond as the court requires, conditioned on the debtor's accounting for and delivery to the trustee, if there is an order for relief in the case, such property, or the value, as of the date the debtor regains possession, of such property.

(h) If the petition is not timely controverted, the court shall order relief against the debtor in an involuntary case under the chapter under which the petition was filed. Otherwise, after trial, the court shall order relief against the debtor in an involuntary case under the chapter under which the petition was filed, only if—

(1) the debtor is generally not paying such debtor's debts as such debts become due; or

(2) within 120 days before the date of the filing of the petition, a custodian, other than a trustee, receiver, or agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession.

(i) If the court dismisses a petition under this section other than on consent of all petitioners and the debtor, and if the debtor does not waive the right to judgment under this subsection, the court may grant judgment—

(1) against the petitioners and in favor of the debtor for—

(A) costs;

(B) a reasonable attorney's fee; or

(C) any damages proximately caused by the taking of possession of the debtor's property by a trustee appointed under subsection (g) of this section or section 1104 of this title; or

(2) against any petitioner that filed the petition in bad faith, for—

(A) any damages proximately caused by such filing; or

(B) punitive damages.

(j) Only after notice to all creditors and a hearing may the court dismiss a petition filed under this section—

(1) on the motion of a petitioner;

(2) on consent of all petitioners and the debtors; or

(3) for want of prosecution.

(k) Notwithstanding subsection (a) of this section, an involuntary case may be commenced against a foreign bank that is not engaged in such business in the United States only under chapter 7 of this title and only if a foreign proceeding concerning such bank is pending.

§ 304. Cases ancillary to foreign proceedings

(a) A case ancillary to a foreign proceeding is commenced by the filing with the bankruptcy court of a petition under this section by a foreign representative.

(b) Subject to the provisions of subsection (c) of this section, if a party in interest does not timely controvert the petition, or after trial, the court may—

(1) enjoin the commencement or continuation of—

(A) any action against—

(i) a debtor with respect to property involved in such foreign proceeding; or

(ii) such property; or

(B) the enforcement of any judgment against the debtor with respect to such property, or any act or the commencement or continuation of any judicial proceeding to create or enforce a lien against the property of such estate;

(2) order turnover of the property of such estate, or the proceeds of such property, to such foreign representative, or

(3) order other appropriate relief.

(c) In determining whether to grant relief under subsection (b) of this section, the court shall be guided by what will best assure an economical and expeditious administration of such estate, consistent with—

(1) just treatment of all holders of claims against or interests in such estate;

(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

(3) prevention of preferential or fraudulent dispositions of property of such estate;

(4) distribution of proceeds of such estate substantially in accordance with the order prescribed by this title;

(5) comity; and

(6) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

§ 305. Abstention

(a) The court, after notice and a hearing, may dismiss a case under this title, or may suspend all proceedings in a case under this title, at any time if—

(1) the interests of creditors and the debtor would be better served by such dismissal or suspension; or

(2)(A) there is pending a foreign proceeding; and

(B) the factors specified in section 304(c) of this title warrant such dismissal or suspension.

(b) A foreign representative may seek dismissal or suspension under subsection (a)(2) of this section.

(c) An order under subsection (a) of this section dismissing a case or suspending all proceedings in a case, or a decision not so to dismiss or suspend, is not reviewable by appeal or otherwise.

§ 306. Limited appearance

An appearance in a bankruptcy court by a foreign representative in connection with a petition on request under section 303, 304, or 305 of this title does not submit such foreign representative to the jurisdiction of any court in the United States for any other

purpose, but the bankruptcy court may condition any order under section 303, 304, or 305 of this title on compliance by such foreign representative with the orders of such bankruptcy court.

SUBCHAPTER II—OFFICERS

§ 321. Eligibility to serve as trustee

(a) A person may serve as trustee in a case under this title only if such person is—

(1) an individual that is competent to perform the duties of trustee and, in a case under chapter 7 or 13 of this title, resides or has an office in the judicial district within which the case is pending, or in any judicial district adjacent to such district; or

(2) a corporation authorized by such corporation's charter or bylaws to act as trustee, and, in a case under chapter 7 or 13 of this title, having an office in at least one of such districts.

(b) A person that has served as an examiner in a case may not serve as trustee in the case.

§ 322. Qualification of trustee

(a) A person selected under section 701, 702, 703, 1104, 1163, or 1302 of this title to serve as trustee in a case under this title qualifies if before five days after such selection, and before beginning official duties, such person has filed with the court a bond in favor of the United States conditioned on the faithful performance of such official duties.

(b) The court shall determine—

(1) the amount of a bond filed under subsection (a)(2) of this section; and

(2) the sufficiency of the surety on such bond.

(c) A trustee is not liable personally or on such trustee's bond in favor of the United States for any penalty or forfeiture incurred by the debtor.

(d) A proceeding on a trustee's bond may not be commenced after two years after the date on which such trustee was discharged.

§ 323. Role and capacity of trustee

(a) The trustee in a case under this title is the representative of the estate.

(b) The trustee in a case under this title has capacity to sue and be sued.

§ 324. Removal of trustee or examiner

The court, after notice and a hearing, may remove a trustee or an examiner, for cause.

§ 325. Effect of vacancy

A vacancy in the office of trustee during a case does not abate any pending action or proceeding, and the successor trustee shall be substituted as a party in such action or proceeding.

§ 326. Limitation on compensation of trustee

(a) In a case under chapter 7 or 11, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee's services, payable after the trustee renders such services, not to exceed fifteen percent on the first $1,000 or less, six percent on any amount in excess of $1,000 but not in excess of $3,000, three percent on any amount in excess of $3,000 but not in excess of $20,0000, two percent on any amount in excess of $20,000 but not in excess of $50,000, and one percent on any amount in excess of $50,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims.

(b) In a case under chapter 13 of this title, the court may not allow compensation for services or reimbursement of expenses of a standing trustee appointed under section 1302(d) of this title, but may allow reasonable compensation under section 330 of this title of a trustee appointed under section 1302(a) of this title for the trustee's services, payable after the trustee renders such services, not to exceed five percent upon all payments under the plan.

(c) If more than one person serves as trustee in the case, the aggregate compensation of such persons for such service may not exceed the maximum compensation prescribed for a single trustee by subsection (a) or (b) of this section, as the case may be.

(d) The court may deny allowance of compensation for services and reimbursement of expenses of the trustee if the trustee—

(1) failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title; or

(2) with knowledge of such facts, employed a professional person under section 327 of this title.

§ 327. Employment of professional persons

(a) Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

(b) If the trustee is authorized to operate the business of the debtor under section 721 or 1108 of this title, and if the debtor has regularly employed attorneys, accountants, or other professional persons on salary, the trustee may retain or replace such professional persons if necessary in the operation of such business.

(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, but may not, while employed by the trustee, represent, in connection with the case, a creditor.

(d) The court may authorize the trustee to act as attorney or accountant for the estate if such authorization is in the best interest of the estate.

(e) The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

(f) The trustee may not employ a person that has served as an examiner in the case.

§ 328. Limitation on compensation of professional persons

(a) The trustee, or a committee appointed under section 1102 of this title, with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis. Notwithstanding such terms and conditions, the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments unanticipatable at the time of the fixing of such terms and conditions.

(b) If the court has authorized a trustee to serve as an attorney or accountant for the estate under section 327(d) of this title, the court may allow compensation for the trustee's services as such attorney or accountant only to the extent that the trustee performed services as attorney or accountant for the estate and not for performance of any of the trustee's duties that are generally performed by a trustee without the assistance of an attorney or accountant for the estate.

(c) Except as provided in section 327(c), 327(e), or 1107(b) of this title, the court may deny allowance of compensation for services and reimbursement of expenses of a professional person employed under section 327 or 1103 of this title if, at any time during such professional person's employment under section 327 or 1103 of this title, such professional person is not a disinterested person, or represents or holds an interest adverse to the interest of the estate with respect to the matter on which such professional person is employed.

§ 329. Debtor's transactions with attorneys

(a) Any attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of and in connection with the case by such attorney, and the source of such compensation.

(b) If such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to the extent excessive, to—

(1) the trustee, if the property transferred—

(A) would have been property of the estate; or

(B) was to be paid by or on behalf of the debtor under a plan under chapter 11 or 13 of this title; or

(2) the entity that made such payment.

§ 330. Compensation of officers

(a) After notice to any parties in interest and to the United States trustee and a hearing, and subject to sections 326, 328, and 329 of this title, the court may award to a trustee, to an examiner, to a professional person employed under section 327 or 1103 of this title, or to the debtor's attorney—

(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be, and by any paraprofessional persons employed by such trustee, professional person, or attorney, as the case may be, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title; and

(2) reimbursement for actual, necessary expenses.

(b) There shall be paid from the filing fee in a case under chapter 7 of this title $20 to the trustee serving in such case, after such trustee's services are rendered.

§ 331. Interim compensation

A trustee, an examiner, a debtor's attorney, or any professional person employed under section 327 or 1103 of this title may apply to the court not more than once every 120 days after an order for relief in a case under this title, or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under section 330 of this title. After notice and a hearing, the court may allow and disburse to such applicant such compensation or reimbursement.

SUBCHAPTER III—ADMINISTRATION

§ 341. Meetings of creditors and equity security holders

(a) Within a reasonable time after the order for relief in a case under this title, there shall be a meeting of creditors.

(b) The court may order a meeting of any equity security holders.

(c) The court may not preside at, and may not attend, any meeting under this section.

§ 342. Notice

There shall be given such notice as is appropriate of an order for relief in a case under this title.

§ 343. Examination of the debtor

The debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of this title. Creditors, any indenture trustee, or any trustee or examiner in the case may examine the debtor.

§ 344. Self-incrimination; immunity

Immunity for persons required to submit to examination, to testify, or to provide information in a case under this title may be granted under part V of title 18.

§ 345. Money of estates

(a) A truste in a case under this title may make such deposit or investment of the money of the estate for which such trustee serves as will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment.

(b) Except with respect to a deposit or investment that is insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States, the trustee shall require from an entity with which such money is deposited or invested—

(1) a bond—

(A) in favor of the United States;

(B) secured by the undertaking of a corporate surety approved by the court for the district in which the case is pending; and

(C) conditioned on—

(i) a proper accounting of all money so deposited or invested and for any return on such money;

(ii) prompt repayment of such money and return; and

(iii) faithful performance of duties as a depository; or

(2) the deposit of securities of the kind specified in section 15 of title 6.

§ 346. Special tax provisions

(a) Except to the extent otherwise provided in this section, subsections (b), (c), (d), (e), (g), (h), (i), and (j) of this section apply notwithstanding any State or local law imposing a tax, but subject to the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b)(1) In a case under chapter 7 or 11 of this title concerning an individual, any income of the estate may be taxed under a State or local law imposing a tax on or measured by income only to the estate, and may not be taxed to such individual. Except as provided in section 728 of this title, if such individual is a partner in a partnership, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of income, gain, loss, deduction, or credit of such individual that is distributed, or considered distributed, from such partnership, after the commencement of the case is gain, loss, income, deduction, or credit, as the case may be, of the estate.

(2) Except as otherwise provided in this section and in section 728 of this title, any income of the estate in such a case, and any State or local tax on or measured by such income, shall be computed in the same manner as the income and the tax of an estate.

(3) The estate in such a case shall use the same accounting method as the debtor used immediately before the commencement of the case.

(c)(1) The commencement of a case under this title concerning a corporation or a partnership does not effect a change in the status of such corporation or partnership for the puropses of any State or local law imposing a tax on or measured by income. Except as otherwise provided in this section and in section 728 of this title, any income of the estate in such case may be taxed only as though such case had not been commenced.

(2) In such a case, except as provided in section 728 of this title, the trustee shall make any tax return otherwise required by State or local law to be filed by or on behalf of such corporation or partnership in the same manner and form as such corporation or partnership, as the case may be, is required to make such return.

(d) In a case under chapter 13 of this title, any income of the estate or the debtor may be taxed under a State or local law imposing a tax on or measured by income only to the debtor, and may not be taxed to the estate.

(e) A claim allowed under section 502(f) or 503 of this title, other than a claim for a tax that is not otherwise deductible or a capital expenditure that is not otherwise deductible, is deductible by the entity to which income of the estate is taxed unless such claim was deducted by another entity, and a deduction for such a claim is deemed to be a deduction attributable to a business.

(f) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld was paid.

(g)(1) Neither gain nor loss shall be recognized on a transfer—

(A) by operation of law, of property to the estate;

(B) other than a sale, of property from the estate to the debtor; or

(C) in a case under chapter 11 of this title concerning a corporation, of property from the estate to a corporation that is an affiliate participating in a joint plan with the debtor, or that is a successor or to the debtor under the plan, except that gain or loss may be recognized to the same extent that such transfer results in the recognition of gain or loss under section 371 of the Internal Revenue Code of 1954 (26 U.S.C. 371).

(2) The transferee of a transfer of a kind specified in this subsection shall take the property transferred with the same character, and with the transferor's basis, as adjusted under subsection (j)(5) of this section, and holding period.

(h) Notwithstanding sections 728(a) and 1146(a) of this title, for the purpose of determining the number of taxable periods during which the debtor or the estate may use a loss carryover or a loss carryback, the taxable period of the debtor during which the case is commenced is deemed not to have been terminated by such commencement.

(i)(1) In a case under chapter 7 of 11 of this title concerning an individual, the estate shall succeed to the debtor's tax attributes, including—

(A) any investment credit carryover;

(B) any recovery exclusion;

(C) any loss carryover;

(D) any foreign tax credit carryover;

(E) any capital loss carryover; and

(F) any claim of right.

(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) of this subsection but that was not utilized by the estate. The debtor may utilize such tax attributes as though any applicable time limitations on such utilization by the debtor were suspended during the time during which the case was pending.

(3) In such a case, the estate may carry back any loss of the estate to a taxable period of the debtor that ended before the order for relief under such chapter the same as the debtor could have carried back such loss had the debtor incurred such loss and the case under this title had not been commenced, but the debtor may not carry back any loss of the debtor from a taxable period that ends after such order to any taxable period of the debtor that ended before such order until after the case is closed.

(j)(1) Except as otherwise provided in this subsection, income is not realized by the estate, the debtor, or a successor to the debtor by reason of forgiveness or discharge of indebtedness in a case under this title.

(2) For the purposes of any State or local law imposing a tax on or measured by income, a deduction with respect to a liability may not be allowed for any taxable period during or after which such liability is forgiven or discharged under this tile. In this paragraph, "a deduction with respect to a liability" includes a capital loss incurred on the disposition of a capital asset with respect to a liability that was incurred in connection with the acquisition of such asset.

(3) Except as provided in paragraph (4) of this subsection, for the purpose of any State or local law imposing a tax on or measured by income, any net operating loss of an individual or corporate debtor, including a net operating loss carryover to such debtor, shall be reduced by the amount of indebtedness forgiven or discharged in a case under this title, except to the extent that such forgiveness or discharge resulted in a disallowance under paragraph (2) of his subsection.

(4) A reduction of a net operating loss or a net operating loss carryover under paragraph (3) of this subsection or of basis under paragraph (5) of this subsection is not required to the extent that the indebtedness of an individual or corporate debtor forgiven or discharged—

(A) consisted of items of a deductible nature that were not deducted by such debtor; or

(B) resulted in an expired net operating loss carryover or other deduction that—

(i) did not offset income for any taxable period; and

(ii) did not contribute to a net operating loss in or a net operating loss carryover to the taxable period during or after which such indebtedness was discharged.

(5) For the purposes of a State or local law imposing a tax on or measured by income, the basis of the debtor's property or of property transferred to an entity required to use the debtor's basis in whole or in part shall be reduced by the lesser of—

(A)(i) the amount by which the indebtedness of the debtor has been forgiven or discharged in a case under this title; minus

(ii) the total amount of adjustments made under paragraphs (2) and (3) of this subsection; and

(B) the amount by which the total basis of the debtor's assets that were property of the estate before such forgiveness or discharge exceeds the debtor's total liabilities that were liabilities both before and after such forgiveness or discharge.

(6) Notwithstanding paragraph (5) of this subsection, basis is not required to be reduced to the extent that the debtor elects to treat as taxable income, of the taxable period in which indebtedness is forgiven or discharged, the amount of indebtedness forgiven or discharged that otherwise would be applied in reduction of basis under paragraph (5) of this subsection.

(7) For the purposes of this subsection indebtedness with respect to which an equity security, other than an interest of a limited partner in a limited partnership, is issued to the creditor to whom such indebtedness was owned, or that is forgiven as a contribution to capital by an equity security holder other than a limited partner in the debtor, is not

forgiven or discharged in a case under this title—

(A) to any extent that such indebtedness did not consist of items of a deductible nature; or

(B) if the issuance of such equity security has the same consequences under a law imposing a tax on or measured by income to such creditor as a payment in cash to such creditor in an amount equal to the fair market value of such equity security, then to the lesser of—

(i) the extent that such issuance has the same such consequences; and

(ii) the extent of such fair market value.

§ 347. Unclaimed property

(a) Ninety days after the final distribution under section 726 or 1326 of this title in a case under chapter 7 or 13 of this title, as the case may be, the trustee shall stop payment on any check remaining unpaid, and any remaining property of the estate shall be paid into the court and disposed of under chapter 129 of title 28.

(b) Any security, money, or other property remaining unclaimed at the expiration of the time allowed in a case under chapter 9 or 11 of this title for the presentation of a security or the performance of any other act as a condition to participation in the distribution under any plan confirmed under section 943(b), 1129, or 1173 of this title, as the case may be, becomes the property of the debtor or of the entity acquiring the assets of the debtor under the plan, as the case may be.

§ 348. Effect of conversion

(a) Conversion of a case from a case under one chapter of this title to a case under another chapter of this title constitutes an order for relief under the chapter to which the case is converted, but, except as provided in subsections (b) and (c) of this section, does not effect a change in the date of the filing of the petition, the commencement of the case, or the order for relief.

(b) Unless the court for cause orders otherwise, in sections 701(a), 727(a)(10), 727(b), 728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), and 1328(a) of this title, "the order for relief under this chapter" in a chapter to which a case has been converted under section 706, 1112, or 1307 of this title means the conversion of such case to such chapter.

(c) Sections 342(a) and 365(d) of this title apply in a case that has been converted under section 706, 1112, or 1307 of this title, as if the conversion order were the order for relief.

(d) A claim against the estate or the debtor that arises after the order for relief but before conversion in a case that is converted under section 1112 or 1307 of this title other than a claim specified in section 503(b) of this title, shall be treated for all purposes as if such claim had arisen immediately before the date of the filing of the petition.

(e) Conversion of a case under section 706, 1112, or 1307 of this title terminates the service of any trustee or examiner that is serving in the case before such conversion.

§ 349. Effect of dismissal

(a) Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed.

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2) or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

(3) revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.

§ 350. Closing and reopening cases

(a) After an estate is fully administered and the court has discharged the trustee, the court shall close the case.

(b) A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.

SUBCHAPTER IV—ADMINISTRATIVE POWERS

§ 361. Adequate protection

When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by—

(1) requiring the trustee to make periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of such entity's interest in such property; or

(3) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

§ 362. Automatic stay

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning the debtor.

(b) The filing of a petition under section 301, 302, or 303 of this title does not operate as a stay—

(1) under subsection (a) of this section, of the commencement or continuation of a criminal action or proceeding against the debtor;

(2) under subsection (a) of this section, of the collection of alimony, maintenance, or support from property that is not property of the estate;

(3) under subsection (a) of this section, of any act to perfect an interest in property to the extent that the trustee's rights and powers are subject to such perfection under section 546(b) of this title;

(4) under subsection (a)(1) of this section, of the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;

(5) under subsection (a)(2) of this section, of the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;

(6) under subsection (a)(7) of this section, of the setoff of any mutual debt and claim that are commodity futures contracts, forward commodity contracts, leverage transactions, options, warrants, rights to purchase or sell commodity futures contracts or securities, or options to purchase or sell commodities or securities; or

(7) under subsection (a) of this section, of the issuance to the debtor by a governmental unit of a notice of tax deficiency.

(c) Except as provided in subsections (d), (e), and (f) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate; and

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; and

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, or 13 of this title, the time a discharge is granted or denied.

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest; or

(2) with respect to a stay of an act against property, if—

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization.

(e) Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending, or as a result of, a final hearing and determination under subsection (d) of this section. A hearing under that subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d) of this section. If the hearing under this subsection is a preliminary hearing—

(1) the court shall order such stay so continued if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the final hearing under subsection (d) of this section; and

(2) such final hearing shall be commenced within thirty days after such preliminary hearing.

(f) The court, without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to

the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d) or (e) of this section.

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section—

(1) the party requesting such relief has the burden of proof on the issue of the debtor's equity in property; and

(2) the party opposing such relief has the burden of proof on all other issues.

§ 363. Use, sale or lease of property

(a) In this section, "cash collateral" means cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents in which the estate and an entity other than the estate have an interest.

(b) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.

(c)(1) If the business of the debtor is authorized to be operated under section 721, 1108, or 1304 of this title and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

(2) The trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless—

(A) each entity that has an interest in such case collateral consents; or

(B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

(3) Any hearing under paragraph (2)(B) of this subsection may be a preliminary hearing or may be consolidated with a hearing under subsection (e) of this section, but shall be scheduled in accordance with the needs of the debtor. If the hearing under paragraph (2)(B) of this subsection is a preliminary hearing, the court may authorize such use, sale, or lease only if there is a reasonable likelihood that the trustee will prevail at the final hearing under subsection (e) of this section. The court shall act promptly on any request for authorization under paragraph (2)(B) of this subsection.

(4) Except as provided in paragraph (2) of this subsection, the trustee shall segregate and account for any cash collateral in the trustee's possession, custody, or control.

(d) The trustee may use, sell, or lease property under subsection (b) or (c) of this section only to the extent not inconsistent with any relief granted under section 362(c), 362(d), 362(e), or 362(f) of this title.

(e) Notwithstanding any other provision of this section, at any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the trustee, the court shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest. In any hearing under this section, the trustee has the burden of proof on the issue of adequate protection.

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of such interest;

(4) such interest is in bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

(g) Notwithstanding subsection (f) of this section, the trustee may sell property under subsection (b) or (c) of this section free and clear of any vested or contingent right in the nature of dower or curtesy.

(h) Notwithstanding subsection (f) of this section, the trustee may sell both the estate's interest, under subsection (b) or (c) of this section, and the interest of any co-owner in property in which the debtor had, immediately before the commencement of the case, an undivided interest as a tenant in common, joint tenant, or tenant by the entirety, only if—

(1) partition in kind of such property among the estate and such co-owners is impracticable;

(2) sale of the estate's undivided interest in such property would realize significantly less for the estate than sale of such property free of the interests of such co-owners;

(3) the benefit to the estate of a sale of such property free of the interests of co-owners outweighs the detriment, if any, to such co-owners; and

(4) such property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light, or power.

(i) Before the consummation of a sale of property to which subsection (g) or (h) of this section applies, or of property of the estate that was community property of the debtor and the debtor's spouse immediately before the commencement of the case, the debtor's spouse, or a co-owner of such property, as the case may be, may purchase such property at the price at which such sale is to be consummated.

(j) After a sale of property to which subsection (g) or (h) of this section applies, the trustee shall distribute to the debtor's spouse or the co-owners of such property, as the case may be, and to the estate, the proceeds of such sale, less the costs and expenses, not including any compensation of the trustee, of such sale, according to the interests of such spouse or co-owners, and of the estate.

(k) At a sale under subsection (b) of this section of property that is subject to a lien that secures an allowed claim, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property.

(l) The trustee may use, sell, or lease property under subsection (b) or (c) of this section, or a plan under chapter 11 or 13 of this title may provide for the use, sale, or lease of property, notwithstanding any provision in a contract, a lease, or applicable law that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title concerning the debtor, or on the appointment of a taking possession by a trustee in a case under this title or a custodian, and that effects, or gives an option to effect, a forfeiture, modification, or termination of the debtor's interests in such property.

(m) The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

(n) The trustee may void a sale under this section if the sale price was controlled by an agreement among potential bidders at such sale, or may recover from a party to such agreement any amount by which the value of the property sold exceeds the price at which such sale was consummated, and may recover any costs, attorneys' fees, or expenses incurred in voiding such sale or recovering such amount. The court may grant judgment in favor of the estate and against any such party that entered into such agreement in willful disregard of this subsection for punitive damages in addition to any recovery under the preceding sentence.

§ 364. Obtaining credit

(a) If the trustee is authorized to operate the business of the debtor under section 721, 1108, or 1304 of this title, unless the court orders otherwise, the trustee may obtain unsecured credit and incur unsecured debt in the ordinary course of business allowable under section 503(b)(1) of this title as an administrative expense.

(b) The court, after notice and a hearing, may authorize the trustee to obtain unsecured credit or to incur unsecured debt other than under subsection (a) of this section, allowable under section 503(b)(1) of this title as an administrative expense.

(c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—

(1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

(3) secured by a junior lien on property of the estate that is subject to a lien.

(d)(1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if—

(A) the trustee is unable to obtain such credit otherwise; and

(B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

(2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

(e) The reversal or modification on appeal of an authorization under this section to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

(f) Except with respect to an entity that is an underwriter as defined in section 1145(b) of this title, section 5 of the Securities Act of 1933 (15 U.S.C. 77e), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), and any State or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security does not apply to the offer or sale under this section of a security that is not an equity security.

§ 365. Executory contracts and unexpired leases

(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(3) For the purposes of paragraph (1) of this section, adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

(A) of the source of rent and other consideration due under such lease;

(B) that any percentage rent due under such lease will not decline substantially;

(C) that assumption or assignment of such lease will not breach substantially any provision, such as a radius, location, use, or exclusivity provision, in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt substantially any tenant mix or balance in such shopping center.

(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

(c) The trustee may not assume or assign an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(1)(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(B) such party does not consent to such assumption or assignment; or

(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of the debtor at any time before the confirmation of a plan, but the court, on request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

(e)(1) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(2) Paragraph (1) of this subsection does not apply to an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegations of duties, if—

(A)(i) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or to an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(ii) such party does not consent to such assumption or assignment; or

(B) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

(f)(1) Except as provided in subsection (c) of this section, notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection.

(2) The trustee may assign an executory contract or unexpired lease of the debtor only if—

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

(3) Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.

(g) Except as provided in subsection (h)(2) and (i)(2) of this section, the rejection of an executory contract or unexpired lease of the debtor constitutes a breach of such contract or lease—

(1) if such contract or lease has not been assumed under this section or under a plan confirmed under chapter 9, 11, or 13 of this title, immediately before the date of the filing of the petition; or

(2) if such contract or lease has been assumed under this section or under a plan confirmed under chapter 9, 11, or 13 of this title—

(A) if before such rejection the case has not been converted under section 1112 or 1307 of this title, at the time of such rejection; or

(B) if before such rejection the case has been converted under section 1112 or 1307 of this title—

(i) immediately before the date of such conversion, if such contract or lease was assumed before such conversion; or

(ii) at the time of such rejection, if such contract or lease was assumed after such conversion.

(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, the lessee under such lease may treat the lease as terminated by such rejection, or, in the alternative, may remain in possession for the balance of the term of such lease and any renewal or extension of such term that is enforceable by such lessee under applicable nonbankruptcy law.

(2) If such lessee remains in possession, such lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease, and any such renewal or extension, any damages occurring after such date caused by the non-performance of any obligation of the debtor after such date, but such lessee does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset.

(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in, the alternative, may remain in possession of such real property.

(2) If such purchaser remains in possession—

(A) such purchaser shall continue to make all payments due under such contract, but may, offset against such payments any damages occurring after the date of the rejection of such contract caused by the non-performance of any obligation of the debtor after such date, but such purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset; and

(B) the trustee shall deliver title to such purchaser in accordance with the provisions of such contract, but is relieved of all other obligations to perform under such contract.

(j) A purchaser that treats an executory contract as terminated under subsection (i) of this section, or a party whose executory contract to purchase real property from the debtor is rejected and under which such party is not in possession, has a lien on the interest of the debtor in such property for the recovery of any portion of the purchase price that such purchaser or party has paid.

(k) Assignment by the trustee to an entity of a contract or lease assumed under this section relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment.

§ 366. Utility service

(a) Except as provided in subsection (b) of this section, a utility may not later, refuse, or discontinue service to, or discriminate against, the trustee or the debtor solely on the basis that a debt owed by the debtor to such utility for service rendered before the order for relief was not paid when due.

(b) Such utility may alter, refuse, or discontinue service if neither the trustee nor the debtor, within 20 days after the date of the order for relief, furnishes adequate assurance of payment, in the form of a deposit or other security, for service after such date. On request of a party in interest and after notice and a hearing, the court may order reasonable modification of the amount of the deposit or other security necessary to provide adequate assurance of payment.

CHAPTER 5—CREDITORS, THE DEBTOR, AND THE ESTATE

SUBCHAPTER I—CREDITORS AND CLAIMS

Sec.
501. Filing of proofs of claims or interests.
502. Allowance of claims or interests.
503. Allowance of administrative expenses.
504. Sharing of compensation.

505. Determination of tax liability.
506. Determination of secured status.
507. Priorities.
508. Effect of distribution other than under this title.
509. Claims of codebtors.
510. Subordination.

SUBCHAPTER II—DEBTORS DUTIES AND BENEFITS

521. Debtor's duties.
522. Exemptions.
523. Exceptions to discharge.
524. Effect of discharge.
525. Protection against discriminatory treatment.

SUBCHAPTER III—THE ESTATE

541. Property of the estate.
542. Turnover of property to the estate.
543. Turnover of property by a custodian.
544. Trustee as lien creditor and as successor to certain creditors and purchasers.
545. Statutory liens.
546. Limitations on avoiding powers.
547. Preferences.
548. Fraudulent transfers and obligations.
549. Postpetition transactions.
550. Liability of transferee of avoided transfer.
551. Automatic preservation of avoided transfer.
552. Postpetition effect of security interest.
553. Setoff.
554. Abandonment of property of the estate.

SUBCHAPTER I—CREDITORS AND CLAIMS

§ 501. Filing of proofs of claims or interests

(a) A creditor or an indenture trustee may file a proof of claim. An equity security holder may file a proof of interest.

(b) If a creditor does not timely file a proof of such creditor's claims, an entity that is liable to such creditor with the debtor, or that has secured such creditor, may file a proof of such claim.

(c) If a creditor does not timely file a proof of such creditor's claim, the debtor or the trustee may file a proof of such claim.

(d) A claim of a kind specified in section 502(f), 502(g), 502(h) or 502(i) of this title may be filed under subsection (a), (b), or (c) of this section the same as if such claim were a claim against the debtor and had arisen before the date of the filing of the petition.

§ 502. Allowance of claims or interests

(a) A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest, including a creditor of a partner in a partnership that is a debtor in a case under chapter 7 of this title, objects.

(b) Except as provided in subsections (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor, and unenforceable against property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

(2) such claim is for unmatured interest;

(3) such claim may be offset under section 553 of this title against a debt owing to the debtor;

(4) if such claim is for a tax assessed against property of the estate, such claim exceeds value of the interest of the estate in such property;

(5) if such claim is for services of an insider or attorney of the debtor, such claim exceeds the reasonable value of such services;

(6) the claim is for a debt that is unmatured on the date of the filing of the petition, and that is excepted from discharge under section 523(a)(5) of this title;

(7) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

(A) the rent reserevd by such lease, without acceleration, for the greater of one year, or 15 percent, not to exceed three years, of the remaining term of such lease, following the earlier of—

(i) the date of the filing of the petition; and

(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property; plus

(B) any unpaid rent due under such lease, without acceleration, on the earlier of such dates;

(8) if such claim is for damages resulting from the termination of an employment contract, such claim exceeds—

(A) the compensation provided by such contract, without acceleration, for one year following the earlier of—

(i) the date of the filing of the petition; and

(ii) the date on which the employer directed the employee to terminate, or such employee terminated, performance under such contract; plus

(B) the unpaid compensation due under contract without acceleration, on the earlier of such dates; or

(9) such claim results from a reduction, due to late payment, in the amount of an otherwise applicable credit available to the debtor in connection with an employment tax on wages, salaries, or commissions earned from the debtor.

(c) There shall be estimated for purpose of allowance under this section—

(1) any contingent or unliquidated claim, fixing or liquidation of which, as the case may be, would unduly delay the closing of the case; or

(2) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment.

(d) Notwithstanding subsections (a) and (b) of this section, the court shall disallow any claim of any entity from which property is recoverable under section 542, 543, 550, or 553 of this title or that is a transferee of a transfer avoidable under section 552(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of this title, unless such entity or transferee has paid the amount, or turned over any such property, for which such entity or transferee is liable under section 522(i), 542, 543, 550, or 553 of this title.

(e)(1) Notwithstanding subsections (a) and (b) of this section and paragraph (2) of this subsection, the court shall disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on, or has secured, the claim of a creditor, to the extent that—

(A) such creditor's claim against the estate is disallowed;

(B) such claim for reimbursement or contribution is contingent as of the time of allowance of such claim for reimbursement or contribution; or

(C) such entity requests subrogation under section 509 of this title to the rights of such creditor.

(2) A claim for reimbursement or contribution of such an entity that becomes fixed after the commencement of the case shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) of this section, the same as if such claim had become fixed before the date of the filing of the petition.

(f) In an involuntary case, a claim arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee and the order for relief shall be determined as of the date such claim arises, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(g) A claim arising from the rejection, under section 365 of this title or under a plan under chapter 9, 11, or 13 of this title, of an executory contract or unexpired lease of the debtor that has not been assumed shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(h) A claim arising from the recovery of property under section 522(i), 550, or 553 of this title shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(i) A claim that does not arise until after the commencement of the case for a tax entitled to priority under section 507(a)(6) of this title shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(j) Before a case is closed, a claim that has been allowed may be reconsidered for cause, and reallowed or disallowed according to the equities of the case.

§ 503. Allowance of administrative expenses

(a) An entity may file a request for payment of an administrative expense.

(b) After notice and a hearing, there shall be allowed, administrative expenses, other than claims allowed under section 502(f) of this title, including—

(1)(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case;

(B) any tax—

(i) incurred by the estate, except a tax of a kind specified in section 507(a)(6) of this title; or

(ii) attributable to an excessive allowance of a tentative carryback adjustment that the estate received, whether the taxable year to which such adjustment relates ended before or after the commencement of the case; and

(C) any fine, penalty, or reduction in credit, relating to a tax of a kind specified in subparagraph (B) of this paragraph;

(2) compensation and reimbursement awarded under section 330 of this title;

(3) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (4) of this subsection, incurred by—

(A) a creditor that files a petition under section 303 of this title;

(B) a creditor that recovers, after the court's approval, for the benefit of the estate any proprety transferred or concealed by the debtor;

(C) a creditor in connection with the prosecution of a criminal offense relating to the case, or to the business or property of the debtor;

(D) a creditor, an indenture trustee, an equity security holder, or a committee representing creditors or equity security holders other than a committee appointed under section 1102 of this title, in making a substantial contribution in a case under chapter 9 or 11 of this title; or

(E) a custodian superseded under section 543 of this title, and compensation for the services of such custodian;

(4) reasonable compensation for professional services rendered by an attorney or

an accountant of an entity whose expense is allowable under paragraph (3) of this subsection, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title, and reimbursement for actual, necessary expenses incurred by such attorney or accountant;

(5) reasonable compensation for services rendered by an indenture trustee in making a substantial contribution in a case under chapter 9 or 11 of this title, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title; and

(6) the fees and mileage payable under chapter 119 of title 28.

§ 504. Sharing of compensation

(a) Except as provided in subsection (b) of this section, a person receiving compensation or reimbursement under section 503(b)(2) or 503(b)(4) of this title may not share or agree to share—

(1) any such compensation or reimbursement with another person; or

(2) any compensation or reimbursement received by another person under such sections.

(b)(1) A member, partner, or regular associate in a professional association, corporation, or partnership may share compensation or reimbursement received under section 503(b)(2) or 503(b)(4) of this title with another member, partner, or regular associate in such association, corporation, or partnership, and may share in any compensation or reimbursement received under such sections by another member, partner, or regular associate in such association, corporation, or partnership.

(2) An attorney for a creditor that files a petition under section 303 of this title may share compensation and reimbursement received under section 503(b)(4) of this title with any other attorney contributing to the services rendered or expenses incurred by such creditor's attorney.

§ 505. Determination of tax liability

(a)(1) Except as provided in paragraph (2) of this subsection, the court may determine the amount or legality of any tax, any fine or penalty relating to a tax, or any addition to tax, whether or not previously assesssed, whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction.

(2) The court may not so determine—

(A) the amount or legality of a tax, fine, penalty, or addition to tax if such amount or legality was contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction before the commencement of the case under this title; or

(B) any right of the estate to a tax refund, before the earlier of—

(i) 120 days after the trustee properly requests such refund from the governmental unit from which such refund is claimed; and

(ii) a determination by such governmental unit of such request.

(b) A trustee may request a determination of any unpaid liability of the estate for any tax incurred during the administration of the case by submitting a tax return for such tax and a request for such a determination to the governmental unit charged with responsibility for collection or determination of such tax. Unless such return is fraudulent, or contains a material misrepresentation, the trustee, the debtor, and any successor to the debtor are discharged from any liability for such tax—

(1) upon payment of the tax shown on such return, if—

(A) such governmental unit does not notify the trustee, within 60 days after such request, that such return has been selected for examination; or

(B) such governmental unit does not complete such an examination and notify the trustee of any tax due, within 180 days after such request or within such additional time as the court, for cause, permits;

(2) upon payment of the tax determined by the court, after notice and a hearing, after completion by such governmental unit of such examination; or

(3) upon payment of the tax determined by such governmental unit to be due.

(c) Notwithstanding section 362 of this title, after determination by the court of a tax under this section, the governmental unit charged with responsibility for collection of such tax may assess such tax against the estate, the debtor, or a successor to the debtor, as the case may be, subject to any otherwise applicable law.

§ 506. Determination of secured status

(a) An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan effecting such creditor's interest.

(b) To the extent that an allowed secured claim is secured by property the value of which, after any recovery under subsection (c) of this section, is greater than the amount of such claim, there shall be allowed to the holder of such claim, interest on such claim, and any reasonabe fees, costs, or charges provided under the agreement under which such claim arose.

(c) The trustee may recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or disposing of, such property to the extent of any benefit to the holder of such claim.

(d) To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void, unless—

(1) a party in interest has not requested that the court determine and allow or disallow such claim under section 502 of this title; or

(2) such claim was disallowed only under section 502(e) of the title.

§ 507. Priorities

(a) The following expenses and claims have priority in the following order:

(1) First, administrative expenses allowed under section 503(b) of this title, and any fees and charges assessed against the estate under chapter 123 of title 28.

(2) Second, unsecured claims allowed under section 502(f) of this title.

(3) Third, allowed unsecured claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay—

(A) earned by an individual within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

(B) to the extent of $2,000 for each such individual.

(4) Fourth, allowed unsecured claims for contributions to employee benefit plans—

(A) arising from services rendered within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

(B) for each such plan, to the extent of—

(i) the number of employees covered by such plan multiplied by $2,000; less

(ii) the aggregate amount paid to such employees under paragraph (3) of this section, plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

(5) Fifth, allowed unsecured claims of individuals, to the extent of $900 for each such individual, arising from the deposit, before the commencement of the case, of money in connection with the purchase, lease, or rental of property, or the purchase of services, for the personal, family, or household use of such individuals, that were not delivered or provided.

(6) Sixth, allowed unsecured claims of governmental units, to the extent that such claims are for—

(A) a tax on or measured by income or gross receipts—

(i) for a taxable year ending on or before the date of the filing of the petition for which a return, if required, is last due, including extensions, after three years before the date of the filing of the petition;

(ii) assessed within 240 days, plus any time plus 30 days during which an offer in compromise with respect to such tax that was made within 240 days after such assessment was pending before the date of the filing of the petition; or

(iii) not assessed before, but assessable, under applicable law or by agreement, after, the commencement of the case;

(B) a property tax assessed before the commencement of the case and last payable without penalty after one year before the date of the filing of the petition;

(C) a tax required to be collected or withheld and for which the debtor is liable in whatever capacity;

(D) an employment tax on a wage, salary, or commission of a kind specified in paragraph (3) of this subsection earned from the debtor before the date of the filing of the petition, whether or not actually paid before such date, for which a return is last due, under applicable law or under any extension, after three years before the date of the filing of the petition;

(E) an excise tax on—

(i) a transaction occurring before the date of the filing of the petition for which a return, if required, is last due, under applicable law or under any extension, after three years before the date of the filing of the petition; or

(ii) if a return is not required, a transaction occurring during the three years immediately preceding the date of the filing of the petition;

(F) a customs duty arising out of the importation of merchandise—

(i) entered for consumption within one year before the date of the filing of the petition;

(ii) covered by an entry liquidated or reliquidated within one year before the date of the filing of the petition; or

(iii) entered for consumption within four years before the date of the filing of the petition but unliquidated on such date, if the Secretary of the Treasury certifies that failure to liquidate such entry was due to an investigation pending on such date into assessment of antidumping or countervailing duties or fraud, or if information needed for the proper appraisement or classification of such merchandise was not available to the appropriate customs officer before such date; or

(G) a penalty related to a claim of a kind specified in this paragraph and in compensation for actual pecuniary loss.

(b) If the trustee, under section 362, 363, or 364 of this title, provides adequate protection of the interst of a holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection, such creditor has a claim allowable under subsection (a)(1) of this section arising from the stay of action against such property under section 362 of this title, from the use,

sale, or lease of such property under section 363 of this title, or from the granting of a lien under section 364(d) of this title, then such creditor's claim under such subsection shall have priority over every other claim allowable under such subsection.

(c) For the purpose of subsection (a) of this section, a claim of a governmental unit arising from an erroneous refund or credit of a tax shall be treated the same as a claim for the tax to which such refund or credit relates.

(d) An entity that is subrogated to the rights of a holder of a claim of a kind specified in subsection (a)(3), (a)(4), (a)(5), or (a)(6) of this section is not subrogated to the right of the holder of such claim to priority under such subsection.

§ 503. Effect of distribution other than under this title

(a) If a creditor receives, in a foreign proceeding, payment of, or a transfer of property on account of, a claim that is allowed under this title, such creditor may not receive any payment under this title on account of such claim until each of the other holders of claims on account of which such holders are entitled to share equally with such creditor under this title has received payment under this title equal in value to the consideration received by such creditor in such foreign proceeding.

(b) If a creditor of a partnership debtor receives, from a general partner that is not a debtor in a case under Chapter 7 of this title, payment of, or a transfer of property on account of, a claim that is allowed under this title and that is not secured by a lien on property of such partner, such creditor may not receive any payment under this title on account of such claim until each of the other holders of claims on account of which such holders are entitled to share equally with such creditor under this title has received payment under this title equal in value to the consideration received by such creditor from such general partner.

§ 509. Claims of codebtors

(a) Except as provided in subsections (b) and (c) of this section, an entity that is liable with the debtor on, or that has secured, a claim of a creditor, and that pays such claim, is subrogated to the rights of such creditor to the extent of such payment.

(b) Such entity is not subrogated to the rights of such creditor to the extent that—

(1) a claim of such entity for reimbursement or contribution on account of a payment of such creditor's claim is—

(A) allowed under section 502 of this title;

(B) disallowed other than under 502(e) of this title; or

(C) subordinated under section 510(a) or 510(c) of this title; or

(2) as between the debtor and such entity, such entity received the consideration for the claim held by such creditor.

(c) The court shall subordinate the claim of a creditor and for the benefit of such creditor an allowed claim, by way of subrogation under section 509 of this title, or for reimbursement or contribution, of an entity that is liable with the debtor on, or that has secured, such creditor's claim, until such creditor's claim is paid in full, either through payments under this title or otherwise.

§ 510. Subordination

(a) A subordination agreement is enforceable in a case under this title to the same extent that such agreement is enforceable under applicable nonbankruptcy law.

(b) Any claim for rescission of a purchase or sale of a security of the debtor or of an affiliate or for damages arising from the purchase or sale of such a security shall be subordinated for purposes of distribution to all claims and interests that are senior or equal to the claim or interest represented by such security.

(c) Notwithstanding subsections (a) and (b) of this section, after notice and a hearing, the court may—

(1) under principles of equitable subordination, subordinate for purposes of distribution all or part of an allowed claim to all or part of another allowed claim or all or part of an allowed interest to all or part of another allowed interest; or

(2) order that any lien securing such a subordinated claim be transferred to the estate.

SUBCHAPTER II—DEBTOR'S DUTIES AND BENEFITS

§ 521. Debtor's duties

The debtor shall—

(1) file a list of creditors, and unless the court orders otherwise, a schedule of assets and liabilities, and a statement of the debtor's financial affairs;

(2) if a trustee is serving in the case, cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title;

(3) if a trustee is serving in the case, surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate; and

(4) appear at the hearing required under section 524(d) of this title.

§ 522. Exemptions

(a) In this section—

(1) "dependent" includes spouse, whether or not actually dependent; and

(2) "value" means fair market value as of the date of the filing of the petition.

(b) Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate either—

(1) property that is specified under subsection (d) of this section, unless the State law that is applicable to the debtor under paragraph (2)(A) of this subsection specifically does not so authorize; or, in the alternative,

(2)(A) any property that is exempt under Federal law, other than subsection (d) of this section, or State or local law that is applicable on the date of the filing of the petition at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of the petition, or for a longer portion of such 180-day period than in any other place; and

(B) any interest in property in which the debtor had, immediately before the commencement of the case, an interest as a tenant by the entirety or joint tenant to the extent that such interest as a tenant by the entirety or joint tenant is exempt from process under applicable nonbankruptcy law.

(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such claim had arisen, before the commencement of the case, except—

(1) a debt of a kind specified in section 523(a)(5) of this title; or

(2) a lien that is—

(A) not avoided under section 544, 545, 547, 548, 549, or 724(a) of this title;

(B) not voided under section 506(d) of this title; or

(C)(i) a tax lien, notice of which is properly filed; and

(ii) avoided under section 545(2) of this title.

(d) The following property may be exempted under subsection (b)(1) of this section:

(1) The debtor's aggregate interest, not to exceed $7,500 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.

(2) The debtor's interest, not to exceed $1,200 in value, in one motor vehicle.

(3) The debtor's interest, not to exceed $200 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(4) The debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(5) The debtor's aggregate interest, not to exceed in value $400 plus any unused amount of the exemption provided under paragraph (1) of this subsection, in any property.

(6) The debtor's aggregate interest, not to exceed $750 in value, in any implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor.

(7) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

(8) The debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of this title, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

(9) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(10) The debtor's right to receive—

(A) a social security benefit, unemployment compensation, or a local public assistance benefit;

(B) a veterans' benefit;

(C) a disability, illness, or unemployment benefit;

(D) alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(E) a payment under a stock bonus, pension, profitsharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

(i) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

(ii) such payment is on account of age or length of service; and

(iii) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

(11) The debtor's right to receive, or property that is traceable to—

(A) an award under a crime victim's reparation law;

(B) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(C) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(D) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an

individual of whom the debtor is a dependent; or

(E) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(e) A waiver of exemptions executed in favor of a creditor that holds an unsecured claim against the debtor is unenforceable in a case under this title with respect to such claim against property that the debtor may exempt under subsection (b) of this section. A waiver by the debtor of a power under subsection (f) or (h) of this section to avoid a transfer, under subsection (g) or (i) of this section to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer, is unenforceable in a case under this title.

(f) Notwithstanding any waiver of exemptions, the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is—

(1) a judicial lien; or

(2) a nonpossessory, nonpurchase-money security interest in any—

(A) household furnishing, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

(B) implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor; or

(C) professionally prescribed health aids for the debtor or a dependent of the debtor.

(g) Notwithstanding sections 550 and 551 of this title, the debtor may exempt under subsection (b) of this section property that the trustee recovers under section 510(c)(2), 542, 543, 550, 551, or 553 of this title, to the extent that the debtor could have exempted such property under subsection (b) of this section if such property had not been transferred, if—

(1)(A) such transfer was not a voluntary transfer of such property by the debtor; and

(B) the debtor did not conceal such property; or

(2) the debtor could have avoided such transfer under subsection (f)(2) of this section.

(h) The debtor may avoid a transfer of property of the debtor or recover a setoff to the extent that the debtor could have exempted such property under subsection (g)(1) of this section if the trustee had avoided such transfer, if—

(1) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title or recoverable by the trustee under section 553 of this title; and

(2) the trustee does not attempt to avoid such transfer.

(i)(1) If the debtor avoids a transfer under subsection (f) or (h) of this section, the debtor may recover in the manner prescribed by, and subject to the limitations of, section 550 of this title, the same as if the trustee had avoided such transfer, and may exempt any property so recovered under subsection (b) of this section.

(2) Notwithstanding section 551 of this title, a transfer avoided under section 544, 545, 547, 548, 549, or 724(a) of this title, under subsection (f) or (h) of this section, or property recovered under section 553 of this title, may be preserved for the benefit of the debtor to the extent that the debtor may exempt such property under subsection (g) of this section or paragraph (1) of this subsection.

(j) Notwithstanding subsections (g) and (i) of this section, the debtor may exempt a particular kind of property under subsections (g) and (i) of this section only to the extent that the debtor has exempted less property in value of such kind than that to which the debtor is entitled under subsection (b) of this section.

(k) Property that the debtor exempts under this section is not liable for payment of any administrative expense except—

(1) the aliquot share of the costs and expenses of avoiding a transfer of property that the debtor exempts under subsection (g) of this section, or of recovery of such property, that is attributable to the value of the portion of such property exempted in relation to the value of the property recovered; and

(2) any costs and expenses of avoiding a transfer under subsection (f) or (h) of this section, or of recovery of property under subsection (i)(1) of this section, that the debtor has not paid.

(l) The debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section. If the debtor does not file such a list, a dependent of the debtor may file such a list, or may claim property as exempt from property of the estate on behalf of the debtor. Unless a party in interest objects, the property claimed as exempt on such list is exempt.

(m) This section shall apply separately with respect to each debtor in a joint case.

§ 523. Exceptions to discharge

(a) A discharge under section 727, 1141, or 1328(b) of this title does not discharge an individual debtor from any debt—

(1) for a tax or a customs duty—

(A) of the kind and for the periods specified in section 507(a)(2) or 507(a)(6) of this title, whether or not a claim for such tax was filed or allowed;

(B) with respect to which a return, if required—

(i) was not filed; or

(ii) was filed after the date on which such return was last due, under applicable law or under any extension, and after two years before the date of the filing of the petition; or

(C) with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax;

(2) for obtaining money, property, services, or an extension, renewal, or refinance of credit, by—

(A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition; or

(B) use of a statement in writing—

(i) that is materially false;

(ii) respecting the debtor's or an insider's financial condition;

(iii) on which the creditor to whom the debtor is liable for obtaining such money, property, services, or credit reasonably relied; and

(iv) that the debtor caused to be made or published with intent to deceive;

(3) neither listed or scheduled under section 521(1) of this title, with the name, if known to the debtor, of the creditor to whom such debt is owed, in time to permit—

(A) if such debt is not of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim, unless such creditor had notice or actual knowledge of the case in time for such timely filing; or

(B) if such debt is of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim and timely request for a determination of dischargeability of such debt under one of such paragraphs, unless such creditor had notice or actual knowledge of the case in time for such timely filing and request;

(4) for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny;

(5) to a spouse, former spouse or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or property settlement agreement, but not to the extent that—

(A) such debt is assigned to another entity, voluntarily, by operation of law, or otherwise; or

(B) such debt includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support;

(6) for willful and malicious injury by the debtor to another entity or to the property of another entity;

(7) to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss, other than a tax penalty—

(A) relating to a tax of a kind not specified in paragraph (1) of this subsection; or

(B) imposed with respect to a transaction or event that occurred before three years before the date of the filing of the petition;

(8) to a governmental unit, or a nonprofit institution of higher education, for an educational loan, unless—

(A) such loan first becomes due before five years before the date of the filing of the petition; or

(B) excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and the debtor's dependents; or

(9) that was or could have been listed or scheduled by the debtor in a prior case concerning the debtor under this title or under the Bankruptcy Act in which the debtor waived discharge, or was denied a discharge under section 727(a)(2), (3), (4), (5), (6), or (7) of this title, or under section 14c(1), (2), (3), (4), (6), or (7) of such Act.

(b) Notwithstanding subsection (a) of this section, a debt that was excepted from discharge under subsection (a)(1), (a)(3), or (a)(8) of this section, under section 17a(1), 17a(3), or 17a(5) of the Bankruptcy Act, under section 439A of the Higher Education Act of 1965 (20 U.S.C. 1087-3), or under section 733(g) of the Public Health Services Act (42 U.S.C. 294f) in a prior case concerning the debtor under this title, or under the Bankruptcy Act, is dischargeable in a case under this title unless, by the terms of subsection (a) of this section, such debt is not dischargeable in the case under this title.

(c) Except as provided in subsection (a)(3)(B) of this section, the debtor shall be discharged from a debt specified in paragraph (2), (4), or (6) of subsection (a) of this section, unless, on request of the creditor to whom such debt is owed, and after notice and a hearing, the court determines such debt to be excepted from discharge under paragraph (2), (4), or (6), as the case may be, of subsection (a) of this section.

(d) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgement against such creditor and in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding to determine dischargeability, unless such granting of judgment would be clearly inequitable.

§ 524. Effect of discharge

(a) A discharge in a case under this title—

(1) voids any judgment at any time obtained, to the extent that such judgment is a determination of the personal liability of

the debtor with respect to any debt discharged under section 727, 944, 1141, or 1328 of this title, whether or not discharge of such debt is waived;

(2) operates as an injunction against the commencement or continuation of an action, the employment of process, or any act, to collect, recover or offset any such debt as a personal liability of the debtor, or from property of the debtor, whether or not discharge of such debt is waived; and

(3) operates as an injunction against the commencement or continuation of an action, the employment of process, or any act, to collect or recover from, or offset against, property of the debtor of the kind specified in section 541(a)(2) of this title that is acquired after the commencement of the case, an account of any allowable community claim, except a community claim that is excepted from discharge under section 523 or 1328(c)(1) of this title, or that would be so excepted, determined in accordance with the provisions of section 523(c) and 523(d) of this title, in a case concerning the debtor's spouse commenced on the date of the filing of the petition in the case concerning the debtor, whether or not discharge of the debt based on such community claim is waived.

(b) Subsection (a)(3) of this section does not apply if—

(1)(A) the debtor's spouse is a debtor in a case under this title, or a bankrupt or a debtor in a case under the Bankruptcy Act, commenced within six years of the date of the filing of the petition in the case concerning the debtor; and

(B) the court does not grant the debtor's spouse a discharge in such case concerning the debtor's spouse; or

(2)(A) the court would not grant the debtor's spouse a discharge in a case under chapter 7 of this title concerning such spouse commenced on the date of the filing of the petition in the case concerning the debtor; and

(B) a determination that the court would not so grant such discharge is made by the bankruptcy court within the time and in the manner provided for a determination under section 727 of this title of whether a debtor is granted a discharge.

(c) An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable nonbankruptcy law, whether or not discharge of such debt is waived, only if—

(1) such agreement was made before the granting of the discharge under section 727, 1141, or 1328 of this title;

(2) the debtor has not rescinded such agreement within 30 days after such agreement becomes enforceable;

(3) the provisions of subsection (d) of this section have been complied with; and

(4) in a case concerning an individual, to the extent that such debt is a consumer debt that is not secured by real property of the debtor, the court approves such agreement as—

(A)(i) not imposing an undue hardship on the debtor or a dependent of the debtor; and

(ii) in the best interest of the debtor; or

(B)(i) entered into in good faith; and

(ii) in settlement of litigation under section 523 of this title, or providing for redemption under section 722 of this title.

(d) In a case concerning an individual, when the court has determined whether to grant or not to grant a discharge under section 727, 1141, or 1328 of this title, the court shall hold a hearing at which the debtor shall appear in person. At such hearing, the court shall inform the debtor that a discharge has been granted or the reason why a discharge has not been granted. If a discharge has been granted and if the debtor desires to make an agreement of the kind specified in subsection (c) of this section, then at such hearing the court shall—

(1) inform the debtor—

(A) that such an agreement is not required under this title, under nonbankruptcy law, or under any agreement not made in accordance with the provisions of subsection (c) of this section; and

(B) of the legal effect and consequences of—

(i) an agreement of the kind specified in subsection (c) of this section; and

(ii) a default under such an agreement;

(2) determine whether the agreement that the debtor desires to make complies with the requirements of subsection (c)(4) of this subsection, if the consideration for such agreement is based in whole or in part on a consumer debt that is not secured by real property of the debtor.

(e) Except as provided in subsection (a)(3) of this section, discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity for, such debt.

§ 525. Protection against discriminatory treatment

Except as provided in Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a–499s), the Packers and Stockyards Act, 1921 (7 U.S.C. 181–229), and section 1 of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes," approved July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvement before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

SUBCHAPTER III—THE ESTATE

§ 541. Property of the estate

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commence of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) An interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, and profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

(b) Property of the estate does not include any power that the debtor may only exercise solely for the benefit of an entity other than the debtor.

(c)(1) Except as provided in paragraph (2) of this subsection, an interest of the debtor in property becomes property of the estate under subsection (a)(1), (a)(2), or (a)(5) of this section notwithstanding any provision—

(A) that restricts or conditions transfer of such interest by the debtor; or

(B) that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or the taking possession by a trustee in a case under this title or a custodian, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

(d) Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

(e) The estate shall have the benefit of any defense available to the debtor as against an entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.

§ 542. Turnover of property to the estate

(a) Except as provided in subsection (c) or (d) of this section, an entity, other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

(b) Except as provided in subsection (c) or (d) of this section, an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, shall pay such debt to, or on the order of, the trustee, except to the extent that such debt may be offset under section 553 of this title against a claim against the debtor.

(c) Except as provided in section 362(a)(7) of this title, an entity that has neither actual notice nor actual knowledge of the commencement of the case concerning the debtor may transfer property of the estate, or pay a debt owing to the debtor, in good faith and other than in the manner specified in subsection (d) of this section, to an entity other than the trustee, with the same effect

as to the entity making such transfer or payment as if the case under this title concerning the debtor had not been commenced.

(d) A life insurance company may transfer property of the estate or property of the debtor to such company in good faith, with the same effect with respect to such company as if the case under this title concerning the debtor had not been commenced, if such transfer is to pay a premium or to carry out a nonforfeiture insurance option, and is required to be made automatically, under a life insurance contract with such company that was entered into before the date of the filing of the petition and that is property of the estate.

(e) Subject to any applicable privilege, after notice and a hearing, the court may order an attorney, accountant, or other person that holds recorded information, including books documents, records, and papers, and relating to the debtor's property or financial affairs, to disclose such recorded information to the trustee.

§ 543. Turnover of property by a custodian

(a) A custodian with knowledge of the commencement of a case under this title concerning the debtor may not make any disbursement from, or take any action in the administration of, property of the debtor, proceeds of such property, or property of the estate, in the possession, custody, or control of such custodian, except such action as is necessary to preserve such property.

(b) A custodian shall—

(1) deliver to the trustee any property of the debtor transferred to such custodian, or proceeds of such property, that is in such custodian's possession, custody, or control on the date that such custodian acquires knowledge of the commencement of the case; and

(2) file an accounting of any property of the debtor, or proceeds of such property, that, at any time, came into the possession, custody, or control of such custodian.

(c) The court, after notice and a hearing, shall—

(1) protect all entities to which a custodian has become obligated with respect to such property;

(2) provide for the payment of reasonable compensation for services rendered and costs and expenses incurred by such custodian; and

(3) surcharge such custodian, other than an assignee for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, for any improper or excessive disbursement, other than a disbursement that has been made in accordance with applicable law or approved, after notice and a hearing, by a court of competent jurisdiction before the commencement of the case under this title.

(d) The bankruptcy court may, after notice and a hearing, excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors, and, if the debtor is not insolvent, of equity security holders, would be better served by permitting a custodian to continue in possession, custody, or control of such property.

§ 544. Trustee as lien creditor and as successor to certain creditors and purchasers

(a) The trustee shall have, as of the commencement of the case, and without regard to any knowledge of the trustee or of any creditor, the rights and powers of, or may avoid any transfer of property of the debtor or any obligation incurred by the debtor that is voidable by—

(1) a creditor that extends credit to the debtor at the time of the commencement of the case, and that obtains, at such time and with respect to such credit, a judicial lien on all property on which a creditor on a simple contract could have obtained a judicial lien, whether or not such a creditor exists;

(2) a creditor that extends credit to the debtor at the time of the commencement of the case, and obtains, at such time and with respect to such credit, an execution against the debtor that is returned unsatisfied at such time, whether or not such a creditor exists; and

(3) a bona fide purchaser of real property from the debtor, against whom applicable law permits such transfer to be perfected, that obtains the status of a bona fide purchaser at the time of the commencement of the case, whether or not such a purchaser exists.

(b) The trustee may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under section 502 of this title or that is not allowable only under section 502(e) of this title.

§ 545. Statutory liens

The trustee may avoid the fixing of a statutory lien on property of the debtor to the extent that such lien—

(1) first becomes effective against the debtor—

(A) when a case under this title concerning the debtor is commenced;

(B) when an insolvency proceeding other than under this title concerning the debtor is commenced;

(C) when a custodian is appointed or takes possession;

(D) when the debtor becomes insolvent;

(E) when the debtor's financial condition fails to meet a specified standard; or

(F) at the time of an execution against property of the debtor levied at the instance of an entity other than the holder of such statutory lien;

(2) is not perfected or enforceable on the date of the filing of the petition against a bona fide purchaser that purchases such property on the date of the filing of the petition, whether or not such a purchaser exists;

(3) is for rent; or

(4) is a lien of distress for rent.

§ 546. Limitations on avoiding powers

(a) An action or proceeding under section 544, 545, 547, 548, or 553 of this title may not be commenced after the later of—

(1) two years after the appointment of a trustee under section 702, 1104, 1163, or 1302 of this title; and

(2) the time the case is closed or dismissed.

(b) The rights and powers of the trustee under section 544, 545, or 549 of this title are subject to any generally applicable law that permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of such perfection. If such law requires seizure of such property or commencement of an action to accomplish such perfection, and such property has not been seized or such action has not been commenced before the date of the filing of the petition, such interest in such property shall be perfected by notice within the time fixed by such law for such seizure or commencement.

(c) The rights and powers of the trustee under sections 544(a), 545, 547, and 549 of this title are subject to any statutory right or common-law right of a seller, in the ordinary course of such seller's business, of goods to the debtor to reclaim such goods if the debtor has received such goods while insolvent, but—

(1) such a seller may not reclaim any such goods unless such seller demands in writing reclamation of such goods before ten days after receipt of such goods by the debtor; and

(2) the court may deny reclamation to a seller with such a right of reclamation that has made such a demand only if court—

(A) grants the claim of such a seller priority as an administrative expense; or

(B) secures such claim by a lien.

§ 547. Preferences

(a) In this section—

(1) "inventory" means personal property leased or furnished, held for sale or lease, or to be furnished under a contract for service, raw materials, work in process, or materials used or consumed in a business, including farm products such as crops or livestock, held for sale or lease;

(2) "new value" means money or money's worth in goods, services, or new credit, or release by a transferee of property previously transferred to such transferee in a transaction that is neither void nor voidable by the debtor or the trustee under any applicable law, but does not include an obligation substituted for any existing obligation;

(3) "receivable" means right to payment, whether or not such right has been earned by performance; and

(4) a debt for a tax is incurred on the day when such tax is last payable, including any extension, without penalty.

(b) Except as provided in subsection (c) of this section, the trustee may avoid any transfer of property of the debtor—

(1) to or for the benefit of a creditor;

(2) for or on account of an antecedent debt owed by the debtor before such transfer was made;

(3) made while the debtor was insolvent;

(4) made—

(A) on or within 90 days before the date of the filing of the petition; or

(B) between 90 days and one year before the date of the filing of the petition, if such creditor, at the time of such transfer—

(i) was an insider; and

(ii) had reasonable cause to believe the debtor was insolvent at the time of such transfer; and

(5) that enables such creditor to receive more than such creditor would receive if—

(A) the case were a case under chapter 7 of this title;

(B) the transfer had not been made; and

(C) such creditor received payment of such debt to the extent provided by the provisions of this title.

(c) The trustee may not avoid under this section a transfer—

(1) to the extent that such transfer was—

(A) intended by the debtor and the creditor to or for whose benefit such transfer was made to be a contemporaneous exchange for new value given to the debtor; and

(B) in fact a substantially contemporaneous exchange;

(2) to the extent that such transfer was—

(A) in payment of a debt incurred in the ordinary course of business or financial affairs of the debtor and the transferee;

(B) made not later than 45 days after such debt was incurred;

(C) made in the ordinary course of business or financial affairs of the debtor and the transferee; and

(D) made according to ordinary business terms;

(3) of a security interest in property acquired by the debtor—

(A) to the extent such security interest secures new value the was—

(i) given at or after the signing of a security agreement that contains a description of such property as collateral;

(ii) given by or on behalf of the secured party under such agreement;

(iii) given to enable the debtor to acquire such property; and

(iv) in fact used by the debtor to acquire such property; and

(B) that is perfected before 10 days after such security interest attaches;

(4) to or for the benefit of a creditor, to the extent that, after such transfer, such

creditor gave new value to or for the benefit of the debtor—

(A) not secured by an otherwise unavoidable security interest; and

(B) on account of which new value the debtor did not make an otherwise unavoidable transfer to or for the benefit of such creditor;

(5) of a perfected security interest in inventory or a receivable or the proceeds of either, except to the extent that the aggregate of all such transfers to the transferee caused a reduction, as of the date of the filing of the petition and to the prejudice of other creditors holding unsecured claims, of any amount by which the debt secured by such security interest exceeded the value of all security interest for such debt on the later of—

(A) (i) with respect to a transfer to which subsection (b) (4) (A) of this section applies, 90 days before the date of the filing of the petition; or

(ii) with respect to a transfer to which subsection (b) (4) (B) of this section applies, one year before the date of the filing of the petition; and

(B) the date on which new value was first given under the security agreement creating such security interest; or

(6) that is the fixing of a statutory lien that is not avoidable under section 545 of this title.

(d) A trustee may avoid a transfer of property of the debtor transferred to secure reimbursement of a surety that furnished a bond or other obligation to dissolve a judicial lien that would have been avoidable by the trustee under subsection (b) of this section. The liability of such surety under such bond or obligation shall be discharged to the extent of the value of such property recovered by the trustee or the amount paid to the trustee.

(e) (1) For the purposes of this section—

(A) a transfer of real property other than fixtures, but including the interest of a seller or purchaser under a contract for the sale of real property, is perfected when a bona fide purchaser of such property from the debtor against whom applicable law permits such transfer to be perfected cannot acquire an interest that is superior to the interest of the transferee; and

(B) a transfer of a fixture or property other than real property is perfected when a creditor on a simple contract cannot acquire a judicial lien that is superior to the interest of the transferee.

(2) For the purposes of this section, except as provided in paragraph (3) of this subsection, a transfer is made—

(A) at the time such transfer takes effect between the transferor and the transferee, if such transfer is perfected at, or within 10 days after, such time;

(B) at the time such transfer is perfected, if such transfer is perfected after such 10 days; or

(C) immediately before the date of the filing of the petition, if such transfer is not perfected at the later of—

(i) the commencement of the case; and

(ii) 10 days after such transfer takes effect between the transferor and the transferee.

(3) For the purposes of this section, a transfer is not made until the debtor has acquired rights in the property transferred.

(f) For the purposes of this section, the debtor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the filing of the petition.

§ 548. Fraudulent transfers and obligations

(a) The trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within one year before the date of the filing of the petition, if the debtor—

(1) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer occurred or such obligation was incurred, indebted; or

(2) (A) received less than a reasonably equivalent value in exchange for such transfer or obligation; and

(B) (i) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;

(ii) was engaged in business, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital; or

(iii) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured.

(b) The trustee of a partnership debtor may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within one year before the date of the filing of the petition, to a general partner in the debtor, if the debtor was insolvent on the date such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation.

(c) Except to the extent that a transfer or obligation voidable under this section is voidable under section 544, 545, or 547 of this title, a transferee or obligee of such a transfer or obligation that takes for value and in good faith has a lien on any interest transferred, may retain any lien transferred, or may enforce any obligation incurred, as the case may be, to the extent that such transferee or obligee gave value to the debtor in exchange for such transfer or obligation.

(d) (1) For the purposes of this section, a transfer is made when such transfer becomes so far perfected that a bona fide purchaser from the debtor against whom such transfer could have been perfected cannot acquire an interest in the property transferred that is superior to the interest in such property of the transferee, but if such transfer is not so perfected before the commencement of the case, such transfer occurs immediately before the date of the filing of the petition.

(2) In this section—

(A) "value" means property, or satisfaction or securing of a present or antecedent debt of the debtor, but does not include an unperformed promise to furnish support to the debtor or to a relative of the debtor; and

(B) a commodity broker that receives a margin payment, as defined in section 761 (15) of this title, takes for value.

§ 549. Postpetition transactions

(a) Except as provided in subsections (b) and (c) of this section, the trustee may avoid a transfer of property of the estate—

(1) that occurs after the commencement of the case; and

(2) (A) that is authorized under section 303(f) or 542(c) of this title; or

(B) that is not authorized under this title or by the court.

(b) In an involuntary case, a transfer that occurs after the commencement of such case but before the order for relief is valid against the trustee to the extent of any value, including services, but not including satisfaction or securing of a debt that arose before the commencement of the case, given after the commencement of the case in exchange for such transfer, notwithstanding any notice or knowledge of the case that the transferee has.

(c) The trustee may not avoid under subsection (a) of this section a transfer, to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value or to a purchaser at a judicial sale, of real property located other than in the county in which the case is commenced, unless a copy of the petition was filed in the office where conveyances of real property in such county are recorded before such transfer was so far perfected that a bona fide purchaser of such property against whom applicable law permits such transfer to be perfected cannot acquire an interest that is superior to the interest of such good faith or judicial sale purchaser. A good faith purchaser, without knowledge of the commencement of the case and for less than present fair equivalent value, of real property located other than in the county in which the case is commenced, under a transfer that th trustee may avoid under this section, has a lien on the property transferred to the extent of any present value given, unless a copy of the petition was so filed before such transfer was so perfected.

(d) An action or proceeding under this section may not be commenced after the earlier of—

(1) two years after the date of the transfer sought to be avoided; and

(2) the time the case is closed or dismissed.

§ 550. Liability of transferee of avoided transfer

(a) Except as otherwise provided in this section, to the extent that a transfer is avoided under section 544, 545, 547, 548, 549, or 724(a) of this title, the trustee may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from—

(1) the initial transferee of such transfer or the entity for whose benefit such transfer was made; or

(2) any immediate or mediate transferee of such initial transferee.

(b) The trustee may not recover under subsection (a) (2) of this section from—

(1) a transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

(2) any immediate or mediate good faith transferee of such transferee.

(c) The trustee is entitled to only a single satisfaction under subsection (a) of this section.

(d) (1) A good faith transferee from whom the trustee may recover under subsection (a) of this section has a lien on the property recovered to secure the lesser of—

(A) the cost, to such transferee, of any improvement made after the transfer, less the amount of any profit realized by such transferee from such property; and

(B) any increase in value as a result of such improvement, of the property transferred.

(2) In this subsection, "improvement" includes—

(A) physical additions or changes to the property transferred;

(B) repairs to such property;

(C) payment of any tax on such property;

(D) payment of any debt secured by a lien on such property;

(E) discharge of any lien against such property that is superior or equal to the rights of the trustee; and

(F) preservation of such property.

(e) An action or proceeding under this section may not be commenced after the earlier of—

(1) one year after the avoidance of the transfer on account of which recovery under this section is sought; and

(2) the time the case is closed or dismissed.

§ 551. Automatic preservation of avoided transfer

Any tansfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or any lien void under section 506(d) of this title, is preserved for the benefit of the estate but only with respect to property of the estate.

§ 552. Postpetition effect of security interest

(a) Except as provided in subsection (b) of this section, property acquired by the estate or by the debtor after the commencement of the case is not subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

(b) Except as provided in sections 363, 506(c), 544, 545, 547, and 548 of this title, if the debtor and a secured party enter into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to proceeds, product, offspring, rents, or profits of such property, then such security interest extends to such proceeds, product, offspring, rents, or profits acquired by the estate after the commencement of the case to the extent provided by such security agreement and by applicable nonbankruptcy law, except to the extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.

§ 553. Setoff

(a) Except as otherwise provided in this section and in sections 362 and 363 of this title, this title does not affect any right of a creditor to offset a mutual debt owing by such creditor to the debtor that arose before the commencement of the case under this title against a claim of such creditor against the debtor that arose before the commencement of the case, except to the extent that—

(1) the claim of such creditor against the debtor is disallowed other than under section 502(b)(3) of this title;

(2) such claim was transferred, by an entity other than the debtor, to such creditor—

(A) after the commencement of the case; or

(B)(i) after 90 days before the date of the filing of the petition; and

(ii) while the debtor was insolvent; or

(3) the debt owed to the debtor by such creditor was incurred by such creditor—

(A) after 90 days before the date of the filing of the petition;

(B) while the debtor was insolvent; and

(C) for the purpose of obtaining a right of setoff against the debtor.

(b)(1) Except with respect to a setoff of a kind described in section 362(b)(6) or 365(h)(1) of this title, if a creditor offsets a mutual debt owing to the debtor against a claim against the debtor on or within 90 days before the date of the filing of the petition, then the trustee may recover from such creditor the amount so offset to the extent that any insufficiency on the date of such setoff is less than the insufficiency on the later of—

(A) 90 days before the date of the filing of the petition; and

(B) the first date during the 90 days immediately preceding the date of the filing of the petition on which there is an insufficiency.

(2) In this subsection, "insufficiency" means amount, if any, by which a claim against the debtor exceeds a mutual debt owing to the debtor by the holder of such claim.

(c) For the purposes of this section, the debtor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the filing of the petition.

§ 554. Abandonment of property of the estate

(a) After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value to the estate.

(b) On request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value to the estate.

(c) Unless the court orders otherwise, any property that is scheduled under section 521(1) of this title and that is not administered before a case is closed under section 350 of this title is deemed abandoned.

(d) Unless the court orders otherwise, property of the estate that is not abandoned under subsection (a) or (b) of this section and that is not administered in the case remains property of the estate.

CHAPTER 7—LIQUIDATION

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

Sec.
701. Interim trustee.
702. Election of trustee.
703. Successor trustee.
704. Duties of trustee.
705. Creditors' committee.
706. Conversion.
707. Dismissal.

SUBCHAPTER II—COLLECTION, LIQUIDATION, AND DISTRIBUTION OF THE ESTATE

721. Authorization to operate business.
722. Redemption.
723. Rights of partnership trustee against general partners.
724. Treatment of certain liens.
725. Disposition of certain property.
726. Distribution of property of the estate.
727. Discharge.
728. Special tax provisions.

SUBCHAPTER III—STOCKBROKER LIQUIDATION

741. Definitions for this subchapter.
742. Effect of section 362 of this title in this subchapter.
743. Notice.
744. Executory contracts.
745. Treatment of accounts.
746. Extent of customer claim.
747. Subordination of certain customer claims.
748. Reduction of securities to money.
749. Voidable transfers.
750. Distribution of securities.
751. Customer name securities.
752. Customer property.

SUBCHAPTER IV—COMMODITY BROKER LIQUIDATION

761. Definitions for this subchapter.
762. Notice to the Commission and right to be heard.
763. Treatment of accounts.
764. Voidable transfers.
765. Customer instructions.
766. Treatment of customer property.

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

§ 701. Interim trustee

(a) Promptly after the order for relief under this chapter, the court shall appoint one disinterested person that is a member of the panel of private trustees established under section 604(f) of title 28 or that was serving as trustee in the case immediately before the order for relief under this chapter to serve as interim trustee in the case.

(b) The service of an interim trustee under this section terminates when a trustee elected or designated under section 702 of this title to serve as trustee in the case qualifies under section 322 of this title.

(c) An interim trustee serving under this section is a trustee in a case under this title.

§ 702. Election of trustee

(a) A creditor may vote for a candidate for trustee only if such creditor—

(1) holds an allowable, undisputed, fixed, liquidated, unsecured claim of a kind entitled to distribution under section 726(a)(2), 726(a)(3), or 726(a)(4) of this title;

(2) does not have an interest materially adverse, other than an equity interest that is not substantial in relation to such creditor's interest as a creditor, to the interest of creditors entitled to such distribution; and

(3) is not an insider.

(b) At the meeting of creditors under section 341 of this title, creditors may elect one person to serve as trustee in the case if election of a trustee is requested by creditors that may vote under subsection (a) of this section, and that hold at least 20 percent in amount of the claims specified in subsection (a)(1) of this section that are held by creditors that may vote under subsection (a) of this section.

(c) A candidate for trustee is elected trustee if—

(1) creditors holding at least 20 percent in amount of the claims specified in subsection (a)(1) of this section that are held by creditors that may vote under subsection (a) of this section vote; and

(2) such candidate receives the votes of creditors holding a majority in amount of claims specified in subsection (a)(1) of this section that are held by creditors that vote for trustee.

(d) If a trustee is not elected under subsection (c) of this section, then the interim trustee shall serve as trustee in the case.

§ 703. Successor trustee

(a) If a trustee dies or resigns during a case, fails to qualify under section 322 of this title, or is removed under section 324 of this title, creditors may elect, in the manner specified in section 702 of this title, a person to fill the vacancy in the office of trustee.

(b) Pending election of a trustee under subsection (a) of this section, if necessary to preserve or prevent loss to the estate, the court may appoint an interim trustee in the manner specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee.

(c) If creditors do not elect a successor trustee under subsection (a) of this section, or if a trustee is needed in a case reopened under section 350 of this title, then the court shall appoint one disinterested person that is a member of the panel of private trustees established under section 604(f) of title 28 to serve, as trustee in the case.

§ 704. Duties of trustee

The trustee shall—

(1) collect and reduce to money the property of the estate for which such trustee serves, and close up such estate as expeditiously as is compatible with the best interests of parties in interest;

(2) be accountable for all property received;

(3) investigate the financial affairs of the debtor;

(4) if a purpose would be served, examine proofs of claims and object to the allowance of any claim that is improper;

(5) if advisable, oppose the discharge of the debtor;

(6) unless the court orders otherwise, furnish such information concerning the estate and the estate's administration as is requested by a party in interest;

(7) if the business of the debtor is authorized to be operated, file with the court and with any governmental unit charged with responsibility for collection or determination of any tax arising out of such operation, periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements, and such other information as the court requires; and

(8) make a final report and file a final account of the administration of the estate with the court.

§ 705. Creditors' committee

(a) At the meeting under section 341(a) of this title, creditors that may vote for a

trustee under section 702(a) of this title may elect a committee of not fewer than three, and not more than eleven, creditors, each of whom holds an allowable unsecured claim of a kind entitled to distribution under section 726(a)(2) of this title.

(b) A committee elected under subsection (a) of this section may consult with the trustee in connection with the administration of the estate, make recommendations to the trustee respectiong the performance of the trustee's duties, and submit to the court any question affecting the administration of the estate.

§ 706. Conversion.

(a) The debtor may convert a case under this chapter to a case under chapter 11 or 13 of this title at any time, if the case has not been converted under section 1112 or 1307 of this title. Any waiver of the right to convert a case under this subsection is unenforceable.

(b) On request of a party in interest and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 11 of this title at any time.

(c) The court may not convert a case under this chapter to a case under chapter 13 of this title unless the debtor requests such conversion.

(d) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

§ 707. Dismissal

The court may dismiss a case under this chapter only after notice and a hearing and only for cause, including—

(1) unreasonable delay by the debtor that is prejudicial to creditors; and

(2) nonpayment of any fees and charges required under chapter 123 of title 28.

SUBCHAPTER II—COLLECTION, LIQUIDATION, AND DISTRIBUTION OF THE ESTATE

§ 721. Authorization to operate business

The court may authorize the trustee to operate the business of the debtor for a limited period, if such operation is in the best interest of the estate and consistent with the orderly liquidation of the estate.

§ 722. Redemption

An individual debtor may, whether or not the debtor has waived the right to redeem under this section, redeem tangible personal property intended primarily for personal, family, or household use, from a lien security a dischargeable consumer debt, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title, by paying the holder of such lien the amount of the allowed secured claim of such holder that is secured by such lien.

§ 723. Rights of partnership trustee against general partners

(a) If there is a deficiency of property of the estate to pay in full all claims allowed in a case under this title concerning a partnership, then each general partner in such partnership is liable to the trustee for the full amount of such deficiency.

(b) To the extent practicable, the trustee shall first seek recovery of such deficiency from any general partner in such partnership that is not a debtor in a case under this title. Pending determination of such deficiency, the court may order any such partner to provide the estate with indemnity for, or assurance of payment of, any deficiency recoverable from such partner, or not to dispose of property.

(c) Notwithstanding section 728(c) of this title, the trustee has a claim against the estate of each general partner in such partnership that is a debtor in a case under this title for the full amount of all claims of creditors allowed in the case concerning such partnership. Notwithstanding section 502 of this title, there shall not be allowed in such case a claim against such partner on which both such partner and such partnership are liable except to any extent that such claim is secured only by property of such partner and not be property of such partnership. The claim of the trustee under this subsection is entitled to distribution in such case under section 726(a) of this title the same as any other claim of the kind specified in such section.

(d) If the aggregate that the trustee recovers from the estates of general partners under subsection (c) of this section is greater than any deficiency not recovered under subsection (b) of this section, the court, after notice and a hearing, shall determine an equitable distribution of the surplus so recovered, and the trustee shall distribute such surplus to the estates of the general partners in such partnership according to such determination.

§ 724. Treatment of certain liens

(a) The trustee may avoid a lien that secures a claim of a kind specified in section 726(a)(4) of this title.

(b) Property in which the estate has an interest and that is subject to a lien that is not avoidable under this title and that secures an allowed claim for taxes, or proceeds of such property, shall be distributed—

(1) first, to any holder of an allowed claim secured by a lien on such property that is not avoidable under this title and that is senior to such tax lieu;

(2) second, to claims specified in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent of the amount of such allowed tax claim that is secured by such tax lien;

(3) third, to the holder of such tax lien, to any extent that such holder's allowed claim that is secured by such tax lien exceeds any amount distributed under paragraph (2) of this subsection;

(4) fourth, to any holder of an allowed claim secured by a lien on such property that is not avoidable under this title and that is junior to such tax lien;

(5) fifth, to the holder of such tax lien, to the extent that such holder's allowed claim secured by such tax lien is not paid under paragraph (3) of this subsection; and

(6) sixth, to the estate.

(c) If more than one creditor is entitled to distribution under a particular paragraph of subsection (b) of this section, distribution to such creditors under such paragraph shall be in the same order as distribution to such creditors would have been other than under this section.

(d) A statutory lien whose priority is determined in the same manner as the priority of a tax lien under section 6323 of the Internal Revenue Code of 1954 (26 U.S.C. 6323) shall be treated under subsection (b) of this section the same as a tax lien.

§ 725. Disposition of certain property

After the commencement of a case under this chapter, but before final distribution under section 726 of this title, the trustee, after notice and a hearing, shall dispose of any property in which an entity other than the estate has an interest, such as a lien, and that has not been disposed of under another section of this title.

§ 726. Distribution of property of the estate

(a) Except as provided in section 510 of this title, property of the estate shall be distributed—

(1) first, in payment of claims of the kind specified in, and in the order specified in, section 507 of this title;

(2) second, in payment of any allowed unsecured claim, other than a claim of a kind specified in paragraph (1), (3), or (4) of this subsection, proof of which is—

(A) timely filed under section 501(a) of this title;

(B) timely filed under section 501(b) or 501(c) of this title; or

(C) tardily filed under section 501(a) of this title, if—

(i) the creditor that holds such claim did not have notice or actual knowledge of the case in time for timely filing of a proof of such claim under section 501(a) of this title; and

(ii) proof of such claim is filed in time to permit payment of such claim;

(3) third, in payment of any allowed unsecured claim proof of which is tardily filed under section 501(a) of this title, other than a claim of the kind specified in paragraph (2)(C) of this subsection;

(4) fourth, in payment of any allowed claim, whether secured or unsecured, for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, arising before the earlier of the order for relief or the appointment of a trustee, to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the holder of such claim;

(5) fifth, in payment of interest at the legal rate from the date of the filing of the petition, on any claim paid under paragraph (1), (2), (3), or (4) of this subsection; and

(6) sixth, to the debtor.

(b) Payment on claims of a kind specified in paragraph (1), (2), (3), (4), (5), or (6) of section 507(a) of this title, or in paragraph (2), (3), (4), or (5) of subsection (a) of this section, shall be made pro rata among claims of the kind specified in a particular paragraph, except that in a case that has been converted to this chapter under section 1112 or 1307 of this title, administrative expenses incurred under this chapter after such conversion have priority over administrative expenses incurred under any other chapter of this title or under this chapter before such conversion and over any expenses of a custodian superseded under section 543 of this title.

(c) Notwithstanding subsections (a) and (b) of this section, if there is property of the kind specified in section 541(a)(2) of this title, or proceeds of such property, in the estate, such property or proceeds shall be segregated from other property of the estate, and such property or proceeds and other property of the estate shall be distributed as follows:

(1) Administrative expenses shall be paid either from property of the kind specified in section 541(a)(2) of this title, or from other property of the estate, as the interest of justice requires.

(2) Claims other than for administrative expenses shall be paid in the order specified in subsection (a) of this section, and, with respect to claims of a kind specified in a particular paragraph of section 507 of this title or subsection (a) of this section, in the following order and manner:

(A) First, community claims against the debtor or the debtor's spouse shall be paid from property of the kind specified in section 541(a)(2) of this title, except to the extent that such property is solely liable for debts of the debtor.

(B) Second, to the extent that community claims against the debtor are not paid under subparagraph (A) of this paragraph, such community claims shall be paid from property of the kind specified in section 541(a)(2) of this title that is solely liable for debts of the debtor.

(C) Third, to the extent that all claims against the debtor including community claims against the debtor are not paid under subparagraph (A) or (B) of this paragraph such claims shall be paid from property of the estate other than property of the kind specified in section 541(a)(2) of this title.

(D) Fourth, to the extent that community claims against the debtor or the debtor's spouse are not paid under subparagraph (A), (B), or (C) of this paragraph, such claims shall be paid from all remaining property of the estate.

§ 727. Discharge

(a) The court shall grant the debtor a discharge, unless—

(1) the debtor is not an individual;

(2) the debtor, with intent to hinder, delay, or defraud a creditor or an officer of the estate charged with custody of property under this title, has transferred, removed, destroyed, multilated, or concealed, or has permitted to be transferred, removed, destroyed, mutilated, or concealed—

(A) property of the debtor, within one year before the date of the filing of the petition; or

(B) property of the estate, after the date of the filing of the petition;

(3) the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case;

(4) the debtor knowingly and fraudulently, in or in connection with the case—

(A) made a false oath or account;

(B) presented or used a false claim;

(C) gave, offered, received, or attempted to obtain money, property, or advantage, or a promise of money, property, or advantage, for acting or forbearing to act; or

(D) withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs;

(5) the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor's liabilities;

(6) the debtor has refused, in the case—

(A) to obey any lawful order of the court, other than an order to respond to a material question or to testify;

(B) on the ground of privilege against self-incrimination, to respond to a material question approved by the court or to testify, after the debtor has been granted immunity with respect to the matter concerning which such privilege was invoked; or

(C) on a ground other than the properly invoked privilege against self-incrimination, to respond to a material question approved by the court or to testify;

(7) the debtor has committed any act specified in paragraph (2), (3), (4), (5), or (6) of this subsection, on or within one year before the date of the filing of the petition, or during the case, in connection with another case concerning an insider;

(8) the debtor has been granted a discharge under this section, under section 1141 of this title, or under section 14, 371 or 476 of the Bankruptcy Act, in a case commenced within six years before the date of the filing of the petition;

(9) the debtor has been granted a discharge under section 1328 of this title, or under section 660 or 661 of the Bankruptcy Act, in a case commenced within six years before the date of the filing of the petition, unless payments under the plan in such case totaled at least—

(A) 100 percent of the allowed unsecured claims in such case; or

(B) (i) 70 percent of such claims; and

(ii) the plan was proposed by the debtor in good faith, and was the debtor's best effort; or

(10) the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter.

(b) Except as provided in section 523 of this title, a discharge under subsection (a) of this section discharges the debtor from all debts that arose before the date of the order for relief under this chapter, and any liability on a claim that is determined under section 502 of this title as if such claim had arisen before the commencement of the case, whether or not a proof of claim based on any such debt or liability is filed under section 501 of this title, and whether or not a claim based on any such debt or liability is allowed under section 502 of this title.

(c) (1) The trustee or a creditor may object to discharge under subsection (a) of this section.

(2) On request of a party in interest, the court may order the trustee to examine the acts and conduct of the debtor to determine whether a ground exists for denial of discharge.

(d) On request of the trustee or a creditor, and after notice and a hearing, the court shall revoke a discharge granted under subsection (a) of this section if—

(1) such discharge was obtained through the fraud of the debtor, and the requesting party did not know of such fraud until after the granting of such discharge;

(2) the debtor acquired property that is property of the estate, or became entitled to acquire property that would be property of the estate, and knowingly and fraudulenly failed to report the acquisition of, or entitlement to, such property, or to deliver or surrender such property to the trustee; or

(3) the debtor committed an act specified in subsection (a)(6) of this section.

(e) The trustee or a creditor may request a revocation of a discharge—

(1) under subsection (d)(1) of this section, within one year after such discharge was granted; or

(2) under subsection (d)(2) or (d)(3) of this section, before the later of—

(A) one year after the granting of such discharge; and

(B) the date the case is closed.

§ 728. Special tax provisions

(a) For the purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor that is an individual shall terminate on the date of the order for relief under this chapter, unless the case was converted under section 1112 of this title.

(b) Notwithstanding any State or local law imposing a tax on or measured by income, the trustee shall make tax returns of income for the estate of an individual debtor in a case under this chapter or for a debtor that is a corporation in a case under this chapter only if such estate or corporation has net taxable income for the entire period after the order for relief under this chapter during which the case is pending. If such entity has such income, or if the debtor is a partnership, then the trustee shall make and file a return of income for each taxable period during which the case was pending after the order for relief under this chapter.

(c) If there are pending a case under this chapter concerning a partnership and a case under this chapter concerning a partner in such partnership, a governmental unit's claim for any unpaid liability of such partner for a State or local tax on or measured by income, to the extent that such liability arose from the inclusion in such partner's taxable income, of earnings of such partnership that were not withdrawn by such partner, is a claim only against such partnership.

(d) Notwithstanding section 541 of this title, if there are pending a case under this chapter concerning a partnership and a case under this chapter concerning a partner in such partnership, then any State or local tax refund or reduction of tax of such partner that would have otherwise been property of the estate of such partner under section 541 of this title—

(1) is property of the estate of such partnership to the extent that such tax refund or reduction of tax is fairly apportionable to losses sustained by such partnership and not reimbursed by such partner; and

(2) is property of the estate of such partner otherwise.

SUBCHAPTER III—STOCKBROKER LIQUIDATION

§ 741. Definitions for this subchapter

In this subchapter—

(1) "Commission" means Securities and Exchange Commission;

(2) "customer" includes—

(A) entity with whom the debtor deals as principal or agent and that holds a claim against the debtor on account of a security received, acquired, or held by the debtor in the ordinary course of business as a stockbroker from or for the securities account or accounts of such entity—

(i) for safekeeping;

(ii) with a view to sale;

(iii) to cover a consummated sale;

(iv) pursuant to a purchase;

(v) as collateral under a security agreement; or

(vi) for the purpose of effecting registration of transfer; and

(B) entity that holds a claim against the debtor arising out of—

(i) a sale or conversion of a security received, acquired, or held as specified in subparagraph (A) of this paragraph; or

(ii) a deposit of cash, a security, or other property with the debtor for the purpose of purchasing or selling a security;

(3) "customer name security" means security—

(A) held for the account of a customer on the date of the filing of the petition by or on behalf of the debtor;

(B) registered in such customer's name on such date or in the process of being so registered under instructions from the debtor; and

(C) not in a form transferable by delivery on such date;

(4) "customer property" means cash, security, or other property, and proceeds of such cash, security, or property, at any time received, acquired, or held by or for the account of the debtor, from or for the securities account of a customer—

(A) including—

(i) property that was unlawfully converted and that is property of the estate;

(ii) a security held as property of the debtor to the extent such security is necessary to meet a net equity claim based on a security of the same class and series of an issuer;

(iii) resources provided through the use or realization of a customer's debit cash balance or a debit item includible in the Formula for Determination of Reserve Requirement for Brokers and Dealers as promulgated by the Commission under the Securities Exchange Act of 1934 (15 U.S.C. 77a et seq.); and

(iv) other property of the debtor that any applicable law, rule, or regulation requires to be set aside or held for the benefit of a customer, unless including such property as customer property would not significantly increase customer property; but

(B) not including—

(i) a customer name security delivered to or reclaimed by a customer under section 751 of this title; or

(ii) property to the extent that a customer does not have a claim against the debtor based on such property;

(5) "net equity" means, with respect to the aggregate of all of a customer's accounts that such customer holds in the same capacity—

(A) (i) aggregate dollar balance that would remain in such accounts after the liquidation, by sale or purchase, at the time of the

filing of the petition of all securities positions in all such accounts, except customer name securities of such customer; minus

(ii) any claim of the debtor against such customer that would have been owing immediately after such liquidation; plus

(B) any payment by such customer to the trustee, within 60 days after notice under section 342 of this title, of any business related claim of the debtor against such customer;

(6) "SIPC" means Security Investor Protection Corporation.

§ 742. Effect of section 362 of this title in this subchapter

Notwithstanding section 362 of this title, SIPC may file an application for a protective decree under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.). The filing of such application stays all proceedings in the case under this chapter unless and until such application is dismissed. If SIPC completes the liquidation of the debtor, then the court shall dismiss the case.

§ 743. Notice

The clerk shall give the notice required by section 342(a) of this title to SIPC and to the Commission.

§ 744. Executory contracts

Notwithstanding section 365(d)(1) of this title, the trustee shall assume or reject, under section 365 of this title, any executory contract of the debtor for the purchase or sale of a security in the ordinary course of the debtor's business, within a reasonable time after the date of the order for relief, not to exceed 30 days. If the trustee does not assume such a contract within such time, such contract is rejected.

§ 745. Treatment of accounts

(a) Accounts held by a particular customer in separate capacities shall be treated as accounts of separate customers.

(b) If a stockbroker or a bank holds a customer net equity claim against the debtor that arose out of a transaction for a customer of such stockbroker or bank, each such customer of such stockbroker or bank shall be treated as a separate customer of the debtor.

(c) A trustee's account specified as such on the debtor's books, and supported by a trust deed filed with, and qualified as such by, the Internal Revenue Service, and under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.), shall be treated as a separate customer account for each beneficiary under such trustee account.

§ 746. Extent of customer claim

(a) If, after the date of the filing of the petition, an entity effects, with respect to cash or a security, a transaction with the debtor, in a manner that would have made such entity a customer with respect to such cash or security had such transaction occurred before such date, and such transaction was effected by such entity in good faith and before the qualification under section 322 of this title of a trustee, such entity shall be deemed a customer, and the date of such transaction shall be deemed to be the date of the filing of the petition for the purpose of determining such entity's net equity with respect to such cash or security.

(b) An entity does not have a claim as a customer to the extent that such entity has a claim for cash or a security that, by contract, agreement, understanding, or operation of law, is—

(1) part of the capital of the debtor; or

(2) is subordinated to the claims of any or all creditors.

§ 747. Subordination of certain customer claims

Except as provided in section 510 of this title, unless all other customer net equity claims have been paid in full, the trustee may not pay in full or pay in part, directly or indirectly, any net equity claim of a customer that was, on the date such claim arose—

(1) an insider;

(2) a beneficial owner of at least five percent of any class of equity securities of the debtor, other than—

(A) nonconvertible stock having fixed preferential dividend and liquidation rights; or

(B) interests of limited partners in a limited partnership;

(3) a limited partner with a participation of at least five percent in the net assets or net profits of the debtor; or

(4) an entity that, directly or indirectly, through agreement or otherwise, exercised or had the power to exercise control over the management or policies of the debtor.

§ 748. Reduction of securities to money

As soon as practicable after the date of the order for relief, the trustee shall reduce to money, consistent with good market practice, all securities held as property of the estate, except for customer name securities delivered or reclaimed under section 751 of this title.

§ 749. Voidable transfers

Any transfer of property that, except for such transfer, would have been customer property, may be avoided by the trustee, and shall be treated as customer property, if and to the extent that the trustee avoids such transfer under section 544, 545, 547, 548, 549, or 724(a) of this title. For the purpose of such sections, the property so transferred shall be deemed to have been property of the debtor and, if such transfer was made to a customer or for a customer's benefit, such customer shall be deemed, for the purposes of this section, to have been a creditor.

§ 750. Distribution of securities

The trustee may not distribute a security except under section 751 of this title.

§ 751. Customer name securities

The trustee shall deliver any customer name security to or on behalf of the customer entitled to such security, unless such customer has a negative net equity. With the approval of the trustee, a customer may reclaim a customer name security after payment to the trustee, within such period as the trustee allows, of any claim of the debtor against such customer to the extent that such customer will not have a negative net equity after such payment.

§ 752. Customer property

(a) The trustee shall distribute customer property ratably to customers on the basis and to the extent of such customers allowed net equity claims and in priority to all other claims, except claims specified in section 507(a)(1) of this title that are attributable to the administration of customer property.

(b)(1) The trustee shall distribute customer property in excess of that distributed under subsection (a) of this section in accordance with section 726 of this title.

(2) Except as provided in section 510 of this title, if a customer is not paid the full amount of such customer's allowed net equity claim from customer property, the unpaid portion of such claim is a claim entitled to distribution under section 726(a) of this title.

(c) Subject to section 741(4)(B) of this title, any cash or security remaining after the liquidation of a security interest created under a security agreement made by the debtor shall be apportioned between the general estate and customer property in the proportion that the general property of the debtor and the cash or securities of customers were subject to such security interest.

SUBCHAPTER IV—COMMODITY BROKER LIQUIDATION

§ 761. Definitions for this subchapter

In this subchapter—

(1) "Act" means Commodity Exchange Act (7 U.S.C. 1 et seq.);

(2) "clearing organization" means organization that clears commodity contracts on, or subject to the rules of, a contract market or board of trade;

(3) "Commission" means Commodity Futures Trading Commission;

(4) "commodity contract" means—

(A) if the debtor is a futures commission merchant, contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

(B) if the debtor is a foreign futures commission merchant, foreign future;

(C) if the debtor is a leverage transaction merchant, leverage transaction;

(D) if the debtor is a clearing organization, contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by the debtor; or

(E) if the debtor is a commodity options dealer, commodity option;

(5) "commodity option" means agreement or transaction subject to regulation under section 4c(b) of the Act (7 U.S.C. 6c(b));

(6) "commodity options dealer" means person that extends credit to, or that accepts cash, a security, or other property from, a customer of such person for the purchase or sale of an interest in a commodity option;

(7) "contract market" means board of trade designated as a contract market by the Commission under the Act;

(8) "contract of sale", "commodity", "future delivery", "board of trade", and "futures commission merchant" have the meanings assigned to those terms in the Act;

(9) "customer" means—

(A) if the debtor is a futures commission merchant—

(i) entity for or with whom the debtor deals and that holds a claim against the debtor on account of a commodity contract made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a futures commission merchant from or for the commodity futures account of such entity;

(ii) entity that holds a claim against the debtor arising out of—

(I) the making, liquidation, or change in the value of a commodity contract of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making or margining such a commodity contract; or

(iii) the making or taking of delivery on such a commodity contract;

(B) if the debtor is a foreign futures commission merchant—

(i) entity for or with whom the debtor deals and that holds a claim against the debtor on account of a commodity contract made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a foreign futures commission merchant from or for the foreign futures account of such entity;

(ii) entity that holds a claim against the debtor arising out of—

(I) the making, liquidation, or change in value of a commodity contract of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making or margining such a commodity contract; or

(iii) the making or taking of delivery on such a commodity contract;

(C) if the debtor is a leverage transaction merchant—

(i) entity for or with whom the debtor deals and that holds a claim against the debtor on account of a commodity contract engaged in by or with the debtor in the ordinary course of the debtor's business as a leverage transaction merchant from or for the leverage account of such entity;

(ii) entity that holds a claim against the debtor arising out of—

(I) the making, liquidation, or change in value of a commodity contract of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of entering into or margining such a commodity contract; or

(iii) the making or taking of delivery on such a commodity contract;

(D) if the debtor is a clearing organization, clearing member of the debtor with whom the debtor deals and that holds a claim against the debtor on account of cash, a security, or other property received by the debtor to margin, guarantee, or secure a commodity contract in such clearing member's proprietary account or customers' account; or

(E) if the debtor is a commodity options dealer—

(i) entity for or with whom the debtor deals and that holds a claim on account of a commodity contract made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a commodity options dealer from or for the commodity options account of such entity; or

(ii) entity that holds a claim against the debtor arising out of—

(I) the making of, liquidation of, exercise of, or a change in value of, a commodity contract of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making, exercising, or margining such a commodity contract;

(10) "customer property" means cash, a security, or other property, or proceeds of such cash, security, or property, at any time received, acquired, or held by or for the account of the debtor, from or for the account of a customer—

(A) including—

(i) property received, acquired, or held to margin, guarantee, secure, purchase, or sell a commodity contract;

(ii) profits or contractual or other rights accruing to a customer as a result of a commodity contract;

(iii) an open commodity contract;

(iv) specifically identifiable customer property;

(v) warehouse receipt or other document held by the debtor evidencing ownership of or title to property to be delivered to fulfill a commodity contract from or for the account of a customer;

(vi) cash, a security, or other property received by the debtor as payment for a commodity to be delivered to fulfill a commodity contract from or for the account of a customer;

(vii) a security held as property of the debtor to the extent such security is necessary to meet a net equity claim based on a security of the same class and series of an issuer;

(viii) property that was unlawfully converted and that is property of the estate; and

(ix) other property of the debtor that any applicable law, rule, or regulation requires to be set aside or held for the benefit of a customer, unless including such property as customer property would not significantly increase customer property; but

(B) not including property to the extent that a customer does not have a claim against the debtor based on such property;

(11) "foreign future" means contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade outside the United States;

(12) "foreign futures commission merchant" means entity engaged in soliciting or accepting orders for the purchase or sale of a foreign future or that, in connection with such a solicitation or acceptance, accepts cash, a security, or other property or extends credit, to margin, guarantee, or secure any trade or contract that results from such a solicitation or acceptance;

(13) "leverage transaction" means agreement that is subject to regulation under section 217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a), and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;

(14) "leverage transaction merchant" means person that is engaged in the business of engaging in leverage transactions;

(15) "margin payment" means payment or deposit of cash, a security, or other property, that is commonly known to the commodities trade as original margin, initial margin, maintenance margin, or variation margin, including a daily variation settlement payment;

(16) "member property" means customer property at any time received, acquired, or held by or for the account of a debtor that is a clearing organization, from or for the proprietary account of a customer that is a clearing member of the debtor; and

(17) "net equity" means, subject to such rules and regulations as the Commission promulgates under the Act, with respect to the aggregate of all of a customer's accounts that such customer holds in the same capacity—

(A) balance remaining in such customer's accounts immediately after—

(i) all commodity contracts of such customer have been transferred, liquidated, or become identified for delivery; and

(ii) all obligations of such customer to the debtor have been offset; plus

(B) the value, as of the date of return under section 766 of this title, of any specifically identifiable customer property actually returned to such customer before the date specified in subparagraph (A) of this paragraph; plus

(C) the value, as of the date of transfer, of—

(i) any commodity contract to which such customer is entitled that is transferred to another person under section 766 of this title; and

(ii) any cash, security, or other property of such customer transferred to such other person under section 766 of this title to margin or secure such transferred commodity contract.

§ 762. Notice to the Commission and right to be heard

(a) The clerk shall give the notice required by section 342 of this title to the Commission.

(b) The Commission may raise and may appear and be heard on any issue in a case under this chapter.

§ 763. Treatment of accounts

(a) Accounts held by a particular customer in separate capacities shall be deemed to be accounts of separate customers.

(b) A member of a clearing organization shall be deemed to hold such member's proprietary account in a separate capacity from such member's customers' account.

(c) The net equity in a customer's account may not be offset against the net equity in the account of any other customer.

§ 764. Voidable transfers

(a) Except as otherwise provided in this section, any transfer of property that, except for such transfer, would have been customer property, may be avoided by the trustee, and shall be treated as customer property, if and to the extent that the trustee avoids such transfer under section 544, 545, 547, 548, 549, 724(a) of this title. For the purpose of such sections, the property so transferred is deemed to have been property of the debtor, and, if such transfer was made to a customer or for a customer's benefit, such customer is deemed, for the purposes of this section, to have been a creditor.

(b) Notwithstanding sections 544, 545, 547, 548, 549, and 724(a) of this title, the trustee may not avoid a transfer made before five days after the date of the filing of the petition, if such transfer is approved by the Commision by rule or order, either before or after such transfer, and if such transfer is—

(1) a transfer of a commodity contract entered into or carried by or through the debtor on behalf of a customer, and of any cash, securities, or other property margining or securing such commodity contract; or

(2) the liquidation of a commodity contract entered into or carried by or through the debtor on behalf of a customer.

(c) Notwithstanding sections 544, 545, 547, 548, and 724(a) of this title, the trustee may not avoid a transfer that is a margin payment to or deposit with a commodity broker and that occurs before the commencement of the case, except under section 548(a)(1) of this title.

§ 765 Customer instructions

(a) The notice under section 342 of this title to customers shall instruct each customer—

(1) to file a proof of such customer's claim promptly, and to specify in such claim any specifically identifiable security, property, or commodity contract; and

(2) to instruct the trustee of such customer's desired disposition, including transfer under section 766 of this title or liquidation, of any commodity contract specifically identified to such customer.

(b) The trustee shall comply, to the extent practicable, with any instruction received from a customer regarding such customer's desired disposition of any commodity contract specifically identified to such customer. If the trustee has transferred, under section 766 of this title, such a commitment, the trustee shall transmit any such instruction to the commodity broker to whom such commodity contract was so transferred.

§ 766. Transfer of customer property

(a) The trustee shall answer all margin calls with respect to a specifically identifiable commodity contract of a customer until such time as the trustee returns or transfers such commodity contract, but the trustee may not make a margin payment that has the effect of a distribution of more than that to which such customer is entitled under subsection (h) or (i) of this section.

(b) The trustee shall prevent any open commodity contract that is being actively traded as of the date of the filing of the petition from remaining open after the last day of trading in such commodity contract, or into the first day on which notice of intent to deliver on such commodity contract may be tendered, whichever occurs first. With respect to any commodity contract that has remained open after the last day of trading in such commodity contract or with respect to which delivery must be made or accepted under the rules of contract market on which such commodity contract was made, the trustee may operate the business of the debtor for the purpose of—

(1) accepting or making tender of notice of intent to deliver the physical commodity underlying such commodity contract;

(2) facilitating delivery of such commodity; or

(3) disposing of such commodity if a party to such commodity contract defaults.

(c) The trustee shall return promptly to a customer any specifically identifiable security, property, or commodity contract to which such customer is entitled, or shall transfer, on such customer's behalf, such security, property, or commodity contract to a commodity broker that is not a debtor under this title, subject to such rules or regulations as the Commission may prescribe, to the extent that the value of such security, property, or commodity contract does not exceed the amount to which such customer would be entitled under subsection (h) or (i) of this section if such security, property, or commodity contract were not returned or transferred under this subsection.

(d) If the value of a specifically identifiable security, property, or commodity contract exceeds such amount, then the customer to whom such security, property, or commodity contract is specifically identified may deposit cash with the trustee equal to the difference between the value of such security, property, or commodity contract and such amount, and the trustee shall—

(1) return promptly such security, property, or commodity contract to such customer; or

(2) transfer, on such customer's behalf, such security, property, or commodity contract to a commodity broker that is not a debtor under this title, subject to such rules or regulations as the Commission may prescribe.

(e) Subject to subsection (b) of this section, the trustee shall liquidate any commodity contract that—

(1) is identified to a particular customer and with respect to which such customer has not timely instructed the trustee as to the desired disposition of such commodity contract;

(2) cannot be transferred under subsection (c) of this section; or

(3) cannot be identified to a particular customer.

(f) As soon as practicable after the commencement of the case, the trustee shall reduce to money, consistent with good market practice, all securities and other property other than commodity contracts, held as property of the estate, except for specifically identifiable securities or property distributable under subsection (h) or (i) of this section.

(g) The trustee may not distribute a security or other property except under subsection (h) or (i) of this section.

(h) Except as provided in subsection (b) of this section, the trustee shall distribute customer property ratably to customers on the basis and to the extent of such customers' allowed net equity claims, and in priority to all other claims, except claims of a kind specified in section 507(a)(1) of this title that are attributable to the administration of customer property. Such distribution shall be in the form of—

(1) cash;

(2) the return or transfer, under subsection (c) or (d) of this section, of specifically identifiable customer securities, property, or commodity contracts; or

(3) payment of margin calls under subsection (a) of this section.

(i) If the debtor is a clearing organization, the trustee shall distribute—

(1) customer property, other than member property, ratably to customers on the basis and to the extent of such customers' allowed net equity claims based on such customers' accounts other than proprietary accounts, and in priority to all other claims, except claims of a kind specified in section 507(a)(1) of this title that are attributable to the administration of such customer property; and

(2) member property ratably to customers on the basis and to the extent of such customers' allowed net equity claims based on such customers' proprietary accounts, and in priority to all other claims, except claims of a kind specified in section 507(a)(1) of this title that are attributable to the administration of member property or customer property.

(j)(1) The trustee shall distribute customer property in excess of that distributed under subsection (h) or (i) of this section in accordance with section 726 of this title.

(2) Except as provided in section 510 of this title, if a customer is not paid the full amount of such customer's allowed net equity claim from customer property, the unpaid portion of such claim is a claim entitled to distribution under section 726(a) of this title.

CHAPTER 9—ADJUSTMENT OF DEBTS OF A MUNICIPALITY

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
901. Applicability of other sections of this title.
902. Definitions for this chapter.
903. Reservation of State power to control municipalities.
904. Limitation on jurisdiction and powers of court.

SUBCHAPTER II—ADMINISTRATION

921. Petition and proceedings relating to petition.
922. Automatic stay of enforcement of claims against the debtor.
923. Notice.
924. List of creditors.
925. Effect of list of claims.
926. Avoiding powers.
927. Dismissal.

SUBCHAPTER III—THE PLAN

941. Filing of plan.
942. Modification of plan.
943. Confirmation.
944. Effect of confirmation.
945. Continuing jurisdiction and closing of the case.
946. Effect of exchange of securities before the date of the filing of the petition.

SUBCHAPTER I—GENERAL PROVISIONS

§ 901. Applicability of other sections of this title

(a) Sections 301, 344, 347(b), 349, 350(b), 361, 362, 364(c), 364(d), 364(e), 364(f), 365, 366, 501, 502, 503, 504, 506, 507(a)(1), 509, 510, 524(a)(1), 524(a)(2), 544, 545, 546, 547, 548, 549(a), 549(c), 549(d), 550, 551, 552, 553, 1102, 1103, 1109, 1111(b), 1122, 1123(a)(1), 1123(a)(2), 1123(a)(3), 1123(a)(4), 1123(a)(5), 1123(b), 1124, 1125, 1126(a), 1126(b), 1126(c), 1126(e), 1126(f), 1126(g), 1127(d), 1128, 1129(a)(2), 1129(a)(3), 1129(a)(8), 1129(a)(10), 1129(b)(1), 1129(b)(2)(A), 1129(b)(2)(B), 1142(b), 1143, 1144, and 1145 of this title apply in a case under this chapter.

(b) A term used in a section of this title made applicable in a case under this chapter by subsection (a) of this section or section 103(e) of this title has the meaning defined for such term for the purpose of such applicable section, unless such term is otherwise defined in section 902 of this title.

(c) A section made applicable in a case under this chapter by subsection (a) of this section that is operative if the business of the debtor is authorized to be operated is operative in a case under this chapter.

§ 902. Definitions for this chapter

In this chapter—

(1) "property of the estate", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means property of the debtor;

(2) "special tax payer" means record owner or holder of title, legal or equitable, to real property against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment of an obligation issued by the debtor to defray the cost of an improvement relating to such real property;

(3) "special tax payer affected by the plan" means special tax payer with respect to whose real property the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (2) of this section assessed against such real property; and

(4) "trustee", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means debtor, except as provided in section 926 of this title.

§ 903. Reservation of State power to control municipalities

This chapter does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State in the exercise of the political or governmental powers of such municipality, including expenditures for such exercise, but—

(1) a State law prescribing a method of composition of indebtedness of such municipality may not bind any creditor that does not consent to such composition; and

(2) a judgment entered under such a law may not bind a creditor that does not consent to such composition.

§ 904. Limitation on jurisdiction and powers of court

Notwithstanding any power of the court, unless the debtor consents or the plan so provides, the court may not, by any stay, order, or decree, in the case or otherwise, interfere with—

(1) any of the political or governmental powers of the debtor;

(2) any of the property or revenues of the debtor; or

(3) the debtor's use or enjoyment of any income-producing property.

SUBCHAPTER II—ADMINISTRATION

§ 921. Petition and proceedings relating to petition

(a) Notwithstanding sections 109(c) and 301 of this title, a case under this chapter concerning an unincorporated tax or special assessment district that does not have such district's own officials is commenced by the filing under section 301 of this title of a petition under this chapter by such district's governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of such district.

(b) The chief judge of the court of appeals for the circuit embracing the district in which the case is commenced shall designate the bankruptcy judge to conduct the case.

(c) After an objection to the petition, the court, after notice and a hearing, may dismiss the petition, if the debtor did not file the petition in good faith, or if the petition does not meet the requirements of this title.

(d) If the petition is not dismissed under subsection (d) of this section, the court shall order relief under this chapter.

(e) The court may not, on account of an appeal from an order for relief, delay any proceeding under this chapter in the case in which the appeal is being taken; nor shall any court order a stay of such proceeding pending such appeal. The reversal on appeal of a finding of jurisdiction does not affect the validity of any debt incurred that is authorized by the court under section 364(c) or 364(d) of this title.

§ 922. Automatic stay of enforcement of claims against the debtor

(a) A petition filed under this chapter operates as a stay, in addition to the stay provided by section 362 of this title, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of

process, of judicial, administrative, or other proceeding against an officer or inhabitant of the debtor that seeks to enforce a claim against the debtor; and

(2) the enforcement of a lien on or arising out of taxes or assessments owed to the debtor.

(b) Subsections (c), (d), (e), (f), and (g) of section 362 of this title apply to a stay under subsection (a) of this section the same as such subsections apply to a stay under section 362(a) of this title.

§ 923. Notice

There shall be given notice of the commencement of a case under this chapter, notice of an order for relief under this chapter, and notice of the dismissal of a case under this chapter. Such notice shall also be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the district in which the case is commenced, and in such other newspaper having a general circulation among bond dealers and bondholders as the court designates.

§ 924. List of creditors

The debtor shall file a list of creditors.

§ 925. Effect of list of claims

A proof of claim is deemed filed under section 501 of this title for any claim that appears in the list filed under section 924 of this title, except a claim that is listed as disputed, contingent, or unliquidated.

§ 926. Avoiding powers

If the debtor refuses to pursue a cause of action under section 544, 545, 547, 548, 549(a), or 550 of this title, then on request of a creditor, the court may appoint a trustee to pursue such cause of action.

§ 927. Dismissal

(a) After notice and a hearing, the court may dismiss a case under this chapter for cause, including—

(1) want of prosecution;

(2) unreasonable delay by the debtor that is prejudicial to creditors;

(3) failure to propose a plan within the time fixed under section 041 of this title;

(4) if a plan is not accepted within any time fixed by the court;

(5) denial of confirmation of a plan under section 943(b) of this title and denial of additional time for filing another plan or a modification of a plan; or

(6) if the court has retained jurisdiction after confirmation of a plan—

(A) material default by the debtor with respect to a term of such plan; or

(B) termination of such plan by reason of the occurrence of a condition specified in such plan.

(b) The court shall dismiss a case under this chapter if confirmation is refused.

SUBCHAPTER III—THE PLAN

§ 941. Filing of plan

The debtor shall file a plan for the adjustment of the debtor's debts. If such plan is not filed with the petition, the debtor shall file such a plan at such later time as the court fixes.

§ 942. Modification of plan

The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of this chapter. After the debtor files a modification, the plan as modified becomes the plan.

§ 943. Confirmation

(a) A special tax payer may object to confirmation of a plan.

(b) The court shall confirm the plan if—

(1) the plan complies with the provisions of this title made applicable by sections 103 (e) and 901 of this title;

(2) the plan complies with the provisions of this chapter;

(3) all amounts to be paid by the debtor or by any person for services or expenses in the case or incident to the plan have been fully disclosed and are reasonable;

(4) the debtor is not prohibited by law from taking any action necessary to be taken to carry out the plan;

(5) the plan provides that each holder of a claim of the kind specified in section 507(a)(1) of this title will receive, on account of such claim, property of a value, as of the effective date of the plan, equal to the allowed amount of such claim, except to the extent that the holder of a particular claim of such kind has waived such payment on such claim; and

(6) the plan is in the best interests of creditors and is feasible.

§ 944. Effect of confirmation

(a) The provisions of a confirmed plan bind the debtor and any creditor, whether or not—

(1) a proof of such creditor's claim is filed or deemed filed under section 501 of this title;

(2) such claim is allowed under section 502 of this title; or

(3) such creditor has accepted the plan.

(b) Except as provided in subsection (c) of this section, the debtor is discharged from all debts as of the time when—

(1) the plan is confirmed;

(2) the debtor deposits any consideration to be distributed under the plan with a disbursing agent appointed by the court; and

(3) the court has determined—

(A) that any security so deposited will constitute, after distribution, a valid legal obligation of the debtor; and

(B) that any provision made to pay or secure payment of such obligation is valid.

(c) the debtor is not discharged under subsection (b) of this section from any debt—

(1) excepted from discharge by the plan or order confirming the plan; or

(2) owed to an entity that, before confirmation of the plan, had neither notice nor actual knowledge of the case.

§ 945. Continuing jurisdiction and closing of the case

(a) The court may retain jurisdiction over the case for such period of time as is necessary for the successful execution of the plan.

(b) Except as provided in subsection (a) of this section, the court shall close the case when administration of the case has been completed.

§ 946. Effect of exchange of securities before the date of the filing of the petition

The exchange of a new security under the plan for a claim covered by the plan, whether such exchange occurred before or after the date of the filing of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The amount and number specified in section 1126(c) of this title include the amount and number of claims formerly held by a creditor that has participated in any such exchange.

CHAPTER 11—REORGANIZATION

SUBCHAPTER I —OFFICERS AND ADMINISTRATION

Sec.

1101. Definitions for this chapter.
1102. Creditors' and equity security holders' committees.
1103. Powers and duties of committees.
1104. Appointment of trustee or examiner.
1105. Termination of trustee's appointment.
1106. Duties of trustees and examiner.
1107. Rights, powers, and duties of debtor in possession.
1108. Authorization to operate business.
1109. Right to be heard.
1110. Aircraft equipment and vessels.
1111. Claims and interests.
1112. Conversion or dismissal.

SUBCHAPTER II—THE PLAN

1121. Who may file a plan.
1122. Classification of claims or interests.
1123. Contents of plan.
1124. Impairment of claims or interests.
1125. Post petition disclosure and solicitation.
1126. Acceptance of plan.
1127. Modification of plan.
1128. Confirmation hearing.
1129. Confirmation of plan.

SUBCHAPTER III—POSTCONFIRMATION MATTERS

1141. Effect of confirmation.
1142. Execution of plan.
1143. Distribution.
1144. Revocation of an order of confirmation.
1145. Exemption from securities laws.
1146. Special tax provisions.

SUBCHAPTER IV—RAILROAD REORGANIZATION

1161. Inapplicability of other sections.
1162. Definition.
1163. Appointment of trustee.
1164. Right to be heard.
1165. Protection of the public interest.
1166. Effect of Interstate Commerce Act and of Federal, State, or local regulations.
1167. Collective bargaining agreement.
1168. Rolling stock equipment.
1169. Effect of rejection of lease of railroad line.
1170. Abandonment of railroad line.
1171. Priority claims.
1172. Contents of plan.
1173. Confirmation of plan.
1174. Liquidation.

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

§ 1101. Definitions for this chapter

In this chapter—

(1) "debtor in possession" means debtor except when a person that has qualified under section 322 of this title is serving as trustee in the case;

(2) "substantial consummation" means—

(A) transfer of all or substantially all of the property proposed by the plan to be transferred;

(B) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and

(C) commencement of distribution under the plan.

§ 1102. Creditors' and equity security holders' committees

(a)(1) As soon as practicable after the order for relief under this chapter, the court shall appoint a committee of creditors holding unsecured claims.

(2) On request of a party in interest, the court may order the appointment of additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or of equity security holders. The court shall appoint any such committee.

(b)(1) A committee of creditors appointed under subsection (a) of this section shall ordinarily consist of the persons, willing to serve, that hold the seven largest claims against the debtor of the kinds represented on such committee, or of the members of a committee organized by creditors before the order for relief under this chapter, if such committee was fairly chosen and is representative of the different kinds of claims to be represented.

(2) A committee of equity security holders appointed under subsection (a)(2) of this section shall ordinarily consist of the persons, willing to serve, that hold the seven largest amounts of equity securities of the debtor of the kinds represented on such committee.

(c) On request of a party in interest and after notice and a hearing, the court may

change the membership or the size of a committee appointed under subsection (a) of this section if the membership of such committee is not representative of the different kinds of claims or interests to be represented.

§ 1103. Powers and duties of committees

(a) At a scheduled meeting of a committee appointed under section 1102 of this title, at which a majority of the members of such committee are present, and with the court's approval, such committee may select and authorize the employment by such committee of one or more attorneys, accountants, or other agents, to represent or perform services for such committee.

(b) A person employed to represent a committee appointed under section 1102 of this title may not, while employed by such committee, represent any other entity in connection with the case.

(c) A committee appointed under section 1102 of this title may—

(1) consult with the trustee or debtor in possession concerning the administration of the case;

(2) investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan;

(3) participate in the formulation of a plan, advise those represented by such committee's recommendations as to any plan formulated, and collect and file with the court acceptances of a plan;

(4) request the appointment of a trustee or examiner under section 1104 of this title, if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case; and

(5) perform such other services as are in the interest of those represented.

(d) As soon as practicable after the appointment of a committee under section 1102 of this title, the trustee shall meet with such committee to transact such business as may be necessary and proper.

§ 1104. Appointment of trustee or examiner

(a) At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest, and after notice and a hearing, the court shall order the appointment of a trustee—

(1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or

(2) if such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

(b) If the court does not order the appointment of a trustee under this section, then at any time before the confirmation of a plan, on request of a party in interest, and after notice and a hearing, the court shall order the appointment of an examiner to conduct such an investigation of the debtor as is appropriate, including an investigation of any allegations of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor of or by current or former management of the debtor, if—

(1) such appointment is in the interests of creditors, any equity security holders, and other interests of the estate; or

(2) the debtor's fixed, liquidated, unsecured debts, other than debts for goods, services, or taxes, or owing to an insider, exceed $5,000,000.

(c) If the court orders the appointment of a trustee or an examiner, if a trustee or an examiner dies or resigns during the case or is removed under section 324 of this title, or if a trustee fails to qualify under section 322 of this title, then the court shall appoint one disinterested person to serve as trustee or examiner, as the case may be, in the case.

§ 1105. Termination of trustee's appointment

At any time before confirmation of a plan, on request of a party in interest, and after notice and a hearing, the court may terminate the trustee's appointment and restore the debtor to possession and management of the property of the estate, and operation of the debtor's business.

§ 1106. Duties of trustee and examiner

(a) A trustee shall—

(1) perform the duties of a trustee specified in sections 704(2), 704(4), 704(6), 704(7), and 704(8) of this title;

(2) if the debtor has not done so, file the list, schedule, and statement required under section 521(1) of this title;

(3) except to the extent that the court orders otherwise, investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan;

(4) as soon as practicable—

(A) file a statement of any investigation conducted under paragraph (3) of this subsection, including any fact ascertained pertaining to fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor, or to a cause of action available to the estate; and

(B) transmit a copy or a summary of any such statement to any creditors' committee or equity security holders' committee, to any indenture trustee, and to such other entity as the court designates;

(5) as soon as practicable, file a plan under section 1121 of this title, file a report of why the trustee will not file a plan, or recommend conversion of the case to a case under chapter 7 or 13 of this title or dismissal of the case;

(6) for any year for which the debtor has not filed a tax return required by law, furnish, without personal liability, such information as may be required by the governmental unit with which such tax return was to be filed, in light of the condition of the debtor's books and records and the availability of such information; and

(7) after confirmation of a plan, file such reports as are necessary or as the court orders.

(b) An examiner appointed under section 1104(c) of this title shall perform the duties specified in paragraphs (3) and (4) of subsection (a) of this section, and any other duties of the trustee that the court orders the debtor in possession not to perform.

§ 1107. Rights, powers, and duties of debtor in possession

(a) Subject to any limitations on a trustee under this chapter, and to such limitations or conditions as the court prescribes, a debtor in possession shall have all the rights, other than the right to compensation under section 330 of this title, and powers, and shall perform all the functions and duties, except the duties specified in sections 1106(a) (2), (3), and (4) of this title, of a trustee serving in a case under this chapter.

(b) Notwithstanding section 327(a) of this title, a person is not disqualified for employment under section 327 of this title by a debtor in possession solely because of such person's employment by or representation of the debtor before the commencement of the case.

§ 1108. Authorization to operate business

Unless the court orders otherwise, the trustee may operate the debtor's business.

§ 1109. Right to be heard

(a) The Securities and Exchange Commission may raise and may appear and be heard on any issue in a case under this chapter, but the Securities and Exchange Commission may not appeal from any judgment, order, or decree entered in the case.

(b) A party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may raise and may appear and be heard on any issue in a case under this chapter.

§ 1110. Aircraft equipment and vessels

(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), or vessels of the United States, as defined in subsection B(4) of the Ship Mortgage Act, 1920 (46 U.S.C. 911(4)), that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, a debtor that is an air carrier operating under a certificate of convenience and necessity issued by the Civil Aeronautics Board, or a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission, as the case may be, to take possession of such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession, unless—

(1) before 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after such date under such security agreement, lease, or conditional sale contract, as the case may be; and

(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract, as the case may be—

(A) that occurred before such date is cured before the expiration of such 60-day period; and

(B) that occurs after such date is cured before the later of—

(i) 30 days after the date of such default; and

(ii) the expiration of such 60-day period.

(b) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.

§ 1111. Claims and interests

(a) A proof of claim or interest is deemed filed under section 501 of this title for any claim or interest that appears in the schedules filed under section 521(1) or 1106(a)(2) of this title, except a claim or interest that is scheduled as disputed, contingent, or unliquidated.

(b)(1)(A) A claim secured by a lien on property of the estate shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such

claim, whether or not such holder has such recourse, unless—

(i) the class of which such claim is a part elects, by at least two-thirds in amount and more than half in number of allowed claims of such class, application of paragraph (2) of this subsection; or

(ii) such holder does not have such recourse and such property is sold under section 363 of this title or is to be sold under the plan.

(B) A class of claims may not elect application of paragraph (2) of this subsection if—

(i) the interest on account of such claims of the holders of such claims in such property is of inconsequential value; or

(ii) the holder of a claim of such class has recourse against the debtor on account of such claim and such property is sold under section 363 of this title or is to be sold under the plan.

(2) If such an election is made, then notwithstanding section 506(a) of this title, such claim is a secured claim to the extent that such claim is allowed.

§ 1112. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title unless—

(1) the debtor is not a debtor in possession;

(2) the case is an involuntary case originally commenced under this chapter; or

(3) the case was converted to a case under this chapter on other than the debtor's request.

(b) Except as provided in subsection (c) of this section, on request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, including—

(1) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation;

(2) inability to effectuate a plan;

(3) unreasonable delay by the debtor that is prejudicial to creditors;

(4) failure to propose a plan under section 1121 of this title within any time fixed by the court;

(5) denial of confirmation of every proposed plan and denial of additional time for filing another plan or a modification of a plan;

(6) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or a modified plan under section 1129 of this title;

(7) inability to effectuate substantial consummation of a confirmed plan;

(8) material default by the debtor with respect to a confirmed plan; and

(9) termination of a plan by reason of the occurrence of a condition specified in the plan.

(c) The court may not convert a case under chapter to a case under chapter 7 of this title if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.

(d) The court may convert a case under this chapter to a case under chapter 13 of this title only if—

(1) the debtor requests such conversion; and

(2) the debtor has not been discharged under section 1141(d) of this title.

(e) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

SUBCHAPTER II—THE PLAN

§ 1121. Who may file a plan

(a) The debtor may file a plan with a petition commencing a voluntary case, or at any time in a voluntary case or an involuntary case.

(b) Except as otherwise provided in this section, only the debtor may file a plan until after 120 days after the date of the order for relief under this chapter.

(c) Any party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may file a plan if and only if—

(1) a trustee has been appointed under this chapter;

(2) the debtor has not filed a plan before 120 days after the date of the order for relief under this chapter; or

(3) the debtor has not filed a plan that has been accepted, before 180 days after the date of the order for relief under this chapter, by each class the claims or interests of which are impaired under the plan.

(d) On request of a party in interest and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.

§ 1122. Classification of claims or interests.

(a) Except as provided in subsection (b) of this section, a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class.

(b) A plan may designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience.

§ 1123. Contents of plan

(a) A plan shall—

(1) designate, subject to section 1122 of this title, classes of claims other than claims of a kind specified in section 507(a)(1), 507(a)(2), or 507(a)(6) of this title and classes of interests;

(2) specify any class of claims or interests that is not impaired under the plan;

(3) shall specify the treatment of any class of claims or interests that is impaired under the plan;

(4) provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest;

(5) provide adequate means for the plan's execution, such as—

(A) retention by the debtor of all or any part of the property of the estate;

(B) transfer of all or any part of the property of the estate to one or more entities, whether organized before or after the confirmation of such plan;

(C) merger or consolidation of the debtor with one or more persons;

(D) sale of all or any part of the property of the estate, either subject to or free of any lien, or the distribution of all or any part of the property of the estate among those having an interest in such property of the estate;

(E) satisfaction or modification of any lien;

(F) cancellation or modification of any indenture or similar instrument;

(G) curing or waiving any default;

(H) extension of a maturity date or a change in an interest rate or other term of outstanding securities;

(I) amendment of the debtor's charter; or

(J) issuance of securities of the debtor, or of any entity referred to in subparagraph (B) or (C) of this paragraph, for cash, for property, for existing securities, or in exchange for claims or interests, or for any other appropriate purpose;

(6) provide for the inclusion in the charter of the debtor, if the debtor is a corporation, or of any corporation referred to in paragraph (5)(B) or (5)(C) of this subsection, of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing such preferred class in the event of default in the payment of such dividends; and

(7) contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of any officer, director, or trustee under the plan and any successor to such officer, director, or trustee.

(b) Subject to subsection (a) of this section, a plan may—

(1) impair or leave unimpaired any class of claims, secured or unsecured, or of interests;

(2) subject to section 365 of this title, provide for the assumption or rejection of any executory contract or unexpired lease of the debtor not previously rejected under section 365 of this title;

(3) provide for—

(A) the settlement or adjustment of any claim or interest belonging to the debtor or to the estate; or

(B) the retention and enforcement by the debtor, by the trustee, or by a representative of the estate appointed for such purpose, of any such claim or interest;

(4) provide for the sale of all or substantially all of the property of the estate, and the distribution of the proceeds of such sale among holders of claims or interests; and

(5) include any other appropriate provision not inconsistent with the applicable provisions of this title.

(c) In a case concerning an individual, a plan proposed by an entity other than the debtor may not provide for the use, sale, or lease of property exempted under section 522 of this title, unless the debtor consents to such use, sale, or lease.

§ 1124. Impairment of claims or interests

Except as provided in section 1123(a)(4) of this title, a class of claims or interests is impaired under a plan unless, with respect to each claim or interest of such class, the plan—

(1) leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder of such claim or interest;

(2) notwithstanding any contractual provision or applicable law that entitles the holder of such claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default—

(A) cures any such default, other than a default of a kind specified in section 365(b)(2) of this title, that occurred before or after the commencement of the case under this title;

(B) reinstates the maturity of such claim or interest as such maturity existed before such default;

(C) compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance of such holder on such contractual provision or such applicable law; and

(D) does not otherwise alter the legal,

equitable, or contractual rights to which such claim or interest; or

(3) provides that, on the effective date of the plan, the holder of such claim or interest receives, on account of such claim or interest, cash equal to—

(A) with respect to a claim, the allowed amount of such claim; or

(B) with respect to an interest, if applicable, the greater of—

(i) any fixed liquidation preference to which the terms of any equity security representing such interest entitle the holder of such interest; and

(ii) any fixed price at which the debtor, under the terms of such equity security, may redeem such equity security from such holder.

§ 1125. Postpetition disclosure and solicitation

(a) In this section—

(1) "adequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan; and

(2) "investor typical of holders of claims or interests of the relevant class" means investor having—

(A) a claim or interest of the relevant class;

(B) such a relationship with debtor as the holders of other claims or interests of such class generally have; and

(C) such ability to obtain such information from sources other than the disclosure required by this section as holders of claims or interests in such class generally have.

(b) An acceptance or rejection of a plan may not be solicited after the commencement of the case under this title from a holder of a claim or interest with respect to such claim or interest, unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information. The court may approve a disclosure statement without a valuation of the debtor or an appraisal of the debtor's assets.

(c) The same disclosure statement shall be transmitted to each holder of a claim or interest of a particular class, but there may be transmitted different disclosure statements, differing in amount, detail, or kind of information, as between classes.

(d) Whether a disclosure statement contains adequate information is not governed by any otherwise applicable nonbankruptcy law, rule, or regulation, but an agency or official whose duty is to administer or enforce such a law, rule, or regulation may be heard on the issue of whether a disclosure statement contains adequate information. Such an agency or official may not appeal from an order approving a disclosure statement.

(e) A person that solicits, in good faith and in compliance with the applicable provisions of this title, or that participates, in good faith and in compliance with the applicable provisions of this title, in the offer, issuance, sale, or purchase of a security, offered or sold under the plan, of the debtor, of an affiliate participating in a joint plan with the debtor, or of a newly organized successor to the debtor under the plan, is not liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing the offer, issuance, sale, or purchase of securities.

§ 1126. Acceptance of plan

(a) The holder of a claim or interest allowed under section 502 of this title may accept or reject a plan. If the United States is a creditor or equity security holder, the Secretary of the Treasury may accept or reject the plan on behalf of the United States.

(b) For the purposes of subsections (c) and (d) of this section, a holder of a claim or interest that has accepted or rejected the plan before the commencement of the case under this title is deemed to have accepted or rejected such plan, as the case may be, if—

(1) the solicitation of such acceptance or rejection was in compliance with any applicable nonbankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation; or

(2) if there is not any such law, rule, or regulation, such acceptance or rejection was solicited after disclosure to such holder of adequate information, as defined in section 1125(a)(1) of this title.

(c) A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class held by creditors, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

(d) A class of interests has accepted a plan if such plan has been accepted by holders of such interests other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

(e) On request of a party in interest, and after notice and a hearing, the court may designate any entity whose acceptance or rejection of such plan was not in good faith, or was not solicited or procured in good faith or in accordance with the provisions of this title.

(f) Notwithstanding any other provision of this section, a class that is not impaired under a plan is deemed to have accepted the plan and solicitation of acceptances with respect to such class from the holders of claims or interest of such class is not required.

(g) Notwithstanding any other provision of this section, a class is deemed not to have accepted a plan if such plan provides that the claims or interests of such class do not entitle the holders of such claims or interests to any payment or compensation under the plan on account of such claims or interests.

§ 1127. Modification of plan

(a) The proponent of a plan may modify such plan at any time before confirmation, but may not modify such plan so that such plan as modified fails to meet the requirement of sections 1122 and 1123 of this title. After the proponent files a modification with the court, the plan as modified becomes the plan.

(b) The proponent of a plan or the reorganized debtor may modify such plan at any time after confirmation of such plan and before substantial consummation of such plan, but may not modify such plan so that such plan as modified fails to meet the requirements of sections 1122 and 1123 of this title. Such plan as modified under this subsection becomes the plan only if the court, after notice and a hearing, confirms such plan, as modified under section 1129 of this title, and circumstances warrant such modification.

(c) The proponent of a modification shall comply with section 1125 of this title with respect to the plan as modified.

(d) Any holder of a claim or interest that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, such plan as modified, unless, within the time fixed by the court, such holder changes such holder's previous acceptance or rejection.

§ 1128. Confirmation hearing

(a) After notice, the court shall hold a hearing on confirmation of a plan.

(b) A party in interest may object to confirmation of a plan.

§ 1129. Confirmation of plan

(a) The court shall confirm a plan only if all of the following requirements are met:

(1) The plan complies with the applicable provisions of this chapter.

(2) The proponent of the plan complies with the applicable provisions of this chapter.

(3) The plan has been proposed in good faith and not by any means forbidden by law.

(4)(A) Any payment made or promised by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in, or in connection with, the case, or in connection with the plan and incident to the case has been disclosed to the court; and

(B)(i) any such payment made before confirmation of the plan is reasonable; or

(ii) if such payment is to be fixed after confirmation of the plan, such payment is subject to the approval of the court as reasonable.

(5)(A)(i) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and

(ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy.

(B) The proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.

(6) Any regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.

(7) With respect to each class—

(A) each holder of a claim or interest of such class—

(i) has accepted the plan; or

(ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date; or

(B) if section 1111(b)(2) of this title applies to the claims of such class, each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such creditor's interest in the estate's interest in the property that secures such claims.

(8) With respect to each class—

(A) such class has accepted the plan; or

(B) such class is not impaired under the plan.

(9) Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that—

(A) with respect to a claim of a kind specified in section 507(a)(1) or 507(a)(2) of this title, on the effective date of the plan, the holder of such claim will receive on

account of such claim cash equal to the allowed amount of such claim;

(B) with respect to a class of claims of a kind specified in section 507(a)(3), 507(a)(4), or 507(a)(5) of this title, each holder of a claim of such class will receive—

(i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim; and

(C) with respect to a claim of a kind specified in section 507(a)(6) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim, of a value, as of the effective date of the plan, equal to the allowed amount of such claim.

(10) At least one class of claims has accepted the plan, determined without including any acceptance of the plan by any insider holding a claim of such class.

(11) Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

(b)(1) Notwithstanding section 510(a)(1) of this title, if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

(2) For the purpose of this subsection, the condition that a plan be fair and equitable with respect to a class includes the following requirements:

(A) With respect to a class of secured claims, the plan provides—

(i)(I) that the holders of such claims retain the lien securing such claims, whether the property subject to such lien is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and

(II) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;

(ii) for the sale, subject to section 363(k) of this title, of any property that is subject to the lien securing such claims, free and clear of such lien, with such lien to attach to the proceeds of such sale, and the treatment of such lien on proceeds under clause (i) or (iii) of this subparagraph; or

(iii) for the realization by such holders of the indubitable equivalent of such claims.

(B) With respect to a class of unsecured claims—

(i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain on account of such junior claim or interest any property.

(C) With respect to a class of interests—

(i) the plan provides that each holder of an interest of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, and the value of such interest; or

(ii) the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property.

(c) Notwithstanding subsections (a) and (b) of this section and except as provided in section 1127(b) of this title, the court may confirm only one plan, unless the order of confirmation in the case has been revoked under section 1144 of this title. If the requirements of subsections (a) and (b) of this section are met with respect to more than one plan, the court shall consider the preferences of creditors and equity security holders in determining which plan to confirm.

(d) Notwithstanding any other provision of this section, on request of a party in interest that is a government unit, the court may not confirm a plan if the principal purpose of the plan is the avoidance of taxes or the avoidance of section 5 of the Securities Act of 1933 (15 U.S.C. 77e).

SUBCHAPTER III—POSTCONFIRMATION MATTERS

§ 1141. Effect of confirmation

(a) Except as provided in subsections (d)(2) and (d)(3) of this section, the provisions of a confirmed plan bind the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor or equity security holder of, or general partner in, the debtor, whether or not the claim or interest of such creditor equity security holder, or general partner is impaired under the plan and whether or not such creditor equity security holder, or general partner has accepted the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) After confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, of equity security holders, and of general partners in the debtor, except as otherwise provided in the plan or in the order confirming the plan.

(d)(1) Except as otherwise provided in this subsection, in the plan, or in the order confirming the plan, the confirmation of a plan—

(A) discharges the debtor from any debt that arose before the date of such confirmation, and any debt of a kind specified in section 502(g), 502(h), or 502(i) of this title, whether or not—

(i) a proof of the claim based on such debt is filed or deemed filed under section 501 of this title;

(ii) such claim is allowed under section 502 of this title; or

(iii) the holder of such claim has accepted the plan; and

(B) terminates all rights and interests of equity security holders and general partners provided for by the plan.

(2) The confirmation of a plan does not discharge an individual debtor from any debt excepted from discharge under section 523 of this title.

(3) The confirmation of a plan does not discharge a debtor if—

(A) the plan provides for the liquidation of all or substantially all of the property of the estate;

(B) the debtor does not engage in business after consummation of the plan; and

(C) the debtor would be denied a discharge under section 727(a) of this title if the case were a case under chapter 7 of this title.

(4) The court may approve a written waiver of discharge executed by the debtor after the order for relief under this chapter.

§ 1142. Execution of plan

(a) Notwithstanding any otherwise applicable nonbankruptcy law, rule, or regulation relating to financial condition, the debtor and any entity organized or to be organized for the purpose of carrying out the plan shall carry out the plan, and shall comply with any orders of the court.

(b) The court may direct the debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of property dealt with by confirmed plan, and to perform any other act, including the satisfaction of any lien, that is necessary for the consummation of the plan.

§ 1143. Distribution

If a plan requires presentment or surrender of a security or the performance of any other act as a condition to participation in distribution under the plan, such action shall be taken not later than five years after the date of the entry of the order of confirmation. Any entity that has not within such time presented or surrendered such entity's security or taken any such other action that the plan requires may not participate in distribution under the plan.

§ 1144. Revocation of an order of confirmation

On request of a party in interest at any time before 180 days after the date of the entry of the order of confirmation, and after notice and a hearing, the court may revoke such order if such order was procured by fraud. An order under this section revoking an order of confirmation shall—

(1) contain such provisions as are necessary to protect any entity acquiring rights in good faith reliance on the order of confirmation; and

(2) revoke the discharge of the debtor.

§ 1145. Exemption from securities laws

(a) Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section 5 of the Securities Act of 1933 (15 U.S.C. 77e) and any State or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security does not apply to—

(1) the offer or sale under a plan of a security of the debtor, of an affiliate participating in a joint plan with the debtor, or of a successor to the debtor under the plan—

(A) in exchange for a claim against, an interest in, or a claim for an administrative expense in the case concerning, the debtor or such affiliate; or

(B) principally in such exchange and partly for cash or property;

(2) the offer of a security through any warrant, option, right to subscribe, or conversion privilege that was sold in the manner specified in paragraph (1) of this subsection, or the sale of a security upon the exercise of such a warrant, option, right, or privilege;

(3) the offer or sale, other than under a plan, of a security of an issuer other than the debtor or an affiliate, if—

(A) such security was owned by the debtor on the date of the filing of the petition;

(B) the issuer of such security is—

(i) required to file reports under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

(ii) in compliance with all applicable requirements for the continuance of trading in such security on the date of such offer or sale; and

(C) such offer or sale is of securities that do not exceed—

(i) during the two-year period immediately following the date of the filing of the petition, four percent of the securities of such class outstanding on such date; and

(ii) during any 180-day period following such two-year period, one percent of the

securities outstanding at the beginning of such 180-day period; or

(4) a transaction by a stockholder in a security that is executed after a transaction of a kind specified in paragraph (1) or (2) of this subsection in such security and before the expiration of 40 days after the first date on which such security was bona fide offered to the public by the issuer or by or through an underwriter, if such stockbroker provides, at the time of or before such transaction by such stockholder, a disclosure statement approved under section 1125 of this title, and, if the court orders, information supplementing such disclosure statement.

(b)(1) Except as provided in paragraph (2) of this subsection, an entity is an underwriter under section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)), if such entity—

(A) purchases a claim against, interest in, or claim for an administrative expense in the case concerning, the debtor, if such purchase is with a view to distribution of any security received or to be received in exchange for such a claim or interest;

(B) offers to sell securities offered or sold under the plan for the holders of such securities;

(C) offers to buy securities offered or sold under the plan for the holders of such securities, if such offer to buy is—

(i) with a view to distribution of such securities; and

(ii) under an agreement made in connection with the plan, with the consummation of the plan, or with the offer or sale of securities under the plan; or

(D) is an issuer, as used in such section 2(11), with respect to such securities.

(2) An entity is not an underwriter under section 2(11) of the Securities Act of 1933 or under paragraph (1) of this subsection with respect to an agreement that provides only for—

(A)(i) the matching combination of fractional interests in securities offered or sold under the plan into whole interests; or

(ii) the purchase or sale of such fractional interests among entities receiving such fractional interests under the plan; or

(B) the purchase or sale for such entities of such fractional or whole interests as are necessary to adjust for any remaining fractional interests after such matching.

(3) An entity other than an entity of the kind specified in paragraph (1) of this subsection is not an underwriter under section 2(11) of the Securities Act of 1933 with respect to any securities offered or sold to such entity in the manner specified in subsection (a)(1) of this section.

(c) An offer or sale of securities of the kind and in the manner specified under subsection (a)(1) of this section is deemed to be a public offering.

(d) The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) does not apply to a commercial note issued under the plan that matures not later than one year after the effective date of the plan.

§ 1146. Special tax provisions

(a) For the purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor that is an individual shall terminate on the date of the order for relief under this chapter, unless the case was converted under section 706 of this title.

(b) The trustee shall make a State or local tax return of income for the estate of an individual debtor in a case under this chapter for each taxable period after the order for relief under this chapter during which the case is pending.

(c) The issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of this title, may not be taxed under any State or local law imposing a stamp tax or similar tax.

(d) The court may authorize the proponent of a plan to request a determination, limited to questions of law, by a State or local governmental unit charged with responsibility for collection or determination of a tax on or measured by income, of the tax effects, under section 436 of this title and under the law imposing such tax, of the plan. In the event of an actual controversy, the court may declare such effects after the earlier of—

(1) the date on which such governmental unit responds to the request under this subsection; and

(2) 270 days after such request.

SUBCHAPTER IV—RAILROAD REORGANIZATION

§ 1161. Inapplicability of other sections

Sections 341, 343, 1102(a)(1), 1104, 1105, 1107, 1129(a)(7), and 1129(c) of this title do not apply in a case concerning a railroad.

§ 1162. Definition

In this subchapter, "Commission" means Interstate Commerce Commission.

§ 1163. Appointment of trustee

As soon as practicable after the order for relief, the Secretary of Transportation shall submit a list of five disinterested persons that are qualified and willing to serve as trustee in the case. The court shall appoint one of such persons to serve as trustee in the case.

§ 1164. Right to be heard

The Commission, the Department of Transportation, and any State or local commission having regulatory jurisdiction over the debtor may raise and may appear and be heard on any issue in a case under this chapter, but may not appeal from any judgment, order, or decree entered in the case.

§ 1165. Protection of the public interest

In applying sections 1166, 1167, 1169, 1170, 1171, 1172, 1173, and 1174 of this title, the court and the trustee shall consider the public interest in addition to the interests of the debtor, creditors, and equity security holders.

§ 1166. Effect of Interstate Commerce Act and of Federal, State, or local regulations

Except with respect to abandonment under section 1170 of this title, or merger, modification of the financial structure of the debtor, or issuance or sale of securities under a plan, the trustee and the debtor are subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) that are applicable to railroads, and the trustee is subject to orders of any Federal, State, or local regulatory body to the same extent as the debtor would be if a petition commencing the case under this chapter had not been filed, but—

(1) any such order that would require the expenditure, or the incurring of an obligation for the expenditure, of money from the estate is not effective unless approved by the court; and

(2) the provisions of this chapter are subject to section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)).

§ 1167. Collective bargaining agreements

Notwithstanding section 365 of this title, neither the court nor the trustee may change the wages or working conditions of employees of the debtor established by a collective bargaining agreement that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.) except in accordance with section 6 of such Act (45 U.S.C. 156).

§ 1168. Rolling stock equipment

(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, rolling stock equipment or accessories used on such equipment, including superstructures and racks, that are subject to a purchase-money equipment security interested granted by, leased to, or conditionally sold to, the debtor to take possession of such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession, unless—

(1) before 60 days after the date of the order for relief, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after such date under such security agreement, lease, or conditional sale contract, as the case may be; and

(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract, as the case may be—

(A) that occurred before such date is cured before the expiration of such 60-day period; and

(B) that occurs after such date is cured before the later of—

(i) 30 days after the date of such default; and

(ii) the expiration of such 60-day period.

(b) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section, may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.

§ 1169. Effect of rejection of lease of railroad line

(a) Except as provided in subsection (b) of this section, if a lease of a line of railroad under which the debtor is the lessee is rejected under section 365 of this title, and if the trustee, within such time as the court fixes, and with the court's approval, elects not to operate the leased line, the lessor under such lease, after such approval, shall operate the line.

(b) If operation of such line by such lessor is impracticable or contrary to the public interest, the court, on request of such lessor, and after notice and a hearing, shall order the trustee to continue operation of such line for the account of such lessor until abandonment is ordered under section 1169 of this title, or until such operation is otherwise lawfully terminated, whichever occurs first.

(c) During any such operation, such lessor is deemed a carrier subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) that are applicable to railroads.

§ 1170. Abandonment of railroad line

(a) The court, after notice and a hearing, may authorize the abandonment of a railroad line if such abandonment is—

(1)(A) in the best interest of the estate; or

(B) essential to the formulation of a plan; and

(2) consistent with the public interest.

(b) If, except for the pendency of the case under this chapter, such abandonment would require approval by the Commission under a law of the United States, the trustee shall initiate an appropriate application for such abandonment with the Interstate Commerce Commission. The court may fix a time within which the Commission shall report to the court on such application.

(c) After the court receives the report of the Commission, or the expiration of the time fixed under subsection (b) of this section, whichever occurs first, the court may authorize such abandonment after notice to the Commission, the Secretary of Transportation, the trustee, any party in interest that

has requested notice, any affected shipper or community, and any other entity prescribed by the court, and a hearing.

(d)(1) Enforcement of an order authorizing such abandonment shall be stayed until the time for taking an appeal has expired, or, if an appeal is timely taken, until such order has become final.

(2) If an order authorizing the abandonment of a railroad line is appealed, the court, on request of a party in interest, may authorize termination of service on a line or a portion of a line pending the determination of such appeal, after notice to the Commission, the Secretary of Transportation, the trustee, any party in interest that has requested notice, any affected shipper or community, and any other entity prescribed by the court, and a hearing. An appellant may not obtain a stay of the enforcement of an order authorizing such termination by the giving of a supersedeas bond or otherwise, during the pendency of such appeal.

§ 1171. Priority claims

(a) There shall be paid as an administrative expense any claim of an individual or of the personal representative of a deceased individual, against the debtor or the estate, for personal injury to or death of such individual arising out of the operation of the debtor or the estate, whether such claim arose before or after the commencement of the case.

(b) Any unsecured claim against the debtor that would have been entitled to priority if a receiver in equity of the property of the debtor had been appointed by a Federal court on the date of the order for relief under this title shall be entitled to such priority in the case under this chapter.

§ 1172. Contents of plan

(a) In addition to the provisions required or permitted under, section 1123 of this title, a plan—

(1) shall specify the extent to and the means by which the debtor's rail service is proposed to be continued, and the extent to which any of the debtor's rail service is proposed to be terminated; and

(2) may include a provision for—

(A) the transfer of any or all of the operating railroad lines of the debtor to another operating railroad; or

(B) abandonment of any railroad line in accordance with section 1169 of this title.

(b) If, except for the pendency of the case under this chapter, transfer of, or operation of or over, any of the debtor's rail lines by an entity other than the debtor or a successor to the debtor under the plan would require approval by the Commission under a law of the United States, then a plan may not propose such a transfer or such operation unless the proponent of the plan initiates an appropriate application for such a transfer or such operation with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5.

§ 1173. Confirmation of plan

(a) The court shall confirm a plan if—

(1) the applicable requirements of section 1129 of this title have been met;

(2) each creditor or equity security holder will receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the value of property that each such creditor or equity security holder would so receive or retain if all of the operating railroad lines of the debtor were sold, and the proceeds of such sale, and the other property of the estate, were distributed under chapter 7 of this title on such date;

(3) in light of the debtor's past earnings and the probable prospective earnings of the reorganized debtor, there will be adequate coverage by such prospective earnings of any fixed charges, such as interest on debt, amortization of funded debt, and rent for leased railroads, provided for by the plan; and

(4) the plan is compatible with the public interest.

(b) If the requirements of subsection (a) of this section are met with respect to more than one plan, the court shall confirm the plan that is most likely to maintain adequate rail service in the public interest.

§ 1174. Liquidation

On request of a party in interest and after notice and a hearing, the court may, or, if a plan has not been confirmed under section 1173 of this title before five years after the date of the order for relief, the court shall, order the trustee to cease the debtor's operation and to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 of this title.

CHAPTER 13—ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

Sec.
1301. Stay of action against codebtor.
1302. Trustee.
1303. Rights and powers of debtor.
1304. Debtor engaged in business.
1305. Filing and allowance of postpetition claims.
1306. Property of the estate.
1307. Conversion or dismissal.

SUBCHAPTER II—THE PLAN

1321. Filing of plan.
1322. Contents of plan.
1323. Modification of plan before confirmation.
1324. Confirmation hearing.
1325. Confirmation of plan
1326. Payments.
1327. Effect of confirmation.
1328. Discharge.
1329. Modification of plan after confirmation.
1330. Revocation of an order of confirmation.

SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

§ 1301. Stay of action against codebtor

(a) Except as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that secured such debt, unless—

(1) such individual became liable on or secured such debt in the ordinary course of such individual's business; or

(2) the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title.

(b) A creditor may present a negotiable instrument, and may give notice of dishonor of such an instrument,

(c) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided by subsection (a) of this section with respect to a creditor, to the extent that—

(1) as between the debtor and the indivdual protected under subsection (a) of this section, such individual received the consideration for the claim held by such creditor;

(2) the plan filed by the debtor proposes not to pay such claim; or

(3) such creditor's interest would be irreparably harmed by such stay.

§ 1302. Trustee

(a) If the court has appointed an individual under subsection (d) of this section to serve as standing trustee in cases under this chapter and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case. Otherwise, the court shall appoint a person to serve as trustee in the case.

(b) The trustee shall—

(1) perform the duties specified in sections 704(2), 704(3), 704(4), 704(5), 704(6), and 704(8) of this title;

(2) appear and be heard at any hearing that concerns—

(A) the value of property subject to a lien;

(B) confirmation of a plan; or

(C) modification of the plan after confirmation; and

(3) advise, other than on legal matters, and assist the debtor in performance under the plan.

(c) If the debtor is engaged in business, then in addition to the duties specified in subsection (b) if this section, the trustee shall perform the duties specified in sections 1106(a)(3) and 1106(a)(4) of this title.

(d) If the number of cases under this chapter commenced in a particular judicial district so warrant, the court may appoint one or more individuals to serve as standing trustee for such district in cases under this chapter.

(e)(1) A court that has appointed an individual under subsection (d) to this section to serve as standing trustee in cases under this chapter shall fix—

(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5; and

(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

(2) Such individual shall collect such percentage fee from all payments under plans in the cases under this chapter for which such individual serves as standing trustee. Such individual shall pay annually to the Treasury—

(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under this chapter for which such individual serves as standing trustee; and

(B) any amonut by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

§ 1303. Rights and powers of debtor

Subject to any limitations on a trustee under this chapter, the debtor shall have, exclusive of the trustee, the rights and powers of a trustee under sections 363(b), 363(d), 363(e), 363(f), and 363(l), of this title.

§ 1304. Debtor engaged in business

(a) A debtor that is self-employed and incurs trade credit in the production of income from such employment is engaged in business.

(b) Unless the court orders otherwise, a debtor engaged in business may operate the business of the debtor, and, subject to any limitations on a trustee under sections 363(c) and 364 of this title and to such limitations or conditions as the court prescribes, shall have, exclusive of the trustee, the rights and powers of the trustee under such sections.

(c) A debtor engaged in business shall perform the duties of the trustee specified in section 704(7) of this title.

§ 1305. Filing and allowance of postpetition claims

(a) A proof of claim may be filed by any entity that holds a claim against the debtor—

(1) for taxes that become payable to a governmental unit while the case is pending; or

(2) that is a consumer debt, that arises after the date of the order for relief under this chapter, and that is for property or services necessary for the debtor's performance under the plan.

(b) Except as provided in subsection (c) of this section, a claim filed under subsection (a) of this section shall be allowed or disallowed under section 502 of this title, but shall be determined as of the date such claim arises, and shall be allowed under section 502(a), 502(b), or 502(c) of this title, or disallowed under section 502(d) or 502(e) of this title, the same as if such claim had arisen before the date of the filing of the petition.

(c) A claim filed under subsection (a)(2) of this section shall be disallowed if the holder of such claim knew or should have known that prior approval by the trustee of the debtor's incurring the obligation was practicable and was not obtained.

§ 1306. Property of the estate

(a) Property of the estate includes, in addition to the property specified in section 541 of this title—

(1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title whichever occurs first; and

(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title, whichever occurs first.

(b) Except as provided in a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.

§ 1307. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.

(b) On request of the debtor at any time if the case has not been converted under section 706 or 1112 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

(c) Except as provided in subsection (e) of this section, on request of a party in interest and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including—

(1) unreasonable delay by the debtor that is prejudicial to creditors;

(2) nonpayment of any fees and charges required under chapter 123 of title 28;

(3) failure to file a plan timely under section 1321 of this title;

(4) denial of confirmation of a plan under section 1325 of this title and denial of additional time for filing another plan or a modification of a plan;

(5) material default by the debtor with respect to a term of a confirmed plan;

(6) revocation of the order of confirmation under section 1330 of this title, and denial of confirmation of a modified plan under section 1329 of this title; and

(7) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan.

(d) Except as provided in subsection (e) of this section, at any time before the confirmation of a plan under section 1325 of this title, on request of a party in interest and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 11 of this title.

(e) The court may not convert a case under this chapter to a case under chapter 7 or 11 of this title if the debtor is a farmer, unless the debtor requests such conversion.

(f) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

SUBCHAPTER II—THE PLAN

§ 1321. Filing of plan

The debtor shall file a plan.

§ 1322. Contents of plan

(a) The plan shall—

(1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan;

(2) provide for the full payment, in deferred cash payments of all claims entitled to priority under section 507 of this title, unless the holder of a particular claim agrees to a different treatment of such claim; and

(3) if the plan classifies claims, provide the same treatment for each claim within a particular class.

(b) Subject to subsections (a) and (c) of this section, the plan may—

(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated;

(2) modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims;

(3) provide for the curing or waiving of any default;

(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any unsecured claim;

(5) notwithstanding paragraph (2) of this subsection, provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

(6) provide for the payment of all or any part of any claim allowed under section 1305 of this title;

(7) provide for the assumption or rejection of any executory contract or unexpired lease of the debtor not previously rejected under section 365 of this title;

(8) provide for the payment of all or any part of a claim against the debtor from property of the estate or property of the debtor;

(9) provide for the vesting of property of the estate, on confirmation of the plan or at a later time, in the debtor or in any other entity; and

(10) include any other appropriate provision not inconsistent with this title.

(c) The plan may not provide for payments over a period that is longer than three years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than five years.

§ 1323. Modification of plan before confirmation

(a) The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of section 1322 of this title.

(b) After the debtor files a modification under this section, the plan as modified becomes the plan.

(c) Any holder of a second claim that has accepted or rejected the plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and such holder changes such holder's previous acceptance or rejection.

§ 1324. Confirmation hearing

After notice, the court shall hold a hearing on the confirmation of the plan. A party in interest may object to the confirmation of the plan.

§ 1325. Confirmation of plan

(a) The court shall confirm a plan if—

(1) the plan complies with the provisions of this chapter and with other applicable provisions of this title;

(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

(3) the plan has been proposed in good faith and not by any means forbidden by law;

(4) the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on such date;

(5) with respect to each allowed secured claim provided for by the plan—

(A) the holder of such claim has accepted the plan;

(B)(i) the plan provides that the holder of such claim retain the lien securing such claim; and

(ii) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim; or

(C) the debtor surrenders the property securing such claim to such holder; and

(6) the debtor will be able to make all payments under the plan and to comply with the plan.

(b) After confirmation of a plan, the court may order any entity from whom the debtor receives income to pay all or any part of such income to the trustee.

§ 1326. Payments

(a) Before or at the time of each payment to creditors under the plan, there shall be paid—

(1) any unpaid claim of the kind specified in section 507(1) of this title; and

(2) if a standing trustee appointed under section 1302(d) is serving in the case, the percentage fee fixed for such standing trustee under section 1302(e) of this title.

(b) Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

§ 1327. Effect of confirmation

(a) The provisions of a confirmed plan bind the debtor and each creditor, whether or not the claim of such creditor is provided for by the plan, and whether or not such creditor has objected to, has accepted, or has rejected the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) Except as otherwise provided in the plan or in the order confirming the plan, the property vesting in the debtor under subsection (b) of this section is free and clear of any claim or interest of any creditor provided for by the plan.

§ 1328. Discharge

(a) As soon as practicable after completion by the debtor of all payments under the plan, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge

of all debts provided for by the plan or disallowed under section 502 of this title, except any debt—

(1) provided for under section 1322(b)(5) of this title; or

(2) of the kind specified in section 523(a)(5) of this title.

(b) At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

(1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable;

(2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

(3) modification of the plan under section 1329 of this title is not practicable.

(c) A discharge granted under subsection (b) of this section discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502 of this title, except any debt—

(1) provided for under section 1322(b)(5) of this title; or

(2) of a kind specified in section 523(a) of this title.

(d) Notwithstanding any other provision of this section, a discharge granted under this section does not discharge the debtor from any debt based on an allowed claim filed under section 1305(a)(2) of this title if prior approval by the trustee of the debtor's incurring such debt was practicable and was not obtained.

(e) On request of a party in interest before one year after a discharge under this section is granted, and after notice and a hearing, the court may revoke such discharge only if—

(1) such discharge was obtained through fraud; and

(2) knowledge of such fraud came to the requesting party after such discharge was granted.

§ 1329. Modification of plan after confirmation

(a) At any time after confirmation but before the completion of payments under a plan, the plan may be modified to—

(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

(2) extend or reduce the time for such payments; or

(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan, to the extent necessary to take account of any payment of such claim other than under the plan.

(b)(1) Sections 1322(a), 1322(b), and 1323(c) of this title and the requirements of section 1325(a) of this title apply to any modification under subsection (a) of this section.

(2) The plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved.

(c) A plan modified under this section may not provide for payments over a period that expires after three years after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

§ 1330. Revocation of an order of confirmation

(a) On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1325 of this title, and after notice and a hearing, the court may revoke such order if such order was procured by fraud.

(b) If the court revokes an order of confirmation under subsection (a) of this section, the court shall dispose of the case under section 1307 of this title unless, within the time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1329 of this title.

CHAPTER 15—UNITED STATES TRUSTEES

Sec.

1501. Applicability of this chapter.

SUBCHAPTER I—GENERAL PROVISIONS

15101. Definitions.

15103. Applicability of subchapters and sections.

SUBCHAPTER III—CASE ADMINISTRATION

15303. Involuntary cases.

15321. Eligibility to serve as trustee.

15322. Qualification of trustee.

15324. Removal of trustee.

15326. Limitation on compensation of trustee.

15330. Compensation of officers.

15343. Examination of debtor.

15345. Money of estates.

SUBCHAPTER VII—LIQUIDATION

15701. Interim trustee.

15703. Successor trustee.

15704. Duties of trustee.

15727. Discharge.

SUBCHAPTER XI—REORGANIZATIONS

151102. Creditors' and equity security holders' committees.

151104. Appointment of trustee or examiner.

151105. Termination of trustee's appointment.

151163. Appointment of trustee.

SUBCHAPTER XIII—ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

151302. Trustee.

151326. Payments.

§ 1501. Applicability of chapter

This chapter applies only in cases under this title pending in the following districts:

(1) District of Maine, District of New Hampshire, District of Massachusetts, and District of Rhode Island.

(2) Southern District of New York.

(3) District of Delaware and District of New Jersey.

(4) Eastern District of Virginia and District of District of Columbia.

(5) Northern District of Alabama.

(6) Northern District of Texas.

(7) Northern District of Illinois.

(8) District of Minnesota, District of North Dakota, District of South Dakota.

(9) Central District of California.

(10) District of Colorado and District of Kansas.

SUBCHAPTER I—GENERAL PROVISIONS

§ 15101. Definitions

In this title—

(1) "entity" includes United States trustee; and

(2) "governmental unit" does not include United States trustee while serving as a trustee in a case under this title.

§ 15103. Applicability of subchapters and sections

(a) Subchapters I, III, and V of this chapter apply in a case under chapter 7, 11, or 13 of this title, except that section 15343 of this title does not apply in a case concerning a railroad.

(b) Subchapter VII of this chapter applies only in a case under chapter 7 of this title.

(c) Subchapter XI of this chapter applies only in a case under chapter 11 of this title that does not concern a railroad.

(d) Section 151163 of this title applies only in a case concerning a railroad.

(e) Subchapter XIII of this chapter applies only in a case under chapter 13 of this title.

(f) Sections 303(g), 322(b), 324, 326(b), 343, 345(b), 701(a), 703(b), 703(c), 704(8), 727(c), 727(d), 727(e), 102(a), 1104, 1105, 1163, 1302(a), 1302(d), 1302(e), and 1326(a) of this title do not apply in a case under this title.

SUBCHAPTER III—CASE ADMINISTRATION

§ 15303. Involuntary cases

At any time after the commencement of an involuntary case under chatper 7 of this title but before an order for relief in the case, the court, on request of a party in interest, after notice to the debtor and a hearing, and if necessary to preserve the property of the estate or to prevent loss to the estate, may order the United States trustee to appoint an interim trustee under section 15701 of this title to take possession of the property of the estate and to operate any business of the debtor. Before an order for relief, the debtor may regain possession of property in the possession of a trustee ordered appointed under this subsection if the debtor files such bond as the court requires, conditioned on the debtor's accounting for and delivering to the trustee, if there is an order for relief in the case, such property, or the value, as of the date the debtor regains possession, of such property.

§ 15321. Eligibility to serve as trustee

The United States trustee for the judicial district in which the case is pending is eligible to serve as trustee in the case.

§ 15322. Qualification of trustee

(a) A United States trustee qualifies whenever such trustee serves in a case under this title.

(b) The United States trustee shall determine—

(1) the amount of a bond filed under subsection (a)(2) of this section; and

(2) the sufficiency of the surety on such bond.

§ 15324. Removal of trustee or examiner

The court, after notice and a hearing, may remove a trustee other than the United States trustee, or an examiner, for cause.

§ 15326. Limitation on compensation of trustee

In a case under chapter 13 of this title, the court may not allow compensation for services or reimbursement of expenses of the United States trustee or of a standing trustee appointed under section 586(b) of title 28, but may allow reasonable compensation under section 330 of this title of a trustee appointed under section 1302(a) of this title for the trustee's services, payable after the trustee renders such services, not to exceed five percent upon all payments under the plan.

§ 15330. Compensation of officers

In a case in which the United States trustee serves as trustee, the compensation of the trustee under section 330 of this title shall be paid to the clerk of the bankruptcy court, and by the clerk, into the Treasury.

§ 15343. Examination of the debtor

The debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of this title. Creditors, any indenture trustee, any trustee or examiner in the case, or the United States trustee may examine the debtor.

§ 15345. Money of estates

(a) Except with respect to a deposit or investment that is insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States, the trustee shall require from an entity with which such money is deposited or invested—

(1) a bond—

(A) in favor of the United States;

(B) secured by the undertaking of a corporate surety approved by the United States trustee for the district in which the case is pending; and

(C) conditioned on—

(i) a proper accounting for all money so deposited or invested and for any return on such money;

(ii) prompt repayment of such money and return; and

(iii) faithful performance of duties as a depository; or

(2) the deposit of securities of the kind specified in section 15 of title 6.

(b) The United States trustee may aggregate money of estates for which such United States trustee serves as trustee for deposit or investment under this section, in order to increase the return on such money, taking into account the safety of such deposit or investment. The United States trustee shall maintain complete records identifying separately the money of each estate included in such an aggregation. Any return on any deposit or investment shall be paid by the United States trustee into the Treasury.

SUBCHAPTER VII—LIQUIDATION

§ 15701. Interim trustee

(a) Promptly after the order for relief under chapter 7 of this title, the United States trustee shall appoint one disinterested person that is a member of the panel of private trustees established under section 586(a)(1) of title 28 or that was serving as trustee in the case immediately before the order for relief under this chapter to serve as interim trustee in the case.

(b) If none of such persons is willing to serve as interim trustee in the case, then the United States trustee shall serve as interim trustee in the case.

§ 15703. Successor trustee

(a) Pending election of a trustee under section 703(a) of this title, if necessary to preserve or prevent loss to the estate, the United States trustee may appoint an interim trustee in the manner specified in section 15701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee.

(b) If creditors do not elect a successor trustee under section 703(a) of this title, or if a trustee is needed in a case reopened under section 350 of this title, then the United States trustee shall serve, or shall appoint one disinterested person that is a member of the panel of private trustees established under section 586(a)(1) of title 28 to serve, as trustee in the case.

§ 15704. Duties of trustee

The trustee shall make a final report and file a final account of the administration of the estate with the court and with the United States trustee.

§ 15727. Discharge

(a)(1) The trustee, a creditor, or the United States trustee may object to discharge under section 727(a) of this title.

(2) On request of a party in interest, the court may order the United States trustee to examine the acts and conduct of the debtor to determine whether a ground exists for denial of discharge.

(b) On request of the trustee, a creditor, or the United States trustee, and after notice and a hearing, the court shall revoke a discharge granted under section 727(a) of this title if—

(1) such discharge was obtained through the fraud of the debtor, and the requesting party did not know of such fraud until after the granting of such discharge;

(2) the debtor acquired property that is property of the estate, or became entitled to acquire property that would be property of the estate, and knowingly and fraudulently failed to report the acquisition of, or entitlement to, such property, or to deliver or surrender such property to the trustee; or

(3) the debtor committed an act specified in section (a)(6) of this title.

(e) The trustee, a creditor, or the United States trustee may request a revocation of a discharge—

(1) under section 727(d)(1) of this title within one year after such discharge was granted; or

(2) under section 727(d)(2) or 727(d)(3) of this title before the later of—

(A) one year after the granting of such discharge; and

(B) the date the case is closed.

SUBCHAPTER XI—REORGANIZATION

§ 151102. Creditors' and equity security holders' committees

(a) As soon as practicable after the order for relief under chapter 11 of this title, the United States trustee shall appoint a committee of creditors holding unsecured claims.

(b) On request of a party in interest of the court may order the appointment of additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or of equity security holders. The United States trustee shall appoint any such committee.

§ 151104. Appointment of trustee or examiner

(a) At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court shall order the appointment of a trustee—

(1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or

(2) if such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

(b) If the court does not order the appointment of a trustee under this section, then at any time before the confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court shall order the appointment of an examiner to conduct such an investigation of the debtor as is appropriate, including an investigation of any allegations of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor of or by current or former management of the debtor, if—

(1) such appointment is in the best interest of creditors, any equity security holders, and other interests of the estate; or

(2) the debtor's fixed, liquidated, unsecured debts, other than debts for goods, services, or taxes, or owing to an insider, exceed $5,000,000.

(c) If the court orders the appointment of a trustee or an examiner, if a trustee or an examiner dies or resigns during the case or is removed under section 324 of this title, or if a trustee fails to qualify under section 322 of this title, then the United States trustee, after consultation with parties in interest, shall appoint, subject to the court's approval, one disinterested person other than the United States trustee to serve as trustee or examiner, as the case may be, in the case.

§ 151105. Termination of trustee's appointment

At any time before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court may terminate the trustee's appointment and restore the debtor to possession and management of the property of the state, and operation of the debtor's business.

§ 151163. Appointment of trustee

As soon as practicable after the order for relief the Secretary of Transportation shall submit a list of five disinterested persons that are qualified and willing to serve as trustee in the case. The United States trustee shall appoint one of such persons to serve as trustee in the case.

SUBCHAPTER XIII—ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

§ 151302. Trustee

(a) If the United States trustee has appointed an individual under section 586(b) of title 28 to serve as standing trustee in cases under chapter 13 of this title and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case. The United States trustee shall serve as trustee in the case otherwise.

(b) The trustee shall—

(1) perform the duties specified in sections 704(2), 704(3), 704(4), 704(5), 704(6), and 704(8) of this title;

(2) appear and be heard at any hearing that concerns—

(A) the value of property subject to a lien;

(B) confirmation of a plan; or

(C) modification of the plan after confirmation; and

(3) advise, other than on legal matters, and assist the debtor in performance under the plan.

§ 151326. Payments

Before or at the time of each payment to creditors under the plan, there shall be paid—

(1) any unpaid claim of the kind specified in section 507(1) of this title; and

(2) if a standing trustee appointed under section 586(b) of title 28 is serving in the case, the percentage fee fixed for such standing trustee under section 586(e)(1)(B) of title 28.

TITLE II—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE AND TO THE FEDERAL RULES OF EVIDENCE

SEC. 201. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 5 the following:

"CHAPTER 6—BANKRUPTCY COURTS

"Sec.

"151. Creation and composition of bankruptcy courts.

"152. Appointment of bankruptcy judges.

"153. Tenure and residence of bankruptcy judges.

"154. Salaries of bankruptcy judges.

"155. Chief judge; precedence of bankruptcy judges.

"156. Division of business among bankruptcy judges.

"157. Times of holding court.

"158. Accommodations at places for holding court.

"159. Vacant judgeship as affecting proceedings.

"160. Appellate panels.

"§ 151. Creation and composition of bankruptcy courts

"(a) There shall be in each judicial district, as an adjunct to the circuit court for the circuit in which such district is located, a bankruptcy court which shall be a court of record known as the United States Bankruptcy Court for the district.

"(b) Each bankruptcy court shall consist of the bankruptcy judge or judges for the district in regular active service. Justices or judges designated and assigned shall be competent to sit as judges of the bankruptcy court.

"(c) Except as otherwise provided by law, or rule or order of court, the judicial power of a bankruptcy court with respect to any action, suit or proceeding may be exercised by a single bankruptcy judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other bankruptcy judges.

"§ 152. Appointment of bankruptcy judges

"The President shall appoint, by and with the advice and consent of the Senate, bankruptcy judges for the several judicial districts.

"§ 153. Tenure and residence of bankruptcy judges

"(a) Each bankruptcy judge shall hold office for a term of 14 years, but may continue to perform the duties of his office until his successor takes office, unless such office has been eliminated.

"(b) Removal of a bankruptcy judge during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability. Removal shall be by the judicial council of the circuit or circuits in which the bankruptcy judge serves, but removal may not occur unless a majority of all the judges of such circuit council or councils concur in the order of removal. Before any order of removal may be entered, a full specification of the charges shall be furnished to the bankruptcy judge, and he shall be accorded an opportunity to be heard on the charges. Any cause for removal of any bankruptcy judge coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the circuit or circuits in which he serves, and a copy of the report shall at the same time be transmitted to the circuit council or councils and to the bankruptcy judge.

"(c) Each bankruptcy judge shall reside in the district or one of the districts for which he is appointed, or within 20 miles of his official station.

"(d) If the public interest and the nature of the business of a bankruptcy court require that a bankruptcy judge should maintain his abode at or near a particular part of the district the judicial council of the circuit may so declare and may make an appropriate order. If the bankruptcy judges of such a district are unable to agree as to which of them shall maintain his abode at or near the place or within the area specified in such an order the judicial council of the circuit may decide which of them shall do so.

"Each judge of a bankruptcy court shall receive a salary at an annual rate of $50,000, subject to adjustment under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361), and section 461 of this title.

"§155. Chief judge; precedence of bankruptcy judges

"(a) In each district having more than one judge the bankruptcy judge in regular active service who is senior in commission and under seventy years of age shall be the chief judge of the bankruptcy court. If all the bankruptcy judges in regular active service are 70 years of age or older the youngest shall act as chief judge until a judge has been appointed and qualified who is under 70 years of age, but a judge may not act as chief judge until he has served as a bankruptcy judge for one year.

"(b) The chief judge shall have precedence and preside at any session which he attends.

"Other bankruptcy judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"(c) A judge whose commission extends over more than one district shall be junior to all bankruptcy judges except in the district in which he resided at the time he entered upon the duties of his office.

"(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as a bankruptcy judge, he may so certify to the chief judge of the court of appeals for the circuit in which the bankruptcy judge serves, and thereafter the bankruptcy judge in active service next in precedence and willing to serve shall be designated by the chief judge of the court of appeals as the chief judge of the bankruptcy court.

"(e) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the bankruptcy judge in active service, present in the district and able and qualified to act, who is next in precedence.

"(f) Service as a referee in bankruptcy or as a bankruptcy judge under the Bankruptcy Act shall be taken into account in the determination of seniority of commission under this section.

"§ 156. Division of business among bankruptcy judges

"The business of a bankruptcy court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

"The chief judge of the bankruptcy court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

"If the bankruptcy judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

"§ 157. Times of holding court

"(a) The bankruptcy court at each designated location shall be deemed to be in continuous session on all business days throughout the year.

"(b) Each bankruptcy court may establish by local rule or order schedules of court sessions at designated places of holding court other than the headquarters office of the court. Such schedules may be permitted by order of the court.

"(c) Bankruptcy court may be held at any place within the territory served, in any case, on order of the bankruptcy court, for the convenience of the parties, on such notice as the bankruptcy court orders.

"§ 158. Accommodations at places for holding court

"Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available at places where court is authorized by law to be held, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit.

"§ 159. Vacant judgeship as affecting proceedings

"When the office of a bankruptcy judge becomes vacant, all pending process, pleadings and proceedings shall, when necessary, be continued by the clerk until a judge is appointed or designated to hold such court.

"§ 160. Appellate panels

"(a) If the circuit council of a circuit orders application of this section to a district within such circuit, the chief judge of each circuit shall designate panels of three bankruptcy judges to hear appeals from judgments, orders, and decrees of the bankruptcy court of the United States for such district. Except as provided in section 293(e) of this title, a panel shall be composed only of bankruptcy judges for districts located in the circuit in which the appeal arises. The chief judge shall designate a sufficient number of such panels so that appeals may be heard and disposed of expeditiously.

"(b) A panel designated under subsection (a) of this section may not hear an appeal from a judgment, order, or decree entered by a member of the panel.

"(c) When hearing an appeal, a panel designated under subsection (a) of this section shall sit at a place convenient to the parties to the appeal.".

(b) The table of chapters of part I of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 5 of such title the following:

"6. Bankruptcy courts ..... 151".

SEC. 202. Section 291(c) of title 28 of the United States Code is amended by inserting "or bankruptcy" immediately after "to hold a district".

SEC. 203. Section 292(b) of title 28 of the United States Code is amended by inserting "or a bankruptcy court" immediately after "to hold a district court".

SEC. 204. Section 292(d) of title 28 of the United States Code is amended—

(1) by striking out "either";

(2) by inserting "bankruptcy court," immediately after "in a"; and

(3) by inserting a comma immediately after "district court"

SEC. 205. Section 293 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(e)(1) The Chief Justice of the United States may designate and assign temporarily a bankruptcy judge of one circuit for service in a bankruptcy court in another circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

"(2) The chief judge of a circuit may, in the public interest, designate and assign temporarily a bankruptcy judge of the circuit to hold a bankruptcy court in any district within the circuit.".

SEC. 206. Section 294 of title 28 of the United States Code is amended—

(1) in subsection (c), by striking out "or district" and inserting "in circuit, district, or bankruptcy court outside his own district, in the case of a retired bankruptcy judge," immediately after "retired circuit or district judge,"; and

(3) in subsection (d), by striking out "or district court" and inserting in lieu thereof ", district court, or bankruptcy court".

SEC. 207. Section 295 title 28 of the United States Code is amended by striking out "or district" and inserting in lieu thereof "district, or bankruptcy".

SEC. 208. Section 331 of title 28 of the United States Code is amended—

(1) by striking out "and a district judge from each judicial circuit" in the first sentence of the first paragraph thereof and inserting "a district judge from each judicial circuit, and three bankruptcy judges" in lieu thereof;

(2) by inserting "circuit and district" in the second paragraph—

(A) immediately after "amended section the";

(B) immediately after "for one year, the"; and

(C) immediately after "two years and the";

(3) by inserting immediately after the second paragraph the following: "The bankruptcy judges to be summoned shall be chosen at large by all the bankruptcy judges. Each bankruptcy judge chosen shall serve as a member of the conference for three successive years, except that in the year following the effective date of this sentence the bankruptcy judges shall choose one bankruptcy judge to serve for one year, and one bankruptcy judge to serve for two years.";

(4) by inserting "or a bankruptcy judge chosen by the bankruptcy judges" immediately after "judges of the circuit" in the first sentence in the third paragraph; and

(5) by inserting "or any other bankruptcy judge" immediately before the period in the first sentence in the third paragraph.

SEC. 209. Section 332(d) of title 28 of the United States Code is amended by inserting "and bankruptcy judges" immediately after "The district judges".

SEC. 210. Section 333 of title 28 of the United States Code is amended by striking out "and district" and inserting in lieu thereof ", district, and bankruptcy".

SEC. 211. Section 376(a)(2)(A) of title 28 of the United States Code is amended by inserting ", or (iii) in the case of a bankruptcy judge, after retirement under section 377 of this title" immediately before the semicolon.

SEC. 212. (a) Chapter 17 of title 28 of the United States Code is amended by adding at the end thereof the following:

"§ 377. Retirement of bankruptcy judges

"(a)(1) A judge shall retire upon attaining the age of 70.

"(2) A judge who has attained the age of 65 may retire any time after serving as judge for 14 years or more.

"(3) A judge who has attained the age of 55 and who is not reappointed following the expiration of the term of his office may retire upon the completion of such term, if (A) he has served as a bankruptcy judge for 14 years or more and (B) not earlier than 9 months preceding the date of the expiration of the term of his office and not later than 6 months preceding such date, he advised the President in writing that he was willing to accept reappointment as a bankruptcy judge.

"(4) A judge who becomes permanently disabled from performing his duties shall retire.

"(b)(1) At or after his retirement, any individual who has elected to receive retired pay under subsection (c) may be called upon by the chief judge of the court of appeals for the circuit in which such individual served as a bankruptcy judge to perform such judicial duties with the bankruptcy court as may be requested of him for any period or periods specified by the chief judge, except that in the case of any such individual—

"(A) the aggregate of such periods in any one calendar year shall not without his consent exceed 90 calendar days; and

"(B) he shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

"(2) Any act, or failure to act, by an individual performing judicial duties under this subsection shall have the same force and effect as if it were the act of a judge of the bankruptcy court.

"(3) An individual who is performing judicial duties under this subsection shall be paid the same compensation, in lieu of retired pay, and allowances for travel and other expenses as a judge.

"(c)(1) An individual who retires under subsection (a) and elects under subsection (d) to receive pay under this subsection shall receive retired pay during any period at a rate which bears the same ratio to the rate of the salary payable to a judge during such period as the number of years he has served as judge bears to 14, except that the rate of such retired pay shall not be more than 80 percent of the rate of such salary for such period.

"(2) Such retired pay shall begin to accrue on the day following the day on which his salary as judge ceases to accrue, and shall continue to accrue during the remainder of his life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge.

"(3) In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, that portion of the aggregate number of years he has served as a judge which is fractional part of 1 year shall be eliminated if it is less than 6 months, or shall be counted as a full year if it is 6 months or more.

"(d) A judge may elect to receive retired pay under subsection (c). Such an election—

"(1) may be made only while an individual is a judge;

"(2) once made, is irrevocable;

"(3) shall be made by filing notice of such election in writing with the Director of the Administrative Office of the United States Courts.

"(e) An individual who has elected to receive retired pay under subsection (c) who thereafter accepts civil office or employment under the Government of the United States, other than the performance of judicial duties under subsection (c), or who practices law before a bankruptcy court, shall forfeit all rights to retired pay under subsection (c) for all periods beginning on or after the first day on which he accepts such office or employment. An individual who has elected to receive retired pay under subsection (c) who therafter during any calendar year fails to perform judicial duties required of him by subsection (b) shall forfeit all rights to retired pay under subsection (c) for the 1-year period which begins on the first day in which he so fails to perform such duties.

"(f) In the case of any individual who has filed an election to receive retired pay under subsection (c)—

"(1) no annuity or other payment shall be payable to any person under civil service retirement laws with respect to any service performed by such individual, whether performed before or after such election is filed and whether performed as judge or otherwise;

"(2) no deduction for purposes of the Civil Service Retirement and Disability Fund shall be made from retired pay payable to him under subsection (c) or from any other salary, pay, or compensation payable to him, for any period beginning after the day on which such election is filed;

"(3) such individual shall be paid the lump-sum credit computed under section 8331(8) of title 5 of the United States Code upon making application therefor with the Civil Service Commission; and

"(4) such judge shall contribute 5 percent of his salary to the Treasury to fund his retired pay.

"(g)(1) Any judge who becomes permanently disabled from performing his duties shall certify to the President his disability in writing. If the chief judge retires for disability, his retirement shall not take effect until concurred in by the President. If any other judge retires for disability, he shall furnish to the President a certificate of disability signed by the chief judge.

"(2) Whenever any judge who becomes permanently disabled from performing his duties does not retire and the President finds that such judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President shall declare such judge to be retired.

"(h) Section 8335(a) of title 5 does not apply to bankruptcy judges.

"(i) For purposes of this section, service after March 31, 1979, as a bankruptcy judge under title IV of the Act adding this section is service as a bankruptcy judge.".

(b) The table of section of chapter 17 of title 28 of the United States Code is amended by adding at the end thereof the following:

"377. Retirement of bankruptcy judges.".

SEC. 213. Section 451 of title 28 of the United States Code is amended—

(1) by inserting ", bankruptcy courts" immediately after "the Customs Court" in the paragraph beginning with "The term 'court of the United States' "; and

(2) by inserting "bankruptcy courts," immediately after "district courts," in the paragraph beginning with "The term 'judge of the United States' ".

SEC. 214. (a) Sections 455(a) and 455(e) of title 28 of the United States Code are each amended by striking out "magistrate, or referee in bankruptcy" each place it appears and inserting in lieu thereof "or magistrate".

(b) the heading for section 455 of title 28 of the United States Code is amended by striking out "magistrate, or referee in bankruptcy" and inserting in lieu thereof, "or magistrate".

(c) The item relating to section 455 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "magistrate or referee in bankruptcy" and inserting in lieu thereof "or magistrate".

SEC. 215. Section 456 of title 28 of the United States Code is amended—

(1) by striking out "and the United States District Court for the District of Columbia," and inserting in lieu thereof "the United States District Court for the District of Columbia, and the United States Bankruptcy Court for the District of Columbia,";

(2) by striking out "and district" and inserting in lieu thereof ", district and bankruptcy"; and

(3) by striking out "and each district judge" and inserting in lieu thereof ", each district judge; and each bankruptcy judge".

SEC. 216. Section 457 of title 28 of the United States Code is amended by inserting "of bankruptcy courts," immediately after "The record".

SEC. 217. (a) The heading for section 460 of title 28 of the United States Code is amended by striking out "Alaska,".

(b) The item relating to section 460 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "Alaska,".

SEC. 218. Section 506 of title 28 of the United States Code is amended by striking out "nine" and inserting in lieu thereof "ten".

SEC. 219. (a) Section 526(a)(1) of title 28 of the United States Code is amended by striking out "and marshals" and inserting in lieu thereof ", marshals, and trustees".

(b) The heading for section 526 of title 28 of the United States Code is amended by striking out "and marshals" and inserting in lieu thereof ", marshals and trustees".

(c) The item relating to section 526 in the table of sections of chapter 31 of title 28 of the United States Code is amended by striking out "and marshals" and inserting in lieu thereof ", marshals, and trustees".

SEC. 220. Section 526(a)(2) of title 28 of the United States Code is amended—

(1) by striking out "referees,";

(2) by striking out "and receivers in bankruptcy" and inserting in lieu thereof "in cases under title 11"; and

(3) by striking out "commissioners" and inserting "magistrates" in lieu thereof.

SEC. 221. Section 569(a) of title 28 of the United States Code is amended by striking out "of the district court" and inserting in lieu thereof "of the bankruptcy, of the district court,".

SEC. 222. Section 571(a) of title 28 of the United States Code is amended—

(1) by striking out "and of the marshals" and inserting in lieu thereof "of the marshals"; and

(2) by inserting ", and of the United States trustees, their assistants, staff and other employees" immediately after "clerical assistance".

SEC. 223. Section 571(b) of title 28 of the United States Code is amended by striking out "and district" and inserting in lieu thereof ", district, and bankruptcy".

SEC. 224. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following:

"CHAPTER 39—UNITED STATES TRUSTEES

"Sec.
"581. United States trustees.
"582. Assistant United States trustees.

"583. Oath of office.
"584. Official stations.
"585. Vacancies.
"586. Duties; supervision by Attorney General.
"587. Salaries.
"588. Expenses.
"589. Staff and other employees.

"(a) The Attorney General shall appoint one United States trustee for each of the following districts or groups of districts:

"(1) District of Maine, District of New Hampshire, District of Massachusetts, and District of Rhode Island,

"(2) Southern District of New York.

"(3) District of Delaware and District of New Jersey.

"(4) Eastern District of Virginia and District of District of Columbia.

"(5) Northern District of Alabama.

"(6) Northern District of Texas.

"(7) Northern District of Illinois.

"(8) District of Minnesota, District of North Dakota, District of South Dakota.

"(9) Central District of California.

"(10) District of Colorado and District of Kansas.

"(b) Each United States trustee shall be appointed for a term of seven years. On the expiration of his term, a United States trustee shall continue to perform the duties of his Office until his successor is appointed and qualifies.

"(c) Each United States trustee is subject to removal for cause by the Attorney General.

"§ 582. Assistant United States trustees

"(a) The Attorney General may appoint one or more assistant United States trustees in any district when the public interest so requires.

"(b) Each assistant United States trustee is subject to removal for cause by the Attorney General.

"§ 583. Oath of office

"Each United States trustee and assistant United States trustee, before taking office, shall take an oath to execute faithfully his duties.

"§ 584. Official stations

"The Attorney General may determine the official stations of the United States trustees and assistant United States trustees within the districts for which they were appointed.

"§ 585. Vacancies

"The Attorney General may appoint an acting United States trustee for a district in which the office of United States trustee is vacant, or may designate a United States trustee for another judicial district to serve as trustee for the district in which such vacancy exists. The individual so appointed or designated may serve until the earlier of 90 days after such appointment or designation, as the case may be, or the date on which the vacancy is filled by appointment under section 581 of this title.

"§ 586. Duties; supervision by Attorney General

"(a) Each United States trustee, within his district shall—

"(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

"(2) serve as and perform the duties of a trustee in a case under title 11 when required under title 11 to serve as trustee in such a case;

"(3) supervise the administration of cases and trustees in cases under chapter 7, 11, or 13 of title 11;

"(4) deposit or invest under section 345 of title 11 money received as trustee in cases under title 11;

"(5) perform the duties prescribed for the United States trustee under title 11; and

"(6) make such reports as the Attorney General directs.

"(b) If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

"(c) Each United States trustee shall be under the general supervision of the Attorney General, who shall provide general coordination and assistance to the United States trustees.

"(d) The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11.

"(e)(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11, shall fix—

"(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) Such individual shall collect such percentage fee from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall pay to the Treasury—

"(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage for all such cases exceeds—

"(i) such individual actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

§ 587. Salaries

"The Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5.

"§ 588. Expenses

"Necessary office expenses of the United States trustee shall be allowed when authorized by the Attorney General.

"§ 589. Staff and other employees

"The United States trustee may employ staff and other employees on approval of the Attorney General.".

(b) The table of chapters of part II of title 28 of the United States Code is amended by inserting at the end thereof the following:
"39. United States Trustees..... 581".

SEC. 225. (a) Section 604(a) of title 28 of the United States Code is amended—

(1) by redesignating paragraph (13) as paragraph 14; and

(2) by inserting immediately after paragraph (12) the following:

"(13) Lay before Congress, annually, statistical tables that will accurately reflect the business transacted by the several bankruptcy courts, and all other pertinent data relating to such courts;".

(b) Section 604 of title 28 of the United States Code, is amended by adding at the end thereof the following:

"(f) For each bankruptcy court, the Director shall name qualified persons to membership on the panel of trustees. The number and qualifications of persons named to membership on the panel of trustees shall be determined by rules and regulations to be adopted by the Director. An individual named to membership on the panel of trustees shall have a residency or office in the State served by the court or in any adjacent State. A corporation named to membership on the panel of trustees shall be authorized by its charter or by law to act as trustee and shall have an office in the State served by the court. The Director on his own initiative may at any time remove for cause a person named to a panel of trustees or remove a trustee appointed from the panel.".

SEC. 226. Section 610 of title 28 of the United States Code is amended by striking out "and district courts" and inserting in lieu thereof ", district courts, and bankruptcy courts".

SEC. 227. Section 620(b)(3) of title 28 of the United States Code is amended—

(1) by striking out "referees."; and

(2) by striking out "commissioners" and inserting "magistrates" in lieu thereof.

SEC. 228. Section 621(a)(2) of title 28 of the United States Code is amended by striking out "and three active judges of the district courts of the United States" and inserting in lieu thereof ", three active judges of the district courts of the United States, one active judge of the bankruptcy court of the United States".

SEC. 229. Section 621(b) of title 28 of the United States Code is amended by striking out everything after "years" down through "That a" and inserting in lieu thereof "A".

SEC. 230. Chapter 42 of title 28 of the United States Code is amended—

(1) by striking out section 629; and

(2) by striking out the item relating to section 629 in the table of sections.

SEC. 231. Section 631(c) of title 28 of the United States Code is amended—

(1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the conference,"; and

(2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

SEC. 232. Section 634(a) of title 28 of the United States Code is amended by striking out "for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended,", and inserting in lieu thereof "not to exceed $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title,".

SEC. 233. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 49 the following:

"CHAPTER 50—BANKRUPTCY COURTS

"Sec.
"771. Clerks.
"772. Other employees.
"773. Records of proceedings; reporters.
"774. Power to appoint.
"775. Salaries of employees.

"§ 771. Clerks

"(a) Each bankruptcy court may appoint a clerk who shall be subject to removal only by the court.

"(b) The clerk may appoint, with the approval of the court, necessary deputies, clerical assistants, and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants, and employees shall be subject to removal only by the clerk with the approval of the court.

"(c) The clerk of each bankruptcy court shall reside in the district for which he is appointed. The bankruptcy court may designate places within the district for the offices of the clerk and his deputies, and their official stations.

"(d) A clerk of a bankruptcy court or his deputy or assistant shall not receive any compensation or emoluments through any office or position to which he is appointed by the court, other than that received as such clerk, deputy or assistant, whether from the United States or from private litigants.

"(e) The clerk of each bankruptcy court shall pay into the Treasury all fees, costs and other moneys collected by him, except uncollected fees not required by Act of Congress to be prepaid.

"He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

§ 772. Other employees

"Bankruptcy judges may appoint necessary other employees, including law clerks and secretaries, subject to any limitation on the aggregate salaries of such employees which may be imposed by law.

"§ 773. Records of proceedings; reporters

"(a) The bankruptcy court shall require a record to be made, whenever practicable, of all proceedings in cases had in open court. The court may provide that the record be taken by such electronic sound recording means as the Judicial Conference shall prescribe, by a court reporter appointed or employed by such bankruptcy court to take a verbatim record by shorthand or mechanical means, or by an employee of the court designated by the court to take such a verbatim record.

"(b) on the request of a party to a proceeding that has been recorded who has agreed to pay the fee for a transcript, or a judge of the bankruptcy court, a transcript of the original record of the requested parts of such proceeding shall be made and delivered promptly to such party or judge. Any such transcript that is certified shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcript of the proceedings of the bankruptcy court shall be considered as official except those made from certified records.

"(c) Fees for transcripts furnished in proceedings to persons permitted to appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question).

"§ 774. Power to appoint

"Whenever a majority of the bankruptcy judges of any bankruptcy court cannot agree upon the appointment of any officer of such court, the chief judge shall make such appointment.

"§ 775. Salaries of employees

"The salary of an individual appointed or employed under section 771(a), 772, or 773(a) of this title shall be the same as the salary of an individual appointed or employed under section 751(a), 752, or 753(a) of this title, as the case may be. The salaries of individuals appointed under section 771(b) of this title shall be comparable to the salaries of individuals appointed under section 751(b) of this title.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 49 the following:

"50. Bankruptcy Courts..... 771".

SEC. 234. Section 957(a) of title 28 of the United States Code is amended by inserting "or bankruptcy court" immediately after "district court".

SEC. 235. Section 959(b) of title 28 of the United States Code is amended by striking out "A" and inserting in lieu thereof "Except as provided in section 1166 of title 11, a".

SEC. 236. (a) Chapter 83 of title 28 of the United States Code is amended by inserting immediately after section 1292 the following:

"§ 1293. Bankruptcy appeals

"(a) The courts of appeals shall have jurisdiction of appeals from all final decisions of panels designated under section 160(a) of this title.

"(b) Notwithstanding section 1482 of this title, a court of appeals shall have jurisdiction of an appeal from a final judgment, order, or decree of a bankruptcy court of the United States if the parties to such appeal agree to a direct appeal to the court of appeals.".

(b) The table of sections of chapter 83 of title 28 of the United States Code is amended by inserting immediately after the item relating to section 1292 the following:

"1293. Bankruptcy appeals.".

SEC. 237. Section 1294 of title 28 of the United States Code is amended—

(1) by striking out "district and territorial" and inserting in lieu thereof "district, bankruptcy, and territorial";

(2) by striking out the period at the end thereof and inserting a semicolon; and

(3) by adding at the end thereof the following:

"(5) From a panel designated under section 163(a) of this title to the court of appeals for the circuit in which the panel was so designated;

"(6) From a bankruptcy court of the United States to the court of appeals for the circuit embracing the district in which the bankruptcy court is located.".

SEC. 238. (a) Section 1334 of title 28 of the United States Code is amended to read as follows:

"§ 1334. Bankruptcy appeals

"(a) The district courts for districts for which panels have not been ordered appointed under section 160 of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) The district courts for such districts shall have jurisdiction of appeals from interlocutory orders and decrees of bankruptcy courts, but only by leave of the district court to which the appeal is taken.

"(c) A district court may not refer an appeal under that section to a magistrate or to a special master.".

(b) The table of sections of chapter 85 of title 28 of the United States Code is amended by striking out the item relating to section 1334 and inserting in lieu thereof the following:

"1334. Bankruptcy appeals.".

SEC. 239. Section 1360(a) of title 28 of the United States Code is amended by striking out "within the Territory" and inserting in lieu thereof "within the State".

SEC. 240. (a) Chapter 87 of title 28 of the United States Code is amended by adding at the end thereof the following:

"§ 1408. Bankruptcy appeals

"An appeal under section 1334 of this title from a judgment, order, or decree of a bankruptcy court may be brought only in the judicial district in which such bankruptcy court is located.".

(b) The table of sections of chapter 87 of title 28 of the United States Code is amended by adding at the end thereof the following:

"1408. Bankruptcy appeals.".

SEC. 241. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 89 the following:

"CHAPTER 90—COURTS OF APPEALS AND BANKRUPTCY COURTS

"Sec.
"1471. Jurisdiction.
"1472. Venue of cases under title 11.
"1473. Venue of proceedings arising under or related to cases under title 11.
"1474. Venue of cases ancilliary to foreign proceedings.
"1475. Change of venue.
"1476. Creation or alteration of district or division.
"1477. Cure or waiver of defects.
"1478. Removal to the bankruptcy courts.
"1479. Provisional remedies; security.
"1480. Jury trials.
"1481. Powers of bankruptcy court.
"1482. Appeals.

"§ 1471. Jurisdiction

"(a) Except as provided in subsection (b) of this section, the courts of appeals shall have original and exclusive jurisdiction of all cases under title 11.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the courts of appeals, the courts of appeals shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11 or arising in or related to cases under title 11.

"(c) The bankruptcy court for the district in which a case under title 11 is commenced shall exercise all of the jurisdiction conferred by this section on the courts of appeals.

"(d) Subsection (b) or (c) of this section does not prevent a court of appeals or a bankruptcy court, in the interest of justice, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11. Such abstention, or a decision not to abstain, is not reviewable by appeal or otherwise.

"(e) The bankruptcy court in which a case under title 11 is commenced shall have exclusive jurisdiction of all of the property, whenever located, of the debtor, as of the commencement of such case.

"§ 1472. Venue of cases under title 11

"Except as provided in section 1474 of this title, a case under title 11 may be commenced in the bankruptcy court for a district—

"(1) in which the domicile, residence, principal place of business, in the United States, or principal assets, in the United States, of the person or entity that is the subject of such case have been located for the 180 days immediately preceding such commencement, or for a longer portion of such 180-day period than the domicile, residence, principal place of business, in the United States, or principle assets, in the United States, of such person were located in any other district; or

"(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

"§ 1473. Venue of proceedings arising under or related to cases under title 11

"(a) Except as provided in subsections (b) and (d) of this section, a proceeding arising in or related to a case under title 11 may be commenced in the bankruptcy court in which such case is pending.

"(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the bankruptcy court for the district in which a defendant resides.

"(c) Except as provided in section (b) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541, 544(b), or 544(c) of title 11 in the bankruptcy court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

"(d) A trustee may commence a proceeding arising under title 11 or arsing in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the bankruptcy court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

"(e) A proceeding arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the bankruptcy court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the bankruptcy court in which such case is pending.

"§ 1474. Venue of cases ancillary to foreign proceedings

"(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the bankruptcy court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

"(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against property, or to require turnover of property of an estate, may be commenced only in the bankruptcy court for the district in which such property is found.

"(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the bankruptcy court for the district in which is located the principal assets in the United States, of the estate that is the subject of such case.

§ 1475. Change of venue

"A bankruptcy court may transfer a case under title 11 or a proceeding arising under or related to such a case to a bankruptcy court for another district, in the interest of justice and for the convenience of the parties.

"§ 1476. Creation or alteration of district or division

"Cases or proceedings pending at the time of the creation of a new district or division or transfer of a county or territory from one division or district to another may be tried in the district or division as it existed at the institution of the case or proceeding, or in the district or division so created or to which the county or territory is so transferred as the parties shall agree or the court direct.

"§ 1477. Cure or waiver of defects

"(a) The bankruptcy court of a district in which is filed a case or proceeding laying venue in the wrong division or district may, in the interest of justice and for the convenience of the parties, retain such case or proceeding, or may transfer, under section 1475 of this title, such case or proceeding to any other district or division.

"(b) Nothing in this chapter shall impair the jurisdiction of a bankruptcy court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

"§ 1478. Removal to the bankruptcy courts

"(a) A party may remove any claim or cause of action in a civil action, other than a proceeding before the United States Tax Court or a civil action by a Government unit to enforce such governmental unit's police or regulatory power, to the bankruptcy court for the district where such civil action is pending, if the bankruptcy courts have jurisdiction over such claim or cause of action.

"(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order under this subsection remanding a claim or cause of action, or a decision not so remanding, is not reviewable by appeal or otherwise.

"§ 1479. Provisional remedies; security

"(a) Whenever any action is removed to a bankruptcy court under section 1478 of this title, any attachment or sequestration of the goods or estate of the defendant in such action shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the court from which the action was removed, unless the attachment or sequestration is invalidated under applicable law.

"(b) Any bond, undertaking, or security given by either party in an action prior to removal under section 1478 of this title shall remain valid and effectual notwithstanding such removal, unless such bond, undertaking, or other security is invalidated under applicable law.

"(c) All injunctions, orders, or other proceedings in an action prior to removal of such action under section 1478 of this title shall remain in full force and effect until dissolved or modified by the bankruptcy court.

"§ 1480. Jury trials

"(a) Except as provided in subsection (b) of this section, this chapter and title 11 do not affect any right to trial by jury, in a case under title 11 or in a proceeding arising under title 11 or arising in or related to a case under title 11, that is provided by any statute in effect on September 30, 1978.

"(b) The bankruptcy court may order the issues arising under section 303 of title 11 to be tried without a jury.

"§ 1481. Powers of bankruptcy court

"A bankruptcy court shall have the powers of a court of equity, law, and admiralty, but may not enjoin another court or punish a criminal contempt not committed in the presence of the judge of the court or warranting a punishment of imprisonment.

"§ 1482. Appeals

"(a) Panels designated under section 163 (a) of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) Panels designated under section 163 (a) of this title shall have jurisdiction of appeals from interlocutory judgments, orders, and decrees of bankruptcy courts, but only by leave of the panel to which the appeal is taken.".

(b) The table of chapters of part IV of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 89 the following:

"90. Bankruptcy Courts---------- 1471".

SEC. 242. Section 1656 of title 28 of the United States Code is amended by inserting "or in a bankruptcy court" immediately after "a district court".

SEC. 243. Section 1869(f) of title 28 of the United States Code is amended by inserting "chapter 6 of title 28, United States Code," immediately after "chapter 5 of title 28, United States Code,".

SEC. 244. Section 1914(a) of title 28 of the United States Code is amended by striking out "$15" and inserting "$60" in lieu thereof.

SEC. 245. Section 1923(b) of title 28 of the United States Code is amended by inserting "and United States trustees" immediately after "United States attorneys".

SEC. 246. (a) Chapter 123 of title 28 of the United States Code is amended by inserting immediately after section 1929 the following:

"§ 1390. Bankruptcy courts

"(a) Notwithstanding section 1915 of this title, the parties commencing a case under title 11 shall pay to the clerk of the bankruptcy court the following filing fees:

"(1) For a case commenced under chapter 7 or 13 of title 11, $60.

"(2) For a case commenced under chapter 9 of title 11, $300.

"(3) For a case commenced under chapter 11 of title 11 that does not concern a railroad, as defined in section 101 of title 11, $200.

"(4) For a case commenced under chapter 11 of title 11 concerning a railroad, as so defined, $500.

An individual commencing a voluntary case or a joint case under title 11 may pay such fee in installments.

"(b) The Judicial Conference of the United States may prescribe additional fees in cases under title 11 of the same kind as the Judicial Conference prescribes under section 1914(b) of this title.

"(c) Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or a writ of certiorari $5 shall be paid to the clerk of the bankruptcy court, by the appellant or petitioner.

"(d) Whenever any case or proceeding is dismissed in any bankruptcy court for want of jurisdiction, such court may order the payment of just costs.

"(e) The clerk of the bankruptcy court may collect only the fees prescribed under this section.".

(b) The table of sections of chapter 123 of title 28 of the United States Code is amended by adding at the end thereof the following:

"1930. Bankruptcy courts.".

SEC. 247. Section 2075 of title 28 of the United States Code is amended by—

(1) striking out "under the Bankruptcy Act" and inserting in lieu thereof "in cases under title 11"; and

(2) by striking out the last sentence thereof.

SEC. 248. Section 2107 of title 28 of the United States Code is amended—

(1) by inserting "or the bankruptcy court" immediately after "district court" and

(2) by striking out the final paragraph.

SEC. 249. Section 2201 of title 28 of the United States Code is amended by inserting "or a proceeding under section 505 or 1146 of title 11" immediately after "the Internal Revenue Code of 1954".

SEC. 250. (a) Chapter 153 of title 28 of the United States Code is amended by adding at the end thereof the following:

"§ 2256. Habeas corpus from bankruptcy courts

"A bankruptcy court may issue a writ of habeas corpus—

"(1) when appropriate to bring a person before the court—

"(A) for examination;

"(B) to testify; or

"(C) to perform a duty imposed on such person under this title; or

"(2) ordering the release of a debtor in a case under title 11 in custody under the judgment of a Federal or State court if—

"(A) such debtor was arrested or imprisoned on process in any civil action;

"(B) such process was issued for the collection of a debt—

"(i) dischargeable under title 11; or

"(ii) that is or will be provided for in a plan under chapter 11 or 13 of title 11; and

"(C) before the issuance of such writ, notice and a hearing have been afforded the adverse party of such debtor in custody to contest the issuance of such writ.".

(b) The table of sections for chapter 153 of title 28 of the United States Code is amended by adding at the end thereof the following:

"2256. Habeas corpus from bankruptcy courts.".

SEC. 251. (a) Rule 1101(a) of the Federal Rules of Evidence is amended by striking out ", referees in bankruptcy,".

(b) Rule 1101(b) of the Federal Rules of Evidence is amended by striking out "the Bankruptcy Act" and inserting in lieu thereof "title 11, United States Code"

SEC. 252. Rule 1101(a) of the Federal Rules of Evidence is amended by inserting "the United States bankruptcy courts," immediately after "the United States district courts,".

TITLE III—AMENDMENTS TO OTHER ACTS

SEC. 301. Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)) is amended—

(1) by striking out "sections 402(d) and" and inserting "section" in lieu thereof; and

(2) by inserting "and magistrates" immediately before the semicolon.

SEC. 302. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end thereof the following:

"SEC. 19. (a) Notwithstanding title 11 of the United States Code, the Commission may provide, with respect to a commodity broker that is a debtor under chapter 7 of title 11 of the United States Code, by rule or regulation—

"(1) that certain cash, securities, other property, or commodity contracts are to be included in or excluded from customer property or member property;

"(2) that certain cash, securities, other property, or commodity contracts are to be specifically identifiable to a particular customer in a specific capacity;

"(3) the method by which the business of such commodity broker is to be conducted or liquidated after the date of the filing of the petition under such chapter;

"(4) any persons to which customer property and commodity contracts may be transferred under section 766 of title 11 of the United States Code; and

"(5) how the net equity of a customer is to be determined.

"(b) As used in this section, the terms 'commodity broker', 'commodity contract', 'customer', 'customer property', 'member property', 'net equity', and 'security' have the meanings assigned such terms for the purposes of subchapter IV of chapter 7 of title 11 of the United States Code.".

SEC. 303. (a) Subsection (a) of section 4 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499d(a)), is amended by inserting ", unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination" immediately after "bankrupt".

(b) Subsection (e) of section 4 of such Act (7 U.S.C. 499d(e)) is amended by inserting "and if he finds that the circumstances of such bankruptcy warrant such a refusal," immediately after "corporation adjudicated or discharged as a bankrupt,".

SEC. 304. Section 21(a) of the Agricultural Adjustment Act (7 U.S.C. 623(a)) is amended—

(1) by striking out "receivership, and bankruptcy" and inserting "and receivership" in lieu thereof; and

(2) by striking out "bankruptcy," in the second sentence.

SEC. 305. The first section of the Act entitled "An Act to authorize the Secretary of Agriculture to compromise, adjust, or cancel certain indebtedness, and for other purposes." approved December 20, 1944 (58 Stat. 836; 12 U.S.C. 1150), is amended by striking out "Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States'" and inserting "Bankruptcy Act or under title 11 of the United States Code" in lieu thereof.

SEC. 306. (a) Section 3(a)(7) of the Securities Act of 1933 (15 U.S.C. 77c(a)(7)) is amended by striking out "in bankruptcy" and inserting "or debtor in possession in a case under title 11 of the United States Code" in lieu thereof.

(b) Paragraphs (9) and (10) of section 3(a) of such Act (15 U.S.C. 77c(a)(9) and (10)) are each amended by striking out "Any" and inserting in lieu thereof the following: "Except with respect to a security exchanged in a case under title 11 of the United States Code, any".

SEC. 307. Section 303(18) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(18)) is amended by striking out "Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, as amended, whether amended prior to or after the enactment of this title" and inserting "Bankruptcy Act or title 11 of the United States Code" in lieu thereof.

SEC. 308. (a) Section 5(b)(1)(A) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(1)) is amended—

(1) by striking out "the Bankruptcy Act" and inserting "section 101 of title 11 of the United States Code" in lieu thereof;

(2) by striking out subparagraph (B) thereof; and

(3) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Section 5(b)(2)(A)(iii) of such Act (15 U.S.C. 78eee(b)(2)(A)(iii)) is amended by striking out "bankruptcy by the Bankruptcy Act" and inserting "the United States having jurisdiction over cases under title 11 of the United States Code" in lieu thereof.

(c) Section 5(b)(2)(B)(iii) of such Act (15 U.S.C. 78eee(b)(2)(B)(iii)) is amended by striking out ", the right of setoff provided in section 68 of the Bankruptcy Act, and" and inserting in lieu thereof "any right of setoff, except to the extent such right may be affected under section 553 of title 11 of the United States Code, and shall not abrogate".

(d) Section 5(b)(3) of such Act (15 U.S.C. 78eee(b)(3)) is amended by striking out "the applicable provisions of the Bankruptcy Act" and inserting "section 322 of title 11 of the United States Code" in lieu thereof.

(e) Section 5(b) of such Act (15 U.S.C. 78eee(b)) is amended by striking out paragraph (4) thereof and inserting in lieu thereof the following:

"(4) REMOVAL TO BANKRUPTCY.—Upon the issuance of a protective decree and appointment of a trustee, or a trustee and counsel, under this section, the court shall forthwith order the removal of the entire liquidation proceeding to the court of the United States in the same judicial district having jurisdiction over cases under title 11 of the United States Code. The latter court shall thereupon have all of the jurisdiction, powers, and duties conferred by this Act upon the court to which application for the issuance of the protective decree was made.".

(f) Section 5(b)(5) of such Act (15 U.S.C. 78eee(b)(5)) is amended—

(1) by striking out subparagraph (B);

(2) by striking out "the Bankruptcy Act governing applications for allowances under such Act" in subparagraph (C) and inserting "title 11 of the United States Code governing applications for allowances under such title";

(3) by striking out "C" in subparagraph (D) and inserting "(B)" in lieu thereof;

(4) by striking out "the Bankruptcy Act" in subparagraph (E) and inserting "section 504 of title 11 of the United States Code" in lieu thereof; and

(5) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively.

(g) Section 6(b) of such Act (15 U.S.C. 78fff(b)) is amended—

(1) by striking out ", the Bankruptcy Act." and all that follows through the end of subsection (b), and inserting in lieu thereof "chapters 1, 3, and 5 and subchapters I and II of chapter 7 of title 11 of the United States Code. For the purposes of applying such title in carrying out this section, a reference in such title to the date of the filing of the petition shall be deemed to be a reference to the filing date under this Act."; and

(2) by striking out "Application of Bankruptcy Act" and inserting "Application of Title 11 of the United States Code" is lieu thereof.

(h) Section 6(e) of such Act (15 U.S.C. 78fff(e)) is amended—

(1) by striking out "in the Bankruptcy Act" and inserting "in section 726 of title 11 of the United States Code" in lieu thereof; and

(2) by striking out "as a first priority under the Bankruptcy Act" and inserting "under section 507(1) of title 11 of the United States Code" in lieu thereof.

(i) Section 7(a) of such Act (15 U.S.C. 78fff-1(a)) is amended by striking out "bankruptcy under the Bankruptcy Act has with respect to a bankrupt and the property of a bankrupt" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(j) Section 7(b) of such Act (15 U.S.C. 78fff-1(b)) is amended by striking out "in bankruptcy" and inserting "in a case under chapter 7 of title 11 of the United States Code, including, if the debtor is a commodity broker, as defined under section 101 of such title, the duties specified in subchapter IV of such chapter 7," in lieu thereof.

(k) Section 7(c) of such Act (15 U.S.C. 78fff-1(c)) is amended by striking out "by the Bankruptcy Act" and inserting "of a trustee in a case under chapter 7 of title 11 of the United States Code" in the lieu thereof.

(l) Section 8(a)(1) of such Act (15 U.S.C. 78fff-2(a)(1)) is amended by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

(m) Section 8(c)(3) of such Act (15 U.S.C. 78fff-2(c)(3)) is amended by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

(n) Section 10(e) of such Act (15 U.S.C. 78fff-4(e)) is amended—

(1) by striking out "Jurisdiction of District Courts" and inserting "Jurisdiction of Bankruptcy Courts" in lieu thereof;

(2) by striking out "district courts of the United States" and inserting "courts of the United States having jurisdiction over cases under title 11 of the United States Code" in lieu thereof; and

(3) by striking out ", without regard to the citizenship of the parties or the amount in controversy".

(o) Section 16 of such Act (15 U.S.C. 89111) is amended—

(1) by striking out paragraph (1) thereof;

(2) by striking out paragraph (8)(A) thereof and inserting in lieu thereof the following:

"(A) if a petition under title 11 of the United States Code concerning the debtor was filed before such date, the term 'filing date' means the date on which such petition was filed;" and

(3) by redesignating paragraphs (2) through (15) thereof as paragraphs (1) through (14), respectively.

SEC. 309. Section 11(f) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k (f)) is amended by striking out "bankruptcy" and inserting "case under title 11 of the United States Code" in lieu thereof.

SEC. 310. (a) Section 2(a)(8) of the Investment Company Act of 1940 (15 U.S.C. 80a–2 (a)(8)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(b) Section 6(a)(2) of such Act (15 U.S.C. 80a–6(a)(2)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(c) Section 25(d) of such Act (15 U.S.C. 80a–25(d)) is amended by striking out "the Bankruptcy Act of 1898, as amended" and inserting "title 11 of the United States Code" in lieu thereof.

SEC. 311. Section 202(a)(5) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2 (a)(5)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

SEC. 312. (a) Section 303(b)(1)(B) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)(1)(B)) is amended by striking out "court of bankruptcy under chapter XIII of the Bankruptcy Act" and inserting "court of the United States having jurisdiction over cases under chapter 13 of title 11 of the United States Code" in lieu thereof.

(b) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended to read as follows:

"(1) cases under title 11 of the United States Code or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than 10 years.".

SEC. 313. Section 201(e) of title 17 of the United States Code is amended by striking out the period at the end thereof and inserting ", except as provided under title 11." in lieu thereof.

SEC. 314. (a) Chapter 9 of title 18 of the United States Code is amended—

(1) by striking out "bankrupt" each place it appears and inserting "debtor" in lieu thereof;

(2) by striking out "bankruptcy proceeding" each place it appears and inserting "case under title 11" in lieu thereof;

(3) by striking out "bankruptcy law" each place it appears and inserting "provisions of title 11" in lieu thereof.

(b)(1) Title 18 of the United States Code is amended by striking out section 151 and inserting in lieu thereof the following:

"§ 151. Definition

"As used in this chapter, the term 'debtor' means a debtor concerning whom a petition has been filed under title 11.".

(2) The item relating to section 151 in the table of sections for chapter 9 of title 18 of the United States Code is amended by striking out "Definitions" and inserting "Definition" in lieu thereof.

(c) Section 152 of title 18 of the United States Code is amended by—

(1) striking out "the receiver," each place it appears and inserting "a" in lieu thereof; and

(2) striking out "document affecting or relating to the property or affairs of a" and inserting in lieu thereof "recorded information, including books, documents, records, and papers, relating to the property or financial affairs of a".

(d)(1) Section 153 of title 18 of the United States Code is amended by striking out "receiver,".

(2) The heading for section 153 of title 18 of the United States Code is amended by striking out ", receiver".

(3) The item relating to section 153 in the table of sections for chapter 9 of title 18 of the United States Code is amended by striking out ", receiver".

(e)(1) Section 154 of title 18 of the United States Code is amended—

(A) by striking out "Whoever knowingly acts as a referee in a case in which he is directly or indirectly interested; or"; and

(B) by striking out "referee, receiver,".

(2) The heading for section 154 of title 18 of the United States Code is amended by striking out "referees and others".

(3) The item relating to section 154 in the table of contents for chapter 9 of title 18 of the United States Code is amended by striking out "referees and others".

(f)(1) Section 155 of title 18 of the United States Code is amended—

(A) by striking out the semicolon at the end of the first paragraph thereof and all that follows down through "Shall" and inserting in lieu thereof ", shall";

(B) by inserting "knowingly and fraudulently" immediately after "supervision,"; and

(C) by striking out ", bankruptcy or reorganization proceeding" and inserting "or case under title 11" in lieu thereof.

(2) The heading for section 155 of title 18 of the United States Code is amended by striking out "bankruptcy proceedings" and inserting in lieu thereof "cases under title 11 and receiverships".

(3) The item relating to section 155 in the table of sections for chapter 9 of title 18 of the United States Code is amended by striking out "bankruptcy proceedings" and inserting "cases under title 11 and receiverships" in lieu thereof.

(g) Section 1961(1)(D) of title 18 of the United States Code is amended by striking out "bankruptcy fraud" and inserting "fraud connected with a case under title 11" in lieu thereof.

(h) Section 2516(1)(e) of title 18 of the United States Code is amended by striking out "bankruptcy fraud" and inserting "fraud connected with a case under title 11" in lieu thereof.

(i) Section 3057 of title 18 of the United States Code is amended—

(1) by striking out "referee" each place it appears and inserting "judge" in lieu thereof; and

(2) by striking out "violations of the bankruptcy laws" and inserting "violation under chapter 9 of this title" in lieu thereof.

(j)(1) Section 2256 of title 28 of the United States Code is redesignated as section 3244 of title 18 of the United States Code.

(2) The table of sections of chapter 211 of title 18 of the United States Code is amended by adding at the end thereof the following:

"3244. Jurisdiction of proceedings relating to transferred offenders.".

(k) Section 3284 of title 18 of the United States Code is amended by striking out "bankrupt or other debtor" and inserting "debtor in a case under title 11" in lieu thereof.

(l) Section 6001(4) of title 18 of the United States Code is amended by inserting "a United States bankruptcy court established under chapter 6, title 28, United States Code," immediately after "title 28, United States Code,".

SEC. 315. Section 485(f) of the Tariff Act of 1930 (19 U.S.C. 1485(f)) is amended by striking out "receiver or trustee in bankruptcy" and inserting "trustee in a case under title 11 of the United States Code" in lieu thereof.

SEC. 316. Section 302(1)(3) of the Automotive Products Trade Act of 1965 (19 U.S.C. 2022(1)(3)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 317. Section 439A of part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087–3) is repealed.

SEC. 318. Section 239(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(d)) is amended by striking out "the priority" and inserting "any priority" in lieu thereof.

SEC. 319. Section 2(1) of the National Labor Relations Act (29 U.S.C. 152(1)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 320. Section 3(d) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 402(d)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 321. (a) Section 4042 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342) is amended in subsection (f)—

(1) by striking out "bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act" and inserting "the United States having jurisdiction over cases under chapter 11 of title 11 of the United States Code" in lieu thereof; and

(2) by striking out "bankruptcy,"

(b) Section 4062(c)(2) of such Act (29 U.S.C. 1362(c)(2)) is amended—

(1) by striking out "the Bankruptcy Act" and inserting "title 11 o fthe United States Code" in lieu thereof; and

(2) by striking out "the subject of a proceeding under that Act" and inserting "a debtor in a case under chapter 7 of such title" in lieu thereof.

(c) Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended—

(1) by striking out "the case of bankruptcy or" and inserting "a case under title 11 of the United States Code or in" in lieu thereof; and

(2) by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

SEC. 322. (a) Section 3466 of the Revised Statutes of the United States (31 U.S.C. 191) is amended by adding at the end the following: "The priority established under this section does not apply, however, in a case under title 11 of the United States Code.".

(b) Section 3467 of the Revised Statutes of the United States (31 U.S.C. 192) is amended by striking out "Every" and inserting in lieu thereof the following: "Except with respect to a trustee acting in accordance with the provisions of title 11 of the United States Code, every".

(c) Section 3469 of the Revised Statutes of the United States (31 U.S.C. 194) is repealed.

(d) Section 3473 of the Revised Statutes of the United States (31 U.S.C. 198) is repealed.

(e) Section 3474 of the Revised Statutes of the United States (31 U.S.C. 199) is repealed.

(f) The table of sections for title XXXVI of the Revised Statutes of the United States is amended by striking out the items relating to sections 3469, 3473, and 3474.

(g) Section 5256 of the Revised Statutes of the United States (45 U.S.C. 81) is amended by striking out "The laws of the United States providing for proceedings in bankruptcy shall not be held to apply to said corporation.".

SEC. 323. Section 1 of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", approved June 21, 1940 (54 Stat. 497; 33 U.S.C. 511), is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

SEC. 324. Subsection (a) of section 17 of the Act of March 4, 1927 (44 Stat. 1434; 33 U.S.C. 917(a)), is repealed.

SEC. 325. Section 213 of the Transportation Act, 1920 (40 U.S.C. 316), is amended by striking out "bankruptcy" and inserting

"case under title 11 of the United States Code" in lieu thereof.

SEC. 326. Section 7 of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (49 Stat. 2039; 41 U.S.C.. 41), is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 327. Subsection (g) of section 733 of the Public Health Service Act (42 U.S.C. 294f) is repealed.

SEC. 328. Subsection (b) of section 456 of the Social Security Act (42 U.S.C. 656(b)) is repealed.

SEC. 329. Section 503 (42 U.S.C. 1473) of the Housing Act of 1949 is amended by striking out "This" and inserting "Execpt as provided in title 11 of the United States Code, this" in lieu thereof.

SEC. 330. Section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)) is amended by striking out "bankruptcy" and inserting "cases under title 11, United States Code" in lieu thereof.

SEC. 331. Section 802(d) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968 (82 Stat. 81; 42 U.S.C. 3602(d)), is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 332. Section 17 of the Boulder Canyon Project Act (43 U.S.C. 617p) is amended by striking out "Claims" and inserting "Except as provided in title 11 of the United States Code, claims" in lieu thereof.

SEC. 333. Subsection (c) of section 3 of the Emergency Rail Services Act of 1970 (54 U.S.C. 662) is repealed.

SEC. 334. Title IX of the Merchant Marine Act, 1936 (46 U.S.C. 1241 et seq.), is amended by adding at the end thereof the following:

"SEC. 908. (a) Notwithstanding any other provision of law, in any proceeding in a bankruptcy, equity, or admiralty court of the United States in which a receiver or trustee may be appointed for any corporation engaged in the operation of one or more vessels of United States registry between the United States and any foreign country, upon which the United States holds mortgages, the court, upon finding that it will inure to the advantage of the estate and the parties in interest and that it will tend to further the purpose of this Act, may constitute and appoint the Secretary of Commerce as sole trustee or receiver, subject to the directions and orders of the court, and in any such proceeding the appointment of any person other than the Secretary as trustee or receiver shall become effective upon the ratification thereof by the Secretary without a hearing, unless the Secretary shall deem a hearing necessary. In no such proceeding shall the Secretary be constituted as trustee or receiver without the Secretary's express consent.

"(b) If the court, in any such proceeding, is unwilling to permit the trustee or receiver to operate such vessels in such service pending the termination of such proceeding, without financial aid from the Government, and the Secretary certifies to the court that the continued operation of such vessel is, in the opinion of the Secretary, essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes and policy of this Act, the court may permit the Secretary to operate the vessels subject to the orders of the court and upon terms decreed by the court sufficient to protect all the parties in interest, for the account of the trustee or receiver, directly or through a managing agent or operator employed by the Secretary, if the Secretary undertakes to pay all operating losses resulting from such operation, and comply with the terms imposed by the court, and such vessel shall be considered to be a vessel of the United States within the meaning of the Suits in Admiralty Act. The Secretary shall have no claim against the corporation, its estate, or its assets for the amount of such payments, but the Secretary may pay such sums for depreciation as it deems reasonable and such other sums as the court may deem just. The payment of such sums, and compliance with other terms duly imposed by the court, together with the payment of the operating losses, shall be in satisfaction of all claims against the Secretary on account of the operation of such vessels.".

SEC. 335. (a) Section 22(a) of the Organic Act of Guam (48 U.S.C. 1424(a)) is amended by inserting "and a bankruptcy court" immediately after "jurisdiction of a district court".

(b) Section 22(b) of such Act (48 U.S.C. 1424(b)) is amended by striking out "30 of the Bankruptcy Act of July 1, 1898, as amended (title 11, U.S.C., sec. 53), in bankruptcy cases;" and inserting "2075 of title 28, United States Code, in cases under title 11, United States Code," in lieu thereof.

SEC. 336. (a) Section 22 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1612) is amended by inserting "and a bankruptcy court" immediately after "jurisdiction of a district court".

(b) Section 25 of such Act (48 U.S.C. 1615) is amended by striking out "30 of the Bankruptcy Act in bankruptcy cases" and inserting "2075 of title 28, United States Code, in cases under title 11, United States Code" in lieu thereof.

SEC. 337. (a) Section 20c of the Interstate Commerce Act (49 U.S.C. 20c) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(b) Section 213(a)(3) of such Act (49 U.S.C. 313(a)(3)) is amended—

(1) by striking out "bankruptcy from" and inserting "a case under title 11 of the United States Code from" in lieu thereof; and

(2) by striking out "bankruptcy" and inserting "such case" in lieu thereof.

(c) Section 323 of such Act (49 U.S.C. 922a) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

SEC. 338. (a) Section 8339 of title 5 of the United States Code is amended—

(1) by inserting in subsection (f), immediately after "subsection (a)-(e)", the following: "and (o)";

(2) by inserting in subsection (i), immediately after "subsections (a)-(h)", the following "and (o)";

(3) by inserting in subsections (j) and (k)(1), immediately after "subsections (a)-(i)" each time it appears, the following: "and (o)";

(4) by inserting in subsection (l), immediately after "subsections (a)-(k)," the following: "and (o)";

(5) by inserting in subsection (m), immediately after "subsections (a)-(e)", the following: "and (o)"; and

(6) by adding at the end thereof the following:

"(o) The annuity of an employee who is a brankruptcy judge is computed with respect to service as a bankruptcy judge creditable under section 8332 of this title after March 31, 1979, by multiplying his average annual pay by the years of that service, and dividing by 14.

(b) The first sentence of section 8334(c) of title 5, United States Code, is amended by adding at the end thereof the following new schedule:

"Bankruptcy judge—

2½----	August 1, 1920, to June 30, 1926.
3½----	July 3, 1926, to June 30, 1942.
5------	July 1, 1942, to June 30, 1948.
6------	July 1, 1948, to October 31, 1956.
6½----	November 1, 1956, to December 31, 1969.
7------	January 1, 1970, to March 31, 1979.
8------	After March 31, 1979.

(c) Section 8341 of title 5, United States Code is amended—

(1) by inserting in subsection (b)(1), immediately after "section 8339(a)-(i)", the following: "and (o)"; and

(2) by striking out of subsection (d) "section 8339 (a)-(f) and (i)" and insert in lieu thereof the following: "section 8339 (a)-(f), (i), and (o)".

(d) Section 8344(a)(A) of title 5, United States Code, is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (o)".

(e) Section 8331 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(22) 'bankruptcy judge' means an individual appointed under section 34 of the Bankruptcy Act (11 U.S.C. 62) or under section 404(d) of the Act adding this paragraph—

(A) who is serving as a United States bankruptcy judge on March 31, 1984, and that has agreed by filing a notice of such agreement with the President, the Senate, and the Director of the Administrative Office of the United States Courts, to accept an appointment as a judge of a United States bankruptcy court established under section 201 of this Act but that is not appointed by the President as a judge of such court; or

(B) whose service as a United States bankruptcy judge during the transition period is terminated by reason of death or disability.".

TITLE IV—TRANSITION REPEALER

SEC. 401. (a) The Bankruptcy Act is repealed.

(b) Section 3 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved March 3, 1933 (47 Stat. 1482; 11 U.S.C. 101a), is repealed.

(c) Sections 3, 6, and 7 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved June 7, 1934 (48 Stat. 923, 924; 11 U.S.C. 76a, 203a, 205a), are repealed.

(d) The sentence beginning "Said section 74" in section 2 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved June 7, 1934 (48 Stat. 924; 11 U.S.C., 103a), is repealed.

(e) Subsection (b) of section 4 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved June 7, 1934 (48 Stat. 924; 11 U.S.C. 103a), is repealed.

(f) Section 2 of the Act entitled "An Act to amend the Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, as amended and supplemented", approved June 5, 1936 (49 Stat. 1476; 11 U.S.C. 93a), is repealed.

(g) Section 3 of the Act entitled "An Act to amend the Interstate Commerce Act as amended, and for other purposes", approved April 9, 1948 (62 Stat. 167; 11 U.S.C. 208), is repealed.

EFFECTIVE DATES

SEC. 402. (a) Except as otherwise provided in this title, this Act shall take effect on October 1, 1979.

(b) Except as provided in subsections (c) and (d) of this section, the amendments made by title II of this Act shall take effect on April 1, 1984.

(c) The amendments made by sections 210, 214, 219, 220, 222, 224, 225, 228, 229, 235, 244, 245, 246, 249, and 251 of this Act shall take effect on October 1, 1979.

(d) The amendments made by sections 217, 218, 230, 247, 302, 317, 327, 328, 338, and 411 of this Act shall take effect on the date of enactment of this Act.

(e) The amendments made by sections 314(j), 335(a), and 336(a) of this Act shall take effect on April 1, 1984.

SAVINGS PROVISIONS

SEC. 403. (a) A case commenced under the Bankruptcy Act, and all matters and proceedings in or relating to any such case, shall be conducted and determined under such Act as if this Act had not been enacted, and the substantive rights of parties in connection with any such bankruptcy case, matter, or proceeding shall continue to be governed by the law applicable to such case, matter, or proceeding as if the Act had not been enacted.

(b) Notwithstanding subsection (a) of this section, sections 1165, 1166, 1167, 1168, 1169, 1170, 1171, and 1174 of title 11 of the United States Code, as enacted by section 101 of this Act, apply to cases pending under section 77 of the Bankruptcy Act (11 U.S.C. 205) on the date of enactment of this Act in which the trustee has not filed a plan of reorganization.

(c) The repeal made by section 401(a) of this Act does not affect any right of a referee in bankruptcy, United States bankruptcy judge, or survivor of a referee in bankruptcy or United States bankruptcy judge to receive any annuity or other payment under the civil service retirement laws.

(d) The amendments made by section 314 of this Act do not affect the application of chapter 9, chapter 96, section 2516, section 3057, or section 3284 of title 18 of the United States Code to any act of any person—

(1) committed before October 1, 1979; or

(2) committed after October 1, 1979, in connection with a case commenced before such date.

(e) Notwithstanding subsection (a) of this section, a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1979, to the extent that such fee exceeds $100,000.

COURTS DURING TRANSITION

SEC. 404. (a) The courts of bankruptcy, as defined under section 1(10) of the Bankruptcy Act, created under section 2a of the Bankruptcy Act, and existing on September 30, 1979, shall continue through March 31, 1984, to be the courts of bankruptcy for the purposes of this Act and the amendments made by this Act. Each of the courts of bankruptcy so continued shall constitute a separate department of the district court that is such court of bankruptcy under the Bankruptcy Act.

(b) The term of a referee in bankruptcy who is serving on the date of enactment of this Act is extended to and expires on March 31, 1984 or when his successor takes office. During the period commencing on October 1, 1979, and ending on March 31, 1984 (hereinafter in this title referred as "the transition period"), unless such referee is found to be not qualified by a merit screening committee established as provided in subsection (c) of this section, such a referee in bankruptcy shall have the title of United States bankruptcy judge, and shall serve in the court of bankruptcy continued under subsection (a) of this section that appointed such United States bankruptcy judge, in the manner prescribed by this title. Section 8335(a) of title 5 of the United States Code shall not apply in respect of United States bankruptcy judges during the transition period.

(c) There shall be established for each State a merit screening committee composed of the president or the designee of the president of the State bar association, the dean or the designee of the dean of a law school located within the State, and the president or designee of the president of a local bar association for the area wherein a referee in bankruptcy maintains his official headquarters within the State. Each such merit screening committee shall be organized and summoned to meetings by the circuit executive for the circuit embracing the State, who shall serve as secretary of each such screening committee established within the circuit. Before the expiration of the term of a referee in bankruptcy in office on the date of enactment of this Act, or if his successor has not been appointed before the date of enactment of this Act, a merit screening committee shall be organized by the circuit executive to pass on the qualifications of such referee for the purpose of determining whether the term of such referee shall be extended as provided under subsection (b) of this section.

(d) Except as otherwise provided in this section or in section 407 of this Act, matters relating to the office of United States bankruptcy judges and to United States bankruptcy judges shall continue to be governed during the transition period by the rules set forth in sections 34, 35, 36, 40a, 40b, 40d, 41 and 43 of the Bankruptcy Act as such Act existed on September 30, 1979. A court of bankruptcy may not appoint an individual under such section 34 if the merit screening committee established under subsection (c) of this section for the district of such court finds such individual to be not qualified.

(e) During the transition period, the United States bankruptcy judges of each district may appoint a clerk, necessary other employees, including law clerks and secretaries, and court reporters the same as the judges of a United States bankruptcy court established under section 201 of this Act may appoint such officers and employees under the amendment made by section 233 of this Act. Such clerk, other employees, and reporters shall have the same rights and powers, shall perform the same functions and duties and shall be subject to the same provisions of title 28 of the United States Code, as a clerk, other employee, or reporter, as the case may be, appointed under the amendment made by section 233 of this Act by a United States bankruptcy court established under section 201 of this Act. The United States bankruptcy judges of each district shall have the same rights and powers as a United States bankruptcy court established under section 201 of this Act with respect to such clerk, other employees, and reporters.

(f) During the transition period, the provisions of sections 455, 456, 569(a), 571(b), 620(b)(3), and 957(a) of title 28 of the United States Code shall apply to United States bankruptcy judges and to any court officers or employees appointed or employed under subsection (e) of this section the same as such sections apply to the bankruptcy judges, and to any court officers or employees, of a United States bankruptcy court established under section 201 of this Act. During the transition period, the position of United States bankruptcy judge shall be deemed to be a position within the purview of subparagraph (C) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)).

(g) During the transition period, the Judicial Conference of the United States may from time to time in the light of the recommendations of the judicial councils of each circuit, made after advising with the district judges and the United States bankruptcy judges of the respective circuit, and of the Director of the Administrative Office of the United States Courts, increase the number of full-time United States bankruptcy judges, or provide that a part-time United States bankruptcy judge for a particular district may serve in the capacity and receive the salary of a full-time United States bankruptcy judge, as the expeditious transaction of the business of the several courts of bankruptcy may require.

JURISDICTION AND PROCEDURE DURING TRANSITION

SEC. 405. (a)(1) All cases commenced under title 11 of the United States Code during the transition period shall be referred to the United States bankruptcy judges. The United States bankruptcy judges may exercise in such cases the jurisdiction and powers conferred by subsection (b) of this section on the courts of bankruptcy continued by section 404(a) of this Act, and all proceedings in such cases shall be before the United States bankruptcy judges, except—

(A) a proceeding to enjoin a court;

(B) a proceeding to punish a criminal contempt—

(i) not committed in the bankruptcy judge's actual presence; or

(ii) warranting a punishment of imprisonment; or

(C) an appeal from a judgment, order, decree, or decision of a United States bankruptcy judge.

(2) Except as provided in subsection (c) of this section, any proceeding in a court of bankruptcy in a case under title 11 of the United States Code that is not before the United States bankruptcy judge shall be before the judge of the court of bankruptcy for the district in which such case is pending.

(b) During the transition period, the amendments made by sections 241, 243, 250, and 252 of this Act shall apply to the courts of bankruptcy contained by section 404(a) of this Act the same as such amendments apply to the United States bankruptcy courts established under section 201 of this Act.

(c)(1) During the transition period, an appeal from a judgment, order, or decree of a United States bankruptcy judge shall be—

(A) if the circuit council of the circuit in which the bankruptcy judge sits so orders for the district in which the bankruptcy judge sits, then to a panel of three bankruptcy judges appointed in the manner prescribed by section 160 of title 28 of the United States Code, as added by section 201 of this Act;

(B) if the parties to the appeal agree to a direct appeal to the court of appeals for such circuit, then to such court of appeals; or

(C) to the district court for the district in which the bankruptcy judge sits.

(2) During the transition period, the jurisdiction of the district courts, the courts of appeals, and panels of bankruptcy judges to hear appeals shall be the same as the jurisdiction of such courts and panels granted under the amendments made by sections 236, 237, 238, and 241 of this Act to hear appeals from the judgments, orders, and decrees of the bankruptcy courts established under section 201 of this Act.

(d) The rules prescribed under section 2075 of title 28 of the United States Code and in effect on September 30, 1979, shall apply to cases under title 11, to the extent not inconsistent with the amendments made by this Act, or with this Act, until such rules are repealed or superseded by rules prescribed and effective under such section, as amended by section 248 of this Act.

TRANSITION STUDY

SEC. 406. (a)(1) During the transition period, the Director of the Administrative Office of the United States Courts shall make continuing studies and surveys of conditions in the judicial districts to determine—

(A) the number of bankruptcy judges of the United States bankruptcy courts established under section 201 of this Act that will be needed after March 31, 1984, to provide for the expeditious and effective administration of justice; and

(B) the regular places of offices and the places at which courts shall be held.

(2) In the course of any survey, the Director shall take into account local conditions in each judicial district, including the areas and the population to be served, the transportation and communications facilities available, the average number and types of bankruptcy cases filed and closed during the transition period, the number of cases pending and judicial matters heard, and any other material factors. The Director shall give consideration to suggestions from any interested parties.

(b) Upon completion of the studies and surveys required by subesction (a) of this section, the Director shall report to the judicial councils of the circuits and the Judicial Conference of the United States his recommendations concerning the number of bankruptcy judges, their principal places of offices, and the places where court shall be held. The judicial councils shall advise the Conference, stating their recommendations and the reasons therefor. The Conference shall recommend to the Congress and to the President, before January 3, 1983, in light of the recommendations of the Director and the judicial councils, the number of bankruptcy judges of the United States bankruptcy courts established under section 201 of this Act that will be needed after March 31, 1984, and the locations at which they shall serve.

JUDICIAL ADMINISTRATION

SEC. 407. (a) The Director of the Administrative Office of the United States Courts shall appoint a committee of not fewer than seven United States bankruptcy judges to advise the Director with respect to matters that arise during the transition period or that are relevant to the purposes of the transition period.

(b) During the transition period, at least one-third of the members of any committee of the Judicial Conference of the United States that is concerned with the administration of the bankruptcy system shall be chosen from among the United States bankruptcy judges, and at least one member of any committee of the Judicial Conference that is concerned with court administration or supporting personnel shall be chosen from among the United States bankruptcy judges.

(c) During the transition period, the chief judge of each circuit shall summon at least one bankruptcy judge from each judicial district within the circuit to the judicial conference of such circuit called and held under section 332 of title 28 of the United States Code.

UNITED STATES TRUSTEE PILOT

SEC. 408. (a) The Attorney General shall conduct such studies and surveys as necessary to evaluate the needs, feasibility, and effectiveness of the United States trustee system, and shall report the result of such studies and surveys to the Congress, the President, and the Judicial Conference of the United States, beginning on or before January 3, 1980, and annually thereafter during the transition period.

(b) Not later than January 3, 1984, the Attorney General shall report to the Congress, to the President, and the Judicial Conference of the United States, as to the feasibility, projected annual cost and effectiveness of the United States trustee system, as determined on the basis of the studies and surveys respecting the operation of the United States trustee system in the districts, together with recommendations as to the desirability and method of proceeding with implementation of the United States trustee system in all judicial districts of the United States.

(c) Chapter 15 of title 11 of the United States Code and chapter 39 of title 28 of the United States Code are repealed, and all references to the United States trustee contained in title 28 of the United States Code are deleted, as of April 1, 1984. The service of any United States trustee, of any assistant United States trustee, and of any employee employed or appointed under the authority of such chapter 39 is terminated on such date.

TRANSFER TO NEW COURT SYSTEM

SEC. 409. (a) On April 1, 1984, there shall be transferred to the appropriate United States' bankruptcy court established under section 201 of this Act—

(1) cases, and matters and proceedings in cases, under the Bankruptcy Act that are pending, at the end of September 30, 1983, in the courts of bankruptcy continued under section 404(a) of this Act, other than cases, and matters and proceedings in cases, under—

(A) section 77 or chapter IX of the Bankruptcy Act; or

(B) chapter X of the Bankruptcy Act in which a general reference under section 117 of the Bankruptcy Act is not in effect; and

(2) cases, and proceedings arising under or related to cases, under title 11 of the United States Code that are pending, at the end of March 31, 1984, in the courts of bankruptcy continued under section 404(a) of this Act.

(b) Civil actions pending on March 31, 1984, over which a United States bankruptcy court established under section 201 of this Act has jurisdiction on April 1, 1984, shall not abate, but continuation of any such action that has not been finally determined before April 1, 1985, may be enjoined, and any claims or causes of actions not resolved may be removed to a bankruptcy court under chapter 90 of title 28 of the United States Code.

(c) All Government publications, law books, recording equipment, and other property furnished to bankruptcy judges' offices as of March 31, 1984, and of particular use to the offices of the judges of the United States bankruptcy courts, shall be transferred to the United States bankruptcy courts, under the supervision of the Director of the Administrative Office of the United States Courts.

ADDITIONAL RULEMAKING POWER

SEC. 410. The Supreme Court may issue such additional rule of procedure, consistent with Acts of Congress, as may be necessary for the orderly transfer of functions and records and the orderly transition to the new bankruptcy court system created by this Act.

SEC. 411. Section 40a of the Bankruptcy Act (11 U.S.C. 68(a)) is amended by striking out "$37,800" and inserting "$50,000" in lieu thereof, and by striking out "$18,900" and inserting "$25,000" in lieu thereof.

Mr. EDWARDS of California (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the House amendment to the Senate amendment and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I would ask my colleague, the gentleman from Virginia, to explain the differences between the bill in the Senate and the bill in the House just briefly.

Mr. BUTLER. Mr. Speaker, if the gentleman from California will yield, I would be very happy to explain the differences, but there were several.

Mr. ROUSSELOT. What are the principal differences?

Mr. BUTLER. The principal differences deal with many things which are taken up in the remarks which the gentleman from California is prepared to make in a moment. If the gentleman would like for me to outline them, I have no objection, but I propose to treat with them in my statement at some length.

Mr. ROUSSELOT. Further reserving the right to object, since this has the effect of being a conference report, can the gentleman give us the principal ones?

Mr. BUTLER. If the gentleman will yield further, I will be very happy to do that for the gentleman. I want the gentleman to recognize I will not consciously omit any of the several significant differences.

The principal area of disagreement between the House and the Senate dealt with the structure of the court system. It was the House position that the bankruptcy court should be an independent article III court in every sense of the word, as are the U.S. district courts. It was the House position, after extensive debate and argument on the floor, that we would have separate, independent, and life-tenured judges in the bankruptcy courts.

The Senate view of the courts dealt with the problem of maintaining the adjunct system of courts which in our opinion was the basic problem. We have an adjunct to the district courts under present law with a resulting lack of independence of the bankruptcy courts.

In the resolution of this dispute between the principals, we came essentially to the agreement that independence was a very important factor.

We could not reach agreement with the Senators to accomplish this with article III courts so we resolved this particular area of disagreement by creating bankruptcy courts that are not adjuncts of the district courts but adjuncts of the courts of appeals. This gives the bankruptcy courts increased stature. The bankruptcy judges would be appointed by the President for 14-year terms so they would be functionally independent of district court judges in this regard.

Accompanying this, of course, was the question of administration of the courts, concerning the trustees who administer the estates before the courts. Under present law, bankruptcy judges are involved in both judicial and administrative aspects of bankruptcy cases. We felt it important to separate the judicial functions of the judge from the administration of the estates. The original House bill, H.R. 8200, accomplished this by providing for U.S. trustees who would be essentially under the control of the Department of Justice and who would supervise the administration of the estates in many ways. The result of that system was that the judicial functions of the judges were completely separated from the administration of the estates.

This was an area with which we were in disagreement with the Senators. We resolved this by having a limited number of U.S. trustees as an experiment; so the

House amendment provides for a pilot project of U.S. trustees during the transition. In this manner, the theory behind the House bill will be tested during the transition period. The House amendment contains a sunset provision which in effect says we will have to make an affirmative decision to expand or reject this experiment at the end of the 5-year transition period.

Another area of major disagreement dealt with the approach concerning business reorganization cases. There are three chapters under the existing law dealing with business reorganization, and litigation to determine the proper chapter under which to proceed is a real problem. We felt the appropriate way to resolve this was to have one chapter dealing with business reorganization, and that is what the House did. The Senate amendment adopts the opposite approach and provides for a separate procedure to deal with "public companies." We essentially persuaded the Senate Members, who were most concerned with this, to retreat from their position. So the House amendment reverts to the consolidated one-track business reorganization procedures which is suggested in H.R. 8200.

There is one other area of disagreement which was not a substantial one in the overall proposal, but it is somewhat significant, and that deals with the reaffirmation of debts. I think the gentleman might have heard about this.

Mr. ROUSSELOT. Yes, I have.

Mr. BUTLER. Will the gentleman yield further?

Mr. ROUSSELOT. I will be glad to.

Mr. BUTLER. The purpose of the reaffirmation of debts is essentially contrary to bankruptcy. We begin with the idea that a debt is discharged in bankruptcy; that is what bankruptcy is all about. The debtor is given a fresh start. The practice under existing law, in most States, is that a valid consideration for a debt is the acknowledgement of renewal or reaffirmation of a debt which has been discharged in bankruptcy.

The evidence before us was overwhelming that a practice has developed to follow a discharge in bankruptcy with a reaffirmation of debt in consideration of an expanded debt. A debtor could come through bankruptcy to discharge a loan of $500 and find himself borrowing another $500 in order to get back on his feet. As a condition to the new loan the debtor is required by the lender to reaffirm the discharged debt, and as a result the debtor owes $1,000. We felt this option was being exploited. So in the House bill we took away the debtor's right to reaffirm debts after bankruptcy.

This was, we thought, a tremendous advance. The issue was raised in the Senate committee, and the Senate committee agreed with us. However, when it got to the floor, the Senate took a hard line on this portion of the bill and virtually put us back to the law as it was before our bill was passed. The House amendment resolves this by, I think, meeting a middle ground, as is pretty extensively discussed in the Chairman's (Mr. EDWARD'S) description of the legislation.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, could the gentleman give us the essence of the reaffirmational provisions.

Mr. BUTLER. If the gentleman will yield further, the essence of the right to reaffirm, as we have compromised it, is that the right to reaffirm is available in business situations. It is not available for consumer debts that are not secured by real property unless the court, after notice and hearing, approves the reaffirmation and the court decides, on the basis of the evidence before it, that it is in the best interest of the debtor to reaffirm, and the reaffirmation does not impose any undue hardship on the debtor or his dependents.

This is principally directed to consumer financing. That is where the problem area is, so, in my judgment, this is a very reasonable compromise and a very fine middle ground that preserves what we were trying to do in the House bill.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California that the House amendment to the Senate amendment be considered as read and printed in the RECORD?

There was no objection.

Mr. EDWARDS of California. Mr. Speaker, the amendment that I am offering today is the culmination of over 8 years' work by a congressional commission, two congressional committees, and numerous outside groups. The amendment accomplishes the substantial reform of the bankruptcy laws for the first time in 40 years. It is a major effort, one that everyone involved can be proud of.

This bill passed the House last February 1, and passed the Senate with an amendment on September 7, just 3 weeks ago. In those 3 weeks, my distinguished colleague from Virginia, CALDWELL BUTLER, and I have worked closely with the Senate managers of the bill, and we have reached an agreement on the resolution of the differences between the two bills. The agreement was reached after a public meeting this week, in which the final major issues were resolved. This amendment that I am offering is the substance of that agreement.

The amendment retains many of the important reforms included in the original House bill, yet adopts many of the fine and constructive changes made by the Senate. In summary, the amendment retains a strong independent bankruptcy court to handle the large number of bankruptcies filed every year. The amendment does not contain the article III court proposal in the original House bill, but the court that is established is one that everyone can live with very happily. It provides for Presidential appointment and 14-year terms for the new judges, beginning in 1984.

The U.S. trustee system contained in the House bill but not in the Senate amendment was scaled down to a pilot program that will expire in 1984. During that time, we will have time to see how it operates, before creating a nationwide program. In the nonpilot areas of the country, the administrative system for bankruptcies contained in the Senate bill was adopted.

The important consumer reforms from the House bill and the Senate amendment are retained, and will protect hard-pressed consumer debtors from overreaching by their creditors. I am confident that this will be looked upon as a major step forward in consumer legislation.

The amendment also encourages business reorganizations by a streamlined new commercial reorganization chapter, that represents an excellent compromise between the House bill and the Senate amendment. It will protect the investing public, protect jobs, and help save troubled businesses.

In sum, this amendment represents a fine effort and a good compromise during the past 3 weeks. I hope that the Senate will act quickly to ratify the agreement contained in this amendment, and I urge my colleagues in the House to adopt it now so that we can send it to the Senate for their final approval.

House amendment to Senate amendment to H.R. 8200, a bill to establish a uniform law on the subject of bankruptcies.

The House amendment to the Senate amendment to H.R. 8200 resolves many differences between H.R. 8200 as passed by the House of Representatives and the amendment in the nature of a substitute to H.R. 8200, passed by the Senate. This statement is made in my capacity as chairman of the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, by and on behalf of the Subcommittee on Civil and Constitutional Rights and the House Committee on the Judiciary, in order to explain the House amendment to the Senate amendment to H.R. 8200.

Several provisions of the House-passed version of H.R. 8200 were adopted by the Senate without change in its amendment in the nature of a substitute to H.R. 8200. These provisions require no additional explanation. However, other provisions on which the two Houses differed or which are new in the House amendment to the Senate amendment in the nature of a substitute to H.R. 8200 require explanation.

Title I of H.R. 8200 contains one section, section 101, which codifies and enacts title 11 of the United States Code, entitled "Bankruptcy." Sections of title 11, as proposed to be codified, differ between the House and Senate versions of the bill, and in order to explain these differences in an expeditious fashion, all section symbols in title I of the bill will refer to section numbers in proposed title 11.

Section 101(2) defines "affiliate." The House amendment contains a provision that is a compromise between the definition in the House-passed version of H.R. 8200 and the Senate amendment in the nature of a substitute to H.R. 8200. Subparagraphs (A) and (B) are derived from the Senate amendment and sub-

paragraph (D) is taken from the House bill, while subparagraph (C) represents a compromise, taking the House position with respect to a person whose business is operated under a lease or an operating agreement by the debtor and with respect to a person substantially all of whose property is operated under an operating agreement by the debtor and the Senate position on leased property. Thus, the definition of "affiliate" excludes persons substantially all of whose property is operated under a lease agreement by a debtor, such as a small company which owns equipment all of which is leased to a larger nonrelated company.

Section 101(4)(B) represents a modification of the House-passed bill to include the definition of "claim" a right to an equitable remedy for breach of leased to a larger nonrelated company. performance if such breach gives rise to a right to payment. This is intended to cause the liquidation or estimation of contingent rights of payment for which there may be an alternative equitable remedy with the result that the equitable remedy will be susceptible to being discharged in bankruptcy. For example, in some States, a judgment for specific performance may be satisfied by an alternative right to payment, in the event performance is refused; in that event, the creditor entitled to specific performance would have a "claim" for purposes of a proceeding under title II.

On the other hand, rights to an equitable remedy for a breach of performance with respect to which such breach does not give rise to a right to payment are not "claims" and would therefore not be susceptible to discharge in bankruptcy.

In a case under chapter 9 to title II, "claim" does not include a right to payment under an industrial development bond issued by a municipality as a matter of convenience for a third party.

Municipalities are authorized, under section 103(c) of the Internal Revenue Code of 1954, as amended, to issue tax-exempt industrial development revenue bonds to provide for the financing of certain projects for privately owned companies. The bonds are sold on the basis of the credit of the company on whose behalf they are issued, and the principal, interest, and premium, if any, are payable solely from payments made by the company to the trustee under the bond indenture and do not constitute claims on the tax revenues or other funds of the issuing municipalities. The municipality merely acts as the vehicle to enable the bonds to be issued on a tax-exempt basis. Claims that arise by virtue of these bonds are not among the claims defined by this paragraph and amounts owed by private companies to the holders of industrial development revenue bonds are not to be included among the assets of the municipality that would be affected by the plan.

Section 101(6) defines "community claim" as provided by the Senate amendment in order to indicate that a community claim exists whether or not there is community property in the estate as of the commencement of the case.

Section 101(7) of the House amendment contains a definition of consumer debt identical to the definition in the House bill and Senate amendment. A consumer debt does not include a debt to any extent the debt is secured by real property.

Section 101(9) of the Senate amendment contained a definition of "court." The House amendment deletes the provision as unnecessary in light of the pervasive jurisdiction of a bankruptcy court under all chapters of title 11 as indicated in title II of the House amendment to H.R. 8200.

Section 101(11) defines "debt" to mean liability on a claim, as was contained in the House-passed version of H.R. 8200. The Senate amendment contained language indicating that "debt" does not include a policy loan made by a life insurance company to the debtor. That language is deleted in the House amendment as unnecessary since a life insurance company clearly has no right to have a policy loan repaid by the debtor, although such company does have a right of offset with respect to such policy loan. Clearly, then, a "debt" does not include a policy loan made by a life insurance company. Inclusion of the language contained in the Senate amendment would have required elaboration of other legal relationships not arising by a liability on a claim. Further the language would have required clarification that interest on a policy loan made by a life insurance company is a debt, and that the insurance company does have right to payment to that interest.

Section 101(14) adopts the definition of "entity" contained in the Senate-passed version of H.R. 8200. Since the Senate amendment to H.R. 8200 deleted the U.S. trustee, a corresponding definitional change is made in chapter 15 of the House amendment for U.S. trustees under the pilot program. Adoption by the House amendment of a pilot program for U.S. trustees under chapter 15 requires insertion of "United States trustee" in many sections. Several provisions in chapter 15 of the House amendment that relate to the U.S. trustee were not contained in the Senate amendment in the nature of a substitute.

Section 101(17) defines "farmer," as in the Senate amendment with an income limitation percentage of 80 percent instead of 75 percent.

Section 101(18) contains a new definition of "farming operation" derived from present law and the definition of "farmer" in the Senate amendment. This definition gives a broad construction to the term "farming operation".

Section 101(20) contains a definition of "foreign representative". It clarifies the House bill and Senate amendment by indicating that a foreign representative must be duly selected in a foreign proceeding.

Section 101(35) defines "security" as contained in the Senate amendment. H.R. 8200 as adopted by the House excluded certain commercial notes from the definition of "security", and that exclusion is deleted.

Section 101(40) defines "transfer" as in the Senate amendment. The definition contained in H.R. 8200 as passed by the House included "setoff" in the definition of "transfer". Inclusion of "setoff" is deleted. The effect is that a "setoff" is not subject to being set aside as a preferential "transfer" but will be subject to special rules.

Section 102 specifies various rules of construction but is not exclusive. Other rules of construction that are not set out in title 11 are nevertheless intended to be followed in construing the bankruptcy code. For example, the phrase "on request of a party in interest" or a similar phrase, is used in connection with an action that the court may take in various sections of the Code. The phrase is intended to restrict the court from acting sua sponte. Rules of bankruptcy procedure or court decisions will determine who is a party in interest for the particular purposes of the provision in question, but the court will not be permitted to act on its own.

Although "property" is not construed in this section, it is used consistently throughout the code in its broadest sense, including cash, all interests in property, such as liens, and every kind of consideration including promises to act or forbear to act as in section 548(d).

Section 102(1) expands on a rule of construction contained in H.R. 8200 as passed by the House and in the Senate amendment. The phrase "after notice and a hearing", or a similar phrase, is intended to be construed according to the particular proceeding to mean after such notice as is appropriate in the particular circumstances, and such opportunity, if any, for a hearing as is appropriate in the particular circumstances. If a provision of title II authorizes an act be taken "after notice and a hearing" this means that if appropriate notice is given and no party to whom such notice is sent timely requests a hearing, then the act sought to be taken may be taken without an actual hearing.

In very limited emergency circumstances, there will be insufficient time for a hearing to be commenced before an action must be taken. The action sought to be taken may be taken if authorized by the court at an ex parte hearing of which a record is made in open court. A full hearing after the fact will be available in such an instance.

In some circumstances, such as under section 1128, the bill requires a hearing and the court may act only after a hearing is held. In those circumstances the judge will receive evidence before ruling. In other circumstances, the court may take action "after notice and a hearing," if no party in interest requests a hearing. In that event a court order authorizing the action to be taken is not necessary as the ultimate action taken by the court implies such an authorization.

Section 102(8) is new. It contains a rule of construction indicating that a definition contained in a section in title II that refers to another section of title II does not, for the purposes of such reference, take the meaning of a term used in the other section. For example, section 522(a)(2) defines "value" for the purposes of section 522. Section 548(d)(2) defines "value" for purposes of section 548. When section 548 is incorporated by reference in section 522, this rule of construction makes clear that the

definition of "value" in section 548 governs its meaning in section 522 notwithstanding a different definition of "value" in section 522(a)(2).

Section 104 represents a compromise between the House bill and the Senate amendment with respect to the adjustment of dollar amounts in title 11. The House amendment authorizes the Judicial Conference of the United States to transmit a recommendation for the uniform percentage of adjustment for each dollar amount in title 11 and in 28 U.S.C. 1930 to the Congress and to the President before May 1, 1985, and before May 1 of every sixth year thereafter. The requirement in the House bill that each such recommendation be based only on any change in the cost-of-living increase during the period immediately preceding the recommendation is deleted.

Section 106(c) relating to sovereign immunity is new. The provision indicates that the use of the term "creditor," "entity," or "governmental unit" in title II applies to governmental units notwithstanding any assertion of sovereign immunity and that an order of the court binds governmental units. The provision is included to comply with the requirement in case law that an express waiver of sovereign immunity is required in order to be effective. Section 106(c) codifies in re Gwilliam, 519 F.2d 407 (9th Cir., 1975), and in re Dolard, 519 F.2d 282 (9th Cir., 1975), permitting the bankruptcy court to determine the amount and dischargeability of tax liabilities owing by the debtor or the estate prior to or during a bankruptcy case whether or not the governmental unit to which such taxes are owed files a proof of claim. Except as provided in sections 106 (a) and (b), subsection (c) is not limited to those issues, but permits the bankruptcy court to bind governmental units on other matters as well. For example, section 106(c) permits a trustee or debtor in possession to assert avoiding powers under title 11 against a governmental unit; contrary language in the House report to H.R. 8200 is thereby overruled.

Section 109(b) of the House amendment adopts a provision contained in H.R. 8200 as passed by the House. Railroad liquidations will occur under chapter 11, not chapter 7.

Section 109(c) contains a provision which tracks the Senate amendment as to when a municipality may be a debtor under chapter 11 of title II. As under the Bankruptcy Act, State law authorization and prepetition negotiation efforts are required.

Section 109(e) represents a compromise between H.R. 8200 as passed by the House and the Senate amendment relating to the dollar amounts restricting eligibility to be a debtor under chapter 13 of title II. The House amendment adheres to the limit of $100,000 placed on unsecured debts in H.R. 8200 as passed by the House. It adopts a midpoint of $350,000 as a limit on secured claims, a compromise between the level of $500,000 in H.R. 8200 as passed by the House and $200,000 as contained in the Senate amendment.

Sections 301, 302, 303, and 304, are all modified in the House amendment to adopt an idea contained in sections 301 and 303 of the Senate amendment requiring a petition commencing a case to be filed with the bankruptcy court. The exception contained in section 301 of the Senate bill relating to cases filed under chapter 9 is deleted. Chapter 9 cases will be handled by a bankruptcy court as are other title 11 cases.

Section 303(b)(1) is modified to make clear that unsecured claims against the debtor must be determined by taking into account liens securing property held by third parties.

Section 303(b)(3) adopts a provision contained in the Senate amendment indicating that an involuntary petition may be commenced against a partnership by fewer than all of the general partners in such partnership. Such action may be taken by fewer than all of the general partners notwithstanding a contrary agreement between the partners or State or local law.

Section 303(h)(1) in the House amendment is a compromise of standards found in H.R. 8200 as passed by the House and the Senate amendment pertaining to the standards that must be met in order to obtain an order for relief in an involuntary case under title II. The language specifies that the court will order such relief only if the debtor is generally not paying debtor's debts as they become due.

Section 303(h)(2) reflects a compromise pertaining to section 543 of title II relating to turnover of property by a custodian. It provides an alternative test to support an order for relief in an involuntary case. If a custodian, other than a trustee, receiver, or agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession within 120 days before the date of the filing of the petition, then the court may order relief in the involuntary case. The test under section 303(h)(2) differs from section 3a(5) of the Bankruptcy Act, which requires an involuntary case to be commenced before the earlier of time such custodian was appointed or took possession. The test in section 303(h)(2) authorizes an order for relief to be entered in an involuntary case from the later date on which the custodian was appointed or took possession.

Section 304(b) adopts a provision contained in the Senate amendment with modifications. The provision indicates that if a party in interest does not timely controvert the petition in a case ancillary to a foreign proceeding, or after trial on the merits, the court may take various actions, including enjoining the commencement or continuation of any action against the debtor with respect to property involved in the proceeding, or against the property itself; enjoining the enforcement of any judgment against the debtor or the debtor's property; or the commencement or continuation of any judicial proceeding to create or enforce a lien against the property of the debtor or the estate.

Section 304(c) is modified to indicate that the court shall be guided by considerations of comity in addition to the other factors specified therein.

Section 321 indicates that an examiner may not serve as a trustee in the case.

Section 322(a) is modified to include a trustee serving in a railroad reorganization under subchapter IV of chapter 11.

Section 326(a) of the House amendment modifies a provision as contained in H.R. 8200 as passed by the House. The percentage limitation on the fees of a trustee contained in the House bill is retained, but no additional percentage is specified for cases in which a trustee operates the business of the debtor. Section 326(b) of the Senate amendment, is deleted as an unnecessary restatement of the limitation contained in section 326 (a) as modified. The provision contained in section 326(a) of the Senate amendment authorizing a trustee to receive a maximum fee of $150 regardless of the availability of assets in the estate is deleted. It will not be necessary in view of the increase in section 326(a) and the doubling of the minimum fee as provided in section 330(b).

Section 326(b) of the House amendment derives from section 326(c) of H.R. 8200 as passed by the House. It is a conforming amendment to indicate a change with respect to the selection of a trustee in a chapter 13 case under section 1302 (a) of title II.

Section 327(a) of the House amendment contains a technical amendment indicating that attorneys, and perhaps other officers enumerated therein, represent, rather than assist, the trustee in carrying out the trustee's duties.

Section 327(c) represents a compromise between H.R. 8200 as passed by the House and the Senate amendment. The provision states that former representation of a creditor, whether secured or unsecured, will not automatically disqualify a person from being employed by a trustee, but if such person is employed by the trustee, the person may no longer represent the creditor in connection with the case.

Section 327(f) prevents an examiner from being employed by the trustee.

Section 328(c) adopts a technical amendment contained in the Senate amendment indicating that an attorney for the debtor in possession is not disqualified for compensation for services and reimbursement of expenses simply because of prior representation of the debtor.

Section 330(a) contains the standard of compensation adopted in H.R. 8200 as passed by the House rather than the contrary standard contained in the Senate amendment. Attorneys' fees in bankruptcy cases can be quite large and should be closely examined by the court. However bankruptcy legal services are entitled to command the same competency of counsel as other cases. In that light, the policy of this section is to compensate attorneys and other professionals serving in a case under title II at the same rate as the attorney or other professional would be compensated for performing comparable services other than in a case under title II. Contrary language in the Senate report accom-

panying S. 2266 is rejected, and *Massachusetts Mutual Life Insurance Company* v. *Brock*, 405 F.2d 429, 432 (5th Cir. 1968) is overruled. Notions of economy of the estate in fixing fees are outdated and have no place in a bankruptcy code.

Section 330(a)(2) of the Senate amendment is deleted although the Securities and Exchange Commission retains a right to file an advisory report under section 1109.

Section 330(b) of the Senate amendment is deleted as unnecessary, as the limitations contained therein are covered by section 328(c) of H.R. 8200 as passed by the House and contained in the House amendment.

Section 330(c) of the Senate amendment providing for a trustee to receive a fee of $20 for each estate from the filing fee paid to the clerk is retained as section 330(b) of the House amendment. The section will encourage private trustees to serve in cases under title II and in pilot districts will place less of a burden on the U.S. trustee to serve in no-asset cases.

Section 330(b) of H.R. 8200 as passed by the House is retained by the House amendment as section 330(c).

Section 341(c) of the Senate amendment is deleted and a contrary provision is added indicating that the bankruptcy judge will not preside at or attend the first meeting of creditors or equity security holders but a discharge hearing for all individuals will be held at which the judge will preside.

Section 342 (b) and (c) of the Senate amendment are adopted in principle but moved to section 549(c), in lieu of section 342(b) of H.R. 8200 as passed by the House.

Section 342(c) of H.R. 8200 as passed by the House is deleted as a matter to be left to the Rules of Bankruptcy Procedure.

The House amendment moves section 345(c) of the House bill to chapter 15 as part of the pilot program for the U.S. trustees. The bond required by section 345(b) may be a blanket bond posted by the financial depository sufficient to cover deposits by trustees in several cases, as is done under current law.

Section 346 of the House amendment, together with sections 728 and 1146, represent special tax provisions applicable in bankruptcy. The policy contained in those sections reflects the policy that should be applied in Federal, State, and local taxes in the view of the House Committee on the Judiciary. The House Ways and Means Committee and the Senate Finance Committee did not have time to process a bankruptcy tax bill during the 95th Congress. It is anticipated that early in the 96th Congress, and before the effective date of the bankruptcy code, the tax committees of Congress will have an opportunity to consider action with respect to amendments to the Internal Revenue Code and the special tax provisions in title II. Since the special tax provisions are likely to be amended during the first part of the 96th Congress, it is anticipated that the bench and bar will also study and comment on these special tax provisions prior to their revision.

Section 347(a) of the House amendment adopts a comparable provision contained in the Senate amendment instructing the trustee to stop payment on any check remaining unpaid more than 90 days after the final distribution in a case under Chapter 7 or 13. Technical changes are made in section 347(b) to cover distributions in a railroad reorganization.

The House amendment adopts section 348(b) of the Senate amendment with slight modifications, as more accurately reflecting sections to which this particular effect of conversion should apply.

Section 348(e) of the House amendment is a stylistic revision of similar provisions contained in H.R. 8200 as passed by the House and in the Senate amendment. Termination of services is expanded to cover any examiner serving in the case before conversion, as done in H.R. 8200 as passed by the House.

Section 349(b)(2) of the House amendment adds a cross reference to section 553 to reflect the new right of recovery of setoffs created under that section. Corresponding changes are made throughout the House amendment.

Section 361 of the House amendment represents a compromise between H.R. 8200 as passed by the House and the Senate amendment regarding the issue of "adequate protection" of a secured party. The House amendment deletes the provision found in section 361(3) of H.R. 8200 as passed by the House. It would have permitted adequate protection to be provided by giving the secured party an administrative expense regarding any decrease in the value of such party's collateral. In every case there is the uncertainty that the estate will have sufficient property to pay administrative expenses in full.

Section 361(4) of H.R. 8200 as passed by the House is modified in section 361(3) of the House amendment to indicate that the court may grant other forms of adequate protection, other than an administrative expense, which will result in the realization by the secured creditor of the indubitable equivalent of the creditor's interest in property. In the special instance where there is a reserve fund maintained under the security agreement, such as in the typical bondholder case, indubitable equivalent means that the bondholders would be entitled to be protected as to the reserve fund, in addition to the regular payments needed to service the debt. Adequate protection of an interest of an entity in property is intended to protect a creditor's allowed secured claim. To the extent the protection proves to be inadequate after the fact, the creditor is entitled to a first priority administrative expense under section 503(b).

In the special case of a creditor who has elected application of creditor makisg an election under section 1111(b)(2), that creditor is entitled to adequate protection of the creditor's interest in property to the extent of the value of the collateral not to the extent of the creditor's allowed secured claim, which is inflated to cover a deficiency as a result of such election.

Section 362(a)(1) of the House amendment adopts the provision contained in the Senate amendment enjoining the commencement or continuation of a judicial, administrative, or other proceeding to recover a claim against the (6), which also covers assessment, to prevent harassment of the debtor with debtor that arose before the commencement of the case. The provision is beneficial and interacts with section 362(a) respect to pre-petition claims.

Section 362(a)(7) contains a provision contained in H.R. 8200 as passed by the House. The differing provision in the Senate amendment was rejected. It is not possible that a debt owing to the debtor may be offset against an interest in the debtor.

Section 362(a)(8) is new. The provision stays the commencement or continuation of any proceeding concerning the debtor before the U.S. Tax Court.

Section 362(b)(4) indicates that the stay under section 362(a)(1) does not apply to affect the commencement or continuation of an action or proceeding by a governmental unit to enforce the governmental unit's police or regulatory power. This section is intended to be given a narrow construction in order to permit governmental units to pursue actions to protect the public health and safety and not to apply to actions by a governmental unit to protect a pecuniary interest in property of the debtor or property of the estate.

Section 362(b)(6) of the House amendment adopts a provision contained in the Senate amendment restricting the exception to the automatic stay with respect to setoffs to permit only the setoff of mutual debts and claims. Traditionally, the right of setoff has been limited to mutual debts and claims and the lack of the clarifying term "mutual" in H.R. 8200 as passed by the House created an unintentional ambiguity. Section 362(b)(7) of the House amendment permits the issuance of a notice of tax deficiency. The House amendment rejects section 362(b)(7) in the Senate amendment. It would have permitted a particular governmental unit to obtain a pecuniary advantage without a hearing on the merits contrary to the exceptions contained in sections 362(b) (4) and (5).

Section 362(d) of the House amendment represents a compromise between comparable provisions in the House bill and Senate amendment. Under section 362(d)(1) of the House amendment, the court may terminate, annul, modify, or condition the automatic stay for cause, including lack of adequate protection of an interest in property of a secured party. It is anticipated that the Rules of Bankruptcy Procedure will provide that those hearings will receive priority on the calendar. Under section 362(d)(2) the court may alternatively terminate, annul, modify, or condition the automatic stay for cause including inadequate protection for the creditor. The court shall grant relief from the stay if there is no equity and it is not necessary to an effective reorganization of the debtor.

The latter requirement is contained in section 362(d)(2). This section is intended to solve the problem of real property mortgage foreclosures of property where the bankruptcy petition is filed on

the eve of foreclosure. The section is not intended to apply if the business of the debtor is managing or leasing real property, such as a hotel operation, even though the debtor has no equity if the property is necessary to an effective reorganization of the debtor. Similarly, if the debtor does have an equity in the property, there is no requirement that the property be sold under section 363 of title II as would have been required by the Senate amendment.

Section 362(e) of the House amendment represents a modification of provisions in H.R. 8200 as passed by the House and the Senate amendment to make clear that a final hearing must be commenced within 30 days after a preliminary hearing is held to determine whether a creditor will be entitled to relief from the automatic stay. In order to insure that those hearings will in fact occur within such 30-day period, it is anticipated that the rules of bankruptcy procedure provide that such final hearings receive priority on the court calendar.

Section 362(g) places the burden of proof on the issue of the debtor's equity in collateral on the party requesting relief from the automatic stay and the burden on other issues on the debtor.

Section 363(a) of the House amendment defines "cash collateral" as defined in the Senate amendment. The broader definition of "soft collateral" contained in H.R. 8200 as passed by the House is deleted to remove limitations that were placed on the use, lease, or sale of inventory, accounts, contract rights, general intangibles, and chattel paper by the trustee or debtor in possession.

Section 363(c)(2) of the House amendment is derived from the Senate amendment. Similarly, sections 363(c)(3) and (4) are derived from comparable provisions in the Senate amendment in lieu of the contrary procedure contained in section 363(c) as passed by the House. The policy of the House amendment will generally require the court to schedule a preliminary hearing in accordance with the needs of the debtor to authorize the trustee or debtor in possession to use, sell, or lease cash collateral. The trustee or debtor in possession may use, sell, or lease cash collateral in the ordinary course of business only "after notice and a hearing."

Section 363(f) of the House amendment adopts an identical provision contained in the House bill, as opposed to an alternative provision contained in the Senate amendment.

Section 363(h) of the House amendment adopts a new paragraph (4) representing a compromise between the House bill and Senate amendment. The provision adds a limitation indicating that a trustee or debtor in possession sell jointly owned property only if the property is not used in the production, transmission, or distribution for sale, of electric energy or of natural or synthetic gas for heat, light, or power. This limitation is intended to protect public utilities from being deprived of power sources because of the bankruptcy of a joint owner.

Section 363(k) of the House amendment is derived from the third sentence of section 363(e) of the Senate amendment. The provision indicates that a secured creditor may bid in the full amount of the creditor's allowed claim, including the secured portion and any unsecured portion thereof in the event the creditor is undersecured, with respect to property that is subject to a lien that secures the allowed claim of the sale of the property.

Section 364(f) of the House amendment is new. This provision continues the exemption found in section 3(a)(7) of the Securities Act of 1933 for certificates of indebtedness issued by a trustee in bankruptcy. The exemption applies to any debt security issued under section 364 of title II. The section does not intend to change present law which exempts such securities from the Trust Indenture Act, 15 U.S.C. 77aaa, et seq. (1976).

Section 365(b)(3) represents a compromise between H.R. 8200 as passed by the House and the Senate amendment. The provision adopts standards contained in section 365(b)(5) of the Senate amendment to define adequate assurance of future performance of a lease of real property in a shopping center.

Section 365(b)(4) of the House amendment indicates that after default the trustee may not require a lessor to supply services or materials without assumption unless the lessor is compensated as provided in the lease.

Section 365(c)(2) and (3) likewise represent a compromise between H.R. 8200 as passed by the House and the Senate amendment. Section 365(c)(2) is derived from section 365(b)(4) of the Senate amendment but does not apply to a contract to deliver equipment as provided in the Senate amendment. As contained in the House amendment, the provision prohibits a trustee or debtor in possession from assuming or assigning an executory contract of the debtor to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or the issuance of a security of the debtor.

Section 365(e) is a refinement of comparable provisions contained in the House bill and Senate amendment. Sections 365(e)(1) and (2)(A) restate section 365(e) of H.R. 8200 as passed by the House. Sections 365(e)(2)(B) expands the section to permit termination of an executory contract or unexpired lease of the debtor if such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or for the issuance of a security of the debtor.

Characterization of contracts to make a loan, or extend other debt financing or financial accommodations, is limited to the extension of cash or a line of credit and is not intended to embrace ordinary leases or contracts to provide goods or services with payments to be made over time.

Section 365(f) is derived from H.R. 8200 as passed by the House. Deletion of language in section 365(f)(3) of the Senate amendment is done as a matter of style. Restrictions with respect to assignment of an executory contract or unexpired lease are superfluous since the debtor may assign an executory contract or unexpired lease of the debtor only if such contract is first assumed under section 364(f)(2)(A) of the House amendment.

Section 363(h) of the House amendment represents a modification of section 365(h) of the Senate amendment. The House amendment makes clear that in the case of a bankrupt lessor, a lessee may remain in possession for the balance of the term of a lease and any renewal or extension of the term only to the extent that such renewal or extension may be obtained by the lessee without the permission of the landlord or some third party under applicable nonbankruptcy law.

Section 366 of the House amendment represents a compromise between comparable provisions contained in H.R. 8200 as passed by the House and the Senate amendment. Subsection (a) is modified so that the applicable date is the date of the order for relief rather than the date of the filing of the petition. Subsection (b) contains a similar change but is otherwise derived from section 366(b) of the Senate amendment, with the exception that a time period for continued service of 20 days rather than 10 days is adopted.

The House amendment adopts section 501(b) of the Senate amendment leaving the Rules of Bankruptcy Procedure free to determine where a proof of claim must be filed.

Section 501(c) expands language contained in section 501(c) of the House bill and Senate amendment to permit the debtor to file a proof of claim if a creditor does not timely file a proof of the creditor's claim in a case under title II.

The House amendment deletes section 501(e) of the Senate amendment as a matter to be left to the rules of bankruptcy procedure. It is anticipated that the rules will enable governmental units, like other creditors, to have a reasonable time to file proofs of claim in bankruptcy cases.

For purposes of section 501, a proof of "interest" includes the interest of a general or limited partner in a partnership, the interest of a proprietor in a sole proprietorship, or the interest of a common or preferred stockholder in a corporation.

The House amendment adopts a compromise position in section 502(a) between H.R. 8200, as passed by the House, and the Senate amendment. Section 502(a) has been modified to make clear that a party in interest includes a creditor of a partner in a partnership that is a debtor under chapter 7. Since the trustee of the partnership is given an absolute claim against the estate of each general partner under section 723(c), creditors of the partner must have standing to object to claims against the partnership at the partnership level because no opportunity will be afforded at the partner's level for such objection.

The House amendment contains a provision in section 502(b)(1) that requires disallowance of a claim to the extent that such claim is unenforceable against the debtor and unenforceable against property of the debtor. This is intended to

result in the disallowance of any claim for deficiency by an undersecured creditor on a nonrecourse loan or under a State antideficiency law, special provision for which is made in section 1111, since neither the debtor personally, nor the property of the debtor is liable for such a deficiency. Similarly claims for usurious interest or which could be barred by an agreement between the creditor and the debtor would be disallowed.

Section 502(b)(7)(A) represents a compromise between the House bill and the Senate amendment. The House amendment takes the provision in H.R. 8200 as passed by the House of Representatives but increases the percentage from 10 to 15 percent.

As used in section 502(b)(7), the phrase "lease of real property" applies only to a "true" or "bona fide" lease and does not apply to financing leases of real property or interests therein, or to leases of such property which are intended as security.

Historically, the limitation on allowable claims of lessors of real property was based on two considerations. First, the amount of the lessor's damages on breach of a real estate lease was considered contingent and difficult to prove. Partly for this reason, claims of a lessor of real estate were not provable prior to the 1934 amendments, to the Bankruptcy Act. Second, in a true lease of real property, the lessor retains all risks and benefits as to the value of the real estate at the termination of the lease. Historically, it was, therefore, considered equitable to limit the claims of real estate lessor.

However, these considerations are not present in "lease financing" transactions where, in substance, the "lease" involves a sale of the real estate and the rental payments are in substance the payment of principal and interest on a secured loan or sale. In a financing lease the lessor is essentially a secured or unsecured creditor (depending upon whether his interest is perfected or not) of the debtor, and the lessor's claim should not be subject to the 502(b)(7) limitation. Financing "leases" are in substance installment sales or loans. The "lessors" are essentially sellers or lenders and should be treated as such for purposes of the bankruptcy law.

Whether a "lease" is true or bona fide lease or, in the alternative, a financing "lease" or a lease intended as security, depends upon the circumstances of each case. The distinction between a true lease and a financing transaction is based upon the economic substance of the transaction and not, for example, upon the locus of title, the form of the transaction or the fact that the transaction is denominated as a "lease." The fact that the lessee, upon compliance with the terms of the lease, becomes or has the option to become the owner of the leased property for no additional consideration or for nominal consideration indicates that the transaction is a financing lease or lease intended as security. In such cases, the lessor has no substantial interest in the leased property at the expiration of the lease term. In addition, the fact that the lessee assumes and discharges substantially all the risks and obligations ordinarily attributed to the outright ownership of the property is more indicative of a financing transaction than of a true lease. The rental payments in such cases are in substance payments of principal and interest either on a loan secured by the leased real property or on the purchase of the leased real property. See, e.g., Financial Accounting Standards Board Statement No. 13 and SEC Reg. S-X, 17 C.F.R. sec. 210.3-16(q) (1977); *cf. First National Bank of Chicago* v. *Irving Trust Co.*, 74 F. 2d 263 (2nd Cir. 1934); and Albenda and Lief, "Net Lease Financing Transactions Under the Proposed Bankruptcy Act of 1973," 30 Business Lawyer, 713 (1975).

Section 502(c) of the House amendment presents a compromise between similar provisions contained in the House bill and the Senate amendment. The compromise language is consistent with an amendment to the definition of "claim" in section 104(4)(B) of the House amendment and requires estimation of any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment. To the extent language in the House and Senate reports indicate otherwise, such language is expressly overruled.

Section 502(e) of the House amendment contains language modifying a similar section in the House bill and Senate amendment. Section 502(e)(1) states the general rule requiring the court to disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on, or that has secured, the claim of a creditor to any extent that the creditor's claim against the estate is disallowed. This adopts a policy that a surety's claim for reimbursement or contribution is entitled to no better status than the claim of the creditor assured by such surety. Section 502(e)(1)(B) alternatively disallows any claim for reimbursement or contribution by a surety to the extent such claim is contingent as of the time of allowance. Section 502(e)(2) is clear that to the extent a claim for reimbursement or contribution becomes fixed after the commencement of the case that it is to be considered a prepetition claim for purposes of allowance. The combined effect of sections 502(e)(1)(B) and 502(e)(2) is that a surety or codebtor is generally permitted a claim for reimbursement or contribution to the extent the surety or codebtor has paid the assured party at the time of allowance. Section 502(e)(1)(C) alternatively indicates that a claim for reimbursement or contribution of a surety or codebtor is disallowed to the extent the surety or codebtor requests subrogation under section 509 with respect to the rights of the assured party. Thus, the surety or codebtor has a choice; to the extent a claim for contribution or reimbursement would be advantageous, such as in the case where such a claim is secured, a surety or codebtor may opt for reimbursement or contribution under section 502(e). On the other hand, to the extent the claim for such surety or codebtor by way of subrogation is more advantageous, such as where such claim is secured, the surety may elect subrogation under section 509.

The section changes current law by making the election identical in all other respects. To the extent a creditor's claim is satisfied by a surety or codebtor, other creditors should not benefit by the surety's inability to file a claim against the estate merely because such surety or codebtor has failed to pay such creditor's claim in full. On the other hand, to the extent the creditor's claim against the estate is otherwise disallowed, the surety or codebtor should not be entitled to increased rights by way of reimbursement or contribution, to the detriment of competing claims of other unsecured creditors, than would be realized by way of subrogation.

While the foregoing scheme is equitable with respect to other unsecured creditors of the debtor, it is desirable to preserve present law to the extent that a surety or codebtor is not permitted to compete with the creditor he has assured until the assured party's claim has paid in full. Accordingly, section 509(c) of the House amendment subordinates both a claim by way of subrogation or a claim for reimbursement or contribution of a surety or codebtor to the claim of the assured party until the assured party's claim is paid in full.

Section 502(h) of the House amendment expands similar provisions contained in the House bill and the Senate amendment to indicate that any claim arising from the recovery of property under section 522(i), 550, or 553 shall be determined as though it were a prepetition claim.

Section 502(i) of the House amendment adopts a provision contained in section 502(j) of H.R. 8200 as passed by the House but that was not contained in the Senate amendment.

Section 502(i) of H.R. 8200 as passed by the House, but was not included in the Senate amendment, is deleted as a matter to be left to the bankruptcy tax bill next year.

The House amendment deletes section 502(i) of the Senate bill but adopts the policy of that section to a limited extent for confirmation of a plan of reorganization in section 1111(b) of the House amendment.

Section 502(j) of the House amendment is new. The provision codifies section 57k of the Bankruptcy Act.

Section 503(a) of the House amendment represents a compromise between similar provisions in the House bill and the Senate amendment by leaving to the Rules of Bankruptcy Procedure the determination of the location at which a request for payment of an administrative expense may be filed. The preamble to section 503(b) of the House bill makes a similar change with respect to the allowance of administrative expenses.

Section 503(b)(1) adopts the approach taken in the House bill as modified by some provisions contained in the Senate amendment. The preamble to section 503(b) makes clear that none of the paragraphs of section 503(b) apply to claims or expenses of the kind specified in section 502(f) that arise in the ordi-

nary course of the debtor's business or financial affairs and that arise during the gap between the commencement of an involuntary case and the appointment of a trustee or the order for relief, whichever first occurs. The remainder of section 503(b) represents a compromise between H.R. 8200 as passed by the House and the Senate amendments. Section 503(b)(3)(E) codifies present law in cases such as *Randolph* v. *Scruggs*, 190 U.S. 533, which accords administrative expense status to services rendered by a prepetition custodian or other party to the extent such services actually benefit the estate. Section 503(b)(4) of the House amendment conforms to the provision contained in H.R. 8200 as passed by the House and deletes language contained in the Senate amendment providing a different standard of compensation under section 330 of that amendment.

Section 505 of the House amendment adopts a compromise position with respect to the determination of tax liability from the position taken in H.R. 8200 as passed by the House and in the Senate amendment.

Section 506(a) of the House amendment adopts the provision contained in the Senate amendment and rejects a contrary provision as contained in H.R. 8200 as passed by the House. The provision contained in the Senate amendment and adopted by the House amendment recognizes that an amount subject to set-off is sufficient to recognize a secured status in the holder of such right. Additionally a determination of what portion of an allowed claim is secured and what portion is unsecured is binding only for the purpose for which the determination is made. Thus determinations for purposes of adequate protection is not binding for purposes of "cram down" on confirmation in a case under chapter 11.

Section 506(b) of the House amendment adopts language contained in the Senate amendment and rejects language contained in H.R. 8200 as passed by the House. If the security agreement between the parties provides for attorneys' fees, it will be enforceable under title II, notwithstanding contrary law, and is recoverable from the collateral after any recovery under section 506(c).

Section 506(c) of the House amendment was contained in H.R. 8200 as passed by the House and adopted, verbatim, in the Senate amendment. Any time the trustee or debtor in possession expends money to provide for the reasonable and necessary cost and expenses of preserving or disposing of a secured creditor's collateral, the trustee or debtor in possession is entitled to recover such expenses from the secured party or from the property securing an allowed secured claim held by such party.

Section 506(d) of the House amendment is derived from H.R. 8200 as passed by the House and is adopted in lieu of the alternative test provided in section 506(d) of the Senate amendment. For purposes of section 506(d) of the House amendment, the debtor is a party in interest.

Section 507(a)(3) of the House amendment represents a compromise dollar amount and date for the priority between similar provisions contained in H.R. 8200 as passed by the House and the Senate amendments. A similar compromise is contained in section 507(a)(4).

Section 507(a)(5) represents a compromise on amount between the priority as contained in H.R. 8200 as passed by the House and the Senate amendment. The Senate provision for limiting the priority to consumers having less than a fixed gross income is deleted.

Section 507(a)(6) of the House amendment represents a compromise between similar provisions contained in H.R. 8200 as passed by the House and the Senate amendment.

Section 507(b) of the House amendment is new and is derived from the compromise contained in the House amendment with respect to adequate protection under section 361. Subsection (b) provides that to the extent adequate protection of the interest of a holder of a claim proves to be inadequate, then the creditor's claim is given priority over every other allowable claim entitled to distribution under section 507(a). Section 507(b) of the Senate amendment is deleted.

Section 507(c) of the House amendment is new. Section 507(d) of the House amendment prevents subrogation with respect to priority for certain priority claims. Subrogation with respect to priority is intended to be permitted for administrative claims and claims arising during the gap period.

Section 508(b) of the House amendment is new and provides an identical rule with respect to a creditor of a partnership who receives payment from a partner, to that of a creditor of a debtor who receives a payment in a foreign proceeding involving the debtor.

Section 509 of the House amendment represents a substantial revision of provisions contained in H.R. 8200 as passed by the House and in the Senate amendment. Section 509(a) states a general rule that a surety or co-debtor is subrogated to the rights of a creditor assured by the surety or co-debtor to the extent the surety or co-debtor pays such creditor. Section 509(b) states a general exception indicating that subrogation is not granted to the extent that a claim of a surety or co-debtor for reimbursement or contribution is allowed under section 502 or disallowed other than under section 502(e). Additionally, section 509(b)(1)(C) provides that such claims for subrogation are subordinated to the extent that a claim of the surety or co-debtor for reimbursement or contribution is subordinated under section 510(a)(1) or 510(b). Section 509(b)(2) reiterates the well-known rule that prevents a debtor that is ultimately liable on the debt from recovering from a surety or a co-debtor. Although the language in section 509(b)(2) focuses in terms of receipt of consideration, legislative history appearing elsewhere indicates that an agreement to share liabilities should prevail over an agreement to share profits throughout title II. This is particularly important in the context of co-debtors who are partners. Section 509(c) subordinates the claim of a surety or co-debtor to the claim of an assured creditor until the creditor's claim is paid in full.

Section 510(c)(1) of the House amendment represents a compromise between similar provisions in the House bill and Senate amendment. After notice and a hearing, the court may, under principles of equitable subordination, subordinate for purposes of distribution all or part of an allowed claim to all or part of another allowed claim or all or part of an allowed interest to all or part of another allowed interest. As a matter of equity, it is reasonable that a court subordinate claims to claims and interests to interests. It is intended that the term "principles of equitable subordination" follow existing case law and leave to the courts development of this principle. To date, under existing law, a claim is generally subordinated only if holder of such claim is guilty of inequitable conduct, or the claim itself is of a status susceptible to subordination, such as a penalty or a claim for damages arising from the purchase or sale of a security of the debtor. The fact that such a claim may be secured is of no consequence to the issue of subordination. However, it is inconceivable that the status of a claim as a secured claim could ever be grounds for justifying equitable subordination.

Section 511 of the Senate amendment is deleted. Its substance is adopted in section 502(b)(9) of the House amendment which reflects an identical provision contained in H.R. 8200 as passed by the House.

Section 521 of the House amendment modifies a comparable provision contained in the House bill and Senate amendment. The Rules of Bankruptcy Procedure should provide where the list of creditors is to be filed. In addition, the debtor is required to attend the hearing on discharge under section 524(d).

Section 522 of the House amendment represents a compromise on the issue of exemptions between the position taken in the House bill, and that taken in the Senate amendment. Dollar amounts specified in section 522(d) of the House bill have been reduced from amounts as contained in H.R. 8200 as passed by the House. The States may, by passing a law, determine whether the Federal exemptions will apply as an alternative to State exemptions in bankruptcy cases.

Section 522(c)(1) tracks the House bill and provides that dischargeable tax claims may not be collected out of exempt property.

Section 522(f)(2) is derived from the Senate amendment restricting the debtor to avoidance of nonpossessory, nonpurchase money security interests.

Section 523(a)(1) represents a compromise between the position taken in the House bill and the Senate amendment. Section 523(a)(2) likewise represents a compromise between the position taken in the House bill and the Senate amendment with respect to the false financial statement exception to discharge. In order to clarify that a "renewal of credit" includes a "refinancing of credit", explicit reference to a refinancing of credit is made in the preamble

to section 523(a)(2). A renewal of credit or refinancing of credit that was obtained by a false financial statement within the terms of section 523(a)(2) is nondischargeable. However, each of the provisions of section 523(a)(2) must be proved. Thus, under section 523(a)(2)(A) a creditor must prove that the debt was obtained by false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition. Subparagraph (A) is intended to codify current case law *e.g., Neal* v. *Clark*, 95 U.S. 704 (1887), which interprets "fraud" to mean actual or positive fraud rather than fraud implied in law. Subparagraph (A) is mutually exclusive from subparagraph (B). Subparagraph (B) pertains to the so-called false financial statement. In order for the debt to be nondischargeable, the creditor must prove that the debt was obtained by the use of a statement in writing (i) that is materially false; (ii) respecting the debtor's or an insider's financial condition; (iii) on which the creditor to whom the debtor is liable for obtaining money, property, services, or credit reasonably relied; (iv) that the debtor caused to be made or published with intent to deceive. Section 523(a)(2)(B)(iv) is not intended to change from present law since any statement that the debtor causes to be made or published with the intent to deceive automatically includes a statement that the debtor actually makes or publishes with an intent to deceive. Section 523(a)(2)(B) is explained in the House report. Under section 523(a)(2)(B)(i) a discharge is barred only as to that portion of a loan with respect to which a false financial statement is materially false.

In many cases, a creditor is required by State law to refinance existing credit on which there has been no default. If the creditor does not forfeit remedies or otherwise rely to his detriment on a false financial statement with respect to existing credit, then an extension, renewal, or refinancing of such credit is nondischargeable only to the extent of the new money advanced; on the other hand, if an existing loan is in default or the creditor otherwise reasonably relies to his detriment on a false financial statement with regard to an existing loan, then the entire debt is nondischargeable under section 523(a)(2)(B). This codifies the reasoning expressed by the second circuit in *In re Danns*, 558 F. 2d 114 (2d cir. 1977).

Section 523(a)(3) of the House amendment is derived from the Senate amendment. The provision is intended to overrule *Birkett* v. *Columbia Bank*, 195 U.S. 345 (1904).

Section 523(a)(4) of the House amendment represents a compromise between the House bill and the Senate amendment.

Section 523(a)(5) is a compromise between the House bill and the Senate amendment. The provision excepts from discharge a debt owed to a spouse, former spouse or child of the debtor, in connection with a separation agreement, divorce decree, or property settlement agreement, for alimony to, maintenance for, or support of such spouse or child but not to the extent that the debt is assigned to another entity. If the debtor has assumed an obligation of the debtor's spouse to a third party in connection with a separation agreement, property settlement agreement, or divorce proceeding, such debt is dischargeable to the extent that payment of the debt by the debtor is not actually in the nature of alimony, maintenance, or support of debtor's spouse, former spouse, or child.

Section 523(a)(6) adopts the position taken in the House bill and rejects the alternative suggested in the Senate amendment. The phrase "willful and malicious injury" covers a willful and malicious conversion.

Section 523(a)(7) of the House amendment adopts the position taken in the Senate amendment and rejects the position taken in the House bill. A penalty relating to a tax cannot be nondischargeable unless the tax itself is nondischargeable.

Section 523(a)(8) represents a compromise between the House bill and the Senate amendment regarding educational loans. This provision is broader than current law which is limited to federally insured loans. Only educational loans owing to a governmental unit or a nonprofit institution of higher education are made nondischargeable under this paragraph.

Section 523(b) is new. The section represents a modification of similar provisions contained in the House bill and the Senate amendment.

Section 523(c) of the House amendment adopts the position taken in the Senate amendment.

Section 523(d) represents a compromise between the position taken in the House bill and the Senate amendment on the issue of attorneys' fees in false financial statement complaints to determine dischargeability. The provision contained in the House bill permitting the court to award damages is eliminated. The court must grant the debtor judgment or a reasonable attorneys' fee unless the granting of judgment would be clearly inequitable.

Section 524(a) of the House amendment represents a compromise between the House bill and the Senate amendment. Section 524(b) of the House amendment is new, and represents standards clarifying the operation of section 524(a)(3) with respect to community property.

Sections 524 (c) and (d) represent a compromise between the House bill and Senate amendment on the issue of reaffirmation of a debt discharged in bankruptcy. Every reaffirmation to be enforceable must be approved by the court, and any debtor may rescind a reaffirmation for 30 days from the time the reaffirmation becomes enforceable. If the debtor is an individual the court must advise the debtor of various effects of reaffirmation at a hearing. In addition, to any extent the debt is a consumer debt that is not secured by real property of the debtor reffirmation is permitted only if the court approves the reaffirmation agreement, before granting a discharge under section 727, 1141, or 1328, as not imposing a hardship on the debtor or a dependent of the debtor and in the best interest of the debtor; alternatively, the court may approve an agreement entered into in good faith that is in settlement of litigation of a complaint to determine dischargeability or that is entered into in connection with redemption under section 722. The hearing on discharge under section 524(d) will be held whether or not the debtor desires to reaffirm any debts.

Section 541(a)(7) is new. The provision clarifies that any interest in property that the estate acquires after the commencement of the case is property of the estate; for example, if the estate enters into a contract, after the commencement of the case, such a contract would be property of the estate. The addition of this provision by the House amendment merely clarifies that section 541(a) is an all-embracing definition which includes charges on property, such as liens held by the debtor on property of a third party, or beneficial rights and interests that the debtor may have in property of another. However, only the debtor's interest in such property becomes property of the estate. If the debtor holds bare legal title or holds property in trust for another, only those rights which the debtor would have otherwise had emanating from such interest pass to the estate under section 541. Neither this section nor section 545 will affect various statutory provisions that give a creditor a lien that is valid both inside and outside bankruptcy against a bona fide purchaser of property from the debtor, or that creates a trust fund for the benefit of creditors meeting similar criteria. See Packers and Stockyards Act § 206, 7 U.S.C. 196 (1976).

Section 541(c)(2) follows the position taken in the House bill and rejects the position taken in the Senate amendment with respect to income limitations on a spend-thrift trust.

Section 541(d) of the House amendment is derived from section 541(e) of the Senate amendment and reiterates the general principle that where the debtor holds bare legal title without any equitable interest, that the estate acquires bare legal title without any equitable interest in the property. Examples of this are mortgages sold for which legal title has been retained for servicing. Similarly, if the debtor holds an equitable interest in property without legal title, the estate would acquire only the equitable interest of the debtor in property and not the legal title. Thus, as section 541(a)(1) clearly states, the estate is comprised of all legal or equitable interests of the debtor in property as of the commencement of the case. To the extent such an interest is limited in the hands of the debtor, it is equally limited in the hands of the estate except to the extent that defenses which are personal against the debtor are not effective against the estate.

Section 542(a) of the House amendment modifies similar provisions contained in the House bill and the Senate amendment treating with turnover of property to the estate. The section makes clear that any entity, other than a cus-

todian, is required to deliver property of the estate to the trustee or debtor in possession whenever such property is acquired by the entity during the case, if the trustee or debtor in possession may use, sell, or lease the property under section 363, or if the debtor may exempt the property under section 522, unless the property is of inconsequential value or benefit to the estate. This section is not intended to require an entity to deliver property to the trustee if such entity has obtained an order of the court authorizing the entity to retain possession , custody, or control of the property.

The House amendment adopts section 542(c) of the House bill in preference to a similar provision contained in section 542(c) of the Senate amendment. Protection afforded by section 542(c) applies only to the transferor or payor and not to a transferee or payee receiving a transfer or payment, as the case may be. Such transferee or payee is treated under section 549 and section 550 of title II.

The extent to which the attorney client privilege is valid against the trustee is unclear under current law and is left to be determined by the courts on a case by case basis.

Section 543(a) is a modification of similar provisions contained in the House bill and the Senate amendment. The provision clarifies that a custodian may always act as is necessary to preserve property of the debtor. Section 543(c)(3) excepts from surcharge a custodian that is an assignee for the benefit of creditors, who was appointed or took possession before 120 days before the date of the filing of the petition, whichever is later. The provision also prevents a custodian from being surcharged in connection with payments made in accordance with applicable law.

Section 544(a)(3) modifies similar provisions contained in the House bill and Senate amendment so as not to require a creditor to perform the impossible in order to perfect his interest. Both the lien creditor test in section 544(a)(1), and the bona fide purchaser test in section 544(a)(3) should not require a transferee to perfect a transfer against an entity with respect to which applicable law does not permit perfection. The avoiding powers under section 544(a)(1), (2), and (3) are new. In particular, section 544(a)(1) overrules *Pacific Finance Corp.* v. *Edwards*, 309 F.2d 224 (9th Cir. 1962), and *In re Federals, Inc.*, 553 F.2d 509 (6th Cir. 1977), insofar as those cases held that the trustee did not have the status of a creditor who extended credit immediately prior to the commencement of the case.

The House amendment deletes section 544(c) of the House bill.

Section 545 of the House amendment modifies similar provisions contained in the House bill and Senate amendment to make clear that a statutory lien may be avoided under section 545 only to the extent the lien violates the perfection standards of section 545. Thus a Federal tax lien is invalid under section 545(2) with respect to property specified in sections 6323 (b) and (c) of the Internal Revenue Code of 1954. As a result of this modification, section 545(b) of the Senate amendment is deleted as unnecessary.

Section 546(a) of the House amendment is derived from section 546(c) of the Senate amendment. Section 546(c) of the House amendment is derived from section 546(b) of the Senate amendment. It applies to receipt of goods on credit as well as by cash sales. The section clarifies that a demand for reclamation must be made in writing anytime before 10 days after receipt of the goods by the debtor. The section also permits the court to grant the reclaiming creditor a lien or an administrative expense in lieu of turning over the property.

No limitation is provided for payments to commodity brokers as in section 766 of the Senate amendment other than the amendment to section 548 of title II. Section 547(c)(2) protects most payments.

Section 547(b)(2) of the House amendment adopts a provision contained in the House bill and rejects an alternative contained in the Senate amendment relating to the avoidance of a preferential transfer that is payment of a tax claim owing to a governmental unit. As provided, section 106(c) of the House amendment overrules contrary language in the House report with the result that the Government is subject to avoidance of preferential transfers.

Contrary to language contained in the House report, payment of a debt by means of a check is equivalent to a cash payment, unless the check is dishonored. Payment is considered to be made when the check is delivered for purposes of sections 547(c) (1) and (2).

Section 547(c)(6) of the House bill is deleted and is treated in a different fashion in section 553 of the House amendment.

Section 547(c)(6) represents a modification of a similar provision contained in the House bill and Senate amendment. The exception relating to satisfaction of a statutory lien is deleted. The exception for a lien created under title 11 is deleted since such a lien is a statutory lien that will not be avoidable in a subsequent bankruptcy.

Section 547(e)(1)(B) is adopted from the House bill and Senate amendment without change. It is intended that the simple contract test used in this section will be applied as under section 544(a)(1) not to require a creditor to perfect against a creditor on a simple contract in the event applicable law makes such perfection impossible. For example, a purchaser from a debtor at an improperly noticed bulk sale may take subject to the rights of a creditor on a simple contract of the debtor for 1 year after the bulk sale. Since the purchaser cannot perfect against such a creditor on a simple contract, he should not be held responsible for failing to do the impossible. In the event the debtor goes into bankruptcy within a short time after the bulk sale, the trustee should not be able to use the avoiding powers under section 544(a)(1) or 547 merely because State law has made some transfers of personal property subject to the rights of a creditor on a simple contract to acquire a judicial lien with no opportunity to perfect against such a creditor.

Section 548(d)(2) is modified to reflect general application of a provision contained in section 766 of the Senate amendment with respect to commodity brokers. In particular, section 548(d)(2)(B) of the House amendment makes clear that a commodity broker who receives a margin payment is considered to receive the margin payment in return for "value" for purposes of section 548.

Section 549 of the House amendment flect general application of a provision rate sections 342 (b) and (c) of the Senate amendment. Those sections have been consolidated and redrafted in section 549(c) of the House amendment. Section 549(d) of the House amendment adopts a provision contained in section 549(c) of the Senate amendment.

Section 550(a)(1) of the House amendment has been modified in order to permit recovery from an entity for whose benefit an avoided transfer is made in addition to a recovery from the initial transferee of the transfer. Section 550(c) would still apply, and the trustee is entitled only to a single satisfaction. The liability of a transferee under section 550(a) applies only "to the extent that a transfer is avoided". This means that liability is not imposed on a transferee to the extent that a transferee is protected under a provision such as section 548(c) which grants a good faith transferee for value of a transfer that is avoided only as a fraudulent transfer, a lien on the property transferred to the extent of value given.

Section 550(b) of the House amendment is modified to indicate that value includes satisfaction or securing of a present antecedent debt. This means that the trustee may not recover under subsection (a)(2) from a subsequent transferee that takes for "value", provided the subsequent transferee also takes in good faith and without knowledge of the transfer avoided.

Section 550(e) of the House amendment is derived from section 550(e) of the Senate amendment.

Section 551 is adopted from the House bill and the alternative in the Senate amendment is rejected. The section is clarified to indicate that a transfer avoided or a lien that is void is preserved for the benefit of the estate, but only with respect to property of the estate. This prevents the trustee from asserting an avoided tax lien against after acquired property of the debtor.

Section 552(a) is derived from the House bill and the alternative provision in the Senate amendment is rejected. Section 552(b) represents a compromise between the House bill and the Senate amendment. Proceeds coverage, but not after acquired property clauses, are valid under title II. The provision allows the court to consider the equities in each case. In the course of such consideration the court may evaluate any expenditures by the estate relating to proceeds and any related improvement in position of the secured party. Although this section

grants a secured party a security interest in proceeds, product, offspring, rents, or profits, the section is explicitly subject to other sections of title II. For example, the trustee or debtor in possession may use, sell, or lease proceeds, product, offspring, rents, or profits under section 363.

Section 553 of the House amendment is derived from a similar provision contained in the Senate amendment, but is modified to clarify application of a two-point test with respect to set offs.

Section 554(b) is new and permits a party in interest to request the court to order the trustee to abandon property of the estate that is burdensome to the estate or that is of inconsequential value to the estate.

The House amendment deletes section 701(d) of the Senate amendment. It is anticipated that the Rules of Bankruptcy Procedure will require the appointment of an interim trustee at the earliest practicable moment in commodity broker bankruptcies, but no later than noon of the day after the date of the filing of the petition, due to the volatility of such cases.

The House amendment adopts section 702(a)(2) of the Senate amendment. An insubstantial equity interest does not disqualify a creditor from voting for a candidate for trustee. Section 704(8) of the Senate amendment is deleted in the House amendment. Trustees should give constructive notice of the commencement of the case in the manner specified under section 549(c) of title II.

Section 705(a) of the House amendment adopts a provision contained in the Senate amendment that limits a committee of creditors to not more than 11; the House bill contained no maximum limitation.

Section 706(a) of the House amendment adopts a provision contained in the Senate amendment indicating that a waiver of the right to convert a case under section 706(a) is unenforceable. The explicit reference in title II forbidding the waiver of certain rights is not intended to imply that other rights, such as the right to file a voluntary bankruptcy case under section 301, may be waived.

Section 706 of the House amendment adopts a similar provision contained in H.R. 8200 as passed by the House. Competing proposals contained in section 706(c) and section 706(d) of the Senate amendment are rejected.

Section 707 of the House amendment indicates that the court may dismiss a case only after notice and a hearing.

Section 722 of the House amendment adopts the position taken in H.R. 8200 as passed by the House and rejects the alternative contained in section 722 of the Senate amendment.

Section 723(c) of the House amendment is a compromise between similar provisions contained in the House bill and Senate amendment. The section makes clear that the trustee of a partnership has a claim against each general partner for the full amount of all claims of creditors allowed in the case concerning the partnership. By restricting the trustee's rights to claims of "creditors," the trustee of the partnership will not have a claim against the general partners for administrative expenses or claims allowed in the case concerning the partnership. As under present law, sections of the Bankruptcy Act applying to codebtors and sureties apply to the relationship of a partner with respect to a partnership debtor. *See* sections 501(b), 502(e), 506(d)(2), 509, 524(d), and 1301 of title II.

Section 724 of the House amendment adopts the provision taken in the House bill and rejects the provision taken in the Senate amendment. In effect, a tax claim secured by a lien is treated as a claim between the fifth and sixth priority in a case under chapter 7 rather than as a secured claim.

Section 725 of the House amendment adopts the substance contained in both the House bill and Senate amendment but transfers an administrative function to the trustee in accordance with the general thrust of this legislation to separate the administrative and the judicial functions where appropriate.

Section 726(a)(4) adopts a provision contained in the Senate amendment subordinating prepetition penalties and penalties arising in the involuntary gap period to the extent the penalties are not compensation for actual pecuniary laws.

The House amendment deletes a provision following section 726(a)(6) of the Senate amendment providing that the term "claim" includes interest due owed before the date of the filing of the petition as unnecessary since a right to payment for interest due is a right to payment which is within the definition of "claim" in section 101(4) of the House amendment.

Sections 727(a)(8) and (9) of the House amendment represent a compromise between provisions contained in section 727(a)(8) of the House bill and Senate amendment. Section 727(a)(8) of the House amendment adopts section 727(a)(8) of the House bill. However, section 727(a)(9) of the House amendment contains a compromise based on section 727(a)(8) of the Senate amendment with respect to the circumstances under which a plan by way of composition under chapter XIII of the Bankruptcy Act or chapter 13 of title II should be a bar to discharge in a subsequent proceeding under title 11. The paragraph provides that a discharge under section 660 or 661 of the Bankruptcy Act or section 1328 of title II in a case commenced within 6 years before the date of the filing of the petition in a subsequent case, operates as a bar to discharge unless, first, payments under the plan totaled at least 100 percent of the allowed unsecured claims in the case; or second, payments under the plan totaled at least 70 percent of the allowed unsecured claims in the case and the plan was proposed by the debtor in good faith and was the debtor's best effort.

It is expected that the Rules of Bankruptcy Procedure will contain a provision permitting the debtor to request a determination of whether a plan is the debtor's "best effort" prior to confirmation of a plan in a case under chapter 13 of title II. In determining whether a plan is the debtor's "best effort" the court will evaluate several factors. Different facts and circumstances in cases under chapter 13 operate to make any rule of thumb of limited usefulness. The court should balance the debtor's assets, including family income, health insurance, retirement benefits, and other wealth, a sum which is generally determinable, against the forseeable necessary living expenses of the debtor and the debtor's dependents, which unfortunately is rarely quantifiable. In determining the expenses of the debtor and the debtor's dependents, the court should consider the stability of the debtor's employment, if any, the age of the debtor, the number of the debtor's dependents and their ages, the condition of equipment and tools necessary to the debtor's employment or to the operation of his business, and other foreseeable expenses that the debtor will be required to pay during the period of the plan, other than payments to be made to creditors under the plan.

Section 727(a)(10) of the House amendment clarifies a provision contained in section 727(a)(9) of the House bill and Senate amendment indicating that a discharge may be barred if the court approves a waiver of discharge executed in writing by the debtor after the order for relief under chapter 7.

Section 727(b) of the House amendment adopts a similar provision contained in the Senate amendment modifying the effect of discharge. The provision makes clear that the debtor is discharged from all debts that arose before the date of the order for relief under chapter 7 in addition to any debt which is determined under section 502 as if it were a prepetition claim. Thus, if a case is converted from chapter 11 or chapter 13 to a case under chapter 7, all debts prior to the time of conversion are discharged, in addition to debts determined after the date of conversion of a kind specified in section 502, that are to be determined as prepetition claims. This modification is particularly important with respect to an individual debtor who files a petition under chapter 11 or chapter 13 of title II if the case is converted to chapter 7. The logical result of the House amendment is to equate the result that obtains whether the case is converted from another chapter to chapter 7, or whether the other chapter proceeding is dismissed and a new case is commenced by filing a petition under chapter 7.

Section 728 of the House amendment adopts a provision contained in the House bill that was deleted by the Senate amendment.

Section 741(6) of the House bill and Senate amendment is deleted by the House amendment since the defined term is used only in section 741(4)(A)(iii). A corresponding change is made in that section.

Section 742 of the House amendment deletes a sentence contained in the Senate amendment requiring the trustee in an interstate stockbrokerage liquidation to comply with the provisions of subchapter IV of chapter 7 if the debtor is also a commodity broker. The House amendment expands the requirement to require the SIPC trustee to perform such

duties, if the debtor is a commodity broker, under section 7(b) of the Securities Investor Protection Act. The requirement is deleted from section 742 since the trustee of an intrastate stockbroker will be bound by the provisions of subchapter IV of chapter 7 if the debtor is also a commodity broker by reason of section 103 of title II.

Subchapter IV of chapter 7 represents a compromise between similar chapters in the House bill and Senate amendment. Section 761(2) of the House amendment defines "clearing organization" to cover an organization that clears commodity contracts on a contract market or a board of trade; the expansion of the definition is intended to include clearing organizations that clear commodity options. Section 761(4) of the House amendment adopts the term "commodity contract" as used in section 761(5) of the Senate amendment but with the more precise substantive definitions contained in section 761 (8) of the House bill. The definition is modified to insert "board of trade" to cover commodity options. Section 761 (5) of the House amendment adopts the definition contained in section 761(6) of the Senate amendment in preference to the definition contained in section 761(4) of the House bill which erroneously included onions. Section 761(9) of the House amendment represents a compromise between similar provisions contained in section 761(10) of the Senate amendment and section 761(9) of the House bill. The compromise adopts the substance contained in the House bill and adopts the terminology of "commodity contract" in lieu of "contractual commitment" as suggested in the Senate amendment. Section 761(10) of the House amendment represents a compromise between similar sections in the House bill and Senate amendment regarding the definition of "customer property." The definition of "distribution share" contained in section 761(12) of the Senate amendment is deleted as unnecessary. Section 761(12) of the House amendment adopts a definition of "foreign futures commission merchant" similar to the definition contained in section 761(14) of the Senate amendment. The definition is modified to cover either an entity engaged in soliciting orders or the purchase or sale of a foreign future, or an entity that accepts cash, a security, or other property for credit in connection with such a solicitation or acceptance. Section 761 (13) of the House amendment adopts a definition of "leverage transaction" identical to the definition contained in section 761(15) of the Senate amendment. Section 761(15) of the House amendment adopts the definition of "margin payment" contained in section 761(17) of the Senate amendment. Section 761(17) of the House amendment adopts a definition of "net equity" derived from section 761(15) of the House bill.

Section 764 of the House amendment is derived from the House bill.

Sections 765 and 766 of the House amendment represent a consolidation and redraft of sections 765, 766, 767, and 768 of the House bill and sections 765, 766, 767, and 768 of the Senate amendment. In particular, section 765(a) of the House amendment is derived from section 765(a) of the House bill and section 767(a) of the Senate amendment. Under section 765(a) of the House amendment customers are notified of the opportunity to immediately file proofs of claim and to identify specifically identifiable securities, property, or commodity contracts. The customer is also afforded an opportunity to instruct the trustee regarding the customer's desires concerning disposition of the customer's commodity contracts. Section 767(b) makes clear that the trustee must comply with instructions received to the extent practicable, but in the event the trustee has transferred commodity contracts to a commodity broker, such instructions shall be forwarded to the broker.

Section 766(a) of the House amendment is derived from section 768(c) of the House bill and section 767(f) of the Senate amendment. Section 766(b) of the House amendment is derived from section 765(d) of the House bill, and section 767(g) of the Senate amendment. Section 766(c) of the House amendment is derived from section 768(a) of the House bill and section 767(e) of the Senate amendment. Section 766(d) of the House amendment is derived from section 768(b) of the House bill and the second sentence of section 767(e) of the Senate amendment.

Section 766(e) of the House amendment is derived from section 765(c) of the House bill and sections 767 (c) and (d) of the Senate amendment. The provision clarifies that the trustee may liquidate a commodity contract only if the commodity contract cannot be transferred to a commodity broker under section 766(c), cannot be identified to a particular customer, or has been identified with respect to a particular customer, but with respect to which the customer's instructions have not been received.

Section 766(f) of the House amendment is derived from section 766(b) of the House bill and section 767(h) of the Senate amendment. The reference to "securities and other property" is not intended to include a commodity contract. Section 766(g) of the House amendment is derived from section 766(a) of the House bill. Section 766 (h) of the House amendment is derived from section 767(a) of the House bill and section 765(a) of the Senate amendment. In order to induce private trustees to undertake the difficult and risky job of liquidating a commodity broker, the House amendment contains a provision insuring that a pro rata share of administrative claims will be paid. The provision represents a compromise between the position taken in the House bill, subordinating customer property to all expenses of administration, and the position taken in the Senate amendment requiring the distribution of customer property in advance of any expenses of administration. The position in the Senate amendment is rejected since customers, in any event, would have to pay a brokerage commission or fee in the ordinary course of business. The compromise provision requires customers to pay only those administrative expenses that are attributable to the administration of customer property.

Section 766(i) of the House amendment is derived from section 767(b) of the House bill and contains a similar compromise with respect to expenses of administration as the compromise detailed in connection with section 766(h) of the House amendment. Section 766(j) of the House amendment is derived from section 767(c) of the House bill. No counterpart is contained in the Senate amendment. The provision takes account of the rare case where the estate has customer property in excess of customer claims and administrative expenses attributable to those claims. The section also specifies that to the extent a customer is not paid in full out of customer property, that the unpaid claim will be treated the same as any other general unsecured creditor.

Section 768 of the Senate amendment was deleted from the House amendment as unwise. The provision in the Senate amendment would have permitted the trustee to distribute customer property based upon an estimate of value of the customer's account, with no provision for recapture of excessive disbursements. Moreover, the section would have exonerated the trustee from any liability for such an excessive disbursement. Furthermore, the section is unclear with respect to the customer's rights in the event the trustee makes a distribution less than the share to which the customer is entitled. The provision is deleted in the House amendment so that this difficult problem may be handled on a case-by-case basis by the courts as the facts and circumstances of each case require.

Section 769 of the Senate amendment is deleted in the House amendment as unnecessary. The provision was intended to codify *Board of Trade* v. *Johnson*, 264 U.S. 1 (1924). Board of Trade against Johnson is codified in section 363(f) of the House amendment which indicates the only five circumstances in which property may be sold free and clear of an interest in such property of an entity other than the estate.

Section 770 of the Senate amendment is deleted in the House amendment as unnecessary. That section would have permitted commodity brokers to liquidate commodity contracts, notwithstanding any contrary order of the court. It would require an extraordinary circumstance, such as a threat to the national security, to enjoin a commodity broker from liquidating a commodity contract. However, in those circumstances, an injunction must prevail. Failure of the House amendment to incorporate section 770 of the Senate amendment does not imply that the automatic stay prevents liquidation of commodity contracts by commodity brokers. To the contrary, whenever by contract, or otherwise, a commodity broker is entitled to liquidate a position as a result of a condition specified in a contract, other than a condition or default of the kind specified in section 365(b)(2) of title II, the commodity broker may engage in such liquidation. To this extent, the commodity

broker's contract with his customer is treated no differently than any other contract under section 365 of title II.

Chapter 9 of the House amendment represents a compromise between chapter 9 of the House bill and 9 of the Senate amendment. In most respect this chapter follows current law with respect to the adjustment of debts of a municipality. Stylistic changes and minor substantive revisions have been made in order to conform this chapter with other new chapters of the bankruptcy code. There are few major differences between the House bill and the Senate amendment on this issue. Section 901 indicates the applicability of other sections of title II in cases under chapter 9. Included are sections providing for creditors' committees under sections 1102 and 1103.

Section 902(2) of the Senate amendment is deleted since the bankruptcy court will have jurisdiction over all cases under chapter 9. The concept of a claim being materially and adversely affected reflected in section 902(1) of the Senate amendment has been deleted and replaced with the new concept of "impairment" set forth in section 1124 of the House amendment and incorporated by reference into chapter 9.

Section 903 of the House amendment represents a stylistic revision of section 903 of the Senate amendment. To the extent section 903 of the House bill would have changed present law, such section is rejected. Section 905 of the Senate amendment is incorporated as section 921(b) of the House amendment with the difference that the chief judge of the circuit embracing the district in which the case is commenced designates a bankruptcy judge to conduct the case in lieu of a district judge as under present law. It is intended that a municipality may commence a case in any district in which the municipality is located, as under present law. Section 906 of the Senate amendment has been adopted in substance in section 109(c) of the House amendment.

Section 923 of the House amendment represents a compromise with respect to the notice provisions contained in comparable provisions of the House bill and Senate amendment. As a general matter, title II leaves most procedural issues to be determined by the Rules of Bankruptcy Procedure. Section 923 of the House amendment contains certain important aspects of procedure that have been retained from present law. It is anticipated that the Rules of Bankruptcy Procedure will adopt rules similar to the present rules for chapter IX of the Bankruptcy Act.

Section 924 of the House amendment is derived from section 924 of the House bill with the location of the filing of the list of creditors to be determined by the rules of bankruptcy procedure. The detailed requirements of section 724 of the Senate bill are anticipated to be incorporated in the rules of bankruptcy procedure.

Section 925 of the Senate amendment regarding venue and fees has been deleted.

Section 926 of the House amendment is derived from section 928 of the Senate bill. The provision enables creditors to request the court to appoint a trustee to pursue avoiding powers if the debtor refuses to exercise those powers. Section 901 of the House amendment makes a corresponding change to incorporate avoiding powers included in the Senate amendment, but excluded from the House bill.

Section 927(b) of the House amendment is derived from section 927(b) of the Senate bill. The provision requires mandatory dismissal if confirmation of a plan is refused.

The House amendment deletes section 929 of the Senate amendment as unnecessary since the bankruptcy court has original exclusive jurisdiction of all cases under chapter 9.

The House amendment deletes section 930 of the Senate amendment and incorporates section 507(a)(1) by reference.

The House amendment deletes section 942 of the Senate amendment in favor of incorporating section 1125 by cross-reference. Similarly, the House amendment does not incorporate sections 944 or 945 of the Senate amendment since incorporation of several sections in chapter 11 in section 901 is sufficient.

Section 943(a) of the House amendment makes clear that a special taxpayer may object to confirmation of a plan. Section 943(b) of the House amendment is derived from section 943 of the House bill respecting confirmation of a plan under chapter 9. It must be emphasized that these standards of confirmation are in addition to standards in section 1129 that are made applicable to chapter 9 by section 901 of the House amendment. In particular, if the requirements of section 1129(a)(8) are not complied with, then the proponent may request application of section 1129(b). The court will then be required to confirm the plan if it complies with the "fair and equitable" test and is in the best interests of creditors. The best interests of creditors test does not mean liquidation value as under chapter XI of the Bankruptcy Act. In making such a determination, it is expected that the court will be guided by standards set forth in *Kelley* v. *Everglades Drainage District*, 319 U.S. 415 (1943), and *Fano* v. *Newport Heights Irrigation Dist.*, 114 F. 2d 563 (9th Cir. 1940), as under present law, the bankruptcy court should make findings as detailed as possible to support a conclusion that this test has been met. However, it must be emphasized that unlike current law, the fair and equitable test under section 1129(b) will not apply if section 1129(a)(8) has been satisfied in addition to the other confirmation standards specified in section 943 and incorporated by reference in section 901 of the House amendment. To the extent that *American United Mutual Life Insurance Co.* v. *City of Avon Park*, 311 U.S. 138 (1940) and other cases are to the contrary, such cases are overruled to that extent.

The House amendment deletes section 950 of the Senate amendment as unnecessary. The constitutionality of chapter 9 of the House amendment is beyond doubt.

Chapter 11 of the House amendment is derived in large part from chapter 11 as contained in the House bill. Unlike chapter 11 of the Senate amendment, chapter 11 of the House amendment does not represent an extension of chapter X of current law or any other chapter of the Bankruptcy Act. Rather chapter 11 of the House amendment takes a new approach consolidating subjects dealt with under chapter VIII, X, XI, and XII of the Bankruptcy Act. The new consolidated chapter 11 contains no special procedure for companies with public debt or equity security holders. Instead, factors such as the standard to be applied to solicitation of acceptances of a plan of reorganization are left to be determined by the court on a case-by-case basis. In order to insure that adequate investigation of the debtor is conducted to determine fraud or wrongdoing on the part of present management, an examiner is required to be appointed in all cases in which the debtor's fixed. liquidated, and unsecured debts, other than debts for goods, services, or taxes, or owing to an insider, exceed $5 million. This should adequately represent the needs of public security holders in most cases. However, in addition, section 1109 of the House amendment enables both the Securities and Exchange Commission and any party in interest who is creditor, equity security holder, indenture trustee, or any committee representing creditors or equity security holders to raise and appear and be heard on any issue in a case under chapter 11. This will enable the bankruptcy court to evaluate all sides of a position and to determine the public interest. This approach is sharply contrasted to that under chapter X of present law in which the public interest is often determined only in terms of the interest of public security holders. The advisory role of the Securities and Exchange Commission will enable the court to balance the needs of public security holders against equally important public needs relating to the economy, such as employment and production, and other factors such as the public health and safety of the people or protection of the national interest. In this context, the new chapter 11 deletes archaic rules contained in certain chapters of present law such as the requirement of an approval hearing and the prohibition of prepetition solicitation. Such requirements were written in an age before the enactment of the Trust Indenture Act and the development of securities laws had occurred. The benefits of these provisions have long been outlived but the detriment of the provisions served to frustrate and delay effective reorganization in those chapters of the Bankruptcy Act in which such provisions applied. Chapter 11 thus represents a much needed revision of reorganization laws. A brief discussion of the history of this important achievement is useful to an appreciation of the monumental reform embraced in chapter 11.

Under the existing Bankruptcy Act, debtors seeking reorganization may choose among three reorganization chapters, chapter X, chapter XI, and chapter XII. Individuals and partner-

ships may file under chapter XI or, if they own property encumbered by mortgage liens, they may file under chapter XII. A corporation may file under either chapters X or chapter XI, but is ineligible to file under chapter XII. Chapter X was designed to facilitate the pervasive reorganization of corporations whose creditors include holders of publicly issued debt securities. Chapter XI, on the other hand, was designed to permit smaller enterprises to negotiate composition or extension plans with their unsecured creditors. The essential differences between chapters X and XI are as follows. Chapter X mandates that, first, an independent trustee be appointed and assume management control from the officers and directors of the debtor corporation; second, the Securities and Exchange Commission must be afforded an opportunity to participate both as an adviser to the court and as a representative of the interests of public security holders; third, the court must approve any proposed plan of reorganization, and prior to such approval, acceptances of creditors and shareholders may not be solicited; fourth, the court must apply the absolute priority rule; and fifth, the court has the power to affect, and grant the debtor a discharge in respect of, all types of claims, whether secured or unsecured and whether arising by reason of fraud or breach of contract.

The Senate amendment consolidates chapters X, XI, and XII, but establishes a separate and distinct reorganization procedure for "public companies." The special provisions applicable to "public companies" are tantamount to the codification of chapter X of the existing Bankruptcy Act and thus result in the creation of a "two-track system." The narrow definition of the term "public company" would require many businesses which could have been rehabilitated under chapter XI to instead use the more cumbersome procedures of chapter X, whether needed or not.

The special provisions of the Senate amendment applicable to a "public company" are as follows:

(a) Section 1101(3) defines a "public company" as a debtor who, within 12 months prior to the filing of the petition, had outstanding $5 million or more in debt and had not less than 1000 security holders;

(b) Section 1104(a) requires the appointment of a disinterested trustee irrespective of whether creditors support such appointment and whether there is cause for such appointment;

(c) Section 1125(f) prohibits the solicitation of acceptances of a plan of reorganization prior to court approval of such plan even though the solicitation complies with all applicable securities laws;

(d) Section 1128(a) requires the court to conduct a hearing on any plan of reorganization proposed by the trustee or any other party;

(e) Section 1128(b) requires the court to refer any plans "worthy of consideration" to the Securities and Exchange Commission for their examination and report, prior to court approval of a plan; and

(f) Section 1128(c) and Section 1130(a)(7) requires the court to approve a plan or plans which are "fair and equitable" and comply with the other provisions of Chapter 11.

The record of the Senate hearings on S. 2266 and the House hearings on H.R. 8200 is replete with evidence of the failure of the reorganization provisions of the existing Bankruptcy Act to meet the needs of insolvent corporations in today's business environment. Chapter X was designed to impose rigid and formalized procedures upon the reorganization of corporations and, although designed to protect public creditors, has often worked to the detriment of such creditors. As the House report has noted:

The negative results under Chapter X have resulted from the stilted procedures, under which management is always ousted and replaced by an independent trustee, the courts and the Securities and Exchange Commission examine the plan of reorganization in great detail, no matter how long that takes, and the court values the business, a time consuming and inherently uncertain procedure.

The House amendment deletes the "public company" exception, because it would codify the well recognized infirmities of chapter X, because it would extend the chapter X approach to a large number of new cases without regard to whether the rigid and formalized procedures of chapter X are needed, and because it is predicated upon the myth that provisions similar to those contained in chapter X are necessary for the protection of public investors. Bankruptcy practice in large reorganization cases has also changed substantially in the 40 years since the Chandler Act was enacted. This change is, in large part, attributable to the pervasive effect of the Federal securities laws and the extraordinary success of the Securities and Exchange Commission in sensitizing both management and members of the bar to the need for full disclosure and fair dealing in transactions involving publicly held securities.

It is important to note that Congress passed the Chandler Act prior to enactment of the Trust Indenture Act of 1939 and prior to the definition and enforcement of the disclosure requirements of the Securities Act of 1933 and the Securities Exchange Act of 1934. The judgments made by the 75th Congress in enacting the Chandler Act are not equally applicable to the financial markets of 1978. First of all, most public debenture holders are neither weak nor unsophisticated investors. In most cases, a significant portion of the holders of publicly issued debentures are sophisticated institutions, acting for their own account or as trustees for investment funds, pension funds, or private trusts. In addition, debenture holders, sophisticated, and unsophisticated alike, are represented by indenture trustees, qualified under section 77ggg of the Trust Indenture Act. Given the high standard of care to which indenture trustees are bound, they are invariably active and sophisticated participants in efforts to rehabilitate corporate debtors in distress.

It is also important to note that in 1938 when the Chandler Act was enacted, public investors commonly held senior, not subordinated, debentures and corporations were very often privately owned. In this environment, the absolute priority rule protected debenture holders from an erosion of their position in favor of equity holders. Today, however, if there are public security holders in a case, they are likely to be holders of subordinated debentures and equity and thus the application of the absolute priority rule under chapter X leads to the exclusion, rather than the protection, of the public.

The primary problem posed by chapter X is delay. The modern corporation is a complex and multifaceted entity. Most corporations do not have a significant market share of the lines of business in which they compete. The success, and even the survival, of a corporation in contemporary markets depends on three elements: First, the ability to attract and hold skilled management; second, the ability to obtain credit; and third, the corporation's ability to project to the public an image of vitality. Over and over again, it is demonstrated that corporations which must avail themselves of the provisions of the Bankruptcy Act suffer appreciable deterioration if they are caught in a chapter X proceeding for any substantial period of time.

There are exceptions to this rule. For example, King Resources filed a chapter X petition in the District of Colorado and it emerged from such proceeding as a solvent corporation. The debtor's new found solvency was not, however, so much attributable to a brilliant rehabilitation program conceived by a trustee, but rather to a substantial appreciation in the value of the debtor's oil and uranium properties during the pendency of the proceedings.

Likewise, Equity Funding is always cited as an example of a successful chapter X case. But it should be noted that in Equity Funding there was no question about retaining existing management. Rather, Equity Funding involved fraud on a grand scale. Under the House amendment with the deletion of the mandatory appointment of a trustee in cases involving "public companies," a bankruptcy judge, in a case like Equity Funding, would presumably have little difficulty in concluding that a trustee should be appointed under section 1104(b).

While I will not undertake to list the chapter X failures, it is important to note a number of cases involving corporations which would be "public companies" under the Senate amendment which have successfully skirted the shoals of chapter X and confirmed plans of arrangement in chapter XI. Among these are Daylin, Inc. ("Daylin") and Colwell Mortgage Investors ("Colwell").

Daylin filed a chapter XI petition on February 26, 1975, and confirmed its plan of arrangement on October 20, 1976. The success of its turnaround is best evidenced by the fact that it had consolidated net income of $6,473,000 for the first three quarters of the 1978 fiscal year.

Perhaps the best example of the contrast between chapter XI and chapter X is the recent case of In Re Colwell Mortgage Investors. Colwell negotiated a recapitalization plan with its institutional creditors, filed a proxy statement with

the Securities and Exchange Commission, and solicited consents of its creditors and shareholders prior to filing its chapter XI petition. Thereafter, Colwell confirmed its plan of arrangement 41 days after filing its chapter XI petition. This result would have been impossible under the Senate amendment since Colwell would have been a "public company."

There are a number of other corporations with publicly held debt which have successfully reorganized under chapter XI. Among these are National Mortgage Fund (NMF), which filed a chapter XI petition in the northern district of Ohio on June 30, 1976. Prior to commencement of the chapter XI proceeding, NMF filed a proxy statement with the Securities and Exchange Commission and solicited acceptances to a proposed plan of arrangement. The NMF plan was subsequently confirmed on December 14, 1976. The Securities and Exchange Commission did not file a motion under section 328 of the Bankruptcy Act to transfer the case to chapter X and a transfer motion which was filed by private parties was denied by the court.

While there are other examples of large publicly held companies which have successfully reorganized in chapter XI, including Esgrow, Inc. (C.D. Cal. 73–02510), Sherwood Diversified Services Inc. (S.D.N.Y. 73–B–213), and United Merchants and Manufacturers, Inc. (S.D.N.Y. 77–B–1513), the numerous successful chapter XI cases demonstrate two points: first, the complicated and time-consuming provisions of chapter X are not always necessary for the successful reorganization of a company with publicly held debt, and second, the more flexible provisions in chapter XI permit a debtor to obtain relief under the Bankruptcy Act in significantly less time than is required to confirm a plan of reorganization under chapter X of the Bankruptcy Act.

One cannot overemphasize the advantages of speed and simplicity to both creditors and debtors. Chapter XI allows a debtor to negotiate a plan outside of court and, having reached a settlement with a majority in number and amount of each class of creditors, permits the debtor to bind all unsecured creditors to the terms of the arrangement. From the perspective of creditors, early confirmation of a plan of arrangement: first, generally reduces administrative expenses which have priority over the claims of unsecured creditors; second, permits creditors to receive prompt distributions on their claims with respect to which interest does not accrue after the filing date; and third, increases the ultimate recovery on creditor claims by minimizing the adverse effect on the business which often accompanies efforts to operate an enterprise under the protection of the Bankruptcy Act.

Although chapter XI offers the corporate debtor flexibility and continuity of management, successful rehabilitation under chapter XI is often impossible for a number of reasons. First, chapter XI does not permit a debtor to "affect" secured creditors or shareholders, in the absence of their consent. Second, whereas a debtor corporation in chapter X, upon the consummation of the plan or reorganization, is discharged from all its debts and liabilities, a corporation in chapter XI may not be able to get a discharge in respect of certain kinds of claims including fraud claims, even in cases where the debtor is being operated under new management. The language of chapter 11 in the House amendment solves these problems and thus increases the utility and flexibility of the new chapter 11, as compared to chapter XI of the existing Bankruptcy Act.

Those who would urge the adoption of a two-track system have two major obstacles to meet. First, the practical experience of those involved in business rehabilitation cases, practitioners, debtors, and bankruptcy judges, has been that the more simple and expeditious procedures of chapter XI are appropriate in the great majority of cases. While attempts have been made to convince the courts that a chapter X proceeding is required in every case where public debt is present, the courts have categorically rejected such arguments. Second, chapter X has been far from a success. Of the 991 chapter X cases filed during the period of January 1, 1967, through December 31, 1977, only 664 have been terminated. Of those cases recorded as "terminated," only 140 resulted in confirmed plans. This 21-percent success rate sugrate suggests one of the reasons for the unpopularity of chapter X.

In summary, it has been the experience of the great majority of those who have testified before the Senate and House subcommittees that a consolidated approach to business rehabilitation is warranted. Such approach is adopted in the House amendment.

Having discussed the general reasons why chapter 11 of the House amendment is sorely needed, a brief discussion of the differences between the House bill, Senate amendment, and House amendment is in order. Since chapter 11 of the House amendment rejects the concept of separate treatment for a public company, sections 1101(3), 1104(a), 1125(f), 1128, and 1130(a)(7) of the Senate amendment have been deleted.

Section 1102(a) of the House amendment adopts a compromise between the House bill and Senate amendment requiring appointment of a committee of creditors holding unsecured claims by the court; the alternative of creditor committee election is rejected.

Section 1102(b) of the House amendment represents a compromise between the House bill and the Senate amendment by preventing the appointment of creditors who are unwilling to serve on a creditors committee.

Section 1104 of the House amendment represents a compromise between the House bill and the Senate amendment concerning the appointment of a trustee or examiner. The method of appointment rather than election, is derived from the House bill; the two alternative standards of appointment are derived with modifications from the Senate amendment, instead of the standard stated in the House bill. For example, if the current management of the debtor gambled away rental income before the filing of the petition, a trustee should be appointed after the petition, whether or not postpetition mismanagement can be shown. However, under no circumstances will cause include the number of security holders of the debtor, or the amount of assets or liabilities of the debtor. The standard also applies to the appointment of an examiner in those circumstances in which mandatory appointment, as previously detailed, is not required.

The House amendment adopts section 1107(b) of the Senate amendment which clarifies a point not covered by the House bill. The House amendment adopts section 1108 of the House bill in preference to the style of an identical substantive provision contained in the Senate amendment. Throughout title II references to a "trustee" is read to include other parties under various sections of the bill. For example, section 1107 applies to give the debtor in possession all the rights and powers of a trustee in a case under chapter 11; this includes the power of the trustee to operate the debtor's business under section 1108.

Section 1109 of the House amendment represents a compromise between comparable provisions in the House bill and Senate amendment. As previously discussed the section gives the Securities and Exchange Commission the right to appear and be heard and to raise any issue in a case under chapter 11; however, the Securities and Exchange Commission is not a party in interest and the Commission may not appeal from any judgment, order, or decree entered in the case. Under section 1109(b) a party in interest, including the debtor, the trustee, creditors committee, equity securities holders committee, a creditor, an equity security holder, or an indentured trustee, may raise and may appear and be heard on any issue in a case under chapter 11. Section 1109(c) of the Senate amendment has been moved to subchapter IV pertaining to Railroad Reorganizations.

Section 1110 of the House amendment adopts an identical provision contained in the House bill without modifications contained in the Senate amendment. This section protects a limited class of financiers of aircraft and vessels and is intended to be narrowly construed to prevent secured parties or lessors from gaining the protection of the section unless the interest of such lessor or secured party is explicitly enumerated therein. It should be emphasized that under section 1110(a) a debtor in possession or trustee is given 60 days after the order for relief in a case under chapter 11, to have an opportunity to comply with the provisions of section 1110(a).

During this time the automatic stay will apply and may not be lifted prior to the expiration of the 60-day period. Under section 1110(b), the debtor and secured party or lessor are given an opportunity to extend the 60-day period, but no right to reduce the period is intended. It should additionally be noted that under section 1110(a) the trustee or debtor in possession is not required to assume the executory contract or unex-

pired lease under section 1110; rather, if the trustee or debtor in possession complies with the requirements of section 1110(a), the trustee or debtor in possession is entitled to retain the aircraft or vessels subject to the normal requirements of section 365. The discussion regarding aircraft and vessels likewise applies with respect to railroad rolling stock in a railroad reorganization under section 1168.

A discussion of section 1111(b) of the House amendment is best considered in the context of confirmation and will, therefore, be discussed in connection with section 1129.

Section 1112 of the House amendment represents a compromise between the House bill and Senate amendment with respect to the factors constituting cause for conversion of a case to chapter 7 or dismissal. The House amendment combines two separate factors contained in section 1112(b)(1) and section 1112(b)(2) of the Senate amendment. Section 1112(b)(1) of the House amendment permits the court to convert a case to a case under chapter 7 or to dismiss the case if there is both a continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation; requiring both factors to be present simultaneously represents a compromise from the House bill which eliminated both factors from the list of causes enumerated.

Section 1112(c) and 1112(d) of the House amendment is derived from the House bill which differs from the Senate amendment only as a matter of style. Section 1121 of the House amendment is derived from section 1121 of the House bill; section 1121(c)(1) will be satisfied automatically in a case under subchapter IV of title 11.

Section 1123 of the House amendment represents a compromise between similar provisions in the House bill and Senate amendment. The section has been clarified to clearly indicate that both secured and unsecured claims, or either of them, may be impaired in a case under title 11. In addition assumption or rejection of an executory contract under a plan must comply with section 365 of title 11. Moreover, section 1123(a)(1) has been substantively modified to permit classification of certain kinds of priority claims. This is important for purposes of confirmation under section 1129(a)(9).

Section 1123(a)(5) of the House amendment is derived from a similar provision in the House bill and Senate amendment but deletes the language pertaining to "fair upset price" as an unnecessary restriction. Section 1123 is also intended to indicate that a plan may provide for any action specified in section 1123 in the case of a corporation without a resolution of the board of directors. If the plan is confirmed, then any action proposed in the plan may be taken notwithstanding any otherwise applicable nonbankruptcy law in accordance with section 1142(a) of title 11.

Section 1124 of the House amendment is derived from a similar provision in the House bill and Senate amendment. The section defines the new concept of "impairment" of claims or interests; the concept differs significantly from the concept of "materially and adversely affected" under the Bankruptcy Act. Section 1124(3) of the House amendment provides that a holder of a claim or interest is not impaired, if the plan provides that the holder will receive the allowed amount of the holder's claim, or in the case of an interest with a fixed liquidation preference or redemption price, the greater of such price. This adopts the position contained in the House bill and rejects the contrary standard contained in the Senate amendment.

Section 1124(3) of the House amendment rejects a provision contained in section 1124(3)(B)(iii) of the House bill which would have considered a class of interest not to be impaired by virtue of the fact that the plan provided cash or property for the value of the holder's interest in the debtor.

The effect of the House amendment is to permit an interest not to be impaired only if the interest has a fixed liquidation preference or redemption price. Therefore, a class of interests such as common stock, must either accept a plan under section 1129(a)(8), or the plan must satisfy the requirements of section 1129(b)(2)(C) in order for a plan to be confirmed.

A compromise reflected in section 1124(2)(C) of the House amendment indicates that a class of claims is not impaired under the circumstances of section 1124(2) if damages are paid to rectify reasonable reliance engaged in by the holder of a claim or interest arising from the prepetition breach of a contractual provision, such as an ipso facto or bankruptcy clause, or law. Where the rights of third parties are concerned, such as in the case of lease premises which have been rerented to a third party, it is not intended that there will be adequate damages to compensate the third party.

Section 1125 of the House amendment is derived from section 1125 of the House bill and Senate amendment except with respect to section 1125(f) of the Senate amendment. It will not be necessary for the court to consider the report of the examiner prior to approval of a disclosure statement. The investigation of the examiner is to proceed on an independent basis from the procedure of the reorganization under chapter 11. In order to insure that the examiner's report will be expeditious and fair, the examiner is precluded from serving as a trustee in the case or from representing a trustee if a trustee is appointed, whether the case remains in chapter 11 or is converted to chapter 7 or 13.

Section 1126 of the House amendment deletes section 1126(e) as contained in the House bill. Section 105 of the bill constitutes sufficient power in the court to designate exclusion of a creditor's claim on the basis of a conflict of interest. Section 1126(f) of the House amendment adopts a provision contained in section 1127(f) of the Senate bill indicating that a class that is not impaired under a plan is deemed to have accepted a plan and solicitation of acceptances from such class is not required.

Section 1127(a) of the House amendment adopts a provision contained in the House bill permitting only the proponent of a plan to modify the plan and rejecting the alternative of open modification contained in the Senate amendment.

Section 1129 of the House amendment relates to confirmation of a plan in a case under chapter 11. Section 1129(a)(3) of the House amendment adopts the position taken in the Senate amendment and section 1129(a)(5) takes the position adopted in the House bill. Section 1129(a)(7) adopts the position taken in the House bill in order to insure that the dissenting members of an accepting class will receive at least what they would otherwise receive under the best interest of creditors test; it also requires that even the members of a class that has rejected the plan be protected by the best interest of creditors test for those rare cramdown cases where a class of creditors would receive more on liquidation than under reorganization of the debtor. Section 1129(a)(7)(C) is discussed in connection with section 1129(b) and section 1111(b). Section 1129(a)(8) of the House amendment adopts the provision taken in the House bill which permits confirmation of a plan as to a particular class without resort to the fair and equitable test if the class has accepted a plan or is unimpaired under the plan.

Section 1129(a)(9) represents a compromise between a similar provision contained in the House bill and the Senate amendment. Under subparagraph (A) claims entitled to priority under section 507(a)(1) or (2) are entitled to receive cash on the effective date of the plan equal to the amount of the claim. Under subparagraph (B) claims entitled to priority under section 507(a)(3), (4), or (5), are entitled to receive deferred cash payments of a present value as of the effective date of the plan equal to the amount of the claims if the class has accepted the plan or cash payments on the effective date of the plan otherwise. Tax claims entitled to priority under section 507(a)(6) of different governmental units may not be contained in one class although all claims of one such unit may be combined and such unit may be required to take deferred cash payments over a period not to exceed 6 years after the date of assessment of the tax with the present value equal to the amount of the claim.

Section 1129(a)(10) is derived from section 1130(a)(12) of the Senate amendment.

Section 1129(b) is new. Together with section 1111(b) and section 1129(a)(7)(C), this section provides when a plan may be confirmed, notwithstanding the failure of an impaired class to accept the plan under section 1129(a)(8). Before discussing section 1129(b) an understanding of section 1111(b) is necessary. Section 1111(b)(1) the general rule that a secured claim is to be treated as a recourse claim in chapter 11 whether or not the claim is nonrecourse by agreement or applicable law. This preferred status for a nonrecourse loan terminates if the property securing the loan is sold under section 363 or is to be sold under the plan.

The preferred status also terminates if the class of which the secured claim is a part elects application of section 1111(b)(2). Section 1111(b)(2) provides that an allowed claim is a secured claim to the full extent the claim is allowed rather to the extent of the collateral as under section 506(a). A class may elect application of paragraph (2) only if the security is not of inconsequential value and, if the creditor is a recourse creditor, the collateral is not sold under section 363 or to be sold under the plan. Sale of property under section 363 or under the plan is excluded from treatment under section 1111(b) because of the secured party's right to bid in the full amount of his allowed claim at any sale of collateral under section 363(k) of the House amendment.

As previously noted, section 1129(b) sets forth a standard by which a plan may be confirmed notwithstanding the failure of an impaired class to accept the plan.

Paragraph (1) makes clear that this alternative confirmation standard, referred to as "cram down," will be called into play only on the request of the proponent of the plan. Under this cram down test, the court must confirm the plan if the plan does not discriminate unfairly, and is "fair and equitable," with respect to each class of claims or interests that is impaired under, and has not accepted, the plan. The requirement of the House bill that a plan not "discriminate unfairly" with respect to a class is included for clarity; the language in the House report interpreting that requirement, in the context of subordinated debentures, applies equally under the requirements of section 1129(b)(1) of the House amendment.

Although many of the factors interpreting "fair and equitable" are specified in paragraph (2), others, which were explicated in the description of section 1129(b) in the House report, were omitted from the House amendment to avoid statutory complexity and because they would undoubtedly be found by a court to be fundamental to "fair and equitable" treatment of a dissenting class. For example, a dissenting class should be assured that no senior class receives more than 100 percent of the amount of its claims. While that requirement was explicitly included in the House bill, the deletion is intended to be one of style and not one of substance.

Paragraph (2) provides guidelines for a court to determine whether a plan is fair and equitable with respect to a dissenting class. It must be emphasized that the fair and equitable requirement applies only with respect to dissenting classes. Therefore, unlike the fair and equitable rule contained in chapter X and section 77 of the Bankruptcy Act under section 1129(b)(2), senior accepting classes are permitted to give up value to junior classes as long as no dissenting intervening class receives less than the amount of its claims in full. If there is no dissenting intervening class and the only dissent is from a class junior to the class to which value have been given up, then the plan may still be fair and equitable with respect to the dissenting class, as long as no class senior to the dissenting class has received more than 100 percent of the amount of its claims.

Paragraph (2) contains three subparagraphs, each of which applies to a particular kind of class of claims or interests that is impaired and has not accepted the plan. Subparagraph (A) applies when a class of secured claims is impaired and has not accepted the plan. The provision applies whether or not section 1111(b) applies. The plan may be crammed down notwithstanding the dissent of a secured class only if the plan complies with clause (i), (ii), or (iii).

Clause (i) permits cram down if the dissenting class of secured claims will retain its lien on the property whether the property is retained by the debtor or transferred. It should be noted that the lien secures the allowed secured claim held by such holder. The meaning of "allowed secured claim" will vary depending on whether section 1111(b)(2) applies to such class.

If section 1111(b)(2) applies then the "electing" class is entitled to have the entire allowed amount of the debt related to such property secured by a lien even if the value of the collateral is less than the amount of the debt. In addition, the plan must provide for the holder to receive, on account of the allowed secured claims, payments, either present or deferred, of a principal face amount equal to the amount of the debt and of a present value equal to the value of the collateral.

For example, if a creditor loaned $15,000,000 to a debtor secured by real property worth $18,000,000 and the value of the real property had dropped to $12,000,000 by the date when the debtor commenced a proceeding under chapter 11, the plan could be confirmed notwithstanding the dissent of the creditor as long as the lien remains on the collateral to secure a $15,000,000 debt, the face amount of present or extended payments to be made to the creditor under the plan is at least $15,000,000, and the present value of the present or deferred payments is not less than $12,000,000. The House report accompanying the House bill described what is meant by "present value".

Clause (ii) is self explanatory. Clause (iii) requires the court to confirm the plan notwithstanding the dissent of the electing secured class if the plan provides for the realization by the secured class of the indubitable equivalents of the secured claims. The standard of "indubitable equivalents" is taken from *In re Murel Holding Corp.*, 75 F. 2d 941 (2d Cir. 1935) (Learned Hand, Jr.).

Abandonment of the collateral to the creditor would clearly satisfy indubitable equivalence, as would a lien on similar collateral. However, present cash payments less than the secured claim would not satisfy the standard because the creditor is deprived of an opportunity to gain from a future increase in value of the collateral. Unsecured notes as to the secured claim or equity securities of the debtor would not be the indubitable equivalent. With respect to an oversecured creditor, the secured claim will never exeed the allowed claim.

Although the same language applies, a different result pertains with respect to a class of secured claims to which section 1111(b)(2) does not apply. This will apply to all claims secured by a right of setoff. The court must confirm the plan notwithstanding the dissent of such a class of secured claims if any of three alternative requirements is met. Under clause (i) the plan may be confirmed if the class retains a right of setoff or a lien securing the allowed secured claims of the class and the holders will receive payments of a present value equal to the allowed amount of their secured claims. Contrary to electing classes of secured creditors who retain a lien under subparagraph (A)(i)(I) to the extent of the entire claims secured by such lien, nonelecting creditors retain a lien on collateral only to the extent of their allowed secured claims and not to the extent of any deficiency, and such secured creditors must receive present or deferred payments with a present value equal to the allowed secured claim, which in turn is only the equivalent of the value of the collateral under section 506(a).

Any deficiency claim of a nonelecting class of secured claims is treated as an unsecured claim and is not provided for under subparagraph (A). The plan may be confirmed under clause (ii) if the plan proposes to sell the property free and clear of the secured party's lien as long as the lien will attach to the proceeds and will receive treatment under clause (i) or (iii). Clause (iii) permits confirmation if the plan provides for the realization by the dissenting nonelecting class of secured claims of the indubitable equivalent of the secured claims of such class.

Contrary to an "electing" class to which section 1111(b)(2) applies, the nonelecting class need not be protected with respect to any future appreciation in value of the collateral since the secured claim of such a class is never undersecured by reason of section 506(a). Thus the lien secures only the value of interest of such creditor in the collateral. To the extent deferred payments exceed that amount, they represent interest. In the event of a subsequent default, the portion of the face amount of deferred payments representing unaccrued interest will not be secured by the lien.

Subparagraph (B) applies to a dissenting class of unsecured claims. The court must confirm the plan notwithstanding the dissent of a class of impaired unsecured claims if the plan provides for such claims to receive property with a present value equal to the allowed amount of the claims. Unsecured claims may receive any kind of "property," which is used in its broadest sense, as long as the present value of the property given to the holders of unsecured claims is equal to the allowed amount of the claims. Some kinds of property, such as securities, may require difficult valuations by the court; in such circumstances the court need only determine that there is a reasonable likelihood that the property given the dissenting class of impaired unsecured claims

equals the present value of such allowed claims.

Alternatively, under clause (ii), the court must confirm the plan if the plan provides that holders of any claims or interests junior to the interests of the dissenting class of impaired unsecured claims will not receive any property under the plan on account of such junior claims or interests. As long as senior creditors have not been paid more than in full, and classes of equal claims are being treated so that the dissenting class of impaired unsecured claims is not being discriminated against unfairly, the plan may be confirmed if the impaired class of unsecured claims receives less than 100 cents on the dollar (or nothing at all) as long as no class junior to the dissenting class receives anything at all. Such an impaired dissenting class may not prevent confirmation of a plan by objection merely because a senior class has elected to give up value to a junior class that is higher in priority than the impaired dissenting class of unsecured claims as long as the above safeguards are met.

Subparagraph (C) applies to a dissenting class of impaired interests. Such interests may include the interests of general or limited partners in a partnership, the interests of a sole proprietor in a proprietorship, or the interest of common or preferred stockholders in a corporation. If the holders of such interests are entitled to a fixed liquidation preference or fixed redemption price on account of such interests then the plan may be confirmed notwithstanding the dissent of such class of interests as long as it provides the holders property of a present value equal to the greatest of the fixed redemption price, or the value of such interests. In the event there is no fixed liquidation preference or redemption price, then the plan may be confirmed as long as it provides the holders of such interests property of a present value equal to the value of such interests. If the interests are "under water" then they will be valueless and the plan may be confirmed notwithstanding the dissent of that class of interests even if the plan provides that the holders of such interests will not receive any property on account of such interests.

Alternatively, under clause (ii), the court must confirm the plan notwithstanding the dissent of a class of interests if the plan provides that holders of any interests junior to the dissenting class of interests will not receive or retain any property on account of such junior interests. Clearly, if there are no junior interests junior to the class of dissenting interests, then the condition of clause (ii) is satisfied. The safeguards that no claim or interest receive more than 100 percent of the allowed amount of such claim or interest and that no class be discriminated against unfairly will insure that the plan is fair and equitable with respect to the dissenting class of interests.

Except to the extent of the treatment of secured claims under subparagraph (A) of this statement, the House report remains an accurate description of confirmation of section 1129(b). Contrary to the example contained in the Senate report, a senior class will not be able to give up value to a junior class over the dissent of an intervening class unless the intervening class receives the full amount, as opposed to value, of its claims or interests.

One last point deserves explanation with respect to the admittedly complex subject of confirmation. Section 1129(a)(7)(C) in effect exempts secured creditors making an election under section 1111(b)(2) from application of the best interest of creditors test. In the absence of an election the amount such creditors receive in a plan of liquidation would be the value of their collateral plus any amount recovered on the deficiency in the case of a recourse loan. However, under section 1111(b)(2), the creditors are given an allowed secured claim to the full extent the claim is allowed and have no unsecured deficiency. Since section 1129(b)(2)(A) makes clear that an electing class need receive payments of a present value only equal to the value of the collateral, it is conceivable that under such a "cram down" the electing creditors would receive nothing with respect to their deficiency. The advantage to the electing creditors is that they have a lien securing the full amount of the allowed claim so that if the value of the collateral increases after the case is closed, the deferred payments will be secured claims. Thus it is both reasonable and necessary to exempt such electing class from application of section 1129(a)(7) as a logical consequence of permitting election under section 1111(b)(2).

Section 1131 of the Senate amendment is deleted as unnecessary in light of the protection given a secured creditor under section 1129(b) of the House amendment.

Section 1141(d) of the House amendment is derived from a comparable provision contained in the Senate amendment. However, section 1141(d)(2) of the House amendment is derived from the House bill as preferable to the Senate amendment. It is necessary for a corporation or partnership undergoing reorganization to be able to present its creditors with a fixed list of liabilities upon which the creditors or third parties can make intelligent decisions. Retaining an exception for discharge with respect to nondischargeable taxes would leave an undesirable uncertainty surrounding reorganizations that is unacceptable. Section 1141(d)(3) is derived from the Senate amendment. Section 1141(d)(4) is likewise derived from the Senate amendment.

Section 1145 of the House amendment deletes a provision contained in section 1145(a)(1) of the House bill in favor of a more adequate provision contained in section 364(f) of the House amendment. In addition, section 1145(d) has been added to indicate that the Trust Indenture Act does not apply to a commercial note issued under a plan, if the note matures not later than 1 year after the effective date of the plan. Some commercial notes receive such an exemption under 304(a)(4) of the Trust Indenture Act of 1939 (15 U.S.C. § 77ddd(a)(4) and others may receive protection by incorporation by reference into the Trust Indenture Act of securities exempt under section 3a(3), (7), (9), or (10) of the Securities Act of 1933.

In light of the amendments made to the Securities Act of 1933 in title III of the House amendment to H.R. 8200, a specific exemption from the Trust Indenture Act is required in order to create certainty regarding plans of reorganization. Section 1145(d) is not intended to imply that commercial notes issued under a plan that matures more than 1 year after the effective date of the plan are automatically covered by the Trust Indenture Act of 1939 since such notes may fall within another exemption thereto.

One other point with respect to Section 1145 deserves comment. Section 1145(a)(3) grants a debtor in possession or trustee in chapter 11 an extremely narrow portfolio security exemption from section 5 of the Securities Act of 1933 or any comparable State law. The provision was considered by Congress and adopted after much study. The exemption is reasonable and is more restrictive than comparable provisions under the Securities Act relating to the estates of decedents. Subsequent to passage of H.R. 8200 by the House of Representatives, the Securities and Exchange Commission promulgated Rule 148 to treat with this problem under existing law. Members of Congress received opinions from attorneys indicating dissatisfaction with the Commission's rule although the rule has been amended, the ultimate limitation of 1 percent promulgated by the Commission is wholly unacceptable.

The Commission rule would permit a trustee or debtor in possession to distribute securities at the rate of 1 percent every 6 months. Section 1145(a)(3) permits the trustee to distribute 4 percent of the securities during the 2-year period immediately following the date of the filing of the petition. In addition, the security must be of a reporting company under section 13 of the Securities and Exchange Act of 1934, and must be in compliance with all applicable requirements for the continuing of trading in the security on the date that the trustee offers or sells the security.

With these safeguards the trustee or debtor in possession should be able to distribute 4 percent of the securities of a class at any time during the 2-year period immediately following the date of the filing of the petition in the interests of expediting bankruptcy administration. The same rationale that applies in expeditiously terminating decedents' estates applies no less to an estate under title 11.

Section 1146 of the House amendment represents a compromise between the House bill and Senate amendment.

Section 1162 of the House amendment is derived from section 1162(1) of the Senate bill.

Section 1163 of the House amendment represents a compromise between the House bill and Senate amendment with

respect to the appointment of a trustee in a railroad reorganization. As soon as practicable after the order for relief, the Secretary of Transportation is required to submit a list of five disinterested persons who are qualified to serve as trustee and the court will then appoint one trustee from the list to serve as trustee in the case.

The House amendment deletes section 1163 of the Senate amendment in order to cover intrastate railroads in a case under subchapter IV of chapter 11. The bill does not confer jurisdiction on the Interstate Commerce Commission with respect to intrastate railroads.

Section 1164 of the Senate amendment is deleted as a matter to be left to the Rules of Bankruptcy Procedure. It is anticipated that the rules will require a petition in a railroad reorganization to be filed with the Interstate Commerce Commission and the Secretary of Transportation in a case concerning an interstate railroad.

Section 1164 of the House amendment is derived from section 1163 of the House bill. The section makes clear that the Interstate Commerce Commission, the Department of Transportation, and any State or local commission having regulatory jurisdiction over the debtor may raise and appear and be heard on any issue in a case under subchapter IV of chapter 11, but may not appeal from any judgment, order, or decree in the case. As under section 1109 of title 11, such intervening parties are not parties in interest.

Section 1165 of the House amendment represents a modification of sections 1165 and 1167 of the Senate amendment requiring the court and the trustee to consider the broad, general public interest in addition to the interests of the debtor, creditors, and equity security holders in applying specific sections of the subchapter.

Section 1166 of the House amendment is derived from sections 1164 and 1165 of the House bill. An alternative proposal contained in section 1168(1) of the Senate bill is rejected as violative of the principle or equal treatment of all creditors under title 11.

Section 1168 of the House amendment incorporates a provision contained in section 1166 of the House bill instead of the provision contained in section 1175 of the Senate amendment for the reasons stated in connection with the discussion of section 1110 of the House amendment.

Section 1169 of the Senate amendment is deleted from the House amendment as unnecessary since 28 U.S.C. 1407 treating with the judicial panel on multidistrict litigation will apply by its terms to cases under title 11.

Section 1171 of the House amendment is derived from section 1170 of the House bill in lieu of section 1173(a)(9) of the Senate amendment.

Section 1172 of the House amendment is derived from section 1171 of the House bill in preference to section 1170 of the Senate amendment with the exception that section 1170(4) of the Senate amendment is incorporated into section 1172(a)(1) of the House amendment.

Section 1172(b) of the House amendment is derived from section 1171(c) of the Senate amendment. The section gives the Interstate Commerce Commission the exclusive power to approve or disapprove the transfer of, or operation of or over, any of the debtor's rail lines over which the Commission has jurisdiction, subject to review under the Administrative Procedures Act. The section does not apply to a transfer of railroad lines to a successor of the debtor under a plan of reorganization by merger or otherwise.

The House amendment deletes section 1171(a) of the Senate amendment as a matter to be determined by the Rules of Bankruptcy Procedure. It is anticipated that the rules will specify the period of time, such as 18 months, within which a trustee must file with the court a proposed plan of reorganization for the debtor or a report why a plan cannot be formulated. Incorporation by reference of section 1121 in section 1161 of title 11 means that a party in interest will also have a right to file a plan of reorganization. This differs from the position taken in the Senate amendment which would have permitted the Interstate Commerce Commission to file a plan of reorganization.

Section 1173 of the House amendment concerns confirmation of a plan of railroad reorganization and is derived from section 1172 of the House bill as modified. In particular, section 1173(a)(3) of the House amendment is derived from section 1170(3) of the Senate amendment. Section 1173(b) is derived from section 1173(a)(8) of the Senate amendment.

Section 1174 of the House amendment represents a compromise between the House bill and Senate amendment on the issue of liquidation of a railroad. The provision permits a party in interest at any time to request liquidation. In addition, if a plan has not been confirmed under section 1173 of the House amendment before 5 years after the date of order for relief, the court must order the trustee to cease the debtor's operation and to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 of title 11. The approach differs from the conversion to chapter 7 under section 1174 of the Senate bill in order to make special provisions contained in subchapter IV of chapter 11 applicable to liquidation. However, maintaining liquidation in the context of chapter 11 is not intended to delay liquidation of the railroad to a different extent than if the case were converted to chapter 7.

Although the House amendment does not adopt provisions contained in sections 1170(1), (2), (3), or (5), of the Senate amendment such provisions are contained explicitly or implicitly in section 1123 of the House amendment.

Section 1301 of the House amendment is identical with the provision contained in section 1301 of the House bill and adopted by the Senate amendment. Section 1301(c)(1) indicates that a basis for lifting the stay is that the debtor did not receive consideration for the claim by the creditor, or in other words, the debtor is really the "co-debtor." As with other sections in title 11, the standard of receiving consideration is a general rule, but where two co-debtors have agreed to share liabilities in a different manner than profits it is the individual who does not ultimately bear the liability that is protected by the stay under section 1301.

Section 1302 of the House amendment adopts a provision contained in the Senate amendment instead of the position taken in the House bill. Sections 1302 (d) and (e) are modeled on the standing trustee system contained in the House bill with the court assuming supervisory functions in districts not under the pilot program.

Section 1303 of the House amendment specifies rights and powers that the debtor has exclusive of the trustees. The section does not imply that the debtor does not also possess other powers concurrently with the trustee. For example, although section 1323 is not specified in section 1303, certainly it is intended that the debtor has the power to sue and be sued.

Section 1304(b) of the House amendment adopts the approach taken in the comparable section of the Senate amendment as preferable to the position taken in the House bill.

Section 1305(a)(2) of the House amendment modifies similar provisions contained in the House and Senate bills by restricting application of the paragraph to a consumer debt. Debts of the debtor that are not consumer debts should not be subjected to section 1305(c) or section 1328(d) of the House amendment.

Section 1305(b) of the House amendment represents a technical modification of similar provisions contained in the House bill and Senate amendment.

The House amendment deletes section 1305(d) of the Senate amendment as unnecessary. Section 502(b)(1) is sufficient to disallow any claim to the extent the claim represents the usurious interest or any other charge forbidden by applicable law. It is anticipated that the Rules of Bankruptcy Procedure may require a creditor filing a proof of claim in a case under chapter 13 to include an affirmative statement as contemplated by section 1305(d) of the Senate amendment.

Section 1306(a)(2) adopts a provision contained in the Senate amendment in preference to a similar provision contained in the House bill.

Section 1307(a) is derived from the Senate amendment in preference to a comparable provision contained in the House bill.

Section 1322(b)(2) of the House amendment represents a compromise agreement between similar provisions in the House bill and Senate amendment. Under the House amendment. the plan may modify the rights of holders of secured claims other than a claim secured by a security interest in real property that is the debtor's principal residence. It is intended that a claim secured by the debtor's principal residence may be treated with under section 1322(b)(5) of the House amendment.

Section 1322(c) adopts a 5-year period

derived from the House bill in preference to a 4-year period contained in the Senate amendment. A conforming change is made in section 1329(c) adopting the provision in the House bill in preference to a comparable provision in the Senate amendment.

Section 1325(a)(5)(B) of the House amendment modifies the House bill and Senate amendment to significantly protect secured creditors in chapter 13. Unless the secured creditor accepts the plan, the plan must provide that the secured creditor retain the lien securing the creditor's allowed secured claim in addition to receiving value, as of the effective date of the plan of property to be distributed under the plan on account of the claim not less than the allowed amount of the claim. To this extent, a secured creditor in a case under chapter 13 is treated identically with a recourse creditor under section 1111(b)(1) of the House amendment except that the secured creditor in a case under chapter 13 may receive any property of a value as of the effective date of the plan equal to the allowed amount of the creditor's secured claim rather than being restricted to receiving deferred cash payments. Of course, the secured creditors' lien only secures the value of the collateral and to the extent property is distributed of a present value equal to the allowed amount of the creditor's secured claim the creditor's lien will have been satisfied in full. Thus the lien created under section 1325(a)(5)(B)(i) is effective only to secure deferred payments to the extent of the amount of the allowed secured claim. To the extent the deferred payments exceed the value of the allowed amount of the secured claim and the debtor subsequently defaults, the lien will not secure unaccrued interest represented in such deferred payments.

Section 1326(a)(2) of the House amendment adopts a comparable provision contained in the House bill providing for standing trustees.

Section 1328(a) adopts a provision contained in the Senate amendment permitting the court to approve a waiver of discharge by the debtor. It is anticipated that such a waiver must be in writing executed after the order for relief in a case under chapter 13.

Section 1331 of the House bill and Senate amendment is deleted in the House amendment.

As previously noted, provisions in the House bill pertaining to the U.S. Trustee have been moved to chapter 15 with the section numbers in chapter 15 keyed to corresponding sections in chapters 1, 3, 5, 7, 11, and 13 of title 11.

Title II of the House amendment establishes a new bankruptcy court, a pilot program of U.S. trustees, and contains other amendments to title 28 of the United States Code concerning bankruptcy administration. The provisions of title II of the House amendment are much less complicated than those in title I and therefore a less extensive description is necessary.

Section 201 of the House amendment creates in each judicial district a bankruptcy court that is an adjunct to the circuit court of appeals for the district. The amendment does not specify the number of judges to sit on the bankruptcy court, but instead the determination is to be made by Congress after a study during a 5-year transition period between the present system and a new court. Bankruptcy judges on the new court will be appointed by the President with the advice and consent of the Senate, as are all other Federal judges. Bankruptcy judges will serve for a term of 14 years and receive a salary of $50,000 per year. Removal of a bankruptcy judge during a term may be done only for incompetency, misconduct, neglect of duty, or physical or mental disability.

In order to remove a bankruptcy judge a majority of all the judges of the circuit council of the circuit in which the bankruptcy judge serves must concur. The bankruptcy judge must be given a specification of the charges supporting removal and afforded an opportunity to be heard with respect to the charges. The director of the administrative office of the U.S. courts is authorized to transmit any information in his knowledge supporting removal of a bankruptcy judge to the chief judge of the circuit in which the bankruptcy judge serves. Bankruptcy judges are entitled to substantially increased retirement benefits. Under section 212 of the House amendment at age 65 after 14 years of service at 80 percent of salary for which they contribute 5 percent of their salary per year.

An appeal from a decision of a bankruptcy court will be taken to the district court of the district within which the bankruptcy court is located, unless the circuit council of the circuit in which the bankruptcy court is located orders appeals to be taken to a panel of bankruptcy judges comprised of three bankruptcy judges, or both parties by agreement agree to proceed directly to the circuit court of appeals of the circuit in which the bankruptcy court is located. The subject of appeals is dealt with in sections 201, 236, 237, 238, 240, and 241 of title II of the House amendment which in turn create provisions in sections 160, 1293, 1294, 1334, 1408, and 1482 of title 28 implementing the previously described system of appeals.

Section 224 of title II of the House amendment creates chapter 39 of title 28 relating to a pilot program for U.S. trustees in the Department of Justice. The House amendment establishes a 5-year trial pilot program of U.S. trustees to be supervised by an assistant attorney general in the Department of Justice. Ten pilot programs are established in various geographical areas of the country covering 14 judicial districts. During the 5-year transition period the administrative office of U.S. courts will compare bankruptcy case administration under the U.S. trustee system with administration by the court and the administrative office. At the end of the 5-year transition period Congress will decide whether to fully implement the system of U.S. trustees or to terminate the pilot program.

Under present law bankruptcy judges are required to both resolve disputes and supervise the administration of bankruptcy cases. The main purpose of the U.S. trustee is to remove administrative duties from the bankruptcy judge leaving the bankruptcy judge free to resolve disputes untainted by knowledge of matters unnecessary to a judicial determination. The U.S. trustee is responsible for supervising panels of private trustees in the district or districts covered by the pilot program. The U.S. trustee, rather than the court, in a pilot district will appoint trustees, supervise administration of bankruptcy cases, and exercise any other function prescribed by the Attorney General, such as presiding at first meetings of creditors, related to bankruptcy administration. In addition, in no-asset cases where private trustees may be unwilling to serve or in chapter 13 cases under title 11 where no standing trustee may be willing to serve the U.S. trustee is required to serve as a trustee or standing trustee in the case.

Section 224 of title II creates nine sections in chapter 39 of title 28 providing the details of the U.S. trustee system. During the pilot period the Attorney General must appoint a U.S. trustee for each of the 10-pilot programs covering 14 judicial districts. The U.S. trustee is appointed for a term of 7 years, though if the pilot is terminated after 5 years, his appointment would also terminate. The U.S. trustee is subject to removal for cause by the Attorney General. The maximum annual compensation for a U.S. trustee may not exceed the lowest annual rate of basic pay in GS–16 which is currently $39,500. The U.S. trustee system is patterned after the U.S. attorney system regarding civil service benefits.

Section 233 of title II of the House amendment creates a new chapter 50 of title 28 relating to administrative personnel of the bankruptcy courts. The section entitles each bankruptcy court to appoint a clerk, subject to removal only by the court. In addition the bankruptcy judges may appoint necessary other employees, including law clerks and secretaries, subject to any limitation on the aggregate salaries of the employees imposed by law. Provision is made in the House amendment for bankruptcy court proceedings to be recorded by court reporters or electronic sound recording means or by an employee of the bankruptcy court. The bill assures similar treatment by the administrative office of the U.S. courts concerning administrative personnel in bankruptcy courts and personnel serving in the U.S. district courts.

Section 241 of title II establishes a new chapter 90 of title 28 entitled Court of Appeals in bankruptcy courts. This chapter specifies the jurisdiction and venue in bankruptcy cases and specifies various powers of the bankruptcy courts. The chapter grants the courts of appeals original and exclusive jurisdiction of all cases under title 11. That jurisdiction in turn is completely delegated to the bankruptcy court with the sole exception of punishing for contempts by imprisonment and enjoining other courts. The bankruptcy court is thus given pervasive jurisdiction over all proceedings arising in or relating to bankruptcy cases. In addition, the bankruptcy court is given exclusive jurisdiction of the property of

the estate in a case under title 11. This represents a major improvement over present law where the distinction between summary and plenary jurisdiction often results in wasteful litigation. Venue provisions pertaining to the new bankruptcy court have been described adequately in the House report accompanying H.R. 8200. It is intended that 28 United States Code 1473 provide alternate venues under subsections (a) and (c) in situations where both paragraphs would apply. Section 250 of title II of the House amendment makes clear that a bankruptcy court may issue a writ of habeas corpus and section 1651 of title 28 applies by its terms to enable a bankruptcy court to issue all other writs; 28 United States Code 1481 rounds out the power of a bankruptcy court by making clear that the court has all the powers of a court of equity, law, or admiralty.

Title II of the House amendment contains a number of miscellaneous provisions relating to bankruptcy judges and bankruptcy courts. As Federal judges, bankruptcy judges are entitled to attend circuit conferences and one bankruptcy judge, is placed on the board of the Federal Judicial Center during transition and thereafter. More importantly, three bankruptcy judges will become members of the Judicial Conference of the United States. In the past, the Judicial Conference of the United States has been unable to respond to the increase in bankruptcy cases and the concomitant strains on bankruptcy judges and courts. Bankruptcy judges have not been members of the committee on bankruptcy of the Judicial Conference or the Judicial Conference itself. The House amendment provides for bankruptcy judge representation on the Judicial Conference in order to make sure that the Conference will be sensitive to the problems and needs of bankruptcy courts and bankruptcy judges. Moreover, such representation will insure input into the allocation of judicial resources that is sorely needed.

In the past, the Judicial Conference and the administrative office of the U.S. courts have treated the bankruptcy court and bankruptcy judges in a less favorable manner than the district courts. Representation on the Judicial Conference of the interests of bankruptcy judges in courts will insure that the equitable allocation of judicial resources will be assured.

Finally, title II of the House amendment eliminates the referees' salary and expense fund which was established long ago in an era when the bankruptcy courts were supposed to be self-supporting. The referee salary and expense fund has been running a deficit for several years and deleting it serves to bring the bankruptcy court into line with all other Federal courts.

In order to mitigate the impact on revenues that such a deletion will have, sections 244 and 246 of title II of the House amendment raise filing fees in a manner that treats bankruptcy cases identical with other Federal court cases and comports with dollar values appropriate in 1978 for gaining access to a Federal court.

The last significant change made by title II of the House amendment relates to the Rules of Bankruptcy Procedure currently provided for by 28 United States Code 2075 (1976). Section 247 of title II of the House amendment amends the rulemaking power in order to make clear that rules of bankruptcy procedure may not supersede title 11. Although various sections of title 11 specifically allocate the burden of proof, for example, sections 362(g), 363(e), and 364(d)(2), that allocation is not intended to preclude the Rules of Bankruptcy Procedure from providing the same or a different burden of proof on other issues arising under those sections or otherwise.

I would like to say a few words about a matter of considerable importance—the future of incumbent bankruptcy judges. If we thought that we had the power to do so, we would have required that incumbents be folded into the new positions. This would enable the country to avail itself of the very considerable knowledge and experience of this corps of dedicated people. However, for Congress to do so would probably raise questions of separation of powers. Accordingly, we would, in the strongest terms, urge the President that to the greatest extent possible bankruptcy judges who serve during transition shall be appointed to the new court. This should be done both as a matter of fairness to the incumbents and as a matter of the proper use of a valuable public resource.

Title III of the House amendment contains numerous amendments to other acts related to bankruptcy. On the whole, there are very few differences between the House amendment and provisions contained in the House bill and Senate amendment.

Section 302 of the House amendment represents a compromise between the House bill and Senate amendment on the rulemaking authority of the Commodities Futures Trading Commission.

Section 306 of the House amendment represents a compromise between the House bill and Senate amendment and amends section 3(a)(7) of the Securities Act of 1933 to retain the securities exemption for certificates of indebtedness of a receiver and to cover certificates of indebtedness issued by a trustee or debtor in possession in a case under title 11. This also has the effect of retaining the exemption from the Trust Indenture Act under 15 United States Code 77 ddd (a)(4).

Section 308 of the House amendment is new in light of the recent amendments to the Securities Investor Protection Act of 1970. Section 308(e) contains a provision permitting a specific liquidation to be removed to the bankruptcy court upon the issuance of a protective decree and appointment of a trustee in a SIPA case. Section 308(j) indicates that where the debtor is both a stockbroker and a commodity broker, that SIPA is required to perform the duties of a trustee specified in subchapter IV of chapter 7 of title 11, to liquidate the entire business of the stockbroker-commodity broker.

Section 312 of the House amendment contains a technical amendment in light of amendments made to the Consumer Credit Protection Act and represents a compromise between the House bill and Senate amendment in permitting a bankruptcy to antedate a credit report by not more than 10 years in lieu of the 14 years contained in present law, and 7 years contained in the House bill.

Section 313 of the House amendment amends section 201(e) of the Copyright Act to permit a copyright to become property of the estate in an involuntary case.

Section 314(e) of the House amendment takes the approach contained in the House bill in preference to the approach taken in the Senate amendment. Similarly, the House amendment follows the House bill with respect to sections 314(i) and 314(k) as matters of style. Section 314(f) of the House amendment modifies a provision contained in the House bill and Senate amendment.

Section 321 of the House amendment adopts the position taken in the Senate amendment in preference to the position taken in the House bill. Although the Pension Benefit Guarantee Corporation should be free to have a receiver appointed to liquidate a pension plan, this section makes clear that the bankruptcy court retains ultimate power to insure that such liquidation is conducted in accordance with the administration of the bankruptcy case.

Section 327 of the House amendment adopts a comparable provision contained in the House bill consistent with the policy that all nondischargeable debts should be enumerated in section 523 of title 11.

Section 333 of the House amendment adopts a comparable provision contained in the House bill but omitted in the Senate amendment. The provision permits the United States to finance an insolvent railroad on less than a first lien position. Section 333 is not intended to mean that the U.S. Government should bail out insolvent railroads. Rather, in the event the Secretary desires to finance an insolvent railroad in a case in which a first lien would be disasterous to efforts to reorganize the railroad, the Secretary is given discretion to accommodate the public interest.

Section 334 of the House amendment is identical with a provision contained in the House bill and Senate amendment. The bill codifies chapter XIV of the Bankruptcy Act, as amended by the Rules of Bankruptcy Procedure. Prior to adoption of the Rules of Bankruptcy Procedure, the Maritime Administration had a right to repossess vessels notwithstanding any contrary order of the court under section 703 of the Bankruptcy Act. The automatic stay contained in rules such as chapter XI rule 11–44 superseded that provision. Reinstituting an absolute right for an agency of the Government to seize vessels is unwise and unnecessary. The new concept of adequate protection contained in section 361 of the House amendment may be demanded by a creditor as a precondition to use of collateral under section 363(e) of title 11. Moreover, in a case under chapter 11 of title 11, a secured creditor or lessor of a vessel is entitled to repossession after 60 days under section 1110 of title 11, unless the trustee or debtor in pos-

session cures all prior defaults and gives adequate assurance of future performance. Surely it is reasonable for a debtor in possession to be afforded such an opportunity to rehabilitate a business that may have a dramatic impact on the public interest. A governmental agency should not be able to engage in unilateral action to protect pecuniary rights and thereby imperil the public good.

The House amendment adopts provisions contained in sections 335 and 336 of the House bill regarding exercise of the jurisdiction of bankruptcy courts in Guam and the Virgin Islands.

Title IV of the House amendment represents a compromise between the House bill and Senate amendment with respect to transition.

Section 402 of title IV of the House amendment contains the effective dates for the legislation. In general, the substantive law under title I takes effect October 1, 1979. On that date, the repealer of the Bankruptcy Act contained in section 401 of the transition, together with other laws pertaining thereto, also becomes effective. Certain features of the new bankruptcy court are postponed and will not be effective until April 1, 1984; however, the U.S. trustee system and certain powers of the court are made effective October 1, 1979. Although most of the provisions of title III relating to amendments to other laws take effect on October 1, 1979, some of the more important provisions take effect on the date of enactment of this legislation.

Section 403 of title IV of the House amendment states the general rule that on the effective date of the legislation all cases commenced prior to that date are governed by the Bankruptcy Act as if this legislation had never been enacted, both as a matter of substance and as a matter of procedure. Certain provisions of subchapter IV of title 11 will apply in existing railroad reorganizations. All cases commenced on or after October 1, 1979, will be governed by title 11 as contained in title I of the House amendment and the other provisions in titles II and III effective on that date.

Section 404 of the House amendment specifies the status of the court during transition. Existing bankruptcy judges serving on the date of enactment of the legislation receive an automatic extension of term to March 31, 1984, the effective date of the new court or until a successor is appointed, provided, however if the regular term of a bankruptcy judge would have otherwise expired during transition, a merit screening committee will determine at that time whether a bankruptcy judge should be disqualified from having his term extended during the remainder of the transition period. By March 31, 1984, it is intended that the President will have appointed, subject to the advice and consent of the Senate, bankruptcy judges to serve on the new court. During the transition, U.S. bankruptcy judges are entitled to appoint a clerk, necessary other employees, including law clerks and secretaries, and court reporters the same as the judges of the U.S. Bankruptcy Court that will take effect April 1, 1984. Also, if the Judicial Conference determines the number of bankruptcy judges to be inadequate during the transition period, the Conference may increase, but may not decrease, the number of judges needed. In the unlikely event that a decrease of bankruptcy judges is required, it is expected that natural attrition from retirement and other causes will suffice to reduce the number of bankruptcy judges. The salary of a bankruptcy judge is increased to $50,000 on the date of enactment.

Section 406 of title IV of the House amendment indicates that during transition, the director of the administrative office of U.S. courts will conduct a study and make recommendations concerning the number of bankruptcy judges to serve on the new court after March 31, 1984. The results of this study must be reported to Congress before January 3, 1983.

Section 407 of title IV of the House amendment indicates that during transition, an advisory committee of not fewer than seven bankruptcy judges must be appointed by the director to advise him with respect to matters arising during transition or relevant thereto. Bankruptcy judges are also to be placed on committees of the Judiciary Conference concerned with the administration of bankruptcy during the transition, as indicated in section 407(b) of title IV of the House amendment.

Section 408 of the House amendment establishes a U.S. trustee pilot system to take effect October 1, 1979. Effective on the date of enactment the Attorney General will be responsible for appointing an assistant attorney general to supervise the bankruptcy division of the Department of Justice. The assistant attorney general should immediately begin recruiting U.S. trustees for 10 pilot programs covering 14 districts as enumerated in chapter 15. The Attorney General, with advice from the assistant attorney general for the bankruptcy division, should begin to formulate standards for panels of private trustees and standing trustees as required by title II of this legislation. In districts not covered by the pilot program, the director of the administrative office of the U.S. courts should begin to perform comparable functions effective on the date of enactment so that by October 1, 1979, panels of trustees under the supervision of the director of the administrative office of U.S. courts will be established.

The Attorney General will conduct a study of the U.S. trustee system during the transition and report the results to Congress, among others, no later than January 3, 1980, and annually thereafter during the transition period. In the event Congress is not persuaded to extend the U.S. trustee system, section 408(c) contains a sunset provision abolishing all pilot programs effective April 1, 1984, and abolishing administrative machinery created in the Department of Justice on that date as well.

Having completed a general description of the amendment the provisions of the House amendment which deal directly with, or affect, the payment or collection of taxes in cases under title 11 will be discussed in detail.

Section 108. Extension of time: The House amendment adopts section 108(c)(1) of the Senate amendment which expressly includes any special suspensions of statutes of limitation periods on collection outside bankruptcy when assets are under the authority of a court. For example, section 6503(b) of the Internal Revenue Code suspends collection of tax liabilities while the debtor's assets are in the control or custody of a court, and for 6 months thereafter. By adopting the language of the Senate amendment, the House amendment insures not only that the period for collection of the taxes outside bankruptcy will not expire during the title 11 proceedings, but also that such period will not expire until at least 6 months thereafter, which is the minimum suspension period provided by the Internal Revenue Code.

Section 346. Special tax provisions: State and local rules. This section provides special tax provisions dealing with the treatment, under State or local, but not Federal, tax law, of the method of taxing bankruptcy estates of individuals, partnerships, and corporations; survival and allocation of tax attributes between the bankrupt and the estate; return filing requirements; and the tax treatment of income from discharge of indebtedness. The Senate bill removed these rules pending adoption of Federal rules on these issues in the next Congress. The House amendment returns the State and local tax rules to section 346 so that they may be studied by the bankruptcy and tax bars who may wish to submit comments to Congress.

Withholding rules: Both the House bill and Senate amendment provide that the trustee is required to comply with the normal withholding rules applicable to the payment of wages and other payments. The House amendment retains this rule for State and local taxes only. The treatment of withholding of Federal taxes will be considered in the next Congress.

Section 726 of the Senate amendment provides that the rule requiring pro rata payment of all expenses within a priority category does not apply to the payment of amounts withheld by a bankruptcy trustee. The purpose of this rule was in insure that the trustee pay the full amount of the withheld taxes to the appropriate governmental tax authority. The House amendment deletes this rule as unnecessary because the existing practice conforms essentially to that rule. If the trustee fails to pay over in full amounts that he withheld, it is a violation of his trustee's duties which would permit the taxing authority to sue the trustee on his bond.

When taxes considered "incurred": The Senate amendment contained rules of general application dealing with when a tax is "incurred" for purposes of the various tax collection rules affecting the debtor and the estate. The House amendment adopts the substance of these rules and transfers them to section 507 of title 11.

Penalty for failure to pay tax: The Senate amendment contains a rule which relieves the debtor and the trustee from certain tax penalties for failure to make timely payment of a tax to the extent that the bankruptcy rules pre-

vent the trustee or the debtor from paying the tax on time. Since most of these penalities relate to Federal taxes, the House amendment deletes these rules pending consideration of Federal tax rules affecting bankruptcy in the next Congress. Section 362. Automatic stay: Sections 362(b)(8) and (9) contained in the Senate amendment are largely deleted in the House amendment. Those provisions add to the list of actions not stayed (a) jeopardy assessments, (b) other assessments, and (c) the issuance of deficiency notices. In the House amendment, jeopardy assessments against property which ceases to be property of the estate is already authorized by section 362(c)(1). Other assessments are specifically stayed under section 362(a)(6), while the issuance of a deficiency notice is specifically permitted. Stay of the assessment and the permission to issue a statutory notice of a tax deficiency will permit the debtor to take his personal tax case to the Tax Court, if the bankruptcy judge authorizes him to do so (as explained more fully in the discussion of section 505.)

Section 502. Allowance of Claims or Interests: The House amendment adopts section 502(b)(9) of the House bill which disallows any tax claim resulting from a reduction of the Federal Unemployment Tax Act (FUTA) credit (sec. 3302 of the Internal Revenue Code) on account of a tardy contribution to a State unemployment fund if the contribution is attributable to ways or other compensation paid by the debtor before bankruptcy. The Senate amendment allowed this reduction, but would have subordinated it to other claims in the distribution of the estate's assets by treating it as a punitive (nonpecuniary loss) penalty. The House amendment would also not bar reduction of the FUTA credit on account of a trustee's late payment of a contribution to a State unemployment fund if the contribution was attributable to a trustee's payment of compensation earned from the estate.

Section 505. Determinations of tax liability: Authority of bankruptcy court to rule on merits of tax claims.—The House amendment authorizes the bankruptcy court to rule on the merits of any tax claim involving an unpaid tax, fine, or penalty relating to a tax, or any addition to a tax, of the debtor or the estate. This authority applies, in general, whether or not the tax, penalty, fine, or addition to tax had been previously assessed or paid. However, the bankruptcy court will not have jurisdiction to rule on the merits of any tax claim which has been previously adjudicated, in a contested proceeding, before a court of competent jurisdiction. For this purpose, a proceeding the U.S. Tax Court is to be considered "contested" if the debtor filed a petition in the Tax Court by the commencement of the case and the Internal Revenue Service had filed an answer to the petition. Therefore, if a petition and answer were filed in the Tax Court before the title II petition was filed, and if the debtor later defaults in the Tax Court, then, under res judicata principles, the bankruptcy court could not then rule on the debtor's or the estate's liability for the same taxes.

The House amendment adopts the rule of the Senate bill that the bankruptcy court can, under certain conditions, determine the amount of tax refund claim by the trustee. Under the House amendment, if the refund results from an offset or counterclaim to a claim or request for payment by the Internal Revenue Service, or other tax authority, the trustee would not first have to file an administrative claim for refund with the tax authority.

However, if the trustee requests a refund in other situations, he would first have to submit an administrative claim for the refund. Under the House amendment, if the Internal Revenue Service, or other tax authority does not rule on the refund claim within 120 days, then the bankruptcy court may rule on the merits of the refund claim.

Under the Internal Revenue Code, a suit for refund of Federal taxes cannot be filed until 6 months after a claim for refund is filed with the Internal Revenue Service (sec. 6532(a)). Because of the bankruptcy aim to close the estate as expeditiously as possible, the House amendment shortens to 120 days the period for the Internal Revenue Service to decide the refund claim.

The House amendment also adopts the substance of the Senate bill rule permitting the bankruptcy court to determine the amount of any penalty, whether punitive or pecuniary in nature, relating to taxes over which it has jurisdiction.

Jurisdiction of the tax court in bankruptcy cases: The Senate amendment provided a detailed series of rules concerning the jurisdiction of the U.S. Tax Court, or similar State or local administrative tribunal to determine personal tax liabilities of an individual debtor. The House amendment deletes these specific rules and relies on procedures to be derived from broad general powers of the bankruptcy court.

Under the House amendment, as under present law, a corporation seeking reorganization under chapter 11 is considered to be personally before the bankruptcy court for purposes of giving that court jurisdiction over the debtor's personal liability for a nondischargeable tax.

The rules are more complex where the debtor is an individual under chapter 7, 11, or 13. An individual debtor or the tax authority can, as under section 17c of the present Bankruptcy Act, file a request that the bankruptcy court determine the debtor's personal liability for the balance of any nondischargeable tax not satisfied from assets of the estate. The House amendment intends to retain these procedures and also adds a rule staying commencement or continuation of any proceeding in the Tax Court after the bankruptcy petition is filed, unless and until that stay is lifted by the bankruptcy judge under section 362(a)(8). The House amendment also stays assessment as well as collection of a prepetition claim against the debtor (sec. 362(a)(6)). A tax authority would not, however, be stayed from issuing a deficiency notice during the bankruptcy case (sec. (b)(7)). The Senate amendment repealed the existing authority of the Internal Revenue Service to make an immediate assessment of taxes upon bankruptcy (sec. 6871(a) of the code). See section 321 of the Senate bill. As indicated, the substance of that provision, also affecting State and local taxes, is contained in section 362(a)(6) of the House amendment. The statute of limitations is tolled under the House amendment while the bankruptcy case is pending.

Where no proceeding in the Tax Court is pending at the commencement of the bankruptcy case, the tax authority can, under the House amendment, file a claim against the estate for a prepetition tax liability and may also file a request that the bankruptcy court hear arguments and decide the merits of an individual debtor's personal liability for the balance of any nondischargeable tax liability not satisfied from assets of the estate. Bankruptcy terminology refers to the latter type of request as a creditor's complaint to determine the dischargeability of a debt. Where such a complaint is filed, the bankruptcy court will have personal jurisdiction over an individual debtor, and the debtor himself would have no access to the Tax Court, or to any other court, to determine his personal liability for nondischargeable taxes.

If a tax authority decides not to file a claim for taxes which would typically occur where there are few, if any, assets in the estate, normally the tax authority would also not request the bankruptcy court to rule on the debtor's personal liability for a nondischargeable tax. Under the House amendment, the tax authority would then have to follow normal procedures in order to collect a nondischargeable tax. For example, in the case of nondischargeable Federal income taxes, the Internal Revenue Service would be required to issue a deficiency notice to an individual debtor, and the debtor could then file a petition in the Tax Court—or a refund suit in a district court—as the forum in which to litigate his personal liability for a nondischargeable tax.

Under the House amendment, as under present law, an individual debtor can also file a complaint to determine dischargeability. Consequently, where the tax authority does not file a claim or a request that the bankruptcy court determine dischargeability of a specific tax liability, the debtor could file such a request on his own behalf, so that the bankruptcy court would then determine both the validity of the claim against assets in the estate and also the personal liability of the debtor for any nondischargeable tax.

Where a proceeding is pending in the Tax Court at the commencement of the bankruptcy case, the commencement of the bankruptcy case automatically stays further action in the Tax Court case unless and until the stay is lifted by the bankruptcy court. The Senate amendment repealed a provision of the Internal Revenue case barring a debtor from filing a petition in the Tax Court after commencement of a bankruptcy case

(sec. 6871(b) of the code). See section 321 of the Senate bill. As indicated earlier, the equivalent of the code amendment is embodied in section 362 (a)(8) of the House amendment, which automatically stays commencement or continuation of any proceeding in the Tax Court until the stay is lifted or the case is terminated. The stay will permit sufficient time for the bankruptcy trustee to determine if he desires to join the Tax Court proceeding on behalf of the estate. Where the trustee chooses to join the Tax Court proceeding, it is expected that he will seek permission to intervene in the Tax Court case and then request that the stay on the Tax Court proceeding be lifted. In such a case, the merits of the tax liability will be determined by the Tax Court, and its decision will bind both the individual debtor as to any taxes which are nondischargeable and the trustee as to the tax claim against the estate.

Where the trustee does not want to intervene in the Tax Court, but an individual debtor wants to have the Tax Court determine the amount of his personal liability for nondischargeable taxes, the debtor can request the bankruptcy court to lift the automatic stay on existing Tax Court proceedings. If the stay is lifted and the Tax Court reaches its decision before the bankruptcy court's decision on the tax claim against the estate, the decision of the Tax Court would bind the bankruptcy court under principles of res judicata because the decision of the Tax Court affected the personal liability of the debtor. If the trustee does not wish to subject the estate to the decision of the Tax Court if the latter court decides the issues before the bankruptcy court rules, the trustee could resist the lifting of the stay on the existing Tax Court proceeding. If the Internal Revenue Service had issued a deficiency notice to the debtor before the bankruptcy case began, but as of the filing of the bankruptcy petition the 90-day period for filing in the Tax Court was still running, the debtor would be automatically stayed from filing a petition in the Tax Court. If either the debtor or the Internal Revenue Service then files a complaint to determine dischargeability in the bankruptcy court, the decision of the bankruptcy court would bind both the debtor and the Internal Revenue Service.

The bankruptcy judge could, however, lift the stay on the debtor to allow him to petition the Tax Court, while reserving the right to rule on the tax authority's claim agains assets of the estate. The bankruptcy court could also, upon request by the trustee, authorize the trustee to intervene in the Tax Court for purposes of having the estate also governed by the decision of the Tax Court.

In essence, under the House amendment, the bankruptcy judge will have authority to determine which court will determine the merits of the tax claim both as to claims against the estate and claims against the debtor concerning his personal liability for nondischargeable taxes. Thus, if the Internal Revenue Service, or a State or local tax authority, files a petition to determine dischargeability, the bankruptcy judge can either rule on the merits of the claim and continue the stay on any pending Tax Court proceeding or lift the stay on the Tax Court and hold the dischargeability complaint in abeyance. If he rules on the merits of the complaint before the decision of the Tax Court is reached, the bankruptcy court's decision would bind the debtor as to nondischargeable taxes and the Tax Court would be governed by that decision under principles of res judicata. If the bankruptcy judge does not rule on the merits of the complaint before the decision of the Tax Court is reached, the bankruptcy court will be bound by the decision of the Tax Court as it affects the amount of any claim against the debtor's estate.

If the Internal Revenue Service does not file a complaint to determine dischargeability and the automatic stay on a pending Tax Court proceeding is not lifted, the bankruptcy court could determine the merits of any tax claim against the estate. That decision will not bind the debtor personally because he would not have been personally before the bankruptcy court unless the debtor himself asks the bankruptcy court to rule on his personal liability. In any such situation where no party filed a dischargeability petition, the debtor would have access to the Tax Court to determine his personal liability for a nondischargeable tax debt. While the Tax Court in such a situation could take into account the ruling of the bankruptcy court on claims against the estate in deciding the debtor's personal liability, the bankruptcy court's ruling would not bind the Tax Court under principles of res judicata, because the debtor, in that situation, would not have been personally before the bankruptcy court.

If neither the debtor nor the Internal Revenue Service files a claim against the estate or a request to rule on the debtor's personal liability, any pending tax court proceeding would be stayed until the closing of the bankruptcy case, at which time the stay on the tax court would cease and the tax court case could continue for purposes of deciding the merits of the debtor's personal liability for nondischargeable taxes.

Audit of trustee's returns: Under both bills, the bankruptcy court could determine the amount of any administrative period taxes. The Senate amendment, however, provided for an expedited audit procedure, which was mandatory in some cases. The House amendment (sec. 505(b)), adopts the provision of the House bill allowing the trustee discretion in all cases whether to ask the Internal Revenue Service, or State or local tax authority for a prompt audit of his returns on behalf of the estate. The House amendment, however, adopts the provision of the Senate bill permitting a prompt audit only on the basis of tax returns filed by the trustee for completed taxable periods. Procedures for a prompt audit set forth in the Senate bill are also adopted in modified form.

Under the procedure, before the case can be closed, the trustee may request a tax audit by the local, State or Federal tax authority of all tax returns filed by the trustee. The taxing authority would have to notify the trustee and the bankrupty court within 60 days whether it accepts returns or desires to audit the returns more fully. If an audit is conducted, the taxing authority would have to notify the trustee of tax deficiency within 180 days after the original and it request, subject to extensions of time if the bankruptcy court approves. If the trustee does not agree with the results of the audit, the trustee could ask the bankruptcy court to resolve the dispute. Once the trustee's tax liability for administration period taxes has thus been determined, the legal effect in a case under chapter 7 or 11 would be to discharge the trustee and any predecessor of the trustee, and also the debtor, from any further liability for these taxes.

The prompt audit procedure would not be available with respect to any tax liability as to which any return required to be filed on behalf of the estate is not filed with the proper tax authority. The House amendment also specifies that a discharge of the trustee or the debtor which would otherwise occur will not be granted, or will be void if the return filed on behalf of the estate reflects fraud or material representation of facts.

For purposes of the above prompt audit procedures, it is intended that the tax authority with which the request for audit is to be filed is, as to Federal taxes, the office of the District Director in the district where the bankruptcy case is pending.

Under the House amendment, if the trustee does not request a prompt audit, the debtor would not be discharged from possible transferee liability if any assets are returned to the debtor.

Assessment after decision: As indicated above, the commencement of a bankruptcy case automatically stays assessment of any tax (sec. 362(a)(6)). However, the House amendment provides (sec. 505(c)) that if the bankruptcy court renders a final judgment with regard to any tax (under the rules discussed above), the tax authority may then make an assessment (if permitted to do so under otherwise applicable tax law) without waiting for termination of the case or confirmation of a reorganization plan.

Trustee's authority to appeal tax cases: The equivalent provision in the House bill (sec. 505(b)) and in the Senate bill (sec. 362(h)) authorizing the trustee to prosecute an appeal or review of a tax case are deleted as unnecessary. Section 541(a) of the House amendment provides that property of the estate is to include all legal or equitable interests of the debtor. These interests include the debtor's causes of action, so that the specific provisions of the House and Senate bills are not needed.

Section 506. Determination of Secured Status: The House amendment deletes section 506(d)(3) of the Senate amendment, which insures that a tax lien securing a nondischargeable tax claim is not voided because a tax authority with notice or knowledge of the bankruptcy

case fails to file a claim for the liability (as it may elect not to do, if it is clear there are insufficient assets to pay the liability). Since the House amendment retains section 506(d) of the House bill that a lien is not voided unless a party in interest has requested that the court determine and allow or disallow the claim, provision of the Senate amendment is not necessary.

Sec. 507. Priorities: Under the House amendment, taxes receive priority as follows:

First. Administration expenses: The amendment generally follows the Senate amendment in providing expressly that taxes incurred during the administration of the estate share the first priority given to administrative expenses generally. Among the taxes which receives first priority, as defined in section 503, are the employees' and the employer's shares of employment taxes on wages earned and paid after the petition is filed. Section 503(b)(1) also includes in administration expenses a tax liability arising from an excessive allowance by a tax authority of a "quickie refund" to the estate. (In the case of Federal taxes, such refunds are allowed under special rules based on net operating loss carrybacks (sec. 6411 of the Internal Revenue Code)).

An exception is made to first priority treatment for taxes incurred by the estate with regard to the employer's share of employment taxes on wages earned from the debtor before the petition but paid from the estate after the petition has been filed. In this situation, the employer's tax receives either sixth priority or general claim treatment.

The House amendment also adopts the provisions of the Senate amendment which include in the definition of administrative expenses under section 503 any fine, penalty (including "additions to tax" under applicable tax laws) or reduction in credit imposed on the estate.

Seond. "Involuntary gap" claims: "Involuntary gap" creditors are granted second priority by paragraph (2) of section 507(a). This priority includes tax claims arising in the ordinary course of the debtor's business or financial affairs after he has been placed involuntarily in bankruptcy but before a trustee is appointed or before the order for relief.

Third. Certain taxes on prepetition wages: Wage claims entitled to third priority are for compensation which does not exceed $2,000 and was earned during the 90 days before the filing of the bankruptcy petition or the cessation of the debtor's business. Certain employment taxes receive third priority in payment from the estate along with the payment of wages to which the taxes relate. In the case of wages earned before the filing of the petition, but paid by the trustee (rather than by the debtor) after the filing of the petition, claims or the employees' share of the employment taxes (withheld income taxes and the employees' share of the social security or railroad retirement tax) receive third priority to the extent the wage claims themselves are entitled to this priority.

In the case of wages earned from and paid by the debtor before the filing of the petition, the employer's share of the employment taxes on these wages paid by the debtor receives sixth priority or, if not entitled to that priority, are treated only as general claims. Under the House amendment, the employer's share of employment taxes on wages earned by employees of the debtor, but paid by the trustee after the filing of the bankruptcy petition, will also receive sixth priority to the extent that claims for the wages receive third priority. To the extent the claims for wages do not receive third priority, but instead are treated only as general claims, claims for the employer's share of the employment taxes attributable to those wages will also be treated as general claims. In calculating the amounts payable as general wage claims, the trustee must pay the employer's share of employment taxes on such wages.

Sixth priority. The House amendment modifies the provisions of both the House bill and Senate amendment in the case of sixth priority taxes. Under the amendment, the following Federal, State and local taxes are included in the sixth priority:

First. Income and gross receipts taxes incurred before the date of the petition for which the last due date of the return, including all extensions of time granted to file the return, occurred within 3 years before the date on which the petition was filed, or after the petition date. Under this rule, the due date of the return, rather than the date on which the taxes were assessed, determines the priority.

Second. Income and gross receipts taxes assessed at any time within 240 days before the petition date. Under this rule, the date on which the governmental unit assesses the tax, rather than the due date of the return, determines the priority.

If, following assessment of a tax, the debtor submits an offer in compromise to the governmental unit, the House amendment provides that the 240-day period is to be suspended for the duration of the offer and will resume running after the offer is withdrawn or rejected by the governmental unit, but the tax liability will receive priority if the title 11 petition is filed during the balance of the 240-day period or during a minimum of 30 days after the offer is withdrawn or rejected. This rule modifies a provision of the Senate amendment dealing specifically with offers in compromise. Under the modified rule, if, after the assessment, an offer in compromise is submitted by the debtor and is still pending (without having been accepted or rejected) at the date on which a title 11 petition is filed, the underlying liability will receive sixth priority. However, if an assessment of a tax liability is made but the tax is not collected within 240 days, the tax will not receive priority under section 507(a)(6)(A)(i) and the debtor cannot revive a priority for that tax by submitting an offer in compromise.

Third. Income and gross receipts taxes not assessed before the petition date but still permitted, under otherwise applicable tax laws, to be assessed. Thus, for example, a prepetition tax liability is to receive sixth priority under this rule if, under the applicable statute of limitations, the tax liability can still be assessed by the tax authority. This rule also covers situations referred to in section 507(a)(6)(B)(ii) of the Senate amendment where the assessment or collection of a tax was prohibited before the petition pending exhaustion of judicial or administrative remedies, except that the House amendment eliminates the 300-day limitation of the Senate bill. So, for example, if before the petition a debtor was engaged in litigation in the Tax Court, during which the Internal Revenue Code bars the Internal Revenue Service from assessing or collecting the tax, and if the tax court decision is made in favor of the Service before the petition under title 11 is filed, thereby lifting the restrictions on assessment and collection, the tax liability will receive sixth priority even if the tax authority does not make an assessment within 300 days before the petition (provided, of course, that the statute of limitations on assessment has not expired by the petition date).

In light of the above categories of the sixth priority, and tax liability of the debtor (under the Internal Revenue Code or State or local law) as a transferee of property from another person will receive sixth priority without the limitations contained in the Senate amendment so long as the transferee liability had not been assessed by the tax authority by the petition date but could still have been assessed by that date under the applicable tax statute of limitations or, if the transferee liability had been assessed before the petition, the assessment was made no more than 240 days before the petition date.

Also in light of the above categories, the treatment of prepetition tax liabilities arising from an excessive allowance to the debtor of a tentative carryback adjustment, such as a "quickie refund" under section 6411 of the Internal Revenue Code, is revised as follows: If the tax authority has assessed the additional tax before the petition, the tax liability will receive priority if the date of assessment was within 240 days before the petition date. If the tax authority had not assessed the additional tax by the petition, the tax liability will still receive priority so long as, on the petition date, assessment of the liability is not barred by the statute of limitations.

Fourth. Any property tax assessed before the commencement of the case and last payable without penalty within 1 year before the petition, or thereafter.

Fifth. Taxes which the debtor was required by law to withhold or collect from others and for which he is liable in any capacity, regardless of the age of the tax claims. This category covers the so-called "trust fund" taxes, that is, income taxes which an employer is required to withhold from the pay of his employees, and the employees' share of social security taxes.

In addition, this category includes the liability of a responsible officer under the Internal Revenue Code (sec. 6672) for in-

come taxes or for the employees' share of social security taxes which that officer was responsible for withholding from the wages of employees and paying to the Treasury, although he was not himself the employer. This priority will operate when a person found to be a responsible officer has himself filed in title 11, and the priority will cover the debtor's responsible officer liability regardless of the age of the tax year to which the tax relates. The U.S. Supreme Court has interpreted present law to require the same result as will be reached under this rule. *U.S.* v. *Sotelo*, 436 U.S. — (1978).

This category also includes the liability under section 3505 of the Internal Revenue Code of a taxpayer who loans money for the payment of wages or other compensation.

Sixth, the employer's share of employment taxes on wages paid before the petition and on third-priority wages paid postpetition by the estate. The priority rules under the House amendment governing employment taxes can thus be summarized as follows: Claims for the employees' shares of employment taxes attributable to wages both earned and paid before the filing of the petition are to receive sixth priority. In the case of employee wages earned, but not paid, before the filing of the bankruptcy petition, claims for the employees' share of employment taxes receive third priority to the extent the wages themselves receive third priority. Claims which relate to wages earned before the petition, but not paid before the petition (and which are not entitled to the third priority under the rule set out above), will be paid as general claims. Since the related wages will receive no priority, the related employment taxes would also be paid as nonpriority general claims.

The employer's share of the employment taxes on wages earned and paid before the bankruptcy petition will receive sixth priority to the extent the return for these taxes was last due (including extensions of time) within 3 years before the filing of the petition, or was due after the petition was filed). Older tax claims of this nature will be payable as general claims. In the case of wages earned by employees before the petition, but actually paid by the trustee (as claims against the estate) after the title 11 case commenced, the employer's share of the employment taxes on third priority wages will be payable as sixth priority claims and the employer's taxes on prepetition wages which are treated only as general claims will be payable only as general claims. In calculating the amounts payable as general wage claims, the trustee must pay the employer's share of employment taxes on such wages. The House amendment thus deletes the provision of the Senate amendment that certain employer taxes receive third priority and are to be paid immediately after payment of third priority wages and the employees' shares of employment taxes on those wages.

In the case of employment taxes relating to wages earned and paid after the petition, both the employees' shares and the employer's share will receive first priority as administration expenses of the estate.

Seventh. Excise taxes on transactions for which a return, if required, is last due, under otherwise applicable law or under any extension of time to file the return, within 3 years before the petition was filed, or thereafter. If a return is not required with regard to a particular excise tax, priority is given if the transaction or event itself occurred within 3 years before the date on which the title 11 petition was filed. All Federal, State or local taxes generally considered or expressly treated as excises are covered by this category, including sales taxes, estate and gift taxes, gasoline and special fuel taxes, and wagering and truck taxes.

Eighth. Certain unpaid customs duties. The House amendment covers in this category duties on imports entered for consumption within 1 year before the filing of the petition, but which are still unliquidated on the petition date; duties covered by an entry liquidated or reliquidated within 1 year before the petition date; and any duty on merchandise entered for consumption within 4 years before the petition but not liquidated on the petition date, if the Secretary of the Treasury or his delegate certifies that duties were not liquidated because of possible assessment of antidumping or countervailing duties or fraud penalties.

For purposes of the above priority rules, the House amendment adopts the provision of the Senate bill that any tax liability which, under otherwise applicable tax law, is collectible in the form of a "penalty," is to be treated in the same manner as a tax liability. In bankruptcy terminology, such tax liabilities are referred to as pecuniary loss penalties. Thus, any tax liability which under the Internal Revenue Code or State or local tax law is payable as a "penalty," in addition to the liability of a responsible person under secton 6672 of the Internal Revenue Code, will be entitled to the priority which the liability would receive if it were expressly labeled as a "tax" under the applicable tax law. However, a tax penalty which is punitive in nature is given subordinated treatment under section 726(a)(4).

The House amendment also adopts the provision of the Senate amendment that a claim arising from an erroneous refund or credit of tax, other than a "quickie refund," is to receive the same priority as the tax to which the refund or credit relates.

The House amendment deletes the express provision of the Senate amendment that a tax liability is to receive sixth priority if it satisfies any one of the subparagraphs of section 507(a)(6) even if the liability fails to satisfy the terms of one or more other subparagraphs. No change of substance is intended by the deletion, however, in light of section 102(5) of the House amendment, providing a rule of construction that the word "or" is not intended to be exclusive.

The House amendment deletes from the express priority categories of the Senate amendment the priority for a debtor's liability as a third party for failing to surrender property or to pay an obligation in response to a levy for taxes of another, and the priority for amounts provided for under deferred payment agreements between a debtor and the tax authority.

The House amendment also adopts the substance of the definition in section 346 (a) the Senate amendment of when taxes are to be considered "incurred" except that the House amendment applies these definitions solely for purposes of determining which category of section 507 tests the priority of a particular tax liability. Thus, for example, the House amendment contains a special rule for the treatment of taxes under the 45-day exception to the preference rules under section 547 and the definitions of when a tax is incurred for priority purposes are not to apply to such preference rules. Under the House amendment, for purposes of the priority rules, a tax on income for a particular period is to be considered "incurred" on the last day of the period. A tax on or measured by some event, such as the payment of wages or a transfer by reason of death or gift, or an excise tax on a sale or other transaction, is to be considered "incurred" on the date of the transaction or event.

Section 510. Subordination: Since the House amendment authorizes subordination of claims only under principles of equitable subordination, and thus incorporates principles of existing case law, a tax claim would rarely be subordinated under this provision of the bill.

Section 522. Exemptions: Section 522 (c)(1) of the House amendment adopts a provision contained in the House bill that dischargeable taxes cannot be collected from exempt assets. This changes present law, which allows collection of dischargeable taxes from exempt property, a rule followed in the Senate amendment. Nondischargeable taxes, however, will continue to the collectable out of exempt property. It is anticipated that in the next session Congress will reveiw the exemptions from levy currently contained in the Internal Revenue Code with a view to increasing the exemptions to more realistic levels.

Section 523. Nondischargeable debts: The House amendment retains the basic categories of nondischargeable tax liabilities contained in both bills, but restricts the time limits on certain nondischargeable taxes. Under the amendment, nondischargeable taxes cover taxes entitled to priority under section 507(a)(6) of title 11 and, in the case of individual debtors under chapters 7, 11, or 13, tax liabilities with respect to which no required return had been filed or as to which a late return had been filed if the return became last due, including extensions, within 2 years before the date of the petition or became due after the petition, or as to which the debtor made a fraudulent return, entry or invoice or fraudulently attempted to evade or defeat the tax.

In the case of individuals in liquidation under chapter 7 or in reorganization under chapter 11 if title 11, section 1141(d)(2) incorporates by reference the exceptions to discharge continued in section 523. Different rules concerning

the discharge of taxes where a partnership or corporation reorganizes under chapter 11, apply under section 1141.

The House amendment also deletes the reduction rule contained in section 523(e) of the Senate amendment. Under that rule, the amount of an otherwise nondischargeable tax liability would be reduced by the amount which a governmental tax authority could have collected from the debtor's estate if it had filed a timely claim against the estate but which it did not collect because no such claim was filed. This provision is deleted in order not to effectively compel a tax authority to file claim against the estate in "no asset" cases, along with a dischargeability petition. In no-asset cases, therefore, if the tax authority is not potentially penalized by failing to file a claim, the debtor in such cases will have a better opportunity to choose the prepayment forum, bankruptcy court or the Tax Court, in which to litigate his personal liability for a nondischargeable tax.

The House amendment also adopts the Senate amendment provision limiting the nondischargeability of punitive tax penalties, that is, penalties other than those which represent collection of a principal amount of tax liability through the form of a "penalty." Under the House amendment, tax penalties which are basically punitive in nature are to be nondischargeable only if the penalty is computed by reference to a related tax libility which is nondischargeable or, if the amount of the penalty is not computed by reference to a tax liability, the transaction or event giving rise to the penalty occurred during the 3-year period ending on the date of the petition.

Section 541. Property of the estate: The Senate amendment provided that property of the estate does not include amounts held by the debtor as trustee and any taxes withheld or collected from others before the commencement of the case. The House amendment removes these two provisions. As to property held by the debtor as a trustee, the House amendment provides that property of the estate will include whatever interest the debtor held in the property at the commencement of the case. Thus, where the debtor held only legal title to the property and the beneficial interest in that property belongs to another, such as exists in the case of property held in trust, the property of the estate includes the legal title, but not the beneficial interest in the property.

As to withheld taxes, the House amendment deletes the rule in the Senate bill as unnecessary since property of the estate does not include the beneficial interest in property held by the debtor as a trustee. Under the Internal Revenue Code of 1954 (section 7501), the amounts of withheld taxes are held to be a special fund in trust for the United States. Where the Internal Revenue Service can demonstrate that the amounts of taxes withheld are still in the possession of the debtor at the commencement of the case, then if a trust is created, those amounts are not property of the estate. *Compare In re Shakesteers Coffee Shops,* 546 F.2d 821 (9th Cir. 1976) *with In re Glynn Wholesale Building Materials, Inc.* (S.D. Ga. 1978) and *In re Progress Tech Colleges, Inc.,* 42 Aftr 2d 78–5573 (S.D. Ohio 1977).

Where it is not possible for the Internal Revenue Service to demonstrate that the amounts of taxes withheld are still in the possession of the debtor at the commencement of the case, present law generally includes amounts of withheld taxes as property of the estate. *See, e.g., United States* v. *Randall,* 401 U.S. 513 (1973) and *In re Tamasha Town and Country Club,* 483 F.2d 1377 (9th Cir. 1973). Nonetheless, a serious problem exists where "trust fund taxes" withheld from others are held to be property of the estate where the withheld amounts are commingled with other assets of the debtor. The courts should permit the use of reasonable assumptions under which the Internal Revenue Service, and other tax authorities, can demonstrate that amounts of withheld taxes are still in the possession of the debtor at the commencement of the case. For example, where the debtor had commingled that amount of withheld taxes in his general checking account, it might be reasonable to assume that any remaining amounts in that account on the commencement of the case are the withheld taxes. In addition, Congress may consider future amendments to the Internal Revenue Code making clear that amounts of withheld taxes are held by the debtor in a trust relationship and, consequently, that such amounts are not property of the estate.

Section 545. Statutory liens: The House amendment retains the provision of section 545(2) of the House bill giving the trustee in a bankruptcy case the same power which a bona fide purchaser has to take over certain kinds of personal property despite the existence of a tax lien covering that property. The amendment thus retains present law, and deletes section 545(b) of the Senate amendment which would have no longer allowed the trustee to step into the shoes of a bona fide purchaser for this purpose.

Section 547. Preferences: The House amendment deletes from the category of transfers on account of antecedent debts which may be avoided under the preference rules, section 547(b)(2), the exception in the Senate amendment for taxes owed to governmental authorities. However, for purposes of the "ordinary course" exception to the preference rules contained in section 547(c)(2), the House amendment specifies that the 45-day period referred to in section 547(c)(2)(B) is to begin running, in the case of taxes from the last due date, including extensions, of the return with respect to which the tax payment was made.

Section 724. Treatment of certain liens: The House amendment modifies present law by requiring the subordination of tax liens on both real and personal property to the payment of claims having a priority above the sixth priority. This means that assets are to be distributed from the debtor's estate to pay higher priority claims before the tax claims are paid, even though the tax claims are properly secured. Under present law and the Senate amendment only tax liens on personal property, but not on real property, are subordinated to the payment of claims having a priority above the priority for tax claims.

Section 728. Special tax provisions: Liquidations: The House bill contained special tax provisions concerning the treatment of liquidations cases for State and local tax laws. These provisions deal with the taxable years of an individual debtor, return-filing requirements, and rules allocating State and local tax liabilities and refunds between a bankrupt partner and the partnership of which he is a member. The Senate amendment deleted these rules pending consideration of the Federal tax treatment of bankruptcy in the next Congress. The House amendment returns these provisions to the bill in order that they may be studied by the bankruptcy and tax bars who may wish to submit comments to Congress in connection with its consideration of these provisions in the next Congress.

Sections 1129, 1141. Payment of taxes in reorganizations: Under the provisions of section 1141 as revised by the House amendment, an individual in reorganization under chapter 11 will not be discharged from any debt, including prepetition tax liabilities, which are nondischargeable under section 523. Thus, an individual debtor whose plan of reorganization is confirmed under chapter 11 will remain liable for prepetition priority taxes, as defined in section 507, and for tax liabilities which receive no priority but are nondischargeable under section 523, including no return, late return, and fraud liabilities.

In the case of a partnership or a corporation in reorganization under chapter 11 of title 11, section 1141(d)(1) of the House amendment adopts a provision limiting the taxes that must be provided for in a plan before a plan can be confirmed to taxes which receive priority under section 507. In addition, the House amendment makes dischargeable, in effect, tax liabilities attributable to no return, late return, or fraud situations. The amendment thus does not adopt a shareholder continuity test such as was contained in section 1141(d)(2)(A)(iii) of the Senate amendment. However, the House amendment amends section 1106, relating to duties of the trustee, to require the trustee to furnish, on request of a tax authority and without personal liability, information available to the trustee concerning potential prepetition tax liabilities for unfiled returns of the debtor. Depending on the condition of the debtor's books and records, this information may include schedules and files available to the business. The House amendment also does not prohibit a tax authority from disallowing any tax benefit claimed after the reorganization if the item originated in a deduction, credit, or other item improperly reported before the reorganization occurred. It may also be appropriate for the Congress to consider in the future imposing civil or criminal liability on corporate officers for preparing a false or fraudulent tax return. The House amendment also contemplates that the Internal Revenue

Service will monitor the relief from liabilities under this provision and advise the Congress if, and to the extent, any significant tax abuse may be resulting from the provision.

Medium of payment of taxes: Federal, State, and local taxes incurred during the administration period of the estate, and during the "gap" period in an involuntary case, are to be paid solely in cash. Taxes relating to third priority wages are to be paid, under the general rules, in cash on the effective date of the plan, if the class has not accepted the plan, in an amount equal to the allowed amount of the claim. If the class has accepted the plan, the taxes must be paid in cash but the payments must be made at the time the wages are paid which may be paid in deferred periodic installments having a value, on the effective date of the plan, equal to the allowed amount of the tax claims. Prepetition taxes entitled to sixth priority under section 507(a)(6) also must be paid in cash, but the plan may also permit the debtor whether a corporation, partnership, or an individual, to pay the allowed taxes in installments over a period not to exceed 6 years following the date on which the tax authority assesses the tax liability, provided the value of the deferred payments representing principal and interest, as of the effective date of the plan, equals the allowed amount of the tax claim.

The House amendment also modifies the provisions of both bills dealing with the time when tax liabilities of a debtor in reorganization may be assessed by the tax authority. The House amendment follows the Senate amendment in deleting the limitation in present law under which a priority tax assessed after a reorganization plan is confirmed must be assessed within 1 year after the date of the filing of the petition. The House amendment specifies broadly that after the bankruptcy court determines the liability of the estate for a prepetition tax or for an administration period tax, the governmental unit may thereafter assess the tax against the estate, debtor, or successor to the debtor. The party to be assessed will, of course, depend on whether the case is under chapter 7, 11, or 13, whether the debtor is an individual, partnership, or a corporation, and whether the court is determining an individual debtor's personal liability for a nondischargeable tax. Assessment of the tax may only be made, however, within the limits of otherwise applicable law, such as the statute of limitations under the tax law.

Tax avoidance purpose: The House bill provided that no reorganization plan may be approved if the principal purpose of the plan is the avoidance of taxes. The Senate amendment modified the rule so that the bankruptcy court need make a determination of tax avoidance purpose only if it is asked to do so by the appropriate tax authority. Under the Senate amendment, if the tax authority does not request the bankruptcy court to rule on the purpose of the plan, the tax authority would not be barred from later asserting a tax avoidance motive with respect to allowance of a deduction or other tax benefit claimed after the reorganization. The House amendment adopts the substance of the Senate amendment, but does not provide a basis by which a tax authority may collaterally attack confirmation of a plan of reorganization other than under section 1144.

Section 1146. Special tax provisions: reorganization: The House bill provided rules on the effect of bankruptcy on the taxable year of the debtor and on tax return filing requirements for State and local taxes only. The House bill also exempted from State or local stamp taxes the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan. The House bill also authorized the bankruptcy court to declare the tax effects of a reorganization plan after the proponent of the plan had requested a ruling from State or local tax authority and either had received an unfavorable ruling or the tax authority had not issued a ruling within 270 days.

The Senate amendment deleted the rules concerning the taxable years of the debtor and tax return filing requirements since the Federal rules were to be considered in the next Congress. It broadened the rule exempting transfers of securities to include Federal stamp or similar taxes, if any. In addition, the Senate amendment deleted the provision which permitted the bankruptcy court to determine the tax effects of a plan.

The House amendment retains the State and local rules in the House bill with one modification. Under the House amendment, the power of the bankruptcy court to declare the tax effects of the plan is limited to issues of law and not to questions of fact such as the allowance of specific deductions. Thus, the bankruptcy court could declare whether the reorganization qualified for taxfree status under State or local tax rules, but it could not declare the dollar amount of any tax attributes that survive the reorganization.

Section 1322. Tax payments in wage earner plans: The House bill provided that a wage earner plan had to provide that all priority claims would be paid in full. The Senate amendment contained a special rule in section 1325(c) requiring that Federal tax claims must be paid in cash, but that such tax claims can be paid in deferred cash installments under the general rules applicable to the payment of debts in a wage earner plan, unless the Internal Revenue Service negotiates with the debtor for some different medium or time for payment of the tax liability.

The House bill adopts the substance of the Senate amendment rule under section 1322(a)(2) of the House amendment. A wage earner plan must provide for full payment in deferred cash payments, of all priority claims, unless the holder of a particular claim agrees with a different treatment of such claim.

Section 1331. Special tax provision: Section 1331 of title 11 of the House bill and the comparable provisions in sections 1322 and 1327(d) of the Senate amendment, pertaining to assessment and collection of taxes in wage-earner plans, are deleted, and the governing rule is placed in section 505(c) of the House amendment. The provisions of both bills allowing assessment and collection of taxes after confirmation of the wage-earner plan are modified to allow assessment and collection after the court fixes the fact and amount of a tax liability, including administrative period taxes, regardless of whether this occurs before or after confirmation of the plan. The provision of the House bill limiting the collection of taxes to those assessed before one year after the filing of the petition is eliminated, thereby leaving the period of limitations on assessment of these nondischargeable tax liabilities the usual period provided by the Internal Revenue Code.

Finally, one word about the tax provisions contained in the amendment. The tax-related bankruptcy provisions, and the substantive tax provisions in this bill represent hard work by our subcommittee and the Ways and Means and Finance Committee in solving the competing policies in the tax and bankruptcy areas. Much has been left to next year, however, when we hope that the Ways and Means Committee will complete work on a major bankruptcy/tax bill. The Judiciary Committee deleted many tax provisions from this bill so that the Ways and Means Committee could take a deeper look at them. We hope that next year, when it does complete its work, we too will have an opportunity to review their proposals to insure that the important goals of the bankruptcy laws are protected.

Mr. BUTLER. Mr. Speaker, H.R. 8200 represents the first comprehensive revision of the Bankruptcy Laws of the United States in over 40 years. The bill repeals the Bankruptcy Act of 1898 and codifies and enacts a new bankruptcy code in its place. The code contains significant improvements in the substantive law of bankruptcy.

In general, the individual debtor is given increased protection and afforded a meaningful fresh start. The code provides uniform Federal exemptions which may be selected by the debtor as an alternative to exemptions under State law unless State law forbids that choice. Strict limits are placed on reaffirmation of consumer debts and the debtor may invalidate liens on certain household items. Finally, the debtor may redeem collateral from a lien.

H.R. 8200 represents a meaningful achievement in protecting the rights of creditors, especially in commercial cases and in reorganization. Creditors are provided adequate protection of their interest during the course of a case and limitations are placed on the use of collateral. The debtor is prohibited from appraising security and buying out the creditor's interest for the appraised amount unless the creditor consents; this solves a major problem that exists under present law.

In addition to reforming the substantive law of bankruptcy, H.R. 8200 accomplishes a significant reform by improving the bankruptcy courts and the administration of bankruptcy cases. The new court is given pervasive jurisdiction over all matters arising in or related to bankruptcy cases. Wasteful litigation over jurisdiction that occurs under the Bankruptcy Act is thereby eliminated. The status of the bankruptcy judges is enhanced with increased salary and retirement benefits and Presidential appointment by and with the advice and consent of the Senate. The term of bankruptcy judges is increased from 6 years under current law to 14 years and bankruptcy judges will participate in circuit conferences and will be represented on the Judicial Conference and the Board of the Federal Judicial Center.

In addition, bankruptcy judges will be removed from the administration of bankruptcy cases that has proved to be time consuming and a source of bias under the Bankruptcy Act. Bankruptcy judges will no longer preside at the first meeting of creditors. Trustees will no longer be a patronage appointment of the bankruptcy judge; rather, appointment is to be made from a private panel on a random basis or by the U.S. trustee.

The U.S. trustees will serve under the Attorney General in the Department of Justice on a trial basis during a 5 year transition period. The U.S. trustees will serve in 10 pilot programs covering 14 judicial districts during that time and will be responsible for supervision of panels of trustees and of the administration of bankruptcy cases in general. The U.S. trustee will also serve in no asset cases when no private trustee is willing to serve. Several administrative functions that have plagued bankruptcy judges under the Bankruptcy Act are transferred to the U.S. trustees under the pilot program established by H.R. 8200.

The separation of judicial and administrative functions in H.R. 8200, especially in the pilot districts served by a U.S. trustee, will result in a dramatic change in the way bankruptcy cases are conducted. For example, in the consumer no asset straight bankruptcy which comprises 80 percent of the cases year in and year out, the petition will be filed with schedules, but a U.S. trustee will most likely serve in the case.

H.R. 8200 deletes the $150 discretionary fee and provides a private trustee only $20 in a no asset case, so there is little likelihood that a private trustee will serve unless forced. The debtor will attend the first meeting of creditors, but the bankruptcy judge may not attend or preside. Instead, the first meeting will operate like a deposition with the debtor's attorney or the U.S. trustee presiding. If objections are made, they will be resolved later by an unbiased bankruptcy judge who was not present at the first meeting. The debtor must answer all questions relating to financial matters unless the debtor invokes the privilege against self incrimination and the U.S. attorney refuses to grant use immunity. As under present law, creditors will file proofs of claims and there will be hearings on complaints objecting to the debtor's discharge or to the dischargeability of a debt.

However, if a creditor sues to determine the nondischargeability of a debt based on an alleged written false financial statement and the creditor loses, then the debtor will be paid attorneys fees by the creditors except in the rarest of circumstances. The debtor will usually have the choice of selecting State or Federal exemptions and may avoid liens on household goods. The debtor must appear at the hearing on discharge at which time any reaffirmations must be considered by the court. The debtor will be advised by the court of the consequences of reaffirming a debt and will be given a 30 day right of rescission.

In addition, if the debt is a consumer debt that is unsecured or secured by personal property the court may approve the reaffirmation only if it is in the best interest of the debtor and will not impose an undue hardship. An antidiscrimination provision in H.R. 8200 will protect the debtors fresh start by forbidding governmental agencies from denying the debtor basic rights on account of bankruptcy.

The typical business reorganization case will also be much different under H.R. 8200 than under the Bankruptcy Act. H.R. 8200 contains a single reorganization chapter for all cases. In large cases, an examiner is appointed to investigate the affairs of the debtor, but there is never a mandatory appointment of a trustee. The examiner's investigation will not slow down the reorganization in any way. The debtor will file a petition and schedules of claims. The schedules will constitute a proof of claim on behalf of the creditor unless the claim is listed as disputed, contingent, or unliquidated. The debtor in possession may use all collateral in the ordinary course of business without a hearing except for "cash collateral" which requires the opportunity for a hearing except in emergencies. No order to operate the business is needed. If the debtor proposes to sell property free and clear of a lien, notice is given to the creditor and the creditor is given the opportunity for a hearing. If the creditor does not object, the debtor may sell the property without court order. If a creditor is concerned that property is being misused or depreciating, the creditor can demand adequate protection or relief from the automatic stay. If the business of the debtor is being mismanaged, creditors can also request the court to order the appointment of a trustee to oust the debtor from possession. The number of securities holders of the debtor is not a factor in determining the appointment of a trustee.

During the first 120 days the debtor has an exclusive right to file a plan of arrangement, but the creditors may file a plan after the exclusive period expires or when a trustee is appointed. The debtor is given 60 additional days in which to obtain acceptances. The debtor will negotiate with a creditors committee appointed by the court as to the terms of the plan. Prepetition acceptances are permitted if they comply with otherwise applicable law. Postpetition acceptances are permitted only if solicited by means of a disclosure statement which contains adequate information concerning the debtor and the plan.

After the requisite acceptances have been obtained from two-thirds in amount and a majority in number of each class impaired by the plan, the court will confirm the plan. If acceptances are not obtained to meet those standards, then the debtor may ask the court to "cramdown" confirmation. The court will then confirm the plan only if the plan is fair and equitable with respect to each dissenting class and every class junior to it. A corporation or partnership debtor receives a complete discharge but an individual is not discharged from certain debts.

The above procedure indicates that an expeditious, inexpensive procedure will be available to permit debtors to extend or compose their debts.

● Mr. McCLORY. Mr. Speaker, I rise in support of the amendment offered by the distinguished gentleman from California (Mr. EDWARDS), the chairman of the Subcommittee on Civil and Constitutional Rights. I have been privileged to serve on that subcommittee with the distinguished gentleman from Virginia (Mr. BUTLER) the ranking minority member of the subcommittee for several years. During that time no single piece of legislation considered by the subcommittee, or indeed by the Committee on the Judiciary, has been more complicated than H.R. 8200, a bill to establish a uniform law on the subject of bankruptcies. History teaches that the bankruptcy laws are revised in a major fashion on the average of once every 40 years. I am fortunate to have been serving in this House at this momentous time. The country is indebted to the fine work of the chairman (Mr. EDWARDS) and the ranking minority member (Mr. BUTLER) for devoting well over 5 years of work to this monumental legislation.

The House amendment represents both a significant administrative reform and an important substantive improvement in our bankruptcy laws. Others have explained the details of court reform and the pilot programs in great depth, but I believe the substantive changes protecting the interests of creditors are no less important. Under present law, especially in business reorganizations, the debtor may appraise a creditor's interest in collateral and buy out the creditor's position at that price. If the collateral appreciate in value, the debtor gains the benefit and the creditor is deprived of his bargain. H.R. 8200 changes this result by requiring the debtor to leave the creditor's lien on the property unless the creditor agrees to different treatment. If the debtor proposes to sell the property free and clear of the creditor's lien, a creditor is entitled to aid in the full amount of his allowed debt at the sale.

Thus, H.R. 8200 prevents the debtor from taking advantage of the bankruptcy laws when the market is low with a view toward reaping speculative profits if the market turns around. This provides much needed protection for mortgage bankers, real estate investment trusts, insurance

companies, and other institutions with substantial investments in real property

Another important reform pertains to the single, consolidated reorganization chapter contained in chapter 11 of title 11. Under present law, creditors are constantly at the mercy of debtors who may file under two or more reorganization chapters. Each chapter proceeding has different rules and affects creditors in a different way. The delay caused from litigation over which chapter is proper in a given case can result in the loss of hundreds of millions of dollars to creditors annually. H.R. 8200 eliminates that litigation by providing a uniform reorganization procedure that is streamlined to protect the interests of creditors in all circumstances. After a case is commenced, creditors may request the appointment of a trustee, if the management of the debtor is not responsive to creditors' needs. Creditors may immediately demand adequate protection to prevent depreciation of their collateral. Likewise, creditors may request the court to allow foreclosure and repossession of collateral. If creditors are unhappy with the debtor's plan of reorganization, they may propose their own plan after the debtor's exclusive right to file a plan elapses. If creditors are of the opinion that there is no reasonable likelihood of reorganizing the debtor, they may request the court to liquidate the debtor's business or dismiss the case.

On the other hand, if creditors desire to work with the debtor, H.R. 8200 provides an expeditious mechanism that enables creditors to determine their own treatment without any second guessing by the court. Procedural delays under present law such as an approval hearing and a mandatory report of the Securities and Exchange Commission are eliminated in H.R. 8200. The information required to be given to creditors in conjunction with solicitation of acceptances varies depending upon the sophistication of the creditor to whom the information is sent. Thus the debtor is not required to spend money to produce comprehensive documents when a summary will suffice. The result is a workable reorganization chapter that benefits both the debtor and his creditors.

Mr. Speaker, this comprehensive revision of the bankruptcy laws is a monumental work of which all of the Members of this House should be proud. I feel privileged to have worked so closely in its development and enactment.●

● Mr. RICHMOND. Mr. Speaker, I have a question on subchapter IV of chapter 7 of title I of H.R. 8200. As a member of the committee that has jurisdiction over the legislation that regulates the commodity futures industry, I desire that the language of the compromise bill treat cases of bankrupt futures commission merchants in a manner that will not be disruptive of the markets. In fact, the Senate bill to reauthorize the Commodity Futures Trading Commission, S. 2391, contained a provision regarding the transfer of segregated customer funds of a bankrupt futures commission merchant. The Senate conferees agreed to delete this provision because this matter was quite properly dealt with in the bankruptcy legislation that was passed by the House and the Senate.

I understand that, although the substitute bill now before the House does deal with all the issues that are of concern to the commodity futures industry. There may be some ambiguities and technical problems that may need to be dealt with at a later date. It is further my understanding that a technical corrections bill will have to be considered next year because there are always technical corrections that are necessary when a bill of this complexity is enacted. My question is, will the distinguished Congressman from California be willing to cooperate in securing adoption of any technical amendments that are subsequently found to be desirable in the treatment of bankruptcies in the commodity futures industry?

Mr. Speaker, it is my understanding that the gentleman from California (Mr. EDWARDS), chairman of the Subcommittee on Civil Rights of the Judiciary Committee agrees with me on this point.●

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12005) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12005, with Mr. WHITE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, September 26, 1978, the bill had been considered as having been read and open to amendment at any point.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: Page 9, after line 24, insert the following new subsection:

"G. The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current U.S. parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.

Mr. FISH. Mr. Chairman, I offer this amendment, because of my strong belief that the United States must follow a refugee policy which is humane, consistent, and fair. Furthermore this country's refugee policy must be a comprehensive one carefully and thoughtfully developed. To this end, your subcommittee following the fall of Siagon, worked and won the Attorney General's criteria for the admission of refugees under parole.

Few can argue that we should give priority to those refugees who have had some association with this country, our military or diplomatic efforts in South Vietnam and Laos, or who have close relatives in the United States. We must also respond to emergencies, such as the Vietnamese boat cases, which cry out for an urgent humanitarian response. We have never refused a request for parole by the Attorney General. There have been at least eight consultations, all based on criteria.

On the other hand, the Cambodian refugees in Thailand have received temporary asylum. The problem is that these refugees simply do not qualify under the current U.S. program as do Laotian and Vietnamese refugees. The appropriate response I submit is to develop criteria to apply to Cambodian refugees, so they, too, can be parolled into the United States. That is precisely what this amendment is designed to accomplish. Otherwise, the Cambodians in Thailand will languish in camp.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding. I have discussed this with the gentleman previously and analyzed very carefully his language which he proposes. I would say that I have no objection to it.

Mr. FISH. I thank the gentleman.

Mr. BROOKS. Mr. Chairman, I move to strike the last word and I yield to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. FISH).

I agree with the gentleman from New York that under the criteria presently applied in determining eligibility for participation in the U.S. refugee program, Cambodian refugees are at a severe disadvantage.

In light of this fact, and the fact that many of these refugees could, if admitted, very well assimilate themselves into our society and eventually become an asset to it, I feel that specialized criteria are warranted.

Adoption of this amendment would mandate the development of such specialized criteria through the established

procedure of discussion and consultation between the Attorney General and the Judiciary Committee. I might add that throughout those discussions, our committee has stressed the need to work toward a long-range, comprehensive and equitable solution to the refugee problem, as well as the need for criteria and guidelines for each parole program.

Mr. Chairman, pending enactment of legislation which would establish a long-term and comprehensive refugee program, it is my firm belief that this consultative process should be adhered to.

I can assure my colleagues that, if this amendment is adopted, every effort will be made by the Judiciary Committee to develop criteria which will be responsive to the particular needs of the Cambodian refugees in Thailand.

I, therefore, wish to express my support for the proposed amendment and urge its adoption.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I participated in the discussion relative to the subject of the admission of Cambodian and Indochinese refugees, and I am pleased, indeed, to support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FISH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: Page 14, after line 18, insert the following:

SEC. 28. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes, as amended (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), section 3741 of the Revised Statutes, as amended (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254(a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes, as amended (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraph (2) or (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at that time shall be deposited into the Treasury of the United States as miscellaneous receipts.

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. EDWARDS of California. Mr. Chairman, the purpose of this proposed amendment is to provide narrow exceptions to certain provisions of law which relate to Government procurement and the public moneys. Those laws presently present problems with respect to the continued effective performance of FBI undercover operations.

In the last few years, the FBI has increasingly used undercover operations as a method of performing its law enforcement and, to a more limited degree, its intelligence and counterintelligence functions. These operations are quite successful in the investigation and prosecution of crime—the "Sting" operation is one example of this.

The FBI recognizes, of course, that these activities must be conducted in accordance with the requirements of all applicable law.

In the course of studying the legality of these operations, several legal questions have been raised which could present substantial obstacles to the continued effective performance of undercover operations. These problems include:

First. Use of income to offset expenses. The law requires the gross amount of all funds received from whatever source for the use of the United States to be paid into the Treasury without any deduction for expenses. If these operations must return all gross receipts to the Treasury, and thereby meet expenses only with appropriated funds, the funds appropriated for these operations will quickly be exhausted, and the administrative complexity of the fund transfers would jeopardize the operations. This amendment would establish legislative authority to use the income derived by these operations in order to meet expenses.

Second. Deposit of funds in banks. Several statutes prohibit Federal officials from depositing Government funds in banks. Although the Department of Justice believes that the FBI, under certain circumstances, may deposit Government funds in banks without violating these provisions, legal problems still remain in some situations necessary to the successful conduct of undercover operations. An explicit legislative authority, therefore, should be provided.

Third. Leases. Various problems arise in situations where the FBI, either in its law-enforcement or intelligence responsibilities, needs to enter into a lease of property. Questions arise whether the FBI has authority to enter into a long-term lease; whether provisions usually required in Government leases must be included in contracts which necessarily cannot disclose governmental involvement, 41 U.S.C. 22, 41 U.S.C. 254, (a) and (c), 41 U.S.C. 252(c); whether the FBI may enter into leases extending beyond the current fiscal year, 31 U.S.C. 665(a), 41 U.S.C. 11(a); whether the FBI might make rental payments in advance as most landlords require; and whether the FBI might enter into rental contracts in Washington, D.C., without specific authorization, 40 U.S.C. 34. Since all these problems must be resolved in order to permit successful undercover operations, explicit legislative authority to act is necessary.

A comprehensive memorandum of law has been prepared by the Department of Justice, explaining in detail the legal difficulties I have described, and the need for this amendment. Since it also clarifies the intended scope of this measure, I intend to submit this document in the extension of my remarks.

It should be emphasized the exemptions are limited to the FBI's undercover operations and even then, only when the FBI Director certifies that the reliance on the exemption is necessary, and the Attorney General or Deputy Attorney General approves that use. This authority would not be available to the FBI where other methods of law enforcement would sufficiently meet its needs, or where areas other than undercover operations are involved.

Since this amendment pertains to a year-long authorization, it will, of course, expire at the end of the upcoming fiscal year. This subject more properly belongs in a comprehensive charter for the FBI. If this amendment is enacted, I intend to closely monitor the FBI's experience under it, so that when that charter is considered, we will be in an excellent position to assess its adequacy.

The Department of Justice authorization bill, as amended in the House Committee on the Judiciary, imposes additional and important responsibilities on the Office of Management and Finance of the Department of Justice. First, the process of authorization requires that the Congress be provided with detailed documentation supporting the administration's authorization request. Second, the bill (section 4) provides that no reprograming of funds in excess of certain amounts may be made without first advising the appropriate committees of the Senate and House of Representatives. This provision is intended to assure that reprograming of substantial amounts of funds not occur unless absolutely necessary, and its effective implementation depends upon adequate monitoring of program spending by the Department of Justice. Third, the bill (section 5) requires the Attorney General to perform periodic evaluations of the overall effi-

ciency and effectiveness of Department programs. This provision in particular requires that resources be shifted within the Department to make certain that this task is performed adequately. I therefore believe the record should be clear that this House concurs with the language of the Senate report to the Department of Justice authorization bill (No. 95–911) which states:

> This committee is strongly committed to the development of a viable program evaluation capability within the Department of Justice and, therefore, it directs that the Department insure that no less than six positions be provided to the Program Review Staff, Office of Management and Finance, to evaluate Department programs as authorized by this bill. . . .
>
> In addition this committee will require substantial program related information and data from the Department of Justice to support the committee Members in the conduct of meaningful program authorization and policy oversight as mandated by section 204, Public Law 94–503. In order to monitor the expenditure of funds as authorized by the Congress, and to insure the issuance of timely reports for the use of this committee in its authorization and oversight responsibilities, this committee directs that no less than five full-time permanent positions be provided the Program Review Staff, Office of Management and Finance.

Although I would not go so far as to direct the Attorney General to allocate these specific resources to these responsibilities, yet I would hope that he would agree that some such allocation is required.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. EDWARDS).

Over the last year, the Department of Justice has realized that the FBI may have been conducting an extensive undercover operation program with a somewhat ambiguous authority under current law. The amendment offered by the gentleman from California (Mr. EDWARDS) would clarify any confusion about the Bureau's authority to conduct these operations.

The operations which have been successfully completed resulted in a number of prosecutions and convictions. It is only fair that the Bureau be permitted to conduct these operations and foreign counterintelligence operations with the knowledge that they are wholly in compliance with the law.

The amendment sets out very limited situations in which the Bureau would be exempted from current law. Most importantly, none of the provisions in the amendment may be exercised without the written certification of the Director of the FBI and either the Attorney General or the Deputy Attorney General, if he is designated by the Attorney General, to act in the Attorney General's place.

It is my understanding that a number of these operations are ongoing and that this language will insure that in some instances, 2 or 3 years of undercover work will not be wasted.

The Department of Justice has worked carefully with the Bureau and the committee members to draft the best possible language to alleviate any future difficulties with these operations. All are in agreement, and I urge adoption of the amendment.

Mr. EDWARDS of California, I thank the gentleman for his support.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. EDWARDS).

For the last 4 years, I have had the pleasure of serving as the ranking minority member on the Subcommittee on Civil and Constitutional Rights, which has jurisdiction over the FBI. The subcommittee has been ably chaired by the gentleman from California (Mr. EDWARDS), who has always exhibited a scrutinizing yet fair attitude toward our oversight responsibilities for the Bureau. His sponsorship of this amendment today is an example of that posture.

Generally, the amendment is offered to permit the FBI to continue to conduct several of its highly successful undercover operations. Heretofore, the Bureau has conducted, with the aid of local police, several successful undercover operations. The highly successful and well-publicized fencing operation of stolen goods, known as the "Washington Sting," is just one example of many of the Bureau's undercover activities.

The Bureau has conducted these operations in the past in reliance on the Department of Justice's opinion that the present law afforded the Bureau the necessary authority. Lawyers at the Department now believe, and I agree, that it would be wise to authorize specifically by law that the Bureau may continue these operations.

The amendment exempts the Bureau in very limited situations from certain restrictions placed on the Federal Government when it leases private property. This is necessary due to the absolute secrecy which is required to conduct these operations. The amendment also permits the Bureau to use any proceeds which may be derived from these undercover operations to offset necessary and reasonable expenses incurred in the operation. I am told that the Bureau occasionally realizes a small profit, and they merely wish to be able to use some of the money to finance their operations. Any profit over and above the funds necessary for the conduct of the operation shall, of course, be deposited back into the U.S. Treasury.

Finally, the amendment places certain restrictions on the Bureau's conduct of these activities. The Director and the Attorney General himself, or the Deputy Attorney General, if so designated by the Attorney General, must certify in writing that it is necessary to use the aforementioned proceeds in the conduct of a specific undercover operation.

Mr. Chairman, the amendment has sufficient protections to insure that these narrow exceptions to current law will not be violated by the Bureau. The Attorney General or the Deputy Attorney General must sign off whenever the procedures are to be instigated. The Bureau will clearly know what its obligations and responsibilities are during these undercover operations, and the Congress should, of course, insure that the appropriate oversight is conducted.

I urge adoption of this amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I will say to my distinguished friend, a ranking member of the Committee on the Judiciary, who has served long and ably as chairman of the subcommittee, this legislation is enhanced and improved by the amendment. I agree with it and I hope we can adopt the amendment.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this amendment pending before the committee seeks to provide temporary statutory authority for FBI undercover operations that require certain clandestine business or leasing operations or the deposit of sums in financial institutions. I well understand the importance of the Bureau being able to perform these sorts of tasks—both in their criminal and in their intelligence investigations. The language of the amendment before us, however, is broad and raises questions in my mind. I feel that it will be important for the Congress—and especially its FBI oversight committees—to look closely at the way these provisions are to be used. In effect, this amendment does not preclude the covert operation of profitable businesses by the FBI. Their use may be thoroughly justified—as the language of the amendment seeks to insure. But, since these operations will occur under strict security, it is essential that the appropriate committees be in a position to examine the balance sheets of these businesses and assure themselves—and the Congress in turn—that proper use has been put to appropriated funds. As chairman of the Program and Budget Authorization Subcommittee of the Permanent Select Committee on Intelligence, I intend to insist on this kind of accountability from the FBI on its use of these statutory provisions.

My question to the gentleman from California is, is it his intention and understanding in offering this amendment that these Bureau undercover activities be fully accounted to the Committee on the Judiciary and where appropriate, the Permanent Select Committee on Intelligence?

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I am happy to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, the amendment provides that the Director of the FBI and the Attorney General or the Deputy Attorney General certify that any action taken pursuant to this amendment be absolutely necessary for the conduct of such undercover operation. Furthermore, I intend to insure that the appropriate committees are provided complete infor-

mation on the exercise of authority under this amendment, through our oversight responsibilities.

Mr. BURLISON of Missouri. Mr. Chairman, I thank my friend, and I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. EDWARDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 14, after line 18, add the following new section:

SEC. 28.(a) The Attorney General shall transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than 30 days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the Executive branch of the United States with respect to such matter.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this amendment requires that the Department of Justice report to the appropriate committees of the Congress any time that the Department of Justice does not defend and uphold a statute of the United States, but rather concedes that it is unconstitutional or attacks the validity of the statute. In those cases, after making such a report, the Justice Department would be required to declare in court that, thereafter in those proceedings, the Department is merely representing the position of the executive branch of the Government and, therefore, by inference is not representing the position of the United States, as such, in regard to such proceedings and the issue of constitutionality of the statute.

The reason for this amendment is that in recent years the executive branch through the Justice Department has more and more taken it upon itself to decide that a statute passed by the Congress and even signed by the President or enacted over his veto is unconstitutional and the Congress found out about this action in a completely willy-nilly, informal fashion without any reporting, require that this action is to be done.

On several occasions when the Congress has found out about it, we have obtained our own counsel and defended a statute of the United States, and in many instances we have prevailed in upholding the validity of a statute.

Frankly, I would like to go further than this amendment goes. I think it is absurd or wrong or maybe unconstitutional for the Justice Department, representing a President, who has the constitutional responsibility of taking care to faithfully execute the laws, to admit or to concede that a law of the United States is unconstitutional.

I think at some future time, once we begin to get these reports and you realize what is really going on in this area, I will have a sufficient amount of support to go a lot further. But at this time this amendment would simply set up a specific procedure that the Justice Department must notify the Congress if it takes upon itself the burden of deciding whether a statute is unconstitutional and conceding or attacking it in court, and at that point they must let the court know they are only representing the executive branch of the Government, and not the United States, as such.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am more than happy to yield to my colleague, the gentleman from Texas.

Mr. HALL. Mr. Chairman, if the Justice Department notifies the Congress that it feels a certain law or laws might be unconstitutional, what then does Congress does?

Mr. LEVITAS. At that point what the House or the other body can do and has in fact done is to retain its own counsel. Then the House or a Member of the House intervenes in court, either as a party to the proceeding or as amicus curiae—a friend of the court—and asserts the constitutionality of the statute in question.

This was done, for example, in the Atkins case, which was the judicial salary case. I believe it was also done in Buckley against Valleo, as well as in several other cases.

In fact, the most recent example, I might tell my good friend, the gentleman from Texas, would be this: There is a case entitled Nixon against Solomon involving custody and release of the Nixon papers. In that case Congress had adopted under a statute the provision for, of all things, a one-House veto of the GSA regulations dealing with the custody of those documents. The Justice Department admitted an allegation by Nixon that that statute was unconstitutional. The House has been notified of that fact, and we are now appearing in that case defending and upholding the statutes of the United States.

Mr. HALL. Mr. Chairman, does the gentleman's amendment set out the criteria that will be followed as the gentleman outlined?

Mr. LEVITAS. Mr. Chairman, my amendment is designed solely to do two things: first, to notify the House and the other body when they are going to blackjack us. We are saying we want them to let us know about it when they are going to sandbag us, and then at that point they cannot claim to represent the United States anymore; they are only representing the executive branch of the Government and not the United States, because when an act of Congress is passed and signed into law, it is the law of the United States, and I do not want the Justice Department to pretend to be defending the United States when it is not

I think there should be legislation regularizing that proceeding, and our colleague, the gentleman from New Jersey (Mr. THOMPSON), and I have been working on such legislation and hope to introduce it in the next Congress.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(On request of Mr. HALL, and by unanimous consent, Mr LEVITAS was allowed to proceed for 1 additional minute.)

Mr. HALL. Mr Chairman, will the gentleman yield further?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. HALL. Mr. Chairman, I think the gentleman's amendment is a good one. The only thing I am concerned about is: Do we have the mechanism to enforce it if the Justice Department tells Congress that they are not going to defend us, and do we have someone who will represent us?

Mr. LEVITAS. Yes, we do have the mechanism, and we have done it in the past. The mechanism is that a resolution is adopted to permit the appearance in the litigation as to retain counsel. I think that is normally brought out of the Committee on House Administration, and it is adopted for purposes of employing counsel and intervening in the litigation.

Mr. HALL. Mr. Chairman, I thank the gentleman.

Mr. LEVITAS. Mr. Chairman, to illustrate the importance of this issue and its significance, I refer to a report on this subject which was prepared at my request by the American Law Division of the Library of Congress.

It reads as follows:

PRESIDENT'S RESPONSIBILITY TO ENFORCE THE LAWS

JUNE 29, 1978.

Reference is made to your inquiry of June 28, requesting information on the above matter. Your interest in this matter is prompted by President Carter's recent statement that insofar as a congressional resolu-

tion disapproving of executive action is concerned, he will "give it serious consideration, but we will not under our reading of the Constitution, consider it legally binding." 124 Cong. Rec. H. 5880 (daily ed. June 21, 1978).

Your query essentially asks whether the obligation imposed upon the President to "take care that the laws be faithfully executed.", Art. 2, § 3, Cl. 4, makes it incumbent upon him to execute all congressionally approved statutes irrespective of his personal views regarding the constitutionality of such laws. Stated differently, does the President retain any measure of discretion in discharging this obligation or is he obligated in every instance to execute the law. This question like that whether a Member of Congress must unswervingly vote his constituents' views regardless of personal scruples, presents one of those enduring philosophical arguments not definitively disposed of by constitutional concepts or decisional authority. While "[i]t is emphatically the province and the duty of the judicial department to say [with finality] what the law is", the political branches likewise have an obligation to "initially" judge the constitutionality of statutes and other governmental actions *United States* v. *Nixon*, 418 U.S. 683, 703 (1974). "In the performance of assigned constitutional duties each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others" *Ibid.*

At issue here is the constitutional standing of so-called legislative vetoes, that is, federal statutes providing for congressional disapproval of proposed executive actions. This subject has occasioned a lively debate from its initial use in the Legislative Appropriations for Fiscal Year 1933, P.L. 72–212, 47 Stat. 413 (1932), granting the President authority to reorganize the Executive Departments by Executive Order subject to passage of a resolution by either House of Congress disapproving of such Executive Order. The debate has intensified as the Congress in recent years has increasingly resorted to that and related devices in order to assert its control of the administration of laws which it passes.

As of the moment, the Supreme Court has not passed upon the merits of legislation containing a so-called legislature veto. *Buckley* v. *Valeo*, 424 U.S. 1 (1976), presented the Court with an opportunity to rule upon the constitutionality of the legislative veto. The issue in *Buckley* was the constitutionality of a provision of the Federal Election Campaign Act, as amended, which allowed either House of Congress to veto rules and regulations promulgated by the Federal Election Commission within thirty days after their receipt 2 U.S.C. § 438(c). The Court expressly declined to decide whether that provision was constitutional. "Because of our holding that the manner of appointment of members of the Commission precluded them from exercising the rulemaking powers in question, we have no occasion to address this separate challenge of the appellants." 424 U.S. at 140 note 176.

Although the full Court did not address the issue of the congressional veto, Justice White in a separate opinion was of the view that the provision was constitutional:

"I am also of the view that otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power, by a statutory provision subjecting the agency regulations to disapproval by either House of Congress. For a bill to become law it must pass both Houses and be signed by the President or be passed over his veto. Also, 'Every Order Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary . . .' is likewise subject to the veto power. [U.S. Constitution, art. I § 7, CL. 3]. Under § 438(c) the FEC's regulations are subject to disapproval but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. This no more invades the President's powers than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulations may be enhanced but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution or vote requiring the concurrence of both Houses." 424 U.S. at 284, 285.

In the justice's view the constitutional result might be otherwise if two-Houses affirmative action was called for. "It would be considerably different if Congress itself purported to adopt and propound regulations by the action of both Houses." 424 U.S. at 286.

Although Justice White's comments are not without significance they are irrelevant to the disposition of the case and, therefore, are dicta.

The recent Supreme Court cert. denial of the *Atkins* v. *United States*, 98 Sup Ct 718 (1978), sustaining the validity of the one-House veto provision of the Federal Salary Act of 1967, does not resolve the issue on the merits. The Court has frequently stated that "the denial of a writ of certiorari imports no expression of opinion upon the merits of the case, as the bar has been told many times. *United States* v. *Carver*, 260 U.S. 482, 490 (1923). The Court of Claims decision rests on two grounds; in addition to sustaining the—one House veto, the Court rejected plaintiff judges' contention that the denial by the Senate of judicial salary increases in an inflationary period constituted an unconstitutional diminution of the judges' salaries during their lifetime. Moreover, the Court of Claims opinion is very careful to point out that it was only deciding the question of the validity of the Senate resolution which disapproved the President's salary increase recommendation in 1969. The Court stated, "we do not consider the general question whether a one-House veto is valid as an abstract proposition in all instances, across the board, or even in most cases." 556 F.2d 1028, 1059 (1977).

It seems apparent that the constitutionality of the legislative veto device is, at this juncture, an open question about which reasonable men may differ. Although not without deviations, Presidents in the past have declared their opposition to such provisions and like President Carter, have indicated an intent to disregard same. As indicated above, the constitutionality of such confrontations with the legislative will is a recurring theme in our history. Some precedents show Presidents yielding to the legislative will despite serious constitutional misgivings; some have not. Thus, for example, President Roosevelt, while condemning as "unwise and discriminatory [and] unconstitutional" a rider to an appropriations bill forbidding the use of money appropriated therein to pay the salaries of three named persons whom the House of Representatives wished discharged because they were deemed to be "subversive", submitted to the legislative will. See *United States* v. *Lovett*, 328 U.S. 303 (1946) where the provision was held to be a bill of attainder. On the other hand, President Andrew Johnson refused to be bound by the Federal Tenure of Office Act and discharged Secretary of War Stanton contrary thereto. His subsequent impeachment largely rested on this action which it was contended constituted a violation of the constitutional duty to "take care that the laws be faithfully executed."

President Jackson in 1832 vetoed a bill providing for a recharter of the National Bank on the ground of unconstitutionality notwithstanding that in the case of *McCulloch* v. *Maryland*, 4 Wheat. 17 U.S.C. 316 (1819) this institution was held constitutional. In support of his action, Jackson in his veto message said: "The Congress, the Executive, and the Court, must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the Supreme Court when it may be brought before them for a judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the Judges, and on that point the President is independent of both." Willoughby, 3 *The Constitutional Law of the United States* 1502 (1929).

In like vein was the refusal to release Merryman from confinement in disobedience to a writ of habeas corpus issued by Chief Justice Taney while on circuit. The officer in charge of the prisoner having declined to obey the writ on the ground that he was authorized by the President to suspend the writ of habeas corpus for the public safety. Taney at once issued an attachment for contempt. Its service being prevented by the military, . . ." Warren, 2 *The Supreme Court in United States History* 368–369 (1926).

The courts have rejected the notion that the President has any inherent power to deny the execution of laws imposing purely ministerial duties, such as halting congressionally authorized expenditures. *Kendall* v. *United States* 12 P.L. (37 U.S.) 524 (1838). That case involved an order by Congress to the Postmaster General to pay a claimant whatever amount an outside arbitrator should decide was the appropriate settlement. Presented with a decision by the arbitrator in a case arising out of a claim for services rendered to the United States in carrying the mails, President Jackson's Postmaster General ignored the congressional mandate and paid a lesser amount. The Supreme Court noting the ministerial nature of the act involved, held that a writ of mandamus could issue directing the Postmaster General to comply with the congressional directive. In reaching this conclusion, the Court held that the President, and thus those under his supervision, did not possess inherent authority whether implied by the take care clause or otherwise, to deny funds that Congress had ordered to be spent. "To contend, that the obligation imposed on the president to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the constitution, and entirely inadmissible." 37 U.S. at 611. To like effect, see *Train* v. *City of New York*, 420 U.S. 75 (1975); *Train* v. *Campaign Clean Waters*, 420 U.S. 136 (1975). See also *State Highway Comm. of Missouri* v. *Volpe*, 479 F. 2d 1099 (8 Cir. 1973); *Commonwealth of Pennsylvania* v. *Lynn*, 501 F. 2d 848 (D.C. Cir. 1974). Local 2677, *American Fed. of Gov. Emp.* v. *Phillips*, 353 F. Supp. 60 (D.D.C. 1973).

In arguing that the President is under an obligation to faithfully execute the laws passed by Congress, it seems beyond argument that the President, like every other citizen, is subject to law. *United States* v. *Nixon*, 418 U.S. 683 (1974).

The leading case on the constitutional division of power between the President and the Congress is *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952), the *Steel Seizure Case*. In 1952 President Truman ordered the Secretary of Commerce to seize the nation's steel mills and operate them on behalf of the United States to prevent what he believed would be a disastrous strike during the Korean War.

By a 6–3 vote, the Supreme Court affirmed the decision of the District Court holding the seizure unlawful. 103 F. Supp. 569 (D.D.C. 1952). Mr. Justice Black wrote for the ma-

jority that authorization for the President's actions "must stem either from an act of Congress or from the Constitution itself." 343 U.S. at 585. Finding no such authorization, the seizure was invalid. The President attempted to justify his actions on the provisions of Article II that "the executive power shall be vested in a President," and that "he shall take care that the laws be faithfully executed." The Court held:

"Nor can the seizure order be sustained because of the several constitutional provisions that grant executive power to the President. In the framework of our Constitution, the President's power to see that the laws are faithfully executed, rejects the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute * * *.

* * * * *

"* * * The Constitution does not subject this lawmaking power of Congress to presidential * * * supervision or control.

* * * * *

"The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times." 343 U.S. at 587–589.

On the point of the obligation imposed by the take care clause, Willoughby states as follows:

"Whether the President has the right to refuse to execute a law, passed during the term of a predecessor, or over his veto, because he deems it unconstitutional, is an entirely different question from that just considered. Here the President has to deal not with a measure in the process of enactment, as is the case when the veto is exercised, but with a bill that has passed through all the constitutional forms of enactment, and has become a law, and it would seem that he has no option but to enforce the measure. The President has not been given the power to defeat the will of the people or of the legislature as embodied in law. The reasons for maintaining a contrary opinion, as usually stated, are these: The Constitution of the United States is the supreme law of the President as well as of the private citizen. It is his duty to 'take care that the laws be faithfully executed,' but he is also sworn to 'preserve, protect and defend the Constitution,' and this he must do upon his own interpretation of the Constitution, and not upon that of others. The Constitution is but a law of high degree, and is, therefore, one of the very laws that he must take care are faithfully executed. Says one writer: [∞] 'If the President must execute all laws, he must execute an *ex post facto* law or any other law flying in the teeth of the constitution; a partisan statute passed over his veto can rob him of the right to be commander-in-chief, to nominate or remove from office, or of any other right expressly conferred upon him; and it is at once evident that in these cases Congress would be quite as plainly taking away from the President the power which the constitution has expressly given. A two-thirds majority could alter at will many important provisions of the constitution, and the members could only be called to account at a reelection. That instrument in these cases would not be self-supporting, and would furnish none of those checks of which we have all heard so much. But if the contrary view is true, the check system comes into perfect play; for then the President's right to refuse his assistance to an unconstitutional law will check Congress, while the risk of impeachment will check the President.'

"The errors in this argument are sufficiently plain. In the first place, the President does not stand upon the same footing as regards the Constitution, as does the private citizen. The President is an agent selected by the people, for the express purpose of seeing that the laws of the land are executed. If, upon his own judgment, he refuse to execute a law and thus nullifies it, he is arrogating to himself controlling legislative functions, and laws have but an advisory, recommendatory character, depending for power upon the good-will of the President. That there is danger that Congress may by a chance majority, or through the influence of sudden great passion, legislate unwisely or unconstitutionally, was foreseen by those who framed our form of government, and the provision was drawn that the President might at his discretion use a veto, but this was the entire extent to which he was allowed to go in the exercise of a check upon the legislation. It was expressly provided that if, after his veto, two-thirds of the legislature should again demand that the measure become a law, it should thus be, notwithstanding the objection of the Chief Executive. Surely there is here left no further constitutional right on the part of the President to hinder the operation of a law.

It is the duty or privilege of a private citizen to refuse obedience to a law, if, upon careful consideration and investigation, he considers it to be unconstitutional, but he does so at his own risk, and if he is wrong he must abide by the legal consequences. Then, too, only his particular interest is directly involved. If, however, it be said that the President also refuses his obedience at his own risk, namely, the danger of impeachment and possible subsequent civil or criminal prosecution, the reply is that, in the first place, a refusal on his part to execute the law nullifies it in all its applications for all people; and in the second place, that impeachment is not a check. As an instrument for checking unconstitutional action on the part of the President, impeachment has been found too cumbersome. If, in the case of the extreme opposition and contest between both Houses of Congress and President Johnson, an impeachment was not successful, it must be admitted that as a means of future restraint upon the Chief Executive it will not be greatly feared.

That the President and all other officers of the government have not the right to refuse obedience to a judgment of the Supreme Court, because he or they believe such judgment to be based upon an incorrect interpretation of the Constitution, scarcely needs argument. This case is stronger than the former one by the additional support of the judiciary. To refuse now to execute the command of the court is to assume the judicial power of a court of appeals as well as legislative functions."

[∞] American Law Review, XXIII, 375.

I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment.

We have studied this amendment. It is in order, in our judgment, and we feel it is constructive and would be helpful. It does not do a disservice to the Justice Department, and it will help to maintain the position of the Congress. I certainly do support the amendment, and it is my understanding that the gentleman from Illinois (Mr. McCLORY) also supports the amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I am very pleased to say that we on this side also support the amendment.

Mr. BROOKS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: Page 11, strike out line 11 and all that follows through line 18 and redesignate succeeding sections accordingly.

Mr. ROYBAL. Mr. Chairman, the Metropolitan Correctional Center, which this amendment, if adopted, would delete, is scheduled to be built in my district. Its supporters, none of whom are my constituents, consistently argue that the MCC is needed because conditions at existing facilities are overcrowded. This is a claim which is highly questionable.

The Bureau of Planning and Development of the Federal Bureau of Prisons conducted a survey of the State and Federal prison populations in Los Angeles County on 2 random days, one in April of 1977 and the other in March of 1978, and concluded that there is in fact no overcrowding. The county jails can hold a total of 8,585 male inmates. Yet on the day of the 1977 survey, there were only 7,588 prisoners, of whom 160 were Federal detainees. On the day surveyed in 1978, the total number of inmates was even less—7,360—of whom 195 were Federal detainees.

More recently, a study commissioned by the California State Legislature and released last July reached the same general conclusion. The study revealed that there are currently over 6,000 empty beds in the California County jail system. In addition to the empty beds, the study further revealed that in Los Angeles County alone, there are approximately 2,000 beds which are closed or partially closed. Reopening these facilities, even if they require some renovation, would be incredibly less expensive and would provide four times the number of beds than the proposed MCC.

The history of the Federal prison system is one of regular expansion. It is in fact one of the fastest growing bureaucracies, and overcrowding has always been the excuse. In the last 10 years, the Bureau of Prisons' growth in total facilities has equaled that of the previous 40 years, and in the last 9 years, its budget has increased approximately 340 percent. Enough, Mr. Chairman, is enough.

In short, there is no confirmed need for a new Metropolitan Correctional Center, particularly in the Davis Center of Los Angeles, where parking is urgently needed not only for city and county employees, but for the general public as well, who at the present time find no place to park in the civic center.

There is, however, another reason why the Los Angeles MCC should not be authorized. The MCC's in New York, Chicago, and San Diego are less than 3 years old. There is another one in Detroit which is to be under construction before the year is out. The facility in New York was the focus of Federal litigation, the end result of which is that we do not know what the constitutional rights of Federal prisoners are. The three existing facilities may have to be modified to conform to the Federal courts' ruling.

Why should we fund this facility in LA, when in effect we do not know how it must be built to pass constitutional muster?

Mr. Chairman, incarceration by its very nature is unfortunate, but considering the offenses committed by the Federal prison population in the Southwest, it borders on the inhumane. Undocumented workers constitute the greatest percentage of the convict population in southwestern Federal facilities. In the Federal facility in Florence, Ariz., 73 percent of the population is in prison for immigration offenses. In San Diego, 50 percent of the inmates are undocumented aliens who have not been convicted of any offense. They are being held as material witnesses against employers and alien smugglers. Los Angeles, like San Diego, has serious immigration problems. The Los Angeles Immigration Office is in fact classified by the Immigration and Naturalization Service as the worst and most backlogged in the country, taking 4 months or more just to process an adjustment of status, a procedure that should take about 3 weeks in a well-staffed office. No one can doubt that a Federal jail in Los Angeles like the one in San Diego will be used to jail undocumented workers.

The Los Angeles Metropolitan Correctional Center is too expensive. It will contain 500 beds and cost—as now projected—approximately $22.9 million, or approximately $48,500 per bed, and because of inflation, it may turn out to cost considerably more. Moreover, the maintenance of each inmate in new Federal prisons and jails averages almost $9,000 per year, while the county charges only $5,475 per prisoner.

Of all the possible alternatives—and there are several—building more jails is the most expensive and the least flexible. A recent study by the GAO staff stated that, and I quote:

> Before additional major commitments are made, attention should be devoted to fully exploring the alternatives for meeting this need and to determining which alternative or combination of alternatives will best do the job.

Bell stated:

> The Justice Department has adopted a public policy that emphasizes increased Federal assistance to local jails and opposes the establishment of additional metropolitan correctional centers.

OMB recently said:

> Before funds are appropriated for the construction of a $23 million Los Angeles Metropolitan Correctional Center, which will require over a hundred additional Federal employees and millions more annually in operating costs, we believe a comprehensive analysis of the alternatives is necessary.

I agree, and I urge my colleagues to vote in favor of this amendment.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to this amendment.

As chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice I have had a duty to review the needs and policies of both the Federal courts system and the Federal prison system. Quite simply, construction of a Metropolitan Corrections Center in Los Angeles is in the interest of both.

First, we as a Congress have a unique responsibility for the needs of the Federal courts. As the gentleman from California (Mr. DANIELSON) has stated, the present situation severely interferes with the functioning of the U.S. District Court for the Central District of California. This is the thoughtful view of Federal judges, Federal public defenders, Federal prosecutors, private trial attorneys, and the Los Angeles County Board of Supervisors. Under the present situation in which Federal detainees are held in the county jail and several other locations in a huge geographic area, a whole panoply of unfortunate problems are caused. Access to counsel is restricted under the present jailing arrangements. U.S. marshals and prisoners spend a large amount of time, at considerable expense, in transit resulting in a significant loss of valuable court time and increased security risks. The quality of the judicial process suffers due to the haphazard, time consuming and strained detention scheme currently in use. The committee bill authorizes an institution which will correct this situation.

Second, we have a unique responsibility to insure that Federal prisoners are detained in safe, humane, and healthful conditions which are secured at a reasonable cost to the taxpayers. The committee bill authorizes an institution which will meet these requirements. The current situation clearly does not. As the gentleman from California (Mr. DANIELSON) has graphically described, the conditions under which Federal prisoners are held in Los Angeles are simply not acceptable. They are not acceptable to Federal judges, they are not acceptable to the Department of Justice and they are not acceptable to the Committee on the Judiciary. The gentleman from California (Mr. DANIELSON) is to be commended for bringing this situation to the attention of the subcommittee and the House. We must assume responsibility for the Federal detainees in Los Angeles, a Federal responsibility not a local one.

Lastly, I would just note that the issue of the construction of Federal prisons has always been a difficult one. Over the past few years we have tried to regularize the process under which institutions are proposed, authorized, and constructed. To some extent we have been successful and this authorization bill reflects part of an increasingly rational Federal prison construction policy. The bill closes an ancient penitentiary at McNeil Island, Wash.; requires that plans be developed to use available military institutions and authorizes the construction of the Los Angeles MCC. Our work is not entirely done in this area, however, and there is some concern that both jail policy and long-term prison policy need further controls and review. Certainly the Lake Placid institution raises some troublesome policy questions. However, the LA facility has been reviewed, it has been supported by almost everyone who has considered it and, in my view it is needed. I urge a "no" vote on this amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I join with the gentleman from Wisconsin in opposition to the amendment.

I think it is very important for Members to realize that we are in the process of closing down the antiquated penal system, at least part of the antiquated system. I believe it is pointed out we should supervise the closing of McNeil Island by 1982, something like that, and then we are looking also to Leavenworth and other places, too.

Mr. KASTENMEIER. Eventually Leavenworth and Atlanta should be closed down, but the Bureau of Prisons cannot close them with the prison population it has without putting men under inhumane conditions.

Mr. VOLKMER. We cannot just stuff people into the existing crowded conditions. We have to have other facilities.

Mr. KASTENMEIER. The gentleman from Missouri is eminently correct.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

I cannot blame my colleague, the gentleman from California, who has an adjoining district to mine, for not wanting another penal institution in his district, but I do think for us to say we are not going to support a very much needed facility because we do not like the prisoners who are going to be there or the types of prisoners that the courts of the Federal jurisdiction will send to the prison is certainly wrong reasoning.

I have watched the Los Angeles County jail for many, many years as a practicing attorney. I have seen people that were in for very short times go to the county jail and come out very, very sick individuals because they have had to sleep on the floor, there not being beds for them. I know many times people who are up for very relatively minor misdemeanors will find themselves in the county jail and they have to be thrown into cells with people who are up for armed robberies or murders or offense of that kind, and they have to fight for a bed, and they certainly do not win, they end up on the floor where it is cold at night, and the conditions are just not suitable or not humane.

I cannot tell the Members the exact conditions now because I have not visited that facility for some time, but I know that for many years it has been inadequate. I know the sheriff of Los Angeles County wants the Federal prisoners out. He cannot handle them. He does not have the facilities to take care of them. When there is extreme overcrowding, they try to take some of the prisoners to the city jails that are in the vicinity, but those facilities are not adequate either for people that have to be held for any period of time.

I think that the new Federal facility is needed in Los Angeles. I am not sure where it should be located, or the size of it or the cost. That has been decided by others. But I do think that some kind of Federal facility is needed, and it is needed now. For that reason I oppose the amendment of the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, does the gentleman agree that the cost of the land in the Davis Center area where this facility is proposed to be built, is the most expensive in the entire State of California and perhaps in the country? Does the gentleman agree with that statement?

Mr. MOORHEAD of California. I would agree that the cost of the land would be expensive, but to put the facility too far from the Federal court facilities would be a tremendous burden, as far as paying police officers going back and forth with prisoners, with all kinds of expenses that you have in transportation from one place to another.

Mr. ROYBAL. On the other hand, there is some vacant land within a 3 mile radius which is not too far, considering traveling time in Los Angeles, not too far away from where the courthouses are, land that is owned by the Federal Government. In fact there is some land in the gentleman's district which is less than 3 miles from the downtown section that perhaps could be used for this facility.

Mr. MOORHEAD of California. There is no part of my district that is within 3 miles.

Mr. ROYBAL. I know the location of a parcel of land in your district where a jail could be built, but I am sure the gentleman would not like it built there.

Mr. MOORHEAD of California. I understand the problem the gentleman has with the relocation and I am sure that I would not like it built in my district either. But I do understand the need. And I am not speaking as to the exact location they picked because I think that is up to the experts to determine where it is best needed and where they can facilitate the transportation.

Mr. ROYBAL. Will the gentlman yield for just another brief moment?

Mr. MOORHEAD of California. Yes.

Mr. ROYBAL. I would like to make the comment that surveys that have been conducted by the Bureau of Prisons and also by the State legislature clearly indicate that there is no need for a Federal facility in Los Angeles.

Mr. MOORHEAD of California. I know that from my experience that county jail is inhumane. It is much too crowded many times. The conditions existing there are not suitable, and the overcrowding must be alleviated.

Mr. DRINAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment which would delete the authorization in this bill for the construction of a Federal jail in Los Angeles. No funds for this purpose were included in the Justice Department appropriation which has already been approved by the House. The Office of Management and Budget deleted funds for this purpose from the original budget for the Justice Department. That decision was not made casually and both cost and long-range policy considerations were carefully weighed against the arguments advanced in support of this construction.

Before proceeding I would like to point out to my colleagues that we are not talking about a Federal prison. We are talking about a jail to house individuals charged with a crime not those convicted of an offense. Federal involvement in the jail business is a recent phenomenon. The three existing MCC's in New York, Chicago, and San Diego are less than 3 years old. In each instance the decision to proceed has been on an ad hoc basis. Before there is further involvement in this area we should decide if a nationwide Federal jail system is desirable or necessary.

Last year in testimony before the House Appropriations Committee, Attorney General Bell stated:

> The Justice Department has adopted a public policy that emphasizes increased Federal assistance to local jails and opposes the establishment of additional metropolitan correctional centers.

The proposed MCC for Los Angeles will cost $22,900,000 or $45,800 a bed and that sum does not reflect operational costs once the facility is opened.

Besides the cost, Federal jails duplicate existing systems of local jails with which the Federal Government has always contracted for the housing of Federal detainees.

I do not doubt that Los Angeles County like other localities throughout this country, is facing serious problems in its jail system. However, construction of a Federal jail in Los Angeles will be no panacea. Deterioration of local jails and litigation challenging conditions in these facilities will persist in the absence of a national policy which addresses the nationwide problem. Moreover the litigation surrounding the MCC in New York at this time has shown that the Federal Government is certainly not the "model" jailer.

Legislation is before the House Judiciary Committee which represents a start in addressing the overall problem. H.R. 10489 makes assistance available for the construction, acquisition and renovation of county jails Building a Federal jail does not upgrade conditions in local jails, whereas a program of Federal assistance to localities for this purpose could serve both Federal and local interest in upgrading jail conditions.

Some have argued that Los Angeles County may be forced to cancel its contracts with the Federal Government for the housing of Federal detainees, and thus the Federal Government will have no choice but to have its own facility. Section 4005 of the California Penal Code precludes such a possibility. That section of the State's law says:

> The sheriff must receive and keep in the county jail, any prisoner committed thereto by process or order issued under the authority of the United States * * *.

There has also been some discussion that merit for this construction rests in part with the Federal responsibility to address the problem of illegal aliens in Los Angeles County. It should be kept in mind that the only illegal aliens who would be held in Federal custody for judicial purposes are those charged with a crime or who will serve as material witnesses in smuggling cases.

The majority of illegal aliens apprehended in Los Angeles County are immediately taken to an Immigration Service facility where they are processed for deporation. This measure contains funds for planning and site acquisition of another INS facility in southern California for the deportation and holding of illegal aliens.

Of paricular importance and concern in the discussion of a nationwide Federal jail system or even the construction of one more MCC, is the substantial litigation surrounding the MCC in New York which opened its doors on August 2, 1975. That litigation, United States ex rel Wolfish against Levi, raises issues which will bear directly on future MCC construction. In the district court decision Judge Frankel reminds us that MCC's are designed for pretrial detainees who have not been found quilty of a crime and who "are not subject to the substantial powers of prison officials that attend their function of administering punishment."

Judge Frankel noted that—

> What we have in this case is a newly built facility, supposedly constructed with foreseeable needs in view, and dedicated instantly to misuse and wretched living arrangements for those confined in it * * * Such a swift perversion of a supposedly planned and newly opened jail cannot be allowed.

The district court held that inmates could not be housed at MCC's for more than 60 days without their individual consent and that dormitories designed to house 10 could not be used to house 20 as was the case at the MCC in New York. Both of these findings were remanded back to the district court by the court of appeals and no further decision has been reached.

The decision of the district court in New York was sweeping and addressed just about every aspect of life at an MCC. When this litigation is completed we will undoubtedly have a better understanding of what standards for Federal jails will be, and time enough to proceed with further construction if that proves necessary.

It makes little sense to appropriate money for construction of another MCC when the legal standards for determining compliance with the Constitution are still evolving.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. Yes, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

We have a metropolitan correctional center in Chicago. I have heard comments from previous speakers which seem to disparage the ones in other cities.

Let me hasten to add that my office is besieged with requests from families of

prisoners to get the prisoners transferred to the metropolitan correctional center in Chicago where they can be near their families and where their families can visit them. I could name five requests right now which we have had from people who want to get members of their family transferred there.

I would also point out that in the Chicago area—and I know we are talking about Los Angeles—the experience has been very beneficial. Cook County Jail has to house Federal prisoners awaiting trial.

Mr. DANIELSON. Mr. Chairman, would the gentleman from Illinois (Mr. HYDE) let me have a little of my time. Perhaps he can get some time on his own and then I will ask him to yield to me later.

Mr. HYDE. Mr. Chairman, the gentleman is absolutely right.

I just want to strongly oppose the amendment and join the gentleman in that respect.

Mr. Chairman, I thank the gentleman for yielding.

Mr. DANIELSON. Mr. Chairman, I thank the gentleman from Illinois (Mr. HYDE) for his contribution.

Mr. Chairman, I strongly oppose the amendment.

I want to preface my comments by stating that I fully understand the position of my very good friend and colleague, the gentleman from California (Mr. ROYBAL). After all, we represent adjoining districts in the Greater Los Angeles area.

However, this is a very grave problem. I would like to point out that within the last 2 months, the U.S. District Court for the Central District of California has rendered a decision holding that the conditions presently existing in the Los Angeles County Jail are unconstitutional because of crowding and deprivation of such necessaries as adequate light, opportunities to bathe, to change clothes, toilet facilities, and the like. As a result, the county has found that it is going to have to spend some $6.5 million simply to put its present jail in a condition which will meet the basic constitutional standards.

By doing so, it will reduce the jail's capacity by more than 200 prisoners. Already the jail is so overcrowded that many of the prisoners must sleep on the floor, as my friend, the gentleman from California (Mr. MOORHEAD), pointed out.

Mr. Chairman, here are some of the things which the court found to be wrong with the present jail in Los Angeles County, in which we now keep our prisoners by contract. For one thing, they are allowed 2 minutes in which to take a shower once a week in a room in which 80 to 100 men at a time are given a chance to take a shower.

They are allowed 1½ blankets for sleeping with no pillow, and often on a cement floor; 1½ to 2 hours per week for exercise; a change of shirts and pants one time each week, even though they must be slept in to provide warmth.

These are findings in Rutherford against Pitchess decided by the court on July 25, 1978. The court found that clothing changes were often as infrequent as once a month.

Some inmates have to wash their clothing in the toilet or while taking a shower. A change of bath towels one time a week, sometimes not that often. Housing of inmates in 8- by 11-foot cells, with three double bunks designed for 6, but 8 to 10 men having to use the cell with 2 to 4 sleeping on the floor at all times. An inability to have an adequate opportunity for sick calls to a doctor. The increased possibility of harm being inflicted by other prisoners due to cramped living quarters.

I have also talked with the sheriff's office, and they want to point out, and I too point out, the great error that people make in talking about beds in connection with a jail. A bed is not a bed—is not a bed in connection with a jail. Jail beds are not fungible. It is necessary by law, and by commonsense, to have separation of classes of prisoners; men must be separated from women; adults must be separated from juveniles.

The presentence people must be separated from the sentenced people.

Civil commitments such as contempt must be separated from criminal commitments.

Inmates under severe discipline must be separated from ordinary inmates.

There are gradations of security risk: high security, moderate security, and minimum security.

Overt homosexuals must be kept separated from the rest of the prison population.

Mentally disturbed jail inmates must be kept separated from those whom they might harm.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. DANIELSON. Persons who are confined as material witnesses and aliens must be kept separate from those who are in prison because of a charge of a crime.

The type that jailers refer to as softs, that is, our old people or easily intimidated people, must be kept separated from the more violent type criminals.

Informants must be kept separated on pain of their lives.

Trusties must be kept separated.

Jail gang members must be separated from those whom they would prey upon.

Juveniles—by street-gang affiliations.

There are some exclusions. For example, policemen who are in jail, politicians who are in jail, and the like, who would be subject to abuse, must be kept separated. The natural result is that we cannot simply provide 500 beds and say. "You have got room for 500 people." They must be separated into different categories.

One of the sins here today is that most people interested in sociology do not realize if they are going to have a humane jail, they have got to take care of these practical situations.

There are no alternatives in my area in Los Angeles.

I have personally visited with Lincoln Heights Jail which so many people say can be rehabilitated. That jail was condemned 15 years ago. Since that time the jail doors have been removed. It has been converted into a community center in which we have athletic activities for young people who would otherwise be on the streets. There is a sewing class for unskilled women on one floor. There is no way this can be rehabilitated as a jail. There is a food stamp outlet. There is a place where young ladies can learn filing and elementary office work. It is not a jail, and cannot be rehabilitated at a cost less than that which would exceed the cost of a new jail.

Lastly, I would like to point out that this is not a permanent place of confinement, not a penitentiary. I am talking about what is truly a jail, a place to put prisoners from the time they are arrested until the time they are sentenced. This is a jail. It is a temporary holding place, a detention facility. It is a place for people who are not yet convicted, or, having been convicted, have not yet been sentenced.

The court said such facilities must be humane, and I urge that we defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYBAL).

The amendment was rejected.

The CHAIRMAN. Are there any further amendments?

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think there are other amendments that Members intend to offer, and I yield to the gentleman from Ohio (Mr. SEIBERLING) to inquire whether or not he has an amendment.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, I have two amendments; one is on merit selection and the other includes arson as a major crime.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On page 14, immediately after line 18, insert the following new section:

"SEC. 31. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall in its Uniform Crime Reports classify arson as a Part 1 offense."

Mr. SEIBERLING. Mr. Chairman, I would like, first of all, to give credit to Senator JOHN GLENN of Ohio, who has held extensive hearings on the question whether arson is a serious crime in this country today and whether it should be included as a major crime in the FBI's Statistical Crime Index. There are two parts to the FBI's index; one is called part 1 crimes, which are the only crimes the occurrence of which the law enforcement agencies must report to the FBI. In this are included such crimes as murder, forceable rape, robbery, et cetera.

Then there are part 2 crimes, which are not required to be reported as such to the FBI by law enforcement agencies, except that after arrests have been made, the arrests are required to be reported.

Arson has become a truly horrendous crime in terms of its effects all across this country. In the last decade, arson

fires have increased by 400 percent with annual damages from arson as high as $15 billion a year. An estimated average of 1,000 persons, including 45 firefighters, die each year in arson fires and an estimated 10,000 persons are injured each year in arson fires. Insurance costs for homeowners and businesses have skyrocketed in order to cover losses which are estimated to be in excess of $3 billion a year.

Why require inclusion of arson as a part 1 crime for purpose of the FBI's crime reporting? Senator GLENN explained it well, during the Senate debate on his amendment, as follows:

Over the years the uniform crime reports, particularly the crime index, have become vital to public and governmental perceptions on criminal activity. These figures are widely used to measure progress, or the lack of it, in crime fighting. Resource deployment flows from this awareness. Including arson as a part 1 crime would surely increase public awareness and prod law enforcement officials into stronger action.

Mr. Chairman, I offer for inclusion in the RECORD following these remarks, two editorials on this subject from the Akron Beacon Journal and one from the Cleveland Plain Dealer:

[From the Akron Beacon Journal, Jan. 9, 1978]

GLENN RIGHT: LAW MUST GET TOUGHER ON ARSON

Recent Senate hearings chaired by Sen. John Glenn of Ohio helped focus attention on the new five-alarm crime of arson that seems to be out of control in many areas of the country.

This interest must not be allowed to burn out until public officials confront the problem squarely and take action to arrest its spread. Sen. Glenn has indicated he wants to conduct additional hearings that might illuminate the path Congress should follow:

The sooner the better. The Ohio General Assembly should also consider steps it can take.

Over the last decade, arson has developed into a major crime—some say the fastest-growing crime in the country.

"In at least 30 percent of the fires we respond to, arson is suspected," says Deputy Chief James Harris of the Akron Fire Department.

Sen. Glenn says arson fires have increased fourfold over the last 10 years. Annually, they are now taking about 1,000 lives, injuring about 10,000, causing damage of up to $15 billion and eating up more than $3 billion in insurance company reserves.

Efforts to combat arson have not begun to keep pace with the growth of the crime.

Arson is not classified by the FBI as a major crime; consequently, reporting statistics and records to the FBI is not mandatory or uniform. Many local fire departments simply elect not to cooperate. That makes getting a handle on the actual size and scope of the problem very difficult.

Moreover, investigators frequently don't receive the intensive training necessary to make them experts at solving suspected cases of arson. Typically, when a vacancy occurs in an arson bureau, a fireman is pulled out of the station and made an investigator, often with little or no background in analyzing the causes of fires or in the art of being a good detective.

In that respect, the best use of any additional money that might be made available by federal or state governments would be to finance more training for investigators.

Merely pouring more money into local arson bureaus to hire additional people will not in itself change things. Arson is one of the most difficult crimes of all to prove, with less than one arrest made for every 100 fires thought to be arson.

To be more successful, arson bureaus will have to be staffed by professional, career-oriented investigators who know more tricks to catch arsonists than arsonists know to avoid detection.

Sen. Glenn and Sen. Charles Percy of Illinois are intent on discovering whether the federal government has unwittingly encouraged arson through a 1968 federal law that guarantees insurance coverage for property owners in high-risk neighborhoods in 28 participating states.

The law was an attempt to stem the flight of residents and businesses from city cores. But the senators fear it may be encouraging some property owners to torch their own buildings after insuring them for far beyond market values.

There is a temptation to conclude that only the insurance companies are being hurt by those who set fires. But that ignores the fact that insurance companies operate on premiums paid by everyone—premiums that have grown frightfully in recent years to cover arson losses.

We all have a stake in turning things around.

CONGRESS SHOULD REALIZE THE SERIOUSNESS OF ARSON

The sobering testimony on organized arson for profit heard by a Senate subcommittee this week will surprise few in law enforcement or firefighting. And it suggested no easy solution to a problem costing this country up to 1,000 deaths, 10,000 injuries and $3 billion in insurance payouts each year.

It did, however, add new force to the argument of Ohio's Sen. John Glenn that at the very least arson ought to be moved out of the category of lesser crimes among which it now sits in law and in crime statistics-gathering and "promoted" to the class of a major crime, and that the federal government should help local law enforcement agencies fight it.

This would provide no easy solution for the problems of detection and prosecution that have made organized arson so easy that, as one former fire-for-hire operator told the senators, those "who know their way around can call an arsonist the way the average person telephones a reservation to a restaurant."

It might change some attitudes, though, and would at least be likely to give people better information on the scope of this swelling crime.

Earlier witnesses in these hearings of the intergovernmental relations subcommittee of the Senate Governmental Affairs Committee have traced much of the problem to a tendency in society and law enforcement agencies alike to "wink" at arson.

The attitude of many is to shrug when a vacant or dying building in a rundown area goes up in flames: What is lost?

This, in turn, leads to a perfunctory approach in investigation and prosecution. Arrest rates rarely run to more than about one for every 50 fires attributed to probable arson, conviction rates run to about one of 10 such arrests, and nobody has more than the foggiest notion how many deliberate torchings escape even the suspicion of arson.

In fact, a great deal has been lost, the testimony indicates. The lives of thousands of firefighters and of other people who happened to be in the wrong places at the wrong times. And dollar costs estimated to run from a quarter to half of all fire insurance premiums paid by American property owners.

Arson is costly. It is dangerous. It is serious. And this should be recognized in law, crime statistics and enforement.

[From the Plain Dealer, July 12, 1978]

ARSON DEVASTATES U.S. CITIES

(By David Merkowitz)

Don't look now, but America is burning.

In city after city, more homes and businesses are going up in smoke. With shocking frequency, however, the cause is not children playing with matches or adults smoking in bed. The most important reason is arson.

Cities enduring declining economies and population loss are especially hard-hit, but prosperous areas suffer too. Motivations for arson range from revenge to firebugging to just plain insanity, but the most consistent motivation is profit.

Owners of failing businesses, rental property and vacant buildings often bail out through arson. Organized crime is playing a bigger role both in setting fires for a fee and in ripping off insurance companies. Arson-for-profit rings have been uncovered in several cities.

Arson is predominantly, though not exclusively, an urban problem. The South Bronx may be the most vivid example of a city being put to the torch, but reports from around the country indicate a conflagration of astounding dimensions.

In Denver, roughly 54% of the fires are deliberately set. The number of arsons rose from 3,000 in 1976 to about 3,900 in 1977, accounting for property losses of $5.5 million.

At that rate, in terms of population, New York would suffer 40,000 arsons. In fact, total arsons in the Big Apple last year came to just over 14,000, a slight rise from 1976. Officials attribute 30% to 40% of the city's fires to arson.

Victor Palumbo, a researcher at the National Fire Prevention and Control Administration, notes that almost every major city recorded an increase in 1977. Houston, America's No. 1 boomtown, blazed away with 971, compared to 900 in 1976. Property losses came to $10.3 million.

Detroit had only a small gain, from 2,115 to 2,150, with losses at $7.8 million. Philadelphia's arson rose from 1,800 to 1,869.

Nationally, arson annually claims over 1,000 lives.

Impressive as they are, these figures are misleading. The best professional arson job is one that looks like an accident. Such blazes don't show up in the arson statistics.

In the worst deteriorating areas, however, owners don't need to spend thousands of dollars to hire professionals. New York city fire officials report that juvenile gang members set fires for as little as $15.

Who pays for the losses incurred in these fires; We all do. How often are the guilty brought to justice? Hardly ever.

Insurance companies build arson payouts into their rate structures, passing the costs on to other policy holders. Little effort goes into arson investigations, which are long, expensive and generally unproductive.

The Fire Prevention and Control Administration estimates that arsonists have a 98% chance of going scot-free.

In one of those severe ironies that plague federal urban policy, the latest arson scam involves a government-authorized program. Originally designed to provide better insurance coverage for inner-city properties and encourage their rehabilitation, the Fair Access to Insurance Requirements Plans may be "creating an incentive for arson-for-profit," the General Accounting Office reports.

FAIR Plans, which operate in 25 states, Puerto Rico and the District of Columbia, establish an insurance risk pool in which private companies participate. Since 1968 they have covered $1.2 billion in arson claims. Losses exceed premiums by $302 million, the companies making up the difference from regular policyholders.

A few states show small profits since the inception of the program in the wake of the civil disorders of the 1960s. Major losses have been incurred in New York ($68 million), Michigan ($60 million), Massachusetts ($52 million), New Jersey ($34 million), Connecticut ($15 million), Pennsylvania ($13 million) and Ohio ($12 million).

Some states make coverage mandatory for any applicant, with owners determining the amount of the policy. Several plans cover the replacement value of the property, less depreciation, rather than actual market value.

Thus FAIR Plan properties become sitting ducks for conspirators who jack up the "cost" through phony transactions, or owners who let buildings deteriorate. In Massachusetts, for example, the FAIR Plan covers 40% of the arsons, though it writes only 15% of all fire insurance.

Reform of FAIR Plan requirements and procedures may reduce arson-for-profit in some areas and slow abandonment of buildings. But unless someone lights a fire under federal and local law enforcement agencies, most of which still don't consider arson a significant problem, more of our cities will become burnt-out cases.

Mr. BINGHAM. Mr .Chairman, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I would like to commend the gentleman from Ohio on his amendment.

Mr. Chairman, I strongly urge my colleagues to support the amendment proposed by my good friend from Ohio, Mr. SEIBERLING. In reclassifying arson as a "major" or "part I crime," we will go on record as expressing our strong feelings that this heinous and highly destructive crime, that has ravaged so many of our urban areas, will receive top priority investigative and prosecutorial resources by the FBI.

The present classification of arson as a part II offense places it in a group which minimizes both its impact and seriousness. Each year arson kills over 1,000 people, and injures over 10,000 others. Partly because the law enforcement agencies are impeded by inadequate resources and insufficient personnel, arson fires are skyrocketing, with damages running as high as $15 billion annually. Of this amount insurance payments to homeowners and businesses run to more than $3 billion each year. In the Bronx alone last year, over 2,600 suspicious fires were set, and the record for the current year is just as bad. Because the epidemic of suspicious fires results in higher insurance premiums, arson has, in addition to all its other horrendous effects an inflationary impact.

Part II offenses include many minor crimes, including victimless crimes, such as vagrancy, intoxication, and violations of curfew. This classification tends to downgrade arson and to reduce the support which the investigation and prosecution of arson deserves. Arsonists who wreak havoc for profit—members of organized crime, and other sinister forces which continue to destroy our neighborhoods—are arrested and prosecuted at such a negligible rate as to provide virtually no deterrence to the crime. Less than 1 percent of the offending arsonists are actually apprehended, prosecuted, and imprisoned. This is an intolerable record, one which must be reversed immediately.

The amendment before us will encourage our law enforcement agencies to provide substantially more time and resources for combating this terrible problem. I urge my colleagues to support it.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I rise in support of the Seiberling amendment to H.R. 12005, the Justice Department Authorization, which would require the Federal Bureau of Investigation to classify arson as a major or part 1 crime in its statistical crime index.

Arson presently is classified as a part 2 crime. As a result, arson is given a lower priority with respect to law enforcement investigations and prosecutions. A recent LEAA report on arson and arson investigation emphasized that intensive investigation and prosecution of arson cases effectively can reduce arson.

In 1974, there were 502,000 incidents of arson, resulting in $1.3 billion in damages. Indeed, losses from arson, a part 2 crime, exceed those of part 1 crimes such as robbery, burglary, larceny, and auto theft.

The most alarming fact about arson is that it is a crime that is continuing to grow. Between 1964 and 1974, the rate of arson fires increased 234 percent. For the same period, losses attributed to arson rose 370 percent. In 1974, 1,000 persons were killed as a result of arson and over 10,000 were estimated to have been injured. The deaths of 45 firefighters that year also were attributed to arson fires.

The LEAA report on arson stressed the need for greater investigative resources within police and fire departments, more sophisticated training for arson investigators, more arson investigators, improved computerized arson data systems across the country, more research into scientific techniques for identifying arson at sites of fires, increased cooperation from insurance companies, and greater cooperation between fire and police departments. It is clear that these steps will involve additional spending and an increased national commitment to fighting arson.

I believe that for such an ambitious effort to eradicate arson to succeed that the public first must be made aware of gravity of this crime. This is why the amendment offered by Representatives SEIBERLING and SAWYER is so important.

We know that arson is a major crime. Why not officially classify it as such?

With arson listed as a part 1 crime for the purposes of the FBI Statistical Crime Index, public attention to the problem of arson will be increased. Increased public support for fighting arson will encourage law enforcement agencies to further investigate and prosecute crimes involving arson.

The amendment before us to raise the status of arson to a part 1 crime is a vital preliminary step in a national effort to reduce the incidence of this escalating crime. I strongly urge my colleagues to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On Page 14, after line 18, insert the following new section:

SEC. 32. The Attorney General shall, using sums authorized to be appropriated by this Act, establish and implement advisory procedures (1) for the identification of individuals who meet the standards and guidelines promulgated by the President for the selection, on the basis of merit, of nominees for United States district court judgeships and (2) for the submission of their names to the President and to the Senate with respect to each vacancy in the office of a United States district court judgeship. Such procedures shall be designed to identify exceptionally well qualified individuals without regard to political affiliation. No nomination or appointment to a United States district court judgeship shall be invalidated on the basis of a failure to comply with this section.

Mr. SEIBERLING. Mr. Chairman, the distinguished ranking minority member of the Judiciary Committee (Mr. MCCLORY) joins me in offering this amendment, which is described in our additional views in the committee report. This is the amendment concerning the merit selection of Federal district court judges.

In the near future—perhaps next week—we will be voting on the conference report on the omnibus judgeship bill. That bill will authorize the creation of 117 new Federal district court judgeships, which represents an increase of 30 percent in the number of district judges. The appointment of the new judges will have a dramatic impact on the quality of justice in America for a whole generation and that is prescisely why it is so important to facilitate the choosing of these judges on the basis of merit.

On February 9, the House voted 321 to 19 to instruct its conferees on the judgeship bill to insist upon the House provision which would have conditioned creation of the new district court judgeships on the President's promulgation of "regulations to establish procedures and guidelines" for selecting the new district judges on the basis of merit.

The conference committee on the judgeship bill has modified this language so as to condition the creation of the new district court judgeships on the President's promulgation of "guidelines and standards" for selecting the new district judges on the basis of merit.

Despite the dropping of the word "procedures," it will obviously be necessary for the President to establish some procedures for assuring that persons who qualify under the guidelines and standards will be available for nomination by him to each of the judgeships. The Pres-

ident, of course, has the power under the Constitution to establish procedures as he chooses.

Our amendment recognizes that the Attorney General is in a unique position to identify and evaluate potential nominees for Federal judgeships. In fact, the Attorney General or his designee has historically reviewed potential judicial nominees in order to assist and advise the President. However, there have been no written procedures for the identification and evaluation of potential nominees.

The Seiberling-McClory amendment would direct the Attorney General to establish—and to implement—formal procedures to assist and advise the President by identifying exceptionally well qualified individuals who meet the merit selection guidelines and standards promulgated by the President pursuant to the omnibus judgeship act or pursuant to the President's constitutional authority.

After identifying these individuals, the Attorney General would be required to submit their names to the President and to the Senate for whatever consideration they deem appropriate.

I believe that adoption of the Seiberling-McClory amendment could have a positive effect in upgrading the quality of the appointment of district court judges and in enhancing the public's confidence that judges are chosen for the proper reasons. The amendment would apply to all judgeship vacancies existing or occurring during fiscal year 1979, whether those judgeships have been in existence or are newly created by the omnibus judgeship bill. I urge adoption of the amendment.

Mr. Chairman, I would like to call the attention of the Members to the fact that when we held hearings on this bill, among the witnesses was Mr. Michael J. Egan, Associate Attorney General. Mr. Egan, on page 18 of our printed hearing record, in a statement that he filed with the hearing, stated that one of his responsibilities was preparing recommendations for Presidential appointments to the Federal judiciary, and I would like to read in a little more detail exactly what he said on page 19.

Mr. Egan said:

> Another of the most important functions of my office is the preparation of recommendations for Presidential appointments.

Then he went on to refer to the fact that the President, by special order, had created a special nominating commission for circuit judgeships and that Senators had established commission dealing with the recommendation of district judges.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. And then he went on to say:

> My office is responsible for coordinating with all these Commissions.

Then he described the number of people that they had passed upon since January of last year, and then he added:

> Passage of the new judgeship bill, which provides in excess of 140 new judgeships, will create a substantial burden on my office which will impose even greater demands in this area of responsibility.

Now, if this is already a function which the Attorney General is carrying out through the office of the Assistant Attorney General, is it not a good idea to have in this authorization bill a statutory recognition of that function and a mandate that it be carried out, in order to come up with names on a merit basis, without partisan considerations, and then require that the Attorney General submit those names not only to the President but to the Senate so that they will have the benefit of the Attorney General's views?

The President may or may not pick from those names. The Senators may or may not approve them. But at least they will know that the Attorney General, who is the Nation's principal law enforcement officer, has compiled what would be an appropriate list of qualified persons to be nominated to these very important posts.

I have no further comments, but I would hope that the distinguished gentleman from Texas, who is managing this bill, would look favorably upon this, and I strongly urge the adoption of the amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to say that I look favorably and with affection and appreciation upon the distinguished gentleman from Ohio (Mr. SEIBERLING), but I do feel obligated to point out that I hope the House will recognize the problems inherent in this amendment. It calls for the merit selection of district judgeships, and no one, of course, opposes that. We want to have good judges. We are going to have a whole slew of new judges. But this is not the appropriate vehicle and this is not the appropriate time.

First, under the Constitution, the Department of Justice has no official role to play whatsoever in the judge's nomination or appointment or confirmation and, thus, a direction to the Attorney General to promulgate standards for a process in which he or she has no constitutional responsibility is really not too responsible.

Perhaps more importantly, the omnibus judgeship bill, on which the conference has been agreed, which is now pending, will be coming before the House and the Senate after many months, does have merit selection language, language directed to the man who is going to make the appointments—the President of the United States. And in that language in the bill itself, it provides for selecting, as my distinguished and able friend, the gentleman from Ohio (Mr. SEIBERLING), has pointed out. The gentleman was a member of that conference committee and he worked very hard to complete it. It creates 117 new judges, as the gentleman said. But none of those judges, in section 1 and 2 of the act, shall take effect, until the President's promulgation of standards and guidelines for the selection on the basis of merit of nominations of U.S. district court judgeships authorized by this act.

I think that is quite sufficient to indicate that the man who is going to make the nomination must submit guidelines for selection on the basis of merit of judges. He is the one who is going to have to submit it, and he is going to have to do that before he can appoint any of them, before he can nominate them, before they can be confirmed, before they can be sworn in to serve.

I think that is quite adequate, and we do not need this amendment to do that which is unnecessary.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, of course.

Mr. SEIBERLING. I thank the gentleman. I would just like to point out that all this amendment does is to direct the Attorney General to formalize what he is already doing, and that is to establish procedures for identifying individuals who meet the standards and guidelines promulgated by the President; and second, to tell the Senators, as well as the President, who those individuals are that he has identified.

How does that in any way change the President's constitutional role or change, in fact, what the Attorney General is doing except to let the Senators know what he is doing?

Mr. BROOKS. To my friend let me reply and say that the President has the responsibility to promulgate and publish standards and guidelines, and he has the sole authority. It is his responsibility now under this bill, and it is also his responsibility under the Constitution to appoint, to nominate; and so, to try and put into law special authority for the Attorney General for that for which he does not have jurisdiction is really unnecessary. If the President wants to ask the Attorney General for some suggestions or delegates to him some responsibilities, that is well and good, but he is not mandated to do that.

It is the President's responsibility, not the Attorney General's, and I think to confuse them is unnecessary. I would hope that the Members would not approve the amendment and would feel as I do, that the language in the judgeship bill is quite adequate to guarantee that we have merit selection of Federal judges.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I commend the gentleman from Ohio for offering this amendment, and his action here today is consistent with the action which the House took last February when it instructed the conferees in the judgeship bill. Unfortunately—I think most unfortunately—the conferees did not adhere to the instructions which were given to them by the House, and they substituted

the language, "standards and guidelines," which they would hope that the Members of the Senate would apply in connection with their recommendations to the President the judicial nominees, for the word "procedure," which as included in the language which we instructed the conferees to adhere to and which is included in the language which is offered by the gentleman from Ohio at the present time.

Now, some people contend that this is just a matter of semantics, but it is much more than a matter of semantics. It is a matter of substance.

In response to the argument of the gentleman from Texas, I might say that the role of the Department of Justice since its creation has been to recommend and to pass upon the merits of judicial nominees. The first thing the President does when he receives a nominee is to refer that to the Department of Justice for review.

As a matter of fact, in the order which this Attorney General has promulgated for the Associate Attorney General, Mr. Egan, it states as follows:

The order assigns to the Associate Attorney General certain functions, including the preparation of recommendations for judicial appointments.

So, in a sense we are merely authorizing the Department of Justice to do what they have traditionally been authorized to do, but we are mandating that they should establish procedures for merit selection. As the gentleman from Ohio so correctly said, the President made a pledge during his campaign that if elected he would assure that we would have merit selection of judges and U.S. attorneys without consideration of partisan or political influence. This amendment fulfills that pledge.

I might say that while the language in the judgeship bill only affected the judgeships that are being created there, this would establish an authority for merit selection not only with respect to those judges but with respect to all judges that would be appointed. Yet, it does not impinge upon the President's constitutional prerogatives because it states expressly in the final line of the amendment that no nomination or appointment to the U.S. district court judgeship shall be invalidated for failure to comply with this provision.

I might say already with respect to appointment of judges to the court of appeals, there is already a merit selection method which has been established by Executive order. What we are talking about here is in addition to what is already being done with respect to court of appeals judges.

It seems to me that by creating 117—mind you, 117—additional district judges, and this is about a 30-percent increase over the present number of judges, it is vital that we should include this language in our authorization and establish once and for all, as the President assured us he wanted to have established, a method for the merit selection of judges.

Mr. Chairman, on February 9, 1978, this body overwhelmingly went on record in favor of merit selection of Federal judges. My motion to instruct House conferees on the judgeship bill was approved 321 to 19. But in conference, a majority of the House conferees agreed to back down. Whereas the original House language was taken to mean that the President would have promulgated "procedures" for the impartial identification of individuals of merit for district judgeships like those promulgated for appellate judgeships, the compromise language as agreed upon in conference would merely authorize the use of "standards and guidelines" not unlike those applied by the Justice Department today. Thus instead of requiring that independent panels identify individuals of merit, the new language would permit Senators to decide on their own, if their nominee has merit. It is suggested that the change is one of the mere semantics and that the House prevailed in conference.

That is incorrect. Some of those favoring the "semantic" changes are among those who defeated the measure in its entirety in subcommittee last year. Those of us who are opposing the "semantic" change are the authors of the present amendment. This "semantic" change was not unexpected. That, in fact, is the reason why on February 9, 1978, I offered the motion to instruct the conferees.

Now, what is meant by merit selection? According to the conference compromise, a merit selection plan need only require that Senators apply certain standards as they select the nominees. But the merit selection plan that President Carter promised is the selection of individuals free from partisan or political influence. Indeed, the judgment of selectors free from partisan or political influence is the essence of merit selection. For the purpose of merit selection is to reduce the influence of politics in the selection process. This cannot be done if we perpetuate the present patronage system.

Since the Senate's "advise and consent" role should not be eliminated, the appropriate way to reduce political influence is to increase the influence that meritorious choices may have. The amendment offered by my colleague from Ohio (Mr. SEIBERLING) would attempt to do that. It would not rewrite the process of Presidential nomination and senatorial advice and consent. Rather, it would seek to overcome the partisan and political aspects within the process.

Thus, the amendment would have major impact. It would not be "cosmetic" or "useless" or "hokum" as its detractors suggest. It would work and that is why it has been fought so vigorously.

We all know there is room for improvement. Looking back over the evaluation of judicial nominees by the American Bar Association for the most recent 3-year period, only one in 30 candidates was exceptionally well qualified and only one in three was well qualified. Candidates not qualified at all outnumbered those exceptionally well qualified by more than 2 to 1. Under the current system, mediocrity seems to be the rule of selection. I wonder why.

If some independent group were to suggest to the President and the Senate potential nominees who were exceptionally well qualified, the quality of Federal bench would inevitably be enhanced. Under the public scrutiny, it would become politically difficult to choose individuals on the basis of their political connections. Thus, we believe that our amendment would advance merit selection of district judges.

The amendment has two specific advantages over the conference compromise in the omnibus judgeship bill. First, while the conference compromise is limited—in order to comply with germaneness requirements—to newly created judgeships, this amendment applies to all judgeships—old and new. Second, while the conference compromise would be satisfied by the current practice of senatorial selection, the amendment would not. In contrast to the conference compromise, the amendment would change things—for the better. We have no objection to the promulgation of standards. But to us the important element of merit selection is who is to apply those standards. To insure the integrity of the selection process, we must free it from even the appearance of partisan and political influence.

We urge your support.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I certainly thank the gentleman for his support and commend him for his statement.

I would like to say that even though the conferees on the judgeship bill took out the word "procedures," in order to implement the standards and guidelines which the conference report on the judgeship bill mandates the President to promulgate for merit selection of judges, he, in my opinion, is going to have some procedures for doing so.

The fact is that the Attorney General is performing that function today and has such procedures, and all this does is to put into statutory language a direction that he come up with names of qualified people to submit to the President, which the President is of course, free to accept or reject.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. McCLORY was allowed to proceed for 1 additional minute.)

Mr. McCLORY. Mr. Chairman, the gentleman is precisely right. It seems to me it would be a great day in this Chamber, it would be a day on which we could bring great honor and prestige to our service here if we could adopt the gentleman's amendment. I am certain it would be consistent with the broad national needs and broad national purpose we are undertaking to serve.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCLORY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 206, noes 151, not voting 75, as follows:

[Rollcall Vote No. 852]

AYES—206

Abdnor	Gephardt	Nichols
Ambro	Gibbons	Nowak
Andrews, N. Dak.	Gilman	O'Brien
Archer	Glickman	Oakar
Ashley	Goldwater	Oberstar
AuCoin	Gradison	Ottinger
Bafalis	Grassley	Panetta
Baucus	Green	Patten
Bauman	Guyer	Pattison
Bedell	Hagedorn	Pease
Benjamin	Hamilton	Pressler
Bennett	Hammer-schmidt	Pritchard
Bingham	Hanley	Pursell
Blouin	Hannaford	Quayle
Boland	Hansen	Quillen
Bonker	Harkin	Rahall
Breckinridge	Harris	Regula
Brinkley	Harsha	Reuss
Broomfield	Heckler	Rhodes
Brown, Mich.	Heftel	Richmond
Brown, Ohio	Hillis	Rinaldo
Broyhill	Hollenbeck	Roe
Buchanan	Holt	Roncalio
Burgener	Holtzman	Rooney
Burke, Fla.	Horton	Rousselot
Burton, John	Huckaby	Roybal
Carr	Hughes	Rudd
Carter	Hyde	Ruppe
Cederberg	Ichord	Russo
Clausen, Don H.	Jacobs	Santini
Clawson, Del	Jeffords	Scheuer
Cleveland	Kasten	Schroeder
Cohen	Kelly	Schulze
Coleman	Keys	Sebelius
Collins, Tex.	Kildee	Seiberling
Conte	Kindness	Sharp
Cornell	Kostmayer	Skubitz
Cornwell	Lagomarsino	Snyder
Coughlin	Latta	Solarz
Crane	Le Fante	Spellman
Cunningham	Leach	St Germain
Daniel, Dan	Lent	Stangeland
Daniel, R. W.	Livingston	Stanton
Dent	Long, Md.	Steers
Derwinski	Lott	Stockman
Devine	Lujan	Stratton
Dicks	Luken	Studds
Dornan	McClory	Symms
Duncan, Tenn.	McCloskey	Taylor
Edgar	McDade	Treen
Edwards, Ala.	McDonald	Trible
Emery	McEwen	Udall
Ertel	McHugh	Vander Jagt
Evans, Del.	Maguire	Vanik
Evans, Ind.	Mann	Walgren
Fenwick	Marks	Walsh
Findley	Marlenee	Weaver
Fish	Martin	Weiss
Fisher	Meyner	Whalen
Fithian	Michel	White
Flippo	Miller, Ohio	Whitehurst
Florio	Mitchell, N.Y.	Wilson, Bob
Foley	Moffett	Winn
Forsythe	Moore	Wirth
Frenzel	Moorhead, Calif.	Wydler
Frey	Mottl	Wylie
Gammage	Myers, Gary	Yates
Gaydos	Myers, John	Yatron
		Young, Fla.
		Zablocki

NOES—151

Addabbo	Breaux	de la Garza
Akaka	Brodhead	Delaney
Alexander	Brooks	Dellums
Anderson, Calif.	Brown, Calif.	Derrick
Andrews, N.C.	Burke, Mass.	Dickinson
Annunzio	Burlison, Mo.	Dingell
Applegate	Burton, Phillip	Dodd
Aspin	Butler	Downey
Barnard	Byron	Drinan
Beilenson	Cavanaugh	Duncan, Oreg.
Bevill	Chappell	Eckhardt
Blanchard	Chisholm	Edwards, Calif.
Boggs	Clay	English
Bolling	Collins, Ill.	Evans, Colo.
Bonior	Conyers	Evans, Ga.
Bowen	Corman	Fary
Brademas	Cotter	Fascell
	Danielson	Flood
	Flowers	Lloyd, Tenn.
	Flynt	Long, La.
	Ford, Tenn.	Lundine
	Fountain	McFall
	Fowler	McKay
	Fuqua	McKinney
	Garcia	Mahon
	Giaimo	Markey
	Ginn	Mattox
	Gonzalez	Mazzoli
	Gore	Mikulski
	Hall	Mineta
	Hawkins	Mitchell, Md.
	Hefner	Moakley
	Hightower	Mollohan
	Howard	Montgomery
	Hubbard	Murphy, Ill.
	Jenkins	Murphy, N.Y.
	Jenrette	Murphy, Pa.
	Johnson, Calif.	Murtha
	Johnson, Colo.	Myers, Michael
	Jones, N.C.	Natcher
	Jones, Okla.	Neal
	Jones, Tenn.	Nolan
	Jordan	Obey
	Kastenmeier	Patterson
	Kazen	Perkins
	Krebs	Pickle
	LaFalce	Preyer
	Leggett	Price
	Lehman	Rangel
	Levitas	Roberts
	Lloyd, Calif.	Robinson
		Rogers
		Rose
		Rostenkowski
		Ryan
		Satterfield
		Shuster
		Sikes
		Skelton
		Smith, Iowa
		Staggers
		Stark
		Steed
		Steiger
		Stump
		Thompson
		Traxler
		Tucker
		Ullman
		Van Deerlin
		Vento
		Volkmer
		Waggonner
		Wampler
		Watkins
		Waxman
		Whitley
		Whitten
		Wiggins
		Wilson, Tex.
		Wolff
		Young, Mo.
		Zeferetti

NOT VOTING—75

Ammerman	Goodling	Poage
Anderson, Ill.	Gudger	Quie
Armstrong	Harrington	Railsback
Ashbrook	Holland	Risenhoover
Badham	Ireland	Rodino
Baldus	Kemp	Rosenthal
Beard, R.I.	Krueger	Runnels
Beard, Tenn.	Lederer	Sarasin
Biaggi	McCormack	Sawyer
Burke, Calif.	Madigan	Shipley
Burleson, Tex.	Marriott	Simon
Caputo	Mathis	Sisk
Carney	Meeds	Slack
Cochran	Metcalfe	Smith, Nebr.
Conable	Mikva	Spence
Corcoran	Milford	Stokes
D'Amours	Miller, Calif.	Teague
Davis	Minish	Thone
Diggs	Moorhead, Pa.	Thornton
Early	Moss	Tsongas
Edwards, Okla.	Nedzi	Walker
Eilberg	Nix	Wilson, C. H.
Erlenborn	Pepper	Wright
Ford, Mich.	Pettis	Young, Alaska
Fraser	Pike	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Rodino against.

Mr. Young of Alaska for, with Mr. Slack against.

Mr. Walker for, with Mr. Pepper against.

Mr. Goodling for, with Mr. Carney against.

Mr. Railsback for, with Mr. Krueger against.

Mr. Madigan for, with Mr. Burleson of Texas against.

Mr. Sawyer for, with Mr. Teague against.

Mr. Badham for, with Mr. Biaggi against.

Mr. Beard of Tennessee for, with Mr. Eilberg against.

Mr. Conable for, with Mrs. Burke of California against.

Mrs. Smith of Nebraska for, with Mr. Stokes against.

Mr. Spence for, with Mr. Metcalfe against.

Mr. Thone for, with Mr. Diggs against.

Mr. Anderson of Illinois for, with Mr. Miller of California against.

Mr. Ashbrook for, with Mr. Rosenthal against.

Mr. Erlenborn for, with Mr. Ford of Michigan against.

Mr. Marriott for, with Mr. Nix against.

Mr. Corcoran of Illinois for, with Mr. Shipley against.

Mr. Cochran of Mississippi for, with Mr. Moorhead of Pennsylvania against.

Mr. VENTO and Mr. GORE changed their vote from "aye" to "no."

Messrs. BAUCUS, BOLAND, HORTON, and STRATTON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 6, lines 21 and 22, strike out "planning, acquisition of sites and construction of new facilities and".

Page 7, line 1, after the period insert the following: "None of the sums authorized to be appropriated by this Act for the activities of the Federal Prison System shall be used for planning, acquisition of sites, or construction of new facilities.".

Mr. CONYERS. Mr. Chairman, this amendment would prohibit the expenditure of $18.6 million that is now included in this authorization for Federal correctional institutions, for the planning, acquisition of sites, and the construction of any new facilities for Federal prisons—specifically the Phoenix Federal Correctional Institution Detention Center and a west coast adult prison.

A number of circumstances peculiar to Arizona and California aggravate the conditions in the jails and prisons there, and it would seem to me that the problems of the Federal prison system might lead a sufficient number of Members, hopefully a majority of the Members, to prohibit any new construction of Federal prison facilities until we have made a far more complete examination of the severe overcrowding of the Federal prison system. After 50 years of prison expansion, our efforts have proved entirely futile. The conditions continue to be overcrowded and intolerable.

Mr. Chairman, this amendment does not delete the $18.6 million. It merely prohibits its expenditure for new facilities, for planning sites, or for the construction of new facilities for Federal prisoners. This is a policy that does not work. The alternative of adding new prisons to the Federal prison system does not work.

Studies, for example, of the New York prison system show that the city pays $26,000 per year for every person locked up. I am happy to report that the Federal system is not that excessive, estimated at $17,000 per year.

But the fact still remains that alternatives to imprisonment greatly reduce correctional expenses and this is true especially in view of the fact that the prison population is projected to decline.

According to a study completed by the subcommittee which I chair, a 1-percent decrease in the rate of male unemployment results in 1,300 fewer prisoners sentenced to Federal penal institutions. The Attorney General has also announced a cutback in prosecutions relating to particular kinds of crimes, such as auto theft and bank robbery.

In hearings before a subcommittee of the Committee on Appropriations of the

House, the Director of the Bureau of Prisons, Mr. Norman Carlson, was asked how many of the Federal prisoners could be housed in a "Holiday Inn"—a euphemism for something less than total-security prisons. Offhand, the Director estimated that one-third of the 28,000 prisoners could be housed in camp-type facilities. The Bureau of Prisons has also testified that construction costs are increasing by 9.8 percent a year.

Finally, there exists much unused capacity in many military facilities that could be utilized by the Bureau of Prisons in lieu of building new prisons.

This is the last amendment to this authorization. This is an issue that has greatly troubled a number of our colleagues, particularly those from the west coast.

Mr. Chairman, I urge the support of the Members for the prohibition of the expenditure of $18.6 million in this authorization for new Federal correctional institutions, and I hope that this amendment is favorably considered.

Mr. BROOKS. Mr. Chairman, I really hate to rise in opposition to this amendment, but I must do so, although I have great respect for my colleague, the gentleman from Michigan (Mr. CONYERS).

It is regrettable but it is necessary that this country have a Federal prison system, and it seems fair for those people who are incarcerated that we plan for our sites, construct new facilities, and treat prisoners with ordinary decency, although they are under wraps, so to speak.

Mr. Chairman, I am opposed to this amendment. I think these funds are absolutely necessary, and I trust the membership will turn the amendment down.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Chairman, while in so many respects I do agree with my good friend, the gentleman from Michigan (Mr. CONYERS), in this regard, I think the amendment is totally out of place.

For many years we have been critical of the Bureau of Prisons for maintaining facilities like Leavenworth and Atlanta, but the cold reality is that crimes are being committed in this country, that the Federal prison population is rising, and that we cannot put them all in Holiday Inns or any other such place. We need secure facilities and we need humane facilities, in accordance with the standards set down, at least, by our courts, if not by our own Bureau of Prisons and the Justice Department.

This is a rather modest undertaking, so far as new facilities are concerned, in this bill. It is far less than what the Bureau of Prisons would like to have, in order to meet the obligations it has, in terms of its own prison population. I am sure that in due course the Appropriations Subcommittee under the chairmanship of the gentleman from West Virginia (Mr. SLACK), on State and Justice Appropriations, will also find that it is necessary that we move forward. It is in fact to deny prisoners a humane incarceration that you will accomplish by denying the ability of the Bureau of Prisons and the United States to build some new facilities in the field of corrections. We must move forward.

The amendment should be rejected.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I rarely disagree with my distinguished colleague, the gentleman from Wisconsin (Mr. KASTENMEIER), but there is clarification which I think ought to be put before the membership. We are not reducing some wide plan of prison construction. The $18.6 million that would not be used for construction applies only to two correctional institutions, one in California and one in Phoenix, Ariz. So that the question does not turn on what our friends in the Appropriations Committee feel about this. It turns on the validity of whether these two specific construction projects should go forward. And that is the responsibility of the Committee on the Judiciary. It is not a widespread slash at any other prison, because these are the only two that are reported to be under consideration as new construction.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, in that regard, the Committee on the Judiciary thought they should go forward. While one is in California and the other one is in Arizona, they are in fact national facilities.

Mr. CONYERS. If the gentleman will yield further, that brings the issue down to where it should be considered, the Committee on the Judiciary. And it is not a question of whether 15 or 20 prisons over the country should be constructed. It is these two. Ask anybody on the Committee on the Judiciary what is the justification for these two facilities. There is no justification, because in Arizona the unemployment rate, unlike other parts of the country, happens to be declining. The amount of incarceration, according to all of our studies, will correspondingly decline.

Mr. Chairman, I urge the Members to exercise their discretion and support this amendment.

Mr. BROOKS. Mr. Chairman, I ask for a "no" vote on the amendment.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize that my colleagues would like to vote on this last amendment, so that I will not take up their time. However, I do rise in strong support of this amendment.

Mr. Chairman, I simply point out that whether we build one prison, it will become overcrowded; whether we build two prisons, they will become overcrowded; whether we build a thousand prisons, they will become overcrowded. At some point we have to come to grips with why people are incarcerated. Simply building brick and mortar prisons to deal with prisoners is in no way addressing the reality of the problems that bring people into prisons. I think my distinguished colleague from Michigan has done a great service to this body by bringing this important amendment to the floor. I urge my colleagues to support it.

Mr. Chairman, for the record, I would like to offer the following statement in opposition to the Bureau of Prison's construction plans:

The Federal Bureau of Prisons requests $37,080,000 for planning, site acquisition, and construction of two prisons: A 500-bed Federal correctional institution/detention center in Phoenix, Ariz.; and a west coast adult prison (planning and site acquisition only).

The Bureau of Prisons has given three reasons for the construction of these prisons:

First. Prison construction will alleviate crowding in Federal prisons.

Second. The Phoenix facility will alleviate a critical shortage of detention facilities in the Arizona area.

Third. New prisons in Phoenix, Ariz., and at another, unspecified west coast location will enable the closing of the antiquated McNeil Island penitentiary in Washington State.

None of the Bureau's reasons adequately justifies its request for construction funds. For the following reasons, the Bureau's budget requests for fiscal year 1979 should not be authorized:

First. The effect of prison construction during the past half century has been merely to proliferate overcrowded prisons. After 50 years of steady expansion of the Federal prison system, the prisons are as overcrowded as ever.

Second. Overcrowding can be alleviated only by use of alternative sanctions, such as restitution to victims, community service orders, day fines, and increased probation and parole, for nonviolent offenders. In 1976, 89 percent of those persons committed to Federal prisons were convicted of nonviolent crimes. This clearly indicates the large number of offenders who could safely be sentenced to a community alternative.

Third. Prisons are the most expensive and the least effective criminal sanction available. A new study by the Coopers and Lybrand accounting firm puts the cost of maintaining one prisoner in New York for a year at $26,000, five times as much as a family of four receives in welfare benefits.

Fourth. Any expansion of the Federal prison system must be justified on the basis of long-term study and planning, which would include in its consideration the exorbitant costs of prisons and the wide availability of alternatives. The Bureau has consistently failed to provide long-term justification for its construction requests.

Fifth. Despite its announced intention to close McNeil Island penitentiary, the Bureau of Prisons is about to undertake major renovations of this "outdated Bastille," as it is termed by the Director of the Bureau. The date of closure is continually postponed far into the future.

The McNeil Island Prison should be closed immediately.

Sixth. Arizona is an inappropriate location for a new prison. The recent dramatic reduction in the State's unemployment rate promises a reduction in crime; Arizona already sentences more Federal offenders to prison per capita than any other State in the Union; and pretrial detention and harsh prison sentences meted out in Arizona fall disproportionately on Hispanic Americans and Mexican Nationals.

FIFTY YEARS OF EXPANSION HAS FAILED TO REDUCE PRISON OVERCROWDING

The history of the Federal prison system is one of regular expansion. Prior to 1925, the Federal Government operated three penal institutions. All three are still in operation, and 59 prisons, prison camps, and regional residential centers have been added. More are underway. Throughout this remarkable process of growth, the most consistent rationale for expansion has been that of relieving overcrowding:

The 1925 annual report of the Attorney General states:

> The Federal Penitentiaries are crowded far beyond their normal capacity . . . the need for additional institutions was never greater . . .

Nine facilities were added in the ensuing 15 years.

The 1939 Attorney General annual report states:

> Our existing institutions are crowed far beyond their normal capacity . . . we must undertake a broad, long range building program.

Ten facilities were added in the next 15 years.

From the Attorney General's annual report of 1955:

> With a normal capacity of slightly over 19,000 prisoners the institutions have to cope with nearly 21,000 prisoners this year . . . This population places a serious burden on the federal prison facilities . . .

Twenty-one facilities were added over the next 17 years.

In 1972 testimony before the House Appropriations Committee, Bureau of Prisons Director Norman Carlson stated:

> We believe that new institutions are needed because many of the institutions . . . are badly overcrowded and do not provide facilities and space required to operate effective correctional programs.

Sixteen facilities have been added to the Bureau inventory since 1972.

In 1977 Senate Appropriations Committee testimony, Director Carlson stated:

> Despite the Committee's continuing support of our programs, growth in institution capacity has not kept pace with the population increase . . . Bureau institutions are presently overcrowded . . .

Six prisons and four prison camps are currently under construction.

In the past 10 years, Bureau of Prisons growth in total facilities has equaled that of the previous 40 years. Still, overcrowded conditions remain and, in fact, worsen with each new wave of building. This phenomenon should not be allowed to justify further facilities expansion. The inescapable conclusion of any historical review is that the lack of prison space is caused by inappropriate confinement rather than too few prisons.

Crowding is a real concern. But sincere efforts to remedy such conditions should consider additional prison beds the final measure, after exhaustion of all other measures. Community sanctions offer an immediate, humane, inexpensive, and effective route to substantial improvements in prison conditions for the small number too violent for community alternatives.

OVERCROWDING IS A FUNCTION OF MISUSE OF PRISONS AND UNEMPLOYMENT

According to the Congressional Budget Office, of the offenders sentenced to Federal prisons, only 11 percent are sentenced for violent crimes. Prisons, themselves, are a factor in causing the crime they are designed to cure. The United States leads all nations, with the exception of South Africa, in incarceration rates. The 89 percent of nonviolent offenders could be sentenced to a broad array of community sanctions immediately at hand. Community sanctions such as probation, community service orders, third-party custody, restitution, suspended sentences, and day-fines (fining proportional to income) are not only much less costly but far more effective than imprisonment. The thousands of men and women in prisons represent a total waste in precious resources, both in terms of dollars and human lives. If the Congress continues its commitment to the most expensive alternative available, another hundred years of waste is guaranteed. Instead, the Congress must seize the opportunity to exercise its responsibility to lead the Nation in providing for the use of proven alternatives to further prison expansion.

UNEMPLOYMENT

New research reports have again underscored the close link between the availability of jobs in the U.S. economy and both crime and imprisonment rates. Dr. Jack Nagel of the University of Pennsylvania reports that—

> Each 1% increase in the unemployment rate will result in 266.4 more crimes per 100,000 population . . . A 1% decrease should reduce crime by the same amount.

The clear message: If jobs are available, crime will diminish. This finding supports and explains the 1977 report by the Congressional Budget Office that 94 percent of the variation in Federal prison intake could be explained by changes in the rate of unemployment.

The recent steady decline in unemployment rates and the projection by most economists of a continuing steady improvement in the job market over the next decade should result in lower serious crime and a significant reduction in prison admissions. Prison populations should decline before the prisons now being requested could be readied for opening. This is not the time to devote additional public funds to expand Federal prison capacity. Providing jobs is the only Federal policy guaranteed to reduce crime.

THE COST OF IMPRISONMENT IS STAGGERING

Prisons are at once the most expensive and the least effective criminal sanction available. Fiscal responsibility dictates that prisons should be reserved only for those too dangerous to be sentenced to the much cheaper and far more effective community controlled alternatives. According to the recently completed Coopers-Lybrand audit on New York's Rikers Island complex, the city pays $26,000 per year for every person it locks up. Inflation and multiplying debt costs will force costs to the $70,000 per prisoner per year level in 10 years, and to an astonishing $865,000 level in 40 years.

The Bureau of Prisons is the fastest growing prison system in the Nation and one of the fastest growing Federal bureaucracies. In 1970 the Bureau operated 38 facilities, staffed by 5,000 employees, with a $69.5 million operating budget. It now seeks to operate 58 major secure facilities and 12 regional halfway houses with over 9,300 positions, and an operating budget over $325 million. In the period 1959–69, its budget increased by about 60 percent, but in the 9 years since, its budget has increased by over 340 percent.

Some of the most effective alternative criminal sanctions—day fines, restitution, community-service orders—virtually eliminate operating costs.

THE SIZE OF GOVERNMENT SHOULD BE REDUCED, NOT EXPANDED

The Carter administration is publicly committted to a reduction in the size of Government. Any expansion must be justified on the basis of long-term study and planning. Yet the Bureau of Prisons asks the Congress to authorize further expansion on the assumption that such planning has been accomplished. The Bureau is asking Congress to overlook its vital role of oversight.

Eight years after the initial development of the Bureau of Prisons master expansion plan under President Nixon, Attorney General Mitchell, and Prison Director Carlson, both the plan and the master planning process remain hidden. Director Carlson's terse description of the plan's development during 1975 House Judiciary Committee hearings as "essentially an in-house planning operation" was a definite understatement. Since the original call for 66 new prisons—19,000 new beds—at a cost of over $700 million, the master plan has undergone such constant revision that Bureau officials now simply refer to the document as a "draft" believing that description justifies the Bureau's refusal to allow its release.

Information on the Bureau's current plans is sketchy, involving either 10 or 12 more prisons, two to seven prison camps, and zero to two Federal jails, according to various sources. Such "flexibility" is reflected in this year's sudden request for a Phoenix prison/jail, last year's Detroit MCC, and the decision to take advantage of the 1980 Winter Olympic Games for building a new prison. These projects raise serious questions about the nature of Bureau planning efforts. Before any further expansion is authorized by the Congress, the public has a right to know the long-range plans and implications of this presently remote Federal agency.

AN ARIZONA PRISON IS NOT NEEDED

In its request for funding the proposed Phoenix combined prison/jail, the Bureau of Prisons cites a "critical shortage of detention facilities" in the area. Those that are available are "overcrowded and substandard," the Bureau reports. In light of such circumstances, and in lieu of a construction program of its own, the Bureau of Prisons, with other Federal agencies, should provide assistance and incentives for alternatives and community services in order to reduce local detention populations and raise the quality of local facilities.

Arizona does not need a new prison because:

Arizona's judicial districts are far behind all others in the use of community sentences, causing per capita commitment rates far in excess of all other States. Arizona sends three times as many persons per capita to Federal prisons as California and 14 times as many as such States as Massachusetts and Wisconsin.

The U.S. Parole Commission grants paroles in the West at a far lower rate than in any other region of the country. Moreover, a larger percentage of Federal prisoners in the West (17.1 percent) serve sentences in excess of the guidelines established by the Commission. A stricter application of these Parole Commission guidelines would substantially reduce overcrowding in prison facilities in the Western States.

The recent 3½-percent reduction in unemployment in Arizona, with further reductions projected (Arizona Department of Economic Security) should drastically lower the number of index crimes over the next 3 years. This reduction should obviate the need for new prison construction.

The 60-day limit between arraignment and trial required by the Federal Speedy Trial Act will take effect in 1980, substantially reducing the number of detainees held with charges pending.

Almost 40 percent of Arizona commitments stem from violations of drug laws. Decriminalization or implementation of community supervised drug programs would significantly lower Arizona's commitment rate.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, might I add that we are not talking about having no place to put people who have committed crimes. We are talking about alternatives that are supported by the Bureau of Prisons itself. We are talking about using a little discretion as opposed to this construction tradition that, since the 1930's, has led to the largest growth industry in the Federal Government, that of prisons.

I urge my colleagues to give consideration to the eloquent arguments of my colleague from California (Mr. DELLUMS).

Mr. ANNUNZIO. Mr. Chairman, will my colleague yield?

Mr. DELLUMS. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I appreciate the gentleman yielding to me. I thought yesterday, after we passed that great, noble legislation that is going to purify everybody, there would be no need for any more jails.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The amendment was rejected.

● Mr. WHITE. Mr. Chairman, I rise in support of the committee's request for an increase in funding to the Immigration and Naturalization Service over the fiscal year 1979 budget request.

As the Representative for the 16th District of Texas, which enjoys a 352-mile common boundary with the Republic of Mexico, I am acutely aware of the critical need for substantial increases in border patrol personnel and resources.

The predominant number of illegal aliens come from Mexico across the southern borders of the United States. Although we can only estimate the number of illegal aliens now resident within our borders, we know that the total is staggering, numbering into the multimillions. We are also witnessing ever-increasing evidence of the malaffect this intrusion is having on our society.

Another measure of the scope of the problem is revealed by the increasing number of apprehensions of illegals made by U.S. law enforcement officers. While providing us with a crude indicator of the growing numbers of persons attempting to cross into the United States illegally, the apprehensions show the effectiveness of applying increased resources, in the way of manpower and more sophisticated detection equipment, to our efforts in this area.

Recent figures provided by the chief patrol agent of the El Paso border patrol sector point to the results of even slight budgetary increases. The sector's manning tables are now up to 330 border patrol agents, which represent a 10- to 12-percent increase in personnel over the previous fiscal year. Apprehensions of illegal aliens in that sector are approximately 25 percent higher at present than in the comparable period last year. The total number of apprehensions by the patrol averages to an astounding 16,000 illegal aliens per month within the 360-mile border area.

Although there have been improvements in the sophistication of the radar used by the El Paso border patrol in the last year, officials there attribute the growing number of apprehensions primarily to additional border patrol agents.

Despite these improvements in the effectiveness of the border patrol, as shown in one sector, the problem of illegal immigration is still of serious dimensions. It is believed that only one of every three illegal aliens are now being apprehended, due in part to the shortage of manpower along the border.

In view of the severity of the problem, especially as it impinges on the Southwestern United States, we can ill afford not to provide the necessary resources to the Immigration and Naturalization Service to strengthen our border security.

The manpower shortages in the Immigration and Naturalization Service need to be overcome in order to enable the service to adequately enforce our immigration laws and to preserve the integrity of our Nation's borders.

I feel that the additional $22.7 million in funds to the INS will contribute to the capability of the INS to provide the necessary deterrent to the growing number of illegal entries.●

The CHAIRMAN. Are there any further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. WHITE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12005) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, and for other purposes, pursuant to House Resolution 1222, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 322, nays 21, not voting 89, as follows:

[Rollcall Vote No. 853]

YEAS—322

Abdnor	Beilenson	Brinkley
Addabbo	Benjamin	Brodhead
Akaka	Bennett	Brooks
Ambro	Bevill	Broomfield
Andrews, N.C.	Bingham	Brown, Calif.
Andrews, N. Dak.	Blanchard	Brown, Mich.
Annunzio	Blouin	Brown, Ohio
Applegate	Boggs	Broyhill
Aspin	Boland	Buchanan
AuCoin	Bolling	Burgener
Bafalis	Bonior	Burke, Fla.
Baldus	Bonker	Burke, Mass.
Barnard	Bowen	Burlison, Mo.
Baucus	Brademas	Burton, Phillip
Bedell	Breaux	Butler
	Breckinridge	Carr

Carter	Holt	Pattison
Cavanaugh	Horton	Pease
Cederberg	Howard	Perkins
Chappell	Hubbard	Pickle
Chisholm	Huckaby	Pressler
Clausen, Don H.	Hughes	Preyer
Clawson, Del	Hyde	Pursell
Cleveland	Ichord	Quayle
Cohen	Ireland	Quillen
Coleman	Jacobs	Rahall
Collins, Ill.	Jeffords	Rangel
Conte	Jenkins	Regula
Corman	Jenrette	Reuss
Cornell	Johnson, Calif.	Rhodes
Cornwell	Johnson, Colo.	Richmond
Cotter	Jones, N.C.	Rinaldo
Coughlin	Jones, Tenn.	Roberts
Cunningham	Jordan	Robinson
Daniel, Dan	Kasten	Roe
Daniel, R. W.	Kastenmeier	Roncalio
Danielson	Kazen	Rose
Davis	Kelly	Rosenthal
de la Garza	Keys	Rostenkowski
Dent	Kildee	Rousselot
Derrick	Kindness	Rudd
Derwinski	Kostmayer	Ruppe
Devine	Krebs	Russo
Dickinson	LaFalce	Ryan
Dicks	Lagomarsino	Santini
Dornan	Latta	Satterfield
Downey	Le Fante	Scheuer
Duncan, Oreg.	Leach	Schroeder
Duncan, Tenn.	Leggett	Schulze
Edgar	Lehman	Sebelius
Edwards, Ala.	Lent	Seiberling
Edwards, Calif.	Levitas	Sharp
Emery	Livingston	Shuster
English	Lloyd, Calif.	Sikes
Ertel	Lloyd, Tenn.	Simon
Evans, Del.	Long, La.	Skubitz
Evans, Ga.	Long, Md.	Smith, Iowa
Fary	Lott	Snyder
Fascell	Lujan	Solarz
Fenwick	Luken	Spellman
Findley	Lundine	St Germain
Fish	McClory	Stangeland
Fisher	McCloskey	Stanton
Fithian	McDade	Steed
Flippo	McEwen	Steers
Flood	McFall	Steiger
Florio	McHugh	Stockman
Flowers	McKay	Stratton
Flynt	McKinney	Studds
Foley	Maguire	Stump
Ford, Tenn.	Mahon	Taylor
Forsythe	Mann	Thompson
Fountain	Markey	Traxler
Fowler	Marks	Treen
Fraser	Marlenee	Trible
Frenzel	Martin	Tucker
Fuqua	Mattox	Udall
Garcia	Mazzoli	Van Deerlin
Gaydos	Meyner	Vander Jagt
Gephardt	Michel	Vanik
Giaimo	Mikulski	Vento
Gibbons	Miller, Ohio	Volkmer
Gilman	Mineta	Waggonner
Ginn	Mitchell, Md.	Walgren
Glickman	Mitchell, N.Y.	Walker
Goldwater	Moakley	Walsh
Goodling	Moffett	Wampler
Gore	Mollohan	Watkins
Gradison	Montgomery	Waxman
Grassley	Moore	Whalen
Green	Moorhead, Calif.	White
Guyer	Murphy, Ill.	Whitehurst
Hagedorn	Murphy, Pa.	Whitley
Hall	Murtha	Wiggins
Hamilton	Myers, Gary	Wilson, Bob
Hammer-schmidt	Myers, John	Wilson, C. H.
Hanley	Myers, Michael	Wilson, Tex.
Hannaford	Natcher	Winn
Hansen	Neal	Wirth
Harris	Nichols	Wolff
Harsha	Nowak	Wydler
Hawkins	O'Brien	Wylie
Heckler	Oberstar	Yates
Hefner	Obey	Yatron
Hightower	Ottinger	Young, Fla.
Hillis	Panetta	Young, Mo.
Hollenbeck	Patten	Zablocki
	Patterson	Zeferetti

NAYS—21

Anderson, Calif.	Drinan	Oakar
Archer	Evans, Ind.	Roybal
Bauman	Gammage	Stark
Burton, John	Heftel	Symms
Collins, Tex.	Holtzman	Weaver
Conyers	Jones, Okla.	Weiss
Dellums	McDonald	
	Mottl	

NOT VOTING—89

Alexander	Evans, Colo.	Poage
Ammerman	Ford, Mich.	Price
Anderson, Ill.	Frey	Pritchard
Armstrong	Gonzalez	Quie
Ashbrook	Gudger	Railsback
Ashley	Harkin	Risenhoover
Badham	Harrington	Rodino
Beard, R.I.	Holland	Rogers
Beard, Tenn.	Kemp	Rooney
Biaggi	Krueger	Runnels
Burke, Calif.	Lederer	Sarasin
Burleson, Tex.	McCormack	Sawyer
Byron	Madigan	Shipley
Caputo	Marriott	Sisk
Carney	Mathis	Skelton
Clay	Meeds	Slack
Cochran	Metcalfe	Smith, Nebr.
Conable	Mikva	Spence
Corcoran	Milford	Staggers
Crane	Miller, Calif.	Stokes
D'Amours	Minish	Teague
Delaney	Moorhead, Pa.	Thone
Diggs	Moss	Thornton
Dingell	Murphy, N.Y.	Tsongas
Dodd	Nedzi	Ullman
Early	Nix	Whitten
Eckhardt	Nolan	Wright
Edwards, Okla.	Pepper	Young, Alaska
Eilberg	Pettis	Young, Tex.
Erlenborn	Pike	

The Clerk announced the following pairs:

Mr. Rodino with Mr. Anderson of Illinois.
Mr. Slack with Mr. Caputo.
Mr. Staggers with Mr. Edwards of Alabama.
Mr. Burleson of Texas with Mr. Frey.
Mr. Teague with Mr. Pritchard.
Mr. Minish with Mr. Ashbrook.
Mr. Delaney with Mr. Kemp.
Mr. Dodd with Mr. Marriott.
Mr. Byron with Mr. Corcoran of Illinois.
Mr. Carney with Mr. Erlenborn.
Mr. Krueger with Mr. Railsback.
Mr. Ammerman with Mr. Badham.
Mr. Ashley with Mrs. Pettis.
Mr. McCormack with Mr. Madigan.
Mr. Moorhead of Pennsylvania with Mr. Young of Alaska.
Mr. Murphy of New York with Mr. Milford.
Mr. Pepper with Mr. Beard of Tennessee.
Mr. Early with Mr. Thone.
Mrs. Burke of California with Mr. Spence.
Mr. Shipley with Mr. Alexander.
Mr. Rooney with Mr. Cochran of Mississippi.
Mr. Rogers with Mrs. Smith of Nebraska.
Mr. Price with Mr. Sawyer.
Mr. Mathis with Mr. Skelton.
Mr. Metcalfe with Mr. Thornton.
Mr. Miller of California with Mr. Conable.
Mr. Nedzi with Mr. Tsongas.
Mr. Nix with Mr. Sarasin.
Mr. Pike with Mr. Ullman.
Mr. Eilberg with Mr. Crane.
Mr. Wright with Mr. Whitten.
Mr. Stokes with Mr. Evans of Colorado.
Mr. Sisk with Mr. Ford of Michigan.
Mr. Runnels with Mr. Gudger.
Mr. Risenhoover with Mr. Harkin.
Mr. Gonzalez with Mr. Harrington.
Mr. Beard of Rhode Island with Mr. D'Amours.
Mr. Dingell with Mr. Holland.
Mr. Biaggi with Mr. Meeds.
Mr. Eckhardt with Mr. Mikva.
Mr. Lederer with Mr. Diggs.
Mr. Clay with Mr. Moss.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3151) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

SEC. 2. Funds are hereby authorized to be appropriated for fiscal year 1979, to carry out the activities of the Department of Justice (including any bureau, office, boards, division, commission, or subdivision thereof), in amounts as follows:

(a) For General Administration including hire of passenger motor vehicles and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration; $28,996,000.

(b) For General Legal Activities, including miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration; not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advance of public moneys pursuant to law (31 U.S.C. 529); $98,081,000.

(c) For the Antitrust Division, $47,080,000.

(d) For United States Attorneys and Marshals, including purchase of firearms and ammunition; lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; supervision of United States prisoners in non-Federal institutions; and bringing to the United States from foreign countries persons charged with crime; $228,336,000.

(e) For Fees and Expenses of Witnesses, including expenses, mileage, compensation and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys: *Provided,* That no part of the funds authorized for appropriation shall be used to pay any witness more than one attendance fee for any one day; $20,144,000.

(f) For Support of United States Prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by law (24 U.S.C. 168a); $25,100,000.

(g) For the Community Relations Service, $5,353,000.

(h) For the Federal Bureau of Investigation for expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official mat-

ters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under 22 U.S.C. 1136(9) through (11) and 22 U.S.C. 1157, under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate: *Provided*, That none of the funds appropriated for the Federal Bureau of Investigation shall be used to pay the compensation of any Civil Service employee: *And provided further*, That none of the additional funds authorized to be appropriated for criminal investigations and management direction shall be reprogramed to the Domestic Terrorism Intelligence Program; $564,188,000.

(i) For the Immigration and Naturalization Service, including advance of cash to aliens for meals and lodging while en route; payment of allowances to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies; payment of rewards; not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition, attendance of firearms matches; operation, maintenance, remodeling and repair of buildings and the purchase of equipment incident thereto; refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens; acquisition of land as sites for enforcement fence and construction incident to such fence; benefits in accordance with those provided under 22 U.S.C. 1136 (9) through (11) and 22 U.S.C. 1157 under regulations prescribed by the Secretary of State; research related to immigration enforcement which shall remain available until expended; $298,019,000.

(j) For the Drug Enforcement Administration to hire and acquire law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; pay in advance for special tests and studies by contract; pay in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act; pay expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; pay rewards; pay for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment; pay for necessary accommodations in the District of Columbia for conferences and training activities; acquire, lease, maintain, and operate aircraft; research related to enforcement and drug control to remain available until expended; employ aliens by contract for services abroad; benefits in accordance with those provided under 22 U.S.C. 1136 (9) through (11) and 22 U.S.C. 1157, under regulations prescribed by the Secretary of State, such sums as authorized by section 709(a) of the Controlled Substances Act, as amended (21 U.S.C. 904 (a)), for the fiscal year ending September 30, 1979, for the activities authorized by the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended.

(k) For the Federal Prison System, $364,902,000 including:

(1) For the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; make payments of medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions; making such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for Federal Prison Industries, Incorporated.

(2) For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, to remain available until expended.

(3) For planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expense incident thereto, by contract or force account, to remain available until expended; utilize the labor of United States prisoners for work performed under the authorization and appropriation.

SEC. 3. (a) None of the funds authorized by this Act may be used to pay the compensation of any person hereafter employed as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

(b) Authorizations made in this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(c) Sums authorized to be appropriated by this Act may be used for the purchase of insurance of motor vehicles operated in official government business in foreign countries.

(d) Authorizations made in this Act for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

(e) Funds are authorized to be appropriated to the Department of Justice for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(f) The Attorney General is authorized to contract with the proper authorities of any State, territory or political subdivision thereof, for the imprisonment, subsistence, care and proper employment of such persons as provided by 18 U.S.C. 4002.

(g) Sums authorized to be appropriated by this Act may be used for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of said dependents between their place of residence and schools serving the area which they would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(h) There is authorized to be appropriated such amounts as may be necessary for the increase in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

SEC. 4. The last sentence of section 1001(a) of the Civil Rights Act of 1964 (78 Stat. 267; 42 U.S.C. 2000g) is deleted.

SEC. 5 (a) The Act of June 10, 1938, as amended (22 U.S.C. 263(a)), is further amended by deleting the last sentence.

(b) The Attorney General is authorized to pay to the International Criminal Police organization the unpaid balance of the dues for calendar years prior to 1978 and such sums as may be necessary are authorized to be appropriated to carry out the provisions of this subsection.

SEC. 6. Section 5108(c)(8) of title 5, United States Code, is amended by deleting "32" and inserting in lieu thereof "92".

SEC. 7. The Attorney General will perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations made to the Department of Justice and annual specific program evaluations of selected subordinate organizations' programs, as determined by priorities set either by the Congress or the Attorney General.

(b) evaluations will be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials will provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, and cognizant personnel as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives upon request.

SEC. 8. Each organization of the Department of Justice through the appropriate office within the Department of Justice will notify in writing the chairman and ranking minority member of the House and Senate Judiciary Committees a minimum of fifteen days prior to—

(a) reprograming of funds in excess of $150,000 or 10 per centum, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(b) reprograming of funds in excess of $500,000 or 2 per centum, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(c) The committees will be notified of reprograming actions which are less than the amounts specified in subsections (a) and (b) if such actions would have the effect of

significant program changes and committing substantive program funding requirements in future years;

(d) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(e) creation of new programs or significant augmentation of existing programs;

(f) reorganization of offices or programs; and

(g) significant relocation of offices or employees.

SEC. 9. The Attorney General shall have authority for the supervision and support of all persons charged with offenses against the United States including authority to contract with State and local authorities for the safekeeping, care, subsistence, and medical aid of prisoners.

SEC. 10. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following new chapter:

"Chapter 39.—SPECIAL PROSECUTOR

"Sec.
"591. Applicability of provisions of this chapter.
"592. Application for appointment of a special prosecutor.
"593. Duties of the division of the court.
"594. Authority and duties of a special prosecutor.
"595. Reporting and congressional oversight.
"596. Removal of a special prosecutor; termination of office.
"597. Relationship with Department of Justice.
"598. Termination of effect of chapter.

"§ 591. Applicability of provisions of this chapter

"(a) The Attorney General shall conduct an investigation pursuant to the provisions of this chapter whenever the Attorney General receives specific information that any of the persons described in subsection (b) of this section may have violated any Federal criminal law other than a violation constituting a petty offense.

"(b) The persons referred to in subsection (a) of this section are—

"(1) The President or Vice President.

"(2) Any individual serving in a position listed in section 5312 of title 5.

"(3) Any individual working in the Executive Office of the President and compensated at a rate not less than the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

"(4) Any individual working in the Department of Justice and compensated at a rate not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5; any assistant attorney general involved in criminal law enforcement; the Director of Central Intelligence; the Deputy Director of Central Intelligence; and the Commissioner of Internal Revenue.

"(5) Any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the term of the President in office on the date the Attorney General receives the information under subsection (a) (hereafter in this subsection referred to as the 'incumbent President') or during the period during which the President immediately preceding such incumbent President held office, if such preceding President was of the same political party as the incumbent President.

"(6) A national campaign manager or chairman of any national campaign committee seeking the election or reelection of the President.

"(7) For the purposes of section 592(i) of this title, a Representative or Senator in the Congress of the United States.

§ 592. Application for appointment of a special prosecutor

"(a) The Attorney General, upon receiving specific information that any of the individuals described in section 591(b) may have violated any Federal criminal law other than a violation constituting a petty offense, shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate. The Attorney General, upon notifying in writing the dvision of the court specified in section 593(a) (hereinafter referred to as the 'division of the court') of the need for additional time to complete a preliminary investigation and the reasons why additional time is needed, shall have thirty days to complete such preliminary investigation.

"(b)(1) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court and the division of the court shall have no power to appoint a special prosecutor.

"(2) The notification by the Attorney General of the division of the court shall be by memorandum containing a summary of the information received and a summary of the results of any preliminary investigation.

"(3) Such memorandum shall not be revealed to any individual outside the court or the Department of Justice without leave of the division of the court.

"(c)(1) If the Attorney General, upon completion of the preliminary investigation, finds that the matter warrants further investigation or prosecution, or if ninety days (one hundred and twenty days in the case of an extension) elapse from the receipt of the information without a determination by the Attorney General that the matter is so unsubstantiated as to not warrant further investigation or prosecution, then the Attorney General shall apply to the division of the court for the appointment of a special jurisdiction.

"(2) Each application for the appointment of a special prosecutor shall contain sufficient information to enable the division of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(3) Such application shall not be revealed to any individual outside the court or the Department of Justice without leave of the division of the court.

"(d)(1) If—

"(A) after the filing of a memorandum under subsection (b) of this section, the Attorney General receives additional specific information about the matter to which such memorandum related; and

"(B) the Attorney General determines, after such additional investigation as the Attorney General deems appropriate, that such information warrants further investigation or prosecution;

then the Attorney General shall, not later than ninety days after receiving such additional information, apply to the division of the court for the appointment of a special prosecutor.

"(2) Each application for the appointment of a special prosecutor shall contain sufficient information to enable the division of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(3) Such application shall not be revealed to any individual outside the court or the Department of Justice without leave of the division of the court.

"(e)(1) For the purpose of this section, a conflict of interest or the appearance thereof is deemed to exist whenever the continuation of an investigation or the outcome thereof may directly and substantially affect the partisan political or personal interests of the President, the Attorney General, or the interests of the President's political party.

"(2) Whenever it reasonably appears that a conflict of interest, as defined in paragraph (1), exists, with respect to an investigation of specific information that an individual may have violated any Federal criminal law other than a violation constituting a petty offense, the Attorney General shall conduct a preliminary investigation as required by subsection (a).

"(3)(A) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court pursuant to subsection (b).

"(B) If the Attorney General, upon completion of the preliminary investigation, finds that the matter warrants further investigation or prosecution or if ninety days (one hundred and twenty days in the case of an extension) has elapsed from the time of the Attorney General's finding in paragraph (2) without a determination by the Attorney General that the matter is so unsubstantiated as not to warrant further investigation or prosecution, then the Attorney General shall—

"(i) apply to the division of the court for the appointment of a special prosecutor pursuant to subsection (c); or

"(ii) submit a memorandum to the division of the court setting forth the reasons why a special prosecutor is not required under the standard set forth in paragraph (1) of this subsection.

"(C) If the Attorney General concludes that appointment of a special prosecutor is not required under the standard set forth in paragraph (1) of this subsection, the division of the court shall review the information provided by the Attorney General with respect to whether a conflict, as described in paragraph (1), exists. Upon request of the division of the court, the Attorney General shall make available to the division all documents, materials, and memorandums as the division finds necessary to carry out its duties under this subsection. If the division finds that continuing the investigation by the Department of Justice would create a conflict of interest, or the appearance thereof, as defined in paragraph (1), the division shall appoint a special prosecutor.

"(f) Any determinations or applications required to be made under this section by the Attorney General shall be made by the Director of the Office of Government Crimes if the information or allegations involve the Attorney General.

"(g) The Attorney General's determination under subsection (c), (d), or (e) to apply to the division of the court for the appointment of a special prosecutor shall not be reviewable in any court.

"(h) Documents, materials, and memorandums supplied to the court by the Department of Justice under this subsection shall not be revealed to any individual outside the court or the Department of Justice without leave of the division of the court.

"(i)(1) Notwithstanding any other provision of this title, the Attorney General shall, upon enactment of this title, conduct for a period not to exceed ninety days, a preliminary investigation into whether there has been since 1970 improper or illegal conduct on the part of any Representative or Senator in the Congress of the United States with respect to the receipt or acceptance of any valuable consideration from representatives of any foreign government in order to influence legislation or other Government action.

"(2)(A) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court pursuant to subsection (b).

"(B) If the Attorney General, upon com-

pletion of the preliminary investigation, finds that the matter warrants further investigation or prosecution or if ninety days has elapsed from the time of enactment of this title without a finding by the Attorney General that the matter is so unsubstantiated as not to warrant further investigation or prosecution, then the Attorney General shall apply to the division of the court for the appointment of a special prosecutor pursuant to subsection (c).

§ 593. Duties of the division of the court

"(a) The division of the court which is referred to in this chapter, and to which functions are given by this chapter, is the division established under section 49 of this title.

"(b) Upon receipt of an application under subsection (e), (d), (e), or (f) of section 592, the division of the court shall appoint an appropriate special prosecutor and shall define the jurisdiction of that special prosecutor. The court may define such jurisdiction to extend to related matters. A special prosecutor's identity and prosecutorial jurisdiction shall be made public upon request of the Attorney General or upon the determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of such special prosecutor would be in the best interest of justice. In any event the identity and prosecutorial jurisdiction of such prosecutor shall be made public when any indictment is returned.

"(c) The division of the court, upon request of the Attorney General, may assign new matters to an existing special prosecutor or may expand the prosecutorial jurisdiction of an existing special prosecutor to include related matters. Such request may be incorporated in an application for the appointment of a special prosecutor under this chapter.

"(d) The division of the court may not appoint as a special prosecutor any person who holds or recently held any office of profit or trust under the United States.

"§ 594. Authority and duties of a special prosecutor

"(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, full power, and independent authority—

"(1) to conduct proceedings before grand juries and other investigations;

"(2) to participate in court proceedings and engage in any litigation, including civil and criminal matters, as he deems necessary;

"(3) to appeal any decision of a court in any case or proceeding in which such special prosecutor participates in an official capacity;

"(4) to review all documentary evidence available from any source;

"(5) to determine whether to contest the assertion of any testimonial privilege;

"(6) to receive appropriate national security clearances and, if necessary, contest in court, including, where appropriate, participation in camera proceedings, any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) to make applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpenas, or other court orders, and for purposes of sections 6003, 6004, and 6005, of title 18, a special prosecutor may exercise the authority vested in a United States Attorney or the Attorney General;

"(8) to inspect, obtain, or use the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and for purposes of section 6103 of title 26, and the regulations issued thereunder, a special prosecutor may exercise the powers vested in a United States Attorney or the Attorney General;

"(9) to initiate and conduct prosecutions in any court of competent jurisdiction, frame and sign indictments, file informations, and handle all aspects of any case in the name of the United States; and

"(10) to exercise all other investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18.

"(b) A special prosecutor appointed under this chapter shall receive compensation at a per diem rate equal to the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5.

"(c) For the purposes of carrying out the duties of the office of special prosecutor, a special prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as such special prosecutor deems necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate provided for GS–18 of the General Schedule under section 5332 of title 5.

"(d) If requested by a special prosecutor, the Department of Justice shall provide to such special prosecutor assistance which shall include full access to any records, files, or other materials relevant to matters within his prosecutorial jurisdiction, and providing to such special prosecutor the resources and personnel required to perform such special prosecutor's duties.

"(e) A special prosecutor may ask the Attorney General or the division of the court to refer matters related to the special prosecutor's prosecutorial jurisdiction. A special prosecutor may accept referral of a matter by the Attorney General, if the matter relates to a matter within such special prosecutor's prosecutorial jurisdiction as established by the division of the court. If such a referral is accepted, the special prosecutor shall notify the division of the court.

"(f) To the maximum extent practicable, a special prosecutor shall comply with the written policies of the Department of Justice respecting enforcement of the criminal laws which have been promulgated prior to the special prosecutor's appointment.

"§ 595. Reporting and congressional oversight

"(a) A special prosecutor appointed under this chapter may from time to time make public, or send to the Congress, statements or reports on the activities of such special prosecutor. These statements and reports shall contain such information as that special prosecutor deems appropriate.

"(b)(1) In addition to any reports made under subsection (a) of this section, a special prosecutor appointed under this chapter shall, at the conclusion of such special prosecutor's duties, submit to the division of the court a report under this subsection.

"(2) Such report shall set forth fully and completely a description of the work of the special prosecutor, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such special prosecutor which was not prosecuted. The report shall be in sufficient detail to allow determination of whether the special prosecutor's investigation was thoroughly and fairly completed.

"(3) The division of the court may release to the Congress, the public, or to any appropriate person, without comment on the contents of the report, such portions of a report made under this subsection as the division deems appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and prevent undue interference with any pending prosecution. The division of the court may make any portion of such report available to any individual named in such report for the purposes of receiving, within a time limit set by the division of the court, any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of such division, be included as an appendix to such report.

"(c) A special prosecutor may advise the House of Representatives of any substantial and credible information which such special prosecutor receives that may constitute grounds for an impeachment of the President, Vice President, or a justice or judge of the United States. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(d) A majority of majority party members or a majority of all nonmajority party members of the judiciary committee of either House of the Congress may request in writing that the Attorney General apply for the appointment of a special prosecutor under section 592(e) of this chapter. Not later than thirty days after the receipt of such a request, or not later than thirty days after the completion of the preliminary investigation conducted pursuant to section 592(e), whichever is later, the Attorney General shall provide written notification of any action he has taken under this chapter in response to such request. If no application for the appointment of a special prosecutor has been made to the division of the court, the Attorney General shall explain the specific reasons why a special prosecutor is not required under the standard set forth in section 592(e). Such written notification shall be sent to the committee on which the persons making the request serve, and shall not be revealed to any third party, except that such committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such notification as will not in the committee's judgment prejudice the rights of any individual.

"§ 596. Removal of a special prosecutor; termination of office

"(a) A special prosecutor may be removed from office, other than by impeachment and conviction, by the personal action of the Attorney General only for extraordinary improprieties, for malfeasance in office, for willful neglect of duty, for permanent incapacitation, or for any conduct constituting a felony. An action may be brought in the division of the court to challenge the action of the Attorney General under this subsection by seeking reinstatement or other appropriate relief. The division of the court shall cause such an action in every way to be expedited. If a special prosecutor is removed from office, the Attorney General shall promptly submit to the judiciary committees of the Senate and the House of Representatives a report describing with particularity the grounds for such action. The committees shall make available to the public such report, except that each committee may, if necessary to avoid prejudicing the legal rights of any individual, delete or postpone publishing such portions of the report, or the whole report, or any name or other identifying details.

"(b)(1) An office of special prosecutor shall terminate upon the submission by the special prosecutor of written notification to the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such special prosecutor, or accepted

by such special prosecutor under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. No such submission shall be effective to terminate such office until after the completion and filing of the report required under section 595(b) of this title.

"(2) The division of the court, either on its own motion or upon the personal recommendation of the Attorney General, may terminate an office of special prosecutor at any time on the ground that the investigation of all matters within the prosecutorial jurisdiction of the special prosecutor, or accepted by such special prosecutor under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of termination, the special prosecutor shall file the report required by section 595(b) of this title.

"§ 597. Relationship with Department of Justice

"(a) Whenever a matter is in the prosecutorial jurisdiction of a special prosecutor or has been accepted by a special prosecutor under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except as otherwise required by section 594(d) of this title, and except insofar as the special prosecutor agrees in writing that such investigations or proceedings may be continued by the Department of Justice.

"(b) The Attorney General or the Solicitor General may, to the extent provided under existing law, make a presentation to any court as to issues of law raised by any case or proceeding in which a special prosecutor participates in an official capacity, or any appeal of such a case or proceeding.

"§ 598. Termination of effect of chapter

"This chapter shall cease to have effect five years after the date on which it takes effect, except as to the completion of then-pending matters, which in the judgment of the division of the court require this chapter's continuance in effect, with respect to which matters this chapter shall continue in effect until such division determines that such matters have been completed.".

(b) The tables of chapters for title 28 of the United States Code and for part II of such title 28 are each amended by inserting immediately after the item relating to chapter 37 the following new item:

"39. Special prosecutor.".

(c) There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any special prosecutors appointed under chapter 39 (relating to special prosecutor) of title 28 of the United States Code in the carrying out of functions under such chapter.

ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT SPECIAL PROSECUTORS

SEC. 11. (a) Chapter 3 of title 28 of the United States Code is amended by adding at the end the following new section:

"§ 49. Assignment of judges to division to appoint special prosecutors

"(a) Beginning with the two-year period commencing on the date chapter 39 of this title takes effect, five judges or justices shall be assigned for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the special panel of the court for the purposes of chapter 39 of this title.

"(b) Except as provided in subsection (f) of this section, assignment to the division established in subsection (a) of this section shall not be a bar to other judicial assignments during the term of such division.

"(c) In assigning judges or justices to sit on the division established in subsection (a) of this section, priority shall be given to senior retired circuit judges and senior retired justices.

"(d) The chief judge of the United States Court of Appeals for the District of Columbia shall make a request to the Chief Justice of the United States, without presenting a certificate of necessity, to designate and assign, in accordance with section 294 of this title, five circuit court judges or justices, one of which shall be a judge of the United States Court of Appeals for the District of Columbia, to the division established under subsection (a) of this section. Not more than one judge or justice or retired judge or justice may be named to the panel from a particular court.

"(e) Any vacancy in the division established under subsection (a) of this section shall be filled only for the remainder of the two-year period in which such vacancy occurs and in the same manner as initial assignments to the division were made.

"(f) No judge or justice who, as a member of the division established in subsection (a) of this section, participated in a function conferred on the division under chapter 39 of this title involving a special prosecutor shall be eligible to participate in any judicial proceeding concerning a matter which involves such special prosecutor while such special prosecutor is serving in that office or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office.".

(b) The table of sections for chapter 3 of title 28 of the United States Code is amended by adding at the end the following item:

"49. Assignment of judges to division to appoint special prosecutors.".

DISQUALIFICATION OF OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE AND OFFICE OF GOVERNMENT CRIMES

SEC. 12. (a) Chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"§ 528. Disqualification of officers and employees of the Department of Justice

"The Attorney General shall promulgate rules and regulations which require any officer or employee of the Department of Justice, including a United States Attorney or a member of his staff, to disqualify himself from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.

"§ 529. Office of Government crimes

"(a)(1) There is established within the Department of Justice an Office of Government Crimes, which shall be headed by a director. The Director of the Office of Government Crimes shall be appointed by the President with the advice and consent of the Senate. The Attorney General shall determine the organizational placement of the office within the Department and shall be kept periodically informed of its activities.

"(2) A person shall not be appointed director of the Office of Government Crimes if he has at any time during the five years preceding such appointment held a high-level position of trust and responsibility on the personal campaign staff of, or in an organization or political party working on behalf of, a candidate for any elective Federal office.

"(b)(1) The Attorney General shall, except as provided in paragraph (2) and except as to matters referred to a special prosecutor pursuant to chapter 39 of this title, delegate to the Office of Government Crimes jurisdiction of (1) criminal violations of Federal law by any individual who holds or who at the time of such possible violation held a position, whether or not elective, as a Federal Government officer, employee, or special employee, which alleged violation related directly or indirectly to such individual's Government position, employment, or compensation; (2) criminal violations of Federal laws relating to lobbying, conflicts of interest, campaigns, and election to public office committed by any person except insofar as such violations relate to matters involving discrimination or intimidation on the grounds of race, color, religion, or national origin; (3) the supervision of investigations and prosecutions of criminal violations of Federal law by any individual who holds or who at the time of such possible violation held a position, whether or not elective, as a State or local government officer or employee, which alleged violation related directly or indirectly to his government position, employment or compensation; and (4) such other matters as the Attorney General may deem appropriate.

"(2) A matter described in paragraph (1) of this subsection may be delegated by the Attorney General exclusively or concurrently to the United States Attorneys or other units of the Department of Justice. The Director shall be kept apprised of the progress of any investigation or prosecution so delegated. This section shall not limit any authority conferred upon the Attorney General, the Federal Bureau of Investigation, or any other department or agency of government to investigate any matter.

"(c)(1) At the beginning of each regular session of the Congress, the Attorney General shall report to the Congress on the activities and operation of the Office of Government Crimes for the preceding fiscal year.

"(2) such report shall specify the number and type of investigations and prosecutions subject to the jurisdiction of such unit and the disposition thereof, but shall not include any information which would impair an ongoing investigation, prosecution, or proceeding, or which the Attorney General determines would constitute an improper invasion of personal privacy.".

(b) The table of sections for chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"528. Disqualification of officers and employees of the Department of Justice.

"529. Office of Government Crimes.".

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(114) Director, Office of Government Crimes, Department of Justice.".

SEPARABILITY

SEC. 13. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

LEADING PARTISAN ROLE IN THE ELECTION OF A PRESIDENT

SEC. 14. An individual who has played a leading partisan role in the election of a President shall not be appointed Attorney General or Deputy Attorney General. Individuals holding the position of national campaign manager, national chairman of the

finance committee, chairman of the national political party, or other comparable high level campaign role involved in electing the President should be those considered to have played a leading partisan role.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill, S. 3151, and insert in lieu thereof the provisions of H.R. 12005, as amended, as passed, as follows:

That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

SEC. 2. There are hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof), the following amounts:

(1) For General Administration, $28,996,000.

(2) For General Legal Activities, $89,884,000.

(3) For the Antitrust Division, $46,377,000.

(4) For United States Attorneys and Marshals, $196,736,000.

(5) For Fees and Expenses of Witnesses, $20,144,000.

(6) For Support for United States Prisoners, $25,100,000.

(7) For Community Relations, $5,353,000.

(8) For the Federal Bureau of Investigation, $560,250,000, including $13,369,000 for the program of domestic security and terrorism and for providing a written report to a Member of Congress on any investigation conducted based on a threat on the Member's life pursuant to 18 U.S.C. 351.

(9) For the Immigration and Naturalization Service, $320,722,000, of which $2,052,000 shall be made available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(10) For the Federal Prison System, $362,662,000.

SEC. 3. No amounts authorized to be appropriated by this Act may be used or obligated to carry out the activities of the Law Enforcement Assistance Administration or the Drug Enforcement Administration.

SEC. 4. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the appropriate committees of the Senate and the House of Representatives a minimum of fifteen days prior to—

(1) the reprograming of funds in excess of $150,000 or 10 per centum, whichever is less, between the programs within the Offices, Divisions, and Boards, as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) the reprograming of funds in excess of $500.000 or 2 per centum, whichever is less, between programs within the Bureaus, as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) the increase of personnel or funds by any means for any project or program for which funds or other resources have been denied or restricted;

(5) the creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; or

(7) any significant relocation of offices or employees.

SEC. 5. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organizations' programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations will be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials will provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation and cognizant personnel as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

SEC. 6. Sums authorized to be appropriated by this Act for the activities of the Federal Prison System may be used for compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms, and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestocks; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code.

SEC. 7. Sums authorized to be appropriated by this Act for the activities of the Federal Prison System may be used for planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, such sums to remain available until expended. The labor of United States prisoners may be used for work performed under this authorization.

SEC. 8. Sums authorized to be appropriated by this Act for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, which established a National Institute of Corrections, are authorized to remain available until expended.

SEC. 9. The Federal Prison Industries, Incorporated, is authorized to make such contracts and commitments as may be necessary in carrying out the program set forth in the budget for fiscal year ending September 30, 1979 for that corporation.

SEC. 10. The Attorney General shall consult with the Secretary of Defense in order to develop a plan to assure that such suitable correctional facilities as the Department of Defense operates which are not in active use shall be made available for operation by the Department of Justice for the confinement of United States prisoners. Such plan shall provide for the return to the management of the Department of Defense of any such correctional facility upon a finding by the Secretary of Defense that such return is necessary to the operation of the Department.

SEC. 11. (a) On or before September 1, 1979, the Attorney General shall submit to the Congress—

(1) a plan to assure the closure of the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before January 1, 1982; and

(2) a report on the status of the Federal Prison Industries,

(b) The report made under this section shall include a long-range plan for the improvement of meaningful employment training, and the methods which could be undertaken to employ a greater number of United States prisoners in the program. Such report may include recommendations for legislation.

SEC. 12. No part of any funds authorized to be appropriated by this Act may be used for the purpose of transferring any border control activities of the Immigration and Naturalization Service (including patrol and inspections) to any other agency or department of the Federal Government.

SEC. 13(a). The sums authorized to be appropriated by this Act for the activities of the Immigration and Naturalization Service may be used for payment of expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies where provision for reimbursement by such State and local law enforcement agencies is made; payment or rewards; payment of expenses, not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase of police-type use, without regard to the general purchase price limitation for the current fiscal year, and hire of, passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payments of fines and passage money; operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for enforcement fence and construction incident to such fence; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)–(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; research related to immigration enforcement; payment of interpreters and translators who are not citizens of the United States; and distribution of citizenship textbooks to aliens without cost to such aliens.

(b) The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.

SEC. 14. (a) Sums authorized to be appropriated by this Act for the activities of the Federal Bureau of Investigation may be used for expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification, and preservation of identification and other records and their exchange with, and for the official use of, the fully authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may

be directed by the Attorney General; including purchase for police-type use, without regard to the general purchase price limitation for the current fiscal year, and hire of, passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under section 911 (9) through (11) of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)–(11)) under regulations prescribed by the Secretary of State; and up to $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate.

(b) None of the funds authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any civil service employee.

SEC. 15. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in Public Law 92-544 (86 Stat. 1115) sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until but not later than the end of the fiscal year ending September 30, 1979.

SEC. 16. (a) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a correctional center for Federal detainees. Such correctional center shall be capable of accommodating not less than five hundred such detainees.

(b) There are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, to carry out the provisions of this section.

SEC. 17. The Attorney General shall undertake a study of the extent to which complaints of violations of Federal criminal laws are not prosecuted and shall make recommendations for improving the percentage of such complaints which are prosecuted by the Department. The study shall also analyze the cases that have not been prosecuted and make recommendations to assure that the decisions not to prosecute are in accordance with national policy. The study and recommendations shall be provided to the Committees on the Judiciary of the Senate and House of Representatives not later than March 31, 1979.

SEC. 18. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $1,000,000 to bring the facilities of the Federal Prison System into compliance with fire safety standards of the localities in which such facilities are located. Not later than one hundred and eighty days after the appropriation of sums authorized for this purpose, the Federal Bureau of Prisons shall report to the Congress the extent to which such facilities have complied with such standards. Such report shall describe the purposes for which sums authorized to be appropriated have been or are to be expended.

SEC. 19. Sums authorized to be appropriated by this Act for carrying out the activities of the United States Marshals Service may be used for the purchase of firearms and ammunition.

SEC. 20. There are authorized to be appropriated such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

SEC. 21. Sums authorized to be appropriated by this Act for General Legal Activities may be used for miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration or the Associate Attorny General or the Deputy Attorney General; and, expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate.

SEC. 22. The Attorney General is authorized to procure services with sums authorized to be appropriated by this Act, as authorized by section 3109(b) of title 5, United States Code.

SEC. 23. Sums authorized to be appropriated by this Act may be used for the purchase of insurance of motor vehicles operated on official Government business in foreign countries.

SEC. 24. Sums authorized to be appropriated by this Act may be used for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at costs not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of those dependents between their places of residence and schools serving the area which those dependents would normally attend school when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

SEC. 25. Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings are authorized to be expended for such purposes in accordance with regulations prescribed by the Attorney General.

SEC. 26. Sums authorized to be appropriated by this Act may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 27. Sums authorized to be appropriated by this Act for General Administration may be used for the hire of passenger motor vehicles; and, miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration or the Associate Attorney General.

SEC. 28. No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

SEC. 29. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes, as amended (41 U.S.C. 11 (a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), section 3741 of the Revised Statutes, as amended (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes, as amended (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraph (2) or (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at that time shall be deposited into the Treasury of the United States as miscellaneous receipts.

SEC. 30. (a) The Attorney General shall transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than 30 days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

SEC. 31. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall in its Uniform Crime Reports classify arson as a Part 1 offense.

SEC. 32. The Attorney General shall, using sums authorized to be appropriated by this Act, establish and implement advisory procedures (1) for the identification of individuals

who meet the standards and guidelines promulgated by the President for the selection, on the basis of merit, of nominees for United States district court judgeships and (2) for the submission of their names to the President and to the Senate with respect to each vacancy in the office of a United States district court judgeship. Such procedures shall be designed to identify exceptionally well qualified individuals without regard to political affiliation. No nomination or appointment to a United States district court judgeship shall be invalidated on the basis of a failure to comply with this section.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12005) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 3151, DEPARTMENT OF JUSTICE AUTHORIZATION

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 3151) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and without objection, appoints the following conferees: Messrs. RODINO, BROOKS, KASTENMEIER, EDWARDS of California, CONYERS, EILBERG, MANN, DANIELSON, MCCLORY, RAILSBACK, WIGGINS, and FISH.

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, FRIDAY, SEPTEMBER 29, 1978, TO FILE CONFERENCE REPORT ON H.R. 12930

Mr. STEED. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow to file a conference report on the bill (H.R. 12930) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, FRIDAY, SEPTEMBER 29, 1978, TO FILE CONFERENCE REPORT ON H.R. 12932, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1979

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, September 29, 1978, to file a conference report on the bill (H.R. 12932) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 12934, APPROPRIATIONS FOR DEPARTMENTS OF STATE, JUSTICE, COMMERCE, JUDICIARY, AND RELATED AGENCIES, 1979

Mr. SMITH of Iowa. Mr. Speaker, I call up the conference report on the bill (H.R. 12934) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 12, 1978.)

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, the bill (H.R. 12934) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes, as agreed to by the conferees, contains a total of $8,543,070,000 in new budget authority for fiscal year 1979. It also contains $250 million for liquidation of contract authority.

The total amount included for fiscal year 1979 is $2,138,806,400 less than the appropriations made for fiscal year 1978 and is $117,006,000 less than the total amount requested for fiscal year 1979. The total is $106,590,000 more than the Senate bill and is $3,861,526,400 more than the bill as it passed the House in June. The large increase over the House total is due primarily to restoration of items which were stricken on points of order in the House, because of a lack of authorization. Authorization measures for several of these items have been enacted and conference reports or tentative agreements have been reached on most of the others. Since the beginning of fiscal year 1979 is fast approaching and it has been more than 3 months since the House took action on this bill, we felt it was not appropriate to wait any longer for further action on the authorizations.

Mr. Speaker, I would like to mention several of the more significant items considered by the conferees.

The conferees agreed to $547,425,000 in budget authority for the Economic Development Administration, an increase of $34,410,000 over the House amount. They also agreed on an additional $75 million for loan and guarantee programs under the economic development revolving fund.

For the Legal Services Corporation, the administration had asked for $255 million, but I might point out that under the authorization they are not supposed to control the request. The request comes directly from the Corporation. The conferees agreed to a total of $270 million. The Corporation wanted $304 million, so the conference amount is less than the request and is also less than the amount in the House bill. However, we believe this amount will be adequate.

I want to make a short statement concerning this program and ask the gentleman from Michigan (Mr. CEDERBERG) if he agrees with the statement.

Now, starting about 3 or 4 years ago, we worked out a plan with the Legal Services Corporation that they extend their services so that all poor people in the United States would have services within 3 or 4 years. A lot of areas were not served at all. Minimum services were to be provided nationwide before areas with existing service were expanded.

The committee believes it is absolutely necessary for the Legal Services Corporation to complete its task of providing minimum access to legal assistance for the many parts of the Nation still unserved. These are most often rural areas, but not always, which had expected they would receive at least minimum legal services by the end of the next fiscal year. The Legal Services minimum is two lawyers for 10,000 poor people to be served.

The Legal Services requested $304 million. They say these funds were necessary to complete this task. The House approved $285 million, which I believe would have been sufficient. The conferees agreed on $270 million. That is $65 million over fiscal year 1978. Other than the amount necessary to maintain the same program level in areas already served, I want to stress that all the increase is to be used exclusively to provide service for areas which do not have minimum service now available.

To put it another way, it is the intent of the conferees that none of the corporation budget increase, except for adjustments for inflation, is to go to areas now receiving at least minimum service until such time as all unserved areas receive at least minimum service. Until then none of the funds shall be used to increase funding for the so-called stagnant programs which are already funded at or in excess of the annualized rate of $7 per person in 1978 dollars. In some instances services could be extended to larger unserved areas by providing less than two attorneys per 10,000 to be served, with the idea of providing enough additional service to bring the area up to

the minimum when funds are available. There is no intention to require that services not be extended to any area at all until they can get the full service.

The committee believes that every area of the United States ought to receive some service in fiscal year 1979, and that none of the funds for areas which have 2 attorneys per 10,000 potential poor clients shall be expended until all areas have 2 attorneys per 10,000 potential clients.

Mr. Speaker, I will ask the ranking minority member, the gentleman from Michigan (Mr. CEDERBERG), if he agrees with the statement I have made with respect to legal services.

Mr. CEDERBERG. Mr. Speaker, if the gentleman will yield, yes, I think the statement the gentleman from Iowa (Mr. SMITH) made is exactly correct. I think that is the understanding of this committee. As a matter of fact, I think it is the understanding and the will of the House that has also been expressed previously.

Mr. SMITH. Mr. Speaker, I thank the gentleman very much.

The FTC has drawn some fire in recent months. The amount agreed on by the conferees is $64,750,000. The conferees agreed not to recommend any bill language dealing with the children's advertising issue or the automobile investigation. We have, however, stated in the joint explanatory statement accompanying the conference report that it is the intention of the managers that no funds in the act be used to promulgate a children's advertising rule. The statement also directs that any FTC study of the structure, conduct, and performance of the auto industry should fully include foreign producers.

Mr. Speaker, I insert at this point in the RECORD a summary table showing, by department or agency, the conference action compared with the amounts for fiscal year 1978, the budget estimates, the House bill, and the Senate bill. The summary table follows:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	Enacted 1978	Estimates, 1979	House bill	Senate bill
Department of State	1,277,370,000	1,262,897,000		1,234,575,000	1,262,236,000	−15,134,000	−661,000	+1,262,236,000	+27,661,000
Department of Justice	2,376,662,000	2,471,002,000	834,441,000	2,484,437,000	2,473,086,000	+96,424,000	+2,084,000	+1,638,645,000	−11,351,000
Department of Commerce	2,110,102,000	2,422,607,000	1,793,034,000	2,262,625,000	2,200,576,000	+90,474,000	−222,031,000	+407,542,000	−62,049,000
The Judiciary	452,804,000	495,552,000	481,316,600	489,675,000	489,647,000	+36,843,000	−5,905,000	+8,330,400	−28,000
RELATED AGENCIES									
Arms Control and Disarmament Agency	16,320,000	16,395,000		16,395,000	16,395,000	+75,000		+16,395,000	
Board for International Broadcasting	75,900,000	85,180,000		85,000,000	85,000,000	+9,100,000	−180,000	+85,000,000	
Commission on Civil Rights	10,846,000	10,752,000		10,752,000	10,752,000	−94,000		+10,752,000	
Commission on Security and Cooperation in Europe	347,000	521,000	350,000	521,000	521,000	+174,000		+171,000	
Equal Employment Opportunity Comsion	84,550,000	110,000,000	110,000,000	107,000,000	107,000,000	+22,450,000	−3,000,000	−3,000,000	
Federal Communications Commission	64,550,000	68,196,000	68,535,000	70,446,000	70,446,000	+5,896,000	+2,250,000	+1,911,000	
Federal Maritime Commission	9,724,000	10,530,000	10,500,000	10,550,000	10,550,000	+826,000	+20,000	+50,000	
Federal Trade Commission	62,100,000	66,485,000		65,900,000	64,750,000	+2,650,000	−1,735,000	+64,750,000	−1,150,000
Foreign Claims Settlement Commission	920,000	1,015,000				−920,000	−1,015,000		
International Communication Agency	373,842,400	413,327,000		411,009,000	411,009,000	+37,166,600	−2,318,000	+411,009,000	
International Trade Commission	12,213,000	13,113,000		13,100,000	12,950,000	+737,000	−163,000	+12,950,000	−150,000
Japan-United States Friendship Commission	1,000,000	1,500,000	1,500,000	1,500,000	1,500,000	+500,000			
Legal Services Corporation	205,000,000	304,000,000	285,000,000	255,000,000	270,000,000	+65,000,000	−34,000,000	−15,000,000	+15,000,000
Marine Mammal Commission	900,000	702,000	702,000	840,000	702,000	−198,000			−138,000
National Commission on the International Year of the Child		1,360,000					−1,360,000		
Office of the Special Representative for Trade Negotiations	2,751,000	2,665,000	2,665,000	2,665,000	2,665,000	−86,000			
Commission on Global Hunger and Malnutrition		1,300,000		1,500,000	1,300,000	+1,300,000		+1,300,000	−200,000
Renegotiation Board	6,225,000	7,277,000	3,000,000	6,260,000	5,260,000	−965,000	−2,017,000	+2,260,000	−1,000,000
Securities and Exchange Commission	62,475,000	64,800,000		64,650,000	64,650,000	+2,175,000	−150,000	+64,650,000	
Small Business Administration	3,475,000,000	827,100,000	1,090,500,000	840,280,000	980,500,000	−2,494,500,000	+153,400,000	−110,000,000	+140,220,000
U.S. Metric Board	275,000	1,800,000		1,800,000	1,575,000	+1,300,000	−225,000	+1,575,000	−225,000
Grand total	10,681,876,400	8,660,076,000	4,681,543,600	8,436,480,000	8,543,070,000	−2,138,806,400	−117,006,000	+3,861,526,400	+106,590,000

Mr. Speaker, when the conference report itself has been disposed of, there will remain 65 amendments in disagreement which must be dealt with. At the appropriate time, I will ask unanimous consent that those amendments on which we are asking that the House recede and concur be considered en bloc. I am not aware of any controversy on these items and such procedure will expedite the business of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. CEDERBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will take very little time on this conference report. I think we should recall that about half of the items in the bill that the Committee on Appropriations of the House presented to the Members were stricken on points of order.

If the Members will look at page 30 of the conference report, they will find a table that indicates that the amount in the House-passed bill was $4.6 billion. This is after all the items were stricken.

For instance, the entire appropriation for the State Department was stricken on points of order, as were much of the funds for the Departments of Justice and Commerce.

Mr. Speaker, I support this conference report. Obviously, it has been the result of a compromise, as are all conference reports. We have had some increases, and we have had some decreases.

The Legal Services has been decreased in the amount of $15 million, as indicated by the gentleman from Iowa (Mr. SMITH). There is a $23 million increase from the House bill for EDA. The Immigration and Naturalization Service is increased $5 million over the amount in the bill reported to the House. As a matter of fact, a case can be made, with the illegal alien problem, that it probably should even be more.

The LEAA is about $5 million over the House. As we all know, we are coming on now to the decennial census which will be taken in 1980, so there is a $20 million increase for the Census Bureau in the conference agreement.

Then, to administer the local public works program that we passed earlier, there is an additional $10 million. I should also say this: I think the Director of EDA is doing an excellent job in handling his agency and also in administering these local public works projects.

Mr. Speaker, I think the bill is the best bill we could get under the circumstances. I understand my colleague, the gentleman from Ohio (Mr. MILLER), has some complaint, because it does not subscribe totally to the 2-percent reduction that had passed the House. But here we are now in the dving days of this session of Congress, and I think this is about the best we could do under the circumstances.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, as the gentleman from Michigan has said, I propose to offer a recommital motion which will instruct the conferees to reduce the amount of the bill, so that we would come up with a 2-percent reduction.

First of all, I would like to commend the gentleman from West Virginia (Mr. SLACK) for the hard work that he has done on this bill as chairman of the subcommittee, the gentleman from Iowa,

(Mr. SMITH), and the gentleman from Michigan, (Mr. CEDERBERG), who is the ranking minority member. We also have two staff members who have worked long hours, long days, and long months, Mr. Dempsey Mizelle and Mr. John Osthaus. I am reluctant to offer what I am offering, because I know of the hard work they have done over a long period of time; and yet I feel obligated and I feel very strongly that we should have the reduction that the House had requested. It was the will of the House.

In the conference, as those of you who are aware of how the appropriation conferences work, it is a little bit hard to keep track as we roll along. We had many people attempting to keep track as to how much we were reducing and as to how much we were increasing the bill as we roll along, because a lot of items are covered in a very few minutes. We even had people from the computer organization in, to attempt to keep track. At the end of the bill, it appeared that we had reduced 2 percent, but that had not taken place. So at the end of the bill, the 2-percent amendment, which was the will of the House, attached to the bill as it went to conference, was wiped out; but the dollar volume was not removed. Actually, what was removed was about $11 million. On those items that are not compulsory spending, we should have had $161 million removed. In making the request to return the report to conference, we are requesting that $150 million additional be removed. Now, it is easy to do this. Believe me, conferees on the Committee of Public Works and Transportation did it. They wiped out the 2-percent amendment in conference, but they used their own idea as to where the reduction should be made on the line items, and they came back with a $188 million reduction. It is possible to wipe out the 2-percent amendment in conference, provided that reductions are made in the line items. They have not been made in this conference report. And that is the purpose of offering the recommittal motion, so that we can go back to conference—and it can be done rather hurriedly. As a matter of fact, if we only took the lower value of the line items, the lower value of those that were in disagreement, we would wipe out about $105 million.

Mr. Speaker, I would hope that those Members present will vote for the recommittal motion.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding, and I will not take 5 minutes, but I would like to extend my appreciation to the gentleman from Iowa, and others on the conference committee, for the consideration that was given to the matters of the Department of Commerce in implementing the Export Administration Act Amendments of 1977. I note, on page 17 of the report, that the amount provides for 52 positions to implement those amendments. I would like to ask the gentleman if it is not his understanding, and that of the conferees, that at least 33 of those 52 positions would be allocated to the enforcement of the anti-Arab boycott law, as stated in the administration request.

Mr. SMITH of Iowa. If the gentleman will yield, that is correct. In the current fiscal year, the administration submitted a supplemental budget request for 52 positions, which was not approved. We did allow money for those 52 positions in this bill. Those 52 positions they requested included 33 for the antiboycott provisions, 12 for expediting export licenses, 5 for policy planning, and 2 for short supply procedures. It is our intention that these 52 be used as requested in the supplemental, but that does not keep them from using additional resources for this program if they desire to shift them within available resources.

Mr. BINGHAM. I thank the gentleman, and I thank him for his consideration in the matter.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, it is with regret that I oppose this conference report on H.R. 12934, because Mr. SLACK, the chairman of this subcommittee, and Mr. SMITH, the gentleman from Iowa, have both been in this legislation very supportive in many areas where we need help in south Florida. In particular this legislation provides funds to assist the Federal Trade Commission in its efforts to eliminate the abuses by unconscienable condominium developers upon the condominium unit buyers and owners. But, as the chairman of the Subcommittee on Census, I have the responsibility to oppose this bill as a way to express my disappointment that the conference report contains a Senate amendment prohibiting any funding for the evaluation panel on the Bureau of the Census.

This is an independent review panel requested by the Secretary of Commerce out of the need that was recognized by hearings held by our subcommittee. What we found out is that the Bureau of the Census has no independent evaluating body outside of the Bureau itself to determine or review the quality of its processes, its procedures, and its results.

There is over $140 million in this appropriation bill allocated for the 1980 census. We have found out that the test censuses that have been held are costing more than $10 a person to count, 10 times as much as these tests cost 10 years ago; and that both quality and percentages of the responses they are getting by the mail-out-mail-back are very, very poor. The National Academy of Sciences report that will soon be out is going to be criticizing the Census Bureau for lack of innovation.

And that census forms used by the Bureau of the Census are really programed for reading machines rather than to facilitate completion by live human beings. As to the census of 1980, we are sitting on a time bomb that is going to perhaps really blow up in our faces, not only with regard to the credibility for the census, but also with regard to the cost, which is going to run somewhere, it seems now, between 5 and 10 times as much as the 1970 census.

I would hope that the Census Bureau will continue to work out a better method of dealing with this problem, perhaps consider the British and German methods of using enumerators to drop off and later pick up as well as helping the people fill out the forms.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Mr. Speaker, I wish to call the attention of the House to a paragraph in the report of the conference committee which seems to seriously conflict with the authorizing legislation and the policies of the Committee on Public Works and Transportation. The paragraph in question on page 16 states that the conferees are agreed that the Economic Development Administration should allocate program funds to each regional office in fiscal year 1979 in amounts that are not less than what that region could expect to receive based on the fiscal year 1975–77 percent share of funds obligated in those regions under all regular EDA programs, excluding section 304 allocations, drought, title X and the local public works programs.

Mr. Speaker, this appropriation conference report language, if taken literally, could result in a major—and in our view, very undesirable—change in the basic legislation authorizing the economic development program.

Nothing in the basic legislation authorizes the Economic Development Administration to operate a formula grant program with all the "entitlements" and "hold harmless" clauses that have plagued so much of the debate on other bloc grant and revenue-sharing programs.

The Committee on Public Works and Transportation has never considered any suggestion to convert EDA into a formula grant program; we have never held hearings on it: it has not been debated on the floor of the House, and Members have never had any opportunity to determine the effect of such a change on their districts. To the contrary, the thrust of all of the testimony that we have heard this year is that the basic strength of the Economic Development Administration program is its flexibility and ability to react quickly to "targets of opportunity" and other unanticipated community problems such as the sudden closure of an industrial plant or defense base.

Many Members have expressed their strong feelings that this flexibility would be lost if more rigid comprehensive planning and "strategy" requirements are imposed on the EDA program. Imposition of the regional fund allocation system suggested in the conference report would be an even more serious setback.

In addition. Mr. Speaker. it is important to make it clear that the Economic Development Administration has other important ongoing programs which are not specifically cited as exceptions to the allocation formula suggested in the appropriations conference report.

The trade adjustment assistance program, which is administered by the Economic Development Administration, is one example. I am sure that the regional fund allocation formula in the conference committee report is not intended

to apply to the funds appropriated to EDA for its administration of the provisions of the Trade Act of 1974. Another obvious example is the special EDA program now under way to help the domestic steel industry by guaranteeing business development loans from payments into the title II business development revolving loan fund. It makes no sense to use a national formula to distribute the funds needed to help communities and industries under these programs when the authorizing legislation requires they be focused on the areas of greatest need.

A third example of an EDA program whose appropriations cannot be effectively allocated by a national formula is the title IX economic adjustment program. Under title IX of the Public Works and Economic Development Act, EDA provides adjustment assistance for sudden and severe economic dislocations such as defense base closings or a shutdown of a major industrial plant. There is no way to predict in advance where and when these kinds of dislocations will occur. It is rather like trying to provide disaster assistance through revenue sharing. The regional "formula grant" that is recommended in the conference committee report could prevent EDA from responding to some critical community needs while another region may have funds for lower priority projects.

Accordingly, I assume that the language of the conference committee report could not be applied to the distribution of the fiscal year 1979 appropriations for title IX adjustment assistance.

In conclusion, Mr. Speaker, it seems clear that any kind of "formula grant" that locks the Economic Development Administration into their traditional patterns of doing business will tend to stifle any of the new congressional program initiatives enacted in the past 2 years. One that is critically important is the new title IX assistance to communities suffering from long-term economic deterioration which was recently authorized.

Another example could be the proposed EDA energy impact assistance program that is now being considered by Congress. In both of these cases, Congress has identified new, higher priority areas where EDA assistance should be directed, but both could easily be nullified by any kind of a "formula grant" that locks the EDA program into the traditional patterns—regardless of how national needs have changed.

Mr. Speaker, one of the most consistent criticisms of Congress is that we do not do a good job of targeting Federal assistance into the areas of greatest need. The language of this conference report unfortunately demonstrates that this criticism is often justified.

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield, it was not the committee's intention to turn this into an entitlement program. It was our intention to make sure no area of the country was treated unfairly. However, it was not our intention and I do not believe we do change the EDA program into an entitlement program.

Mr. ROE. It seems to me the interpretation of the gentleman would balance with me and what our attorneys have interpreted. We are talking about allocating funds to regions. There is not any fund specifically programed to any specific region in the entire act. The committee is highly cognizant of the necessity out of fairness and equity to those programs that are approved, that are really needed and where there is a need for help in title IX—and I believe the gentleman from New York (Mr. NOWAK) would want to speak on this. On specific requirements any area of the country is eligible in title IX, not by formulas but on equitable reasons, depending on whether those communities are suffering from long-term economic deterioration or military base closings or rising unemployment or things of that issue. In the steel programs, we have the Trade Adjustment Act, and based not on formulas or obligated fund basis. We want to make it extremely clear what the intentions of the conferees are so that this is not negated by the conference report.

Mr. NOWAK. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New York.

Mr. NOWAK. Mr. Speaker, I believe the gentleman is sharing a very real concern that we have. On page 16, at the bottom, the report indicates there are exceptions to what the conferees wanted to do in allocating these program funds to each regional office, but title IX is not listed in there. The whole purpose of title IX is to aid any region, and perhaps one region of the country or another will have more problems, maybe long-term economic dislocation, but certainly title IX does not specifically state any specific region should share or we would be defeating the whole purpose of the legislation we passed in the authorization.

Mr. ROE. I thank the gentleman.

Could I ask the distinguished gentleman from Iowa, is it the intent of the language in the appropriation bill that conferees put in, to in effect say where there are titles of the EDA Act, thinking of title II and I of the act and the loan section of the act, that we want to see as much equity as possible in those programs?

Mr. SMITH of Iowa. That is correct, but there is just a little more than that to it. We do not want some areas to be reduced just so that a certain area in an election year can get a lot more money.

Mr. ROE. We agree with that.

Mr. SMITH of Iowa. However, in referring to all regular EDA programs, we do not intend that title IX of the Public Works and Economic Development Act and title II of the Trade Act of 1974 be included.

The SPEAKER pro tempore. The time of the gentleman from New Jersey (Mr. ROE) has expired.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 additional minutes to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, what we are trying to get at, for example, is that title IX specifically is a program which has specific regulations which say they only can be eligible if there is a base closing and an abrupt rise in unemployment.

Mr. SMITH of Iowa. If the gentleman will yield further, I say again that when we refer to all regular EDA programs, we are not talking about title IX of the EDA legislation or title II of the Trade Act.

Mr. ROE. That is a regular entitlement program, if I may suggest.

Can we qualify this matter in this direction? Is it the intent of the language to indicate that we are looking for equity in those areas where there are regional programs throughout the Nation, but where there are specific programs which require particular parameters of eligibility, such as an abrupt rise in unemployment and that they are not categorical programs? That is not the intent of the language, is it?

Mr. SMITH of Iowa. That is correct.

Mr. NOWAK. If the gentleman will yield further, Mr. Speaker, to further clarify this point, when the gentleman refers to all regular EDA programs, even though title IX is not specifically listed under those exemptions, the gentleman does not include title IX as a regular program; is that correct?

Mr. SMITH of Iowa. That is right.

Mr. ROE. Mr. Speaker, I thank the gentleman and yield back the balance of my time.

● Mr. ALEXANDER. Mr. Speaker, my sole objective in making the proposal adopted by the conferees is to try to insure that equitable response is given to all regions by EDA. It is my view that if EDA is going to use a formula for allocating the funds to its regional offices it should do so in a manner that provides equal opportunity to all regions. EDA, as has all Federal departments and agencies, has a responsibility to insure that any criteria used for alloting funding are drawn so that they are fair to all regions.

I am not interested in seeing EDA's programs turned into entitlement programs. How could I possibly be, in view of the way things have been going with entitlements and changing allocation formulas lately? But, I am determined that all States in all regions of the country get no more and no less than a fair and equitable chance at competing for a share of the EDA funding and a fair and equitable response to their needs.

I learned last month, during a meeting with Assistant Secretary Robert Hall that EDA is contemplating making its funding allocations on a formula basis. As a result of that conversation, I requested data on the preliminary funding allocations that EDA had made to its regional offices. Allocations they had made on a "best guess" estimate of what funds they would have available.

My interest was to see how the shares of funding related to past funding patterns—which are in my opinion a pretty good guide to what and where the need for EDA assistance is. I wanted to see if my concern that certain regions would be getting a better break for EDA than other regions had any basis. Found that my concern was soundly based. Not only were the overall percentage shares allocated more favorable to some regions based on historic need/response patterns

with regard to all programs in the analysis, but this was true when a single group of programs, such as the title I public works program was examined.

I recognize that in the case of trade adjustment assistance available under title II of the Trade Act of 1974 and under title XI of the Economic Development and Public Works Act, sudden changes in job opportunities resulting from such problems as market competition from imports create special needs. My proposal was not directed at hampering EDA's responses to these special case situations. At the same time, my study of the distribution of these trade adjustment assistance funds, in the past, shows that every region of the Nation has had need of assistance under these programs in the past.

I believe, therefore, it is reasonable to expect EDA to be as responsive to the needs of other regions as it expects to be to the needs of, say, the region serviced by the office in Philadelphia. Under its preliminary allocation for fiscal year 1979, 73 percent of the trade adjustment assistance would go to the States in the Philadelphia region. That money is economic stimulus money just as the public works and business development loans are supposed to be.

I found in studying the preliminary allocations of funding made for the coming year by EDA, in the public works program, for instance, that the percentage shares going to three regions—Seattle, Chicago, and Philadelphia—were higher than for the average for the fiscal years 1975–77. In the cases of the Chicago and Seattle percentage shares, in fact, the allocated share was also higher than any of those 3 years. In the case of the Philadelphia region, the share was higher than 2 of those 3 years.

In the instance of the percentage share preliminarily allocated to the Denver, Atlanta, and Austin regions, the levels were lower in each case than the 3-year average. In addition, for the Austin and Denver regions, the shares were lower than all 3 years or the same as the share for the lowest of the 3 years.

I have already said that I am not aiming to make the EDA programs entitlement programs. I have studied the EDA funding patterns enough to be aware that the funding for States and regions rises and falls periodically. I do not look at EDA in a vacuum, without looking at funding available from other departments and agencies. I am aware of the increasing problems the Northeastern and Midwestern States are having. I am, on the other hand, aware of the problems the Southern and Southwestern States have had for decade on decade. Sure, the economic picture in these States is improving. Nevertheless, we still have catching up to do, and we have need for EDA assistance.

For that reason, I cannot stand silent and watch as EDA shifts its resources away from some regions and into others.●

● Mr. CONYERS. Mr. Speaker, as the conference report (95–1565) making appropriations for the Departments of Justice, State, Commerce, the Judiciary, and related agencies comes before the House, I must bring to the attention of my colleagues a very bad decision that has been made with regard to appropriations for the Law Enforcement Assistance Administration. I refer to the cut of $8 million in the community anticrime program appropriation.

As chairman of the House Subcommittee on Crime, the programs of LEAA have been of special concern. Prior to 1976, LEAA made very little effort to involve citizens and their neighborhood organizations in crime prevention and reduction programs, despite the countless studies that have shown that, unless citizens are involved in local law enforcement from the beginning there is little that the police can do to prevent crime. Most LEAA funds went to criminal justice agencies, whose total budgets increased fourfold in the 10 years since the passage of the Safe Streets Act. Yet despite this increase in funding, there has been no significant reduction in the incidence of crime.

LEAA's community anticrime program is currently authorized for only $15 million annually, a small fraction of the agency's total appropriation of $646 million for fiscal year 1978. After Congress passed the amendment which I introduced creating an Office of Community Anticrime Programs, my subcommittee learned of LEAA's lackluster performance in getting this program underway. For example, the agency expended only $1.4 million of the authorized appropriation on community projects during fiscal year 1977, thereby causing a $13.6 million carryover in their fiscal year 1978 request. As a result, the Justice Department requested this year only $7 million for community anticrime, asserting that "it will not adversely affect any community anticrime activities."

The fact of the matter is that despite the initial problems in getting this program started, the program budget surplus that was originally projected has evaporated. As a result, LEAA no longer has the funds to undertake any new community initiatives in fiscal year 1979. My office has been informed that the $7 to $8 million available for fiscal year 1979 will not even be adequate to renew for a second year the most successful community anticrime programs. In fiscal year 1978, 880 community anticrime proposals have been received. No other program within LEAA has received as many applications.

The House-approved bill appropriated $15 million for community anticrime programs in fiscal year 1979. The Senate unfortunately accepted the Justice Department's recommendation and, in the conference, the Senate figure of $7 million was agreed to. This decision will have very severe repercussions for the Federal anticrime effort and the future direction of LEAA, unless ways are found to restore the funds for community anticrime.●

Mr. SMITH of Iowa. Mr. Speaker, I have no further requests for time.

Mr. CEDERBERG. I have no further requests for time.

Mr. SMITH of Iowa. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. MILLER of Ohio. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MILLER of Ohio moves to recommit the bill H.R. 12934, to the committee of conference, with instructions to the Managers on the part of the House to insist on the House position on amendment 121.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. MILLER of Ohio) there were—ayes 18, noes 36.

So the motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 276, nays 61, not voting 95, as follows:

[Roll No. 854]

YEAS—276

Abdnor	Chappell	Flynt
Addabbo	Chisholm	Foley
Akaka	Clausen, Don H.	Ford, Tenn.
Alexander	Cohen	Forsythe
Ambro	Collins, Ill.	Fuqua
Anderson, Calif.	Conte	Garcia
Andrews, N.C.	Corman	Gaydos
Andrews, N. Dak.	Cornell	Gephardt
Annunzio	Cornwell	Gibbons
Applegate	Coughlin	Gilman
Ashley	Cunningham	Ginn
Aspin	Daniel, Dan	Gonzalez
Baldus	Danielson	Goodling
Beard, R.I.	Davis	Gore
Bedell	de la Garza	Gradison
Bellenson	Dellums	Grassley
Benjamin	Dent	Green
Bevill	Derrick	Guyer
Bingham	Dicks	Hagedorn
Blanchard	Dingell	Hall
Boggs	Dodd	Hamilton
Boland	Downey	Hammer-schmidt
Bonior	Drinan	Hanley
Bonker	Duncan, Oreg.	Hannaford
Bowen	Duncan, Tenn.	Harris
Brademas	Eckhardt	Heckler
Breaux	Edgar	Hefner
Brinkley	Edwards, Ala.	Hightower
Brodhead	Edwards, Calif.	Hillis
Brown, Calif.	Emery	Hollenbeck
Brown, Mich.	Ertel	Holtzman
Broyhill	Evans, Del.	Horton
Buchanan	Evans, Ga.	Howard
Burgener	Fary	Hubbard
Burke, Mass.	Fascell	Huckaby
Burlison, Mo.	Fenwick	Hyde
Burton, Phillip	Findley	Jeffords
Butler	Fish	Jenrette
Byron	Fisher	Johnson, Calif.
Carr	Fithian	Johnson, Colo.
Carter	Flippo	Jones, N.C.
Cavanaugh	Flood	Jones, Tenn.
Cederberg	Florio	Jordan
	Flowers	Kastenmeier

Kazen	Myers, John	Skubitz
Keys	Myers, Michael	Smith, Iowa
Kildee	Natcher	Solarz
Kindness	Neal	Spellman
Krebs	Nichols	St Germain
LaFalce	Nolan	Staggers
Le Fante	Nowak	Stangeland
Leach	O'Brien	Stanton
Leggett	Oberstar	Stark
Lent	Obey	Steed
Levitas	Ottinger	Steers
Livingston	Patten	Stockman
Lloyd, Calif.	Patterson	Stratton
Lloyd, Tenn.	Pattison	Studds
Long, La.	Pease	Thompson
Long, Md.	Perkins	Treen
Lujan	Pickle	Tucker
Luken	Pressler	Ullman
Lundine	Preyer	Van Deerlin
McClory	Pritchard	Vander Jagt
McCloskey	Pursell	Vanik
McDade	Rahall	Vento
McFall	Rangel	Volkmer
McHugh	Regula	Waggonner
McKay	Reuss	Walgren
McKinney	Rhodes	Walsh
Maguire	Richmond	Wampler
Mahon	Rinaldo	Waxman
Mann	Roberts	Weiss
Markey	Robinson	Whalen
Marks	Roe	White
Marlenee	Rogers	Whitehurst
Mazzoli	Roncalio	Whitley
Meyner	Rooney	Whitten
Michel	Rose	Wilson, Bob
Mikulski	Rosenthal	Wilson, Tex.
Mineta	Rostenkowski	Winn
Mitchell, Md.	Roybal	Wirth
Mitchell, N.Y.	Ruppe	Wolff
Moakley	Russo	Wydler
Moffett	Ryan	Wylie
Mollohan	Santini	Yates
Montgomery	Scheuer	Yatron
Moore	Schulze	Young, Fla.
Murphy, Ill.	Sebelius	Young, Mo.
Murphy, N.Y.	Seiberling	Zablocki
Murphy, Pa.	Sharp	Zeferetti
Murtha	Sikes	
Myers, Gary	Simon	

NAYS—61

Archer	Glickman	Moorhead, Calif.
AuCoin	Goldwater	Motti
Bafalis	Hansen	Oakar
Barnard	Harsha	Panetta
Baucus	Heftel	Quillen
Bauman	Holt	Rousselot
Bennett	Hughes	Rudd
Brown, Ohio	Ichord	Satterfield
Clawson, Del	Jacobs	Schroeder
Cleveland	Jenkins	Shuster
Coleman	Jones, Okla.	Snyder
Collins, Tex.	Kelly	Steiger
Daniel, R. W.	Kostmayer	Stump
Derwinski	Lagomarsino	Symms
Devine	Latta	Taylor
Dornan	Lehman	Traxler
English	Lott	Walker
Evans, Ind.	McDonald	Watkins
Fountain	Martin	Weaver
Fowler	Mattox	
Frenzel	Miller, Ohio	

NOT VOTING—95

Ammerman	Erlenborn	Pepper
Anderson, Ill.	Evans, Colo.	Pettis
Armstrong	Ford, Mich.	Pike
Ashbrook	Fraser	Poage
Badham	Frey	Price
Beard, Tenn.	Gammage	Quayle
Biaggi	Giaimo	Quie
Blouin	Gudger	Railsback
Bolling	Harkin	Risenhoover
Breckinridge	Harrington	Rodino
Brooks	Hawkins	Runnels
Broomfield	Holland	Sarasin
Burke, Calif.	Ireland	Sawyer
Burke, Fla.	Kasten	Shipley
Burleson, Tex.	Kemp	Sisk
Burton, John	Krueger	Skelton
Caputo	Lederer	Slack
Carney	McCormack	Smith, Nebr.
Clay	McEwen	Spence
Cochran	Madigan	Stokes
Conable	Marriott	Teague
Conyers	Mathis	Thone
Corcoran	Meeds	Thornton
Cotter	Metcalfe	Trible
Crane	Mikva	Tsongas
D'Amours	Milford	Udall
Delaney	Miller, Calif.	Wiggins
Dickinson	Minish	Wilson, C. H.
Diggs	Moorhead, Pa.	Wright
Early	Moss	Young, Alaska
Edwards, Okla.	Nedzi	Young, Tex.
Eilberg	Nix	

The Clerk announced the following pairs:

Mr. Rodino with Mr. Anderson of Illinois.
Mr. Delaney with Mr. Frey.
Mr. Burleson of Texas with Mr. Trible.
Mr. Teague with Mr. Marriott.
Mr. Pepper with Mr. Broomfield.
Mr. Moorhead of Pennsylvania with Mr. Caputo.
Mr. Minish with Mr. Railsback.
Mr. Giaimo with Mr. Sarasin.
Mr. Ammerman with Mrs. Smith of Nebraska.
Mr. Biaggi with Mr. Young of Alaska.
Mr. Brooks with Mr. Wiggins.
Mr. Carney with Mr. Kemp.
Mr. Hawkins with Mr. Ashbrook.
Mr. Eilberg with Mr. Badham.
Mr. Early with Mr. Kasten.
Mr. Price with Mr. McEwen.
Mr. Shipley with Mrs. Pettis.
Mr. Slack with Mr. Quie.
Mr. Stokes with Mr. Sawyer.
Mr. Charles H. Wilson of California with Mr. Spence.
Mr. Wright with Mr. Dickinson.
Mr. Krueger with Mr. Crane.
Mr. Mikva with Mr. Corcoran of Illinois.
Mr. McCormack with Mr. Beard of Tennessee.
Mr. Lederer with Mr. Madigan.
Mr. Mathis with Mr. Quayle.
Mr. Miller of California with Mr. Edwards of Oklahoma.
Mr. Nedzi with Mr. Erlenborn.
Mr. Nix with Mr. Conable.
Mr. D'Amours with Mr. Cochran of Mississippi.
Mr. Cotter with Mr. Burke of Florida.
Mr. John L. Burton with Mr. Holland.
Mrs. Burke of California with Mr. Harrington.
Mr. Ireland with Mr. Milford.
Mr. Udall with Mr. Moss.
Mr. Meeds with Mr. Conyers.
Mr. Pike with Mr. Blouin.
Mr. Breckinridge with Mr. Diggs.
Mr. Ford of Michigan with Mr. Evans of Colorado.
Mr. Metcalfe with Mr. Harkin.
Mr. Clay with Mr. Gudger.
Mr. Risenhoover with Mr. Gammage.
Mr. Sisk with Mr. Runnels.
Mr. Skelton with Mr. Thornton.
Mr. Tsongas with Mr. Fraser.

Messrs. FRENZEL, GOLDWATER, MARTIN, FOUNTAIN, and STEIGER changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

Mr. SMITH of Iowa. Mr. Speaker, there are 65 amendments in technical disagreement, and may I inform the Members, if they will bear with me, we will be able to take care in about 7 or 8 minutes of all except amendments 9 and 123, which we will postpone until tomorrow.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, so both of these two in disagreement will be brought up tomorrow the first thing?

Mr. SMITH of Iowa. I will ask unanimous consent for that.

Mr. ROUSSELOT. Do we have an agreement on the schedule that they will be first?

Mr. SMITH of Iowa. I do not control the time. I understood they would be the first thing. I am not sure.

Mr. ROUSSELOT. I understand the Speaker says yes.

I thank the gentleman.

Mr. SMITH of Iowa. Mr. Speaker, in order to expedite the disposition of these amendments, I would like to suggest that all such amendments on which we are asking that the House recede and concur be considered en bloc. Accordingly, Mr. Speaker, I ask unanimous consent that Senate amendments numbered 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 26, 27, 28, 29, 33, 35, 36, 37, 38, 40, 41, 56, 73, 78, 88, 91, 92, 96, 101, 102, 103, 104, 105, 110, and 114 be considered as read, printed in the RECORD, and that they be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

(The Senate amendments above referred to are as follows:)

Senate amendment No. 1: Page 2, line 2, insert:

ADMINISTRATION OF FOREIGN AFFAIRS

Senate amendment No. 3: Page 4, line 1, insert:

REPRESENTATION ALLOWANCE

For representation allowances as authorized by section 901 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1131), $2,900,000.

Senate amendment No. 4: Page 4, line 5, insert:

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses of carrying into effect the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 292–300), including personal services in the United States and abroad; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances as authorized by 5 U.S.C. 5921–5925; and services as authorized by 5 U.S.C. 3109; $125,000,000, to remain available until expended: *Provided*, That not to exceed $2,544,000 may be used for administrative expenses during the current fiscal year.

Senate amendment No. 5: Page 4, line 18, insert:

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for the purposes authorized by section 4 of the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 295), $6,025,000, to remain available until expended.

Senate amendment No. 6: Page 5, line 4, insert:

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, to be expended pursuant to the requirement of section 291 of the Revised Statutes (31 U.S.C. 107), $2,350,000.

Senate amendment No. 7: Page 5, line 11, insert:

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $38,107,000.

Senate amendment No. 8: Page 5, line 15, insert:

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

Senate amendment No. 10: Page 6, line 1, insert:

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of United Nations peacekeeping forces in the Middle East, $27,000,000.

Senate amendment No. 11: Page 6, line 6, insert:

MISSIONS TO INTERNATIONAL ORGANIZATIONS

For expenses necessary for permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress including expenses authorized by the pertinent Acts and conventions provided for such representation; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances, as authorized by 5 U.S.C. 5921–5925; and expenses authorized by section 2 (a) and (e) and section 17 of the Act of August 1, 1956, as amended (22 U.S.C. 2669); $12,000,000.

Senate amendment No. 12: Page 6, line 18, insert:

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses of participation by the United States, upon approval by the Secretary of State, in international activities which arise from time to time in the conduct of foreign affairs and for which specific appropriations have not been provided pursuant to treaties, conventions, or special Acts of Congress, including personal services without regard to civil service and classification laws; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances as authorized by 5 U.S.C. 5921–5925; hire of passenger motor vehicles; contributions for the share of the United States in expenses of international organizations; and expenses authorized by section 2(a) of the Act of August 1, 1956, as amended (22 U.S.C. 2669); $8,000,000, to remain available until expended, of which not to exceed a total of $175,000 may be expended for representation allowances as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131), and for official entertainment.

Senate amendment No. 13: Page 7, line 14, insert:

INTERNATIONAL TRADE NEGOTIATIONS

For necessary expenses of participation by the United States in international trade negotiations, including not to exceed $25,000 for representation allowances, as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131), and for official entertainment, $4,717,000: *Provided*, That this appropriation shall be available in accordance with the authority provided in the current appropriation for "International conferences and contingencies".

Senate amendment No. 14: Page 8, line 1, insert:

INTERNATIONAL COMMISSIONS

Senate amendment No. 15: Page 8, line 2, insert:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For expenses necessary to enable the United States to meet its obligations under the treaties of 1889, 1906, 1933, 1944, 1963, and 1970 between the United States and Mexico, and to comply with the other laws applicable to the United States Section, International Boundary and Water Commission, United States and Mexico, including operation and maintenance of the Rio Grande rectification, canalization, flood control, bank protection, water supply, power, irrigation, boundary demarcation, and sanitation projects; detailed plan preparation and construction (including surveys and operation and maintenance and protection during construction); Rio Grande emergency flood protection; expenditures for the purposes set forth in sections 101 through 104 of the Act of September 13, 1950 (22 U.S.C. 277d–1—277d–4); purchases of planographs and lithographs; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5502); and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

Senate amendment No. 16: Page 9, line 1, insert:

SALARIES AND EXPENSES

For salaries and expenses not otherwise provided for, including examination, preliminary surveys, and investigations, and operation and maintenance of projects or parts thereof as enumerated above, including gaging stations $6,800,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

Senate amendment No. 17: Page 9, line 10, insert:

CONSTRUCTION

For detailed plan preparation and construction of projects authorized by the convention concluded February 1, 1933, between the United States and Mexico, the Acts approved August 19, 1935, as amended (22 U.S.C. 277–277f), August 29, 1935 (49 Stat. 961), June 4, 1936 (49 Stat. 1463), June 28, 1941 (22 U.S.C. 277f), September 13, 1950 (22 U.S.C. 277d–1–9), October 10, 1966 (80 Stat. 884), October 25, 1972 (86 Stat. 1161), and the project stipulated in the treaty between the United States and Mexico signed at Washington on February 3, 1944, to remain available until expended, $3,900,000: *Provided*, That no expenditures shall be made for the Lower Rio Grande flood control project for construction on any land, site, or easement in connection with this project except such as has been acquired by donation and the title thereto has been approved by the Attorney General of the United States: *Provided further*, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State.

Senate amendment No. 18: Page 10, line 11, insert:

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For expenses necessary to enable the President to perform the obligations of the United States pursuant to treaties between the United States and Great Britain, in respect to Canada, signed January 11, 1909 (36 Stat. 2448), and February 24, 1925 (44 Stat. 2102); and the treaty between the United States and Canada, signed February 27, 1950; including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; $2,500,000, to be disbursed under the direction of the Secretary of State and to be available also for additional expenses of the American Sections, International Commissions, as hereinafter set forth:

International Joint Commission, United States and Canada, the salary of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of clerks and other employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses in attending hearings of the Commission at such places in the United States and Canada as the Commission or the American Commissioners shall determine to be necessary; not to exceed $2,000 for representation expenses, in accordance with such regulations as the President may prescribe, and official entertainment; and special and technical investigations in connection with matters falling within the Commission's jurisdiction: *Provided*, That transfers of funds may be made to other agencies of the Government for the performance of work for which this appropriation is made.

International Boundary Commission, United States and Canada, the completion of such remaining work as may be required under the award of the Alaskan Boundary Tribunal and the existing treaties between the United States and Great Britain; commutation of subsistence to employees while on field duty at not to exceed the authorized prevailing daily rate; hire of freight and passenger motor vehicles from temporary field employees; and payment for timber necessarily cut in keeping the boundary line clear.

Senate amendment No. 19: Page 12, line 1, insert:

INTERNATIONAL FISHERIES COMMISSION

For expenses, not otherwise provided for, necessary to enable the United States to meet its obligations in connection with participation in international fisheries commissions pursuant to treaties or conventions, and implementing Acts of Congress, $6,000,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions.

Senate amendment No. 23: Page 13, line 12, insert:

LEGAL ACTIVITIES

Senate amendment No. 26: Page 14, line 17, insert:

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

For necessary expenses of the offices of the United States attorneys and marshals, including purchase of firearms and ammunition and supervision of United States prisoners in non-Federal institutions, and bringing to the United States from foreign countries persons charged with crime, and for lease of not more than 800 passenger motor vehicles from the General Services Administration, of which not more than five hundred and seventy shall be for police-type use, $196,700,000: *Provided*, That in order to equip the U.S. Marshals Service with police-type vehicles, the General Services Administration may purchase not more than one hundred replacement vehicles without regard to the purchase price limitation for the current fiscal year.

Senate amendment No. 27: Page 15, line 7, insert:

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursement to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by law (24 U.S.C. 168a), $25,100,000.

Senate amendment No. 28: Page 15, line 14, insert:

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $20,000,000: *Provided*, That no part of the sum herein appropriated shall be used to pay any witness more than one attendance fee for any one calendar day.

Senate amendment No. 29: Page 15, line 21, insert:

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service established by title X of the Civil Rights Act of 1964 (42 U.S.C. 2000g—2000g–2), $5,353,000.

Senate amendment No. 33: Page 20, line 10, insert:

FEDERAL PRISON SYSTEM

Senate amendment No. 35: Page 21, line 9, insert:

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, $9,920,000, to remain available until expended.

Senate amendment No. 36: Page 21, line 14, insert:

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $35,280,000, to remain available until expended: *Provided*, That labor of the United States prisoners may be used for work performed under this appropriation.

Senate amendment No. 37: Page 21, line 23, insert:

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles, except as hereinafter provided.

Senate amendment No. 38: Page 22, line 10, insert:

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL TRAINING EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,041,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $3,040,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis and to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and shall be exclusive of depreciation, payment of claims, expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

Senate amendment No. 40: Page 24, line 21, insert:

SEC. 207. A total of not to exceed $18,500 from funds appropriated to the Department of Justice shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

Senate amendment No. 41: Page 25, line 1, insert:

SEC. 208. Appropriations and authorizations made in this title which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

Senate amendment No. 56: Page 30, line 7, strike out "$58,000,000" and insert "including expenses of grants, contracts, or other agreements with public or private organizations, $57,965,000,".

Senate amendment No. 73: Page 35, line 4, insert:

OPERATIONS AND TRAINING

For expenses necessary for carrying out the Merchant Marine Act, 1936, as amended, and the training of cadets as officers of the Merchant Marine, including not to exceed $2,500 for entertainment of officials of other countries when specifically authorized by the Maritime Administrator; not to exceed $2,500 for representation allowances; not to exceed $2,500 for contingencies for the Superintendent, United States Merchant Marine Academy, to be expended in his discretion; $57,150,000, to remain available until expended: *Provided*, That reimbursement may be made to this appropriation for expenses in support of activities for National Maritime Research Centers financed from the appropriation for "Research and development": *Provided further*, That reimbursements may be made to this appropriation from receipts to the "Federal ship financing fund" for administrative expenses in support of that program.

Senate amendment No. 78: Page 38, line 13, insert: ": *Provided*, That section 1 of the Act of May 7, 1934 (40 U.S.C. 13a–13b) is amended by adding thereto the following subsection:

"(b) In addition to the foregoing, any funds hereafter appropriated under authority of this Act shall be available also for expenses of heating and air-conditioning refrigeration supplied by the Capital Power Plant, advancements for which be made and deposited in the Treasury to the credit of appropriations hereafter provided for the Capitol Power Plant; and for the purchase of electrical energy: Provided further, That subsection 2 of such Act is amended by striking the words 'the foregoing' and inserting in lieu thereof the words 'section 1(a)' ".".

Senate amendment No. 88: Page 43, line 6, insert:

PRETRIAL SERVICES AGENCIES

For salaries and expenses of pretrial services agencies established pursuant to title II of the Speedy Trial Act of 1974, including support of services to defendants released pending trial, $5,000,000, to remain available until expended.

Senate amendment No. 91: Page 45, line 11, insert:

COMMISSION ON CIVIL RIGHTS SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $10,752,000.

Senate amendment No. 92: Page 45, line 21, strike out "$350,000," and insert "$521-insert:

Senate amendment No. 96: Page 46, line 23, insert: "not to exceed $35,000 to provide commemorative stamp albums to delegates attending the 1979 World Administrative Radio Conference;".

Senate amendment No. 101: Page 49, line 1, insert:

INTERNATIONAL COMMUNICATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the International Communication Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to the civil service and classification laws, of persons on a temporary basis (not to exceed $20,000), and aliens within the United States; expenses authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158) and living quarters as authorized by 5 U.S.C. 5912; entertainment within the United States not to exceed $6,500; purchase for use abroad of passenger motor vehicles (of which not to exceed twenty-five may be for purposes other than replacement); hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; advance of funds notwithstanding section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; expenses authorized by section 804(14) of the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1474); radio activities and acquisition and production of motion pictures and visual materials and purchase or rental of technical equipment and facilities therefor, narration, scriptwriting, translation, and engineering services, by contract or otherwise; and purchase of objects for presentation to foreign governments, schools, or organizations; $368,000,000 of which not to exceed $7,941,000 of the amounts allocated by the International Communications Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451), shall remain available until expended: *Provided*, That not to exceed $410,000 may be used for representation abroad: *Provided further*, That passenger motor vehicles used abroad exclusively for the purposes of this appropriation may be replaced in accordance with section 806 of the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1475a), and the cost, including the exchange allowance, of each such replacement, shall not exceed such amounts as may be otherwise provided by law (except that right-hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law): *Provided further*, That notwithstanding the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), the International Communication Agency is authorized, in making contracts for the use of international shortwave radio stations and facilities, to agree on behalf of the United States to indemnify the owners and operators of said radio stations and facilities from such funds as may be hereafter appropriated for the purpose against loss or damage on account of injury to persons or property arising from such use of said radio stations and facilities.

Senate amendment No. 103: Page 51, line 9, insert:

SALARIES AND EXPENSES (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the International Communication Agency, as authorized by law, including section 804(14) of the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1474), $9,824,000, to remain available until expended.

Senate amendment No. 104: Page 51, line 18, insert:

CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

To enable the Director of the International Communication Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $13,500,000: *Provided*, That none of the funds appropriated herein shall be used to

pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

Senate amendment No. 105: Page 52, line 6, insert:

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception, purchase and installation of necessary equipment for radio transmission and reception, without regard to the provisions of the Act of June 30, 1932 (40 U.S.C. 278a), and acquisition of land and interests in land by purchase, lease, rental, or otherwise, $19,685,000, to remain available until expended: *Provided*, That this appropriation shall be available for acquisition of land outside the continental United States without regard to section 355 of the Revised Statutes (40 U.S.C. 255) and title to any land so acquired shall be approved by the Director of the International Communication Agency.

Senate amendment No. 110: Page 54, line 18, insert: "including termination or cessation of the activities of the Board, and".

Senate amendment No. 114: Page 55, line 6, insert:

SECURITIES AND EXCHANGE COMMISSION
SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $2,000 for official reception and representation expenses, $64,650,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. SMITH of Iowa:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 26, 27, 28, 29, 33, 35, 36, 37, 38, 40, 41, 56, 73, 78, 88, 91, 92, 96, 101, 102, 103, 104, 105, 110 and 114 and concur therein.

The motion was agreed to.

Mr. SMITH of Iowa. Now, Mr. Speaker, I ask unanimous consent that the consideration of the amendments 9 and 123 be postponed until tomorrow, and be considered the unfinished business for tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I do so to make an inquiry of the Chair. If this postponement is granted, will these be the first order of unfinished business in the morning?

The SPEAKER pro tempore. The Chair would advise the gentleman from Maryland that as unfinished business, the answer to the question is yes.

Mr. BAUMAN. Further reserving the right to object, it has been very difficult to find out today what the program will be tomorrow. I would like to request at this point further information as to what the entire program will be.

Mr. ROSTENKOWSKI. Mr. Speaker. will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. We are going to wait until the gentleman from Iowa concludes his business, and then go into tomorrow's program.

Mr. BAUMAN. I would say that is depending on the outcome of my inquiry, as to the request.

Mr. ROSTENKOWSKI. If the gentleman will yield further, it is the intention of the leadership to call up the State, Justice, Judiciary conference report; to consider the Department of Defense bill which has an open rule and 1 hour of debate; to take up the rules on the Magistrate's bill; on the Water Resource Development Act of 1978; on the Financial Institutions Regulatory Act of 1978; on the Sugar Stabilization Act of 1978; and on the Meat Import Act.

Then, we will take into consideration S. 2391, the Commodity Exchange Act extensions and amendments conference report; H.R. 11302, Environmental Protection Agency research and development authorization conference report; and H.R. 12255, Older Americans Act Amendments of 1978 conference report.

Mr. BAUMAN. Further reserving the right to object, all of this between 10 a.m. and 3 p.m.?

Mr. ROSTENKOWSKI. These are rules only that we expect to consider; not the legislation.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, would the distinguished gentleman from Illinois tell us, would the leadership consider clustering those votes on those rules?

Mr. ROSTENKOWSKI. If we had made previous arrangements, it would have been the intention of the leadership to cluster the votes. However, we did not reach any agreement on arrangements on that, so we will be voting individually on each rule.

Mr. MICHEL. So, we would expect the votes would come in sequence after consideration of each rule?

Mr. ROSTENKOWSKI. After consideration, that is correct.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. How long is it expected the debate on the DOD authorization will take?

Mr. ROSTENKOWSKI. It is an open rule, 1 hour of debate.

Mr. ROUSSELOT. Just the rule.

Mr. ROSTENKOWSKI. On DOD we will consider the legislation tomorrow.

Mr. ROUSSELOT. And what is the gentleman's guess as to time?

Mr. ROSTENKOWSKI. That is a very hard judgment to make. I really do not know whether there are many controversial amendments, but if I were going to make an estimate, I would say about an hour and a half.

Mr. ROUSSELOT. I appreciate the gentleman's comment.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. DINGELL. Mr. Speaker, reserving the right to object, I have a unanimous-consent request which I would like to make.

The SPEAKER pro tempore. The Chair would advise the gentleman from Michigan that we have an unanimous-consent request pending.

Mr. DINGELL. I am keenly aware of that. I am hoping the Chair will be able to recognize me for the purpose of making a unanimous-consent request.

The SPEAKER pro tempore. As soon as we dispose of the request of the gentleman from Iowa.

Mr. DINGELL. How long would that be, Mr. Speaker?

The SPEAKER pro tempore. Momentarily.

Mr. DINGELL. If there are many more, I would observe for the benefit of the Chair, I would possibly object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AMENDMENTS IN DISAGREEMENT

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the remaining amendments in disagreement, that is, Senate amendments numbered 2, 22, 24, 25, 30, 31, 34, 51, 66, 67, 90, 100, 106, 109, 111 113, 115, 116, 117, and 124 be considered as read, printed in the RECORD, and that they be identified by the Chair by number so that I may offer motions for their disposition.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the Senate amendment No. 2 in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 2, line 3, insert:

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including allowances as authorized by 5 U.S.C. 5921–5925; expenses of binational arbitrations arising under international air transport agreements; expenses necessary to meet the responsibilities and obligations of the United States in Germany (including those arising under the supreme authority assumed by the United States on June 5, 1945, and under contractual arrangements with the Federal Republic of Germany); expenses of the National Commission on Educational, Scientific, and Cultural Cooperation, as authorized by sections 3, 5, and 6 of the Act of July 30, 1946 (22 U.S.C. 287o, 287q, 287r); hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; expenses authorized by section 2 of the Act of August 1, 1956 (22 U.S.C. 2669), as amended; refund of fees erroneously charged and paid for passports; radio communications; payment in advance for subscriptions to commercial information, telephone and similar services abroad; expenses necessary to provide maximum physical security in Government-owned and leased properties abroad; and procurement by contract or otherwise, of services, supplies, and facilities, as follows: (1) translating, (2) analysis and tabulation of technical information, and (3) preparation of special maps, globes, and geographic aids; $661,000,000: *Provided*, That passenger motor vehicles in possession of the Foreign Service abroad may be replaced in accordance with section 7 of the Act of August 1, 1956 (22 U.S.C. 2674), and the cost, including ex-

change allowance, of each such replacement shall not exceed $6,500 in the case of the chief of mission automobile at each diplomatic mission (except that four such vehicles may be purchased at not to exceed $9,000 each) and such amounts as may be otherwise provided by law for all other such vehicles, except that right-hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law: *Provided further,* That in addition, this appropriation shall be available for the purchase (not to exceed thirty-three), replacement, rehabilitation, and modification of passenger motor vehicles for protective purposes without regard to any maximum price limitations otherwise established by law: *Provided further,* That no ceiling shall be established at less than sixteen thousand four hundred and thirty-five on employment in full-time permanent positions funded by this appropriation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including allowances as authorized by 5 U.S.C. 5921–5925; expenses of binational arbitrations arising under international air transport agreements; expenses necessary to meet the responsibilities and obligations of the United States in Germany (including those arising under the supreme authority assumed by the United States on June 5, 1945, and under contractual arrangements with the Federal Republic of Germany); expenses of the National Commission on Educational, Scientific, and Cultural Cooperation, as authorized by sections 3, 5, and 6 of the Act of July 30, 1946 (22 U.S.C. 287o, 287q, 287r); hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; expenses authorized by section 2 of the Act of August 1, 1956 (22 U.S.C. 2669), as amended; refund of fees erroneously charged and paid for passports; radio communications; payment in advance for subscriptions to commercial information, telephone and similar services abroad; expenses necessary to provide maximum physical security in Government owned and leased properties abroad; and procurement by contract or otherwise, of services, supplies, and facilities, as follows: (1) translating, (2) analysis and tabulation of technical information, and (3) preparation of special maps, globes, and geographic aids; $660,945,000: *Provided,* That passenger motor vehicles in possession of the Foreign Service abroad may be replaced in accordance with section 7 of the Act of August 1, 1956 (22 U.S.C. 2674), and the cost, including exchange allowance, of each such replacement shall not exceed $6,500 in the case of the chief of mission automobile at each diplomatic mission (except that four such vehicles may be purchased at not to exceed $9,000 each) and such amounts as may be otherwise provided by law for all other such vehicles, except that right-hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law: *Provided further,* That in addition, this appropriation shall be available for the purchase (not to exceed thirty-three), replacement, rehabilitation, and modification of passenger motor vehicles for protective purposes without regard to any maximum price limitations otherwise established by law.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 13, line 2 insert:

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, including hire of passenger motor vehicles; and miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; $28,396,000, of which $5,111,000 is for the United States Parole Commission and $1,400,000 is for the Federal justice research program, the latter amount to remain available until expended.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, including hire of passenger motor vehicles; and miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; $28,474,000, of which $5,111,000 is for the United States Parole Commission and $1,700,000 is for the Federal justice research program, the latter amount to remain available until expended

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 13, line 13, insert:

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including expenses for the appointment of special prosecutors and for the carrying out of their designated responsibilities; miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; not less than $24,181,000 for salaries and expenses of the Criminal Division, not to exceed $20,000 for expenses of collecting of evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advances of public moneys pursuant to law (31 U.S.C. 529); $90,826,000: *Provided,* That not to exceed $105,000 may be transferred to this appropriation from the "Alien Property Fund, World War II", for the general administrative expenses of alien property activities, including rent of private Government-owned space in the District of Columbia.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advances of public moneys pursuant to law (31 U.S.C. 529); $90,550,000: *Provided,* That not to exceed $105,000 may be transferred to this appropriation from the "Alien Property Fund, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 25: Page 14, line 7, insert:

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust, consumer protection and kindred laws, including $10,000,000 for antitrust enforcement grants to the States authorized by section 309 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, which $703,000 is to be used to supplement the Antitrust Division's ongoing international oil investigation: *Provided,* That none of this appropriation shall be expended for the establishment and maintenance of permanent regional offices of the Antitrust Division.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust, consumer protection and kin-

dred laws, including $10,000,000 for antitrust enforcement grants to the States authorized by section 309 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, $46,377,000: *Provided*, That none of this appropriation shall be expended for the establishment and maintenance of permanent regional offices of the Antitrust Division.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 30: Page 16, line 2, insert:

SALARIES AND EXPENSES

For expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed one thousand three hundred and seventy-four for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under 22 U.S.C. 1136(9)–(11) and 22 U.S.C. 1157, under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $561,341,000: *Provided further*, That no ceiling shall be established at less than eighteen thousand seven hundred and seventy-five on employment in full-time permanent positions funded by this appropriation.

None of the funds appropriated for the Federal Bureau of Investigation shall be used to pay the compensation of any civil service employee.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES

For expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed one thousand three hundred and seventy-four for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under 22 U.S.C. 1136(9)–(11) and 22 U.S.C. 1157, under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $561,341,000.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 17, line 9, insert:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances (at a rate not in excess of $1 per day) to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies; payment of rewards; not to exceed $50,000 to meet unforseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed four hundred seven, of which two hundred ninety-eight shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition, attendance at firearms matches; refunds of head tax, maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for enforcement fence and construction incident to such fence; reimbursement to the General Services Administration for security guard services for protection of confidential files; benefits in accordance with those provided under 22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157 under regulations prescribed by the Secretary of State; research research related to immigration enforcement; $299,350,000, of which not to exceed $400,000 shall remain available for such research until expended: *Provided*, That of the amount herein appropriated, not to exceed $50,000 may be used for the emergency replacement of aircraft upon certificate of the Attorney General: *Provided further*, That upon the enactment of authorizing legislation, not to exceed $1,950,000 shall be available for additional fencing in the Yuma, Arizona, sector of the Border Patrol: *Provided further*, That no ceiling shall be established at less than ten thousand six hundred on employment in full-time permanent positions funded by this appropriation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances (at a rate not in excess of $1 per day) to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies; payment of rewards; not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed four hundred seven, of which two hundred ninety-eight shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition, attendance at firearms matches; refunds of head tax, maintenance bills, immigration fines, and other items properly returnable, except deposits, of aliens who become public charges and deposits to secure payment of fines and passage money; operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for enforcement fence and construction incident to such fence; reimbursement to the General Services Administration for security guard services for protection of confidential files; benefits in accordance with those provided under 22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157 under regulations prescribed by the Secretary of State; research research related to immigration enforcement; $299,350,000, of which not to exceed $400,000 shall remain available for such research until expended: *Provided*, That of the amount herein appropriated, not to exceed $50,000 may be used for the emergency replacement of aircraft upon certificate of the Attorney General.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 34: page 20, line 11, insert:

SALARIES AND EXPENSES, BUREAU OF PRISONS

For expenses necessary for the administration, operation and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of (not to exceed thirty-two of which twenty-four are for replacement only) and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; $315,200,000: *Provided*, That there may be transferred to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That no ceiling shall be established at less than eight thousand nine hundred and fifty on employment in full-time permanent positions funded by this appropriation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES, BUREAU OF PRISONS

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of (not to exceed thirty-two of which twenty-four are for replacement only) and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; $315,200,000: *Provided*, That there may be transferred to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 51: Page 27, line 19, insert:

LOCAL PUBLIC WORKS PROGRAM

For administrative expenses, including expenses for program evaluation by the Secretary of Commerce, necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94-369), $10,600,000: *Provided*, That this appropriation shall be made available only upon enactment into law of authorizing legislation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

LOCAL PUBLIC WORKS PROGRAM

For administrative expenses, including expenses for program evaluation by the Secretary of Commerce, necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94-369), $10,600,000.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 66: Page 33, line 1, insert:

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

OPERATIONS, RESEARCH, AND ADMINISTRATION

For expenses necessary to carry out the provisions of the Federal Fire Prevention and Control Act of 1974, as amended, $18,300,000, to remain available until expended: *Provided*, That of such sum no less than $1,000,000 shall be for anti-arson programs.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

OPERATIONS, RESEARCH, AND ADMINISTRATION

For expenses necessary to carry out the provisions of the Federal Fire Prevention and Control Act of 1974, as amended, $17,395,000, to remain available until expended.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 67: Page 33, line 14, insert:

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, including the acquisition of buildings, grounds, and other facilities; and the National Technical Information Service; $88,150,000, to remain available until expended, of which not to exceed $3,300,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, including the acquisition of buildings, grounds, and other facilities; and the National Technical Information Service; $87,700,000, to remain available until expended, of which not to exceed $3,300,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 90: Page 45, line 1, insert:

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $85,000,000, of which $2,000,000, to remain available until expended, shall be available only for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended: *Provided*, That not to exceed $65,000 shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $85,000,000, of which $2,000,000, to remain available until expended, shall be avail-

able only for fluctuations in foreign currency exchange rates in accordance with the provisions of setction 8 of the Board for International Broadcasting Act of 1973, as amended: *Provided*, That not to exceed $62,000 shall be available for official reception and representation expenses.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER per tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 100: Page 74, line 18, insert:

FEDERAL TRADE COMMISSION
SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $1,500 for official reception and representation expenses; $65,900,000: *Provided*, That no ceiling shall be established at less than one thousand seven hundred on employment in full-time permanent positions funded by this appropriation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $1,500 for official reception and representation expenses; $64,750,000.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 106: Page 52, line 21, insert:

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $13,100,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$12,950,000".

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 109: Page 54, line 10, insert:

PRESIDENTIAL COMMISSION ON WORLD HUNGER

SALARIES AND EXPENSES

For necessary expenses of the Presidential Commission on World Hunger, including services as authorized by 5 U.S.C. 3109, $1,500,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 109 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

COMMISSION ON GLOBAL HUNGER AND MALNUTRITION

SALARIES AND EXPENSES

For necessary expenses of the Commission on Global Hunger and Malnutrition, including services as authorized by 5 U.S.C. 3109, $1,300,000.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 111: Page 54, line 20, strike out "$3,000,000" and insert "$6,260,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 111 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$5,260,000".

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 113: Page 54, line 22, insert: *Provided*, That all property (including records) of the Board shall be transferred to the Administrator, General Services Administration, upon cessation of the Board's activities or on May 31, 1979, whichever first occurs: *Provided further*, That the President or his authorized delegate shall thereafter have authority to discharge any remaining obligations of the Board, subject to the availability of appropriations therefor.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 113 and concur therein with an amendment, as follows: in lieu of the matter proposed by said amendment, insert: ": *Provided*, That all property (including records) of the Board shall be transferred to the Administrator, General Services Administration, upon cessation of the Board's activities, or on March 31, 1979, whichever first occurs".

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 115: Page 55, line 17, strike out "$180,000,000" and insert "$193,000,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 115 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert: "$187,000,000, and in addition $13,000,000 for disaster loanmaking activities shall be transferred to this appropriation from the Disaster Loan Fund" ".

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 116: Page 55, line 18 strike out: "*Provided*, That no part of such amount shall be used to fund any small business development center or university business development center pilot program, or any combination thereof, in any State in excess of $300,000 per State" and insert: ": *Provided further*, That no ceiling shall be established at less than four thousand eight hundred and sixty on employment in full-time permanent positions funded by this appropriation.".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa, Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 116 and concur therein with an amendment, as follows:

In lieu of the matter proposed to be stricken and inserted by said amendment, insert: ": *Provided*, That no part of this appropriation shall be used to fund any small business development center or university business development center pilot program, or any combination thereof, in any State in excess of $300,000 per State until enactment into law of H.R. 11445, or similar legislation".

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 117: Page 56, line 3, insert:

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

For necessary expenses of the White House Conference on Small Business, $4,500,000, to remain available until expended: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

For necessary expenses of the White House Conference on Small Business, $4,000,000, to remain available until expended.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 124: Page 59, line 18, insert:

SEC. 607. None of the funds appropriated or otherwise made available by this Act shall be available for the Advisory Committee on the Bureau of the Census or for any other advisory committee to the Department of Commerce which would perform similar duties and responsibilities, other than a committee which has, before July 1, 1978, filed a charter in accordance with section 9 of the Federal Advisory Committee Act.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 124 and concur therein with an amendment, as follows: In lieu of "SEC. 607" proposed in said amendment, insert: "SEC. 606".

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The motion was agreed to.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and on the motions dealing with the bill, H.R. 12934.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ENERGY AND POWER OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT ON SATURDAY NEXT TO FILE REPORT ON H.R. 13650

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce may have until 12 o'clock midnight on Saturday next to file a report on H.R. 13650, Uranium Mill Tailings Control Act of 1978. I have cleared this matter with the gentleman from Ohio (Mr. BROWN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

PROPOSAL FOR LEGISLATION EXTENDING AUTHORITY OF SECRETARY OF TREASURY TO WAIVE APPLICATION OF COUNTERVAILING DUTIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-390)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I am today submitting to the Congress a proposal for legislation to extend for a brief period the authority of the Secretary of the Treasury under Section 303(d) of the Tariff Act of 1930 to waive the application of countervailing duties. I hope that the Congress will be able to enact the necessary legislation before adjournment *sine die*.

If not extended, the waiver authority will expire on January 2, 1979. This would seriously jeopardize satisfactory conclusion of the Multilateral Trade Negotiations (MTN) underway in Geneva. Unless the waiver authority is extended to cover the period during which the results of the MTN will be under review by the Congress, our ability to press ahead with the negotiations would be sharply limited.

As stipulated by the Congress in the Trade Act of 1974, negotiation of a satisfactory code on subsidies and countervailing duties is a primary U.S. objective in the MTN. The United States is seeking through such a code improved discipline on the use of subsidies which adversely affect trade. In our view, a satisfactory subsidy/countervailing duty code must include (1) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests insofar as they are adversely affected by such subsidies, and (2) more effective provisions on notification, consultation and dispute settlement that will provide for timely resolution of disputes involving the use of subsidies in international trade.

My Special Representative for Trade Negotiations has informed me that the prospects for reaching agreement by year end on a subsidy/countervailing duty code which meets basic U.S. objectives are good—provided that the waiver authority can be extended until such a code has been submitted to, and acted upon, by the Congress under the procedudes of the Trade Act of 1974. In this connection, the legislation I am proposing would provide that the countervailing duty waiver authority will expire as scheduled on January 2, 1979, unless we are able to report to the Congress before that date that a subsidy/countervailing duty code has been negotiated among the key countries participating in the MTN and that the MTN itself has been substantially concluded.

Under the countervailing duty waiver authority, the imposition of countervailing duties may be waived in a specific case only if "adequate steps may have been taken to eliminate or substantially reduce the adverse effect" of the subsidy in question. This provision and the other limitations on the use of the waiver authority which are currently in the law would continue in effect if the waiver authority is extended. Thus, U.S. producers and workers will continue to be adequately protected from the adverse effects of subsidized competition.

A successful conclusion to the MTN is essential to U.S. economic policy. If the waiver authority is not extended, such a successful conclusion will, as I have noted, be seriously jeopardized. Accordingly, I urge the Congress to act positively upon this legislative proposal as quickly as possible.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1978.*

RALPH DAVIS—PUBLIC SERVANT

(Mr. FUQUA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FUQUA. Mr. Speaker, one of the most distinguished careers of public service I have ever known will come to an end this week when Ralph Davis steps down as executive director of the Department of Highway Safety and Motor Vehicles for the State of Florida. Never have I known a person who could do so many things, and do them all well.

He can look back on more than 40 years of public life. With the exception of the 6 years he served here in Washington with the late great Senator Spessard L. Holland and the time spent in the Army in World War II, those years have been spent in his beloved Tallahassee.

National Guard general, Kiwanis official, Governor's executive secretary, successful campaign manager, beloved father and husband, Senate administrative assistant, and journalist.

The many faceted career of Ralph Davis is astounding in its diversity and replete with accomplishment.

This native of Lakeland, Fla., graduated in journalism from the University of Florida and worked as a reporter for the Polk County Record, Lakeland Ledger, and Tampa Tribune before starting his public service career with the banking department of the State treasurer's office in 1935. Two years later he became deputy insurance commissioner in the Florida Insurance Department, another division of the treasurer's office.

Then in 1940 he took a 9-month leave of absence to serve as campaign manager for Spessard Holland in his successful race for Governor. He then became, in 1941, the executive secretary for Governor Holland, one of the greatest Governors and men Florida will ever know.

His public service career was interrupted by World War II as he entered the Army and served as infantry platoon leader and company commander in the European theater.

In 1946, on his return from overseas and before returning to State employment, he served as campaign manager in Spessard Holland's successful race for U.S. Senator.

He continued his military career following World War II by reorganizing the National Guard in Tallahassee in 1947. He retired from the National Guard in July 1969, as a brigadier general, commanding the 53d Infantry Brigade, numbering more than 4,500 troops.

And on a very personal note, many officers and members of the National Guard, past and present, are among my closest friends and advisers. Suffice it to say that all of them, without exception, say that Ralph Davis is one of the finest officers ever to wear a uniform.

After completing his wartime military obligation, Mr. Davis returned to State service as director of the Unemployment Compensation Division of the Florida Industrial Commission, being promoted to executive director in 1948.

In 1949, Senator Holland again called upon his friend for assistance and thus he began his service here in Washington as executive secretary and later as administrative assistant on the Senator's Washington staff.

Since I am and always will be one of the greatest admirers and benefactors of the wisdom, courage, and devotion of the late Senator Holland, I know how much this great man loved and respected Ralph Davis. You will pardon my adding his tribute to that of mine because I know there was never a person outside his family that the Senator loved or respected more.

In 1955, the Florida Legislature determined that the largest State agency—the Florida State Road Department—could be more effectively operated if the administrative supervision was assigned to an executive director.

The multimillion-dollar activities warranted an experienced administator and former Gov. LeRoy Collins and the State road board asked Mr. Davis to return to Florida government in this executive position.

The job was a challenge, but more important, Ralph and his wife wanted to return home so their family could enjoy life and receive their education in Tallahassee.

Mr. Davis served in this position until October 1967, when he became head of the cabinet affairs division of the treasurer's office, coordinating the participation of Treasurer Broward Williams in many cabinet activities.

He was selected on February 20, 1970 by the Governor and cabinet as executive director of the large and important department of highway safety and motor vehicles.

He has remained active in civic affairs by serving as president of the Tallahassee Kiwanis Club; lieutenant governor of the third division of Florida Kiwanis; treasurer and governor of the Florida Kiwanis district. He is also active in the East Hill Baptist Church and assumes other positions of responsibility in his community.

At the University of Florida, Davis was active in campus affairs. He lettered in track as a quarter miler. He was a member of Blue Key, ODK, Pi Delta Epsilon, Sigma Delta Chi, and Alpha Tau Omega.

And in all of this there was one person more than any other who made everything worthwhile; Mrs. Davis, the former Lollie Phillips of Bartow, a most gracious and lovely lady.

The Davises have two daughters, Mrs. Tom (Janice) Burt of Houston, Tex., and Mrs. James (Celia) Ferman, Jr., of Tampa, Fla.

And their greatest joy are their grandchildren—grandsons Matthew and Andrew Burt, and granddaughters, Laura and Janice Ferman.

Attempting to pay tribute to someone like Ralph Davis is not an easy task. It is easy to denote a position. It is much more difficult to relate the dedication and competence he has brought to every position he has attained.

In his letter to the Governor and cabinet of Florida, he said, "On July 5th I reached my 69th birthday. It is time to turn over this agency to younger leadership. It is difficult to leave the fine, dedicated people at highway safety and motor vehicles and the official family of Florida's government, but the time has come."

And all of us have been enriched by his life and his service.

PERSONAL EXPLANATION

Mr. LIVINGSTON. Mr. Speaker, on rollcall No. 849, final passage of H.R. 11733, I was unavoidably detained on the Senate side.

Had I been present I would have voted "aye."

MISSING IN ACTION IN SOUTHEAST ASIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. GUYER) is recognized for 5 minutes.

● Mr. GUYER. Mr. Speaker, I rise to join my colleagues in this special order on the question of our missing in action in Southeast Asia, and some of the implications of that question.

I would like to begin my comments by complimenting our good friend and colleague, the Honorable G. V. "SONNY" MONTGOMERY for his personal efforts in traveling to and talking with the governments of Vietnam and Laos. I have worked with "SONNY" MONTGOMERY on the Select Committee on the missing in action, and am proud to call him my friend. I also appreciate and share the efforts of Mr. GILMAN and Mr. DORNAN who have worked laboriously toward obtaining a full accounting of our missing in action and prisoners of war, whose fate has never been conclusively established.

According to reports in the press from official sources, and from the report of the Montgomery mission, it appears that the Vietnamese are seeking to establish normal diplomatic relations with the United States. From their obvious difficulties with China and a fanatically hostile Cambodia, together with their almost total inability to incorporate South Vietnam into their economy, it is clear that there are impelling motives for Vietnam to want diplomatic and economic relations with the United States.

However, in diplomatic relations you do not abandon or give away an advantage without receiving a comparable return. I have many reservations against rushing ahead to normalize relations with Hanoi. I believe the Government of Vietnam must be more forthcoming on the issue of the fate of Americans missing in Indochina. I am also unalterably opposed to bargaining for remains of missing Americans.

The Vietnamese and the Laotians have large territories of rough, wooded terrain from which any expecting of obtaining identifiable remains is futile. We are told that their State apparatus is not too well put together, and that they are in essence not too efficient. For example, I have heard stories where the Vietnamese have signed agreements with foreign firms to provide kapok in one instance and duck feathers or down in another, at set,

agreed prices. Time passed and the letters of credit expired and no deliveries were made. When asked why, the Vietnamese simply raised the price and started the procedure again. After a repetition or two of this procedure, the foreign firms pulled out, angered at what they considered Vietnamese arrogance. Now, the real reason for their failure to deliver, our sources tell us, was that they couldn't get their operation together to provide the goods. Rather than admit this inadequacy, the Viets simply stalled until they could make new arrangements.

I believe this sort of thing helps explain some of the difficulties we have had in obtaining MIA information and inability to return remains.

On more than one occasion, Vietnamese refugees have told how work gangs in the "New Economic Zones" in Vietnam are instructed to report immediately to the cadres when any American remains are found, as workers clear forest areas for cultivation. Whenever such remains are turned up, they are gathered and apparently shipped to some central point. So, we know that the Vietnamese are giving some attention to this issue. Why, under these circumstances, have we received only 52 American remains so far? We cannot attribute it all on inefficiency and disorganization. Did the Republic of Vietnam fall to a disorganized and inefficient North?

The Department of Defense lists some 165 MIA's of whom the Vietnamese are known to have knowledge. There are an additional 110 whom the Vietnamese are suspected to have knowledge. These together comprise a considerable portion of unreturned MIA/POW's and others listed as killed in action, but not recovered. Forty-seven of the 52 returned since March 1977 have been in these two categories.

One point I would like to make is this. Can we not press the Vietnamese either to produce remains or explain what happened to those for whom we have names? If we do not receive a reasonable reply, I cannot see opening the door to dealing with a government which has not truthfully and sincerely cooperated on this issue. In the absence of such cooperation, we are likely to be faced with small, intermittent, irregular doling of a few remains, returned whenever it suits Hanoi's pleasure or gives them an economic advantage.

Mr. Speaker, in addition to the question of what we can and should expect from the Government of Vietnam, I am encouraged by the increased openness shown by the agencies of the Department of Defense who deal with the missing-in-action question, and their recently demonstrated willingness to make information available to the public or to interested parties. I hear that the Defense Department is publishing a 10,000-page volume of uncorrelated reports about Americans who are prisoners, missing or otherwise lost in Indochina. Another example of an attitude which has belatedly improved is their willingness to interview individual refugees who have claimed to have seen live Americans in Indochina. Currently the account of Ngo Phi Hung, who testified before the Subcommittee on Asian and Pacific Affairs, of which I am a member, is being analyzed and evaluated with great care by the DIA. I welcome this sort of attention. No one believes that our Government seeks to contain such accounts. I personally will continue to encourage the proper officials to make every effort to be as open and forthcoming and as cooperative as they can. It is the least we can do. We must both continue to seek information from the countries of Southeast Asia, and we must scrutinize as carefully as possible that information, and we must make it known to those concerned.

Mr. Speaker, no matter how painful the task, we should speedily get the truth, return and repatriate all Americans, and give dignified requiem and appropriate memory to those who did not forget us.●

INTERNATIONAL TRANSBORDER DATA FLOW AND COMMUNICATIONS CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I take this opportunity to inform my colleagues that I have introduced a joint resolution calling for the convening of an international telecommunications and transborder data flow conference.

The proposal is concise and straightforward.

Specifically, it directs the convening of the conference no later than January 1, 1980. The conference is to be held in the United States. It will be organized and conducted under the sponsorship of the Department of State. At a minimum, invited participants are to include representatives from all major industrialized nations. The objective is to discuss all significant aspects of international telecommunications and transborder data flows, and to have the Department of State submit recommendations to the Congress for legislation or for an international convention.

Our Government is not alone in developing policies and laws to address economic, social, and libertarian impacts of the communication and information age. Several major nations, including Sweden, Germany, and France, already have national statutes on information and privacy. These nations plus others as Japan, Canada, Australia, and all of Western Europe consider the subjects of transborder data flow and international communications of such urgent importance that they have focused direct governmental attention on it. The attention is serious and dedicated. It certainly is not transient. For example, the Council of Europe has moved from the phase of intellectual consideration and abstract discussion and study to asking for a draft multination, European agreement.

The statements of some American representatives that the United States has no information or privacy policies—meaning in this convoluted jargon of diplomacy that we are present only as observers—has been greeted by some with silent, polite embarrassment, and by others as a golden opportunity to trim the sails of U.S. industry and competitive dominance.

For understandable, but unfortunate reasons, the United States suffers by comparison to the interest and actions of other nations. Although our attention to this issue is growing, it is limited and unfocused. Many of our key policymakers have the mistaken belief that we have 3 or 4 years before we must confront this issue. As a result, the best that can be said of our activities, and I candidly include myself in this statement, is that we are discussing the matter in little more than tearoom fashion.

Some may feel this is too harsh an observation. While it is true that a growing number of American businesses are actively involved in the issue in Europe—and are quietly pushing for increased attention and activity here, we simply are not doing much else. Officials in the Department of State have organized a joint Government-private sector discussion group. The issue is receiving the consistent, but understaffed and underfinanced attention of the Organization for Economic Cooperation and Development (OECD) in Paris. The Department of Commerce through the National Telecommunication and Information Administration has been developing an increasing amount of manpower, talent, and attention to the area. However, all of this is occurring without any meaningful official administration support, without any clear congressional mandate or support, and without any agreed upon goals.

The time has come to correct the situation and give support, focus, and encouragement to these emerging activities. We must reinforce the activities of the OECD, and recognize that the issue of transborder dataflow and communications is not some exotic, ethereal subject. It is directly related to such substantive matters as openness of communications, free flow of information, national security, protection and enhancement of personal informational privacy, international trade and economic cooperation, and perhaps the continued ability of the free world to get along, and not be divided and conquered.

I am personally convinced that the issue has worldwide and far-reaching implications. It is for this reason that I have introduced this resolution and why I will work aggressively for its legislative consideration and adoption at the earliest opportunity.

I do intend to offer my proposal for the cosponsorship of my colleagues and for their benefit include the text of the resolution:

H.J. RES. 1141

Joint resolution to provide for the convening of an International Conference on Communication and Information, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, To direct the President of the United States to convene an International Conference on Communication and Information to consider measures

toward greater harmonization of national laws, practices, and mechanisms to accelerate and assure coopertion among industrialized nations, and to achieve the full benefits afforded by these vital resources.

Whereas the free and open flow of information between nations and peoples, through all forms of communications, is essential to the enhancement and preservation of liberty and freedom throughout the world; and

Whereas communications and information transactions and associated activities are of major and growing economic importance to industrialized societies and developing societies which require rapid and reliable information transmission and processing systems to effectively advance commerce and governmental responsibilities; and

Whereas a growing divergence in national laws, regulations, and practices which impose special conditions, preferential rates, tariffs and technical standards, taxation policies, and licensing, reporting, and disclosure practices, may threaten fair commercial competition and may jeopardize the widest sharing and utilization of information and knowledge made possible by modern electronic technologies; and

Whereas such a divergence threatens international cooperation and harmony: Now, therefore, be it

Resolved, That the President of the United States shall—

(1) convene an International Conference on Communication and Information not later than January 1, 1980, to which governments of the principal industrialized nations will be invited to designate official delegations to attend;

(2) undertake preparatory measures involving all appropriate Federal departments and agencies, and representatives of the media, communications, teleprocessing data processing, computer banking, business, labor, and such other organizations as may be appropriate and necessary to properly prepare for and host the international conference; and

(3) prepare a report on the conference together with recommendations for the enactment of appropriate legislation, to the Congress.

The sum of $3,000,000 is hereby authorized to be appropriated for the purpose of carrying out this resolution.●

NICARAGUA UNDER SIEGE—BY THE AMERICAN MEDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 30 minutes.

● Mr. RUDD. Mr. Speaker, it appears the American people have been deceived by a steady stream of outright lies, misrepresentations, and unverified allegations against the Government of Nicaragua and its efforts to stop a Communist guerrilla insurgency.

This propaganda effort, which has been exposed by an independent ombudsman called Accuracy in Media, has all the marks of a deliberate and carefully orchestrated hatchet job by a few well-placed journalists with ties to prominent news organizations.

Owing to the nature of our news media, who pick up and use each other's stories, often without verification, this propaganda against Nicaragua has been disseminated and repeated by the wire services, hundreds of newespapers, radio and television stations, and major news magazines, before the truth has caught up with the lies.

Even though the truth is now becoming known, and many of the stories against Nicaragua's Government and its national guard have been proved deceptive or wrong, these news organizations have shown a strong reluctance to admit their mistakes and to correct the record.

In fact, those reporters responsible for the propaganda stories continue to rate prominent bylined treatment in the same newspapers and magazines.

This is a scandalous abuse of the free press, especially considering the demands by journalists for high ethics outside their own profession.

Mr. Speaker, the Accuracy in Media reports were aired during a series of the organization's 5-minute radio program, called "Media Monitor." They contain several typical examples of early misrepresentations and falsehoods concerning the strife in Nicaragua that were carried by the American press.

The strategy of those responsible for this propaganda, starting as long ago as last January, appears to have been twofold: First, to lead the American people to believe that the aim of the insurgents was to overthrow a tyrannical government, which Nicaragua's government is not. And second, to portray the Castro-trained Communist revolutionaries as a small but determined band of Robin Hood-like peasants seeking freedom for the masses, which is the technique that was used to help bring Mao Tse-tung to power in China, Castro to power in Cuba, and Ho Chi Minh and his successors to power in Vietnam.

The overall objective of this propaganda was to turn American public opinion against Nicaragua's President Somoza, so that leftist elements in our own country could manipulate U.S. policy into a neutral or anti-Somoza position in order to help insure victory for the Communist rebels.

It is a credit to radio stations across the country, who believe in good journalism and fair play, that they broadcast Accuracy in Media's program, "Media Monitor," which helps to expose such propaganda ploys as this campaign against Nicaragua by its opponents in the U.S. media.

It is perhaps too much to expect that these reports will be widely published, along with further revelations as they develop of misrepresentation about the Nicaraguan situation, by those newspapers and magazines responsible for disseminating these untruths about Nicaragua.

In the interests of justice, and to help set the record straight to some degree, I would like to include the Accuracy in Media broadcasts at this point in the RECORD:

[Transcript of three Accuracy in Media "Media Monitor" programs, broadcast in September 1978]

NICARAGUA UNDER SIEGE—BY THE AMERICAN MEDIA

This is Media Monitor with Reed Irvine and Les Kinsolving.

On August 22, two dozen terrorists armed with automatic weapons seized the National Palace in Managua, Nicaragua, where the Nicaraguan parliament was meeting. The legislators and numerous employees and visitors were held hostage, by the terrorists, who killed six national guardsmen and two civilians in capturing the building.

They threatened to kill some 65 of the most prominent hostages if their demands were not met by the Somoza government. Luis Pallais, the vice president of the Chamber of Deputies, was one of those marked for death. He told a news conference in Washington last week that he had no doubt that this threat would have been carried out by the young, cold-blooded killers. Most of their demands were eventually met, and the terrorists and 59 of their comrades who were serving sentences for terrorist activities were given safe conduct out of the country.

They called themselves "Sandinistas," taking the name of a Nicaraguan hero who led a resistance movement against the U.S. Marines who occupied the country for many years until they were pulled out in 1933. However, a more accurate label for them would be simply "Communist."

Their goal is to impose on Nicaragua the same kind of totalitarian regime that Castro has fastened on Cuba. They have long received training, arms, and funds from Cuba. In 1974, they staged their first dramatic seizure of hostages, invading a reception for the U.S. ambassador, killing the host, and holding 41 prominent guests hostage for 60 hours.

At that time they received a ransom of $1 million, the release of 14 imprisoned fellow-terrorists, and a plane to fly them all to Cuba. In testimony before a House subcommittee in 1976, Deputy Assistant Secretary of State Hewson Ryan affirmed that these Nicaraguan terrorists had a strong base of support in Cuba.

Luis Pallais, who was their prisoner for 68 hours last month said they made no bones about their Communist objectives. He said that they told him there were differences within their movement with respect to tactics but they were agreed on their ultimate goals.

James Theberge, former U.S. ambassador to Nicaragua, told us that there was no doubt that the leaders of the "Sandinistas" were Marxist-Leninists. He said that they had no doubt won the support of others who were hard-core Communists. These helpers will, of course, be dispensed with once they are no longer needed, as experience in China, Cuba, and Vietnam shows.

Was all of this made clear to those who depend on Big Media for their knowledge of what is going on in the world?

Hardly.

Front page stories in The Washington Star on August 23 labeled the terrorists "leftist Sandinistas" and "leftist guerrillas." The Washington Post also called them "leftist guerrillas," but it did call them "Marxist" at one point. On August 24, the Star toned down its description to the milder "leftist-oriented Sandinistas".

The Washington Post followed the next day with an Associated Press story in which the leader of the terrorists described himself as a Catholic and a conservative, albeit a Catholic who had wed four times. In another story the same day The Post said their goal was to install a Marxist regime.

The Post muddied the water on August 24, with an article by Karen DeYoung, which described the Sandinistas as "hazy in ideology." She said their goals ranged from "pure nationalism and the simple removal of Somoza to the installation of a Marxist-Leninist government." This story included the following propaganda points:

One, that the Nicaraguan National Guard operations have "resulted in the indiscriminate murder and disappearance of hundreds of peasants." This is a charge that the sympathizers of the terrorists assiduously spread.

Two, that the U.S. government has complained that much of the aid it gave Nicara-

gua for earthquake relief cannot be accounted for. AID denies this, saying that its audit uncovered no significant misuse of AID funds by Nicaragua.

Three, that while there is no evidence that Somoza ordered the murder of publisher Pedro Chamorro last January "most Nicaraguans seem to feel that he was responsible." This is about like saying that most Americans blame Kennedy's murder on Lyndon Johnson.

Four, that "even some of the most pacifist elements of the opposition have begun to look at the Sandinistas as the only answer." That was what they said about the Khmer Rouge.

NICARAGUA UNDER SIEGE—BY THE AMERICAN MEDIA

This is Media Monitor with Reed Irvine and Les Kinsolving.

Paul Bethel watched Fidel Castro seize power in Cuba from the vantage point of the American Embassy in Havana, and he has written about it in a fine book called *The Losers*.

Bethel says that one of Castro's greatest triumphs lay in his extraordinary ability to attract American intellectuals and writers as camp-followers. He says that they "secreted the political and psychological acids" that corroded the thinking of our political leaders.

This bit of history is being repeated before our eyes today. The country under attack is Nicaragua, and once again American journalists are secreting those political and psychological acids that were so helpful to Fidel Castro two decades ago.

The man Castro overthrew, Fulgencio Batista, had military forces that were far superior to Castro's. Castro, aided by both Cuban and foreign journalists, succeeded in undermining their morale and willingness to fight.

The tactic was to make it appear that Castro's victory was inevitable and that the army was fighting a losing battle. A key element in this campaign was to paint Batista as a despised villain and to create the impression that the people were overwhelmingly on the side of Castro.

It was also important that Castro conceal his true objective, which was to make Cuba Communist, and to pretend that his only goal was to overthrow Batista and restore democracy to Cuba.

Analysis of the media coverage of the communist terrorist attack on Nicaragua's national legislature last month reveals that the Castro scenario that worked so well in Cuba is being tried again.

Take the story in Time magazine on September 4.

President Somoza of Nicaragua is referred to as "Latin America's most notorious strongman," ignoring the fact that he permits a free press, opposition parties, and that he has vowed to step down at the expiry of his six-year term, to which he was legally elected in 1974.

Time observed:

"The seizure of the palace was only the latest and most dramatic episode in a relentless civil war waged between the oppressive Somoza government—which has usurped the country's riches, denied it political freedom and brooked few critics—and a mostly unarmed population weary of Somoza family rule."

By a stroke of the pen, *Time* escalated scattered acts of terrorism by a small group of would-be Castros into "a relentless civil war." It ignored the fact that the opposition party has 40 percent of the seats in the legislature, and that the largest newspaper in the country has long been in the hands of the opposition and has been outspokenly critical of Somoza.

American publications, including *Time*, circulate freely in the country, even though they carry, as *Time* has, false stories about Nicaragua.

For example, last March *Time* presented as fact a tale about a massacre of 44 villagers by Nicaraguan national guardsmen, with gruesome details. It turned out that *Time*'s seemingly factual account was based on nothing more than unconfirmed tales which could easily have been propaganda plants. *Time* did not even print the Nicaraguan government denial of these charges.

The same correspondent who was responsible for this tale, Bernard Diederich, came up with a story on September 4 that portrayed the terrorists as conquering heroes. Using the technique of the anonymous quote, Diederich came up with one youth who said: "Yes, they are our heroes. To hell with Somoza." He quoted another youth as saying, "They'll be back, be sure of that."

"Few doubted that they would," said *Time*. *Time* did not find any Nicaraguans who spoke up deploring the shedding of blood by these terrorists or the pain and suffering they caused hundreds of hostages and their families. At least, *Time* didn't quote them.

Time printed five pictures of the "triumphant" terrorists, none of their victims, including the eight they killed at the Palace. It said nothing whatever about the Marxist-Leninist goals of the Sandinistas, and it gave the impression that the people of Nicaragua were solidly behind them.

Needless to say, it never called them terrorists.

NICARAGUA UNDER SIEGE—BY THE AMERICAN MEDIA

This is Media Monitor with Reed Irvine and Les Kinsolving.

The favorite propaganda themes that are used by the Communists to undermine governments that they have targeted for destruction are corruption and cruelty. Cruelty to innocent women and children is an especially effective theme.

Thus Bernard Diederich of *Time* magazine performed a valuable service to the opponents of the Somoza government of Nicaragua last March, when he charged that four men, 11 women, and 29 children had been massacred by Somoza's troops.

This atrocity was supposed to have occurred at the isolated village of Varilla in January of this year. The New York Times had reported it with some caution as an allegation, but *Time* went all out and told the story in gruesome detail as if it were an authenticated fact.

When challenged to produce evidence to support this serious charge, an editor of *Time* wrote that Mr. Diederich had visited a rural village and interviewed dozens of people about "an ensuing incident."

What *Time* did not say was that its correspondent had visited Varilla, where the atrocity allegedly took place. They avoided saying that the persons he interviewed had any knowledge of the alleged massacre at Varilla. The *Time* editor did not even say what incident Diederich discussed with them.

Time evidently hoped that this uninformative statement would divert attention from the fact that they had no evidence to back up their Varilla atrocity story. Of course, they did not admit this to their readers or publish any correction.

The Washington Star, which is owned by *Time* magazine, performed a similar service on August 30, when it ran a six-column headline on the front page reading, "Nicaragua planes bomb rebel city."

The lead paragraph of the Associated Press story said that air force planes had bombed Nicaragua's third largest city. The next paragraph read: "Two planes bombed Matagalpa, 100 miles north of Managua, for two hours yesterday, killing at least four persons and wounding many others, a Red Cross official there said."

A UPI dispatch dated August 30 reported that the previous day military planes had been used to "bombard and strafe guerrilla positions in an unsuccessful attempt to silence fire from snipers that was menacing foot soldiers." It went on to say that "armed helicopters were used today with the same objective, attacking the strongholds of the snipers in the surrounding hills with rockets and heavy machine-gun fire."

Mr. Luis Pallais, vice president of the Nicaraguan Chamber of Deputies, told a Washington news conference on August 31 that the aircraft involved in this action were two light Cessnas and a Bell helicopter. He said that they drew fire from the hills around Matagalpa, and they strafed the areas from which the fire came with their machine guns.

The sensational front-page story that The Star ran about the bombing of Matagalpa was corrected after a fashion on August 31. In the fourteenth paragraph of a 15-paragraph story on page A-11, we found this statement:

"Red Cross workers said eight rockets were fired at the town from airplanes Tuesday (the 29th), and that there had been machine-gun fire from the air. Major General Armando Jose Fernandez, chief of staff of the national guard, said rockets had not been used, but that the planes strafed sniper positions."

The Washington Post was more restrained. It reported the "bombing" of Matagalpa in a two-column headline on page one, inserting a paragraph about the AP report in a story about President Somoza's statement that he had no intention of resigning.

However, both papers gave the impression that Matagalpa was the site of major fighting. Neither reported Luis Pallais statement at his press conference that the national guard was behaving with great restraint in Matagalpa because of the extreme youth of the rebels there. They did not want to overreact and create the kind of headlines that the AP story about the "bombing" generated. Order was quickly restored in Matagalpa when the ntaional guard entered in force.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to an evening meeting at Blair House with members of the President's staff, I was unavoidably absent from the House during the session of Tuesday, September 26 at the time of the vote on the conference report accompanying H.R. 13125, Agriculture Appropriations for fiscal year 1979. Had I been present, I would have voted "aye." ●

AN IMPRESSIVE 20TH OBSERVANCE OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, all that has been recorded these past few months shows how impressive the 20th observance of Captive Nations Week was—proclamations from the President, Governors, and mayors of our largest cities, rallies and assemblies across the country and even events in foreign countries. The movement is persistent and unquestionably in the true traditions of our country. No party knows this better than Moscow.

In accordance with Public Law 86–90, I submit these additional evidences of the 20th observance: First, a proclamation by Mayor Theodore E. Dimauro of Springfield, Mo.; second, an editorial in VFW's The Stars and Stripes on "Captive Nations Week Observed in Washington" third, a report in the Nashua, N.H., Telegraph on "N.H. Marks Captive Nations Week"; fourth, reports in the Chicago Sun-Times and Syracuse Post-Standard on "The Free China event"; fifth, an article by Dr. Lev E. Dobrinsky of Georgetown University and president of the Ukrainian Congress Committee of America on "Soviet Crimes Seen By Entire World," published in America, September 7, 1978; sixth, an editorial in Monterey, Calif., Peninsula-Herald on "Remembering the Captive Nations"; seventh, an editorial in the New York News-World, "Nationhood: A Human Right"; and eighth, a letter to the Denver Post:

A PROCLAMATION

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Community leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human rights and freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations;

Now, therefore, I, Theodore E. Dimauro, Mayor of the City of Springfield, do hereby proclaim the week of July 16 through July 22, 1978 as "Captive Nations Week" and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

[From the Stars and Stripes—The National Tribune, Aug. 3, 1978]

CAPTIVE NATIONS WEEK OBSERVED IN WASHINGTON

Members of Congress, the diplomatic corps and leading foreign affairs experts marked the 20th Observance of Captive Nations Week July 16–22 with a Congressional reception and luncheon/seminar on Capitol Hill.

Attending the Tuesday, July 18, reception, co-hosted by Sen. S. I. Hayakawa (R-CA) and Sen. Daniel P. Moynihan (D-NY) were more than 50 Congressmen and 5 diplomats including His Excellency Peter M. Towe of Canada, His Excellency Hugo B. Margain of Mexico, His Excellency James C. H. Shen of China, the Honorable Dr. Anatol Dinbergs from the Legation of Latvia and the Honorable Dr. Stasys A. Backis from the Legation of Lithuania.

The luncheon/Seminar on Thursday, July 20, co-hosted by Representatives Daniel J. Flood (D-PA) and Edward J. Derwinski (R-IL) featured two panels. Panelists discussing "The Belgrade Conference and Captive Nations", chaired by Dr. Stefan Possony, and "Human Rights and Captive Nations—Where Do We Go From Here?", chaired by Dr. Lev E. Dobriansky, included Mark Anderson of the AFL–CIO, Frank Manson of The American Legion, and a representative from the State Department.

Other guests included representatives from veterans' organizations, prominent among whom were the Catholic War Veterans and the Catholic War Veterans Auxiliary, Mrs. Alice Hubbs, Women's Editor of The Stars and Stripes, members of the clergy, and other interested persons.

Captive Nations Week, established in 1959 after President Dwight D. Eisenhower signed Public Law 86–90, salutes the more than one billion victims living in captive nations throughout the world. This year's activities in Washington, D.C., were coordinated by the American Council for World Freedom in cooperation with the national Captive Nations Committee.

[From the Nashua (N.H.) Telegraph, July 17, 1978]

NEW HAMPSHIRE MARKS CAPTIVE NATIONS WEEK

(By Bonny Rodden)

EPSOM.—A 13-foot-high Trojan horse stands guard over 42 mock tombstones at the Sherwood Inn in Epsom, the site of opening day ceremonies in New Hampshire for Captive Nations Week.

Barbara Anderson, treasurer of the New Hampshire Conservative Union which sponsored Sunday's ceremony, says the captive nations named on the tombstones are "nations where individuals have lost their freedom to worship or have businesses."

A law passed by Congress in 1959 requires the president to proclaim the third week in July as Captive Nations Week, but President Carter has not made such a declaration so far this year, said organizers of Sunday's speeches and barbecue.

Before addressing about 75 spectators, New Hampshire Gov. Meldrim Thomson strolled past the wooden horse which sports the sign: "The U.N. is a Trojan Horse in America. Get the U.S. out of the U.N. and the U.N. out of the U.S."

He walked among the wooden tombstones, bearing the names of such countries as Cuba, South Vietnam and Poland and the years when they became "captive" and fell under communist influence.

Thomson told the crowd, "I wondered as I came up whether I would see a new one today, one that said United States with a question mark behind it.

"Would we have thought ten years ago that this country of ours would have marched so quickly down the road that can mean the loss of freedom for all of us," he asked.

Thomson told the spectators that they needed to use their votes to elect people who will keep the United States free.

He also jabbed President Carter and U.S. Ambassador to the United Nations Andrew Young, who recently compared dissidents on trial in the Soviet Union with U.S. civil rights campaigners.

"If we cannot begin to turn this tide around by diligent efforts in the coming election this fall, then we are not going to be able to shake the shackles of Jimmy Carter in 1980."

The Republican governor, who is seeking re-election added, "Any other president with half an ounce of self-respect would have fired Andy Young long ago and that's what Carter should have done."

[From the Chicago (Ill.) Sun-Times, July 24, 1978]

TAIWANESE URGE CARTER NOT TO MAKE CHINA TIES

TAIPEI, TAIWAN.—Fifty thousand persons attending a Taipei rally to mark the end of Captive Nations Week adopted a resolution Saturday saying normalization of relations between the United States and Peking "would amount to an open statement that the Chinese Communists can continue their enslavement of 800 million innocent individuals."

The resolution, directed to President Carter, said normalization of relations "would seriously hurt America's prestige, irreparably dampen the confidence held in the United States by her Free World allies, and heartbreakingly discourage the Iron Curtain peoples who want to extricate themselves from bondage."

[From the Syracuse (N.Y.) Post-Standard, July 24, 1978]

RESOLUTION ADOPTED

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[From "America," Sept. 7, 1978]

SOVIET CRIMES SEEN BY ENTIRE WORLD

(By Lev E. Dobriansky)

Thank to the West's news media, the fate of persecuted dissidents in the Soviet Union has become a cause celebre.

Protests against the mock trials and demands for the release of convicted human rights activists have come from all over the world.

OTHER OUTSTANDING LEADERS

Yet, at the same time, little has been said about other Helsinki group watchers who—to use the words of Sen. Robert Dole (R-Kan.)—"stand shoulder to shoulder with Anatoly Scharansky, Alexander Ginzburg, Alexander Orlov and Vladimir Slepack as outstanding leaders in the struggle for human rights in the USSR.

Two of these outstanding leaders are Lithuanian Helsinki monitor Victorias Petkus and Ukrainian nationalist activist Levko Lukyanenko. Both received the maximum sentence of 15 years.

Lithuania, an independent country, was annexed by the Red Army in June 1940.

Since 1948—according to the official *Sovetskaya Litva*, published in Vilnius where Petkus was tried—Petkus has embarked upon "the road of incitement against Soviet power and of ardent nationalist activity."

Lukyanenko, age 51, has already served 15-year term for his nationalist advocacy. "By the time he finishes serving the new sentence," Sen. Richard Stone (D-Fla.) remarked, "Lukyanenko will have spent nearly half his life in the Soviet Gulag."

SOVIET STRATEGY

That "Lukyanenko and Petkus received the maximum sentence," Sen. Claiborne Pell (D-R.I.) observed, "is not insignificant."

"Soviet authorities," he said, "have always been more fearful of Ukrainian and Lithuanian nationalists than Jewish refuseniks"—those persistently denied the right to emigrate by Soviet authorities—"or Russian democrats."

The trial of Lukyanenko—virtually unnoticed in the West—was conducted in total disregard for fundamental principles of justice. The courtroom was barred to all but close relatives while Lukyanenko's final statement was interrupted by the court 49 times.

Sen. Dole noted that the lack of extensive reporting on the Lukyanenko trial stemmed from a "calculated strategy on the part of Soviet authorities to deflect attention away from the potentially dangerous issue of national rights in Ukraine and other (non-Russian) republics by encouraging the Western press to focus on the Moscow dissidents."

Another restraining factor imposed by Moscow is geography—the trial took place in the small town of Gorodnya, where "communication with the outside world is severely limited and Western correspondent's accessibility is quite restricted."

But the Soviet move has failed. Members of the U.S. Congress have spoken out forcefully, calling attention to the fate of non-Russian human rights martyrs.

As Valentyn Moroz, the famous Ukrainian nationalist, emphasized in a written statement handed to Soviet authorities before his second trial in November 1970, "You wanted to hide the people in the woods of Mordovia, but, instead, you have put them in a vast arena where they are seen by the entire world."

[From the Peninsula Herald (Ca.), July 17, 1978]

REMEMBERING THE CAPTIVE NATIONS

In this period of search for detente, it seems somehow parochial and even almost unfashionable to note the presidential proclamation—for the 20th consecutive year—of this Captive Nations Week. It is a precedent that was established in the bitterest days of cold war and there is no doubt at all whose captives Americans have in mind.

Since 1959, the list has grown substantially. Cuba, South Vietnam and Cambodia qualify for inclusion beyond much doubt. And there are whole races of people who find themselves the captives of their own ruthless or warped leaders—the Ugandans and other newly-emerged nations of Africa.

However, when President Dwight D. Eisenhower signed the original resolution he had in mind the East European satellites of the Soviet Union. For obvious reasons, Moscow is irked by this annual American reminder of Soviet imperialism.

It is perfectly all right, you understand, for Kremlin theoreticians to exhort the masses to free themselves from the shackles of evil bourgeoisie capitalism and to celebrate every Western reverse as a sign of the impending collapse of the established order.

Whatever else it may mean, the truth is that detente does not imply any obligation to pretend that there aren't deep and probably irreconcilable differences in our political viewpoints. From our perspective, the East Europeans are captives. The Soviets argue vehemently that it is not so.

In fairness, it might be well to suspend judgment—until, say, we have heard from the Czechs, the Hungarians, the Poles, the Romanians, the Latvians, the Estonians, the Lithuanians and so on.

[From News World (N.Y.), July 17, 1978]

NATIONHOOD: A HUMAN RIGHT

The proclamation establishing the observance of Captive Nations Week, made by an act of Congress under the Eisenhower administration in 1959, is one of those rare legislative lodestars, like the Declaration of Independence, which keeps this country on a principled keel, regardless of the changes wrought by varying administrations.

No matter how much the State Department or the White House may try to "reduce tensions" and conduct "business as usual" with the communists, the Captive Nations Resolution rises every year like Banquo's ghost, reminding this country of its responsibility to hundreds of millions of peoples whose freedom was lost and whose national identities are being torn apart, uprooted, or suppressed.

It is bad enough when courageous individuals such as Shcharansky, Ginzburg, Petkus, Solzhenitsyn—the list goes on and on—are denied their freedom. But what about the enslavement of whole nations?

The litany of nations is growing longer and longer, and each name represents millions of individuals: Ukraine, 50 million; Byelorussia, 12 million; Lithuania, three million; Latvia, two million, and so on and on to China, 600 million, Cambodia, seven million . . . who is next? Rhodesia? South Korea?

All captive nations have a distinct linquistic and cultural identity and at one time proclaimed their independence with the same love of freedom with which America declared its independence in 1776. Realizing how precious our own independence is, it behooves us to include the right of nationhood among those human rights that our president has proclaimed as the keystone of our foreign policy.

As long as the United States keeps the hope of enslaved nations alive by observing Captive Nations Week, the communist powers can never be confident of the ultimate victory of communism. Indeed, the example of United States as a country which allows various nationalities to live together in freedom, adding their unique qualities to the betterment of mankind, is the strongest weapon against the oppressive imperialism of the Soviet Union and other communist states. We hope, therefore, that the names of captive nations will become as prominent in Americans' conscious as the names of individual heroes such as Shcharansky, Ginzburg, Sakharov and Solzhenitsyn.

[From the Post (Colo.), July 18, 1978]

CAPTIVE NATIONS WEEK A TIME TO STRENGTHEN U.S. RESOLVE

Nineteen years ago, the U.S. Congress passed a Joint Resolution, subsequently signed into Public Law 86-90 by President Eisenhower. Its key points state:

"Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuanian, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Viet-Nam, and others, and . . .

"Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

"Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace, and

"Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence: Now, therefore, be it.

"Resolve . . . that the President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as "Captive Nations Week" (and) to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world."

Much has happened since that time to confirm the judgment of the 86th Congress. Numerous nations from Cuba to Afghanistan have been added to the Soviet empire, and the threat to the security of the United States and of all the people in what remains of the free world has never been greater.

Brazen Soviet arrogance grows in direct proportion to the growth of confusion in the West. Surrounded by obvious signs of impending disaster, many Americans still listen to those who made the disaster almost inevitable. They honor actresses who were tireless in helping to deliver whole nations into bloody concentration camps, worse than anything that ever came out of Hitler's sick mind.

They admire presidents whose greatest "achievement" was a betrayal of several allies. In the face of a determined enemy who has already broken almost as many agreements as he ever signed, they still urge giving up our strength just to buy another meaningless piece of paper.

Our clergy, fully aware of the tortures inflicted on many of their brethren behind the several Iron Curtains, actively promote the enslavement of additional nations. In the face of the demonstrated Soviet willingness to use arms against non-resisting population, as in the invasion of Czechoslovakia, American clergy join the Soviets in urging unilateral American disarmament.

Meanwhile, even the word "communism" was deleted from the Captive Nations proclamations issued by Richard Nixon, Jerry ("Poland is Free") Ford, and Jimmy Carter, undoubtedly to protect the mirage of "detent."

It may well be that the only factor which has, so far, protected the United States from an all out Soviet challenge is the Soviet awareness of their own vulnerability at the hands of the millions of captives within their slave empire. It is indeed vital to the national security of the United States that the desire for liberty and independence on the part of the conquered nations should be steadfastly kept alive.

There is no reason now why this country should not make the eventual liberation and restoration of independence for the Captive Nations a part of the official U.S. foreign policy.

On June 22 of this year, Soviet news agency TASS published an "official government statement" which says: "Detente . . . is not a charter of immunity for antipopular, corrupt and venal regimes, for any special rights and privileges inherited from the colonial past or obtained under unequal deals and agreements. It does not give any right to suppress the struggle of the peoples for their national liberation and social progress (nor the right) to interfere in their internal affairs. It is this right the imperialist circles want to abrogate."

We agree: nobody has the right to occupy a country and impose a puppet government on its people, as the Soviet Union did in Czechoslovakia. Now that the Soviet Union says that it agrees with us, we call on Leonid Brezhnev to withdraw his occupation troops from all territories that belong to other peoples, and to stop interfering with their right to self-determination, as expressed in free elections.

We also call on the government of the United States to accept the Soviet government's invitation, and stop treating the antipopular, corrupt and venal regimes established under unequal deals and agreements (such as at the point of a gun) as if they had a charter of immunity.

Sooner or later, freedom will triumph. The only question is this: are we willing to help it triumph before, or after the United States is itself enslaved?●

STATEMENT OF THE HONORABLE BALTASAR CORRADA DEL RIO, RESIDENT COMMISSIONER FROM PUERTO RICO, ON THE QUESTION OF THE POLITICAL STATUS OF PUERTO RICO, WALTER REED ARMY MEDICAL CENTER, SEPTEMBER 14, 1978

(Mr. CORRADA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CORRADA. Mr. Speaker, 2 weeks ago the Nation celebrated National Hispanic Heritage Week. In ceremonies throughout the country, past achievements of Hispanic-Americans were celebrated while their hopes for the future were expressed. I had the pleasure of participating in a number of these celebrations, one of which took place at the Walter Reed Army Medical Center on September 14.

Unlike the previous year when I discussed the significance of our hispanic heritage and the contribution we have made to our Nation, the subject this year was a discussion of the political status of Puerto Rico. The debate came at a particularly appropriate time since it was only 2 days before that the United Nations Decolonization Committee had approved a resolution which had been submitted by Cuba regarding the future political status of Puerto Rico.

Mr. Speaker, I request that my statement on the question of the political status of Puerto Rico before the Walter Reed Army Medical Center be included in the RECORD and reprinted in full.

STATEMENT OF THE HONORABLE BALTASAR CORRADA DEL RIO

I would like to join you in the celebration of the "National Hispanic Heritage Week." Last year I had the pleasure of discussing here at Walter Reed the significance of our hispanic heritage and the contributions we have made to the economic, social and cultural life of our Nation. This time, I will discuss the subject of the political status of Puerto Rico and my views as to the future of our island.

I will begin by stating that the present relationship between Puerto Rico and the United States, what in English we call "the Commonwealth" status, does not adequately fulfill the political and economic needs of our people. Later I will discuss why statehood is the best way to fulfill those needs.

The establishment of Commonwealth status was based on temporary and at best illusory economic privileges obtained at the expense of full political equality.

The principal economic underpinnings of Commonwealth status were: (1) cheap labor; (2) full exemption from all income and excise taxes; (3) special tariff protection for certain products; (4) special concessions in such areas as oil refining and the manufacture of petrochemicals; and (5) migration of our excess labor force. Let us briefly analyze what has happened to each of these factors and their impact on the economic, social and political fabric of our community.

Special provisions of the Fair Labor Standards Act of 1938, as amended, enabled industries in Puerto Rico to pay wages substantially below those paid on the mainland for similar employment. As a result, companies in such low-wage paying, labor-intensive industries as apparel, leather goods and cigars were attracted to the island.

As wages on the island began to rise, however, these industries began to leave for such low-wage countries as Taiwan, Korea, the Dominican Republic and Haiti.

With the loss of the wage differential fostered by supporters of the Commonwealth status, Puerto Rico must now compete on the basis of the increased productivity of its workers. To that end, our Administration has emphasized vocational training designed to develop and sharpen the well-recognized natural skills of our workers. However, we have insisted in the application of Federal minimum wage since cost of living in Puerto Rico is higher than in the Washington, D.C. area and it is no longer fair to our workers to receive substandard compensation.

The second economic underpinning of commonwealth status is industrial tax exemption. Under federal and Puerto Rican tax laws, United States companies could operate in Puerto Rico tax-free for 10 to 30 years, depending on location. The Puerto Rico industrial tax exemption program was originally conceived as a temporary means for attracting labor-intensive industries in order to reduce our staggering rate of unemployment. However, in the 1960's these labor-intensive industries began moving out to well-known low wage havens. Only capital-intensive industries, such as petrochemicals, electronics and pharmaceuticals, continued to be attracted. These industries required extraordinary amounts of capital but created relatively few jobs. While these industries were very profitable, these profits were taken out of Puerto Rico, producing relatively few benefits for our community.

Because industrial tax exemption is a public subsidy which involves an enormous expense to our government in the form of foregone tax revenues, those of us who aspire to statehood believe that there should be a direct relationship between the benefits derived by the tax-exempt companies which operate on the island and the benefits derived by Puerto Rico. We believe that companies doing business in Puerto Rico should help pay for the services and the public works which our government provides them and all our residents. The time will come soon when our industrial incentives program will provide for incentives which will not necessarily be dependent upon full tax exemptions.

It goes without saying that we will honor the grants of tax exemption which have been issued, or which may be issued in the future. But we cannot long continue to depend for the development of our Island solely upon a system based on inequities, where the community, and particularly those who can least afford it—the employees—sustain a privileged class of tax exempt enterprises, which directly contribute little to the coffers of our government. We must all bear the cost of providing services to our community.

Commonwealth status also depends on United States tariff protection for certain products; and duty-free oil import quotas which were granted in order to attract petroleum refineries and petrochemical manufacturing enterprises. With lower tariffs resulting from the multilateral trade negotiations during the past decade, with the increase in the cost of growing and refining sugar, and with the rise in the cost of growing coffee and tobacco, Puerto Rico's artificial competitive advantage in these and other commodities has completely disappeared.

The similar competitive advantage which the special oil import quotas made available to Puerto Rican refineries has also disappeared as a result of the unprecedented increase in the price of foreign crude oil. Only the cost-averaging mechanism of the federal entitlements program has enabled refineries on the island to continue operating.

The migration of more than 650,000 persons to the mainland during the decades of the forties through the sixties, helped the Puerto Rican economy to reduce its rate of unemployment by one-half during that time. Cheap air fare, increased employment opportunities, the assistance of the Puerto Rican Labor Department's Migration Office in New York, and the hope for a better life, became irresistible lures for many members of the most economically disadvantaged segment of our community between 1950 and 1971.

However, between 1972 and 1977, 250,000 more Puerto Ricans have returned to the island than have departed. In fiscal year 1977 alone, the island had a net immigration of over 70,000 persons. Puerto Rico has also received a heavy influx of immigrants from Latin America, including thousands of Cuban exiles who fled Castro's regime during the last decade. These factors have produced a sharp increase in the size of our labor force, thereby further inflating our already high unemployment rate.

For all of the preceding reasons, the rationale that formed the economic basis for Commonwealth status is no longer valid.

The most glaring defect of Commonwealth status, however, is the state of political inequality to which it condemns its residents. It disenfranchises our residents from the Federal electoral process; it limits our participation in the distribution of federal grants-in-aid; it limits our federal representation to one no-voting Resident Commissioner in the House of Representatives—none in the Senate; it prevents our men and women who are drafted into the Armed Services—who, if need be, must die for our Nation—from freely voting for their Commander-in-Chief; it keeps us from fully participating in the mainstream of the American political system; it reduces our "clout" with the decision-making federal bureaucracy; it maintains those colonial vestiges which tarnish the image of our democracy. When Puerto Rico becomes a state of the Union, our residents will elect to Congress 7 representatives and two senators who will defend Puerto Rico's interests. We will have more representation than 25 of the 50 states. Our people will help elect the President and Vice President, who will probably have to campaign on the Island and not only become aware of our needs and aspirations, but make firm commitments to our people. More Puerto Ricans will be appointed to policymaking positions within the federal departments and agencies which make the decisions that move government.

There is one further flaw to Commonwealth status. Because of its ambiguous constitutional nature, the Commonwealth tends to be viewed by its supporters as a place apart from the United States—if not independent, at least separate. Commonwealth advocates emphatically do not want our people to feel that they can comfortably be both Puerto Ricans and Americans at the same time. They oppose the right of our people to vote for the President and Vice President. The Commonwealth supporters would have us view our American citizenship as merely a convenient technicality; something to fall back on, but not to take pride in.

For almost forty years they have been saying that statehood would mean economic disaster because we could not attract industry if employers had to pay full federal minimum wages and federal taxes. Well, we are presently paying the highest wages in the history of the Island, and more people are presently employed than ever before.

WHY STATEHOOD FOR PUERTO RICO?

The United States Constitution provides in Article IV, Section 3 that "New States may be admitted by the Congress into this Union." No conditions are specified therein for the admission of new States. The Congress has traditionally required that the fol-

lowing standards be met for admission of new States:

(1) That the inhabitants of the proposed new State be imbued with and sympathetic toward the principles of democracy as exemplified in the American form of government;

(2) That a majority of the electorate desire statehood; and

(3) That the proposed new State have sufficient population and resources to support State government and the provide its share of the cost of the Federal Government.

Let us examine the reasons why I believe that Puerto Rico fully meets this traditional three-fold test of eligibility for statehood.

There should be no doubt in anyone's mind as to our residents' love for the ideals of American democratic government. We have adopted and made ours many American principles, traditions and institutions of democratic government. In our courts of law, American law has the same precedentiary value as in the courts of the several States. Our constitution, which provides for a republican form of government, is clearly patterned on the federal Constitution, as is our Bill of Rights.

Our democratic aspirations are no less strong than those of our fellow Americans in the mainland.

Our loyalty to the Nation has been proven time and time again. Our people have defended the United States honorably and well in all of our Nation's wars during this century.

Puerto Rico has contributed more manpower to the United States Armed Services, and has sustained more casualties, than any State at the time of its admission into the Union; only 22 States have more war veterans than Puerto Rico. Many have achieved the highest ranks of leadership. Among those are General Pedro del Valle of the U.S. Marine Corps; Admiral Horacio Rivero of the U.S. Navy, later United States Ambassador to Spain; General César Cordero, of the U.S. Army; and General Enrique Méndez, the present Deputy Surgeon General of the U.S. Army.

Many died in our nation's defense; Puerto Rico has more war casualties than 14 states and the District of Columbia. Four Congressional Medals of Honor have been awarded to Puerto Ricans—all posthumously. The question must be asked: will disenfranchised Puerto Ricans be forced to bear the ultimate obligation of citizenship—dying for their country on an equal basis with their fellow citizens from the mainland—while being denied the fundamental attribute of citizenship, the right to vote for the President and Vice President?

The second test of eligibility for statehood is that a majority of our electorate must demonstrate its desire for statehood.

In 1952 only 12.9 percent of the electorate voted for the statehood party, while almost 20 percent voted for the independence party. In the intervening quarter-century, however, the situation has been reversed dramatically. While the vote for parties supporting independence or commonwealth has slipped to 7 percent and 45 percent respectively, the statehood party has consistently increased its support with each election, and won with 48 percent of the vote in 1976.

Puerto Rico's economic growth has created a middle class where none had existed before. This middle class has adopted many of the mainland's middle class values and lifestyles. Instant communications, and easy travel to and from the mainland, have served to bridge the cultural gulf which existed between the Island and the mainland. We are now much closer to the United States mainland, time-wise and value-wise, than we were 25 years ago. This, in part, explains the rise of pro-statehood sentiment in Puerto Rico.

In 1967 a three-way plebiscite was held on the Island. Commonwealth, statehood and independence received 60 percent, 39 percent and 1 percent respectively. Since 1967 the voting age has been lowered from 21 to 18, and altogether more than one million additional persons have been enfranchised to vote. Recent polls indicate that if a three-way plebiscite were held in Puerto Rico today, statehood would triumph over commonwealth by a narrow margin, and over independence by a landslide. In a two-way plebiscite between the only truly permanent alternatives—statehood and independence—statehood would triumph by a better than 5 to 1 margin. Our administration favors holding a new plebiscite on this question sometime after the 1980 elections, and I am confident that statehood will be the alternative preferred by a majority of our voters.

The third test of eligibility for statehood is that the proposed new State possess sufficient population and resources to support state government and to contribute to the federal government.

Again Puerto Rico qualifies on both counts. Puerto Rico presently has a larger population and a higher per capita income than any of the States had at the time of their admission into the Union. With a $7.5 billion gross product and a $1.7 billion budget, Puerto Rico's economy is ready to begin taking the initial steps toward statehood.

It is a little-known fact that Puerto Rico purchases more than $4 billion worth of goods and services from the mainland every year. These purchases are translated into direct and indirect employment in the several States. One recent study calculated, for example, that purchases from Puerto Rico produced over 150,000 jobs throughout the 50 states of the Union. I believe that when we become a State, by becoming an integral part of the United States' economy, we will not only maintain the rate of commerce that we have now, but actually increase it.

There is no doubt that because of our present economic situation, we would probably be one of the least affluent states of the Union. But I cannot believe that pure economic interest by the federal government is the sole motivating reason for admitting a new State into the Union. If that were the basis upon which our republic was founded, our Union would surely not have lasted very long. The strength of our Union lies in the capacity with which the Government, on behalf of all, utilizes the resources of every State to satisfy the needs of all the States. Each State contributes to the well-being of all in accordance with its capacity to contribute. Some contribute more capital, others more purchasing power, others more manpower and human resources; but all contribute significantly toward the success of the Union.

It is fitting that we should also summarize the positive contribution which Puerto Rico as a State could make to the Nation.

1. Economic Contribution. The present economic relationship between the United States and Puerto Rico is onesided. Under the present arrangement, the Island receives numerous benefits from the United States, but does not participate in the funding of those benefits. Puerto Rico wants to contribute its share on an equitable and proportional basis. Payment of federal taxes would give a much greater sense of economic and political dignity to Puerto Rico and would remove the "beggar state" stigma which is frequently attached to commonwealth status. Statehood would neither bankrupt nor destroy the Island. All 37 territories which have previously been admitted into the Union as States have succeeded and prospered, and they have strengthened the Union. I submit that the admission of Puerto Rico into the Union will have the same results.

2. Removal of colonial vestiges in the United States-Puerto Rico Relationship. The admission of Puerto Rico into the Union would confer upon our people the political dignity which only full political equality can bring. Admission of Puerto Rico as a State would provide additional proof to the world that the United States is not a colonialist power. It would help to silence the perennially embarrassing charge of "colonialism" leveled at the United States by her adversaries in the United Nations.

3. Contribution to the cultural heritage of our Nation. Puerto Rico has much to contribute from our own rich Spanish, African and Taino Indian cultural heritage. A Puerto Rican State would be a Spanish-speaking State with its own unique personality. The American system provides for this. Statehood does not mean that we have to surrender our customs, traditions, or language. As a State of the Union, Puerto Rico would be under no constitutional obligation to abandon Spanish as our language of daily discourse.

4. Puerto Rico would serve as a bridge of understanding between the Americas. Puerto Rico, as our nation's only Spanish-speaking State, would enhance the United States' image in Latin America. Puerto Ricans presently serving as U.S. diplomats often find themselves embarrassed by charges that our island lacks political dignity and sovereignty. They are called "lackeys of the imperialist yankees". Statehood would make available to the United States a new diplomatic resource; Puerto Rican-born diplomats. These Puerto Rican-born diplomats, possessed of the Spanish culture, traditions and language, could be especially effective in improving relations and providing better understanding with all of Latin America.

Similarly, Puerto Rico could become a bridge between the Americas—a North-South Center—where commerce, technology, culture, diplomacy and communications could interact. Latin Americans could come to Puerto Rico to be trained in appropriate technologies, government, and other private or public endeavors. Puerto Rico could provide them with a vivid demonstration of American democracy in action.

5. Admission of Puerto Rico would be an example to the world of the ethnic harmony which prevails in America. To deny statehood to Puerto Rico would be a slap in the face to each of the 15 million Hispanics who reside in our Nation. It would mean that they are good enough to defend our country, but that they cannot aspire to equality of rights, and that the principles embodied in the Constitution are not applicable to all Hispanics.

America must demonstrate to the world that it is proud of the ethnic diversity which exists here, and that this ethnic diversity is truly a source of strength rather than a source of social disharmony and distress. Admitting Puerto Rico into the Union will serve as a shining example of this ethnic harmony and equality.

6. Admittance into the Union would fulfill the implied pledge of statehood made to Puerto Ricans when citizenship was granted. Pursuant to the Organic Act of 1917, Congress granted United States citizenship to residents of Puerto Rico. To many of us who believe that statehood is the inevitable culmination of Puerto Rico's political development, this achievement still represents the most important step in that development.

The question must be asked: why did Congress grant us citizenship? Was it, as some of our opponents assert, to justify drafting Puerto Ricans into the Army, then engaged in bloody conflict on the battlefields of Europe? I think not. I believe that, in granting us citizenship en masse, the Congress made a conscious decision to establish an indissoluble link between our peoples. Keep in mind that such was not the case with the Philippine Islands: their pathway was always clearly toward independence; they were never granted United States citizenship.

But is one to believe that Congress would

grant us a citizenship of an inferior order? One which condemns our people to an inequality which means inferiority? Would any of you accept such citizenship?

CONCLUSION

The time has come for us to join with you in a new and bold undertaking, designed to achieve economic security and political equality for our people. Let statehood be for us what it has been for you: a source of pride and strength; of growth and development; but above all, of dignity. These are the hopes and aspirations of our people, who, though poor, are proud. Proud to be Puerto Ricans, proud of the many contributions they have already made to our Nation, and prouder still of the future contributions yet to be made.

More than three million of your fellow citizens are embarking upon a quest for full participation in forging the destiny of our United States of America. When the day comes that we make the request official; when we ask that our star be flown together with the other 50 States, just as those of the other States fly over Puerto Rico; when we petition to put an end to political inequality, thereby redeeming our people's collective honor, I hope we shall be able to count on your understanding, your encouragement, and your support.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOLLENBECK) to revise and extend their remarks and include extraneous material:)

Mr. GUYER, for 5 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.
Mr. RUDD, for 30 minutes, today.
Mr. YOUNG of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. RAHALL), to revise and extend their remarks, and to include extraneous matter to:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. MCKAY, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. FASCELL, for 30 minutes, today.
Mr. FLOOD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MCCLORY, and to revise and extend his remarks, immediatelv after printing of conference report and statement on H.R. 7843 in the House today.

Mr. MINETA. to revise and extend his remarks immediately after consideration of Biaggi amendment to H.R. 11733.

Mr. CORRADA, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $739.

Mr. SEIBERLING, in connection with his amendments offered on H.R. 12005 to include extraneous material following his remarks.

Mr. LEVITAS, in connection with remarks on his amendment to H.R. 12005 to include extraneous material.

Mr. MINETA, to revise and extend just prior to the final vote on H.R. 11733 today.

(The following Members (at the request of Mr. HOLLENBECK), and to include extraneous material:)

Mr. MOORHEAD of California.
Mr. ERLENBORN in two instances.
Mr. PURSELL.
Mr. BROOMFIELD.
Mr. COHEN.
Mr. MARRIOTT in two instances.
Mr. RHODES.
Mr. DERWINSKI in two instances.
Mr. MCCLORY.
Mr. GILMAN.
Mr. STEERS.

(The following Members (at the request of Mr. RAHALL), and to include extraneous matter:)

Mr. MURPHY of Illinois.
Mr. REUSS.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BOWEN.
Mr. BONIOR in two instances.
Mr. LEDERER.
Mr. TEAGUE.
Ms. MIKULSKI.
Mr. WEISS.
Mr. FASCELL.
Mr. NEDZI.
Mr. DOWNEY.
Mr. BRECKINRIDGE in two instances.
Mr. JOHN L. BURTON.
Mr. GEPHARDT.
Mr. FISHER.
Mr. STARK in two instances.
Mr. LAFALCE.
Mr. SCHEUER.
Mr. LUKEN.
Mr. RYAN.
Mr. CONYERS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1185. An act to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes to the Committee on Interstate and Foreign Commerce; and

S. 3114. An act for the relief of Shavji Purshottam Dusara, Vasanti Shavji Dusara, and their child, Shreedhar Dusara; to the Committee on the Judiciary.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 27, 1978 present to the President, for his approval, bills of the House of the following title:

H.R. 1920. To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale;

H.R. 10822. To improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979, and 1980, and for other purposes; and

H.R. 13745. To authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981.

ADJOURNMENT

Mr. MCKAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly, at 9 o'clock and 25 minutes p.m.), the House adjourned until Friday, September 29, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5051. A letter from the Secretary of Labor, transmitting the eighth annual report on the work incentive program, pursuant to section 440 of the Social Security Act, as amended; to the Committee on Education and Labor.

5052. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting the third annual report on programs and activities under the Women's Educational Equity Act of 1974, pursuant to section 408(f) of Public Law 93-380; to the Committee on Education and Labor.

5053. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Israel for permission to transfer certain U.S.-origin defense articles to Spain, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

5054. A letter from the Chairman, U.S. Civil Service Commission, transmitting a report on the effects upon employees of the reorganization carried out under the Department of Energy Organization Act, pursuant to section 712 of the act; to the Committee on Post Office and Civil Service.

5055. A letter from the Secretary of the Army, transmitting a Corps of Engineers report on the replacement of the Trimble Wildlife Area, Smithville Lake, Little Platte River, Mo., pursuant to section 3(c) of the Fish and Wildlife Coordination Act (Public Law 85-624) (H. Doc. No. 95-389); to the Committee on Public Works and Transportation and ordered to be printed.

5056. A letter from the Under Secretary of Defense (Research and Engineering), transmitting a report on Defense Department procurement from small and other business firms for October 1977 through February 1978, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

5057. A letter from the Special Representative for Trade Negotiations, Executive Office of the President, transmitting a report of the Industry Policy Advisory Committee on the United States-Mexican bilateral trade agreement entered into on December 2, 1977, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

5058. A letter from the Special Representative for Trade Negotiations, Executive Office of the President, transmitting a report of the Industry Policy Advisory Committee on the United States-Indian bilateral trade agreement entered into on July 26, 1978, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

5059. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in administering the Department of Labor's compensation benefits for injured Federal employees (HRD-78-119, September 28, 1978); jointly, to the Committees on Government Operations, and Education and Labor.

5060. A letter from the Chairman, U.S.

Nuclear Regulatory Commission, transmitting the 13th report on abnormal occurrences at licensed nuclear facilities, pursuant to section 208 of Public Law 93–348; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

5061. A letter from the Secretary of Health, Education, and Welfare, transmitting the Department's comments on H.R. 10909, the proposed Clinical Laboratory Improvement Act of 1978; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SCHROEDER: Committee of conference. Conference report on H.R. 11003; (Rept. No. 95–1639). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. Report on subdivision among subcommittees of budget allocation for fiscal year 1979 (Rept. No. 95–1640). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 1385. Resolution providing for the consideration of H.R. 12577. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes (Rept. No. 95–1641). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1386. Resolution providing for the consideration of H.R. 11979. A bill to amend section 5 of the Department of Transportation Act, relating to local rail service assistance. (Rept. No. 95–1642). Referred to the House Calendar.

Mr. RODINO: Committee of conference. Conference report filed in disagreement on H.R. 7843 (Rept. No. 95–1643). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13797. A bill to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes; with amendment (Rept. No. 95–1644). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. S. 3336. An act to enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner; with amendment (Rept. No. 95–1649). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 13892. A bill to amend title 28 of the United States Code to provide that the requirement that each U.S. attorney and U.S. marshal reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district; with amendment (Rept. No. 95–1650). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. S. 2049. An act to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts; with amendment (Rept. No. 95–1651): Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. S. 2075. An act to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service; with amendment (Rept. No. 95–1652); Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. S. 2411. An act to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district (Rept. No. 95–1653); Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 957. An act to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes; with amendment (Rept. No. 95–1654, Pt. I). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAZZOLI: Committee on the Judiciary. H.R. 9075. A bill for the relief of John F. Johnson (Rept. No. 95–1645). Referred to the Committee of the Whole House.

Mr. KINDNESS: Committee on the Judiciary. H.R. 12555. A bill for the relief of Russell W. Allen; with amendment (Rept. No. 95–1646). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. S. 1006. An act for the relief of Concrete Industries (Monier), Limited (Rept. No. 95–1647). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. S. 1562. An act for the relief of Datronics Engineers, Inc., (Rept. No. 95–1648). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 14192. A bill to amend the Internal Revenue Code of 1954 to increase the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. BEARD of Tennessee, for himself, Mr. MCKAY, and Mr. DUNCAN of Oregon:

H.R. 14193. A bill to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions; to the Committee on Merchant Marine and Fisheries.

By Mr. DUNCAN of Tennessee:

H.R. 14194. A bill to amend certain provisions of the Tennessee Valley Authority Act of 1933, as amended, relating to the charge rates for power of the Tennessee Valley Authority; to the Committee on Public Works and Transportation.

By Mr. ERLENBORN (for himself, Mr. CRANE, and Mr. GOODLING):

H.R. 14195. A bill entitled the "Fair Treatment for Skilled Trades Act of 1978"; to the Committee on Education and Labor.

By Mr. MARLENEE (for himself and Mr. BAUCUS):

H.R. 14196. A bill to amend the Railroad Revitalization and Regulatory Reform Act of 1976, to provide emergency financial assistance under title V of such act to railroads in reorganization serving the Northwestern United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA (for himself, Mr. BLOUIN, Mr. FISH, Mr. GOODLING, Mr. ROSENTHAL, Mr. STUMP, and Mr. WALGREN):

H.R. 14197. A bill to correct inequities in certain sales representatives practices, to provide protection for certain sale representatives terminated from their accounts without justification, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BYRON:

H.R. 14198. A bill to revise the boundaries of the Hampton National Historic Site in the State of Maryland, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CAVANAUGH:

H.R. 14199. A bill to provide that time spent by American civilians in enemy prisoner-of-war camps and similar places shall be creditable (as though it were military service) toward pensions, annuities, or similar benefits under various Federal retirement programs; jointly, to the Committees on Armed Services, Interstate and Foreign Commerce, Post Office and Civil Service, and Ways and Means.

By Mr. MURPHY of New York:

H.R. 14200. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to authorize the purchase and display of works of art, and for other purposes; to the Committee on Education and Labor.

By Mr. WAGGONNER (for himself, Mr. FRENZEL, and Mr. WALGREN):

H.R. 14201. A bill to amend the Internal Revenue Code of 1954, and the Tax Reduction Act of 1975, with respect to employee stock ownership plans; to the Committee on Ways and Means.

By Mr. FINDLEY (for himself, Mr. BAFALIS, Mr. BEVILL, Mr. BUCHANAN, Mr. DUNCAN of Oregon, Mr. EDWARDS of Alabama, Mr. HARSHA, Mr. JONES of Tennessee, Mr. KREBS, Mr. PATTISON of New York, Mr. STUMP, and Mr. WHITE):

H.J. Res. 1146. Joint resolution authorizing the President to proclaim the month of November 1978 as National REACT Month; to the Committee on Post Office and Civil Service.

By Mrs. SMITH of Nebraska:

H. Con. Res. 726. Concurrent resolution expressing the sense of Congress that the Secretary of Defense should not choose a site for the launching base for the intercontinental missile that would result in the destruction or idling of productive farmland and the displacing of farmers and ranchers from their homes and land; to the Committee on Armed Services.

By Mr. DRINAN (for himself, Mr. BINGHAM, Mr. BLANCHARD, Mr. BRODHEAD, Mr. BURKE of Florida, Mr. EILBERG, Mrs. FENWICK, Mr. GIAIMO, Mr. ROSENTHAL, Mr. CRANE, and Mr. PEPPER):

H. Res. 1387. Resolution expressing the sense of the House of Representatives with respect to the selection of a site other than the Soviet Union for the 1980 summer Olympic games; to the Committee on International Relations.

By Mr. EDWARDS of California (for himself, Mr. BAUCUS, Mr. BRADEMAS, Mr. COUGHLIN, Mr. DELLUMS, Mr. DOWNEY, Mr. ERTEL, Mr. HARKIN, Mr. LAFALCE, Mr. MILLER of California, Mr. MURPHY of Pennsylvania, Mr. PANETTA, Mr. ROE, Mr. ROSENTHAL, Mr. RYAN, Mr. SHARP, Mr. SIMON, Mr. STEED, and Mr. STRATTON):

H. Res. 1388. Resolution expressing the sense of the House of Representatives that the Committee on Ways and Means should develop tax reform legislation designed to induce noninflationary behavior by business and labor; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. BURKE of Florida (Mr. CORCORAN of Illinois, Mr. CRANE, Mr. EDWARDS of Oklahoma, Mrs. HECKLER, Mr. MIKVA, Mr. RUDD, Mrs. SCHROEDER, Mr. STANGELAND, and Mr. BOB WILSON):

H. Res. 1389. Resolution expressing the sense of the House of Representatives with respect to selecting a site other than the Soviet Union for holding the 1980 summer Olympic games; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

485. By the SPEAKER: Memorial of the Legislature of the State of California, relative to worker's compensation; to the Committee on Education and Labor.

486. Also, memorial of the Legislature of the State of California, relative to fishery resources of the Klamath and Trinity Rivers; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXI,

Mr. PHILLIP BURTON introduced a bill (H.R. 14202) for the relief of Norman Tam, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10909

By Mr. COLLINS of Texas:

—Page 2, strike out line 8 and all that follows through line 18 on page 3.

Page 3, line 20, strike out "(7)" and insert in lieu thereof "(3)".

—Page 4, line 11, before the dash, insert "the primary mission of which is".

Page 4, strike out "for" in lines 12 and 20.

—Page 4, line 19, strike out ", or" and insert in lieu thereof a period.

Page 4, strike out lines 20 and 21.

—Page 5, insert after the period in line 19 the following: "Standards and substantive amendments to standards shall be made on the record after opportunity for agency hearing.".

—Page 5, line 9, strike out "ten" and insert in lieu thereof "seventy".

—Page 7, insert after line 12 the following:

Requirements prescribed under subparagraphs (D), (E), and (F), shall not take effect until ninety days after the submission to the Congress of the results of the study conducted pursuant to section 102(a) of the Clinical Laboratories Improvement Act of 1978.

—Page 7, line 23, strike out "may" and insert in lieu thereof "shall".

—Page 8, line 8, insert "and" before "(ii)" and in line 12 strike out the semicolon and all that follows through line 16 and insert in lieu thereof a period.

—Page 9, beginning in line 7, strike out "which are located or doing at least 10 per centum of their business within the State" and insert in lieu thereof "which are located within the State or, as determined by the State, doing business within the State".

Page 20, beginning in line 24, strike out "or doing at least 10 per centum of their business" and insert in lieu thereof "or, as determined by the State, doing business".

Page 23, beginning in line 4 strike out "located or doing at least 10 per centum of its business within the State" and insert in lieu thereof "located within the State or, as determined by the State, doing business within the State".

—Page 11, line 5, strike out "not more than five".

—Page 11, insert at the end of line 20 the following: ", or any identifiable portion thereof,".

—Page 11, line 22, strike out "biomedical or behaviorial".

—Page 11, line 22, after "research" insert "for the analysis or diagnosis of rare disorders".

—Page 8, line 12, strike out "376" and insert in lieu thereof "375".

Page 13, strike out line 11 and all that follows through line 10 on page 20.

Page 20, line 12, strike out "374" and insert in lieu thereof "373", line 14, strike out "(c)" and insert in lieu thereof "(b)", and in line 16 strike out "(d)" and insert in lieu thereof "(c)".

Page 20, line 17, strike out "(A)" and beginning in line 19, strike out ", and" and all that follows through line 5 on page 21 and insert in lieu thereof a semicolon.

Page 22, strike out lines 5 through 19 and in line 20 strike out "(c)" and insert in lieu thereof "(d)".

Page 23, line 6, strike out "(d)" and insert in lieu thereof "(c)".

Page 24, line 16, strike out "(e)" and insert in lieu thereof "(d)" and in line 17 strike out "(d)" and insert in lieu thereof "(c)".

Redesignate sections 375, 376, 377, and 378, which begin in line 23 on page 24, line 20 on page 25, line 18 on page 31, and line 23 on page 33, as sections 374, 375, 376, and 377, respectively.

Page 24, strike out line 25 and all that follows through line 3 on page 25, and insert in lieu thereof "by a clinical laboratory which is subject to national standards and which is not in compliance with such standards shall be fined".

Page 25, beginning in line 6, strike out "have" and all that follows through line 10, and insert in lieu thereof "comply with national standards and which is not in compliance with such standards may—"

Page 25, beginning on line 22, strike out "required to be licensed under section 373 by the Secretary" and insert in lieu thereof "which is subject to national standards and which is not in compliance with such standards".

Page 28, line 5, strike out "373(c) or 375(a) and insert in lieu thereof "374(a)".

Page 35, line 7, strike out "licensed under section 373 of" and insert in lieu thereof "subject to national standards under".

Page 36, insert "and" and at the end of line 4, strike out lines 5 through 10, and in line 11 strike out "(5)" and insert in lieu thereof "(4)".

Page 54, strike out "374" in lines 7 and 20 and insert in lieu thereof "373".

—Page 14, line 3, strike out "may" and insert in lieu thereof "shall".

Page 22, line 14, strike out "may" and insert in lieu thereof "shall".

—Page 14, line 6, strike out "(1)", line 9, strike out "(A)" and insert in lieu thereof "(1)", line 11, strike out "(B)" and insert in lieu thereof "(2)", and strike out line 14 and all through line 2 on page 16.

—Page 14, line 20, strike out "such" and all that follows through "disclose" on line 21 and insert in lieu thereof "a description of".

—Page 15, line 2, after "(C)", insert "the Secretary or".

—Page 16, after line 2, insert the following:

"(3) the Secretary of the health systems agency, as the case may be, shall maintain records of the disclosures of any information under subparagraphs (A) and (B) of paragraph (2), including the purpose and identity of the individual or organization to which such disclosure is made."

—Page 17, strike out line 17 and all that follows through "any" on line 18 and, in line 22, strike out the close parenthesis.

—Page 31, line 16, before the period, insert "or frivolously causes to be commenced a matter described in subsection (c)(1)(A)".

—Page 31, after line 16, insert the following:

"(9) If the Secretary determines that the complaint is frivolous, the Secretary shall assess against the persons who filed the complaint a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees), reasonably incurred, as determined by the Secretary, by the employer in connection with responding to the complaint."

—Page 36, line 10, strike out "and".

Page 36, line 13, strike out the period and insert in lieu thereof "; and".

Page 36, after line 13, insert the following:

"(6) an analysis of the effect on competition between laboratories of a requirement that a laboratory may not be licensed under section 373 of the Public Health Service Act unless its personnel meet standards developed by the Secretary under paragraph (2)."

—Page 37, strike out line 13 and all that follows through line 19.

Page 36, line 21, strike out "(1)".

Page 37, line 5, strike out "(A)" and insert in lieu thereof "(1)", line 8 strike out "(B)" and insert in lieu thereof "(2)", and in line 23 strike out "(A)".

Page 38, line 17, strike out "(B)".

Page 9, beginning in line 10 strike out "Except as provided in section 103(a) of the Clinical Laboratory Improvement Act of 1978, during" and insert in lieu thereof "During".

Page 9, beginning in line 20 strike out "and which is not subject to section 103(a)(2) of the Clinical Laboratory Improvement Act of 1978".

—Page 60, strike out line 14 and all that follows through line 18 on page 63, and on page 64, strike out "205" in line 14 and insert in lieu thereof "204".

—Page 41, insert after line 14 the following:

CONGRESSIONAL VETO

SEC. 106. (a)(1) National standards promulgated under section 371 of the Public Health Service Act and any substantive amendments to such standards shall take effect if, and only if—

(A) the Secretary of Health, Education, and Welfare delivers a copy of such standards or amendments to the House of Representatives and a copy to the Senate, and

(B) before the close of the 60-day period which begins on the day on which the copies of such standards or amendments are delivered to the House of Representatives and to the Senate, neither the House of Representatives nor the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval.

(2) For purposes of this subsection, the term "resolution of disapproval" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ——— does not favor the taking effect of the [national standards for clinical laboratories] [amendments to the national standards for clinical laboratories] transmitted to the Congress by the Secretary of Health, Education, and Welfare on ———", the first blank space therein being filled with the name of the resolving House, the second blank space therein being filled with the day and year, and the inapplicable bracketed material being stricken.

(3) A resolution of disapproval in the

House of Representatives shall be referred to the Committee on Interstate and Foreign Commerce, and a resolution of disapproval in the Senate shall be referred to the Committee on Human Resources.

(4)(A) If the committee to which a resolution of disapproval has been referred has not reported it at the end of 30 calendar days of continuous session of Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution of disapproval which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution of disapproval), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution of disapproval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution of disapproval shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of disapproval, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of disapproval shall be decided without debate.

(7) Whenever the Secretary of Health, Education, and Welfare transmits copies of the standards or amendments to the Congress, a copy of such standards or amendments shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(8) The 60-day period referred to in paragraph (1) shall be computed by excluding—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(9) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval described in paragraph (2); and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

—Page 50, line 15, strike out "nominal" and insert in lieu thereof "reasonable".

H.R. 11488

By Mr. GARY A. MYERS:

—Page 122, insert after line 20 the following:

(f)(1) Section 1516(d) (as amended by section 106) is amended by adding at the end the following:

"(4) No funds under a grant under subsection (a) may be used by a health systems agency (or any entity of such an agency) to publicly endorse, disapprove, or otherwise take a position for the agency respecting the desirability of any Federal or State law relating to abortion.".

(2) Section 1525(c) is amended by adding at the end the following: "No funds under a grant under subsection (a) may be used by a State Agency (or any entity of such an agency) to publicly endorse, disapprove, or otherwise take a position for the agency on the desirability of any Federal or State law relating to abortion.".

H.R. 11979

By Mr. MARLENEE:

—Page 24, line 23, strike out "and".

Page 25, line 2, strike out the period and insert in lieu thereof "; and".

Page 25, immediately after line 2, insert the following:

(3) by adding at the end thereof the following new subsection:

"(f) EMERGENCY ASSISTANCE.—Upon an application for financial assistance submitted by a railroad in reorganization under section 77 of the Bankruptcy Act which provides rail service in the northern tier of States west of Illinois, the Secretary shall make emergency arrangements, in accordance with subsection (d)(2)(B) of this section, to provide immediate financial assistance for the rehabilitation of any part of the line of such railroad which is or may be the subject of an application for a certificate of abandonment or discontinuance. Not more than $135,000,000 of the proceeds received by the Secretary from the issuance and sale of Fund anticipation notes shall be available for providing emergency assistance under this subsection.".

H.R. 14042

By Mr. DOWNEY:

—Page 2, line 14, strike out "$4,470,500,000" and insert in lieu thereof "$4,261,500,000".

Page 3, after line 4, add the following new section:

SEC. 102. None of the funds authorized to be appropriated by this Act may be used to make any payment under—

(1) the modifications to contracts numbered N00024-71-C-0268 and N00024-24-C-0206 between the United States and the Electric Boat Division of General Dynamics Corporation of which the Committees on Armed Services of the Senate and House of Representatives were notified by the Secretary of the Navy on June 22, 1978, under the provisions of the first section of Public Law 85-804 (50 U.S.C. 1431); or

(2) the modifications to contracts numbered N00024-69-C-0283 and N00024-70-C-0275 between the United States and the Ingalls Shipbuilding Division of Litton Systems, Inc., of which the Committees on Armed Services of the Senate and House of Representatives were notified by the Secretary of the Navy on June 24, 1978, under the provisions of the first section of Public Law 85-804 (50 U.S.C. 1431).

—Page 34, line 14, insert "(a)" before "Notwithstanding".

Page 35, after line 5, insert the following new subsection:

(b)(1) The first section of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (Public Law 85-804; 50 U.S.C. 1431), is amended by striking out the period at the end of the third sentence and inserting in lieu thereof ", except that, in the case of such an obligation in excess of $25,000,000 proposed to be made by the Department of Defense, the authority conferred by this section shall not be utilized to obligate the United States unless such committees have been notified in writing of such proposed obligation and, before the expiration of a period of 60 days of continuous session of Congress after the date on which such notice is transmitted to such committees, both Houses of Congress adopt a concurrent resolution approving such obligation.".

(2) The amendment made by paragraph (1) shall apply only with respect to proposed obligations of the United States under such Act of August 28, 1958, of which the Committees on Armed Services of the Senate and House of Representatives are notified after the date of the enactment of this Act.

EXTENSIONS OF REMARKS

BEST PROGRAMS IN AGRICULTURE

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. JOHN T. MYERS. Mr. Speaker, by approving the conference report accompanying H.R. 13125, the agriculture appropriations bill for 1979, the House has shown a great understanding of the future needs of American agriculture. Specifically, the House has provided funding for several excellent programs within the Department of Agriculture. They are the agricultural conservation program (ACP) administered by the ASCS and the river basin, watershed planning, and watershed and flood prevention operations programs authorized by Public Law 83-566, as amended, administered by the SCS.

As a farmer and member of the Agriculture Appropriations Subcommittee I am convinced that some of the best programs the Federal Government partici-

pates in are in this appropriations bill. I commend the House for approving the restoration of $90 million cut by President Carter for the ACP, thus assuring a strong program to continue to rebuild one of our country's greatest natural assets, the soil and its fertility. Congress has restored funding for this program 21 times since 1954, as every administration has attempted to reorganize the USDA and eliminate these productive programs. Under this extremely successful cost-sharing program, major advances in conservation have been made as a result of the joint efforts of agriculture producers and the Federal Government.

The 1979 bill provides that participants will receive up to $3,500 for the purchase of lime, fertilizers, seeds, trees, and other conservation materials used by farmers to help them in increasing their productivity. Funds are also made available for the long-term conservation and enhancement of our land which will help maintain and restore agricultural productivity. Local communities have substantial input in ASCS operations, thus allowing ACP funds to be directed by those who know the local needs best.

The programs authorized by Public Law 83-566—the Watershed Protection and Flood Prevention Act—as amended, provide for the conservation, development, utilization, and disposal of water by controlling flooding, erosion, and sedimentation in our watersheds. Water is our Nation's most precious resource and without it, our land is worthless. I am especially pleased that the House has revised the President's budget and insisted that new watershed planning starts be initiated. If we do not have the foresight to plan for tomorrow, future generations of Americans will face a barren land.

Indiana, one of the Nation's largest producers of agricultural goods, would particularly benefit from the legislation. There are more than 93,000 farms in the State which employ some 142,000 people. Indiana produces more than $2.6 billion in agricultural products annually.

The United States is especially dependent upon its farmers. An economically prosperous agriculture is the basis of an economically prosperous nation. The food and fiber we produce is our greatest weapon in our effort to maintain a favorable balance of trade with the other nations of the world.

We must not take the same shortsighted view of the importance of a healthy agricultural system. It is absolutely essential that we continue to emphasize the program administered by the Department of Agriculture in order to guarantee our position as world leader in the production of food and fiber.●

POLISH CULTURAL SOCIETY OF AMERICA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. KEMP. Mr. Speaker, it is a great privilege to report that the Polish Cultural Society of America is a service organization which endeavors to represent the cultural interests of 11 million patriotic and dedicated Americans of Polish heritage throughout the Nation. The chairman of the Polish Cultural Society of America is Raymond H. Paluch, a distinguished businessman and past commander and founder of the New York State Veterans Association, as well as an active member of many civic organizations engaged in philanthropic eleemosynary, social amelioration, and humanitarian endeavors. Mr. Paluch is also trustee and registrar of the New York American Legion "Free Summer Camp" which in over 40 years of service has given the benefits of the great outdoors to over 12,500 needy youngsters.

The basic purpose of the Polish Cultural Society of America, "is to undeviatingly support and defend the Constitution of the United States of America and the institutions of Freedom and Democracy embodied in the American 'Bill of Rights' as enunciated in the first 10 amendments of the Constitution." Membership in the Polish Cultural Society is open to all Americans irrespective of differences of race, color, creed, sex, or country of origin.

Mr. Speaker, it is indeed my distinguished honor and privilege to submit for the RECORD a summary of the 1977-78 Report Of The Polish Cultural Society of America:

Title: Report of the Polish Cultural Society of America NBC–National TV "Holocaust" Drama Wins Polonial "Abraham Lincoln Human Rights Award"

The Polish Cultural Society of America, on behalf of its Television, Arts, Science and Drama Committee, presented NBC–National Television with its "Abraham Lincoln Defense of Human Rights Award" for its epic 3½ day continuous TV presentation of its historically authenticated Nazi war crimes Drama "Holocaust," for its excellent work in exposing the plight of Polish Jews and Christians in World War II.

The award, presented by Raymond H. Paluch to officers and producers of NBC–TV, was highlighted by ceremonies and transmissions which were beamed by satellite to European viewers and listeners and behind-the iron-curtain countries.

The text of the citation reads in part: "The TV presentation of the "Holocaust" is a 10-hour historical drama dealing with the Nazi murder and extermination programs which took the lives of over 6 million innocent western European and Polish Christians and Jews . . . The television re-enactment of the actual "Holocaust" has at least opened the door of history to the final truth and to a new spiritual awakening for mankind.

HARRISON BRODY, LL.D., LH.D., GIVEN COPERNICUS SCHOLAR AWARD

Harrison Brody, LL.D., LH.D., founder and honorary chancellor of the Friendly Sons of Copernicus, was awarded the "Seal of Merit Award" of the Friendly Sons of Copernicus for his achievements in the last 5 years in heading a national committee to secure "Books For Prisons." Harrison Brody, author of "UN Diary: The Search for Peace," and a syndicated columnist for the past 17 years, spearheaded a national campaign which was instrumental in securing almost 1 million books for prison facilities in all 50 States of the Union with the volunteer help of hundreds of high school students and college undergraduates, as well as over 40 Governors and many State, Federal, and local officials throughout the Nation.

GOOD SAMARITAN AWARDS

"For his outstanding and distinguished work as an Officer and Trustee of The Hebrew Home For The Aged in Riverdale, New York for the past quarter of a century." Albert Rothstein was honored with a citation and award by the Polish Cultural Society of America. His wife, Mrs. Dorothy Rothstein, was likewise honored for her unselfish accomplishments in behalf of the Hebrew Home for the Aged in Harlem as well as Riverdale for her activities in the various women's auxiliaries.

POLISH CULTURAL SOCIETY COOPERATES WITH BLACKS AND ETHNICS TO ACQUIRE RADIO FACILITY

In accordance with new policy statements issued by the U.S. Small Business Administration (SBA) and the U.S. Federal Communications Commission (FCC) has published in the Federal Register October 1977, the Polish Cultural Association, in cooperation with Afro-American and Hispanic communications experts and leaders, will apply for an SBA grant of $500,000 to aid in the purchase and operation of a full power radio station, probably to be affiliated with the U.S. Public Broadcasting Network, in the near future.

The FCC reports that minority groups "own only 56 radio stations out of a total of 8,000." In accordance with the law, the Polish Cultural Society of America will have a minority interest in the projected radio broadcasting facility.●

ABORTION AND DEFENSE APPROPRIATIONS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. DORNAN. Mr. Speaker, on August 9, 1978, I introduced and won overwhelming acceptance (226 to 163) of an amendment to the Defense Appropriations Act of 1979 to prohibit the use of Defense Department's funds to finance elective abortions in the armed services. The amendment reads:

None of the funds appropriated under this joint resolution may be used to pay for abortions performed by any means except where the life of the mother is in danger if the fetus is carried to term, nor may such funds be used to promote or encourage abortions.

I do not have to remind the House that the margin of victory on this language was overwhelming: 226 to 163. The vote was on a simple issue: Federal funds, especially funds earmarked for our national defense, should not be used to finance a "private right," which, in the minds of many, if not most Americans, constitutes a totally unethical violation

of God's law and the value of human life itself.

Yesterday, during the debate on the continuing appropriations resolution for 1979, the abortion issue once more arose in the course of our deliberations. I noticed on the front page of the Washington Star this evening, September 27, a story which described unnamed Pentagon officials, favorably disposed toward a policy of financing the killing of the innocent unborn, as concerned over congressional opposition to Defense Department abortion payments. One "heroic" anonymous Pentagon official declared: "We're walking on eggshells." He or she, whoever, is absolutely right. The American people are not going to tolerate this policy. And the Congress, the representatives of the people, not the Defense Department, is constitutionally charged with drafting the law of the land.

Mr. Speaker, I want to make myself absolutely clear and on the record! I am not satisfied with the language contained in the legislation, House Joint Resolution 1139, that we passed yesterday. I also want to make it clear that, if the voters agree, I will be back next year with the Dornan language which, I think, most adequately restricts elective abortions. Therefore, I am taking this opportunity to include my remarks, made yesterday, during the debate, in the CONGRESSIONAL RECORD.

Mr. Speaker, I again express my respect for the chairman and thank him for understanding my deep concern about this abortion crisis in our Nation. God willing, when I return next year, I will come back firmly with the original Dornan amendment language because on at least three points here in the HEW anti-abortion language, I find fatal flaws—particularly the "two physicians" copout. I am very uncomfortable with that meaningless arrangement. Last month in Russia I visited for the fifth time a concentration camp, this one in Salispils, outside Riga, and also I visited the tragic site of Babi Yar outside of Kiev in the Ukraine, where the massive slaughter of Jews by Nazis began. At both these tragic locations I reflected again on how easily Hitler got educated doctors to join in nightmarish murdering. He had no trouble getting 2, 12, 20, 200, or 2,000 German doctors at any time to agree to euthanasia, all sorts of forced abortions, sick medical experiments on helpless POW's and Jews and thousands of other hapless souls resulting in their agonizing deaths. So I will be back with the tougher Dornan language next year. But in the spirit of fairness here about time constraints, as it is so close to election, and we have so much legislation heaped upon us, I will be willing to accept this very strained and tortured language that we use in the HEW bill. So I with deep reservation accede to the leadership so we can get on with this bill.

But I must tell you Mr. Speaker, that I have not received a single letter in protest about the Dornan amendment of August 9 from one military chaplain of any of our four services. As a matter of fact, just the opposite. The chief of chaplains of two of our military branches and chaplains throughout all of our services have written me in total support. I have received countless letters of congratulations from officers and enlisted troops of both sexes saying that they are proud once again to put on their military uniforms each morning because we are stopping abortions in the armed services of this great Nation, military services committed to the defense of all American lives rather than the destruction of innocent life.●

NEW HAMPSHIRE ATTORNEY GENERAL SUPPORTS H.R. 11942

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. D'AMOURS. Mr. Speaker, there has been a great deal of misunderstanding about the intent of, and need for, H.R. 11942, legislation introduced by Chairman PETER RODINO of the House Judiciary Committee to restore the right of indirect purchasers to bring private Federal antitrust actions against manufacturers who have violated the antitrust laws.

This legislation will not in any way harm honest and hard-working businessmen. In fact, this legislation will help protect honest businessmen from the anticompetitive actions of dishonest businesmen who violate the antitrust laws. The legislation will also protect the rights of innocent consumers from being victimized by illegal price-fixing schemes.

This legislation is supported by the attorneys general of all 50 States. A report prepared by the Senate Judiciary Committee indicates that failure to pass this legislation will cost the States $500 million. The House Judiciary Committee further estimates the cost to the Federal Government of failure to pass H.R. 11942 at $205 million in four court cases alone.

I would like to share with my colleagues the thoughtful and persuasive letter I have received from New Hampshire Attorney General Thomas D. Rath outlining why he believes the passage of H.R. 11942 is important to New Hampshire and the entire Nation.

STATE OF NEW HAMPSHIRE,
Concord, N.H., August 22, 1978.

Re: Legislation to reverse Illinois Brick Co. v. Illinois

Hon. NORMAN E. D'AMOURS,
U.S. Congressman,
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN D'AMOURS: I am writing to urge you to support H.R. 11942, which would restore the right of indirect purchasers to bring private federal antitrust actions against manufacturers who have violated the antitrust laws. The bill would, in effect, reverse the June 9, 1977 decision of the United States Supreme Court in the case of Illinois Brick Co. v. Illinois that only direct purchasers may maintain treble damage actions against antitrust violators.

The fact that this legislation has been supported by every state attorney general is indicative of its importance and the seriousness of the problem it will rectify. I personally consider passage of this bill vital to effective enforcement of federal and state antitrust laws both by my office and by individual plaintiffs acting as private attorneys general.

Using fund from a federal grant, my office has recently commenced an antitrust enforcement program within the Consumer Protection Division. If H.R. 11942 is not enacted, this program will be seriously handicapped in three areas. First, the great majority of purchases by the State of New Hampshire are through middlemen, which means the state is an indirect purchaser. Since Illinois Brick prohibits suits by indirect purchasers, in most cases the state will be unable to recover damages from price fixing unless H.R. 11942 is enacted. This means that thousands of tax dollars expended because of illegal overcharges cannot be recovered.

Secondly, consumers are also usually indirect purchasers. For that reason Illinois Brick has essentially negated the "parens patriae" provision of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 which authorized the attorney general of any state to institute federal antitrust suits on behalf of the citizens of the state. Because the "parens patriae" provision authorizes state attorneys general to bring only those suits which consumers could bring as individuals, absent passage of H.R. 11942 states will be unable to bring federal antitrust actions against corporations which have overcharged their citizen-consumers. This is most unfortunate since the threat of federal criminal prosecution has historically been insufficient to deter price fixing. The "parens patriae" provision was specifically designed to provide a more effective deterrent and must be revitalized by passage of H.R. 11942.

Finally, under New Hampshire RSA 356:14, the state courts' interpretation of the New Hampshire antitrust laws may be guided by interpretations given the federal antitrust laws. If the Illinois Brick rationale is applied to the New Hampshire antitrust laws, the State of New Hampshire and its citizens will in nearly all cases be virtually powerless to recover overcharges caused by illegal price fixing.

I sincerely hope that you will support this important consumer and antitrust legislation and that you will urge your colleagues in the House of Representatives to do likewise.

Sincerely,

THOMAS D. RATH,
Attorney General.●

ALLEN T. GILLILAND AND ROBERT M. HOSFELDT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. MINETA. Mr. Speaker, in many parts of the country, communities that have grown rapidly in recent years find themselves in a kind of identity crisis, overshadowed by senior neighboring cities and challenged to establish their own sense of community. I would like today to honor two citizens who, through their work in television, have done much to help residents of San Jose and Santa Clara County build and improve their communities.

Allen T. Gilliland and Robert M. Hosfeldt, two pioneers of television broadcasting in Santa Clara County, are leaving KNTV, San Jose's Channel 11, in October. They will be honored this weekend by their friends and associates at a reception in San Jose.

Allen T. Gilliland, together with his father, Allen Gilliland, Sr., founded KNTV in September 1955. It was the first television station to be located in San Jose and to serve primarily the Santa Clara County region. Less than a year later, the fledgling station established its new department, which to this day still serves Santa Clara County as its only home-based news department. The station became an affiliate of

the ABC television network in March 1960.

Robert M. Hosfeldt joined the staff of KNTV in 1959 as a part time announcer. Within 2 years, he was named program director. Since 1966, he has served as KNTV's vice president and general manager.

Under the leadership of these two community-minded individuals, KNTV has made a great contribution to our area. It has given us the kind of local news coverage and community affairs programing that other stations more than 50 miles away in San Francisco and Oakland, cannot provide. The station's excellence in service has been acknowledged by many local, State and national awards.

Although they will be leaving KNTV, both Allen Gilliland and Robert Hosfeldt will still be providing our area with television service. Allen will devote all his time and energies to Gill Cable, the cable television firm which he owns and which is franchised to operate in San Jose and Campbell, Calif. Bob will join Gill Cable as vice president and general manager.

Mr. Speaker, I ask you and my colleagues in the House to join with me in thanking Allen T. Gilliland and Robert M. Hosfeldt for their great contribution to broadcasting in Santa Clara County, and to wish them every success in their undertaking.●

FEDERAL ACTION IS NEEDED TO ALLEVIATE THE PRODUCT LIABILITY INSURANCE CRISIS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. LaFALCE. Mr. Speaker, as chairman of the Small Business Subcommittee on Capital, Investment and Business Opportunities, I have engaged in a lengthy and indepth investigation of the situation facing thousands of our Nation's small businesses with respect to product liability insurance coverage.

This situation is very, very serious.

Tomorrow I will testify before the Ways and Means Committee on some of the findings of our investigation and some ways in which changes in our tax laws can help. Following is the text of the testimony I will present to the Ways and Means Committee, which I hope will take action as soon as possible when the 96th Congress convenes in January, should the Senate not act during this Congress:

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, I am pleased to be here this morning and to testify in support of the various product liability trust proposals.

At the outset, I would like to point out that while I am the primary sponsor of H.R. 10272, I am also a co-sponsor of both H.R. 7711, and H.R. 8064. These three bills together with H.R. 12429 which incorporates the Department of Commerce proposal, each have a central theme: They permit deductions for businesses which set aside amounts to pay product liability claims and expenses. At this time, I believe that it is important not to focus on the differences among these bills, but rather upon their similarities which are substantial.

As Chairman of the Subcommittee on Capital, Investment, and Business Opportunities of the House Committee on Small Business, I conducted a most thorough congressional investigation of the product liability insurance problem wherein many businesses, especially small businesses, have difficulties in affording this essential form of insurance. My subcommittee, like the Interagency Product Liability Task Force, found three primary causes for these difficulties, including uncertainties in the tort-litigation system, uncertainties in the product liability rate-making mechanisms, and unsafe products. However, as both my Subcommittee and the Task Force noted, implementing remedies addressed to each of these primary causes will not impact excessively high premiums for many years. Accordingly, my Subcommittee strongly supported the product liability trust concept, and recommended its implementation as a short-term palliative in its report on product liability insurance. I note parenthetically that until recently, the Interagency Task Force also endorsed this approach, going so far as to formulate draft language which is presently embodied in H.R. 12429, one of the bills before the Subcommittee today. During the course of our hearings, we specifically considered this approach, and, with the exception of representatives from the insurance industry, virtually all witnesses strongly recommended that this proposal be implemented. The business community is well aware of this proposal, and eager for its adoption.

THE INSURANCE INDUSTRY

The only opposition to this concept, outside of the Department of Treasury whose difficulties will be specifically addressed in a moment, is from the insurance industry. They have maintained throughout that (1) there is no major product liability problem; and (2) that the market assistance programs (MAPs) established at the state level have been effective in dealing with whatever product liability insurance problems crop up. I would sincerely hope that the ample record made both by my Subcommittee and the Interagency Task Force repudiates these assertions once and for all.

Whether denominated of crisis proportion or not, there is most assuredly a major product liability problem, which is especially acute for small business. Even in those instances where product liability insurance accounts for less than 1% of sales, this figure often represents anywhere from 20–40 per cent of business profits.

The MAP programs are a facade. Invariably, they do not deal with the affordability; they deal merely with availability. If insurance is available only at a prohibitively expensive rate—a problem which the MAP programs do not address—that is tantamount to being unavailable. Moreover, if a business pays for product liability insurance, as many firms must do merely to be able to sell their product to large distributors, etc., the insurance industry maintains that insurance is ipso facto affordable notwithstanding the fact that the business may experience significant economic hardships thereby.

Significantly, my subcommittee has learned that less than 10% of all product liability insurance dollars come from published actuarial rates. Of the remaining 90%, a substantial portion is judgment rated—that is, determined by the subjective judgment of the individual underwriter.

The subjective judgment of the underwriter is based, not upon what is actually happening in the product liability area, but upon what is perceived to be happening: The perception of reality versus reality. This perception has been shaped by misinformation circulated by the insurance industry including such "facts as one million product liability claims occur anually each year; that the average payment for product liability claims is $26,000 and juries can't "give away" insurance company dollars fast enough. These "facts" are the perception of reality.

However, the reality is very different. The insurance industry's own statistical organization—the Insurance Services Office—has indicated the number of product liability claims occurring annually is merely 60,000 to 140,000 not one million; the same organization has undertaken a most comprehensive statistical survey of claims that were finally paid or adjudicated and has found that the average product liability payment for a bodily injury claim is merely $3,592.00 not $26,000 or some greater amount; similarly, this same study indicated that juries, rather than being unduly biased in favor of plaintiffs, award plaintiff nothing in 75% of all product liability cases.

I could go on and on in greater detail for you outlining the abuses by the insurance industry with respect to product liability insurance. Rather than do that, I commend to your attention the report by my subcommittee entitled "Product Liability Insurance", Report No. 95–997 which documents these practices in greater detail.

THE ADMINISTRATION'S PROPOSAL

In the remainder of my statement. I would like to focus upon the product liability trust concept, and contrast it with the administration's proposal to extend the carryback provisions from 3 years to 10 years to the extent that losses are attributable to product liability claim payments.

The major difficulty with the extension of the carryback proposal is that for it to be effective, it presupposes the existence of two conditions, neither of which are present. First, it presupposes product liability losses, and second, that these product liability losses are extremely severe.

Addressing the severity of product liability losses, note that before the proposal would have any benefit whatsoever, the loss would necessarily have to exceed not only a businesses' taxable income (without regard to loss), but also its taxable income for the 3 preceding years. Again, calling upon the Insurance Services Office Closed Claim Survey—the leading source of statistics as to what actually is occurring in the product liability arena—one finds that severity is not a problem. The survey, which analyzed 24,000 product liability claims reported by the 23 largest product liability insurers in this country who represent 60 to 70 per cent of all product liability insurance written, indicates that merely 7/10 of 1% of all claims result in payments in excess of $100,000. Thus, only a handful of firms could *potentially* benefit from an extended carryback; if any of these firms have significant earnings, they will not benefit at all.

The other condition underlying the carryback approach is the presence of a significant number of product liability claims. However, our hearing record is replete with instances where businesses have had no adverse claims experience, yet they have experienced exponential product liability insurance premium increases. Moreover, it is noteworthy that of the 24,000 claims surveyed, almost one-third of these were closed without any payment being made whatsoever. Thus, since this experience represents 60 to 70 per cent of the entire nation, the survey results indicate that our nation's businesses are not being plagued with a significant number of product liability claims.

THE PRODUCT LIABILITY TRUST

It is for the very reasons that the extension of the carryback provisions for product liability claims are ineffective, that the reserve for product liability claims will go a long way toward ameliorating the situation.

As is evident from the aforementioned product liability data, neither an inordinate amount of product liability claims nor severe claims, are being experienced by our business community. Nevertheless, many firms have seen their product liability premiums increase to exorbitant levels primarily as a result of the misperception of reality by underwriters who apply judgment rates.

The product liability trust proposals are tailor-made to deal with the actual product liability claims experience. The amounts set aside in trust concededly will not be enough to pay a severe claim; but they should be sufficient to pay the claims that are likely to occur. Moreover, severe claims are not the problem. In any event, the use of the trust would facilitate self-insurance programs wherein a business can insure against catastrophic loss with a large deductible, thereby reducing the total insurance expense. In this connection, it is important to bear in mind that the amount of premiums being charged businesses for product liability insurance are unreasonable; in most instances, they bear no relationship to the claims experience of an individual firm, or to the general product liability experience of the nation as a whole. Thus, the product liability trust proposals would give business the opportunity to set-aside realistic amounts.

The Treasury Department difficulty with the trust proposals involves, as I understand it, a rather technical objection on policy grounds. It is important to analyze this in detail since Treasury staff advises that the trust proposals can be amended to remedy their difficulty.

At the outset, note that Treasury has no objection to deducting amounts set-aside to pay future product liability claims as long as the dollar will ultimately be used for such purposes. Treasury's difficulty with the proposals involves a secondary effect: The amount of income produced from the set-aside of pre-tax dollars will be greater than the amount of income produced by after tax dollars. Treasury maintains that to remove subsidy inherent in this approach, it will be necessary, in effect to tax this income twice. This objection should not prove an insurmountable problem to implementing this proposal.

It is also important to address one other assertion made by the Treasury Department. They maintain—correctly—that so long as a business is able to deduct its product liability loss when paid, the net economic effect of that treatment is identical to being permitted to deduct amounts set-aside to pay future product liability claims, if the subsidy component is eliminated. Nevertheless, there are a number of reasons why this reasoning should not militate against the trust proposals. Firstly, and as aforesaid, judgment pricing of product liability insurance is extremely prevalent, and often made with utter disregard for a firm's favorable claims experience. By enabling these firms to create pools of money with which to pay product liability claims, considerable pressure would be placed upon insurers to make their "judgments" as to the appropriate rate for product liability insurance more competitive. In fact, I believe it is for precisely this reason—the competitive potential of this proposal—that the insurance industry has strongly raised its voice in protest to these trusts.

Equally as important, business perceives these proposals as providing tremendous assistance to them in the product liability area as is witnessed by their testimony at my hearings and these presently being held, as well as by their comments to the Interagency Task Force. This perception is true, despite Treasury's assertion to the equivalence between these proposals (without subsidy) and a deduction for product liability losses when incurred. While a cynic could believe that the reason for this support is that business is highly cognizant of subsidy presently provided by these proposals, I do not believe this to be the case. These proposals were on the table for over one year and were considered and until recently supported by the Interagency Task Force in which the Department of the Treasury was an active member. It was not until after one year did Treasury "discover" that the proposals provided a subsidy. Perhaps the most salient fact to underscore this lack of awareness of the subsidy is that the Department of Treasury helped the Interagency Task Force prepare a model product liability trust proposal. Thus, to say that the business community has conditioned its support of these proposals on the existence of a subsidy—which went undetected by Treasury for over one year—is surprising to say the least.

In conclusion, I urge that subcommittee give the product liability trust proposals their most serious attention and consideration. I urge my colleagues not to be persuaded by the arguments made against it by both the Department of Treasury and by the insurance industry. Business needs this legislation and it needs it now. It is unfortunate that time does not permit its adoption this session; but I urge, on the basis of the hearing record that you are presently developing and on that which my subcomittee made, that when we return next session, final action on these proposals be taken as soon as practicable.

Thank you for providing me the opportunity to testify today. If either myself or my staff can be of assistance to you in any way, please feel free to call upon us and we will do whatever possible to assist you in your endeavors.●

ANOTHER UNVERIFIABLE PROPOSAL AT SALT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. KEMP. Mr. Speaker, today, the Washington Post carried a story by George C. Wilson entitled "Carter To Urge Ban on Low-Flying Missile at Gromyko Meeting." The article discussed a proposal the President will make to the Soviets for a ban on depressed trajectory missiles. Depressed trajectory missiles refers to the practice of launching ballistic missiles on a flight path far lower than the standard ballistic missile trajectory to minimize the visibility of the incoming warhead to detection by radar. Reduced warning time is a particularly serious problem for manned bombers, a problem exacerbated by the failure of the Carter administration to procure the B–1 bomber which had a faster escape time than the B–52, reducing its vulnerability to depressed trajectory submarine launched ballistic missile attack. Regrettably, the Soviets have already tested and deployed the most effective depressed trajectory delivery system in the late 1960—a fractional orbital bombardment system (FOBS) which can deliver a nuclear warhead at a very low reentry angle, and from virtually any point of the compass the Soviets choose with far less warning to the United States than that which would be given by the redeployment of a submarine to permit, say, an attack from the south.

In either case, depressed trajectory missiles are simply an adjustment of payload weight and launch tactics. Overland depressed trajectory flight tests cannot be reliably monitored by U.S. national technical means of verification, and the characteristics of a missile which the Soviets intend to employ in a depressed trajectory mode—either ICBM's or SLBM's cannot be identified by U.S. national means. Thus, a ban on depressed trajectory weapons will have to—once again—depend upon Soviet assurances, an all to familiar pattern of misplaced confidence I have witnessed as a member of the congressional delegation to the strategic arms limitation talks. I urge the President to withdraw this unverifiable SALT proposal.●

TRIBUTE TO CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. DERWINSKI. Mr. Speaker, as in previous years, the 1978 Captive Nations Week was highlighted by many rallies, forums, seminars, and services in all sections of our country and abroad. As always, one of the chief points made in this observance is the persistent threat of Soviet Russian imperio-colonialism.

As additional examples of the successful week, I wish to insert the following material; first, a proclamation by Mayor Alfred J. Libous, of Binghamton, N.Y.; second, a letter in the Binghamton Press; third, Ronald Reagan's article, "A Lukewarm Captive Nations Week" in the Oakland Tribune; fourth, an editorial "Whodunnit Without the Who" in the Manchester (N.H.) Union-Leader; fifth, a brief letter to the editor in the Boston Herald American; sixth, an article in the Rochester Democrat and Chronicle; seventh, an article in Foster's (N.H.) Democrat, eighth, an article on Captive Nations Week in the Ocean City Citizen; and ninth, a report in the Louisville, Ky. courier-Journal on the Week in Free China.

PROCLAMATION

Whereas: Many nations throughout the world have been made captive by the imperialistic and aggressive policies of Soviet communism; and

Whereas: The peoples of the Soviet-dominated nations have been deprived of their individual liberties; and

Whereas: The citizens of the United States are linked by bonds of family and principle to those who love freedom and justice on every continent; and

Whereas: It is appropriate and proper to manifest to the peoples of captive nations the support of the Government and the people of the United States of America for their just aspirations for freedom and national independence; and

Now, therefore, I, Alfred J. Libous, Mayor of the City of Binghamton, N.Y., do hereby designate the week beginning July 17, 1978 as Captive Nations week.

ALFRED J. LIBOUS,
Mayor.

July 13, 1978.

[From the Binghamton (N.Y.) Press, July 13, 1978]

REMINDER IS GIVEN ON CAPTIVE NATIONS

The third week in July has been designated "Captive Nations Week" by congressional resolution and presidential proclamation.

The holocaust still continues for the nations and races that are victims of Soviet imperialism. For decades they have begged the free world for deliverance, only to have the leaders of the free world turn away in silence—a silence which gave consent to more Communist agression.

Let us hear, as did members of Congress, " . . the cry of hundreds of millions of tortured tongues that there is a fate worse than death, a sorrow more bitter than the grave."

MARGARET LUCKERT.

[From the Oakland (Calif.) Tribune, July 26, 1978]

A LUKEWARM CAPTIVE NATIONS WEEK

Last year, Captive Nations Week was almost over before President Carter got around to signing a proclamation about it. The White House treated the proclamation as if they should send it out in a plain brown wrapper. After all, it might have offended the Soviet Union, which has the world's largest share-of-market in captive nations.

The mood still prevails in some circles in the administration. We are told that the current geopolitical "reality"—the pursuit of detente—is such that the mention of captive nations is "inappropriate." Heaven forbid we should mention the millions of people subjugated by the Russians.

Despite this queasiness in the administration, there was an abrupt upswing in the fortunes of Captive Nations Week this year. The other day in Washington a reception to launch the week in a Senate caucus room drew a capacity crowd, with members of Congress barely able to contain themselves in decrying communist oppression.

This sudden interest has an ironic side to it. Some of those on Capitol Hill offering the most eloquent words this time are the same ones who voted to reduce our military spending in the face of a massive Soviet buildup. They are the same members who urged us to sign a document in Helsinki which, in effect, legitimized the Soviet incorporation of the Baltic states. In some cases, these voices raised in shock at the harsh sentencing of Soviet dissidents have been the same ones which decried abuses of human rights among some of our allies but, till now, ignored most Soviet and communist Chinese-style repression of human rights.

Cynics will conclude that the renewed interest in Captive Nations Week can be attributed to the fact this is an election year and members of Congress with strong ethnic constituencies don't want to get on the wrong side of the voters. The cynics are probably at least partly right, but Congress is usually pretty quick to sense changes in the mood of the country, and the widespread growing awareness that "detente" is not what it was cracked up to be may have a lot to do with the strong statements about Captive Nations Week.

In that Senate caucus room, Sen. Jacob Javits, R–N.Y., told the crowd that an aide had suggested to him that Captive Nations Week was "old hat." "Not on your life," he replied. "Those who hold these nations captive count on the fact that we will be unable to run the course. So I beg you, dedicate yourselves to this struggle for freedom—not only during my lifetime and yours, but thereafter. It may take a long time, but justice will triumph if those who believe in justice persist."

[From the Manchester (N.H.) Union-Leader, July 28, 1978]

WHODUNNIT WITHOUT THE WHO

In case you were unaware of the fact (we had to inquire at the White House to confirm it), President Carter did issue a Captive Nations Week proclamation for 1978. (See editorial, "Captive Nations Week 1978," July 8th editions.)

In fact, we regard it as a document of highly historical value. In all the history of America's involvement in international politics, it seems doubtful that there has ever been a more insipid, cowardly statement issued by a head of state than that issued by President Carter on July 11th.

In meeting the letter—while ignoring the spirit—of the congressional mandate that the President issue a Captive Nations Week proclamation for the third week of July in each year, the President never once referred, either directly or indirectly, to HOW these nations became captive nations nor to the Soviet imperialism that holds them captive. As far as the proclamation is concerned, they could be held captive by Martians.

The President's Captive Nations Week proclamation contains all the proper phrases about liberty and justice and fundamental rights, about our "commitment" to such principles, etc., but it could have been issued on any occasion. It has no real relevancy to the fate of the captive nations.

In fear of angering the tyrants in Moscow, the President has authored a "whodunnit" without identifying the "who."

[From the Rochester (N.Y.) Democrat and Chronicle, July 21, 1978]

SOVIET EX-GENERAL PRAISES UNITED STATES STAND

More than 100 persons—some attired in native costumes—gathered in the stifling heat of Rochester City Council chambers yesterday to observe the 20th Captive Nations Week.

Local representatives of Croatia, Cossakia, Estonia, East Germany, Hungary, the Ukraine and other Communist-ruled nations came to hear former Soviet Army general Petro Grigorenko assail what he called the false imprisonment of his close friends Anatoly Shcharansky, V. Piatkus and Alexander Ginsburg on trumped-up charges.

They were jailed and will waste away in prisons, he said, because of their exposure of gross violations of the Helsinki agreements and because of their human rights.

"I am happy that the American people have learned and understood, as well as helping other peoples to understand, that the Soviet dissident movement is not a political power struggle," he said through an interpreter.

"We are fighting only to achieve human rights and justice for all the people, and permanent lasting world peace," he said.

Grigorenko said the western world must force the Soviet Union to free the dissidents. Otherwise, he said, the dissidents might just as well be forgotten. "There is no third alternative," he said.

Grigorenko was the highest-ranking Soviet official to protest his country's policies. He was arrested in 1968 for protesting the Soviet invasion of Czechoslovakia, and he spent the next six years in Soviet jails and psychiatric institutions.

Recently, while he was visting his son in the United States, his citizenship was revoked by the Soviet Union.

"It is an unenviable fate for a man to be deprived of his native land. It is an even deeper sorrow to see one's nation suffering and yet be helpless to act," he said.

"I am one of those who a year ago was able to listen to the observance of Captive Nations Week only on foreign radio broadcasts, by snatches, through interference by sirens and Soviet radio jamming."

Grigorenko's speech was preceded by prayer and a proclamation by Rochester Mayor Thomas P. Ryan, Jr. "to fight for the freedom of all the world's people."

The local program was sponsored by the Rochester branch of the American Friends of the Anti-Bolshevik Bloc of Nations, headed by Rochester lawyer William Andrushin.

[From the Dover, (N.H.) Foster's Democrat, July 19, 1978]

THOMSON TERMS U.S. A 'CAPTIVE NATION'

EPSOM.—A 13-foot-high Trojan horse stands guard over 42 mock tombstones at the Sherwood Inn in Epsom, the site of opening day ceremonies in New Hampshire for Captive Nations Week.

Barbara Anderson, treasurer of the New Hampshire Conservative Union which sponsored Sunday's ceremony, says the captive nations named on the tombstones are "nations where individuals have lost their freedom to worship or have businesses."

A law passed by Congress in 1959 requires the president to proclaim the third week in July as Captive Nations Week, but President Carter has not made such a declaration so far this year, said organizers of Sunday's speeches and barbecue.

Before addressing about 75 spectators, New Hampshire Gov. Meldrim Thomson strolled past the wooden horse which sports the sign: "The U.N. is a Trojan Horse in America. Get the U.S. out of the U.N. and the U.N. out of the U.S."

He walked among the wooden tombstones, bearing the names of such countries as Cuba, South Vietnam and Poland and the years when they became "captive" and fell under communist influence.

Thomson told the crowd, "I wondered as I came up whether I would see a new one today, one that said United States with a question mark behind it.

"Would we have thought ten years ago that this country of ours would have marched so quickly down the road that can mean the loss of freedom for all of us," he asked.

Thomson told the spectators that they needed to use their votes to elect people who will keep the United States free.

He also jabbed President Carter and U.S. Ambassador to the United Nations Andrew Young, who recently compared dissidents on trial in the Soviet Union with U.S. civil rights campaigners.

"If we cannot begin to turn this tide around by diligent efforts in the coming election this fall, then we are not going to be able to shake the shackles of Jimmy Carter in 1980."

The Republican governor, who is seeking re-election added, "Any other president with half an ounce of self-respect would have fired Andy Young long ago and that's what Carter should have done."

[From the Ocean City Citizen, July 20, 1978]

CAPTIVE NATIONS WEEK

(By Robert Morris)

I am hoping that the fury engendered by the 1978 Moscow trials will ignite a burning interest in the observance of the twentieth Captive Nations Week. Last year despite President Carter's professed espousal of human rights, the national rights of the peoples in bondage, in integral category thereof, were virtually passed over in silence.

Dr. Lev E. Dobriansky, the most articulate spokesman for the Captive Nations, regularly lists the nations now enslaved with the dates of their captivity and the mere chronology is informative.

As he has pointed out the indicator which he calls the list with the dates, infuriates Moscow because it refreshes people's memories and enables them to readily relate to

today's evolving takeovers, i.e.: Angola, Ethiopia, Mozambique and Rhodesia. It also exposes the true nature of the USSR, as a combine of conquered peoples rather than, as President Carter erred again in his Annapolis speech, in referring to it as a "nation."

The indicator expels the misconception that the Captive Nations are essentially the East European bloc. Armenia, Azerbaijan, Georgia, the Ukraine were all absorbed in 1920. Then came the Far Eastern Republic and Turkestan in 1922, Mongolia in 1924 and Estonia, Latvia and Lithuania in 1940. The litany goes on and on to Laos in 1975 and now stands ready to include Mozambique, Angola, Ethiopia, and Afghanistan.

Captive Nations Week helps those who would be interested to keep their eyes on the ball. It should engender concern about Angola, Mozambique, Namibia and Rhodesia where once again United States policy is affirmatively pushing peoples onto the Captive Nations list.

As I look at the indicator I am reminded of how many nations U.S. policy has caused to move into Captivity. It is demonstrably true of China, Cuba and Yugoslavia. F.D.R.'s assent to the creation of spheres of influence during World War II was responsible for Poland, East Germany, Romania, Bulgaria, Hungary and Czechoslovakia being absorbed.

All together there are thirty nations enchained and the four or five more that I have mentioned are sliding down into dungendom.

The liberty—spiritual and political—of these human beings, our brothers and sisters, should be of great concern to every sector of our society, led by our churchmen.

I believe that it is truly a measure of our decline as a civilization that this exciting spiritual institution—Captive Nations Week—evokes barely a yawn from the leaders of our nation.

[From the Louisville (KY) Courier-Journal, July 24, 1978]

50,000 IN TAIWAN PROTEST NORMALIZING U.S.-CHINA TIES

TAIPEI, TAIWAN—Fifty thousand people attending a Taipei rally to mark the end of Captive Nations Week adopted a resolution saying normalization of relations between the United States and Peking "would amount to an open statement that the Chinese Communists can continue their enslavement of 800 million innocent individuals."

The resolution directed to President Carter said normalization of relations "would seriously hurt America's prestige, irreparably dampen the confidence held in the United States by her Free World allies, and heartbreakingly discourage the Iron Curtain peoples who want to extricate themselves from bondage."

A BILL TO ENCOURAGE SAVING

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. BROWN of Ohio. Mr. Speaker, in these inflationary times, saving has become a losing proposition. With inflation running from 7 to 12 percent over most of the past 6 years, and with passbook savings rates limited to less than 6 percent at the same time, each dollar saved by Americans shrinks over time.

Think of the implications of that simple fact on people's behavior. When people quit saving, they become vulnerable to financial crises. They find it impossible to build a nest egg for retirement.

The responsibility for this rests in large part with the Federal Government for adopting spending policies which encourage inflation and taxing policies which discriminate against saving. Let us not forget that America's greatness was built on Yankee thrift. It is time for the Government to revise tax policies to encourage saving. Today I am introducing a bill, called the Savings Act of 1978, which will do just that.

The bill allows individuals a tax credit of 50 percent for additions to all types of bank and savings accounts, stock and taxable bond holdings, insurance and their share of assets of small businesses. It will sharply increase the reward to saving, and will, for the first time in years, allow many of our citizens to have a real return after taxes and inflation on their savings. It will enable many people to set aside sufficient funds for the purchase of a home, payment of tuition or medical expenses, a secure retirement, and the many other goals our citizens have worked so hard to reach, only to be cheated out of them by taxes and inflation.

While helping savers to reach these goals, this bill will help the country reach its goal of full employment and no inflation. By adding to the supply of saving, the bill makes possible the funding of far more investment in plant and equipment, the modernization of thousands more factories, and the creation of hundreds of thousands of additional jobs each year. By increasing productivity and the demand for labor, this will make American industry more competitive with foreign firms even while providing real wage increases for American workers. By funding the investment out of saving, instead of through money creation by the Federal Reserve, and by increasing efficiency and the supply of goods, the bill will reduce inflation.

The United States has long had the lowest rate of saving and investment in the Western World. As a consequence, every other major Western nation has a better employment record, and a faster rate of growth of real wages and fringe benefits than the United States.

WAGE INCREASES, INVESTMENT, AND SAVING

	1965–75 percent change in real wages and fringe benefits [1]	Investment as percent of GNP—Averages, 1960–73		Household savings ratios, 1976 estimate (percent)
		Total	Total minus home-building	
United States	15.7	17.5	13.6	6–8
Canada	48.5	21.8	17.4	10–12
Japan	138.9	35.0	29.0	24–26
France	77.4	24.5	18.2	16–18
Germany	78.1	25.8	20.0	14–16
Italy	116.4	20.5	14.4	22–24
United Kingdom	53.9	18.5	15.2	12–14

[1] Includes pension programs and other fringe benefits.

Sources: Bureau of Labor Statistics, OECD.

Last year, before the Joint Economic Committee, a panel of experts on growth and capital formation zeroed in on the bias in the tax code against saving. Income is taxed when earned. If it is consumed, it purchases a service or a product with little added tax. If it is saved, the service—interest or dividends—is taxed a second time at higher tax rates. The experts recommended removing saving from taxable income as the best way to return the tax code to neutrality between consumption and saving. Taxes would remain on the earnings of saving, but we would no longer be double taxing both saving and its earnings. This bill is a major step in that direction.

The bill recognizes the difficulty lower income taxpayers have in saving by providing a tax credit rather than an exemption. Lower income taxpayers would receive a credit on all eligible savings.

Middle- and upper-bracket taxpayers have historically saved higher percentages of their incomes than lower-bracket taxpayers. To sharply reduce the cost of the bill, these taxpayers would receive a credit only on eligible savings done in excess of the normal percent of income saved by people in their income brackets.

This savings credit will restore the attractiveness of straightforward saving in basic U.S. industry, small business, and homebuilding, as compared to inefficient but tax-sheltered projects. A 50-percent credit doubles the reward to such taxable investment and saving for any given interest rate or dividend. Thus, this credit will produce a reallocation of saving into projects of the greatest value in terms of economic growth and modernization of American plant and equipment.

Other nations actively encourage saving. For example Canada permits tax-exempt deposits in special savings accounts. Germany subsidizes interest rates in a similar program. Japan, as part of its new budget package to promote more rapid growth, will allow a tax deduction for stock purchases of up to $5,000. The nationwide benefits from such programs appear to be high. There is no reason why the United States should not enjoy the same gains.

Savings is the key to noninflationary economic growth. Growth is the key to full employment, rising living standards, and a sound social security system. Attached are a more detailed description of the bill and a Wall Street Journal article which documents the poor performance of the United States in saving and growth.

DESCRIPTION OF SAVINGS ACT OF 1978

The first part of the bill creates a nonrefundable credit against the personal income tax equal to 50 percent of eligible net saving—defined below—insofar as the saving exceeds certain required levels.

The required levels, called threshold savings amounts, are based on the taxpayer's adjusted gross income less personal exemptions. The thresholds (see table) rise with income to reflect the fact that as a family's income rises, its saving, as a percent of its income, also rises. Only saving in excess of the threshold level is eligible for the credit.

Adjusted gross income less exemptions:	Percent of income less exemptions which saving must exceed to qualify
Not over $10,000	0
Over $10,000 but not over $12,000	1
Over $12,000 but not over $15,000	2
Over $15,000 but not over $20,000	3
Over $20,000 but not over $25,000	4
Over $25,000 but not over $50,000	5
Over $50,000 but not over $100,000	6
Over $100,000 but not over $200,000	8
Over $200,000	10

Thus, a family earning $9,000 which saves $500 in eligible assets receives a 50-percent tax credit on the full amount. A family earning $18,000 would be expected to save 3 percent, or $540, before being eligible for the credit. If it saved $1,000, it would receive a credit on the $460 in excess of the required $540. A family earning $36,000 would be expected to save 5 percent, or $1,800. before being eligible for the credit. If it saved $3,000, it would receive a credit on the excess $1,200.

The bill then defines eligible net savings as the sum of net savings less ineligible debt. Net saving is:

First. Saving in certain business.—The taxpayer's share in the increase in book value—largely cash increases, inventory increases, investment in additional equipment and structures—of small businesses such as partnerships, proprietorships, and closely held corporations, plus purchases of and loans made to small business. These amounts are readily available, since they are already calculated for tax purposes;

Second. Saving in liquid assets.—Savings in checking accounts, savings accounts, and savings bonds. Amounts in accounts at commercial banks, savings and loan institutions, mutual savings banks, and credit unions at the end of the year would be compared to the amounts on deposit at the end of the previous year. The net increase would be part of eligible net saving, as would savings bond purchases less redemptions;

Third. Saving in certain investment assets.—Stock purchases minus sales, and purchases of taxable bonds, Federal or private sector, minus sales are eligible. These records are already kept for tax purposes;

Fourth. Savings in mortgage assets and investment real estate.—Investment in mortgages or real estate, plus improvements, less loans repaid or property sold; and

Fifth. Saving in company savings plans, retirement plans, and life insurance.—Payments into plans or on premiums, less withdrawals from or borrowing against such plans or policies.

Ineligible debt must be subtracted from net saving. Not only is debt a form of "negative" saving, but this provision prevents borrowing on existing assets to make deposits solely to get the tax credit. Ineligible debt is debt acquired in the tax year other than for the purchase or repair of a home or other property or the payment of medical or tuition expenses of the taxpayer or dependents.

Another safeguard is a recapture provision for credits on savings not left in some form of eligible assets for 5 years. This provision would not apply to withdrawal from savings for retirement income.

The income levels attached to each threshold percent would be indexed to prevent inflation from making the credit harder to receive over time.

[From the Wall Street Journal, May 17, 1978]

TRACKING A TREND—AMERICANS SAVE FAR LESS OF THEIR EARNINGS THAN CITIZENS ELSEWHERE AND THE GAP GROWS

(By Alfred L. Malabre, Jr.)

Americans are saving far less of their money than citizens in other industrial countries.

At a time of growing uneasiness over the U.S. economic outlook, the disparity has received few headlines. Yet, it is enormous and it has grown over the years. Many economists find the pattern deeply disturbing.

A willingness to save, of course, is fundamental to economic growth. Paul A. Samuelson, the Nobel laureate economist at Massachusetts Institute of Technology, has observed that "to the extent that people are willing to save—to abstain from present consumption and wait for future consumption—to that extent society can devote resources to new capital formation."

DIVERSE TRENDS

American willingness to save is low, as the accompanying chart shows, and it has been diminishing. Meanwhile, saving rates abroad have risen. The following tab'e traces these diverse trends over the last decade. In the six major industrial countries, it pinpoints consumer saving, as a percentage of consumer disposable, or after-tax, income.

Rate of saving

[In percent]

	1977	1967
United States	5.1	7.5
Canada	9.8	6.2
Britain	13.9	8.5
West Germany	14.0	11.3
France	16.1	15.9
Japan	21.5	18.5

It is impossible to know whether the propensity to save will continue to decline in America or keep expanding abroad. Inevitably, much will depend on the extent to which governmental policies tend to encourage or discourage saving. And who can foresee with precision the economic plans that political leaders may be hatching?

Whatever does develop, the present disparity is significant on a number of counts. It suggests a greater potential for economic growth abroad than in America. "If people don't save, there can't be sufficient investment, and eventually economic growth suffers," says Martin S. Feldstein, president of the National Bureau of Economic Research, a nonprofit business-analysis organization based in New York.

Noting the remarkable rise of savings in Canada, Robert Baguley, an economist at Royal Bank of Canada in Montreal, declares: "Canadians possess the capability to increase their spending sharply." No such cushion exists in the United States, says Paul Wachtel, an economics professor at New York University. "There is a strong argument that Americans should be saving more."

To many analysts, the relatively low rate of saving in America suggests that the U.S. economy is particularly susceptible, in the event of brisk expansion in coming months, to interest-rate increases. By the same token, these analysts maintain that interest rates are likely to rise relatively little in countries where a large portion of income is being plowed into savings. Sharply climbing interest rates, of course, act to inhibit economic activity inasmuch as they discourage borrowing for business expansion projects, homebuilding and other endeavors.

Economic growth in America has indeed tended to lag during the last decade. This is apparent, for instance, in data showing industrial production, an economic indicator expressed in physical terms and therefore not distorted by rising prices. Since 1967, Industrial production in the United States has risen slightly over 40 percent. Among the major countries, only Britain shows a smaller gain. The comparable increase in Japan is 97 percent. West Germany, France, and Canada also show far larger gains than the United States.

By no coincidence, capital spending in the United States is relatively small in terms of overall economic activity. Last year, according to a U.S. Commerce Department analysis, capital investment amounted to 17 percent of America's gross national product. This was a lower percentage than for any other major nation. The report shows the latest comparable rates to be 30 percent in Japan, 34 percent in France and Canada, 21 percent in West Germany and 19 percent in Britain.

International comparisons of economic data, to be sure, involve a particularly high degree of risk. It is easy to find oneself comparing oranges and apples. Different countries compile statistics in different ways. Definitions vary from country to country. Statistics involving savings are no exception.

ORANGES AND APPLES

"These are somewhat messy statistics that should not be taken as precisely accurate," warns Gerard Villa, consulting economist of Banque Bruxelles Lambert in Brussels. He notes, for example, that in much of Western Europe "spending by self-employed small businessmen on their own businesses is counted as a part of personal savings." This would not normally be so in the United States, he adds.

Such distinctions, however, are hardly sufficient to explain the large lag in savings in America. "This is not simply a case of comparing oranges and apples," declares Edward F. Denison, an economist at the Brookings Institution, a nonprofit business-research group based in Washington. "People really do save much higher percentages of their incomes abroad than in the U.S."

There is no single explanation for this U.S. tendency to spend or the propensity elsewhere to save. Various factors appear to be at work.

Mr. Feldstein, who also teaches economics at Harvard University, maintains that Americans have relatively extensive insurance against old age through such programs as Social Security. He finds the U.S. coverage "substantially greater" than, for example, in Japan. Not surprisingly, he says, the typical Japanese worker feels obligated to set aside a relatively large fraction of pay for the retirement years.

BIG BONUSES

Mr. Denison notes that workers in some countries derive a considerable percentage of their yearly pay through annual or semi-annual bonuses. In Japan, he says, bonus money recently has approximated one-quarter of annual earnings. No precise figures are available, but he estimates that the comparable U.S. rate is "far lower." Bonus

money, he explains, is likelier to be put into savings than regular pay.

The sharp rise of saving in Canada apparently reflects in part governmental efforts to induce thrift. Mr. Baguley of Royal Bank of Canada mentions, for example, the advent of government-sponsored plans, set up within the last decade, that provide tax breaks on various forms of saving. One plan encourages saving for retirement and another saving for home-buying.

Tax considerations are cited by many analysts. U.S. taxation of capital gains, for instance, is deemed relatively heavy. And this, many observers claim, acts to discourage key forms of saving in America. Mr. Villa maintains that the absence of a Belgian capital-gains tax on individual savings is a major reason that his country's saving rate is up around 18%. Countries that either exempt such gains from taxation or levy less of a tax than Uncle Sam also include Australia, West Germany, Italy, Japan, the Netherlands, Britain, Sweden, France and Canada.

Proposals have recently been in the Congress to trim capital-gains taxation in the U.S. However, the Carter administration makes clear that it opposes such measures. The dispute has caused a delay in congressional consideration of President Carter's entire tax "reform" package.

Demographic factors may also work to hold the U.S. saving rate below levels elsewhere. Over the next decade, forecasters project an increase of only 470,000 among Americans aged 45 to 64, a group that tends to save a relatively high percentage of income. In the period, a 6.4 million increase is foreseen among Americans aged 25 to 44, years when only a small portion of income typically is saved. Generally, these demographic patterns are more pronounced in the United States than in other industrial countries.●

FRIENDS PAY TRIBUTE TO JOE WELCH

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. McCLORY. Mr. Speaker, the retirement from public office of my longtime friend, Joe Welch of Barrington, Ill., is an occasion for calm reflection and reminiscing.

Mr. Speaker, Joe Welch has served Barrington and Cuba Township, as well as Lake County, Ill., in a number of capacities—devoting himself unselfishly to the public welfare and always bringing to his work courage, sound judgment, and fidelity to the public trust, which both his friends and adversaries have recognized.

Mr. Speaker, without recounting the tremendous service of Joe Welch to the area which he serves, I should recall that he was a long-time elected member of the Lake County Board, which he also served as chairman of the board. He served more recently as Cuba Township clerk and represented Cuba Township and Lake County in a broad spectrum of activities. As the chairman of the Cuba Township Republican organization, he was particularly influential in directing the political life of Lake County.

In his many political battles and his active and sometimes controversial position on public issues, Joe Welch has always maintained a sense of calm and of good humor. When the political or public battles were ended, Joe Welch remained the friend of those with whom he had engaged—as he went on to new and other exciting experiences.

Mr. Speaker, for my own part, I feel a sense of personal gratitude to Joe Welch for his confidence in me and his support in my many political campaigns—particularly those which occurred in the earlier days when the opposition was more formidable and the supporters were few and far between.

Mr. Speaker, throughout my association with Joe Welch I have observed the close relationship between Joe and his devoted wife, Madalene. In my attendance next Friday evening, October 6, at the Annual Cuba Township Republican Club Dinner, I will be bidding a fond farewell to Joe and Madalene Welch in contemplation of their early move from Cuba Township to a retirement village in Schaumburg, Ill.

Mr. Speaker, I want my colleagues in this Chamber to know of my affection, respect, and gratitude to Joe and Madalene which I will be expressing in person when I meet with them at this annual affair, which has been designated as "Joe Welch Day."

Those of us in the public service recognize the sacrifice and the dedication which accompany and characterize our work. These qualities are epitomized in the life and service of my friend, Joe Welch.●

IN MEMORIAM—ROBERT FRANCIS KENNEDY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. PEPPER. Mr. Speaker, distinguished colleagues, I would like to add my sincere commendation to the action taken yesterday by the House in allowing, unopposed, the speedy passage of a bill I introduced earlier, H.R. 8389, authorizing the striking of a medal in memory of the late Robert F. Kennedy, Senator from New York, and courageous Presidential aspirant, whom we all remember for his fine, exemplary qualities of virtuous style and human substance. He was a man of greatness and conviction in the political arena, speaking for the people of our Nation, many of whom would otherwise remain still without a voice, and for simple justice and compassion. With my sincerest appreciation of the action taken yesterday in his name, I would like to append here a statement I made earlier this year before the Subcommittee on Historic Preservation and Coinage, as well as a statement by Mr. Joe Blumenthal of Miami, who has long worked and hoped for this act of kind and due recognition of one of our great, tragically sacrificed leaders.

STATEMENT OF THE HONORABLE CLAUDE D. PEPPER

Mr. Chairman, members of the subcommittee, thank you for inviting me here this morning, to testify on behalf of a bill I have introduced earlier, concerning some official recognition of the public life and contributions of the late, distinguished Senator from New York, Robert Francis Kennedy.

Following the lead of his great brother, John F. Kennedy, Robert Kennedy aspired to carry on work for the people of our nation, which his brother, the President, and other great leaders, had undertaken to open up opportunities and reaffirm an environment of equal respect for the shared human qualities of America, such as merit, work, ambition, faith, love, and hope without regard for color, religion, sex, age, and so forth, which had fallen into widespread decline, and which we still struggle to defend as a precious asset of their republic.

Having served this nation in many various capacities, as a Navy man towards the close of the Second World War, as a lawyer in the Department of Justice, an investigator and later Staff Director for the Senate Subcommittee on Investigations, as Senator McClellan's Chief Counsel for the Select Committee on Improper Activities in the Labor and Management Fields, as his distinguished brother's Campaign Manager in 1960, as U.S. Attorney General from 1961–64, as a member of the U.S. Senate from 1965 until his tragic death in 1968, and, finally, as one of the aspiring and brilliant articulators of the public will in the Presidential Campaign of 1968, Robert Kennedy served as an honorable leader and servant of our great people. Along with other outstanding politcal candidates, workers and public figures, he set an example of high ideals, strong effort, merit and integrity for those who follow him.

I know we all respected Robert F. Kennedy, and, though some did not share his political strategy, nor some of his beliefs, none would deny that the courage with which he lived his life and gave it to the bullet of his arrogant assassin, is to be remembered with admiration in our hearts. The men who think themselves above the common sense and votes of our people, whose freely given approval and advice was sought by Robert Kennedy, such deluded individuals, enemies of a responsible and rational democracy, we would implicitly deny and dishonor with this proposed gesture, this graven image of remembrance and respect for Robert Kennedy, as we would honor him.

For these reasons, and as a token to Senator Kennedy's valiant, surviving family, I urge you, Gentlemen, to lend your approval to the striking of a commemorative medal honoring Robert F. Kennedy, to be given to his wife and available to the public, as proposed by HR 8389.

Thank you very much.

Mr. Chairman, I have here a copy of a short statement by Mr. Joe Blumenthal of Miami, Florida, who gave impetus to this bill many years ago, and who has worked with me in making it possible to present this idea to the subcommittee. I ask that it be included in the Record.

STATEMENT BY JOE BLUMENTHAL

Mr. Chairman and members of the subcommittee, my name is Joe Blumenthal of North Bay Village, Fla. I was born in Cleveland, Ohio. I am presently employed at Mt. Sinai Hospital in the drug department. I have been here for the past 25 years, starting in March 12, 1954, with a good record under Samuel Gertner, executive vice president, and Alvin Goldberg, executive director. In August, 1968, my suggestion was born by our dear Congressman Claude Pepper and myself. I wrote to Congressman Pepper about this matter suggesting that he look into the possibility of introducing legislation to present a gold medal to Mrs. Ethel Kennedy, the widow of Senator Robert F. Kennedy. Our first bill was H.R. 19326, introduced on August 2, 1968. This bill was not acted on by the Congress so Congressman Pepper reintroduced it in the next

Congress on May 6, 1969, as H.R. 10977. This bill failed to receive favorable consideration and was again introduced in July 1971 as H.R. 8497. Another bill, H.R. 8389, was introduced in this 95th Congress on July 18, 1977, by Congressman Pepper and is now before your subcommittee.

Mr. Robert Kennedy was assassinated in 1968. He was a good American, a good father and a good husband to Mrs. Ethel Kennedy and to their eleven children. I want those children to know that their father did his best as a good American and that he is not forgotten by the United States of America. We must give him consideration under God and it is never too late to do it. Let's show those 11 children that our country is proud of their dear father by giving Mrs. Ethel Kennedy a commemorative medal so that this family and the children will know that the United States shares their sorrow and the loss of their dear father, Senator Robert Kennedy, who never hurt anyone. So, Mr. Chairman and members of the subcommittee, please think of these 11 children and their mother, Mrs. Ethel Kennedy. I am certainly encouraged by your subcommittee scheduling this hearing on the bill, H.R. 8389, and hope it will be favorably reported to the full committee and to the House for action.

Thank you.●

INSURANCE INDUSTRY FORCES BUSINESS INTO SELF-INSURANCE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1978

● Mr. LaFALCE. Mr. Speaker, an excellent article in Business Week, October 2, 1978, outlines quite cogently why so many chemical companies are engaging in self-insurance.

I enter it into the RECORD so that my colleagues can better learn of insurance industry practices:

CHEMICAL COMPANIES OPT FOR SELF-INSURANCE

Alarmed by skyrocketing premiums and even cancellations of product liability insurance, a chemical industry group has launched an experiment in coverage that could point the way for other "high-risk" industries. The Chemical Specialties Manufacturers Association in September formed a self-insurance program based in Bermuda that began writing policies at a fast slip almost from day one, including several for companies that have signed on as CSMA members just to get coverage.

"Product liability blew up in the last few years for everybody," says CSMA President Ralph Engel. Along with industrial chemicals producers, the makers of metalworking machinery and sporting goods have been hit hardest. These industries had average premium increases of 200 percent in 1976 over the previous year, according to a 1977 Commerce Dept. task force report.

What pushed the CSMA into self-insurance was a study of its members that uncovered apparently arbitrary ratesetting procedures by insurers. The insurance companies were seemingly pulling premium figures out of a hat. Engel cites the "horror story" of one company that was paying $7,200 a year and then despite a clean slate of liability claims, got a new bill for $169,000. The American Insurance Assn. explains that one big claim in a high-risk industry can jack up rates all around. "Rate making from product liability is subjective," admits Grover E. Czech, an AIA vice-president.

PREMIUM COMPLAINTS

George C. Dietrich, president of Diversified Chemicals & Propellants Co., believes the insurance companies are hiking premiums artifically because they simply do not want to carry product liability policies. He says he had to shop around extensively to hold his premium hike to no more than 300 percent. Dietrich was one of the first to buy a policy under the CSMA program. Nick Sanchez, vice-president of Prentiss Drug & Chemical Co., also warmly welcomes the self-insurance operation. "For three years we were without product liability insurance, and all we could do was pray every night," he recalls.

After studying the situation for two years, the CSMA—representing the makers of products that go into such consumer goods as aerosols, detergents, waxes, and plastics—elected to organize a so-called captive insurance company. In insurance jargon, a "captive" company is one that can write policies only for its parent—or, in the case of a trade association, for its members. The new company, Chem Spec Insurance Ltd., is located in Bermuda for economic reasons. The island's government requires less seed capital for insurance companies, and the offshore operation escapes state taxes on premiums. The same considerations have drawn about 700 insurance companies to Bermuda, notes Representative Charles W. Whalen Jr. (R-Ohio), who has sponsored legislation aimed at relieving the product liability problem.

Although the CSMA formed just the one company, two others are also involved. AIG Risk Management Inc., a subsidiary of American International Group Inc., a worldwide insurer, writes the policies for Chem Spec Insurance but does not assume any of the liability.

PAYOUT PLAN

The actual liability is assumed by two insurers. Chem Spec takes on the first $100,000 per claim, up to a maximum of $1 million for multiple claims. The CSMA company is in turn reinsured for the next $900,000 per claim by an insurance company that prefers anonymity, a quirk that industry observers do not consider unusual. The total coverage per policy is a maximum of $2 million a year.

Because the liability situation cuts across so much of the business world, the CSMA says other industrial groups are lining up like tin soldiers" to study the program. Some professional associations—representing doctors and architects, for example—have set up comparable operations, and insurance officials expect the trend to snowball unless a legislative solution is forthcoming.

Congress is grappling with the problem, and several bills have been introduced that offer remedies. Whalen plans to hold hearings on four such measures before a subcommittee of the House Ways and Means Committee. But insurance companies and other businesses are generally skeptical. Predicts John W. Lepre, office manager for Andrew Edwards & Co., New York reinsurance consultants: "Ultimately, captives' are going to be the only way to go."●

TRIBUTE TO SUE BARRETT

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. McCLORY. Mr. Speaker, this Sunday, October 1, I shall be privileged to present an American Red Cross Certificate of Merit and citation to Mrs. Sue Barrett of Ingleside in Lake County in my 13th Congressional District.

Mrs. Barrett is a true heroine, as these two documents well testify. Last January 7, at Holiday Park in Ingleside, a man suffered a seizure and collapsed. Mrs. Barrett, trained in Red Cross first aid, began mouth-to-mouth resuscitation on the victim who by now was unconscious and not breathing.

He soon responded, a rescue squad rushed him to a hospital, and, through Mrs. Barrett's action, he recovered from respiratory arrest.

Mr. Speaker, the certificate of merit is the highest award the American Red Cross gives for a lifesaving act performed with skills learned in Red Cross courses. I know my colleagues join me in congratulating Mrs. Barrett and in thanking her for preparing herself, through Red Cross training, to act skillfully, surely, and swiftly when a life was in the balance.

She has positioned herself to make these skills available. She is active in the National Ski Patrol at Holiday Park where Sunday's ceremony will be held. And like so many American women today, hers is a busy life. She and her husband, James, have four sons: Ross, Keith, Craig, and Kevin. Mrs. Barrett also is employed at the Baxter Laboratories in nearby Round Lake.

The certificate of merit I am honored to present her carries the original signatures of President Carter, honorary American Red Cross chairman, and Frank Stanton, the chairman.

On Sunday, Mr. Speaker, the Barrett family; Glen Robbins, regional chairman of the Lake County region of the American Red Cross; Mrs. Barbara Martens, first aid chairman; members of the National Ski Patrol, and scores of others will pay just tribute to Sue Barrett.

Mr. Speaker, she is a woman who cares enough about people to learn how to save their lives. I know that all of us in this Chamber join in this tribute to Sue Barrett.●

THE SKILLED TRADES ACT

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. ERLENBORN. Mr. Speaker, several of our colleagues and I are today introducing a bill to protect skilled trades people by restoring their right to form separate bargaining units.

The need for this bill arises from the craftsmen's inability to form separate units when an industrial union represents all employees in plantwide or multiplant bargaining units. Although the craftsmen are able to be represented separately when an industrial union does not represent the overall plant (usually in cases of initial organization among the craftsmen only) these same craftsmen are unable to sever themselves from this overall unit once an industrial union has been certified or recognized. The National Labor Relations Act, section 9(b), states that the National Labor Relations Board shall determine "in each case

whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this act, the unit appropriate for the purpose of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof." This language is almost identical to language in the original Wagner Act, which first recognized that a "craft unit" would be an appropriate unit.

Following enactment of the Wagner Act, the Board allowed craftsmen to vote in a separate election, in initial organization, and thus have separate representation of their own (*Globe Machine and Stamping Co.*, 3 NLRB 294). However, where an employer had already been organized or a bargaining unit established, the Board did not allow the craft unit to sever from the overall unit. This policy was established in the *American Can* case, 13 NLRB 1252, where the Board refused craft severance—refused to allow craft units to be carved out of broader bargaining units already established.

Congress was aware of this inequity to craft unions when the Taft-Hartley amendments to the Wagner Act were considered in 1947. The legislation reported in both the House and the Senate reflected the concern of Congress and sought to remedy the problems presented to craft unions by the American Can case. For instance, the Senate report No. 105 on S. 1126 stated:

. . . the Board, except under unusual circumstances, has virtually compelled skilled artisans to remain parts of a comprehensive plant unit. The Committee regards the application of this doctrine as inequitable. Our bill still leaves to the Board discretion to review all the facts in determining the appropriate unit, but it may not decide that any craft unit is inappropriate on the ground that a different unit has been established by a prior Board determination.

The report further indicated that the new section would overrule the American Can case, supra.

The House report No. 245 on H.R. 3020 noted that the House bill allowed separate elections of crafts "or other distinguishable groups."

The House conference report No. 510 on H.R. 3020, before emphasizing the right of choice (of minorities and rights to refrain from mutual actions), noted that the House bill broadened the Globe doctrine, while the conference report covers in "specific terms the matter of crafts * * *" by providing—

That the Board cannot decide that a craft unit is inappropriate for collective bargaining on the ground that a different unit has been established by a prior Board determination, unless a majority of the employees in the proposed craft unit vote against separate representation.

In considering the Senate bill, Senator Taft on April 23, 1947, explained:

. . . we have provided further protection for craft unions. Today the situation is that when a new plant is organized the Board ordinarily permits the craft members of that plant to vote as to whether they will have a special craft union or join a general plant union. The board has followed the desires of the craft unit on that question. But if at the time of the first certification a craft unit is not organized, or if no action is taken, and if by default they are all included in a plant union which is certified to the Board, the Board has taken the position that after one year of such bargaining no craft union will be recognized or given an opportunity to be heard in connection with establishing a craft unit.

All this bill does is to provide that such a previous finding shall not have that effect, and that if a year later the craft people want to form a separate union they shall have the same consideration at that time as they would have had if they had taken that action when the plant was first organized. In effect I think it gives greater power to the craft units to organize separately. It does not go the full way of giving them an absolute right in every case; it simply provides that the Board shall have discretion and shall not bind itself by previous decision, but that the subject shall always be open for further consideration by the Board. 93 Cong. Rec. 3950–52; 2 Leg. Hist. 1009 (1947)

The language of section 9(b)(2) that was added by this legislative history reads that the Board shall not:

(2) decide that any craft unit is inappropriate for such purposes on the ground a different unit has been established by a prior Board determination, unless a majority of the employees in the proposed craft vote against separate representation . . .

Following the 1947 enactment of section 9(b)(2), the Board's policy fluctuated from allowing craft severance in almost all situations, to never allowing severance in certain industries, to the Mallinokrodt doctrine, developed from a 1966 case of the same name, Mallinokrodt Chemical Works, 162 NLRB 387. In that case the Board stated it would permit an "evaluation of all considerations relevant to an informed decision" and set forth six factors as "illustrative" of what the Board deemed relevant.

The Board's pronouncements in Mallinokrodt seemed reasonable. However, the history since issuance of that case does not bear out the reasonableness of the application of those factors. Since Mallinokrodt, the Board has seldom found craft severance appropriate, applying the factors in broad conclusionary terms to facts found to deny severance, ignoring facts calling for severance. Although the Board continues to allow crafts separate units in cases of initial organization, these cases have little relevance, because most crafts have already been submerged into broader, plantwide, or multiplant units.

Because the Board gives different interpretations to the same factors, depending on whether the case is initial organization or craft severance, my bill requires that craft unions be given the same considerations in both instances, and consequently frees the crafts to seek severance as anticipated in 1947. The bill does not restrict the Board from considering all relevant factors; it simply requires that the Board shall consider all weight (whether a different unit has been established by prior Board determination or bargaining history) in craft severance situations as in initial representation cases.

It is true that the Board's policy has been an attempt to bring stability to labor relations by preventing a proliferation of bargaining units. This policy should not, however, outweigh the freedom of choice of the craftsmen. As long as the act recognizes that craft units are appropriate units, the Board's policy should not negate that basic legislative policy by denying craftsmen their own unit simply because an industrial union has submerged them into their overall unit. This bill will provide the "further protection for craft unions" that Senator Taft sought in 1947.●

NOXIOUS WEEDS ACT

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. KELLY. Mr. Speaker, the Department of Agriculture appropriations bill just passed by the House of Representatives includes a provision that represents a major step in the battle to control aquatic weeds in Florida.

This bill, H.R. 13125, includes $750,000 for first-time-ever funding of the Noxious Weeds Act of 1973. Of that amount, $200,000 comprises the Federal share of the costs of a joint Federal-State demonstration project, to be conducted in Florida, on various control and eradication techniques available to be used against hydrilla and water hyacinth. Another $600,000 in the bill is targeted for the Agricultural Research Service for their continuing effort to find new and more effective ways to combat these weeds.

The gravity of the problem is apparent. The two weeds I have mentioned, hydrilla and water hyacinth, have infested 900,000 acres of water in Florida—some 36 percent of the State's water acreage, an area larger than the entire State of Rhode Island. Although it is most prevalent in Florida, hydrilla has now found its way west into Louisiana, Texas, and California, and as far north as Indiana.

The crippling effect these weeds have on key sectors of Florida's economy caused the Board of County Commissioners of Citrus County, Fla., to request the State to declare the county a disaster area. The weeds threaten agricultural irrigation, choke important transportation routes in rural areas, and severely impair small commercial fishing operations.

Beyond economic impact, a study conducted by the State division of disaster preparedness concluded that the needs also pose various public health and safety problems. The study cited drainage and water runoff, mosquito control, hazardous swimming conditions—the weeds have caused several deaths by drowning—and fire hazards in areas where canal pumps are clogged by weeds among the dangers presented by the weeds.

Local government agencies in Florida are doing all they can to control the problem. In fiscal year 1977, almost $15 million was spent in control efforts, and over one-half of that, $8 million, came from local governments, while only $1.1 million was spent by the Federal Government. This year, however, the public

works appropriations bill increased the Federal share of the eradication money, through the Army Corps of Engineers, to $2.5 million. This increase demonstrates a growing awareness here in Washington of the need for prompt action to halt and reverse the spread of water weeds.

Perhaps the single most optimistic note sounded on this problem during this legislative session, however, was the attention and interest aroused by a proposal I made to Agriculture Secretary Bergland that his Department should establish in central Florida a Federal research center for the study of new means of controlling aquatic weeds in Florida and in the other 18 States where the Agricultural Research Service has found infestations of hydrilla, hyacinth, or other similar pests. The fight to control aquatic weeds has made substantial progress this year, but a long, hard struggle lies ahead.●

THE NATION'S NEED FOR NUCLEAR POWER

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. MURPHY of Illinois. Mr. Speaker, I have long been a supporter of nuclear power. By developing atomic energy, the United States can reduce its dependence on depletable natural gas and foreign oil and move toward its goal of energy self-sufficiency.

Peter Stoler argues in the September 25 issue of Time magazine that nuclear power is essential for the Nation if it is to meet its energy needs in the future. I would like to draw my colleagues' attention to this excellent article.

THE IRRATIONAL FIGHT AGAINST NUCLEAR POWER

Back in the benign 1950s, Americans looked on the atom as a friend, a cheerful Reddy Kilowatt that would provide cheap, abundant electricity to run their factories, power their TV sets and even chill the beer they drank while watching them. Today much of this enthusiasm has not only evaporated but turned into antipathy. Antinuclear activists have slowed construction of power plants from Seabrook, N.H., to Diablo Canyon, Calif. Angry people in Texas, New Mexico and Washington have packed public meetings to protest government plans to use their areas for nuclear-waste disposal and to demand the removal of wastes already stored there. Countless Americans who have never picked up a picket sign are having serious second thoughts about nuclear power, and politicians are responding to these apprehensions. California voters rejected an antinuclear initiative only two years ago, but the state's legislature subsequently banned new nuclear construction until the problem of waste disposal has been solved. Last month Wisconsin imposed a ten-year moratorium on any new nuclear construction.

This opposition has had quite an impact. Five years ago, industry spokesmen were confidently predicting that the U.S. would have 1,000 reactors producing power by the year 2000, and utilities were ordering 40 new plants annually. But last year utilities ordered only four new nuclear plants and deferred or canceled plans to build seven more. An important reason for the slowdown is that demand for electric power has not risen as rapidly as forecasters anticipated. Yet another major factor is that delays—some necessary, others merely obstructionist—have stretched completion time of a plant to ten to twelve years. The possibility that plants now abuilding may never be allowed to operate has frightened some power companies, which have no desire to be stuck with costly white elephants. By 2000, the Department of Energy predicts, the U.S. will have no more than 500 nuclear-power plants on line; it could have as few as 200, which would generate less than 20 percent of the country's electricity.

That would be too few. According to conservative predictions, the nation's need for electricity will more than double by that time. Where will the country get the energy to satisfy the need? And do it at a price that will keep its industries competitive with those of other nuclear countries?

Certainly not from oil or natural gas. Despite the current oil glut, the world's known reserves of both petroleum and natural gas are expected to be declining by the end of the century, and it would be folly to burn what remains to generate electricity. They are far too valuable as essential ingredients for plastics, fertilizers and other chemicals and as fuel for cars, trucks and planes.

Solar energy may ultimately do much to heat and cool homes and factories, but its large-scale use for electricity is a long way off. Even a highly—some would say unrealistically—optimistic federal study forecasts that solar, wind and wave power and the conversion of sun-grown organic matter into methane would at best meet 20% of all U.S. energy needs by 2000.

Nuclear fusion, which could exploit an unlimited fuel supply and promises little contamination of the environment, cannot fill the gap either. Researchers at Princeton and other labs have made some progress on fusion, in which atomic nuclei are combined rather than split. But physicists think it will take decades of problem solving before they can even attempt to build commercial reactors.

Nor is coal the answer. Although the U.S. has an abundant supply, coal, like oil, is an exhaustible resource that would be better used in the chemical industry than for power. Deep mining is expensive, and some 100 miners are killed in accidents each year. Strip mining requires expensive reclamation if the land is not to be left looking like a lunar landscape. Coal-fired plants pump thousands of tons of pollutants into the environment annually, despite the installation of expensive scrubbers, which are often ineffective. Also, coal plants may heat up the earth's atmosphere, a phenomenon that could produce unknown and possibly unpleasant effects on climate.

In short, after weighing the alternatives, nuclear power is necessary. Why, then, the opposition? Some of it stems from an uneasiness about anything new or different and resembles the passionate, unthinking hostility that greeted powered looms, steam engines, railroads, automobiles and other technological advances. Much of the antipathy is emotional, the product of a "Hiroshima mentality" that equates nuclear power with bombs and seeks to ban both. Since the U.S. withdrew from Viet Nam, resistance to nuclear power has become the new crusade for many members of a society that otherwise lacks compelling causes. Nuclear power is an inviting target for those who revolt against bigness—big science and technology, big industry that must build and manage reactors, big government that must safeguard and regulate them. Part of the opposition stems from a desire to return to the supposedly simpler good old days, in which people would do more for themselves and, as one bumper sticker suggests, "split wood, not atoms."

The opposition reflects a doubt that growth, once the watchword of the can-do American philosophy, is good. The skeptics ignore the reality that a slow-growth or no-growth philosophy could kill the promise of upward mobility. That may be acceptable to the middle- and upper-income people who dominate the antinuclear movement. But it would condemn the poor and the jobless to a perpetuation of their have-not status and could well endanger the future of American democracy, in which the social and economic inequalities of the free system are made tolerable by the hope of improvement.

Not all of the antinuclear arguments, however, are emotional. Many reasonable people entertain reasonable doubts about nuclear power. Their main arguments concern:

SAFETY

Only a handful of hysterics believe that a conventional nuclear plant could explode in a mushroom cloud and wipe out a city. But many fear less dramatic accidents, including "melt down," which could occur if a reactor lost the water used to control the temperature of its core, ruptured and released radioactive gas and other material. Many also worry about radioactive contamination and fear that those living near nuclear plants may be subject to constant and eventually deadly exposure to radiation.

The fears are understandable, but the record so far is reassuring. Nobody in the U.S. has been injured as a result of a commercial reactor accident since the first nuclear power plant went on line 20 years ago. Indeed, with all the legally required safety devices—such as strong containment vessels, automatic shutoffs and complete backup systems—the risks of injury or death are extremely small. It has been estimated that even with 100 reactors operating (the U.S. now has 71), the odds that anybody will die in a reactor accident are 1 in 300 million a year. The risk of dying as a result of an automobile accident is 75,000 times as high. Nor does radiation now appear to be an unreasonable risk. Coal-fired plants actually emit slightly more radiation than nuclear reactors. Americans are already exposed to radiation from natural sources, color television and medical X-rays. Routine operation of nuclear plants would add almost nothing to this exposure. In fact, a person living next door to a nuclear reactor in, say, New York, is exposed to less radiation than someone who lives in mile-high Denver.

WEAPONS PROLIFERATION

Antinuclear forces charge that the spread of nuclear plants will accelerate the proliferation of nuclear weapons, particularly in unstable nations. Opponents are even more concerned that the introduction of breeder reactors, which produce more plutonium than they consume, could make it easier for terrorists to steal fissionable materials for do-it-yourself bombs. Finally, they charge that safeguarding nuclear materials would require the creation of a police state that would also mean the end of civil liberties.

These allegations are clearly exaggerated. Stringent enforcement of security measures has kept fissionable materials safe—the country already handles such hazardous substances as explosives and deadly chemicals—without impinging upon personal freedoms. The U.S. decision not to sell uranium-enrichment and reprocessing technology abroad will do nothing to prevent weapons proliferation. Indeed, it will cost America its chance to control international traffic in nuclear materials. France and the Soviet Union are reprocessing nuclear fuels for shipment to other countries.

NUCLEAR COSTS

Says David Cromie of Chicago's antinuclear Citizens for a Better Environment: "The most damning word in the English language is, 'uneconomic.'" Foes charge that nuclear power plants cost more to build than, say,

coal-burning plants, running more than $800 per kw, vs. around $700 for coal. They also argue that nukes operate well below their projected capacities, making the power they generate even costlier.

Industry figures indicate otherwise. Nuclear plants do cost more than coal-fired ones to build, but they are no less reliable. Most U.S. nukes have operated or have been available about as many days as fossil-fuel plants, which must also undergo periodic shutdowns for maintenance or safety checks. The electricity they produce is often competitive. Over a two-year period, the New England Electric System, operating in a region that is far from fossil-fuel sources, provided consumers with a nuclear-generated kw-h. for 1.239¢, or less than half the 2.596¢ for a kw-h. generated by fossil fuels. A resident of Connecticut, which draws 60 percent of its electric power from nuclear plants pays an average $25.13 for 500 kw-h. a month. A resident of neighboring Rhode Island, which gets only 14 percent of its power from nukes, pays $30.34 for the same amount.

WASTE DISPOSAL

Nuclear plants store most of their wastes, which average about 30 tons of spent fuel rods, in water-filled "swimming pools" on the plant premises. But many of these pools, intended to provide only temporary storage, are almost filled, and the wastes are piling up.

However, of those scientists who have studied the matter and expressed an opinion, the overwhelming majority believe the waste-disposal problem can be satisfactorily resolved. The reprocessing of spent nuclear fuels, which the U.S. Government has refused to allow in its ineffective effort to prevent proliferation of weapons, would convert much of the waste into fuel that would be burned up for power. The rest, say nuclear scientists, physicists and engineers, can be vitrified, or embedded in blocks of glass, then buried deep underground in geologically stable salt or rock formations. All the waste generated up to the year 2000 by U.S. power plants could be stacked 6 ft. high on a single football field.

Irrational opposition to nuclear power can only delay a solution to America's energy problems. But even if this opposition ends, some positive action is also essential. If the U.S. is to be assured of energy for the future, the present nuclear licensing process must be sensibly simplified. It is a byzantine snarl that Boston Attorney Thomas Dignan describes as "a full-employment bill for lawyers." Dignan's legal work for the Seabrook plant has generated a 5-ft. shelf of transcripts from a state hearing, 20 3-in.-thick volumes of applications to the federal Nuclear Regulatory Commission, 13,522 pages of transcripts from the NRC hearings, a 5-ft. shelf of papers filed before the NRC's licensing board, and a whole forest's worth of other pleadings, briefs, exhibits and environmental impact statements.

Much of this paper-work morass can be avoided without compromising the safety or civil rights of anyone. The Administration's proposed nuclear licensing bill would allow the NRC to give final approval to plants that follow a standard, accepted design for construction on previously approved sites. In that way, it would eliminate some layers of review agencies and reduce the opportunities for opponents to reopen litigation on issues that have already been legally resolved by courts. Unfortunately, there will be no action on this proposal before 1979. Legislation to place the licensing process in the hands of fewer agencies (approvals may now be required from as many as 40) also should be introduced. This could reduce the time for completing a power plant to six years and thus help make construction costs lower and more predictable.

Nuclear power did much to help the U.S get through the storms and coal strike that crippled fossil-fuel plants last winter, providing much of the electricity for hard-hit New England and the battered Midwest. Similarly, nuclear power could save the country from the specter of industrial shutdowns and power blackouts as the oil runs out. Even conservative estimates are that the U.S. will need 390 nukes to provide at least 27% of its electric power by 2000. The time to start building these plants is now. Otherwise, they will not be ready when the nation really needs them.●

OIC OF GREATER MILWAUKEE FIGHTS UNEMPLOYMENT

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. REUSS. Mr. Speaker, on Friday, September 22, the House completed action on H.R. 12452, to reform and extend the Comprehensive Employment and Training Act (CETA) of 1973. CETA is one of the main initiatives of Congress to assist the unemployed, particularly to make sure that they obtain the job training, skills, and experience necessary to obtain employment in the private sector. I hope that the House-Senate conferees will soon resolve the differences between the House and Senate versions of the CETA extension bill and report a strong bill back to us.

I want to call my colleagues' attention to one difference between the House and Senate versions. The Senate bill, S. 2570, included in section 123(m) language which specifically states that the Secretary of Labor and prime sponsors under the CETA program:

> Shall give special consideration, in carrying out programs authorized by this Act, to community-based organizations . . . which have demonstrated effectiveness in the delivery of employment and training services.

The Senate bill goes on to define "community-based organizations" as nonprofit organizations which provide employment and training services, and names several of those organizations, including Opportunities Industrialization Centers (OIC's), the National Urban League, SER-Jobs for Progress, and several others. The House bill does not contain that language.

The Senate language was originally proposed by Senators SCHWEIKER, RANDOLPH, RIEGLE, and HATCH, and it was unanimously approved by the Senate Human Resources Committee. It is similar to language adopted in the original CETA legislation in 1973, and similar to language which Congress included last year in the Youth Employment and Demonstration Projects Act. I hope that the House-Senate conferees will adopt the Senate's language on this point.

My congressional district in Milwaukee has a very active and successful OIC, known as the Opportunities Industrialization Center of Greater Milwaukee (OIC–GM). It illustrates the unique and effective self-help program developed by Dr. Leon Sullivan, who formed the first OIC in Philadelphia in 1964. OIC–GM recruits the unemployed through outreach programs, and provides counseling, provocational and skills training, and assistance with job development, job placement, and post-placement counseling. OIC–GM also offers high school equivalency training and vocational education, and works in close cooperation with the local CETA prime sponsor, local businesses, the Jewish Vocational Service, as well as other community-based organizations in Milwaukee, including the Urban League and SER-Jobs for Progress. OIC–GM's success is shown by its 78-percent job placement rate, and its 85-percent job retention rate.

Similar OIC's are operating in 150 cities around the country. They have a record of dedication and success in the fight against unemployment, and adoption of the Senate's language in support of those programs will help guarantee that that fight will continue.●

TRIBUTE TO BONNIE JONES

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. NEDZI. Mr. Speaker, America is a land rich in variety and talent and distractions.

It thus often happens that even the most talented persons in sports, music, and literature are not universally known. They are, nevertheless, known and appreciated by that segment of our population knowledgeable about their particular endeavor.

In this regard, the sport of softball has its standout athletes, its fans, and its experts. The slow-pitch variety, a game of power and skill, has lately enjoyed mushrooming popularity. Indeed, the Detroit Caesars, the national slow-pitch champions, are based in East Detroit, Mich., in my congressional district.

The fast-pitch softball leagues have been established for a longer period. At the top levels the player are wonderfully skilled—and the pitcher is the key performer.

Nobody in the entire Nation was better on the pitcher's mound than the late Bonnie Jones, who died earlier this year in a tragic auto accident.

He will be honored at a testimonial in Michigan on November 18 and it would be appropriate to somehow place in the permanent record the greatness of this man's performance in a tough and challenging game.

Bonnie Jones was a Detroiter. He began pitching class A fast-pitch softball at the age of 18 and was a standout for 30 years.

He pitched 180 no-hitters and 40 perfect games (including 4 in 1 week) on his way to a remarkable 1,192 victories in 1,300 games pitched. He was voted the most valuable player in world tournaments in 1961, 1964, and 1970 and compiled a World Series record of 40 wins and 14 losses against the best teams in the United States.

A Macomb (County) Daily sports writer once said of the flamethrowing pitcher, "Life's not easy for a boy named

Bonnie. But *** wisecracks gave way to awe over the talent of Bonnie Jones ***.

"Speed? Jones' hummers came across the plate at 100 mph in the prime of his career. That's a bit faster than major league baseball pitchers can throw. And with the mound closer to the plate than in baseball, well, it's like trying to hit cannon shots."

Jones spent most of his amateur career with Burch Gage & Tool Co., Detroit. The team traveled widely.

Strong pitching is the name of the game in fast-pitch softball. But Jones also was a lifetime .280 hitter, a testament to his all-around ability.

Bonnie Jones was only 46 when he died, the tragic victim of a crash where the other driver entered the wrong way on an Interstate exist ramp.

In 1975 he had been enshrined in the Michigan Amateur Sports Hall of Fame.

There may never be another like him.●

DEFENDING HELSINKI

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. FASCELL. Mr. Speaker, in my capacity as chairman of the Commission on Security and Cooperation in Europe, I have had the opportunity to hear the views of many distinguished men and women—both from this country and from abroad—on the value of the Helsinki process in fostering respect for human rights. One of the most eloquent spokesmen to appear before the Commission is Dr. William Korey, director of international policy research of B'nai B'rith. Dr. Korey, a foremost authority on human rights and Soviet Jewry and the author of several papers and books on these subjects, expressed his views on the utility of the Helsinki agreement in an article which appeared in the August 7 edition of the New York Times. In the event that some of my colleagues may not have seen this thoughtful piece, I am inserting it in the RECORD.

The article follows:

DEFENDING HELSINKI

(By William Korey)

The rising clamor for unilateral abrogation of the Helsinki accord in consonant neither with the hopes of Soviet dissenters nor with our role as a champion of human rights.

To scuttle a major international standard of détente, out of frustration, would serve no one's interest but the Kremlin's.

The Helsinki Final Act constituted a landmark in international relations. It was the first time in history that human rights was accorded the status of a fundamental principle in regulating interstate relationships.

Among 10 principles specified in the Final Act to guide such relationships was Principle VII—"respect for human rights and fundamental freedoms." Elaborating upon this principle was the so-called Basket III that gave detailed expression to freedom of movement of peoples and ideas.

Initially skeptical about Helsinki, Soviet activists came to perceive its provisions as a beacon of hope and inspiration. Voluntary watch committees sprang up to monitor compliance.

Their frame of reference was precisely the core formulation of Principle VII—"the right of the individual to know and act upon his rights."

It is precisely the application of the core theme that has aroused the fury of Soviet officials and resulted in their current extraordinary assault upon the very foundation of the Final Act.

Approximately half of the membership of the six Russian monitoring committees have been arrested and convicted merely for fulfilling an injunction that would enable the public to "know and act upon" their rights.

The climax of brute Soviet repression came with the trial and conviction of Anatoly Shcharansky in proceedings that echoed the notorious Dreyfus case in France at the turn of the century.

The deliberate perversion of the Helsinki Final Act necessitates a vigorous response from the West, especially when the very core of the human rights principle is threatened with evisceration. But a response that would abrogate the accord would deprive the dissidents of the banner to which they cling.

It would also destroy the machinery of review every two years that enables the United States and the West to document violations of human rights. Such airing has not been without positive and beneficial consequences.

Fortunately, the Final Act itself offers the remedy for coping with the Soviet assault. "All its principles" are declared to be of "primary significance" and must be "equally and unreservedly applied each of them being interpreted taking into account the others." Here, clearly stated, is the theme of reciprocation and accommodation.

In concrete terms, linkage means that the relationship between Basket I (on security) as well as Basket II (on economic and cultural cooperation) and Basket III must remain symmetrical. Any diminution of Basket III necessitates a corresponding response from the West with respect to the other Baskets.

Economic cooperation warrants particular attention. An effort in Congress to circumvent the Jackson Amendment by permitting the Soviet Union to receive credits from the Commodity Credit Corporation has appropriately been rebuffed in the House.

Prime Minister Aleksei N. Kosygin recently appealed for "normal conditions" of trade with the United States. Demand for Soviet adherence to the minimal human rights standards specified in Basket III is an appropriate response.

The program of scientific and cultural cooperation should be carefully scrutinized at the executive level. There are 11 executive agreements between the United States and the Soviet Union on scientific exchanges ranging from technology to housing, from energy to heart research. These ought to be carefully re-examined to ascertain whether our continued adherence to any or all of them is essential. The scrutiny might be extended to the area of sports—which is specifically mentioned in the Final Act—especially since Moscow is scheduled to be the site of the Olympic Games in 1980. It goes without saying that the symbol of fair play should not be allowed to become a mockery.

The uses of Helsinki are varied and adequate to cope with its abuses. The Kremlin, until now hoist by its own petard in promoting Helsinki, would welcome nothing more than a United States pullout.●

DEDICATION REWARDED

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. TEAGUE. Mr. Speaker, Mr. Jose Coronado began working for the Veterans' Administration 16 years ago. He has made his way up the ladder by compiling a record of dedicated and assiduous work. Today he is Director of Audie L. Murphy VA Hospital in San Antonio, Tex., the first Mexican American to achieve this position.

The following article about him appeared recently in the San Antonio Star, and I would like to share it with my colleagues.

[From the San Antonio Star, Sept. 10, 1978]

(By Veronica Salazar)

DEDICATION REWARDED

CORONADO THRIVES ON EARLY TRAINING

Jose R. Coronado grew up with a feeling of self-assurance, accomplishment and success.

These three factors instilled in him as a child by his parents have molded the successful life and career he enjoys today.

Coronado is director of the Audie L. Murphy Memorial Veterans Administration Hospital—the first Mexican American to serve as director of a V.A. hospital in the country.

He wanted to become an engineer like his older brother. Coming from a family of seven children—two families so to speak because Coronado and another child came along after several years—he aspired to be like his big brother who was studying engineering at the time. But as time went on Coronado was doing especially well in the arts so he was encouraged to enter pre-med. His older sister was his teacher in junior high. The encouragement, inspiration and motivation not only came from his parents but also from his older brothers and sisters.

That was approximately 25 years ago. He did not become an engineer. Neither did he become a medical doctor but stayed very close to the field of medicine.

After graduating as valedictorian from high school in his native town of Benavides, Coronado enrolled at UT-Austin to study pre-med. After his third year the Korean war was starting and people were beginning to be drafted. In 1951 he decided to drop school, stay home and be a substitute teacher until he would be called. He taught elementary school in the meantime.

Coronado was drafted in January 1953. Because he knew how to type well he was excused from basic training after two weeks and became a clerk at the battalion headquarters. He was promoted to PFC, to corporal and to operations sergeant in two years.

He was discharged in January 1955 and returned to teaching. He was debating whether to continue medical school. He realized the cost would be high and his parents were unable to afford it so he decided to finish his undergraduate work at Texas A&I University going to school on Saturday and summers. He received his B.S. in zoology and chemistry in 1957.

He taught chemistry and biology in Benavides until 1958. A year later he became head of the science department at Hebbronville High School. Teaching part-time, Coronado obtained his masters in educational administration and biology from Texas A&I in 1959. The summer of 1958 he received an award from the National Science Foundation to study chemistry at Howard Payne College.

In September 1961 he became assistant high school principal in Hebbronville but continued teaching science. A year later he felt he was ready for a change. In 1962 he went to Houston to work for the V.A. Hospital as administrative officer in research and education in medicine. When Coronado applied for the position, the hospital was looking for someone 35 years of age with experience. Coronado was only 28 but was given the opportunity.

He remained in Houston 10 years. During this time there was no associate chief of staff at the hospital. "I really learned to stand on my own two feet." Coronado went from a GS-7 to a GS-13 in four years and administered a budget from $400,000 to $1.3 million in 10 years.

The V.A. grew after World War II. There was no back up for administrators and no trained people to take over. In 1969 Coronado was selected to go to graduate school to get training. He started the program in 1971 at Fort Sam Houston and was assigned to the V.A. hospital in Kerrville as an administrative resident. The last nine months of his residency he spent in San Antonio before the V.A. hospital opened. He obtained his master of hospital administration from Baylor University in 1973 and shortly thereafter he was promoted to assistant hospital director in San Antonio through the actual activation of the hospital beginning with three employees.

In 1975 Coronado became director of the hospital. He has been with V.A. 18 years and has never left Texas. It is unusual but Coronado was resident and assistant hospital director at the same time.

He supervises a staff of 1,600 and administers an annual budget of $40 million. Under his jurisdiction are three satellite clinics—one in downtown San Antonio, Corpus Christi and McAllen and his staff provides administrative support for two cemeteries in San Antonio.

"I am very happy doing what I am doing. I now feel that I wouldn't have made a good doctor but I am glad I stayed close to medicine because I wanted this."

He recalls being totally "green" at it when he joined V.A. but was turned on with new ideas and innovative ways. The V.A. hospital in San Antonio is the first V.A. hospital to have primary nursing (mostly RN's) to give continuity of care. In the pharmacy department they have the unit dose system where the pharmacist provides medication for each individual in a cassette to eliminate error. This is a 24-hour-seven-day a week service.

Coronado says his people run a smooth effective institution in San Antonio. He does not consider being the first Mexican American V.A. hospital director his single most important accomplishment. "Being a minority is not a super equal. The equal employment opportunity program must insure that everyone has a chance to compete.

Coronado is past state president and past national vice president of Young Engineers and Scientists of America Counselors Association. He is a member of the Society of Research Administrators, South Texas Regional Blood Bank and serves on the Council of Teach Hospitals of the Association of American Medical Colleges. He is presently serving as president of the San Antonio Federal Executive Association.●

THE VIETNAM VETERANS ACT OF 1978

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. BONIOR. Mr. Speaker, on Monday, September 25, the Vietnam Veterans in Congress introduced the Vietnam Veterans Act of 1978. Our group is composed of Members of Congress who served in the Armed Forces during the Vietnam era and we have spent several months in shaping legislation which will finally address the problems of Vietnam veterans in a comprehensive manner.

We feel this bill is essentially a tool of justice. Time is running out for the Vietnam veteran. He now averages almost 33 years of age and Max Cleland, VA Administrator, has estimated that one out of five still has readjustment problems. We cannot allow a generation of young American veterans to founder because we would rather forget a war which we sent them to fight.

The Vietnam Veterans Act deals with education, employment, psychological counseling, drug and alcohol abuse treatment, and housing. Members will shortly be receiving information about it and we would welcome your support.●

A CASE FOR GOOD FAITH BARGAINING

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. ERLENBORN. Mr. Speaker, recent news from the other body that a "bare bones" labor reform bill is being marked up by the Human Resources Subcommittee on Labor points up yet again that organized labor is not hearing the message.

That message is: The days of labor dictating the terms of legislation to the U.S. Congress are over.

The days of the Members meekly accepting legislation written and introduced by organized labor are past.

The days of using the threat of withdrawal of monetary support for election campaigns to insure blind obedience to labor's whims are with us no longer.

These days are gone, Mr. Speaker, but organized labor has not gotten the word.

The labor reform bill, as originally introduced, caused an immediate flurry of activity. This activity took the form of well-organized, well-funded lobbying groups supporting their side of the issue taking up the banner.

Literally millions of dollars have been spent in support of, or opposition to, labor law reform. Untold hours have been spent plotting strategy. Unnumbered lines of print have appeared supporting one view or the other.

We are all familiar with the rule which was granted for the consideration of H.R. 8410. It was termed a "modified open rule." It was as close to a closed rule as we have had, without being actually called a closed rule.

The rule required that any amendments to H.R. 8410 be printed in the RECORD at least 2 days prior to its being offered. That gave organized labor ample time to draft amendments to the amendments, or to prepare its arguments in opposition to any amendments.

H.R. 8410 passed the House with virtually no substantive amendments.

Mr. Speaker, at no time—never—did a representative of organized labor contact me to see if there was any room for compromise. At no time was I asked if there was any common ground on which a good and acceptable bill might be built. At no time was any effort made to call a halt to the drum beating, the chest pounding, or the diatribes that were being printed by both sides.

This was no isolated case. There have been very few times, over the past 12 years, when any discussions of that sort have taken place.

Organized labor has simply continued to bludgeon the Congress into accepting its will.

After the other body successfully filibustered labor law reform, it was sent back to committee. Many of us thought that, given the schedule and the enormous amount of work left to be accomplished, it would have been left in peace in committee.

Like the Phoenix, Mr. Speaker, labor law reform—or the bones of labor law reform—is rising from its own ashes to haunt us again.

There are many pieces of legislation which are still before the Congress. Many are minor, some are important, a few are vital. These pieces of legislation have been patiently waiting their turn on the legislative calendar. Their supporters have been looking forward to the day when they would be up for consideration.

Organized labor, however, has its piece of legislation and it must take precedence over all others.

Never mind that it has had its day in court. Never mind that it has been debated down to the smallest semicolon. Never mind that there is other, more important business to be considered. Organized labor wants this bill, and they think they can get it.

Perhaps they will get it. It is very late in the session. We would all like to go home. There is no time for opponents of labor law reform to gear up their machinery. We all recognize the techniques. Get into the last-minute flurry and hope it goes through unscathed.

Perhaps it will.

Whether labor law reform is adopted by this Congress or the next, or never at all, is not of basic importance. Organized labor, which has fought so hard for so long for the right to bargain collectively has never learned the lessons it has taught management.

There comes a time when the billyclub methods no longer work. The present leadership of organized labor still remembers too clearly the union riots of the twenties and thirties. They still remember the excesses of management in the early days of the labor movement. I will not attempt to condone those excesses.

Neither should my colleagues who support labor's views condone the excesses of organized labor.

If there are problems with the National Labor Relations Act, and I have no doubt that there are, let us sit down together and solve them.

Mr. Speaker, I am not asking that the leaders of organized labor stop pressing for those issues which are important to them. I am merely asking that they do what they have always wanted management to do; what labor law reform is, according to its proponents, supposed to do.

I am asking that organized labor begin to bargain in good faith—with the Congress.

Let us stop wasting millions and millions of dollars on propaganda. Let management put its money to building new,

safe workplaces. Let labor use its money providing better services to its members.

We are all, in most instances, reasonable people. I firmly believe that reasonable people can come to reasonable solutions to even the most difficult problems.

This is a new age, Mr. Speaker. I stand ready to discuss labor issues with representatives of organized labor at any time. I hope that we can begin to reason together to solve those problems which face us all. I am offering to bargain in good faith. I hope my offer is accepted.●

UNITED STATES MUST BEAR RESPONSIBILITY FOR RECENT EVENTS IN NICARAGUA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. WEISS. Mr. Speaker, the United States has a heavy responsibility to bear for the recent and continuing events in Nicaragua. I believe it is imperative for the Carter administration to call publicly for the resignation from office of General Somoza and to express openly our nation's support for the heroic struggle of the Nicaraguan people.

As the broad range of resistance to the Somoza dictatorship makes indisputably clear, the overwhelming majority of Nicaraguans want a government that is committed to democratic principles and social and ecoonmic progress. Thousands of Nicaraguans from every class are giving their lives for this cause.

Somoza's attempt to break the general strike through terrorist tactics indicates just how isolated the Nicaraguan ruling elite really is. The Somoza regime is being actively and courageously opposed by peasants, urban workers, business leaders, small shop owners, the Roman Catholic clergy and hierarchy, students and even some elements within the military and police forces. Against this wide and concerted opposition, the regime is trying to assert its continued hegemony with bullets and indiscriminate executions.

Mr. Speaker, one of my colleagues from New York, (Mr. MURPHY), recently asserted on the floor of the House that the Somoza government is a constitutional entity, democratically elected by the people of Nicaragua. The slain editor of La Prensa, Nicaragua's major opposition newspaper, contradicted these claims in detail following the 1974 balloting that returned Somoza to office.

The late Pedro Joaquin Chamorro pointed out that thousands of ballots were cast by decreased or fictitious persons. He documented pervasive fraud by election officials, including destruction of anti-Somoza ballots and inaccurate vote counts.

This is no "democratic, constitutional" government in Nicaragua. This is a bloody tyranny that clings to power at the cost of thousands of Nicaraguan lives. Too often the Nicaraguan despots have taken solace and strength from U.S. expressions of support or, at other crucial times, a deafening silence from Washington.

A particularly discouraging example of our Government's posture toward Nicaragua came as recently as August 1, 1978, when President Carter wrote to Somoza praising alleged gains made in the human rights situation there.

Unfortunately, the President's action is generally consistent with the historic U.S. policy toward Nicaragua. It is now time that we broke this tradition of support for the Somoza dynasty by urging the resignation of the current ruler and by calling for free elections at any early date.

Our Nation's involvement in this troubled Central American country began in the first decade of this century. U.S. Marines intervened in Nicaragua for the first time in 1909, and a U.S. occupation force remained in the country almost continuously until 1933.

In 1927, the United States started training a Nicaraguan military force which was the predecessor of today's infamous National Guard. General Anastasio Somoza Garcia was appointed by the U.S. Ambassador to Nicaragua to head this unit when American troops finally withdrew from the country in 1933. Somoza seized state power 3 years later, initiating the tyrannical dynasty that has oppressed Nicaraguans for 42 years.

According to information developed by the Institute for Policy Studies, the United States has supplied the Somoza regime with more than $30 million in military material and assistance since 1950, a substantial sum for a nation of 2.3 million people. As we learn from press accounts of the fighting in Nicaragua, nearly all the weapons in Somoza's arsenal are made in the United States of America.

This equipment includes supplies delivered to Nicaragua during the past 3 years. Among the weapons and military devices sent to Somoza since 1975 are the following: three Cessna A–37B Dragonfly counterinsurgency aircraft, three Douglas C–47 transport aircraft, two Bell UH–1H utility helicopters, 18 armored cars, an unspecified quantity of Sikorsky UH–34C helicopters, 5,000 M–16 rifles, 1,156 rifles, 1,742 pistols and revolvers and more than 18 million cartridges of ammunition.

About 75 percent of Nicaragua's Armed Forces has received U.S. training, with a select few trained in counterinsurgency and "urban counterinsurgency" operations. Among the Nicaraguan military figures trained in the United States are the current dictator, who attended West Point, and his son, the commander of Nicaragua's special forces, who was enrolled in the Army Institute for Military Assistance at Fort Bragg, N.C.

Why this intense interest on the part of the United States in insuring the security of the Somoza dynasty? I would submit to my colleagues that one major reason is the significant investments in Nicaragua by U.S.-based multinational corporations and the more than $350 million in outstanding loans to the Nicaraguan Government by U.S. banks.

According to the Wall Street Journal, investments by U.S. transnational firms in Nicaragua currently exceed $100 million. Some of the largest U.S. corporations and financial institutions, such as General Mills, Olin, Monsanto, Nabisco, Bank of America, and Citibank, have a vested interest in Nicaraguan "stability."

While our Government is at least refraining now from any expressions of support for Somoza, U.S. citizens are apparently fighting in Nicaragua on the side of the dictatorship.

The Washington Post reported on September 9, for example, that a plane carrying two U.S. citizens trained in military operations was downed in Nicaragua. Other press reports have indicated that an active mercenary recruitment drive is underway in our Nation today. A U.S. citizen named Guy Galdabon admitted on the September 14 "CBS Morning News" that he is currently recruiting mercenaries here for combat in Nicaragua.

Mr. Speaker, our Nation has laws against this kind of activity. Indeed, a delegation of distinguished attorneys, including Robert Goldman, a professor of interntional law at American University, met this week with Justice Department officials to insist that the provisions of the Neutrality Act (18 U.S.C. 959, 960) be fully enforced.

I support this request and I hope that the administration will move now in a much more positive direction in our Nicaraguan policy. The President's strong commitment to human rights throughout the world will again be demonstrated if his administration urges the resignation of General Somoza. Such a step would be in the best interests of Nicaragua, the United States and hemispheric peace.●

SUGAR PRODUCERS

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. LEDERER. Mr. Speaker, we have heard much weeping lately about the poor sugar producers and their need for, at a minimum, 16-cent sugar. And still more mumbo-jumbo about what it costs to produce sugar.

In light of this, I believe my colleagues will be most interested in a startling little item that appeared in the Digest of Earnings Reports section of the Wall Street Journal on September 26. I insert it at this point:

[From the Wall Street Journal, Sept. 26, 1978]

DIGEST OF EARNINGS REPORTS

U.S. SUGAR CORP.

	Quar. July 31	
	1978	1977
Revenues	$68,620,502	$70,440,470
Net income	5,283,941	4,614,097
Shr earns:		
Net Income	2.16	1.86

That section indicates that the U.S. Sugar Corp., which is a large Florida sugar producer, had net income of $5,283,941 for the quarter ending July 31—up $669,844 or nearly 15 percent from a year earlier. Wow.

This spectacular performance came about when raw sugar was selling for 13 or 14 cents a pound. It takes no mathematical genius to figure out what U.S. Sugar's earnings will be if the sugar bill reported by the House Agriculture Committee is adopted. That bill was tailored to meet the needs of U.S. Sugar and a handful of other corporate producers.

I urge my colleagues to reject the Agriculture Committee bill and adopt the moderating amendments approved by the Ways and Mean Committee.●

S. 274 SHOULD BE VETOED

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. WEISS. Mr. Speaker, I was 1 of 12 House Members to cast a "nay" vote on S. 274, a bill which prohibits labor organizing and unionization activities within the U.S. Armed Forces.

While I do not support military unionization, I do place a very high value on the freedoms guaranteed to Americans in our Bill of Rights. S. 274 fails, in my opinion, to safeguard these rights adequately and this is the major reason for my opposition to it.

The American Civil Liberties Union has pointed out that this legislation's overly broad language will make advocates of GI rights and counselors for enlisted personnel liable to felony prosecutions. ACLU analysts conclude that many of S. 274's provisions will not be able to withstand the test of constitutionality in our courts.

The Department of Defense already has numerous regulations that effectively prohibit unionization of the Armed Forces. Indeed, these rules are so well suited to the Pentagon's purposes that the Defense Department opposed S. 274.

And in addition to barring any potential unionization effort in the Armed Forces, this legislation jeopardizes the current union membership of some 14,000 civilian technicians employed by the National Guard and various Reserve units.

I do not believe that this bill is either necessary or sufficiently respectful of our Constitution's protection of freedom of association and speech. President Carter can avert the likelihood that this legislation will be overturned in the courts by vetoing the bill.

I urge him to do so.●

A TRIBUTE TO THE THOMAS D'ALESANDRO'S ON THEIR 50TH WEDDING ANNIVERSARY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Ms. MIKULSKI. Mr. Speaker, on Saturday, I will be attending a 50th wedding anniversary party to honor one of our former colleagues and his wife, Nancy. Thomas D'Alesandro, Jr., who many of my colleagues know well, served in the House of Representatives from the 76th to the 80th Congress.

From his days as a youth working in a box factory up to the present, Tommy D'Alesandro has made innumerable valuable contributions to both the State of Maryland and the city of Baltimore. Besides being a very effective Member of Congress, Tommy went on to become mayor of Baltimore. Under his guidance, Baltimore blossomed during the years that he was in office, from 1947 to 1959; included in the improvements were 10 new schools, over 600 miles of roads were repaved, and the port underwent an ambitious development program.

Nancy, his wife, has proved to be an inspiration to all who know here. Her work for charitable and religious groups has set a fine example for our community. Her active concern for others is a trait that should be emulated by all.

The D'Alesandros have dedicated many years working for the betterment of Maryland, and we who know them, hope that they continue to have many healthy and happy years together.●

PERSONAL STATEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. DOWNEY. Mr. Speaker, on September 26, I was unavoidably absent for the first part of the legislative day. Had I been present for the first four votes of the day, I would have voted in the following manner:

S. 274, to prohibit unionization in the Armed Forces, rollcall No. 832, "yea."

H.R. 9333, hydroelectric powerplants authorization, rollcall No. 833 "nay"

H.R. 12728 Susan B. Anthony Dollar Coin Act, rollcall No. 834, "yea."

S. 2727, Amateur Sports Act of 1978, rollcall No. 835 "yea."●

SENATE—*Friday, September 29, 1978*

(Legislative day of Thursday, September 28, 1978)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Eternal Father, as we pause to pray this day, we remember before Thee Thy servant John Paul I whose gentle pastoral leadership brought so much promise in so brief a time. For his loving pastoral care, his simple piety, his creative writing and his infectious good humor we give Thee thanks. For his sense of continuity in change and for his innate spirituality, we give Thee thanks. Show us again that life is not measured by length of days but by the quality and intensity of living. May something of his joy, his tenderness, and his simplicity fall on others.

Give consolation to all who mourn and the guidance of Thy Holy Spirit in charting the future leadership in a fellowship of divine grace.

We pray in the name of Thy Son. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 29, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order the minority leader is recognized.

Mr. BAKER. Mr. President, I shall take just a moment. I see the distin-

guished Senator from Vermont is in the Chamber and ready to use his special order time.

POPE JOHN PAUL I

Mr. BAKER. Mr. President, I rise briefly to express my regrets in the passing of Pope John Paul I.

The appropriate remarks of our Chaplain this morning I am sure mirror the sense of loss that the entire Christian community feels at the early and untimely death of Pope John Paul.

I extend my condolences and understand, I believe, some of the sense and feeling of loss among the Christian community and the Catholic community throughout the world.

Mr. President, I have no further need for my time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Vermont (Mr. STAFFORD) is recognized for not to exceed 15 minutes.

65TH ANNUAL FALL MEETING OF INTERPARLIAMENTARY UNION

Mr. STAFFORD. Mr. President, the U.S. delegation to the 65th annual fall meeting of the Interparliamentary Union returned to Washington on the evening of Thursday, September 14. The delegation consisted of the following members:

Robert T. Stafford, United States Senator, Chairman.
William Lehman, House of Representatives, Vice Chairman.
Del Clawson, House of Representatives.
Robert Duncan, House of Representatives.
Guy Vander Jagt, House of Representatives.
Charles E. Wiggins, House of Representatives.
Antonio Borja Won Pat, House of Representatives.

Our delegation had left the United States for the conference on Saturday, September 2.

The conference was hosted by the West German Government at its capital, Bonn, during the period September 4 to 14, 1978. In the course of the meeting, after much debate and many amendments, resolutions were adopted on the final day at Plenary Session reflecting major international problems on six subjects of international interest.

The conference was attended by delegations from 72 nations numbering in all about 700 delegates.

Unfortunately, few Americans know much about the Interparliamentary Union. What is the Union? How long has it existed? Why does it exist? What purpose, if any, does it serve? What has been our role in the Interparliamentary Union? Is it worthwhile for the United States to belong to this worldwide conference of parliamentarians? I propose to address these questions in this and subsequent discussions.

IPU, as the Union is called for short, and I shall refer to it as such hereafter in these remarks, began in 1889. It thus predates by many years both the League of Nations and the United Nations. Its basic purpose is:

To promote personal contacts between members of all Parliaments, constituted into National Groups, and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of representative institutions and in the advancement of the work of international peace and cooperation.

Essentially, IPU is a conference made up of parliamentarians in contrast to the better known international conference, the United Nations, which is basically composed of diplomats. Diplomats may debate and agree upon desirable proposals to settle international disagreements, but parliamentarians in most countries must concur in such agreements if they are to become enacted and effective.

IPU first came into being in 1889, the first meeting was held in Paris, France in that year. The following year the fall conference was hosted by the British Government in London.

As more nations joined IPU, it became customary for the organization to hold two meetings each year. The first, or spring meeting, generally is scheduled to coincide with Easter, and the fall conference is generally scheduled in the latter part of September.

After a period of time, it became necessary for IPU to have a professional Secretariat. This was established in Geneva where IPU's Secretary General and a small professional staff are located.

The first meeting of IPU to occur in the United States was held in St. Louis, Mo., in 1904. Fifteen nations sent 197 delegates to that meeting. Twenty-one years passed before the United States again served as host to a fall meeting of IPU. In 1925, this country, in Washington, and the Canadian Government, in Ottawa, combined to host the fall conference which was attended by delegates numbering 290 from 41 nations.

Another substantial period of time passed before the United States again hosted a fall conference of IPU. This occurred in 1953, and was attended by 105 delegates from 29 nations. Thus, some 25 years have elapsed since our country has hosted a conference in either the spring or the fall of this large international organization.

During the last 25 years the membership of IPU has experienced a growth similar to that which has occurred in the United Nations. Today substantially more than 70 nations are members of IPU at any given time.

In most recent years meetings have been hosted in Rome, Italy; Tokyo, Japan; London, England; Madrid, Spain; Sofia, Bulgaria; Lisbon, Portugal; and, most recently, as I have noted, in Bonn, West Germany.

Over the next 2 years meetings will be hosted by the Governments of Czechoslovakia at Prague; Caracas, Venezuela; Oslo, Norway; and, Berlin, East Germany.

For the last few years it has been a source of some embarrassment to U.S. delegates that we have not invited a conference to the United States during the period I noted earlier—25 years. There is increasing pressure, especially from the so-called Western Nations for the United States to host a conference.

During the last several years more than 60 nations have generally sent delegations to meetings of IPU. As I pointed out a moment ago, 72 nations sent more than 700 delegates to the fall conference in Bonn, West Germany.

Not only are all of the nations we consider to be our allies members of the IPU, but the Soviet Union and the Warsaw Pact nations belong, as well, since technically they have parliaments.

As you might expect, therefore, there are frequent contests between the West and the East over major issues between us. In recent years we have been plagued by the Middle-East question, earlier by the Vietnam question, and most recently by questions involving South Africa, the Horn of Africa, and so on.

While one of the benefits of these conferences in my judgment is the personal interrelationships and friendships established between members of parliaments from all over the globe, it is even more important that the viewpoints of the United States be forcibly put forward at these meetings.

Our allies and, in addition, friendly nations from the so-called "Third World" expect us to assume a leadership role on behalf of democratic forms of government. Any failure on our part to act in this manner would leave a leadership vaccum and probably permit the Communist bloc nations to dominate all future meetings of IPU.

As might be expected, one of the dominant issues to be considered by IPU ever since this Senator has been a member of U.S. delegations has been the question of international disarmament. Various resolutions have been adopted in this field. Over the past year and a half the Soviet Union has sought at each meeting to embarrass the United States by attempting in disarmament resolutions to condemn our proposed neutron bomb.

We have been able to counter this by persuading the conference wherever the words "neutron bomb" appeared in the disarmament resolution, and over the strenuous objections of the Soviet delegations, to add "the Soviet SS–20", which is a new Soviet medium range missile capable of being mirved and infinitely more destructive than the neutron bomb.

In the debates at Bonn, West Germany, before the Committee on Disarmament and Political Questions, the Russians were prepared to attempt this tactic again. However, to our surprise we learned that the Soviet delegation was willing to compromise the matter and did not wish a confrontation with the United States and our Western allies. As a result the disarmament resolution adopted at Bonn contained no reference to either the neutron bomb or the Soviet SS–20.

Indeed, we found the attitude of the Soviet delegation to be one in which they obviously were prepared to reinstall "détente" insofar, at least, as our meeting in Bonn was concerned on issues between the two countries.

The leader of the Soviet delegation, Mr. Ruben, who occupies a position very largely analogous to that of the President pro tem of our Senate, told this

Senator that the Soviet Union did not wish further confrontations with the United States. He stated that he hoped we could get away from emotionalism and that reason might be the basis for decisions on issues arising between the two nations.

Mr. President, I ask unanimous consent that the text of the draft resolution adopted by the Committee on Political Questions, International Security and Disarmament, on the question of the urgent need to end the arms race, and so forth, be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

DRAFT RESOLUTION UNANIMOUSLY ADOPTED BY THE COMMITTEE ON POLITICAL QUESTIONS, INTERNATIONAL SECURITY AND DISARMAMENT

The 65th Inter-Parliamentary Conference,

Concerned by the acceleration and geographic expansion of the arms race, and particularly by the continuation of the development of new, highly sophisticated weapons of mass destruction.

Aware of the complementary nature of the political and military aspects of security, and of the role that the implementation of various measures aimed at consolidating mutual confidence can have in this matter,

Concerned at the crises and tensions which in various regions of the world continue to threaten international peace and security and compel many States to devote ever-increasing sums of money to their defence and thus to divert essential resources from their economic and social development.

Solemnly affirming that the ultimate goal is general and complete disarmanent under strict and effective international control,

Recognizing that this goal requires an increase in international confidence and security to dissuade States from acquiring weapons and to encourage them to reduce these from their present levels,

Believing that a serious world-wide disarmament strategy must be accompanied by a greater and more sustained effort to eliminate the sources of tension and injustice in the world, to increase the effectiveness of international machinery in the United Nations and elsewhere for the peaceful settlement of disputes, as well as to uphold the international rule of law and promote the political, civil, social and economic rights of man,

Supporting the efforts of the United Nations to halt the arms race and, in this connection, taking note of the final document adopted at the recent Special Session of the United Nations General Assembly devoted to Disarmament,

Alarmed by the escalation of military expenditure and the growing magnitude of the arms trade which are aggravated each year by the increasingly destructive power of warfare resulting from new discoveries,

Stressing that the money spent on armaments could be used to improve the well-being of peoples and accelerate the accomplishment of tasks which are important and urgent for the whole of mankind, primarily the eradication of poverty, illiteracy, malnutrition, disease and famine, and including the development of new energy sources and large-scale exploitation of the oceans and outer space, as well as the prevention of catastrophic changes in the environment,

Convinced that the United Nations is an appropriate forum for finding solutions which would lead to the cessation of the arms race, without diminishing the significance of bilateral, regional and other negotiations,

Stressing the importance, in the pursuit of this aim, of the negotiations under way between the USSR and the United States of America on the limitation of strategic armaments which should soon result in an agreement, and convinced of the need for an agreement on nuclear disarmament among all nuclear-weapon States,

Stressing that the arms race is a threat to peace and substantially increases the risk of nuclear conflict,

Aware of the negative influence of the arms race on regional and international security, and of the fact that it constitutes an obstacle to the establishment and development of international relations based on equality and co-operation,

Stressing that, in the efforts to put an end to the arms race, the highest priority should be given to the urgent consideration and recommendation of measures for the prohibition, under international control, of nuclear tests and the production, stockpiling and use of nuclear weapons, other weapons of mass destruction, as well as other new weapons with similar effects, accompanied by the necessary steps to reduce conventional weapons,

Concerned that the arms race is continuing and entering into a new and more dangerous phase in which other new weapons of mass destruction are being developed,

Recalling the resolution of the UN General Assembly on the non-use of force international relations and the permanent prohibition of the use of nuclear weapons, as well as the requests already made at the United Nations that the nuclear-weapon States, as the first step toward a complete and universal ban on the use or threat of use of nuclear weapons, should consider entering into commitments not to use or threaten to use nuclear weapons against non-nuclear-weapon States on whose territories such weapons do not exist,

Welcoming the declarations by the nuclear-weapon States at the UN Special Session on disarmament designed to reassure non-nuclear weapon States against the use of nuclear weapons,

Considering that in the task of achieving the goals of nuclear disarmament all nuclear-weapon States bear special responsibility, in particular those among them which possess the most important nuclear arsenals,

Firmly stressing the need to bring about universal recognition of the obligations deriving from the Treaty on the Non-Proliferation of Nuclear Weapons concluded in 1968, and its strict application,

Welcoming the efforts made to prevent nuclear technology and equipment intended for peaceful purposes from being used for the production of nuclear weapons,

Considering that the establishment of nuclear-weapon-free zones and zones of peace in various parts of the world would be a useful means of contributing to the prevention of the further proliferation of nuclear weapons and the prohibition of their use, on condition that an agreement to that end exist among all the countries in such regions and that the nuclear-weapon States strictly respect these zones,

Aware that members of Parliament have great responsibilities in creating an awareness of the need to put an end to the arms race and to undertake effective measures with a view to achieving this goal,

1. Calls upon Parliaments and Governments:

(a) To contribute actively to the application of multilateral agreements and treaties on the strengthening of international security and the development of peaceful relations, as well as to the application of UN declarations and resolutions aimed at achieving those objectives, and to seek the adherence by all States to the international treaties and agreements in the area of disarmament that are in force now;

(b) To take energetic initiatives to curb the accumulation of armaments and apply disarmament measures, with the ultimate aim of achieving complete and general disarmament under strict and effective international control;

(c) To act in order to prevent situations which could give rise to a dangerous worsening of relations among States, and to prevent military confrontations likely to lead to nuclear war;

(d) To adhere strictly to the principle of the renunciation of the use or threat of force in international relations involving nuclear weapons and other weapons of mass destruction or conventional weapons, and to participate actively in ensuring the full implementation of the provision of the Charter of the United Nations to refrain from any threat or use of force in international relations;

(e) To adhere to the principles that all States have the right to participate in disarmament negotiations, and that the United Nations should be kept informed of all steps undertaken in this field;

(f) To seek new ways to ensure that a larger portion of the world's scarce resources are devoted to peace rather than to military preparations and war;

(g) To support measures and initiatives aimed at strengthening the role of the United Nations in the sphere of disarmament;

(h) To strengthen the processes of detente, peaceful settlement of conflicts, elimination of tensions and co-operation in order to create suitable conditions for disarmament;

(i) Actively to support efforts to bring about the demilitarization of areas of tension throughout the world, to ensure and strengthen the sovereignty of States, thus creating an atmosphere of universal trust in which the process of disarmament could be effectively accelerated;

(j) To encourage the creation of nuclear-weapon-free zones in different regions of the world, while ensuring the security of the States of these regions and guaranteeing their access to the peaceful uses of nuclear energy, as well as efforts toward agreement on the cessation of the production and stockpiling of nuclear weapons, non-use of nuclear weapons and the phased elimination of existing stockpiles of such weapons;

(k) To act firmly for the full implementation of the proposals included in the resolutions of the Special Session of the UN General Assembly, so that practical measures for general disarmament, and primarily for nuclear disarmament, be actually taken;

(l) To ensure that the countries of the Third World, and particularly of Africa, do not become the scene of rivalries between the two blocs;

2. Urges Parliaments and Governments to take measures to promote the limitation and reduction of the arms race in its most dangerous form—the race for weapons of mass destruction—and to this end to expedite, in accordance with resolution 32/78 of the UN General Assembly, the negotiations aimed at the total and universal prohibition of nuclear tests, and urges that the highest priority should be given to the urgent consideration and recommendation of measures for the prohibition, under international control, of nuclear tests and the production, stockpiling and use of nuclear weapons, other weapons of mass destruction, as well as other new weapons with similar effects, accompanied by the necessary steps to reduce conventional weapons;

3. Calls upon Parliament and Governments:

(a) To work toward the halting and the reversal of the nuclear arms race in its quantitative and qualitative aspects, especially by a second Strategic Arms Limitation Agreement between the USSR and the United States of America, to be followed urgently by further strategic arms negotiations with the objective of reducing and eventually eliminating nuclear weapons;

(b) To work toward the earliest conclusion of a comprehensive test-ban treaty prohibiting all nuclear tests in all environ-

ments, which should be acceded to as soon as possible by all States, particularly all nuclear-weapon States, and should contain verification provisions guaranteeing to the maximum extent possible that no party would conduct clandestine tests;

(c) To take further measures to develop an international consensus on the strengthening and consolidation of the nuclear non-proliferation regime, based primarily on accession by all States to the Treaty on the Non-Proliferation of Nuclear Weapons and on the system of safeguards of the International Atomic Energy Agency on a non-discriminatory basis; these measures should be designed to facilitate access by all countries to nuclear technology for peaceful purposes and take account of the particular needs of the developing countries in this area, as well as to prevent the proliferation of nuclear weapons;

(d) To urge the nuclear States to initiate talks aimed at reaching agreement on the withdrawal of ships carrying nuclear weapons from certain areas of the world's oceans and on other possible measures to limit the nuclear arms race therein;

(e) To refrain from any action likely to complicate international talks aimed at reaching agreements on limiting the nuclear arms race, eliminating the danger of nuclear war and preventing scientific and technological progress from being used for the creation of new types and systems of weapons of mass destruction;

(f) To urge the negotiation of international agreements on the renunciation of the manufacture of all new weapons of mass destruction based upon new scientific principles;

4. Urges Parliaments and Governments:

(a) To agree on a convention prohibiting the development, production and stockpiling of chemical weapons and regulating their destruction, and on a convention prohibiting the development, production, stockpiling and use of radiological weapons;

(b) To continue the review of the question of new weapons of mass destruction, based on new scientific principles with a view to consideration of agreements on prohibiting any new weapons which may be identified;

5. Urges Parliaments and Governments to contribute to the success of the Vienna talks on the mutual reduction of armed forces and armaments in Central Europe;

6. Urges Parliaments and Governments to strengthen international confidence and deepen the dialogue between those involved in defence matters in different countries, and to:

(a) Support the U.N. Secretary-General in his efforts further to strengthen the expertise and capability of the United Nations to play its essential role as a catalyst in the disarmament process;

(b) Encourage the Disarmament Commission of the United Nations to elaborate a comprehensive programme of disarmament, encompassing all measures thought to be advisable in order to ensure that the goal of general and complete disarmament is achieved as well as the further discussion and development by the Committee on Disarmament of a comprehensive programme for disarmament;

(c) Publish detailed information about their armed forces, and the total value of their arms production and of their transfers of arms to other countries;

(d) Take the necessary measures to ensure that the reduction of military budgets, based upon standardized measurement and international reporting of military expenditures by Governments is the subject of concrete talks between States and that their systematic reduction is begun, in conformity with paragraph 89 of the Final Document of the Special Session of the UN General Assembly on Disarmament;

(e) Assess the possible impact of military research and development on existing agreements, as well as on further efforts in the field of arms control and disarmament;

(f) Seek to restrain the world-wide build-up of conventional weapons, utilizing all means which could lead to bilateral, regional and multilateral measures for the control, limitation and balanced reduction of such armaments;

(g) Ensure that agreement on disarmament and arms limitation should provide for adequate measures of control satisfactory to all parties concerned in order to build the necessary confidence and to ensure their observance by all parties; the form and modalities of such control measures shall depend upon the purpose, the scope and the kind of respective agreement;

(h) Work towards the expansion of confidence-building measures, such as those adopted by the Helsinki Conference on Security and Co-operation in Europe, in order to extend them to other regions of the world as well;

(i) Stimulate public awareness of disarmament issues by improving mechanisms for the dissemination of relevant United Nations publications, facilitating public access to information on disarmament questions and encouraging study and research on disarmament;

(j) Improve communications between Governments, particularly in areas of tension, by the establishment of "hot lines" and other methods to reduce the risk of conflict due to misunderstanding or miscalculation;

7. Urges the adoption of:

(a) Agreements or other measures on a bilateral, regional and multilateral basis to restrict the production, transfer and acquisition of conventional weapons;

(b) Conventions to prohibit or restrict for humanitarian reasons the use of specific conventional weapons, including those which may be excessively injurious, cause unnecessary suffering or have indiscriminate effects;

8. Invites Governments:

(a) To curb the arms race, to limit military budgets and to devote the funds thus released to peaceful development objectives, especially to the needs of the developing countries;

(b) To support the preparaton of international studies on the military expenditure of States and the economic and social consequences thereof, and to intensify their efforts to determine the nature of the relationship between disarmament and development, thus contributing to further stressing the need for disarmament negotiations;

(c) To promote understanding of the urgent obligation to divert, in addition to the obligation for developed countries to contribute at least 1 per cent of their gross national product to development aid, at least 5 per cent of the resources currently devoted to armaments in order to allocate it to the economic and social development of the poorest countries and to use the vast technological possibilities of our time to combat poverty, disease, illiteracy and famine in the world, and work toward the achievement of the goals of the new international economic order;

9. Requests Parliaments and Governments of major arms producers and recipient countries to take measures for the limitation of all types of international transfer of conventional weapons, while respecting the independence and essential needs with regard to the security of States, as well as the self-determination of the peoples under colonial or foreign domination;

10. Requests all States to take an active part in the consideration of disarmament problems and, in accord with the recommendation of the 10th Special Session of the UN General Assembly on Disarmament, to secure the convocation of the World Disarmament Conference;

11. Calls on the Parliaments and Governments of the countries participating in the Conference on Security and Co-operation in Europe to act without delay for the thorough preparation of the Madrid Conference in 1980;

12. Recommends the National Groups and the bodies of the Inter-Parliamentary Union to continue to examine the role that Parliaments can play in the above-mentioned fields.

Mr. STAFFORD. The resolution was unanimously adopted.

Mr. President, at a future date, I intend to discuss further issues which came before the 65th Fall Conference of IPU at Bonn, West Germany, to place the resolutions adopted in the RECORD and to discuss in some detail the operations of IPU, what it costs the United States to belong to IPU, and raise the issue further of whether or not it is of value to the United States to continue as a member of this international parliamentary body.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Wisconsin. I understand he has time.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the remaining time of the majority leader be yielded to me. I have discussed this with the majority leader, and he says it is all right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I thank the Senator from Virginia. I will just take a couple of minutes.

THE DRESSER INDUSTRIES ROCK DRILL BIT MANUFACTURING PLANT EXPORT APPLICATION

Mr. PROXMIRE. Mr. President, I announced several weeks ago that the Banking Committee would hold hearings on the use of export controls and export credit restrictions for strategic and foreign policy purposes. The Banking Committee has legislative jurisdiction over export controls and must act early next year on revision and extension of our Nation's basic export control statute, the Export Administration Act. The Committee hearings are intended to lay the basis for next year's legislation by reviewing recent experience with export controls and export credits.

The committee has invited the Secretaries of Commerce, State. Defense and Energy to appear personally to testify. The Departments of Commerce, State, and Defense have statutory responsibilities under the Export Administration Act; I understand that the President has given the Secretary of Energy certain responsibilities with respect to licensing exports of energy technology.

I hope that all four Secretaries will testify. Evidently a major review of export licensing policy is underway within the administration. I do not believe such policy should be made without fully informing the public and obtaining the advice of the Congress. In particular, the administration seems bent upon establishing an export control policy for energy technology exports without consulting Congress.

Mr. President, I ask unanimous consent that the attached memorandum from the Department of Defense be printed in the RECORD. The memorandum raises important reservations about the recent, well-publicized Dresser Industries' export license application, but the most significant point is that the memorandum calls for establishment of an export control policy with respect to oil production technology. I believe Congress should have the major role in setting policy in this area. The Banking Committee hearings will be a step toward doing so.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., August 26, 1978.

Memorandum for Honorable Zbigniew Brzezinski, Assistant to the President for National Security Affairs.

Subject The Dresser Industries' Rock Drill Bit Manufacturing Plant Export Application.

I am forwarding to you the assessment made under the auspices of the Defense Science Board of the Dresser Industries' application to export technical data and equipment for a rock drill bit manufacturing facility to the USSR.

To assist you in making best use of this evaluation, I would make the following observations. First, the determination of the strategic significance to the U.S. of enhancing Soviet capabilities for oil exploration should precede any evaluation of the technology transferred through this specific application. Without such a policy determination, any technological impact assessment is without context and any two assessments will vary depending upon the interpretation of U.S. interests made by the individual evaluators. Indeed, assessments of military significance narrowly defined may be influenced by differing views of the broader strategic significance of the transfer of oil production technology. Because of the importance ascribed today to oil resources by all industrial nations, and because of the international trade uncertainties introduced by any indeterminancy of U.S. policy on this matter, I recommend that you ask for suspension of the approvals already granted for the Dresser Industries' export application pending a determination of U.S. energy-related export policies. This suggestion would simply make this case subject to the 1 August 1978 decision to review exports of oil producing technology.

I am prompted in my suggestions by the variations in impact assessment which characterize the many evaluations of this particular export license request. The attached Defense Science Board sponsored report provides an excellent evaluation which points out the broad strategic significance of U.S. manufacturing technology related to deep well drilling and which highlights the critical fact that the technology transferred by selling a manufacturing process is much more significant than transfer of the individual components involved in the sale. However, to arrive at a recommendation, the DSB panel had to assume a national policy relative to enhancing the capabilities of the Soviet Union for oil exploration. The national issues at stake far transcend the particular interests of the DoD and the energy issues certainly lie most directly within Jim Schlesinger's province.

With respect to our national military interests per se as distinguished from these broader national strategic interests, we had earlier initiated a reassessment. This reassessment took account of the DSB report when it was received on August 25, 1978. We are forwarding separately the details of this reassessment. It was structured in terms of: (1) the manufacturing technology resident in the rock drill bit turnkey plant, (2) the rock drill bit output, (3) the tungsten carbide insert manufacturing process technology, (4) the tungsten carbide insert slugs, (5) the numerically controlled electron beam welder, (6) the PDP8E computer.

The results of the reassessment reconfirm previous evaluation which showed small risk to military security from the transfer of any of these components. As an example, we would point out that the N/C electron beam welder has been cited by several evaluators, including Fred Bucy, as being a current militarily critical technology. We do not concur with this view based on a synthesis of all data available to us. For instance, the manufacturing plant will not be operational until 1981 for the N/C electron beam welder need not be shipped for several years. In addition, known current foreign availability coupled with the rapidly widespread international acquisition of related technology makes us comfortable with allowing exports of the electron beam welder from the point of view of military application as such. Its strategic significance in the larger sense is related to the fact that it is a key component in increasing the overall efficiency of the manufacturing process being transferred. Our other specific comments are in our reassessment which is being forwarded separately. As is apparent, I am not suggesting that you consider disapproval on the basis of the military significance of any of the components proposed for transfer.

I agree with Fred Bucy and have been concerned for some time, from DoD's vantage point, with the piecemeal fashion in which our staff and others in the government are asked to look at individual components of export license requests. Fred states very well many of our beliefs that in a transfer of technology, the whole may well be greater than the sum of the parts. We are putting together in DoD the structure and talent which together we believe will allow us to develop and apply properly a coherent and comprehensive export assessment strategy. It is not an easy task.

Returning to the consideration of the Dresser Industries' export application, I note that the manufacturing plan in question would primarily affect the Soviets' capabilities for oil exploration. The effect of improvements in oil exploration on the other steps in the oil production process is totally unclear; namely, the steps of oil recovery, retorting, refining, transportation and distribution. I believe it essential that all these facets of oil production be factored into the U.S. export control policy which I think essential to derive.

Finally, let me add that I believe it essential to identify the probable impact of a decision to suspend the export license approvals made by the Department of Commerce on 30 May and 9 August. We have given this rather complex subject much attention and I would be glad to discuss it with you at your convenience.

CHARLES W. DUNCAN, JR.

Attachment.

AN ASSESSMENT OF ROCK DRILL BIT TECHNOLOGY

The evaluation of this technology emphasized the relationship of this technology to oil-well drilling technology, and the impact of the overall design and manufacturing technology for rock drill bits more so than the technology of any one component. As this analysis developed, a very striking and changed perspective of the strategic value of the overall design and manufacturing technology was gained, which was not as evident in examining the individual components of the manufacturing system.

As a result, the principal conclusions of this assessment are:

1. Deep-well drilling technology is a critical technology, which is wholly concentrated in the U.S.

2. Rock drill bit manufacture in high volume and its supporting design and application technology are critical technologies. These technologies are concentrated in the U.S.

3. Electron beam welding has military significance when computer controlled:

It is easily diverted.

It is not foreign-sourced; the numerical control technology is licensed from U.S.

4. Tungsten carbide has military significance:

It is easily diverted.

It is not foreign sourced, at this scale of manufacture.

Therefore, the recommendations are:

1. The export of technology for the manufacture of drill bits should not be approved.

2. The export of rock drill bits should be approved; however, the volume should be monitored closely.

3. Computer-controlled electron beam welding equipment should not be approved for export to ComeCom.

The following assessment is divided into four sections:

Deep-Well Technology;
Rock Drill Bits;
Sensitive Technology Elements; and
Summary.

DEEP-WELL TECHNOLOGY

Deep-wells are defined by the combination of rock density, pressure, and temperatures that are encountered. As a general rule, "deep-well technology" is required for depths greater than 15,000 to 20,000 feet. At these depths, the principal product recovered from the well is natural gas.

Currently, about 650 deep-wells are being drilled around the world. Of this number, only 50 are outside the United States. Last year, 92% of all deep-wells were drilled in the United States. A deep-well requires approximately one year to complete.

The recovery of natural gas through deep-wells is one of the major petroleum reserves throughout the world. Every country that has oil fields realizes that its shallow-well oil reserves are limited, and, in the future, that deep-wells must be developed for additional source of energy. The demand for deep-well technology is expected to expand rapidly through the mid-1980's:

	Percent deep-wells of all wells drilled
1975	1
1979	5
1982–85	20

Even today, the deep-well drilling companies are operating near capacity.

The Soviet requirements for deep-well technology are significant to their energy needs of the 1980's. As of present, the Soviets oil-well technology is wholly oriented to shallow-wells. They have a very limited production of rotary bits, but these products are so inferior that they apply their turbojet drills to a wide variety of well conditions.

The principal elements of deep-well technology are: rock drill bits, hydraulics (mud), drill piping (both metallurgy and dimensions), tool joints, and overall system or drilling engineering. Each of these elements is substantially different and more technology demanding than its equivalent element required for shallow-wells.

Deep well technology has almost exclusively been developed in the U.S. over the past 20 years, and its technology remains concentrated in the U.S.

Foreign availability of these products is very limited, and the effectiveness of the products and technology are reported to be substantially inferior to the U.S.

One of the particular advances made by U.S. deep-well technology is the optimizing

of each well's design for its particular requirements and rock strata.

The Soviets are aware of U.S. deep-well technology and have approached various firms in an attempt to acquire it. Their pride or institutional barriers have kept them from using U.S. crews for drilling deep-wells within the Soviet Union.

This technology is critical to development of U.S. energy requirements, and has strong strategic value in its application to Soviet energy needs of the 1980's. The technology is concentrated in the U.S., and, therefore, effectivity of export controls can be attained over the next three to five years or longer.

ROCK DRILL BIT TECHNOLOGY

Rock drill bits were developed by Hughes and Reed, and today the two firms are estimated to serve 75% of the world market. Within the past five years, their principal patents have expired, and Smith and Dresser (Security Engineering) are making competitive products and are gaining market share. However, at this time, they are still small factors in the market.

The rock drill bit technology is the principal element of deep-well technology. This technology remains concentrated in the U.S., and no foreign producer, including subsidiaries of U.S. firms, can make comparable rock drill bits.

The manufacture of effective rock drill bits has an element of "art" to it, that is derived only from experience of individuals in these firms. It was reported that foreign subsidiaries of Hughes still do not make as effective a rock drill bit as the parent operation in Houston.

It is the practice of the principal suppliers to lease, and not sell, rock drill bits. The cones containing the teeth and the bearings require frequent replacement, whereas the housing has an extensive life.

The basic technology has not significantly advanced over the past twenty years. Major technology advances in recent years have been in two areas:

1. The introduction of sealed-bearings by Hughes significantly advanced bearing life, allowing drill bits to stay in the well for five to ten times longer. Formerly, bearings may have worn out within a period of hours, whereas today, the bearings will last several days or longer. Due to this advance, the effective cost of rock drill bits has been dramatically reduced to about $800 per day, versus the $20,000–$30,000 per day for overall deep-well drilling costs.

2. The interplay and optimizing of the mud and the drill bit for specific rock densities is the other advancement. This includes both the use of high-velocity nozzles to direct the mud into the teeth doing cutting, and tailoring the shape and hardness of teeth for each specific cutting requirement. Today, computer simulations have been developed that predict the optimum combination of these elements.

Both of these technology advances are included in the proposed technology transfer. The sealed-bearing technology is applicable to other drill bits, and would have a significant impact on the life of Soviet turbojet and rotary drills.

A volume of 100,000 rock drill bits per year is judged to be excessive for Soviet requirements through the mid-1980's, as they will not have acquired other deep-well elements to rapidly exploit this technology (see Appendix A).

Further, it is speculated that it may take the Soviets another three to five years after completion of the technology contract before their drill bits would be effective by U.S. standards. However, during the intermediate period the rock drill bits would be more effective than the Soviets' turbojet drills. Of equal importance, this capability would introduce the "systems" approach of tailoring drill bits and mud to setting requirements into Soviets' well drilling technology.

Rock drill bit design and manufacturing is a critical technology for the development of major energy resources throughout the world in the 1980's. For all practical considerations, this technology is concentrated in four U.S. firms. Foreign availability is not a factor in today's market.

It is judged that U.S. technology is at least 10 years or more ahead of the Soviets, and probably three to five years more advanced than available in other Western countries. If the transfer is made, a significant advance in Soviet drilling bit and well drilling capability will have been made. As the effectiveness of their rock drill bits approaches that of U.S. products, it is estimated that Soviet capability would become comparable to the U.S. for a period of twenty years or more, since this technology has followed an evolutionary rate of advance.

The strategic ramifications of this Soviet capability are not only the ability to fully develop their own energy reserve, but also, it would allow the Soviets to enter the major oil and gas fields through the world with advanced drilling technical competence, presenting increased opportunities for them to exert their political influence.

SENSITIVE TECHNOLOGY ELEMENTS

a. Tungsten Carbide Inserts:

Although this technolcgy is old, it remains centered in the U.S. Foreign firms are licensees of U.S. companies.

Of greater importance, the manufacturing "art" for making inserts that are effective in drill teeth remains concentrated with the rock drill bit producers.

As noted in the documentation supplied by the Department of Defense, this capability could readily be diverted to military applications.

Also, although, a recent transfer of carbide coating capability has been made to the Soviets by a Swedish firm, there is no evaluation of its status or capabilities. Until more evidence is obtained on this other Soviet capability, it must be assumed that the Soviets do not have comparable capability.

As in the case of rock drill bit capacity, an annual production rate of 15,000,000 inserts per year is judged to be excessive for their mid-1980's deep-well requirements.

b. Electron-Beam Welding:

The significance of the electron-beam welder is the application of computer-control. It is not the computer's performance, but how the overall system impacts electron-beam welding.

For this application, the computer positions the workpiece, positions the path of the weld, and from a predetermined profile controls the buildup of current and voltage supplied to the electron beam. The computer-control is operating in an "open-loop."

The significant advantage of this control is that it provides a more uniform weld and has better penetration. These factors are important to welding refractory materials and titanium, and this welder is being applied to both nuclear components and swept-wing aircraft parts in the United States.

There is considerable manufacturing "art" to defining the profile, controlling the environment, and preparing the parts for welding.

Electron-beam welding equipment has been available for some time, and equipments have been shipped from West Germany to East Bloc countries (Leybold Heraeus of West Germany is reported to have supplied such equipment to East Bloc). However, it is not evident that computer-controls have been made available to ComeCom countries on this class of electron-beam welder.

The U.S. lead time may be minimal for this type of control. Even so, exports should be denied due to military significance until it is established that a comparable capability exists in the Eastern Bloc countries.

c. Other Machine Tools:

The 6 spindle, 5 axis numerical-controlled machine tools for cutting teeth are typical "customized" machine tools made for special operations. The principal gain to the Soviets through the proposed technology transfer is lead time, as opposed to the Soviets specifying the custom configuration, proving it out, and then scaling-up to a manufacturing operation.

It is reported that a 6 spindle, 5 axis machine has greater capability than is required for this particular task. The principal U.S. suppliers use 2 spindle machines for this cutting teeth.

d. Metallurgical:

The metallurgical requirements for rock drills bits are very demanding, and the quality of this technology is key to the success of the manufacturing plant. This emphasized in the documentation supplied.

There is concern that the laboratory evaluations of Soviet metals, and the subsequent engineering exchanges will provide a direct path to upgrading their metallurgical skills.

SUMMARY

Rock drill bit technology is a significant contribution to deep-well capability, which will be of major importance to the recovery of energy resources in the 1980's. This technology was developed and remains concentrated in the United States.

Due to its impact on the development of future Soviet and worldwide energy resources, the technology is of strong strategic value, and is, therefore, a critical technology.

The transfer of this technology to the Soviets would allow them to develop their energy resources, and to enter world markets with advanced drilling capabilities. This could increase their presence and influence in the Middle East and other major oil and gas producing areas of the world.

Several of the supporting technologies, tungsten carbide inserts and computer-controlled electron beam welding have a potential military application.

The scale of the proposed facility is at a magnitude that is not consistent with Soviet requirements for much of the 1980's. A capability of 100,000 rock drill bits would support over 200 deep-well drilling operations, based on current U.S. experience. It is not realistic to expect the Soviets to collect all the technology elements and convert them to effective experience so that they could operate 200 deep-well drilling operations in the next five years or longer. (Appendix A)

Secondly, based on the U.S. current experience, the facility has a capacity for tungsten carbide inserts 10 times greater than would be required to support 100,000 rock drill bits manufacture. (Appendix A)

The specification of 6 spindle, 5 axis machine tools, also, is in this same pattern of over specification.

APPENDIX A

ANALYSIS OF CAPACITY REQUIREMENTS

A. Current U.S. practice:

1. Estimated number of deep-wells currently being drilled (worldwide), 650.

2. Estimated world output of rock drill bits, 300,000 year.

3. Number of rock drill bits required to support a deep-well operation, 450/year.

4. Number of rock drill bits "consumed" by a deep-well drilling operation, 30.

5. Ratio of rock drill bits in support of a bit in the well, 15:1.

6. Average number of tungsten carbide inserts per rock drill bit, 250.

7. Tungsten carbide inserts consumed in drilling 650 deep-wells, 4,875,000.

B. Proposed Soviet Facility:

1. Output of rock drill bits, 100,000/year.

2. Estimated number of deep-well drilling operations supported, 222.

3. Number of rock drill bits "consumed" per year, 6,660.

4. Number of tungsten carbide inserts consumed (average 250 inserts per rock drill bit), 1,665,000.

5. Capacity of tungsten carbide inserts, 15,000,000.

THE LABOR-HEW APPROPRIATION CONTAINS TOO MUCH FAT

Mr. PROXMIRE. Mr. President, Wednesday night I reluctantly voted against the adoption of the Labor-HEW appropriations bill for fiscal year 1979. I say reluctantly because this bill contains some of the most important social programs our Nation has created to provide for the well-being and development of our most needy and hard-pressed citizens. I say reluctantly because I believe Chairman MAGNUSON did a good job of trying to hold this bill down to a reasonable level. I congratulate him on his effort. However, when we examine this bill, we see that the monstrous growth in the Labor-HEW programs has been dented but not denied. While the overall bill appears to be $4.2 billion or 8 percent higher than the amount appropriated in last year's bill, this figure is somewhat misleading. First of all, the Senate Appropriations Committee chose to adopt a wait-and-see attitude toward the planned expansion for the middle-income assistance program under basic opportunity grants. Thus, there appears to be a saving of over $1.2 billion in this program. However, it is clear from the committee report that a significant expansion of this student assistance program is expected once the final legislative decisions are made in this area. In addition, over $17 billion worth of programs were not considered at all because of lack of authorization. These programs are locally popular and expensive. I will just mention in passing the controversial CETA programs which are yet to be considered by the committee. Now, some might argue that in fact the committee did accept $2 billion worth of cuts in the area of fraud and abuse.

Mr. President, let us be clear about the amendment we adopted on Monday. To quote Chairman MAGNUSON in discussing that $2 billion fraud and abuse cut, he said:

> The amendment takes nothing, no money from the bill, but it is a figure which establishes a goal which I think is well within reason.

In other words, we can all hope that Secretary of Health, Education, and Welfare Califano does save some money by reducing fraud and abuse. But we have in no way, I repeat in no way, actually cut the total amount which will be at his disposal to spend for fiscal year 1979.

Mr. President, this is far from a bare bones appropriation bill. For example, the National Institutes of Health which have seen a many fold increase in their appropriation over the past decade receive still another $390 million or 15 percent increase in funding in this bill. Therefore, Mr. President, inspite of the hard work of Chairman MAGNUSON and the other members of the Appropriations Committee, I still believe this bill contains too much fat and much too much growth in some areas and therefore, I reluctantly concluded that I would have to cast my vote against this bill.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield at that point?

Mr. PROXMIRE. I am happy to yield to my friend from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Virginia also voted against the Labor-HEW appropriation bill, reluctantly, just as did the Senator from Wisconsin. I think the Senator from Wisconsin has outlined well the reasons as to why he—and his reasons apply to the Senator from Virginia—voted against that bill.

We are spending too much money.

The bill on its face calls for an 8-percent increase in spending. The way the Senator from Wisconsin analyzes it, and I agree with that, the increase is greater than 8 percent when we consider the number of items that were not included in that bill which subsequently will come before the Senate for approval.

So I associate myself with the remarks of the able Senator from Wisconsin, and say that I, too, reluctantly voted in opposition to the HEW bill, because I think it is just too large—too much spending.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Virginia. He is a leader for all of us in the area of economy, and I am very grateful for his support of my statement.

BROADCASTING'S NEW LOOK

Mr. PROXMIRE. Mr. President, according to a recent editorial in the Miami Herald, broadcasting has a "new look" and this calls for a new approach to its regulation.

As the Herald editorial reminds us:

> . . . conditions have changed since the days when listeners were fretting over crystal sets, trying to pick up Pittsburgh's KDKA. Nowadays, communications satellites enable people to watch history being made halfway 'round the world."

Because of this technological revolution, the Herald argues, it is also time to modernize our thinking about the proper role of Government in regulating the electronic media.

Mr. President, this point of view makes sense to me. It is one of the main reasons why I have introduced S. 22, the First Amendment Clarification Act, which would abolish the so-called fairness doctrine and the equal time rule.

I am delighted to note, too, that a movement toward less regulation of the broadcasting industry lies at the heart of the Communications Act "rewrite" recently introduced in the House of Representatives by LIONEL VAN DEERLIN, chairman of the Communications Subcommittee, and that unit's ranking Republican, Congressman LOU FREY.

This legislative initiative—this new approach—wins favor in the Herald editorial. Less regulation, the editorial states, "is a goal we applaud in any competitive industry."

I agree, and so, I believe, do most of the American people .

And the editorial goes on to point out that, "For broadcasting, deregulation has the further attraction of reducing the potential for Government infringement of first amendment rights."

Here again, Mr. President, is something I support and endorse, along with, I feel certain, the great majority of the American people.

After all, how can we permit the electronic media to be denied their first amendment rights while at the same time never tolerating for a moment—and quite correctly—any governmental interference with these same rights for newspapers?

Newspapers are free from governmental control, as they should be. The broadcast media deserves the same treatment. And it is the American people who would be the prime beneficiaries of this new freedom.

Finally, Mr. President, the Herald editorial laments what it sees as "the lack of public notice" of the key issues now being addressed through hearings by the Van Deerlin subcommittee on the proposed new bill.

I hope this is not the case. Broadcasting—radio and television—is the preferred source of news for 76 percent of the American people. Our citizens, therefore, have a great stake in promoting full first amendment freedoms for the electronic media.

Mr. President, the Miami Herald editorial of September 20, 1978, helps to increase our awareness of the "new look" in broadcasting and why it requires a new approach to how Government regulates that vital industry. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Sept. 20, 1978]

PUBLIC SHOULD BE TUNED IN TO BROADCASTING'S NEW LOOK

Ironic: A landmark policy decision is due shortly concerning one of the nation's most powerful and highly visible industries, broadcasting. Yet there is very little public notice.

Maybe it's the setting that obscures the importance of what is going on. After all, the subcommittee on communications of the House Committee on Interstate and Foreign Commerce is hardly the center ring of the Capitol Hill circus.

Or perhaps it's the low-key personality of the subcommittee's chairman, Rep. Lionel Van Deerlin of California. The former television newsman is not a frequent item in *People* magazine's pages.

But surely the lack of public notice is not a sign that the hearings lack significance, for what Congressman Van Deerlin's subcommittee does could shape the future of radio and television in this country.

Mr. Van Deerlin and his colleagues are working on the Communications Act of 1978 (H.R. 13015), a sweeping bill that would substantially alter the Federal Government's relationship with broadcasting.

H.R. 13015 would replace the Federal Communications Act of 1934, which has become obsolete because of changes in the economics and the technology of broadcasting in the 44 years since it was enacted.

The general thrust of the Van Deerlin proposal is toward less regulation. That is a goal we applaud in any competitive industry. For broadcasting, deregulation has the further attraction of reducing the potential for Government infringement of First Amendment rights.

The deregulatory features of H.R. 13015 include limiting the applicability of the "fairness" or "equal time" doctrine; liberalizing the license-renewal process for stations; and curtailing the powers of the Federal Communications Commission, which

would be altered and renamed the Communications Regulatory Commission.

We believe these steps are desirable. But we also believe the public interest would be served better if the legislation mandated a more competitive structure for commercial television, where past regulation has resulted in a powerful oligopoly.

Broadcasters and their lobbyists are on hand for the hearings on the communications act. So are lobbyists for the self-appointed media watchdogs, many of them demanding more, not less, Government regulation of broadcasting's content.

Unfortunately, the general public is underrepresented and largely uninformed of the issues at stake here. Too bad, because the outcome is too important to entrust to a melange of competing special interests.

We happen to believe that Mr. Van Deerlin's proposed legislation is, for the most part, a good thing. A fortuitous combination of circumstances has brought forth this omnibus rewrite of the 1934 act at a time when deregulation is somewhat the fashion and when the key congressional committee is chaired by a thoughtful man sensitive to the First Amendment issues raised by Government regulation of broadcasting.

We further believe that some kind of rewrite of the 1934 act is inevitable because conditions have changed since the days when listeners were fretting over crystal sets, trying to pick up Pittsburgh's KDKA. Nowadays, communications satellites enable people to watch history being made halfway 'round the world.

But one thing has not changed much since 1934. There is still a belief that the "air waves" belong to the general public. It is fitting for the public to have a say about the future use of this precious public asset.

As the hearings on the Van Deerlin proposal go forward, then, the occasion might well be used as the forum for a full-fledged national debate on the future direction of broadcasting in this country.

A DEFINITION FOR HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, the word "genocide" is kicked around like a soccer ball in mid-September. The American press uses it today with impunity in reference to a wide variety of human rights violations in Cambodia, Nicaragua, Uganda, Iran, and other countries.

In fact nearly every time civil strife occurs, some spokesman is bound to label it "genocide".

In a recent Washington Post article the Nicaraguan regime of Anastasio Somoza was the latest target of allegations of genocide. The article described the battle for Leon, a provincial capitol controlled by insurgents, in which Somoza deployed air and artillery bombardments against the rebels with loss of both military and civilian lives.

Somoza called his actions against the rebel-controlled city "routing Communist terrorists and vandals."

His critics called these actions genocide.

Mr. President, we have a document that offers specific guidelines for defining the crime of genocide. We can turn to article II of the Genocide Convention which specifically states that killing or maiming members of a national, ethnical, racial, or religious group with the intent of bringing about its physical destruction is genocide. We must not underestimate the seriousness of the charges so cavalierly leveled against Somoza.

Mr. President, genocide is a capital offense on the national level. It is an abrogation of that most fundamental of rights—the right to live.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. PROXMIRE. Will the Senator from Virginia give me 1 minute?

Mr. HARRY F. BYRD, JR. I yield 1 minute to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator from Virginia.

Mr. President, 82 nations before us have chosen to abide by the definition of "genocide" contained in the Genocide Convention. Eighty-two nations have seen fit to support this treaty. Yet for 30 years, the U.S. Senate has chosen not to ratify that treaty linking the United States with many of its closest allies in the Universal Declaration of Human Rights.

Mr. President, the Senate must ratify this treaty. Admittedly it is a small step toward eradicating genocide once and for all from the face of the Earth. But it is a reference point, a standard around which all the nations can rally.

I thank my good friend from Virginia, and I yield the floor.

(Mr. PROXMIRE assumed the chair.)

THE 40TH ANNIVERSARY OF THE MUNICH AGREEMENT

Mr. HARRY F. BYRD, JR. Mr. President, today is the 40th anniversary of one of the world's most historic events. The significance of the conference which took place 40 years ago is that it is widely credited with leading to World War II. During that war many millions of persons were killed, principally Germans, Russians, Japanese, and Americans.

It was 40 years ago today that the Munich agreement was signed.

It was 40 years ago today that four powerful world leaders concluded their conference in Munich, Germany. Those leaders were Adolph Hitler, the German dictator; Benito Mussolini, the Italian dictator; Premier Edouard Daladier of France; and Prime Minister Neville Chamberlain of Great Britain.

Those leaders met in Munich in an effort to develop a formula for world peace. Hitler was threatening war—having already marched into the Rhineland and followed that by taking over Austria.

The European leaders concluded that the best way to prevent war was to give to Hitler's Germany a part of Czechoslovakia. The agreement to do that was signed 40 years ago today.

Neville Chamberlain returned to his home country and told his fellow citizens that he had bought "peace in our time."

Prime Minister Chamberlain was hailed throughout England, and indeed throughout the world. He was regarded as a hero. No voice was raised in opposition, except that of an old bulldog named Winston Churchill.

Churchill thundered in the Parliament and throughout his native land that the Munich agreement not only would not prevent war but indeed would lead toward war because it was not soundly based and would not stand the test of time.

He stated that it is impossible to appease power-mad dictators. So he strongly opposed the Munich agreement which almost everyone else everywhere acclaimed and applauded. But no one listened to Mr. Churchill. Eleven months went by and Adolf Hitler decided that, having achieved what he wished in regard to Czechoslovakia, he then wanted to take over Poland.

So on September 1, 1939, Hitler sent his armies into Poland. Two days later Great Britain and France declared war, and World War II began.

I think there are many lessons that can be learned from this. I think one lesson is that we must be very careful as to what foreign policy decisions a country might make, how trusting a nation should be. Another lesson is that appeasement is not a reliable route to peace. Still another lesson is that regardless of how popular a course of action, a program, or a policy might be at one particular time, that does not at all mean that such a policy is soundly based or will stand the test of time.

Popularity does not necessarily equate with soundness.

I happen to believe that Winston Churchill is the greatest man of the 20th century. But I also believe that Neville Chamberlain was just as sincere, just as conscientious, just as patriotic, just as anxious to do what was best for England and for world peace as was Churchill.

As I see it, it was not a question of motive, it was a question of judgment; which course of action—which policies and programs—would stand the test of time; which course would lead away from war instead of leading toward war.

Mr. Chamberlain embraced one viewpoint, Mr. Churchill another.

On this 40th anniversary of that momentous event which occurred in Munich, I think it is well to reflect a bit.

It occurs to me that it was not unlike many of the problems we face in the Congress. I am speaking not just of defense matters, military matters, but I am speaking also of domestic programs. Just because a program happens to be a popular one at a particulr time does not mean that that program is a good one.

I think it is important, and, indeed, I feel that those of us in the Congress who have the responsibility of representing 220 million Americans have the deep responsibility, to be sure that the programs and policies that we enunciate here are soundly based programs and ones which will stand the test of time. In my view too much of what the Congress has done in recent years has been unsound and indeed totally reckless, especially in excessive spending and in the centralization of power in Washington.

I applaud Mr. Churchill for his foresightedness. I applaud Winston Churchill for having the courage to stand alone—to stand alone at that period in world history when not only his own native land but the entire world was virtually unanimous in acclaiming the propriety, the appropriateness, and the success of the Munich Conference.

It is interesting to note, I think, how fleeting is political power and what can happen in such a short period of time.

Neville Chamberlain, on September 29, 1938, was the dominant figure in his

own country, a hero to his own countrymen, and a hero to most of the world.

And yet in less than 13 months Neville Chamberlain had been put out of office and the lone voice of the old bulldog named Winston Churchill was then called upon to lead his nation in its darkest hour. More than any single individual, Mr. Churchill saved England from what came quite close to being the irresistable power of Hitler's Germany, a power nurtured by continued appeasement.

I say again that, while I regard Winston Churchill as the greatest man in the 20th century, I also believe that Mr. Chamberlain was just as patriotic, just as sincere, and just as conscientious as was Mr. Winston Churchill. It was not a question of motive, but a question of judgment.

That is the way I see many of the problems we must deal with in the Congress. Never do I question the motives of the Members of the Congress. It is only in the field of judgment that I frequently take issue with many of my colleagues.

I yield back the remainder of my time.

SPECIAL ORDER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania (Mr. HEINZ) is recognized for not to exceed 15 minutes.

EFFORTS TO CONTINUE THE PRESIDENT'S AUTHORITY TO WAIVE COUNTERVAILING DUTIES SHOULD BE RESISTED

Mr. HEINZ. Mr. President, recent press reports have indicated that the special trade representative, Robert Strauss, intends to ask Congress to extend for 6 months the President's authority to waive countervailing duties, which is due to expire on January 3, 1979.

This is an alarming proposal, Mr. President. I want to leave no doubt at this point about my complete opposition to it and my determination to see that such an extension is not approved.

Mr. President, in the face of our failure today in the multilateral trade negotiations, in the fact of our estimated $28 billion trade deficit, in the face of other nations injuring American workers and continuing to dump and subsidize their exports to this country, in the face of the administration's continued failure to adequately enforce our antidumping laws, our countervailing duty laws and our other laws against unfair trade, I know that such an action, such a proposal, will result in nothing less than American workers' families by the thousands upon thousands sacrificed and sold out.

The original waiver authority was included in the Trade Act of 1974, in part to provide time for completion of the Tokyo round of the multilateral trade negotiations. Since these negotiations have not yet been completed, Ambassador Strauss would apparently like to continue waiver authority for an additional period of time.

Unfortunately, such action would, in my judgment, make the negotiations more difficult to conclude and would serve as yet another example of this administration's chronically weak approach to trade negotiations. Authority to waive countervailing duties is one of the best levers we have to obtain significant concessions from our trading partners on issues under negotiation at the MTN—a government procurement code, a safeguards code, a subsidies/countervailing duty code, and reductions in other nontariff barriers. Prematurely surrendering this important bargaining chip will not only make it more difficult to obtain meaningful concessions, but it may also prolong the negotiations themselves, talks we are working hard to conclude.

Press reports indicate considerable European concern at the prospect of countervailing duties being imposed when waiver authority expires. To my mind, that is a good sign, possibly the best news I have had in a long time. Such consternation can only increase the European nations' incentives to bring the negotiations to a rapid conclusion in a manner we will find acceptable.

To continue waiver authority now would make those goals much more difficult to attain. Such an action represents the "don't rock the boat" attitude that has so often characterized our foreign policy establishment. Unwilling to take an aggressive stand on a major foreign policy issue, the Administration instead has chosen to take the easy way out and cave in to our trading partners' concerns without obtaining anything in return.

Also disconcerting about the President's request for additional waiver authority is the fact that it fails to take into account the serious trade problems we are experiencing here. Best estimates suggest that our trade deficit this year will be at least a record $28 billion, and that a large part of it will not be due to oil but due to manufactured goods imported. The President's proposed export promotion policy announced last Tuesday clearly admitted the problems we face in international trade and pointed out the lack of international agreement on how to play the rules of the game when it comes to financing exports. We all know as well that there is no international agreement on principles of fair and open trade. Nontariff barriers and Government subsidies by our trading partners are rampant, and as a result we are becoming steadily less competitive.

A classic example of many of these problems is the steel industry. Subsidies, such as in the case of British steel, are an accepted fact. Selling steel at less than fair value in the United States—in other words, dumping it—has been going on for a long time and everybody knows it. It is about time that the administration stopped being the sucker in the shell game our trading partners are playing with us.

What is becoming increasingly clear is that the trigger price mechanism that Treasury has constructed to deal with steel dumping is not doing the job. Very late in being implemented, the delay resulted in vast quantities of imports in the first 4 months of this year. Now that the system is in effect, imports continue to rise—up almost 13 percent in July over June and up another 5 percent in August over July. That is 18 percent in 2 months, and at the present rate, some 22 million tons of steel will enter the country in 1978—an alltime record.

And it is going to be an all-time disaster for steel workers and their families, because 22 million tons is 2 million tons more than we imported in the totally disastrous year of 1977.

Clearly, the trigger price mechanism is not working as intended, and there is considerable doubt in my mind as to whether it will ever work properly because of basic conceptual flaws. Nonetheless, there are changes which can be made in the TPM now which will improve the situation considerably.

First, the treatment of exchange rate fluctuations should be revised. Presently the yen-dollar rates used in TPM calculations effectively lag 4 to 5 months behind the effective date of the trigger prices. The American Iron and Steel Institute has calculated this lag alone understates Japanese costs by $29 per ton.

Second, one of the critical figures in TPM calculations, the Japanese capacity utilization ratio, does not reflect current reality because it has been based on a 5-year averaging system rather than a calendar or fiscal year system. This error has resulted in a rate that is too high and therefore an erroneously low cost factor.

Third, yield percentages appear to also be higher than actual yields, thus similarly and further distorting trigger price.

This is one of several serious trade policy problems caused, in large part, by the continuing dumping of European steel in the United States and the fact that the trigger price mechanism effectively permits such dumping to take place without constraint. It amazes me that we would even contemplate this concession to the European Community on an extension of waiver authority in the face of serious trade problems like the steel situation.

I sincerely hope that the administration will see the error of its ways and not press for the continuation of waiver authority. The MTN agreement is due in mid-January, and there will be ample time to consider fully a waiver extension at that point, when we can see the full text of the agreement.

This is not the time for a confrontation on trade policy. It is not in anyone's interest to have such a confrontation. But I know many of my colleagues share my determination to oppose this move, and we will do so with all the resources we can muster should the request be made.

Mr. President, it bothers me and some of my colleagues with respect to imports and in the steel industry, particularly, that what has happened is that the administration has done nothing less than construct the leakiest dikes imaginable against the flood of imports, in this case, steel. And now, in effect, what they want to do is let the only protection we have against heavily subsidized foreign goods, countervailing duties, simply rust away. The result will be a flood, Mr. President, a flood of imports that will finally realize the fear of American workers and finally submerge workers in steel, garments, textile, shoes, electronic com-

ponents—you name it—submerge their hopes under a flood of imports. This, Mr. President, is not what our fair trade laws are all about.

Mr. President, I suggest the absence of a quorum.

The PRESIDIING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT MODIFICATION—ERA

Mr. ROBERT C. BYRD. Mr. President, in securing the agreement on the ERA extension it was inadvertently overlooked that no provision had been made for time for debate on a debatable motion, appeal, or point of order. I therefore ask unanimous consent that there by a 30-minute time limitation on any debatable motion, appeal, or point of order if such is submitted to the Senate for its consideration. That time will be divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH SERVICES EXTENSION AND PRIMARY HEALTH CARE ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2474, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2474) to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1983, the assistance program for community health centers; migrant health services; to extend through the fiscal year ending September 30, 1981; hemophilia; home health services; to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; venereal disease programs; genetic disease programs; and lead-based paint programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Human Resources with an amendment in the nature of a substitute.

The PRESIDING OFFICER. Time for debate on this bill is limited to 1 hour, to be equally divided and controlled between the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS), with 30 minutes on any amendment, except an amendment to be offered by the Senator from Massachusetts (Mr. KENNEDY) on which there shall be 1 hour, and with 15 minutes on any debatable motion, appeal, or point of order.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following staff of the Human Resources Committee be granted the privilege of the floor during consideration of and any votes on S. 2474: Anne Strauss, David Blumenthal, Larry Horowitz, Bob Wenger, Stuart Shapiro, Chris Burch, Becky Beauregard, Ellen Axat, Pat Markey, Peter Harris, Judy Robinson, and Lance Reingwalt.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, the same request for Bill Kennedy and Linda Labsteen of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I yield myself such time as I might need.

Mr. President, the Health Services Extension Primary Health Care Act of 1978 (S. 2474) extends a number of existing HEW programs which provide health care services to the 49 million Americans living in medically underserved areas. The bill emphasizes primary and preventive health care services through which substantial savings in costs and human suffering can be realized.

Senators SCHWEIKER, WILLIAMS, JAVITS, PELL, HATHAWAY, BUMPERS, NELSON, RIEGLE, CHAFEE, INOUYE AND CRANSTON joined me in sponsoring this bill.

The bill was reported unanimously by the Subcommittee on Health and Scientific Research and by the Committee on Human Resources.

As reported to the Senate, S. 2474 authorizes $3.3 billion and extends for up to 5 years expiring programs under the Public Health Service Act. S. 2474 provides for the establishment and substantial future expansion of programs with a direct impact on primary care. S. 2474 also calls for the establishment of a Commission on National Primary Health Care.

Four months have passed since S. 2474 was reported to the Senate. Over that period the majority and minority members of the Committee have worked closely together to assure that the bill passed by the Senate would be responsive, not only to the need to improve health care, but to the need to assure the most effective allocation of scarce health care dollars. We have worked closely with the Senate Budget Committee in order to achieve this objective, as well as with organizations actively involved in the improvement of the delivery of health care.

UP AMENDMENT NO. 1953

(Purpose: To amend the Public Health Service Act with regard to health services)

Mr. KENNEDY. Mr. President, on behalf of myself, and Senators WILLIAMS, PELL, RIEGLE, SCHWEIKER, JAVITS and CHAFEE, I send to the desk a substitute for the committee-reported version of S. 2474 and ask that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Messrs. SCHWEIKER, PELL, CHAFEE, HATHAWAY, and RIEGLE, proposes an unprinted amendment numbered 1953:

Strike out all after the enacting clause and substitute the following:

TITLE I—HEALTH SERVICES EXTENSION

SHORT TITLE

Sec. 101. (a) This title may be cited as the "Health Services Extension Act of 1978".

(b) Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

COMPREHENSIVE PUBLIC HEALTH SERVICES

Sec. 102. (a) Section 314(d)(7)(A) (relating to authorizations for formula grants to States for comprehensive public health services) is amended by striking out "and" after "1977,", and inserting before the period at the end thereof the following: ", $102,000,000 for the fiscal year ending September 30, 1979".

(b) Title III is amended by adding after section 314 the following new section (relating to authorizations for formula grants to States for hypertension programs):

"GRANTS FOR HYPERTENSION PROGRAMS

"Sec. 315. (a) The Secretary may make grants to States (which have submitted and had approved State plans in accordance with regulations and guidelines issues by the Secretary) for the purpose of establishing and maintaining programs for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension.

"(b) The Secretary shall, in accordance with such regulations as he may prescribe, allot the sums appropriated under subsection (4), among the States on the basis of the population and financial need of the respective States.

"(c) Nothing in this section shall be construed to prohibit the use of funds for hypertension programs which may be authorized and made available under any other provision of law.

"(d) To carry out the purposes of this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979.".

DISEASE CONTROL PROGRAMS

Sec. 103. (a) Section 317(q)(1)(A) (relating to authorizations for grants to States for disease control programs to immunize children against immunizable diseases) is amended (1) by striking out "and" after "1977,", and (2) by striking out "for fiscal year 1978" and substituting "for fiscal year ending September 30, 1978, and $35,000,000 for the fiscal year ending September 30, 1979".

(b) Section 317 (a)(1)(B) (relating to authorizations for grants to States for disease control programs for diseases borne by rodents) is amended (1) by striking out "and" after "1977,", and (2) by striking out "for fiscal year 1978" and substituting "for the fiscal year ending September 30, 1978, and $14,000,000 for the fiscal year ending September 30, 1979".

(c) Section 317 (g) is amended by adding at the end thereof the following new paragraph:

"(3) No funds appropriated under the provisions of this section may be used to carry out programs for flu immunization.

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

Sec. 104. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease persists in epidemic proportions in the United States;

(2) the number of persons affected by venereal disease and reported to public health authorities is only a fraction of those actually affected;

(3) the incidence of venereal disease continues to be particularly high among American youth, ages fifteen to twenty-nine, and among populations in metropolitan areas;

(4) venereal disease accounts for severe

permanent disabilities and sometimes death in newborns and causes reproductive dysfunction in women of childbearing age;

(5) it is conservatively estimated that the public cost of health care for persons suffering from complications of venereal disease exceeds one-half billion dollars annually;

(6) the number of trained Federal venereal disease prevention and control personnel has fallen to a dangerously inadequate level;

(7) no vaccine for syphilis, gonorrhea, or any other venereal disease has yet been developed, nor does a blood test for the detection of asymptomatic gonorrhea in women exist, nor are safe and effective therapeutic agents available for some other venereal diseases;

(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup have all been found to be effective venereal disease prevention and control methodologies;

(9) skilled and knowledgeable health care providers, informed and concerned individuals and active, well-coordinated voluntary groups are fundamental to venereal disease prevention and control;

(10) biomedical research toward improved diagnostic and therapeutic tools is of singular importance to the elimination of veneral disease; and

(11) an increasing number of sexually transmissible diseases besides syphilis and gonorrhea have become a public health hazard.

(b) Section 318(b)(1) of the Public Health Service Act (42 U.S.C. 247c) is amended by—

(1) striking "(1)".

(2) inserting "and public information and" after "demonstrations.", and

(3) striking "and training".

(c) Paragraph (2) of subsection (b) of section 318 of the Public Health Service Act is repealed.

(d) Section 318(c) of the Public Health Service Act is amended by—

(1) inserting "also" after "The Secretary is" in paragraph (1).

(2) striking "and public" in clause (D) of paragraph (1) and substituting "(including appropriate allied health personnel)."

(3) inserting ", training and clinical skills improvement" before "activities" in clause (D) of paragraph (1).

(4) striking "and" after "1977," in paragraph (2).

(5) striking the period at the end of paragraph (2) and substituting "$44,500,000 for the fiscal year ending Setpember 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, and $56,000,000 for the fiscal year year ending September 30, 1981. For each fiscal year beginning after September 30, 1978, not less than 5 percent of the sums appropriated for that fiscal year under the provisions of the preceding sentence shall be obligated for grants under subsection (b).".

(e) Subsection (f) of section 318 of the Public Health Service Act is repealed.

(f) Subsections (g) and (h) of section 318 of the Public Health Service Act are redesignated as subsections (f) and (g), respectively.

MIGRANT HEALTH

Sec. 105. (a) Section 319(a)(1)(D) is amended by adding at the end thereof the following: "as well as improvements to private property when the written consent of the owner has been obtained and when such improvements are necessary to alleviate a health hazard.".

(b) Section 319(a)(1) is amended by inserting the following before the period at the end thereof: "and migratory agricultural workers who have been previously employed in agricultural farmwork but can no longer meet the requirements of paragraph (2) or (3) of this subsection because of age or disability and members of their families within the area it serves.".

(c) The first sentence of section 319(a)(5) is amended by striking "six thousand" and substituting "four thousand".

(d) The second sentence of section 319(b)(1) is amended to read as follows: "The highest priorities for such assistance shall be assigned to areas where the Secretary determines the greatest need exists.".

(e) Section 319(c)(1)(B) is amended by striking "six thousand" and substituting "four thousand".

(f) Section 319(d)(1)(C) is amended by striking "six thousand" and substituting "four thousand".

(g) Section 319(f) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall establish, by regulation, a plan to allow migrant health centers to retain earned income from the operations of the center if the income is used to—

"(A) expand or improve the services of the center;

"(B) expand the population (consistent with the provisions of subsection (a) of this section) eligible to utilize the services of the center;

"(C) make managerial or physical improvements to the center; or

"(D) establish a reserve fund for use in conversion to a prepaid reimbursement modality.".

(h) Section 319(d)(1) is amended by adding at the end thereof the following new paragraphs:

"(D) The Secretary may make grants to public and nonprofit private migrant health centers to enable the migrant health centers to convert or to plan the conversion to the provision on a prepaid basis of health services to some or to all of the population which the center serves: *Provided*, That—

"(i) The center for which the funds are to be expended under this subparagraph has received grants under subsection (c) or (d) of this section for at least two consecutive years preceding the year of the grant under this subparagraph.

"(ii) The governing board of the center (as defined in subsection (e)(2)) requests, in a manner prescribed by the Secretary, that the center provide on a prepaid basis health services to some or to all of the population which the center serves.

"(iii) The center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis will not result in the diminution of health services provided by the center to the population the center served prior to the grant under this subparagraph.

"(E) The Secretary shall not expend for grants under subsection (D) in any fiscal year an amount which shall exceed 5 per centum of the funds appropriated under subsection (h)(2) of this section for that fiscal year.".

(i) The first sentence of section 319(h)(1) (relating to authorization for project grants for planning and development of migrant health centers) is amended by striking out "and" after "1977," and inserting before the period at the end thereof the following: ", $3,600,000 for the fiscal year ending September 30, 1979, $3,600,000 for the fiscal year ending September 30, 1980, and $3,600,000 for the fiscal year ending September 30, 1981".

(j)(1) The first sentence of section 319(h)(2) (relating to authorizations for operation of migrant health centers) is amended by striking out "and" after "1977,", and inserting before the period at the end thereof the following: ", $36,000,000 for the fiscal year ending September 30, 1979, $40,500,000 for the fiscal year ending September 30, 1980, and $45,600,000 for the fiscal year ending September 30, 1981".

(2) The third sentence of section 319(h)(2) is amended by striking out "and" after "1977,", and inserting after "1978" the following: ", the fiscal year ending September 30, 1979, the fiscal year ending September 30, 1980, and the fiscal year ending September 30, 1981.".

(k) Section 319(h)(3) (relating to authorizations for inpatient and outpatient hospital services) is amended by striking out "and" after "1977,", and inserting before the period at the end thereof the following: ", $5,400,000 for the fiscal year ending September 30, 1979, $5,900,000 for the fiscal year ending September 30, 1980, and $6,800,000 for the fiscal year ending September 30, 1981".

COMMUNITY HEALTH CENTERS

Sec. 106. (a) Section 330(b) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) The term 'environmental health services' includes the identification, detection, and assistance in alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, and other environmental factors related to health as well as improvements to private property when the written consent of the owner has been obtained and when such improvements are necessary to alleviate a health hazard.".

(b) Section 330(d)(4) of the Public Health Service Act is amended to read as follows:

"(4) The amount of any grant made under paragraph (1) shall be determined by the Secretary. In determining the amount of a grant for a center, the Secretary, if funds have been requested for an environmental health service described in subsection (a)(4) or a supplemental health service described in subparagraph (B), (K), (M), or (N) of subsection (b)(2), shall include funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.".

(c)(1) Section 330(e) is amended by inserting the following after paragraph (2):

"(3) An application for a grant under subsection (d) for a community health center shall include—

"(A) a description of the need in the center's catchment area for each of the health services described in subsection (a)(4) and in subparagraphs (B), (K), (M), and (N) of subsection (b)(2),

"(B) if the applicant determines that any such service is not needed the basis for such determination, and

"(C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such request.

In considering an applicant for a grant under subsection (d), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified supplemental and environmental health services which the Secretary has found needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant. However, the Secretary shall not require the provision of a comprehensive range of environmental and supplemental health services as a condition for the development of centers serving nonurbanized areas (as defined by the Bureau of the Census), where the provision of such comprehensive services are not practical.".

(2) Section 330(e)(2) is amended by—

(A) striking "and" after clause (I);

(B) striking the period after clause (J) and substituting "; and"; and

(C) adding the following new clause:

"(K) the center, in accordance with regulations promulgated by the Secretary, has developed an ongoing referral relationship with one or more hospitals.",

(3) Section 330 is amended by redesignating subsection (g) as (j) and by inserting after subsection (f) the following new subsections:

"(g) The Secretary shall establish, by regulation, a plan to allow community health centers to retain earned income from the operations of the center if the income is used to—

"(1) expand or improve the services of the centers;

"(2) expand the population eligible to utilize the services of the center;

"(3) make managerial or physical improvements to the center; or

"(4) establish a reserve fund for use in conversion to a prepaid reimbursement modality.

"(h) The Secretary shall make available to each grant recipient under this section a list of all available Federal and non-Federal resources to improve the environment and nutritional status of individuals in the catchment area of the grant recipient.

"(i)(1) The Secretary may make grants to public and nonprofit private community health centers to enable the community health centers to convert or to plan the conversion to the provision on a prepaid basis of health services to some or to all of the population which the center serves: Provided, That—

"(A) the center for which the funds are to be expended under this subsection has received grants under subsections (c) and (d) of this section for at least two consecutive years preceding the year of the grant under this subparagraph;

"(B) the governing board of the center (as defined in subsection (e)(2) requests, in a maner prescribed by the Secretary, that the center provide services on a prepaid basis to the population which the center serves; and

"(C) the center provides assurances satisfactory to the Secretary that the provision of some or all of such services on a prepaid basis will not result in the diminution of the health services provided by the center to the population the center served prior to the grant under this subparagraph.

"(2) The Secretary shall not expend for grants under this subsection in any fiscal year an amount which shall exceed 5 per centum of the funds appropriated under subsection (j)(2) of this section for that fiscal year.".

(d) Section 330(j)(1), as redesignated by subsection (c)(3) of this section, (relating to authorizations for the planning and development of community health centers) is amended by striking out "and" after "1977,", and inserting before the period at the end thereof the following: ", $10,000,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, and $10,000,000 for the fiscal year ending September 30, 1981.".

(e) Section 330(j)(2), as redesignated by subsection (c)(3) of this section (relating to authorizations for the operation of community health centers) is amended by striking out "and" after "1977,", and inserting before the period at the end thereof the following: ", $320,000,000 for the fiscal year ending September 30, 1979, $361,000,000 for the fiscal year ending September 30, 1980, and $407,000,000 for the fiscal year ending September 30, 1981".

NATIONAL HEALTH SERVICE CORPS

SEC. 107. (a) In addition to the sums authorized to be appropriated for the purposes of section 338 (a) for the fiscal year ending September 30, 1979, there are authorized to be appropriated $7,000,000.

(b) Section 336 (relating to annual reports to Congress) is amended by (1) inserting "(a)" after "Sec. 336." and (2) by inserting at the end of subsection (a) thereof the following:

"(b) In addition to the report required by subsection (a), the Secretary shall submit a special report, developed through consultation with the National Advisory Council on the National Health Service Corps (as defined in section 337), to the Committee on Human Recources of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives on February 1, 1979. Such special report shall delineate the present and future directions of the National Health Service Corps, particularly its relationship as a health manpower program and as a health services delivery program, analyze the use of corpsmen in the various settings defined in section 332, address the use of the Corps in meeting urban and rural health needs, and project the estimates of the Corps' manpower and their use through 1985.".

(c) Section 752(b)(5)(A) of the Public Health Service Act (42 U.S.C. 2940) is amended by inserting the following new sentence after the first sentence thereof: "Certain specialties needed by the Corps may be deferred for more than three years, but in any given year such deferments shall constitute no more than 5 percent of the total number of deferrals granted.".

GENETIC DISEASES

SEC. 108. (a) Section 402 of the National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act is amended by striking out all following "diseases," and substituting "and genetic conditions, such as Sickle Cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, muscular dystrophy, and genetic conditions leading to mental retardation or mental illness, and conditions requiring genetic services.".

(b) Section 1101(a) is amended by—

(1) inserting "plan," after "projects to" in paragraph (1); and

(2) adding at the end thereof the following new paragraph:

"(3) The Secretary, through the identifiable administrative unit (established under paragraph (1)), may make grants to or enter into contracts with, public and nonprofit private entities for projects for (A) planning, establishing, demonstrating, and developing special programs for the training of genetic counselors, social and behavioral scientists and other health professionals, and (B) the development of programs to educate practicing physicians, other health professionals, and the public regarding the nature of the genetic processes, the inheritance patterns of genetic diseases, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic diseases.".

(c) Section 1101(b) is amended by inserting before the period ", and $15,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $25,000,000 for the fiscal year ending September 30, 1981".

(d) Section 1104(a) is amended by inserting the following before the period at the end of the first sentence: ", including assurances for an evaluation whether performed by the applicant or by the Secretary. Such grant or contract may be made available on less than a statewide or regional basis".

(e) Section 1104(a)(4) is amended by inserting the following immediately before the semicolon at the end thereof: ", and (C) appropriate arrangements will be made for referral for treatment of genetic conditions identified".

(f) Section 1104 is amended by adding at the end thereof the following new subsection:

"(d) In making any grant or entering into any contract under section 1101 the Secretary shall have developed a procedure under which persons from among members of the general public and from among leading medical or scientific authorities (acting as an advisory group, task force, or other entities appointed by the Secretary) knowledgeable and experienced in genetic diseases or conditions will have the opportunity on a regular basis to make recommendations to the Assistant Secretary for Health.".

(g) Part A of title XI is amended by adding after section 1106 the following new section:

"APPLIED TECHNOLOGY

"SEC. 1107. (a) The Secretary, acting through an identifiable administrative unit, shall—

"(1) conduct epidemiological assessments and surveillance of genetic diseases to define the scope and extent of such diseases and the need for programs for the diagnosis, treatment, and control of such diseases, screening for such diseases, and the counseling of persons with such diseases;

"(2) on the basis of the assessments and surveillance described in paragraph (1), assist States in developing programs which combine in an effective manner diagnosis, treatment, and control of such diseases, screening for such diseases, and counseling of persons with such diseases; and

"(3) on the basis of the assessments and surveillance described in paragraph (1), provide technical assistance to States to implement the programs developed under paragraph (2).

In carrying out this section, the Secretary may, from funds appropriated under section 1101(b), make grants to or enter into contracts with public or nonprofit private entities (including grants and contracts for demonstration projects).".

(h) Section 1101(b) is amended by inserting "and section 1107" after "this section".

(i) The first sentence of section 1102 is amended by—

(1) striking clauses (2) and (3),

(2) redesignating clause (4) as clause (2),

(3) striking "and" before "(2)" (as redesignated by paragraph (2)), and

(4) striking the period at the end thereof and substituting "and (3) pilot programs to determine the most effective methods of delivering and implementing genetic services within the existing health care system.".

GENETIC STUDIES

SEC. 109. The National Commission for the Protection of Human Subjects of Biomedical and Behavorial Research (established by section 201 of the National Research Act (P.L. 93-348)) shall conduct an investigation and study, and make recommendations to Congress, respecting the ethical, social, and legal implications of voluntary testing, counseling, and information and education programs with respect to genetic diseases and genetic conditions.

HEMOPHILIA

SEC. 110. (a) Section 1131(f) (relating to authorization for hemophilia programs) is amended by striking "and" after "1977,", and inserting before the period at the end thereof the following: ", $4,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30. 1981".

(b) Section 1132(e) (relating to authorizations of blood separation centers) is amended by striking "and" after "1977", and inserting before the period at the end thereof the following: ", $2,000,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,000,000 for the fiscal year ending September 30, 1981.".

HOME HEALTH SERVICES

SEC. 111. (a) Title III is amended by inserting after section 319 the following new section:

"HOME HEALTH SERVICES

"SEC. 320. (a)(1) For the purpose of demonstrating the establishment and initial operation of public and nonprofit private agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section

1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, make grants to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both. Demonstration projects and programs are to be conducted, to the extent practicable, in rural and urban areas, in sparsely and densely populated areas, and in areas with inadequate means of transportation.

"(3) Applications for grants under this subsection shall be made in such form and contain such information as the Secretary shall prescribe by regulation.

"(4) Payment of grants under this subsection may be made in advance or by way of reimbursement or in installments as the Secretary may determine.

"(5) There are authorized to be appropriated $8,000,000 for the fiscal year ending September 30, 1978, $6,500,000 for the fiscal year ending September 30, 1979, $7,000,000 for the fiscal year ending September 30, 1980, and $8,000,000 for the fiscal year ending September 30, 1981, for payments under this subsection.

"(b)(1) The Secretary may make grants to and enter into contracts with public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act).

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulations prescribe.

"(3) Payments of grants and contracts under this section may be made in advance or by way of reimbursement, or in installments, as the Secretary shall determine.

"(4) There are authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1978, $1,500,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,000,000 for the fiscal year ending September 30, 1981, for payments under grants under this subsection.".

(b) Section 602 of Public Law 94-63 is repealed.

LEAD-BASED PAINT POISONING PREVENTION

SEC. 112. Section 503 of Public Law 91-695 (relating to authorizations for lead-based paint poisoning prevention programs) is amended (1) by striking out "and" after "1977,", and (2) striking out "for fiscal year 1978" and substituting "for the fiscal year ending September 30, 1978, and $11,000,000 for the fiscal year ending September 30, 1979".

EMERGENCY MEDICAL SERVICES SYSTEMS

SEC. 113. (a) Section 1203(c) is amended by—

(1) striking out the first sentence of paragraph (2),

(2) striking out paragraph (3), and

(3) redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) The first sentence of section 1204(b)(1) is repealed.

(c) Subparagraph (B) of section 1206(b)(1) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the expenditure of unexpended balances shall not constitute a year of grant or contract assistance under this part.".

(d)(1) Section 1207(a)(1) is amended by striking out "sections 1203 and 1204" in the second clause and substituting "sections 1202, 1203, and 1204".

(2) Section 1207(a)(5)(A) is amended by striking out "for the succeeding fiscal year" and substituting "for each of the two succeeding fiscal years".

(e) The amendments made by subsections (a)(1) and (b) of this section shall be effective retroactive to June 30, 1975.

TITLE II—PRIMARY HEALTH CARE

SHORT TITLE

SEC. 201. (a) This title may be cited as the "Primary Health Care Act of 1978".

(b) Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

FINDINGS AND DECLARATION OF PURPOSE

SEC. 202. (a) The Congress finds that—

(1) although the achievement of equal access to quality health care at a reasonable cost is a stated priority of the Federal Government, there remains a wide disparity throughout the Nation regarding the cost, quality, and availability of medical care services;

(2) despite Federal financing programs designed to eliminate barriers to medical care services for the poor and the elderly, there remains a shortage of health resources, especially in medically underserved inner city and rural areas; and

(3) residents of inner city and rural medically underserved areas lack the availability of basic and appropriate services for health promotion, disease prevention, and primary care.

(b) It is the purpose of this title—

(1) to alleviate the shortage of health resources in both urban and rural medically underserved areas of the country; and

(2) to provide authorities for research and demonstration projects which develop innovative approaches for the organization and delivery of primary care.

DESIGNATION OF "PRIMARY HEALTH CARE" SECTION

SEC. 203. Title III of the Public Health Service Act is amended by—

(1) redesignating part H (and all cross references thereto) as Part L and redesignating section 372 as section 399B;

(2) inserting after section 369 the following:

"Part H—Primary Health Care

"Subpart I—Primary Health Centers.".

COMMUNITY HEALTH CENTERS

SEC. 204. Title III of the Public Health Service Act is further amended by transferring section 330 to part H and redesignating such section (and all cross references thereto) as section 370.

HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

SEC. 205. Part H of title III is further amended by adding after section 370 the following new section:

"HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

"SEC. 371. (a) For purposes of this section:

"(1) The term 'community hospital' means either a public general hospital owned and operated by a State, county or local unit of government or public benefit corporation, or a private nonprofit hospital which primarily serves a medically underserved population as defined in section 370(b)(3).

"(2) The term 'hospital-affiliated primary care center' (hereinafter referred to as 'primary care center') means a distinct administrative unit of a community hospital, located in or adjacent to the hospital, which—

"(A) delivers primary health services (as defined in section 370(b)(1) except that the requirement to provide emergency medical services shall be fulfilled by referral to the emergency room of the community hospital) to a catchment area which is determined by the hospital and approved by the Secretary;

"(B) provides, as may be appropriate for particular centers, supplemental health services (as defined in section 370(b)(2)) necessary for the adequate support of primary health services;

"(C) provides referral to providers of supplemental health services (as defined in section 370 (b)(2)) and payment, as appropriate and feasible, and for their provision of such services;

"(D) provides at a minimum referral to emergency medical services and authorized access to patient medical records on a 24-hour a day, seven-day-a-week basis; and

"(E) provides information on the availability and proper use of health services provided by the community hospital and the primary care center.

"(3) (A) The term 'primary care group practice' means any combination of three or more primary care physicians (as defined in section 771 (b) (2) (F) (ii)) who are organized to provide primary health services in a manner which is consistent with the needs of the population to be served; who are located in or adjacent to the community hospital; who have admitting privileges to the community hospital; and who are either—

"(i) salaried by the hospital such that all members of the group practice are fulltime in the hospital and a majority of the members of the group practice is fulltime in the primary care center; or

"(ii) organized into a legal entity (partnership, corporation, or professional association) which has a contract approved by the Secretary with the community hospital to provide primary health services. The group shall have an income distribution formula which shares the income and expenses of the group in a systematic manner; all members of the group practice shall devote fulltime to the fulfillment of the contract.

except that in designated health manpower shortage areas (as defined in section 375 as redesignated under section 208 of the Primary Health Care Act of 1978) the minimum requirement of three primary care physicians for the composition of a primary care group practice, as defined by subsection (3) (A) of this section, may be fulfilled by substituting either one nurse practitioner or one physician assistant for one physician member of the group practice.

"(B) In designated health manpower shortage areas (as defined in section 375 as redesignated under section 208 of the Primary Health Care Act of 1978) where there is an approved application for assignment of National Health Service Corps personnel, the Secretary may assign National Health Service Corps personnel in fulfillment of the requirements of subparagraphs (3) (A) where the center would otherwise be unable to form a group practice. The physician staff may not be composed entirely of National Health Service Corps personnel.

"(C) Physicians in specialties other than primary care specialties may become members of the group practice as needed, except that such physicians may not be used to fulfill the requirements of subparagraph (b)(2)(C).

"(D) Nonphysician providers, particularly physician assistants and nurse practitioners, shall be used where practicable in concert with the physicians of the group practice

"(4) The term 'primary care resident' means a graduate physician in training,

whose training program is approved by appropriate certifying bodies and is in a primary care specialty (general internal medicine, general pediatrics, and family or general practice) and whose board eligibility training program requires that at least one-third of the time in the last two years of residency training (or in the case of the osteopathic general practice resident, the last year of residency training) be spent in an ambulatory care setting.

"(b)(1) The Secretary may make grants to community hospitals to assist such hospitals in planning, developing, and operating primary care centers in medically underserved areas. In making such grants the Secretary shall avoid duplication of efforts in areas where existing community health centers, migrant health centers, and other facilities are adequate to meet the needs of the medically underserved population.

"(2) To be eligible for a grant under this subsection, the community hospital must submit an application which contains or is supported by the following assurances, satisfactory to the Secretary—

"(A) that the services of the primary care center shall be delivered through a primary care group practice. Primary health services may be delivered by primary care residents if such services are delivered under the direction of a member of the group practice, and if the primary care resident is assigned to the primary care center for a period of not less than 2 years, or in the case of an osteopathic general practice resident, a period of not less than one year. Medical and other health science students may receive primary care training in the primary care center. In no case shall the obligations of the full-time members of the group practice also be fulltime in the teaching of residents and students. The Secretary shall issue regulations to assure that teaching does not detract significantly from the efficiency and productivity of the actual delivery of service in the primary care center;

"(B) that, to the extent practicable, primary health services in the community hospital shall be delivered only through the primary care center and that qualified personnel trained in triage will be placed in the emergency room, the outpatient department, and the primary care center to screen and direct patients to the appropriate location for care;

"(C) that each patient of the primary care center will have an identified member of the group practice who is responsible for continuous management of the patient, including when the patient requires referral (inpatient or outpatient) or emergency services;

"(D) that, to the extent practicable, existing facilities and equipment in or owned by the community hospital will be converted for use in the primary care center;

"(E) that the hospital and the primary care center shall avoid unnecessary duplication of facilities and equipment, except that the primary care center may install appropriate support equipment for routine primary health services;

"(F) that the primary care center shall be maintained as a separate and distinct cost and revenue center for accounting purposes. Only such costs which are directly associated with the operation of the primary care center may be assigned to the primary care center. Inpatient-related costs may not be calculated into the costs of operating the primary care center. Costs associated with the education and training of residents, medical, and other health science students may not be calculated into the costs of operating the primary care center, except that salaries and other costs associated with the delivery of services by residents may be calculated into the costs of operating the primary care center as long as such costs are equivalent to the actual percentage of time spent by the resident in the primary care center;

"(G) that the primary care center shall be operated in accordance with all the requirements for community health centers in subsection (e) except for paragraph (2) (G) thereof. The hospital shall have an advisory board to the primary care center which is composed of individuals, a majority of whom are health consumers in the hospital's catchment area. The board shall participate in the development of the application for a grant under this section and shall participate in the development of any renewal grant applications. The Secretary shall not approve an application for an initial or renewal grant under this section unless it has been approved by the advisory board. The Secretary shall give priority under this section to hospitals which establish a community governing board as defined in section 370(e)(2)(G), except that eligible community hospitals in States where State laws prevent hospitals from establishing such a board shall compete equally for grants under this section. When the center is operational, the advisory board shall meet at least six times per year to review the operations of the center to develop recommendations to the hospital's governing board concerning the types of services to be provided and the operation of the center;

"(H) that the primary care center shall maintain an information program for its patients which fully discloses—

"(i) the covered professionl services and referral capabilities offered by the primary care center, and

"(ii) the method by which patients of the primary care center may resolve grievances respecting billing for covered professional services or the quality of the covered professional services; and "(I) that the operating hours of the primary care center shall include periods of high volume and utilization of the community hospital's emergency room and outpatient department.

"(3) Grants under this subsection may be used for covering the costs associated with (A) planning, (B) developing (including the costs of acquiring or modernizing, in accordance with the provisions of section 370(d)(2), existing buildings or space located in or adjacent to the community hospital), and (C) operating primary care centers.

"(c) The Secretary shall, upon request, provide necessary technical or other nonfinancial assistance (including fiscal and program management assistance and training in such management) to a community hospital to assist it in developing plans for, and in operating, a primary care center. Funds appropriated under this section may be used to carry out the purposes of this subsection.

"(d) The Secretary shall establish, by regulation, a plan to allow primary care centers to retain earned income from the operations of the center if the income is used to—

"(1) expand or improve the services of the center;

"(2) expand the population eligible to utilize the services of the center;

"(3) make managerial or physical improvements to the center; or

"(4) establish a reserve fund for use in conversion to a prepaid reimbursement modality.

"(e) The Secretary may make grants to public and nonprofit private hospitals to enable primary care centers to convert or to plan the conversion to the provision of health services on a prepaid basis to some or to all of the individuals served by the center: *Provided*, That—

"(i) the governing board of the hospital, with the approval of the advisory board of the primary care center (as defined in (b)(2)(G)) requests, in a manner prescribed by the Secretary, that the center provide on a prepaid basis health services to some or to all of the population which it serves, and

"(ii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis will not result in the diminution of the health services provided by the center to the population the center served prior to the grant under this subparagraph.

"(f) There are authorized to be appropriated for the purpose of making payments for grants under this section $35,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, and $45,000,000 for the fiscal year ending September 30, 1981. Not more than $500,000 per project may be used for planning and development.".

MIGRANT HEALTH

SEC. 206. Title III of the Public Health Service Act is further amended by transferring section 319 to part H and redesignating such section (and all cross references thereto) as section 372.

RESEARCH AND DEMONSTRATION PROJECTS FOR PRIMARY CARE

Sec. 207. Part H of title III of the Public Health Service Act is further amended by adding after section 372 the following:

"Subpart II—Research and Demonstration Projects for Primary Care.

"GRANTS AND CONTRACTS FOR PRIMARY CARE RESEARCH AND DEMONSTRATION PROJECTS

"Sec. 373. (a) The Secretary is authorized to make grants to and enter into contracts with nonprofit private and public organizations and providers of health and dental care to demonstrate new, improved, or expanded primary health and dental care delivery mechanisms in the community setting for (1) medically underserved populations, or (2) other population if the Secretary determines that such grants or contracts are necessary to demonstrate particular delivery mechanisms and further the purposes of this section.

"(b) For purposes of this section:

"(1) The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. In designating urban or rural areas for purposes of this paragraph, the Secretary shall take into account unusual local conditions which are a barrier to access to or the availability of personal health services.

"(2) The term 'rural' means an area that is not an urbanized area (as defined by the Bureau of the Census).

"(3) The term 'urban' means an area that is an urbanized area (as defined by the Bureau of the Census).

"(4) The term 'environmental health services' includes the identification, detection, and assistance in alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, and other environmental factors related to health as well as improvements to private property when such improvements are necessary to alleviate a health hazard.

"(c) Grants and contracts may be made pursuant to this section to examine and develop—

"(1) methods of attracting and retaining primary care physicians, dentists, physician assistants, nurse practitioners and other allied health professionals, both individually and as teams, to train and practice among medically underserved populations;

"(2) the use of differing types of organizational models and providers, all directed toward meeting the unique needs of medically underserved population;

"(3) management and technological improvements to increase productivity, effectiveness, efficiency, and financial stability of health and dental care providers, including new or improved methods for biomedical

communication, medical and financial recordkeeping and billing systems;

"(4) health promotion, disease prevention, and health education programs directed toward obtaining full utility from available health and dental resources;

"(5) methods of identifying, coordinating, and integrating existing health and social service facilities and programs to maximize use of available resources, avoid duplication of effort, and ensure a coordinated, comprehensive care system, including demonstrations to explore the feasibility and effectiveness of combining primary health and dental care delivery programs with other health and social services in the context of integrated social service centers;

"(6) regional approaches to the delivery of health and dental care, through the coordination and integration of primary care programs, including support for federations of existing clinics and consolidated health care delivery systems operating in multiple locations;

"(7) identification and development of new funding mechanisms for the provision of health and dental care, including local revenue generation with public responsibility for these programs assured through the periodic election of legally constituted governing boards and maintenance of service standards facilitated by Federal incentive awards to participating medically underserved populations;

"(8) specific services or mixture of services appropriate for a given area, including ambulatory care, home health care, environmental health services, community outreach activities, transportation services, and other supplemental services;

"(9) effect of availability of primary care and home health services in terms of reduction of emergency room visits, hospitalizations, and institutionalization in long-term care facilities; and

"(10) other innovative approaches designed by the applicant and approved by the Secretary to improve the availability of quality health and dental care.

"(d) The Secretary shall submit an annual report to Congress which shall include a description of actions taken, services provided, and funds expended under this section, and evaluation of the effectiveness of such actions, services, and expenditures of funds, and such other information as the Secretary considers appropriate.

"(e) An application for a grant or contract under this section shall be in such form, submitted to the Secretary in such manner, and contain such assurances, as the Secretary may require.

"(f) The amount of any grant or contract under this section shall be determined by the Secretary, but shall not exceed the amount that the Secretary determines is needed to carry out the purposes of the grant or contract.

"(g) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

"(h) The Secretary shall fund projects relating to each of the ten demonstration authorities identified in subsection (c) (1)–(10).

"(i) The Secretary may continue to support, out of funds appropriated under this section, those projects presently funded through the Public Health Service under the Health Underserved Rural Areas Program.

"(j) There are authorized to be appropriated for the purpose of funding grants and contracts in rural areas under this section $18,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $22,000,000 for the fiscal year ending September 30, 1981.

"(k) There are authorized to be appropriated for the purpose of funding grants and contracts in urban areas under this section $5,000,000 for the fiscal year ending September 30, 1979, $5,500,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30, 1981.".

HEALTH PROFESSIONALS FOR MEDICALLY UNDERSERVED AREAS

Sec. 208. (a) Subpart II of part C of title III of the Public Health Service Act is transferred to part H of such title as subpart IV, and sections 331, 332, 333, 334, 335, 336, 337, and 338 are redesignated as sections 374, 375, 376, 377, 378, 379, and 380, respectively.

(b) The heading for subpart IV, as so redesignated, is amended to read as follows: "Health Professionals for Medically Underserved Areas".

SPECIAL PROJECTS WITH REGARD TO GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

Sec. 209. (a) Section 792(b)(1) is amended to read as follows:

"(b) The Secretary may make grants to assist public or nonprofit educational entities in meeting the costs of special projects in—

"(1) biostatistics or epidemiology,

"(2) health administration, health planning or health policy analysis and planning,

"(3) environmental or occupational health, or

"(4) dietetics and nutrition.".

(b) Paragraph (2) of section 792(b) is repealed.

HEALTH CARE NEEDS OF IMMIGRANTS

Sec. 210. The Secretary shall also submit an additional special report on the primary health care needs of immigrants. The report shall be developed through consultation with the Commissioner of the Immigration and Naturalization Service, with leaders in the health care area, and with representatives of immigrant consumers of health care. The report shall be submitted to the Committee on Human Resources and the Committee on the Judiciary of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives by June 30, 1979. The report shall contain an assessment of the health care needs of our nation's immigrants, including their access to health care services and any unique impediments that may inhibit their use of the existing health care system. Further, the report shall contain specific recommendations for the development of a national strategy to address these issues, taking into account the fact that significant numbers of immigrants reside in a select number of specific States.

EVALUATION

Sec. 211. (a) The Comptroller General shall evaluate the operations of primary care centers, community health centers and migrant health centers which receive assistance under the Public Health Service Act. Each distinct category shall be evaluated separately and a comparison shall be made.

(b) The Comptroller General shall report to the Congress the results of such evaluation not later than 30 months after the date of enactment of this section.

PREPAID HEALTH SERVICES

Sec. 212. Section 1313 is amended by inserting after "Act", in the first sentence thereof the following: "(except as provided in sections 370, 371, and 372)".

Amend the title to read: "A bill to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes.".

The PRESIDING OFFICER. Does the Senator request that this be treated as original text for the purposes of amendment?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the substitute we are proposing makes no major policy changes in S. 2474. It does, however, adjust the funding levels in S. 2474 to bring them within the functional ceiling established in the budget resolution, while at the same time providing for real growth.

The substitute is supported by:

The American Hospital Association;

The American Public Health Association;

The Association of State and territorial health officials;

The National Association of Community and Migrant Health Centers; and

The Citizens for the Treatment of High Blood Pressure, Inc.

Both S. 2474 and the substitute reflect the testimony heard by our Subcommittee on Health and Scientific Research here in Washington and in field hearings last fall. During those field hearings Senators JAVITS, SCHWEIKER, and I went to Atlanta to review the work of the center for disease control. We toured their modern facilities and laboratories. We talked personally with the dedicated staff of the center. And we learned first hand about the important work that the center performs in disease control and preventive health services.

Our subcommittee also visited community health centers in Miami, Houston, and Los Angeles. I had the chance to talk with many of the people who use the centers. Without exception, these people felt that in the absence of HEW's community health center program they would not have access to needed health care services. They were satisfied with the services they received. They felt their participation in the governance of the centers helped make the services responsive to their needs. They felt consumer governing boards were an essential element in the success of the centers.

The subcommittee also visited a migrant health center and a migrant camp in Homestead, Fla. The contrast between the modern facilities available through the community health center in Miami, and the old, crowded, ill-equipped health facility used by the migrants was startling. The migrants said that although they could use the modern facility in Miami, they preferred the migrant health center which was closer to their camp, where the staff was more sensitive to their special needs and problems. The migrants made it very clear that they needed the special migrant health program and were opposed to any consolidation of that program with the broader community health center program. They also pleaded for increased funding of the migrant health program and continued requirements for migrant control of the projects.

Mr. President, I would now like to review for my colleagues how the substitute we are proposing will meet the con-

cerns and priorities which have been expressed.

With regard to funding, the substitute will reduce by 19 percent the fiscal year 1979 authorization provided in the committee-reported bill. It also reduces fiscal year 1980 funding by 14 percent. It reduces fiscal year 1981 funding by 13 percent. Authorizations for fiscal year 1982 and 1983 are not included in the substitute, nor is the requirement for establishment of a commission on national primary health care needs. The following table compares the authorization levels in S. 2474 and those in the substitute:

	Millions
Fiscal year 1979 S. 2474	$854.8
Substitute	690.5
Fiscal year 1980 S. 2474	665.4
Substitute	572.5
Fiscal year 1981 S. 2474	742
Substitute	645

With regard to specific programs, the substitute includes the following:

Title I extends for 1 year the following programs which are key elements in our Nation's effort to provide early detection and treatment of debilitating and costly diseases. These programs include:

Programs to screen, detect, diagnose, and prevent hypertension, and provide referral for treatment.

Formula grants to the States for comprehensive public health services.

Immunization of children against communicable diseases.

Rodent control and lead-based paint poisoning programs in order to reduce exposure to these hazards.

Mr. President, further funding and future directions for these programs are included in the provisions of S. 3116, the National Disease Prevention and Health Promotion Act of 1978. It is my intention to call up S. 3116 immediately following consideration of this substitute, and to discuss these programs further at that time.

Title I also extends for 3 years programs which have demonstrated their ability to improve the health status of our population and to increase the access of medically underserved populations to health care services in a cost-effective manner.

These programs include:

Programs for the prevention and control of venereal disease.

Programs to provide research, screening, counseling information and education with regard to genetic diseases.

Hemophilia treatment and blood separation centers.

Home health services.

Community health centers.

Migrant health centers.

Title II of the substitute establishes a 3-year program to assist hospital affiliated primary care centers in areas where such centers will not duplicate the services provided by community and migrant health centers.

In addition, title II provides for continuation of research and development to improve primary care in both urban and rural areas.

The substitute also makes minor changes in the emergency medical services program and in the National Health Service Corps program.

Mr. President, the programs in the substitute will permit this Nation to move forward in strengthening the health services delivery systems available for underserved areas and populations. The programs in the substitute will enhance our ability to control and prevent disease. The programs in the substitute are programs through which substantial savings in costs and human suffering can be realized.

I urge my colleagues to give their full support to this amendment.

With regard to specific programs, the substitute includes the following:

COMPREHENSIVE PUBLIC HEALTH SERVICES

The substitute provides a one year extension for this program with an authorization level which allows a modest increase. This formula grant program is used to support a number of ongoing State program activities and the funds have generally been categorically assigned by the States themselves.

Funds under this program are used to support health services delivery and related programs such as maternal and child health programs; tuberculosis activities; chronic disease programs which are directed toward such major causes of death and disability as heart disease, cancer, diabetes, and stroke; environmental health services, including food and drug protection, occupational health, radiological health, sanitary engineering, and air and water pollution. In addition, programs of laboratory services, home health and public health nursing services, and community mental health, including treatment of alcoholism, drug addiction, and suicide prevention are supported under this authority.

The substitute authorizes $102 million for fiscal year 1979 for Comprehensive Public Health Services.

HYPERTENSION PROGRAM

Efforts such as those supported under this program can lead to dramatic reductions in deaths and disability due to diseases such as heart attack and stroke and have great future potential in further reductions of diseases related to hypertension. It is on this basis that the substitute extends this authority at an increased authorization level.

It is estimated that over 23 million adults in the United States have hypertension—18 percent of the population—and that 50 percent of these persons are aware that they have hypertension. However, as few as 10 to 20 percent of those persons who are known to have hypertension are estimated to be under treatment. Clinical studies have demonstrated conclusively that controlling hypertension substantially reduces the risk of heart attacks and strokes.

The substitute authorizes $15 million for fiscal year 1979 for programs for the screening, detection, diagnosis, prevention and referral for treatment of hypertension.

IMMUNIZATION PROGRAMS

The substitute extends for one year programs to immunize children against diseases for which vaccine protection is available. Over the years, dramatic advances have been made in this area. More recently, however, as diseases such as measles, rubella, polio, diphtheria, tetanus, and pertussis have declined as major causes of illness and death among children, immunization levels have shown a tendency to decline. There has been concern that as these levels drop, these diseases will increase again, as has occurred in the pattern of measles.

An intensive effort is necessary to insure the appropriate immunization of children against the childhood vaccine preventable diseases. Major progress has already been made in marshalling the resources and energies of Government agencies and volunteer groups into a unified program. Procedures have been established for the systematic identification of incompletely immunized preschool and school age children, and programs are underway to provide appropriate immunizations to those children.

The substitute authorizes $35 million for fiscal year 1979 for immunization programs.

RODENT CONTROL PROGRAMS

The substitute extends for one year programs for urban rat control which can also provide a useful model for the development of other urban and rural community environmental health efforts.

By the end of fiscal year 1978, as a result of urban rat control programs, an estimated 6 million Americans will be residing in communities which are essentially free of rats. Over 23,500 residential blocks will no longer require intensive rat reduction activities. The maintenance activities required for these blocks can be supported with local resources, thus freeing Federal grant funds to be applied in new target areas. It should also be noted that these grant funds currently provide employment for approximately 2,000 individuals, of whom over 60 percent are residents of the program target area.

The substitute authorizes $14.0 million for fiscal year 1979 for rodent control programs.

VENEREAL DISEASE PROGRAMS

The substitute renews and expands the venereal disease prevention and control programs carried out in section 318 of the Public Health Service Act. In addition, it targets renewed efforts to deal with the continuing national epidemic of venereal disease.

The Federal effort against VD, in partnership with State and local programs, and implemented by the Center for Disease Control, has been notably successful. In 1977 syphillis was reduced 10.2 percent from the previous year, and gonorrhea was cut 0.2 percent—the first reduction in the reported incidence of gonorrhea since 1962. These achievements appear to be attributed, in part, to the increased levels of funding, since there is a direct documented relationship between funding increases for venereal disease programs and decrease in the incidence of venereal disease.

The substitute merges into one authority programs for training, demonstration, research, information, education and programs for prevention and control of venereal disease. 5 percent of all funds appropriated for VD in any fiscal year are obligated for programs of information, education, research and demonstration.

Since a persistent problem in the VD program has been poor clinical patient management, including misdiagnosis, underdiagnosis, and therapeutic inadequacy, the substitute includes a provision for "professional training and clinical skills improvement" to be funded through project grants.

The substitute also repeals section 318(f) of the Public Health Service Act which permits the Secretary of HEW to transfer up to 50 percent of funds appropriated for VD in any fiscal year for use in other disease control programs.

The substitute authorizes $44.5 million for fiscal year 1979, $50 million for fiscal year 1980 and $56 million for fiscal year 1981 for venereal disease control programs.

MIGRANT HEALTH PROGRAMS

The substitute extends migrant health programs for three years and provides for necessary expansion of health care services to migratory and agricultural workers and their families.

Despite the record of progress and accomplishment of these programs, the unmet health care needs of migrants remain profound and critical. The migrant health program reaches barely 19 percent of the population eligible for services. The infant mortality rate for migrants continues to be higher than the national average. Mortality rates for tuberculosis and other infectious diseases among migrants are much higher than the national rate, and for influenza and

pneumonia the rate is higher for migrants than it is for the general population. The rate of hospitalization for accidents is 50 percent higher for migrants than it is for the nation as a whole; migrant births occur outside of hospitals at a rate higher than the national rate.

The provisions of the substitute will make retired and disabled migrants eligible for services, will define a high impact area as having not less than 4,000 migratory and seasonal workers, and will assure that highest priority is assigned to areas where the need is greatest. The substitute also allows migrant health centers to retain earned income from operations, if the income is used to expand or improve services, expand the eligible population, make managerial or physical improvements, or to establish a reserve fund for conversion to a pre-paid reimbursement modality. It also includes helpful clarifying amendments offered by Senator Morgan.

The substitute authorizes $45 million for fiscal year 1979, $50 million for fiscal year 1980, and $56 million for fiscal year 1981 for migrant health programs.

COMMUNITY HEALTH CENTERS

The substitute extends the community health center program for three years. The substitute recognizes the achievements of community health centers in the last three years and the improvement in management and efficiency which have been achieved. Indeed, despite relatively stable funding in this period the program was able to expand the number of centers and the number of people served by those centers. Nevertheless, the program is only able to reach less than 10 percent of the 49 million people living in medically underserved areas, and only 164 of 544 centers are delivering truly comprehensive services. The community health center program is an outstanding model for the delivery of comprehensive health care. The substitute reaffirms our commitment to the health care delivery concepts which are embodied in this program.

The substitute also allows community health centers to retain earned income from operations if used to expand or improve services, expand the eligible population, make managerial or physical improvements, or to establish a reserve fund for conversion to a pre-paid reimbursement modality. Community health centers must also develop referral relationships with one or more hospitals.

We also wish to reaffirm our commitment to consumer majority governing boards. The most effective way of assuring that services are locally provided in accord with community needs is to make supervision of service delivery the responsibility of service beneficiaries. Consumer governing boards will continue to have responsibility for establishing policies, planning, organizing, and delivering services, managing the budget, and choosing the executive director. No change is proposed in current board requirements.

The substitute authorizes $330 million for fiscal year 1979, $371 million for fiscal year 1980, and $417 million for fiscal year 1981 for the community health center program.

NATIONAL HEALTH SERVICE CORPS

The substitute increases by $7 million the fiscal year 1979 authorization for the National Health Service Corps which was established to deal with the problems of maldistribution of health care personnel in the United States by recruiting volunteers and by placing scholarship graduates in health manpower shortage areas.

The increase in the fiscal year 1979 authorization for the NHSC is needed to support the number of NHSC field personnel expected to be on duty at the end of the fiscal year. Anticipated field strength by the end of fiscal year 1979 is 1,725 health professionals. Support for these personnel will cost approximately $64 million.

GENETIC DISEASE PROGRAMS

The substitute extends genetic disease programs for three years and expands the provisions of the National Sickle Cell Anemia, Tay-Sachs and Genetic Diseases Act of 1976.

Diseases involving disorders of heredity—genes and chromosomes—are difficult to understand but are known to be the basis of many serious illnesses. Studies have found that about 30 percent of hospitalized children have diseases of genetic origin; 40 percent of all infant mortality results from genetic factors; and 80 percent of all mental retardation in this country is genetic in origin.

Some hereditary disorders can be detected and treated early. Today 60 genetic disorders can be detected before birth; more than 60 metabolic diseases are amenable to treatment; and carrier tests are available for 60 diseases which can identify the healthy individual who may be carrying a gene or genes which could produce disease in future offspring.

The substitute calls for a generic approach to genetic diseases, without assigning priority to specific disease programs in determining eligibility for fundng. The substitute stresses noncategorical initiatives in comprehensive genetic services based on effective planning, evaluation, and needs assessment. The substitute further broadens the scope of coverage of PL 94–278 to include "genetic conditions leading to mental retardation or mental illness, and conditions requiring genetic services."

The substitute authorizes $15 million in fiscal year 1979, $20 million in fiscal year 1980, and $25 million in fiscal year 1981 for genetic disease programs.

LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

The substitute extends for one year local programs for detection and treatment of lead-based paint poisoning. This extension will provide for outreach, screening and followup efforts to control lead-based paint poisoning and to prevent neurologic damage caused by lead ingestion by young children.

The substitute authorizes $11.0 million for these programs in fiscal year 1979.

EMERGENCY MEDICAL SERVICES

The substitute makes technical amendments to permit grants to be made in fiscal year 1979 for planning and for first year initial operation. The substitue also repeals current law which prohibits grants for these specific purposes in the last year of the program (1979). This section also deletes the existing requirement that grant funds must be expended in the year in which they are awarded and permits the expenditure of funds for up to a twelve month period after the year in which they are awarded.

HEMOPHILIA PROGRAMS

The substitute extends hemophilia treatment centers and blood separation centers for three years. It will permit the continuation of a comprehensive, regional approach to the diagnosis and treatment of hemophilia and will provide financial assistance for the development of facilities concerned with the production and distribution of blood fractions, and for the expansion of fractionation technology and facilities for the blood components as needed to make this precious human resource more readily available. These financial incentives are also intended to stimulate more rapid transfer of new technology to the marketplace.

The substitute authorizes $6 million for these programs in fiscal year 1979, $7 million for fiscal year 1980, and $8 million for fiscal year 1981.

HOME HEALTH SERVICES

The substitute extends for three years this program which provides grants to meet the initial costs of establishing and operating home health agences and expanding the services available through existing agencies.

This program is designed to expand the capability to provide home health services to persons who are entitled to reimbursement financing for such services, under Titles XVIII, XIX, and XX of the Social Security Act, but are unable to receive such care because there are either no qualified providers of home health services or because the capacity of the existing home health agency is limited. The most recent Social Security data indicate that the median number of visits provided to 100 medicare eligibles was 30 home health visits per year. Increased use of home health services can serve as a deterrent to institutionalization for the elderly, ill and handicapped and also provides for a more efficient use of medical care expenditures. Support is also available to public and nonprofit private entities to demonstrate the training of professionals and paraprofessionals to administer and provide home health services.

The substitute authorizes $8 million for fiscal year 1979 for home health services, $9 million for fiscal year 1980, and $10 million for fiscal year 1981.

RESEARCH AND DEMONSTRATION PROJECTS FOR PRIMARY CARE

The substitute authorizes a three year program to establish hospital-affiliated primary care centers to provide an appropriate setting for primary care services for the medically underserved in areas where community health centers, migrant health centers, and other facilities are adequate to meet the needs of the medically underserved population is to be avoided.

Primary care centers must be a distinct administrative unit of the hospital and must be located in or adjacent to the hospital. Primary care centers are allowed to retain earned income if the income is used to expand or improve services, expand the eligible population, make managerial or physical improvements, or establish a reserve fund for use in conversion to a prepaid reimbursement modality.

The substitute authorizes $35 million for this program for fiscal year 1979, $40 million for fiscal year 1980, and $45 million for fiscal year 1981.

PRIMARY HEALTH CARE NEEDS OF IMMIGRANTS

The substitute directs the Secretary of H.E.W. to submit a report on the primary health care needs of immigrants including an assessment of their health care needs, their access to health care services, and any unique impediments that may inhibit their use of the existing health care system. Specific recommendations are to be made for the development of a national strategy to address these issues, taking into account the fact that significant numbers of immigrants reside in a select number of specific states.

HOSPITAL AFFILIATED PRIMARY CARE CENTERS

The substitute authorizes a three year program to establish hospital-affiliated primary care centers to provide an appropriate setting for primary care services for the medically underserved in areas where other sources for such care are not available. Duplication of efforts in areas where community health centers, migrant health centers, and other facilities are adequate to meet the needs of the medically underserved population is to be avoided.

Primary care centers must be a distinct administrative unit of the hospital and must be located in or adjacent to the hospital. Primary care centers are allowed to retain earned income if the income is used to expand or improve services, expand the eligible population, make managerial or physical improvements, or establish a reserve fund for use in conversion to a prepaid reimbursement modality.

The substitute authorizes $35 million for this program for fiscal year 1979, $40 million for fiscal year 1980, and $45 million for fiscal year 1981.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that members of the Human Resources Committee: John Rother, Barbara Green, Mary Francis Lowe, David Main, Mary Block of Senator STAFFORD's staff; Wendy Wertheimer of Senator JAVITS' staff; Fran Paris of Senator CHAFEE's staff; Ginny Eby of Senator HAYAKAWA's staff; Ron Docksai and Sherri Cramer of Senator HATCH's staff; David Winston of my staff; Jeff Lewis of Senator DOMENICI's staff; Cynthia Gulley of Senator WALLOP's staff; and Joy Worster of Senator LUGAR's staff; be granted privilege of the floor during consideration and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I rise to speak in support of S. 2474 as amended. Major portions of this bill are simple extensions of important health programs already approved by the Congress. Programs such as hypertension treatment, child immunization, venereal disease treatment, migrant health and community health centers. It is generally recognized that these programs meet a vital public health need. Their continuation is vital to the well being of the country.

In addition, the bill as amended contains the health prevention program approved by the Human Resources Committee in S. 3116. We are all familiar with, and usually subscribe to, the addage "an ounce of prevention is worth a pound of cure." It is also generally recognized that within the health field this is particularly true—everyone is for preventive health programs. It is therefore ironic that our funding priorities do not reflect this support. The total national expenditures for health in 1977 exceeded $145 billion. Yet it has been estimated that less than 3 percent of the total is expended for disease prevention or for the promotion of good health practices. The committee has recognized the glaring deficiency in our priorities and, in a very responsible and fiscally conservative manner, proposes a program which will allow States and other local entities to expand existing prevention programs and to develop new programs designed to address the leading causes of mortality and morbidity within the particular locality.

The bill further authorizes programs on health promotion, including an antismoking program aimed at teenagers and an expanded physical fitness program proposed by Senator PELL.

I am particularly pleased to note the primary care provisions in S. 2474. On March 15 of this year I introduced S. 2744, a bill to amend the Public Health Service Act to improve rural health services. I did so because I am concerned that the health status of rural Americans is poor, particularly when contrasted to the health status of urban citizens. Approximately 49 million persons live in medically underserved areas. Of these 49 million, 27.4 million or 56 percent live in rural areas. The infant mortality and maternal death rates in rural areas are significantly higher than in urban areas. Rural Americans have a higher prevalence of chronic diseases as well as malnutrition. Yet rural areas have great difficulty in attracting and keeping health personnel. Current Federal programs are not adequately addressing their health needs. Indeed over 83 percent of areas lacking adequate health personnel are rural. This is especially disturbing to me since Pennsylvania has over 3 million rural citizens—more than any other State in the Union. In fiscal year 1978, although comprising 56 percent of the medically underserved population, rural citizens received less than one-third of the funds appropriated to community health centers. My bill sought to correct the imbalance and also to address some of the special health needs of rural areas such as environmental health services.

I am pleased to state that much of S. 2744 has been incorporated into S. 2474. Specifically, S. 2474 provides for research and demonstration projects under the health underserved rural area (HURA) program; provides that the Secretary is required, if requested by a community health center, to support environmental health programs provided by the center unless he determines such services are unnecessary—environmental services are defined to include identification and detection of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasite infestation, field sanitation and other factors related to health; and finally the bill establishes the principle that over the next 5 years equivalent services will be provided to equal numbers of urban and rural medically underserved populations through programs in this act. I would like to thank my colleagues on the Health Subcommittee for working with me on this program and especially the chairman, Senator KENNEDY; Senator JAVITS, and Senator HATHAWAY as well as the cosponsors of S. 2744, Senators CLARK, HAYAKAWA, and STAFFORD.

I am well aware of, and I share, the Senate's general reluctance to approve new programs or increase the magnitude of the budget deficit. It is for that reason I proposed and developed with the other members of the health subcommittee the amendments offered today which reduce the authorization levels in S. 2474. When one weighs the obvious need for new, and cost effective, preventive health programs against the need for budget constraint it is obvious the only way this can be achieved is by holding down program growth on existing programs in order to allow modest new program development. A look at the figures will demonstrate we have done precisely that. The total authorization level for the 3-year authority is $2,470.5 million, $2,185 million to continue existing programs, and $285.5 million for the new primary care and health prevention program. When you compare the authorization for existing programs to what would be in effect if the President's fiscal year 1979 appropriations request is increased at 10 percent each year for 1980 and 1981 the total is $2,163.9 million, the difference is $21.1 million or 1 percent. Our authorization for existing programs is therefore 1 percent over the President's appropriation request increased at a very moderate 10 percent per year. The amendments we are offering today will bring them in line with what we think are fair budget and fiscal constraints.

I strongly support the $285 million in new program support, and I point out that, using the same formula, the total authorization for existing and new programs is 14.2 percent above the President's 1979 appropriation request extended at 10 percent per year for the 3 years.

I support the programs renewed in S. 2474 and I believe the country badly needs the preventive health program begun under the bill. The authorizations are exceedingly modest and I urge my colleagues in the Senate to join with me in support of this bill.

The PRESIDING OFFICER. Without objection, the substitute amendment offered by the manager of the bill will be agreed to and considered as original text.

UP AMENDMENT NO. 1954

(Purpose: Amend the Kennedy Substitute to S. 2474 by adding titles to extend for 1980 and 1981 expiring health authorities concerning disease prevention and health promotion and adding additional authorities to establish programs aimed at preventing the nation's five leading causes of death and disabilities)

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and Senators WILLIAMS, CHAFEE, PELL, CRANSTON, RIEGLE, JAVITS, SCHWEIKER, STAFFORD, MCGOVERN, HART, and HUMPHREY.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for himself and others, proposes an unprinted amendment numbered 1954.

The amendment is as follows:

At the end of the Kennedy substitute, add the following new titles:

TITLE III—FORMULA AND PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

SEC. 301. Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

FORMULA GRANTS FOR COMPREHENSIVE PUBLIC HEALTH AND PREVENTIVE HEALTH SERVICES

SEC. 302. (a) Effective October 1, 1979, the heading to section 314(d) is amended to read as follows:

"COMPREHENSIVE PUBLIC HEALTH AND PREVENTIVE HEALTH SERVICES"

(b) Effective October 1, 1979, paragraphs (4) and (5) of section 314(d) are amended to read as follows:

"(4)(A) The total amount of grants received by State health and mental health authorities under paragraph (1) for any fiscal year shall be determined by the Secretary, except that it—

"(i) may not exceed the lesser of—

"(I) the product of $1 and the population of the State, or

"(II) in the case of the fiscal year ending September 30, 1980, 5 per centum of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979; in the case of the fiscal year ending September 30, 1981,

7½ per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980; and in the case of the fiscal year ending September 30, 1982, 10 per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981; and

"(ii) may not be less than the greater of—

"(I) the total amount of grants received by such authorities under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $0.50 and the population of the State.

Notwithstanding clause (ii) if for any fiscal year the amount appropriated for the fiscal year under paragraph (7) is less than the amount needed to make grants for that fiscal year in accordance with such clause to all State health and mental health authorities with approved applications, the total amount of grants for that fiscal yaer for State health and mental health authorities shall not be less than an amount which bears the same ratio to the amounts determined for such authorities in accordance with such clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clause for such fiscal year to all State health and mental health authorities with approved applications.

"(B) The Secretary, at the request of State health and mental health authorities, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies or equipment furnished such authorities, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health or mental health authority and the amount of any other costs incurred in connection with the detail of such officer or employee, when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State health or mental health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State health or mental health authority.

"(C) For purposes of subparagraph (A)(1)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health and mental health authorities for public health services designated by the Secretary but excludes expenditures by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating inpatient care facilities or construction.

"(D) For purposes of subparagraph (A) populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.".

(c) Effective October 1, 1979, paragraph (6) of section 314(d) is amended by (1) striking "a State's allotment" in clause (A) and inserting in lieu thereof "the amount received", (2) striking "of a State's allotment" in clause (B)(i) and inserting in lieu thereof "received under paragraph (4)", and (3) striking "State's allotment" in clause (B)(ii) and inserting in lieu thereof "amount received under paragraph (4)".

(d) Section 314(d)(7)(A) is amended by striking "and" after "1977," and inserting before the period thereof: ", $112,000,000 for the fiscal year ending September 30, 1980, and $123,000,000 for the fiscal year ending September 30, 1981".

(e) Section 314(d)(7) is amended by adding at the end thereof the following new paragraph:

"(C) Of the amount appropriated under subparagraph (A) for any fiscal year the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).".

(f) Effective October 1, 1979, section 314(d) is amended by adding at the end thereof the following new paragraphs:

"(8) The Secretary shall make grants to States to assist them in planning for and in meeting the costs of providing (through such States and through grants or contracts or both with public health authorities of political subdivisions of the States, other public entities, or private entities) preventive health services.

"(9) No grant shall be made under paragraph (8) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide (other than in an application for a planning grant)—

"(A) for a detailed plan of a program designed to reduce, through the primary or secondary prevention of causative conditions, the mortality rates for one or more of the five leading causes of death in the State;

"(B) the amount of Federal, State, and other funds obligated by the State in its latest annual accounting period for the provision of each program described in clause (A); a description of the preventive health services provided by the State in each such program in such period; the amount of Federal funds needed by the State to continue providing such services in each such program; if the State proposes changes in the provision of the services in any such program, the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the State to make such changes;

"(C) for, at the option of the State, a detailed plan of a program designed to reduce, through the primary or secondary prevention of causative conditions, the burden of illness associated with one or more of the five leading causes of morbidity in the State;

"(D) the amount of Federal, State, and other funds obligated by the State in its latest annual accounting period for the provision of each program described in clause (C); a description of the preventive health services provided by the State in each such program in such period; the amount of Federal funds needed by the State to continue providing such services in each such program; if the State proposes changes in the provision of the services in any such program, the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the State to make such changes;

"(E) that the plans described in clauses (A) and (C)—

"(i) shall describe a comprehensive prevention program which utilizes, to the extent practicable, all relevant professional disciplines;

"(ii) may, at the option of the State, describe a program or programs that are targeted toward a particular age group;

"(iii) shall set forth quantitatively the current relevant rates of mortality and, where appropriate, of morbidity in the State measured and reported in accordance with regulations of the Secretary;

"(iv) shall set forth the quantitative goals for reduction in the relevant rates of mortality and/or reduction in the risk factors or causative conditions associated with one or more of the five leading causes of death in the State;

"(v) where appropriate, shall set forth the quantitative goals for reduction in the relevant rates of morbidity and/or reduction in the risk factors or causative conditions associated with one or more of the five leading causes of morbidity in the State;

"(vi) shall have a separate health communications component in the program or programs which shall include, but not be limited to, a description of how the communications media, including the electronic media, will be utilized to effectuate the purposes of the programs;

"(vii) shall identify a specific institutional entity in the State that will be responsible for accomplishing through contracts with private entities and other means the requirements of clause (vi); and

"(viii) shall contain such other information as the Secretary may by regulation prescribe;

"(F) for assurances satisfactory to the Secretary that the preventive health services which will be provided with funds under a grant under paragraph (8) will be provided in a manner consistent with the State health plan in effect under section 1524(c);

"(G) for assurances satisfactory to the Secretary that the State will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under paragraph (8);

"(H) for assurances satisfactory to the Secretary that the State will provide for periodic evaluation of its program or programs;

"(I) for assurances satisfactory to the Secretary that the State will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(J) for assurances satisfactory to the Secretary that the State will comply with any other conditions imposed by this subsection with respect to grants; and

"(K) for such other information as the Secretary may by regulation prescribe.

"(10)(A) The Secretary shall review annually the activities undertaken by each State with an approved application under paragraph (a) to determine if the program or programs are operating effectively to achieve their stated purposes, and if the State complied with the assurances provided with the application. The Secretary shall not approve an application submitted under paragraph (9) unless the Secretary determines—

"(i) that the program or programs are operating effectively to achieve their stated purposes,

"(ii) that the State complied with assurances provided with a prior application submitted under paragraph (9), and

"(iii) that he is assured that the State will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State, finds with respect to funds paid to it under a grant under paragraph (8), that the program or programs are not operating effectively to achieve their stated purposes or that there is a failure to comply substantially with assurances provided under paragraph (9) with respect to the receipt of such grant, the Secretary shall notify the State that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program or programs will operate effectively or

there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or, in his discretion, reduce payments to the State from such grant.

(11)(A) The total amount of grants received by a State under paragraph (8) to assist States in starting programs for preventive health services for the fiscal year ending September 30, 1980, shall be determined by the Secretary, except that it may not be less than the product of $0.10 and the population of the State.

"(B) The total amount of grants received by a State under paragraph (8) to assist States in providing preventive health services for any fiscal year shall be determined by the Secretary, except that it—

"(i) may not exceed the lesser of—

"(I) the product of $0.50 and the population of the State, or

"(II) in the case of the fiscal year ending September 30, 1982, 5 per centum of the amount of State and local expenditure for preventive health services supported by grants under paragraph (8) within the State in the State's fiscal year which ended on or before July 1, 1981; in the case of the fiscal year ending September 30, 1983, 7½ per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1982; and, in the case of the fiscal year ending September 30, 1984, 10 per centum of such expenditures in the State's fiscal year which ended on or before July 1, 1983; and

"(ii) may not be less than the product of $0.25 and the population of the State except as provided in paragraph (10)(B).

Notwithstanding clauses (A) and (B), if for any fiscal year the amount appropriated for that fiscal year under clause (A) is less than the amount needed to make grants for that fiscal year in accordance with such clauses to all States, the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with this paragraph as the amount appropriated under clause (A) bears to the amount needed to make grants in accordance with this section for such fiscal year to all States.

"(12) Each grant under paragraph (8) shall be made for costs for preventive health services in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(13) The Secretary, at the request of a State which is a recipient of a grant under paragraph (8), may reduce the amount of such grant by—

"(A) the fair market value of any supplies or equipment furnished the State, and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such State and for the purpose of planning or carrying out a program with respect to which a grant under paragraph (8) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State.

"(14)(A) Each State which is a recipient of a grant under paragraph (8) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such State of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each State which is a recipient of a grant under paragraph (8) that are pertinent to such grant.

"(15) Any information relating to the health, examination, care, or treatment of an individual that is in a form enabling the individual to be identified and that has been obtained under any program carried out with a grant made under paragraph (8) shall not, without the individual's consent, be disclosed, except—

"(A) to provide health services to the individual or to another person,

"(B) for research or statistical purposes, but only if the importance of the disclosure is sufficiently great to warrant the disclosure,

"(C) for an audit or evaluation purpose,

"(D) pursuant to Federal, State, or local law authorizing disclosure to a public health authority, or

"(E) if required under Federal, State, or local law.

"(16)(A) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under paragraph (8).

"(B) Nothing in this subsection shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

"(17) The Secretary shall include, as part of the report required by section 1705, a report on the extent of the problems presented by the diseases and conditions referred to in clauses (A) and (C) of paragraph (9); on the amount of funds obligated under grants under paragraph (8) in the preceding fiscal year to assist the States in operating programs to prevent the diseases and conditions referred to in clauses (A) and (C) of paragraph (9); and on the effectiveness of the programs assisted under grants under paragraph (8) in preventing such diseases and conditions.

"(18)(A) For purposes of clauses (A) and (C) of paragraph (9), the term 'primary prevention of causative conditions' means the prevention of the development of the conditions in healthy individuals.

"(B) For purposes of clauses (A) and (C) of paragraph (9), 'secondary prevention of causative conditions' means the early detection, referral for diagnosis and treatment, or follow-up for compliance with treatment of the conditions in asymptomatic individuals.

"(3)(C) For purposes of paragraph (11)(B)(i)(II), the term 'State and local expenditures for preventive health services' means expenditures by State and local public health and mental health authorities for preventive health services supported by grants under paragraph (8) but excludes expenditures by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating inpatient care facilities or construction.

"(D) For purposes of paragraph (11), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(19)(A) For the purposes of making payments under grants under this section to assist States in starting programs for preventive health services, there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1980.

"(B) For the purpose of making payments under grants under this section to assist States in meeting the costs of providing preventive health services, there are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1981 and $75,000,000 for the fiscal year ending September 30, 1982. Not less than 20 per centum of the funds appropriated under this clause shall be used to assist States in meeting the costs of operating the health communications component of their preventive health services programs. No funds appropriated under this paragraph shall be used (A) to assist States in meeting the costs of traditional law enforcement activities (including but not limited to the prevention of homicides) as defined in regulations of the Secretary and (B) for capital construction.

PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

SEC. 303. (a) Effective October 1, 1979, section 317 and the heading thereto are amended to read as follows:

"PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES PROGRAMS

"SEC. 317. (a) The Secretary may make grants to States and, in consultation with State authorities, to political subdivisions of States, or other public entities, to assist them in meeting the costs of providing preventive health services programs as set forth in subsection (j).

"(b) No grant may be made under section (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) for a detailed plan of the program for which the applicant is seeking support under subsection (a);

"(2) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of each program referred to in paragraph (1); a description of the preventive health services provided by the applicant in such program in such period; the amount of Federal funds needed by the applicant to continue providing such services in each such program; if the applicant proposes changes in the provision of the services in any such program, the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the applicant to make such changes;

"(3) for assurances satisfactory to the Secretary that the preventive health services which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c) and in those cases where the applicant is a State, that such services will be provided, where appropriate, in a manner consistent with any plans in effect under paragraphs (9)(A) and (9)(C) of section 314(d);

"(4) for assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) for assurances satisfactory to the Secretary that the applicant will provide for

periodic evaluation of its program or programs;

"(6) for assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(7) for assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(8) for such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such a grant is operating effectively to achieve its stated purposes and if the grant recipient complied with the assurances provided with the application The Secretary shall not approve an application submitted under subsection (b) unless the Secretary determines—

"(A) that the program is operating effectively to achieve its stated purposes,

"(B) that the applicant complied with assurances provided with a prior application under subsection (b), and

"(C) that he is assured that the applicant will comply with the assurances provided with the application under consideration.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing to a grant recipient, finds with respect to funds paid to such recipient, that the program is not operating effectively to achieve its stated purposes or that there is a failure to comply substantially with assurances provided under subsection (b) with respect to the receipt of such grant, the Secretary shall notify the grant recipient that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program will operate effectively or there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or, in his discretion, reduce payments to the grant recipient.

"(d) The amount of a grant under subsection (a) shall be determined by the Secretary. Each such grant shall be made for cost for preventive health services in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(e) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(f)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and dispcsition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(g) Any information relating to the health, examination, care, or treatment of an individual that is in a form enabling the individual to be identified and that has been obtained under any program carried out with a grant made under subsection (a) shall not, without the individual's consent, be disclosed, except—

"(1) to provide health services to the individual or to another person,

"(2) for research or statistical purposes, but only if the importance of the disclosure is sufficiently great to warrant the disclosure,

"(3) for an audit or evaluation purpose,

"(4) pursuant to Federal, State, or local law authorizing disclosure to a public health authority, or

"(5) if required under Federal, State, or local law.

"(h)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

"(i) The Secretary shall include, as part of the report required by section 1705, a report on the extent of the problems presented by the diseases and conditions referred to in subsection (j); on the amount of funds obligated under grants under subsection (a) in the preceding fiscal year for each of the programs listed in subsection (j); and on the effectiveness of the activities assisted under grants under subsection (a) in controlling such diseases and conditions.

"(j)(1) For payments to States under grants under subsection (a) for establishing and maintaining programs for the screening, detection, diagnosis, prevention, referral for treatment, and followup on compliance with treatment of hypertension, there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1980 and $25,000,000 for the fiscal year ending September 30, 1981.

"(2) For payments under subsection (a) for establishing and maintaining programs to immunize children against diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated $39,000,000 for the fiscal year ending September 30, 1980 and $43,000,000 for the fiscal year ending September 30, 1981.

"(3) For payments under subsection (a) for establishing and maintaining community and school-based fluoridation programs, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980 and $5,000,000 for the fiscal year ending September 30, 1981.

"(4) For payments under subsection (a) for establishing and maintaining programs to prevent diseases borne by rodents, there are authorized to be appropriated $14,000,000 for the fiscal year ending September 30, 1980, and $14,000,000 for the fiscal year ending September 30, 1981.

"(5) Funds appropriated pursuant to paragraphs (1) through (3) shall to the extent practicable, be equitably distributed among rural and urban areas.".

(b) Section 503(a) of Public Law 91-695 (relating to authorizations for lead-based paint poisoning prevention programs) is amended by inserting before the period at the end thereof: ", $11,500,000 for the fiscal year ending September 30, 1980 and $12,000,000 for the fiscal year ending September 30, 1981".

TITLE IV—RESOURCES FOR DISEASE PREVENTION AND HEALTH PROMOTION

SEC. 401. (a) The Secretary of Health, Education, and Welfare shall undertake or support (through grants or contracts or both) five intensive and comprehensive community based programs in both rural and urban areas for the purpose of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined population.

(b) The Secretary shall submit to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on January 1, 1981, and on January 1 of every second year thereafter a report on the programs undertaken or supported under subsection (a) including, but not limited to, a detailed description and an evaluation of the effectiveness of each such program.

(c) For the purpose of undertaking or supporting demonstrations and evaluations pursuant to subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1980, $8,000,000 for the fiscal year ending September 30, 1981, and $8,000,000 for the fiscal year ending September 30, 1982.

SEC. 402. (a) The Secretary of Health, Education, and Welfare, after consultation with appropriate public and private entities, shall establish a comprehensive program designed to deter smoking among children and adolescents. Such a program shall include—

(1) the undertaking or support (through grants or contracts or both) of biomedical and behavioral research designed to increase understanding of the biological and behavioral determinants of smoking among children and adolescents, with special emphasis on children aged twelve or below; and

(2) grants to States or political subdivisions of States to assist them in meeting the costs of demonstrations and evaluations of community or school-based programs designed to deter smoking among children and adolescents.

(b) With respect to grants under paragraph (a)(2) the Secretary and each grant applicant and recipient must comply with the provisions of subsections (b), (c), (d), (e), (f), (g), and (h) of section 317.

(c)(1) For the purpose of making payments for the undertaking or support of research under paragraph (a)(1), there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

(2) For the purpose of making payments under paragraph (a)(2), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, and $10,000,000 for the fiscal year ending September 30, 1981.

SEC. 403. (a) The Secretary of Health, Edu-

cation, and Welfare shall conduct, or arrange for the conduct of, a study or studies of (1) the relative health risks associated with smoking cigarettes of varying levels of tar, nicotine, and carbon monoxide; and (2) the health risks associated with smoking cigarettes containing any substances commonly added to commercially manufactured cigarettes.

(b) Within two years of the date of enactment of this part, the Secretary shall report to the Congress the results of the study or studies conducted pursuant to subsection (a) and any recommendations for legislative or administrative action.

SEC. 404. (a) The Secretary, acting through the National Center for Health Statistics, shall submit to Congress on December 1, 1980, and on December 1 of every third year thereafter, a national disease prevention data profile in order to provide a data base for the effective implementation of this Act and to increase public awareness of the prevalence, incidence, and any trends in the preventable causes of death and disability in the United States. Such profile shall include at a minimum—

(1) mortality rates for preventable diseases;

(2) morbidity rates associated with preventable diseases;

(3) the physical determinants of health of the population of the United States and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability; and

(4) the behavioral determinants of health of the population of the United States including, but not limited to, smoking, nutritional and dietary habits, exercise, and alcohol consumption, and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability.

(b) In preparing the profile required by subsection (a), the Secretary, acting through the National Center for Health Statistics, shall comply with all relevant provisions of sections 306 and 308 of the Public Health Service Act.

TITLE V—OFFICE OF PHYSICAL FITNESS AND SPORTS MEDICINE

ESTABLISHMENT OF OFFICE

SEC. 501. (a) The Secretary of Health, Education, and Welfare shall establish in the Department of Health, Education, and Welfare an Office of Physical Fitness and Sports Medicine (hereinafter referred to as the "Office") to support projects, conduct research, and disseminate information in the areas of physical fitness and sports medicine.

(b) The Office shall—

(1) assist, and foster research, investigations, and model projects on the nature of physical fitness, the development of physical fitness, and the relation of physical fitness to health;

(2) assist, and foster research and investigations into the utilization of sports medicine, the development of sports medicine techniques, and the application of sports medicine throughout organized systems of athletic competition and in personal physical fitness development activities at every age and competition level;

(3) foster and assist research into the proper role of nutrition in physical fitness programs;

(4) promote the coordination of research and model programs conducted by the Office with similar programs conducted by other agencies of the Federal Government and other public and private organizations;

(5) communicate the results of the studies in the widest possible manner to the American people and to special groups with particular interests and special needs in the development of physical fitness, such as young children, the handicapped, senior citizens, and workers in occupations which present special risks of physical disability; and

(6) have a Director appointed by the Secretary.

(c) The President's Council on Physical Fitness shall serve as the Advisory Body of the Office on all matters related to physical fitness. The activities of the Office and guidelines for the physical fitness programs supported by the Office shall be in conformance to guidelines developed by the President's Council on Physical Fitness.

PROJECT GRANTS TO STATE COUNCILS ON PHYSICAL FITNESS FOR PHYSICAL FITNESS IMPROVEMENT

SEC. 502. (a) The Office may make grants to each State for the establishment by the Governor of a State Council on Physical Fitness or appropriate similar administrative unit.

(b) The State Council shall consist of at least fifteen members, chosen by the Governor to serve terms of four years, and appointed from among persons who have distinguished records in the areas of physical fitness, sports medicine, athletic competition, education, labor, business management, and nutrition.

(c) It shall be the duty of the State Council on Physical Fitness to—

(1) promote the development of physical fitness with the assistance of local educational agencies, business, labor unions, health action and advocacy groups, religious, fraternal and social organizations, community based multiservice recreational agencies, and health maintenance organizations;

(2) assess the physical fitness and nutrition status of residents of the State;

(3) plan and administer a program of grants-in-aid to support physical fitness projects, research projects, and public information efforts to promote the development of physical fitness for the residents of the State;

(4) evaluate and improve the availability and quality of sports medicine and athletic trainer programs in the State.

(d) Each State shall be eligible for a grant under this section in an amount which is equal to not less than 1 per centum of the funds appropriated for the purposes of this section. The first $75,000 of grant funds to each State under this section shall not be made until an amount equal to the amount of the grant is made available to the State for the purposes of this section from non-Federal sources.

(e) Funds made available for the purposes of this section shall not be used to supplant non-Federal funds.

(f) Fifty per centum of the funds appropriated under section 303(d) of this Act shall be allocated for the purposes of this section.

PROJECT GRANTS FOR PHYSICAL FITNESS IMPROVEMENT AND RESEARCH GRANTS

SEC. 503. (a) The Director of the Office may make grants or enter into contracts with public or private entities to conduct research and establish model projects with regard to improvement of physical fitness.

(b) Projects encompassed under this section may encompass—

(1) entire small communities, both urban and rural,

(2) educational settings for a variety of age groups,

(3) occupational settings,

(4) groups of handicapped individuals, and

(5) groups of senior citizens.

(c) Ten per centum of the projects funded under this section shall include a nutrition education and improvement study, which shall contain—

(1) an assessment of the nutrition status of populations to be served at the beginning of the project;

(2) a determination of special nutritional improvement needs;

(3) a plan to carry out a nutrition improvement educational program in conjunction with the project;

(4) an assessment of the nutritional statistics of populations at the end of program; and

(5) an assessment of the nutritional status and habits of participants one year after the term of program.

(d) There are authorized to be appropriated for the purposes of section 302, section 305, and this section $6,000,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30, 1981.

NATIONAL PROGRAM ON SPORTS MEDICINE RESEARCH

SEC. 504. (a) The Office shall establish a program of project grants to conduct research into the problem of athletic injuries with specific concentration on frequency of injuries, seriousness of injuries, the development of training and conditioning techniques and the development of athletic protective equipment to enable participants to avoid injuries to the maximum extent feasible, recovery rates, and problems associated with full recovery from athletic injuries.

(b) The Office shall, in cooperation with the President's Council on Physical Fitness, establish a Clearinghouse on Sports Medicine Research to disseminate the results of that research to practitioners in relevant fields of health care and physical fitness.

(c) There are authorized to be appropriated to carry out the purposes of this section $1,500,000 for the fiscal year ending September 30, 1980, and $1,500,000 for the fiscal year ending September 30, 1981.

CONFERENCE ON EDUCATION IN LIFETIME SPORTS

SEC. 505. (a) The Office and the Office of Education of the Department of Health, Education, and Welfare shall conduct a joint conference during 1979 on the teaching and support of educational programs in lifetime sports by secondary and postsecondary educational institutions.

(b) The purpose of the Conference shall be to explore current programs on lifetime sports within these institutions and to support the expansion of such educational programs in other institutions of secondary and postsecondary education.

The PRESIDING OFFICER. Is this the amendment on which there is to be 1 hour, equally divided?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator is recognized. How much time does the Senator yield?

Mr. KENNEDY. I yield myself such time as I may require.

Mr. President, in addition to the amendments previously discussed, I am offering on behalf of the committee another very significant amendment. This amendment contains the provisions of S. 3116, the National Disease Prevention and Health Promotion Act. The proposed amendment contains provisions of S. 3116 in their entirety. I urge favorable consideration of this amendment.

Mr. President, this is the first major piece of health legislation that is targeted toward disease prevention and health promotion. We have had extensive hearings and broad support. As my colleague and friend, the Senator from Pennsylvania, pointed out, over a period of years our health care system has been organized and structured in such a way as to treat illness and disease. This, I think, is the first significant piece of legislation that will stress the disease prevention and health promotion.

This was an effort by the full committee. I particularly want to stress the work that has been done by the Senator from Rhode Island (Mr. CHAFEE), Senator SCHWEIKER, Senator JAVITS, Senator

PELL, and other Members in the drafting of this proposal.

The legislation is cosponsored by Senators WILLIAMS, CHAFEE, PELL, CRANSTON, RIEGLE, JAVITS, SCHWEIKER, STAFFORD, MCGOVERN, HART, HUMPHREY, and BELLMON.

Mr. President, in 7 years as chairman of the Senae Subcommitttee on Health and Scientific Research, I have heard hundreds of hours of testimony, and I have spoken personally with thousands of physicians, scientists and citizens across the United States. I have seen and heard inspiring evidence of the power of medicine to alter the quality of our lives.

But nothing I have heard and nothing I have witnessed has impressed me more than the developments which are now occurring in the field of disease prevention. We have within reach the capacity to prevent many of man's most dreaded afflictions. Never before have we possessed this kind of power over our own health and destiny.

Incredible as those developments may sound, I think the evidence is there. We have seen before the power of prevention to improve the quality of life. Just over a century ago, well before we knew of bacteria or viruses, pioneers in public health began the conquest of the infectious diseases. They used simple methods—sanitation, improved hygiene, improved nutrition—but the results were almost incredible. They made major inroads against tuberculosis, typhus, diphtheria, scarlet fever, cholera, tetanus, and other communicable conditions which were then the greatest scourges of humanity. As a result of their work, together with the later discovery of conquered infectious diseases in the Western World. From 1900 to 1978 deaths from communicable disease in this country fell by 93 percent.

Once among the most burdensome illnesses, these conditions now account for only 2 percent of deaths in the United States. Between 1900 and 1950, life expectancy in this country increased from 47.3 years to 68.2 years. That was an achievement unparalleled in history. It was made possible by a health strategy that emphasized the maintenance of good health and the prevention of disease.

With the conquest of infectious disease, we face new health problems and new challenges. Now the chronic diseases—including heart disease, stroke and cancer—are our most burdensome illnesses, accounting for 71 percent of all deaths in our country.

Until very recently, we sought to deal with these new challenges with new weapons drawn from the arsenal of curative medicine. Impressed, and rightly so, with the power of biomedical science to develop new disease treatments, we wrongly concluded that tending the ill was sufficient to improve the health of our people. Even today we spend only two percent of each health dollar on disease prevention, and the Department of Health, Education, and Welfare estimates that only 4 percent of each Federal health dollar—only $2 billion out of $50 billion—goes for disease prevention.

That strategy failed. From 1950 to 1970, life expectancy in this country improved only 4 percent, and infant mortality remained virtually unchanged. During that same period, however, health care expenditures did not stagnate in the same fashion. Far from it. From 1960 to 1978 alone, health care spending increased by over 700 percent.

Now the evidence is growing that disease prevention and health promotion can break this cycle of skyrocketing expenditures and stagnating health care indexes.

Now, the evidence is growing that once again disease prevention and health promotion can open the door to a historic new era of progress in health and medicine. The first indications were the early studies in the 1950's which linked cigarette smoking with lung cancer. Next came the Framingham study, which demonstrated in my own State of Massachusetts that cholesterol levels, blood pressure, and smoking were closely linked to the development of heart disease, stroke, and other diseases of the cardiovascular system. A cascade of new investigations followed. In the late 1960's, Dr. Lester Breslow and his colleagues demonstrated that a few simple modifications in lifestyle—no smoking, regular exercise and sleep, maintaining normal weight—could extend life expectancy by anywhere from 7 to 11 years.

More recently, the Stanford heart disease project, which I have seen first hand, has demonstrated than an organized prevention campaign can reduce the risk of heart disease by 20 percent in a single community. A recent Finnish study has shown that a community-based prevention effort could cut heart attack rates by 15 percent and stroke rates by 40 percent.

These are real achievements. They dispel once and for all the false cliche that prevention is a nice idea, but doesn't work. Prevention can work. Research paid for with our constituents' tax dollars has demonstrated that fact beyond reasonable doubt. And now it is the responsibility of our Government and this Congress to make the benefits of this new knowledge—paid for with Federal dollars—available to the American people.

That, Mr. President, is the purpose of S. 3116. It is a carefully designed program whose purpose is to take advantage of the historic opportunity available to us in the area of disease prevention and health promotion. It is, to quote the American Medical Association's official position on S. 3116, a "wide-ranging and ambitious program" which "could have very positive effects on the health of many citizens." Mr. President, as many of my colleagues know, the AMA and I have had our disagreements in the past, but on the subject of this legislation before us today, I find that the AMA and I are in complete accord.

Mr. President, I would now like to describe the provisions of S. 3116, the National Disease Prevention and Health Promotion Act of 1978. To begin with, let me make some general points.

First, S. 3116 is primarily designed to strengthen the capacity of States and localities to undertake prevention programs. This legislation recognizes that prevention programs must be responsive to the needs of communities, and rooted in those communities, if they are to work. State and local governments are in a far better position than the Federal Government to make prevention initiatives truly community based. Therefore, S. 3116 supports State and local prevention initiatives aimed at combating the five leading causes of death and disability with the State's boundaries. The legislation also provides States considerable flexibility in designing and implementing these programs.

Second, S. 3116 reauthorizes some expiring programs in addition to authorizing certain new programs. Specifically, the legislation extends for 1980 and 1981 several existing programs with direct relevance to disease prevention and health promotion. These include section 314(d) of the Public Health Service Act, which provides formula grants to States for comprehensive public health services, and certain categorical grant programs for preventive services. Of the total of $645 million authorized in this legislation, $413 million supports the extension of expiring programs.

Now, Mr. President, let me describe the legislation itself in some detail.

Title I of S. 3116 authorizes formula and project grants for comprehensive and preventive health services. Section 102 of S. 3116 extends for 1980 and 1981 section 314(d) of the Public Health Service Act. This program is extended for 1979 in S. 2474. Section 314(d) provides support to State governments for comprehensive public health services. S. 3116 provides that funds for support of these services shall be no less than 50 cents per capita and no more than a dollar per capita, and can vary between those levels depending on the level of State contribution to the support of comprehensive public health services. Authorizations are $112 million in 1980 and $123 million in 1981.

The extension of 314(d) at slightly increased funding levels—appropriations have been $90 million since 1971—recognizes the importance of comprehensive public health services to the protection of the public health. Also, the sliding scale of Federal per capita support is designed to provide States with a meaningful incentive to increase their own level of support for comprehensive public health services.

Section 102 of S. 3116 also amends section 314(d) to authorize formula grants for the support of preventive health services in each State. Mr. President, this portion of the legislation is its single most important provision, and forms the heart of our effort to breathe new life into our Nation's prevention effort. To be eligible for funds, the State must provide a detailed plan of a program designed to reduce, through the primary or secondary prevention of causative conditions, the mortality rates for one or more of the five leading causes of death in the State. The State may also, at its discretion, include a detailed plan for a program designed to reduce the burden of illness associated with one or more of the five leading causes of morbidity in the State. To support the costs

of this program, the Federal Government would provide between 25 and 50 cents per person per State. Like the proposed extension of the rest of 314(d), the program also includes an incentive which increases the Federal contribution—up to a maximum of 50 cents—as the State's own contribution increases. The State is required to allocate no less than 20 percent of funds for health communications programs, including programs using the electronic media. Authorizations are $20 million in 1980, $60 million in 1981, and $75 million in 1982.

Mr. President, I believe—and I think many of my colleagues who helped fashion this program agree—that this grant program could revitalize our State governments as leaders in the provision of preventive health services in our country. The States and localities have played this central role in the past. They spearheaded our fight against the infectious diseases. With this new Federal support and direction, and with the incentives this program provides for States to increase their investment in prevention, I believe the States can become the focal point for a new onslaught against the chronic illnesses as well.

A key feature of this prevention formula grant is that it provides the States with great flexibility and autonomy in the use of Federal moneys, while at the same time providing sufficient accountability to protect the Federal tax dollar. The bill accomplishes this balancing act by emphasizing outcome measures rather than process measures as guidelines to judging State performance. The legislation specifies that States must set quantitative goals for reductions in morbidity and mortality, or for reduction in risk factors for or causative conditions of morbidity and mortality within their jurisdictions. In judging State performance, the Secretary is directed to focus his attention on the attainment of these goals—or lack thereof—and not on the precise nature of the programs used to reach these objectives. States are free to innovate, experiment, and adapt programs to local conditions. We ask only that their programs produce results within a reasonable period of time.

Title I of S. 3116 also contains provisions authorizing the funding of several categorical disease prevention programs. These include project grants to support:

First, hypertension screening, detection and followup;

Second, childhood immunization;

Third, fluoridation;

Fourth, rodent control; and

Fifth, lead-based paint poisoning prevention.

Mr. President, I think each of these categorical programs has a proven track record of success and is of high national priority.

First, the legislation authorizes $20 million in 1980 and $25 million in 1981 for support of State programs for screening, detection, referral for treatment, and followup for compliance with treatment for hypertension. Proposed 1979 authorization—under S. 2474—is $15 million. Current appropriation is $11 million.

Mr. President, no prevention program could have a higher priority than the support of these hypertension services. There has been tremendous progress in our fight against this disease. The number of hypertensives adequately treated has doubled since 1972—from 3.5 to 7.0 million. In 1977 deaths due to hypertension fell 13.9 percent, and deaths from stroke fell 3.9 percent. However, despite these improvements, hypertension remains an insidious disease contributing significantly to death and disability among the 35 million hypertensive Americans. The National Center for Health Statistics reports some 200,000 deaths due to hypertension each year, making it the third leading cause of death. In addition, the Social Security Administration reports that hypertension is responsible for more disability claims than any other condition.

The committee is strongly recommending project grants to States for hypertension program activities. Although some progress has been made, there remains a large segment of the population at high risk of hypertension and its complications. The project grant mechanism has proven itself a highly effective vehicle for targeting preventive health services where they are needed most. The committee is pleased by the apparent advances made in hypertension prevention and control, and anticipates even greater gains in the years ahead.

Title I also includes project grants providing continued support for childhood immunization programs. The committee strongly supports continuation of these programs, which have shown spectacular success in preventing such diseases as poliomyelitis and measles. While it is difficult to state in quantitative terms the costs associated with all aspects of human illness, the savings in human life, misery, and economic resources which result from these disease prevention programs are tremendous. For example, the national measles vaccine program, which cost $108 million between 1966 and 1974, has yielded savings estimated at more than $1 billion, not counting such an intangible as human suffering.

Despite the means available to control childhood diseases through the use of modern vaccines, there is a tendency for public complacency. The relative absence of epidemics, deaths, or severe complications due to the reduced levels of disease incidence has led to premature relaxation, and immunization levels have dropped. These reduced immunization levels, in turn, have opened the door for a resurgence of these diseases. The lessons from the past are clear, and the committee strongly supports the Department's current immunization initiative to raise immunization levels to the highest levels yet achieved. This task, which requires the immunization of 16.7 million children, is being carried out through project grants to State and local health departments. To assure adequate resources as this important national effort continues, the committee has included authorizations of $39 million for 1980 and $43 million for 1981.

Title I extends the existing rodent control program. In 1969, the urban rat control program was undertaken, with its primary goal the elimination of those conditions which have assured the survival and proliferation of rats where people live. Since the 1975 repeal of section 314(e) of the Public Health Service Act by Public Law 94–63, the Center for Disease Control has conducted programs designed to control diseases borne by rodents under the authority of section 317 of the PHS Act.

The Department of Health, Education, and Welfare presently estimates that some 20.6 million people are living in the impoverished area of 277 American cities where rats represent a major environmental problem. Rats are a living symbol of the deteriorating conditions of many of our inner cities. Because of the size and scope of the problem, existing rodent control efforts have been barely adequate and far from complete. In fact, these programs have been targeted, quite appropriately, at actual rat control, rather than at specific diseases borne by rats.

By the end of the current fiscal year, the Department estimates that some 6 million of our citizens will be living in communities which these grant-supported urban rat control programs have rendered essentially free of rats. Furthermore, the activities required to maintain the rat-free status of those neighborhoods can now be totally supported locally, making it possible to redirect the Federal grant funds to other target communities. The bill under consideration authorizes $14 million for each of the fiscal years 1980 and 1981.

S. 3116 authorizes the Secretary to undertake a new program of grants to support community and school-based fluoridation. Dental problems begin in early childhood. By the time children reach 17 years of age, only 6 percent are free of cavities—the average 17-year-old has had 8.7 permanent teeth decay—and 36 percent have already lost one or more permanent teeth. However, after more than 30 years experience with the fluoridation of water supplies, we know that fluoridation can reduce the rate of dental cavities among children by as much as two-thirds, minimizing tooth loss and certain orthodontic problems. Adults who consume optimally fluoridated water throughout life can expect fewer extractions, and are less likely to need dentures in later years. Furthermore, of every dollar invested in fluoridation, an estimated $36 can be saved in dental treatment costs.

Although our long experience has shown that fluoridation is safe and offers substantial benefits, only three of every five Americans are presently receiving those benefits. To assist States and communities which desire to extend the benefits of fluoridation to their citizens, we have included $5 million in 1980 and $5 million in 1981 under section 317.

Finally, title I of S. 3116 extends for 1980 and 1981 authorizations for the lead-based paint poisoning prevention initiative. Lead poisoning among American children is a serious problem. Once considered to be a problem primarily of inner cities in the Northeast in the so-called lead belt, undue lead absorption and frank lead poisoning are now known to be a problem of children

whether they live in the East or the West, the North or the South, or in a rural or urban setting. The Department of HEW now estimates that approximately 3.5 million children live in leaded environments and should be screened.

During the current fiscal year, 65 grant-supported programs will test some 500,000 children. The Center for Disease Control expects that about 42,500 of the children tested will be identified as having undue lead absorption, and will require pediatric followup. Steps will be taken to abate the lead hazard in approximately 85 percent of those homes found with such a hazard. The committee believes that these efforts to protect our children against the threat of lead poisoning and its adverse consequences must be encouraged. To insure that they continue, we have included in this bill $11.5 million in 1980 and $12 million in 1981.

Those, Mr. President, are the major provisions of title I of the program. Title II of our amendment to S. 3116 authorizes selected programs of research and demonstrations designed to improve our knowledge of how to organize and deliver preventive services. It has the following key components.

First. Demonstrations for the organizing and delivery of preventive health programs—section 201(a) of the committee bill instructs the Secretary to support five intensive and comprehensive community-based programs in both rural and urban areas for the purpose of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined populations. Authorizations for this purpose are $6 million in 1980, $8 million in 1981, and $8 million in 1982.

The committee feels that the very promising investigations such as the Stanford heart disease program should be encouraged and replicated by other groups in other settings. The Stanford experiment demonstrated that a comprehensive, intensive, community-based prevention program can achieve impressive results, and its findings could revolutionize the practice of health promotion and disease prevention in this country. However, as the Stanford researchers readily agree, much work remains to be done in perfecting our knowledge of how to design risk factor interventions. Pursuing additional opportunities could prove extremely useful to other States and localities as they struggle to put in place their own prevention initiatives.

Second. Research and demonstrations for deterring smoking among adolescents and children—section 202(a) of S. 3116 authorizes the Secretary to establish a program of research and demonstrations for the purpose of deterring smoking among adolescents and children.

The committee feels there is no more disturbing or pressing public health problem than the prevailing rates of smoking among children and teenagers. Smoking rates among male teenagers have remained constant at about 30 percent but rates among teenage girls have increased markedly despite the adverse publicity concerning the health effects of smoking. While 10 percent of teenage girls smoked in 1965, 20 percent were smoking by 1975. Just as distressing is the increase in the intensity of teenage smokers. The numbers of teenage girls smoking a pack or more per day has tripled since 1968.

A recent study in Houston, Tex., has demonstrated that it is possible to deter some children from smoking. Dr. Richard Evans testified that he has been able to reduce by 50 percent the numbers of junior high school students taking up the habit. However, his results need to be replicated. Also, cohorts of children need to be followed through adolescence and into adulthood to see if the preventive effect of these interventions can be sustained over time.

In addition to demonstrations of programs for smoking deterrence, there is a pressing need for a better understanding of the biological and behavioral determinants of smoking. The addictive qualities of nicotine need to be better defined. The sociology of the smoking habit needs to be better understood if preventive interventions are to be effective.

The bill authorizes $5 million in 1980 and 1981 for biomedical and behavioral research on the determinants of smoking and $10 million in 1980 and 1981 for demonstrations and evaluations of programs designed to deter smoking among children and adolescents.

Third. Studies of hazards of cigarettes of varying tar, nicotine and carbon monoxide levels—section 203(a) of the committee bill instructs the Secretary to arrange for the conduct of studies to define the relative health risks associated with smoking cigarettes of varying levels of tar, nicotine, and carbon monoxide. The section also asks the Secretary to study the health risks associated with smoking cigarettes containing substances commonly added to commercial cigarettes.

There has been considerable controversy both in the lay press and in the scientific literature concerning the relative health hazards associated with smoking cigarettes low in tar and nicotine content. A recent study by Hammond et al. from the American Cancer Society demonstrates lower mortality from cancer and heart disease among smokers of filter cigarettes, the inhaled smoke of which is generally lower in tar and nicotine. However, other respected authorities have argued that lowering nicotine content of cigarettes may encourage changes in smoking habits which are deleterious to health, and which may negate the effect of reducing the tar and nicotine content of inhaled smoke. The committee also wants to make certain that any additional studies necessary to define the true risks of smoking cigarettes of varying levels of tar, nicotine, and carbon monoxide receive the highest priority in awarding research grants. It is the hope of the committee that this work will allow the Surgeon General to establish a useful measure of toxicity for cigarettes, and to rate existing cigarettes according to their real hazard.

The Secretary is required under this section to report his findings to the Congress within 2 years.

Fourth. Prevention data profile—section 204(a) instructs the Secretary to compile and submit to Congress on a triennial basis a national disease prevention data profile in order to provide a better data base for the effective implementation of S. 3116 and in order to increase public awareness of the prevalence, incidence, and trends in the preventable causes of death and disability in the United States.

The committee has learned from a number of sources that the information now available concerning the prevalence, incidence of preventable disease, and the physical and behavioral determinants of health among the U.S. population is far from adequate. The committee feels that it is essential to upgrade the populationwide data necessary to judge relationships between behavioral and environmental factors and the incidence and prevalence of disease.

The committee feels it is especially important to make a systematic effort to collect data on the determinants and prevalence of known risk factors for preventable disease, the link between personal behavior and those risk factors, and the changing patterns of behavior among our population that may impact on the prevalence and incidence of chronic disease.

Mr. President, the last title of S. 3116, title III, authorizes support for programs designed to improve the health of Americans through encouraging physical fitness. Authorizations under this title are $7.5 million in 1980 and $7.5 million in 1981.

The principal purposes of title III are to encourage the widespread participation by individuals from all age groups in physical fitness activities and to support practical and applied research into aspects of physical fitness and sports medicine.

The committee believes that physical fitness is a fundamental component in the maintenance of health and in the prevention of disease. While millions of Americans have recently begun to participate in fitness activities, almost half of Americans do not actively or regularly participate in any physical fitness program. In addition, many who exercise do so inadequately or incorrectly, and suffer from preventable physical fitness and sports-related injuries.

Numerous studies have been conducted examining the relationship between exercise and reduction in the incidence of cardiovascular disease. Morris' studies of London busdrivers and conductors, which began in the early 1950's, showed that the incidence of coronary heart disease (CHD) was at least 1.5 times as frequent among drivers who were sedentary throughout the day, as among conductors who walked up and down two-decker buses all day. CHD tended to appear earlier and be more severe among the drivers. Immediate and long-term mortality among those having heart attacks was twice as high for the drivers as for the conductors. For those under 50, the risk of sudden death for conductors was one-third of the drivers' risk; for those over 50, the conductors had two-thirds of the drivers' risk. Similarly,

Paffenbarger showed the age-adjusted rate for CHD to be twice as high among longshoremen engaged in work requiring light-to-moderate caloric expenditure compared tc workers engaged in heavy caloric expenditure.

Physical activity need not occur at work to have a positive physical effect. Morris showed in a study of British male office workers that among those reported who reported vigorous leisure time exercise, the relative risk for developing CHD was one-third that of those not reporting such exercise. Among those reporting a lot of vigorous activity, there was even a lower risk. Lighter exercise could not be shown to have any positive effect.

The need for individuals to seek some form of physical exercise has increased as automation and mechanization have replaced muscle power as a method of production and transportation in America. One hundred years ago, human muscle power accounted for nearly one-third of the energy used by factories and farms in production. Today, less than 1 percent of these energy needs are met by personal exertion, and of course, the automobile has become an integral part of our country's transportation system.

In encouraging exercise and fitness programs, it is essential to assure that proper forms of fitness activities are utilized and that basic protection is afforded against accidents and injuries stemming from improper conditioning or poor protective equipment in sports. The field of sports medicine, which focuses on the prevention and care of sports-related injuries and accidents, has received no direct Federal support, although its findings apply to millions of Americans. Last year, an estimated 20 million Americans were injured in recreational athletics and fitness activities, and the committee believes that an aggressive program of research and information dissemination can benefit millions of Americans.

Title III has the following major provisions:

First. Section 301(a) of S. 3116 calls for the establishment by the Secretary of HEW of an Office of Physical Fitness and Sports Medicine within the Department.

This is to be an administrative focus for what might otherwise be scattered administrative responsibilities in the management of programs authorized under this bill. A major responsibility, in addition to those enumerated in the bill, would be to support the administrative needs of the President's Council on Physical Fitness and Sports. The committee believes that the Secretary should consider detailing the present staff complement of the President's council to the office, thereby encouraging program integration and avoiding duplication of staff costs and responsibilities.

Second. Section 302 of the committee bill establishes a program to encourage and support programs in physical fitness through State councils on physical fitness. There are currently 18 Governors' or State councils on physical fitness and sports. These councils have taken an active and aggressive role, often with extremely limited financial support, in encouraging the development of physical fitness programs within their States. The committee believes that the State or Governor's council approach to leadership in this area is very promising and notes the parallel success of State councils on the arts and humanities under the National Endowment on Arts and the Humanities.

Third. Section 303 of the committee bill establishes a great program with awards being made directly by the Office. Grantees may include the same sort of groups or agencies as under section 302, and may be located in States which do not have State councils.

Fourth. The committee bill authorizes $6 million in fiscal year 1980 and $6 million in fiscal year 1981 for the physical fitness projects described in sections 302 and 303. The funds appropriated under this section for each year shall be divided equally between the State councils and projects funded directly by the Office.

Section 304 of the committee bill establishes a national program on sports medicine research. Sports medicine is a field of health care which covers the prevention and treatment of sports, exercise, and athletic-related injuries. Practitioners include physicians, podiatrists, athletic trainers and other health professionals. The committee believes that the growing number of serious sports medicine injuries warrants a Federal role in supporting research into injury prevention and cure.

The committee bill requires the Office and the President's council to develop a clearinghouse on sports medicine research to make widely available existing and new information on sports medicine and injury prevention and treatment.

The legislation authorizes $1.5 million for fiscal year 1980 and $1.5 million for fiscal year 1981 for the sports medicine research program.

Fifth. The committee bill calls for a conference to take place in 1980 on the subject of how educational institutions can develop and support programs in lifetime sports. Lifetime sports are those athletic activities in which individuals can safely and productively participate throughout their lives. Examples of lifetime sports are running, tennis, hiking, and swimming, activities which do not emphasize contact and strength but rather aerobic fitness. The committee is disturbed to note that educational institutions have recently begun deemphasizing lifetime sports and increasing emphasis on revenue-producing sports. For example, a recent study of the 722 institutions of higher education which comprise the National Collegiate Athletic Association—the NCAA—shows a 5-percent decrease in required general physical education courses for men and women. This represents a drop of 90,000 college-age student participants in these lifetime sports programs.

The focus of the conference, to be held jointly between the Office of Physical Fitness and Sports Medicine and the Office of Education of the Department of Health, Education, and Welfare, is to encourage the redevelopment of these lifetime sports activities in education institutions and to enable institutions which have recently focused in this area to share their information and support with institutions that are interested in moving into lifetime sports instruction and programs.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes?

Mr. SCHWEIKER. I yield to the distinguished member of the full committee.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, first, I congratulate Senator KENNEDY, Senator SCHWEIKER, and Senator CHAFEE for the fine work they have done for our committee in respect of the initiatives which are represented by the package of health bills brought to the floor today.

Mr. President, I am again pleased to join with Senator KENNEDY and Senator SCHWEIKER, the chairman and ranking member of the Health and Scientific Research Subcommittee of the Human Resources Committee, in urging the Senate to approve vital health care legislation. Passage of both S. 2474, the Health Services Extension and Primary Health Care Act and S. 3116, the National Disease Prevention and Health Promotion Act of 1978, is critical to the continued fight for adequate public health services.

I shall confine my remarks only to those programs authorized by these bills for which I am responsible. With regard to all of the other programs authorized in these legislative measures, I strongly support the need for them as well, and I adopt the remarks in their support just delivered by Senators KENNEDY and SCHWEIKER. In my view, the committee has acted well within the bounds of fiscal constraint in reducing the authorization levels across the board in order to hold needed increases in the support for these public health programs to the absolute minimum.

I will explain in some detail the purposes and provisions of four programs in these bills: Primary health care (title II of S. 2474), and assistance for hypertension, genetic disease, and venereal disease programs.

PRIMARY HEALTH CARE

Title II of S. 2474 is designed to give renewed emphasis to this Nation's efforts to meet the primary health care needs of its citizens. I introduced this title as S. 2879, which was cosponsored by Senators WILLIAMS, SCHWEIKER, RANDOLPH, CHAFEE, DOLE, and DECONCINI.

Although we live in a world which transplants organs, uses microscopic instruments and laser beams to detect and treat diseases, and employs highly sophisticated technological innovations to prolong life, we have come to neglect the most basic health care needs of our people.

Today approximately 49 million people live in parts of the country which are considered to be deficient in personal health services, where medical resources in the form of manpower and facilities are scarce or nonexistent. Despite the promise of medicaid and medicare, enacted more than a decade ago as the means to overcome limited access to high-quality medical care by the elderly

and the indigent, these efforts have fallen far short of their mark. The obvious lesson to be learned from our experiences with medicaid and medicare is that money alone will not solve the health care problems of the Nation. Without a corresponding availability of manpower and facilities, the barriers which now prevent access to health care services will persist.

Over the years, an increasing proportion of physicians have tended to specialize and subspecialize. In 1930, approximately 95 percent of all practicing physicians devoted the bulk of their time to the delivery of primary care services; by 1975 this percentage had plummeted to roughly 40 percent. The trend toward specialization forced physicians to cluster in parts of the country where access to highly sophisticated medical equipment and a large, comparatively affluent population base was readily available. This two-fold pattern eventually brought us to the situation which plagues us today: Roughly a quarter of our entire population—people who live in sparsely populated or economically depressed urban sections of the country—suffer from inadequate medical resources.

For years we in the Congress have engaged in debate and dispute over the program. Indeed, we are now witnessing increasing activity in that direction within the administration as well as within the Congress. But, of what benefit would national health insurance be to its recipients if adequate medical facilities and manpower are not available to implement the system? We cannot expect medical services which we now lack suddenly to materialize in parts of the country which have been long neglected, merely because we have found the money to pay for our citizens' care.

It is, therefore, the thrust of this initiative to close the gap which exists between financing and health resources availability.

The unavailability or inaccessibility of primary care physicians and other producers of ambulatory care has resulted in the inappropriate utilization of outpatient departments and hospital emergency rooms by residents of a community for the receipt of primary care services.

Statistics in New York City revealed that in 1976 there were a total of 3,317,747 emergency room visits. Of these, 330,752 patients were actually admitted to the hospital. That is, only 10 percent actually required inpatient care. Of the remainder, a substantial proportion could more easily and effectively have been treated in primary care facilities—facilities designed specifically for the treatment of cases which are not medical emergencies.

The consequences associated with the practice of rendering primary health services in hospital emergency rooms and outpatient departments are seriously detrimental to good health care. First, care rendered in these settings tends to be sporadic, because it focuses on episodic encounters; consequently, patients who are forced to rely on hospital outpatient departments and emergency rooms are unable to receive adequate medical care, because no one is specifically responsible for assuming the continuous management of that person's total health and medical care needs.

Second, services provided in these settings tend to be costlier than in ambulatory facilities because hospitals assign a certain proportion of inpatient-related expenses to the emergency room and outpatient departments. These expenses are ultimately passed on in the form of higher cost to the consumers. HEW estimates that for fiscal year 1977 the average cost per visit in community health centers—centers which devote the bulk of their efforts to the delivery of primary health care services—equaled approximately $29; in contrast, the average cost per visit in an emergency room for fiscal year 1976 in New York City hospitals was $46.01; in outpatient departments in the same hospitals the cost per visit was $52.55; and nationwide the average hospital outpatient visit cost was $36 in fiscal year 1977.

Third, many hospitals incur substantial deficits each year by providing services to persons who have no means by which to pay for these services.

In response to these problems, this legislation authorizes the Secretary of HEW to award grants to community hospitals (defined as either public general hospitals or private, nonprofit hospitals which serve primarily a medically underserved population) for the purpose of establishing hospital-affiliated primary care centers.

The purpose of this provision is to provide better quality primary health services to individuals who have no other resources for obtaining such services while simultaneously restructuring and reforming the hospital departments which, often by default, bear the burden of providing primary care services. Eligible hospitals are those which deliver primary health services through emergency rooms and outpatient departments; or, hospitals which on their own initiative have reorganized or begun to reorganize to provide primary health services as envisioned under this act.

The two-pronged effort of improving the quality of care and reforming hospital organization is accomplished in several ways. First, the hospital is required to establish a primary care center which is located in or adjacent to the hospital and which is a distinct administrative unit of the community hospital. These provisions are designed to control costs, separate the functions associated with delivering primary care services, emergency room services, and outpatient department services, and provide for the convenient rerouting of patients from the emergency room and outpatient department to the newly established primary care center when the center becomes operational.

In addition, the bill contains a number of provisions aimed at eliminating duplication of services and facilities either between the primary care center and other facilities and services available in the community or between the primary care center and the sponsoring hospital. Furthermore, the bill requires the primary care center to use appropriate existing space and equipment already in the possession of the hospital. The bill also prohibits the Secretary from awarding grants to hospitals in communities where existing community health centers, migrant health centers, and other facilities are adequate to meet the needs of the medically underserved population.

Second, each primary care center is required to be staffed by a primary care group practice. While exceptions do exist for rural and other medically underserved areas, a primary care group practice is generally defined as any combination of three or more primary care physicians (general internists, general pediatricians, and family practitioners) who are organized to provide primary health services in a manner which is consistent with the needs of the population to be served.

In order to assure continuity of care for the patients of the primary care center, it is required that each patient be assigned to a member of the group who then becomes responsible for overseeing the delivery of primary care services, managing and coordinating care when referral or emergency services are required, and providing followup after completion of the referral service.

With respect to the provision of supplemental services in these centers, there has been considerable discussion among ophthalmologists concerning language in the committee report on S. 2474 which uses primary vision care services as an example of the manner in which supplemental health services ideally should be provided by health practitioners in hospital-affiliated primary care centers. At this time, I would like to clarify this language.

In general, the bill promotes the use, wherever practical, of the practitioner who, by training and practice, is best suited to deliver primary health services; this accounts for the emphasis on the use of general internists, general pediatricians, family practitioners, physician assistants, and nurse practitioners throughout the legislation. With respect to the provision of supplemental services, the intent was to continue the spirit of this policy. However, in using vision care services as an example of supplemental services, the committee did not mean to imply that ophthalmologists or other physicians with eye care training could not provide primary vision care services; rather, the language was designed to assure the delivery of supplemental health services in the most cost-effective way by encouraging the most efficient use of available health manpower resources in each community.

I believe that through these and other provisions we will be able to provide better quality care at a more reasonable cost to persons who now routinely use hospitals for primary care services. Due to the lack of services, hospitals have been forced to go into the business of ambulatory care in many rural and inner-city areas. This bill will aid in restructuring the setting so that this may be carried out more efficiently and cost effectively.

Finally, the bill contains provisions which are aimed at funding research and demonstration projects for primary

care. This section of the bill is built on the strengths and experiences we have gained through the Health Underserved Rural Area (HURA) program. The purpose of the program is to encourage providers of health care to find innovative solutions to primary care problems which have previously resisted solution. In general, I believe our experience with HURA has been quite favorable.

I believe that through these and other provisions we will be able to provide better quality care at a more reasonable cost to persons who now routinely use hospitals for primary care services. It is my hope that the gaps which currently exist between the cost per visit in community health centers and the cost per visit in hospital emergency rooms and outpatient departments can be closed by instituting the hospital reforms provided for in the bill, especially where the different service delivery entities are performing essentially the same function.

HYPERTENSION

I would also like to highlight section 103(d) of S. 3116 and section 102(b) of S. 2474, amending section 317(j)(1) of the Public Health Service Act, which deals with hypertension. These sections extend for 3 years at authorization levels of $15 million for fiscal year 1979, $20 million for fiscal year 1980, and $25 million for fiscal year 1981 the legislation which provides formula grants to States for a national effort establishing local-level, community-based programs to reach and assist hypertensives.

It is nothing short of tragic that this mission, which the Congress authorized for many years under section 314(d) of the Public Health Service Act, has been woefully underfunded in the appropriations process.

This legislation provides grant authority for screening, diagnosis, detection, prevention, and referral for treatment of hypertension—programs of demonstrated excellence and effectiveness. The expertise in States, localities, and nonprofit institutions exists to care for people with hypertension—all that has been lacking have been adequate appropriations.

In 1972, a program was initiated by the National Heart Institute in cooperation with numerous other Federal agencies, virtually all State health departments, more than 150 private sector organizations, professional societies and associations, voluntary health organizations, certifying and accrediting bodies, pharmaceutical companies, labor and management groups, and insurance companies to attack this disease head on. The results of this effort are most impressive: the country, overall, has experienced a 14-percent decline in stroke deaths, and a 7-percent decline in the death rate from heart attacks, which in combination have saved a total of 147,000 lives.

Current health statistics clearly demonstrate that continued improvements could be made if the program were provided greater support. An all-out effort to control blood pressure in a given State or community would reduce the number of strokes by at least one-third, eliminate three-fourths of the cases of heart failure, reduce kidney failure by 10 to 15 percent and produce a drop in the number of heart attacks. These are compelling figures which illustrate the enormous value of preventive medicine.

Until very recently it was estimated that 23 million Americans had hypertension, but now the real figure is thought to be closer to 35 million. Only 7 million of these, or 20 percent, are thought to be fully and adequately treated for their disease. As many as 50 percent may be unaware of their affliction. The remainder know they have the disease, but are receiving inadequate treatment or no treatment at all.

High blood pressure is a factor in 68 percent of all first heart attacks and in 75 percent of all first strokes. In fact, in the case of stroke, hypertensive men of similar age and blood pressure had nearly ten times the attack rate of men with normal levels. The risk of coronary heart disease in men 30 to 59 with high blood pressure is three times that of men with normal pressures.

As a result of the medical research advancements in the development of many effective antihypertension drugs, the death rate from hypertensive disease has declined substantially since 1950. However, while the death rate from hypertensive disease itself has declined, the full impact of therapy now available for hypertension has not as yet sufficiently affected the death rates from other types of heart disease and strokes, in which hypertension is involved, due to the fact that many victims of high blood pressure continue to go undetected and untreated until it is too late or until the heart attack or stroke is actually experienced.

In addition, black Americans, all too many of whom reside in our Nation's medically underserved areas, suffer disproportionately from high blood pressure and its consequences. Fully one-fourth of hypertensive adults under 65 are black. Regardless of race (one in every six adults suffers from high blood pressure), however, all Americans deserve access to the care of hypertension that can prevent its damaging sequela.

Programs are urgently needed to insure the early detection and prompt treatment of even moderate cases of hypertension. Dr. Theodore Cooper, former Assistant Secretary for Health, estimated that—

> A successful campaign in the public health sector for the detection and treatment of high blood pressure would result, within two to three years, in the averting of about 200,000 deaths from stroke, heart attack, kidney failure, and heart failure per year.

Indeed, next to cigarette smoking, hypertension is almost certainly the leading preventable cause of death and disability in the United States.

The bill makes an important statutory change in the current hypertension authority. Now a formula grant authorized under section 314(d), hypertension support under the bill would be administered as a project grant under section 317 of the Public Health Service Act. By encouraging competition among States for available funds, I anticipate that the overall quality and effectiveness of existing programs will continue to improve.

The knowledge to dramatically reduce hypertension exists, and the present resources of the health care delivery system are adequate to accomplish this task. The primary missing ingredient to date has been the coordination of these resources into a well-organized hypertension control effort, combined with an adequate level of Federal and State financing. I believe that passage of this bill will constitute a vital step toward that goal.

VENEREAL DISEASE

S. 2474 contains amendments in section 104(a) which I introduced, to extend and improve the Venereal Disease Prevention and Control Act, codified in section 318 of the Public Health Service Act. Venereal disease programs have historically been hampered by the low priority given VD as a public health menace and the dependence of VD programs on fluctuating national, State, and local support.

Venereal disease is today still stigmatized, guilt-laden, and negatively perceived, shrouded in the same myths and taboos once associated with leprosy, mental illness, and epilepsy. As a result of these attitudes society is misinformed or uninformed about venereal disease and its severity in our country today. Our ignorance about these diseases is an epidemic in itself, no less damaging and no less rampant today than the epidemic of the venereal diseases themselves—for too often this lack of information means lack of medical attention, leading to serious medical complications, sterility, blindness, or even death.

The most important point I want to make is the fact that venereal disease is the most critical health issue facing young people today. I ask my colleagues to consider the following statistics from the American Social Health Association:

> One out of every eight adolescents (both sexes) has venereal disease.
>
> One out of every five female adolescents has venereal disease.
>
> Venereal disease incidence among adolescents (both sexes) aged 15 to 19 is estimated to total over 2.5 million cases annually.
>
> Venereal disease incidence among female adolescents 15 to 19 is estimated to total over 1.9 million cases annually.
>
> Venereal disease incidence among persons (both sexes) aged 15 to 49 is estimated to total over 10 million cases annually, thus adolescent venereal disease accounts for fully 25 percent of all venereal disease in this country today.

We are confronted by a major health problem, a medical epidemic of enormous proportions that has become an everyday reality for every segment of society—as true for the suburban family as for the inner-city one.

Time and again the public and my colleagues have been justifiably alarmed by outbreaks of polio, Legionnaire's disease, measles, and the flu, and have demanded and supported Government programs for the diseases' control and eradication. Just last month the administration requested and Congress supported a program of more than $8 million to mount a Federal immunization program against a flu about which the Center for Disease Control repeatedly expressed uncertainty in terms of severity and possible extent. That $8 million

had no statutory authority and came out of unappropriated venereal disease funds.

This year venereal disease will pathologically sterilize 100,000 women under 30 years of age and cause more than 7,000 infant deaths as well as mental retardation and severe birth defects in many thousands more. In contrast, swine flu caused the death of one person.

I think the figures speak for themselves. The epidemic of venereal disease is a public health issue which warrants and demands the collective attention and resources of society. The amendments contained in this legislation respond to this need based on the past 6 years of programs experience.

The bill specifically addresses several problems in the existing venereal disease prevention and control program:

First, existing law contains two authorities to fund VD grants: one for training, demonstration, research, information, and education programs, and another for grants to States for VD prevention and control programs. Unfortunately, the only funding to date has been for State-operated VD prevention and control programs.

I feel strongly that public awareness through education is a most potent technique for coping with epidemic VD in America, and is all the more urgent and critical in light of the statistics about teenage venereal disease. Therefore, the bill merges the two funding authorities into one, obligating 5 percent of all funds appropriated for VD in any fiscal year for programs of information, education, research, and demonstration. This effectively mandates the funding of these essential programs.

Second, a persistent problem in the VD program has been poor clinical patient management, including misdiagnosis, underdiagnosis, and therapeutic inadequacy, which is exacerbated by the increased complexity of the more than 20 sexually transmissible diseases now known. The bill directs attention to this problem by including a provision for "professional training and clinical skills improvement activities." Thus, the need programmatically to target and intervene on the increasingly worsening problem of poor clinical management by instituting strong programs of professional education and training is emphasized as a key component of the total VD program.

Finally, the bill repeals the provision in the existing law which permits the Secretary of HEW to transfer funds appropriated for VD for use in other disease control programs. The singular and categorical intent of this section of the Public Health Service Act is to authorize nationwide VD prevention and control activities and none other. We cannot afford to lose funds authorized for this public health problem to be used in other areas, as witnessed by the recent "raid" on these funds to support the new flu program.

The primary emphasis of this legislation is the promotion of a multifaceted approach in the battle against VD. No single discipline or methodology alone has the capability or even the potential for solving the VD problem alone. Rather, a blend of disciplines, methodologies and techniques, comprising balanced and integrated efforts, must be the cornerstone of the national VD initiative. Thus the bill requires the combination of public awareness and education, professional training, research, and demonstration, and prevention and control programs.

The VD control program is one of the few where there can be demonstrated a direct relationship between funding increases and decline in the number of cases of disease. No public health effort in modern times demonstrates more dramatically or repeatedly the result of failure to follow through on a successful program.

Enlightened and effective public policy with regard to the venereal diseases and their tragic consequences, particularly with regard to the youth of our country, will never be forthcoming as long as the stigmas and taboos about the disease cripple our own Government.

We cannot afford complacency with regard to the venereal disease programs. The consequences of the diseases are tragic, including sterility, blindness, arthritis, heart disease, infant mental retardation and other birth defects, neonatal death, increased risk of cervical cancer, and the severe emotional trauma accompanying all of these afflictions.

I look forward to a day when the harsh realities of epidemic VD are history. I firmly believe that this legislation will bring that day closer than it has ever been before.

GENETIC DISEASES

Section 108 of S. 2474 extends and expands the provisions of the National Genetic Diseases Act, which was enacted in 1976 to establish a national program of basic and applied research; and to support services such as screening, testing, and counseling for the diagnosis, control, and treatment of genetic diseases; and information and education programs with respect to such diseases.

The program was funded for the first time in fiscal year 1978 at $4 million, thanks in large part to the efforts and support of my colleagues Senators MAGNUSON and BAYH on the Appropriations Committee. The first grants under the act will be awarded this month.

This bill reauthorizes the National Genetic Diseases Act for 3 years at authorization levels of $15 million in fiscal year 1979, $20 million in fiscal year 1980, and $25 million in fiscal year 1981.

The bill reemphasizes the generic intent of the original legislation to include all genetic conditions by broadening the scope of the program so that it explicitly "includes but is not limited to either individually or collectively such genetic diseases as sickle-cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dynautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, muscular dystrophy, and genetic conditions leading to mental retardation or mental illness, and conditions requiring genetic services."

The need for these genetic services is beyond question. Consider these statistics:

An estimated 12 million Americans today suffer the consequences of genetic defects.

Thirty-six percent of all spontaneous abortions are caused by gross chromosomal defects (100,000 per year).

At least 40 percent of all infant mortality results from genetic factors.

Genetic defects are present in 4.8 to 5.0 percent of all live births.

Eighty percent of all mental retardation is believed to carry a genetic component.

About one-third of all patients admitted to hospital pediatric wards are here for genetic reasons.

Each of us carries between five and eight recessive genes for serious genetic defects, and hence stands a statistical chance of passing on a serious or lethal condition to each child.

In addition, many conditions have been shown recently to have genetic involvement or are suspected to have one. Among these are some of man's most common afflictions, including heart disease, certain forms of arthritis, diabetes, and cancer, and the most prevalent mental illness: schizophrenia and depressive illness.

Health economists have estimated that fully 20 percent of the total cost of health care in the United States is accounted for by genetic disease. Dr. J. E. Seegmiller of the University of California has explained how this occurs:

The fact that many victims of hereditary disease are completely unable to care for themselves and require full-time care by their relatives or become lifetime wards of the state in mental institutions or nursing homes, makes the total cost to the nation far greater than that of the diseases that kill (more or less) outright, such as cancer, stroke, or heart diseases which usually affect individuals who have already lived out the major portions of their lives as contributing members of society.

Inherited diseases are, above all, family diseases. Not only does a genetic illness affect the individual afflicted, but diseases which are passed from parent to child and which may strike multiple members of a family simultaneously inflict a unique and terrible burden.

Another important point is that genetic diseases are chronic diseases: Many of these conditions manifest themselves at birth, and most last through life, often requiring extensive institutional care, placing patients and their families under financial strains that never diminish. This is especially acute in some families where as many as half of the members may suffer genetic disease. The cost of maintaining multiple individuals afflicted with illness can grind these families to poverty. The scope of the problem is broad, and the economic burden hereditary disease places upon families and Government is enormous. It is impossible to measure the emotional trauma and tragic uncertainty facing families with hereditary disease.

When we possess the tools and the medical knowledge to prevent and treat diseases which are so devastating, how can we continue to tolerate such pain and cost and human suffering?

This bill establishes a voluntary program for screening, testing, counseling, and information. I am firm in my belief that each of us has the right to as much information as medicine can

provide. There is a great deal of mystery still associated with medicine, but there is also a great deal of knowledge available. With this information, informed choice is possible; that is, each person may make a value decision confident of the fact that it has been made with all the information possible. To withhold medical knowledge which could prevent crippling and death is unfair and unjust. To withdraw from seeking that information is to proceed in a vacuum, without the benefit and the right to our own value decisions.

The bill provides for planning based on local need for specific genetic services as well as program evaluation through appropriate peer review.

The bill provides flexibility of funding to allow mechanisms for funding local programs as well as demonstration and pilot programs of merit. Much of the activity specified in the act will involve the State and local health departments, but allocation of Federal funds to these organizations is only one mechanism by which programs can be implemented.

The Secretary is required to develop a procedure whereby consumer and professional genetic disease experts are authorized to make program recommendations, and to advise on a wide range of interdisciplinary issues involving research, detection, prevention, and treatment of genetic disease. The function of this body is especially vital in view of the rapid advancements in technology and knowledge concerning genetic medicine.

The bill authorizes programs for the training of genetic counselors, social and behavioral scientists, and other health professionals, and the development of programs to educate practicing physicians and other health professionals as well as the public regarding the nature of the genetic processes, the inheritance patterns of genetic disease, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic disorders. Genetic medicine is a relatively new scientific discipline, and most doctors never have had a course on genetics. The need to educate the practicing professionals as well as the public as to the availability and capability of genetic services is essential.

An applied technology section authorizes epidemiological assessments and surveillance of genetic diseases to define their scope and the need for genetic programs and services. On the basis of these assessments, assistance to States in developing programs to effectively combine diagnosis, treatment, control, screening, and counseling for the diseases is authorized, as well as technical assistance to the States to implement these programs.

In recognition and anticipation of the burgeoning of knowledge about inherited diseases, the bill authorizes a study to be conducted by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research on the ethical, social, and legal implications of voluntary testing, counseling, and information and education programs with respect to genetic diseases. This provision was also contained in the legislation extending the Commission (S. 2579) which has already passed the Senate earlier this summer.

Genetic services are the newest breakthrough in preventive medicine, and integral to reducing the risk of genetic disease. The purpose of this study is not to provide the underpinning for moral decisions involved in individual decisionmaking, but rather to provide us with information regarding the implications for society as a whole.

Thus, this provision will allow us to legislate in the future with knowledge, not in a practical, ethical, or legal vacuum. New developments in genetic medicine have profound ethical and legislative implications, and so require understanding on our part as legislators if they are to be used for maximum benefit to our people.

The array of genetic services that can be made available and supported under the provisions of this bill to persons suffering from or at risk for disorders or conditions of various etiology include:

First. Early detection of disease, through newborn screening, to wit, the testing for disease shortly after birth, many diseases can be detected and in some cases, if treatment is instituted immediately, treated. Diagnosis of PKU at birth, for instance, with immediate treatment with a special dietary regimen, can prevent severe mental retardation and a lifetime in an institution.

Prenatal screening, through various procedures such as amniocentesis and ultrasound, can now diagnose at least 60 diseases. In some instances, palliative treatment in utero can be administered to prevent a detected disorder. In most cases, the tests can serve to reassure the parents of a healthy child. In addition, it has just recently been reported that a simple blood test, administered early in pregnancy, can now predict whether an unborn child will suffer either of two of the most common and cruel birth defects, spina bifida or anencephaly. Spina bifida babies are born with abnormal openings in the spine through which the spinal cord protrudes, causing extremely serious problems and paralysis. In anencephaly, whole portions of the brain are missing.

Second. Carrier detection. Screening of prospective parents allows the possibility of predicting some 60 genetic disorders, enabling the parents to make judgments concerning their own reproduction based on informed choice.

Third. Screening at later ages. Some genetic conditions, such as Huntington's disease, one of the most devastating of the inherited neurological disorders, are not detectable until later ages.

Fourth. Counseling. Genetic counseling has emerged as an important medical service for families who risk the transmission of serious hereditary disorders and for those families who have members affected by genetic disease.

Fifth. Diagnosis and monitoring effectiveness of treatment. This includes referral for appropriate treatment and followup.

Sixth. Information and education with regard to genetic conditions and their transmission.

Mr. KENNEDY. Mr. President, if the Senator will yield, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. May I ask the Senator are we going to have a yea and nay vote on each bill?

Mr. KENNEDY. No, I do not expect to. I think we will go to final passage on the final package.

Mr. JAVITS. All the bills will be taken together. The Senator has to get a unanimous consent to consider them en bloc, does he not?

Mr. KENNEDY. No, because there will be amendments, and then we will just want final passage on whatever we agree to as a result of the amendments.

Mr. JAVITS. On the one bill?

Mr. KENNEDY. On the one bill.

Mr. JAVITS. Good.

Mr. President, this is a very relatively new knowledge which we are gaining in this particular field which will lead us not only to dealing with the problems which result from inheritance, but also to other solutions respecting disease, perhaps even into some breakthroughs in the cancer field.

So, Mr. President, those are the four areas of my own responsibility: primary health care, hypertension, venereal disease, and genetic diseases. All are reflected, I think, entirely creditably, by the bills before us, and I hope very much the Senate will see fit to support them.

I thank very much the managers of the bills, Senators KENNEDY and SCHWEIKER, for their wonderful cooperation and understanding which have enabled these provisions to be incorporated in these bills,

Mr. President, I ask unanimous consent that Craig Polhemus, of Senator RIEGLE's staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS addressed the Chair.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Barry Kinsey, of Senator BELLMON's staff and Sheila Burke, of Senator DOLE's staff, have the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield me 2 minutes?

Mr. KENNEDY. Before I yield to the Senator from Arkansas, I would like to yield to a member of the committee, Senator CHAFEE, whose work in this area has been most significant.

Mr. CHAFEE. Mr. President, if I could have 5 minutes.

Mr. SCHWEIKER. I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Fran Paris, of my staff, be given the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I express my strong support for this bill and especially for the disease prevention and health promotion amendments. I urge my colleagues to consider them favorably. This legislation represents a continued commitment to programs of proven effectiveness, and also contains an important new initiative on the part of the Federal Government in supporting efforts which are designed to reduce illness.

I am sure my colleagues have read the same polls I have. They clearly indicate that the American public, despite their present frustrations with high Government spending, is very concerned about health care. If there is anything they are willing to spend more money on, it is health care. But this legislation is not intended to buy more highly trained health specialists, facilities, institutions, or fancy technology. This legislation represents a radical new way of thinking about health care—that preserving health is as important as treating illness.

That this should be considered such a radical new idea is rather ironic, since we have always known that an ounce of prevention is worth a pound of cure. But, as Senator KENNEDY mentioned, since we now spend less than 2 percent of our enormous Federal health budget on health promotion and disease prevention, it certainly appears that our priorities have not included the most cost-effective and desirable method of assuring good health.

America is said to have one of the best health care systems in the world. We have sophisticated technology, the best trained physicians, the most modern facilities, and expensive machinery which performs all manner of miraculous feats—for which we are paying a very high price, of course. Taking all this into account, why then is there such a growing dissatisfaction with health care in this country? Our health care bill is increasing by billions of dollars each year. But people do not feel billions of dollars better. We wonder with all these expensive resources, why modern medicine can not cure every one of our small and large ills. With all this health care, we still have more lost sick days and school days and more disability than ever before. Should we sue our doctors or berate our health care system for being greedy, inefficient, incompetent?

I believe it is time we reexamined our expectations and goals. Do we want good health or do we just want illness treatment? Have we expected too much from our health system? Most of the illness which we spend so much money on today can be prevented by personal choices of lifestyle and habit, and greater attention to our environment. Individuals must be convinced that health is a personal responsibility and that they do not have a tremendous amount of control over their health. But they must be given the tools. The tools are information, education and the kind of primary medical care which does not enjoy the same glamour and attention as do miraculous surgical feats or the discovery of a fantastic new drug.

The rather modest programs in this legislation are not the total answer. But they represent a new direction in policy. As public funds are used to build hospitals, train physicians, and increasingly to pay the bill for curative care, so should governmental efforts provide at least some strong leadership in showing people how to keep healthy. We have spent millions of dollars to learn the causes of many modern chronic diseases, but we have not disseminated this information to the public in any organized manner. I hope you will agree that this legislation is a badly needed step in the right direction.

Mr. President, earlier this year I introduced the National Health Incentives Grants Act of 1978 to assist State and local public health officials to expand their capabilities in the area of public health activities and disease prevention and health promotion. Although this legislation we are now considering utilizes a more targeted approach, it retains the flexibility which I believe is essential for local public health officials to attack their unique problems, using methods which are most suitable to their own localities.

The problems in Massachusetts are not the same as those in Alaska; the problems of Rhode Island are not the same as those of Iowa. I would like to commend the distinguished chairman of the Health Subcommittee, Senator KENNEDY, and the ranking Republican member, Senator SCHWEIKER, for their leadership and expertise in this important bill.

This legislation combines several components in a prevention strategy and builds on existing systems. It provides a basic noncategorical bedrock of support for State and local public health departments to maintain their efforts in the traditional health protection areas, such as immunization, protection of the food and water supply, and other environmental activities which have been so successful in combating infectious diseases.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CHAFEE. I appreciate the time that has been given to me. May I have 2 more minutes?

Mr. SCHWEIKER. I just want to say, in yielding 2 more minutes, Mr. President, that Senator CHAFEE has done a great job on our committee. He has taken a really active interest in health care, and played a very significant role in working on this bill.

I yield him 2 more minutes.

Mr. CHAFEE. I thank the distinguished Senator from Pennsylvania. This is a very important issue we are dealing with. I know, Mr. President (Mr. CULVER), of your interest in this area. You are an active member of the gym. I have seen you there frequently. This whole matter of individuals' trying to take care of their own health is of extreme importance. It is easy for us to be critical of people. "Why don't you take care of yourself?" Well, many people do not know how to do it and do not realize the steps that have to be taken. This bill is an educational bill in this whole area of disease prevention and health preservation. It provides support for innovative new programs aimed at the chronic diseases more prevalent today—specifically the leading causes of death and disease for each individual State. It will allow States to establish their own priorities based on their own patterns of disease, but also provide important direction and assistance from the Federal agency. For example, we already know a great deal about how to prevent or reduce the occurrence of heart diseases. Let us get this information out to citizens throughout the United States.

Another important aspect of the noncategorical support for public health activities is the incentive it provides for each State to make a serious financial effort with its own funds to prevent disease. Additional Federal funds are allocated to States based on their own expenditures.

But States could not receive more than $1 per capita for comprehensive health services, or 50 cents per capita for preventive health services. This formula recognizes that Federal funds can only supplement regional efforts and they are not intended to be a primary source of support for these programs.

The basic formula grant support is complemented by specific categorical project grants for certain preventive services which are recognized national priorities and which have been proven effective. These include hypertension, childhood immunization, rodent-borne diseases, lead-based paint poisoning programs, and school-based fluoridation programs. In addition, this legislation provides the necessary underpinning of research, demonstrations, and data gathering on which public and private organizations will be able to draw to implement and optimize their efforts. The support is authorized for these activities is extremely modest, perhaps too modest. However, we recognize that this is a difficult and complex area, and we have chosen to initiate efforts which have the highest priority and are directly relevant to prevention based on the knowledge which now exists.

The bill authorizes the Secretary to support five intensive and comprehensive community-based prevention programs. Positive results from experiments in this kind of community-based effort lead us to believe that this could be one the most productive ways of exemplifying how prevention health efforts can work.

Perhaps one of the most important sections in this bill is the one dealing with deterring smoking among children. I do not think anyone can argue that smoking is not a major health problem in this country. Educating children about the harmful effects of smoking is perhaps the wisest use of limited funds and will eventually result in a reversal of the trends of diseases linked to smoking.

Another important area covered by this bill is physical fitness. Numerous studies have proven the relationship of physical fitness to good health maintenance. In an increasingly mechanized society which reduces the opportunity for physical activity, it seems that a strong emphasis must be placed on this area as a major health determinant.

Mr. President, this is a modest bill when one considers the small amounts of money provided and the tremendous benefits which could be derived from preventing illness. But it is a careful and comprehensive approach to this urgent and neglected area, and I urge my colleagues to lend their support to this bill.

I commend, as I said, Senators KENNEDY and SCHWEIKER. I just hope the Members of the Senate approve it and that it will survive in conference and be enacted by the Congress as a whole.

Mr. BUMPERS. Mr. President, I just want to make some general observations about the bill.

I commend the Senator from Massachusetts and the other committee members for launching out in a much more aggressive and meaningful way in the preventive health care field. It was Hubert Humphrey who used to lament on this floor constantly about the fact that we talk about national health insurance, when what we are really talking about is national sick insurance, because this country has never made any kind of an effort, any meaningful effort, in the field of preventive health.

When I came to the Senate the appropriation for immunization of children was $3.5 million. Under this bill, which culminates 3 years of effort on the part of many of us to get those levels up, we have an authorization of $35 million.

Let me tell you some of the things that have been happening because of HEW's more aggressive work in the field of childhood immunization, especially, through educational efforts, because we hear radio and TV commercials constantly now about childhood immunizations. Incidentally, HEW has also been very aggressive in making certain children not be allowed to enter school—there are all kinds of State laws prohibiting children from entering school—who are not immunized. That has had a very good effect.

Just to show you what the effects can be, in the last quarter of 1977 the incidence of measles decreased 56.3 percent over the last quarter of 1976; mumps 17.5 percent, and rubella 18.1 percent.

On dosage, there has been a significant increase in the number of doses of vaccine administered in public programs to the point where the number of doses of vaccines increased nationwide during that quarter 47 percent for measles, 42 percent for rubella, 48 percent for polio, 102 percent for mumps, and 45 percent for diphtheria.

In six States which began a vigorous enforcement of the exclusion of pupils at all grade levels before December 31, 1977. there was a 90-percent reduction in childhood diseases.

That is one of the most dramatic preventive health statistics I have ever heard of. In our State—and I hesitate to repeat this, because I have said it on this floor too many times—after Betty Bumpers got all the children in Arkansas immunized in 1973 and 1974, we did not have a single case of measles in the State of Arkansas for 2 years.

Now, hopefully, Secretary Califano and others assisting in that program will someday be able to announce that same statistic nationwide.

Finally, I want to comment on a statement the Senator from New York made a moment ago about teenage pregnancies.

People seem to think in this day and time that teenage pregnancies are a thing of the past; but the fact is we have teenage pregnancies in this country running at a rate of over a million a year. A million a year.

Last Friday I was in Albuquerque, N. Mex., to make a speech. Mrs. Bumpers was with me, and Friday morning she dragged me kicking and screaming to a school for pregnant teenage girls she had heard about, called the New Futures School.

Originally operated on an experimental basis and with voluntary contribution, it became a part of the Albuquerque school system this year.

I spent about 2 hours there, talking with the staff, and looking at the facilities. They also had a panel of six girls who had gone through the school, and everyone of those girls I talked to told me that that school allowed them to keep their self-esteem, taught them to be mothers, prepared them for the delivery—it was one of the most impressive, edifying experiences of my life.

I want to say this is one of the times in my life that I can take great pride in the fact that the Federal Government has actually translated a grant program into the alleviation of human suffering and indignity; and I hope that other Members of this body will have an opportunity, perhaps, to see the school.

This bill goes a long way in making certain that schools like that can continue, and others spring up around the country. They are badly needed, and serve an extremely fine purpose.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

UP AMENDMENT NO. 1955

(Purpose: Change formula for 314(d) grants)

Mr. HODGES. Mr. President, in behalf of Mr. BUMPERS and myself, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator is advised that the amendment will not be in order until time on the pending amendment has expired or been yielded back.

Mr. HODGES. Mr. President, I ask unanimous consent that this amendment be considered in order. It has been cleared with the majority and minority sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. HODGES) for himself and Mr. BUMPERS, proposes an unprinted amendment numbered 1955.

Mr. HODGES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike all that follows after the after the word "follows:" in Section 302(b) and on page 3, strike all before "Notwithstanding clause (ii)" and insert in lieu thereof the following:

"(4)(A) The total amount of grants received by State health and mental health authorities under paragraph (1) for any fiscal year shall be determined by the Secretary, except that it—

"(i) may not exceed the product of $1 and the population of the State; and

"(ii) may not be less than the greater of—

"(I) the total amount of grants received by such authorities under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $0.50 and the population of the State.

For the purpose of determining the total amount of grants that may be made to the State health and mental health authorities of each State, if for any fiscal year the amount appropriated for the fiscal year under paragraph (7) is less than the amount needed to make grants for that fiscal year in accordance with clause (i) and more than the amount needed to make grants for that fiscal year in accordance with clause (ii), the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the financial need of the respective States and the relative level of State and local expenditures for comprehensive public health services. In determining financial need, the Secretary shall consider, as major factors: (1) the proportion of each State's population whose income level is below the poverty income level established by the Department of Commerce; and (2) the proportion of each State's population living in medically underserved areas; provided, however, the Secretary shall not be limited to the above considerations.

Mr. HODGES. Mr. President, first I would like to commend the distinguished managers of this bill on both the majority and minority sides. I cannot think of an area more important to the country than the issues covered under this bill, and I join them strongly in support of it.

This amendment, however, will correct some problems in the bill by determining a formula that will be fair to all concerned.

Mr. President, S. 2474, as amended by the Senator from Massachusetts, is an extremely worthwhile proposal and one that fulfills several important goals. It is aimed at preventive health service, which are of utmost importance to every person in our Nation. By focusing on the prevention of those diseases which lead to death and disability, we can save lives, pain and suffering, and enormous sums of money in remedial medical expenses.

Section 102(F) of title I of this bill authorizes a new program of formula grants to assist the States in planning for and meeting the costs of preventive health services. The total authorization is not large when compared to other Federal outlays for health programs. It would amount to $20 million in 1980, $60 million in 1981, and $75 million in 1982. What disturbs me is that the formula proposed in this bill changes the existing formula in section 314(d) of the Public Health Service Act by eliminating all reference to State financial need in the new funding formula. This is the formula that would be used to distribute funds to individual States for the preven-

tion of major chronic illnesses such as heart disease, cancer, stroke, et cetera.

Programs such as these are essential for those portions of our population residing in medically underserved areas. These are areas defined by the Secretary of HEW to designate certain geographical areas of the country and population groups as "medically underserved." It signifies an urban or rural area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. These designations are then used to guide the Department in the allocation of certain Federal health program resources and funds, such as funding for health maintenance organizations, community health centers, and other health facilities.

The basis for identifying medically underserved areas and populations is an index which is composed of four criteria: First, ratio of primary care physicians to population; second, infant mortality rate; third, percentage of the population which is age 65 or over; and fourth, percentage of the population with family income below the poverty level. An assessment of need is made by assigning weights to each of these measures and applying them on a county-by-county basis in rural areas, and on a census tract-by census tract basis in urban areas.

According to recent HEW estimates, approximately 51 million people, representing 25 percent of the total U.S. population, reside in medically underserved areas. Thirty million, or roughly 60 percent, are rural residents. Of the total of 1,489 underserved areas, 1,401 (95 percent) are nonmetropolitan counties.

On the basis of the MUA index, approximately half of the rural population is medically underserved. The incidence of need is thus much greater in rural than in urban areas. According to these HEW figures, while roughly 1 out of 2 rural residents live in a medically underserved area, only 1 out of 7 urban residents live in such an area.

This designation recognizes the need for additional medical services in specified areas of our country. Despite this greater incidence of need, rural populations have access to fewer health resources than other groups in this society. Both public and private health services, which are taken for granted in many metropolitan communities, are either not available or beyond the reach of much of the rural population. Special problems related to scattered settlement, physician isolation, and the absence of adequate transportation further restrict rural people's access to existing medical services.

Additionally, the maldistribution of health personnel and health resources in the United States has a particularly devastating effect on rural America. Many rural communities face severe shortages of health personnel and facilities. Moreover, the relative shortage of physicians and other health professionals in rural areas has grown worse in each decade since 1950.

Studies of the distribution of physicians have indicated that physicians tend to move toward areas of high population density. An American Medical Association (AMA) study of graduates of American medical schools shows that heavily populated communities were attracting more physicians per capita, as well as more physicians in total number. Rural counties with populations of less than 10,000 persons, which accounted for 2.5 percent of the U.S. population, attracted less than 1 percent of the medical graduates. At the other extreme, counties with more than 2 million residents, which accounted for only 12.8 percent of the total population, attracted 17.1 percent of the graduates. Thus, the ratio of populaton to physicians is inversely related to total county population.

The physician-population ratio ranges from a low of 450 persons per physician in urban areas with 5 million or more inhabitants to a high of 2,103 persons per physician in rural areas of less than 10,000 inhabitants. This is almost five times as many people per doctor in rural areas as in urban areas.

An alternative measure of the disparity in physician-patient ratios in rural and urban areas is the ratio of physicians per 100,000 population. Another AMA study reports that there are more than twice as many physicians per 100,000 population in metropolitan areas (145.7 physicians per 100,000) as there are in nonmetropolitan areas (69.1 physicians per 100,000). This does not mean that people in nonmetropolitan areas are without care, but it does have two important implications. First, rural people may have to travel longer distances to find medical care. Second, if there are relatively few physicians in an area, it may be difficult to see doctors who may already have more patients than they can handle.

In the absence of adequate health personnel in low income and rural areas Public Health, as proposed under this bill, has traditionally filled the gap by providing many medical services that may normally be carried out in private physicians' offices of clinics in more affluents areas. In some counties the health department is the "only" provider; in other counties private providers may refuse to care for medicare patients, making the health department the only provider of personal health services for poor people. It is therefore imperative that we take into account the medical services available to a community when formulating a means by which Federal funds will be allocated to individual States.

Although rural areas account for roughly 60 percent of the Nation's medically underserved population, they receive less than 25 percent of the available funding. Under the Community Health program, HEW currently spends more than $7.50 for every medically underserved urban resident, but only about $1 for every rural person residing in a medically underserved area. Even when the supplemental projects funded under the Rural Health Initiative and HURA grants are added, the per capita expenditure in rural areas rises to only about $2.25.

In an attempt to rectify the imbalance, and in order to address special rural health problems, HEW recently established the Rural Health Initiative (RHI) program. During fiscal year 1977, more than 260 rural health projects were funded under the RHI program. However, it must be kept in mind that these 260 rural health projects operated on a total budget of less than $23 million, while the 160 or so predominantly urban community health centers received approximately $185 million.

One purpose of S. 2474, as amended, is to fund community health programs aimed at the prevention of the five leading causes of death in our country. Among these, heart disease ranks No. 1. A report prepared just last year by the Office of State and Community Affairs at HEW found that heart conditions such as heart attacks, valve trouble, and rheumatic heart disease are 5 percent more prevalent among nonfarm nonmetropolitan residents and 4 percent more prevalent among farm residents compared with metropolitan residents.

Hypertensive heart disease, caused by high blood pressure, is 25 percent more prevalent in nonmetropolitan nonfarm areas and 37 percent more prevalent in farm areas. I do not want to bore you with further statistics, but the same report also shows that chronic respiratory diseases, in the last 25 years, in nonmetropolitan areas, have proven to be 63 percent more prevalent among nonfarm rural populations and 43 percent more prevalent among farm populations than in urban areas. Establishing our new formula, which has been agreed to by the managers of this bill, will rectify some of these difficulties.

The facts speak for themselves. There is an overwhelming need for additional public health services in rural and other medically underserved areas of our Nation. The Human Resources Committee in its report asserts that a key feature of the programs in this legislation is to provide services to individuals and groups who for reasons of geography, income, or convenience, cannot gain regular access to primary medical services. The new formula proposed in S. 2474, as amended by the Senator from Massachusetts, takes into account the financial need of the populations of individual States.

The amended formula will provide adequate funding for those States with the greatest financial need. States with a high percentage of their populations living in "medically underserved" areas and living below the poverty line will receive a fair share of the Federal funds. In addition, the incentive factor proposed in this bill to encourage more State funding of public health services is important.

In the interest of establishing an equitable system whereby limited funds may be allocated most effectively to promote the preventive disease programs in our public health system. I urge my colleagues to support this proposal.

I thank the distinguished majority and minority managers for their cooperation in working out this formula, and yield back the remainder of my time.

Mr. BUMPERS. Mr. President, first, will the Senator yield for a moment?

Mr. HODGES. I yield to my colleague from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that a table dealing with health manpower shortages in my State be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HEALTH MANPOWER SHORTAGE AREAS OF ARKANSAS SINCE MAY 31, 1978

PRIMARY MEDICAL CARE

Service area, county, and parts underserved:

Lower Sebastian, Sebastian, Hartford, Sugarloaf, Diamond, Jim Fork, Mississippi.

Clay County, Clay, All.

Sharp County, Sharp, All.

Arkansas, Arkansas, Arkansas, Barton, Bayou Meto, Brewer, Chester, Crocker, Garland, Keaton, LaGrue, Pointe Deluce, Prairie, Stanley.

Dierks, Howard, Baker, Blue Ridge, Burg, Clay, Duckett, Holly Creek, Madison, Mountain, Muddy Fork, Sulfur Spring, Umpire; Sevier, Pike, Jefferson, Mountain Eagle, Selfcreek, White Muddyfork.

Cleveland County, Cleveland, All.

Calhoun County, Calhoun, All.

Lafayette County, Lafayette, All.

Lincoln County, Lincoln, All.

Little River County, Little River, All.

Ashley County, Ashley, All.

Bradley County, Bradley, All.

Lawrence County, Lawrence, All.

Mississippi County, Mississippi, All.

Stone County, Stone, All.

Northeast Jefferson, Jefferson, Bogy, Dudley Lake, Dunnington, Plum Bayou, Roberts. Reydel, Jefferson, Old River, Villemont.

Northwest Jefferson, Jefferson, Barraque, Bolivar, Jefferson, Pastoria, Washington.

Missouri Township, Clark, Missouri.

S. Arkansas Correctional Facilities, Lincoln, Jefferson, Cummins Prison, Tucker Prison, Women's Unit.

DENTAL CARE

County—Parts:

Lawrence, All.	Ashley, All.
Mississippi, All.	Cleveland, All.
Poinsett, All.	Dallas, All.
Randolph, All.	Grant, All.
Calhoun, All.	Nevada, All.
Chichot, All.	Lafayette, All.
Hempstead, All.	Lincoln, All.

Mr. BUMPERS. Mr. President, will the Senator yield me 2 or 3 minutes?

Mr. HODGES. I yield the Senator whatever time is necessary.

Mr. BUMPERS. I commend the managers of the bill for accepting this formula. I am a cosponsor of the bill, and it was only this week that my staff and the staff of Senator HODGES analyzed the proposed funding formula, which was a little alarming to us. We immediately went to work trying to work out a formula that would serve the purposes the committee had set out in their formula, but which would not penalize States such as my State, which is one of the most medically underserved States in the Nation.

Arkansas has an extreme health manpower shortage at the present time. According to an American Medical Association survey, as of December 31, 1974, Arkansas ranked 48th among the 50 States in physician population ratio. That is, Arkansas has 92.4 physicians for 100,000 people. The national average for physician population is 169 physicians for 100,000 people.

The Public Health Service has declared 23 counties in Arkansas as areas of critical medical shortage. I urge my colleagues to review the table I have provided. The facts speak for themselves.

So, Mr. President, any time these health bills come up, they get my attention. I spent, I would say, more time during my 4 years being Governor of that State dealing with health manpower problems, trying to develop some system of getting primary health care delivery into the rural areas of the State, especially the 23 counties which are so severely handicapped by a lack of health manpower, than on any other problem.

So, again, we have worked out a formula which I think is admirable, one which will serve the purposes of the urban as well as the rural areas, the medically unserved areas as well as those a little more affluent in health manpower, and everybody's purposes will be served. I thank the manager of the bill for accepting this formula.

Mr. KENNEDY. Mr. President, the formula which had been included in the legislation was the formula which had been suggested by the Association of State and Territorial Health Officers and also supported by the Governors and the counties. The formula provided a minimum floor under comprehensive public health service grants and then provided incentive grants to States to encourage them to respond to the objectives of this particular legislation.

The two Senators from Arkansas quite appropriately pointed out that included in any such formula also should be a financial need component. I think that was a useful and constructive suggestion.

What we have done now is to blend those two concepts, the financial need and the incentives concepts. It seems to me to be a more sound and a more constructive way to try to meet the objectives of this particular proposal.

I welcome the suggestion. I thought just a word of how we had arrived at the formula in cooperation with county officials and with State officials was important.

I do believe this is a constructive suggestion and recommendation. I believe the amendment of the Senators from Arkansas makes a good deal of sense and I would certainly urge the Senate to accept this particular proposal. I would be glad to work with the Senators in fashioning and shaping regulations to ensure that the objectives are carried forward.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. KENNEDY. I yield to the Senator from Pennsylvania.

Mr. SCHWEIKER. I just want to join with the distinguished chairman of the committee and commend the Senators on this amendment. I think it is a very good amendment. I believe it goes in the direction and thrust of concerns I have about rural health and the need factor. I strongly commend it and support it.

Mr. HODGES. Mr. President, I again thank the managers of the bill, and particularly for their willingness to cooperate in preparing regulations.

We have had critical health problems in Arkansas and know that they exist in other States. I hope that in the conference with the House the conferees will make every effort to bring back a bill which can be supported broadly and generally in the Senate. With that understanding and acceptance of our chances, I yield back the remainder of my time and move the adoption of the amendment.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HODGES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Massachusetts.

Who yields time?

Mr. KENNEDY. Mr. President, I yield to the Senator from New Mexico for his amendment.

The PRESIDING OFFICER. Is there objection to the amendment of the Senator from New Mexico being in order? Without objection, it is so ordered.

UP AMENDMENT NO. 1956

Mr. DOMENICI. Mr. President, I am sending an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1956 to unprinted amendment numbered 1953.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40 of UP No. 1953, add the following between lines 19 and 20:

Section 373, "Grants and Contracts for Primary Care Research and Demonstration Projects," insert the following between lines 20 and 21:

(10) "The use of mobile health screening clinics as an alternative approach in the delivery of preventive health care services in meeting the needs of persons living in urban and rural medically underserved and unserved areas."

Mr. DOMENICI. Mr. President, I am sending to the desk two unprinted amendments both of which have been cosponsored by Senator Percy. The first is to amend section 373, "Grants and Contracts for Primary Care Research and Demonstration Projects." The purpose of the first amendment is to create demonstration authority to test the use of mobile health care screening clinics as an alternative approach in the delivery of preventive health care services. I believe such mobile health care clinics have a great but largely untested potential to meet the needs of persons living in urban

and rural medically underserved and unserved areas.

Nowhere in the United States is there a greater need for an improved health care system than in rural America. The availability of health services in rural America is simply not adequate. This is particularly evident when we compare the health status of rural people to that of the rest of the Nation. Approximately 49 million persons live in medically underserved areas. Of these 49 million, 29 million, or 60 percent, live in rural areas. In addition, the Federal Government has identified more than 950 counties as having a "critical health manpower shortage." Therefore, roughly 1 out of 2 rural residents are living in medically underserved areas, while 1 out of 7 urban residents live in such an area.

Over 84 percent of the areas lacking an adequate supply of physicians, dentists, and other health personnel are in rural counties. While rural America contains roughly 31 percent of our national population, it is served by only 12 percent of the Nation's physicians and only 18 percent of the nurses.

The infant mortality and maternal death rate in rural areas is significantly greater than in urban areas. Women in rural America make up only 20 percent of all women of childbearing age, but they account for 50 percent of all maternal deaths in this country.

Rural Americans have great difficulty in attracting and keeping health personnel, and current Federal programs are not adequately addressing this need. Over 85 percent of the Nation's areas lacking health personnel are rural. In 1973 the ratio of population to physicians nationally was 1 to 768. However, the ratio in rural areas varied from 1 to 1,432 in the larger rural towns, to as much as 1 to 2,512 in isolated rural areas, while in the most urbanized communities the population had access to nearly five times the number of physicians as people in most rural areas. Even more startling is the fact that 138 counties in the United States lack the availability of physicians.

Another compelling problem which compounds the health needs of rural Americans is that the lack of available and adequate transportation services prohibits people from accessing health care when they are actually ill, and as a result many people are not seen until their health is at a "critical" point. This is particularly devastating for older Americans who are often faced with the choice of trying to obtain transportation and travel long distances, or go without much-needed medical services.

With this in mind, we need to explore alternative ways of making preventive health care services available to rural Americans, and in particular to elderly rural Americans.

Compounding these health problems is the fact that rural Americans are served by less than one-fourth of the federally funded community health centers, and receive less than one-fourth of current medical benefits. Federal funding does not sufficiently respond to the problems which arise in the delivery of comprehensve health care services in rural areas, where sparse populations are spread over large geographic distances.

I understand the managers are willing to accept this amendment as part of the "Grants and Contracts for Primary Care Research and Demonstration Projects" section. I think this amendment will move us a significant step forward and it is important that we try such a concept on a national basis. Further, I believe this amendment will provide additional capacity for the delivery of preventive health services in medically underserved and unserved sections of the country.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

As the Senator from New Mexico pointed out, a great deal remains to be done to improve the health status of people in underserved areas. The desire for the mobile clinics is one of the alternatives to be evaluated in research and demonstration programs. It is a helpful addition to the committee bill. The Senator had talked to us prior to offering his amendment. We have had a chance to review it in detail. I believe it is a constructive addition and fully consistent with the purposes of the bill. I urge the Senate to accept the amendment.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. Apparently the Chair will have to advise the Senator that this amendment is not properly drafted to be in order to the pending amendment.

Mr. DOMENICI. Mr. President, I sugguest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. PROXMIRE. I ask unanimous consent, Mr. President, that the Domenici amendment and the consideration of the Kennedy amendment be laid aside temporarily so that another amendment can be called up.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1957

(Purpose: To delete title V)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1957:

Beginning on page 31, line 19, strike out all through page 37, line 10.

Mr. PROXMIRE. Mr. President, my amendment is very simple: it strikes title III—now it is title V—of the bill, thereby, eliminating the proposed Office of Physical Fitness and Sports Medicine.

Mr. President, if there is one thing this country does not need, it is another agency. When President Carter was elected to office, he talked about the fact that there were some 230 agencies he had to control and he wanted to streamline those agencies. He earnestly felt that that was the right thing to do, and I feel he was correct.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order before the Senator from Wisconsin proceeds.

The staffs will suspend conversations in the back of the Chamber or leave the Chamber.

The Senator from Wisconsin.

Mr. PROXMIRE. Now we are going in the opposite direction—creating another agency, for a purpose which I think simply cannot be justified. Mr. President, if there is any area of American life where individual, personal discipline and personal responsibility should be paramount, it is in the area of physical fitness. Because we have left this largely to the individual in this country, it is beginning to work very well. You cannot walk on the street without being knocked over by a jogger. Everywhere you go, you see people interested in physical fitness.

You can imagine the kind of situation we would have in the Senate if we had every Senator required to do 100 push-ups on order of the Presiding Officer or the majority leader, or running 5 miles. We would laugh at it. It would be ridiculous. Nobody would think seriously about it. Now we are beginning to move in the direction of the People's Republic of China, with some kind of program where everybody will do calisthentics on order.

Maybe that is not the objective of the Senator from Rhode Island, who, I understand, is the author of this title. But Mr. President, we are moving in the direction of something that cannot be justified.

If adopted, my amendment could save the taxpayers up to $15 million for fiscal years 1980 and 1981.

There are a number of sound reasons for opposing the establishment of this new bureaucratic structure in the Department of Health, Education, and Welfare.

DUPLICATES THE PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

First, the new Office proposed in this bill will duplicate many of the functions now being carried out by the President's Council on Physical Fitness and Sports at little or no cost to the taxpayers.

Let me cite just two examples.

(1) FEDERAL FUNDING FOR CREATION OF STATE COUNCILS

Mr. President, section 302 of this bill provides Federal funding, on a matching basis, for State councils on physical fitness to advise each Governor. At full authorization, this provision could cost the taxpayers up to $3 million a year.

But why?

The President's Council on Physical Fitness and Sports, acting as a catalyst, has already prompted 20 States to create such councils.

And what did it cost the taxpayers?

Absolutely nothing.

That is right, nothing. Not one thin dime.

Amazing as it may seem, progress can be made without the liberal use of Federal grants.

In fact, one of these State councils—in Oklahoma—is not even using State funds. The entire operation is funded by business and industry.

My hat is off to the Sooner State. That is just the direction we should go—leaving these matters in the private sector wherever we can.

(2) PUBLICIZING ONGOING RESEARCH

Mr. President, my second example is based on the contention of supporters that there is a real and pressing need to publicize ongoing research in this field.

I could not agree more.

Incidentally, this is one area where private publications have been tremendously popular. The No. 1 book in this country for many, many months has been Dr. Jim Fixx's book on running. It is one that millions of people have read. It is one that has caught on nationally. If you go down the list of the bestsellers, whether it is paperback bestsellers or whether it is the regular hard-copy bestsellers, you find, time after time, that it is the physical fitness books in this country—on diet, on exercise, and so forth—that usually dominate. In fact, they now have, I think, 6 of the top 10 positions among bestsellers. People are reading about this, they are fascinated by it, they are interested in it. They are doing it without Government domination, Government control, Government expenditure.

If anyone would like to know what the ongoing research is in this area. I suggest they walk over to the Government Printing Office and plunk down $6 for a year's subscription to a quarterly known as Physical Fitness/Sports Medicine.

Mr. President, this publication is put together by the National Library of Medicine and the President's Council on Physical Fitness, with the cooperation of the American Medical Association, Association of Sports Medicine, and the U.S. Olympic Committee.

This publication monitors 97 percent of the research in the field and is entirely self-supporting. Except for small personnel costs and computer time, the 5,000 subscribers cover all costs.

No subsidy from the taxpayers for publication costs.

Mr. President, in both of these cases—promotion of States councils and dissemination of current research information—the President's Council on Physical Fitness and Sports is meeting the goals of this title at negligible cost to the taxpayer.

If the Senate adopted this bill, the taxpayers would be forking over nearly $3 million for these purposes at full authorization.

NEW RESEARCH AUTHORITY UNNECESSARY

Mr. President, my second major concern with this proposal is the establishment of new research authority for physical fitness and sports medicine.

In the first place, the President's Council on Physical Fitness and Sports estimates that research is now being carried out in at least 200 centers across the country—for the most part, in hospitals, clinics and universities.

Second, there are broad research authorities in the Public Health Service, the National Institutes of Health and the Alcohol, Drug Abuse and Mental Health Administration, which can serve as sources of funding for all aspects of physical fitness and sports medicine research.

Yes, more can undoubtedly be done. We can encourage them to do more. But the money is there in great abundance. As a matter of fact, that is where it should come from.

But we need to face facts. We are faced with tight budget constraints as we attempt to balance the budget. Let these projects compete for grants under existing authorities.

To the extent that this area offers great hope for preventive care, then it should receive a higher priority during the grant review process, but that does not—that does not—require the establishment of a special new authority, a new agency.

CATEGORICAL PROGRAM PROLIFERATION

And, Mr. President, that leads me to my third major point. It is time to put the brakes on the proliferation of small categorical programs.

In bill after bill, the Senate is faced with a sea of new little categorical grant programs, all spawned by vocal and insistent constituencies that multiply beyond all understanding. Once entrenched, they grow like Topsy.

Just look at the track record of the entire Department of Health, Education and Welfare. In 1963, its first year's budget was a mere $5.3 billion.

By the time we passed the Labor-HEW appropriation bill on Wednesday, it had multiplied 10 times to over $53 billion—a real bureaucratic triumph of the first order.

Mr. President, the American people are tired of being "nickeled and dimed" to death by small categorical programs, that merely constrain administrative flexibility, and add to HEW's largesse.

Mr. President, in conclusion, as I have pointed out, a number of these functions are being handled by the President's Council on Physical Fitness and Sports efficiently and, most importantly, cost-effectively.

Existing research authorities with some minor modifications can meet these research needs.

And we can direct HEW to begin the type of coordination of efforts in this area that the sponsors of this program want without establishing any new bureaucratic empires.

Mr. President, if this program were fully funded, it would result in a price tag 10 times the current cost of the President's Council on Physical Fitness.

I should like to read a brief statement from the views of Senator HAYAKAWA on this matter in the committee report:

> This bill also asks for a federally subsidized program for physical fitness and sports medicine. This, like so many other programs authorized by the Human Resources Committee, would be better done at the State levels. If a State wants to spend its money on such an expensive program, it may. Who are we to tell people where their tax dollars should go, and who are we to tell them that their taxes will be raised again because of yet another program we have sponsored. I think we should all consider the rights of States and families in these and all other such matters.

To which I say, amen. We should recognize, as I say, that personal physical fitness, whether diet, exercise, or relaxation, is something that should be left to the individual. It is beginning to work extremely well in this country now. Doing that, we are getting to be a much healthier country. I hope we persist, rather than have the bureaucracy move in with their deadening effect.

Mr. President, I reserve the remainder of my time.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

What we are talking about here, Mr. President, is an extremely modest program. It is $7 million. There is no other place in this legislation or in any other legislation that ties together the issue of health and physical fitness.

The Senator points out that we spend about $800,000 in the President's Council on Physical Fitness. That seed money attracts, effectively, $30 million in private involvement. Our expenditure on the President's Council is one of the best investments we make and it has an important impact on the people around this Nation.

This legislation aims at building on the President's Council. It is not trying to require anybody to do anything, but it is seed money. If we saw, as a result of this particular program, a 1-percent reduction of heart disease in this Nation—1 percent—we would be saving three times the amount of money that is in this program.

The Senator talks about cost effectiveness. There are no more cost-effective programs than those which encourage physical fitness.

It is nice to hear cutting back on new agencies and about nickel and diming the taxpayer to death. The question is whether we are going to do something to realize real tax savings. That is what this program aims at. It is a limited type of investment, which we expect will yield large dividends.

Quite frankly, the pilot studies and other data which exist on this show dramatic improvement in terms of health. No one is saying this is the end-all. It is $7 million out of a health budget of about $171 billion.

Right now, the Nation's entire commitment to physical fitness, with all its potential health benefits, is $800,000 and six professionals. That is simply not adequate.

I am great supporter of the program, but to think that it is a substitute for this proposed expansion, Mr. President, is just not realistic.

If we are talking about cost-effective programs and trying to get ahead of the game in the area of disease, it seems to me this is a useful type of initiative. I think it is an extremely modest program.

The Senator from Rhode Island can speak to it, and will, on a number of the different programs that have been developed.

Finally, I just want to comment about going over to the Government Printing Office and putting down $6 for physical fitness materials. There happens to be an awful lot of people who cannot afford the $6. A lot of people do not do all of the

reading that some of us have the opportunity to do. A lot of people do not know about all the ways to keep physically fit.

This is a very limited program to try to insure the idea of fitness gets additional support. As a modest jogger myself and as a someone who enjoys exercise, I think there is some elitism, as well, among all the people out there jogging on the trails of Rock Creek Park, and all the rest. It might be useful and healthful to begin to try to give some attention to those people that, to date, have not been exposed to some of these programs.

I think it is a very limited program, a very useful one. I join the Senator from Rhode Island in supporting it, and I yield what time he needs.

Mr. PELL. I thank my friend and colleague from Massachusetts. I thank him, too, for his kindness in giving hospitality in cosponsoring this legislation in the bill that is now before us.

If there is one Senator here who is an example of physical fitness, certainly I think better than the Senator from Massachusetts or my humble self, it is the Senator from Wisconsin who is, I think, probably more physically fit than anybody else in our body. I would have thought he would be the one who would most support this measure, because what it does is try by example and by voluntary methods to spread the example he has set across the length and breadth of our Nation.

There really is no duplication here because the staff—I think it is about 11 people and the programs sponsored which cost presently $850,000 a year—the President's Council on Physical Fitness, will be basically the same group that will be the nucleus for this State effort to spread this idea across the country.

It is completely voluntary from the viewpoint of the State councils, completely voluntary from the viewpoint of the State. No State has to accept the funds. They have to, in fact, contribute 50 percent support for any funds used. As of now, on the purely voluntary status, only 18 States participate in this program. From the viewpoint of cost-benefit ratio, there is no comparison for efficiency of funds spent to prevent disease.

As the Senator from Massachusetts pointed out, if we can reduce by one iota the number of people who are dying from cardiovascular disease, it will make this savings many times over.

The Senator from Wisconsin touched on the magazine "Physican Fitness and Sports Medicine" saying all this is available there.

Well, My Lord, reading and looking at it, there are so many names this Senator does not understand—like "optic tectum" and "ischemic" et cetera, et cetera—that I do not think this magazine is really the answer to the rank and file of our people, nor, frankly, do I understand what all these words mean.

What is needed is a more simple way of getting across the message that the best way to live long and to avoid disease is to prevent it.

As a Nation, as we all know, we spend more per capita on medical care than any other nation, a larger proportion of our GNP, yet about 18 other nations' men live longer than they do in the United States, and there are about 13 where their women live longer than they do in the United States.

This is a way of changing the statistic a little more. Maybe we can reach a state where only 17 nations have men living longer than we do. It would be worth this bill if that were the case.

The statistics that backed us up on this, I think, will show in an article, "Study of 17,000 Men Indicates Vigorous Sports Protect Heart," which appeared in the New York Times, November 29, 1977.

That was a study of some thousands of Harvard graduates, showing them over the years.

Harvard graduates are not necessarily noted for their good living habits, but in this case, apparently, they exercised and did far better than their colleagues, who did not exercise.

This legislation received endorsements from the American Medical Association, the American College of Sports Medicine, the Committee on Health of the National Governors Conference, the American Association of Fitness Directors in Business and Industry, the National Board of Young Men's Christian Associations, and the American Health Foundation.

This legislation was developed after consultation with the staff of the White House, the President's Council on Physical Fitness and Sports, HEW. It has not received their specific endorsement, presumably for budgetary reasons, but it has from these other organizations.

I hope very much that this amendment will be tabled.

Mr. President, the Disease Prevention and Health Promotion Act of 1978 is an important and long overdue step forward for health care in America. S. 3116 signals the initiation of a comprehensive effort to improve health and to prevent the onset of disease and ill health. It is a modest and thoughtful attempt to begin to address an imbalance in our national health care policies, which until now were focused almost exclusively upon the curing of illness, instead of upon the preservation of health and the prevention of illness.

The results of our past national emphasis on crisis intervention care are painfully obvious. Americans devote a greater percentage of their resources toward health care than any major nation in the world, yet we still suffer from a death rate and a disability rate which are worse than those for citizens of a dozen and a half other countries.

In the process of making enormous technological advances in medical emergency crisis intervention, we have neglected any commensurate effort to reduce the frequency of the necessity for such intervention. We have not worked to keep ourselves well; we have accepted illness and disease too complacently.

My views today are directed toward a section of the bill which I authored, drawn from S. 3104, which I introduced earlier this year, with the cosponsorship of Senator KENNEDY. This provision seeks to recognize and encourage, in a practical and economical manner, the importance of developing personal physical fitness among our citizens.

Mr. President, physical fitness is an absolutely essential element of any effort to promote health and to prevent disease for every American. A basic level of personal physical fitness greatly rewards both the body and the mind.

As if these rewards were not enough in themselves, personal fitness also yields broad societal benefits: Better work habits, increased productivity, decreased costs related to illness and nonproductivity, and decreased interruption in work routines.

Improved cardiovascular fitness is directly attributable to exercise and activity. A study of Harvard College alumni, for example, recently pointed out the value of exercise in the prevention of heart disease, and I ask that a New York Times article about this study entitled "Study of 17,000 Men Indicates Vigorous Sports Protect Heart" be printed at this space in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STUDY OF 17,000 MEN INDICATES VIGOROUS SPORTS PROTECT HEART

(By James E. Brody)

MIAMI BEACH.—A study of 17,000 Harvard alumni has found that there were fewer heart attacks among those who engaged regularly in strenuous sports activities like jogging, swimming, tennis and mountain climbing than among those who were less active.

In the first demonstration of its kind among Americans, the study suggested that strenuous leisure-time exercise has a definite protective effect, even if the individual has other characteristics like high blood pressure or overweight that increase his risk of heart disease.

Dr. Ralph S. Paffenbarger, Jr., professor of epidemiology at the Stanford University School of Medicine, reported today to the American Heart Association meeting here that he had found the protective effect among those who participated in intense physical activities for at least three hours a week. These people expended a total of 2,000 or more calories each week through exercise, including walking and climbing stairs.

EARLIER STUDY SUPPORTED

The study, conducted among men aged 35 to 75, showed that lesser amounts of physical activity had no measurable benefit in terms of reducing risk of heart attack. Thus, those who participate in "light" sports like bowling, baseball, biking, boating and golf, which require comparatively little energy output, were no better off than those who were inactive, Dr. Paffenbarger reported.

The findings among the Harvard graduates supported the results of an earlier study among British Civil Service workers that showed that those who regularly engaged in leisure time and work activities that required an expenditure of more than 7.5 calories a minute faced a lower risk of death from heart disease.

Previously in the United States, a possible protective effect of physical activity was found among railroad workers and longshoremen. Those who held the more physically taxing jobs had a lower death rate from heart disease than did co-workers with more sedentary jobs.

Although regular participation in strenuous physical activity had been known to benefit heart function and reduce cardiac risk in a number of ways, its ability to pre-

vent heart attacks and deaths from heart disease among Americans had only been presumed, not proved.

Exercise has been shown, for example, to improve the efficiency of the heart, allowing it to pump more blood with less effort and to rest longer between beats. Exercise can also decrease blood pressure and the level of triglycerides in the blood and reduce the tendency of the blood to form clots.

In the new study, questionnaires were sent in 1962 and 1966 to more than 36,000 alumni who had entered Harvard as freshmen from 1916 through 1950. Questionnaires were sent out again in 1972 to the 16.936 men who returned the earlier questionnaires and declared themselves to be free of any known heart disease. It was found that in the six-to-ten-year interval there had been 572 heart attacks among the men, 357 nonfatal and 215 fatal.

The alumni were asked about their daily amount of stair climbing, walking, light sports play and strenuous sports play. Dr. Paffenbarger and his colleagues compiled this information into an index of physical activity expressed in calories expended per week.

Those on the low side of this index expending fewer than 2,000 calories per week, had a 64 percent higher risk of suffering a heart attack than their more energetic classmates, Dr. Paffenbarger found. He calculated that if all the men had been on the high side of the index, 166 fewer heart attacks (86 nonfatal and 80 fatal) would have occurred in the study period.

The study showed that at each level of caloric expenditure, the risk of heart attack was lower with strenuous sports than with more casual activities. Thus, men who played squash, for example, were better off than those who walked, even though both groups used up the same number of calories.

When Dr. Paffenbarger looked at other coronary risk factors among the men, including high blood pressure, cigarette smoking, overweight and family history of heart disease, he found that the protection afforded by strenuous physical activity was largely independent of these considerations.

The study also examined the contention of some that exercise may not confer any independent benefit; that those who are able to exercise strenuously are more fit to begin with. Dr. Paffenbarger found that the alumni who were varsity athletes as students were not protected against heart disease in their adult years unless they continued a high level of physical activity.

By contrast, men who were not athletes while in college had a reduced risk of heart disease if they took up strenuous activities later in life.

Mr. PELL. This legislation is designed to encourage States, communities, businesses, labor organizations, community-based recreational groups, and individuals of all ages to participate in physical fitness activities, to help make these activities a part of their lives, and to do so with minimal interference by the Federal Government.

This legislation encourages and supports the development and activities of State councils on physical fitness and the leadership of Governors and State residents, community, business, and labor leaders, in initiating small, practical, physical fitness improvement programs as part of an individual's way of life, whether at work, at home, or as part of another organized group.

It is encouraging that millions of Americans have recently turned to personal physical fitness activities for recreation and health promotion. They have recognized the value of building up their endurance, their heart and lungs. They know that it feels good both physically and mentally to be fit and healthy.

Unfortunately, about one-half of all Americans do not actively or regularly participate in physical fitness programs, and many who do exercise do so inadequately or incorrectly. There has been a recent increase in preventable physical fitness-related injuries, and this year there will be about 20 million sports- and exercise-related injuries.

This legislation seeks to encourage more of us to make physical fitness improvement a part of our regular daily life by supporting hundreds of small model projects, in a variety of settings, to demonstrate the importance and the success of helping people become physically fit. It would assist in the development of State Governors councils on physical fitness and would help those councils, groups such as business and community groups, for example, YMCA's, to establish physical fitness development programs as a part of a daily lifestyle.

The building blocks of this proposal are State Governors councils on physical fitness and the President's Council on Physical Fitness and Sports. This legislation builds upon the positive results of the President's Council and upon the experience gained from the 18 existing State Governor's councils in the States of Alaska, Arkansas, Colorado, Connecticut, Florida, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Nebraska, Oklahoma, Pennsylvania, South Carolina, Texas, Utah, and Wisconsin. the conditions in each State which would provide the leadership in each State to build successful programs, and would provide the in-depth understanding of the conditions in each state which would lead to the best program placement. State and local involvement with their councils works is assured, because the legislation imposes a matching fund support requirement upon the first $75,000 of Federal funds spent each year through the State council.

This bill also enhances the ability of the President's Council, which has contributed so much to the development of an awareness about physical fitness in this country. In effect, this legislation provides an extension to the President's Council, and the programs supported under its funds would conform to guidelines which the President's Council develops for the grantees.

In addition to the funds for programs for fitness, this bill also provides for Federal support to research programs and information sharing in the field of sports medicine. These limited funds are intended to focus on the sorts of problems which average sports and fitness enthusiasts can be expected to encounter, instead of upon the Olympic level, more esoteric, medical problems encountered only at the world class athlete level.

Mr. President, this legislation has been developed after consultation with staff from the White House, the President's Council of Physical Fitness and Sports, and the Department of Health, Education, and Welfare. It also has received endorsements from the American Medical Association, the American College of Sports Medicine, the Committee on Health of the National Governors Conference, the American Association of Fitness Directors in Business and Industry, the National Governor's Association Subcommittee on Health, the National Board of Young Men's Christian Associations, and the American Health Foundation.

I ask unanimous consent that copies of these letters of support be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN COLLEGE OF SPORTS MEDICINE,
Madison, Wis., September 6, 1978.

Senator CLAIBORNE PELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR BELL: The American College of Sports Medicine has been actively following the progress of Senate Bill 3116. One of the sections of S. 3116 calls for the creation of an Office of Physical Fitness and Sports Medicine. This is an idea whose time has come.

As professionals in the field of Sports Medicine, we are aware of the benefits that accrue to individuals who exercise regularly. We are also painfully aware that many Americans who participate in organized athletics do not have access to trained specialists in sports medicine. This lack of access to trained specialists increases the risk of significant injuries to participants in athletics.

America needs to be physically fit if we are going to continue to be competitive in the world market. Physical fitness does not just happen—it must be caused! An Office of Physical Fitness and Sports Medicine is a step in the right direction. Please accept my endorsement of S. 3116.

Sincerely,

THOMAS MILLER,
Executive Director.

AMERICAN COLLEGE OF SPORTS MEDICINE,
Madison, Wis., September 15, 1978.

Senator CLAIBORNE PELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PELL: On behalf of the American College of Sports Medicine, I would like to encourage your support of Senate Bill 3116. As you are probably well aware, very little research support has been designated to the areas of preventive medicine, and sports medicine and physical fitness, either through federal or private granting agencies. While research has, is, and will be conducted in these areas in the past, present, and future, much of this research is bootlegged on to other research projects, or is being conducted at the expense of the investigator and/or his university, clinic or hospital.

Medicine today is practiced primarily on a crisis basis. Physicians are so busy treating emergencies in serious medical cases, they have little time for the healthy individual, or the individual with minor health problems. Over the past few years, it has become increasingly clear that we cannot afford, as a country, to continue this trend. From a pure financial basis alone, diagnosing and treating illness and disease in its early stages saves many dollars, and, of course, there will be a drastic reduction in the number of deaths in our young and middle-aged population; a factor in itself which will save countless millions of dollars each year. Heart and blood vessel diseases alone cost our country an estimated $28.5 billion per year, and this doesn't include the hidden costs, e.g., losses in management skills, production "know-how", personnel training and develop-

ment, and labor turnover. By active support of research in preventive medicine, and by the establishment of programs of preventive medicine, it would be possible to reduce the above figure of $28.5 billion by one-third to one-half. Obviously, the pure economics of the situation would necessarily dictate that our government be more concerned with the prevention of disease rather than having a fixation on treatment and rehabilitation.

With respect to sports medicine, this is an area which is desperately in need of attention. Sports medicine is presently being practiced on a trial and error basis. This is not by choice, but primarily because there is very little value placed on research in this area by our federal and private granting agencies. Children, adolescents and adults are involved in sports where the potential for injury is very high. Yet, we are able to do very little about this due to a basic lack of research support. The growing problem of head injuries in football—at all levels from sandlot to professional; the concern for the young boy or girl who is running 26.2 mile marathons; the possible problems associated with secondary amenorrhea in girls and young women who are training for spots such as gymnastics, ballet, and long distance running; and many other problems are going unresolved. With the increased interest in sports particularly in females and older athletes, there is no excuse for our not having the answers to problems which have such serious, health-related consequences.

In summary, I would hope that you would give your attention to the proposed bill. We recognize that this bill represents just a start; but a start is exactly what we need at this time. Your efforts on our behalf would be most sincerely appreciated. I am enclosing materials on the American College of Sports Medicine which should provide you with valuable insight into the scope and goals of our organization.

Sincerely,

JACK H. WILMORE, Ph.D.,
President.

AMERICAN MEDICAL ASSOCIATION,
Chicago, Ill., September 19, 1978.

Hon. CLAIBORNE PELL,
Russell Senate Office Building,
U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: The American Medical Association takes this opportunity to comment on title III of S. 3116, the Disease Prevention and Health Promotion Act of 1978.

Title III, as reported by the Committee on Human Resources, would establish in the Department of Health, Education, and Welfare an Office of Physical Fitness and Sports Medicine. This office would foster and assist research and investigations into physical fitness and sports medicine and their relationships to overall health and well being.

There are also provisions for grants to states and other entities for physical fitness improvement activities.

Title III further gives recognition to the importance of nutrition in individual health by providing funds for nutrition improvement projects.

The American Medical Association has long recognized the importance that physical fitness and proper nutrition can play in the prevention of diseases and many other undesirable conditions. We are encouraged by this Congressional expression of the need to foster improved physical fitness and nutrition among our citizens through programs of research and education.

More and more people are today aware of the need to keep themselves physically fit and they increasingly participate in a variety of athletic activities designed to maintain fitness. These provisions can be a significant contribution to encouraging this public awareness and activity.

We support the adoption of these provisions to expand the knowledge and availability of, physical fitness activities.

Sincerely,

JAMES H. SAMMONS, M.D.

AMERICAN HEALTH FOUNDATION,
New York, N.Y., September 21, 1978.

Re: S. 3116.

DEAR SENATOR PELL: Very soon the Senate will be considering S. 3116, the Disease Prevention and Health Promotion Act of 1978.

This bill supports some innovative, cost effective and thoughtful approaches to keeping Americans healthy. And, it is a way to save billions of dollars that would otherwise need to be spent caring for them if they become ill.

Less than two cents of our nation's health dollar is spent on disease prevention. Our failure to prevent disease is dramatically illustrated by mortality and disability statistics . . . by the reality of lost days at work . . . by lowered productivity . . . and by a high incidence of chronic mid-life illness.

As athletes, we know the importance of basic preparation, fitness and training. This legislation is the equivalent of a national program of proper conditioning. We have to work every day to stay in shape, and the same applies to our national health profile. As a nation, there is much we can do to remain healthy. Staying healthy and avoiding illness is not just a matter of luck. Instead, there are some easily identifiable steps we can encourage everyone to take.

This legislation supports these steps to staying healthy:

It proposes grants to each State to focus on the leading causes of death or disability in each State. It extends the authorization of the anti-hypertension, childhood immunization, lead-based paint, and rodent control programs. And, it supports an important effort to promote physical fitness through the President's Council on Physical Fitness and the new State Councils on Physical Fitness *** united with on-the-job and other innovative Get Fit programs. It also supports research and information-sharing about sports medicine, a field which deserves greater study, and which applies to everyone who exercises.

This bill is a moderate and cost effective way to keep people healthy. We urge you to support it when it is debated in the Senate.

Sincerely,

Muhammad Ali, Donna DeVarona, Rafer Johnson, Don Schollander, Johnnie Weissmuller, Micki King, Billie Jean King, Arthur Ashe, Anne Henning, Billie Kidd, Ken Moore, Bill Bradley.

NATIONAL GOVERNORS' ASSOCIATION,
September 26, 1978.

Hon. CLAIBORNE PELL,
Russell Senate Office Building,
Washington, D.C.

DEAR CLAI: On behalf of the National Governors' Association Subcommittee on Health I write you in support of your efforts to promote the expansion of physical fitness projects. The Subcommittee strongly endorses passage of Title III of S. 3116, which would authorize $6 million for nationwide physical fitness projects.

We further support fiscal incentives, incorporated in your proposal, to establish and maintain state councils and programs aimed at increasing individual physical fitness.

The Subcommittee has long asserted that the major emphasis on health care should be an increased awareness of the impact of lifestyle on health. One of the biggest payoffs in terms of health status improvement lies in individual behavior change; We must meet this responsibility by increasing our collective energies to encourage these ends.

Your legislative efforts will allow us to develop public awareness and access to better physical health. As you know, we have actively supported S. 3116 and we appreciate your health promotion initiative.

Sincerely,

Governor J. JOSEPH GARRAHY,
Chairman, Subcommittee on Health Policy.

NATIONAL BOARD OF YOUNG MEN'S CHRISTIAN ASSOCIATIONS,
Washington, D.C., September 26, 1978.

Hon. CLAIBORNE PELL,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PELL: On behalf of the National Board of Young Men's Christian Associations, I would like to express the National Board's hearty endorsement and support for the passage of S. 3116, the Disease Prevention and Health Promotion Act of 1978, particularly Title III which you introduced with co-sponsorship from Senator Edward M. Kennedy.

For over a century, YMCAs have recognized and demonstrated the value of physical fitness activities as a fundamental component in the maintenance of health and the prevention of disease. Over 1800 YMCAs throughout the fifty states offer fitness training and facilities as a crucial part of their multi-service mission.

Ninety five percent of Americans are generally healthy. However, it appears that an insufficient amount of our national concern and resources is being devoted to KEEPING them healthy.

Today we treat the ravages of heart attacks or chronic kidney disease, or crippling arthritis after the fact. Surely, the prevention of such tragedies would be vastly preferrable and cheaper.

Title III of the bill would represent a major stride toward alleviation of this problem. It would also focus needed attention upon the terribly neglected but crucially important field of sports medicine. Likewise, it would encourage the development of vitally needed physical fitness activity delivery systems.

We are convinced that the enactment of Title III of the bill together with the other provisions of S. 3116 would make a significant contribution toward improving the physical well being of the American public.

NATIONAL BOARD OF YMCA,
CHRISTOPHER M. MOULD,
General Counsel.

Senator CLAIBORNE PELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PELL: Recently it has come to my attention that the Senate Sub-Committee on Health and Scientific Research cleared Bill S-3116 which establishes an Office for Physical Fitness and Sports Medicine. I would like to acknowledge your fine leadership of this bill. As you are aware, Title 3 of S-3116 would have a direct and an important impact upon the physical fitness and sports medicine field. This would be especially true in the occupational setting and therefore of major significant to the American Association of Fitness Directors In Business and Industry (AAFDBI). I have enclosed a copy of my letter to the members of the AAFDBI for your review.

In my opinion Bill S-3116 represents an exceptional attempt by the Senate Sub-Committee on Health and Scientific Research to more fully address the potential of physical fitness in reducing the human and financial losses associated with physical degeneration.

This bill would definitely be beneficial to business and industry. With the increased taxes to support federal health care programs as well as increased health insurance premiums, management knows that it must

provide employee fitness programs. They know that these programs have proven effective in reducing absenteeism, low back disabilities, pre-mature retirement and a wide range of health problems associated with physical inactivity.

I know that through your leadership of Senate Bill S-3116 that a tremendous contribution can be made to our national physical fitness program in the occupational setting today. I thank you for your effort and support of this Bill.

Very sincerely,

W. BRENT ARNOLD,
President.

Mr. PELL. Mr. President, I believe that this proposal will be successful in encouraging a real expansion of fitness improvement activities, and a resulting improvement in the health of many Americans, and I urge the Senate to support this legislation.

The proposed Office for Physical Fitness and Sports Medicine is not intended to be, and should not be portrayed as, a new and extensive bureaucratic creation. It does not add another layer of bureaucrats or regulation or paperwork to an already glutted bureaucracy.

Instead, this office is actually a formalization of what already exists in the Department—namely, a staff devoted to efforts in the area of physical fitness.

This legislation proposes to build upon the framework established by the President's Council on Physical Fitness and Sports, not add something new to it in terms of a new agency.

The President's Council on Physical Fitness and Sports was created in its present form by Executive Order No. 11652 in 1970 and amended in 1976. The Executive order requires the Secretary of Health, Education, and Welfare to establish a "Program for physical fitness and sports" and directs the Secretary to furnish staff, facility, and administrative support for the Council. At the moment, that staff support consists of 11 staff positions under the Department's budget.

The committee bill simply reinforces that staff commitment. It also insures that the functions authorized by the legislation can remain in one central location within the Department. Without a unified administrative point for these, we could see, for example, the physical fitness programs placed in the Center for Disease Control and the sports medicine program in the National Institutes for Health. While I believe that the administration of these programs would be best carried out through consultation with these agencies and others, I think that it would dilute the proven effectiveness of the President's Council support staff to be so dispersed.

In effect then, the committee bill, far from trying to set up a new entity, unproven in action and bureaucratic in design, actually enriches an already existing organizational unit within HEW, to insure that it can carry forward with its responsibilities under this bill.

Mr. CHAFEE. Mr. President, I wonder if I might have 3 minutes.

Mr. KENNEDY. That is fine.

Mr. CHAFEE. Mr. President, usually I am on this floor teaming up with the distinguished Senator from Wisconsin, who is a true budget cutter and who has done so much to try to hold down spending of every kind.

It seems to me we have to find a balance here. What Senator PELL's amendment does is provide that we spend $15 million for 2 years—$7.5 million each year.

What will we spend it for? We will spend it in an earnest effort to try to encourage physical fitness in this Nation.

That is a very modest amount, $7.5 million, to try and get over 200 million people to stay more physically fit and healthier.

Now, the statistics are there and there is no question about it.

I think some interesting facts are in the report on this bill and I would recommend that everyone read it, particularly pages 42 and 43. Some of the extraordinary results that can be achieved are documented in this report.

I know the Senator from Wisconsin will agree with this. There is no question that a modest amount of physical activity can go a long way in keeping people healthy, particularly in connection with cardiovascular and coronary heart disease.

This has been shown by studies of busdrivers in London. They conducted a study on the difference between the busdriver who sits in a seat and drives the bus and the conductor going up and down the steps.

It has been proven that the drivers have one and one-half times the frequency of coronary heart disease as the conductors who go up and down the steps.

This program is an attempt to keep people more physically fit.

We might say that we can do it by voluntarism. Well, the truth of the matter is that perhaps we can, but it is not enough. We are not reaching enough people. People just are not staying fit. Take a look around. Take a look at the Capitol policemen, or whoever it may be.

My goodness, I do not want to pick on the Capitol policemen. But there is a good deal of overweight in the American people.

We encourage voluntarism, and, basically, that is what this bill does. It is not to try to do it all. It is to encourage these States to take a more active role and try to establish their own programs.

I join with Senator PELL in urging that the Senate reject the move by the Senator from Wisconsin and keep this modest program.

Let us try to do something in this whole area of preventive medicine.

I thank the Senator.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I know that the Senator from Rhode Island intends to move to table as soon as the time is used up. I have some more time on this amendment. I anticipate that I may ask for the yeas and nays on the motion.

Mr. President, both the junior Senator from Rhode Island and the Senator from Massachusetts made pretty much the same point. This is a great program for cost effectiveness. Just a little money will get many times more in benefits.

The Senator from Massachusetts, I thought, was speaking on my side for most of his speech, because he pointed out the marvelous job the President's Council on Physical Fitness is doing. That is the agency. Why not use them? He said seed money of $800,000 is getting $30 million in private development. Here is a duplicating agency that would do the same thing. It does not make sense to me that, under these circumstances, we should bring in a new agency to supplant one that is effective.

Furthermore, he pointed out that $6 is more than many people can afford. He is dead right. But I was not talking about the general public being able to go down and get those research documents. I was talking about researchers. They can go to the Government Printing Office and for $6 can find out 97 percent of all the research going on in this country right now, and they are the ones who would publicize it for the general public.

In addition to these points, I point out that, so far as research is concerned, the research authorities in the public health service and NIH are very broad. Neither the senior Senator from Rhode Island nor anybody else has been able to show why they are not adequate. If they are inadequate, why not broaden them? Why should we have another new categorical program?

This bill also contains a new formula grant program authority for States to establish preventive health programs. There is great flexibility there. So why cannot the demonstration programs envisioned in this title be carried out under that authority?

We tell the States to go ahead with preventive health, and that is exactly what physical fitness and exercise is—it is preventive health.

Furthermore, I agree with Senator PELL. I think he has done a fine job; he is on target. HEW does need to do more in this area. But that does not necessitate an entirely new bureaucratic structure.

Mr. President, if any of these functions are unique, why not beef up the President's Council?

Why not recognize that here is one area of our life that should be left to the individual? We have not had the Federal Government move in in a big way, except in the modest and limited way the President's Council has.

But this is just the beginning. If we bring on this agency now—and it can be 10 times as expensive—I predict that, in a few short years, it will be even more heavily funded.

I hope the amendment is approved.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. PROXMIRE may proceed at this time for not to exceed 5 minutes, to call up a continuing resolution with respect to the extension of certain FHA programs, and that the time not be charged against this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF CERTAIN FHA PROGRAMS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the names of the distinguished Senator from Texas (Mr. TOWER) and the distinguished Senator from New Mexico (Mr. SCHMITT) be added as cosponsors of the resolution I am about to call up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. First, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of Senate Joint Resolution 165, a resolution to extend for 30 days through October 31, 1978, certain programs of HUD, the Federal Housing Administration, and the Farmers Home Administration, and that the Senate proceed to its immediate consideration.

I pointed out that this resolution has been cleared with the minority and with the leadership, and they are fully informed of its necessity.

Mr. SCHMITT. Mr. President, reserving the right to object—and I will not object—I do want to enter into a brief colloquy with the Senator from Wisconsin within this period.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 165) to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the National Flood Insurance Program, of the Crime Insurance and Riot Reinsurance Programs of certain rural housing authorities, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the joint resolution.

Mr. PROXMIRE. Mr. President, the Senate and House are now in conference on legislation which would extend and improve these programs. However, to insure the uninterrupted availability of FHA mortgage insurance, Farmers Home commitments, Federal flood insurance, crime insurance and riot reinsurance, and several other related programs, it is necessary to authorize an extension before October 1.

I, therefore, urge the Senate to pass this resolution to extend these program authorities for 1 month. This action would permit the conferees to complete their work on the Housing Amendments of 1978 without adversely affecting people who need Federal mortgage and property insurance.

I yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I ask the distinguished Senator from Wisconsin, the chairman of the Committee on Banking, Housing, and Urban Affairs, to affirm that this extension is a 30-day extension for the FHA and other presently authorized programs he has just listed. Is that correct?

Mr. PROXMIRE. That is correct.

Mr. SCHMITT. Any new programs that the Senate has considered in its consideration of the housing authorization bill do require that the bill presently in conference be reported and acted upon favorably by both Houses. Is that correct?

Mr. PROXMIRE. That is correct.

Mr. SCHMITT. Is it the Senator's feeling that, in any way, by taking this action we relieve pressure on the House and Senate conferees in seeking an early resolution of the housing authorization bill that is now in conference?

Mr. PROXMIRE. No. I think a strong case could be made for extending this until March, and we might relieve some pressure. But if we extend it only until October 31, it is clear that a resolution must be reached in conference, because we are expected to leave here on October 14. Therefore, we will have to conclude the conference and have the Senate and the House confirm the action of the conferees.

Mr. SCHMITT. I take it, then, that the distinguished chairman of that conference is going to do everything he can to insure that all of us on the conference do proceed to an early resolution of the conference issues.

As he knows—and I think as most of my colleagues know—there are a number of provisions in the Senate bill that are important to Members of this body, including a Senate amendment dealing with the reorganization of HUD, multifamily and community development activities, and the amendment making cities with pockets of poverty eligible for the UDAC program.

I am sure the Senator will do all he can to see that we resolve these issues and push promptly for the Senate's provisions on these matters.

Mr. PROXMIRE. Yes.

It is an extremely difficult conference, as the Senator knows. He has been a diligent member of the conference, and he knows how far apart the Senate and House conferees are on these matters.

We will do our best to reach an agreement as soon as possible, we hope, within 2 or 3 or 4 more sessions. We are going to persist, as long as it takes.

Mr. SCHMITT. Mr. President, I have received pleading calls from the Department of Housing and Urban Development that I not object to this consideration of the extension today. To some degree, I resent those calls, because the only responsible thing we can do is to agree to this extension.

However, I think it is important not to allow the pressure to recede from the conferees, to continue to seek resolution of the issues before the conference, and particularly resolution in the Senate's favor.

So I do, in fact, reserve the right to object to any further extensions, as I am sure the Senator does, also, having stated what he has this morning about the importance of that conference and the importance of the authorizations contained in the bill the Senate has passed.

Mr. PROXMIRE. I thank the Senator, and I agree with him.

Mr. FORD. Mr. President, I wish to read into the RECORD a telegram I have received from Mr. Jack Voigt, chairman, Governing Committee, Kentucky Property Insurance Placement Facility. The telegram, dated September 28, 1978, states:

LOUISVILLE, KY.

Senator WENDELL H. FORD,
U.S. Senate Office Bldg.,
Washington, D.C.

DEAR SIR: Senate Bill S-3084 and House Bill HR-12433, which are now stalled in a conference committee. contain an extension of the Urban Property Protection and Reinsurance Act of 1968, which will expire midnight, September 30, 1978. It is required, by Kentucky statute, to be in effect in order for the Kentucky Property Insurance Placement Facility to continue to issue policies under the Kentucky "FAIR" (Fair Access to Insurance Requirements) plan.

Some 15,000 Kentucky insureds depend on the FAIR plan for coverage. Expiration of the aforementioned act will create hardships, possible increased insurance costs and serious availability problems to these Kentucky citizens.

Your involvement in this matter is urgent, and respectfully solicited.

Sincerely,

JACK VOIGT.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 165

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1978" in the first sentence and inserting in lieu thereof "November 1, 1978".

(b) Section 217 of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1978" in the fifth sentence and inserting in lieu thereof "October 31, 1978".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1978" in the first sentence and inserting in lieu thereof "October 31, 1978"; and

(2) by striking out "October 1, 1978" in the second sentence and inserting in lieu thereof "November 1, 1978".

(g) Section 245 of such Act is amended by striking out "September 30, 1978" where it appears and inserting in lieu thereof "October 31, 1978".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1868".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 3. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1978".

EXTENSION OF NEW COMMUNITIES SPECIAL PLANNING GRANTS AUTHORITY

SEC. 4. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1978".

EXTENSION OF CRIME INSURANCE AND RIOT REINSURANCE PROGRAMS

SEC. 5. Section 1201 of the Housing Act is amended—

(1) by striking out, both places it appears in subsection (b), "September 30, 1978" and inserting in lieu thereof "October 31, 1978"; and

(2) by striking out in subsection (b)(1)(A) "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

SEC. 6. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 7. (a) Section 513 of the Housing Act of 1949 is amended by striking out "September 30, 1978" where it appears in clauses (b), (c), and (d) and inserting in lieu thereof "October 31, 1978".

(b) Section 515 of such Act is amended by striking out "September 30, 1978" where it appears in paragraph (b)(5) and inserting in lieu thereof "October 31, 1978".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(d) Section 523(f) of such Act is amended by striking out "October 1, 1978" where it appears in paragraph (f) and inserting in lieu thereof "November 1, 1978"; and by striking out "September 30, 1978" where it appears in such paragraph (f) and inserting in lieu thereof "October 31, 1978".

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HEALTH SERVICES EXTENSION AND PRIMARY HEALTH CARE ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, will Senator SCHWEIKER yield me 30 seconds, so that I may ask a question of Senator PROXMIRE?

Mr. SCHWEIKER. I yield.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I wonder if there are going to be the yeas and nays on the Senator's amendment. Since I set mine aside, if the Senator will just let the Senate agree to my amendment I think it is ready, before we vote on his.

Mr. PROXMIRE. Sure. It is all right with me.

Mr. DOMENICI. Is there going to be the yeas and nays?

Mr. PROXMIRE. I want the yeas and nays. On the other hand, the senior Senator from Rhode Island is going to move to table. I hope we get the yeas and nays. I expect we will.

If no one objects, Mr. President, I ask unanimous consent that my amendment be laid aside to permit the Senator from New Mexico to resume consideration of his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1956

Mr. DOMENICI. Mr. President, I ask that we resume consideration of the Domenici amendment.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes unprinted amendment numbered 1956.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40 of UP No. 1953, add the following between lines 19 and 20: Section 373, "Grants and Contracts for Primary Care Research and Demonstration Projects," insert the following between lines 20 and 21:

(10) "The use of mobile health screening clinics as an alternative approach in the delivery of preventive health care services in meeting the needs of persons living in urban and rural medically underserved and unserved areas."

Mr. DOMENICI. Mr. President, I say to the managers of the bill we have now modified the amendment to include the appropriate pages.

I have nothing further to say on it. I understand it is acceptable.

I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I urge the acceptance of the amendment. I think it is a useful and helpful addition to the bill.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank Senator PROXMIRE and the floor manager.

Mr. KENNEDY. Mr. President, I just inquire, does the Senator want to offer another amendment now?

Mr. DOMENICI. If it is all right with Senator PROXMIRE.

Mr. KENNEDY. We are going to accept the other amendment.

UP AMENDMENT NO. 1958

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1958.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it iso ordered.

The amendment is as follows:

On page 44, between lines 8 and 9, insert the following:

HEALTH CARE NEEDS OF AMERICAN INDIANS AND ALASKAN NATIVES

SEC. 214. (a) The Secretary of Health, Education, and Welfare shall submit a special report on the primary health care needs of American Indians and Alaskan Natives, and such report shall be specific to each tribe's particular situation or condition. Such report shall be developed with the consultation of the Director of the Indian Health Service, with leaders in the field of health care, and with representatives of American Indians and Alaskan Natives tribes and National Indian Organization. Such report shall be submitted to the appropriate Committee of Congress not later than June 30, 1979.

(b) Such report shall contain an assessment of the primary and basic health care needs of this Nation's American Indian and assessment of the access to health care services, and what the principal barriers to access to primary health care services are. In addition, such report shall examine: (1) the types of alternative health delivery systems existing or needing to be developed (such as mobile health care services to the American Indian and Alaskan Native populations living in urban and rural medically underserved and unserved areas, and (2) the types of alternatives to institutionalization existing or needing to be developed. The report shall also contain specific recommendations on each issue.

Mr. DOMENICI. Mr. President, the purpose of my second amendment is to require the Secretary of Health, Education, and Welfare to submit to Congress by June 30, 1979 a special report on the primary health care needs of the American Indian-Alaska Native population. Specifically, this report would contain an assessment of the primary health care needs of this Nation's American Indian-Alaska Native population, including an assessment of the access to health care services, and the principal barriers to primary health care services. In addition, this report should examine: first, alternative health delivery systems (such as mobile health care screening units) to provide preventive health care services to the American Indian-Alaska Native populations living in urban and rural medically underserved and unserved areas; and second, alternatives to institutionalization which exist or need to be developed.

To date, there does not exist a current and up-to-date report which can adequately address the issues in my amendment. With this special report we will finally have an assessment of the health care needs of the American Indian-Alaska Native population, specific to each tribe's situation or condition. Let me also add that Dr. Emery Johnson, Director of the Indian Health Service, is very much in favor of this amendment. It is Dr. Johnson's hope that this report will provide us with much-needed information.

In addition, LaDonna Harris, Commissioner of the President's Commission on Mental Health, feels that such a report is long overdue. I am submitting for the record a summary of statistical information on the health status of American Indians:

The tuberculosis rate for the American Indian-Alaska Native population is 4.4 times the U.S. rate.

The infant mortality rate is 3.3 times the U.S. rate.

The influenza and pneumonia rate is 2.3 times the U.S. rate.

Otitis media (inflammation of the inner ear) affects 40% of the American Indian-Alaska Native population between the ages of 1 to 4.

The alcoholism death rate for American Indians has ranged from 4.3% to 5.6% above the overall U.S. rate.

The suicide death rate is 2.1 times the U.S. rate.

The maternal death rate is 1.0 times the U.S. rate.

The accident death rate is 3.6 times the U.S. rate.

And the death rate for diabetes among Indians was 20.4 per 100,000 as compared to 17.7 per 100,000 for the U.S. total population.

Mr. KENNEDY. Mr. President, we welcome this amendment.

The Senator from New Mexico joined our Health Committee last year when we held a hearing in his State on Indian health. He is extremely interested in this matter.

We welcome the amendment and look forward to working with him.

I urge the Senate to accept it.

Mr. DOMENICI. I thank the Senator from Massachusetts and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1957

(Purpose: To delete title V)

The Senate resumed consideration of the amendment.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Wisconsin.

Who yields time?

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PELL. Mr. President, I move to table the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Wisconsin. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 47, nays 39, as follows:

[Rollcall Vote No. 427 Leg.]

YEAS—47

Bayh	Ford	McGovern
Bellmon	Glenn	Melcher
Brooke	Gravel	Metzenbaum
Bumpers	Hart	Moynihan
Burdick	Hatfield, Paul G.	Pell
Cannon	Heinz	Randolph
Case	Humphrey	Ribicoff
Chafee	Inouye	Riegle
Clark	Jackson	Sarbanes
Cranston	Javits	Schweiker
Culver	Kennedy	Sparkman
DeConcini	Leahy	Stafford
Domenici	Lugar	Stennis
Durkin	Magnuson	Stone
Eagleton	Mathias	Talmadge
Eastland		Williams

NAYS—39

Baker	Hansen	Proxmire
Bartlett	Hatch	Roth
Bentsen	Hayakawa	Sasser
Biden	Helms	Schmitt
Byrd, Harry F., Jr.	Hodges	Scott
	Hollings	Stevens
Byrd, Robert C.	Huddleston	Stevenson
Chiles	Laxalt	Thurmond
Church	Long	Wallop
Curtis	Morgan	Weicker
Danforth	Muskie	Young
Dole	Nelson	Zorinsky
Garn	Packwood	
Goldwater	Percy	

NOT VOTING—14

Abourezk	Hatfield, Mark O.	McClure
Allen		McIntyre
Anderson	Hathaway	Nunn
Griffin	Johnston	Pearson
Haskell	Matsunaga	Tower

So the motion to lay on the table UP amendment No. 1957 was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the motion was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1954

The PRESIDING OFFICER. The question re urs on agreeing to unprinted amendment No. 1954, offered by the Senator from Massachusetts. Who yields time?

Mr. PROXMIRE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield.

Mr. PROXMIRE. I ask unanimous consent that Larry Patton of my staff have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. I make the same request on behalf of Pamela Melton of Senator THURMOND's staff.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. DECONCINI. Same request in behalf of Shirley Wilson of my staff.

Mr. STAFFORD. I ask unanimous consent that Mike Makris of my staff have floor privileges during the consideration and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1954) offered by the Senator from Massachusetts (Mr. KENNEDY).

Mr. BELLMON. Mr. President, I rise in support of the amendment to add the provisions of S. 3116, the Disease Prevention——

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. How much?

Mr. BELLMON. One minute.

Mr. SCHWEIKER. I yield 1 minute to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I rise in support of the amendment to add the provisions of S. 3116, the Disease Prevention and Health Promotion Act of 1978, to S. 2474. This amendment extends for 2 additional years certain public health and disease prevention programs. In addition, it provides for several new initiatives in disease prevention and health promotion. These include:

Grants to States for preventive health programs, including a requirement that each State develop plans to reduce mortality rates for one or more of the five leading causes of death in the State.

New project grants for community and/or school-based fluoridation projects.

Three-year demonstration and evaluation grants for delivery of comprehensive preventive health services to defined high risk populations.

Grants for a new program to deter childhood and adolescent smoking.

A new office of physical fitness and sports medicine in HEW and funds for research and demonstration grants in physical fitness and sports medicine.

Mr. President, I am pleased that the provisions in S. 3116 emphasize the importance of local and State planning in the development of disease prevention and health promotion programs. Local officials are in the best position to assess

local needs and design programs which will work in their communities.

I support this amendment because I am certain that the answers to most of the health problems facing us today and the only hope for containing runaway health care costs lies in prevention and positive health promotion. This has been true in the past and we have controlled major health problems such as the plague, typhoid, dysentery, malaria, polio, measles, rubella which resulted in serious fetal malformations when contracted during pregnancy, and smallpox. New therapeutic drugs and surgical techniques are dramatic and essential in the effective treatment of disease; however, we can never really control a disease by developing an effective cure after the disease has been contacted. Effective control depends upon techniques for preventing the development of the disease process.

Thus, Mr. President, it is clear that on a cost-benefit basis, there is no question about the wisdom of concentrating resources on prevention. Compare, for example, the few cents that it costs to provide polio immunization against the crippling, death, or thousands of dollars which would be expended upon a case of polio. This is also true of many other diseases for which we either have, or could develop, prevention techniques. Dr. Theodore Cooper, M.D., former Assistant Secretary for Health stated that:

> The best primary care in the world would not add a year to anyone's life. The best hope of achieving any significant extension of life expectancy lies in the area of disease prevention.

Although Dr. Cooper conceded that we must continue to correct inequities in the maldistribution of health services, he continued that:

> In the long run, the greatest benefits are likely to accrue from efforts to improve health habits of people and the environment in which they live and work.[1]

Walter J. McNerney, president of Blue-Cross Association has made essentially the same point. In an interview published in U.S. News & World Report—March 28, 1977, he states:

> I would go so far as to say that you could double the amount of money we spend on health care in this country or cut it in half and it would make little difference in the health of the American people.

Compare these relatively pessimistic viewpoints, Mr. President, regarding the value of unlimited expenditures for treatment with the results of a study recently conducted at the University of California in Los Angeles on 7,000 people which indicated that following seven health rules can add up to 11 extra years of life—and these health rules not only do not cost additional money, but they save money. These findings are extremely significant—unlimited expenditures for health care will not add 1 year to the average life expectancy, but following seven simple health rules, which actually save money, can add up to 11 years to the average person's life.

Because these findings are so revelant in terms of where spending priorities for health should be focused, I ask unanimous consent that a short article entitled, "Don't Junk Your Body 10 Years Too Soon," be included in the RECORD at the end of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. Mr. President, disease prevention programs are cost-effective. Before measles vaccine was available, there were 4 million cases of measles annually with 4,000 cases of encephalitis and 400 deaths. During the 10-year period, 1963–1972, following the introduction of measles vaccine, PHS data indicate that 24 million cases of measles were prevented, thus preventing 7,900 cases of mental retardation and saving thousands of years of productive life and millions of days of lost schooling. The average cost per child immunized was $3.

The benefit conservatively estimated was $1.3 billion over the 10-year period. The last rubella epidemic in the United States—1964–65—caused serious defects in over 20,000 children with an estimated economic loss of $1.4 billion, not to mention great suffering and personal grief on the part of affected family members. With the introduction of rubella vaccine in 1969, these epidemics can be prevented.

Fluoridation programs represent another outstanding example of the value of preventive health services with direct savings to the Federal Government. An article in the May 1965 issue of the New England Journal of Medicine reported on two decades of fluoridation in various communities. In the article, the authors conclude that, "few public health measures are so unequivocally effective against widespread disease—costing about 10 to 40 cents per day, fluoridation can reduce by up to 65 percent the amount of tooth decay in school-age children." In a reevaluation of this study in 1976, the same author estimated that fluoridation for 500,000 children in Boston resulted in savings of $7 million annually in dental bills.

Mr. President, it is clear to me that real progress in controlling health care costs and improving the health status of most Americans will be achieved primarily through programs aimed at disease prevention and health promotion involving changes in lifestyles, better nutrition, and elimination of environmental hazards. It is for this reason that I support the programs contained in S. 3116 and now reflected in this amendment.

I was pleased to hear that the Human Resources Committee plans to offer amendments to reduce authorization levels in S. 2474. This will help make room for new initiatives in prevention and is consistent with my view that we need to shift priorities in health services in order to give greater emphasis to these prevention programs. I am still concerned, however, because CBO estimates that S. 3116 will still add approximately $200 million to total outlays for S. 2474 over the next 5 years.

Unless some reductions are made in other health programs, these outlays threaten to exceed 5-year targets contained in the fiscal year 1979 second budget resolution. There is also a risk that this amendment will aggravate past tendencies to proliferate health programs which have led to duplication, inefficiency, and mismanagement. It is my intention to ask the Congressional Budget Office to make a study of the extent to which there is duplication and waste in existing health care programs. With better allocation of resources, and hopefully, consolidation of categorical programs into broader programs, we can fund new initiatives in disease prevention, nutrition, and health promotion and still achieve the goal of containing overall increases in health care costs.

Mr. President, I emphasize again that the answers to most of the health problems facing us today lie in prevention and positive health promotion. We must help bring movement in these areas by changing funding priorities and developing new health education programs for both health care providers and the public. The need for such programs was brought forcefully to my attention when I chaired hearings on nutrition education in medical schools held by the Nutrition Subcommittee of the Agriculture Committee on September 20, 1978. There was unanimous agreement among the witnesses that nutrition education needed to be expanded in medical education and that most physicians in private practice are inadequately prepared to provide good nutrition counseling to their patients.

This amendment represents a positive step toward reallocation of health resources for disease prevention and promotion of good health habits. In the long run, these programs, if successful, will both improve the health and well-being of most Americans and reduce the rate of growth in health care costs. I urge my colleagues to join me in supporting this effort.

EXHIBIT I

DON'T JUNK YOUR BODY 10 YEARS TOO SOON

You may have ten good years in your body that you don't even know about. That's what recent research on 7,000 people indicates.

A California * study shows that people who follow 7 simple rules can expect an actual eleven extra years of life. Really.

What are the seven rules?

Eat Breakfast.

Eat three square meals a day, and avoid snacking.

Get 7 to 8 hours sleep every day.

Get moderate exercise two or three times a week.

Keep your weight within normal bounds.

Drink only in moderation or not at all.

Don't smoke cigarettes. (Or if you do, limit it closely.)

Nothing new, you may say. True, but look at these as a "life" package. That's what's new. The statistics bear out that people who follow 6 or 7 steps of this package live much longer. Those who follow 0 to 3 of them just don't average as long a life. So the more of these rules you yourself observe, the better your chance of realizing all your potential for living. And you'll feel a lot better, too.

Remember, staying healthy is primarily

[1] U.S. Medicine, January 15, 1975.

* Nedra B. Belloc, Human Population Laboratory, California State Department of Public Health, Berkeley, Ca. Lester Breslow, M.D., M.P.H., Dean of the School of Public Health, University of California, Los Angeles, Ca.

your responsibility, not that of doctors and drugs.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Maine (Mr. HATHAWAY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. HATHAWAY

I would like to express my support for S. 2474, the Health Services Extension and Primary Health Care Act of 1978, which I was pleased to cosponsor. This bill extends a number of existing programs which provide health care services to the 49 million Americans living in medically underserved areas. It emphasizes primary and preventive health care services through which substantial savings in terms of costs and human suffering can be realized.

The legislation extends public health service programs designed to address hypertension, lead paint poisoning, genetic diseases, venereal disease, and hemophilia, as well as those which provide for comprehensive public health services, childhood immunizations, rodent control, home health services, emergency medical services, migrant health centers, community health centers, and the National Health Service Corps. In addition, the bill establishes a program of hospital affiliated primary care centers to address the problems created when primary care services are sought in hospital outpatient departments or emergency rooms.

Of primary importance to me is Section 373 of the bill, providing for demonstration of new, improved, or expanded primary health and dental care delivery mechanisms for medically underserved populations. This provision is an outgrowth of S. 2780, the Rural Health Assistance Act of 1978, which I was pleased to introduce in March.

That greater federal attention must be focused on health care in rural areas became clear during the hearings of the Senate Subcommittee on Health which I chaired in Bangor, Maine in July 1977, and in Washington, D.C. last February. Sixty percent of the medically underserved population in this country live in rural areas. Many indicators of health status indicate a serious and growing disparity in the health of rural Americans in contrast to the nation as a whole. Experts in rural health have indicated that low population density creates special problems since the critical mass of people in an area is often far less than that usually required for services, resources, or facilities. There are more elderly poor people and more elderly residents in rural areas, often requiring more care than the general population, and fewer residents are covered by health insurance than their urban counterparts.

The need for services is great, yet the availability of services is sorely limited. There is still a critical shortage of physicians, dentists, and other health care professionals in rural areas. Emergency medical services are less available, and accessibility to the limited care that is available is restricted by long distances, geographic barriers, and inadequate transportation services.

Congress has been taking steps to improve the availability of health care in rural locales. For example the Rural Health Clinics Act was recently passed to extend Medicare and Medicaid coverage to nurse practitioners and physician assistants in rural health clinics. I was pleased to cosponsor this measure as I believe it will make care accessible to communities which lack adequate coverage by doctors. There are 70 such communities in Maine alone.

While some progress is being made, we still have a long way to go. The level of federal attention to the problems of rural America is still inadequate. This is particularly true where the health of our citizens is concerned. While more than one half of the medically underserved Americans live in rural areas, they receive less than 25% of the available federal funds. Testimony at the Health Subcommittee hearings revealed that HEW currently spends more than $7.50 for every medically underserved urban resident, but only about $2.25 for each rural person in a medically underserved area.

Section 373 is designed to rectify that imbalance. At the same time, it recognizes the need for research and demonstration programs to improve health care in urban areas as well. Consequently, it authorizes grants and contracts for projects to provide health and dental care to medically underserved populations in both rural and urban areas, with one authorization for projects in rural areas and a smaller authorization for those in urban areas.

This provision is intended to encourage innovative approaches to the delivery of care, drawing on existing resources as well as identifying and attracting new ones. It is intended to allow for maximum flexibility without imposing administrative requirements such as those required of community health centers, which might be difficult or impossible to meet. Furthermore, it will replace the Health of Underserved Rural Areas program with a permanent statutory authority.

With respect to the amendments to be offered on the floor on this bill, I have joined with other members of the Committee in offering a substitute to the Committee-reported bill to make downward adjustments in some of the funding levels to bring S. 2474 within the ceiling established in the Budget resolution, while providing for real growth at the same time.

I have also cosponsored S. 3116, the Disease Prevention and Health Promotion Act of 1978, which was reported unanimously by the Committee on Human Resources on August 25, 1978, and will be offered as an amendment to S. 3474. This legislation extends for fiscal years 1980 and 1981 a number of expiring programs related to disease prevention and health promotion. In addition, it complements these programs with additional authorities to improve the ability of state and localities to work toward prevention of the five leading causes of death and disability. It focuses on state and local initiative in planning and carrying out prevention programs and provides incentives for states and localities to increase their own investment in such activities. I am pleased that this measure includes provisions which I offered in Committee to ensure that funds for project grants for preventive health services will be equitably distributed between rural and urban areas and that demonstrations of intensive and comprehensive community-based programs will be conducted in both rural and urban areas.

It has become increasingly clear that an expanded national commitment to disease prevention and health promotion is essential if we are to put a lid on skyrocketing health expenditures and improve our currently stagnating health indices. At present, less than 3% of every health care dollar is spent on disease prevention and health promotion. While we have improved *access* to health care in recent decades, it is no wonder that we have made relatively little progress in improving the *health* of our nation.

With a concentrated effort on prevention, however, I believe we can improve our health. This was supported at recent Health Subcommittee hearings during which witnesses testified about dramatic new evidence of the effectiveness of activities aimed at the prevention of the chronic illness, such as heart disease, cancer, and stroke, which are now our nation's leading killers and cripplers.

We now have an opportunity to take the lead in disease prevention and health promotion and to provide incentives to states and localities to do the same. S. 3116 provides the vehicle, and I urge my colleagues to adopt it as an amendment to S. 2474.

● Mr. RIEGLE. Mr. President, I support and cosponsor the disease prevention amendment offered by Senator KENNEDY, but I feel in some respects it does not go far enough. I ask that my additional views to the Human Resources Committee report on S. 3116 be printed in the RECORD so that my colleagues will be aware of these inadequacies in the current legislation.

The additional views follow:

ADDITIONAL VIEWS OF SENATOR DONALD W. RIEGLE

The American public is constantly confronted today with statistics revealing rapidly increasing public expenditures for medical care. We are told that "health expenditures" tripled between 1965 and 1975, and that fiscal year 1977 expenditures for "health care" were over $160 billion. These figures are important to focus attention on the need to control medical expenditures, but the terminology used to describe the expenditures provides an interesting insight into the nature of our health care system. Phrases such as "health care" and "health expenditures" are to a great degree misnomers which could better be described as "disease treatment" and "disease treatment expenditures" respectively. The United States does not currently have an active national policy of disease treatment.

The disease prevention bills which Senator Kennedy introduced and I cosponsored (S. 3115, S. 3116, S. 3117, and S. 3118) promise a fundamental conceptual departure from current health care policy in this Nation. If enacted, these proposals would add a dimension to our health care policy that can truly be termed "health care". Rather than simply pouring funds into remedying diseases that have already occurred, these bills concentrate their efforts on controlling disease at its origin. I am convinced that disease controlled at its origin will have the concomitant virtue of reducing public expenditures for combatting that disease. As such, S. 3116 as reported by this committee has my full and active support.

Yet the bill in its present form is incomplete. I had hoped that the prevention bill reported by the Human Resources Committee would contain a food safety and labeling section. I believe for two reasons that the need for a food labeling section in the prevention package is imperative.

First, food labeling is perhaps the most natural and crucial constitutient of a disease prevention policy. Six of the 10 leading causes of death in the United States have been linked to diet. Overconsumption of fat, cholesterol, salt sugar, alcohol, and other foods and food ingredients has been widely implicated in the unacceptably high and increasing incidence of morbidity and mortality from heart disease, cancer, and other lethal illnesses.

As formulators of public policy the Congress has the responsibility to provide the consuming public with the best, most comprehensive information on matters pertaining to the public health. Current labeling law, however, exempts for various reasons certain food ingredients from mandatory disclosure, and thereby renders the consumer incapable of controlling his or her diet.

Which leads to my second point, namely that the public is ready to receive more nutritional information and advice. A recent Food Marketing Institute survey indicated

an avid and growing public interest in nutrition. Of the individuals surveyed by FMI, 77 percent were more interested in nutrition than a few years ago. Seventy-eight percent of the respondents said that they wanted more labeling information, and 68 percent said that they wanted more thorough nutrition labeling even if it raised costs by a few cents. In addition, the FMI report revealed that most consumers cited the Government and the food industry as bearing the geratest responsibility for informing the public about proper nutrition.

Clearly, the time has arrived for comprehensive food labeling legislation. The vast majority of available scientific evidence indicates a connection between diet and disease, and the American public is demanding better information about the content of their food.

Congress has discussed the need for comprehensive food labeling legislation since 1971. The Senate enacted labeling bills in 1971, 1974, and 1976 all of which died in the House. Now that the House has demonstrated an interest in labeling legislation the Senate does not appear to have time to devote to this critical need.

I hope that another Congress will not pass without passage of food labeling and safety legislation. We cannot be said to have a complete preventive health care policy absent strong food labeling requirements. I hope the Human Resource Committee and the Congress will enact labeling legislation early next year and tie it to the disease prevention measures we hope to adopt this year.●

Mr. KENNEDY. Mr. President, I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield back the remainder of his time?

Mr. SCHWEIKER. I yield back the remainder of my time on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1959

(Purpose: Amend the Kennedy substitute to S. 2474 with S. 2910, the Adolescent Health, Services, and Pregnancy Prevention and Care Act)

Mr. KENNEDY. Mr. President, in behalf of myself, Mr. WILLIAMS, Mr. SCHWEIKER, Mr. HATHAWAY, Mrs. HUMPHREY, Mr. LEAHY, Mr. RANDOLPH, Mr. PELL, and Mr. MELCHER, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and others, proposes an unprinted amendment numbered 1959:

At the end of the Kennedy substitute, add the following new titles:

TITLE VI—GRANT PROGRAM

FINDINGS AND PURPOSES

SEC. 601. (a) The Congress finds that—

(1) adolescents are at a high risk of unwanted pregnancy;

(2) in 1975, almost 1,000,000 adolescents became pregnant and nearly 600,000 carried their babies to term;

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Kennedy substitute, add the following new titles:

TITLE VI—GRANT PROGRAM

FINDINGS AND PURPOSES

SEC. 601. (a) The Congress finds that—

(1) adolescents are at a high risk of unwanted pregnancy;

(2) in 1975, almost 1,000,000 adolescents became pregnant and nearly 600,000 carried their babies to term;

(3) pregnancy and childbirth among adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low-birthweight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; a decreased likelihood that adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency;

(4) an adolescent who becomes pregnant once is likely to experience rapid repeat pregnancies and childbearing, with increased risks;

(5) the problems of adolescent pregnancy and parenthood are multiple and complex and are best approached through a variety of integrated and essential services;

(6) such services, including a wide array of educational and supportive services, often are not available to the adolescents who need them, or are available but fragmented and thus of limited effectiveness in preventing pregnancies and future welfare dependency; and

(7) Federal policy therefore should encourage the development of appropriate health, educational, and social services where they are now lacking or inadequate, and the better coordination of existing services where they are available in order to prevent unwanted early and repeat pregnancies and to help adolescents become productive, independent contributors to family and community life.

(b) Therefore, the purposes of this Act are—

(1) to establish better coordination, integration, and linkages among existing programs in order to expand and improve the availability of, and access to, needed comprehensive community services which assist in preventing unwanted initial and repeal pregnancies among adolescents, enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life, with primary emphasis on services to adolescents who are 17 years of age and under and are pregnant or who are parents;

(2) to expand the availability of such services that are essential to that objective; and

(3) to promote innovative, comprehensive, and integrated approaches to the delivery of such services.

DEFINITIONS

SEC. 602. For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Department of Health, Education, and Welfare;

(2) "eligible person" means—

(A) with regard to the provision of all necessary core services and such necessary supplemental services as may be available, a pregnant adolescent or an adolescent parent; or

(B) with regard to the provision of the services described in paragraphs (3)(A), (3)(B), and (3)(G) and referral to such other services which may be appropriate, a nonpregnant adolescent;

(3) "eligible grant recipient" means a public or nonprofit private organization or agency which demonstrates, to the satisfaction of the Secretary, the capability of providing in a single setting all core services or the capability of creating a network through which all core services would be provided;

(4) "core services" means those services which shall be provided by all grantees which are—

(A) pregnancy testing, maternity counseling, and referrel services;

(B) family planning services, except that such services for nonpregnant adolescents shall be limited to counseling and referral unless suitable and appropriate family planning services are not otherwise available in the community;

(C) primary and preventive health services including pre- and post-natal care;

(D) nutrition information and counseling;

(E) referral for screening and treatment of venereal disease;

(F) referral to appropriate pediatric care;

(G) educational services in sexuality and family life, including family planning information;

(H) referral to appropriate educational and vocational services;

(I) adoption counseling and referral services; and

(J) referral to other appropriate health services.

(5) "supplemental services" means those services which may be provide and are—

(A) child care sufficient to enable the adolescent parent to continue her education or to enter into employment;

(B) consumer education and homemaking;

(C) counseling for extended family members of the eligible person;

(D) transportation; and

(E) such other services consistent with the purposes of this Act as the Secretary may approve in accordance with regulations promulgated by the Secretary;

(6) "adolescent parent" means a parent under the age of 21.

AUTHORITY TO MAKE GRANTS

SEC. 603. The Secretary may make grants to further the purposes of this Act to eligible grant recipients which has submitted an application which the Secretary finds meets the requirements of section 606 for projects which the Secretary determines will help communities provide core and supplemental services in easily accessible locations, assure a continuity of services and appropriate assistance, and coordinate, integrate, and establish linkages among such services. Projects shall, as appropriate, provide, supplement, or improve the quality of such services, and in providing services, give primary emphasis to adolescents who are 17 years of age or under and are pregnant or who are parents.

USES OF GRANTS

SEC. 604. (a) Funds provided under this Act may be used by grantees only to—

(1) provide core services to eligible persons;

(2) coordinate, integrate, and provide linkages among provides of core, supplemental, and other services for eligible persons in furtherance of the purposes of this Act;

(3) provide supplemental services where such services are not adequate or not available to eligible persons in the community and which are essential to the care of pregnant adolescents and to the prevention of adolescent pregnancy;

(4) plan for the administration and coordination of pregnancy prevention and

pregnancy-related services for adolescents which will further the objectives of this Act; and

(5) fulfill assurances required for grant approval by section 606.

(b) Grantees shall charge fees for services only pursuant to a fee schedule, approved by the Secretary as a part of the application described in section 606, which bases fees charged by the grantee on the income of the eligible person or the parents or legal guardians of the eligible person and takes into account the difficulty adolescents face in obtaining resources to pay for services. In no case may a grantee discriminate with regard to the provision of services to any individual because of that individual's inability to provide payment for such services.

PRIORITIES, AMOUNTS, AND DURATION OF GRANTS

SEC. 605. (a) In approving applications for grants under this Act, the Secretary shall give priority to applicants who—

(1) serve an area where there is a high incidence of adolescent pregnancy;

(2) serve an area where the incidence of low-income families is high and where the availability of pregnancy-related services is low;

(3) show evidence of having the ability to bring together a wide range of needed care and, as appropriate, supplemental services in comprehensive single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for adolescents at risk of initial or repeat pregnancies;

(4) will utilize to the maximum extent feasible, existing available programs and facilities such as neighborhood and primary health care centers, family planning clinics, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;

(5) make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;

(6) can demonstrate a community commitment to the program by making available to the project non-Federal funds, personnel, and facilities; and

(7) have involved the community to be served, including public and private agencies, adolescents, and families, in the planning and implementation of the project.

(b)(1) The amount of a grant under this Act shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served, and the adequacy of pregnancy prevention and pregnancy-related services in the area to be served.

(2) In making grants under this Act, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such services.

(c)(1) A grantee may not receive funds under this Act for a period in excess of 5 years.

(2) Subject to paragraph (3), a grant made under this Act may not exceed 70 percent of the costs of a project assisted under this Act for the first and second years of the project. In each year suceeding the second year of the project the amount of the Federal grant under this Act shall decrease by no less than 10 percent of the amount of the Federal grant under this Act in the preceding year.

(3) The Secretary may waive the limitation specified in paragraph (2) in any year in accordance with criteria established by regulation.

REQUIREMENTS FOR GRANT APPROVAL

SEC. 606. (a) An application for a grant under this Act shall be in such form and contain such information as the Secretary may require, and shall include—

(1) an identification of the incidence of adolescent pregnancy and related problems;

(2) a description of the economic conditions and income levels in the geographic area to be served;

(3) a description of existing pregnancy prevention and pregnancy-related services, including where, how, by whom and to whom they are provided, and the extent to which they are coordinated in the geographic area to be served;

(4) a description of the major unmet needs for services for adolescents at risk of initial or repeat pregnancies, the number of adolescents currently served in the area, and the number of adolescents not being served in the area;

(5) a description of how all of the core services will be provided in the project using funds under this Act or otherwise provided by the grantee, to whom they will be provided, how they will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such core services;

(6) a description of how adolescents needing services other than those provided directly by the grantee will be identified and how access and appropriate referral to those services (such as medicaid; public assistance; employment services; child care services for adolescent parents; and other city, county, and State programs related to adolescent pregnancy) will be provided including a description of the plan to coordinate such services with activities funded under this Act;

(7) a description of any fee schedule to be used for any services provided directly by the grantee and the method by which it was derived, together with assurances that the applicant will make every reasonable effort to collect reimbursement for its costs in providing services to persons who are entitled to have payment made on their behalf for such services under any Federal or other government program or private insurance program;

(8) a description of the grantee's capacity to continue services as Federal funds decrease and in the absence of Federal assistance;

(9) a description of the results expected from the provision of services and activities, and the procedures to be used for evaluating those results;

(10) a summary of the views of public agencies, providers of services, and the general public in the geographic area to be served, of the proposed use of the funds provided under a grant provided under this Act and a description of procedures used to obtain those views, and, in the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services;

(11) assurances that the applicant will have an ongoing quality assurance program;

(12) assurances that the applicant shall have a system for maintaining the confidentiality of patient records in accordance with regulations promulgated by the Secretary;

(13) assurances that the applicant will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(14) assurances that the applicant (A) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (B) has made or will make every reasonable effort to enter into such an arrangement;

(15) assurances that the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to benefits under title V of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

(16) assurances that the applicant has or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons entitled to services under title XX of the Social Security Act;

(17) assurances that the applicant (A) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (B) has made and will continue to make every reasonable effort (i) to secure from patients payment for services in accordance with such schedules, and (ii) to collect reimbursement for health or other services on the basis of the full amount of fees and payments for such services without application of any discount, and (C) has submitted to the Secretary such reports as he may require to determine compliance with this paragraph;

(18) assurances that the applicant will make maximum use of funds available under title X of the Public Health Service Act;

(19) assurances that the acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistnace under this title shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant;

(20) assurances that fees collected by the applicant for services rendered in accordance with this Act shall be used by the applicant to further the purposes of this Act;

(21) assurances that unemancipated minors requesting services from the applicant will be encouraged, whenever feasible, to consult with their parents with respect to such services;

(22) assurances that all pregnant adolescents receiving services will be informed of the availability of counseling (either by the entity providing core services or through a referral agreement with such other entity which provides such counseling) on all options, regarding her pregnancy;

(23) assurances that primary emphasis for services paid for with funds under this Act shall be given to pregnant adolescents and adolescent parents 17 and under who are not able to obtain needed assistance through other means; and

(24) assurance that funds received under this Act shall not supplant funds received from any other Federal, State, or local program or any private sources of funds.

(b) Each grantee which participates in the program established by this title shall make such reports concerning its use of Federal funds as the Secretary may required. Reports shall include the impact the project has had on reducing the rate of first and repeat pregnancies among adolescents, and the effect on factors usually associated with welfare dependency.

(c) The Secretary shall provide the Governor of each State copies of applications received for grants under this Act from applicants within such State. The Governor shall have a period of 60 days from receipt of such copies to review and submit comments to the Secretary.

(d) No application submitted for a grant

under this Act may be approved unless the Secretary is satisfied that core services shall be available through the grantee within a reasonable time after such grant is received.

AUTHORIZATION OF APPROPRIATIONS

SEC. 607. For the purpose of carrying out this title, there are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1979, $70,000,000 for the fiscal year ending September 30, 1980, and $80,000,000 for the fiscal year ending September 30, 1981.

FUND RESTRICTION

SEC. 608. No funds for grants made under the provisions of this Act may be used for payment for the performance of an abortion.

TITLE VII—IMPROVING COORDINATION OF FEDERAL AND STATE PROGRAMS

SEC. 701. (a) The Secretary shall coordinate, consistent with provisions of other Federal law respecting coordination of policies and programs, Federal policies and programs providing services related to prevention of initial and repeat adolescent pregnancies. Among other things, the Secretary shall—

(1) require that grantees under title I report periodically on Federal, State, and local programs or policies that interfere with the delivery and coordination of pregnancy prevention and pregnancy-related services to adolescents;

(2) provide technical assistance to assure that coordination by grantees of Federal programs at the State and local level will be facilitated;

(3) recommend legislative modifications of programs of the Department of Health, Education, and Welfare that provide pregnancy-related services in order to facilitate their use as a base for delivery of more comprehensive pregnancy prevention and pregnancy-related services to adolescents;

(4) give funding priority, where appropriate, to grantees using single or coordinated grant applications for multiple programs; and

(5) give priority, where appropriate, to providing funding under existing Federal programs to projects providing comprehensive pregnancy prevention and pregnancy-related services.

(b) A State using funds provided under title I to improve the delivery of pregnancy prevention and pregnancy-related services throughout the State shall coordinate its activities with programs of local grantees, if any, that are funded under title I.

(c) The Secretary shall set aside, in each fiscal year, not less than 1 percent nor more than 3 percent of the funds appropriated under this Act for evaluation of activities under titles I and II and shall designate a program unit to carry out such evaluations, which shall be a program unit other than the unit having primary administrative responsibility for carrying out the grant program authorized by this Act. The Secretary shall submit to the appropriate committees of the Congress, not later than February 1, 1981, and periodically thereafter copies of summaries of all such evaluations.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment is S. 2910, which is the Adolescent Health, Services and Pregnancy Prevention and Care Act of 1978. It has been refashioned in the form of an amendment to the health services bill.

It is entirely appropriate that it be added, since health services legislation deals with a range of health services, and this is one of the essential pieces of the legislation which was considered by the Human Resources Committee and reported to the Senate on August 25, 1978.

I offer this measure as an amendment so that we can take it to the conference with the House of Representatives and be able to consider it with our House colleagues in the conference.

Mr. President, S. 2410 was administration proposal which I introduced in April. I have here a letter from Secretary Califano endorsing the bill; I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., September 25, 1978.

DEAR SENATOR: During Senate consideration of S. 2474, the Health Services Extension bill, I understand that Senator Kennedy will offer as an amendment S. 2910, the Adolescent Health, Services, and Pregnancy Prevention and Care Act, as reported by the Human Resources Committee. I strongly urge your support for this amendment.

This bill is based on an Administration initiative to deal with the current problem of adolescent pregnancy. Each year, over one million adolescents become pregnant and over 600,000 carry their pregnancies to term. The number of births to the youngest adolescents is also increasing rapidly. We have learned that almost one-fifth of births to adolescents are repeat births and that about one-fourth of all adolescents 15–19 who have babies become pregnant again within a year. Teenage pregnancy often produces numerous problems for the young mother, father, and child including a high incidence of school drop-outs, a lack of prenatal health care which often results in handicapping conditions for the child, increased infant mortality, and welfare dependency.

S. 2910 would address these problems by providing project grants to State and local agencies and to community groups to link and expand services to help adolescents who are pregnant, young parents, and which assist in preventing initial and repeat pregnancies. The bill clearly requires that services provide l under this program be coordinated in the community and not duplicate existing programs. We believe that this legislation is carefully drawn to provide the greatest number of needed services and assistance to young people in becoming productive members of communities.

Sincerely,

JOSEPH A. CALIFANO, Jr.

Mr. KENNEDY. Mr. President, S. 2910 is cosponsored by Senators WILLIAMS, JAVITS, SCHWEIKER, HATHAWAY, HUMPHREY, LEAHY, RANDOLPH, RIEGLE, PELL, and MELCHER. There is a companion bill in the House that was introduced by Representatives PAUL ROGERS and JOHN BRADEMAS.

The problems of teenage pregnancy and adolescent sexuality are multifaceted and have serious health, social, moral, and economic implications, and they affect not only the immediate health of the mother and child but their whole future. In the United States today there are over 21 million young people between the ages of 15 and 19, and 11 million are sexually active. Over 1 million young girls become pregnant each year and over 600,000 have live births.

On a national level, we have long been aware of the complexity of this problem. My sister, Eunice Kennedy Shriver, has worked tirelessly on helping pregnant adolescents for the last 5 years. She was largely responsible for setting up the model teenage adolescent pregnancy program at the Johns Hopkins University, which served to provide a great deal of the supporting data for this act. The operation of that model program reflects Mrs. Shriver's philosophy of providing comprehensive, long term services designed to help mothers, fathers, and babies. The results have been stronger families, healthier babies, and far fewer repeat unwanted pregnancies.

Mr. President, the Congress began to address this problem 2 years ago when Senator BAYH and I introduced bills to provide support, counseling, and services for these teenagers. Unfortunately, many believed the legislation was not warranted and no action was taken. I believe we can wait no longer to develop a comprehensive program that can effectively improve the status quo for these young girls, and we should act now.

Mr. President, we hear statistics every day on many, many issues; however, the statistics on this particular issue are so alarming that I think they should be reemphasized today. They begin to describe the magnitude of the problem. There are 11 million sexually active adolescents—two out of five women and two out of three males between the ages of 15 and 19. In 1975, approximately 1 million women under age 20 became pregnant—about 80 percent of these women were unmarried—and most of these pregnancies were unplanned. There were over 600,000 live births. Because of the more widespread use of birth control there was a decline—from 1966 to 1975—in the number of births to women over 20 by 14.4 percent. The decline for adolescents, however, was only 5 percent. This decline for adolescents, however, masks the difference between older and younger adolescents. The number of births to 18- and 19-year-olds decreased by 18 percent but the number for the 15- to 17-year-olds increased by 22 percent and even more alarming the births for those 14 and under increased by 56 percent.

Teenage pregnancy is a problem of many dimensions that cuts across all social, education, and economic boundaries. It occurs in every community, be it urban, suburban, or rural. For the individuals involved and for their families, the accompanying problems of adolescent pregnancy and childbearing are enormous and potentially devastating. The health, educational, social, moral, and economic implications of teenage pregnancy are considerable. The young mother, particularly those under 15 years of age, may face grave risks to her health in bearing a child.

The infant of an adolescent mother faces a marked, increased risk of mental retardation, developmental disabilities and other handicapping conditions. With respect to education, pregnancy is the major contributing reason for young women not completing their high school education. Since educational attainment has a direct correlation to employment prospects and career and economic security, it is not surprising to learn that the teenage mother has often turned to welfare dependency for financial support for herself and her child.

In testimony before the committee, Dr.

Kristin Moore of the Urban Institute indicated as an example of the relationship between early childbearing, limited life earnings and government dependency, that the disbursement of State and Federal dollars through AFDC (aid to families with dependent children) in 1975 to households containing women who bore their first child when teenagers, was $4.64 billion, nearly half of the total expenditure of $9.4 billion. This welfare dependency is not directly triggered by the adolescent pregnancy itself, but rather, indirectly sets off a chain of events such as school dropouts leading to low educational attainment, earlier subsequent childbearing, and increased probability of early marriage and divorce. These discouraging factors, accompanied by expanded parental responsibilities, often effectively undermine economic stability. Where health and social service support programs are available, this cycle can often be broken.

Adolescent mothers are more likely to have a child with low birth weight than other women. Low birth weight is associated with many health problems in both infants and children including sudden infant death syndrome, cerebral palsy, epilepsy, mental retardation, and other birth defects.

Many of these young mothers are still children themselves, scarcely able to cope with childbearing and child rearing, which is a significant problem even to the mature adult. Being so young themselves, many of these mothers have little appreciation of the general requirements of parenthood, as well as of the specific practices required to bring up and care for a young baby. As a consequence, many of the children of school-aged parents suffer from this lack of knowledge from their mothers. Many of them find their way into foster homes, and some, unfortunately, join the group of children who are neglected and even abused.

Studies have also shown that where the effects of factors such as family background, educational goals, and age at marriage are controlled statistically, young women who had the first birth at age 15 or younger were found to complete nearly 2 years less schooling than those who had their first child in their twenties.

Educational opportunities for the young, expectant mother are constricted by societal attitudes and by lack of adeuate child care services. As a result, she faces a bleak future, limited employment prospects, poor chances of developing a meaningful career, and life long difficulties in providing financial support for herself and her child.

These serious adverse consequences—each of which contribute to the complex nature of the adolescent pregnancy problem—justifies the need for a Federal initiative designed for the development and implementation of community based comprehensive, multiservice programs which integrate and supplement existing health, education, and social services. Costs of providing the health, educational, social and economic services are likely to reap substantial benefits to society if this approach assists adolescents in avoiding long term welfare dependency.

There are programs already in existence that deal with this array of comprehensive services. The programs are few and scattered around the country—this bill would enable many more of these programs to begin. Some of the present outstanding programs are the New Futures School in Albuquerque, N. Mex.; the Johns Hopkins Center for School-Aged Mothers and Their Children in Baltimore; the Door in New York City; the Delaware adolescent pregnancy program; and Brookside Family Life Center in Jamaica Plain, Mass. They have shown that an array of services offered to the young mother can make a marked difference in her educational attainment, in her ability to cope with the serious task of child rearing, in reducing the repeat pregnancy rate and in reducing her chances of needing welfare assistance.

The bill places the primary emphasis on those pregnant adolescents and adolescent girls who are parents and are 17 years of age or younger. It is this group that constitutes the highest risk category with respect to negative health, social, educational, and economic consequences, and thus by considerably reducing the projected target population, limited dollars will be utilized to the maximum level of efficiency.

The bill requires that every grantee must provide, either in a single site setting or through a network of comprehensive services, certain essential "core" services to eligible adolescents. The committee heard compelling arguments for this requirement, and believes that all the core services defined in the bill are absolutely key components to a comprehensive strategy to address the total picture of adolescent pregnancy. This should not be construed, however, to be interpreted that these core services are the sole or exclusive services which are critical to pregnant adolescents or adolescent mothers. The committee recognizes that other educational, vocational, and social services play a crucial role in the overall outcome for these adolescents and thereby, believes that it would be useful if these were incorporated as part of a comprehensive network of services.

Secretary of the Department of Health, Education, and Welfare, Joseph A. Califano, Jr. testified on June 14, 1978 that this proposal is but part of a broader strategy of the administration to expand an array of services to adolescents, and most particularly to: First, prevent unwanted teenage pregnancy, and second, address the myriad, interrelated needs of pregnant adolescents, and adolescent parents. Secretary Califano explored for the committee some of the administration's other initiatives designed to focus on this problem. He cited the commitment of additional moneys in the fiscal year 1979 budget to expand the implementation of such existing programs as: family planning, medicaid, maternal and child health, community mental health centers, education and research, representing an increase of $148 million over current efforts.

I have heard much criticism of the failure of existing health, educational and social services systems to address the devastating consequences of adolescent pregnancy in a satisfactory, realistic and comprehensive manner. To date, Federal programs have been diffused and ill-suited causing a fragmented effort that has riddled the system with gaps between services and overall efficiency. Therefore, it is my view that the complexity of the problem demands a concentrated, target approach based on a national commitment to integrate health, educational, and social services in a concentrated, coordinated effort. This legislation represents a determined effort to begin to effect such a comprehensive program.

This bill will aid in the coordination and linkage of programs and services. It will work with Federal, State, and local programs. It will not duplicate existing services. The bill requires of the grantee that there be assurances that the program tie in with titles V, XIX, and XX of the Social Security Act; title X of the Public Health Service Act, and other public and private entities for funding and reimbursement. No funds received under this act should supplant any other Federal, State, or local program or other source of funding. No funds for grants made under the provisions of this act may be used for payment for the performance of an abortion.

The committee during markup added language requiring that grantees under the act inform pregnant adolescents receiving services of the availability of counseling on all options regarding her pregnancy. The intention of this special provision on counseling in no way requires a grantee to provide such counseling itself. An alternative proposal on counseling which would have made mandatory the providing of counseling on all options was rejected in an 8 to 6 rollcall vote of the committee. Instead, the bill simply requires all pregnant adolescents to be informed of the availability of counseling on all options regarding her pregnancy, and requires those grantees who are unable to directly provide this counseling to establish a referral agreement with another entity which can provide such counseling.

This bill, Mr. President, authorized $60 million for fiscal year 1979, $70 million for fiscal year 1980 and $80 million fiscal year 1981. It is part of the administration's fiscal year 1979 budget. It is a limited amount of money to deal with a serious problem. This bill will aid not only the young mother, but also the child she bears.

In conclusion, it has been repeatedly shown in testimony before the committee and in studies I have read that only coordinated programs such as provided by this bill can effectively deal with the entire issue of adolescent pregnancy. The pregnant adolescent needs not just adequate prenatal care, but she also needs educational and vocational counseling. She needs to understand herself better, and she needs to understand the serious responsibility she will be taking on as a parent. It has been shown that this is not an urban or a rural problem. It is not a problem of the rich or poor. It is a problem across the country. The pregnant daughter of a corporate execu-

tive faces many of the same problems as the pregnant child of a welfare recipient—problems such as how to obtain proper health care, whether or not to stay in school, how to raise the child if the pregnancy is carried to term, and a host of other problems. The Federal Government can best respond to this problem with a coordinated program such as would be administered under this amendment I now offer.

Therefore, Mr. President, I urge favorable consideration of this amendment to S. 2474.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. Mr. President——

Mr. KENNEDY. May I yield to my colleague, the Senator from Pennsylvania?

Mr. STAFFORD. Surely.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I rise in support of this amendment and this part of the bill. I believe this program provides a very necessary and important part of our health services today. I think the important aspect of this program, as I understand it, is that it fills a very critical gap for teenage pregnancies, particularly teenage girls who want to keep their child. I think that is a very significant role.

Back in the old days this was something the people did not talk about, it was hidden, or it was sort of put into the closet. This bill is an attempt to bring it out in front, to lay it on the line, to help that young mother adjust, and to help her raise her child, and to have a positive, constructive, creative force in the community. I think this is a very significant effort. I think it is an effort that has to be done.

This proposal, which is based on the experience that private groups have had in this area, is a very positive and constructive step. We can pretend this problem does not exist, or we can hope it will go away. We can do a lot of other things. But I think this is a positive and constructive answer to a difficult problem.

While it obviously is controversial, the subject is controversial. Yet just because it is controversial does not mean we cannot face up to it. It does not mean we cannot alleviate the problem or do something constructive about it. I think this is a reasonable proposal to form a positive answer to a very difficult problem in a very open, and direct way and I support it.

Mr. MAGNUSON. Will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield for a question.

Mr. MAGNUSON. I have been a longtime member of the board of directors of the Florence Crittenden Home. How would they fit into this program? Would they be eligible for some type of assistance?

There are others. There are many, such as the one in Albuquerque and others like that.

Mr. KENNEDY. The answer is affirmative. They would be eligible. It is one of the intentions of the legislation to provide that degree of flexibility for local communities to make judgments and determinations about on whom the best host organizations would be.

Mr. MAGNUSON. They are almost 100 percent private contributions. I think we review them over the years.

Mr. KENNEDY. That is right.

Mr. MAGNUSON. While I am on my feet, may I ask another question before we pass the bill? What is the price tag on the whole bill?

Mr. KENNEDY. It is a small $210 million, Mr. President.

Mr. MAGNUSON. For the whole bill?

Mr. KENNEDY. For this bill, yes.

Mr. MAGNUSON. It authorizes $210 million?

Mr. KENNEDY. That is correct. The $60 million is within the President's budget.

Mr. MAGNUSON. Another question. On page 15—I have a little criticism of the staff. In the beginning, there is no contents page where you can find the pages items are on. You have to look all through it.

Mr. KENNEDY. We like to make sure the Members read the whole thing.

Mr. MAGNUSON. Well, I got down to page 15. There, under the "Emergency Medical Services", of course, many of these programs are community-supported.

Mr. KENNEDY. The Senator is correct.

Mr. MAGNUSON. We had a pilot operation to begin with. It happened to be out in my hometown, Seattle, under Emergency Medical Services. Then Boston had one and they all have them now. These are very, very important.

Mr. KENNEDY. That is right.

Mr. MAGNUSON. They save scores of lives in every community. I understand that there will be a possibility, although I hope the local people will pick up most of the tab—which they will—but there is a possibility——

The PRESIDING OFFICER. The time of the proponents of the amendment has expired. The Senator from New York has 15 minutes remaining.

Mr. KENNEDY. I ask unanimous consent for an additional 5 minutes for us to conclude this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. They would benefit, although I hope the local people in my hometown—the cities have now picked it up and the fire department does it. It saves scores of lives. But we do provide that there be a network of self-supporting regional emergency medical service systems, thereby improving the accessibility to services and quality of care; implementation of a demonstration of regional burn care delivery system, and so on.

Does that only include burn care or does it include heart attacks and things like that?

Mr. KENNEDY. The Senator is correct. They are so included.

Mr. MAGNUSON. It would not be limited to burn care, to that type of burn care?

Mr. KENNEDY. Burn care is included.

Mr. MAGNUSON. So if you had a fire or something like that——

Mr. KENNEDY. That is right.

Mr. MAGNUSON. But as to other emergency medical services, they have training. What about training? Can we get some more people involved in this, in the training program?

Mr. KENNEDY. It is important to have adequately trained personnel. This is basically a continuation of that program.

Mr. MAGNUSON. That is good, because I think in my town, they estimated that, 1 month, there were about 100 people that got to the hospital quicker and did not die, in the heart cases. Burn cases are very important, too.

So there would be an opportunity—although I do not encourage the local governments to leave their fiscal responsibility for these things, they will have an opportunity to get some benefit out of this bill to coordinate things and do the things the Senator talks about—better methods, better techniques, and that sort of thing. Is that correct?

Mr. KENNEDY. The Senator is quite correct.

I appreciate the interest of the Senator in the EMS program. Our good friend from California (Mr. CRANSTON) has been a great leader in the development of that program. We have had it on the books now for more than 5 years. As the Senator well knows, the program in his home State, in Seattle, is one of the best in the Nation. It has been because of the success of that program that many others have been patterned after it. That is just a continuation, effectively, of past programs.

Mr. STAFFORD. Mr. President, I have an unprinted amendment which I send to the desk and ask for it to be stated and for its immediate consideration.

The PRESIDING OFFICER. Until the time on the current amendment has expired, this amendment will not be in order, except by unanimous consent.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the amendment I am offering to the amendment offered by Senator KENNEDY may, at this point, be in order.

Mr. JAVITS. Mr. President, will the Senator allow me to speak for 5 minutes before he does that and make his unanimous-consent request now?

Mr. STAFFORD. I shall withhold it.

Mr. JAVITS. No, the Senator should make it, but after I have consumed 5 minutes, the amendment may be in order.

Mr. STAFFORD. I shall withhold for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the amendment of the Senator will be in order after I have spoken for 5 minutes, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, we are going to have a little debate on Senator STAFFORD's amendment, which relates to a very sensitive aspect of this bill dealing with the nature of the services to be provided to teenagers. I am not going to get into that. I would rather let him open the subject, because of Senator KENNEDY'S construction of what took place

in the committee. It was, as I had worked out some language which I hoped would meet all of our problems, that, in a sense, I should stay with the committee on this particular issue. Let us see what Senator STAFFORD has to offer, then I shall deal with it.

For the moment, Mr. President, I want to declare myself for this amendment of Senator KENNEDY's on teenage pregnancies and emphasize its importance.

We have the problem very, very badly in my major city, which is New York City. It is true, unhappily, that it happens to be a problem facing heavily congested areas, where people are thrown together and where the influences which bring about these pregnancies are very, very prevalent and very severe.

Mr. President, it is a tremendous cause of family breakdown, deep hostility, and great unhappiness, and an effort to deal with the matter in an intelligent, enlightened, frank way is a refreshing breeze through a very dense fog, which produces real evil. There is nothing evil about having a child. Obviously, this is the most delightful privilege in the world. But in these circumstances, it becomes a very, very trying social manifestation.

Senator KENNEDY has addressed himself to it. I have joined him. I think we must not miss the forest for the trees. We shall have a little argument about how best to handle the actual practice under the amendment, but I wish to speak first.

But I wish to speak first, I am sure Senator STAFFORD will agree, to emphasize how important it is that this be done and that our feelings about a particular element of it should not in any way obscure the critical importance of facing the issue frankly.

Mr. President, Senator KENNEDY may already have been given these figures, but it is appalling that there are an estimated 1 million such teenage pregnancies every year and that about 400,000 are carried to term and 600,000 do not eventuate to term.

That is, again, an area in which great damage to the youngster carrying the child can result, both damage psychologically, blasting the whole future life, and damage physically if the child tampers with herself or other inexperienced hands seek to do the same thing.

Mr. President, I hope very much that however we may differ about the details of what service is to be rendered, we will insert this amendment into the bill as the logical time to do it, and I believe the sentiment of the Senate will be very strongly for it.

Mr. President, I yield back the remainder of my time.

UP AMENDMENT NO. 1960

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD), for himself and Senators CRANSTON, RIEGLE, PACKWOOD, and HUMPHREY, proposes an unprinted amendment numbered 1960:

On page 15, line 9 of UP amendment No. 1959, strike the language contained in Section 105(a)(22) and insert the following:

"(22) assurances that all pregnant adolescents receiving services will be provided counseling (either by an entity providing core services or through a referral agreement with such other entity which is conveniently accessible to such pregnant adolescent and which provides such counseling) on all options regarding her pregnancy."

Mr. STAFFORD. Mr. President, the amendment was so brief, I decided to allow the clerk to read all of it.

Mr. President, the statement of findings and purposes in S. 2910, which is Senator KENNEDY's pending amendment to the basic bill, recognizes that pregnancy among teenagers is a serious national problem and that congressional action is appropriate. That action, as mandated by the proposal by the Senator from Massachusetts, would improve, coordinate and expand community services that are, or should be, available to deal with this problem.

If this legislation is to achieve its purposes, however, these youngsters must be advised of the full range of options available to them. Without such counseling, they would not be able to make informed choices regarding their pregnancies and their futures.

I am deeply concerned because section 105(a)(22) of the bill as reported, and as proposed now in the amendment offered by the Senator from Massachusetts, merely requires that grantees advise adolescents that counseling is available. It does not insure adequate, even-handed counseling to those teenagers who wish it. That assurance is the least that should be required of a program funded by Federal money.

The shortcoming in S. 2910 as reported by the Committee on Human Resources, and as offered by my good friend from Massachusetts in the pending amendment, seriously undermines the effectiveness of the proposal. The amendment I offer for myself and my colleagues would correct this serious flaw.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STAFFORD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator from Vermont has stated what the intention of his particular amendment is.

I want to refer at this point in the debate to exactly the language which is included in the legislation. On page 28 of the bill, line 9, paragraph 22, it says:

Assurances that each pregnant adolescent receiving services will be informed of the availability of counseling (either by the entity providing core services or through a referral agreement with such other entity which provides such counseling) on all options regarding her pregnancy.

Mr. President, in the fashioning and shaping of the legislation, the assurance was added the pregnant adolescent will be informed of the availability of counseling either by the entity providing the core services or through a referral agreement.

Mr. President, these centers will be a source for treatment and care for these young adolescents where a range of supporting services will be available to assist the adolescent in bringing to term their baby.

That is really the purpose for these centers. There are a variety of different services that can be provided under other legislation.

But, nonetheless, this center will be able to refer others to provide any counseling that is desired.

But, certainly, the purpose and the function of these centers, as stated, is to provide the basic kind of supporting services so we can have a healthy expectant mother and infant.

Mr. President, I would oppose the amendment of the Senator from Vermont.

Mr. SCHWEIKER. Will the Senator yield?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from Vermont because I believe the proposed amendment will undermine the program under consideration. The program proposed by Senator KENNEDY and the administration and approved by the Human Resources Committee, is designed to provide services to pregnant teenagers and their families and to prevent repeat unwanted pregnancies through family planning.

The clear intent of the program is to provide a broad range of medical, educational, and social services to pregnant teenagers and their families in an effort to assure that the mother and child are healthy and the young parents receive the support necessary to develop into productive self-sufficient members of society. In order to achieve these ends the bill defines certain care and supplemental services. Among the core services is a requirement that the agency providing services with funds authorized by this act must advise that counseling is available upon request regarding all options regarding the pregnancy—including abortion.

The major difference between the provisions contained in the bill and the proposed amendment is the presumption regarding disposition of the pregnancy. Under the bill it is presumed that the individual seeking services wishes to carry the fetus to normal delivery unless the individual indicates a desire for abortion counseling.

If they do, there is a referral action here that is mandated by the legislation. Under the proposed amendment of the Senator from Vermont, it is assumed that the pregnant girl is undecided and therefore should be given abortion counseling.

My opposition to abortion is well known and I would prefer a program with no abortion counseling. However, I am prepared to support a bill which provides referral for counseling upon request but does not place a mandate upon the recipient agency to provide unso-

licited abortion counseling. We should not be creating new federally funded agencies who will serve as advocates for abortion. What is needed, and what I support is a program for pregnant teenagers who have basically already determined to carry the child to term, which provides the needed medical care, educational, family, and social services counseling and, where appropriate, adoption counseling, so that the recipients are able to develop into healthy and productive citizens.

There already are in existence numerous counseling services authorized by titles X of the Public Health Service Act receiving Federal funds, which provide abortion counseling services. That is not the purpose of this bill. The intent of this bill was to provide a different program, with different goals and objectives. The proposed amendment, if adopted, would substantially alter the fundamental orientation of the program. I therefore strongly oppose the proposed amendment, and I urge the Senate to approve the bill as reported from the Human Resources Committee.

Mr. JAVITS. Mr. President, do I still have time remaining? I think I have 5 minutes.

The PRESIDING OFFICER. The Senator from New York has 10 minutes.

Mr. JAVITS. I know that the Senator from Vermont has time, but I yield 5 minutes to the Senator from Michigan.

Mr. RIEGLE. I might not use all the time. I thank the Senator for yielding.

Mr. President, I strongly support what we are endeavoring to do in terms of the basic thrust of the bill. I am a cosponsor and feel very strongly about it. However, at the same time, I think this amendment is a vital amendment.

Counseling is more than just an abortion issue. I believe it would be a serious error for it to be narrowed down to that single question, because it is bigger than that. I think that teenagers who find themselves pregnant are in a kind of emotional chaos, and they need understanding ears and wise, experienced people to talk to and to think with and to look at the various options and alternatives and issues that are before them.

If there is a notion that telling teenagers in that situation they can take a bus across town or that they can find a facility 5 or 6 miles away which provides counseling, and that that is what they should do, that is not enough. It has to be much more specific than that, and it would be irresponsible if it were not more specific than that. We should make sure there is a counseling component, if not in the facility itself, for reasons of objection because of conscience or whatever, then through some contract relationship. That should be the minimum we do, to make sure that these young people—youngsters, actually—have an opportunity to think about the broad scope of what they face. To narrow it down in any way by whatever feelings somebody might have is wrong. It is wrong in the sense that it borders on not being fully responsible.

So I support the amendment of the Senator from Vermont, and I support the comments of the Senator from New York.

It is essential that we lay out the whole issue and see that competent professionals who are fairminded and balanced in their views can address these profound questions with young people and help them reach a judgment that makes sense in their lives.

I yield back to the Senator from New York whatever time I have not used.

Mr. JAVITS. Mr. President, this is a very troublesome problem in the country, and it was a very troublesome problem in the committee, and I will try to counsel with the Senate about it.

It will be noted that the committee divided 8 to 6 on this issue, and it was defeated in the committee.

I doubt, from what took place in the committee and what is contained in the report, that Senator SCHWEIKER's interpretation of what this provision in the bill means is actually the right interpretation. If he were right, I would thunderously support this amendment. My effort will be to ascertain the situation as between the author of the bill, Senator KENNEDY, and Senator STAFFORD, a subject to which I addressed myself in the committee as well.

What I was trying to accomplish—and I am going to speak in the first person singular—was to say, "OK, if this money goes to agencies which are against abortion, then those agencies at least should inform the youngster who is involved that there is another option—to wit, abortion." But if they cannot deal with it, for religious or other reasons, if they want no part of it, they have arranged with a referral service, so that she can go there and they will advise her on that issue. But they are going to have no part of it; they are against it. That is what I thought we were doing—that a child who came to the agency which was supported with Federal funds would have the opportunity, therefore, to learn that there was another alternative, entirely within the law, in terms of the Supreme Court's decision.

So I cannot accept the interpretation of Senator SCHWEIKER as to what this says. I do not believe it says that only teenagers who have determined to carry the child to term are going to be dealt with in these agencies with Federal support. If so, it is unconstitutional and wrong, morally and legally. I do not believe the language of the bill even says that or was so intended.

Mr. President, under those circumstances, what I had hoped was that the language would remain as it is, which is adequate for the purpose, provided that we all interpreted it the same way.

I was the author, it may be recalled, of the fact that to receive Federal funds, a hospital that had scruples against this—or doctors or nurses—did not have to participate in an abortion. Of course not. But that did not mean that the opportunity was not available where people did not feel that way, and I do not want to foreclose it here.

The only real addition that Senator STAFFORD'S amendment makes—again, that is susceptible of interpretation—in the language is that the referral which is called for by the section of the amendment as written right now, through a referral agreement with such other entity which provides such counseling, also shall include the convenient accessibility—that is all the Stafford amendment adds—of that referral counseling.

Why is that important? It is important because these are children we are talking about. Many of these pregnancies occur in young girls 13 years of age. The bill itself limits it to 17 years of age.

If such a child is caught with a pregnancy, she is in a panic, for social reasons, for peer reasons, for family reasons, and she should have the social benefit of whatever society allows her. Probably, it is even difficult for her to make up her mind as to what to do, but that we cannot do anything about. She got herself into, and she has to get herself out of it; and we are not going to put some guardian over her to tell her what to do. I agree with that. But at least let us tell her everything that is possible for her.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, will the Senator yield me time?

Mr. STAFFORD. Mr. President, I yield whatever time I have remaining on the amendment to the distinguished Senator from New York.

Mr. JAVITS. So I think it boils down to this, Mr. President: If the construction of this amendment is as Senator SCHWEIKER construes it, I am decidedly for this amendment, and I hope the Senate will vote for it. If, on the other hand, the amendment is going to be read by the author of the bill as allowing counseling of all options or, where there are moral scruples to that, the bill accommodates that by providing for a referral agreement for such counseling, and that that referral agreement shall be with someone who is convenient to the person being advised, then, so far as I am concerned, I do not need the amendment. But that is very important, and that is what I suspected.

Senator STAFFORD asked me, frankly, "Will you speak for this amendment?" My feeling was, yes, if it is needed. Now Senator SCHWEIKER says it is not needed, because children who come to the counseling service have determined already that they are going to carry their child to term, but they have had no service. What do we need the bill for, if they are going to make that kind of decision? Forget it. Why spend money?

You need the bill precisely because they are in a panic. They have not made any decision. They are really not capable of it without at least some opportunity to survey the options, to calm down, to see what it is really all about. That is the issue, as I see it, Mr. President.

I cannot make Senator KENNEDY tell us how he feels about it. But I do hope that he will help us all by clarifying this what is now a very sharp issue.

I wish to repeat, finally, that I am not trying to decide the abortion issue here and I realize that there may be groups receiving these funds who are against it. OK. Just so long as the option is available, at least the child is in some position to know about it. I do not want to cut her off from that, and if it is

necessary to adopt this amendment in order to assure that, then I must be for the amendment.

Mr. KENNEDY. Mr. President, I listened with great interest both to the Senator from Pennsylvania and the Senator from New York.

It is my own sense that those who will be coming to this center will have the type of attitude as described by the Senator from Pennsylvania, but it is very clear that the language that has been included in the legislation provides that each adolescent will be told of the availability of counseling. This should be in a convenient setting. I think otherwise the language loses its meaning

As the Senator understands, this is obviously an enormously difficult balance between trying to insure that individuals are going to be made aware of the various alternatives and yet also not be in a situation where the Federal Government is involved in interfering or persuading a particular judgment or a particular choice.

But the Senator is quite correct when he stated that in the language it is very clear that each pregnant adolescent will be informed of the availability of counseling.

I think implicit in that is that such counseling is going to be available in a convenient manner.

Mrs. HUMPHREY. Mr. President, will the Senator yield?

Mr. KENNEDY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 9 minutes remaining.

Mr. KENNEDY. I yield 3 minutes to the Senator from Minnesota.

Mrs. HUMPHREY. I thank the Senator from Massachusetts.

I say that I support Senator STAFFORD's amendment because I feel that teenagers and their parents if possible should have the opportunity to have counseling immediately available to them so they might make the right choice possible on this important decision.

This is a traumatic time in their young lives and they should have special benefits available that our society provides.

Such an amendment does not mean they will have an abortion. They often choose to keep their babies but they should have the means to make a wise decision.

I am at the stage in my life where I have teenage granddaughters, and to me this is a very important time in their lives, and I would want them to be able to make a right choice, if possible, make the right decision. If they should come to me and want to have my advice I would take them directly where this kind of counseling was advisable and available because I feel it is very, very important that they get the right counseling and know the choices that are available.

I support Senator STAFFORD's amendment. I thank the Chair.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield for a couple questions and a couple comments?

Mr. KENNEDY. I yield.

Mr. BUMPERS. Under the committee bill it is anticipated that a pregnant adolescent going into one of these centers would be advised that certain counseling is available to her.

Mr. KENNEDY. The Senator is correct.

Mr. BUMPERS. In other words, they will tell her counseling on abortion, counseling on delivery, and counseling on the possibility of putting a child out for adoption. All of those are options she can have counseling on. Is that correct?

Mr. KENNEDY. Yes, either in that center or she can be referred to another center where she could get counseling.

Mr. BUMPERS. That answers my next question.

My next question was could that center offer that counseling after advising her of the availability of the kinds of counseling for which she is entitled?

Mr. KENNEDY. The center could.

Mr. BUMPERS. Yes.

In light of that, Mr. President, I simply say that this is a really very difficult issue to me. It is a very diffcult issue, but I tend to come down on the side of the committee, and I know that this body, as the committee was, is going to be pretty much split. But I think that the fact that an adolescent pregnant teenager is told that certain services are available to her without the imposition of any particular ideology on the subject is the correct one. I intend to support the committee on this. I know the volatility of it. I know the emotional impact of these things.

I mentioned earlier this morning about visiting the New Future School for pregnant teenagers in Albuqueruqe, N. Mex. I say to Senator DOMENICI that it was one of the most edifying experiences I ever had. I never knew there were such schools. I had no interest in it until Betty drug me over there.

I found, of course, teenage pregnancy is an epidemic in this country, as I said earlier this morning, a million a year. So this bill goes a long way toward alleviating the plight of those girls. We all have a tendency to think in this "permissive" time that everyone is well educated and sophisticated in this area, and the truth of the matter is it is not much different than it was when I was a teenager.

In that school, I was advised that of the girls who go to that school, 60 percent of them choose to keep the child and raise it themselves; 40 percent of them elect to put the child out for adoption. But I was told that in the Albuquerque school system there are three abortions for every child who goes to that center. And I suspect that a big reason for that is that those girls are not knowledgeable, they are not aware of the fact that that school is available to them and that such services exist.

It is a fantastic program, and I am pleased that the bill we are debating today has funds in it for this purpose.

I think the committee has taken the more rational approach in the counseling of these children, and I will support the committee.

Mr. KENNEDY. Mr. President, unless there is someone else who wishes to speak, I shall make a motion.

Mr. STAFFORD. Was the Senator going to yield back his time?

Mr. KENNEDY. I was going to yield back the time, and I was going to make a motion to table. I am glad to withold that if the Senator from Vermont wants to make any further comments.

Mr. STAFFORD. The Senator from Vermont, of course, prefers to have an up and down vote on this amendment to a tabling motion, although the Senator from Vermont realizes that if the Senator from Massachusetts wants to move to table he can do so.

I am prepared to yield back the time, I might say to the distinguished Senator.

Mr. DOMENICI. Mr. President, will the Senator yield 2 minutes?

Mr. KENNEDY. I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am pleased today to lend my support to an amendment to S. 2474 which, in my opinion, represents a comprehensive and well-thought-out attempt to deal with the problems of adolescent pregnancy. The services authorized by this legislation are sorely needed to help pregnant teenagers and those teenagers at risk of unwanted pregnancy to cope with the numerous economic and social problems they encounter.

I know my colleagues share my alarm about the shocking statistics on teenage pregnancy. According to HEW Secretary Joseph Califano, over 1 million adolescents become pregnant each year; 600,000 carry their pregnancies to term. Some other sobering notes:

Eight out of ten women who become mothers by the age of 17 never complete high school.

The annual earnings of a woman who has her first child at age 15 or below are roughly 30 percent less than the earnings of a woman who has her first child at 19 or 20.

In 1975, about half of all mothers in AFDC families were women who had their first child during adolescence; 60 percent of all children born out of wedlock end up on the welfare rolls.

We must think long and hard about the implications of these statistics for the young mother, her child, and for our society as a whole.

The legislation we are considering today is a two-pronged attack on the problems of teenage pregnancy. The amendment provides counseling services, educational programs and family planning options for young women at high risk of unwanted pregnancy. Furthermore, for those adolescent women who choose to raise their unplanned children, the legislation will improve their chances of completing schooling or obtaining employment and becoming independent contributors to family and community life.

The future for thousands of unmarried teenage mothers is a dismal one indeed. These mothers and their children face a variety of social and economic problems, among them unemployment, poverty, family breakdown, psychological stress and dependency on public agencies. The services authorized by this legislation will insure that these unfortunate young women have a chance at financial

stability and enhanced social acceptance. The core and supplemental services envisioned by the amendment include the following: pregnancy testing, maternity counseling and referral, family planning services, primary and preventive health services, nutrition counseling, referral for screening and treatment of venereal disease and educational and vocational services. These services will be targeted toward areas with high incidences of teenage pregnancy, with special consideration given to the needs of pregnant adolescents in rural areas.

I would like to pose a challenge to Secretary Califano and to those HEW personnel who will administer the teenage pregnancy provisions once they are enacted. It is expected that the various services authorized by this legislation will reach between 200,000 to 500,000 young women. I certainly would like to see these programs administered with as little redtape and bureaucratic regulation as possible. Secretary Califano has indicated his commitment to reducing regulatory redtape, and I know he will want to be sure that this program is not hampered by the bureaucratic interference which characterizes so many of our present social services programs.

I want to thank and commend the members of the Senate Human Resources Committee for their fine work on the teenage pregnancy amendment and for their efforts to bring the measure to the floor before the close of the 95th Congress. I wholeheartedly support the concepts and goals contained in the amendment and look forward to its favorable consideration by my Senate colleagues.

Let me also say I am so pleased that the Senator from Arkansas commented on the floor about the school in Albuquerque. I know the director of the school has been here and has testified and helped mold this bill, and I commend her highly for her efforts and assistance.

I think what we are trying to do basically in the bill is to help those teenage girls who are pregnant and who have made a decision to carry the child. I think the committee made the correct decision by saying in the bill that they have to be informed about the availability of counseling as another option.

But now to say that within this purpose we have to also provide the counseling, provide the option, it appears to me it changes considerably the thrust of this bill. The intention of this bill was to help, to cause to come into existence around this country more of those schools of the type that the Senator saw in Albuquerque.

I think the committee did a marvelous job in leaving the flexibility at the local level for them to be run properly, so that these programs will be without bureaucratic redtape.

I support the committee in its thrust to see if we can do that. I do hope the committee's language remains intact and that we not amend it so as to make it more than what it was originally intended to do.

The other kinds of services are available from other sources. Certainly we are not precluding those other options. What we are merely saying under this bill, which was intended to help the teenage mother, the young woman who wanted to carry the child, is that we will provide all the services in this particular bill. The other services of counseling on the options are available elsewhere in our cities and under other programs.

I certainly hope the amendment will either be tabled or defeated.

Mr. CRANSTON. Mr. President, I support the amendment offered by Mr. STAFFORD.

Mr. President, as a cosponsor of this amendment, I want to make it very clear that I am by no means trying to promote abortion. I recognize that to many people the term "counseling" is equated with "abortion counseling." I certainly do not see counseling as "abortion counseling." I see it as a fair presentation of all options, including the, to me, far more preferable options of giving birth to a healthy child and parenthood or adoption, along with first-rate prenatal care and supportive counseling.

Mr. President, teenage pregnancy is one of the major social and health problems affecting adolescents. In the past few years, the age of teenagers facing pregnancy has become tragically young. Each year some 30,000 girls younger than 15 become pregnant, and birth rates are rising among girls younger than 14.

These adolescents are barely out of childhood themselves. Their knowledge of their own sexuality in many cases is very limited. Their capacities to comprehend the responsibilities of parenthood and the importance of good prenatal care and good health practices during the prenatal period is often minimal. For many of these young adolescents it takes a real act of courage to admit the possibility of pregnancy and a great deal of initiative to seek confirmation of that pregnancy.

Mr. President, when these young girls seek that confirmation from a program supported with Federal funds under the proposed legislation, I feel it is critical that the fears and uncertainties of the teenager are recognized and responded to in a compassionate, objective, and unbiased manner. That is the key—neutrality; it is her decision to make and the Government's responsibility is to see to it that objective information on her options is provided in a federally assisted project. Where the fact of pregnancy is established, I believe that sound public policy demands that all reasonable steps be taken by a Federal grantee to see to it that a teenager is provided—although not necessarily by the grantee directly in all cases—full counseling on the meaning of that pregnancy and of the benefits and the responsibilities of motherhood. The teenager should be advised in a neutral and professional manner of all options available to her, certainly including adoption, prenatal health care, and educational counseling, among others. The grantee must have and fulfill an affirmative obligation to try to assure that this advice and counseling is provided on all the options.

Only through a full understanding of all the options available to her can the teenager make a full and informed decision. I firmly believe that, on a matter of such great importance, that decision must be made by the teenager, not by others on her behalf.

Mr. President, I am deeply concerned by the provisions of section 105(a)(22) of the amendment, which merely requires Federal grantees under the proposed act to "advise" pregnant adolescents of the "availability" of counseling on all options regarding the disposition of her pregnancy, furnished either by the grantee or through a referral agreement with another entity which provides such counseling.

I believe this provision falls far short of satisfying the public responsibility to try to assure that a pregnant teenager is provided the evenhanded counseling she needs at the time her pregnancy is confirmed. As I indicated earlier, Mr. President, the teenager's admission of a possible pregnancy and her courage in seeking confirmation of that pregnancy required a major initiative on her part. She needs supportive services immediately and a sensitive and objective discussion of her situation and of her choices. To require her to take still further initiative and bear the responsibility for seeking out another agency and requesting such counseling may well cause her to delay seeking early prenatal care or making a timely decision. I cannot accept the notion that the project has vindicated its responsibilities by providing her a "transfer" and a roadmap.

I believe that this shortcoming in the reported bill seriously undermines the effectiveness of the legislation, and urge the Members of the Senate to support the amendment offered by the distinguished Senator from Vermont (Mr. STAFFORD).

Mr. President, as chairman of the Child and Human Development Subcommittee on the Senate Human Resources Committee, I have developed S. 2522, Voluntary Family Planning Services, Population Research and Sudden Infant Death Syndrome Amendments of 1978, legislation now passed by the Senate, which deals with the critical teenage pregnancy issue by authorizing sizable increases in the level of funds available for voluntary family planning services supported by title X of the Public Health Service Act and targeting much of that increase to reach the teenage population. I would like to point out, Mr. President, that these title X funds may not be used in a program where abortion is a method of family planning but are utilized primarily for preventive family planning services and for information and education programs that can help make the teenager aware of the responsibility that accompanies sexual activity.

However, I recognize that, where a teenager does become pregnant, Mr. President, she needs special care and services which are nonexistent in many communities, or are badly fragmented where they do exist. I have worked in the development of S. 2910, the proposed Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978, to make sure that communities will have sufficient resources as well as the ability to coordinate these resources in a way that will provide a full range of medical, social, and educational services to the

pregnant teenager so that she and her child will have the greatest opportunity for self-realization and happy, healthy lives.

Mr. President, it is essential that programs supported under S. 2190 make maximum use of other appropriate Federal, State, and local programs, and the resources available under those programs, to insure that services and help are brought to the adolescent as swiftly and effectively as possible.

Mr. President, the bill as reported from committee makes every effort to avoid duplication and waste in the administration of the adolescent pregnancy prevention and care program.

The committee bill includes my amendment specifying that Federal policies and programs providing services related to the prevention of initial and repeat adolescent pregnancies must be coordinated in a way "consistent with provisions of other Federal law respecting coordination of such policies and programs." That language was intended to include section 4 of Public Law 91-572 and the revised provisions incorporated in title X by S. 2522.

This provision would provide for the appropriate coordination of the administration of programs authorized by S. 2910 with the administration of other Federal laws such as title X of the Public Health Service Act, and titles V, XIX, and XX of the Social Security Act where those programs provide pregnancy-related services to adolescents.

Within HEW, Mr. President, a mechanism already exists for this coordination. That mechanism was established by Public Law 91-572, the Family Planning Services and Population Research Act of 1970, which established an Office of Population Affairs in HEW, to be directed by a Deputy Assistant Secretary for Population Affairs (DASPA). Section 4 of that law states:

FUNCTIONS OF THE DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 4. The Secretary shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer all Federal laws for which the Secretary has administrative responsibility and which provide for or authorize the making of grants or contracts related to population research and family planning programs;

(2) to administer and be responsible for all population and family planning research carried on directly by the Department of Health, Education, and Welfare or supported by the Department through grants to, or contracts with, entities and individuals;

(3) to act as a clearinghouse for information pertaining to domestic and international population research and family planning programs for use by all interested persons and public and private entities;

(4) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population research and family planning;

(5) to provide or support training for necessary manpower for domestic programs of population research and family planning programs of service and research; and

(6) to coordinate and be responsible for the evaluation of the other Department of Health, Education, and Welfare programs related to population research and family planning and to make periodic recommendations to the Secretary.

Mr. President, S. 2522, legislation extending title X authorities, which passed the Senate last June, modifies and clarifies those functions as follows:

(b) The Secretary shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer, directly through the Office of Population Affairs, all Federal laws for which the Secretary has administrative responsibility and which provide for or authorize the making of grants or contracts related to family planning programs;

(2) to be responsible for general supervision of and overall policy formulation with respect to all population and family planning research carried on or supported by the Department of Health, Education, and Welfare pursuant to this part;

(3) to provide for the coordinated operation of clearinghouse activities for information pertaining to domestic and international family planning programs and population research for use by all interested persons and public and private entities;

(4) to coordinate the support of training carried out within the Department of Health, Education, and Welfare for necessary personnel for domestic family planning programs, and for family planning and population research activities;

(5)(A) to coordinate and, through the Office of Population Affairs, be responsible for the evaluation of the other Department of Health, Education, and Welfare programs (including activities relating to the development and dissemination of information and educational materials) related to family planning (including advising the Secretary and the Assistant Secretary for Health on the adequacy of the data systems with respect to family planning activities in such programs) and population research, and to make periodic recommendations to the Secretary regarding such programs and systems; (B) to consult with the Commissioner of the Food and Drug Administration on all matters related to the evaluation and regulation of drugs and devices to assist in fertility management; and (C) to advise the Secretary regarding appropriate relationships between projects and activities supported under this part and other health care programs administered by the Department and the extent to which such programs are carried out consistent with the purposes of this part; and

(6) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to family planning programs and population research.

As the members of the Senate know, these provisions were derived generally from the existing law. The changes made in these responsibilities were:

S. 2522, the Senate-passed bill, clarifies the duties of the Deputy Assistant Secretary for Population Affairs with respect to family planning and population research programs. Whereas current law directs the Secretary to utilize that official to administer all departmental programs which authorize grants or contracts related to population research and family planning programs, S. 2522 provides that the Deputy Assistant Secretary shall be responsible for general supervision and overall policy formulation of population and family planning research.

The Senate-passed bill calls on the DASPA to provide for the coordinated operation of clearinghouse activities, rather than to "act" as a clearinghouse.

The Senate-passed bill provides for the DASPA to coordinate personnel training rather than "provide" it.

The Senate-passed bill alters current language with respect to the coordination and evaluation responsibilities of the DASPA with other HEW programs related to family planning by specifying the types of activities intended to be covered, such as information and educational activities, and specifies that the DASPA is to advise the Secretary regarding appropriate relationships between title X projects and other health care programs related to family planning that are administered by the Department. A comparison with existing law will show that S. 2522 calls for more realistic activities by the DASPA than existing law (section 4 of P.L. 91-572). But existing law is now very broad in clauses (1) and (6)—as described earlier—and certainly requires a major role for the DASPA in coordination of responsibilities if not administration.

The importance of these relationships were discussed specifically during hearings on title X extension legislation with regard to the need for coordination between title X programs, and programs carried out under title XIX and XX of the Social Security Act, in order to insure that policies followed in each of those programs are "conducive to the most efficient administration of the programs." Witnesses stressed particularly the need for teenagers to overcome the bureaucratic barriers blocking their access to services provided under those programs, and the committee report accompanying S. 2522 stated:

Efforts to remove such barriers should be undertaken by the DASPA as a priority matter in connection with the coordinative aspects of that Office.

Mr. President, health care for women in their adolescent years for the most part consists of health care related to reproductive health. Family planning services and pregnancy related services cannot be separated, because of their interrelationship insofar as the health prospects of the woman and her children are concerned.

Since S. 2910 programs are pregnancy related, it seems most appropriate that the responsibility for coordinating program implementation of S. 2910 and related programs would be placed in the DASPA.

That office has coordinating responsibilities with the title XX, title V, and title XIX programs of the Social Security Act. It has coordinating relationships with the Office of Education with respect to population education programs. It has coordinating and supervisory responsibilities with PHS Act programs such as migrant health centers and neighborhood health centers with respect to family planning activities.

Thus, it seems logical for the DASPA to be designated as the official with lead responsibility for coordinating the adolescent pregnancy programs developed under S. 2910 with other pertinent programs throughout HEW, and other Federal agencies.

Mr. President, I had written the Secretary of HEW, Secretary Califano, expressing my view of the desirability of having the DASPA play a major role in the administration and implementation of the adolescent pregnancy initiative. I was delighted with the enthusiastic affirmative response I received from Secretary Califano and ask unanimous con-

sent, Mr. President, that our exchange of letters be printed in the RECORD at the conclusion of my remarks.

JULY 18, 1978.

Hon. JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR JOE: As I indicated during your appearance before the Human Resources Committee's June 14 hearing on S. 2910, the proposed "Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978", I believe the Deputy Assistant Secretary for Population Affairs (DASPA) must have a major role in the administration and implementation of HEW's adolescent pregnancy initiative.

Incidentally, I'd like to express my enthusiasm for your appointment of Irv Cushner to this position. He is an outstanding individual in the field who, I am confident, will carry out the duties of that office in an exceptional manner.

The press release announcing his appointment states he "would also advise the Assistant Secretary for Health in the development and implementation of programs under the proposed Adolescent Health Services and Pregnancy Prevention Act." I believe that is a promising step towards my view of the role the DASPA should play. However, I am convinced his role should be far more than an advisory one. I can't think of a policy area more directly within the concern of the DASPA than teenage pregnancy. As you indicated in your testimony, the health consequences of pregnancy in the teenage years when a young woman is still physically maturing can have a long-lasting impact on the reproductive health of the woman. S. 2910 proposes to alleviate these consequences through the prenatal and postnatal care programs it would support.

Leaders in the field of obstetrics and gynecology now recognize that care of a woman's reproductive health cannot be limited to health care alone, but that the physician and his or her staff must also address the woman's social and psychological needs. Thus, the organizational structure I suggest would follow the pattern recommended in the medical community.

In my view, the DASPA is the logical individual to develop guidelines that would ensure that these programs will be appropriate for adolescents and will safeguard their reproductive health.

The DASPA is also the logical individual to ensure that existing H.E.W. authorities related to reproductive health, such as maternal and child health, Medicaid, and title X family planning programs, are utilized to the maximum extent by programs developed under S. 2910.

His responsibility for general supervision and overall policy formulation with respect to population research and family planning research gives him the opportunity to ensure that those research programs place appropriate emphasis on reproductive research pertinent to adolescents, as well as on social and behavioral research that will lead to greater understanding of adolescent pregnancy and its consequences for the mother and the child. Indeed, S. 2522, the "Voluntary Family Planning Services, Population Research, and Sudden Infant Death Syndrome Amendments of 1978", as passed by the Senate, and the accompanying Committee report place a special emphasis on the development of contraceptives suitable for adolescents as well as social and behavioral research related to adolescent pregnancy.

Since the entry of the adolescent into the programs supported by S. 2910 would likely be on a pregnancy-related issue and for the most part will be through a reproductive health center such as a family planning clinic, a teenage pregnancy center, or a prenatal clinic, it seems most appropriate that the responsibility for administering the program should be based in the office of the Assistant Secretary for Health, and specifically in the office of the DASPA.

The many facets of the adolescent pregnancy issue call for a coordination of H.E.W. education, child care, and welfare as well as reproductive health programs.

I recognize that Dr. Nix is an outstanding individual with a great deal of experience in dealing with the problems associated with teenage pregnancy. The health, social, and educational services that are essential to the pregnant adolescent and which must be provided for in programs established under the authorities of S. 2910 can be linked to the administration of the program through Dr. Nix, as part of Dr. Cushner's office, by working with other H.E.W. agencies in establishing coordinating mechanisms, just as the reproductive health programs in the communities will establish linkages with social and educational services.

It would seem to me to be a most efficient use of Department resources if Dr. Nix were to coordinate these programs in close consultation with an advisory group composed of representatives of the Commissioner of Education, the Assistant Secretary for Human Development, and the Assistant Secretary for Health, and report to the Deputy Assistant Secretary for Population Affairs.

I wanted to bring these thoughts to your attention, Joe, since I believe the direct involvement of the DASPA in the direction of the adolescent pregnancy initiative will be crucial to its success.

I would appreciate your reaction to this suggestion so that we can have the Department's views during discussion of S. 2910 in Committee.

In addition, there are questions I did not ask you during your appearance before the Committee to which I would appreciate your written response. Your response will, of course, be included in the hearing record. These questions are:

1. What criteria does the Department intend to use to distribute the $60 million authorized to be appropriated in S. 2910?

2. Although the incidence of venereal disease among adolescents is extraordinarily high, S. 2910, as introduced, does not specify screening or counseling with respect to venereal disease among the services to be provided for the priorities to be considered. Would the Department favor amending section 103, Priorities, Amounts, and Duration of Grants, and section 104, Requirements for Grant Approval, to specify screening, counseling, and treatment for venereal diseases as among the services to be made available to pregnant teenagers?

With very good wish,
Cordially,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR ALAN: Thank you for your letter and your enthusiasm about the appointment of Dr. Irv Cushner as Deputy Assistant Secretary for Population Affairs (DASPA). I, too, am delighted that Dr. Cushner accepted the appointment. He brings to the Office a breadth of experience and interest in the area of reproductive health which is both needed in this Department and, I can assure you, will be fully employed

I completely agree with you that the DASPA must play a strong and integral role in our adolescent pregnancy initiative. Dr. Cushner also agrees and accepted the position with the understanding that he would be closely involved with that initiative.

I'd like to explain that a number of options were considered in our decision as to where administratively we should locate the adolescent pregnancy program. Placing it under the DASPA was certainly one of the logical choices. However, with the advice of a number of people both within and outside the Department, I elected at least at the outset to place it as a freestanding initiative reporting directly to the Assistant Secretary for Health (ASH). Making that decision was quite difficult because I think it is important that the Department administratively signal that the location of the Office in ASH does not indicate an exclusive or even primary health emphasis. My major concern was in ensuring Departmentwide coordination in the administration of this program. Development of program policies, the grant review process, and program and project evaluation must involve the substantive participation of the Office of the Assistant Secretary for Human Development Services and the Education Division of the Department. I believe that this can be best accomplished at least initially, by an individual coordinator reporting directly to the Assistant Secretary for Health.

I think it is important to maintain the flexibility to alter the decision over the longer run, and I appreciate your counsel in this area.

Your letter also raises two specific questions about the legislation. With regard to the criteria the Department intends to use to distribute the $60 million authorized to be appropriated in S. 2910, Section 103(a) of the legislation sets forth these priorities:

High incidence of adolescent pregnancy;

High level of poverty with low level of pregnancy related services (including prevention);

Ability to develop a comprehensive service delivery system;

Utilization of existing programs as an operations base;

Maximum use of other funding sources;

Degree of widespread community commitment to the project as indicated through non-federal share and involvement in planning and implementation.

Projects will be ranked according to how well they meet these priorities.

The Department favors adding venereal disease screening, counseling and treatment as one of the possible services to be provided to teenagers. The legislation as written does not directly exclude these services and we assume that the wording of the legislation in Section 102(b) would allow such services. We are concerned that there not be confusion since, as you know, we view appropriate venereal disease screening, counseling and treatment referral as an essential component of family planning and primary and preventive health services. If you believe it is necessary to be more explicit in the bill, we would favor permissive language. Since we have not suggested mandating any set of services, we would not favor a strict requirement that all grantees must provide VD-related services.

I appreciate your taking the time to bring these concerns and questions to my attention. I would be grateful for your support in assuring enactment of this legislation.

Sincerely,

HALE CHAMPION,
(For Joseph A. Califano, Jr.).

Mr. President, I urge approval of the committee bill.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. STAFFORD. I yield back the remainder of my time.

Mr. KENNEDY. I move to table the amendment of the Senator from Vermont. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Vermont. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Georgia (Mr. NUNN), the Senator from Montana (Mr. HATFIELD), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER), are necessarily absent.

The result was announced—yeas 66, nays 19, as follows:

[Rollcall Vote No. 428 Leg.]

YEAS—66

Abourezk	Eagleton	Morgan
Baker	Eastland	Moynihan
Bartlett	Ford	Muskie
Bayh	Garn	Nelson
Bellmon	Glenn	Pell
Bentsen	Goldwater	Percy
Biden	Hansen	Proxmire
Bumpers	Hart	Randolph
Burdick	Hatch	Roth
Byrd, Harry F., Jr.	Hayakawa	Sarbanes
Byrd, Robert C.	Heinz	Sasser
Cannon	Helms	Schweiker
Chiles	Hollings	Scott
Church	Huddleston	Stennis
Clark	Inouye	Stevens
Culver	Jackson	Stone
Curtis	Kennedy	Talmadge
Danforth	Long	Thurmond
DeConcini	Lugar	Wallop
Dole	Magnuson	Young
Domenici	Matsunaga	Zorinsky
Durkin	McGovern	
	Metzenbaum	

NAYS—19

Brooke	Javits	Sparkman
Case	Leahy	Stafford
Chafee	Mathias	Stevenson
Cranston	Packwood	Weicker
Gravel	Ribicoff	Williams
Hodges	Riegle	
Humphrey	Schmitt	

NOT VOTING—15

Allen	Hatfield, Paul G.	McIntyre
Anderson	Hathaway	Melcher
Griffin	Johnston	Nunn
Haskell	Laxalt	Pearson
Hatfield, Mark O.	McClure	Tower

So the motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Hazel Elbert, of my staff, have the privilege of the floor at all stages of the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1961

(Purpose: To require parental notification in certain cases where contraceptives are prescribed)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1961 to the Kennedy amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 8, before the semicolon at the end of section 606(a)(21) insert the following: ", and shall include provisions which insure that no program or project which directly or indirectly receives funds under this title may prescribe or dispense any prescription contraceptive drug or device to an unemancipated child under the age of 16 unless the parent or guardian of this child is notified of the intent to prescribe or dispense such drugs or devices".

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, I ask unanimous consent that Diane Lifsey of my staff have the privilege of the floor during the consideration of this measure and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, it is my understanding that the distinguished managers of this bill are prepared to accept this amendment. Therefore, I will not consume much of the Senate's time.

Briefly said, this amendment provides that if prescription contraceptive drugs or devices are provided to an unemancipated child under the age of 16, the parent or guardian of the child will be notified.

Recently, a Federal court held that distributing prescriptive contraceptives to minor, unemancipated children without the knowledge of the parents of such children violated the parents' fundamental constitutional rights to the custody, care, and nurture of their children.

A child whose parents and physician are not aware that she is taking a prescriptive contraceptive may not be adequately treated if she suffers serious complications from the use of the contraceptive.

In a letter to my colleagues, I attached a copy of the new patient package insert which the Food and Drug Administration has required to be included in every prescriptive contraceptive that is sold or distributed.

Mr. President, I ask unanimous consent that the package insert be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DETAILED PATIENT LABELING: WHAT YOU SHOULD KNOW ABOUT ORAL CONTRACEPTIVES

Oral contraceptives ("the pill") are the most effective way (except for sterilization) to prevent pregnancy. They are also convenient and, for most women, free of serious or unpleasant side effects. Oral contraceptives must always be taken under the continuous supervision of a physician.

It is important that any woman who considers using an oral contraceptive understand the risks involved. Although the oral contraceptives have important advantages over other methods of contraception, they have certain risks that no other method has. Only you can decide whether the advantages are worth these risks. This leaflet will tell you about the most important risks. It will explain how you can help your doctor prescribe the pill as safely as possible by telling him about yourself and being alert for the earliest signs of trouble. And it will tell you how to use the pill properly, so that it will be as effective as possible. There is more detailed information available in the leaflet prepared for doctors. Your pharmacist can show you a copy; you may need your doctor's help in understanding parts of it.

WHO SHOULD NOT USE ORAL CONTRACEPTIVES

A. If you have any of the following conditions you should not use the pill:

1. Clots in the legs or lungs.
2. Angina pectoris.
3. Known or suspected cancer of the breast or sex organs.
4. Unusual vaginal bleeding that has not yet been diagnosed.
5. Known or suspected pregnancy.

B. If you have had any of the following conditions you should not use the pill:

1. Heart attack or stroke.
2. Clots in the legs or lungs.

WARNING

C. Cigarette smoking increases the risk of serious adverse effects on the heart and blood vessels from oral contraceptive use. This increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives should not smoke.

D. If you have scanty or irregular periods or are a young woman without a regular cycle, you should use another method of contraception because, if you use the pill, you may have difficulty becoming pregnant or may fail to have menstrual periods after discontinuing the pill.

DECIDING TO USE ORAL CONTRACEPTIVES

If you do not have any of the conditions listed above and are thinking about using oral contraceptives, to help you decide, you need information about the advantages and risks of oral contraceptives and of other contraceptive methods as well. This leaflet describes the advantages and risks of oral contraceptives. Except for sterilization, the IUD and abortion, which have their own exclusive risks, the only serious risks of other methods of contraception are those due to pregnancy should the method fail. Your doctor can answer questions you may have with respect to other methods of contraception. He can also answer any questions you may have after reading this leaflet on oral contraceptives.

1. What Oral Contraceptives Are and How They Work. Oral Contraceptives are of two types. The most common, often simply called "the pill" is a combination of an estrogen and a progestogen, the two kinds of female hormones. The amount of estrogen and progestogen can vary, but the amount of estrogen is most important because both the effectiveness and some of the dangers of oral contraceptives are related to the amount of estrogen. This kind of oral contraceptive works principally by preventing release of an egg from the ovary. When the amount of estrogen is 50 micrograms or more of mestranol or 35 micrograms or more of ethinyl estradiol, and the pill is taken as directed, oral contraceptives are more than 99% effective (i.e., there would be less than one pregnancy if 100 women used the pill for 1 year). Pills that contain 20 to 35 micrograms of estrogen vary slightly in effectiveness, ranging from 98% to more than 99% effective.

The second type of oral contraceptive, often called the "mini-pill", contains only a progestogen. It works in part by preventing release of an egg from the ovary but also by keeping sperm from reaching the egg and by making the uterus (womb) less receptive to any fertilized egg that reaches it. The mini-pill is less effective than the combination oral contraceptive, about 97% effective. In addition, the progestogen-only pill has a tendency to cause irregular bleeding which may be quite inconvenient, or cessation of bleeding entirely. The progestogen-only pill is used despite its lower effectiveness in the hope that it will prove not to have some of the serious side effects of the estrogen-containing pill (see below) but it is not yet certain that the mini-pill does in fact have fewer serious side effects. The discussion below, while based mainly on information about the combination pills, should be considered to apply as well to the mini-pill.

2. Other Nonsurgical Ways to Prevent Pregnancy. As this leaflet will explain, oral contraceptives have several serious risks. Other methods of contraception have lesser risks or none at all. They are also less effective than oral contraceptives, but, used properly, may be effective enough for many women. The following table gives reported pregnancy rates (the number of women out of 100 who would become pregnant in 1 year) for these methods:

PREGNANCIES PER 100 WOMEN PER YEAR

Intrauterine device (IUD), less than 1–6;
Diaphragm with spermicidal products (creams or jellies), 2–20;
Condom (rubber), 3–36;
Aerosol foams, 2–29;
Jellies and creams, 4–36;
Periodic abstinence (rhythm) all types, less than 1–47;
1. Calendar method, 14–47;
2. Temperature method, 1–20;
3. Temperature method—intercourse only in post-ovulatory phase, less than 1–7;
4. Mucus method, 1–25;
No contraception, 60–80.

The figures (except for the IUD) vary widely because people differ in how well they use each method. Very faithful users of the various methods obtain very good results, except for users of the calendar method of periodic abstinence (rhythm). Except for the IUD, effective use of these methods requires somewhat more effort than simply taking a single pill every morning, but it is an effort that many couples undertake successfully. Your doctor can tell you a great deal more about these methods of contraception.

a. *Circulatory disorders (abnormal blood clotting and stroke due to hemorrhage).* Blood clots (in various blood vessels of the body) are the most common of the serious side effects of oral contraceptives. A clot can result in a stroke (if the clot is in the brain), a heart attack (if the clot is in a blood vessel of the heart), or a pulmonary embolus (a clot which forms in the legs or pelvis, then breaks off and travels to the lungs). Any of these can be fatal. Clots also occur rarely in the blood vessels of the eye, resulting in blindness or impairment of vision in that eye. There is evidence that the risk of clotting increases with higher estrogen doses. It is therefore important to keep the dose of estrogen as low as possible, so long as the oral contraceptive used has an acceptable pregnancy rate and doesn't cause unacceptable changes in the menstrual pattern. Furthermore, cigarette smoking by oral contraceptive users increases the risk of serious adverse effects on the heart and blood vessels. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and begins to become quite marked in women over 35 years of age. For this reason, women who use oral contraceptives should not smoke.

The risk of abnormal clotting increases with age in both users and nonusers of oral contraceptives, but the increased risk from the contraceptive appears to be present at all ages. For oral contraceptive users in general, it has been estimated that in women between the ages of 15 and 34 the risk of death due to a circulatory disorder is about 1 in 12,000 per year, whereas for nonusers the rate is about 1 in 50,000 per year. In the age group 35 to 44, the risk is estimated to be about 1 in 2,500 per year for oral contraceptive users and about 1 in 10,000 per year for nonusers.

Even without the pill the risk of having a heart attack increases with age and is also increased by such heart attack risk factors as high blood pressure, high cholesterol, obesity, diabetes, and cigarette smoking. Without any risk factors present, the use of oral contraceptives alone may double the risk of heart attack. However, the combination of cigarette smoking, especially heavy smoking, and oral contraceptive use greatly increases the risk of heart attack. Oral contraceptive users who smoke are about 5 times more likely to have a heart attack than users who do not smoke and about 10 times more likely to have a heart attack than nonusers who do not smoke. It has been estimated that users between the ages of 30 and 39 who smoke have about a 1 in 10,000 chance each year of having a fatal heart attack compared to about a 1 in 50,000 chance in users who do not smoke, and about a 1 in 100,000 chance in nonusers who do not smoke. In the age group 40 to 44, the risk is about 1 in 1,700 per year for users who smoke compared to about 1 in 10,000 for users who do not smoke and to about 1 in 14,000 per year for nonusers who do not smoke. Heavy smoking (about 15 cigarettes or more a day) further increases the risk. If you do not smoke and have none of the other heart attack risk factors described above, you will have a smaller risk than listed. If you have several heart attack risk factors, the risk may be considerably greater than listed.

In addition to blood-clotting disorders, it has been estimated that women taking oral contraceptives are twice as likely as nonusers to have a stroke due to rupture of a blood vessel in the brain.

b. *Formation of tumors.* Studies have found that when certain animals are given the female sex hormone estrogen, which is an ingredient of oral contraceptives, continuously for long periods, cancers may develop in the breast, cervix, vagina, and liver.

These findings suggest that oral contraceptives may cause cancer in humans. However, studies to date in women taking currently marketed oral contraceptives have not confirmed that oral contraceptives cause cancer in humans. Several studies have found no increase in breast cancer in users, although one study suggested oral contraceptives might cause an increase in breast cancer in women who already have benign breast disease (e.g., cysts).

Women with a strong family history of breast cancer or who have breast nodules, fibrocystic disease, or abnormal mammograms or who were exposed to DES (diethylstilbestrol), an estrogen, during their mother's pregnancy must be followed very closely by their doctors if they choose to use oral contraceptives instead of another method of contraception. Many studies have shown that women taking oral contraceptives have less risk of getting benign breast disease than those who have not used oral contraceptives. Recently, strong evidence has emerged that estrogens (one component of oral contraceptives), when given for periods of more than one year to women after the menopause, increase the risk of cancer of the uterus (womb). There is also some evidence that a kind of oral contraceptive which is no longer marketed, the sequential oral contraceptive, may increase the risk of cancer of the uterus. There remains no evidence, however, that the oral contraceptives now available increase the risk of this cancer.

Oral contraceptives do cause, although rarely, a benign (nonmalignant) tumor of the liver. These tumors do not spread, but they may rupture and cause internal bleeding, which may be fatal. A few cases of cancer of the liver have been reported in women using oral contraceptives, but it is not yet known whether the drug caused them.

c. *Dangers to a developing child if oral contraceptives are used in or immediately preceding pregnancy.* Oral contraceptives should not be taken by pregnant women because they may damage the developing child. An increased risk of birth defects, including heart defects and limb defects, has been associated with the use of sex hormones, including oral contraceptives, in pregnancy. In addition, the developing female child whose mother has received DES (diethylstilbestrol), an estrogen, during pregnancy has a risk of getting cancer of the vagina or cervix in her teens or young adulthood. This risk is estimated to be about 1 in 1,000 exposures or less. Abnormalities of the urinary and sex organs have been reported in male offspring so exposed. It is possible that other estrogens, such as the estrogens in oral contraceptives, could have the same effect in the child if the mother takes them during pregnancy.

If you stop taking oral contraceptives to become pregnant, your doctor may recommend that you use another method of contraception for a short while. The reason for this is that there is evidence from studies in women who have had "miscarriages" soon after stopping the pill, that the lost fetuses are more likely to be abnormal. Whether there is an overall increase in "miscarriage" in women who become pregnant soon after stopping the pill as compared with women who do not use the pill is not known, but it is possible that there may be. If, however, you do become pregnant soon after stopping oral contraceptives, and do not have a miscarriage, there is no evidence that the baby has an increased risk of being abnormal.

d. *Gallbladder disease.* Women who use oral contraceptives have a greater risk than nonusers of having gallbladder disease requiring surgery. The increased risk may first appear within 1 year of use and may double after 4 or 5 years of use.

e. *Other side effects of oral contraceptives.* Some women using oral contraceptive experience unpleasant side effects that are not dangerous and are not likely to damage their health. Some of these may be temporary. Your breasts may feel tender, nausea and vomiting may occur, you may gain or lose weight, and your ankles may swell. A spotty darkening of the skin, particularly of the face, is possible and may persist. You may notice unexpected vaginal bleeding or changes in your menstrual period. Irregular

bleeding is frequently seen when using the mini-pill or combination oral contraceptives containing less than 50 micrograms of estrogen.

More serious side effects include worsening of migraine, asthma, epilepsy, and kidney or heart disease because of a tendency for water to be retained in the body when oral contraceptives are used. Other side effects are growth of preexisting fibroid tumors of the uterus; mental depression; and liver problems with jaundice (yellowing of the skin). Your doctor may find that levels of sugar and fatty substances in your blood are elevated; the long-term effects of these changes are not known. Some women develop high blood pressure while taking oral contraceptives, which ordinarily returns to the original levels when the oral contraceptive is stopped.

Other reactions, although not proved to be caused by oral contraceptives, are occasionally reported. These include more frequent urination and some discomfort when urinating, nervousness, dizziness, some loss of scalp hair, an increase in body hair, an increase or decrease in sex drive, appetite changes, cataracts, and a need for a change in contact lens prescription or inability to use contact lenses.

After you stop using oral contraceptives there may be a delay before you are able to become pregnant or before you resume having menstrual periods. This is especially true of women who had irregular menstrual cycles prior to the use of oral contraceptives. As discussed previously, your doctor may recommend that you wait a short while after stopping the pill before you try to become pregnant. During this time, use another form of contraception. You should consult your physician before resuming use of oral contraceptives after childbirth, especially if you plan to nurse your baby. Drugs in oral contraceptives are known to appear in the milk, and the long-range effect on infants is not known at this time. Furthermore, oral contraceptives may cause a decrease in your milk supply as well as in the quality of the milk.

4. Comparison of the Risks of Oral Contraceptives and Other Contraceptive Methods. The many studies on the risks and effectiveness of oral contraceptives and other methods of contraception. This risk has two parts: (a) the risk of the method itself (e.g., the risk that oral contraceptives will cause death due to abnormal clotting), and (b) the risk of death due to pregnancy or abortion in the event the method fails. The results of this analysis are shown in the bar graph below. The height of the bars is the number of deaths per 100,000 women each year. There are seven sets of bars, each set referring to specific age groups of women. Within each set of bars there is a single bar for each of the different contraceptive methods. For oral contraceptives, there are two bars—one for smokers and the other for nonsmokers. The analysis is based on present knowledge and new information could, of course, alter it. The analysis shows that the risk of death from all methods of birth control is low and below that associated with child birth, except for oral contraceptives in women over 40 who smoke. It shows that the lowest risk of death is associated with the condom or diaphragm (traditional contraception) backed up by early abortion in case of failure of the condom or diaphragm to prevent pregnancy. Also, at any age the risk of death (due to unexpected pregnancy) from the use of traditional contraception, even without a backup of abortion, is generally the same as or less than that from use of oral contraceptives.

HOW TO USE ORAL CONTRACEPTIVES AS SAFELY AND EFFECTIVELY AS POSSIBLE, ONCE YOU HAVE DECIDED TO USE THEM

1. What to Tell your Doctor.

You can make use of the pill as safely as possible, by telling your doctor if you have any of the following:

a. Conditions that mean you should not use oral contraceptives:

Clots in the legs or lungs.

Clots in the legs or lungs in the past.

A stroke heart attack or angina pectoris.

Known or suspected cancer of the breast or sex organs.

Unusual vaginal bleeding that has not yet been diagnosed.

Known or suspected pregnancy.

b. Conditions that your doctor will want to watch closely or which might cause him to suggest another method of contraception:

A family history of breast cancer.

Breast nodules, fibrocystic disease of the breast, or an abnormal mammogram.

Diabetes.

High blood pressure.

High cholesterol.

Cigarette smoking.

Migraine headaches.

Heart or kidney disease.

Epilepsy.

Mental depression.

Fibroid tumors of the uterus.

Gallbladder disease.

c. Once you are using oral contraceptives, you should be alert for signs of a serious adverse effect and call your doctor if they occur:

Sharp pain in the chest, coughing blood, or sudden shortness of breath (indicating possible clots in the lungs).

Pain in the calf (possible clot in the leg).

Crushing chest pain or heaviness (indicating possible heart attack).

Sudden severe headache or vomiting, dizziness or fainting, disturbance of vision or speech or weakness or numbness in an arm or leg (indicating a possible stroke).

Sudden partial or complete loss of vision (indicating a possible clot in the eye).

Breast lumps (you should ask your doctor to show you how to examine your own breasts).

Severe pain in the abdomen (indicating a possible ruptured tumor of the liver).

Severe depression.

Yellowing of the skin (jaundice).

2. How to Take the Pill So That It Is Most Effective.

To achieve maximum contraceptive effectiveness, OVCON-50 or OVCON-35 must be taken exactly as directed and at intervals not exceeding 24 hours.

The patient takes one tablet daily from a convenient package as follows: (yellow or peach tablet containing active ingredients, green tablet containing inert ingredients)

For the first cycle of use only, the first yellow or peach tablet is taken on day 5 of the menstrual cycle, counting the first day of bleeding as day 1. One tablet is taken daily in the same sequence as in the package—first the yellow or peach, and then the green tablets. After the last green tablet is taken, the first yellow or peach tablet from a new package is taken the following day. Withdrawal bleeding will usually begin while the patient is taking the green tablets and may continue during the first few tablets from the next package.

Patients should be cautioned to follow the dosage schedule strictly.

Evening administration is suggested. If the regimen is interrupted, an additional contraceptive method is recommended for the rest of the cycle. Should spotting or breakthrough bleeding occur, it is recommended that the patient continue medication. If bleeding is persistent or recurrent, the patient should consult her physician.

Use of oral contraceptives in the event of a missed menstrual period:

1. If the patient has not adhered to the prescribed dosage regimen, the possibility of pregnancy should be considered after the first missed period (or after 45 days from the last menstrual period if the progestogen-only oral contraceptives are used) and oral contraceptives should be withheld until pregnancy has been ruled out.

2. If the patient has adhered to the prescribed regimen and missed two consecutive periods, pregnancy should be ruled out before continuing the contraceptive regimen.

At times there may be no menstrual period after a cycle of pills. Therefore, if you miss one menstrual period but have taken the pills exactly as you were supposed to continue as usual into the next cycle. If you have not taken the pills correctly and miss a menstrual period, you may be pregnant and should stop taking oral contraceptives until your doctor determines whether or not you are pregnant. Until you can get to your doctor, use another form of contraception. If two consecutive menstrual periods are missed, you should stop taking pills until it is determined whether you are pregnant. If you do become pregnant while using oral contraceptives, you should discuss the risks to the developing child with your doctor.

3. Periodic Examination.

Your doctor will take a complete medical and family history before prescribing oral contraceptives. At that time and about once a year thereafter, he will generally examine your blood pressure, breasts, abdomen, and pelvic organs (including a Papanicolaou smear, i.e., test for cancer).

SUMMARY

Oral contraceptives are the most effective method, except sterilization, for preventing pregnancy. Other methods, when used conscientiously, are also very effective, and have fewer risks. The serious risks of oral contraceptives are uncommon and the "pill" is a very convenient method of preventing pregnancy.

If you have certain conditions or have had these conditions in the past, you should not use oral contraceptives because the risk is too great. These conditions are listed in the leaflet. If you do not have these conditions, and decide to use the "pill," please read the leaflet carefully so that you can use the "pill" most safely and effectively.

Based on his or her assessment of your medical needs, your doctor has prescribed this drug for you. Do not give the drug to anyone else.

Mr. HELMS. Can unemancipated minors under the age of 16 be presumed to understand such a warning and knowledgeably consent to such treatment without the consultation of their parents?

In addition, in many States the parents of a child taking such a drug would be responsible for the expenses of such treatment of their daughter if, for instance, she suffers blood clots or other side effects as a result of using contraceptives.

I emphasize that my amendment does not give parents a veto over the health decisions of their children, but simply upholds the rights of parents, and their duty, to guide their children in such decisions.

I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think this is a worthwhile amendment. I have no objection to it, and I urge the Senate to accept it.

Mr. SCHWEIKER. Mr. President, I support the amendment.

Mr. JAVITS. Will the Senator answer one question?

Mr. HELMS. Yes.

Mr. JAVITS. Did the Senator mention a court decision?

Mr. HELMS. Yes.

Mr. JAVITS. Can the Senator tell us what it was?

Mr. HELMS. Yes. I believe I can answer the Senator's question by letting him read a document I now send to him. I referred to the case of *Doe* v. *Irwin*, 441 F. Supp. 1247 (1977).

Mr. JAVITS. I thank the Senator.

Mr. HELMS. Mr. President, if no discussion is desired by any Senator, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1962

(Purpose: To provide for an independent study of the problem of adolescent pregnancy)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment No. 1962.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of bill insert the following new title:

TITLE—STUDY OF ADOLESCENT PREGNANCY

SEC. 301. (a) The Secretary of Health, Education, and Welfare shall contract with an independent entity to perform a study of the problem of adolescent pregnancies. The study shall evaluate the effectiveness of existing programs relating to health, education, and public welfare, as they relate to this problem, and shall include suggestions as to the most effective means for reducing or eliminating unwanted adolescent pregnancies. The Secretary shall report the results of such study to the Congress not later than one year after the date of the enactment of this Act.

(b) There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section.

The PRESIDING OFFICER. Is the Senator offering this amendment to the pending Kennedy amendment?

Mr. WALLOP. Yes.

The PRESIDING OFFICER. Then the amendment is in order.

Mr. WALLOP. Mr. President, let me begin by saying I have changed the intent of this amendment after consultation with the managers. It had been my intention to strike the Kennedy amendment altogether and offer this as a substitute. But after consultation with the managers, I have agreed that they have identified a problem, albeit others have identified it many times prior to this occasion.

What this amendment would do is, in addition to what the Senator from Massachusetts seeks to do, provide $500,000 to study duplication of services, the redundancy, the real need that exists out there, and try to get some sense out of this myriad of programs which exist in the country, which the Senator mentioned in his opening remarks in support of his own amendment.

Mr. President, let me begin by applauding the efforts of Senator KENNEDY, and my colleagues in introducing legislation to provide financial support for counseling and services for pregnant teenagers. One only has to look at the increasing numbers of young girls who become pregnant each year to realize that something has got to be done. Fortunately, within the last 3 years the Senate has addressed this problem of adolescent pregnancy and presently services are functioning under the auspices of the Department of HEW, and in several other funded programs as well.

Senator KENNEDY's amendment, the Adolescent Health Services and Pregnancy Prevention and Care Act, is designed to assist adolescents who are already pregnant and to assist in preventing initial and repeat adolescent pregnancies. This assistance will be funded in the amount of $210 million in the next 3 years; $150 million of this $210 million is in addition to the $344 million requested by the President for programs dealing with the specific problems of teenage pregnancies, parenting, and related services. The $344 million is an increase of $148 million over the 1978 appropriations in this area.

No one in the Senate would vote against this program if it were effective or if it eliminated the epidemic-size problem of teenage pregnancy. However, this amendment proposed that we not only continue the existing services, but that we spend more money, more time, and add more services to a program whose effects have not been evaluated since its inception, and for all practical purposes, according to the figures, does not seem to be working.

Mr. KENNEDY's amendment further seeks to utilize to a maximum extent feasible existing available programs and facilities for pregnancy prevention and pregnancy-related services. This is an economical move, and clearly would be a wise use of new money appropriated, but, money to be appropriated for what? To perpetuate a program whose success rate has never been measured, and one whose numbers seem to grow increasingly each year? To perpetuate a program which is an unnecessary duplication of some existing programs? To create additional Federal bureaucracy and expense in an area which is receiving increased emphasis? It is time to stop this new effort and reexamine what it is we hope to achieve with these programs. Possibly the emphasis is wrong, or perhaps these services are not reaching those who need to be reached. Why is it necessary to spend $210 million more in the next 3 years just to realize in 1981 that the program is not successful?

Federal programs seem to perpetuate themselves; if they are not successful, they are given a second chance. Three more years at $210 million just to see if it will work? It is too expensive to cut it off, to stop it, to reexamine it? Why not let it go for a little while longer, and maybe the success rate will turn around. Well, I say that this is an area on which it is too important for us to gamble. I believe the sincerity of Senator KENNEDY and the cosponsors of his amendment. I believe their primary intention is to eliminate the problem of teenage pregnancy. However, I believe that their efforts would be more responsible if directed toward finding the most successful way to approach these problems and focusing the money in that area. It is too easy to dump more money on a program and expect the problems to disappear. This is like the green poultice which spends the taxpayers' money but seems never to heal the wound when applied without the wrapping of knowledge.

In 1977 the national alliance concerned with school age parents conducted a national survey of 50 agencies chosen from a random sampling of those providing services to pregnant adolescents. Funded by the Joseph P. Kennedy, Jr., Foundation, the survey obtained information on how these agencies were meeting the needs of their clients. This survey did not examine the success of the services rendered, but only the availability and accessibility of the services. To my knowledge this type of survey is the only kind which has been compiled to date.

It is not my intention to stand in the way of progress of a good program which is helping resolve the problem of teenage pregnancy. It is my intention, however, to remind my colleagues that we do have an option, that we do not have to continue our increased funding programs whose success rates are questionable. We must take time to stop and reevaluate, to redirect ourselves, so that unsuccessful programs can hopefully, in the future, become successful.

My amendment to the Adolescent Health Services Act seeks to positively address the question of teenage pregnancy. We have requested HEW to contract with an independent entity to perform a study of adolescent pregnancy. This study will not only evaluate the effectiveness of the many existing programs of health, education, and welfare, but will include concrete suggestions as to the most effective ways of reducing or eliminating unwanted teenage pregnancies.

We have asked that the study be made in a 1-year period and not exceed the sum of $500,000. Hopefully it could be done for much less than this figure. However, because of the size and scope of the areas which must be evaluated, it is possible that the full amount will be necessary. Should that be the case, we still could be saving substantial sums by not having to create duplicative programs, or fund inefficient ones.

This study will not only list what services presently exist for pregnant adolescents, but will concentrate on whether these services are working and, if they are not, how we can improve them or change them to make the program effective.

As I have tried to stress my concern on

this amendment, we are not opposed to helping eliminate the problem of teenage pregnancy. Rather we are concerned with how the programs are being implemented and if they are effective. We can look at list after list of what is being done and plan after plan of how it is being done, yet none of this matters if the pregnancy rates of adolescent teenage girls continue to rise. We feel it is in the interest of our youth to reevaluate, restudy, and redirect our efforts by compiling the results of this study with the results of numerous other studies done on this subject and coming up with new and innovative ideas. We know that figures show that teenage mothers oftentimes end up to be adult welfare mothers. We are fully aware of the problems that surround a 15-year-old girl with a baby to care for. What we need to know is how to end these unwanted pregnancies. Is it through education? Is our concern with teaching sex education in the schools blocking our way to successfully dealing with adolescent pregnancy? Whatever the answer may be, unless we ask the right questions we can search and search and the problems will continue to grow with millions of dollars lost in the process.

Mr. President, as I understand, the Senator from Masaschusetts is agreeable to this amendment.

Mr. DOLE. Mr. President, I share the deep concerns of the distinguished Senator from Massachusetts, (Mr. KENNEDY), with regard to the increasing number of teenage pregnancies in this country.

As the committee report on this legislation clearly points out, adolescent pregnancy affects thousands of young women in all socioeconomic levels.

The negative results of childbearing for these young women are disastrous, emotionally, physically, and in many instances, economically.

The pressing need to provide assistance to these young women cannot be overstated. But I am concerned that we again answer a need with the creation of a new program rather than working with existing authorities. However, Mr. President, while recognizing the concerns of those who also believe this new program may be duplicative, I feel the problem warrants a new, specifically focused effort.

The committee correctly points out that there is presently little effort to coordinate the many programs that provide services to pregnant adolescents and teenagers in assisting them to carry their pregnancy to term. There is also little effort to counsel these young women in an attempt to avoid a repeat pregnancy.

The activities of the already existing agencies providing comprehensive services have resulted in a marked difference in the educational attainment of the young women, in their ability to cope with child rearing, in reducing repeat pregnancies and in reducing the need for welfare assistance.

Such comprehensive programs hold out much hope.

I do, however, urge that we emphasize the need to coordinate where possible, rather than recreate.

CONCLUSION

The Senator from Kansas again thanks the members of the human resources committee for their attention to this important need, and I urge my colleagues to support their efforts.

● Mr. HATCH. Mr. President, the Senator from Wyoming and I offer an amendment in the second degree to the pending adolescent Health, Services, and Pregnancy Prevention Act.

This amendment would establish a commission to study the problems relating to teenage pregnancy. As the statistics show and as we have already discussed, this is not just a passing "fad." It is a real problem and one which deserves our attention.

As parents, educators, and politicians we have failed to equip these children with the knowledge to make an intelligent decision about pregnancy or its consequences. But how can we better serve in this capacity? We must stop and look.

Two days of hearings with many pages of testimony have been received. But we still do not know how we can better improve the already existing services or for that matter what services are out there to, as the bill reads, "link and integrate."

As a member of the Subcommittee on the Handicapped, it is of great concern to me the number of infants that are born with developmental disabilities and other birth defects. This is an area which we should look at in this study. What is being done to make sure that these young mothers are being cared for so as they might carry them to term and deliver a healthy baby? These are some of the questions we do not have answers for.

Money is not always the answer. Let us study the problem and see.

In our committee alone, we were split on the way these services could or should be provided.

I firmly believe that on a matter of such importance that must be studied. This is an amendment which my colleagues should support.●

Mr. KENNEDY. Mr. President, I welcome the amendment of the Senator from Wyoming. I believe the review requirement the Senator has outlined will be useful. I would certainly look forward to reviewing the results. Our basic justification for the programs proposed in the Adolescent Health Services and Pregancy Prevention and Care Act is found in the positive results received from a number of pilot programs. In offering this amendment the Senator is trying to reach a more basic and fundamental answer about problems with child and maternal health programs under title V. I believe the Senator is correct in doing this, because I do not think the Senate has adequately reviewed title V in a hearing process since the programs were enacted. As I understand this amendment, the Senator is trying to review a variety of these programs for any overlap or duplication. I believe it would be a very worthwhile discipline and I join the Senator in urging that the Senate accept this amendment.

Mr. SCHWEIKER. Will the Senator yield?

Mr. WALLOP. I yield.

Mr. SCHWEIKER. I certainly support the amendment. I commend the Senator.

Mr. WALLOP. I thank both Senators. I would simply point out that what we are really trying to do is to get some bang for our buck. So often what happens is that we spend money in parallel functions seeking to deal with a problem that a number of Senators and Congressmen over the course of time have identified and tried to deal with in a singular way. So often there will be six or seven things sitting side by side and the problem still remains basically unchanged.

Mr. President, I ask unanimous consent that the Senator from Utah (Mr. HATCH) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1963

(Purpose: To limit the amount of retained earned income which may be reserved for conversion to prepaid modality)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment No. 1963.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading be dispensed with, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 20, before the period insert the following: "(except that not more than 20 percent of the amount of earned income so retained may be used for this purpose)".

On page 13, line 23, before the period insert the following: "(except that not more than 20 percent of the amount of earned income so retained may be used for this purpose)".

On page 36, line 22, before the period insert the following: "(except that not more than 20 percent of the amount of earned income so retained may be used for this purpose)".

Mr. DOLE. Mr. President, this amendment related to use of earned income by community health centers, migrant health centers, and primary care centers, I would like to briefly discuss the section of the bill dealing with the creation of hospital affiliated primary care centers.

Mr. President, in authoring this section of the bill, my colleague, the distinguished Senator from New York, Mr. JAVITS, has again expressed his long-term concern for those in this country for whom health care is unavailable. He has also made clear his concern, a concern which I share, regarding the often inappropriate and expensive utilization of hospital emergency rooms and clinics for primary care services.

NEED FOR PRIMARY CARE SERVICE

There are presently well over 200 million visits annually to hospital outpatient departments in this country. Twenty years ago, of every 9 visits to physician, 1 was to a hospital outpatient department or emergency room. At the present time, about 1 of every 4 visits is to such a program.

The PRESIDING OFFICER. Will the Senator suspend? The Chair would like to inquire, Is this an amendment to the pending Kennedy amendment?

Mr. DOLE. Yes.

Mr. KENNEDY. I believe the Senator's amendment is to the services portion of the bill. I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Therefore, for a multiplicity of reasons, there has been a real shift toward utilization of such ambulatory facilities. This need will not disappear. So we must learn to adequately deal with the problem, and create a system which provides appropriate, high-quality care to the maximum number of people possible. Clearly, the community health centers, rural clinics, and other public health service programs have begun to address the problem of limited access to care. The hospital affiliated primary care centers could potentially assist in this effort.

Recognizing the concern of many that perhaps these new centers may overlap some of our present activities, the committee report clearly directs the Secretary, in awarding grants, to avoid duplication of efforts in areas where existing health care systems and facilities are adequate to meet the needs of the medically underserved population.

POTENTIAL FOR USE OF HOSPITAL BASED PROGRAMS

A hospital-affiliated primary care center has a number of advantages which are indigenous to its structure and design, and which differentiate it from other primary care centers. The hospital is a traditional source of care for many, creating a familiarity which may prove to be useful in encouraging utilization. However, as Dr. Tom Delbanco, medical director of the ambulatory care center, Beth Israel Hospital, points out in a recent paper prepared for publication, historically patients' needs ranged from viewing the hospital as a principal primary provider, to receiving episodic care for intercurrent illness, or to seeking subspecialty consultation. But, unfortunately, some clinics in the past have been wasteful, inefficient, have been degrading in the kind of care they have offered, these same clinics have served to perpetuate the two-class system of care that we should be avoiding.

The development of hospital-affiliated primary care centers could provide an opportunity to develop a real one-class system of care, while moving hospital resources toward a more balanced program.

Hospital-affiliated primary care centers also have the advantage of having accessible the technology and widespread expertise that only a hospital can offer.

Finally, these centers may prove to be a cost savings to the Government and to those individuals who pay for care. A reasonable primary care program tries its best to keep people out of the hospital. Many who were admitted in the past might well be managed on an outpatient basis by the primary care staff, certainly a less expensive proposition.

IMPACT ON IMPROVED MANPOWER DISTRIBUTION

This program may also provide certain additional incentives which result in an improvement in manpower distribution. By allowing integration of National Health Service Corps physicians with more senior physicians in stable clinic situations, we may well improve the chance of attracting corps physicians to such areas and hopefully keeping them after their obligation is completed.

An emphasis on the utilization of nurse practitioners and physician assistants may also result in an increasing number of these important health providers to locate in these areas.

The principle behind the hospital-affiliated primary care centers that we are discussing today is a good one and should be encouraged. I would also continue to urge my colleagues to review carefully our presently funded programs and determine if they can be used in a more efficient manner.

CONCLUSION

In summary, Mr. President, I again commend the efforts of my distinguished colleague from New York, Senator JAVITS, for his leadership in this area.

Mr. President, I would now like to briefly discuss my amendment which relates to the usage of retained income by migrant health centers, community health centers, and hospital affiliated primary care centers.

The legislation that we have before us today contains authorizations for three forms of ambulatory health centers. The new authority for each of these programs contains two provisions that encourage conversion to prepaid operations.

One provision permits the Secretary to spend up to 5 percent of the funds appropriated under the operations authority in any year to assist centers to plan conversion, convert to a prepaid modality, or operate as a prepaid modality for some or all of the population served.

The second provision permits the centers to retain earned income for specific purposes including establishment of a reserve fund for use in conversion to a prepaid reimbursement modality.

It is the intention of the Senator from Kansas to limit to 20 percent the amount of earned income that can be used for this purpose.

MONEY NECESSARY FOR SERVICES

Without question, health centers should be encouraged to increase their earned income and should be permitted to provide services on a prepaid basis where possible and appropriate.

However, we must first take care that in an effort to increase income, and attract patients able to pay, that we do not have an adverse impact on those to whom these services have traditionally been provided; the low income residing in medically underserved areas.

Second, we must be sure that we do not lose sight of our primary objective, which is to finance services.

PRIORITIES FOR FUNDING

Expansion and improvement of services and expansion of the population eligible must be priority items for the utilization of any funds.

The committee, by placing a maximum on the amount of funds to be utilized by the Secretary for conversion purposes, also recognizes this need.

CONCLUSION

Again, Mr. President, it is not the intention of the Senator from Kansas to prevent the conversion to a prepaid system, where centers themselves find this modality to be appropriate and feasible.

The percentage limitation which I propose insures that a program can begin to set aside funds for this purpose if they so choose, in addition to placing a high priority on expansion and improvement of services.

I understand there is no opposition to the amendment and it is acceptable to the managers of the bill. I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I urge the Senate to accept the amendment. As I understand the Senator's amendment, it would permit retained earnings of up to 20 percent in order to develop the prepaid programs. It would require the remaining expenditures to go to community services. Obviously, this is a balance between service to the community, increased service to the community, and also, the administrative expenses associated with converting to prepayment, and putting aside a reserve.

I am not sure that the 20 percent is best or whether 30 or 40 percent would be the best figure. HEW, as I understand it, has no precise figure.

I am glad to accept this amendment and hope that, if, in the future, other information is developed that the Senator from Kansas would be willing to make some adjustments in the present figures.

Clearly, the thrust of this amendment is to increase services to the community. I think that is a desirable goal. I think there also is a desire to try to build up some resources for prepaid programs. The Senator has recognized that in his amendment. We are glad to accept it.

Mr. DOLE. I thank my colleague.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have a statement of Senator HATHAWAY printed in the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATHAWAY

The Adolescent Health, Services and Pregnancy Prevention and Care Act of 1978 is directed toward meeting a clear and growing need in our society. I was pleased to join Senator Kennedy and others of my distinguished colleagues in introducing this measure on April 13 and to have participated in further improvements and refinements as it progressed through the legislative process. I am particularly pleased that the bill as reported includes my amendments to address

the needs of rural areas. I urge my colleagues to support the pending amendment to incorporate this bill into the pending measure.

Nearly 13 million of the 60 million women in the world who became mothers in 1975 became parents before they became adults. The teenage childbearing rates in the United States are the fourth highest among industrialized nations, and indeed, higher than many less developed nations. Adolescent childbearing is becoming an alarming problem, often involving serious health and socio-economic complications in the lives of these young mothers, fathers, and their children.

This bill addresses the need of adolescents for information and education to prevent initial and subsequent pregnancies, strives to assist those who are already pregnant with both prenatal and postnatal health care and support services, to help them remain in school, and become productive and contributing members of society. Finally, it provides for education of those who choose to keep their children to assist them in becoming responsible parents.

The bill intends to fulfill these goals by authorizing grants to public and nonprofit private agencies to help communities support and coordinate services and programs relating to pregnancy.

The statistics which underscore the need for increased services are truly alarming.

Of the 21 million teenagers in the United States between the ages of 15 and 19, 11 million—a little more than half—are sexually active. Further, one-fifth of the 8 million 13- and 14-year-old youths in this country are estimated to have had sexual relations.

One million young women aged 15 to 19 and 30,000 girls under 15 become pregnant each year, resulting in over 600,000 births. The out-of-wedlock birth rate has declined among women aged 20 to 24, but has increased among women aged 14 to 19, with the result that for the first time since 1961, the birthrate among single 18 to 19 year olds is higher than that of 20 to 24 year olds.

For those teenage parents who marry, studies have shown that divorce or separation is two to three times higher than in marriages of people in their early twenties. The combination of the strains of adolescence itself, family responsibility, and economic instability are often too much for a young marriage to bear.

Teenage mothers do not often have the skills necessary to support themselves, or to compete in the working world. It was found in New York in 1973 that 85 percent of those who became mothers when they were 15 to 17 years old had not completed high school. Nine out of ten of those who have a child at age 15 or younger never complete high school either, and more than 4 in 10 never get beyond the eighth grade. Female teenage dropouts most often give pregnancy as the reason for leaving school. And although legislation and regulations have confirmed the right of teenage mothers to an education, teachers and counselors often encourage pregnant students to leave school.

Therefore, due primarily to a lack of skills and secondly to a lack of infant day care centers, teenage mothers are less likely to work and more likely to be on welfare. The younger the mother, the higher the risk of poverty for her family, so just in terms of economics alone, it makes sense to prevent teenage pregnancies.

Beyond these overall educational, social and economic considerations, we must realize that because very young women are biologically too immature for effective childbearing, there are serious hazards directly related to the health of the mother and to her child. The risk of death in the first year of life is twice as high for babies born to teenage mothers as it is for babies born to mothers in their early twenties. Also twice as high among babies born to teens is low birth weight. This is a major cause of infant mortality and birth injuries such as neurological defects which may involve mental retardation.

In the course of hearings and markups on this bill, I was particularly concerned that this legislation be fully responsive to the unique needs and problems of rural, sparsely populated areas in the delivery of comprehensive services. For example, in the State of Maine over 60,000 low income women of child-bearing age are at risk of unintended pregnancies. There are over 18,000 teenaged women estimated to be sexually active and at risk of pregnancy. One of every five births is to a teenaged mother, and nearly one-tenth of all births in Maine are out-of-wedlock, half of these to teenaged mothers. Many of these individuals reside in outlying areas where there are no available programs or services directed toward meeting their needs. The adverse health, social and economic consequences mentioned in Section 2 of the bill are further aggravated in these areas. These include a higher percentage of pregnancy and childbirth complications, a higher incidence of low birth weight, higher frequency of developmental disabilities, infant mortality, a decreased likelihood that the mother will complete school, and an increased likelihood that an adolescent marriage will end in divorce.

Along with the tragic human costs, the resulting unemployment and increased welfare burden pose a particularly severe burden on these areas already overwhelmed with these problems.

I was therefore pleased to note that Section 103 of the bill as introduced gave priority to outreach and the need to serve areas where the incidence of low income families is high and where the availability of pregnancy-related services is low.

At the same time, however, I was concerned that the bill as introduced accorded priorities to comprehensive "single site programs" and to those which "will utilize existing programs and facilities such as neighborhood and primary health care centers. . . ." (Section 103(a)(3) and (4)).

I was concerned that these latter priorities may operate to the detriment of proposals forthcoming from rural areas which are directed toward establishing comprehensive programs where they do not currently exist and which require multiple service delivery sites to assist a widely dispersed population, while taking advantage of a centralized administrative structure. I discussed this problem with Secretary Califano at hearings on the bill, and he agreed that amendments were necessary.

In this regard, the Committee adopted my proposals to insure that the needs of rural areas were met. As amended, the bill gives priority to "a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas)". The bill lists regional rural health facilities as appropriate grantees.

Also, the bill states:

"(2) In making grants under this Act, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such services."

All of these provisions are summarized and further emphasized in the Committee report:

The Committee intends that the Secretary shall give priority to grantees that fulfill the following requirements:

(1) Serve an area where there is a high incidence of adolescent pregnancy, and

(2) Serve an area where the incidence of low income families is high and the availability of pregnancy related services is low.

However, the Committee also intends that the needs of adolescents residing in rural areas be recognized and appropriately addressed by this bill. The Committee realizes that although the delivery of comprehensive services to a widely dispersed population may be difficult and that delivery system models appropriate for inner city programs may be inappropriate for rural programs; the Committee directs the Secretary to address these problems. This bill requires that in making grants the Secretary shall consider the special needs of rural areas and that, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such services and the Committee directs the Secretary to exercise care to afford an equitable opportunity to program applicants from rural areas.

The evidence supporting the need for legislation to prevent unwanted teenage pregnancies is overwhelming. I cannot emphasize enough our responsibility to recognize this problem, and to provide the help and support which our teenagers need as alternatives to abortion. We must be realistic, and as the "parents" of this Nation, do what must be done to insure the mental, physical, educational and economic health and well-being of the generations who are now struggling toward adulthood, and toward the ultimate reponsibility of our future society.

Mr. KENNEDY. Mr. President, unless there are further amendments, I move adoption of my amendment.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Massachusetts as amended.

The amendment (No. 1959), as amended, was agreed to.

Mr. KENNEDY. I yield back the remainder of my time, Mr. President.

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. GLENN. I commend the distinguished Senator from Massachusetts and his health subcommittee on their continuing efforts to provide adequate, cost-effective health care to all Americans.

The geographic maldistribution of health professionals is a major problem in our country. Many residents of rural and inner-city areas lack access to basic health treatment, and we need to look further at how we can bring basic, competent health care to our medically underserved areas. My proposal would bring immediate health service assistance to underserved areas, while also perhaps making it more attractive for physicians to establish medical practices in inner-city or rural areas.

I am proposing an expansion of the Federal effort to encourage the training of paramedics, physician assistants, and nurse practitioners through grants by the Secretary of HEW to public and nonprofit private entities for the purpose of training allied health personnel to meet the special needs of persons located in medically underserved urban and rural areas, for the purpose of providing training of allied health personnel in conjunction with hospitals and medical schools located in or near medically underserved urban or rural areas, and for establishing allied health medical centers in affiliation with hospital centers.

Priority in training and employment would be given to residents of the medically underserved urban and rural areas and to armed services veterans who have received similar training. I have thought for many years about the thousands of people with medical training received in the armed services, and feel this is a tremendous reservoir of health care personnel that has gone largely untapped. Veterans who were medical corpsmen with primary medical training could be used as paramedics to give primary medical care in underserved areas of our country.

I would like to see the Federal Government intensify its efforts to train paramedics and to utilize the training many young men and women receive in the armed services so that they could provide basic health and emergency care in medically underserved rural and inner-city communities.

Mr. KENNEDY. I appreciate and share the concerns of the Senator and agree with him about the benefits of increased used of allied health professionals in providing access to health care and in providing cost-effective health care to more of our citizens.

Next year, the Subcommittee on Health will begin an extensive review of health manpower programs, and one important issue we will be considering is the use of health personnel other than physicians.

Mr. GLENN. I feel that an expanded program of allied health personnel, such as I am proposing today, has a real potential of plugging some of the health care gaps that impact so severely upon many communities in our country.

However, there are problems which account for the fact that paramedics are not used more extensively today. These include the lack of a coordinated Federal policy to encourage the greater use of paramedics and the question of reimbursement for the services they provide, and the fact that there is no uniformity in State law relative to physician extender practice. It would be beneficial to analyze these questions in more depth. I shall not call up my amendment at this time with the assurance of the distinguished chairman of the Health Subcommittee that it will receive early consideration next year during hearings on health manpower legislation.

Mr. President, I ask to have printed at this point in the RECORD, the text of my amendment, a table showing the ratio of physicians to population on a State-by-State basis, and the results of a national opinion research survey on hospital care in America on attitudes toward the use of paraprofessionals.

The material follows:

On page 61, insert the following between lines 20 and 21:

URBAN AND RURAL ALLIED HEALTH PROGRAMS

SEC. 212. Subpart II of part G of title VII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"URBAN AND RURAL ALLIED HEALTH PROGRAMS

"SEC. 799. (a) The Secretary may make grants to public and nonprofit private entities for the purposes of—

"(1) training allied health personnel to meet the special needs of persons located in medically underserved urban or rural areas,

"(2) providing training of allied health personnel in conjunction with hospitals and medical schools located in or near medically underserved urban or rural areas, and

"(3) establishing allied health medical centers in affiliation with hospital centers.

"(b) Priority for such training and employment shall be given to residents of the medically underserved urban or rural areas and to armed services veterans who have received similar training.

"(c) There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.".

On page 61, line 22, strike "Sec. 212." and substitute "Sec. 213.".

On page 62, line 6, strike "Sec. 213." and substitute "Sec. 214.".

TABLE I.—NON-FEDERAL PHYSICIANS, CIVILIAN POPULATION, PHYSICIAN-POPULATION RATIOS AND RANK BY STATE

State	Civilian population (July 1, 1975)	Non-Federal physicians (Dec. 31, 1975)		Physicians per 100,000 population		Rank of physician-population ratio by state	
		Total	Patient care	Total	Patient care	Total	Patient care
Total (50 States and District of Columbia) [1]	211,445,000	356,560	285,345	169	135		
Alabama	3,590,000	3,691	3,091	103	86	48	47
Alaska	326,000	338	276	104	85	46	49
Arizona	2,197,000	4,011	3,063	183	139	12	12
Arkansas	2,106,000	2,159	1,793	103	85	49	48
California	20,896,000	45,801	36,129	219	173	5	5
Colorado	2,488,000	4,646	3,750	187	151	9	9
Connecticut	3,081,000	6,904	5,452	224	177	4	4
Delaware	574,000	890	730	155	127	20	22
District of Columbia	708,000	3,283	2,430	464	343	1	1
Florida	8,265,000	15,109	10,930	183	132	11	17
Georgia	4,877,000	6,156	5,158	126	106	36	34
Hawaii	806,000	1,500	1,190	186	148	10	10
Idaho	814,000	838	719	103	88	47	46
Illinois	11,107,000	18,234	14,630	164	132	18	18
Indiana	5,302,000	6,161	5,110	116	96	39	40
Iowa	2,869,000	3,232	2,712	113	95	43	42
Kansas	2,240,000	3,092	2,538	138	113	27	27
Kentucky	3,361,000	4,090	3,387	122	101	38	37
Louisiana	3,753,000	4,984	3,990	133	106	32	33
Maine	1,049,000	1,397	1,125	133	107	31	32
Maryland	4,051,000	8,811	6,704	218	165	6	6
Massachusetts	5,814,000	13,648	10,559	235	182	3	3
Michigan	9,143,000	13,176	10,885	144	119	25	24
Minnesota	3,923,000	6,774	5,397	173	138	14	15
Mississippi	2,323,000	2,191	1,871	94	81	50	50
Missouri	4,738,000	7,021	5,525	148	117	23	25
Montana	742,000	859	746	116	101	40	38
Nebraska	1,535,000	2,063	1,672	134	109	30	30
Nevada	584,000	749	636	128	109	35	31
New Hampshire	813,000	1,314	1,065	162	131	19	19
New Jersey	7,289,000	12,672	10,181	174	140	13	11
New Mexico	1,131,000	1,467	1,142	130	101	34	38
New York	18,094,000	46,393	36,473	256	202	2	6
North Carolina	5,349,000	7,005	5,639	131	105	33	32
North Dakota	622,000	664	574	107	92	45	45
Ohio	10,744,000	15,729	13,117	146	122	24	24
Oklahoma	2,684,000	3,059	2,547	114	95	41	42
Oregon	2,286,000	3,902	3,147	171	138	15	11
Pennsylvania	11,816,000	20,026	16,378	169	139	16	14
Rhode Island	923,000	1,801	1,487	195	161	8	3
South Carolina	2,748,000	3,130	2,562	114	93	42	47
South Dakota	677,000	608	522	900	77	51	63
Tennessee	4,166,000	5,794	4,703	139	113	26	21
Texas	12,083,000	16,343	13,405	135	111	29	29
Utah	1,202,000	1,858	1,560	155	130	21	20
Vermont	471,000	977	733	207	156	7	8
Virginia	4,816,000	7,188	5,757	149	120	22	23
Washington	3,491,000	5,905	4,787	169	137	17	16
West Virginia	1,802,000	2,230	1,798	124	100	37	39
Wisconsin	4,605,000	6,283	5,238	136	114	28	26
Wyoming	170,000	404	332	109	90	44	45

[1] Excludes physicians (3,123 total non-Federal and 2,492 patient care) and population in possessions (Canal Zone, Pacific Islands, Puerto Rico, and Virgin Islands). Population total does not add due to rounding.

Source: Estimates of the Population of States: July 1, 1974 and 1975 (Advance Report). "Current Population Reports Series," P-25, No. 615, November 1975.

The survey follows:

HOSPITAL CARE IN AMERICA

VII–10. ATTITUDES TOWARD THE USE OF PARAPROFESSIONALS

Over the last few years hospitals have increasingly employed paraprofessionals or paramedics to run various machines and give injections, replacing doctors who used to perform these tasks. Because they are paid substantially less than doctors, this results in a significant savings.

A wider extension of this practice and the use of many more paramedics and doctors' assistants would appear to be possible, it would arouse opposition from only a very small minority.

Q. P–52 L–45: One suggestion for cutting hospital costs would be to employ more paraprofessionals or paramedics, trained to do some things doctors now do, for example, to run various machines and give injections. Do you think this could be done in hospitals serving this neighborhood without damaging the quality of health care or not?

TABLE 55.—*Attitudes toward paramedics*

[In percent]

			Leaders				
	Total public	Patient within last year	Congress	Doctors	Health insurance executives	Hospital trustees	Hospital administrators
Sample size	(1,503)	(242)	(61)	(105)	(29)	(62)	(26)
Yes; could be done	85	82	98	74	97	84	7
No; could not be done	8	9		24	3	11	27
Not sure	7	9	2	2		5	
Q. P–33/46: Would you have any objection to a properly trained doctor's assistant or paramedic giving you an injection or operating hospital machine for you, instead of a doctor?							
Sample size	(1,503)	(242)	(61)	(105)	(29)	(62)	(26)
Would have objection	13	17	3	16		6	19
Would not have objection	82	77	97	82	100	92	77
Not sure	5	6		2		2	4
Leaders only:							
Q. L–47: Do you think most people would, or would not, have any objection if a properly trained doctor's assistant or paramedic gave them injections or operated machines for them, instead of a doctor?							
Sample size			(60)	(105)	(29)	(62)	(26)
Would have objection			8	15	10	8	12
Would not have objection			90	81	90	90	88
Not sure			2	4		2	

● Mr. PAUL G. HATFIELD. Mr. President, I wish to extend my personal thanks to Senator KENNEDY, chairman of the Subcommittee on Health and Scientific Research, and the members of his subcommittee, and to Chairman WILLIAMS of the Committee on Human Resources and the members who incorporated in the revised bill, S. 2474, an amendment of particular importance to Montana State University and several other colleges throughout the Nation.

The amendment restores eligibility for training grants that I believe was inadvertently withdrawn in the 1976 amendments to the Health Professional Educational Assistance Act. Only after committee action on the bill S. 2474 in the spring was I alerted to a ruling of the General Counsel, Department of Health, Education and Welfare that adversely affected these training programs. I am especially grateful to the members of the Human Resources Committee for their willingness to consider my amendment, even though it came too late to be taken up in the hearings.

Mr. President, the language in section 792 of Public Law 94–484 unintentionally frustrates the stated purpose of the section—the development of new graduate programs—and forces termination of current grants.

After specifying 10 areas of study which Congress wished to stimulate, the two subsections on accreditation of section 792 unwittingly limit the section's funding to only four of the named areas—omitting programs in biostatistics, epidemiology, environmental or occupational health, dietetics, and nutrition.

These subsections also require programs to be accredited before being eligible, thereby frustrating the section's intent. As interpreted by the General Counsel of HEW, to be accredited, a school must already have hired faculty and enrolled students; in other words, it must already be established and operating and presumably not in need of the help for which the section was enacted.

Mr. President, besides actually preventing schools from establishing the new programs the section addresses, these subsections have forced the termination of new programs which were already in the process of being established under the old language of the PHS statute. We have identified such programs at Case-Western Reserve University, Drexel University, Hunter College, East Tennessee State, and Montana State University.

These inadvertent terminations of grants work great hardship upon the schools and students involved. For example, MSU is energetically searching for money to support the second year's curriculum so that students who were enrolled last year can complete the program. Even if MSU can offer the courses, many of the students will have to drop out of their second and final year, since they will no longer receive the grant's assistance in meeting some of their school and living costs.

Mr. President, Congress found a similar problem in Public Law 94–484 last year and quickly remedied it. In section 749 a similar accreditation subsection inadvertently threatened to terminate grants at several schools for traineeships in public health. Congress corrected this mistake while addressing its capitation grants in Public Law 95–215.

Mr. President, I ask that the letter citing the ruling of the General Counsel, Department of Health, Education, and Welfare, be printed in the RECORD at the close of my remarks.

The letter follows:

HEALTH RESOURCES ADMINISTRATION,
Hyattsville, Md., April 19, 1978.

HOWARD S. PEAVY,
Ph.D., Assistant Professor and Director, Environmental Health Engineering Program, College of Engineering, Montana State University, Bozeman, Mont.

DEAR DR. PEAVY: The Health Professions Educational Assistance Act of 1976 (P.L. 94–484) extended the existing health manpower programs through fiscal year 1977 and made extensive modifications to health manpower activities for fiscal years 1978 through 1980. Changes in the authority (Section 792) for public health special project grants in fiscal years 1978–1980 include specificity as to the type of programs eligible for support and institutions eligible to apply for these grants.

While the project assisted by the above referenced grant is within a supportable area of training, we were unsure whether or not your institution met legislative requirements as an eligible applicant. It now has been clarified by the Office of the General Council, DHEW, that applicants under Section 792 (a) of the PHS Act must be an accredited school of public health; applicants under Section 792(b) must be a public or nonprofit educational entity having a program in health administration, health planning, or health policy analysis and planning accredited by a body or bodies approved for such purpose by the Commissioner of Education, DHEW.

Since your institution does not meet the applicant eligibility requirements of either Section 792(a) or 792(b) of the Act, it will not be possible to consider further awards under the above referenced grant. Accordingly, the enclosed revised Notice of Grant Award for this fiscal year 1977 grant reflects it as a final award with no further support recommended beyond the end of the current budget period.

If it would be helpful in bringing the project effectively to a close or in orderly phasing out grant support, we would be receptive to a written request for a noncompeting extension of the grant's project period (without additional funds).

Such a request may not exceed 12 months, should state the expected completion date,

and provide a budget and justification for the proposed extended period.

Please let us know if there are any questions.

Sincerely yours,

JOHN R. WESTCOTT,
Grants Management Officer,
Bureau of Health Manpower.●

● Mr. MUSKIE. Mr. President, so far this year, the Senate has passed a dozen bills that fall into the health function of the Federal budget.

To date, we have approved $3.4 billion in authorizations for fiscal year 1979 which, if fully funded, would result in outlays of $1.2 billion.

As reported by the Human Resources Committee, S. 2474, the Health Services Extension Act, authorizes $798 million in fiscal year 1979 and $3.3 billion over the period fiscal years 1979–1983 to support the continuation of many vital health service programs. I understand that amendments which have not yet been brought before us could add another $856 million over the period 1979–82 to the authorization levels in this bill.

These authorization levels for S. 2474 and the proposed amendments can be accommodated within the second budget resolution ceilings. For this reason, and because this legislation will provide many needed services, I support both the bill and the proposed amendments.

Let me note, Mr. President, that the Human Resources Committee is exercising admirable budgetary restraint by offering an amendment to reduce the total authorization levels in S. 2474 to $1.9 billion over the period fiscal years 1979–1981. I would like to commend Senator KENNEDY and the Human Resources Committee for this action.

However, Mr. President, I do have a concern which extends beyond this particular bill. In general, the congressional approach to health problems has been to create a separate program to solve each health problem. This policy has caused an enormous proliferation of categorical health programs, authorized for longer and longer periods of time at ever higher levels of funding.

Each program develops its own Federal bureaucracy and its own local constituency. Repeal becomes impossible—even if the objectives the program was designed to meet are actually achieved.

There are those who believe that we are exercising budgetary restraint by designing these specific, inflexible authorizations to meet individual health problems. The thinking has been that spending will be curbed due to the specificity of these authorizations, and we continue to create new programs which, in many instances, duplicate existing activities and force spending ever higher.

Let me give an example. The primary care center proposal in S. 2474 will provide grants to hospitals to expand their outpatient departments. These expanded departments are to provide a wide range of primary medical services to generally indigent and medically underserved people who now use the hospital emergency room because they lack access to a private physician.

The importance and need for this type of service is indisputable. Forty-nine million people live in medically underserved areas—and are potential beneficiaries of this new program.

However, existing programs could solve the problems this new program is addressing. The Health Planning Act provides project grants that hospitals could use to renovate space for their "primary care center" and medicaid would pay the bills for many of those eligible for the new program. Alternatively, funding for community health centers could be increased to reach more medically underserved populations.

Let me provide another example of the effect of our policy of creating specific new authorities for each health problem. We have enacted no less than seven different programs to assist pregnant teenagers. Because these programs operate in isolation under separate authorizations providing very specific types of services, the pregnant teenager is not getting the kind of comprehensive assistance that she needs. The seven existing programs whose purpose is to help pregnant teenagers use none of their funds to avoid duplication or to refer teenagers to other programs with different services.

I understand that an amendment may be offered authorizing $210 million over a 3-year period to link together these disparate programs, all of which share the same goal—helping pregnant adolescents.

The concerns I am raising are not new to Senator KENNEDY. One of the amendments that I understand he will offer today authorizes a program of grants to State and local governments which allows the States to plan and then provide comprehensive preventive care services. This new non-categorical program exemplifies the kind of flexibility that I believe will result in more efficient spending in health programs and I urge Senators to support it.●

ADVANCES IN TREATING GENETIC DISORDERS

● Mrs. HUMPHREY. Mr. President, today the Senate is considering S. 2474, which extends and makes minor modifications in the Public Health Service Act. A part of this legislation addresses the primary health care needs of individuals in medically underserved areas, and does much to support and assist urban and rural hospitals.

Community hospitals, through their emergency rooms and outpatient clinics, have become for many individuals an immediate and necessary form of health care. This legislation will enable hospitals to give patients the care they need more efficiently and effectively. I support this bill.

However, a section of this legislation in which I am particularly interested is that portion which addresses the genetic disease program. In the early days of my appointment to the Senate, I introduced a bill which was called the National Infant Screening Act of 1978. This legislation would have amended the National Genetic Disease Act to require States to develop, coordinate, and submit a plan for cost-effective medical screening for infants in order to detect metabolic disorders that could retard brain development.

I had several serious reasons for introducing this legislation. For instance, the estimated population of 6 million retarded Americans is increased by 100,000 new cases each year. Retardation costs the Nation between $6.5 and $9 billion annually in care, treatment, and lost production. The toll in mental anguish, suffering and wasted human potential is incalculable.

Other statistics indicate that about 30 percent of childhood hospital admissions and 10 percent of adult admissions in this country result from genetic disorders. Approximately 12 million Americans suffer from some genetic disorder. The National Institute of General Medical Sciences reports that birth defects with genetic origins may claim more American lives than do heart disease, cancer, or stroke.

It has been estimated that the application of known preventive and treatment techniques could cut the incidence of mental retardation in half. Specifically, mental retardation caused by inherited metabolic disorders can often be prevented if the condition is identified and treated shortly after birth.

Although metabolic disorders are not common, the cost of screening and treating all newborn infants is demonstrably less than the economic and social costs of caring for the retarded.

Another reason, beyond my concerns for the trauma and costs involved, was that current Federal legislation did not provide for the routine testing of newborn infants. While some Federal maternal and child health funds do assist State programs for newborn screening, the basic responsibility lies with States and there are wide disparities in the nature and coverage of their programs.

I further felt that it was unconscionable that geographic location could deprive a child of the early diagnosis and treatment that could mean the difference between a severely impaired existence and a normal life.

Some States have been active in protecting their citizens through this testing. Since I introduced this bill, I have received countless letters from legislators throughout the Nation who wrote to tell me of their success in initiating similar legislation on the State level.

In fact, there are even regional cooperative programs already underway. Six States, with small populations, send their newborn infant specimens to Oregon and Massachusetts where regional screening laboratories already exist. The regionalization approach can reduce the number of laboratories performing tests, facilitate quality control, and reduce costs.

In existing State-organized newborn screening programs, genetic centers have been designated by the State health department to confirm diagnoses and provide treatment, management, and counseling services.

Thus, I was pleased to note that Senator JAVITS has included provisions similar to my legislation in S. 2474. Although

these provisions modify the scope of my proposal, I wish to call to the attention of my colleagues the committee report accompanying S. 2474. On page 33, the report (95-860) states:

. . . one of the main purposes of this bill is to respond to what the committee believes to be the inappropriate interpretation of Public Law 94-278 by the Health Services Administration. The primary thrust of the original law, as well as this bill, is to carry out our goal of a generic approach to genetic diseases, without assigning priority to specific disease programs in determining eligibility for funding. The committee's bill stresses noncategorical initiatives in comprehensive genetic services based on effective planning, evaluation, and needs assessment. The bill further broadens the scope of its coverage to include "genetic conditions leading to mental retardation or mental illness, and conditions requiring genetic services." . . .

Thus, rather than lock itself into a definition of genetic diseases to be covered, the committee believes that it is far more valuable to outline the array of genetic services that can be made available and supported under the provisions of this bill to persons suffering from disorders or conditions of various etiology. Such genetic services include the following: 1. Early detection of disease; (a) Newborn screening, (b) Prenatal screening, (c) Prenatal diagnosis; (d) Screening at later ages; 2. Carrier detection; 3. Counseling; 4. Diagnosis and monitoring effectiveness of treatment; and 5. Information and education.

The committee report goes on to say:

The primary intent of the National Genetic Diseases Act is to provide genetic services of screening, testing, counseling and information. The committee's bill makes several further amendments in the law to support those services and to assure their excellence and accessibility.

An authorization of $45 million for each of the next 3 fiscal years has been set to carry out this initiative.

Research has enabled us to greatly reduce infectious diseases and related problems. It is of grave importance then that we now assign a higher priority to inherited disorders. This is why I hope that through the directives of this legislation the necessary detection, diagnosis, treatment, and prevention of inheritable birth defects will receive a strong and continuing attention.

I wish to point out at this time some very interesting discoveries which have been announced recently because of research in the area of genetics. For the first time, doctors have been able to identify a single gene among the millions in a human cell and can now see whether an unborn baby is missing certain parts of its genetic blueprint. The technique detects only a rare group of genetic diseases, but researchers feel that within a few years they will have the genetic knowledge enabling them to detect more common ones. These findings were recently reported in the New England Journal of Medicine.

Also, along these same lines, in a study of genetic diseases, researchers at Harvard Medical School have suggested promising prospects for treating those with Down's syndrome. It has been determined that Down's syndrome has long been associated with an extra unit of genetic material in each cell. In studying these chromosomes it is believed that only a small portion of the extra genetic material may be responsible for producing the symptoms of Down's syndrome. Predictions are that over the next 5 years it will be possible to further determine just which genes are responsible for the disorder. Possibly inherited diseases could be ameliorated by medical treatment. In the case of the Down's syndrome individual, there is the possibility that the intelligence level could be raised in this manner.

There are great strides being made in the study of genetic diseases. I feel it is very important to continue this research. This legislation may make the single most important difference in many infants' lives.●

● Mr. HAYAKAWA. Mr. President, today the Senate is considering S. 2474, the Health Services Extension and Primary Health Care Act. S. 2474, as originally introduced and reported out by the Senate Human Resources Committee, extends several existing programs which provide health care services to 49 million Americans living in medically underserved areas. This legislation places an emphasis on primary and preventive health care services through which Americans can save money and witness vital research in unsolved illnesses.

I was concerned about the funding levels contained in S. 2474 as reported out by the committee, but substantial changes have been made. The figures that have been substituted in this revised legislation bring S. 2474 within the ceilings established in the budget resolution, but allow flexibility for those programs contained in S. 2474 to expand in order to suit our needs.

S. 2474 is legislation which I believe many of my colleagues would find inoffensive, and relatively easy to support. However, we now find that two enormously unnecessary amendments are being tacked on to this legislation. I cannot support either amendment to S. 2474.

The first amendment is essentially the provisions of S. 3116, the National Disease Prevention and Health Promotion Act of 1978. The second amendment contains those provisions within S. 2910, the Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978. I support neither of these amendments, and urge my colleagues to take a careful look at these two proposals, and decide whether or not to support yet another unnecessary, expensive proposal. I, for one, do not want to go home to California and tell the voters that I have agreed to spend more dollars on more unnecessary programs that should, in all propriety, be decided upon and implemented at the State levels.

I would like to say a few words about each of these amendments.

I voted to report S. 3116, the Health Promotion and Disease Prevention Act, out of committee not because I support the bill, but because I am curious to see my colleagues' reactions to it on the floor. I do not think anyone would argue with the sensible idea of promoting good health and preventing disease, but this amendment does not adequately attend to either premise. As is our usual practice in the Human Resources Committee, rather than focusing on one issue—that of promoting good health and eliminating disease—we expand the purposes of the bill to embrace an antismoking campaign and establish a National Center for Sports Medicine. I do not think this is the time to ask taxpayers for money to generate these programs.

The voters in my State of California have already expressed their opposition to rising taxes, via proposition 13. Rising taxes are caused by people in Congress like us who abound with good ideas on the one hand, ask for money with the other, then go home talking about fiscal responsibility and cutting Federal taxes. We should be more cautious about agreeing to spend the taxpayers' money. I am in no hurry to go home and announce my support for yet another costly, unnecessary program. I firmly believe that if we had to pay $1 out of pocket every time we agree to spend one million tax dollars, we would be far more hesitant about these unthrifty proposals.

I believe preventive medicine is the best kind. I also believe that studying the major causes of death might be a good way to prevent sickness and promote sound health. This amendment, S. 3116, is intended to do just this, but so much unnecessary spending has been attached to it, I cannot support it.

Title I, which contains the formula and project grants to help States study parochial health care needs and provide preventive health care services, is a good idea. I would consider supporting title I if it were considered separately from the remainder of the bill.

Titles II and III however, are different stories. I cannot support a federally subsidized program designed to study the effects of smoking among children, nor community/school based programs meant to discourage young people from smoking, as is proposed in this measure.

Besides the antismoking provisions, this bill also asks for a federally subsidized program for physical fitness and sports medicine. This, like so many other programs authorized by the Human Resources Committee, would be better done at the State levels. If a State wants to spend its money on such an expensive program, it may. Who are we to tell people where their tax dollars should go, and who are we to tell them that their taxes will be raised again because of yet another program we have sponsored? I think we should all consider the rights of States and families in these and all other such matters.

The reason for my opposition to S. 2910, the Adolescent Health Services and Pregnancy Prevention and Care Act of 1978, can be simply stated. I just do not think the Federal Government has any business concerning itself with a nationwide program of this type.

I realize that teenage pregnancies and parenthood are facts. Many people believe it is the responsibility of the Federal Government to help these young people. I just wonder if allowing the Federal Government to subsidize large-scale programs to help them does not subtly condone such behavior and lifestyle.

To what extent is the Federal Govern-

ment responsible for each of us? In this case, I say it is responsible only when the States cannot afford to provide care. Such assistance should be given by the States; and only when the people of that State have decided that aiding pregnant teenagers is a priority item. The attitude toward funding such a program might be totally different in two separate States. I believe we should not mandate assistance at the Federal level. Some States, including California, have already established a network of services available to pregnant teenagers. If other States determine that this is where they want their money spent, then so be it. But let us not tell them from Washington where their tax dollars must go.

There are more factors involved here than just whether or not to provide services for pregnant teenagers or teenage parents. Young people today have much more spare time than previous generations, whose lives were filled with after-school jobs and homework. This spare time nowadays lends itself to idleness and trouble.

One key factor is the education system. Everyone complains about the poor quality of education. Young people do not have the discipline that results from academic requirements that used to be standard.

Another factor is the unemployment rate for young people. We continue to raise the minimum wage levels year by year, thus pricing young people out of beginning jobs. How many employers want to hire a young person with little or no experience at $2.65 or more per hour, when they can hire another worker with more experience for the same price? Not many, I think. Only big businesses can afford an apprenticeship program at that price. Thus, we virtually keep them from earning money in their spare time. We in Congress keep young people from being hired by raising the minimum wage levels beyond employers' capabilities to pay them.

Because school is no challenge, and the challenges of work in the outside world are denied by exclusionary union rules or minimum wage levels, we exclude young people from the world of adults, and from exercising their physical or intellectual powers. And now we want to exclude them from taking their own responsibilities as regards such a personal matter as pregnancy? We must not protect young people from the outside world, from taking care of themselves. Rather, we must encourage them to take responsibility for their own actions. Young people need this to grow and mature. If we do not provide young people with challenges, they are compelled by inner necessity to improvise their own. We must bring these young people into our lives, not further alienate them by lack of discipline.

The Federal Government cannot be all things to all people; we must draw the line somewhere. As it is people now think of the Government in terms of rescue—if there is a problem, we are there to take care of it. The bigger the problem, the bigger the Government agency. I believe the Government is here to gently guide, and provide wherever necessary. People must have more say about where priorities are placed for their tax dollars. Must they relinquish all of their responsibilities to us? If we left programs like those that are contained in these two amendments to S. 2474, we should eliminate many tax dollars going toward unnecessary expenditures. At the same time, we would return the independence we consistently try to snatch from the individual and the State where it belongs.

I urge my colleagues to consider carefully the implications of asking the Federal Government to interfere in our lives as is suggested in these two proposals, and join me in opposing them.●

● Mr. WILLIAMS. Mr. President, today the Senate considers S. 2474, the Health Services Extension and Primary Health Care Act.

As reported by the Committee on Human Resources last May, S. 2474 would extend authorizations for a number of health services programs. Specifically, authorizations would be extended for comprehensive public health grants to States, and for hypertension, childhood immunization, lead-based paint, rodent control, venereal diseases, genetic diseases, community health centers, and migrant health centers programs. The bill also would authorize grants for the development of hospital-affiliated primary care centers, as well as research and demonstration projects for primary care in medically underserved areas.

S. 2474 was reported by the committee with the understanding that additional legislation, emphasizing preventive health care, would be considered by the committee over the summer and offered as a floor amendment to S. 2474. The committee reported such legislation in the bill, S. 3116, on September 15.

S. 3116 would extend funding for several formula and project grant programs which would have only limited extension in S. 2474. But most important, title I of S. 3116 complements these programs with new authorities to improve the capacities of States and localities to undertake programs aimed at preventing the five leading causes of death and disability in each State. Title II of the bill would provide Federal support for five comprehensive, community-based programs to study alternatives for the organization and delivery of comprehensive preventive health services. Federal support is also authorized for the study of smoking among children and community or school-based programs to deter smoking among children.

In the past, the primary goal of Federal health policies has been to cure disease. National efforts have focused on the cure of diseases, because we have had little knowledge about their causes. This situation is rapidly changing. Each day new causative factors are identified. We are beginning to understand the relationships between chemical exposure in the workplace and in the community and the development of disease. We are also learning about the important relationship of lifestyle and personal health habits to good health.

As more of these causative factors are identified, we become more aware that preventive, rather than curative medicine and health offers the most promising, cost-effective approach for the solution of our Nation's health problems. Yet, despite the evidence, less than 3 percent of all national health care expenditures is spent annually on the prevention of disease and the promotion of good health. The $225 million which would be provided by this bill for new preventive health programs represents a hopeful beginning for changing the focus of our Nation's health care delivery patterns from cure to prevention.

During deliberations on S. 3116, the committee also had time to review the authorizations of S. 2474 as reported. They were carefully compared with the provisions of S. 3116, past appropriations, and the 1979 budget resolutions. As a result, downward adjustments have been made in the funding levels of many of the programs extended in S. 2474. While allowing for inflation, these funding levels will permit real growth for programs of highest national priority.

Mr. President, another very important amendment that has been offered to S. 2474 deals with the problem of adolescent pregnancy. This measure, S. 2910, the Adolescent Health Services, and Pregnancy Prevention and Care Act of 1978, is designed to establish a program for developing networks of community-based services to assist pregnant adolescents and adolescent parents, and to prevent unwanted initial and repeat pregnancies among adolescents.

The need for this legislation is overwhelming. Statistics provided by the Alan Guttmacher Institute and the Center for Population Research indicate that upwards of 11 million teenagers are sexually active—with approximately 1 million, or 1 in every 10 teenage girls, becoming pregnant each year. It is particularly alarming that the sharpest increase in the numbers of adolescent pregnancies occur to young girls under the age of 15. It was this data, coupled with the increasing concern of legislators, parents, educators, and other interested parties, that prompted the administration to develop this comprehensive legislative initiative.

On April 13, I joined my colleague from Massachusetts, Senator KENNEDY, in sponsoring S. 2910. The bill we referred to the Committee on Human Resources and was considered at the full committee level. While this measure arrived from the administration late in the legislative year, the committee recognized the importance of moving on the legislation this year, and hearings were held on June 14 and July 12, 1978.

In its hearings, the committee heard compelling testimony that the problems accompanying adolescent pregnancy are enormous and are potentially devastating. The young mother and child may face serious health hazards. The infant of an adolescent mother faces a markedly increased risk of mental retardation, developmental disabilities, and other handicapping conditions. With respect to education, adolescent pregnancy is the major cause of school dropouts for girls. These and other negative consequences often seriously undermine th

ability of the young mother to adequately take care of herself and her child—the result often being government dependency.

While chairing the committee hearings on S. 2910, I heard impressive testimony citing the successes of comprehensive care programs which integrate health, educational and social services to pregnant adolescents and adolescent mothers. It was indicated such programs assist in improving the health of the young mother and child, improve the adolescent's chances of completing school or obtaining employment, and assist in preventing unwanted adolescent pregnancies. Overall, the cost of providing critical health services to a young mother to insure a healthy pregnancy and healthy child, crucial educational services to young mothers, and other social services to assist these young women to avoid the welfare cycle is miniscule when weighed against the long-term benefits to the adolescents, their babies and to society in general.

While the committee has targeted its bill on a specific cadre of adolescents and has placed the primary emphasis of services paid for under this bill on pregnant adolescents and adolescent mothers, it is the intent of the committee that S. 2910 should accompany other legislation which is targeted specifically on prevention. A measure that was reported by our committee and subsequently passed the Senate, S. 2522, the Voluntary Family Planning and Population Research Act, would provide the expanded authority to provide voluntary family planning services to many adolescents. While this title X program appears to be the more appropriate vehicle to deliver preventative efforts to adolescents in need of such services, S. 2910 may serve to assist in the development of innovative, educational programs to prevent adolescent pregnancy. This legislation would add some flexibility to develop such programs according to each community's particular needs.

Our committee heard considerable criticism regarding the failure of existing health, educational and social services systems to adequately address the devastating consequences of adolescent pregnancy in a satisfactory, realistic, and comprehensive manner. This measure, Mr. President, while building upon existing programs and avoiding duplication of effort, will bring the needed national commitment to provide critical services to these young people in a concentrated, coordinated program.

I urge my colleagues to endorse S. 2474 with modified authorization levels, supporting the concept of preventive health care and increasing efforts to mitigate the effects of adolescent pregnancy and to prevent unwanted adolescent pregnancy as a comprehensive package designed to improve the health and well-being of Americans.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. MELCHER), and the Senator from Georgia (Mr. NUNN) are necesarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 82, nays 4, as follows:

[Rollcall Vote No. 429 Leg.]

YEAS—82

Abourezk	Eastland	Moynihan
Baker	Ford	Muskie
Bartlett	Garn	Nelson
Bayh	Glenn	Packwood
Bellmon	Gravel	Pell
Bentsen	Hansen	Percy
Biden	Hart	Randolph
Brooke	Hatch	Ribicoff
Bumpers	Heinz	Riegle
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hodges	Sarbanes
	Hollings	Sasser
Byrd, Robert C.	Huddleston	Schmitt
Cannon	Humphrey	Schweiker
Case	Inouye	Sparkman
Chafee	Jackson	Stafford
Chiles	Javits	Stennis
Church	Kennedy	Stevens
Clark	Laxalt	Stevenson
Cranston	Leahy	Stone
Culver	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Magnuson	Wallop
DeConcini	Mathias	Weicker
Dole	Matsunaga	Williams
Domenici	McGovern	Young
Durkin	Metzenbaum	Zorinsky
Eagleton	Morgan	

NAYS—4

Goldwater	Proxmire
Hayakawa	Scott

NOT VOTING—14

Allen	Hatfield, Paul G.	Melcher
Anderson		Nunn
Griffin	Hathaway	Pearson
Haskell	Johnston	Tower
Hatfield, Mark O.	McClure	
	McIntyre	

So the bill (S. 2474), as amended, was passed.

The title was amended so as to read:

A bill to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1983, the assistance program for community health centers and migrant health services; and to extend through the fiscal year ending September 30, 1981, assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish a Commission on National Primary Health Care Needs; to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2474.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that S. 2474 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) on their very skillful handling of the public health services bill. I thank them for the great amount of work and effort that has gone into the development of this bill through the process of hearings and markups and managing the bill on the floor.

Again, I think they have done an exemplary job, and I congratulate them.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1979

Mr. KENNEDY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11400.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 11400) entitled "An Act to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds", with the following amendment:

In lieu of the matter proposed to be inserted by the said amendment, insert:

That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1979".

SEC. 2. (a) There is hereby authorized to be appropriated to the National Science Foundation for the fiscal year 1979 for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $265,700,000.

(2) Astronomical, Atmospheric, Earth, and Ocean Sciences, $224,700,000

(3) United States Antarctic Program, $51,200,000.

(4) Biological, Behavioral, and Social Sciences, $157,000,000.

(5) Science Education Programs, $84,800,000.

(6) Applied Science and Research Applications, $69,700,000.

(7) Scientific, Technological, and International Affairs, $23,500,000.

(8) Program Development and Management, $53,300,000.

(b) Of the total amount authorized under subsection (a)(6)—

(1) $2,000,000 is authorized for a "Handicapped Research Program";

(2) $200,000 is authorized for the design of a program in Appropriate Technology; and

(3) not less than 12.5 per centum shall be expended to small business concerns.

SEC. 3. Appropriations made under the authority provided in sections 2 and 5 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SEC. 4. From appropriations made under this Act, not more than $5,000 may be used for official consultation, representation, or other extraordinary expenses upon the determination of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 5. In addition to the sums authorized by section 2, not more than $4,500,000 is authorized to be appropriated for the fiscal year 1979 for expenses of the National Science Foundation incurred outside the United States, to be paid for in foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 6. Funds may be transferred among the categories listed in section 2(a), but neither the total funds transferred from any category nor the total funds transferred to any category may exceed 10 per centum of the amount authorized for that category in section 2, unless—

(1) thirty legislative days have passed after the Director of the National Science Foundation or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Committee on Science and Technology of the House of Representatives, and to the Committee on Human Resources of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty legislative days both the Committee on Science and Technology of the House and the Committee on Human Resources of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

SEC. 7. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Human Resources of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

SEC. 8. (a) The Director of the National Science Foundation, in consultation with the Director of the Office of Science and Technology Policy, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and technical experts in public agencies, private organizations, and academic institutions, is authorized to determine the need to provide support under this Act for a study of the feasibility of transmitting solar energy to Earth by using orbital structures manufactured from lunar or asteroidal materials, and the impact of such a feasibility study, if any, on existing National Science Foundation programs.

(b)(1) If the Foundation determines that such a feasibility study is necessary, the Foundation is authorized to conduct such a study directly or by grants or contracts with public agencies, private organizations, or academic institutions.

(2) At the conclusion of any such study the Foundation shall prepare and submit to the President and to the Congress a report of the study, together with such recommendations as the Foundation deems appropriate.

(3) Of the funds authorized in section 2, $500,000 shall be available to carry out the provisions of this subsection.

Mr. KENNEDY. Mr. President, the message before the Senate includes the House-passed amendment to the Senate version of the National Science Foundation Authorization Act. This amendment was worked out in close cooperation with the Senate and has been reviewed by interested Members on both sides of the aisle.

The amendment is a reasonable compromise between the House and Senate versions of the National Science Foundation authorization. The authorization level of $934.4 million is identical to the level which was unanimously approved by the Senate last June. Taking into account the impact of inflation, the amendment will permit 3.4 percent real growth in the Foundation's research and science education programs.

Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate to H.R. 11400.

Mr. President, I ask unanimous consent that a statement describing the agreement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT TO ACCOMPANY H.R. 11400 AS AMENDED

The bill, H.R. 11400, provides authorization for the activities of the National Science Foundation for fiscal year 1979 in the total amount of $934.4 million. This is the same total amount as was presented earlier this year when the bill was passed in the House and in the Senate. Within this fixed total the amendment adjusts each line item slightly. The amount of each line item in the amendment falls between the House-passed figure and the Senate-passed figure. Line items are as follows:

NSF FISCAL YEAR 1979 AUTHORIZATION COMPARISON
[In millions of dollars]

Category	Budget request	House passed	Senate passed	Amendment
Mathematical and physical sciences and engineering	268.3	265.1	266.3	265.7
Astronomical, atmospheric, Earth, and ocean sciences	227.3	224.1	225.3	224.7
Biological, behavioral, and social sciences	158.0	158.0	156.0	157.0
Antarctic program	50.7	53.1	48.5	51.2
Science education	77.6	82.0	87.7	84.8
Applied science and research applications	67.0	67.0	73.5	69.7
Scientific, technological, and international affairs	24.3	24.3	22.3	23.5
Program development and management	54.8	54.8	51.8	53.3
Foreign currency	6.0	6.0	3.0	4.5
Total	934.0	934.4	934.4	934.4

The bill earmarks funds for four specific items: (1) $2 million for Handicapped Research; (2) $200 thousand for the design of a program in Appropriate Technology; (3) $500 thousand for a solar satellite feasibility study; and (4) 12.5% of applied research funds for expenditure to small businesses.

The chairmen and ranking minority members of the House and Senate committees and subcommittees with jurisdiction over this bill make the following recommendations for the use of the funds authorized in certain categories, as follows.

SCIENCE EDUCATION

The amount authorized by the amendment for Science Education is $84.8 million. This is $7.2 million above the request of $77.6 million. It is recommended that the Foundation give first priority to funding each program in Science Education at the level of the request for the program. Recommended funding levels for certain programs, including the increase of $7.2 million, are as follows:

[In millions of dollars]

Program	Increase over request	Recommended program level
Undergraduate research participation and student-originated studies	2.5	2.5
Minorities, women, and the handicapped in science	.7	3.2
Minority institution graduate fellowships	1.3	3.3
Minority institutions science improvement		5.0
Resource centers for science and engineering		2.8
Science for citizens	.5	2.2
Ethics and values in science and technology	.2	1.5
Increase emphasis on educational opportunities for women	2.0	2.0
Total	7.2	22.5

The $2.0 million recommended for increased emphasis on educational opportunities for women should be distributed among those existing science education programs where it can be used most effectively to increase the participation of women in science; it is not intended for a distinct line item program. In the Science for Citizens program it is recommended that the increase be used to continue and expand on-going activities consistent with the mission of the Foundation and its experience.

APPLIED SCIENCE AND RESEARCH APPLICATIONS

In the category of Applied Science and Research Applications, in addition to the requirements of the bill for Handicapped Research, Appropriate Technology and Small business, it is recommended that $1.2 million be available for the State Science, Engineering, and Technology Program and that of the funds available in the 12.5 percent set-aside for small business $3.5 million be available for the Small Business Innovation program.

TWO YEAR AUTHORIZATION

It is recommended that the Foundation present a two year line item authorization

to the Congress for fiscal years 1980 and 1981.

Mr. KENNEDY. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate to H.R. 11400.

The motion was agreed to.

TIME-LIMITATION AGREEMENT—S. 1487

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 2:15 p.m., today, the Senate proceed to the consideration of Calendar No. 894, S. 1487; that there be a time limitation of 20 minutes overall.

Mr. ABOUREZK. Mr. President, reserving the right to object, what is that?

Mr. ROBERT C. BYRD. This measure is one on which agreement has been reached.

Mr. KENNEDY. It is the cigarette bootlegging bill.

Mr. ROBERT C. BYRD. With Mr. KENNEDY, Mr. BELLMON, Mr. HUDDLESTON, and others. They would have called it up at this time, but Senator HUDDLESTON is engaged elsewhere at the moment.

Mr. ABOUREZK. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. It is too late. But I will assist the Senator in getting the request vitiated, if he wishes.

Mr. HEINZ. I am just reserving the right to object. What does the Senator intend to do in the next half hour?

Mr. ROBERT C. BYRD. I have no problem with that.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3077, the Export-Import Bank bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3077) to amend and extend the Export-Import Bank Act of 1945, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 13, beginning with line 21, strike through and including page 14, line 6, so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export-Import Bank Act Amendments of 1978".

PRENOTIFICATION

SEC. 2. Section 2(b)(3) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "No" in the first sentence and inserting in lieu thereof "Except as provided by the fourth sentence of this paragraph, no";

(2) by striking out "$60,000,000" in the first sentence and inserting in lieu thereof "$100,000,000"; and

(3) by adding at the end thereof the following: "If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least 10 days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the 25-day period referred to in the first sentence of this paragraph or upon the termination of a 35-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner.".

FRACTIONAL CHARGES

SEC. 3. Section 2(c)(1) of the Export-Import Bank Act of 1945 is amended by striking out "$20,000,000,000" and inserting in lieu thereof "$25,000,000,000".

COUNTRY ELIGIBILITY

SEC. 4. (a) Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by inserting a period after "and employment in the United States" and striking out the remainder of the paragraph.

(b) Section 2(b)(2) of such Act is repealed.

(c) Section 2(b)(5) of such Act is amended by striking out the last sentence thereof.

(d) Paragraphs (3) through (7) of section 2(b) of such Act are redesignated as paragraphs (2) through (6), respectively.

(e) Section 2 of such Act is amended by adding at the end thereof the following:

"(d)(1) The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with the purchase or lease of any product or service by any foreign country, including any agency or national thereof, unless such country is on the effective list of eligible countries referred to in paragraph (2). No foreign country may be included in the list of eligible countries referred to in paragraph (2) unless the President determines that inclusion of such foreign country in the list is in the national interest. The President shall make a separate national interest determination with respect to each foreign country included on the list referred to in paragraph (2), and, in making such determination, shall take into account the country's relationship to the United States, its relationship to countries friendly and hostile to the United States, its internal stability and creditworthiness, and its policies and actions with respect to peaceful settlement of international and internal disputes, nuclear proliferation, environmental protection, human rights, including the right to emigrate, and such other factors as he deems appropriate.

"(2) Within 60 days after the date of enactment of this subsection, the President shall transmit to the House of Representatives and to the Senate a list of countries which he has determined, in accordance with paragraph (1), to be eligible for participation in the Bank's program under this Act. Notwithstanding any other provision of law, and except as otherwise provided in paragraph (8) for the Union of Soviet Socialist Republics, such list shall be the exclusive method for determining eligibility for participation in the Bank's programs under this Act and shall be effective for a period of 3 years beginning on the day on which it is deemed effective under the procedures set forth in paragraph (5). At least 60 days prior to the expiration of any such list, the President shall transmit to the House of Representatives and to the Senate a new list of countries determined, in accordance with paragraph (1), to be eligible for participation in the Bank's programs under this Act.

"(3) The President may at any time issue an Executive order (A) removing any country from the list referred to in paragraph (2), or (B) terminating the effectiveness of any such list, if, in light of the factors set forth in the third sentence of paragraph (1), he determines such action to be in the national interest. Any such Executive order, together with a report setting forth the reasons therefor, shall be promptly transmitted to the House of Representatives and to the Senate.

'(4) The President may, at any time, add one or more countries to the list referred to in paragraph (2) if he makes a determination in accordance with paragraph (1) and transmits a report setting forth such determination, together with the reasons therefor, to the House of Representatives and to the Senate.

"(5) Any list referred to in paragraph (2) and any determination referred to in paragraph (4) shall become effective after the close of the 60-day period beginning on the day on which the list referred to in paragraph (2) or the report referred to in paragraph (4), whichever is the case, is delivered to the House of Representatives and to the Senate, unless during such 60-day period the two Houses adopt, by an affirmative vote of a majority of those present and voting in each House, a concurrent resolution disapproving any such list referred to in paragraph (2), or any such determination referred to in paragraph (4), whichever is the case, under the procedures set forth in subsection (e).

"(6) Notwithstanding any other provision of this subsection, the President may disapprove any guarantee, insurance, extension of credit, or participation in an extension of credit by the Bank prior to approval by the Bank if, in light of the factors set forth in the third sentence of paragraph (1), he finds that such transaction would not be in the national interest.

"(7) Notwithstanding any other provision of this subsection, (A) until the first list of eligible countries referred to in paragraph (2) has become effective, the Bank may guarantee, insure, or extend credit, or participate in an extension of credit with respect to any foreign country, including any agency or national thereof, to the extent such country was eligible to participate in the Bank's programs on the date of enactment of this subsection, and (B) if, at any time, a list rereferred to in paragraph (2) has expired and no new list has yet become effective, the Bank, during any such period, may guarantee, insure, or extend credit, or participate in an extension of credit with respect to any foreign country, including any agency or national thereof, included on the most recently expired list, except as the President, in light of the factors set forth in the third sentence of paragraph (1), may otherwise direct in the national interest.

"(8) Notwithstanding any other provision of this subsection, the procedures established in this section for determining a country's eligibility for participaton in the Bank's programs under this Act shall not waive or supersede in any way the provisions of either section 402 or 409 of the Trade Act of 1974 (88 Stat. 1978) as they apply in determining the eligibility of the Union of Soviet Socialist Republics for participation n the Bank's programs under this Act.

"(9) At the time the list referred to in paragraph (2) is submitted to the House of Representatives and the Senate, the President shall publish in the Federal Register a list of the countries he has determined, based on the factors set forth in the third sentence of paragraph (1), to be ineligible for inclusion in the list referred to in paragraph (2), specifying in the case

of each such country the reason for such determination. The President may amend the list of ineligible countries from time to time, as he deems appropriate.

"(e) CONGRESSIONAL PROCEDURES.—

"(1) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by the Congress—

"(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in subsection (d) (5) and supersedes other rules only to the extent that it is inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) DEFINITIONS.—For purposes of this subsection, the term 'resolution' means only—

"(A) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the list of countries eligible for participation in the Export-Import Bank's programs submitted by the President on .', with the blank space being filled with the appropriate date; or

"(B) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the determination of the President submitted on, with respect to .', with the first blank space being filled with the appropriate date and the second blank space being filed with the name of the country involved.

"(3) DISCHARGE OF COMMITTEE.—

"(A) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same matter, except no motion to discharge shall be in order after the committee has reported a resolution with respect to the same matter.

"(B) A motion to discharge under subparagraph (A) may be made only by an individual favoring the resolution, and is highly privileged in the House and privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(4) FLOOR CONSIDERATION IN THE HOUSE.—

"(A) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a resolution is agreed to or disagreed to.

"(C) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

"(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

"(5) FLOOR CONSIDERATION IN THE SENATE.—

"(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

"(6) SPECIAL RULE FOR CONCURRENT RESOLUTIONS.—In the case of a resolution described in paragraph (2), if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(B) the vote on final passage shall be on the resolution of the other House.

"(7) SPECIAL RULES RELATING TO CONGRESSIONAL PROCEDURES.—

"(A) Whenever, pursuant to subsection (d) a report is required to be transmitted to the Congress, copies of such report shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

"(B) For the purpose of subsection (d), the 60-day period referred to in such subsection shall be computed by excluding the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die.".

AUTHORIZATION

SEC. 5. Section 7 (a) of the Export-Import Bank Act of 1945 is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$40,000,000,000".

EXTENSION OF AUTHORITY

SEC. 6. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1983".

ENERGY POLICY

SEC. 7. (a) Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.".

(b) Section 9(b) of such Act is amended by adding at the end thereof the following: "In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, as required by section 2(b)(1)(C) of this Act.".

EXPORT CREDIT COMPETITION

SEC. 8. (a) The President is authorized and requested to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States. The President shall report to the Congress prior to January 15, 1979, on progress toward meeting the goals of this section.

(b) The Export-Import Bank of the United States is authorized to provide guarantees, insurance, and extensions of credit at rates and terms and other conditions which are, in the opinion of the Board of Directors of the Bank, competitive with those provided by the government-supported export credit instrumentalities of other nations.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

SOUTHWESTERN POWER ADMINISTRATION RATES

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2249.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2249) entitled "An Act to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That power and energy marketed by the Southwestern Power Administration pursuant to section 825s of title 16, United States Code (1970), shall be sold at uniform system-wide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual arrangements.

SEC. 2. This Act shall not become effective until Contract No. 14-02-00001-1002, effective August 1, 1962, between the United States of America and Associated Electric Cooperative

Inc., Springfield, Missouri, has been amended in a manner mutually agreeable to the parties thereto.

Amend the title so as to read: "An Act to prohibit discrimination in rates charged by the Southwestern Power Administration.".

Mr. FORD. Mr. President, I yield to the Senator from Missouri (Mr. EAGLETON).

Mr. EAGLETON. As the distinguished floor manager knows, I am sponsor of the Senate-passed bill (S. 2249) which is similar in most respects to the House-passed measure. I would like to ask the Senator from Kentucky if he agrees that the main purpose of both bills is to reaffirm longstanding congressional policy that Federal power marketing agencies shall charge a postage stamp rate to all preferential customers without regard to distance from power-generating stations or whether the power is transmitted over federally owned or federally leased lines?

Mr. FORD. I quite agree with the distinguished senior Senator from Missouri that that is the principal purpose of the two bills. The postage stamp rate is an important concept which has guided Federal policy in the public power area for many, many years. Frankly, the Southwestern Power Administration's imposition of a transmission service charge on the Associated Electric Cooperatives of Missouri is the only departure from that well-settled policy that I have any knowledge of. So I agree with the Senator from Missouri and with the House report which states on page 3 that the purpose of the bill is to:

. . . reaffirm the concept of postage stamp rates. It settles the policy issue that has been questioned by Associated Electric Cooperative in its litigation against SPA. Furthermore, this section reaffirms the intent of Congress with respect to the original agreement between the Missouri cooperatives and SPA. This is the agreement the cooperatives relied upon when borrowing funds from the Rural Electrification Administration and the one which the Federal Government should not be permitted to circumvent by imposing a transmission service charge.

Mr. EAGLETON. I have heard that the Southwestern Power Administration is somewhat concerned that congressional purpose in this legislation might be misread to prohibit wheeling agreements with nonpreferential customers. Would the floor manager agree that is not the intent and that the bill affects only rates for preferential customers?

Mr. FORD. I do not think there is any doubt about it. The Senator from Missouri is correct—this bill does not affect rates or terms for selling power to nonpreferential customers.

Mr. EAGLETON. I want to take note of the difference between the Senate and House versions of this bill. While both reaffirm the congressional policy against discriminatory rates, the House bill calls for renegotiation of the contract between Southwestern Power Administration and Associated Electric before section 1 of the bill becomes effective.

I think the House report makes it clear that its only purpose in delaying the effective date of section 1 is to accommodate the renegotiation of the SPA-Associated Electric contract, and I quote from pages 3 and 4 of the report:

Section 2. While it is the intent of the committee to settle the policy question of postage stamp rates as it relates to the transmission service charge, there is a need for renegotiation of other terms of the contract between SPA and Associated. Thus, section 2 would defer the effectiveness of the entire act until negotiations on a new contract are completed.

It is the intent of the committee that the transmission service charge should not be a subject for these continued negotiations. Reaffirming the concept of postage stamp rates for the SPA system means that this charge is not a proper one and should not be discussed by the parties or included in their final agreement. Other terms of the contract only should be the subject of negotiations.

I agree that the contract should be renegotiated, but I much prefer the Senate approach which was to insist in its report language that this be done and to call for a progress report on those talks. Nevertheless, I do agree with the House that there be some allowance so that SPA will have room to rectify its departure from established congressional policy in an amicable and mutually agreeable way. As I read it, that is what the House sought to achieve by its addition of section 2 to the bill.

Mr. FORD. I believe that is a fair reading of the bill. It would not make sense otherwise for Congress to reaffirm a longstanding policy in one section, but to state in the next section that the policy will not become effective until sometime in the future. The policy is settled by section 1. The purpose of section 2 is simply to allow time for SPA to renegotiate the contract which gave rise to its departure from that policy and not to prejudice those negotiations on one side or the other. I would add that those negotiations are now underway and proceeding very smoothly.

Mr. EAGLETON. I understand that with removal of the transmission service charge which this bill accomplishes other differences between SPA and Associated Electric can be resolved and indeed are being worked out at the bargaining table at this time. That is where this issue should be settled—at the negotiating tables not in some court of law. Would the Senator agree?

Mr. FORD. Wholeheartedly; I believe that this legislation settles the matter both with respect to past applications of the discriminatory transmission service charge and also with respect to any new rates which might be proposed by SPA. This bill codifies congressional intent that all preferential users pay the same rate and that any additional questions concerning SPA payments for haulage of power be the matter of separate negotiation and contractual agreement. I would hope that enactment of this measure will settle the matter now before the court.

Mr. EAGLETON. I concur in what the distinguished floor manager has just said and I want to express my appreciation for his excellent leadership on this bill.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 3077.

Mr. ROBERT C. BYRD. Mr. President, what is pending before the Senate?

The PRESIDING OFFICER. S. 3077, the Eximbank bill.

Mr. STEVENSON. Mr. President, last year the United States ran a trade deficit of $26 billion. This year's deficit is likely to set a new record. In the first 7 months of this year, the trade deficit totaled $18 billion.

Continuing trade deficits weaken the dollar, stir up protectionist sentiment, increase inflation, and cost Americans jobs. If we increased exports to the level of current imports, an estimated 1.2 million new jobs could be created.

Better export performance is one way to reduce unemployment without inflation. But exports do not happen by themselves. And the Export-Import Bank is the principal U.S. agency which helps U.S. exporters meet foreign competition—competition which is increasingly severe and receiving increased support from foreign governments.

The Bank's mandate since its inception in 1934 has been to finance and facilitate U.S. exports by providing loans, guarantees, and insurance where private financing was unavailable or insufficient to meet foreign competition. The Bank provides loans at interest rates above the cost of funds to the Bank and in accordance with the self-sustaining nature of the Bank. It costs the taxpayers nothing; indeed, it earns them income.

During fiscal year 1977 Eximbank supported $8.5 billion in U.S. exports, with an equivalent of roughly 340,000 U.S. jobs. But the Bank's activity during 1977 represents a decrease for the third consecutive year. Under new leadership and faced with new challenges from abroad, the Bank is beginning to reverse the trend. But the Export-Import Bank's authority to make new commitments in support of U.S. exports expires on September 30. S. 3077 is necessary for the Bank to continue to offer adequate financing for U.S. exports.

Increasing export support programs of foreign governments jeopardize U.S. export performance. Foreign competitors are making aggressive use of governmental resources to protect their traditional export markets and maximize export growth. The result is a declining U.S. share of international trade. Government-authorized export assistance in Canada, France, Germany, Italy, Japan, and the United Kingdom amounted to a total of $96 billion last year. Exim provided $3.7 billion worth of insurance and guarantees and less than $2 billion in export loans. The magnitude of the foreign competition's export assistance programs emphasizes the need to expand Eximbank's authority.

S. 3077 raises commitment ceilings

which could hamper Eximbank financing of U.S. exports. Under the present statute, the Bank may have no more than $25 billion in loans, guarantees, and insurance outstanding at any one time, counting no more than $20 billion in guarantees and insurance at 25 percent of face value. The Bank presently has an aggregate of $19 billion outstanding against the ceiling and expects to exceed the ceiling during fiscal year 1980.

S. 3077 would increase the aggregate ceiling to $40 billion through September 30, 1983. The limit on guarantees and insurance which may be charged at 25 percent of face value against the ceiling would be increased by $5 to $25 billion. The higher ceiling on Eximbank commitments is necessary if the Bank is to do its part to combat this Nation's growing trade deficit.

The Eximbank is directed by its charter to supplement and encourage, and not compete with, private capital in export financing. The ceiling established in S. 3077 gives the Bank discretion to choose between direct credits, and guarantees and insurance as instruments to support U.S. exports, but it is understood that the Bank will rely upon guarantees and insurance whenever possible in order to maximize private capital participation in export financing.

S. 3077 makes two changes in the prenotification requirements contained in the Export-Import Bank Act. The Bank is currently required to submit to Congress a detailed statement concerning any loan or financial guarantee which, first, equals or exceeds $60 million, or second, equals or exceeds $25 million for energy-related exports to the U.S.S.R., or third, is related to nuclear power facilities. The Bank may not give final approval to such loan or guarantee until such statement has been before the Congress for at least 25 days of continuous session.

S. 3077 increases from $60 to $100 million the threshold amount for loans and financial guarantees requiring prenotification to Congress. The prenotification provision was adopted in 1974 to enable Congress to review Bank-supported projects of major proportions with significant economic and foreign policy ramifications. Inflation has significantly lowered the threshold. The cumulative impact of price inflation will make a $60 million export transaction in 1974 cost more than $10 million in the 1980's. In order to avoid burdening the Bank, the Congress, and U.S. exporters with prenotifications for export projects of lessening significance, S. 3077 adjusts the threshold upward to account for inflation.

If Congress should be in adjournment for a period of 2 or 3 months the prenotification requirement could delay Eximbank decisions on major projects. Such delays would only benefit foreign competitors. To prevent such situations from arising, S. 3077 would authorize the Bank to give final approval to transactions subject to the prenotification requirement after 35 calendar days or 25 days of continuous session, whichever comes sooner, if either House adjourns for a period of 10 or more days after receiving the Bank's detailed statements.

The Bank has assured the Congress that it will not use this provision to circumvent congressional review. Any concerns voiced by Members of Congress about a proposed transaction during an adjournment will be seriously considered by the Bank.

The predatory export financing practices of some foreign governments have adversely affected the marketing abilities of U.S. exporting companies. The existing international arrangement on officially supported export credits, negotiated by the Bank and its foreign counterparts several months ago, has been largely ineffective. In order to minimize the increasingly serious threat to world trade which such practices pose, this bill would authorize the President to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs. It would also require the President to report to Congress prior to January 15, 1979, on progress toward meeting that goal.

An important complement to the negotiating authority is the provision which would authorize the Bank to offer U.S. exporters financial assistance that is competitive with that provided by foreign government-supported export instrumentalities. The United States will not passively allow its export performance to be undermined by subsidized financing practices of foreign governments. This bill will send a firm message to our international trading competitors: Congress will not condone predatory export financing by any trading nation. By enacting S. 3077 we authorize the Bank to meet foreign official competition on its own terms. We encourage the Bank to offer our exporters assistance when it deems such action appropriate and consistent with its statutory authority.

S. 3077 would replace a number of current provisions restricting eligibility of foreign countries to receive exports supported by the Bank with new consistently applied criteria. The President would be required to submit to Congress a list of countries for which he had determined that eligibility to receive Bank-supported exports is in the national interest. Congress would review but could not amend the list, and once it became effective it would remain so for 3 years. The President would be empowered, however, to take a country off the eligibility list at any time. The common denominator would be a consistent set of criteria, including such factors as the country's relationship to the United States, its policies on nuclear proliferation, environmental protection, human rights, terrorism, and other factors as determined by the President. A flexible, but systematic basis would be established for determining which countries ought to be eligible to receive Bank-supported exports as an alternative to the present process by which determinations are made ad hoc country-by-country and issue-by-issue.

Greater flexibility and increased authorization levels are necessary if the Eximbank is effectively to promote U.S. exports. The Bank should be empowered to enable U.S. exporters to compete aggressively with exporters from other major trading nations. At stake are thousands of jobs in the exporting sector of this economy. S. 3077 will give fresh stimulus to U.S. exports and improve the balance-of-trade situation. And it will overhaul and streamline the authority which governs the Eximbank.

Mr. President, I ask unanimous consent that Bob Russell, of the Banking Committee staff, and Gary Welsh, of my staff, be accorded the privilege of the floor during consideration of S. 3077.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I support S. 3077 which is an essential part of the President's total export program announced on Tuesday. It is difficult to underestimate the importance of credit financing in exports, and this bill will enable American exporters to compete on terms comparable to those enjoyed by their competitors.

The President's export program requires the bill's passage if the national objective of increasing exports is to be achieved. This is a wise first step in the direction of reducing the large U.S. trade deficit.

Yesterday the Committee on Commerce, Science, and Transportation held a hearing on the national export program, which President Carter announced on Tuesday afternoon. I ask unanimous consent that the President's statement of September 28 appear in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CANNON. Mr. President, at the hearing, the committee had the opportunity to receive testimony from and to question Secretary of Commerce Juanita Kreps; Assistant Secretary of Commerce, Frank Weil; Assistant Secretary of the Treasury for International Affairs, C. Fred Bergsten; the chairman of the Export-Import Bank, John Moore; and William Nordhaus, of the Council of Economic Advisers. Each of these administration witnesses affirmed the President's strong, unswerving commitment to the cause of export expansion.

The President's new program is most timely. Although the trade deficit for August was only $1.6 billion down from $2.99 billion in July, the annual rate based on the first 8 months of 1978 is still running at $31 billion, up from $27 billion in 1977.

The President is to be commended for his effort and his personal commitment to export expansion. Never before has a President identified himself so publicly with the objective of expanding exports. In his speech Monday before the International Monetary Fund-World Bank joint meeting, he pledged that he would take action in three areas: First, exports; second, inflation; and third, energy. In doing so he has accorded export expansion a priority which it has never before had.

As the President said on Tuesday, it is an "opening of the door," and he is committed to a long-term effort to reduce the trade deficit, including, when necessary, additional projects to supplement this program. The battle to improve the export competitiveness of the United States will not be won in 1 year or 2. Nor can it be won without the cooperation of the broad cross section of the American public, which will be the ultimate winners of a strong dollar, a strong international monetary system and a competitive domestic economy.

The discouraging record of our international trade performance is well known to those of us who have followed this subject. For the last 4 years, our exports, adjusted for inflation, have remained about the same, rising from $56.2 billion in 1974 to $57.2 billion in 1977. In contrast, most of our industrial competitors have enjoyed an export growth rate in excess of ours. In the case of Japan and Germany, they have even expanded their market shares in some third countries where we compete head-on.

In retrospect, the persistence of the trade deficit has made it clear that the 1971 merchandise trade and the current account deficits were not aberrations but indicators of fundamental problems in our economy.

The trade and current account deficits have also been aggravated by the divergence in the growth rates of our trading partners and our costly oil imports. The robust growth of the German and Japanese economies should narrow our deficits with those countries. The implementation of phase II of the President's anti-inflation program should also make our goods more price competitive.

If the President's energy program works as planned the burden on our economy imposed by the oil price increases should diminish, and a significant contribution to our balance of trade could be seen within the next year.

All of these factors—an enhanced export program, a tough anti-inflation program, the convergence of growth rates, and an energy program—should help to reduce the merchandise trade and current account deficits.

The President also noted on Tuesday that he was deeply concerned about the fact that our rate of productivity growth was the lowest of any major industrial nation. Together with his May directive establishing an industrial innovation policy review, it is clear that he comprehends the possibility that structural changes may underlie the trade deficit and that the deficit is a leading indicator that the U.S. economy's comparative advantage in manufacturing is declining. If this is true, the areas of structural weakness must be identified and appropriate policies to cope with them must be devised.

The Commerce Committee is committed to pursuing an intensive inquiry into the importance of research and development to our international trade position. On May 16, 1978, the Subcommittee on Science, Technology, and Space held a joint hearing with the Subcommittee on International Finance of the Senate Banking Committee on U.S. high technology exports. We intend to continue our activities in this crucial area.

EXHIBIT 1

STATEMENT BY THE PRESIDENT

It is important for this Nation's economic vitality that both the private sector and the Federal government place a higher priority on exports. I am today announcing a series of measures that evidences my Administration's strong commitment to do so.

The large trade deficits the United States has experienced in recent years have weakened the value of the dollar, intensified inflationary pressures in our own economy, and heightened instability in the world economy. These trade deficits have been caused by a number of factors. A major cause has been our excessive reliance on imported oil. We can reduce that reliance through the passage of sound energy legislation this year. Another factor is that the United States economy has been growing at a stronger pace in recent years than the economies of our major trading partners. That has enabled us to purchase relatively more foreign goods while our trading partners have not been able to buy as much of our exports. We will begin to correct this imbalance as our trading partners meet the commitments to economic expansion they made at the Bonn Summit.

The relatively slow growth of American exports has also been an important factor in our trade deficit problem. Over the past 20 years, our exports have grown at only half the rate of other industrial nations and the United States has been losing its share of world markets. Until now, both business and government have accorded exports a relatively low priority. These priorities must be changed.

The measures I am announcing today consist of actions this Administration has taken and will take to:

(1) provide increased direct assistance to United States exporters;

(2) reduce domestic barriers to exports; and

(3) reduce foreign barriers to our exports and secure a fairer international trading system for all exporters.

These actions are in furtherance of the commitment I made at the Bonn Summit to an improved United States export performance.

DIRECT ASSISTANCE TO UNITED STATES EXPORTERS

1. Export-Import Bank. I have consistently supported a more effective and aggressive Export-Import Bank. During the past two years, my Administration has increased Eximbank's loan authorization fivefold—from $700 million in FY 1977 to $3.6 billion in FY 1979. I intend to ask Congress for an additional $500 million in FY 1980, bringing Eximbank's total loan authorization to $4.1 billion. These authorizations will provide the Bank with the funds necessary to improve its competitiveness, in a manner consistent with our international obligations, through increased flexibility in the areas of interest rates, length of loans, and the percentage of a transaction it can finance. The Bank is also moving to simplify its fee schedules and to make its programs more accessible to smaller exporters and to agricultural exporters.

2. SBA Loans to Small Exporters. The Small Business Administration will channel up to $100 million of its current authorization for loan guarantees to small business exporters to provide seed money for their entry into foreign markets. Small exporting firms meeting SBA's qualifications will be eligible for loan guarantees totalling up to $500,000 to meet needs for expanded production capacity and to ease cash flow problems involving overseas sales or initial marketing expenses.

3. Export Development Programs. I am directing the Office of Management and Budget to allocate an additional $20 million in annual resources for export development programs of the Departments of Commerce and State to assist United States firms, particularly small and medium-sized businesses, in marketing abroad through:

A computerized information system to provide exporters with prompt access to international marketing opportunities abroad and to expose American products to foreign buyers;

Risk sharing programs to help associations and small companies meet initial export marketing costs; and

Targeted assistance to firms and industries with high export potential and intensified short-term export campaigns in promising markets.

4. Agricultural Exports. Agricultural exports are a vital component of the U.S. trade balance. Over the past 10 years, the volume of U.S. farm exports has doubled and the dollar value has nearly quadrupled. Trade in agricultural products will contribute a net surplus of almost $13 billion in fiscal year 1978. This strong performance is due in part to this Administration's multifaceted agricultural export policy, which will be strengthened and which includes:

An increase of almost $1 billion (up from $750 million in FY 1977 to $1.7 billion in FY 1978) in the level of short-term export credits.

An increase of almost 20% in the level of funding support for a highly successful program of cooperation with over 60 agricultural commodity associations in market development.

Efforts in the Multilateral Trade Negotiations to link the treatment of agricultural and nonagricultural products.

Opening trade offices in key importing nations in order to facilitate the development of these markets.

Aggressive pursuit of an international wheat agreement, to ensure our producers a fair share of the expanding world market.

Support of legislation to provide intermediate export credit for selective agricultural exports.

5. Tax Measures. I am hopeful that Congress will work with the Administration to promptly resolve the tax problems of Americans employed abroad, many of whom are directly involved in export efforts. Last February, I proposed tax relief for these citizens amounting to about $250 million a year. I think this proposal, which Congress has not approved, deals fairly and, during a time of great budget stringency, responsibly with this problem. I remain ready to work with the Congress to resolve this issue, but I cannot support proposals which run contrary to our strong concerns for budget prudence and tax equity.

My Administration's concern for exports is matched by our obligation to ensure that government-sponsored export incentives constitute an efficient use of the taxpayers' money. The DISC tax provision simply does not meet that basic test. It is a costly (over $1 billion a year) and inefficient incentive for exports. I continue to urge Congress to phase DISC out or at least make it simpler, less costly, and more effective than it is now, and my Administration stands ready to work with Congress toward that goal.

REDUCTION OF DOMESTIC BARRIERS TO EXPORTS

Direct financial and technical assistance to United States firms should encourage them to take advantage of the increasing competitiveness of our goods in international markets. Equally important will be the reduction of government-imposed disincentives and barriers which unnecessarily inhibit our firms from selling abroad. We can and will continue to administer the laws and policies affecting the international business community firmly and fairly, but we can also discharge that responsibility with a greater sensitivity to the importance of exports than has been the case in the past.

1. Export Consequences of Regulations. I am directing the heads of all Executive departments and agencies to take into account and weigh as a factor, the possible adverse effects on our trade balance of their major administrative and regulatory actions that have significant export consequences. They will report back on their progress in identifying and reducing such negative export effects where possible, consistent with other legal and policy obligations. I will make a similar request of the independent regulatory agencies. In addition, the Council of Economic Advisers will consider export consequences as part of the Administration's Regulatory Analysis Program.

There may be areas, such as the export of products which pose serious health and safety risks, where new regulations are warranted. But through the steps outlined above, I intend to inject a greater awareness throughout the government of the effects on exports of administrative and regulatory actions.

2. Export Controls for Foreign Policy Purposes. I am directing the Departments of Commerce, State, Defense, and Agriculture to take export consequences fully into account when considering the use of export controls for foreign policy purposes. Weight will be given to whether the goods in question are also available from countries other than the United States.

3. Foreign Corrupt Practices Act. At my direction, the Justice Department will provide guidance to the business community concerning its enforcement priorities under the recently enacted foreign antibribery statute. This statute should not be viewed as an impediment to the conduct of legitimate business activities abroad. I am hopeful that American business will not forego legitimate export opportunities because of uncertainty about the application of this statute. The guidance provided by the Justice Department should be helpful in that regard.

4. Antitrust Laws. There are instances in which joint ventures and other kinds of cooperative arrangements between American firms are necessary or desirable to improve our export performance. The Justice Department has advised that most such foreign joint ventures would not violate our antitrust laws, and in many instances would actually strengthen competition. This is especially true for one-time joint ventures created to participate in a single activity, such as a large construction project. In fact, no such joint conduct has been challenged under the antitrust laws in over 20 years.

Nevertheless, many businessmen apparently are uncertain on this point, and this uncertainty can be a disincentive to exports. I have, therefore, instructed the Justice Department, in conjunction with the Commerce Department, to clarify and explain the scope of the antitrust laws in this area, with special emphasis on the kinds of joint ventures that are unlikely to raise antitrust problems.

I have also instructed the Justice Department to give expedited treatment to requests by business firms for guidance on international antitrust issues under the Department's Business Review Program. Finally, I will appoint a business advisory panel to work with the National Commission for the Review of the Antitrust Laws.

5. Environmental Reviews. For a number of years the export community has faced the uncertainty of whether the National Environmental Policy Act (NEPA) requires environmental impact statements for Federal export licenses, permits and approvals.

I will shortly sign an Executive Order which should assist U.S. exports by eliminating the present uncertainties concerning the type of environmental reviews that will be applicable and the Federal actions relating to exports that will be affected. The Order will make the following export-related clarifications:

Environmental Impact Statements will not be required for Federal export licenses, permits, approvals, and other export-related actions that have potential environmental effects in foreign countries.

Export licenses issued by the Departments of Commerce and Treasury will be exempt from any environmental reviews required by the Executive Order.

Abbreviated environmental reviews will be required only with respect to (1) nuclear reactors, (2) financing of products and facilities whose toxic effects create serious public health risks, and (3) certain Federal actions having a significant adverse effect on the environment of non-participating third countries or natural resources of global importance.

Accordingly, this Order will establish environmental requirements for only a minor fraction (well below 5%) of the dollar volume of United States exports. At the same time, it will provide procedures to define and focus on those exports which should receive special scrutiny because of their major environmental impacts abroad. This Executive Order will fairly balance our concern for the environment with our interest in promoting exports.

REDUCTION IN FOREIGN TRADE BARRIERS AND SUBSIDIES

We are also taking important international initiatives to improve U.S. export performance. Trade restrictions imposed by other countries inhibit our ability to export. Tariff and especially non-tariff barriers restrict our ability to develop new foreign markets and expand existing ones. We are now working to eliminate or reduce these barriers through the Multilateral Trade Negotiations in Geneva.

United States export performance is also adversely affected by the excessive financial credits and subsidies which some of our trading partners offer to their own exporters. One of our major objectives in the MTN is to negotiate an international code restricting the use of government subsidies for exports. In addition, I am directing the Secretary of the Treasury to undertake immediate consultations with our trading partners to expand the scope and tighten the terms of the existing International Arrangement on Export Credits.

I hope that our major trading partners will see the importance of reaching more widespread agreements on the use of export finance, to avoid a costly competition which is economically unsound and ultimately self-defeating for all of us. These international agreements are essential to assure that American exporters do not face unfair competition, and this Administration intends to work vigorously to secure them.

CONCLUSION

While these initiatives will assist private business in increasing exports, our export problem has been building for many years and we cannot expect dramatic improvement overnight. Increasing our exports will take time, and require a sustained effort. Announcement of my Administration's export policy is not the end of our task, but rather the beginning. To ensure that this issue continues to receive priority attention, I am asking Secretary Kreps, in coordination with officials from other concerned government agencies, to direct the continuation of efforts to improve our export potential and performance.

I will shortly sign an Executive Order to reconstitute a more broadly-based President's Export Council to bring a continuous flow of fresh ideas into our government policymaking process. I expect this Council to report to me annually through the Secretary of Commerce.

Increasing U.S. exports is a major challenge—for business, for labor, and for government. Better export performance by the United States would spur growth in the economy. It would create jobs. It would strengthen the dollar and fight inflation.

There are no short-term, easy solutions. But the actions I am announcing today reflect my Administration's determination to give the United States trade deficit the high-level, sustained attention it deserves. They are the first step in a long-term effort to strengthen this Nation's export position in world trade.

Mr. HEINZ. Mr. President, I ask unanimous consent that Betty McKay and Tom Carter, of Senator HAYAKAWA's staff; Rick Davidge and Sally Crossman, of Senator STEVENS' staff; Bill Reinsch, of my staff; and Barry Johnson of the Banking Committee staff be accorded the privilege of the floor during consideration of the Eximbank bill.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

Mr. HEINZ. Mr. President, today we consider a bill, S. 3077, to reauthorize the Export-Import Bank of the United States, an independent Government agency whose primary purpose is to finance and facilitate exports of U.S. goods and services. Considering the present state of our trade balance and the problems created by it, I believe that this legislation is extremely important to our economic well-being.

All of us are aware of the enormous, unprecedented imbalance in our trade account and of the continued plight of the dollar. The $2.9 billion trade deficit for July, which surprised the so-called "trade experts" and ended 3 months of narrowing deficits, was the fourth largest monthly deficit on record and the largest since last February. Though the recently announced $1.6 billion deficit for August is encouraging, it still increases the overall deficit for the year to a staggering $21 billion. If we continue at this pace, we will record a trade deficit this year in excess of $31 billion—an 18 percent increase over last year's historic $26.5 billion deficit.

The impact of our record trade deficit on the value of the dollar has been dramatic. News of the surprising July deficit drove the dollar down sharply in the exchange markets. In 1 day alone, the dollar dropped 1.4 percent against the German mark, 1.6 percent against the Japanese yen, and 2.4 percent against the Swiss franc, wiping out most of the dollar gains during the summer that had resulted from a series of stopgap measures taken by the administration to strengthen the dollar, such as raising the Federal funds rate and stepping up the monthly gold sales.

In the first 8 months of this year alone, the mark has appreciated 6.5 percent against the dollar, the yen 26.3 percent, and the Swiss franc 24.4 percent. The direct effect of these appreciations is to raise import prices and to give U.S. producers an opportunity to raise domestic prices.

As one economist stated, "the dollar decline has become an engine of inflation." Though the impact is difficult to quantify, it has been estimated that a

5 percent drop in the value of the dollar adds from one-half to three-quarters of 1 percent to the consumer price index. Obviously, the dollar's sharp decline, fueled by our massive trade deficit, has been a major culprit in the rapid rise in domestic inflation in 1978.

The inflationary impact of the dollar's decline, though, is only one of the serious consequences. In addition, the steep decline threatens the dollar's role as the world's reserve currency, could lend to oil being priced in another currency, and could result, due to the sharp drop in value of dollar-denominated assets, in a substantial slowdown of foreign investment in U.S. financial markets or even possibly precipitate a large-scale liquidation of dollar assets held by foreigners.

Though we have heard a lot of rhetoric concerning the trade deficit, its consequences, and actions that should be taken in response, we have witnessed very little positive action.

Though there appears to be general agreement that our heavy reliance on imported oil is one of the primary reasons for the deficit, we have, as yet, failed to adopt a comprehensive energy program to reduce that reliance and to seek out new energy sources.

Furthermore, there have been calls for a reexamination of our present export policy and programs and for the development of a comprehensive, stimulative national export policy. In this regard, the President appointed an interagency task force last spring, headed by the Commerce Department. The result of their labor is the President's recently announced national export program. Though I support the program as far as it goes, it clearly does not go far enough. It includes few specifics and lacks substantial or innovative proposals or incentives to stimulate exports and can hardly be described as a comprehensive, stimulative national export policy.

Furthermore, it fails to address the real structural problems facing this Nation which are causing us to lose our competitive edge internationally. We must address such problems as the need to increase productivity (we have the lowest rate of any industrialized nation), to modernize our plants and equipment, and to stimulate research and development of new technologies.

These are only two examples of the administration's inability to adequately and responsibly respond to the trade problem. It is obvious, however, that we can no longer afford to just pay lipservice to this problem. The economic and political consequences, domestically and internationally, are too great.

Vigorous export promotion, sparked by a comprehensive, stimulative national export policy, is one major action we can take unilaterally to reduce our trade deficit, bolster the dollar, and restore confidence abroad in our economy and in our ability to assert leadership and act responsibly as a world leader.

We can today take one large step in that direction. An important element of such an export policy must be a strong, competitive Export-Import Bank. Although the Bank assists only about 10 percent of total U.S. exports on an annual basis, it is our primary official export credit program, performing a vital function by providing financing and insurance for U.S. export sales which is not available in the private market and by assisting our exporting community to meet foreign, official export credit competition which has increased dramatically in recent years.

In addition, though the percentage of exports supported by the Bank appears relatively small, it translates into about $11 billion of exports per year over the past 5 years. Estimates vary as to the number of jobs represented by each billion dollars of exports anywhere from 40,000 to 80,000—regardless of which estimate one chooses, though, Bank-assisted export sales support a substantial number of jobs for U.S. workers (440,000 to 880,000).

It should also be remembered that the Bank is a self-sustaining, profit-making organization which does not receive appropriated funds from the Congress and which should not be confused with foreign aid programs. In fact, since its inception in 1934, the Bank has earned about $2.8 billion in net profits and has paid the U.S. Treasury almost $1 billion in dividends.

Therefore, the Bank, at no direct cost to the U.S. taxpayer, has and must be allowed to continue to perform the vital function of supporting U.S. export sales which the private sector, by itself, cannot support.

I am pleased to note that the bill we consider today, S. 3077, would not only extend the life of the Bank for 5 years and increase its commitment authority from $25 billion to $40 billion, but would also significantly strengthen and facilitate Bank support of our exporting community. Most importantly, it would replace several provisions restricting eligibility of foreign countries to receive Bank-supported exports with a new comprehensive, systematic procedure for determining eligibility based on broad, national interest criteria.

Furthermore, it would limit congressional review to the very large Bank-supported projects by raising the review threshold from $60 million to $100 million and would expedite that review process by taking into account congressional adjournments.

The bill would also authorize and encourage the Bank to offer financing competitive with that provided by its foreign counterparts and would direct the President to elevate to ministerial level export credit negotiations to end predatory financing and reduce protectionist measures which seriously threaten world trade. It is important that we strive to reach a binding, international agreement on export credit practices and also to make it clear to our trading competitors that while we do not condone predatory financing nor advocate increased export credit competition, we will not passively allow our exporting community to be the victims of the predatory financing practices of others.

An aggressive, competitive Bank which is not unduly hampered by politically-motivated limitations or restrictions, can help boost U.S. exports, generating payrolls for U.S. workers and reducing our trade deficit and the problems associated with it. Consequently, I urge my colleagues to support this legislation and to avoid attempts to limit or restrict the Bank's ability to support our exporting community.

The PRESIDING OFFICER. The pending question is on agreeing to the committee amendments.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that it be in order for me to call up an amendment to the Export-Import Bank bill before the disposition of the committee amendments.

Mr. STEVENSON. Mr. President, reserving the right to object, could the Senator describe this amendment that he proposes to bring up before the committee amendments?

Mr. ABOUREZK. I will just hand you a copy. It will be easier than describing it.

Mr. STEVENSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that Butch Almstedt of Senator DANFORTH's staff and Hugh Hadden and James Lockemy of the Judiciary Committee staff be accorded the privilege of the floor during the consideration of S. 3077.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I ask unanimous consent that when S. 1487 is taken up for consideration by the Senate, Dave Leeder of my staff be granted the privilege of the floor during the debate and voting on that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RACKETEERING IN THE SALE AND DISTRIBUTION OF CIGARETTES

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will now proceed to the consideration of S. 1487, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

STATEMENT OF FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) there is widespread traffic in cigarettes moving in or otherwise affecting interstate or foreign commerce, and that the States are not adequately able to stop the movement into their States and the sale of such cigarettes in violation of their tax laws through the exercise of their police power;

(2) there is a causal relationship between the flow of cigarettes into interstate commerce to be sold in violation of State laws and the rise of racketeering in the United States;

(3) an expanded Federal role in the fight against cigarette smuggling is essential if there is to be an effective law enforcement effort against cigarette smuggling since the interstate nature of the crime places individual States at too great a disadvantage to handle these problems effectively;

(4) certain records maintained by persons possessing, selling, distributing, carrying, transporting, purchasing, or receiving cigarettes could have a high degree of usefulness in criminal, tax, and regulatory investigations.

(b) It is the purpose of this Act to provide a timely solution to a serious organized crime problem and to help provide relief to many cities and States.

SEC. 2. Title 18, United States Code, is amended by inserting immediately after chapter 59 thereof the following new chapter:

"Chapter 60.—CIGARETTE TRAFFIC

"Sec.
"1285. Definitions.
"1286. Unlawful acts.
"1287. Recordkeeping and reporting.
"1288. Penalties.
"1289. Effect on State law.
"1290. Enforcement and regulations.

"§ 1285. Definitions

"As used in this chapter—

"(a) 'Cigarette' means—

"(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

"(2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1).

"(b) 'Contraband cigarettes' means a quantity of thirty thousand or more cigarettes, bearing no evidence of the payment of applicable State cigarette taxes in the State in which they are found, and which are in the possession of any person other than—

"(1) a person holding a permit issued pursuant to chapter 52 of title 26, United States Code, as a manufacturer of tobacco products or as an export warehouse proprietor or a person operating a customs bonded warehouse pursuant to section 1311 or 1155 of title 19, United States Code, or an agent of such person;

"(2) a common or contract carrier: *Provided, however,* That the cigarettes are designated as such on the bill of lading or freight bill;

"(3) a person licensed or otherwise authorized by the State in which the cigarettes are found to deal in cigarettes and to account for and pay applicable cigarette taxes imposed by such State; or

"(4) an officer, employee, or other agent of the United States, or its departments and wholly owned instrumentalities, or of any State or any department, agency, or political subdivision having possession of the cigarettes in connection with the performance of his official duties.

"(c) 'Common or contract carrier' means a carrier holding a certificate of convenience or necessity or equivalent operating authority from a regulatory agency of the United States or of any State.

"(d) 'State' means any State or the District of Columbia, Puerto Rico, or a territory or possession of the United States.

"(e) 'Secretary' means the Secretary of the Treasury or his delegate.

"(f) 'Person' means any individual, corporation company, association, firm, partnership, society, or joint stock company.

"§ 1286. Unlawful acts

"It shall be unlawful for any person to possess, sell, distribute, carry, transport, purchase, or receive contraband cigarettes.

"§ 1287. Recordkeeping and reporting

"(a) Any person possessing, selling, distributing, carrying, transporting, purchasing, or receiving in a single transaction a quantity of thirty thousand or more cigarettes may be required to prepare and maintain a record of such transaction in such form and manner and for such duration as the Secretary may by regulations prescribe. Such records shall be made available for inspection in such manner as the Secretary may by regulation prescribe.

"(b) Any person possessing, selling, distributing, carrying, transporting, purchasing, or receiving in a single transaction a quantity of thirty thousand or more cigarettes may be required to report such transaction to the Secretary in such form and manner as the Secretary may by regulations prescribe.

"§ 1288. Penalties

"(a) A person who violates section 1286 of this chapter shall be sentenced to a fine of not more than $100,000, or imprisoned for not more than five years, or both.

"(b) A person who willfully violates any other provision of this chapter or regulations promulgated thereunder or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person by this chapter shall be sentenced to a fine of not more than $5,000, or imprisoned for not more than three years, or both.

"(c) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of the Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"§ 1289. Effect on State law

"Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to provide penalties for the violation of such laws.

"§ 1290. Enforcement and regulations

"The Secretary shall enforce the provisions of this chapter and may prescribe such rules and regulations which are reasonably necessary to carry out the provisions of this chapter.".

SEC. 3. (a) Except as provided in subsection (b), the provisions of chapter 60 of title 18, United States Code, shall take effect on the first day of the first month which begins more than one hundred and twenty days after enactment.

(b) The following sections of chapter 60 of title 18, United States Code, shall take effect on the date of enactment of this Act: Sections 1285, 1286, 1288, 1289, and 1290.

SEC. 4. The title analysis of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 59 the following:

"60. Cigarette traffic..... 1285.".

SEC. 5. (a) Section 1(b) of the Act of August 9, 1939 (c. 618, Stat. 1291), as amended (49 U.S.C. 781(b)), is amended by (1) striking out "or" at the end of paragraph (2); (2) striking out the period at the end of paragraph 3 and inserting in lieu thereof "; or" and (3) adding after paragraph 3 the following new paragraph (4) to read as follows:

"(4) Any cigarettes, with respect to which there has been committed any violation of any provision of chapter 60 of title 18 or any regulation issued pursuant thereto.".

(b) Section 7 of the Act of August 9, 1939 (c. 618, 53 Stat. 1291), as amended (49 U.S.C. 787), is amended by (1) striking out "and" at the end of subsection (e); (2) striking out the period at the end of subsection (f) and inserting in lieu thereof "; and"; and (3) adding after subsection (f) the following new subsection (g) to read as follows:

"(g) The term 'cigarettes' means 'contraband cigarettes' as now or hereafter defined in section 1285(b) of title 18.".

SEC. 6. (a) Any funds necessary to carry out the provisions of this Act during fiscal year 1978 shall come from funds previously appropriated.

(b) There is hereby authorized to be appropriated for the fiscal year beginning October 1, 1978, such sums as may be necessary to carry out the provisions of this Act.

Mr. ROBERT C. BYRD. Mr. President, the Senate is awaiting the arrival on the floor of Senator BELLMON. I think we can proceed as long as we do not have the final disposition of the bill, may I say to the Senator from Massachusetts and the Senator from Kentucky. Mr. BELLMON is in conference. If we can proceed with someone else——

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts (Mr. KENNEDY). The Senate will be in order. Senators will please take their seats.

Mr. HEINZ. Mr. President——

The PRESIDING OFFICER. The Senator from Massachusetts has been recognized.

Mr. KENNEDY. Mr. President, as I understand, Calendar No. 894, S. 1487, is now before the Senate; is that correct?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1964

Mr. KENNEDY. Mr. President, I send to the desk an amendment in behalf of myself, Mr. BELLMON, Mr. ANDERSON, Mr. CHILES, Mr. MORGAN, Mr. FORD, and Mr.

THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and others, proposes an unprinted amendment numbered 1964:

Strike out all after the enacting clause and insert in lieu thereof the following:

STATEMENT OF FINDINGS AND PURPOSE

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

STATEMENT OF FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) there is widespread traffic in cigarettes moving in or otherwise affecting interstate of foreign commerce, and that the States are not adequately able to stop the movement into their states and the sale of such cigarettes in violation of their tax laws through the exercise of their police power;

(2) there is a casual relationship between the flow of cigarettes into interstate commerce to be sold in violation of State laws and the rise of racketeering in the United States;

(3) a Federal role in the fight against cigarette smuggling will assist the States in their law enforcement efforts and will be undertaken with the recognition that primary enforcement responsibility remains with the individual States;

(4) certain records maintained by persons possessing, selling, distributing, carrying, transporting, purchasing, or receiving cigarettes could have a high degree of usefulness in criminal investigations.

(b) It is the purpose of this Act to provide a timely solution to a serious organized crime problem and to help provide law enforcement assistance to individual States.

SEC. 2. Title 18, United States Code, is amended by inserting immediately after chapter 59 thereof the following new chapter:

"CHAPTER 60.—CIGARETTE TRAFFIC

"Sec.
"1285. Definitions
"1286. Unlawful acts.
"1287. Enforcement and regulations.
"1288. Penalties.
"1289. Effect on State law.

"§ 1285. Definitions.

"As used in this chapter—

"(a) 'Cigarette' means—

"(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

"(2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1).

"(b) 'Contraband cigarettes' means a quantity of sixty thousand or more cigarettes, bearing no evidence of the payment of applicable State cigarette taxes in the State in which they are found, and which are in the possession of any person other than—

"(1) a person holding a permit issued pursuant to chapter 52 of title 26, United States Code, as a manufacturer of tobacco products or as an export warehouse proprietor or a person operating a customs-bonded warehouse pursuant to Section 1311 or 1155 of title 19, U.S.C., or an agent or such person;

"(2) a common or contract carrier: *Provided, however,* That the cigarettes are designated as such on the bill of lading or freight bill;

"(3) a person licensed or otherwise authorized by the State in which the cigarettes are found to deal in cigarettes and to account for and pay applicable cigarette taxes imposed by such State; or

"(4) an officer, employee, or other agent of the United States, or its departments and wholly owned instrumentalities, or of any State or any department, agency, or political subdivision having possession of the cigarettes in connection with the performance of his official duties.

"(c) 'Common or contract carrier' means a carrier holding a certificate of convenience or necessity or equivalent operating authority from a regulatory agency of the United States or of any State.

"(d) 'State' means any state or the District of Columbia, Puerto Rico, or a territory or possession of the United States.

"(e) 'Secretary' means the Secretary of the Treasury or his delegate.

"(f) 'Person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"§ 1286. Unlawful acts.

"It shall be unlawful for any person knowingly to possess, sell, distribute, carry, transport, purchase, or receive contraband cigarettes.

"§ 1287. Enforcement and regulations

"The Secretary shall enforce the provisions of this chapter and may prescribe such rules and regulations which are reasonably necessary to carry out the provisions of this chapter: *Provided, however,* That nothing contained in this chapter shall be interpreted as authorizing the Secretary to require persons who sell, distribute, transport or purchase cigarettes in the ordinary course of business to maintain records of such activities or to report such activities to the Secretary; except that the Secretary may require that any person involved in any transaction of a quantity of 60,000 or more cigarettes shall note, on existing business records kept in the ordinary course of business, the identity and destination of the person receiving such cigarettes.

"§ 1288. Penalties

"(a) A person who knowingly violates section 1286 of this chapter shall be sentenced to a fine of not more than $100,000, or imprisoned for not more than five years, or both.

"(b) A person who knowingly violates any rules or regulations promulgated under Section 1287 or knowingly makes any false statement or representation with respect to the information required by the Secretary to be kept in the records of a person, thereunder shall be sentenced to a fine of not more than $5,000, or imprisoned for not more than three years, or both.

"(c) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure for forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of the Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"§ 1289. Effect on State law

"(a) Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to provide penalties for the violation of such laws.

"(b) Nothing in this chapter shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by a number of States, through interstate compact or otherwise, to provide for the administration of State cigarette tax laws, to provide for the administration of State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws and to establish cooperative programs for the administration of such laws.

SEC. 3. Chapter 60 of title 18, United States Code, shall take effect on the date of enactment of this Act.

SEC. 4. The title analysis of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 59 the following:

"60. Cigarette Traffic, 1285.".

SEC. 5. (a) Section 1(b) of the Act of August 9, 1939 (C. 618, 53 Stat. 1291), as amended (49 U.S.C. 781(b)), is amended by (1) striking out "or" at the end of paragraph (2); (2) striking out the period at the end of paragraph 3 and inserting in lieu thereof "; or "; and (3) adding after paragraph 3 the following new paragraph (4) to read as follows:

"(4) Any cigarettes, with respect to which there has been committed any violation of any provisions of chapter 60 of title 18 or any regulation issued pursuant thereto.".

(b) Section 7 of the Act of August 9, 1939 (c. 618, 53 Stat. 1291), as amended (49 U.S.C. 787), is amended by (1) striking out "and" at the end of subsection (e); (2) striking out the period at the end of subsection (f) and inserting in lieu thereof "; and"; and (3) adding after subsection (f), the following new subsection (g) to read as follows:

"(g) The term 'cigarettes' means 'contraband cigarettes' as now or hereafter defined in section 1285(b) of title 18.".

(c) Section 1961(1)(B) of title 18, United States Code, is amended by inserting after "sections 2314 and 2315 (relating to interstate transportation of stolen property)," the following: "sections 1285–1289 (relating to trafficking in contraband cigarettes),".

SEC. 6. (a) The Secretary of the Treasury is authorized and directed to carry out a study with a view to recommending to the Congress a program pursuant to which the several States would be encouraged to adopt and administer comprehensive laws establishing reasonable cigarette taxes, and effective criminal provisions providing penalties for trafficking in contraband cigarettes in order to eliminate or control such trafficking.

(b) Such study shall include recommendations relating to the types and amounts of Federal assistance, including technical and financial, which should be provided under any such program. Such program shall, among other things—

(1) provide for the administration of such financial assistance by an appropriate State law enforcement agency;

(2) provide for review and analysis, on a continual basis, of cigarette tax-avoidance activities together with an analysis of the effectiveness of State law enforcement efforts to minimize such activities;

(3) incorporate and make recommendations with respect to innovative and advanced techniques to control cigarette tax-avoidance activities and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice in the area of trafficking in contraband cigarettes, including descriptions of: (A) general needs and problems; (B) existing law enforcement efforts; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; and (E) the direction, scope, and general nature of improvements to be made in the future;

(4) demonstrate the means by which a State may indicate its willingness to assume the costs of improvements funded under any such program after a reasonable period of Federal assistance;

(5) set forth policies and procedures de-

signed to assure that Federal funds made available under any such program will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for law enforcement and criminal justice efforts to control trafficking in contraband cigarettes;

(6) provide for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management and disbursement of funds received pursuant to such program.

(c) The Secretary shall, within the twelve-month period following the date of the enactment of this Act report to the Congress the results of the study carried out pursuant to this section. Such report shall contain the recommendations, among others, of the Secretary in accordance with subsections (a) and (b) of this section.

SEC. 7. There is hereby authorized to be appropriated for the fiscal year beginning October 1, 1978, such sums as may be necessary to carry out the provisions of this Act.

Mr. KENNEDY. Mr. President, today the Senate is considering a bill which, when enacted into law, will strike at the heart of one of the major revenue sources for organized crime. S. 1487 addresses a problem which in the last decade has reached critical proportions. The problem and the revenue source is cigarette bootlegging.

Just as nature abhors a vacuum, organized crime long ago realized the potential profit of cigarette bootlegging. As the cigarette tax rates of the various States became increasingly disparate, the potential for profit and the potential for more widespread growth was easily recognized and just as easily capitalized upon. This activity has now reached a stage where the profits to organized crime and major organized criminal groups is unchallenged. It has also reached a stage which, because of the sophistication of methods employed and the inability of the various States to deal with that situation, has allowed these groups to operate with virtual impunity.

Mr. President, this is one instance where the statistics in fact tell the story. Organized criminal groups can realize a gross profit of over $100,000 per tractor-trailer load of bootlegged cigarettes. One out of every two packs of cigarettes sold in New York City, and one out of every four packs of cigarettes sold in New York State are bootlegged. Thirteen States have lost as much as 10 percent of their cigarette tax revenue as a result of this type of activity. Nearly 70 percent of the States of this Nation are affected by cigarette bootlegging of one type or another.

In a significant number of these States, organized criminal groups are the main perpetrators of the offense as well as the main benefactors of the revenue. It was estimated that last year alone over $400 million of lost tax revenue was the result of cigarette bootlegging. The most conservative estimate that we have found indicates that between $150 and $200 million was profit for organized crime. However, in a recent article on organized crime, the author estimated that cigarette bootlegging was the sixth major revenue source for organized crime, with a gross $1.5 billion and a net of $800 million.

On the surface, cigarette bootlegging presents itself as an economic crime, one which is essentially "victimless." If ever the term "victimless crime" was inappropriate, it is in the case of cigarette bootlegging. Both the testimony that the subcommittee received and the research which witnesses and the staff have conducted forcefully refute this notion. Armed robberies, murders, serious assaults and truck hijackings as well as the corruption of public officials and the infiltration of legitimate businesses are standard tactics used to gain control of this highly lucrative and virtually uncontrolled market. The truly innocent victims of the activity or organized crime in this area are the thousands of legitimate businessmen, wholesalers, retailers, drivers, packers, and salespeople who have lost their jobs or businesses as a result of this takeover. In a recent magazine article, the author pointed out:

> Over the past decade, half of the tobacco wholesalers in New York City and more than a quarter of the licensed retailers—7,000 all together—have gone out of business. Teamsters union locals there have lost nearly half of their tobacco and vending machine membership. All told more than two thousand of the industry's 3,200 drivers, salesmen, clerks and warehousemen lost their jobs.

In spite of their efforts, the States simply cannot cope with this growing problem. The interstate nature of the crime, jurisdictional limitations, the sophisticated methods employed by organized criminal groups to thwart State investigative efforts, and the lack of adequate State resources because of budgetary constraints have precluded any significant effort. Federal law enforcement officials are powerless to do anything about this problem, because they have no authority in this area. As a result, organized criminal groups can engage in this activity with virtual impunity, while Federal law enforcement agencies are required to stand by the roadside and watch the activity occur.

It is time that we recognize the true interstate nature of this activity. It is time that we realize that if we are serious about thwarting the growth of organized crime on a Federal level that the Federal law enforcement agencies must be given an adequate jurisdictional tool to interdict that activity. It is these agencies which bring to bear the resources necessary to set up a successful interdiction program. It is these agencies that can apply sophisticated techniques and technology to the problem. It is these agencies in cooperation with State efforts which can deal with this serious problem.

Mr. President, it is also important that we be very realistic about the effects of this legislation. It will not stop all cigarette bootlegging. nor is it intended to do that. It is a tool that we intend Federal law enforcement agencies to use to prosecute serious criminal involvement in the cigarette smuggling trade. The Department of Justice has informed us that they contemplate only selective use of the criminal sanctions. That discretion is left to the Department, but the legislative emphasis is on those organized criminal groups which engage in this activity.

One further point needs to be made. This legislation is not—and I repeat not—intended as a Federal preemption of either the States' responsibility or the States' jurisdiction. It is an effort to bring to bear a joint Federal and State effort to deal with this problem. We have been assured by those who testified before the subcommittee that the State efforts would not wane. But in fact would increase with Federal effort. We have been told that only with Federal help in the complex interstate nature of the crime and the sophisticated techniques employed to carry out that crime will the States be able to meet their responsibility and deal with this problem. It is with that assurance that we take this next step to provide that the instrumentalities of the Federal Government, be it the mails or its highway system or whatever, cannot and will not be used with impunity by those who would defraud the many States in this country.

Mr. President, all Members of this body should applaud the efforts of our distinguished colleagues from Oklahoma (Mr. BELLMON) and Minnesota (Mr. ANDERSON) for their initiative in introducing this legislation and their efforts and those of the distinguished Senators from North Carolina (Mr. MORGAN) and Kentucky (Mr. FORD) which finally culminated in Senate passage today.

Organized crime, as they have so well recognized, is a disease that plagues and destroys the health of this Nation and its social, political, and economic systems. Like a cancer, it has spread throughout and slowly weakened, and at times destroyed, important elements of this society. And just as there are many ways of both detecting and treating and destroying that cancer, so too must there be many and adequate means to destroy the cancer of organized crime. Today, by passing S. 1487, this body gives to law enforcement agencies one more tool in its arsenal to destroy this disease which for too long has pervaded our Nation.

Mr. President, I yield to the Senator from Kentucky (Mr. FORD).

Mr. President, we have before us today legislation aimed at providing a solution to the serious problem of organized crime and large-scale operations of interstate cigarette bootlegging. The primary intent is to assist the States in their law enforcement efforts in this area.

The substitute measure now before the Senate differs in several substantive areas from the provisions of S. 1487 as reported by the Senate Committee on the Judiciary. The purpose of this substitute amendment can be identified as follows:

First. To alter the statement of findings and purpose in order to clarify the Federal role in the fight against cigarette smuggling;

Second. To eliminate the unnecessary and burdensome recordkeeping and reporting requirements imposed by the committee bill;

Third. To establish trafficking in contraband cigarettes as a racketeering offense under the Criminal Code;

Fourth. To provide incentives for the States to establish enforceable criminal penalties for violation of such laws; and

Fifth. To raise from 30,000 to 60,000

the cigarette figure in defining "contraband cigarettes."

Under the Judiciary Committee bill, the Secretary of the Treasury would have been authorized to promulgate regulations which would have required each dealer to maintain records of shipment, receipt, sale, or other disposition of cigarettes.

In addition, the dealer would have been required to submit to the Secretary reports and information with respect to such records as the Secretary may have prescribed.

The substitute bill does away with the extensive recordkeeping and reporting requirements which would have been required under the committee bill.

I believe that the substitute bill is an improvement in that it eliminates this unnecessary burden on the legitimate business operators within all phases of the tobacco industry. The bill which is now before us realizes the imposition and impracticality of such extensive recordkeeping and reporting requirements. The substitute bill deletes this burden upon the industry in an effort to focus upon the real problem of organized crime's involvement in cigarette bootlegging.

The substitute bill clearly states that nothing contained in this bill is to be construed as authorizing the Secretary to require persons who sell, distribute, transport or purchase cigarettes in the ordinary course of business to maintain records of such activities or to report such activities to the Secretary. The substitute bill clarifies the Secretary's power to require the keeping of records only when there is a transaction of a quantity of 60,000 or more cigarettes, and then only on existing business records kept in the ordinary course of business must identity and destination of the person receiving such cigarettes be noted.

As contained in this legislation, Mr. President, the term "contraband cigarettes" shall mean a quantity of or in excess of 60,000 cigarettes which bear no evidence of the payment of applicable State cigarette taxes in the State where they are found. In recognition of the fact that this bill is aimed at organized crime's involvement in cigarette bootlegging, I see the 60,000 figure as a much more realistic approach. The substitute bill is, not only in my opinion but in the opinion of the Treasury Department, a rational attempt to attack major organized crime.

The Senate Committee on the Judiciary in its final report on S. 1487 stated that the primary efforts to stop cigarette smuggling must rest with the States. Yet the committee has expressed the fear that, once the Federal law enforcement effort was begun, the States would either relax or withdraw their efforts. In recognition of this fact, section 6 of the substitute bill has been added to encourage the States to remain active in this area. I believe this section to be a necessary step for providing incentives to the States to strengthen their law enforcement efforts in apprehending and prosecuting violators of their tax laws.

The bill which we are now considering has been greatly improved by placing the trafficking in contraband cigarettes under the antiracketeering statutes. While the committee bill would have established the trafficking in contraband cigarettes as a Federal crime, this substitute bill does much more. This bill would establish trafficking in contraband cigarettes as a Federal offense, but it also includes the offense as punishable under the antiracketeering statutes. Therefore, the substitute bill provides stronger criminal penalties and more effective law enforcement mechanisms to combat the involvement of organized crime in cigarette bootlegging.

In conclusion, the substitute bill provides for stronger penalties and more effective Federal action against organized crime by making cigarettes smuggling not only a Federal offense but a racketeering offense, and subject to the antiracketeering statutes as well. At the same time, this legislation is much more reasonable in that it lessens considerably the recordkeeping and reporting requirements which would not only be unnecessary, but also burdensome to the small tobacco retailer.

Mr. KENNEDY. I yield to the Senator from Oklahoma (Mr. BELLMON).

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. KENNEDY. Mr. President, I did not mention in my remarks that it was the Senator from Oklahoma as well as the Senator from Minnesota who were the principal sponsors of this legislation, and obviously deserve great credit for their initiative in this important area.

I yield to the Senator from Oklahoma.

Mr. BELLMON. I thank the distinguished Senator from Massachusetts.

Mr. President, this bill, S. 1487, is intended for one purpose and one purpose only, to help eliminate the sale and distribution of contraband cigarettes in violation of State tax laws. The rapid growth of "cigarette bootlegging," aided by organized crime and its surrogates, has become a highly profitable illegal enterprise which deprives the States of their lawful revenues under the applicable State cigarette tax laws. It also provides a significant source of revenue to racketeers. In recognition of this illegal activity and its adverse effect upon the States, S. 1487 was developed. It would expand the Federal role in the fight against cigarette bootlegging. This bill has undergone several changes since its initial introduction. The latest is the proposed amendment, in the nature of a substitute, to be offered by the distinguished Senator from North Carolina. The primary objective of this legislation remains the same; namely, to provide for involvement by Federal authorities in efforts to control cigarette bootlegging which has become a major source of income for organized crime.

Mr. President, many have argued that this bill constitutes Federal intervention into the exclusive jurisdiction of the States by setting the Federal Government up as the "collector" of State cigarette taxes. It has been proposed that the States should take it upon themselves to change their State cigarette tax laws to provide for uniformity among the States. While there is little question the disparity between State cigarette taxes is the primary incentive for engaging in this crime, it would be virtually impossible to achieve uniform cigarette tax laws among the various States. The differential of tax rates for cigarettes among the States range from 2 cents in North Carolina to a maximum of 23 cents in New York City and 21 cents in Connecticut and Massachusetts. Encouraging uniformity of cigarette tax laws would undoubtedly remove the incentive for cigarette bootlegging. The facts are, Mr. President, the Congress has no authority to instruct the State of North Carolina to increase its taxes anymore than Congress has the authority to instruct New York or Massachusetts to reduce taxes. The Senator from Oklahoma would oppose granting any Federal agency such authority.

In further response to the argument that S. 1487 represents Federal intervention, it should be noted that nothing in this bill authorizes the Federal Government to collect taxes for the benefit of the States. If a stepped-up Federal effort in combating cigarette bootlegging results in the States receiving their lawful revenues from taxes on the sale of cigarettes, then the Federal Government will have effectively assisted the States in the collection of their taxes. This is far from saying the Federal Government has actually collected State taxes.

Finally, Mr. President, the interstate nature of this crime cannot be ignored. Cigarette bootlegging is not confined within one State. There is sufficient evidence to support the conclusion that this crime transcends State borders, and therefore, under article I, section 8 of the U.S. Constitution, the Congress has the express power to regulate the flow of commerce among the States. Consequently, Mr. President, arguments to the effect that this legislation constitutes Federal intervention is unfounded. In fact, the bill states very clearly that nothing is to be construed to affect the concurrent jurisdiction of a State to enact and/or enforce State cigarette tax laws. This legislation is intended to help eliminate cigarette bootlegging in cooperation with the States, not to usurp the powers of the States.

Mr. President, the Senator from North Carolina has proposed a constructive amendment, in the nature of a substitute, to this bill. In many instances, this amendment strengthens the bill. I refer specifically to the new section placing cigarette bootlegging within the purview of the racketeering statute. This section along with the final section authorizing a study by the Secretary of the Treasury to make recommendations as to the action States might take to help alleviate cigarette bootlegging is most desirable. I fully endorse each of these additions to this bill.

With respect to the other differences between the original bill and the Senator from North Carolina's amendment, I would like to briefly comment on one of these changes. As originally introduced, S. 1487, required the Secretary of Treasury to promulgate regulations for recordkeeping and reporting by anyone who engaged in the sale of cigarettes in ex-

cess of 20,000 to any one customer. This section was obviously intended to afford the Secretary with the best possible information available as to the sale and distribution of large quantities of cigarettes.

While this section has been modified in the amendment offered by the Senator from North Carolina, the Secretary may still require that any person involved in any transaction of a quantity of 60,000 or more cigarettes shall note, on existing business records kept in the ordinary course of business, the identity and destination of the person receiving such cigarettes. As you can see, Mr. President, the Secretary of Treasury's ability to deal with this crime through the use of ordinary business records is not impaired by the Senator's amendment. This is an essential element of this legislation.

Mr. President, the only other change from the original bill has to do with the number of contraband cigarettes possessed which would constitute a Federal crime. As introduced, S. 1487 would make it illegal for any person to possess, sell, distribute, carry, transport, purchase, or receive "contraband cigarettes", which was defined to mean a quantity of 20,000 or more cigarettes bearing no evidence of the payment of applicable State cigarette taxes in the State in which they are found. Under the amendment, in the nature of a substitute, this figure would be increased to 60,000. I support this change as I believe it makes clear the primary intent of the legislation which is to zero in on the large shipments of contraband cigarettes, or in other words, upon organized crime.

Finally Mr. President, I would like to commend the Senator from Massachusetts, for the interest he has exhibited toward this legislation since it was originally introduced. It was through his initiative as chairman of the Subcommittee on Criminal Laws and Procedures that this legislation is now before the Senate for final consideration. His contribution to this legislation has been invaluable. I am confident that the reduction of racketeering which will result from passage of this bill will be the source of great pride to Senator KENNEDY for having brought to the Senate a bill which provides a timely solution to a serious organized crime problem.

Mr. President, I urge final passage of S. 1487, the Federal contraband cigarette bill.

Mr. President, I congratulate the Senator from Massachusetts for having brought this bill to the floor. It is obviously a badly needed piece of legislation.

Mr. KENNEDY. I thank the Senator. I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina (Mr. MORGAN).

Mr. MORGAN. Mr. President, today the Senate is taking up S. 1487, a bill to assist the States in their efforts to control cigarette smuggling, a violation of State law. The cigarette bootlegging bill, as it has come to be known, is a serious step for the Federal Government to take and it is not the best approach in my opinion.

After extended discussions with Senator BELLMON, Senator CHILES, Senator FORD, and Senator KENNEDY, and with some excellent staff assistance and work from members of our staffs, and especially Alfred Pollard of my staff, David Leider of Senator FORD's staff, Robert McNamara of Senator KENNEDY's staff, Dick Hargis of Senator BELLMON's staff, and George Dunlap of Senator HELM's staff, I believe that what we have before us is a very improved bill which more closely reflects the original intent of this legislation—to assist the States in their law enforcement activities.

I want to express my appreciation to the sponsors of this legislation for their willingness to provide further information about the operation of the cigarette smuggling enforcement effort and to discuss changes in the bill which would add strength to the proposal, while continuing to be sensitive to the needs of the States. They have been patient and they have been willing to work with me on this bill. What we have come up with is a measure that I believe the Senate can support without objection.

To be specific, the problem has been the interstate transportation of cigarettes with the intent of selling them without paying local taxes. Organized crime has moved into this type of criminal activity and the amount of revenue lost to the States has been growing.

Because of high taxes in certain States, it has become profitable to buy cigarettes in one State, pay the local sales tax, transport the cigarettes to a high-tax State and then, through local retailers or by direct means, to sell the cigarettes without paying the local sales taxes. This illegal business has grown large in terms of lost revenue to the State tax coffers.

Simply put, the States are free to enact any tax levies they desire on cigarettes and have seen fit to do so because of the amount of revenue they are able to raise. The States must then bear the burden of enforcing those tax laws and insuring that the taxes are collected. Evidence before the Criminal Law Subcommittee was that a tax differential of 10 cents is the trigger for illegal smuggling. The States, therefore, continue to hold the key to the cigarette smuggling issue. In my experience there has been greater interest in collecting taxes than in enforcing tax laws, however.

I have been concerned about the need for this bill. It has yet to be demonstrated that the States have done all they can individually and collectively and that is really a sufficient criticism in my mind. However, I believe that the compromise that we have reached goes a long way to insure that States will not be relieved of their responsibility in the cigarette problem. Indeed, I believe that this bill may hold the seed for encouraging the States to bring their tax rates closer together and to enhance and increase their law enforcement efforts.

Speaking from a North Carolina perspective, my State has always been willing to cooperate with any State in furthering the goals of effective law enforcement. I believe that I can speak for our Governor, the Honorable Jim Hunt, when I say that our door remains open to cooperative efforts with other States. Testifying on this bill on the House side, Governor Hunt indicated that North Carolina was expanding its efforts to stop smuggling and to assist law enforcement in other States.

THE COMMITTEE BILL

As originally drafted, the committee bill provided that a new Federal offense of cigarette smuggling is created. It was unlawful to possess, sell, distribute, carry, transport, purchase, or receive contraband cigarettes. Contraband was defined as 30,000 cigarettes or a little less than three boxes of cigarette cartons.

While I have concerns about this whole approach, that is having the Federal Government going around enforcing State law, there was another section of the original bill which I felt was a real threat to legitimate businessmen, men who were simply trying to conduct their normal business operations. The bill provided an open-ended authorization to the Secretary of the Treasury to create rules and regulations that would require any person, involved in any transaction of a quantity of 30,000 or more cigarettes to keep records, available for inspection, and to make reports in a form and manner which the Secretary could prescribe.

In plain English, this meant that the Secretary of the Treasury could require anyone to keep records who came in contact with 30,000 cigarettes.

When the manufacturer transported the cigarettes to the distributor, records would have to be kept by the manufacturer, the trucker and the local distributor. This would be repeated over and over down the distribution chain until the local grocery store or cigarette retailer would be required to keep records and make reports on any sale of 3 boxes of cigarettes.

I can see each of us returning to our States to hear the protests of small businessmen that a new Federal regulation and more Federal paperwork was coming down upon them. Today in my home town of Lillington, I know that drug store operators frequently sell three boxes of cigarettes and are already beset with regulations from OSHA, the Food and Drug Administration, State Workmen's Compensation, IRS, and the whole range of Federal regulatory programs. I do not see where they have time to sell drugs or fill prescriptions. But it would be just another form, the Treasury tells us.

Mr. President, I believe that the open-ended authority that was granted to the Treasury under this bill would have produced quite a bit more than one additional form. Personally, the cavalier attitude that the public can tolerate even one more regulatory form or report is amazing to me in this time when the President has called for a reduction in paperwork.

Reporting and recordkeeping, all to be done by retailers, was contemplated by this bill. All of this was necessary to complement a law dealing with law enforcement against violators of State tax laws within other States. This would have been too much to bear and I am pleased that the supporters of this bill and I have been able to "reason together."

One digression is in order. Many people say that 30,000 cigarettes is quite a large order and they ask who would be buying such large quantities. The fact is that 30,000 is less than 3 boxes of cigarettes or 150 cartons of 10 packs each. I can hardly believe that organized criminals are interested in purchasing such small quantities. Who would be buying them? Quite a few people. Many people give away cigarettes as gifts to employees. Many people purchase large quantities to resell locally. Many people purchase cigarettes for others. The short of it is that in North Carolina and other cigarette-producing States, sales of 30,000 or more cigarettes are simply not that unusual.

These sales hardly would be of interest to organized criminals, anyway, and yet deal with the organized criminal aspect of cigarette-bootlegging.

I would hate to see innocent people, many of whom would be unaware of the law, burdened with violations they had not intended or recordkeeping that was unnecessary to meet the Federal need.

With these concerns in mind, we proceeded to discuss the elements of this bill and I believe that we have produced a bill which I can support and which will be specific enough to attain the goal of fighting organized crime without unduly burdening the honest men and women who happen to make their living selling a commodity that other States have seen fit to tax at such a high rate.

CHANGES FROM THE COMMMITTEE PRINT

The substitute bill which we have agreed upon today represents some significant changes from the original bill and some improvements have been made which I believe will enhance the effectiveness of the Federal role in assisting the State enforcement effort.

In section 1 of the bill, subsection (a)(3) has been reworded to reflect the basic finding of fact by the Congress that primary responsibility for law enforcement relating to cigarette smugging and bootlegging remains with the States. I feel that this is an important provision which will indicate to the States that this bill does no mean an end of their efforts.

In section 2 of the bill, where the new Federal offense of cigarette smuggling is spelled out, some important changes have been made.

Contraband cigarettes, defined under chapter 60 of title 18 of the United States Code, section 1285, are treated as a quantity of 60,000 cigarettes or more, bearing no evidence of the payment of applicable State cigarette taxes. The committee bill called for a figure of 30,000 cigarettes which represents only three ordinary shipping boxes of cigarettes, an amount which can easily be placed in the trunk of a car. Coupled with the "minimal" recordkeeping provision of the bill, 60,000 is a more realistic number and a lesser burden to place on retailers. There will be greater incentive for cooperation if a reasonable threshold is established. This coincides with the intent of this bill to attack organized criminal activities.

Under section 1286 of the new chapter 60, the word "knowingly" has been added to the crime of possessing, selling, transporting, purchasing or receiving contraband cigarettes. I believe that this is an important addition and conforms the bill to the scienter requirements of the criminal law.

In the new section 1287 of chapter 60, the most significant change has been effected. The committee called for the Secretary of the Treasury to draw up rules and regulations governing recordkeeping and reporting for anyone involved in a transaction over 30,000 or more cigarettes. The original bill, at section 1287, called for open-ended reporting and recordkeeping. I believe that we have come up with a good compromise, one that will satisfy the legitimate concerns of honest businessmen, while allowing the law enforcement effort to proceed.

The Secretary is authorized to create rules and regulations necessary to carry out the provisions of the chapter—the stated provisions of the chapter. A provision has been added which specifically prohibits any rules or regulations dealing with reporting or recordkeeping, except for one specific instance. The Secretary may create rules and regulations which would require "... that any person involved in any transaction of a quantity of 60,000 or more cigarettes shall note, on existing business records kept in the ordinary course of business, the identity and destination of the person receiving such cigarettes."

In other words, when a retailer writes in his records, which he now keeps in the ordinary course of business, a sale of cigarettes over 60,000 in number, he will note the name and destination of the person receiving the cigarettes, if he does not already do so. This is the only record he would be required to keep, if the Secretary of the Treasury feels that this is necessary to carry out the provisions of the law.

Under the penalties section, contained in section 1288, the word "knowingly" has been added to provide the necessary scienter element as was done earlier in the bill.

Under the section entitled "Effect on State Law," the committee bill stated that nothing in the new chapter 60 should be construed to affect State jurisdiction over cigarette tax laws and law enforcement efforts. This is a significant part of the bill and I wanted to add a section stating that chapter 60 should not be construed as affecting cooperative efforts among States, which I personally believe will be the best solution to the smuggling issue. Again, I think this addition, agreed to and supported by Senator KENNEDY and Senator BELLMON, will go a long way to strengthen this bill.

To further assist in the law enforcement effort, a new section 5(c) has been added to the bill which would make the crime of possessing or selling or transporting contraband cigarettes a violation of the racketeering statute, found in title 18, United States Code, section 1961. This will give additional or concurrent jurisdiction to the Federal Bureau of Investigation to deal with cigarette smuggling by organized crime.

Finally, a new section 6 has been added to the bill. Here the Secretary of the Treausry is directed to conduct a study aimed at recommending to the Congress the creation of a grant program to assist State law enforcement efforts aimed at cigarette smuggling. The committee noted in its report that there is a very real concern that the States will grow lax in their enforcement efforts when the Federal role begins. I agree with the committee assessment and I view the creation of a grant program as the best method of encouraging the States to maintain and even increase their law enforcement activities. I do not believe that anyone feels that the Federal role can do the job alone and I want to give some positive encouragement to those States which are active in the battle against organized crime's role in cigarette smuggling. I eagerly await the Secretary's report, due in 12 months from the enactment of this bill.

These are the changes made in the committee bill and I believe that they are definite improvements. On the whole, I believe that we have strengthened the hand of law enforcement while preserving independence for small businessmen. To be quite candid, I was afraid that the recordkeeping and reporting requirements of the original bill were going to take up more of the budget under this program than the law enforcement efforts would. I believe that we have remedied that problem.

I have some remaining concerns about this bill which I will briefly summarize and then conclude my remarks.

Every indication is that there is no overwhelming need for this bill. The Advisory Commission on Intergovernmental Relations which called for such legislation said that it would be enacted as a last resort. I do not believe that every State has done all it can to enforce its laws or to cooperate with other States in fighting organized crime. Additionally, this bill itself recognizes that this is an in-State problem, not an interstate problem. The offense under S. 1487 is possessing cigarettes upon which the applicable State tax has not been paid. In other words the violation is within a State, not in the transport of cigarettes across State lines. In short, I do not know if this legislation is fully constitutional.

The penalties under this bill do appear to be a bit high, but since we have added a provision for criminal intent, I can live with that.

I am concerned as to where the enforcement of this law will take place. I want to serve notice that enforcement should come in the States where the violation occurs. Concentrated efforts in cigarette producing States appear an unwise and unnecessary effort.

I also want my feelings about preemption known. I do not want Federal enforcement to rise to such a level that the Federal Government becomes the primary enforcer of State laws. This is a dangerous precedent. I hope that we have limited that possibility within the framework of this bill.

Finally, I have never seen less reluctant support for a bill. The Treasury has only grudgingly accepted this added responsibility and the Department of Justice which originally opposed the legislation, was less than enthusiastic in its final endorsement.

I ask unanimous consent to have printed in the RECORD following my remarks a letter printed in the committee report on this bill from Ms. Patricia Wald of the Department of Justice, which I commend to each member of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MORGAN. As I promised I will conclude my remarks.

I want to thank the sponsors of this bill for their work in producing an improved bill. I believe that they can see an improved bill, one which is certainly in better shape than the one before the House of Representatives. I would hope that if a conference comes, that the version passed by the Senate will emerge as the final product. It is a better bill and one which promises greater cooperation from the public and thereby greater success for law enforcement efforts.

I will support this bill. Despite my reservations, I believe that it will assist the States and it is my hope that it will encourage the States to increase their law enforcement activities.

Mr. President, this effort has renewed my belief that the process of working on a bill even after it has cleared a committee can be beneficial if the parties are sincere. I can tell you that Senators KENNEDY, CHILES, and BELLMON were sincere and I think that my concern and interest is well demonstrated by this bill. I appreciated the support of my colleagues, Senators FORD and HELMS. I believe that the system has worked as a result of hard work on all our parts.

EXHIBIT 1

DEPARTMENT OF JUSTICE,
Washington, D.C., March 8, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 1487, a bill "To eliminate racketeering in the sale and distribution of cigarettes, and for other purposes."

At the present time, the only statutory regulation of the interstate shipment of cigarettes is found in the Jenkins Act, 15 U.S.C. 375 *et seq.* That act, which is designed to assist the states in collecting their cigarette taxes, requires, in part, that any person who sells or transfers for profit cigarettes in interstate commerce, whereby such cigarettes are shipped into a state taxing the sale or use of cigarettes, to other than a licensed distributor shall (1) file with the tobacco tax administrator of the State into which the shipments are made a statement setting forth his name and trade name and the address of his principal place of business and of any other place of business, and (2) file with the tobacco tax administrator before the tenth day of each month a memorandum or a copy of the invoice covering each shipment into that state during the preceding month. The memorandum or invoice must include the name and address of the person to whom shipment was made and the brand and quantity of cigarettes shipped. Any person who violates these filing and reporting requirements is punishable by a fine of not more than $1,000 or imprisonment for not more than six months, or both. In addition, the U.S. district courts have jurisdiction to prevent and restrain violations of the Act.

The Jenkins Act applies primarily to cigarette distributors who send their cigarettes through the mails to customers in other states which tax the sale or use of cigarettes without complying with the filing and reporting requirements of the act. It has limited usefulness for attacking the over-the-road "bootlegging" or smuggling operation by which the purchaser transports the cigarettes out of the state of purchase and surreptitiously brings them into another state for resale. Available evidence indicates that the states have been deprived of large revenues in lost cigarette taxes as a result of the latter type of operation.

S. 1487, whose stated purpose is to eliminate racketeering in the sale and distribution of cigarettes, would reach cigarette smuggling by making it unlawful to ship, transport, receive or possess "contraband cigarettes." The term "contraband cigarettes" is defined in the bill as a quantity in excess of 20,000 cigarettes, bearing no evidence of the payment of applicable state cigarette taxes in the state where the cigarettes are found, and which are in the possession of any person other than (1) a person holding a permit as a tobacco manufacturer or an export warehouse proprietor, or a person operating a customs bonded warehouse, or an agent of such person, (2) a common or contract carrier, (3) a person licensed to deal in cigarettes by the state where the cigarettes are found, or (4) an officer, employee, or agent of the United States or of any state or political subdivision having possession of cigarettes in the performance of his official duties. In addition, S. 1487 would require cigarette dealers to make and maintain such records of shipment, receipt, sale, or other disposition of cigarettes as the Secretary of the Treasury may by regulations require and to make such records available for inspection. The term "dealer" is defined to mean any person who sells or distributes in any manner any quantity of cigarettes in excess of 20,000 in a single transaction. S. 1487 would make it a felony punishable by a fine of not more than $10,000 or imprisonment for not more than 2 years, or both, to violate the prohibition on contraband cigarettes, to knowingly make any false statement or representation with respect to information required to be kept in the records of a dealer, or to violate any other provision of the law or regulations. Finally, S. 1487 would provide for seizure of contraband cigarettes.

For the reasons stated below, the Department of Justice recommends that S. 1487 be amended to reflect proposed changes contained in a draft bill prepared by the Bureau of Alcohol, Tobacco and Firearms, Department of Treasury, in close consultation with the Department of Justice. A copy of the draft bill is attached.

As you know, in the past the Department has opposed legislation like S. 1487. This opposition existed for two valid reasons. First, the Department believed that before there is a significant expansion of Federal criminal jurisdiction into an area hitherto reserved to the states, there should be a strong showing that the states have made significant, but unsuccessful, attempts to deal with the problem involved. In the past, the evidence had been that the states most affected by cigarette smuggling had not made signficant attempts to deal with the problem. Second, past Administrations have not wanted to incur the costs, both investigative and prosecutorial that would be with taking on primary enforcement responsibility for the collection of state cigarette taxes from interstate distributors and sellers of cigarettes. It was believed that passage of legislation like S. 1487 would create strong pressure for the assumption of that responsibility.

We continue to believe that many of the states most affected have not made serious commitments to the enforcement effort in this area. However, we do recognize that some states, most notably Pennsylvania and New York, have major enforcement programs, and that other States, like Connecticut, Florida, and Ohio, have strengthened their efforts in recent years. This is illustrated by information provided in January 1978 by the Advisory Commission on Intergovernmental Relations ("ACIR"). A copy of a January 20, 1978, memorandum to us from ACIR is attached. The effectiveness of this increased enforcement activity is unknown at the present, since much is of recent origin.

We continue to believe strongly that primary efforts to stop cigarette smuggling must be made by the states affected. However, we recognize that federal legislation in aid of state enforcement efforts may be desirable, if not essential, in light of the interstate nature of the problem.

In response to the Department's historical opposition, recent attempts to justify legislation like S. 1487 have made the argument that cigarette smuggling is an organized crime problem. For example, according to a report on cigarette bootlegging dated May 1977, which supported legislation similar to S. 1487, the ACIR noted that four New York crime families employing more than 500 enforcers, peddlers and distributors smuggle an estimated 480 million packs of cigarettes into the State each year. See page 21 of the ACIR report entitled "Cigarette Bootlegging: A State and Federal Responsibility."

We believe there is evidence that organized criminal elements are involved in cigarette smuggling. Since significant sums of money can be acquired at relatively little risk, this is an attractive area for such elements. Thus, the Department is prepared to support S. 1487, if modified to improve its potential effectiveness in dealing with the organized crime problem.

In recognition of the facts that the states have increased their enforcement activity, yet still need help, and that there is legitimate concern over organized crime's involvement in this area, we have had meetings with officials from the Department of Treasury in an effort to develop an approach acceptable to us. The proposed modifications to S. 1487 contained in the attached draft bill are the result of these meetings.

The draft bill would modify S. 1487 in only three significant areas. First, the draft bill defines the term "contraband cigarettes" as a quantity in excess of 30,000 cigarettes, rather than 20,000 cigarettes. Second, the draft bill contains different language with respect to the making of reports to the Secretary of the Treasury. S. 1487 would give the Secretary the discretionary authority to require "dealers" to maintain such records as prescribed by the Secretary. The term "dealer" is defined as any person who sells or distributes in any manner 20,000 or more cigarettes in a single transaction. The draft bill would eliminate the "dealer" concept and simply require "any person" possessing, selling, distributing, carrying, transporting, purchasing or receiving 30,000 cigarettes or more in a single transaction to prepare such records and make such records as the Secretary may prescribe. Third, the draft bill would increase the penalties for violators. It provides that whoever unlawfully distributes, etc., contraband cigarettes would be subject to a fine of $10,000 and/or five years in jail, and whoever violates any other provision of the law or knowingly makes a false statement or representation in a record required by the Secretary would be subject to a fine of $5,000 and/or three years in jail. S. 1487 provides for a fine of $10,000 and/or 2 years in jail for any violation of its provisions.

The 20,000 cigarette figure used in S. 1487 to define "contraband cigarettes" is a recognition that certain minor, untaxed cigarette smuggling, whether by users or by small-scale sellers is virtually impossible to con-

trol and not of significance to the Federal government. However, to the extent that S. 1487 is rationalized as an attempt to attack major organized crime, the Department believes the 20,000 cigarette figure, which translates into 100 cartons, is too low in relation to the type of significant organized criminal activity with which the Federal Government is concerned. The figure of 30,000 cigarettes, while not a major change in the bill's coverage, is, in our view, an improvement.

The draft bill clarifies the Secretary's power to require the keeping of records and the making of reports. While no specific regulations have been prepared, this feature of the draft bill is intended to supply the Secretary with discretion to require record keeping that could be used to assist the state's enforcement efforts.

Finally, it is important to understand that criminal prosecutions under S. 1487, should it be enacted, would be reserved, as a matter of policy, for serious organized criminal involvement in cigarette smuggling and, in appropriate cases, for making false statements in required reports and records. Thus, we contemplate only selective use of the criminal sanctions. This is consistent with the Department's view that it does not have the resources to prosecute the routine or minor violators. The increased penalties in the draft bill over those currently provided in S. 1487 reflect the fact that we contemplate prosecutions of major violators only.

In summary, the Department's willingness to support S. 1487 as modified by the draft bill is based on a desire to facilitate the states' cigarette tax enforcement efforts, and to give us another weapon against organized crime. We envasion, should the bill be enacted, that the states would continue to bear primary enforcement responsibility in this area.

For the reasons indicated above, the Department of Justice recommends enactment of S. 1487 if amended to incorporate the new provisions contained in the attached draft.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

Mr. KENNEDY. I yield to the Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator from Massachusetts.

Mr. President, I have cooperated with my friends and colleagues from Oklahoma (Mr. BELLMON) and the Senator from Massachusetts (Mr. KENNEDY) in their efforts to bring this bill before the Senate. I want to thank them for their patience, and for their willingness to accept amendments to the legislation which makes it less objectionable to our people. Special thanks should go to my able colleague from North Carolina (Mr. MORGAN) for his sincere efforts and conscientious leadership in the development of the compromises in the legislation.

Further, I appreciate the willingness of the managers of S. 1487 to discuss the purposes of the bill, and to make the very strong point that the intent of the legislation is most decidedly not to establish the legislative basis for Federal enforcement of State tax levies. I have assured that the intent of the bill is limited in scope, and is directed toward the immediate problem the Senators have described previously.

With that understanding I am pleased to vote for the measure, and to urge its adoption without objection. To the extent that the legislation will make it more difficult for persons to deliberately break the law and to the extent that much of this particular problem is truly interstate in nature, the bill can be a very effective remedy to the nefarious activities of those engaged in racketeering and organized crime. I wish it every success.

I cannot help, however, but remain somewhat skeptical about the need for Federal legislation in this area, and believe it appropriate to share some very general thoughts about that skepticism. I do not mean to be facetious when I point out that surely they must have competent and capable law enforcement agencies in the high tax States—surely the State courts are, or at least ought to be, as good as the Federal courts. Why is it whenever there is perceived to be a problem of any kind in this country that the hue and the cry raises for Federal intervention, Federal solutions, Federal spending, Federal laws, and Federal regulations. I have the utmost respect for the fragile nature of our constitutional fabric, and I believe we do more harm to the long-term safety of our liberties than we might imagine whenever we so readily resort to Federal solutions at every turn. I would much prefer to see the States have complete cooperation and authority—and responsibility—in this area, and it is particularly through the efforts of Senator MORGAN that the State role has been encouraged and made more prominent. I commend him for that.

It seems to me that the problem has not been given adequate attention by the States that are supposedly losing the revenue. It seems that the enforcement authorities in the high tax States have not made as strong of an effort as they might. Senator MORGAN's testimony before House Ways and Means Committee in March detailed his somewhat disappointing experience with law enforcement officials from the high tax States when he was Attorney General of North Carolina.

More recently, Gov. Jim Hunt of North Carolina has renewed North Carolina's efforts to participate in a solution to illegal traffic in cigarettes by creating a special task force in the new Department of Crime Control and Public Safety. The agents in the field are ready, willing, and eager to pursue any lead in an effort to put an end to such traffic. They have related to me, however, that authorities in the high tax States have not been able to present very much in the way of solid evidence that illegal activity is taking place.

While the North Carolina authorities continue to make every reasonable effort—as described by Governor Hunt in his testimony before the House Judiciary Committee's Subcommittee on Crime on March 9—it would seem that if the problem were as serious as some believe it to be that the high tax States would make a greater effort to enforce their own tax laws.

And that, Mr. President, brings me to my most serious concern. We have an instance, in my view, of organized crime taking advantage of the fact that some States have simply raised their tax rates too high. Rather than spend additional millions of dollars in enforcement of unreasonable taxes, perhaps it would be much easier to take the "free market" approach by simply lowering the taxes. There is strong economic reason to believe that such actions by the high tax States would actually increase their revenue. And, in fact, New York has taken action, as has Colorado, I believe, to reduce their cigarette taxes.

A reduction in the cigarette taxes in New York would certainly serve to break up the involvement of organized crime by making it uneconomical to smuggle. Cutting taxes by the 9 cents suggested by New York Governor Carey may appear to cause the State and city to face a loss of some $50 to $60 million in revenues. But smokers would then buy their cigarettes through legitimate channels and the new lower tax should yield about as much as the 26 cents per pack tax now yields. But that is not all. Legitimate wholesalers could double their cigarette sales, earning higher business profits and personal incomes that the State and city could then tax.

And, as the Wall Street Journal has editorialized, the money saved by those who do smoke by such a reduction would become available for other economic activity, increasing the number of jobs of all varieties.

Author Jude Wanniski has written in "The Way the World Works: How Economies Fail—and Succeed" of a similar situation in England in 1827. It seems that through legislative error, and entirely by mistake, tobacco taxes were reduced by one-fourth for a single month, and the tax revenues increased so dramatically—because of the decrease in smuggling—that the lower rates were retained indefinitely once the "mistake" had been discovered.

If only the high tax States would follow that example—as New York may yet do—and if time were allowed for a reduction in taxes to cause a breakup of the organized criminal activity, perhaps this bill would be proven unnecessary.

Indeed, this bill seems to be another of the seemingly timeless remedies that governments take when they find revenues falling in the face of rising tax rates. To increase the number and powers of the tax collectors invariably further reduces the flow of revenues to the Treasury. Apparently in this instance the States are willing to have the Federal Government provide the enforcement in the belief that it will be of no cost to them. That is a small distinction because the State and Federal treasuries are funded by taxes on the same people—namely you and me.

While I hesitate to burden Senators with excessive material, it may be of interest for all to note that this problem is not exactly a new one, and it perplexes me that every generation seems to want to reinvent the wheel. Wanniski discusses it in his new book and quotes Adam Smith from his "Wealth of Nations" on the point that taxes become

counterproductive to making revenue available when they become excessive: Here is what Adam Smith had to say in 1776 to show that excessive taxes are doomed from the start, and to suggest that we are just poking at the tarbaby some more:

Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state. A tax may either take out or keep out of the pockets of the people a great deal more than it brings into the public treasury, in the four following ways.

First, the levying of it may require a great number of officers, whose salaries may eat up the greater part of the produce of the tax, and whose perquisites may impose another additional tax upon the people.

Secondly, it may obstruct the industry of the people, and discourage them from applying to certain branches of business which might give maintenance and employment to great multitudes. While it obliges the people to pay, it may thus diminish, or perhaps destroy, some of the funds which might enable them to do so.

Thirdly, by the forfeitures and other penalties which these unfortunate individuals incur who attempt unsuccessfully to evade the tax, it may frequently ruin them, and thereby put an end to the benefit which the community might have received from the employment of their capitals. An injudicious tax offers a great temptation to smuggling. But the penalties of smuggling must rise in proportion to the temptation. The law, contrary to all the ordinary principles of justice, first creates the temptation, and then punishes those who yield to it; and it commonly enhances the punishment too in proportion to the very circumstances which ought certainly to alleviate it, the temptation to commit the crime.

Fourthly, by subjecting the people to the frequent visits and the odious examination of the tax-gatherers, it may expose them to much unnecessary trouble, vexation, and oppression; and though vexation is not, strictly speaking, expense, it is certainly equivalent to the expense at which every man would be willing to redeem himself from it.

My purpose in raising these points is not to urge Senators to vote against this measure. but rather to emphasize that we may be taking the often repeated approach of increasing Government regulation and authority when the exact opposite would accomplish the same purpose in a much more economical way. It is my hope that in the event that these new measures do not satisfactorily resolve the problem, that there develops little indication of a reduction of the incidence of smuggling, that we may try the methods I have suggested before any new appropriations are offered or more radical measures are proposed.

I thank my colleagues for their patience and for their cooperation and their willingness to amend their bill to make it more acceptable to everyone.

Mr. THURMOND. Will the Senator yield?

Mr. KENNEDY. I am glad to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to associate myself with the purposes of this bill, with the Senator from Massachusetts, the Senators from Kentucky, and the Senators from North Carolina. This bill is calculated to alleviate a problem which has been quite a severe one for some time. It is calculated to improve law enforcement and to help bring and end to the gangsterism, if that term is appropriate, and underworld activities. It is my hope that this bill will be passed forthwith.

I join other Senators in favoring this important piece of legislation.

I thank the Senator for yielding.

Mr. KENNEDY. I yield to the Senator from Kentucky.

Mr. HUDDLESTON. I thank the Senator for yielding.

I, too, commend those who have worked so hard in bringing about a workable compromise in this legislation. We all recognize it addresses a real problem, a problem that none of us would condone, that is, the transportation of cigarettes from one State to the other for the purpose of avoiding State taxation and thereby violating a law within a State. I think it is appropriate that we attempt to assist States in enforcing their laws to the fullest extent possible.

On the other hand, I do not think we ought to lose sight of the fact that the problem has been created by what some of us at least believe are unusual or almost confiscatory taxes that are placed by one State on tobacco products. It would be very simple to eliminate their problem totally if States were more reasonable in the amount of taxation they might apply to a package of cigarettes. However, that is the State's prerogative at this point. While it has ceated a problem, I do not think any of us want to create a situation or participate in a situation that allows that problem to be exploited for illegal purposes.

I believe the compromise which has been worked out due largely to the efforts of the Senators from North Carolina, Kentucky, Massachusetts, and Oklahoma will come as close to meeting this problem as we can at this particular time. I support passage of the bill.

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be included in the RECORD a statement of the distinguished Senator from Minnesota (Mr. ANDERSON).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ANDERSON

I am exceptionally pleased to see the Senate pass this important piece of legislation.

The enactment of S. 1487 will help assure that thousands of dollars of tax revenue will not be lost to the states as a result of illegal cigarette smuggling.

I am confident that federal Treasury officials will now have the tool to combat racketeering in the sale and distribution of cigarettes. However, the bill is designed to avoid burdensome federal regulation in an area traditionally within the states' jurisdiction.

Because of the interstate nature of cigarette smuggling, individual states have found successful enforcement of cigarette tax laws difficult. Individual states lack criminal jurisdiction during much of the transit of the illegal cigarettes, severely handicapping state law enforcement officials. Therefore, we have here a classic example of the federal government acting properly to alleviate state law enforcement difficulties created by our federal system.

Let me relate a brief history of my own state, Minnesota, with respect to its encounters with cigarette smuggling.

When I became Governor in 1971, we did not believe that Minnesota had a serious problem with racketeering in the sale and distribution of cigarettes. However, by 1973, we began to suspect that systematic cigarette smuggling was occurring. Minnesota then joined with other states in organizing the Interstate Revenue Research Center to try to make up for the grave disadvantages the interstate nature of the crime caused our separate states.

Since 1975, we have been uncovering and prosecuting more and more smuggling. The Alcohol, Tobacco and Special Taxes Division of the Minnesota Revenue Department now has four crime investigators in its criminal unit. In the short time which has passed since the organization of the criminal unit, more than 100 cases have been investigated, contraband valued in excess of $100,000 has been siezed, and an average of one arrest a month has been made.

Minnesota investigations have also shown that the cigarette smugglers are engaged in additional crimes. Our state investigators have turned up incidents of smugglers receiving and selling stolen property, gambling, liquor bootlegging, and distribution of pornography. Passage of S. 1487 will help reduce these criminal activities as well.

Minnesota's state-level enforcement would have continued and grown whether or not a federal law was passed. But state enforcement would have remained gravely hampered without passage of S. 1487. I welcome this federal involvement in efforts to curb a growing and costly burden on state tax receipts. I congratulate my colleagues in forthrightly addressing the problem of racketeering in the sale and distribution of cigarettes.

Mr. KENNEDY. Mr. President, I urge adoption of the unprinted amendment.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment offered by the Senator from Massachusetts, UP 1964, to the committee substitute.

The substitute amendment, UP amendment No. 1964, to the committee amendment in the nature of a substitute, was agreed to.

The PRESIDING OFFICER. The next question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 1487), as amended, was passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized to make clerical and technical corrections in the engrossment of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1965

(Purpose: To extend the life of the Select Committee on Indian Affairs)

Mr. ABOUREZK. I ask unanimous consent that it be in order to call up the Abourezk amendment to the Ex-Im bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota proposes an unprinted amendment numbered 1965:

On page 16, line 5, insert the following:

SEC. 9. That notwithstanding section 105 (d) of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, the Select Committee on Indian Affairs shall remain in existence through January 2, 1981. This section shall take effect when agreed to by the Senate."

Mr. ABOUREZK. Mr. President, I ask unanimous consent that I may yield to Senator INOUYE for 2 minutes for the purpose of offering another amendment, and that my amendment then be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1966

(Purpose: Repeal provision of Foreign Relations Authorization Act for fiscal year 1979 permitting retirement for certain Foreign Service officers based on their "high one" year of service)

Mr. INOUYE. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment numbered 1966:

On page 16, after line 4, insert the following new section:

"Sec. 9. Section 406 of H.R. 12598 as enacted by the 95th Congress is repealed."

Mr. INOUYE. Mr. President, a few days ago, the Congress adopted the fiscal year 1979 Foreign Relations Authorization Act. That bill contained a provision, section 406, which permitted Foreign Service officers to retire not on the traditional 3-year high basis but on the 1-year high. This amendment will repeal that section. The President is in favor of this amendment. I am afraid that if the amendment is not agreed to, the foreign aid authorization bill may be subject to a veto.

Mr. President, in 1887, the 2d session of the 49th Congress passed what was then regarded as the most extravagant of all pension bills. With no official estimate or statement of costs, the House, by a vote of 180 to 76—with 63 Members abstaining because they feared the wrath of an army of lobbyists—and the Senate, without even taking a rollcall vote, passed this so-called great pension grab.

In courageous defiance of those who threatened his political defeat, President Grover Cleveland vetoed the pension bill. Then, with the onus of responsibility safely shifted to the shoulders of the President, the Congress did not attempt to override the veto. It cannot be said, of the Congress, that "this was their finest hour."

Mr. President, under the innocuous heading "Special Computation of Annuities," section 406 of the fiscal year 1979 Foreign Relations Authorization Act provides what has been termed an inducement to early retirement. I suggest that we call it what it is—"the great pension grab of 1978." It is a "golden handshake." It says to those who are lolling in the corridors of the Department of State, awaiting their time to retire, "leave now and we will fatten your retirement pay check." Mr. President, I oppose section 406.

What, specifically, does section 406 do? It provides significantly liberalized retirement benefits for Foreign Service officers whose salaries are now "capped" at $47,500 and who elect to retire now. It would base retirement annuities for these Foreign Service officers, not on their highest 3 years of salary—not on the standard which applies to the whole Federal Government—but on the "high 1" year of salary.

Now, the Senate Foreign Relations Committee, in what has every appearance of "creative accounting," calculates, in its report to the Senate, that the net first year savings from this "1 year high" provision is $4 million. I do not accept that figure. But more importantly, it is not the first year which is so significant. It is the total cost of this provision which, I submit, condemns it.

The administration which strongly opposed this provision, has projected that the total cost might well rise to $3.5 billion or $200 million per year for each of the next 30 years. Some will say that this is an inflated figure because it assumes Government-wide application of the 1-year high. I would simply ask if there is anyone here who believes that, if we give this "golden handshake" to Foreign Service officers, others in the Federal Government will not demand it as well. Mr. President, in support of these calculations, I would ask that a strongly worded letter of opposition from the Secretary of State and a letter from the Director of the Office of Management and Budget detailing this cost projection be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INOUYE. Mr. President, these are the costs of the "pension grab." But, it may be asked, what is the purpose of section 406—what is it intended to accomplish?

Well, some argue that, by offering greatly increased retirement benefits to those who are otherwise eligible to retire, but who are merely biding time until they have a high 3 years salary, the superannuated employees of the Department of State, the Agency for International Development and the International Communications Agency will pack up and leave. Mr. President, I would point out that President Cleveland, the progenitor of the modern civil service system, regarded the retirement roll as an honor roll—as a means of rewarding years of service, not as a means of providing accelerated benefits to those who are not now earning their pay. He had the political courage to resist those who sought an easy, albeit costly, solution—and so should we.

Mr. President, I am not among those who believe that this "high-one" provision will help the Department of State, or the Agency for International Development, or the International Communication Agency to get rid of the "deadwood." To the contrary, I believe that those who leave early will be those who are vibrant and active and who will seek a second career; the "deadwood" will remain in place. I believe that contrary to its intended effect, section 406 will encourage the active to depart and, because it removes competitive pressures, it will reward the indolent, who, I assure you, are quite content to while away the day in their splendid offices overlooking the Potomac.

Mr. President, there is one final facet of section 406 which is never mentioned. I would suggest that, by temporarily easing the bulge at the top of the bureaucratic structure, it rewards the very agencies and departments which have pursued overly liberal promotion policies in the past. The Appropriations Subcommittee on Foreign Operations, which it is my privilege to chair, has found, for example, that the Agency for International Development has 48 percent of its Foreign Service officers in the top three grades and only 8.8 percent in the lower three grades. This situation is not going to be corrected by any one-time effort to provide an "easy-out;" it can only be corrected by the institution of rigorous and well considered personnel management practices. Section 406 will forestall the day when that occurs.

Mr. President, earlier in my remarks, I noted that in the 49th Congress, in 1887, the Senate passed a major pension bill without a rollcall vote. I believe, that we, in the 95th Congress should not emulate that timidity and faintness of heart. Let those who wish to aid and abet the "pension grab" of 1978 bring their proposal to the floor of the Senate for a recorded vote. This Senator will not oppose them, but I will also not shift the onus of responsibility to the President—I will vote "No."

Mr. President, I urge the deletion of section 406 of H.R. 12598.

EXHIBIT 1

THE SECRETARY OF STATE,
Washington, June 26, 1978.

Hon. JOHN SPARKMAN,
Chairman, Foreign Relations Committee, U.S. Senate.

DEAR MR. CHAIRMAN: Section 132 of S. 3076, the Foreign Relations Authorization Act for FY 1979, would authorize substantially larger retirement benefits for about 555 Foreign Service executives paid at supergrade-equivalent or Executive schedule rates (1) whose pay was previously frozen, and (2) who decide to retire between October 1, 1978 and December 31, 1979. Their annuities would be based on their highest single year's salary as opposed to their highest three year average required by current law. This would allow executives opting to retire early under

the amendment to collect roughly $50,000 in additional annuity because of the early retirement.

The Administration strongly opposes this provision and, indeed, the President has personally expressed his disapproval to me. The Administration objects to section 132 for the following reasons:

One of its effects would be to compensate for a pay freeze with higher annuities. As you know, the President has decided to freeze executive pay, and the House has already passed implementing legislation. Enactment of section 132 would be contrary to the spirit of that policy;

Section 132, if enacted, could become an expensive precedent to extend similar benefits to "capped" Federal executives under Civil Service and other retirement systems.

Once adopted, this "high-one" provision might be sought each time there are extended pay freezes or in the event of large scale personnel reductions at all grades;

Further, enactment would result in strong pressures to extend this benefit to all Federal employees. Use of the "high-one" formula for all employees would be expected to increase greatly the number of retirements. At the extreme, if 75 percent of eligibles retired during the "high-one" period, the Civil Service Commission estimates liabilities would be increased by $3.5 billion, requiring annual appropriations of roughly $200 million a year for each of the next thirty years;

There is an increasing public belief that Federal retirement systems, including that of the Foreign Service, are very generous. Further liberalization at this time is inappropriate in view of the President's effort to control inflation by setting an example of restraint in expenditures for Federal services.

For these reasons, the Administration respectfully requests that section 132 of S. 3076 be deleted during Senate debate on the measure. Retention of this section may jeopardize Presidential approval of S. 3076.

The Office of Management and Budget advises that enactment of section 132 would not be in accord with the President's program.

Sincerely,

CYRUS VANCE.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 18, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Prior to the conferees considering H.R. 12598, the "Foreign Relations Authorization Act, Fiscal Year 1979", I believe it important to emphasize the Administration's position on certain provisions of the Senate and House bills. The Department of State and the International Communication Agency will also state the Administration's position on a number of provisions.

I wish to re-emphasize the President's concern with section 407 of the House bill. That provision would significantly liberalize retirement benefits for Foreign Service officers whose salaries are now "capped" at $47,500 and who elect to retire between October 1, 1978, and December 31, 1979. By basing annuities on the highest single year's salary, as opposed to the highest three years, the pension would allow retiring Foreign Service executives to receive approximately $50,000 by retiring two years earlier. This in effect would be contrary to the principle of the executive pay freeze that the President has proposed and the House has approved.

If enacted, section 407 would become an expensive precedent for extending similar benefits to other "capped" Federal executives, including those under the Civil Service. Enactment would also lead to strong pressures to extend the "high one" benefit to all Federal employees. If that were to occur, the Civil Service Commission estimates that, assuming 75 percent of eligible employees retire during the "high one" period, retirement liabilities would be increased by $3.5 billion necessitating about $200 million of additional appropriations annually over the next thirty years.

As you know, there is a public perception that Federal retirement benefits are already very generous. The additional benefits authorized by section 407 are certainly not consistent with the President's efforts to control inflation by restraining Federal expenditures as an example for the private sector to follow. The President has reviewed this matter in some detail and he is concerned about its precedent-setting nature and its budgetary impact. Retention of this section may jeopardize the President's approval of H.R. 12598.

There are other provisions that would weaken the President's ability to prepare his budget proposals or to contain budget costs and Federal employee compensation.

* * * * *

I respectfully urge that consideration be given to these Administration views in conference committee deliberations.

Sincerely,

JAMES T. MCINTYRE, JR.,
Director.

I have discussed this matter with the managers of the bill, Senator STEVENSON and Senator HEINZ, and both have agreed to accepting this amendment.

Mr. STEVENSON. Mr. President, we have discussed the amendment. In my judgment, I know of no objection to it and have none myself. I am prepared to accept the amendment.

Mr. HEINZ. Mr. President, that is correct. The administration does support this amendment and I am prepared to accept it.

Mr. INOUYE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I ask unanimous consent that Mr. Ralph Omar, of Senator MATHIAS' staff, and Tony Cluff, of the Banking, Housing, and Urban Affairs staff, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1965

Mr. ABOUREZK. Mr. President, the amendment which I have offered to the bill is simply the Rules Committee resolution which has been reported out of the Rules Committee by, I think, a vote of 8 to 1, and, if not that, 7 to 1. It was an overwhelming majority. It would extend the life of the Indian Affairs Committee for 2 years. We have had it on the calendar for some time now and have not been able to get it called up, so I am forced to offer it this way.

I might say that it takes effect immediately upon passage by the Senate. I urge the adoption of this amendment by the Senate.

I should say I have discussed this matter with the managers of the bill and they totally disagree with it.

Mr. STEVENSON. Mr. President, that is one statement by the Senator that is accurate. We do oppose this amendment.

It would, as the Senator did indicate, extend the life of the temporary Select Committee on Indian Affairs. In doing so, Mr. President, it would undermine the Senate's committee reorganization of last year.

The Indian Affairs Committee was approved by the Select Committee on Committees and by the Committee on Rules in the Senate with the firm understanding that there be no effort to extend it beyond its 2-year life. Its formation was proposed only because of the peculiar circumstances that existed in 1977 and 1978. These circumstances—namely, the extensions into the 95th Congress of the American Indian Policy Review Commission and the need for a panel in the Senate to oversee this Commission through a transition phase—will no longer exist in the 96th Congress.

Mr. President, if this amendment were to be approved, it would only serve to justify the cynical view of the Senate being incapable of standing behind its own reorganization when the pressures are off. It is true that the Committee on Rules has approved this amendment. Just last year, it disapproved the amendment when the Rules Committee, with the recommendation of the Committee on Committees, issued its recommendations for reorganization of the Senate, which were later, in the Senate, modified to include just a 2-year life for this committee.

This is the old story; it is history repeating itself. It is the history of a Senate that just cannot say no to every interest group and every Senator who wants a special committee established. It was because of that history and the proliferation of committees which resulted that the Senate undertook the most extensive reorganization of its committee system since that system was established in the early 19th century.

Now there is some danger of history beginning to repeat itself. All of these committees, over the years, get started as temporary committees. Then, when it comes time for them to go out of existence, the Senate just cannot say no to itself. It cannot say no to some Senator, cannot say no to some interest. So they get made permanent, with the end result that Senators have far more committee assignments than they can do justice by and the responsibility for issues is confused among many committees so that none receive any comprehensive attention by the Senate.

That is the irony of this amendment. Its purpose is to serve Indians. Its effect would be to disserve Indians. Indian affairs would be within the jurisdiction, without this amendment, of the new Human Resources Committee of the Senate, a standing committee of the Senate, with the power and the authority to represent far more effectively the Indians in the

United States than a new permanent committee on Indian affairs.

The tragedy of this amendment is that, if approved, it will begin the unraveling, begin that historical process all over again of proliferation and fragmentation, with the end result that the Senate would, as it was just 2 years ago when we reorgnized, be very hard pressed to deal effectively and comprehensively with any issue.

For those reasons—that this amendment would set back and undermine the reorganization of the Senate, it would disserve Indians, and also because it would, if approved, subject the organization of the Senate to the veto of the President for the first time, I suspect, in the history of the Senate—I urge my colleagues to oppose this amendment.

Mr. ABOUREZK. Mr. President, I yield to the chairman of the Committee on Rules.

Mr. PELL. Mr. President, we considered this bill in the committee, argued it pretty well back and forth. My recollection is that it passed in the committee by a vote of either 7 to 1 or 8 to 1—I am not sure which. I know I felt that, on balance, the Indian Committee should be extended. If there is one group of people to whom we have an obligation, it is those Americans who were here first, who have been treated pretty brutally.

We have talked a great deal in the past about the American observance of international law. I think we have broken a large number of treaties with the Indian people over the years. We are only now, when it is almost too late, coming to treat them fairly and accord them equity.

In my own State, we recently worked out an agreement which was ratified in bill form and has, I think, given justice to the Narragansett Indian Tribe of our State and will, I hope, serve as a model for similar claims in Maine, Massachusetts, and other States who are faced with similar problems.

In this case, it seems to me that this constituency deserves representation. These Indians have nobody else to speak for them. As one who has some Indian blood myself, I am very proud to support this amendment.

Mr. HEINZ. Mr. President, as one of the managers of this bill, the Export-Import Bank amendments of 1978, S. 3077, I have to state that it bothers me considerably to have an amendment proposed to this bill that, it seems to me, is very far removed from any of the issues that either our committee or even the Committee on Environment and Public Works, which had sequential referral of our bill, has to do with. It seems to me the amendment, meritorious as it may be—and I am unprepared to speak on the merits of this, because I know there are Members in this Chamber who are far more expert on the question of the Committee on Indian Affairs and on Indian affairs generally, than I. It seems to me clearly that this amendment is well off the beaten track and, if we had a time agreement in the usual form, would be nongermane.

Second, I note that this bill is, in fact, on the Senate calendar and therefore, would otherwise be taken up. I do not understand why it needs to be offered to this bill.

Mr. ABOUREZK. Will the Senator yield?

Mr. HEINZ. Maybe there will be a series of things the Senator can respond to.

Mr. ABOUREZK. I wanted to answer the question.

Mr. HEINZ. In a minute.

I do not understand why, with the excellent leadership that we have from the majority leader, who clearly is intent on accommodating the Senator from South Dakota in every way he can, as he has on so many other occasions, this cannot be taken up in the normal course of business.

I am confident that the majority leader would make every effort to accommodate the Senator from South Dakota, particularly since the Senator's amendment is in the form of a bill on the calendar.

Third, I am advised that Senator CANNON has a hold on the bill on the calendar.

Now, it is any Senator's prerogative to wish to be informed before legislation in which he has a direct and abiding personal interest is brought up. So, on that procedural ground, it seems to me that there could be a problem.

Finally, I think the point made by the Senator from Illinois, the chairman of our committee, regarding the fact that we would be subjecting something that is uniquely the prerogative of the Senate, that is, to establish our own committee, to an executive branch of concurrence or veto, would be new ground that I think we would be ill-advised to break.

For that reason, Mr. President, I must state very strongly my reluctance to encourage or accept this amendment.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I will try to respond as best I recall the questions raised by the Senator from Pennsylvania.

First of all, this is not subject to a veto or approval by the President. As stated in the amendment, it is to take effect immediately upon being agreed to by the Senate. So, therefore, once it is agreed to, it is out of the way.

Second, I might say this item has been on the calendar as a separate bill for quite some time. The majority leader has not called it up and does not intend to call it up simply because the majority leader is opposed to it.

As I said, I do not care if there is a hold on it. We are willing to debate and vote on it any time you are willing to call it up, and I could get absolutely no commitment.

We are at the end of the session. The committee will expire unless we pass it during this session.

I had no choice but present it on a bill with no time agreement on it.

Third, to respond to the argument made by the distinguished Senator from Illinois that this is just another special interest that is being promoted in the Senate, let me say that if this committee is not extended, Mr. President, it will go as a subcommittee into Human Resources.

Now, that is all fine and good. I think it is perhaps better to have Indians taken care of in Human Resources than in Energy where they were before it became a special committee. But one thing about the Human Resources Committee, while they would adequately take care of the human resources problems concerned with Indians, there is no background, no understanding, no expertise, no knowledge, of the very unique character of Indian trust rights, and there is a staff of attorneys, of specialists, on the Indian Committee right now that would not be there if it were in Human Resources, who are fully capable of understanding and advancing the cause of Indian trust responsibility.

That is one responsibility the Government has not lived up to properly, and I think should live up to, and I think a majority of the Senate does agree with that.

It is not just another special interest. It is a committee that is, in my view, absolutely necessary for the Government to fulfill its responsibilities.

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Dakota.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, the reorganization of the Senate took place when the Senator from Nevada (Mr. CANNON) was chairman of the Rules Committee. He is chairing a conference with the House. He opposes this amendment, and I ask unanimous consent that his statement in opposition to it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. CANNON

● Mr. CANNON. Agreement to S. Res. 405, to create a "temporary" Select Committee on Indian Affairs, would constitute the Senate's first retreat from the reorganization it so painstakingly adopted only last year. That reorganization plan for the committee system is the first general Senate reform in 30 years, achieved after the most thorough debate of two committees and the Senate itself, and by the vote of 89 to 1. It is a tough and useful reform which is making significant improvements throughout the committee system, particularly in stopping proliferation of committees, subcommittees and staff, and in controlling wasteful demands on Senators' time.

The Senate should not agree lightly to retreat from reform, as if S. Res. 405 has no consequence. It certainly should not agree hastily. Now that the operation of the Committee system is improving in the Senate—and it is improving as a result of the reorganization agreed to on February 4, 1977 in S. Res. 4—it may seem unimportant to add another small committee and exempt its five members from the limits on assignments

governing other Senators. But it would be a mistake—and a grave one—to agree to this resolution. It would be wrong to do so; wrong to break the master link which holds the reorganization together, and unjust to the many Senators who have abided by the rules at considerable sacrifice.

Authorization of the Select Committee Would Be A Major Departure From Reorganization, Not A Continuance of Previous Practice.

I emphasize that S. Res. 405 would *create* a new committee, add it to the system, not simply "continue" a committee as the proponents suggest. This is an important point, not well understood, perhaps because the S. Res. 4 reorganization is not well understood.

The Committee System Reorganization Amendments of 1977 established a framework for continuing improvement. Its sponsors did not describe the plan as a finished or complete solution. The temporary Select Committee to Study the Committee System carefully pointed out that it had recommended a structure on which the Senate could build an effective, efficient, and responsible committee system. Its limited plan had the immediate benefit of attacking the principal problems of proliferation of committees and subcommittees and Senators' assignments to them, fragmentation of jurisdictions, and wasteful demands on Senators' time. But those structural reforms were to be "phased in" over short time, while other reforms were to build on that foundation later. The Committee on Rules and Administration which reviewed and reported S. Res. 4, also made it clear that the committee reorganization required implementation and improvement over time, and, especially, defense of the structure.

It is especially important to understand that the Rules report, Senate floor amendments to it, and S. Res. 4 as agreed to made the remainder of the 95th Congress a transition period during which many parts of the reorganization would be implemented. Thus, for example, under its continuing reorganization responsibilities affirmed by S. Res. 4, the Rules Committee authorized severence pay for some displaced staff, instituted consolidated committee and subcommittee inquiries and investigations resolutions for each committee, and directed that S. Res. 60 personal committee staff allowances be included in Member clerk hire accounts.

While most of the structural provisions of S. Res. 4 "took effect" seven days after the resolution was agreed to, the Senate ordered that implementation of several new rules and orders occur more slowly, but by the beginning of the 96th Congress. Committees had several months to arrange the transfer or separation of displaced staff. Committees, under new assignment limitations, separately would decide how and when to arrange their subcommittee structures and memberships, and some took several weeks to do so. Responsible standing committees would report legislation terminating the joint committees on Atomic Energy, Congressional Operations and Defense Production by July 1, 1977. Another standing committee would report recommendations on the future of the joint committees on the Library and on Printing by the same date.

The Rules Committee would report recommendations on the future for the sizes of Senate committees following the transition period (in the 96th Congress) by July 1, 1978. Exceptions to assignment limitations for certain members of the Intelligence Committee would expire at the end of the first session. Other exceptions to assignment limitations for certain members of the Committees on the Budget and Governmental Affairs would expire on the day new committee assignments are agreed to at the beginning of the 96th Congress. The Select Committee on Nutrition and Human Needs would expire at the end of the first session, with its responsibilities transferred to the Committee on Agriculture, Nutrition and Forestry.

Among these transitional arrangements for the 95th Congress was the temporary Select Committee on Indian Affairs. Prior to the 1977 reorganization, jurisdiction for Indian affairs matters resided in the Committee on Interior and Insular Affairs, but the Committee on Labor and Public Welfare had considered aspects of Native Americans' welfare at times. The Stevenson-Packwood Committee and S. Res. 4 as introduced recommended retaining in the former committee, renamed Energy and Natural Resources, the Indian lands jurisdiction, but transferring jurisdiction for "Native American education, heal'h, social services and loan programs" to the Labor Committee, renamed Human Resources.

However, Senator Jackson, chairman of the Interior Committee, and Senator Abourezk, who was the chairman of the Interior Committee's Subcommittee on Indian Affairs and of the temporary American Indian Policy Review Commission, in submissions to the Rules Committee, both urged that Indian affairs jurisdiction for both matters be consolidated in one committee. Senator Jackson did not recommend which standing committee it should be. Senator Abourezk recommended in his letter of December 29, 1976, that it be the Committee on Human Resources.

In the same letter, furthermore, Senator Abourezk pointed out that the American Indian Policy Review Commission shortly would make its final recommendations and expire. He therefore also recommended ". . . that, for purposes of enacting these recommendations, during the 95th Congress there should be a special ad hoc committee on Indian Affairs empowered to report Indian legislation to the Senate floor, after which the full jurisdiction for Indian Affairs should then revert to Human Resources."

Subsequently, however, in his testimony before the Rules Committee of January 7, 1977, Senator Abourezk amended his prepared statement and earlier letter, at the request, he said, of part of the Indian community, to recommend a permanent Select Indian Affairs Committee and no decision in S. Res. 4 on placement of the jurisdiction in a standing committee. Senator Jackson, in his letter of January 11, 1977, endorsed Senator Abourezk's proposal "for establishment of an Ad Hoc Committee on Indian Affairs which would have a limited duration."

The Rules Committee mark-up record shows that the Committee agreed to the temporary Select Committee as a transitional body, and for the 95th Congress only, so it could handle the Policy Commission's expected report. It further agreed to exempt its five members from committee assignment limitations.

I relate this history to emphasize two points. First, the Senate "bought" the Select Committee on the understanding it was to exist for the 95th Congress only, as one of the many transitional arrangements to facilitate implementation of S. Res. 4. Second, since the Select Committee was a two-year, transitional measure, S. Res. 405, now before the Senate, is most accurately seen as creating a new committee in contravention of S. Res. 4. It is incorrect to describe it as simply continuing an existing committee. This point is reinforced by the facts that no committee on Indian affairs existed before the reorganization and that both the chairman and ranking minority member have announced their retirements from the Senate at the end of this Congress.

Retreat From Reorganization Is Not Necessary to Assure Complete, Effective and Sympathetic Senate Committee Attention to the Needs of Native Americans.

Taken together, the principal benefits of the reorganization ordered by S. Res. 4 are the establishment of a disciplined committee system. Senators did not wish to institute a radically new system. They desired, and almost unanimously voted to support, a controlled system based on historic Senate practices and divisions of labor. Nearly every Senator agreed to abolish committees and subcommittees on which he served and to relinquish assignments he held on retained committees in order to establish the disciplined system.

S. Res. 405, too hastily reported by the Rules Committee in my opinion, now asks the Senate to begin the dismantling of the reorganization.

The Senate must ask the question, therefore, is this break in the Rules really necessary?

I believe that the arguments given are not compelling ones for establishing the Select Committee on Indian Affairs in the 96th Congress in contravention of Senate Rules.

The principal argument given by proponents who testified before the Rules Committee is that a separate committee on Indian Affairs is necessary to assure adequate attention and action for the needs of native Americans. The original resolution, it should be recalled, would have established a permanent Select Committee. Its sponsors have made very clear they accepted the Rules Committee endorsed extension for one Congress as a matter of strategy only, and that they will try again for a permanent committee.

The secondary argument is stated in the Committee report on S. Res. 405 which asserts in essence that: ". . . it would be unwise to terminate a proven, working structure for the consideration of American Indian affairs, while the basic work contemplated for the select committee is in midstream." As to the original justification for the Select Committee, the report correctly states that, in January, 1977, at the time of the reorganization debate, "there was an evident need for a committee whose members could focus full attention on Indian affairs legislation with the assistance of an adequate staff with expertise in that field." That need was "specifically to consider and act on the recommendations of the American Indian Policy Review Commission" which submitted its report on May 17, 1977.

If the continuation of the Select Committee imposed no costs on the committee system, these arguments for continuing the Indian Affairs Committee would seem acceptable. But the fact is that continuation of the Committee does levy substantial and unnecessary costs on the system by once again starting the Senate down the path of committee proliferation. The justifications given therefore deserve close examination. And under close examination the alleged benefits can be seen to be as well or better achieved within the Rules.

A separate committee on Indian affairs is not necessary to assure adequate attention and action for the needs of native Americans in the next Congress or any subsequent one. In fact, the committee system reorganization plan agreed to only last year—with Indian affairs jurisdiction within the Committee on Human Resources—will better serve those needs.

First of all, the Rules Committee report on S. Res. 4 achieved the initial long-term recommendation at the time of both Senators Jackson and Abourezk regarding Indian affairs jurisdiction, namely, that it consolidated in a single standing committee. Although he later amended his views to call for a permanent select committee, in his letter of December 29, 1976, to the Committee (pg. 728 of the Rules Committee Hearings) Senator Abourezk (chairman of the Indian Affairs Subcommittee and of the AIPRC) strongly recommended that Indian

Affairs not be fragmented, but that "all Indian Affairs be placed in the Human Resources Committee, including Land Management as well as the human aspects of their relationship . . ." following the exipration of the Select Committee at the end of the 95th Congress.

Senator Jackson, chairman of the Committee on Interior and Insular Affairs, in his letter of January 11, 1977 (page 729 of the Hearings) and in his statement of January 5 (page 73 of the Hearings) urged consolidation of jurisdiction in one major committee without recommending which Committee: ". . . National policy," Senator Jackson said, "will depend upon the effective use of both social programs and resources management, and the two are inseparable. Indian communities are too dependent upon the land, mineral, and water resources of the reservations to conceive of social or economic advancement without resource development." So the committee reorganization, by assigning comprehensive jurisdiction for Indian affairs in the Human Resources Committee following the transition arrangements in the 95th Congress, met a principal goal of the Senators most experienced in these questions.

The only exception to the consolidation was to temporarily leave jurisdiction over implementation of the Alaska Native Claims Settlement Act within the Committee on Energy and Natural Resources. Only one Senator ultimately argued during the reorganization debate that consolidation in the Human Resources Committee would deny adequate attention to American Indian needs. Indeed, there appeared to be general agreement this solution was a major improvement on behalf of these needs.

Second, the placement of Indian affairs jurisdiction in the Human Resources Committee better meets Indian needs because they will receive the attention of a major standing committee of the Senate, much more capable of defending and advancing Indian rights than a minor select committee. The progressive records of the Committee on Human Resources and of its individual members are well known.

Third, the Human Resources Committee will address Indian needs more effectively than a separate committee because its broad legislative jurisdiction encompasses all the major areas of social legislation in jobs and training, education, health, equal employment opportunity, and public welfare. It is true that some Indian problems require separate solutions appropriate only to native Americans, but the Congress can help native Americans the most by treating many of their problems through study and action by a major standing committee in conjunction with national legislation to benefit all disadvantaged persons.

Fourth, there can be no doubt that a subcommittee of the Human Resources Committee with principal concern for Indian Affairs will give even better hearing and more special attention to the Indian people and their representatives than would a separate minor committee. A permanent subcommittee of a major standing committee will offer over the long-run both more interested Members and superior staff than would the minor committee. If, as some witnesses suggested, one problem is assuring strong and continuing supervision of Federal agencies which administer Indian programs, then it should be obvious that a major standing committee will be more successful in this task than a minor committee.

Fifth, the arguments addressed in the Senate have not caused the House of Representatives to establish a separate committee on Indian affairs, even though that body—with its much larger membership—easily could do so if such action were warranted.

Sixth, I think we should carefully observe that the Senate has not created separate committees to consider many subjects where such balkanized jurisdictions have been suggested. We do not have separate committees for Spanish Americans, blacks, or other ethnic and national groups of our population. We do have three committees with relatively narrow jurisdiction: Veterans Affairs, Aging, and Small Business. But these are committees which existed for many years before the committee system reorganization.

The Select Committee on Indian Affairs was not in existence as a separate committee before the present Congress. In recent years, Indian affairs questions were principally handled by a subcommittee of the Committee on Interior and Insular Affairs and, in some matters, by subcommittees of the Committee on Labor and Public Welfare and other committees. It was only in this Congress that the Senate approved the Select Committee as a firmly temporary transition measure.

Seventh, during the reorganization studies and debates, the Senate determined it would help the Committee system to consolidate within the major standing committees several narrow jurisdiction committees, including three standing committees with long histories—those on Aeronautical and Space Sciences, Post Office and Civil Service, and District of Columbia.

The Senate also consolidated two select committees within major committees—those on Nutrition and Human Needs and to Study the Senate Committee System—and two joint committees—on Congressional Operations and on Defense Production. The groups most interested in those consolidated committees still receive full hearing, in fact a better hearing, from subcommittees within strong and major standing committees of the Senate or the full committees. And the transition of responsibility from the old committees to the new ones in all cases was accomplished relatively easily, with experienced staff retained.

Eighth, there is no evidence that a separate committee will guarantee "a committee whose members could focus full attention on Indian affairs legislation * * *" Most Senators now have 11 or 12 committee and subcommittee assignments. While this is a definite improvement over the average of 18 such assignments held in the last Congress, the addition of more assignments by creating more committees can hardly assure full attention on any subject. Senators who serve on an Indian Affairs Committee as their 13th assignment cannot give "full attention" to that committee.

Similarly, there is no evidence that a separate committee will guarantee "an adequate staff with expertise * * *" any more than consolidation of the jurisdiction within a standing committee will do.

Finally, the argument is unsound that failure to extend the Select Committee would interrupt its basic work in "mid-stream." The recodification of Title 25 of the U.S. Code can just as well be continued with the same staff working with a subcommittee of the Human Resources Committee. But the other principal responsibilities of the Select Committee mentioned in the Committee Report—"the economic development of Indian reservations, energy resources of tribes, settlement of conflicts over Indian rights to water, natural resources, hunting and fishing, and settlement of land claims in many states"—surely will require the continued action of Congress for many years to come. For the good of native Americans and the Senate, we should settle now the permanent responsibility for this jurisdiction, and settle it within the Human Resources Committee as agreed to earlier.

For these reasons, I believe the interests of native Americans—and the need of the Senate for an effective committee system—are best served by retaining jurisdiction for Indian affairs in a major standing committee. The Senate has no cause to hastily approve S. Res. 405 and thereby incur high costs to the committee system without commensurate benefit to the Senate or native Americans themselves.●

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by the Senator from South Dakota (Mr. ABOUREZK) which would extend the life of the Senate Select Committee on Indian Affairs for 2 more years.

Since its establishment in 1977, the Select Committee on Indian Affairs, under the able leadership of the Senator from South Dakota, has undertaken the review and analysis of more than 100 legislative recommendations submitted by the American Indian Policy Review Commission, in addition to carrying out the more traditional legislative and oversight responsibilities related to Indian affairs. Its record of achievement is one of which any committee could be proud. During the first session alone, 22 measures reported by the select committee were passed by the Senate and 8 were enacted into law.

A considerable backlog of legislation relating to Indian Affairs remains, including the recodification of title 25 of the United States Code, an effort initiated a year ago. In addition, the Committee is providing expert advice and assistance to the administration as it seeks to resolve a wide variety of claims asserted by the Indian tribes. By providing an appropriate forum for the discussion of such claims, the Select Committee assures their thorough consideration. In my opinion, the importance of this function cannot be overemphasized. During the period between 1946, when the Senate Standing Committee on Indian Affairs was abolished, and 1977, when the current Select Committee was established, legislative and oversight responsibility for Indian Affairs was divided among more than 10 Senate committees. I am strongly inclined to believe that this haphazard and uncoordinated approach to Indian Affairs has contributed to the claims and disputes over tribal sovereignty which have arisen in recent years. We need a single Committee on Indian Affairs, not only to protect the rights of the Indian people, but also to allay the confusion and dismay of other Americans with respect to native claims in general. I believe that the committee can, and should, play an important educational role in this area.

I was happy to join the Senator from South Dakota and others in introducing legislation which would extend the life of the select committee. Our proposal, Senate Resolution 405, was considered by the Committee on Rules and Administration which voted overwhelmingly to recommend a 2-year extension. While I know that some Senators may object, in principle, to the extension of a select committee, I would urge them to look at the record of the Select Committee on Indian Affairs and to consider the need for such a committee, which is no less urgent today than it was last year. And I would urge them to support the amendment offered by our colleague from South Dakota and to extend the committee's life.

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Oregon.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MARK O. HATFIELD

The time is long overdue to come to grips with the status of Indians in the United States. For that reason, Congress established the American Indian Policy Review Commission and has been listening to its recommendations. Indeed, during the 95th Congress, the Select Committee on Indian Affairs has considered over 100 such recommendations and has reported more than 30 pieces of Indian legislation. Congress can be pleased with this belated but impressive focus on Indian matters.

The issue now before the Senate is whether the Select Committee on Indian Affairs shall receive a two-year extension of life. It was established by Senate Resolution 4, 95th Congress, and designated for termination in the same legislation. It is my considered judgment that the date set for termination—the end of the 95th Congress—has proven unrealistically short in light of the immediate, unfinished agenda of the select committee. I believe an extension for one further Congress will allow time to address that agenda with due deliberate care it so clearly deserves.

It has been argued in dissent that these issues can just as readily be considered by folding Indian affairs into a subcommittee of the Committee on Human Resources. Yet, Congress implicitly rejected such logic when it created the select committee through the same legislative vehicle by which it effected committee reform. It was felt when Senate Resolution 4 was enacted that a distinct legislative entity was the best forum for the Senate to deal forthrightly with the American Indian Policy Review Commission recommendations. The Senate was right, but it could not know that the termination date set forth in the resolution would prove too short for its purposes. Extending the select committee for two additional years is wholly consistent with the Senate's objectives on Indian matters and does no more violence to committee reform than did the establishment of the select committee in the first place.

As during this Congress, Senators should be able to sit on the select committee as an additional committee assignment. Any other formula will make it difficult to locate enough members to serve. Congress recognized this fact when Senate Resolution 4 was enacted by creating a necessary exemption for the select committee from committee service limitations. The rationale underpinning that exemption remains fully valid, and no tampering with it should be done.

The issues before the Select Committee are large and difficult. They include a recodification of title 25, the economic development of Indian reservations, education, energy resources of tribes, settlement of conflicts over Indian rights to water, natural resources, hunting and fishing, and settlements of claims for land in a number of states.

At this crucial time, the select committee is a far more versatile forum for sensitive negotiations and can far better do its job with its broad jurisdiction and necessary expertise than can a subcommittee vying for attention with any other major interests and issues in a full committee, as has too often been demonstrated in the past.

I am convinced that the Select Committee responds to pressing legislative need and is the best available mechanism by which the interests of the American Indian can be met.

● Mr. KENNEDY. Mr. President, I want to again voice my strong support for the effort to continue the vital work of the Senate Select Committee on Indian Affairs. And I would like to take this opportunity to pay special tribute to the author of this amendment—a man whose energy and vision guided the Select Committee—Senator JIM ABOUREZK. He will long be remembered in the Senate and by Indian people everywhere as a voice of decency and courage, who never hesitated to speak out for a proud people wronged by decades of injustices and indignities.

We might well contemplate how historians will look back on this most recent generation of our relations with the American Indian. Will they view our generation as one dedicated to improving education and health care for Native Americans? Will they see a commitment to preserving religious freedoms and self determination? Will they find a respect for Indian property rights? Or will it be seen as yet another generation when human needs were ignored and basic fundamental rights were abridged?

Today, during a period of backlash where some are openly endorsing proposals designed to make a mockery of sacred treaty rights, we have a special obligation to assure that history will record that the Senate did not stand by silently. We have an obligation—a legal and moral obligation—to continue the work of this Select Committee.

Mr. President, I had an opportunity to testify before the Rules Committee in support of this amendment. I pointed out that there are a number of critical issues of concern to native Americans that remain to be resolved. An entirely new arena of problems has only recently opened up involving eastern Indian land claims—in my own State of Massachusetts, in Maine, New York, and South Carolina. Across the country, numerous areas of concern exist relating to the protection, preservation and restoration of Indian natural resource rights. And we must still consider the vitally important revision and recodification of Federal Indian law.

In fact, the American Indian Policy Review Commission established by Congress issued a final report just a year ago with over 200 recommendations. Although Senator ABOUREZK's committee has already taken action on some 100 of these proposals, it is obvious that much important business is still to be done in the 96th Congress. All of these problems will not simply go away. They will need the special, continuing attention of the Select Committee on Indian Affairs.

It seems to me, Mr. President, that unless we are to lose much of the expertise and continuity of this select committee, some transition is needed. Unless the Senate extends the life of this committee, we will not be able to live up to the special responsibility we have to this country's 1 million American Indians. Although I actually favor legislation giving Indian affairs permanent committee status, I believe that an extension of one more Congress is the very least the Senate can do to assure that the important work begun in the 95th Congress is carried on to completion. As Senator ABOUREZK has stated, the select committee should be able to conclude much of its most pressing business with a 2-year extension as a fully staffed committee.

Our action to extend the life of this committee should not be seen as simply an effort to buy time. The protection of Indian rights will be a long struggle. The injustices experienced by American Indians are not just ancient wrongs or broken promises out of our distant past. They are part of the Indian's world today. A world which grinds out new injustices, new indignities, and new wrongs day by day.

An extension of this select committee will be part of a continuing effort to reverse this tragic history, and I urge my colleagues to support this amendment.●

Mr. STEVENSON. Mr. President, for the reasons already mentioned, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Arizona (Mr. DECONCINI). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arizona (Mr. DECONCINI), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Georgia (Mr. NUNN), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 28, nays 55, as follows:

[Rollcall Vote No. 430 Leg.]

YEAS—28

Bentsen	Glenn	Percy
Byrd, Harry F., Jr.	Hayakawa	Proxmire
	Heinz	Schweiker
Byrd, Robert C.	Huddleston	Sparkman
Cannon	Jackson	Stennis
Chafee	Lugar	Stevenson
Church	Magnuson	Talmadge
Danforth	Metzenbaum	Wallop
Eastland	Nelson	Zorinsky
Ford	Packwood	

NAYS—55

Abourezk	Garn	McGovern
Baker	Goldwater	Morgan
Bartlett	Gravel	Moynihan
Bayh	Hansen	Muskie
Bellmon	Hart	Pell
Biden	Hatch	Randolph
Brooke	Hatfield, Paul G.	Ribicoff
Bumpers	Helms	Riegle
Burdick	Hodges	Roth
Case	Hollings	Sarbanes
Chiles	Humphrey	Sasser
Clark	Inouye	Schmitt
Cranston	Javits	Scott
Culver	Kennedy	Stone
Curtis	Laxalt	Thurmond
Dole	Leahy	Weicker
Domenici	Mathias	Williams
Durkin	Matsunaga	Young
Eagleton		

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, for.

NOT VOTING—16

Allen	Hathaway	Pearson
Anderson	Johnston	Stafford
DeConcini	Long	Tower
Griffin	McClure	
Haskell	McIntyre	
Hatfield, Mark O.	Melcher	
	Nunn	

So the motion to lay on the table UP amendment No. 1965 was rejected.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that Michael Choukas of my staff have the privileges of the floor throughout all of the debate and votes the rest of the day.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

Several Senators addressed the Chair.

Mr. SCHMITT. Mr. President, I make the same request for Stephen Beck of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUMPHREY. Mr. President, I would like to make the same request for Mike Stafford and Maureen Norton.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that Fred Tipson of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, can we have order?

The PRESIDING OFFICER. The Senator is absolutely correct. The Senate is not in order. We will suspend momentarily while Senators take their seats and cease conversations.

The motion to lay on the table having been rejected, the question recurs on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President. I ask unanimous consent that Greg Jones and Ark Monroe of my staff be allowed the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Edwin Hall of the Commerce Committee staff be permitted the privileges of the floor, also Jacques Gorlin of Senator JAVIT'S staff, during the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I have discussed this with my distinguished comanager of the bill and also with the majority leader, and I know of no opposition to the request: I ask unanimous consent that the amendment of the Committee on Public Works and Environment, the committee amendment, be put over until Monday when the Senate returns to the consideration of this bill.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Mr. President, reserving the right to object, I do so at this time in order to pose a unanimous-consent request prior to this request. My unanimous-consent request is this: Mr. President, I was in the Chamber attempting to vote "No" on the motion to table the Abourezk amendment as the Presiding Officer was announcing the vote. I ask unanimous consent that my vote be recorded. It will not change the outcome of the vote, and I ask unanimous consent that I be given that privilege.

The PRESIDING OFFICER. Is there objection to the request made?

Mr. STEVENSON. Reserving the right to object, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roil.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MR. SOLOMON AND THE GSA

Mr. DURKIN. Mr. President, we have been made aware in recent weeks of a very serious problem at GSA. I ask unanimous consent that an editorial from the Boston Globe dated September 25, 1978, be printed in the RECORD. I think this editorial underscores the tremendous effort and exemplary work of the head of GSA, Mr. Jay Solomon.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr DURKIN. I thank the majority leader. Mr. Solomon was faced with a very difficult situation at GSA. He has acted forcefully and firmly, and many people think he has acted very courageously, to eradicate a serious problem.

I think commendation is due for Senator CHILES and his committee and Mr. Solomon, and for that reason I ask unanimous consent that a Boston Globe editorial entitled "Government Can Be Fair" be inserted in the RECORD. This editorial points out that the two whistle blowers who were sacked, who were fired for doing their job, who were fired because they would not go along with some of the practices down there, were restored to their jobs by Mr. Solomon. I think it is a tremendous example for everyone in the Federal service, and that Mr. Solomon is to be commended on this very decisive, courageous, and far-reaching act and his efforts to clean up the problems at GSA.

The PRESIDING OFFICER. Without objection, it is so ordered.

The editorial is as follows:

GOVERNMENT CAN BE FAIR

Jay Solomon, the reform-minded new man at the head of the General Services Administration, is one government official who means what he says. Back in June, Solomon told a Senate subcommittee that he was unmoved by the tradition which holds that the best bureaucrats are those who wear blinders. On the contrary, Solomon said, if inefficiency and corruption are to be rooted out, they must be spotted and reported. GSA employees, he said, should "speak up about what they believe is wrong" in their scandal-racked agency.

Taking Solomon at his word, we asked him, in this space, to reopen the cases of two former GSA employees from the Boston area who were fired before Solomon's arrival for doing just what Solomon said they should have done—speaking up.

Both Robert Tucker of Sharon and Robert Sullivan of Weymouth had cooperated with the news media in exposing deep-seated abuses within the agency. Sullivan leaked a report on pervasive irregularities in the letting of GSA contracts to the Globe Spotlight team; Tucker tried to make public improper bidding practices.

We are happy to report that the GSA did indeed reopen their cases and earlier this month decided to rehire both men. Credit should go to Solomon and to Vincent Alto, the GSA's special counsel, who pushed the review of the case.

In a small corner of government, justice has carried the day and a gross unfairness has been remedied. The GSA deserves congratulations.

Mr. ROBERT C. BYRD. Mr. President, what was the unanimous-consent request?

Mr. DURKIN. Just to put an editorial in the RECORD.

Mr. ROBERT C. BYRD. Oh, sure.

UNANIMOUS-CONSENT REQUESTS

Mr. MATSUNAGA. Mr. President. I ask unanimous consent that I may have printed in the RECORD in the proper place my remarks in support of the Abourezk amendment to S. 3077.

Mr. ROBERT C. BYRD. Mr. President, are there pending unanimous-consent requests?

The PRESIDING OFFICER. Yes, there are pending unanimous-consent requests.

Mr. ROBERT C. BYRD. Then they would have to be dealt with, if I may suggest to my friend from Hawaii, first. They are pending; we can only have one unanimous-consent request before the Senate at a time.

Mr. STEVENSON. Mr. President, what

is the pending unanimous-consent request?

The PRESIDING OFFICER. The pending request is the unanimous-consent request propounded by the Senator from Montana (Mr. MELCHER).

Mr. ROBERT C. BYRD. And what is that request?

The PRESIDING OFFICER. The unanimous-consent request of the Senator from Montana was that on the last vote, he was in the Chamber seeking to vote, and he asked unanimous consent that his name be recorded, his vote not affecting the outcome of the vote.

Mr. BAKER. Mr. President, reserving the right to object, I must say that it gives me a great deal of personal regret to have to tell my friend from Montana and the distinguished majority leader that we have had other situations of this type in the past; I think in particular of the situation of the distinguished Senator from Michigan (Mr. GRIFFIN) who recently was coming through the door at the time a vote was announced, and it was not possible for him to be recorded in that case.

Were it a situation where the Senator involved asserts that he did vote and was not recorded, I would have no objection; but in this case, Mr. President, I am afraid I must find it necessary to object, and I extend my apologies and regrets to my friend from Montana, but I have no other alternative, and I do object.

The PRESIDING OFFICER. Objection is heard. The question is on the unanimous-consent request of the Senator from Hawaii.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 3077.

Mr. ROBERT C. BYRD. Mr. President, is there not another unanimous-consent request by Mr. STEVENSON?

The PRESIDING OFFICER. The majority leader is correct. The Senator from Illinois has a unanimous-consent request pending that the consideration of the committee amendment be postponed until Monday. Is there objection to that request?

Without objection, it is so ordered.

The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that my remarks in support of the Abourezk amendment to S. 3077 be printed in the RECORD at the appropriate place, and prior to the vote thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1967

(Purpose: To provide for an orderly flow of exports and imports)

Mr. HOLLINGS. Mr. President, I call up my amendment which I have at the desk, and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) for himself, Mrs. ALLEN, Mr. ANDERSON, Mr. BAKER, Mr. BIDEN, Mr. BUMPERS, Mr. ROBERT C. BYRD, Mr. CASE, Mr. CHAFEE, Mr. CHURCH, Mr. CURTIS, Mr. DOLE, Mr. DURKIN, Mr. EAGLETON, Mr. EASTLAND, Mr. FORD, Mr. GARN, Mr. GOLDWATER, Mr. HANSEN, Mr. HATCH, Mr. HATHAWAY, Mr. HEINZ, Mr. HELMS, Mr. HODGES, Mr. HUDDLESTON, Mr. LAXALT, Mr. LEAHY, Mr. MCCLURE, Mr. MCINTYRE, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. NUNN, Mr. PELL, Mr. RANDOLPH, Mr. RIEGLE, Mr. SASSER, Mr. SCOTT, Mr. SPARKMAN, Mr. STAFFORD, Mr. STENNIS, Mr. STEVENS, Mr. STONE, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, and Mr. YOUNG, proposes an unprinted amendment numbered 1967:

At the end of the bill, add the following new section:

SEC. . Section 127(b) of the Trade Act of 1974 (19 U.S.C. 2137) is amended by inserting immediately following "section 203 of this Act": ", section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), insofar as such section relates to textiles and textile products,".

Mr. HOLLINGS. Mr. President, I ask unanimous consent that during the consideration of this amendment Messrs. Michael Joy, Ashley Thrift, and Lawrence Thompson, of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I ask the same privilege for Mr. Ed Twilley, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, my distinguished colleague is under some pressure to try to make an appointment. I want to yield at this time, if it is agreeable, without losing my right to the floor. I yield to my senior Senator from South Carolina.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the junior Senator from South Carolina and myself and others. This amendment amends section 127(b) of the Trade Act of 1974 (19 U.S. C. 2137) to prohibit the reduction or elimination in trade negotions of duties or import restrictions on certain imported textiles and textile products. I feel immediate action is imperative to protect the textile and apparel industries from the growing onslaught of imports.

The textile and apparel industries are the oldest and largest manufacturing concerns in the United States. They are vitally important to the economic health of our Nation. Declared by the Department of Defense to be the second most important, behind steel, to our national defense, the textile and apparel industries provide one out of every eight manufacturing jobs.

The textile industry employs nearly 1 million people. Another million and a quarter Americans work in apparel manufacturing. When all allied industries are included—manmade fiber, raw cotton, and wool production, transportation, machinery, and chemical manufacturing—nearly 3 million people rely on the fiber, textile, and apparel industries for employment.

Historically, the growth rate of the textile industry has been 4.5 percent annually. Economists predict that the industry will continue to grow until the year 2000 but will slow to about 3 percent annually. However, under the current Multifiber Agreement (MFA), textile and apparel imports into the United States are permitted to increase at a rate of 6 percent annually.

Presently some 18 of the U.S. textile industry's bilateral trade pacts with other nations will expire this year, including those of the four largest exporters to the United States: Hong Kong, Taiwan, Japan, and South Korea. The industry is pressing for greater protection under the bilaterals, while the Carter administration is pushing for a 60-percent cut in tariffs over the next 8 years. According to economic forecasters, if tariffs should be cut in half, we can expect a loss of some 500,000 U.S. textile and apparel jobs by 1990. Additionally, the "ripple effect" of lost jobs in supplier industries, such as fibers, and less spending by those out of work could mean more than 2 million jobs lost by 1990. As you can see, a tariff reduction of this magnitude holds serious implications to those employed in the textile and apparel industries, not to speak of other related industries.

On two occasions last year I wrote President Carter—once urging that the import growth rate be held to a rate no greater than the domestic industry growth rate; and second, to urge that tariffs not be cut. The administration responded that the purpose of the tariff reductions are to increase competition and lower consumer prices. However, a recent Library of Congress study has shown that markups on import goods appear to be higher than on domestic products. In other words, the consumer does not necessarily get a lower price, because of increased competition.

It is the high and rising volume of textile imports, with the resulting trade deficit, that is a primary cause of inflation. In the first quarter of this year, the overall trade deficit was $12.2 billion. The textile-apparel trade deficit, which in 1977 was $3.4 billion, is now running at an annual rate of $4.4 billion. We simply cannot bring inflation under control and stop the erosion of the dollar if the United States continues to follow, in Geneva, trade policies of tariff reduction.

Mr. President, I urge that my colleagues join me in supporting this amendment. We cannot continue to lose American texile and apparel jobs to imports, while giving no benefit to the American consumer. We must have a textile and apparel trade policy that works to reduce the trade deficit and strengthen the U.S. dollar. We should adopt this amendment today.

Mr. HOLLINGS. Mr. President, this brings to a climax a matter of great concern to us with respect to textile trades. I understand immediately the reaction among my colleagues, because trade has been foremost in the minds of many this year, particularly with respect to the deficit in the balance of payments. I think it is significant that while $43 billion is the deficit in the balance of payments in this country, $17 billion alone represents oil and the majority, $26 billion, is in manufactured products.

Obviously, our trade policy is in somewhat of a dilemma. We feel it very keen-

ly on the score of textiles and textile products. So keenly, Mr. President, I am trying to dramatize it as I see it.

The head of the AFL–CIO and the leaders of the textile industry have not necessarily been known to be the most intimate of friends, but on this one particular measure they did come together and appear before the Congress in an open hearing: George Meany, President, AFL–CIO; Murray Finlay, president, Amalgamated Clothing and Textile Workers Union; Wilbur Daniels, executive vice president, International Ladies Garment Workers Union; Robert S. Small, chairman and chief executive officer, Dan River, Inc., and President, American Textile Manufacturers Institute; William A. Klopman, chairman and chief executive officer, Burlington Industries, and chairman, ATMI International Trade Committee; and Irving Shapiro, chief executive officer of duPont, came into a joint session pleading, if you please, with the Congress to take cognizance of this one particular item.

You necessarily ask why.

I try to emphasize that over the years we have tried to treat in a dispassionate manner the textile problem. Under President John F. Kennedy, we found there was injury. We had a Cabinet committee appointed with subcabinet members. We brought in witnesses. We had hearings for a continuous period of 3 months. On May 7, 1961, we promulgated a seven point textile program.

I think it is very important to realize that at that time, when President Kennedy had found injury and was announcing his program, he admonished us all, the Congress and the leadership in business and labor in textiles, that we could approximate $200 million in the balance of payments from textile payments alone. He found injury at a $200 million level. In 1976, that deficit, Mr. President, had grown to $2.6 billion. By 1977, it had jumped and soared to $3.4 billion. By the end of the first 6 months, it comes in now at the rate of $4.4 billion.

The fact of the mater is that it has just been projected by the Commerce Department and others that in the first 7 months of 1978 the textile and apparel trade deficit is 82 percent larger than the deficit for the first 7 months last year, and is running at an annual rate of $5.2 billion.

There is $5.2 billion that we are going to find with respect to our deficit in the balance of payments and the diminished value of the dollar.

Can it wait? Should it be on the table at the Tokyo round of tariffs which has actually been going on in Geneva? We definitely think not. We understand that the Congress thinks not. Why do I say that? For the mean and simple reason having been confronted with a very comprehensive solution to trade back in 1974, the Congress provided a certain section wherein they stated, in section 127.

> While this is in effect with respect to any article or any action taken under section 203 of the act, the President shall reserve such article from negotiations under this title.

Well, section 203 is the injury section. Wherein injury has been found, then the Congress has mandated that the President reserve that particular article from negotiations under any tariff round. Under that particular provision, stainless steel, footware, television sets, and CB radios have been excluded from the tariff round. Why not textiles? Because at the particular time we were not concerned because injury had already been determined. We were under a special treatment by the executive branch with respect to the one price cotton policy, the proposition on manmade fibers of the Multifiber National Agreement. The Congress extended that at the request of the administration in December of this past year.

So we had already proved injury. Our injury had been proven under the Agricultural Act of 1956 because this dealt with woolens and with cottons. Our farm friends were the principal movers at that particular time. Now we can see it has gotten even worse.

What we are trying to do is cover an oversight made in 1974 by the Congress. The Congress said, "Those articles should be removed from negotiations by the President." We have already found the injury. We not only have found the injury, but I give to you, Mr. President, the reliable statistical information demonstrating how bad it is reaching and growing on any particular day. Every week, Mr. President, we are closing down a textile plant in my State.

None of us planned to bring this matter up this afternoon. By the end of June this resulted in 331,000 textile and apparel workers being out of a job. There is the unemployment.

Let me emphasize to my friend from Hawaii that textiles is the largest employer of minorities and women. In America, the majority of workers in textiles and apparel are women, and almost 50 percent in some instances—now it is 35 percent in my State—are minority employees. I heard reported just last week that it has gone up to 41 percent this year.

Where we are looking in the unemployment picture for what they call hard core minority and female employment, here is the very thing that provides it.

Certainly, at the Tokyo round of tariff negotiations we do not want to cut another vein while we are hemorrhaging in this fashion.

I yield at this particular time to my distinguished colleague from New Hampshire.

Mr. DURKIN. I thank the Senator from South Carolina and I commend him for bringing up this matter. I am pleased to cosponsor this amendment.

We have heard a lot about the statistics and about this trade round and that trade round. While all of this talk is going on, textile factories are being closed all over the country.

As the Senator from South Carolina has said, textile manufacturing is one of the biggest industries in the country. It is the sixth biggest industry in New Hampshire. On a nationwide basis, 400,000 textile jobs have been lost in the past 10 years. In my State of New Hampshire, textile mill jobs have decreased by over half in the past 10 years. This represents thousands of jobs. They are not mere statistics. They cannot wait for the Tokyo round.

Words are not going to help them. They are real people. They are my neighbors, they are my friends, their children go to school with my children. They have seen the factories close, and their jobs disappear with them. I am sure that, somewhere in New England, somewhere in South Carolina, anywhere where there is textile manufacturing, there is a group of people who while some of us go to sail on the Potomac this weekend, will be getting two checks. Those people are getting their last two checks from that textile mill because that mill is being closed, reduced in size, or moved.

Why? The industry cannot compete. These people are not asking for a handout. We have a lot of aid programs, but these programs are not helping these people. All they want is a chance to compete.

All we are asking for is assistance for these people—not in the form of a handout, but just to give them a chance to compete, just to give them a chance to have a job to go back to on Monday morning and every Monday morning from now on.

We have just watched total decimation of many industries. The shoe industry is gone, the textile industry is being decimated, yet we are talking. This goes back several administrations—it is not the fault of this administration in particular. Workers just want the ability to compete and they cannot compete when the foreign goods are being dumped in this country, when the wage scale in some of those countries is as low as 55 cents an hour.

This system has lasted altogether too long. It has cost thousands and thousands of jobs. The Senator from South Carolina has moved thoughtfully and aggressively to stop this trend. It ought to be stopped before we go home today.

I thank the Senator from South Carolina.

Mr. HANSEN. Will the Senator yield?

Mr. HOLLINGS. I thank the distinguished Senator from New Hampshire for his contribution. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I am a cosponsor of the amendment offered by the distinguished Senator from South Carolina. Let me review, if I can, what the United States has done for the rest of the world since the close of World War II.

We have gone into country after country of friend and foe alike. We have built new factories, we have repaired and reclaimed the devastation of war. We have opened our hearts and our purses to people everywhere. Time after time, we have subsidized new industries for governments in other parts of the world with equipment that is far superior, more modern, more efficient than what we have in operation in America today. If you take that advantage and couple with it the disparity between wages paid in the United States and wages paid in other

parts of the world, it is not hard to understand the competitive advantages of other countries, where the tough and costly restrictions of clean air, clean water, are not imposed. I do not criticize those efforts on the part of America at all; I applaud them. I simply point out that while there is progress and, in some countries, good progress toward better environmental protections than has been characteristic of these countries in the past, the fact still remains that we, without exception, lead the world in making it harder for our industries to operate and to compete against our foreign competitors, who have the advantages of lower wage scales, and oftentimes, of lower taxes and who are not burdened with the costly environmental constraints that we have here. And we have done much of this, Mr. President, with American dollars.

I have heard the distinguished Senator, our admired colleague from Connecticut (Mr. RIBICOFF) say, time after time, on the occasion when we have sat down to discuss this with friends from other parts of the world the balance of payments problem that we have to consider these factors. I could not agree more. I know he has said to our Japanese friends on more than one occasion, despite whatever else may be said, that the fact remains that last year Japan shipped to the United States more than $9 billion worth of goods in excess of what we were able to sell to Japan, and that if we are going to continue to keep our markets open, it is necessary that Japan reflect a willingness to lower its trade barriers as we have done here. So far about the only meaningful response we have received from our friends, the Japanese, is to say that we would not have this problem if we would only pass an energy bill.

Now, in the opinion of the Senator from Wyoming, that is what we did and the response we received just as though we wrote at the top of a piece of paper, "This is a gas bill; it will solve the problem."

I do not think it is going to solve the problem and I predict that, in coming months, it will become increasingly apparent to people all over America that we have not solved the problem.

The problem is simply that we have established far less restrictive trade barriers against foreign imports than practically any other country in the world. I know of no single country that has a policy which makes it easier to sell to America than we have established right here.

What we come down to, Mr. President, are these facts: We are putting Americans out of work as a result of imports from other countries entering here. We are putting our people on relief. We are denying those persons—as was reported by my friend from South Carolina and my friend from New Hampshire—the people who need the opportunity for a job, most of all our youngsters with few job skills and minority groups. The textile industry is unique in that, oftentimes, it has been the stepping stone from no job, from no visible means to support oneself, into better and more secure job-producing opportunities.

I should like to keep that option open for all Americans. I should like to make it possible for people to step on the bottom rung of the ladder and to work their way up. The textile industry has been unique in offering millions of Americans that kind of opportunity.

I say we have gone far enough. We have gone far enough in opening our markets to the rest of the world and in making America the great bonanza for the world's exports, with all too little thought and with not nearly enough concern for what we are doing to our own people.

I am sorely distressed about the factories that have been closed in America. I am sorely distressed about the increasing, escalating rate of unemployment that we witness today. I am sorely distressed with the relocation and the closing of factories in America which I think has gone on altogether too long. I, for one, am ready and willing, as indicated by my sponsorship of this amendment, to blow the whistle, to see that we say to Americans, "This country will reflect the concern of all of you as evidenced by the action of the Congress, in seeing that we put a stop to what has been taking place."

I think it is terribly important, Mr. President, that we turn back again and look at the United States—the welfare of our own citizens—to consider and to ponder and to weigh the advantages of increasing job opportunities in America to attack unemployment—not through welfare programs—but, rather, through a realistic trade program that will assure Americans of a chance to find profitable employment in the United States.

That is why I am enthusiastic about the amendment offered by the Senator from South Carolina and why I urge my colleagues to vote for this amendment.

We will be strengthening America. We will be increasing job opportunities here. We will be fighting inflation by increasing the productivity of the United States of America by making taxpayers out of people who otherwise are tax consumers.

This is a dramatic opportunity for us to do something for people in this country who want to work, who would have the jobs that will be denied them if we continue the present policy—and what I think is an idiotic policy—of trying to make friends with every other country in the world while ignoring the source of the strength that comes from America and which has made such an important contribution to the rest of the world.

I thank my friend from South Carolina.

Mr. GOLDWATER. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. GOLDWATER. Mr. President, I rise to support the amendment of my friend from South Carolina.

I would like to point out a few things. We have heard a lot discussed about Japan, the views of textiles, and that goes back many years. We have had this problem all the years I can remember, starting with Japan. Japan entering into competition with us, with their lower wages, and then with our modern machinery. They have always been able to undersell us in the market.

But I would call to the attention of my friend from South Carolina that now we have mills in most of the South American countries, in Mexico. In fact, I think we will find some of our American mills have mills in Bogota, and other places to the south.

So this is not just a matter of the Japanese, it is a problem that is pretty much worldwide today.

But I do think the Senator is absolutely right in his amendment in putting textiles alongside of the other manufactured items in this country that we have already given attention to.

I personally would like to see this country operate outside of any protection. But I do not think that we can as long as we have established the highest wage scales in the United States and the lowest increase in productivity of any country.

The time is going to come when these other countries will run into the same problem we have. But, in the meantime, we are going to see increasing numbers of our people put out of work and an increasing number of mills closed down.

This, by the way, affects my State because we are the biggest producer of quality cotton in the United States, in fact in the world, and we need more mills, not fewer.

So, while I have always been fairly opposed to giving protection to our industries, I think the time has come, particularly in this one that has been abused for so many years, going back, to my own personal knowledge, 50 years, that we are justified voting for the amendment.

Mr. HOLLINGS. I thank my distinguished friend from Arizona.

The fact is, however, let us emphasize that those Latin countries have bilateral agreements with the United States. We have many good bilateral agreements with the underdeveloped countries and they are very liberal, and intentionally so, to help them develop.

But where the problem with big, fat, trade surplus is, is with our friends in Japan.

Mr. President, I ask unanimous consent at this point to have printed in the RECORD an article by Hobart Rowen entitled "Japan's Fat Trade Surpluses."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JAPAN'S FAT TRADE SURPLUSES

Last January, Ambassador Robert S. Strauss negotiated a now-famous agreement with Japanese special envoy Nobuhiko Ushiba, according to which the Japanese would drop some of their protectionist devices. It was intended to reduce sharply huge surpluses in their international trade and balance-of-payments accounts.

"Japan has embarked on an entirely new direction of the greatest significance," Assistant Secretary of State Richard Holbrooke claimed.

But even then, there were sotto voce warnings from the State and Treasury departments—and indeed, from Strauss himself—that expectations might have been raised too high, rekindling and worsening a demand in this country (to say nothing of Europe) for protectionist retaliation.

Unhappily, some of the more serious of these fears are becoming reality. When Strauss and Ushiba struck their deal, both American and Japanese officials expected that the Japanese current-account surplus

(goods and services combined) might fall to about $6 billion this year from the then-prevailing level of about $11 billion.

In fact, the Japanese current-account surplus could run as high as $16 billion this year, with the trade surplus bulging to an incredible $23 billion, compared with $17.3 billion in 1977. Barely a month ago, Japan officially estimated that the trade surplus for the fiscal year ending March 1979 would drop to $13.5 billion.

These eye-popping trade and current-account surpluses come despite the fact that the value of the Japanese yen has been soaring dramatically. It is getting ready to reach a historic 200-to-1 ratio with the U.S. dollar. Moreover, real Japanese economic growth is accelerating.

At 200 to 1, an American pays the equivalent of $1.50 for a cup of coffee and about $5 for a glass of orange juice in a Japanese hotel. On the other hand, the change over the past 18 months or so means that a Japanese visitor here needs only 4,000 instead of 6,000 yen to buy a $20 shirt.

In addition to Japan's big trade surpluses, a major reason for the shift in currency values is that inflation here is growing about twice as fast as in Japan. So far in 1978, the Japanese consumer price index has increased only 4.5 percent.

In real life, the anticipation that a more expensive yen and a more active Japanese economy would cut Japanese exports and increase imports hasn't panned out. The experts talk vaguely of "time lags," but no one has real answers for the immediate problem.

What should come through this maze of seemingly incredible facts is that a fast domestic growth rate, and voluntary controls being placed by Japan on exports such as cars and television sets, have made no difference in the short run.

In several interviews in Japan last September, experts accurately predicted that manufacturers of big-ticket items would squeeze their costs and margins so as to accommodate a more expensive yen. Despite a 20 percent markup of yen, car exports to the United States haven't suffered. And Detroit has fallen into the trap of raising prices whenever the yen goes up, tossing away some of the price advantage it could have had.

But as Japan prepares, along with six other nations, to go to the Bonn economic summit, its fat trade surpluses (combined with fat American trade deficits) may cause a protectionist backlash. Despite the cheaper dollar, Japanese imports for the first quarter were down 11 percent—a fact that has U.S. officials tearing their hair.

In part, we have ourselves to blame. For example, the U.S. steel "trigger" price system, which is a disguised minimum-import-price gimmick designed to chop off Japanese steel exports, has had an unexpected fallout: The Japanese have cut back their coal purchases from the United States, as their steel operating rates slid back.

Japan would like to buy some of our surplus Alaskan oil, which would reduce both its trade and current-account surpluses. But the Carter administration, trying to convince itself and the public that there is a genuine energy shortage, is afraid of a bad public-relations mark if it sells Alaskan oil.

Among the Japanese, there is an air of desperation. Men like Kiichi Miyazawa, head of the economic planning agency, tried to suggest to key officials at the Trilateral Commission meeting here a few weeks ago that it will take a long time for the structure of Japanese industry to change sufficiently to accept more imports—and for other countries to accept more Japanese manufacturing plants.

Miyazawa says that this is not an age of uncertainty, as some allege, but "an era of great change" in which no country can isolate itself, or make decisions "purely on the basis of its own interests." He's right—but the world will first have to survive the onslaughts of men of much shorter vision.

Mr. HOLLINGS. Mr. President, I want to yield, I think my good friend from Illinois wants to make some comments, and then perhaps we can have a vote.

As a former Governor, I have been on trade missions. Many of my colleagues have been on trade missions, particularly to Latin America, and I think they are fine things.

But that is not the answer to the problem we have with Japan. It is fairly well closed to Americans actually trying to export any kind of textile products there whatever. They cannot get licenses for their agents. There are all kinds of nontariff trade barriers. It is very frustrating to have our Commerce Department come and say, "Mr. American Businessman, you've got to be more competitive. You've got to learn how to be a salesman, because we in the Commerce Department have discovered this need."

One Christmas not long ago I opened a little Christmas present from a textile friend, It was a small box of handkerchiefs. Instead of being made in South Carolina, I was rather interested to find they were made in the Philippines. They know how to compete. They just go and move offshore and start manufacturing in the Philippines, Indonesia, and other offshore locations. They are going to compete and make a profit and fairly in spite of their frustration and exasperation in trying to work with our own Government.

Our problem is that when the Japanese business people—a delegation visited here just a couple of weeks ago and I had the honor of sitting and talking with them—when those business leaders sit down, they have their government behind them. When we sit down, we have our Government sitting down opposite us on the other side. We do not have our Government behind us. It is only through the Congress we get our Government behind us in these trade matters.

Mr. President, I will have some other things for the RECORD in a minute. I will yield at this point, but I want to make sure the Senators from Maine, both Senator HATHAWAY and Senator MUSKIE, and the Senator from New Hampshire (Mr. DURKIN), and some other 46 Senators are added as cosponsors.

Several Senators addressed the Chair.

Mr. MAGNUSON. Mr. President, it is not only what the Senator is talking about, but last week I discovered we do have some tariffs on the importation of ready-made goods and suits, things of that kind. I discovered that the Treasury had issued an order to the Customs officials not to examine ready-made goods coming in.

We require our people when they make clothing—which is our bill, Truth in Fabrics, you have got to tell what is in it—they issued an order, the Customs guys, not to have the importation of goods examined at all.

So all this down was coming in, and the sports manufacturers that manufacture goods, and finally the Treasury, discovered it themselves and stopped it.

Even after we get through with this, where there is a little tariff, by golly, they were not enforcing it at all, and all the goods were coming in from the Orient, just in carload lots, aboard ship, and nobody was examining a single thing that came in, what is in them, whether there should be a tariff on them, or anything else, to the extent that our local manufacturers, some of them were going broke.

Anyway, they corrected it. The bureaucracy moved for once, for a change.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I will not take long because I would like to see the Senate address itself to this amendment. I urge my colleagues to support it.

I commend the distinguished Senator from South Carolina for his initiative in this respect. I have indicated to him I felt it was a matter of prime importance, required by simple equity and fairness.

I hope that the vote in the Senate will be overwhelming so we can send a message to those who will be affected that we are still devotees of the principle of free trade, but we also require fairness.

Mr. President, I will support the amendment. I am happy to be a cosponsor.

Mr. TALMADGE addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. TALMADGE. Mr. President, I commend the Senator from South Carolina and his colleagues who offer this amendment. I strongly support it.

My recollection is that we have about $6.2 billion worth of textiles imported into the United States annually. We export about $1 billion worth annually, which leaves us a trade deficit in textiles and apparel of something in excess of $5 billion.

The textile industry is one of the largest employers in the United States. The jobs have been decreasing year after year. We are exporting our jobs to Hong Kong and Taiwan, and to other countries.

To reduce the tariff further on textiles and garments would mean higher unemployment in the United States, more welfare in the United States, and acute distress in areas where textiles are extremely important, as they are in virtually every State in the country.

I wholeheartedly support the amendment and hope it will be agreed to overwhelmingly.

I yield the floor.

Mr. MUSKIE. Mr. President, I am delighted to join my good friend from South Carolina as a cosponsor of this amendment.

This is only the next step in a struggle that has continued for all the 20 years I have been in the Senate, to protect and safeguard jobs, workers, and industries in areas of the country that are particularly vulnerable to penetration from low wage competition from abroad.

In the early 1960's, as a result of Presidential action, we were able to trigger agreements with other countries which had the effect of limiting exports

to tolerable limits. Those limits are now being exceeded.

The distinguished Senator from South Carolina has given us the figures. They are up to date, and they are a shocking demonstration of the fact that in an industry which is not noted in this country as being a particularly high-wage industry, it is nevertheless especially vulnerable to low-wage competition from abroad.

So I am delighted to join as a cosponsor, and I wholeheartedly support the proposal of the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Maine. We go back to the days of the former Senator from Rhode Island, Mr. PASTORE, and Mr. TALMADGE. He has been a delegate on behalf of our Finance Committee to the general agreement on tariffs and trade. We have senior members who have been working on this matter for 20 years.

I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I commend the junior Senator from South Carolina on submitting this amendment, which I am honored to cosponsor. Perhaps in no other State is this amendment more important than in the State of South Carolina and in my own State of North Carolina.

Our textile industry is suffering from a relentless flood of foreign imports.

North Carolina has more textile workers than any other State—nearly 350,000 hardworking men and women. Our people and their jobs are threatened most by cheap foreign textile imports from low wage countries.

The shocking figures are these: Foreign textile imports for the first 7 months of this year are up a startling 40 percent over the same period for last year. And the trends are even worse: For July of this year alone, there was an increase in foreign imports equalling 45 percent for the month.

This means that more than $4½ billion worth of cheap foreign textiles have flooded this country already this year.

In all of last year such imports totaled $5.9 billion. That was bad enough, but if current trends continue, there is no question that thousands of textile-related jobs could be in jeopardy—many of them possibly in North Carolina, all lost to cheap foreign labor.

The amendment we consider now will protect our textile workers from further reductions in import tariffs and increasing foreign imports. I urge my colleagues to give their most earnest support to this amendment.

I thank the Senator for yielding to me.

Mr. STEVENSON. Mr. President, if I understand this amendment correctly, it would take an entire industry out of the trade negotiations. It would take the textile industry out, and no other party to those negotiations has ever attempted to do that. To take the textile industry, all textiles and textile products, out of those negotiations would disrupt them. It would seriously weaken our negotiators at the trade negotiations in Geneva, and it would invite retaliation.

Mr. President, the successful conclusion of the trade negotiations is essential to this country's ability to compete in the world. It is central to its ability to export its own products effectively throughout the world. That is the purpose of these negotiations—to reduce barriers to trade, in order to promote trade, to bring down levels of inflation, increase levels of employment not only here but throughout the world.

To sabotage those negotiations, as I believe this amendment would do, would subordinate the larger, long term interests of the United States to some regional interests and, short term interests of the textile industry.

I think it would be most unfortunate for this country which has committed itself to reduce trade barriers, to open trade throughout the world. It would be unfortunate for this country, which has been making some efforts to improve its relations with, and the economic opportunities of less-developed countries throughout the world.

Mr. President, this industry now enjoys three levels of protection. They already are unique in themselves or greater than for any other industry. The industry already receives protection; and through negotiations, it can continue to receive protection as is necessary in the future.

For all those reasons, and because this amendment has very little to do, that I can see, with the Eximbank, I must oppose it. We have had no hearings in the Banking Committee on this amendment. It is not germane to the legislation that is pending before the Senate, and it should be defeated.

Before we vote, I know there is at least one other opponent of this amendment who wants to be heard on it, the Senator from Connecticut (Mr. RIBICOFF).

I yield the floor.

Mr. HOLLINGS. Mr. President. I yield to the Senator from North Carolina.

Mr. MORGAN. I take pleasure today in joining Senator Hollings in moving the adoption of S. 2920, of which I am a cosponsor, as an amendment to the Export-Import Bank Act Amendments of 1978.

This amendment, simply put, removes textiles and apparel products from possible tariff reductions as a result of the current trade negotiations. Nothing in my mind could be more timely.

Textiles are currently accorded special treatment under the Agricultural Act of 1956. Relief under this section has not been deemed sufficient for relief under any of our current trade protection measures, however.

There is no doubt that textiles and the apparel industry are at a state where they deserve equal treatment with shoes, stainless steel and other items such as television sets. In many ways, the textile industry is more vital and more crucial to our economy.

Senator HOLLINGS has addressed the economics of the textile business and pointed out that one out of every eight manufacturing jobs in the United States is related to texiles. Even more, there are farming interests which are vitally related to the health of the textile industry.

Senator HOLLINGS has provided many excellent studies in the CONGRESSIONAL RECORD and I believe that every Member of the Senate has been able to acquaint himself or herself with the ins and outs of the current trade situation.

Let me only add here a few comments about my home State of North Carolina. I want to talk about employment rather than dollars for here the full human impact of the terrible trade deficit in textiles can be found. In North Carolina textile and apparel employment accounts for 44 percent of the 779,000 manufacturing jobs in the State. Women and minorities accounts for a large percentage of the work force. In 1966, textile and apparel workers were 8.4 percent minority group members. By 1977, this had increased to 21.9 percent. At this time of high minority unemployment we can ill afford further textile import increases which will terminate these jobs. In my State 50 percent of the textile workers and 83 percent of the apparel workers are women. In this industry, women have been able to move ahead.

When textile imports go up, North Carolina production goes down. Jobs for men and women, white and black quickly disappear when imports go up at the record rate they have in 1977 and 1978. There is a clear human cost in all this.

Industry and labor are united on this issue and they favor as do I this proposal to remove textiles from any tariff reduction. I urge the adoption of this simple and direct means of assisting a vital American industry.

Mr. HEINZ. Mr. President, I support this amendment. Indeed, it is nearly identical to S. 3059, introduced earlier this year, and am privileged to be a cosponsor of this amendment.

The textile industry in the United States is in serious—and growing—trouble. From 1975 to 1976 alone, textile and apparel imports increased an average of 34 percent. In 1977, the trade deficit in the industry reached a record $3.98 billion. Import penetration, if nothing is done to curb the flood of imports, will continue to rise to exceed 50 percent of the domestic market by 1981. Some specialized sectors of the industry are already suffering similarly excessive penetration levels. This trend, despite administration claims, has not been reversed. The general attitude within the industry is reflected in one official's statement that—

The fiber/textile/apparel industry has very little confidence in what the administration says or does—their words are often sweet but the aftertaste of their inaction is frequently bitter.

One major problem is that we have no trade agreements or import restraints with several countries which export a substantial quantity of goods to the United States. For example, the third largest shipper of suits to the United States, France, is not covered by any agreement. This is no small factor in our foreign trade, as there was an increase of 52 percent in suits from countries not covered by any bilateral agreement during the first 11 months of 1977.

Even where trade with a country is pursuant to a bilateral agreement negotiated under the umbrella of the multifiber arrangement, problems arise. Agreements are built on already excessively high import levels which exceed the level of growth in the domestic industry. A growth factor of 12 percent over a 5-year period is included in our bilaterals with Taiwan and Korea, while domestic production continued to decline in many products covered. Market penetration by Taiwan and Korea in some products therefore, could reach 65 percent.

In addition, the carryover and carryforward borrowing provisions of the agreements allow countries to exceed control levels for specific commodity categories by using unfilled quotas for other items. An exporting country can use up to 7 percent of an unused quota the following year or borrow up to 5 percent from the following year for the present year. This can prove very disruptive to the domestic market.

The bilaterals also lose much of their effectiveness when they are not strictly enforced. For example, in 1976 Korea overshipped sweaters of manmade fibers to the United States by 20 percent of her quota. The administration was late and weak in reacting. This lack of aggressive enforcement, incidentally, is not the case only in textiles. A similar situation has existed with respect to mushroom imports from Taiwan and Korea. Shipments have been over the voluntary limits, and nothing has been done about it.

As I stated in the beginning, Mr. President, the textile industry in the United States is in trouble, and as the largest employer of manufacturing labor in the United States with 2.3 million workers, it deserves support and assistance.

Unfortunately, that has not been happening, in part because of lack of administration effort, in part because of lack of multilateral consensus. The GATT Multifiber Arrangement has been renewed in essentially the same form, permitting imports to grow faster than the domestic industry is growing, virtually assuring an ever larger share of imports in the domestic market.

To compound this difficulty, we are now facing at the multilateral trade negotiations proposals for significant cuts in textile and apparel tariffs. It is essential that we act to stave off this further blow to our domestic industry.

My bill and this amendment would do that, by adding textiles or textile products which have obtained relief under section 204 of the Agricultural Act of 1956 (that is, textiles or textile products subject to export-limiting agreements) to the list of those items which the President must exempt from tariff reductions at the MTN.

While this step will not correct the more basic flaws of the MFA—which would depend on extensive multilateral negotiation—it will prevent the situation from rapidly deteriorating further. Mr. President, this is a serious problem, and I urge the adoption of the amendment.

Mr. HOLLINGS. Mr. President, is it the desire to have an up-and-down vote? I do not mind waiting for Senator RIBICOFF. I am not trying to rush that. Several Senators have other plans, and I am trying to convenience both.

Mr. STEVENSON. Mr. President, I have no desire to delay the Senate.

I think the Senate should know that I have received a message from the Special Trade Representative, Mr. Strauss, indicating the administration's strong opposition to this amendment and that if it is approved and enacted by Congress, Ambassador Strauss will recommend a veto to the President.

But I would like to offer Senator RIBICOFF an opportunity to be heard. I am told that he is on his way to the floor. So if there are no other proponents to be heard from, I will suggest the absence of a quorum.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. HOLLINGS. Let me make a couple of statements.

No. 1, with respect to how Ambassador Strauss took over trade negotiations instituted by the previous administration, he said he did not want to have to take anything off the table.

In all candor, when we spoke to him, he said, "This is really not important to our negotiations, and I can show the conferences and some of the inferences to that effect."

Then he said, "No, but I don't want to take it down. Where is your fallback position?"

As I said, when you are hemorrhaging, you do not cut another vein. There is no fallback position possible.

I agree with what the distinguished Senator from Illinois said about the purpose of our trade policy. Basic to all our trade policies is what is fair, and with a particular commodity, textiles for instance, it is what is that commodity's fair share. We look, and we try to balance things off. With textiles facing a $5.2 billion deficit this year, it is incumbent on some other trade commodities to lessen their tariffs to stimulate the economy. Textiles are simply in a distraught condition. They are not able to contribute anything more. They are barely able to sustain themselves economically.

Take textiles right this minute. It guarantees if there is a domestic consumption the foreign market is guaranteed 6 percent of that automatically. There is no other commodity in the trade picture that guarantees that in our extension of the multifiber arrangement.

We also have liberal bilateral agreements and we have had these things in an orderly fashion, surely fair trade, free trade, but what is the fair share of this particular industry that in large measure hires our minorities and hires our women and has been found by our Government next to the steel industry the second most important to our national security.

Let me yield now because the Senator from Connecticut has reached the Chamber.

Mr. RIBICOFF. Mr. President, I gather that the purpose of this amendment is to prohibit the President from negotiating the reduction or elimination of U.S. duties or import restrictions on certain textile products in the multilateral trade negotiations. Is that correct?

Mr. HOLLINGS. Yes.

If the Senator will yield, the Senator who, next to the Senator from South Carolina, is the most knowledgeable in this area is the Senator from Connecticut. The Senator from Connecticut is more familiar with this issue perhaps than any other Senator. This is because the distinguished Senator was very gracious and gave us a full day's hearing and has been in discussions with the special trade representative. So that is exactly right. This is S. 2920 which the distinguished Senator chaired for a day's full of hearings, and that is what we are discussing.

Mr. RIBICOFF. May I say that as sympathetic as I am with the textile industry over the problems it faces no greater disservice could be done to the textile industry and to, our entire economy than adoption of this amendment. There is no question that much of the textile industry has deep-seated problems. However, this amendment is not a solution to those problems.

When the distinguished Senator from South Carolina asked me to hold hearings on this entire subject, I complied immediately. The distinguished Senator testified. We also heard from representatives of the textile industry, labor, Members of this body, and the administration.

It was very apparent from the testimony that the textile industry and unions are very unhappy with the direction of the tariff negotiations with respect to textiles in the multilateral trade negotiations. At that time I arranged for a meeting to be held with Ambassador Strauss in which they could discuss their problems. They told me that they were unable to get this meeting on their own. Mr. Strauss was out of the country. I immediately let Mr. Strauss know that he had an obligation to sit down with representatives of this industry for a full discussion. And he did meet with them.

At the time I met with the industry and union representatives I asked them to recommend to me a program which would help solve their problems. To date, I have not received a single piece of paper or a memorandum from either labor or industry as to how we can help them to solve their problems.

It is clear to me that the amendment proposed by the distinguished Senator from South Carolina is not a solution to those problems. Without cooperation from the industry and labor, it will be difficult to determine what is the best solution.

However, one idea was discussed during the hearings which I think merits further consideration. That is "globalization," or an absolute maximum ceiling on the volume of textile imports. Under our existing textile quota scheme, we use a "cumulative" approach. That is to say, we limit the amount of textile imports from each country on an ad hoc basis but put no ceiling on the quantity of total imports.

To the extent that imports are a cause of the textile industry's problems, I think we should seriously consider a global approach to textile import restrictions. Such an approach could insure the continued existence of the industry. The

amendment proposed by Senator HOLLINGS will not do so.

I have asked the representatives of both the textile industry and labor unions to submit to be an analysis and explanation of "globalization" to determine if it could help them. When I finish reviewing these submissions, I may propose appropriate changes in U.S. textile import policy.

Mr. President, we are now in the final stages of the Multilateral Trade Negotiations. The success of these negotiations is critical to the economic welfare of the United States. If they are successful, the negotiations will result in new rules for international trade which will not only require other countries to trade fairly but also give us a means to require adherence to those rules.

There is much that is being done by the Japanese, the Europeans, and the Third World which, in my opinion, is detrimental to the United States. These actions can only be attacked effectively under the international trade rules we are trying to negotiate in Geneva. But those trade negotiations are not yet finished.

To adopt the Hollings amendment may well insure the failure of the negotiations. To remove the single largest industrial sector from the trade negotiations may mean that new international fair trade rules will never be agreed upon. And the collapse of the trade negotiations would be caused by the United States. That would be a burden that I am wondering if those who will vote for this proposition are willing to assume.

No one can know yet whether the trade negotiations will be good for the United States or not. Those of us on the Finance Committee know that I have continuously pressed our trade negotiators. I have said, "Do not bring back a trade agreement unless the bottom line is a definite plus for the United States. Do not come back with a minus to the United States."

The Congress will ultimately decide whether our negotiators have succeeded. The Constitution gives Congress the sole responsibility for trade. We delegate that responsibility to the executive branch. We can take it back any time we want. It is our responsibility.

Once the trade negotiation is completed, the results of those negotiations must come back to Congress. It will be the prime responsibility of the Ways and Means Committee and the Finance Committee to review and analyze the results. We share that responsibility with the Commerce Committee, the Agriculture Committee, and the Governmental Affairs Committee, because the trade agreements will impinge upon the responsibilities of, at least, these committees.

And then the Senate will have time to review the results, the agreements, and decide whether we like the agreements or we do not like the agreements. We will make the final decision.

We are going to have to make a decision on textiles. I do not know what will come out of Geneva. If this body does not like what comes out of Geneva we can vote no. But to take the responsibility of torpedoing the trade negotiation during its last few days, without seeing the results, with the sacrifice of perhaps many benefits to the trade of our Nation, would be a burden that I do not think responsible Senators should assume.

I want to help the Senator from South Carolina, and I want to help the people involved in the textile industry, because this is an industry that is grievously being hurt in some of its sectors. It is grievously being hurt not only by Japan, but by the Third World countries. I understand what is happening with the flood of cheap imports from Korea, Taiwan, Singapore, and Hong Kong, and the flood is going to continue. I know we have a responsibility for constructing a program which will preserve a strong American textile industry.

Those Senators who served with me on the Finance Committee have heard me say time and time again that under no circumstances can a great power allow the destruction of any basic industry. And I consider textiles to be a basic industry of the United States. And make no mistake, there is a possibility that the textile industry can be destroyed. But I do not want to, in the process of protecting the textile industry, shatter the possibilities of world trade.

The United States cannot get along without world trade and neither can any other nation of the world get along without world trade. So I hope that we would think very, very carefully before we act.

I would hate to think that any Member of this body would wake up on the day after a vote with the blazing headlines across the world press, "The United States destroys the trade agreements and the trade negotiations that have been taking place for the last three years."

So, sympathetic as I am with the Senator's objectives—and I think there is no Member of this body who has requested a sympathetic hearing who has not received it every time he wanted it, who has not received an opportunity to express his position on the trade negotiator, whether it is in Geneva or in the United States—but it will be a very, very sad day for the Senate of the United States to act irresponsibly at this stage of the proceedings with this amendment.

I have great sympathy for, and I will do everything I can to assure that, the American position is the position that counts. I think it should be kept in mind that when the President sends up a notice to the Congress of the United States that he intends to enter into a trade agreement, we will have the opportunity in the Committee on Finance and the Committee on Ways and Means of indicating our unhappiness with any part of that trade agreement, and our trade negotiator can go back to Geneva with that in mind. And there will not just be my voice in the Finance Committee on this matter. In the Committee on Finance you have got an overwhelming number of people who are very sympathetic to the Senator's position: The distinguished Senator from Georgia (Mr. TALMADGE) who is one of the senior members and a member of the Trade Subcommittee, and also a representative of the Senate at the GATT negotiations; the distinguished Senator from New York (Mr. MOYNIHAN); the distinguished Senator from Wyoming (Mr. HANSEN). I would say the Committee on Finance is overwhelmingly sympathetic to the Senator's objective.

I have just a few more thoughts on this matter. The issue here is whether the United States is going to have a comprehensive trade policy and comprehensive trade negotiations or not. If we are going to improve our international trading position, which will involve a number of significant benefits for agriculture and industry, we must proceed with the Tokyo round in the multilateral trade negotiations.

The United States has sought for 5 years, since the Trade Act of 1974, to improve the international trading system and our share of world trade. We are concerned about nontariff barriers, Government procurement regulations, and all the rules which impede trade.

The Committee on Finance has followed these negotiations closely. There is hope for very real progress. American industry and American farmers can compete. We are efficient. But the rules have to be the same for all nations, and that is what we are trying to get out of Geneva.

I am sympathetic to the problem facing the textile industry, the steel industry, the shoe industry, and the television industry. All have made their concerns known to the U.S. negotiating team.

We cannot by legislation omit one entire sector of our economy. No other sector has asked for such treatment. No other country would tolerate our doing this.

Let us wait and see what our negotiators come up with. Let us examine what they get in Geneva with a critical eye. We do not have to accept it. We can turn it down. But let us not throw out the whole process for this one concern, and it is a legitimate concern. Let us look at our national interest and see how our whole economy is served.

If the Tokyo round does not help the American economy then let us reject it. But we would be foolish to risk losing all the work and all the possible benefits of an improved international trading system just because one sector wants to be treated differently from any other sector of our economy, and that would not be compatible with our bargaining position and our bargaining process.

The distinguished Senator from South Carolina and his colleagues have a lot of votes on this, they have a lot of cosponsors, and there is no question that he can carry the day here on this floor at this very hour on this amendment. But the responsibility of being a U.S. Senator should caution us to be very careful in considering this measure today, because the consequences of adopting this measure and the reverberations of those consequences will be such that we will be a very sorry body for taking this action on the floor of the U.S. Senate.

Mr. ROTH. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I would be pleased to yield.

Mr. ROTH. I would like to join the distinguished Senator from Connecticut and say that I, too, as the ranking member of the Subcommittee on Trade, would be very concerned if the Senate took this action at this time.

I regret that I was not here on the floor when the Senator from South Carolina, as well as the Senator from Connecticut, discussed this matter.

I want to say that I am very sympathetic to the intention of the authors of the Hollings amendment. This is not just a question of the textile industry. It also affects the apparel industry, it affects the fiber industry, and I think these are industries of vital concern to the Nation's overall prosperity, as well as to the economic prosperity of my own State of Delaware.

Nevertheless, I would be concerned that by taking precipitate action today we would be endangering whatever positive action could be taken on a sound, long-term basis. It would seem to me it would be a signal to the other parties that are involved in these multinational trade negotiations that this country cannot maintain a consistent negotiating posture, not only with respect to textiles but other areas as well.

It would seriously handicap our chief negotiator, Ambassador Strauss, and for that reason would weaken his hand in not only negotiations involving textiles, but others as well.

I would also point out that this does not seem to me to be the appropriate time or legislation on which to offer this kind of proposal.

Senator RIBICOFF and I have recently held hearings on this matter, and I think each of us has written a letter to Mr. Strauss urging him to meet with both industry and labor representatives to try to work out a sensible negotiating posture providing effective protection to the industry.

I think we have some opportunities in the MTN to help our economy, including our textile industry. But if we start making an exception for one industry, then there is no reason why others are not going to propose the same for their industries, and the whole negotiations could very well collapse.

Even though I am very sympathetic to the concern expressed by the amendment and I feel it essential that we have a viable textile industry, for that reason I hope the amendment will be withdrawn at this date.

Mr. RIBICOFF. May I say to my distinguished colleague from South Carolina, for whom I have the highest respect and friendship which antedates his being in this body, that we have had many fights down through the years, usually on the same side. What has always bothered me, as was impressed upon me again in the hearings the Senator asked me to hold, ever since the time I came on the Committee on Finance, was the fact that we were not getting the most for our country out of our trade negotiations. We were all extremely pleased when the President appointed Ambassador Strauss. We felt we had a hard-headed, tough-minded negotiator. Everything that has come out indicates that that is true.

Now, out of that hearing was dropped the word "globalization," and I pounced on it. Apparently the European Community uses this concept and handles their textile matters in a lot smarter fashion than we do in the United States.

They set up an overall quota for all textiles coming from any place in the world to which a restraint is applied by them. And instead of dealing with each country separately, they divide whatever there is of that global pie, and no more than that whole pie is permitted in.

We do not do that. We treat each country separately, so we find ourselves, year after year, importing a total amount more than the previous year.

I asked specifically that textile unions and management get together with Ambassador Strauss. I set up the meeting with Mr. Strauss. They were grateful; I received letters from both labor and the industry thanking me for setting up the meeting, for having their hearing. To date, outside of the thank you, I have not received a single positive suggestion. When they came back from Mr. Strauss, they called me and asked could they see me. I said, "By all means." I think within 24 hours they were there in my office, with labor and industry representatives.

I asked them, "What would you like us to do?" They still have not told me what suggestions I should make.

I told them that, while I was sympathetic, at this stage I could not recommend responsibly to Mr. Strauss the removal of any special sector from the trade negotiations, because that would mean the collapse of the entire trade negotiations. I told them that I was sure the industry did not want to take the burden on their shoulders of being responsible for that either, because there is a lot at stake in these negotiations, a lot which can be of benefit to the United States, even in textiles. Right now the United States is a major exporter of textile mill products, and we have an opportunity, through negotiations, to improve our position on these products and many others.

Take the most difficult case, that of agriculture. All of those Senators concerned about textiles are also concerned about increasing our agricultural exports, which means so much not only for our farmers but for our balance of payments. It is the most important export sector that we have.

But this is also the most difficult part of the negotiations, and our trading partners are trying to squirm out of some existing obligations and give us no new concessions. Once you send them the message that the U.S. Senate may not support or is not interested in an overall trade negotiation, the trade negotiations will collapse and no one knows the consequences.

I would plead with my fellow Senators to think very carefully about the seriousness of this act, and the responsibility. You are right to have your concerns, and something has to be done, but I think this is absolutely the wrong way to do it for your industry and it is absolutely the wrong way to do it for our Nation.

Mr. ROTH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I am pleased to yield.

Mr. ROTH. I ask unanimous consent that Rick Johnston of the staff of the Committee on Finance have the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I ask unanimous consent that Arthur House of my staff have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. If the Senator is ready, I would be more than pleased to vote.

Mr. HOLLINGS. Mr. President, I am prepared, if we can, to have an up or down vote. I just must, of course, respond to these comments. As our distinguished colleague says, we have been together so often, and I have the greatest respect and admiration for ABE RIBICOFF of Connecticut, only we differ on this issue.

There are going to be and will be differences. You have already heard Senators on the same Finance Committee, from the same subcommittee as Senator ROTH and Senator RIBICOFF are, who will support this, and who will feel just as sincere as I do that we are not acting irresponsibly, that we are not destroying a comprehensive approach to trade.

On the contrary, if the Senator asks about the exemption of single sectors, the comprehensive policy approach, has never been ruined by removing, as Congress has required by law, stainless steel, footwear, CB radios, television sets. When we took them off, it did not collapse our trade policy.

Now, here is an item, commodity or product of trade which is in far more devastated countries. There is nobody—Japan is going to point the finger? Ha, ha; Japan is going to point the finger. I put into the RECORD Hobart Rowan's article where they have got almost a $5 billion dumping of their textile products in the United States, and we do not say, "Cut that off," because we are going to have that; we just say, "Don't cut any more tariffs, we cannot stand it." We will not stop what we have got coming in unless those fine negotiators the Senator talks about, who realize the problem, who have not come up with a single sheet of paper, and all those words of sympathy—tell those 331,000 people out of a job the word "globalization," and see what they get out of it. Ask them what collapse means, if you want to talk about collapse. They are destitute, they are hungry, and they cannot eat. Talk about responsible conduct, after going for years and years getting worse and worse and worse, and all we get is conversation.

That is what the people are angry about. The Senator from Delaware thinks it is taxes. I think it is failure to act for the people that you represent. When you see them closing those mills up there, as they are closing them in my State, do not give me "globalization." Do not tell me about my great friend Robert Strauss. I know him well. I have the greatest admiration and respect for his character and ability.

He can negotiate pretty good. I have been with him in many political negotia-

tions. But he faces the toughest competition when he comes around these tariff and customs lawyers and trade lawyers, and everything else.

One single sheet of paper? Yes, here it is. This is what the industry, the AFL-CIO, the Textile Workers Union, the Ladies' Garment Workers' Union, to list a few, all want. Go ask them; they are out there knocking on your door, begging you. This is what they want, this single sheet of paper, this amendment. This is why I am introducing it.

I do so feeling a great sense of responsibility, and I would feel very great irresponsibility if you call up a bill here in the Senate dealing with "import-export," and I did not bring up my import-export problem. I am importing $6 billion and I am exporting $1 billion; that is where we are. We have a $5 billion deficit, that is where we are. Talking about committees, and hearings, and not getting a paper, and globalization, and everything else—all we are asking for is our fair share. We are not going to stop trade. We have our bilateral agreements. We guarantee them 6 percent of the increased domestic production. This is not a rollback. This is saying, for a hemorrhaging industry, "Don't cut us back." Do not cut another vein. That is what we are saying. That is how serious it is.

Mr. President, I ask unanimous consent that my remarks before the Finance Committee be included in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HOLLINGS BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE COMMITTEE ON FINANCE

I appreciate the opportunity which the Subcommittee has accorded me to appear this morning to tell the Committee why I introduced S. 2920, why 32 Senators have joined as co-sponsors, and why I think this is urgently needed legislation. I know the current legislative session is getting late. I know we have a full calendar before we adjourn. But I also know that unless action is taken to pass this bill, together with the House, we, as members of the Congress, will be permitting irreparable harm to be done to 2.3 million textile and apparel workers located throughout the length and breadth of this country.

I introduced this bill and many of my colleagues have co-sponsored it with me because of the fact that the Administration is rushing headlong in Geneva to cut tariffs on textile and apparel products to the point where the future of this industry will be in real jeopardy. You will hear this morning from representatives of 15 industry and labor organizations in support of this legislation. They will be able to tell you first-hand of the problems they see arising out of the contemplated tariff cuts in Geneva. They will tell you of their efforts to try to persuade the Administration not to impose this terrible burden on the workers and firms in this industry. I ask you to listen to them carefully and take heed, because this may be our last opportunity to prevent a terrible wrong from taking place.

The situation thus far in 1978 is a good indication of what more will happen if tariffs are cut. What has occurred thus far in 1978 has taken place even before a single tariff on textiles and apparel has been cut in Geneva. In the first six months of 1978, the textile and apparel trade deficit was 70 percent above the deficit for the first five months of 1977. It is running now at an annual rate of $4.4 billion, $1 billion higher than last year. According to the Wall Street Journal, the U.S. textile trade negotiator said last week in the Far East that he estimates the textile and apparel trade deficit this year will reach the astronomical figure of $5 billion.

In the first five months of this year, apparel imports increased 25 percent above the level of a year ago. Fabric imports were up 35 percent. Yarn imports were up 25 percent. These are staggering figures. They tell us what is in store for this industry if the Administration goes ahead with its plans to cut the tariffs on textiles and apparel in Geneva.

There are almost 2½ million workers in this industry. They work in 29,000 plants throughout the country. Yes, we have a large concentration of these plants and these jobs in my state. They are the backbone of our economy. But let us not forget that apparel and textile plants are located in every state in the Union, and that metropolitan areas of the Northeast, which can ill afford more unemployed, also have major concentrations of these plants. Over a quarter of the workers in this industry are minorities: blacks and hispanics. Almost two-thirds are women. The industry employs people who may not be able to get jobs easily in other industries. Where would the 330,000 cotton farmers and the 100,000 wool growers of our country be without the textile and apparel industry? Sad to say, import levels today have displaced 400,000 American jobs. Still, the textile and apparel complex is the largest employer of manufacturing labor in the United States. It accounts for one of every eight manufacturing jobs. This industry, clearly, is the linchpin of a large part of this country's economic growth and health. S. 2920 will help keep it that way.

Let me tell you what S. 2920 does and what it does not do. This bill corrects what I consider to be a major oversight in the drafting of the Trade Act of 1974. That legislation correctly exempts industries receiving import relief under the "escape clause" from tariff cuts in the trade negotiations authorized by the Act. We know that only five industries out of 31 to date which have gone through the "escape clause" procedure have received import relief. These are footwear, specialty steel, color TV's, CB radios, and ceramic tableware.

These industries generally have gotten their import relief in the form of orderly marketing agreements. What is an orderly marketing agreement? It is synonymous with the government-to-government bilateral agreements that exist on textiles and apparel under the Multifiber Arrangement (MFA). There are 18 such textile and apparel bilateral agreements or, as they say in the Trade Act, orderly marketing agreements. Yet, the textile and apparel industry which has the same form of import relief, only through a different statute, Section 204 of the Agricultural Act of 1956, isn't automatically exempted from tariff cuts while the other industries are exempted. Is this fair? Certainly not. It is neither fair to the workers and firms of the textile and apparel industry, nor is it fair and equitable trade policy. S. 2920 would correct this situation by providing for the exemption of textiles and apparel from tariff cuts just the way any industry which receives import relief under the "escape clause" is exempted. Let me emphasize, too, that S. 2920 is confined to textile and apparel products. It includes nothing else.

The theory behind the exemption for the industries receiving import relief under the "escape clause" is certainly sound. If an industry has been hurt so badly by imports, it does not make sense to compound that harm or to offset the import relief it has won by lowering tariffs and encouraging more imports of these products into the United States. So the theory is sound, but it should apply to all industries receiving import relief, not only to those receiving import relief under the "escape clause."

Mr. Chairman, since the Second World War, the United States has been on a binge. We have exported our jobs, our dollars, our technology. We have exported our economic preeminence, and we have been without a realistic trade policy for longer than I can remember. Here is an industry declared by the Defense Department to be the second-most important to our national defense—coming only after steel. And yet we allow plants to close, jobs to disappear, and we have opened the floodgates to a suffocating tide of foreign imports. And now, Mr. Chairman, comes the Administration with proposals for cutting tariffs! It is enough to make a mind boggle!

Our American textile industry can be completely competitive in a fair trade environment. It has modernized its facilities; its plant and equipment enable it to hold its own—if we don't completely stack the deck in favor of other countries. And that is what we have unfortunately been doing. To be free, trade needs also to be fair. But when foreign governments underwrite and subsidize and in dozens of ways support their own home textile industries, then we must ask where the equity is. And when we are talking about low-average countries to boot—with the Korean textile worker receiving hourly compensation of 55 cents while our textile worker gets $4.53—the situation becomes just about impossible. There are those who call it free trade. But all it boils down to is a head-in-the-sands economic policy whereby we give the freedom and others get the trade.

Let's head down the right road for a change. It makes no sense to spend billions to create jobs and then turn right around and pursue a trade policy that eliminates them faster than they can be created. No one else in this world is going to look after America's well-being. It's our job to do. We still have the chance, late in the day though it is. But if we keep going down the dangerous road of give-away and cave-in to the one-sided trade policies of our competitors, then we court peril for our nation. And I say this not to be dramatic, but to express my very genuine concern. We pay all too little heed to our trade situation. We have proposals and initiatives and bills for just about every conceivable approach to cure our country's ills—but where is our trade policy, where are the policies to develop exports, where is the willingness to use some plain business sense to put in place the kind of realistic trade policy which America must have if it is to remain competitive and prosperous?

I ask the Subcommittee not to allow the textile and apparel industry to be the sacrificial lamb of the Administration in Geneva. I ask you not to allow this industry to be placed so much in jeopardy that the jobs of its workers and the future of the firms in the industry will be in serious doubt. I urge my colleagues on the Subcommittee to report S. 2920 favorably. I ask you to help me work for its passage before this Congress adjourns. I ask this of you in the name of fairness and equity. I ask this of you for the 2½ million workers whose future livelihoods depend upon what you do.

Mr. HOLLINGS. We are prepared to vote on this matter at any time. I could go into many other items, Mr. President. I can tell you, when you are on your back, there is not any fallback position. That is what the people in the Congress ought to realize from the people out there who are out of these jobs. There are 100 bills with expenditures that come

into our Budget Committee, countercyclical, hard public works, soft public works, revenue sharing, any kind of gimmick in the world except commonsense to have a fair, realistic trade policy for the minorities and the women in this country. And here is the biggest employer and we are exporting jobs faster than we can think up financial gimmicks to employ people or create jobs. That is where we are.

So I am acting responsibly. The amendment is before us. It is germane. We have discussed it. We have had hearings, but we have not had any results. They do not listen. There is no other thing to do, but to do as the Congress demanded that the President do under the 1974 Trade Act.

It was an oversight. We left out the injury clause that alluded to textiles, because we had already been injured. But the intent of the Congress was absolutely clear. It said:

> Once you prove that injury then, Mr. President, you shall remove them from negotiations.

There is no collapse. There is no pointing the finger at Japan, or any of these other things, once that injury has been proven. We have not only proved it, but we have proved it so conclusively that there are not any witnesses left around to testify. They are all gone. They are broke and they are leaving for offshore locations. Now we want to talk globalization?

Mr. President, I ask unanimous consent that the following statement from Mr. HATHAWAY be inserted in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATHAWAY

I am pleased to be a cosponsor of the amendment offered by my good friend from South Carolina (Mr. Hollings).

Imports of textiles are increasing at a drastic rate. Recent figures bear this out.

United States imports of cotton, wool and man-made fiber textiles and apparel during June 1978 totaled 554 million square yards equivalent (SYE), up 14 percent from May 1978 and 6 percent from June 1977. Imports of apparel during June were at a monthly record level of 298 million SYE, up 7 percent from the previous high of June 1977.

Imports of these textiles for the first half of 1978 amounted to 3,056 million SYE, second only to the 3,141 million SYE imported during the first half of 1972. The January-June 1978 imports were up 24 percent or 585 million SYE from the same period in 1977. Most of the increase between the 1977 and 1978 periods was in cotton fabric which was 166 million SYE higher; cotton apparel, 123 million SYE; and man-made fiber apparel 124 million SYE.

The small cities and towns where many of these plants are located are largely dependent on the jobs and payrolls of the mills. In the Northeast, the textile/apparel industry employs 634,000 workers. In New England, textile and apparel industries employ 136,000 workers and provide one in every ten manufacturing jobs. In states such as Maine, Massachusetts and Rhode Island the proportion is greater.

The industry in the United States amounts to $70 billion per year, and nearly two and a half million workers are employed across the country.

At a time when our dollar is falling, imports are rising and inflation is on the increase, it seems foolish to jeopardize the existence of a large domestic industry by negotiating away the protection we now afford our textile manufacturers—protection which hardly inhibits imports, given their steady and inexorable increase.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Robert Cassidy and David Foster of the Finance Committee staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I would like to point out with respect to Senator HOLLINGS' statements that CB radios, television, and shoes have been exempted from the MTN only following a careful examination and demonstration that the entire industry is being seriously injured. This demonstration occurred before the U.S. International Trade Commission. They are all subject to orderly marketing agreements. And of course, textiles are subject to the multifiber agreements, an elaborate arrangement protecting the industry with quotas. Probably we ought to have a different quota system. That is why I am trying to find out about globalization. If it is good for the European Community, it might be good for us. I am trying to press everyone to come up with answers. I think we are taking a serious step.

Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER (Mr. MOYNIHAN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut to table the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DANFORTH. Mr. President, I have a pair with the Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. MELCHER), the Senator from Georgia, (Mr. NUNN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 21, nays 56, as follows:

[Rollcall Vote No. 431 Leg.]

YEAS—21

Bellmon	Humphrey	Packwood
Bentsen	Javits	Proxmire
Chiles	Kennedy	Ribicoff
Cranston	Lugar	Roth
Glenn	Matsunaga	Stevenson
Gravel	McGovern	Stone
Hart	Nelson	Weicker

NAYS—56

Abourezk	Garn	Muskie
Bartlett	Goldwater	Pell
Bayh	Hansen	Percy
Biden	Hatfield, Paul G.	Riegle
Brooke	Hayakawa	Sarbanes
Bumpers	Heinz	Sasser
Burdick	Helms	Schmitt
Byrd, Harry F., Jr.	Hodges	Schweiker
Byrd, Robert C.	Hollings	Scott
Cannon	Huddleston	Sparkman
Case	Inouye	Stafford
Chafee	Jackson	Stennis
Church	Laxalt	Stevens
Curtis	Leahy	Talmadge
Dole	Magnuson	Wallop
Domenici	Mathias	Williams
Durkin	Metzenbaum	Young
Eastland	Morgan	Zorinsky
Ford	Moynihan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Danforth, for.

NOT VOTING—22

Allen	Haskell	McIntyre
Anderson	Hatch	Melcher
Baker	Hatfield, Mark O.	Nunn
Clark	Hathaway	Pearson
Culver	Johnston	Randolph
DeConcini	Long	Thurmond
Eagleton	McClure	Tower
Griffin		

So the motion to lay on the table UP amendment No. 1967 was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. I move the adoption of the amendment.

The PRESIDING OFFICER. The question recurs on the amendment.

So the amendment (UP No. 1967) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Will the Senate be in order? The motions are not being heard by the Chair.

The Senate is not in order. Will Senators wishing to converse kindly retire to the cloakroom?

The Senator from Illinois.

HOUSE JOINT RESOLUTION 1140—TO AMEND SECTION 8 OF THE EXPORT-IMPORT BANK ACT OF 1945

Mr. STEVENSON. Mr. President, I ask unanimous consent that House Joint Resolution 1140 be considered as having been read twice and that the Senate proceed to its immediate consideration.

Mr. President, this has been discussed on both sides and there is, as far as I know, no objection to proceeding to the consideration of this joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated by title.

The assistant legislative clerk read as follows:

H.J. Res. 1140, to amend section 8 of the Export-Import Bank Act of 1945.

The PRESIDING OFFICER. Without objection, the measure will be considered as having been read twice and the Senate will proceed to its immediate consideration.

Mr. STEVENSON. Mr. President, this resolution will extend the Eximbank's operating authority to December 31, 1978. Without this continuing resolution, the Eximbank would have to cease all business as of Monday. It is a continuing resolution. It is necessary in order to keep the Bank in business until Congress can act on the legislation which is now before the Senate.

Mr. STEVENS. Mr. President, what is the effect of that resolution, may I ask the Senator from Illinois?

Mr. STEVENSON. This is a continuing resolution. The effect of the resolution is just to continue the Bank in business until December 31, 1978; otherwise it would go out of business as of Monday—it goes out of business tomorrow. It would be unable to conduct business as of Monday.

Mr. STEVENS. It presumes we will finish this matter during this session of the Congress, then; right?

Mr. STEVENSON. The Senator is correct.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Is there further amendment? If not, third reading——

Several Senators addressed the Chair.

Mr. STEVENSON. Mr. President, I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Chair wishes to state the Senate is not in order. The Senators cannot hear the managers of the bill. Will Senators retire to the cloakrooms

Mr. STEVENSON. Mr. President, I move the adoption of the resolution.

The resolution was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. STAFFORD. Mr. President, I ask unanimous consent that Curtis Moore of the Environment and Public Works staff be granted privilege of the floor during the latter part of the afternoon while the Senate considers oil spill legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12467.

The PRESIDING OFFICER (Mr. MOYNIHAN) laid before the Senate the amendments of the House of Representatives to the amendments of the Senate to the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes.

The amendment of the House is printed in the RECORD of September 26, 1978, beginning at page 31743.

Mr. STAFFORD. Mr. President, I move that the Senate disagree to the amendments of the House to H.R. 12467 and request a conference with the House and that the Chair appoint conferees.

The motion was agreed to, and the Presiding Officer (Mr. MOYNIHAN) appointed Messrs. RANDOLPH, WILLIAMS, EAGLETON, KENNEDY, CRANSTON, HATHAWAY, JAVITS, STAFFORD, HATCH, and SCHWEIKER, conferees on the part of the Senate.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator will yield and allow me, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1112.

Mr. STEVENS. Reserving the right to object, Mr. President——

Mr. ROBERT C. BYRD. This has been cleared on the other side of the aisle. It is Senate Resolution 549, a resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2083.

Mr. HARRY F. BYRD, JR. Mr. President, may I ask the Senator, what is S. 2083?

Mr. ROBERT C. BYRD. S. 2083 is on page 19, it is Calendar Order 1074, a bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 549) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 2083.

The resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to considerations of S. 2083, a bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and clean up cost caused by the discharge of oil and hazardous substance, and for other purposes.

Such waiver is necessary to permit consideration of S. 2083. The position of the administration on a key issue (the question of coverage of hazardous substances) was not available until June 1. Hearings were held on April 17 and 18 and May 24, 1978.

This legislation creates a self-funding mechanism which covers its own costs and does not require funding from the United States Treasury. A separate Fund is created, with payments to the Fund collected from oil received at terminals and refineries. This Fund is then available to pay for clean up costs and damages associated with spills. Clean up costs and damage claims are to be paid directly from the Fund. Administrative, research, and equipment costs are to be paid from the Fund, subject to such amounts as are provided in appropriations Acts. There are no requirements for funds to be appropriated from general revenues.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OIL POLLUTION LIABILITY AND COMPENSATION ACT OF 1978

Mr. MAGNUSON. Mr. President, I move that the clerk report S. 2083.

Mr. ROBERT C. BYRD. Mr. President, I temporarily have to object.

(The following proceedings occurred subsequently:)

Mr. ROBERT C. BYRD. Mr. President, I believe the distinguished Senator from Washington had made a request to which I temporarily objected. I believe the Senator from Washington is willing at this point to withdraw his request.

Mr. MAGNUSON. Yes, I withdraw it. I hope we can bring it up tomorrow.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The Senate continued with the consideration of the bill.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. HEINZ, Jeff Bergner; Mr. HELMS, Howard Segermark; Mr. JACKSON, Richard Perle; Mr. STEVENSON, Kenneth McLean; Mr. HARRY F. BYRD, JR., Edward Beck; Mr. BIDEN, Dick Andrews.

Mr. STEVENSON. Mr. President, I understand that the Senator from Maine has an amendment which he does not wish to offer until tomorrow.

The PRESIDING OFFICER. The Senator from Illinois has addressed the Senator from Maine.

Mr. STEVENSON. Mr. President, I understand that the Senator from Maine does not want to bring up his amendment now. I do not know of any other amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. CHAFEE. Mr. President, I should like to direct a question to the Senator.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. It is my understanding that we are going to continue on this bill Monday or Wednesday.

Mr. STEVENSON. Is the question addressed to me or to the majority leader?

Mr. CHAFEE. To the manager of the bill.

Mr. STEVENSON. It is my understanding that the Senate is going to continue this evening and tomorrow on this bill, and on Monday.

Mr. CHAFEE. But we do not have to reserve our rights now to present amendments on, say, Monday, do we?

Mr. STEVENSON. The answer is no. There is no order, no time agreement.

Mr. CHAFEE. That was my understanding. I just heard the Senator list some amendments, and he indicated that the Senator from Maine had one and he did not think any others were coming along. The Senator from South Dakota and I have an amendment which we will be bringing along, probably on Monday, if that is the next time we consider the bill. We will consider it tomorrow. I had an idea we were going to Wednesday of next week, but is it Monday?

Mr. ROBERT C. BYRD. Mr. President, if I may respond to the distinguished Senator, it is the intention of the leadership to call up on tomorrow morning the Department of Energy authorization bill, and upon the disposition of that bill to return to the Export-Import Bank bill tomorrow. If the Senate does not complete action on that bill tomorrow—and it is not anticipated that it will—it will go over until Monday on that bill, Export-Import.

Mr. CHAFEE. And there is nothing about Wednesday involved in this bill?

Mr. ROBERT C. BYRD. No, nothing involving Wednesday, at this point. I hope the Senate can complete action on it on Monday.

Mr. CHAFEE. I thank the Senator.

Mr. HEINZ. Mr. President, it was my understanding that Senator TOWER had an amendment on which the managers of the bill had agreed to protect him, and that was earlier anticipated that Senator TOWER would be here on Tuesday morning, early, to present that amendment.

Mr. ROBERT C. BYRD. If that is the case, and I have no reason to doubt it—I did not have that information—it is quite possible that the bill will not be completed until Tuesday morning. In the meantime, I think we should proceed with this bill, if we can do anything further on it today, and I would want to set it aside.

REQUEST FOR CONSIDERATION TOMORROW OF DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized and after any orders for the recognition of Senators have been consummated, if such have been entered previously, the Senate proceed to the consideration of the Department of Energy authorization bill, the military——

Mr. STEVENS. What is the request of the majority leader?

Mr. ROBERT C. BYRD. That the Senate proceed to the consideration of the Department of Energy authorization bill. I am trying to find the number.

Mr. STEVENS. Is that Calendar No. 948?

Mr. ROBERT C. BYRD. It is Calendar No. 893. It is the military.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GOLDWATER. What is the military bill?

Mr. ROBERT C. BYRD. It is the Department of Energy authorization bill.

Mr. GOLDWATER. I thought I heard the Senator mention——

Mr. ROBERT C. BYRD. It is the military aspect. There are two bills on the calendar for Department of Energy authorization. This one deals with the military.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, I temporarily withdraw my request.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1968

Mr. STEVENSON. Mr. President, I send to the desk an amendment on behalf of myself, Senator HEINZ, Senator JACKSON, and Senator CRANSTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON), for himself and others, proposes an unprinted amendment numbered 1968.

Mr. STEVENSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 3, line 14, strike out through line 19, page 7, and insert in lieu thereof the following:

"(d)(1) The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with the purchase or lease of any product or service by any foreign country, including any agency or national thereof, if such country is on the effective list of ineligible countries referred to in paragraph (2). No foreign country may be included on the list of ineligible countries referred to in paragraph (2) unless the President determines that inclusion of such foreign country on the list is in the national interest. The President shall make a separate national interest determination with respect to each foreign country included on the list referred to in paragraph (2), and, in making such overall determination, shall consider and give appropriate weight to such factors as he deems relevant, including but not limited to the country's relationship to the United States, its relationship to countries friendly and hostile to the United States, its internal stability, and its policies and actions with respect to peaceful settlement of international disputes, aiding and abetting any individuals or groups that have committed an act of international terrorism, nuclear proliferation, environmental protection and human rights, including the right to emigrate.

"(2) Within 60 days after the date of enactment of this subsection, the President shall transmit to the House of Representatives and to the Senate a list of countries which he has determined, in accordance with paragraph (1), to be ineligible for participation in the Bank's programs under this Act. Notwithstanding any other provision of law, and except as otherwise provided in paragraph (8) for the Union of Soviet Socialist Republics, such list shall be the exclusive method for determining ineligibility for participation in the Bank's programs under this Act and shall be effective for a period of 5 years beginning on the day on which it is deemed effective under the procedures set forth in paragraph (5). At least 60 days prior to the expiration of any such list, the President shall transmit to the House of Representatives and to the Senate a new list of countries determined, in accordance with paragraph (1), to be ineligible for participation in the Bank's programs under this Act.

"(3) The President may, at any time, remove one or more countries from the list referred to in paragraph (2), if, in light of the factors set forth in the third sentence of paragraph (1), he determines such action to be in the national interest and transmits a report setting forth such determination, together with the reasons therefor, to the House of Representatives and to the Senate.

"(4) The President may, at any time, add one or more countries to the list referred to in paragraph (2) if he makes a determination in accordance with paragraph (1) and transmits a report setting forth such determination, together with the reasons therefor, to the House of Representatives and to the Senate.

"(5) Any list referred to in paragraph (2) and any determination referred to in paragraph (3) or paragraph (4) shall become effective after the close of the 60-day period beginning on the day on which the list referred to in paragraph (2) or the report referred to in paragraph (3) or paragraph (4), whichever is the case, is delivered to the House of Representatives and to the Senate, unless during such 60-day period the two Houses adopt, by an affirmative vote of a majority of those present and voting in each House, a concurrent resolution disapproving any such list referred to in paragraph (2), or any such determination referred to in paragraph (3) or paragraph (4), whichever is the case, under the procedures set forth in subsection (e).

"(6) Notwithstanding any other provision of this subsection, the President may disapprove any guarantee, insurance, extension of credit, or participation in an extension of credit by the Bank prior to approval by the Bank if, in light of the factors set forth in the third sentence of paragraph (1), he finds that such transaction would not be in the national interest and promptly reports his reasons to the Congress for taking such action.

"(7) Notwithstanding any other provision of this subsection, (A) until the first list of ineligible countries referred to in paragraph (2) has become effective, the Bank may guarantee, insure, or extend credit, or participate in an extension of credit with respect to any foreign country, including any agency or national thereof, to the extent such country was eligible to participate in the Bank's programs on the date of enactment of this sub-

section, and (B) if, at any time, a list referred to in paragraph (2) has expired and no new list has yet become effective, the Bank, during any such period, may guarantee, insure, or extend credit, or participate in an extension of credit with respect to any foreign country, including any agency or national thereof, which was not included in the most recently expired ineligible list.

"(8) Notwithstanding any other provision of this subsection, none of the procedures established in this section shall waive or supersede in any way the provisions of either section 402 or 409 of the Trade Act of 1974 (88 Stat. 1978) as they apply in determining the eligibility of the Union of Soviet Socialist Republics for participation in the Bank's programs under this Act.

"(9) Notwithstanding any other provision of this subsection and subject to paragraph (8) with respect to the Union of Soviet Socialist Republics, in the case of any foreign country which, on the date of enactment of this paragraph, is ineligible for participation in the Bank's credit programs by reason of the provisions of either section 402 or section 409 of the Trade Act of 1974 (88 Stat. 1978), the President must include any such country on the list referred to in paragraph (2) and no such country may thereafter be removed from such list under paragraph (3), unless the President transmits to the House of Representatives and to the Senate a separate determination under paragraph (3) to remove such country from the list, including a statement of the reasons therefor, in order to ensure that an opportunity will be provided the Congress, under the procedures of paragraph (5), to separately consider and disapprove the removal of any such country from such list. In making any determination to remove any country referred to in the preceding sentence from the list referred to in paragraph (2), the President must determine such action to be in the national interest, and in so doing must consider, in addition to the factors described in paragraph (1), whether such action will be consistent with the objectives of section 402 and section 409 of the Trade Act of 1974.

On page 8, line 18, strike the word "eligible" and insert in lieu thereof "ineligible".

Mr. HEINZ. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Pennsylvania is correct. The Senate seemingly will not be in order this afternoon. Will Senators who do not wish to participate in the debate withdraw to the cloakroom? The Senate will be in order.

Mr. STEVENSON. Mr. President, section 4 of S. 3077 establishes a new, comprehensive procedure for determining country eligibility for Bank-supported programs. In so doing, it replaces a patchwork of provisions restricting the eligibility of foreign countries to receive exports supported by the Bank.

Section 4 of S. 3077 requires the President to establish a list of countries eligible for the Bank's credit programs. In so doing, it provides a flexible, rational system for determining which countries are eligible for Bank credits on the basis of a comprehensive set of criteria applied worldwide. These criteria include a foreign country's overall political relationship with the United States and third countries, its internal stability, its commitment to peaceful settlement of disputes and its policies with respect to terrorism, protection of the environment, nuclear proliferation and human rights, including the right to emigrate.

After considering these and such other criteria as he chooses, the President establishes lists of countries eligible and ineligible for Bank credits. Of course, this process takes place in the context of the statute's commitment to the expansion of exports and with our expectation that the President will attach a high priority and recognize that the possibility of achieving noneconomic objectives by economic sanctions is severely limited by the pride of foreign nations and the availability of most products and services, as well as credits, from other sources.

This eligibility process would give the President and Congress the opportunity to review periodically the relationship between U.S. foreign policy and trade policy. It is an alternative to determining eligibility for credits in the Congress impulsively, ad hoc, country-by-country and issue-by-issue. The new system would make the United States a more reliable supplier of goods and the financing for their purchase abroad.

Section 4 deletes from the Export-Import Bank Act provisions which require national interest determinations only for Communist countries and that the Bank review human rights considerations export by export as well as country by country. Section 4 supersedes the emigration requirements of provisions of the Trade Act of 1974 concerning Bank support for exports to all nonmarket economies except the Union of Soviet Socialist Republics. Thus, it also rationalizes the conduct of trade policy for political purposes. The conduct of American foreign policy would be supported by the statutory implication that credits were to be conditioned upon the periodic evaluation of the relationship between the countries by both the President and Congress. This approach offers a carrot and puts the stick in the closet.

Congressional oversight over the Bank is enhanced under section 4 through an opportunity for expedited congressional veto of the eligible list as a whole, and through a requirement that the President publish a list of ineligible countries, including his reasons for determining ineligibility. It is intended that this opportunity for careful, periodic review serve as an alternative to impulsive congressional determinations of eligibility country by country.

Mr. President, the amendment that I now propose for myself, Senator HEINZ, Senator CRANSTON, and Senator JACKSON revises section 4 in several important respects to obviate certain objections that have been raised to the original version. This amendment is the product of a joint effort among its sponsors, and I express my appreciation to my colleagues for their cooperation in working out this improved version of section 4.

Mr. President, the amendment retains the essential purposes and procedures and the criteria set forth in section 4 with one significant difference—the President of the United States will only be required to establish an ineligible list, that is, a list of countries ineligible for Bank credits. The amendment thus establishes the presumption that all foreign countries are eligible for the Bank's credit programs unless the national interest requires exclusion. There will thus be two categories of countries—those on the ineligibility list for specified reasons, and all other foreign countries which would be eligible for the Bank's program. Of course, because a country is not on the ineligible list does not mean Bank financing must go ahead; the Bank and administration retains the authority to approve or disapprove any transaction.

By establishing a single ineligible list, the amendment focuses the country eligibility process on those relatively few countries where the President has determined economic sanctions are in the national interest. In such cases, the Congress and public have a right to be informed about the reasons underlying such determinations. The Congress also has the right to set forth criteria to be considered by the President in making his overall decision, and to exercise appropriate oversight and review, including veto, authority.

The amendment will promote U.S. exports by enhancing consistency and predictability and by encouraging U.S. exporters to investigate all potential U.S. markets abroad. Nonproductive and costly negotiations with countries clearly ineligible can be avoided.

The amendment also clarifies that in determining ineligibility, the President will make an overall national interest judgment, taking into consideration and giving appropriate weight to each of the factors specified and others he deems relevant. The amendment thus does not mandate that the President put any country on the ineligible list for any one factor, but rather leaves it up to his discretion to make an overall judgment in each case, weighing each factor as he sees fit. This insures that judgments on eligibility will be made at the highest level where all factors have to be considered, and not at lower bureaucratic stages where single factors are given almost exclusive weight according to the interests involved.

While the amendment supersedes the Trade Act provisions on emigration for countries other than the Soviet Union in determining Eximbank eligibility, it does so in a manner that is supportive of the emigration objectives adopted by the Congress in the Trade Act. Countries presently ineligible for the Bank's programs by reason of the Trade Act provisions would have to be included on the ineligible list, and could only be removed if consistent with the objectives of the Trade Act provisions.

Congress would be given the right to separately consider and disapprove the removal of any such country from the list. I regret that the Soviet Union is not included in the new process for determining credit eligibility. In January I indicated to Soviet officials in Moscow that congressional action on its credit eligibility would depend on the overall state of our relationship, indicating that the relationship depended on Soviet conduct with respect to dissidents, Africa, SALT, and the Mideast, among other matters. I have no desire to put the Soviet Union in a special category, though for many reasons it obviously is a special case. But the relationship between the

two countries has not made this a propitious time for a change in the law, and that I have to lay at the doorstep of the Soviet Union.

Comprehensive hearings on U.S. export policy conducted this year by the Subcommittee on International Finance have demonstrated that U.S. exports are becoming less competitive in world markets. The reasons for this decline in competitiveness are largely self-inflicted. Congress has contributed to this competitive decline by encumbering international trade and finance laws with a maze of restrictions, liimtations and conditions that promote everything but exports.

Our trade deficit now is $19 billion through July, which also produced the fourth worst monthly deficit in our history—$3 billion. Most disturbing is our deficit in manufactures—a trend that has disturbing implications for long-term economic growth. The dollar's unstable downward trend has depressed world trade and investment and worsened domestic inflation. We need to act now to improve our competitiveness. The proposed amendment is a step in that process for it will mark a new direction in our export policy toward a comprehensive, systematic basis for determining our trade relationships with all countries. And by obviating the need for country-by-country determinations by Congress, ad hoc, it will reduce congressional interventions in the conduct of American foreign policy. This amendment recognizes that American economic and political interests can converge. It serves both.

I urge the adoption of the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a section-by-section analysis of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF PROPOSED AMENDMENT TO S. 3077 ON COUNTRY ELIGIBILITY

Following is a section-by-section analysis of the proposed amendment to Section 4 of S. 3077, with significant changes from the existing Section 4 of S. 3077 noted.

Subsection (d)(1) prohibits the Export-Import Bank from using its programs to support exports to any country on the effective list of ineligible countries. No foreign country may be included on the ineligible list unless the President makes a separate determination that it is in the national interest to include such country on the list. In making any such overall national interest determination the President must consider and give appropriate weight to such factors as he deems relevant, including but not limited to certain factor specified in the subsection. The amended subsection makes clear that the President is not required to put any country on the ineligible list due to its score on any one factor specified; rather, the President is required to exercise his discretion and make an overall judgment in each case, weighing each factor as he sees fit. In the list of factors, the reference to "creditworthiness" is no longer included because this is considered by the Bank in any event; the reference to policies with respect to the settlement of "internal" disputes has been eliminated, because it is subsumed within "internal stability"; and, the factor of policies with respect to "international terrorism" has been added.

Subsection (d)(2) requires the President, within 60 days after enactment, to transmit to the Congress his initial list of countries ineligible for the Bank's programs which list will be effective for a period of 5 years. Except for the Soviet Union, the list would be the exclusive method for determining eligibility for the Bank's programs. The President would be required to transmit a new list to the Congress at least sixty days prior to the expiration of the initial and any succeeding list.

Subsection (d)(3) allows the President to remove countries from the ineligible list at any time, if he finds it in the national interest, in light of the factors described in subsection (d)(1), and transmits a report to the Congress which sets forth his determinations and his reasons therefor.

Subsection (d)(4) allows the President to add countries to the ineligible list at any time if he makes a determination in accordance with paragraph (1) and transmits a report setting forth his determination, and the reasons therefor, to the Congress.

Subsections (d)(3) and (d)(4) effect another change from Section 4 of S. 3077 which allowed the President to take a country off the eligible list by Executive Order only. Under the revised amendment, it is clear that the President must submit a determination to Congress, subject to review and veto, whenever he either adds (makes ineligible) or deletes (makes eligible) a country from the list.

Subsection (d)(5) provides that any ineligible list and any determination to add or delete one or more countries to or from the ineligible list, becomes effective 60 days after submission to Congress, unless during that period both Houses of Congress adopt a concurrent resolution of disapproval under the expedited procedures provided in section 4 (e). Under those procedures, any list itself could not be amended, and would thus have to be voted on as a whole.

Subsection (d)(6) gives the President the authority to block any Bank transaction to an eligible country if he finds it in the national interest and promptly reports his reasons to Congress. The latter reporting requirement is not included in section 4 and thus strengthens Congressional oversight. This provision is included as a necessary national interest contingency power and is not intended to be used by the President on any regular or recurring basis.

Subsection (d)(7) provides that until the ineligible list becomes effective, the Bank can continue to finance transactions to any country eligible for Bank credit on the date of enactment of the subsection, but only to the extent then eligible. Should a list expire and a new list not yet have become effective, countries on the expired list would remain ineligible for the Bank's programs.

Subsection (d)(8) provides that the procedures of subsection (d) do not in any way supersede the Jackson-Vanik amendments to the Trade Act of 1974 as they apply to the Soviet Union.

In order to ensure that the country "ineligibility" provisions of the revised Section 4 of S. 3077 are administered in a manner that is supportive of the emigration objectives of provisions of the Trade Act of 1974, subsection (d)(9) explicitly provides that countries presently ineligible for Eximbank credit by reason of the Trade Act provisions must be included on the ineligible list and may not thereafter be removed unless the President transmits to the Congress a separate determination to remove any such country from the list, including a statement of the reasons therefore, in order to ensure that an opportunity will be provided the Congress to separately consider and disapprove, under expedited procedures, the removal of such country from the list. This separate consideration and right to veto ensures the type of comprehensive and careful Congressional analysis that now applies under the Trade Act in granting waivers of the emigration provisions to individual nonmarket economy countries.

Under the revised Section 4, as amended by paragraph (9), the Soviet Union would have to meet the tests and procedures set forth in the Trade Act emigration provisions before it could be removed from the ineligible list; having met such tests and procedures, it would then have to be separately removed from the list under the findings and procedures of paragraph (9). Other non-market countries ineligible for the Bank's credit programs by reason of the Trade Act emigration provisions, e.g., Czechoslovakia, would not have to satisfy the separate tests and procedures of the Trade Act provisions, but nevertheless could only be removed from the list under the specific findings and procedures of paragraph (9). Countries, such as Romania and Hungary, which have obtained waivers of the Trade Act provisions prior to date of enactment, would not be subject to the special findings and procedures of paragraph (9), but would be subject to the other findings and procedures in the section. In this regard, emigration policy is one of the factors that must be considered in determining ineligibility under paragraph (1); since the Eximbank procedures do not affect MFN eligibility or other credit programs, yearly waiver review with respect to MFN for such countries under the Trade Act emigration provisions is unaffected.

Overall, subsection (d)(9) is intended to balance the need to ensure that the purposes of the emigration requirements in the Trade Act are not frustrated or diminished by the new country eligibility procedure for Eximbank credit, with the need to make ineligibility rest on a more flexible and comprehensive set of criteria, consistently applied to all countries.

Mr. HEINZ. Mr. President, I join the Senator from Illinois in urging the Senate to adopt this amendment. I think it is an amendment that will help give some certainty to our export policy. It is an amendment into which we put a considerable amount of thought. It is an amendment which will smooth out any rough spots that were in the bill to begin with.

I urge my colleagues to adopt the amendment.

Mr. JACKSON. Mr. President, I commend the distinguished Senator from Illinois and the distinguished ranking minority member of the committee, the Senator from Pennsylvania (Mr. HEINZ), for this amendment.

As the author of the Jackson-Vanik amendment, to which this relates directly, I must say that this procedure will aid further in our effort to have a sensible trade policy as it pertains to the countries that are included in the Jackson-Vanik amendment. I think it is a very helpful and constructive addition to that effort. I urge the adoption of the amendment.

Mr. STEVENSON. Mr. President, in the course of developing the proposed amendment to section 4 of S. 3077, I had the pleasure of working with the distinguished Senator from Washington (Mr. JACKSON) in the formulation of an appropriate compromise between the proposed new country eligibility procedure for Exambank and the emigration requirements of the Trade Act for nonmarket countries.

The proposed amendment to section 4 of S. 3077 establishes a new, more com-

prehensive procedure for determining country eligibility for Eximbank-supported programs by effectively providing that all countries are eligible for the Bank's programs unless included on an ineligible list determined by the President and reviewed by the Congress. In so doing, the section supersedes the emigration requirements of certain provisions of the Trade Act of 1974 to the extent they concern Eximbank credit support for exports to nonmarket economies, except that paragraph (8) of the amendment makes clear that such Trade Act provisions are not waived or superseded as they apply to the Soviet Union.

In order to insure that the country "ineligibility" provisions of the revised section 4 are administered in a manner that is supportive of the emigration objectives of the Trade Act provisions, the proposed new paragraph (9) explicitly provides that countries ineligible for Eximbank credit by reason of the Trade Act provisions must be included on the ineligible list and may not thereafter be removed unless the President transmits to the Congress a separate determination to remove any such country from the list, including a statement of the reasons therefor, in order to insure that an opportunity will be provided the Congress to separately consider and disapprove under expedited procedures, the removal of such country from the list. In making such determination to remove, the President must consider whether such action will be consistent with the objectives of the Trade Act provisions.

This separate consideration and right to veto insures the type of comprehensive and careful congressional analysis that now applies under the Trade Act in granting waivers of the emigration provisions to individual nonmarket economy countries.

Under paragraph (9) of the proposed amendment, the Soviet Union would have to meet the tests and procedures set forth in the Trade Act emigration provisions before it would be removed from the ineligible list; having met such tests and procedures, it would then have to be separately removed from the list under the findings and procedures of paragraph (9). Other nonmarket countries ineligible for the Bank's credit programs by reason of the Trade Act emigration provision, for example, Czechoslovakia, would not have to satisfy the separate tests and procedures of the Trade Act provisions, but nevertheless could only be excluded or removed from the list under the specific findings and procedures of paragraph (9).

Countries, such as Romania and Hungary, which have obtained waivers of the Trade Act provisions prior to date of enactment, would not be subject to the special findings and procedures of paragraph (9), but would be subject to the other findings and procedures in the section. In this regard, emigration policy is one of the factors that must be considered in determining ineligibility under paragraph (1); since the Eximbank procedures do not affect MFN eligibility or other credit programs, yearly waiver review for such countries under the Trade Act emigration provisions is unaffected. The continuity of such review, in conjunction with periodic review of the Eximbank inelgible list, should insure consistent pressure to maintain progress on emigration policy in these "waiver countries."

Overall, the amendment is intended to balance the need to insure that the purposes of the emigration requirements in the Trade Act are not frustrated or diminished by the new country eligibility procedure for Eximbank credit, with the need to make ineligibility rest on a more flexible and comprehensive set of criteria, consistently applied to all countries.

Mr. President, I now yield to my distinguished colleague from Washington (Mr. JACKSON) for any questions he might have pertaining to the amendment.

Mr. JACKSON. I thank the distinguished Senator from Illinois (Mr. STEVENSON) and would like to express my pleasure as well in working out what I believe to be an appropriate dovetailing of this proposed new procedure for the Eximbank with sections 402 and 409 of the Trade Act of 1974. I am, however, concerned that under the procedure proposed it seems at least possible that the President could transmit simultaneously a host of separate determinations to remove nonmarket countries from the list. Any such action would severely diminish and perhaps even negate the opportunity for separate congressional consideration and disapproval of any such determination that is provided under the amendment. For example, within the 60-day period provided, it would be virtually impossible for the Congress to carefully consider the, in effect, simultaneous removal of Albania, Bulgaria, the Peoples Republic of China, Czechoslovakia, the German Democratic Republic (East Germany), Laos, and Mongolia all of which are not ineligible by reason of the Trade Act provisions.

I would thus like to ask the Senator from Illinois whether his amendment addresses this problem.

Mr. STEVENSON. Mr. President, I can tell the Senator from Washington that it is not the purpose of this amendment to permit such an obvious evasion of the procedures prescribed, and I believe that if such a procedural ploy were attempted, an event which I consider to be highly unlikely, I would recommend to my colleagues that all of the determinations be promptly vetoed. I believe, however, that the administration will administer this provision in good faith and that such an eventuality would not occur. I would note that to guard against any such possibility, the amendment specifically provides that an opportunity be provided the Congress to separately consider and disapprove any determination to remove any of the countries affected. I think it is clear that in the case of a simultaneous transmittal of several separate and controversial determinations, an opportunity may well not be provided for separate consideration as specified in the amendment.

Thus, any such action could be in contravention of the letter as well as the spirit of the law. I do not think that we should tie the President's hands to submitting only one at a time in every case, as there may be situations where it is in the national interest for us to consider one or more determinations at the same time. I can assure the Senator from Washington, however, that if any attempt were made to frustrate intentionally the amendment by submitting multiple determinations at the same time, I would be the first to join him in urging veto of any such action.

Mr. JACKSON. I thank the Senator from Illinois, and for the RECORD would thus like to confirm my understanding that the amendment itself contains language insuring separate consideration of each determination, that such requirement could be violated by simultaneous submission of several separate determinations, and that the Congress in any such case would have legal grounds, apart from policy questions, for a prompt veto of such action. Is that correct?

Mr. STEVENSON. The Senator from Washington is correct.

Mr. JACKSON. I thank the Senator from Illinois.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAPPY BIRTHDAY, SPARKY

Mr. ROBERT C. BYRD. Mr. President, while we are waiting clearance on some matters, I call attention to the fact that today is the 62d birthday of that inimitable and very personable and able Senator, SPARKY MATSUNAGA.

SPARKY is a Senator who is equipped with extraordinary talents. He has an unlimited amount of brass. He is indefatigable and tireless. He works closely with, and is very cooperative with the leadership. He always stands up for the interests of the people he represents in his native State. He is very conscious of the interests of the Nation at all times as he reaches his decisions. He is always friendly and perpetually carries a smile.

I congratulate him on this birthday and as I do so, I say these lines which I did not author myself, but which seem to be appropriate:

The hours are like a string of pearls,
The days like diamonds are.

The moments are the threads of gold,
That binds them for our wear,
So may the years that come to you, Sparky,
Such wealth and good contain
That every moment, hour, and day
Be like a golden chain.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. FORD may be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUELS TRANSPORTATION SAFETY AMENDMENTS ACT OF 1978

Mr. FORD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1895.

The PRESIDING OFFICER (Mr. STONE) laid before the Senate the amendment of the House of Representatives to the bill (S. 1895) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1979.

(The amendment of the House is printed in the RECORD of September 12, 1978, beginning at page 29016.)

Mr. FORD. Mr. President, the Senate on May 3, 1978, passed S. 1895, the Natural Gas Pipeline Safety Act of 1968 authorization, by voice vote. S. 1895 authorized the Natural Gas Pipeline Safety Act programs at a level of $10.5 million for fiscal year 1979.

Mr. President, I commend the chairman of the Senate Committee on Commerce, Science, and Transportation for the action that he is taking in regard to gas pipeline safety issues. I believe that the approach that he has suggested is clearly the most effective way to deal with this extremely complex and important national safety issue. I have already told the chairman that I will devote an extensive amount of my personal time to chair hearings on this issue in order to assure that the Senate has an adequate hearing record for action.

As a member of both the Senate Commerce, Science, and Transportation Committee and the Senate Energy Committee, I know of the deep interest of both these committees in this question. I believe that these two committees will be able to work together effectively to resolve this problem rapidly.

● Mr. CANNON. Mr. President, the Senate on May 3, 1978, passed S. 1895, the Natural Gas Pipeline Safety Act of 1968 authorization, by voice vote. S. 1895 authorized the Natural Gas Pipeline Safety Act programs at a level of $10.5 million for fiscal year 1979. The Committee on Commerce, Science, and Transportation's report on this legislation stressed the need for the Department of Transportation to strengthen its pipeline programs in a number of areas, including appointment of a permanent Director of the Office of Pipeline Safety Operations, development of improved pipeline inspection guidelines for the States, and the consideration of tightened regulation of liquefied natural gas and other highly volatile liquids transported through the Nation's pipeline systems. This report clearly stated "That in providing a 1-year authorization the committee intends to monitor closely the programs of the Department of Transportation in each of these important areas."

On September 12, 1978, the House of Representatives passed H.R. 11622, the Fuels Transportation Safety Amendments Act of 1978, which substantially alters present law in the area of liquefied natural gas and liquid petroleum gas pipeline regulation. Among its many new provisions, H.R. 11622 adds extensive reporting requirements for the pipeline industry and extends regulatory coverage of the Natural Gas Pipeline Safety Act to include liquefied petroleum gas and master meter systems. Title II of H.R. 11622 addresses the siting and safety of liquefied natural gas (LNG) facilities. The Department of Transportation is directed to establish standards for siting, construction, and operation of LNG facilities, to analyze the risks associated with LNG, and to require a study of means to assure financial responsibility of those engaged in such activities. The House amended S. 1895, the Natural Gas Pipeline Safety Act, with the text of H.R. 11622 and sent it back to this Chamber for our consideration.

Mr. President, I believe the House, and Congressman DINGELL and the Subcommittee on Energy and Power in particular, deserve commendation for placing a spotlight of attention on these critical issues. Already the Senate Commerce Committee itself has confirmed that the Department of Transportation has not acted as effectively as possible in this area and we have expressed our concern over this inaction.

However, there is a great deal of work still to be done on these important and complex issues by both the Senate Commerce and Energy Committees, and I do not believe that in the limited time remaining in this session, that these committees and the Senate will be able to respond adequately to the multitude of issues that need to be analyzed and questions to be answered in order to resolve these concerns appropriately.

Therefore, after careful deliberation, I now believe that the following steps will be the most effective procedure for improving liquefied energy gas safety.

First. I propose that S. 1895 should be reamended with its original text to provide for a 1-year authorization for the Department of Transportation's pipeline safety activities. Such a step would assure adequate authorizations for the Office of Pipeline Safety Operations and State regulatory programs for fiscal year 1979.

Second. I propose that provisions be accepted to provide criminal sentences of up to 15 years imprisonment and up to $5,000 in fines for "any person who willfully injures or destroys, or attempts to injure or destroy, any pipeline facility used in the transportation in interstate commerce of oil or gas" and other specified facilities. These provisions are similar to provisions contained in S. 1502, which was introduced by Senator STEVENS and later passed by the Senate by unanimous consent during this session. These criminal penalty provisions have been added at Senator STEVENS' request. The Senate has considered these two provisions in detail, and I believe they are ready for immediate action.

Third. As chairman of the Senate Commerce Committee, I can assure my colleagues that extensive hearings will be held quickly to provide the Senate with the basis for determining how to improve the regulatory framework in the fuels transportation area. Senator FORD and Senator DURKIN have already stated their willingness to begin the hearing process in order to provide this information to the Senate quickly.

In carrying out a comprehensive analysis, the Commerce Committee will have to examine the General Accounting Office's recent three-volume report on liquified energy gas safety carefully. Also, the report by the Office of Technology Assessment on the transportation of liquified natural gas needs to be assessed. The committee will invite the views of the Interagency Task Force on LNG policy whose study is expected to be completed before the end of the year. The committee will solicit the views of the National Academy of Sciences, which is also in the process of conducting an independent study of liquefied natural gas.

The Office of Pipeline Safety Operations and the Coast Guard have recently published advanced notices of proposed rulemaking that affect this area. These proposals also demand careful examination.

Representatives from industry, citizen groups, Federal agencies, and State, and local governments will also be requested to testify on these issues. Without such a careful hearing process, I do not believe the committee would be carrying out its responsibilities appropriately. Without such a hearing record, the Senate cannot make a reasonable determination on these critical national issues. It would be improper for the Senate to rely solely on the hearing record developed in the House; Senators must have the opportunity to question the relevant witnesses. Furthermore, we need extensive supplementation of the analysis carried out by the House, although the excellent hearing record developed by the House will be of substantial assistance to us in our investigations.

Mr. President, I believe that this proposed course of action is the appropriate approach for the Senate. I can assure my colleagues expeditious action by the Senate Commerce, Science, and Transportation Committee which will afford all affected groups the opportunity to provide the Senate with their views on fuels transportation and safety.

With this information the Senate will be able to assess the adequacy of the

legislative proposal the House has sent us. I look forward to working closely with Congressman DINGELL and the other Members of the House in providing a strengthened fuels transportation system for this Nation.●

● Mr. LONG. Mr. President, I endorse the effort to send back to the House the bill, H.R. 11622, containing only the simple authorization for the office of pipeline safety that was included in the Senate's version.

The amendments added to this bill in the House Committee concerning natural gas pipeline safety, and the transportation and siting requirements for LNG, are so far-reaching in their scope and application that the Senate would not be fulfilling its responsibility without the benefit of a hearing of its own, and input from its committee's having jurisdiction over the subject matter.

Insofar as the Senate is concerned, the House bill raises a number of issues which are not well resolved. One such problem area is section 102 of the bill which requires any person operating a pipeline facility to prepare and maintain a description of the facility including the location, type, age, manufacturer, and method of constructing the pipeline; the nature, sequences, and presence of materials transported; climate and geological conditions of the area in which the facilities are located; the population density and patterns of such areas; and such other information as the Secretary may consider appropriate.

Now, Mr. President, while all of this information may be interesting, the point has been made that there is really no hard evidence that indicates it will be of much value in contributing to pipeline safety. I am aware that the House Committee report contains language that recognizes the potential record-keeping burdens that could be placed on small, municipally owned pipelines, and instructs the Secretary to carefully consider the administrative burdens and financial costs associated with each requirement and to exempt certain persons from the bill's requirements when the burdens of the bill exceed the potential safety benefits.

This is a very subjective judgment, and I question whether we ought to give our stamp of approval to such a series of provisions that have the potential for sharply escalating consumer rates and charges where no serious threat to life or property exists.

Another section of the bill, section 106, authorizes the Secretary to apply the bill's provisions to any type or class of facility or equipment used in the transportation on land of gas or liquified petroleum gas. This blanket authority would apply to railroads and motor carriers, without the benefits of knowing what the impact of the regulation would be. This is another example of an obvious interest our committee would have in the safe transportation by rail and motor carrier of LPG, but also one is which we would expect to have the benefit of hearings in order to best determine from our own record the legislative approach we deem most desirable.

Finally, Mr. President, I would like to speak to the question of liability for LNG accidents. The liability issue is one that is complicated and the law concerning it far from clear. The Office of Technology Assessment in its report last year on the transportation of liquified natural gas indicated that the liability question is clouded by three areas of uncertainty.

The extent to which maritime law would govern various accidents;

The uncertainty within the maritime area as to how far the States can go in exercising jurisdiction concurrently with the Federal Government; and

The variety of State laws that would apply in instances where nonmaritime law applies.

The Office of Technology Assessment concludes that it does not follow that compensation for damage done in an LNG accident would definitely not be forthcoming; but that that possibility exists. This is an area that OTA recommended for further in-depth analysis, yet the House bill does not get at the issue, except to call for a study.

I believe we should send this legislation back to the House, refusing to go to conference with them on these additional provisions without first having the benefit of our own hearings.●

● Mr. DURKIN. Mr. President, I support the motion of the distinguished chairman of the Senate Commerce Committee to return this bill to the House with the Department of Transportation authorization for fiscal year 1979. This action will insure that the Commerce Committee and the full Senate will have sufficient time to develop strong comprehensive liquefied energy gas (LEG) siting and safety legislation early in the next Congress.

Accepting the House-passed bill at this time would be a premature and ill-conceived action. The Senate simply has not had sufficient time in this Congress to adequately address the complex issues relating to liquefied energy gas safety. It is my sincere hope that early in the next Congress the Commerce and Energy Committees, both of which I am a member, will hold hearings and markup and report out comprehensive LEG legislation as expeditiously as possible.

Legislative action is necessary in the near future because the Federal Government is not doing enough to protect the public from the dangers posed by the transportation and storage of LEG. Just several weeks ago, a freight train with two liquefied petroleum gas tank cars derailed in Portsmouth, N.H. No accident or leak occurred, but if it had, a disaster could have resulted.

At Commerce Committee hearings I chaired in Boston on August 21, many of the problems associated with LEG regulation were brought to my attention, including the following facts:

The lack of Federal siting policy for LEG facilities has led to these facilities being located in populated areas, such as the facility in Everett, Mass. More recently, the new Columbia Gas facility at Cove Point, Md., was sited within 5 miles of the Calvert Cliffs Nuclear Plant, even though the Nuclear Regulatory Commission recommends a 12-mile safety range.

The Department of Transportation has no special inspection program for LPG trucks.

The Office of Pipeline Safety, which is charged with regulating on-land LNG facilities, has been without a permanent director for 7 out of the last 10 years.

No regulations currently insure the safe siting, construction, and inspection of major LNG facilities.

We must begin to address these and other serious problems relating to LEG safety. Toward this end I intend to introduce a comprehensive liquefied energy gas siting and safety act in the near future so it may be given full consideration by the new Congress. My bill will improve the House-passed bill, in several respects, including the following:

First. Establish a comprehensive liability and compensation program fund for LEG accidents;

Second. Require all new LNG facilities to comply with siting and construction regulations;

Third. Permit local States through their Governor to participate in LEG facility siting decisions;

Fourth. Require that new LEG facilities are sited away from populated and industrialized areas;

Fifth. Insure that all LEG facilities are inspected on an annual basis by qualified Federal inspectors.

I am convinced the Senate must act in the next Congress to correct the serious deficiencies of LEG government regulation. But we must do this in a comprehensive, thorough, and responsible way. Therefore, I support the chairman's motion to send this bill back to the House, striking the portions relating to LEG safety. But I support this with the strong belief that the new Congress must devote adequate attention to this important area. We must act to insure safe operations in the LEG industry. I intend to move aggressively in the next Congress to insure comprehensive liquefied energy gas legislation is enacted as soon as possible.●

● Mr. PEARSON. Mr. President, I concur in the remarks of the Senator from Nevada (Mr. CANNON) and commend him for his sensible approach to the House amendment to S. 1895. The House amendment substantially alters and extends present law in the area of liquefied natural gas (LNG) and liquefied petroleum gas (LPG) pipeline regulation. I commend the House for focusing attention on the problems of LNG and LPG, particularly with regard to safety and siting. However, I believe that the Senate would be shirking its responsibility if it approved such extensive changes in the law without a thorough analysis of the issues. The Senate Committee on Commerce, Science, and Transportation will hold hearings to explore safety, siting, and other problems related to fuels transportation. These hearings will provide a basis for the kind of analysis needed before the Senate acts on such proposals as recommended by the House.

Therefore, I support the amendment to S. 1895 to provide for a 1-year authorization for the Natural Gas Pipeline Safety Act and to provide criminal sentences and fines for a person who willfully injures or destroys any pipeline facility used in the transportation in inter-

state commerce of oil or gas. This latter provision incorporates the intent of S. 1502, which went through the committee process, and passed the Senate in July 1977.●

Mr. STEVENS. Mr. President, on May 3, 1978, the Senate passed S. 1895, an authorization bill which contained no substantive amendments to the Natural Gas Pipeline Safety Act. The Senate had earlier passed a bill which I introduced, S. 1502, on July 19, 1977. This bill made willful destruction of any interstate pipeline a Federal crime. The House recently took up the issue of fuels transportation safety and on September 12, 1978, passed legislation authorizing the natural gas pipeline safety programs and extensively amending and expanding the act. Included in the House amendment were three major provisions. The authorization bill, S. 1895 was incorporated into it. Another provision included language similar to S. 1502, making it a crime to willfully destroy an oil or gas pipeline. A third provision dealt with the hazards associated with the siting and safety of LNG and LPG.

I am pleased that the House incorporated the intent of S. 1502 in its amendment to the Natural Gas Pipeline Safety Act. It was because of my great concern over the vulnerability of our pipeline systems that I introduced S. 1502 to make it a crime to damage an interstate pipeline. Danger to pipeline systems is becoming increasingly prevalent. In recent years saboteurs have damaged oil and gas lines in Indonesia, Venezuela, and in other Middle Eastern countries. At least two attempts have been made, one successful, to damage the Alaska pipeline. As many of you are aware, the trans-Alaska pipeline system now transports over a million barrels of oil a day to markets in the lower 48. Interruption in this supply, particularly in winter months, would cause a major hardship. The danger is real and consequently it is extremely important that we make an attempt to protect our essential petroleum lifelines against the acts of saboteurs or terrorist attack. Mr. President, I ask unanimous consent that S. 1502, in its entirety, as well as the committee report regarding it be printed in the RECORD.

I would also like to take this opportunity to express my interest in having the Senate take a closer look at the transportation of LNG and LPG. Senator CANNON has indicated an interest in having hearings conducted with respect to this issue and I fully support his efforts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Committee on the Judiciary, to which was referred the bill (S. 1502), to amend title 18, United States Code, to make a crime the willful destruction of any interstate pipeline system, having considered the same, reports favorably thereon without amendment, and recommends that the bill do pass.

PURPOSE OF THE BILL

The proposed bill, as reported, will provide Federal criminal jurisdiction over willful acts which damage, or attempt to damage, any pipeline system used in the transportation of gas or oil in interstate commerce.

LEGISLATIVE NEED

By resolution adopted on March 9, 1976, in accordance with its oversight responsibilities in the field of internal security, the then-Subcommittee on Internal Security committed itself to an investigation and study of the problems affecting the security of the trans-Alaska pipeline system.

In its study, the subcommittee sought solutions to the problems which emerged through the testimony of witnesses appearing before the subcommittee. The subcommittee sought not to lose sight of the fact that one of the thorny issues to be resolved stemmed from the fact that they were dealing simultaneously with private property, a national need and a concomitant compelling Federal interest in insuring the protection of the private property in question. A substantial body of testimony and evidence (which has been published) was presented to the subcommittee by the following witnesses:

Senator Ted Stevens of Alaska.

Quinn O'Connell, Connole & O'Connell, Washington Counsel for Alyeska.

Earl Ellerbrake, Chief, Transportation Section, Office of Oil and Gas, Federal Energy Administration.

John E. Latz, Technical Assistant to the Under Secretary of the Interior, and Chairman, Technical Advisory Board, Federal Task Force on Alaskan Oil Development.

Leonard A. LeSchack, president, Development & Resources Transportation Co.

Brooks McClure, International Security Affairs, Department of Defense.

Lt. Col. James F. Kelley, Lt. Col. Joseph E. Naftzinger and Lt. Col. Jerry V. Witt, representing the Joint Chiefs of Staff.

James Goodwin, manager of administration for the Operations Division of the trans-Alaska Pipeline, Alyeska Pipeline Service Co.

James O. Ingram, Deputy Assistant Director, General Investigative Division, FBI.

Richard L. Burton, Commissioner, Department of Public Safety, State of Alaska.

Dr. Maynard M. Stephens, principal energy scientist, Gulf South Research Institute, Baton Rouge and New Orleans, La.

The subcommittee's hearings disclosed that the general welfare and the common defense of the American people require that the oil and gas resources need to be protected for the purpose of insuring the reliability of use for present and future generations; and that the trans-Alaska pipeline is of paramount interest to the Nation's well-being and that any threat to this pipeline would result in a major threat to the national security of the United States.

Witnesses before the subcommittee representing law enforcement, as well as the security officials of the Alyeska Pipeline Co. agreed in their testimony that there was a need for Federal legislation which would make it a Federal crime to damage or interfere with the operation of the trans-Alaska pipeline system. These witnesses believed that if they could post placards along the pipeline advertising the fact that any attack on the line or in its operation is a Federal offense, that this would serve to discourage unmotivated vandalism, such as shooting at the pipeline, and it might also serve to discourage discharged employees, disgruntled employees, from venting their anger and damaging the pipeline.

EXISTING JURISDICTION

The jurisdiction relating to the TAP is unclear. In part, the confusion about jurisdiction stems from the fact that the pipeline traverses a patchwork of lands are differently owned and differently administered, i.e., land owned by the Federal Government, land owned by the State of Alaska, privately owned land and land administered by the Department of Defense. Correspondence between Senator Thurmond and Mr. Clarence Kelley, Director of the FBI, disclosed that the Department of Justice has determined that—

Federal jurisdiction is exclusive in any part of the pipeline corridor passing over a Defense withdrawal area and concurrent with the State in any part of the pipeline corridor passing over land owned by the United States and held for use by the military at the time Alaska became a State.

Further inquiry concerning jurisdiction provided by the Solicitor's Office for the U.S. Department of the Interior, disclosed that though the FBI does have jurisdiction over defense withdrawal areas in Alaska, this jurisdiction thus far remains a purely theoretical one because the President has never established such areas. Moreover, the territory subject to concurrent jurisdiction between the State of Alaska and the United States includes only 50 miles of pipeline.

In his testimony before the subcommittee, Senator Stevens also expressed doubt that the Alaska State Police will be able to cope with the problem of safeguarding the pipeline against terrorist or other criminal elements: "I want to assure you," he said:

We have an extremely dedicated police organization and our Commissioner of Public Safety, Richard Burton, has asked me to inform the Committee that he would like to cooperate with the Committee * * * But there again, we believe that because of the area that our State police must cover, an area one-fifth the size of the United States—we have some 450,000 people; we are annually visited by at least 5 times that many—they are extremely busy. In other words, at particular times of the year they just cannot maintain in force a total surveillance of any kind * * *.

STATEMENT

On May 12, 1977, Senator Stevens introduced the instant bill, S. 1502, as a complementary measure to S. 1496, the bill regarding the Trans-Alaska Pipeline System. S. 1502 expands the coverage of S. 1496 to include any interstate pipeline system.

In introducing S. 1502, Senator Stevens pointed out that the Congress later this year will consider the recommendation of the President concerning the route chosen to transport natural gas from the North Slope of Alaska to the south 48. This bill, S. 1502, would cover that pipeline for the distance which it is located within the United States, the Trans-Alaska Pipeline System, and all other interstate pipeline systems located within the United States.

Since there has been some questions raised that the TAPS line is an intrastate pipeline, although it is solely within the State of Alaska, there may be an implication that only Alaskans may tamper with that pipeline system. Thus, S. 1502 is intended to clarify the situation involving the TAPS and expand the scope of this legislation to cover all interstate pipeline systems. S. 1502 complements S. 1496 and should be considered as appropriate for consideration by the Senate as a combined legislative package to cover all willful acts of destruction or attempts to interfere with any interstate or intrastate pipeline system.

COST OF LEGISLATION

The Department of Justice advised that the passage of S. 1502 would not require any new programs and that the cost of investigating and prosecuting violations of the criminal provisions should be borne by their normal budget.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by this bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and

existing law in which no change is proposed is shown in roman):

UNITED STATES CODE, TITLE 18, CRIMES AND CRIMINAL PROCEDURE

"Chapter 68—Interstate Pipeline Systems

"Sec.
"1401. Definition.
"1402. Destruction of interstate pipeline system.

* * * * *

"§ 1401. Definition

As used in this chapter, the term 'interstate pipeline system' means any pipeline system used in the transportation of gas or oil in interstate commerce.

"§ 1402. Destruction of interstate pipeline system

Whoever willfully injures or destroys, or attempts to injure or destroy, any interstate pipeline system shall be fined not more than $5,000 or imprisoned not more than fifteen years, or both.

(b) The table of chapters of part I of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 67 the following:

"68. Interstate pipeline systems------ 1401".

S. 1502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 18, United States Code, is amended by adding immediately after chapter 67 the following new chapter:

"Chapter 68.—INTERSTATE PIPELINE SYSTEMS

"Sec.
"1401. Definition.
"1402. Destruction of interstate pipeline system.

"§ 1401. Definition

"As used in this chapter, the term 'interstate pipeline system' means any pipeline system used in the transportation of gas or oil in interstate commerce.

"§ 1402. Destruction of interstate pipeline system

"Whoever willfully injures or destroys, or attempts to injure or destroy, any interstate pipeline system shall be fined not more than $5,000 or imprisoned not more than fifteen years, or both.".

(b) The table of chapters of part I of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 67 the following:

"68. Interstate pipeline systems------ 1401".

UP AMENDMENT NO. 1969

(Purpose: To provide criminal penalties for destruction or injury to pipeline facilities)

Mr. FORD. Mr. President, I send to the desk an amendment to S. 1895 which has been agreed on by both sides.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 1969.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"That section 9 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1678) is amended by—

"(1) amending the heading thereof to read "Penalties"; and

"(2) adding at the end thereof the following new subsection:

"(c)(1) Any person who willfully injures or destroys, or attempts to injure or destroy, any pipeline facility used in the transportation in interstate commerce of oil or gas shall be fined not more than $5,000 or imprisoned not more than fifteen years, or both.

"(2) As used in this subsection, the term—

"(A) 'oil' means petroleum, crude oil, and any substance refined from petroleum or crude oil;

"(B) 'pipeline facility' means, without limitation, new and existing pipe rights-of-way and any equipment, facility, or building used in the transportation of oil or gas or the treatment of oil or gas during the course of transportation; and

"(C) 'rights-of-way' does not authorize the Secretary to prescribe the location or routing of any pipeline facility".

"SEC. 2. Section 15 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1684) is amended—

"(1) by striking out, in subsection (a) thereof, 'and' immediately after '1977,'; and by inserting immediately after '1978,' the following: 'and $6,000,000 for the fiscal year ending September 30, 1979,'; and

"(2) by striking out, in subsection (b) thereof, 'and' immediately after '1977,'; and by inserting immediately after '1978' the following: ', and $4,500,000 for the fiscal year ending September 30, 1979'.".

Amend the title so as to read: A bill to amend the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1979, and for other purposes.

Mr. FORD. Mr. President, this is in agreement now with the severed portion of the bill. I will hold hearings relating to the other portions of the bill and there will be the possibility of setting dates for those hearings, and I think that is agreeable.

I move the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment, as amended.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. I thank the Chair and I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Kentucky.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, for the moment I ask unanimous consent that there be a period for the transaction of routine morning business with statements limited therein to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on today, September 29, 1978, he approved and signed the following act:

S.J. Res. 133. A joint resolution to authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day."

MESSAGES FROM THE HOUSE

At 12 noon, a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendments of the Senate to H.R. 12467, an act to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed a joint resolution (H.J. Res. 1140) to amend section 8 of the Export-Import Bank Act of 1945, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendments of the Senate to H.R. 12929, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FLOOD, Mr. NATCHER, Mr. SMITH of Iowa, Mr. PATTEN, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. MAHON, Mr. MICHEL, Mr. CONTE, Mr. O'BRIEN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 2329, an act to improve the administration of fish and wildlife programs, and for other purposes; requests a conference with the

Senate on the disagreeing votes of the two Houses thereon; and that Mr. MURPHY of New York, Mr. LEGGETT, Mr. METCALFE, Mr. BOWEN, Mr. HUBBARD, Mr. RUPPE, and Mr. FORSYTHE were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the amendments of the Senate to H.R. 8394, an act to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries.

The message also announced that the House has passed the joint resolution (S.J. Res. 29) to authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week," without amendment.

At 2:54 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 12934, an act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 26, 27, 28, 29, 33, 35, 36, 37, 38, 40, 41, 56, 73, 78, 88, 91, 92, 96, 101, 102, 103, 104, 105, 110, and 114 to the bill; that the House recedes from its disagreement to the amendments of the Senate numbered 2, 22, 24, 25, 30, 31, 34, 51, 66, 67, 90, 100, 106, 109, 111, 113, 115, 116, 117, 123, and 124 to the bill, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 4 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the Speaker has signed the following enrolled bills:

S. 3067. An act to extend the Commission on Civil Rights for five years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes;

S. 3092. An act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes;

H.R. 1445. An act conferring jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of Commander Edward White Rawlins, United States Navy (retired);

H.R. 10126. An act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service;

H.R. 10581. An act relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes;

H.R. 12026. An act to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness;

H.R. 13125. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 13349. An act to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

ENROLLED BILL SIGNED

At 4:40 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bill:

H.R. 9214. An act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

The enrolled bill was subsequently signed by the President pro tempore (Mr. EASTLAND).

The message also announced that the House has passed the joint resolution (S.J. Res. 165) to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes, without amendment.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to H.R. 12028, an act to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the concurrent resolution (H. Con. Res. 725) requesting the President to return the enrolled bill (H.R. 8149) to provide customs procedural reform, and for other purposes, and providing for its reenrollment with a technical correction, in which it requests the concurrence of the Senate.

At 5:20 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes, with amendments; that the House insists upon its amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. DANIELSON, Mr. PREYER, Mrs. SCHROEDER, Mr. STRATTON, Mr. OBEY, Mr. HARRIS, Mr. MANN, Mr. KASTENMEIER, Mr. MAZZOLI, Mr. WIGGINS, Mr. MOORHEAD of California, Mr. GILMAN, Mr. FRENZEL, and Mr. ECKHARDT, for the consideration of that portion of section 241(a) of the House amendment adding a new subsection 207(g) to title 18, United States Code, and modifications thereof committees to conference, as managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 3447) to strengthen the economy of the United States through increased sales abroad of American agricultural products, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. ZABLOCKI, Mr. POAGE, Mr. FASCELL, Mr. DE LA GARZA, Mr. BINGHAM, Mr. JONES of Tennessee, Mr. MATHIS, Mr. PEASE, Mr. CAVANAUGH, Mr. WAMPLER, Mr. BROOMFIELD, Mr. SEBELIUS, and Mr. FINDLEY were appointed managers of the conference on the part of the House.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 29, 1978, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes;

S. 409. An act to designate the Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center";

S. 425. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lt. Gen. Ira C. Eaker, U.S. Air Force (retired);

S. 1267. An act to amend section 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents;

S. 2946. An act to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control;

S. 2951. An act to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs;

S. 3036. An act to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes;

S. 3045. An act to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products;

S. 3092. An act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes;

S. 3274 An act to designate the United States Department of Agricuture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center";

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake"; and

S.J. Res. 154. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4368. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report of the Special Task Force on the Operation of Public Law 480; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4369. A communication from the Chairman, Indian Claims Commission, transmitting, pursuant to law, a report of final determination in respect to the claim cases in dockets numbered 15–P, 29–N, and 306; to the Committee on Appropriations.

EC–4370. A communication from the Chairman, Indian Claims Commission, transmitting, pursuant to law, a report of final determination in respect to the claim cases in dockets numbered 27–E and 202, 29–D, and 139; to the Committee on Appropriations.

EC–4371. A communication from the Administration, General Service Administration, transmitting, pursuant to law, a Stockpile Report, October 1977 through March 1978; to the Committee on Armed Services.

EC–4372. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report of the United States Travel Service, Department of Commerce, for calendar year 1977; to the Committee on Commerce, Science, and Transportation.

EC–4373. A communication from the Chairman, National Transportation Safety Board, reporting, for the information of the Senate, to a typographical error in the Board's 1980 budget submission; to the Committee on Commerce, Science, and Transportation.

EC–4374. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 49, United States Code, to provide additional criminal penalties for safety violations, to increase civil penalty limits, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–4375. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on refiner distribution and market shares of the statutory categories of refined petroleum products; to the Committee on Energy and Natural Resources.

EC–4376. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on changes in the market shares of the statutory categories of retail gasoline marketers; to the Committee on Energy and Natural Resources.

EC–4377. A communication from the Deputy Assistant Secretary, Department of the Interior, transmitting, pursuant to law, notice on leasing systems for the oil and gas lease sale No. 65, eastern Gulf of Mexico, scheduled to be held on October 31, 1978; to the Committee on Energy and Natural Resources.

EC–4378. A communication from the Executive Director, Advisory Council on Historic Preservation, reporting, pursuant to law, the late filing of a report; to the Committee on Energy and Natural Resources.

EC–4379. A communication from the General Counsel, Department of Energy, reporting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–4380. A communication from the Chairman, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the 13th report on abnormal occurrences at licensed nuclear facilities; to the Committee on Environment and Public Works.

EC–4381. A communication from the Secretary of Labor, transmitting, pursuant to law, the eighth annual report on the Work Incentive (WIN) program; to the Committee on Finance.

EC–4382. A communication from the Administrator, Agency for International Development, Department of State, reporting, pursuant to law, on a proposed $1 million grant to AFRICARE for Zambia from the Southern African Special Requirements Funds and waiver of the prohibition with respect to Zambia; to the Committee on Foreign Relations.

EC–4383. A communication from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting, pursuant to law, reports by the International Bank for Reconstruction and Development, (IBRD), the Group of Controllers' evaluation reports by the Inter-American Development Bank (IDB), and post-evaluation reports by the Asian Development Bank (ADB); to the Committee on Foreign Relations.

EC–4384. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Summary of Efforts to Recover U.S. Government Costs in Foreign Military Sales," September 27, 1978; to the Committee on Governmental Affairs.

EC–4385. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "St. Elizabeth's Hospital and District of Columbia Are Improving Their Mental Health Services," September 27, 1978; to the Committee on Governmental Affairs.

EC–4386. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "District of Columbia's Rent Establishment Policies and Procedures Need Improvement," May 17, 1978; to the Committee on Governmental Affairs.

EC–4387. A communication from the Mayor of the District of Columbia, reporting, pursuant to law, to the Comptroller General's report B–118638 entitled "District of Columbia's Rent Establishment Policies and Procedures Need Improvement"; to the Committee on Governmental Affairs.

EC–4388. A communication from the Deputy Assistant Secretary of Defense, reporting, pursuant to law, on a proposed new system of records; to the Committee on Governmental Affairs.

EC–4389. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Still Needed in Administering the Department of Labor Compensation Benefits for Injured Federal Employees," September 28, 1978; to the Committee on Governmental Affairs.

EC–4390. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Development of a National Make-Or-Buy Strategy—Progress and Problems," September 25, 1978; to the Committee on Governmental Affairs.

EC–4391. A communication from the Chairman, U.S. Civil Service Commission, transmitting, pursuant to law, a report on the effects on employees of the reorganization under the DOE Organization Act (P.L. 95–91); to the Committee on Governmental Affairs.

EC–4392. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, the third annual report on the administration of the Women's Educational Equity Act of 1974; to the Committee on Human Resources.

EC–4393. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 681 reports concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–4394. A communication from the Chief Justice, Supreme Court of the United States, reporting, pursuant to law, on the opening of the October 1978 Term of the Supreme Court; to the Committee on the Judiciary.

EC–4395. A communication from the Director, Bureau of the Census, Department of Commerce, transmitting, pursuant to law, the final report on the Survey of Registration and Voting conducted by the Bureau of the Census after the 1976 general elections; to the Committee on the Judiciary.

EC–4396. A communication from the Secretary of Agriculture and the Secretary of the Army, reporting, pursuant to law, the intention of the two Departments to interchange jurisdiction of civil works and Forest Service acquired lands at Lake Cumberland in the State of Kentucky; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Environment and Public Works, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Agriculture and the Secretary of the Army, relative to interchanging jurisdiction of civil works and Forest Service acquired lands at Lake Cumberland, Ky., be referred jointly to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary without amendment:

S.J. Res. 168. An original joint resolution designating and authorizing the President to proclaim February 11, 1979, as "National Inventors' Day" (Rept. No. 95–1259).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 9998. An act to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes (Rept. No. 95–1260).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions are introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATCH:

S. 3537. A bill to require that certain procedures be followed with respect to the Internal Revenue Service's "Proposed Revenue Procedure on Private Tax-Exempt Schools"; to the Committee on Finance.

By Mr. MAGNUSON:

S. 3538. A bill to amend the Internal Reve-

nue Code of 1954 with respect to the period for including in gross income certain advance payments accrued by life care communities; to the Committee on Finance.

By Mr. LAXALT (for himself, Mr. CANNON, Mr. GOLDWATER, Mr. HANSEN, Mr. MCCLURE, Mr. STEVENS, and Mr. YOUNG):

S. 3539. A bill to amend certain provisions of title 28, United States Code, relating to venue in the district courts and the courts of appeals; to the Committee on the Judiciary.

By Mr. THURMOND (from the Committee on the Judiciary):

S.J. Res. 168. A joint resolution designating and authorizing the President to proclaim February 11, 1979, as "National Inventors' Day". Original joint resolution reported and placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 3537. A bill to require that certain procedures be followed with respect to the Internal Revenue Service's "Proposed Revenue Procedure on Private Tax-Exempt Schools"; to the Committee on Finance.

PRIVATE SCHOOL EXEMPTION PRESERVATION ACT OF 1978

● Mr. HATCH. Mr. President, a very serious problem requiring immediate action was recently brought to my attention.

Some 3,500 private schools and church academies will lose their tax exempt status at the end of next month under regulations published by the Internal Revenue Service. On August 22, the Federal Register published a new set of IRS regulations by which the IRS commissioner could arbitrarily deem a school "discriminatory," and consequently the commissioner could revoke the respective school or academy's tax exemption. With the promulgation of these IRS regulations, and assuming that the Congress does nothing, henceforth schools would in the future have the burden of proving to the Federal Government that they are not discriminatory in their admission or teaching policies; and they would have the burden of proving to the Government why they should continue to be allowed to exist.

I am not exaggerating. A school's very existence is at stake. Tax exemption is no mere academic matter, but is in fact the very umbilical cord connecting a school full of students with the means of keeping that school from having to be boarded up.

Anyone familiar with the caselaw history of IRS rulings knows that a school is treated in a manner directly opposite to the understood canon of American law. That is, a school is considered guilty until proven innocent. The courts have always had the censuring authority in this equation, but now even the IRS is getting into the act. That is, the IRS will have the power of the Leviathan, the power to determine a school's life or death unless there is established the clear legislative intent of this Congress that the IRS behave otherwise. In order to reassert our authority in this area, authority granted to us in article I of the Constitution, and legitimated by our election to office; I am today introducing legislation effectively countering the effect of these regulations, and I ask unanimous consent at this time that my bill, the Private School Exemption Preservation Act of 1978, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the "Proposed Revenue Procedure on Private Tax-Exempt Schools" proposed by the Internal Revenue Service and published on page 37296 of the Federal Register of August 22, 1978, and any other procedure or regulation proposed by the Internal Revenue Service relating to the same subject shall not take effect unless such Service complies with all procedures applicable to significant regulations of the Department of the Treasury (within the meaning of the proposed Directive of such Department relating to the preparation, review, and approval of regulations, published on page 22319 of the Federal Register of May 24, 1978).

Mr. HATCH. Mr. President, my bill is characteristically reasonable. It would simply require that the IRS regulations in question, that is, those regulations published in the August 22 Federal Register; comply with regulations published in the Register only 4 months earlier which require public hearings and formal public and congressional approval before these particular types of new Federal rules can be put into effect.

Obviously, what we are dealing with here is very important to the 3,500 schools involved, as it is for the children who attend and the parents who pay to keep those schools open.

However, we are also dealing with a clear cut and very important first amendment question. It has been established through judicial rendering, speaking of decisions supporting the public subsidization of public schools, that academies with a nondenominational or a secular-humanist basis will be supported with tax moneys and also given a tax exemption. In the case of the private schools involved, many but not all of which are religiously based, it is only fair that parents be allowed the alternative of sending their children to these academies, an option only made possible through the means of exempting these institutions from taxes. In fact, it is more than fair. It is the law, and it has always been recognized as such by the courts.

Now the IRS, contrary to judicial interpretation as well as what has been established through legislative intent, would tip the scale at the expense of academic freedom and parental choice. I know this is wrong, and I know that I am not alone in witness to this fact. This is why Senator HAYAKAWA and I have introduced this bill, the Private School Exemption Preservation Act of 1978. We will be deluging your offices with colleague letters in the days ahead, soliciting your own support for our bill, and requesting the addition of your names as co-sponsors. But again, time is crucial. We only have until the end of next month, and the stakes are too high for anything less than deliberation with dispatch. I thank my colleagues for their consideration.●

By Mr. LAXALT (for himself, Mr. CANNON, Mr. GOLDWATER, Mr. HANSEN, Mr. MCCLURE, Mr. STEVENS, and Mr. YOUNG):

S. 3539. A bill to amend certain provisions of title 28, United States Code, relating to venue in the district courts and the courts of appeals; to the Committee on the Judiciary.

● Mr. LAXALT. Mr. President, I am today introducing legislation which will have the effect of amending the Federal Venue Statutes to require that cases with the Federal Government as the defendant be tried in the district court where the impact or injury is most substantial.

Presently most cases filed against the Federal Government, particularly those involving environmental issues, are tried in Washington, D.C. Often these cases will have major impact on one of the States, but nevertheless, the only connection to Washington is the fact that the Federal Government, and perhaps a public interest law firm plaintiff, are located here. Accordingly, such a case will be tried to a Washington, D.C. judge with a Washington, D.C. Government lawyer on one side and a Washington, D.C. public interest lawyer on the other. The subject matter, on the other hand, may be a dam in Oregon, a water project in Montana, or a Federal wildlife refuge in Nevada.

It would make more sense, in my opinion, to have such cases tried in the district court where the major impact or injury is situated. In that way the judge might have some familiarity with the subject of the case, and might feel somewhat more accountable for his decision. The government lawyer in such situations, would either be the U.S. attorney from the district where the subject matter of the case is located or from the regional office of the agency involved. The public interest plaintiff's lawyer, or whoever the plaintiff's lawyer might be, would at least have to travel to the districts where his case arose, perhaps making him somewhat more cognizant of local problems. Additionally of course, witnesses and interested parties from the State where the subject matter of the case is located, who are primarily affected by the decisions in such cases, would only have to travel to the Federal courthouse in their district instead of to Washington, D.C. to observe or participate in the case.

The bill also uses the same standard for appeals from agency proceedings, many of which are now also filed in the District of Columbia. Requiring that such cases be heard in the circuit where the injury is situated should also result in decisions taking into account the public sentiment to some degree, and using the established case law of the circuit rather than that of Washington, D.C. Usually the precedent in one of the other circuits will more nearly reflect local customs and local law, whereas the precedent in the District of Columbia circuit more precisely reflects the attitudes of the Federal Government.

It is my strong feeling that this bill,

if passed, would be most beneficial to local interests in the States.

The unfairness of the situation most recently came to my attention when a permanent injunction was issued by the district court for the District of Columbia, enjoining the Departure of Interior from issuing regulations affecting Ruby Marsh in Nevada. In that case, the defenders of wildlife sued Secretary Andrus in the district court of the District of Columbia to enjoin any boating on the Ruby Marsh Wildlife Refuge. Ruby Marsh is a Federal wildlife refuge, but has been used for years as a recreational lake by Nevadans. Nevada was not made a party to that action until the State got wind of the case and intervened as a defendant on the day of the hearing before the District of Columbia court.

The case was commenced in the District of Columbia by a District of Columbia plaintiff, although the subject matter of the case had nothing whatever to do with anything in the District of Columbia except for the fact that the Department of the Interior's headquarters is located here. Although Ruby Marsh had been used for years as a recreational lake by Nevadans, and apparently without any harm to the wildlife located there, the court decided the case without benefit of any firsthand knowledge of the facts.

It seems obvious to me that this case should have been tried in Nevada, by a Nevada judge, giving the State of Nevada the option of participating fully and permitting Nevada residents, who are the primary users of the lake, at least an opportunity to sit in on the hearing. Under the bill introduced today, that case, and apparently hundreds of other similar cases, would be tried in the district court where the controversy exists, and cases appealed from agency proceedings would similarly be heard in the circuit court where the controversy exists. The result, I am sure, will be very favorable to the States and to the people affected by such cases, and will help to return a degree of confidence in the Federal court system by the American people.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 1391 of title 28, United States Code, is amended to read as follows: "Except as provided in paragraph (2), a civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, or the United States, may, except as otherwise provided by law, be brought in any judicial district in which (A) a defendant in the action resides, or (B) the cause of action arose, or (C) any real property involved in the action is situated, or (D) the plaintiff resides if no real property is involved in the action.

"(2) In any such action in which it is determined that a substantial portion of the impact or injury is in one or more judicial districts, such action shall be brought in one of such judicial districts.

"(3) Additional persons may be joined as parties to any such action in accordance with the Federal Rules of Civil Procedure and with such other venue requirements as would be applicable if the United States or one of its officers, employees, or agencies were not a party.".

(b) The second paragraph of section 1391 of title 28, United States Code, is amended by inserting "(4)" immediately before "The".

SEC. 2. Section 2343 of title 28, United States Code, is amended to read as follows:

"§ 2343. Venue

"(a) Except as provided in subsection (b), a venue of a proceeding under this chapter is in the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

"(b) In any such proceeding in which it is determined that a substantial portion of the impact or injury is in one or more judicial circuits, venue of such proceeding shall be in one of such judicial circuits.".

SEC. 3. Section 2112(a) of title 28, United States Code, is amended—

(1) by inserting immediately after the third sentence the following new sentence: "In any case in which it is determined that a substantial portion of the impact or injury is in one or more judicial circuits, venue of such proceeding shall be in one of such judicial circuits."; and

(2) by inserting in the fourth sentence immediately after "same order" the following: "and the parties are unable to agree upon venue of such proceeding in one of such courts of appeals".●

ADDITIONAL COSPONSORS

S. 2388

At the request of Mr. JAVITS, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 2388, the Employee Education Assistance Act.

S. 2910

At the request of Mr. KENNEDY, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 2910, the Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978.

S. 3408

At the request of Mr. INOUYE, the Senator from Alabama (Mrs. ALLEN) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 3408, to provide for the development of aquaculture in the United States, and for other purposes.

S. 3433

At the request of Mr. TALMADGE, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 3433, a bill to eliminate the controversy over what agricultural structures are qualified for the investment tax credit.

S. 3441

At the request of Mr. MORGAN, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 3441, to amend the tax laws of the United States to encourage the preservation of independent newspapers.

S. 3466

At the request of Mr. NELSON, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 3466, a bill to amend the Internal Revenue Code to change the period for the payment of the manufacturers excise tax imposed on the sale of fishing equipment.

S. 3005

At the request of Mr. METZENBAUM, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 3005, a bill to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.

SENATE JOINT RESOLUTION 151

At the request of Mr. HEINZ, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 151, requesting the President to designate November 11 through 17, 1978, as "Vietnam Veterans Week."

SENATE RESOLUTION 569

At the request of Mr. PERCY, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of S. Res. 569, to eliminate certain items in the design of the Hart Senate Office Building.

AMENDMENT NO. 1957

At the request of Mr. PROXMIRE, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of amendment No. 1957, proposed to S. 2474, the Public Health Service Act.

AMENDMENTS SUBMITTED FOR PRINTING

EXPORT-IMPORT BANK AMENDMENTS OF 1978—S. 3077

AMENDMENT NO. 3677

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to S. 3077, a bill to amend and extend the Export-Import Bank Act of 1945, and for other purposes.

AMENDMENT NO. 3678

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE (for himself, Mr. ROTH and Mr. GLENN) submitted an amendment intended to be proposed by them, jointly, to S. 3077, supra.

● Mr. MUSKIE. Mr. President, I am introducing today with Senator ROTH and Senator GLENN an amendment to S. 3077, the Export-Import Bank Amendments of 1978.

Our amendment is identical to that which we introduced on Tuesday as a substitute to S. 2, the sunset bill.

That substitute amendment, amendment No. 3658, is cosponsored by Senator ROTH, Senator GLENN and by the distinguished majority leader (Mr. ROBERT C. BYRD), the distinguished majority whip (Mr. CRANSTON), and Senators RIBICOFF, PERCY, BIDEN, PELL, ANDERSON, BELLMON, BENTSEN, BURDICK, HARRY F. BYRD, JR., CHAFEE, CHILES, CHURCH, CLARK, CULVER, DOLE, DOMENICI, DURKIN, EASTLAND, GRIFFIN, HART, HASKELL, HATCH, MARK O. HATFIELD, PAUL G. HATFIELD, HATHAWAY, HEINZ, HUMPHREY, KENNEDY, LEAHY, LUGAR, MATHIAS, MATSUNAGA, MCINTYRE, METZENBAUM, MORGAN, NUNN, RIEGLE, SASSER, SCHWEIKER, STAFFORD, STONE, TOWER, WILLIAMS, HUDDLESTON, BAYH, and FORD.

My amendment is the latest and best of many versions of the sunset bill. It has been worked out with the cooperation of the leadership, and most of the authorizing committees as well.

We introduce it today, as an amendment to S. 3077, because time is running out. The sunset bill has been debated and discussed for almost 3 years. It has twice been reported by the Governmental Affairs Committee, and recently by the Committee on Rules and Administration. It has been the subject of more than a dozen days of hearings with at least 50 witnesses commenting on its every provision.

In the closing days of the last Congress, Sunset came to the Senate floor. The bill's sponsors agreed then that there was not sufficient time to consider such an important new idea. We committed ourselves to prompt and early consideration of Sunset in this Congress.

Today, we are at the end of another Congress. And I do not want the opportunity to consider Sunset to slip by us once again.

In the fall of 1978, our Nation is in the throes of inflation on the rise. Sunset offers us one of the few responsible alternatives I have seen to respond to this serious threat—by giving us a systematic way to bring Federal spending under control. And, whether we like it or not, Federal spending and inflation are, in 1978 and beyond, inextricably intertwined.

The Sunset bill we have proposed is a very simple idea. It challenges the traditional wisdom that Government programs, once enacted, should remain forever on the books. Instead, it proposes that a program should continue only if Congress decides it is needed and if it is working well.

Under our amendment, virtually all Federal programs would come up for systematic review and reauthorization on a rotating, 10-year basis. Similar programs would come up for reauthorization at the same time, thereby giving us an opportunity we badly need, to consider Government policies across the board.

I strongly support the enactment of Sunset legislation, for a number of reasons.

In the first place, Sunset will complement the budget process by giving us an important new tool we need—to bring Government spending—and thus inflation—under firmer congressional control.

Second, it will strengthen the congressional authorization process—the most important policymaking tool that we have—by requiring Congress to regularly reconsider everything it does.

Third, it will help us free up increasingly scarce budget resources—so that we can channel spending from low priority areas toward programs we really need.

Finally, it responds, in a thoughtful and responsible way, to rising public concern that Government today is not working as well as it should.

For all these important reasons, the time for a decision on this legislation has come. I urge my colleagues to consider these factors when I call up my amendment for debate.●

EQUAL RIGHTS AMENDMENT DEADLINE EXTENSION—HOUSE JOINT RESOLUTION 638

AMENDMENT NO. 3679

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to House Joint Resolution 638, a joint resolution extending the deadline for the ratification of the Equal Rights Amendment.

AMENDMENT NO. 3680

(Ordered to be printed and to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to House Joint Resolution 638, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY PRODUCTION AND SUPPLY

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Energy Production and Supply Subcommittee of the Senate Energy and Natural Resources Committee.

The hearing is scheduled for October 7, 1978, beginning at 10:00 a.m., in the Civic Center in Lake Charles, La. Testimony is invited concerning the tragic fire which swept the Strategic Petroleum Reserve storage site at West Hackberry, La., on September 21, 1978. This fire raged for 6 days until September 26, 1978, and resulted in the death of one man and the serious injury of a fellow worker.

The purpose of the hearing is to inquire into the circumstances of the fire, the extent of the loss of crude oil consumed by the flames, and the impact of this disaster on the overall Strategic Petroleum Reserve plan. The subcommittee will examine the existing safety regulations utilized by the Department of Energy in its storage program and will also review the recent GAO report which criticized the DOE plans for developing the salt mine at Weeks Island, La., and the present storage schedule as being too ambitious and not adequately oriented toward insuring the safety of workers.

For further information regarding the hearing you may contact George Dowd of the subcommittee staff at 224-2564. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Senate Energy and Natural Resources Committee, Subcommittee on Energy Production and Supply, 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS

● Mr. SARBANES. Mr. President, for the information of the Senate I wish to announce that the Subcommittee on Western Hemisphere Affairs will hold 3 consecutive days of hearings next week for the purpose of reviewing major trends and issues in our relations with the nations of Latin America and the Caribbean area.

In the course of these hearings, the subcommittee, which I have the honor to chair, will receive testimony from a variety of Government and non-Government experts. Leading off on Wednesday, October 4, we will hear from a panel of recognized Latin Americanists representing the academic community. Later the same morning we will hear from a panel of business and economic experts. On Thursday, the first panel will focus on social problems and related issues with testimony from church representatives and the Agency for International Development. The second panel that day will be composed of representatives from several executive branch agencies, including Defense, Commerce, Treasury, and Justice Departments. On the third and final day, the subcommittee will hear from Ambassador Viron P. Vaky, Assistant Secretary, Bureau of Inter-American Affairs, accompanied by other State Department officials.

Mr. President, I am confident this series of hearings will contribute to a better understanding of current trends and developments in the Western Hemisphere and of U.S. policy with respect to them.

I ask unanimous consent that a detailed witness list for the hearings be inserted at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

WITNESS LIST FOR HEARINGS BEFORE THE SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS

WEDNESDAY, OCTOBER 4

Panel 1

The Honorable James Theberge, President, Institute for Conflict and Policy Studies, 1101 17th Street, N.W., Suite 810, Washington, D.C. 20036.

Professor Richard Fagen, Visiting Scholar—Latin America, School of Advanced International Studies, Johns Hopkins University, 1740 Massachusetts Avenue, N.W., Washington, D.C. 20036.

Professor Thomas Skidmore, Department of History, University of Wisconsin, Madison, Wisconsin 53706.

Panel 2

Mr. Henry R. Geyelin, President, Council of the Americas, 1000 16th Street, N.W., Suite 600, Washington, D.C. 20036.

Mr. Alexander Perry, Vice President, Association of American Chambers of Commerce in Latin America, 1615 H Street, N.W., Washington, D.C. 20062.

Professor Albert Fishlow, Department of Economics, Yale University, New Haven, Connecticut 06520.

THURSDAY, OCTOBER 5

Panel 1

The Honorable Abelardo Valdez, Assistant Administrator for Latin America and the Caribbean, Agency for International Development, Washington, D.C. 20523.

The Reverend Joseph T. Eldridge, Director, Washington Office on Latin America, 110 Maryland Avenue NE., Washington, D.C. 20002.

Mr. Thomas E. Quigley, Advisor for Latin America, International Justice and Peace, U.S. Catholic Conference, 1312 Massachusetts Avenue NW., Washington, D.C. 20005.

Panel 2

The Honorable David E. McGiffert, Assistant Secretary for International Security Affairs, Department of Defense, Washington, D.C. 20301.

Mr. Abraham Katz, Deputy Assistant Secretary for International Economic Policy and

Research, Department of Commerce, Washington, D.C. 20230.

The Honorable C. Fred Bergsten, Assistant Secretary for International Affairs, Department of the Treasury, Washington, D.C. 20220.

The Honorable Leonel Castillo, Commissioner, Immigration and Naturalization Service, Department of Justice, Washington, D.C. 20530.

FRIDAY, OCTOBER 6

The Honorable Viron P. Vaky, Assistant Secretary for Inter-American Affairs, Department of State (accompanied by other State Department officials).

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, a hearing will be held by the Committee on Commerce, Science, and Transportation, on the nomination of Samuel D. Zagoria, a Republican of Maryland, to be a Consumer Product Safety Commissioner. The hearing has been scheduled for Thursday, October 5, 1978, at 9 a.m. in room 235 of the Russell Senate Office Building. Mr. Zagoria has been Director of the Labor-Management Relations Service sponsored by the U.S. Conference of Mayors and was formerly a member of the National Labor Relations Board from 1961 to 1965. For further information, please contact Amy Bondurant of the committee staff at (202) 224–9345.

ADDITIONAL STATEMENTS

HEALTH PROGRAMS CONTAINED IN THE LABOR/HEW APPROPRIATIONS BILL

● Mr. KENNEDY. Mr. President, I support the Labor/HEW appropriations bill, H.R. 12929, which provides over $5.3 billion for the health programs of this country.

Mr. President, the voters are sending us a message this year.

They are speaking out at the polling booths against regressive taxes and unreasonable tax rates' against the use of their hard-earned money for pointless or questionable Government programs; and against bureaucratic waste, inefficiency, and incompetence.

But while the voters are telling us in unmistakable terms that they want the tax system reformed and Government made efficient, we must not fail to recognize—and we must not forget—that they have all along been sending us, and continue to impress upon us, a quieter but equally profound message.

That message is that we should levy taxes, and we should appropriate their money, if by doing so we in fact move forward toward achieving those goals so eloquently set forth in the Preamble to the Constitution of the United States.

The voters are in favor of Government programs which, without waste and mismanagement, truly "provide for the common defense."

The voters are in favor of programs which truly "establish justice."

And the voters are in favor of programs which in truth "promote the general welfare, and secure the blessings of liberty."

Today, public support for effective action by the Federal Government is nowhere greater than in the area of health.

Simply stated: The voters are willing to have their tax dollars spent to improve the health of American people.

The bill we consider today will do just that.

Accordingly, Mr. President, I submit that if the voters of the United States had the opportunity to examine and approve the Labor HEW appropriations bill before us, they would overwhelmingly endorse its proposed expenditure of $5.3 billion for health programs.

Their support would not be based merely on what we tell them about the health programs which the bill keeps in operation and often strengthens. Their support would, rather, be based on what these health programs have accomplished in the past; what they are achieving now; and what they promise to do in the future.

Among other things the bill will continue the program of supplemental State efforts to help mothers and children avoid birth-related and early-childhood diseases and disabilities. It should be noted that the better States are able to assist mothers and children in overcoming illnesses and handicaps during the early years, the less dependent the families in question will be on State and Federal Government later on, and the more likely it will be that the children will grow up to become healthy and productive members of society.

The bill sustains the disease "early warning system" and other lifesaving activities carried out by the Center for Disease Control in Atlanta, Ga.

It also continues funding for our national effort to combat alcohol abuse, drug abuse, and mental illness. These health problems—as much as they are social problems—destroy and cripple thousands of individuals each year. Their effect on families can be devastating. They are so widespread that a national effort is required. To the extent that the combined local-State-Federal effort to reduce these problems is advanced because of the community projects and research activities funded at the Federal level, the payoff is incalculable.

The bill also provides money to train the doctors, dentists, and other health professionals of tomorrow, and to increase the likelihood that those rural and urban parts of the country that suffer from a shortage of health professionals will have their special needs met. It is common knowledge that medical education is an expensive proposition. Few college graduates can afford it without outside financial help. At the same time, it is widely recognized that medical students tend to cluster in certain specialty areas and to live in certain parts of the country. The bill provides funds for several programs which, taken together, help insure that the most qualified college graduates—regardless of income—become our doctors and dentists and other health professionals.

I am, however, concerned that the committee's recommendations for capitation for the schools of medicine, osteopathy and dentistry (MOD) are not high enough. The health subcommittee, which I chair, is going to review this legislation next year. To retreat from full funding in this area would be damaging and would unnecessarily penalize the medical schools and health professional educational institutions which have followed the Federal initiative. These programs, on the whole, also raise the odds that medically underserved areas in rural and urban areas will get more health professionals than would normally be the case.

Finally, of the $5.3 billion plus which this appropriations bill would allocate to health programs—other than medicaid and medicare, the bulk of the money, over $3 billion, will go to 11 National Institutes of Health and related institutions. Every disease known to mankind that kills or maims or causes suffering—cancer, hypertension, diabetes, sickle cell anemia, arthritis, cystic fibrosis, Huntington's disease, venereal disease—the list goes on and on—is being attacked by doctors, biologists, biochemists, and others employed by one or another of the national institutes. Without the basic and applied research they do, our chance of having a more long-lived and a healthier population in the future—both world-wide and here in the United States—would be dramatically diminished. The Appropriations Committee, I am pleased to say, has recommended increases for each of the institutions. The committee funding levels are consistent with recommendations I made before the Appropriations Committee.

Mr. President, the public's legitimate insistence upon a first-rate health care system will never be truly answered until Congress enacts an adequate program of National Health Insurance. The people of this country have a right to universal, comprehensive, cost-effective health insurance. They have repeatedly expressed their demand for National Health Insurance, and they continue to express it now if Congress will but pause and listen. It is our obligation, as the Congress, to respond.

National Health Insurance will go hand in hand with a first-rate health care system. Even with such a program enacted into law, most of the health programs which this appropriations bill keeps in operation will be required. We need a center for disease control now, and we will continue to need one in the future. We need today the kind of basic and applied research which the National Institutes of Health are carrying out, and we will continue to need such research for the foreseeable future.

Thus, the bill we consider today must be viewed as the next step—a very important next step—in an overall effort to provide the American people the health care they deserve.

Senator MAGNUSON, I would like to commend you, the members of the Appropriations Committee, and the committee staff for the work you have put into this bill. In its treatment of health programs, it is a good bill.

As chairman of the Human Resources Health Subcommittee, I have always enjoyed the good working relationship with Senator MAGNUSON and his Labor/HEW Subcommittee. I am pleased that the

subcommittee and full committee favorably enacted many of the recommendations I gave in testimony before them. This bill deserves strong Senate support.

Mr. President, in conclusion, let me express my hope that my colleagues in the Senate give their support to the portions of the bill I have been referring to that continue and strengthen some of this Nation's most vital health programs.●

EQUAL RIGHTS AMENDMENT

● Mr. GARN. Mr. President, I had planned on printing the following material in the RECORD at some future time, perhaps next week. However, the events of the past 2 days in obtaining a time agreement on House Joint Resolution 638, the resolution purporting to extend the time for ratification of the Equal Rights Amendment (ERA), require that I insert this material today.

Just over a week ago I wrote DON EDWARDS, chairman of the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee, requesting information about testimony presented to the House subcommittee that was not printed in the House hearings. As I understand it, there were about 10 witnesses who presented written testimony to the committee. These statements should have been printed in the hearings, but were not. I asked Chairman EDWARDS for copies of the missing statements, but he has not yet responded, and I was awaiting his response before printing the statements in the RECORD. The turn of events, however, requires that these statements be printed before I have received Chairman EDWARDS' response.

I am not printing all statements that are in my possession. For example, I have a copy of a statement by George Meany that I am not inserting, because I know that the senior Senator from Indiana (Mr. BAYH) has already inserted Mr. Meany's statement. I am inserting statements from five individuals and one organization; these six represent some of the finest legal minds in the country. It would be most disappointing if Senators did not have the benefit of this material before the issue reaches the floor. It is most unfortunate that House Members did not have the same opportunity to review this material before their votes on House Joint Resolution 638.

I ask that statements of the Honorable Sam J. Ervin, Jr.; Prof. Herbert Wechsler; Prof. Charles Alan Wright; Prof. Stephen A. Saltzburg; Grover Rees III, Esq.; and the Heritage Foundation be printed in the RECORD. I am sure our colleagues will note that this missing testimony represents the thinking of some of the best legal minds in the country. I am pleased to get it into the public record.

The material follows:

SAM J. ERVIN, Jr.,
Morganton, N.C., November 4, 1977.

Hon. LAMAR GUDGER,
House of Representatives,
Washington, D.C.

DEAR LAMAR: I was delighted to note in the press a statement indicating that you do not favor the proposal to extend the time for ratifying or rejecting the so-called Equal Rights Amendment for an additional seven years.

I want to commend your position because I think it is in full accord with the Constitution.

The Supreme Court has held in multitude of cases that the Constitution is the supreme law of the land, and that no act of Congress is of any validity which does not rest on authority conferred by that instrument. One of the most outstanding of the decisions so holding is *Dorr* v. *United States*, 195 U.S. 138, 140, 49 L. Ed. 128, 129, 24 S. Ct. 808, where the Supreme Court had this to say:

"It may be regarded as settled that the Constitution of the United States is the only source of power authorizing action by any branch of the Federal government. The government of the United States was born of the Constitution, and all powers which it enjoys or may exercise must be either derived expressly or by implication from that instrument."

Congress has no power to submit to the states proposals to amend the Constitution of the United States except that expressly granted to it by Article V. Insofar as it is pertinent to the question, Article V reads as follows:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution—which—shall be valid to all Intents and Purposes, as a part of this Constitution, when ratified by the Legislatures of three fourths of the States or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress."

Intellectual honesty compels the conclusion that all action taken by the Congress in submitting proposed amendments to the states must be by a two-thirds majority vote in each of the two houses. This is true in respect to the provisions of the proposed amendments and the provisions relating to how such proposed amendments are to be ratified or rejected.

These things being true, there is not a scintilla of language or reason which justifies the contention that Congress can specify the time for ratification or rejection of a proposed amendment by a majority vote or that it can extend the time after an amendment has been submitted.

The 5th Article contemplates that all action by Congress will be taken at the same time, and that Congress cannot amend in any way an amendment or the terms of its ratification after the original amendment has been submitted.

The other proposition advanced in connection with this matter to the effect that a state which has ratified cannot change its mind and rescind its ratification while a state which has rejected can change its mind and ratify is not only an absurdity, but there is not a syllable in the Constitution to justify it. Since it is a fundamental principle of law that one State Legislature cannot bind another or even itself, a state is at liberty to change its mind either way until three fourths of the states have ratified a proposed amendment and thus made it a part of the Constitution. At that time, and at that time only, does the power of a state to change its mind cease.

I have made a detailed study of this last question and prepared a brief on the subject, which I am enclosing. I will appreciate it very much if you would make arrangements to have a copy of this letter and a copy of my brief inserted in the hearing record of the House Committee or Subcommittee which is now considering the bill introduced by Representative Elizabeth Holtzman.

I am also taking the liberty of sending a copy of this letter and brief to the other members of the North Carolina delegation in the House of Representatives, and to Senator Helms, Senator Morgan, and Senator Allen.

With all kind wishes, I am,

Sincerely yours,

SAM J. ERVIN, Jr.

Enclosure.

STATEMENT OF SAM J. ERVIN, JR., CONCERNING THE BIZARRE AND SPECIOUS CLAIM OF SUPPORTERS OF THE EQUAL RIGHTS AMENDMENT THAT A STATE WHICH HAS REJECTED THE AMENDMENT CAN CHANGE ITS MIND AND VOTE TO RATIFY, WHEREAS A STATE WHICH HAS RATIFIED THE AMENDMENT CANNOT CHANGE ITS MIND AND VOTE TO RESCIND OR WITHDRAW ITS RATIFICATION

1. Several States have voted to rescind or withdraw their previous ratifications of the ERA. Other States are seriously considering doing likewise. To deter the other States from exercising their right to rescind or withdraw their previous ratifications of the Amendment, supporters of the Amendment are now making the bizarre and specious claim that a State which has rejected the Amendment may change its mind and vote to ratify whereas a State which has ratified cannot change its mind and vote to rescind or withdraw its ratification. For reasons hereafter stated, this claim lacks credible support in authority and reason.

Idaho, Nebraska, and Tennessee have voted to rescind or withdraw their previous ratifications of ERA. Other States are seriously considering doing likewise.

To deceive state legislators, who are contemplating such action, into believing that they have no power to do so, and thus deter them from rescinding or withdrawing their previous ratification of the Amendment, supporters of ERA are now vociferously claiming that a state which has rejected the Amendment can change its mind and vote to ratify whereas a state which has ratified cannot change its mind and vote to rescind or withdraw its previous ratification.

Insofar as fairness is concerned, this claim is on a par with the "I win and you lose" proposal of the coin-tossing gambler; and insofar as logic is concerned, it is on a par with the proposition that what is sauce for the legislative goose is not sauce for the legislative gander.

In the last analysis, the advocates of ERA base their bizarre and specious claim upon the supposition that it finds support in the decision of the Supreme Court of the Unted States in *Coleman* v. *Miller*, (1937) 307 U.S. 433, 83 L.Ed. 1385, 59 S.Ct. 972, 122 A.L.R. 695.

As one who has studied this question ever since I began to formulate with the aid of the most knowledgeable constitutional scholars in America a bill to establish procedures to govern a constitutional convention called by Congress on the application of the legislatures of two-thirds of the states pursuant to the alternative method authorized by Article V of the Constitution of the United States, I assert without fear of successful contradiction that the Coleman Case decided nothing of the kind, and that in consequence those ERA supporters who make this claim have no foundation for it in authority or reason.

I digress to point out that my bill, which passed the Senate virtually without opposition on several occasions, expressly authorized states which had ratified a proposed amendment to rescind their previous ratification "provided the ratification of three-fourths of the states had not yet been secured." (See C. Herman Pritchett, "The American Constitution," page 40)

2. The question whether a state which has ratified a proposed amendment to the Fed-

eral Constitution can change its mind and vote to rescind or withdraw its ratification was not even involved in the Coleman Case. Moreover, the question whether a state which has rejected a proposed amendment can change its mind and vote to ratify was not decided in the Coleman Case. On the contrary, the Supreme Court of the United States invoked the "political question" doctrine in the Coleman Case and adjudged that this question is a political matter for the determination of Congress and not a judicial matter for the decision of the Court.

The facts in the Coleman Case were simple. In 1924 Congress proposed an amendment to the Federal Constitution known as the Child Labor Amendment. The resolution submitting it to the states did not limit the time for its ratification. In 1925, the Kansas Legislature rejected it. In 1937, however, a resolution to ratify the Amendment was introduced in the Kansas State Senate, where twenty Senators voted for the resolution and twenty voted against it. The Lieutenant Governor of Kansas, the presiding officer of the Senate, then cast his vote in favor of the resolution. The resolution was later adopted by the Kansas House of Representatives on the vote of a majority of its members.

The twenty Senators who had voted against the resolution and three Representatives then brought an original action in the Supreme Court of Kansas seeking a mandamus to compel the Secretary of the Kansas Senate to record that the resolution had not passed and to restrain the officials of the Legislature from signing the resolution and the Secretary of State of Kansas from certifying it to the Governor.

These Senators and Representatives assailed the attempted ratification of the Child Labor Amendment on these grounds: (1) that the Amendment had been previously rejected by the Kansas Legislature; (2) that it was no longer open to ratification because an unreasonable time, thirteen years, had elapsed since Congress had submitted it to the States; and (3) that the Lieutenant Governor had no right to cast the deciding vote in the Kansas Senate in favor of ratification.

The Supreme Court of Kansas rejected these contentions and upheld the ratification of the Amendment on the ground that a state legislature which has rejected an amendment proposed by Congress may later ratify it.

I digress to observe that this ruling was in accord with the universally accepted principle that a legislative body cannot tie the hands of its successors.

The Supreme Court of the United States, which granted certiorari, split into three irreconcilable groups, who wrote four opinions.

Upon two preliminary questions somewhat procedural in nature, i.e., whether the Supreme Court of the United States had jurisdiction to review the rulings of the Kansas Court, and whether the twenty Kansas Senators had standing to sue, the Justices split five to four.

Chief Justice Hughes and Justices Stone and Reed, who adhered to Chief Justice Hughes' so-called majority opinion, and the two dissenting Justices, McReynolds and Butler, held that the Supreme Court of the United States had jurisdiction and that the twenty Kansas State Senators had standing to sue.

The other four Justices, Roberts, Black, Frankfurter, and Douglas, who adhered to the two opinions written by Black and Frankfurter, disagreed with them because of their view that Congress possesses exclusive power under Article V of the Constitution over the entire amending process and in consequence "neither state nor federal courts can review (the exercise) of that power." (307 U.S. 433, 459.)

With respect to a more substantive question, i.e., whether the Lieutenant Governor had the power to cast the deciding vote in favor of ratification, Chief Justice Hughes had this to say: "Whether this contention presents a justiciable controversy, or a question which is political in nature, and hence not justiciable, is a question upon which the Court is equally divided, and therefore the Court expresses no opinion upon that point." (307 U.S. 433, 447)

It is regrettable that Chief Justice Hughes did not reveal the mystery of how nine or five Justices could be "equally divided" on a constitutional question. In the absence of any such revelation, one is compelled to conclude that one of the Justices was suffering a species of intellectual schizophrenia which disabled him to ascertain the concensus of his own mind.

The Justices split into three irreconcilable groups upon these two remaining questions:

1. Whether a state which had rejected the Child Labor Amendment could subsequently change its mind and vote to ratify it; and,

2. Whether the Child Labor Amendment was no longer open to ratification because an unreasonable time had elapsed since Congress had submitted it to the states.

When the Coleman Case is read in its entirety, it is obvious that the Supreme Court divided on these questions in this fashion:

1. Chief Justice Hughes and Justices Stone and Reed concluded that these questions were political questions for determination by Congress and not judicial questions for the decision of Courts. (307 US 433, 436–457)

2. Justices McReynolds and Butler concluded that the Supreme Court of the United States had judicial power to adjudge and ought to adjudge that the Kansas Legislature had no power to ratify the Child Labor Amendment because an unreasonable time had elapsed since Congress had submitted it to the States. (308 U.S. 433, 470–474)

3. Justices Roberts, Black, Frankfurter, and Douglas concluded that the Supreme Court of the United States was powerless to make any pronouncement in respect to either question because Article V of the Federal Constitution had committed complete and unreviewable power over the entire amending power to Congress. (307 U.S. 433, 456–470)

These diverse conclusions compelled the affirmance of the ruling of the Kansas Supreme Court. In taking such action, Chief Justice Hughes made it plain that the Supreme Court of the United States was not expressing any opinion as to the validity of the basis of the Kansas Court's decision, i.e., that a state legislature which has rejected an amendment proposed by Congress can change its mind and ratify it. He did this by expressly stating that the Supreme Court was affirming the ruling solely "upon the grounds stated in this opinion." (307 U.S. 433, 456)

The only allusion in the Coleman Case to the question whether a state which has ratified a proposed amendment can change its mind and rescind or withdraw its ratification is in the form of dicta, which puts the questions of ratification after rejection and rescission or withdrawal after ratifying in the same category and which appears in this sentence:

"We think that in accordance with this historic precedent the question of the efficacy of ratifications by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in Congress in the exercise of its control over the promulgation of the adoption of the amendment." (307 U.S. 433, 450)

As one who loves constitutional government, I must confess that I am abhorred by the proposition that Congress has complete and unreviewable power to control the amending process in all its stages. This proposition would permit a false decision by a partisan or radical Congress to rob the people, the states, and the courts of their power to enforce constitutional government in our land.

3. All credible commentators agree that the Coleman Case does not support the bizarre and specious claim of the supporters of ERA that a state which has rejected the Amendment can change its mind and vote to ratify whereas a state which has ratified cannot change its mind and vote to rescind or withdraw its ratification.

In preparing this statement, I read the *Coleman Case* many times. Moreover, I consulted comments on it in these publications: the first and only edition (1969) of *Modern Constitutional Law,* which was written by Chester J. Antieau, Professor of Constitutional Law at Georgetown University; the second and last edition (1968) of *The American Constitution,* which was written by C. Herman Pritchett, Professor of Political Science at the University of Chicago; the numerous editions (1920 through 1974) of The Constitution And What It Means Today, which was originally written by Edward S. Corwin, of Princeton University, and which has been revised by others since his death; and the various editions of the Constitution of the United States, Revised and Annotated, which was originally compiled and edited by Edward S. Corwin and which has been printed by the authority of Congress.

All of these authorities share my conviction that the Supreme Court of the United States did not decide anything whatever in the Coleman Case beyond some procedural questions immaterial to our present concern except the proposition that whether a state legislature has ratified a proposed amendment to the Federal Constitution is a political question for the decision of Congress and not a judicial question for the decision of the courts.

I quote their interpretations of the meaning of the Coleman Case.

Professor Antieau quotes this crucial passage from the so-called majority opinion in the Coleman Case: "The question of the efficacy of ratifications by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in the Congress, in the exercise of its control over the promulgation of the amendment." On the basis of the opinion and decision conforming to the view thus expressed, Professor Antieau interpreted the holding in the Coleman Case to be as follows:

"Whether a state has ratified or rejected an amendment to the Federal Constitution is a political question for Congress to decide, and the federal courts will not determine the same. * * * What rules Congress will adopt is not yet obvious." Antieau: Modern Constitutional Law, Vol. 2, Section 12:178, pages 485–486.

By his statement "what rules Congress will adopt is not yet obvious," Professor Antieau asserts, in effect, that there is nothing whatever to indicate what Congress will decide in respect to a previous rejection of a proposed amendment or an attempted withdrawal of a previous ratification. Hence, he declares, in essence, that there is no foundation for the claim of the supporters of ERA in the event the Supreme Court should adhere to the ruling that the question is a political question for Congress and not a judicial question for the court.

Professor Pritchett said that "in *Coleman* v. *Miller* the Supreme Court said" that the state legislature in respect to a proposed amendment to the Federal Constitution "should be regarded as a political matter with the ultimate authority of decision in Congress." *C. Herman Pritchett: The American Constitution,* page 40.

Professor Corwin said:

"From the opinions filed in the case of *Coleman* v. *Miller*, in 1939, in which certain questions were raised concerning the status of the proposed Child Labor Amendment (pending since 1924) it would seem that the Court today regards all questions relating to the interpretation" of Article V of the Constitution of the United States "as political questions, and hence addressed exclusively to Congress." *Edward S. Corwin: The Constitution And What It Means Today*, page 219.

After giving the correct interpretation to the *Coleman Case* that the Supreme Court decided nothing in it except that whether the Kansas Legislature could ratify the Child Labor Amendment after rejecting it, Professor Corwin made this contradictory and confusing statement:

"If a state legislature ratifies a proposed amendment may it later reconsider its vote, the amendment not having yet received the favorable vote of three-fourths of the legislatures? In *Coleman* v. *Miller* this question was answered 'No' on the basis of Congressional Rulings in connection with the adoption of the Fourteenth Amendment. May a legislature, after rejecting a proposed amendment, reconsider and ratify it? On the same basis, this question was answered 'Yes' in *Coleman* v. *Miller*," *Edward S. Corwin: The Constitution And What It Means Today*, page 220.

This contradictory and confusing statement is the only authority I have been able to find for the whimsically strange assertion of the ERA supporters that a state which has rejected can ratify whereas a state which has ratified cannot rescind its ratification.

In addition to being irreconcilable with his own preceding interpretation of the *Coleman Case*, Professor Corwin's second statement is without merit for these reasons:

1. The court did not answer "No" or anything else in the *Coleman Case* to the question whether a state which has ratified a proposed amendment can change its mind and rescind or withdraw its ratification. The court did not and could not answer that question in the *Coleman Case* because it did not arise in that case. In the portion of his opinion quoted by Professor Antieau and set forth above, Chief Justice Hughes alluded to the question by way of dicta when he said, in effect, that the question of the efficacy of an *"attempted withdrawal"* of a previous ratification as well as the question of the efficacy of a subsequent ratification after a "previous rejection" were political questions for Congress and not judicial questions for the courts.

2. The court did not answer "yes" or anything else in the *Coleman Case* to the question whether a state which has rejected a proposed amendment can change its mind and ratify it. Although the Kansas Supreme Court had based its decision upholding the vote of the Kansas legislature ratifying the Child Labor Amendment after a previous rejection upon the view that "a state legislature which has rejected an amendment proposed by Congress may later ratify", the Supreme Court refused to make any such ruling on the ground that the question of the efficacy of the action of the Kansas legislature was a political question for the determination of Congress and not a judicial question for the decision of the Court. Indeed, the Supreme Court even refused to endorse the basis on which the Kansas Supreme Court made its ruling. As appears by the opinion of Chief Justice Hughes in the *Coleman Case* (307 U.S. 433, 456), the Supreme Court of the United States affirmed the judgment of the Kansas Supreme Court upon the grounds stated by Chief Justice Hughes and not for the reasons given by the Kansas Supreme Court.

Professor Corwin's "Yes" and "No" aberration is traceable to the concurrent resolution which Congress adopted on July 21, 1868, and which Chief Justice Hughes cited for precedential support for the unprecedented judicial ruling in the *Coleman Case* that the question whether the Kansas legislature had the power to ratify the Child Labor Amendment after previously rejecting it was a political question for Congress and not a judicial question for the Courts.

To understand why Professor Corwin deemed this resolution a precedent for his "Yes" and "No" proposition, we must know some facts not disclosed by it.

In 1868, Congress was dominated by huge majorities of radicals, who had passed the notorious Reconstruction Acts over President Andrew Johnson's vetoes, and who were bent above all things in putting the proposed Fourteenth Amendment into effect without delay to better their prospects in the approaching fall election.

All of the Southern States except Tennessee had previously rejected the proposed Fourteenth Amendment. An irritated Congress decreed that these states would have no representation in the United States Congress until they adopted new state constitutions conforming to the Reconstruction Acts and ratified the Fourteenth Amendment.

Since the states then numbered 37, ratification of the proposed Fourteenth Amendment by three-fourths of them, i.e., 28, was required by Article V to make the Amendment a part of the Constitution.

As a result of the congressional coercion, the number of ratifying states had risen to 29 by early July 1868. Two of them, Ohio and New Jersey, however, had voted to rescind or withdraw their ratifications.

An impatient Congress ignored the action of Ohio and New Jersey and adopted its concurent resolution of July 21, 1868, declaring that 29 states, including Ohio and New Jersey, had ratified the Fourteenth Amendment and made it a part of the Constitution. At least two of the states, North Carolina and South Carolina, which were enumerated by the resolution among the 29 ratifying states, had previously rejected the Amendment.

While an impatient Congress was taking this precipitate action on the day stated, another state, Georgia, ratified the Fourteenth Amendment and thus made the question of the constitutionality of the ignoring of the recissions or withdrawals of Ohio and New Jersey moot.

This is the shaky basis on which Professor Corwin's "Yes" and "No" aberration rested. An impatient Congress merely ignored what had happened. It did not adjudge that Ohio and New Jersey lacked the power to rescind or withdraw their ratifications.

And even if Congress had done so, its action would be destitute of precedential force under the well established constitutional principle that one Congress cannot tie the hands of a succeeding Congress. *Reichelderfer* v. *Quinn* (1932), 287 U.S. 315, 77 L.Ed. 331, 53 S.Ct. 177, 83 A.L.R. 1429.

Professor Corwin inserted his "Yes" and "No" aberration in the first revision of his book appearing after the decision in the *Coleman Case*. It was repeated without change in subsequent revisions.

Fortunately for the triumph of truth, Professor Corwin made it clear that his "Yes" and "No" aberration did not constitute any part of the decision in the *Coleman Case* when he subsequently compiled and edited the Constitution of the United States of America, Revised and Annotated, for the Congress. I quote his words:

"Prior to 1939, the Supreme Court had taken cognizance of a number of diverse objections to the validity of specific amendments. Apart from holding that official notice of ratification by the several states was conclusive upon the courts, it had treated the questions as justiciable, although it had uniformly rejected them on the merits. In that year, however, the whole subject was thrown into confuson by the inconclusive decision in *Coleman* v. *Miller*. This case came up on a writ of certiorari to the Supreme Court of Kansas to review the denial of a writ of mandamus to compel the Secretary of the Kansas Senate to erase an endorsement on a resolution ratifying the proposed child labor amendment to the Constitution to the effect that it had been adopted by the Kansas State Senate. The attempted ratification was assailed on three grounds: (1) that the amendment had been previously rejected by the state legislature; (2) that it was no longer open to ratification because an unreasonable period of time, thirteen years, had elapsed since its submission to the states; and (3) that the Lieutenant Governor had no right to cast the deciding vote in the Kansas Senate in favor of ratification.

"Four opinions were written in the Supreme Court, no one of which commanded the support of more than four members of the Court. The majority ruled that the plaintiffs, members of the Kansas State Senate, had a sufficient interest in the controversy to give the federal courts jurisdiction to review the case. Without agreement with regard to the grounds for their decision, a different majority affirmed the judgment of the Kansas Court denying the relief sought. Four members who concurred in the result had voted to dismiss the writ on the ground that the amending process is 'political in its entirety, from submission until an amendment becomes a part of the Constitution, and is not subject to judicial guidance, control, or interference at any point.' Whether the contention that the Lieutenant Governor should have been permitted to cast the deciding vote in favor of ratification presented a justiciable controversy was left undecided, the Court being equally divided on the point. In an opinion reported as 'the opinion of the Court', but in which it appears that only three Justices concurred, Chief Justice Hughes declared that the writ of mandamus was properly denied because the question as to the effect of the previous rejection of the amendment and the lapse of time since it was submitted to the states were political questions which should be left to Congress." Constitution of the United States, Revised and Annotated, 1972, pages 860–861.

Hence, Professor Corwin's own words reveal that his final interpretation of the *Coleman Case* is identical with that placed upon it by me in section 2 of this statement.

4. The only reasonable interpretation of Article V of the Constitution, which governs the amendatory process, is that it authorizes a state which has rejected a proposed amendment to change its mind and vote to ratify the same and permits a state which has ratified a proposed amendment to change its mind and rescind or withdraw its ratification at any time before three-fourths of the states have voted to ratify the proposed amendment and thus made it a part of the Constitution. This view rejects the unfair and illogical claim of the advocates of ERA, and permits the states to continue the search for truth until the amendatory process is consummated. And this is so regardless of whether the resultant questions are political questions for Congress or judicial questions for the courts.

I have called attention in other sections of this statement to the bizarre claim of advocates of ERA that a state legislature which has rejected the Amendment may change its mind and vote to ratify it, but a state legislature which has ratified the Amendment cannot change its mind and vote to rescind or withdraw its ratification. They cannot explain in a rational manner why they think the Constitution of the United States grants freedom to some legislative bodies, and imprisons others in mental jails.

They invoke their bizarre claims because they understandably fear that if state legislatures which ratified ERA in haste and un-

der their pressure are permitted to exercise their intelligence and re-examine and re-appraise ERA, they may decide to repent in wisdom of what they did in folly and vote to correct their mistake.

Other Americans, who cannot accept the arbitrary, unfair, illogical, and tyrannical view of advocates of ERA, have advanced two other views in respect to the power state legislatures may exercise in the amendatory process under Article V of the United States Constitution, which authorizes Congress and the states to amend the Constitution and prescribes the process by which they must act to exercise this awesome power.

For ease of statement, I shall call one of these views the Kentucky view, and the other the view shared by multitudes of other Americans and me.

The Court of Appeals of Kentucky expressed the Kentucky view in *Wise v. Chandler*, (1937), 270 Ky. 1, 108 S.W.2d 1024, which held that if a state rejects a proposed amendment it cannot later ratify the same, unless it is resubmitted by Congress.

The Kentucky Court justified its ruling in this way: "We think the conclusion is inescapable that a state can act but once, either by convention or through its legislature, upon a proposed amendment; and whether its vote be in the affirmative or the negative, having acted, it has exhausted its power further to consider the question without a resubmission by Congress." Chester J. Antieau: Modern Constitutional Law, Vol. 2. Section 12:178.

The view shared by multitudes of other Americans and me may be stated in this fashion:

A state legislature does not forefeit its liberty of thought or action as long as the amendatory process is incomplete by either ratifying or rejecting a proposed amendment to the Constitution of the United States. Hence, a state legislature which has rejected a proposed amendment may change its mind and ratify it, and a state legislature which has ratified a proposed amendment may change its mind and rescind or withdraw its ratification at any time before three-fourths of the states have ratified the amendment and thus made it a part of the constitution. Chester J. Antieau: Modern Constitutional Law Vol. 2, Section 12:178; C. Herman Pritchett: The American Constitution, pages 39–40.

On the day of its unprecedented decision in the Coleman Case, the Supreme Court of the United States, by a seven to two vote of the Justices, dismissed without decision the writ of certiorari previously granted by it to review the ruling of the Kentucky Court in Wise v. Chandler on the ground that it no longer presented a justiciable controversy susceptible of judicial determination. *Chandler* v. *Wise*, (1939), 207, 474, 83 L.E. 1407.

If we are to appraise aright the role of state legislatures in the amendatory process, we must read Article V of the United States Constitution in the light of the rules devised by experience, reason, and law to enable state legislatures to perform their functions in civil government.

Article V proclaims:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several states, shall call a Convention for proposing Amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several states or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first Article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate."

No intelligent American will gainsay the proposition that voting to amend the Constitution of the United States is the most crucial task a state legislator can perform. This is true because an amendment to the Federal Constitution will control the lives of all generations of Americans as long as time shall last unless it is sooner removed from that instrument by another Amendment.

With the exception of the proviso making secure the right of each state to equal suffrage in the Senate, there is not a syllable in Article V which undertakes to put any limitation whatever upon what state legislatures can do in their amendatory role except the implied limitation that they can not effectively act after a proposed amendment has been ratified by three-fourths of the states and made a part of the Constitution.

On the contrary, except for the proviso stated, every word of Article V is in complete harmony with these conclusions: (1) A state legislature does not forfeit its liberty of thought or action as long as the amendatory process is incomplete by either ratifying or rejecting a proposed amendment to the Constitution of the United States; and (2) hence, a state legislature which has rejected a proposed amendment may change its mind and ratify it, and a state legislature which has ratified a proposed amendment can change its mind and rescind or withdraw its ratification.

These conclusions are inescapable. Moreover, they are inseparable from the spirit and purpose of Article V, which clearly contemplates that state legislators shall act with complete liberty of spirit and complete freedom of mind as long as state legislatures are participating in the amendatory process.

The rules devised by experience, reason, and law to enable state legislatures in America to perform their functions in civil government are well established in all areas of our land. They are two-fold in nature, and may be stated with simplicity as follows:

1. A state legislature may do what the state and federal Constitutions do not forbid it to do.

16 Am. Jur. 2d, Constitutional Law, Section 228.

72 Am. Jur. 2d, States, Sections 40, 41.

73 Am. Jur. 2d, Statutes, Section 33.

Giozza v. Tiernan (1893), 148 U.S. 657, 37 L. Ed. 599, 13 S.Ct. 721.

Chicago, Burlington and Quincy Railroad v. County of Otoe (1873), 16 Wall. (U.S.) 667, 21 L. Ed. 375.

Ware v. Hylton (1796), 3 Dall. (U.S.) 199, 1 L. Ed. 568.

Lassiter v. Northampton County Board of Elections (1948), 248 U.S. N.C. 102, 102 S.E.2d 853, affirmed 360 U.S. 45, 3 L.Ed.2d 1072, 79 S.Ct. 985.

Village of North Atlanta v. Cook, (1963), 219 Ga. 316, 133 S.E.2d 585, 589.

2. A state legislature cannot restrict or limit the right of a succeeding legislature to exercise its constitutional power in its own way. In other words, it cannot tie the hands of its successors.

72 Am. Jur. 2d. States, Section 40.

73 Am. Jur. 2d, Statutes, Section 34.

Stone v. Mississippi (1880), 101 U.S. 814, 25 L.Ed. 1079.

Newton v. Mahoning County (1880) 100 U.S. 548, 25 L.Ed. 710.

Boston Beer Co. v. Massachusetts (1878), 97 U.S. 25, 24 L.Ed. 989.

Bank of Columbia v. Oakley (1819), 4 Wheat. (U.S.) 235, 4 L.Ed. 557.

Fletcher v. Peck (1810), 6 Cranch (U.S.) 87, 3 L.Ed. 162.

State v. Wall (1967) 271 N.C. 675, 683, 157 S.E.2d 363.

Kornegay v. City of Goldsboro (1920), 180 N.C. 441, 105 S.E. 187.

Village of North Atlanta v. Cook (1963), 219 Ga. 316, 133 S.E.2d 585, 589.

What has been said makes these things plain:

1. The claim of ERA supporters that a state which has ratified the Amendment cannot rescind or withdraw its ratification is totally repugnant to Article V and the rules devised by experience, reason, and law to enable state legislatures to perform their functions in civil government.

2. Although it is impartial and logical, the Kentucky view is inconsistent with Article V because it prohibits further activity by ratifying and rejecting states while the amendatory process is still going on.

3. The view shared by multitudes of other Americans and me is in complete harmony with Article V and the rules devised by experience, reason, and law to enable state legislatures to perform their function in civil government. Hence, this view is the sound one.

5. If the Supreme Court should adhere to its unprecedented ruling in the Coleman Case, Congress will be obligated to judge the question of whether ERA has been ratified by the true meaning of Article V, which is that a state legislature has power to ratify ERA after having previously rejected it and that a state legislature has power to rescind or withdraw its ratification of ERA after having previously ratified it. Since reason, the Constitution and prior Supreme Court decisions compel the conclusion that whether a proposed amendment to the Federal Constitution has been ratified in conformity with Article V is rightly a judicial question, and since subsequent Supreme Court decisions disclose the existing tendency of the Supreme Court to narrow the "political-question doctrine", it seems probable that the Supreme Court will return to its former position and hold that whether ERA has been ratified is a judicial question for its ultimate decision.

The Coleman Case is unprecedented. Moreover, it is contrary to six prior decisions of the Supreme Court, which covered the first 150 years of the nation's history, and which recognized and applied the sound constitutional principle that the question whether a proposed amendment to the Constitution of the United States has been ratified in conformity to Article V is a judicial question for the ultimate decision of the Supreme Court itself. I cite these six cases below.

United States v. *Sprague* (1931), 282 U.S, 716, 75 L.Ed. 640, 51 S.Ct. 220, 71 A.L.R. 1381,

Leser v. *Garnett*, (1922) 258 U.S. 130, 66 L.Ed. 606, 43 S.Ct. 217.

Dillon v. *Gloss* (1921), 256 U.S. 368, 65 L.Ed. 994, 41 S.Ct. 510.

Hawke v. *Smith* (1920), 253 U.S. 221, 64 L.Ed. 877, 40 S.Ct. 498.

National Prohibition Cases, (1920) 253 U.S. 350, 64 L.Ed. 946, 40 S.Ct. 486 (Note: Reported as Rhode Island v. Palmer)

Hollingsworth v. *Virginia*, (1798) 3 Dall. 378, 1 L.Ed. 644.

It is to be noted that the Supreme Court exercised jurisdiction in these cases after the Secretary of State had proclaimed that the Amendment assailed had been ratified by three-fourths of the states. This simple ministerial function has since been transferred to the Administrator of General Services by 1 *U.S.C.A.* 106b.

If the Supreme Court should adhere to its unprecedented ruling in the Coleman Case that questions of the validity of votes of state legislatures engaged in the amendatory process under Article V are political rather than judicial questions under the "political-question doctrine", Congress should be required by the oath of its members to support the Constitution to recognize and implement the true meaning of Article V, which is that

a state legislature has power to ratify ERA after having previously rejected it and that a state legislature has power to rescind or withdraw its ratification of ERA after having previously ratified it. Any other Congressional conclusion would be faithless to Article V.

Sound reason compels the deliberate conclusion that the holding in the Coleman Case constitutes a temporary judicial aberration, and that the Supreme Court will welcome an opportunity to return to its original position, i.e., that questions concerning the ratification of proposed amendments to the Federal Constitution are judicial questions for the ultimate decision of the Supreme Court in accordance with the provisions of Article V.

I set forth below the basis for this observation.

Under Section 2 of Article III of the Constitution, the judicial power of the United States extends to all cases arising under the Constitution, and various Acts of Congress grant the District Courts of the United States original jurisdiction to try such cases and the Courts of Appeal and the Supreme Court of the United States appellate jurisdiction to review the trial of such cases.

Undoubtedly, the most important case which can arise under the Constitution is one involving the question whether that instrument has been changed in the only way in which it can be changed, i.e., by an amendment which has been ratified by three-fourths of the states.

The phraseology of Article III and the Acts of Congress implementing such Article undoubtedly suffice to vest in the courts of the United States jurisdiction to hear and determine cases of this nature, and such Courts did in fact exercise such jurisdiction without question and with the complete satisfaction to the nation during the 150 years after the Constitution became effective.

On June 5, 1939, however, the Supreme Court turned its back on the words of Article III and the Acts of Congress implementing them and 150 years of its own history and adjudged that a case of this nature is a political question for Congress and not a judicial question for it.

These naked facts indicate that the Supreme Court had some difficulty in reaching this strange decision: the case was argued October 10, 1938; it was restored to the docket for re-argument January 30, 1939; it was re-argued April 17 and 18, 1939; and it was finally decided on June 5, 1939 by Justices hopelessly split into three irreconcilable groups, no group constituting a majority.

The Court cited no precedential authority for this unprecedented judicial decision except the historic fact that Congress had declared by a resolution of July 21, 1868, that the Fourteenth Amendment had been ratified by the requisite number of states.

Chief Justice Hughes cited this historic fact in an opinion in which only two other Justices concurred.

He added that this decision of the Congress "has been accepted", and suggested that Congress had the unreviewable authority to make it because Congress had power to authorize the Secretary of State to perform the ministerial function of counting the certificates of the states indiciating ratification and to promulgate the arithmetic result.

It is certainly not surprising that the congressional decision was "accepted" in 1868. Huge radical majorities in both Houses of Congress had reduced President Andrew Johnson to a state of presidential impotence, and cowed the then Supreme Court itself into complete subservience to their will by threatening to take away the appellate jurisdiction of the Court, and even to abolish the Court by constitutional amendment. As a consequence, the Court solemnly adjudged that it did not even have original jurisdiction of "cases * * * in which a state shall be a Party" under clause 2 of section 2 of Article III in April and May, 1867, when Mississippi attempted to secure an injunction to prevent the President from carrying out the reconstruction acts, and Georgia asked the Court to enjoin the military officers from enforcing these acts in that state. (See article on "The United States of America" on page 813 of Volume 22 of the Encyclopedia Britannica, Fourteenth Edition.)

Fortunately for the ultimate welfare of our country, the adoption by Congress of the resolution falsely reciting that Ohio and New Jersey had effectually ratified the Fourteenth Amendment was not the only event which occurred in our land on July 21, 1868.

While Congress was proclaiming this untruth, Georgia actually became the twenty-eighth state to ratify the Fourteenth Amendment. By so doing, Georgia rendered the congressional untruth relating to Ohio and New Jersey immaterial, and made ratification of the Fourteenth Amendment an accomplisned and acceptable fact.

When all is said, the question of whether a state has ratified or rejected a proposed amendment to the Federal Constitution does not properly come within the scope of the "political-question doctrine" as that doctrine has been enunciated and applied in many Supreme Court cases.

The "political-question doctrine" is based on the separation of governmental powers made by the Constitution itself.

Under the doctrine, the Federal judiciary has no power to make any decision in respect to any question if the power to make the decision is expressly or impliedly committed by the Constitution to some other department or agency of government.

The inapplicability of the "political-question doctrine" to the Coleman Case is demonstrated by words used by Chief Justice Hughes himself in that case. He said:

"In determining whether a question falls within that category, the appropriateness under our system of government of attributing finality to the action of the political departments and also the lack of satisfactory criteria for a judicial determination are dominant considerations." (307 U.S. 433, 454–455)

Both of these considerations were lacking in the *Coleman Case*.

There is not a syllable in Article V or any other provision of the Constitution which intimates in the slightest way that it is appropriate to attribute to a politically-surcharged Congress, which has already declared by a two-thirds vote that a proposed amendment to the Federal Constitution is "necessary", the unreviewable power to make a final decision as to whether the proposed amendment has been ratified in conformity with Article V. On the contrary, Article V and every other provision of the Constitution recoils at the suggestion that the most important question which can arise in our system, i.e., whether our Constitution has been changed by an amendment conforming to Article V, should be left to the final determination of what is essentially a political body which is more concerned with political expediency than with the search for truth. Indeed, Article V and every other provision of the Constitution declare by their words, spirit, and purpose that the decision of this question should be made by the judiciary acting with what Edward Burke described as "the cold neutrality of the impartial judge."

Moreover, there is no basis whatever for claiming a "lack of satisfactory criteria for a judicial determination" of a question of this nature. As a practical matter, the question is susceptible of judicial determination under most circumstances by a simple inspection of certificates issued by the appropriate staff officers attesting the action taken by their respective legislatures.

Since the handing down of the *Coleman Case*, the scope of the "political-question doctrine" has been substantially narrowed by *Baker* v. *Carr* (1962) 369 U.S. 186, 7 L.Ed.2d 663, 82 S.Ct. 691, where the Court held in repudiation of former decisions that whether a state had unconstitutionally apportioned voting power in the election of state legislatures presented a judicial question and not a political question; *Bond* v. *Floyd* (1966) 385 U.S. 116, 17 L.Ed.2d 235, 87 S.Ct. 339, where the Court held in substance that whether a state legislature had unconstitutionally deprived a state representative of his seat because of his expressed views presented a judicial question and not a political question; and *Powell* v. *McCormack* (1969) 395 U.S. 486, 23 L.Ed.2d 491, 89 S.Ct. 1944, where the Court held in essence that whether the United States House of Representatives had unconstitutionally deprived a Representative of his seat was a judicial question and not a political question.

The Supreme Court expressly declared in *Baker* v. *Carr* that the relationship between the federal judiciary and the co-ordinate branches of the Federal Government, and not the federal judiciary's relationship to the states, is what gives rise to the "political-question doctrine".

In the light of these decisions and this adjudication, it seems obvious that the Supreme Court will hold if the occasion for its acting in the matter should arise that whether the Equal Rights Amendment has been ratified is a judicial question for the decision of the federal judiciary, and not a political question for the decision of Congress.

Be this as it may, Article V requires that it be decided in accordance with its true meaning, which is that a state may ratify the Amendment if it has previously rejected it, and that a state may rescind or withdraw its ratification if it has previously ratified it.

This April 5, 1977.

SAM J. ERVIN, Jr.

SAM J. ERVIN, JR.,
Morganton, N.C., May 4, 1978.

Hon. DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, House Judiciary Committee, House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am advised that your Subcommittee expects to reopen hearings on the resolution to extend the deadline for ratifying ERA.

Inasmuch as all previous amendments to the Constitution have been ratified within a minimum of four months and a maximum of 3 and 11/12's years after they were submitted to the states, I am totally incapable of comprehending why the proponents of ERA should be given 14 years to attempt to accomplish the objective of ratification.

The truth is that ERA is subject to 3 serious objections. The first is that if ratified it will command Congress and the legislatures of all the states to pretend that sex does not exist when they make laws. The second is that ERA if ratified will transfer from the states to Congress the ultimate power to enact all laws governing the rights and responsibilities of men and women. The third is that ERA if ratified will transfer from the state courts to the federal courts the ultimate power to determine the constitutionality of every law, federal or state, governing the rights and responsibilities of men and women in all areas of our nation.

While I would like to testify in person before your Subcommittee in opposition to the extension of the deadline for ratifying ERA, I am not certain I will be able to be in Washington on that day. Consequently, I have prepared a statement on this subject which I ask that you insert in the hearing record on the resolution. I transmit this statement to you herewith.

Sometime ago, I prepared a detailed statement concerning the claim of some advocates of ERA that a state which has rejected the amendment can change its mind and ratify it, but a state which has ratified the amendment cannot change its mind and rescind its ratification. I also enclose a copy of this statement herewith, and ask that you insert it in the hearing record immediately after my statement on the resolution.

I take the liberty of sending a copy of this letter and copy of each of these statements to the other members of your Subcommittee.

I will appreciate far more than I can say your doing me the kindness of putting these statements in the hearing record.

I recall with much pleasure that you fought so valiantly in the House on so many occasions for the preservation of the basic rights of individuals.

With all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, Jr.,
Former U.S. Senator.

STATEMENT OF SAM J. ERVIN, JR., FORMER UNITED STATES SENATOR FROM NORTH CAROLINA, BEFORE THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS OF THE HOUSE COMMITTEE ON THE JUDICIARY CONCERNING THE POWER OF CONGRESS TO EXTEND THE DEADLINE FOR RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

When it submitted the Equal Rights Amendment to the states for ratification or rejection on March 22, 1972, Congress resolved that the proposed amendment should become a part of the Constitution if ratified by three-fourths of the states within seven years from the date of its submission.

On October 26, 1977, Representative Holtzman and a number of cosponsors introduced in the House of Representatives H.J. Res. 638 which undertakes to extend the deadline for ratifying the Equal Rights Amendment an additional seven years, and this resolution has been referred to this Subcommittee for consideration.

Apart from such matters as the fairness of changing the rules of the game in the ninth inning, H.J. Res. 638 presents to this Subcommittee and the Congress the serious constitutional question as to whether Congress has the power to extend the deadline for ratifying the Equal Rights Amendment.

HOW CONSTITUTION IS TO BE INTERPRETED

Before elaborating my abiding conviction that the Constitution denies to Congress the power to do so, I wish to state how I believe the Constitution is to be interpreted.

I am not numbered among the legal activists who interpret the Constitution to mean what it would have said if they instead of the Founding Fathers had written it.

On the contrary, I believe the Constitution is to be interpreted in the manner described by America's greatest jurist of all time, Chief Justice John Marshall, in his famous opinion in *Gibbons* v. *Ogden*, (1824, 9 Wheat 1, 188, 9 L. Ed. 23, 68. I quote his words:

"As men whose intentions require no concealment generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said."

UNCONSTITUTIONALITY OF H.J. RES. 638

I submit the proposal embodied in H.J. Res. 638 is unconstitutional for several reasons, which I shall enumerate.

1. Congress has no powers except those granted to it by the Constitution either in express words or by necessary implication from express words. Since Article V, which governs its actions in proposing amendments, does not expressly or impliedly authorize Congress to extend the deadline fixed by it on March 22, 1972, for the ratification by the required number of states of the Equal Rights Amendment, Congress has no power to take such action, and the proposal embodied in H.J. Res. 638 is clearly unconstitutional.

As the Supreme Court declared in *Afroyim* v. *Rusk*, (1967), 387 U.S. 253, 257, "'Our Constitution govern us and we must never forget that *our Constitution limits the Government to those powers specifically granted or those that are necessary and proper to carry out the specifically granted ones.*" (Italics added.)

To answer the constitutional question raised by H.J. Res. 638, recourse must be had to Article V of the Constitution, which defines the power of Congress to propose to the states for ratification or rejection amendments to the Constitution.

Insofar as it is relevant to the question posed by H.J. Res. 638, Article V read as follows:

"The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution * * which * * shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several states."

Dr. Oliver Wendell Holmes makes this trenchant observation in his "Autocrat of the Breakfast Table:"

'Life and language are alike sacred. Homicide and verbicide—that is, violent treatment of a word with fatal results to its legitimate meaning, which is its life—are alike forbidden."

Those who maintain that Congress has the power to extend for seven additional years the deadline for state action on ERA are committing first degree verbicide on the words of Article V.

They make a two-pronged attack on the Constitution's words. First, they assert that Congress can extend the deadline because the Constitution is silent on the subject; and, second, that Congress can extend the deadline, even by a majority vote in each House, because the time for ratification or rejection is a matter of procedure and not a matter of substance.

The first of these arguments, i.e., that Congress can do anything with respect to any matter on which the Constitution is silent, is a most revolutionary proposition, which is totally irreconcilable with the indisputable truth that the Constitution contains an enumeration of all the powers granted by the people to the Federal Government.

Every decision of the Supreme Court on the subject recognizes this principle:

"Whenever a question arises as to whether the federal government has the right to exercise any particular authority, recourse must be had to the Constitution itself in order to determine whether such authority is found therein either by express words or by necessary implication." 16 Am. Jur. Constitutional Law, Section 199.

Nothing can be found in Article V or any other provision of the Constitution which *confers on Congress by express words or by necessary implication the power to extend by seven years the deadline for state action respecting ERA.* [Hence, such congressional power is non-existent.]

The second argument is equally as fallacious. It attempts to put asunder what Article V irrevocably joins together. Indeed, it attempts to rewrite Article V.

The Article makes no distinction between matters of procedure and matters of substance—between the time for state action and the wording of a proposed amendment. The Article clearly contemplates that in proposing an amendment to the Constitution, Congress must complete, i.e., finish, end, and conclude, all parts or elements of its proceeding in so doing by two-thirds of both Houses. It is rank *verbicide* of Article V to assert that Congress can propose that the states amend the Constitution by piece-meal or in fragments.

Article V specifically grants to Congress the power to propose amendments to the Constitution. It does not grant it the power, however, to extend the deadline beyond the time originally fixed by it as a reasonable time for state action. Besides, the power to do so is not necessary and proper to carry out the specifically granted power to propose amendments.

The seven years allowed for state action by Congress when it submitted ERA to the States was certainly a reasonable time for such action. Counting the Bill of Rights as a single amendment, the states have ratified 17 amendments since the United States became a Republic.

These amendments were ratified by the required number of states within periods varying from a minimum of 4 months to a maximum of 3 years 11½ months. On an average they required 1.2 years for ratification, and the longest ratification period for the four most recent amendments was 1½ years.

The ERA has now been awaiting ratification since March 22, 1972—a period of more than 6 years 1½ months. Four of the 35 states which ratified it have rescinded their ratifications, and others are seriously considering doing so.

Most of the ratifications occurred before the people of the nation realized these two truths concerning ERA: First, that it requires Congress and the Legislatures of the 50 states to pretend sex does not exist when they make laws; and, second, that it transfers from the states to the Federal Government a substantial part of their legislative and judicial powers.

If the proponents of ERA want to obtain more time for the states to consider the amendment, they ought to do the forthright thing and ask Congress to submit the amendment anew to the states, and thus afford all states the opportunity to act on it *ab initio*.

2. When all is said, the proposal to extend the deadline for state action on ERA necessarily rests on the assumption that it is permissible to read into Article V by way of interpolation or addition a non-existent provision stating, in essence, that if it becomes apparent that the required number of states may not ratify a proposed amendment within the time originally fixed for ratification, Congress shall have the power to extend the time for ratification. It is not constitutionally permissible to read this non-existent provision into Article V. Since this Article is clear in statement and meaning, there is no room for construction, and no excuse for interpolation or addition. Hence, H. J. Res. 638 is clearly unconstitutional.

This conclusion finds complete support in the famous case of *United States* v. *Sprague*, (1931), 282 U.S. 716, 730-732, where the appellees sought to have the Eighteenth Amendment adjudged void notwithstanding it had been ratified by the required number of states on the theory that it was concerned with the liberties of the people instead of the machinery of the federal government, and that Article V impliedly required ratification of amendments affecting the liberties of the people by state conventions rather than state legislatures.

In rejecting this contention and holding that Article V "is clear in statement and in meaning", and that "there is no excuse" for reading a non-existent provision into

it by interpolation or addition, the Supreme Court said:

"The United States asserts that Article 5 is clear in statement and in meaning, contains no ambiguity, and calls for no resort to rules of construction. A mere reading demonstrates that this is true. It provides two methods for proposing amendments. Congress may propose them by a vote of two-thirds of both houses; or, on the application of the legislatures of two-thirds of the States, must call a convention to propose them. Amendments proposed in either way become a part of the Constitution, 'when ratified by the legislatures of three-fourths of the several States or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress * * *.'

"The choice, therefore, of the mode of ratification, lies in the sole discretion of Congress. Appellees, however, point out that amendments may be of different kinds, as, e.g., mere changes in the character of federal means or machinery, on the one hand, and matters affecting the liberty of the citizen on the other. They say that the framers of the Constitution expected the former sort might be ratified by legislatures, since the States as entities would be wholly competent to agree to such alterations, whereas they intended that the latter must be referred to the people because not only of lack of power in the legislatures to ratify, but also because of doubt as to their truly representing the people. Counsel advert to the debates in the convention which had to do with the submission of the draft of the Constitution to the legislatures or to conventions, and show that the latter procedure was overwhelmingly adopted. They refer to many expressions in contemporary political literature and in the opinions of this court to the effect that the Constitution derives its sanctions from the people and from the people alone. In spite of the lack of substantial evidence as to the reasons for the changes in statement of article 5 from its proposal until it took final form in the furnished draft, they seek to import into the language of the Article dealing with amendments, the views of the convention with respect to the proper method of ratification of the instrument as a whole. They say that if the legislatures were considered incompetent to surrender the people's liberties when the ratification of the Constitution itself was involved, a fortiori they are incompetent now to make a further grant. Thus, however, clear the phraseology of Article 5, they urge we ought to insert into it a limitation on the discretion conferred on the Congress, so that it will read, 'as the one or the other mode of ratification may be proposed by the Congress, as may be appropriate in view of the purpose of the proposed amendment.' This cannot be done.

"The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning; where the intention is clear there is no room for construction and no excuse for interpolation or addition.

"If the framers of the instrument had any thought that amendments differing in purpose should be ratified in different ways, nothing would have been simpler than so to phrase Article 5 as to exclude implication or speculation. The fact that an instrument drawn with such meticulous care and by men who so well understood how to make language fit their thought does not contain any such limiting phrase affecting the exercise of discretion by the Congress in choosing one or the other alternative mode of ratification is persuasive evidence that no qualification was intended."

OTHER OBSERVATIONS

In his statement of October 28, 1977, Charles L. Black, Jr., Sterling Professor of Law at Yale University, states, in essence, his opinion that Congress has power to extend the deadline for state action on ERA because of "the entire silence of the Constitution on the subject." I disagree most emphatically with this statement. As the Supreme Court has ruled in cases past numbering Congress obtains no power from the silence of the Constitution. On the contrary, Congress has no power whatever except that given it by the express words of the Constitution or by necessary implications from such words.

I do agree with Professor Black wholeheartedly, however, in the following views set forth in the same statement:

"If the original resolution combined the proposal of the amendment and the setting of the time limit, the integral package being then passed by ⅔ vote (and I understand this to have been true of the Equal Rights Amendment) then it seems to me plainly right that a ⅔ vote of each House of Congress should be required for an extension. It may easily happen, in any given case, that a vote for the original resolution is cast partly on the ground that, in the view of the caster of the vote, the time is suitably limited. If this is not possible then that must be because the limitation of time in the first instance was utterly meaningless—an impermissible assumption. It is impermissible to assume that this question of time never matters to anybody; if that were so, why put it in? It cannot therefore be assumed that the original would surely have passed by the requisite ⅔ majorities if the time had been longer. On a constitutional question of this kind one cannot afford to guess, as to a particular amendment, what might have happened; one must rather follow a procedure which would always be suitable and fair."

"It seems to me that it would be entirely impermissible to extend the time for ratification without also extending the time for rescission. Extension of time, in my view, must be for action on the amendment, and not simply for one kind of action on the amendment. The concept of 'contemporaneous consensus' is more and more stretched and violated as more and more time passes with States having actually changed their minds on the merits of an amendment proposal.

"The extension of time for ratification but not for rescission would be so grotesque that I should think that one would not have to reach the constitutional question, but if the question is reached I am firmly of the opinion that lopsided extension would be unconstitutional and that an amendment adopted in that fashion would be invalidly adopted. The right to rescind, in my view, arises by operation of law, and cannot be taken away by Congress."

I wish to make an additional comment upon Professor Black's statement that "it would be entirely impermissible to extend the time for ratification without also extending the time for rescission" because "extension of time * * * must be for action on the amendment, and not simply for one kind of action on the amendment."

3. Since no amendment can be made to the Constitution without the concurrence of three-fourths of the several states, Article V necessarily extends to each state the liberty to ratify or reject any proposed amendment, and Congress has no power to limit this liberty at any time or in any way while the amendatory process is in operation. The liberty to ratify embraces the liberty to rescind a prior rejection, and the liberty to reject embraces the liberty to rescind a prior ratification as long as the amendatory process is incomplete. In consequence, Professor Black is right in declaring that if it has the power to extend the time for ratification of ERA, Congress must extend the time for rescinding it. Hence, if Congress extends the time for state action on ERA, the states which have already ratified it will have a constitutional right to rescind their prior ratifications at any time during the extended period antedating ratification by three-fourths of the states. What is said in subdivision 4 below fully supports these conclusions.

As the Supreme Court declared in *South Carolina* v. *United States*, (1905) 199 U.S. 437, 448: "Two propositions in our constitutional jurisprudence are no longer debatable. One is that the national government is one of enumerated powers; and the other, that a power enumerated and delegated by the Constitution to Congress is comprehensive and complete, without other limitations than those found in the Constitution itself."

While it expressly authorizes Congress to propose amendments to the states by a two-thirds vote of both Houses, Article V impliedly and necessarily limits the power of Congress by forbidding it to limit the liberty of the states to ratify or reject or to rescind their actions respecting the proposed amendments.

Some advocates of ERA make the bizarre claim that a state legislature which has rejected the amendment may change its mind and vote to ratify it, but a state legislature which has ratified the amendment cannot change its mind and vote to rescind or withdraw its ratification. They cannot explain in a rational manner why they think the Constitution of the United States grants freedom to some legislative bodies, and imprisons others in mental jails.

They invoke their bizarre claim because they understandably fear that if state legislatures which ratified ERA in haste and under their pressure are permitted to exercise their intelligence and re-examine and reappraise ERA, they may decide to repent in wisdom of what they did in folly and vote to correct their mistake. Indeed, four of them, Tennessee, Nebraska, Idaho, and Kentucky, have done precisely that.

This bizarre claim is without foundation in law, logic, common sense, or fair play. I prepared a statement on this subject some months ago, and am forwarding a copy of it to the Subcommittee with this statement with the request that it be inserted in the hearing record following this statement.

4. The only reasonable interpretation of Article V of the Constitution, which governs the amendatory process, is that it authorizes a state which has rejected a proposed amendment to change its mind and vote to ratify the same and permits a state which has ratified a proposed amendment to change its mind and rescind or withdraw its ratification at any time before three-fourths of the states have voted to ratify the proposed amendment and thus made it a part of the Constitution. This view rejects the unfair and illogical claim of the advocates of ERA, and permits the states to continue the search for truth until the amendatory process is consummated. And this is so regardless of whether the resultant questions are political questions for Congress or judicial questions for the courts.

No intelligent American will gainsay the proposition that voting to amend the Constitution of the United States is the most crucial task a state legislator can perform. This is true because an amendment to the Federal Constitution will control the lives of all generations of Americans as long as time shall last unless it is sooner removed from that instrument by another Amendment.

With the exception of the proviso making secure the right of each state to equal suffrage in the Senate, there is not a syllable in Article V which undertakes to put any limitation whatever upon what state legislatures

can do in their amendatory role except the implied limitation that they can not effectively act after a proposed amendment has been ratified by three-fourths of the states and made a part of the Constitution.

On the contrary, except for the proviso stated, every word of Article V is in complete harmony with these conclusions: (1) A state legislature does not forfeit its liberty of thought or action as long as the amendatory process is incomplete by either ratifying or rejecting a proposed amendment to the Constitution of the United States; and (2) hence, a state legislature which has rejected a proposed amendment may change its mind and ratify it, and a state legislature which has ratified a proposed amendment can change its mind and rescind or withdraw its ratification.

These conclusions are inescapable. Moreover, they are inseparable from the spirit and purpose of Article V, which clearly contemplates that state legislators shall act with complete liberty of spirit and complete freedom of mind as long as state legislatures are participating in the amendatory process.

The rules devised by experience, reason, and law to enable state legislatures in America to perform their functions in civil government are well established in all areas of our land. They are two-fold in nature, and may be stated with simplicity as follows:

1. A state legislature may do what the state and federal Constitutions do not forbid it to do.

16 Am. Jr. 2d, Constitutional Law, Section 228.

72 Am. Jur. 2d, States, Sections 40, 41.

73 Am. Jur. 2d, Statutes, Section 33.

Giozza v. *Tiernan* (1893), 148 U.S. 657, 37 L.Ed. 599, 13 S.Ct. 721.

Chicago, Burlington and Quincy Railroad v. *County of Otoe* (1873), 16 Wall. (U.S.) 667, 21 L.Ed. 375.

Ware v. *Hylton* (1796), 3 Dall. (U.S. 199, 1 L.Ed. 568.

Lassiter v. *Northampton County Board of Elections* (1948), 248 N.C. 102, 102 S.E.2d 853, affirmed 360 U.S. 45, 3 L.Ed.2d 1072, 79 S.Ct. 985.

Village of North Atlanta v. *Cook*, (1963), 219 Ga. 316, 133 S.E. 2d 585, 589.

2. A state legislature cannot restrict or limit the right of a succeeding legislature to exercise its constitutional power in its own way. In other words, it cannot tie the hands of its successors.

72 Am. Jur. 2d, States, Section 40.

73 Am. Jur. 2d, Statutes, Section 34.

Stone v. *Mississippi* (1880), 101 U.S. 814, 25 L.Ed. 1079.

Newton v. *Mahoning County* (1880), 100 U.S. 548, 25 L.Ed. 710.

Boston Beer Co. v. *Massachusetts* (1879), 97 U.S. 25, 24 L.Ed. 989.

Bank of Columbia v. *Okely* (1819), 4 Wheat. (U.S.) 235, 4 L.Ed. 557.

Fletcher v. *Peck* (1810), 6 Cranch (U.S.) 87, 3 L.Ed. 162.

State v. *Wall* (1967), 271 N.C. 675, 683, 157 S.E.2d 363.

Kornegay v. *City of Goldsboro* (1920), 180 N.C. 441, 105 S.E. 187.

Village of North Atlanta v. *Cook* (1963), 219 Ga. 316, 133 S.E. 2d 585, 589.

What has been said makes these things plain:

1. The claim of ERA supporters that a state which has ratified the Amendment cannot rescind or withdraw its ratification is totally repugnant to Article V and the rules devised by experience, reason, and law to enable state legislatures to perform their functions in civil government.

2. The views shared by multitudes of other Americans and me are in complete harmony with Article V and the rules devised by experience, reason, and law to enable state legislatures to perform their function in civil government.

3. Congress has no power under the Constitution to extend the deadline for ratifying ERA.

4. Assuming that this sound conclusion is incorrect and that Congress does have the power to extend the deadline for state action on ERA, it will inevitably follow that Congress cannot extend the deadline for ratifying the amendment without automatically extending the deadline for rejecting it, and that any states which have previously ratified it shall be at liberty to rescind or withdraw such ratifications at any time during the extended period antedating ratification by three-fourths of the states.

In closing, I urge the Subcommittee to disapprove H.J. Res. 638 either because it is unconstitutional, or because the time fixed for state action in the resolution submitting it was reasonable and ought not to be extended as a practical matter.

SAM J. ERVIN, JR.,
MORGANTOWN, N.C.,
June 19, 1978.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR PETER: In re: H.J. Res. 638—To extend the deadline for ratification of ERA for an additional 7 years.

I send a copy of this letter to you and to each member of the House Judiciary Committee with the fervent prayer that each of you will read it and ponder its contents before taking a vote on H.J. Res. 638, the proposal to extend the deadline for ratification of ERA for an additional 7 years.

The motivation for the letter is solely the love I entertain for our country.

Many people do not understand ERA. They think it will abolish all discriminations against women. This is not so.

Discriminations may be created by law, or by the customs of society, or by nature. ERA is directed solely against discriminations made by law. It will not abolish discriminations made by customs or society, or by nature, or change in any way the real differences between men and women.

I do not question the sincerity of the advocates of ERA. They have simply permitted their zeal for its ratification to blind them to realities. ERA is neither necessary nor wise. If one will only take the trouble to study the recent acts of Congress and the recent acts of state legislatures, one will discover that virtually every law, federal or state, which in times past made invidious discriminations against women has been repealed. If one will take the trouble to read 14 decisions made by the Supreme Court since 1971 interpreting the due process clause of the Fifth Amendment which applies to the federal government, and the equal protection clause of the Fourteenth Amendment which applies to the states, he will discover that the Supreme Court has adjudged that no law, federal or state, which deprives any women of any legal right justly hers is unconstitutional.

The Supreme Court has done this by virtually overruling all previous decisions to which ERA advocates have objected, and by expressly holding that every law, federal or state, which makes any distinction between the legal rights of men and women is unconstitutional unless the distinction is based on rersonable grounds and protects women in some role they play in life. I will be glad to furnish citations to these 14 decisions to anyone who desires them.

ERA is not only unnecessary, but it is exceedingly unwise. Indeed, it is fraught with great peril to women. ERA is not to be interpreted according to the benign notions of its advocates. It is to be interpreted according to the language in which it is stated. When it is interpreted according to its language, it will clearly nullify present laws extending economic protection to wives, mothers, widows, and children. Besides, it is difficult for anyone to explain how its words can be interpreted with intellectual honesty without invalidating many criminal laws which protect all women against criminal acts.

One thing is indisputably plain—ERA will transfer from the states to the Congress enormous legislative powers and from the states to the Supreme Court enormous judicial powers, and in that way substantially impair the system of federal-state government which the Constitution was ordained to establish.

It is not my primary purpose, however, to argue in this letter the merits of ERA. My purpose is to state three principal reasons why the House Committee on the Judiciary should vote to reject the prosposal to extend the deadline for its ratification.

1. Congress does not have the constitutional power to extend the seven year period fixed for state action by the original resolution of March 23, 1972.

This proposition finds complete support in the unanimous opinion of the Supreme Court in *Dillon* v. *Gloss*, (1920) 256 U.S. 368, 65 L. Ed. 994, 997, where the Court declares that proposal of an amendment by the Congress and its ratification by the states "are not treated as unrelated acts, but as succeeding steps in a single endeavor."

H.J. Res. 638 undertakes to do in two endeavors what the Supreme Court declares must be done in a single endeavor.

2. A proposed amendment loses its potency unless it is ratified by three fourths of the states within a reasonable time after it is submitted by Congress. The 92nd Congress determined that a reasonable time for the ratification or ERA will expire on March 22, 1979. The 95th Congress cannot permit any state to vote on this matter after that date unless it proposes ERA to the states a second time, i.e., anew.

When it submitted the Equal Rights Amendment to the states for ratification or rejection on March 22, 1972, the 92nd Congress resolved that ERA should become a part of the Constitution only if it should be ratified by the legislatures of three-fourths of the states within seven years from the date of its submission. By so doing, the 92nd Congress declared that a reasonable time for state action on ERA will expire March 22, 1979.

In fixing the seven year limit for state action on ERA, the 92nd Congress followed the precedents set by Congress in submitting virtually all recent amendments to the states. Besides, its action harmonized with the Supreme Court decision in *Dillon* v. *Gloss*, which expressly adjudged that the Congress which submits a proposed amendment may fix a definite period for its ratification provided it keeps within reasonable limits, and that the Congress which submitted the 18th Amendment acted within reasonable limits when it specified that it should be ratified by the requisite number of states within seven years.

Advocates of ERA have already had a longer time to persuade the requisite number of states to ratify ERA than the advocates of any amendment ever added to the Constitution. All amendments heretofore adopted have been ratified within periods varying from a minimum of 4 months to a maximum of less than 4 years.

In the very nature of things, the power to fix a reasonable time for state action on a proposed constitutional amendment must reside in the Congress which submits it. It cannot be determined retroactively by a subsequent Congress motivated by the fact that the requisite number of states have refused to ratify it within the reasonable limit originally established.

The 95th Congress has power to legislate for the future. It has no power to amend the past. And that is precisely what it would be trying to do if it undertook to

amend a congressional resolution adopted on March 22, 1972, by striking out seven years and inserting in its place fourteen years.

The reasons why a fair inference or implication from Article V is that ratification must be within a reasonable time after the proposal are well stated by the Supreme Court in *Dillon* v. *Gloss*. Let me quote the Court's words:

"First, proposal and ratification are not treated as unrelated acts, but as succeeding steps in a single endeavor, the natural inference being that they are not to be widely separated in time. Secondly, it is only when there is deemed to be a necessity therefor that amendments are to be proposed, the reasonable implication being that when proposed they are to be considered and disposed of presently. Thirdly, as ratification is but the expression of the approbation of the people and is to be effective when had in three-fourths of the states, there is a fair implication that it must be sufficiently contemporaneous in that number of states to reflect the will of the people in all sections at relatively the same period, which, of course, ratification scattered through a long series of years would not do."

After stating these things, the Supreme Court declared that if a proposed amendment is not ratified by three-fourths of the states within a reasonable time, it is "not again to be voted upon, unless a second time proposed by Congress." (256 U.S. 368, 375, 65 L.Ed. 994, 997)

Congress cannot extend the deadline by passing H.J. Res. 638 because it would be attempting to do in two endeavors what the Supreme Court says must be done in a single endeavor and because a reasonable time for the ratification of ERA has expired.

To be sure, however, Congress can submit the ERA to the states anew, i.e., a second time. For understandable reasons, advocates of ERA do not desire Congress to submit the amendment to the states a second time, i.e., anew. They recognize that such action can be taken by Congress only by a vote of two-thirds of both of its Houses, and will impose upon them the burden of persuading the legislatures of three-fourths of the several states to adopt new ratifying resolutions if ERA is to become a part of the Constitution.

Hence, it is not surprising that they seek to beat what they deem to be a constitutional devil around the stump. They emulate the ostrich. By sticking their heads in the sand, they blind themselves to the wording of Article V and to what the Supreme Court expressly declared in the case of *Dillon* v. *Gloss*.

Having done this, they conjure up these unsupportable notions: First, Congress can extend the deadline for ratifying the ERA by a simple majority vote of both Houses; second, a state which has ratified ERA cannot change its mind and rescind its ratification, but a state which has rejected ERA can change its mind and ratify it; and third, by extending the deadline for ratification instead of submitting ERA a second time, i.e., anew, to the states, Congress can embalm and preserve the vitality of ratifying resolutions adopted by states prior to the expiration of the original deadline of March 22, 1979.

These notions are clearly untenable. The first notion is totally inconsistent with the words of Article V. If it extends the deadline, Congress will be proposing that states vote on ERA during an additional 7 years, and Article V makes it as clear as the noonday sun in a cloudless sky that Congress cannot propose that the states vote on any amendment except by a two-thirds vote of both of its Houses.

The second notion ignores the fundamental differences between the delegated powers which Congress enjoys and the original powers which a state legislature enjoys. Congress cannot take any action whatever unless it is authorized to do so either expressly or impliedly by a provision of the Constitution of the United States. A state legislature on the contrary can do anything it is not forbidden to do by the Constitution of its state or by the Constitution of the United States.

Neither the Constitution of any state or the Constitution of the United States forbids a state to reverse its action in respect to a proposed amendment at any time before the amendatory process is complete, i.e., until the proposed amendment has been ratified by three-fourths of the states and thereby made a part of the Constitution. Consequently, until that has happened, a state which has ratified ERA can change its mind and rescind its ratification, and a state which has rejected ERA can change its mind and ratify it.

Four of the states, Tennessee, Nebraska, Idaho, and Kentucky, have expressly rescinded their prior ratification of ERA, and thereby reduced to 31 the number of states whose ratifications of ERA are still valid.

For the two reasons previously stated, Congress has no power to extend the deadline for ratifying ERA beyond March 22, 1979.

But even if it possessed such power, Congress could not keep ratifications made before the expiration of the original deadline in force after that time by passing H.J. Res. 638. This is true because those ratifications applied to a proposed amendment which was to be effective only if it should be ratified by the legislature of three-fourths of the states *within SEVEN—not fourteen—years* from its submission by the Congress.

3. What has just been said is emphasized by the express language of the ratifying resolutions of at least twenty nine of the states which describe the proposed amendment they are ratifying as one which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the Congress.

The twenty nine states so describing the proposed amendment they were ratifying as one expiring after March 22, 1979, if not ratified by three-fourths of the states by that time, and the years of their ratifying resolutions were as follows:

1. California	1972
2. Colorado	1972
3. Connecticut	1973
4. Delaware	1972
5. Hawaii	1972
6. Idaho	1972
7. Indiana	1977
8. Iowa	1972
9. Kansas	1972
10. Maine	1974
11. Maryland	1972
12. Massachusetts	1972
13. Michigan	1972
14. Minnesota	1973
15. Montana	1974
16. Nebraska	1973
17. New Hampshire	1972
18. New Mexico	1973
19. New York	1972
20. North Dakota	1975
21. Ohio	1974
22. Oregon	1973
23. South Dakota	1973
24. Texas	1972
25. Vermont	1973
26. Washington	1973
27. West Virginia	1972
28. Wisconsin	1972
29. Wyoming	1973

By virtue of their express language, the ratifying resolutions of these twenty nine states will become null and void after March 22, 1979, if ERA is not ratified by the legislatures of three-fourths of the states by that date.

It is to be noted that ERA was ratified by these twenty nine states in the following years: 15 states in 1972, 9 states in 1973, 3 states in 1974, 1 state in 1975, and 1 state in 1977.

It is not only unconstitutional, but also irrational to count these states as voting for ratification after March 22, 1979, if ERA is not ratified by three-fourths of the states by that date.

This is so because these ratifications were made in political haste immediately after ERA was submitted, and before legislators had reason to know that ERA is unnecessary or unwise.

I did not have access to the ratifying resolutions of Kentucky and Tennessee which were adopted in 1972. Consequently, I cannot state whether or not the ratifying resolutions of Kentucky and Tennessee expressly stated that they were ratifying an amendment which was to become effective as a part of the Constitution only if it should be ratified by three-fourths of the several states within 7 years after its submission by the Congress. If the ratifying resolution of these two states so stated, it would increase to 31 the number of states which describe the amendment they were ratifying as one which had to be approved by three-fourths of the states by March 22, 1979.

The distinction between what the advocates of ERA say they seek and what ERA, if ratified, would actually do is as wide as the gulf which yawns between Lazarus in Abraham's bosom and Dives in hell. ERA declares invalid any law which abridges, i.e., lessens or diminishes, equality of right on account of sex. If ratified, ERA must be interpreted to mean what it says.

Its advocates assert that they merely seek to abolish unjust legal discriminations against woman. Unfortunately, a ratified ERA would abolish all legal distinctions based on sex irrespective of whether such distinctions are beneficial or detrimental, just or unjust, wise or foolish.

ERA declares that all laws must apply to men and women in exactly the same manner. Hence, a ratified ERA would invalidate laws imposing upon husbands the primary duty of supporting their wives, laws imposing upon fathers the primary duty of providing food for their helpless and hungry children, and the acts of Congress which specify that only men can be enlisted or drafted for service in combat with the war-time enemies of the United States. What ERA would do to marriage laws is obvious. These laws deny the right to marry to two persons of the same sex.

ERA is subject to no exceptions. If it is ratified, it will operate with the inexorable impartiality of Procrustes who made all his guests to conform to the length of his bed by cutting off legs that were too long or stretching legs that were too short.

ERA is well phrased to convert the two sexes whom God created into a legal unisex. While it can accomplish this constitutionally bizarre result, ERA cannot abridge in any way the decree of the Almighty that only men can begat children and only women can bear them.

Sex is the most potent force on earth because it alone permits human beings to live on this planet. Despite this reality, ERA commands all American Legislators to pretend that sex does not exist when they make laws to govern the activities of men and women.

No one can envision the effect which a ratified ERA would do to our legal system. It will not stop with invalidating all laws whose language makes distinctions between the rights of men and women. It will even invalidate all laws which in operation unintentionally have a greater impact upon one sex or the other. This observation is illustrated by a recent decision of the Supreme Court

adjudging a state law prescribing physical qualifications for prison guards an illegal sexual discrimination against women under the provisions of Title VII of the Civil Rights Act of 1964 because its unintended impact on women was greater than its impact on men because of differences in the heights and weights of men and women.

Let me cite the recent Supreme Court decision in *Dothard* v. *Rawlinson*, (1977) 53 L.Ed.2d 786. An Alabama statute specified minimum height and weight requirements of 5 feet, 2 inches and 120 pounds for employment as a state prison guard, and an Alabama regulation prohibited the hiring of women as prison guards at the state's maximum security male prisons in "contact positions" which required continual close physical proximity to inmates. A diminutive woman, who did not meet the minimum 120 pound weight requirement, sued Alabama authorities under Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment, to compel them to employ her as a prison guard at an Alabama maximum security male prison, a job requiring close physical proximity to inmates. The majority of the Supreme Court made these rulings: (1) That the lower court had correctly ruled that the Alabama statute discriminated against the woman on the basis of her sex because the minimum height and weight requirements would bar 41 percent of women and only 1 percent of men from employment as prison guards, and Alabama offered no countervailing evidence that the requirements had any relation to the strength necessary for prison guards; and (2) that the regulation barred the woman from obtaining the job, however, under the provision of Title VII permitting sex-based discrimination where sex is a bona fide occupational qualification.

It is noted that the *Dothard* case was decided on the basis of an exception in Title VII, and that no such exception is incorporated in ERA, which covers all legal rights of men and women—not employment rights only.

Persons who are not troubled by section 2 of ERA ought to read the decision of the Supreme Court in *Katzenbach* v. *Morgan*, (1966) 384 U.S. 641, 16 L.Ed.2d 828, which expressly holds that when it exercises its power under section 5 of the Fourteenth Amendment to enforce by appropriate legislation the other provisions of the Amendment, Congress can nullify provisions of the Constitution which specifically confer power on the states.

Katzenbach v. *Morgan* makes this astounding ruling: Section 5 of the Fourteenth Amendment authorizes Congress to do these things: First, to nullify a state law which Article I, section 2, Article II, section 2, and the Seventeenth Amendment gave the state power to enact and which the Supreme Court had adjudged in *Lassiter* v. *Northampton County Board of Education*, (1959) 360 U.S. 45, 3 L.Ed.2d 1072, was in perfect harmony with the provisions of the Constitution; and, second, to supplant the nullified state law with a federal statute which Congress was forbidden by the same three constitutional provisions to enact.

Chief Justice Salmon P. Chase rightly declared in the famous Supreme Court case of *Texas* v. *White*, (1871) 10 Wall. 483, 19 L.Ed. 992, that the Constitution was ordained to establish "an indestructible union composed of indestructible states."

If it is ratified, ERA will substantially frustrate this purpose by virtually reducing the states to meaningless zeros on the nation's map.

With all good wishes for you and our country, I am

Sincerely yours,

SAM J. ERVIN, Jr.

COLUMBIA UNIVERSITY
SCHOOL OF LAW,
New York, N.Y., February 13, 1978.

Hon. DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, Washington, D.C.

DEAR CONGRESSMAN EDWARDS: Thank you for your letter reminding me of your request for my opinion on the constitutional questions presented by the proposal to extend the time for the ratification of the Equal Rights Amendment.

I regret the delay in my response but the more I have reflected on the questions you propounded, the less confident I have been of the answers. All I can do, therefore, is to articulate the considerations that would weigh most heavily with me in confronting the problems before the Subcommittee or evaluating any action it may take.

First: I read the decision and opinions of the Supreme Court in Coleman v. Miller as an indication that congressional action to extend the time is unlikely to encounter a judicial veto if the amendment should be ratified by the legislatures of three-quarters of the states during the extended period.

The Court's decision in Coleman that it is for Congress rather than the courts to determine whether a proposed amendment lost its vitality because of the passage of an unreasonable time from its submission suggests to me that the Court also would withhold judgment as to whether Congress may extend the time for ratification prescribed in a resolution submitting an amendment. The constitutional values in both cases are the same: to maintain the viability of the procedure for amendment by allowing ample time for national debate and political decision but to assure that the congressional determination of necessity for an amendment and the assent of the state legislatures or conventions are sufficiently contemporaneous to signify the broad, current support demanded for a change in our fundamental law.

The Court's view that Congress is the proper organ to resolve that issue when no ratifying period was prescribed in the proposing resolution implies, as it seems to me, that the prescription of such a period (unless itself a part of the amendment) must be subject to the continuing evaluation and control of Congress. The issues that adjudication would confront and the materials available for their solution are too similar in the two situations to warrant any difference in result.

Second: What has been said leads me to think that Congress can extend the ratifying period (and thus to answer your first question in the affirmative), in the sense that if it does so I believe that its action will be legally effective.

Whether it should do so, however (your third question), seems to me not only to involve what you call "a matter of policy" but also to have constitutional dimensions, in the sense that Congress is now called upon to ask itself not only whether it still favors the Equal Rights Amendment and wishes to allow more time for its approval but also what position with respect to an extension of time will best discharge the responsibility of Congress in the management of the process and procedure for amendment. In other words, assuming that Congress has the power to extend the time, I urge that it consider whether the general proposition that time may be extended will promote or impair the fairness and effectiveness of the amendatory process.

Viewing the issue in this way, I have grave doubt that the assumption of a power to extend is constitutionally beneficial.

The most important point for me in this connection is that I believe that history has bound us to the proposition that a state legislative ratification of a proposed amendment cannot be effectively rescinded, whatever change of sentiment may have occurred. This, to be sure, is a question that the Coleman decision also remits to the Congress for determination. I cannot believe, however, that Congress could responsibly repudiate the tradition of a century upon this point, jeopardizing as it would the ratification of the Fourteenth and Fifteenth Amendments. But if state legislative ratifications are inexorably binding, an extension of the period originally fixed for ratification is inevitably a one-sided proposition. States that have withheld consent may subsequently ratify but those that have ratified and have repented of their judgment cannot effectively withdraw their earlier support.

If that position is to be maintained—and it assuredly should not be modified because of support for or opposition to a particular amendment—it argues strongly, in my view, against the fairness and the wisdom of extending the period initially prescribed for ratifying a proposed amendment.

A second though a lesser point, in my opinion, is that when the resolution that proposes an amendment specifies a period of time within which ratification shall be effective, members of Congress who support the resolution and ratifying legislatures of the states hay have been influenced by the restriction in expressing their support or their assent. There is, however, no extrinsic evidence respecting such reliance and Congress alone can judge if it should be accorded any weight.

It may be argued, to be sure, that the difficulties I have noted would be overcome if an extension of the ratifying period were accompanied by a provision indicating that state rescissions of prior ratifications, like ratifications following prior rejections, will be respected by Congress when ratification vel non is adjudged. Such action would, I think, be impervious to a judicial veto, though I doubt that it could bind the future Congress sitting when the question of ratification is considered.

If Congress decides to extend the time for ratifying the Equal Rights Amendment, I think that a provision of this kind should be considered to promote the essential fairness of the process. I would urge, however, that it is far preferable that the traditional position on rescission be respected and maintained because of the historic import it has had and also for its value in providing a fixed terminus to the amendment process in each state, analogous to the finality of a congressional proposal of amendment. Though that for me would argue for rejectiing the proposed extension of the seven years for state assent, I should not regard that as an evil, since I think the period will have been long enough for the state legislatures to appraise the merits and demerits of the proposed text. The fact that the recent tendency has been not to ratify but rather to rescind previous approval seems to me persuasive evidence upon this point.

Third: I have said thus far that I believe that Congress can extend the period for ratification of the pending Equal Rights Amendment but that I do not think the power should be exercised. It remains to address the second question you propounded, namely, in what manner the proposed extension can be achieved if Congress wishes to accomplish that result.

If I am right that Congress has the power to extend, no one will doubt that it may exercise the power by amendment of H.J. Res. 208, calling for and carried by the same vote as the original, two-thirds of each House. There are, in my opinion, cogent reasons why Congress if it moves to a vote on the proposal of extension should require such a vote, since congressional approval of a proposed amendment and the details with respect to its submission have been combined in the past in the same resolution. There is for me a satisfying sense of parliamentary regularity

in the concept that a modifying legislative action follow the same course as the measure to which the modification is addressed.

I cannot say, however, that I see a basis for regarding a super-majority as a constitutional necessity. Article V calls for agreement by two-thirds of both Houses as to the necessity of an amendment and its proposed text but not as to the "subsidiary matters of detail" which the Supreme Court said in Dillon v. Gloss, 256 U.S. 368, 376 (1921), "Congress may determine as an incident of its power to designate the mode of ratification". Moreover, the power of Congress to determine that ratification has occurred within a reasonable time may presumably be exercised by majority votes of each House, as the declarations of ratification have been pronounced heretofore. I should suppose, therefore, that such a vote would be effective to extend the period for ratification prescribed in the proposing resolutions. Given the absence of precedent, however, a statute might be a safer method of procedure, since it might claim support not only from the implied authority of Congress under Article V but also from Article I, § 8, as a law "necessary and proper" for carrying into execution the power vested in the Congress to propose amendments.

With regard, I am

Yours faithfully,

HERBERT WECHSLER.

OCTOBER 20, 1977.

Hon. DON EDWARDS,
Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE EDWARDS: This is in response to your letter of October 7th requesting my opinion on whether Congress can extend the period for ratifying the Equal Rights Amendment and, if so, in what manner the extension can be achieved.

I. POLITICAL QUESTION

I consider first whether an extension of the time for ratification would pose an issue that the courts could decide or whether, under the political question doctrine, the issue is one that Congress can resolve for itself.

If the Court should accept the view stated by Justice Black for himself and three others in *Coleman* v. *Miller*, 307 U.S. 433, (1939), it would be clear that this is indeed a political question. He said: "The Constitution grants Congress exclusive power to control submission of constitutional amendments." The majority of the Court was unwilling to go that far.

Since 1939 the extent of the political question doctrine has been greatly restricted, *Baker* v. *Carr*, 369 U.S. 186 (1962), *Powell* v. *McCormack*, 395 U.S. 486 (1969), and *United States* v. *Nixon*, 418 U.S. 683 (1974), are the great landmarks, of course, but there are a variety of other issues that the Court has resolved in recent years that once would have been though not to be justiciable. See Wright, *Federal Courts* 55 (3d ed. 1976). Although there is no reason to assume the demise of the political question doctrine, *Gilligan* v. *Morgan*, 413 U.S. 1, 11 (1973), it would be quite surprising to see the doctrine extended more broadly than in the past.

I see no possibility whatever that the Court would retreat from the holding of *Coleman* that, if a time has not been fixed when an amendment was submitted, it is wholly for Congress to decide whether the requisite ratifications have come within a reasonable time. 307 U.S. at 451–456. For the reasons stated by Chief Justice Hughes in *Coleman*, the question of what is a reasonable time is an issue on which, in the words of *Baker* v. *Carr*, there is "a lack of judicially discoverable and manageable standards for resolving it." 369 U.S. at 217. As Judge—now Justice Stevens has put it: "A question that might be answered in different ways for different amendments must surely be controlled by political standards rather than standards easily characterized as judicially manageable." *Dyer* v. *Blair*, 390 F.Supp. 1291, 1302 (D.C.Ill. 1975).

I think it very unlikely that the Court will recede from its considered statement in *Coleman* that "the question of the efficacy of ratifications by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question * * *." 307 U.S. at 450. In a letter of April 6, 1977, to Representative Sarah Weddington of the Texas Legislature, I expressed my view that the Court should adhere to that statement and my prediction that it will, but I feel less certain about that than I do about the statement in the preceding paragraph. It is certainly possible to distinguish between the reasonableness of a time period, which will vary from amendment to amendment, and the purely legal question of the effect of a prior rejection or of an attempted withdrawal of ratification. See Orfield, *Amending the Federal Constitution* 19–21 (1942). But see Clark, *The Supreme Court and the Amending Process*, 39 Va.L.Rev. 621, 648 (1953), arguing that the two issues are not different in substance and that both should be held justiciable. My own view is that *stare decisis* should count heavily on matters of this kind, where it is more important to have an answer than necessarily a correct answer, and that the historical precedent with the Fourteenth Amendment and the judicial precedent with the Child Labor Amendment should now be deemed controlling.

But as I indicated at the outset, I would not expect to see the Court extend the *Coleman* precedent to all details of the amending process and I would think it undesirable if it were to do so. As I indicate in my Treatise, if Congress were to declare today that 35 is three-fourths of 50, and that the Equal Rights Amendment is now validly ratified, I cannot think that the political question doctrine could or should lead the Court to hold that Congress has superior competence in simple fractions and that its declaration must be accepted. 13 Wright, Miller & Cooper, *Federal Practice and Procedure: Jurisdiction* 308 (1975). See also Bean, *The Supreme Court and the Political Question: Affirmation or Abdication?*, 71 W.Va.L. Rev. 97, 111 (1969). Last month I provided you with my opinion on the proposed amendments to give representation in Congress to the District of Columbia. I expressed the view there that the argument that these amendments, unless ratified by all 50 states, would violate the Equal Suffrage Clause of Article V was without merit. It did not occur to me to suggest that this might be a nonjusticiable political question, because I cannot conceive that the Court would so hold. See Quaries, *Amendments to the Federal Constitution*, 26 A.B.A.J. 617, 618 (1940). If Congress were to declare now—or had declared in 1972—that states might choose whether to ratify the amendment by their legislature or by a convention, a court would, I think, unhesitatingly hold that this cannot be done. Although there is a textually demonstrable commitment to Congress to decide whether ratification should be by legislatures or by conventions, *United States* v. *Sprague*, 282 U.S. 716 (1931), it is equally textually demonstrable that Congress is required to choose between "the one or the other Mode of Ratification," and the political question doctrine does not bar judicial examination if Congress goes beyond those issues that are entrusted to it in the Constitution. *Powell* v. *McCormack*, 395 U.S. 486 (1969).

In cases before *Coleman* v. *Miller*, the Court felt that the political question doctrine did not bar it from speaking to the merits of a number of issues about the amending process. A state cannot submit a proposed amendment to a referendum. *Hawke* v. *Smith*, 253 U.S. 221 (1920). The resolution submitting a proposed amendment need not state that Congress considers the amendment necessary. *Rhode Island* v. *Palmer*, 253 U.S. 350 (1920). The two-thirds vote in each House required by Article V is two-thirds of the members present and not two-thirds of the entire House. *Ibid.* Congress has power to put a time limit on ratification. *Dillon* v. *Gloss*, 256 U.S. 368 (1921). A state cannot, by its constitution, limit the power of its legislature to ratify, *Leser* v. *Garnett*, 258 U.S. 130 (1922). In all of these cases except perhaps for *Dillon* v. *Gloss* the argument was unsuccessfully advanced that the political question doctrine should bar any decision on the merits. Clark, *The Supreme Court and the Amending Process*, 39 Va.L. Rev. 621, 628–630 (1953).

I do not understand the force of these decisions to have been shaken by *Coleman* v. *Miller*. All of them except *Rhode Island* v. *Palmer* are referred to, with approval, in *Coleman*. The dictum in *Dillon* v. *Gloss*, that if Congress has not set a time limit, the Court may decide what is a reasonable time for ratification was rejected in *Coleman* but the holding of *Dillon*, that Congress can set a time limit on ratification, was expressly reaffirmed. 307 U.S. at 452–453.

I conclude that the Court would hold that whether Congress, having set a time limit for ratification, can extend that time limit is not a political question and is justiciable. I do not suggest that the question is free from doubt. There is no precedent exactly in point. But the analogies to be drawn from the existing precedents seem to me to weigh in that direction, as does the dramatic shrinking of the political question doctrine begun in *Baker* v. *Carr*. The description of *Coleman* in *Baker* itself is quite narrow, and gives no support for the notion that the Court will read it as bringing the entire amendment process within the political question doctrine. 369 U.S. at 214. The Court is today more willing than it has ever been to act on Chief Justice Marshall's perception that "it is the province and duty of this Court 'to say what the law is.'" *United States* v. *Nixon*, 418 U.S. 683, 705 (1974). The reasoning of Judge Stevens in *Dyer* v. *Blair*, 390 F. Supp. 1291, 1299–1303 (D.C. Ill. 1975), is persuasive. I believe that the Court would say, as he did at 1301:

Decision of the question presented requires no more than an interpretation of the Constitution. Such a decision falls squarely within the traditional role of the federal judiciary to construe that document. The possibility that such an adjudication may conflict with the views of Congress cannot justify the courts' avoiding their constitutional responsibility.

II. THE POWER OF CONGRESS

Whether Congress may extend a time limit it has once set is an important question wholly independent of the justiciability issue I have discussed thus far. I found it curious that in a memorandum on this general issue prepared at the request of the National Organization for Women, a copy of which was furnished to me by the subcommittee staff, there is extensive discussion of justiciability and of the vote that would be required of Congress, but only a single conclusory sentence (p. 10) on the power of Congress to change a limit it has once fixed. That seems to me to be the heart of the matter. If, as I have concluded, the issue is justiciable, that is the question that the Court, once it had dealt with justiciability, would have to decide. But if I am wrong, and, as contended in the memorandum to which I have referred, judicial review is barred, then Congress itself must decide whether the Constitution per-

mits it to extend the time. Indeed, if the issue is not justiciable, the burden on Congress to give careful consideration to whether it has power to make the extension is all the heavier. Although Members of Congress must always weigh the constitutionality of their proposed actions, in the normal course of enacting legislation they have the solace that the Supreme Court sits to enforce the Constitution if they were wrong. If Congress is the final authority on the issue, as the political question argument would suggest, then Congress must be especially careful to be sure that it is acting within constitutional limits.

The question is one for which no precedents exist, since whenever Congress has set a time limit for ratification the necessary number of states have ratified within the period set and the issue of extension has not arisen.

The proposed language would be a part of the amendment to the Constitution that the states are being asked to ratify, and Congress could no more change the date set out there after some states had ratified than it could change the effective date of § 13 or add "race" to § 1 as a ground on which equality of rights shall not be abridged.

Does the result change because the Equal Rights Amendment, like the 23rd, 24th, 25th, and 26th Amendments, carries the time limit for ratification in the introductory clause rather than in the body of the Amendment itself? It would be remarkable if the power of Congress on a major constitutional matter were to depend on the form in which an amendment is submitted, and if a time limit for ratification set out in the body of the amendment were to be subject to extension or shortening at any time. Such scraps as are available—and admittedly they are few—suggest that no one until now has thought that anything whatever turns on this question of form.

Legislative Problems and Solutions, 7 A.B.A.J. 656 (1921). The 18th Amendment was also involved in *Rhode Island* v. *Palmer*, 253 U.S. 350 (1920). Both Justice Van Devanter, for the Court, and Justice McKenna, dissenting, set out in their opinions what they say is the "text of the Eighteenth Amendment." Neither one includes the time limit, though it clearly is § 3 of the Amendment. Chief Justice Hughes in *Coleman* says: "No limitation of time for ratification is provided for in the instant case either in the proposed amendment or in the resolution of submission." 307 U.S. at 452. Thus he apparently treated the two forms as indistinguishable.

The first amendment to carry its time limit in the introduction was the 23rd. The legislative history does not show why the form was changed, and says only: "Congress first adopted the 7-year limitation provision in proposing the 18th amendment to the Constitution. It did so because, at that time, several proposed constitutional amendments already submitted to the States for ratification had long lain dormant but were nevertheless subject to being resurrected and acted upon by the several States." H. Rep. No. 1698, 86th Cong., 2d Sess., at 4 n. 8 (1960).

When the Equal Rights Amendment itself was submitted, the report of the Senate Judiciary Committee said: "This is the traditional form of a joint resolution proposing a constitutional resolution proposing a constitutional amendment for ratification by the States. The seven year time limitation assures that ratification reflects the contemporaneous views of the people. It has been included in every amendment added to the Constitution in the last 50 years." S. Rep. No. 92–689, 92nd Cong., 2d Sess., at 20 (1972).

Of themselves these scattered expressions in decisions and committee reports amount to very little. They are indicative only that during the entire period in which Congress has thought it desirable to put a time limit on ratification no one has attached any significance to where in the resolution the limit was placed. If the difference in form were to have the significance that must now be attributed to it, it would seem that someone would have noticed that before 1977. 256 U.S. 368, 376 (1921).

If no limit is put, Congress can decide for itself when the 38th ratification comes in whether the needs of the country have so far changed since the submission as to make the proposal no longer responsive to the conception that inspired it.

By not setting any limit, Congress would be retaining the power to itself that it is now claimed to have by those who argue that the time limit can be extended, but it would be doing so in a manner that would not raise false expectations. Both those who support the amendment and those who oppose it have reasonably supposed that they have until March 22, 1979, to win the fight. The supporters of the amendment would be outraged if Congress were to declare today that it considers that a sufficient time has gone by and that it will not honor any further ratifications. States might well contend that they understood that they had seven years in which to act and that they were holding off to see if developing doctrine under the Equal Protection Clause makes the amendment unnecessary.

But it would be an odd doctrine that would bar Congress from shortening the period but permit the time to be extended. States that have already ratified may have premised their action on the reasonable understanding that if the needed consensus of three-fourths of the states was not achieved within the seven-year period the amendment would not become operative.

It is clear that if the needed ratifications are not obtained by March 22, 1979, and Congress continues to believe that an amendment of this sort is necessary, it can submit a new Equal Rights Amendment to the states. This of course would leave each of the 35 states that have ratified the 1972 submission to decide for itself whether, in the light of the conditions as it then perceived them, it continued to regard such an amendment as desirable. The reason for preferring the constitutionally dubious course of extension to the constitutionally clear course of resubmission is to obtain more time to seek ratifications from states that have not yet acted while keeping locked in those states that may have had second thoughts since they ratified.

III. MECHANICS

I found persuasive, if not conclusive, the arguments in the memorandum prepared for the National Organization for Women that if Congress has power to extend the time for ratification it can exercise that power by a joint resolution adopted by majority vote. However, I do not hold myself out as an expert on parliamentary procedure, and since I do not think Congress has power to extend the time, I express no opinion on how that power might be exercised.

Respectfully,

CHARLES ALAN WRIGHT,
McCormick Professor of Law.

STATEMENT OF STEPHEN A. SALTZBURG, PROFESSOR OF LAW, UNIVERSITY OF VIRGINIA

I turn first to the constitutional argument. It begins with the case of Dillon v. Gloss, 256 U.S. 368 (1921). In that case the Supreme Court unanimously rejected the claim that habeas corpus relief should be extended to one convicted of violating the National Prohibition Act because the 18th Amendment to the Constitution was not properly ratified. In the course of its opinion the Court strongly suggested that the Constitution is to be interpreted as requiring ratification of a constitutional amendment within a reasonable period. Definition of the reasonable period is to be left almost exclusively to Congress, although there are suggestions that judicial review might be appropriate. It is interesting that the 18th Amendment is the first amendment for which a definite period for ratification was fixed. With respect to previous amendments, presumably Congress had in mind some reasonable time. The Court wrote in part as follows:

> Of the power of Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt. As a rule the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interest and changing conditions may require; and Article 5 is no exception to the rule. Whether a definite period for ratification shall be fixed, so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an instrument of its power to designate the mode of ratification. (Footnote omitted) (pp. 375–376)

The quoted language suggests that the Supreme Court believed that the Congress could fix a time, a time certain for ratification of a constitutional amendment. The way the opinion is written I would imagine that the Court that wrote the quoted words would be likely to enforce those words by reviewing challenges to any extension of a period of time for ratification.

But the matter does not end with *Dillon*. There is the very important case of *Coleman* v. *Miller*, 307 U.S. 433 (1939), to be reckoned with. In *Coleman* the Supreme Court held that it was a political question whether the state of Kansas had properly ratified the Child Labor Amendment in 1937, an amendment that had been proposed in 1924. Both the effect of a previous rejection of the amendment and that of the lapse of time between ratification and the submission of the amendment to the states were held by the Court to be problems for Congress to resolve. The opinion of the Court, authored by Chief Justice Hughes, turns out to be an opinion for four Justices rather than for a majority. These four Justices appeared to reaffirm the doctrine of *Dillon*, and their reaffirmance is supported by the one dissenting opinion in the case by Justice Butler. So it is fair to say that the majority of the Court still believed that the Constitution, as interpreted by the Supreme Court, placed limits on Congress' control over the ratification process. Although the Hughes opinion states that "the Congress in controlling the promulgation of the adoption of a constitutional amendment has the final determination of the question whether by lapse of time its proposal of the amendment has lost its vitality prior to the required ratifications," the language was written in a situation in which Congress had not sought to restrain itself initially by specifying a period of years. Perhaps more important in the Hughes opinion is that the Chief Justice assumes that the question of what is a reasonable time "is an open one when the limit has not been fixed in advance." This language suggests to me that had a time been specified in advance the four Justices who agreed on the Hughes opinion and certainly Justice Butler would have concluded that the time limit was an enforceable one. Before reading too much into *Coleman* it must be noted that Justices Black, Douglas, Frankfurter and Roberts took the view that Congress had far more power over the ratification process than did other members of the Court. Since several of these Justices are regarded as among the giants who have sat on the Court, their view is not to be lightly dismissed. In fact, Justice Black's opinion, joined by the others, states that "Congress has sole and complete control over the amending process, subject to no judicial re-

view. . . ." On the other hand, it is fair to say that the view held by Justice Black did not indicate which Congress, the proposing Congress or the Congress reviewing the votes of states, should have the last word on the binding nature of a time period fixed by the proposing Congress.

More recent cases like *United States* v. *Nixon*, 418 U.S. 683 (1974) and *Powell* v. *McCormack*, 395 U.S. 486 (1969), lead me to believe that the Supreme Court is less likely to defer to the Congress than was Justice Black and his concurring Justices in *Coleman* on a subject like the binding nature of a seven-year period specified in a joint resolution.

My guess is that the following type of argument would carry the day. It seems relatively clear that a Congress could not change the language of a constitutional amendment after it was ratified by the states. For example, if a constitutional amendment provided that no state should discriminate against any person on the ground of age, and such an amendment were ratified by 38 states, I do not believe that after counting the votes the Congress could declare that the amendment not only prevents age discrimination but it also prevents discrimination on the grounds of alienage. The Supreme Court would have little difficulty in saying that it would review the actions of Congress to see that Congress did the minimum that the Constitution requires—i.e., submit the full amendment to the states before declaring it adopted. Of course, it will be noted that no Congress is going to make such a change. But the question becomes whether the specification of 7 years in a joint resolution is similar to or different from a change in the substantive language.

Arguably the 7 year period is different. After all, Congress could have chosen to leave the period for ratification open, in which case a subsequent Congress would be able to define the period of ratification. So, the argument would go, the fact that Congress specifies the period of years should not prevent a subsequent Congress from enlarging that period of years if in its view it is only enlarging the period to allow for further reasonable ratification. I would reject this argument. It seems to me that if one believes as I do that members of Congress do not frivolously include extra baggage in constitutional amendments, the fact is that a period of years that is specified must be meaningful. I can well understand why members of Congress would want to see that certain amendments are ratified within a certain period, perhaps a shorter period than that which is specified for other amendments. The point is that as part of the debate, as part of the give and take in the lawmaking process, members of Congress ought to be able to bargain with other members for the following deal—i.e., an amendment will be sent to the states only if it is ratified within a designated period of time. After the designated period expires, to go back to ignore that period is to cut the heart out of the compromise that may have existed at the time the period was selected.

While the question is close given the deference accorded Congress in the amendment process, I think it is not unlikely that the Supreme Court would declare an extension to the unconstitutional.

Assuming that this view is incorrect, there remains the question of what the best practical answer is and I believe that the best practical answer is the same as the constitutional analysis that I have already provided, namely, that no extension of time should be permitted. As a practical matter the compromise argument set forth above carries a lot of weight with me. Moreover, I would be reluctant to say to those state legislators who voted for a constitutional amendment on the theory that it would only take effect if it were ratified within a seven year period that their assumption, the only reasonable one in view of the language of the joint resolution, was incorrect and that perhaps (depending on how one feels about repudiation of a ratification, something that I oppose mainly on historical grounds as I have already testified to) that these legislators are powerless to repudiate their earlier ratification.

The long and the short of it is that I believe when a period of years is specified in a joint resolution providing for a constitutional amendment to be sent to the states the period of years should be meaningful. Members of Congress who approve the joint resolution rely upon it and the members of the state legislators who voted for the constitutional amendment may also have relied upon it. It is no answer that two-thirds of the Congress in a subsequent year may be willing to extend the period. There is no answer because they are taking away the effective compromise by earlier members of Congress and they may be impairing the votes of the state legislators involved in the ratification process.

There are other reasons to oppose enlargement of the period. Would the same power to enlarge a period include authority to cut back on a period? For example, would it be permissible for Congress, after 38 states ratified an amendment in seven years to say that it should have been ratified in five, even though seven was the period of years provided in the original joint resolution? I hope not. If there is to be a line drawn, how is it to be drawn? Furthermore, there are problems with respect to repudiations during the extended period of ratifications made in the earlier period. How are these to be treated? I find these questions to be perplexing. Fortunately, I need not supply answers because of the view that I have taken.

I hope that this is of some help to the Subcommittee in its deliberations.

MEMORANDUM ON THE CONSTITUTIONALITY OF A PROPOSED RESOLUTION TO EXTEND THE TIME FOR RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

When the 92d Congress proposed the Equal Rights Amendment in 1972, the proposal [H J Res. 208] included a provision to the effect that the amendment would become part of the Constitution "when ratified by the leigslatures of three-fourths of the several States within seven years from the date of its submission by the Congress[.]" That seven-year period will end in March, 1979. A resolution proposed in the 95th Congress would extend the period within which states may ratify.

The proposed resolution is clearly unconstitutional—or, perhaps more accurately, could not constitutionally be given the effect apparently desired by its proponents. If it met the formal requisites for a resolution proposing a constitutional amendment, such a resolution would have the effect of beginning a new period wherein states could ratify the E.R.A.; but states which ratified under the 1972 resolution could not be presumed (or forced) to acquiesce in the "extension."

This conclusion—that Congress cannot, as an incident to its power to propose an amendment, retrospectively change the conditions under which the states were led to believe they were ratifying—proceeds inevitably from the principles underlying Article V of the Constitution. A careful analysis of the somewhat confused jurisprudence construing Article V would also tend to support such a result.

(1) Principles of Construction of Article V.

Article Five should be construed in light of the Framers' understanding of the Constitution as a compact among the states. Whatever the remaining utility of the concept of "independent sovereigns" in other areas of constitutional law, it is simply impossible to understand the amending process without resort to such a doctrine. The three numbers of The Federalist Papers dealing with constitutional amendments all sepak of a compact between "distinct and independent sovereigns" (No. 40, Madison), or in similar terms (e.g., until all thirteen colonies agree to the Constitution, "no political relations can subsist between the assenting and dissenting States," No. 43, Madison; "[t]he compacts which are to embrace thirteen distinct States in a common bond of amity and union," No. 85, Hamilton). Thus, where Article V is silent, it is appropirate to apply contract law to analyze whether the contemporaneous consent of three-fourths of the states has been given to a proposed amendment. This is true not only because the Framers expected it, and probably left Article V so brief percisely because they expected it; but also because contract law is, after all, just a refined set of logical principles to determine whether parties have agreed to bind themselves. Authorities on constitutional amendments have frequently applied principles of contract law to the amending process: see, e.g., Jameson, Constitutional Conventions 629–33 (4th ed. 1887); Orfield. Amending the Federal Constitution 52 (1942).

It should also be remembered that the amending process was seen as an important bulwark against possible abuses of Federal power: "We may safely rely on the disposition of the State legislatures to erect barriers against encroachments of the national authority." (The Federalist No. 85, Hamilton). Thus, while Congress can reasonably be regarded as having implied power to prescribe rules of procedure in the amending process, such rules must necessarily be of the "housekeeping" variety, and cannot be used as a pretext for enlarging the substantive power of Congress as against the states. Congress cannot, for instance, apply a standard for discerning when a state has given its consent which is not genuinely calculated to detect such consent. See Note, 85 Harv. L. Rev. 1612, 1617–18 (1972); Comment, 37 La. L. Rev. 896, 904 (1977).

Finally, experience has strengthened the view that the amending process should be used only infrequently, on issues on which a broad consensus exists. This suggests a canon of construction—whether to comport with the intent of the Framers, or as a prudential means of protecting the Constitution from hasty alteration which might not reflect an enduring consensus—under which ambiguities in Article V should be resolved in favor of the interpretation which would make amendment more difficult. See authorities cited in Comment, 37 La. L. Rev. 896, 898–900 (1977). It is important to remember that a rule prescribed with a "nice" amendment in mind will be a precedent for "bad" amendments in the future.

These principles of construction can be summarized by saying that ordinary contract law should almost always fill in any gaps in Article V; but that in any event, no construction is admissible which would artificially enhance the Federal role in the amending process, or make the Constitution easier to amend than it would be under contract principles.

(2) A. *Contract Analysis of the Proposed Resolution.*

Under contract principles, the original resolution proposing the E.R.A. was an offer by Congress to the state legislatures, which by its terms would only become binding (as a modification of the original "compact" among the states) when accepted by 38 states by March, 1979. A number of states have accepted that offer. The proposed resolution to extend the deadline, however, would vary the terms of the offer which has

been accepted by the previously ratifying states. It therefore amounts only to a new offer, which may be accepted according to its own terms (i.e., by three-fourths of the states before the new deadline), but is not binding on the states which accepted the prior, different offer.

This application of contract principles is not mere sophistry. First, it is entirely reasonable to suggest that the seven-year limitation in the Congressional proposal actually induced some doubtful state legislators to vote for ratification, or at least that the absence of such a limitation would have deterred them from voting for the E.R.A. Ratification by state legislatures is not just a formality; it is part of the process for gauging the breadth of the consensus behind an amendment. If one legislature voted to ratify only because some of its members had been led to believe that the ratification would be a nullity after 1979, then Congressional power to make that ratification something more than a nullity amounts to a power to trump up a paper consensus where there is no real consensus.

Also, it is important that the requirement for a valid contract—that there be a "meeting of the minds"—is a precise analogue of the Article V requirement of a contemporaneous consensus manifested by three-fourths of the states, according to reasonable procedures prescribed by Congress.

(3) The Source of the Congressional Power to Define a "Reasonable Time."

The power of Congress to define a "reasonable time" in which an amendment may be ratified can be seen as simply a function of the rule that the greater right (proposing an amendment) includes the lesser (limiting the proposal). See 37 La. L. Rev. 896, 911–12 (1977). If this were strictly true, Congress could set any time limit it wished, and need not set any time limit at all.

The Supreme Court, however, announced a different rationale for the "reasonable time" limitation in *Dillon* v. *Gloss*, 256 U.S. 368 (1921). The Court held that in order for a proposed amendment to become part of the Constitution, there must be a contemporaneous consensus among the states; thus the "reasonable time" limitation would exist even if Congress did not specifically set such a time. The Dillon Court held that Congress could define a "reasonable time," as long as the time set was actually reasonable; and that seven years was reasonable.

The Dillon rationale finds some support in *The Federalist* No. 85 (Hamilton): "[W]henever [three-fourths of the] States, were united in the desire of a particular amendment, that amendment must infallibly take place." Arguably, Congress need not be required to set a time limit in order to ensure that there be no amendment without consensus, since any state which has ratified yet no longer favors the amendment could be allowed to rescind its ratification. The rescission issue, however, is hotly debated; and in any case it might be reasonable to presume after a certain number of years that a ratification has been left outstanding due to neglect rather than to continuing enthusiasm for the proposed amendment.

In *Coleman* v. *Miller*, 307 U.S. 433 (1939), a plurality of the Court recognized a right in Congress to designate a "reasonable time" after some ratifications had occurred. It should be noted, however, that Coleman involved a proposed amendment for which Congress had not previously designated a time limit, so no state legislature could possibly have been misled. Moreover, Coleman was rendered by a sharply divided Court which could not muster a majority on any of the theoretical questions in the case; it was widely criticized at the time, and its reasonable time holding rested not on any Article V power in Congress, but on a very broad view of the "political questions doctrine" which almost certainly would be overruled by the Supreme Court today in light of *Baker* v. *Carr*, 369 U.S. 186 (1962) and *Powell* v. *McCormack*, 395 U.S. 486 (1969). For a recent decision in the constitutional amendment area which followed Powell and avoided applying Coleman, see *Dyer* v. *Blair*, 390 F. Supp. 1291 (N.D. Ill. 1975), written by Justice Stevens before he came to the Supreme Court. See also 37 La. L. Rev. 896 (1977).

(4) Would an Extended Time for the E.R.A. Be "Reasonable in Fact"?

Even assuming that Congress could somehow constitutionally vary the terms of its proposal and thereby bind the previously ratifying states to a proposal they did not actually accept, the proposed extension of time might be unconstitutional under Dillon.

The purpose of the "reasonable time" requirement (which both Dillon and Coleman recognized as an absolute requirement, not merely a function of Congressional power to propose) is to ensure that all ratifications have occurred sufficiently close in time to reflect a consensus of three-quarters of the state legislatures at a given point in time. The facts are, however, that the E.R.A. achieved almost all of its ratifications within a short time after its proposal in 1972. Only Indiana has ratified recently, despite constant attention to the E.R.A. by its proponents and by the news media. The rescissions by three states, whatever their legal effects, certainly are conclusive evidence that some states which were part of the 1972 consensus cannot reasonably be regarded as part of the 1977 consensus. Indeed, the very need to consider a resolution extending the time for ratification casts doubt on the vitality of any consensus. It is even more obvious that a state which might ratify in 1986, Congressional resolution or none, would not be manifesting its approval contemporaneously with the states which ratified in 1972.

(5) The Relationship of the Extension and Rescission Questions.

The asurdity of the view that Congress has unlimited power to extend the "reasonable time" for ratification is highlighted when this assertion is juxtaposed with the possibility that states may be denied the right to rescind their ratifications of an amendment. If a state which ratified in 1972 is denied both the right to manifest formally the withdrawal of its acceptance, and the previously granted assurance that its acceptance will terminate in 1979, that state is truly being "dragged, kicking and screaming, into an artificial constitutional consensus." (See 37 La. L. Rev. 896, 925 (1977)).

It should be noted, however, that even if states do have the right to rescind their ratifications, no ratification of the 1972 Congressional proposal, containing the seven-year limitation, should be presumed to continue after 1979 merely because the state could have rescinded and did not. The new proposal is still a different one, and a ratification of the old proposal will become a nullity in 1979 absent some explicit manifestation of a contrary intention by the ratifying state.

(6) The Effect of the Location of the Seven-Year Limitation.

If the seven-year limitation were in the text of the proposed amendment itself, it is difficult to imagine anyone suggesting that Congress could now change the text and thereby bind states which had previously ratified the amendment to the new language. The time limit is, however, located in the preamble, or "resolving clause."

Since Congress presented its entire resolution to the states, the location of the time limit should make no difference. The seven-year provision was on the bargaining table, so to speak, when the states indicated their assent. The location should only make a difference if the legislative history affirmatively suggests that the states had reason to know that the seven-year limitation was not binding on Congress, and could be changed at will. There is not a trace of any such evidence in the history of the E.R.A. or of constitutional amendments generally; indeed, there is affirmative evidence to the contrary. It is clear that the location of the time limit in the resolving clause was purely a matter of form, to which no substantive importance was attached by those who drafted and voted on the E.R.A.

Interestingly, the location of the seven-year limitation seems to have been the work of Senator Ervin, an E.R.A. opponent. When the amendment was introduced in the 91st Congress, it contained no time limit at all. During debate on the resolution, Senator Ervin introduced an amendment which, among other things, imposed a seven-year limit. He said it "would require" that ratification occur within seven years for the E.R.A. to be valid, adding:

> Certainly, any proposed amendment to the Constitution of the United States for which there is any real demand can be ratified by the legislatures of the required number of States within 7 years after the date of its submission.—[116 Cong. Rec. 36302 (1970)]

Senator Dole added that the "provision requiring that the amendment be ratified within 7 years has been included in amendments proposed by Congress commencing with the 18th, and will prevent an anomaly amendment from lingering in limbo for an indefinite number of years." Id. 36450. That proponents of the limitation intended it to have the same effect as similar clauses in prior amendments is significant, since until the 23rd Amendment, these clauses were all contained in the text of the amendments themselves.

Senator Ervin's amendment to the E.R.A. resolution passed, over the opposition of Senator Bayh and other leading E.R.A. proponents (Senator Bayh expressing his opposition to other parts of the Ervin amendment, and not mentioning the time limitation). The E.R.A. was not passed by the Senate in the 91st Congress, but when it was introduced in the 92d Congress (H.J. Res. 208, S.J. Res. 8, 9), it contained the time limitation exactly as worded by the Ervin amendment. The Ervin language remained in the resolution as approved by the Senate Judiciary Committee. The committee report, submitted by Senator Bayh, noted under "Legislative History" that the time limit had been included as a result of the Ervin amendment in the 91st Congress [Sen. Report No. 92–689, 92d Cong., 2d Sess. 1972 at 4–5]. The report also stated: "The proposed Equal Rights Amendment reads as follows: . . . the following article . . . shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission . . ." Id. at 1–2 (emphasis added). The report added:

> This is the traditional form of a joint resolution proposing a constitutional amendment for ratification by the States. The seven year time limitation assures that ratification reflects the contemporaneous views of the people. It has been included in every amendment added to the Constitution in the last 50 years. It is interesting to note that the longest period of time ever taken to ratify a proposed amendment was less than 4 years.—[Id. at 20]

Not a word in the legislative history of the E.R.A. indicates that Senator Ervin, who proposed the time limitation, or the Senate Judiciary Committee, who reported it favorably, or anyone in Congress or in the state legislatures, intended the limitation to have any different substantive effect because of

its location in the resolving clause rather than in the text. The obvious reason is that language in the resolving clause does not actually become part of the Constitution when the amendment is ratified, whereas a limitation in the text would "clutter up" the Constitution with language which had become ineffective. That no substantive distinction was drawn is underlined by the committee report's casual inclusion of the resolving clause in what purports to be a recital of the text of the Amendment. Moreover, the numerous references to similar language in past amendments imply that the E.R.A. provision was intended to have the same effect as the previous limitations, most of which had been contained in the text of the amendments, and which therefore clearly could not have been tampered with by Congress after some states had ratified.

It is instructive to examine the first instance in which Congress placed the time limitation in a resolving clause, rather than in the text of a proposed amendment which ultimately became part of the Constitution. The 23rd Amendment, granting the Presidential vote to residents of the District of Columbia, was proposed by S.J. Res. 39 in the 86th Congress. This resolution originally contained no language about the D.C. vote at all, but was instead a resolution, favorably reported by the Senate Judiciary Committee, to propose a constitutional amendment providing for emergency interim appointments of members of the House of Representatives. The Senate added the D.C. language, and then the House kept the new language and deleted the original language about House appointments. The resolution itself, however, had a long and well-documented legislative history, with particular reference to the seven-year time limitation for ratification.

The committee report on S.J. Res. 39 [Sen. Report No. 86-561, 86th Congress, 1st Sess.], says the resolution was "identical in text" to S.J. Res. 8, which had passed the Senate in the 84th Congress. S.J. Res. 8, when introduced by Senator Kefauver in the 84th Congress, contained a time limitation in the text of the amendment. Prior to committee hearings on the resolution, Kefauver apparently wrote to a number of constitutional law scholars, asking for suggestions on the language of the amendment. Only one response of those printed in the record of the hearings recommended a change in the location of the seven-year limitation. Professor Noel Dowling of Columbia Law School drafted an entire new version of the resolution, noting:

"The 7-year limitation is put in the resolution rather than in the text of the amendment. There is no doubt about the power of Congress to put it there; and it will be equally effective. The usual way, to be sure, has been to write the limitation into the amendment; but we hope such an unnecessary cluttering up of the Constitution can be ended."

[Hearing before a Subcommittee of the Committee on the Judiciary, United States Senate, 84th Cong., 1st. Sess., on S.J. Res. 8 (1955), at 34]

The committee substituted Dowling's language for the original. In response to a question from Senator Russell in Senate floor debate, Senator Kefauver stated:

"The general idea was that it was better not to make the 7-year provision a part of the proposed constitutional amendment itself. It was felt that that would clutter up the Constitution. Sometimes that is done. We wanted to put the 7-year limitation in the preamble. So the intention of the preamble is that it must be ratified within 7 years in order to be effective."—[101 Cong. Rec. 6628 (1955)]

In response to Senator Russell's continued questioning, Senator Kefauver agreed to an amendment, which was then passed by the Senate, to insert the word "only" before "if ratified . . . within 7 years" in the resolving clause. Senator Kefauver made it clear that he and the Judiciary Committee staff felt the addition of the word would not change the effect of the limitation. Id.

Professor Dowling's letter, and the subsequent exchange on the Senate floor, are the only evidence of legislative intent behind the location of the time limit in the resolution that eventually became the vehicle for ratification of the 23rd Amendment—the apparent model for subsequent proposed amendments which include the limit in the resolving clause. They indicate that the change was made purely in the interest of a more elegant Constitution, and with no intention of altering the substantive effect of the time limitation so as to allow Congress to modify it after ratification by a number of states.

(7) Procedural Questions.

The proposed resolution is so clearly unconstitutional that it may be misleading to discuss the procedure by which it might be enacted. However, to be even arguably valid, the resolution would require the assent of two-thirds of the members of each House of Congress, and quite possibly the signature of the President.

Article I, § 7 of the Constitution requires that the President sign every Congressional act having the force of law; it is very broad in its terms, and there is no reason to believe that the Framers intended any exceptions at all. However, in *Hollingsworth* v. *Virginia*, 3 U.S. (3 Dall.) 378 (1798), the Supreme Court held that the President's signature was not necessary on a constitutional amendment, and this ancient precedent has been followed ever since. Professor Charles Black, however, argues persuasively that the clear language of the Constitution requires that Hollingsworth be limited to its facts, and that other Congressional action dealing with the amending process does require a Presidential signature. Black is particularly contemptuous of the idea that, if there is such a requirement, it can be obviated by using a different form of Congressional resolution:

Can it be thought that Article I, Section 7, can be evaded by mere nomenclature—by merely calling something a "Concurrent" rather than a "Joint" Resolution?

[Black, Amending the Constitution: A Letter to A Congressman, 82 Yale L.J., 189, 208 (1972)]

The same can be said of the attempt to deal with the two-thirds vote requirement, merely by using one sort of resolution rather than another. The facts are these: in 1970, Senator Ervin proposed some language limiting the E.R.A. resolution. It was generally supported by Senators who were relatively unenthusiastic about the E.R.A., and opposed by Senator Bayh and other E.R.A. proponents. This language was kept in the 1972 resolution, presumably because proponents were willing to accept this limitation in exchange for the resolution's increased chances of passage thus limited. It is entirely reasonable to believe that some Senators voted for the limited resolution, who might not have voted for a resolution with no time limit, or with an eight-year time limit. The resolution, with the limiting Ervin language, passed with a two-thirds vote in each House, as is required by Article V of the Constitution. It is just nonsense to argue that fewer than two-thirds of the Senators can go back and take out that limiting language. If 66 Senators could not have enacted an unlimited resolution (or an eight-year resolution) in the first place—and they certainly could not have done so—then those 66 Senators cannot speak for the Senate in retroactively enlarging the scope of the resolution which was enacted by the required constitutional majority.

Again, the argument that the limiting language was in the resolving clause holds no water. It was not the "text" of the amendment, but the resolution proposing the amendment, which needed and got a two-thirds vote. Congress might have been free to pass such a resolution with a longer time limit; but it is impermissible to suppose that such a resolution would have received the requisite two-thirds vote.

Congress has tried and failed in the past to use nomenclature to evade constitutional limitations on its power. In the *Powell* case, mentioned above, the House sought to "exclude" Powell by a majority vote. The Supreme Court held this was just a ruse for "expelling" him, which constitutionally requires a two-thirds vote. Significantly, Powell was declared entitled to his seat despite the fact that the motion to "exclude" actually had received a two-thirds vote, because the Court would not accept the assumption that the required two-thirds vote would have been obtained had the motion been put as an "expulsion" rather than an "exclusion."

(8) Conclusion.

A Congressional resolution to extend the time for ratification of the E.R.A. would be of doubtful effect, and would almost certainly result in extensive litigation and resulting uncertainty as to the status of the amendment. Should a total of 38 states eventually ratify under the 1972 resolution and the proposed "extension," the existing doubt over the effects of rescission would be compounded by the debate over whether ratifications under the two resolutions could be "cumulated" or must be counted separately. Should the Supreme Court rule that the Constitution has been amended, by some combination of an anti-rescission rule and a Congressional right to "extend," it will give rise to justified skepticism about the neutrality of the procedures for determining "consensus." Should the Court rule the amendment not ratified, its proponents would almost certainly argue that the Court had "stolen" the amendment, perhaps provoking a crisis in relations among the coordinate branches of the government. A Court ruling that the matter is a "political question"—very unlikely after *Powell* v. *McCormack*—would only enlarge the sense of frustration among those who would feel the rules had been unconstitutionally changed in the middle of the game.

The ERA: Is 7 Years Enough?

INTRODUCTION

For nearly five years the Equal Rights Amendment to the Constitution has been stalled short of ratification by the required three-fourths (thirty-eight) of the states. With overwhelming votes of approval in both the House and the Senate, Congress sent the ERA to the states on March 22, 1972. Initial enthusiasm in the state legislatures produced thirty ratifications within one year. Since that time, only five additional states have ratified the amendment while three have rescinded previous ratifications. As state legislatures across the country prepare for new sessions in January, the possibility of ratification of the ERA before the 7-year time limit expries on March 22, 1979, is in doubt. Additionally, the legality of rescission presents an unprecedented problem for legal experts, the Congress and, perhaps, eventually the Supreme Court. Does the ERA need three more states for ratification or six more?

During the summer of 1977, supporters of the ERA, apprehensive that the time limit might expire and kill the amendment altogether, began to investigate the legal possibility of extending the time limit for ratification. This investigation led to the introduction of H.J. Resolution 638 (by Congresswoman Elizabeth Holtzman, D-N.Y., and twenty co-sponsors) which provides for an additional seven years for ratification. The bill was referred to the House Subcommittee on Civil and Constitutional Rights, which

held hearings at the beginning of November. Arguments were heard from six professors of Constitutional law and from the Justice Department.

This paper is not concerned with the merits of the Equal Rights Amendment itself but instead presents an analysis of the history of ratification of the other twenty-six amendments to the Constitution, an analysis of the ratification history of the ERA by the states, and an inquiry into the question of rescission.

AMENDMENT PRECEDENCE

Since the Bill of Rights was ratified in 1791, there have been nearly 6,000 Constitutional amendments introduced into the U.S. Congess. Only twenty-two of those proposed amendments have been passed by the required two-thirds majority of both houses and sent to the states for ratification. Only sixteen have been ratified by the states and become part of the Constitution.

James Madison, in Federalist No. 43, explains that the ratification procedure decided upon for amending the Constitution "guards equally against that extreme facility, which might render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults. The mode preferred by the convention seems to be stamped with every mark of propriety." Alexis de Tocqueville, writing in his famous work *Democracy in America*, states that "The Federal system therefore rests upon a theory which is necessarily complicated, and which demands the daily exercise of a considerable share of discretion on the part of those it governs."

Article V of the Constitution provides that amendments to the Constitution shall be proposed when they are deemed "necessary." In *Dillon v. Gloss* (1921) the Supreme Court states that Article V of the Constitution strongly implies that "proposal and ratification were but succeeding steps in a single endeavor," that amendments "should be considered and disposed of presently," and that "ratification must be within some reasonable time after the proposal." The Court stated further that "nothing was found in Article V which suggested that an amendment once proposed was to be open to ratification for all time, or that ratification in some states might be separated from that in others by many years and yet be effective."

The original Constitution left unanswered a number of questions on the detailed operation of the amending process. In *Dillon v. Gloss* and *Coleman v. Miller* (1939), the Supreme Court attempted to outline some general principles which are relevant to the amending process, for instance, the principle of a "reasonable time," already quoted. But what constitutes a reasonable time? What are the standards which will ensure that the amending process will be stamped with the "propriety" of which Madison speaks and the "discretion" of which Tocqueville speaks?

Nearly 200 years of Constitutional history show that there has been contemporaneous agreement between the U.S. Congress and the state legislatures about how and when the fundamental law of the land should be altered. Most Constitutional amendments were ratified expeditiously, and no ratified amendment can be said to have brought up questions of propriety, discretion, reasonable time or lack of necessity. The history of amending the Constitution seems to have provided a precedence of practical experience concerning the question of the relevance and timeliness of Constitutional amendments.

Does the ERA violate this precedent of experience? The following table shows the ratification time of all amendments to the Constitution.

Amendment, year ratified, and time pending ratification:

Bill of Rights, 1791, 1 year, 2½ months.
Eleventh, 1798, 3 years, 10 months.
Twelfth, 1804, 8½ months.
Thirteenth, 1865, 10½ months.
Fourteenth, 1868, 2 years 1½ months.
Fifteenth, 1870, 1 year 1 month.
Sixteenth, 1913, 3 years 7½ months.
Seventeenth, 1913, 1 year, ½ month.
Eighteenth, 1919, 1 year 1½ months.
Nineteenth, 1920, 1 year 2½ months.
Twentieth, 1933, 11 months.
Twenty-first, 1933, 9½ months.
Twenty-second, 1951, 3 years, 11½ months.
Twenty-third, 1961, 9 months.
Twenty-fourth, 1964, 1 year 5½ months.
Twenty-fifth, 1965, 1 year, 6½ months.
Twenty-sixth, 1971, 4 months.

Proposed amendments not ratified

Subject of amendment:	Date Proposed
Apportionment	1789
Pay of Senators and Congressmen	1789
Titles of nobility	1810
States Rights Amendment Protecting Slavery	1861
Child Labor Amendment (has been ratified by 28 states to date)	1924

SUMMARY ANALYSIS

Six amendments took less than one year to be ratified.

Seven amendments took less than two years to be ratified.

Only three amendments took more than three years to be ratified.

No amendment took more than four years to be ratified.

The twenty-six amendments took an average of 1.2 years each to be ratified.

Of the four most recent amendments, the longest ratification period was 1½ years.

The ERA, sent to the states on March 22, 1972, has been pending ratification for 5 years, 7½ months (as of the date of this *Backgrounder*). As compared to the history of ratification of amendments, the states have proved more hesitant about the ERA than any other amendment which has become part of the Constitution. The expeditious ratification of all amendments to the Constitution seems to be a proof of their necessity, broad consensus of the states, and correspondingly, a mandate of the people's will. The ERA shatters precedent.

THE IMPACT OF THE ERA

Both opponents and proponents of the ERA agree that the amendment will effect a fundamental change in U.S. society. As U.S. Congressman Charles Wiggins of California stated in discussion during the House Subcommittee on Civil and Constitutional Rights' hearings on extension of the ERA: I have heard a lot of irrational arguments on both sides. But one thing is clear. The ERA means something different from the equal protection clause of the fourteenth amendment."

PROPONENTS

"The single most significant event of this century. It will bring about a dimension of change greater than ever before."—Anita Miller, Chairwoman of the California Commission on the Status of Woman.

"The ERA, which gives women full civil rights under the Constitution, represents another profound advance for civilized society.—Eleanor Smeal, President of NOW and Chair of the ERA Strike Force.

OPPONENTS

"My view that the ERA is the most destructive piece of legislation to ever pass Congress still stands."—Sam Ervin, ex-senator from North Carolina.

"Is the Equal Rights Amendments to be the Tonkin Gulf Resolution of the American social structure? I would predict that the Equal Rights Amendment and many of the other goals of its proponents will bring social disruption, unhappiness and increasing rates of divorce and desertion."—Dr. Jonathan H. Pincus, Yale Medical School.

RATIFICATION HISTORY OF THE ERA *

The Congress sent the ERA to the states on March 22, 1972. The votes approving it were 354–24 in the House and 84-8 in the Senate.

State, ratification *, House, Senate:
Hawaii, March 22, 1972, 50–0, 25–0.
Delaware, March 23, 1972, 37–0, 16–0.
New Hampshire, March 23, 1972, 179–81, 21–0.
Idaho, March 24, 1972, 59–5, 31–4.
Iowa, March 24, 1972, 73–14, 44–1.
Kansas, March 28, 1972, 86–37, 34–5.
Nebraska, March 29, 1972, unicameral legislature, unanimous.
Texas, March 30, 1972, 139–9, unanimous.
Tennessee, April 4, 1972, 70–0, 25–5.
Alaska, April 5, 1972, 38–2, 16–2.
Rhode Island, April 14, 1972, 70–12, 39–11.
New Jersey, April 17, 1972, 62–4, 34–0.
Colorado, April 21, 1972, 61–0, 30–1.
West Virginia, April 22, 1972, unrecorded, 31–0.
Wisconsin, April 26, 1972, 81–11, 29–4.
New York, May 18, 1972, 117–25, 51–4.
Michigan, May 22, 1972, 90–18, voice vote.
Maryland, May 26, 1972, 86–32, unanimous.
Massachusetts, June 21, 1972, 205–7, voice vote.
Kentucky, June 26, 1972, 56–31, 20–18.
Pennsylvania, September 27, 1972, 178–3, 43–3.
California, November 13, 1972, 54–16, 29–9.
Wyoming, January 26, 1973, 41–20, 17–12.
South Dakota, February 5, 1973, 42–27, 22–13.
Oregon, February 8, 1973, 50–9, 23–6.
Minnesota, February 8, 1973, 104–28, 48–18.
New Mexico, February 28, 1973, 40–22, 33–8.
Vermont, March 1, 1973, 120–28, 19–8.
Connecticut, March 15, 1973, 83–77, 27–9.
Washington, March 22, 1973, 76–21, 29–19.
Maine, January 18, 1974, 78–68, 19–11.
Montana, January 25, 1974, 73–23, 35–14.
Ohio, February 7, 1974, 54–40, 20–12.
North Dakota, March 19, 1975, 52–49, 30–20.
Indiana, January 24, 1977, 54–45, 26–24.

Summary analysis

Seven states ratified the amendment within the first week.

Fourteen states ratified the amendment within the first month.

Thirty of the thirty-five states that have ratified the amendment did so within one year.

The ERA passed the first thirty states with overwhelming majorities in both houses of each state.

Since March 22, 1973, to the present, a period of four years, 7½ months, only five states have ratified the ERA.

Since the same date, three states have rescinded their ratifications.

The ERA shows a net gain of two states during the last four years, 7½ months.

In addition, twenty-eight of the first thirty states to ratify the ERA did so on the first vote in both houses.

If it is true that passage of the ERA will effect a profound change in American society, then it would seem that the merits of the amendment would be exhaustively debated before any action is contemplated. It can hardly be argued that the votes of passage in the legislatures of the first thirty states reflect the kind of careful consideration that complicated and controversial issues normally have. Most of the states that initially ratified the amendment did so without hearings or debate. Hawaii ratified the ERA within hours after the Congress sent it to the states. Nebraska was in such a hurry to be second that it violated its own rules of legislative procedure and had to ratify all over again six days later. As the table demonstrates, the trend in the country has been hesitation about the ERA for more than four and an half years. For

*Data for all tables in this paper was taken from research done by the Congressional Research Service of the Library of Congress.

every year of this period more states have rejected it then ratified it.

THE STATES YET TO RATIFY

Proponents of extending the time for ratification of the ERA contend that more time is needed to consider the merits of the amendment. Has the ERA been considered in depth by the fifteen states which have not yet ratified it? The following table shows a history of recorded votes that have occurred in the legislatures of those fifteen states. For all states but Alabama, Mississippi, Georgia, and Utah, the number of votes listed in the table include both votes of ratification and votes of rejections. Thus, since March 22, 1972, in eleven of the fifteen states yet to ratify the ERA, votes approving ratification have passed either a committee of one house or one of the two state houses.

State	House	Senate
Alabama		1 floor vote
Arizona	3 committee votes, 1 floor vote	2 committee votes, 4 floor votes
Arkansas	1 floor vote	1 committee vote
Florida	3 floor votes	1 committee vote, 3 floor votes
Georgia	1 committe vote, 1 floor vote	1 floor vote
Illinois	6 floor votes	1 committee vote, 5 floor votes
Louisiana	4 committee votes, 1 floor vote	2 floor votes
Mississippi		3 committee votes
Missouri	2 floor votes	1 committee vote, 2 floor votes
Nevada	2 floor votes	3 floor votes
North Carolina	1 committee vote, 3 floor votes	
Oklahoma	6 floor votes	2 floor votes
South Carolina	3 floor votes	1 floor vote
Utah	1 floor vote	1 floor vote
Virginia	2 committee votes, 1 floor vote	4 committee votes, 2 floor votes
Totals	11 committee votes, 31 floor votes	13 committee votes, 27 floor votes

SUMMARY ANALYSIS

Only 3 States have had no floor vote in both Houses. Only 2 States had had no floor vote in either House. 9 States have had at least 5 committee and/or floor votes. 7 States have had at least 6 committee and/or floor votes. 6 States have had at least 7 committee and/or floor votes. 7 States have had at least 4 floor votes.

RESCINDING RATIFICATION

For the first time in American Constitutional history, rescission of state ratifications of a Constitutional amendment has become a significant problem. The schizophrenic history of the ERA, that is, overwhelming enthusiasm for ratification during its first year, and circumspection and hesitation during the last four and a half years, has produced a thorny Constitutional question. As mentioned earlier, three states have voted in favor of rescission: Idaho, Nebraska, and Tennessee. Seven additional states have had significant attempts to rescind the ratification.

Rescissions

State, Date, House, Senate.

Idaho, February 8, 1977, 44–22, 18–17.

Nebraska, March 15, 1973, 31–17, (unicameral legislature).

Tennessee, April 23, 1974, 56–33, 17–11.

Significant attempts to rescind

Kansas—House rejected rescission in 1977, 66–56.

Kentucky—House voted to rescind in 1976, 57–40.

Montana—Senate rejected rescission in 1977, 25–25.

North Dakota—Senate rejected rescission in 1977, 32–18.

South Dakota—House rejected rescission in 1977, 34–33.

West Virginia—House rejected rescission in 1974, 18–15.

Wyoming—Senate rejected rescission in 1977, 16–14.

In addition, Wisconsin, which ratified the ERA overwhelmingly in its state legislature in 1972, rejected an equal rights amendment to its state constitution by more than 60,000 votes in a statewide referendum on April 3, 1973. New York and New Jersey, whose legislatures ratified the ERA in 1972, both rejected equal rights amendments to their state constitutions in statewide referendums in November of 1975.

ARE RESCISSIONS CONSTITUTIONAL?

ERA proponents have often cited the ratification of the 14th amendment to support their claim that it is illegal for state legislatures to rescind a previous ratification. The 14th amendment was very close to being ratified by the requisite three-fourths of the states when New Jersey and Ohio decided to rescind their ratifications. Ratification by the required twenty-eight states, including those two which decided to rescind, was completed on July 9, 1868. The Reconstruction Congress decided not to accept the rescissions. And before Congress adopted a joint resolution declaring the amendment a part of the Constitution on July 21, 1868, two more states, Alabama and Georgia, ratified. So the real importance of the rescissions became moot since even without the two states which had rescinded, there were still twenty-eight states to meet the ratification requirements.

In *Coleman* v. *Miller*, the Supreme Court, citing the ratification of the 14th amendment, declared that the decision of Congress not to accept the rescissions of New Jersey and Ohio was entirely proper because the subject of rescissions was "a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the amendment." So the Court stated that it is the proper province of Congress to make a decision about accepting or rejecting rescissions, but the Court did not rule on the constitutionality of the act of rescissions itself. The present Congress can take the ruling of *Coleman v. Miller* as a precedent that declares that only Congress has the authority to decide. But there is no guiding precedent that includes all the circumstances of the present case of the ERA. The magnitude of the problem facing the present Congress is more severe than that which faced the Reconstruction Congress.

In view of this, Congress will have to take into its considerations the fact that no amendment has ever been added to the Constitution without the contemporaneous ratifications of three-fourths of the States. Professor Charles Black of the Yale Law School, in testimony before the House Subcommittee on Civil and Constitutional Rights, stated that "The crucial question is whether or not three-fourths of the States favor the amendment at the same time * * * It seems to me that it would be entirely impermissible to extend the time for ratification without also extending the time for rescission. Extension of time, in my view, must be for action on the amendment, and not simply for one kind of action on the amendment."

Professor William Van Alstyne of the Law School of William and Mary, while maintaining on the one hand that an act of ratification within the original seven-year period "should be deemed conclusive and irrevocable, that is, that each State, acting within that seven-year period, once having determined to ratify should be held to have exhausted its power for further consideration," on the other hand stated that "to regard a State's ratification as conclusive when made within the originally-provided seven-year period is not the same as to treat it as conclusive after Congress subsequently resolves to provide for still another seven years. I do regard it as fair that a State might reasonably believe that, in light of that extension, its own original ratification should now be subject to reconsideration, i.e., that its original ratification, timely and conclusive when made within the original seven-year period, is not necessarily timely or conclusive in light of the greater number of years which Congress has now provided for allowing the proposed amendment to rest before the States."

On the opposite side, John Harmon of the Justice Department testified that "We think that the whole history is that Article V, as interpreted, does not permit States to rescind or otherwise place conditions upon their ratifications. If we are correct in this view, we think it follows that such a power can be granted only by an amendment to Article V itself."

CONCLUSION

Although Ervin Griswold, former dean of Harvard Law School, in his testimony before the Subcommittee on Civil and Constitutional Rights, declared that "the only thing that is clear about this question is that no one except five justices of the Supreme Court can answer it with authority," the other six witnesses before the subcommittee maintained that Congress, since it has sole authority over amendments to the Constitu-

tion, can indeed act to extend the time period. At any rate, that is probably the easiest of the many questions that Congress must consider. The following questions will have to be resolved:

Should the time period be extended at all?

Should the time period be extended for seven more years? If not, for how many?

Since Article V of the Constitution states that Congress acts to propose amendments and then delivers them to the states for consideration, would any Congressional action on the ERA at this time be an unwarranted intrusion into the process of ratification which the Constitution declares is the exclusive jurisdiction of the states?

If the time period is extended for seven more years, can Congress presume that a state ratification in 1972 can be interpreted as contemporaneous consent with a state ratification in 1986?

What is the Congress to do with the thorny problem of rescission? What if more states rescind? Should Congress issue some resolution on this matter now or wait until the ERA receives three more ratifications, if, indeed, it does receive those three ratifications?

Since both proponents and opponents of the ERA understood the amendment to have a seven-year life, is it fair or necessary to extend the time period at this late date?

Since the Constitution requires that the original resolution sending the ERA to the states had to be passed by a two-thirds vote of both houses, should the same vote be required on a resolution to extend the time period? Or can Congress extend the time period with a simple majority vote?

Opponents to the ERA have declared that they will take any extension resolution to court. Although Congress will probably want to proceed in a manner that will keep the Supreme Court out of the issue, the possibility of a Court ruling is not out of the question. The Court ruled, in both *Coleman* v. *Miller* and *Dillon* v. *Gloss*, that it had not yet seen the necessity for intervening into the Congressional prerogative of authority over amendments to the Constitution, and that it did not want to get involved in the process. But there has never been such a complicated series of legal questions about any proposed amendment to the Constitution. The possibility that the Court would see a place for itself in this debate is a real one.

By Tom Ascik, Policy Analyst.●

BIRTHDAY GREETINGS TO SENATOR MATSUNAGA

● Mr. INOUYE. Mr. President, today marks the 62d birthday of my esteemed colleague and fellow Senator from Hawaii, SPARKY MATSUNAGA. During this 95th Congress, SPARKY has demonstrated to his colleagues and to his constituents in Hawaii that he is second to none in his dedication to fulfilling his duties as a U.S. Senator—both to his fellow Senators and to his constituents.

Almost a year ago, he was awarded the "Golden Gavel" for presiding over the Senate for 100 hours. At that time, Senator PROXMIRE noted that he is the only Presiding Officer I know who addresses the Senate vertically instead of sitting down. He does it with such consideration and effectiveness in obtaining order that I think he should not only receive the "Golden Gavel" but a sort of a golden fleece gavel. Other colleagues joined in paying tribute to his effective and good humored performance of his duties.

One of his constituents, Capt. Stanford R. Espedal, USAR (retired) was moved to honor him in poetry. On the occasion of SPARKY MATSUNAGA's 62d birthday. I wish to share with my colleagues that constituent's tribute to my friend and fellow Senator.

SPARKLY SPARKY

Your record stance, one hundred hours is phenomenal
Throughout Aloha Land and not just hemispherical
O.K. to stand upright for days but not perpetual
It gives your colleagues better views of you peripheral
Your feat was great and more than only physio-logical
You showed respect, received, the same, in testimonial
Accept the Fleece and Gavel, you are most exceptional
All this for Sparky, not for records in Congressional
Be sure you spend some time relaxing longitudinal
The next time after standing hundred hours vertical

STANFORD ESPEDAL●

POPE JOHN PAUL I

● Mr. DOLE. Mr. President, the news of Pope John Paul's death left few hearts untouched because of the widespread respect and love engenered by this warm, friendly man whose Christian principles, warmth, and humor characterized an outstanding life of service to God.

This Pope was a unique person, with truly outstanding abilities for outreach to others. Many non-Catholics and, I assume, many Catholics have difficulty identifying with the person of the Pope, but Pope John Paul managed to make each of us identity with his work and with his compassion for others. Certainly his warm, pastoral manner and perceptive wisdom was appreciated by Catholics and non-Catholics alike.

Obviously, his short reign leaves us with little that can be said about his influence on the theological position of the Catholic Church, or on various concrete matters of church policy. We can only speculate as to what the remainder of a longer reign would have held. However, it is indicative of the man's obvious wisdom and good judgment that virtually everyone, regardless of theological perspective or temporal viewpoint, looked forward to the papacy of Pope John Paul.

However, despite his short reign he will leave a lasting impression on all Christendom. His memory, rather than his theological position or policy initiatives, will stand as a monument to the service of God. Further, that memory will serve as a direction post for those who value the Christian principles that exemplified the life of Pope John Paul I.●

● Mr. THURMOND. Mr. President, the world was saddened to hear the news of the death today of Pope John Paul I. It is indeed unfortunate that his reign as Pope was so short, only 34 days. However, with his personal anecdotes and informal gatherings opening doors to the papacy never before opened will certainly insure his place in history.

The 700 million Catholics in the world have truly lost a great leader whose replacement will undoubtedly be difficult.●

GREAT LAKES PILOTAGE ACT

● Mrs. HUMPHREY. Mr. President, I am deeply gratified that the Senate has taken expeditious action to achieve final passage of H.R. 12603, a bill amending the Great Lakes Pilotage Act of 1960. I wish to extend particular thanks to Senator CANNON and Senator GRIFFIN, for helping to bring this much needed legislation before the Senate.

This bill is very similar to S. 2984, which I introduced on April 25, 1978. The differences in the language adopted by the House in no way diminish or impair the objectives which my bill was intended to accomplish. This legislation will greatly enhance efforts to relieve the growing shortage of qualified pilots, thus insuring the continued safety of vessels operating in designated waters on the Great Lakes. The bill has the support of the U.S. Coast Guard and the Department of Transportation as well as that of my fellow Great Lakes Senators and Congressmen.

Without this legislation, the future of of Great Lakes shipping would be seriously threatened. This bill will make the holders of mate, pilot, or master licenses eligible to serve under the Great Lakes Pilotage Act of 1960. And it authorizes a program for additional training when determined to be necessary by the Secretary of Transportation, to insure the safety of navigation on the Great Lakes.

Mr. President, again I express my thanks that this bill has received prompt and favorable consideration. Its importance to the maritime economy of the Great Lakes States cannot be overestimated.●

THE KEY GENERAL NOBODY KNOWS

● Mr. GOLDWATER. Mr. President, Mr. Stephen Webbe, staff correspondent of the Christian Science Monitor, has written in that publication on September 26 an article entitled "The Key General Nobody Knows." He is speaking about Gen. David Jones, who is Chairman of the Joint Chiefs of Staff, and while I do not agree with Mr. Webbe that this is a general nobody knows, I think his writing outlining the general's background, his experience, and what others think about him and his chances of being successful are so succinctly put that my colleagues should read the article. Therefore, I ask that this article be printed in the RECORD.

The article follows:

THE KEY GENERAL NOBODY KNOWS

(By Stephen Webbe)

WASHINGTON.—When Gen. David Jones strides into his expansive Pentagon office today, it's with the sober thought that tomorrow he might be in a deep command bunker waging war against the Soviet Union.

Although he would no doubt be alarmed to learn from a grim Secretary of Defense that T–72 tanks of the Warsaw Pact were lunging across the North German Plain and SS–20 missiles were smacking into NATO air bases, he gives every appearance of being both mentally and physically prepared for the titanic struggle that would ensue.

But would United States forces be similarly prepared, he wonders.

"We've never been ready for war," says the recently appointed chairman of the Joint Chiefs of Staff, sitting on the edge of his office couch in a pale blue shirt with four-star epaulets. "We weren't ready for World War I or World War II or Korea. We certainly weren't ready to fight the type of war we fought in Vietnam."

EFFECTIVENESS AND WEAPONRY

He pauses, as if sifting observations he might fake to find one of overriding importance. On the wall behind him a vast National Geographic map of the world reflects the breadth and multiplicity of his concerns. "An area I intend to work on is what I call 'readiness now,'" he continues in a measured, determined voice that still owes something to his North Dakota upbringing. "Too often we look at readiness through binoculars, and I believe we have to look at readiness through bifocals."

Throughout history, General Jones believes, military establishments have been inclined to equate their effectiveness with the introduction, at some future date, of new and more deadly weapons. "It tends to be a moving goal," he says. And, as far as U.S. forces are concerned, it's a goal he plans to adjust.

"I intend to spend a great deal of time in the nonglamorous areas of readiness," he stresses, "of making sure we have the plans and the command and control, and the hardware and the spare parts and that we can get our forces to Europe, and that we can do these things which are much less glamorous than buying a new aircraft or new tank."

He is not, he stresses, criticizing long-term defense planning. "It's very important that we have new systems and modernization. I'm not trying to say that 'readiness now' is more important. I'm just saying that in my role as chairman I can be a great advocate for 'readiness now,' and the joint arena is the only place we can tie it all together."

He is just as anxious not to appear unduly critical of the services' present attitude toward preparedness. "I'm not trying to say they're not paying attention to it," he insists, "but there's a great advocacy for their new weapons systems."

The chairman's intention to work for the maximum readiness of U.S. forces will no doubt be welcome news to NATO commander Gen. Alexander Haig, who recently declared that the West cannot expect to overwhelm potential aggressors with crisis mobilization of its industrial might.

"The maturation of the Soviet industrial base simply denies us this luxury," he asserted, pointing out that many experts have suggested the next war may be strictly a "come as you are" affair.

If the U.S. is to fight with the men and weapons it has today, General Jones aims to see that it won't lumber uncertainly into battle but strike deftly from the onset of hostilities.

ON PAR WITH U.S.

The nation's ninth JCS chairman concedes that the Soviet Union's "massive buildup in military capability" has elevated it from being "a second level military power to one that is essentially equal to the United States today." But like many a strategic studies expert, he is not certain why Moscow has furnished itself with such an awesome war machine. "Is it what we would consider an undue concern about their national security requirements, or is it a grand scheme to take over the world?" he muses. General Jones doesn't exclude the possibility that the Soviets are bent on world domination or simply on exceeding U.S. power in certain areas, but he says: "It's the reality of the buildup that I must deal with as opposed to intentions."

He notes that despite "the great difficulties" afflicting the Soviet Union internally, it has clearly decided "that the continued growth of the military is a very high priority" and has decided to make "whatever internal sacrifices are necessary to achieve that growth."

Two years ago he issued a sobering warning about the buildup of Soviet military power, declaring it posed "the greatest potential threat" to the survival of the United States "since the Civil War," and expressing the conviction that the Kremlin was bent on achieving superiority in both nuclear and conventional forces.

Today, with that air of penetrating reflectivity that has become his trademark, he notes that Soviet power comes almost exclusively from the barrel of a gun: "If you look at Soviet influence, it is certainly not in the economic area. It doesn't have the influence of Western Europe or Japan in the world economy. It's not an economic superpower." Likewise he dismisses the Soviet Union as a technological force to be reckoned with, though admitting it is "rapidly improving in some very narrow areas."

The Kremlin, he points out, is also suffering setbacks in the ideological arena and he notes: "There's a lot of communism in the world, but there's not quite the acceptance of the Soviet brand."

SOVIET RELIANCE ON ARSENAL

The Soviet Union, General Jones concludes, has achieved its superpower status almost solely by virtue of its military capability—"as opposed to the U.S., where we're very broad-based." The Kremlin's reliance on a vast arsenal for influence in the world, he intimates, has made strategic arms limitation a difficult undertaking. "We're trying to reduce the only area of power that they really match," he observes.

Gen. David C. Jones succeeded Gen. George S. Brown as chairman of the Joint Chiefs of Staff on June 21, 1978. He has fought in Korea and Vietnam and served as commander-in-chief of United States Air Forces in Europe (USAFE), in which role he concurrently commanded the Fourth Allied Tactical Air Force. Prior to his present appointment he served four years as Air Force chief of staff and, in that capacity, as a member of the Joint Chiefs.

A tall, dark-haired, soft-spoken man addicted to hard work and jogging, he was born in Aberdeen, South Dakota, on July 9, 1921. Some years later his family moved to Minot, North Dakota, where he took to watching planes at a local airport and where, in 1939, he graduated from high school. He attended the University of North Dakota and Minot State College until war broke out, and entered the Army Air Corps in April, 1942, receiving his commission and wings the following February. He spent the duration of the war—somewhat to his chagrin, one supposes—as an advanced flying instructor in New Mexico, Arizona, and Texas.

After a 36-year career he now stands at the pinnacle of the Nation's military hierarchy. "I didn't seek the office," he confesses. "In fact I was fully adjusted to retiring this last summer." Now, after three months as JCS chairman, he says the job can be "very satisfying but not as much fun—if those words are appropriate—as being a service chief." But he admits that "you can get satisfaction out of dealing with the highest levels and critical problems."

Pentagon watchers agree that General Jones has stepped into one of the most controversial and misunderstood jobs in the American political system.

HOW JCS IS ORGANIZED

Created in 1942 and legitimized by the National Security Act of 1947, the Joint Chiefs of Staff comprise a chairman, the Army chief of staff, the chief of naval operations, the Air Force chief of staff, and, when matters affecting the Marine Corps are under discussion, the commandant of the Marine Corps.

They are the principal military advisers to the President, the National Security Council, the Secretary of Defense, and the Congress—though none is legally required to consult them. They also prepare strategic and logistic plans, review the plans, programs, and requirements of the separate services and unified commands, and assist the President and Secretary of Defense in their command responsibilities. The service chiefs serve for four years, the chairman for two.

The members of the JCS, who are effectively hired and fired by the President, do not command any troops. "The Joint Chiefs can't command anybody—except if they're lucky enough to have a stenographer, they can give her direct orders," exclaimed World War II veteran Gen. Maxwell Taylor recently.

But the Joint Chiefs are assisted by the Organization of the Joint Chiefs of Staff (OJCS), made up of the Joint Staff and the JCS staff organization, totaling some 2,000 military and civilian personnel. In addition they control four defense agencies—the Defense Intelligence Agency, the Defense Nuclear Agency, the Defense Communications Agency, and the Defense Mapping Agency—to which they assign tasks and which report back to them. Moreover, each service chief has a staff of about 2,200 to assist him in the running of his service.

The Joint Chiefs of Staff meet every Monday, Wednesday and Friday at 2 p.m. in a room known as "the tank," just inside the Pentagon's mall entrance.

ORIGIN OF POSITION PAPERS

"The agenda items are supported by position papers prepared by the Joint Staff," explains Lawrence J. Korb, management professor at the U.S. Naval War College, Newport, Rhode Island, in his book "The Joint Chiefs of Staff."

"Most of the items on the agenda," he writes, "are the result of requests from the White House, the Secretary of Defense, or one of the unified commands for a JCS position on a particular issue." He notes that every year the JCS takes action on some 15,000 items, ranging from uniform design to nuclear weapons targeting.

But the Joint Chiefs do not take action on all the problems submitted to them. In 1973 it was estimated that they acted on only 2.8 percent of the papers processed in their name, the remainder being dealt with by the Organization of the Joint Chiefs of Staff.

Papers advance to their desk in a somewhat curious and lengthy fashion. Upon receiving a request, an "action officer" in the OJCS prepares a report on "flimsy" paper and forwards it to the service action officers for comment. If it is agreed to or the issues it raises cannot be resolved it is then published on buff paper and circulated within the OJCS. The buff, often with changes incorporated, then goes to the service planners. If they approve the buff, its contents are transferred to green paper. In this form it is submitted to the operations deputies, who, if they cannot agree or consider it of sufficient importance, forward it to the JCS. A paper approved by the chiefs is sent to the agency requesting it on paper with a diagonal red stripe drawn across it. And dissenting view (or views) are appended.

"The 'flimsy buff-green-red-striped' process is designed primarily to protect service positions," insists Profesor Korb. "Consequently, at each step of the process, in order to please each of the services, the issue is usually watered down or 'waffled' so that it becomes meaningless, or service positions are simply added together and labeled as a joint paper."

A recent report on the Joint Chiefs of Staff, ordered by President Carter and com-

piled by the head of his Pentagon transition team, Richard Steadman, observed that the position papers "are almost uniformly given low marks by their consumers."

LACK OF INNOVATION ALLEGED

Professor Korb excoriates the system, asserting that the JCS as a body has become so bogged down in the cumbersome process "which is so concerned with protecting each chief's own service interests that it has become addicted to the status quo and has never been a source of innovation in the national security policymaking process."

He claims that such policies as containment, massive retaliation, flexible response, Vietnamization, and détente were developed with "negligible input" from the JCS, and he recalls that Lyndon Johnson once complained to Army Chief of Staff Harold Johnson that the JCS never gave him any solutions, answers, or even ideas to deal with Vietnam other than to continue with existing policies.

General Jones is aware of the criticism, but points out that "it is difficult at times where you have to get consensus to ensure that imagination and initiative are not stifled." He feels that the JCS have displayed both in the past but says: "I take the challenge for us to be even more imaginative in the future."

The Joint Chiefs of Staff have been lambasted from their very inception. "One day I read that the Joint Chiefs are weak and never consulted, and another day that they are controlling the country," observed Adm. Thomas Moorer when he retired as JCS chairman in 1974.

According to Professor Korb the chief criticisms have been that the chiefs' service functions prevent them from giving proper time and thought to JCS work; that the work itself is simply of too staggering a volume; that the chiefs have been overly influenced by service parochialism; that the JCS are isolated from the rest of the Department of Defense and take too long to reach decisions through their position paper system; and that they have been politicized by the party in power, becoming spokesmen for the administration rather than disinterested military advisers.

He points out that attempts to correct these deficiencies have been singularly ineffective. "The problem areas that existed in 1947 still persist 31 years later," he says. "The complaints of the twelfth Secretary of Defense, Donald Rumsfeld, about the chiefs were strikingly similar to those of James Forrestal, the first Secretary of Defense."

POLICY 'MISTAKES' DESCRIBED

He also maintains that the Joint Chiefs have "consistently allowed themselves to be intimidated by political leaders into supporting policies to which they were or should have been opposed." And among those he includes President Truman's very low defense budgets, Lyndon Johnson's war policies, and President Nixon's secret bombing of Cambodia.

The Steadman report charged that the JCS plays a limited role in defense policy and is plagued by initiative-inhibiting procedures that need overhaul. It urged that the chairman be given more power and act "from his own national perspective" rather than on behalf of the individual services in advising the President and Secretary of Defense on spending and military issues.

But General Jones is by no means sure that this proposal gives him a prerogative he doesn't already have. "I don't have to represent the chiefs today," he says emphatically. "I can express my own views." But he adds that he feels obligated to himself, the Joint Chiefs, and the system "to make clear when I'm representing the chiefs and when I'm talking as an individual."

Predictably, he evinces no enthusiasm for Mr. Steadman's proposal that, if the JCS cannot be reformed, a separate military body—the National Military Advisers—"entirely independent of service responsibilities" be created to supplant them.

"The problem you would have in my judgment," General Jones declares, "is that the people who are sitting down and discussing would really have no responsibility for implementation or execution. Now if we sit in the chiefs and say to the President or Secretary of Defense we can do this, we're sort of putting ourselves on the line, because we then have to go back and do it."

He adds that when he was Air Force chief of staff, "I found my contribution to the chiefs was much greater by really knowing what was going on in the Air Force—not just being informed by others." He says that in emergencies "you had a much better depth of knowledge as to what should be done and therefore I do not see the National Military Advisers as a good way to go."

THE B–1 BOMBER ISSUE

While it is usual for the JCS as an institution to take heavy criticism, perhaps no incoming chairman has been strafed so vigorously as General Jones.

Critics have claimed bitterly that as Air Force chief of staff he didn't fight hard enough for the B–1 bomber that President Carter canceled in June, 1977. But he retorts that he put "a lot of blood and sweat" into it.

Behind what he terms his "very agonizing" decision not to recommend the construction and testing of two additional bombers at a cost of $750 million ("particularly in the absence of any concept of deployment and operational capability") lies his firm conviction that there is a need for "increasing discipline" within the military. "We're doing much better than we did during the war in Vietnam," he says, "but I believe we still have a great deal more to do."

Discipline, it seems, is as incumbent upon a chairman of the JCS as on the lowliest private. "I was deeply convinced that [the B–1] was the way to go, and I was a strong advocate for it. I tried to make the best possible case I could, but when a decision is made by the commander in chief, it seems to me that it is not appropriate for us to do anything but try to carry out that decision in as faithful a way as we possibly can."

General Jones stresses that when asked for a personal view on an issue by a congressional committee he will always give it, "even when at variance with the administration. But this is different than going out and making a speech or going over on the Hill and trying to persuade people to override the President."

Last July he revealed that he had been urged to lobby Congress to fund the B–1 after President Carter canceled it, but said he had refused to become involved. "I really think deep down that's what the American people want from their military. On a specific issue they may rally behind some concept of arguing, but if they really think about it deep down that's what they want—and that's what I'm going to try to do."

Nevertheless, Professor Korb points out that the Joint Chiefs do have the right of direct access to the Congress. "Their right to make Congress aware of any recommendations that they deem proper has allowed the Joint Chiefs to make 'end runs' to the legislative branch when they have lost battles within the executive branch," he writes. But he adds that the prerogative "so infuriated President Eisenhower that he referred to it as legalized insubordination."

General Jones's alleged apostasy over the B–1 has also drawn a little naval fire. In a newspaper column earlier this year, Adm. Elmo Zumwalt, former chief of naval operations and Adm. Worth Bagley, his former vice-chief, claimed (in a veiled reference to the bomber controversy) that "the story is current among Jones's military peers that he has been known to alter his military advice to conform to the perceived views of his civilian superiors."

Elsewhere in the column it was noted that "the views of those who were alarmed by Jones's appointment raised doubts in the minds of important senators" as to whether he was capable "of that independence of judgment expected of military chiefs."

Professor Korb, who terms General Jones "the bright, cold prototype of a military manager," and a "workaholic," claims he was appointed JCS chairman because he is "a team man" and predicts he will be liked by the administration but not by his fellow chiefs. "Jones will try and run them," he says, "and there will be trouble from the other chiefs when he tries to get them to fall in line."

Various other commentators have labeled the general 'pliant," "managerial," and "intellectual rather than combative." All this stung Armed Forces Journal (AFJ) into a spirited response last month, and in only the second two-page editorial it has printed in 116 years, it counterattacked in General Jones's defense, quoting Assistant Defense Secretary Russell Murray as saying it was "absurd" to call him a "patsy" and retired Air Force Lt. Gen. Ira Eaker, who praised his "experience, character, and competence."

The magazine quoted numerous other sources lauding General Jones but declined to identify them. One observed bluntly: "Sure he's a 'manager.' But he 'manages' readiness, he 'manages' war-fighting—he's going to 'manage' a disaster for the Russians if they screw up in Europe. . . ."

Another admitted: "A year ago, in August, after a face-to-face issue meeting with [then JCS Chairman George S.] Brown and Jones, three assistant secretaries and one special adviser called me and reported that they had never observed a more superior performance. One assistant secretary grudgingly joked, 'I was overruled six times!'—but he listens to Jones now."

ACHIEVEMENTS IDENTIFIED

Others credit General Jones with being "the principal and most vocal" supporter of the AWACS (Airborne Warning and Control System) radar plane program when it was 'in deep kimchi" and with convincing Defense Secretary Harold Brown that it was wrong for the Air Force to kill its last wing of F–15 fighters and replace it with two other wings of F–16 fighters or A–10 ground attack aircraft.

On the apparently still-simmering B–1 issue, the Armed Forces Journal editorial commented: "Apparently, there is a crowd in Washington that holds that Air Force chiefs of staff are supposed to fall on their swords or shoot themselves in the foot if they fail to persuade the President to buy every new weapon the R & D (Research and Development) community puts on the menu."

In concluding, the editorial suggested that critics "may not know how much the President, the Secretary of Defense, and the OSD (Office of the Secretary of Defense) civilians "really count on Davey Jones' advice."

If General Jones looks like a manager, he insists he doesn't feel like one. "I spent a good share of my military career being a commander," he asserts.

During the Korean War he flew 29 bombing missions over North Korea and later served in Vietnam with the Seventh Air Force, first as deputy commander for operations then as vice-commander. A married man who lives with his wife and 17-year-old son, David, at Fort Meyer in Arlington, Virginia, he is the holder of 30 decorations and service awards, including the Distinguished Flying Cross, the Air Medal with oak leaf cluster, and the Legion of Merit.

"I don't see that we're managerial types," he says, observing that within the chiefs, there's "a good balance" of those who have had combat experience. "When you don't have a war the tendency is to categorize people as managers, and when you've got the war, you've got the categorization as fighters," he ventures.

"If you had to categorize my background as managerial vs. command, I've spent more time in the command and operations side of the house, and I still try to keep a hand in it—for instance there have only been a few times in my career that I haven't been in the cockpit doing the flying."

STILL FLYING

These days General Jones flies himself around in a T-39 Sabreliner and gets "a lot of enjoyment and satisfaction out of it.

"I like the little T-39," he says, "It kind of reminds me a little bit of an F-100 fighter—not that I try to fly it like a fighter, but it's small. You don't have to take a big entourage along, and you can get it into the air in four or five minutes."

If General Jones has a mentor it's none other than the celebrated Curtis LeMay, bombastic, cigar-chomping architect of the U.S. bombing offensives against Germany and Japan in World War II, who rose to become Air Force chief of staff in the early 1960s. Today the 72-year-old general, who shared the ticket with George Wallace in the latter 1968 presidential bid, lives in retirement in Newport Beach, California.

"I had the opportunity to be aide to General LeMay while he was at Strategic Air Command," says General Jones, describing himself as "a student and protégé of one of the greatest commanders in the military we've ever had."

"When he told me he wanted me to be his aide he said: 'Your first duty is to learn and second is to serve, and don't ever get your priorities mixed up.' ". General Jones, who served the SAC commander from January, 1955, to July, 1957, says General LeMay took him "wherever he went."

"I really felt I learned a great deal about command from General LeMay, and when I was a commander I tried to put a lot [of it] into practice." General Jones, who lunched with General LeMay in Washington recently, says he was surprised when the war hero entered politics. "That's behind, and we've never talked about it."

But the two men don't lack topics of conversation when they do meet. "General LeMay has such insight into command and leadership," says General Jones, "that that tends to be the focus of our discussion rather than politics—not that we don't philosophize at times."

LE MAY'S OPINION

Asked whether General Jones will make a good JCS chairman, General LeMay replies: "Of course, he's a great officer. I've got every confidence in the world in him." He says he picked Lieutenant Colonel Jones to be his aide because he was "a very smart officer" and "knew the air business very well," besides having "a sense of responsibility." In a voice suggesting he had lost none of his old ebullience he observes: "I used to pick out the smartest guys I could find, keep them for a year, and pass them on to a better job."

What advice would he give General Jones in his new job?

"I see Davey every time I go into D.C., and he doesn't ask for any help, and I don't give it. He doesn't need advice. He's got enough experience to make up his own mind."

And what verdict would General Jones like to see passed on his performance as JCS chairman? He ponders the question. Then, choosing his words carefully, he replies: "A verdict that I did my very, very best to provide advice on the major issues, advice that was well thought out, that was nonparochial, unbiased, that look the broader issues of the world into account, that I gave this advice in an uninhibited way—responsible but yet uninhibited—that I did my homework, and that I was helpful in trying to solve the very difficult problems that will face our country."

Only time will tell whether he will pass the same verdict on the job as Gen. Maxwell Taylor did recently when he said: "It's very pleasant to be chairman of the Joint Chiefs of Staff. I recommend it to any young man going up."●

AGRICULTURE APPROPRIATIONS, 1979

Mr. CLARK. Mr. President, on Wednesday night, the Senate agreed to the conference report on the 1979 Agriculture appropriation bill. I want to commend the conferees for their work on the very difficult bill. They have done an excellent job in most respects. I am especially happy to see that there are funds in the bill for beginning work on revising and updating USDA handbook No. 8 which spells out pork quality standards. And, I am glad to see that the bill contains funds for the extension service farm safety program.

However, I am sorry to see that the conferees could not agree on funding for the new rural clean water program.

The purpose of that program is to help farmers pay the cost of complying with new clean water rules now being spelled out by local groups who are working on water quality problems and planning the steps needed to solve those problems.

Efforts to improve water quality by reducing sediment involve soil conservation. That is why this new program is so important. For the first time, it links the vital soil conservation concerns with vital clean water concerns.

I was the author of the first bill to treat these two sides of the same problem with a new, special soil conservation program. I was glad to see it passed into law last year. I was very critical of the administration last February when the President's budget failed to include funding for the new program. And now I am sorry to see that the conferees did not include funding for the program in fiscal year 1979 budget.

The conference disagreed over how the program should be managed, rather than over the substance of the program, or its importance. And, there is some chance that the administration will be able to work out an acceptable proposal and bring it up for supplemental funding.

In an editorial last Sunday, the Des Moines Register called for the Federal Government to lead a new attack on the soil erosion problem, and for "farmers, farm organizations, environmentalists, agribusiness, and others directly involved in agriculture and the environment" to join in. They believe Secretary Bergland should call a national conference to draw up a comprehensive plan for meeting the soil conservation crisis.

Mr. President, I hope the Secretary will take the lead, both in strengthening our existing soil conservation programs and in working out the impasse on how the new rural clean water program should be handled. I believe these programs provide a solid basis upon which a national soil and water conservation policy can be built.

I ask that the Des Moines Register editorial be printed in the RECORD.

The editorial follows:

CRISIS IN AGRICULTURE

The recent series of articles by The Register's James Risser told the alarming story of the environmental crisis facing agriculture. If the crisis is not met, sooner or later crop yields will drop, critical water shortages will develop, and agricultural pollution will take an ever-rising toll of the nation's water and the health of Americans.

Risser reported how topsoil is disappearing from many of the farms of America faster than it can be replaced. This soil erosion—combined with the pesticides, fertilizer and wastes from livestock operations that are allowed to run off farms—is polluting and sometimes killing the nation's rivers.

In the arid West, heavy use of water for irrigation is threatening water supplies and making such major rivers as the Colorado and Rio Grande so salty that crop yields are being reduced. Much of the rangeland that blankets the Western states has been overgrazed, reducing its ability to support livestock.

So far, the seriousness of this environmental crisis has been largely masked by indifference and a growing use of farm chemicals. But as Secretary of Agriculture Bob Bergland has warned, failure to meet the crisis will put us on a "collision course with disaster."

We believe the time has come for a major attack on soil erosion, the pollution caused by the run-off of farm chemicals and animal wastes, the threats to Western water, and the related environmental problems caused by farming practices.

The federal government must take the lead in this effort. If the attack is to be a success, the government must be joined by farmers, farm organizations, environmentalists, agribusinesses, and others directly involved in agriculture and the environment.

We call on Secretary of Agriculture Bergland to launch the effort by calling a national conference of the major groups and individuals.

Out of the conference should come a comprehensive plan for meeting the crisis—similar in scope to the national energy plan drawn up by the Carter administration.

There is no shortage of tools and techniques for dealing with agriculture's environmental problems. Urgently needed is the will to attack the problems. The lack of will is illustrated by what happened this year to the Rural Clean Water Program—a federal initiative with great promise of stemming soil erosion and agricultural pollution. The Carter administration recommended no money for the program while congressional efforts collapsed in bickering over which agency would direct it.

The USDA can make no greater contribution to the long-term health of American agriculture than by mobilizing support for a concerted attack on agriculture's environmental mess.●

SULFUR DIOXIDE

● Mr. HEINZ. Mr. President, I would like to bring to the attention of my colleagues an informative article on sulfur dioxide air quality standards by Don Zimmerman, staff writer for the Progress of Clearfield, Pa. Given the present debate over sulfur dioxide emissions, proper treatment techniques, energy/environment tradeoffs, and the inflationary im-

pact of environmental regulations, I believe this article may be of interest. I ask that the article be printed in the RECORD.

The article follows:

SULFUR DIOXIDE

(By Don Zimmerman)

A growing number of scientists and industrial leaders claim current air pollution standards have overshot the mark, costing consumers millions unnecessarily.

The issue is of major importance in the Clearfield County-Mochannon Valley area because the prime target of air pollution legistion is sulfur dioxide, the colorless but pungent gas released when coal is burned.

Coal mined in this area has a medium to high sulfur content and cannot meet standards set by the Environmental Protection Agency for eastern "air basins", urban areas with many pollution sources.

Instead, factories and power plants in these areas burn more expensive fuel oil, much of it imported.

Even the coal sold to plants outside air basins must usually be cleaned at a washing plant to remove pyritic sulfur and comply with the law.

Not all sulfur can be washed from coal, however.

Organic sulfur is locked molecularly to the coal and is released as sulfur dioxide when the coal is burned. Then, the only way to prevent the gas from entering the atmosphere is treating flue gas.

The 1977 Clean Air Act amendments tighten restrictions on the sulfur dioxide emissions of new plants. In order to comply, new plants will have to install flue gas treatment systems, commonly known as scrubbers.

Scrubbers use lime to remove sulfur dioxide from the emissions but they have been criticized as difficult and costly to operate. In addition, the residual sludge produced by the process must be discarded, resulting in a pollution problem in itself.

Utility analysts say five to ten percent of the cost of producing electricity at new generating stations may reflect the cost of operating the scrubber.

Critics charge that the Clean Air Act was passed in the wake of an emotional reaction to the anti-pollution movement of the late 1960s. The standards for sulfur dioxide, they claim, are not based on good scientific research.

The 1967 Air Quality Act directed the Department of Health, Education and Welfare to develop criteria to eliminate "all identifiable effects" of certain air pollutants.

Sulfur dioxide was assumed to be the prime pollutant, although little research had been done to prove the contention.

HEW's National Air Pollution Control Administration charted the course of America's air pollution abatement battle.

A ten-chapter criteria document for sulfur oxides was prepared by a panel of industry and environmental specialists. Industry panelists agreed with the findings in the first nine chapters of the document but many were stunned by the conclusions presented in chapter ten, written not by the panel but by members of the HEW staff.

The 22-page conclusion chapter was also

The document, published first in 1967 and revised in 1969, became the cornerstone of the 1970 Clean Air Amendments.

Each state was required to create a plan to achieve ambient air quality standards set by the amendments. In Pennsylvania the Department of Environmental Resources has that responsibility and enforces emission standards.

In recent years, however, dependence on foreign oil, soaring fuel costs, a foreign trade deficit and a general slump in the U.S. economy have made more people willing to weigh the benefits of pollution control against the cost.

New voices have joined the opposition to current air pollution standards lending credibility to a cause once thought to be championed by industrial, mining and utility leaders with vested interests.

Critics say we have more control than we need with a staggering inflationary cost borne by the consumer. In addition, some say by concentrating on scrubber installation we are hindering the development of more economical pollution controls.

One of the long-time opponents of current sulfur dioxide regulations is William N. Poundston, executive vice president of Consolidation Coal Co. of Pittsburgh. He says the original notion that sulfur dioxide was the most dangrous air pollutant was unsubstantiated.

"What I object to," says Mr. Poundstone, "was thinking sulfur dioxide was the problem."

Mr. Poundstone is not alone in his assessment of the danger of sulfur dioxide.

Dr. Herbert Schimmel, associate professor of neurology at New York's Albert Einstein Medical College, once thought that sulfur dioxide was the deadly agent that caused deaths in pollution episodes such as in Donora, Washington County, in 1948. Now, he has changed his mind.

"I've made some errors myself," Dr. Schimmel admits, "but the big error was equating sulfur dioxide with air pollution.

"There was an 85 percent reduction in the amount of sulfur dioxide in the air in New York from the late 1960s to the early 1970s but no noticeable reduction in the effects associated with air pollution."

Dr. Schimmel maintains that air pollution does not strike people dead in the streets as many believe. "The effects are subtle," he says. "In Donora, we never found out what the pollutant was, even after autopsies and years of study."

"Rather than having an acute effect, pollution appears to be a stress factor, the straw on the camel's back. We now know that heat and cold waves have a far stronger effect on health and mortality than anything associated with air pollution.

"I once thought that sulfur dioxide was the source of the air pollution problem, but the more carefully I went into it, the more I found it wasn't.

"All of the evidence in the air pollution field is either fragile, trivial or erroneous," says Dr. Schimmel. "The standards were set when statistical analysis was poor and incorrect.

"In effect, they were killing the messenger who brought the bad news. Since then, EPA has stood on its head to prove that sulfur dioxide was the culprit. Much of its work has been shoddy or criticized."

The primary evidence used to back the pollution standards is the CHESS study. CHESS, an acronym for EPA's Community Health and Environmental Surveillance System, attempted to correlate sulfur emissions with health effects through studies in New York, Utah and St. Louis.

CHESS methods were criticized by the scientific community and a congressional committee concluded that the CHESS report proved little except the difficulty involved with air pollution-health effects research.

William Megonnel, now vice president of the National Association of Electrical Contractors, was an official in EPA during the formative years. He says standards were set for sulfur dioxide because it was easy to identify.

"People singled out sulfur dioxide, rightly or wrongly, as the prime culprit," Mr. Megonnel says. "Probably one of the reasons this was done was because people knew how to measure sulfur dioxide.

"I don't really know if this was the pollutant. In fact, later evidence seemed to indicate perhaps it was not."

EPA now admits that sulfur dioxide is not a dangerous pollutant in itself.

"Since the standards were set in 1971, we've learned a lot," says Dr. Dordon Hueter, a researcher in EPA's Office of Air Quality Planning and Statistics.

He defends the current standards on the grounds that controlling sulfur dioxide is the best way to control more dangerous compounds formed when sulfur dioxide reacts with the atmosphere.

"We don't feel sulfur dioxide per se is as harmful as it is in creating another compound," Dr. Hueter says. "The easiest way to control sulfates is to control how much sulfur dioxide gets there in the first place. "There is a lot of research going on now. What was done originally was done as best it could be."

Dr. Schimmel says research on sulfate pollution is also inadequate.

"Sulfites and sulfates may have a small effect but they have not been identified," he says. "We really don't know if particulates are damaging. They have decreased 40 percent in the last ten years and the resulting health effect is so small that it's hard to tell."

Dr. Mary O. Admur, associate professor of toxicology at Harvard, has been working on air pollution studies since 1949 and her research provided much of the information for the Clean Air Act regulations. She, too, says there has to be more research in air pollution.

"There is a question whether sulfur dioxide or particulate sulfates cause the most damage from air pollution," Dr. Amdur says. "I'm on a number of committees and so on. I think they need to do a little more work and less planning for other committees.

"I wouldn't directly disagree with the contention that the ambient air quality standards are too strict," she says. "That's not my field. You'd have to ask an epidemiologist."

Differences between epidemiology and toxicology are another part of the air pollution puzzle.

In toxicology, pollutants are administered under laboratory conditions, usually in massive doses to stimulate long-term exposure. In epidemiology, actual population samples are studied and actual production levels are monitored.

Toxicological studies have been criticized for exaggerating the effects of exposure to low levels of pollution. But epidemiological studies take much longer to complete and the results are much more subtle and subject to outside influences. So, there is still relatively little good information available.

"The amount of information in this field is inadequate," says Dr. A. J. Stolwijk of Yale's John B. Pierce Foundation. Less than $20 million is spent on this each year compared to billions spent on implementation."

Dr. Arend Bouhuys of the Yale Lung Research Center says the pollution pendulum may have swung too far in the opposite direction.

"I feel these standards are probably too restrictive," says Dr. Bouhuys. "Look at the sulfur dioxide levels in New York City. They were too high in the 1950s, but the control measures overshot the level we could tolerate.

"No one wants to go back to the situation where industries can emit anything they want, not even the industries, I don't think."

If we are controlling pollution beyond the levels needed, it could be very costly.

It does not cost twice as much to clean all the sulfur from coal as it does to clean half of it. It may, for instance, cost twice as much to remove 95 percent of the sulfur as to remove 90 percent.

Attempts to remove small amounts of sulfur from stack emissions, critics say may cost an enormous amount of money without providing any real benefit to society.

Another big step toward dealing realistically with the pollution problem, according to former EPA official William Megonnel, is understanding that it is not a national problem, but a localized one.

"You usually have it around large, isolated sources like a smelter or a large power plant with a short stack, or in cities where there is a great group of concentrated industries, homes and heating and manufacturing sources," says Mr. Megonnel, who used EPA data to show the local nature of air pollution.

Mr. Megonnel says he sees no sense in requiring the use of scrubbers to treat stack emissions for low-sulfur coal, but he predicts that forthcoming EPA regulations will require it.

Consolidation Coal Co. Executive Vice President William Poundstone says treating emissions which meet EPA standards without scrubbing is a needless waste of money.

"If you accept that the ambient air quality standards are already as low as they need to be," he asks, "why enforce the new plant standards? We could design electric plants with scrubber housing, but not use the scrubbers until allowable pollutant level is reached."

According to David Fyock of the Pennsylvania Electric Co., coal consumers must burn coal considerably under the sulfur content permitted by DER because of natural sulfur content variation in coal. If the variation results in coal with a sulfur level higher than the standard being burned—even if only for one day—the plant is in violation of the law.

Average sulfur content of coal burned at Penelec's plants is about two-thirds of the level allowed by law and Mr. Fyock says that costs utility consumers a lot of money spent for scarce, low-sulfur coal.

"Let's take, for example, the Homer City station," says Mr. Fyock. "We clean every bit of coal that comes to that station. That adds five to ten percent to the cost of the coal."

"We also purchase cleaned coal for our Front Street station in the Erie Air Basin which has a stricter standard," Mr. Fyock says. "To meet this standard, we have to pay as much as $5 additional per ton. This costs us anywhere from $1 million to $3 million a year."

Mr. Fyock said he has suggested to DER that compliance to the emission standard be based on a 90-day average of emissions rather than each daily reading. He says the plan would save millions of dollars and still meet the emission standard.

"At the same time, we have suggested that the limit be lowered so people aren't tempted to try to take advantage of the change. It's an offset where the regulation would be somewhat more stringent but would be stretched out over a longer period of time so that the variability (of coal) could be taken into account.

"The way the current regulation is written, it becomes almost impossible, even with coal cleaning, to come into total compliance. There's a negative incentive to reduce sulfur dioxide emissions and we think that's crazy."

Mr. Fyock says DER has not given him a good technical rebuttal to his plan, but the agency hasn't given any indication it will make a change either. DER is presently reviewing its sulfur dioxide program and the new evaluation is expected to be released this summer, followed by public hearings.

"The way DER has chosen to enforce the national ambient air quality doesn't take into consideration the way coal is laid down in Pennsylvania, in fact in the United States," Mr. Fyock concludes.

Mr. Megonnel says it won't be long until reality must be faced.

"It was a very popular thing last year to make the Clean Air Act as tight as possible," he says. "The most Draconian measures were thrown in. I feel when the impact hits the public and politicians, about a year from now, they are going to take a new look at it.

"If state plans are not revised to EPA's satisfaction by July 1, 1979, no new construction permits (for power plants or factories) may be granted. That's just intolerable.

"I think when the public realizes it—and the labor unions and governors and mayors—I think there is going to be an outcry. They (the standards) were never really challenged until recently. People now are certainly beginning to question."

Dr. W. C. Hamilton is a research director for Continental Oil Co. which owns Consolidation Coal. He has proposed a five-point plan which he says will achieve realistic limits on air pollution.

First, he proposes an exhaustive study to identify and qualify air pollutants and their effects on health.

He suggests that current ambient air standards be reviewed in light of recent findings and says a cost-benefit study should be made on all present and proposed pollution control strategies.

Dr. Hamilton proposes that present sulfur dioxide standards be relaxed by a factor of two until studies are concluded and suggests that new plants comply with sulfur dioxide limitations equal to existing plants in the area.

New plants, he says, should be constructed so pollution control equipment could be added if studies show a need for further reducing emissions.

"The big air pollution episodes of the past have caused thousands of persons to die prematurely," says Dr. Hamilton. "We certainly don't want to return to that situation.

"Moreover, heavy air pollution without doubt affects man's crops, animals and buildings and lessens the quality of his life. But the argument we're making deals not with massive sulfur dioxide or sulfate pollution, but with amounts so small we can barely measure them with any certainty.

"The evidence to date strongly indicates that the health effects from breathing small amounts of sulfur dioxide were seriously overestimated when the ambient standards were set back in 1971. There is every reason to believe that the standard for sulfur dioxide could be relaxed by a factor of two or three with complete safety."

Concludes Mr. Poundstone, "I'm not against regulations that control such episodes as Donora. I'm not arguing against air pollution control, but there must be a much more cost-effective way of achieving what we are doing now."

CWA NATIONAL WOMEN'S CONFERENCE

● Mrs. HUMPHREY. Mr. President, I would like to call to the attention of the Senators a very significant conference which is being held this week in Minneapolis. It is significant both for the aspirations of the women of this country and the future of the labor union movement.

More than 500 workingwomen from the Communications Workers of America are participating in the CWA National Women's Conference, the first national leadership training program for women ever held in the labor movement.

The conference is sponsored by CWA's Concerned Women's Advancement Committee and was planned in cooperation with Cornell University's Institute for Education and Research on Women and Work. The chair of the conference is CWA Vice President Dina Beaumont, of Los Angeles.

The entire conference, including plenary sessions, skill workshops, issue discussions, and a unique mock convention on the final day—October 1—is intended to provide knowledge and sharpen skills that will advance the careers of participants within the union and throughout society.

CWA President Glenn E. Watts, in announcing the conference last June, said that the union "must struggle to translate from a dream into a reality the right of more women and more minorities to mount the ladder of leadership * * * beginning right here in CWA and winding up right at the top in the AFL-CIO."

Many of the seats at the conference were reserved for rank and file members, he said, since the program is "aimed directly at the persons who it is hoped will move ahead as the opportunities arise in the future."

Speakers include Koryne Horbal, U.S. Representative on the U.N. Commission on the Status of Women; Janet Bertinunson, Institute of Industrial Relations, University of California, Berkeley; John J. Flagler, director, Labor Education Service, University of Minnesota; Alexis Herman, director, Women's Bureau, U.S. Department of Labor; Gloria Johnson, national treasurer, Coalition of Labor Union Women; Martha Darling, executive assistant to the Secretary of the Treasury; Patsy Fryman, assistant to the president of CWA, and Mildred Jeffrey, chair, National Women's Political Caucus.

Themes for discussion include "The Many Hats of Working Women," "Stress on the Job," "The Union's Stake in ERA," and "Rightwing Attack on Labor and Women."

Skill workshops center on parliamentary procedure, assertiveness training, building union committees and coalitions, public speaking, public relations, and union organizing techniques.

Mr. President, I am sure many Senators will want to join me in commending CWA for this pioneering effort. The result can only help the women involved, the union, the labor movement, and the country.●

FOREIGN INTELLIGENCE

● Mr. INOUYE. Mr. President, in my capacity as the first chairman of the Select Committee on Intelligence, and now as a continuing member of that committee, I have come to learn more and more about the need for foreign intelligence. We have been able to enhance the security and international position of the United States through the more detailed and accurate understanding of other nations which the remarkable capabilities of our intelligence system have provided us.

It is important, therefore, that the existence of past abuses of intelligence not obscure recognition that our intelligence system is necessary to preserve our free institutions. In this regard, I wish

to call the Senate's attention to a recent article by Senator ADLAI STEVENSON which clearly illustrates that the need for sound intelligence is more imperative than ever. Senator STEVENSON speaks with particular authority, given his membership on the Select Committee on Intelligence and his outstanding chairmanship of its Subcommittee on the Collection, Production, and Quality of Intelligence.

Mr. President, I commend his penetrating and insightful article to my colleagues, and ask that it be printed in the RECORD.

The article follows:

WORLD SITUATION DICTATES INTELLIGENCE NEED

(By U.S. Sen. ADLAI STEVENSON)

Congress, with the cooperation of President Carter, has moved to make the government's wide-ranging intelligence activities a responsibility shared by the executive and legislative branches.

By exercising control over the intelligence community's budget and establishing Senate and House committees charged with maintaining oversight for the CIA and other agencies engaged in intelligence activities (including the State, Defense and Justice departments), Congress has implanted within the executive branch a strong awareness that someone is watching—someone who holds the purse strings.

Additionally, the president has reorganized the intelligence community under the director of Central Intelligence. Soon Congress will enact legislation to give the reorganized intelligence establishment the authority of law, prohibit certain activities, and make the nation's entire intelligence apparatus more accountable to the American people and their elected representatives. Other legislation being considered by Congress will establish ground rules for electronic surveillance.

These moves are aimed at preventing abuses committed under the cloak of intelligence. Public concern about abuses, real and imagined, make the need for closer scrutiny by both the executive and legislative branches apparent.

Less apparent—but not less important—is the need for closer attention to the usefulness of our intelligence, and to potential new uses for it.

When the Senate Select Committee on Intelligence was established last year, it created a subcommittee on the collection, production and quality of intelligence. That subcommittee seeks to assure that intelligence products are objective, timely, relevant to the needs and uses of policymakers. The soundness of American policy is linked to the soundness of the information upon which it is based. And that information, in one form or another, is intelligence derived from the products of intelligence.

Technology is creating unprecedented potentials for the collection of intelligence, as well as new threats to individual privacy. Collection of intelligence by technical means is of increasing value in supporting a wide range of policy requirements. For example, if strategic arms limitations agreements are to be an effective means of limiting the arms race and accepted as such by the nation and Congress, compliance with arms limitations requirements must be verifiable.

There are many obstacles to more effective intelligence. They can be overcome, but in certain respects this will mean accepting some hard realities. A zeal to protect personal privacy poses dangers to collective security.

I think we can preserve our decencies and our commitment to civil liberties without depriving ourselves of the means with which to act in such situations as confronted the West Germans at the airport in Mogadiscio in Somalia. But it will take some realism and less moralizing. Similar police actions against assassins may be necessary again, and intelligence will be necessary to inform and guide such policy actions.

Terrorism will remain a widely accepted form of political action. Global birth rates, depleting energy and food resources, looming national insolvencies, ethnic and minority grievances, all intertwined and connected to the rise of nationalism and the breakdown of governmental authority are the powder in the keg. Nations, sub-national groups, and deranged persons will resort to violence. The means of perpetrating violence include the use of sophisticated weapons and communications systems and chemical, biological and nuclear instruments of mass destruction. If we do not respond to this global phenomenon sensibly, terrorism may flourish on a scale too horrible to contemplate.

Electronic surveillance is one means of identifying and apprehending terrorists.

Government at all levels must be organized to mount on short notice a coordinated response to crises. Specially trained strike forces must be on hand. And we must renew our efforts to relieve the causes of terrorism.

There are two sides to the debate about intelligence methods, and one has not been heard. In large part that side will never be heard because intelligence methods and products, as well as threats to national security, cannot always be revealed.

It is difficult for Americans to accept that. Not knowing what is secret, they cannot be expected to know the reasons for the secrecy. We should not be made comfortable with secrecy, but there is danger in letting the pendulum swing too far the other way, and paradoxically so at a time when abuses are effectively prevented and the need for soul intelligence is more imperative than ever. Already our intelligence services are suffering from unauthorized disclosures. A law making unauthorized disclosure a criminal offense would be one good way to begin.

The new system of congressional accountability is working to prevent abuses. The Senate Intelligence Committee is examining the historical performance of the intelligence community on a case study basis. We are conducting investigations as evidence of impropriety or faulty judgment comes to our attention, but we will only be able to make the whole effort worthwhile with some public awareness of what is being done and can be done by intelligence that is sound.

I hope we on the public side can find ways to disclose more that is true and that the media can find ways to disclose less that is untrue. We ought not to permit preoccupation with the abuses of intelligence to foreclose its potentials and disarm ourselves in the face of clear and present dangers.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committtee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 28, 1978.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The letter follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 27, 1978.

Dr. HANS BINNENDIJK,
Subcommittee on Foreign Assistance, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following notification.

The Department of State is considering an offer to a Southeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.●

ADVANCES IN CANCER RESEARCH

● Mrs. HUMPHREY. Mr. President, I wish to call to the attention of my colleagues an article that appeared in this morning's Washington Post. This item is especially appropriate, because the other day in the Senate we discussed the importance of cancer research.

Researchers have found that a blood test will reveal a substance in the blood which denotes a hard-to-detect cancer. We must continue to encourage early detection of cancer with the hope that the disease can be either diminished or averted completely. This type of discovery gives real hope that the end is near in making a significant breakthrough to eradicating cancer.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

The article follows:

NEW BLOOD TEST REVEALS CANCER IN EARLY STAGES

BOSTON.—Researchers say a new blood test will reveal hard-to-detect cancer before traditional symptoms appear, allowing early treatment and a better chance of cure.

Such a test has long been a goal of cancer researchers. Its developers at Massachusetts General Hospital say they hope it can be used to screen large numbers of people for cancer before the disease advances beyond treatment.

One of the researchers, Dr. Kurt J. Isselbacher, said the test may become a routine part of physical exams, such as checks for diabetes and high blood pressure are now.

The test is based on the discovery that cancer victims have a substance in their blood that is absent in healthy people. It is a chemical called galactosyltransferase is onzyme II, or GTII.

The researchers found that GTII can be detected in a blood test months before the patient shows outward signs of cancer. In a four-year study of 232 cancer patients, the doctors found 71 percent had GTII in their blood.

A report on their research was published yesterday in the New England Journal of Medicine.

In an interview, Isselbacher mentioned three cases where patients were given the test when they complained of vague discomforts but showed none of the usual symptoms of cancer. The tests revealed that all of the patients had GTII in their blood. All developed detectable cancer of the pancreas within nine months, he said.

Isselbacher also said patients with GTII in their blood may have cancer that is so small that it cannot be found with X-rays, body scans or other conventional diagnostic tools.●

BUCK BUCHWACH

● Mr. INOUYE. Mr. President, a good friend of mine, Mr. Buck Buchwach, will be recognized this weekend for his many invaluable contributions to the State of Hawaii as executive editor of the Honolulu Advertiser.

Under the editorial leadership of Mr. Buchwach, the Honolulu Advertiser has taken its place as a leading newspaper in the Pacific area. For example, in recent days, it has explained many deficiencies in the State's criminal justice system, a series of articles which has led to productive meetings among the several major components of the system—police, prosecutors, judges and corrections officials. More importantly, it has stimulated public awareness and discussion of a critical problem.

Under the inspirational leadership of Mr. Buchwach, the Honolulu Advertiser has provided a most beneficial and vital service to the people of Hawaii.

I wish to join President Carter and leaders of the Hawaii community in wishing Buck well, and hoping that his outstanding work will continue for many years to come.●

SALT II

● Mr. CHURCH. Mr. President, in a recent issue of the Christian Science Monitor, Senator CHARLES MCC. MATHIAS carefully and ably showed how a finely drawn SALT agreement would serve our national interests. He correctly states that, contrary to certain perceptions, the United States is not weak and growing weaker. Never has the capacity of the United States and Russia to do damage to each other been greater, yet neither feels secure. I believe this article will contribute to a better understanding of the SALT negotiations. Accordingly, I ask that it be printed in the RECORD.

The article follows:

SALT II: WILL CARTER MAKE THE STRONG CASE THERE IS?

(By CHARLES MCC. MATHIAS, Jr.)

The Salt II treaty suffers from being negotiated by an administration that seems unable or unwilling to make a positive case for arms control. It suffers from a widely held perception that the administration has taken a series of unilateral decisions which have weakened this country militarily. It suffers because the Soviet Union has chosen this time to initiate a series of actions which can only be seen as inimical to détente and undermining the prospects for arms control.

But SALT can promote the national interests of the United States in ways that are really unrelated to other issues, such as Soviet activity in Africa.

Never has the capacity of the Soviet Union and the United States to do damage to each other been greater, and yet neither feels secure. This insecurity is reflected in the view, widely expressed in this country, that the United States, despite its sizable annual defense budget, is weak and growing weaker.

This is not the case. A quick look at our strategic nuclear forces confirms the strength of our deterrent. We have over 300 B–52 bombers armed with approximately 2,000 nuclear bombs. We have 41 nuclear submarines with over 600 nuclear Sea-Launched Ballistic Missiles (SLBMs) which carry over 5,000 nuclear weapons. Finally, we have 1,054 Intercontinental Ballistic Missiles (ICBMs) capable of delivering over 2,000 nuclear warheads.

Our triad of bombers, submarines and ICBMs can deliver a total of over 9,000 nuclear weapons. One measure of our relative strength is that at present the Soviets have only about half this number of warheads. Moreover, approximately half of our nuclear weapons are located in invulnerable submarines whereas Soviet strategic forces are concentrated in increasingly vulnerable land-based installations.

Nor have we stood still in the last 10 years as some suggest. In 1970 we had roughly 4,000 nuclear warheads. Today, that figure has more than doubled. Published figures show that between 1970 and 1977 we added over 500 new ICBMs to our arsenal. During the same period the Soviet Union deployed something over 400 new ICBMs. Today, we are pressing forward on several strategic nuclear programs, such as the Trident and cruise missile, which can significantly improve our capabilities.

The Soviet Union has not been idle either. Whereas we once could speak of our clear superiority in nuclear weapons, now we refer to our "essential equivalence" with the U.S.S.R. The Soviets have had an ambitious weapons development program which has produced a nuclear arsenal of impressive proportions. If we use ICBM throw-weight (thousands of pounds carrying capacity) as the yardstick of comparison between the U.S. and the U.S.S.R., the latter is clearly superior. This is, however, only one measure of comparative strength and gives a skewed impression of the realities just as does citing only our numerical superiority in warheads.

Despite the efforts of both the Soviet Union and the United States to expand their nuclear arsenals, both countries share a mounting sense of insecurity. We are both arming without really increasing our chances of surviving nuclear war as functioning societies. What we should both be seeking instead is a condition of strategic stability in which neither side can gain a unilateral advantage by initiating nuclear war. We should also be seeking to reduce the potential damage of any nuclear exchange within the context of maintaining strategic stability. Limiting the number of nuclear weapons targeted on each other can contribute to this goal. That is what SALT II seeks to do.

In SALT I the Soviet Union was permitted more ICBM and SLBM launchers than was the United States. Under SALT II the principle of equal aggregates has been accepted. SALT II sets limits on the aggregate number of strategic nuclear launchers. This means that equal ceilings will be placed on the combined total of bombers, SLBMs, and ICBMs each side can have. There will be sublimits as well for certain categories of delivery systems. For example, neither side will be permitted more than 820 MIRVed ICBMs. This limitation is of great importance to the United States because it is precisely this category of Soviet delivery vehicles which we consider most threatening.

To achieve the overall aggregate of 2,250 the U.S.S.R. will have to destroy from 250 to 300 launchers at present targeted on the United States. Since our active force is under the agreed aggregate of 2,250, we will not be required to destroy any of our existing weapons. This agreement will inhibit Soviet weapon deployment while leaving us considerable leeway to pursue our strategic programs as planned at present.

Under SALT I both the Soviet Union and the United States bound themselves not to interfere with the so-called National Technical Means of surveillance of the other side. No deliberate concealment of nuclear launchers is permitted. This injunction will be an important part of SALT II. Our negotiators believe that the limits being established are limits we can verify through independent means. We have absolutely no intention of "trusting" the Russians. Senate ratification of this agreement and certainly my vote will depend on the verifiability of this agreement.

SALT II will take initial steps toward grappling with the issue of controlling the proliferation of new taypes of weapons and the modernization of existing sytsems. Ultimately, we can control quantity, but we do so to little purpose if we do not also control quality.

Finally, SALT II will point to SALT III. It will set out a tentative agenda for continuing efforts to get control over our nuclear arsenals. A major topic on that agenda will be further restrictions on those Soviet systems we consider most worrisome.

Critics of SALT point to range restrictions placed on cruise missiles and the exemption of the Soviet Backfire bomber from aggregate restrictions as evidence that SALT does not serve U.S. interests.

The restrictions on cruise missiles will be in a protocol to the treaty which will expire before we even can deploy our first cruise missile. The Soviets will be under severe pressure to make major concessions if they want to see these restrictions continued for the full term of the treaty, which is scheduled to expire in 1985. Here, we will have a bargaining chip of enormous potency.

It is true that the Backfire bomber can probably hit the United States, but most agree its mission is not intercontinental. It appears to be intended for possible use in Europe and the Far East. The Backfire bomber system is analogous to our so-called Forward Based Sytsems (FBS)—planes and missiles capable of hitting the U.S.S.R., but based in Europe—which are not covered by SALT. We have, for example, FB–111 bombers located in England which can hit Soviet targets. Moreover, the nuclear arsenals of our allies, Great Britain and France, are not affected by SALT. We have successfully avoided having these systems made part of the SALT process. Insisting on the inclusion of Backfire in the SALT aggregates could jeopardize this achievement.

By restricting both the Soviet Union and the United States, a finely drawn SALT agreement can serve our mutual interests. It can point us in the right direction. Clearly, however, the case for SALT in the United States is not seen as self-evident.

Critics complain, for example, that SALT does not solve the problem of ICBM vulnerability—that is, that in the 1980s the United States land-based force will become increasingly vulnerable to a preemptive Soviet strike. Unfortunately, a SALT treaty which would solve that problem simply isn't in the cards. It would involve masive reductions in the Soviet land-based force which comprises 70 percent of the U.S.S.R.'s nuclear arsenal. SALT will, however, leave us a range of options with which to respond to the po-

tential threat of ICBM vulnerability. I say "potential" because those who point to ICBM vulnerability consistently ignore the fact that the two other legs of our nuclear Triad provide a powerful disincentive, in the form of approximately 7,000 nuclear weapons, for any Soviet consideration of a preemptive attack on our ICBMs.

Teddy Roosevelt used to refer to the White House as a "bully pulpit," and it is. I hope that the President will begin to use his bully pulpit to get these truths about SALT across to the American people. Ultimately, only he can turn the tide.●

ADDRESS BY HIS EXCELLENCY SUNAO SONODA, MINISTER FOR FOREIGN AFFAIRS OF JAPAN

● Mrs. HUMPHREY. Mr. President, on September 22, the University of Minnesota presented to His Excellency Sunao Sonoda, Minister for Foreign Affairs of Japan, the Regents' Distinguished International Service Award, for Mr. Sonoda's continued outstanding service to the international community.

On this occasion, Mr. Sonoda's remarks were concerned with some observations on the basic principles of Japan's Asian policy. This topic, I know, is of substantial interest to many of my colleagues, especially in light of Japan's recently concluded Treaty of Peace and Friendship with the People's Republic of China and the country's significant leadership role in regional economic growth and development efforts.

I commend Mr. Sonoda's address to my colleagues, and I ask that it be printed in the RECORD.

The address follows:

ADDRESS BY HIS EXCELLENCY SUNAO SONODA

President Magrath, distinguished guests, ladies and gentlemen: This is a memorable evening in my life. I am deeply honored to be accorded the Regents' Distinguished International Service Award of the University of Minnesota. The honor is the greater because this University, known for its long tradition and high standards, is the Alma Mater of the late Senator Hubert H. Humphrey, a world statesman whom I held in the highest esteem and also of Vice President Walter Mondale, a leader I respect greatly, and whose friendship I cherish. I am indeed moved by the honor and this memory will remain all my life.

It is the courage of Hubert Humphrey that I did respect and still admire. He was a man whose eyes were fixed always on the future. He was never bound by the conventional wisdom, but was always open to new ideas, always eager to take on new challenges. He was never fearful of the unknown.

On a personal note, my friends, may I tell you I treasure a letter I received from Senator Humphrey shortly before he passed away last January. I am touched by the realization that his signature on that letter—which spoke of his deep attachment to this University and his strong desire to bring up individuals committed to serve human society—may have been one of the last times he put his pen to paper. Let me renew together with you my prayers that that great soul shall rest in peace and serenity, surrounded and guarded from worldly cares by the ten thousands lakes of the State he loved.

Ladies and gentlemen:

I should like to offer this evening some observations on the basic principles of Japan's Asian policy.

Asia is called Asia by one word, but Asia is in fact a region where close neighbors are separated by distinctive history, religion, culture and tradition, and where different political systems coexist side by side. In this sense, Asia is not one region, but diversity is the very characteristic of Asia.

At the same time, much of Asia has emerged into modern nationhood only since the second World War, and most of these nation states are still in their developing stage. The task of nation-building is, therefore, the most important challenge for the great majority of Asian countries at the moment.

Against this background, there is an emerging trend among countries of Asia toward a joining of forces to consolidate peace in this region and to cooperate in the demanding tasks of nation-building. I am encouraged by such a newly emerging trend, since I am convinced that international relations towards the future must be guided by the governing rule that nations must understand each other's differences, respect positions of others, and pursue their respective well-being in the context of a shared prosperity.

In such a recognition, I consider it a responsibility of my country, as virtually the only advanced industrialized Asian nation, to contribute positively to the maintenance of peace and the promotion of a common prosperity. It is therefore a most important aim of Japan's foreign policy to utilize our economic strength and political influence to help build a more peaceful and prosperous Asia.

It is in the context of this policy framework that the recently concluded Treaty of Peace and Friendship between Japan and the People's Republic of China should be comprehended.

The conclusion of Treaty of Peace and Friendship with China was based upon our reflection of the long history of Sino-Japan relations. Looking toward the future with this reflection in mind, we judged that to establish stable and enduring friendly relations between our two countries with a view to realizing co-existence and a shared prosperity would not only serve the interest of the two countries but also would be essential for peace and stability of Asia and the world at large.

It goes without saying, therefore, that by signing the treaty we have no intention of forming exclusive relationships with the People's Republic of China, politically or economically. Rather, we hope and expect that many other countries will expand their exchanges with the People's Republic of China.

At the same time, there is no intention whatsoever for Japan, in signing the Peace and Friendship Treaty, to form with China a bloc against the Soviet Union. The Soviet Union is another basic task of our diplomacy.

With this policy framework, as I have elaborated, my country is determined to contribute more actively to the peace and prosperity of Asia.

Ladies and Gentlemen:

Southeast Asia is an important area where Japan recognizes a responsibility to play an actively supportive role in peacebuilding and regional development. Acting on this conviction, Prime Minister Fukuda attended the summit meeting with ASEAN leaders and visited the capitals of the Southeast Asian nations. During this tour, the Prime Minister built on a relationship of growing mutual trust and colaborations which we like to call heart-to-heart relations with the people of Southeast Asia.

Last June, I met in Thailand with the Foreign Ministers of the five ASEAN countries for a wide-ranging exchange of views on the current Asian situation, on world economic trends as they relate to their interests. I dare say that never before have relations between Japan and the Asian countries been closer, warmer or more cooperative.

Japan intends to be an active partner of the ASEAN nations and Burma in support of their national and regional growth and development efforts, not only through financial and technical assistance, but also through expanding trade and commerce. At the same time we seek to promote expanded cultural exchanges and a program of youth exchanges, with a view to broadening the scope of cooperative relations with those peoples. Another of our endeavors is to carry out exchange visits of important officials with the Indochinese nations of Vietnam and Cambodia in order to establish mutual understanding. Thus, the design of our diplomacy is to contribute actively to the enhancement of peace and prosperity throughout Southeast Asia by building on our friendly and cooperative relations with ASEAN countries, on the one hand, and on relations of mutual understanding with the countries of Indochina, on the other.

The issue of peace and stability on the Korean Peninsula is of deep interest and concern to Japan. Fortunately, military conflict on the Peninsula has been averted in recent years. However, we believe it essential to move ahead and work for the conditions of a true peace and lasting stability on the Korean Peninsula, and Japan will continue its efforts to help create an international environment conducive to those conditions.

These, in brief, are the basic tenets and directions of Japan's Asian policies. Japan's pursuit of these policies in concrete terms is possible because of our close friendship and cooperation with the United States and the United States' presence in the Asia-Pacific region. Let me explain:

First, close cooperation between Japan and the United States, including the Japan-U.S. security arrangements, constitutes the basis for peace and security of Japan.

Second, the presence of the United States in Asia and Pacific, particularly the American deterrent, is indispensable for the peace and stability of the region.

Third, without cooperation of the United States, development and prosperity of Asian countries cannot be fully realized.

Ladies and Gentlemen:

I am encouraged by the high appreciation which has been accorded this time by the University of Minnesota for our relations with Asian countries and the United States. I feel encouraged because relations vis-a-vis Asian countries and the United States are the two pillars of our diplomacy and because I believe that it is the most important task ahead for Japan to play an active political role in Asia, building upon these two pillars.

I thank your University most sincerely for this demonstration of its deep understanding of the diplomatic policy of my country.●

CETA

Mr. INOUYE. Mr. President, last month the Senate approved and sent to the House a Comprehensive Employment and Training Act bill. An important part of this bill provides for continued and increased participation of Native Hawaiians in CETA.

I think it of significant importance for Members of the Senate and others to be aware of the progress made by Native Hawaiians under the CETA program. The current fiscal year funding provides $2.5 million for the training and employment of Native Hawaiians. The funds are provided through a nonprofit corporation named Alu Like, which literally means "working together" in the Hawaiian language.

A recent news article in the Honolulu Advertiser describes Alu Like and a particular project it funds, Camp Ka'ala, in

which the youth of the Waianae Coast on Oahu are cultivating nearly 100 different varieties of the taro plant, once the staple crop of Hawaiians, and also maintaining a honey bee farm.

This project, while providing worthwhile employment and training for Native Hawaii youth—who suffer from the highest unemployment rate of any ethnic group in the Islands—is also turning this remote and unused valley into valuable, productive, and beautiful acreage.

It is a prime example of Federal spending at its best, in which a minimal amount of dollars are doing much good for a disadvantaged group of people. I ask that this Honolulu Advertiser article be printed in the RECORD.

The article follows:

[From the Honolulu Advertiser, Sept. 14, 1978]

SHANGRI-LA AT THE TOP OF WAIANAE VALLEY

(By Mary Cooke)

If Shangri-la were for real, the original might be Camp Ka'ala at the top of Waianae Valley.

Like the mountain retreat in the James Hilton classic, "Lost Horizon," Ka'ala is a golden-green vale, sparcely inhabited, and only by those who choose to work in sync with the forces of nature.

Daily, a handful of Waianae Hawaiians trucks up mauka to Camp Ka'ala where they are developing an educatoinal-recreational youth camp.

Their purpose: To increase the beauty and productivity of this remote valley and to make it a learning center and job training base for Waianae youth.

Their spokesman is Mana Maunakea, vice president of Waianae-Kai Development, Inc., a non-profit organization that leases from the State, for $1 a year, almost 100 acres in the mauka reaches of Waianae Valley.

Within this leasehold, Camp Ka'ala is the first increment of a three-point projected plan:

To reconstruct the Hawaiian taro bed embankments that once filled Waianae Valley, teach taro culture and produce taro crops.

To maintain an apiary, teach bee culture and produce honey.

To work toward reforesting Waianae Valley with indigenous Hawaiian trees and plants.

"We're looking at job training. We think there's a need for agricultural vocational schools, the type of learning that is done in the fields," Maunakea said.

So at Camp Ka'ala they built a taro nursery and learning center. It's a series of banked taro beds connected by auwais (streams of fresh runing water for irrigation).

In these water gardens, tended by camp personnel, a collection of almost 100 species of taro now grows and thrives.

Eric Enos, camp director, said, "We've been working with the Lyons Arboretum people who gave us plants and shared their knowledge."

Bee keeping and production of honey, the project of Bo Bright and Mike Kahikina, with apiary consultant Art Chang, has 35 hives and is expanding.

Reforestation with indigenous Hawaiian plant life (and the elimination of introduced plants such as haole koa) is in the planning stage.

The three projects were chosen to provide Waianae youth with learning laboratories and job skill development opportunities.

Instead of building sterile classrooms in this natural widerness, Maunakea (who used to be an Army Special Forces sergeant) mobilized manpower from the Army, Navy and State to help clear the area.

Where he saw a natural amphitheater, he shored it up with a sloping wall of immortared stone work and placed aerial plants near the top.

At the foot, he used logs (old telephone poles) for terraced seating accommodations.

Facing them is a built-up earthern stage (reinforced by logs) for instructors. Or for entertainers when the area is used for recreation.

"Once we get the camp to where it's supposed to be, it will be a sustaining thing," Maunakea said.

"What we're into now is having the necessary expertise and supervision so we can bring on the youth. We have to start them into what is called employment habitation, work habits.

"They have to learn how to be employed, what it takes to be employed. From there we take them into learning the skills, developing growth.

"We're working toward self esteem and self sufficiency. In time we'll be able to put something substantial into the community and by the community, because it's the people who are working at it. And there are many organizations that have provided support services."

One of the supporters of Camp Ka'ala is the native Hawaiian organization, Alu Like. At present it provides funding for 14 supervisors and trainees at the camp.

When Alu Like was formed three years ago, it's president Myron Thompson said, "We had a community meeting at which about 40 of the 110 Hawaiian organizations were present. We went into a planning program to find out exactly where the Hawaiians are in reference to their desires.

"Out of that survey came three things:

"The number one desire of Hawaiians is in the area of improved educational opportunities.

"Number two is improved opportunities for employment.

"Number three, improved opportunities for economic development.

"Based on these priorities, we (Alu Like) became the parent sponsor for the Native American CETA program here. Camp Kalala is just one of the projects being funded through this program."

As background information on the CETA Native American windfall, Thompson said, "It had been declared by Congress that we (Hawaiians) were to be included in that program as native Americans.

"This is critical because Congress, in effect, has said, 'We shall discriminate toward a group of people for certain reasons,' such as they did for the American Indians and the Aleuts in Alaska."

The CETA act mandated funds ($2.5 million) for employment of native Hawaiians and opportunities for them in private industry, statewide.

By mid-summer, Alu Like had received 1,500 applications and had placed about 800 Hawaiians in training, employment or a combination of the two.

About 14,000 more have received referral assistance from Alu Like field staffers on Oahu, Kauai, Maui, Molokai/Lanai and Hawaii.

"Alu Like doesn't have a membership," Thompson said. "It is a planning and program operation, with an advisory board.

"The name means 'working together' and in keeping with that idea we look around and help develop the capabilities of other Hawaiian organizations. Alu Like will provide training possibilities. We help organizations develop their own programs."

Camp Kalala is one of about 50 projects, island-wide, that are receiving Alu Like assistance.

For another example, Thompson said, "At Keaukaha on the Big Island we helped farmers put a cooperative together.

"We send Alu Like members in to help them organize or we call on consultants, University or community agencies that can go in and help.

"For job orientation, Hawaiians are being trained in Alu Like centers. There are three on Oahu and one on each of the other islands. At these centers they give job orientation, then do referrals and place applicants on jobs."

A note in the Alu Like brochure spells out the difference between this and other employment and training programs:

"The traditional values of *alu like* and *ohana*—working together for a common good in our extended family—still remain an important part of our lives and will help us as we develop the work skills that are needed in a modern technological world."

Said Thompson: "The basic thrust of our organization is to assist Hawaiians to become self sufficient. The moment they head in that direction, we're through with them.

"I say that because this is a little different philosophically from some of the Indian programs.

"Our concern is that we want to assist people to become independent. We don't want to keep them in a dependent group.

"Our contention in Washington was that if everything works right, 10 or 15 years from now you'll see the trend turning around and, in about 25 years we won't want this program any more.

"We won't need it, if it's done right."

Alu Like directors are Thompson, Ann Nathaniel, Yukio Naito, David Peters and Alvin Shim. The organization has a Hawaiian advisory council comprising 18 members from six islands. Winona Rubin is the executive director.●

TWENTIETH ANNIVERSARY OF NASA

● Mr. STEVENSON. Mr. President, this Sunday, October 1, is the 20th anniversary of the National Aeronautics and Space Administration. The agency was established by the National Aeronautics and Space Act of 1958, signed into law on July 29 of that year, to develop a national capability in space activities and to preserve the leadership role of the United States in aeronautical research and technology. The latter responsibility was transferred to NASA from the National Advisory Committee for Aeronautics which, in turn, was abolished by the Space Act.

The National Aeronautics and Space Act sets forth what have proven to be sound declarations of national policy in aeronautical and space research and technology. They have guided us well in mastering the fundamentals of space flight, space science, and space applications, and in continuing a sound program in aeronautical research that has contributed significantly to one of our most successful industries. NASA, as the implementing agency, has established an enviable record of performance. It assembled a highly competent team of scientists, engineers, and administrative personnel, and it has developed the management capability to focus their efforts to carry out efficiently large, highly complex, interdisciplinary projects in aeronautical and space technology.

The activities of NASA have brought great credit to the United States, both at home and abroad. We can be justifiably proud of the accomplishments of NASA in carrying out the mandate set forth in the Space Act 20 years ago.

Mr. President, it is most appropriate that on the 20th anniversary of NASA the President will present the Congressional Space Medal of Honor to former astronauts Neil A. Armstrong, Frank Borman, Charles Conrad, Jr., John H. Glenn, Jr., now a Senate colleague, Virgil I. Grissom (posthumously) and Alan B. Shepard, Jr. The presentations, recognizing the contributions of these individuals to the U.S. space program, will be made Sunday at the John F. Kennedy Space Center, Fla., the locale for launching all our manned space flight endeavors.

Mr. President, I wish to announce that there will be a Senate reception to honor these distinguished individuals on Monday, October 2, from 1:45 p.m. to 2:45 p.m. in the John F. Kennedy Room, S-210 in the Capitol. I urge my colleagues to take this opportunity to meet with these first recipients of the Congressional Space Medal of Honor.

Mr. President, it is not practical here to detail the impressive history of NASA. Therefore, I shall submit a compilation prepared by NASA, documenting significant events during the agency's first two decades of operation, and ask that it be printed in the RECORD at the conclusion of my remarks.

Mr. President, as we reflect on these accomplishments, it is clear that the United States has developed a major capability in space. It is also clear that we must be prepared to build on this capability and, of more importance, to use it to the maximum extent for the benefit of mankind. The development of the Space Shuttle, initiated in 1972 and scheduled for first orbital flight next year, sets the stage for entering the next 20 years—a new era in space. The Shuttle offers new approaches to space flight and to new achievements. However, these achievements will be of a different character than those involved in developing our initial competence in space technology. While we should continue to expand the frontiers of space science, we must concentrate on productive applications of space technology that directly serve the needs of people on Earth.

To do this effectively, however, requires a new sense of direction. The policy and purposes expressed in the Space Act served us well over the past 20 years and, in fact, are sound principles today. But our knowledge today is much more advanced. Maintaining our leadership in the new era in space demands future goals that reflect these new capabilities.

To address this need, several of my colleagues have joined me in introducing the Space Policy Act of 1978, S. 3530 on September 27. It is the objective of this legislation, which we will pursue aggressively in the 96th Congress, to identify courses of action that will use the capabilities achieved, make the most efficient use of resources, and maintain the leadership role of the United States in space.

The compilation of NASA events follows:

MAJOR MILESTONES OF NASA PROGRAM

1958

Oct. 1–First official day of NASA, with Dr. T. Keith Glennan as Administrator and Dr. Hugh L. Dryden as Deputy Administrator.

Oct. 7–NASA formally approved Project Mercury to send a man into orbit around the Earth, investigate his capabilities and reactions to space and return him safely to Earth.

Oct. 11–The 84-pound PIONEER 1, launched from Cape Canaveral as NASA's first deep space probe reached an altitude of 70,714 miles.

1959

Feb. 17—VANGUARD 2, NASA's first Earth satellite, launched to demonstrate feasibility of global weather data acquisition.

Mar. 3—World's first six-stage, solid-fuel rocket launched from Wallops Station.

Mar. 10—First captive flight of X–15 rocket airplane.

Apr. 2—Seven astronauts selected for Project Mercury—Captains L. Gordon Cooper, Jr. Virgil I. Grissom and Donald K. Slayton, USAF; Lt. Scott Carpenter, Lt. Cmdrs. Alan B. Shepard, Jr., and Walter M. Schirra, Jr., USN, and Lt. Col. John H. Glenn, USMC.

May 28—Jupiter experiment spacecraft is sent to altitude of 300 miles with monkeys "Able" and "Baker" on board. Primate passengers recovered unharmed.

Aug. 7—EXPLORER 6, placed in an elliptical Earth orbit, returned first crude TV photo of the Earth.

Aug. 17—First of NIKE-ASP sounding rockets to provide geophysical information on wind activity at altitudes of 50 to 150 miles launched from Wallops Station.

Sept. 18—VANGUARD 3, last of series to gather data on the magnetic field, radiation belts and micrometeoroids, launched to end program.

Dec. 14—LITTLE JOE 3, part of the Project MERCURY test program, is sent 55 miles into space with a monkey aboard and recovered safely.

1960

Mar. 11—PIONEER 5 launched to measure radiation and magnetic fields between Earth and Venus.

Apr. 1—TIROS 1, first known weather observation satellite, launched and took pictures of Earth's cloud cover from altitude of 450 miles.

July 29—Project Apollo, advanced manned spacecraft program, announced.

Aug. 4—Test Pilot Joseph Walker, in X–15, makes first manned flight at speed of 2,196 mph.

Aug. 12—ECHO 1, first passive communication satellite, reflected a radio mesage from President Eisenhower across the nation.

Nov. 3—EXPLORER 8, containing instrumentation for detailed measurements of the ionosphere, orbited.

Dec. 9—X–15, with Neil Armstrong as pilot made first flight with ball-shaped "hot nose" reaching an altitude of 50,000 feet and speed of 1,254 mph.

1961

Jan. 1—President Eisenhower issued statement that "the early establishment of a communications satellite system which can be used on a commercial basis is a national objective."

Jan. 30—President Kennedy, newly inaugurated, invited the Soviet Union and other nations to cooperate in invoking "the wonder of science instead of its terrors," especially in developing a weather prediction program.

Jan. 30—James E. Webb nominated as NASA Administrator by President Kennedy to succeed Dr. T. Keith Glennan, retired.

Mar. 10—NASA announced first success in immediate detection real time of radar signals off planet Venus.

Apr. 14—NASA informed House Science and Astronautics Committee it will take $20 to $40 billion to achieve a lunar landing.

May 5—FREEDOM 7, manned Mercury spacecraft carrying Astronaut Alan B. Shepard, Jr., as pilot, launched at Cape Canaveral as first American manned space flight. Flight lasted 14.8 minutes and reached an altitude of 115 miles.

May 19—Cape Canaveral opened to general public for first time in its history.

May 25—President Kennedy called for speedup in American space effort and declared a national space goal of "landing an American on the Moon in this decade."

July 21—Mercury Astronaut Virgil I. Grissom made a 15-minute, 118-mile-high and 303-mile-long flight in LIBERTY BELL 7, second successful manned suborbital flight.

Dec. 7—Plans for the development of a two-man Mercury capsule were announced.

1962

Feb. 20—Mercury spacecraft FRIENDSHIP 7, with Lt. Col. John H. Glenn, Jr. as astronaut, launched on first U.S. manned orbital space flight, covering 81,000 miles in 4 hours and 56 minutes.

Mar. 7—OSO–1 (Orbiting Solar Observatory), NASA's first scientific observatory spacecraft, successfully launched to study the Sun.

Apr. 26—ARIEL 1, first international satellite, carrying 6 British experiments, launched from Cape Canaveral.

May 24—AURORA 7, with Astronaut M. Scott Carpenter as pilot, launched on orbital mission from Cape Canaveral on the second U.S. manned orbital and fourth U.S. manned space flight, was recovered after three orbits. Mission lasted nearly 5 hours.

June 8—NASA and Soviet Academy of Science agreed on coordinated projects in satellite meteorology, communications and magnetic survey.

July 10—TELSTAR 1, first privately-financed satellite, put into orbit.

July 23—TELSTAR relayed two 20-minute live TV shows, first formal exchange of programs across the Atlantic.

Aug. 27—Mariner 2 launched from Cape Canaveral on 180-million mile, four-month flight to Venus, later transmitting first data from that planet's vicinity.

Aug. 21—President Kennedy signed into law the communications satellite bill to establish a private corporation to be in charge of the U.S. portion of future global communications satellite network.

Sept. 17—Nine more astronauts named at Houston—Neil A. Armstrong and Eliot M. See, Jr., civilian test pilots; Maj. Frank Borman, Capt. James A. McDivitt, Capt. Thomas P. Stafford and Capt. Edward H. White II, all of the USAF, and Lt. Charles Conrad, Jr., Lt. Comdr. James A. Lovell, Jr., and Lt. Comdr. John W. Young, all of the USN.

Oct. 3—SIGMA 7 spacecraft, with Astronaut Walter M. Schirra, Jr., as pilot, launched from Cape Canaveral to travel 160,000 miles and make nearly six orbits in 9 hours and 14 minutes.

Oct. 18—RANGER 5 lunar probe launched.

Oct. 25—First live two-way radio broadcast conducted via TELESTAR.

1963

Mar. 19—Goddard Space Flight Center, in cooperation with NBC and RCA, accomplished first known transmission of television in color via RELAY communications satellite.

Apr. 11—X–15 flew at the speed of 2,500 mph and altitude of 70,000 feet in its first test as an aerial mapping plane.

May 7—TELSTAR 2 communications satellite placed in elliptical orbit.

May 15—Mercury spacecraft FAITH 7, with Astronaut Gordon Cooper as pilot, made successful orbital flight, the longest U.S. manned mission to date, making 22 orbits in 34 hours and 20 minutes.

June 12—Project Mercury officially ended, having achieved its goals.

July 26—SYNCOM 2 communications satellite put in orbit, providing telephone, teletype and photo facsimile communications between U.S. and Africa.

Sept. 2—Two flight tests of M–2 wingless lifting body conducted by Flight Research Center.

Nov. 23—First live transmission of television signals across the Pacific Ocean accomplished by RELAY 1.

1964

Jan. 25—ECHO 2 passive communications satellite, used in the first joint US/USSR space experiment, placed in near-polar orbit.

Mar. 25—First TV transmission from Japan to the U.S. made via RELAY 2 communications satellite.

Apr. 8—Unmanned Gemini spacecraft launched into orbit in first Project Gemini Flight.

July 14—MARINER 4 launched on 228-day, 325-million-mile flight to Mars, sending back first close photos of that planet.

July 20—Spaceflight of SERT 1 spacecraft marked first successful operation in space of an electric rocket engine.

July 28—RANGER 7 spacecraft launched from Cape Kennedy on its way to the Moon, sending back 4,316 clear photos before it impacted on lunar surface.

Sept. 4—OGO 1 satellite, designed to perform 20 space experiments at once, placed in orbit.

1965

Feb. 17—RANGER 8 spacecraft, equipped with six television cameras to photograph part of the Moon's surface, launched.

Mar. 23—GEMINI 3 spacecraft, with Astronauts Virgil I. Grissom and John W. Young on board, launched and made three orbits in 4 hours and 53 minutes, during which a manned spacecraft was maneuvered in orbit for first time.

Mar. 24—After transmitting 5,814 close-up lunar pictures to Earth, RANGER 9 was impacted on Moon.

Apr. 6—INTELSAT 1, first commercial communications satellite, placed in synchronous equatorial orbit above Atlantic Ocean.

May 30—A modified Convair 990A jet transport, NASA's new high-altitude research laboratory, carried 30 scientists from five countries and a million dollars' worth of delicate instruments in a race with a total eclipse over the South Pacific.

June 3—GEMINI 4 spacecraft, with Astronauts James A. McDivitt and Edward H. White as pilots, launched to make 62 revolutions around the Earth in 97 hours and 56 minutes, during which White became the first American to walk in space.

July 4—MARINER 4, launched the preceding Nov. 28, approached within 5,500 miles of Mars and took the first close-up pictures of that planet.

Aug. 21—GEMINI 5, piloted by Astronauts L. Gordon Cooper and Charles Conrad, Jr. launched on eight-day mission, lasting 190 hours and 56 minutes, during which 120 revolutions of the Earth were made.

Nov. 6—EXPLORER 29 geodetic satellite launched from Eastern Test Range by an Improved Thrust-Augmented Delta in first use of a gravity-gradient system for stabilization.

Dec. 4—GEMINI 7, piloted by Astronauts Frank Borman and James A. Lovell, Jr., launched on 14-day mission. Eleven days after launch, the spacecraft achieved its historic rendezvous in orbit with GEMINI 6, launched Dec. 15 and piloted by Astronauts Walter Schirra, Jr., and Thomas P. Stafford.

1966

Mar. 16—Astronauts Neil Armstrong and David R. Scott, in GEMINI 8, performed world's second rendezvous and first docking experiment with an unmanned Gemini Agena Target Vehicle (GATV). Mission lasted 10 hours and 42 minutes.

Apr. 29—One of world's largest and most sensitive automatic space tracking and telemetry antennas was officially dedicated at Goldstone, Calif.

May 19—X-B-70A operational aircraft successfully made sustained 2,000-mph flight at 70,000-foot altitude for 32 minutes.

May 30—SURVEYOR 1 launched to become first U.S. spacecraft to softland on Moon when it touched down in the Ocean of Storms and began sending back pictures.

June 3—GEMINI 9, with Astronauts Thomas P. Stafford and Eugene A. Cernan as pilots, launched on three-day flight to overtake Augmented Target Docking Adapter, during which Cernan performed a spacewalk of more than two hours, longest to date.

July 18—GEMINI 10, eighth manned flight in Gemini series, launched on successful rendezvous and docking mission to overtake GATV. Astronauts John W. Young and Michael Collins were pilots and performed first docked-spacecraft maneuver, also rendezvousing with Gemini 8's GATV target.

Aug. 10—LUNAR ORBITER 1, unmanned, launched to become first U.S. spacecraft to enter lunar orbit, taking first pictures of Earth from vicinity of Moon. Orbiter intentionally crashed into far side of Moon.

Sept. 12—Three-day GEMINI 11 mission, with Astronauts Charles Conrad, Jr., and Richard F. Gordon, Jr., as pilots became first spacecraft to achieve first-revolution rendezvous and docking with GATV, using tether to link two spacecraft.

Nov. 11—GEMINI 12, last of the series, launched with Astronauts James A. Lovell, Jr., and Edwin A. Aldrin, Jr., on board. Aldrin performed two standup EVAs. Mission lasted nearly four days.

1967

Jan. 27—Three-man crew training for first Apollo flight—Virgil I. Grissom, Edward H. White II and Roger B. Caffee—died when flash fire swept through Command Module at KSC.

Jan. 27—Representatives of 62 nations signed the United Nations treaty on the exploration and use of outer space.

Apr. 17—SURVEYOR 3 launched on mission to Moon to land in Ocean of Storms and excavate with surface sampler trenches up to six inches deep.

June 14—MARINER 5 spacecraft launched on four-month, 212-million-mile flyby mission to Venus.

Sept. 8—SURVEYOR 5 softlands on Moon to take photographs of possible landing sites for Apollo spacecraft and begins on-site chemical analysis of an extraterrestrial body.

Nov. 9—APOLLO 4 spacecraft was successfully sent aloft in first Saturn V flight and first launch from Complex 39 at Kennedy Space Center, making first all-up test of three-stage launch vehicle and reentering at lunar-return velocity.

1968

Jan. 7—SURVEYOR 7 launched to softland in Moon's highlands, return TV pictures, perform lunar-digging experiments and detect laser beams directed from Earth.

Jan. 22—APOLLO 5 launched from KSC on unmanned Earth orbital mission to verify operation of Lunar Module ascent and descent propulsion system. Adjudged successful.

Apr. 4—APOLLO 6 was successfully launched on mission to qualify Saturn V launch vehicle, demonstrating rocket and spacecraft subsystem and heat shield performance.

Oct. 6—Administrator James E. Webb retired and was succeeded by Dr. Thomas O. Paine, formerly Deputy Administrator.

Oct. 11—APOLLO 7, first manned CSM operation in Apollo lunar landing program, successfully launched from KSC with Astronauts Walter M. Schirra, Jr., Don F. Eisele and R. Walter Cunningham. Crew appeared on TV in initial telecast from space. Mission lasted 10 days, 20 hours, accomplishing rendezvous with S-IVB stage. Earth circled 168 times.

Dec. 21—APOLLO 8, second manned mission in program and first to orbit Moon, launched. Astronauts: Frank Borman, James A. Lovell and William Anders. Mission duration 6 days, 3 hours. Twenty hours in lunar orbit. Circled Moon 10 times. Support facilities tested. Photographs taken of Earth and Moon. Live TV broadcasts.

1969

Feb. 9—NASA announced supercritical wing, a new airfoil shape developed in four years of wind-tunnel studies at Flight Research Center, will be flight tested.

Mar. 3—APOLLO 9, first manned flight of all lunar hardware in Earth orbit, launched. Astronauts: James A. McDivitt, David R. Scott and Russell L. Schweickart. Mission duration 10 days, 1 hour. Schweickart performed 37-minute EVA. Human reactions to space and weightlessness tested in 152 orbits. First manned flight Lunar Module (LM).

May 18—APOLLO 10 launched for dress rehearsal of Moon landing. Astronauts: Eugene A. Cernan, John W. Young and Thomas P. Stafford. Mission duration 8 days, 3 minutes. First manned CSM/LM operations in cislunar and lunar environment; simulation of first lunar landing profile. In lunar orbit 61.6 hours, with 31 orbits. LM taken to within 47,000 feet of lunar surface. First live color TV from space. LM ascent stage jettisoned in orbit.

July 16—APOLLO 11 launched on first lunar landing mission and lunar surface EVA. Astronauts: Neil A. Armstrong, Michael Collins and Edwin E. Aldrin, Jr. Landed on Sea of Tranquility. One EVA—2 hours, 31 minutes. Mission duration 8 days, 3 hours, 18 minutes. Armstrong and Aldrin landed on Moon July 20. Flag and instruments deployed. Lunar surface stay time 21.6 hours; 59.5 hours in lunar orbit, with 30 orbits. LM ascent stage left in lunar orbit. President Nixon made first long distance phone call to Moon to congratulate astronauts. The mission achieved the goal set on May 25, 1961 by President Kennedy of landing an American on the Moon within the decade.

July 29—First pictures of Mars, taken by MARINER 6, received at JPL.

Sept. 12—NASA began distributing lunar material from the APOLLO 11 mission to scientific investigators in the U.S. and 8 other countries.

Nov. 14—APOLLO 12, second manned lunar landing mission launched. Astronauts: Charles Conrad, Jr., Richard E. Gordon, Jr., and Alan L. Bean. Landed on Ocean of Storms. First demonstration of pinpoint landing capability. Candidate landing sites photographed. Parts taken from SURVEYOR 2, unmanned spacecraft went to Moon in April 1967. Lunar stay time 32.5 hours. LM ascent stage impacted on Moon.

1970

Mar. 31—EXPLORER 1, first U.S. satellite, launched Jan. 31, 1958, reentered Earth atmosphere after completing 58,408 revolutions and traveling 2.67 billion miles.

Apr. 11—APOLLO 13, third lunar landing mission attempt, launched. Astronauts: James A. Lovell, John L. Swigert, Jr., and Fred W. Haise, Jr. Mission duration 5 days, 22.9 hours. Mission aborted after rupture of Service Module oxygen tank. Classed as "successful failure" because of experience in rescuing crew. Spent S-IVB stage successfully impacted on Moon.

Sept. 15—Dr. Thomas O. Paine resigned as NASA Administrator. Dr. George M. Low, Deputy Administrator, serves as Acting Administrator.

Dec. 12—EXPLORER 42 launched into equatorial orbit from the San Marco platform off the coast of Kenya by an Italian crew, the first American spacecraft to be sent aloft by men of another country.

1971

Jan. 31—APOLLO 14, third lunar landing mission, launched. Astronauts: Alan B. Shepard, Jr., Stuart A. Roosa and Edgar D. Mitchell. Landed on Frau Mauro, rocky upland area. Docking and other difficulties experienced demonstrated value manned flight over unmanned flight. Lunar surface

stay time 33.5 hours, 67 hours in lunar orbit, with 34 orbits. Third stage impacted on Moon, using hand cart for first time to transport rocks.

Apr. 27—Dr. James C. Fletcher is sworn in as NASA Administrator to succeed Dr. Paine.

July 26—APOLLO 15, fourth lunar landing mission and first of "J" series using Lunar Roving Vehicle (LRV), launched.

July 26—APOLLO 15, fourth lunar landing mission and first of "J" series using Lunar Roving Vehicle (LRV), launched. Astronauts: David R. Scott, James B. Irvin and Alfred M. Worden. Landed in Hadley-Apennine region near Apennine Mountains. First to carry orbital sensors in Service Module. ALSEP deployed. Improved spacesuits gave increased mobility and stay time. Scientific payload landed on Moon doubled. Lunar surface stay time 66.9 hours. LRV traversed total of 27.9 km. Small subsatellite left in lunar orbit for first time.

Sept. 29—OSO–7 launched to make first X-ray observations of a beginning solar flare and of solar "streamers".

Nov. 13—MARINER 9, Launched May 30, went into orbit of Mars, first to circle another planet and took first close photos of Mars' moons Deimos and Phobos and of a Mars dust storm.

1972

Jan. 5—President Nixon announced decision that U.S. should develop Space Shuttle system.

Mar. 2—PIONEER 10 Jupiter probe launched to become first man-made object to escape solar system, first spacecraft to use orbital velocity and gravity of Jupiter for escape, and first NASA spacecraft powered entirely by nuclear energy.

Apr. 16—APOLLO 16, fifth lunar landing mission, launched. Astronauts: John W. Young, Thomas K. Mattingly II and Charles M. Duke, Jr. Landed in Descartes, highlands area. First study of highlands area. Ultraviolet camera/spectrograph used second time. Lunar surface stay time 71 hours. LRV traversed total of 27 km.

May 24—President Nixon and USSR Premier Kosygin in Moscow signed an agreement providing for cooperation in the exploration of outer space for peaceful purposes and the docking in space in 1975 of a U.S. and a Soviet spacecraft.

May 26—NASA announced retirement of Dr. Wernher von Braun, Deputy Associate Administrator for Planning and a pioneer in the space effort, effective July 1.

July 23—ERTS 1 launched to acquire information for investigations in agriculture, forestry, minerals, etc.

Dec. 7—APOLLO 17, sixth lunar landing and final mission in Apollo series, launched. Astronauts: Eugene A. Cernan, Ronald B. Evans and Harrison H. Schmitt, the last named the first geologist on the Moon. Landed in Taurus-Littrow area, valley floor; lunar surface stay time 74 hours, 59 minutes, 38 seconds. LRV traversed 35 km.

1973

May 14—SKYLAB 1, the nation's first orbiting laboratory, was launched from Cape Kennedy. with a three-man crew, Charles Conrad, Jr., Joseph P. Kerwin and Paul J. Weitz, scheduled to rendezvous with it the next day. Twelve minutes after launch, signals revealed the meteoroid shield had been torn away and one of two solar panels only partially deployed. The spacefraft was maneuvered to keep its interior from becoming too hot and centers were alerted to start searching for a solution to the emergency.

May 25—After 11 days during which technicians worked around the clock to develop a parasol as a substitute for the heat shield and tools with which astronauts could cut the metal strap found to be keeping the solar wing from deploying, the crew was launched and rendezvoused with SKYLAB. Next day, the parasol was deployed and, on June 7, an EVA to free the solar array was performed. A 28-day mission was completed on June 22.

July 28—The second SKYLAB crew, Alan L. Bean, Jack R. Lousma and Owen K. Garriott, was launched. Enroute, a rocket thruster on the spaceship conveying them aloft began leaking. On August 2, a second thruster developed leaks, leaving only two in operable condition. A rescue ship was readied at Cape Kennedy, but officials decided to allow the astronauts to complete a 59-day mission and return to Earth via their disabled craft on September 25.

Nov. 3—MARINER 10 launched to conduct exploratory investigations of Mercury and later Venus during its flyby.

Nov. 16—SKYLAB 3 lifts off with a crew of Gerald Carr, Edward Gibson and William Pogue; the final Skylab mission had begun.

1974

Feb. 8—SKYLAB 3 splashes down in the Pacific Ocean after 84 days, 1 hour and 16 minutes in space, setting a new mark for time spent in space by American astronauts.

Dec. 2—PIONEER 11, launched April 6, 1973, hurtles past Jupiter sending back information and pictures from the solar system's largest planet.

Dec. 10—HELIOS–A is launched to investigate the properties of space in the direction of and close to the Sun.

Dec. 15—NASA announces that PIONEER 11 will fly by Saturn to study the planet's rings. The probe will reach Saturn in September 1979.

1975

Jan. 22—LANDSAT 2 (formerly ERTS) is launched to locate, map and measure Earth resources from space.

April 9—GEOS 3 is sent into orbit around the Earth to measure ocean topography, sea state and other features of the Earth.

June 15—The final Apollo spacecraft is launched to link up in space with the Soviet Soyuz vehicle. On board the Apollo are: Tom Stafford, Vance Brand and Donald "Deke" Slayton. On July 24, the Apollo spacecraft safely returned to Earth.

Aug. 20—The United States' first attempt to softland a spacecraft on another planet begins with the launch of VIKING 1 and a sister ship, VIKING 2 is launched on Sept. 9.

1976

Feb. 10—PIONEER 10 crosses the rings of Saturn and continues out towards Pluto which it will reach in 1987.

July 20—VIKING 1 lands on Mars and begins relaying first analysis of surface material on another planet.

Sept. 3—VIKING 2 lands on Mars and starts returning scientific data to Earth.

Dec. 30—For the second time in its history, NASA had a perfect launch record, successful in all 16 of its launches. In 1972, NASA also had a perfect record, launching 18 satellites.

1977

Mar. 14—Dr. James C. Fletcher submits his resignation as Administrator of NASA May 1.

May 24—President Carter nominates Dr. Robert A. Frosch as Administrator of NASA.

Aug. 12—The first approach and landing test free flight of the Space Shuttle is made with astronauts Fred Haise and Gordon Fullerton onboard.

Aug. 12—HEAO–1 (High Energy Astronomy Observatory) is launched to study and map X-rays and gamma rays.

Aug. 20—VOYAGER 2 is launched to study Jupiter and Saturn Planetary systems included their satellites and Saturn's rings.

Sept. 5—VOYAGER 1 is launched to investigate Jupiter and Saturn planetary systems.

Oct. 22—ISEE 1 & 2 are launched. The International Sun-Earth Explorer is a joint NASA/European Space Agency mission to study the interaction of the interplanetary medium with Earth's immediate environment.

Oct. 26—Haise and Fullerton pilot and land the Space Shuttle for the fifth and final free flight in the Shuttle approach and landing tests.

1978

Jan. 16—NASA selects 35 new astronaut candidates to undergo two years of training in Houston in preparation for Space Shuttle flight in the 1980s. For the first time, the group included six women and four minorities. NASA received 8,079 applications in the year-long recruiting period before selection.

Mar. 5—LANDSAT 3, an ecological data satellite, is sent into orbit around the Earth.

March 17—NASA announces four crews for early flights of the Space Shuttle. Those named are: John Young, Robert Crippen, Joe Engle, Richard Truly, Fred Haise, Jack Lousma, Vance Brand and Charles Fullerton.

May 20—PIONEER–VENUS 1 launched from the Kennedy Space Center. The spacecraft will orbit Venus and study the planet's atmosphere and surface.

June 1—Five scientists are selected to serve as payload specialists during the first Spacelab missison scheduled for the latter part of 1980.

June 26—The first ocean-monitoring satellite, SEASAT 1, is launched.

Aug. 8—PIONEER–VENUS 2 is launched. The multiprobe spacecraft will reach Venus some four months later.●

OCS LANDS ACT AMENDMENTS CONFERENCE REPORT

● Mr. KENNEDY. Mr. President, those of us who represent the coastal States of this Nation have waited a long time for final passage of the Outer Continental Shelf Lands Act amendments. The provisions contained in the conference report are absolutely essential for safe and effective exploration, development and production of OCS resources.

The environmental safeguards included in the bill are particularly important to those of us in New England who are concerned about the possible impact of OCS development of Georges Bank. Among other things, the conference report provides for environmental studies on leasing sites, the use of the best available and safest technologies for OCS development, the establishment of a fishermen's compensation fund, and cancellation provisions if the Secretary determines that serious damage to the marine or coastal environment may result from OCS activities.

Under a separate title of the bill, an oil spill liability fund is established through a 3-percent-per-barrel tax on OCS oil. This is an essential part of the OCS legislation, and it is important to note that an even more comprehensive "superfund" oil spill liability bill has passed the House and is still pending in the Senate. This legislation would supersede the oil spill liability provisions in the OCS bill, and I would hope that the Senate acts quickly to approve the "superfund" bill now pending in the Environment and Public Works Committee.

Revisions of Federal leasing policy and increased participation for State and local governments are equally important elements for a sound OCS policy. With regard to the leasing provisions, I strongly urge the administration to use existing authority to engage in Federal

exploration in order to determine the potential worth of areas to be leased. I am encouraged by the compromise reached in conference to require the use of alternative bidding systems, a requirement necessary to assure at least a minimal level of competition. And while I am disappointed by the deletion of the dual leasing provisions in the original Senate bill, I am hopeful that the study mandated by the conference report will bring to light additional evidence supporting the use of this leasing method. Furthermore, I am pleased that the amendment I offered on the Senate floor to provide a set-aside of crude oil for use by independent refineries was accepted by the conferees.

Mr. President, on balance, this bill provides for major improvements of the original 1953 OCS Lands Act. Environmental safeguards and citizen participation has been strengthened. The role of State and local governments has been enhanced. Federal leasing policy has been improved, and a degree of competition has been assured. I therefore strongly urge passage of this vital legislation.●

THE WASHINGTON BULLETS IN ISRAEL

● Mr. SARBANES. Mr. President, the 1978 National Basketball Association champions, the Washington Bullets, recently traveled to Israel for a well earned week of sightseeing and an exhibition match against the European Cup champions, the Tel Aviv Maccabis. The trip was led by Bullets' owner Abe Pollin, one of our Nation's outstanding sports and civic leaders, and the game was played for the benefit of the U.S. Committee Sports for Israel, whose president is the legendary Nat Holman. The committee provides important support for the World Maccabiah Games held every 4 years in Israel, and for a broad range of sports and physical education programs in Israel.

It must be acknowledged that when the "Fat Lady" finally sang in Tel Aviv she sang for the Maccabis, and the Bullets lost the game by a single point, 98–97. The score was clearly much less important, however, than the spirit of the game. In a nation devoted to basketball, 10,000 fans filled the stadium and roughly one-third of the people of Israel watched the match on television. They saw not only an exciting game but a demonstration of the good will which sports competitions are uniquely capable of generating, and of the deep mutual affection and respect which unite Americans and Israelis.

Mr. President, I ask that recent articles describing the Bullets' trip to Israel be printed in the RECORD.

The articles follow:

[From the Washington Post, Sept. 8, 1978.]

MACCABI ZONE FOILS OUT-OF-SHAPE BULLETS, 98–97

(By William Claiborne)

TEL AVIV.—The Fat Lady sang in Hebrew last night and Israel loved it.

Three months to the day after winning the National Basketball Association championship in Seattle, the Washington Bullets fell victim to the ostensibly amateur Tel Aviv Maccabis, 98–97, before a wildly cheering crowd of 10,000 and a television audience estimated at more than a million people.

The almost disbelieving crowd at the new Yad Eliahu Sports Palace here mobbed the young and lean Maccabis, who outran the visibly weary and out-of-shape Bullets all night.

Coaches and players on both teams agreed that it might have been a different story had the game been played a month or so from now, after the Bullet training camp. But Coach Dick Motta and team captain Wes Unseld agreed that the Maccabi team played "pretty doggone good" and deserved to win.

The Bullets appeared confused and frustrated by the Maccabis' zone defense, permissible under European basketball rules but illegal in the NBA.

"Some of our players haven't played the zone in 10 years, and they zoned the whole game," Motta said.

"When you come to a foreign place and play under foreign rules, you don't know what's going to happen. Considering it was the first time we played together, we played pretty good. But they played pretty good, too, and they were in better shape," Motta added.

Kevin Grevey, with 31 points, and Mitch Kupchak, with 21, were the high scorers for the Bullets. Six-foot-11 center Aulcie Perry, an American Basketball Association veteran who joined the Maccabis three years ago and converted to Judaism last month, dominated the game on defense with 10 rebounds. Mickey Berkowitz, an Israeli, led the Maccabis with 26 points. Perry had 17.

The Maccabis led most of the game—shortened to two 20-minute halves under European rules—by 10 points, and at halftime had a 9-point edge.

As the Bullets pulled closer in the final minutes, the Israeli fans chanted "Maccabis, Maccabis," urging Israel's most popular team to do what most people here assumed was impossible.

While the Maccabis were consistently fast-breaking and intercepting Bullet passes, the obviously rusty and weary Washingtonians slowed down and missed more and more outside shots.

Grevey, later visiting the Maccabi locker room, told the Israeli team, "It was a good game. You guys deserved to win. The zone neutralized us, sure, but you cannot win against a good basketball team when you aren't shooting."

The Bullets did not take the loss as a bad omen. "I came to Israel on vacation, to enjoy myself. The game really was not what this trip was all about," said Bullet captain Wes Unseld. "We're having a great time in Israel and that's why we came," he added.

Perry agreed, saying that the Bullets did not need a win here but that the Maccabis had something to prove.

"I knew we were going to win. It's too early in the season for them. Rookie camp doesn't even start for a week and a half and I knew the zone defense would put them in mess. A month from now it would be a different story," said Perry.

The Maccabis, who in 1977 won the European Cup over a top-ranked Italian team in Belgrade, started practice a month ago for a season that will begin in 10 days. Apart from a 25-minute workout two days ago and a brief drill yesterday, the Bullets haven't been on the court together since they defeated Seattle in game seven of the NBA championship series June 7.

Although somebody forgot to bring towels for the Bullet locker room and the team had to leave for its hotel without the benefit of showers, the players seemed in good spirits and looking forward to more touring in Israel. The team has seen Jerusalem, and today will visit the Galilee, Tiberias and a nearby kibbutz, which the players said they were eager to see.

Tomorrow they will swim in the Dead Sea, visit the ruins at Massada and sightsee more in Jerusalem. They will leave Israel Monday. Practice will begin next week.

"We came here for a vacation. The game is over and now we're going to get on with the vacation," Motta said.

BULLETS

	FG	FT	Reb	PF	T
Hayes	4	3–5	8	4	11
Dandridge	8	0–0	4	5	16
Unseld	2	0–0	8	4	4
Grevey	14	3–3	6	3	31
Henderson	3	0–1	2	2	6
Walker	0	0–0	0	2	0
Kupchak	8	5–6	8	2	21
Wright	3	0–0	1	2	6
Ballard	0	2–2	4	2	2
Totals	42	13–17	41	26	97

MACCABIS

	FG	FT	Reb	PF	T
Aroesti	3	2–2	1	3	8
Perry	8	1–3	10	3	17
Berkowitz	9	8–9	2	3	26
Silver	2	2–2	4	3	6
Bothwright	6	4–4	3	1	16
Menkin	1	2–2	1	2	4
Swartz	2	2–2	1	1	6
Keren	0	1–3	1	1	1
McCraken	3	8–8	3	5	14
Totals	34	30–35	26	22	98

[From the Washington Star, Sept. 8, 1978]

CAN ISRAELIS BE READY TO PLAY IN THE NBA?

(By Robert Slater)

TEL AVIV, ISRAEL.—For the ecstatic Israelis, it was another replay of David against Goliath. And, as in the Bible, the underdog came out on top last night, when the local basketball team here narrowly defeated the Washington Bullets, 98–97.

"This just might cause Camp David to break apart," proclaimed one excited Israeli. For the local fans, it was one of the more shocking and pleasing events of the Israeli sports year to watch Maccabi Tel Aviv, last year's European basketball champions, nose out the visiting NBA champions in an exhibition game played before 10,000 screaming partisans at Tel Aviv's Yad Eliahu sports arena.

Neither of the two teams appeared to take the game, which was televised throughout Israel, all that seriously. But to the highly basketball-conscious Israeli fans, it might as well have been the finals of the NBA.

Proud Israeli observers pointed out that the Tel Aviv team's victory over the Bullets gave Israel the distinction of being the first to triumph in basketball over both the American and Russian champions. The Bullets, of course, won their championship against the Seattle SuperSonics last June.

Last night's game was the highlight of the Bullets' week-long visit to Israel, a stay that has turned captain Wes Unsel and company into camera-toting tourists, wandering through the Holy Land and gazing at its historical and religious sites.

Maccabi Tel Aviv's performance last night was polished enough to give many Israelis the impression that the team's players, though only amateurs, could compete in the NBA without much difficulty. Indeed, Aucie Perry, Tel Aviv's 6-foot-11 star, spent six years in the now-defunct American Basketball Association.

Perry's outside shooting was superb against the Bullets. High man for the Israelis was Micky Berkovitz with 26 points.

The Bullets were frustrated all night by a combination of a tight Israeli zone defense and the prevailing amateur rules (including a 30-second rule for shooting). Only Kevin Grevey seemed at the peak of his perform-

ance, dazzling the crowd with 25- and 30-foot jump shots. He was high scorer in the game with 35 points.

Predictably, the Israeli crowd gave Maccabi Tel Aviv a standing ovation as their team pushed ahead early in the game. More ovations followed as Tel Aviv clung tenaciously to a lead that ran as high as 10 points. By halftime, the local team led, 54–45.

In the end, although Mitch Kupchak had scored 18 points, mostly on outside shots, Unseld had scored only four points and Elvin Hayes 11.

[From the Washington Post, Sept. 3, 1978]

ISRAEL TRIP CAPS POLLIN DREAM YEAR

(By Mark Asher)

Washington Bullets owner Abe Pollin realized one of his major dreams last season when his team won the National Basketball Association championship. This week, he will realize another: he is taking the Bullets to Israel.

The team will leave New York tomorrow and play a game Thursday night against Maccabi Tel Aviv, the country's best club team. But basketball is the least of the priorities on the seven-day tour.

As team captain Wes Unseld put it:

"It's a place I've never seen and probably will never see again, a place I've always wanted to see. I'm looking forward to it. My wife and myself are interested in the kibbutzim, the schools and the forms of education."

Connie Unseld is a teacher who is doing a special project on kibbutzim, Israel's collective settlements and farms.

For Pollin, one of America's prime fundraisers for Israel, it is an opportunity to bring his players, top management and wives together for a week and to further his unofficial role as Israel's travel agent.

"I've said this many times, to Jews and Christians alike who are going to Israel for the first time—it's an unbelievable experience," Pollin said. "You're walking the Bible. Nowhere in the world are you exposed to what you see in Israel.

"All the major religions started there. Being together will be great for the team and our wives. It will be a great experience."

The Thursday game will be the only basketball the Bullets will play during the week. It is a benefit for the U.S. Committee Sports for Israel, whose vice president, Alan Sherman of Washington, arranged the trip.

Pollin will underwrite any losses, but Sherman said the game is expected to sell out Tel Aviv's 10,000-seat Yad Elihau Sports Palace and will be televised live throughout Europe.

An Israeli film crew also will produce a 28-minute documentary that the Bullets are selling to commercial television and will also use for promotional purposes later.

Two Bullets will not make the trip, Phil Chenier, who is recovering at Sibley Memorial Hospital from back surgery, and Charlie Johnson, who the club said had made previous commitments and could not break them.

Among the sightseeing highlights of the trip will be visits to Jerusalem, Bethlehem, Nazareth, Caesarea and the Dead Sea.

"They'll see the Wailing Wall and swim in the Dead Sea," Pollin promised.

The Bullets also will meet with Yitzhak Navon, head of state, who will greet the Bullets in the absence of Prime Minister Menachem Begin, who will be attending the Camp David summit meeting on the Middle East.

In addition, the Bullets will be honored at a reception at the U.S. Embassy in Tel Aviv.

They also will tour the Wingate Institute, which is a sort of national sports center that includes training facilities and offers instruction in coaching, the teaching of physical education and in sports medicine.

Originally, the tour was supposed to include both the Bullets and the 1977 NBA champions, the Portland Trail Blazers. Sherman set up the tour on a weekend visit to Israel around July 4.

But, accordingly to Sherman, because of Bill Walton's broken foot, Portland President Larry Weinberg asked out. Then the plans were made to play Maccabi Tel Aviv.

Sherman, a Washington jeweler, arranged all details of the trip, including security precautions. The Israeli government does not advertise its security measures and all Sherman will say is, "Israel authorities are aware of the trip and are taking care of the security that has to be done."

But that seems to be farthest from the minds of the people going.

"I don't fear anything like that," said forward Elvin Hayes from his home in Houston. "It would hurt their cause more than help it.

"Going to Israel is something I've always wanted to do because Christianity began there; I want to visit Jerusalem and see the religious roots for most of the people of the world.

"I've been reading all these books about Israel, and it fascinates me. People I've talked to here say, 'Can I be a ball boy or something? It's a trip everyone wants to take."●

HOSPITAL COST CONTAINMENT

● Mr. WILLIAMS. Mr. President, I am very much concerned about the great financial burden Americans must shoulder as a result of the ever increasing cost of health care. The drain on household budgets from rising health insurance premiums, medical care prices, and taxes has become intolerable. Therefore, I believe we must take strong, positive action this session of Congress to control this increase and maintain health care costs at a reasonable level.

In an attempt to take this necessary action, I am very pleased to cosponsor, along with Senator NELSON, my colleague from Wisconsin, an amendment to H.R. 5285, the Medicare-Medicaid Administrative and Reimbursement Act, which is designed to insure greater control over hospital costs. I believe the Nelson amendment will be particularly effective because it impacts on 100 percent of hospital costs, which represent 40 percent of all health care costs. Moreover, it offers a compromise between the strong proposal adopted by the Committee on Human Resources and recommended by the President and the more limited proposal adopted by the Committee on Finance. The amendment recognizes statutorily the hospitals' own voluntary control program, which has been in effect this last year, while insuring some Government action in the event that program fails.

It has been encouraging to see that, within the widespread support for the Nelson amendment, a significant number of public health organizations have endorsed the amendment. These organizations have a very specific understanding of the need for controlling hospital costs and the relationship to quality of care. For the information of my colleagues, I ask unanimous consent to insert into the RECORD a copy of a group letter sent by 14 public health organizations who are interested in the successful passage of hospital cost legislation.●

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, D.C., September 11, 1978.

DEAR SENATOR: A unique coalition of concerned national public health organizations have joined to urge your favorable consideration of hospital cost containment legislation, which will be taken up by the Senate in the near future.

In the period of budgetary constraints, none of us can ignore the devasting effect of unbridled increases in health care costs on the resources available to programs targeted on the special health needs of millions of Americans. From biomedical research into the causes of disease, to a diverse multitude of preventive efforts at the federal, state and local level, to special capacity building programs for those poorly served by mainstream health care—all of these critical efforts face severe resource limitations due to ever-escalating outlays for acute medical care services.

Provision of services to our poor, aged and disabled remains a profound commitment of this society. However, passage of the Medicare and Medicaid Amendments of 1965 was never intended to underwrite the excessive hospital costs that have led to an inflation rate of 2½ times the inflation in the rest of the economy. Legislation is needed to control in-patient hospital costs, including those of Medicare and Medicaid.

We call upon you and your colleagues to respond affirmatively to this one available opportunity for Congress to apply some brakes to the inflation that is first among the concerns of the American people. Unless Congress acts now to enact legislation to slow these expenditures, unchecked hospital cost inflation will continue to limit the options available for the discretionary programs which we believe are vital to the diverse health needs of the American people. Equally important is the fact that these cost increases will ultimately lead to curtailment of Medicare and Medicaid benefits and services as well. We urge your favorable consideration of critical cost containment legislation.

American College of Preventive Medicine, 1015 18th Street, N.W., Washington, D.C. 20036.

American Health Planning Association, 2560 Huntington Avenue, Alexandria, Va. 22303.

American Public Health Association, 1015 18th Street, N.W., Washington, D.C. 20036.

American Speech and Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.

Association of State and Territorial Health Officials, 101 2nd Street, N.E., Washington, D.C. 20002.

Association of Teachers of Preventive Medicine, 3900 Reservoir Road, N.W., Room SW–312, Washington, D.C. 20007.

COSSMHO/National Coalition of Hispanic Mental Health and Human Services Organizations, 1725 K Street, N.W., Suite 1212, Washington, D.C. 20006.

Epilepsy Foundation of America, 1828 L Street, N.W., Washington, D.C. 20036.

National Association of Community Health Centers, 1625 I Street, N.W., Suite 420, Washington, D.C. 20006.

National Committee Against Mental Illness, 1101 17th Street, N.W., Washington, D.C. 20036.

National Council of Community Mental Health Centers, 2233 Wisconsin Avenue, N.W., Washington, D.C. 20007.

National Easter Seal Society, 2023 West Ogden Avenue, Chicago, Ill. 60612.

The Mental Health Association, 1800 North Kent Street, Arlington, Va. 22209.

United Cerebral Palsy Associations, Inc., 425 I Street, N.W., Washington, D.C. 20001

CONGRATULATIONS THIS 61ST YEAR TO THE AMERICAN DIETETIC ASSOCIATION

● Mr. DOLE. Mr. President, today the American Dietetic Association is concluding its 61st annual convention in New Orleans. Thus, it is only fitting that we pay tribute to this 35,000-member organization by recognizing the contribution dietitians are and will make to our national health.

NUTRITION AND HEALTH—A DIETITIAN'S WAVELENGTH

This professional group holds three primary objectives: Improving the nutrition of human beings, advancing the science of dietetics and nutrition, and promoting education in these and allied areas.

The agenda for the New Orleans conference is indicative of the challenges ADA has chosen to undertake over the years. Several of the topics are of interest to those of us concerned with legislation surrounding national health care and national health care costs; topics like nutrition care intervention, the development of professional competencies, the future of school food service, and nutrition education for doctors.

With regard to the latter, just last week a member of this association gave expert testimony before the Nutrition Subcommittee on how she got a successful program for teaching nutrition to medical students off the ground, Dr. Eleanor Young of the University of Texas, Health Science Center in San Antonio.

Over the past several years I have gotten to know and appreciate the work of ADA in my role as ranking Republican on the Nutrition Subcommittee, and previously while a member of the Select Committee on Nutrition. It is my view that members of this profession have made significant contributions of the oversight and legislative activities of the Congress. My own Kansas dietetic community like others have been instrumental in helping me formulate policy around food and nutrition issues. No doubt others of my colleagues here can make the same claims.

NUTRITION AND HEALTH—CONGRESS WAVELENGTH

Congress increasing concern for the nutritional well-being and health of the population is spelled out in the report language of last year's farm bill. There the Department of Agriculture was given a clear mandate in food research, human nutrition research, and nutrition education research. Bill language reads (p. 94):

> Congress hereby finds that there is increasing evidence of a relationship between diet and many of the leading causes of death in the United States; that improved nutrition is an integral component of preventive health care; that there is a serious need for research on the chronic effects of degenerative disease and related disorders; that nutrition and health considerations are important to United States agricultural policy; that there is insufficient knowledge concerning precise human nutritional requirements, the interaction of the various nutritional constituents of food, and differences in nutritional requirements among different population groups such as infants, children, adolescents, elderly men and women, and pregnant women; and that there is a critical need for objective data concerning food safety, the potential of food enrichment, and means to encourage better nutritional practices.
>
> It is hereby declared to be the policy of the United States that the Department of Agriculture conduct research in the field of human nutrition and the nutritive value of foods and conduct human nutrition education activities as provided.

Mr. President, I would now like to take this opportunity to document some of the 95th Congress accomplishments to date in the area of nutrition education. I call upon dietitians, nutritionists, and nutrition educators to address the challenge of seeing that these programs are administered so that they meet the needs of those Americans they are designed to serve.

NUTRITION EDUCATION TO FOOD STAMP RECIPIENTS

The Food Stamp Act of 1977 (Public Law 95–113, title XIII, section 11(e)(15)) makes it clear that State agencies prominently display in all food stamp and public assistance offices general information which will help recipients understand the relationship between diet and health. Nutritionists tell me this is a significant step forward in nutrition education practices—moving from teaching about nutrients and their functions in the body to an understanding of the diet-nutrition-health relationships.

NUTRITION EDUCATION IN SCHOOLS

The Child Nutrition Act of 1977 (Public Law 95–166, section 19) offers State departments of education grant funds for 2 years to provide food service management training for school cafeteria personnel and nutrition instruction for students and teachers. I am glad to see that all but a very few States have taken advantage of these Federal funds to make nutrition instruction a reality in our schools.

If I can digress here a moment, I would like to make what I feel is a significant point about this piece of legislation. It was placed in the law governing school meal programs—put there by Congress to support and strengthen school lunch services.

Dietitians must do all they can to see that the food service management training is superb. Those working as nutrition educators must see that the instructional activities are designed to enhance the school lunchroom. Mr. Chairman, this provision of Public Law 95–166 must seek to improve the quality of school meal service. Persons responsible for section 19 training and education activities must take a close "before" and "after" look at such things as the number of students participating in school meals, and foods they select practices, and the amount of foods and beverages they select and consume. These lunchroom-based indicators can provide a good indication of how well State plans are being implemented. Or how well the plan is responding to Congress intent for the use of these grant funds.

MORE NUTRITION EDUCATION FOR LOW-INCOME FAMILIES

A section of the 1977 farm bill (Public Law 95–113, title XIV, section 1425) reads that in order to enable low-income individuals and families to engage in nutritionally sound food purchasing and preparation practices, the expanded food and nutrition education program (EFNEP) presently conducted shall be expanded to provide for the employment and training of professional and paraprofessional aides to engage in direct nutrition education of low-income families and in other appropriate nutrition education programs.

NUTRITION EDUCATION AND CHILD CARE

The child care food program title of S. 3085, which I introduced earlier this year, calls for States to provide sufficient training, technical assistance, and monitoring of programs to facilitate effective program operations. Testimony from dietitians and other expert witnesses has convinced me of the importance of food habit development at an early age. I would like to see emphasis on nutrition education in any technical assistance offered.

NUTRITION EDUCATION AND WIC

The WIC title of S. 3085 contains language addressing the importance of instruction in nutrition to the vulnerable groups receiving this nutritious food package. In fact, the bills call for not less than one-fifth of a State's 20 percent administrative costs to be used for nutrition education activities.

NUTRITION EDUCATION IN MEDICAL SCHOOLS

In the DHEW specialist education assistance program, under the Health Resources Administration the Senate has provided $10 million for next year. Concerned that physicians and other health professionals being trained in the Nation's medical schools and the institutions only in rare cases receive quality instruction in human nutrition, $10 million has been put in the Labor-HEW appropriations bill for nutrition education in medical schools and other health professional institutions. It is the intent of the Senate Appropriations Committee to insure that the recipient institutions require satisfactory completion of nutrition courses of all students as a condition of graduation. (The House version of this provision calls for a lesser amount, $4.2 million. In conference, we will be working for the full $10 million.)

Mr. President, finally I feel a word of appreciation and thanks is in order for the generous assistance many dietitians have contributed to help make all this nutrition education legislation. Of course, we must continually seek their full support in implementing, reviewing and monitoring these programs. The real effectiveness in reaching and benefitting the client community will depend on dietitians and others managing the program.●

THE INVESTMENT INCENTIVE ACT OF 1978

Mr. HELMS. Mr. President, Treasury Secretary W. Michael Blumenthal, in a recent speech, stated clearly some of the most pressing problems facing the United States today. He said:

> The facts are inescapable: we are not saving enough; our financial system is providing insufficient equity capital; we are not investing near enough in productive plant,

equipment, and technological innovation; profits are too low, and they are too uncertain.

These facts are indeed inescapable. There is general agreement among business leaders and economists that an increase in the rate of saving and investment—what economists call capital formation—will provide jobs for a growing labor force; foster faster and more sustainable economic growth; and, by raising productivity, provide the best long-run answer to inflation.

There are a number of measures the Federal Government can take to encourage capital formation. One of the most important of these is a bill I have cosponsored called "The Investment Incentive Act of 1978." This legislation reduces the maximum tax on capital gains from today's high level of nearly 50 percent for individuals and more than 30 percent for corporations to the 25-percent level that was in force prior to 1969. The Investment Incentive Act of 1978 represents a major departure from our past policies of soak-the-rich-regardless-of-the-consequences. It is a proposal that will reward investment, risk-taking, and saving for the future—a first step in solving our capital formation problem.

The current high taxes on capital gains impede capital formation, economic growth, and job creation. This bill will provide a direct stimulus for investment, particularly in newer and small business enterprises whose potential for job creation is even greater than that of more mature companies. Job creation is an expensive task. In the manufacturing sector of the economy, an estimated $40,000 of investment is needed to provide a single new job. We have made good progress to date in reducing the unemployment rate from a high of 8.5 percent in 1975 to the current 6.2 percent, but much more can and should be done.

In addition to increasing job formation, the bill will increase the availability of risk capital which has been so severely curtailed by the increases in capital gains taxes enacted since 1969. These increases in taxes on capital gains have decreased the reward to the investor but the risk has, at best, remained the same. This alteration of the risk-reward ratio faced by investors in newer and smaller enterprises has caused a massive decrease in the amount of risk capital available. According to the Securities Industry Association (SIA) in recent testimony before the House Committee on Ways and Means, in 1969 there were 548 stock offerings totaling nearly $1.5 billion by companies with a net worth of under $5 million. However, in 1975, there were only four such offerings, and they raised only $16 million.

This lack of risk capital means new ideas are not developed as quickly as they should be and there is a very real danger that the United States could lose its role as world leader in technological advances. This reduces the ability of U.S. companies to compete effectively in world markets, leads to a worsening balance-of-trade deficit, and threatens to damage our national defense posture. The strategic position of the United States in the world today is based increasingly on our ability to maintain our technological leadership. It is our chief hope for survival. We simply cannot stifle the climate for innovation in this country that has allowed us to protect and to further our ideals for 200 years.

The increased investment generated by this bill will help to raise the rate of productivity growth and thus provide needed improvement in real incomes. The economic report of the President (1978) states that productivity "expanded by about 2.6 percent annually" from 1950 through 1968. However, from 1968 through 1977, the report tells us productivity "rose about 1.4 percent per year." The report also notes that—

> Gains in real living standards must come primarily from improved productivity. Without gains in productivity, improvement in real incomes for some Americans can come only at the expense of others.

Increases in productivity come about, in part from increases in the capital stock. But, capital investment is badly lagging. Reducing the tax on capital gains through the Investment Incentive Act of 1978 will help stimulate this investment, increase the rate of productivity growth, generate larger real incomes, and slow the rate of inflation. Reducing the tax on capital gains is one of the best ways to attack the structural problems of the economy head-on.

That a significant reduction on the tax on capital gains would stimulate capital formation has been documented by several leading econometricians. Each of the studies found impressive benefits to the economy from enactment of the legislation. Chase Econometrics reports that—

> The rate of growth of constant dollar GNP would average 3.6 percent compared to a 3.4 percent annual average otherwise. An additional 440,000 new jobs would be created by 1985. Expenditures for plant and equipment would rise 5.7 percent per year in constant prices, compared to 4.7 percent otherwise. In addition, the Federal budget would be $16 billion less by 1985 than would be the case without this reduction in capital gains taxes.

These are substantial benefits, benefits that would be shared by all citizens.

Also the shortage of risk capital seems to be a factor causing the economic performance of the United States to lag behind countries that do not tax capital gains at all, as the following chart suggests:

ECONOMIC PERFORMANCE (1972–77)

	1977 maximum capital gains tax	Investment as a percent of GNP	Average annual percent increase	
			In productivity	Real GNP
Japan	0	32.0	8.4	8.3
France	0	22.8	5.7	4.8
Netherlands	0	23.7	6.9	4.6
Belgium	0	21.8	6.9	4.0
Germany	0	24.8	5.5	4.0
United States	49.1	17.5	2.7	3.5

It is time the Government clearly articulated a positive position encouraging investment and rewarding risk-taking. Enactment of the Investment Incentive Act of 1978 which I have cosponsored, would do just that. It would improve the psychological attitude and confidence of the marketplace and of potential investors. This bill represents the essence of capitalism and the free enterprise system—it allows those who save and invest in productive and profitable activities to reap a just reward. It means that there will be more job-creating capital to provide opportunities for American workers and thus higher standards of living for all Americans.

FURTHER FUNDING FOR SOLAR POWER SATELLITES IS ILL-ADVISED

Mr. PERCY. Mr. President, there is much interest today in exploring better ways to harness the Sun's energy. Thousands of Americans have already installed solar water and space heating equipment in their homes.

Electricity production is another important solar application. Photovoltaic cells show great promise, but their cost is currently prohibitive. A growing market and improved manufacturing capabilities should eventually bring the price of photovoltaics down to a competitive level. By providing funds for research and development, the Federal Government can speed this important progress.

The promotion of solar technology is one of my high legislative priorities. Last month, together with Senators HART and MCINTYRE, I led the successful fight to amend H.R. 112 in order to provide tax credits to homeowners who install solar and conservation devices in their homes. This spring I authored a resolution endorsing Sun Day, a nationwide celebration of solar energy. And a year ago, I held a solar energy conference in Chicago, which was attended by over 2,000 people.

I mention these events as a preamble to my conclusion that one's enthusiasm for solar energy should always be tempered with tests as to the cost effectiveness of certain investments in the solar field.

In spite of my strong solar advocacy, I am concerned with a certain piece of solar legislation which is now before Congress. This bill is S. 2860, the Solar Power Satellite Research, Development, and Demonstration Act. The solar power satellite (SPS) concept envisions 100 or more giant satellites, each with 50 square miles of photovoltaic sheathing, designed to capture Energy from the Sun and send it back to earth. Electricity generated by these satellites would be converted to a beam of microwave energy and then aimed at a terrestrial receiving antenna several square miles in area.

Congress has already authorized a $15.6 million, 3-year preliminary study of the SPS concept, to be completed in 1980. Even though this study is still in progress, SPS proponents are urging Congress to provide an additional $25 million for "technical verification."

Solar power satellites are a highly complex technology with many potential

problems. The currently funded 3-year study is designed to address some of these problems and determine whether further development of the technology is worthwhile. It is my firm conviction that Congress should await the results of this study before pumping another $25 of taxpayers' money into the program.

If the SPS were the only foreseeable alternative to our current dependence on imported oil, we would perhaps have no choice but to push for its rapid development. In fact, we have numerous options: increased use of domestic oil, gas, and coal; light water nuclear reactors; technologies utilizing renewable resources such as the wind, flowing water, and crop wastes; and conservation. A recent report to the Joint Economic Committee suggested that cost-effective conservation investments could reduce our energy use by 40 percent.

SPS is not our only energy option. Therefore, let us avoid rushing ahead with it too quickly. Another $25 million at this point might allow the program to build a momentum which would hinder objective assessment in a few years' time. There are too many examples of Government-funded projects which begin small but soon steamroll past all stopping. Federal money has nourished a whole herd of these white elephants.

The Federal Government faces a huge budget deficit. Congress must therefore be wary of expenditures which, though relatively modest today, could easily become a colossal drain on Federal resources in years to come. NASA estimates that trial commercialization of the SPS would cost $60 to $70 billion. The commercial testing of a land-based photovoltaic facility would require a mere fraction of this amount—$0.2 to $0.4 billion. Even the breeder reactor's development cost of roughly $10 billion pales by comparison.

SPS proponents claim that private investment could provide part of the $60 to $70 billion needed for trial commercialization. Judging from past experience, however, we can expect that the Federal Government would bear much, if not most of the financial burden. With so much R. & D. funding tied up in the SPS, little Federal money would be available for developing other new energy technologies such as coal gasification, oilshale conversion, and Earth-based solar. Before committing Federal resources on such a scale, we should see absolute proof that the SPS will yield sufficient benefits to warrant the neglect of other technologies.

The Federal involvement in solar power satellites would not be limited to aid for its development and commercial testing. If the SPS is successful, experts predict that it could generate a third or more of our electrical needs by the year 2025. I find it difficult to foresee private industry running a space program, especially one of this magnitude and complexity. In all probability, the Federal Government would find itself even more deeply burdened with the energy business than it is today. Orbital rights-of-way, safety, fair pricing, and adequate electricity distribution would all be matters of Government concern. These many responsibilities would cut further into the Federal budget and add to the excessive regulation which the private sector already endures.

While the fiscal impacts of the SPS deserve our attention, we must also address other issues, such as the strategic vulnerability of solar power satellites. Economies of scale require that a single satellite generate a minimum of 2,500 megawatts; the more commonly discussed output per satellite is 10,000 megawatts. The magnitude of these units becomes apparent when we recognize that the largest nuclear powerplant operating today has a maximum capacity of 1,130 megawatts.

Because of each satellite's huge capacity, a hostile government could cripple our Nation's economy by knocking out a small number of them. To protect the SPS, we would have to develop a whole new weapons system. The result might well be an orbital arms race which would drain our tax dollars and, more importantly, would pose an additional threat to human survival. For those of us who regret our Nation's current dependence upon the OPEC oil cartel, the thought of spending billions of dollars for a new energy system with extreme, if different, vulnerabilities is less than appealing.

The SPS would also create a variety of environmental problems. Significant levels of air and noise pollution would result from the multiple daily launchings and landings of reusable jumbo rockets, needed to assemble and maintain the system. More worrisome are the possible effects of microwaves upon human health. Of the microwaves directed toward Earth-based receiving antennae, an estimated 10 percent would stray from their target because of particles in the Earth's atmosphere. Scientists are now exploring the possibility that microwaves can cause cataracts, genetic changes, and cancer in human beings.

The SPS faces many problems and uncertainties, but it is conceivable that some of these difficulties are surmountable. I believe the Government should conduct preliminary research into the SPS, as well as a number of other new energy technologies. We must not rush ahead quickly, however. As we have already allocated a sizable number of tax dollars for a preliminary study of the SPS, we should examine the results of this study before considering further support.

A SOLAR OFFICER FOR THE EXPORT-IMPORT BANK

Mr. PERCY. Mr. President, this past spring I introduced a bill, S. 2835, which amends the Export-Import Bank Act. It requires the Bank to designate an officer to promote exports of American renewable energy technology. Due to the efforts of my distinguished colleague from Michigan, Senator RIEGLE, this legislation was incorporated in S. 2520, the Export-Import Bank Authorization, as reported out of the Senate Banking Committee.

This proposal has also met with success in the House. Congressman LONG, of Maryland, offered an amendment on the floor to H.R. 12157, the House Exim authorizing legislation. It passed by a voice vote. Thus, only one hurdle remains before this legislation becomes law—passage by the full Senate.

Mr. President, the Export-Import Bank is already taking steps to promote American solar technology exports. A "solar" officer has been designated and efforts are underway to determine which solar technologies are most applicable for Exim support and where the most likely markets are. Of course, the initiation of these activities was predicated on the assumption that S. 2835 will, in fact, become law. Without a clear congressional mandate, Exim may well abandon its activities in this area.

Therefore, I strongly urge my colleagues to join with me in support of this proposal when the Exim legislation comes to the floor. The House has passed it. The Senate Banking Committee supports it. All that is needed is the endorsement of the full Senate to assure Eximbank's active involvement in promoting exports of this vital and growth-potential American industry.

STUDY TO FOSTER COMMUNITY-BASED TECHNOLOGY

Mr. PERCY. Mr. President, I and 11 other Senate and House Members have requested the Office of Technology Assessment to undertake a study of the applications of appropriate technology in the United States. I am pleased to report that the Technology Assessment Board recently approved this important project.

Many individuals, small businesses, community groups, and local governments are working to develop small-scale technologies which are sensitive to local resources, social conditions, and capital availability. If implemented, these technologies could help communities to become more self-sufficient economically. The OTA study will examine the feasibility of these technologies and will prepare strategies which Congress might adopt to stimulate local appropriate technology initiatives.

It is my hope that this study will help to change the way Federal agencies approach local development. Currently Federal programs resort too readily to standardized, large-scale solutions to community problems. Greater attention should be given to each community's particular characteristics and needs.

Appropriate technology has great potential at home. It should also play a major role in American foreign assistance. To see what steps the Federal Government is taking in this direction, Senator JAVITS, Senator HART, and I are conducting a survey of 13 Federal agencies and two Government-sponsored private organizations. The Congressional Research Service will assist us in this survey. From the collected information, we hope to discover ways in which Congress can help to strengthen and coordinate existing programs, as well as to identify areas in which new programs could make meaningful contributions. I will report to my colleagues on the results of this survey as they become available.

Mr. President, I ask unanimous consent that two documents relating to the Office of Technology Assessment's upcoming study be printed in the RECORD. The first is a letter which my Senate colleagues and I sent to Senator KENNEDY, chairman of the Technology Assessment Board, requesting the study. The second is Senator KENNEDY's response.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 21, 1978.

Hon. EDWARD M. KENNEDY,
Chairman, Technology Assessment Board, Congress of the United States, Washington, D.C.

DEAR SENATOR KENNEDY: We request that the Technology Assessment Board initiate an assessment of technologies which are appropriate for local community development. This would include an assessment of the potential for community development through use of appropriate technologies, and of appropriate federal policies in this area.

As you are aware, decay of America's inner cities and isolated rural areas continues to resist traditional federal development efforts. Promising new technologies now being innovated in energy, waste disposal, housing, agriculture and health may provide an alternative and possibly more effective approach to community and regional development. These technologies are compatible with capital resources available locally and with the area's long range environmental needs. They stress self-reliance and the use of renewable resources.

Many localities are experimenting with technologies designed to create an indiginous economic base for development. The following examples provide some of the flavor of these community experiments:

(1) The 519 East 11th Street Housing Development Fund Corporation is located in a predominately Puerto Rican community on the lower east side of Manhattan. The area suffers typical inner city ghetto problems: high unemployment, low skill base, heavy welfare dependency, and high crime rates. With assistance from HUD and the CETA program, neighborhood residents have rehabilitated houses in the community. To reduce heating bills, engineers and architects in the city helped the East 11th Street Corporation design solar and wind energy generating equipment for the buildings and to apply conservation techniques. The community is now establishing energy and other business ventures to market their new skills in other areas. This community serves as a model for others across the country as a successful example of urban neighborhood self-help.

(2) The town of Pocatello, Idaho (pop. 42,560) on the Portneuf River has a serious pollution problem; discharges from the municipality and from two manufacturing plants are not meeting their pollutant discharge permits. A related problem is an irrigation shortage. Agricultural production dominates the arable land in the area but it receives only 11 inches of precipitation annually. The U.S. Environmental Protection Agency funded a study of the best practical control technology for sewage treatment; both physical-chemical treatment as well as land application of waste water alternatives were evaluated. The study concluded that a land application system was the best alternative for eliminating the discharge problem and also provided enough waste water flow to serve as a potential resource for irrigation and supplemental nutrients. EPA is using the Pocatello case as a demonstration of an effective land application and waste water re-use design. Construction contracts are now being let and will use only local municipal and industrial funding.

(3) The Walthill, Nebraska Small Farm Energy Project funded by the Community Services Administration has implemented energy conservation and renewable resource techniques on 24 cooperative farms. The farmers, whose incomes average only 25 percent above the poverty level, keep energy use records which are being compared to a control group of an additional 24 farms. Six different types of projects have now been implemented. These include insulation, solar heating, biomass conversion and methane production, and wind energy. Future projects include soil analyses to save energy by reducing fertilizer applications. The farmers are enthusiastic about the project and are learning that they need not be vulnerable to escalating fuel prices.

Many Federal agencies have begun to explore ways to promote such community initiatives. These efforts have primarily been add-ons to existing housing, energy, or other programs. To date no analysis has been performed of how the Federal government might best approach this issue. What would be most valuable would be an examination of 1) the feasibility and impacts of selected local development efforts using appropriate technologies; and 2) policy options for promoting community technology. These options should avoid overlapping or balkanized program efforts by Federal agencies.

Specifically, we request that the following assessment steps be taken:

(1) Description of appropriate technologies and formulation of a conceptual base for appropriate technology.

Survey and describe technologies applicable to local development. Describe groups and purposes served. Review relevant case studies and other literature. Survey foreign examples of technologies which could be successfully adapted to needs of U.S. communities. Formulate a conceptual base for appropriate technology.

(2) Analysis of key issues.

Collect data on a selected number of technologies. Include financing, technical feasibility and cost-benefit information. Using objective and subjective methods, analyze selected key issues such as environmental and social impacts, impacts on employment and local finance, etc.

(3) Analysis of institutional structures.

Describe technical, social and legal barriers to community technology innovation. Survey federal activity dealing with appropriate technology for development. Analyze coordination, staffing and funding of the programs. Analyze how well federal programs meet the needs of community development groups, individual entrepreneurs and inventors etc.

(4) Preparation of policy options.

Present and analyze a series of policy options for Congress dealing with proposals for reorganization, research and development, financing and other relevant means of enhancing beneficial impacts and minimizing adverse impacts of technology for community development.

Such an analysis would draw Congressional attention to a policy area which has not yet gained prominence. It would also provide a roadmap for future Congressional and other initiatives in this area. We would urge the Office of Technology Assessment to conduct such an assessment of appropriate technology for local development.

Sincerely,

CHARLES H. PERCY,
JACOB K. JAVITS,
MURIEL HUMPHREY,
PATRICK J. LEAHY,
EDWARD W. BROOKE,
THOMAS J. MCINTYRE,
GEORGE MCGOVERN,
GARY HART,
U.S. Senators.

OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D.C., September 7, 1978.

Hon. CHARLES H. PERCY,
Dirksen Senate Office Building, Washington, D.C.

DEAR CHUCK: I am pleased to inform you that the Technology Assessment Board has now approved an "Assessment of Technology for Local Development." This project directly addresses your request as stated in your letter of June 21, 1978.

The project will assess innovative technologies which communities have successfully adapted to meet specific local needs. OTA will initially examine alternative waste water treatment systems and diversified energy technologies. Others dealing with agriculture, health and housing may also be studied. OTA will examine these new approaches to community development to see if their successful experiences can be replicated in other localities around the country. A copy of the assesment outline is enclosed.

The Board shares your personal enthusiasm for this project. It represents a pioneering effort by OTA to help Congress tackle some of our serious problems of employment, public finance and environmental protection which have become so critical at the local level. In its deliberations on this project, the Board stressed the importance to assessing specific technologies which are practically and efficiently answering local needs. It welcomed an assessemnt of smaller scale technologies which have the potential to allow localities, through reliance on their own skills and resources rather than on big government, to become more viable economic communities.

The Board is thus happy to respond favorably to your timely and important request. OTA will remain in close contact with your staff during the course of the study.

Sincerely,

EDWARD M. KENNEDY,
Chairman.

MARIHUANA SMUGGLING: NOW A SERIOUS ECONOMIC PROBLEM FOR THE NATION ALSO

Mr. PERCY. Mr. President, during the last 3 years marihuana smuggling into this country from Colombia has grown to staggering proportions. Centered primarily in the Miami area, illegal profits are being compiled at a multibillion-dollar annual rate. Drug dealers are handing over massive quantities of U.S. currency to their Colombian counterparts. According to two startling articles by Jim Coates in the September 10 Chicago Tribune, entitled "Grass Greener for U.S. Dealers," and "Marijuana Smugglers Spend a Lot To Make A Lot," this cash flow is draining the U.S. economy of over $7 billion per year.

This $7 billion figure is a phenomenal sum. Considering that our annual trade deficit is slightly over $31 billion per year, this means that payments for Colombian marihuana may constitute nearly 25 percent of the problem. In June, the House Select Committee on Narcotics Abuse and Control estimated that the U.S. exports more cash each year for marihuana than for Toyota automobiles, foreign television sets, and footwear combined. Illegal marihuana smuggling has become more than an issue of social mores and law enforcement; it is now a deeply troubling economic problem as well.

Mr. Coates said that the amount of U.S. currency which flows to Colombia

is so overwhelming that the Colombians ship much of it back to Miami for direct deposit in the Bank De Colombia's special account in the Federal Reserve System. The Miami branch of the Atlanta Federal Reserve Bank is deluged with excess currency while central banks in other areas of the country are hampered by shortages of bills. An official of the Federal Reserve System recently testified that the money supply in Miami has increased more than 180 percent in the last 3 years.

Colombian production of marihuana has become a well-organized and efficient business enterprise. Processing factories operate openly. Raw marihuana is neatly baled and wrapped in burlap for the 1,000-mile shipment to the United States on mother ships or aging aircraft. According to the Tribune, marihuana accounts for more than 20 percent of Colombia's gross national product, exceeding coffee, the nation's largest legitimate crop, in sales.

Federal enforcement efforts have hardly made a dent in the tidal wave of narcotics engulfing south Florida, even though multi-ton seizures are becoming practically an everyday occurrence. Just last month the Coast Guard seized the vessel, *Heidi*, which had a cargo of 112 tons of marihuana, worth $67 million in the United States. The Drug Enforcement Administration has confiscated more than 1,500 tons—3 million pounds—of marihuana in slightly over a year. Yet, this figure represents a small percentage of the tonnage involved in the south Florida smuggling operation.

Even when these drug smugglers are apprehended, loopholes in our law make it difficult, if not impossible, to prosecute them. A few weeks ago, I joined with Senators CULVER, CHAFEE, THURMOND, HATCH, RIBICOFF, NUNN, HATHAWAY, and BENTSEN in introducing legislation designed to plug these loopholes. I ask unanimous consent that a portion of my statement in support of S. 3437, the Drug Trafficking Control Act of 1978 appear at the conclusion of these remarks.

The Chicago Tribune article puts forward some astounding figures. It estimates that approximately $48 billion is spent annually on marihuana by the 16 million Americans who regularly smoke it, and the millions of others who experiment with it. If this is so, it means that marihuana is the third biggest business in the United States today, with only General Motors and Exxon surpassing it in sales. The $7 billion estimate ranks marihuana second only to passenger cars as an import.

The illegal marihuana industry has multiplied to gargantuan dimensions. U.S. drug smugglers are amassing huge fortunes. Elements of organized crime are rapidly becoming more involved in this criminal activity. At the same time, substantial amounts of capital are being drained from the country's economy. Drug smuggling, with its attendant violence and extensive underworld connections, is also a problem with serious economic ramifications.

We are faced with a dire situation which demands our immediate attention. As ranking minority member of the Permanent Subcommittee on Investigations, I have already requested that subcommittee staff look into the startling economic and social dimensions of illicit marihuana trade. It is a matter of urgency to the entire Nation.

Mr. President, I ask unanimous consent that the September 10 Chicago Tribune articles by Jim Coates, "Grass Greener for U.S. Dealers," and "Marijuana Smugglers Spend A Lot to Make A Lot," be printed at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CONGRESS MUST ACT QUICKLY TO HALT NARCOTICS SMUGGLING

Mr. PERCY. Mr. President, last week I was pleased to join my distinguished colleague from Iowa, Senator CULVER, and Senators CHAFEE, THURMOND, HATCH, RIBICOFF, NUNN, HATHAWAY, and BENTSEN in introducing S. 3437, the Drug Trafficking Control Act of 1978. Although we are rapidly approaching the end of this session of Congress, this is a piece of legislation that ought to receive the immediate attention of the Senate .

There has been a tremendous upsurge in the importation of narcotics into this country. The volume of this criminal enterprise is of staggering proportions. Hundreds of millions of dollars worth of illicit drugs enter this country each year promoting crime, violence, and human misery. From January through July of this year, the Coast Guard seized 101 vessels, arrested 494 persons and confiscated over $700 million in drugs. This is more than twice as much as the year before.

Just 2 weeks ago, the Senate Permanent Subcommittee on Investigations, on which I serve as the ranking minority member, heard testimony from underworld figure, Gary Bowdach, on this alarming situation. He testified about his role as a bodyguard and enforcer in the notorious Rick Cravero gang, a loosely alined group of 150 members which illegally imported millions of dollars of marihuana and cocaine into south Florida. He told us that the biggest risk for the drug trafficker "is getting into the country;" because of that, a kilo of cocaine purchased for $8,000 in Colombia, South America, immediately triples in price once it has made its way into Florida.

But the risk is not nearly as great as it should be. Mr. Bowdach also made it clear that in fighting this battle, law enforcement officials are outmanned and outsmarted.

The Cravero gang brought its drugs into Miami by ship. Bowdach described how the narcotics would be shipped on used Colombian freighters, or "mother ships," and transferred on the open sea, beyond the 12-mile territorial limit of the United States. The transfers would often take place at night, when the Cravero gang would send out high-speed boats to pick up the loads and bring them into a remote landing area.

Money was no problem for the Cravero operation. They would spend as much as $40,000 for each small high-speed craft. Then they would "soup up" an engine to further increase its speed, and equip the boat with sophisticated radio and electronic gear capable of picking up law enforcement communications. When Bowdach was asked how fast the law enforcement craft are able to go, he replied simply, "not as fast as ours."

We also heard testimony from two members of the Dade County Florida Department of Public Safety that, just a few years ago, a drug load worth $100,000 was considered a large shipment. Today, a load with a value of less than $500,000 is considered "peanuts." Indeed we are being confronted with a tidal wave of narcotics flowing into this country from the southeastern United States. In 1976, 60 percent of marihuana seizures took place along the Mexican border. That figure is now down to 7 percent; 89 percent of the marihuana seized this year was in the gulf and southeast Atlantic region. Florida is rapidly becoming the national clearinghouse for most of the marihuana and cocaine in this country. For example, according to DEA, more than half the marihuana coming into Chicago arrives via Miami.

Wherever big money is to be made, you can be sure that organized crime is lurking close by. Bowdach testified that organized crime is becoming increasingly involved in this nefarious enterprise. Bowdach was personally aware of the extensive narcotics dealings of Ralph Broccoli, a soldier in the Gambino crime family of New York. Bowdach put it this way:

So everybody in organized crime shied away from the narcotic action. What had happened as a result of shying away from it, various other groups got into it. . . . But when they saw the money, the amount of money that was coming in that these people were making, that is when it decided to go full steam into it.

What is most outrageous is that our present laws encourage and aid these drug pirates. Much as Mr. Bowdach described, a large percentage of these illicit drugs enter this country from large "mother ships" which anchor outside the 12-mile territorial limit of the United States. From here, these ships unload these drugs onto smaller boats which can safely elude drug enforcement officials and carry their dangerous cargo to shore. Law enforcement officials estimate that at best they are only able to stop 10 percent of this tidal wave of drugs.

Under present law, U.S. enforcement agents can prosecute the crews of these large mother ships only if they have actual proof of the actual act of distribution from the mother ship to the smaller craft. With very limited resources, the chances of EDA or the Coast Guard catching the crews of the mother ships in the act of distribution on the high seas is much like the proverbial search for a needle in the haystack. This inadequacy in the law has greatly frustrated enforcement efforts. In fact, only 40 percent of the individuals arrested when mother ships are seized are even prosecuted. Most of these are foreign nationals who are deported, and, in effect, given a free ride back home. In a few days, they are right back in business.

The Drug Trafficking Control Act which has the full support of the DEA, Customs, and the Coast Guard, would put an end to this invitation to smugglers. Under the act, enforcement agents would be required to show only that the crew possessed the illegal drugs and intended to distribute them in the United States or had actual knowledge thereof. This would effectively plug a major hole in drug trafficking regulations and would make the occupation of the drug trafficker significantly more risky.

A second section of the Drug Trafficking Control Act would correct another loophole in current law that makes it difficult to prosecute drug traffickers attempting to "launder" their illegal profits or buy more drugs by taking large amounts of money out of the country.

Under existing law, individuals coming into the country, or leaving it, must file a report whenever they transport monetary instruments in excess of $5,000. This is intended to allow the authorities to monitor such activity, with a view toward determining when it is connected to illicit smuggling or other illegal conduct. However, in a recent court case involving an individual who attempted to leave the country with $250,000 in unreported currency, a judge dismissed the case because the arrest took place prior to the time the individual actually left the United States. This is a Catch-22 situation

for customs officials. It is only when the person is out of the country that you can prosecute him. But you cannot prosecute him because he is out of the country. Under the terms of this decision, it will be virtually impossible to bring prosecutions in the future.

This bill would amend the Currency and Foreign Transactions Reporting Act to require the reports to be filed prior to departure, and to stipulate that persons must file such reports prior to boarding outbound common carrier vessels or aircraft.

The bill would also clarify existing law with respect to searches for currency. It would permit warrantless searches by customs agents under exigent circumstances if they have probable cause to believe this law is being violated. This is consistent with prior Supreme Court interpretations of the fourth amendment.

Lastly, the act would require the master of any vessel arriving from a foreign port immediately to report the arrival of his vessel to the appropriate American officials. Present regulations allow vessels coming from foreign ports, other than Canada or Mexico, 24 hours in which to report. Drug traffickers often transfer their contraband cargo during this 24-hour grace period, and, thus, do their damage without fear of prosecution.

Mr. President, the problem we now face can be put very simply: Drug trafficking must be stopped. The White House estimates that drug abuse costs this country $18 to $27 billion a year. Law enforcement experts estimate that one-half of all robberies and property crimes are drug related. In this battle against crime, we must utilize every weapon at our disposal. Yet, this Nation is at a severe disadvantage. We cannot fight these drug traffickers with one hand tied behind our backs.

The tremendous fortunes that can be made from drug trafficking have attracted a literal horde of gangsters and criminals to its seamy cause. Against their sea and air armada, the Federal Government has put into the fight very limited resources. In Georgia, for example, the Drug Enforcement Administration has but three agents to protect some 2,300 miles of coastline from drug traffickers. The regional customs office has only 10 planes at its disposal, and these are so frequently in need of repair, because of age that there are many days when none of them can take off.

Current laws against drug trafficking are inadequate and unable to prevent this Nation from becoming the dumping ground for the world's drug traffickers. How can we succeed to stamping out such trafficking if the laws themselves make this goal impossible? Indeed, if these laws are not remedied, I fear the battle against drugs will be lost entirely.

The Drug Traffickers Control Act will make our criminal laws work for justice, not against it. It plugs loopholes in current law, aids enforcement efforts, and makes it clear to potential traffickers that the full force and effect of the law will be used against them.

We must not ignore the great damage and violence that has resulted from drug trafficking and drug use in this country. Mr. Bowdach told us of the greed and viciousness which were facts of life in the Cravero gang He estimated that of the 150 members of the gang, about 40 were murdered or "made one-way trips out to sea and never returned." The ugliness that surrounds drug use is acted out again and again as illicit drugs are passed from their source to their ultimate destination across this country. Crime in Miami leads to crime in Chicago, New York, Detroit, Philadelphia, and elsewhere. The frightening cycle perpetuates itself.

But, with the aid of effective laws, we can stop the cycle before it begins. We can put a halt to the alarming use of drugs by the youth of this Nation. And, we can make the United States a safer and more decent place in which to live.

Grass Greener in U.S. for Dealers

(By James Coates)

Miami.—This is the marijuana capital of North America—gateway for roughly 70 per cent of the pot smoked regularly by some 16 million to 20 million United States citizens. Profits here roll in at a multibillion-dollar annual rate.

America's taste for marijuana is no longer just a law enforcement issue. It has become a staggering economic headache, a balance of payments problem.

Each year drug dealers in southern Florida ship more than $7 billion in U.S. currency to Colombia or offshore banks in the Cayman Islands to buy pot. The House Select Committee on Narcotics Abuse and Control estimates that the U.S. exports more cash each year for marijuana than for Toyota automobiles, foreign television sets, and footwear combined.

The marijuana and cocaine trade in southern Florida requires so much cash that Federal Reserve banks in the area are deluged with currency—10s, 20s, 50s, and 100s—while banks elsewhere are usually short of bills.

The Federal Reserve Board recently told Rep. Lester Wolff [D., N.Y.], chairman of the House Select Committee on Narcotics Abuse and Control, that the money supply in Miami has increased 180 percent in the last three years with the dope trafficking boom.

So much U.S. currency flows into Colombia that the Colombians ship it back to Miami in large, gray boxes for direct deposit in the Bank De Colombia's special account in the Federal Reserve System.

A joint Federal Bureau of Investigation-Drug Enforcement Administration task force this year traced $1 billion now on deposit in dope dealers' accounts in 36 Miami area banks. Officials acknowledge that the so-called "Banko" investigation has pinpointed only a fraction of the drug money.

The reasons behind the U.S. marijuana phenomenon and the Miami connection are complex, according to federal officials here and in Washington. To begin with, millions of Americans buy marijuana today as routinely at they buy liquor, coffee, cigarets, or movie tickets.

The Department of Health, Education and Welfare estimated earlier this year that 16 million of the 218 million Americans smoke pot routinely, and 43 million have tried it at least once. Peter Bensinger, director of DEA, told The Tribune that new federal studies show the number of users is even higher.

The HEW statistics were widely reported following the resignation of Dr. Peter Bourne, Carter's adviser on health issues, amid reports of drug use by White House staffers.

Whether the customer works in the White House or a suburban drive-in, the source of supply today is usually more sophisticated than during the turbulent 1960s and early 1970s when marijuana use was as much a political statement as a pastime.

College students no longer bring their dope from Mexico in spare tires during Easter vacation. This is the era of "Marijuana, Inc."

Frederick Rody, DEA chief for the South, estimated that as many as 3 million young people supplement their incomes by dealing in small quantities of marijuana.

Rody said DEA officials can only speculate about the actual volume of the marijuana industry.

"If you view the whole business, from the guy who buys a boatload to the young man or woman who buys a lid [ounce], you have a tremendous volume business," Rody said.

"If that is true, then marijuana is the third biggest business in the U.S. today. General Motors is No. 1, Exxon is No. 2, and marijuana is No. 3."

Pot sells for $35 to $45 an ounce on the street today. With 16 million consumers, dealers are forced to buy in multiton quantities to satisfy demand.

Until very recently, much of the marijuana came from the hills of Mexico. Today, Mexican pot doesn't sell well because it often is sprayed with the herbicide Paraquat. HEW has warned that the contamination can cause lung lesions and other health problems.

Enter Colombian grass—the "Colombian gold" which enjoys a wide reputation for providing a superior high. An impoverished nation with rugged terrain, thousands of miles of marijuana fields, an unstable government, and a well-established underworld, Colombia is about 1,000 miles by sea from the beginning of Int. Hwy. 95 in Florida.

Today, said Rody, marijuana accounts for more than 20 per cent of Colombia's gross national product—far more than coffee.

Colombia's attorney general has estimated that $2 billion in American money reaches his country's underworld each year. United Nations narcotics experts said his estimate was too low.

DEA officials explained that much of the illegal pot money is transferred to banks in the Cayman Islands where Colombian sellers enjoy a secrecy similar to that of the famous Swiss banks.

DEA and Central Intelligence Agency agents said that while Colombian officials are meeting with U.S. diplomats to pledge help in stemming the tide of pot, other Colombians are opening marijuana processing factories.

One CIA agent described factories in Colombia, where raw marijuana enters on a conveyor belt and later emerges wrapped in burlap and stamped with trademarks. Each bale is worth about $40,000 wholesale.

For more than two years, U.S. Coast Guard cutters have been seizing loads of Colombian marijuana at sea. Last month, the vessel Heidi yielded 112 tons of marijuana, all neatly baled. Earlier this year, police confiscated 57.5 tons aboard the Moctezuma.

A top DEA intelligence official said the agency has confiscated 1,500 tons of marijuana in slightly more than a year.

"The incredible thing was," he said, "that after we seized all that grass, it didn't have the slightest impact on the trade. The price on the street didn't go up a single cent."

Seizures of multiton loads of marijuana have become common in the Florida waters. During a reporter's three-day visit to the area, two ships were seized, one carrying 10 tons and another 8 tons. On a recent outing, the Coast Guard cutter Dauntless seized four shiploads of marijuana on a one-day cruise.

Coast Guard, customs, and DEA officials base their estimates of the worth of seized marijuana on the price charged by middlemen who bring it from Colombia to Florida—roughly $300 a pound—rather than the $45 an ounce paid in street sales.

When the Heidi was seized, the value of her cargo was set at $67 million. Vessels like the Heidi are crammed to the gunwales with dope. Known as "mother ships," they hover outside U.S. territorial waters, making deliveries arranged by dealers in the U.S.

To arrange for a ship like Heidi to appear offshore, U.S. drug traders paid Colombian mobsters half of her cargo's value in cash in advance—more than $30 million.

Such incredibly large cash deals are not unusual in Miami, officials said. This spring Teodor Arisa Ibarra, a Miami resident, was arrested and charged with setting up a marijuana buy. He had $5 million in cashier's checks stuffed in one shoe and $900,000 in cash in his luggage. He had bought the cashier's checks with cash.

Bensinger said another case, still before a grand jury, involves a man who carried so

much cash into a bank it took three tellers more than four hours just to count it.

MARIJUANA SMUGGLERS SPEND LOT TO MAKE A LOT

Marijuana is big business. It provides full-time income for many wealthy dealers and part-time work for possibly 3 million small-quantity sellers and a few thousand assorted small-time hoodlums, federal intelligence officials estimate.

The big money is at the top, where multi-millionaire dealers arrange Colombian underworld contacts to place a load of marijuana aboard a freighter at sea.

Smuggling organizations in the United States then spend many thousands to "off-load" the marijuana from the "mother ship" to a number of smaller vessels. The organizations must buy boats, hire workmen to handle the 130-pound bales, provide guards with automatic weapons to keep hijackers away, and purchase trucks and other big vehicles to move the pot from Florida throughout the country.

The marijuana usually costs between $10 and $40 a pound in Colombia, and DEA intelligence studies show that it sells for $300 to $400 a pound in Florida. Seeking tenfold profits, smugglers are incredibly free with their money.

"They need a cabin cruiser—well, that's going to cost two bales of grass," said Kevin Foley, DEA undercover agent in Miami. "They can get a Winnebago (motor camper) for another bale or two."

A frequent ploy is to buy a $60,000 Winnebago, remove all the inside appliances and furniture, install overload shock absorbers, and stuff the vehicle with marijuana. The $60,000 vehicle is abandoned after one trip, Foley said.

Similarly, he said, boats are often sunk or burned "without even a second thought" if they are spotted by police during a drug run. The same happens with airplanes used for marijuana, said Peter Bensinger, DEA director.

Bensinger told of flying over Colombian airfields and seeing numerous pits where brand new airplanes were buried by bulldozers after making pot runs to the U.S.

While there is an element of soldier-of-fortune adventure involved, smuggling marijuana has a vicious side. In Miami this year, 23 murders were linked to rivalries among smugglers.

Another four murders occurred when two young adults and two children stumbled onto an "off-loading operation" at a lonely Tampa area beach. The four were killed and buried in a nearby swamp. The accused murderers later said they feared that the victims had seen them.

Most of the dealers who buy the marijuana for $40 a pound and sell it for $300 on a Florida beach play no further role in its distribution, DEA officials said.

At that point, agents explained, criminal organizations from various cities take over the distribution. They tend to be typical underworld types—habitual criminals and stickup artists who might rob a Safeway store one day, hijack a cigaret truck the next, and spend the weekend fencing a load of stolen furs.

Recently, investigators said, the more traditional mob figures have begun moving into the marijuana business. Associates of the Phoenix-based Bonnano family have been arrested in recent drug cases. Associates of the New York Gambino family also appear to be moving into the lucrative marijuana trade, according to DEA agents.

Once an organization gets the marijuana to its hometown, it sells on the street for $45 an ounce.

Few street dealers handle enough volume to make them wealthy however. Typically, the street dealer will be a college student or young professional who sells to a few friends.

GASOHOL: FACTS AND FALSE ASSUMPTIONS

Mr. PERCY. Mr. President, on August 8, I testified before the Subcommittee on Research and Development of the Energy Committee on the subject of gasohol. Gasohol, the combination of 90 percent gasoline and 10 percent ethyl alcohol, is an idea whose time has come. Alcohol is a domestic, renewable resource that can and should substitute for 10 percent of our gasoline consumption nationwide. It can and should help us cut down on oil imports and stretch domestic oil supplies. In my testimony, I discuss Illinois' very successful gasohol program and three reasons why alcohol's current high price should not sidetrack us from aggressively developing an alcohol fuels industry.

At the end of my testimony, Senator BUMPERS questioned me about Mitre Technical Report 7866: "Biomass-Based Alcohol Fuels." Senator BUMPERS, an advocate of gasohol, was disturbed by the report's conclusion that a substantial Government subsidy would be necessary to replace gasoline with a 5-percent alcohol blend nationwide.

I, too, was disturbed by the report's gloomy forecast. At the time, I had not read the study. However, I had read other gasohol analyses with very different conclusions, so I promised Senator BUMPERS that I would look into the Mitre report and dispute it if I could.

I asked Mr. Al Mavis, the chief of the Illinois Gasohol program, to look at the study. He pointed out enough inaccuracies and false assumptions in the analysis to make its conclusions meaningless. Based on Mr. Mavis' comments, I inserted a statement into the hearing record criticizing the Mitre study.

Mr. President, I ask unanimous consent that my August 8 testimony before the Energy Subcommittee on Research and Development, as well as my statement in response to the Mitre study, be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY BY CHARLES H. PERCY

Mr. Chairman, I thank you and the rest of the Subcommittee on Research and Development for inviting me to participate in your hearings on alcohol fuels. Mr. Chairman, your efforts to encourage this domestic alternative to imported oil are well known and much appreciated throughout the country, including my home state of Illinois. I'd like to add my gratitude to my constituents for your work on gasohol.

Illinois, as you know, has had immense success with its gasohol program. I will say a few words about it now, though I know you've heard an excellent summary of it from Mr. Al Mavis, of the Illinois Farm Energy Program. Mr. Mavis, with an enthusiasm and energy I marvel at, has almost single-handedly turned the attention of the state of Illinois to gasohol.

There are at least 26 retail gas stations across Illinois pumping gasohol. Prices range from 70 cents to 78 cents per gallon, but they are nowhere more than a few cents higher than premium no-lead, to which gasohol is comparable. Beginning July 1st, gasohol replaced premium no-lead at four pumping stations for Illinois State vehicles. As the use of alcohol increases, the alcohol industry has begun to flourish. Last year there was one supplied of alcohol to Illinois. Now there are four and the price of alcohol has begun to decline.

Illinois' experience points the way the whole country should go. Consider the merits of alcohol: it is domestic, renewable, higher in octane and lower in pollution than gasoline. It can be distilled from every crop, from crop residues, from forest products, from urban refuse, and from many industrial waste streams. Added to gasoline, it makes a clean, efficient fuel. I've used gasohol in my car, and can testify to its high quality.

At present, the major problem seems to be that alcohol is considerably more expensive than gasoline. But let me suggest three reasons why that should not sidetrack us from aggresively developing an alcohol fuels industry.

First, there is no simple comparison between dollars spent at home and dollars spent abroad. Alcohol is a domestic product. Increasing use of alcohol fuels means less imported oil, more American jobs, and greater national stability and security. Such factors must be considered when comparing the price of alcohol to the price of gasoline.

Second, whereas alcohol is too expensive now to burn straight, as a gasoline extender, it is not uneconomic. Gasohol, the combination of 90% gasoline and 10% alcohol, is not much more expensive than premium no-lead. A 10% reduction in national gasoline consumption through the use of gasohol would be one of the most significant conservation accomplishments this country has made. Such progress is very possible.

As I mentioned, gasohol is being retailed at several stations in Illinois, and it is doing well. People are buying it, even if it does cost three to five cents more than premium no-lead. I introduced an amendment to the Energy Tax Bill last fall to exempt alcohol fuels from the 4¢ per gallon federal gasoline tax. The amendment, as you may remember, received the Senate's unanimous support. This subsidy would make gasohol competitive with gasoline until such time as the economies of scale from large scale production bring the price down on its own.

The need for this gasohol tax incentive is as great now, certainly, as when we passed the amendment. I will be very disappointed if we leave in October without it. But I am still optimistic that we can work to get it out of the Energy Tax Conference and into law.

The third and most important reason alcohol's current price should not curtail development is that we must plan for the future. This nation faces a potentially devastating shortage of liquid fuels sometime in the 1980's. We must begin now to develop alternatives to oil, so they are ready when we need them. Alcohol fuel right now is one of our most attractive alternatives. The more creativity and ingenuity we direct toward it, the more attractive and the more economical it will become.

Of course there are other questions and problems concerning the development of alcohol fuels. I am certain the Subcommittee will address them in the course of these hearings. But one of alcohol's fuel's major problems has been a lack of attention, and the Subcommittee is already helping to redress that problem by the very fact of these hearings.

Mr. Chairman, I appreciate the opportunity to express my support for gasohol, and I commend the Subcommittee for its work on this subject. Thank you very much.

STATEMENT BY SENATOR CHARLES H. PERCY IN RESPONSE TO MITRE TECHNICAL REPORT 7866: "BIOMASS-BASED ALCOHOL FUELS"

This study makes one key incorrect assumption. Because of this incorrect assumption, the conclusions of the study are, in effect, meaningless. This assumption is that the "energy content" of alcohol fuels is the determining factor in their market price.

On page nine, Section 2.1 of the report, it is stated that "The energy content of a gallon of gasoline is nearly twice that of methanol and 1.5 times that of ethanol." Gasoline contains approximately 124,000 Btu/Gallon, methanol 64,800 Btu/Gallon, and ethanol 84,600 Btu/Gallon.

I do not dispute these numbers. I dispute their relevance. Btu/Gallon is a measure of heat per gallon. But automotive fuels are used to drive cars, not heat them. The key factor is a fuel's driving performance. Performance is measured in miles per gallon.

The authors of the study do attempt to relate Btu/Gallon to miles per gallon. They state that "The *theoretical* effects of these energy differences on the distances a car would travel on each of the three fuels [gasoline, methanol and ethanol] are presented in Figure 2." Figure 2 shows an automobile getting twice as many miles per gallon with gasoline as with straight ethanol. In short, this chart plots a linear relationship between energy contents and miles per gallon.

Such a relationship, however, does not exist. The theory that a fuel with twice the energy content will deliver twice the number of miles per gallon must simply have been assumed by the authors of this study. Had they tested their assumption, they would have found it to be wrong.

The explanation lies in alcohol's properties other than energy content. In a 1977 report on Alternative Energy Technologies in Brazil, Dr. J.M.F. Miccolis states that—

"As a pure fuel, ethanol does have a lower energy content per unit weight than gasoline; however, the energy content per unit weight is not the determining factor for the power generated by an internal combustion engine. Factors like the heat of combustion, thermal efficiency, etc., are important. When these factors are taken into account for gasoline and for pure ethanol, it is clear that ethanol generates about 19% more power."

Alcohol also has a higher octane rating than gasoline. Because of these factors, alcohol has higher miles per Btu rating than gasoline. The higher miles per Btu rating offsets alcohol's lower Btu per gallon rating in determining the performance of the fuel. Figure 2 is therefore incorrect and misleading.

In reality, alcohol fuels perform quite well. The performance of 100% ethanol or methanol is not really the issue here. What we are concerned with specifically is a blend of 90% gasoline and 10% ethanol. Tests by Volkswagen and Toyota show that this blend of gasohol delivers mileage just 3 or 4% less than straight gasoline. Dr. William Scheller of the University of Nebraska presented research last year that showed this blend of gasohol delivering up to 5% *better* mileage than gasoline.

In fact, alcohol is such an efficient gasoline additive, it allows distributors to use a cheaper, lower octane gasoline in gasohol, which sells as a high octane, premium fuel.

In basing its calculations of consumer costs on energy content and not on miles per gallon, the study departs from reality. Alcohol's cost per Btu is much higher than its cost per performance. Consumer costs are based on performance. Yet assuming a linear relationship between energy content and performance, the study bases all its further cost analysis, including its conclusions about the amount of government support necessary to maintain a nationwide alcohol fuels system, on energy content.

Consider that, on the basis of its analytical structure, the study posits an 86¢ price for a gallon of 90% gasoline and 10% ethanol. Yet that blend is selling in Illinois today for about 74¢ per gallon. If the study is that far off on the status of alcohol fuels today, I think it deserves absolutely no credence as a projection of the status of alcohol fuels in the future.

REGIONAL ENERGY CENTERS—ONE ALTERNATIVE FOR THE FUTURE

Mr. PERCY. Mr. President, Third World countries, in order to develop, must have reliable and affordable sources of fuel to energize new industries. However, as oil becomes scarce and more costly, these nations will be unable to compete effectively with the wealthy consumer countries for cartel-controlled energy supplies. This situation could lead to frustration and hostility on the part of the developing world. It may also cause heightened North-South tension and confrontation in the years ahead.

One possible means of addressing this problem would be for the developing nations to establish Regional Energy Centers. These organizations would negotiate with external suppliers of fuels and energy and maintain regional stockpiles to protect member states against politically motivated embargoes. In addition, countries belonging to the organization would cooperate with each other to develop internal energy sources for regional use.

Implementation of this idea would clearly require innovations in the thinking and practice of international relations. Indeed, whether the possible benefits from regional energy centers outweigh the difficulties of creating and operating them is far from certain. However, if anything is to be done, and I believe something must be done, it is not too early to give this idea serious consideration.

Therefore, I asked Dr. Warren Donnelly, senior specialist in energy for the Congressional Research Service to prepare a conceptual analysis of Regional Energy Centers. It is not an exhaustive study but an outline of the benefits and problems connected with their implementation.

I have sent Dr. Donnelly's study to a number of well-known experts on energy problems and the Third World for their comments. I anticipate receiving their responses shortly which will be collated and analyzed by CRS.

Mr. President, I also urge my colleagues to read this analysis and give it some thought. It may well be that Regional Energy Centers are neither workable nor advisable. However, we must begin thinking creatively about means of assisting developing countries solve their energy problems. Failure to do so now could spell disaster for these nations as well as the United States in the years to come.

Mr. President, I ask unanmious consent that the CRS analysis of Regional Energy Centers be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

REGIONAL WORLD ENERGY CENTERS: SOME CONCEPTUAL NOTES ON WHYS AND WHEREFORES

INTRODUCTION

The Congressional Research Service was requested by Senator Percy to prepare a brief conceptual analysis of the idea of regional world energy centers. The following responds to his request. It explores the idea for such centers, outlines some benefits to be expected, identifies possible functions and where such centers might be established, discusses possible U.S. roles in their establishment, and concludes by listing their advantages and disadvantages to the United States.

THE IDEA OF REGIONAL CENTERS

In the history of world industrialization, the leading countries have tended to independently seek their own sources of fuels and energy. One notable exception is the establishment of Euratom to help create a regional basis for generation of nuclear power in Europe. Developing countries of the world have tended to follow the same course and to deal individually with external suppliers of fuel and energy. In doing so, they experience many of the difficulties of any small consumer dealing with a larger supplier. Many of these difficulties are analogous to those, for example, of the individual farmers who have turned to cooperative organizations to improve their imbalance of power vis-a-vis large suppliers and buyers. The analogy leads to the idea of regional organization by developing countries to deal with external suppliers of fuels and energy, and to help develop their internal sources for regional use.

REASONS FOR REGIONAL ENERGY CENTERS

Many reasons can be given to promote the establishment of regional energy centers among developing countries. Such centers could be expected to:

(1) Reduce prospects of regional conflict by increasing regional interdependence.

(2) Reduce the risk of unilateral actions (threats or over actions) by supplier countries.

(3) Provide a better balance of power and influence between the user countries concerned and the supplier countries.

(4) Establish regional markets large enough to attract support of industrialized countries in developing regional energy sources.

(5) Help provide developing countries with alternatives to nuclear energy and thus limit risks of further spread, or proliferation of nuclear weapons.

(6) Provide experience that could be used to establish regional cooperation in foreign sales and exports.

POSSIBLE LOCATIONS FOR REGIONAL ENERGY CENTERS

Regional energy centers probably could be most useful in world regions where the countries are in the developing status. Logical regions would include central America, northern and central South America, parts of Africa, Oceana, and the Caribbean.

FUNCTIONS OF A REGIONAL ENERGY CENTER

World regional energy centers could have many different functions depending upon the needs and interests of their members. Some likely functions include:

(1) *Purchasing.* Act as regional buying agents for oil, coal and other fuels and energy; for technology, equipment, parts, services, etc. for internal energy supplies; and for planning and brokering purchases of of fuel and energy among the cooperating states.

(2) *Stockpiling.* Maintain regional stockpiles of oil, coal, uranium to protect the member states against attempts by supplier

states to threaten cut-off of supplies for political purposes.

(3) *Management and operation of national resources.* Operate national energy facilities—mines, oil fields, refineries, powerplants, etc.—for the owning states.

(4) *Technical services.* Provide technical services needed for national development and operation of energy sources, including design and construction of facilities, development and demonstration of new or improved energy technologies. Technical services could emphasize alternative energy sources including wind, solar, and biomass.

(5) *Training.* Provide training for managerial and technical personnel needed to develop and operate regional energy supplies.

(6) *Financing.* Provide a united front to external sources of financing for development of fuel and energy sources.

ORGANIZATION OF REGIONAL ENERGY CENTERS

Organization of regional energy centers probably would require some innovations A conventional approach would be to create a regional organization by treaty of participating states, as was done for Euratom. Membership, governing bodies, national representation, financing, etc., all would be spelled out. Such an approach probably could work, but carries the risk of creating another unresponsive bureaucracy. Unconventional approaches could include establishing an international regional corporation, perhaps taking the TVA as a model. National tions of U.S. allies and of China and the per-state, or according to the shares or stock bought by member states who presumably would buy in proportion to their interest.

Perhaps ownership of shares or stocks could be divided between government agencies of participating states and their people and internal energy organizations, so that the regional organization would strongly represent regional energy interests.

Regional energy centers could be self contained with their own organization staff and facilities, or they could function through contractors. If speed and effective action are paramount criteria, such centers might contract with multinational corporations for those services that would not involve a conflict of interest, such as having an oil company deal with OPEC for regional oil supplies. If member states wish to emphasize development of regional personnel and organizations, the center could emphasize do-it-yourself approaches.

U.S. PARTICIPATION IN REGIONAL ENERGY CENTERS

U.S. participation in promotion of regional energy centers could range from simply expounding and floating the idea, to more active steps including the hosting of initial meetings of regional interest, offers of U.S. technical assistance, or perhaps loans or grants to help finance the establishment of the centers, their organizations and facilities. Whatever the form of U.S. participation, there would be some risk that it could raise charges in developing countries of new forms of "Yankee imperialism," and perhaps generate political opposition at home. Defining and carrying out U.S. participation seems likely to be the most sensitive part of the whole undertaking.

It should be noted that Title V of the Nuclear Non-Proliferation Act of 1978, P.L. 95-242, would be consonant with the idea of U.S. promotion of regional energy centers. Title V provides for the United States to "endeavor to cooperate with other nations, international institutions, and private organizations . . ." in establishing a threefold approach to national energy supplies. It mandates U.S. cooperation to: (1) assist in the development of non-nuclear energy resources; (2) cooperate with both developing and industrialized nations in protecting the international environment from contamination arising from both nuclear and non-nuclear activities; and (3) help developing countries meet their energy needs through such resources and the application of non-nuclear technologies consistent with economic factors, the material resources of those countries, and environmental protection. The Act further directs the United States to seek to encourage other industrialized countries to make similar commitments.[1]

ADVANTAGES AND DISADVANTAGES FOR THE UNITED STATES

Promotion of regional energy centers by the United States could offer advantages, and possible disadvantages for U.S. interests.

Advantages. Regional energy centers could offer the following advantages to U.S. interests:

(1) Potential good will of developing countries in response to U.S. support for such centers.

(2) Reduced regional tensions, with consequent reduced risks of regional conflicts that might involve the United States or the Soviet Union.

(3) Reduced influence of OPEC, or OAPEC.

(4) Possible reduced growth rate for oil imports by developing states which could moderate their demands that the U.S. reduce its oil imports to leave some for them.

(5) Larger markets for U.S. technical services and products for development and expansion of regional energy sources.

(6) Deemphasis upon nuclear energy in developing states, which could reduce risks of the spread, or proliferation of nuclear weapons in such states.

(7) Practical demonstration of new energy technologies within the conditions of developing countries.

Disadvantages. Regional energy centers could present disadvantages for the United States interests, including the following:

(1) Reduced U.S. influences over the participating states.

(2) Further development of regional political unity which might run counter to U.S. foreign policy interests.

(3) The cost of U.S. participation.

(4) The risks that after establishment, such centers might tend to buy their energy services and products from sources other than the United States.

(5) The possibility that successful establishment of regional energy centers would lead to regional export marketing organizations that could raise the price of essential U.S. imports.

MATTERS NEEDING FURTHER ATTENTION

Processing beyond this, thinking about the United States promotion of regional energy centers will have to consider several major matters. These are likely to include the following:

(1) The likely reactions of the developing countries to the idea, and the related reactions of U.S. allies and of China and the Soviet Union.

(2) The drafting of specific goals for U.S. promotional action, the selection of promotional measures for the U.S. to adopt.

(3) Incentives for the developing countries to cooperate.

(4) Incentives for other developed countries to cooperate.

(5) The ability of a regional organization of developing countries to survive and be effective.

(6) Political reactions within the United States.

(7) The comparative success and performance of other regional organizations such as Euratom, the OECD, the International Energy Agency and Intelsat.

[1] Cf. Sec. 501, P.L. 95-242. The Act provides for the United States to initiate a program to cooperate with developing countries for the purpose of:

(1) meeting the energy needs required for the development of such countries;

(2) reducing the dependence of such countries on petroleum fuels, with emphasis given to utilizing solar and other renewable energy resources; and

(3) expanding the energy alternatives available to such countries.

This program is to include cooperation in evaluating the energy alternatives of developing countries, facilitating international trade in energy commodities, developing energy resources, and applying suitable energy technologies. The Department of Energy is to initiate, as soon as practicable, the exchange of U.S. scientists, technicians and energy experts with those of developing countries for these purposes.

APPENDIX A

NOTES ON THE COOPERATIVE MOVEMENT

Since concept of international regional energy centers draws upon the idea of voluntary cooperation, it is pertinent to include some information on the cooperative movement.[2]

Cooperatives are voluntary economic associations whose members share the financial benefits from doing business at cost or without profit. Service at cost and democratic control are the expected benefits. Western Europe has the largest number of members in cooperatives for consumers and producers, with the cooperative movement having some representation on all continents.

The major types of cooperatives, as they have evolved in the United States and Canada, may be classified as follows:

Sales associations, to distribute all kinds of agricultural products.

Purchasing cooperatives, to buy supplies or to assemble and dispense consumer goods, both in rural and urban areas.

Service cooperatives, to operate in many fields, including insurance, electrification, health, housing, communications, etc.

The economic cooperative is a distinct form of organization recognized by statute in most democratic societies of the world. Cooperatives are universally governed by principles of equality and justice to all persons interested in the benefits of mutual self-help. These associations appeal to producers and consumers alike because they provide a do-it-yourself system. Advocates of cooperatives see them as imparting a sense of solidarity to members, reducing wastes in human and natural resources by mitigating duplication of effort, inducing initiatives for creativity, and affording equality of opportunity and blending self-interest with an awareness of service to other members. Opponents see in their incipient cartels to suppress competition and restrain trade.

Cooperative development can be divided roughly into two historical periods: the era before the machine age, and the era of industrialization. For the earliest period, there is no positive evidence of the origin of cooperative action. Apparently the act of cooperation has been ubiquitous with mankind in most areas. Various forms of cooperation were known in ancient China. For example, Chinese banded together for crop watching to stop roving outlaws bent on theft and vandalism. The medieval guilds in Europe represented a conscious movement toward formal organization to promote the welfare of members. The first guilds in northern Europe undoubtedly were formed to provide defense against invasion and to maintain peace and order. Later, as governments were formed, the guilds adapted to trade and crafts functions.

Cooperative action was common in colonial

[2] The following account is based upon the article on cooperatives by Henry H. Bakken of the University of Wisconsin in the 1973 edition of the Encyclopedia Americana, vol. 7, pp. 746-749.

America and remains strong in modern times. The Cooperative movement in the United States has progressed through three periods: (1) an initial phase when local associations were formed, (2) a period in which local associations federated or united into centralized organizations; and (3) extension of cooperatives into large regional and national associations.

As for Europe, no part of the world has a greater variety of mutual cooperative enterprises. By means of cooperatives, Finland was able to reduce foreign economic domination. The Scandinavian countries furnish a model for thoroughness in coordination and integration of cooperatives. The sophistication attained by nations of western Europe in the formation of cooperative institutions arise from their long experience as industrial producers of both capital and consumer goods within an international market.

POPE JOHN PAUL I

Mr. MATHIAS. Mr. President, the sad news found on our doorsteps this morning of the death of Pope John Paul I brings to mind George Herbert's observation:

Those that God loves do not live long.

When a pontificate has lasted for many years and a Pope has belonged to the church and the world for as long as a whole generation can remember, then his family recedes far into the background and their special feelings are submerged in the general sorrow at his death. But in the case of John Paul, the joy and proper pride so obvious in the faces of his family and personal friends has so soon and so suddenly turned into grief and loss that our thoughts and sympathies turn to them in a rare and particular way.

Meanwhile, the life of the church moves steadfastly onward toward the election of yet another Pope in the long line of succession from St. Peter. Men and women of good will, of every faith and every nation, will follow the unfolding events in Rome with profound hopes for the renewal of leadership in the Roman Catholic community of the world.

GLENN E. NIELSON: FOUNDER OF HUSKY OIL

Mr. HANSEN. Mr. President, a longtime close friend of mine, Glenn E. Nielson of Cody, Wyo., is featured in a recent article in the Empire magazine section of the Denver Post.

It is a good story that portrays Glenn Nielson's success in building an international corporation from scratch and the human side of a most remarkable Wyomingite.

Mr. Nielson is quoted as saying—when the fledging oil refinery was facing difficult times—that "the Lord gave me the determination not to quit and the ability to learn from those who knew more than I did."

This, to my mind, Mr. President, personifies one of Glenn Nielson's strong qualities. His determination, integrity, strong faith in God and kindness set him as a man apart. He has been a leader in Wyoming for many years and I am privileged to count him as a friend.

Glenn Nielson is quottted as saying something else which I think sums up an important way of conducting one's affairs. He says "a good name is what counts. And that is the best I can hope to leave my family."

Mr. President, if all of us would ponder that admonition and take it to heart, I firmly believe we would be able to build a better society and a more peaceful world.

I commend the article, "The Man Who Founded Husky Oil," by Olga Curtis, to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MAN WHO FOUNDED HUSKY OIL

(By Olga Curtis)

When Glenn E. Nielson founded the Husky Oil Company in Cody, Wyo., 40 years ago, he had a lot of faith, but very little money.

Today he is chairman of the board of a $600 million international corporation, and a multimillionaire.

His faith has grown proportionately, as has his gratitude to God.

So, in 1973, he gave up his home, and the company which pays him a $150,000 annual salary, to serve as an unpaid missionary for the Church of Jesus Christ of Latter-day Saints.

Now back in Cody after four years directing a Mormon mission on the East Coast, Nielson seems surprised that anyone might consider that unusual.

"I have been very, very blessed," he says. "I owe it to others to spend my time in church and civic projects."

That, he says, is what he plans to do. At 75, Nielson claims he is "phasing himself out" of the company now headed by his older son, James Edward Nielson.

But the story of Husky Oil is so much the story of Glenn E. Nielson that few of the people who know Nielson believe he can quit. Even Nielson seems a bit unsure.

"I know you can't be a little bit pregnant or a little bit retired," he says. "I know Jim will do a better job with the company as it is now than I could.

"But it's difficult to step back when you've been with a company from the time you emptied the wastebaskets. I've devoted my life to Husky Oil."

Yet, outside of the oil business, Glenn E. Nielson is almost unknown. Even in the Rocky Mountain West, where he has lived and worked most of his life, few would recognize this tall, gray-haired man with a soft, rumbly voice and courtly manners.

But nearly everyone in the Western United States and Canada would recognize the Husky trademark, a husky dog.

Over the years, that dog has become Nielson's personal as well as company symbol. Statuettes and paintings of huskies decorate his offices. He owns huskies in every imitation from tie clasps to desk sets.

"It never was a real dog," he notes, "but it cost us nearly a million dollars.

"The name came out of a contest run by Western Oil years ago for a fuel oil. The company gave Val Kirk, who built the original Husky refinery, the right to use the name in some Western states, and Kirk's motto was 'Husky gets you through.'

"I liked the name, too, and kept it. When we expanded into Canada in the 1940s, we paid $5,000 for the Canadian rights to the name to a company that was using it for axle grease. Then when Western Oil was sold, we paid $500,000 for the right to use the name in the U.S. Later we had to pay another $100,000 to buy the name from a motor oil in Alaska."

The symbol, re-designed from time to time, shows the stylized head of a dog in red on a white background, above the word "Husky" in white on blue.

The trademark appears at each of the 811 car/truck stops Husky operates in 19 Western states, and the 375 it operates in six Canadian provinces and the Yukon Territory.

Husky Oil is one of the larger oil independents, with a production capacity of 60,000 barrels a day in five refineries: Cody; Cheyenne; North Salt Lake, Utah; Lloydminster, Alberta, and Prince George, British Columbia. It is an international oil explorer, too, involved in drilling for oil and natural gas in this continent and abroad. It is the biggest producer of heavy oil in Canada. It is the contract operator for the U.S. of the National Petroleum Reserve in Alaska.

And it is also a restaurant operator (100 "Husky House" restaurants in the U.S. and Canada); a major asphalt producer; a steel fabricator (Husky owns Gate City Steel, which has 13 plants in the Midwest and West, including Denver), and a leading charcoal briquette producer (eight plants in the Midwest and East).

Nearly all these activities were initiated and fostered by Glenn E. Nielson.

He was born at Aetna, Alberta, on May 26, 1903. His father, James E. Nielson, whom he calls "the major influence in my life," was the son of Danish immigrants who had joined the Mormon church and migrated to Utah. His mother, Margaret Pilling, was from Canada; his father met her at Brigham Young University and followed her to Canada, where he became a successful grain and sheep rancher.

"My father became a Canadian citizen. He believed that if a country was good enough to live in, it was good enough to join as a citizen. That's why, when I came to the U.S., I became an American citizen," Nielson notes.

Nielson's childhood was secure emotionally and financially. He faced tragedy for the first time after he had gone to England on his first church mission; he was recalled in a year because his father was dying.

Nielson took care of his father until his death, then completed his mission. Afterwards, he came home to run the ranch and wed his childhood sweetheart, Olive Wood. The Nielsons, married on Dec. 25, 1928, plan to celebrate their 50th wedding anniversary next Christmas with their family: Two sons, three daughters, 12 grandsons and 20 granddaughters.

(Mrs. Nielson, a regal-looking woman with white hair, says that "with 32 grandchildren you have to keep the names typed on a list." She adds that store clerks regard her oddly when she goes to buy gifts for the children, is aked "What size?" and replies, "Any size.")

The newlyweds started off fairly flush.

"We had my father's 1,000-acre farm and 2,000 head of sheep, and didn't owe anybody anything," Nielson says.

But in 1929, trying to expand his holdings, Nielson borrowed $7,000 for seed and equipment. That was the year the Depression began. By 1930 prices had dropped drastically: Grain sold for 10 cents a bushel and lamb for 3 cents a pound.

"I owed the bank, and went behind in taxes," he notes. "We still had plenty to eat because we had a garden and wheat for flour, but we learned economy in a hurry."

Still, Nielson managed to finish college, earning a degree in agriculture from the University of Alberta in 1933.

The following year, the Nielsons moved "over the line" to northern Montana to pasture their sheep. Because of a series of freak events, they never returned to Canada, or ranching. Nielson explains:

"In the spring of 1935, there was an outbreak of hoof-and-mouth disease. Canada would not let me take the sheep back across

the border. The U.S. would not let me sell them in Montana.

"There I was, up to my hips in lambs and wool which I could neither move nor sell. Months later, I was to take the sheep back if they went through a hot dip, so I dipped them. But then came a snowstorm, and I lost most of the flock."

It was a traumatic experience for Nielson, who admits:

"I was afraid of failure. I wanted to be a success like my father, who went to Canada with just a saddle and built up a fine ranch. I can understand how my son Jim must sometimes feel he is in my shadow, because I felt the same way about my father. I couldn't help wondering if I had what he had."

Nielson made several attempts to get back into the sheep business, but something always dashed his plans.

"The Lord has a way of keeping you from doing what you shouldn't do," he says.

The Nielsons kept going any way they could: Mrs. Nielson cooked for harvest hands and Nielson hauled grain and hay.

But with an eye toward the future, Nielson made sure he had credit. Slowly he paid off his debts. Then he borrowed $50 from a bank, kept the money in a cupboard for 30 days and repaid it on time with interest. He kept "borrowing" until he had a new credit line of $5,000.

Opportunity finally came knocking in 1936.

Nielson was buying his gasoline from a little refinery at Cut Bank, Mont., and the owners offered him $5 a day if he would sell gas and oil to the farmers for whom he hauled hay. Nielson was also promised a quarter-cent a gallon commission if he could sell extra fuel oil.

"I had never sold anything before, nor been closer to the oil business than buying gas," he says. "But I did all right selling gasoline.

"When I went around offering fuel oil, however, the farmers all said, 'Nope.' The only thing they wanted was diesel fuel.

"I asked the refinery owner if he could make diesel fuel. He gave me a gallon of some volatile stuff left over from gasoline refining and said it might work, so I took it to a fellow for testing.

"Then I prayed. I always pray in a crisis.

"All that guy did was pour in some potassium permanganate, which was no kind of a test, but he announced my sample had the least sediment of any 'diesel fuel'—and suddenly I had farmers lined up to buy."

Nielson racked up several hundred dollars in commissions—only to discover the refinery could not pay more than $5 a day.

Disgusted, he went home and told his wife "there was no future in the oil business."

But he had become known in farm circles, and when a farmers' cooperative in Spokane, Wash., decided it wanted to buy an old refinery there, Nielson was asked to act as agent.

"They told me Val Kirk of Frannie, Wyo., was the refinery owner. I didn't know Kirk and I didn't even know where Frannie was, but I got there, and discovered Kirk was in Cody, starting a new refinery.

"It was called Husky Refining. It had one lease, a capacity of 900 barrels a day, 18 employees, few sales and less storage."

Kirk took a liking to Nielson, who explains:

"He had a son my age who wasn't interested in the oil business. I was. Probably that's why he was so good to me."

Kirk asked Nielson to try selling his surplus gasoline. Nielson promptly sold 2 million gallons to a farmers' cooperative in Walla Walla, Wash. Kirk then asked Nielson to stay on in Cody as his sales manager.

After the Nielsons moved to Cody in 1937, Kirk made his protege a once-in-a-lifetime offer. He asked Nielson to buy him out, promising a 10 percent commission if Nielson could put together a $500,000 deal for the Cody refinery.

The 34-year-old ex-rancher who "had never sold anything" until the previous year was new in Cody, and the refinery was losing money.

Yet Nielson did it. He persuaded two unlikely partners to join him in buying the refinery: The farmers' cooperative in Walla Walla put up half of the $100,000 down payment, and a Montana contractor put up the other half. For his share, Nielson pledged his $50,000 commission from the sale—money he would have only if and when the deal was completed—plus his services as refinery manager.

The best clue to Nielson's sales talent is the way he bought Kirk's gasoline inventory for an additional $15,000. Nielson himself could borrow only $5,000, so he persuaded a Cody rancher to put up the rest in consideration of 5 cents off on every gallon of gasoline and oil the rancher bought until he got his money back.

On Jan. 1, 1938, Glenn E. Nielson took over the infant Husky Oil Co.

Present-day publicity from Husky makes it sound as if from that day on, everything came up roses. The company puts out a chart that makes its growth seem a casual year-by-year ascent into the big money:

1939—Husky acquires first service stations.
1943—Builds fuel oil refinery for U.S. Navy.
1946—Begins operations in Canada.
1949—Husky Oil of Canada goes public.
1950—Husky Oil of U.S. expands into six Western states.
1954—Husky buys Gates City Steel.
1957—Company begins international exploration. Starts truck stop chain.
1959—Husky buys first briquetting plant.
1960—Husky of Canada becomes parent company for Husky of U.S.
1961—Builds pipeline for heavy oil project in Lloydminster, Alberta.
1963—Builds second pipeline for Lloydminster.
1966—Acquires more than one million acres of heavy oil leases in Alberta.
1968—Buys Frontier Refining Co.
1969—Adds third pipeline at Lloydminster.
1971—Joins in North Sea oil development.
1972—Starts offshore exploration in the Sulu Sea.
1975—Initiates successful natural gas program is New Mexico. Chosen to operate Petroleum Reserve in Alaska.
1976—Discovers oil adjacent to Cody refinery.
1977—Husky Oil has its best financial year in history, with sales revenues of $620,369,000.

The truth is that although Husky has flourished, there were times in the beginning when it seemed neither the company nor Nielson would survive.

"If you were a betting man in Cody then," Neilson says with a smile, "you could have gotten pretty good odds that we would fail.

"Some of the old-timers joke that we had to borrow money every week to meet the payroll. That's true. I would borrow $5,000 every week to pay the employees and then rush out to sell enough gas to pay back the money and borrow again next week.

"There were times that I must have been the only one who believed it would go. But the Lord gave me the determination not to quit, and the ability to learn from those who knew more than I did. When I didn't know something about the oil business—and that was about all the time—I went to someone who did know.

"Somehow, I kept the plant running, and we made money the first year, though not enough to pay Kirk the $100,000 a year we had promised him. But he stayed with us, and we paid him off by the beginning of the fourth year."

But the following year, in 1943, Nielson almost lost Husky.

It was wartime, and a large West Coast oil company offered to buy Husky for $1.3 million. That was nearly three times the original selling price of the refinery, and Nielson's partners, particularly the farmers' cooperative, were eager to accept.

But Nielson refused.

"We were just beginning to get going, and I was sure we had a great future," he explains. "I talked it over with my wife. She knew we could have made something like $250,000 out of the deal, but she asked me:

"'If you sell, will you feel that you succeeded or that you failed?'

"I told her I would feel like I failed. She told me not to sell."

But the cooperative was adamant, and by the terms of a buy-sell agreement, Nielson had 60 days in which to buy out his partners, or be forced to sell with them. The buy-out price was $800,000. Nielson, who was being paid only $300 a month as refinery manager, started hunting for loans.

"I tried banks in Chicago, Kansas City, San Francisco," he says. "Not a one would lend. So I went to people in Cody."

They were attorney Ernest J. Goppert, insurance salesman Grant Taggert and attorney Milward L. Simpson (who later became governor and U.S. senator).

These men, now in their 80s, have vivid memories of Nielson's fight to keep Husky.

What he asked them to do was obtain enough money through notes to enable him to buy the company. The notes promised 9 percent interest, plus bonuses if redeemed in Husky preferred stock instead of cash.

"Nobody knew anything about Husky then," Taggert says. "What we sold were our reputations."

All three men say they did it because they knew Nielson.

"He always met his obligations," Goppert explains.

"He was absolutely honest," Taggert says.

"He was a God-fearing, hard-working man," Simpson adds.

Nielson himself recalls with some astonishment that most of the million dollars he finally borrowed came in small loans from "ranchers and gamblers, saloonkeepers and lawyers, even a fellow who ran slot machines. People pulled money out of their socks and from under the floorboards."

It was a remarkable display of solidarity among the citizens of the Big Horn Basin, and an even more remarkable vote of confidence in the integrity of a man who had been in Wyoming just six years.

But selling those notes took time, and Nielson has never forgotten the strain of the October morning when a lawyer from the farmers' cooperative waited impatiently for the end of the 60-day deadline.

"By 10:30 a.m. I either had to sell or hand over a first payment of $345,000," he says.

"My only hope for that $345,000 was a loan from Peter Kiewit of Omaha, the construction man, to whom I had sold asphalt. He seemed willing, but time went by and there was nothing from Omaha. The morning of the deadline I hadn't slept for two days and three nights, waiting for that Kiewit loan. Finally the check arrived by wire just as the lawyer came in to take over."

For his loan, Kiewit got an option to buy half of Husky, but he never exercised it. Nielson considers that loan, like all the smaller ones, an act of friendship. He repaid the trust in a substantial way, but never made a public show of it.

The people who bought notes received an average profit of 39 percent when they got their money back. Those who wanted to have Husky stock were eventually traded common stock for their preferred, and the return on Husky common stock has been astronomical.

Goppert, for example, obtained 10,000 shares at a time each share sold for pennies. That stock today is worth around $400,000.

Nielson did two things after he achieved

control of Husky. He raised his salary to $10,000 a year. And he built his wife the secluded house on a hill overlooking Cody in which they still live.

It is a large, comfortable home, set in three acres of immaculate grounds. The huge kitchen is decorated in Mrs. Nielson's favorite strawberry pattern. The elegant furniture is in her favorite pale green and peach colors.

But instead of old masters, there are family photos. Instead of statues on the lawn, there are swings for the grandchildren. The major sign of great wealth in the Nielson home is a profusion of fine Oriental rugs.

"We just don't live in the extravagant style of some oil millionaires," Nielson says. "My wife still cooks my meals and does her own work. I guess she always will.

"As for the rugs, when we were first married, she would drool over Oriental rugs in a store window. It took me years, but I finally got them for her."

Nielson's personal life style is extremely simple. He and his wife normally eat in their kitchen, he in his shirt sleeves and Mrs. Nielson ladling out masses of food.

He is the shirt-sleeve type even at Husky, where he enjoys all the trappings of corporate success: The company plane, the company car, the private parking space, the office furnished like a living room (by Mrs. Nielson)—and instant "Yes, sirs!" from the staff.

But when asked for information he didn't have at hand, Nielson went to get it from a subordinate down the hall, instead of ordering the man to come to him.

"My father thinks it's simpler to do it himself than to wait for somebody else to make the mistake," says Jim Nielson, 47, the president and chief executive officer of Husky Oil. "He's always been strong-willed, and something of a loner. I do a little better working with people and delegating jobs. But I inherited impatience from him."

Jim Nielson says his father never pushed him into the oil business, or Husky.

"He told me he wanted me to be whatever I wanted to be. But he said he hoped I would be as lucky as he was in doing something he loved."

Nielson trained his son rigorously, starting him as a teen-ager at the dirtiest possible job—shoveling residue out of asphalt trucks—at the lowest possible salary.

"I don't think I got a decent raise until after I was married and had a baby," Jim Nielson laughs. "But I worked in every department and every geographic area Husky covers. Dad even put me through a three-year training program. Then I went to the briquetting plants, which I liked, because I was respected for what I achieved, and wasn't just the boss' son."

Being the boss' son, Jim Nielson adds, has advantages and disadvantages.

"I have been exposed to more of Husky's operations than any other executive," he says. "But I had to work harder and prove myself more than any other man.

"My father was the strong man who built the company, in an era when geology and marketing were important. Now it's politics and economics and then geology. I spend about one-third of my time coping with government regulations, figuring out what they mean for Husky. I guess that's my strength—looking at a lot of pieces and putting them together. We have to build a balanced organization for the future, and I think that's why the board picked me—not because my name is Nielson."

Glenn E. Nielson says it in five words: "Jim does a great job."

Then he adds, like a father:

"But he works too hard."

That comment, from a man who likes to start work at 6 a.m., would be amusing if Nielson didn't mean it.

Only three things have ever been important to Glenn E. Nielson: His family, his church and Husky Oil.

If any of the three suffered from a lack of attention, he says, it was his family.

"I never even paid much attention to the family corporation, Nielson Enterprises. It was in debt until my son Bill took it over and built it into a profit.

Glenn William "Bill" Nielson, 33, has never been involved with Husky Oil.

"It was worse for Bill than for Jim," says his father. "He felt he was both in mine and his brother's shadow.

"But he showed what he could do when he volunteered to build up Nielson Enterprises, and turned it into a million-dollar profit maker."

The family corporation holds the Nielson stock in Husky Oil, 1,600,000 shares. There are a total of about 11 million shares outstanding.

That means, as recently happened, an outside company can buy a bigger interest in Husky than the Nielsons own.

Husky made headlines on the financial pages this summer when three huge oil companies—one American, two Canadian, started outbidding each other for Husky control.

Husky stock prices spiraled upward, bids were tossed back and forth, and when the dust settled, Alberta Gas Trunk Line Co. of Canada had acquired 39 percent of all Husky stock.

At stake was possibly the richest oil reserve in the world—those millions of acres of heavy oil which Glenn E. Nielson acquired years ago.

"Heavy oil wasn't glamorous then," he says. "But now it can be produced competitively with overseas oil, and there is six or seven times more oil in the single province of Alberta than in all of Saudi Arabia."

Neither Nielson nor his son will predict what may happen to those heavy oil reserves, or to Husky Oil.

"I am convinced those reserves will be developed," Nielson says. "I only hope they will be developed on the basis of what's good for the public.

"That's important to me, because it was the public that made companies like Husky Oil.

"As for the possibility that I might have to step down from Husky, I faced that risk long ago, when I decided to go public so Husky could grow. Ever since, there has been the chance that it might turn out to be a non-Nielson company.

"I'd have no complaints. I've had a wonderful life. And in a way, I actually retired when I went on my mission in '73.

"There is plenty to keep me busy. I am the regional representative of my church, with six stakes (church areas) in Wyoming and Montana.

"I might just sit back and see what the young fellows are doing wrong, but I doubt if I'll stop expressing myself. I'll never sit by quiet when it comes to protecting the people who believed in Husky.

"Many times, I have been offered huge prices if I would sell the family stock. I always refused, because I won't sell unless every single stockholder gets the same profit. Money isn't worth that much to me. A good name is what counts.

"And that's the best I can hope to leave my family."

The man known as Glenn E. Nielson, or G.E.N. to Husky employees, adds with a laugh that he has already left his sons more of a name than he has.

Although Nielson always uses his middle initial, that is all there is—an initial.

"My father was James E., and my mother liked the E. but hated what it meant—Erastus. So all she gave me was the E."

THE ULTIMATE STUDY: A STUDY OF STUDIES THAT DUPLICATE OTHER STUDIES

Mr. MELCHER. Mr. President, there has just come to my desk a visually pleasing, printed, 70-page document from the Congressional Budget Office which is for sale by the Superintendent of Documents at an unstated price—you would not know how much to send in if you wanted to pay for one—which is entitled "Public Policy and the Changing Structure of American Agriculture."

Back on page 59, and for several ensuing pages, the readers are enlightened about alternatives for the future in agriculture. We learn that we have three ways to go:

First. Continue current trend.

Second. Decelerate current trend.

Third. Accelerate current trend.

That is an astounding discovery.

We can stand still or, back up, or move forward. With further research, it may be discovered that we could also go to the left or to the right.

The paper explores the possible consequences, costs, conflicting views—which are generally in the footnotes—and other matters that have been hashed, rehashed, ruminated, regurgitated, redigested, expanded, condensed, illustrated, supported by voluminous tables, diagrams and charts—and had everything else possible done to them—by the Department of Agriculture, our Agriculture Committee, the Congressional Research Service, the General Accounting Office, batteries of State college and university economists, experts, professionals, amateur, cranks, farm editors, columnists and even a few farmers themselves.

The brochure is quite readable, but I have searched for anything in it that adds to the sum total of human knowledge and have not found anything.

My complaint about it is not that the Budget Committee has decided to hire experts and get into the publications business. My complaint is that everyone in Government is getting into the research, studies and publication field and we have entirely too many tax-supported agencies supporting well-paid staffers to hash and rehash almost every issue that might conceivably become a public issue. Up there on Capitol Hill, in addition to a vast array of USDA publications on agriculture, Congress has two agriculture committees, the Congressional Research Service, the General Accounting Office, the Office of Technology Assessment and now the Congressional Budget Office assigning staff to do "research," and grind out papers, mostly on what each other thinks about the same things.

It is about time that someone in Congress takes a look at how many research operations the taxpayers are being asked to support and how much duplication is occurring and decide whether we should:

First. Continue the current trend;

Second. Decelerate the current trend; or

Third. Accelerate the current trend.

Everybody appears to want to get into the policymaking game, to spread their views through pamphlets and other publications, and add to the blizzard of re-

ports being supplied us on every subject at public expense. It is a trend we ought to examine, continue, accelerate or decelerate thoughtfully. My own view is that it is about time to decelerate it considerably to the relief of the taxpayers.

Perhaps the Congressional Budget Office's next learned study should be a study of studies and the duplication of research, studies and papers by government agencies, and how we get it in control, and, incidentally, require quality not just volume.

ORDER FOR THE CONSIDERATION OF S. 3077 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3077 be laid aside and that the majority leader be authorized to call it up tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF S. 2693 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, and following the recognition of any Senators for whom special orders previously may have been entered, the Senate proceed to the consideration of Calendar Order No. 893, a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1977, and for other purposes.

Mr. STEVENS. Mr. President, reserving the right to object, does the majority leader say he will call it up now?

Mr. ROBERT C. BYRD. I was suggesting that it come up in the morning after any special orders have been consummated, if such have been entered, or if not, after the two leaders or their designees have been recognized under the standing order.

Mr. STEVENS. I do not object.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. Is the Senator requesting that the Senate resume the consideration of the Export-Import Bank measure?

Mr. HELMS. I beg the Chair's pardon; yes, I do. I thank the Chair.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3077) to amend and extend the Export-Import Bank Act of 1945, and for other purposes.

The Senate resumed the consideration of the bill.

UP AMENDMENT NO. 1970

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1970.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

"SEC. ( ). The Bank shall implement such regulations and procedures as may be appropriate to insure that full consideration is given to the extent to which any guarantee, insurance, credit, or participation in any extension of credit is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this subsection, the Bank shall request, and the United States International Trade Commission shall furnish, a report assessing the impact of the Bank's activities on industries and employment in the United States. Such report shall include an assessment of previous guarantees, insurance, loans, or extensions of credit or participations therein and shall provide recommendations concerning general areas which may adversely affect domestic industries, including agriculture, and employment. A copy of such report shall be included in the Bank's report under section 9.".

Mr. HELMS. Mr. President, this amendment would direct the Eximbank to consider whether the assistance it provides will have the effect of subsidizing competition with U.S. industries. I do not have any objection to competition with American industries or agriculture—if and when that competition is fair.

I do not think it is fair, however, when we find that some foreign operator can get capital at below market rates and American firms must pay 10 percent or more. I do not think it is fair competition when the U.S. farmer or worker must bear high borrowing costs and then pay taxes to finance the Eximbank so that some foreign farmer or manufacturer can have low-cost capital to compete against him.

If there is an economic reason for some nation to set up an industry that might put Americans out of jobs, then capital for that industry should be raised in the private market, at market rates, without U.S. money or U.S. guarantees.

Mr. President, I ask that my colleagues put themselves in the position of a woman who has worked in a textile or apparel factory all of her life. This woman of whom I am thinking has dutifully paid her taxes every year, and some of her tax money has gone to support the Export-Import Bank. Unbeknownst to her, the Exim official approves a loan at below free market interest rates for a clothing factory in some foreign nation. Because of the cheap capital and dirt cheap wages, a flood of inexpensive imports begins to flow into the United States. As a direct result, the company this woman has worked for finds itself unable to sell its goods. It must lay off workers, and our lady is one of the casualties.

Now this may not be a typical case, and I hope it is not. I do think, however, that we should never say that the Congress of the United States approved legislation that taxed people to pay for programs that were the cause of eliminating taxpayers' jobs.

That is all my amendment seeks to accomplish.

My amendment would simply require the Bank to obtain an annual report from the Federal agency with the responsibility of making such determinations—the International Trade Commission—to help them decide on individual projects accordingly.

Now, some would point out that the Labor Department administers a program which would provide assistance to our unemployed seamstress and her fellow workers. Indeed, the President has requested trade adjustment assistance to the tune of $190 million for this fiscal year. That is a great deal of money to help a large number of workers.

But it is ironic that today we are being asked as make available $40 billion for exports which might in fact contribute to the unemployment of American workers. If American workers are going to wind up being put out of their jobs because we are foolish enough to allow vast amounts of cheap imports into our country, at the very least, let us make sure that those imports are not, in effect, subsidized by the American taxpayer.

Mr. President, I understand the distinguished managers of the bill are prepared to accept the amendment.

Mr. STEVENSON. Mr. President, I have discussed this with the distinguished Senator from Pennsylvania (Mr. HEINZ), the other manager of the bill, and we agreed that it was a sound amendment, and are prepared to accept it.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the Chair, and I thank the Senator from Illinois.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCHMITT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any orders for recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair. Mr. President, I ask unanimous consent that after the two leaders or their designees are recognized on tomorrow, the Senator from New Mexico (Mr. SCHMITT) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION AND VOTE ON CONFERENCE REPORT—H.R. 12934

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning.

Mr. President, it is anticipated that the conference report on the State, Justice appropriations will be called up the first thing in the morning. I therefore ask unanimous consent that, after the order for the recognition of Mr. SCHMITT has been completed, the Senate proceed with the consideration of the conference report on the State, Justice appropriation bill.

Mr. STEVENS. Reserving the right to object, I might state there has been a request for a vote on that. That will be at a very early hour, I might say to the majority leader. I think Senators ought to be alerted to that fact.

Mr. ROBERT C. BYRD. Does the Senator think it advisable to set that vote now for a given hour?

Mr. STEVENS. If we could set a time of 10:30 a.m. or 11 a.m. and for them to be notified about it definitely, yes. We have some people coming back from out of town.

Mr. ROBERT C. BYRD. Is the Senator agreeable to setting a vote on the adoption of the conference report at 10:30 a.m. or 11 a.m.?

Mr. STEVENS. I think not before 10:30 a.m. would be fine.

Mr. ROBERT C. BYRD. All right. Not prior to 10:30 a.m. and not later than 11 a.m.?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That will be a rollcall vote, Mr. President. The yeas and nays have not been ordered, but I ask unanimous consent that it be in order to order the yeas and nays at any time on the adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, Mr. SCHMITT will be recognized for not to exceed 15 minutes, after which the conference report on the State, Justice, Commerce appropriation bill will be called up. There will be a rollcall vote on the adoption of that conference report. The rollcall vote will not occur prior to 10:30 a.m. and not later than 11 a.m.

The Senate will also take up tomorrow morning the Department of the Interior authorization bill, Calendar Order No. 893, S. 2693. Rollcall votes are expected on that bill tomorrow.

Upon the disposition of that bill, the Senate may return to the consideration of the Export-Import bill.

I ask unanimous consent that the majority leader may be authorized to return to that bill tomorrow upon the disposition of the Department of Energy authorization bill, after consultation with the Republican leader or his designee.

Mr. STEVENS. Reserving the right to object, and I shall not object, was that bill already set aside?

The PRESIDING OFFICER. The bill had been set aside but then called back up by consent and is presently pending before the Senate.

Mr. STEVENS. I do not object.

Mr. ROBERT C. BYRD. Then unanimous consent would not be required?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Other matters may be called up during the day, if cleared for action.

I should state at the moment that I hope it will be possible to get a time agreement on the Humphrey-Hawkins bill. I have indicated to the distinguished minority leader my desires and hopes in this regard, and he is attempting to explore the matter.

I hope it will be possible to get a time agreement.

As far as I can see, that about sums up the program for tomorrow.

RECESS UNTIL 9:00 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:00 tomorrow morning.

The motion was agreed to; and at 5:55 p.m., the Senate recessed until Saturday, September 30, 1978, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 1978:

DEPARTMENT OF THE INTERIOR

Larry E. Meierotto, of the District of Columbia, to be an Assistant Secretary of the Interior, vice Ronald G. Coleman, resigned.

RURAL ELECTRIFICATION ADMINISTRATION

Robert W. Feragen, of Virginia, to be Administrator of the Rural Electrification Administration for a term of 10 years, vice David Hamil, resigned.

CONSUMER PRODUCT SAFETY COMMISSION

Samuel D. Zagoria, of Maryland, to be a Commissioner of the Consumer Product Safety Commission for the remainder of the term expiring October 26, 1978, vice S. John Byington, resigned.

Samuel D. Zagoria, of Maryland, to be a Commissioner of the Consumer Product Safety Commission for a term of 7 years from October 27, 1978 (reappointment).

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Pat William Crizer, [redacted], U.S. Army.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Charles James Simmons, [redacted], (age 52), Army of the United States (major general, U.S. Army).

HOUSE OF REPRESENTATIVES—*Friday, September 29, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Trust in the Lord forever, for the Lord God is an everlasting rock.—Isaiah 26: 4.

"Lift up our hearts, O King of kings,
To brighter hopes and kindlier things,
To visions of a larger good,
And holier dreams of brotherhood.

Thy world is weary of its pain,
Of selfish greed and fruitless gain,
Of tarnished honor, falsely strong,
And all its ancient deeds of wrong.

Almighty Father, who dost give
The gift of life to all who live,
Look down on all Earth's sin and strife,
And lift us to a nobler life."

—JOHN H. B. MASTERMAN.

Bless the leaders and the members of the Roman Church in their sorrow. Be Thou their refuge and their strength in

this hour and during the days to come, through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 9945. An act to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the two years following their terms of office;

H.R. 12603. An act to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for U.S. registered pilots on the Great Lakes;

H.R. 13349. An act to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes; and

H. Con. Res. 715. Concurrent resolution commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to the text of a bill of the House of the following title:

H.R. 1337. An act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1 and 2 to a bill of the House of the following title:

H.R. 8811. An act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 11005. An act to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1979.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12232) entitled "An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. ROTH, and Mr. DANFORTH to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 3092. An act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3447) entitled "An act to strengthen the economy of the United States through increased sales abroad of American agricultural products," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. CLARK, Mr. STONE, Mr. ZORINSKY, Mr. HODGES, Mr. DOLE, Mr. BELLMON, and Mr. LUGAR to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3067) entitled "An act to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes."

The message also announced that the Senate concurs in the amendment of the House to the title of the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2391) entitled "An act to extend the Commodity Exchange Act, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12380) entitled "An act to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such Act," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. NELSON, Mr. HATHAWAY, Mr. CURTIS, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments numbered 1, 2, 4, 5, 6, 7, and 8 and to the title and disagree to the amendment of the House to the amendment of the Senate numbered 3 to the bill (H.R. 9251) entitled "An act relating to extensions of time for the existing tax treatment of certain items," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. BYRD of Virginia, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. ROTH, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2460. An act to amend the Indian Self-Determination and Education Assistance Act; and

S.J. Res. 29. Joint resolution to authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week."

APPOINTMENT OF CONFEREES ON H.R. 12929, APPROPRIATIONS FOR DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES, 1979

Mr. FLOOD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12929) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I did not think this was going to be the first order of business. Or did this just slip in?

The SPEAKER. The Chair will advise the gentleman that this is a unanimous-consent request.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I understood that we were going to complete the State, Justice appropriation bill that we had under consideration.

The SPEAKER. The Chair will advise the gentleman that unanimous-consent requests always precede the regular order of unfinished business.

Mr. ROUSSELOT. Oh. We learn something new every day.

The SPEAKER. The Chair is happy to hear that.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. FLOOD, NATCHER, SMITH of Iowa, PATTEN, OBEY, ROYBAL, STOKES, EARLY, MAHON, MICHEL, CONTE, O'BRIEN, and CEDERBERG.

REFUGE REVENUE SHARING ACT OF 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8394) to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out all after line 6 over to and including line 14 on page 2 and insert:

(A) by inserting "salmonoid carcassas," after "animals,"; and

(B) by inserting after "National Wildlife Refuge System" the second time it appears "National Fish Hatcheries or other areas".

Page 3, strike out all after line 16 over to and including line 3 on page 4 and insert:

"(2) At the end of each fiscal year the Secretary shall pay out of the fund for such fiscal year to each county in which any reserve area is situated, an amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such area during such fiscal year: *Provided*, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such reserve area.

Page 4, line 10, strike out "1978" and insert "1979".

Page 7, line 20, strike out "Service." " and insert "Service.".

Page 7, after line 20, insert:

"(5) The term 'county' means any county, parish, or organized or unorganized borough.".

Page 8, line 21, after "Act." insert "No authorization for appropriation shall be available under this Act before the fiscal year ending September 30, 1980.".

Page 8, after line 21, insert:

SEC. 3. The Act entitled "An Act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality", approved October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601) is amended as follows:

(1) in subsection (a) of section 6 delete clause (4) and insert in lieu thereof the following new clause:

"(4) effective October 1, 1978, lands on which are located semiactive or inactive installations, not including industrial installations, retained by the Army for mobilization purposes and for support of reserve component training: or".

(2) at the end of section 5 insert the following new subsection:

"(c) Nothing in this Act shall authorize any payments to any unit of local government for any lands otherwise entitled to receive payments pursuant to subsection (a) of section 6 if such lands were owned and/or administered by a State or unit of local government and exempt from payment of real estate taxes at the time title to such lands is conveyed to the United States, except that, beginning in fiscal year 1979, this subsection shall cease to be applicable to payments for any land which is or was acquired by a State or unit of local government from private parties for the purpose of donation of such land to the Federal Government and which is or was so donated within eight years of the date of acquisition thereof by the State or unit of local government."; and

(3) at the end of section 3 insert the following new subsection:

"(e) Notwithstanding the provisions of subsection (c) of section 6 of this Act as it applies to the State of Alaska, for purposes of this section, beginning in fiscal year 1979 a unit of local government in Alaska located outside the boundaries of an organized borough which acts as the collecting and distributing agency for real property taxes shall be eligible to receive payments under the foregoing provisions of this section.".

Amend the title so as to read: "An Act to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes."

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Reserving the right to object, Mr. Speaker, I do this in order to provide our chairman with an opportunity to explain just what the Senate amendments are.

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, H.R. 8394 passed the House on June 6 of this year by a vote of 340 to 28. The bill amends the Refuge Revenue Sharing Act to correct a number of inequities that have developed over the years. In brief, the bill provides payments to counties containing national wildlife refuges in order to offset the loss of tax revenues.

The Senate amended H.R. 8394 in two respects.

First, the Senate deleted language adopted by the House which would mandate that all revenues derived from wildlife refuges be distributed according to the provisions of the Refuge Revenue Sharing Act. The Senate amendment returns the law to its present status. Unfortunately, the present status of the law is confused. The Senate bill would allow the courts to resolve the question of whether mineral receipts should be distributed according to the Mineral Leasing Act or the Refuge Revenue Sharing Act. There is no cost associated with this amendment. This amendment is germane.

Second, the Senate attached amendments to H.R. 8394 which amends the Payment-In-Lieu of Taxes Act to provide payments to counties in which inactive military installations are located. The Federal Government owns approximately 1 million acres of land that are designated by the Army as semiactive or inactive installations and are retained by the Army for mobilization purpose or for support of reserve component training. These installations are located in California, Georgia, Maryland, New York, Pennsylvania, South Carolina, Utah, Virginia, Washington, and Wisconsin.

The Senate amendment also makes a technical change in the Payment-In-Lieu of Taxes Act to allow payments to counties for land which was acquired by the State for donation to the Federal Government. This amendment is necessary to correct an oversight in the original Payment-In-Lieu of Taxes Act.

Mr. FORSYTHE. Mr. Speaker, I thank the chairman.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I have no objection to the substance of the Senate amendments that were proposed to be accepted by the gentleman from New York (Mr. MURPHY).

I did want to make clear the jurisdictional question. The old Payment-In-Lieu of Taxes Act was replaced by the work of the Committee on Interior and Insular Affairs 2 years ago. We held hearings on the matters contained in the Senate amendments this year, but were unable to complete action on these kinds of changes.

If it is clearly understood by my friend, the gentleman from New York (Mr. MURPHY), that there is no attempt to take over the jurisdiction of the Committee on Interior and Insular Affairs on the Payment-In-Lieu of Taxes Act, I will be constrained not to object.

Mr. MURPHY of New York. If the gentleman will yield, there is no intent on the part of this gentleman or any member of the committee at the present time to intrude upon the jurisdiction of the Committee on Interior and Insular Affairs.

Mr. Speaker, the gentleman states the case correctly. It is the fact that the Committee on Interior and Insular Affairs has jurisdiction over the Payment-In-Lieu of Taxes Act.

Mr. UDALL. If the gentleman will yield further, I understand the gentleman from New York is unable to control the other body in their amendments attached to bills, and I am surely aware of that situation. If our jurisdiction is protected, the substance of what the gentleman is trying to do is all right with me.

Mr. MURPHY of New York. I thank the gentleman.

Mr. FORSYTHE. Mr. Speaker, further reserving the right to object, I fully support these amendments. I agree with my chairman and with the gentleman from Arizona (Mr. UDALL) on the question of jurisdiction.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTION IN ENROLLMENT OF H.R. 8394, REFUGE REVENUE SHARING ACT OF 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of the current resolution (H. Con. Res. 727), authorizing the Clerk of the House of Representatives to make a correction in the enrollment of the bill H.R. 8394, to provide for payments to local governments based upon the acreage of the national wildlife refuge system which is within their boundaries.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 727

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 8394), to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, the Clerk of the House of Representatives shall make the following correction: Strike out subparagraph (B) of paragraph (1) of subsection (a) of the first section of the bill and insert in lieu thereof the following:

(B) by inserting after "National Wildlife Refuge System" the second time it appears ", National Fish Hatcheries, or other areas,".

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 2329, FISH AND WILDLIFE IMPROVEMENT ACT OF 1979

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2329) to improve the administration of Fish and Wildlife programs, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from New York discussed this matter with me earlier.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. MURPHY of New York, LEGGETT, RUPPE, FORSYTHE, METCALFE, BOWEN, and HUBBARD.

NATIONAL FAMILY WEEK

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 29) to authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, did the gentleman describe this as a Senate joint resolution?

Mr. LEHMAN. Yes. It is identical to the House resolution which required 220-some odd signatures.

Mr. BAUMAN. The other body has not appended the energy bill or the tax cut bill or the Panama Canal Treaty or anything to this, the gentleman can assure us?

Mr. LEHMAN. No, there is no relationship.

Mr. BAUMAN. I thank the gentleman for that assurance.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 29

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week beginning on the Sunday preceding the fourth Thursday in November 1978, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such day with appropriate ceremonies and activities.

● Mr. JOHN T. MYERS. Mr. Speaker, the purpose of National Family Week is simple: It sets aside a specific time during the year to pay homage to the one institution which has given so much meaning to human life and provided a stable structure to our society. It recognizes the importance of the family as the foundation of American life and the fundamental role the family has played in securing those values upon which our Nation was founded. National Family Week is rightly observed during the week which includes Thanksgiving since this is a time when families are traditionally together. It is an appropriate time to recognize the contribution the family has made to the Nation's shared values of liberty, justice, equality, freedom, and compassion. As the distinguished anthropologist Margaret Mead has said, "As the family goes, so goes the Nation." These words simply state the importance of observing National Family Week.

Although the rules of the Committee on Post Office and Civil Service prohibit making this or any other observance on an annual basis, I urge the adoption of this resolution. National Family Week has been observed on a nationwide basis in 1972, 1976, and 1977 because of the strong support by the Congress and by three different Presidents of both parties. Last year, the Governors of 41 States and territories and the Mayor of the District of Columbia issued individual proclamations in conjunction with the President's this body have cosponsored Family Week This year, I am pleased 225 Members of observance of National Family Week. resolutions and I am advised that more than a dozen Governors have already issued Family Week proclamations or will do so later in the year. I sincerely appreciate those Members who have joined me as cosponsors.

It has been 8 years since Mr. Sam Wiley came to me with the idea of a National Family Week. As a high school principal and former basketball coach in Indiana, Mr. Wiley witnessed firsthand the importance of the family in the development of our young people. In those 8 years, Sam has worked tirelessly to encourage a number of civic and religious organizations to join in support of Family Week. These groups include: American Home Economics Association, the American Legion, American National Red Cross, Big Sisters of Washington, D.C., Black Silent Majority Committee, B'nai B'rith Women, Boy Scouts of America, Cub Scouts of America, Church of Jesus Christ of Latter Day Saints, Family Service Association of America, Future Homemakers of America, General Federation of Women's Clubs, Lions Clubs of Northern Washington, Masonic Service Association, National Catholic Community Service, National Congress of Parents and Teachers, National Council of Catholic Women, National Council of Jewish Women, the National Exchange Club, National Society of Daughters of the American Revolution, Salvation Army, Washington Urban League, and American Association of Doctors' Nurses.

I want to thank our colleague from Utah (Mr. MARRIOTT) for assisting me this year in securing the requisite number of cosponsors for this resolution and for helping to promote the cause of National Family Week.

In closing, Mr. Speaker, I also want to pay tribute to my good friend and colleague DEL CLAWSON who has been one of the most active advocates of National Family Week in the House. For several years DEL worked hard with me to see that Family Week is recognized and observed. As he will be retiring at the end of this Congress, I want to thank my good friend for all the guidance and assistance he has shared on behalf of National Family Week.

Mr. Speaker, I urge adoption of this resolution and ask each of my colleagues to help spread the word of the importance and purpose of National Family Week throughout their districts. With the cooperation of our colleagues and that of the many interested groups and organizations we will be able to remind America of the significant role which the family has played and will continue to play in the development of our Nation.●

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 684) was laid on the table.

FIREFIGHTERS' MEMORIAL SUNDAY

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the joint resolution (H.J. Res. 685) to designate May 21, 1978, as "Firefighters' Memorial Sunday."

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 685

Whereas courageous firefighters have protected the lives and dreams of their neighbors from the ravages of fire since the beginning of civilization; and

Whereas many of the courageous firefighters have suffered permanent disability and some have made the ultimate expression of love for their neighbor by laying down their lives; and

Whereas numerous churches of many denominations have indicated a desire to participate in a designated memorial Sunday honoring these consecrated firefighters for their ultimate sacrifices for their fellow men: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating May 21, 1978 as "Firefighters' Memorial Sunday", and inviting the people of the United States to observe such day with appropriate ceremonies and activities to commemorate the firefighters who have been disabled or killed in the line of duty during the preceding year.

With the following committee amendment:

Page 2, line 2, strike "May 21, 1978," and insert "October 8, 1978, the Sunday of 'Fire Prevention Week' ".

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. LEHMAN

Mr. LEHMAN. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. LEHMAN: Page 2, line 3, strike "October 8, 1978" and insert "October 7, 1979".

The amendment to the committee amendment was agreed to.

The committee amendment, as amended, was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read: "Joint resolution to designate October 7, 1979, the Sunday of 'Fire Prevention Week' as 'Firefighters' Memorial Sunday'.".

A motion to reconsider was laid on the table.

● Mr. TEAGUE. Mr. Speaker, I am honored to bring before the House today, House Joint Resolution 685 which will set aside the Sunday of "Fire Prevention Week," October 7, 1979, as "Firefighters' Memorial Sunday." I am one among 219 cosponsors of this commemorative act which was originally conceived by the Reverend Ed Stauffer, chaplain of the Fort Worth, Tex., fire department.

Chaplain Stauffer marshaled national support for his idea which I hope will culminate in overwhelming acceptance by this House.

Firefighting is both a hazardous and heroic occupation which calls upon a person's deepest resources. What we can do in commemoration for those who have lost their lives or good health saving our lives and property is little in comparison to what they have given. I urge all Members to join me in declaring October 7, of next year as "Firefighters' Memorial Sunday." ●

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the two joint resolutions just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

TRIBUTE TO LATE POPE JOHN PAUL I

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I was shocked to learn of the unexpected death of Pope John Paul I. As a member of the official U.S. delegation that went to Rome for his installation, I was very honored to have had the opportunity to speak with the Pope. His great humility and warmth struck me, as I know it did all who met him or even read about him in the newspapers or saw him on television. With his kindness and humanity, I had hoped, as I know many people did, that his reign would be marked with an unusual compassion and understanding. I deeply regret that this great potential for leadership is not going to be realized. I join people around the world in mourning the death of Pope John Paul I.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I also had the honor of being a delegate, as did the gentleman from Massachusetts, that went to Rome for the installation of Pope John Paul I. I join the gentleman from Massachusetts in expressing regret at this terrible loss.

Mr. Speaker, men and women of all faiths must feel a deep sense of loss at the sudden and untimely passing of His Holiness Pope John Paul I.

In only 1 month's time, the humility and simplicity that accompanied John Paul's love for his church and his flock touched the peoples of the world.

I consider myself fortunate to have known—even for such a brief moment—this very special man. I speak for all south Texans in extending our condolences to the family of Pope John Paul I, and to the officials of the church he was asked to lead.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I too join the gentleman from Massachusetts in expressing a tribute to Pope John Paul I Mr. Speaker, all the world must grieve at the unexpected death of this man who, although he served as Pope for only 34 days, won the affection and respect of millions of people through the warmth and humanity of his personality.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I would also like to join the touching remarks of my colleague Mr. CONTE having also shared with him that beautiful, lovely afternoon in Rome at the coronation mass of Pope John Paul I when this very decent and compassionate man became the spiritual leader of the world's largest Christian church.

The only thing I found strange in the morning news accounts of the Pope's tragic death was the word that the bells throughout all the Christian world were tolling in sorrow at his passing. Why sorrow. I do not think I can recall a more glorious passing of a leader in recent memory. The Pope was so deeply loved by his flock in Venice as a worthy shepherd there and then he attained 34 days ago a wonderful moment of respect by his peers worldwide, however brief, being chosen as a spiritual head of the 2,000 year old great and historical church founded by Jesus Christ. And he made such a wonderful impression on the world in only 34 days. This is an incredible life for any man to have lived in only 65 years on our small and troubled planet.

I think, as the Catholic Church uses white vestments in the requiem mass for a child to symbolize the joy of innocence returning to our Creator, so the faithful should sing out in joy to the glory of God that a great lover of Jesus has returned to his eternal home and the just rewards for a lifetime of service to God and mankind.

I think Pope John Paul I, however short his reign as pontiff has lived a wonderful life and made the indelible mark of true love upon his time.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, members of all faiths share the sadness at the passing of Pope John Paul I. We have seen in the short time he has had the honor of leading his church a man of great stature and great concern for people.

I know that the world today has lost a great leader, so we share with you, those of us from other faiths, your sadness today at the loss of Pope John Paul I.

Mr. CORRADA. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the Delegate from Puerto Rico.

Mr. CORRADA. Mr. Speaker, I express on behalf of the people of Puerto Rico our grief and shock at the untimely death of Pope John Paul I. In the span of 34 days he had endeared himself to millions and millions of people in America and around the world.

We only hope that the whole experience will guide the cardinals in the next conclave to select a man with similar attributes, one who can guide humanity in these times with an example of humility and dedication to the poor and also to the Christian values we hope will be exemplified by the next vicar of Christ.

TOTALITARIAN FORCE CHALLENGED BY COURAGE OF ONE MAN

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORNAN. Mr. Speaker, Alexandr Solzhenitsyn proved one thing: The courage of one man, the spirit of one soul, can stand forth and challenge the most awesome totalitarian force in the world today. Solzhenitsyn did it by himself. And, threatened with arrest, imprisonment. and worse, the Soviet State because of the stature and public recognition of this heroic man, feared to do its worst.

Along with many of my colleagues, I have been skeptical of the force of world opinion on the behavior of Soviet leaders. But I must admit that there are times when that force has been a restraining element. It does help when we in the West say to the Soviets: "We know Anatoly Scharansky, We know Alexander Ginzburg. Their persecution is our persecution; the threats you have leveled against them are very real to us." This type of support and empathy embarrass them and keeps alive and possibly safe from torture the most outspoken opponents of a militant and ferocious dictatorship.

During the Vietnam war, I thought that the best idea to keep alive the memories of our POWS and our men missing-in-action was to distribute, throughout the length and breadth of this land, bracelets bearing the names of these American heroes "hanging tough" throughout severe and particularly vicious medival-type torture. I am initiating the same type of living memorial today. I would hope that every Member of this House would wear a bracelet bearing the name of Anatoly Shcharansky or some other imprisoned dissident, prisoner of conscience, or refusenik. Let the Soviets know that the force of public opinion is alive, that the power of conscience is alive and that we outside the curtain of iron remember.

So on Monday I will send to all of my colleagues offices a bracelet made in the exact style of the POW/MIA bracelet worn by 5 million caring Americans. This first new bracelet I repeat will bear the name of Anatoly Scharansky, with the date of his arrest by Soviet secret police on March 15, 1977, engraved below his name.

I would hope that most of the Members of our House would wear this bracelet or that at least they would offer it to one of their staff people to wear. Also, the entire Senate plus President Carter and Vice President MONDALE will all be sent bracelets on Monday.

Mr. Speaker, I met with Mr. Scharansky's mother in Moscow on the second of this month and as I was holding her hands to say goodby she burst into tears and begged me to carry the word to you and to the President of the United States to please not forget her son and the other persecuted dissidents and refuseniks in the Soviet Union. In front of that one token synagogue in Moscow I also met the brother of Leonid Scharansky, another brave fighter for freedom. I asked all of the family including Mrs. Avital Scharansky when she was here in Washington for permission to institute this bracelet as a constant reminder of the human rights violations in the U.S.S.R. and as a call for an end to the persecution of all Jews and other citizens under Communist control who yearn to breathe free. They gave this idea their wholehearted support and loving gratitude.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 855]

Addabbo	Foley	Nichols
Ambro	Ford, Mich.	Nix
Ammerman	Ford, Tenn.	Oakar
Anderson, Ill.	Fraser	Ottinger
Andrews, N.C.	Frenzel	Patten
Archer	Frey	Patterson
Armstrong	Gammage	Pepper
Ashley	Garcia	Pettis
Badham	Giaimo	Pike
Beard, R.I.	Goldwater	Poage
Biaggi	Goodling	Pressler
Bingham	Gudger	Quie
Blouin	Hanley	Rangel
Boggs	Harkin	Reuss
Bonior	Harrington	Rhodes
Bonker	Harris	Richmond
Breckinridge	Harsha	Risenhoover
Brooks	Heckler	Rodino
Burke, Calif.	Heftel	Runnels
Burleson, Tex.	Holland	Russo
Burton, John	Howard	Santini
Butler	Ireland	Sawyer
Byron	Jones, Okla.	Scheuer
Caputo	Krueger	Seiberling
Carney	LaFalce	Shipley
Chisholm	Leggett	Shuster
Clay	Long, La.	Sikes
Cleveland	McCloskey	Slack
Cochran	McDonald	Stark
Cohen	McKinney	Steed
Collins, Ill.	Madigan	Stokes
Conyers	Mahon	Teague
Cotter	Mann	Thone
D'Amours	Marriott	Tsongas
Davis	Mathis	Tucker
Delaney	Mazzoli	Van Deerlin
Dellums	Meeds	Walsh
Dent	Metcalfe	Wiggins
Derwinski	Mikva	Wilson, Tex.
Diggs	Milford	Wirth
Dingell	Miller, Calif.	Wright
Drinan	Mitchell, Md.	Wydler
Early	Moorhead, Pa.	Wylie
Edwards, Okla.	Murphy, Ill.	Young, Alaska
Eilberg	Murphy, N.Y.	Young, Tex.
Erlenborn	Murtha	
Flowers	Neal	

The SPEAKER pro tempore (Mr. KAZAN). On this rollcall 293 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 12934, APPROPRIATIONS FOR DEPARTMENTS OF STATE, JUSTICE, COMMERCE, JUDICIARY, AND RELATED AGENCIES, 1979

The SPEAKER pro tempore. The unfinished business is the consideration of Senate amendments numbered 9 and 123 reported in disagreement in the conference report on the bill, H.R. 12934.

The Clerk will report the title of the bill and Senate amendment numbered 9.

The Clerk read the title of the bill.

AMENDMENTS IN DISAGREEMENT

The Clerk read as follows:

Senate amendment No. 9: Page 5, line 16, insert:

CONTRIBUTIONS FOR INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Act of Congress, $327,676,000, of which no part may be made available for the furnishing of technical assistance by the United Nations or any of its specialized agencies.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $355,392,000.

PREFERENTIAL MOTION OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. ROUSSELOT moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein.

Mr. SMITH of Iowa. Mr. Speaker, I request a division of the question.

The SPEAKER pro tempore. The question will be divided.

The question is, Will the House recede from its disagreement to the amendment of the Senate No. 9?

The House receded from its disagreement to the amendment of the Senate No. 9.

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House concur in the amendment of the Senate numbered 9 with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $355,392,000.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, when this bill was before the House, the House committee had recommended the amount of the budget, which is the amount in this motion before the House. It was stricken on the House floor on a point of order because the authorization had not yet been passed. The Senate, in their bill, reduced it to $327,676,000, but in conference we agreed to the original $355,392,000 which was the amount of the budget request. The reason we did this was because these are assessed contributions to international organizations that are required by treaty. The House committee felt we owed the money, although we have complained in previous years about the State Department not trying to negotiate out the technical

assistance part. So it is our position that we should again this year pay the bill which we owe.

Mr. CEDERBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Iowa has stated this situation correctly. I personally wish we had a lower figure. The problem we do have is that our people do go up there and negotiate these treaty obligations. They tell us that they try to do the very best they can under the circumstances they have to work with. As the gentleman from Iowa stated, in our hearings year after year we have been telling them to hold the line as best they can. They are telling us they are doing just that, that they are doing the best they can.

So this conference agreement fullfills our treaty obligation.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, the reason I asked that the House concur in the Senate action is that the other body did not have in question that which the gentleman from Iowa has referred to, It was taken out. It was not in the House bill either. But now the conference has come back with an additional amount of money which was in neither bill, neither the House nor the Senate version.

The issue before the House is not a new one. We have been over this turf before. It is a debate over the question of how much control the Congress of the United States should exercise over technical assistance programs of the United Nations, and how these technical assistance programs should be viewed and paid for. It is my view and I might add the view of the other body that we should exercise greater control. I think that technical assistance funds should be viewed as foreign aid and be provided for through the foreign assistance authorization and appropriations bills. I believe that we should not pay for these programs by means of our mandatory assessed share of the United Nations budget, the use of which we exercise little control over. Let me at this point go over a little background.

U.N. budgets are based upon two kinds of contributions: the assessed contributions, which are similar to a mandatory tax upon member nations, and so-called voluntary contributions to humanitarian and developmental projects.

For many years, U.S. policy has been that "technical assistance" grants from the U.N. should be provided through voluntary contributions, giving the United States the right to withhold contributions to projects which the United States does not approve; for example, aid to Vietnam, aid to PLO, et cetera.

The U.N. has continually ignored U.S. policy, and has allowed member agencies to develop budgets for assessed contributions which include technical assistance funds. Although the practice has been sharply criticized by the GAO, the House Foreign Affairs Committee, the Senate Government Operations Committee, and the Senate Appropriations Committee, and although technical assistance funds were stricken by the Senate last year and this year, the appropriations conferences have unaccountably restored the funds each time.

The use of assessed contributions to support technical assistance is growing at an alarming rate, instead of declining. The fiscal year 1978 bill contained $19,250,000 for technical assistance. The Senate deleted that amount, but the conference restored it. Instead of the UN taking note of expressed U.S. policy on technical assistance and acting to transfer it to voluntary contributions, the UN arrogantly increased it. The fiscal year 1979 bill contains $27,716,000. Unless the Congress backs up its words with action—by withholding payment of these assessments—we can expect that the U.S. policy will continue to be ignored.

The use of assessed contributions to fund technical assistance is a device to tax the developed nations for the benefit of the undeveloped nations without proper consent from the developed nations. It is changing the very nature of the UN agencies away from programs beneficial to all member nations and toward programs of special interest to particular areas of the world.

At this point let me review what has occurred this year with regard to funding these technical assistance programs. The Senate bill contains a proviso deducting $27,716,000 from the funding of contributions to international organizations with the following restriction:

> No part may be made available for the furnishing of technical assistance by the United Nations or any of its specialized agencies.

The House bill contains no funds for any contributions to international organizations. The entire paragraph relating to such contributions was stricken on a point of order on the grounds that no authorization bill had been passed by the House. The point was conceded by Chairman SLACK. Thus the conference report places us squarely with an issue which received neither the approval of the House nor the approval of the Senate. It was in neither bill. Yet the Congress is asked to approve this entirely new material as an amendment in disagreement.

I urge my colleagues to reject the motion of the gentleman from Iowa in order that the House may agree to my simple motion to concur in the action of the Senate.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from Florida (Mr. YOUNG), a member of the Appropriations Committee.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding. I am wondering, after listening to his remarks, just how many different windows the U.N. uses in dispensing so-called technical assistance funds. The United Nations Development Program also disburses funds for technical assistance. As a matter of fact, there is a 5-year program right now to use UNDP money for countries like Iran and Saudi Arabia, who in my opinion ought to have enough money to finance their own technical assistance programs. The Iranian program is $20 million, and the Saudi Arabia program is $10 million for technical assistance.

I wonder if the gentleman can tell us how many more millions the U.N. is going to use to provide technical assistance.

Mr. ROUSSELOT. I am sure it is a substantial amount, but I cannot give a definitive figure. All I can do is speak to this one amount that is in neither the House bill nor the Senate bill. I think it is unfortunate that it was put back in in conference.

Mr. YOUNG of Florida. Does it not seem strange that with our balance-of-payment problems and our balance-of-trade deficits, and the battering of the dollar on the world markets, that we would be taxing our taxpayers to send money to the United Nations to have some of it end up in places like Saudi Arabia and Iran, who can probably buy and sell the United Nations several times over?

Mr. ROUSSELOT. The gentleman makes an excellent point, and he has done so when he has brought many appropriations bills here to the floor. I think, in view of the fact that our General Accounting Office and several of our committees in both the Senate and the House have differed, that the best course of action would be to vote down the motion of our colleague from Iowa, who I do not think gave a very sterling address in support of this $27 million. I do not think he is very enthusiastic about it, myself.

The conference report places us squarely with an issue which has received neither the approval of the House nor of the Senate. These moneys were not in either bill. I ask the Members to vote down the motion offered by the gentleman from Iowa, and to support my motion to concur in the Senate position.

Mr. SMITH of Iowa. Mr. Speaker, I do not think the question is whether we are for technical assistance being under voluntary assistance programs. That is not the question. Part of our problem comes from the fact that we have an authorization bill going through the House the same year the appropriation is going through the House. The authorization should have been passed last year. It was not passed until June of this year. Since June both the House and the Senate have passed an authorization including this amount. On that bill I would have voted to strike this amount and put it under voluntary assistance but it was not done. The House and the Senate both said they wanted this in the assessed budgets of the U.N. and related agencies.

That bill, as a matter of fact, has not yet been signed by the President and that is part of the problem, because we have the authorization bill going through that is a year behind.

The House and the Senate both said just this year, since June, that they want to continue to fund this in fiscal year 1979 in this mannner.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman supports that position, all we have to do is recede to the Senate, because they did not have $27 million in their bill, so I think the gentleman makes an excellent argument for receding to the Senate.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, it seems to me it is quite clear that the matter of whether this ought to be an assessed or voluntary contribution has never been an issue which has been considered by the authorizing committee.

All the ramifications of the problem of whether technical assistance ought to be all or partially within the assessed budget, or by voluntary contributions or a combination of both, should be thoroughly explored.

But it seems to me a poor place in an appropriation bill to legislate a decision of that kind, particularly when the action would violate a treaty obligation, put the United States in arrears of its payments, and curtail vital health programs in which the United States benefits, is very much interested in, and which the United States has strongly urged and supported in the organization.

So I would hope the chairman's motion would be agreed to.

Mr. SMITH of Iowa. Mr. Speaker, just to wind this matter up, I would say that our conference report last year urged the Department of State to continue efforts to get all technical assistance funds included in voluntary assistance programs.

The gentleman from California (Mr. ROUSSELOT) has performed a service here in again bringing this matter to the attention of the House. We urge the Department and the authorizing committees to help us try to get this issue resolved as it relates to the budget for fiscal year 1980.

Therefore, Mr. Speaker, I say today let us agree to this motion, settle this for 1979 here in these few days we have left in this Congress; and, in the meantime, the authorizing committee is on notice to go to work on it for fiscal year 1980 and try to get it under voluntary assistance programs.

The SPEAKER pro tempore (Mr. KAZEN). Without objection, the previous question is ordered on the preferential motion.

There was no objection.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Iowa (Mr. SMITH), that the House concur in the Senate amendment with an amendment offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 143, nays 191, not voting 98, as follows:

[Roll No. 856]

YEAS—143

Akaka	Fisher	Nowak
Alexander	Flood	O'Brien
Anderson, Calif.	Florio	Oberstar
Annunzio	Flynt	Obey
Ashley	Foley	Ottinger
Aspin	Fraser	Patten
AuCoin	Giaimo	Pattison
Baldus	Gibbons	Pease
Bedell	Gonzalez	Perkins
Beilenson	Gore	Preyer
Bingham	Green	Price
Blanchard	Hamilton	Pursell
Boggs	Harris	Railsback
Boland	Hawkins	Rangel
Bolling	Hollenbeck	Reuss
Bonker	Holtzman	Rogers
Brademas	Hubbard	Roncalio
Brodhead	Jeffords	Rooney
Brown, Calif.	Jordan	Rosenthal
Buchanan	Kastenmeier	Rostenkowski
Burke, Calif.	Kazen	Ryan
Burke, Mass.	Keys	Sarasin
Burlison, Mo.	Kildee	Scheuer
Burton, Phillip	LaFalce	Schroeder
Carr	Le Fante	Simon
Cederberg	Leggett	Smith, Iowa
Clay	Lehman	Solarz
Conte	Lloyd, Calif.	Spellman
Corman	Lundine	Stanton
Danielson	McCormack	Stark
Dellums	McDade	Steers
Derrick	McFall	Studds
Derwinski	McHugh	Thompson
Dicks	McKay	Thornton
Dodd	McKinney	Ullman
Downey	Maguire	Vander Jagt
Drinan	Markey	Vanik
Duncan, Oreg.	Marks	Vento
Early	Meeds	Walgren
Eckhardt	Metcalfe	Waxman
Edgar	Meyner	Weaver
Edwards, Calif.	Mikulski	Weiss
Evans, Colo.	Mineta	Whalen
Fary	Moakley	Wiggins
Fascell	Moss	Wilson, Tex.
Fenwick	Myers, Michael	Winn
Findley	Natcher	Yates
	Nedzi	Zablocki

NAYS—191

Abdnor	Coughlin	Heftel
Addabbo	Crane	Hightower
Ambro	Cunningham	Hillis
Andrews, N.C.	Daniel, Dan	Holland
Andrews, N. Dak.	Daniel, R. W.	Holt
Applegate	Davis	Horton
Archer	de la Garza	Huckaby
Ashbrook	Devine	Hughes
Bafalis	Dornan	Hyde
Barnard	Duncan, Tenn.	Ichord
Baucus	Edwards, Ala.	Jacobs
Bauman	Emery	Jenkins
Beard, R.I.	English	Jenrette
Beard, Tenn.	Ertel	Johnson, Calif.
Benjamin	Evans, Del.	Johnson, Colo.
Bennett	Evans, Ga.	Jones, N.C.
Bevill	Evans, Ind.	Jones, Okla.
Bowen	Fish	Jones, Tenn.
Breaux	Fithian	Kasten
Brinkley	Flippo	Kelly
Broomfield	Flowers	Kemp
Brown, Mich.	Forsythe	Kindness
Brown, Ohio	Fountain	Kostmayer
Broyhill	Fowler	Krebs
Burgener	Fuqua	Lagomarsino
Burke, Fla.	Gaydos	Latta
Butler	Gephardt	Leach
Byron	Gilman	Lederer
Carter	Ginn	Lent
Cavanaugh	Glickman	Levitas
Chappell	Gradison	Livingston
Clausen, Don H.	Grassley	Lloyd, Tenn.
Clawson, Del	Guyer	Long, Md.
Coleman	Hagedorn	Lott
Collins, Tex.	Hall	Lujan
Conable	Hammer-schmidt	Luken
Corcoran	Hannaford	McClory
Cornell	Hansen	McDonald
Cornwell	Harsha	McEwen
	Hefner	Marlenee
		Martin
		Mattox
		Michel
		Miller, Ohio
		Minish
		Mitchell, N.Y.
		Mollohan
		Montgomery
		Moore
		Moorhead, Calif.
		Motti
		Murphy, N.Y.
		Murphy, Pa.
		Myers, Gary
		Myers, John
		Neal
		Panetta
		Patterson
		Pickle
		Pritchard
		Quayle
		Quillen
		Rahall
		Regula
		Rinaldo
		Roberts
		Robinson
		Roe
		Rose
		Rousselot
		Rudd
		Ruppe
		Santini
		Satterfield
		Schulze
		Sebelius
		Sharp
		Shuster
		Sisk
		Skelton
		Skubitz
		Smith, Nebr.
		Snyder
		Spence
		St Germain
		Staggers
		Stangeland
		Steed
		Steiger
		Stockman
		Stratton
		Stump
		Symms
		Taylor
		Trible
		Udall
		Volkmer
		Waggonner
		Walker
		Wampler
		Watkins
		White
		Whitehurst
		Whitley
		Whitten
		Wilson, Bob
		Wilson, C. H.
		Wolff
		Yatron
		Young, Fla.
		Young, Mo.
		Zeferetti

NOT VOTING—98

Ammerman	Gammage	Pettis
Anderson, Ill.	Garcia	Pike
Armstrong	Goldwater	Poage
Badham	Goodling	Pressler
Biaggi	Gudger	Quie
Blouin	Hanley	Rhodes
Bonior	Harkin	Richmond
Breckinridge	Harrington	Risenhoover
Brooks	Heckler	Rodino
Burleson, Tex.	Howard	Roybal
Burton, John	Ireland	Runnels
Caputo	Krueger	Russo
Carney	Long, La.	Sawyer
Chisholm	McCloskey	Seiberling
Cleveland	Madigan	Shipley
Cochran	Mahon	Sikes
Cohen	Mann	Slack
Collins, Ill.	Marriott	Stokes
Conyers	Mathis	Teague
Cotter	Mazzoli	Thone
D'Amours	Mikva	Traxler
Delaney	Milford	Treen
Dent	Miller, Calif.	Tsongas
Dickinson	Mitchell, Md.	Tucker
Diggs	Moffett	Van Deerlin
Dingell	Moorhead, Pa.	Walsh
Edwards, Okla.	Murphy, Ill.	Wirth
Eilberg	Murtha	Wright
Erlenborn	Nichols	Wydler
Ford, Mich.	Nix	Wylie
Ford, Tenn.	Nolan	Young, Alaska
Frenzel	Oakar	Young, Tex.
Frey	Pepper	

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Burleson of Texas against.

Mr. Cotter for, with Mr. Teague against.

Mr. Garcia for, with Mr. Nichols against.

Mr. Richmond for, with Mr. Sikes against.

Mrs. Chisholm for, with Mr. Biaggi against.

Mr. Carney for, with Mr. Runnels against.

Mr. Pepper for, with Mr. Badham against.

Mr. Mitchell of Maryland for, with Mr. Cochran of Mississippi against.

Mrs. Collins of Illinois for, with Mr. Dickinson against.

Mr. Diggs for, with Mr. Frey against.

Mr. Ford of Michigan for, with Mr. Goldwater against.

Mr. Moorhead of Pennsylvania for, with Mr. Goodling against.

Mr. Murphy of Illinois for, with Mr. Marriott against.

Mr. Van Deerlin for, with Mr. Thone against.

Mr. Howard for, with Mr. Walsh against.

Mr. Roybal for, with Mr. Wydler against.

Mr. Shipley for, with Mr. Wylie against.

Mr. Stokes for, with Mr. Young of Alaska against.

Mr. Slack for, with Mr. Risenhoover against.

Mr. Dingell for, with Mr. Dent against.

Mr. Mikva for, with Delaney against.

Until further notice:

Mr. Eilberg with Mr. Anderson of Illinois.

Mr. Ammerman with Mr. Madigan.

Mr. Gammage with Mr. McCloskey.

Mr. Hanley with Mr. Quie.
Mr. Pike with Mr. Pressler.
Mr. Russo with Mrs. Pettis.
Mr. Seiberling with Mr. Sawyer.
Mr. Mahon with Mr. Treen.
Mr. Mann with Mr. Frenzel.
Mr. John L. Burton with Mr. Edwards of Oklahoma.
Mr. Blouin with Mr. Cohen.
Mr. Breckinridge with Mr. Cleveland.
Mr. Brooks with Mr. Caputo.
Mr. Long of Louisiana with Mr. Milford.
Mr. Krueger with Mr. Nolan.
Mr. Traxler with Mr. Tucker.
Mr. Tsongas with Mr. Bonior.
Mr. Wirth with Mr. Conyers.
Mr. D'Amours with Mr. Erlenborn.
Mr. Harkin with Mr. Ford of Tennessee.
Mr. Gudger with Mr. Harrington.
Mrs. Heckler with Mr. Ireland.
Mr. Mazzoli with Mr. Mathis.
Mr. Moffett with Mr. Murtha.
Ms. Oakar with Mr. Rhodes.

Messrs. GIAIMO, DANIELSON, and FLYNT changed their vote from "nay" to "yea."

Messrs. CORNWELL, YOUNG of Missouri, PATTERSON of California, SKUBITZ, EVANS of Georgia, and HUGHES changes their vote from "yea" to "nay."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from California (Mr. ROUSSELOT) that the House concur in Senate amendment No. 9.

The preferential motion was agreed to.

The SPEAKER pro tempore. The Clerk will report Senate amendment No. 123.

The Clerk read as follows:

Senate Amendment No. 123: Page 59, line 3, insert:

SEC. 606. It is the sense of the Senate that—

(1) the Government of the United States should give special consideration to the plight of refugees from Democratic Kampuchea (Cambodia) in view of the magnitude and severity of the violations of human rights committed by the Government of Democratic Kampuchea (Cambodia); and

(2) the Attorney General should exercise his authority under section 212(d)(5) of the Immigration and Nationality Act to parole into the United States—

(A) for the fiscal year 1979, 7,500 aliens who are nationals or citizens of Democratic Kampuchea (Cambodia) and who are applying for admission to the United States; and

(B) for the fiscal year 1980, 7,500 such aliens.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 123 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 605. It is the sense of the Congress that—

(1) the Government of the United States should give special consideration to the plight of refugees from Democratic Kampuchea (Cambodia) in view of the magnitude and severity of the violations of human rights committed by the Government of Democratic Kampuchea (Cambodia); and

(2) the Attorney General should exercise his authority under section 212(d)(5) of the Immigration and Nationality Act to parole into the United States—

(A) for the fiscal year 1979, 7,500 aliens who are nationals or citizens of Democratic Kampuchea (Cambodia) and who are applying for admission to the United States; and

(B) for the fiscal year 1980, 7,500 such aliens.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the language in this amendment was put in on the Senate side. We agreed to it in conference. What we are dealing with here is another tardy authorization bill, the authorization bill that carries somewhat similar language just passed the House yesterday. It may not even be enacted into law this year, but we have to go ahead with the appropriation. I do not believe very many people disagree with the intent of the language. Some would argue it should have been in the authorization bill that should have been passed a year ago, but the fact of the matter is, it has not been enacted yet. So in conference the House conferees agreed to this language, and we are asking for an aye vote.

Mr. CEDERBERG. Mr. Speaker, I yield 8 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I am constrained to rise in opposition to this amendment, which in my opinion, takes a shortsighted, emotional approach to a very serious problem requiring a comprehensive and rational response.

Mr. Speaker, there are, as of our last estimate, over 100,000 refugees in Thailand awaiting resettlement in third countries. The majority of these refugees are from Laos, some are from Cambodia and others, Vietnam. Many of the Laotians are Meos or Hmong tribesmen who have escaped from horrors very similar to those experienced by the Cambodian refugees. All of these refugees live in camps, under very difficult conditions and are maintained at minimum subsistence levels. Some worked closely with us during our Vietnamese involvement. All await anxiously offers of permanent resettlement to the United States and other countries with refugee programs.

The Subcommittee on Immigration Citizenship, and International Law, of which I am ranking minority member, has been diligently studying the Indochina refugee situation as well as the general refugee issue. We have urged the administration to develop a long range, comprehensive program for the admission of refugees into the United States. Chairman EILBERG has introduced legislation on the subject and the subcommittee has been working with administration officials to hammer out a program acceptable to all. Some progress has been made. Your subcommittee also is working on internationalizing a response to refugee resettlements.

Mr. Speaker, the amendment under consideration is clearly inconsistent with these efforts of the subcommittee and is a significant departure from the current U.S. program for Indochina refugees.

It would be detrimental to the efforts of our Government to establish a humanitarian long-range policy. It clearly could impede our efforts at internationalizing. Its effect would be to perpetuate the past policy of responding in an ad hoc piecemeal fashion.

At the present time, the established criteria worked out by your subcommittee and the Attorney General allows Indochinese refugees to enter the United States under the Attorney General's parole program. Few Cambodians meet the criteria which was written with Vietnamese and Laotians in mind.

To rectify this, the House approved yesterday in the Justice Department authorization bill, H.R. 12005, my amendment directing the Attorney General in consultation with the Congress to develop criteria which would enable greater numbers of Cambodian refugees to qualify for admission to the United States.

I submit this action, already taken by this House, is the proper response to the tragic problem of Cambodian refugees.

Our subcommittee will see to it that the Attorney General carries out this mandate. Through such a procedure, Cambodian refugees will be admitted within procedure worked out by our subcommittee and the executive branch. Incidentally, the consultation process predates the refugee crisis in Indochina by over a decade.

Our committee has had vast experience in the parole process: We have met with attorney generals at any time, day or night to consider their requests. It is our committee that drew up the criteria. We worked long and hard on them and they continue to be sound.

This approach we have taken is far more logical and desirable than this proposal which establishes a blanket program for all Cambodian refugees.

Mr. Speaker, the horrible tragedy which is occurring today in Cambodia warrants our interest as well as the interest of all other civilized countries. We must continue to condemn those responsible for conditions there as well as take any action available to alleviate the extreme hardship visited on the helpless people of that country. Adoption of this amendment, however, will not accomplish either of these purposes. The proponents of this amendment have failed to make a logical connection between the adoption of this amendment, which is directed at Cambodian refugees in Thailand, and amelioration of the plight of the millions of Cambodians left behind in Cambodia who still suffer at the hands of the ruthless Khmer Rouge.

Unquestionably, the situation of the 15,000 Cambodian refugees in Thailand refugee camps is a difficult one; however, it is no more difficult than that of the

over 100,000 Laotians and Vietnamese in those same camps. Automatic acceptance of all of the 15,000 Cambodian refugees under a special program which ignores the needs of some 100,000 other refugees, I feel, is a mechanical and insensitive way of dealing with the situation.

Mr. Speaker, the current refugee eligibility criteria are based on consideration of the refugee's familial and other ties with the United States as well as the urgency surrounding his efforts to find temporary asylum. I think those considerations are basically sound. If a change is to be made which would increase resettlement opportunities for Cambodian refugees, I think it preferable to work those changes into the present U.S. eligibility criteria, rather than to create an inflexible and discriminatory program for Cambodian refugees.

Mr. Speaker, although well-motivated, the proposed amendment would serve no useful purpose. A fair and nondiscriminatory resolution of the problem of the more than 130,000 refugees in camps throughout Southeast Asia requires a carefully developed program, which takes into account equitable and humanitarian factors as well as foreign policy considerations. A blanket authorization such as the one proposed in the Senate amendment is a totally unsatisfactory way of dealing with the problem. For those reasons, I urge the defeat of the motion offered by the gentleman from Iowa.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the ranking minority member of the Committee of the Judiciary, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. I thank the gentleman from New York for yielding.

Mr. Speaker, I feel confident if the chairman of the Subcommittee on Immigration, Citizenship, and International Law, the gentleman from Pennsylvania (Mr. EILBERG) were here today, he would be echoing the remarks the gentleman from New York has made here today as the ranking minority member on the subcommittee.

I might say the gentleman from New York (Mr. FISH) and the gentleman from Pennsylvania (Mr. EILBERG) and the chairman of the committee, the gentleman from New Jersey (Mr. RODINO), and I had meetings with representatives of the State Department and the Justice Department.

Mr. FISH. May I interrupt at that point. Not only is the gentleman from Pennsylvania (Mr. EILBERG) not here but the chairman of the committee, the gentleman from New Jersey (Mr. RODINO), is not here, and both were taking the position I am taking on the floor.

Mr. McCLORY. That is right.

Mr. Speaker, both the proponents and opponents of this motion are in agreement that something must be done for the Cambodian refugees in Thailand who are unable to qualify under the existing U.S. program for Indochina refugees.

There are two ways to approach this problem—the right way and the wrong way.

The right approach was taken by this body yesterday when it approved an amendment to the Department of Justice authorization bill mandating the Attorney General to consult with the Congress on the development of special eligibility criteria for Cambodian refugees.

The wrong way would be for this body to backtrack from yesterday's action by approving the well intended, but ill-advised, amendment now before the House. This nongermane Senate amendment in the form of a sense-of-Congress resolution is not the proper way for the Congress to legislate U.S. refugee policy. This is particularly true since our policy on the various groups of refugees in Indochina has far-reaching foreign policy implications that are completely ignored by the proposed amendment.

Finally, my colleagues should be reminded that this amendment has nothing to do with the horrible atrocities currently taking place in Cambodia. Despite what may be said by the supporters of the pending motion, I am the first to condemn the brutal terror and horrors perpetrated at the hands of the Khmer Rouge in Cambodia. Nevertheless, this amendment does not condemn that brutality, but instead relates to those refugees who were successful in escaping from that country.

In short, I do not believe that the amendment establishes a fair and equitable policy with regard to the over 100,000 Indochina refugees who are seeking resettlement opportunities in the United States, and I urge defeat of the motion.

(Mr. McCLORY asked and was given permission to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I associate myself with the remarks of the distinguished gentleman from New York.

Having been involved with refugee programs and funding of those in the Appropriations Committee, I think this is terribly important that it be done in an appropriate and orderly fashion. We cannot take one group of refugees and prefer them over another group. We have to really approach it in a way which is nondiscriminatory.

I associate myself with the gentleman's remarks.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for yielding.

I fully support the position of the gentleman from New York, the gentleman in the well on this question, and urge a defeat of the amendment pending before the body.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Ohio (Mr. KINDNESS), a member of the committee.

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. Speaker, I associate myself with the remarks of the gentleman from New York (Mr. FISH) who has so ably explained why this is an unwise move to make today.

I would hope that our colleagues in the House will see the sagacity of what the gentleman has explained to us, that this is not the time to take an emotional step that would do more harm than good.

Mr. FISH. I thank the gentleman for his remarks.

Mr. SMITH of Iowa. Mr. Speaker, I yield 7 minutes to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker and my colleagues in the House, this may well be one of the most morally significant votes which we cast during the course of this session of Congress.

What is at stake here is not simply the fate and the future of 15,000 Cambodian refugees who have languished in refugee camps in Thailand for 4 years now but, in a very significant sense, the conscience of our own country and the extent to which we are prepared to respond in a generous and compassionate fashion to the plight and the problem of these unfortunate people.

Over the course of the last year, President Carter has labeled the government of democratic Kampuchea as the worst human rights violator in the entire world. The Congress of the United States has passed resolutions condemning the continuous killings and the murderous massacres which, at this very moment, are still going on in that unfortunate land.

Mr. Speaker, the time has now come for us to do something, if not for the people who are still trapped in Cambodia, at least for the fortunate few who have managed, at great risk to themselves and their families, to escape from Cambodia. There may, indeed, be very little we can do for the 5 million or more Cambodians who remain in democratic Kampuchea, but there is something we can do for those who have managed to depart.

Mr. Speaker, let us be absolutely clear about what we are talking about this morning. Ever since the fall of Phnom Penh in 1975, Cambodia has been turned into the functional equivalent of an Asian Auschwitz. The estimates are that somewhere in the vicinity of one million people have been deliberately and systematically slaughtered by the new Cambodian Government. There are further estimates that somewhere in the vicinity of up to one million additional people have lost their lives as a result of the policies of the new government.

Over the last 3 years the entire Cambodian culture has been destroyed. Cities have been completely abandoned. Anyone with an education of more than 7 years is marked as an intellectual and pinpointed for execution. Cambodia has, in effect, been turned into one vast concentration camp.

Mr. Speaker, out of this living hell a mere handful of Cambodians, 15,000, have managed to escape. For the last few years now, they have lived in wretched conditions in refugee camps in Thailand, without any hope of ultimate resettlement.

There are today about 140,000 Indo-

chinese refugees from Laos and Vietnam and Cambodia throughout all of Southeast Asia. Our Government, in response to this pressing humanitarian problem, has formulated a parole program designed to admit up to 25,000 Indochinese refugees into our country during the course of the current year. Unfortunately, however, through no fault of their own, practically none of the Cambodian refugees qualify for admission into the United States under the terms of the existing parole program, because they do not have relatives in our country and because very few of them worked for our Government during the time we had a presence in Cambodia prior to the fall of Phnom Penh.

As a consequence, Senator DOLE offered an amendment in the Senate, which was supported by Senator KENNEDY, formerly chairman of the Immigration Subcommittee of the Senate, and ranking Member of the Senate Judiciary Committee, expressing the sense of the Congress that the Attorney General, in consultation with the Congress, should come up with a special parole program designed to permit up to 15,000 Cambodian refugees, 7,500 this year and 7,500 next year, into our country. Those who are opposed to this amendment, which the chairman of the subcommittee has asked us to recede and concur in this morning, take the position that while they sympathize with the plight and problem of the Cambodian refugees, such an amendment would somehow interfere with our efforts to devise a comprehensive reform of our immigration laws, and would constitute an obstacle to the organization of an international conference on Indonchinese refugees designed to deal with the entire problem

I want to make it clear this morning that there is no one—no one—not the supporters of the Dole amendment, not even the administration, who is opposed to either of these worthy objectives. The fact of the matter is that, at this very moment, the administration is engaged in an effort to come up with recommendations encompassing a comprehensive reform of our immigration laws. And at this very moment they are also engaged in an effort to secure the cooperation of other countries in order to call an international conference on Indochinese refugees. But the fact of the matter also is that the adoption of the Dole amendment to provide a special parole for the Cambodian refugees in no way—in no way—need prejudice the possibilities, either for an eventual enactment of a comprehensive reform of our refugee laws, or of the establishment of an international conference on Indochinese refugees.

I might say, by the way, that in terms of what other countries have been doing about this problem, while there is no doubt they could be doing more, the fact is that the other countries of the world to this day have admitted up to 77,000 Indochinese refugees. So no one can fairly say that we have taken the entire burden upon ourselves and that we should refrain from doing anything on behalf of these helpless and homeless people simply because other countries have done nothing when, in reality, they have accepted a substantial number of refugees.

Over the course of the last few decades, we have provided special paroles for the Hungarians, for the Chileans, for the Soviet Jews, and for the Cubans.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Iowa. I yield 2 additional minutes to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman.

And there is absolutely no reason why we cannot do it now for the Cambodians as well.

Some people have asked why we should treat the Cambodians any differently than the other Indochinese refugees? To be sure, the Laotians and the Vietnamese refugees are suffering as well. Indeed, all of the refugees, regardless of their country of origin, are suffering significantly. The difference is that the Cambodian refugees are not merely refugees from repression, they are the survivors of a holocaust. And it is precisely because they are the survivors of a holocaust that we are morally obligated to extend a helping hand to them.

The gentleman from New York (Mr. FISH) says that instead of a special parole for Cambodian refugees, what we should do is to revise the criteria under the existing parole program so that more Cambodian refugees can come into the country. But the problem with this approach is that even if the criteria were revised to permit more Cambodians to come in under the terms of the existing parole, they would only be able to enter in place of other deserving Indochinese refugees, who would otherwise be admitted. And those of us who support the Dole amendment, while we want to help the Cambodians, do not want to help them at the expense of other refugees who are also entitled to our assistance.

I might say it is precisely for this reason that most of the major Catholic and Jewish organizations in the country, Senator DOLE and Senator KENNEDY, and George Meany and the AFL–CIO, have strongly supported the Dole amendment.

Let me just say, in conclusion, that 40 years ago, when the European refugees were banging on the doors of America, because they sensed the catastrophe that was about to fall upon them in Nazi-occupied Europe, we turned our backs on them and did practically nothing while 6 million died. If this amendment is defeated history will tragically have repeated itself. Those who do not study the past are condemned to re-live it.

Let us therefore learn from our previous mistakes and let us not turn our backs on the victims of this new Asian holocaust the way we once did on the victims of the European holocaust.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I want to begin by complimenting my colleague, the gentleman from New York (Mr. SOLARZ), for his deep concern for and commitment to the plight of Cambodian refugees. He has demonstrated his concern articulately and eloquently on the floor.

But, as my colleague from New York (Mr. FISH) has said, the issue is not whether we are concerned with the plight of the Cambodian refugees, because all of us are. The issue is how are we going to deal with this problem. Are we going to deal with this problem in a constructive manner, which will allow Congress to have the maximum input into the decisions of the executive branch, or are we going to sit here and throw up our hands and say, "State Department, you do it."

This resolution calls for the blanket admission of 7,500 refugees. Which 7,500 are going to be picked? After all, there are close to 15,000 refugees now. Who is going to make that decision? Will the Secretary of State or the Attorney General make that decision by fiat?

Will Congress have any say about which refugees are to be admitted?

I think Congress ought to have some say about it. But if the Senate amendment is adopted, we will not have that say.

There are regular procedures by which we allow refugees to come into this country and those procedures have already been set up and are working with respect to Vietnam and Laos. We use these same procedures for other places in the world. The question is not that we will not accept Cambodian refugees, because we will, or whether we will revise the criteria for their admission, because we will; but the question is whether there will be sufficient congressional input into this procedure and whether the absorption of Cambodians will be done in accordance with the priorities set by the Congress, and not be the Secretary of State or Attorney General.

Mr. Speaker, I would urge that we use procedures for the absorption of Cambodian refugees that we have used for the absorption of other refugees, so we can protect congressional prerogatives and make sure the process works efficiently and in a nondiscriminatory manner.

Mr. HEFTEL. Mr. Speaker, will the gentleman yield?

Ms. HOLTZMAN. I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Speaker, I thank the gentlewoman from New York.

Mr. Speaker, I would like to concur in the observations of the gentlewoman that the Congress must take responsibility for determining the conditions and manner in which the Cambodian refugees will come to our country.

I would like to point out some of the specific problems which should be addressed. We find a great number of those Cambodian refugees would understandably come to Hawaii. We find they come with the most frightening medical problems you can conceive of. There is no system now established to meet those extraordinary medical needs. They come with cultural problems far beyond our capacity to handle.

I would hope that the Congress would,

first, not relinquish its authority and responsibility; and second, address solutions to the problems.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for his contribution. The gentleman makes exactly the point I was trying to make before, that is, if this nongermane amendment is adopted, we in the Congress have, in essence, washed our hands of the ability to control and set the priorities over the nature and movement of Cambodian refugees. All we do is turn it over entirely to the executive branch. I think that is a mistake and I think we will regret it.

Mr. WOLFF. Mr. Speaker, will the gentlewoman yield?

Ms. HOLTZMAN. I would be happy to yield to my colleague, the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I thank the gentlewoman from New York (Ms. HOLTZMAN) very much for yielding.

I have a similar compassion for the remarks of the gentleman from New York, the author of this amendment. However, I do believe that this is an international responsibility, and the international community is not meeting that responsibility. Included within this is the international rescue operation and also the Refugee Committee of the United Nations, and they are not meeting their responsibilities.

The SPEAKER pro tempore. The time of the gentlewoman from New York (Ms. HOLTZMAN) has expired.

Mr. CEDERBERG. Mr. Speaker, I yield 5 minutes to the very distinguished gentleman from Georgia (Mr. EVANS).

Mr. EVANS of Georgia. Mr. Speaker, I believe there are several issues raised by this amendment which require clarification.

First, this amendment has nothing whatsoever to do with the brutal atrocities which are currently taking place in Cambodia. I condemn the inhumane actions of the Khmer Rouge, but passage of this amendment will not—and should not be construed—as accomplishing that objective.

Second, this amendment has led some persons to believe that Cambodian refugees in Thailand are currently being exploited and victimized by the Thai Government. While I have no doubt that individual instances of exploitaton have occurred at the hands of local officials I believe we should commend—not criticize—the Thai Government itself for its treatment of refugees from Cambodia and Laos.

I discussed this matter at length with Thai Prime Minister Kriangsak in July during a visit to that country.

Mr. Kriangsak pointed out that in spite of constituent pressure not to accept refugees brought about partially because over 2 million Thai's are unemployed, that his government would continue to accept refugees from Laos, Cambodia, and Vietnam.

Although afraid of starting a resettlement program of refugees within Thailand for many reasons, Mr. Kriangsak did consent to consider a pilot project to be proposed by the United States and to provide work for some of the refugees on a temporary basis. At the very least, it should be noted that refugees are received in Thailand and that there is a policy against forcible repatriation.

In addition, our subcommittee staff visited several refugee camps in both Thailand and Malaysia and I am advised that the conditions in the Cambodian camps are far superior to those in the Vietnamese "boat" camps.

Certainly, this is not to imply that a lengthy stay in any refugee camp is a pleasant experience, but there are numerous Vietnamese refugees floating around the South China Sea in unseaworthy vessels who would be happy to find temporary asylum in any camp in any country.

I am, therefore, somewhat concerned that this amendment, if adopted, could well be misunderstood by the Thai Government as well as other governments in Southeast Asia.

Third, this amendment brings into question the validity of the current U.S. program for Indochina refugees. While the number of refugees to be admitted to the United States can—and should be—the subject of continuing discussion and debate, there is a strong consensus that their admission should be governed by specific criteria.

"Who" can argue that we should give first priority to those who were closely associated with the U.S. Government or who have family ties in this country.

If the current criteria require revision to benefit Cambodian refugees then they should be revised. The answer does not lie in establishing a special "blanket" program for all Cambodian refugees.

Finally, Mr. Speaker, this amendment does not belong in an appropriations bill. In fact, its consideration in this manner detracts greatly from the work of our Immigration Subcommittee and the efforts of my subcommittee chairman (Mr. EILPERG) to establish a fair, reasonable, and comprehensive refugee policy.

For these reasons, I urge the defeat of the motion offered by the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, there are proposals before us from time to time that are gray and unclear, but this one is not gray and unclear in my mind.

I was sitting for a while next to the gentleman from Florida (Mr. BENNETT), who knows more about the history of this Nation than any other Member of the House. And the great moments of this House, of this Nation, have been moments of heart when we have done the compassionate and the right thing. In listening to the debate of my colleague, the gentleman from New York (Mr. SOLARZ), he started to refer to this when we refused to admit the Jews into this Nation. Almost every argument I have heard against admitting the Cambodians is an argument which could have been used against admitting the Jews to this Nation when the Nazis were in power. "We do not have a long-range policy, it is an international responsibility, it is not going to change the persecution in that country"—you can tick off every argument. But, fundamentally, we come down to this: Are we going to let 7,500 helpless human beings into this land, into this rich land of 220 million people? And I know where I come out. I come out on the side of the Dole amendment very, very clearly.

The great moments have been moments of the heart. It has paid us off many, many times.

Every day we write an epitaph. Is the epitaph of this bill going to be those words under the Statue of Liberty, "Give me your helpless, your homeless," or is it going to be, "Do not give me your helpless, your homeless"? And it is fundamentally that simple.

I personally am not going to turn down the plea of people who need help. Let us do the right thing. Let us support the motion of the gentleman from Iowa. Let us support the action of the Senator from Kansas. Let us help some people who need our help, and we will be a richer Nation, not a poorer Nation, for doing it.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding, and I wish to associate myself with the gentleman's remarks.

Mr. Speaker, I simply want to comment on the remarks of my dear friend, the able gentleman from New York, who recently said that this is an international problem. And I take it we should wait for an international solution.

It is interesting, to me, that when we talk about economics, however, we assert that we are the leader, that this country is the leader in world economic stability. We initiate the International Monetary Fund, we initiate the World Bank, we take the lead in these things. It seems to me that in this very humanitarian effort we should be the leader, too.

Mr. SIMON. I commend my colleague and I concur with him completely.

Mr. SMITH of Iowa. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I wish to associate myself fully with the remarks of the gentleman from New York (Mr. SOLARZ) to urge my colleagues to recede and concur in this amendment to the conference report.

The issue before us is simple: Will the United States act forthrightly, with generosity and compassion, to help the 15,000 who have escaped the holocaust in Cambodia?

Thirty-five years ago, the world turned its back on the pitifully small number of Jews who somehow managed to escape the grip of nazism. Even this great Nation, which went to total war against Hitler, from time to time was indifferent to the war against the Jews. For days, a boatload of Jewish refugees scoured the east coast of the United States seeking a safe harbor. There was none. They were turned back to Europe and to death.

When the horror of the 6 million became fully known at the end of the war,

all peoples of good conscience vowed that never again would this great Nation, and those friends of peace associated with it, acquiesce in genocide.

It was a solemn pledge which bound us and all future generations.

There is genocide in Cambodia today. At least 1 million, and perhaps 2 million Cambodians have perished.

That country, ravaged from years of war, is now being decimated by a vast internal upheaval at the hands of the Khmer Rouge. Their policies are irrational, unspeakable. They are making every effort to utterly destroy all remnants of the society they have seized. Their evacuation of the cities and forced collectivization of the countryside have been systematically marked by mass murders, arbitrary and ruthless violence, starvation, the separation of families, and forced labor.

The Khmer Rouge have placed themselves beyond the pale of humanity.

Fifteen thousand Cambodians have managed to escape to Thailand, where they are languishing in refugee camps. Their presence has created enormous difficulties—humanitarian and political—for the Thais. They need relief.

The Cambodians are seeking a new home. They hold today only the faintest of hopes of beginning a new life out of the nightmare of their holocaust.

This amendment to the conference report brightens that hope. It states that it is the sense of Congress that the Attorney General exercise his authority and parole into the United States 15,000 Cambodian refugees over the next 2 years.

This is the least we can do in the face of the monstrous crimes of the Government of Cambodia against its people. I believe we have a fundamental commitment to assist in whatever way is humanly possible.

I have carefully reviewed the thoughtful—and no less compassionate—arguments of my friend, some of the distinguished members of the Immigration Subcommittee, Mr. EILBERG, and the ranking minority member, Mr. FISH.

They argue that this policy is inconsistent with our immigration laws, which give priority to those who have relatives in the United States or other direct ties with our country. But this is an insuperable barrier to those who need assistance, and is something that should not be allowed to stand. They argue that an ad hoc approach such as this undermines efforts to develop a comprehensive policy for all Indochinese refugees, but there is no holocaust in Laos, and there is nothing similarly compelling in terms of the moral obligation we face in dealing with Cambodia.

In truth I see nothing in this amendment which would complicate or impede the necessary course of action they have proposed for the future: development of a comprehensive refugee policy for all such victims in Indochina, and the initiation of international relief efforts.

What we do now for the Cambodian refugees will not possibly diminish our future assistance to others. But should we let this opportunity pass without acting, it can only prolong this desperate situation.

We cannot, we must not, turn our backs on the victims of this generation's holocaust.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I appreciate the gentleman's eloquent statements, but I think there are some facts which ought to be straightened out. In the first place, those people fled Cambodia, and some of them have been in Thailand, for approximately 3 years.

Mr. SMITH of Iowa. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, at the outset I want to associate myself fully with the eloquent comments of my distinguished colleague from New York (Mr. SOLARZ) and commend him in the efforts he has made in regard to this particular matter before us.

Some few months ago, this Nation went through a great emotional experience in reliving, through the medium of television, the holocaust of Europe of 35 and 40 years ago. I cannot believe, Mr. Speaker, that it is only the holocausts of yesterday that move us. The holocaust that is going on in Cambodia now, and has been going on for the past 4 years, is in design and implementation as fierce and brutal as the holocaust that took place in Europe in the 1930's and 1940's.

A million Cambodians have apparently been systematically executed, and some 15,000 of them have managed to escape. I am one of the fortunate few who escaped the holocaust in Europe, because this country gave me refuge in 1938. I know that the same arguments were being made at that time and subsequent thereto as to why the United States could not or should not meet its moral obligations, because other countries were not meeting theirs.

There were international conferences in which the U.S. representatives argued that when the other nations of the world met their responsibilities, that we would meet ours. I think that in retrospect we recognize the moral bankruptcy of that kind of position for the United States.

Mr. Speaker, I would hope that we would adopt this conference report. There are, I am sure, people on differing sides of political issues in this country who have expressed their public support of this effort. In the Senate of the United States, Senator DOLE and Senator KENNEDY have led the effort. Senator KENNEDY, I may say incidentally, is chairman of the Subcommittee on Immigration of the Senate Judiciary Committee.

Among our citizenry, there are leaders as diametrically opposed on other issues as William Buckley and George Meany, who have expressed their support of this effort.

Ben Wattenberg and Roger Baldwin find themselves on the same side. Just about every human rights, civil rights, and civil liberties organization in this country is supporting this humanitarian effort. It calls for an act of compassion and generosity which will fulfill our highest ideals and our noblest traditions.

I urge the wholehearted support of my colleagues for this resolution.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Speaker, I rise to associate myself with the remarks of the persons who have previously spoken in favor of this special allocation for Cambodian refugees.

Yesterday we took action to help out the citizens of Uganda, the other country where genocide is being practiced. Today is our opportunity to help the refugees from Cambodia.

I urge favorable action.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let us look at exactly what we are doing here. Many people said in Cambodia: "Let the indigents take over. Everything will be beautiful. There will be no blood bath."

The fact of the matter is there was a blood bath.

Now whether we are for or against what we did in Cambodia, everybody says something should be done about these poor refugees. They go out of there in boats. They are in terrible situations. Everybody says that. We have the Senator from Kansas and we have the Senator from Massachusetts and we have the Senator from South Dakota saying we have got to do something about Cambodia. So on August 3 the appropriation bill came up in the Senate and they did something about it. The Senator from Kansas put on this amendment, which is a sense of the Congress resolution that says that special consideration should be given to the plight of the refugees from Cambodia in view of the magnitude and severity of violations of human rights committed by the Government of Cambodia.

This was August 3.

Yesterday in the House, yesterday in the closing days of this session, on comes a little amendment over here to a Judiciary bill that ought to have been passed a year ago, which proposed to set up some kind of criteria. Let me point out that if that bill ever becomes law in this Congress, that will have priority. This is a mere sense of Congress resolution. Why do Members want to wipe out a little sense of Congress resolution that we ought to be concerned about this, just because we had a little amendment yesterday that should become law in the closing days of this session? It is making a mountain out of a molehill. If Members are concerned about the refugees, they ought to vote for the pending amendment. If the other bill becomes law, that will take care of the matter in the way the opponents of this want to do it.

● Mr. DRINAN. Mr. Speaker, I rise in support of the motion to recede and concur with the Senate on an amendment which would express the sense of the Congress that the Attorney General should use his parole authority under the immigration law to admit 15,000

Cambodian refugees over the next 2 years.

The Government of Democratic Kampuchea has been singled out as the world's worst violator of human rights. We have passed resolutions expressing our sense of outrage over what has occurred in Cambodia and have called upon the governments of the world to bring pressure on the leaders of that country so that the slaughter will end. Those who have been able to escape from Cambodia have been languishing in refugee camps in Thailand under debilitating conditions, with little opportunity for resettlement elsewhere.

We must continue to express our moral outrage over the situation in Cambodia, but our words will lose their meaning if not coupled with action to assist the refugees from that country. Our concern for the victims of the Cambodian holocaust should not be devoid of an offer of refuge. Yet under existing immigration law few if any of the 15,000 Cambodian refugees in Thailand have a realistic chance of being resettled in the United States.

The lack of a fair and orderly process for the admission of refugees is the most glaring deficiency in our immigration laws. This absence serves to undermine our human rights policies and leaves us open to criticism for failing to provide admission to the United States for those victims of human rights violations in whose behalf we speak.

The administration, relevant committees of the Congress and many interested organizations have been struggling to bridge the gap between our human rights concerns and our immigration laws. The Subcommittee on Immigration is to be commended for its attention to this problem. The days of hearings which the subcommittee held added greatly to the public debate on how we should proceed in this area.

However, it also became clear that there is no consensus, and many complex and basic issues remain to be settled. Despite the subcommittee's efforts, we will not act on refugee legislation this year. We have passed a bill, which is awaiting the President's signature, that establishes a Select Commission on Immigration and Refugee Policy. But, the findings and recommendations of that Commission are not due until September 30, 1980.

Mr. Speaker, can we expect these Cambodian refugees to wait until that time for our help? Our entire history of responding to emergency refugees situations has been on an ad hoc basis. We all want to see that piecemeal approach replaced with a fair and uniform process, but we must not let our efforts toward that end, serve as an excuse for not responding to the critical situation of Cambodian refugees at this time.

This great Nation is for the most part composed of the descendants of refugees from political, religious and economic oppression. Our outspoken defense of human rights throughout the world will be subject to justifiable criticism as long as we deny entry to precisely those victims of political repression on whose behalf we speak.

I urge my colleagues to recede and concur with the Senate on this amendment so that the Cambodian refugees will know there is substance behind our words, and so that the world community will, hopefully, heed our example in providing resettlement assistance.●

● Mr. HANNAFORD. Mr. Speaker, I commend the Appropriations Committee and specifically Chairman JOHN SLACK of the State, Justice, Commerce, Judiciary, and Related Agencies Subcommittee for the outstanding work on H.R. 12934 granting fiscal year 1979 appropriations to several agencies.

I note with particular satisfaction page 26 of the conference report which outlines the agreement between House and Senate conferees with respect to the termination of the Renegotiation Board.

Specifically, the report appropriates $5,260,000 for the Board to process its backlog of filings by no later than March 31, 1979. When I first began to question and investigate the effectiveness of the Board in May 1977, there were not many who wanted to believe that this agency, which was created on a temporary basis in 1951, should be abolished. But the Board has since that time provided numerous reasons for its own demise. The manner in which this Government agency tried to secure preservation of its own existence by widely publicizing erroneous findings that a defense contracting firm had grossly overcharged the U.S. Government is regrettable. The Agency's defiance of congressional intent by proposing and pursuing regulations for which authorizations were nonexistent cannot be overlooked. I have received reports from businessmen who have been harassed by the Board for obvious reasons and I am hopeful that similar activities will not be engaged by the Board and that it will earnestly and effectively work to reduce the backlog by March 31, 1979, as the Congress has directed.

In thanking Congressman JOHN M. SLACK and Senator ERNEST F. HOLLINGS and their respective subcommittees for piercing reviews of the functions of the Renegotiation Board, let me conclude by saying that this example proves that the U.S. Congress is willing and able to seek out inefficient bureaucracies and to take proper corrective action.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FISH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 105, answered "present" 1, not voting 95, as follows:

[Roll No. 857]

YEAS—231

Addabbo	Fary	Neal
Akaka	Fascell	Nedzi
Alexander	Fenwick	Nolan
Ambro	Findley	Nowak
Anderson, Calif.	Fisher	Oberstar
	Flood	Obey
Andrews, N. Dak.	Florio	Ottinger
	Flynt	Panetta
Annunzio	Foley	Patten
Ashbrook	Ford, Tenn.	Patterson
Ashley	Gephardt	Pattison
Aspin	Giaimo	Pease
AuCoin	Gibbons	Perkins
Bafalis	Gilman	Pickle
Baldus	Glickman	Preyer
Baucus	Gonzalez	Price
Bauman	Gore	Pritchard
Beard, R.I.	Gradison	Pursell
Bedell	Grassley	Quayle
Beilenson	Green	Rahall
Benjamin	Guyer	Railsback
Bennett	Hamilton	Rangel
Bingham	Harris	Regula
Blanchard	Hawkins	Reuss
Boggs	Hightower	Rinaldo
Boland	Hillis	Roe
Bolling	Holland	Rogers
Bonior	Hollenbeck	Rooney
Brademas	Holt	Rosenthal
Brodhead	Hyde	Rostenkowski
Broomfield	Jacobs	Roybal
Brown, Calif.	Jeffords	Santini
Brown, Mich.	Johnson, Calif.	Sarasin
Brown, Ohio	Johnson, Colo.	Scheuer
Buchanan	Jones, Okla.	Sharp
Burke, Calif.	Jones, Tenn.	Simon
Burke, Fla.	Jordan	Sisk
Burke, Mass.	Kasten	Skelton
Burlison, Mo.	Kastenmeier	Smith, Iowa
Burton, Phillip	Kazen	Solarz
Byron	Kemp	St Germain
Carr	Kildee	Staggers
Carter	Kostmayer	Stanton
Cavanaugh	LaFalce	Stark
Cederberg	Lagomarsino	Steed
Chappell	Le Fante	Steers
Clausen, Don H.	Leach	Steiger
	Leggett	Stockman
Clay	Lehman	Stratton
Conable	Lent	Studds
Conte	Levitas	Symms
Corcoran	Lloyd, Calif.	Thompson
Corman	Lloyd, Tenn.	Thornton
Cornell	Luken	Traxler
Cornwell	Lundine	Trible
Crane	McCormack	Tucker
Cunningham	McDade	Udall
Danielson	McDonald	Ullman
de la Garza	McEwen	Vander Jagt
Dellums	McFall	Vanik
Derrick	McHugh	Vento
Derwinski	McKinney	Walgren
Dicks	Maguire	Walker
Dodd	Markey	Wampler
Dornan	Marks	Waxman
Downey	Martin	Weaver
Drinan	Meeds	Weiss
Duncan, Oreg.	Metcalfe	Whalen
Duncan, Tenn.	Meyner	Whitehurst
Early	Mikulski	Wilson, Bob
Edgar	Mineta	Wilson, Tex.
Edwards, Ala.	Minish	Winn
Edwards, Calif.	Mitchell, N.Y.	Wolff
Emery	Moakley	Yates
Ertel	Moffett	Young, Fla.
Evans, Colo.	Mollohan	Young, Mo.
Evans, Del.	Murphy, N.Y.	Zablocki
Evans, Ind.	Myers, Michael	Zeferetti

NAYS—105

Abdnor	Daniel, Dan	Hannaford
Andrews, N.C.	Daniel, R. W.	Hansen
Applegate	Davis	Harsha
Archer	Devine	Hefner
Barnard	English	Heftel
Beard, Tenn.	Evans, Ga.	Holtzman
Bevill	Fish	Hubbard
Bonker	Fithian	Huckaby
Bowen	Flippo	Hughes
Breaux	Flowers	Ichord
Breckinridge	Forsythe	Jenkins
Brinkley	Fountain	Jenrette
Broyhill	Fowler	Jones, N.C.
Burgener	Fuqua	Kelly
Butler	Gaydos	Kindness
Clawson, Del	Ginn	Krebs
Coleman	Hall	Latta
Collins, Tex.	Hammer-schmidt	Lederer
Coughlin		Livingston

Long, La.	Myers, Gary	Skubitz
Long, Md.	Myers, John	Smith, Nebr.
Lott	Natcher	Snyder
Lujan	O'Brien	Spence
McClory	Quillen	Stangeland
McKay	Roberts	Stump
Marlenee	Robinson	Taylor
Mattox	Rose	Treen
Michel	Rousselot	Volkmer
Miller, Ohio	Rudd	Waggonner
Montgomery	Ruppe	Watkins
Moore	Ryan	White
Moorhead, Calif.	Satterfield	Whitley
	Schroeder	Whitten
Moss	Schulze	Wiggins
Mottl	Sebelius	Yatron
Murphy, Pa.	Shuster	

ANSWERED "PRESENT"—1

Collins, Ill.

NOT VOTING—95

Ammerman	Garcia	Pettis
Anderson, Ill.	Goldwater	Pike
Armstrong	Goodling	Poage
Badham	Gudger	Pressler
Biaggi	Hagedorn	Quie
Blouin	Hanley	Rhodes
Brooks	Harkin	Richmond
Burleson, Tex.	Harrington	Risenhoover
Burton, John	Heckler	Rodino
Caputo	Horton	Roncalio
Carney	Howard	Runnels
Chisholm	Ireland	Russo
Cleveland	Keys	Sawyer
Cochran	Krueger	Seiberling
Cohen	McCloskey	Shipley
Conyers	Madigan	Sikes
Cotter	Mahon	Slack
D'Amours	Mann	Spellman
Delaney	Marriott	Stokes
Dent	Mathis	Teague
Dickinson	Mazzoli	Thone
Diggs	Mikva	Tsongas
Dingell	Milford	Van Deerlin
Eckhardt	Miller, Calif.	Walsh
Edwards, Okla.	Mitchell, Md.	Wilson, C. H.
Eilberg	Moorhead, Pa.	Wirth
Erlenborn	Murphy, Ill.	Wright
Ford, Mich.	Murtha	Wydler
Fraser	Nichols	Wylie
Frenzel	Nix	Young, Alaska
Frey	Oakar	Young, Tex.
Gammage	Pepper	

The Clerk announced the following pairs:

On this vote:

Mr. Slack for, with Mr. Eilberg against.
Mr. Murtha for, with Mr. Rodino against.
Mr. Hanley for, with Mr. Krueger against.
Mr. Mitchell of Maryland for, with Mr. Nichols against.
Mr. Biaggi for, with Mr. Burleson of Texas against.
Mrs. Chisholm for, with Mr. Teague against.
Mr. D'Amours for, with Mr. Runnels against.

Until further notice:

Mr. Wright with Mr. Anderson of Illinois.
Mr. Blouin with Mr. Goldwater.
Mr. Ammerman with Mrs. Pettis.
Mr. Howard with Mr. Pressler.
Mr. Dent with Mr. Hagedorn.
Mr. Cotter with Mr. Badham.
Mr. Moorhead of Pennsylvania with Mr. Frey.
Mr. Murphy of Illinois with Mr. Milford.
Mr. Delaney with Mr. McCloskey.
Mr. Dingell with Mr. Young of Alaska.
Mr. John L. Burton with Mr. Sawyer.
Mr. Brooks with Mr. Walsh.
Mr. Russo with Mr. Marriott.
Mr. Shipley with Mr. Madigan.
Mr. Richmond with Mr. Horton.
Mr. Stokes with Mrs. Heckler.
Mr. Van Deerlin with Mr. Caputo.
Ms. Oakar with Mr. Cleveland.
Mr. Pepper with Mr. Edwards of Oklahoma.
Mr. Gammage with Mr. Frenzel.
Mr. Mikva with Mr. Cohen.
Mr. Mazzoli with Mr. Cochran of Mississippi.
Mr. Charles H. Wilson of California with Mr. Wydler.
Mr. Pike with Mr. Wylie.
Mr. Garcia with Mr. Thone.
Mr. Carney with Mr. Quie.
Mr. Diggs with Mr. Risenhoover.
Mr. Ford of Michigan with Mr. Goodling.
Mr. Mathis with Mr. Harrington.
Mr. Mann with Mr. Mahon.
Ms. Keys with Mr. Conyers.
Mr. Ireland with Mr. Dickinson.
Mr. Gudger with Mr. Eckhardt.
Mr. Nix with Mr. Erlenborn.
Mr. Miller of California with Mr. Fraser.
Mr. Harkin with Mr. Seiberling.
Mr. Wirth with Mr. Sikes.
Mr. Tsongas with Mrs. Spellman.
Mr. Roncalio with Mr. Rhodes.

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motions dealing with consideration of the conference report on H.R. 12934.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 165. Joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11488, PUBLIC HEALTH SERVICES PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1655) on the resolution (H. Res. 1390) providing for consideration of the bill (H.R. 11488) to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 14042, DEPARTMENT OF DEFENSE AUTHORIZATIONS, FISCAL YEAR 1979

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1368 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1368

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14042) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield one-half hour to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, as far as I know, there is no controversy at all on this rule. It makes in order the consideration of the Department of Defense bill. It is a 1-hour, open rule.

The rule does provide for the first reading to be dispensed with. That is the only unusual feature. It does contain one waiver, but that is on filing time and I think it is not of importance.

Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Missouri has said, this is a 1-hour, open rule which makes in order H.R. 14042, the Department of Defense Authorization for fiscal year 1979. The first reading of the bill is to be dispensed with in the interest of time, and it is to be read for amendment by titles instead of by sections. Section 402(a) of the Budget Act is waived against the bill because it was reported necessarily after May 15 of this year.

It is my understanding that this legislation is essentially identical to H.R. 10929, the Defense authorization bill vetoed by the President, except in two respects: First, the nuclear aircraft carrier authorization has been deleted, which provides a $1.93 billion reduction for the Navy; and second, $209 million has been added to the authorization for the Navy to cover shipbuilding claims settlements.

Therefore, the total figure authorized in this legislation for procurement of major weapons systems, research and

development, and civil defense is $35,235,969,000. This total is $247,843,000 below the President's initial request.

I am advised also that although there has been some misunderstanding surrounding the objections of the President to the first bill, the Secretary of Defense has testified that the principal problem was the nuclear carrier. Since that item has been removed in the proposed legislation, this measure should be acceptable.

I urge the adoption of this rule and the passage of the bill.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, can the gentleman offer the House any explanation as to why a well-established and time-honored rule of the House requiring the first reading of a bill is to be dispensed with in this instance? This is not a lengthy bill nor a controversial one.

Mr. LOTT. Mr. Speaker, this was discussed in the Committee on Rules, since this is the first one of several rules that it was done on, and it is purely just in the interest of time. The intent was to move this legislation through as quickly as possible, since it is basically noncontroversial and since we do have a number of pieces of legislation we are going to try to complete in the next 2 weeks.

I addressed the same question the gentleman asked to the gentleman from Missouri in committee, and the answer was the explanation I just gave the gentleman.

Mr. BAUMAN. If the gentleman will yield further, the membership, whose lives and political fortunes are governed by the rules of the House, have seen demonstrated in the Committee on Rules in this Congress a tendency to report out such esoteric rules which in fact waive the established rules of the House, instead of going to the trouble of amending the House Rules. Rules are in fact waived repeatedly, to get around established procedures that are there to protect the majority and the minority, not any particular minority—it could be political, it could be ethnic, it could be geographic. I think if the Rules Committee wants to take unto itself the suspension of established rules in various instances they should have the courage to report out a permanent rules change. This is a minor matter in the whole picture, but it is another confirmation of what the tyranny of the majority can foist upon the House, nibbing bit by bit, the net effect being a much broaded reduction of the rights of all the Members.

Mr. LOTT. That is why I made mention of it, rather than just let it go by. But we are very pleased to have the gentleman from Maryland on the Committee on Rules, and I am sure he will help us avoid this kind of thing in the future.

Mr. Speaker, I have no further requests for time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 1613, MAGISTRATE ACT OF 1978

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1322 and ask for its immediate consideration.

The Clerk read the resolution as follows:

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

H. RES. 1322

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1613) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments, as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committe of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. DODD. Mr. Speaker, House Resolution 1322 provides for the consideration of S. 1613, the Magistrate Act of 1978. This resolution provides for an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and Banking minority member of the Committee on the Judiciary. The resolution also waives all points of order against the bill for its failure to comply with the May 15 deadline for reporting authorizing bills which is contained in section 402(a) of the Congressional Budget Act. In addition, the resolution provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule. Finally, the resolution provides for one a motion to recommit with or without instructions.

Mr. Speaker, the purpose of S. 1613 is to amend the current jurisdictional provisions for U.S. magistrates in order to further clarify and expand the jurisdiction of U.S. magistrates and improve access to the Federal courts for the American public. S. 1613 would provide that upon consent of the parties, a full-time U.S. magistrate may conduct any or all proceedings in a jury on nonjury civil matter and order the entry of judgment in the case when specially designated by the district court he serves and where the parties to the litigation consent to the exercise of such manner as the magistrate. Further, the bill expands the present power of magistrates to dispose of certain less serious criminal cases by including all Federal misdemeanors within that jurisdiction; however, any person charged with a misdemeanor may elect to be tried before a district court judge rather than a magistrate.

Finally, the bill would establish a new process for selecting magistrates in which the court would select magistrates from a candidate list recommended by a magistration selection panel of five or more members representing a cross section of the legal profession and the community.

Mr. Speaker, the provisions of this bill grew out of extensive oversight and investigative hearings conducted by the Subcommittee of Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary. The subcommittee found that while the magistrate system established by the act of Congress in 1968 has worked well, S. 1613 answers certain jurisdictional questions which have arisen as a result of ambiguities in the original act.

Mr. Speaker, I request that we adopt House Resolution 1322, so that we may proceed to the consideration of this important bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of S. 1613, the Magistrate Act of 1978. Under this rule the bill will be open to all germane amendments.

The rule includes one waiver of the Budget Act. Section 402(a) of the Budget Act provides that it will not be in order to consider an authorization for a fiscal year unless that authorization has been reported by May 15 preceding the beginning of that fiscal year. Since this bill was not reported by May 15, 1978, and contains fiscal year 1979 authorizations, it would be subject to a point of order under section 402(a) of the Budget Act.

The chairman of the Budget Committee has written a letter stating that it is his understanding that the Committee on the Judiciary will offer a floor amendment striking the fiscal year 1979 authorizations, thereby curing the existing Budget Act violation. With this understanding the Rules Committee agreed to the Budget Act waiver.

In order to preserve the normal amending process the rule makes the committee substitute in order as an original bill for the purpose of amendment.

Mr. Speaker, the primary purpose of the bill made in order by this rule is to expand the jurisdiction of U.S. magistrates.

The Congressional Budget Office estimates that enactment of this bill will cost $1,000,000 in fiscal year 1980.

The Committee on the Judiciary reported the bill by a vote of 23 to 7.

The Rules Committee reported the rule by a voice vote.

Mr. Speaker, I support the rule so that the House may proceed to debate the issues in the bill.

Mr. DODD. Mr. Speaker, I have no further requests for time.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. DODD. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13059, WATER RESOURCES DEVELOPMENT ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1325 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1325

Resolved. That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13059) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. Upon the passage of H.R. 13059, the bill H.R. 8309 shall be considered as having been taken from the Speaker's table with the Senate amendments thereto, Senate amendments numbered 1, 4, 5, 6, and 7 shall be considered as having been disagreed to, Senate amendments numbered 2 and 3 shall be considered as having been agreed to, Senate amendment No. 8 shall be considered as having been concurred in with an amendment inserting in lieu of said Senate amendment the text contained in H.R. 13059 as passed by the House, and the House shall be considered as having insisted upon disagreement to Senate amendments numbered 1, 4, 5, 6, and 7, and having insisted upon its amendment to Senate amendment No. 8 and having requested a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), and pending that I yield myself such time as I may consume.

Mr. Speaker, this is an extraordinarily complicated rule which is designed to accomplish a relatively simple purpose. It was an agreed-upon rule; that is, it was suggested by all the people involved that this rule be the rule reported by the Rules Committee.

First, it is an open rule providing for 1 hour of general debate. An amendment in the nature of a substitute was recommended by the Committee on Public Works and Transportation now printed in the bill, which shall be considered as an original bill for the purpose of amendment. There are two waivers. I do not believe either of them is controversial; one of them is on the reporting requirement of May 15, and another is to protect a section of the committee substitute which would not be germane to the original bill.

The really unusual thing about the rule is that it provides that this bill be taken up in conjunction with H.R. 8309, the Navigation Development Act, which now is in conference. As the Members will recall, H.R. 8309 authorizes the replacement of locks and dam 26, and also imposes waterway user tax. The Senate amended this bill be adding an omnibus public works title.

To achieve equal status in conference for the House, the House would provide its own version for the authorization of public works projects. We now have the House Public Works Omnibus bill, H.R. 13059, which is made in order by this resolution. It seems to me that this is a sensible way to do business with the Senate, and I therefore urge adoption of the rule.

Mr. BAUMAN. I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1325 provides 1 hour of general debate for the consideration of H.R. 13059, the Water Resources Development Act of 1978. The waivers and provisions of this rule are so complicated that such confusion has not been visited upon man since the incident at the Tower of Babel. At Babel the problem was languages, in this case the problem is parliamentary gimickry.

House Resolution 1325 first waives section 402(a) of the Congressional Budget Act of 1974. Section 402(a) provides that it shall not be in order to consider any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported on or before May 15 preceding the beginning of such fiscal year.

Various sections of the bill as introduced would authorize, directly and indirectly, the enactment of new budget authority for fiscal year 1978 and fiscal year 1979. Since the bill was not reported on or before May 15, 1977 or May 15, 1978, it would be subject to a point of order under that provision of the Budget Act.

However, in markup the Committee on Public Works and Transportation adopted an amendment in the nature of a substitute, making any new authorization effective October 1, 1979, thereby curing the existing Budget Act violation. Since a point of order would still be against the original bill, a waiver of section 402(a) is necessary in order to permit consideration of the bill by the House.

The rule further waives all points of order against the substitute for failure to comply with the provisions of clause 7, rule XVI, which is the germaneness rule. An excellent example of the type of provision that makes this waiver necessary is section 166 of H.R. 13059. Section 166 authorizes the design and construction of a memorial in commemoration of the service of the U.S. Army Corps of Engineers. Although I have the highest regard for the work of the Army Corps of Engineers, this provision does not belong in a water resources development bill. The Committee on Rules must stop its continual refutation of the rules of the House by constantly waiving such points of order.

The rule further provides that upon passage of H.R. 13059, the bill H.R. 8309, including the Senate amendments thereto, shall be considered as having been taken from the Speaker's table. Senate amendment No. 1, deals with the construction of lock and dam 26, the creation of an Upper Mississippi River System Council and a directive for that Council to prepare a comprehensive master plan to manage the Upper Mississippi River System. This amendment shall be considered as having been disagreed to. Senate amendments 4, 5, and 6 deal with the imposition of a user tax fee. They shall also be considered as having been disagreed to under the provisions of House Resolution 1325. Finally, Senate amendment No. 7 authorizing the study originally authorized in the House version of H.R. 8309, shall be considered as having been disagreed to under this rule.

Senate amendments 2 and 3 are similar amendments dealing with the Alabama-Coosa Rivers and the Black Warrior-Tombigbee Rivers respectively. Both shall be considered as having been agreed to under the provisions of House Resolution 1325. Most importantly, Senate amendment No. 8, to H.R. 8309, shall be considered as having been concurred in with an amendment. The amendment shall insert, in lieu of the Senate amendment, the text of H.R. 13509, as passed by the House. Finally, the rule provides that the House shall request a conference with the other body concerning these matters.

Mr. Speaker, the provisions I have just explained are not only complicated, the whole procedure is slightly irregular. I would like my colleagues to note that this is not the usual methodology and I would like them to be aware of that fact when they vote on this rule. I intend to vote against House Resolution 1325 and encourage the other members of this body to do the same.

Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13750, INTERNATIONAL SUGAR AGREEMENT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1354 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1354

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections, and each title of the bill shall be considered as having been read: *Provided*, That it shall be in order to consider the amendment recommended by the Committee on Ways and Means to title I now printed in the bill prior to the consideration of the amendment recommended by the Committee on Agriculture to said title now printed in the bill; that it shall be in order to consider en bloc the amendments recommended by the Committee on Agriculture to title II now printed in the bill prior to the consideration of the amendment recommended by the Committee on Ways and Means to said title now printed in the bill; and that it shall be in order to consider en bloc the amendments recommended by the Committee on Agriculture to title III now printed in the bill and then to consider en bloc the amendments recommended by the Committee on Ways and Means to said title now printed in the bill. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. ST GERMAIN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Let the Chair at this time recognize the gentleman from Louisiana (Mr. LONG).

Mr. ST GERMAIN. Mr. Speaker, I have made my point of order.

The SPEAKER pro tempore. There is nothing pending before the Chair.

The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1354 provides for the consideration of the bill H.R. 13750, the Sugar Stabilization Act of 1978. This legislation furnishes authorization to implement the International Sugar Agreement between the United States and foreign countries, to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry, to promote the export trade of the United States, and for other purposes.

The need for this legislation is most urgent. H.R. 13750 is designed to achieve price stability and offer necessary relief to American sugar farmers. Since 1974, when the Sugar Act expired, our Nation has been without a consistent, ongoing sugar policy. Soon after the expiration of the act, in 1975, sugar prices began to drop drastically. In early 1977, the U.S. International Trade Commission reported to the President that sugar imports were threatening serious injury to the domestic sugar industry.

Adequate relief has not been provided. America is one of the world's largest sugar-importing nations. We produce only about one-half of our domestic sugar requirements. Thus we are dependent upon foreign imports, and a widely fluctuating market has adverse impacts on both American sugar consumers and producers.

It is imperative that the continued viability of the American producers of sugarcane and beets be encouraged. It is important to our national interest, and thus this legislation which provides for a comprehensive and equitable sugar policy is desperately needed.

The economy of half my congressional district relies heavily upon the sugar industry. In fact, approximately 25,000 persons in the State of Louisiana depend directly upon our State's sugar industry for their livelihood. Sugarcane is not a crop that can be planted one year and not the next. Sugarcane farming is a life vocation, requiring vast outlays of capital for machinery and land. It is also an enterprise that depends upon a stable labor force.

Many, many unskilled workers and their families in south Louisiana rely upon sugarcane farming for their only source of income. Because of the topographic nature of the land, much of the sugarcane acreage is not suitable for the production of other crops. If the growers of sugarcane go out of business in south Louisiana, thousands of families now engaged in sugarcane farming activities will have nowhere to turn but the welfare rolls.

House Resolution 1354 provides for an open rule and is supported by the Committee on Agriculture and the Committee on Ways and Means. There will be 2 hours of general debate with each of the committees of jurisdiction controlling 1 hour. H.R. 13750 was jointly referred to the Committees on Agriculture and Ways and Means. While the Agriculture Committee has jurisdiction over agriculture policy in general, jurisdiction over reciprocal trade agreements falls to Ways and Means. A key element of the sugar policy encompassed by this legislation is implementation of the International Sugar Agreement. Thus, Ways and Means shares jurisdiction over H.R. 13750 with the Committee on Agriculture.

The only substantial differences between the two committees' versions of the bill are related to title II, which establishes a price objective for sugar and provides the means for implementing that objective, primarily through import quotas. Let me stress that the two versions differ greatly in this respect. In essence, the Agriculture Committee recommends a price objective for the 1978 sugar supply year of 16 cents per pound. As a Member from one of our Nation's leading sugarcane producing States, I should like to point out that this price is below the cost of production for many sugar farmers. In my own State of Louisiana, the cost of production of sugarcane sugar averages 17.5 cents per pound, far higher than the 15.2 cents per pound estimated by the U.S. Department of Agriculture.

The Agriculture Committee bill also provides for the price objective to be adjusted, beginning with fiscal year 1978, to follow changes in the parity index and wholesale price index, as was the case for many years under the Sugar Act. In other words, the price adjustment will follow inflation factors. When inflation subsides, the price adjustment will not be necessary. In addition, the Agriculture Committee provides for the price objective to be reached through mandatory quotas and import fees, when the world price is below the price objective.

In contrast, the Committee on Ways and Means has recommended a price objective of 15 cents, achieved in part through Government payments rather than through the marketplace. Authority for the imposition of quotas is at the discretion of the administration, under the provisions of the Ways and Means bill.

House Resolution 1354 is fair and equitable. It provides for a clear-cut vote between the two positions presented by the Committees of jurisdiction. The bill will be read for amendment by titles instead of by sections, and the order of amendments is established by the rule. Since there is no substantive amendment to title I by the Committee on Agriculture, and there is no disagreement between the two committees, with regard to the provisions of that title, the amendment to H.R. 13750 proposed by the Committee on Ways and Means shall be offered first.

With regard to title II, however, which represents the major difference between the two committees and establishes our national sugar pricing policy, the amendments by the Committee on Agriculture shall be offered en bloc prior to the consideration of the amendment recommended by the Committee on Ways and Means. The same procedure will be followed in considering title III which deals with farm labor protections. The Ways and Means Committee did not assert jurisdiction over this title and made only minor technical changes, separating labor and nonlabor provisions into separate title III and IV. The Ways and Means amendments will be offered after the amendments of the Committee on Agriculture have been offered.

This rule also provides for one motion to recommit. It offers a fair and equitable opportunity for the House to work its will in developing a national sugar policy. The subject of this legislation should be immediately addressed by this body. I therefore urge the adoption of

House Resolution 1354 so that we may move on to consideration of H.R. 13750, the Sugar Stabilization Act of 1978. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 2 hours of general debate for the consideration of H.R. 13750, the Sugar Stabilization Act of 1978. The time will be equally shared by the two committees that worked on this bill, the Committee on Agriculture and the Committee on Ways and Means.

Following a practice started in the Rules Committee early in September, the rule provides that the first reading of the bill will be dispensed with. In addition the bill will be considered for amendment by titles, and each title will be considered as having been read.

The rule further provides the order in which the committees involved may offer amendments to each title. When title I is considered, it will be in order to consider the Ways and Means Committee amendment prior to the Agriculture Committee amendment.

When title II is considered, it will be in order to consider en bloc the Agriculture Committee amendments prior to the Ways and Means Committee amendment.

And when title III is considered, it will be in order to consider en bloc the Agriculture Committee amendments prior to the Ways and Means Committee amendments which will also be considered en bloc.

Mr. Speaker, the bill made in order by this rule has a dual purpose. It would provide for the implementation of both the International Sugar Agreement between the United States and foreign countries and a domestic sugar program.

Mr. Speaker, the Agriculture Committee reported this bill by a vote of 37 to 7. The Ways and Means Committee reported its version by a voice vote. And the Rules Committee reported the rule now before the House by a voice vote.

I support the version reported by the Agriculture Committee and urge the Members to do likewise.

● Mr. VANIK. Mr. Speaker, I support the resolution from the Rules Committee providing for the debate and amendments to H.R. 13750, the International Sugar Stabilization Act of 1978. The consideration of jointly referred bills is always difficult, but I believe that this rule will give the House a clear and understandable way of voting on the enormous differences between the Agriculture and Ways and Means Committees' versions of this legislation.

The major differences between the two committees lie in title II. It is my understanding that under the rule, the Ways and Means version of title II will be in order as a substitute for the Agriculture Committee's title II. Prior to the vote on replacing the Agriculture version with the Ways and Means version, the Ways and Means substitute will be open to amendments from the floor. If the Ways and Means substitute fails, then the Agriculture Committee's version of title II will be open for amendment from the floor before the final vote on it.

I would like to take a moment to discuss the importance of the vote on these substitutes.

The vote on title II presents perhaps the clearest vote of the year on a way to control food inflation, since the Ways and Means Committee's bill is about $3.5 billion less costly to consumers than the Agriculture Committee's bill.

According to the Department of Agriculture, the Ways and Means/administration proposal over 5 years will provide producers a return on land and management above costs of $955 million compared to the $2.9 billion in increased profits provided by the Agriculture Committee bill. The increased cost to consumers and users over the 5 years under the Ways and Means Committee substitute will be about half a billion compared to nearly $4 billion under the Agriculture bill. Of course, a lot of this will be recovered to the Treasury through increased tariffs on sugar. Thus, the net cost to users and taxpayers is $200 million under the Ways and Means bill but nearly $2 billion under the Agriculture bill. The cost of production in America includes land use at present, appreciated value rather than original purchase or investment cost. This provides producers with an extra profit leverage.

In a year in which inflation is the No. 1 concern of the American public, I do not believe that we can in good conscience enact the Agriculture Committee's costly and ever more inflationary sugar bill.

The vote on title II is also important, because I firmly believe that the President will veto any legislation above the 15 cents/no-escalator level contained in the Ways and Means bill. If Members want to enact sugar legislation then they should support our proposal. A vote for higher price objectives and escalator clauses may make good reading in the hometown agricultural newspapers, but it is actually a vote to deny a sugar program.

The vote on title II will be one of the most important test votes of the year on anti-inflation and consumer issues. I support this rule which makes a clear-cut decision on this issue possible. At this point in the RECORD, I ask permission to insert a table showing the differences between the two bills by title and by cost:

BRIEF SUMMARY OF SUGAR LEGISLATION AND MAJOR DIFFERENCES BETWEEN COMMITTEES

Pages	Title	Agriculture Committee	Ways and Means Committee
2–6	Title I	Implements International Sugar Agreement designed to stabilize world prices in 11 to 21¢ range.	Language very similar.
7–34	Title II	Increases price of imported (and thus domestic) sugar to 16¢, beginning Oct. 1, 1978, through quotas and import fees. 16¢ to be adjusted semi-annually beginning Oct. 1, 1979, for changes in Wholesale Price Index and Parity. Expected to reach 21.2¢ by 1983.	Increases price to 15¢, but does not adjust this price in future. Duties are used to achieve price; if duties not working, then quotas may be used. Duties and quotas may be adjusted quarterly.
		Also, prohibits imports of refined sugar and provides for quotas on sugar containing products such as candies (and others which threaten 16¢ (as adjusted) price objective).	Sugar-containing products may be brought under duty or quota after investigation by ITC.
			Committee relies on administration commitment to use existing law to provide direct payments to processor/producers to cover changes in cost of production above 15¢.
34–40	Title III	Farm labor provision sets wages for next 5 yr provides protections for workers from harrassment, company store abuses. Provides for USDA enforcing wage/labor provisions.	(Took no action on this provision, yielding to jurisdiction of Agriculture Committee and retaining language as a part of the bill.)
41–45	Title IV	General provisions providing for jurisdiction of courts, prohibitions in sugar investments by government officials administering program, surveys and investigations, continuation of sugar loan program for crop year 1978, and termination of act at end of 1982 crop year (Sept. 30, 1983).	Generally similar.

	Agriculture Committee version					Ways and Means Committee version				
	1978–79	1979–80	1980–81	1981–82	1982–83	1978–79	1979–80	1980–81	1981–82	1982–83
Impact on food CPI (percent)	0.14	0.33	0.46	0.58	0.71	0.04	0.04	0.04	0.04	0.04
USDA estimated market price objective (price at which sugar may be imported) (cents per pound)	16.0	17.9	19.2	20.5	21.8	15.0	15.0	15.0	15.0	15.0
Established price (direct payments equal established price minus raw sugar world price) (cents per pound)	(1)	(1)	(1)	(1)	(1)	15.0	15.0	16.0	17.0	17.9
Raw sugar world price (cents per pound)	16.0	17.9	19.2	20.5	21.8	15.0	15.0	15.0	15.5	17.5
User/consumer costs, total sugar expanse (in millions)	$4,609	$5,077	$5,462	$5,869	$6,258	$4,428	$4,527	$4,597	$4,840	$5,406
Difference between bills						−181	−550	−865	−1,029	−852
Net to user/taxpayer (after receipts from tariffs subtracted)	$3,891	$4,423	$4,924	$5,373	$5,810	$3,798	$4,029	$4,364	$4,775	$5,342
Difference between bills						−93	−394	−560	−598	−468

[1] Not applicable.

Note: Total—User/consumer savings of Ways and Means bill over Agriculture bill: $3,477.

● Mr. CONTE. Mr. Speaker, I wish to take this opportunity to express my outrage at this attempt to protect one of the most exclusive special interests we have in operation in this country, the sugar producers.

This exclusive club includes such notables as Democratic-fund-raiser, Stewart Mott; the Great Western, which is owned by the heirs of the late Texas billionaire, H. L. Hunt; not to overlook the "struggling little corporations" in the sweetner business such as Heinz, Anheuser-Busch, and A. E. Staley. All these firms, and numerous others, stand to pocket the giveaway contained in this special interest legislation.

This proposal is known as the Sugar Stabilization Act, but decoded, this merely means a stabilization of the enormous profits reaped by the major sugar growers-processors, and a destabilization of the family budget. It seems inconceivable that, at this time of double-digit inflation, the proponents of this "sweet little deal" would expect this body to rubber stamp another raid on the consumer's thread bare pockets. The immediate impact on the consumers would be most dramatic, if the special interests were to "sweet talk" their way through this debate. The proposal would result in almost $800 million annually in increased costs. The most obvious question is: For what? The rationale behind this scheme is that the domestic producers must have this windfall in order to stay in business. I hardly believe that the Dole Corp. needs this additional bonus, nor does Heinz or Anheuser-Busch, and these are the giant corporations that stand to benefit the most from this consumer raid.

Mr. Speaker, the Members of this body should realize what we are "propping-up" with this proposal. Current world price for sugar is 7 cents per pound. The current "artificial" price we give our domestic producers is 13.5 cents per pound. We are now asked to raise this to a minimum of 16 cents per pound, with the inevitable end result of 22 cents per pound within 4 years. I suggest that if our domestic market which includes those "struggling" producers as Dole, Anheuser-Busch, and Heinz cannot make it with a price that is double the world price, then we should consider allowing the world market to supply our hard-pressed consumers, and let the producer redirect their efforts.

In reality, I do not see these domestic giants going out-of-business, but I do see the American consumer being hit over the head with another increase in the disastrous rate of inflation. Since sugar is a staple for so much of our domestic food supply, the effect of this increase does not warrant us giving more, and more, to the domestic conglomerates and the Hawaiian giants, who just grow fatter and fatter.

This debate should make it crystal clear that the consumers are being "beet" over the head again, for the exclusive benefit of a fat industry, an industry with an insatiable "sweet tooth," the sugar producers. I urge my colleagues to carefully consider the arguments being presented today, for you will undoubtedly have to explain them again before the American electorate in the weeks to come.

Thank you, Mr. Speaker.●

● Mr. STEERS. Mr. Speaker, I would like to express my serious concern about H.R. 13750, the Sugar Stabilization Act of 1978 as drafted by our esteemed colleagues on the House Agriculture Committee.

Consideration of this matter comes at a time when inflation has been justly recognized as the No. 1 domestic problem, and food prices have been rising at a 16.5 percent annual rate during 1978. As a matter of fact, for the entire 10-year period from 1967 to 1977, food price increases have exceeded the overall inflation rate by about 1 percent annually. The Council on Wage and Price Stability has justifiably targetted food price increases as a "special inflation problem" The raw sugar support price which has been adopted by the Agriculture Committee would have a devastating effect on food prices, and therefore, on consumers. For the benefit of my colleagues. I would like to offer an editorial entitled "Too Sweet for Consumers" which appeared in the September 28, 1978, issue of the Washington Star. This editorial captures the essence of the issue and the domestic and international economic context in which it must be considered:

TOO SWEET FOR CONSUMERS

The Sugar Stabilization Act scheduled to come before the House this week would be more appropriately named the "Consumer Rip-off Act."

The White House estimates the legislation drafted by the House Agriculture Committee would cost consumers $4 billion over the next five years. A congressman who spoke out against it the other day—Rep. Dave Stockman, R-Mich.—estimates the five-year cost to consumers could reach $6 billion.

Ostensibly the bill is designed to help some 13,000 U.S. sugar growers. In fact, the biggest beneficiaries would be some two dozen corporations that dominate the sugar industry. The bill for this federal largesse would be paid by 216 million U.S. consumers.

The bill would raise the raw sugar support price from 14 cents a pound to 16 cents and would provide for quarterly increases through 1983. Representative Stockman claims the quarterly escalator provision could send the raw sugar price skyrocketing to 25 cents a pound by 1982.

The bill also would require more extensive use of quotas and fees to limit sugar imports in order to keep the price of U.S.-produced sugar artificially high. Erecting such additional barriers to foreign sugar not only could be disastrous to the recently negotiated International Sugar Agreement, which is designed to stabilize the world price of raw sugar, but it also might seriously hamper the U.S. effort to open foreign markets to more U.S. agricultural products.

The Ways and Means Committee has prepared a substitute bill which would establish a support price of 15 cents a pound and eliminate the quarterly escalator provision of the Agriculture Committee bill. Even this is above the administration's recommendation of a 14.5 cents-a-pound price support floor, but it's infinitely better than the Agriculture Committee's bill and a similarly inflationary sugar bill already passed by the Senate.

In a letter to members of the House, the director of the administration's Council on Wage and Price Stability, Barry Bosworth, protested that the Agriculture Committee's bill could have serious effects on White House efforts to restrain inflation. "If we are to be successful in moderating inflation, the trend of enacting special interest legislation that raises consumer prices must be reversed," he said.

The question members of the House ought to ask themselves is: Whose interests are upper-most—13,000 sugar growers (of which a couple of dozen corporate giants will benefit the most) or 216 million consumers who already are staggering under the impact of runaway food prices?

Although I cannot speak for the interests of 216 million consumers, I will represent the consumers of Montgomery County, Md., and I respectfully urge my colleagues to join me in opposing the inflationary legislation which has been reported from the Agriculture Committee and in supporting an alternative which is fair to domestic sugar producers and American consumers.●

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 11545, MEAT IMPORT ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1343 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1343

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11545) to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate move in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I ask unanimous consent to change the word "move" on page 2, line 10, to the word "vote."

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), and pending that, I yield myself such time as I may consume.

I know of absolutely no controversy over this rule, and I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule making in order the consideration of H.R. 11545, the Meat Import Act of 1978. The first reading of the bill is to be dispensed with, and the Ways and Means Committtee substitute now printed in the bill as an original bill is made in order for purposes of amendment. The rule permits a motion to recommit with or without instructions.

H.R. 11545 provides a countercyclical adjustment formula that would be applied to a base amount of imported meat so that the total amount is constricted during periods of high domestic beef production and expanded when such production is low. In no instance may the amount of imported meat be restricted to less than 1.2 billion pounds annually. The quota applies to fresh, chilled, or frozen processed beef and veal and to fresh, chilled, or frozen cattle, goat, and sheep meat. This quota does not apply to canned, cooked, or cured processed beef and veal. The President is authorized to increase or curtail quotas based on fluctuations in a composite price index.

The Ways and Means Committee has estimated that there will be no loss in revenue or other costs invloved with enactment of this legislation.

Mr. Speaker, as everyone is aware, there have been many problems with the cattle industry in recent years. These problems are gradually working themselves out, but the primary victim has been and still is the producer himself. He has practically no control whatsoever over the market price he receives for his efforts, yet he very often receives the entire blame for rising beef prices. This is patently unfair.

Although this legislation today will not cure all of the cattle farmers' ills, it will contribute to their ability to recover and stabilize the industry, thus benefitting the consumer. I strongly urge the adoption of this rule and the passage of this legislation.

● Mr. VANIK. Mr. Speaker, I support the resolution from the Rules Committee providing for debate and amendments to H.R. 11545, the Meat Import Act of 1978.

Under current law, import quotas for meat are highest when domestic production is high and supplies are plentiful. The quotas are lowest when domestic production is low and supplies are tighter. Within the time frame of a cattle cycle, this law has operated in a manner not complimentary to supply and demand conditions in the U.S. market.

The countercyclical method of determining imports and the other major provisions of H.R. 11545 amend the Meat Import Act of 1964 for the purpose of stabilizing U.S. beef and veal production and prices at levels adequate to provide a fair return to domestic producers of beef and veal, and to insure U.S. consumers of beef and veal adequate supplies at reasonable, stable prices.●

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 10909, CLINICAL LABORATORY IMPROVEMENT ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1348 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1348

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10909) to amend the Public Health Service Act to revise and strengthen the program under that Act for national standards for and licensing of clinical laboratories, to amend the Social Security Act to require laboratories providing services financed under titles XVIII and XIX of such Act to meet the requirements of such program, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce and one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule by titles instead of sections, and each title of the bill shall be considered as having been read. Prior to the consideration of the amendment recommended by the Committee on Ways and Means or of any other amendment to title I of the bill, it shall be in order to consider en bloc the amendments recommended by the Committee on Interstate and Foreign Commerce to that title now printed in the bill, and prior to the consideration of any other amendment to title II of the bill, it shall be in order to consider en bloc the amendments recommended by the Committee on Ways and Means to that title now printed in the bill. If the amendment recommended by the Committee on Ways and Means now printed in the bill striking out section 202 and inserting a new section 202 if adopted, the amendments recommended by the Committee on Interstate and Foreign Commerce to that section now printed in the bill shall not be considered. No other amendment to the bill or to the committee amendment now printed in the bill shall be in order except pro forma amendments for the purpose of debate and amendments printed in the Congressional Record at least two legislative days prior to their consideration. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 10909, the Committees on Interstate and Foreign Commerce and Ways and Means shall be discharged from the further consideration of the bill S. 705, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 10909 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, I would like to ask the gentleman from Maryland (Mr. BAUMAN) a question. Would the gentleman feel I should explain this rule or could we pass it on and put it in the RECORD?

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, the gentleman from Maryland has a continuing, abiding and implicit trust in the gentleman from Missouri and I am sure if he would like to insert his statement, it would cause no problem to the gentleman from Maryland.

Mr. BOLLING. Mr. Speaker, I thank the gentleman from Maryland.

Mr. Speaker, House Resolution 1348 provides for the consideration of H.R. 10909, the Clinical Laboratory Improvement Act of 1978. This rule is complicated in that two committees are involved, the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means. House Resolution 1348 is a modified rule providing for 1 hour of general debate; one-half hour to be divided between the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the other half hour to be divided between the same designees from the Committee on Ways and Means. The rule also provides that the bill be read for amendment by titles instead of by sections.

The rule also waives points of order that could be brought against H.R. 10909 for failure to comply with section 401(a) of the Congressional Budget Act, which prohibits unauthorized appropriations. Section 101(a) of the bill would authorize the Secretary of HEW to enter into agreements with certain States and public or nonprofit private entities, to provide financial assistance with respect to various clinical laboratories. Since this section fails to limit the availability of such contract authority, the bill would be subject to a point of order under section 401(a) of the Budget Act. In a letter to the Committee on Rules, however, Chairman GIAIMO of the Budget Committee indicated that the committee had no objection to granting the waiver because the Committee on Interstate and Foreign Commerce will offer a floor amendment limiting any new contract authority to such extent or in such amounts as are provided in advance in appropriations acts, thus curing the violation.

Title I of H.R. 10909—Public Health Service Act amendments and clinical laboratory studies—is mainly the result of the work of the Committee on Interstate and Foreign Commerce. Title II of H.R. 10909—Social Security Act

amendments—contains amendments from both the Commerce and Ways and Means Committees.

In order to consider the amendments from the two committees involved, the rule provides that prior to the consideration of the amendment recommended by the Committee on Ways and Means or of any other amendment to title I of the bill, it shall be in order to consider en bloc the amendments recommended by the Commerce Committee to that title now printed in the bill and prior to the consideration of any other amendment to title II of the bill, it shall be in order to consider en bloc the amendments recommended by the Committee on Ways and Means to that title now printed in the bill. House Resolution 1348 provides that if the amendment recommended by the Committee on Ways and Means now printed in the bill striking out section 202 and inserting a new section 202 is adopted, the amendments recommended by the Commerce Committee to that section now printed in the bill shall not be considered. The rule also provides that no other amendment to the bill or to the committee amendments now printed in the bill shall be in order except pro forma amendments and amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to their consideration.

Finally, House Resolution 1348 provides that after passage of H.R. 10909, it will then be in order to call up the Senate-passed version, S. 705, and insert the text of the House-passed bill. Thus, expediting conference consideration of the legislation.

Mr. Speaker, I urge the adoption of House Resolution 1348 so that the House may consider H.R. 10909.

Mr. Speaker, I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Missouri has adequately and at length described the rule. I agree with his description.

Mr. Speaker, House Resolution 1348 is a modified open rule providing 1 hour of general debate for the consideration of H.R. 10909, the Clinical Laboratory Improvement Act. The rule waives section 401(a) of the Budget Act against consideration of the bill. Section 401(a) of the Budget Act prohibits the consideration of any bill providing new contract authority which is not subject to appropriations acts in advance. Since section 101(a) of the Clinical Laboratory Improvement Act authorizes the Secretary of HEW to enter into agreements with certain States and public or nonprofit private entities to assist various clinical laboratories, and since this section fails to limit the availability of such contract authority, the bill is obviously in violation of the Budget Act.

However, Chairman GIAIMO of the Budget Committee, in a letter to the Rules Committee chairman, dated September 13, 1978, indicates that the Committee on Interstate and Foreign Commerce will offer a floor amendment limiting any new contract authority to such amounts as are provided in advance in appropriations acts. With this understanding, Chairman GIAIMO states that he has no objection to the waiver. Without it, of course, we could not even begin consideration of the bill should a point of order be made and sustained.

The hour of general debate under the rule is to be equally divided between the Interstate and Ways and Means Committees, and the bill is to be read for amendment by titles instead of by section, with each title being considered as having been read.

The rule further provides that, prior to the consideration of any amendments recommended by the Ways and Means Committee, or of any other amendment to title I of the bill, it shall be in order to consider en bloc the amendments recommended by the Committee on Interstate and Foreign Commerce to that title, now printed in the bill. Furthermore, prior to the consideration of any other amendments to title II of the bill it shall be in order to consider en bloc the amendments recommended by the Ways and Means Committee to that title and now printed in the bill.

If the amendment recommended by the Ways and Means Committee now printed in the bill striking out section 202 and inserting a new section 202 is adopted, the amendments recommended by the Committee on Interstate and Foreign Commerce to that section now printed in the bill shall not be considered. Other than those amendments specified in the rule which I have just described, the only other amendments in order to the bill will be pro forma amendments, for the purpose of debate, and amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to their consideration.

Finally, the rule provides that after the bill is passed the two committees are discharged from further consideration of S. 705, the Senate counterpart bill, and it shall then be in order in the House to move to strike the Senate-passed language from that bill and insert the provisions of the House-passed bill.

Mr. Speaker, this is a complex rule and yet I think a fair rule which is agreeable to the two committees involved and which does afford all Members of this House the opportunity to offer germane amendments. There was no opposition expressed to this rule in the Rules Committee and it was adopted on a voice vote. I urge its adoption by the House.

Mr. Speaker, I have only one question for the gentleman from Missouri. Is there another rule to be considered at this time, and if so, what?

Mr. BOLLING. Mr. Speaker, if the gentleman will yield, I understand that the Financial Institutions rule has been cleared on the gentleman's side and that I am to call it up.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

Mr. BOLLING. Mr. Speaker, I ask unanimous consent to change the word "if" on page 2, line 22, of the resolution to the word "is".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RYAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 328, nays 0, not voting 104, as follows:

[Roll No. 858]

YEAS—328

Abdnor	Cunningham	Hughes
Addabbo	Daniel, Dan	Hyde
Akaka	Daniel, R. W.	Ichord
Alexander	Danielson	Jacobs
Ambro	Davis	Jeffords
Anderson, Calif.	de la Garza	Jenkins
Andrews, N.C.	Dellums	Jenrette
Andrews, N. Dak.	Derrick	Johnson, Calif.
Annunzio	Derwinski	Johnson, Colo.
Applegate	Devine	Jones, N.C.
Archer	Dicks	Jones, Okla.
Ashbrook	Dodd	Jones, Tenn.
Ashley	Dornan	Jordan
Aspin	Downey	Kasten
AuCoin	Drinan	Kazen
Bafalis	Duncan, Oreg.	Kelly
Baldus	Duncan, Tenn.	Kemp
Barnard	Early	Kildee
Baucus	Eckhardt	Kindness
Bauman	Edgar	Kostmayer
Beard, R.I.	Edwards, Ala.	Krebs
Beard, Tenn.	Emery	LaFalce
Bedell	English	Lagomarsino
Beilenson	Ertel	Latta
Benjamin	Evans, Colo.	Le Fante
Bennett	Evans, Del.	Leach
Bevill	Evans, Ga.	Lederer
Bingham	Evans, Ind.	Lehman
Blanchard	Fary	Lent
Boggs	Fascell	Levitas
Boland	Fenwick	Livingston
Bolling	Findley	Lloyd, Calif.
Bonior	Fisher	Lloyd, Tenn.
Bonker	Fithian	Long, La.
Bowen	Flippo	Long, Md.
Brademas	Flood	Lott
Breckinridge	Flowers	Lujan
Brinkley	Flynt	Luken
Brodhead	Foley	Lundine
Broomfield	Ford, Mich.	McClory
Brown, Calif.	Ford, Tenn.	McCormack
Brown, Mich.	Fountain	McDade
Brown, Ohio	Fowler	McDonald
Broyhill	Fraser	McEwen
Buchanan	Fuqua	McFall
Burgener	Gaydos	McHugh
Burke, Calif.	Gephardt	McKay
Burke, Fla.	Giaimo	McKinney
Burke, Mass.	Gilman	Madigan
Burlison, Mo.	Ginn	Maguire
Burton, Phillip	Glickman	Markey
Butler	Gonzalez	Marks
Byron	Gore	Marlenee
Carr	Gradison	Martin
Carter	Grassley	Mattox
Cavanaugh	Green	Meeds
Cederberg	Guyer	Metcalfe
Chappell	Hall	Michel
Clausen, Don H.	Hamilton	Mikulski
Clawson, Del	Hanley	Miller, Ohio
Clay	Hannaford	Mineta
Coleman	Hansen	Minish
Collins, Ill.	Harris	Mitchell, N.Y.
Collins, Tex.	Harsha	Moakley
Conable	Hawkins	Moffett
Conte	Hefner	Mollohan
Corcoran	Heftel	Montgomery
Corman	Hightower	Moore
Cornell	Hillis	Moorhead, Calif.
Coughlin	Holland	Moss
Crane	Holt	Mottl
	Holtzman	Murphy, N.Y.
	Hubbard	Murphy, Pa.
	Huckaby	

Murtha	Rostenkowski	Taylor
Myers, Gary	Rousselot	Thompson
Myers, John	Roybal	Thornton
Myers, Michael	Rudd	Traxler
Natcher	Ruppe	Treen
Neal	Ryan	Trible
Nedzi	Santini	Udall
Nolan	Sarasin	Ullman
Nowak	Satterfield	Vander Jagt
O'Brien	Scheuer	Vanik
Oberstar	Schroeder	Vento
Obey	Schulze	Volkmer
Panetta	Sebelius	Waggonner
Patten	Sharp	Walgren
Patterson	Shuster	Walker
Pattison	Simon	Wampler
Pease	Skelton	Watkins
Perkins	Skubitz	Waxman
Pickle	Smith, Iowa	Weiss
Preyer	Smith, Nebr.	Whalen
Price	Snyder	White
Pritchard	Solarz	Whitehurst
Pursell	Spellman	Whitley
Quayle	Spence	Whitten
Quillen	St Germain	Wiggins
Rahall	Staggers	Wilson, Bob
Railsback	Stangeland	Wilson, C. H.
Rangel	Stanton	Wilson, Tex.
Regula	Stark	Winn
Reuss	Steed	Wolff
Rinaldo	Steers	Yates
Roberts	Steiger	Yatron
Robinson	Stockman	Young, Fla.
Roe	Stratton	Young, Mo.
Rogers	Studds	Zablocki
Roncalio	Stump	Zeferetti
Rooney	Symms	

NAYS—0

NOT VOTING—104

Ammerman	Garcia	Ottinger
Anderson, Ill.	Gibbons	Pepper
Armstrong	Goldwater	Pettis
Badham	Goodling	Pike
Biaggi	Gudger	Poage
Blouin	Hagedorn	Pressler
Breaux	Hammer-schmidt	Quie
Brooks	Harkin	Rhodes
Burleson, Tex.	Harrington	Richmond
Burton, John	Heckler	Risenhoover
Caputo	Hollenbeck	Rodino
Carney	Horton	Rose
Chisholm	Howard	Rosenthal
Cleveland	Ireland	Runnels
Cochran	Kastenmeier	Russo
Cohen	Keys	Sawyer
Conyers	Krueger	Seiberling
Cornwell	Leggett	Shipley
Cotter	McCloskey	Sikes
D'Amours	Mahon	Sisk
Delaney	Mann	Slack
Dent	Marriott	Stokes
Dickinson	Mathis	Teague
Diggs	Mazzoli	Thone
Dingell	Meyner	Tsongas
Edwards, Calif	Mikva	Tucker
Edwards, Okla.	Milford	Van Deerlin
Eilberg	Miller, Calif.	Walsh
Erlenborn	Mitchell, Md.	Weaver
Fish	Moorhead, Pa.	Wirth
Florio	Murphy, Ill.	Wright
Forsythe	Nichols	Wydler
Frenzel	Nix	Wylie
Frey	Oakar	Young, Alaska
Gammage	Oakar	Young, Tex.

The Clerk announced the following pairs:

Mr. Richmond with Mr. Anderson of Illinois.

Mr. Cotter with Mr. Goldwater.

Mrs. Chisholm with Mrs. Pettis.

Mr. Carney with Mr. Pressler.

Mr. Sikes with Mr. Hagedorn.

Mr. Burleson of Texas with Mr. Badham.

Mr. Teague with Mr. Frey.

Mr. Slack with Mr. Milford.

Mr. Mitchell of Maryland with Mr. Young of Alaska.

Mr. Biaggi with Mr. Sawyer.

Mr. D'Amours with Mr. Walsh.

Mr. Eilberg with Mr. Marriott.

Mr. Rodino with Mrs. Meyner.

Mr. Krueger with Mr. Horton.

Mr. Nichols with Mrs. Heckler.

Mr. Gammage with Mr. Caputo.

Mr. Wright with Mr. Cleveland.

Mr. Florio with Mr. Edwards of Oklahoma.

Mr. Blouin with Mr. Frenzel.

Mr. Ammerman with Mr. Cohen.

Mr. Howard with Mr. Cochran of Mississippi.

Mr. Dent with Mr. Wydler.

Mr. Moorhead of Pennsylvania with Mr. Thone.

Mr. Murphy of Illinois with Mr. Quie.

Mr. Dingell with Mr. Risenhoover.

Mr. John L. Burton with Mr. Goodling.

Mr. Russo with Mr. Harrington.

Mr. Shipley with Mr. Conyers.

Mr. Stokes with Mr. Dickinson.

Mr. Van Deerlin with Mr. Weaver.

Ms. Oakar with Mr. Erlenborn.

Mr. Pepper with Mr. Ottinger.

Mr. Mikva with Mr. Seiberling.

Mr. Mazzoli with Mr. Tsongas.

Mr. Sisk with Mr. Wirth.

Mr. Pike with Mr. Wylie.

Mr. Breaux with Mr. Runnels.

Mr. Gibbons with Mr. Leggett.

Ms. Keys with Mr. Harkin.

Mr. Brooks with Mr. Hammerschmidt.

Mr. Cornwell with Mr. Diggs.

Mr. Delaney with Mr. Fish.

Mr. Edwards of California with Mr. Forsythe.

Mr. Garcia with Mr. Gudger.

Mr. Ireland with Mr. Mahon.

Mr. Kastenmeier with Mr. Hollenbeck.

Mr. Mann with Mr. Mathis.

Mr. Miller of California with Mr. McCloskey.

Mr. Nix with Mr. Tucker.

Mr. Rosenthal with Mr. Rose.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13471, FINANCIAL INSTITUTIONS REGULATORY ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1333 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1333

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13471) to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 13471, the Committee on Banking, Finance and Urban Affairs shall be discharged from the further consideration of the bill S. 71, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the text of H.R. 13471 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, H.R. 13471 is the most studied, most discussed and most thoroughly considered piece of legislation to emerge from the Banking Committee in modern history.

Most of its provisions have been hashed and rehashed in the committee for more than a decade and many of the authorities contained in this legislation have been sought for years by the Federal financial supervisory agencies.

H.R. 13471 is long overdue and this rule should be adopted.

The product which we bring to the floor under this rule is an equitable and workable solution to nagging bank regulatory problems—problems which in recent years have threatened to erode the banking industry's number one asset—public confidence.

There will be differences within titles and sections but the legislation emerged from committee with bipartisan support in a 34 to 5 vote. A great number of the titles of this bill have been worked out with the Treasury Department and have the full backing of the administration. Even the American Bankers Association and the Independent Bankers Association of America have recognized that the time for change has arrived and support major provisions of H.R. 13471.

Mr. Speaker, at this point, I ask permission to insert in the RECORD a copy of a letter dated September 27 from Secretary of the Treasury Michael Blumenthal in support of the bill:

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 27, 1978.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Supervision, Regulation, and Insurance, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: You have asked for the Treasury's views on H.R. 13471, the Financial Institutions Regulatory Act of 1978. The Treasury strongly supports the core provisions of this bill (Titles I through III, V through X, and Titles XIV, XV and XVII) which are directed at enhancing the supervisory and regulatory powers of the federal regulators. Several of these Titles are of special importance.

Title I, which *inter alia* expands the cease and desist powers of the federal regulators and places new restrictions on bank lending to insiders, is a provision that has been recommended by the federal regulators in successive Congresses as a necessary complement to existing powers. You have asked

specifically for our views on a proposed amendment to Title I which would require a trial de novo in district court on every cease and desist order, removal order, or civil money penalty order issued by the Federal Home Loan Bank Board. We strongly oppose such an amendment on the grounds that it introduces needless duplication and expense in the regulatory process.

Title II revises and expands existing law governing management interlocks between depository institutions. We support Title II although we believe that the Title could be improved by including an amendment to the Clayton Act to eliminate the putative exemption for bank-nonbank interlocks and by restoring the concurrent jurisdiction of the Justice Department to challenge interlocks under Title II.

Titles VI and VII provide respectively for prior notice to the appropriate federal regulator of a proposed take-over by an individual or individuals of a federally insured bank or savings and loan association. The federal regulator would be authorized to disapprove such takeovers on specified statutory criteria. These provisions will fill a substantial gap in the present regulatory scheme which covers corporate but not individual acquisitions of banks and savings and loan associations.

The Treasury supports the enactment of Title XI, which provides a right of financial privacy to customers of financial institutions, with amendments to ensure that legitimate exchanges of information between agencies are permitted, the grand jury process is not needlessly disrupted, and the special needs of federal lending agencies are recognized. The Administration will supply to your staff amendments to deal with each of these problems. Likewise, the Treasury supports in principle the provision of a federal chartering option for mutual savings banks as in Title XII of the bill.

The Treasury questions the need at this time for the remaining Titles in the bill. In particular, the Treasury would recommend that the questions raised by Title XVIII, which deals with alternative mortgage instruments, be deferred for resolution in the broader context of the Administration's current consideration of Regulation Q and the role of the thrift industry in housing finance. We would also favor a government-wide approach to conflict-of-interest rules as in H.R. 1 which is presently pending before the House over the approach reflected in Title IV of this bill.

As we previously discussed with you, we would not be in favor of the addition to the bill on the floor of non-germane amendments or of amendments that have not been the subject of adequate prior hearings.

In conclusion, the Treasury regards H.R. 13471 as a major initiative in regulatory reform and with the exceptions noted above strongly supports its enactment.

The Office of Management and Budget has advised us that there is no objection to the submission of this report to the Congress and that enactment of this legislation, if amended as recommended above, would be consistent with the objectives of this Administration.

Sincerely,

W. MICHAEL BLUMENTHAL.

My colleagues, we are at a major juncture on banking regulation. The Congress has a great opportunity in this legislation to set a new course and to let the regulatory and the financial community know that it does intend to put the public interest first and that it does want assurances that we have a safe, sound, and responsive banking industry.

During this debate we will hear pleas for special treatment for this segment and that segment of the financial community—we will be told that the public being served by certain institutions in certain communities really does not need the safeguards of this legislation. My colleagues, I hope that you will reject these pleas for special treatment and leave this bill intact as a meaningful piece of regulatory reform.

We cannot have bank reform that truly meets the needs of the banking public if we cave in to these demands for special treatment—regardless of how meritorious these individual cases may sound on the surface. We cannot have private bills for each of the 33,000 financial institutions covered by this legislation. This would be legislative chaos which could only end up with public safeguards weakened rather than strengthened.

Mr. Speaker, weaknesses in our supervisory structure have been apparent for a very long time and the public's attention has been focused on these problems in the highly publicized failures of such banks as U.S. National in San Diego; the Franklin National in New York; the Hamilton National in Chattanooga; and a number of smaller State banks scattered around the Nation.

All of us are aware that the troubles of Bert Lance threw a bright spotlight on banking issues last year. Today, the public is more aware than ever that improvements are needed and the 95th Congress would be rightfully criticized if it failed to act.

To address these problems the legislation would—

Upgrade and sharpen the machinery of Federal financial regulation;

Place ceilings on borrowings by bank insiders;

Place greater responsibility on boards of directors to oversee their financial institution;

Establish firm conflict-of-interest standards for policymaking officials who regulate financial institutions;

Give the financial supervisory agencies power to monitor and regulate takeovers of federally-insured institutions;

Prohibit preferential treatment on loans to bank insiders where banks have placed their funds on deposit in correspondent accounts;

Provide additional disclosure to the supervisory agencies and the public of material facts on activities of banks and bank officials;

Provide mutual savings banks with the right to obtain a Federal charter, thus bringing this group of financial institutions under the dual Federal-State chartering system enjoyed by all other depository institutions;

Provide better coordination among financial supervisory agencies;

Limit access by the Federal Government to an individual's bank records without due process;

Prohibit bank holding companies from engaging in property and casualty insurance business, with exemptions for small communities and small holding companies;

Allow federally chartered thrift institutions to offer transaction accounts where States allow such accounts;

Make permanent the prohibition on credit card surcharges.

Mr. Speaker, there are some areas of this legislation which do need repair to conform with its overall thrust of financial regulatory reform.

For example, we need to shore up title 2 to make certain that insurance company-bank interlocks are covered and that the Justice Department is able to challenge these arrangements when they create anticompetitive situations. Credit is the lifeblood of communities and job-producing industries and we must not endanger the free flow of credit resources through anticompetitive interlocks among the giants of the banking and insurance industry.

Title 18, allowing variable rate mortgages, was inserted in the legislation at the last minute on a close 24 to 20 vote without hearings and without proper consideration. It is an anticonsumer provision which allows lenders to impose higher and higher interest charges on their customers—after the fact. Title 18 empowers the savings and loan industry to, in effect, tax homeowners without consulting anyone and, in this era of proposition 13, should be stricken from the bill by an overwhelming vote.

Mr. Speaker, I place in the RECORD a copy of a letter from Public Citizen on H.R. 13471 with special emphasis on the anticonsumer nature of title 18; and a Washington Star article dated September 15 by Barry Jacobs, entitled "Will Financing Choices Bewilder the Borrower?":

[From the Public Citizen]

DEAR REPRESENTATIVE: This week the House is scheduled to consider H.R. 13471, the Financial Institutions Regulatory Act of 1978. This legislation developed, in part, from revelations of loopholes in the bank regulatory laws that were exposed during the Bert Lance hearings. The provisions of the measure which embody important reforms will be discussed below. But first, it is important to isolate Title XVIII which would authorize variable rate mortgages (VRMs) for federal S&Ls in all states where they are authorized by state law for state S&Ls. VRMs are vigorously opposed by home builder, labor, civil rights, and consumer organizations for the following reasons:

1. VRMs unfairly shift interest rate risk from lenders to borrowers who generally do not have a sophisticated knowledge of financial markets.

2. Because of the complex nature of VRMs, borrowers are very susceptible to lender manipulation.

3. It is not possible to develop VRM safeguards that will protect consumers.

4. Because VRMs enable S&Ls to avert interest rate risk and to profit from manipulation of borrowers, S&Ls will push VRMs on borrowers and the supply of fixed rate mortgages will shrink.

5. VRMs restrict access to mortgage credit of persons who are lower income and less upwardly mobile, including minorities, the elderly and women.

6. VRMs seriously aggravate inflation during periods of rising interest rates.

These major disadvantages of VRMs are not offset by any significant improvement in the stability of mortgage credit flows. Congress Watch urges you to vote to delete Title XVIII from H.R. 13471.

Although the language of Title XVIII

refers to alternative mortgage instruments (AMI), the only real issue presented by Title XVIII involves the VRM. The S&L industry has attempted to portray the VRM as merely an additional mortgage option that may be useful to some homebuyers. In reality, VRM and a modified VRM, the rollover mortgage, are sought by the S&L industry as a means to pass interest rate risk on to home buyers. The S&L industry has shown little interest in marketing the other proposed AMIs, the graduated payment mortgage (GPM) and the reverse annuity mortgage (RAM). Unlike the VRM, GPMs and RAMs are modifications of the standard fixed rate mortgage that do not shift interest rate risk and may prove beneficial for certain categories of home owners.

In 1975, when the Federal Home Loan Bank Board (FHLBB) proposed to authorized VRMs for federal S&Ls, the House of Representatives passed by a vote of 291 to 104 a bill, H.R. 6209, prohibiting such authorization. At the same time, the Senate unanimously passed a resolution, S. Con. Res. 45, with the same purpose. Although the 1975 Congressional action against VRMs did not legally prevent the FHLBB from authorizing VRMs for federal S&Ls, the FHLBB has indicated that it will not defy the will of Congress. House passage of Title XVII would indicate that the House has abandoned its pro-consumer stand and would signal the FHLBB to proceed with VRMs.

Title XII of H.R. 13471 would authorize state chartered mutual savings banks to convert from state to federal charters and become regulatees of the Federal Home Loan Bank Board (FHLBB). Most states that currently charter mutual savings banks prohibit them from converting from mutual to stock form. However, the FHLBB, although its authority is questionable, has allowed federal S&Ls to convert from mutual to stock form. A recent GAO study has shown that insiders have profited handsomely from these mutual to stock conversions by S&Ls. The lure of insider profits to be gained by mutual to stock conversions should not be allowed to operate as an incentive for mutual savings banks to switch from state to federal charters. Congress Watch urges you to support an amendment to Title XII that would prohibit mutual savings banks that convert from state to federal charters from undertaking a second, mutual to stock conversion.

H.R. 13471 contains several valuable provisions that would limit insider dealing at commercial banks. Sec. 104 would prohibit loans on preferential terms to insiders (directors, officers and 10% stockholders), while Sec. 801 would prohibit loans on preferential terms from correspondent banks to insiders (directors, officers and 10% stockholders). Sec. 108 would extend to all state chartered commercial banks the limitations on insider loans that apply to national banks and state chartered banks that are members of the Federal Reserve System. Sec. 901 would require all commercial banks to make public a list of their 10% stockholders, the aggregate amount of credit they have extended to their officers and 10% stockholders and the aggregate amount of credit their correspondent banks have extended to their officers and 10% stockholders. Although the public would be better served by prohibiting loan from correspondent banks to insiders and by limiting the aggregate amount of loans to insiders, including directors, the banking industry stripped such provisions from H.R. 13471. Thus, the disclosure provisions of Sec. 901 are vitally needed in order to facilitate public monitoring of insider lending. Congress Watch urges you to reject any amendments that would weaken Sec. 104, Sec. 801 and Sec. 901.

Title II would prohibit director and officer interlocks between depository institutions (commercial banks, savings and loans, mutual savings banks and credit unions). Such prohibition is needed to improve competition in the banking industry and warrants your support. However, Title II fails to close an outrageous loophole in Sec. 8 of the Clayton Act. This loophole permits interlocks between giant banks and insurance companies that are engaged in extensive competition in the mortgage market, such as Bank of America and Prudential. Congress Watch urges you to support an amendment to Title II that would eliminate this loophole in the antitrust laws.

Title XIII would prohibit bank holding companies from providing insurance as principal, agent or broker with certain exceptions. Because of the tremendous market power that derives from control of credit, bank holding companies are an anti-competitive factor in the insurance industry. This prohibition is therefore necessary to insure vigorous competition in the insurance industry and to prevent the many small businesses that provide insurance from being subjected to the predatory tactics of bank holding companies. Congress Watch urges you to support Title XIII.

With the above mentioned amendments to Title XII and Title II and the deletion of Title XVIII (VRM authorization), H.R. 13471 would become solid bank reform legislation. However, deletion of Title XVIII is absolutely essential. The public injury that would result from authorization of VRMs for federal S&Ls has been widely recognized. Among the organizations opposing Title XVIII are the National Association of Home Builders, the AFL–CIO, the United Auto Workers, the NAACP, the National Urban League and Consumer Federation of America. Even the more enlightened individuals within the S&L industry do not support VRMs. In January of this year the Alternative Mortgage Instruments Committee of the National Savings and Loan League voted to drop its support of the VRM. According to Arthur Courshon, Chairman of the committee and chairman of Washington Federal S&L of Miami Beach, Florida, the VRM "doesn't fit in with the concept of bringing more people into the housing stream." Although the S&L industry has long been the beneficiary of Congressional favoritism, the line must be drawn when widespread harm to consumers will result.

[From the Washington Star]

WILL FINANCING CHOICES BEWILDER THE BORROWER?

(By Barry G. Jacobs)

For first-time home buyers, one of the most traumatic parts of the transaction has always been the financing. There's something scary about going up to your eyeballs in debt, especially at today's interest rates.

Now, however, the purchaser's mind can be boggled even more by the different types of financing available. Depending on the type and location of the lender, the buyer may have his choice of the standard fixed-rate, level-term mortgage; a graduated-payment loan, and a variable-rate mortgage. All of these, of course, come with different payment schedules, adjustments and run-out costs. All have potential advantages and disadvantages.

Here's an attempt to sort out all the figures, to provide some indication of what the various loan plans mean to the borrower. For comparison, we'll use a $50,000, 30-year loan, with a market interest rate of 9 percent. Mortgage insurance premiums, homeowners insurance and property tax payments will be disregarded.

The easiest loan to deal with, of course, is the standard mortgage. The monthly payment for principal and interest is $402.32. That's $4,827.84 per year, or $144,835.20 if the loan is held for the full 30 years. The total interest paid is $94,835.20.

A graduated-payment mortgage, or GPM, also has a fixed interest rate and term, but the payments start out below the standard loan payment and rise according to a predetermined schedule.

Typical GPM plans call for annual increases in payments of 2 to 7.5 percent for a period of five to 10 years. At that point, the payment is fixed for the remainder of the 30-year term. For example, at $50,000, 9 percent, 30-year GPM with a 2 percent annual increase for 10 years will start out with monthly payments of $355.96. In the second year, the payments will be $363.08. In the 11th and subsequent years, the monthly payments will be $433.92. The total payments over 30 years will be $150,917.98.

In other words, for two-thirds of the loan term, the payments will be about $30 a month higher than under the standard mortgage, and the total sum paid will be a little over $6,000 more using the GPM.

The explanation is that there is actually negative amortization during the early years of a GPM. The outstanding loan balance goes up, not down, because the borrower's payments don't even cover the interest due. In the above example, the loan balance at the end of four years will be about $50,519, and the balance won't drop below $50,000 until near the end of the seventh year. By that time, the balance on the standard loan would have been down to about $46,800.

The obvious advantage of the GPM, of course, is the break on the early payments. The difference of about $46 in the first-year payments between the standard loan and the GPM can reduce the income needed to qualify for the loan by $200 or more.

On the other hand, the rising payments put a premium on upward mobility. A family without reasonable prospects for steady increases in income may not be a good candidate for a GPM.

The arithmetic on a graduated-payment loan may seem complicated, but it's child's play compared with that under a variable-rate mortgage. In a VRM, nothing is certain except the initial rate and loan amount.

The interest rate and the loan term may vary over the years as market rates fluctuate. If rates drop, the borrower's payment goes down; the loan term is shortened, or both. If rates rise, the reverse happens—higher payments, longer term or some combination of the two.

Since rates are likely to move up and down several times over 30 years, the actual payments are virtually impossible to predict.

To protect the borrower, there is typically an overall limit on the interest rate increase, as well as limits on periodic movements. For example, rate hikes may be limited to one-half percent per year and 2.5 percent over the life of the loan.

A $50,000 VRM with an initial interest rate of 9 percent and a 30-year term would have the same starting payment as the standard mortgage—$402.32. At the end of the first year, the outstanding balance would be about $49,650. If the rate is then raised to 9.5 percent and the term is unchanged, the VRM then becomes a $49,540, 9.5 percent, 29-year loan, with payments of $420.08. After another year, the principal is reduced to about $49,300. If the rate then goes to 10 percent, the same process is repeated—it becomes a $49,300, 10 percent, 28-year loan—and the payments are raised to $437.78. After the third year, the outstanding balance is about $48,950. If the rate is then reduced to 9.75 percent, the payments are cut to $428.91.

As an alternative to these adjustments in payments, the term can be lengthened or shortened to accommodate interest rate changes. However, there are limits to how far the term can be extended, especially when rates are relatively high, so repeated increases in interest rates eventually would require higher payments. In the example above, raising the rate to 9.5 percent after

the first year and holding the payments constant would mean extending the remaining loan term to about 40 years.

This complex VRM system has one basic attraction for lenders. It protects them against long-run rises in interest rates which can find them paying more for savings deposits than they are earning on old mortgages.

But what's in it for the borrower? Theoretically, he could profit from long-run rate declines, but that's a doubtful prospect.

To attract borrowers to VRMs, lenders probably would have to offer some type of incentive. In some cases, it might be a lower initial rate—instead of paying 9 percent on a standard mortgage, the borrower could start out at 8.5 percent on a VRM.

In other cases, the lender might offer guaranteed assumability or probability (the ability to transfer the loan to another house) for a VRM. The latter features would be attractive to borrowers in areas with rapid turnover in housing.

These also would be the borrowers least likely to worry about what their interest rate might be in 15 or 20 years.

Mr. Speaker, H.R. 13471 is supported by a 3,400 page hearing record; numerous studies and investigations conducted by the committee over nearly a decade: the General Accounting Office's audit of the three supervisory agencies released last year; and studies and findings of the agencies themselves. The need is fully documented.

In addition, we had 22 days of markup at the subcommittee and full committee and many of these sessions were morning and afternoon. Again, I know of no piece of banking legislation more thoroughly studied and debated than H.R. 13471.

Mr. Speaker, in recent days some have raised questions about the need to provide the regulators with additional powers to control takeovers of financial institutions, particularly by unsavory elements of the banking industry. Our subcommittee has conducted extensive hearings and investigations to support titles 6 and 7 and a recent letter from the Federal Deposit Insurance Corporation further illustrates the critical need for the authorities contained in these titles. I want to place a copy of this letter in the RECORD:

FEDERAL DEPOSIT INSURANCE CORP.,
Washington, D.C., September 26, 1978.

HON. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Suvervision, Regulation, and Insurance, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At your request we enclose summaries of 14 exemplary cases where the power to disapprove changes in bank control would most likely have been utilized, thereby averting the serious difficulties that ensued in these particular situations. The 14 cases were drawn from seven of the FDIC's 14 regions and cover banks in nearly all regional geographical areas of the country.

We have also surveyed seven FDIC Regional Offices as to actual or proposed acquisitions of State nonmember banks by foreign interests. Twenty-three such cases were reported by four of those regions. The other three regions surveyed reported no relevant cases. Of these 23, only one bank had approximate deposits of $1 billion at the time the controlling stock interest was purchased. The purchaser in that case was a foreign bank. Foreign banks, either directly or through their domestic subsidiaries, were identified as purchasers or proposed purchasers in 15 of the 23 reported cases. Foreign individuals or groups of individuals were identified as purchasers in the other eight cases.

We trust you will find this information useful in connection with the House's consideration of Title VI of H.R. 13471. Please let us know if we can be of any further assistance.

Sincerely,

JOHN G. HEIMANN,
Acting Chairman.

Enclosure.

CASE NO. 1

Situation: This bank had total assets of approximately $15,000,000 when control changed hands in 1976.

Nature of difficulties subsequent to change in control: The bank opened for business in 1924 and was admitted to membership in the Corporation in 1934. The bank operated with a generally sound asset condition for many years. In 1974 a group headed by Mr. A purchased stock control for $1,500,000 with another financial institution financing $900,000 with the control stock pledged as collateral. The Regional Director requested the president of the bank to submit details of the transaction and financial and biographical information on the purchasers. The information was not submitted. The Regional Director issued letters to the purchasers by certified mail. The information was finally received approximately four months after the change of control.

Subsequent examinations, in succession, revealed out-of-territory loans and self-dealing. Adverse classifications increased. Controlling interest was transferred to Mr. B after the group's stock loan was in danger of foreclosure. Mr. B indicated that he had loaned the group $200,000 for down payment on the purchase of the stock. Approximately two months after the acquisition of control by Mr. B, additional capital of $750,000 was injected producing an adjusted capital ratio of approximately 8.3%; however, sizable Loss and Doubtful classifications remained in the bank's assets. During the monitoring of the bank's condition, it was disclosed that four due-from bank accounts were overdrawn $927,500; the statement also reflected items in transit of $1,063,000. It was established that approximately $890,000 in certificates of deposit were issued to Mr. B, his relatives, associates, and business. The certificates of deposit had been purchased with checks drawn on foreign banks which were returned unpaid and held in the transit item account. The remainder of the cash items consisted largely of checks out for collection from Mr. B's brother. An examination conducted in 1976 revealed that the bank was insolvent and it was subsequently closed by the State Banking Commissioner.

Basis on which change of control would have been denied or conditions imposed before approval: In the first change of control of the bank, the Regional Director was concerned about the financial capacity of the new owners. Information was received after much time had elapsed. In the case of the purchase of control by Mr. B, financial information was requested and submitted, but was vague and insufficient in detail to provide adequate analysis. It is believed that if adequate financial and background information on the purchasers was required, especially in the latter case, it would have revealed a shell empire based upon financial manipulations, and therefore the change of control would have been denied based upon the management factor.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: Adequate financial and background information.

CASE NO. 2

Situation: The bank had approximately $3,000,000 in total assets when a change of control occurred in 1977.

Nature of difficulties subsequent to change in control: The buyer acquired control of subject bank in 1977—he had also acquired control of another bank in 1974. About September 1977, his financial empire, which included three banks, a newspaper, and a semi-professional sports team, began to collapse and he cashed insufficient checks at one bank totaling more than $800,000—enough to cause the bank's insolvency. Only heroic efforts by the bank that held his bank stock financing resulted in the survival of that bank. All bank stock was foreclosed against in October 1977, and the buyer was thereby completely ousted from the banking business. While the irregular check transactions did not effect subject bank directly it is obvious he was desperate enough to jeopardize the solvency of any of his banks—including subject bank.

Basis on which change of control would have been denied or conditions imposed before approval: It was obvious from reviewing financial and biographical information submitted by the buyer in connection with his acquisition of control of subject bank, and comparing the information with data he supplied in 1974, when he acquired the first bank that there were inconsistencies that would have been investigated at length had the Corporation the power to disapprove bank stock acquisitions. A memorandum to file in 1977, written by a Regional Office Review Examiner, expressed skepticism that the buyer's net worth had increased from $1,014,000 in early 1973, to $6,020,000 in early 1976, and questioned the statement that he had an extremely large amount of cash.

An investigation would have revealed that the buyer had little or no cash and the financial information he provided was false. This change of control would have been disapproved based on the general character of management.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: There would be no change in this situation—sufficient financial information was submitted in advance by the buyer so that, if the large cash assets he indicated had been verified, the falseness of the data would have been proven. These assets would have been verified if the Corporation had authority to disapprove changes in control of banks.

CASE NO. 3

Situation: A bank with assets of approximately $33,000,000 which is now included on the FDIC's problem list. The change in control occurred in 1976.

Nature of difficulties subsequent to change in control: Since the above change in control, ownership/management instituted self-serving policies resulting in an excessive volume of speculative assets, heavy loan losses, poor liquidity and an inadequate capital position for the bank. Subject has been included on the Corporation's problem bank list at each examination since the change in control.

Basis on which change in control would have been denied or conditions imposed before approval: The total purchase price of control stock was approximately $4,000,000 with 100% financing provided by two other lending institutions—one loan for $2,000,000 was secured by the control stock and the remaining loan for $2,000,000 was supported only by a junior mortgage on real estate. The buyer did not report the second loan, apparently attempting to convince the regulatory authorities that he had a large cash equity in his purchase. Regional Office personnel were skeptical when he reported

his only borrowing for the transaction to be a $2,000,000 loan—he had used a similar ruse to deceive the regulatory authorities a few months earlier in his acquisition of a small bank in another state.

In consideration of the general character of management, based on the borrowing arrangements and the fact that the buyer was known to have attempted to deceive the Corporation as to the financing of a previous bank control purchase, this change of control would have been disapproved. Conditions imposed would have been that the total financing would be limited to no more than 50% of the purchase price of the bank's stock.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: Information regarding the cost of the stock acquisition and complete details regarding how the funds would be raised before the transaction would have aided the Corporation in its assessment of the suitability of the new ownership.

CASE NO. 4

Situation: Ownership of this bank with total assets approximating $6,000,000 changed hands in 1977.

Nature of difficulties subsequent to change in control: Immediately after acquiring control of this small institution, the principal buyer obtained a loan for $65,000 which was not secured adequately. His checking account was constantly overdrawn and reached a total of $34,500. He also approved several unsatisfactory loans to his associates which were not in the bank's trade territory. These loans were adversely classified at a subsequent Corporation examination.

Basis on which change of control would have been denied or conditions imvosed before approval: The total purchase price of the control stock was $764,400 of which the buyer borrowed $400,000 from another financial institution, pledging his control stock as collateral. The sellers financed the balance of the purchase price. The financial statement of the buyer, submitted to the Regional Office four months after the change of control, revealed that he was highly leveraged and indicated that he had previously experienced serious financial difficulties. Absent from his background was previous banking or related experience.

Based on his weak financial position and his lack of equity in the transaction, which indicated at the outset that he would have difficulty servicing his bank stock debt and would possibly abuse his credit privileges at the bank, this change of control would have been denied. If the buyer's indebtedness was reduced significantly by either having more equity in his stock or by having more qualified investors, and if assurances were received that the buyer would not borrow more than a nominal amount from the bank, then the management factor may have been resolved favorably.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: The details of the acquisition and the financial information and background information on the purchasers if such information could have been obtained prior to the transaction.

CASE NO. 5

Situation: The bank had total assets of approximately $4,000,000 when a change of control occurred in 1977.

Nature of difficulties subsequent to change in control: Upon acquiring control, one of the four control members was elected as chief executive officer with the other three taking active roles in various Board committees and directing policy. Within two months of entering the bank excessive loans to out-of-territory borrowers, speculative ventures, and insiders were granted. An immediate examination revealed classified loans totaling 153.8% of total capital and reserves. Loans totaling $225,000 were of such poor quality that the new owners purchased these assets out of the bank. Irregularity reports to the US Attorney were written.

Basis on which change of control would have been denied or conditions imposed before approval: Another financial institution loaned approximately $400,000 more than the purchase price, however, additional collateral was required thus resulting in at least 100% financing. The borrowers financial statement, received subsequent to the transaction, revealed illiquid positions and interests in companies which could be incompatible with the best interests of the bank if their activities were commingled. These assertions proved correct due to the self-dealing at the bank. Background information on the new borrowers indicated an overall lack of experience to qualify them as bank directors. The experience of the new chief executive officers was completely inadequate to justify his position.

Based on the borrowing arrangements and the general character of management, this change of control would have been denied as it originally took place. For approval, total stock financing would have to be limited to no more than 50% of the purchase price. A qualified chief executive officer would be required as a condition.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: The details of the acquisition and the financial and background information received after the transaction should have been required before the transaction in order to analyze the proposed owners' financial capacity and business background along with the capabilities of the proposed managing officer.

CASE NO. 6

Situation: This bank approximates $5 million in total assets and has been involved in control changes in 1975, 1976 and the early part of 1978. The first such change involved a purchase by two individuals. One of these individuals had been previously subject to criticism by examining personnel in another bank located in the same state. These two individuals acted as directors of the bank and employed a new executive officer. The new executive officer had a long history of unsatisfactory performance in another bank located in the same state, according to supervisory records.

Nature of difficulties subsequent to change in control: Subsequent to the control change, one of the new owner/directors began to abuse his deposit privileges through overdrafts. The loan account expanded rapidly, including a number of sizeable insider loans to the same owner/director. In early 1976 the State Authority issued a formal Order with the intention of stopping such abuses. This Order ultimately resulted in the resignation of the director; however, he continued to retain his stock holdings. This individual then purchased stock control from his partner in November of 1976. Subsequent to this change of control the loan account continued to expand and overall affairs were still considered unacceptable by supervisory authorities. In the later part of 1977, the FDIC issued an Order to Cease and Desist. In the early part of 1978 this individual sold the bank to a group formed by the executive officer. Subsequent to this change the executive officer resigned due to apparent irregularities. This group having no representative on the bank's board is now attempting to sell the bank.

Basis on which change of control would have been denied or conditions imposed before approval: Based on the past experience with the two original purchasers, and the executive officer they hired, we believe there would have been ample evidence to disapprove the change in stock control on the basis of "General Character of the Management."

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: Financial and income information.

CASE NO. 7

Situation: Control of this bank was purchased by a foreign national in early 1978. At that time the bank had total assets of approximately $15,000,000.

Nature of difficulties subsequent to change in control: There had been evidence of attempts toward abusive insider transactions which resulted in the Corporation issuing a temporary Cease and Desist Order.

Basis on which change of control would have been denied or conditions imposed before approval: We have learned during the course of events that the primary purchaser was charged with criminal swindling and attempting to swindle involving an off shore bank of approximately $6,000,000. He reportedly was convicted of the charge and was sentenced to five years plus additional punitive fines by the foreign government. Reportedly, he jumped bail and is still a fugitive. Had that information been available, there would have been ample grounds to deny an application for the purchase of control. Based on the above, the change in control could have been disapproved under the factor "General Character of the Management."

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: It would have been essential to have complete financial and biographical information on the prospective purchaser. Under the relevant State law, non-U.S. citizens are prohibited from serving as directors of State-chartered banks. Section 7(j) of the Federal Deposit Insurance Act requires only background information on newly elected directors and for any newly elected chief executive officer. While we have generally been successful in obtaining financial and background information on purchasers of control of insured State nonmember banks in this Region from individuals who will not be serving as a director, such information is not always assured. It would also be helpful to have background checks made through the records of the Federal Bureau of Investigation for any prospective purchaser of stock control who is not known to the Corporation.

CASE NO. 8

Situation: Stock control of three small rural banks was purchased in 1972 by an accountant/investor. His net worth was represented primarily by equities in apartment buildings. He had no previous banking experience and borrowed a majority of the purchase prices from correspondent banks and pledged the bank stock as collateral. The condition of these banks was generally acceptable, although one bank had a fairly high volume of classified assets. During the next two years, this individual purchased five additional banks, most in rural areas within a three state radius. In each instance, most of the purchase price was borrowed from a correspondent bank and the down payment was borrowed by the purchaser or his wife from banks he already controlled.

Nature of difficulties subsequent to change in control: Examinations of these within a short time after the changes of control disclosed self-serving practice, excessive fees and bonuses to ownership interests and loans of inferior quality in the banks by the new owner. Within two years, the first three banks purchased were on the Problem List. Seven of the eight banks were examined on a con-

current basis in 1974, at which time a misapplication of bank funds was discovered. Purchaser subsequently resigned his position with the bank as a result of supervisory pressure. He took bankruptcy later in the year and was subsequently indicted and pleaded guilty to violations of the U.S. Criminal Code. An infusion of capital was necessary in one of the banks to offset the large loan losses incurred as a result of the management change.

Basis on which change of control would have been denied or conditions imposed before approval: Lack of prior banking experience and heavy borrowings to purchase control of each bank may have resulted in disapproval. Further, problems that quickly developed in the first banks purchased would certainly have influenced considerations relative to subsequent acquisitions. It is doubtful that the pyramiding scheme employed would have been allowed if authority to deny changes in control existed.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: Source and method of servicing debt incurred to acquire control in a rapidly growing number of banks would be essential information needed for such a decision. Complete lack of prior banking experience and personal background information should be disclosed, as well as other bank ownership interests.

CASE NO. 9

Situation: Control of a $20 million suburban bank was acquired in 1974 by a group associated with a nearby bank. Also, the group formed a one-bank holding company, which in turn, incurred heavy debt.

Nature of difficulties subsequent to change in control: Within one year problems developed including increased classifications, special mention loans, and excessive delinquencies. Losses began to appear and large dividends became necessary to service the holding company debt. An aggressive lending and promotional campaign led to deposit expansion and further asset deterioration. Two subsequent examinations at six-month intervals indicated contingent liabilities in the form of letters of credit, a liquidity problem, concentrations of credit, further asset deterioration, and capital erosion until the bank reached problem status. Sale of stock became a necessity, but sufficient new funds could not be raised from that source and it became necessary to cut off dividends and any payments to the holding company. This caused the holding company to default on its debt.

Basis on which change of control would have been denied or conditions imposed before approval: Problems in the associated bank and evidence of inability to service debt from sources other than withdrawals from the purchased bank may have supported a recommendation for denial of the transaction.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: The disclosure of interests in other banks and complete financial information would be germane to the consideration of all such transactions.

CASE NO. 10

Situation: This is a bank of about $8 million in total assets. Control was acquired in mid-1974 by two individuals, one of whom had been employed by the bank for approximately 6 months.

Nature of difficulties subsequent to change in control: Loan policies were relaxed and a significant volume of problem credits were obtained; however, the principal criticism related to insider abuses in the form of loans, excessive salaries, and serious abuse of the expense account. The FDIC issued a Cease and Desist Order in 1977. The two purchasers sold stock control of the bank in January 1978 and the Cease and Desist Order subsequently was terminated.

Basis on which change of control would have been denied or conditions imposed before approval: The bank officer was known to the FDIC in connection with his employment at another bank where his experience had primarily been in the area of operations, and his performance was totally unsatisfactory. We believe that approval of the change in stock control could possibly have been denied on the basis of unfavorable findings on the factor "General Character of the Management".

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: In this particular instance, one of the purchasers was suspected of conspiracy to commit arson while employed at another bank. To the best of our knowledge the charge was never proved; however, a full background check would have been instrumental in any consideration of an application to acquire control of the bank. We would need authority to obtain complete background checks on prospective purchasers of stock control. Additionally, complete financial information would be needed.

CASE NO. 11

Situation: Control of this bank of about $34 million located in a suburban community changed in 1977. Prior thereto, its asset condition was reasonably sound. Low capital resulted primarily from rapid deposit growth and low earnings.

Nature of difficulties subsequent to change in control: Rapid increase in loan volume, including loans to friends, associates, and alleged underworld figures. A lending officer who had caused considerable difficulty at another bank was hired. Within one year, asset classifications tripled, losses appeared, concentration of credit was found and violations of law appeared. Liquidity became a problem and the bank is on the list of banks of supervisory concern. The correspondent bank holding the loan to this bank's holding company is in the process of foreclosing on the stock.

Basis on which change of control would have been denied or conditions imposed before approval: Purchaser had been involved in two other banks for brief periods. In one instance, he was the subject of a letter to the U.S. Attorney, but no action was taken. The injection of new capital funds, identification of individuals to be hired as senior officers and previously approved operating policies may have been conditions for approval to acquire control.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: Loan amount and terms, as well as method of servicing the debt incurred to acquire stock control. Prior bank associations in an ownership capacity and complete financial information from the purchaser may have been helpful.

CASE NO. 12

Situation: Control of this institution changed in 1975. At that time, total assets were approximately $1.5 million.

Nature of difficulties subsequent to change in control: The self-serving tendencies of the out-of-territory group purchasing control of the bank resulted in a large volume of adversely classified loans, including numerous loans to the individuals themselves. Moreover, the desire for profits occasioned forced growth in the bank most of which was rather expensive time money, resulting in absence of earnings.

Basis on which change of control would have been denied or conditions imposed before approval: Had the power existed, we may have required experienced bank management to be supplied, as well as a prohibition or a strict limitation of insider debt and out-of-territory lending.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: If financial information, as well as background information relative to banking experience of proposed owners, had been obtained on the new ownership group, prior to the transactions, there would likely have been sufficient information to restrict the new owners at least in the manner stated above.

CASE NO. 13

Situation: Stock control of a holding company for a $70,000,000 urban bank was purchased in 1976. Purchasing group was formed by a former officer of a now defunct bank, who served as the chief executive officer of the purchased bank and replaced most of the officers with his former associates.

Nature of difficulties subsequent to change in control: Heavy loan losses, poor earnings, excessive dividends, self-serving practices by the new owners and their inability to show satisfactory progress in improving the asset condition led to the bank being placed on the problem list approximately 2 years after the change in control occurred.

Basis on which change of control would have been denied or conditions imposed before approval: Earnings of the bank were obviously inadequate to meet the debt servicing requirements of the holding company at the time of purchase. An investigation into the capabilities and/or the financial position of the new management may also have resulted in disapproval.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: Source and method for servicing holding company debt. Complete financial information and prior bank associations from the purchasers and contemplated changes in staffing for the purchased bank may have impacted said decision.

CASE NO. 14

Situation: This bank had total assets of approximately $2,000,000 when control changed in 1977.

Nature of difficulties subsequent to change in control: In early 1978, one of the members of the new control group, who was serving in the capacity of chief executive officer, permitted companies belonging to his uncle to overdraw their accounts by $870,300 which was in excess of the bank's legal loan limit of $119,500. At this time, the bank's capital accounts totaled less than $500,000. With the bank facing insolvency, the overdraft was covered by a direct loan to the companies with another of the Chief Executive Officer's relatives personally buying 95% interest in the loan, thus allowing the bank to remain open. A report to the U.S. Attorney was prepared.

Basis on which change of control would have been denied or conditions imposed before approval: The total purchase price of the control stock was $600,000 with 100% financing provided by another institution. The Chief Executive Officer's portion of the indebtedness was $300,000. His 1976 gross income was $25,000. This information was disclosed after the change of control. The Chief Executive Officer's previous experience did not qualify him to be the managing officer of this bank.

Because of the unusual borrowing arrangements and the general character of management, this change of control would have been denied. Approval may have been conditioned on limiting total financing to no more than 50% of the purchase price and employment of a qualified Chief Executive Officer.

Prior information from purchasers, if authorized, which would have impacted on a decision to approve or deny the transaction: The financial and biographical information received after the transaction should be required before the transactions in order to analyze the proposed owners' financial capacity and business background along with the capabilities of the proposed managing officer.

GENERAL LEAVE

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on each of the rules called up today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Speaker, this is a very simple rule on a very complex piece of legislation. I know of very little controversy on the rule.

I therefore reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to address a couple of questions, if I may, to the gentleman from Missouri (Mr. BOLLING).

This is a 1-hour open rule on the Financial Institutions Regulatory Act. The rule was on the agenda to be brought up earlier today, and then it was off, and then it was scheduled to be taken up Monday. Now the rule is back and the bill is off the schedule for Monday. Are there any plans to try to take this up this afternoon?

Mr. BOLLING. There are no plans to take it up this afternoon.

Mr. LOTT. Could I inquire when this will be scheduled?

Mr. BOLLING. I understand there will be general debate on the matter on Tuesday.

Mr. LOTT. I thank the gentleman. I knew there were a lot of discussions going on about it and we did not know the final results.

Mr. BOLLING. If the gentleman will yield, he knew more than I did then.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1 hour, open rule which allows the consideration of H.R. 13471, the Financial Institutions Regulatory Act of 1978. The first reading of the bill is to be dispensed with, it is to be read for amendment by titles instead of by sections, and each title is to be considered as having been read. The rule provides that the Banking, Finance and Urban Affairs Committee is to be discharged from further consideration of S. 71, and H.R. 13471 as passed by the House is made in order to be inserted for the text of the Senate bill.

The Financial Institutions Regulatory Act of 1978 contains 20 titles. Rather than go through the entire litany of provisions, I would like to outline briefly the major thrust of the measure. It is designed: First. to strengthen the supervisory authority of Federal agencies which regulate depository institutions; second, to prohibit interlocking management and director relationships between financial institutions; third, to restrict conflicts of interest involving officials of financial supervisory agencies; fourth, to control the sale of insured financial institutions; fifth, to regulate the use of correspondent accounts; sixth, to provide additional disclosure to the supervisory agencies and the public of material facts on activities of banks and bank officials; and seventh, to allow federally chartered thrift institutions to offer alternative mortgage instruments where State-chartered institutions have this power.

It is my understanding that this legislation is the product of an effort which began in September of last year. Prior to that I am advised that in previous Congresses the Banking Committee has devoted much time to this subject. The end result, H.R. 13471, while it does not please everyone, is generally acceptable. There is room for improvement in the bill, however, especially in the right to financial privacy provisions of title XI. There should be some amendments offered to this title which will more adequately protect the bank customer's right to privacy and due process.

Mr. Speaker, this open rule will permit the Members to fully debate and amend this comprehensive bill; and I would not object to its adoption at this time.

● Mr. ROUSSELOT. Mr. Speaker, a great deal of hard work has already been invested in the various versions of the Safe Banking Act, but a number of difficult issues remain to be resolved. Some of these issues may be resolved by the time the bill is read for amendment, but additional issues, of which we are presently unaware, may crop up at the last minute, as tends to happen despite our best efforts to prevent it. The FIRA is a truly complex piece of legislation, and Members should not expect that it will be disposed of easily or quickly. The following is a list of major amendments which are likely to be considered. This list is not an exhaustive one, but it may be more than complete since it is possible that agreements may be reached on some of these matters. Given this caveat, I hope that my colleagues will find this list useful in preparing for floor consideration, which is presently scheduled for Wednesday, October 4, following general debate on Monday, October 2:

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

First. Some banks and saving and loans oppose the extension of the cease and desist authority of the supervisory agencies to individual officers and directors and the provision for civil money penalties against such officers and directors. An amendment reducing this authority or strengthening procedural safeguards may be offered.

Second. Many State-chartered banks, as well as State bank supervisors have opposed the application of Federal insider loan limits to State-chartered institutions, and an amendment to limit the applicability of the Federal standards may be offered.

Third. The National Credit Union Administration has stated that it prefers its present cease and desist authority to the authority provided in this bill, and an amendment may be offered to delete those provisions which apply to the NCUA.

TITLE II—INTERLOCKING DIRECTORS

The full committee voted to delete certain amendments to the Clayton Act which pertain to interlocking directorates among financial institutions. One amendment would have eliminated a potential overlap between title II of this bill and section 8 of the Clayton Act. A second amendment would resolve a lawsuit which the Justice Department has been litigating for years and which involves the issue of interlocks between depository institutions and insurance companies. A majority of the committee believed that these issues were beyond the jurisdiction and competence of the Banking Committee and voted to delete the Clayton Act amendments altogether. It is possible that an amendment to restore these provisions may be offered.

TITLES VI AND VII—CHANGE IN BANK CONTROL, CHANGE IN SAVINGS AND LOAN CONTROL

Many banks object to the grant to the Federal supervisory agencies of authority to disapprove a proposed change of control, and an amendment may be offered to confine this authority to foreign takeovers of domestic institutions. Any amendment to title VI could affect title VII, because the committee has endeavored to keep the two titles consistent with each other.

TITLE XI—RIGHT TO FINANCIAL PRIVACY

This title would be a major piece of legislation in its own right. The major outstanding differences concern provisions governing the sharing of financial records among Federal agencies. The Justice Department has proposed a number of amendments which would liberalize the restrictions on interagency access contained in the committee bill.

TITLE XII—CHARTERS FOR THRIFT INSTITUTIONS

First. Banks in savings bank States have expressed concern that federally chartered savings banks would enjoy more liberal branching powers than those which apply to banks. An amendment reducing the ability of Federal savings banks to branch is likely to be offered.

Second. It is also likely that an amendment will be offered to clarify the intent of this title to authorize conversions from State to federally chartered mutual savings banks and not from mutual to stock institutions.

Third. An amendment may also be offered to impose upon federally chartered mutual savings banks a requirement that they maintain a federally prescribed level of investment in housing.

TITLE XIII—HOLDING COMPANIES

The title adopted by the committee was intended to prohibit bank holding companies from providing insurance as principal, agent, or broker, except: First, for credit life or credit disability insurance; second, for any insurance sold in a community of less than 5,000 population; third, for any insurance activity in a community where a bank holding company demonstrates that there are inadequate insurance facilities; fourth, where insurance already is being sold

by a company owned directly or indirectly by a bank holding company as of June 6, 1978; or fifth, for any insurance agency activity engaged in by a bank holding company or any of its subsidiaries with assets of less than $50 million. An amendment is likely to be offered which would disallow applications pending as of June 6, 1978, some of which have subsequently been approved by the Federal Reserve Board.

TITLE XVI—TRANSACTION ACCOUNTS

It is likely that an amendment will be offered to confine the grant of transaction account authority to federally chartered thrift institutions in New York and perhaps in New Jersey, rather than in all States where State-chartered institutions have been granted such powers.

TITLE XVIII—ALTERNATIVE MORTGAGE INSTRUMENTS

Amendments may be considered to limit the types of instruments which may be offered or the States in which they may be offered. The purpose of the present title is to permit the Federal Home Loan Bank Board to authorize Federal savings and loans to offer alternative mortgage instruments in States where State-chartered associations are authorized to offer such instruments. The title requires that the consumer be offered a documented choice between an alternative mortgage instrument and a conventional fixed rate mortgage.

There is also a substantial likelihood that additional titles will be offered. At the present time these include one title which would exempt agricultural credit from the Truth in Lending Act and another title which would permit commercial banks to underwrite municipal revenue bonds. For obvious reasons, it would be foolhardy to speculate on the prospects of the final product in a conference with the Senate, which has adopted a much more limited bill, S. 71. Also, the Senate Banking Committee has S. 3499, a bill which provides for a 1-year extension of interest rate controls and deals with many of the same issues as FIRA, and with some additional ones as well.●

Mr. LOTT. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 11445, SMALL BUSINESS ADMINISTRATION PROGRAMS AND AUTHORIZATIONS

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 11445) to amend the Small Business Act and the Small Business Investment Act of 1958.

The SPEAKER per tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1979

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14042) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The SPEAKER per tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14042, with Mr. ROSTENKOWSKI in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill will be dispensed with.

Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from California (Mr. BOB WILSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, on behalf of the Committee on Armed Services, I present today H.R. 14042, the authorization bill for the Department of Defense for fiscal year 1979.

This bill supersedes H.R. 10929 which the President vetoed on August 17. The House sustained that veto by a vote of 191 to 206.

The President's principal objection to H.R. 10929 was the inclusion of a nuclear-powered aircraft carrier, at an estimated cost of $1.93 billion.

The carrier, therefore, has been omitted from H.R. 14042. This is the principal difference between the two bills.

There is one other dollar difference. The new bill would authorize an additional $209 million in the naval vessels account to cover shipbuilding claims settlements already effected by the Navy under Public Law 85–804. These settlements were submitted to the Congress in early June.

Under Public Law 85–804, the Congress had 60 days in which to pass a disapproval resolution if it did not concur with the settlements. Our committee held hearings and had the benefit of an extensive study by the General Accounting Office. The committee concluded that the agreements worked out by the Secretary and Assistant Secretary of the Navy were the best solution to a complex situation which could otherwise tie up our shipbuilding program for many years. The General Accounting Office concluded that the agreements were the preferred approach among several undesirable alternatives.

After deliberating on the claims, the committee considered two resolutions of disapproval but voted to table them by recorded votes of 24 to 13 and 28 to 9.

There are insufficient funds in the Navy's account to cover the full cost of the claims agreements. An alternative proposal to provide the additional money was to reprogram funds authorized in the bill for the SSN–688 attack submarine to finance the claims settlements. This ship, however, is the only SSN–688 attack submarine contained in the fiscal year 1979 shipbuilding program, and the committee did not believe the nuclear submarine program should be delayed.

An amendment may be offered today to delete the $209 million and prohibit any other money in the Navy shipbuilding account from being used for settling the agreements.

This amendment serves no useful purpose at this stage of the process. The 60-day period for disapproval has already expired. If there had been valid arguments for disapproving the agreements, the proper course would have been to offer amendments on the House floor to that effect during the 60-day review period. Supporting this amendment today could not invalidate the settlements. It would only mean that the money would have to be taken from elsewhere, probably from prior year's shipbuilding funds. That would mean the elimination of a nuclear submarine or another badly needed Navy ship.

Also remember that, with the elimination of the aircraft carrier, authorization in the naval vessels account in the bill is already $241 million below the President's funding request. It is actually below the amount authorized for ship construction last year.

Therefore, I urge the Members not to take the time of the House with this issue at this time; let us dispense with it rapidly. The matter has had plenty of time for consideration. The committee is convinced that the approach taken by the Secretary of the Navy is the only practical course.

In addition to these two monetary changes, there are two language differences between this bill and the earlier authorization: the elimination of sections 812 and 819 which were originally part of H.R. 10929.

Section 812 was a minor provision which allowed leftover sea-based aircraft platform study funds to be applied toward design work for the aircraft carrier which had been authorized by the bill. Since H.R. 14042 does not contain the aircraft carrier, this provision is unnecessary.

Section 819, which originated in the Senate, would have provided that individuals who perform bagger or carryout service in military commissaries would not be considered employed under the Fair Labor Standards Act of 1938 if their

sole compensation is derived from tips. The committee strongly supports that provision, but since it amends a law not under the jurisdiction of the Committee on Armed Services, it had to be eliminated under the rules of the House.

The remainder of H.R. 14042 is identical to H.R. 10929.

H.R. 14042, as approved by the committee, authorizes a total of $35,235,969,000 for major weapons systems procurement, research and development, and civil defense. The total is $247,843,000 below the amount initially requested for authorization by the President, and $1,721,000,000 below the amount that would have been authorized by H.R. 10929.

Mr. BOB WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 14042 and commend Chairman PRICE for his leadership in bringing this bill to the floor.

The President vetoed our earlier Defense authorization bill, H.R. 10929, because it contained a nuclear aircraft carrier. Some of us strongly disagreed with the President and believe that he has made a mistake that limits our future naval capability. However, the House supported the President and since the House has spoken, the Committee on Armed Services had no choice but to report a bill without a nuclear carrier.

Our committee has added $209 million in authorization for the Navy to provide sufficient funds for the settlement agreements for shipbuilding claims and recommends to the House that you approve this action. In the absence of that additional authorization, the Navy would have been faced with the elimination of the only attack submarine in the bill. The committee certainly does not want to see the Navy's shio construction program slowed any further. The shipbuilding program in the bill is much less than it should be to give us the Navy we require in the future, and much less than the administration told the Congress last year that it would be.

Chairman PRICE has explained the two small language changes in the bill.

Mr. Chairman, I know the legislative schedule is crowded and I want to be brief. But there are just two other points I think should be made.

First, the Secretary of Defense presented a list of items which had been eliminated in the authorization or appropriation process to date and asked that these items be restored once the carrier was eliminated. The list totaled $2 billion. However, three-fourths of that list, over $1.5 billion, were items which had failed to be included in the appropriation bill as it passed the House. The decision on whether or not to restore those items is up to the Appropriations Committees, not the Armed Services Committees.

On the Secretary's list were items totaling $545 million which had failed of authorization during consideration of the initial authorization bill. Some were items which had been approved by one House but not the other and had failed in conference. Some were items that had been disapproved by both Houses. On some items, the Defense Department did not submit a reclama during the initial authorization process. Therefore, the committee could only conclude that the priority for the list was questionable at best.

The committee believes that the first order of business is to get a new bill out as quickly as possible so that an authorization can be enacted before adjournment and the appropriation process can proceed. There is no way that this would be possible if we started an indepth reconsideration of numerous defense programs.

The second point I would like to stress is that the committee expects to receive a supplemental Defense request early in fiscal year 1979. The Secretary of Defense's list of items, and other defense systems that the committee or others in Congress might propose, can be considered as part of that supplemental.

I emphasize this point because, while the committee did not agree with the detailed recommendations of the Secretary of Defense, the committee certainly does not want its actions to be interpreted as supporting a lesser budget level for overall national security requirements. Additional authorization and appropriation for Defense will be necessary in a supplemental request during fiscal year 1979.

Our committee has tried to proceed on Defense requirements in the most expeditious manner and I hope the bill we have brought before the House today will receive overwhelming support.

I urge all of you to support H.R. 14042 as is.

Mrs. SMITH of Nebraska. Mr. Chairman, would the gentleman yield?

Mr. BOB WILSON. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

As the gentleman from California (Mr. BOB WILSON) knows, the U.S. Air Force has recently filed an environmental impact statement with the Environmental Protection Agency which studies several possible sites for basing the future MX intercontinental ballistic missile.

The Third Congressional District of Nebraska, which I am privileged to serve, has several counties which are being considered as possible basing sites for this system.

When the Department of Defense circulated the draft environmental impact statement in my district, it was not given much publicity; and consequently, many concerned citizens were not given the opportunity to express their views.

I was successful in getting an extension of the draft environmental impact statement study so that the citizens in the Third Congressional District of Nebraska could make their views known. Nonetheless, a great deal of resentment and concern, which I share, still exists.

The citizens in my congressional district are loyal, hard-working, and dedicated Americans but they have a legitimate grievance: Why does the Department of Defense have to take prime agricultural land away from productive and hard-working farmers?

Mr. BOB WILSON. I will say to the gentlewoman from Nebraska I can appreciate her concern, and I commend her effort to so ably represent the grievances being expressed in her district.

The so-called MX program consists of two elements:

The United States needs to assure the continued survivability of its land-based missile force. By early in the next decade testimony before our committee has revealed that we could not be confident our present Minuteman missiles would survive a surprise Soviet attack. For that reason, the Secretary of Defense, the Secretary of State, Mr. Warnke—our senior SALT negotiator—and others have made known to the Soviets that under the prospective SALT II agreement we will have the right to deploy a survivable ICBM basing system that the Soviets would have no incentive to attack. For that reason the Department of Defense is now exploring options for deploying a survivable ICBM basing system—so that is the first element of the MX program. Let me also point out that the overwhelming majority of the Members of Congress—in both Houses—endorsed the need for a survivable ICBM basing system when we passed the earlier fiscal year 1979 defense authorization bill.

The second element of the MX program is the development of a new and modern missile.

Now the MX program is in advanced development. For the Department of Defense to enter full-scale development of the program—so we can define the requirements and best option for the program—an environmental impact study had to be undertaken.

The Department of Defense is considering several basing modes, including a vertical or horizontal shelter or buried trench. In order to make a proper decision on the best basing mode the DOD had to examine which areas are geotechnically suitable for this project, and this was the purpose of the environmental impact study. The study in no way implies that Nebraska will be selected for the new ICBM basing system.

Not only that, it is my personnel opinion that the trench system is considered by most of us to be the poorest solution. In my opinion it is as dead as a dodo bird.

Mrs. SMITH of Nebraska. I am deeply concerned that the Department of Defense is contemplating the use of prime agricultural land for a new ICBM basing system—there must be much more suitable lands?

Mr. BOB WILSON. I will say to the gentlewoman from Nebraska, she is absolutely correct. This first environmental impact study merely selected 7 representative regions in 10 Western States that are geotechnically suitable for this kind of a project.

The land in your district happens to be geotechnically suitable.

Several restrictions exist for land which cannot be selected; these include towns, highways, oil, gas, mining, power generating, industrial, communications, water distribution complexes et cetera.

Areas that are environmentally sensitive—Indian reservations, archaeology sites, forests, parks, game reserves, monuments, et cetera—are also excluded.

Now, in making a decision on which area to select, economic, technical, and

environmental decisions will have to be made.

There are clearly many more areas than the Nebraska, Colorado, Kansas regions which, in my view, would be more suitable. From the standpoint of weather alone, these areas—in winter—would create serious mobility problems and tremendous cost burdens.

There are numerous areas, including already existing government lands, that would be much more suitable from economic, environmental, technical, and weather standpoints—and all of these areas would be less disruptive on populations in the vicinity of these sites.

So again, this study merely looked at a cross-section of representative geotechnically feasible sites—and Nebraska falls in this category.

Let me also point out that several Members of Congress have already expressed an interest in having the new ICBM basing system put in their districts and States—and these areas are also geotechnically compatible. It would not make much sense to put these trenches where they were not wanted.

Mrs. SMITH of Nebraska. What recourse will the Third Congressional District of Nebraska have should it be selected as a site for the new ICBM basing?

Mr. BOB WILSON. The Department of Defense is presently considering holding a D–SARC—a Defense Selection Acquisition Review Council—in late October. If this D–SARC is held, and a decision is made to proceed with full-scale development of this new ICBM basing system, a study to determine the preferred basing will be made; prototypes will be developed, and so forth.

The Congress will have a continuous opportunity to maintain oversight over the program through the defense authorization and appropriations process.

More importantly, from your standpoint, once a decision is made to enter full-scale development for the system, site selection would not be made for about another 2 years after that date.

Many additional studies, and a very detailed environmental impact statement would have to be undertaken. This study will consider the public response. So, I would believe that other areas which appear more suitable for the reasons I mentioned earlier and which have local public support, would naturally be preferred over a site selection that would cause serious disruptions and does not have local popular support.

Mrs. SMITH of Nebraska. What is the earliest possible schedule for proceeding with the new ICBM basing deployment?

Mr. BOB WILSON. Funding for a decision to proceed with full-scale development could not come before the Department of Defense requested either a supplemental funding to the fiscal year 1979 budget or in the fiscal year 1980 budget. So site selection would probably follow about 2 years from that date. But let me emphasize, no such decision has yet been made. You and other members of Congress, and your constituents, will have the opportunity to make your views know to influence the decision. And I certainly believe that the very legitimate concerns you have will have to weigh heavily in the decisions made.

If there were no alternatives but to dislocate farmers or towns we would have a real problem. But there are alternatives and these alternatives seem to me to provide cost-effective ways to develop and deploy the new ICBM basing in areas that want the system, and which are compatible geotechnically, as well as from the standpoint of cost, the environment, and weather.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I am sure that it is purely coincidental that this particular bill with the particular amendment that is going to be offered should be scheduled here 1½ hours before the scheduled adjournment of Congress for the week. Nevertheless, I do want to take just a few minutes to try to explain what is a complicated matter but one that I think is of very great significance to the defense of our country and to the Members of this House and this committee.

I hesitate to take the time, but I would point out to the Members that what is involved, first of all, is $209 million. Even in this House and in this administration $209 million ain't hay. As a matter of fact, $209 million was just about the difference between the nuclear carrier that our committee decided was necessary for the security of our country and the nonnuclear conventional Jeep-type carrier that the administration wanted, and because of which we had to go back and redo the entire Defense authorization bill. So if it is enough money to involve the running of the risk, as we undoubtedly will, of operating our defense under a continuing resolution, it is also money enough for this House to have an opportunity to consider whether we want to spend it, throw it down a rat hole, or perhaps take a little look at it.

I would not be terribly upset if this was just a matter of $209 million. Maybe in 20 years I have become inured to some of the figures we have to toss around here in Washington. I can see how perhaps $209 million might be a comparatively simple way to address this question; but the trouble is that this is not a settlement. What I am concerned about is not the expenditure of this amount. What I am concerned about is the precedent this decision will make for the future. We have absolutely no assurance that the Navy or the Defense Department have learned a single lesson about these problems of cost overruns and they have not in any sense brought before us a plan to say, "If you give us this $209 million so that we can pay off these claims, we will assure you we will never let this thing happen again." That is the real danger.

Here we are approving $209 million and then there is another $600 million that is being picked from the kitty for something the House has not even had a chance to examine; and nobody can guarantee, nobody can tell me what the Defense Department is going to do to prevent it happening again, because they just do not know themselves.

This is not a new story. We have had Defense overruns all too often. In fact, our committee is constantly being assailed with, "Why do you allow these big overruns?"

And our reply usually is to say, "Well, they had a big overrun on the Kennedy Center too and a lot of other things." They have had a lot of overruns on civilian projects, but we do not hear about them.

We even had an overrun of $1 million on the South Mall in the city of Albany that I represent, Mr. Rockefeller's monument.

I am one of the few Members that recalls this: when we developed the C–5 aircraft, we had a $1 billion overrun. What happened was the Committee on Armed Services, very upset, very disturbed, said, "We have no alternative," and so we gave to Lockheed $750 million over a 3-year period of time to pay off this overrun. They absorbed $250 million or something like that themselves and we were assured this kind of thing was never going to happen again.

President Carter holds up Mr. Ernest Fitzgerald as the great whistle blower because he pointed out to us a cost overrun on the C–5A; but no body has yet found a way to prevent them, because we have two more huge overruns confronting us in this bill.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. PRICE. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. STRATTON. So, Mr. Chairman, the problem is simply that we have not learned our lesson. I think it would be a mistake for us to go down the same route again, unless we can really be assured in some concrete form, other than just a vague letter from the Secretary of Defense, that we really have a system that will enable the Armed Services Committee and the House to monitor this kind of thing effectively in the future. We do not have before us now the situation with which we were confronted with Lockheed. They were on the point of bankruptcy; and on top of that original $750 million we also gave them a guarantee of $250 million more to keep them out of bankruptcy.

But these two companies that we are bailing out here are both conglomerates. They have plenty of assets. General Dynamics is the conglomerate for Electric Boat. They are not going broke. Maybe they can even use these things for tax write-offs.

Litton is the conglomerate for Ingalls Shipyard. They are not going broke by a long shot. Let me also say that this is not going to be the end. The next time it is going to be Newport News, because we have established the pattern. We have said to any big company, "All you have got to do is put in your claims, and the trouble that we have in trying to settle any claims by litigation is so onerous that we will split with you 50–50 on any of your claims."

That is not the way to run a railroad. It is certainly not the way to run a Defense Department.

Some people have asked me, "How come you are joining with the gentleman from New York (Mr. DOWNEY)? You two guys aren't always on the same side."

Well, I want to save money so we can spend it for something worthwhile, and not for paying past claims, only 30 percent of which have been certified as being valid. When the U.S. Congress will pay money to fund claims that have been regarded as not worth anything by the Navy, we are in real trouble.

Mr. BOB WILSON. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Chairman, the Congress should not attempt to write a Defense authorization bill in this Chamber. To do so invites bad legislation. A major armed services bill deserves more careful oversight than a mere rubber stamp of a "wish list" from the Department of Defense.

It is ironical that this Congress has been placed in the position it finds itself today. This is the Congress which overwhelmingly approved a Defense authorization bill by a vote of 319 to 67 just a month or so ago. The rationale supporting important weapons systems was debated in detail on this floor, and the issues were resolved in the informative give and take that always accompanies tough legislative decisions. The House Armed Services Committee labored long and arduously to give the Congress and the American people a defense bill best fitted to the needs of national security.

Then seemingly overnight the President vetoed H.R. 10929, the Defense authorization bill.

Now we have been presented with a "wish list" for military hardware by the Secretary of Defense. This list contains most of the very same programs which the Armed Services Committees determined were not adequately justified by the testimony and evidence presented during many months of hearings.

Let me give you a couple of examples. The administration wants $27.8 million restored for the Navy's close-in-weapons system, gattling gun. The Armed Services Committees of both Houses, and I understand the Appropriations Committees as well, are in agreement that this sum is not required in fiscal year 1979.

Here's another one. The administration wants $40 million restored for the CRAF program, a program involving civilian aircraft modification for airlift. The DOD reclama letter stated they could live with $28.5 million. That is why the committee took the $40 million out.

However, there is a remedy for all this confusion. If there are meritorious reasons for adding more money to the fiscal year 1979 defense program, it can be done through a supplemental request for funds. The supplemental request routes gives the Armed Services Committees an opportunity to review the administration's request through the hearing process, and subsequently present to the Congress recommendations for additional authorizations.

I agree fully with my distinguished chairman, Mr. PRICE. Getting a defense bill through Congress during the time remaining in this session is of paramount importance, so that the business of defense can proceed in an orderly way at the beginning of the new fiscal year. Attempts to substantially modify H.R. 14042 today can only result in further unacceptable delays in the Defense authorization process for fiscal year 1979.

I respectfully urge the Members to support Chairman PRICE's request for prompt approval of H.R. 14042.

Mr. BOB WILSON. Mr. Chairman, I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I will not take the full time, but I do think I should address some of the things that were covered in the preceding speech.

It has been said that there has been no time to study this matter. We have a law which provides for a 60-day study priod, and the opportunity was there for the gentleman from New York (Mr. STRATTON) to study the matter if he had wanted to do so.

It was also stated that we cannot be sure there will not be overruns in the future. Certainly we cannot be sure of that.

I would be a little more enthusiastic about the point made by the gentleman from New York (Mr. STRATTON) if he had taken the well and talked about the $7 billion annual overrun on HEW, a much larger overrun. There is no assurance we can cut back on that either, and that is an annual overrun, not a two-decades overrun.

With the cost of materials and everything else going up overruns are probably inevitable to some degree. There is also the fact that we have enacted OSHA, environmental legislation, and things of that type which have made it very expensive for the shipbuilders to build ships in this period of time.

There is no way in which this august body of 435 Members, even if it were composed 100 percent of Philadelphia lawyers, could sit down and effectively decide whether this is a good thing or not unless there were indeed one narrower source of decision which would show the facts through an intensive study made by a few people. It is vastly too complex for intensive, thoughtful handling by 435 people.

Thousands of papers are involved in this. There are 40,000 change items involved in this. It has taken years to study. Yet the gentleman from New York (Mr. STRATTON) would say, "Forget about the fact that a fine Navy lawyer and Assistant Secretary like Mr. Hidalgo and a fine man like Secretary Claytor have studied this matter thoroughly and have come to us and said it is in the best interests of the United States, because if we litigate this matter, we may be much worse off."

The courts have allowed 90 percent of the cost of production to the shipbuilders. I assure the Members that is much more cost to the Government than what this settlement could be.

If the critics had some real grounds to say something was wrong about this, there would be something to debate. This is not a bailout but rather a calculated judgment by the lawyers of the Department of Defense, the Department of the Navy, and the Department of Justice that it is in the best dollar interests of the U.S. Government for the Treasury's benefit.

This is the best way to go they say because otherwise we may have years of litigation and may wind up paying much more money.

My support for this bill is a reluctant support because of its omissions. The Seapower Subcommittee has been in existence now for 10 years. For the greatest portion of that time, the Seapower Subcommittee has been trying to get stability into naval shipbuilding. It just has not been able to achieve that but this has not been the fault of the committee.

The Seapower Subcommittee was the first to call for a 5-year shipbuilding program made public for all to study. The executive branch finally began to make 5-year programs public; but they turned out to be of no value at all for anyone to use in planning the future. Year after year we have found the shipbuilding program for the current year being changed by the administration from its previous plans, even for current years. If the executive branch cannot provide us with a firm shipbuilding program for 1 year, then the 5-year programs it provides are illusions.

The President, a year and half ago, said he wanted 30 ships in the fiscal year 1979 budget and 4 days later the Navy was only allowed to ask for 17. Those 17 were reduced to 15 by the time the authorization bill came up to the Congress. The President has asked for and then turned down funds for a nuclear aircraft carrier. The President has asked for and then turned down funds for a nuclear cruiser. Although earlier programs called for five attack submarines this year, the President asked for one attack submarine and then tried to withdraw it to pay for claims. Even the favorite program of all, the patrol frigates started at 10 a year, dropped to 8 and now I understand it will drop to 5 or 4. No wonder we have claims filed by the shipbuilders resulting from such irresolute planning.

The shipbuilders can not build ships in the shifting sands of the executive shipbuilding program.

Before I close I want to add one further point. Every time people in the executive branch have spoken against the nuclear carrier they have drawn comparisons as to how many other ships could be built with the carrier's funds. Not only does this overlook completely the fact that the carrier alone can perform effectively the roles assigned to it—none of the other ships can; but the frightening thing is that there has not been this anticipated request from the executive branch to build other ships they had mentioned as being precluded by purchase of the carrier. To me this can only mean that the reason given is not really meant.

While I support H.R. 4042, which has the President's shipbuilding program, I want to warn that the program is inadequate for national defense purposes and not the proper basis for building our Navy. Our Navy is being whittled away to nothing. The implications as to the adequacy of our national defense are ominous.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, we have heard today from my distinguished friend, the gentleman from New York (Mr. STRATTON), and what the gentleman says is absolutely true. We are indeed going to hear from Newport News, and we are indeed going to hear from Litton, and the reason is that we are going to have to resolve these claims.

We can handle the solution of these claims in several different ways. We can do what we are doing here today, which is to say to General Dynamics, "OK, you are wrong" and say to the Navy, "Your are also wrong, and we are going to settle the thing 50 cents on the dollar, and we are going to spend $209 million of the American public's money to resolve this claim."

There is no question that there are wrongs on both sides. Clearly, the Navy, in dealing with shipbuilding, has changes as they go along, and they issue these changes by the hundreds, literally by the thousands. Maybe you can say, as I do: Do we really have to have this? But this is not the time and place to discuss it. I wish indeed we could eliminate this claim. I wish we could stop this kind of waste. If the day comes that we decide here that we are going to spend the money for this kind of ship and weapon system, that we lock up the design and say that is exactly what we are going to build and we know exactly what we are going to pay for it, indeed we would be off. As a matter of fact, I am going to try to get that done. But today we are dealing with this problem here and now. We have to settle the claim of General Dynamics so that we can get on with the shipbuilding program, and I do indeed urge my colleagues not to go to court. If we go into court we will spend a number of years there and we will spend the same amount of money, if not a hell of a lot more. So as far as I am concerned, we should bite the bullet, do it now. And, yes, indeed, we may well have to do it again with other programs and it makes me mad. But we cannot do anything about it, and I want to get out as cheap as we can. Let's defeat the Downey amendment.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Connecticut.

Mr. DODD. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well and to point out that, because of the element of time, I had intended to speak during general debate but I shall reserve that for the debate at the time the Downey amendment comes to the floor.

Mr. LLOYD of California. I thank my colleague.

Mr. Chairman, we are not going to solve the problem by taking this claim into the courts. The problem has to be solved in our shipbuilding program, and that can only be done in the hearings by the committee. We do not have that kind of time to discuss it here.

We are not—let me emphasize that—we are not giving away the taxpayers' money on this thing. What we are doing is the best possible solution. I do not like it. I am not happy with it. But it is the best possible solution.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Connecticut.

Mr. SARASIN. I thank the gentleman for yielding.

Mr. Chairman, I certainly want to associate my self with the gentleman's remarks. The gentleman has made a very, very lucid comment concerning a very difficult situation. I, too, will reserve any further comment until the debate on the Downey amendment.

Mr. LLOYD of California. I thank the gentleman.

Mr. Chairman, I urge the Members to turn back this amendment that will be presented by Mr. DOWNEY.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, I rise in support of H.R. 14042, a bill authorizing appropriations for the Department of Defense for fiscal 1979. However, I do so with some reservation.

This bill deletes authorization for the nuclear powered aircraft carrier, the CVN–71, and has added authorization of $209 million for ship claims. The net effect of these two acts is a reduction of $1.7 billion for defense. This provides an authorization bill substantially below the level approved by the Congress and comes at a time when there exists growing concern over our strategic posture and an ever-increasing disparity in conventional forces.

Even Secretary Harold Brown, certainly not recognized as an alarmist or a hawk, has stated that the minimum level required for defense is that requested by the President. Unfortunately, in presenting a "wish list" for restoration, the Secretary viewed the administration's request as sacrosanct asking for restoration of low priority programs which had not been adequately justified and which were deleted or reduced by the Congress after careful deliberation. To quote my colleague from New York (Mr. DOWNEY) the wish list contained a number of programs that were just plain turkeys.

Now, Mr. Chairman, I agree with Secretary Brown that we need this money that has been cut for defense and would remind my colleagues that the original defense request of $126 billion was some $8 billion below the level postulated by the previous administration. We can ill-afford an additional cut of $2 billion at this time.

Unfortunately, time would not permit the committee's consideration of the Secretary's "wish list" or other alternatives. As a result, the committee has requested that Secretary Brown expeditiously submit for its consideration a supplemental budget request. If such a request addresses itself to more efficient and economical procurement, and those research and development programs where additional moneys will advance the date of IOC, initial operating capability, then I believe we will have acted properly. We will have saved money, we will have helped in alleviating an unmanageable out-year procurement bow wave and we will have acted to get hardware into the hands of our troops sooner. If the supplemental request, submitted by the Department of Defense, satisfies these objectives it will have my full support.

In conclusion, I would merely point out that under no conditions do I plan to reopen any R. & D. issues which have been acted upon by the Congress and found deficient or lacking for justification. I want to spend what money we have available for defense but I want to spend it in a manner which improves our defense posture and buys the biggest bang for the buck. There will be no turkeys.

I urge your support of this bill.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, in the area of manpower, titles III through IV of H.R. 14042, I would like to briefly highlight the major points since these titles are identical to H.R. 10929 which the House had approved.

In title III, for active duty personnel, a total of 2,055,750 as the end strength authorization is established. This level is 4,000 below the bill which originally passed the House, is 1,850 more than the Senate's position, and 6,750 above the Department of Defense request. The primary areas of increase are in the Army and Navy to permit necessary increases in training activities in these components. The strengths authorized by service are 775,800 for the Army, 523,550 for the Navy, 190,000 for the Marine Corps, and 556,400 for the Air Force. In each case, I believe the end strengths contained in this legislation will be adequate for fiscal year 1979.

The average strengths authorized for the reserve components in title IV are those requested by the administration, with minor adjustments for an accounting change. The strengths are as follows:

Army National Guard	362,200
Army Reserve	195,750
Naval Reserve	87,000
Marine Corps Reserve	33,000
Air National Guard	92,150
Air Force Reserve	53,075
Coast Guard Reserve	11,700

One particularly important action is to extend the authority for Reserve-recruiting incentives and to authorize $25 million for this purpose in fiscal year 1979. These incentives are necessary to improve strength shortfalls in the Selected Reserve.

For civilian personnel, the legislation proposes an end strength authorization of 1,005,500. This figure is 12,700 spaces below the original House bill, 2,000 spaces below the administration request, and 6,400 spaces above the Senate. A decision on the appropriate level for civilian personnel was one of the most difficult issues addressed. The Senate adamantly has sought some reduction from the President's request in civilian personnel. The reduction was agreed to only with the stipulation that the reduction would occur through normal attrition and not through reductions in force and that it should occur primarily in white-

collar civilian spaces in the Washington, D.C. area.

I am pleased, however, that the legislation retains the Secretary of Defense's authority to exceed the ceiling at its current level of 1¼ percent. The authority provides flexibility for the Secretary in managing civilian personnel—which I believe is an important matter.

In the area of manpower, generally, the legislation does contain language which will permit the Secretary of the Navy to assign females to combat ships on a permanent basis.

While this legislation is not perfect in my view because it does reflect a number of painstakingly achieved compromises, it does provide adequate manpower for national security and should be supported.

Mr. PRICE. Mr. Chairman, I yield such time as he may require to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this bill and ask my colleagues to support the bill and oppose amendments offered except those few offered by the committee chairman.

I especially ask my colleagues to oppose the Downey amendment which knocks out the money to settle claims between Electric Boat and Litton Industries.

Litton, General Dynamics, and the Navy will have to give and all take losses under the present contract.

I commend the Secretary of the Navy, Mr. Claytor, and Assistant Secretary of the Navy, Mr. Hidalgo, plus the shipbuilder heads for working out this fair settlement.

If you do not vote down this amendment we lose ships we need and the lawyers will gain by the long court fight; with both the taxpayer and the two companies losing.

Please vote against the individual amendments and for the bill.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Chairman, I thank the gentleman from Illinois for yielding. This is not a perfect bill, but I think it is infinitely more supportable than the bill we originally passed. I would like to concur with the statement of the gentleman from Mississippi (Mr. MONTGOMERY).

I am going to vote for this bill. Since I normally vote against defense authorization bills, I am going to take a moment to explain the reasons for my departure from normal practice.

This is not the ideal defense bill; very far from it.

It is bigger than it needs to be. There is not the slightest doubt in my mind that the Nation would be more secure if this bill were to embody the principles of the Mitchell transfer amendment.

It is based on the assumption that because we promised a 3-percent increase in our NATO contribution—why we should feel compelled to pay more to defend Europe than the Europeans pay to defend themselves remains beyond my understanding—we must somehow raise the rest of our defense budget 3 percent as well.

It includes funds for the advanced medium short-takeoff transport: an overpriced gold-plated doorknob if there ever was one.

It continues to emphasize procurement to such an extent that operation and maintenance must be shortchanged, thus reducing our net combat capability.

It continues to serve outmoded concepts of foreign policy which were never valid in the first place. Even worse, it tends to perpetuate them.

All that being said, the fact remains that this bill is probably the best attainable under the circumstances. It eliminates a large number of nonsensical items by the executive branch, it eliminates the large aircraft carrier, which was the most conspicuously nonsensical item approved by the Congress. In most respects, it is quite close to the substitute amendment I offered when the defense authorization first came up for consideration. For this reason, I feel bound to support it and shall do so.

But before concluding, I want to say a word about what appears to be a national psychosis which has taken hold of the President, the Secretary of Defense, the Armed Services Committee, and the Congress alike. I refer to the idiotic notion that defense spending is a virtue in and of itself, rather than the unpleasant price of national security. I have heard the Secretary of Defense talk about his determination to spend such a sum of money, and I have heard members of the committee talk about who will get the blame if we spend less. The underlying assumption seems to be that inefficiency is a virtue, and that money translates directly into security.

According to this philosophy, if the manufacturer of the F–15 were to come to us tomorrow with the news that he had discovered a way to turn out his fighters for one-third the previous price and had thereby reduced defense procurement cost by a billion dollars with no loss in capability, we should not congratulate him; we should go into a state of panic over the grievous blow he had dealt to the military budget. I say somebody is losing his marbles. If we do not recover our sanity and regain a valid perspective on defense expenditures, the road ahead is clear: We will spend more and more and get less and less, and one day we will find ourselves with no national defense at all, just a process for transferring money from the taxpayers to the defense contractors.

Finally, I have a word for my colleagues on the Armed Services Committee. This has not been an entirely happy year for me; my substitute was beaten badly on the floor. But still less, has it been a happy year for the committee? For the first time, the committee has been unequivocally rejected and beaten. Many of the members blame it on the President, the Secretary of Defense, and the other pinko bedwetting liberals in the executive branch.

Don't do it. Face the facts. The fact is, the committee came out with an irresponsible Christmas tree. The fact is, the committee was rejected not only by the White House but by a decisive majority of the House of Representatives.

If we spend the next year sulking and plotting revenge against Harold Brown, I can tell you what will happen next year: The committee will lose again, but by a bigger margin.

Congressman ICHORD's Research and Development Subcommittee did excellent work. If the veto had been on the R. & D. issue alone, or if the rest of the bill had been of comparable quality, there would have been no veto or, if there had been, it would have been overridden.

If we want to see fiscal year 1980 avoid a repetition of fiscal year 1979, the answer is simple: do good work and come out with a good bill. Then there will be no veto and, who knows, there may even be no Carr amendments.

● Mr. SIKES. Mr. Chairman, it is regrettable that because of a Presidential veto, it is necessary to pass another Department of Defense authorization bill and to revamp the appropriations bill for fiscal 1979 which has passed the House and which has been pending in the Senate for weeks. As the House well knows, the President's veto on the authorization bill, which had been approved earlier by Congress, was over the issue of an additional nuclear carrier. Many of us are highly disappointed at this action, but the failure of the House to override the veto makes it imperative that another bill be passed. The defense of America is in limbo. We are at the end of the fiscal year. It is unfortunate that the veto made it impossible for us to complete action on the appropriation bill and the authorization bill for fiscal 1979.

The Secretary of Defense, speaking for the President, asked that approximately $2 billion contained in the earlier bill and earmarked for a nuclear aircraft carrier, be used for other defense needs. In lieu thereof, the Secretary submitted for his consideration a series of defense programs totalling $2.25 billion. They were programs included in the President's original budget request for the fiscal year. The bill before us contains very few of the restorals which the President recommended. I shall support the action of the committee, but I am disappointed that additional items to compensate for the loss of the aircraft carrier funds have not been provided in the bill. This administration seldom asks for more money for defense than the Congress has provided. The record has been one of cuts in defense budget by the administration. I feel that there are programs of real merit on the Secretary's list which should have received the support of Congress in the current bill.

Now let me turn to the section of the bill which provides authorization for settlement for Navy shipbuilding claims in the amount of $209 million. I support this action of the committee. The $209 million which is under discussion today would provide the funds which the Navy needs to settle these claims. They are longstanding claims. There has been much controversy about them. It is important to settle the problem without further delay. From every standpoint, the Navy and the defense establishment

needs to close the books on this matter and to eliminate existing impairments.

This is not a giveaway program. It is a dollar figure which has been reached through the tireless efforts of Secretary Claytor, Mr. Hidalgo, the Navy Claims Settlement Board, the Naval Sea Systems Command Claims Team, and the companies involved. Their efforts proved to be a compromise effort in which the companies agreed to assume fixed losses of over $550 million in return for an agreement that the Navy would settle claims amounting to over $900 million. It has taken much hard work, and give and take on both sides to reach the agreement at hand. It deserves your support.

We are hearing more and more about the problem of pilot retention in the Navy and the Air Force. Experienced pilots, in particular, are leaving the military service for "better," "safer," jobs with the airlines. Obviously, this drop in pilot retention to unprecedented low rates can have an adverse effect on U.S. readiness in bomber and fighter squadrons and on airlift capability. Regrettably, there is increasing career frustration, due in part to constant criticism in the media of the military services accompanied by continuing efforts on the part of some in Congress or to eliminate or cut back career incentives that have provided inducements for careers in the military. The demands of military life can be frustrating, even to the most dedicated, because of long hours, assignments to remote locations, and frequent duty away from home.

It is very obvious that the next war will not allow us time to develop an enlarged training cycle in preparation for conflict. Today's wars move fast and we may have to win or lose with those on active duty or in the Ready Reserves. The military leaders are very concerned about this problem. Congress can help by continuing to support career incentives that now exist and by providing others where they are needed. If Congress fails to show confidence in the personnel of the military services, it is certainly to be reflected by a lack of support and interest in other areas, with detrimental effect to the caliber and number of trained personnel.

Nationwide, there has been a growing awareness of the essentiality of a stronger defense for America. I would like to see much more accomplished in Congress to reflect the public attitude. The policy of "make do with less," on which we have been embarked for several years, is not the way to insure a secure America in the years ahead.●

Mr. PRICE. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

The CHAIRMAN. All time has expired. Pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

H.R. 14042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $972,400,000; for the Navy and Marine Corps, $4,381,100,000; for the Air Force, $7,028,200,000.

MISSILES

For missiles: for the Army, $738,100,000; for the Navy, $1,583,700,000; for the Marine Corps, $23,100,000; for the Air Force, $1,626,500,000.

NAVAL VESSELS

For naval vessels: For the Navy, $4,470,500,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,419,400,000; for the Marine Corps, $24,300,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $366,800,000.

OTHER WEAPONS

For other weapons: for the Army, $109,000,000; for the Navy, $102,000,000; for the Marine Corps, $30,200,000; for the Air Force, $300,000.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. DOWNEY

Mr. DOWNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOWNEY: Page 2, line 14, strike out "$4,470,500,000" and insert in lieu thereof "$4,261,500,000".

Page 3, after line 4, add the following new section:

SEC. 102. None of the funds authorized to be appropriated by this Act may be used to make any payment under—

(1) the modifications to contracts numbered N00024–71–C–0268 and N00024–71–C–0206 between the United States and the Electric Boat Division of General Dynamics Corporation of which the Committees on Armed Services of the Senate and House of Representatives were notified by the Secretary of the Navy on June 22, 1978, under the provisions of the first section of Public Law 85–804 (50 U.S.C. 1431); or

(2) the modifications to contracts numbered N00024–69–C–0283 and N00024–70–C–0275 between the United States and the Ingalls Shipbuilding Division of Litton Systems, Inc., of which the Committees on Armed Services of the Senate and House of Representatives were notified by the Secretary of the Navy on June 24, 1978, under the provisions of the first section of Public Law 85–804 (50 U.S.C. 1431).

Mr. DOWNEY (during the reading). Mr. Chairman. I ask unanimous consent that the amendment be considered as read and printed in the RECORD, and I explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DOWNEY. Mr. Chairman, the amendment deletes $209 million from ship procurement, and there is additional language in the amendment to prevent fiscal year 1979 authorizations from being used to fund proposed Public Law 85–804 contract reformations with General Dynamics Corp. and the Litton Industries. The charts the Members see on the right and on the left graphically display the cost increases and try to show the Members what the cost changes have been. There are many different figures displayed by the charts, and rather than go into them I am going to leave them for the perusal of the Members here and for those who are watching on television back home.

Before I begin, let me tell the Members a brief story about why sometimes members of the Armed Services Committee are skeptical about figures and skeptical about them in this particular instance, what the Navy contends they can do and what they cannot do. Yesterday—yesterday morning, as a matter of fact—the Navy came and asked for $25 million more on a Lance helicopter program. The R. & D. Committee, which is a pretty good committee and watches over expenditures pretty carefully, decided in the initial authorization round that they would not provide $125 million for the Lance helicopter because the program had grown in cost by $1.4 billion. So, the committee zeroed the program and said, "Look, it has just risen too much. We do not want to have anything to do with it." That was a pretty wise decision.

The conferees decided to put $95 million back, and the Navy wanted $25 million additional this year to keep the Lance program alive. But, they realized the skepticism of the Armed Services Committee. They realized we had zeroed this program, so to sweeten the pie they said, "We will save for you $401 million on this program."

All of a sudden, because the committee wanted it, the Navy found a way to save $401 million on a program. With that as a backdrop, let me begin to explain this amendment, what it does, some of the precedents it sets and why Members should vote for it.

First of all, it is obviously an easy decision to demagog. While I do not have Howard Jarvis' approval for my amendment, it certainly is in keeping with proposition 13 mentality. One can compare it to the Lockheed deal, the Lockheed bailout, and if one remembers through the settlement we made for the C–5A, one would come away with the feeling that the Government had achieved a business coup with Lockheed compared to these settlements. But these settlements have eluded three Presidents, three Secretaries of the Navy, and they have been difficult to achieve.

They have not been reached without a great deal of sweat and without a great deal of turmoil. It would be folly for anyone to stand here and say they could pick apart, point by point, the settlement. It is far too complicated for that.

It is not too complicated, however, to take a look at the precedents and the dollar amounts and come to radically different conclusions as to what we should be doing.

Let me give a little bit of background. However, before I do, let me try to settle the issue which the gentleman from New York (Mr. STRATTON) tried to put his finger on. It is not a question whether or not we will have these boats. We will

have them. The gentleman from New York, SAM STRATTON, would not have joined me in a "Dear Colleague" letter if he did not believe we would have these boats and have them on time.

The essence is not whether we will have these boats but whether we will be able to have them and pay for them.

As far as background, in 1969 and 1970 when the Litton contracts were let, they were contracted for with terribly unrealistic cost projections. In 1973, when the General Dynamics 658 contract was let, this same mistake was made again.

Correspondingly, when work commenced on the contracts, both corporations ran into essentially the same problems. In 1973 they were besieged by the oil crisis and rampant inflation that neither party could have foreseen. Both parties found that when trying to meet their contract schedules, they did not have the skilled manpower to build the ships. Moreover, there may have been too much work concentrated in each shipyard. At Litton, they were having trouble building the LHA and the 963 at the same time, and at Electric Boat, they had similar problems with the Trident and the 688.

The CHAIRMAN. The time of the gentleman from New York (Mr. DOWNEY) has expired.

(By unanimous consent, Mr. DOWNEY was allowed to proceed for 5 additional minutes.)

Mr. DOWNEY. Mr. Chairman, the target prices that were originally contained in the General Dynamics and Litton contracts were hopelessly optimistic. Unquestionably, the ceiling prices were also absurdly low. In this regard, the Navy has to be blamed for not preparing both corporations and for not giving them an adequate information and the corporations have to be blamed for not taking care to see that their estimates and bids were reasonable.

Additionally, with respect to the reasons behind the cost overruns, it must be noted that there were numerous design changes, some of them routine and some of them not so routine. There was poor shipyard management. Electric Boat changed their project manager a number of times, and there were similar problems at the Litton yards as well.

So there were numerous problems and errors in judgment and that is true of both the Navy and the contractors. It is therefore clear that both of them share substantively in the blame, and that the Navy is of course and should be responsible for some of the cost overruns.

The question is: How much of the overruns?

Let us take a look at some of the figures, because those indeed are where we are at today, and those are the problems we have to deal with.

In the 688 contracts, the initial target price was $71 million per vessel. Presently, the estimated cost to the Navy has climbed to $134 million per vessel, an approximate 89 percent increase in the unit price cost.

In the Litton contracts, the cost increases are equally dramatic. For LHA carriers, it is currently estimated that there will be a 95-percent increase in unit cost and on the DD-963 program a 51-percent increase is projected.

Now since a large part of these cost increases were either not anticipated or not covered under the terms of the original contracts, both General Dynamics and Litton have made enormous claims against the Government which allege liability for the cost increases. General Dynamics formally submitted claims totalling $544 million in 1976 and Litton Industries has updated and repriced an original 1975 claim to $1.088 billion at the present time.

Under procedures set up by the Navy, teams of experts examined all of the claims submitted and arrived at an "entitlement" value of the claims. In the case of General Dynamics, the Navy determined that their $544 million claim was "worth" $125 million, or only 23 percent of the original amount claimed, and in Litton's situation, the Navy evaluated its $1.088 billion claim at $312 million, or only 29 percent of the amount claimed.

The proposed settlements, however, would pay the corporation far more than the entitlement value of their claims. Basically, the Navy wants to pay each contractor the full value of their claims plus approximately half of any remaining losses.

In the General Dynamics settlement, the Navy will be paying $359 million more than the Navy experts would have paid, on the basis of claims submitted by the corporation. In the Litton settlement, the Navy will be paying $182 million more than the experts would have.

The "expert" point is one which deserves some attention.

There are essentially two types of claims when contractors and the Navy have problems. One is with respect to constructive contract changes which are more difficult to resolve since they may encompass virtually any change in the contract which requires additional costs in terms of manpower and materiel. The others are the hard-core claims, which are straight change orders, which are much more easily litigated.

The Navy has—and I think if anyone wishes to speak with Admiral Rickover, he will be more than happy to inform anyone about this—a number of experts designed to determine what the claims are. They compose the Navy Claims Boards which are adversarial in nature. Both sides present information and the Boards resolve the claims. If that is not satisfactory to one of the contracting parties, then it can then be litigated further on up the line.

One interesting fact of this procedure—one that is often overlooked—is that in evaluating contract claims the Navy Boards take into consideration not only the value of the claims but also two items known as litigative cost and litigative risk. That is, in addition to deciding what the Government is liable for under the claims, the Navy also adds in amounts based on a judgment of the risk that a contractor will not accept the Navy's evaluation of their claims. The Navy estimates what it would cost in terms of litigating it out, as well as the exposure to the Navy on other items that they had not provided, which might be included by the ASBCA.

In the General Dynamics claims, litigative risk and cost constituted $29 million of the Navy Board evaluation of $125 million claim. In the $1.088 billion claim by Litton, the Navy experts came up with a figure of $312 million, which included at least $18 million in litigative cost and litigative risk.

Mr. Chairman, the Members will see that these settlements far surpass those which the experts provided for. And, in addition, the settlements include substantial amounts which are not the determined liability of the Government.

What are some of the biggest problems with these settlements? Aside from just the simply outrageous increases in costs, the precedents are the most dangerous. Make no mistake about it, as we sit here today, the Newport News shipyard with three vessels and Lockheed with one vessel have more than $1 billion in claims pending against this Government. If anyone here believes that we can settle these claims without setting a precedent for Newport News or Lockheed, he is very, very much mistaken.

Precedent No. 1: Any time a contractor runs into problems, as these contractors have, the lesson they will learn is that they should be obstreperous and make threats to close down. Contractors will learn that they should inflate their claims and that they should refuse to settle, because the executive branch and committees of Congress will capitulate.

The CHAIRMAN. The time of the gentleman from New York (Mr. DOWNEY) has expired.

(On request of Mr. LLOYD of California, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 2 additional minutes.)

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. Mr. Chairman, I thank the gentleman from California for his request for time. If I can take the 2 minutes, I will ask for a little more time, and then I will be happy to yield to my friend, the gentleman from California.

Mr. Chairman, I will go ahead, with the Committee's indulgence.

This is a $931 million settlement. It is vastly complicated, and I am sorry that it does not lend itself to a 5-minute explanation or a 10-minute explanation.

So the first precedent is clear: That for the future, in claims which are outstanding and pending, there will be incentive for contractors not to accept the determinations of official claims boards.

Mr. Chairman, the second precedent—and the second, I think, is the most dangerous of all—is that we learn nothing and accomplish nothing other than settling this immediate issue. That is all we do. We do not resolve problems with respect to differences in claims. We do not resolve the problem of the low work productivity. We do not solve the problem of the Navy's being able to monitor the work progress or the performance of the contract on time. We do not solve the problem of trying to pro-

vide for realistic cost estimates when we go to bid.

None of that is solved by this amendment. Rather, we set a precedent that the Navy and the Congress will take the easy way out.

The third precedent is that this vast network that we have set up to try to determine what claims will be bypassed whenever a contractor decides that he is not getting his way. Forget the Navy Claims Boards. Forget any of the mechanisms that are established and long standing in terms of resolving claims. Claims are going to be taken out of the hands of military experts and put in civilian hands. That is exactly what happened here, and exactly what will probably happen again in the future.

Are there any alternatives? I would submit that there are. I would tell you, those of you who are worried about the costs and this being the best deal, that we could go back and tell Secretary Hidalgo: It is too much money. We want more time to study the alternatives.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. LLOYD of California, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 2 additional minutes.)

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. Let me finish this one point, I will say to my friend, the gentleman from California, and I will be delighted to yield to him.

Given the fact that there is no way of determining claims other than the established procedure which we have ignored, it is folly to suggest that it is going to be more expensive if we litigate. If we litigate and stand by our evaluation of the contractor's claims, it is conceivable we would settle for a great deal less. It is possible, although I believe improbable, that we would settle for more. The fact is that this settlement, this particular settlement, does not provide and does not prohibit additional settlements or additional claims against the Government which may be used to recoup part of the fixed losses supposedly taken by the contractors. So I suggest that there is no way of knowing, although there is a good way from past experience of telling, that we will probably settle for less if we litigate.

Moreover, even if we assume that we cannot litigate and that the acrimony and the bitterness would be impossible to resolve and there would be no way to finish the agreements without there being substantial delays in the ships. Even if we do take this position and decide that Public Law 85–804 relief is the only alternative—the proposed Public Law 85–804 settlements may not be the best alternative.

Admiral Rickover has provided us—and, by the way, he did not testify before our committee—a series of guarantees somewhat technical in nature that he would like to see attached to this Public Law 85–804 agreement .These guarantees need to be seriously examined.

Additionally, if we said to Secretary Hidalgo, "I am sorry, but, like the Lance helicopter program, the Congress is unwilling to provide this additional money," he would then be in the unique position of going back to General Dynamics and Litton, and rather than being the "terroree," he could be the terrorist, and he could say to them, "We are just going to have to settle for less. I am sorry." God forbid we should do that.

In all, there are various and sundry alternatives. All I am suggesting to the Members is any assertion that this is the only way, ignores the essential problems that are involved with Navy contracting, and ignores the fact that the committee has not looked into alternatives.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DOWNEY was allowed to proceed for 1 additional minute.)

Mr. DOWNEY. Mr. Chairman, I yield to my friend, the gentleman from California.

Mr. LLOYD of California. I thank my friend for yielding.

I would say to my friend, the gentleman from New York, granted all that he has said with regards to the facts relating not only to General Dynamics but to Newport News on the carriers, to Litton on the LHA and the destroyers—I grant all of that, and I am as unhappy as my friend is—but the point is we are dealing with $209 million here, and if the gentleman can assure me—if the gentleman can assure me, and I do not think he can—that we will save money by what we are doing, I certainly would like to agree with him.

I think the simplest solution we have at the present moment, and I am asking him to respond to this, is to take what we have right now, settle it, and get out. Does he not agree with that?

Mr. DOWNEY. I think the simplest solution to the problem, as my friend suggests, is just to settle it. However, I also think that in the long run, this may be the most dangerous way to resolve the problem.

Mr. LLOYD of California. But if that is the simplest way, to get out of it, is it the cheapest way?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. STRATTON, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 1 additional minute.)

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to my friend.

Mr. STRATTON. I thank the gentleman for yielding.

The gentleman from California (Mr. LLOYD) says: Is there a cheaper way to do this? I would point out to the gentleman from California and to the House, that the $125 million, which is what the Navy said the Navy claims adjudication process said was actually a legitimate claim and was prepared to pay, includes not only the claims but also the estimated cost of litigating these claims, plus the fact that they might lose in the courts on some phony claims. So obviously $125 million is a little less than $900 million.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. LLOYD of California. I thank the gentleman for yielding.

I would say to my colleague, the gentleman from New York (Mr. STRATTON) that is conjecture on his part, and I do not think that we are going to find a cheaper way out of this. I think Mr. Hidalgo in dealing with these people in reviews I have seen on the whole thing has spent not only hours, but weeks, days, months, and really a year, and I think the solution is to go forward with this.

Mr. BOB WILSON. Mr. Chairman, I rise in opposition to the amendment.

I stand in full support of the settlements reached by the Secretary of the Navy with General Dynamics and Litton Industries. Moreover, I urge the Members of this body to reject any efforts to torpedo these agreements which bring to a close the dismal and debilitating era of contractual disputes between the Navy and two of its principal suppliers of vitally needed warships.

We have heard testimony in committee and read volumes of reports and other materials which have evidenced beyond doubt that blame for these disputes is blame to be shared—but it is blame that cannot be parceled out in precise pounds, liters, dollars, or percentages, as if Solomon himself were sitting in judgment.

The Secretary of the Navy has stated unequivocally that there is blame for all in these disputes and I agree.

The companies have acknowledged blame by their acceptance of unprecedented losses, $359 million for General Dynamics and $200 million for Litton Industries, acknowledgement that they have not performed to contracted levels of management expertise and achieved the requisite levels of productivity.

The Navy acknowledges that Government-furnished equipment and information was often provided either late or incompletely, which compounded construction problems and delayed schedules.

And, everyone agrees that the form of the contractual agreements under which both labored in vain failed miserably to cope with the real world constraints of building modern warships, most especially the devasting and destructive impact of runaway double digit inflation that occurred early into these contracts chiefly because of the OPEC oil boycott.

Saddled with this sorry state of affairs the Navy and responsible officials of Litton and GD came together and hammered out, over months of intense negotiations, agreements which settle the issues involved in the outstanding claims and, in addition, reformed the discredited contracts so that work could proceed on these vitally needed warships in an atmosphere of businesslike and professional accord. I commend them all for the outcome of their negotiations—for their personal and professional integrity and their courage and perseverance in the face of certain knowledge that failure in their effort left only one alternative—years and years of costly bitter litigation: The outcome of which was totally unpredictable and knowing also that whatever the outcome, the process of resolving the issue

in court would unquestionably detract and delay efficient and cooperative effort in our warship construction and thereby degrade our fleet readiness.

The negotiators chose wisely in avoiding this plunge into the unknown and elected instead to fashion agreements that all could live with. Should we expect everyone not familiar with the incredibly complex issues involved to cheer the outcome as expressed in taxpayer's or shareholder's dollars? No, the numbers are staggering—approaching a billion dollars. But, we must not lose sight of the fact that absent a settlement and leaving it to litigation would result in the Navy paying out a total of over $600 million over the life of the contracts and still—I repeat—and still, facing the spectre of more than $2 billion of claims under litigation.

Therefore, under these circumstances, should we not expect those actively opposed, or susceptible to being persuaded in opposition, to have their arguments and judgment based on the facts involved—not on half-truths, not on headline rhetoric or cliches—not on calculated misrepresentations?

These are not giveaways or bailouts. Quite the opposite is true. No artist, however talented, can paint a $200 or $359 million bath and title it a bailout or corporate welfare.

This is not a civilian Secretariat solution which the uniformed Navy cannot support. Nonsense. The Chiefs of Naval Operations former and present, the Chiefs of Naval Material former and present, and dozens of other senior officers familiar with the settlements have offered their unreserved endorsement. Certainly, some are opposed and this is to be expected in a situation of this magnitude. But, I have yet to hear their views expressed in rational, factual, and persuasive terms.

Is bankruptcy and destruction of a shipyard the test of the Government's negotiating position?

Of course not—nor should it be as some would suggest. The test relies upon the facts, on the painstaking analyses of issues, in an unbiased appraisal of the entire scope of the problem, and ultimately, in the judgment of reasonable men armed with the truth. The Navy, the Secretary of Defense, the administration, the Armed Services Committees of both Houses of Congress, and Government Accounting Office have all agreed that these settlements are in the best interest of the Government and facilitate the national defense.

The same truth is available to us. Let us act responsibly. Let us make it possible for the Navy and the naval shipbuilding industry to get on with the business of providing our defense system with the warships so vitally needed.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, the name of Admiral Rickover has been used previously, and while at one time we recognize he was opposed to the settlement of these claims, is it not true that even Admiral Rickover is now supporting this settlement?

Mr. BOB WILSON. Mr. Chairman, I am not cognizant of that, I will say to the gentleman from California.

Mr. CHARLES H. WILSON of California. That is the information I have received.

As a matter of fact, the only creditable people I know of who are opposing it are the two Members, the gentleman from New York (Mr. DOWNEY) and the gentleman from New York (Mr. STRATTON).

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I do know that Admiral Rickover called me on this; I did not call him. He called me, and he said he favored these settlements.

He did say that he had suggestions to make to the committee as to how in the future we might have legislative changes which would help us.

I think one of the most helpful things to us would be if the gentleman from New York (Mr. DOWNEY) would ask to be on the Subcommittee on Seapower next year, and then he could help us draw legislation and get regulations in accordance with what Admiral Rickover has in mind.

But Admiral Rickover did call me, I did not call him, and he told me he favors these settlements.

Mr. BOB WILSON. Mr. Chairman, if Admiral Rickover has taken that position, that is the "cream on the cake."

Mr. STRATTON. Mr. Chairman, since my name has been used as one of the distinguished opponents of this legislation, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, my information is that Admiral Rickover, like many other people in the Defense Department, has been ordered to keep his mouth shut on this subject.

Mr. BOB WILSON. Mr. Chairman, we have been told he spoke to the gentleman from Florida (Mr. BENNETT), and I would say that is not "keeping his mouth shut," as far as I can see.

Mr. Chairman, I yield back the balance of my time.

Mr. DODD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would, first of all, like to compliment my colleague, the gentleman from New York (Mr. DOWNEY), for the presentation he gave us.

In order to expedite this debate, let me say that I think the issue is important, as the gentleman stated, and I agree that this is a tremendously complicated problem.

This is an issue that has in fact befuddled three Presidents and three Secretaries of the Navy. It has involved hundreds and hundreds of people in this Government and in private industry who have tried to resolve one of the most complicated and difficult problems we have faced over the years in the defense area. I think it is important that our colleagues recognize that fact as we engage in this discussion today.

If I may, I would like to spend a couple of minutes and share with my colleagues a bit of the history of the Electric Boat Division of General Dynamics Corp., which is in my district. The Electric Boat Division is a company that dates back to the turn of the century in eastern Connecticut. Over the years that we have had submarines as a part of our Navy, 266 submarines have rolled down the ways at the Electric Boat Division of General Dynamics. Since the early 1950's it has been the principal design agent and contractor for our nuclear fleet. It is a shipyard and a company that has contributed significantly to the national defense of the United States.

Second, I think it is important to understand and appreciate, as the gentleman from New York (Mr. DOWNEY) has pointed out and as others who have spoken this morning have agreed, that this settlement process and claims issue has been a complicated, long, difficult process. In fact, many of us here in the Congress were involved in it.

My colleagues in the other body from the States of Rhode Island and Connecticut, Senators RIBICOFF, WEICKER, CHAFEE, and PELL, met with the entire delegations of Connecticut and Rhode Island and with various representatives of the Navy and the company. The gentleman from Connecticut (Mr. GIAIMO), the gentleman from Texas (Mr. WRIGHT), and the gentleman from Texas (Mr. MAHON) met with us during the closing hours prior to the June 9 agreement and explained in no uncertain terms to the company exactly what their chances would be if they tried to come to this body and ask for more money than they deserved. The Connecticut and Rhode Island delegations have dealt with both the Navy and the contractors and have been participants in the process of settling the claims.

I would like to point out what I perceive to be the issue here. The settlement was reached on June 9, 1978. We would not even be debating this issue here today were it not for the fact that the fund from which claims are paid when the Government tries to meet its obligations was short by $209 million. Therefore, we need that amount in this authorization bill if these settlements are to become effective. That is why we are here today. The issue is whether or not the settlement reached was a fair and equitable settlement. Is it a settlement with which the taxpayers in this country can agree? I think it is important to point out exactly where the liabilities, the obligations, and responsibilities fall. Certainly the company or the corporation should not and could not come before the Government and ask for money were it not for the fact that the Government was in fact responsible for the lion's share of the difficulty which we face in this claims problem.

Let me point out what those problems were with these two 688-class submarine contracts. Back in 1971, prior to my arrival in Congress, we decided in Government that we needed a new class of attack submarine. What did we do? We awarded a design contract—with all due respect to my friends from Virginia—to

a company that had never before designed a nuclear-powered submarine.

Second, on awarding the design contract within a month or so, they then awarded contracts on the lead submarine.

Now, for my colleagues who are not familiar with how the procurement process works, historically, the Navy would award design contracts, then do detailed design work, construct a prototype, and then they would determine who would be awarded follow-on ships. It was a well-thought-out process. But because of the urgent need for a new submarine class, the Navy thought that it needed to move rapidly. They awarded the design contract to a company which had never designed a nuclear submarine before, and proceeded to move too quickly in awarding the lead and follow-on ships before a firm design had been determined.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. DODD) has expired.

(On request of Mr. CHARLES H. WILSON of California and by unanimous consent, Mr. DODD was allowed to proceed for 5 additional minutes.)

Mr. DODD. As a result of that initial mistake on these contracts, we saw the design contract delayed by almost 9 months, we saw the lead ship delaved by almost 26 months, we saw the Electric Boat Co., have to make between 35,000 or 40,000 revisions, which is a substantial amount. That is the Government's fault. That is not the company's fault.

Second, the type of contract used caused great problems. It was a fixed-price contract. Today the Navy does not use that kind of contract. They recognize that it was a mistake to use a fixed-price contract. In fact, Secretary Hidalgo pointed out before the Joint Economic Committee on September 8, 1978 that, with the rate of inflation, were we on the cost-plus type contract that we use today, the Electric Boat Co. would be fully covered for $470 million for inflation alone, of its estimated $843 million loss.

Third, there were problems in the delivery of Government furnished information and material to the company, and problems in shipyard management. The GAO has looked at these problems, as well as independent auditors. There were problems in getting what they call GFI and GFM—that is Government-furnished information and Government-furnished materials to the contractor on time. The Government was late in delivering those materials to the contractor. Again, that is the Government's fault. That is not the company's fault. There were problems of management. There were problems of recruiting skilled labor. That is to be recognized. The company is not without fault here. It has to share in the responsibility of the difficulty that we face today, and the company is sharing that responsibility in absorbing a fixed loss of $359 million.

Lasty, I think it is important for our colleagues to remember what the economic conditions were in the country in 1973, 1974, and 1975. We faced staggering, unanticipated double-digit inflation. That is not the fault of the Government or the company, but it should be recognized that the company should not have to assume the entire responsibility for an economic problem that was not of their making.

What I am trying to point out to my colleagues here today is that there is responsibility for cost growth on both the Government's side and on the company's side, and that the settlement of a 50–50 sharing of responsibility is an equitable solution to this problem. It is fair to the company, it is fair to the taxpayers.

I would urge my colleagues to defeat this amendment.

Mr. BEARD of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. I thank the gentleman for yielding.

Mr. Chairman, I also join with my good friend, the gentleman from Connecticut (Mr. DODD), in opposing the amendment offered by my friend, the gentleman from New York (Mr. DOWNEY). This would be crippling for my district in Rhode Island, as well as the area represented by the gentleman from Connecticut (Mr. DODD).

Electric Boat is the largest employer of Rhode Islanders. This would be catastrophic in nature. I certainly urge my colleagues to join us in opposing this amendment.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to my colleague from Connecticut.

Mr. GIAIMO. Mr. Chairman, I want to commend the gentleman for having worked so long and so hard on this complicated settlement involving the Electric Boat Co. and all of these people bringing claims. He is to be commended. I agree with what he is saying.

This is not a court of law here. This is a legislative body which is trying to find a way out of a very complicated matter that we have had involving shipbuilding for at least 3 years. There is fault all over the place. The Navy is at fault; the contractor is at fault; probably we are at fault for not having devised better ways to make provisions for the construction of these long-lead type ships.

That is part of the problem here. By the time we get to the construction of ships, there is escalation, there are changes, there is inflation, there is everything, new requirements and everything else, But, we are not a court of law. We cannot adjudicate right and wrong here today. What we do have an obligation to do is to try to find an equitable solution to this problem so that we can straighten out our shipbuilding program, as our committees have been trying to do, as our Defense Appropriation Committee has been trying to do, straighten out the program to do equity here and find a reasonable way of settling it.

Mr. Chairman, I submit the method the Armed Services Committee has proposed is a reasonable way, and in that manner we can get that very unpleasant problem behind us.

The CHAIRMAN. The time of the gentleman from Connecticut has again expired.

(By unanimous consent Mr. DODD was allowed to proceed for 5 additional minutes.)

Mr. DODD. Mr. Chairman, let me just point out, in conclusion, what the alternatives are. My colleague from New York (Mr. DOWNEY) addressed himself to the alternative question. The GAO has identified, in assessing this whole settlement issue, four alternatives to the settlement before us today. Let me recite them.

First was to complete the work at other yards, possibly Government yards. It is quite clear that there really is only one other yard in the country capable of doing the work, and if you imagine that we would have to ship—as I presume we would—the materials that existed at Electric Boat, half-done materials, down to Newport News, you are engaging in a terribly risky endeavor at great administrative cost. Transporting complete hulls over the open ocean would mean risking their loss. In fact, Government estimates are that it would have to hire 3,000 additional people to consider that alternative.

The second was to exercise the default clause which exists in the contract. Here we would need, according again to the remarks of GAO, an entirely new management force. At Electric Boat there is not a complete division of labor. People who work on the 688 contract also work on the Trident contract. They move back and forth. You cannot separate the construction of the 688 and Trident.

The third alternative litigation, and I will address that last.

Fourth is buying the shipyard and paying the contractors. This was dismissed as undesirable by the Navy.

The last is litigation. This is the one which is the most viable alternative. It is on this that I think my colleagues should pay some attention. It is estimated that if we took this case to court, we would be talking about 5 to 10 years of litigation at tremendous cost. The last time a contractor went to court, the judge in the temporary injunction awarded the contractor 91 cents on the dollar. It was eventually modified to 75 cents on the dollar. There is no guarantee that we would not be confronted with that same kind of financial conclusion.

In effect, when we talk about proposition 13, as my colleague from New York has done, we could be seeing a situation 5 to 10 years from now when the taxpayers would be looking at a settlement figure that would make his figure look like small change. The best alternative we have is the negotiated settlement we have here today, the fairest one, the most equitable one, the one I think deserves the support of this body.

Mr. LOTT. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Chairman, obviously the gentleman from Connecticut and I have more than a passing interest in this because the two facilities involved are in our districts, but we also have been ones who have been concerned with this extremely close for a period of years.

Let me assure my colleagues the two

companies also will take a loss. While fault can be assigned to both sides, I think this is an equitable solution. I join my colleagues in urging defeat of the amendment.

Upon being notified by the Secretary of the Navy on June 22 of this year about these disputes, the Armed Services Committee held 2 days of hearings on proposals to settle the claims. The upshot of those hearings was that the Navy does not have enough money now to fully fund the modified shipbuilding contracts. The authorization in H.R. 10929 of $530.1 million for "cost growth," which was vetoed, was not sufficient.

Consequently, the Secretary of Defense had proposed to reprogram funds now earmarked for construction of the only SSN-688 attack submarine contained in the shipbuilding program for next fiscal year in order to finance the claims settlements. Obviously, the Committee on Armed Services did not approve of this procedure; and the new authorization provided in H.R. 14042 for "cost growth" is increased by the necessary $209 million to a total of $739.1 million. It is my understanding that this will fully fund the claims settlements.

As to where to place the responsibility for these contract disputes, this is an open question according to the committee. Has it been the fault of the shipbuilders, or have they resulted from the poor procurement policies of the naval bureaucracy, or both?

It was within the framework of these unanswered—and probably unanswerable—questions that the Navy and the General Accounting Office, after a recent in-depth and detailed audit of the claims, have recommended no better solution than the one before us today. Public Law 85-804 authorizes the Secretary to grant contractors extra-contractual relief when he determines it will facilitate national defense. The merits of contract disputes are not controlling under this law.

Therefore, pursuant to this statute, the Navy Claims Settlement Board concluded that the Navy could justify this one-time action which will settle the shipbuilding claims problem. If we do not endorse this procedure we are exposing the Government to 8 to 10 years of litigation at tremendous cost, and I have an idea that the Government will end up paying the bill in the end anyway. I urge the Members to weigh these factors and to vote for this legislation with the funds to settle these claims, which I believe are valid.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I commend the gentleman from New York (Mr. DOWNEY) and the gentleman in the well, the gentleman from Connecticut (Mr. DODD), in explaining their two sides. I happen to be in agreement with the gentleman in the well (Mr. DODD).

Mr. Chairman, from time to time in this Chamber, we are called upon to consider various bills which involve infusions of Federal funds. Inevitably, as has been done today, comparisons are made to the so-called Lockheed bailout or Lockheed loan. It has been 7 years since the Emergency Loan Guarantee Act was passed by the Congress, and I am afraid that with the passage of time the recollections of many have dimmed as to exactly what was involved in that legislation.

By virtue of that act, the U.S. Government did not actually lend one cent to Lockheed. Instead, a consortium of private banks made loans totaling $245 million to Lockheed and the Government guaranteed these loans. In return for this guarantee, the Government received substantial service fees, and in addition, a first lien on most of Lockheed's assets, which actually exceeded the guaranteed amount. Under these circumstances, no risk of loss to the United States was involved.

Lockheed regularly paid down this public guaranteed, private indebtedness of $245 million, so that on October 14, 1977, the emergency loan guarantee program was terminated. The service fee payments by Lockheed to the U.S. Government amounted to $26.6 million, plus $5.6 million in interest on those fees for a total $32.2 million of which all but $1 million was profit to the Government.

We would do well to bear these facts in mind. While Lockheed obviously benefited from the Government's aid in guaranteeing the private loans, it should be noted that Lockheed did not take any money out of the taxpayer's pocket. Instead, it paid over $32 million into the Treasury of the United States.

In the sixth annual and final report of the Emergency Guarantee Loan Board, it was stated—

> The successful operation and conclusion of the guarantee program and achievement of the Congressional purposes demonstrated that business and Government can work together to solve their mutual problems when their relationships are properly structured.

Further—

> In achieving these purposes, the Government earned $26.6 million in fees on the guarantee program, plus $5.6 million in interest on those fees, without at any time being called on to lend or otherwise expend funds on behalf of Lockheed or its lending banks. The Government's administrative costs for the program were slightly more than $1 million. Throughout, the Government's position was fully secured by a first lien on Lockheed's assets which both the Guarantee Board and the GAO consistently valued in excess of the maximum size of the authorized loan guarantee.

I hope the city of New York will be able to show as good a record of financial responsibility in resolving its fiscal problems, aided by Government guaranteed loans, as did Lockheed.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 2 additional minutes,

The CHAIRMAN. Is there objection to the request of the gentleman from New Yohk (Mr. STRATTON)?

Mr. PRICE. Mr. Chairman, reserving the right to object, while I do not intend to object, I wonder if we cannot have unanimous consent that all debate on this amendment and all amendments thereto close at 2:30?

The CHAIRMAN. Is this excluding the time of the gentleman from New York who has already been recognized for 5 minutes?

Mr. DOWNEY. Mr. Chairman, reserving the right to object, we are talking about a $953 million claim. I realize that Members want to leave, and I can understand that, but it would seem to me this would be one thing we wanted to make sure we have debated all the points on.

Mr. STRATTON. Mr. Chairman, are we reserving the right to object on my request for additional time or on the 5 minutes of my time?

The CHAIRMAN. The gentleman from Illinois has reserved the right to object on the request of the gentleman from New York (Mr. STRATTON) for 2 additional minutes.

Mr. PRICE. Mr. Chairman, I think there has been adequate debate on this amendment and everyone in this Chamber is familiar with what the amendment is.

Mr. DORNAN. Mr. Chairman, if the gentleman will yield, I also have a 4 o'clock airplane. I have followed this parliamentary procedure here carefully. I do have a surprise amendment, the antiabortion amendment. I have checked through the legislative counsel. I will get 5 minutes. I advise the chairman that I will stand to be recognized, and if everyone is willing to take that into consideration, I am willing to give up the surprise factor and offer this on Monday and discuss this next week, so maybe we can terminate the discussion and rise.

The CHAIRMAN. The Chair has recognized the gentleman from New York (Mr. STRATTON) and would like to know if the gentleman from New York, who has made a unanimous-consent request for an additional 2 minutes, has yielded to the gentleman from New York for the purpose of reserving a point of order.

Mr. STRATTON. Mr. Chairman, I did not yield to the gentleman for that purpose.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. STRATTON)?

Mr. DAVIS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

Mr. STRATTON. Mr. Chairman, I would like to make a few points in the 5 minutes that remain for me.

First of all, it is important that we recognize what is involved here is not just $209 million, but, as the gentleman from New York (Mr. DOWNEY) has said, what is involved is over $900 million. The $209 million is what we have put into this bill to round out the total. The rest of the money comes out of the Navy shipbuilding kitty.

What has happened is that if we allow this arrangement to go through, we are going to have a lot fewer ships. If the gentleman from Florida (Mr. BENNETT) is interested in more ships, well, he is not going to get them because the $1 billion is going to be taken out of the shipbuilding funds to pay off the claims, 75 percent of which have been regarded as phony by the Navy.

This is what has happened as a result of sustaining the President's veto of the

nuclear carrier. A lot of people were surprised that the defense contractors were not around lobbying to override the President's veto. Maybe this tells us a little story why.

Second, what we are doing here, as the gentleman from New York has already indicated, is that we are telling every defense contractor and particularly the big boys—I do not imagine they would let a little guy do this—that all he has to do is inflate his claims, whether they are sound or not, and the Government will simply split the difference with him, because they say they cannot do anything else. They are afraid to litigate.

We are announcing that we simply know of no other way to go.

One-third, only one-third, of these claims are authentic. As the gentleman from New York said, many of the remaining 75 percent have been challenged by Admiral Rickover and referred to the Justice Department for the examination of the possibility of fraud.

And what does this do to the integrity of the Navy's contracting procedure? What does it mean if a man contracts to build this, that, or the other thing at a fixed price? On the basis of what has happened here, all he has to do is come in later on with a claim, and the Navy or the Army or the Air Force is going to say, "It will take us 8 or 10 years to litigate. We cannot possibly do that. So we'll just split the difference."

Mr. Chairman, that is like going through compulsory arbitration. One puts his request up high, and when the arbitrator splits the difference, the contestant comes out in a better position than he was in at the beginning.

Let us not kid ourselves about who is going to be building the ships. We do not sell submarines to the private sector of the economy. The Electric Boat Co. has nobody else to build submarines for except the Government; and these ships are going to continue to be built. There is no question about that.

Another point which we ought to keep in mind is that the only things which have been settled are the claims up to June 30 of this year. There is not going to be any bar to the filing of additional claims by these same people; but we have officially admitted that there is no other way by which the Government can enforce its contracts except by splitting the difference on any claim.

We have totally given up the possibility of settling it legally. Here is a "Dear Colleague" letter which the gentleman from Connecticut (Mr. DODD), the gentleman from Connecticut (Mr. GIAIMO), and the others have sent around. They admit that the Navy has no way in which it can find out, short of 8 or 10 years, whether claims are faulty or not.

Is that the way we want to run our Government? Is that the way we want to run the Defense Department? This will not be the end; this will be just the beginning.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

Mr. DOWNEY. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. STRATTON) be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DAVIS. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. ASHBROOK. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. STRATTON) be allowed to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. DAVIS. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. AUCOIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I yield 2 minutes of my time to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I am grateful to the gentleman from Oregon (Mr. AUCOIN) for yielding me this time.

I had just a couple of other points to make.

As I say, this is not the end. This is just going to be the beginning. If these ploys work, then Newport News is going to be in for a settlement and there will probably be other claims. In fact, we can look for further inflated claims if this goes through.

Mr. Chairman, let me make one final point: The gentleman from Connecticut (Mr. DODD) let the cat out of the bag. I think, when he said that these people came down here and talked to our chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO), who told them:

> If you think you are going to get a penny out of Congress, you are crazy. We are not going to give you any more money.

As a result, what did they do? They went back and used this device, 804, which allows the Defense Department to spend any amount it wants without any act of Congress.

Mr. Chairman, yesterday we spent a lot of time talking about whether we ought to have a one-House veto or a two-House veto on the Federal Trade Commission. We do not even have a veto on this particular matter. All that has to happen here is that if you fail to get a majority in one committee, then the Defense Department can spend anything they want. That is the shame of this legislation. It ought to be repealed, and the gentleman from New York (Mr. DOWNEY) has a bill in here to repeal it.

There is no great rush. There is no rush for getting this thing done. These ships are going to continue to be built anyway. All we are urging is that before we set this precedent, before we turn over $900 million of hard-earned shipbuilding money, we ought to get a guarantee in writing from the Department of Defense that they have set up an airtight procedure to insure that this will not be done again.

Mr. AUCOIN. Mr. Chairman, I want to simply say to my colleagues that I strongly associate myself with the remarks of the gentleman from New York. He makes the point that litigation is not without cost, but what is demonstrably clear is that the precedent that is being set here entails massive costs for the future, and that is supposed to be avoided.

Mr. Chairman, I rise in support of the amendment.

Two types of welfare exist in our country today. The first type consists of providing assistance to the needy who, for various reasons, have fallen on hard times. A helping hand is lent to boost them back onto their feet.

The second type entails the Federal Government paying large sums of money to private companies when those companies, due to their own actions, face financial setbacks.

In the most recent example of this second type, the Navy has decided to pay General Dynamics' Electric Boat Division and Litton Systems' Ingalls Shipbuilding Division $541 million over and above the $390 million the two companies sustained in losses for which naval claims analysts determined the Navy was responsible.

It was this decision that led to the gentleman from New York to offer his amendment to strike $209 million earmarked for part of this payment from the authorization bill and to prohibit the transfer of any funds authorized by the bill to help pay for what must surely rank as one of the largest taxpayer ripoffs in recent years. I strongly support his amendment, and urge my fellow Members to do likewise.

It was the determination of an expert, professional Navy board that although General Dynamics and Litton Systems had filed claims totaling more than $1.6 billion, only $390 million of these claims were attributable to the Navy (for reasons such as naval modification of design specifications).

However, the Secretary of the Navy and his top lieutenants—all of whom are political appointees rather than claims settlement experts—overruled the findings of the board and added $541 million to the original $390 million pot.

Their decision was not based on a recomputation of existing data, nor was it caused by the discovery of additional facts that would change the board's findings. Instead, the decision was based on no more than the desire to avoid engaging in litigation to determine the actual amount owed by the Navy.

Our Nation was founded on a tradition of free enterprise. The free enterprise system rewards those with drive and determination, while punishing inefficiency and incompetence.

I only mention these obvious facts, because what we are witness to today is a perversion of the free enterprise system. Two companies are, in effect, saying to the Navy—let us build your ships; we can do it quickly and efficiently. But in case we face financial loss due to sloppy management on our part, we expect you to bail us out.

And that is exactly what this is—a gigantic bailout. At a time when we are trying to cut Government waste, at a time when we are fighting to halt deficit spending, we are asked to authorize funds and allow the Secretary of the Navy to spend $541 million dollars of the taxpayers' money to bail out two companies who, had they shown proper

judgment, would not be in their present predicament.

What will be the net effect on our efforts to halt inflation, when the Federal Government dumps hundreds of millions of dollars into the laps of General Dynamics and Litton Systems and receives nothing in return?

The Navy's proposed action completely shatters the notion of quid pro quo, something for something. At the point of a sword (I refer to the two companies' threat to close down their shipyards if they do not receive this compensation), the Navy has completely capitulated.

Nor should we be fooled into believing this will be a one-time only decision. If I may quote from a memorandum from Admiral Rickover to Secretary of the Navy Claytor:

> The proposed P.L. 95-804 settlement with General Dynamics leaves the Navy vulnerable in the future to unfounded and inflated claims of the same sort you now are proposing to settle.

Senator PROXMIRE, in the RECORD for September 19, 1978, made the obvious point that with a settelement of this type, no incentive will exist in the future for holding costs down.

In fact, he stated:

> Newport News, another shipbuilder, said exactly that in a recent letter to the Navy—they want some of this gravy, too. This firm wrote the Secretary that if their competition—General Dynamics and Litton—are bailed out under Public Law 85-804, they want exactly the same treatment. They want the bailout too.

And where does it all end?

Somewhere we have to hold the line against excessive Government spending. I can think of no better place to start than right here. If General Dynamics and Litton are positive they are entitled to the $541 million, let them litigate to collect it, for that is the purpose of our judicial system. Let the Navy defend its actions in an adversary proceeding. We certainly shall determine who owes what to whom, and I for one think the taxpayers will be the big winners.

But let us not allow the Navy to toss in the towel simply because to do so is easier than to fight.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding.

I think the most important point to make is that this is somehow the final solution to these particular claims. That is not the case because the restriction on claims and theoretically the fixed loss, which is not really a fixed loss, can be made up in later claims if they want to, because they can come back to this Congress and ask for more money for later claims. They are in no way restricted.

Mr. AUCOIN. The gentleman makes an excellent point.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I want to compliment the two gentlemen on their statements.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment for a number of reasons. First, this settlement just did not happen overnight, a number of Secretaries before Secretary Claytor had worked on this issue. Finally Secretary Claytor and Assistant Secretary of Navy Mr. Hidalgo plus Mr. O'Green of Litton and heads of Electric Boat reached a settlement. The parties involved in the settlement have not gained, but we are gaining ships and saving further costs to the Government.

The General Accounting Office could not recommend a better solution of settling these claims.

I ask my colleagues to vote against the amendment.

Mr. Chairman, I move that all debate on this amendment end in 10 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY).

The question was taken; and on a division (demanded by Mr. DOWNEY) there were—ayes 37, noes 12.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was refused.

So the motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for 40 seconds.

The Chair recognizes the gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS. Mr. Chairman, I rise in opposition to this amendment. What we have here is a matter of equity. People are talking about the absorption of tax dollars which will be involved in the settlement of the claim. Nobody is talking about the absorption of losses which will be absorbed by the two companies involved. They are much greater than that which will be put in by the tax money.

If we are going to have a good shipbuilding program we have to get it on the move, we have to settle these claims. We cannot run the risk of litigation. I think the time to do it is right now. We do not need to have further hearings. Some people have asked questions about the Navy. We can take care of that in the future.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Mr. Chairman, I rise in opposition to the Downey amendment. It disregards the long months of negotiating that took place to arrive at the final settlement which provides that 50 percent of the cost overruns are absorbed by the contractors. Furthermore I oppose this amendment because it could require the U.S. Government to spend additional taxpayers' dollars should litigation be necessary to reach a new settlement that may in the long run cost our Government even more than the one before us today.

I have followed the events of the General Dynamics-Electric Boat Division case throughout its duration. I also participated in discussions that took place between the Navy, the contractors and the Congress, and the fault clearly lies with both the Navy and Electric Boat.

The Navy is to blame for letting out a design contract to a shipyard with no prior experience in nuclear submarines (Newport News), while at the same time, awarding the construction contract to Electric Boat Division for a ship that's design was still incomplete. This most certainly caused the 35,000 design revisions that had to be made during the construction of the first ship of the SSN-688 class submarine.

On the other side of the coin, however, there was evidence of mismanagement at the Electric Boat shipyard in Groton, Conn. This inefficiency certainly may have brought about a portion of the cost overruns relating to the construction of the 688 class. But today there is new management in Groton, and they have set a new direction that will hopefully bring about greater operating and managerial efficiency. The cost overruns from the past still remain, however.

So it is clear that both parties in this situation are at fault and thus, the cost burden should be borne by both. The final settlement as announced by Navy Secretary Claytor on June 9, 1978, sought to do just that.

There will be those Members who will call on their colleagues to support the Downey amendment, which deletes that portion of the settlement included in the Defense Authorization bill, on the argument that it saves taxpayers' dollars. Mr. Chairman, I find that statement very difficult to comprehend, since with passage of this amendment may come years of court battles that themselves will cost the taxpayers millions of dollars. In addition, the final decision of those court proceedings may produce a settlement that requires the Navy to pay even more than 50 percent of the cost overruns.

In addition, the Government Accounting Office has endorsed the present Navy Claims Settlement, which is included in this defense authorization bill. In their testimony before the Senate Armed Services Committee, the GAO stated that "under the circumstances, there are no alternatives that we can offer which we think would do better for the Government."

Thus, the Downey amendment will prove to obstruct the implementation of this reasonable solution to the cost overruns problem, and will also put the Navy in a position whereby the final settlement can cost even more.

In conclusion, I urge the House and

Senate Armed Services Committee, as well as the Appropriations Subcommittee on Defense to concentrate on the weaknesses in the contract-letting procedures currently practiced by the Navy, so that the cost overruns that were experienced by Electric Boat and Litton Industries can be avoided in the future. We should not, however, buck the responsibility for their losses today, especially when our government has reached an equitable settlement. Thus, Mr. Chairman, I ask my colleagues to join me in voting "no" on the Downey amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, this is a very difficult vote for some of us. I know in my own particular case that I have three very strong feelings that seem to counteract, one against another.

First, I think my record is reasonably clear; I am about as pro-defense as any Member of this body. At the same time, in my years here I do not think I have developed a dislike for anything more than overruns, whether the Capital Center, the Kennedy Center, the Rayburn Building, or Defense. Third, I have a very strong distrust in many cases of big business.

How one combines those three particular currents into one vote, I am not sure. I am inclined to support this amendment, but I do honestly believe we should have some more debate.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, there are several things that have been said that I would like to mention. One was that new procedures are needed to handle Navy contracts. The Navy ship procurement process study came out a month or so ago, and it is full of recommendations they are going to be following, so things will improve.

Second, the statement was made, astonishingly by a member of this committee, that $900 million is involved in lost ships. The $900 million is bought ships, and those are being built and are going to be on the seas, and some are already on the sea. So, there is nothing to that argument whatsoever.

Another statement was that the overruns are offensive to everybody. Yes, they are, but many of these particular overruns are largely caused by the Government itself and some others were inevitable from the inflation spiral. The final line is that the executive branch studied these matters carefully and concluded that settling these claims at these figures is better business judgment than further litigation. Nothing said here disputes that conclusion.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I rise in strong support of this amendment. My distinguished colleague from New York argued eloquently in the committee in defense of his amendment. I would like now to yield to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I think the most important thing for the committee to understand is: No. 1, this is not a final solution. There is nothing in either of these claims that prohibits either of these corporations to come back and ask for more money. Second, claims already outstanding by Tenneco, Newport News Yard, and Lockheed have yet to be resolved, and amount to more than a billion dollars. This claim settlement will be a precedent for that settlement—make no mistake about that.

The CHAIRMAN. The time of the gentleman from California has expired.

The Chair recognizes the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, if we adopt my amendment, we will continue to build these ships. We are going to keep building those ships. We will be able to say to Secretary Hidalgo, we will be able to say to the companies that we want guarantees on the limits of that payment to General Dynamics and Litton for additional claims. We want some of the technical guarantees Admiral Rickover would like to have so that we could have future ships built at reasonable cost.

Finally, if we learned anything about the process, we should learn that simply providing more money is not going to solve the substantial work force problems and the contractual problems the Navy has had.

Please adopt my amendment; give us time in committee to work out alternative solutions.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to the amendment. We need these ships, and we need to settle these claims, so we will need to vote against the Downey amendment. More court action will gain us nothing. Actually, we could go to the courts at further loss. So, I hope the committee will vote down the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. DODD).

Mr. DODD. Mr. Chairman, let me just point up four quick points, if I can. First, and this has already been mentioned, this is an equitable and fair solution to this problem. This is not just a decision reached by the Navy and the company. The General Accounting Office has looked at this settlement; independent auditors have looked at this settlement, and the conclusion of both the GAO and the independent auditors is that this is a reasonable, equitable solution to this problem.

Third, the option that we have to resort to if we do not agree to this, the most viable option, is to go to court. If this body wants to accept possibly 10 years of litigation, and God only knows what the cost would be, the net could be frightening and we would be back with even greater costs.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. I would like to just mention two points, Mr. Chairman. Does anybody think that contracts are going to mean anything with this kind of an arrangement? What does it mean when somebody says, "I can build so many ships for so many dollars"? One obviously buys into the contract by putting in an unrealistically low figure, because one knows the Navy is going to settle rather than go to litigation. That is the danger of this proposal.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I would like to read part of a letter from the Secretary of Defense:

> I fully support the Navy's use of extraordinary contractual relief under Public Law 85-804. Although the Department of Defense did not request the money, it clearly is required to satisfy the settlement, and I fully support the committee's action.

The point is, if we want ships in the future, we are going to have to take favorable action on matters such as this. We have to fulfill the Government's obligations as well as have the shipbuilders fulfill their obligations to the Government.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York (Mr. DOWNEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DOWNEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 97, noes 187, answered "present" 1, not voting 147, as follows:

[Roll No. 859]

AYES—97

Ambro	Evans, Ind.	Nolan
Applegate	Fisher	Nowak
Ashbrook	Foley	Oberstar
AuCoin	Fraser	Obey
Bafalis	Glickman	Ottinger
Baldus	Gore	Patten
Bauman	Hall	Pattison
Bedell	Hamilton	Pease
Bingham	Hefner	Quayle
Bonior	Holtzman	Rangel
Bonker	Hughes	Rinaldo
Breckinridge	Jacobs	Ryan
Brodhead	Jenkins	Scheuer
Broomfield	Jordan	Sharp
Burton, Phillip	Kasten	Shuster
Clay	Kastenmeier	Snyder
Collins, Tex.	Kelly	Solarz
Conte	Kildee	Stark
Corcoran	Kostmayer	Steed
Cornell	Leach	Steers
Cornwell	Long, Md.	Stratton
Crane	Lujan	Symms
Cunningham	McHugh	Vanik
Dellums	Maguire	Walker
Devine	Markey	Waxman
Downey	Marks	Weaver
Drinan	Marlenee	Weiss
Early	Mikulski	Whalen
Edgar	Miller, Ohio	Whitley
Edwards, Okla.	Minish	Wolff
English	Murphy, Pa.	Young, Fla.
Ertel	Myers, Gary	
Evans, Colo.	Neal	

NOES—187

Abdnor	Benjamin	Burke, Calif.
Akaka	Bennett	Burke, Fla.
Alexander	Bevill	Burke, Mass.
Anderson, Calif.	Blanchard	Burlison, Mo.
	Boggs	Butler
Andrews, N.C.	Bolling	Byron
Andrews, N. Dak.	Bowen	Carr
	Brademas	Carter
Annunzio	Brinkley	Cavanaugh
Archer	Brown, Calif.	Clawson, Del
Ashley	Brown, Mich.	Coleman
Beard, R.I.	Broyhill	Conable
Beard, Tenn.	Buchanan	Corman
Bellenson	Burgener	Daniel, Dan

Daniel, R. W.	Jones, Okla.	Quillen
Danielson	Jones, Tenn.	Regula
Davis	Kazen	Robinson
de la Garza	Kemp	Roe
Derrick	Krebs	Rogers
Derwinski	LaFalce	Roncalio
Dicks	Lagomarsino	Rooney
Dodd	Le Fante	Rose
Dornan	Lederer	Rostenkowski
Duncan, Oreg.	Leggett	Rousselot
Duncan, Tenn.	Levitas	Roybal
Eckhardt	Livingston	Rudd
Edwards, Calif.	Lloyd, Calif.	Ruppe
Emery	Lloyd, Tenn.	Sarasin
Evans, Del.	Long, La.	Satterfield
Fary	Lott	Schulze
Fascell	Luken	Sebelius
Fenwick	McCormack	Simon
Findley	McDonald	Skubitz
Fithian	McFall	Spellman
Flippo	McKay	Spence
Flowers	McKinney	St Germain
Flynt	Madigan	Stangeland
Ford, Mich.	Martin	Stanton
Ford, Tenn.	Meeds	Steiger
Fountain	Meyner	Stockman
Fowler	Michel	Studds
Frenzel	Mineta	Stump
Gephardt	Mitchell, N.Y.	Taylor
Giaimo	Moakley	Thompson
Ginn	Moffett	Thornton
Gonzalez	Mollohan	Treen
Gradison	Montgomery	Trible
Grassley	Moore	Ullman
Green	Moorhead, Calif.	Vander Jagt
Guyer		Waggonner
Hanley	Moss	Wampler
Hannaford	Murphy, N.Y.	Watkins
Hansen	Murtha	White
Harris	Myers, John	Whitten
Harsha	Myers, Michael	Wiggins
Heftel	Natcher	Wilson, Bob
Hillis	Nedzi	Wilson, C. H.
Holland	O'Brien	Wilson, Tex.
Holt	Patterson	Winn
Hubbard	Perkins	Young, Mo.
Hyde	Pickle	Young, Tex.
Ichord	Preyer	Zablocki
Jenrette	Price	
Johnson, Calif.	Pursell	

ANSWERED "PRESENT"—1

Johnson, Colo.

NOT VOTING—147

Addabbo	Gilman	Pike
Ammerman	Goldwater	Poage
Anderson, Ill.	Goodling	Pressler
Armstrong	Gudger	Pritchard
Aspin	Hagedorn	Quie
Badham	Hammer-schmidt	Rahall
Barnard		Railsback
Baucus	Harkin	Reuss
Biaggi	Harrington	Rhodes
Blouin	Hawkins	Richmond
Boland	Heckler	Risenhoover
Breaux	Hightower	Roberts
Brooks	Hollenbeck	Rodino
Brown, Ohio	Horton	Rosenthal
Burleson, Tex.	Howard	Runnels
Burton, John	Huckaby	Russo
Caputo	Ireland	Santini
Carney	Jeffords	Sawyer
Cederberg	Jones, N.C.	Schroeder
Chappell	Keys	Seiberling
Chisholm	Kindness	Shipley
Clausen, Don H.	Krueger	Sikes
	Latta	Sisk
Cleveland	Lehman	Skelton
Cochran	Lent	Slack
Cohen	Lundine	Smith, Iowa
Collins, Ill.	McClory	Smith, Nebr.
Conyers	McCloskey	Staggers
Cotter	McDade	Stokes
Coughlin	McEwen	Teague
D'Amours	Mahon	Thone
Delaney	Mann	Traxler
Dent	Marriott	Tsongas
Dickinson	Mathis	Tucker
Diggs	Mattox	Udall
Dingell	Mazzoli	Van Deerlin
Edwards, Ala.	Metcalfe	Vento
Eilberg	Mikva	Volkmer
Erlenborn	Milford	Walgren
Evans, Ga.	Miller, Calif.	Walsh
Fish	Mitchell, Md.	Whitehurst
Flood	Moorhead, Pa.	Wirth
Florio	Mottl	Wright
Forsythe	Murphy, Ill.	Wydler
Frey	Nichols	Wylie
Fuqua	Nix	Yates
Gammage	Oakar	Yatron
Garcia	Panetta	Young, Alaska
Gaydos	Pepper	Zeferetti
Gibbons	Pettis	

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell of Maryland for, with Mr. Cotter against.

Mr. Burleson of Texas for, with Mr. Boland against.

Mr. Teague for, with Mr. Addabbo against.

Mr. Gammage for, with Mr. Murphy of Illinois against.

Mrs. Chisholm for, with Mr. Zeferetti against.

Mr. Richmond for, with Mr. Sikes against.

Mr. Diggs for, with Mr. Chappell against.

Mr. Rahall for, with Mr. Carney against.

Mr. Conyers for, with Mr. Nichols against.

Mr. Garcia for, with Mr. Slack against.

Mr. Jones of North Carolina for, with Mr. Staggers against.

Mr. Runnels for, with Mr. Biaggi against.

Mr. Mottl for, with Mr. Krueger against.

Mr. Stokes for, with Mr. Breaux against.

Mr. Risenhoover for, with Mr. Flood against.

Mr. Nix for, with Mr. Vento against.

Mrs. Collins of Illinois for, with Mr. Volkmer against.

Mr. ECKHARDT and Mr. SKUBITZ changed their vote from "aye" to "no."

Mr. GORE and Mr. KELLY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,661,701,000.

For the Navy (including the Marine Corps), $4,504,268,000.

For the Air Force, $4,164,500,000, of which $10,000,000 may be obligated and expended only for the North Atlantic Treaty Organization Airborne Warning and Control System (AWACS) program, but such $10,000,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft.

For the Defense Agencies, $933,400,000, of which $27,600,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM

SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

REPORT RELATING TO DEVELOPMENT OF SURVIVABLE LAND-BASED INTERCONTINENTAL BALLISTIC MISSILE SYSTEM

SEC. 203. The Secretary of Defense shall, not later than September 30, 1978, report to the Committees on Armed Services of the Senate and the House of Representatives the decision of the executive branch regarding full scale development of a survivable land-based intercontinental ballistic missile system. In the event that no final decision regarding such matter has been reached by the executive branch by such date, the Secretary of Defense shall—

(1) notify such committees on or before such date that no final decision has been reached and the reasons why such decision has not been made;

(2) inform such committees of the technical, political, or other considerations necessitating a delay in making such decision;

(3) indicate the date the Secretary believes a final decision will have been made with respect to such matter; and

(4) submit a report to such committees once every 30 days on the status of the decision on such matter (including in each such report information relating to the matters contained in clauses (2) and (3) of this section) until a final decision by the executive branch has been made and such committees have been informed of such decision.

REPEAL OF FISCAL YEAR 1978 AWACS RESTRICTION

SEC. 204. Section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79, 91 Stat. 323), is amended by striking out ", but such $15,700,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft".

TITLE III—ACTIVE FORCES

SEC. 301. For fiscal year 1979, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 775,800.

(2) The Navy, 523,550.

(3) The Marine Corps, 190,000.

(4) The Air Force, 566,400.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For fiscal year 1979, the Selected Reserve of each Reserve component of the Armed Forces shall be programmed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 362,200.

(2) The Army Reserve, 195,750.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 33,000.

(5) The Air National Guard of the United States, 92,150.

(6) The Air Force Reserve, 53,075.

(7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) with their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED RESERVES

SEC. 402. (a) Section 2132(b)(1) of title 10, United States Code, relating to eligibility for educational assistance, is amended—

(1) by striking out "automatically extended by two years" and inserting in lieu thereof "not less than six years"; and

(2) by striking cut "eighth anniversary" and inserting in lieu thereof "last day of the term".

(b) Section 2135 of title 10, United States Code, is amended by striking out "1978" and inserting in lieu thereof "1980".

REENLISTMENT BONUS FOR MEMBERS OF SELECTED RESERVE

SEC. 403. (a) Subsection (a) of section 308b of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended to read as follows:

"(a) An enlisted member of a reserve component who—

"(1) has completed less than ten years of total military services; and

"(2) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (b).".

(b) Subsection (b) of such section is amended by inserting "an amount not to exceed" before "$450", before "$900", and before "$150".

(c) Subsection (g) of such section is amended by striking out "1978" and inserting in lieu thereof "1980".

BONUS FOR ENLISTMENTS IN THE SELECTED RESERVE

SEC. 404. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 308b the following new section:

"§ 308c. Special pay: bonus for enlistment in the Selected Reserve

"(a) Any person who, after September 30, 1978, enlists in the Selected Reserve of the Ready Reserve of an armed force for a term of enlistment of not less than six years, is a graduate of a secondary school, and has never previously served in an armed force may be paid a bonus as provided in subsection (b).

"(b) The amount and method of payment of a bonus to be paid under subsection (a) shall be determined in accordance with regulations prescribed under subsection (c), except that the amount of such bonus may not exceed $2,000 and—

"(1) one-half of the bonus shall be paid upon completion of the initial active duty for training of such person; and

"(2) the remainder of the bonus may be paid in periodic installments or in a lump sum, as determined by the Secretary concerned.

"(c) This section shall be administered under regulations prescribed by the Secretary of defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

"(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus has been paid to him under this section shall refund an amount which bears the same ratio to the amount of the bonus which has been paid to him as the unexpired part of such term of enlistment bears to the total length of such term of enlistment.

"(e) The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus has been paid under this section and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be made not later than December 31, 1978.

"(f) No bonus may be paid under this section to any enlisted member who, after September 30, 1980, enlists in the Selected Reserve of the Ready Reserve of an armed force.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308b the following new item:

"308c. Special pay: bonus for enlistment in the Selected Reserve.".

RESTRICTION ON TRANSFER FROM READY RESERVE TO STANDBY RESERVE

SEC. 405. (a)(1) Section 269 of title 10, United States Code, relating to transfers from the Ready Reserve, is amended—

(A) by striking out "eligible to transfer" in subsection (a) and inserting in lieu thereof "transferred";

(B) by striking out the colon at the end of the third sentence in subsection (d) and inserting in lieu thereof a period;

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Subject to subsection (g) and under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve."; and

(D) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.".

(2) The amendments made by paragraph (1) shall not apply with respect to a member of the Ready Reserve of an Armed Force who served on active duty (other than for training) before the date of the enactment of this Act.

(b) Section 271 of such title, relating to continuous screening of the Ready Reserve, is amended—

(1) by inserting "(a)" before "Under regulations";

(2) by striking out "significance" in clause (1) and inserting in lieu thereof "significant"; and

(3) by adding at the end thereof the following new subsection:

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, any member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be transferred to the Standby Reserve, discharged, or, if such member is eligible and applies therefor, transferred to the Retired Reserve.".

(c)(1) Section 511(b) of such title, relating to terms of enlistments in Reserve components, is amended—

(A) in the first sentence—

(i) by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(ii) by striking out "sections 451–473 of title 50, appendix" and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451–473)"; and

(B) in the second sentence—

(i) by inserting "not less than" in clause (1) before "two years" and by adding "and" at the end of such clause;

(ii) by striking out clause (2); and

(iii) by redesignating clause (3) as clause (2) and striking out "Standby Reserve" in such clause and inserting in lieu thereof "Ready Reserve".

(2) The amendments made by paragraph (1) shall not apply with respect to a person who enlisted as a Reserve for service in the Armed Forces under section 511(b) of title 10, United States Code, before the date of the enactment of this Act.

(d)(1) Chapter 37 of such title, relating to general service requirements, is amended by adding after section 651 the following new section:

"§ 652. Ready Reserves: requirement of notification of change of status

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each member of the Ready Reserve who is not a member of the Selective Reserve shall notify the Secretary concerned of any change in such member's address, marital status, number of dependents, or civilian employment and of any change in such member's physical condition which would prevent him from meeting the physical or mental standards prescribed for his armed force.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 651 the following new item:

"652. Ready Reserves: requirement of notification of change of status.".

REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON RESERVE FORCES

SEC. 406. (a) Section 264 of title 10, United States Code, is amended by striking out subsection (c).

(b)(1) Section 279 of such title is repealed.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 279.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For fiscal year 1979, the Department of Defense is authorized an end strength for civilian personnel of 1,005,500.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

In computing the authorized strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency), whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized in subsection (a) of this section, but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1979, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 50,738.
(2) The Navy, 57,996.
(3) The Marine Corps, 21,324.
(4) The Air Force, 44,410.
(5) The Army National Guard of the United States, 11,793.
(6) The Army Reserve, 5,959.
(7) The Naval Reserve, 991.
(8) The Marine Corps Reserve, 3,074.
(9) The Air National Guard of the United States 2,471.
(10) The Air Force Reserve 1,184.

(b) In addition to the number authorized for the Army in subsection (a), the Army is authorized a military training student load for fiscal year 1979 of not less than 17,205 to be utilized solely for One Station Unit Training.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) of this section for fiscal year 1979 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

REDUCTION OR REALIGNMENT OF THE TRAINING BASE

SEC. 602. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement any substantial reduction of the training base (as defined in subsection (c)) or any substantial force structure realignment of the training base planned as a part of the fiscal year 1979 Defense manpower program unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to a substantial reduction or realignment of the training base may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the specific reduction or realignment proposed;

(2) the Secretary of Defense or the Secretary of the military department concerned certifies that such reduction or realignment is in the best interest of the national security and provides for the most cost effective and efficient management of the training base, both in time of peace and in ability to meet mobilization requirements; and

(3) a period of thirty legislative days expires following the date on which the notification and certification referred to in clauses (1) and (2) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement such reduction or realignment. For the purpose of clause (3), a legislative day is a day in which either House of Congress is in session.

(c) For the purposes of this section, the term "training base" means the composite of installations, posts, camps, stations, and bases that have as a primary or secondary mission the conduct of formal entry level, advanced individual, or specialty training.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION FOR DEFENSE CIVIL PREPAREDNESS AGENCY

SEC. 701. There is hereby authorized to be appropriated for the programs of the Defense Civil Preparedness Agency for fiscal year 1979 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 the sum of $96,500,000.

CIVIL DEFENSE STUDY

SEC. 702. (a) From the funds authorized to be appropriated pursuant to section 701 of this Act, the sum of $200,000 shall be used for a study of the special defense needs of areas of the United States which contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities.

(b) The study provided for in subsection (a) shall include the following:

(1) An identification of areas of the United States which, because they contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities, are prime targets in case of a nuclear attack.

(2) A determination of what civil defense evacuation and shelter plans and warning systems are now available or are proposed to be made available to such areas.

(3) An evaluation of the effectiveness of such existing evacuation and shelter plans and warning systems.

(4) A determination of the feasibility of establishing more effective evacuation and shelter plans and warning systems for such areas and a determination of the potential costs and methods of financing such plans and systems.

(5) A detailed analysis of the specific effects of a nuclear attack on each such area.

(6) A determination of the need for educating, and the most effective methods of educating, the public in such areas on civil defense matters.

(c) The study required by this section shall be completed, and copies shall be filed with the Committees on Armed Services of the Senate and House of Representatives, before April 1, 1979.

TITLE VIII—GENERAL PROVISIONS

EXTENSION OF AUTHORITY FOR SPECIAL PAY FOR HEALTH PROFESSIONALS

SEC. 801. (a) The second sentence of section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (88 Stat. 96; 37 U.S.C. 302 note), is amended to read as follows: "The authority for the special pay provided by the amendments made by the first section of this Act shall expire on September 30, 1980.".

(b) Sections 302a(c) and 303(c) of title 37, United States Code, are each amended by striking out "September 1978" and inserting in lieu thereof "September 1980".

AUTHORITY FOR ENLISTMENT AND REENLISTMENT BONUSES

SEC. 802. (a)(1) Section 308(a) of title 37, United States Code, is amended—

(A) by inserting "(1)" after "(a)" and by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) by striking out "designated as having a critical military skill" in paragraph (1)(B) (as redesignated by subparagraph (A)) and inserting in lieu thereof "qualified in a military skill designated as critical"; and

(C) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1)(B) of this subsection, a member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b) Sections 308(f) and 308(c) of title 37, United States Code, are each amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 803. The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (85 Stat. 491; 37 U.S.C. 209 note), is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

CAREER SEA PAY

SEC. 804. (a)(1) Effective October 1, 1978, chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 305 the following new section:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay and who (1) is in pay grade E–4 or above, and (2) has served more than three years of sea duty, is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b)(1) For sea duty performed during fiscal year 1979 or 1980, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$25
Over 5	35
Over 12	55

"(2) For sea duty performed during fiscal year 1981, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$25
Over 5	35
Over 7	45
Over 12	55".

(2) Effective October 1, 1981, subsection (b) of section 305a of title 37, United States Code (as added by paragraph (1)), is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$ 25
Over 5	35
Over 7	45
Over 9	55
Over 10	65
Over 11	75
Over 12	100".

(3) In determining the amount of sea duty to be credited to an enlisted member of a uniformed service for purposes of section 305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status.

(b)(1) Section 305 of such chapter is amended—

(A) by striking out all of subsection (a) that precedes the table therein and inserting in lieu thereof the following:

"(a) Except as provided by subsection (b) and (c) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may, while on duty at a designated place outside the 48 contiguous States and the District of Columbia, be paid special pay at the following monthly rates:";

(B) by adding at the end thereof the following new subsection:

"(c) A member receiving special pay under section 305a of this title may not be paid special pay under this section for the same period of service."; and

(C) by striking out "sea duty or" in the section heading.

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out "sea duty or" in the item relating to section 305; and

(B) by inserting after such item the following new item:

"305a. Special pay: career sea pay.".

(3) The amendments made by this subsection shall take effect on October 1, 1978.

(c) Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)).

CHIEF OF ARMY DENTAL CORPS; AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES

SEC. 805. (a) Section 304(b) of title 10, United States Code, is amended by inserting after the first sentence thereof the following new sentence: "The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army.".

(b)(1) Chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"(a) The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3040 of this title.

"(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

"(c) The Chief of the Dental Corps shall—

"(1) establish professional standards and policies for dental practice;

"(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignment, and transfer of dental personnel; and

"(3) serve as the adviser to the Office of the Surgeon General on all matters relating directly to dentistry.

"(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army shall be organized into units commanded by a designated Dental Corps officer. Such officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as may be prescribed by regulation.".

(2) The table of sections at the beginning of chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"3081. Dental Corps: Chief, functions.".

(c)(1) Chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 8081. Assistant Surgeon General for Dental Services

"There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secretary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of major who are designated as dental officers under section 8067(b) of this title. The term of office of the Assistant Surgeon General for Dental Services is four years but may be increased or decreased by the Secretary of the Air Force.".

(2) The table of sections at the beginning of chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"8081. Assistant Surgeon General for Dental Services.".

CEILING FOR PAYMENTS TO PHYSICIANS UNDER CHAMPUS

SEC. 806. (a)(1) Section 1079 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Payment of a charge for physician services for which a claim is submitted under a plan contracted for under subsection (a) may be denied because the charge is in excess of a predetermined charge level based upon customary charges made for similar services in the same locality only to the extent that such charge is in excess of the charge level that, on the basis of statistical data and methodology acceptable to the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is equivalent to the 90th percentile of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing before the start of the twelve-month period (beginning July 1 of each year) in which the claim for the payment is submitted.".

(2) Section 1086 of such title is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 1079(h) of this title shall apply to payments for physician services under a plan contracted for under subsection (a).".

(b) The amendments made by subsection (a) shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act.

MARINE CORPS COMMANDANT—MEMBER OF JOINT CHIEFS OF STAFF

SEC. 807. Section 141 of title 10, United States Code, is amended by—

(1) striking out "and" at the end of subsection (a)(3);

(2) striking out the period at the end of subsection (a)(4) and inserting in lieu thereof a semicolon and the word "and";

(3) adding after subsection (a)(4) a new clause (5) as follows:

"(5) the Commandant of the Marine Corps.";

(4) striking out subsection (c); and

(5) redesignating subsections (d) and (e) as subsections (c) and (d) respectively.

ASSIGNMENT OF WOMEN TO NAVAL VESSELS

SEC. 808. The last sentence of section 6015 of title 10, United States Code, relating to restrictions on the assignment of women members of the Navy, is amended to read as follows: "However, women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned commissions.".

MILITARY TRAINING FOR FEMALE UNDERGRADUATES AT MILITARY COLLEGES

SEC. 809. (a) The Secretary of Defense shall require that any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university, but, notwithstanding any other provision of law, the Secretary of Defense may not require that, as a condition of maintaining such designation or for any other purpose, such college or university require female undergraduate students enrolled in such college or university to participate in military training.

(b) The Secretary of Defense shall prescribe such regulations as the Secretary determines necessary or appropriate to carry out the provisions of this section.

NAVY SHIPBUILDING POLICY

SEC. 810. (a) It is the policy of the United States to modernize the combatant forces of the United States Navy through the construction of advanced, versatile, survivable, and cost-effective combatant ships in sufficient numbers and having sufficient combat effectiveness to defend the United States against enemy attack and to carry out such other missions as may be assigned to the Navy by law. In order to achieve such policy, the Navy should develop plans and programs for the construction and deployment of weapon systems, including naval aviation platforms, that are more survivable, less costly, and more effective than those presently in the Navy.

(b) In order that the Congress may be kept currently informed regarding compliance with the policy expressed in subsection (a), the President shall include in all requests made to the Congress for the authorization of any ship for the combatant forces, including any aircraft carrier, (1) his conclusions with respect to the survivability, cost effectiveness, and combat effectiveness of such ship, (2) a recommendation whether such ship should be nuclear or conventionally powered, and (3) the reasons for such conclusions and recommendations.

(c) Title VIII of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 408), is repealed.

CARRIER SERVICE LIFE EXTENSION PROGRAM AND DDG-2 DESTROYER CONVERSION

SEC. 811. (a) Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary of the Navy may not take any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work under the Service Life Extension Program (SLEP) or under the program for the modernization of DDG-2 class guided missile destroyers, or for the employment of additional personnel for, or the transfer of additional personnel to, any public shipyard as a part of the necessary buildup of manpower for carrying out either such program, until—

(1) the Secretary of the Navy conducts a comprehensive least-cost approach study (A) comparing the costs of carrying out such programs at public shipyards with the costs of carrying out such programs at private shipyards, and (B) evaluating such other factors as the Secretary of the Navy considers should be taken into account in assigning work in connection with the conversion, overhaul, repair, or modernization of vessels to public or private shipyards;

(2) a written report containing the results of such study is submitted, after the date of the enactment of this Act, to the Committees on Armed Services and on Appropria-

tions of the Senate and the House of Representatives; and

(3) a period of sixty days of continuous session of congress expires following the date on which such report is submitted to such committees.

(b) Nothing in this section shall prevent the Navy from conducting advanced planning or purchasing long lead items in connection with either program described in subsection (a) so long as such planning or purchasing is not related to the performance of work in connection with either such program at any particular shipyard.

(c) For purposes of subsection (a)(3), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such sixty-day period.

CERTIFICATION OF CLAIMS

SEC. 812. Notwithstanding any other provision of law, none of the funds authorized to be appropriated for the Department of Defense by this or any other Act shall be used for the purpose of paying any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request, which exceeds $100,000 unless a senior company official in charge at the plant or location involved has certified at the time of submission of such contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request, that such claim or request is made in good faith and that the supporting data are accurate and complete to the best of such official's knowledge and belief. The requirements of this section shall not apply to claims, requests for equitable adjustment of contract terms, requests for relief under Public Law 85-804, or other similar requests submitted before the date of enactment of this Act.

RESTRICTION ON CONTRACTING OUT COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 813. (a) The Secretary of Defense shall submit a report to the Committee on Armed Services of the Senate and House of Representatives providing the details of any proposed change in policy or regulations, from those in effect before June 30, 1976, regarding the determination of whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be performed by Department of Defense personnel or by private contractors during the period beginning on October 1, 1978, and ending on September 30, 1979.

(b) No commercial or industrial type function at any Department of Defense installation referred to in subsection (a) shall be performed by private contractors unless such contractor performance began before the date of the enactment of this Act or performance would have been allowed by the policy and regulations in effect before June 30, 1976. The prohibition in the preceding sentence shall apply until the end of the sixty-day period beginning on the date the report required by subsection (a) is received by the Committees on Armed Services of the Senate and House of Representatives.

PROHIBITION ON SALE OF CERTAIN ARTICLES FROM DEPARTMENT OF DEFENSE STOCKS

SEC. 814. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

"(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

"(2) In this section, 'decrement stock' means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness.

"(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

"(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

"(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

"(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

"(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

ASSISTANCE TO 1980 OLYMPIC WINTER GAMES

SEC. 815. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistical support and personnel services to the XIII Olympic winter games;

(2) to lend and provide equipment to officials of the Lake Placid Olympic Organizing Committee; and

(3) to provide such other services as the Lake Placid Olympic Organizing Committee may consider necessary and the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Secretary of Defense for fiscal year 1979 an amount not to exceed $2,000,000 for the purpose of carrying out subsection (a). No funds may be obligated or expanded for such purpose unless specifically appropriated for such purpose.

REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

SEC. 816. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1977.

TECHNICAL AMENDMENT RELATING TO THE LIMITATION ON NUMBER OF ADMIRALS AND VICE ADMIRALS IN THE NAVY AND GENERALS AND LIEUTENANT GENERALS IN THE MARINE CORPS

SEC. 817. (a) The first sentence of section 5231(b) of title 10, United States Code, is amended by striking out "the active list of the Navy" and inserting in lieu thereof "active duty."

(b) Section 5232(b) of such title is amended by striking out "the active list of the Marine Corps" and inserting in lieu thereof "active duty".

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the remaider of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. DAN DANIEL

Mr. DAN DANIEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAN DANIEL: Page 39, after line 3 add the following new section:

COMMISSARY BAGGERS

SEC. 818. Notwithstanding any other provision of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.

Mr. DAN DANIEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. DAN DANIEL. Mr. Chairman, the amendment is self-explanatory. It states in simple terms the intent of Congress as to the method by which commissary baggers should be paid. They are not employees of the Federal Government and their total compensation is from patron tips. The gentleman from Kentucky (Mr. SNYDER) has recommended that this provision cover baggers at the Commissary operated by the Panama Canal Company whose stock is owned by the Secretary of the Army. Let me assure the gentleman that his proposal will be fully considered by the panel of jurisdiction.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, this side has no objection to the gentleman's amendment.

Mr. PRICE. Mr. Chairman, if the gentleman will yield, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. DAN DANIEL).

The amendment was agreed to.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14042) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected

Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished acting majority leader as to the program for next week.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, the program for the House of Representatives for the week of October 2, 1976, is as follows:

On Monday, October 2, the House meets at noon. We will have the call of the Consent Calendar, and under suspensions no bills are listed. There is the possibility, however, of considering one suspension.

On that day we will have general debate only on the following bills:

S. 1613, Magistrate Act of 1977, under an open rule, with 1 hour of debate;

H.R. 13059, Water Resources Development Act of 1978, under an open rule, with 1 hour of debate;

H.R. 13471, Financial Institutions Regulatory Act of 1978, under an open rule, with 1 hour of debate;

H.R. 13750, Sugar Stabilization Act of 1978, under an open rule, with 2 hours of debate;

H.R. 11545, Meat Import Act of 1978, under an open rule, with 1 hour of debate; and

H.R. 10909, Clinical Laboratory Improvement Act, under a modified open rule, with 1 hour of debate.

On Tuesday, October 3, the House meets at noon. We will have the call of the Private Calendar, and we will consider 25 bills under suspension. However, votes on the suspension bills will be postponed until Wednesday, October 4, 1978. As I say, there are 25 suspensions.

Mr. MICHEL. Mr. Speaker, if I may interrupt the gentleman. I might suggest that we simply have a list of the 24 bills on the Suspension Calendar printed in the RECORD, since I am sure our programs are identical.

Mr. ROSTENKOWSKI. Our programs are identical.

Mr. Speaker, I ask unanimous consent that we may insert the list of the 24 suspension bills in the RECORD at this point, and when we come to the program for Wednesday and Thursday, I will read that in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(The list of bills on the Suspension Calendar above referred to is as follows:)

1. H.R. 13845, Perishable Agricultural Commodities Act;
2. H.R. 12917, Rural Transportation Advisory Task Force;
3. H.R. 12171, Federal Accounting and Auditing Act of 1978;
4. H.R. 11658, Merchant Marine Act Amendments for Great Lakes Vessels;
5. H.R. 8853, U.S. Code, Title 18 Amendments, re Cigarette Sale Racketeering;
6. H.R. 12355, Nuclear Regulatory Commission Authorization;
7. H.R. 10240, Pueblo Indians of ZIA;
8. H.R. 3924, Pueblo Indians of Santa Ana;
9. H.R. 11894, Osage Indians of Oklahoma;
10. H.R. 13972, Great Bear Wilderness Area;
11. H.R. 13221, Toiyabe National Forest, Nevada;
12. H.R. 13650, Uranium Mill Tailings;
13. H.R. 13553, Coal Leasing Amendments;
14. H.R. 13702, Non-voting Samoan Delegate to House;
15. H.R. 13167, Black Lung Benefits Revenue Act Amendments;
16. H.R. 6877, IRC Amendments for Regulated Investment Companies;
17. H.R. 9192, IRC Amendments for Banks and Cooperatives;
18. H.R. 10653, IRC Amendments for Redemption of USRA Certificates;
19. H.R. 12200, IRC Amendments for Taxes on Stock Options (§ 422);
20. H.R. 12606, Taxes on Uniformed Services, Univ. of Health Sciences;
21. H.R. 12051, Tax Exempt Status of N.Y. Public Employee Retirement Systems;
22. H.R. 11741, IRC Amendments re Tax Treatment of Public Utilities;
23. H.R. 12828, Tax Treatment of Tax-Exempt Organizations' Trade Shows; and
24. S. 990, Federal Physicians' Comparability Allowance Act.

Mr. ROSTENKOWSKI. Mr. Speaker, on Wednesday, Thursday, and Friday of next week, the House will meet at 10 a.m., and the recorded votes on the suspension bills considered on Tuesday will be taken first.

Then H.R. 14042, the DOD authorizations, will be completed, beginning on Wednesday as well.

We will then have votes on amendments and final passage on the following bills:

S. 1613, Magistrate Act of 1977;

H.R. 13059, Water Resources Development Act of 1978;

H.R. 13471, Financial Institutions Regulatory Act of 1978;

H.R. 13750, Sugar Stabilization Act of 1978;

H.R. 11545, Meat Import Act of 1978; and

H.R. 10909, Clinical Laboratory Improvement Act.

Votes on those bills will be taken on that day.

We will also consider the following bills:

H.R. 11488, Public Health Services planning amendments;

H.R. 13335, AFDC assistance and error reduction incentive payments;

H.R. 13778, Department of Education Organization Act, under an open rule, with 2 hours of debate;

H. Res. 1309, Executive Reorganization Plan No. 4;

H.R. 12161, Conrail Authorization Act;

H.R. 12577, Railway Safety Authorization Act;

H.R. 12347, biomedical research and training amendments;

H.R. 10881, endangered species authorizations;

H.R. 12511, Child Nutrition Amendments of 1978;

H.R. 13611, Child Health Assurance Act of 1978;

S. 2727, Amateur Sports Act of 1978;

H.R. 11922, Domestic Volunteer Service;

H.R. 12299, Domestic Violence Assistance Act of 1978;

H.R. 12441, Toxic Substances Control Act;

H.R. 12442, Consumer Product Safety Commission;

H.R. 12533, Indian Child Welfare Act;

H.R. 12370, health services amendments;

H.R. 11979, Local Rail Service Assistance Act; and

H. Res. 86, remove limitation on cosponsorship.

The House will adjourn by 5 o'clock p.m. on Friday and by 8 o'clock p.m. on all other days except Wednesday.

Conference reports may be brought up at any time.

Any further program will be announced later.

Mr. Speaker, I would like to alert the House, however, that because of an impending railroad strike, although we had previously not planned any votes under the procedural votes on Monday, there is a possibility that there could be a vote on the emergency railroad legislation that day. Government lawyers are in court now seeking an injunction and hope to have a solution by Saturday. Failing resolution of that, emergency legislation may be needed on Monday. Members will be notified at their homes over the weekend on legislation in this area.

Mr. MICHEL. Mr. Speaker, if I might inquire of the gentleman concerning H.R. 13778, Department of Education Organization Act, I think there needs to be a correction there. While it provides for an open rule, with 2 hours of debate, there has been no rule granted, as I understand it. So that would be subject to a rule being granted.

Mr. ROSTENKOWSKI. Subject to a rule being granted, that is correct.

Mr. MICHEL. Second, it is my understanding that there has been an agreement with the Speaker to bring up one of the suspension bills scheduled for Tuesday immediately following our exchange here, and if that is the case, would there then be—since we talked about 25—an additional bill added to the group of 25 for Tuesday? And if so, would we simply be given a sufficient advance warning that it has been added?

Mr. ROSTENKOWSKI. I am sure we will be given advance notice.

I have been notified by my staff that there has been a rule granted on the Department of Education Organization Act. That has been granted. It is an open rule, with 2 hours of debate.

Mr. MICHEL. It has not been adopted.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I noticed that, in reading this long, long, long list, my good friend, the gentleman from Illinois, did not read a bill which appears. I am just wondering if this is a sign of what I think is good judgment or whether it is an oversight. My list shows H.R. 12299, Domestic Violence As-

sistance Act of 1978. Is that not on the schedule?

Mr. ROSTENKOWSKI. That is on the schedule.

Mr. ASHBROOK. That is on the schedule?

Mr. ROSTENKOWSKI. That is on the schedule.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, it is my understanding that H.R. 13471, Financial Institutions Regulatory Act of 1978, would not be brought up until Tuesday.

Mr. ROSTENKOWSKI. Would not be brought up Tuesday? The general debate has been agreed to on Monday.

The SPEAKER. If the Chair may interject, there was an agreement made with the gentleman from California. In view of the fact that the gentleman from California is on leave from the House on Monday and will not be here and is vially interested in this legislation, that sometime during the day there would be general debate on that bill.

The Chair regrets that the gentleman was not informed.

Mr. ROUSSELOT. If the gentleman will yield further, is my understanding then correct that it will not be brought up until Tuesday?

Mr. MICHEL. It is my understanding that the financial institutions legislation which the gentleman just referred to would be brought up, I assume, after consideration of those bills that are on suspension.

The SPEAKER. If there is time at that time, it will be considered.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Did I understand the acting majority leader to say that on Wednesday through Friday the House would meet at noon?

Mr. ROSTENKOWSKI. At 10 o'clock a.m.

On Wednesday, Thursday, and Friday, the House meets at 10 a.m. However, the House will adjourn at 8 o'clock except on Wednesday, which is open-ended, and on Friday the House will adjourn at 5 o'clock.

The SPEAKER. The Chair would hope that Thursday night the House could stay in session beyond 8 p.m. The Chair would hope also that pending the progress of the Members of the House themselves, the House could stay in session later than 3 o'clock on Friday in view of the fact that the Chair has had a conversation with the leadership of the Senate today on the majority side, and they have very firmly set the date of October 14 as final adjournment. If the House accepts that, then it must put in more hours here.

So, the Chair would hope that on Friday the House would work later than 3 o'clock, and go to at least 5 o'clock.

Mr. MICHEL. Then would I understand that both Wednesday and Thursday would be days on which there would be no set terminal point when we would adjourn for the day?

The SPEAKER. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to ask the gentleman from Illinois a question. I rather glanced over the announcement, but am I to understand that the unanimous-consent request to put over all substantive votes on next Monday is going to be abrogated, and there is a possibility of a vote on the emergency railway bill?

Mr. ROSTENKOWSKI. As was explained, this legislation is an emergency, and it has been brought to the attention of the leadership. Should that legislation be necessary—and we are, of course, hoping that it will not be—but should it be necessary it will be brought up on Monday.

The SPEAKER. May the Chair state that there was no request for votes to be postponed on Monday. It was just understood that there would only be debate. The votes would be on Tuesday. It is anticipated that there will be no votes on Monday unless there was a procedural vote.

The present situation, as the majority whip has said, is that the Government has gone to the courts this evening concerning the railroad strike, and they are going to follow it all the way through to try to get an injunction. It could well be that it may have to go to the Supreme Court and action would not be taken until late tomorrow evening. If it is not ruled in favor of the Government, there could be legislation sent to the Senate tomorrow evening, Saturday evening. The House would be ready for it on Monday.

The leadership has gone through the process, because of the religious holidays of very deliberately scheduling so that there would not be any votes on Monday, but the Members of the Jewish faith appreciate the fact that, the emergency being such that the railroads of the United States are essential and so much of the trade would not be able to move, that it would be a national emergency. If it required a vote of the House, then so be it. If such a thing happens, Members would be aware of it by the newspapers on Saturday and every Member of the House would be notified at his home that this legislation would be before the House on Monday.

Mr. BAUMAN. I can understand the emergency nature of the situation, but I was under the impression that Federal law was adequate to deal with this situation without possible legislation. It seems to me, I thought the gentleman from Texas (Mr. WRIGHT) obtained unanimous consent days ago to postpone all substantive votes until Wednesday, including those on Monday and Tuesday, and it would probably take unanimous consent for suspension of the rules to have a rule to undo that consent already granted.

Mr. ROSTENKOWSKI. As I understand it, the unanimous-consent request was made to postpone votes from Tuesday to Wednesday, and it was the understanding that procedural votes would be the only votes taken on Monday.

There was, as I understand it, another unanimous-consent request agreed to on Monday, but that it was in deference to the Jewish holidays. That was the reason for the votes that would be put over.

Mr. BAUMAN. I can understand that it is the uncertainty of the situation. It seems to me that Members have a right to know now whether or not it is the intention to have rollcalls on Monday, because they will want to be here.

Mr. ROSTENKOWSKI. Of course, the outcome of the litigation will determine what course of action the House of Representatives and the Congress will take.

The SPEAKER. In reply to the gentleman, other than the fact that there would be the emergency legislation, if that were to come, it was the understanding of the Chair that there has been a gentleman's agreement that there would be no vote other than a procedural vote on Monday, but that was not included in the unanimous-consent request.

TEMPORARY EXTENSION OF CERTAIN HUD–FHA AUTHORITIES

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 165) to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes, and ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, and I do not intend to object, I take this opportunity to ask the gentleman from Ohio to explain the purpose of the resolution.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Speaker, I am pleased to respond to my friend, that Senate Joint Resolution 165 would provide for a temporary extension of certain HUD–FHA mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, and of certain rural housing authorities. This resolution would extend these authorities, which expire tomorrow at midnight, through October 31, 1978.

Mr. Speaker, this joint resolution is necessary, because the conferees on the housing authorization bill have not concluded their consideration. We have been in conference since August and have, as of this date, not yet resolved some of the major differences between the House and Senate. This joint resolution is designed to provide a temporary extension of these authorities in order

to avoid interruption in the administration of the affected programs since the conferees will not be able to complete action on the conference by tomorrow.

I would urge prompt passage of this joint resolution to keep these HUD and farmers home-related programs operating until we have completed consideration on this year's housing bill.

Mr. BROWN of Michigan. Mr. Speaker, further reserving the right to object, am I not correct that this is a "bare bones" resolution in that it only continues for 30 days those authorities that are essential for continuing the mortgage insurance and national flood insurance and crime insurance and riot insurance programs of the FHA?

Mr. ASHLEY. The gentleman from Michigan is correct.

The continuity in authorization of these programs is essential. If there is a lapse, for example, in some of these authorities, then the State legislature would be obliged to legislate ab initio, which would create obviously a kind of hiatus that we should avoid.

Mr. BROWN of Michigan. Further reserving the right to object, do I also have an understanding with the gentleman from Ohio that this is a one-shot, one-time extension, and that we expect the conference to complete its work before the sine die adjournment, and that there will not be a seeking of a further extension?

Mr. ASHLEY. That certainly is the intention of the gentleman from Ohio, I can promise the gentleman that. I do not like these extensions particularly. I much prefer that the House and the Senate conferees conclude their business and resolve the issues at hand and bring back a conference report. That is the way to legislate. I am not pleased that I find myself in this position, but in this position I must sav I do find myself at this time. We simply are faced with the fact that these authorities will expire at midnight on tomorrow.

It would be patently contrary to public interest to have it happen.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman vield?

Mr. BROWN of Michigan. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's yielding.

I wanted to reemphasize what I think he has already covered, and that is that there are absolutely no increases in any authorities in this extension; is that correct?

Mr. ASHLEY. If the gentleman will yield further, Mr. Speaker, the gentleman is entirely right on that, and he can be satisfied on that point.

Mr. ROUSSELOT. I appreciate the gentleman's response.

Mr. BROWN of Michigan. Further reserving the right to object, Mr. Speaker, I assure the gentleman that that is true. All we do is extend the present expiration dates for 30 days. In some cases it is October 31; in other cases it is November 1.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 165

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1978" in the first sentence and inserting in lieu thereof "November 1, 1978".

(b) Section 217 of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1978" in the fifth sentence and inserting in lieu thereof "October 31, 1978".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1978" in the first sentence and inserting in lieu thereof "October 31, 1978"; and

(2) by striking out "October 1, 1978" in the second sentence and inserting in lieu thereof "November 1, 1978".

(g) Section 245 of such Act is amended by striking out "September 30, 1978" where it appears and inserting in lieu thereof "October 31, 1978".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1968".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 3. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1978".

EXTENSION OF NEW COMMUNITIES SPECIAL PLANNING GRANTS AUTHORITY

SEC. 4. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1978".

EXTENSION OF CRIME INSURANCE AND RIOT REINSURANCE PROGRAMS

SEC. 5. Section 1201 of the National Housing Act is amended—

(1) by striking out, both places it appears in subsection (b), "September 30, 1978" and inserting in lieu thereof "October 31, 1978"; and

(2) by striking out in subsection (b)(1)(A) "September 30, 1981" and inserting in lieu thereof "October 31, 1981".

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

SEC. 6. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 7. (a) Section 513 of the Housing Act of 1949 is amended by striking out "September 30, 1978" where it appears in clauses (b), (c), and (d) and inserting in lieu thereof "October 31, 1978".

(b) Section 515 of such Act is amended by striking out "September 30, 1978" where it appears in paragraph (b)(5) and inserting in lieu thereof "October 31, 1978".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

(d) Section 523(f) of such Act is amended by striking out "October 1, 1978" where it appears in paragraph (f) and inserting in lieu thereof "November 1, 1978"; and by striking out "September 30, 1978" where it appears in such paragraph (f) and inserting in lieu thereof "October 31, 1978".

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 555, PUBLIC OFFICIALS INTEGRITY ACT OF 1977

The SPEAKER. The Chair appoints the following conferees on the Senate bill S. 555: Mr. DANIELSON, Mr. PREYER, Mrs. SCHROEDER, and Messrs. STRATTON, OBEY, HARRIS, MANN, KASTENMEIER, MAZZOLI, WIGGINS, MOORHEAD of California, GILMAN, and FRENZEL, and as an additional conferee, Mr. ECKHARDT, solely for consideration of that portion of section 241(a) of the House amendment adding a new subsection 207(g) to title 18, United States Code, and modifications thereof committed to conference.

The title of S. 555 was amended so as to read: "An act to require certain officers and employees of the United States, and candidates for Federal office, to file reports as to their income and financial holdings and transactions, and for other purposes.".

ADJOURNMENT TO MONDAY, OCTOBER 2, 1978

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS ON JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that notwithstanding the

adjournment of the House until Monday, October 2, 1978, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I do so only to announce that the gentleman from Maryland, the gentleman from Ohio (Mr. ASHBROOK), and the gentleman from California (Mr. ROUSSELOT) intend to be here at all times next week regardless of any announced arrangements regarding votes.

While there is no disposition on my part to cause procedural votes, unanimous-consent requests and other plans will be scrutinized closely.

Mr. Speaker, I only announce that for the guidance of those who might wish to ask.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

EXPRESSION OF APPRECIATION TO HON. ROBERT E. BAUMAN, JOHN H. ROUSSELOT, AND JOHN M. ASHBROOK

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I would like to express on behalf of all of us on this side of the aisle our appreciation to the gentleman from California (Mr. ROUSSELOT) and the gentleman from Maryland (Mr. BAUMAN) for their ceaseless efforts on behalf of regular order in the House of Representatives.

Mr. BAUMAN. If the gentleman will yield, Mr. Speaker, he includes the gentleman from Ohio (Mr. ASHBROOK), too, does he not?

Mr. FOLEY. I include the gentleman from Ohio (Mr. ASHBROOK) and their several colleagues, Mr. Speaker.

APPOINTMENT OF CONFEREES ON S. 3447, AGRICULTURAL TRADE ACT OF 1978

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3447) to strengthen the economy of the United States through increased sales abroad of American agricultural products, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman tell us whether he worked this matter out in negotiations with the gentleman from Iowa (Mr. GRASSLEY)?

Mr. FOLEY. If the gentleman will yield, Mr. Speaker, this is not a matter which deals with the conference report on the Agricultural Trade Act. That has not been requested yet.

Mr. ROUSSELOT. Are we going to do that later?

Mr. FOLEY. This deals with the appointment of conferees on the Trade Expansion Act.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington? The Chair hears none, and, without objection, appoints the following conferees: Messrs. FOLEY, ZABLOCKI, POAGE, FASCELL, DE LA GARZA, BINGHAM, JONES of Tennessee, MATHIS, PEASE, CAVANAUGH, WAMPLER, BROOMFIELD, SEBELIUS, and FINDLEY.

There was no objection.

AMENDING THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION ACT OF 1972

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2566) to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the U.S. Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes, and ask for its immediate consideration in the House.

I have cleared this with the ranking member of the full committee and the ranking member of the subcommittee.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, this is the matter pertaining to Jackson Hole, Wyo.?

Mr. PHILLIP BURTON. If the gentleman will yield, that is correct. That is my amendment.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578; 86 Stat. 1266), as amended, is further amended as follows:

(1) By striking—

(a) in paragraph (c) of section 3: "(6) The Commissioner of the District of Columbia;" and by substituting in lieu thereof "(6) The Mayor of the District of Columbia,"; and by inserting "The Mayor" in lieu of "The Commissioner" of the District of Columbia, wherever it occurs in this Act;

(b) in paragraph (c) of section 3: "(7) The Chairman, District of Columbia Council;" and by inserting in lieu thereof "(7) The Chairman, Council of the District of Columbia";

(c) in paragraph (g) of section 3: "(8) The Chairman of the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "(8) The Director of the District of Columbia Department of Housing and Community Development.";

(d) in paragraph (a) of section 4: "subchapter 53" and by inserting in lieu thereof "subchapter III of chapter 53";

(e) in paragraph (f) of section 5: "The District of Columbia government, and the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "and the District of Columbia government.";

(f) in paragraph (b) of section 8; "Redevelopment Land Agency" wherever it occurs and by inserting in lieu thereof "government".

(2) By striking in paragraph (10) of section 6 the figure "$50,000,000" and inserting in lieu thereof "$100,000,000" and, by striking in that paragraph the date "June 3, 1980" and inserting in lieu thereof "September 30, 1990".

(3) By redesignating paragraphs "(19)" through "(22)" in section 6 as paragraphs "(21)" through "(24)" and by inserting the following new paragraphs:

"(19) shall request the Council of the District of Columbia, when required for implementation of the development plan, to close any street, road, highway, alley, or any part thereof in the development area. If the title to the street, road, highway, or alley so closed is in the United States, the Mayor of the District of Columbia shall convey the title to the land on behalf of the United States to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative expenses of the action. If the title to the street, road, highway, or alley so closed is not in the United States, the Mayor shall convey title to the land on behalf of the District of Columbia to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative costs of the action: *Provided,* That if the land would have reverted to a private abutting property owner under otherwise applicable law of the District of Columbia, the Corporation shall pay such owner the fair market value of the land that would have reverted to him.

"(20) may transfer title to, interests in, or jurisdiction over real property which has been acquired by the Corporation and is to be devoted to public uses under the development plan, to any agency of the United States or the District of Columbia. Agencies of the United States or the District of Columbia may accept such transfers under this paragraph, and shall thereafter administer and maintain the property in accordance with the development plan and the terms of any transfer agreement. The Director of National Park Service may transfer title to or interest in public reservations, roadways, spaces, or parks under his jurisdiction within the development area to the Corporation to facilitate implementation of the development plan; and, notwithstanding any other provision of law, the Corporation may utilize such transferred property for any public or private development consistent with the plan.".

(4) By striking in subsection 17(a) all after the phase "sums not to exceed" and inserting in lieu thereof ": $2,000,000 for the fiscal year ending September 30, 1979; $2,200,000 each, for the two succeeding fiscal years ending September 30, 1981; and $2,500,000 each for the two succeeding fiscal years ending September 30, 1983,"; and by striking in subsection 17(b) all before the proviso, and inserting in lieu thereof, "To carry out implementation of the development plan authorized by section 5 of this Act, there is authorized to be appropriated to the Corporation: $15,000,000 for the fiscal year ending September 30, 1979; $35,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $30,000,0000 for the fiscal year ending September 30, 1982; and $35,000,000 for the fiscal year ending September 30, 1983, and any amount so appropriated shall remain available for obligation until September 30, 1990.".

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: At the end of the bill insert the following new title:

TITLE II

SEC. 201. (a) There is hereby established the Jackson Hole Scenic Area Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of nine members, as follows: (A) the Secretary of the Interior or his representative; (B) the Secretary of Agriculture or his representative; (C) the Governor of Wyoming or his representative; (D) a member of the Teton County Board of County Commissioners to be chosen by the county commission; (E) the mayor or a member of the town council of the town of Jackson, to be selected by the town council; and (F) four civilian members-at-large selected from among the residents of Teton County by the county commissioners, to be representative of a broad spectrum of community interests, and at least one of whom shall own commercial agricultural or ranch land within Teton County and shall be actively engaged in agricultural or ranching operations for commercial purposes.

(b) The representatives of the Teton County Board of County Commissioners shall act as Chairman until a Chairman is elected by vote of the Commission.

(c) Unless otherwise required by this title, the Commission shall act by affirmative vote of the majority of its nine members. Voting by proxy shall not be allowed.

(d) The frequency, time, and place of meetings shall be determined by the Commission, all meetings shall be open to the public.

(e) The Commission shall have the power to appoint and fix compensation of such additional personnel and such temporary and intermittent services as may be necessary to accomplish the purposes of this title without regard to the provisions of the civil service laws and the Classification Act of 1949.

(f) The Commission shall have the power to hold hearings and administer oaths, and make such rules consistent with the provision of this title as are necessary for the operation of the Commission.

(g) Civilian Commission members shall receive not more than $100 per day plus reasonable travel ond other expenses incurred in the course of Commission business, reimbursed at current Federal rates.

SEC. 202. (a) The Commission shall develop a proposed Jackson Hole Scenic Area Plan (hereinafter referred to as the "Plan") which shall consider all privately owned lands in Teton County, except those private lands situated within Grand Teton National Park, as generally indicated on map dated July 1978, which shall be on file and available for public inspection in the offices of the governmental agencies and entities which are members of the Commission. The Plan shall include:

(1) a description of the lands within the Area;

(2) an evaluation and identification of the values present in such lands, with particular attention to the identification of areas of important scenic, wildlife, ecologic, hydrologic, and agricultural concern;

(3) a determination of land uses incompatible with the values of the above areas of concern;

(4) identification, mapping, and designation of all lands, the acquisition of which, or of interest therein, should principally be the concern of: (i) the National Park Service and United States Fish and Wildlife Service as "Interior Department Interest Areas"; and (ii) the United States Forest Service as "Agriculture Department Interest Areas" (hereinafter referred to as "interest areas");

(5) designation of the remainder of the Area as "State and local interest Area" within which the acquisition of lands, or interest therein, should be the concern of State and local agencies which have authority to acquire or hold lands on behalf of the public;

(6) recommendations for the immediate emergency acquisition of lands, or interests in lands, on which a proposed land use action is incompatible with, and poses an immediate threat to, the values identified in the Plan;

(7) recommendations for the acquisition of lands, or lesser interests therein, within the various Interest Areas identified, mapped, and designated pursuant to this title, or for regulatory controls which should be adopted by State or local government with respect to the use of such lands; and

(8) recommendations for procedures for updating and amending the Plan after its approval by the Congress, and for assuring coordinated administration of the Scenic Area.

(b) Prior to adoption of the proposed Plan, the Commission shall hold at least one public hearing within the county of Teton for the purpose of receiving public comment on the proposed Plan. Notice of the date, time and location of such hearing shall be published in a local newspaper of general circulation at least once a week for two consecutive weeks, and shall contain information as to where a copy of the proposed Plan may be inspected. The proposed Plan shall not be adopted until at least thirty days after the last hearing.

(c) The Commission shall, upon adoption of the proposed Plan by a two-thirds vote of the entire Commission, submit the proposed Plan concurrently to the Secretary of the Interior and the Secretary of Agriculture (hereinafter referred to as the "Secretaries") for their review and approval or rejection. If neither Secretary has informed the Commission of his disapproval within sixty days from the date of submittal, the Plan shall be deemed to have been approved. If either Secretary disapproves the proposed Plan, he shall advise the Commission of the reasons therefore, together with his recommendations for revisions. The Plan shall be resubmitted by the Commission within sixty days. This process shall be repeated until a Plan is approved by both Secretaries and by a two-thirds vote of the entire Commission.

(d) Without regard to any other provisions of this title, it shall be the duty of the Commission to submit the Plan, together with any recommendations for additional legislation, to the Congress not later than one year from the effective date of this Act.

SEC. 203. The Commission shall be dissolved—

(a) upon submission of the Plan to the Congress, or

(b) upon expiration of a one-year period commencing on the effective date of this Act, whichever occurs first.

SEC. 204. There are authorized to be appropriated not to exceed $250,000 to defray the expenses of the Commission, including salaries and costs incident to preparation of the Plan.

SEC. 205. (a) Pursuant to the intent of this title, the Secretary of the Interior and the Secretary of Agriculture, as they may jointly agree, are authorized, after consultation with the Commission, to acquire lands, or interests in lands, within Jackson Hole which are manifestly of critical scenic or ecological importance in their relationship to Federally owned lands, and which are demonstrably threatened by a change in land use which is incompatible with the purpose of this title. Any lands or interests in lands so acquired shall be managed by the Secretary in a manner appropriate to conserve, protect, and enhance the scenic and natural resource values of such lands until such time as he believes it in the best interests of proper management to transfer such lands or interests therein to a qualified State or local agency which will manage such lands or interests therein in accordance with the purposes of this title.

(b) For the purpose of acquiring lands or interests in lands described in this section, there are authorized to be appropriated not to exceed $5,000,000. Acquisition may commence only after written notice of intention to do so, with detailed justification therefor, has been made by either Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and written concurrence has been received by such Secretary from both committees.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and motion to reconsider was laid on the table.

FORT SCOTT NATIONAL HISTORIC SITE, KANSAS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 13797) to authorize establishment of the Fort Scott National Historic Site, Kans., and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to commemorate the significant role played by Fort Scott in the opening of the West, as well as the Civil War and the strife in the State of Kansas that preceded it, the Secretary of the Interior may acquire by donation the land and interests in land, together with buildings and improvements thereon, known as Fort Scott, located in the city of Fort Scott, Bourbon County, Kansas: *Provided,*

that the buildings so acquired shall not include the structure known as "Lunette Blair."

SEC. 2. When the site of Fort Scott has been acquired by the United States as provided in section 1 of this Act, the Secretary of the Interior shall establish such area as the Fort Scott National Historic Site, by publication of notice and boundary map thereof in the Federal Register.

SEC. 3. The Secretary of the Interior shall administer, protect, develop, and maintain the Fort Scott National Historic Site subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of the Act entitled "An Act to provide for the preservation of historic America sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666).

SEC. 4. Sections 3 and 4 of the Act entitled "An Act to provide for the commemoration of certain historical events in the State of Kansas, and for other purposes", approved August 31, 1965 (79 Stat. 588), as amended, are hereby repealed: *Provided*, That all obligations pursuant to contracts for the development and construction of Fort Scott heretofore entered into by the city of Fort Scott to be paid with funds under the authority of section 3 of the aforesaid Act, shall be assumed by the Secretary: *Provided further*, That any remaining balance of funds appropriated pursuant to section 4 of the Act of August 31, 1965, as amended, shall be available for the purposes of carrying out this Act.

SEC. 5. In addition to such sums as might be made available to the historic site by the preceding section, there are hereby authorized to be appropriated such sums as may be necessary for the development of the Fort Scott National Historic Site, as provided in this Act.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the bill be dispensed with and that it be printed in the RECORD.

Mr. Speaker, this may be one of the most significant decisions made by the House this year, and I would urge my colleagues not to object to our unanimous-consent request.

● Mr. SKUBITZ. Mr. Speaker, this bill upgrades Fort Scott and makes it a part of the National Park System. The bill has been approved by the Department of the Interior and the Office of Management and Budget has indicated it has no objection to this measure.

Fort Scott has played an important role in the history of this country. Established in 1842 the fort was used for the protection of the Santa Fe Trail from Indian attacks following the relocation of the Cherokee, Choptaw, Creeks, and Shawnee west of the Mississippi in the 1830's.

Following the outbreak of the Civil War Fort Scott became a supply depot for men and material moving south to the front.

Fort Scott was the first military post where black soldiers were recruited and trained for service in the Union Army. The historical significance of old Fort Scott is well documented.

So far as the costs of this bill are concerned the restoration of the fort has been completed. This bill only provides that the operation of Fort Scott be operated in the same manner as it operates all other projects in the national park system.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 4, after the word "section," insert "effective October 1, 1979,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 2 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 2391, FUTURES TRADING ACT OF 1978

Mr. FOLEY. Mr. Speaker, I call up the conference report on the Senate bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 25, 1978.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, did the gentleman get this worked out with the gentleman from Iowa (Mr. GRASSLEY)?

Mr. FOLEY. If the gentleman will yield, we discussed with the gentleman from Iowa (Mr. GRASSLEY) his concerns regarding the calling up of the conference report at this time. He assured us he had no objection to calling up the conference report at this time with the understanding that we would ask unanimous consent for all Members to have 5 legislative days to revise and extend their remarks in the RECORD on any action taken on this conference report. I believe the gentleman from Iowa (Mr. GRASSLEY) was satisfied, and the indication he gave was that he would have no objection to our proceeding.

Mr. SEBELIUS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Kansas.

Mr. SEBELIUS. I thank the gentleman for yielding.

We have cleared this with the minority members of the House Committee on Agriculture. It is perfectly agreeable to proceed at this time. Under the gentleman's reservation, Mr. Speaker, I would rise in support of the conference report.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, did the gentleman talk to Mr. GRASSLEY? Is he satisfied, because he came racing up just an hour and a half ago?

Mr. SEBELIUS. Mr. Speaker, if the gentleman will yield further, the gentleman from Illinois (Mr. MADIGAN) is the ranking member. I believe it was cleared with Mr. MADIGAN. I understand there is no controversy.

Mr. ROUSSELOT. The gentleman from Iowa (Mr. GRASSLEY) did not talk to the gentleman?

Mr. SEBELIUS. No.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington (Mr. FOLEY)?

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2391, legislation which extends the authorization for appropriations for the Commodity Futures Trading Commission and makes a number of substantive changes in the governing statute for that agency.

The Commodity Futures Trading Commission was established as an independent regulatory agency by the 1974 amendments to the Commodity Exchange Act and its powers expanded over its predecessor agency, the Commodity Exchange Authority, an agency within the Department of Agriculture.

Despite several significant accomplishments in its first years of existence and despite operating under difficult circumstances, the Commission has been the subject of much public controversy. The conference report takes account of these concerns and strengthens the act to assure that commodity futures markets provide fair treatment to businessmen, traders, and farmers.

In many respects the Senate- and House-passed bills were similar in concept but differed in a number of details. The conferees quickly reached agreement

on these issues. I would like to thank Chairman TALMADGE and his colleagues in the Senate, Mr. ED JONES, chairman of the Subcommittee on Conservation and Credit, ED MADIGAN, ranking minority member of the subcommittee, and the other House conferees for their help and cooperation in this effort. At this point, I wish to summarize the significant aspects of the report that is before the Members today.

The 1974 amendments to the Commodity Exchange Act incorporated a sunset provision in the Act which resulted in the extensive oversight hearings held this year by both agriculture committees of Congress and in the changes included in the conference report. The conference committee has agreed on an extension of the authorization for appropriations for operations of the Commission for a 4-year period ending Sept. 30, 1982. At the end of that period, the committees can again review the Commission's performance in depth to determine whether further revisions in the legislation are desirable. Periodic oversight is extremely important to protect the public interest in the rapidly expanding and often controversial futures industry.

One of the most controversial issues in both bills was the matter of commodity options. Both the Senate and House bills contained provisions to assist the Commission in regulating options trading by generally prohibiting commodity options subject to specified conditions.

Since 1974 the offer and sale of commodity options to the public has grown dramatically. Although the Commission some time ago adopted a broad antifraud rule and interim regulations governing the offer and sale of options, many firms and individuals engaged in boiler room operations in order to attract the public to purchase options, particularly so-called London commodity options. Millions of dollars of customer funds were misappropriated through widespread fraudulent and other illegal practices of purveyors of options. As a result, substantial Commission resources have been diverted from commodity futures regulation to investigations, litigation and reparations claims concerning the offer and sale of commodity options. Because it determined that continued sales activity in the commodity options field represented unacceptable risks to the public, the Commission adopted a regulation which suspended commodity option transactions, except for certain trade options, effective June 1, 1978.

Under the conference substitute, commodity options transactions, except for trade options, would be prohibited until the Commission transmits evidence to the Congressional Agriculture Committees of its ability to regulate these transactions, including a copy of the Commission's proposed regulations and 30 days of continuous session of Congress have elapsed following transmission of this statement.

The provision would allow, however, an exception for dealer options. The House bill permitted so-called dealer options pursuant to regulations issued under expedited proceedings but the provision applied only to those who were dealing in options on May 1, 1978. The conferees were concerned that the House provision was too restrictive and would allow only two or three firms to exercise a monopoly on this business.

Under the conference substitute any person domiciled in the United States who on May 1, 1978 was in the business of granting an option on a physical commodity and was in the business of dealing in such commodity could continue to grant such options under current Commission regulations until 30 days following the effective date of Commission regulations to be issued under the conference substitute. The Commission would be required to issue regulations that permit grantors ond futures commission merchants to deal in options on physical commodities subject to requirements that are set forth in the conference substitute designed to protect the public. For example, the grantor must maintain a net worth of at least $5 million and meet certain segregation requirements. The Commission would also be authorized to permit persons not domiciled in the United States to grant options in this country on physical commodities under requirements substantially equivalent to those applicable to domestic options grantors. Thus, dealer options would be available to a larger area of traders than under the House bill under controlled circumstances to protect the public.

The conference substitute adopted the House position regarding the termination and suspension of any person's right to grant or sell options on physical commodities. In addition, the conference report provides that all commodity options transactions on a physical commodity could be prohibited after notice and upon having a hearing on the record if it determines that the options are contrary to the public interest. A hearing would also be required prior to terminating any person's right to grant or offer dealer options, but it need not be "on the record."

The conference substitute contains provisions to clarify the role of the States in assisting the Commission in enforcing provisions of the Commodity Exchange Act to combat fraud and otherwise protect the public in commodity transactions. Both the House and Senate bills contained provisions which were similar in their objectives; namely, to create a statutory standing for the States to bring civil actions in Federal district court for violation of any provision of the Commodity Exchange Act, including requirements applicable to leverage transactions, or for violation of any rule or regulation or order of the Commission thereunder.

The conference substitute adopts a number of provisions that were contained in the Senate bill specifying the detailed procedures governing any such action instituted by a State. In addition, the conference substitute provides that nothing contained in the act would prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal State antifraud statute.

On another important issue, the conference substitute adopts the provisions of the House bill regarding requirements for the Commission to maintain liaison with the Department of the Treasury, the Federal Reserve Board, and the Securities and Exchange Commission for the purpose of keeping those agencies fully informed of Commission activities related to their areas of responsibility. Specific requirements are set forth for soliciting the views of the Treasury Department and the Federal Reserve Board if a board of trade should apply for designation as a contract market on a futures contract involving securities issued or guaranteed by the United States or any agency thereof. This will insure that full consideration would be given to the impact these actions would have on the debt financing requirements of the U.S. Government and the continued efficiency and integrity of the underlying market for Government securities.

One of the issues considered by the conference committee related to leverage contracts. The House bill retained existing law which provided for regulation by the Commission of leverage contracts involving gold and silver bullion and bulk coins. The Senate bill revised these provisions. The conference substitute combined the provisions of the Senate bill and provisions of existing law. Specifically, the conference substitute would prohibit leverage contracts on agricultural commodities, require the Commission to regulate, but not prohibit, leverage transactions involving gold or silver bullion or bulk coins, and authorize the Commission either to prohibit or regulate leverage transactions involving all other commodities by October 1, 1979. Finally, it would authorize the Commission to regulate any leverage transaction as a futures transaction if it should determine the transaction to be a contract for future delivery under the Commodity Exchange Act. The conferees enjoined the Commission to act expeditiously to regulate leverage transactions in gold or silver bullion or bulk coins to ensure the financial solvency of these transactions and prevent fraud.

In this regard, the Commission's authority to determine that any gold or silver leverage contract is a contract for future delivery and to treat that transaction as such is not to be casually exercised as a substitute for the regulation of that leverage contract.

On September 8, 1978, after the deliberations of the conferees were completed, Gary L. Sievers, Vice Chairman of the Commodity Futures Trading Commission, sent a letter to Chairman TALMADGE and me informing us of the Commission's intention to publish a September 5, 1978, memorandum of its Office of General Counsel ("Determination pursuant to section 217 of the Commodities Futures Trading Commission Act whether any leverage transactions are contracts for future delivery within the meaning of the Commodity Exchange Act") for public comment in the Federal Register. That memorandum recommends that the Commission determine that all leverage contracts in gold and silver, which are currently being offered

to the public, are in fact contracts for future delivery and should be regulated as such. The conferees did not contemplate, based on prior representations by the Commission, that the Commission would classify all gold and silver leverage contracts as contracts for future delivery. Therefore, the conferees expect that the Commission will not take final action on the recommendation contained in the memorandum until the Committee on Agriculture, Nutrition, and Forestry of the Senate and the House Committee on Agriculture have an opportunity to receive testimony on this issue.

The conference substitute also adopted a provision in the Senate bill relating to user fees. The Commission would be authorized to develop a plan to provide for user fees to cover the cost of regulating transactions under its jurisdiction. Prior to implementing the plan, however, the Congressional Agriculture Committees would be required to specifically approve the plan. The report specifically provides that any user fees collected under any such plan would be paid into the Treasury and disbursed only in accordance with the appropriations process.

There were several provisions included in both the House and Senate bills which were deleted in the conference committee deliberations. The House bill contained provisions for requiring reporting to the Commission of detailed information concerning export sales of any commodity. The reports were required to include, among other matters, information as to the quantity sold, the sales price, the name of the purchaser and destination. The reports were required to be disclosed to the public within 24 hours following receipt thereof. The reporting requirements were added to the House bill by an amendment sponsored by Mr. NEAL SMITH of Iowa. During the deliberation of the conference committee, the gentleman from Iowa, Mr. SMITH, testified in support of retention of his amendment.

The Conferees agreed, however, to delete these provisions, since the Department of Agriculture currently has in effect an export sales reporting program for agricultural commodities. The conferees were of the view that requirements of the House bill providing for export sales reporting to the Commodity Futures Trading Commission while USDA was actively conducting a comparable program would be duplicative. Further, on August 1, 1978, the Secretary issued a memorandum establishing an advisory committee charged with the responsibility of reviewing current reporting requirements and making recommendations to strengthen and improve the reporting system. It was believed that the Department of Agriculture should be given an opportunity to complete its review and implement any changes deemed necessary in the program before Congress takes any legislative action. I am aware that this action is a disappointment to the gentleman from Iowa, Mr. SMITH, author of the amendment bill.

The conference substitute also deleted a provision in the Senate bill for the establishment of a National Commission on the Effects of Futures Markets on Farm Income. Specifically, the Senate bill would have provided for such a Commission to be appointed to study the relationship between futures prices and cash prices of commodities and actions necessary to stimulate greater use of futures markets by producers and the reasons for differentials in prices farmers receive and the futures price for the commodity. There was an authorization for appropriations of $1 million for each year through October 1, 1981. It was felt by the conferees that such a study could better be done by the Commission itself with the resources available to it, without creating another advisory committee with the extra attendant expenses.

Another provision included in the Senate bill which was not accepted by the conferees related to forward contracts. The Senate bill required the Commission to monitor forward contracts, maintain records on defaults for a 6-year period and also make recommendations as to the regulation of these transactions or the need for legislation. In lieu of imposing such a requirement on the Commission, the conference committee was of the view that such a study could better be conducted by the Department of Agriculture. Accordingly, the chairmen of both Agriculture Committees have written a letter in behalf of the conferees to the Secretary requesting him to conduct such a study.

The House bill contained a provision which would require the Comptroller General to conduct a study of potato marketing and potato futures trading and to make recommendations for legislative or regulatory changes that he thought desirable. There was no such provision contained in the Senate bill. The conferees adopted the requirement for such a study but provided that the study would be conducted by the Secretary of Agriculture who has the resources available to him for a more comprehensive type of study.

There are a number of other provisions in the conference substitute which amend the Commodity Exchange Act to assure that the commodity futures markets fulfill their prime function of serving farmers and the general public by providing an open market where prices accurately reflect the supply-demand situation for farm and other commodities. The provisions of the House and Senate bills agreed in substance on these issues but differed in detail. The conference substitute has struck a fair compromise which should strengthen the regulatory program.

Mr. Speaker, I urge the Members to join me in support of the conference report.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2391, the Futures Trading Act of 1978.

Mr. Speaker, I perhaps should point out that the other day we adopted the conference report on H.R. 13125, the agriculture (and related agencies—including CFTC programs) appropriations for fiscal year 1979, and that bill is now on the President's desk. While the conference report on S. 2391 contains authorizations for appropriations for the Commodity Futures Trading Commission through fiscal year 1982 (September 30, 1982), I do not believe we need be unduly concerned for the survival of CFTC beyond September 30, 1978, as long as the agency is aware that its funding is merely awaiting the President's signature to become law.

I might add that the funding provided for CFTC in fiscal year 1979 Appropriations Act is $15,304,000. However, I wish to be quick to add that the CFTC is presiding over a growth industry. The number and amount of futures contracts traded over the last four years since the CFTC came into being are tremendous.

Mr. Speaker, as several of the members of our committee stated when we brought the House version of this authorization bill (H.R. 10285) to the floor earlier this year, the CFTC has been severely and perhaps justly criticized in the past 4 years, but given the tremendous growth of the industry it regulates, a certain amount of criticism must be expected. This bill should still some of this criticism in the future.

This conference report contains many of the provisions approved by the House in passing its version of this legislation, H.R. 10285.

The House-Senate conference on S. 2391 resulted in legislation which leaves many of the House provisions intact or revised in a way which I believe does not affect the thrust of amendments the House was seeking in the Commodity Exchange Act. In those instances where managers on the part of the house made concessions to the Senate, those concessions improved on the bill, as I viewed it.

Turning to some of the substantive items in the conference report, I will review a few of them.

This conference report contains many of the provisions approved by the House in passing its version of this legislation, H.R. 10285. Certainly one of the more controversial sections of both the House and the Senate bills related to options transactions, and in this instance a conference substitute was adopted.

In effect, the conference substitute prohibits commodity options transactions unless certain standards set forth in law are first met. This is with the exception of trade options which are option transactions offered or entered into by producers, processors, commercial users of or merchants handling the commodity involved, but only if such transactions are permitted under existing or future Commission regulations.

Concern was expressed in the conference for dealer options trading which was currently serving a legitimate trade function and involving dealers who were in business on May 1, 1978. Certain conditions were established for dealers options trading in the conference substitute such as that the grantor of the option must be in the business of buying, selling, producing, and so forth, the commodity at the time the option is written:

that the grantor must maintain a minimum net worth; that the grantor must provide identification for each option traded; and so forth.

In addition, the conferees urged the CFTC to proceed with plans to implement exchange trading of commodity options.

The commodity options controversy arose because of the "bucket shop" operations in the last couple of years which resulted in several persons being bilked out of money in commodity options transactions.

There was concern on the part of industry representatives that over-reaction to these scandals in commodity options might result in termination of "trade" options and legitimate "dealer" options trading. The conferees saw no need to prohibit such transactions, and they adopted language permitting trade options and directed CFTC to issue regulations regarding dealers options that met certain minimum criteria.

The Board of Trade representatives and other industry representatives are of the opinion that if the CFTC implemented exchange trading of commodity options that that would drive the "bucket shops" and questionable dealers out of business. I tend to agree with this. I believe exchange trading of these options should be tested to determine whether it could work. Moreover, if certain commodity options were not serving a legitimate business function, it appears to me that their life on the exchange would be very limited.

Federal-State jurisdiction over commodity trading was another major point of contention when this matter passed the House earlier this year. The conference adopted provisions which resolved Senate and House differences so as to strengthen State jurisdiction in certain instances.

In other instances, the conferees agreed to leave to Federal enforcement officials sole authority where it was believed the Federal interest in uniform enforcement was dominant. I believe the resolution of the differences in this area were balanced and reasonable.

Leverage transactions was another area where Senate and House differences were substantial.

The conference substitute combines the provisions of the Senate bill and section 217 of the Commodity Futures Trading Act of 1974 into a new section 19 of the Commodity Exchange Act which—

First. Prohibits leverage transactions involving agricultural commodities enumerated in section 2(a) of the Commodity Exchange Act prior to 1974;

Second. Requires the Commission to regulate leverage transactions (as defined in the Senate bill) involving gold or silver bullion or bulk coins;

Third. Authorizes the Commission to prohibit or regulate leverage transactions involving all other commodities by October 1, 1979; and

Fourth. Authorizes the Commission to regulate any leverage transaction as a futures contract if it determines the transaction to be a contract for future delivery under the Commodity Exchange Act.

As noted in the joint explanatory statement of the committee of the conference, the conferees were advised by letter from the Commission on September 8, 1978, of the Commission's intention to publish for public comment in the Federal Register a memorandum of the Office of General Counsel—entitled "Determination pursuant to section 217 of the Commodity Futures Trading Commission Act whether any leverage transactions are contracts for future delivery within the meaning of the Commodity Exchange Act." The memorandum recommends that the Commission determine that leverage contracts in gold and silver which are currently being offered to the public are in fact contracts for future delivery.

This proposed action by the Commission came as a surprise to me. Therefore, I strongly endorse language in the explanatory statement that states—"Therefore, the conferees expect that the Commission will not take final action on the recommendation contained in the memorandum until the Committee on Agriculture, Nutrition, and Forestry of the Senate and House Committee on Agriculture have an opportunity to receive testimony on this issue."

Speaking as one member of the committee of conference on this matter and as a member of the House Committee on Agriculture, I wish to express my judgment that Commission action on leverage contracts should await hearings by the House Committee in the 96th Congress. As I view the Commission's proposal, it would also include forward contracts—on gold and silver—which the conference report requests the Secretary of Agriculture to study—in the area of agricultural commodities. It appears to me that after the Secretary's study is forwarded to the Agriculture Committee and hearings are held, the Members will be in a better position to legislate on this entire matter.

It is interesting to note in this regard that the Commission appointed a blue ribbon committee to study this issue in 1976, which concluded that section 217 transactions should not be treated as futures contracts. A pertinent portion of that study is inserted in the RECORD below for the information and review of my colleagues who are interested in this subject.

The committee of conference also resolved many other differences by adopting reasonable substitutes. For instance, problems involved in forward contracting were of interest to the Senate, and the conferees resolved this issue by agreeing that Senator TALMADGE and Mr. FOLEY should request the Secretary of Agriculture to undertake a study of the matter which is having some impact in the Southwest. Another issue involved potato futures.

An amendment was adopted on the floor to H.R. 10285 which required the Comptroller General to conduct a study of potato marketing and potato futures trading. This amendment was offered by Mr. COHEN, of Maine. The conferees adopted the House provision but directed the study to be conducted by the Secretary of Agriculture.

All in all this conference report is one which I can recommend to my colleagues. It is an important piece of legislation to farmers and producers.

I am hopeful that the CFTC has gone through its "shakedown" period and will, with the enactment of this legislation, settle down and resolve several of the tough issues which are facing the Commission. Farmers and producers have some distrust of futures markets, and the CFTC can do much to dispel this distrust and help farmers and producers to a better understanding of futures transactions.

Chairman FOLEY has explained in some detail the specifics of the conference report, and I will not repeat any of those remarks.

The Senate agreed to the conference report on Thursday, September 28, 1978.

I suggest that this conference report deserves your support, and I urge you to vote for its adoption as the Senate did.

RECOMMENDED POLICIES ON FUTURES, FORWARD AND LEVERAGE CONTRACTS AND TRANSACTIONS

* * * * *

SECTION 217 OF THE COMMODITY FUTERES TRADING COMMISSION ACT OF 1974

(a) No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, pursuant to a standard contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract contrary to any rule, regulation, or order of the Commodity Futures Trading Commisssion designed to insure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing. If the Commission determines that any such transaction is a contract for future delivery within the meaning of the Commodity Exchange Act, as amended, such transaction shall be regulated in accordance with the provision of such Act.

(b) The provisions of section 9(c) of the Commodity Exchange Act, as amended, shall be applicable with respect to persons who violate the provisions of this section.

DESCRIPTION OF A LEVERAGE TRANSACTION

[The following is based on the Advisory Committee's understanding of leverage transactions in general, and is not descriptive ofthe practices or policies of any particular firm or the components of any particular contract.]

A "leverage transaction," as it is known in the trade, involves a contract* to purchase gold or silver bullion or bulk gold or silver coins. The contract is a standardized agreement prepared by the seller—the leverage transaction merchant (hereinafter referred to as "LTM"). Under the contract, the purchaser pays a portion of the purchase price at the outset, and agrees to buy and the LTM agrees to deliver a specified amount of the particular commodity at a given price, at a specified time in the future. The purchase price for the commodity is determined by the LTM in its discretion. The amount of the initial payment required varies among LTM

* As the Advisory Committee understands it, the terms "margin account," "margin contract," "leverage account," and "leverage contract" appear to be regarded as synonymous.

firms. The term of the contract also varies, but may be as long as 10 years. There may be prior "spot" delivery on demand by the customer upon satisfaction of the balance due on the contract.

In addition to the initial payment, a customer must also pay at the outset a sales commission which is a percentage of the total purchase price. Usually, there is imposed also a "maintenance," "interest," "finance," or "leverage" charge on the unpaid balance which is required to be paid over the term of the contract. This charge ostensibly is to defray the carrying costs incurred by the LTM in "covering" its obligation under the contract through the purchase of the physical commodity or a related futures contract. Coverage in physical commodities generally constitutes a small portion of whatever cover the LTM effects. There also may be imposed on customers a separate service fee, which represents the administrative and other service-related elements of the LTM's cost incurred in servicing the customer's account. Other charges imposed on customers include applicable taxes and, in case of delivery, a freight or similar charge.

Terms and conditions of leverage contracts, such as the commodity to be purchased, the purchase price, the initial payment, and similar details, are usually given by telephone and confirmed in writing by the LTM. Usually, the LTM requires payment of that part of the purchase price required at the outset in advance of accepting an order.

Ordinarily, the LTM does not own or acquire bullion or coins for a customer at the time the customer makes the initial payment. Rather, the LTM "covers" its obligations to its customers primarily by maintaining a long position in commodity futures markets and, to a lesser extent, by forward contracts and ownership of the physical commodities (which usually are hypothetcated to financial institutions). LTMs have stated to the Advisory Committee that use of such cover enables them at all times to be in a position to satisfy obligations to customers. To the extent that LTMs cover in futures, forwards and physical commodities, they may be subject to margin calls or similar demands for payments on such coverage. These requirements often are met by the LTM making a margin call upon the purchaser of the leverage contract. The extent to which funds paid by customers toward the purchase price are segregated from general assets of LTMs varies among LTM firms. The same is true with repect to the property obtained by using such funds, such as physical commodities and futures contracts, whether or not used as cover.

While there is limited experience as to the frequency of delivery under leverage contracts, available data indicate that delivery occurs in only a small percentage of transactions. Rather, most contracts are liquidated prior to maturity either through the failure of a customer to make required payments or through the LTM's repurchase of the customer's interest. [In rare cases, liquidation is effected by the customer selling his interest to a third party]. LTMs typically are not obligated to repurchase any commodities sold pursuant to a leverage contract. However, so far as the Advisory Committee is aware, LTMs often will make such repurchases as an accommodation to their customers who so request.

Upon liquidation due to a customer's default, the customer remains liable to the LTM for any amounts then owing under the contract. In the event the commodities in the customer's account, for which he has paid, have risen in value, an appropriate credit is made against such amounts.

In the event a contract is liquidated through the LTM's repurchase of the customer's interest, the customer would receive his "equity" less any amount then owing to the LTM, and any applicable repurchase commission. The customer's equity will be either equal to, or more or less than, the amount paid by him toward the purchase of the commodity, dependent upon the LTM's then-prevailing repurchase price for such commodity.

PART II—ADVISORY COMMITTEE RECOMMENDATIONS—THE NATURE OF LEVERAGE TRANSACTIONS

1. *Consideration of the following Elements Chart comparing Futures, Forward and Leverage Contracts.*

A comparison of the significant and distinguishing legal and economic elements of futures contracts, contracts for the forward delivery of a cash commodity and leverage contracts reveals that, while each is a contract for the purchase and sale of a commodity to be delivered in the future, there are substantial differences among them. The elements of each are set forth in the chart which follows and which the Advisory Committee recommends be considered by the Commission. In this regard, the Advisory Committee wishes to make clear that the chart should not be viewed as either definitional or all-encompassing but rather as the product of the Advisory Committee's effort to describe broadly the essential nature of each of the contracts as they are understood to exist at the present time.

A COMPARISON OF SOME SIGNIFICANT ELEMENTS OF FUTURE CONTRACTS, FORWARD CONTRACTS, AND LEVERAGE CONTRACTS*

[Each contract is for the purchase and sale of a commodity to be delivered in the future. Different elements of each are as follows]

	Futures	Forward	Leverage
1. Traded publicly through a central marketplace	Yes	No	No
2. Pricing	Competitive open outcry	Private negotiation	Announced by 1 party.
3. Settlement by delivery	Minimally [1]	Usually	([2]).
4. Cleared through and liability of parties assumed by central clearinghouse.	Yes	No [3]	No.
5. Public participation	Substantially	Infrequently	Almost exclusively.[4]
6. Trade participation	do	Predominantly	Almost never.[4]
7. Contract terms:			
(a) Contract terms standardized by independent agency (e.g., exchange or association).	Mandatory	Optional [5]	No.
(b) Contract terms standardized by single contracting party	No	In some cases [6]	Yes.
(c) Quality	Standardized by exchange with premiums and discounts.	As agreed to following negotiation by the parties.	Standardized by each contract writer.
(d) Minimum lot size	Standardized by exchange	None	Do.
(e) Delivery points	do	As agreed to following negotiation by the parties.	Do.
(f) Delivery period	do	do	Do.
(g) Delivery date	Seller's option (subject to 7(f) above)	do	Buyer's option (subject to 7(f) above.
(h) Terms of payment	Standardized by exchange	do	Standardized by each contract writer.)
8. Independent quality verification (e.g., assaying, sampling, etc.)	Yes [7]	do	Not standardized but available at a fee.
9. Payment or deposit at time of contracting	Security deposit (original margin)	No [8]	Partial payment (long contract) security deposit (short contract).[9]
(a) Held by 3d party (e.g., clearinghouse and/or FCM segregated account).	Yes	No [3]	No.
(b) Paid or deposited by both parties	Yes	No [8]	No.
(c) Paid or deposited by 1 party only	No	No	Yes.
10. Additional payments or deposits, or withdrawals	Yes	No [8]	Yes.[10]
(a) Daily "marking to market" (i.e., market value calculated daily)	Yes	No [8]	Yes.
(b) Daily debit or credit for (a) alone	Yes	No [8]	In some cases.
(c) Settlement of daily debits or credits through a clearinghouse (sometimes referred to as a "variation margin").	Yes	No	No.
(d) Basis for additional payments or deposits, or withdrawals	Specified by rules of contract market and/or FCM.	No [8]	Specified by contract.[11]
11. Interest or other periodic fees	No	As agreed to following negotiation by the parties.	Yes.[12]
12. Force majeure provisions	Standardized by exchange	do	Standardized by each contract writer.

[1] In some commodities with light trading volume, a relatively high proportion of contracts initially traded culminate in delivery.

[2] Experience to date is insufficient to make a meaningful generalization.

[3] Until recently, it was possible to clear and margin forward contracts in rubber through the Rubber Trade Association. That facility has been suspended for the time being.

[4] One dealer in leverage contracts stated at a subcommittee meeting that in rare instances everage contracts are used by small miners, coin dealers and small jewelry manufacturers as a hedging device.

[5] Standardized trade association contracts are available (but not mandatory) in some commodities.

[6] Certain large dealers and industrial users prescribe their own standard forms, although the terms may be open to negotiation.

[7] Brand names, registration numbers and other evidences of quality may be accepted in lieu of independent quality verification.

[8] Although forward contracts are not normally margined as such, the contracting parties may arrange for mutual or unilateral securing of open obligations, and such arrangements may include guarantees, performance bonds or letters of credit whereby 3d parties are involved.

[9] Reference to short leverage contracts should not be construed to mean that the Advisory Committee expresses any opinion whether such contracts are within the scope of sec. 217 of the CFTC Act.

[10] Normally the writer of a leverage contract does not make cash payments as the market moves against him, but in some cases he may make such payments to a particular customer to the extent he has previously received item 10(a) payments from that customer.

[11] Withdrawals are permitted only in some cases subject to contract.

[12] The Advisory Committee expresses no opinion whether periodic fees, whatever called, constitute interest.

*For convenience, the chart has been footnoted separately from the report.

2. (a) Section 217 transactions should not be prohibited.

(b) Section 217 transactions should not be treated as futures contracts and regulated as such in accordance with the provisions of the Commodity Exhange Act.

Basic to the issue of prohibiting Section 217 transactions is the question of whether the Commission has the auhority to do so. The conclusion is that there is very little basis upon which to claim Commission authority to prohibit Section 217 transactions, absent a finding that such transactions are inherently fraudulent or manipulative. The Advisory Committee has difficulty in characterizing any transaction as "inherently" fraudulent or manipulative. Accordingly, the Advisory Committee, wtih Mr. Leonard dissenting, is of the opinion that, as a class, Section 217 transactions, as they are presently understood, are not inherently fraudulent or manipulative and therefore should not be banned.[7]

In submitting its recommendations, the Advisory Committee emphasizes that it has taken Section 217 as an expression of Congressional intent that leverage contracts in gold and silver bullion and coins shall be permitted unless they are incapable of being regulated on a basis "designed to insure the financial solvency of the transaction or prevent manipulation or fraud." In other words, the Advisory Committee believes that the language of Section 217 precluded it from considering any issues other than financial solvency of the transaction, manipulation or fraud (e.g., the issue of whether or not leverage contracts are contrary to the public interest). If, however, on further consideration the Commission believes that, under Section 217, it has the authority to do so, it should require that issuers of leverage contracts demonstate that transactions in those instruments are not contrary to the public interest.

Accordingly, the Advisory Committee wishes to make it clear that part (a) of this recommendation should not necessarily be construed as an evaluation of the economic desirability of trading in leverage contracts.

Regarding the issue of whether Section 217 transactions should be treated as futures contracts, the Advisory Committee believes that, as indicated in the Elements Chart, the characteristics of these transactions are substantially different from both futures and forward contracts. Accordingly, while recognizing the Commission's right to determine that a particular transaction in the Section 217 area may contain the necessary elements of a futures contract, the Advisory Committee is of the opinion that Section 217 transactions, as a class and as they are understood today, are not equivalent to futures contracts within the meaning of the Act, and should not be required to be traded only on designated contract markets and otherwise in accordance with the Act.

Mr. FOLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

[7] By reaching this conclusion, we are not passing judgment on any of the practices of any leverage contract dealer or the individual components of any such contract. A copy of the Advisory Committee staff memorandum discussing the Commission's authority to ban leverage transactions is attached hereto as Exhibit I, pp. 53–56.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 10 minutes.

● Mr. SARASIN. Mr. Speaker, on September 20, 1978, I was absent from part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 806. H.R. 1: Ethics in Government. The House rejected an amendment that sought to strike the reporting requirements for candidates in congressional elections, "no";

Rollcall No. 807. H.R. 1: Ethics in Government. The House rejected an amendment that sought to require congressional candidates and certain prospective executive branch personnel to report only the source and type, not the amount, of their income, "no";

Rollcall No. 808. H.R. 1: Ethics in Government. The House rejected an amendment that sought to repeal House Rule XLVII, that limits the outside earned income of Members to 15 percent of their congressional salary and prohibits Members from accepting honoraria in excess of $750 per year, "yes"; and

Rollcall No. 809. H.R. 1: Ethics in Government. The House rejected an amendment that sought to strike language prohibiting persons above GS–16 from representing any other person, formally or informally, before their agency for 1 year after leaving the agency, "no."

Mr. Speaker, on September 21, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 811. H. Con. Res. 683: Second budget resolution. The House agreed to a motion to recede from its disagreement and concur, with amendment, in the Senate amendment to the concurrent resolution, revising the congressional budget for the U.S. Government for the fiscal year 1979, "no";

Rollcall No. 812. H.R. 12611: Air service improvement. The House agreed to an amendment that provides that the CAB can deny a new route authority only if the opposing party presents clear and convincing evidence the new service would not be consistent with public convenience and necessity, "yes";

Rollcall No. 813. H.R. 12611: Air service improvement. The House agreed to an amendment that terminates the Mutual Aid Pact, "yes";

Rollcall No. 814. H.R. 12611: Air service improvement. The House passed the measure to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares, "yes"; and

Rollcall No. 815. H.R. 11733: Surface transportation authorizations. The House rejected an amendment that sought to require annual authorizations for programs financed from the Highway Trust Fund to be closely related to anticipated annual receipts to the fund, "no".

Mr. Speaker, on September 22, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 817. H.R. 12452: CETA amendments. The House rejected an amendment that sought to add $1 billion to the public service employment programs, "no":

Rollcall No. 818. H.R. 12452: CETA amendments. The House rejected a motion to recommit the bill to the Committee on Education and Labor with instruction to report it back forthwith containing an amendment to limit use of funds for public service employment programs to 30 percent of appropriated funds, "no";

Rollcall No. 819. H.R. 12452: CETA amendments. The House passed the measure to extend and amend the Comprehensive Employment and Training Act of 1973, "yes"; and

Rollcall No. 820. H.R. 11733: Surface transportation authorizations. The House rejected an amendment that sought to strike language in the bill making changes in the Highway Beautification Act, "no".

Mr. Speaker, on September 25, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 822. H.R. 10584: Agricultural Trade Act. The House passed the measure, amended to strengthen the economy of the United States through increased sales abroad of American farm products, "yes";

Rollcall No. 823. H.R. 11870. Domestic travel programs. The House passed the measure, amended, to amend the act of July 19, 1940, to authorize additional appropriations, "yes";

Rollcall No. 824. H.R. 12162. Rail public counsel. The House failed to suspend the rules and pass the measure, amended, to amend the Interstate Commerce Act to authorize additional appropriations for the Office of Rail Public Counsel, "yes";

Rollcall No. 825. H.R. 13655. Health maintenance organizations. The House passed the measure, amended, to amend the Public Health Service Act to revise and extend the program of assistance under that act for health maintenance organizations, "yes";

Rollcall No. 826. H.R. 12584. Health services research. The House passed the measure, amended, to amend the Public Health Service Act to revise and extend the authorities under that act relating to health services research and health statistics and to establish a National

Center for Health Care Technology, "yes";

Rollcall No. 827. H.R. 12370. Health services assistance. The House failed to pass under suspensions the measure, amended, to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, "no";

Rollcall No. 828. H.R. 9486. Tin buffer stock. The House passed the measure, amended, to authorize a contribution by the United States to the tin buffer stock established under the Fifth International Tin Agreement, "yes";

Rollcall No. 829. H.R. 13597. Solar collector installation. The House passed the measure, amended, to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex No. 2, "yes"; and

Rollcall No. 830. H.R. 13488. Foreign earned income. The House passed the measure, amended, to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources outside the United States, "yes."

Mr. Speaker, on September 26, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 832. S. 274: Prohibition of union organization in armed forces. The House passed the measure, amended, to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the armed forces, "yes";

Rollcall No. 833. H.R. 9333: Hyroelectric powerplants. The House failed to suspend the rules and pass the measure, amended, to authorize the Secretary of the Interior to construct hydroelectric powerplants and various existing water projects, "yes";

Rollcall No. 834. H.R. 12728: Susan B. Anthony dollar coin. The House passed the measure, amended, to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, "yes";

Rollcall No. 835. S. 2727: Amateur sports. The House failed to suspend the rules and pass the measure, amended, to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, and to provide for the resolution of disputes involving national governing bodies, "yes";

Rollcall No. 837. H.R. 12005: Justice authorization. The House agreed to an amendment that prohibits use of funds to bring action to require directly or indirectly the busing of students to a school other than the school nearest the students' home, except for a student requiring special education as a result of being mentally or physically handicapped, "yes";

Rollcall No. 838. H.J. Res. 1139: Continuing appropriations. The House passed the joint resolution making continuing appropriations for the fiscal year 1979, "yes"; and

Rollcall No. 839. H.R. 13125: Agriculture appropriations: The House agreed to the conference report on the measure making appropriations for the Agriculture, Rural Development, and Related Agencies for the fiscal year ending September 30, 1979, "yes."

Mr. Speaker, on September 26, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 840. H.R. 1: Ethics in Government. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 841. H.R. 1: Ethics in Government. The House rejected an amendment that sought to provide that additional reports filed by employees of intelligence agencies be reviewed solely by the Director of the Office of Government Ethics, and permits such employees to file such cover reports with employer and salary level information as necessary to protect identity if the President determines such filing to be in the national interest, "no";

Rollcall No. 842: H.R. 1: Ethics in Government. The House rejected an amendment that sought to repeal the executive branch financial disclosure provisions 5 years after enactment, unless otherwise provided by a subsequent statute, "no";

Rollcall No. 844. H.R. 1: Ethics in Government. The House rejected an amendment that sought to strike the criminal sanction of imprisonment for violations of conflict of interest provisions in the bill by executive branch personnel, "no";

Rollcall No. 845. H.R. 1: Ethics in Government. The House rejected an amendment that sought to strike the judicial personnel financial disclosure provisions in the bill, "yes"; and

Rollcall No. 846. H.R. 1: Ethics in Government. The House passed the measure to require candidates for Federal office, Members of Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions, "yes."

Mr. Speaker, on September 28, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 847. H.R. 11733: Surface transportation assistance. The House agreed to resolve itself into the Committee of the Whole. "yes";

Rollcall No. 848. H.R. 11733: Surface transportation assistance. The House rejected an amendment that sought to strike language authorizing FAA access to national driver register information, "no";

Rollcall No. 849. H.R. 11733: Surface transportation assistance. The House passed the measure to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, and for mass transportation in urban and rural areas, "yes";

Rollcall No. 850. H.R. 3816: FTC amendments—The House disagreed to the conference report on the measure to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; and to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters, "yes";

Rollcall No. 851. H.R. 9214: International Monetary Fund. The House agreed to the conference report on the measure to amend the Bretton Woods Agreement Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, "yes";

Rollcall No. 852. H.R. 12005: Justice authorization. The House agreed to an amendment that requires the Attorney General to establish procedures for identifying individuals who meet the standards promulgated by the President for the merit selection of Federal district court judgeships, and to submit their names to the President and Senate with respect to each vacancy in the office of a district court judgeship, "no";

Rollcall No. 853. H.R. 12005: Justice authorization. The House passed the measure to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, "yes"; and

Rollcall No. 854. H.R. 12934: State-Justice-Commerce-Judiciary appropriations. The House agreed to the conference report on the measure making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for fiscal year ending September 30, 1979, "yes."●

TRANSACTION ACCOUNTS POSE A FRAUD TO CONSUMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the new authority of commercial banks to automatically transfer customer funds from checkings to savings accounts is being heralded as a major breakthrough in servicing bank customers.

Beginning November 1, bank customers can authorize banks to transfer funds to cover checks as they come in. What this new authority amounts to is that banks offering the service will be paying interest on checking accounts. Undoubtedly, these transaction accounts will be widely advertised as a great consumer benefit.

But, exorbitantly high monthly service fees will turn transaction accounts into a fraud upon consumers. Many banks have already introduced plans for monthly service charges as high as $4 and $5. Also, many banks are requiring minimum balances as high as $2,000 in order for customers to use the service.

Because of these service charges and balance requirements, the only people who will truly benefit from this service are the very wealthy who can afford to maintain large balances. The working

man and woman will benefit little, if any, from transaction accounts.

Two of the largest banks in the country, Citibank of New York and the Bank of America of California, announced plans for transaction accounts this month. Citibank is imposing a $5 monthly fee for customers opening transaction accounts. The Bank of America is charging $3 a month for the service, plus charging 10 cents a check, plus requiring a minimum balance of $500.

Mr. Speaker, the smaller banks invariably take cues from these larger banks with such a new service. So, I predict these high monthly fees will be the norm rather than the exception.

When these accounts were first announced, I suggested that if the Federal Reserve Board, who issued transaction account regulations, were really interested in helping consumers, it would prohibit any type of limitation or service charge on these accounts. The Federal Reserve Board refused to go along with my recommendations and I then predicted that commercial banks would use transaction accounts to rip off consumers, rather than to help them. I am sorry to see that my predictions are coming true.●

CAPTIVE NATIONS WEEK IS ALWAYS "NEW HAT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, the annual observance of Captive Nations Week has been performed 20 times since July 1959, when President Eisenhower signed Congress resolution into Public Law 86–90. As some superficial people infer, does this mean that the law and the week are "old hat"? One must be without any analytic depth or breadth of understanding to believe they are. The shining fact is that the week and law are always "new hat." Within their framework in every year since 1959 our policies have been freshly analyzed and examined in light of the continuing truth of over a billion captive people being under imperialist Red domination. Briefly, the hat is as new and refreshing as the Sun rises each day to provide us with a new day.

The continuing newness of the week can in part be gleaned from these additional evidences of the success of the 1978 Captive Nations Week: First, a proclamation by Mayor Wendall C. Soltis of Endicott, N.Y.; second, resolution 73 of the Massachusetts American Legion on "Captive Nations"; third, a report in the Ukrainian Weekly on "Legislators, Diplomats Mark 20th CN Week on Capitol Hill: fourth, an article by Dr. Leo E. Dobriansky in the South Pasadena Review and the Taylorville, Ill., Breeze-Courier on "Human Rights: What Happened?"; fifth reports in the New Orleans Times-Picayune and News World and an editorial in the New Haven Journal-Courier; sixth, letters in the St. Louis Globe-Democrat and Manchester Union-Leader; and seventh, an editorial in the Burlington, Vt. Free Press on "Captive Nations Week":

The articles follow:

CAPTIVE NATIONS WEEK

Whereas, the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas, many nations throughout the world have been made captive by the imperialistic and aggressive policies of Soviet communism; and

Whereas, the peoples of the Soviet-dominated nations have been deprived of their national independence and their individual liberties; and

Whereas, the citizens of the United States are linked by bonds of family and principle to those who love freedom and justice on every continent; and

Whereas, it is appropriate and proper to manifest to the peoples of the captive nations the support of the Government and the people of the United States of America for their just aspirations for freedom and national independence: and

Now, therefore, I, Wendall C. Soltis, Mayor of the Village of Endicott, do hereby proclaim the third week in July, 1978 as, "Captive Nations Week" and call upon our citizens to study the plight of the Soviet-dominated nations and to recommit themselves to the support of the just aspirations of the peoples of those captive nations.

WENDALL C. SOLTIS,
Mayor.

RESOLUTION 73 (MASS.)—"CAPTIVE NATIONS"

Whereas, the Captive Nations now represent the enslavement of more than one billion people, more than 30% of the world's inhabitance, and all are oppressed by communist-led dictatorships; and

Whereas, people living in the Captive Nations are denied such basic human rights as free speech, free press, freedom to vote for a choice, freedom of assembly and freedom to criticize those in authority; and

Whereas, the Captive Nations now include Armenia, Azerbaijan, Byelorussia, Cossakia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia, and the Soviet Union, known as the Union of Soviet Socialist Republics; plus the fiercely independent Baltic Republics of Latvia, Lithuania and Estonia; plus the Eastern European Nations of Albania, Bulgaria, Yugoslavia, Poland, Romania, Czechoslovakia, Hungary, East Germany; plus the Asian nations of Mainland China, Tibet, North Korea, North Vietnam, South Vietnam, Cambodia and Laos; plus the Western Hemisphere's Cuba; and

Whereas, other nations including Panama, Angola, Mozambique, Somalia, and Ethiopia are seriously threatened with communist enslavement; and

Whereas, such anti-communist governments as Taiwan, South Korea, Rhodesia, Republic of South Africa, Republic of Transkei, the Kingdoms of Lesotho and Swaziland are under heavy pressure to surrender to communist pressures; now, therefore, be it

Resolved, by the American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, that we urge the leaders of the United States Government as the world symbol of life, liberty and the pursuit of happiness to speak out forthrightly in support of human rights for those enslaved inside the Captive Nations whose communist leaders deny the existance of God and the spiritual dimension of life, and whose avowed purpose is to destabilize non-communist governments by destroying their purpose, values, traditions and social systems; and, be it further

Resolved, that we call upon the President and the Congress of the United States to exert the same political and economic pressures against communist governments on behalf of human rights as has been done against non-communist governments.

[From the Ukrainian Weekly, Aug. 13, 1978]

LEGISLATORS, DIPLOMATS MARK 20TH CN WEEK ON CAPITOL HILL

WASHINGTON, D.C.—Members of both Houses of Congress, the diplomatic corps and leading foreign affairs experts marked the 20th observance of Captive Nations Week, July 16–22, with a congressional reception and luncheon seminar on Capitol Hill.

Attending the Tuesday, July 18 reception, co-hosted by Sens. S. I. Hayakawa (R-Calif.) and Daniel P. Moynihan (D-N.Y.) were more than 50 congressmen and 5 diplomats, including Peter M. Towe of Canada, Hugo B. Margain of Mexico, James C. H. Shen of China, Dr. Anatol Dinbers from the Legation of Latvia, and Dr. Stasys A. Backis from the Legation of Lithuania.

The reception was held in the Senate Caucus Room from 5–7 p.m.

"For the first time in many years, the American people have been able to see the true face of Soviet tyranny, the genuine totalitarian brutality that that regime represents," Sen. Moynihan was quoted as saying in The Washington Post.

Sen. Jacob Javits (R-N.Y.) said that when an aide brought in this year's Captive Nations resolution for endorsement, and suggested to him it might be "out of date—old hat," his reply was "not on your life—those who hold these nations captive count on the fact that we will be unable to run the course. So I beg you, dedicate yourselves to their struggle for freedom—not only during my lifetime and yours, but thereafter. It may take a long time, but justice will triumph if those who believe in justice persist."

Prior to the luncheon seminar, the Rev. John R. Nakonachny, pastor of the Holy Ascension Ukrainian Orthodox Church in Maplewood, N.J., delivered the annual Captive Nation Week invocation.

Among other legislators who addressed the capacity crowd in the Caucus Room were Sens. Strom Thurmond (R-S.C.), Harrison Schmitt (R-N.M.) and Richard Schweicker (R-Pa.), and Reps. Daniel Flood (D-Pa.), Eldon Rudd (R-Ariz.) and former Rep. Walter Judd of Minnesota.

The luncheon seminar on Thursday, July 20, co-hosted by Rep. Daniel J. Flood (D-Pa.) and Edward J. Derwinski (R-Ill.), featured two panels for the 50 congressmen and 4 diplomats.

Panelists, discussing "The Belgrade Conference and Captive Nations," chaired by Dr. Stefan Possony, and "Human Rights and Captive Nations—Where Do We Go From Here?" chaired by Dr. Lev E. Dobriansky, included Mark Anderson of the AFL–CIO, Frank Manson of the American Legion and a representative from the State Department. The luncheon-seminar was held in rooms 338–340 Rayburn House Office Building from noon to 5 p.m.

[From the South Pasadena Review, July 19, 1978]

HUMAN RIGHTS: WHAT HAPPENED?

(By Lev E. Dobriansky)

The 20th observance of Captive Nations Week will take place this July 16–22.

Public Law 86-90 states that the President is "authorized and requested to issue a

Captive Nations Week proclamation each year "until such time as freedom and independence have been achieved for all the captive nations of the world."

A GRAND RETREAT

Disenchanted with detente, the American people received with considerable elation President Carter's early human rights declarations. Of course, a close relationship exists between human rights and captive nations, which impinge on all spheres of human existence.

Unfortunately, the growls of the Russian bear soon brought about a marked retreat in the Carter administration's advocacy of human rights. At the recent Belgrade conference, the question was not even mentioned in the final communique.

Globally, instead of directing the human rights policy toward the totalitarian world, the Administration has singled out allies for attack, permitting Moscow to tighten its grip over the captive nations and continue to brazenly fish in troubled waters.

In the past, haunted by an inordinate desire to placate Soviet Russian imperialism, some American luminaries have tried without success to oppose Captive Nations Week. The net effect of their attempts has been a progressive dilution of Captive Nations Week Presidential proclamations. The erosion process peaked last July when President Carter, beset with bad advice and administrative ineptness, almost ignored the annual proclamation.

SOVIET SENSITIVITY

Yet, no single event has aroused such vehement protest by Moscow as the Captive Nations Week resolution.

Again this year, Moscow has launched with renewed vigor a frontal attack on our traditional observance.

Underlying the Kremlin's sensitivity is that the resolution officially exposes Soviet Russian imperialism as the real force of international unsettlement and conflict, while pointing to the existence of non-Russian captive nations within the ersatz Soviet state. Without the abundant resources of these captive nations Russia would be reduced to a second-rate power.

Another essential element in the resolution is our moral commitment to peoples and nations and their fundamental rights of complete national self-determination. In other words, the resolution underwrites the illegitimacy of every Communist regime.

Pressing hard on the captive nations would not lead to war. A constant and imaginative focus would instead deepen Moscow's insecurity within its empire, giving it cause to think twice about dangerous adventures elsewhere.

On his 20th observance of Captive Nations Week, three guidelines come to the fore: (1) a vivid understanding of Congress' resolution and the Captive Nations Law; (2) an overall capability of armed strength to support their implications and the security of the nontotalitarian world; and (3) a national intelligence and will to rationally combine the two.

[From the Times-Picayune, July 13, 1978]

OBSERVANCE PLANNED

Captive Nations Week, dedicated to America's position as a vanguard of freedom, will be observed nationally July 16–22.

The Americanism Committee of the Chamber/New Orleans and the River Region requests those who live in the New Orleans area to remember the citizens of captive nations throughout the world.

[From the Journal-Courier, July 18, 1978]

THEY ARE STILL 'CAPTIVES'

Last week's convictions of two Russian dissenters, the upcoming "trials" of two American newsmen and other reports of Soviet repression have combined to divert attention from the 20th annual observance of Captive Nations Week.

That's too bad. But it shouldn't obscure the cruel historic fact that the Baltic States, Poland, Czechoslovakia, East Germany, the Balkans and other nations have been denied for decades now the rights of nationhood—the choice of leaders and economic systems, the allocation of resources, and all the rest.

Lend an ear and an eye to the proclamations and speeches coming forth this week. They are reminders that the current emphasis on "human rights" in Russia reflects only a small part of the story of what the Soviet Union has done to people, territories and ethnic groups since World War II.

And none of those doings have been undone by the Helsinki pacts on human freedoms, which the Russian government signed with gusto and now ignores with apparent glee.

[From the News World, July 18, 1978]

CAPTIVE NATIONS WEEK MARKED BY PARADE, MASS

The 20th Captive Nations Week Observance begins today, providing speakers, parades and entertainment to promote freedom for 33 nations under communist domination.

Today the annual parade down Fifth Avenue will begin at 9 a.m. at 59th Street and proceed south to St. Patrick's Cathedral where a 10 a.m. memorial mass will be held.

At 11 a.m. the parade will reassemble and continue from 50th St. north to the Central Park band shell, entering the park at 72nd Street.

At noon, speakers and folklore entertainment will begin.

The week-long observance ends Sunday, July 23, with a special ceremony at the Statue of Liberty. The program will include the reading of proclamations from the president, govs. Carey of New York and Brendan Byrne of New Jersey and Mayor Koch. Representatives for some of the newest Russian immigrants will speak and a wreath will be laid at the foot of the Statue of Liberty to honor the freedom fighters.

Entertainment will follow.

[From the St. Louis Globe-Democrat, July 19, 1978]

THE PLIGHT OF CAPTIVE NATIONS

Only a few seem to care that the secret Christians persecuted by atheistic communism on a scale exceeding that of ancient Rome are our spiritual brothers.

Only a few realize the importance as a potential deterrent to aggression by the Politburo, without nuclear war, of the hundred or so million slaves lying across the main invasion routes westward from the USSR.

Only a few seem to understand or respond to the challenge and opportunity revealed by Solzhenitsyn's declaration that governments of the West will not officially help free the enslaved peoples of the captive nations; that, if they are to regain their freedom, they must rely on their own dynamics—which we, with your readers, help, could markedly strengthen and encourage in unofficial, sophisticated ways.

Only a few seem to realize that communism gets its drive from ideology, Marxism-Leninism, and goals so hostile to those of freedom under God that they are on a collision course.

Our annual opportunity to stop our Communist-inspired skid toward becoming the ultimate holocaust is again upon us. This week is Captive Nations Week.

The president is requested and encouraged by Public Law 86–90, passed by the 1959 Congress, annually to proclaim the third week of July as Captive Nations Week, "with ceremonies and activities" at the grass roots nationwide "until the peoples of the captive nations shall again be free."

To become one of a happy "band of brothers" please read, listen, watch and participate—in Captive Nations Week.

GEORGE HIXON,
Free Friends of Captive Nations.

[From the Manchester Union-Leader, July 21, 1978]

NEED GREATER EMPHASIS ON CAPTIVE NATIONS WEEK

Addressed to William Loeb: In the twilight of the splendid events marking Freedom Week across the nation, I would like to make a plea for even half the fanfare for "Captive Nations Week" from July 16 through July 22. Since the signing of the Captive Nations Law by the late President Eisenhower, which provided that the President issue a proclamation annually designating "Captive Nations Week," the proclamation has received dwindling recognition.

Last year, for example, the Carter Administration as a result of indifference or political expediency in not offending the Soviet Union, either did not issue the proclamation or did so with such little media attention that the public was not generally aware of the event.

I think it our moral obligation as a free country to lend greater emphasis to "Captive Nations Week" and to remember those many nations imprisoned by Communism. We must keep alive the hope and spirits of those peoples for freedom and self-determination of their home lands. I am hopeful our government will do more than have made the proclamation in recognizing the importance of the upcoming week.

PHELPS PHELPS.

[From the Burlington (Vt.,) Free Press, July 21, 1978.]

CAPTIVE NATIONS WEEK

Their list is legion, the nations who have been caught in the tentacles of greedy and power-hungry giants whose leaders piously prate about the evils of imperialism and point their fingers at the sins of other nations.

Since the end of World War II, Eastern Europe has been transformed into a dragon-toothed enclave of the Soviet Union replete with walls and barricades to imprison citizens with a thirst for freedom. The old dream of the czars of building a buffer around Russia thus has been realized. Within those walls and barricades, people of the obliterated nations have been repressed and exploited and tormented by their captors.

Czechoslovakia, for instance, was known as a model democracy between the two world wars. Used as a pawn to appease an acquisitive Hitler, it survived but briefly as a free nation after the war before falling under the domination of the Soviets. Many of its influential leaders were killed or imprisoned and a Soviet puppet was installed in their place.

Other nations—Poland, Hungary, Romania, Bulgaria, Albania, and East Germany—suffered similar fates as the Soviets devoured their neighbors in an outburst of territorial greed after World War II. The rights of the people were stripped away with little more than a wave of the hand. Fear and repression replaced the freedoms they had enjoyed under previous governments. Where they resisted, they were subdued by the armed might of the Soviet Union. Their yearning for a new breath of freedom was crushed under the treads of Soviet tanks.

During the current observance of Captive Nations Week, the people of this country should rededicate themselves to the principle of human rights for all, not only in countries under Soviet domination but also those in which the aspirations and freedoms of the people are oppressed by totalitarian regimes. They should vow to work for that cause until significant changes are made in those

countries of the world where the people are imprisoned by repressive regimes.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, due to a longstanding commitment in my congressional district yesterday, I was unable to be present for the following rollcall votes. On those issues where it was possible, I was paired as indicated and had I been present, I would have voted accordingly:

On rollcall No. 832, on suspending the rules and passing S. 274 which prohibits union organization and membership in the Armed Forces, yea.

On rollcall No. 833, to amend H.R. 9333 to authorize the Secretary of the Interior to construct hydroelectric power plants and various existing water projects, paired, yea.

On rollcall No. 834, to suspend the rules and pass H.R. 12728, the Susan B. Anthony Dollar Coin Act, to change the size, weight and design of the one-dollar coin, paired, yea.

On rollcall No. 835, to amend S. 2727 to promote and coordinate amateur activity in the United States, to recognize certain rights for U.S. amateur athletes and to provide for the resolution of disputes involving national governing bodies, paired, nay in error; had I been present I would have voted, yea.

On rollcall No. 837, to amend H.R. 12005 to prohibit the use of funds to bring action to acquire directly or indirectly the busing of students to a school other than the school nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped, paired, nay.

On rollcall No. 838, to provide continuing appropriations for the fiscal year 1979, yea.

On rollcall No. 839, to agree to the conference report on H.R. 13125 to provide appropriations for the Agriculture, Rural Development and Related Agencies programs for the fiscal year ending September 30, 1979, yea.●

AMERICAN INDIAN RELIGIOUS FREEDOM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MEEDS) is recognized for 5 minutes.

● Mr. MEEDS. Mr. Speaker, on August 11, 1978, the President signed into law Senate Joint Resolution 102, relating to American Indian Religious Freedom. Mr. UDALL, chairman of the Committee on Interior and Insular Affairs, was the sponsor of the companion House measure, House Joint Resolution 738. This law attempts to insure that Indian people are adequately protected in the free exercise of their traditional religions by requiring the President to conduct a study of Federal laws and regulations which may adversely impact on such exercise and to report to the Congress.

I would like to call to the attention of my colleagues an editorial in the Duluth News-Tribune which comments on this important legislation and which notes the understanding and contribution of Mr. UDALL in securing enactment of this measure.

INDIAN SACREDNESS

The United States is only 191 years late, but better late than never.

When the Continental Congress adopted the U.S. Constitution in 1777 and submitted it for approval to the legislatures of the nation's 13 states, that Constitution provided freedom of worship to everyone who had come to America from foreign lands. But it didn't give freedom of worship to those who were here first; the Indian.

This omission was the result of the white man believing his religion was the only religion. After Hernando Cortez landed in Mexico and conquered that country in the 16th century, Spanish missionaries moved north into the United States and tried to convert the Indian "heathens" to Christianity. White Europeans who came to the eastern coast of the United States in the 17th century did the same to Indians there.

For all the preaching of the white settlers, however, the Indians hung on to their own religious beliefs, even as they lost their land and lifestyle. Now after almost two centuries of denying the validity of the religions of the American Indian, Congress has finally approved a law guaranteeing the same religious freedom given white people when the nation began. President Carter signed the new law Saturday.

Considerable credit for this change in policy is owed Rep. Morris Udall, D-Ariz., who though a white man, is able to see things with an Indian's eyes. "For many tribes, the land is filled with physical sites of religious and sacred significance to them," Udall said. "Can we not understand that? Our religions have their Jerusalems, Mount Calvarys, Vaticans and Meccas. We hold sacred Bethlehem, Nazareth, the Mount of Olives and the Wailing Wall."

Such vision, sadly, apparently has not come yet to Rep. Robert Badham, R-Calif., who counters Udall's view. "The case is not as simple as with Mormons or Catholics or Jews or Baptists," argues Badham. "In this case, we have only rhetoric of the author telling us that perhaps any hill, any lake might be set aside for some ostensibly religious purpose."

True, but that is an Indian vision of earth which whites could benefit from sharing. To the Indian, it is not just Jerusalem, or Bethlehem or Mecca that is sacred, but all the earth, and all two-legged and four-legged creatures, as well as the creatures that swim and those that fly. Indian religions see a sacredness in nature which the white man often fails to see. It is good to protect such religions.●

POPE JOHN PAUL I

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 5 minutes.

● Mr. ADDABBO. Mr. Speaker, this country well knows the tragedy of losing a leader, struck down before the full potential of his special qualities could be realized, and it was with deep sadness that I learned of the sudden death of Pope John Paul I.

The man destined to lead and inspire the world's Catholic community, though only occupying the seat of St. Peter for a mere 34 days, has nevertheless given all of us a strong glimpse of the character and personality the world had already come to love and respect.

On a day of traditional regal splendor, the occasion of John Paul's installation as Pope, we were shown a man who refused to be crowned, treating us to personal memories, talking with a small child, kissing an infant. This showed, I believe, his closeness to people—a joy of being directly involved with those he was chosen to lead. It is a trait that we should all emulate, and appreciate.

He showed us too a spirit of hope, reconciliation and a peaceful calm so fitting for the world we live in today. And yet there were indications that he would not hesitate to call forth the strength and determination inherent in his papal authority to give direction to his followers and right the wrongs of his world. Such a careful balance is a feat unto itself.

Cardinal Baum, Archbishop of Washington, has stated that Pope John Paul "has fulfilled the great purpose the Lord had in mind for him." In our brief exposure to the Pope, he has given all the world's dignitaries a framework for effective leadership. Yes, and in this he has served his purpose well.●

EXPORT TRADE ARTICLE NO. 1: EASTINGHOUSE TOPS WESTINGHOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, as chairman of the Export Task Force I wish to call the attention of every Member of Congress interested in export trade to an article published in the Washington Post, today, September 29, 1978.

The news account reports the recent sale of a nuclear reactor to Finland by the Soviet Union. It goes on to report the need the Finns have for nuclear technology; Finland has no oil, no coal, and no natural gas. The Soviets loaned the Finns money at low interest rates, gave them the uranium fuel free of charge for the first year of operation, and let the Finns subcontract almost half of the construction work to Finnish firms. It appears the foreigners have again shown Americans how to export their own technology. The article written by Thomas O'Toole and entitled "Soviet Reactor in Finland Seen as Economic Threat to West" follows:

SOVIET REACTOR IN FINLAND SEEN AS ECONOMIC THREAT TO WEST

(By Thomas O'Toole)

LOVIISA, FINLAND.—The Finns who operate the first nuclear power plant to be exported to the West by the Soviet Union jokingly refer to it as their "Eastinghouse" reactor. But they see the future for Soviet nuclear power as anything but laughable.

The Finns call their Soviet-built plant "Eastinghouse" because it so closely resembles the 38 nuclear electric plants built round the world by Westinghouse, the American company preeminent in the field.

Westinghouse tried to land this contract eight years ago but lost to the Soviets even though it bid 20 percent less than the $250

million the Finns paid the Soviets. Therein lies a story.

For the last two years, Westinghouse has told the White House and the Congress that stricter controls on nuclear exports will mean a staggering loss of sales. Insisting that nuclear energy is here to stay, Westinghouse has said that if American companies fail to build the world's nuclear power plants, the French and the West Germans will.

There is little doubt that American companies such as Westinghouse may lose some of their share of the nuclear market but there is doubt that the French and Germans will capture that loss. If the Finnish experience is a guide, it may be the Soviets who win a large share of the market.

A trip to this small town on the Gulf of Finland by touring American journalists offers evidence that this may turn out to be one of the most serious economic threats the Soviet Union has ever mounted on the West.

The Soviet-built plant is already in operation, a shiny, whirring machine that last week started its fourth straight month without missing a kilowatt. An almost identical second plant is nearly constructed, less than 100 yards from the first. More than 600 Soviet construction workers are still at work there.

Talks are taking place concerning a third plant, which at 1 million kilowatts will be more than twice the size of the 440,000-kilowatt plant now in service. The Finns say they don't have to decide on this plant for another two years but it is clear from conversations here with executives of the government-owned Imatran Voima Power Co. that a decision of sorts has already been reached—the plant will be built by the Soviets.

"Why change something when it works?" asked Kalvell Numminen, director of Imratran. Anders Palmgren, superintendent of the Loviisa power station added: "The plant we have here happens to be one of the best in the world. The fuel works well, the vibrations in the turbines are low and we have not had a single fuel leak in more than 10,000 hours of operation. We are delighted with this nuclear power plant."

The Finns talk bluntly about how they would like to become salesmen for Soviet nuclear power around the word. The Finns here think that the Soviet nuclear power design is as good as any in the West and want to share in the profits they see tumbling into Soviet coffers once others turn to Moscow.

Until the Finns bought their first Soviet plant, things did not go well with Soviet nuclear exports. The Soviets have exported nuclear plants to East Germany, Poland, Bulgaria and Hungary but in the last few years lost bidding battles to Westinghouse for a plant in Yugoslavia and to a Canadian firm for a plant in Romania.

None of these Communist countries thought the Soviet nuclear design was safe. Five years ago, the Soviets were trying to sell nuclear plants without the thick concrete containment buildings around them that are the American trademark.

The Soviets did not build redundant cooling systems favored by American companies to cool down the reactor if its nuclear fuel should accidentally overheat. The Soviet computer controls of the plant were also incomplete.

The Finns convinced the Soviets to change their ways They bought not only the Soviet reactor but also steam generators and turbines. Then they went to a West German firm for the controls, a Dutch company for the concrete containment and to Westinghouse for a $10 million system to flood the reactor with 1,000 tons of ice if its heat and pressure need to be subdued in a hurry. The Soviets got the message and will now supply these items.

Currently said to be negotiating to buy Soviet nuclear plants are Cuba, Libya and a third, unnamed country. Visitors now flock to Loviisa to watch the plant work and to talk about it with the Finns.

The Loviisa plant could win the Good Housekeeping award for industrial cleanliness. It is nearly spotless, from its white turbines to the dark green of its cooling tanks along the walls of the main reactor building. The reactor itself is silent. The only noise is the high-pitched whine of the turbines.

The Finns say one reason they picked the Soviet plant over the Westinghouse design is the financing, which other countries might not get from the Soviets. They loaned the Finns money at low interest rates, gave them uranium fuel free of charge for the first year and let the Finns subcontract almost half the construction work to Finnish firms.

The way the Finns tell it, the country needs nucelar energy. Finland has no oil, coal or natural gas and pays out more than $1 billion a year to import energy. The country is so flat it has only six dam sites left to exploit, all of them expensive. The only domestic fuel is peat.

Nuclear power presently supplies 8 percent of Finland's electricity, and that figure is likely to rise to 35 percent within a few years. That would make Finland the world's most nuclear-dependent nation, but the Finns hope that their experience with plants such as "Eastinghouse" will turn to profits when other energy-strapped countries are shopping for Soviet nuclear technology.

CONFERENCE REPORT ON H.R. 11445

Mr. SMITH of Iowa submitted the following conference report and statement on the bill (H.R. 11445) to amend the Small Business Act and the Small Business Investment Act of 1958.

CONFERENCE REPORT (H. REPT. NO. 95–1671)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to be the bill (H.R. 11445) to amend the Small Business Act and the Small Business Investment Act of 1958, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. (a) Section 20(e)(4) of the Small Business Act is amended to read as follows:

"(4) For the programs authorized by sections 501, 502 and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $45,000,000 in direct and immediate participation loans, and $100,000,000 in guaranteed loans and guarantees of debentures.".

(b) Section 20(e) of the Small Business Act is amended by striking all of paragraph (9) after the words "purposes," and inserting in lieu thereof the following:

"including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.".

(c) Section 20(f) of the Small Business Act is amended to read as follows:

"(f) There are authorized to be appropriated to the Administration for fiscal year 1979, $1,635,000,000 to carry out the programs referred to in subsection (e), paragraphs (1) through (8), inclusive, and (10). Of such sum, $368,780,000 shall be available to carry out the programs referred to in subsection (e), paragraphs (1) through (5) and (10); $52,100,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; $4,400,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $200,000,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $17,000,000 shall be available for procurement assistance, of which amount no less than $962,000 shall be used to employ thirty-five additional procurement center representatives, no less than $192,000 shall be used to employ seven additional industrial specialists, no less than $954,000 shall be used to employ forty additional procurement generalists, no less than $220,000 shall be used to employ additional clerical personnel, and no less than $2,500,000 shall be used to pay for the development of a Procurement Automated Source System;

"(2) $23,385,000 shall be available for management assistance, of which amount no less than $2,000,000 shall be used for direct SCORE/ACE program costs, no less than $2,500,000 shall be used for direct small business institute program costs, and no less than $14,385,000 shall be used to employ existing and additional management assistance personnel;

"(3) $2,172,000 shall be available for technical assistance, of which amount no less than $192,000 shall be used to employ additional technical assistance personnel;

"(4) $2,300,000 shall be available for the execution of advocacy functions, of which not less than $600,000 shall be used to employ additional advocacy assistance personnel;

"(5) $5,000,000 shall be available for economic research, of which amount no less than $600,000 shall be used to pay for retabulation of existing data from the United States Department of Commerce or other Federal department, agency or instrumentality for developing a small business economic data base, no less than $950,000 shall be used to pay for modification of existing surveys from the United States Department of Commerce or other Federal department, agency, or instrumentality for developing a small business economic data base, no less than $250,000 shall be used to pay for special surveys to be carried out by the United States Department of Commerce or other Federal department, agency, or instrumentality for developing a small business economic data base, and no less than $500,000 shall be used to pay for other costs of developing and maintaining a small business economic data base;

"(6) $660,000 shall be available for public communications;

"(7) $4,500,000 shall be available for internal Administration data management, of which amount no less than $1,000,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information, $450,000 shall be used to pay for development of an automated internal Administration management data base and no less than $110,000 shall be used to pay for enhancement of the Administration's document tracking system and for installation of terminals in Administration field offices;

"(8) $17,000,000 shall be available for minority small business, including management and technical assistance;

"(9) $53,000,000 shall be available for finance and investment functions, of which

not less than $6,600,000 shall be used to employ additional personnel for these functions; and

"(10) $8,000,000 shall be available for grants to Small Business Development Centers, and an additional $650,000 shall be available for the administration of the small business development center program.".

(d) Section 20(g) of the Small Business Act is amended to read as follows:

"(g) The Administration may transfer no more than 10 percent of each of the total program levels for salaries and expenses authorized by paragraphs (1) through (10) of section 20(f) of this Act: *Provided, however,* That no program level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.".

Sec. 102. Section 20 of the Small Business Act is amended by adding at the end thereof, the following new subsections:

"(h) The following program levels are authorized for fiscal year 1980:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $495,000,000 in direct and immediate participation loans, and $3,630,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $11,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(1) of this Act, the Administration is authorized to make $730,000,000 in direct and immediate participation loans and $93,000,000 in guaranteed loans.

"(4) For the programs authorized by sections 501, 502 and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $110,000,000 in guaranteed loans and guarantees of debentures.

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in direct purchase of debentures and preferred securities and to make $225,000,000 in guarantees of debentures.

"(6) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,700,000,000.

"(7) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $220,000,000 in loans, guarantees, and other obligations or commitments.

"(8) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $100,000,000.

"(9) For the programs authorized by section 7(1) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $45,000,000 in guaranteed loans.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of section 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1980, $1,616,000,000 to carry out the programs referred to in subsection (h), paragraphs (1) through (9). Of such sum, $42,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $232,000,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $18,700,000 shall be available for procurement assistance;

"(2) $27,000,000 shall be available for management assistance, of which amount no less than $2,200,000 shall be used for direct SCORE/ACE program costs, no less than $3,000,000 shall be used for direct small business institute program costs, and no less than $17,000,000 shall be used to employ existing and additional management assistance personnel;

"(3) $2,400,000 shall be available for technical assistance;

"(4) $2,500,000 shall be available for the execution of advocacy functions;

"(5) $5,500,000 shall be available for economic research, of which amount no less than $600,000 shall be used to pay for the retabulation of existing data from the United States Department of Commerce or other Federal department, agency, or instrumentality, for developing a small business economic data base, no less than $950,000 shall be used to pay for modification of existing surveys from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base, no less than $250,000 shall be used to pay for special surveys to be carried out by the United States Department of Commerce or other Federal department, agency, or instrumentality, for developing a small business economic data base, and no less than $500,000 shall be used to pay for other costs of developing and maintaining a small business economic data base;

"(6) $725,000 shall be available for public communications;

"(7) $7,400,000 shall be available for internal Administration data management, which shall be used to pay for development of an automated internal Administration management data base, development and installation of terminals, telecommunications and appropriate central site computer capability, and reprogramming of major portions of the existing data management system, of which amount no less than $1,100,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information;

"(8) $17,200,000 shall be available for minority small business, including management and technical assistance;

"(9) $58,300,000 shall be available for finance and investment functions; and

"(10) $18,000,000 shall be available for grants to Small Business Development Centers, and an additional $650,000 shall be available for the administration of the Small Business Development Center Program.

"(j) The Administration may transfer no more than 10 percent of each of the total program levels for salaries and expenses authorized by paragraphs (1) through (10) of section 20(i) of this Act; *Provided, However,* That no program level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(k) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $545,000,000 in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized in section 7(1) of this Act, the Administration is authorized to make $81,000,000 in direct and immediate participation loans and $103,000,000 in guaranteed loans.

"(4) For the programs authorized by sections 501, 502 and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans, and $120,000,000 in guaranteed loans and guarantees of debentures.

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $28,000,000 in direct purchase of debentures and preferred securities and to make $250,000,0000 in guarantees of debentures.

"(6) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $3,500,000,000.

"(7) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $242,000,000 in loans, guarantees, and other obligations or commitments.

"(8) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(9) For the programs authorized in section 7(1) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $45,000,000 in guaranteed loans.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(11) There are authorized to be appropriated to the Administration for fiscal year 1981, $1,789,000,000 to carry out the programs referred to in subsection (k), paragraphs (1) through (9). Of such sum, $59,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958, $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958, and $254,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $20,600,000 shall be available for procurement assistance;

"(2) $30,500,000 shall be available for management assistance, of which amount no less than $2,400,000 shall be used for direct SCORE/ACE program costs, no less than $3,600,000 shall be used for direct small business institute program costs, and no less than $19,000,000 shall be used to employ existing and additional management assistance personnel;

"(3) $2,500,000 shall be available for technical assistance;

"(4) $2,800,000 shall be available for the execution of advocacy functions;

"(5) $6,100,000 shall be available for economic research, of which amount no less than $600,000 shall be used to pay for retabulation of existing data from the United States Department of Commerce or other Federal department, agency or instrumentality for developing a small business economic data base, no less than $950,000 shall be used to pay for modification of existing surveys from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base, no less than $250,000 shall be used to pay for special surveys to be carried out by the United States Department of Commerce or other Federal de-

partment, agency or instrumentality, for developing a small business economic data base, and no less than $500,000 shall be used to pay for other costs of developing and maintaining a small business economic data base;

"(6) $800,000 shall be available for public communications;

"(7) $8,000,000 shall be available for internal Administration data management, which shall be used to pay for development of an automated internal Administration management data base, development and installation of terminals, telecommunications and appropriate central site computer capability, and reprogramming of major portions of the existing data management system, of which amount no less than $1,200,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information;

"(8) $17,400,000 shall be available for minority small business, including management and technical assistance;

"(9) $64,300,000 shall be available for finance and investment functions; and

"(10) $20,000,000 shall be available for grants to Small Business Development Centers, and an additional $650,000 shall be available for the administration of the Small Business Development Center Program.

"(m) The Administration may transfer no more than 10 percent of each of the total program levels for salaries and expenses authorized by paragraphs (1) through (10) of sections 20(1) of this Act: *Provided, however,* That no program level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(n) The following program levels are authorized for fiscal year 1982:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $600,000,000 in direct and immediate participation loans, and $4,400,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $28,000,000 in direct and immediate participation loans and $14,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(1) of this Act, the Administration is authorized to make $90,000,000 in direct and immediate participation loans and $114,000,000 in guaranteed loans.

"(4) For the programs authorized by sections 501, 502 and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $61,000,000 in direct and immediate participation loans, and $130,000,000 in guaranteed loans and guarantees of debentures.

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $31,000,000 in direct purchase of debentures and preferred securities and to make $275,000,000 in guarantees of debentures.

"(6) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $4,000,000,000;

"(7) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $267,000,000 in loans, guarantees, and other obligations or commitments.

"(8) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $125,000,000.

"(9) For the programs authorized in section 7(1) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $45,000,000 in guaranteed loans.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of section 7(b)(1) and 7(b)(2), of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1982, $1,943,000,000 to carry out the programs referred to in subsection (n), paragraphs (1) through (9). Of such sum, $69,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958, $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958, and $278,000,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $22,600,000 shall be available for procurement assistance;

"(2) $33,300,000 shall be available for management assistance, of which amount no less than $2,600,000 shall be used for direct SCORE/ACE program costs, no less than $4,200,000 shall be used for direct small business institute program costs, and no less than $21,000,000 shall be used to employ existing and additional management assistance personnel;

"(3) $2,800,000 shall be available for technical assistance;

"(4) $3,100,000 shall be available for the execution of advocacy functions;

"(5) $6,700,000 shall be available for economic research of which amount no less than $600,000 shall be used to pay for retabulation of existing data from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base, no less than $950,000 shall be used to pay for modification of existing surveys from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base, no less than $250,000 shall be used to pay for special surveys to be carried out by the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base, and no less than $500,000 shall be used to pay for other costs of developing and maintaining a small business economic data base;

"(6) $880,000 shall be available for public communications;

"(7) $9,200,000 shall be available for internal Administration data management, which shall be used to pay for development of an automated internal Administration management data base, development, purchase, and installation of terminals, telecommunications and appropriate central site computer capability, and reprogramming of major portions of the existing data management system, of which amount no less than $1,300,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information;

"(8) $17,600,000 shall be available for minority small business, including management and technical assistance;

"(9) $70,700,000 shall be available for finance and investment functions; and

"(10) $22,000,000 shall be available for grants to Small Business Development Centers, and an additional $650,000 shall be available for the administration of the Small Business Development Center Program.

"(p) The Administration may transfer no more than 10 percent of each of the total program levels for salaries and expenses authorized by paragraphs (1) through (10) of section 20(o) of this Act: *Provided, however,* that no program level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

AVAILABILITY OF UNEXPENDED FUNDS

SEC. 110. Section 20(a) of the Small Business Act is amended by adding thereto the following: "All appropriations whether specifically or generally authorized shall remain available until expended.".

INTEREST DIFFERENTIAL PAYMENTS

SEC. 111. Section 4(c)(5) of the Small Business Act is amended by striking "each of the funds established by paragraph (1)" and inserting in lieu thereof "the fund established by subparagraph (B) of paragraph (1)".

ENERGY SHORTAGE LOANS

SEC. 112. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern,".

DISASTER LOAN INTEREST RATES

SEC. 113. The first undesignated paragraph of section 7(b) of the Small Business Act is amended as follows:

(a) by inserting after the figure "$40,000" the following: "; and with respect to a disaster occurring on or after October 1, 1978, and prior to October 1, 1982, shall be 3 per centum on the first $55,000 of such loan"; and

(b) by inserting after the words "1978, shall be 3 per centum" the following: "; and with respect to a disaster occurring on or after October 1, 1978 and prior to October 1, 1982, shall be 5 per centum on the first $250,000 of all other loans made pursuant to paragraph (1) of this subsection".

INVESTMENT OF IDLE FUNDS

SEC. 114. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed. The item relating to section 412 in the table of contents of such Act is hereby repealed.

SEC. 115. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital, for the fund shall not be so invested.".

PRODUCT DISASTER LOANS

SEC. 116. Section 7(b)(4) of the Small Business Act is amended by striking therefrom "undetermined" and inserting in lieu thereof "other".

DEVELOPMENT COMPANY DEBENTURES

SEC. 117. (a) The Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502,

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms,

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b),

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans),

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made, and

"(6) the Administration approves each loan to be made from such proceeds.

"(c) the Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff,

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities), and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the following new item:

"Sec. 503. Development Company Debentures."

LOAN POOLING

SEC. 118. Section 5(b) of the Small Business Act is amended—

(a) by striking out "and" at the end of clause (10);

(b) by striking out the period at the end of clause (11) and inserting in lieu thereof "; and"; and

(c) by adding at the end thereof the following:

"(12) authorize, prior to January 1, 1980, banks and private dealers, who regularly purchase interests in deferred participation and guaranteed loans from banks and other financial institutions originating such loans pursuant to the Small Business Act or Title V of the Small Business Investment Act of 1958, to form and administer pools of such guaranteed interests and to freely issue and sell, directly or through their respective fiduciary agents, certificates of beneficial ownership in such pools to private investors. The Administration shall guarantee such certificates: *Provided*, That the banks and private dealers issuing such certificates provide for timely payment of principal and interest until the principal amount of each respective underlying guaranteed interest is paid in full, either through normal repayment or as a result of prepayment or default by the borrower. The full faith and credit of the United States is pledged to the guarantees by the Administration of such certificates and of the underlying guaranteed interests. On or before September 30, 1979, the Administration shall submit to the Senate Select Committee on Small Business and the Committee on Small Bussines of the House of Representatives a report analyzing and describing the implementation of the program created by this paragraph.".

PROCUREMENT ASSISTANCE FOR HANDICAPPED

SEC. 119. Section 15(c) of the Small Business Act is amended to read as follows:

"(c)(1) During fiscal years 1979 and 1980, public and private not-for-profit organizations eligible for assistance under Section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $100,000,000 for each such year: *Provided*, That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses.

"(2) the Administration shall, not later than January 1, 1980, prepare and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.".

SMALL BUSINESS OSHA PROVISIONS

SEC. 120(a) Section 666(i) of Title 29 of the United States Code (section 17(j) of the Occupational Safety and Health Act of 1970) is amended by adding at the end thereof the following:

"No civil penalty shall be proposed or assessed under subsection (c) of this section for any first-instance violation if the employer cited for such violation has 10 or fewer employees and if the inspection which led to the citation of such first-instance violation resulted in the citation of such employer for less than 10 violations.".

(b) Section 657 of Title 29 of the United States Code (section 8 of the Occupational Safety and Health Act of 1970) is amended by adding the following at the end of subsection (d) of such section:

"No employer who has 10 or fewer employees shall be required to maintain the log of occupational injuries and illnesses, supplementary records, nor annual summary required by Part 1904 of Title 29 of the Code of Federal Regulations, except when an employer has been notified in writing that he or she has been selected to participate in a statistical survey of occupational injuries and illnesses.".

(c) Section 673 of Title 29 of the United States Code (section 24 of the Occupational Safety and Health Act of 1970) is amended by adding at the end thereof the following:

"(g) The Secretary is directed to conduct a study of the collection and analysis of statistics dealing with work related injuries and illnesses, and to, no later than twelve months after the effective date of this subsection, submit such study to the President of the Senate and the Speaker of the House of Representatives. Such study shall include the Secretary's evaluation of the effectiveness and accuracy of such procedures in determining the rate of incidence of work related injuries and illnesses, especially with regard to employers of ten or fewer individuals.".

POLLUTION CONTROL BONDS GUARANTEE PROGRAM

SEC. 121. Section 404(b) of the Small Business Investment Act of 1958 is amended by adding at the end of paragraph (3) the following:

"(4) Any guarantee executed and delivered by the Administration shall not be terminated, canceled or otherwise revoked; shall be conclusive evidence that each guarantee and the proceedings and determinations pursuant to which it was issued comply fully with the provisions of this section; and shall be valid and incontestable in the hands of the person or persons to whom the payment under the qualified contract are due: *Provided*, That notwithstanding the incontestability of the guarantee, nothing in this paragraph shall preclude the Administration from maintaining an action at law or in equity against any person who procures a guarantee through misrepresentation or fraud.".

SEC. 122. Session 404 of the Small Business Investment Act of 1958 is amended as follows:

(a) by inserting in subsection (a) after the words "real and personal" at both places in such subsection the following: ", productive and nonproductive";

(b) by inserting in subsection (a) after the word "treatment," the word "transportation,";

(c) by striking from subsection (b) the words "small business concerns" and by inserting the following: "existing small business concerns, including solid and liquid waste disposal concerns,"; and

(d) by inserting in subsection (b) after the word "design," the word "acquisition".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

SEC. 201. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section:

"SEC. 21. (a)(1) The Administration is authorized to make grants to any State government or any agency thereof, any regional entity, any State-chartered development credit or finance corporation, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community colleges or junior colleges, or to any entity formed by two or more of the above entities (hereinafter referred to as 'Applicants') to assist in establishing Small Business Development Centers and to any such body for: small business oriented employment or natural resources development programs; for studies, research, and counselling concerning the managing, financing, and operation of small business enterprises; for technological assistance, technical and statistical information for small business enterprises; for the delivery or distribution of such services and information; and for providing access to business analysts who can refer small business concerns to available experts.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an Applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal government: *Provided*, That the additional amount shall not include any amount of indirect costs or in kind contributions paid for under any Federal program, nor shall such indirect costs or in kind contributions exceed 50 per centum of the non-

Federal additional amount: *Provided further*, That no recipient of funds under this section shall receive a grant (1) which would exceed its pro rata share of a $60 million program in fiscal year 1979, a $65 million program in fiscal year 1980, a $70 million program in fiscal year 1981, and a $75 million program in fiscal year 1982, based upon the population to be served by the Small Business Development Center as compared to a total population in the United States and (2) which, when added to all other funds from other Federal sources received by the Small Business Development Center, would exceed 50 per centum of the total program costs.

"(b)(1) During fiscal years 1979, 1980, 1981, and 1982, financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State Government as authorized to do so and approved in the Administration in accordance with the standards and requirements established pursuant to this section.

"(2) An Applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the Applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the region, state or part thereof to be served.

"(3) At the discretion of the Administration, the Administration is authorized to permit a Small Business Development Center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the Small Business Development Center, as determined by the Administration.

"(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

"(2) A Small Business Development Center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. To the extent possible, it also shall make full use of other Federal and State Government programs that are concerned with aiding small businesses. A Small Business Development Center shall have—

"(A) a full-time staff including a director to manage the program activities;

"(B) business analysts to counsel, assist, and inform small business clients;

"(C) technology transfer agrents to provide state of the art technology to small businesses through coupling with national and regional technology data sources;

"(D) information specialists to assist in providing information searches and referrals for small businesses;

"(E) access to part-time professional specialists to conduct research or to provide counselling assistance whenever the need arises; and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a center shall include, but shall not be limited to—

"(A) furnishing one-to-one individual counselling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small business concerns;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Technology development shall be provided when necessary to help small business find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community; and

"(G) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in that locality.

"(H) a center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

"(d) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with Small Business Development Centers participating in this program. Laboratories shall make facilities and equipment available as an aid in providing experiment station capabilities in adaptive engineering; provide library and technical information processing capabilities: and provide professional staff for consulting. Small Business Development Centers shall reimburse the laboratories for necessary expenses.

"(e) Innovation centers supported by the Federal Government through the National Science Foundation are authorized and directed under this section to cooperate with Small Business Development Centers participating in this program. The National Science Foundation shall report annually on the performance of such centers with recommendations to the Small Business Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Small Business Administration on continued funding.

"(f) The Administrator shall appoint a Deputy Associate Administrator for Management and Technical Assistance who shall report to the Associate Administrator for Management and Technical Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to Chapter 51, and Subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate for GS–17 of the General Schedule.

"(g) The sole responsibility of the Deputy Associate Administrator for Management and Technical Assistance shall be to administer the Small Business Development Center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefor, selecting applicants to participate in this program under this section, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between centers, and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management and Technical Assistance shall confer with and seek the counsel of the Board in carrying out the responsibilities described in this section.

"(h)(1) There is established a National Small Business Development Center Advisory Board which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small business. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, and a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management and Technical Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS–18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

"(i) The Administration, with the advice of the Board, shall establish a plan for evaluation of the Small Business Development Center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine—

"(1) the impact of the Small Business Development Center program on small businesses and the socioeconomic base of the regions it served; and

"(2) the multidisciplinary resources the Small Business Development Center program was able to coordinate to assist small businesses.

For the purpose of these evaluations, the Administration is authorized to require any Small Business Development Center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. The first such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representa-

tives no later than the third year after the date of enactment of this section and each year thereafter.".

SEC. 202. The Small Business Act is amended by striking subsection 7(d)(1) and inserting the following:

"(d)(1) The Administration shall not fund any Small Business Development Center program, or any variation thereof, except as authorized in Section 21 of this Act: *Provided*, That in fiscal year 1979 nothing in this section or in section 21 shall be deemed to affect the operation of any Small Business Development Center in existance on the date of enactment of this section: and *Provided further*, That no such Small Business Development Center which was funded in fiscal year 1978 may be funded in excess of $300,000 in fiscal year 1979.".

TITLE III—ADVOCACY AND ECONOMIC RESEARCH AND ANALYSIS

SBA ORGANIZATION

SEC. 301. (a) Section (4)(b) of the Small Business Act is amended to read as follows:

"(b)(1) The management of the Administration shall be vested in an Administrator who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and who shall be a person of outstanding qualifications who is familiar and sympathetic with small business needs and problems. The Administrator may not engage in any other business, vocation, or employment than that of serving as Administrator. In carrying out the programs administered by the Small Business Administration, including its lending and guaranteeing functions, the Administrator may not discriminate on the basis of sex or marital status against any person or small business concern applying for or receiving assistance from the Small Business Administration, and the Small Business Administration shall give special consideration to veterans of the Armed Forces of the United States and their survivors or dependents.

"(2) The President shall also appoint from civilian life, by and with the advice and consent of the Senate a Chief Counsel for Advocacy who shall be responsible for the development, execution, and administration of those duties specified in section 22 of this Act.

"(3) The Administrator shall appoint from civilian life—

"(A) A Deputy Administrator who shall be Acting Administrator of the Administration during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator;

"(B) an Associate Administrator for Finance who shall be responsible to the Administrator solely for the development, execution, and administration of—

"(i) all loan programs specified in section 7 of this Act except those specified in section 7(b) of this Act; and

"(ii) those programs and activities specified in titles IV and V of the Small Business Investment Act of 1958;

"(C) an Associate Administrator for Procurement Assistance who shall be responsible to the Administrator solely for the development, execution, and administration of the procurement assistance programs and activities specified in section 8(a), 9 and 15 of this Act;

"(D) an Associate Administrator for Minority Small Business who shall be responsible to the Administrator solely for the formulation of policy relating to the Administration's programs which provide assistance to minority small business concerns and the review of the Administration's execution of such programs in the light of such policy;

"(E) an Associate Administrator for Investment who shall be responsible to the Administrator solely for the development, execution, and administration of the investment programs specified in title III of the Small Business Investment Act of 1958;

"(F) an Associate Administrator for Management and Technical Assistance who shall be responsible to the Administrator solely for the development, execution, and administration of the management assistance, export development and technical assistance programs specified in sections 7, 8 and 21 of this Act; and

"(G) an Associate Administrator for Disaster Loan Administration who shall be responsible to the Administrator solely for the development, execution, and administration of all loan programs specified in section 7(b) of this Act.

"(4) The Administrator also shall be responsible for—

"(A) establishing and maintaining an economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business indices and, to the extent feasible, regional small business indices, which shall include, but need not be limited to, data on—

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;

"(vi) investment in plant and equipment;

"(vii) changes in inventory and rate of inventory turnover;

"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;

"(ix) debt to equity ratios;

"(x) exports;

"(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

"(xii) concentration ratios; and

"(B) publish annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired under paragraph (A) of this subsection.".

(b) Nothing in this section shall be deemed to terminate or otherwise affect the appointment, or to require the reappointment, of any occupant of any position provided for in subsection (a) of this section who was the occupant of that position immediately prior to the effective date of this section.

SEC. 302. The Small Business Act is amended by inserting before section 30 the following new sections:

"SEC. 22. (a) There is established within the Administration a Chief Counsel for Advocacy.

"(b) The Chief Counsel for Advocacy shall perform the following duties on a continuing basis:

"(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

"(2) counsel small businesses on how to resolve questions and problems concerning the relationship of small business to the Federal Government.

"(3) develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of this Act and communicate such proposals to the appropriate Federal agencies;

"(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business; and

"(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.

"(c) In carrying out the provisions of this section, after consultation with and subject to the approval of the Administrator, the Chief Counsel for Advocacy may—

"(1) employ and fix the compensation of not more than ten additional staff personnel at any one time, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to Chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the highest rate for GS–17 of the General Schedule;

"(2) consult with experts and authorities in the fields of small business investment, venture capital, investment and commercial banking and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest;

"(3) utilize the services of the National Advisory Council established pursuant to the provisions of section 8(b)(13) of this Act and in accordance with the provisions of such statute, also appoint such other advisory boards or committees as is reasonably appropriate and necessary to carry out the provisions of this section; and

"(4) hold hearings and sit and act at such times and places as he may deem advisable.

"(d) The Chief Counsel for Advocacy shall prepare and transmit on July 1, 1979, and annually thereafter, to the President, the Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives, a comprehensive report containing findings and specific recommendations. The report shall not be submitted to the Office of Management and Budget or to any other department, agency, or instrumentality of the Federal Government for any purpose prior to transmittal to the President, the Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives. Such report also shall be included in the report specified in section 10(a) of this Act.".

SEC. 303(c) This section may be cited as the Small Business Economic Policy Act of 1978.

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

(b)(1) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means consistent with its needs and obligations and other essential considerations of national policy, and to take such actions as are necessary, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth, and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepre-

neurship, inventiveness, and the creation and growth of small businesses.

"(2) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the Nation's overall economic policy goals and the preservation of its competitive free enterprise system, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

PRESIDENT'S REPORT ON SMALL BUSINESS AND COMPETITION

(c)(1) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(A) examine the current role of small business in the economy on an industry by industry basis;

(B) present current and historical data on production, employment, investment, and other economic variables, for small business in the economy as a whole and for small business in each sector of the economy;

(C) identify economic trends which will or may affect the small business sector and the state of competition;

(D) examine the effects on small business and competition of policies, programs, and activities, including, but not limited to the Internal Revenue Code, the Employee Retirement Income Security Act, the Securities Act of 1933, and the Securities Exchange Act of 1934 and regulations promulgated thereunder; and identify problems generated by such policies, programs, and activities, and recommend legislative and administrative solutions to such problems; and

(E) recommend a program for carrying out the policy declared in subsection (a), together with such recommendations for legislation as he may deem necessary or desirable;

(2) The President also shall transmit simultaneously as an appendix to such annual report, a report, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of $10,000) awarded to small, minority-owned and female-owned businesses;

(3) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in subsection (a) of this Act; and

(4) The Report on Small Business and Competition and all supplementary reports transmitted under paragraphs (2) and (3) of this subsection shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

STUDY OF SMALL BUSINESS CREDIT NEEDS

(d) In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by October 1, 1979, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business.

SEC. 304. (a) Section 5315 of title 5, United States Code, is amended by adding the following new paragraph:

"(124) Chief Counsel for Advocacy, Small Business Administration."; and

(b) Section 5316(11) of title 5, United States Code, is amended by striking out "(4)" and inserting in lieu thereof "(6)".

SEC. 305. Title II of Public Law 94–305 is repealed.

TITLE IV—VENTURE CAPITAL

SEC. 401. Section 301 of the Small Business Investment Act of 1958 is amended by adding a new subsection as follows:

"(e) Subject to the provisions of subsections (a) through (d) of this section, the Administration is authorized to license small business investment companies, the investment policy of which is solely to make venture-type investments in small business concerns. For purposes of this subsection, 'venture-type investments' include: (1) common stock, preferred stock, limited partnerships or similar equity interests acquired from the issuer with no right to require repurchase for five years from date of acquisition by such company, and (2) unsecured debt instruments which are either convertible into equity or have equity purchase rights: *Provided*, That the total of all such debt instruments shall not exceed 50 percent of the total investments outstanding at the end of each fiscal year. All such debt instruments shall be subordinated by their terms to all borrowings of the issuer from other institutional lenders and shall have no part amortized during the first five years. To qualify as 'venture-type investments', debt instruments must involve the right to purchase at least 10 percent of the equity of the small business concern at the time of the initial financing.".

SEC. 402. Section 302(a) of the Small Business Investment Act of 1958 is amended to read as follows:

"(a) The combined private paid-in capital and paid-in surplus of each company licensed pursuant to subsections (c) and (d) of section 301 of this Act shall be not less than $150,000; *Provided, however*, That the combined private paid-in capital and paid-in surplus of any company licensed pursuant to said subsections (c) and (d) on or after October 1, 1979, shall be not less than $500,000. The combined private paid-in capital and paid-in surplus of each company licensed pursuant to subsection (e) of section 301 of this Act shall be not less than $1,000,000. In all cases, such capital and surplus shall be derived solely from private resources and shall be adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles.".

SEC. 403. Section 302(b) of the Small Business Investment Act of 1958 is amended by striking "5 percent" and inserting in lieu thereof "10 percent".

SEC. 404. (a) Sections 303(b) and (c) of the Small Business Investment Act of 1958 are amended by striking the words "venture capital" wherever they appear and by inserting in lieu thereof the words "equity-type investments".

(b) Section 303 of the Small Business Investment Act of 1958 is amended by adding a new section 303(d), to read as follows:

"(d)(1) Subject to the following conditions, the Administration is authorized, when authorized in advance in appropriation Acts, to purchase, or to guarantee the timely payment of all principal and interest as scheduled on debentures issued by small business investment companies operating under authority of section 301(e) of this Act, not to exceed an amount outstanding at any one time equal to 300 per centum of the combined private paid-in capital and paid-in surplus of such company. In no event shall the debentures of any such company purchased or guaranteed and outstanding under this subsection exceed $35,000,000 or a total of $55,000,000 if such company and any licensee which controls such company is also issuing debentures pursuant to subsections (b) and (c). The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(2) Such debentures shall be subordinated pursuant to subsection (b) of this section, shall be issued for a term of up to ten years without amortization during such term, and shall bear interest at the rate of 4 percent per annum. The Administration is authorized, when authorized in advance in appropriation Acts, to pay to the holder of such guaranteed debentures, during such term, the difference between such 4 percent and a rate established as of the time of such guarantee pursuant to subsection (b) of this section for debentures with a term of up to ten years.

"(3) Such debentures shall provide that voluntary prepayment of such debentures shall require the prior written approval of the Administration, which may be conditioned upon the payment of a premium of not to exceed 3 percent of the amount prepaid.

"(4) As a condition for licensing such company shall agree with the Administration that:

"(i) no agreements to provide capital pursuant to section 304 or loans pursuant to section 305 may provide for a fixed or assured rate of return exceeding 9 percent per annum;

"(ii) within 60 days of the end of each company's fiscal year, each company shall report to the Administration the average amount of funds derived from such debentures which were not used to provide venture-type investments in small business concerns during the preceding calendar year; and at the same time shall pay to the Administration an amount equal to the difference between 4 percent and the interest rate established as of the time of such guarantee or purchase pursuant to subsection (b) on such average amount;

"(iii) the Administration shall be entitled to receive (I) 15 percent of any gross capital gain realized in cash or otherwise on any security sold by such company within any taxable year of such company, and (II), where a portfolio security is exchanged for another security at a gain, the Administration shall be entitled to receive 15 percent of that portion of any dividends or interest received by such company and attributable to such securities until such securities are sold for cash or otherwise. Payments pursuant to clauses (I) and (II) of this paragraph shall be made to the Administration no later than ninety days after the close of the year in which the cash gains, dividends, or interest are received by the company;

"(iv) such company shall not distribute, transfer, pledge or otherwise encumber, any portfolio security or any interest therein to any person without prior written notice to the Administration;

"(v) in the event of a distribution or transfer of a portfolio security by a company licensed pursuant to section 301(e) of this Act, 15 percent of each class and type of security so distributed or so transferred shall be retained by such company and earmarked

as SBA participation securities. The officers and directors of such company shall have the fiduciary responsibility to retain such securities for such period of time as they deem necessary in order to realize the maximum average annual appreciation for the Administration. At the time of sale of such securities, the licensee shall within ninety days pay the Administration in cash a sum equal to 100 percent of the gain realized on such securities; and

"(vi) the conditions of this paragraph 3 shall apply to any investment made while such debenture is or was outstanding, without regard to the subsequent repayment of such debentures.

"(5) Should such company or any other person be determined pursuant to section 308(d) or 309 of this Act to have violated or failed to comply with any provision of this Act, including the failure to make 'venture-type investments' as defined in section 301(e) of this Act, or of regulations prescribed thereunder, the Administration may require from such company, in addition to any other right or penalty to which the Administration may be entitled, the payment of the difference between interest paid on such debentures, and interest computed pursuant to section 303(b) of this Act, with interest on such difference computed pursuant to such section.".

SEC. 405. Section 318 of the Small Business Investment Act of 1958 is amended by redesignating section 318 as section 318(a) and adding a new section 318(b) to read as follows:

"(b)(1) The Administration is authorized to extend the conditions of section 303(d) to a small business investment company operating under authority of section 301(e) of this Act, and which is owned, in whole or in part, by one or more participant small business investment companies, if no more than one-third of the combined private paid-in capital and paid-in surplus of such company is represented by marketable securities transferred by such participant company or companies to such company with the approval of the Administration.

"The Administration shall establish the bases for determining the value of such transferred securities; in determining such bases, the Administration shall consider, but not be limited to, the liquidity and marketability of such securities.

"(2) The Administration may require the transferor company or companies to make a payment to the transferee company, equal to the difference between the value of such transferred securities on the books of the transferee company at the time of contribution to the licensee, determined according to generally accepted accounting principles, and the amount realized in cash upon the sale or other disposition of such transferred securities by the transferee company if, but only if, such amount is less than the valuation on the books of the transferee company at the time of its contribution, plus any payments on account of principal received by such transferee company during its ownership of such securities. The Administration may also require a payment from such company or companies equal to the value of such transferred securities on the books of the transferee company at the time of contribution to the licensee, determined according to generally accepted accounting principles, at the end of the tenth year following such transfer if such transferred securities have not been converted to cash within such ten years.

"(3) For the purposes of sections 302(a), 303(d), and 306 of this Act, the combined private paid-in capital and paid-in surplus of a company licensed under section 301(e) of this Act shall be the sum of (a) the private paid-in capital and paid-in surplus of such company and (b) one-half of that portion of the unrealized appreciation in the value of transferred securities allowed by the Administration pursuant to section 318(b) of this Act.

"(4) For the purposes of this section, the term 'marketable securities' means a security which is (a) traded on a national security exchange or for which there exists a public market among licensed security dealers; and (b) evidences of indebtedness issued by corporations whose securities are described in clause (a) of this sentence.".

SEC. 406. The last sentence of section 308(b) of the Small Business Investment Act of 1958 is amended to read as follows: "Such companies are authorized to invest funds not reasonably needed for their operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States, or in certificates of deposit maturing within one year or less, issued by any institution whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or in savings accounts of such institutions.".

SEC. 407. Section 303 of the Small Business Investment Act of 1958 is amended by adding a new section 303(e) to read as follows:

"(e) In the event of a distribution or transfer of a portfolio security by a company licensed pursuant to section 301 of this Act, such company shall report to the Administration at the time of such distribution or transfer:

"(1) the original cost basis of such portfolio security;

"(2) the present market value of such portfolio security; and

"(3) the period of time such company has held such portfolio security;

and shall also report on the first and second annual anniversary dates after such distribution or transfer the present market value of such security.".

TITLE V—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

SHORT TITLE

SEC. 501. This title may be cited as the "White House Conference on Small Business Act".

AUTHORIZATION OF CONFERENCE

SEC. 502. (a) The President shall call and conduct a White House Conference on Small Business (hereinafter referred to as the "Conference") not later than June 30, 1980, to carry out the purposes described in section 503.

(b) Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the regional and State levels prior to the date of the Conference, subject to the approval of the Administrator, and may direct such conferences and activities toward the consideration of the purposes of the Conference described in section 503 in order to prepare for the Conference.

PURPOSES OF CONFERENCE

SEC. 503. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small, and family enterprises; to examine the status of minorities and women as small business owners; and to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation.

CONFERENCE PARTICIPANTS

SEC. 504. In order to carry out the purposes specified in section 503, the Conference shall bring together individuals concerned with issues relating to small business: *Provided*, That no small business concern may be denied admission to any state or regional meeting.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 505. (a) All Federal departments, agencies and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) The Administrator of the Small Business Administration is authorized and directed to reimburse participants in the National Conference for all reasonable and necessary costs of the Conference, including costs for travel, meals, accommodations, and support for other activities necessary to carry out their functions concerning the conference.

(c) In carrying out the provisions of this title, the Administrator of the Small Business Administration:

(1) shall provide such financial and other assistance as may be necessary for the organization and conduct of conferences at the regional and State levels as authorized under section 502(b);

(2) shall provide for the preparation of background materials for use by participants in the Conference, as well as by participants in regional and State conferences; and

(3) is authorized to make grants to, and enter into contracts with, public agencies, private organizations and academic institutions to carry out the provisions of this title.

(d)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

REPORTS REQUIRED

SEC. 506. Not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be made available to the public.

FOLLOW-UP ACTIONS

SEC. 507. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the finding and recommendations of the Conference.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 508. (a) There are authorized to be appropriated $5,000,000 for fiscal year 1979 to carry out the provisions of this title. Such sums areas are appropriated to carry out the provisions of this title shall remain available until expended.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this title other than funds appropriated pursuant to this section. Any funds remaining unexpended at the termination of the Conference shall be made available to the Administrator of the Small Business Administration to

carry out the provisions of section 20 of the Small Business Act.

And the Senate agree to the same.

NEAL SMITH,
TOM STEED,
JOHN D. DINGELL,
JOSEPH P. ADDABBO,
FERNAND J. ST GERMAIN,
JOHN B. BRECKINRIDGE,
JOHN J. LAFALCE
(except for sections 118, 121, 401, 402, 404, and 405),
AL BALDUS,
SILVIO O. CONTE,
TIM LEE CARTER,
JOE MCDADE
(except to section 113),
WM. BROOMFIELD,
FRANK THOMPSON, Jr.
(solely for the consideration of sections 117 and 118 of the Senate amendment),
JOHN BUCHANAN
(solely for the consideration of sections 117 and 118 of the Senate amendment),
Managers on the Part of the House.

GAYLORD NELSON,
THOMAS J. MCINTYRE,
SAM NUNN,
WILLIAM D. HATHAWAY,
FLOYD K. HASKELL,
JOHN CULVER,
LOWELL P. WEICKER, Jr.,
DEWEY BARTLETT,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11445) to amend the Small Business Act and the Small Business Investment Act of 1958, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The principal differences among the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) SBA Program levels—Fiscal year 1979

Existing law establishes program levels for fiscal year 1979 as follows:

(In million dollars)

7(a) Business	3,757
Direct and Immediate Participation	457
Guaranteed	3,300
7(h) Handicapped	55
Direct and Immediate Participation	33
Guaranteed	22
7(i) EOL	155
Direct and Immediate Participation	66
Guaranteed	89
Development companies	94
Direct and Immediate Participation	49
Guaranteed	45
Investment company assistance	220
Direct and Immediate Participation	22
Guaranteed	198
7(l) Solar and energy conservation	75
Direct and Immediate Participation	30
Guaranteed	45
Total BLIF	4,356
Direct and Immediate Participation	657
Guaranteed	3,699
Disaster:	
Physical	(1)
Nonphysical	330
Surety bond guarantees (SBA share of program level)	2,200
Pollution control bond guarantees	300

[1] Open-ended.

To carry out fiscal year 1979 program levels, existing law authorizes $1,601.75 million. Of this amount, $52.1 million is to be available to carry out the surety bond guarantees program; $4.4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $188 million for salaries and expenses.

The House bill added $60 million for the small business development center program and left other program levels unchanged.

The Senate bill establishes the following changes in program levels for fiscal year 1979:

7(a) Business	4,050
Direct and Immediate Participation	50
Guaranteed	4,000
7(h) Handicapped	22
Direct and Immediate Participation	16
Guaranteed	6
7(i) EOL	128
Direct and Immediate Participation	64
Guaranteed	64
Development companies	245
Direct and Immediate Participation	45
Guaranteed	200
Investment company assistance	147
Direct and Immediate Participation	22
Guaranteed	125
Total BLIF	4,592
Direct and Immediate Participation	197
Guaranteed	4,395
Disaster:	
Physical	1,000
Nonphysical	100
Surety bond guarantees (SBA share of program level)	3,000
Pollution control bond guarantees	300

To carry out fiscal year 1979 program levels, the Senate bill authorizes $1,735.28 million. Of this amount, $43 million is to be available to carry out the surety bond guarantees program; $4.4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $200 million for salaries and expenses.

The conference substitute leaves unchanged existing law establishing program levels and authorizations except it authorizes $1.635 billion to carry out the program levels (an increase of $28.25 million); sets the authorization for salaries and expenses at $200 million as proposed by the Senate; and increases the program level for Development Company guarantees to $100 million.

The Conferees want to stress that most of these authorizations are for Federal government guarantees of loans, debentures and bonds and for some direct financial assistance to small business concerns. Although the direct financial assistance (primarily loans) results in Federal government spending in the year in which it is made, in the aggregate of over 90% of these loans will be repaid in subsequent years and thus results in income to the Federal government in later years. In addition, SBA programs provide other benefits to the Federal government such as the ability to obtain high quality goods and services at reasonable, competitive prices. Also, SBA loans are often used to create new jobs in the borrower's business and to expand the business. Such uses of loan proceeds, naturally, will result in additional tax revenue being received by the Federal, State and local governments.

The Conferees also note that the authorizations provided include a reserve for payment of losses or claims in future years, not just for payments in the current year. For example, the reserve for regular business guaranteed loans provided herein is 15 percent of the program level. This percentage is the rate used until the Administration submitted its fiscal year 1979 budget, which reflected a 1.5 percent reserve to enable repurchases for losses occurring only in fiscal year 1979. The repurchase reserve calculation amounts to a differenec of some $400 million in authorizations in this bill as compared to the Administration's request.

The Conferees note that there is no difference in the program cost. The conference substitute merely authorizes budget authority for all anticipated repurchases of guaranteed loans made in fiscal year 1979, even if the repurchases do not occur until later years.

(2) AMENDMENTS TO FY 1979 SALARY & EXPENSE AUTHORIZATIONS

Of the total salaries and expenses authorized for fiscal year 1979, existing law earmarks five specific functions with priorities being given within each function:

(1) Procurement assistance, $14.3 million;

(2) Management and technical assistance, $35.2 million;

(3) Research and advocacy, $6.6 million;

(4) Minority small business, $4.4 million; and

(5) Data management, $4.29 million.

The amount which may be transferred from any of the 5 functions is 10 percent of the amount specified; however, none of these functions may be increased by more than 20 percent.

The House bill leaves existing amounts unchanged except that it requires that $1 million of the amount currently authorized by law for research and advocacy be used to develop an indicative data base of small businesses, containing their names and addresses and related information; it also authorizes $150,000 to be used for SBA advisory council meetings in lieu of the $66,000 now authorized for such purpose.

Of the total salaries and expenses for fiscal year 1979, the Senate bill earmarks 8 specific functions with priorities being given within each function:

(1) $17 million shall be available for procurement assistance of which amount—

No less than $962,000 is to be used to employ 35 additional procurement center representatives.

No less than $954,000 is to be used to employ 40 additional procurement generalists.

No less than $220,000 is to be used to employ additional clerical personnel.

No less than $2.5 million is to be used to develop a Procurement Automated Source System (PASS).

(2) $23.385 million shall be available for management assistance of which amount—

No less than $2 million is to be used for SCORE/ACE program.

No less than $2.5 million is to be used for small business institute program.

No less than $14.385 million is to be used to employ existing and new management assistant personnel.

(3) $2.172 million shall be available for technical assistance of which amount—

No less than $192,000 shall be used to employ additional technical assistance personnel.

(4) $8 million shall be available for advocacy and economic research functions of which amount—

No less than $800,000 shall be used to pay for retabulation of existing Federal data for development for a small business economic data base.

No less than $1.2 million shall be used to pay for modification of existing Federal surveys for development of a small business economic data base.

No less than $350,000 shall be used to pay for special Federal surveys.

No less than $500,000 shall be used to pay for other costs for development of a small business economic data base.

$500,000 shall be available for computer hardware for development of a small business economic data base.

No less than $2 million shall be used to pay for development of internal advocacy and research capabilities.

All economic research shall be done under the direction and coordination of the Advocacy and Economic Research and Analysis Division.

(5) $25 million shall be available for section 7(j) management and technical assistance programs for minority enterprise.

(6) $4.5 million shall be available for internal data management of which amount—

No less than $450,000 shall be used to pay for development of an automated internal management data base.

No less than $110,000 shall be used to pay for enhancement of SBA's document tracking system and for installation of terminals in SBA field offices.

(7) $13 million shall be available for disaster loan administration.

(8) $8 million shall be available for matching grants to small business development centers, $5 million shall be available for research grants, and $650,000 shall be available for program administration.

The Senate bill also provides that the amount which may be transferred from any of the 8 functions is 10 percent of the amount specified; however, none of these functions may be increased by more than 20 percent.

Of the total salaries and expenses for fiscal year 1979 the conference substitute allocates $133.673 million for 10 specific functions:

(1) $17,000,000 shall be available for procurement assistance, of which amount no less than $962,000 shall be used to employ thirty-five additional procurement center representatives; no less than $192,000 shall be used to employ seven additional industrial specialists; no less than $954,000 shall be used to employ forty additional procurement generalists; no less than $220,000 shall be used to employ additional clerical personnel; and no less than $2,500,000 shall be used to pay for the development of a Procurement Automated Source System;

(2) $23,385,000 shall be available for management assistance, of which amount no less than $2,000,000 shall be used for direct SCORE/ACE program costs; no less than $2,500,000 shall be used for direct small business institute program costs; and no less than $14,385,000 shall be used to employ existing and additional management assistance personnel;

(3) $2,172,000 shall be available for technical assistance, of which amount no less than $192,000 shall be used to employ additional technical assistance personnel;

(4) $2,300,000 shall be available for the execution of advocacy functions, of which not less than $600,000 shall be used to employ additional advocacy assistance personnel;

(5) $5,000,000 shall be available for economic research, of which amount no lesss than $600,000 shall be used to pay for retabulation of existing data from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; no less than $950,000 shall be used to pay for modification of existing surveys from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; no less than $250,000 shall be used to pay for special surveys to be carried out by the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; and no less than $500,000 shall be used to pay for other costs of developing and maintaining a small business economic data base;

(6) $660,000 shall be available for public communications;

(7) $4,500,000 shall be available for internal Administration data management, of which amount no less than $1,000,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information of small concerns; $450,000 shall be used to pay for development of an automated internal Administration management data base; and no less than $110,000 shall be used to pay for enhancement of the Administration's document tracking systems and for installation of terminals in Administration field offices;

(8) $17,000,000 shall be available for minority small business, including management and technical assistance;

(9) $53,000,000 shall be available for finance and investment functions, of which amount no less than $6,600,000 shall be used to employ additional personnel for such functions; and

(10) $8,000,000 shall be available for grants to small Business Development Centers, and an additional $650,000 shall be available for the administration of the Small Business Development Center program.

The Conference substitute also provides that the amount which may be transferred from any of the 10 functions is 10 percent of the amount specified; however, none of these functions may be increased by more than 20 percent.

The Conferees intend that the $1 million for development of an indicative small business data base as required by paragraph (7) is to enable SBA to compile a list of basic data developed partially by utilizing existing government and private sources; but it probably will require additional independent research and compilation by SBA. Such a data base would include pertinent information on the small business such as its name and address, type of business, number of employees, etc. This information could then be used by SBA to selectively communicate with the small business community as to programs which might help the small business or to advise it of proposed regulations and solicit small business input. The Conferees expect SBA to adhere to the provisions of the Privacy Act of 1974 with respect to the dissemination of this information.

(3) AVAILABILITY OF UNEXPENDED FUNDS

The House bill provides that all appropriations whether specifically or generally authorized shall remain available until expended.

The Senate bill contains an identical provision.

The Conference substitute adopts the Senate provision.

(4) SBA PROGRAM LEVELS—FISCAL YEAR 1980

The House bill establishes program levels for fiscal year 1980 as follows:

(In million dollars)

7(a) Business	4,125
Direct and Immediate Participation	495
Guaranteed	3,630
7(h) Handicapped	33
Direct and Immediate Participation	22
Guaranteed	11
7(i) EOL	166
Direct and Immediate Participation	73
Guaranteed	93
Development companies	96
Direct and Immediate Participation	50
Guaranteed	46
Investment company assistance	163
Direct and Immediate Participation	25
Guaranteed	138
7(d) Small Business Development Centers	65.0
Total BLIF	4,648
Direct and Immediate Participation	730
Guaranteed	3,918
Disaster:	
Physical	(1)
Nonphysical	220
Surety bond guarantees (SBA share of program level)	2,200
Pollution control bond guarantees	100

[1] Open-ended.

To carry out fiscal year 1980 program levels, the House bill authorizes $1,365 million. Of this amount, $31 million is to be available to carry out the surety bond guarantees program; $4.1 million to pay claims on prior guarantees on the defunct lease guarantees program; and $191 million for salaries and expenses.

The Senate bill contains no comparable provisions.

The conference substitute establishes the following program levels for fiscal year 1980:

(In million dollars)

7(a) Business	4,125
Direct and Immediate Participation	495
Guaranteed	3,630
7(h) Handicapped	33
Direct and Immediate Participation	22
Guaranteed	11
7(i) EOL	166
Direct and Immediate Participation	73
Guaranteed	93

Development companies	160
Direct and Immediate Participation	50
Guaranteed	110
Investment company assistance	250
Direct and Immediate Participation	25
Guaranteed	225
7(1) Solar and energy conservation	75
Direct and Immediate Participation	30
Guaranteed	45
Centers	65.0
Total BLIF	4,809
Direct and Immediate Participation	695
Guaranteed	4,114
Disaster:	
Physical	(1)
Nonphysical	220
Surety bond guarantees (SBA share or program level)	2,700
Pollution control bond guarantees	100

[1] Open-ended.

To carry out fiscal year 1980 levels, the conference substitute authorizes $1,616 million. Of this amount $42 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $232 million for salaries and expenses.

The Conferees want to stress that most of these authorizations are for Federal government guarantees of loans, debentures and bonds and for some direct financial assistance to small business concerns. Although the direct financial assistance (primarily loans) results in Federal government spending in the year in which it is made, in the aggregate over 90% of these loans will be repaid in subsequent years and thus results in income to the Federal government in later years. In addition, SBA programs provide other benefits to the Federal government such as the ability to obtain high quality goods and services at reasonable, competitive prices. Also, SBA loans are often used to create new jobs in the borrower's business and to expand the business. Such uses of loan proceeds, naturally, will result in additional tax revenue being received by the Federal, State and local governments.

(5) SALARY AND EXPENSE AUTHORIZATIONS FOR FISCAL YEAR 1980

Of the total salaries and expenses for fiscal year 1980, the House bill earmarks 5 specific functions with priorities being given within each function:

(1) Procurment assistance, $15.5 million;

(2) Management and technical assistance, $38.7 million;

(3) Research and advocacy, $6.93 million;

(4) Minority small business, $4.9 million; and

(5) Data management, $4.5 million.

The amount which may be transferred from any of the 5 functions is 10 percent of the amount specified; however, none of these functions may be increased by more than 20 percent.

The Senate bill contains no comparable provisions.

Of the total salaries and expenses for fiscal year 1980, the conference substitute earmarks 10 specific functions:

(1) $18,800,000 shall be available for procurement assistance;

(2) $27,000,000 shall be available for management assistance, of which amount no less than $2,200,000 shall be used for direct SCORE/ACE program costs; no less than $3,000,000 shall be used for direct small business institute program costs; and no less than $17,000,000 shall be used to employ existing and additional management assistance personnel;

(3) $2,400,000 shall be available for technical assistance;

(4) $2,500,000 shall be available for the execution of advocacy functions;

(5) $5,500,000 shall be available for economic research, of which amount no less than $600,000 shall be used to pay for the retabulation of existing data from the United States Department of Commerce or other Federal department, agency or instrumentality; for developing a small business economic data base; no less than $950,000 shall be used to pay for modification of existing surveys from the United States Department of Commerce or other Federal department, agency or intrumentality, for developing a small business economic data base; no less than $250,000 shall be used to pay for special surveys to be carried out by the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; and no less than $500,000 shall be used to pay for other costs of developing and maintaining a small business economic data base;

(6) $725,000 shall be available for public communications;

(7) $7,400,000 shall be available for internal Administration data management, which shall be used to pay for development of an automated internal Administration management data base, development, and installation of terminals, telecommunications and appropriate central site computer capability, and reprogramming of major portions of the existing data management system, of which amount no less than $1,100,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information;

(8) $17,200,000 shall be available for minority small business, including management and technical assistance;

(9) $58,300,000 shall be available for finance and investment functions; and

(10) $18,000,000 shall be available for grants to Small Business Development Centers, and an additional $650,000 shall be available for the administration of the Small Business Development Center Program.

The conference substitute also permits up to 10 percent of the amounts specified to be transferred from any of the 10 functions; however, none of the functions may be increased by more than 20 percent.

(6) SBA PROGRAM LEVELS—FISCAL YEAR 1981

The House bill establishes program levels for fiscal year 1981 as follows:

(In million dollars)

7(a) Business	4,545
Direct and Immediate Participation	545
Guaranteed	4,000
7(h) Handicapped	37
Direct and Immediate Participation	25
Guaranteed	12
7(i) EOL	184
Direct and Immediate Participation	81
Guaranteed	103
Development companies	106
Direct and Immediate Participation	55
Guaranteed	51
Investment company assistance	180
Direct and Immediate Participation	28
Guaranteed	152
7(d) Small Business Development Centers	70.0
Total BLIF	5,122
Direct and Immediate Participation	804
Guaranteed	4,318
Disaster:	
Physical	(1)
Nonphysical	242
Surety bond guarantees (SBA share of program level)	2,420
Pollution control bond guarantees	110

[1] Open ended.

To carry out fiscal year 1981 program levels, the House bill authorizes $1,533 million. Of this amount $36 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantee program; and $211 million for salaries and expenses.

The Senate bill contains no comparable provisions.

The conference substitute establishes the following program levels for fiscal year 1981:

(In million dollars)

7(a) Business	4,545
Direct and Immediate Participation	545
Guaranteed	4,000
7(h) Handicapped	37
Direct and Immediate Participation	25
Guaranteed	12
7(i) EOL	184
Direct and Immediate Participation	81
Guaranteed	103
Development companies	175
Direct and Immediate Participation	55
Guaranteed	120
Investment company assistance	278
Direct and Immediate Participation	28
Guaranteed	250
7(1) Solar and energy conservation	75
Direct and Immediate Participation	30
Guaranteed	45
Total BLIF	5,294
Direct and Immediate Participation	764
Guaranteed	4,530
Disaster:	
Physical	open-ended
Nonphysical	242
Surety Bond guarantees (SBA share of program level	3,500
Pollution control bond guarantees	110

To carry out fiscal year 1981 program levels, the Conference substitute authorizes $1,607 million. Of this amount $59 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantee program; and $254 million for salaries and expenses.

The Conferees want to stress that most of these authorizations are for Federal government guarantees of loans, debentures and bonds and for some direct financial assistance to small business concerns. Although the direct financial assistance (primarily loans) results in Federal government spending in the year in which it is made, in the aggregate over 90% of these loans will be repaid in subsequent years and thus results in income to the Federal government in later years. In addition, SBA programs provide other bene-

fits to the Federal government such as the ability to obtain high quality goods and services at reasonable, competitive prices. Also, SBA loans are often used to create new jobs in the borrower's business and to expand the business. Such uses of loan proceeds, naturally, will result in additional tax revenue being received by the Federal, State and local governments.

(7) SALARY AND EXPENSE AUTHORIZATIONS FOR FISCAL YEAR 1981

Of the total salaries and expenses for fiscal year 1981, the House bill earmarks 5 specific functions with priorities being given within each function:

(1) procurement assistance, $16.275 million;

(2) management and technical assistance, $40.6 million;

(3) research and advocacy, $7.3 million;

(4) minority small business, $5.15 million; and

(5) data management, $4.75 million.

The amount which may be transferred from any of the five functions is 10 percent of the amount specified; however, none of these functions may be increased by more than 20 percent.

The Senate bill contains no comparable provisions.

Of the total salaries and expenses for fiscal year 1981, the conference substitute earmarks 10 specific functions:

(1) $20,600,000 shall be available for procurement assistance;

(2) $30,500,000 shall be available for management assistance, of which amount no less than $2,400,000 shall be used for direct SCORE/ACE program costs; no less than $3,600,000 shall be used for direct small business institute program costs; and no less than $19,000,000 shall be used to employ existing and additional management assistance personnel;

(3) $2,500,000 shall be available for technical assistance;

(4) $2,800,000 shall be available for the execution of advocacy functions;

(5) $6,100,000 shall be available for economic research, of which amount no less than $600,000 shall be used to pay for retabulation of existing data from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; no less than $950,000 shall be used to pay for modification of existing surveys from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; no less than $250,000 shall be used to pay for special surveys to be carried out by the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; and no less than $500,000 shall be used to pay for other costs of developing and maintaining a small business economic data base;

(6) $800,000 shall be available for public communications;

(7) $8,000,000 shall be available for internal Adminstration data management, which shall be used to pay for development of an automated internal Administration management data base, development and installation of terminals, telecommunications and appropriate central site computer capability, and reprogramming of major portions of the existing data management system, of which amount no less than $1,200,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information;

(8) $17,400,000 shall be available for minority small business, including management and technical assistnace;

(9) $64,300,000 shall be available for finance and investment functions; and

(10) $20,000,000 shall be available for grants to Small Business Development Centers, and an additional $650,000 shall be available for the administration of the Small Business Development Center Program.

The conference substitute also permits up to 10 percent of the amounts specified to the transferred from any of the 10 functions; however, none of the functions may be increased by more than 20 percent.

(8) SBA PROGRAM LEVELS—FISCAL YEAR 1982

The House bill establishes program levels for fiscal year 1982 as follows:

(In million dollars)

7(a) Business	5,000
Direct and Immediate Participation	600
Guaranteed	4,400
7(h) Handicapped	42
Direct and Immediate Participation	28
Guaranteed	14
7(i) EOL	204
Direct and Immediate Participation	90
Guaranteed	114
Development Companies	118
Direct and Immediate Participation	61
Guaranteed	57
Investment company assistance	199
Direct and Immediate Participation	31
Guaranteed	168
7(d) Small Business Development Centers	75.0
Total BLIF	5,638
Direct and Immediate Participation	885
Guaranteed	4,753
Disaster:	
Physical	[1]
Nonphysical	262
Surety bond guarantees (SBA share of program level)	2,667
Pollution control bond guarantees	125

[1] Open ended.

To carry out fiscal year 1982 program levels, the House bill authorizes $1,719 million. Of this amount, $41 million is to be available to carry out the surety bond guarantees program; and $231 million for salaries and antees on the defunct lease guarantee program; and $231 million for salaries and expenses.

The Senate bill contains no comparable provisions.

The conference substitute establishes the following program levels for fiscal year 1982:

[In million dollars]

7(a) Business	5,000
Direct and Immediate Participation	600
Guaranteed	4,400
7(h) Handicapped	42
Direct and Immediate Participation	28
Guaranteed	14
7(i) EOL	204
Direct and Immediate Participation	90
Guaranteed	114
Development companies	191
Direct and Immediate Participation	61
Guaranteed	130
Investment company assistance	306
Direct and Immediate Participation	31
Guaranteed	275
7(l) Solar and energy conservation	75
Direct and Immediate Participation	30
Guaranteed	45
Total BLIF	5,818
Direct and Immediate Participation	840
Guaranteed	4,978
Disaster:	
Physical	[1]
Nonphysical	267
Surety bond guarantees (SBA share of program level)	4,000
Pollution control bond guarantees	125

[1] Open ended.

To carry out fiscal year 1982 program levels, the conference substitute authorizes $1,943 million. Of this amount, $69 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantee program; and $278 million for salaries and expenses.

The Conferees want to stress that most of these authorizations are for Federal government guarantees of loans, debentures and bonds and for some direct financial assistance to small business concerns. Although the direct financial assistance (primarily loans) results in Federal government spending in the year in which it is made, in the aggregate over 90% of these loans will be repaid in subsequent years and thus results in income to the Federal government in later years. In addition, SBA programs provide other benefits to the Federal government such as the ability to obtain high quality goods and services at reasonable, competitive prices. Also, SBA loans are often used to create new jobs in the borrower's business and to expand the business. Such uses of loan proceeds, naturally, will result in additional tax revenue being received by the Federal, State and local governments.

(9) SALARY AND EXPENSE AUTHORIZATIONS FOR FISCAL YEAR 1982

Of the total salaries and expenses for fiscal year 1982, the House bill earmarks five specific functions with priorities being given within each function:

(1) procurement assistance, $17.1 million;

(2) management and technical assistance, $43 million;

(3) research and advocacy, $7.7 million;

(4) minority small business, $5.5 million; and

(5) data management, $5 million.

The amount which may be transferred from any of the five functions is 10 percent of the amount specified; however, none of these functions may be increased by more than 20 percent.

The Senate bill contains no comparable provisions.

Of the total salaries and expenses for fiscal year 1982, the Conference substitute earmarks 10 specific functions:

(1) $22,600,000 shall be available for procurement assistance;

(2) $33,300,000 shall be available for management assistance, of which amount no less than $2,600,000 shall be used for direct SCORE/ACE program costs; no less than $4,200,000 shall be used for direct small business institute program costs; and no less than $21,000,000 shall be used to employ existing and additional management assistance personnel;

(3) $2,800,000 shall be available for technical assistance;

(4) $3,100,000 shall be available for the execution of advocacy functions;

(5) $6,700,000 shall be available for economic research of which amount no less than $600,000 shall be used to pay for retabulation of existing data from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; no less than $950,000 shall be used to pay for modification of existing surveys from the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; no less than $250,000

shall be used to pay for special surveys to be carried out by the United States Department of Commerce or other Federal department, agency or instrumentality, for developing a small business economic data base; and no less than $500,000 shall be used to pay for other costs of developing and maintaining a small business economic data base;

(6) $880,000 shall be available for public communications;

(7) $9,200,000 shall be available for internal Administration data management, which shall be used to pay for development of an automated internal Administration management data base, development, purchase, and installation of terminals, telecommunications and appropriate central site computer capability, and reprogramming of major portions of the existing data management system, of which amount no less than $1,300,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information;

(8) $17,600,000 shall be available for minority small business, including management and technical assistance;

(9) $70,700,000 shall be available for finance and investment functions; and

(10) $22,000,000 shall be available for grants to Small Business Development Centers, and an additional $650,000 shall be available for the administration of the Small Business Development Center Program.

The conference substitute also permits up to 10 percent of the amounts specified to be transferred from any of the 10 functions; however, none of the functions may be increased by more than 20 percent.

(10) DISASTER LOAN INTEREST RATES

The House bill provides that for disasters occurring from October 1, 1978, until October 1, 1982, the interest rate on homeowner natural disaster loans would be 1 percent on the first $10,000 and 3 percent on the next $30,000. The interest rate on all other natural disaster loans is set at 5 percent on the first $250,000. The rate on any natural disaster loans in excess of these special dollar limitations continues at cost-of-money, currently 6⅝ percent.

The Senate bill contains no comparable provision, the effect of which is to make the interest rate on natural disaster loans equal to the cost of money to the Federal Government.

The conference substitute provides that for disasters occurring from October 1, 1978, until October 1, 1982, the interest rate on homeowner natural disaster loans would be 3 percent on the first $55,000. The interest rate on all other natural disaster loans is set at 5 percent on the first $250,000. The rate on any natural disaster loans in excess of these special dollar limitations continues at cost-of-money to the Federal Government, currently 6⅝ percent.

(11) INVESTMENT OF TEMPORARILY IDLE FUNDS IN GUARANTEE PROGRAMS

The House bill repeals section 412 of the Small Business Investment Act of 1958, disallowing the investment of temporarily idle funds in the surety bond guarantees fund in bonds or guarantees; and amends section 405 of the Small Business Investment Act of 1958 to allow temporarily idle funds in the pollution control bond guarantees fund (i.e., a reserve for future losses) to be invested in bonds or guarantees.

The Senate bill contains identical provisions.

The conference substitute adopts the Senate provisions. The conferees note that these are technical changes only.

(12) PRODUCT DISASTER LOANS

The House bill amends SBA's Product Disaster Loan Program by clarifying that small business concerns which suffer substantial economic injury as a result of being unable to process or market a product due to disease or toxicity in the product from natural or other causes, are eligible for loan assistance.

The Senate bill contains an identical provision.

The conference substitute adopts the Senate provision.

(13) LOAN POOLING

Under existing law, investors may purchase the guaranteed portion of SBA guaranteed business loans, an operation known as a secondary market. The advantage of this operation is that banks obtain liquidity, thereby enabling them to provide additional loans to small businesses and other borrowers. One drawback with the current system is that all sales in the secondary market are on a loan-by-loan basis.

The Senate bill authorizes private dealers to pool 7(a) guaranteed regular business loans and State and local development company guaranteed loans; it also authorizes these dealers to issue certificates of beneficial ownership in order to facilitate a secondary market; and it includes certificates of beneficial ownership as one of the instruments that may be funded from the business loan and investment revolving fund in the event of default.

The House bill contains no comparable provision.

The conference substitute authorizes banks and private dealers to form a pool of any type of SBA guaranteed loans and to issue certificates of beneficial ownership in such pools. The certificates will be guaranteed by SBA in advance of their issuance and sale by the private dealer or bank. Also, this is a pilot program and will automatically expire on January 1, 1980, unless extended by the Congress. Finally, SBA is required to report to the Small Business Committees of both the Senate and the House on the implementation of this program by September 30, 1979, so that the committees can evaluate its operation.

The Conferees note that there should be no additional cost to the Federal government for this program. A default on the certificates which would be the subject of a claim against SBA would be in the same dollar amount for which SBA would already be obligated under their guarantee on the loans which comprise the pool.

The conference substitute is intended to govern SBA "pooling" and the secondary market for the guaranteed portions of SBA guaranteed and deferred participation loans. It permits the continuation of direct sales of guaranteed interests in SBA loans from lenders to dealers or investors as those sales have been conducted in the past.

Conferees intend that banks and private dealers in SBA guaranteed portions, rather than SBA acting directly or through a fiscal agent, should be the issuers of certificates of beneficial ownership in SBA guaranteed loan portions. Such certificates may represent fractional, undivided interests in an underlying pool.

The certificates are to be sold freely in the open market rather than to SBA or other Federal agencies. Each bank or dealer should administer its own pools and perform or provide for payments and other administrative functions under competitively determined, individual costs, rather than through arrangements and pricing fixed by SBA.

Certificates of beneficial ownership, as well as the guaranteed loan portions underlying them, are to be guaranteed by SBA in a manner consistent with their backing by the full faith and credit of the United States, thus insuring that certificates would be exempted securities under the Securities Act of 1933 and that the pools would be exempt from registration under the Investment Company Act of 1940. The certificates shall be proportionately prepaid upon prepayments of the underlying loans or upon defaults.

In structuring the means by which banks and private dealers are permitted to provide for timely payment of principal and interest on certificates, it is intended that SBA should have broad authority to develop a workable framework in which this would be accomplished: *Provided*, That sufficient funds which could otherwise be retained by the bank or dealer, or its fiduciary agent, from the cash flow of each respective pool are allocated by the bank or dealer to pay for the interest costs SBA reasonably anticipates would be incurred in connection with timely payment over the life of the pool and that such funds be regularly set aside, in trust, for this purpose. Nothing in the language of this section would prohibit SBA from directly guaranteeing advances for timely payment purposes; the repayment of such funds would have already been previously guaranteed by SBA. *Provided*, That funds to pay the interest costs associated with timely payment are set aside it is not intended that banks and private dealers should be required to assume an additional contingent liability for interest payments that SBA does not reasonably anticipate will be required.

SBA should implement this program as quickly as practicable and should speed the processing of the underlying guarantees. To safeguard the interests of the Federal Government, any bank or dealer issuing certificates should be required, for example, to make arrangements to escrow with a responsible, financially stable, and unaffiliated bank or trust company all original documents representing the underlying guaranteed loan portions and, directly upon receipt, all funds payable in connection with the underlying guaranteed loans portions that are due to be paid to the certificate holders, until the time such funds are actually to be paid.

To safeguard investors and the Federal Government, SBA should institute proper internal controls and affix its seal to certificates guaranteed; no guarantee would be effective until the SBA seal has been affixed by SBA.

SBA shall not descriminate against small banks or dealers desiring to issue certificates merely on the basis of size or financial resources, *Provided*, That SBA determines that appropriate safeguards can be provided for both private investors and the Federal Government.

Authority to guarantee new pools will automatically expire on January 1, 1980, unless extended. However, pools formed prior to that date will remain in full force and effect. Finally, SBA is required to transmit to both the House and Senate Small Business Committees a report regarding the implementation and operation of this program by September 30, 1979.

(14) SALE OF SBA NOTES TO CAPITALIZE DISASTER LOAN FUND

The House bill authorizes the Administrator to issue and sell notes to the Secretary of the Treasury in order to obtain capital for its disaster loan fund in such amounts as are approved in advance in appropriation acts, thereby giving SBA the same authority FmHA now uses to finance its disaster or emergency loan program.

The Senate bill contains no comparable provision.

The House recedes and this provision is not contained in the conference substitute..

(15) LOCAL DEVELOPMENT COMPANY DEBENTURES

Under existing law, SBA is authorized to make loans (either direct or guaranteed) to local development companies for projects to help a small business concern acquire land, construct a new plant, purchase necessary equipment and machinery, or acquire, expand or convert an existing plant. SBA financing, however, is limited to $500 thousand for each such small business to be assisted and the development company must

procure the balance of the necessary assistance from other sources.

The Senate bill provides for the formation of local development companies that have (1) a full-time professional staff, (2) adequate accounting, legal, and business servicing capabilities, and (3) an active board of directors, which meets on a regular basis and is actively involved in loan decisions and loan servicing. In addition to SBA's authority to make loans of up to $500,000 to the local development company for each small business being assisted by the company, SBA would be authorized to purchase, or guarantee, debentures issued by local development companies with the above three capabilities.

The House bill contains no comparable provision.

The conference substitute basically adopts the Senate provision in a re-written form, but clearly provides that the new assistance is limited to SBA guarantees of debentures issued by an eligible development company (either state or local). Furthermore, the amount of the debentures to be guaranteed may not exceed one-half of the project cost. The remaining one-half of the project cost would be required to be supplied from other sources.

(16) PROCUREMENT ASSISTANCE FOR ORGANIZATIONS OF HANDICAPPED

Prior to the enactment of Public Law 95–89 (August 4, 1977) organizations of handicapped individuals were not authorized to participate in small business set-aside contracts because such organizations were not operated "for profit". That public law, however, makes organizations which are eligible for loans under Sec. 7(h) of the Small Business Act (handicapped assistance loans) also eligible to participate in small business set-aside contracts in an aggregate amount not to exceed $100 million in fiscal year 1978. That law also requires SBA to submit to Congress by March 1, 1979, a report on the impact of contracts awarded to such organizations during fiscal year 1978.

The Senate bill amends Public Law 95–89 by striking the September 30, 1978 termination date for non-profit organizations of handicapped to participate in small business procurement set-aside programs, and eliminates both the dollar limitation and the required report.

The House bill contains no comparable provision.

The conference substitute extends the authority of non-profit organizations of handicapped individuals to participate in small business procurement set-asides, but restricts the participation to fiscal years 1979 and 1980 and limits it to not more than $100 million per year. In addition, it requires the SBA to monitor and evaluate the program; directs the Administrator to require every Federal agency and department having procurement authority to take such actions as the Administrator deems appropriate if the Administrator and the Executive Director of the Committee for the purchase from the Blind and Severely Handicapped find that the participation of such organizations of handicapped individuals has or may cause severe economic injury to for-profit small businesses; and delays until not later than January 1, 1980, the requirement that SBA prepare and transmit to the Small Business Committees of both the Senate and the House a report on the impact on for-profit small businesses of contracts awarded to such organizations of handicapped.

(17) PAYMENT OF DISASTER LOAN INTEREST DIFFERENTIAL BY SBA TO TREASURY

The House bill removes the requirement that SBA pay interest on the outstanding cash disbursements from the disaster loan fund.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provision.

(18) ECONOMIC INJURY DISASTER LOANS

The House bill amends section 7(b)(8) of the Small Business Act to clarify the intent that energy shortage loans be made available to those small businesses injured by any type of an energy shortage, regardless of the cause of the shortage.

The Senate bill contains no comparable provision.

The conference substitute basically adopts the House provision, but expressly declares ineligible those small concerns which suffer an energy shortage due to strikes, embargoes or boycotts directly against them.

(19) SBA DATA SENT DIRECT TO CONGRESS

The House bill requires SBA to transmit directly to both Small Business Committees any budget information, testimony or comments, at the same time that they are sent to OMB.

The Senate bill contains no comparable provision.

The House recedes and the conference substitute does not contain this provision.

(20) SMALL BUSINESS EXEMPTION FROM OSHA

The Senate bill amends the Occupational Safety and Health Act's definition of "employer" by exempting from OSHA regulations those small businesses with 10 or fewer employees, provided that the two digit Standard Industrial Classification code industry group to which the firm belongs has an injury/illness record of seven percent or below per one hundred full time employees.

It also requires the Secretary to compile and analyze safety and health statistics which, when published in the FEDERAL REGISTER, will serve as the basis for determining whether a firm is in an industry with an injury/illness rate in the category which is exempt from OSHA regulations, and gives the Secretary of Labor until December 31 of each year to publish the necessary statistical information for the implementation of the exemption. The pertinent statistics are to be derived from the year immediately preceding, and they are to remain in effect for the calendar year following publication.

Failure by the Secretary to publish such information would cause the exemption to be available to all businesses with 10 or fewer employees, regardless of the injury/illness rate for that industry until such time as the Secretary does publish.

The House bill contains no comparable provision.

The conference substitute provides that:

(1) no civil penalty shall be proposed or assessed for any first-instance safety or health violation if the employer cited for such violation has 10 or fewer employees and if the inspection which lead to the citation of such first-instance violation resulted in the citation of such employer for less than 10 violations of an other than serious nature;

(2) no employer who has 10 or fewer employees shall be required to maintain the log of occupational injuries and illnesses, supplementary records, nor annual summary required by Part 1904 of Title 29 of the Code of Federal Regulations, except when the employer has been notified in writing that he has been selected to participate in a statistical survey of occupational injuries and illnesses, and shall be required to maintain the log of occupational injuries and illnesses; and

(3) the Secretary of Labor is directed to conduct a study of the collection and analysis of statistics dealing with work related injuries and illnesses, and to, no later than twelve months after the effective date of this subsection, submit his study to the President of the Senate and the Speaker of the House of Representatives. Such study shall include the Secretary's evaluation of the effectiveness and accuracy of such procedures in determining the rate of incidence of work related injuries and illnesses, especially with regard to employers of ten or fewer individuals.

(21) SMALL BUSINESS DEVELOPMENT CENTERS

Both the House and the Senate bill provide for the statutory establishment of Small Business Development Centers which would provide management, technical and technological assistance to small businesses.

(a) *Statutory Amendments*

The House bill amends the Small Business Act to establish the program as a new subsection 7(d).

The Senate bill authorizes the program as a separate Act, to be cited as the "Small Business Development Center Act of 1978".

The conference substitute authorizes the program as a new section 21 of the Small Business Act.

(b) *Findings and Purpose*

The Senate bill contains an express finding by Congress that small businesses do not have access to advice, information and services as do larger corporations, or as do farmers because of assistance provided by the Department of Agriculture Extension Service. The Senate bill states that the purpose of the Act is to expand the small business sector, stimulate economic diversity and foster competition by establishing a Small Business Development Center Program to aid in the growth and development of new and existing small businesses.

The House bill contains no comparable provision.

The Senate recedes and the conference substitute does not include these findings and purposes.

(c) *Definitions*

The Senate bill defines terms used in the bill.

The House bill contains no comparable provision.

The Senate recedes and the conference substitute does not include this provision. The Conferees note that by establishing the program as an amendment to the Small Business Act, most definitions are already contained in the Small Business Act.

(d) *Grants to Small Business Development Centers*

The House bill authorizes SBA to make matching grants for a Small Business Development Center programs. These funds may be provided to any qualifying State government or agency thereof, any regional entity, and State-chartered development credit or finance corporation, any land grant college or university, any college or school of business, engineering, commerce, or agriculture, or to any corporation formed by two or more of the above to provide management, technical and technological assistance to small business.

Grant applicants would be required to obtain matching funds on a 50–50 basis from non-Federal sources and would be entitled to a maximum grant based on the percent of the population to be served as compared to the total population of the United States.

The matching funds from non-Federal sources could not include any fees from small business, but they could include indirect costs or waived overhead for up to one-half of the contribution and the balance would have to be in cash.

There is no separate provision for assistance to regional centers.

The Senate bill authorizes SBA to make grants to a State to defray 75 percent of the cost of developing and operating a Small Business Development Center program which provides smaller concerns with a broad range of advice, information and assistance as described in the bill. These centers are to be developed by public or private nonprofit

institutions of higher education located within the State.

SBA also is authorized to fund 100 percent of the cost of developing and operating regional Small Business Development Centers.

The conference substitute basically adopts the House provision and specifically enumerates community or junior colleges as qualified participants.

The conference substitute provides for a pilot program for four fiscal years.

(e) *State plans*

The Senate bill provides that in order to participate in the Small Business Development Center program, a State must submit to SBA for approval a plan naming the participating universities and the budget for each, the region to be served, the services to be rendered, how such services will be delivered by each participating university, and any other assurances that SBA may, in its discretion, require.

SBA must approve the participation of each university included in a State plan for a Small Business Development Center.

The House bill contains no comparable provision.

The conference substitute basically adopts the Senate provision.

(f) *Duties and responsibilities of State centers*

The Senate bill provides that centers must assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other matters needed by small business for growth and expansion, innovation, increased productivity and management improvement and for decreasing industry concentration.

A State center must make its services available as close as possible to small businesses by providing extension services and utilizing satellite locations and State and Federal small business related programs whenever possible.

A full-time staff, including a State director, business analyst, technology transfer agents, information specialists, and part-time professional people must be provided by a State center. The center also shall have access to laboratory and adaptive engineering facilities.

Services of a State center shall include: one-on-one counseling; assisting in technology transfer; maintaining information pertaining to Federal, State and local regulations and providing technology development to assist small concerns with regulatory compliance; conducting and coordinating research into technical and general small business problems; providing a library containing current information and data needed by local small businesses; maintaining a working relationship with private consultants, the financial and investment communities, and small business groups; and conducting surveys for local small business groups to develop information pertaining to the local economy and the status of small business in that locality.

A State center shall continue to modify and upgrade its services in order to be responsive to the changing needs of the small business community.

The Senate bill also requires SBA to establish regional centers to provide support for State centers when SBA determines that there is a need for developing information and assistance regarding problems that are capital intensive. Such centers shall have their own staff and charter and render assistance to all State centers.

Laboratories operated and funded by the Federal Government shall provide services and make their facilities available to centers on a reimbursable cost basis.

National Science Foundation funded innovation centers are authorized and directed to cooperate with Small Business Development Centers in their activities. The National Science Foundation shall submit an annual report to Congress concerning the performance of these innovation centers, with recommendations for their expansion and improvement.

The House bill contains no comparable provision.

The Conference substitute basically adopts the Senate provision except that there is no requirement that SBA establish regional centers.

(g) *Program management*

The Senate bill establishes within SBA a Small Business Management and Technical Assistance Division to be headed by an Associate Administrator for Management and Technical Assistance who shall serve at the same level as all other SBA Associate Administrators.

A Deputy Associate Administrator whose sole responsibility shall be to administer the Small Business Development Center Program is to be appointed. That person shall be responsible for setting the program budget, reviewing the State center budgets, selecting States to participate in the center program, establishing program policies, maintaining a clearinghouse to disseminate information generated by the program, and conducting audits of grant recipients.

The Deputy Associate Administrator for Management and Technical Assistance shall be advised with regard to policies and management of the program by a 17-member Small Business Development Center Advisory Board, 12 of whom will be appointed by the President to serve 3 year staggered terms. Five Federal Government officials also shall serve on the board. A majority of the private sector board members shall come from the small business community.

The Board shall meet quarterly and at the call of the elected Chairman. Private sector members shall be compensated for their per diem services and reimbursed for their expenses.

The Senate bill also requires establishment of State and regional center advisory boards consisting of academic, small business, and government representatives. Small businesses would constitute a majority on both boards. Governors would appoint State center board members and the SBA Administrator would appoint regional center board members.

The House bill contains no comparable provisions.

The conference substitute basically adopts the Senate provision except: (1) the National Advisory Board would consist of 9 members, 3 of whom would be representatives of universities and 6 of whom would be representatives of the small business community, and (2) there is no provision for the establishment of State or regional advisory boards. The conference substitute does not contain specific provision for regional centers.

(h) *Research Grants*

The House bill generally authorizes the program to include funds for research and studies.

The Senate bill authorizes SBA to provide up to $5 million each year in grants to universities, public and private organizations, and business concerns to undertake research to identify and solve managerial, economic, financial, operational, technological, and other problems affecting small business. With the advice of the National Small Business Development Center Advisory Board, the Deputy Associate Administrator for Management and Technical Assistance shall develop criteria for awarding such grants.

The conference substitute basically adopts the House provision which includes research as one of the eligible uses of the matching grants.

(i) Program Evaluation and Coordination with other Programs

The Senate bill authorizes either SBA or a firm retained by SBA to evaluate the Small Business Development Center program to measure quantitatively and qualitatively the impact on small businesses and the socio-economic base of the regions served. The evaluation also shall report to what extent multidisciplinary resources were utilized by the center program. Centers and recipient of research grants shall furnish SBA with whatever information is necessary in order to undertake the required evaluations.

A complete evaluation is to be submitted to the Senate and House Small Business Committees no later than the third year after enactment and every year thereafter if the program continues to be authorized after proper evaluation of the pilot program.

The Senate bill also provides for a further independent evaluation by the Comptroller General of the United States. The Comptroller General is authorized to require any center to provide information. A report on such evaluation shall be transmitted to the Congress no later than the second year after the date of enactment.

The Senate bill also provides that the Small Business Development Center program is not intended to duplicate or limit any programs or project administered by the Department of Commerce. To avoid conflict SBA is directed to work in close cooperation with the Secretary of Commerce.

The House bill contains no comparable provisions.

The Conference substitute retains only the provision requiring the evaluation of the program either by SBA or a firm retained by SBA. The conferees note that it is the intent of the Chairmen of both the House and Senate Small Business Committees to ask for a GAO evaluation of the program after it has been in place for a reasonable amount of time.

(j) *Authorization for program*

The House bill basically establishes the Small Business Development Center concept as a national program with an authorization of $60 million per year for fiscal year 1979 and each of the succeeding 3 fiscal years, with a $5 million increase per year to cover inflation.

The Senate bill basically establishes the Small Business Development Center concept as a pilot program in fiscal year 1979 only, which would be funded with $8 million in grants to the centers and an additional $650,000 program administration, with both of these amounts being taken from SBA's authorization for salaries and expenses.

The Conference substitute establishes the Small Business Development Center concept as a pilot program to be conducted during fiscal years 1979 through 1982. It authorizes grants of $8 million, $18 million, $20 million and $22 million to the centers in each of those fiscal years, respectively, and in addition authorizes $650,000 per year for administration of the program.

(22) SBA ORGANIZATION

Under existing law, the Administrator of SBA and the Chief Counsel for Advocacy are Presidential appointments, subject to Senate confirmation. SBA is also authorized a Deputy Administrator and four Associate Administrators.

The Senate bill (1) requires Presidential appointment and Senate confirmation of SBA's Deputy Administrator and all Associate Administrators; (2) authorizes two new Associate Administrators; (3) specifies the titles and duties of five of the six Associate Administrators; and (4) changes the title of "Chief Counsel for Advocacy" to "Chief Counsel for Advocacy and Economic Research and Analysis".

The House bill contains no comparable provision.

The Conference substitute authorizes the Administrator to appoint six Associate Administrators as follows:

(1) an Associate Administartor for Finance who shall be responsible to the Administrator solely for the development, execution, and administration of all loan programs except disaster loans;

(2) an Associate Administrator for Procurement Assistance who shall be responsible to the Administrator solely for the development, execution, and administration of the procurement assistance programs and activities;

(3) an Associate Administrator for Minority Small Business who shall be responsible to the Administrator solely for the formulation of policy and conduct of programs which provide assistance to minority small business concerns;

(4) an Associate Administrator for Investment who shall be responsible to the Administrator solely for the development, execution, and administration of the small business investment company program;

(5) an Associate Administrator for Management and Technical Assistance who shall be responsible to the Administrator solely for the development, execution and administration of management assistance, export development and technical assistance programs; and

(6) an Associate Administrator for Disaster Loan Administration who shall be responsible to the Administrator solely for the development, execution, and administration of all physical and non-physical (economic injury) loan programs.

(23) ADVOCACY AND ECONOMIC RESEARCH

The House bill incorporates Title II of Public Law 94–305 in the Small Business Act as a new Section 22. Technical amendments are made in Sections 204 and 205 of that public law. In addition, Section 206 is amended by deleting the requirement that the Chief Counsel submit a preliminary and annual report concerning the findings and recommendations of the Advocate's Study mandated in Section 202 of such public law. The Chief Counsel still would be authorized to make periodic reports as deemed appropriate and such reports would not be subject to clearance by the Office of Management and Budget.

The Senate bill amends the Small Business Act by incorporating virtually all of Public Law 94–305 into the Small Business Act, but establishes within SBA a division known as the "Advocacy and Economic Research and Analysis Division," headed by the Chief Counsel.

The Senate bill also requires that the Chief Counsel establish a data base of economic information pertaining to small business, and regularly publish indexes of this data.

The Senate bill also enumerates 16 areas of responsibility for the Chief Counsel, 13 of which are similar to Public Law 94–305. One of the dissimilar defined duties is that the Chief Counsel establish and maintain an economic data base: the second is the authorization for the Chief Counsel to represent the interests of small business in Federal rule-making procedures; and the final variance is that the Chief Counsel has sole responsibility for all economic research and analysis performed by SBA.

In addition, the Senate bill directs Federal agencies and departments to assist the Chief Counsel in obtaining information and reports deemed necessary to carry out his duties; and the Chief Counsel is directed to issue an annual report containing findings and recommendations with respect to his statutory duties, the report to be issued without prior OMB clearance.

Finally, the Senate bill retains the Chief Counsel's existing authority to consult and hold hearings, but deletes existing authority to employ personnel outside the Civil Service System, procure temporary employees or utilize the National Advisory Council.

The Conference substitute basically adopts the House provision. The Chief Counsel for Advocacy would continue to have five basic, statutory duties:

(1) serving as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

(2) counselling small businesses on how to resolve questions and problems concerning the relationship of small business to the Federal Government;

(3) developing proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies;

(4) representing the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business; and

(5) enlisting the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.

In carrying out the statutory duties, the conference substitute authorizes the Chief Counsel, after consultation with and subject to the approval of the Administrator, to:

(1) employ and fix the compensation of not more than ten additional staff personnel at any one time, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to Chapter 51, and subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the highest rate for a GS–17;

(2) consult with experts and authorities in the fields of small business investment, venture capital, investment and commercial banking and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest;

(3) utilize the services of the National Advisory Council established pursuant to the provisions of section 8(b)(13) of the Small Business Act and in accordance with the provisions of such Act to appoint such other advisory boards or committees as are reasonably appropriate and necessary to carry out the provisions of this section; and

(4) hold hearings and sit and act at such times and places as he may deem advisable.

In addition, the Conference substitute would require the Chief Counsel to transmit annually to the Congress and to the President a comprehensive report containing findings and specific recommendations.

By incorporating into the Small Business Act parts of Public Law 94–305 that pertain to advocacy, the Conferees wish to underscore the importance of the post of Chief Counsel for Advocacy for the benefit of the Small Business Administration, the Executive Office of the President (particularly the Office of Management and Budget, the Office of Federal Procurement Policy, and the Office of Science and Technology), the Cabinet Departments and the independent regulatory agencies. The Conferees expect from all of them their fullest cooperation with the Chief Counsel in bringing about visible, substantive changes in Federal policy toward small business. The Conferees further expect the fullest, frankest reporting by the Chief Counsel for Advocacy about the degree of cooperation received.

With regard to SBA, the Conferees are encouraged by Administrator Weaver's repeated expressions of support for expanded duties for the Chief Counsel for Advocacy. The Administrator is urged to use his best efforts to eliminate within the agency any remaining bureaucratic resistance or lack of cooperation to accomplish the statutory advocacy mission. Additionally, it is expected that the Administrator will be diligent in preventing any duplication or dispersion of responsibility of the Chief Counsel for Advocacy within SBA.

In carrying out the statutory duties and Chief Counsel for Advocacy to address the following subject areas:

(1) study the ability of financial markets and institutions to meet the debt and equity capital needs of small businesses;

(2) examine the role of small business in the American economy and the contribution which small businesses can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(3) recommend specific measures for creating an environment in which all small businesses will have the opportunity to compete effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures;

(4) develop proposals for changes in the policies and activities of any department, agency, and instrumentality of the Federal government which will better fulfill the purposes of this Act and communicate such proposals on a timely basis to the appropriate departments, agencies, and instrumentalities of the Federal government, the Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives;

(5) measure the direct costs and impact of Federal regulations and policies on small businesses, and make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulations on small businesses and communicate such proposals on a timely basis to the Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives;

(6) analyze proposed and pending legislation as to its impact on small businesses and propose additions, corrections, or deletions to such legislation, if needed, to minimize any potential harmful impact on small business; such impact studies and proposals shall be transmitted on a timely basis to the President, and the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives;

(7) develop and maintain a set of rational, objective criteria to be used to define small businesses for use by the Administration and each department, agency and instrumentality of the Federal government;

(8) evaluate the efforts of departments, agencies and instrumentalities of the Federal government, and businesses and industry to assist minority businesses;

(9) make such other recommendations as may be appropriate to assist the development and strengthening of minority and other small businesses;

(10) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department, agency, and instrumentality of the Federal government which affect small businesses;

(11) counsel small businesses on how to resolve questions and problems concerning the relationship of small businesses to the Federal government;

(12) represent the views and interests of small businesses before other departments, agencies, and instrumentalities of the Federal government, whose policies and activities may impact on small businesses;

(13) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal government which are of benefit to small businesses and information on how small businesses can participate in or make use of such programs and services; and

(14) provide on behalf of small businesses, in those cases deemed appropriate, written or oral testimony, statistical data, studies or other information in any Federal agency or department rule-making or adjudication conducted pursuant to the provisions of sections 553, 556, or 557 of title 5, United States Code, which may have a substantial effect on a significant number of small businesses.

Finally, the Conference substitute assigns to the SBA Administrator the responsibility for establishing and maintaining an economic data base on small business and for annually publishing a report giving a comparative analysis and interpretation of the historic trends of the small business sector as reflected by such data. The required report would include, but need not be limited to data on:

(a) employment, layoffs, and new hires;

(b) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

(c) number of business formations and failures;

(d) sales and new orders;

(e) back orders;

(f) investment in plant and equipment;

(g) changes in inventory and rate of inventory turnover;

(h) sources and amounts of capital investment, including debt, equity, and internally generated funds;

(i) debt to equity ratios;

(j) exports;

(k) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm;

(l) concentration ratios; and

(m) comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired.

(24) DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

The Senate bill states that the Federal Government has an obligation to address the needs of small business on a continuing basis. The Federal Government is directed to use all practical means to implement and coordinate all Federal policies, programs and goals to protect the economic interests of small business. An aim of this policy is to reduce the concentration of economic resources and to provide an opportunity for entrepreneurship and inventiveness.

There also is declared a policy establishing a national goal to preserve a competitive free enterprise system with private sector incentives that will help provide adequate, reasonably priced capital for small enterprises.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, and establishes the policy as part of the "Small Business Economic Policy Act of 1978".

(25) PRESIDENT'S REPORT ON SMALL BUSINESS AND COMPETITION

The Senate bill requires that each January the President submit a "Report on Small Business and Competition", focusing on the economic issues that affect the strength of the small business sector, the efficiency of the Nation's markets, and the state of competition in the economy. This report would examine the current role of small business in the economy; present a current and historical perspective of the economic variables influencing small business; identify economic trends affecting small business and the state of competition; examines the effects of, and problems caused by, policies, programs and activities of the Federal Government on small business and competition and recommend legislative and administrative solutions to such problems; and recommend a program for carrying out small business economic policy.

The House bill contains no comparable provision.

The Conference substitutes basically adopts the Senate provision. It also provides that the report shall examine the role of small business in the economy on an industry-by-industry basis. The Conferees recognize the value of this information. If data on a particular industry is not available, every effort should be made to collect it. Also, the report is expanded to include information, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 and all subcontracts exceeding the same amount which are awarded to small, minority-owned and female-owned businesses.

The Conference substitute incorporates the report requirement in the "Small Business Economic Policy Act of 1978".

(26) SPECIAL ASSISTANT TO THE PRESIDENT FOR SMALL BUSINESS

The Senate bill authorizes the President to designate a Special Assistant to the President for Small Business within the White House Office of the President.

This person is to assist the President in preparing the annual report required in another provision of the Senate bill; gather, analyze, and interpret information concerning the position of small business in the economy; appraise Federal programs as they affect small business; study the availability of various resources to small business; develop and recommend to the President national economic policies that promote small business, and make such studies as the President or Congress may request.

The House bill contains no comparable provision.

The Senate recedes and the Conference substitute does not include this provision. The Conferees recognize that the President has inherent authority to designate such a special assistant.

(27) SMALL BUSINESS POLICY COORDINATING BOARD

The Senate bill establishes a Small Business Policy Coordinating Board, consisting of the SBA Administrator, the SBA Chief Counsel for Advocacy and Economic Research and Analysis, the President's Special Assistant for Small Business, the Secretaries of Treasury, Commerce, Labor, and Agriculture, the Chairman of the Board of Governors of the Federal Reserve Board, the Chairmen of the Securities and Exchange Commission and the Federal Trade Commission, the Assistant Attorney General for Antitrust, and the Chairman of the Council of Economic Advisers.

The Senate bill also provides that the Board shall be chaired by the SBA Administrator; that the Board shall assist and advise the President's Special Assistant for Small Business, and serve to coordinate and improve the effectiveness of all Federal Governmental activities impacting on small business; that it shall function to facilitate the making available of data and information requested by the Administrator and the Special Assistant from the departments, agencies and instrumentalities of the Federal government, and make such recommendations as needed for improved relations between the Federal government and the private sector.

The House bill contains no comparable provision.

The Conference substitute does not contain this provision.

(28) EXECUTIVE LEVELS FOR SBA OFFICIALS

Under existing law the SBA Administrator serves at Executive Level III; the Deputy Administrator serves at Executive Level IV; the Chief Counsel for Advocacy is not given statutorily either a grade level or an Executive Level; and four Associate Administrators serve at Executive Level V.

The Senate bill increases the SBA Administrator to Executive Level II; increases the Deputy Administrator to Executive Level III; establishes the Chief Counsel for Advocacy at Executive Level IV; and establishes the two new Associate Administrators at Executive Level V.

The House bill contains no comparable provisions.

The Conference substitute establishes the Chief Counsel for Advocacy at Executive Level IV and establishes the two new Associate Administrators at Executive Level V. It makes no change in the Executive Level of the Administrator or Deputy Administrator.

(29) STUDY OF SMALL BUSINESS CREDIT NEEDS

The Senate bill directs the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, in consultation with the SBA Administrator and the Bureau of the Census, to study the credit needs of small business to determine the extent to which commercial banks are meeting these needs. The results of these studies are to be reported to Congress no later than July 1, 1979, and shall include views as to the feasibility of surveying the number and dollar amount of loans made to small businesses by commercial banking institutions.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision as part of the "Small Business Economic Policy Act of 1978", except delays the reporting date to October 1, 1979. The Conferees stress that in order to perform the study, Federal agencies are not to solicit any additional information from small business concerns, but are only to conduct a random sample of banking institutions to obtain the requisite information.

(30) VENTURE CAPITAL SMALL BUSINESS INVESTMENT COMPANIES

Under existing law, SBA licenses Small Business Investment Companies (SBICs) which provide equity capital to small business concerns. SBA provides SBICs with matching capital funds through the guarantee of debentures issued by the SBIC on the basis of a maximum of $3 in guarantees (or $4 in certain cases) for each dollar of private capital in the SBIC, up to a maximum of $35 million per SBIC.

The Senate bill authorizes the licensing of a new category of SBICs which would provide venture capital to small business concerns. These newly licensed SBICs (for reference designated as Venture Capital Investment Companies or VCICs) must have at least $500,000 in private capital and surplus at the time of licensing. The Senate bill authorizes SBA to guarantee debentures of VCICs up to 400 percent of their capital and surplus, but not to exceed $35 million. The VCIC debentures would be issued for terms up to 15 years and bear interest at three percent per annum. SBA would be authorized to pay to the holders of such debentures the difference between three percent and the cost of money to the Federal government. The VCIC would be limited to nine percent fixed return on its investments, and would be required to pay to

SBA 10 percent of any capital gain realized on portfolio securities. Where the VCIC exchanges a portfolio security for another security at a gain, SBA would be entitled to receive 10 percent of any dividends or interest received by the VCIC and attributable to the gain.

Also, the Senate bill permits SBICs to contribute portfolio securities to the capital of a VCIC, but not more than one-half of the VCIC's capital could consist of such securities. These securities would be valued at one-half of their value on the books of the transferor SBIC for purposes of capitalizing the VCIC. Where transferred securities later prove to be worth less than the original valuation, the transferor company could be required to make an additional payment to the VCIC.

The House bill contains no comparable provision.

The Conference substitute authorizes the licensing of a new category of SBICs which would provide venture-type investments in small business concerns. These newly licensed SBICs (for reference designated as Venture Capital Investment Companies or VCICs) must have at least $1,000,000 in combined private capital and surplus at the time of licensing. The Conference substitute authorizes SBA to guarantee or purchase debentures of VCICs up to 300 percent of their capital and surplus, but not to exceed $35 million, except that if the VCIC has one or more SBICs as a parent, the licensee and its parent company(s) combined could not receive more than $55 million. The VCIC debentures would be issued for terms up to 10 years and bear interest at four percent per annum. SBA would be authorized to pay to the holders of such debentures the difference between four percent and the cost of money to the Federal government. The VCIC would be limited to a nine percent fixed return on its investments, and would be required to pay to SBA 15 percent of any capital gain realized on portfolio securities. If the VCIC exchanges a portfolio security for another security at a gain, SBA would be entitled to receive 15 percent of any dividends or interest received by the VCIC which are attributable to these securities.

Also, the Conference substitute permits SBICs to contribute marketable portfolio securities to the capital of a VCIC, but not more than one-third of the VCIC's private capital could consist of such securities. These securities would be valued at one-half of their value for purposes of capitalizing the VCIC. If transferred securities later prove to be worth less than the original valuation or if they are not sold within 10 years of transfer, the transferor company could be required to make an additional payment to the VCIC.

Finally, if the VCIC does not use all of the proceeds of the Federally purchased or guaranteed debentures to make venture-type investments in small concerns, it would be required to reimburse SBA for the interest subsidy received on such unused proceeds.

(31) SBA GUARANTEES ON CERTAIN FINANCINGS FROM SBIC'S

The Senate bill authorizes SBA to guarantee both Small Business Investment Company (SBIC) and Venture Capital Investment Comapny (VCIC) loans and investments up to 50 percent of each such financing, but not to exceed 200 percent of each company's private capital; i.e., the aggregated amount of the 50 percent guarantees cannot exceed a licensee's private capital. The guarantee would apply only to financing "start-up small business concerns," which are (1) companies not more than two years old and (2) companies not more than five years old which (A) have never earned a profit or (B) had average revenues not over $250,000 per year in each of its last two years, and are engaged in an area of "national need," as defined by SBA regulations. Guarantees would require prior SBA approval and would be subject to a two percent guaranty fee.

The House bill contains no comparable provision.

The Senate recedes and the Conference substitute does not include this provision.

(32) SBIC IDLE FUNDS

Under existing law, Small Business Investment Companies (SBICs) may invest their temporary idle funds without dollar limitation in savings accounts or short term certificates of deposit in institutions insured by Federal Deposit Insurance Corporation. They also may invest such funds in institutions insured by the Federal Savings and Loan Insurance Corporation but may do so only up to the amount of the insurance.

The Senate bill permits SBICs to place idle funds in institutions whose deposits are insured by the Federal Savings and Loan Insurance Corporation without limiting the amount of the investment.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(33) SBIC AFFILIATES

The Senate bill permits affiliates of Small Business Investment Companies (SBICs), including small business lending companies, to participate in joint financings of small business concerns.

The House bill contains no comparable provision.

The Senate recedes and the Conference substitute does not include this provision.

(34) BANK INVESTMENTS IN SBIC'S

The Senate bill increases the allowable investment of banks in small business investment companies (SBICs) from five percent of a bank's capital and surplus to 10 percent.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(35) OTHER ALLOWABLE INVESTMENTS IN SBICS

The Senate bill authorizes an investor or any group or class of investors to own any amount of stock in any number of SBICs provided that the total amount of debentures of such companies purchased or guaranteed by SBA and attributable to each investor does not exceed $35 million.

The House bill contains no comparable provision.

The Senate recedes and the Conference substitute does not include this provision.

However, the Conferees expect that SBA will revise its regulations to permit a 10 percent or more shareholder to become a 10 percent or more shareholder in additional licensees provided that in the aggregate the total equity interests attributed to the shareholder cannot be leveraged in excess of the statutory dollar and leverage ceilings.

(36) WHITE HOUSE CONFERENCE ON SMALL BUSINESS

(a) Citation of Act

The Senate bill provides that this title may be cited as the White House Conference on Small Business Act.

The House bill contains no comparable provision.

The Conference Substitute adopts the Senate provision.

(b) Authorization of conference

The House bill authorizes the President to convene a White House Conference on Small Business prior to December 31, 1980, to examine the problems and develop recommendations.

The Senate bill also contains an authorization for the Conference but requires it to be held prior to January 31, 1980. It also specifically authorizes regional and state conferences prior to the Washington Conference.

The Conference substitute authorizes the Conference and requires that it be held no later than June 30, 1980. It also specifically authorize regional and state conferences prior thereto.

(c) Purposes of the conference

The House bill provides that the purpose of the Conference shall be no increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small and family enterprises; to examine the status of minorities and women as small business owners; and to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation.

The Senate bill outlines the purposes of the Conference, emphasizing the wishes of the President to identify the range of small business problems and develop an agenda for addressing them. These purposes include identification of the opportunities for advancing national economic and social goals which might be accomplished by the solution of small business problems and encouragement of new, small, family, growth, and independent enterprise.

The Senate bill also calls for the development of specific and comprehensive programs by the executive and legislative branches at all levels of government—Federal, State, and local. Additionally, it contemplates that suggestions also might be appropriately addressed to institutions and organizations in the private sector.

The Conference substitute adopts the House provisions.

(d) Conference participants

The Senate bill outlines the major groups from the private and public sectors that will participate in the Conference.

The House bill contains no comparable provision.

The Conference substitute provides that in order to carry out the purposes specified, the Conference shall bring together individuals concerned with issues relating to small business and expressly provides that no small business concern may be denied admission to any state or regional meeting.

(e) Conference planning and administration

The House bill provides that the Conference shall be planned and conducted under the direction of a Presidentially appointed National Conference Planning Council on Small Business; and requires each department and agency of the Federal Government to provide such cooperation and assistance to the Council, including the assignment of personnel, as may reasonably be required by the Council.

The Senate bill provides that the Conference is to be planned and administrated by the Administrator of the Small Business Administration and also enumerates a nonexclusive listing of Federal departments and agencies which should be a part of the proceedings of the Conference.

The Conference substitute authorizes and directs all Federal departments and agencies to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(f) Advisory Committee—Council

The House bill establishes a 15-member National Conference Planning Council on Small Business appointed by the President, to plan and guide the Conference. The Council is to terminate 180 days after submission of its report unless extended by the President for a period not to exceed one year.

The Senate bill establishes a 21-member advisory committee to be appointed by the President. The Committee is to advise the Administrator on the planning of the Conference. The committee is made subject to the provisions of the Federal Advisory Committee Act and is terminated 60 days after the Conference is held.

The Conference substitute does not include the establishment of either an Advisory Board or a Council. The Conferees note that the President, by Executive Order, has already established a 5-member Board to oversee the operation of the Conference. (g) Reports by the Conference.

The House bill requires the Council to submit a report, with recommendations, on the Conference to the President and the Congress no later than 180 days after the date on which the Conference is called.

The Senate bill provides for the final report and such interim reports of the Conference as may be appropriate. Also, it provides for dissemination of these reports to the public.

The Conference substitute requires that not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be made available to the public. (h) Follow-up Actions.

The Senate bill provides that during the life of the Conference, staff appointed by the Executive Director shall be responsible for follow-up of the Conference recommendations. The SBA shall report annually to the Congress for three years following the submission of the final report on the status and implementation of the Conference recommendations.

The House bill contains no comparable provision.

The Conference substitute provides that the Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference. (i) Reimbursement for cost.

The House bill authorizes the Chairman of the Council to make grants to States for purposes of participation in the White House Conference and for the conducting of State conferences and also provides authority for the hiring of staff.

The Senate bill authorizes the payment of costs and expenses to those participants in the national and field meetings, and other activities associated with the Conference; authorizes financial assistance for the regional and/or State meetings and provides for the preparation of background materials for the participants; and provides authority for the appointment of an Executive Director and authorization for the staffing of the Conference.

The Conference substitute authorizes and directs the Administrator of SBA to reimburse participants in the National Conference for all reasonable and necessary costs of the Conference, including costs for travel, meals, accommodations, and support for other activities necessary to carry out their functions concerning the conference. It also requires the Administrator to:

(1) provide such financial and other assistance as may be necessary, for the organization and conduct of conferences at the regional and State levels;

(2) provide for the preparation of background materials for use by participants in the Conference, as well as by participants in regional and State conferences; and

(3) make grants to, and enter into contracts with, public agencies, private organizations and academic institutions to carry out the provisions of this title.

It also authorizes the President to appoint and compensate an Executive Director and other personnel for the Conference.

(i) *Authorization for appropriation*

The House bill authorizes such appropriations as may be necessary to accomplish the White House Conference and State conferences. The appropriation would remain available until expended.

The Senate bill authorizes a $5 million appropriation for the White House Conference on Small Business. Amounts appropriated would remain available to the Conference until expended. However, after termination of the Conference, any remaining unexpended funds revert to the Treasury.

The Conference substitute authorizes the appropriation of $5 million for fiscal year 1979 and provides that such appropriations shall remain available until expended. Any funds remaining unexpended at the termination of the Conference shall be made available to the Administrator. It also prohibits SBA from funding the Conference except from this appropriation.

NEAL SMITH,
TOM STEED,
JOHN D. DINGELL,
JOSEPH P. ADDABBO,
FERNAND J. ST GERMAIN,
JOHN B. BRECKINRIDGE,
JOHN J. LAFALCE
(except for sections 118, 121, 401, 402, 404, and 405),
AL BALDUS,
SILVIO O. CONTE,
TIM LEE CARTER,
JOE MCDADE
(except to section 113),
WM. BROOMFIELD,
FRANK THOMPSON, Jr.
(solely for the consideration of sections 117 and 118 of the Senate amendment),
JOHN BUCHANAN
(solely for the consideration of sections 117 and 118 of the Senate amendment),
Managers on the Part of the House.

GAYLORD NELSON,
THOMAS J. MCINTYRE,
SAM NUNN,
WILLIAM D. HATHAWAY,
FLOYD K. HASKELL,
JOHN CULVER,
LOWELL P. WEICKER, Jr.,
DEWEY BARTLETT,
BOB PACKWOOD,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 12932

Mr. YATES submitted the following conference report and statement on the bill (H.R. 12932) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979 and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95-1672)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12932) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979 and for the other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 10, 12, 18, 19, 28, 32, 45, 46, 57, 58, 61, 64, 69, 70, 74, 75, 84, 85, 86, 88, 89, 91, 95, 97, 99, and 101.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 8, 13, 20, 38, 52, 62, 76, 79, 80, 81, 82, and 105, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$286,853,000"; and the Senate agree to the same.

Amendment numbered 2: that the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$19,011,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$28,357,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,900,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$51,692,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$171,957,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$102,379,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$81,716,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$196,129,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "$380,-079,000: *Provided*, That not to exceed $4,258,-000 may be available for operation of the National Visitor Center and of that amount not to exceed $3,500,000 may be used for payment of rent"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$118,488,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amend-

ment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$409,095,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$37,214,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$231,048,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$774,752,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$52,023,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$48,302,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$114,608,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$42,200,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$23,80,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$108,166,000"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$54,460,000"; and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$35,845,000"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$325,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$385,000"; and the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$99,709,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: ": *Provided*, That not to exceed $5,000,000 shall be available for financial assistance as provided by section 20 of the Federal Non-Nuclear Research and Development Act of 1974 for feasibility and design studies for municipally owned and/or operated waste reprocessing demonstration facilities"; and the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$483,829,000"; and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,852,000"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$483,829,000"; and the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$19,041,000"; and the Senate agree to the same.

Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$111,935,000"; and the Senate agree to the same.

Amendment numbered 94: That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,775,000"; and the Senate agree to the same.

Amendment numbered 96: That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$108,546,000"; and the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,246,000"; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,963,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 9, 17, 21, 23, 24, 26, 33, 34, 35, 36, 39, 40, 41, 48, 49, 50, 51, 63, 66, 67, 71, 72, 73, 78, 90, 102, 103, and 104.

SIDNEY R. YATES
(except No. 49),
GUNN MCKAY,
CLARENCE D. LONG,
FRANK E. EVANS,
JOHN P. MURTHA,
R. DUNCAN,
NORM DICKS,
CHARLES WILSON,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
RALPH S. REGULA,
E. A. CEDERBERG,
Managers on the Part of the House.

ROBERT C. BYRD,
ERNEST F. HOLLINGS,
BIRCH BAYH,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PAT J. LEAHY,
DENNIS DECONCINI,
QUENTIN BURDICK,
TED STEVENS,
MILTON R. YOUNG,
MARK O. HATFIELD,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12932), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Amendment No. 1: Appropriates $286,853,000 for management of lands and resources instead of $295,315,000 as proposed by the House and $274,991,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following decreases and increase: Decreases of $300,000 for the oil shale program; $300,000 for the geothermal program; $2,450,000 to record and file mining claims; $1,000,000 for withdrawal review; $500,000 for the wild horse and burro program; $550,000 for cultural inventories; $400,000 for designation of public lands as either open, closed, or regulated for off-road vehicle use; $300,000 to enforce special recreation use permits for undeveloped sites; $500,000 to develop other recreational lands proposals to meet local and regional needs; $500,000 to identify, inventory, and analyze critical endangered species habitat; $2,500,000 for planning; $500,000 for data management; and $262,000 for law enforcement; and an increase of $1,600,000 for construction of the flood protection facilities in the San Simon Basin, Arizona.

The managers agree with the House Appropriations Committee's FY 1978 report language which strongly recommends that the authorizing committees review the wild horse and burro program and develop legislation authorizing more effective management practices; including allowing individuals to accept title to any of the animals acquired from the Bureau of Land Management. Under existing law BLM cannot transfer title of the animals to private individuals. The burden on the land is increasing

as a result of the growing number of these animals.

The managers have deferred providing additional monies for planning and urge the Bureau of Land Management to establish a priority ranking system for preparation and revision of management framework plans. The House and Senate Appropriations Committees will expect these rankings prior to the FY 1980 budget hearings.

The managers are in agreement that the trespass laws on public lands be enforced. However, individuals using the public lands for a wilderness experience on a temporary basis or for other legitimate uses of public lands should not be subject to harassment and prosecution. The policy of the Bureau of Land Management on the use of public lands should be reasonable as long as indiscriminate unauthorized use is not allowed.

Amendment No. 2: Appropriates $19,011,000 for acquisition, construction, and maintenance instead of $19,758,000 as proposed by the House and $18,683,000 as proposed by the Senate. The increase above the amount proposed by the Senate includes $328,000 for Phase II construction of the Western Slope Fire Operations Centers, Grand Junction, Colorado.

Amendment No. 3: Provides that not less than $60,119,000 available from receipts shall be obligated in fiscal year 1979 for Oregon and California grant lands as proposed by the House instead of $57,419,000 as proposed by the Senate.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that amounts collected under service charges, deposits, and forfeitures be immediately available until expended.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

Amendment No. 5: Appropriates $28,357,000 for salaries and expenses instead of $31,057,000 as proposed by the House and $26,842,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of $980,000 for research matching grants; $1,000,000 for membrane development; $350,000 for water reuse development; $120,000 for demonstration plant activity; and $250,000 for technology transfer.

Amendment No. 6: Provides that $9,900,000 shall remain available until September 30, 1980, instead of $11,370,000 as proposed by the House and $8,900,000 as proposed by the Senate.

HERITAGE CONSERVATION AND RECREATION SERVICE

Amendment No. 7: Appropriates $14,874,000 for salaries and expenses as proposed by the Senate instead of $17,874,000 as proposed by the House. This deletes funds to establish a natural heritage preservation program. The managers agree that this action does not prejudice future review.

Amendment No. 8: Provides $7,247,000 for Land and Water Conservation Fund administrative expenses as proposed by the Senate instead of $7,733,000 as proposed by the House. The reduction of $486,000 is in federal administrative expenses.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $737,025,000 for the Land and Water Conservation Fund instead of $645,841,000 as proposed by the House and $690,194,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount recommended includes $102,379,000 for acquisition of federal lands pursuant to P.L. 95-42. These amounts are exempt from Federal/State sharing. The amount recommended subject to sharing is $634,646,000. The state grant of $369,790,000, together with the $6,482,000 to administer the state program, totals $376,272,000, or 59.3 percent of the amount subject to sharing.

Amendment No. 10: Provides $369,790,000 for grants to the states as proposed by the House instead of $318,079,000 as proposed by the Senate.

Amendment No. 11: Provides $51,692,000 for the Forest Service instead of $68,642,000 as proposed by the House and $39,192,000 as proposed by the Senate. The reduction of $16,950,000 below the House is due to the availability of unobligated balances. The managers agree that if the Alpine Lake land exchanges are not successful, the Department may use the reprogramming procedure to provide acquisition money.

The managers agree that for recreation composites the Forest Service should submit proposed acquisitions in excess of $150,000 or any declarations of taking for prior approval of the Appropriations Committees as recommended by the Senate.

Amendment No. 12: Restores House language stricken by the Senate that provides for acquisition of land in Lake Tahoe Basin. The managers agree that in addition to the two legislative provisions associated with the Lake Tahoe acquisition, the Forest Service should not use condemnation outside of the National Forest boundary.

Amendment No. 13: Provides $32,960,000 for the Fish and Wildlife Service as proposed by the Senate instead of $52,240,000 as proposed by the House. The decrease under the amount proposed by the House consists of reductions of $6,780,000 in recreation additions and $12,500,000 due to the availability of substantial unobligated balances. The managers agree that for recreation additions the Fish and Wildlife Service should submit proposed acquisitions in excess of $150,000 or any declarations of taking for prior approval of the Appropriations Committees as recommended by the Senate.

No funds are recommended for a Presquille NWR parking lot. No other additions are specifically denied. All proposals will be handled on a case-by-case basis as the Service is actually prepared to acquire the proposed sites. The managers agree that the Service should enter into serious negotiations with the Commonwealth of Virginia for the acquisition of False Cape State Park by donation, exchange, or other means.

Amendment No. 14: Provides $171,957,000 for the National Park Service instead of $48,557,000 as proposed by the House and $187,457,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of the following increases and decreases: Increases of $2,500,000 for Lowell NHP; $30,000,000 for Chattahoochee River NRA; $100,000,000 for Redwoods NP; and $1,000,000 for the Chesapeake and Ohio Canal NHP; and decreases of $10,000,000 in inholdings; and $100,000 for preauthorization costs.

Amendment No. 15: Provides that $102,379,000 of the total appropriated shall be derived from the special account within the Fund established by section 5 of the Act, as amended, instead of $97,879,000 as proposed by the House and $104,259,000 as proposed by the Senate.

Amendment No. 16: Provides $81,716,000 for the National Park Service instead of $77,216,000 as proposed by the House and $83,596,000 as proposed by the Senate. The increase of $4,500,000 over the amount proposed by the House is for land acquisition in the Big Thicket National Preserve.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that not to exceed $12,000,000 of the amount provided for state assistance may be available as a contingency reserve to be administered by the Secretary to meet unforeseen needs of the states.

Amendment No. 18: Appropriates $60,000,000 for the Historic Preservation Fund as proposed by the House instead of $100,000,000 as proposed by the Senate. The managers agree that within the allowance, $5.000.000 is designated for maritime heritage preservation and $5,400,000 for the National Trust for Historic Preservation. The managers also urge the Secretary of Interior to waive the 50/50 matching now required for survey and planning work and implement a 70/30 matching as authorized by Public Law 89-665, sec. 102(c). The HCRS is to develop grant allocation methods and procedures before October 30, 1978, and submit any substantial change from the 1978 procedure to the House and Senate Appropriations Committees for prior review and approval.

Amendment No. 19: Restores House language stricken by the Senate that prohibits grants for renovation of state and local government buildings still in use for governmental purposes. The Service is to report to the House and Senate Appropriations Committees on its experience in administering this provision before hearings on the FY 1980 appropriation request.

Amendment No. 20: Deletes language proposed by the House earmarking 60 percent of the grants for neighborhood preservation. The managers agree that the Service should prepare regulations that would achieve the general intent of the House language.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following: ": *Provided further*, That not to exceed $1,000,000 may be available as a discretionary reserve to be administered by the Secretary for special or innovative preservation programs".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment provided a contingency reserve limitation of $3,000,000.

U.S. FISH AND WILDLIFE SERVICE

Amendment No. 22: Appropriates $196,129,000 for resource management instead of $196,695,000 as proposed by the House and $194,508,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following increases and decreases: Decreases of $625,000 for environmental contaminant evaluation; $390,000 for resource development planning; $100,000 for mammals and nonmigratory birds; $350,000 for animal damage control; and $721,000 for endangered species planning and coordination; and increases of $50,000 for a cooperative wildlife unit in Georgia; $100,000 for a cooperative wildlife unit in Wyoming; $450,000 for all other cooperative fish and wildlife research units; $300,000 for migratory waterfowl lure crops; $20,000 for White Sulphur Springs NFH; $100,000 for Dale Hollow NFH; $100,000 for Erwin NFH; and $500,000 for Leetown Fishery Research Laboratory. The allowance includes up to $50,000 for a special agent for law enforcement for West Virginia.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following: ": *Provided further*, That $15,721,000 shall be available only upon enactment of legislation reauthorizing section 15 of the Endangered Species Act of 1973".

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $97,856,000 for construction and anadromous fish instead of $96,153,000 as proposed by the House and $96,479,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following increases and decrease: A decrease of $50,000 for design of facilities for Felsenthal NWR; and increases of $713,000 for Wolf Creek NFH; $144,000 for Bowden NFH; $192,000 for White Sulphur Springs NFH; and $704,000 for Wichita Mountains NWR. The funds added by the House for Chincoteague NWR are for construction or rehabilitation of interpretive, storage, and workshop facilities in the existing maintenance/administrative complex ($170,000) and to rehabilitate and upgrade restroom facilities at the existing visitor contact station ($30,000). The managers defer without prejudice funds for planning or design of a wildfowl museum which may or may not be included in the refuge management plan.

NATIONAL PARK SERVICE

Amendment No. 25: Restore the matter stricken by said amendment, amended to read as follows: "$380,079,000: *Provided*, That not to exceed $4,258,000 may be available for operation of the National Visitor Center and of that amount not to exceed $3,500,000 may be used for payment of rent."

The appropriation of $380,079,000 for operation of the national park system, instead of $382,317,000 as proposed by the House and $367,631,000 as proposed by the Senate, provides a net decrease under the amount proposed by the House which consists of the following increases and decreases: Increases of $750,000 for Lowell NHP; $90,000 for Harpers Ferry, W. Va.; $100,000 for Shrine of the Ages, Grand Canyon NP; $200,000 for the Lowell Historic Canal Commission $500,000 for Grand Canyon school district assistance payments; and $2,500,000 for rental costs of the National Visitor Center; and decreases of $825,000 for operation of new or recently authorized park areas; $1,800,000 for a park-wide science program; $350,000 and no positions for concessions management; $1,000,000 for interpretive services in older areas; $500,000, the budgeted increase, for information publications; $100,000 for new area studies; $264,000 for land use studies; $500,000 for general management plans; $39,000 and two positions for Indian park management assistance; and $1,000,000 for Alaska Native Claims Settlement Act.

The managers agree that the allowance includes up to $300,000 for development of Piscataway Park when authorization becomes available; $342,000 and five positions for Indiana Dunes NL; $1,216,000 and 10 positions for Cuyahoga NRA; and $600,000 for road maintenance for Yellowstone NP. The managers agree that $250,000 is available to increase the Park Police helicopter operational time so that 24-hour service can be available for transportation of accident victims to the Washington, D.C., Hospital Center Shock and Trauma Unit. This is for a one-year operation. The Park Service should work with the Washington Metropolitan Area Council of Governments to develop an area-wide program for subsequent years.

The managers request the Park Service to initiate a study of the feasibility of establishing a national historic site at Abiquiu, New Mexico, at the studio and workshop of Georgia O'Keefe. Georgia O'Keefe, who is now 91 years of age, is an important and incomparable living American artist whose contributions and work has been acclaimed throughout the world. In the past, comparable recognition has been accorded to the distinguished American sculptor Augustus Saint-Gaudens by designating his studio and garden at Aspet, Vermont, as a national historic site. The managers believe this tradition of acclaiming notable American artists is a worthy one which should be fostered and continued by honoring Miss O'Keefe. The Service shou'd provide the results of this study as soon as possible.

None of the funds provided for any National Park Service program sha'l be used to promote public acceptance or rejection of park legislation.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the fol'owing: "*Provided further*, That $90,000 shall be availab'e for the National Park Service to assist the Town of Harpers Ferry, West Virginia, for police force use".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers are in agreement that this will be a one-year demonstration program.

Amendment No. 27: Appropriates $118,488,000 for construction instead of $111,775,000 as proposed by the House and $130,391,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of the following increases and decreases: Increases of $89,000 for planning for restoration of a lock area in C&O Canal NHP; $70,000 for the Carlsbad Caverns NP water system planning; $716,000 for Channel Islands NM headquarters facility; $749,000 for Cowpens NB visitor center; $1,100,000 for planning of a bypass tunnel in Cumberland Gap NHP; $500,000 for Cuyahoga NRA; $50,000 for a boat launching ramp in the Buttonwood Canal area of Everglades NP; $4,088,000 for a headquarters and visitor center complex at the Davis Bayou, Mississippi, area of the Gulf Islands NS; $163,000 for historic and transportation planning at Harpers Ferry NHP; $1,438,000 for rehabilitation of seven buildings in Harpers Ferry NHP; $618,000 for Hopewell Village NHS; $400,000 for Lowell NHP; $500,000 for the Lowell Historic Canal Commission; $308,000 for Padre Islands NS; $150,000 for renovation of the Sewall-Belmont NHS; and $5,000,000 for reductions in unobligated balances; and decreases of $426,000 for Fort Vancouver NHS; $2,500,000 for the Naval Live Oaks, Florida, headquarters and visitor facility in Gulf Islands NS; $1,310,000 for preservation of Fort Pickens, Florida, Gulf Islands NS; and $5,000,000 in slippage and savings. The allowance includes $1,220,000 for road construction in Grand Teton NP.

The managers agree that approval of the planning and design funds for Cumberland Gap NHP does not necessarily constitute approval of the road relocation project which is presently estimated to cost $75,000,000. It is expected that full hearings will be held by the Senate and House Appropriations Committees prior to a decision on funding the construction phase.

Authorization restraints have made it necessary to delete House-approved funds in the amount of $2,500,000 for the construction of a visitor center/headquarters building at the Naval Live Oaks location in the Gulf Islands National Seashore, Florida and Mississippi. Planning, access roads, and other requirements preliminary to actual construction have been funded in prior years. Comprehensive plans and design for actual construction have been approved at all levels and construction could begin in June or July, 1979. The managers are in agreement that careful consideration will be given to the possibility of including funding in a reprogramming action or a supplemental appropriations request for fiscal year 1979.

The managers call upon the Park Service to postpone final determination of the site for the tour boat facility for the Fort Sumter National Monument, South Carolina, until House and Senate Appropriations Committees have reviewed alternative site proposals and developed recommendations.

Amendment No. 28: Deletes language proposed by the Senate making $1,960,000 for Cowpens National Battlefield available for obligation upon enactment of authorizing legislation.

GEOLOGICAL SURVEY

Amendment No. 29: Appropriates $409,095,000 for surveys, investigations, and research instead of $419,689,000 as proposed by the House and $395,127,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of $1,200,000 for quadrangle mapping and revision; $200,000 for earthquake hazards reduction; $400,000 for environmental aspects of energy; $250,000 for uranium/thorium resource surveys; $2,300,000 for an airborne laser positioning system; $800,000 for automatic data processing equipment for water programs; $488,000 for accelerated collection of water use data; $1,406,000 for matching funds for water resources investigations; $1,550,000 for low and high level nuclear waste studies; $300,000 for OCS activities; $450,000 for federal and Indian lands geothermal, oil shale, and nonenergy leasing; $750,000 for land information and analysis; and $500,000 for travel.

The managers agree that prior to obligating any amount above $2,700,000 for mineral resource surveys conducted on RARE II lands, for which a total of $3,600,000 was provided, the Survey must obtain approval from the Appropriations Committees for the proposed survey program.

Amendment No. 30: Provides that $37,214,000 shall be available only for cooperation with states or municipalities for water resource investigations instead of $39,108,000 as proposed by the House and $35,396,000 as proposed by the Senate.

Amendment No. 31: Appropriates $231,048,000 for exploration of the National Petroleum Reserve in Alaska instead of $216,048,000 as proposed by the House and $251,998,000 as proposed by the Senate. The increase over the amount proposed by the House is $15,000,000 for the Barrow gas field.

The managers agree that the $15,000,000 provided for the Barrow gas field is to complete work necessary on wells that already have been drilled. No new wells are provided for within the allowance.

The managers agree further that prior to appropriating funds for further expansion and modernization of the Barrow gas field, the Department of the Interior must undertake a study of alternative fuel supply and distribution systems to assure that proceeding with gas field work is the best way of supplying fuel and utility services to the Barrow area. Such a study should be completed by January 31, 1979.

Amendment No. 32: Deletes language proposed by the Senate providing that environmental restoration activities included within this appropriation shall encompass both the Gubic and Grandstand drilling sites which are adjacent to the Reserve.

The managers agree that the Geological Survey may use environmental restoration funds provided in this appropriation to clean up the two abandoned drilling sites provided permission to do so is given by the Arctic Slope Regional Corporation, the owner of the sites.

BUREAU OF MINES

Amendment No. 33: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $147,007,000 for mines and minerals instead of $132,667,000 as proposed by the House and $118,058,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following increase and decreases: An increase of $16,000,000 for mined land demonstrations; and decreases of $300,000 for metallurgy research; $300,000 for in-situ mining alternatives; and $1,060,000 for mining environmental research.

The managers agree that of the additional $16,000,000 for mined land demonstrations, offset by a reduction in the Abandoned Mine Reclamation Fund appropriation, $2,000,000 is for projects in Illinois, $2,000,000 is for projects in the Pennsylvania bituminous region, and $12,000,000 is for projects in the Pennsylvania anthracite region.

The managers also agree that prior to obligating any amount above $2,700,000 for wilderness and public land assessments conducted on RARE II lands, for which a total of $3,400,000 was provided, the Bureau must obtain approval from the Appropriations Committees for the proposed assessment program.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $123,282,000 for mines and minerals shall remain available until expended instead of $108,942,000 as proposed by the House and $97,733,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following increase and decreases: An increase of $16,000,000 for mined land demonstrations; and decreases of $300,000 in metallurgy research; $300,000 in in-situ mining alternatives; and $1,060,000 in mining environmental research.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $53,944,000 for regulation and technology instead of $39,344,000 as proposed by the House and $48,944,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following increases and decreases: Increases of $5,900,000 for state regulatory grant programs: $4,200,000 for mineral institutes; and $5,000,000 for small operator assistance; and a decrease of $500,000 for federal regulatory programs.

The managers agree that the funds for state mineral institutes are for no more than 22 mineral institutes.

The managers agree that $5,000,000 for small operator assistance is to be offset by a like reduction in the Senate allowance for the Abandoned Mine Reclamation Fund appropriation.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $61,451,000 for the Abandoned Mine Reclamation Fund instead of $77,851,000 as proposed by the House and $78,451,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The decrease under the amount proposed by the House consists of $16,000,000 for Interior reclamation projects, and $400,000 for technical assistance.

The managers are in agreement that the $16,000,000 reduction in Interior reclamation projects will be offset by a like addition to the Bureau of Mines' mines and minerals account.

The managers are in agreement that all states should be eligible for grants to cover costs of developing state reclamation projects.

BUREAU OF INDIAN AFFAIRS

Amendment No. 37: Appropriates $774,752,000 for operation of Indian programs instead of $791,092,000 as proposed by the House and $755,337,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following increases and decreases: Increases of $5,000,000 for the housing improvement program; and $350,000 for Papago farms water development, Arizona; and decreases of $13,000 for operation of the Labre Indian School; $653,000 for education and training, general; $8,000,000 for operation of Bureau of Indian Affairs (BIA) reservation boarding and day schools, off-reservation dormitories, and former BIA contract schools; $947,000 for assistance to public schools; $744,000 for aid to tribal governments; $360,000 for tribal courts; $50,000 to initiate housing program for the Louisiana Coushatta Tribe; $390,000 for business enterprise development; $625,000 for employment assistance; $2,000,000 for the Indian action team program; $99,000 for Gila River Reservation water development; $470,000 for operation and maintenance of Pyramid Lake fish hatcheries; $212,000 for natural resources, general; $65,000 for water resources; $3,500,000 for Indian rights protection; $2,000,000 for the statute of limitation program; $900,000 for real estate services; and $662,000 for program development and budget at field locations.

The managers are in agreement on the following: That the increase of $5,000,000 provided for housing shall include assistance to the Coushatta and Miccosukee Tribes and funds to complete the rehousing of Venetie Village in Alaska; that the additional funds provided for housing should be used in accordance with the plan developed in response to the GAO recommendations to the Secretary of the Interior; that the amount provided for employment assistance includes assistance to the Louisiana Coushatta Tribe; that the increase provided for the Indian action team program shall include $400,000 for the Miccosukee Tribe and that consideration be given the Rocky Boy Reservation in the granting of additional contracts; that $75,000 shall be available for enforcement of fishing regulations on the Annette Island Reserve, Alaska; that a total of $800,000 be provided within available funds for the Siletz Tribe of Oregon; that $100,000 shall be available for cadastral survey on Coeur d'Alene Indian Reservation; that $600,000 be made available to the Juneau Area Office for adult education of Alaskan natives; that the BIA review its funding allocation procedures to determine by February 1, 1979, whether adjustments are in order; that the BIA address the issue of underutilization of off-reservation boarding schools and report to the Appropriations Committees by February 1, 1979; that the BIA investigate the wide variation in per pupil costs, particularly among previously private schools and other facilities operated under contract, and report to the Appropriations Committees by February 1, 1979; that the BIA maintain the $2,000,000 earmarked for special education in FY 1978 and FY 1979 and report to the Appropriations Committees by February 1, 1979, on how the total $7,000,000 is being obligated; that the BIA enter into cost reimbursable contracts with state and local educational agencies, where possible, to provide services to handicapped children; that the reduction of $2,788,000 in the common program services account is for agency and area office operations; and that the increase provided above FY 1978 for Indian rights protection includes, but is not limited to, $600,000 for Columbia River fishery and $600,000 for historical and cemetery sites (ANCSA).

The BIA must take immediate steps to end its wasteful purchase of unneeded supplies and equipment at off-reservation boarding schools and apply at least $3,000,000 of the savings to provide additional staff and services to meet the out-of-classroom needs of the children.

Amendment No. 38: Earmark $60,581,000 for higher education scholarships and assistance to public schools as proposed by the Senate instead of $61,528,000 as proposed by the House.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language that none of the funds appropriated for the operation of Indian programs shall be expended as matching funds for programs funded by the Vocational Education Act of 1963, as amended.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $126,554,000 for construction instead of $116,265,000 as proposed by the House and $117,254,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following increases and decrease: Increases of $8,800,000 for renovation of the Barrow, Alaska, gas distribution system; $2,800,000 for continued construction of the Tamgass Creek Fish Hatchery, Alaska; $189,000 for construction under the Gila River to serve the North Blackwater area, Gila River Indian Reservation, Arizona; and a decrease of $1,500,000 for swimming pool construction at three new elementary and secondary schools—Standing Rock, Lower Brule, and Jemez.

The managers are in agreement that an examination be undertaken by the BIA on the cost-effectiveness of constructing smaller schools to serve individual Indian communities and that a report be submitted by October 1, 1978, and that up to $100,000 of the amount provided for construction of the Little Wound High School may be used to complete design of the facility.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $79,253,000 for road construction instead of $74,010,000 as proposed by the House and $76,753,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following increases and decrease: Increases of $5,000,000 for road construction in the Four Corners area, a joint project with the State of New Mexico; and $343,000 for surveys, design, and other preconstruction costs for road construction in the joint-use area; and a decrease of $100,000 for construction of a road to service the Coushatta Indian Community, Louisiana.

The managers are in agreement on the following: That $100,000 within available

funds be provided to the Coushatta Indian Community, Louisiana, for road construction; and that, in addition to the increase of $2,500,000 for the road from Mexican Water to Bluff, Utah, $2,000,000 be provided from existing funds of the Navajo road construction program, for a total expenditure in FY 1979 of $4,500,000.

OFFICE OF TERRITORIAL AFFAIRS

Amendment No. 42: Appropriates $52,023,000 for administration of territories instead of $53,523,000 as proposed by the House and $49,423,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of $500,000 for the Guam economic development fund, and $1,000,000 for the economic development fund for American Samoa.

The managers expect the Government of American Samoa to consult with scientists from the Smithsonian Institution in planning a program for the eradication of "Crown of Thorns" starfish infestation of coral reefs in Samoan waters.

Amendment No. 43: Provides that $48,302,000 shall be available for expenses of the Governments of American Samoa, Guam, and the Northern Mariana Islands instead of $49,802,000 as provided by the House and $45,702,000 as provided by the Senate. The decrease under the amount proposed by the House consists of $500,000 for the Guam economic development fund, and $1,000,000 for the economic development fund for American Samoa.

Amendment No. 44: Appropriates $114,608,000 for the Trust Territory of the Pacific Islands instead of $115,578,000 as proposed by the House and $106,898,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of $970,000 in operations grants.

Amendment No. 45: Appropriates $12,600,000 for the Micronesian Claims Fund as proposed by the House.

OFFICE OF THE SOLICITOR

Amendment No. 46: Appropriates $14,585,000 for salaries and expenses as proposed by the House instead of $14,394,000 as proposed by the Senate.

OFFICE OF THE SECRETARY

Amendment No. 47: Appropriates $42,200,000 for departmental management instead of $42,391,000 as proposed by the House and $41,545,000 as proposed by the Senate. The reduction under the House allowance consists of $31,000 for the Office of Public Affairs and $160,000 for the Office of Aircraft Services.

The managers agree that Office of Aircraft Services staff involved in the Department's Alaska aircraft operations should be headquartered at Fairbanks, Alaska. Staff headquartered at Boise, Idaho, should be limited to those responsible primarily for Departmental aircraft services in the lower 48 states.

None of the funds provided to the Office of the Secretary are to be used to promote public acceptance or rejection of legislation pending before the Congress. For the second year, language is included in the bill (Sec. 304) which amplifies 18 U.S.C. 1913. The managers emphasize that this provision is to be followed.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that any forgiveness of the federal indebtedness of the Hydaburg Cooperative Association, an Alaska native group, shall be effective immediately upon authorization by the Secretary of the Interior.

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This provides that a basin-wide impact statement will not be required for certain authorized water projects in the Colorado River Basin for which site specific final environmental impact statements have been filed.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $682,892,000 for forest land management instead of $626,720,000 as proposed by the House and $672,128,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following increases and decreases: Increases of $8,160,000 for fire prevention; $4,715,000 for fire detection; $33,787,000 for fire attack forces; and $19,186,000 for aviation operations; and decreases of $1,000,000 for planning and inventorying of recreation, wilderness, and cultural resource areas; $500,000 for operation and maintenance, rangeland management; $613,000 for land status records and cadastral engineering; $84,000 for land classification; $1,044,000 for land exchange, $660,000 for special uses, nonrecreation; $3,000,000 for forest insect and disease management (contingency control fund); $1,875,000 for cooperative law enforcement; and $900,000 for general administration.

The managers are in agreement that the Forest Service should conduct an anlaysis of the benefits of both fire presuppression and suppression activities and consider such in developing future budget requests.

The managers are in agreement that the Forest Service should make every effort to operate the fire presuppression program within the allowance provided for FY 1979. However, if in the judgment of the Forest Service, based on an analysis of the benefits of the fire presuppression program, it is determined that fire conditions necessitate presuppression increases, the Appropriations Committees will consider a supplemental budget request or a reprogramming. It is the managers' intent that in the future the Forest Service budget in advance for the presuppression program and apply the normal fiscal and management controls to the program.

The managers are in agreement that the Roadless Area Review and Evaluation process (RARE II) be completed within the announced time frame, that the inventoried land areas not recommended for designation as wilderness be promptly returned to nonwilderness multiple-use, and that future wilderness study areas be kept to a minimum.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment earmarking $2,025,000 for insect and disease control instead of $5,025,000 as proposed by the House and $2,055,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 52: Provides that $4,500,000 shall remain available for obligation until September 30, 1980, for the cooperative law enforcement program as proposed by the Senate instead of $6,375,000 as proposed by the House.

Amendment No. 53: Provides that $23,800,000 shall remain available for obligation until September 30, 1980, for insect and disease control instead of $26,800,000 as proposed by the House and $20,833,000 as proposed by the Senate. The allowance includes $1,600,000 for the noxious weed control program.

Amendment No. 54: Appropriates $108,166,000 for forest research instead of $110,718,000 as proposed by the House and $104,002,000 as proposed by the Senate.

The following project totals are provided within the appropriation: $1,384,000 for trees and timber management research, Rhinelander, Wisconsin, Institute of Forest Genetics; $300,000 for research on fire effects-prescribed burning, Bend Laboratory, Oregon; $383,000 for research on reforestation of burned land, Corvallis Laboratory, Oregon; $469,000 for acceleration of genetics research at Pacific Northwest Station, Oregon; $400,000 for wildlife, range, and fish habitat research, Lubbock, Texas; $1,078,000 for urban forestry research; $518,000 for uneven aged timber management research, Monticello, Arkansas; $100,000 for resource economics research, Rapid City, South Dakota; $373,000 for hardwoods culture research, Parsons, West Virginia; $409,000 for timber harvesting research, Morgantown, West Virginia; $371,000 for watershed management research, Juneau, Alaska; $374,000 for anadromous fish research, Juneau, Alaska; $751,000 for wildlife habitat and timber management research, Fairbanks, Alaska; $347,000 for wildlife, range, and fish habitat research, Alexandria, Louisiana; $938,000 for renewable resource evaluation, Alaska; and $300,000 for wildlife, range, and fish habitat research, Gospel Hump Wilderness, Idaho.

Amendment No. 55: Appropriates $54,460,000 for state and private forestry cooperation instead of $57,676,000 as proposed by the House and $48,260,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of reductions of $616,000 for cooperation in forest management and processing; $2,500,000 for firefighting resources of southern California organized for potential emergencies (FIRESCOPE); and $100,000 for general administration.

The managers are in agreement on the following: That $3,600,000 shall be available for urban and community forest programs; that $2,600,000 shall be available for Dutch elm disease control and elm tree utilization program; and that local matching funds should be required for the FIRESCOPE program.

Amendment No. 56: Appropriates $35,845,000 for construction and land acquisition instead of $43,550,000 as proposed by the House and $24,118,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of reductions of $4,697,000 for recreation use areas; $2,721,000 for construction for fire, administration, and other purposes; and $287,000 for laboratory wing construction at Morgantown, West Virginia.

The following projects have been included within the amount appropriated for construction and land acquisition: $3,645,000 for construction of a day lodge at Timberline Lodge, Mt. Hood NF; $713,000 for construction of a laboratory wing at Morgantown, West Virginia; $215,000 for recreation improvements at Monongahela NF; $150,000 to complete planning and design of the Hale Boggs-Nick Begich Visitor Center at Portage Glacier, Alaska; $100,000 for construction planning for the Angeles High Country, Angeles NF; $821,000 for construction of the Chilao Visitor Center, Angeles High Country, Angeles NF; $300,000 for Beartree Recreation Complex, Mount Rogers NRA, Virginia; $80,000 for Hawthorn recreation site for the handicapped, Wasatch NF; $1,000,000 for Mount Nebo Recreation Complex, Uinta NF,

Utah; and $2,800,000 for Berea laboratory and range district office, Kentucky.

Amendment No. 57: Earmarks $3,500,000 for acquisition of land under the Weeks Act as proposed by the House instead of $1,989,000 as proposed by the Senate.

Amendment No. 58: Appropriates $224,275,000 for forest roads and trails as proposed by the House instead of $191,131,000 as proposed by the Senate.

The following projects have been included within the amount appropriated for forest roads and trails: $1,000,000 for LaSal Loop Road, Manti-LaSal NF; $2,000,000 for Mount Nebo Scenic Loop Road, Unita NF; $427,000 for Beartree Recreation Area, Mount Rogers NRA, Virginia; $15,000 for continued planning for Angeles High Country, Angeles NF; $140,000 for construction of the Chilao Visitor Center Road, Angeles High Country, Angeles NF; $170,000 for Hawthorn recreation site for handicapped, Wasatch NF; $542,000 for replacement of Cranberry-Dyer Bridge, Monongahela NF; $235,000 for improvements to Hardin Ridge recreation area roads, Hoosier NF; $46,000 for survey and design, Arizona Snow Bowl road; $3,200,000 for the Warm Lake-Landmark road, Boise NF; $312,000 for road construction, Chequamegon NF and Nicolet NF; and $785,000 for Monongahela NF projects funded in the construction and land acquisition account.

The managers are in agreement that a minimum of $12,500,000 provided for forest roads and trails be allocated for recreation roads to provide better access to the nation's forests.

Amendment No. 59: Provides $325,000 for land acquisition in the San Bernardino and Cleveland National Forests, California, instead of $355,000 as proposed by the House and $100,000 as proposed by the Senate.

Amendment No. 60: Appropriates $385,000 for acquisition of lands for national forests—special acts instead of $415,000 as proposed by the House and $160,000 as proposed by the Senate.

Amendment No. 61: Restores House language stricken by the Senate providing for collection of administrative and other costs, including environmental impact statement preparation costs in connection with rights-of-way applications from the private sector.

Amendment No. 62: Deletes House langauge as proposed by the Senate removing the $100,000 limitation on expenses pursuant to the Volunteers in the National Forests Act of 1972.

DEPARTMENT OF ENERGY

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $576,888,000 for fossil energy research and development instead of $614,704,000 as proposed by the House and $594,753,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net decrease under the amount proposed by the House consists of the following increases and decreases: Increases of $11,000,000 for SRC I and II demonstration plant work; $2,100,000 for zinc-chloride process development; $10,000,000 for the Cresap liquefaction test facility; $2,000,000 for fluid-bed gasification; $2,500,000 for in-situ gasification; $1,434,000 for the direct combustion IEA cooperative project; $7,675,000 for magnetohydrodynamics (MHD); and $2,000,000 for enhanced gas recovery; and decreases of $4,000,000 for the hydrogen-from-coal facility; $2,025,000 for gasification demonstration design and technical support; $2,500,000 for a direct combustion pressurized fluid-bed combined cycle pilot plant; $5,000,000 for an oil shale demonstration module; and a $63,000,000 general reduction.

The managers are in agreement that within funding allowed for special projects category in gasification, $1,200,000 shall be provided for near-term commercialization possibilities for existing and developing low and medium Btu coal gasification processes in heavily industrialized coal producing states.

Within the total allowance for in-situ gasification, the managers agree that $800,000 should be available for research projects in the State of Washington.

The managers agree that in gasification demonstration design and technicial support, the $975,000 above the Senate allowance shall be used for environmental statements and studies.

The managers are in agreement that, within the $7,675,000 added above the House allowance for MHD, emphasis should be given to the superconducting magnet needed to complete the University of Tennessee facility at Tullahoma, Tennessee.

If increased interest is expressed by industry in enhanced oil recovery projects with substantial cost sharing, the managers agree that a supplemental budget request would be considered.

The managers agree that within the budget request for oil shale, $2,700,000 should be used to investigate innovative above-ground hydrogen reporting processes capable of processing both Eastern and Western shale deposits.

The managers are concerned with the continued slowness in implementing programs evident in the fossil energy activity. With only two months left in the fiscal year, the fossil energy activity had over 40 percent ($266,000,000) of its funds still unobligated. This occurred despite an overall reduction of $50,000,000 in the program made by the Congress in last year's appropriation because of slowness in program implementation. Thus, the managers had little choice other than to accept the general $63,000,000 reduction proposed by the Senate. The managers direct that the Department extend every possible effort to streamline its processes to allow the timely implementation of programs and obligation of funds.

Amendment No. 64: Deletes language proposed by the Senate which provides that $5,000,000 shall support development of up to four advanced oil shale recovery technologies.

Amendment No. 65: Appropriates $99,709,000 for fossil energy construction instead of $27,139,000 as proposed by the House and $163,919,000 as proposed by the Senate.

The increase over the amount proposed by the House consists of $20,000,000 for a Solvent Refined Coal I demonstration plant (for a total appropriation of $40,000,000); $50,000,000 for a Solvent Refined Coal II demonstration plant; $570,000 for a mining and energy related technologies education central/coal utilization facility; and $2,000,000 for design of a second high Btu gasification demonstration plant.

The managers agree that the Department shall submit to the House and Senate Appropriations Committees the specific details of proposed cost-sharing agreements for SRC-I and SRC-II before obligating funds for plant construction or major equipment procurment. Such agreements may become effective after 30 calendar days in the absence of objections by either committee.

The managers are in agreement that $200,000 necessary for starting the renovation of the Bartlesville Energy Research Center administration and laboratory building shall be made available within the $6,000,000 provided for general plant projects for Energy Research Centers.

The managers agree that the Department of Energy should continue Phase I design work on both candidates for the first high Btu gasification demonstration plant (Project 76-1-b) until a reasonable technical and economic decision can be reached on which plant to build. Within 60 days after that decision is made, the Department is to report to the Appropriations Committees its plans to continue support for the plant design not chosen, so that it can be considered as a candidate for a second high Btu gasification demonstration plant.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $169,181,000 for energy production, demonstration, and distribution instead of $182,881,000 as proposed by the House and $188,581,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net decrease under the amount proposed by the House consists of the following increases and decrease: Increases of $7,000,000 for loan guarantee programs; $5,000,000 for feasibility and design studies for urban waste demonstration facilities for producing energy; and $300,000 for coal mine loan guarantee administration; and a decrease of $26,000,000 for Naval Petroleum Reserves 1 and 2.

The managers agree that the $7,000,000 for loan guarantee programs is to permit the Department to prepare regulations, develop evaluation criteria, prepare a comprehensive program, issue requests for proposals, evaluate the returned proposals, and select those for which it would seek funding. No funds are to be used for actual loan guarantees.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $151,852,000 be available until expended instead of $172,862,000 as proposed by the House and $158,262,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The decrease under the amount proposed by the House consists of an increase of $5,000,000 for feasibility and design studies for urban waste demonstration facilities and a decrease of $26,000,000 for Naval Petroleum Reserves 1 and 2.

Amendment No. 68: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That not to exceed $5,000,000 shall be available for financial assistance as provided by section 20 of the Federal Non-Nuclear Research and Development Act of 1974 for feasibility and design studies for municipally owned and/or operated waste reprocessing demonstration facilities".

Amendment No. 69: Deletes language proposed by the Senate which provided that $20,000,000 be available for the loan guarantee program pursuant to section 19 of the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, *et seq.*).

Amendment No. 70: Deletes language proposed by the Senate which provided that $1,400,000 for oil shale commercialization tests shall be available only upon enactment of S. 419 or similar legislation.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $707,101,000 for energy conservation instead of $897,001,000 as proposed by the House and $754,031,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net decrease under the amount proposed by the House consists of the following increases and decreases: Increases of $2,150,000 for energy efficient oil heating systems; $300,000 for alternative fuels utilization; and $20,000,000 for energy impact assistance; and decreases of $7,500,000 for urban waste; $1,050,000 for weatherization; $700,000 for federal vanpooling; $200,400,000 for assistance to schools and hospitals; and $2,700,000 for assistance for local government buildings.

The managers agree that the Department should undertake comprehensive studies into methods of commercializing first generation fuel cells and submit to the Congress, through the budget process, a program providing for government support of commercialization, if studies show such support necessary to the orderly development of this promising technology.

The managers further agree that the $5,000,000 provided for cogeneration is not to be used for demonstrations of readily available technology as was contemplated in the budget request. These funds should be used to assist industry and local utilities in planning and designing cogeneration projects and not for hardware purchases.

The managers agree that funding for the 10 states currently in the pilot program for the Energy Extension Service should not be changed from FY 1978 amounts, and that no increase or decrease in those amounts or the addition of more states to the program can take place without prior approval of the Appropriations Committees. The managers expect to receive such requests only after the Appropriations Committees receive an evaluation of the pilot program currently underway.

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $100,100,000 for assistance to schools and hospitals and $7,300,000 for energy conservation in local government buildings be available only upon enactment of suitable authorizing legislation.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $20,000,000 for energy impact assistance be available only upon enactment of authorizing legislation instead of $30,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 74: Deletes language proposed by the Senate which provides that $99,475,000 for weatherization be transferred to the Community Services Administration upon enactment of the Economic Opportunity Act Amendments of 1978 or similar legislation.

The managers have appropriated the full amount for weatherization to the Department of Energy with the understanding that regulations shall be written and implementation undertaken in consultation and cooperation with the Community Services Administration (CSA). CSA has been involved in the weatherization program for several years and in many instances is particularly aware not only of those persons who require assistance but also of the specific types of weatherization repairs most needed. This expertise on the part of CSA as well as the flexibility of its regulations shall be given particular attention.

Amendment No. 75: Restores House language stricken by the Senate providing that none of the funds appropriated shall be available to pay the expenses of parties intervening in regulatory proceedings before the Economic Regulatory Administration.

Amendment No. 76: Appropriates $3,006,854,000 for strategic petroleum reserve as proposed by the Senate instead of $4,084,624,000 as proposed by the House.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICE ADMINISTRATION

Amendment No. 77: Appropriates $483,829,000 for Indian health services instead of $490,048,000 as proposed by the House and $481,127,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following increases and decreases: Increases of $304,000 to upgrade 118 leased Alaska health clinics and for establishment of additional clinics; $100,000 to staff and operate the Cheyenne River Swift Bird Project, South Dakota; $150,000 for health care improvement demonstration project, Alaska; $947,000 for outpatient health services at the former Kincheloe Air Force Base hospital; and $450,000 for personnel compensation and retirement benefits, Red Lake Hospital, Minnesota; and decreases of $6,900,000 for contract care; $364,000 for the Espanola Clinic; $240,000 for expanded patient services to members of the Shoshone and Arapoho Tribes as part of the Wind River Reservation health services program; and $666,000 for tribal health program development.

The managers are in agreement that the amount provided for contract care includes $731,000 to meet the health care needs of the Siletz Tribe.

The managers have deferred funding of the Indian Children's Village therapeutic and residential health facility and for personnel quarters for the Bethel Hospital, without prejudice, until hearings can be held and a policy can be established regarding leasing of Indian health care facilities and until additional information can be developed on the proposed program to be established at the Children's Village.

The managers agree that the Masters of Public Health degree program for American Indians and Alaska Natives at the University of California, Berkeley, has served as a model for providing quality graduate study in public health education to Indian people and the managers urge other universities and colleges to follow this example.

The managers are in agreement with the reprogramming of $3,500,000 and 171 positions from contract care to hospital care for surgical work.

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 shall remain available until September 30, 1980.

Amendment No. 79: Appropriates $76,960,000 for Indian health facilities as proposed by the Senate instead of $75,555,000 as proposed by the House.

The managers are in agreement on the following: That the expenditure of funds provided for the Tahlequah, Oklahoma, hospital facility is contingent upon the Indian Health Service completing a study on the extent that services and facilities can be shared with the existing community hospital. The size of the facility will be based on the result of the study and require approval of the House and Senate Appropriations Committees;

That the size of the Chinle Hospital facility shall not exceed 60 beds or 107,000 gross square feet of space. It is also understood that the 60 beds and 107,000 gross square feet provided for the Chinle Hospital facility will be deducted when the total bed and space requirements are established for the Navajo Reservation;

That a full and detailed report from the Indian Health Service be made by January, 1979, on controls that have been instituted to prevent project overruns, such as Red Lake hospital facility, in the future. The managers are distressed not only because such a situation was allowed to occur, but also because the IHS failed to notify the Committees, promptly of the status of the Red Lake facility. The managers cannot stress too strongly that the Appropriations Committees must be kept fully informed of deviations from the budget justifications or from recorded testimony; and

That the Indian Health Service develop and apply a reliable and professional new construction priority system before any additional construction is recommended. In the event the IHS is unable to develop such a system, the managers stand ready to provide assistance similar to that provided for the BIA school construction program.

OFFICE OF EDUCATION

Amendment No. 80: Provides $15,500,000 for Part B as proposed by the Senate instead of $17,000,000 as proposed by the House.

Amendment No. 81: Provides $5,930,000 for Part C as proposed by the Senate instead of $6,430,000 as proposed by the House.

Amendment No. 82: Appropriates $71,735,000 for Indian education as proposed by the Senate instead of $73,735,000 as proposed by the House. The decrease under the amount proposed by the House consists of $1,500,000 for Part B and $500,000 for Part C for operation of approximately four regional dissemination centers.

The managers are in agreement on the following: That an evaluation of the "capacity building projects" be conducted prior to any future budget requests for expanding the program and that the result of that evaluation be presented to the House and Senate Appropriations Committees by February, 1979; and

That substantial improvement is needed in the area of dissemination and technical assistance, but further evaluation is needed before establishing separate and distinct Office of Indian Education regional dissemination centers. The managers urge the Department of Health, Education, and Welfare to work with the Office of Indian Education with the view of establishing technical support and dissemination activities to Indian education grantees through current departmental regional offices.

INSTITUTE OF MUSEUM SERVICES

Amendment No. 83: Appropriates $7,852,000 for the Institute of Museum Services instead of $7,752,000 as proposed by the House and $8,000,000 as proposed by the Senate. The increase over the amount proposed by the House provides for five additional employees who shall be well qualified in federal grant program management.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Amendment No. 84: Appropriates $8,752,000 for salaries and expenses as proposed by the House instead of $8,692,000 as proposed by the Senate.

Amendment No. 85: Provides $990,000 for operating expenses of the Commission as proposed by the House instead of $930,000 as proposed by the Senate.

Amendment No. 86: Provides $91,300 for expenses of the Commissioners as proposed by the House instead of $33,000 as proposed by the Senate.

SMITHSONIAN INSTITUTION

Amendment No. 87: Appropriates $96,302,000 for salaries and expenses instead of $96,841,000 as proposed by the House and $95,540,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of the following: $19,000 for distribution of the Journal by the Archives

of American Art; $20,000 for performances sponsored by the Division of Performing Arts; and $500,000 for the art bank program. The managers urge the Smithsonian to conduct a study on the feasibility of establishing an art bank.

The managers agree with the Senate recommendation to transfer the Smithsonian Science Information Exchange to the Department of Commerce as proposed by the Office of Management and Budget.

Amendment No. 88: Restores House language stricken by the Senate providing that not to exceed $390,000 may be used to make grant awards to employees of the Smithsonian Institution.

Amendment No. 89: Deletes language proposed by the Senate stipulating that none of these funds may be used to make grant awards to employees of the Smithsonian Institution.

The managers agree that not to exceed $390,000 may be used to make grant awards to employees of the Smithsonian Institution.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate.

The managers agree to language proposed by the Senate limiting the amount of grants for museum programs and related research special foreign currency program made to employees of the Smithsonian to no more than $500,000.

The Smithsonian is to require that the review panel for the research awards program (regardless of fund source) include a majority of reviewers who are not federal or private employees of the Smithsonian Institution. The Regents are requested to ask the National Science Foundation to establish the panel.

Amendment No. 91: Appropriates $2,100,000 for restoration and renovation of buildings as proposed by the House instead of $1,950,000 as proposed by the Senate.

NATIONAL GALLERY OF ART

Amendment No. 92: Appropriates $19,041,000 for salaries and expenses instead of $19,305,000 as proposed by the House and $18,455,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of $178,000 for furnishings and equipment and $86,000 for three positions ($46,000) and annualized costs of the 1978 pay increase ($40,000).

NATIONAL ENDOWMENT FOR THE ARTS

Amendment No. 93: Appropriates $111,935,000 for salaries and expenses instead of $112,160,000 as proposed by the House and $111,710,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of reductions of $75,000 in travel and $150,000 in contractual services.

Amendment No. 94: Earmarks $9,775,000 for administering the National Foundation on the Arts and the Humanities Act of 1965, as amended, instead of $10,000,000 as proposed by the House and $9,550,000 as proposed by the Senate.

Amendment No. 95: Deletes language proposed by the Senate earmarking $1,400,000 to carry out the 1979 White House Conference on the Arts Act. The budget request for the White House Conference on the Arts and Humanities was not adequate to provide quality conferences. In addition, the budget amendment, which was not considered by the House, provided funds at the expense of established Endowment programs. Other White House Conferences have been directly funded. The managers agree that they will be willing to consider budget requests which provide a proper level of funding for these conferences.

NATIONAL ENDOWMENT FOR THE HUMANITIES

Amendment No. 96: Appropriates $108,546,000 for salaries and expenses instead of $109,100,000 as proposed by the House and $107,750,000 as proposed by the Senate.

Amendment No. 97: Earmarks $98,300,000 for Humanities programs as proposed by the House instead of $97,800,000 as proposed by the Senate.

Amendment No. 98: Earmarks $10,246,000 for administering the National Foundation on the Arts and the Humanities Act of 1965, as amended, instead of $10,800,000 as proposed by the House and $9,950,000 as proposed by the Senate. The decrease below the amount proposed by the House includes $162,000 for personnel; $110,000 in compensation for panel and council members; $13,000 in staff travel; $150,000 for consultants; and $119,000 for printing, supplies, and equipment.

Amendment No. 99: Deletes language proposed by the Senate earmarking $1,400,000 to carry out the 1979 White House Conference on the Humanities Act.

The managers agree with the Senate report language expressing reluctance to earmark grant funds for any particular area, group, or individual and encourage both Endowments to continue their efforts to fund groups and individuals with emerging talent of quality. The managers further agree that each Endowment may detail up to three employees to staff the Federal Council on the Arts and Humanities and provide a reasonable amount of support funds for such staff.

NATIONAL CAPITAL PLANNING COMMISSION

Amendment No. 100: Appropriates $1,963,000 for salaries and expenses instead of $1,936,000 as proposed by the House and $1,991,000 as proposed by the Senate. The increase above the House allowance provides for two additional positions.

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

Amendment No. 101: Appropriates $594,000 for salaries and expenses as proposed by the House instead of $356,000 as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the use of funds to implement section 603 of the Federal Land Policy and Management Act in the State of Alaska.

Amendment No. 103. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 306. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation and enforcement.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for a 50 percent entitlement for imported residual fuel oil for the State of Michigan and the East Coast market instead of the current 30 percent. The new entitlement percentage would be effective from July 1, 1978, to July 1, 1979. The amendment also eliminates the "reverse entitlements" penalty for domestic refiners and for Virgin Islands refiners provided the fuel oil is not shipped in foreign flag tankers.

The managers agree that the words "residual fuel oil" in section 307(c) refer to domestically refined residual fuel oil and that the word "Secretary" in section 307(d) refers to actions implemented by the Secretary of Energy at the direction of the President.

The managers agree that, as provided in subsection (f), nothing in section 307 affects the authority of the President to amend the section 4(a) regulation, including 10 CFR 211.67, so long as such other amendments are not inconsistent with the amendments required by section 307.

Amendment No. 105: Changes section 305 to section 308 as proposed by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979 follow:

New budget (obligational) authority, fiscal year 1978	$11,339,017,000
Budget estimates of new (obligational) authority, fiscal year 1979	[1] 12,878,467,000
House bill, fiscal year 1979	12,690,544,000
Senate bill, fiscal year 1979	11,566,413,000
Conference agreement	11,578,692,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1978	+239,675,000
Budget estimates of new (obligational) auhtority, fiscal year 1979	−1,299,775,000
House bill, fiscal year year 1979	−1,111,852,000
Senate bill, fiscal year 1979	+12,279,000

[1] Includes $3,710,000 of budget estimates not considered by the House, contained in Senate Document 95–106.

SIDNEY R. YATES
(except amendment No. 49),
GUNN MCKAY,
CLARENCE D. LONG,
FRANK E. EVANS,
JOHN P. MURTHA,
R. DUNCAN,
NORM DICKS,
CHARLES WILSON,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
RALPH S. REGULA,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

ROBERT C. BYRD,
ERNEST F. HOLLINGS,
BIRCH BAYH,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PAT J. LEAHY,
DENNIS DECONCINI,
QUENTIN BURDICK,
TED STEVENS,
MILTON R. YOUNG,
MARK O HATFIELD,
HENRY BELLMON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 12930

Mr. STEED submitted the following conference report and statement on the bill (H.R. 12930) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1979, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–1673)

The committee of conference on the disagreeing votes of the two Houses on the

amendments of the Senate to the bill (H.R. 12930) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 13, 24, 29, 32, and 33.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 8 9, 11, 16, 17, 18, 19, 21, 22, 23, 25, 27, and 28, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$31,300,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$430,600,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$458,700,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$134,800,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,500,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,000,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate nubmered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$165,350,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$90,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 14, 15. 30 and 31.

TOM STEED,
J. P. ADDABBO,
EDWARD R. ROYBAL,
EDWARD J. PATTEN,
EDWARD P. BOLAND,
JOHN SLACK,
ROBERT C. MCEWEN,
E. A. CEDERBERG,
Managers on the Part of the House.

LAWTON CHILES,
DALE BUMPERS,
JIM SASSER,
DENNIS DECONCINI,
TOM EAGLETON,
L. P. WEICKER, Jr.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12930) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—TREASURY DEPARTMENT

OFFICE OF THE SECRETARY

Amendment No. 1: Appropriates $31,300,000 for salaries and expenses instead of $31,400,000 as proposed by the Senate and $31,125,000 as proposed by the House.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

Amendment No. 2: Appropriates $717,000,000 for salaries and expenses as proposed by the Senate instead of $174,000,000 as proposed by the House. $543,000,000 of this appropriation is for a one-time payment to various states to settle a dispute with the Department of Health, Education, and Welfare over claims for social services rendered under several titles of the Social Security Act.

UNITED STATES CUSTOMS SERVICE

Amendment No. 3: Appropriates $430,600,000 for salaries and expenses instead of $426,100,000 as proposed by the Senate and $431,000,000 as proposed by the House.

The Conferees remain convinced that the growing menace of airborne smuggling and drug trafficking necessitates the development of a more advanced air interdiction capability in the Customs Service and have, accordingly, agreed to restore the $4.5 million requested for the acquisition of a high performance interceptor aircraft which the Senate had deleted.

The Conferees note, however, that serious questions have been raised with regard to the operational suitability of the aircraft the Service plans to procure, with reference, in particular, to future mission profiles emphasizing very high dash speeds.

A related concern centers on the extent to which pre-existing relationships with a particular supplier and/or the qualifications and preferences of Customs' pilots may have been allowed to distort the evaluation and procurement process. The Conferees, therefore, expect that, in the future, the Service will base its selection of aircraft on technical performance related criteria and that genuinely unbiased and open bids basis procurement procedures will be followed.

INTERNAL REVENUE SERVICE

Amendment No. 4: Appropriates $594,500,000 for taxpayer service and returns processing as proposed by the Senate instead of $694,000,000 as proposed by the House.

Amendment No. 5: Appropriates $458,700,000 for investigations and collection instead of $458,400,000 as proposed by the Senate and $459,000,000 as proposed by the House.

UNITED STATES SECRET SERVICE

Amendment No. 6: Appropriates $134,800,000 for salaries and expenses instead of $134,600,000 as proposed by the Senate and $135,000,000 as proposed by the House.

GENERAL PROVISIONS—TREASURY DEPARTMENT

Amendment No. 7: Deletes language proposed by the Senate which would have prohibited the President from adjusting imports of petroleum or petroleum products. The action of the Conferees in eliminating the Senate amendment was based on assurances contained in letters from Treasury Secretary Blumenthal and Energy Secretary Schlesinger which are quoted below:

THE SECRETARY OF THE TREASURY,
Washington, September 7, 1978.

Hon. TOM STEED,
Chairman, Subcommittee on Treasury, Postal Service, General Government, House Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: The Senate by floor action has added to the Appropriations Bill for the Treasury Department and other agencies (H.R. 12930) an amendment (the so-called "Dole Amendment") purporting to withdraw funding under these appropriations to carry out a program adjusting imports of petroleum or petroleum products under the Trade Expansion Act of 1962.

We are writing to express the strong opposition of the Administration to this amendment.

The Trade Expansion Act authorizes the President to adjust imports that threaten to impair the national security. The Congress has recognized in legislation for many years that the country needs this capacity for prompt action in the event such a threat arises.

The Senate amendment would remove the capacity for prompt action with respect to petroleum imports. This would be a dangerous step, creating international doubts about our willingness and ability to act swiftly when our security interests are challenged.

Our allies and adversaries alike are well aware that we now import almost one half of our petroleum needs. In the 1973 oil embargo, it became clear that access to those supplies can be manipulated in an attempt to influence our foreign policy. More recently, our oil import bill has contributed to large trade deficits that have impaired the stability of the international monetary and trading systems and of the U.S. leadership role in world economic affairs.

Proponents of the Senate amendment say that they oppose Presidential adjustment of oil imports at the present time. But that is not the issue. At the Economic Summit in Bonn, the President made clear that he himself has not yet made any decision about the advisability of adjusting oil imports. And no such decision would ever be made without thorough consultations with the Congress and the most sober assessment of the national security considerations. The real issue raised by the Senate amendment is whether now to preclude the nation from taking prompt action under the standards of the Trade Expansion Act to adjust oil imports, regardless of national security threats that may arise. Constraining the nation's options in this fashion would expose our economy, our military posture, and our foreign policy to a new and unnecessary risk.

Simple prudence counsels that the nation retain the capacity for swift action to meet national security risks that may develop.

The Senate amendment is misguided in its aims and contrary to the national interest. We strongly urge you to make every effort to delete the amendment in Conference.

Sincerely,

W. MICHAEL BLUMENTHAL.

DEPARTMENT OF ENERGY,
Washington, D.C., September 29, 1978.

Hon. LAWTON CHILES,
Chairman, Subcommittee on Treasury, Postal Service, General Government, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Administration is gratified that the conferees on H.R. 12930, the Appropriations Bill for the Treasury Department and other agencies, have eliminated the so-called "Dole Amendment" restricting the President's authority to impose administrative actions to limit oil imports.

As I have previously indicated publicly, it is the Administration's view that imposition of import fees or quotas would be a poor

alternative to more meaningful legislative action directed at reducing our foreign oil imports. Recent Congressional progress on the National Energy Act has been significant; particularly in view of the strong Senate vote this Wednesday passing the natural gas portion of the National Energy Act—and the hoped-for passage by the House of this legislation in the near future—we believe that there is less likelihood that there would be a necessity to consider these rather poor alternatives. Should future events require imposition of such administrative measures, we would consult with the Congress before taking such action.

The impact of the natural gas bill in reducing foreign oil imports will make a positive contribution to lowering of the Nation's balance of payments deficit. We have every expectation that favorable Congressional action on this measure—and on the entire National Energy Act—will continue and hence obviate the need for any imposition of import fees or quotas in the near future.

Of course, the National Energy Act as it is likely to be passed by the Congress this year does not address an essential element of a comprehensive energy policy—the issue of domestic petroleum pricing—on which we will continue to work with the Congress, with a view toward a U.S. policy which will allow us to reduce otherwise expected levels of foreign oil imports over the longer term.

Sincerely,

JAMES R. SCHLESINGER,
Secretary,

TITLE II—U.S. POSTAL SERVICE

Amendment No. 8: Appropriates $1,785,176,000 for payment to the Postal Service Fund as proposed by the Senate instead of $1,829,994,000 as proposed by the House.

TITLE III—EXECUTIVE OFFICER OF THE PRESIDENT

THE WHITE HOUSE OFFICE

Amendment No. 9: Appropriates $16,711,000 for salaries and expenses as proposed by the Senate instead of $16,907,000 as proposed by the House.

DOMESTIC POLICY STAFF

Amendment No. 10: Appropriates $2,500,000 for salaries and expenses instead of $2,650,000 as proposed by the Senate and $2,000,000 as proposed by the House.

OFFICE OF MANAGEMENT AND BUDGET

Amendment No. 11: Appropriates $28,200,000 for salaries and expenses as proposed by the Senate instead of $28,000,000 as proposed by the House.

OFFICE OF FEDERAL PROCUREMENT POLICY

Amendment No. 12: Appropriates $3,000,000 for salaries and expenses instead of $4,040,000 as proposed by the Senate and $2,500,000 as proposed by the House.

The Federal Acquisition Institute became operational in September 1977. Initial funding of $1 million was provided in the Department of Defense Appropriation Act, 1978 (Public Law 95-111) and 25 permanent full-time reimbursable personnel positions established in the Department of the Army, as executive agent, for the Institute.

The President's budget estimate for the Institute in fiscal year 1979 is $2,116,000 and is included within the Office of Federal Procurement Policy appropriation. The reimbursable personnel positions continue in the Department of the Army with reimbursement from the Office of Federal Procurement Policy for salaries and expenses.

The Conferees are concerned that the Federal Acquisition Institute is not being perceived by other Federal agencies as an integral operating arm of the Office of Federal Procurement Policy. The Conferees believe that the primary goal of the Institute—to assist in improving the Federal government's acquisition and procurement functions—will be enhanced by moving the personnel and authorized positions supporting the Institute from the Department of the Army to the Office of Federal Procurement Policy. Therefore, the Conferees direct the transfer of not to exceed 20 personnel currently employed by the Federal Acquisition Institute from the Department of the Army to the Office of Federal Procurement Policy. Transfer of the positions and personnel are to be completed by December 31, 1978.

It is the view of the Conferees that the inclusion of funding and personnel for the Federal Acquisition Institute under the Office of Federal Procurement Policy within the Executive Office of the President will provide for increased efficiency and management effectiveness.

TITLE IV—INDEPENDENT AGENCIES

FEDERAL ELECTION COMMISSION

Amendment No. 13: Appropriates $8,000,000 for salaries and expenses as proposed by the House instead of $8,224,000 as proposed by the Senate.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

Limitation on availability of revenue

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment makes a language change to permit an appropriation to the Federal Buildings Fund.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment appropriates $21,150,000 into the Fund to provide full funding for the construction of public buildings.

Amendment No. 16: Establishes a limitation on the availability of revenue in the Federal Buildings Fund of $1,460,962,000 as proposed by the Senate instead of $1,400,764,000 as proposed by the House.

Amendment No. 17: Establishes a limitation of $113,978,000 for construction of certain buildings as proposed by the Senate instead of $53,780,000 as proposed by the House.

Amendment No. 18: Deletes language proposed by the House which would have provided only partial funding for the construction of a Federal Office Building in Boston, Mass. and provides $75,198,000 to fully fund this construction project.

Amendment No. 19: Establishes a total limitation on the Federal Buildings Fund of $1,460,962,000 as proposed by the Senate instead of $1,400,764,000 as proposed by the House.

FEDERAL SUPPLY SERVICE

Amendment No. 20: Appropriates $165,350,000 for operating expenses instead of $165,700,000 as proposed by the Senate and $165,000,000 as proposed by the House.

NATIONAL ARCHIVES AND RECORDS SERVICE

Amendment No. 21: Appropriates $74,000,000 for operating expenses as proposed by the Senate instead of $73,000,000 as proposed by the House.

FEDERAL PREPAREDNESS AGENCY

Amendment No. 22: Appropriates $39,245,000 as proposed by the Senate instead of $213,345,000 as proposed by the House. The sum of $174,100,000 for the procurement, rotation and transportation of strategic and critical materials is denied without prejudice pending completion of the authorization process.

GENERAL MANAGEMENT AND AGENCY OPERATIONS

Amendment No. 23: Appropriates $14,800,000 for salaries and expenses as proposed by the Senate instead of $13,800,000 as proposed by the House.

Amendment No. 24: Establishes a limitation on reception and representation expenses of $2,500 as proposed by the House instead of $3,000 as proposed by the Senate.

INDIAN TRUST ACCOUNTING

Amendment No. 25. Appropriates $2,600,000 as proposed by the Senate instead of $2,300,000 as proposed by the House.

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

Amendment No. 26: Appropriates $90,000,000 for salaries and expenses instead of $91,000,000 as proposed by the Senate and $87,000,000 as proposed by the House.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

Amendment No. 27: Deletes $2,700,000 for salaries and expenses as proposed by the Senate.

TITLE V—GENERAL PROVISIONS

Amendment No. 28: Deletes language proposed by the House which prohibits the Treasury Department from issuing regulations providing for the inclusion of certain fringe benefits in gross income. This issue is now before the appropriate legislative committees of the Congress. The managers are agreed that this matter should not be included in an appropriation measure at this time.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

Amendment No. 29: Deletes language proposed by the Senate which would have prohibited Cambodian and Laotian refugees paroled into the United States from being employed by the U.S. Government.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 613. (a) No part of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act may be used to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for September 30, 1978, if the rate of salary or basic pay for such office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable for September 30, 1978, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(c) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other

employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 614. (a) No part of any of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1978, by more than 5.5 percent, as a result of any adjustments which take effect during such fiscal year under—

(1) section 5305 of title 5, United States Code;

(2) any other provision of law if such adjustment is determined by reference to such section 5305; or

(3) section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(2)(A) of that title).

(b) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 32: Deletes language proposed by the Senate which would have reduced appropriations in this Act, except that contained in Title II, by 2 per centum.

Amendment No. 33: Deletes language proposed by the Senate which would have prohibited the purchase of goods and services, the prices of which have risen above certain guidelines.

It is the sense of the Conferees that all departments and agencies of the government should exercise extreme caution in the purchase of goods and services, the prices of which have risen in excess of the guidelines established by the Office of Federal Procurement Policy pursuant to the President's memorandum to the heads of executive departments and agencies dated May 18, 1978.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979 follow:

New budget (obligational) authority, fiscal year 1978	$8,187,694,000
Budget estimates of new (obligational) authority, fiscal year 1979[1]	9,203,261,000
House bill, fiscal year 1979	8,634,300,000
Senate bill, fiscal year 1979	8,981,125,000
Conference agreement	8,983,261,000

[1] Includes $540,100,000 of budget estimates not considered by the House.

Conference agreement compared with:

New budget (obligational) authority, fiscal year 1978	+795,567,000
Budget estimates of new (obligational) authority, fiscal year 1979	−220,000,000
House bill, fiscal year 1979	+348,961,000
Senate bill, fiscal year 1979	+2,136,000

TOM STEED,
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ROBERT C. MCEWEN,
E. A. CEDERBERG,
Managers on the Part of the House.

LAWTON CHILES,
DALE BUMPERS,
JIM SASSER,
DENNIS DECONCINI,
TOM F. EAGLETON,
LOWELL P. WEICKER, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GILMAN (at the request of Mr. MICHEL), for today, on account of official business.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GARY A. MYERS to revise and extend their remarks and include extraneous material:)

Mr. RUDD, for 30 minutes, today.

Mr. SARASIN, for 10 minutes, today.

(The following Members (at the request of Mr. MCHUGH) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

Mr. MEEDS, for 5 minutes, today.

Mr. ADDABBO, for 5 minutes, today.

Mr. ALEXANDER, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DOWNEY, to revise and extend his remarks and to include extraneous matter during his comments in debate on H.R. 14042, Department of Defense Appropriation Authorization Act, 1979.

(The following Members (at the request of Mr. GARY A. MYERS) and to include extraneous matter:)

Mr. SARASIN in three instances.

Mrs. HECKLER.

Mr. COUGHLIN.

Mr. FINDLEY.

Mr. LAGOMARSINO.

Mr. KEMP in three instances.

Mrs. HOLT.

Mr. STEERS.

Mr. DERWINSKI in two instances.

Mr. RUDD.

Mr. ASHBROOK in two instances.

Mr. KELLY.

(The following Members (at the request of Mr. MCHUGH) and to include extraneous matter:)

Mr. RODINO.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. OTTINGER in four instances.

Mr. WAXMAN.

Mr. PEPPER.

Mr. EDGAR.

Mr. FUQUA in 10 instances.

Mr. DOWNEY in two instances.

Mrs. SPELLMAN.

Mr. MEEDS.

Mr. LAFALCE.

Mr. PATTISON of New York.

Mr. TEAGUE.

Mr. BLANCHARD.

Mr. WOLFF.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2460. An act to amend the Indian Self-Determination and Education Assistance Act; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 3067. An act to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes; and

S. 3092. An act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1445. An act conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Cmdr. Edward White Rawlins, U.S. Navy (retired);

H.R. 9214. An act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund;

H.R. 10126. An act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service;

H.R. 10581. An act relating to judgment funds awarded by the Indian Claims Com-

mission to certain Indian tribes, and for other purposes;

H.R. 12026. An act to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness;

H.R. 13125. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 13349. An act to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes.

ADJOURNMENT

Mr. McHUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 53 minutes p.m.), under its previous order, the House adjourned until Monday, October 2, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5062. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense articles sold commercially to the Republic of China (transmittal No. MC-33-78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

5063. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 49, United States Code, to provide additional criminal penalties for safety violations; to increase civil penalty limits; and for other purposes; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. CHISHOLM: Committee on Rules. House Resolution 1390. Resolution providing for the consideration of H.R. 11488. A bill to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development. (Rept. No. 95-1655). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13167. A bill to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes; with amendment (Rept. No. 95-1656). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 13416. A bill to amend title 10, United States Code, to modernize the permanent faculty structure at the U.S. Military Academy, and for other purposes. (Rept. No. 95-1657). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. House Resolution 1308. Resolution to disapprove Reorganization Plan No. 4 transmitted by the President on August 10, 1978. (Rept. No. 95-1658). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. Report on section 302(b) allocation of the Committee on Ways and Means relating to the second concurrent budget resolution for fiscal year 1979 (Rept. No. 95-1660). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee on Science and Technology. Report on allocation of budget totals for fiscal year 1979 (Rept. No. 95-1661). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on IRS taxpayer services, tax return preparers, and tax form simplification programs (Rept. No 95-1662). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on lack of guidelines for Federal contract and grant data (Rept. No. 95-1663). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on emergency response to hazardous materials transportation accidents (Rept. No. 95-1664). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on military health and research (Rept. No. 95-1665). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 3185. A bill to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $50,000; with amendment (Rept. No. 95-1666). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3553. A bill to amend the Internal Revenue Code of 1954 to provide tax counseling for the elderly, and for other purposes; with amendment (Rept. No. 95-1667). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 10679. A bill to modify the boundary of the Cibola National Forest, and for other purposes; with amendment (Rept. No. 95-1668). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13719. A bill to offset the loss in tax revenues incurred by Guam and the Virgin Islands by reason of certain Federal tax reductions (Rept. No. 95-1669). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8222. A bill to apply duty-free treatment under certain circumstances to articles produced in the insular possessions of the United States, and for other purposes; with amendment (Rept. No. 95-1670). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee of conference. Conference report on H.R. 11445 (Rept. No. 95-1671). Ordered to be printed.

Mr. YATES: Committee of conference. Conference report on H.R. 12932 (Rept. No. 95-1672). Ordered to be printed.

Mr. STEED: Committee of conference. Conference report on H.R. 12930 (Rept. No. 95-1673). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DANIELSON: Committee on the Judiciary. S. 2079. An act for the relief of Lawrence Youngman (Rept. No. 95-1659). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRODHEAD:

H.R. 14203. A bill to amend title XVI of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under such title, in cases where the claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare; to the Committee on Ways and Means.

By Mr. CAVANAUGH (for himself, Mr. RAHALL, Mr. BLANCHARD, Mr. GLICKMAN, Mr. BEDELL, Mr. KILDEE, Mr. KOSTMAYER, Mr. TUCKER, Mr. BONIOR, Mr. VOLKMER, Mr. WATKINS, Mr. FOLEY, and Mr. GARCIA):

H.R. 14204. A bill to provide that time spent by American civilians in enemy prisoner-of-war camps and similar places shall be creditable (as though it were military service) toward pensions, annuities, or similar benefits under various Federal retirement programs; jointly, to the Committees on Armed Services, Interstate and Foreign Commerce, Post Office and Civil Service, and Ways and Means.

By Mr. FLORIO (for himself, and Mr. OTTINGER):

H.R. 14205. A bill to repeal section 3402 (q) of the Internal Revenue Code of 1954 which requires, for income tax purposes, amounts to be withheld from certain gambling winnings; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 14206. A bill to amend title II of the Social Security Act to provide that insurance renewal commissions, and other income attributable to services performed prior to retirement, shall not be taken into account in determining net earnings from self-employment for purposes of the earnings test; to the Committee on Ways and Means.

By Mr. HOLLAND (for himself, Mr. BROYHILL, Mr. HUBBARD, Mr. RHODES, Mr. DE LA GARZA, Mr. BRODHEAD, Mr. RAILSBACK, Mr. HALL, Mr. BEARD of Tennessee, Mr. AKAKA, Mrs. BOGGS, Mr. HEFTEL, Mr. MAHON, Mr. LONG of Louisiana, Mr. BAUMAN, Mr. RUNNELS, Mr. PICKLE, Mrs. SCHROEDER, Mr. APPLEGATE, Mr. CHARLES WILSON of Texas, Mr. TREEN, Mr. TUCKER, Mr. CARNEY, Mr. KRUEGER, and Mr. GONZALEZ):

H.R. 14207. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mrs. LLOYD of Tennessee:

H.R. 14208. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income any gain from the sale of real property to a redevelopment agency of a State or local government; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself and Mr. LONG of Louisiana):

H.R. 14209. A bill to require that the Secretary of Energy notify any State of any investigation of any site in such State for the

construction of any radioactive waste storage facility and allow such State to prevent the construction of such facility on such site by an action of the State legislature or a statewide referendum; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. PICKLE (for himself, Mr. HALL, Mr. CHARLES WILSON of Texas, Mr. COLLINS of Texas, Mr. ARCHER, Mr. WRIGHT, Mr. HIGHTOWER, Mr. BURLESON of Texas, Miss JORDAN, Mr. KRUEGER, Mr. KAZEN, Mr. GONZALEZ, and Mr. DE LA GARZA):

H.R. 14210. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross estate of any individual benefits payable under certain State judicial plans, and for other purposes; to the Committee on Ways and Means.

By Mr. WOLFF (for himself, Mr. ADDABBO, Mr. IRELAND, Mr. NEAL, Mr. RYAN, Mr. YATRON, Mr. CONTE, Mr. BEARD of Tennessee, Mr. MONTGOMERY, Mr. QUAYLE, Mr. LOTT, Mr. MICHEL, Mr. WHITEHURST, Mr. CHAPPELL, Mr. MITCHELL of New York, Mr. ROBINSON, Mr. BAFALIS, Mr. BEVILL, Mr. STRATTON, Mr. GOLDWATER, Mr. CRANE, Mr. LENT, Mr. ROUSSELOT, Mr. DENT, and Mr. GOODLING):

H.R. 14211. A bill to amend the Export Administration Act of 1969 to prevent the export to certain countries of goods or technology which have any potential application for military, law enforcement or intelligence gathering purposes; to require the President to notify the Congress of any approval of a license for the export of goods or technology to such countries; to provide for congressional disapproval of any such license application; to require the Secretary of Defense to prepare a military impact statement for the Congress with respect to certain export license applications, and for other purposes; to the Committee on International Relations.

By Mr. STOCKMAN (for himself, Mr. BROWN of Ohio, Mr. KEMP, Mr. GRADISON, Mr. STEIGER, and Mr. QUAYLE):

H. Con. Res. 728. Concurrent resolution to oppose the implementation and enforcement by the President of a program of wage and price controls not specifically authorized by statute; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CORNWELL:

H. Res. 1391. Resolution expressing the sense of the House of Representatives that no funds for the construction of any congressional office building should be appropriated for any fiscal year for which the budget of the Federal Government is not balanced; to the Committee on Public Works and Transportation.

By Mr. DORNAN (for himself, Mr. SANTINI, Mr. ROBERT W. DANIEL, Jr., Mr. KEMP, Mr. BURGENER, Mr. WALKER, Mr. LENT, Mr. GAMMAGE, Mr. RUPPE, Mr. LAGOMARSINO, Mr. GUYER, Mr. LIVINGSTON, Mr. CHAPPELL, Mr. CRANE, Mr. DAVIS, Mr. STANGELAND, Mr. MILLER of Ohio, Mr. BRINKLEY, Mr. DERWINSKI, Mr. FOUNTAIN, Mr. HUBBARD, Mr. MCDADE, Mr. MURPHY of New York, and Mr. SPENCE):

H. Res. 1392. Resolution relative to United States-China relations; to the Committee on International Relations.

By Mr. FINDLEY (for himself and Mr. HALL):

H. Res. 1393. Resolution to maximize local nighttime radio service; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII,

487. The SPEAKER presented a memorial of the Legislature of the State of California, relative to human rights; to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11488

By Mr. BAUCUS:

—Page 70, insert after line 5 the following:

(2) Subsection (b)(1) of section 1501 is amended by adding at the end thereof the following: "Such standards shall reflect the unique circumstances and needs of medically underserved populations, including populations in isolated rural communities.".

Page 70, line 6, strike out "(2)" and insert in lieu thereof "(3)".

Page 71, insert after line 8 the following:

(c) Section 1503(b)(1) is amended (1) by striking out "fifteen members" and inserting in lieu thereof "twenty members", (2) by inserting "the Assistant Secretary for Rural Development of the Department of Agriculture," after "Department of Defense," in the second sentence; and (3) by striking out "not less than five shall be persons who are not providers of health services" in the fourth sentence and inserting in lieu thereof "not less than eight shall be persons who are not providers of health care and shall include members of urban and rural medically underserved populations".

Page 120, insert after line 18 the following:

(4) Section 1524(b)(1) is amended by inserting after subparagraph (D) the following:

"(E) Members of the SHCC who are consumers of health care and who are not providers of health care must include individuals who are members of rural and urban medically underserved populations if such populations exist in the State.".

H.R. 11545

By Mr. BAUCUS:

—Page 14, line 3, strike out "1,200,000,000" and insert in lieu thereof "1,000,000,000".

H.R. 13750

By Mr. BAUCUS:

—On page 44, line 22, strike out "September 30, 1983" and insert "September 30, 1979".

(To amendments offered by the Committee on Ways and Means.)

—In section 406 as proposed to be added by the Committee amendments, strike out "September 30, 1983" and insert "September 30, 1979".

H.R. 14067

By Mr. QUAYLE:

—Page 9 at line 1, insert a new section 205 to read:

"OMBUDSMAN

"SEC. 205. There shall be in the Department of Education an ombudsman to local school districts who shall function specifically as an advocate for the positions of the local and/or state school boards and/or departments of education or equivalent body(ies), to the Department."

Redesignate succeeding sections accordingly.

—Page 19, insert at line 6, a (7) to read:

(7) all functions vested in the President's Council on Physical Fitness.

Redesignate all succeeding sections accordingly.

—Page 17, insert at line 22, a new (S) to read:

(S) under the Woodrow Wilson International Center for Scholars-Fellowship and Guest Scholar Programs.

Redesignate all succeeding sections accordingly.

—Page 17, insert at line 22, a new (S) to read:

(S) under the Alcohol and Drug Abuse Education Act.

Redesignate succeeding sections.

—Page 20, at line 22, insert a new section 305 to read:

TRANSFERS FROM THE DEPARTMENT OF COMMERCE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Pacific Northwest Education Demonstration Projects operating under the Office of Economic Development at the Department of Commerce.

Redesignate the succeeding sections accordingly and redesignate table of contents.

—Page 20, at line 22, insert a new section 305 to read:

TRANSFERS FROM THE DEPARTMENT OF COMMERCE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Coastal Plains Education Demonstration Projects operating under the Office of Economic Development at the Department of Commerce.

Redesignate succeeeding sections accordingly.

—Page 20, at line 22, insert a new section 305 to read:

TRANSFERS FROM THE DEPARTMENT OF COMMERCE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Upper Great Lakes Education Demonstration Projects operating under the Office of Economic Developemnt at the Department of Commerce.

Redesignate the succeeding sections accordingly.

—Page 20, at line 22, insert a new section 305 to read:

TRANSFERS FROM THE DEPARTMENT OF COMMERCE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Appalachian Vocational and Educational programs operating under the Office of Economic Development at the Department of Commerce.

Redesignate the succeeding sections accordingly.

—Page 20, insert a new section 305 to read:

TRANSFERS FROM THE DEPARTMENT OF COMMERCE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the U.S. Merchant Marine Academy.

Redesignate the succeeding sections accordingly.

—Page 20, insert at line 22, insert a new section 305:

There are hereby transferred to and vested in the Secretary all functions relating to payments to the 1890 land-grant colleges and Tuskegee Institute.

Redesignate succeeding sections.

—Page 20, at line 22, insert a new Section 305 to read:

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Youth Conservation Corps training program operating under the Conservation Service at the Department of Agriculture.

Redesignate succeeding sections accordingly.

—Page 20, at line 22, insert a new section 305 to read:

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to basic and applied research from the Science and Education Administration at the Department of Agriculture.

Redesignate succeeding sections.

H.R. 14067

By Mr. WALKER:

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to grants for special agricultural research vested in the Secretary of Agriculture or the Department of Agriculture by section 2(c) of Public Law 89–106, as amended by section 1414 of Public Law 95–113.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to higher education land-grant colleges and universities vested in the Secretary of Agriculture or the Department of Agriculture by the Morrill Act of 1862, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transformed to and vested in the Secretary all functions relating to rural development research vested in the Secretary of Agriculture or the Department of Agriculture by the Rural Development Act of 1972, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to payments to 1890 land-grant colleges and Tuskegee Institute vested in the Secretary of Agriculture or the Department of Agriculture by section 1445 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to cooperative forestry research vested in the Secretary of Agriculture or the Department of Agriculture by the Cooperative Forestry Research Act of October 10, 1962, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and bested in the Secretary all functions relating to the basic and applied agricultural research vested in the Secretary of Agriculture or the Department of Agriculture by the Research and Marketing Act of 1946, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Cooperative Extension Service vested in the Secretary of Agriculture or the Department of Agriculture by the Smith-Lever Act, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Youth Conservation Corps vested in the Secretary of Agriculture or the Department of Agriculture by the Youth Conservation Corps Act of 1970, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to forestry research vested in the Secretary of Agriculture or the Department of Agriculture by the Basic Research Grants Act.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to forestry cooperative research vested in the Secretary of Agriculture or the Department of Agriculture by the McSweeney-McNary Forest Research Act of 1928, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF EDUCATION

SEC. . There are hereby transferred to and vested in the Secretary all functions relating to nutrition education experimental or demonstration projects vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to nutritional training and education vested in the Secretary of Agriculture or the Department of Agriculture by the National School Lunch Act.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to State administrative expenses for child nutrition vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the special milk program for children vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the national school lunch program vested in the Secretary of Agriculture or the Department of Agriculture by the National School Lunch Act of 1946, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to equipment assistance for school food service programs vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the school breakfast program vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966 as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Apprentice Outreach programs vested in the Secretary of Labor or the Department of Labor by the Comprehensive Employment and Training Act of 1973, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to apprenticeship training vested in the Secretary of Labor or the Department of Labor by the National Apprenticeship Act of 1937.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Job Corps vested in the Secre-

tary of Labor or the Department of Labor by title IV of the Comprehensive Employment and Training Act of 1973, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to doctoral dissertation and small grant research program vested in the Secretary of Labor or the Department of Labor by title III of the Comprehensive Employment and Training Act of 1973.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the institutional grants program vested in the Secretary of Labor or the Department of Labor by title III of the Comprehensive Employment and Training Act of 1973.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

—Insert at the end of title IV the following new section:

SEC. 439. The Secretary is authorized to utilize remedial programs to promote equal opportunity within education, and issue rules, regulations, standards, guidelines, recommendations and orders for purposes of compliance with such programs provided that such programs do not utilize any ratio, quota or other numerical requirement related to race, creed, color, national origin or sex to require any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admission policies or practices of such individual or entity.

Conform the table of contents accordingly.

—Page 35, after line 14, insert the following new section:

WITHHOLDING OF FUNDS

SEC. 439. (a) Prior to the issuance of any decision pertaining to the withholding of any funds, on the basis of statutory requirement, allocable to any State or local government or State or local educational agency the Secretary shall transmit such decision to the Congress.

(b) No decision by the Secretary to withhold funds otherwise allocable to any State or local government or to any State or local educational agency under any program transferred to the Department shall be effective, if, within 30 legislative days after notice of such proposed decision is transmitted to the Congress, either House of Congress adopts a resolution stating in substance that it disapproves such decision.

(c) For purposes of subsection (b), the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

Conform the table of contents accordingly.

EXTENSIONS OF REMARKS

NAVY DAY

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. MOORHEAD of California. Mr. Speaker, the 10th annual celebration of Navy Day by the Pasadena Chamber of Commerce and the Pasadena Council of the Navy League will be held in my district on October 14.

The guest speaker will be Vice Admiral James Stockdale, Medal of Honor recipient, 7-year Vietnam prisoner of war, and president of the Naval War College, Newport, R.I.

One highlight of the celebration will be the presentation by the Navy Department of a 10-foot scale model of the World War II cruiser, U.S.S. *Pasadena*, to the city of Pasadena.

Commissioned prior to the Navy's courageous thrust into the Marianas, the 14,400-ton, 661-foot U.S.S. *Pasadena* completed shakedown and training exercises in the summer of 1944, then participated extensively in the war zone in the Western Pacific heroically earning five battle stars before decommissioning.

The Pasadena Council of the Navy League has been one of the few Navy Leagues in the Nation to enlist the support of the business community in the celebration of Navy Day.

This year the business sponsor is Avery International, a worldwide corporation. Two years ago, it was the Ralph M. Parsons Co.

As you know, the Navy League is a military-oriented organization dedicated to a strong national defense. It has a fivefold purpose:

First, to foster and maintain interest in a strong Navy, Marine Corps, Coast Guard, and Merchant Marine;

Second, to educate Americans about the role of seapower in a nuclear age;

Third, to improve the understanding of those who wear the uniforms of our Armed Forces and to better the conditions under which they live and serve;

Fourth, to provide support and recognition for Reserve Forces in the community in order to promote capable, responsive Reserves; and

Fifth, to educate and train our youth about the customs and traditions of the Navy, the Marine Corps, the Coast Guard, and the Merchant Marine, through an active Naval Sea Cadet Corps program.

The League, founded in 1902, has directed nationwide celebrations of Navy Day since 1922. It commemorates the birthday of the Navy and the birthday of President Theodore Roosevelt who donated a portion of his Nobel Peace Prize to assist in the development of the 40,000-member, worldwide Navy League.

This year, the Navy League is celebrating the 203d birthday of the U.S. Navy, and the Pasadena Council of the Navy League, headed by Robert Louis Johnson, is happy to be involved recognizing the greatness of the U.S. Navy.

I too am happy and honored to be able to recognize the many contributions made to the Navy, the community and the country by the members of the Pasadena Chamber of Commerce and the Pasadena Council of the Navy League, and their annual Navy Day celebrations.●

INFLATION REALLY HITS HOME

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. MARRIOTT. Mr. Speaker, the buying, selling, and building of homes in this country is the staple of our economy and the keystone of our society. The right, ability, and opportunity to obtain a dwelling on your own is as basic as the Constitution itself.

The only trouble is, the cost of exercising that right has escalated to the point that this year only 25 percent of all Americans can afford a new home, which now costs an average of $61,000, compared to $29,000 in 1972. Last year the figure was over half, 54.7 percent, even with the skyrocketing costs.

Additionally, the income group purchasing new homes has changed dramatically. In 1965, for example, middle-income-earning families bought 53 percent of all the new houses in the United States. By 1976 that was down to 38 percent.

Conversely, families in the upper 25 percent of the income brackets went from purchasing 31 percent of the new home market to 58 percent in that same period. It has become more and more evident that soon only the rich will be able to afford the housing in this country.

That is fine for those in the upper levels, but their children and others in the lower brackets are having a rough time. One economist estimated that at least 1 million Americans have been pushed out of buying a home—and much of it is because of overregulation, a major cause of inflation.

If inflation continues at only 7 percent until 1986, that same average home will cost $90,000, with a down payment of close to $23,000.

There are many approaches to solving the problem. However, you cannot just give every American a new home just because he cannot afford it. That kind of thinking has already gotten us into public debt so far it may take major surgery to get us out.

I have taken the approach that it should be made as easy as possible for young people and other first-time homebuyers to use their own resources to purchase a house.

I have introduced what I called the Home Purchase Act of 1978. The bill

allows you to set up tax-free savings accounts of up to $15,000, to be accumulated over a period not longer than 10 years at a maximum deposit of $3,500 a year. The deposit and the interest would be tax exempt, and penalties would be assessed in addition to the taxes due if the money is used for any other purpose.

There would be no maximum income limitation on those eligible for the program, but only 20 percent of each year's deposit could come from unearned income.

At my request the Library of Congress studied the effects of my bill and discovered it would have the greatest effect on those individuals making $25,000 or less. All those participating would deposit about $7 billion a year, saving themselves about $4 billion in income taxes.

Of course, the obvious additional benefit is to the economy itself. A great infusion of capital would occur, making possible increased investment in those capital assets small businesses need to chip away at the problems of inflation, high taxes, unemployment, and the general health of the economy.

I am currently working on ways to implement that same concept in other areas as well. It is a concept that is long overdue and is now getting some serious attention in Congress.

Taxes and inflation are constantly eating away at everything in our lives. It is increasingly difficult to accumulate money for homes, retirement, and other worthwhile purposes. We need to shift the tax burden away from savings and investments and allow you to use more of the money that is yours to begin with.●

COOPERATIVE EXTENSION SERVICE EXEMPLIFIED BY LEROY THOMAS, OF BOLIVAR COUNTY, MISS.

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. BOWEN. Mr. Speaker, the Cooperative Extension Service has played an integral role in the agricultural and economic development of our Nation since it was implemented following passage of the Smith-Lever Act in 1914.

Coupled with our already established land-grant institutions, in our State, Mississippi State University, the Cooperative Extension Service offers three vital dimensions of service: a well-rounded program of instruction, research, and, most importantly, service to Mississippians in all 82 of our counties.

Nowhere has the fine work of the Cooperative Extension Service been better exemplified by the dedication and service of its county agents than in my home county, Bolivar County. Alfred Leroy Thomas has worked with our State's cooperative extension service program for 30 years, the past 17 as county agent in Bolivar County. When Leroy Thomas retired this summer, he left standards of service, accomplishment, and dedication that are certainly among the most outstanding, not only in our State, but in the Nation.

Leroy Thomas joined the Cooperative Extension Service in 1948, following graduation from Mississippi State University, and his first job was as the assistant county agent in charge of 4–H Club work in DeSoto County, Miss. He was later promoted to the post of associate county agent, and compiled an outstanding record there until he was assigned the job of serving as county agent in Bolivar County, one of the State's and Nation's largest and most productive agricultural counties, located in the heart of the very fertile Mississippi Delta.

Since coming to Bolivar County, Leroy Thomas has engaged in a comprehensive effort to coordinate groups and individuals working in the interest of agriculture. For example, in 1962, he prepared a Bolivar County Farmers Guide.

In 1963, he received the Distinguished Service Award from the National Association of County Agricultural Agents at their national meeting in Minneapolis for his outstanding service as a county agent. This award, the highest honor given by the NACAA, is presented to members who have demonstrated their ability in working with rural people in improving agricultural and general economic and social conditions in their respective counties.

One of the most important aspects of Leroy Thomas' work has been his conception and implementation of the Delta Agricultural Exposition. Beginning in 1974, this important event has given farmers and agribusinessmen the latest information on producing and marketing agricultural crops in the Mississippi Delta. So prominent has this exposition become under Leroy Thomas guidance, that it annually draws attendance of about 3,000 persons from about 45 counties in Mississippi and 18 other States during its 2-day program.

I can think of no better example of the educational program based on State and local needs in the broad fields of agricultural production and marketing natural resources and environmental improvement, rural development, home economics, and youth development, than the annual Delta Agricultural Exposition held each year in Cleveland.

Dr. William M. Bost, the outstanding director of our Mississippi Cooperative Extension Service, and other State and National officials of the extension service, can certainly be proud of the work done on this monumental program by Leroy Thomas.

The Delta Agricultural Exposition is a first-class example of the cooperative extension service slogan: "The State Is Our Classroom." The extension service brings our land grant institution, Mississippi State University, to every county in the State through its comprehensive programs.

My own late uncle, R. L. Bowen, devoted more than 30 years of his life and career to the cooperative extension service through service on the faculty at Mississippi State. I learned early in life from him that the extension service is a unique educational agency, charged with responsibility for disseminating research-based information that is practical and useful to all Mississippians.

Three levels of government cooperate to support the work of the cooperative extension service. These three partners are the State, through Mississippi State University, the county, through the county board of supervisors, and the Federal Government, through Congress and the Extension Service of the U.S. Department of Agriculture.

The educational efforts of the extension service are conducted primarily through the local county agents in each of the State's 82 counties, who are in turn supported by area and State specialists and a supervisory and administrative staff. As off-campus members of the Mississippi State University faculty, county extension service workers are educational advisers, consultants, and channels through which citizens receive information. The extension service specialists bring the expertise of their respective departments to bear on the problems and interests of our people in each county.

Extension service programs are countywide, areawide, or statewide, and sometimes regional or national in scope. The staff also coordinates the efforts of thousands of volunteer leaders in educational programs.

Administratively, the extension service operates under the vice president for agriculture, forestry, and veterinary medicine of Mississippi State University, Dr. Louis Wise, and the extension director, Dr. William Bost. Two associate directors and a State leader for home economics programs make up the top administrative staff for the extension service.

We will all miss Leroy Thomas' leadership and service in Bolivar County, but I know that Dr. Wise, Dr. Bost and other administrators have full confidence their excellent program will be continued in that county and throughout the State.

Thank you, Mr. Speaker, and my colleagues in the House of Representatives, for allowing me this opportunity to publicly commend Leroy Thomas, a person who richly deserves the congratulations not only of his fellow Mississippians but of the U.S. Congress for his years of distinguished service.●

STATEMENT OF CONGRESSMAN JOSEPH L. FISHER ON CETA

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. FISHER. Mr. Speaker, the House has passed a bill reauthorizing the Comprehensive Employment and Training Act and making important changes in it. CETA was originally enacted in 1973 and has been amended and enlarged since then. It consolidated many of the Federal employment and training programs and made local governments responsible for planning and carrying out the services. During the recession of the mid-

1970's CETA became the vehicle for a huge job creation program.

The reauthorization bill makes changes in the administration of the program, with special provisions for dealing with abuses and insuring compliance with program restrictions. Other provisions in the bill include reducing the number of public service jobs and increasing the emphasis on youth programs and private sector initiatives; gradually reducing the funds available for public service jobs thereby making more money available for training the structurally unemployed; limiting participation in a public service job to 18 months in a 5-year period; and limiting the national average public service job wage to $7,000 a year, to be adjusted annually according to local wage rates. The number of jobs authorized by this bill for fiscal year 1979 is 600,000, compared with 725,000 at the peak of the program.

I voted in support of cutbacks in the public service jobs component of CETA. With the unemployment rate coming down, I believe that a reduction from peak levels in the number of public sector job slots authorized by this legislation is warranted. I am also in agreement with the move to shift some resources to youth training and employment programs since unemployment rates for youths, especially minorities, remain unacceptably high even as the overall unemployment rate continues to fall. With these changes and the other efforts to tighten up the program, I voted to continue CETA.●

SPEECH ON ALTERNATIVE FORMS OF ENERGY TO TRANSIT BILL 17333

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. BONIOR. Mr. Speaker, the present energy shortages have caused us to redesign our thinking in many areas including transportation which consumes about 25 percent of our energy supply. We have taken many important steps to increase energy conservation in the transportation field, most notably:

First. The imposition of the 55-mile-an-hour speed limit which could save as much as 8 million gallons of gasoline a day if fully enforced.

Second. The increased fuel efficiency requirements on automobiles.

Third. And most importantly, the encouragement and expansion of public transportation especially through increased Federal funding.

Each of these steps is reducing energy consumption. However, there is much more that can be done. In addition to energy conservation, we must increase our use of alternative sources of energy. Congress recognized this in its support of tax credits for the use of alternative energy sources. While the use of alternative energy sources, especially solar energy, is much further advanced than it was a few years ago, many Americans are still skeptical mainly due to the lack of exposure to successful experiments. If the average American saw solar heating working, it could encourage him to install it in his own home. I believe that the Federal Government has a responsibility to encourage the use of alternative energy and to make sure the average American sees successful applications. If we can install alternative energy sources in Government buildings it will accomplish many goals. First, it will show a Federal commitment to this project. Second, it will set an example for energy conservation and will save fuel. Third, it will prove to the public that these plans actually work especially if there are applications that the public can relate to their own lives.

The transportation field presents many opportunities for such application which I believe we should take advantage of. Millions of Americans use the interstate highway system which reaches into every State. Few other programs provide so many diverse applications for (alternative) energy sources in such a wide variety of locations. Many highway facilities, especially rest stops, are far from major cities and energy supplies. This location increases the cost of conventional energy and makes them prime candidates for (alternative) energy uses especially solar power. I believe that the Federal Government should set up a demonstration program which would provide grants from the highway trust fund to install solar panels in rest stops and for other applications of alternative energy technology. While this may sound a bit far-fetched, there are already a few examples in operation and more are in the planning stages.

They can easily be installed as part of new construction or remodeling. The solar panels only cost about $2,000 and can be completely installed for about $10,000. They have the added advantage of being practically maintenance free. The only maintenance which is required is to replenish the water supply in the battery once every 2 or 3 years. There are few breakdowns because there are few moving parts. They operate very well in a wide range of climate, have a long operational life and are practically bulletproof. Unlike other energy forms, they have no negative environmental ejects. While heating water accounts for only about 2 percent of the energy use in the average rest stop, it is presently the most cost-effective use of solar energy. Such rest stops are already in operation in Virginia and detailed plans are being developed in Arkansas, Tennessee, Georgia, and Michigan.

Another possible use is as a cathode which prevents the corrosion of reinforcing steel on a bridge. Such a solar panel is in operation on the bridge at Dead Run on the George Washington Parkway in Fairfax County, Va. It has worked very well. The installation of the solar panels cost only $4,620 while bringing an electric line out would have cost $13,954. The savings of $9,334 is just for installation. The savings because of the elimination of monthly electric charges has been tremendous.

While the installation of photovoltaic panels for heating water, or acting as a cathode to prevent the corrosion of reinforcing steel, is the most cost-effective application presently.

The State of Michigan is already in the process of developing specifications for a rest stop which will be heated by wind and solar power. The electricity from these power sources will also heat the water, provide for lighting and pump the water. According to present plans, such a facility could be in operation by 1981. There is presently a bill in the Michigan State Legislature which specifically provides authority to fund such projects from the highway fund.

All States should be encouraged to develop and utilize alternative renewable forms of energy. The highway program provides an excellent opportunity to increase exposure and public consciousness of these valuable alternative energy sources.

One of the best ways to encourage States to undertake this type of program is for the Department of Transportation to provide technical assistance and funding for some demonstration projects in this area. I understand that DOT along with the Department of Energy is exploring the possibility of such a program which I strongly support. It is my hope that transportation which is such a leader in energy consumption can also be a leader in energy conservation and conversion to alternative renewable energy sources.●

A EUROPEAN VIEW OF U.S. MARITIME POLICY

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. MURPHY of New York, Mr. Speaker, I would like to call the attention of my colleagues to the remarks made by Mr. A. B. Marshall, managing director of Peninsular and Oriental Steam Navigation Co. Ltd., on the present state of U.S. maritime policy. I think you will find the views of a most distinguished and knowledgeable European executive most enlightening.

TEXT OF ADDRESS GIVEN BY MR. A. B. MARSHALL

We are honoured to have with us such a distinguished group of guests. My wife and I on behalf of the P & O Group welcome you with the greatest pleasure.

I would like to say first, however, that we are all in a sense guests this evening in a particular community. "Canberra", the flagship of P & O, is at present in the middle of a 21 day cruise from U.K. This party has been arranged during an otherwise normal port call—in other words around you this evening, as you have probably seen, are some 1,800 cruising passengers, having returned from a day in New York City or about to set off for a night on the town. The ship is alive with activity—the demands on staff are heavy. I should like to express our thanks to Captain Scott Masson and his ship's company for all they have done for us while maintaining, throughout, the normal care and attention of our cruising population.

Now in the present situation of the International Shipping Industry you may wonder if a reception of this type is appropriate. I think your distinguished senator once of-

fered advice for such an occasion "mankind needs the repetition of the obvious more than the elucidation of the obscure." It seems to me vital that we find cooperative solutions to our problems and perhaps this dinner will help to develop joint understanding. Just how serious the recession is in the deep sea trades is sharply illustrated by PANDO's 6 months results to June '78 which we announced last week. Compared with the corresponding period of 1977 operating profits from our General cargo and Container business and from our Bulk trades dropped some dlrs. 40M or 84 percent.

Improved results in cruising, in Australian trading and in our major new business of recent years, construction and home building, were helpful but insufficient to avoid a bottom line loss.

But we and British shipping have survived depressions and recessions—a sense of history may be regarded as essential in our industry and in PANDO we take some comfort in having nearly 150 years of it behind us. I must acknowledge, however, that I see only very limited signs of encouragement in world trade,—yet it is still certain that transportation by sea is essential to trade at whatever level. So continuity provides one form of answer to "Why" but why here in New York? Our interests in U.S.A. are not, as you may be aware only those of shipping. We are certainly market leaders in the West Coast cruising market with our 3 Princess ships—an interest here which we would like to extend for the benefit of Californians were it not for, in this case, traditional and somewhat historic Jones Act restraints.

Our Air Freight business is one of the world's leading International forwarders—in the same league as the larger U.S. businesses. This group also links up with our through transportation service which provides door to door delivery using extensive road haulage services in Europe and the Middle East.

We have a growing involvement in oil and gas production, trucking and trading. The result of this is that the P and O flag, the symbol which has linked the group since 1840, flies today through 20 states off the U.S.A.

But our major interest is more general and fundamental. Quite simply as the major trading entity, the United States generates, finances or affects in some way most international trade. Though the U.S. merchant fleet sadly—and we Europeans mean sadly—no longer approaches the scale or power which it held up to and immediately after the 2nd World War, yet U.S. Maritime Policy (or to be honest in some areas lack of it), touches on all of us engaged in maritime affairs. We Europeans would like to see a strong U.S. merchant marine—competitive in commercial terms—able to command attention through performance and able thus to influence policy. In that direction lies the principal hope of cooperation in our common interest.

There are, however, no really clear views of U.S. policy at this time—perhaps the maritime interest seems so relatively small to some as to be of minor importance. On the other hand, because it is small, in some respects uncompetitive in commercial terms, it may be felt it needs stimulus through further subsidy or even protectionist measures.

The British Prime Minister Disraeli once said that "Protectionism is an expedient not a solution." Of the two, subsidy, however debilitating is probably the lesser evil, for protectionism in the end erodes enterprise and initiative and finally threatens the very focus of its effort.

We look for a clear lead to clear policies because we believe it important to work together to maintain the free enterprise system and freedom of choice.

Why have we such difficulty in getting together?

The thrust of US action over many years had been to foster competition and to protect the consumer or user by government regulation—regulation primarily based on considerations of a huge domestic market and a huge mass of producers and consumers. It is certainly not for us to question that general philosophy. But the European philosophy for shipping is one of self regulation by the industry, combined with continuous consultation and co-operation themselves with the users—the shippers and importers. Such cooperation is not permitted in US trades and effectively, therefore, there is denied the possibility of constructive moves to rationalise services, to secure cost effective and optimised operation. In times of enormous investment and high operating cost, a modern, shipping service needs sophisticated planning. Yet because of US Law there have even been attempts to prevent European lines consulting with their customers in Europe.

The Shipping Act of 1916, when US shipping was strong, already recognized the need for modification of anti trust law exemption subject to some restraints for this international industry. It is a pity that, drifting away from that common sense application, current practice should be so perplexing even, one might say, destructive—just when the whole structure of our industry is severely beset by economic and political threats.

Over supply of shipping. In the 60's and 70's, confident expectations of steady, steep, upward trends in world trade stimulated the fragmented world shipping industry to re-equip and expand—each time with more productive units. Encouraged by modernized shipyards and by governments grasping new employment opportunities, excited by banks anxious to lend on fashionable "floating real estate" the numbers of new speculative ships in service and in prospect rose on an unprecedented scale.

Then came the crash of 1974/5—First Tankers, then Bulk Carriers, felt the pressure of reduced trade. Then the spillover affected all types of shipping as orders were renegotiated. As trade slowed further, congestion eased and freed up ships and now shipbuilding nations, old and new, fight their own battles for survival. Employment is sought wherever possible—where better than in trades weakly organized because of inability to consult and co-operate. Instability is the enemy of reliability and profitability and many of our western trades are becoming unstable.

This leads to the threat posed by the Soviet Union—now operating the worlds largest fleet of General Cargo ships and rapidly developing increased capacity of container and Roll On and Roll Off vessels—a fleet of over 9 million tons, effectively under central control, with a state purse behind it and not subject to compelling economic criteria as are our Western companies.

Some of the most significant penetration by the Soviets is in US trades (weakly organized as I have noted)—the North Atlantic, Trans Pacific to Australia and the Orient where the Russian Fesco Line have secured some 17% of the trade. The Soviets have no cargo to bring to these routes—They are cut throat cross-traders. The Soviet Union generates only about 2 percent of world general cargo with a capacity to carry over 4 times that amount—Why? Economic reasons or strategic?

Then there are the developing nations—An airline, an intercontinental hotel, a shipping line, the U.K. and the traditional maritime nations continue to recognize these aspirations and indeed, after a somewhat tentative beginning we have a pretty good record over recent years in assisting them. But it can't all be done at once.

So we have significant threats on top of an already bleak trading scene.

For 30 years much of US trade has been carried by free enterprise western shipping. This has been, perhaps, a reasonably comfortable, if not fully recognized position and of course this country has shouldered many other burdens on behalf of the western alliance during the period.

But continuation of this position is at risk. Private enterprise can tackle commercial pressures in the traditional way—shortening down, tightening up, coming again when the storm is over.

Non-commercial pressures beyond the ability or capacity of the private operator to deal with are another matter. The continued expansion of the Soviets into western trades for political as well as economic purposes is something which must be, can only be, contained through joint action by like-minded governments. Again, instability promoted by excessive building of ships for national, probably social, reasons is a problem for governmental action not something which private enterprise shipping can counter.

Ultimately it is for nations to decide what form of shipping industry they require.

I believe that in our western world it is best provided on a free enterprise, if you like, capitalist basis. Yet the pressures are severe and it may be that if no solutions are found—and given the scale of investment required today—that there will be increasing reluctance to commit private capital to an industry subject to such unquantifiable, uncontrollable, political risks.

It would be ironic indeed if the outcome were, after all, to be a slide into state shipping enterprise in the West with all that that implies in terms of less than optimum use of resources, less cost effective operation, reduced international trade and more political tension.

In addressing you in these terms, ladies and gentlemen, it is not my intention to be alarmist or threatening. One simply knows that in our western democracies it takes time to develop political will, to shift policy. I believe genuinely that the two great units of USA and Europe may be so engaged with differences of opinion and interpretation of the minutiae of shipping affairs that we may fail to make the real threats to the system.

It is not too late but it may be close run.

I hope that the current investigations in Washington, designed to re-define maritime policy will not get bogged down in inter-agency debate and that talks taking place in London this week between U.S. Government and European officials will address the vital issues. From discussions in Washington yesterday I know how much your representatives and members of the administration, a number of whom we are delighted to see with us here this evening, are striving to define and chart the right course—I hope what I have said may assist others of you, leaders in your own field, opinion formers, members of a democratic society, to add your contribution to that effort.

As I said when I opened, this country's involvement and interest in world trade affects us all and I offer no apology for putting these views before you. They come from a country and a company with much history—most of it sharing with you a basic common commitment to enterprise and freedom.●

A SALUTE TO SHIRLEY PETTIS

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. BROOMFIELD. Mr. Speaker, our colleague SHIRLEY N. PETTIS joined the International Relations Committee in January 1977 and has served with distincton in this demanding assignment, demonstrating her intelligence, commitment and courage in facing difficult foreign policy issues.

As some of you may know, SHIRLEY recently resigned from the committee in order to meet other urgent obligations during the remaining weeks of the 95th Congress. We will miss SHIRLEY for she has brought to this body a dedication to her work, a positive attitude, spirit, and charm that are appropriate to the House of Representatives.

I know you will join with me in wishing this gallant lady the very best.●

BIG BROTHERS—BIG SISTERS WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. GILMAN. Mr. Speaker, I rise to call to the attention of my colleagues the outstanding work by a nationwide organization with whom many of us are familiar, the Big Brothers/Big Sisters of America.

Big Brothers/Big Sisters is a unique social service whose purpose is to provide adult male and female companionship to boys and girls from fatherless or motherless homes. Through these one-to-one relationships the children are given the opportunity to further their growth and development with and through adults they can admire and imitate.

In my home area in the 26th Congressional District of New York, the County of Orange has declared the week of October 15–21, 1978, to be "Big Brothers/Big Sisters" Week, to call to the attention of all of our residents the outstanding services that this worthy organization provides locally.

Big Brothers and Big Sisters are men and women, 18 years of age or over, of good character, who are interested in the welfare of our children. These men and women are carefully screened by professional social workers through an orientation, submission of references and a personal interview. They are then matched with a boy or girl based upon geographical proximity, interests and personality.

Little Brothers are from homes without a father or father figure. Little Sisters are from one parent homes, ages 6 through 16. The deprivation of adult guidance and companionship often causes emotional difficulties. A Big Brother or Big Sister can be instrumental in changing this situation.

The Big Brother and Big Sister regularly see their Little Brother and Little Sister a minimum of 5 hours per week for a 1 year period or longer. The Big Brother and Sister involve their Little Brother and Sister in their interests, hobbies, and activities, so that the relationship can help the youngster reach his or her highest possible character development.

Mr. Speaker, the beneficial, selfless services of the sterling individuals who give of their time and their hearts to this great organization, are deserving of our attention. Accordingly, as we approach Big Brother/Big Sister Week, I ask my colleagues to join with me in lauding the outstanding work of all the chapters of this outstanding organization from coast to coast.●

NATIONAL FIRE ACADEMY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. SCHEUER. Mr. Speaker, I rise to add my support to the compromise on the fiscal 1979 authorization for the National Fire Prevention and Control Administration and the Center for Fire Research. I also voice my support for the designation of Ward's Island in New York City as the site of the National Fire Academy.

The Department of Commerce first explored possible locations for the National Fire Academy in early 1976. The Department's site selection board reviewed more than 220 proposed sites from all over the continental United States. Ward's Island is the most highly rated site still available.

The Ward's Island site is ideally located within easy reach of Manhattan, the Bronx, and Queens and less than a 10-minute drive from LaGuardia Airport. It is within commuting distance of the John Jay College in Manhattan, which offers one of the Nation's finest and most comprehensive programs in fire service administration.

The site is also less than 1 mile from New York City's own Fire Training Center. The city has volunteered to make this facility, which is one of the finest fire training centers in the world, available for the use of the Academy.

The Ward's Island site also offers the capacity to support the ambitious National Fire Academy program which Congress envisions on a long-range basis. The State is prepared to make arrangements with the Academy for the long-term lease or sale of sufficient land on Ward's Island to meet all of the Academy's future needs.

In addition, the battery of facilities already available on Ward's Island would allow the National Fire Academy to become fully operational in the shortest possible span of time.

I was pleased to enlist the support of 28 of my New York colleagues in writing a letter to the President urging the selection of New York City as the site of the National Academy for Fire Prevention and Control. I commend that letter to your attention along with Governor Carey's explanation of the New York proposal and the New York City office's briefing papers on the Ward's Island site.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
RAYBURN HOUSE OFFICE BUILDING,
Washington, D.C., September 13, 1978.

THE PRESIDENT,
The White House
Washington, D.C.

DEAR MR. PRESIDENT: We the undersigned members are pleased to join Mayor Koch and Governor Carey in urging the selection of New York City as the site of the National Academy for Fire Prevention and Control.

The Department of Commerce first explored possible locations for the National Fire Academy in early 1976. The Department's site selection board reviewed more than 220 proposed sites from all over the continental United States. This arduous selection process found Ward's Island in New York City to be the third most suitable site. Since then, the board's first choice has been rejected by Congress and the second choice has become unavailable.

The New York City proposal consists of housing the Academy on Ward's Island in a structure to be donated by the State. The City is also eager to make it's own Fire Training Center available for the use of the Academy. This facility, located less than one mile away, is one of the finest fire training centers in the world.

The Ward's Island site also offers the capacity to support the ambitious National Fire Academy program which Congress envisions on a long-range basis. The State is prepared to make arrangements with the Academy for the long-term lease or sale of sufficient land on Ward's Island to meet all of the Academy's future needs.

The New York proposal offers other unique advantages. Ward's Island and the Fire Training Center are ideally located within easy reach of Manhattan, the Bronx and Queens and are less than a ten minute drive from LaGuardia Airport. It is within commuting distance of the John Jay College in Manhattan, which offers one of the nation's finest and most comprehensive programs in fire service administration.

The advantage of this location is further underscored by the fact that, of the nation's more than 2 million people engaged in fire prevention and control, 50 percent of them are located within 500 miles of New York City.

In passing the Federal Fire Prevention and Control Act of 1974, Congress required the Secretary of Commerce to establish a National Fire Academy at the earliest possible date. The New York proposal offers a battery of immediately available facilities which will allow the National Fire Academy to become fully operational in the shortest possible span of time. This factor becomes crucially important given the Congressional mandate and the limitation placed on appropriated construction funds.

Your Administration's urban policy stated that new federal facilities "will be located in cities . . . unless it is inconsistent with the agency's mission." Your Executive Order of August 16 makes this policy explicit.

Locating the National Fire Academy in New York City would add substance to this important policy. The creation of approximately 400 jobs would provide further tangible evidence of your Administration's commitment to the continued vitality of our nation's older urban areas.

We are certain that a careful evaluation of the Ward's Island site will clearly demonstrate its superior suitability for housing the Fire Academy.

We thank you for your consideration of this matter.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to join with Mayor Koch in urging the selection of New York City as the site of the National Academy for Fire Prevention and Control.

In 1976, the Department of Commerce first explored possible locations for the National Fire Academy. The Department's site selection board reviewed over 220 proposed sites and found Ward's Island in New York City to be the third most suitable site. Since then, the first choice of the board has been rejected by the Congress and the second choice has become unavailable.

New York City remains ready and eager to serve as the home of the Academy. As in 1976, its proposal consists of housing the

headquarters of the Academy in a campus-like setting on Ward's Island in a structure to be donated by the State and making available for the Academy's use the City's own Fire Training Center, one of the best in the world, located less than a mile away. The State is also prepared to make arrangements with the Academy for the long-term lease or sale of sufficient land on Ward's Island to meet all of the Academy's future needs.

Ward's Island and the Fire Training Center are ideally located within ready reach of Manhattan, the Bronx and Queens and less than ten minutes by automobile from the City's LaGuardia Airport. Moreover, it is within commuting distance of the John Jay College in Manhattan, which offers one of the nation's finest and most comprehensive programs in fire service administration.

In outlining your Administration's urban policy, Presidential Assistant Stuart Eizenstat stated that new federal facilities "will be located in cities . . . unless it is inconsistent with the agency's mission." Your Executive Order of August 16 makes this policy explicit.

Locating the National Fire Academy in New York City would give real meaning to this significant and innovative policy. It would create for the City as many as four hundred jobs and would bring thousands of fire professionals to the City every year. It would also serve as additional tangible evidence of the federal government's strong commitment to the continued health and vitality of our nation's older urban areas.

Officials of New York City and State have been in touch with the Commerce Department and the new Federal Emergency Management Agency about this matter. Your support for our efforts would be invaluable.

Further information is available from Julian Spirer, Mayor Koch's Washington Representative, and Brad Johnson, the head of my Washington office. They would be pleased to brief your staff on the details of the proposal.

Once again, let me express the deep and lasting gratitude of the citizens of New York for the great work you have done and are continuing to do on our behalf.

Sincerely,

HUGH CAREY,
Governor.

FACT SHEET ON DESIGNATING WARD'S ISLAND IN NEW YORK CITY AS THE SITE FOR THE NATIONAL FIRE ACADEMY

The National Academy for Fire Prevention and Control was established within the National Fire Prevention and Control Administration (NFPCA) of the U.S. Department of Commerce pursuant to the Federal Fire Prevention and Control Act of 1974 (Public Law 93-498; October 29, 1974). Section 7(G) of the Act authorized $9 million for construction of the National Fire Academy facility on a site selected by the Secretary of Commerce (not later than October 29, 1976), based on the recommendations of a Site Selection Board.

In early 1976, the Site Selection Board was appointed, and solicitation for site proposals began. Based on the request for proposals, 220 sites were identified from throughout the continental United States. In addition, on its own initiative, the Board found the former Marjorie Webster College campus, located in the District of Columbia. In July of 1976, the Board recommended to the Secretary that the Marjorie Webster campus be selected. The site proposed by the City of New York, located on Ward's island, was ranked third.

In May 1977, the Marjorie Webster campus was purchased on the belief that it contained 100,000 square feet of net space and that renovation would cost $2.4 million. An architectural study later disclosed a 12% error in net space (88,000 sq ft.) and a 250% error in the renovation cost ($6.1 million).

During House Supplemental Appropriation Hearings held in June this year, Committee members expressed concern that the Marjorie Webster campus would not support the National Fire Academy's programs as mandated by the Congress. The Senate, however, appropriated $6,150,000 for the renovation of the facility. A Conference Committee worked out the differences between the House and Senate recommendations and concluded that the Marjorie Webster campus be sold and that the proceeds of the sale and the $6.1 million requested for renovation be put toward the purchase of a new site. The site which ranked second as a result of the selection process is no longer available. Ward's Island becomes, therefore, the principal contender for the location of the National Fire Academy.

On August 16, 1978, President Carter signed four executive orders implementing the Administration's urban policy. One of these orders requires that priority be given to central cities in locating all new Federal facilities (so long as doing so would not be inconsistent with the Agency's mission). The mission of the National Fire Academy is to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities. Of the nation's more than two million people engaged in fire prevention and control activities, 50% of them are located within 500 miles of New York City.

The New York City Mayor's Office is now in the process of updating its original proposal to reflect current needs and availability. The proposal, to be submitted to the NFPCA (soon to be part of a new Federal Emergency Management Agency), will recommend the immediate occupancy of the now vacant 86,000 sq. ft. Keener Building, plus an undetermined amount of surplus state property surrounding it. The facility is now part of the Manhattan State Hospital complex, centrally located on Ward's Island (between Manhattan, the Bronx and Queens) and less than one mile from the City's Randall's Island Fire Training Academy, the finest fire training center in the country. The package being developed also includes arrangements for the cost-effective leasing of up to 50,000 sq. ft. of additional space at the City's facility and shared use of the entire center (for demonstration and research purposes) during non-training periods. This combination of immediately available facilities will allow the National Fire Academy to become fully operational in the shortest possible time period. This factor is crucially important when considering the congressional mandate behind the original legislation and the time limitations placed on appropriated construction funds.

Congress, in passing the Federal Fire Prevention and Control Act of 1974, required the Secretary of Commerce to establish (at the earliest date) a National Fire Academy. The City's proposal—to designate the Ward's Island Facility as the site of the National Fire Academy—is in direct response to that mandate.●

ENERGY POLICY TASK FORCE ON THE NATURAL GAS COMPROMISE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. STARK. Mr. Speaker, I would like to bring to my colleagues' attention a memorandum prepared by the Energy Policy Task Force on the natural gas compromise. The text follows:

SEPTEMBER 27, 1978.

Memorandum:

To: All Members of the House of Representatives

From: Lee C. White, Chairman

Re: Impending Natural Gas Legislation

The Energy Policy Task Force, a coalition of major national consumer, labor, farm, public power, and urban organizations, urges you to vote against the Conference Report on the National Gas Act when it comes before the House.

The legislation agreed to by the conferees will, if enacted, have a catastrophic impact on consumers. We opposed the early versions of the conference agreement. Now, however, the conference managers, desperate to get the report signed, have made concession after concession to the oil and gas producers and the final report is worse still—one of the most blatantly anti-consumer and special interest pieces of legislation ever put before Congress.

Among the worst features of this ill-conceived legislation are the following:

The "compromise" would wreak havoc on consumers. DOE calculates that over the next six years consumers will pay producers $29 billion more than if the present system of natural gas pricing remains in effect. Consumer groups estimate that the increased costs will be even higher—from $35 to $50 billion. One thing is certain: prices will soar. The price per thousand cubic feet (mcf) of gas will climb from the present $1.54 to $3.86 by 1985—252 percent of its present price and over 700 percent of the 1975 price of $0.52. Prices will exceed even these high levels when most categories of gas are deregulated in 1985.

Residential customers will be badly hurt. Contrary to the intent of both the House and Senate bills, the pricing mechanism mandated by the report will cause the prices of gas for residential consumers to rise sharply. Since conversion to other fuels is impractical or impossible for most consumers, residential users will be forced to cut back elsewhere to make ends meet. The low income and the elderly, with the least ability to turn down their thermostats and the least ability to cut back on other expenditures, will be the hardest hit.

The report does not create a unified national market for gas. Proponents of this report have tried to justify its outrageously high price tag with the claim that the bill would create a single national market for gas. Nothing could be further from the truth. The report creates wide disparities in the intrastate and interstate markets. It incorporates interstate but not intrastate users ino a national curtailment priority system. It allows allocation from the interstate but not the intrastate market. It imposes incremental pricing upon industrial users in the interstate market, but exempts intrastate industrial users from incremental pricing. It allows many categories of gas to be priced higher if sold in the intrastate rather than the interstate market. The report nullifies the recent Southland decision which would have ensured that more gas flow into the interstate system.

A surplus of gas will continue to accumulate in the intrastate market. In this worst of all possible worlds, the prices paid by the consumer states will increase by quantum leaps under the proposed legislation, yet these states still will not have equal access to the nation's gas reserves. The bill is no bargain for consumers in the producing states either. It is estimated that they will pay $6 billion more for gas through 1985.

Industry will suffer and jobs will be lost in the consuming states. The retained distinction between intrastate and interstate markets means that gas will still be more plentiful in the producing states. Since industries in producing states are exempted from incremental pricing, gas will be cheaper for them than for industries in the consuming states, which will be financially devastated by the incremental pricing provi-

sions of this report. Thus, industry will either be forced to convert to oil (thus increasing our imports) or will be lured from the consuming to the producing states where gas will be more plentiful and, for industries, less costly. If this occurs, jobs will be lost in the consuming states and unemployment will soar, causing further economic dislocations. And, of course, once industries pull themselves off the natural gas system in any given state, the entire rate base will have to borne by residential and commercial users.

The report abandons cost based regulation. Under the report, gas prices will be set, and largely deregulated, without regard to either the cost of production of the gas or whether higher prices are needed to stimulate increased production. In fact, the present price of $1.54 per mcf was calculated to give producers a generous margin of profit. The present price provides healthy incentive for the exploration, discovery, and production of new gas. Additions to reserves last year totalled 11.9 trillion cubic feet—58 percent more than in the previous year and the highest level reported for the lower 48 states since 1968. All available drilling rigs in the country are reported to be at work.

The report is an administrative nightmare. The complicated pricing system set forth in the conference report will be an administrative monstrosity. The Director of Enforcement for the Federal Energy Regulatory Commission (FERC) calls the measure "complex, ambiguous, and contradictory" and "impossible to administer conscientiously." The report defines more than twenty categories of gas. FERC will have to approve and monitor separate pricing systems for each type of gas. Presently FERC has a backlog of 15,000 filings awaiting action. Major oil companies have recently defended their violations of the 1973–74 oil pricing regulations with the excuse that the regulations were too complex to understand. How will the companies respond when faced with the tangled system that the report would establish?

The report will cause the dollar to plummet further. In its last ditch effort to coerce a majority of conferees to sign the conference report, the administration claimed that the legislation was urgently needed to reverse the slide of the dollar. If the legislation has any salutory effect at all, it would have nothing more than a fleeting psychological effect on the dollar. Far from solving the dollar's underlying problems, the proposed legislation would exacerbate them. As gas prices rise, oil will become a more attractive substitute for gas. Industries will convert to oil, causing oil imports to rise and further increasing our balance of payments deficit. Additionally, the $30–$50 billion in added costs can only worsen the inflation that is eroding the dollar's value.

Defeat of the natural gas conference report will not leave the United States without a natural gas policy. Statutory authority for a fair, equitable and comprehensive natural gas policy is already on the books in the Natural Gas Act of 1938. The new FERC shows promise of administering this Act with the vigor that its predecessor, the FPC, lacked during the previous two administrations. Most importantly, the Energy Policy Task Force believes that FERC already has sufficient authority to regulate the intrastate market (one of the purported, but never accomplished goals, of the conference) when it adversely affects the interstate market, and with other parties has pending before FERC a petition urging the Commission to exercise its authority.

The United States needs to solve its energy problems. It can start to do this by passing the Conservation, Coal Conversion, and Utility Rate Reform portions of the National Energy Act and recognizing that no gas bill at all would be vastly better for consumers and for the nation than this bill.

The Energy Policy Task Force urges you to oppose the conference report on natural gas, either by voting against it as a separate bill, if it comes before the House in that form, or by voting against an entire energy package if you are not afforded an opportunity to vote on it separately.●

ADAPTING TO CHANGING TIMES AND ENERGY NEEDS

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. FUQUA. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation some very interesting and timely remarks concerning our Nation's future direction in energy.

They were made recently in a commencement address by Dr. Howard T. Odum, at the University of Florida in Gainesville, located in the Second Congressional District of Florida which I am privileged to represent.

Dr. Odum, graduate research professor of environmental engineering at the university, is a scientist of international reputation.

Well known for his complex "net energy" theory, Dr. Odum has attracted worldwide support among energy experts for his theory, which says that society must be concerned that it is not expending more energy for the production of energy that the energy produced.

In a recent article announcing Dr. Odum as a recipient of the Distinguished Service Award from the American Institute for Biological Sciences, the journal BioScience described him as "one of the most penetrating, holistic thinkers alive today."

He has been the recipient of numerous other awards praising his work, including one he shares with his brother, Eugene: the international prize for outstanding research from the Institute de la Vie in Paris (Institute of Life). An international jury of 53 members, many of them Nobel laureates, from 29 countries chose the Odums for the honor based on "the global impact of their research."

I am pleased to insert into the Record Dr. Odum's penetrating address:

LEADING THE WAY TO THE PROMISED LAND

(Commencement address by Dr. H. T. Odum)

Graduating students, parents, faculty, Mr. President, Leaders of Florida and the Nation: Today let us consider the energy basis for the future and the way you graduates as individuals can stay adapted to changing times ahead.

Maybe it was Pogo or Charlie Brown who was asked why he walked along looking backwards. He says: "How can I see where I am going if I can't see where I been?"

Charlie Brown's uncertainty is ours: How do we know which way to lead? Often we prepare for the battles of yesteryear with plans that worked last time. New conditions arriving unannounced often cause failure.

In 1860 a southern region in the war between the states tried to match an agrarian economy against one newly powered by water, fuels, and city-based industry. Because of this changing energy pattern, the south was preordained to lose. The graduates in the 1840's had learned classics but not enough about the way energy supports civilizations. Few people understood the meaning of the outcome.

In 1945 the U.S. was using half the world's fuel energy flow. The graduating classes in those days formed an opinion about how much geography the U.S. power could dominate. By 1965 the relative use of the world's energy had dropped to ⅓ for the U.S. and ⅔ for the rest of the world. The leaders with attitudes formed earlier attempted actions in Vietnam that may have been possible in 1945, but not in 1965 after the base of energy had shrunk. There were failures for lack of understanding of our energy basis.

As we have to dig deeper and deeper to get oil and coal and go further and further away at sea or in Alaska, a greater and greater part of the economy goes into the getting and processing of energy. There is less net energy to run the rest of the economy. The price of energy and all things derived from it rises disproportionately. For the same amount of circulating money, real work done is less. Part of inflation is due to decreasing net energy. Growth slows down and the economy levels.

The price we have to pay for imported energy depends on the net energy at home. As we have to pay more to dig deeper, those abroad can raise their prices accordingly. To attempt energy independence and use up our own fuels only hastens the rise of prices. The productivity that would have gone for growth goes abroad to balance our payments for oil.

Underdeveloped countries with more unused land, water, labor, and minerals can attract capital more than we, and they can grow until about 1995 along with the OPEC countries, when the whole world's assets begin to decline. Because its energies are no longer rich and because it has so much assets to maintain already, the U.S. growth stops sooner. In the 1940's we tried to keep Americans on the family farm while great flows of coal, oil and gas came to the cities fueling growth and jobs. Everyone moved to the city in spite of government policies.

Soon now, however, fuel flows will be declining and once again the renewable rural energies will be proportionately more valuable. Opportunities will attract people out, decentralizing the cities. Will we try to keep the cities subsidized against the real trend?

The U.S.'s immediate energy position hinges on its foreign policy. Going almost unnoticed is Carter's brilliant success in bringing Saudi Arabia under the American perimeter so that its oils are available at a lower price. The real price of oil has dropped 21% in the last 3 years, causing the American economy to ripple upward. With Saudi-Arabia part of the U.S., our economy crests later; without it, the economy crests now.

However, fighting a major war during declining energies is to be avoided at all costs, even if the war is over energy. The demise of ancient Greece has been attributed to major war during a time of exhausted soils and forests. It is correct that an economy to be vital must grow if there are energies to support growth, but the corresponding principle is also correct, that economies cannot be vital if growth is attempted when energy flows are diminishing. Some fear regression, but those in ecology are used to observing the growth of forests followed by the leveling stage called Climax, which is more harmonious than growth, with better characteristics of cleanliness, even distributions of wealth, and quality of life.

These matters are controversial, and many have honest differences of opinion, thinking there are alternative energies. Vested interests with billion dollar government contracts gain by making promises they can't keep. You graduates, to stay adapted, have to consider the possibility, and in my view, the probability that the assets of the industrial nations, their energy flows, and real gross

national product will soon crest and decline and that of the rest of the world slightly later. Will you be like Tyranosaurus this stuffed dinosaur? When changing energy conditions change the rules, will you be ready? Or go extinct?

What about solar and nuclear energies? Because sunlight is so dilute only one Calorie remains after 2000 Calories of sunlight are processed and concentrated into fuel. The nation can be supported on renewable solar energies using forests, agriculture, and fisheries for food and fiber, but not at the present level. Either the population must be reduced by ⅓ or the standard of living by ⅓. Green plants have already maximized the conversion of solar energy to useful work using the same process that those developing photocells offer as a substitution. Solar technology is inferior to green plants and is not net energy for it requires 4 calories to yield 1. Solar technology done in conjunction with necessities such as building houses can save heating energy, but it does not yield net energy with which to run the economy.

Present nuclear energy with 5,000 degrees in its core has proved to be a disappointment with less net energy than coal because so much of its energy is too hot and has to be ejected to the environment in cooling waters. Fusion with 40 million degrees temperature at is core will surely take more energy to contain and cool than it yields. Although we can expect the economy to crest and regress, it is nothing to fear, since the transition can be gradual because coal reserves that give the U.S. a perferred position after the 1990's.

As the nation tightens its belt, its tourists will spend less, its retirees bring less money, and less luxury products will be bought. Florida agriculture will diversify and substitute local sales for luxury orange juice and winter vegetables as transportation costs rise. Luxury air conditioning will decrease. Electricity per person will be less as more coal is used to heat houses directly, perhaps coming over from the west in pipeline slurry with Mississippi water.

There are things not to do in a cresting economy, like building great capital-costing central facilities based on assumed growth such as power plants, regional tertiary sewage facilities, more shopping centers, big highways, high energy mass transit. All this does is raise taxes and utility rates, causing industry and jobs to go elsewhere. There are things to do, like retaining and connecting our wetlands in a web for water conservation, waste recycling, wildlife corridors and aesthetic buffers. Our Center for Wetlands, in experiments in Gainesville, has shown that wetlands absorb microbes, heavy metals, and nutrients and recharge groundwaters, the swamp acting as nature's filter. In a dissertation for a Ph.D. awarded today, Sandra Brown shows 30 to 50 percent of the water saved by the Green Swamp as compared to plains to drain and substitute reservoirs: cypress trees conserve water. Growth of valuable cypress wood is accelerated 4 times by waste-waters.

A new river of grass from Lake Okeechobee south to the Everglades can process water in a strip 3 miles wide, taking all the nutrients and agricultural backpumping, but providing water to lands on either side. The mucklands will be rebuilt by the plants and later this strip can be farmed again, an adjacent strip then carrying the water.

Regression means more jobs because less high energy machines are used. More miniaturized machines are used: smaller buses, trucks, computers and farm implements.

What will the pattern of life and economy be with declining energies? Agriculture and Forestry have to use more land, more labor, and less energy-intensive tractors, pesticides, and fertilizer. For Florida with its sandy soils, this means getting water tables back up to help hold peaty content that holds nutrients. In a Ph.D. dissertation awarded today, Burt Smith found typical Florida forest-grazing lands so depauperate of phosphorus due to removal of nutrients with tree harvests, that regrowth of trees or cattle was hardly possible depending on tiny nutrient inputs from rain. Yet 25 feet underground are rich phosphate deposits from millions of years of leaching. We may need to broadcast this phosphate over the entire state instead of selling it to Soviets so we can run sports cars a little longer.

The urban city mess of unemployed youth and crime will start to be solved as mechanism is found to start a new homesteading, helping these youth to leave the declining cities, build their own cabins, and develop new farming communities of a subsistence nature, learning to be proud and versatile like a black man named Quince under whom I worked on a farm as a boy.

In understanding energy, we learn that high quality things require much energy to make or replace them. 4 coal units are required to make one of electricity. Hundreds of Calories of coal to make one Calorie of technological service and thousands of calories converge in support of one Calorie in service of educated humans. Labor is high embodied energy.

Rationing or artificially pricing fuels will hurt the economy's ability to compete. The place to save energy is in the embodied energy of luxuries of the middle and upper income groups. Energy conservation is best brought about by nationwide cutting of salaries or letting inflation do it, rerouting those funds to unemployed for work, increasing productivity. Minimum wage needs to be eliminated for those under 21 and over 65 to insure their proportionate participation in the work force. Women in the work force will continue to increase, since less children and decreased populations are needed in a regressing economy.

High quality services such as that of government and higher education will feel the pinch first as energies become expensive, because they are at the end of the energy chain. In higher education, we are already starting to plan for lowered resources. For economy, graduate programs have to be clustered so that each program's courses reinforces the others and exceed the minimum critical size. The state cannot support 9 graduate universities, but may have to learn it the hard way with a collapse of quality with students going outside as they once did. The larger universities can be gradually reduced from their oversize and their playboy roles by diverting those students who are not yet committed to higher education. Grades are the best proof of classroom motivation, not machine graded tests.

To teach more with less requires general education with principles. For example, an introductory freshman course combining energy, economics, environment and systems could preceed other courses, helping everyone to understand changing times and see the unity of knowledge better. For example, a dissertation for a Ph.D. awarded today to John Alexander shows the pattern common to many situations of gradual storing of energy, which is then consumed in a burst of frenzied activity. Examples are earthquakes, storms, volcanoes, forest fires, locust epidemics, and war. We regard such surges of energy use as a disaster, although the pulse usually serves to make the processes of the biosphere recycle better and complete.

A fascinating question is raised that you graduates must think about. Will the magnificent accumulation of world assets of our civilization be consumed in a frenzied surge of final consumption, returning us catastrophically to the base level of renewable energies as in the time of Genghis Khan or the spread of Islam? Or is there a better gradual way to regress?

During the Civil War one regiment was observed to be retreating and the commander was asked: Why are you going in that direction? The answer was: "We's advancing backwards."

Apparently, the facts of energetics require us to advance by regressing. Americans are always talking about leading the world. My message to the graduates of 1978 is that you have the marvelous opportunity and adventure like Moses to lead the world's way over the hill and down to a new promised land. Godspeed.●

DEDICATION OF "WILLIAM MORRIS FIELD"

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. LUKEN. Mr. Speaker, on Friday, September 29, before the football game scheduled between Mt. Healthy and Forest Park High Schools, Mr. William M. (Pete) Morris will be honored in a ceremony dedicating the Mt. Healthy High School's athletic field to him, and officially naming it "William Morris Field." The decision to dedicate the 3000-seat stadium, in use since 1959, to Mr. Morris was made by official resolution of the Mt. Healthy School Board on September 11, 1978.

Pete Morris has a long record of dedicated service to the educational and athletic well-being of the youth of the Mt. Healthy School district. Living in the area nearly all his life and having attended Mt. Healthy public schools as a student for 12 years, Pete Morris decided to serve on the School Board and was elected in November of 1953. He served as a member of the Board from 1953 until his retirement in December of 1977. During that period of time, Pete Morris has distinguished himself in many areas not directly connected with his service on the service of the School Board. He founded the Mt. Healthy Athletic Boosters in the late 1950's, has served as president of the Northern Hills Babe Ruth Baseball League, and was the recipient of the Mt. Healthy Boys' Baseball Association Hall of Fame Award in 1967. Mr. Morris retired in early 1977 from his position at General Motors Fisher body plant, and had received GM's award for excellence in community affairs in 1970. In addition, he and his family have been active members of the Mt. Healthy Christian Church for many years.

The Mt. Healthy Public School system is made up of six elementary schools, three junior high schools, and one high school; the high school graduated its first class in the mid-1890's. During his tenure on the Mt. Healthy School Board, Mr. Morris served as member of the Ohio Schools Board's Association for 22 years, and also as the second congressional district's representative to the National School Boards Association Federal Relations Network for 7 years.

It is indeed a fitting tribute to Pete Morris' considerable contribution to the community that the stadium be dedicated to him and it is an honor for me to enter an account of this very special occasion into the CONGRESSIONAL RECORD.

MESA, ARIZ., HONOR FOR STRONG FAMILY LIFE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. RHODES. Mr. Speaker, in this day when troubled homes and broken families are so prevalent in the news, I am pleased to report that the families of my home town—Mesa, Ariz.,—have been honored as positive examples for others to follow.

The American Family Society, headquartered in Washington, D.C., recently awarded its first "Friend of the Family Community Award" to Mesa. The Society is a nonprofit, nonsectarian organization dedicated to helping Americans learn from one another how to improve the quality of family life in their homes and communities. Rather than prescribe theoretical solutions, this organization highlights methods that are already working well—proven ideas that others can use to minimize or prevent family problems.

K. Wayne Scott, president of the American Family Society, recently traveled to Mesa to participate in our first annual family living conference, and to present the community award to our mayor, Wayne C. Pomeroy.

Mr. Scott said in making the presentation:

You have achieved a remarkable degree of success in bonding family and community life—two elements considered so important by America's founding families.

Your example is worthy of emulation by families in communities all over America.

The family living conference, held as part of Mesa's centennial celebration, featured as keynote speakers two members of the well-known Osmond Family—oldest brother Virl and his wife Christine. A variety of workshop activities and entertainment provided by talented Mesa families resulted in an enriching, informative event.

To get Mesa's second century off to the right start, the conference served as a kickoff for FamilyTime, a public service program to encourage families to schedule quality time together on a regular basis.

As an inspiration and guide for other communities who might want to include such a conference in their centennial celebration, and under leave to extend my remarks in the RECORD, I am including an editorial from the September 8, 1978, edition of the Mesa Tribune and a "Rate Your Family" guide which appeared in the Mesa Sunday Tribune on September 3:

A FITTING CENTENNIAL EVENT

Mesa will be in the spotlight next Saturday, Sept. 9, when it stages a family living conference as a part of its year-long centennial celebration.

The event will take place in Centennial Hall beginning at 9:30 a.m. and will feature a number of workshops which will explore the roles of family members, the aging, single parenthood, and communications. In connection with the event, five families have been named finalists in a "Mesa Family of the Year" event.

Organized by concerned citizens, including ministers and representatives of numerous service organizations, the conference has aroused considerable interest, even extending outside the state.

It is fitting that such an event be held in conjunction with the city's 100th birthday celebration. The family unit was the basis upon which Mesa was established and families have provided a continuity for Mesa's development and growth through the years.

It is also fitting that such a conference be conducted at the present time, when many of the established factors of family life have been called into question, and when so many of the young people refuse to make and carry out the commitments upon which family life is based.

Pre-registration for the conference, which is open to all, is taking place at the city hall's Centennial Office and it will continue to the day of the conference.

The Tribune urges full participation by members of the community in the conference as a sign that Mesans recognize the continuing importance of family life for this city, the state and the nation.

RATE YOUR FAMILY

Mesa's first Family Living Conference, to be held Saturday, Sept. 9 in Centennial Hall, will explore ways to strengthen family ties and discuss the roles of family members, aging, single parenthood and communication.

In conjunction with the event, the centennial committee and the American Family Society have prepared a do-it-yourself "Family Checkup."

If someone asked how you'd rate your family life, what would your reaction be? How about rating yourself? Where do you think you'd stand?

If you have difficulty answering both questions, this "Family Checkup" can provide the insight you need. Answer the questions honestly, rate yourself, and ask other family members to do the same.

Remember, the point of a checkup is not to cure trouble. A good checkup will spot potential trouble before it starts.

The following questions will help you take stock of your family life in four major areas. Together, they should provide an overall picture of where you are and where you are headed.

The scoring is easy. If you feel you're "on target," place a mark in the bullseye next to the question or statement. If you're not quite on target, score it accordingly.

After you answer all the questions, rate yourself and your family in that area using the scoring blocks at the top.

More information is available by writing the *American Family Society*, Box 9873, Washington, D.C. 20015.

[Symbols not reproduced in Record.]

TEAMWORK

Your Marriage:
Mutual trust.
Similar viewpoints and values.
Shared interests.
Ability to resolve differences.
Joy and fulfillment.
Family Spirit:
Fairness.
Loyalty.
Mutual support.
Respect.
Trust.
Thoughtfulness.
Communication:
Open.
Two-way.
Complete.
Mutually satisfying.
Productive.
Responsibilities:
Clearly defined.
Fair.
Shared.
Accepted.
Carried out.
Disagreements:
Resolved productively.
Result in better understanding.

FRIENDSHIP AND SERVICE

Neighbors—Do you?
Know any?
Know only a few?
Know and like most?
Do things with some?
Do things for some?
Do a lot with and for them?
Help Others—Do you:
Visit friends or relatives who are sick?
Support health and welfare groups?
Provide warmth and support for the needy?
Organizations—Do you participate in and financially support:
Church or synagogue?
PTA, Service clubs, professional groups?
Community and Youth organizations?
Civic Involvement—Do you:
Vote regularly?
Know the issues and candidates?
Work with local political action groups?
Give financial support to candidates?
Participate in community service?

INDIVIDUAL GROWTH

Physical—Do you:
Get enough rest?
Exercise regularly?
Eat well-balanced meals?
Try to develop new skills?
Maintain a neat and pleasing appearance?
Mental—Do you:
Make wise use of TV?
Read regularly and widely?
Maintain healthy outside interests?
Maintain continuing educational interests?
Pass on to others what you have learned?
Emotional—Are you:
Confident?
Positive?
Stable?
Consistent?
Dependable?
Sensible?
Spiritual—Do you:
Pray and/or meditate regularly?
Attend a place of worship regularly?
Share a time of worship as a family?
Spouse—Do you:
Encourage his/her self-improvement activities?
Set an example through personal growth?
Children—Do you:
Help with schoolwork when appropriate?
Take an active part in school activities?
Guide them in making their own decisions?
Praise their achievements?

RECREATION

Free Time—Do you:
Relax regularly?
Play just for fun?
Keep fit?
Play with your children?
Spend time alone with your spouse?
Children's Recreation—Do you:
Keep up with what they are doing?
Channel them into wholesome activities?
Give them moral support in such activities?
Encourage them to play just for fun?
Activities—Do you:
Get together on the spur of the moment?
Have regular planned recreation together?
Attend or participate in organized sports?
Belong to clubs?
Try new things whenever possible?
Spend important holidays together?
Plan mutually satisfying vacations?

FRIENDSHIP AND SERVICE

Neighbors—Do you:
Know any?
Know only a few?
Know and like most?
Do things with some?
Do things for some?

Do a lot with and for them?
Help Others—Do you:
Visit friends or relatives who are sick?
Support health and welfare groups?
Provide warmth and support for the needy?
Organizations—Do you participate in and financally support:
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Belong to clubs?
Try new things whenever possible?
Spend important holidays together?
Plan mutually satisfying vacations?

ADDING IT UP

All finished? OK, now let's get an idea of where your family stands. After everyone has answered the questions, sit down together and compare your reactions. Remember that there is no "ideal" or "perfect" score. The end result is the feeling you get: Are you headed in the right direction—for you? As you discuss your answers, you'll probably get ideas for ways of strengthening your family life. We have some suggestions, too.

LET'S GET STARTED!

No matter how you did on the Family Checkup, you probably feel some areas of your life need improvement. Fine! That's a positive—and very human—reaction.

Before your resolve has time to cool, sit down with other members of your family and chart a course for improvement. Be specific, and make sure the goals you set are realistic and attainable. Then, when you've achieved those, you can move to more ambitious goals.

If you have trouble getting started, here are some practical ideas from the American Family Society. They've worked for other families; they might work for yours.

FAMILY TIME

Do you participate in Family Time? Many families are finding that a regularly scheduled family activity time each week helps them in many ways. It can take any number of forms, but is always something that the family can depend upon as a time for togetherness.

This special time is normally scheduled for the same day and time each week and allows a family to communicate, play, perform, read, etc., together. Phones are taken off the hook, other responsibilities are laid aside and families do things with each other.

KEEP SCORE

To motivate family members in a positive way, prepare a 3x5 card for each. Write "Good News" on one side; "Bad News" on the other. Every day, jot down the high (and low) points of each family member's behavior. Periodiocally, review the cards. Praise family members for their good news in front of everybody. Pick a quiet time and talk any bad news over with the person involved—alone. Try to work out ways of making improvements.

SAVE THOSE MEMORIES

"Do you remember when . . . ?" How many family conversations begin that way! Happy memories can be the cement that binds families together during bad times. Here's how to hang on to your happy moments and make them work for you:

Cultivate a photographic memory. Get an easy-to-use camera. Keep it handy and loaded. Label and date all your pictures promptly and mount them in a family album.

Take some sound advice. Buy a cassette recorder and use it regularly. It can be one of the most inexpensive ways of capturing good times. Be selective in what you record. Hold the mike close. Label each tape with the date, occasion and participants.

Write on. Make regular entries in a notebook or journal. Date them. A few lines each day will be more valuable than a long essay every week or so.

Keep a family record. Memories don't do much good if they're jumbled in a closet somewhere. Keep a simple yearly record in a file drawer or a large cardboard box, using expansion files. Label each file or drawer divider with the year. Under each year, file your tapes, journal, and all the photographs for that year. You may want to add highlights from the Good News-Bad News cards, and other souvenirs and papers, such as report cards.●

GENERAL AVIATION SYSTEMS PLAN

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. GEPHARDT. Mr. Speaker, general aviation has been growing at a rapid pace across the Nation. There are currently 177,000 general aviation aircraft and 10,000 more are produced annually. There are 14,177 general aviation landing sites in the United States, serving many different types of crafts, from single engine props to luxury jets.

In the St. Louis area, there are more than 20 aviation fields used by general aviation. However, a comprehensive study of how to best integrate these fields into the national system has never been undertaken. Without such a plan, the St. Louis area's general aviation will grow in a haphazard fashion that would be a disservice to the entire community as well as the flying public.

In a time when we are all concerned over the effect of uncontrolled growth and the inevitable problems of noise and air pollution, a comprehensive study is needed to identify growth patterns and produce a plan to meet future needs.

The St. Louis area is one of few urban areas in the United States today that lacks a general aviation systems plan.

Funds for a general aviation systems plan for St. Louis are currently available from the Federal Aviation Administration. Mr. Young and I will undertake efforts in the next several weeks to gather the necessary local support in the St. Louis area for a general aviation systems plan.

The question of whether or not it is wise to mix general aviation with commercial aviation has been once again highlighted by the recent tragedy in San Diego. The Ways and Means Oversight Subcommittee plans to continue its investigation into the use of the airport and airway trust fund to improve safety at our Nation's airports.

At our next meeting, we plan to discuss with Langhorne Bond, Administrator of the Federal Aviation Administration, various methods that can be used to more safely mix general aviation and commercial aviation and the FAA's plans to meet the growing needs of general aviation nationwide.●

LOVE CANAL TODAY—WHERE TOMORROW?

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. LaFALCE. Mr. Speaker, I am inserting today in the RECORD articles from the Buffalo Courier-Express on the dangers we face from the improper handling, hauling, and disposal of solid toxic wastes.

We have all seen on national television and read in newspapers and national magazines the terrible consequences the residents of the Love Canal area in Niagara Falls have suffered as a result of careless treatment of hazardous wastes. Congress passed the Resource Conservation and Recovery Act in 1976; if RCRA had been on the books when companies dumped in the Love Canal in the 1940's and 1950's and regulations had been promulgated for enforcement of the law, we would not have had the Love Canal tragedy.

It is incumbent upon EPA to act immediately and promulgate regulations so that RCRA can be implemented. Neither the wastes nor the potential hazards will disappear. Therefore, the regulatory agency responsible for minimizing the health hazards must act to protect the people of our nation.

Articles follow:

IDAHO LAUNCHING SITES FOR MISSILES NOW USED FOR HAZARDOUS WASTES

(By Michael Desmond)

Two $55 million relics of the missile age have become one of the more ingenious methods of disposing of the hazardous wastes of the industrial age.

Wes-Con Inc. of Twin Falls, Idaho, owns two complexes each built to launch three Titan missiles. The siloes are 160 feet deep and 50 feet across. The concrete is 16 feet thick at the bottom and 11 feet thick on the sides. The sites were built about 20 years ago and were closed in 1964.

The firm has already filled two of the three silos at a near-desert site near Grand View, Idaho, and is well on the way to filling the third. A second site about 40 miles away in Bruneau, is being prepared to take waste in its three siloes.

Perhaps 300 miles away, in an equally dry area of eastern Oregon, Chem-Nuclear Systems Inc. of Bellevue, Wash., operates a disposal site based on the ability of dry desert air to dry out wet waste. Chemical wastes are simply put out in 400,000 gallon ponds and left to dry in the sun.

CALIFORNIA A LEADER

California has some hazardous waste treatment sites which use the same approach. That state may also have the na-

tion's best system of rules and regulations governing disposal of hazardous chemicals. California also has more good disposal sites than any other state, according to James Stahler, environmental engineer in the San Francisco regional office of the Federal Environmental Protection Agency covering California, Arizona, Hawaii and Nevada.

"It's one of the most aggressive, progressive states in the union," Stahler said of the state's hazardous waste program.

He should know. Stahler was loaned by EPA to California in 1973 to write the state regulations governing solid and hazardous wastes. That was three years before Congress passed the Resource Conservation and Recovery Act of 1976 (RCRA) which is supposed to handle the problem on a national basis.

"Before RCRA was a dream," he commented, California was working on its law.

But, EPA is years away from putting the regulations to implement RCRA into effect.

California has to watch the chemical disposal problem: The state has an estimated 10 percent of the national total of 92 billion pounds of hazardous waste.

The Golden State now has nine hazardous waste sites licensed to handle hazardous wastes. When the law took effect on July 1, 1973, there were 18. The steady expansion of the state—"urban encroachment"—has cut into the total.

Recently a site near San Diego was closed because the operator decided residential areas were closing in on the location. A closed site like this in a residential area opens up the possibility of a situation similar to that of the Love Canal in Niagara Falls. There, a hazardous waste dump went bad forcing the evacuation of the neighborhood.

There is plenty of need for more sites in California.

"I cannot think of anything that this state doesn't produce or use or throw away," he commented on the state's industries.

Until recently, Stahler noted, "perhaps 50 percent" of hazardous waste disposal or treatment "left something to be desired."

There are bad past sites. Perhaps the worst is in Riverside, Calif., just outside Los Angeles. A quarry company operated a dump site there for several years, mostly taking heavy metal sludge and acids. The wastes were dumped in a series of pits running down a hillside on the edge of residential Pyrite Canyon.

"When the stuff was dried up, they would dig out the middle of the pit and dump it on the side," explained Stephen Herrera, staff engineer with the Santa Ana Regional Water Quality Board.

The site has been closed for five years and the previous owners "just walked away," he said.

But, last year, heavy rains washed into the pits, threatening to wash the entire complex and everything it contained down the hill and into a residential area. So, perhaps a million gallons of water and waste were pumped out into a nearby stream. The stream then overflowed onto adjacent land.

The pollutants also somehow seeped into the well of an elementary school 7,000 feet away, according to Mrs. Ruth Kirby, secretary of a citizens group agitating for a cleanup of the entire site.

It isn't completely clear what went into the site. But, it is known to have received a variety of acids and a lot of metal sludges, especially from metal plating operations.

Mrs. Kirby has been so involved in trying to get the site cleaned up she has even talked to Dr. Roger Herdman, New York State director of public health. She said she talked to Dr. Herdman because of the Love Canal situation in Niagara Falls.

She explained that she was worried that the air and water pollution in the area of the Pyrite Canyon might create the same sort of environmental disaster that occurred in Niagara Falls, where dangerous chemicals seeping from a closed dump have forced evacuation of a whole neighborhood.

California has appropriated $375,000 to clean up the Pyrite Canyon scene. Stahler has some doubts that the money is anywhere near enough.

"Like Love Canal, they were first talking $4 million, then $8 million," he said. "Now they're talking $10 million."

Said Mrs. Kirby:

"We just wish we knew what to do about this. It's just a terrible thing."

Both the Chem-Nuclear Oregon site and the two Wes-Con Idaho sites are attempts to get around the location problem. That is also true of a site in Beatty, Nev. All four sites are located in extremely isolated, nearly desert areas.

The sites are located in far, out of the way places, with essentially no neighbors. In addition, the soil on the site will not carry waste materials far away. Ground water is so far below the site, it is not likely to flush waste away to threaten neighbors.

For example, at the Chem-Nuclear Oregon site, if a pond were filled with 53 inches of water on Jan. 1 of an average year, it would be dry on Dec. 31 of the same year because of evaporation. There is negative precipitation there.

TIGHT STATE RULES

The site operates under rigid controls by the State of Oregon. The state must approve every waste material which goes into the site.

"Our policy is that if a chemical can be recycled, we require it," Eduardo G. Chiong, an engineer in the Hazardous Waste Section of the Oregon Department of Environmental Quality, told The Courier-Express.

Ironically, the man who set up the Oregon system as a state chemical engineer is now on the other side of the fence. Patrick H. Wicks is now manager of chemical disposal and treatment for Chem-Nuclear.

Oregon agents make frequent visits to the site. The company relies on the producer of the waste for analysis of the contents.

"We don't do any testing. That's done before it's shipped. It would be prohibitive. It's up to the integrity of the manufacturer," said Frank Dement, site manager.

"BATHTUB RINGS"

Chem-Nuclear has five work areas. Two are essentially waste lakes. These are 400,000 gallon areas. One contains acids and the other contains basic wastes. The basic waste lake has rings of color around it from the different wastes, like rings on a bathtub.

Another pit started out as 500 feet long and 30 feet deep. It is gradually being filled from one end with a variety of solid wastes. In its bottom is a vast, sealed concrete box. It contains road and roadside materials which were contaminated when a tank truck load of pure cyanide was wrecked and spilled onto the highway.

A wrecked truck is also buried at Chem-Nuclear. It was contaminated in a highway wreck and simply buried because it wasn't worth cleaning and fixing.

The Oregon area has two large pits for liquid waste, other than the acid and basic tanks. Here also, the dry air is used to simply dry out the waste. As with much chemical waste, there is a lot of water in it.

DIRT CAP APPLIED

The firm has piled up to 11 feet of sludge in the bottom of two other pits used for other liquids in 30 months of operation. When 27 feet thick, the dumping will be stopped and the material allowed to dry. Then, a three-foot thick dirt cap will be put on it.

At the Grand View Idaho site, West-Con has a little different approach. The site in use now is located in the middle of a vast natural deposit of the special "bentonite" clay used to seal hazardous wastes. So, a machine just digs the clay out and piles it up to be used as back fill.

The drums of waste are put into the hole with a special bucket and covered over with clay. Originally, drums of chemical wastes were just dropped into the hole. But, there were fires and explosions and government objections. So, the procedure was changed.

Most of the material going into the silos comes from agriculture, according to Gene Reinbold, the company president. This covers pesticides, wastes from making pesticides and related materials and pesticide containers. A small underground room is used for disposal of aerosol containers, many of them full of varying types of chemicals.

VALUABLE COPPER STORED

There are about 3,000 cardboard drums of copper sludge stored around the Idaho site. Reinbold said the material is about 30 percent copper.

"We're now trying to get an engineer to get the copper out," he said. "There's a million dollars worth of copper out there."

The West-Con site in Bruneau is now different. In about six months, Reinbold said, dumping will start in the three silos there. Now, in a site tour conducted for The Courier-Express, it can be seen where the $55 million went when the Air Force built this missile site.

Both the Grand View and Bruneau sites are located not far from Mountain Home (Idaho) Air Force Base, which is still operating.

One vast, vaulted underground room held a complete power plant to operate the entire complex without outside power. Another three story area held the living quarters and the control center. Seemingly endless tunnels link the sections.

DEEP WATER TABLE

In both Grand View and Bruneau, the water table is 2,000 feet down below the site. (At Chem-Nuclear in Oregon, the water is only 800 feet down, but there are two layers of hard rock in between.)

Wes-Con is licensed to take solid materials contaminated with PCB, but it can't take liquid PCB.

Reinbold said he plans to use underground areas in addition to areas beside the six silos for special storage.

"We haven't decided yet. It depends on what we get. We want to use it for long term heated storage of some materials which can be recycled four or five years down the line," Reinbold said.

Materials for the site come from all over, he said. Some come from as far east as New Jersey, he told the Courier-Express.

Various wastes, also especially PCB, come in from Canada.

Roger Fuentes, a chemical engineer with the EPA regional office in Seattle, was unable to say how much chemical waste comes from Canada, however, he said:

"We don't have the information as far as movement of hazardous waste. We don't have the facilities to keep track of that with RCRA."

LAW NOT IMPLEMENTED

RCRA is a federal law which provides for "cradle to grave" handling of hazardous waste. But, EPA has not yet been able to provide the regulations to implement the law in the almost two years since it became law.

As a result, the law is essentially a dead letter.

There doesn't seem to be much urgency about the hazardous chemical waste situation in some western states.

Washington, for example, has no hazardous waste disposal site yet. But, it does have an elaborate set of rules which took effect Aug. 1 to define what is an "extremely hazardous" waste. The state estimates there are some-

where between 20,000 and 60,000 tons generated each year of extremely hazardous waste.

"They are currently very soft numbers," according to Tom Cook, head of the hazardous waste section of the Department of Ecology in Olympia, Wash., meaning the estimates are very rough.

Cook said firms in his state can treat the waste, store it on site or send it out of state. That sent out of state usually goes to WesCon in Idaho or Chem-Nuclear in Oregon.

SMALL CHEMICAL INDUSTRY

The State of Idaho keeps an eye on WestCon. The firm takes care of one of the state's problems, the disposal of empty pesticide drums.

Jerome Jenkowski, senior environmental quality specialist in the Solid Waste Section in the Idaho Department of Health and Welfare, noted, "We don't have much in the way of a chemical industry."

Perhaps the longest shipments are from Hawaii. EPA's Stahler said there are no chemical waste regulations in Hawaii. All Hawaiian waste ostensibly is shipped to the U.S. mainland. However, there is some evidence of improper dumping of chemical wastes in the Aloha state.

Arizona is now completing its hazardous waste regulations, with a target date of Nov. 1 for effectiveness. Stahler said they are based on the California rules. The state will lease a treatment and dump site to a private operator for hazardous waste after the regulations are completed.

An isolated site is being considered.

Stahler put his finger on one of the key issues when he told The Courier-Express:

"Nobody wants a garbage dump in their backyard. But, God knows the stuff has to go somewhere."

JAILED JERSEYITES HAUNTED BY WASTE

(By Michael Desmond)

William J. Carracino, president of the Chemical Control Corp. of Elizabeth, N.J., will have time in the next couple of years to think about illegal dumping of chemical waste.

On Sept. 8, Carracino was given a two- to three-year sentence in a New Jersey state prison after he was convicted on a series of charges involving illegal disposal of chemical wastes. He also was fined $22,000 in Essex County, N.J., Superior Court.

He was not alone. Convicted with him was a group of his employees, on the same charges. One was given the same jail sentence and fined $20,000. Another was given one year in the county jail. An employee who testified for the prosecution received 30 days in the county jail.

The corporation was fined $75,000. It has new ownership, New Jersey officials said.

The firm operates from a waterfront site in Elizabeth. There is no fence and waste drums are piled up right to the curb line, a visit from The Courier-Express found. A stench hangs over the area.

RHODE ISLAND SUIT

Chemical Control has been a well-known problem firm in the waste disposal field. A suit is pending against it in Rhode Island over a site in Smithfield, R.I., where many different chemicals were dumped.

The Elizabeth firm is a small one. But large corporations can have problems in waste disposal, too.

The Hooker Chemicals & Plastics Corp. has received a great deal of attention recently as the company which once operated a dump site in the Love Canal section of Niagara Falls.

A variety of potentially deadly chemicals have seeped from the site, forcing officials to develop contingency plans for the evacuation of hundreds of families, perhaps permanently, if necessary.

But Hooker also is well known to officials in Ohio and Michigan because of the disposal of chemical waste from the firm's plant in Montague, Mich.

TENNESSEE INCIDENT

State and local officials on Long Island are familiar with the firm, since vinyl chloride formerly made in a Hooker plant turned up several years ago in wells at the Grumman Aerospace Corp. in Bethpage.

Anglers in the Niagara Frontier area are familiar with Hooker because of discharges of Mirex from its Niagara Falls plant found in fish in Lake Ontario.

The Love Canal situation has made many average citizens more likely to spot similar activities.

But in Toone, Tenn., last winter, it took only the sudden addition of color to local drinking water to make local residents wonder what was going on. The water developed a strange odor, like that of an insecticide, and a rash of stomach cramps and dizzy spells hit.

Velsicol Chemical Corp. of Chicago had dumped 350,000 55-gallon drums of waste from its Memphis plant in a field outside Toone. The waste included toluene, hetaclorobenzene and tetrachloroethylene.

COMPANY DENIAL

But the company denies that, just because many of the same chemicals are in the water and in the wells, the two are connected.

"We don't believe there is any evidence or reason to believe up to this time that any undeground contamination could have taken place," according to Richard Blewitt, Velsicol director of public affairs.

"One of more chemicals found in those wells could not have come from our former site," he told The Courier-Express.

The firm operated the site from 1965 to 1972.

Velsicol and Tennessee are now doing a study to try to determine exactly what did happen in the rural area of southwest Tennessee.

The industry journal "Chemical Week" said in its Aug. 23 issue of company difficulty:

"No chemical company has probably faced a greated one: survival after a series of environmental calamities and perhaps just plain bad luck. For after a relatively uneventful first 40 years or so of existence Velsicol in the past four years has shot into prominence as an 'environmental bad guy,' the butt of snide remarks even within the industry."

SEWAGE PLANT

In addition to Toone, Tenn., the company is known for its manufacture of the pesticide Phosvel which allegedly caused nerve damage to production workers; its manufacture of the now banned pesticides Chlordane and Heptachlor; manufacturer of the fire retardant Tris—investigated as a suspected cause of cancer—used in children's sleepwear, and an incident of allegedly illegal waste dumping.

On March 29, 1977, a total of 35 employees of the Morris Forman Sewage Treatment Plant in Louisville, Ky., were taken to a hospital for care of blisters, sore throats and chest pains.

For the next two months, 100 million gallons of sewage per day was diverted straight into the Ohio River. The plant and sewer lines were found to be contaminated with three highly toxic chemicals used to make pesticides.

Eventually, investigators claimed to have tracked the material back to Velsicol. The Chicago chemical firm had hired a company to dispose of waste. The first firm hired a second firm. The president, secretary-treasurer and an employee of the second firm were subsequently indicted, charged with dumping the wastes into a sewer in an abandoned lot.

POINTS TO FBI VERDICT

Velsicol claims an investigation by the FBI found the firm "did not act negligently."

Bruce Davis, executive vice president for the Industrial Chemicals Group of Hooker, made a similar claim—that a reputable company was hired to dispose of waste—to The Courier-Express in two separate incidents involving the Montague, Mich., plant.

In one case, Davis said he was unaware of the facts until they were pointed out to him by The Courier-Express.

He was asked about 6,500 gallons of a chemical known as C-56, used to make pesticides, which were sitting in a decrepit Summit National Services chemical treatment site outside Akron, Ohio. Davis initially denied the chemicals in a tank truck and a standing tank were from Hooker.

Several hours later, he called back to admit the materials were from Hooker. He said lower-level company officials were aware of the material and had pictures of the messy site.

MICHIGAN'S VIEW

On Friday, Davis said the material was still in the Ohio field. If Michigan officials have their way, it won't come back to their state. It has been in Ohio for nearly two years.

On March 11, 1977, Jack D. Bails, chief of the office of program review and project clearance for the Michigan Department of Natural Resources (DNR), reported on Summit National Services to Howard A. Tanner, DNR director. He repotred on a meeting with Summit owner Don Georgeoff.

"You will note on page 2 of the meeting notes that the owner of the facility, Mr. Georgeoff, proposes to divert other waste sources to Michigan while he rebuilds his incinerator. At this point, I think a letter from the attorney general indicating that no such wastes will be allowed back into Michigan without an approved plan and disposal location."

"WE WILL GET IT OUT"

Davis later commented to The Courier-Express, "I don't know how the hell we're going to get it out. But, we will. From a legal point of view, we don't know if we have any responsibility. But, we will get it out."

Hooker and Michigan were involved in an earlier battle over waste from Montague. In the summer of 1976, Approved Industrial Removal was hired by Hooker to take away waste from the Michigan plant.

Hooker said it was told by the hauler the waste was going to a special disposal site near Detroit.

Instead, the hauler buried a 10,000-gallon tank in a garbage dump in central Michigan. About 5,000 gallons of C-56 was put into the tank. Later, 3,000 gallons of C-56 was put into another buried 5,500-gallon tank.

Someone blew the whistle on the situation. The state obtained a court order and dug up the waste side. The tanks were found and dug up. The C-56 was sent back to Hooker and, ultimately, sent to an incinerator in El Dorado, Ark., for burning.

Some C-56 is reported "migrating" in underground water from the Montague plant toward White Lake, a drinking water source there. Other chemicals, allegedly have been found in nearby wells.

The state of New Jersey has a serious chemical waste problem. It is so serious that illegal dumping is a formal subject of investigation of the White Collar Crime Unit of the State Department of Law and Public Safety.

Deputy Attorney General Robert Ford told The Courier-Express he has a grand jury looking into the whole problem of waste disposal and "midnight dumping."

He added, "We're actually surveilling the industry."

It was the work of the White Collar Crime Unit which led to the indictments of the Chemical Control foursome.

The four were accused of emptying a tank truck containing chemical wastes into Elizabeth Creek and into a sewer which leads into Newark Bay; dumping drums of chemical

waste at various locations, and digging pits with a bulldozer, filling them with dry garbage, saturating the garbage with chemical waste and hauling the contaminated garbage to landfills intended for municipal refuse.

Robert T. Winter is chief of the Enforcement Bureau in the Division of Criminal Justice of the New Jersey Department of Law and Public Safety. He admits it's not an easy area to investigate. Winter noted to a reporter:

"They make a quick dump and they're gone."

WASTE HANDLING SOLUTIONS CAN'T WAIT

(By Michael Desmond)

Since hazardous waste isn't going to go away or stop coming, something has to be done, and done quickly, before it buries every citizen.

That may seem obvious to some, but it is apparently not obvious to a wide array of bureaucrats in various levels of government.

For example, the federal Environmental Protection Agency (EPA) is still dawdling on the rules which should turn the Resource Conservation and Recovery Act of 1976 (RCRA) into something more than a dead letter.

The federal Commerce Department has the legal responsibility to study recycling of wastes to re-use them. It has no money for studies.

SMALL STAFF, BIG PROBLEM

California has one person assigned to try to find companies which can use waste from other companies. The Golden State produces an estimated 10 percent of the national anual total of hazardous waste. EPA estimates the national total at 22 billion pounds.

The federal Maritime Commission is paying for a study of sending waste out to sea to be burned in a special incinerator ship. The Courier-Express was present on Wednesday when Steffen W. Plehn, EPA deputy assistant administrator for solid waste, learned of that project for the first time.

EPA is now planning to look for former waste dump sites to see what is in them. Those plans were not announced until Thursday.

NEW YORK: HISTORY OF CALAMITIES

New York State has a history of chemical wastes calamities. It has no record of where many waste dumps are. But it is doing a survey to determine where present sites might become future disasters.

Congress must hear strong criticism because it has done essentially nothing to force EPA to meet the mandate Congress wrote into RCRA. It has also provided very little money for research into newer and better methods for handling waste.

While all of this has been going on, the taxpayers are being hit for massive cleanup bills. A recent Michigan study indicates it will cost state taxpayers there $100 million to clean up a string of environmental disasters.

INDUSTRY AVOIDS COURT PRECEDENT

One attempt to determine who should pay for the cleanup in Michigan fell through when a group of major industries picked up the cleanup cost in one site rather than allow a court to set a precedent by deciding who should pay.

In general, the situation is a little like the old joke about having to hit the mule over the head with a two-by-four to gain his attention. Perhaps if some of the bureaucrats wandering through the problem were forced to live along the Love Canal in Niagara Falls or drink from wells in Toone, Tenn., or live downwind from the Afirecim Corp. in Lowell, Mass., they might do something.

THREE URGENT AREAS

There are three distinct areas of activity which have to be undertaken. They are:

1. Completion of rules for the entire waste disposal industry.

2. Large amounts of research into re-using waste.

3. Research to change production methods and cut down the amount of waste.

Finding past dump sites is interwoven with all three.

The basic missing ingredient in the whole situation is any sense of urgency. Life in Washington, D.C., moves along at a steady, even pace, undistracted by any of the harsher realities of life.

INSULARITY IN WASHINGTON

High EPA officials don't worry about what is going on outside of Washington. It is the lower level bureaucrats who have to go out and actually deal with the situations. It is a Eckhardt Beck (EPA Region 1 chief in New York City) personally going around Washington to get action on the Love Canal disaster in Niagara Falls, or a James Stahler (EPA environmental engineer in San Francisco) helping California put together a good hazardous waste program and then helping to sell the same program to other states.

There isn't a lot of that.

Indeed, there is Plehn, who admits that no matter what the RCRA rules are, the EPA will be sued by someone. But the agency is racing through the rules process like a snail.

RULES DELAY INCREASES DANGERS

Every day that the rules are delayed—they were due April 21—bad dumps around the country are filling up and posing a future threat. EPA can do nothing until the rules are completed. So the federal government and many state governments are doing nothing about dumps that are being closed, in the absence of rules.

In trying to control the situation, government officials must watch for a different approach from industry. Based on past examples, some companies may just transfer the manufacture of chemicals overseas, leaving the waste overseas, also.

Many countries, have no environmental protection rules at all.

Obviously, moving the production overseas might ease the waste problem in this country. It would still not end waste as a problem to human beings, but simply shift it.

PUBLIC DECISIONS NEEDED

The public is also going to have to make some decisions. If some of the chemicals and chemical products are going to continue in use, it is going to cost.

EPA's Plehn threw out an interesting figure in an interview with The Courier-Express the other day. He estimated it might cost $400 million to $800 million a year to meet the eventual RCRA requirements, when they take effect. That is a substantial amount of money, but only $3 to $4 a year for each citizen.

He pointed out the cost itself may bring about changes. EPA has studied the situation in West Germany, where chemical companies and other hazardous waste makers are now required to pay the full cost of getting rid of the waste. So the consumers foot the bill.

Under the long-delayed RCRA, that system would be instituted in the U.S.

INDUSTRY'S BURDEN EYED

"The volume of waste will be less. The amount of waste will be less when this program is in full operation," Plehn said.

The current target date for completion of RCRA regulations is January 1980. But environmentalists predict EPA will not meet that date.

Without a bludgeoning of EPA by Congress or the public, the agency will continue on its leisurely way, Congress required EPA to come up with the RCRA regulations within 16 months of enactment, which was in 1976. So EPA will be 21 months late—if it sticks to its own schedule.

Industry is already moving in the area of cutting down waste. For example, the Hooker Chemicals & Plastics Corp. has spent $10 million in its Niagara Falls plant on two of its manufacturing operations. One change cut out waste products completely. The other cuts the waste production drastically.

WASTE CAN'T BE HIDDEN

Joe Louis once talked of the boxing ring as a place where you can run, but can't hide. This is true of hazardous waste. As has so often been horribly proven, it's everywhere.

The public has a stake in the situation. That is true for the captains of industry as well as the average citizen. Sometimes it seems as if every day brings another report of the bad effects of another chemical in another locale.

Today, the National Cancer Institute will release a report on the widely used chemical ethylene dichloride (EDC). The study indicates the chemical causes a wide variety of cancer in laboratory animals. The chemical is used to make vinyl chloride, which causes cancer in humans.

HAZARDOUS CHEMICAL ADDED TO FOOD

The chemical is widely used for everything from making other toxic chemicals to producing spices. In a release, the Institute noted, "EDC may appear as a food additive as a result of its use to extract spices such as annatto, paprika and tumeric." Both annatto and tumeric are used to color food.

LONG-TERM DANGERS FOUND

A 1974 study estimated 163 million pounds of the chemical were lost into the environment in 1974 and that use is growing. In an EPA study of surface water in industrialized areas, the chemical was found in 26 percent of the waste samples.

The chemical also causes physical ailments of other kinds, especially blood disorders, and large doses are deadly.

The public must develop an awareness of the long-term dangers. The Love Canal dump had been closed for less than a quarter of a century when it failed to contain wastes. Whether newer and better designed burial sites will be more effective, only time can tell. A "safe" site today could be the next generation's Love Canal.

Both in the long run and the short run, better controls on waste disposal are no substitute for not having as much waste to dispose of.

But there are problems. Richard Herbst is a lawyer and mechanical engineer who is a senior policy adviser in the U.S. Commerce Department. Asked what the department was doing in the chemical waste field, he said. "To be quite frank, we were not given appropriations under the law to undertake the sort of program we should have."

PAPER FLOWS, MONEY TRICKLES

Another Commerce Department official commented, "There's a constant flow of paper from EPA and others in resource conservation." He added, "There's never been a penny appropriated for the Department of Commerce to carry out this act (RCRA)."

The Metallurgy Research Center of the federal Bureau of Mines is doing some research in the field of toxic wastes, especially with sludges containing some metal.

But, basically little is being done by either government or the private sector about hazardous wastes.

From his field perspective, Stahler commented, "We think there should be tax disincentives or even tax incentives." That is, toxic waste producers should be punished or rewarded for inaction or action.

Oregon has a somewhat different approach. Its policy is that if a material can be recycled, it must not be thrown away.

Occasionally, Plaba can cut to the heart of the issue. He told The Courier-Express:

"The problem does not go away. To the extent that wastes are not properly handled or

disposed, they tend to come back and lay themselves at your feet. That's one of the grisly facts."●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. DERWINSKI. Mr. Speaker, once again the annual observance of Captive Nations Week was held, and across the country, as well as abroad, it has provided an excellent forum to register calls for freedom, justice, and human rights.

At this point, I wish to insert several examples of media and personal support of the basic virtues and convictions that were exhibited during that week from freedom of those held captive under Communist tyranny: First, a letter in Honolulu's Star-Bulletin; second, a proclamation by Mayor Thomas E. Williams of Johnson City, N.Y.; third, an article in News World, "Squeak of Protest for Captive Nations"; fourth, a letter in the Tacoma, Wash., News Tribune; fifth, the Phyllis Schlafly column on "Captive Nations Week" in the Paso Robles Press; and sixth, a caption in the San Diego Tribune, Calif.:

[From the Honolulu, Hawaii, Star-Bulletin July 23, 1978]

CAPTIVE NATIONS

July 16–22 was Captive Nations Week. A lot of people did not know this, mainly because the U.S. news media carefully avoided all mentions of it.

The media did, however, give a lot of coverage to the grievances of the American Indians. Therefore, permit me to make a few analogies:

Fact: The Indians' land and form of government were taken from them. The same goes for the people of the Captive Nations. The Communist imperialists have occupied the Captive Nations for years, and refuse to permit democratic governments in these nations.

Fact: The Indians complain of broken treaties. The Communists have broken every treaty regarding the Captive Nations that they have signed.

Fact: The Indians remind us that they were frequent victims of massacres. The Communists have massacred over 100 million people in the Captive Nations in the last 61 years.

The list could go on. In fact, the only major difference between the two cases is that the Indians demonstrations get nationwide front-page press coverage, and the Captive Nations demonstrations don't even merit a bare mention on Page H–16.

[From the News World, July 24, 1978]

SQUEAK OF A PROTEST FOR CAPTIVE NATIONS

(By Lee Edwards)

Last year, Jimmy Carter almost became the first American president not to issue a proclamation marking the third week of July as Captive Nations Week—that special time during the year when millions of Americans pause to remember the more than one billion human beings who live, but not by their choice, under communist tyranny.

A great uproar of protest from public and private leaders, many of them Democrats, forced Carter to change his mind and belatedly release a presidential proclamation three days into Captive Nations Week.

This spring, White House aides reassured Prof. Lev. E. Dobriansky, chairman of the National Captive Nations Committee and author of the proclamation first signed by President Dwight D. Eisenhower, in 1959, that there would be no repetition of last year's fiasco. They had learned their lesson, was the clear implication.

ON TIME BUT EMPTY WORDS

Well, it is true that President Jimmy Carter proclaimed July 16–22 as Captive Nations Week and that the proclamation was released in plenty of time, in fact the day before Russian dissidents Anatoly Shcharansky and Alexander Ginzburg went on trial for treason and anti-Soviet activities in the Soviet Union.

The Captive Nations proclamation offered a unique and timely opportunity for President Carter to stress his firm support of the cause of human rights and national independence. The occasion called for eloquence and commitment. What Mr. Carter gave us was bureaucratese and vapidness.

"For more than 200 years," said the president, "our nation has sustained the belief that national independence, liberty and justice are the fundamental rights of all people. Today we reaffirm our commitment to these principles.

"In particular," he said, "we pay tribute to those individuals and groups who demonstrate their attachment to these principles in their own country and throughout the world."

"Attachment"? Is that the best word the president and his speechwriter could come up with to describe the life-and-death sacrifices which Shcharansky, Ginzburg and all the other dissidents are making? What a depressing circumspect word—"attachment."

Mr. Carter added: "I invite the people of the United States to observe this week with appropriate ceremonies and activities and to renew their dedication to the cause of all people who seek freedom, independence and basic human rights."

That was it—no mention of dissidents, the Soviet Union, Helsinki, communism or even totalitarianism of the right as well as the left.

Mr. Carter's proclamation was dull, lifeless, perfunctory. It screamed indifference.

What could he have said? Here is what George Meany, head of the AFL-CIO, said about Captive Nations Week:

"The AFL–CIO recognizes the vicious contempt shown to subjugated people in nations captured by totalitarian forces. It further recognizes the fraudulent intent of the Soviet Union in signing the Helsinki Accords.

"For these reasons, American labor will work tirelessly to seek freedom for the peoples of Eastern Europe and in every other region where suppression of liberty has become the norm and human rights are violated."

The Meany statement lives—it breathes—it bites. Obviously, the AFL–CIO cares about Captive Nations Week and is not just going through the motions.

SEN. DOLE'S RECOMMENDATIONS

What could President Carter have *done* to give Captive Nations Week an added dimension at this critical time when the Soviet Union is grotesquely mocking its signing of the Helsinki Accords?

Sen. Robert Dole of Kansas has recommended that the United States:

1. Postpone SALT negotiations pending Soviet compliance to the Helsinki Accords.

2. Demand the release of the 12 Soviet monitors of the Helsinki Accords.

3. Suspend scientific exchanges pending Soviet compliance to Helsinki.

4. Make sure that minority republics like Georgia, Lithuania and Ukraine are invited to the 1980 conference on the accords.

5. Explore the possibility of rejecting the Helsinki agreement as a "failed document" that was not pursued by the Soviets with good faith.

Jimmy Carter cannot evade or avoid his responsibilities in the matter of captive nations and peoples. It was, after all, President Carter who in February 1977 wrote Russian dissident Andrei Sakharov, "We shall use our good offices to seek the release of prisoners of conscience."

Now—when brave, resolute men like Shcharansky and Ginzburg face death—is the precise time for the president to use his "good offices" to the greatest extent possible. Is he? Or is Mr. Carter contenting himself with the bare minimum of deed and word so as not to prevent any "progress" on his precious SALT talks.

I wonder: if the Soviets treat their commitment to the Helsinki Accords so casually and cynically, then what value is their word and their pledge to SALT?

[From the Tacoma, Wash., News Tribune, Aug. 14, 1978]

LATVIANS HERE REMEMBER

(By Mrs. E. Simons)

To the Editor: The third week in July was designated as Captive Nations week by the 86th Congress in July 1959. The Latvian colony in Tacoma has not forgotten, nor have they forgotten their sufferings under Communist dictatorship in Latvia.

Last month was the 37th anniversary of the infamous large deportations by the Soviet Union Secret Police (NKVD). It took place in the night between June 13 and June 14, 1941. Entire families were arrested. Neither old people, nor children and babies were spared. Suddenly in the middle of the night sleeping people were awakened by blows on their doors and by the intruding checkists and ordered to be ready in 15 minutes for "resettlement."

Thousands of people were taken by trucks to railroad stations, and loaded into freight cars. Their long road toward dreadful inhumanity and extermination had begun. The men were transported to Vorkuta and Siberia, the women and children to the Soviet Union (Karaganda) and also to Siberia. There most of them died.

Later it was found out that the lists of deported had been prepared well ahead in Moscow. The people were arrested not only because of their anti-communistic activities but because of being judges, politicians, employed in police, in army, merchants, farmers, etc. The deportations were carried out precisely at the same time and the same way also in Lithuania and Estonia.

In one year of communist rule, the year of terror, Latvia lost 1.8 percent of its inhabitants. Besides the deportations, many were killed in woods and in the cellars of the NKVD.

In Tacoma there is a mother who, vainly searching for her arrested son, has looked into every face of the crippled corpses in the courtyard of Riga's NKVD. Those and similar memories do not fade away. However, Latvians do not plot revenge, nor do they ask for vindication. They are asking for alertness and awareness; since 1959 the number of the captive nations has grown.

[From the Paso Robles Press, July 10, 1978]

CAPTIVE NATIONS WEEK

(By Phyllis Schlafly)

Captive Nations Week is observed each year during the third week of July as a result of Public Law 86–90, passed in 1959 and signed by President Eisenhower.

This law directs our President to proclaim Captive Nations Week "each year until such time as freedom and independence shall have been achieved for all the captive nations of the world."

The law lists by name 22 nations which had then been enslaved by Communist ag-

gression, including mainland China, Tibet, North Korea, North Vietnam and 18 nations beyond the Iron Curtain.

In the 19 years since the Captive Nations Resolution was passed by Congress, not a single captive nation has regained its freedom. Worse, many new nations have gone into Communist captivity, including Cuba, South Vietnam, Laos, Cambodia, Angola and Mozambique, South Yemen and Ethiopia are on the verge of going Communist.

The evolution in the wording of our annual Captive Nations Proclamations is a lesson in the development of U.S. foreign policy. As the number of captive nations increases, the rhetoric in the proclamation softens.

Eisenhower's July 21, 1959, proclamation called a spade a spade in these strong words: "Whereas many nations throughout the world have been made captive by the imperialistic and aggressive policies of Soviet communism; whereas the peoples of the Soviet-dominated nations have been deprived of their national independence and their individual liberties; and whereas it is appropriate and proper to manifest to the peoples of the captive nations the support of the government and the people of the United States of America . . ."

Succeeding presidents progressively watered down the annual Captive Nations Proclamations. President Kennedy's three proclamations failed to list any captive nations or name the Soviet Union or Red China as the captors.

On Aug. 20, 1968, the Soviet Union proclaimed to the world its policy toward the Captive Nations: The mighty military forces of the USSR and its satellites will be used to crush any modicum of freedom and independence sought by any of the captive nations. That is the day when the Soviets launched their surprise invasion of Czechoslovakia with 650,000 heavily armed troops.

Although the Soviet invasion of Czechoslovakia was denounced all over the world, the next Captive Nations Proclamation, issued by President Nixon in July 1969, showed no righteous indignation. It merely called on the American people "to sustain with understanding and sympathy the just aspirations of the peoples of all nations for independence and human freedom."

After the Communists took over South Vietnam and Cambodia, the Captive Nations Proclamation became even softer and was shortened to 11 lines. The Nixon Proclamation of July 1974 stated defensively: "We do not seek to impose our beliefs upon others, but we do not hide our sympathies toward the desires of those who, like us, cherish liberty and self-determination."

As the annual Presidential Captive Nations Proclamation became mushier, the White House began to release it on Saturdays, too late to make the Sunday newspapers and so that it would be stale news by Monday. This also avoided coverage by the electronic media.

Last year President Carter issued the Captive Nations Proclamation only after ethnic groups began calling the White House and demanding it. When the proclamation was finally issued, it was so vaguely worded that hardly anyone under age 35 would recognize the original intent of the 1959 law.

The 1977 proclamation merely stated: "Our country was established on a profound belief in 'self-determination'. Throughout our history, we have sought to give meaning to this principle and to our belief in liberty and human rights."

The recent Communist gains in Africa and the trials of the dissidents in the Soviet Union make the observance of Captive Nations Week even more timely than when it originated 19 years ago. President Carter has a great opportunity to manifest his devotion to human rights by issuing a strong Captive Nations Proclamation, with appropriate media coverage. Any bets he will do it?

PROCLAMATION

Whereas, the people of Johnson City recognize their heritage as having its beginning in many countries of the world, and

Whereas, the people of Johnson City cherish their inherent freedoms guaranteed by the United States Constitution, and

Whereas, the people of Johnson City recognize that many of their brothers and sisters in captive nations around the world do not enjoy these cherished freedoms, and

Whereas, the people of Johnson City earnestly desire to share their freedoms with their enslaved brothers and sisters and to that extent will continue to work for the expansion of freedom in the entire world,

Now, therefore, I Thomas E. Williams, Mayor of the Village of Johnson City, New York do hereby proclaim the week of July 16 through July 22, 1978 as "Captive Nations Week."

THOMAS E. WILLIAMS,
Mayor, Village of Johnson City.●

INDIAN HEALTH SERVICES IN SOUTH DAKOTA

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. PRESSLER. Mr. Speaker, several newspapers recently ran a group of Associated Press articles which delve into the severe problems in the field of Indian health services in South Dakota. These articles depict the deplorable conditions which exist throughout the Indian Health Service system in South Dakota.

The situation has lead me to write Secretary of HEW Califano asking that he investigate a long-term solution.

I am also supply these articles to President Carter and to the appropriate House and Senate committee chairmen.

I am inserting these articles into the RECORD and I hope that a greater awareness to the problems of Indian health will develop.

The articles follow:

ROSEBUD HOSPITAL STAFF LAUGHS SOMETIMES TO KEEP FROM CRYING

(By Bob Tucker)

ROSEBUD, S. DAK. (AP)—The staff at the Indian Health Service's Rosebud Sioux Reservation Hospital has to laugh sometimes to keep from crying.

"We can't match MASH on TV," said Amiel Redfish, a physician's assistant at the reservation of about 15,000. "At least, they have Hawkeye to pull a nurse's skirt down for morale."

Nine of the 10 physicians on the staff plan to leave by next month. Some will stay in public health and others will buy out of a government contract that exchanged medical school tuition for public health service.

Most are disillusioned volunteers who want to return to a different medical environment.

"We get very idealistic doctors here right out of medical school," Redfish said. "They were going to be the Schweitzer to the Indians but they weren't prepared for rural medicine."

A native of the reservation who was educated at UCLA and trained by the IHS, Redfish calls himself a "survivor."

He is the only one of the current staff who has served three years at the hospital. Last month he joined a staff shutdown of the hospital to protest a lack of ambulance service. Conditions have changed little and Redfish's commitment to the IHS will end next month. He also is planning to leave the reservation hospital, but the parting of the current staff bothers him more than the complete turnovers he has seen in the past.

A "new breed," the current staff is composed mostly of highly motivated young specialists. They came as social dogooders in the wake of the Vietnam war, when Rosebud was staffed by those escaping the draft.

"We got the dregs of the medical profession then," said Redfish. "Now we get good physicians who come and leave because they don't have the bucks to do the job."

One of those doctors was Dr. W. C. Lineaweaver, who was granted a transfer Friday to another public health facility in Oklahoma.

"There was never any question of this being the Mayo Clinic but we thought we could at least do bread and butter surgery," Lineaweaver said several days before he left Rosebud.

"The sanitary conditions are so bad I had to ask a nurse to remove a box elder bug from the appendix of a patient during surgery," said Lineaweaver.

He spoke most frequently in a roomful of hospital staff who swapped stories of medical incidents at the hospital.

Some excerpts:

—A woman almost died from blood loss because she was left unsupervised in the hallway during the normal post-operative bleeding following a baby delivery. The doctors attributed the incident to a shortage of nurses.

—Lineaweaver said he was called from his home to administer an IV to a severely burned patient because he was the only doctor who knew how to give such a transfusion.

—A patient with a ruptured spleen needed 10 units of blood when the hospital had only four on hand. Highway patrolmen relayed the blood from Rapid City. The doctors cited the "close call" to illustrate a shortage of supplies and inept support staff. A lab technician, they said, had told them the blood wasn't available.

Despite their stories, the physicians spoke with pride of keeping patients alive in the isolated setting of southcentral South Dakota.

There was the time a baby was kept alive in aluminum foil and surrounded with hot bricks in the absence of an incubator. But the real trick was convincing a reluctant pilot to fly the child to Denver for emergency treatment during overcast skies.

"We'll all come away from here with some great stories that will stay with us the rest of our lives," Lineaweaver reflected. "But it's not worth it. . ."

"This could be a 100-bed hospital instead of 45 and still be busy," Redfish finished the thought. "The sickness here is unbelievable."

"You get beat down by the system," said Dr. Sidney Wechsler, an obstetrician-gynecologist on the staff of the University of South Dakota medical school.

After several months at the hospital as the first OB in the Aberdeen district, Wechsler left following a dispute involving a piece of equipment he said IHS had promised to buy him. He now runs a clinic in Martin and supervises an intern at Rosebud.

"You're controlled by the big budget in the sky," he said. "I wanted to make this a place where people are treated as private patients and not like cattle. It couldn't be done."

[From the Aberdeen (S. Dak.) American News, July 10, 1978]

IHS OWES $1.5 MILLION TO HOSPITALS

(By Bob Tucker)

CHAMBERLAIN, S. Dak.—Of the hospitals nationwide holding near $1.5 million in bills unpaid by the federal Indian Health Service, none have been hurt more than Community Bailey Hospital, according to one official.

"A cash flow problem?" asked hospital administrator Don Naiberk. "You take $40,000 out of a $1 million budget . . . hell, you've killed it."

Naiberk is chairman of an ad hoc committee of the South Dakota Hospital Association concerned with Indian Health Services. The committee deals with $540,000 that members claim IHS owes to 24 South Dakota hospitals for medical care given to Indians during the summer 1977.

Much of the medical care dispensed to Indian patients was necessary and the hospitals have a moral right to be reimbursed, IHS officials agree.

But on the legal side, the hospitals were told beforehand that IHS's Aberdeen district was running out of funds and would not pay for the care, they add.

'Aside from special legislation, I assume they will just have to adjust their books and take a licking," speculated Jim Lawler, assistant to the director of the IHS Aberdeen district.

Sen. James Abourezk, D-S. Dak., said he has been under a lot of pressure to help resolve the dispute.

"I called (Joseph) Califano (Secretary of HEW) and asked if he would for God's sake order them (IHS) to make a request for funds," Abourezk said. "Nothing has ever happened."

Bailey plans to take no such "licking" and has a lawyer poised to take the matter to court if its current appeal for funds isn't heeded by the Department of Health, Education, and Welfare. Or the matter may be aired in a U.S. Senate hearing scheduled tentatively for later in the summer.

In the meantime, medical personnel and Indians alike are angry and confused over an IHS edict restricting payment for treatment of Indian patients at Bailey to "emergencies only."

Bailey, which contracts with IHS to provide health care to Indian patients, is in a unique situation, according to Naiberk.

In addition to serving the Chamberlain community, the 35-bed facility gets 20 percent of its patients from nearby Lower Brule and Fort Thompson reservations, an area without its own IHS hospital.

Indian patients who have become dependent on Bailey have suddenly been told not to use it unless in danger of losing their life or a limb.

The rationale, according to IHS officials, is not to restrict health care, but to limit patients to IHS facilities. And by using its $8 million contract health care budget for emergencies only, the budget will stretch over 1978 avoiding the mix-up of 1977.

But what it may be gaining financially, IHS is losing in its relationship with its own medical staff.

The physician assistants who run the reservation clinics are bitter over the policy because they feel harassed about sending patients out for treatment.

To them, an emergency is anything they don't feel comfortable handling and they are now in the position of deciding who may be sent for outside care at IHS expense.

"To a mother whose child has a 103-degree fever in the middle of the night, that is an emergency," said Fort Thompson PA Burt Marion. He has had his life threatened over authorizations for outside treatment.

While IHS still authorizes payment to Bailey for cases other than emergencies, its policy is to have patients transferred to an IHS hospital as soon as possible.

"They haven't made efforts to get transfers," Naiberk said. "In one case it took four days to get an answer. On the fifth day he committed suicide.

The situation at the hospital with the new policy is often most difficult for secretary-clerks who work at the admitting desk. Confronted with anxious accident victims, they often have to scramble to contact an IHS doctor for authorization to admit a patient as an emergency case.

"They take a lot of abuse," Naiberk said. "And I haven't figured out how a doctor makes a diagnosis over the phone. But if it's life threatening, our staff isn't going to screw around calling someone."

Marion, who has become a severe critic of his employer, sided with the agency on the claim that the hospital is too liberal on admissions.

"When I first came here I thought I was missing diagnoses," he said. "My patients would have 102 temperatures with a clear chest and I'd found out they had been admitted—the old syndrome."

But he also sympathizes with the Indians who often need care legitimately at the hospital.

"Your option is that you go to the hospital at your own financial risk. Then you have to sell Dr. Austria (IHS doctor who authorizes treatment) and then you hold your breath to see if they (IHS) will pay. If they don't, what are you going to do? Repossess their (patients') home; repossess their car?"

Dr. L. W. Holland, one of four staff doctors at the hospital who treat contract health care patients, said the new IHS policies "are a farce.

"I see any patient day or night whether they're authorized or unauthorized, or pay or nonpay," he said.

Holland has been a physician in the community for 30 years and used to handle the whole reservation load from his clinic with another doctor. They were paid directly by the government before IHS stepped in as a regulatory middleman.

"I ran the show before they ever had PA's on the reservation," he said. "Now there is a bureaucracy that has hired people and eaten up the funds under the guise of providing medical care."

IHS Stance "Blow to Health Care"

(By Bob Tucker)

Sioux Falls, S. Dak.—A hard-line stance by the Indian Health Service's Aberdeen District to cure it's financial ills has dealt a devastating blow to the health care of its own patients, according to IHS medical personnel.

"If this was a grocery store there would hardly be any food on the shelves and flies on what's there," said Dr. W. C. Lineaweaver, who recently left the IHS's Rosebud Sioux Reservation hospital after one year of a two-year commitment.

New cutbacks aimed at stopping an old deficit spending problem are creating what doctors say is a day-to-day struggle to keep up with the most basic needs of their patients.

"It's impossible for qualified doctors to serve in an arm-pit of a hospital," Lineaweaver said. "It's just too draining."

Nine of the hospital's 10-person staff of physicians and physician's assistants say they will be gone by August in protest of a 'bargain basement' style of health care. Two have already left.

The hold outs is Raphael Vasquez, a certified registered nurse anesthetist. He's had three offers to leave, but doesn't know what he will do.

"I know that if these people leave now, it will be murder," he said.

The tightening of the Aberdeen district's fiscal belt has had other more complex results:

Private hospitals in the district which includes North and South Dakota. Nebraska and Iowa are holding over $1 million in unpaid bills for contract health care provided to Indian patients. The IHS, while admitting much of the care rendered was necessary, claims it is not legally obligated to pay.

The United Sioux Tribes in North and South Dakota and IHS officials agree that it would take an additional $5.5 million this fiscal year to provide the level of care wanted by the reservations. Pending the success of meetings scheduled with high level government officials, tribe officials have directed a lawyer to explore ways to increase funding through court.

An oversight hearing is tentatively scheduled later this summer for the Senate Committee on Indian Affairs to look into IHS difficulties on a national scale.

To get through this fiscal year in the black the Aberdeen district is only authorizing payment for medical procedures outside its own facilities in "life or death" situations or where a loss of limb may result.

"I think we'll end up in the black this year but it's on a dire diet and that doesn't make for happy relationships with anyone," said Jim Lawler, special assistant to Aberdeen area director Dr. Rice Leach.

"But I don't think you can find anyone who's suffered because we've tightened up," said Lawler. "We're just using the money the way Congress intended."

Congress, through the Department of Health, Education and Welfare, has allocated $42.5 million to the Aberdeen area for fiscal 1978. Among much disagreement over what it is responsible for, the Aberdeen district generally tries to fill in the health care gaps of about 55,000 reservation Indians not covered by Medicare, Medicaid, VA benefits or private insurance.

"We look at ourselves as a source of last resort," said Leach, who was called in from Arizona with two weeks notice last year to treat the area's financial woes.

With a close-end budget and strict regulations on how to use it, Leach stepped in, firing lower level personnel hired without the funds to pay for them and disciplining unit directors who overspent their budgets.

But his most drastic and controversial measure has been to restrict the use of IHS contract health care funds to emergencies only.

The most "visible" part of the district's budget, the $8 million contract health care budget is alloted to private hospitals and individual specialists to treat cases that IHS's own limited facilities can't handle.

"Now most things have to be treated out of our clinic, which is a 20 by 30 foot building with no operating room or necessary equipment," said Duane Big Eagle, vice-chairman of the Fort Thompson reservation.

One of the few reservation areas without it's own hospital, Fort Thompson and neighboring Lower Brule depend largely on a nearby hospital in Chamberlain to treat a population of about 4,000 with close to 60 percent unemployment.

With the new "emergencies only" policy, the physician's assistants (PA) who run the reservation clinics and an IHS doctor who visits regularly have to decide which patients can be sent out for care.

"Patients have to come in and plead their case and beg for outpatient treatment," said Ray Rudolph, PA at Lower Brule. "It embarrasses me that they have to come in with that attitude."

Resignation letter in hand, Rudolph said, 'I can't be affiliated with a system that analyzes what you do on a financial basis instead of medically."

Fort Thompson PA Burt Marion said he normally works 70–80 hours overtime in a two week pay period to handle patient loads although IHS only pays for 12. And both Marion and Rudolph say they are forced to handle medical situations they aren't comfortable with since use of the Chamberlain hospital is now limited.

But neither the PA's nor the doctors interviewed said there has been drastic suffering on the part of their patients because of the new policies.

"I've asked if they've had anyone die because of inadequate funding,' said Dr.

Lauren Petersen, head of the Obstetrics Gynecology department at the University of South Dakota.

"That gets to be a delicate issue, said Petersen, who is collecting information for an article on the subject.

As one example Rudolph said he sent a patient to a sympathetic physician in Sioux Falls.

An ear, nose and throat specialist performed what he saw as a necessary tonsilectomy. But the official chart was charged to read "respiratory distress due to enlarged tonsils."

If all went according to plan, the operation was not paid for by IHS as an emergency procedure. If not, it became a free operation.

Marion's pleas to private specialists to perform procedures they might not get paid for "have never been refused," he said. "If we worked for a corporation we probably would have gotten a bonus for saving $100,000 bucks."

Marion and Rudolph are supposed to send their patients to the nearest IHS hospital whenever possible to avoid using contract health care money.

But patients are often refused because the hospitals are already overloaded, they said.

The doctors at IHS hospitals "do a lot of tricks to get our own 'patients' operations paid for" at contract health care hospitals in Rapid City or Denver, according to Lineaweaver.

The doctors are currently trying to take advantage of a special $2 million appropriation to the district for needed operations that have been put off due to limited funds. For patients to qualify, doctors have to document that the patient had the condition prior to Oct. 1, 1977.

"If a guy needs a gall bladder operation we ask him if he had a pain in his stomach in 1974—anything," said Amiel Redfish, a physician's assistant at Rosebud.

"As a recipient as well as deliverer of health care here, it stinks," said Redfish, who grew upon the reservation. "But we give quality for the dollar we have."

The Rosebud staff and other IHS medical staff, however, are finding it harder to bend the system. They say Leach personally scrutinizes medical authorizations for patients sent out of IHS facilities.

"We are not funded to operate at the level everyone expects us to including patients, tribal chairmen and our own physicians," Leach admitted.

He lists three major reasons for the lack of funds:

Inflation: Since 1973 there has been a 60 percent increase in operating costs versus a 35 percent increase in the budget.

Fragmented care: IHS is unable to economize with central facilities because each reservation demands its own.

Internal management problems: Doctors say an attempt to hire Indians has often resulted in unqualified people in administrative posts.

A fourth factor that Leach calls minor but which probably stirs the most emotional debates is the alleged overuse of contract health care facilities by Indians.

"The standing joke now is that when the government runs out of funds there are suddenly 20 discharges from the private hospital," said Marion, describing a self-perpetuating pattern of contract health care abuse by Indians and physicians.

"How do you teach people to take care of themselves which nobody has ever done over the years," Marion said. "And Indian patients have been encouraged to go to the hospital by doctors who meant well but still encouraged them."

Before the current spending mood, a liberal policy of Indian care at hospitals was able to continue, according to IHS officials, because the agency was regularly bailed out by Congress or HEW at the end of the fiscal year.

"They had become used to treating people and having 'Uncle' (Sam) pay," Lawler said.

The overuse of health care facilities by a few has incurred the resentment of taxpayers oblivious to larger legitimate health problems Indians face, Marion said.

"People say, 'I sat up with my kid all night and they dropped their kid off at the hospital with 99-degree fever,'" Marion explained the attitude of people in towns near the reservation.

"The key question is why is health care so terrible when so much money is spent?" Marion asks rhetorically.

The answer is conditions on the reservations, he added.

Many children are constantly ill with allergies because of constant winds. Pneumonia is common. Alcoholism is an everpresent major problem among adults and until recently tuberculosis was still a major threat.

And a current wave of scabies on the reservation lingers in some households where there is no running water to disinfect the premises.

"I came here 2½ years ago and have a two-bedroom house that serves as the clinic," Marion said. "It is an appalling clinic by anyone's standards. If you were sick you would not want to come to this place."●

ETHICS IN GOVERNMENT

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. RYAN. Mr. Speaker, with the passage of H.R. 1, Ethics in Government Act, the Members of the House can rest a little more easily as they return home to campaign. But the American people will not rest easy as this bill is implemented. I can appreciate that the bill was the best compromise that could be worked out by a number of very able and respected Members of this House. Their efforts should be commended. However, I read through the bill page by page and frankly, I wish I hadn't. It is not a good bill. It will not be a good law.

Every age of history has its periods of sublime achievement, its great moments in history and its moral disasters. I am reminded of the great Elizabethan era in Britain, with its daring explorations, its unprecedented economic growth, its expansion of trade to the four corners of the Earth, and its nationalistic pride, reflected in the historic plays of William Shakespeare the greatest playwright in the history of the world.

But the age of Elizabeth fed upon success, and after 80 years, great turned to glut, success had turned to excess, and joy had turned to lust.

Before the storm had ended a king had been beheaded. Oliver Cromwell had abolished the Parliament, destroyed the established church, and had placed himself on the throne as Lord Protector—in the name of God and the Puritan movement. We are about to send out a Cromwell and a new model army. A modern President was destroyed because of excesses and misuses of the law. Many others went to jail in disgrace. This comment is not a history lecture, but those who do not learn the lessons of history are doomed to repeat the errors. Here in the Congress the movement for reform has already achieved significant success. This House is no longer ruled by a few powerful men who, in the name of benevolence, rule the country in closed meetings where those in power too often took a portion of that power vested for self and friends. We have spent every year since I have been here in more and more reform.

Now that sublime word "reform" begins to be a little ridiculous. How can we legislate "ethical conduct" past a reasonable point?

But that is exactly what this bill does and it does it not just as it relates to conduct by Members of the House of Representatives but for the entire executive and judicial branches as well. How presumptuous can we be?

I will not waste the time of the Members going through the bill and drawing attention to the flaws and inconsistencies I found. Instead, I will highlight just a few.

In title II, part B, we create an Office of Government Ethics. Then we create a Director of the Office of Government Ethics who is vested with an inordinate amount of power. He is to be the ultimate "white hat" in the Government. He will conduct a review of financial statements of executive branch employees and officers to "determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommend appropriate action to correct any conflict of interest or ethical problems revealed by such review."

Here is the Consumer Protection Agency in a new role. Who will play this Christ-like role? Who will be Savonarola, Cromwell, Robespierre? Do we not already have laws which we can use to say what is a theft? A bribe? An extortion? A perjury? Do we not already have district attorneys, U.S. attorneys, grand juries, inspector generals, and others to enforce the laws? Do we not already have elections so that the people themselves can replace those who are not diligent enough? Have we not seen here in this House itself the departure of Members who strayed too far from not only the law, but also public approval?

Shall I call the roll? In my own time here, I can count 11 Members who were not convicted of any crime, and yet are gone because of public disapproval. Our present system works. We can and do cleanse ourselves.

In this bill we not only suggest the Christ-like Director of the Office of Government Ethics, we suggest the need for agency ethics counselors. I presume that, like the Mullahs in Muslim countries, they will become a kind of new police force that deals not with the courts and the law, but with something else called ethics. Is this to be the new gospel, the new theology as promulgated by the "Great Director of Ethics Himself?"

Under the same title reference, the Director of the Office of Government Ethics will consult, "when requested, with agency ethics counselors." Who are

agency ethics counselors? The original bill before the Post Office and Civil Service Committee contained a section creating an elaborate bureaucracy of these counselors that would be assigned to two or more agencies. To do what? While that particular section of the Post Office Committee bill is not before us today, the "ethics counselors," in a single reference have crept into the bill. You may ask: How many will there be? I do not know. What will they do? I do not know. Who will they counsel? I do not know.

The only thing I am certain of is: We can not legislate ethics any more than we have. Instead of creating still another agency, we should be taking more time to police and clarify the laws that we already have. We know that people want less government, not more. And yet, we continue to plunge blindly ahead creating new agencies to do what present agencies can and should do.

What is more, we are providing the Office of Government Ethics with $1 million to make it through fiscal year 1978 which ends in 2 days—September 30, 1978, and an additional $1 million for each of the 4 succeeding years.

I for one, would like to see this House declare a breathing spell of at least 5 years before we continue to writhe in this morass called reform. There is not one Member of this House who is now departed because of questionable conduct who could survive as a Member under the new House rules already written. Others, who are here now, will go before their voters in a month to be judged for actions of the past—even though they committed no offense which diligent attorneys say is a violation of law.

We need no ethics branch of government. We need no Cromwell to tell of our sins—in triplicate. What we need is a diligent press to point out misjudgments and an election system which allows the people themselves to judge ethical conduct. It is with great pleasure that I announce to all those who advocate Cromwellian gods in judgment that we already have such a system.

We do not need a John the Baptist, a Cromwell, a Roberspierre, a Savonarola—what we need is people at a ballot box. We have them. And we do not need this ethics bill—unfortunately we no longer have a choice.●

NATIONAL GRANDPARENTS DAY

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. JOHN L. BURTON. Mr. Speaker, on Sunday, September 10, the first National Grandparents Day was celebrated as a result of a special resolution passed by Congress and the President in August.

As one of the cosponsors of the measure, I know that a lot of credit should go to many dicerent people who helped to make this tribute to grandparents possible, but a California grandmother deserves a few extra words of praise for her years of campaigning for a grandparents day.

Mrs. Terry Blake, a former actress and current resident of Los Angeles, has been working for a grandparents day since 1955. She claims she is the first in the field to advocate a grandparents day and has been pushing for this observance during the past 23 years.

Mrs. Blake has been a grandmother 10 times and has spent several thousand dollars trying to get a resolution passed. She has campaigned across the country three times and in 1955, she brought her crusade to Washington, D.C., with a petition containing 4,000 signatures in the hopes of seeing President Eisenhower about a grandparents day. Although she did not see the President then, her efforts have now paid off in helping to launch a National Grandparents Day.●

SALT TALKS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. DERWINSKI. Mr. Speaker, we are all aware of the fact that Secretary Vance is continuing talks with Ambassador Gromyko in New York. The major topic of concern is the stalled SALT negotiations.

In my opinion the administration's major weakness in its foreign policy is its conduct in the SALT talks as carried out by Paul Warnke, Director of the Arms Control and Disarmament Agency.

In an article in yesterday's Washington Star, William F. Buckley, Jr., directs the public's attention to the necessary importance of the SALT talks.

THE SALT SELLERS' PARADOX

The other day, batting around the subject of SALT II with Gen. George McGovern, I flushed out what emerges as the major paradox of the Salt Sellers, as Paul Nitze, former arms negotiator, secretary of the Navy, and defense specialist, refers to them. It is this: On the one hand, the Salt people give us the argument of redundancy ("We have enough nuclear weapons right now to kill everybody in the world 20 times over."). On the other hand, they tell us that if we don't sign a Salt agreement, the Soviet Union will proceed in the next three years—I cite Senator McGovern's figures—to construct another 700 missiles.

Why? Why would they build more weapons, having more than enough already? An examination of exactly that question is the beginning of wisdom in the consideration of the complicated business of arms control.

The planted axiom is: the fewer bombs, the less danger.

But that axiom, persuasive in the abstract, is not very useful in the current picture. If one could eliminate all weaponry with the exception of bows and arrows, the scale of potential death in a world war would be greatly reduced. Although even then it could easily be that there would be a world stockpile of arrows sufficient to kill everyone in the world 20 times.

Consider the converse proposition. It is conceivable that to have more atom bombs is to have greater, rather less security? Not only greater national security, but greater security against the prospect of having to fight a war in order to maintain that security?

It is precisely this point that such as Paul Nitze are in effect maintaining. Now to have more missiles does not necessarily mean to have more than the existing firepower. Consider: if you have one 1-megaton bomb, you have the firepower of one thousand 1-kiloton bombs. If a country decides to arm itself with a single megaton bomb, you have put all your eggs in a single basket. An aggressor would need only to take out that one bomb and you would be defenseless. If, on the other hand, you opted for one thousand 1-kiloton bombs, you would still have a bomb strong enough to eviscerate large cities, but it would require 1,000 direct hits to put you out of action.

It is the perception of those who oppose the direction in which we are headed under Salt II that we will be effectively prevented, by a protocol which will take us into 1981 but would instantly be the basis of any Salt III negotiations (the Russians would insist on the continuation of the protocol) from taking advantage of that proliferation of weapons that would discourage the Soviet Union from its current, relentless pursuit of a counterforce capability.

Even if we did not increase the number of weapons we now have, we would achieve substantially the same deterrent effect by the simple expedient of (brace yourself) "MAPSALPSING" then. The acronyms are jargon for increasing the potential number of aiming points. The equivalent is that of entering, pistol in hand and with intent to kill, a totally dark room, and hearing the voice: "Drop that gun, I've got you covered!"—and not knowing where that voice is coming from, in what direction to fire your pistol. If we multiply by five or even ten times the number of silos, and if we keep moving our minuteman from one silo to another, by random schedule, the Soviet Union cannot know which silos they would need to take out in order to take out our principal deterrent force. They would need to target all the silos, and the prospect of their doing that is slight, because although Soviet resources are great, they are not infinite.

We haven't seen the final shape of the Salt treaty, but President Carter, flushed by the temporary success of Camp David, is in a let's-get-on-with-it mood and it is vital to stimulate the public understanding of what to look for, and what is at stake.●

LINCOLN COUNTY REVISITED

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1978

● Mr. COHEN. Mr. Speaker, in a recent survey taken across the country, a majority of towns and cities ranked solid waste management as their No. 1 environmental problem.

In my own State of Maine, the problem of how to adequately meet solid waste disposal needs is an especially difficult one for rural areas which are plagued with high costs. The problems of management, and the difficulties of meeting regional needs.

I am pleased, however, that one of the counties in Maine has managed to overcome many of the common problems facing rural areas in developing a good solid waste disposal program.

An article published by the National Wildlife Federation in their issue of "Rural Solid Waste" explains the unique and exciting possibilities for such rural areas based on the successful experiences of Lincoln County, Maine. Their low

cost, highly efficient, and convenient program is a truly remarkable accomplishment.

[From the National Wildlife Federation, Aug.-Sept. 1978]

LINCOLN COUNTY REVISITED

Three years ago Lincoln County, Maine was typical of many rural communities with typically deplorable solid waste conditions. Twelve open dumps, some burning, marred this beautiful coastal setting and little effort was being made to improve the situation.

Then the county decided to address its solid waste problems. The county commissioners set aside a relatively small sum of money from federal revenue sharing funds and sought outside advice. Today Lincoln County serves a model for Maine and the rest of the country demonstrating how a small community with limited resources can go a long way toward improvement.

August marks the beginning of a county-wide recycling program which, when coupled with the state's mandatory beverage container deposit law, should drastically reduce the amount of wastes traveling to the county dumps. Designed by SCS Engineers of Augusta, the recycling system is the result of hard work and enthusiasm which blossomed with NWF's first community education effort there in the summer of 1976.

Through a series of town meetings and widespread media coverage, Lincoln County residents were alerted to the problems of waste disposal. Once public interest generated, a plan to accommodate the county's goegraphic, demographic, and economic needs had to be devised. Ron Perkins, the SCS Engineer who formulated the recycling system, feels the strength of the county program is its low cost and high efficiency. By minimizing the human handling of wastes and thereby reducing the manpower requirements, the costs are kept down while recovery is as high as economically feasible.

The plan includes a series of twelve recycling depots, eleven of which are strategically located at the county dump sites. This adds extra incentive for citizens to recycle because they need not go out of their way to drop off recyclables. The system also allows the attendant of the county dumps to oversee the recycling depot operations to insure that the proper materials are placed in the correct receptacles. About fifty percent of Lincoln County's residents use the dumps for waste disposal. The other half of the population is served by garbage collection services.

According to Ida Cooper, the recycling education coordinator for the county, the depots are basically unmanned and easy to use. Large metal containers divided into compartments accept newspaper, mixed paper, corrugated paper and clear glass. Because Maine's bottle bill is now in effect, and the markets for both glass and metals are extremely low at the present time, it was decided that colored glass and metals would be neither plentiful nor profitable to collect. Cooper is quick to add, however, that the system can easily be expanded to include more materials if the markets so dictate.

The county has purchased a special garbage truck equipped with a built-in compactor which will be housed in a recycling center located in Wiscasset, in the northwestern corner of the county. This facility will also accommodate the paper baler as well as some storage space for the collected paper products. Glass will be delivered directly to the recycling market in Topsham about 25 miles from Wiscasset, and therefore will not require storage. A truck driver has been hired who will be responsible for collecting the materials, weighing them and bailing the paper before delivering recyclables to their various markets.

The cost of the program to date is an estimated $150,000 and the anticipated operating expenses for the first year are $30.000. Projected revenues from the sale of recycled goods with only a 20 percent participation rate are $36,000. Thus, the truck driver's salary and all operating expenses should be covered by the first year revenues. The county has set aside some additional funds should the costs exceed the profits.

One of the outstanding features of the SCS recycling plan is the public participation incentives that have been included. A recycling committee consisting of a group of people from all over the county has been appointed by the county commissioners and is working to increase public awareness of the solid waste program. High visibility is the key to getting people involved, and to date, there's been a contest to name the recycling program and create a logo that will appear on the recycling bins and the new garbage truck. The committee chose the name "The Returnity Ward" to reflect the spirit of the program, and to further foster that spirit, the new truck rolled in the July 4 parade.

Cooper, Perkins and various county officials were all on hand August 5 at an open house to celebrate the first day of the recycling operation. They know that its success hinges on how many county residents participate, and they plan to continue the public education campaign with widespread media coverage.

In the fall, a school awareness program will begin and the county plans to hold monthly contests between the 18 towns to determine which community has the highest participation rate, prizes will be awarded to the town which collects the greatest weight in recyclables.

Whether or not the Lincoln County system thrives remains to be seen. But the county can be proud that in a small rural community, the citizens and government officials were resourceful enough to put together an economically sound, well integrated approach to the problems of inadequate disposal practices and ever-mounting quantities of garbage.●

HOME HEALTH CARE IS A LESS COSTLY AND MORE HUMANITARIAN ALTERNATIVE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. DOWNEY. Mr. Speaker, in our country with all its technological progress there still exists a humanistic lag in our public policies affecting options for adequate care services for older Americans.

Costly, often unnecessary institutionalization is the only alternative for the elderly functionally dependent individual who could receive appropriate and less costly care in a home setting. We cannot fail to recognize the fact that patients who require intensive care can benefit from the services offered in institutions. However, institutionalization should be considered the final alternative; not the rule.

American families are providing more than half of the basic long-term care services to the country's functionally disabled elderly population. Meager and often costly community services have imposed on some families the responsibility for the basic long-term care of the functionally dependent person. The development of a social support system for these families would provide an incentive and relieve the strain on family providers of services to their elderly family members.

Legislation has been proposed which addresses the needs for a national policy that will increase and upgrade the health care delivery system for the elderly of today and tomorrow.

A major concern in considering legislation to increase services frequently raises the question of increased costs.

A General Accounting Office report, prepared at the request of the chairman of the House Select Committee on Aging, CLAUDE PEPPER, shows conclusively that institutional care is costlier than home care for all but the greatly or extremely impaired, who make up only 17 percent of the 65-and-over population and some one-third of whom reside in institutions. Earlier studies have demonstrated that as many as 25 percent of the 1 million institutionalized elderly of this country are unnecessarily maintained in nursing homes which are excessive to their needs.

Legislation sponsored by my colleague, Mr. PEPPER, would amend the medicare law to:

Remove the requirement of prior hospitalization as a qualification for receiving home health care;

Remove the requirement that a patient be confined to the home;

Remove the limits on visits under both the hospital insurance and medical insurance programs;

Add services to help maintain persons at home, such as periodic performance of household tasks, transportation for doctor's visits, essential shopping and simple household repairs.

Another important piece of legislation is Congressman PEPPER's Home Health Clearinghouse Act that would provide for the establishment within the Department of Health, Education, and Welfare a Home Health Clearinghouse to promote effective coordination and delivery of home health care by collecting and disseminating concise, understandable information regarding the availability of in-home services under Federal, State, local, and private programs.

Legislation H.R. 13097 was recently passed by the full House. The bill passed the House by a vote of 398 to 2. The 1978 medicare amendment includes two provisions of Congressman PEPPER's bill:

Removal of prior hospitalization requirement;

Removal of visit limits.

The cost impact of making changes to home health care programs under medicare and medicaid have been a part of the research in a report to Congress by the Comptroller General of the United States. The report draws the following conclusions in relation to cost impact. The elimination of the limitation on the number of visits under medicare would not be costly because few people presently exhaust such benefits. The elimination of the prior hospitalization requirement also would not be costly, but the use of institutional services would be slightly affected. Further, individuals are not encouraged to be hospitalized for such benefits, and most medicare beneficiaries are already eligible (under part B) to receive such benefits without hospitalization.

The Congress is currently considering

the elimination of the homebound requirement in pending legislation for one group of medicare beneficiaries (those with end stage renal disease). This would be an incentive for less costly home dialysis in lieu of center or inpatient care. It has been suggested that the elimination of this requirement for all beneficiaries requiring skilled care could well provide similar disincentives to institutionalization.

Although experiments in the program are still continuing, some evidence shows that the addition of homemaker/chore services could provide significant disincentives to institutionalization. Expensive care for individuals who are extremely impaired might be offset by the lower cost of this service.

At this time the costs are relatively high and there is a need to continue to explore possible ways of redefining skilled care.

Health care for the elderly is an expensive, but necessary proposition. But, can we as a nation afford not to consider the needs for this constantly increasing sector of our population? Can we afford not to consider how this legislation will assist the elderly who need these services now and in the future? ●

NINTH ANNUAL EXHIBITION OF ART BY THE HANDICAPPED OF WESTCHESTER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. OTTINGER. Mr. Speaker, I am pleased to share with my colleagues the announcement of the ninth annual exhibition of art by the handicapped of Westchester County:

ART BY THE HANDICAPPED OF WESTCHESTER

This exhibition will be held in The Community Exhibition Galleries of the Neuberger Museum, SUNY, Purchase, from October 24, 1974, through December 10, 1978.

Organized by the Community Outreach Department of the Friends of the Neuberger Museum, the exhibition is co-sponsored by the Westchester County Office for the Handicapped.

Over 150 original works, including painting, drawing, sculpture, ceramics, collage, photography, jewelry and needlework will be displayed in this exciting exhibition. From March 7, 1979, through April 13, 1979, Art by the Handicapped of Westchester will be on exhibition in the White Plains County Courthouse.

Ten prizes of $15.00 each will be awarded by the judges of this exhibition. The distinguished panel of judges are: Shirley Contino: Director of Education, Katonah Gallery; James Raukohl: Administrative Assistant, Westchester County Office for the Handicapped; Rawley Silver: Research Associate, Graduate School, College of New Rochelle.

Artists and craftpersons who are handicapped are invited to exhibit their original work in any medium. In addition to individual entries, agencies and organizations that serve the handicapped have cooperated in making this special exhibition possible. Included in the show are artists from The Westchester Lighthouse; Westchester Association for Retarded Citizens, White Plains and Yonkers; United Cerebral Palsy of Westchester; Muscular Dystrophy Association, Opengate, Somers; Sarah Neuman Nursing Home, Mamaroneck; Extended Care Facilities of New Rochelle and White Plains, Margaret Chapman School for Mental Retardation, Hawthorne; Southern Westchester Community Services of Harlem Valley Psychiatric Center, New Rochelle; Sky View Haven and Brandywine Nursing Homes, Croton; Sleepy Hollow Adult Home, Briarcliff Manor; Rye Association for the Handicapped; New Rochelle Parks and Recreation Department (disabled program); Green Chimney's School, Brewster; and Ferncliff Manor, Yonkers.

Jackie Sheinberg, Coordinator, Community Outreach Department and Allison Hirschfeld, Exhibition Coordinator, have expressed the hope that the public will visit the exhibition and appreciate the creative accomplishments attained by handicapped citizens; they are truly remarkable.●

WHITE HOUSE PRESS CORPS SOUNDS LIKE BUNCH OF LAP DOGS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. ASHBROOK. Mr. Speaker, one of the recurring themes we read, see or hear in the media is that the Congress is an archaic institution which has a clubby atmosphere, few whistleblowers and a get-along-by-going-along creed. There is more than a little truth in that charge. I agree that this is often the case.

Interesting to note that the White House press corps is a clubby, chummy group which sounds more like a pack of lap or kennel dogs than a pack of field dog hunters or chase dogs. I watched the press conference yesterday and the average person in Keokuk, Iowa or Boise, Idaho, certainly must think that the press corps is entirely out of touch with reality.

Item: The President announced a rather important decision regarding the rail strike, something very important to you if you are a railroader, factory worker at Fisher Body in Mansfield, a small businessman in Iowa, or most working, productive Americans. I did not count, and will read the entire transcript of the press conference next week, but I would guess there were about 20 questions. Not one question on the rail strike, no interest in what the President's response would be if the strikers defied the order, or questions of some importance. No, they shift to image-building, cream-puff questions and throw a steady stream of softballs to the newly born President.

We got the usual sycophant flattery, twitting of the President's ego, set up questions about the flexing of his muscle with Congress and the same type of trivia that must fill the smoke-filled rooms of the press corps while they are lapping at the kennel, waiting for the White House master to summon them for a report.

Not one of the questions really sounded like a newsman trying to ferret out anything other than, "how are you doing," "how do you feel," or "how are things going now."

The White House press corps, at least to the extent we can judge by those who were recognized for questions, looked like an out-of-touch, archaic chummy, clubby bunch of lap dogs who have grown fat eating at the kennel, forgetting their mission in life. Or is it really their mission in life to be alert, informative, inquisitive, and piercing. Maybe it is just their mission to do that with Congress and the likes of Richard Nixon. Jerry Rafshoon could have written every question. Why don't we give them numbered T-shirts. They look like an average softball team. The President could just say "No. 12, you are recognized to kiss my ring." ●

ERA

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. EDGAR. Mr. Speaker, with consideratiion of legislation to extend the deadline for ratification of the Equal Rights Amendment scheduled for next week, Members of the Senate will find the following letter from Bridget M. Whitley of interest. Ms. Whitley, a constituent of mine, is the convenor of the Delaware County Chapter (Pennsylvania) of the National Organization for Women and is an articulate knowledgeable spokeswoman on women's issues.

The letter follows:

ERA

AN OPEN LETTER TO THE U.S. SENATE ON H.J. RES. 638

DEAR SENATORS: H.J. Res. 638 would extend the time limit for ratification of the Equal Rights Amendment. We, the members of the Delaware County, Pennsylvania chapter of the National Organization for Women (NOW) urge your support for this legislation.

Opponents of .this extension have rallied 'round the battle cry of "Your'e trying to change the rules in the middle of the game." But this is no game. We are fighting for constitutional equality for 51 percent of the U.S. population. We are completing the revolution begun in 1776. And both the Justice Department and numerous constitutiontal law experts have concluded that an extension is perfectly within the rule book known as the Constitution.

But consider this: no one has ever called the Illinois State Legislature to task for "changing the rules in the middle of the game" by requiring a three-fifths majority vote to ratify ERA, when every other proposed amendment could be ratified by a simple majority vote.

And where was the umpire yelling "Foul" when state legislators in Nevada, North Carolina and other states ran on pro-ERA platforms, accepted support from pro-ERA volunteers and used money contributed from pro-ERA political action funds and then voted "No" when ERA was up for passage?

Perhaps if the ERA opponents had been "playing by the rules of the game" (the ones we learned in our high school civics classes) we would not now need to ask Congress for this extension.

While it is true that most constitutional amendments have been ratified within four years, it should not be forgotten that the women's suffrage amendment took 72 years to pass (and to this day, the state of Mississippi has never ratified it); that the 13th, 14th, and 15th amendments would never have passed without a Civil War; and that ERA took from 1923 to 1972—49 years!!—to even get out of committee. Given this

climate of resistance, it is no wonder that ratification has taken longer than usual.

The most recent amendments to the constitution were considerably less controversial than ERA. Yet few of them were ratified in the southern states. ERA has encountered its defeats in these same southern states and in the midwestern states—areas that have always been strongly committed to a "states rights" ideology. A proposed constitutional amendment to allow congressional representation to the citizens living in the District of Columbia is meeting resistance from this same end of the political spectrum. Time is needed to overcome the misconception that ERA will, in any way, threaten the autonomy of states. That's what the Tenth Amendment is all about.

Some may say that extending this deadline is bad precedent. It should be obvious that there can be no worse precedent than to allow ERA to die when the legal status of women is still locked into medieval concepts of property. Add to that the confusing status of gender discrimination cases in state and federal courts. Compare, for example, *Kahn* v. *Shevin*, 416 U.S. 351 (1974) with *Califano* v. *Goldfarb*, 430 U.S. 199 (1977). A vote on extension is, in part, a vote on the merits of ERA. Can a nation committed to human rights for all people continue to deny basic constitutional equality to a majority of its citizens?

As for future amendments, the question of an extension of the time limit for ratification can be foreclosed entirely if the limit is inserted into the text of the amendment itself, as was done in the 18th, 20th, 21st, and 22nd amendments. It would only be possible for a future Congress to change a time limit when the period is specified in the resolving clause of the resolution proposing the amendment, as in the ERA.

And Congress would not have unlimited discretion in this matter. In the case of *Coleman* v. *Miller*, 307 U.S.C. 433 (1939), the Court described what should be taken into account in determining the timeliness of a ratification. These factors are equally applicable in determining whether an extension should be granted. Specifically, Congress should consider whether the issue is still socially, politically and economically relevant, and whether the amendment is still being debated in the state legislatures. The ERA fulfills both of these criteria; future amendments may not.

In some respects, ERA is more relevant now than it was in 1972. Women earn 57 percent of what men earn, and that figure has declined over the past six years. Significantly, women with college degrees earn less than men with high school degrees. A study by the U.S. Commission on Civil Rights concluded that there was "virtually no financial ladder" for women. You can count the number of women serving as federal judges on your fingers—and still have a few fingers left over! Only 7 percent of the members of state legislatures—the bodies charged with ratifying constitutional amendments—are women. Popular opinion polls show that a majority of the people in this country, in ratified and unratified states, support passage of ERA. This is not to say that we should have "government-by-Gallup-Poll" but such support can hardly be ignored by elected representatives. Furthermore, a title-by-title review of the U.S. Code in 1977 revealed over 800 sex-based laws, the cumulative effect of which is to assign women, solely on the basis of their sex, to a subordinate role in the federal legal system. State laws are similarly permeated with sex discrimination.

ERA opponents are fond of pointing to recent Supreme Court cases which have expanded women's rights by interpretation of the 14th amendment. Yet, in every case Chief Justice Burger and Justice Rehnquist have dissented. In time, their minority view could become the majority view of the court. Without a clear constitutional principal of equality of rights regardless of sex, the legal obstacles to full equality will remain.

The question of the right of a state to rescind its previous ratification has received entirely too much consideration. There is a deceptively simple argument that if an extension is granted, it is only "fair" to grant a right of rescission. First of all, there is no consensus among legal scholars that states have a right to rescind. In the past, Congress has chosen to ignore attempted rescissions. Secondly, the "fair" way of rescinding a constitutional amendment is to vote for a repealing amendment as was done with the Prohibition amendment. Finally, the recognition of a right to rescind could very well throw the constitutional amendment process into chaos.

If the states do have the right to rescind, they need not be invited to do so in conjunction with this extension resolution. Even if this Congress does approve a right of rescission, it may not be binding on a future Congress. What is "fair" is to insure consistency in the constitutional amendment process. A right of rescission will not lend itself towards this end.

As feminists, we are well aware that it may be a calculated risk to have extension as a precedent, considering the many proposed constitutional amendments that would outlaw legal abortion. But the struggle for equal rights is too important, and victory too close at hand, to sacrifice a 55-year effort for want of some additional time.

For Equality,

BRIDGET M. WHITLEY,
Chapter Convenor.

POPE JOHN PAUL I

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. RODINO. Mr. Speaker, when I learned this morning of the sudden death of Pope John Paul I, I was shocked almost to the point of disbelief. The deep sense of loss which we feel is heightened by the great expectations we had for this very holy man.

In my visit to Rome as part of the U.S. delegation to his inauguration, I had the privilege of meeting Pope John Paul, and I found him to be a warm, kind, and gentle man who was humble yet eloquent.

When we learned that he was the new Pope, he said, "I have not the wisdom of the heart of Pope John nor the training and culture of Pope Paul." Yet, Pope John Paul indeed exhibited the quiet courage of Pope Paul VI and the gentle wit and personal concern of Pope John XXIII.

Despite his modesty, his presence was electrifying when he appeared on the balcony of St. Peter's in Rome, and his words gave us all a great deal of hope that the Church was blessed with a leader whose holiness and insight would make him a worthy steward to guide the church toward the 21st century.

Pope John Paul held out a special meaning for all the people of the world—that is, a better understanding of the common human values which bind us together and a continuing search for truth.

Mr. Speaker, I am saddened by the death of this holy man. Yet, I believe his short time as Pope John Paul I has left the world with a spark of hope for all mankind.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. DERWINSKI. Mr. Speaker, the recent 20th anniversary of the observance of Captive Nations Week emphasized, among other things, the captive nations ideology which fully and completely reflects our great American heritage. Regrettably, too few of our analysts and opinionmakers are familiar with the contents of Public Law 86–90. As more do become acquainted with it, perhaps on the anniversary of Captive Nations Week in 1979, the principles and substance of the law will be more significantly grasped.

I wish to insert several examples of this reflection of our American heritage as seen in some events here and in the country of one of our firmest allies: (1) a resolution of the San Diego City Council; (2) an article by our distinguished colleague, PHIL CRANE, "Soviet Trials Are a Travesty of Justice," which appeared in the Murray (Ky.) Ledger & Times; (3) an editorial, "Captive Nations" in the Phoenix Gazette; and (4) a commentary "Captive Nations Week" in the August 1978 Asian Bulletin:

RESOLUTION OF THE CITY COUNCIL
CITY OF SAN DIEGO

Whereas the Congress of the United States, by joint resolution in 1959 (73 Stat. 212), has authorized and requested the President to designate the third week in July of each year as Captive Nations Week; and

Whereas a proclamation by the President of the United States of America can be anticipated in which he will call upon the people of the United States to observe Captive Nations Week, which will be the week of July beginning with the 16th this year, with appropriate ceremonies and activities demonstrating America's support for those who seek delivery from their bondage and the restoration of their liberty and independence; and

Whereas in the City of San Diego are living substantial numbers of nationals from various captive nations among whom many came to the United States as refugees, having escaped from the dictatorship under which their fellow countrymen are still living; now, therefore, be it

Resolved by the Council of The City of San Diego, That the San Diego City Council declares its grief at the fate of the people of all captive nations and its wholehearted support for their struggle for freedom and independence.

[From the Murray (Ky.) Ledger & Times, July 26, 1978]

SOVIET TRIALS ARE A TRAVESTY OF JUSTICE

(By Congressman Philip M. Crane, Chairman, American Conservative Union)

During his tour of Germany earlier this month, President Carter made a visit to the Berlin Wall—that historic landmark which symbolically divides the Free and Communist worlds. The wall had been quickly whitewashed the night before the President's arrival in order to eradicate the anti-Communist graffiti. In viewing this monument, the President rightly called it "a wasteland of human spirit"—a place people can be imprisoned for their exercise and defense of human rights.

As Solzhenitsyn and other foreign observers have noted, it is easy to ignore the menac-

ing threats to our freedoms when we live in a society where personal liberties are taken for granted. Americans hold the rights of the individual in high regard, and we often lose sight of the fact that these rights are not upheld by most of the world powers.

The recent Soviet trials have provided the West with a glaring example of the differences between totalitarian and free states. The sole purpose of Soviet law is to uphold the power of the state. Political trials are held with the goal of crushing the dissident movement. Rights that Americans rarely question—the concept of being innocent until proven guilty, the right to trial by impartial jury, the right to an adequate defense in court—are not known in Russia. Indeed, once a political case is brought to trial, the verdict is already assumed—guilty as charged. Defendants are not allowed to produce witnesses or documents in their defense. Defense lawyers must receive approval by the state in order to be assigned to a case, and are not allowed to argue the case too vigorously. The accused are generally not allowed to see family or friends or seek legal advice before the trial, and are subject to pretrial interrogations. In short, the accused are granted none of the safeguards of a free society. The idea of justice in the Soviet Union is far different than ours.

It is somewhat ironic that the latest trials and convictions of Shcharansky, Ginzburg, Filatov and others came on the eve of "Captive Nations Week," an internationally-observed salute to the one billion victims of Communism throughout the world. This past week marks the 20th year that this observance has occurred. According to Public Law 86-90, the President is authorized and requested to issue a "Captive Nations Week" proclamation each year "until such time as freedom and independence have been achieved for all captive nations of the world." The Communists have vehemently protested the observance of this week because it serves as a reminder to the world that over one billion of its citizens are enslaved.

If America is to remain a free and strong society, we must constantly remember that over half the world resides under the Communist yoke. We must maintain a firm military posture against totalitarian powers and support countries which are vital to our security. Only by remaining a strong world power can we hope to maintain freedom.

(The American Conservative Union is located at 316 Pennsylvania Ave., S.E., in Washington, D.C. 20003)

[From the Phoenix (Ariz.) Gazette, July 12, 1978]

CAPTIVE NATIONS

A study released by the American Conservative Union Education and Research Institute concludes that the Communist government of Vietnam is one of the leading violators of human rights in the world today.

Such news does not surprise those who understand the tyranny of communism. Indeed, it may not even shock the naive bleeding hearts who wish to "normalize" U.S.-Vietnamese relations.

The thoroughly documented report does, however, prove that South Vietnam, instead of being "liberated" by the Communists in 1975, became another captive nation.

Prior to the Communist takeover, there were 27 daily newspapers in South Vietnam. Now there are three. The private ownership of typewriters is banned. Freedom of religion has been eliminated. It is estimated that nearly 300,000 prisoners remain held in "re-education" camps.

The ACU Vietnam study arrives at an appropriate time. Captive Nations Week, beginning next Sunday, marks those countries that have fallen under the heel of Communist oppression—from Armenia to Cuba, and now South Vietnam.

The ACU report is a poignant reminder of what it means to lose freedom. Captive Nations Week will serve as a rededication to the hope that those lost freedoms will someday be regained.

[From the Asian Bulletin, August 1978]

CAPTIVE NATIONS WEEK—LEADERS OF WORLD FREEDOM MOVEMENT ATTEND RALLIES

It was first resolved by the U.S. Congress in 1959 that each year, the third week of July, be designated as Captive Nations Week and that the U.S. President be authorized to issue on that day a proclamation in support of all the captive nations of the world until the day when all the captive nations have obtained their freedom and independence.

Recognizing that the U.S. resolution was identical with its own aims and purpose Asian People's Anti-Communist League, responded to the call, and with the World Anti-Communist League jointly initiated in 1967 a worldwide movement for the cause of freedom and against enslavement.

This year's Captive Nations Week was observed throughout the Republic of China July 17 through 22 under the theme: "Promote Human Rights! Liberate Enslaved People!"

Marking the week, a mass rally was held at the Dr. Sun Yat-sen Memorial Hall in Taipei with Dr. Ku Cheng-kang, WACL honorary chairman, presiding.

Addressing some 3,000 people in his capacity as chairman of the rally, Dr. Ku noted that only when China becomes a free democratic and united nation will there be a free and democratic Asia. He said creating a free and democratic China is in the interest of all free nations from the long-term point of view.

"To solve the China issue," he said, "the key does not hinge on how to pacify Peiping and coexist with it, but to liberate the 800 million captive people on the mainland." He pointed out that to normalize relations with the Communist China or sign peace treaties with the regime amounts to an acknowledgement that the Chinese Communists can continue their enslavement of the Chinese people and to pat on the shoulder for the regime to intensify its suppression of resistance.

He warned that "Communist China will continue as America's most dangerous enemy as long as it exists, and its growth can make Peiping become America's most aggressive enemy, and the clash of interests will then be certain."

In his concluding remarks, Dr. Ku urged Japan to join with the Republic of China, the Republic of Korea and other free nations in Southeast Asia and establish a strong island chain of defense to protect freedom and security in the western Pacific region.

PREMIER'S SPEECH

Premier Y.S. Sun also delivered a speech at the rally. He praised U.S. President Jimmy Carter's human rights policy, but insisted that it cannot be used with a double standard. He said, "Human rights cannot, however, be upheld through the application of a double standard. People will be greatly confused if the principle of upholding human rights is applied at one place and ignored or overlooked at another place where human rights are trampled."

Other speakers at the rally were: John Ashbrook, U.S. congressman; Bertrand Motte, chairman of the National Center of Independents and Farmers of France; Georges Creppy, vice-president of the Supreme Court of the Ivory Coast; Taikan Hayashi, Japanese Dietman; Shikh Mohammed Salahuddin, publisher of Republica of Saudi Arabia; and Willy Patocchi, counselor of State Council of Uruguay. They all urged the free world to stand united against Communism.

Concluding the rally, a declaration was issued saying that "the U.S. government has to face the stark fact that the international Communist, bent on world communization, still pose a threat and will keep on treating America as their major enemy, and therefore absolutely no 'common interest' exists between the U.S. and any Communist regime."

"We therefore urgently ask that a consolidated security system be formed by the free nations of Northeast and Southeast Asia so that the region can be saved from wholesale communization," it added.

The declaration also called for the enslaved peoples in North Korea, Indochina, Communist-ruled African countries, Cuba, the Soviet Union, and East European states to rise in unity against communism.

EVENING RALLY

Highlighting the celebrations, an evening rally under the theme "Strive in Unity" was held at the Taipei Municipal Stadium July 23 with 50,000 people attending.

In his address, Dr. Ku called for unity, among all Chinese to oppose Communism and slavery, to overthrow Communist tyranny, and to recover the Chinese mainland. He said: "Push the human rights campaign behind the Chinese mainland's Iron Curtain and save the 800 million compatriots."

"To bring about an early victory of our struggle against slavery, we must smash Peiping's 'international united front' schemes, and stop Washington's move toward 'normalization' with the Chinese Communists."

Delwin M. Clawson, U.S. Congressman, also addressed the rally. He said "the right of each individual to make his own decisions from among many alternatives should be available to all mankind:" He pointed out that "Communism cannot allow men to think freely, nor can it exist where men are free to choose an individual and independent way of life."

The rally ended with a program of performing entertainment, including a horse-riding demonstration, dragon and lion dances, gymnastics and other performances.

MESSAGE SENT

Following the rally, a message was adopted and cabled to U.S. President Carter, which read: "Because of the Communist trampling on human rights, peoples behind the Iron Curtain of East and West, particularly those on the Chinese mainland, are brutally treated in chains." It said that diplomatic recognition of such a regime (Communist China) would amount to an open statement that the Chinese Communists can go unpunished for their enslavement of the 800 million innocent individuals.

Similar messages were also cabled to U.S. senators, congressmen and the U.S. National Conference of State legislators, urging the U.S. to honor its treaty obligations and defense commitments.

Besides rallies in Taipei, a mass rally was also held in Taichung July 22 with Tsai Hung-wen, speaker of the Taiwan Provincial Assembly, presiding. The rally was attended by some 2,000 people.

Other activities to commemorate Captive Nations Week included academic seminars, lectures, an international affairs symposium and meetings with freedom seekers.

The following is the Captive Nations Week declaration, in part:

To provide further assistance to the Iron Curtain peoples' struggle for freedom, we the people from the Republic of China's various circles have gathered for a Captive Nations Week Rally in Taipei on this 21st day of July 1978 together with freedom-fighter leaders and anti-Communist youth representatives from the Americas, Europe, Africa, the Middle East and various other Asian countries.

The assembly is aware that the world situation today still is fundamentally a bipolar

confrontation between freedom forces and those bent on perpetuating Communism. The unceasing expansionist race of international Communists in Asia and Africa and their fanatic instigation of wars and disturbances have shattered free nations' wishful hopes to coexist with them. Their unchanged scheme of world communization and human enslavement has been thoroughly exposed.

The assembly also is aware that international politics cannot contradict man's basic need of survival, that free peoples' demands for protection of human rights and freedom are now tied closely with the Iron Curtain peoples' steps to end slavery and win liberty, and that the tide of will power thus forged is steering politics in the direction of justice, righteousness and morality. No politician can resist or turn this trend.

EXCESSIVE FEAR

The assembly furthermore is aware that because of the excessive fear of nuclear holocaust, certain free nations still are vainly seeking power equilibrium, ready to settle with even the most precarious of peace, and mistakenly attempting to pit Peiping against Moscow. This strategic deviation is being positively used by the international Communists as a gap for nuclear blackmail and attempts to isolate individual free nations, employ secondary enemies as proxies against primary targets, then one after another defeat all those who stand against Communism.

The assembly moreover is aware that the Republic of China not only is a model of free world anti-Communism by dint of its staunch stand for freedom and democracy as well as unflinching struggle but more importantly also is functioning as an effective shield and stabilizing force in crisis-ridden Asia. The ROC has long been the hope of all Chinese and a major guardian of Asian-Pacific security.

Basing our reasoning on the above-mentioned developments, we the rally participants hereby reiterate the oft-stated fact that the destiny of mankind has closely to do with the future of the 800 million Chinese mainland people and that the ROC security and the entire free world security are inseparably interdependent. Furthermore, this Captive Nations Week Rally declares the following and solemnly urges commensurate steps by all:

First, the Chinese traditionally have been a freedom-loving, justice-respecting people, and the Republic of China is strongly anti-Communist. China's 5,000-year-old outstanding cultural tradition is the weapon the Chinese through the centuries have used for emerging victorious from ordeals under tyrants. The Chinese now face destruction by an ever more intense brute force, but we are confident that the destiny of China is firmly in the Chinese grasp and that righteous joint endeavor will give full play to our cultural strength for the overpowering of Communists. The mainland will be recovered and our compatriots restored to freedom and human rights. Our political system based on the Three Principles of the People will enable all the people of our nation to enjoy liberty, democracy, prosperity and well-being.

Second, the Republic of China's national reconstruction bases—the islands of Taiwan, Penghu, Kinnen and Matsu—are controlling important anti-Communist strategic points in the Western Pacific, blocking eastward Chinese Communist expansion by sea or air, and harnessing Peiping's aggressive moves against Southeast Asia. Ours are democratic open political and social systems. Our economic construction has been well in progress for growing prosperity. We furthermore posses strong defense capabilities and unity of mind for anti-Communism. Never shall we permit infiltration and sabotage by Communist elements, nor shall we ever allow any international force to harm our national position, right or interest. Persisting in our confidence and determination, we will continue to support our government, unite forces for freedom and democracy, carry out our epochal mission to safeguard the freedom and security of all Asians, and deal fatal blows to our common enemy.

Third, the United States as a Pacific nation cannot dodge its historic responsibility to maintain Asian-Pacific common security as it strives to bring lasting freedom and human rights to all mankind. President Carter's human rights campaign, moral principles and open diplomacy are the most powerful calls America has issued on the stage of international affairs in the present decade. As such, their values and standards should never be damaged or lowered, not by Americans above all. We therefore earnestly urge the U.S. government to face the stark fact that the international Communists, bent on world communization, still treat and will keep on regarding America as their major enemy and that therefore absolutely no "common interest" exists between the U.S. and any Communist regime. For the protection of its own benefit and security and for the boosting of the morale of all those who are striving to free themselves from bondage, America has to cast aside any illusory hope that Peiping may be won over for the checking of Moscow, stop moving toward "normalization of relations" with the Chinese Communists, start vigorous leading of free nations, and with a renewed dedication actively assist seekers of freedom, independence and fundamental human rights.

Fourth, the security of Asia, Africa and Latin America is in a state of emergency. Long a source of Latin American turmoil, Cuba under the direction of Russians has grown as an aggressor against Africa and a force of threat to Middle East peace. Because of the multifront expansionist attempts of the North Korean, Vietnamese, Cambodian and Loatian Communists, not to mention the Chinese Communist move, Asia's free nations are under heavy Red menace of war. We therefore urgently ask that a consolidated security system be formed by the free nations of Northeast Asia and Southeast Asia so that the region can be saved from wholesale communization. We furthermore call upon the free nations of Africa, Latin America and the Middle East to reject Communist economic baits, foil Red tactics of alienation, stand together on a clearly-drawn anti-Communist front line, and jointly exert themselves to keep their independence and freedom intact.

NUCLEAR UMBRELLA

Fifth, Japan as the center of viable Asian-Pacific economy and as a country under America's nuclear umbrella has the solemn duty to combat Communism. Our expectation is ardent that the Japanese government, acting in the name of justice, will resolutely suspend its negotiation with the Chinese Communists about a so-called "treaty of peace and amity," Japan furthermore should strengthen its cooperation with the Republic of China and the Republic of Korea for stronger common defense, for effective checking of the Communist race for expansion and hegemony in Asia and the Pacific, and for an early return to freedom of all captive Asians.

Sixth, our call to the masses of enslaved people in North Korea, Indochina, Communist-ruled African countries, Cuba, the USSR and East European states is that, in view of the steady decline of Communism and the aggravating split and withering of Red forces, all should rise in unity for the ignition of a huge anti-Communist torch behind the Iron Curtain and for the puncturing of the Communist strong-hold from within. When their strength is combined with that of all those outside who similarly stand for freedom, a decisive end will be put to Communist rule everywhere.

Seventh, even more strongly we now urge our 800 million compatriots on the Chinese mainland—military personnel, party cadres, gallant youthful anti-Communist fighters and all the others behind the enemy line—to see clearly that collective resistance wherever they are is a sure short cut to destruction of tyranny and assurance of freedom. Now that the regime is split into pieces as a result of its endless cycle of power struggle, the time is ripe for an all-out anti-Communist revolution to pull down tyranny and gain a sweeping victory.

Be it known to all those who are strongly for human rights and freedom, those of the younger generation in particular, that the will power of mankind to gain liberty and remain free has now been brought to a climax and that Communist rampancy is quickly going through its final stage. Without distinction of race, nationality, region or religion, let us unite as one and fight on shoulder to shoulder until Communism gets defeated and replaced by lasting freedom and human rights for all.●

A VITAL STEP TOWARD AN IMPROVED NATIONAL TRANSPORTATION SYSTEM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. LaFALCE. Mr. Speaker, one of the key links in our complex network for the shipment of products from one section of the country to another is our railroads. Historically, the railroads have been the backbone of transportation in this country, and, indeed, in the last century their progress was an accurate measure of the progress of civilization across the North American Continent Today, the railroads remain the principle means of shipping agricultural and industrial goods throughout this country.

In recent years, the railroads for a variety of reasons have been performing under extremely arduous conditions. One of those conditions has been an acute shortage of freight cars which are essential for transportation purposes. Therefore, I believe that it is fitting that the Ways and Means Subcommittee on Trade held a hearing today concerning a number of proposals to remedy this situation by suspending the import duty on freight cars. In order to further acquaint all of my colleagues with this important problem, I would like to share my testimony before the subcommittee with them.

The testimony follows:

TESTIMONY OF HONORABLE JOHN J. LaFALCE

Mr. Chairman, it is both an honor and a pleasure to be here today to testify before the Subcommittee on Trade.

I believe that the Subcommittee is considering legislation which is vital for the continued health of our national transportation system. One of the key links in that transportation system is this nation's railroad system, and one of the key problems confronting the railroads is the growing shortage of freight cars which are essential for prompt movement of goods from one section of the country to another. The domestic production of freight cars has become increasingly insufficient, in terms of matching the railroad's

need for new cars, which is causing increasing strains on this important portion of our national transportation system.

I believe that H.R. 13672 which would suspend the duty on freight cars until the close of June 30, 1980 would do a great deal to alleviate this problem. A brief sketch of the background of this problem can be very instructive.

Rail car shortages occurred prior to World War II, but there are many indications that the shortages have been growing worse since that time and especially since 1973. There is now considered to be a year-round rail car shortage and particularly of boxcars and covered hopper cars. The shortage is accentuated during periods when crops are transported to metropolitan and port areas for storage, consumption and export. The heaviest such period runs from about the beginning of September through the end of February. The years 1973–74 and 1977–78 saw substantial amounts of the prior year's crop still in storage elevators, when the next crop began to be harvested. As grain prices and export demand rose during the second year, there was strong demand for transportation to get both years' crops moved from the countryside during a single season.

The severe winter conditions of 1977–78 strongly affected grain transportation activities. Problems increased sharply as a result of the weather. For example, snow shorted out diesel-electric locomotive generators, creating a prolonged locomotive power shortage that extended into the spring, with a number of railroads experiencing this problem as late as May. Metal and rubber on railroad cars became brittle, resulting in broken airpipes, hoses and coupler components. Repair activities were slowed due to the fact that much of this repair work is done outdoors on open tracks. Adding to these problems were the grain elevator explosions in December, 1977, at New Orleans, Louisiana, and Galveston, Texas, that required the transfer of hundreds of cars of grains to other ports and the rerouting of shipments already enroute to those elevators.

As a result of the severe winter weather and the grain elevator explosions, overall railroad operations were slowed by 30 to 40 percent for awhile in the hardest hit areas of the country and operations in all areas were affected to some degree by the dislocation of cars that resulted from the locomotive power shortage and elevator explosions.

Railroad efforts to catch up with the backlog of orders for transportation resulting from equipment dislocation problems were impeded by a two week delay in the opening of Great Lakes ports such as Duluth, Minnesota, requiring grain from Minnesota, the Dakotas and Montana to be transported to Pacific and Gulf ports, a distance about double the distance to the Great Lakes ports. This naturally resulted in increased shortages of freight cars in New York State and other Northeastern states, because of the ensuing diversion of cars to the Plains States.

The fleet of covered hopper cars, which transports about 88 percent of all rail-hauled grain, expanded by more than 4,000 cars during the year ended April 1, 1978 and by more than 9,000 cars during the two prior years. A six month strike at the Pullman Company delayed the construction of another 2,000 hopper cars. During the first half of 1978, more than 1,700 new hopper cars had been installed, and another 5,100 were on order. Rail car orders are high, and the backlog of orders held by rail car manufacturers is usually quite long. In some cases, there is as much as an 18 month backlog.

A total of 10,300 cars were ordered in April of this year, compared with 4,350 in March and 4,200 in April of 1977. On June 1, the rail car manufacturing industry reported a backlog of 50,000 orders, which is up 80 percent over the same period a year ago. Mr. Burke who is marketing manager of railroad, petroleum, and marine finishes of PPG's Coatings and Resins Division was quoted in the Journal of Commerce (September 6, 1978) as saying that "The car companies are working seven days a week to turn out an estimated 75,000 plus cars this year. Several manufacturers have opened additional tracks for production and some are likely to consider expansion plans to take care of the market projected for the 1980's."

The increased severity of the current rail car shortage and the unusually large backlog of orders for domestically produced rail cars draws attention to the necessity for imports of new rail cars, especially from Mexico. This alarming backlog of orders for domestically manufactured rail cars demonstrates that domestic producers would not be significantly affected, if more rail cars were imported into the United States from Mexico during the next 18 to 21 months. That is precisely the time limit parameters envisioned in H.R. 13672 for the suspension of the duty on freight cars.

Mr. Chairman, every section of the country is suffering from the dislocation in our national transportation system due to the increasing shortage of railroad freight cars. Western New York which relies heavily on rail transportation has been particularly affected by this shortage. The shipment of industrial and agricultural products both to and from this area have been curtailed and delayed unnecessarily. A suspension of the duty on imported freight cars for the next 21 months will significantly help diminish that shortage and improve the performance of our railroads. Therefore, I strongly urge the Subcommittee to favorably report out H.R. 13672.●

MARYLAND ARTISTS' MONTH

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

Mrs. HOLT. Mr. Speaker, the Governor of Maryland has proclaimed October "Maryland Artists' Month." I am delighted that my State's artists are being given the recognition they deserve—it is long overdue.

Maryland's artistic community is one of the best in the entire country. Throughout history, Maryland has added many names to the list of great American artists. Among the most notable are Rembrandt Peale and Charles W. Peale. They were two of America's first great portrait artists, and each day as I go to work in Washington I am inspired by portraits they have done which are hanging in the Capitol Building.

The Peales are but two of Maryland's many famous artists. I'm glad for the recognition of my State's artists, but I feel all artists deserve recognition. Artists add color and excitement to our daily lives. They provide pleasure for our citizens, and make our surroundings more beautiful.

I hope recognition of Maryland's artists will go beyond the month of October and become a year round preoccupation. Maryland has not only produced many great artists of past and present generations, but I'm sure my State will continue to produce many more artists in the future.●

FEDERAL EXECUTIVE INSTITUTE MARKS 10TH ANNIVERSARY; JOE BARTLETT TO SPEAK.

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. DERWINSKI. Mr. Speaker, in 1968, at the urging of President Lyndon Johnson, the Congress authorized the establishment of the Federal Executive Institute for the purpose of the professional development of the top civilian executives of the Federal Government.

This week the Federal Executive Institute is celebrating the 10th anniversary of its successful operation, by a reunion assembly of its distinguished alumni and faculty at the institute at Charlottesville, Va.

Appraisals of the work of the institute over the period of this decade have brought high acclaim from authorities on public administration, and it may prove to have been one of the finest legacies of the Johnson administration, and one of enduring value.

As they gather in Charlottesville to review the past and make plans for the future, I would like to extend my personal congratulations and best wishes to Chairman Alan K. "Scotty" Campbell, who as chairman of the Civil Service Commission has been something of chancellor to the Institute; and my felicitations to the three distinguished educators and administrators who have served as directors of the Institute since its founding: the first, Frank Sherwood, followed for over 5 years by, Chet Newland, and the present director, Thomas P. Murphy. The accomplishments they have directed must be a great satisfaction to them, even as it has been to each of the some 3,000 alumni, to whom I send my warmest greetings, especially to alumni president Anita Alpern.

I am proud to say that among the alumni is one of our own: Clerk to the Minority of the House of Representatives, Joe Bartlett.

In the fall of 1975, on the nomination of House Speaker Carl Albert and the minority leader, Joe attended session No. 33. At the end of the 7 week course, Joe was elected by his fellow students to make the graduation address. and he was subsequently elected to the board of directors of the FEI Alumni Association.

As a further indication of their regard for him, Joe has been selected to make the alumni address at the tenth anniversary assembly. We in the House should

be very proud of this fine representation on the part of one of our most respected veteran staff members.

Again, may I say "happy anniversary" to those gathered at the Federal Executive Institute on this auspicious occasion, and may I wish you many, many more years of effective and useful contributions to the public service.●

STATEMENT OF CHARLES L. MASSEY, PRESIDENT, MARCH OF DIMES, ON HEALTH SERVICES AMENDMENTS OF 1978

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. OTTINGER. Mr. Speaker, next week, the House will reconsider H.R. 12370, the Health Services Amendments of 1978. This bill incorporates the very important Genetic Diseases Act.

I would like to take this opportunity to share the views of the president of the National Foundation-March of Dimes, Charles L. Massey, on the importance of passing H.R. 12370. I am honored to represent the district in which the National Foundation has its national headquarters and I applaud their efforts to identify and diagnose inheritable birth defects:

SEPTEMBER 29, 1978.

DEAR CONGRESSMAN OTTINGER: We strongly urge support of H.R. 12370 the Health Services Amendments of 1978.

As you know, this legislation incorporates the National Genetic Diseases Act of 1976 and provides for genetic service and education and for the establishment of vitally needed laboratory facilities.

The March of Dimes role in supporting genetic services has been one of innovation and leadership. In 1977, our grants for genetic services represented nearly half of our total medical services expenditure, or $2.5 million out of $6 million. We are still funding this service but the need is much greater than we can or should continue to meet alone. With the help of others, our financial support and what it already has accomplished can be multiplied many times over. Third party payers do not cover these services. Meeting the total need, therefore, will require the support of government on all levels together with all available resources.

About 30 per cent of childhood hospital admissions and 10 per cent of adult admissions in this country result from genetic disorders. An estimated 12 million Americans suffer from some genetic disorder. The National Institute of General Medical Sciences reports that birth defects with genetic origins may claim many more American life years than do heart disease, cancer or stroke. The financial cost of treating and institutionalizing our severely affected survivors is staggering; we cannot begin to measure the cost to the survivors themselves and their families.

Passage of this act can reduce the incidence of all genetic diseases, such as sickle cell anemia, Cooley anemia, Tay-Sachs disease, Down syndrome, muscular dystrophy and some types of diabetes. Incidence may be reduced by identification of carriers of genetic disease traits through the evaluation of family histories or through diagnostic procedures, which may include amniocentesis. Chromosome studies, tissue cultures and biochemical analyses are used to accumulate data for diagnosis and treatment of genetic disorders. Counseling permits parents to make informed decisions about the risks of having a child and also prepares them for the care of an affected child.

We realize that some citizens consider amniocentesis controversial. Amniocentesis is a diagnostic test used by pregnant women to determine whether their fetus may be afflicted with a congenital defect. The fact is, however, that fully 97 per cent of the high-risk women who seek amniocentesis find that their unborn baby does not have the feared defect. Therefore, it saves thousands of babies each year who might never be born unless their parents can be reassured by an accurate scientific prenatal diagnosis.

Existing knowledge through basic research has greatly reduced infectious diseases and related problems. So now a dramatically higher priority can be assigned to inherited disorders. That is why this legislation is necessary to detect, diagnose, treat and prevent inheritable birth defects.

In summary, we strongly endorse passage of H.R. 12370 which includes reenactment of the National Genetic Diseases Act. Throughout this legislation, responsible federal and state agencies can develop and maintain comprehensive genetic services programs of high quality available to all Americans.

Sincerely yours,

CHARLES L. MASSEY,
President, National Foundation, March of Dimes.●

WORLD LIONS SERVICE DAY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr OTTINGER. Mr. Speaker, there are more than 32,000 Lions Clubs in 149 countries with over 1 million members engaged in observance of World Lions Service Day programs. In Westchester County, we have clubs throughout almost every village, town, and city. All the Lions Clubs work in their home communities for service to the blind, to the deaf, and the hard of hearing, participate in giving blood to the Blood Bank, entertaining the blind and brain damaged, crippled children and institutionalized children in their home communities.

The Lions Clubs in Westchester County, as well as in all the 149 countries, where all the Lions Clubs exist, are mindful of the needy, victims of great natural disasters.

The Lions have long collected used eye glasses which are sent to the needy and underdeveloped nations. The Lions have promoted free glaucoma screening clinics throughout Westchester County, as well as the rest of the World through the cooperation of local hospitals and ophthalmologists. The Lions have sponsored free eye operations for needy individuals.

The Lions Clubs of Westchester County are among the oldest continuously operating clubs since the Lions Clubs were initially formed 62 years ago. Some of the clubs in Westchester are actually 60 years old. The Lions Clubs are not bound by the self-imposed obligations to the blind, the deaf and mentally impaired of their home community and their participation in an institution which is truly worldwide ecumenical, multiracial and totally devoted to the brotherhood of man and the promotion of peace and communication throughout the world.

The Lions continuously seek out new areas which have been previously neglected where there is urgent need to work toward community assistance. On October 8 more than 1 million Lions all over the world will unite in a single purpose; to serve the needy and the lonely.

I would like to pay special tribute to Lion Irving M. Gross, district governor, District 20–R2, a resident of Westchester County. As district governor, Lion Irving Gross represents Lions Clubs in Westchester, Bronx, N.Y. and Richmond Counties in New York State, and the island of Bermuda.

I urge all citizens of Westchester to mark this occasion as a special observance in recognition of the numerous services provided by the Westchester Lions Club to the community.●

A VALUABLE SENIOR CITIZEN INTERN PROGRAM

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. DOWNEY. Mr. Speaker, I want to tell my colleagues about a very special program initiated by the House Select Committee on Aging which I hope can be expanded to all Members during the next session of Congress. The committee is providing assistance to its members to set up a senior citizen intern program. Under this program I was able to bring Mrs. Elizabeth Mountain of West Babylon, N.Y., to Washington for 3 weeks. Mrs. Mountain is a retired curriculum specialist and home economics teacher. She has provided me with valuable research during her stay in Washington on the problems that older Americans face in getting proper home health care. Mrs. Mountain is a vigorous, articulate, and hard working senior citizen who is proof of the important contributions that this vital segment of our population can make to society. Her research for me will certainly lead to legislative initiatives next year. I want to thank both the committee and Mrs. Mountain for participating in this worthy program.●

SENATE—*Saturday, September 30, 1978*

(Legislative day of Thursday, September 28, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

Mr. ROBERT C. BYRD. The prayer will be led by the distinguished Senator from Arkansas, an ordained minister, KANEASTER HODGES.

PRAYER

The Honorable KANEASTER HODGES, a Senator from the State of Arkansas, offered the following prayer:

O God, this has been a busy, difficult week in the U.S. Senate, with long hours, hard debate on issues, and ideas strongly held and deeply felt on all sides. On occasion, we have been even contentious.

Let us rest tomorrow. Heal our wounded feelings, release our tensions, restore our objectivity. Give us new vigor. Deepen our ideals; make stronger our faith.

Call us relentlessly to seek the truth. Renew a right spirit within each of us.

Let both those who have been victors and those who have suffered defeats put them into perspective.

Both victory and defeat, like the grass of the field, will wither and be blown away. Only You and Your love will sustain us. As You told Job from the whirlwind, only You, God, laid the foundation of the Earth. You determined its measurements and stretched the line upon it.

And because You did so, all the morning stars sang together and all the sons of God shouted for joy.

We thank You for this world You created in love—and gave to us—for a new chance each day, for wrapping us in Your arms in love.

Amen and amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 30, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Republican whip.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the Proceedings to date be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Washington (Mr. JACKSON).

(The remarks made by Mr. JACKSON in connection with the introduction of a bill to rename the U.S. Post Office in Yakima, Wash., the Justice William O. Douglas Federal Building are printed in the RECORD under morning business.)

INDEFINITE POSTPONEMENT OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that calendar orders numbered 1120 and 1129 be indefinitely postponed.

Mr. STEVENS. Reserving the right to object, it is my understanding that those are the two health bills added as an amendment to S. 2474 yesterday. Is that correct?

Mr. ROBERT C. BYRD. That is correct.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, temporarily, I ask unanimous consent that the Senate go into executive session to consider the nominations on the calendar beginning with New Reports and including the Departments of Justice and State.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The clerk will state the nominations.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of H. Brooks Phillips, of Mississippi, to be U.S. marshal for the northern district of Mississippi.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Richard T. Mulcrone, of Minnesota, to be a Commissioner of the U.S. Parole Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of John Gunther Dean, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader.

DEPARTMENT OF EDUCATION A MISTAKE

Mr. PROXMIRE. Mr. President, without question, public education in America is in serious trouble. Public confidence in our school system has been badly

shaken by the decline in student achievement on a whole host of standardized tests; the high dropout rates from our Nation's high schools; the high level of youth unemployment resulting from a lack of basic math and reading skills; and the unhealthy atmosphere of distrust and hostility found all too often in our Nation's classrooms.

However, I strongly feel that the creation of a new Cabinet level Department of Education is not the answer to these critical problems and, therefore, I voted against the creation of the new Cabinet level Department of Education.

Mr. President, how many departments can the President successfully administer? We now have so many that their initials even coincide. We have just voted to create the second DOE in less than 2 years. First, we had the Department of Energy and now the Department of Education. If we get the Department of Environment, we will be in very serious abreviation troubles. And that day may be coming. Many other groups such as the veterans and the small business owners have called for their very own Cabinet level departments. In the near future, we will have to create, at taxpayers' expense, a supercabinet bureaucracy to coordinate and oversee the activities of the various committees and coalitions formed out of the enlarged Cabinet. Pretty soon, a Cabinet meeting complete with staff will have to meet at RFK Stadium.

Unfortunately, the new Cabinet level Department of Education does not provide for any meaningful consolidation of the widely scattered federally supported education programs. With virtually every interest group fearful of losing the ear of its favorite and overly generous bureaucrat, program after program was deleted from this bill. What is left is really little more than the old Office of Education. So what we end up with is the worse of both possible worlds, the creation of a new Cabinet level department without any meaningful consolidation of related programs.

Mr. President, do we wish to accelerate the trend toward more Federal direction and even control over the education of our young people? Even now, educators stagger under the burdens of federally mandated paperwork and regulations. It is indeed ironic that in this time of doubt that "Washington" can solve everything, that we appear to be ready to take this plunge into the dangerous waters of increased Federal intervention in education by creating this new Department.

More than a Department of Education, we need to make the hard decisions concerning federally supported education programs. We need to support those programs that are working. Salvage those that can be saved. End those that have clearly failed.

Beyond that, we need to return the decisionmaking power on education back to the State and local governments. That is where it should and must remain. How can we do that? We can do that by controlling Federal spending and cutting Federal taxes so that the State and local governments can tap additional sources of revenue for education programs.

In conclusion, Mr. President, I voted against the creation of the new Cabinet level Department of Education because I believe what our troubled public schools need is more local initiative and decisionmaking, not a new Federal bureaucracy.

THE GENOCIDE CONVENTION: OLD ARGUMENTS ARE STILL FALSE

Mr. PROXMIRE. Mr. President, let us consider one of the arguments raised in opposition to the Genocide Convention.

It runs as follows: The treaty perverts the true meaning of the term genocide. Genocide, they assert, is the complete annihilation of a specific group.

Mr. President, must we wait until every member of a designated group is murdered before such mass homocide can then be called genocide?

Must we wait until the group is extinct?

By such a definition, Mr. President, what in history could rightly be called genocide? Not Hitler's mass murder of Jews, because some were lucky enough to survive.

The convention defines genocide as "any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such: First, killing members of the group; second, causing serious bodily or mental harm to members of the group; third, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; fourth, imposing measures intended to prevent births within the group; fifth, forcibly transferring children of the group to another group."

Mr. President, is that not a more humane and functional definition for a convention that aims to prevent and punish the crime of genocide?

To further clarify the phrase "in whole or in part," the Foreign Relations Committee has even added an understanding stating that acts must "affect a substantial part of the group concerned."

Mr. President, let me take a moment to elaborate on this definition.

The intent—and this is the key word—the intent must be to destroy at least a substantial part of the group. One person does not fit this definition, although it would clearly be a violation of existing criminal law.

In the 1950 hearings on this treaty, the point was stressed by Senator McMahon and Deputy Under Secretary of State Dean Rusk.

Mr. President, this same argument has been raised every time the treaty is debated. It was shown to be patently false in 1950 and is still false today.

The definition was clear in 1950 and is still clear today. The need was obvious then and a survey of world events today shows it is needed today.

Mr. President, we must ratify the Genocide Convention now.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

Mr. STEVENS. Mr. President, I yield the minority leader's time to the distinguished Senator from New Mexico (Mr. SCHMITT).

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized. In addition, there is a previous order under which the Senator from New Mexico will have an additional 15 minutes.

NASA IS 20

Mr. SCHMITT. I thank the distinguished minority leader for his courtesy and I thank the Chair.

Mr. President, this weekend, the President of the United States is going to assist the country and, more specifically, the National Aeronautics and Space Administration in celebrating their 20th anniversary. Twenty years ago, Congress established NASA, as it has become known, out of the old aeronautical group called the NACA.

In that 20 years, we have seen a remarkable rush of events, a remarkable contribution not only to the history and well-being of this country, but also the history and the well-being of the planet Earth.

We hope that this weekend the President will state his commitment in a speech to be given at the Kennedy Space Flight Center, more commonly known among the astronauts as The Cape, a speech which will recommit this country to a long-term and vigorous future in space.

Mr. President, with the advent of the communications satellites, weather satellites, navigational satellites, the now experimental earth resources satellites, and looming on our future only a year or so away, the space transportation system called the Space Shuttle, we now should realize as we have not before that the result of that 20 years of NASA, of NASA's history, has been to initiate the movement of civilization into space, that civilization is moving so rapidly into space that it may not even be noticed by some of our governmental leaders.

It certainly has been noticed by the Soviet Union. To document that, all we have to do is look at their extensive and accelerating activity in examining the role of man in both commercial and, very probably, military activities in near-earth space.

Business Week recently carried an advertisement, Mr. President, that was, in

fact, a series of very fine short essays summarizing the industrial potential of near-earth space as it is now perceived, looking back on the experience that this country and others have had in that unique environment. That environment is unique compared to any on Earth for three major reasons.

First, there is weightlessness, or what sometimes is called zero gravity, somewhat incorrectly but still quite descriptively. Weightlessness is the absence or the balancing of gravitational forces, and in that unique environment many things can be done that cannot be done here on Earth.

For example, products can be created and experimented with without containers, and without containers, of course, there is no contamination. So-called containerless chemistry and research and manufacturing becomes a very important part of the utilization of near-Earth space.

Additionally, in the weightless environment there is no convection. That is, if you could retain water in a pot and put it over a flame, it would not boil in the classic sense. Heat transfer would occur by conduction rather than by convection.

Well, again, this results in a very stable environment for the manufacturing of materials such as crystals that are nearly perfect in their internal characteristics.

Second, this near-Earth environment has high vacuum available at high pumping rates.

Now, we can create, here on Earth, high vacuum environments on a limited basis and at very high cost, but it is extremely difficult to maintain them without a great additional expense.

In space, one has an infinite amount of vacuum. All one has to do is conduct the vacuum manufacturing on a pallet outside a spacecraft and the pumping rates are infinite, or very nearly so.

Finally, this environment of near-Earth space give mankind a unique view of the Earth and the Sun and the stars.

That view of the Earth is the essence of the operational part of civilization that is in space at this time.

Communications, weather satellites, Earth resource satellites, navigation satellities, have all taken advantage of this perspective near-Earth space gives us in looking back at the Earth in various ways.

The view of the Sun from outside the Earth's atmosphere for the first time has given mankind not only the hope, but the capability to understand how that vast fusion reacts in space, interacts with our own home, transfers energy into that home, and produces the weather patterns, the movement of the oceans, the creation and sustenance of life.

We often hear the Earth talked of as a closed ecological system. Well that may be good for rhetoric, but it is not a closed system. It is open. It is open to solar energy. Our understanding of the source of that energy is going to be fundamental to mankind's long-term ability to use that energy more efficiently, more esthetically satisfying, here on Earth.

The view of the stars, again from outside the Earth's atmosphere, opens up major new vistas of universes never before seen or even known to mankind.

Just in one area of the so-called infrared spectrum, we suddenly found a small window within our own atmosphere we could look through. Because those particular wave lengths were not filtered out by the atmosphere, we suddenly discovered a whole new infrared universe, which is now of tremendous interest and excitement to science, not just of academic interest, Mr. President, but because it is in the study of the stars, the universe, of our place in that universe, that we really have the fundamental raw material for the physical understanding of this universe and, eventually, for the tapping of the great energy resources that lie within it.

Mr. President, I ask unanimous consent that the essays contained in the special advertising section of Business Week be printed in the RECORD at this point. I think my colleagues will find them a very good summary of the industrial potential, the civilization potential, if you will, of near-Earth space.

There being no objection, the essays were ordered to be printed in the RECORD, as follows:

THE SPACE TRANSPORTATION SYSTEM

(By John F. Yardley)

In the history of mankind, transportation has been essential to human progress.

Today, the U.S. is offering a new, unique transport system to the world, which, like some progenitive DC-3 of space, will usher in a revolution of scientific and commercial exploitation of orbital flight.

Parent of the reusable Shuttle was the necessity to reduce the cost of space transportation below the levels required during the era of expendable, "throwaway", space carriers, Concomitant with improved economy and cost-effectiveness, the new transport system was to be flexible enough for the nation to switch fundamentally from a time, of pioneering capability development in space to a new age of routine space operations, emphasizing activities designed to improve the quality of life of people on Earth. When the Space Shuttle received its "go-ahead" in January 1972, its stated purpose was to help transform the space frontier of the 1970s into familiar territory, easily accessible for human endeavor in the 1980s and 1990s. Today, after almost seven years of work by a government/industry team of thousands of people, we are readying ourselves to embark on the exciting venture of making routine transport to and from space a fact of life.

In addition to less expensive space transportation, the Space Shuttle has the capability to carry out unique missions and on-orbit operations: to retrieve payloads from orbit for reuse, to service or refurbish satellites in space, to deploy and perhaps even fabricate large structures in orbit, and to operate space laboratories high above earth. For periods up to 30 days, the Orbiter circles the globe as a space station, carrying four to seven crewmembers and a variety of payloads and equipment. An augmenting Power Module, under consideration, designed to provide about 25KW solar-generated electric energy, can extend Orbiter missions in the mid-1980s even to 10 weeks or more. The craft then returns to Earth, winging down and landing much like a conventional airplane. The Shuttle can make this roundtrip many times, offering a net savings in the cost of space operations while greatly enhancing the flexibility and productivity of the mission.

Starting in early 1980, the launching of scientific Earth satellites, planetary explorers, and deep-space probes, currently the province of expendable rockets in the Delta, Atlas/Centaur and Titan classes, will become the responsibility of the Shuttle. Two types of Spinning Solid Upper Stage (SSUS) propulsion units are under development by a private contractor, at no cost to the government, to accommodate those geosynchronous missions that are currently flown on Delta and Atlas/Centaur vehicles. Our schedule calls for first flight of an SSUS in 1980, carrying the geostationary operational environmental satellite GOES-D for NOAA. An Inerital Upper Stage (IUS), under development by the Department of Defense will also be available for NASA and other civilian users in several different configurations.

In conjunction with its major payload element, Spacelab, European-built and paid, the Shuttle opens new vistas of doing "hand-on" research. Never in the history of space flight have people had such an opportunity to capitalize on the unique characteristics of space—its weightlessness, its synoptic, unobstructed overview of Earth and its atmosphere, its nearly perfect vacuum, its clear, untwinkling view deep into the celestial sky, its vibration-free environment, its abundance of solar energy and heat dissipation capacity.

Recent NASA/contractor studies of advanced Shuttle uses have revealed that major developments in the industrialization of space will probably focus on three main areas: information services, products "made in space," and solar-generated energy from space. In the services area, Space Industrialization is already a fact of life. The earth resources satellite LANDSAT, for example, uses multispectral scanning from 570 miles altitude to survey 13,225 square miles of surface every 25 seconds. Commercial investments in telecommunications satellites total well over a billion dollars. The communications satellite industry alone is currently producing revenues in excess of $200 million annually and is certain to grow to several billion dollars worth by the mid-1980s.

The "ripple" effects of the Shuttle will extend to all space activities, impacting even basic design approaches. The achievement of quick, easy access to and from space, for the first time, makes it possible to design space-based systems deliberately large, complex and powerful, reducing in the process size, mass, power requirements and cost of the Earth-based terminal.

The foreseen importance of commercial manufacture of products and goods in orbit, exploiting the "zero-g", high-vacuum environment, based on past orbital investigations, must remain somewhat speculative until more and better material processing experiments have been performed in actual Shuttle/Spacelab flights in the early 1980s. Many imaginative ideas have been advanced in the last few years for the manufacture of consumer goods in space, with particular promise being held out for biochemical and directional solidification products.

NASA's pricing policy for Shuttle users encourages full and early use of the Space

Transportation System by providing for fixed-price contracting, based on amortization over a 12-year period of the total operations costs and the public's investment in fleet, facilities and equipment.

For example, the 1980 commercial launch cost for an Atlas/Centaur payload of approximately $36 million compares to approximately $24 million if the same satellite is flown on the Shuttle with a solid spinning upper stage. A 1980 commercial launch of a Delta-class geosynchronous payload would be approximately $23 million compared to approximately $9 million on a shared shuttle flight with a solid spinning upper stage. Phasing out of girth-limited expendable rockets, Shuttle share-flight charges are expected to drive payload designs toward new, even more cost-saving configurations; i.e., the "tuna can" or "doughnut" shapes, that make full use of the cargo bay width while minimizing length.

The promise of innumerable new opportunities opened by the Space Transportation System in the coming decades is impressive, but the prospective customer for the Shuttle, more interested in near-term returns on investment and short pay-back periods, must clearly temper such optimisms with caution. It is only at the threshold of a new era that we are finding ourselves at present, and the risks of investing on unproven, though careful projections must be balanced judiciously against the potential value of the product. The involvement of industry and the role of government, at least in the early stages of Space Industrialization, are clearly issues that require resolution.

It is with little hesitation, however, that I would conclude that the advent of the Space Shuttle is one ride U.S. industry can not afford to sit out. About two years from now, this system will be ready to carry us into a new era of space activities that may well be the next stage in the industrial revolution,—every bit as important to the public as the steam engine, the DC–3 airplane, the transistor, and the integrated microcircuit.

PHASE THREE—A SPACE AGE INDUSTRIAL REVOLUTION

(By George W. Jeffs)

English historial Arnold Toynbee wrote that the great technological and social forces that had combined to forge the Industrial Revolution in England were all but dissipate. But in thinking that the revolutionary changes commencing some 100 years earlier were at an end, he and other scholars with similar views underestimated the momentum of these forces.

Few in Toynbee's time correctly anticipated that a continuum of rapid industrial change had been unleashed by the speeding up in the rate of technological advancement that was then occurring. We now know that the Industrial Revolution as a process of change is still continuing throughout the world. It is in its first phase in many developing countries, and in varying stages of the second phase in the United States and other industrialized nations.

The second phase of the process is characterized by the development of new energy sources, the use of new and lighter metals and alloys, and the extensive use of synthetics. Perhaps its most unique feature is the central role played by developments in electronics and the widespread adoption of this technology in automation and other computer applications, and in advanced industrial and consumer products.

As Toffler tells us in "Future Shock", the rate of technological advance continues to accelerate. Thus the most likely scenario is that we are now just crossing the threshold of technological progress, and the next hundred years will rapidly unfold scientific and industrial developments that probably will more profoundly affect our lives than those of the past century. Moreover, these developments will have untold possibilities for human good.

One of the most logical arenas for this coming third phase of the Industrial Revolution is in space. Developments already are inexorably leading us in the direction of this new frontier which is little more than 100 miles away from Earth.

The key to developing the space frontier is the Space Shuttle, for it will give us the capability to provide large scale benefits from space through economical transportation. We anticipate that the Shuttle will play an active part in our future space activities in the defense, scientific and general technology advancement areas, but the most exciting new outcropping of the space program made possible by the Shuttle will be the industrialization of space. This will become the next major thrust of our country's venture into space. It will also catalyze the next phase of America's Industrial Revolution.

SPACE INDUSTRIALIZATION

After Barbara Ward and Kenneth Boulding popularized the concept of "Spaceship Earth" in the 1960s, it was common to think of Earth as a closed, ecologically self-sustaining system traveling in the sea of space. But Earth is not self-sustaining. It depends on external supplies—most obviously, energy supplies from the sun.

Through space industrialization we will more fully utilize these external supplies, and by taking advantage of the special environmental properties of outer space—weightlessness, hard vacuum, limitless energy, and high vantage point—we will develop new capabilities for the social and economic benefit of people on Earth.

These benefits can be classified as new services, new products, and new sources of energy. In a recent study at Rockwell International we identified over 150 viable opportunities for space industrialization, and we think the surface was barely scratched in this compilation. A few examples are in order:

Services

In a very real sense, the services area of space industrialization is already a reality. For several years, space platforms have been providing valuable communication, navigation, observation, and weather services for people throughout the world. Some of these services have been earning comfortable profits for corporate shareholders. Today, communication satellites are owned and operated by more than a dozen countries, and more than 100 have their own Intelstat ground terminals.

What we have accomplished to date in communication satellites is only the beginning. Advancing communication technology combined with the low cost, high volume carrying capacity of the Space Shuttle, will open up new avenues of development. For example, by developing the capability to build extremely large multibeam antennas in space, we can have systems as early as the 1980s or 1990s that can broadcast preprocessed information directly to the individual user. With multibeam technology, pocket telephones, direct broadcast TV, and electronic teleconferencing—and dozens of other developments—will soon become practical and cost effective.

Electronic telecommuting is another service that could be carried out efficiently using space communication links. In an electronic telecommuting system, workers would be linked to their offices electronically. Rather than driving to work each day, the workers would operate from their homes or from a small satellite office where they could interact electronically with people and machinery in a central office building in a nearby city or in one located many hundreds of miles away. This mind-boggling concept would help solve our energy problems and improve efficiency. It would also allow a life-style whereby people could live, work and play in small communities, but still perform jobs that are essentially urban.

Products

Many production processes can greatly benefit from the low gravity levels, the hard vacuums, and the lack of even low level vibration in the space environment. The possibilities of using these properties in making large perfect crystals, metals with special properties, fiber optics, and a number of other beneficial products are being studied both in the United States and in foreign countries—especially in the U.S.S.R., West Germany, and Japan.

Although scattered experiments have been performed, no attempts have yet been made to produce space-made products in quantities economically attractive for present-day markets. In part, progress in this important area of research has been obstructed by the lack of an economical two-way transportation system. However, soon after the Space Shuttle becomes available, broad-ranging experiments of a larger scale will be conducted.

A committee of the Space Applications Board of the National Research Council recently conducted that although we should proceed with caution, materials processing in space offers sufficient promise to warrant considerably more experimentation in the future. This could lead ultimately to full-scale processing of certain material in space.

At Rockwell, we have identified some thirty-five attractive opportunities for space processing ranging from pharma-space processing ranging from pharmaceuticals to perfect sphere products, and from thin film electronic devices to high strength permanent magnets and high temperature turbine blades.

Energy

Space industrialization offers many methods for conserving and augmenting energy supplies. Electronic telecommuting and electronic teleconferencing are two examples that could help curb fuel consumption. In addition, energy could be saved by more accurate weather forecasting; and better snow pack measurements would permit more realistic water impounding to increase our production of hydroelectric power.

The higher temperature turbine blades mentioned above would also help us conserve our energy supplies. Even a 10 percent increase in the operating temperatures of these blades would result in annual savings of millions of tons of coal and millions of gallons of aviation gasoline.

As important as these energy conservation techniques are, space industrialization technology can most benefit us in the energy area through the large-scale exploitation of new energy sources. The much discussed solar power satellite [SPS] is perhaps the best known example. [see cover of section] The energy that can be intercepted in space by the SPS and then beamed by microwave to Earth exceeds the energy that can be intercepted by a similar facility located on the ground by about one order of magnitude. Moreover, the energy provided by the SPS at geosynchronous orbit is available 99 per-

cent of the time—thus alleviating the nightly storage problems associated with ground-based energy colection systems.

Space solar power holds great promise for ensuing a new source of clean, safe and abundant energy. With the proper national resolve, it offers us the potential to approach energy self-sufficiency—indeed, to even reverse our role by becoming a major energy exporter—while arresting the damage to our environment caused by the large-scale mining and burning of fossil fuels.

EARLY INDUSTRIALIZATION

Several factors combine to justify our moving out aggressively in space industrialization: the existence of pressing world and national economic problems, many of which are exacerbated by energy shortages; the ability of space industrialization to provide services, products and energy to help solve these problems; and the early availability of the Space Shuttle for routine, economical transportation to and from space.

This remarkable flying machine will be capable of carrying heavier and larger payloads into low Earth orbit than the expendable rockets of the past. When Shuttle enters routine service, launch costs will decline dramatically and a wide range of new operating capabilities will be available. Its maneuverability and subsystems will enable us to provide command and control functions for innumerable experiments and demonstrations. For the first time, it will permit us to assemble large structures in space—a capability essential to the full industrial development of the space frontier. And finally, of course, through its reuseability feature, Shuttle will allow us to return people and space-produced products to Earth.

The current budget-limited approach to space industrialization is sound in concept, but unacceptably timid in that it does not have the scale to fully exploit the potential of space nor contribute to our pressing problems in a timely manner.

This baseline program includes building blocks, such as a 25-kw space power module in the mid-80s, that together with the Shuttle will enable us to conduct demonstrations on a relatively small scale including assembling and joining structures in space, but its pace is too slow. Its adoption would inhibit our ability to fully take advantage of the potential of space industrialization until well after the turn of the century.

We need an aggressive approach that will accelerate large technology demonstrations of space power, space habitats, and assembly of very large structures so that by 1990 we will be able to make key go-ahead decisions on operational space centers in a number of functional areas. As a guiding theme, we should select a national goal such as "power from space", and then move out with the necessary technology development and demonstrations so that by 1990 realistic decisions could be made such that we could achieve by the year 2000 operational solar power systems as major energy sources for the United States.

In parallel, we should be developing technology and conducting demonstrations to enable us to choose by 1990 and then develop any of a number of large space centers for operational status by the year 2000. Candidates we have considered at Rockwell International include centers for manufacturing, communications, medicine, and for Earth resources and environment observation and control. We think this accelerated, broad approach to space industrialization will generate concrete and continuous benefits that will far exceed the costs—and in a time frame more consistent with requirements on Earth. A recent study by Science Applications, Inc. estimated the effects on selected economic variables caused by a program scenario similar to the one just described would create 100,000 new direct jobs by 1985 and nearly 2,000,000 by the year 2010. Through the multiplier effects, this would lead to two to three times as many total jobs. They also estimated that as much as $800 billion (in 1976 dollars) would be added to the GNP in 2010 by an aggressive space industrialization program that could become a major cornerstone of our future economy.

Against potential benefits of this magnitude, the associated costs will be quite modest. The program outlined above will rely on a level of government funding support that we think at its peak will not exceed $2 billion annually in constant 1978 dollars. This is just one quarter of one percent of the estimated addition to GNP cited above. Once the early demonstrations provide measurable cost experience and show that work done in space can provide an economic return high enough to justify the risk, investment by the private sector can be expected to increase measurably and by 1990 far exceed government outlays. Thus, industrialization of space will truly become a venture jointly supported by government and the private community.

Francis Bacon once wisely wrote that "He that will not apply new remedies must expect new evils; for time is the greatest innovator." With the advent of the Space Shuttle we are approaching a new era—Space Industrialization—whose dividends can be applied specifically to the problems and universal needs of this country and of mankind around the globe. We cannot afford to wait too long in taking full advantage of the opportunity.

ADVANCED MATERIALS PROCESSING TECHNOLOGY—NEW PRODUCTS FROM SPACE

(By E. F. Branahl)

The long duration weightless environment in orbiting spacecraft presents us with a unique opportunity to explore new manufacturing processes which take advantage of the absence of such phenomena as natural convection and sedimentation. The continuous presence of gravitational forces for ground based operations has encouraged development of industrial processes that utilize these forces, such as separation by precipitation. Industrial processes where forces due to gravity are a detriment have often been neglected. Under long-term micro-gravity conditions an entire class of new or improved industrial processes is possible.

The lack of gravitational forces has profound effects on industrial processes involving separation, purification, mixing, solidification, and crystal growth. Understanding the role that gravity plays in these processes is the first step to analyzing and quantifying the advantages of space processing.

For separation, many industrial processes rely on gravitational settling of particles. These processes will not work in zero-g; however, zero-g improve separation processes that are based on other phenomena, such as electrical field forces. Biological materials can be separated by electrophoresis, a process based on relative motion of charged particles in the electrical field. This process benefits from lack of gravity, and the improvement over current ground separation methods could make a new class of pharmaceutical products possible, including purified vaccines, hormones, enzymes, and cells.

Lack of gravity also facilitates containerless processing techniques. With surface tension as the dominant force, liquids from drops that can be positioned and even shaped by electrostatic, electromagnetic, or acoustic fields. For biological processes, it would be possible to manipulate drops of samples and test media without contamination by containers. For high temperature processing of ultra pure materials, such as semiconductors, crucible and die contamination could be eliminated. Without crystallization due to container contact, glasses of new composition could be possible.

Materials that cannot be mixed on earth due to separation and settling can be homogenized in zero gravity and subsequently solidified. For example, metal alloys directionally solidified in space from improved eutectic mixtures, could have improved high temperature properties for aircraft engine turbine blades.

The lack of gravity-induced disturbances is important in the growth of crystals. Crystal structure is particularly important for the semiconductor materials used in integrated circuits. Any structural fault or dislocation in a critical area can cause circuit failure. This currently limits practical integrated circuit size. Improved mixing of the melt during crystal growth in zero-gravity would improve the structure and uniformity of semiconducting crystals making larger individual integrated circuits possible at acceptable production yields. Larger circuits would have application in displays, infrared imaging devices, and computers.

We believe space processing will give rise to new or improved pharmaceutical products. Three representative products have been selected for detailed investigation because of their current lack of availability or purity.

Today's antihemophilic favor VIII processed from blood by precipitation techniques is less than 5% pure. The impurities, mostly unwanted proteins from the blood plasma being processed, can cause immunological reactions in the patient. Separation by electrophoresis in space could not only remove most of these impurities, but specific immunoglobulins also present in the plasma could be separated at the same time. These other products are usually lost by ground processing methods. Recovery of all possible products from the blood would decrease requirements for blood donations.

Another possible product is erythropoietin, a protein produced in the kidneys. For people on kidney dialysis, frequent blood transfusions are required to replace the red blood cell production normally stimulated by the erythropoietin produced in healthy kidneys. Unfortunately, these transfusions commonly set up immunological reactions which cause the body to reject a donor kidney when it becomes available. Erythropoietin could minimize the need for frequent red cell transfusions and accompanying immunological reactions. It would also be used in treating anemia. Today research quantities of relatively impure erythropoietin are obtained from the blood of sheep or the urine of humans suffering from anemia. With space electrophoresis the producing cells could be separated and cultured and erythropoietin separated from the culture media.

Another product of even greater potential impact is pancreatic beta cells which could help our three million juvenile onset diabetics. Present treatment is by daily injection of animal insulin, which is not completely effective in eliminating the associated deterioration of body function. Medical researchers at one clinic treated seven patients with end stage diabetic kidney disease by the injection of human pancreatic islets containing beta cells. A reduction in insulin requirements within two weeks to two months was observed in six of the patients. When injected into the blood vessel entering the liver, these islets formed a surrogate pancreas for the production of insulin. However,

current separation techniques do not remove pancreas tissue fragments that cause deterioration of the liver around the implanted islets. This deterioration eventually negates the value of the implantation. Space processing may be able to remove the materials causing deterioration, and make a single injection cure possible.

Whole classes of new products could be possible with space processing, many of which have not yet been identified. However, the products that have been studied illustrate that both economic and humanitarian benefits can result. We believe in the promise of space industrialization and are continuing our efforts in cooperation with NASA to develop the required space processing technology.

How To Buy a Ticket and What You Get for the Price

(By Chester M. Lee)

Let's say you'd like to use the Space Transportation System (STS) for space manufacturing, to launch a satellite or to fly a small self-contained payload. How do you buy a ticket on the Space Shuttle?

CHARGES FOR USE OF THE SHUTTLE

Rather than attempt to recover government expenses for Space Shuttle development, NASA's objective is to recover the Shuttle's operating costs during the 12-year NASA Space Transportation Systems Operations Program.

Fixed for the first three years of operations, the Shuttle flight price to new customers will be revised annually, but always three years in advance of the launch year for which the new price will apply.

Charges fall into one or both of two categories: operations and use. The operations charge covers NASA's cost of providing a service. It is subject to inflationary impact, and is defined in terms of a base year dollar value for U.S. Government fiscal year 1975. The use charge is for the use of government facilities. It is in lieu of a depreciation charge, and is in a constant dollar amount. When both operations and use charges apply, the total amount of the payment is equal to the operations charge escalated to the date of payment plus the use charge. Use charges are applicable to all customers, except the government and other major participants in developing the Space Transportation System (e.g., the European Space Agency and the Canadian Government).

Two types of Shuttle services are provided by NASA: standard and optional/custom. Standard Shuttle services are those normally required by a customer regardless of the type of payload, and include such items as basic flight planning; placement of the payload in the Shuttle and flight into space; and return of the payload to the landing site. Optional/custom Shuttle services are all other services unique to the customer, including the more routine extra services, such as use of the Spacelab or the requirement for an astronaut to make a "space walk". The standard services price of a full (or dedicated) Shuttle flight has been established for the initial three years of Shuttle operations and consists of an operations charge of $18.271 million (in fiscal year 1975 dollars) and a use charge of $4.298 million.

As most customers will not require the full capability of a Shuttle flight, NASA has instituted the "shared flight" concept whereby a customer will be charged according to payload requirements, plus any charges for optional/custom services. NASA assumes the responsibility for finding enough other "shared flight" customers necessary for an efficient and cost-effective operations program. Each "shared flight" customer is required to pay a premium to underwrite the additional cost to NASA of locating and matching other "shared flight" customers for his Shuttle flight.

To encourage early planning, NASA has established an accelerated payment schedule whereby customers who request launch services with less than 33 months notice must pay an increasing premium which can get as high as 22 percent of the standard cost for a Shuttle flight if the request for launch is received as late as six months before launch. Likewise, fees are charged for postponing or cancelling flights or otherwise impairing launch preparation.

RISKS ASSOCIATED WITH USE OF THE SHUTTLE

A frequent question is "who is responsible if an accident occurs involving the Shuttle?" As the frequency of space flight will increase with the Shuttle, the high reliability of this manned, reusable launch vehicle suggests that fewer accidents will occur than with previous unmanned launch vehicles.

NASA has two main objectives related to sharing the risks associated with Shuttle flights. First, NASA does not want the threat of financial liability to deter customers from using the Shuttle or to further complicate NASA's ability to assign customers to shared flights. Second, as a government agency, NASA has a responsibility to the U.S. Public Trust (the taxpayers) not to place the government in a position of incurring unreasonable liability costs as a result of providing launch services to commercial and non-U.S. customers. Toward these ends, NASA is planning a Shuttle liability policy whereby the risk of each Shuttle flight will be apportioned between the customers and the government. Further, NASA is assisting the commercial insurance community in developing a commercial insurance program for Shuttle customers (and the government) at acceptable premium rates.

Under the proposed NASA liability policy, each customer will be required to agree not to bring any legal action against any other customer or the government in the event that their personnel are injured or their property damaged. This "no-fault" concept would eliminate the concern one customer would otherwise have about sharing the same Shuttle flight with another customer's "expensive" payload. This policy's insurance requirements are analogous to those for NASA's unmanned launch vehicles, except that the total amount of required insurance per flight is about doubled. It is expected that this additional insurance "capacity" will be available by 1980.

Third party claims (those claims which would result from injury to personnel or damage to property not directly involved in Shuttle flights) will become the responsibility of the customer after a customer's payload is unloaded from the Shuttle in orbit. Again, this is a risk for which the customer will be able to purchase commercial insurance and for which the necessary insurance currently exists.

BUYING THE TICKET AND GETTING ONBOARD

Once an individual or organization decides to use the Shuttle, initial contact should be made through the Office of Space Transportation Systems Operations at NASA Headquarters in Washington, D.C. 20546 (Phone: 202–755–2344). After feasibility has been established, the prospective customer will be assisted in preparations for payload launch. Detailed technical questions will be referred to the Shuttle Payload Integration and Development Program Office (SPIDPO) at the Lyndon B. Johnson Space Center in Houston, Texas, which is the NASA focal point for technical liaison with Shuttle customers.

Approximately 36 months prior to the desired launch date, the prospective user should formally request NASA to provide launch services by submitting the appropriate earnest money payment ($100,000 for each major payload program and $500 for each small self-contained payload). Accompanying this payment should be definition of the preliminary payload and mission requirements using NASA's STS Form 100.

Foreign government agencies will require a Memorandum of Understanding with NASA to be signed with an accompanying exchange of diplomatic notes.

The final step in securing a "ticket" on the Shuttle will be negotiation and signing of a launch services agreement, which is the primary contractual instrument, detailing the terms and conditions under which NASA will furnish launch and associated services to the customer. It includes all provisions unique to the customer; the responsibilities of both parties; the launch schedule and mechanism for rescheduling launches; the allocation of certain risks of liability; the financial arrangements; provisions for contract termination; and certain other miscellaneous provisions.

In preparing for the launch services agreement negotiations, the customer will continue his relationship with NASA Headquarters personnel and will begin a closer working relationship with the NASA centers that will continue to provide technical support to the customer through completion of all launch and associated services.

Commercial Use of Space

(By A. K. Thiel)

Since the beginning of the space age nearly 20 years ago, the achievements of the worldwide space program have been dramatic. We have landed on the moon, sent probes to other planets, widened our understanding of physical phenomena in near and far space, linked the continents with communication satellites, observed the earth from space in great detail, and begun to develop manned space laboratories. Originally explored for science's sake, it was not long before some practical usages of space were found in the form of satellites for communication, weather observation, navigation and earth resource surveys. In addition, those twenty years of activity have spun off a treasure trove of technology that touches the life of every American today. And for private industry, the payoff has been an infusion of innovations that has spawned a host of new products, improvements in old products, and striking changes in industrial processes and business practices.

To be specific, the first truly commercial use of space began 13 years ago with the formation of Comsat Corporation and the founding of an international consortium, "Intelsat" with more than a hundred participating member countries. Using satellites, it established a global communications system which drastically reduced rates for intercontinental telephony services. In 1977 Comsat's pre-tax earnings were reported as approximately $70 million. In addition, since 1974 four U.S. companies have successfully entered the communication satellite business for domestic use providing video distribution, data and telephony services.

Earth observation satellites have provided a wealth of data useful for agriculture, forestry and water resource management and the detection of new mineral deposits, though commercial exploitation of these data is still in its infancy. Recently St. Regis

Paper Company and NASA agreed on a joint program calling for the space monitoring of 1.7 million acres of timber on St. Regis property leading to a better management of its resources. More than 100 major oil, gas, mineral, and engineering companies formed the GEOSAT committee in 1976 to encourage NASA to incorporate special sensors in satellite designs to improve the detection of natural resources on earth from the vantage point of space. A major U.S. corporation has opened a new facility to analyze and commercially market data obtained from various earth observational satellites.

An international network of weather satellites is already improving world-wide weather forecasting, while navigation and ocean surveying satellites are in their early developing phase. All of these systems clearly have commercial implications.

The introduction of the new Space Transportation System (STS) with its recoverable (Shuttle) orbiter and space laboratory will further expand the role of business by permitting us to accomplish our present space activities more economically, and enabling us to do work in space not previously possible because of restrictions imposed by today's expendable launch vehicles. The reusability and large weight lifting capabilities of the STS, the interaction of man and machine in space, the unique attributes of the space environment such as near-zero gravity, hard vacuum, supercold temperatures and freely available energy will all lead to new space activities with greater commercial opportunities. Examples are (1) processing and manufacturing of selected materials and products in low earth orbit, (2) communication and information services, (3) high-resolution land monitoring for better management of known resources and the detection of new ones, (4) high-resolution monitoring of oceans (current, wave conditions, marine life) for optimizing shipping routes, increasing yields of fishing fleets, etc., (5) solar energy collection and delivery from space, and finally, (6) vast opportunities not yet thought of.

NASA's "materials processing in space experiment" to be launched in the 1981 to 1985 time period, will undoubtedly yield rich rewards in pure science, with the probability as well that this learning period will lead to commercial opportunities for the production of selective high value space products in such areas as health, electronics, electro-optics and optics.

The concept of space manufacturing is quite new—the product forms have yet to emerge, costs are uncertain, very little market analysis has been conducted, and accurate cost-benefit evaluations are still required. Nevertheless, those companies which are "tuned in" to the rapid advances of technology can hardly afford not to follow closely NASA's experimentation in this area, and should be willing to participate now by innovative thinking and planning. The alternative is the risk of losing out in a profitable commercial venture.

Other foreseeable opportunities are based on (1) the Space Transportation System and the building-block components which can be developed during the Shuttle enhancement phase, i.e., heavy lift cargo boosters, high efficiency vehicles, techniques for assembly of large structures in space, modules and permanently manned facilities, (2) developments in electronics, computers and optical and laser technology, and finally, (3) man's role in space as assembler, repairman, operator, researcher and explorer.

Land and ocean surveillance systems will also be yielding better and more diversified information whereby commercially astute companies can find profitable opportunities either by providing sensors for their own data needs or as operator of such systems either alone or through consortia arrangement.

The growing need for communication and diversified information services can be served by large space platforms with multiple payloads, which, coupled with the scarcity of orbital slot positions, might then lead to joint company ventures.

The world's demand for energy will reach near-critical proportions in the not-so-distant future. Two possible contributions by space technology are: (1) routing electrical power via space by transmitting microwave energy to a passive reflector satellite and back to the ground at strategic areas of high power consumption, thereby eliminating costly power transmission on the ground, (2) large space platforms for the generation of electrical power through conversion of solar energy and delivery of that power through microwave transmission to the ground. The commercial implications of such a system, if proven viable, are enormous.

In summary, commercial use of space has been with us for quite some time but its full potential still ahead of us. Admittedly there is still much uncertainty as to what the ground rules and risks are going to be. Largely government funded until now, the most successful utilization of space technology, from economic and social viewpoints, will result when federally funded research, technology and development programs are able to provide a sound economic and low risk basis for commercial implementation by private industry. This pattern recognizes close cooperation between government and industry but without encroachment by either upon the other's role. NASA's development of the Space Transportation System and its research and development work for the utilization of this System opens the door for such cooperation. It's now up to the private business sector to develop this activity into a commercially profitable business venture. Space manufacturing, communication and information services, energy services, and earth resource management all require innovative thinking and participation by American business. By initiating appropriate market analysis now, forward looking organizations can be advantageously situated to act favorably when the many opportunities for profitable commercial activities in space present themselves.

Forecasting Revenue

(By Francesco A. Calabrese)

NASA is undertaking a unique role in simulating a quasi-commercial environment for operating the Space Transportation System on limited appropriations support from Congress.

One of the Space Transportation System's objectives is to develop a billing and collection system to support the day-to-day accounting operations and provide management with accurate information for revenue planning.

This system is called the Billing and Collection System (BACS), an on-line interactive system developed by Planning Research Corporation (PRC) under contract to NASA. It entails billing invoices, collecting and depositing payments and converting flight costs, stated in 1975 dollars, to real-year dollars.

PRC has also developed a technique for forecasting the economic growth rate up to five months further into the future than the quarterly index reported by the Bureau of Labor Statistics. The forecasted index this module provides is an important aspect of each billing invoice and is used to translate the customer's progress payment to NASA (stated in 1975 dollars) into real-year dollars. The data used to construct the short-term forecasting module is provided by the Monthly Index of Hourly Compensation for All Persons In Private Business.

NASA's revenue planning responsibilities are accommodated through the use of a long-term forecasting module, wherein economic trends are predicted for four years into the future in order to convert potential revenue to real-year dollars. The raw data for this module is provided by the Data Resources Incorporated (DRI) monthly and quarterly forecasts. This tool also allows NASA to ignore the indices computed by the DRI forecasts and input any growth rate of its choice to examine its impact on future revenue.

As a result of this system, NASA can now capture information about its current STS customers, their payload costs, their obligation and payments to NASA on a one-time basis and automatically execute its billing, collection and planning functions.

BACS is an innovative concept for permitting NASA to bill a customer for current charges and to keep a computerized record of those payments in real-year dollars on a daily basis.

NASA Makes Space for Business

(By Congressman Don Fuqua)

When the U.S. Congress passed the Space Act in 1958 they declared that all space activities of the National Aeronautics and Space Administration should be devoted to peaceful purposes for the benefit of all mankind.

With that direction, America has conducted its explorations to increase our scientific knowledge about the earth, the solar system and the universe, not just for the accumulation of scientific data, but also for the application of this new information to improving man's condition here on earth.

NASA's R&D activities have, in the past, been in close association and cooperation with industry and business. However, NASA's most recent development, the Space Shuttle, is an even bolder attempt to use space related R&D as a practical and routine realm for business and industrial opportunity and exploitation. The Space Transportation System or STS is often used in conjunction with Space Shuttle to signify the diversity of capability envisioned for this new system.

Whereas in earlier efforts NASA has played the predominant role in sponsoring and carrying out space research and development with private sector participation, the Space Shuttle, once operational, will provide opportunities for a more equal distribution of effort with the government and the business-industrial sectors as participants. There has already been a shift in users of present NASA launches as a majority of the lanuches last year were reimbursed by the private sector. NASA will use this new Space Transportation System for a multitude of diverse purposes, but will not be the sole envisioner of Shuttle uses. The business and industrial community will also have the responsibility to imaginatively determine how to utilize the Shuttle's unique features to their best economic and scientific advantage. In addition, business and industry may also find it in their interest to more actively participate in NASA sponsored research through its "Announcement of Opportunity."

To be employed with optimum innovation and versatility, the Space Shuttle must be viewed as more than a transport vehicle. Although the Space Shuttle Orbiter has the capacity to deliver spacecraft into orbit, retrieve payloads for reuse and to service or

refurbish satellites in space, it will also be able to carry a scientific laboratory into orbit. Spacelab has been developed and funded by the European Space Agency (ESA) as an international program of several nations to build this space-borne laboratory that will fit inside the Shuttle Orbiter and function as an extension of the experimenter's ground-based laboratory with the added qualities which only space flight can provide.

Early international involvement in Space Shuttle activities not only reinforces the concept of space exploration as a cooperative and mutually beneficial effort between nations, but also enlarges the base of possible Shuttle users for a variety of experimental activities.

The framework designed for Space Transportation System operations is not unlike that of many cargo and freight services, with time schedules, booking reservations and varied rates to accommodate large, as well as small scale users. Thus, NASA has attempted to provide an atmosphere and situation that is compatible with the manner in which business and industry must function. The proper and efficient functioning of Shuttle operations will be crucial to the Shuttle's success in meeting the needs of business and industry.

While the Shuttle will take over the transport of the large satellites presently delivered by expendable launch vehicles, it will also reserve space for small R&D cargo. In fact, this small cargo space with its "get-away special" discount rates has proven so attractive that to date, payments have been made to NASA for some 248 small payloads. Purchasers include private individuals, commercial firms, universities and foreign countries.

The business community can install their own experiments in the Space Shuttle Obiter to test new concepts in advanced manufacturing techniques, medical research, crystalline growth, communications and chemical processing, to name just a few.

Those in the business-industrial sector who may have interest in either Shuttle services or in another aspect of collaboration with NASA should become familiar with the increasing diversity of opportunities available. Those who take the initiative first may even realize a competitive advantage.

NASA's Shuttle guidelines address retention of property rights, reflight guarantees, stand-by discounts and other related matters. Insurance requirements for launches are presently being explored. NASA will need the recommendations of participants and users in the private sector in order to promote maximum utilization of space technology.

As NASA's role continues to evolve, its R&D activities will be more frequently directed toward dual objectives. Expenditures for R&D will, as always, be used to develop equipment and technologies that can be utilized for government purposes but also to the extent commonality exists, for private sector application and use simultaneously. This will have a direct impact on the use of space technology for commercial expansion as new emphasis will be placed on identifying a possible use by the business community of a given technology at the onset of its development to shorten appreciably the time span between invention and broad-scale utilization.

NASA sensor systems in space can now identify food crops, detect the vigor of those crops, their probable yield and the existence of diseases or insect infestation. With this the agriculture sector can improve its inventory of world food supply.

Photographs taken of the earth have already led to discoveries of oil and natural gas on three continents. It is hoped that the improved satellites carried by the Space Shuttle will enable fuel companies to locate new sources of fossil fuels.

Our present communications satellites have made international television possible and reduced the cost of transoceanic telephone rates. These costs should be further reduced when the reusable, fully operational Shuttle carries improved satellites into orbit.

These are just a few examples of where space technology has historically created new perspectives in meeting challenges and solving problems.

Space Industrialization—Europe's Share

(By Yves Demerliac)

Every day, the readers of one of the Paris newspapers can see cloud pictures of Europe, sent to Paris from the French Meteorological Service earth station at Lannion in Brittany, where its antenna picks up the signals from Europe's own stationary weather satellite, perched over the equator on the Greenwich meridian.

The satellite, METEOSAT, was designed and constructed by a consortium of six aerospace companies in five European countries, as part of the program of the European Space Agency, and is, with the new OTS telecommunications satellite now in orbit, one of the latest examples of the capabilities of Europe's space engineers and industries. These capabilities have been applied to many small satellites and launchers developed by individual European nations, but large projects, such as METEOSAT, OTS and the coming heavy direct TV broadcast satellite H-Sat, call for co-operation at the European level. It was this need that led to the establishment of the European Space agency (ESA) which now controls two-thirds of all space expenditure in Europe. Of course, ESA programs are the result of compromise between member countries whose national policies tend to fluctuate between two main motivations—the French strive towards European independence, which resulted in the ARIANE heavy launcher on the one hand, and the implementation of the most advanced technological projects in collaboration with the USA, as favored by the Germans on the other, illustrated by the SPACELAB program.

Spacelab is just one part of the new age opened up by the Shuttle. The ability to put heavy and bulky loads into low orbits, in a simple and reliable manner will modify radically the attitudes of industry and the public towards space activities and lead to space factories, huge solar energy plants, communications capabilities, bases for take-off into the solar system, and space mining.

Where, in all these ambitious prospects, will Europe be?

First, we must not conceal the relative inadequacy of space budgets in Europe. ESA member countries spend on civilian space less than one quarter of the equivalent expenditure in the USA, even though their combined GNP is the same, and their population 20% higher! If the turnover of related sectors, such as military space and aviation, is considered, the comparison is even less favourable to Europe. In space, the future of Europe lies in the hands of an industry which, compared to those of the USA and the USSR, is in a much weaker position than those in other advanced sectors such as the chemical, metallurgical, electronic and nuclear industries.

This situation creates concern in the European space industries, and what we need to examine here are the steps to be taken, in the short, medium and long terms, to enable Europe to participate in the industrialization of space at a level commensurate with its economic and technical potential.

THE SHORT TERM

During the next five years, Europe's main participation in space industrialization will be through SPACELAB and its follow-on program. The importance of this program to Europe is evidenced by its cost to completion—$710 million—representing the total 1976 European space expenditure ($510 million by ESA and $200 million by individual nations).

Present European activity in ESA, national space centers and governmental and industrial research laboratories is remarkable and growing steadily. But participation at the required level will become possible only when the circle of industries grows wider. And this in turn depends on the success of SPACELAB in demonstrating viable manufacturing and other industrial processes in space during the next five years.

MEDIUM TERM PROSPECTS

Space industrialization will inevitably lead to some hard economical and political struggles. Nuclear developments bring evidence of this: in spite of the solidarity that is supposed to govern groups such as OEDC or NATO, experience has shown that it was imprudent for countries, anxious to retain their independence, not to set up their own uranium enrichment facilities. In the context of space exploration, propulsion appears to be an equally crucial technology.

From this viewpoint it is clear that, as important as SPACELAB may be to Europe, with its manned flight potential and its associated work-in-space capabilities, it is by no means as indispensable a vehicle as the Shuttle.

The heaviest responsibility for the European space decision-makers in the coming years will be to act in such a way that, whenever the possibility is established for a European company to make profit from manufacturing in space, that firm be given access to space.

International cooperation is also important, particularly with the USA.

In the early 80's, the USA will be faced with a major decision regarding the organization responsible for the operation of the Shuttle.

Will it be NASA, which is developing the Shuttle? Or will the Shuttle operation be withdrawn from NASA and handed over to an Ad Hoc organization? And, if so, will this organization be American or international?

Obviously, a guarantee that we can use the Space Shuttle will not be provided without some conditions and reciprocation, such as an exchange of services or specific contributions to certain projects. The owners of the Space Shuttle could equally require participation and exploitation rights of the processes that will be discovered in space. Would this be acceptable? Whatever happens, a negotiating battle must be envisaged, in which the interests of the European user industry will only emerge intact if the space fraction of that industry is recognized and particularly if the European contribution to the SPACELAB program is outstanding.

European industry's access to space would benefit from a second-generation European space transport system, comparable to the U.S. shuttle.

The logic which governed the acceptance of the ARIANE program can be requoted; namely: "Even if the ARIANE program is expensive", its promoters stated, "it can be less costly to manufacture this launcher than to expose our foreign partners to the temptation of refusing their own launching facilities each time they fear that their interests are threatened. The reasoning is valid, a fortiori, in the context of the industrialization of space. The possession of its own space trans-

port system comprises a very appreciable guarantee for Europe.

What are the prospects in this field?

Fundamental studies on propulsion arouse, more than ever, great interest within the European authorities and engineering groups. Moreover, the development of ARIANE itself should enable a rapid opening-up in Europe of an independent access to Space. Development is now underway to increase the payload in low orbit from 4 to about 6 tonnes. This is sufficient to permit the launching of sizeable automatic laboratories, where it may be possible to conduct experiments similar to those in SPACELAB, although in a more limited fashion. This possibility is being studied with particular interest in France. Further developments, in particular concerning the ARIANE cryogenic stage should, following the results of the initial investigations, enable a shuttle to be orbited (or rather, to use the European terminology, a "hypersonic glider") capable of carrying, in addition to a three-man crew, a few tonnes of scientific or other equipment.

The difficulties of obtaining the required finance for such a program will certainly be formidable. The ultimate cost of the U.S. shuttle was about $9 billion. The ultimate cost of ARIANE was about $900 million, which appeared rather high compared with the upper limit of the European space budget.

However, the decision here should be based more on the economic prospects thus opened in the future rather than on the consideration of past and current European space budget levels. For example 60 operational orbital power plants would be required to meet hardly one half of the European energy deficit in 1985–90. The unti cost of each station, capable of delivering power on Earth at competitive prices, would be of the order of $8 billion, that is, almost the cost incurred in developing the current U.S. Shuttle. Clearly, Europe must not compromise its independence in a vital field by hesitating to undertake such a development, the cost of which will be negligible compared to that of expected missions in the field of energy alone.

It is obvious that, if it is considered necessary by the major European industrial companies, which are dealing currently with finance on a much larger scale than the space industry, that Europe should have an independent space transport system, the monetary problems should be more easily solved. In any case, it is reassuring to know that Europe is technically capable of going ahead with this venture.

To summarize, in the context of preparation for the medium term of space industrialization, it is essential for Europe to pay particular attention of the availability of a transport facility enabling it to conduct, independently, industrial activity in space, in effective collaboration with the work arising from the use of the U.S. shuttle and SPACELAB. However, Europe must continue to develop propulsion systems of its own.

YEAR 2000 HORIZON

It is on earth, by the sale of new industrial products and services, that future space activity is to be financed.

On the organizational side, it is likely that, as in the USA, where it is envisaged that NASA will relinquish the Shuttle to a specially-established profit-making organization, and as in Europe, where the European Space Agency will be leaving the management of European telecommunications satellites to Eutelsat, the organization and exploitation of space by European industry will lead to the necessity of creating a new European or wider structure, capable of supplying to industry the access to the orbital laboratories and workshops that it will need.

Mr. SCHMITT. Mr. President, I see the distinguished Senator from Ohio (Mr. GLENN) is in the Chamber.

One purpose of the President's visit to the Cape this weekend is to honor six of the pioneers of space flight with the awarding of a Congressional Space Medal of Honor, and there is a very strong rumor—at least, within the press—that our distinguished colleague may well be a recipient of one of those medals. I have been requested to yield to him at this point, and I am more than happy to do so. If those rumors are true, I congratulate him wholeheartedly on his selection, and I congratulate my other colleagues who are going to be honored this Sunday.

I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, I thank the distinguished Senator from New Mexico very much for yielding and for his very generous remarks.

I associate myself with his earlier remarks regarding the importance of research in this country—the support that this Nation traditionally has given for curiosity, if we want to put it in one word.

If we go back in time, we find that curiosity, of course, has been at the very heart of every bit of human progress being made. Whether it is a doorknob in this Chamber or a microphone or an automobile we drove into the city this morning, every bit of progress that man has ever made has come from curiosity about how to do something better, about how to do something in a new and different way that would benefit the individual or mankind.

I think that too often, these days in particular, we find great criticism of research unless it is tailored to a very specific task that is going to result in immediate benefit. That just flies in the face of human experience, because quite often the curiosity of a Ben Franklin about lightning will lead to experiments that result in changes in human life around the world; or, curiosity about a new energy source will lead to mankind being able to replace musclepower with different kinds of energy that then become available for everyone around the world.

So when we ridicule some of these basics around here, I think we perhaps are criticizing the goose that has laid the golden egg for this country throughout our history.

The space program, which celebrates its 20th anniversary this weekend, falls in line with that search for the new, that search for new bits of information that may not have exact, immediate benefits now. There are many immediate benefits, but many of the benefits of a space program may come in the little bits of information that may come in later years, with other bits of information which in turn enable man to make a quantum jump forward in some field.

The manned space program to date has centered in three areas—new energy sources, new particles, new elements, new things about which we know nothing now—and in that regard it is very difficult to say what the benefits will be; because these bits of information may come back at a later time with other new processes or new information that, combined, will enable man to make a quantum jump forward.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. CHILES. Mr. President, I associate myself with the remarks of both our distinguished colleagues who have performed such an important role in the space program.

I believe this body, together with the House, has shown the sort of wisdom of what the Senator from Ohio now says, in resisting those arguments that were kind of compelling for a while after the race to the Moon was over, after the United States had won that race. I refer to the "either/or" arguments we hear: How can we spend $3 billion or $4 billion for a space program, when we have people who do not have enough food to eat?

In considering that "either/or" argument, we must recognize that this country has many priorities, and part of those priorities always has been in trying to be on the outer edge, as the Senator says, to try to make new discoveries and new breakthroughs. That is what has always made this country great.

I thank goodness that the Senate and the House resisted those arguments, which were kind of compelling at the time, and that the American people resisted those arguments, and they kept going with the space program.

We now see, as the shuttle comes in, that no longer is it going to be just an exotic search—although we are going to have that, also—but we are also getting practicality into it, as to just what we will be able to do with the shuttles and with stations which we can go up and repair. That is going to tie in many of our satellite capabilities with respect to weather and communications, all kinds of other Earth resources, data gathering. Now we are going to have a very practical application of the shuttle.

I just wanted to join the distinguished Senator from Ohio and the distinguished Senator from New Mexico in saying that I think it is a wonderful anniversary for the space program. Florida has been very privileged to be a participant on the forward edge of that program, and we look forward again to a great association with the U.S. program in space.

Mr. GLENN. I thank the Senator from Florida very much.

I mentioned the area of looking into space as being a prime example of discovering the new in the space program.

The second area that the manned space program has concentrated on is the effect of weightlessness on the human body, and startling approaches with respect to cancer have come out of those studies. It is not widely known, but there have been new approaches as the body has adapted itself in space. Certain changes that occur in space flight have led researchers into new areas of inquiry regarding cancer. Who would have fore-

cast that some 20 years ago, when we started out with a space program? No one, of course.

The third area that the manned space program has concentrated on has been Earth resources analysis—looking back toward Earth. This has benefited mankind every day in many ways, even right now, while we are talking in the U.S. Senate.

This connection of basic research that occurs as man exercises his curiosity was borne out to me just a couple of days ago. I had lunch with our distinguished majority whip Senator CRANSTON, and Dr. Cohen. It turned out that Dr. Cohen started out in the biophysics section of NASA at Langley and later took over some of the laboratory techniques under the VA, when NASA could not get any funding to continue some of the activities in biophysics. He has now made what some other doctors think is a very major breakthrough in cancer studies.

They now are convinced—reasonably convinced, at least—subject to further laboratory confirmation, that the sodium content of cells, basic sodium content, is what controls the division of cells, and which in turn controls cancer.

We debated on this floor in the last couple of days various approaches to cancer. Who would have thought that out of that effort at Langley when I was there in 1959, some of those things that were being looked at at that time, as protections for us in going into space, protections against radiation, protection against all the particles that we know about in space, would lead to this? No one thought that some of those studies would lead into something like this today, which gives us a completely new approach to cancer, from a different level.

This also leads into another area that this cell division has gotten into, and that is the regeneration of limbs—the actual regeneration of an arm or a leg. Scientists no longer see this as an impossible dream.

These inquiries started back in the 1700's, when some scientists were curious about why a salamander loses its tail and then can grow it again.

Modern studies have shown, for instance, that as to a cancer implanted in that regrown tail the cancer will kill itself, will kill the cancer, but plant that same cancerous bit in the body of the salamander and the salamander itself is killed.

I entered into the RECORD a couple of weeks ago a study, a summary of which was in the Washington Post, Sunday edition of about 3 weeks ago, which to me was absolutely fascinating. It showed the studies that involved a rate where for the first time scientists transferred this technique to a mammal. A rat has actually regrown part of its own leg. They are continuing with the studies.

The triple amputee, Max Cleland, sat in our luncheon the other day listening to this, obviously fascinated with what is going on and what can be done in this particular area.

As to the implications of this, of course, with regard to central nervous regeneration, which is not possible as far as we know now, there are applications even in regeneration of central nervous system cells that they are looking into.

I do not want to get into a long discussion of this matter this morning because I am intruding on the time of the distinguished Senator from New Mexico, and I appreciate his yielding this time to me. But I am just trying to point out that when we ridicule research around here, when we ridicule basic research, and I agree there are some projects that probably should be ridiculed, but when we create an atmosphere around the Senate such that it is difficult to get good research projects through and we cannot get them through sometimes just because there is no absolute positive result we see at the end, then I submit that we are killing the goose that has laid the golden egg for this whole country.

We have seen a decrease in our percentage of research as a percentage of our GNP in this country compared to other nations, for example, Japan and Germany, and at the same time we have seen that decrease we have seen their businesses come up in too many instances and outcompete us in our own areas of expertise around this world.

It has been evident in the steel industry. Why are we having to set up a steel reference pricing system now? It is because the Japanese have gone ahead with new and better techniques of manufacturing steel and are actually outcompeting us in our own specialty areas where we have been so good in the past.

So I will not belabor this. I will not take any more of the Senator's time. I appreciate his yielding to me for this.

It is my view that NASA and the efforts that we made, while I admit are biased in that direction because of past associations, of course, I think the NASA efforts have been in the finest tradition of research in this country, the finest tradition of being curious about the unknown, the finest tradition of unbridled inquiry, being curious about everything that we possibly can in new areas in which man has learned to travel.

This area, I might add, is the first area in history in which man has traveled that he never yet has fought a battle in the same area. We hope we can keep the space efforts just as peaceful, just as cooperative, and just as beneficial for all mankind as it has been up to now.

Decisions were made in NASA in the very early days of the space program and at the very highest levels of Government that our space program would be peaceful and that information would be available around the world to everyone. I was proud when, after my flight back in February 1962, copies of my flight report were requested by and given to the Soviet Embassy in Washington. This indicated our willingness to make this information available on a broad scale to scientists and people of sincere intent and hopes for peace around the world that this new area in which we were learning to travel would never be used to fight and would never be used for war. Fortunately it has continued that way through at least this 20-year period in our history and we want to keep it just that peaceful and just that beneficial to all mankind.

I think by continuing this kind of inquiry into the future, not stifling it, we do the best for our country and the best for all mankind.

I thank the distinguished Senator for yielding this time.

The ACTING PRESIDENT pro tempore. The time of the Senator from New Mexico has expired,

Mr. GLENN. Mr. President, I ask unanimous consent that the Senator be yielded time sufficient to complete his speech. I took more of his time than I anticipated.

The ACTING PRESIDENT pro tempore. The Chair on its own motion as a Senator from Arkansas will suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that the time I took not be charged against the time of the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I was not about to interrupt my dear and distinguished colleague from Ohio. His statement was just a reaffirmation of exactly the points that I, the Senator from Florida, and others were trying to make and were the points, I am sure, that if we went back and looked at the record that Thomas Jefferson made one way or another before Congress when he was convinced the time had come to invest in the American West.

Very often when people ask me what are we going to get out of space exploration, I say, "Put yourself at the time we decided to buy Louisiana, the Louisiana Purchase, and try to think could you have anticipated at that point in history what we would have gotten out of that fairly small investment in the future? Of course you cannot."

That is the importance of those kind of investments, whether they are geographic investments, exploration investments, or investments in the mind.

I think what the Senator from Ohio has pointed out so well is that in the investments in the mind of man we find almost all of the contributions that science and engineering can make to the betterment of mankind.

And we cannot anticipate in many, many, if not most, instances, what the real benefit will be for such investments.

I just hope that our colleagues in reading or hearing this colloquy will understand that very often something that we do not understand—I include myself in that—with respect to research will be the one thing that eliminates cancer, that

increases longevity of human beings, or that does something that will better human conditions.

As a matter of fact, as I probably have said before, we now stand on the threshold, for the first time in human history, of seeing those age-old problems of the human condition disappear if we are willing to grasp the opportunity. Poverty, hunger, disease, ignorance, those four things, the elimination of those four problems of the human condition, is within our grasp. We can at least foresee, if nothing else, how they can be eliminated, and that is something mankind never had before, that kind of perception. It has come within the last 20 years of our existence here on this planet.

If we do not recognize our potential we certainly will never be able to grasp it. So the Senator from Ohio is entirely correct in his perception and in his statement.

Mr. President, how much time do I have available?

The ACTING PRESIDENT pro tempore. The Senator has approximately 2½ to 3 minutes.

Mr. SCHMITT. Mr. President, I will take no more time this morning. I do appreciate the remarks of my colleagues relative to the importance of this 20th anniversary of NASA, and on Monday, after we have heard the President's remarks, and we have honored the recipients of the Space Medal of Honor, I think and I hope we will see a rejuvenation of the spirit of NASA and the spirit of this country that has given us the opportunity to move our civilization of freedom into space.

S. 3541—NASA SOLAR POWER SATELLITE PROGRAM ACT OF 1978

Mr. SCHMITT. Mr. President, today I am introducing the NASA Solar Power Satellite Program Act of 1978, to provide for research, development, and demonstration of the feasibility of obtaining electrical power from space by using solar power satellite systems or other appropriate energy sources. The successful demonstration of the technical and economic feasibility of this concept would provide an inexhaustible future energy source both for domestic purposes and for export. Either way, such a demonstration could have a significant impact on our Nation's balance of trade.

This bill would instruct the National Aeronautics and Space Administration (NASA) to initiate a program aimed at resolving the major economic and technical issues that currently surround this concept. It provides a comprehensive plan including systems definition studies, health, safety, and environmental studies, socioeconomic studies, and technology assessments of various space sources compared with terrestrial energy sources. These studies and comparisons, if favorably evaluated, would accelerate the design of a program to make this promising concept operational at the earliest possible date.

The Energy and Natural Resources Committee recently held hearings on a similar bill, S. 2860, introduced by Senator MELCHER and cosponsored by this Senator. Although refinements to S. 2860 are necessary, its premise that NASA and the Department of Energy should work together in this effort is a good one. However, the Energy Committee has indicated that it will report out a bill which severely limits NASA's participation. This would be a great mistake. Thus, it has become necessary to introduce a bill as an alternative to S. 2860.

Within NASA, there is a small but quite valuable Office of Energy Technology Applications. Unlike the Department of Commerce's energy office, the Department of Housing and Urban Development's energy office, and the Department of Agriculture's energy office which were all transferred to the Department of Energy, NASA's energy office remains intact (although greatly reduced in in-house funding). The reason for the continued existence of this office is the unique capabilities and expertise which NASA possesses that can be applied to finding solutions to many of today's problems, in particular, the supply, production, conversion and conservation of energy. In fact, these energy programs at NASA are maintained to maximize the use of the Agency's technologies and experiences in support of national energy research and development needs. The success of NASA's effort is shown by the scope of its reimbursable activities in energy R. & D. on behalf of the Department of Energy: Over $100 million in fiscal year 1978.

One particular area of energy research which would assure maximum use of NASA's unique capabilities is that of obtaining electrical power from space for use in space and here on earth. While no new scientific and technological breakthroughs are needed to develop satellite power systems, there are many engineering aspects of this technology that still need to be examined. Further engineering research, economic and technical feasibility studies, various ground-based and in-flight experiments and environmental, health and safety impact studies need to be undertaken expeditiously. In addition, Congress needs to encourage NASA to continue and to accelerate its efforts in the design of large space structures, microwave and laser transmission concepts from space and comparative analyses of the various satellite power sources in addition to solar, such as fusion, closed Brayton cycle, thermionic conversion, thermal fuel cell, and cascaded system concepts.

Mr. President, this satellite power system concept is receiving increasing attention and offers a potentially great energy resource for this Nation. Our short-term energy problem is that of producing more fossil fuel, whereas our long-term problem is the conversion of a society dependent on fossil fuels to one where fossil fuels are a minor source of energy. It is time that we, as a nation, begin not just looking for long-term energy resources, but working on the options that are available to us so that we will be ready and able to make the inevitable conversion to inexhaustible energy sources.

In the first 20 years of NASA's experience, our space policy and space-related investments were directed at increasing human knowledge of both space and Earth and the development of an informational and technological base from which to proceed further. Now civilization is moving into space and with it, a vast technology base for the betterment of the human condition on Earth. A satellite power system has great potential for the application of space technologies to one of the most critical problems society is faced with today: Secure energy supplies.

I urge favorable consideration of this bill and ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3541

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "NASA Solar Power Satellite Program Act of 1978."

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) The United States is faced with large scale increases in the future consumption of energy if we are to have full growth in our economy and elevate the quality of life in our third century of national existence;

(2) The cost of domestic energy will continue to rise until energy is available in abundance;

(3) The current imbalance between domestic supply and domestic demand for fuels and energy is likely to persist until traditional and new types of energy production are expanded;

(4) Dependence on nonrenewable resources cannot continue indefinitely at the current rates of consumption nor is it prudent to use these unique natural chemicals as fuels;

(5) It is in the interest of the United States to expedite the long-term development of renewable and nonpolluting energy resources such as the Sun;

(6) To date, this Nation's effort in research, development, and demonstration activities relating to the utilization of solar energy and other advanced energy sources has focused on ground-based equipment;

(7) Studies indicate that a satellite-based energy system may be a vastly superior method of utilizing solar energy and other sources, but such systems have not been adequately investigated either technically or economically;

(8) The welfare of the Nation is being adversely affected, both economically and ecologically, by the depletion of domestic fossil fuels and by imports of high cost foreign energy supplies;

(9) If feasible, a power satellite system would enable the United States to rely to a lesser extent on foreign countries to satisfy our essential energy needs, and would help eliminate a balance-of-payments deficit and the threats that such a deficit impose;

(10) The construction of power satellite systems would provide economic stimulation in the form of jobs and new export markets throughout all the States of the Nation;

(11) The technology and the trained technical community to support power satellite research, development, and demonstration programs are available, and the Space Shuttle and other relevant technology already under development provide a substantial impetus to accomplish such a program; and

(12) All the major technologies needed for power satellite systems are relevant to other major space and earth-based research and development activities.

(b) The Congress declares that it is the policy of the United States—

(1) to pursue a vigorous research and development program on solar and other power satellites and supporting systems as a major source of energy to satisfy our national energy needs, and

(2) to provide for the development and demonstration of a practicable economic means to employ power satellites powered by solar or other energy sources.

ESTABLISHMENT OF PROGRAM

SEC. 3. (a) There is established a Power Satellite Research, Development, and Demonstration Program (hereinafter referred to as the "Program") to carry out the policy expressed in section 2(b).

(b) There is established within the National Aeronautics and Space Administration the Solar Power Satellite Research, Development, and Demonstration Program Office. The Office shall manage the Program.

(c) Funding requests for the Program shall be specifically identified.

INITIAL RESEARCH AND DEVELOPMENT

SEC. 4 (a) The Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator") shall initiate the Program by carrying out research and development for the purpose of resolving the major technical issues regarding the viability of the power satellite concepts including solar and other appropriate energy sources.

(b) In connection with or as part of such research and development, the Administrator shall—

(1) Carry out systems definition studies, space-related technology, health, safety, and environmental studies, socio-economic studies, and a comparative evaluation of the power satellite concepts and the terrestrial alternatives to such concepts to provide a basis for research, development, test, and demonstration planning and phasing; and

(2) Perform or cause to be performed comparative technolgy assessments of power satellite concepts and terrestrial alternatives to such concepts, including—

(A) photovoltaic concepts;

(B) solar thermal, including but not confined to, Closed Brayton Cycle, thermionic conversion, thermal fuel cells, and cascaded system concepts;

(C) nuclear fusion, including but confined to, Closed Brayton Cycle, thermionic conversion, inertial and magnetic concepts;

(D) other concepts as deemed appropriate by the Administrator; and

(E) microwave and laser energy transmission concepts.

CONDUCT OF THE PROGRAM

SEC. 5. To implement and carry out the Program—

(1) The Administrator shall—

(A) undertake to conduct and coordinate all research, development, test, and cost analysis necessary or appropriate under the Program.

(B) coordinate with appropriate power distribution agencies and the private sector in evaluating the ground portion of the Program, and provide a report on the Program's potential impact on the power network.

(C) utilize to the maximum extent possible the existing technology, facilities, and expertise of the National Aeronautics and Space Administration, and the aerospace and energy industries.

(D) take such other actions as may be necessary or appropriate for the effective conduct and administration of the Program.

COMPREHENSIVE PLANNING AND PROGRAMING

SEC. 6. The Administrator shall transmit to the Congress on or before September 30, 1979, a comprehensive plan for the Program and for continuing research on a solar power satellite, which plan shall be designed to (consistently with the provisions and requirements of this Act)—

(1) Provide for the conduct of definitive studies and research leading to power satellite total system definition and the placing of a demonstration satellite unit or units into orbit to determine the technical and economic viability of collecting, converting, and transmitting solar energy or producing, converting, and transmitting other energy sources for commercial purposes; and

(2) Identify (A) the basic elements of the Program, (B) the Program schedule, (C) a series of decision points within the Program at each of which the Program may be evaluated to determine its feasibility, (D) the principal criteria to be used in evaluating its feasibility, (E) the Program and project management structure and responsibilities required to implement this Act, and (F) the funding required to carry out each major element of the Program in each fiscal year of the Program.

APPROPRIATIONS

SEC. 7. There is authorized to be appropriated to the Administrator, to carry out this Act, the sum of $25,000,000 for the fiscal year ending September 30, 1979, and such sums as may hereafter be authorized by law for subsequent fiscal years.

Mr. SCHMITT. Mr. President, this is a measure similar in most respects, although different in some, to a similar bill, S. 2860, introduced by Senator MELCHER and cosponsored by this Senator.

The primary reason for the introduction of this bill today is to emphasize the importance of this research, development, and demonstration into the feasibility of satellite power systems, but it is also to make sure that the joint capabilities of the National Aeronautics and Space Administration and the Department of Energy are used together to see that this effort is a success.

Unfortunately, it appears as if S. 2860 will be reported out of the Energy Committee, if it is reported out, in a manner that severely limits NASA participation. I think, Mr. President, and most of my colleagues would agree, that that would be a great mistake. Therefore, I am introducing this bill as an alternative so that at least in our deliberations in committee or on the floor we will have before us an alternative with which we can compromise.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be received and appropriately referred.

ORDER FOR YEAS AND NAYS ON STATE-JUSTICE APPROPRIATIONS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, last evening the Senate ordered a vote on the adoption of the conference report on the State-Justice appropriations. I announced that would be, undoubtedly, a rollcall vote. I obtained unanimous consent to order the yeas and nays on that at any time, and someone was wanting a yea and nay vote. I propose that we get that order now.

So I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1979—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the conference report on H.R. 12934.

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on H.R. 12934 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12934) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 12, 1978.)

Mr. STEVENS. Mr. President, there is no time agreement on this bill, is there?

Mr. HOLLINGS. No, no time agreement. In fact, we should not take over 10 minutes.

Mr. STEVENS. Mr. President, there is an agreement not to vote before 10:30; is the Senator from Alaska correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. The yeas and nays have been ordered?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. Mr. President, I take this occasion to alert all Senators, if the facilities are working, to alert all Senators and their staffs that there probably will be a vote by 10:30.

The ACTING PRESIDENT pro tempore. Between 10:30 and 11 o'clock.

Mr. HOLLINGS. I will ask the Senator from Alaska to stay close, because we do have an exchange.

Mr. President, before highlighting the various items in this legislation, I wish to acknowledge my gratitude for the leadership and the direction, the assistance and the expertise of our ranking minority member, the Senator from Connecticut (Mr. WEICKER).

During our consideration of this bill we got into many matters of differences—for example, with respect to the language on the Federal Trade Commission and many other items, and he was sort of our reconciliation lawyer. He stuck with us throughout the entire conference, and without his help I am sure we would not be able to bring such a successful conference report back to the Senate. I appreciate Senator WEICKER's tremendous assistance during our deliberations this year which encompassed

some 15 days of hearings on this bill which includes more separate appropriations than any of the 13 general appropriation bills.

The conference agreement amounts to $8,543,070,000. This is $117,006,000 below the budget estimates. We can also announce with some justifiable pride that the conference agreement is $2,138,806,400 below the amount appropriated for fiscal year 1978. In fact, the action of the other body on the conference report yesterday, increases the amount we are below the budget to $144,722,000 and $2,166,522,400 below the appropriations for the current fiscal year which of course expires tonight. The decrease from the current year is largely due to the enormous amounts appropriated in fiscal 1978 to the disaster loan fund of the Small Business Administration. Since the drought situation is not as severe as last year there is a good chance of holding on to a major portion of this unique decrease.

Briefly stated the major Senate items retained in the conference include:

First. Full funding of the amounts requested for the general legal activities of the Department of Justice, including the full amount for the Criminal Division that was added on the Senate floor and 25 positions over the budget for the Lands and Natural Resources Division;

Second. The full budget request for the Federal Bureau of Investigation plus the Senate additions for terrorism investigations and bank robberies;

Third. Two new camps on former military bases in California and Texas that will help alleviate the overcrowding in the prisons and may negate the construction of additional heavy security facilities on the west coast;

Fourth. We held a major part of the Senate increase for the Economic Development Administration. The conferees also agreed that EDA should allocate funds to each regional office in amounts that are not less than what each region could expect to receive based on the fiscal year 1975–77 percentage share of funds obligated in those regions under all regular EDA programs;

Fifth. Fifty-two of the additional 87 positions to implement the 1977 antiboycott amendments to the Export Administration Act, and $2.400,000 for a computer data system for matching textile imports against existing quotas and consultation levels.

Someone could ask how did we get to this $5.2 billion deficit in balance of trade in textiles alone here in this fiscal year 1978. One of the problems is in the administration of our bilaterals with several countries, and there are 18 in all. When the business leaders of the United States go to the Commerce Department to determine just exactly what is happening, if the market indicates an inundation, let us say, in corduroys or carpets, our Commerce Department cannot get us the information at any time in less than, perhaps, 6 to 9 months.

The British, the French, will have that information in 3 days, and there is an immediate pouncing upon the overimportation, the exceeding of the particular bilateral agreement in their quota amounts agreed to under the agreement. So they can really make certain that no real injury occurs.

But when we finally learn the horse is already out of the barn, so to speak. That is why we have provided for the computerization of our data and I will be keeping close contact with Secretary Krepps so that the priority is maintained.

Sixth. A major portion of the Senate increases for the National Oceanic and Atmospheric Administration that covered projects of interest to several Senators;

Seventh. All of the funds approved by the Senate for the Arms Control and Disarmament Agency, the Board for International Broadcasting, the Commission on Civil Rights, the Commission on Security and Cooperation in Europe, the Equal Employment Opportunity Commission, the Federal Maritime Commission, the International Communications Agency, and the Securities and Exchange Commission. By and large these agencies were not part of the House bill due to the lack of authorization at the time of House consideration;

Eighth. For the Federal Trade Commission the conferees included language in the report stating that none of the funds appropriated to the FTC should be used to promulgate a trade regulation rule regarding television advertising to children.

As chairman, too, of the Subcommittee on Communications of the Commerce Committee I believe this is a congressional responsibility. The conferees and the conference report did not say that the matter does not deserve attention or that it is not a matter of concern. On the contrary, we do not think an administrative board ought to start legislating. If it is that great a matter of concern, if it is that important to us, then legislatively we ought to hear from all parties. If we are going to get into the realm of trying to restrict children's television, whether it be the programing itself or advertising, we should not just single-shot a particular item like sugar cereals. If we want to get into nutrition I can tell you there are many other things more deleterious and damaging to health than just cereals.

But in this area the Commission, in my opinion, restricted itself and got aimed just at one particular industry, without comprehensiveness and without authority. We cannot and should not pass that authority, I believe, to the Federal Trade Commission. Hopefully we are going to have hearings on all children's programing this coming year, in 1979.

Ninth. The conference agreement provides for the termination of the Renegotiation Board not later than March 31, 1979. It is a rare day in the Congress when you can point to the termination of an element of a Federal bureaucracy and the Members should be sure to note the passing of this Board to the folks back home.

Mr. CRANSTON. If the Senator will yield, I call the floor manager's attention to the conference committee's language on page 26 of the report with respect to the Renegotiation Board. I ask the floor manager, is it the intention of the conferees on behalf of the Senate to assure the termination and cessation of the Board's activities no later than March 31, 1979?

Mr. HOLLINGS. Yes.

Mr. CRANSTON. As the floor manager knows, I am sponsor with Senator LUGAR of S. 2791, the Renegotiation Abeyance Act of 1978, which was reported favorably by the Committee on Banking and Urban Affairs on March 22. In view of the answer of the distinguished chairman of the Subcommittee on Appropriations for the Departments of State, Justice, Commerce, the judiciary, and related agencies, there may be no further need for my legislation. Nevertheless, I remain concerned that an effort may be made to extend the life of this redundant and unnecessary temporary agency through subsequent supplemental appropriations. I ask the floor manager whether it was contemplated by the conferees in agreeing to this language that the Renegotiation Board's termination date of March 31, 1979, could be put off through the device of supplemental funding requested ostensibly for the purpose of allowing the Board to process its seemingly bottomless backlog,

Mr. HOLLINGS. In the absence of new authorizing legislation for the Renegotiation Board, it is the intention of the conferees that the Board complete its work, terminate its activities, and transfer all property (including records) to the Administrator, General Services Administration, no later than March 31, 1979.

Mr. CRANSTON. I thank the distinguished floor manager.

Mr. HOLLINGS. Tenth. The amounts provided for the Small Business Administration reflect the Senate's belief that the SBA should place a greater emphasis on the advocacy, economic research, procurement assistance, technical assistance, and management assistance programs. As part of this emphasis we have provided 16 additional positions to carry out a pilot decentralized 8(a) program in region IV. Our hearings, as well as the others held by other Senators have indicated a woeful response by SBA in meeting the needs of minority contractors in the Southeastern States.

Mr. President, we have ready for the RECORD a table that gives the complete results of the conference in tabular form. The table includes a comparison of the conference agreement, as modified by the other body yesterday, with new budget authority made in fiscal 1978, the budget estimates for fiscal 1979, and the amounts approved in the House and the Senate versions of the bill. I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1979

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates 1979	House, 1979	Senate, 1979	Conference, 1979	Enacted 1978	Estimates 1979	House bill	Senate bill
TITLE I—DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Salaries and expenses	$621,009,000	$662,117,000		$661,000,000	$660,945,000	+$39,936,000	−$1,172,000	+$660,945,000	−$55,000
Representation allowances	2,500,000	2,900,000		2,900,000	2,900,000	+400,000		+2,900,000	
Acquisition, operation, and maintenance of buildings abroad	113,310,000	118,644,000		125,000,000	125,000,000	+11,690,000	+6,356,000	+125,000,000	
Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)	7,520,000	6,025,000		6,025,000	6,025,000	−1,495,000		+6,025,000	
Emergencies in the diplomatic and consular service	2,350,000	2,350,000		2,350,000	2,350,000			+2,350,000	
Payment to the Foreign Service retirement and disability fund	37,607,000	38,107,000		38,107,000	38,107,000	+500,000		+38,107,000	
Total, administration of foreign affairs	784,296,000	830,143,000		835,382,000	835,327,000	+51,031,000	+5,184,000	+835,327,000	−55,000
International Organizations and Conferences									
Contributions to international organizations	390,106,000	355,392,000		327,676,000	327,676,000	−62,430,000	−27,716,000	+327,676,000	
Contributions for international peacekeeping activities	47,400,000	32,000,000		27,000,000	27,000,000	−20,400,000	−5,000,000	+27,000,000	
Missions to international organizations	11,118,000	12,072,000		12,000,000	12,000,000	+882,000	−72,000	+12,000,000	
International conferences and contingencies	8,000,000	8,600,000		8,000,000	8,000,000		−600,000	+8,000,000	
International trade negotiations	4,297,000	4,717,000		4,717,000	4,717,000	+420,000		+4,717,000	
Total, international organizations and conferences	460,921,000	412,781,000		379,393,000	379,393,000	+81,528,000	−33,388,000	+379,393,000	
International Commissions									
International Boundary and Water Commission, United States and Mexico:									
Salaries and expenses	6,620,000	6,840,000		6,800,000	6,800,000	+180,000	−40,000	+6,800,000	
Construction	17,000,000	3,968,000		3,900,000	3,900,000	−13,100,000	−68,000	+3,900,000	
American sections, international commissions	2,288,000	2,553,000		2,500,000	2,500,000	+212,000	−53,000	+2,500,000	
International fisheries commissions	6,245,000	6,612,000		6,600,000	6,600,000	+355,000	−12,000	+6,600,000	
Total, international commissions	32,153,000	19,973,000		19,800,000	19,800,000	−12,353,000	−173,000	+19,800,000	
Total title I, new budget (obligational) authority, Department of State	1,277,370,000	1,262,897,000		1,234,575,000	1,234,520,000	−42,850,000	−28,377,000	+1,234,520,000	−55,000
TITLE II—DEPARTMENT OF JUSTICE									
General Administration									
Salaries and expenses	27,582,000	28,996,000		28,396,000	28,474,000	+892,000	−522,000	+28,474,000	+78,000
Legal Activities									
Salaries and expenses, general legal activities	81,653,000	89,884,000		90,826,000	90,550,000	+8,897,000	+666,000	+90,550,000	−276,000
Salaries and expenses, Antitrust Division	42,371,000	46,377,000		47,080,000	46,377,000	+4,006,000		+46,377,000	−703,000
Salaries and expenses, U.S. attorneys and marshals	190,570,000	196,736,000		196,700,000	196,700,000	+6,130,000	−36,000	+196,700,000	
Support of U.S. prisoners	21,000,000	25,100,000		25,100,000	25,100,000	+4,100,000		+25,100,000	
Fees and expenses of witnesses	20,050,000	20,144,000		20,000,000	20,000,000	−50,000	−144,000	+20,000,000	
Salaries and expenses, Community Relations Service	5,192,000	5,353,000		5,353,000	5,353,000	+161,000		+5,353,000	
Total, legal activities	360,836,000	383,594,000		385,059,000	384,080,000	+23,244,000	+486,000	+384,080,000	−979,000
Federal Bureau of Investigation									
Salaries and expenses	553,954,000	556,750,000		561,341,000	561,341,000	+7,387,000	+4,591,000	+561,341,000	
Immigration and Naturalization Service									
Salaries and expenses	283,087,000	298,019,000		299,800,000	299,350,000	+16,263,000	+1,331,000	+299,350,000	−450,000
Drug Enforcement Administration									
Salaries and expenses	188,295,000	192,953,000	$192,953,000	192,953,000	192,953,000	+4,658,000			
Federal Prison System									
Salaries and expenses, Bureau of Prisons	269,576,000	312,179,000		315,200,000	315,200,000	+45,624,000	+3,021,000	+315,200,000	
National Institute of Corrections	9,900,000	9,943,000		9,920,000	9,920,000	+20,000	−23,000	+9,920,000	
Buildings and facilities	38,850,000	37,080,000		35,280,000	35,280,000	−3,570,000	−1,800,000	+35,280,000	
Federal Prison Industries, Incorporated: (Limitation on administrative and vocational training expenses)	(6,328,000)	(5,081,000)		(5,081,000)	(5,081,000)	(−1,247,000)		(+5,081,000)	
Total, Federal prison system	318,326,000	359,202,000		360,400,000	360,400,000	+42,074,000	+1,198,000	+360,400,000	

DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1979

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	1978 enacted	1979 estimate	House bill	Senate bill
Law Enforcement Assistance Administration									
Salaries and expenses	644,582,000	651,488,000	641,488,000	656,488,000	646,488,000	+1,906,000	−5,000,000	+5,000,000	−10,000,000
Total, title II, Department of Justice: New budget (obligational) authority	2,376,662,000	2,471,002,000	834,441,000	2,484,437,000	2,473,086,000	+96,424,000	+2,084,000	+1,638,645,000	−11,351,000
(Limitation on expenses)	(6,328,000)	(5,081,000)		(5,081,000)	(5,081,000)	(−1,247,000)		(+5,081,000)	
TITLE III—DEPARTMENT OF COMMERCE									
General Administration									
Salaries and expenses	17,250,000	23,172,000	24,335,000	25,025,000	24,900,000	+7,650,000	+1,728,000	+565,000	−125,000
Special foreign currency program		500,000					−500,000		
White House Conference on Balanced National Growth and Economic Development	750,000					−750,000			
Total, general administration	18,000,000	23,672,000	24,335,000	25,025,000	24,900,000	+6,900,000	+1,228,000	+565,000	−125,000
Bureau of the Census									
Salaries and expenses	47,685,000	50,745,000	48,594,000	49,835,000	49,286,000	+1,601,000	−1,459,000	+692,000	−549,000
Periodic censuses and programs	83,130,000	237,355,000	175,000,000	196,800,000	196,800,000	+113,670,000	−40,555,000	+21,800,000	
Total, Bureau of the Census	130,815,000	288,100,000	223,594,000	246,635,000	246,086,000	+115,271,000	−42,014,000	+22,492,000	−549,000
Economic and Statistical Analysis									
Salaries and expenses	14,279,000	16,875,000	16,080,000	16,875,000	16,430,000	+2,151,000	−445,000	+350,000	−445,000
Economic Development Administration									
Economic development assistance programs	494,000,000	627,425,000	484,325,000	547,775,000	507,525,000	+13,525,000	−119,900,000	+23,200,000	−40,250,000
(By transfer)			(4,600,000)	(4,600,000)	(4,600,000)	(+4,600,000)	(+4,600,000)		
(Economic development revolving fund)			(58,000,000)	(75,000,000)	(75,000,000)	(+75,000,000)	(+75,000,000)	(+17,000,000)	
Local public works program	3,788,000	10,607,000		10,600,000	10,600,000	+6,812,000	−7,000	+10,600,000	
Administration of economic development assistance programs	28,285,000	28,827,000	28,690,000	29,950,000	29,300,000	+1,015,000	+473,000	+610,000	−650,000
Total, Economic Development Administration	526,073,000	666,859,000	513,015,000	588,325,000	547,425,000	+21,352,000	−119,434,000	+34,410,000	−40,900,000
Regional Action Planning Commissions									
Regional development programs	64,750,000	63,876,000	62,800,000	62,800,000	62,800,000	−1,950,000	−1,076,000		
Industry and Trade Administration									
Operations and administration	71,852,000	69,733,000	68,175,000	71,900,000	71,775,000	−77,000	+2,042,000	+3,600,000	−125,000
Minority Business Enterprise									
Minority business development	50,700,000	60,559,000	58,000,000	57,965,000	57,965,000	+7,265,000	−2,594,000	−35,000	
U.S. Travel Service									
Salaries and expenses	14,414,000	14,543,000	13,500,000	13,800,000	13,500,000	−914,000	−1,043,000		−300,700
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	628,344,000	661,167,000	651,770,000	674,000,000	660,650,000	+32,306,000	−517,000	+8,880,000	−13,350,000
(By transfer)			(5,000,000)		(5,000,000)	(+5,000,000)	(+5,000,000)		(+5,000,000)
Construction	15,500,000	44,000,000				−15,500,000	−44,000,000		
Coastal zone management	50,892,000	57,279,000	57,200,000	57,600,000	57,200,000	+6,308,000	−79,000		−400,000
Coastal energy impact fund	115,000,000	4,036,000		4,000,000		−115,000,000	−4,036,000		−4,000,000
Total, National Oceanic and Atmospheric Administration	809,736,000	766,482,000	708,970,000	735,600,000	717,850,000	−91,886,000	−48,632,000	+8,880,000	−17,750,000
National Fire Prevention and Control Administration									
Operations, research, and administration	14,199,000	17,826,000		18,300,000	17,395,000	+3,196,000	−431,000	+17,395,000	−905,000
Facilities	6,150,000					−6,150,000			
Total, National Fire Prevention and Control Administration	20,349,000	17,826,000		18,300,000	17,395,000	−2,954,000	−431,000	+17,395,000	−905,000
Patent and Trademark Office									
Salaries and expenses	94,360,000	94,753,000	93,600,000	93,600,000	93,600,000	−760,000	−1,153,000		
Science and Technical Research									
Scientific and technical research and services	76,966,000	95,520,000		88,150,000	87,700,000	+10,734,000	−7,820,000	+87,700,000	−450,000
National Telecommunications and Information Administration									
Salaries and expenses	8,233,000	11,981,000	10,965,000	12,000,000	11,500,000	+3,267,000	−481,000	+535,000	−500,000

DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1979

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	1978 enacted	1979 estimate	House bill	Senate bill
Maritime Administration									
Ship construction	135,000,000	157,000,000	----------	157,000,000	157,000,000	+22,000,000	----------	+157,000,000	----------
Operating-differential subsidies (appropriation to liquidate contract authority)	(352,000,000)	(262,800,000)	----------	(250,000,000)	(250,000,000)	(−102,000,000)	(−12,800,000)	(+250,000,000)	----------
Research and development	18,325,000	17,500,000	----------	17,500,000	17,500,000	−825,000	----------	+17,500,000	----------
Operations and training	56,250,000	57,328,000	----------	57,150,000	57,150,000	+900,000	−178,000	+57,150,000	----------
Total, Maritime Administration	209,575,000	231,828,000	----------	231,650,000	231,650,000	+22,075,000	−178,000	+231,650,000	----------
Total, title III, Department of Commerce:									
New budget (obligational) authority	2,110,102,000	2,422,607,000	1,793,034,000	2,262,625,000	2,200,576,000	+90,474,000	−222,031,000	+407,542,000	−62,049,000
(Liquidation of contract authorization)	(352,000,000)	(262,800,000)	----------	(250,000,000)	(250,000,000)	(−102,000,000)	(−12,800,000)	(+250,000,000)	----------
TITLE IV THE JUDICIARY									
Supreme Court of the United States									
Salaries and expenses	8,691,000	9,430,000	8,960,000	9,718,000	9,690,000	+999,000	+260,000	+730,000	−28,000
Care of the building and grounds	1,588,000	1,450,000	999,600	1,450,000	1,450,000	−138,000	----------	+450,400	----------
Total, Supreme Court of the United States	10,279,000	10,880,000	9,959,600	11,168,000	11,140,000	+861,000	+260,000	+1,180,400	−28,000
Court of Customs and Patent Appeals									
Salaries and expenses	1,066,000	1,099,000	1,099,000	1,099,000	1,099,000	+33,000	----------	----------	----------
Customs Court									
Salaries and expenses	2,985,000	3,055,000	3,055,000	3,055,000	3,055,000	+70,000	----------	----------	----------
Court of Claims									
Salaries and expenses	3,000,000	3,574,000	3,520,000	3,520,000	3,520,000	+520,000	−54,000	----------	----------
Courts of Appeals, District Courts, and Other Judicial Services									
Salaries of judges	39,700,000	40,258,000	40,258,000	40,258,000	40,258,000	+558,000	----------	----------	----------
Salaries of supporting personnel	152,400,000	167,077,000	164,300,000	166,195,000	166,195,000	+13,795,000	−882,000	+1,895,000	----------
Defender services	24,000,000	24,800,000	24,800,000	24,800,000	24,800,000	+800,000	----------	----------	----------
Fees of jurors and commissioners	23,250,000	23,250,000	20,750,000	20,750,000	20,750,000	−2,500,000	−2,500,000	----------	----------
Travel and miscellaneous expenses	27,600,000	32,274,000	31,700,000	31,914,000	31,914,000	+4,314,000	−360,000	+214,000	----------
Salaries and expenses of magistrates	17,500,000	19,471,000	18,400,000	19,441,000	19,441,000	+1,941,000	−30,000	+1,041,000	----------
Salaries and expenses of referees	34,000,000	35,315,000	35,300,000	35,300,000	35,300,000	+1,300,000	−15,000	----------	----------
Compensation and expenses of special masters	2,000,000	----------	----------	----------	----------	−2,000,000	----------	----------	----------
Space and facilities	89,700,000	99,577,000	99,400,000	98,400,000	98,400,000	+8,700,000	−1,177,000	−1,000,000	----------
Furniture and furnishings	7,500,000	8,616,000	8,500,000	8,500,000	8,500,000	+1,000,000	−116,000	----------	----------
Pretrial services agencies, the Judiciary	----------	5,000,000	----------	5,000,000	5,000,000	+5,000,000	----------	+5,000,000	----------
Total, courts of appeals, district courts, and other judicial services	417,650,000	455,638,000	443,408,000	450,558,000	450,558,000	+32,908,000	−5,080,000	+7,150,000	----------
Administrative Office of the United States Courts									
Salaries and expenses	11,075,000	12,562,000	12,250,000	12,250,000	12,250,000	+1,175,000	−312,000	----------	----------
Federal Judicial Center									
Salaries and expenses	6,749,000	8,744,000	8,025,000	8,025,000	8,025,000	+1,276,000	−719,000	----------	----------
Total, title IV, new budget (obligational) authority, the Judiciary	452,804,000	495,552,000	481,316,600	489,675,000	489,647,000	+36,843,000	−5,905,000	+8,330,400	−28,000
TITLE V—RELATED AGENCIES									
Arms Control and Disarmament Agency									
Arms control and disarmament activities	16,320,000	16,395,000	----------	16,395,000	16,395,000	+75,000	----------	+16,395,000	----------
Board for International Broadcasting									
Grants and expenses	75,900,000	85,180,000	----------	85,000,000	85,000,000	+9,100,000	−180,000	+85,000,000	----------
Commission on Civil Rights									
Salaries and expenses	10,846,000	10,752,000	----------	10,752,000	10,752,000	−94,000	----------	+10,752,000	----------
Commission on Security and Cooperation in Europe									
Salaries and expenses	347,000	521,000	350,000	521,000	521,000	+174,000	----------	+171,000	----------

DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1979

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	1978 enacted	1979 estimate	House bill	Senate bill
Equal Employment Opportunity Commission									
Salaries and expenses	84,550,000	110,000,000	110,000,000	107,000,000	107,000,000	+22,450,000	−3,000,000	−3,000,000	----------
Federal Communications Commission									
Salaries and expenses	64,550,000	68,196,000	68,535,000	70,446,000	70,446,000	+5,896,000	+2,250,000	+1,911,000	----------
Federal Maritime Commission									
Salaries and expenses	9,724,000	10,530,000	10,500,000	10,550,000	10,550,000	+826,000	+20,000	+50,000	----------
Federal Trade Commission									
Salaries and expenses	62,100,000	66,485,000	----------	65,900,000	64,750,000	+2,650,000	−1,735,000	+64,750,000	−1,150,000
Foreign Claims Settlement Commission									
Salaries and expenses	920,000	1,015,000	----------	----------	----------	−920,000	−1,015,000	----------	----------
(By transfer)	----------	----------	(1,015,000)	(1,015,000)	(1,015,000)	(+1,015,000)	(+1,015,000)	----------	----------
International Communication Agency									
Salaries and expenses	339,953,400	370,318,000	----------	368,000,000	368,000,000	+28,046,600	−2,318,000	+368,000,000	----------
Salaries and expenses (special foreign currency)	8,657,000	9,824,000	----------	9,824,000	9,824,000	+1,167,000	----------	+9,824,000	----------
Center for cultural and technical interchange between East and West	12,200,000	13,500,000	----------	13,500,000	13,500,000	+1,300,000	----------	+13,500,000	----------
Acquisition and construction of radio facilities	13,032,000	19,685,000	----------	19,685,000	19,685,000	+6,653,000	----------	+19,685,000	----------
Total, International Communication Agency	373,842,400	413,327,000	----------	411,009,000	411,009,000	+37,166,600	−2,318,000	+411,009,000	----------
International Trade Commission									
Salaries and expenses	12,213,000	13,113,000	----------	13,100,000	12,950,000	+737,000	−163,000	+12,950,000	−150,000
Japan-United States Friendship Commission									
Japan-United States friendship trust fund	1,000,000	1,500,000	1,500,000	1,500,000	1,500,000	+500,000	----------	----------	----------
(Foreign currency appropriation)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	----------	----------	----------	----------
Legal Services Corporation									
Payment to the Legal Services Corporation	205,000,000	304,000,000	285,000,000	255,000,000	270,000,000	+65,000,000	−34,000,000	−15,000,000	−15,000,000
Marine Mammal Commission									
Salaries and expenses	900,000	702,000	702,000	840,000	702,000	−198,000	----------	----------	−138,000
National Commission on the International Year of the Child									
Salaries and expenses	----------	1,360,000	----------	----------	----------	----------	−1,360,000	----------	----------
Office of the Special Representative for Trade Negotiations									
Salaries and expenses	2,751,000	2,665,000	2,665,000	2,665,000	2,665,000	−86,000	----------	----------	----------
Commission on Global Hunger and Malnutrition									
Salaries and expenses	----------	1,300,000	----------	1,500,000	1,300,000	+1,300,000	----------	+1,300,000	−200,000
Renegotiation Board									
Salaries and expenses	6,225,000	7,277,000	3,000,000	6,260,000	5,260,000	−965,000	−2,017,000	+2,260,000	−1,000,000
Securities and Exchange Commission									
Salaries and expenses	62,475,000	64,800,000	----------	64,650,000	64,650,000	+2,175,000	−150,000	+64,650,000	----------
Small Business Administration									
Salaries and expenses	176,000,000	165,100,000	180,000,000	193,000,000	187,000,000	+11,000,000	+21,900,000	+7,000,000	−6,000,000
(Transfer from disaster loan fund)	----------	----------	----------	----------	(13,000,000)	(+13,000,000)	(+13,000,000)	(+13,000,000)	(+13,000,000)
White House Conference on Small Business	----------	----------	----------	4,500,000	4,000,000	+4,000,000	+4,000,000	+4,000,000	−500,000
Business loan and investment fund	605,000,000	441,000,000	641,500,000	368,780,000	520,500,000	−84,500,000	+79,500,000	−121,000,000	+151,720,000
Disaster loan fund	2,643,000,000	190,000,000	230,000,000	230,000,000	230,000,000	−2,413,000,000	+40,000,000	----------	----------
Lease guarantees revolving fund	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	----------	----------	----------	----------
Surety bond guarantees revolving fund	47,000,000	27,000,000	35,000,000	40,000,000	35,000,000	−12,000,000	+8,000,000	----------	−5,000,000
Total, Small Business Administration	3,475,000,000	827,100,000	1,090,500,000	840,280,000	980,500,000	−2,494,500,000	+153,400,000	−110,000,000	+140,220,000

DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1979

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	1978 enacted	1979 estimate	House bill	Senate bill
U.S. Metric Board									
Salaries and expenses	275,000	1,800,000	----------	1,800,000	1,575,000	+1,300,000	−225,000	+1,575,000	−225,000
Total, title V, new budget (obligational) authority, related agencies	4,464,938,400	2,008,018,000	1,572,752,000	1,965,168,000	2,117,525,000	−2,347,413,400	+109,507,000	+544,773,000	+152,357,000
RECAPITULATION									
Grand total, titles I, II, III, IV, and V:									
New budget (obligational) authority	10,681,876,400	8,600,076,000	4,681,543,600	8,436,480,000	8,515,354,000	−2,166,522,400	−144,722,000	+3,833,810,400	+78,874,000
(Limitation on expenses)	(6,328,000)	(5,081,000)	----------	(5,081,000)	(5,081,000)	(−1,247,000)	----------	(+5,081,000)	----------
(By transfer)	----------	----------	(10,615,000)	(5,615,000)	(23,615,000)	(+23,615,000)	(+23,615,000)	(+13,000,000)	(+18,000,000)
Memorandums: (Appropriations to liquidate contract authorizations)	(352,000,000)	(262,800,000)	----------	(250,000,000)	(250,000,000)	(−102,000,000)	(−12,800,000)	(+250,000,000)	----------
Total appropriations, including appropriations to liquidate contract authorizations	11,033,876,400	8,922,876,000	4,681,543,600	8,686,480,000	8,765,354,000	−2,268,522,400	−157,522,000	+4,083,810,400	+78,874,000
Grand total, titles I, II, III, IV, V, and VI: Net budget (obligational) authority	10,681,876,400	8,660,076,000	4,588,717,900	8,436,480,000	8,515,354,000	−2,166,522,400	−144,722,000	+3,933,810,400	+78,874,000
Department of State	1,277,370,000	1,262,897,000	----------	1,234,575,000	1,234,520,000	−42,850,000	−28,377,000	+1,234,520,000	−55,000
Department of Justice	2,376,662,000	2,471,002,000	834,441,000	2,484,437,000	2,473,086,000	+96,424,000	+2,084,000	+1,638,645,000	−11,351,000
Department of Commerce	2,110,102,000	2,422,607,000	1,793,034,000	2,262,625,000	2,200,576,000	+90,474,000	−222,031,000	+407,542,000	−62,049,000
The Judiciary	452,804,000	495,552,000	481,316,600	489,675,000	489,647,000	+36,843,000	−5,905,000	+8,330,400	−28,000
Related agencies:									
Arms Control and Disarmament Agency	16,320,000	16,395,000	----------	16,395,000	16,395,000	+75,000	----------	+16,395,000	----------
Board for International Broadcasting	75,900,000	85,180,000	----------	85,000,000	85,000,000	+9,100,000	−180,000	+85,000,000	----------
Commission on Civil Rights	10,846,000	10,752,000	----------	10,752,000	10,752,000	−94,000	----------	+10,752,000	----------
Commission on Security and Cooperation in Europe	347,000	521,000	350,000	521,000	521,000	+174,000	----------	+171,000	----------
Equal Employment Opportunity Commission	84,550,000	110,000,000	110,000,000	107,000,000	107,000,000	+22,450,000	−3,000,000	−3,000,000	----------
Federal Communications Commission	64,550,000	68,196,000	68,535,000	70,446,000	70,446,000	+5,896,000	+2,250,000	+1,911,000	----------
Federal Maritime Commission	9,724,000	10,530,000	10,500,000	10,550,000	10,550,000	+826,000	+20,000	+50,000	----------
Federal Trade Commission	62,100,000	66,485,000	----------	65,900,000	64,750,000	+2,650,000	−1,735,000	+64,750,000	−1,150,000
Foreign Claims Settlement Commission	920,000	1,015,000	----------	----------	----------	−920,000	−1,015,000	----------	----------
International Communication Agency	373,842,400	413,327,000	----------	411,009,000	411,009,000	+37,166,600	−2,318,000	+411,009,000	----------
International Trade Commission	12,213,000	13,113,000	----------	13,100,000	12,950,000	+737,000	−163,000	+12,950,000	−150,000
Japan-United States Friendship Commission	1,000,000	1,500,000	1,500,000	1,500,000	1,500,000	+500,000	----------	----------	----------
Legal Services Corporation	205,000,000	304,000,000	285,000,000	255,000,000	270,000,000	+65,000,000	−34,000,000	−15,000,000	+15,000,000
Marine Mammal Commission	900,000	702,000	702,000	840,000	702,000	−198,000	----------	----------	−138,000
National Commission on the International Year of the Child	----------	1,360,000	----------	----------	----------	----------	−1,360,000	----------	----------
Office of the Special Representative for Trade Negotiations	2,751,000	2,665,000	2,665,000	2,665,000	2,665,000	−86,000	----------	----------	----------
Commission on Global Hunger and Malnutrition	----------	1,300,000	----------	1,500,000	1,300,000	+1,300,000	----------	+1,300,000	−200,000
Renegotiation Board	6,225,000	7,277,000	3,000,000	6,260,000	5,260,000	−965,000	−2,017,000	+2,260,000	−1,000,000
Securities and Exchange Commission	62,475,000	64,800,000	----------	64,650,000	64,650,000	+2,175,000	−150,000	+64,650,000	----------
Small Business Administration	3,475,000,000	827,100,000	1,090,500,000	840,280,000	980,500,000	−2,494,500,000	+153,400,000	−110,000,000	+140,220,000
U.S. Metric Board	275,000	1,800,000	----------	1,800,000	1,575,000	+1,300,000	−225,000	+1,575,000	−225,000
Grand total	10,681,876,400	8,660,076,000	4,681,543,600	8,436,480,000	8,515,354,000	−2,166,522,400	−144,722,000	+3,933,810,400	+78,874,000

Mr. HOLLINGS. Yesterday, when the conference report was considered by the other body they turned it down by a vote of 143 to 191 the recommendations of the managers with respect to amendment No. 9 dealing with the appropriation for contributions to international organizations. During Senate consideration of the bill the Senator from North Carolina (Mr. HELMS) successfully amended the bill to decrease the committee's recommendation by $27,716,000 and prohibited the use of funds for the technical assistance by the United Nations or any of its specialized agencies. We accepted that amendment at that time because it had been this committee's position that all of the technical assistance, both in the assessed budgets and the voluntary contributions to the international agencies should be budgeted in one place. However, in accepting that amendment we pointed out that last year the House was adamant that the technical assistance in the assessed budgets continue to be funded by this bill.

In conference the House managers did insist that the $27 million be restored and they pointed out that these are obligations of the United States pursuant to treaties and international agreements and must be paid to retain our membership. We receded to them, but yesterday the full House of Representatives reversed that decision and voted that the House recede to the Senate's position.

The House itself has now spoken clearly in support of the Senate's position. Let me add that this is not only the Senate's position but it has been the longstanding position of the State Department that all of the technical assistance flow through the United Nations development program. The GAO and our Governmental Affairs Committee, are as of the same mind. Now that we have come to full agreement I would expect the State Department to submit a supplemental budget request for the $27,716,000 and that it will be handled by the Foreign Assistance Subcommittees so that we can finally obtain our goal of one subcommittee reviewing both the assessed and the voluntary amendments for technical assistance provided by the United Nations and its specialized agencies.

This action does not reach the ultimate goal of all the technical assistance flowing through the United Nations development program. Our colleagues who strongly support the World Health Organization and the Food and Agriculture Organization, wherein there have been major increases in the technical assistance in the assessed budgets, should not regard this as a final decision on that matter. As indicated previously there is a large body that believes that technical assistance should not be included in the assessed budgets but that must wait for later resolution by the authorizing committees.

Mr. President, I believe I have adequately covered the highlights of the conference agreement. Let me yield now to the Senator from Connecticut (Mr. WEICKER), the ranking Republican Member.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from South Carolina. I yield first for a question to the distinguished Senator from Alaska (Mr. STEVENS), and then will make my comments.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, will the distinguished Senator from South Carolina yield to me for a question?

Mr. HOLLINGS. I yield.

Mr. STEVENS. The House managers insisted during the course of the conference, I am informed, that the Senate recede to the budget figure for the Marine Mammal Commission. The additional $138,000 which the Commission would have received had the Senate version of the bill been acceptable was to go for research. This research is of the highest priority, and I am wondering if the chairman of the subcommittee can express his position or that of the committee on what can now be done to encourage the Commission to proceed on the matter of this research as expeditiously as possible.

Mr. HOLLINGS. Yes. Mr. President, the Senator from South Carolina is happy to respond to the misgivings of our distinguished colleague from Alaska. As he knows, I am just as disappointed as he in not being able to hold the Senate amount for the Commission. However, we did provide the full amount budgeted, and I have written to the Executive Director of the Commission and asked that the highest priority be given, within the amount appropriated, for the research programs the Senator is interested in.

A little earlier the Senator from Ohio and the Senator from New Mexico were talking about research. In the field of marine science research is just as important and I am confident, on the basis of this legislative history, that they will program the fullest amount they can for such research.

Mr. STEVENS. I am, as the Senator knows, very much interested in the review of the International Whaling Commission's activities, and in particular the research that must be done to enable that Commission to make the determinations that they must make on a factual basis; so we are very hopeful, since it relates, of course, to the Alaska Whaling Commission and the bowhead whale, that the Marine Mammal Commission will find a way, within the amounts that are appropriated under this bill, to use funds to carry on the work that could have been done had the $138,000 been specifically authorized.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that my letter to the Marine Mammal Commission dated September 25, 1978, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 25, 1978.

Mr. JOHN TWISS,
Executive Director, Marine Mammal Commission, Washington, D.C.

DEAR MR. TWISS: As you undoubtedly know, the House managers insisted that we recede to the Administration's figure for the Marine Mammal Commission during the conference on the State, Justice, Commerce Appropriations bill.

The additional $138,000 which the Marine Mammal Commission would have received had the Senate version of the bill been approved would have expanded the review of the International Whaling Commission's activities, as well as reviewing the various determinations that have to be made in returning certain marine mammals to State jurisdiction.

These issues have been of tremendous concern to the Committee on Commerce, Science, and Transportation and the Subcommittee believes that both of these reviews should be among the Commission's highest priorities. We are confident that they can be conducted within the lower amount provided by the conference agreement and would be highly receptive to a reprogramming to carry out these objectives.

With every good wish,

Sincerely,

ERNEST F. HOLLINGS,
Chairman, State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee.

Mr. HOLLINGS. I thank the Senator from Connecticut.

(Mrs. HUMPHREY assumed the chair as Presiding Officer.)

Mr. WEICKER. Madam President, first I would like to express my appreciation to the distinguished Senator from South Carolina for his handling of the matters relative to the State-Justice-Commerce appropriations bill, both during the course of the hearings and in conference. I think, in the main, it is a very fine piece of legislation.

I think the compromises made during the course of the conference gave full scope to the views contained in the House and the Senate versions. However, I would like to use this occasion to express my views on an aspect of the legislation that has been argued on this floor before, and more particularly I would like to do so in relations to the concern that has been shown relative to Humphrey-Hawkins, both outside this Chamber and inside, during the past few days.

The fact is that on the floor of the Senate, when the matter of the appropriation was being debated, we went ahead and cut $75 million from EDA under title II, business loans.

EDA is an ongoing entity. It is one of the most successful programs to be launched by this Government in the sense that it involves the private sector of our economy, and more particularly the private sector in the creation of jobs and the assistance of private enterprise and small business in our urban areas in the creation of jobs through private enterprise, not through Government.

I find it a little perplexing that we cut $75 million out of EDA and at the same time we are talking about a new program, Humphrey-Hawkins, and the creation of jobs through Government. It makes no sense. Unless there is some political end to be gained by all the emphasis and all the rhetoric on Humphrey-Hawkins, I do not see where the jobs are enhanced by having to take that piece of legislation and put it through the entire implementation process and the enormous amount of time that consumes, when, just a month ago, on this floor, we took an ongoing program and cut it, at random, by $75 million.

So let us understand the dichotomy, the contradiction in what it is the Senate has been doing. EDA has not had the great political buildup that Humphrey-Hawkins has had, but it is an on-going program, and it is the most effective program within the Federal establishment in the creation of jobs. But instead of utilizing it, we cut it back, and while we are doing that, while the Senate is doing that, we are out going ahead and pumping for a brand new program the effect of which we know nothing about—greater bureaucracy and more experimentation with no guarantee of results.

We wonder why the taxpayers feel we are not handling their money wisely. It is because of an exercise such as that that they are left very perplexed, and I must confess that I am, too.

One last comment as to the conference report, and these differences were aired on the floor. I want to say for my part I think a little too vigorously during debates on the appropriations bill, for which I apologize to the distinguished Senator from South Carolina.

It does not take away from my very strong opposition to across-the-board cuts relative to the appropriation process.

The Senator from South Carolina and his very able staff, Warren Kane, and this Senator, and Tim Keeney, of my staff, and others, spent many months in hearings and evaluations on this particular appropriation for State, the Department of Justice, the Commerce Department, and the Judiciary.

We had to make choices, and they were not easy. We had to allocate priorities. Throughout the entire appropriations process it was fully in the mind of the distinguished Senator from South Carolina to come within the budget, if not below it. Indeed, he did just that. Then at the last minute this bill, along with many others, was caught in this across-the-board cut fever.

I have already mentioned the cut that took place insofar as EDA was concerned. That was the creation of jobs through the private sector. It was not a Government program. It was a stimulation of business, and especially business in urban areas. As a result, employment follows.

Next, I might mention that we cut moneys in the area of narcotics enforcement. We cut funds in the area of anti-terrorism activities. We cut funds that were supposed to go to sea grants, which are the Government grants to the various universities around this Nation to further explore oceans.

The point I want to make is this: I feel everybody in this country, or at least it is my observation, feels that when we talk about across-the-board cuts, those who advocate that approach conceive that the cuts are going to affect the other fellow, and indeed I will say it right out here now, mainly that they are going to affect the disadvantaged in this country. That, indeed, the cuts do not apply to white, middle-class Americans.

Well, I think narcotics enforcement is something that affects all of us. I think

antiterrorism or terrorism activities affect all of us. The exploration and development of the oceans applies to all of us. Business development in the urban areas applies to all of us.

Believe me, if we follow this kind of a philosophy much longer, it will go into the defense budget, it will go into medical research, it will go into education, but, most importantly, it will go into every home in America.

I find it strange that a Nation in which only 50 percent of the people vote is at this time in its history groping around saying: "We do not have any system. We want to get a handle on government, so we have to go the across-the-board route, or we have to go the constitutional Proposition 13 route."

No system? What is the free election process?

To my way of thinking it is the handle on Government if people will choose to grasp it.

If the legislators cannot do the job of spending money wisely, kick them out. But to say there is no system admits the failure of freedom in a democracy.

The distinguished Senator from South Carolina and myself were sent down here—up here to him but down here to me—to make choices. We are not sent here to push buttons and to act as robots, but to make the tough choices as to what it is that is important. I think overall we have done a fairly good job of that. But I use this occasion to speak out against any sort of a system which would impair that judgment. If we make the right decisions, fine, we can be reelected. If we make the wrong ones, so be it. It is out there for all to see. Our whole system of Government is one of accountability.

You cannot kick a computer or a robot out of office. You can kick human beings out of office.

So. Madam President, I urge the adoption of the conference report, even though I have expressed my disappointment as to one aspect of it. I suppose principally I make these remarks today, because there will be another day, one year hence, and I suggest that if there is dispute with this committee by Members within this body that they come before the committee and tell us what it is they want cut. The only time we ever see any Senators is when they come in with their pet project which they want added on. If there is a great concern about cutting, I want to see, in the coming year during the appropriation process of the State, Justice, Commerce, and the Judiciary Senators coming in and specifically telling us what to cut. I want well publicized what they want cut.

One last comment on that: It is very easy to advocate tax cuts. You do not get tax cuts unless you cut spending. Nobody wants to cut spending, because that is a direct assault on various people, all of whom are voters. So they come to the end of the equation and they say, "Cut taxes." For my business types who have been yelling around the United States all these years that there is not anything such as a free lunch, and there is not, there is not anything like a tax cut. Cut spending, fair enough, but let us not do it at the last minute across the board. Let us do it in a well-publicized way before the committee.

Speaking for myself, I will not, in my area of priorities, give up on the cities or on what needs to be done in drug enforcement, terrorism, or exploration of the oceans. These are priority items. Hopefully, they will be addressed as such in the next session of the Congress.

I urge the adoption of the conference report.

Mr. HOLLINGS. Madam President, I thank my distinguished colleague. Of course, the record speaks for itself. The President did reduce the amount for terrorism, but we went along with the authorizing committee and increased it to the amount the authorizing committee did allow, which was $2 million more than the budget. We also went the full amount of the budget request with respect to the Drug Enforcement Agency for narcotics. We gave every dollar asked for by DEA. The Senator from Connecticut and myself are both very interested in it.

I want to emphasize the point being made by the Senator from Connecticut, which I think is a most significant point at this time. That is that we do have a system. It is unfortunate that many of us in public life tend to mislead. We are pressured by groups. We respond to the pressure by saying, "Yes, we will put in a bill, and we will do it." We presume that the measure itself will solve the problem.

Computerized government in this day of impatience and oversimplification has caused great disappointment.

Eric Severeid left the other night after 40 years of service with CBS. In commenting to a group of friends, he said one impression of the change now from the time he started back in 1938 was that back in those days they were all very simple answers, that there were black-white issues of depression, war, McCarthyism. But today there are no simple answers. To infer, as the ends of the spectrum insist, that the problem will be solved by that particular bill, is very misleading and does a great disservice.

On the one hand, as the Senator from Connecticut says, if we come in, as the business community says, or Proposition 13, "Thou shall pay the bill, let us get a constitutional amendment to balance the budget," I speak from one State that had that in the constitution from 1895 up until 1959, when we did balance that budget in 1959 and received, for the first time, a AAA credit rating on our bonds.

But the Constitution did not bring it in line. In essence, the legislature and the discipline within the legislative branch were the determining factors. I think that is the road we are started on now in the national Congress with our Budget Committee. I commend it and I hope we continue to support it.

The other end of the spectrum says, look, all you do is pass labor law reform, everybody is a member of the union, and we shall all gain power and control. They say most respectfully, on Humphrey-Hawkins, just pass it and everybody will have a job. Every one knows that if I could introduce a bill, or any Senator, that immediately employs the unemployed, we would introduce the bill immediately and get it enacted if it did not have the devastating effect of inflation and, therein, recession or a depression. Economically, you cannot just say, bam, everybody is hired. We must take into consideration the other facets of our economy.

As our great departed friend, Hubert Humphrey, said, America on the road to freedom is not a 100-yard dash but an endurance contest. We do have a system and it takes a lot of work. It takes endurance and perseverance. I think we ought to stop misleading, as the Senator from Connecticut said, and get down to the work of Congress itself.

Now, with respect to this, I, too, resisted an across-the-board cut, because it gives no consideration to the priorities that Senators study and propose, as we develop, through the subcommittee and the committee process, the bill and bring it to the floor. When the fever, let us say for lack of a better expression, caught us, our bill had been marked up by the subcommittee and we had cut below the President's budget. However, we thought perhaps there could be even additional cuts since we already had votes on the floor on across-the-board cuts. I see the distinguished ranking member from the Republican side of our Appropriations Committee and he knows this situation. I then sat down with Senators and staff and worked out what I thought was a little grocery list of items that may be cut that would constitute a sort of percentage cut in some minds to forego the willy-nilly damage to the high-priority items. At the time the Appropriations Committee marked it up, I submitted that list after conferring with the chairman of the Committee on Appropriations, who asked me to withhold it at the time. He said, no, let us not bring that up at the full committee. Let us see, and maybe later bring it up on the floor. And of course, he supported it on the floor.

I did submit it to my colleagues on the Appropriations Committee, asking them for their suggestions. We do not want to prolong that little difference between my distinguished colleague from Connecticut and myself. We are reconciled, we are getting together, we shall work just as hard as we ever did before. I, too, want to urge adoption of the report.

Now, I ask the Senator's attention with respect to one item that the senior Senator from Maine, Mr. MUSKIE, was vitally interested in. He is interested in the Roosevelt Campobello International Park Commission. It so occurs that Public Law 88–363 authorizes the Attorney General to provide legal services to that commission. Yet we do have in our report on page 10 the language that: "The conferees have provided no funding for private counsel fees. In the event any such funds are required, the conferees direct the Department to submit a reprogramming request before any funds may be obligated."

The leadership on this score was given by the Senator from Connecticut. If I understand the thrust of his concern, it

is that he did not want to be providing private counsel at government expense to government employees charged in civil actions that may also result in a criminal indictment, that we ought to look those over if and when the Attorney General is so disposed. But in nowise did we want to negate the effect of Public Law 88–363 in authorizing the Attorney General s department to furnish counsel to private citizens.

Mr. WEICKER. The Senator from South Carolina is absolutely correct as to his interpretation of that part of the report.

Mr. HOLLINGS. Mr. President, I move the adoption of the conference report. We shall have to withhold, under the unanimous-consent agreement for the yeas and nays on that until 10:30.

I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. LEAHY. Mr. President, I am going to vote for the conference report on State and Justice. I believe my colleagues, however, should be made aware of a major controversy over restrictive language proposed by some Members regarding the FTC. I have opposed this language in committee.

I have a number of reasons for opposing this language.

On June 9, 1978, the Senate Appropriations Subcommittee on State, Justice, and Commerce agreed to report to the full Appropriations Committee its recommendations on the budget for these agencies. The subcommittee in its markup agreed that its recommendations would include a 25-percent cut in the personnel increase requested by the FTC. Accompanying this cut was a direction that the subcommittee report contain language reprimanding the Federal Trade Commission for its investigation into children's advertising. Although this cut and language were not intended to prohibit the FTC from continuing its investigation into the effects of advertising directed at children, they were intended to be a strong message of concern to the agency about its investigation.

I disagreed with the cut and the language when this subcommittee "marked up" the budget and I disagree with it now.

The report language introduced by Mr. WEICKER expressing the view that broadcasters' first amendment rights were threatened by the FTC's inquiry into television advertising directed to children is a valid concern. However, Mr. WEICKER's language raises some fundamental questions. I do not understand why an FTC inquiry into advertising to children becomes "an effort whereby Government rather than the Constitution becomes the arbiter of what this Nation will see, hear, and read." Anyone who has studied the FTC's procedures developed under authority granted by this Congress recognizes there are sufficient, even extraordinary, opportunities for due process in those FTC proceedings. The courts have regularly reviewed such proceedings and insured that all parties have their opportunity to speak. The courts have upheld the concept of regulatory rulings as being within the "constitutional process."

I am aware that in matters pertaining to children and commercial practices, both the general welfare clauses of the Constitution and the first amendment thereto, may have to be weighed. In commercial law, both parties are presumed to be prudent, and any unfairness or deception is considered against this standard. But in the advertising of products to children aged 4, 5, and 6, the receiver of the advertising message can be presumed to be imprudent. The basic questions then arise: what responsibility is placed on the conveyor of an advertising message? For the youngest children, does their probable noncomprehension of the selling purpose of an advertisement render it impossible to be fair in commercial communication to them? If the FTC moves to protect children in this instance, children's welfare must be juxtaposed with a broadcaster's rights to air commercial messages.

For older children, does their probable noncomprehension of the omission of nutritional and dental facts in the 10,000 food commercials seen yearly render the commercials unfair to the child audience? Again, children's welfare must be juxtaposed with broadcasters' rights to air messages devoid of nutritional and dental facts.

I am certain that the courts ultimately will have to decide if children's welfare warrants constraints on certain types of advertising. If the FTC finds that children can be protected by certain restraints and devices short of a ban, the first amendment issue is almost moot. In any event, this is a matter for the highest courts to decide. It is not for an appropriation subcommittee to prejudge. I believe the only fair and just basis for the courts to make such a ruling is for the FTC to proceed with its announced inquiry, subject to its own built-in checks and balances. The chairman of the FTC has confirmed to our satisfaction that the Commission will explore every aspect of children's vulnerability as well as every alternative remedy to protect children if such protection is found to be warranted.

I underscore for the FTC Senator WEICKER's language on June 9 at our subcommittee meeting. He said:

> We are sending a strong message to the FTC. But we are concerned with false and deceptive advertising in the eyes of the viewer.

This must be recognized by the FTC as it scrutinizes unfair and deceptive advertising. With children, it is their perception, their understanding or misunderstanding that should become the major determinant of whether a commercial practice is unfair, false or deceptive. Children witness some 4,200 minutes of edible product advertising a year. This has some impact on them and on society. Let us find out through carefully designed hearings at the FTC what the consequences are.

With sponsors and broadcasters funneling over 20,000 polished commercials into a typical American child's mind each year, a nonparental influence of some magnitude is being exercised on the Nation's young. We should learn if this is a constructive educational process or a deleterious and undermining one. If it is the former, few FTC controls are anticipated. If the latter, the FTC will recommend how to alert parents as well as children to the inadequacy of the present messages coming with such force into the American home. As parents, we will benefit from such an inquiry in that we will understand better the scope of the problem and how to convey such understanding to our children.

Whether or not the FTC is the appropriate regulatory body to conduct such an inquiry has also been questioned. Chairman HOLLINGS has suggested that the Congress look into this matter in legislative hearings.

With regard to possible FTC/FDA overlap, I would raise the following points. The FDA recognizes that while the ingredients of a food may be declared safe for human consumption, the advertising of such food may be grossly unfair and deceptive. Protein supplements are a classic case in point. The FDA also has recognized that while certain foods have been declared safe, excessive consumption of certain types of safe foods can be dangerous. Salt is an example to those suffering from hypertension. The FDA is on record as supporting the FTC's entry into this issue of children's advertising.

While I am interested in a congressional review of the issues involved with children's advertising, I do believe this holding precludes the FTC from investigating this very complicated and important problem. The Congress created the FTC and gave it rulemaking powers. Monitoring fair business practices is one of its mandates. With children now being the object of extensive commercial solicitation, it is more than appropriate that the FTC extend its procedures to them. If anything, the FTC is tardy in its attention to children and other vulnerable audiences.

Instead of obstructing the FTC, I think this subcommittee should have followed a policy of encouragement of FTC's. Chairman HOLLINGS in last year's budget hearings, discussed consumer protection for the poor with ex-Chairman Collier. Advised of the FTC's plans, Senator HOLLINGS said, "This is a valid area of investment of personnel. We get into the children's area, which is the perfect area for you to get into. It is never going to be gotten into otherwise."

Later, in our committee report, on the State, Justice, Commerce, the Judiciary, and Related Agencies Appropriation Act for fiscal year 1978, the committee reinforced this message saying:

The committee shares the Commission's growing concern about the effects of advertising on children. The committee therefore encourages the Commission to review its current expenditures to de-

termine if sufficient funds can be made available from fiscal year 1977 resources to implement a viable program in this critical area.

It is for the above reasons that I objected to the subcommittee's cutting of the FTC funds and the inclusion of the reprimand in the report.●

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar Order 893, S. 2693.

Mr. STEVENS. Reserving the right to object, Mr. President, and I shall not object, let me inquire of the majority leader. We had a consent to vote between 10:30 and 11. I have discussed the matter with the distinguished manager of the bill, the Senator from Washington. He indicated he would like to continue with consideration of the Department of Energy bill, to see if it is possible to finish that before 11. I take it that means the vote will occur at 11.

Mr. ROBERT C. BYRD. The vote was to occur no later than 11. It would mean it would occur at 11 now. Do the distinguished Senator, the Republican Whip, the distinguished Senator from Connecticut, who is the minority manager of the conference report, and the distinguished Senator from South Carolina, who is the manager of the conference report on my side of the aisle, wish to delay vote beyond 11 a.m.?

Mr. STEVENS. No, 11 a.m. is agreeable. I just checked that out. It will be agreeable to withhold as long as the Senator from Washington wants, as long as we continue to have the vote at 11.

Mr. ROBERT C. BYRD. Is that correct?

I ask the Chair if that is her analysis.

The PRESIDING OFFICER. A vote on the conference report could occur before 11 if action has been completed on S. 2693 before that time.

Mr. ROBERT C. BYRD. But no later than 11?

The PRESIDING OFFICER. No later than 11 o'clock.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request?

Mr. ROBERT C. BYRD. The request is already in.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. What is so ordered?

The PRESIDING OFFICER. Proceeding to S. 2693.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 2693) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979 and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services, with an amendment, and from the Committee on Energy and Natural Resources, with amendments to the amendment of the Committee on Armed Services.

The amendment of the Committee on Armed Services is to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this title referred to as the "Department") for fiscal year 1979 for operating expenses incurred in carrying out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy as follows:

(1) For Weapons Activities, $1,237,194,000;

(2) For Defense Intelligence and Arms Controls, $32,600,000;

(3) For Special Material Production, $514,500,000; and

(4) For Program Direction and Management Support Related to National Security Programs, $47,151,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979, for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For weapons activities:

Project 79–7–a Tonopah Test Range upgrade, Phase II, Sandia Laboratories, Albuquerque, New Mexico, $4,000,000.

Project 79–7–b, fire protection improvements, Los Alamos Scientific Laboratory, Los Alamos, New Mexico (A-E and long lead procurement only), $2,000,000.

Project 79–7–c, proton storage ring, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $5,000,000.

Project 79–7–d, water cooling station upgrade, Lawrence Livermore Laboratory, Livermore, California, $2,300,000.

Project 79–7–e, production and assembly facilities, Pantex Plant, Amarillo, Texas, $10,000,000.

Project 79–7–f, stockpile quality evaluation facility, Y–12 Plant, Oak Ridge, Tennessee, $2,300,000.

Project 79–7–l, Systems R&D Lab, Sandia Laboratories, Albuquerque, New Mexico (A-E), $1,000,000.

Project 79–7–m, Weapons Materials Analytical Lab, Pantex Plant, Amarillo, Texas, $1,500,000.

Project 79–7–n, utility systems restoration, Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 79–7–o, universal pilot plant, high explosives, Pantex Plant, Amarillo, Texas, $3,500,000.

Project 79–7–p, facilities for new modern strategic bomb, various locations, $28,000,000.

(2) For special materials production:

Project 79–7–h, utilities replacement and expansion, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $10,500,000.

Project 79–7–i, transmission, and distribution systems upgrading, Richland, Washington, $7,000,000.

Project 79–7–j, pollutant discharge elimination, Savannah River, South Carolina, $9,000,000.

(3) For defense waste management:

Project 79–7–k, waste management facilities, Savannah River, South Carolina, $25,000,000.

(4) For project 79–6, general plant projects—

(A) for weapons activities, $26,400,000,

(B) for special materials productions, $15,250,000; and

(C) for waste management, $5,950,000.

(5) For project 79–8, plant engineering and design—

(A) for special materials production, $1,500,000;

(B) for defense waste management, $12,000,000; and

(C) for military application, $32,000,000.

(6) For capital equipment not related to construction—

(A) for weapons activities, $86,400,000;

(B) for special materials production, $32,000,000;

(C) for waste management, $8,000,000; and

(D) for program direction and management support, $300,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 103. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979, for national security projects previously authorized by law, as follows:

(1) For project 74–1–b, replacement ventilation air filter, F Chemical Separations Area, Savannah River, South Carolina. $2,100,000; for a total authorization of $7,300,000.

(2) For project 75–7–c, intermediate-level waste management facilities, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $1,000,000; for a total authorization of $11,500,000.

(3) For project 77–13–a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $50,000,000; for a total authorization of $65,000,000.

(4) For project 77–13–f, waste isolation pilot plant, Delaware Basin, southeast New Mexico, $40,000,000; for a total authorization of $68,000,000.

(5) For project 78–16–c, high explosive flash radiography facility, Lawrence Livermore Laboratory, Livermore, California, $5,900,000; for a total authorization of $10,900,000.

(6) For project 78–16–d, weapons safeguards, various locations, $9,000,000; for a total authorization of $26,000,000.

(7) For project 78–16–g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $5,700,000; for a total authorization of $6,300,000.

(8) For project 78–16–i, laboratory support complex, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $14,000,000; for a total authorization of $16,000,000.

(9) For project 78–17–a, production component warehouse, Plantex Plant, Amarillo, Texas, $2,550,000; for a total authorization of $2,800,000.

(10) For project 78–17–c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, Livermore, California, $11,000,000; for a total authorization of $12,300,000.

(11) For project 78–17–d, steam plant improvements, Y–12 Plant, Oak Ridge, Tennessee, $7,000,000; for a total authorization of $10,000,000.

(12) For project 78–18–a, high level waste storage and waste management facilities,

Richland, Washington, $9,000,000; for a total authorization of $27,000,000.

(13) For project 78–18–e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $13,000,000; for a total authorization of $28,500,000.

TITLE II—DEFENSE PROGRAMS WITH POTENTIAL CIVILIAN APPLICATION

OPERATING EXPENSES

SEC. 201. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this title referred to as the "Department") for fiscal year 1979 for operating expenses incurred in carrying out national security programs including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy, as follows:

(1) For Inertial Confinement Fusion, $104,000,000.

(2) For Naval Reactor Development, $265,600,000.

(3) For Nuclear Materials Security and Safeguards, $40,089,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 202. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979 for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For project 79–6, general plant projects, for naval reactor development, $3,000,000.

(2) For capital equipment not related to construction—

(A) for laser fusion, $8,200,000;

(B) for naval reactor development, $22,000,000; and

(C) for nuclear materials security and safeguards, $3,000,000.

(3) For project 79–8, plant engineering and design—

(A) for laser fusion, $1,000,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 203. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979 for projects previously authorized by law, as follows:

(1) For project 77–13–g, safeguards and security upgrading, production facilities, multiple sites, $3,800,000; for a total authorization of $20,200,000.

(2) For project 78–4–a, high energy laser facility (NOVA), Lawrence Livermore Laboratory, Livermore, California, $187,000,000; for a total authorization of $195,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. Section 625(b) of the Department of Energy Organization Act (91 Stat. 598) is amended by striking out the second sentence.

SEC. 302. None of the funds authorized to be appropriated by this or any other Act may be obligated or expended for the development of a nuclear warhead for the SM–2 standard missile until an arms control impact statement for such warhead has been filed with the Congress.

The amendments of the Committee on Energy and Natural Resources are as follows:

On page 17, line 22, stike "$104,000,000" and insert "$101,600,000";

On page 18, line 2, strike "$40,089,000" and insert "$45,089,000";

On page 18, line 15, strike "$8,200,000" and insert "$9,400,000";

On page 19, line 11, strike "$187,000,000" and insert "$10,000,000";

On page 18, line 12, strike "$195,000,000" and insert "$18,000,000";

So as to make the bill read:

That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979".

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(B) for naval reactor development, $22,000,000; and

(C) for nuclear materials security and safeguards, $3,000,000.

(3) For project 79-8, plant engineering and design—

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ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 203. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979 for projects previously authorized by law, as follows:

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SEC. 301. Section 625(b) of the Department of Energy Organization Act (91 Stat. 598) is amended by striking out the second sentence.

SEC. 302. None of the funds authorized to be appropriated by this or any other Act may be obligated or expended for the development of a nuclear warhead for the SM-2 standard missile until an arms control impact statement for such warhead has been filed with the Congress.

Mr. JACKSON. Madam President, I ask unanimous consent that during the Senate's consideration of S. 2693, the fiscal year 1979 Department of Energy nuclear weapons production bill, that the following members of the staff of the Senate Committee on Armed Services be granted the privilege of the floor: Mr. Frank Sullivan, Mr. Jim Smith, Mr. Jack Ticer, Mr. Robert Old, Mr. Rhett Dawson, Ms. Phyllis Bacon, Ms. Marie Dickinson; Frank Gaffney of my staff; Will Smith, Chuck Trabandt, Ben Cooper and Mike Harvey of the Senate Energy Committee staff; also Robert Paquin of Senator LEAHY's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Madam President, I yield to the Senator from North Carolina.

Mr. HELMS. Madam President, I make the same request for John Carbo of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, I ask unanimous consent that Mr. Ed Kinney of the Armed Services Committee, Mr. Hadden and Mr. Hultman of the Judiciary Committee staff, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Madam President, I ask unanimous consent that Mr. Butch Almstedt, of Senator DANFORTH's staff, have the privilege of the floor on the State-Justice-Commerce and DOE appropriations bill and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Madam President, I ask unanimous consent that the following staff members have the privilege of the floor: Van Boyette, Brook Feingerts, and Bob Shapiro.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Madam President, the bill before the Senate, S. 2693, authorizes appropriations for the Department of Energy defense programs for fiscal year 1979. Most of the bill was referred to the Committee on Armed Services; however, title II of the bill was referred jointly to the Armed Services and Energy and Natural Resources Committees since programs in this title the inertial confinement fusion effort, naval reactor development and nuclear materials security and safeguards programs also have implications for our national energy efforts as well as possible civilian application.

For these defense activities for the Department of Energy the bill authorizes $2,971,484,000—which is $48,800,000 below the President's request. The authorization covers programs involving the overall production of nuclear weapons, nuclear naval propulsion, production and control of special nuclear materials, the inertial confinement fusion program, as well as new plant and capital equipment requirements and increased authorization for prior year projects.

The total authority in this bill reflects a 12-percent increase over last year's authority. These defense activities are of crucial importance to the United States. These activities:

Underwrite, with advance weapon and propulsion technology, our strategic deterrent forces and our theater nuclear forces.

Maintain the safety, security, and reliability of the components and weapons making up these forces.

Contribute to an intelligence and technology base for verification in support of arms control proposals.

This is the second year that the Committee on Armed Services has exercised its jurisdiction over the Energy Department's national defense programs. Since the phase out of the Joint Committee on Atomic Energy, the Committee on Armed Services has undertaken the responsibility to oversee the extremely important and high complex issues involved in producing our Nation's nuclear weapons and insuring that they are the best that modern technology can produce. Our strategic nuclear arsenal, Madam President, must be sufficiently capable and credible to permit the United States to remain a world power.

Madam President, before I yield to my colleague, the distinguished Senator from North Carolina, who will control the time for the minority on this bill, I want to recognize the efforts of Mr. Don Cotter, who until just recently, was a member of the Armed Services Committee staff and who worked so diligently to help the committee in putting this bill together. Don Cotter is one of the leading experts in the world today on nuclear weapons matters and even though he has left the committee staff, I know that we can count on his valued counsel in the future.

Madam President, this bill is vital to our national security interests. I invite my colleagues' attention to the committee report for details on specific programs. I urge that the bill be passed.

Madam President, as previously mentioned, the Committee on Energy and Natural Resources shared the jurisdiction over title II, which includes three defense-oriented programs with potential civilian applications—the nuclear materials security and safeguards, inertial confinement fusion, and naval reactor development programs.

The Committee on Energy and Natural Resources reviewed each of these programs in depth, and recommended that the DOE request be increased by $17 million in budget authority for operating expenses and plant and capital equipment funding related to these programs. However, the total authorization recommended by the committee is only $464,489,000, compared to the administration's request of $624,489,000. Most of the decrease in the authorization request is associated with the committee's recommendation on the NOVA project in the laser fusion program.

Of the recommended increase in budget authority, $5 million would be used to fund the installation and testing of a real-time, automated physical inventory system to monitor spent, in-process, and reprocessed nuclear fuel inventories at Savannah River, and to provide for more extensive testing of elements of a similar system at the Tokai Murai, Japan reprocessing plant. This investment would help to improve the physical protection and control of these nuclear materials, and would be supportive of our national nonproliferation objectives. I have checked with members of the majority and minority in both committees of jurisdiction, and an amendment to include this increase is agreeable to all parties.

The remaining $12 million recommended increase is for an expanded effort for the inertial confinement fusion (ICF) program. The committee was seriously concerned at the imbalance present in the DOE authorization request for the ICF program submitted in January 1978. The DOE budget request significantly increased funding in fiscal year 1979 for the construction of the NOVA project at Lawrence Livermore Laboratory, which tended to reduce the pace of construction of the competing ANTARES project at Los Alamos Scientific Laboratory and to inhibit a balanced, strong program. In the proposed DOE budget, elements of the R. & D. base program were to be reduced by over 30 percent from fiscal year 1978 levels.

In hearings before the committee, the Department of Energy proposed a budget amendment reallocating $10 million in budget authority from the NOVA project to provide an increase of $4 million in budget authority for the ANTARES project, an increase of $4.8 million for operating expenses for theoretical and experimental efforts, and an additional $1.2 million for capital equipment. The committee recommended adoption of the proposed reallocation. While the ANTARES project is already fully authorized, the increase of $4 million in budget authority constitutes a recommendation to the Appropriations Committees to accelerate the project. The committee also recommended authorization increases of $5 million for operating expenses and $1 million for plant engineering and design of the electron beam fusion II facility at Sandia Laboratory.

Recognizing that expenses associated with the NOVA project in the next few years will rise sharply, the committee voted to authorize, on an annual basis, the NOVA project rather than to fully authorize the project as requested by the Department of Energy. Annual authorization would permit ongoing examination of appropriate priorities and objectives within the ICF program. The committee therefore recommended that the requested authorization for construction of the NOVA project be reduced from $187,000,000 to $10,000,000.

● Mr. STENNIS. Madam President, I want to make a few remarks on this highly important bill that the Senate is now considering.

There has been much controversy this year on the defense budget and various defense bills. As all of my colleagues know, the President vetoed the Defense Procurement Authorization bill because of the carrier issue.

The Defense Department for this next fiscal year will have a budget of over $120 billion. The bill before us, which totals about $3 billion is the Department of Energy's share of our national defense effort. When compared to the Defense Department's $120 billion budget, this $3 billion requirement might seem of little consequence. But that is not the case. Our entire national defense effort is built on the foundation of our nuclear deterrent, and it is this pending bill that provides the authority for funding to develop and build our nuclear arsenal. This bill is the cornerstone of our defense effort.

For the second year, the Committee on Armed Services has exercised its jurisdiction over this nuclear weapons effort—an effort that was formerly under the jurisdiction of the Joint Committee on Atomic Energy. There is no one in the Congress who knows more about atomic energy matters than my good friend and committee colleague, Senator JACKSON, who worked so diligently to put this bill together in the committee. The Senate is indeed fortunate to have Senator JACKSON managing this legislation. Senator HELMS also contributed to the bill as ranking minority member.

My colleagues know that the business of developing and producing nuclear weapons is highly complex and fraught with technological problems. When the additional complexities of possible SALT and Test Ban treaties are superimposed, the problems with developing a coherent and responsible nuclear weapons program become almost overwhelming. But we cannot afford any degradation in our nuclear deterrent.

Madam President, this bill does keep our nuclear weapons program on course. As I said at the outset, it is a highly important bill and I urge the Senate to support it.●

Mr. JACKSON. Madam President, I yield to the Senator from North Carolina.

Mr. HELMS. Madam President, I appreciate the comments of the distinguished Senator from Washington. It is a real privilege to serve with him on the Armed Services Committee as ranking minority member of the committee of which Senator JACKSON is chairman.

My admiration and respect for the Senator from Washington preceded my arrival here 6 years ago. It has been a privilege working with him, observing his effectiveness and dedication. It has been a real privilege.

Mr. JACKSON. I thank my colleague for his very kind comments.

Mr. HELMS. Madam President, this bill, S. 2693, would authorize national security and military applications of nuclear energy within the Department of Energy. The activities funded by this bill are required to insure the effectiveness of our deterrent in the face of a steadily increasing Soviet threat. The bill provides funds for needed technological improvements, as well as increased safety and security, of our nuclear weapons.

I would like to go through the bill and briefly touch on some important points.

Because of the operating funds provided by this bill, research and development on nuclear weapons can be carried out. However, the weapons R. & D. effort has been gradually decreasing since 1970 and in the last 10 years has fallen by 20 percent. Also reduced over prior years are operating costs for weapons testing—an expenditure absolutely necessary for an understanding of weapons effects, their technology, and for the maintenance of the stockpile. These decreases in nuclear weapons research and development are of concern to me. I personally recommended to the Secretary of Energy that he look into this matter and advise us of what can and should be done to increase investments.

It should also be pointed out that the committee added $4.2 million to the President's request to increase our limited capability to detect underground nuclear explosions. There have been numerous press reports that President Carter intends to propose a comprehensive or no yield ban on any test of nuclear weapons. This ban may last for as long as 5 years. My colleague, the distinguished Senator from Oklahoma (Mr. BARTLETT), has investigated this issue and the results have been recently released in an Armed Services Committee print, "The Consequences of a Comprehensive Test Ban Treaty." Madam President, a fact brought in the Bartlett report is that a zero yield test ban is not completely verifiable by the United States even with onsite inspection. The Senator from Oklahoma in his report counsels us to approach with "extreme caution" a comprehensive ban. I agree with this counsel and applaud the contribution Senator BARTLETT has made to the Senate by this work as well as in many other matters.

A a final point, it should be noted that President Carter deferred production of the B–77 gravity bomb. GAO has criticized the Carter administration for the excessive amount of time it took to notify the Congress as required by legislation. Such delay is unnecessary and along with other decisions of the President regarding nuclear weapon programs raises a doubt about the future of our strategic deterrent. This bill would provide funds for a new modern strategic gravity bomb with some of the selective yield capability of the B–77. A new strategic bomb with selective yield is required to retire older, less flexible gravity bombs and give operational flexibility to today's strategic forces.

The passage of this bill is a meaningful renewal of the commitment by the Congress to our nuclear deterrent. The demanding work at the weapons laboratories, at production facilities, at test sites, and elsewhere make an essential contribution to this deterrence. I believe that this bill should pass because it, too, provides for our deterrence.

Mr. PROXMIRE. Madam President, the Department of Energy national security and military applications bill before the Senate contains two items of special interest. The first is the continued development of the neutron bomb, called the enhanced radiation reduced blast weapon. The committee recommends that enhanced radiation components for the W–70–3 Lance warhead and the W–79 8-inch artillery projectile be procured and made ready for contingency deployment. However, the administration has not yet decided to produce or deploy enhanced radiation weapons.

The committee believes that enhanced radiation weapons will reduce the risk of nuclear war by making conventional war less likely. I find this rationale totally unconvincing. There is considerable testimony that just the opposite will happen—that the tendency will be to use enhanced radiation weapons early on in any conventional warfare, thus stimulating the jump through the nuclear threshold. It is a tempting weapon for many of the reasons that the committee cites. Its attributes will drive decisions for usage and threaten that already blurred distinction between conventional and nuclear war in Europe.

I believe that the funding contained in this bill for production of the neutron bomb is premature, in the absence of any full-scale go-ahead by the President and complete commitment by our NATO allies

The second issue is the B–77 modern strategic gravity bomb. The President canceled this program at the time of his B–1 bomber decision. Cost was a principle factor in that decision. Now, however, the committee has recommended going forward with a modified B–77, at a

lower cost, but with the same mission. Some of the confusion in how this program has been handled must be attributed to the executive department. Coordination between OMB and the National Security Council has been fragmented, and even the Comptroller General has noted that the executive branch has taken an excessive amount of time to report deferrals to Congress under the Impoundment Control Act. In view of this confusion in the B–77 program, I think it is unwise to proceed with the $32.5 million program outlined in this bill.

Finally, Madam President, I note that this bill is 12 percent over last year's level. It is $48 million under the request and is within the second concurrent budget resolution, so the committee should be complimented in that regard; but, as with so many other bills this year, it still represents a jump over last year's authorization.

Madam President, in view of these controversial and as yet undecided issues that have been included in this bill—particularly the neutron bomb—and considering the budget increase over last year, I intend to vote against this measure.

Mr. HELMS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Madam President, I ask unanimous consent that the amendment of the Committee on Armed Services and the amendments of the Committee on Energy and Natural Resources, except amendments on page 17, lines 22 and 23; on page 18, line 15; and on page 19, lines 11 and 12, be agreed to, and that the bill as thus amended be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

UP AMENDMENT NO. 1971

Mr. HANSEN. Madam President, I call up an amendment on behalf of myself and Senator DOMENICI.

The PRESIDING OFFICER. Without objection.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN), for himself and Mr. DOMENICI, proposes an unprinted amendment numbered 1971:

On page 19, line 11, strike "187,000,000" and insert in lieu thereof "10,000,000".

On page 19, line 12, strike "195,000,000" and insert in lieu thereof "18,000,000".

Mr. HANSEN. Madam President, I am prepared to withdraw my amendment which I am offering on behalf of the Energy Committee and specifically for Senator DOMENICI, if I can have the assurance of the Armed Services Committee floor managers that the Armed Services Committee will work with the Energy and Natural Resources Committee to insure that the NOVA project and the ANTARES project are supported in a manner to pace the two projects on parallel schedules, such that they will both begin operation at about the same time frame, in the 1982–1983 time frame, and can be used on a comparative basis in reviewing test results. I also would ask the assurance that the Armed Services Committee is prepared to maintain a balanced program and assure the maintenance of a strong pellet design capability at the Los Alamos Scientific Laboratories during the same time frame, even though this bill will fully authorize the NOVA project.

Mr. JACKSON. I am fully in agreement with the Senator from Wyoming that the NOVA and ANTARES projects should be paced on parallel schedules to insure that program balance is maintained, the pellet design capability at Los Alamos Scientific Laboratories will be maintained in a strong form and we will have the results of testing from both facilities in the same time frame for comparison purposes. The Armed Services Committee will work closely with the Energy Committee in seeking that result.

Mr. HANSEN. Madam President, I thank the distinguished floor manager for his assurances and I ask that the amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. THURMOND. Madam President, I have been disturbed by a provision in S. 2692 designated section 104(a), in which it appears that my State is singled out.

I would like it to be clearly established as a matter of Federal law that the Governor of South Carolina would be given the same and equal opportunity and right to review any proposed Federal storage of nuclear fuel at the Barnwell Nuclear Fuels plant in South Carolina as any other Governor would have with respect to a similar facility in his State.

I inquire of the distinguished Senator from Washington, the chairman of the Energy Committee, whether he would be willing, when S. 2692 is being considered, to accept an amendment that would place our State on an equal footing with other States.

Mr. JACKSON. Madam President, I assure the distinguished senior Senator from South Carolina that I will support his amendment to section 104(a) of S. 2692, the Department of Energy authorization bill, when it comes to the floor of the Senate.

I think the committee made a mistake to single out South Carolina in connection with the Barnwell nuclear fuels plant in that State.

I assure the distinguished Senator that, as floor manager of the bill, I shall support the amendment that the Senator will be offering to that section of the bill, as I understand it.

Mr. THURMOND. Madam President, I thank the able Senator from Washington for that assurance.

When S. 2692 comes to the floor, I will offer such an amendment. I am very pleased that the Senator will agree to accept such an amendment at that time. However, for the information of my colleagues I am placing in the RECORD a copy of the amendment I was prepared to offer today to S. 2693 and an explanation of it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 19, line 21, insert a new Section 303, which reads as follows:

"SEC. 303. Notwithstanding any other provision of law, spent nuclear fuel assemblies from military, naval, or civilian (of foreign or domestic origin) nuclear power reactors shall not be stored at the Barnwell Nuclear Fuels Plant in South Carolina, (pursuant to a contract with the Department of Energy, Federal ownership of all or part of the facility or other arrangement) under any Federal program for interim or long-term away from reactor storage of such spent nuclear fuel, unless the Governor of South Carolina is given the same opportunity and right to review, concur, approve or disapprove of such storage at the Barnwell Nuclear Fuels Plant as any other Governor of any State may have under any other provision of law for such storage at a facility in any other State, under any such Federal program."

EXPLANATION OF THE PROPOSED THURMOND AMENDMENT TO S. 2693

This amendment would clearly establish as a matter of Federal law that the Governor of South Carolina would be given the same and equal opportunity and right to review any proposed Federal storage of spent nuclear fuel at the Barnwell Nuclear Fuels Plant in South Carolina as any other Governor would have for a similar facility in his State. This amendment would clarify the confusion which has been created by the action of the Senate Energy and Natural Resources Committee in adopting an amendment to S. 2692, the Department of Energy Civilian Program Authorization for Fiscal Year 1979. The Senate Energy Committee adopted an amendment to S. 2692 which added a new Section 104 to the bill dealing with the Administration's proposed away from reactor, nuclear spent fuel storage program and facilities which might be used for storage in the program.

Section 104(a) of S. 2692, as amended by the Senate Energy Committee, generally would grant the Governor of any State within which a facility under consideration for use in the program would be given the opportunity to disapprove or veto the use of the site within his State. The Energy Committee, apparently because of a particular interest in the possibility of using the Barnwell Nuclear Fuels Plant in South Carolina as a candidate for such a spent fuels storage facility, specifically exempted the Barnwell facility from such a review and possible disapproval or veto by the Governor of South Carolina. Governors of other States, however, would have the right under subsection 104(a) to disapprove or veto the designation of selection of a site within their States, unless it was already a site of ongoing nuclear activity, which is not the case at Barnwell. The action of the Committee, therefore, in expressly including the Barnwell facility would deny the Governor of South Carolina a right with regard to Barnwell which every other Governor would have for any similar facility within his State.

The Committee also directed in subsection 104(c) of the same bill that the Secretary of Energy no later than January 1, 1979 is required to submit a report with detailed recommendations on the away from reactor spent fuel storage program and potential facilities. That report, pursuant to subsection 104(c)(4), must specifically address,

"The use of the Barnwell Nuclear Fuels Plant including possible expansion to provide part or all of away from reactor capacity." It is clear from the Committee's action on both subsection 104(a) and subparagraph 104(c)(4) that the Committee is seriously considering the selection of the Barnwell Nuclear Fuels Plant as a storage facility in the Administration's away from reactor spent fuel storage program.

Consequently, it is very important that the people of South Carolina, acting through the Governor and the State Government, have the opportunity to consider the advantages and disadvantages of using the Barnwell facility for this purpose. The action of the Energy Committee to deny expressly that opportunity for the people of South Carolina is wholly unjustified and without any apparent supporting rationale in the reported bill or the Committee's report.

The amendment offered to S. 2693 would insure that the people of South Carolina, acting through the Governor of South Carolina, would be given the same rights as are given to any other State through its Governor to consider the selection of a facility within the State for this program. It is important to recognize that the Governor of South Carolina under this amendment would not have any more rights than would any other Governor to concur, approve, or disapprove of the selection of the facility. Rather, the Governor of South Carolina would have exactly the same opportunity and right to review, concur, approve, or disapprove the selection. This amendment, therefore, would return to the State of South Carolina the rights which otherwise have been denied the State by the action of the Energy and Natural Resources Committee in Section 104 of S. 2692.

UP AMENDMENT NO. 1972

(Purpose: To provide for a study and report to the Congress regarding the status of all Government-owned, contractor-operated, plant, capital equipment, facilities, and utilities which support the U.S. nuclear weapons program)

Mr. JACKSON. Madam President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 1972.

Mr. JACKSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add a new section as follows:

SEC. 303. (a) The Secretary of Energy shall conduct a study of the status of all Government-owned, contractor-operated, plant, capital equipment, facilities, and utilities which support the United States nuclear weapons program and submit the results of such study to the Congress at the same time that the Department of Energy authorization request for fiscal year 1980 is submitted to the Congress.

(b) The Secretary of Energy shall include in such report—

(1) an analysis of the measures required to restore the nuclear weapons complex of the United States to a satisfactory condition, and

(2) a plan containing proposed schedules for carrying out and funding any restoration found to be necessary.

The PRESIDING OFFICER. This amendment will be in order notwithstanding the pendency of the remaining committee amendments.

Mr. JACKSON. We did agree to the committee amendments by unanimous consent.

The PRESIDING OFFICER. There are committee amendments.

Mr. JACKSON. Madam President, this amendment would put into law a requirement for the Department of Energy to make a formal study of the physical condition of our nuclear weapons complex.

In my opening remarks, I commented on the outstanding efforts of Mr. Don Cotter, who assisted the Armed Services Committee in putting this bill together. One of the accomplishments of Mr. Cotter during the past 6 months was to visit every site involved in developing and producing nuclear weapons—a total of 17 different plants and research labs spread across the country. Chairman STENNIS specifically commissioned Mr. Cotter to make this field investigation and Mr. Cotter has provided the committee with a very complete report.

Madam President, our nuclear weapons complex is in need of some serious upgrading. Many of the facilities built during the days of the Manhattan project are still in use today. Utility systems are old, equipment has exceeded its expected life, and so forth. The Department of Energy has recognized this problem and has underway a study to determine a more precise scope of the problem and to develop a plan to address the problem.

The amendment that I have offered merely formalizes the ongoing Department of Energy study on the status of all plant, capital equipment facilities, and utilities that comprise our nuclear weapons complex. The amendment would require that the study be furnished to the Congress along with the fiscal year 1980 budget request. No additional appropriations would be required.

I have received a letter from the distinguished Senator from South Carolina, Senator THURMOND, who has asked that he be made a cosponsor of this amendment and I ask unanimous consent that his name be included as a cosponsor at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I see no problem and no objection to this amendment. I hope it will be agreed to.

Mr. HELMS. Madam President, I associate myself with the remarks of the distinguished chairman with reference to Mr. Cotter. He has done a splendid job and he deserves the gratitude of the entire Senate.

Mr. JACKSON. Madam President, I know of no further amendments, and I wish, therefore, at this point to offer a conforming amendment.

The PRESIDING OFFICER. The question is on agreeing to the pending amendment of the Senator from Washington.

The amendment was agreed to.

UP AMENDMENT NO. 1973

(Purpose: To substitute Senate provisions for House provisions)

Mr. JACKSON. Madam President, I now call up the conforming amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 1973 in the nature of a substitute.

Mr. JACKSON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this title referred to as the "Department") for fiscal year 1979 for operating expenses incurred in carrying out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy as follows:

(1) For Weapons Activities, $1,237,194,000;

(2) For Special Materials Production, $514,500,000;

(3) For Inertial Confinement Fusion, $104,000,000;

(4) For Naval Reactor Development, $265,600,000;

(5) For Defense Intelligence and Arms Control, $32,600,000;

(6) For Nuclear Materials Security and Safeguards, $45,089,000; and

(7) For Program Direction and Management Support Related to National Security Programs, $47,151,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979, for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For weapons activities:

Project 79-7-a Tonopah Test Range upgrade, Phase II, Sandia Laboratories, Albuquerque, New Mexico, $4,000,000.

Project 79-7-b, fire protection improvements, Los Alamos Scientific Laboratory, Los Alamos, New Mexico (A-E and long lead procurement only), $2,000,000.

Project 79-7-c, proton storage ring, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $5,000,000.

Project 79-7-d, water cooling station upgrade, Lawrence Livermore Laboratory, Livermore, California, $2,300,000.

Project 79-7-e, production and assembly facilities, Pantex Plant, Amarillo, Texas, $10,000,000.

Project 79-7-f, stockpile quality evaluation facility, Y-12 Plant, Oak Ridge, Tennessee, $2,300,000.

Project 79-7-l, Systems R&D Lab, Sandia Laboratories, Albuquerque, New Mexico (A-E), $1,000,000.

Project 79-7-m, Weapons Materials Analytical Lab, Pantex Plant, Amarillo, Texas, $1,500,000.

Project 79-7-n, utility systems restoration, Y-12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 79-7-o, universal pilot plant, high explosives, Pantex Plant, Amarillo, Texas, $3,500,000.

Project 79-7-p, facilities for new modern strategic bomb, various locations, $28,000,000.

(2) For special materials production:

Project 79-7-h, utilities replacement and expansion, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $10,500,000.

Project 79-7-i, transmission and distribution systems upgrading, Richland, Washington, $7,000,000.

Project 79-7-j, pollutant discharge elimination, Savannah River, South Carolina, $9,000,000.

(3) For defense waste management:

Project 79-7-k, waste management facilities, Savannah River, South Carolina, $25,000,000.

(4) For project 79-6, general plant projects—

(A) for weapons activities, $26,400,000,

(B) for special materials production, $15,250,000;

(C) for naval reactor development, $3,000,000; and

(D) for waste management, $5,950,000.

(5) For project 79-8, plant engineering and design—

(A) for special materials production, $1,500,000;

(B) for defense waste management, $12,000,000;

(C) for military application, $32,000,000; and

(D) for inertial confinement fusion, $1,000,000.

(6) For capital equipment not related to construction—

(A) for weapons activities, $86,400,000;

(B) for special materials production, $32,000,000;

(C) for waste management, $8,000,000;

(D) for inertial confinement fusion, $8,200,000;

(E) for naval reactor development, $22,000,000;

(F) for nuclear material security and safeguards, $3,000,000; and

(G) for program direction and management support, $300,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 103. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979, for national security projects previously authorized by law, as follows:

(1) For project 74-1-b, replacement ventilation air filter, F Chemical Separations Area, Savannah River, South Carolina, $2,100,000; for a total authorization of $7,300,000.

(2) For project 75-7-c, intermediate-level waste management facilities, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $1,000,000; for a total authorization of $11,500,000.

(3) For project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $50,000,000; for a total authorization of $65,000,000.

(4) For project 77-13-f, waste isolation pilot plant, Delaware Basin, southeast New Mexico, $40,000,000; for a total authorization of $68,000,000.

(5) For project 77-13-g, safeguards and security upgrading, production facilities, multiple sites, $3,800,000; for a total authorization of $20,200,000.

(6) For project 78-4-a, a high energy laser facility (NOVA), Lawrence Livermore Laboratory, Livermore, California, $187,000,000; for a total authorization of $195,000,000.

(7) For project 78-16-c, high explosive flash radiography facility, Lawrence Livermore Laboratory, Livermore, California, $5,900,000; for a total authorization of $10,900,000.

(8) For project 78-16-d, weapons safeguards, various locations, $9,000,000; for a total authorization of $26,000,000.

(9) For project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $5,700,000; for a total authorization of $6,300,000.

(10) For project 78-16-i, laboratory support complex, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $14,000,000; for a total authorization of $16,000,000.

(11) For project 78-17-a, production component warehouse, Plantex Plant, Amarillo, Texas, $2,550,000; for a total authorization of $2,800,000.

(12) For project 78-17-c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, Livermore, California, $11,000,000; for a total authorization of $12,300,000.

(13) For project 78-17-d, steam plant improvements, Y-12 Plant, Oak Ridge, Tennessee, $7,000,000; for a total authorization of $10,000,000.

(14) For project 78-18-a, high level waste storage and waste management facilities, Richland, Washington, $9,000,000; for a total authorization of $27,000,000.

(15) For project 78-18-c, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $13,000,000; for a total authorization of $28,500,000.

TITLE II—GENERAL PROVISIONS

REPROGRAMING

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate Committees of Congress of notice given by the Secretary of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

PROJECT COST VARIATION PROVISION

SEC. 202. (a) No project for which appropriations are authorized in section 102 (1), (2), or (3) may be started if the current estimated cost of such project exceeds by more than 25 percent the amount authorized for such project.

(b) At any time the current estimated cost of any such project under construction exceeds by more than 25 percent the total amount authorized by law for such project, the Secretary shall (1) promptly notify the appropriate committees of the Congress of such fact and include in the notification an explanation for the increased cost of the project and the revised current estimated cost figures for such project, and (2) not proceed with such project unless and until additional funds for such project are authorized by law.

(c) The provisions of this section shall not apply to any project which has a current estimated cost of less than $5,000,000.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 203. The Secretary is authorized to start any project set forth under section 102(4) only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Secretary determines that it is necessary to do so in the interest of efficiency and economy; and

(2) the total cost of all projects undertaken under such section does not exceed the estimated cost set forth in such section by more than 25 percent.

AVAILABILITY OF FUNDS

SEC. 204. Subject to the provisions of appropriations Acts, amounts appropriated pursuant to sections 101 and 102 of this Act for policy and management activities, for general plant projects, and for plant engineering and design are available for use, when necessary, in connection with all national security programs of the Department of Energy.

AUTHORIZATION TO PERFORM CONSTRUCTION DESIGN SERVICES

SEC. 205. The Secretary is authorized to perform construction design services for any construction project of the Department of Energy in support of national security programs which have been presented to, or requested of, the Congress in amounts not in excess of the amount specified in section 102(5). In any case in which the estimated design cost for any project is in excess of $300,000, the Secretary shall notify the appropriate Committees of Congress in writing of the estimated design cost for such project at least 30 days before any funds are obligated for design services for such project.

ADJUSTMENTS FOR PAY INCREASES

SEC. 206. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

RESTRICTIONS ON THE B43 BOMB

SEC. 207. No funds authorized to be appropriated by this Act may be used for the testing, modernization, rebuilding, or replacement of any component of the B43 bomb, except that such funds may be used for quality and reliability testing of such bomb and for the replacement of limited-life components of such bomb.

FUTURE REQUESTS OF AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 208. The Secretary shall submit to the Congress for fiscal year 1980, and for each subsequent fiscal year, a single request for authorizations for appropriations for all programs of the Department of Energy involving scientific research and development in support of the armed forces, military applications of nuclear energy, strategic and critical materials necessary for the common defense, and other programs which involve the common defense and security of the United States.

STUDY OF CAPITAL INVESTMENT REQUIREMENTS

SEC. 209. (a) The Secretary shall conduct a study of the status of all Government-owned, contractor-operated, plant, capital equipment, facilities, and utilities which support the United States nuclear weapons program and submit the results of such study to the Congress at the same time that the Department of Energy authorization request for fiscal year 1980 is submitted to the Congress.

(b) The Secretary shall include in such report—

(1) an analysis of the measures required to restore the nuclear weapons complex of the United States to a satisfactory condition, and

(2) a plan containing proposed schedules

for carrying out and funding any restoration found to be necessary.

REQUIREMENT FOR MILITARY PERSONNEL DETAILED TO THE DEPARTMENT OF ENERGY TO BE INCLUDED IN AUTHORIZED END STRENGTHS

SEC. 210. Section 625(b) of the Department of Energy Organization Act (91 Stat. 598) is amended by striking out the second sentence.

RESTRICTIONS ON SM-2 WARHEAD

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be obligated or expended for the development of a nuclear warhead for the SM-2 standard missile until an arms control impact statement for such warhead has been filed with the Congress.

The PRESIDING OFFICER. The committee amendments are still pending to the bill. Therefore unanimous consent is required to consider this amendment.

Mr. JACKSON. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Madam President, this amendment, which has been cleared on both sides of the aisle in both the Armed Services and the Energy and Natural Resources Committees, is simply a comprehensive conforming amendment to rearrange the bill in a format that is acceptable to the House and to include those general provisions from the House-passed bill that are necessary to the execution of this bill. The substantive amendments made by the Armed Services and Energy and Natural Resources Committees are included in this comprehensive amendment. The dollar authorizations are identical to those already agreed to by the Senate.

The general provisions that have been added pertain to:

Reprograming authority.

Limits on construction and general plant projects.

Authority to perform design services.

Adjustments for pay increases.

Restrictions on the B43 bomb.

Directions on future authorization requests.

They are, for the most part, similar to provisions that were enacted last year.

The purpose of this amendment is to put the bill in a form where we think it will be acceptable to the House, thereby avoiding the necessity for a conference.

I want to emphasize that the amendment does not change dollar amounts or any substantive provisions that the Senate has agreed to so far. It merely rearranges the bill slightly, and, as I mentioned, it incorporates certain desirable general provisions from the House-passed bill.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Is the bill now open to further amendment?

The PRESIDING OFFICER. At this stage, after the last amendment was agreed to, the bill is no longer open to amendment.

The question now occurs on the third reading of the bill.

Mr. JACKSON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Madam President, have we had third reading?

The PRESIDING OFFICER. Third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JACKSON. Madam President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of H.R. 11686 and that the Senate proceed to the consideration of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Madam President, reserving the right to object, and I do not expect to object, is there anything in this unanimous-consent request that would now make the bill open to amendment where it was heretofore not open to amendment?

Mr. JACKSON. No.

Mr. METZENBAUM. The question I asked is whether or not by reason on the unanimous-consent request is there anything about that that would then make the bill open to amendment whereas the Chair has heretofore ruled that the bill is not further open to amendment?

The PRESIDING OFFICER. There is nothing in this request that would make the pending bill open to amendment.

Mr. METZENBAUM. I thank the Chair. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

H.R. 11686, a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes.

Mr. JACKSON. Mr. President, I move to strike all after the enacting clause of H.R. 11686 and substitute therefor the text of S. 2693, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. JACKSON. Madam President, I ask unanimous consent that consideration of S. 2693 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Third reading.

The PRESIDING OFFICER. The question is on the engrossment of the Senate amendment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HELMS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Washington.

Madam President, I ask unanimous consent that the rollcall vote on the adoption of this measure occur back-to-back following the vote which will occur at 11 a.m. on the adoption of the conference report on appropriations for State and Justice.

Mr. STEVENS. It could occur now, any time between 10:30 and 11.

Mr. ROBERT C. BYRD. Madam President, I revise my request. I simply ask that the vote on the adoption of the Department of Energy bill occur immediately following the vote on the conference report on the State, Justice appropriation bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JACKSON. Madam President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 11686.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. STEVENS. Madam President, it is my understanding under the previous order now that the rollcall vote will occur on the conference report on State, Justice appropriations?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I ask that we proceed to that.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator

from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. MELCHER), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. SARBANES), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK), the Senator from Rhode Island (Mr. PELL), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. McCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

Mr. ROBERT C. BYRD. Mr. President, before the Chair announces the vote, will the Chair ascertain if every Senator here has voted?

The PRESIDING OFFICER (Mr. CHURCH). Have all Senators voted? Apparently so.

Mr. ROBERT C. BYRD. I thank the Chair.

The result was announced—yeas 62, nays 7, as follows:

[Rollcall Vote No. 432 Leg.]

YEAS—62

Bartlett	Goldwater	Morgan
Bayh	Gravel	Moynihan
Bellmon	Hansen	Muskie
Bentsen	Hart	Nelson
Biden	Hatfield, Paul G.	Packwood
Brooke	Hayakawa	Proxmire
Bumpers	Heinz	Riegle
Burdick	Hodges	Schmitt
Byrd, Robert C.	Hollings	Schweiker
Cannon	Humphrey	Sparkman
Case	Inouye	Stafford
Chafee	Jackson	Stennis
Chiles	Leahy	Stevens
Church	Long	Stevenson
Cranston	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
Dole	Matsunaga	Weicker
Eastland	McGovern	Williams
Ford	Metzenbaum	Young
Glenn		Zorinsky

NAYS—7

Byrd, Harry F., Jr.	Helms	Scott
Garn	Laxalt	Wallop
	Roth	

NOT VOTING—31

Abourezk	Haskell	Melcher
Allen	Hatch	Nunn
Anderson	Hatfield, Mark O.	Pearson
Baker	Hathaway	Pell
Clark	Huddleston	Percy
Culver	Javits	Randolph
DeConcini	Johnston	Ribicoff
Domenici	Kennedy	Sarbanes
Durkin	McClure	Sasser
Eagleton	McIntyre	Tower
Griffin		

So the conference report was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the conference report was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses

"For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including allowances as authorized by 5 U.S.C. 5921–5925; expenses of binational arbitrations arising under international air transport agreements; expenses necessary to meet the responsibilities and obligations of the United States in Germany each) and such amounts as may be otherwise provided by law for all other such vehicles, except that right-hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law: *Provided further*, That in addition, this appropriation shall be available for the purchase (not to exceed thirty-three), replacement, rehabilitation, and modification of passenger motor vehicles for protective purposes without regard to any maximum price limitations otherwise established by law."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

General administration: Salaries and expenses

For expenses necessary for the administration of the Department of Justice, including hire of passenger motor vehicles; and miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; $28,474,000, of which $5,111,000 is for the United States Parole Commission and $1,700,000 is for the Federal justice research program, the latter amount to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses, general legal activities (including transfer of funds)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advances of public moneys pursuant to law (31 U.S.C. 529); $90,550,000: *Provided*, That not to exceed $105,000 may be transferred to this appropriation from the "Alien Property Fund, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses, Antitrust Division

For expenses necessary for the enforcement of antitrust, consumer protection and kindred laws, including $10,000,000 for antitrust enforcement grants to the States authorized by section 309 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, $46,377,000: *Provided*, That none of this appropriation shall be expended for the establishment and maintenance of permanent regional offices of the Antitrust Division.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses

For expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for policy-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed one thousand three hundred and seventy-four for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under 22 U.S.C. 1136(9)–(11) and 22 U.S.C. 1157, under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $561,341,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill; and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

IMMIGRATION AND NATURALIZATION SERVICE

Salaries and expenses

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registeration, including advance of cash to aliens for meals and lodging while en route; payment of allowances (at a rate not in excess of $1 per day) to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies; payment of rewards; not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificates; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed four hundred seven, of which two hundred ninety-eight shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition, attend-

ance at firearms matches; refunds of head tax, maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for enforcement fence and construction incident to such fence; reimbursement to the General Services Administration for security guard services for protection of confidential files; benefits in accordance with those provided under 22 U.S.C. 1136(9)–(11) and 22 U.S.C. 1157 under regulations prescribed by the Secretary of State; research related to immigration enforcement; $299,350,000, of which not to exceed $400,000 shall remain available for such research until expended: *Provided*, That of the amount herein appropriated, not to exceed $50,000 may be used for the emergency replacement of aircraft upon certificate of the Attorney General.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

Salaries and expenses, Bureau of Prisons

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of (not to exceed thirty-two of which twenty-four are for replacement only) and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; $315,200,000: *Provided*, That there may be transferred to the Health Service Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Local public works program

For administrative expenses, including expenses for program evaluation by the Secretary of Commerce, necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94–369), $10,600,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

National Fire Prevention and Control Administration: Operations, research, and administration

For expenses necessary to carry out the provisions of the Federal Fire Prevention and Control Act of 1974, as amended, $17,395,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Science and technical research: Scientific and technical research and services

For necessary expenses of the National Bureau of Standards, including the acquisition of buildings, grounds, and other facilities; and the National Technical Information Service; $87,700,000, to remain available until expended, of which not to exceed $3,300,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Board for International Broadcasting: Grants and expenses

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $85,000,000, of which $2,000,000, to remain available until expended, shall be available only for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended: *Provided*, That not to exceed $52,000 shall be available for official reception and representation expenses.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Federal Trade Commission: Salaries and expenses

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $1,500 for official reception and representation expenses; $64,750,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$12,950,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

COMMISSION ON GLOBAL HUNGER AND MALNUTRITION: SALARIES AND EXPENSES

For necessary expenses of the Commission on Global Hunger and Malnutrition, including services as authorized by 5 U.S.C. 3109, $1,300,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $5,260,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

: *Provided*, That all property (including records) of the Board shall be transferred to the Administrator, General Services Administration, upon cessation of the Board's activities, or on March 31, 1979, whichever first occurs

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert:

$187,000,000, and in addition $13,000,000 for disaster loanmaking activities shall be transferred to this appropriation from the "Disaster Loan Fund".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed to be stricken and inserted by said amendment, insert:

: *Provided*, That no part of this appropriation shall be used to fund any small business development center or university business development center pilot program, or any combination thereof, in any state in excess of $300,000 per state until enactment into law of H.R. 11445, or similar legislation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

White House Conference on Small Business

For necessary expenses of the White House Conference on Small Business, $4,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment insert;

Sec. 605. It is the sense of the Congress that—

(1) the Government of the United States should give special consideration to the plight of refugees from Democratic Kampuchea (Cambodia) in view of the magnitude and severity of the violations of human rights committed by the Government of Democratic Kampuchea (Cambodia); and

(2) the Attorney General should exercise his authority under section 212(d)(5) of the Immigration and Nationality Act of parole into the United States—

(A) for the fiscal year 1979, 7,500 aliens who are nationals or citizens of Democratic Kampuchea (Cambodia) and who are applying for admission to the United States; and

(B) for the fiscal year 1980, 7,500 such aliens.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of "Sec. 607" proposed in said amendment, insert: Sec. 606

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the amendments in disagreement be considered en bloc and that the Senate concur in the amendments of the House to the amendments of the Senate numbered 2, 22, 24, 25, 30, 31, 34, 51, 66, 67, 90, 100, 106, 109, 111, 113, 115, 116, 117, 123 and 124.

THE PRESIDING OFFICER. Without objection it is so ordered.

Mr. HOLLINGS. I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the next vote—and this has been cleared with the distinguished Republican whip——

Mr. CHILES. Mr. President, may we have order?

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the vote which is about to occur on the passage of the Department of Energy authorization bill, the Senate proceed to the consideration of Calendar Order No. 1160, H.R. 10587, the public grazing lands bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand there will be a rollcall vote on passage of that bill.

Mr. JACKSON. That is correct.

Mr. MAGNUSON. If the Senator will yield, on the next bill, there will not have to be a rollcall.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BUMPERS has indicated that there will be a rollcall vote on the public grazing lands bill.

Mr. BUMPERS. Is there a time agreement on that?

Mr. ROBERT C. BYRD. No, there is not. not at this moment.

Mr. BUMPERS. Can the distinguished chairman of the Energy Committee tell us if there are amendments?

Mr. JACKSON. The distinguished Senator who is in the chair will be managing the bill. I think there are a couple of amendments. I will say to my good friend I hope we can get a time agreement on this so that Senators would know when the vote was going to come. Otherwise, it will result in an inordinate delay.

(Mr. LEAHY assumed the chair.)

Mr. BUMPERS. Will the leader be willing to propound a unanimous consent request for 1 hour on the bill and 30 minutes on each amendment?

Mr. ROBERT C. BYRD. I am told it can be done more quickly probably without a time agreement.

Mr. HANSEN. If the distinguished majority leader will yield, insofar as the minority Members are concerned, I know of no serious amendments. We do have a couple of technical amendments I am told have been cleared by the staff on both sides. So I do not see any need for a time agreement. I think it would take more time to get the agreement than it would to pass the bill.

Mr. CHURCH. On the majority side I know of no amendments other than the technical amendments which have been cleared by the Budget Committee. I do not anticipate it will require a time agreement.

Mr. HART. Mr. President, may we have order in the Senate so we can hear what is going on?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. Will there be other rollcall votes today? Is this the only rollcall vote that will keep Senators here?

Mr. ROBERT C. BYRD. There could very well be other rollcall votes.

Mr. BUMPERS. I can be recorded "no" on this bill on a voice vote. I do not want to ask for the yeas and nays if it will unduly keep Senators here who could do something else. If there will be other rollcall votes after this bill then I would request the yeas and nays.

Mr. ROBERT C. BYRD. There may very well be when we have the Export-Import bill back up.

Mr. BUMPERS. This does mean that even if I do not ask for the yeas and nays, Senators would not feel free to leave.

Mr. ROBERT C. BYRD. The Export-Import bill may generate a yea-and-nay vote.

Mr. BUMPERS. I will withhold my request for the yeas and nays and we will see how it develops as we go along.

Mr. BIDEN. Can the majority leader give us any indication of how long we will be here today?

The PRESIDING OFFICER. May we have order in the Chamber? The Chair cannot hear a word.

Mr. ROBERT C. BYRD. I am sorry to say that I cannot say. It is still the intention of the leadership to complete action if at all possible on all our work and adjourn sine die 2 weeks from today. We have notified the Speaker of the House that that is our intention and that we are on track. We cannot guarantee it, of course. That being the case, may I say to the distinguished Senator I am not in a position to state at this time what time the Senate will complete its work today. I would say that following the public grazing lands bill the Senate will go back to the Export-Import bill. I think there may be some discussion of the sunset amendment. I would not anticipate that a rollcall vote will occur on that amendment today, because that amendment will go over. I cannot guarantee there will not be other rollcall votes. I do not know of any that will occur after the public grazing lands bill.

Mr. BIDEN. I thank the Senator.

Mr. STEVENS. Would it be possible to have an agreement for a time certain to vote on the grazing lands bill, H.R. 10587, at noon today? Could we finish by noon and have a vote at noon?

Mr. ROBERT C. BYRD. That would mean only 30 minutes.

Mr. BUMPERS. I would be happy to agree.

Mr. JACKSON. Let us agree to that.

ORDER FOR VOTE ON H.R. 10587 TO OCCUR NOT LATER THAN 11:40 A.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I make that request, that a vote occur on final passage of H.R. 10587 today at 12 noon with paragraph 3 of rule XII waived, or not later than 12.

Mr. CHILES. Can we make that about 5 minutes before noon?

Mr. ROBERT C. BYRD. At 11:40. Mr. President, I change the request to no later than 11:40 a.m., with the time equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the vote occur on the grazing bill at 11:50. I meant 11:50, not 11:40.

The PRESIDING OFFICER. Is there objection.

Without objection, it is so ordered.

Mr. STEVENS. Can the majority leader tell us, is there a time that the vote will occur on the Eximbank bill on Monday, realizing, of course, that Monday is a holiday for some of our Members and no vote will occur before 6 p.m. on Monday.

ORDER THAT NO ROLLCALL VOTES OCCUR PRIOR TO 6 P.M. MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, so that the understanding will be the order of the Senate, that no rollcall votes occur on Monday if ordered prior to the hour of 6 p.m., at which time such votes may occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, during the——

Mr. ROBERT C. BYRD. Mr. President, we had better get on with the energy vote.

The PRESIDING OFFICER. The question is on passage——

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. Can we have order in the Senate?

Mr. ROBERT C. BYRD. Will the Chair recognize the Senator from Wyoming?

PRIVILEGE OF THE FLOOR— H.R. 10587

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I ask unanimous consent that Tony Bevinetto and Rob Wallace have access to the floor during the debate and any votes on H.R. 10587.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1979

BARNWELL AND GOVERNOR'S VETO

Mr. HOLLINGS. Mr. President, section 104 of the Energy Department authorization bill, S. 2692, would establish a new process for selecting the site or sites of the new planned Federal nuclear spent fuel storage facility. This is the large national facility which would store used reactor fuel until some permanent way to dispose of this waste is found. One important and commendable act of the process is to give Governors a veto over a site proposed by the Secretary of Energy.

The bill lists two exceptions where a

Governor would not be given such a veto. One is the case of a proposal to use a "site of ongoing nuclear activity." This seems to refer mainly to Federal nuclear installations.

But it is the other exception that concerns me today. As now written, section 104 would deny the Governor of South Carolina much of the right of veto given to other Governors. This is because South Carolina's Governor is explicitly denied the right to veto a Federal proposal to use the Barnwell fuels plant site for the huge projected national spent fuel repository. Neither the bill nor the accompanying report give a reason or explanation for it.

Now, my colleagues here in the Senate know that I feel that the Barnwell plant is an important national nuclear facility, and that I have sought interim Federal support of the plant until Congress and the administration have a chance to evaluate its possible future uses. Indeed, S. 2692 would provide such interim funding for fiscal year 1979 until the completion of the present 40-nation international nuclear fuel cycle evaluation (INFCE).

But there is an important point here which may have been missed. Barnwell is partially completed, and many of us want a study of possible uses of it. But it is not operational; there is no spent fuel there now. And no one should even consider opening it until the people of my State have a full chance to decide for themselves whether they like a given proposal. This is particularly true if someone proposes to change Barnwell's purposes and convert it into the new spent fuel facility for the entire Eastern United States.

I oppose this provision in that bill. In the first place, it is patently unfair to deny South Carolina the same right of veto given to other States. I agree Barnwell should be studied as a possible site. I do not agree, however, that my State should be denied a formal say in the final decision. Other Governors can veto proposals to use sites which do not now house nuclear materials. Why should South Carolina be discriminated against?

In the second place, I do not like the practicable impact the provision may have if it passes. Other parts of section 104 make clear that the Energy Committee wants its new Federal spent fuel repository operating by December 1, 1982. Additional storage capacity is urgently needed in this country, and this seems a reasonable date. But given this tight deadline, section 104 skews the process used for selecting the new storage sites. Because South Carolina cannot object as other States can, some may feel that selecting Barnwell is the easy and quick way out. But it is clear that the provision is bad national policy, as as well as discriminatory against South Carolina. If the provisions were to pass, people in my State will learn about it quickly. Resentment will rise just as quickly, as it would in your State, if your citizens thought they might be railroaded. And that resentment will impede any attempt to even discuss using Barnwell. It is bad enough precedent to single out a State like this, since future bills could affect other States. But it is even worse if we do not realize by now that States will fight Federal proposals unless citizens are brought into the deliberations as full partners. That is why I commend the Energy Committee for its wisdom in including a role for Governors in the spent fuel site selection process. It is also why I emphatically want the same right fully extended to South Carolina.

While the bill before us does not deal with this matter, I support my senior colleague from South Carolina in his statements. I am pleased that the Senator from Washington, Senator JACKSON, has offered his assurances that this matter will be corrected when the Senate considers S. 2692.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the order is for the vote on H.R. 11686, as amended. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. MELCHER), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. SARBANES), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

Mr. ROBERT C. BYRD. Mr. President, before the Chair announces the vote, would the Chair secure order and ascertain whether or not every Senator present has voted?

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senate will be in order. Will the Senators take their seats? Are there any Senators present who have not voted?

The Chair hears no response.

The result was announced—yeas 68, nays 1, as follows:

[Rollcall Vote No. 433 Leg.]

YEAS—68

Bartlett	Goldwater	Moynihan
Bayh	Gravel	Muskie
Bellmon	Hansen	Nelson
Bentsen	Hart	Packwood
Biden	Hatfield, Paul G.	Riegle
Brooke	Hayakawa	Roth
Bumpers	Heinz	Schmitt
Burdick	Helms	Schweiker
Byrd, Harry F., Jr.	Hodges	Scott
Byrd, Robert C.	Hollings	Sparkman
Cannon	Humphrey	Stafford
Case	Inouye	Stennis
Chafee	Jackson	Stevens
Chiles	Laxalt	Stevenson
Church	Leahy	Stone
Cranston	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Magnuson	Wallop
Dole	Mathias	Weicker
Eastland	Matsunaga	Williams
Ford	McGovern	Young
Garn	Metzenbaum	Zorinsky
Glenn	Morgan	

NAYS—1

Proxmire

NOT VOTING—31

Abourezk	Haskell	Melcher
Allen	Hatch	Nunn
Anderson	Hatfield, Mark O.	Pearson
Baker	Hathaway	Pell
Clark	Huddleston	Percy
Culver	Javits	Randolph
DeConcini	Johnston	Ribicoff
Domenici	Kennedy	Sarbanes
Durkin	McClure	Sasser
Eagleton	McIntyre	Tower
Griffin		

So the bill (H.R. 11686), as amended, was passed.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

PUBLIC RANGELANDS IMPROVEMENT ACT OF 1978

The PRESIDING OFFICER. The clerk will state by title Calendar No. 1160, H.R. 10587.

The assistant legislative clerk read as follows:

A bill (H.R. 10587) to improve the range conditions of the public grazing lands.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Public Rangelands Improvement Act of 1978".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) vast segments of the public rangelands are producing less than their potential for livestock, wildlife habitat, recreation, forage, and water and soil conservation

benefits, and for that reason are in an unsatisfactory condition;

(2) such rangelands will remain in an unsatisfactory condition and some areas may decline further under present levels of, and funding for, management;

(3) unsatisfactory conditions on public rangelands present a high risk of soil loss, desertification, and a resultant underproductivity for large acreages of the public lands; contribute significantly to unacceptable levels of siltation and salinity in major western watersheds including the Colorado River; negatively impact the quality and availability of scarce western water supplies; threaten important and frequently critical fish and wildlife habitat; prevent expansion of the forage resource and resulting benefits to livestock and wildlife production; increase surface runoff and flood danger; reduce the value of such lands for recreational and esthetic purposes; and may ultimately lead to unpredictable and undesirable long-term local and regional climatic and economic changes;

(4) the above-mentioned conditions can be addressed and corrected by an intensive public rangeland maintenance, management, and improvement program involving significant increases in levels of rangeland management and improvement funding for multiple-use values;

(5) to prevent economic disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual changes in the costs of production;

(b) The Congress therefore hereby establishes and reaffirms a national policy and commitment to:

(1) inventory and identify current public rangelands conditions and trends as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711);

(2) manage, maintain and improve the condition of the public rangelands so that they become as productive as feasible for all rangeland values in accordance with management objectives and the land use planning process established pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712);

(3) charge a fee for public grazing use which is equitable and reflects the concerns addressed in paragraph (a)(5) above.

(c) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation, and shall be construed as supplemental to and not in derogation of the purposes for which public rangelands are administered under other provisions of law.

SEC. 3. As used in this Act—

(a) The terms "rangelands" or "public rangelands" means lands administered by the Secretary of the Interior through the Bureau of Land Management or the Secretary of Agriculture through the Forest Service in the sixteen contiguous Western States on which there is domestic livestock grazing or which the Secretary concerned determines may be suitable for domestic livestock grazing.

(b) The term "allotment management plan" is the same as defined in section 103(k) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1702(k)).

(c) The term "grazing permit and lease" means any document authorizing use of public lands or lands in national forests in the sixteen contiguous Western States for the purpose of grazing domestic livestock.

(d) The term "range condition" means the quality of the land reflected in its ability in specific vegetative areas to support various levels of productivity in accordance with range management objectives and the land use planning process, and relates to soil quality, forage values (whether seasonal or year round), wildlife habitat, watershed and plant communities, the present state of vegetation of a range site in relation to the potential plant community for that site, and the relative degree to which the kinds, proportions and amounts of vegetation in a plant community resemble that of the desired community for that site.

(e) The term "native vegetation" means those plant species communities or vegetative associations which are endemic to a given area and which would normally be identified with a healthy and productive range condition occurring as a result of the natural vegetative process of the area.

(f) The term "range improvement" means any activity or program on or relating to rangelands which is designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock, wildlife, wild horses, and burros. The term includes, but is not limited to, structures, treatment projects, and use of mechanical means to accomplish the desired results.

(g) The term "court ordered environmental statements which are required to be prepared by the Secretary of the Interior pursuant to the final judgment or subsequent modification thereof as set forth on June 18, 1975, in the matter of Natural Resources Defense Council against Andrus.

(h) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

RANGELANDS INVENTORY AND MANAGEMENT

SEC. 4. (a) Following enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall update, develop (where necessary) and maintain on a continuing basis thereafter, an inventory of range conditions and record of trends of range conditions on the public rangelands, and shall categorize or identify such lands on the basis of the range conditions and trends thereof as they deem appropriate. Such inventories shall be conducted and maintained by the Secretary as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act (43 U.S.C. 1711), and by the Secretary of Agriculture in accordance with section 5 of the Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1603); shall be kept current on a regular basis so as to reflect changes in range conditions; and shall be available to the public.

(b) The Secretary shall manage the public rangelands in accordance with the Taylor Grazing Act (43 U.S.C. 315–315(o)), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–1782), and other applicable law consistent with the public rangelands improvement program pursuant to this Act. Except where the land use planning process required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) determines otherwise or the Secretary determines, and sets forth his reasons for this determination, that grazing uses should be discontinued (either temporarily or permanently) on certain lands, the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, and consistent with the values and objectives listed in sections 2(a) and (b)(2) of this Act.

RANGE IMPROVEMENT FUNDING

SEC. 5. (a) In order to accomplish the purposes of this Act, there are hereby authorized to be appropriated the sum of an additional $15,000,000 annually in fiscal years 1979 through 1982. Such funds shall be in addition to any range, wildlife, and soil and water management moneys which have been requested by the Secretary under the provisions of section 318 of the Federal Land Policy and Management Act, and in addition to the moneys which are available for range improvements under section 401 of the Federal Land Policy and Management Act (43 U.S.C. 1751).

(b) In addition, annual authorization requests made by the Secretary under the provisions of section 318 of the Federal Land Policy and Management Act (43 U.S.C. 1748) for fiscal years 1983 through 1986 for range, wildlife, and soil and water management shall be no less than the amount authorized under the provisions of subsection (a) of this section for fiscal year 1982. Furthermore, requests for authorization for fiscal years 1987 through 1998 shall be not less than the amount authorized for fiscal year 1982 as increased by $5,000,000.

(c) Any amounts authorized by this section not appropriated in one or more fiscal years shall be available for appropriation in any subsequent years.

(d) No less than 80 per centum of such funds provided herein shall be used for on-the-ground range rehabilitation, maintenance and the construction of range improvements (including project layout, project design, and project supervision). No more than 15 per centum of such funds provided herein shall be used to hire and train such experienced and qualified personnel as are necessary to implement on-the-ground supervision and enforcement of the land use plans required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) and such allotment management plans as may be developed. Such funds shall be distributed as the Secretary deems advisable after careful and considered consultation and coordination, including public hearings and meetings where appropriate, with the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and the advisory councils established pursuant to section 309 of the Federal Land Policy and Management Act (43 U.S.C. 1739), range user representatives, and other interested parties. To the maximum extent practicable, and where economically sound, the Secretary shall give priority to entering into cooperative agreements with range users (or user groups) for the installation and maintenance of on-the-ground range improvements.

(e) Prior to the use of any funds authorized by this section the Secretary shall cause to have prepared an environmental assessment record on each range improvement project. Thereafter, improvement projects may be constructed unless the Secretary determines that the project will have a significant impact on the quality of human environment, necessitating an environmental impact statement pursuant to the National Environmental Policy Act prior to the expenditure of funds.

GRAZING FEES

SEC. 6. (a) For the grazing years 1979 through 1985, the Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Economic Research Service) added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100: *Provided,*

That the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 per centum of the previous year's fee.

(b) The second sentence of section 401(b)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751(b)(1)) is hereby amended by adding the words "or $10,000,000 per annum, whichever is greater" after the words "50 per centum", and by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

GRAZING LEASES AND PERMITS

SEC. 7. (a) Section 402(b)(3) of the Federal Land Policy and Management Act (43 U.S.C. 1752) is amended by striking the period at the end of the proviso and adding ": *Provided further*, That the absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless the Secetary determines on a case-by-case basis that the information to be contained in such land use plan or court ordered environmental impact statement is necessary to determine whether a shorter term should be established for any of the reasons set forth in items (1) through (3) of this subsection.".

(b) Section 402(a) of the Federal Land Policy and Management Act is hereby amended by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

ALLOTMENT MANAGEMENT PLANS

SEC. 8. Section 402 (d) and (e) (43 U.S.C. 1752 (d) and (e)) are hereby amended—

(a) by changing subsection (d) to read as follows:

"(d) All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supersede any requirement for completion of court ordered environmental impact statements prior to development and incorporation of allotment management plans. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and any State or States having lands within the area to be covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basic to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms 'court ordered environmental impact statement' and 'range condition' shall be defined as in the 'Public Rangelands Improvement Act of 1978.' ".

(b) by deleting in subsection (e) the words "Prior to October 1, 1988, or thereafter, in" and by inserting "In".

APPROPRIATIONS

SEC. 9. Notwithstanding any other provision of this Act, authority to enter into cooperative agreements and to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

GRAZING ADVISORY BOARDS

SEC. 10. Section 403(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is amended by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

NATIONAL GRASSLANDS EXEMPTIONS

SEC. 11. All National Grasslands are exempted from the provisions of this Act.

EXPERIMENTAL STEWARDSHIP PROGRAM

SEC. 12. (a) The Secretaries of Interior and Agriculture are hereby authorized and directed to develop and implement, on an experimental basis on selected areas of the public rangelands which are representative of the broad spectrum of range conditions, trends, and forage values, a program which provides incentives to, or rewards for, the holders of grazing permits and leases whose stewardship results in an improvement of the range condition of lands under permit or lease. Such program shall explore innovative grazing management policies and systems which might provide incentives to improve range conditions, including but not limited to—

(1) cooperative range management projects designed to foster a greater degree of cooperation and coordination between the Federal and State agencies charged with the management of the rangelands and with local private range users,

(2) the payment of up to 50 per centum of the amount due the Federal Government from grazing permittees in the form of range improvement work,

(3) such other incentives as he may deem appropriate.

(b) No later than December 31, 1985, the Secretaries shall report to the Congress the results of such experimental program, their evaluation of the fee established in section 6 of this Act and other grazing fee options, and their recommendations to implement a grazing fee schedule for the 1986 and subsequent grazing years.

ADVISORY COUNCILS

SEC. 13. The first line of section 309(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739) is amended by deleting "is authorized to" and inserting in lieu thereof "shall".

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I yield to the distinguished Senator from Maine, the chairman of the Budget Committee.

Mr. MUSKIE. Mr. President, because the pending bill, as reported out of committee, contains a small authorization for fiscal year 1979 and was reported after May 15, 1978, it is subject to a point of order under section 402 of the Budget Act.

After discussing this matter with the distinguished floor manager of the bill, he has agreed to offer an amendment striking that provision from the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated September 28, 1978, addressed to me as chairman of the Budget Committee, from Senator CHURCH and Senator LAXALT, the primary sponsors of the Public Grazing Lands Improvement Act of 1978.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 28, 1978.

Hon. EDMUND MUSKIE,
Chairman, Budget Committee, U.S. Senate.

DEAR MR. CHAIRMAN: As you know, we are the primary sponsors of the Public Grazing Lands Improvement Act of 1978. This measure is designed to revitalize the public range lands through a 20-year improvement program, and is badly needed to check the continued deterioration of the western range.

This bill as reported by the Energy and Natural Resources Committee sets the start-up for the range improvement program in fiscal year 1979. Because the beginning of FY '79 is so imminent, and in order to meet the requirements of the Congressional Budget and Impoundment Control Act of 1974, we are prepared to offer a technical amendment to the Grazing bill when it comes up on the floor which would set the start-up period in fiscal year 1980. We hope that this amendment would resolve any problems which the Budget Committee might have with this important legislation.

With best wishes,

Sincerely,

FRANK CHURCH,
PAUL LAXALT.

Mr. MUSKIE. Mr. President, under these circumstances I will not raise the point of order but will permit the bill to be considered so that the amendment may be offered.

I have cleared this procedure with Senator BELLMON, the distinguished ranking minority member of the Budget Committee, and he has no objection to this procedure for dealing with the problem.

Mr. CHURCH. I thank the distinguished chairman, Senator MUSKIE, and Senator BELLMON for their cooperation.

Presently, the amendment to which the Senator has referred will be acted upon.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. CHURCH: Fred Hutchison, Mike Harvey, and R. D. Fulsom; Mr. CANNON: Bruce Eggers; Mr. LAXALT: Sam Ballinger; Mr. HANSEN: Ted Orr.

Mr. CHURCH. Mr. President, I ask unanimous consent that the committee amendment be adopted and considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it so ordered.

UP AMENDMENT NO. 1974

Mr. CHURCH. Mr. President, I send to the desk certain technical amendments and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an unprinted amendment numbered 1974, en bloc.

The amendment is as follows:

On page 34, line 15, insert the following: after the word "conditions" insert a "." and thereafter delete through line 16 and insert

in lieu thereof "These may include, but need not be limited to —".

On page 25, line 5, delete the "." and insert in lieu thereof a "," and thereafter insert the phrase "except that as used in this Act such term applies to the sixteen contiguous Western States."

On page 26, line 20, insert a new subsection as follows:

"(i) The term 'sixteen contiguous Western States' means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming."

On page 26, line 8 and 9, delete the phrase "livestock, wildlife, wild horses, and burros." and insert in lieu thereof, "livestock and wildlife."

On page 28, delete section (5)a and insert in lieu thereof a new subsection to read as follows:

"SEC. 5. (a) In order to accomplish the purposes of this Act, there are hereby authorized to be appropriated the sum of an additional $15,000,000 annually in fiscal years 1980 through 1982; for fiscal years 1983 through 1986 an amount no less than the amount authorized for 1982; and for fiscal years 1987 through 1998 an amount not less than $5,000,000 annually more than the amount authorized for fiscal year 1986. Such funds shall be in addition to any range, wildlife, and soil and water management moneys which have been requested by the Secretary under the provisions of section 318 of the Federal Land Policy and Management Act, and in addition to the moneys which are available for range improvements under section 401 of the Federal Land Policy and Management Act (43 U.S.C. 1751)."

Delete subsection 5(b) and reletter the following subsections of section 5 accordingly.

Mr. CHURCH. Mr. President, this is the amendment to which the Senator from Maine (Mr. MUSKIE) has referred. It eliminates the provision which gave rise to the point of order. I move that these technical amendments be adopted en bloc.

The PRESIDING OFFICER. The question is on the adoption of the committee amendments en bloc.

The amendments were agreed to, en bloc.

Mr. CHURCH. Mr. President, 44 years ago, Congress enacted the Taylor Grazing Act to regulate livestock grazing on the public rangelands in order to prevent the condition of the range from deteriorating to a point of uselessness. That forward-looking conservation law was the first step toward enlightened management of our public grazing lands. Today, we have before us the Public Rangeland Improvement Act of 1978, landmark legislation which is in the best tradition of the Taylor Grazing Act.

This bill has two primary purposes: It establishes a 20-year schedule for increased funding for range improvements so as to make our rangelands lush and productive again, and it sets a statutory grazing fee schedule which incorporates the factors of cost of production of livestock and the price of beef in computing the grazing fee.

The need for this legislation has been documented on a number of occasions. In 1975, at the request of the Senate Appropriations Committee, the Bureau of Land Management surveyed the public rangeland and prepared a range condition report. That report concluded that much of the 160 million acres of rangeland administered by the BLM is in poor and declining condition. The BLM found only 2 percent of the rangeland in excellent condition, 28 percent was in poor condition; and 5 percent in bad condition. Furthermore, the report stated that 16 percent of the range continues to deteriorate. The report projects that if present management policies were to continue, in 25 years the productive capability of the public domain could decline by as much as one-fourth.

The figures on erosion contained in that report are just as bleak. Of the 144.5 million acres of rangeland surveyed during the 5 years prior to the report 91 percent of the inventoried lands had either critical or severe erosion problems.

The range condition report outlined a 20-year rehabilitation program to improve and enhance the range. In response to the report, the Senate passed Senator HASKELL's National Rangeland Policy Act during the 94th Congress. The Haskell bill was the forerunner of the legislation we are considering today.

The need for this kind of rehabilitation program was further documented by the General Accounting Office in a July 5, 1977, report entitled "Public Rangelands Continue to Deteriorate." That report concurs in and reemphasizes the message of the earlier BLM report.

Ironically much of the poor condition of the public domain is a result of the virtually unregulated grazing which began in the West with the arrival of the first Spanish settlers and continued on until the passage of the Taylor Grazing Act. Although that act has been helpful, even after 40 years the range is still deteriorating. Further initiatives are necessary if we are to restore a healthy ecological system and provide sustained forage yields to support domestic livestock as well as wildlife.

Because many Senators may be unfamiliar with the provisions of the bill, I will briefly summarize them.

RANGE IMPROVEMENT FUNDING

Section V of the bill establishes a 20-year schedule for increased funding for range improvement. These funds are to be in addition to the moneys requested by the Secretary of the Interior under the Federal Land Policy and Management Act. The additional authorization would amount to $15 million annually in fiscal years 1980–83. Total authorization over the 20-year period would amount to $360 million. The section also provides that 80 percent of these supplementary funds shall actually be used for on-the-ground improvements. No more than 15 percent of the funds are to be used to hire and train personnel.

GRAZING FEE SCHEDULE

Section VI establishes a formula for determining the fee schedule for grazing on Bureau of Land Management and Forest Service lands. That formula is based on the economic value of the range resources to the user. The formula also takes into account the cost of production of livestock, the price of beef, and the value of the forage available. The formula is authorized on a 7-year trial basis.

Despite the continuous debate over grazing fees which has occurred since their initiation on the national forests in 1906 and on Bureau of Land Management lands in 1936, Congress has never before set a statutory grazing-fee formula. Section VI finally puts an end to the longstanding controversy over the fees charged for the privilege of grazing on the public domain. Under this bill, the fee would be calculated annually to include a factor which reflects beef prices and forage values. In years when beef prices are high and ranchers could afford to pay higher fees, the fee would rise. Conversely, in years when beef prices are depressed, the fee would decrease.

GRAZING PERMITS AND LEASES

Section VII of the bill stresses that grazing permits and leases will be issued for a period of 10 years unless the Secretary concerned determines on a case-by-case basis that a shorter term should be established in the interest of sound land management. This section reaffirms the intent of Congress in passing section 402 of the Federal Land Policy and Management Act which directs 10-year leases with limited exceptions. Despite this statutory directive, the Department of the Interior has continued to issue only annual permits in areas not covered by completed allotment management plans. Section VII adds a proviso to section 402 of FLPMA which states that the absence of allotment management plans and court-ordered environmental impact statements are not to be the sole basis for granting less than 10-year terms on leases.

ALLOTMENT MANAGEMENT PLANS

Section VIII further spells out the intent of Congress with regard to allotment management plans for grazing units of the public range. Among other things, this section clarifies that allotment management plans are discretionary with the Secretary, reinforces requirements for consultation in the preparation of such plans, and requires that such plans must be "tailored to the specific range conditions of the area. * * *" This section also requires that the plans be periodically reviewed to determine whether they have been helpful in improving range conditions.

EXPERIMENTAL STEWARDSHIP PROGRAM

Section XII of the bill provides for the development and implementation by the Secretaries of the Interior and Agriculture of experimental incentive programs for grazing permittees whose stewardship result in range improvements. Among the suggested programs are cooperative management projects designed to foster better Federal-State-private coordination and cooperation in range management and a project which would allow grazing permittees to pay up to 50 percent of the amount they owe for grazing in the form of range improvements.

In summary, Mr. President, this legislation builds upon past efforts to encourage prudent management of the public domain. It has the support of a broad coalition of interests. The Public Range-

lands Improvement Act of 1978 is long-awaited legislation. It is important to protect the Western livestock industry and a way of life which is coming under more and more pressure, and it is vital to restore and replenish our rangelands so that these resources will support a multitude of uses in the years ahead.

Mr. President, I ask unanimous consent that the portion of the Energy and Natural Resources Committee's report which deals with the proposed new experimental range stewardship program, and which suggests the establishment of a cooperative range project in the Challis, Idaho, area be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. REPT. 95-1237

SECTION 12. EXPERIMENTAL STEWARDSHIP PROGRAM

Provides for the development and implementation by the Secretaries of Interior and Agriculture of experimental incentive programs for grazing permittees whose stewardship results in range improvements.

Among the experimental programs suggested are management projects that are designed to foster better Federal-State private cooperation and coordination.

The committee was made aware of the successful efforts in cooperative range management which have occurred in Grant County, Oreg., and was persuaded that this approach ought to be tried on an experimental basis in other areas where there is a high commingling of ownerships and jurisdictions. In that regard, the Challis, Idaho area, which has a mix of private, BLM, Forest Service, and State-owned lands, was viewed as one of the best candidates for such an experimental program. In addition, the Bureau of Land Management has already done significant long-term planning for the area and is nearing completion of their environmental impact statement for the Challis unit. BLM decisions on future directions for use and management of public lands for livestock grazing and other multiple uses will follow shortly after completion of the environmental impact statement. The completion of the EIS also removes legal impediments limiting the types of range improvement work which can be accomplished by the BLM. With the ongoing programs of the Forest Service, there is a solid base for a cooperative effort among the Federal land managing agencies, State agencies, livestock operators, and other user interests in implementing these programs in the immediate future, and in creating a climate for shaping future programs.

The purposes of the experimental programs envisioned by the committee would be to foster innovation and cooperation, and better range stewardship. The quality and quantity of the various outputs of the public and private rangelands in the selected areas could be not only maintained, but also improved by such programs through the control and reduction of soil erosion, the protection of local watersheds and water quality, the enhancement of forage resources, the protection and enhancement of the habitat of wildlife and resident and anadromous fisheries, and intensive management of the resources so as to provide sustained yields without damaging these resources. Such programs could lead to a greater degree of cooperation and coordination between the Federal and State agencies charged with the management of the rangeland and associated resources, local range users and representatives of other interests. Such cooperation could help reduce tensions in areas like Challis and through effective communication lessen conflicts between range managers and range users.

The committee is aware that both the BLM and the Forest Service have sufficient existing authority to undertake the cooperative range management projects suggested by this legislation, and the committee feels that additional statutory directives are unnecessary. However, the committee does recommend the use of the general purposes and procedures followed in the Great County cooperative management program, which we summarize here. First, a steering committee should be established to oversee the program, and should be comprised of the appropriate locally based Federal officials, such as the national forest supervisor, the BLM's district manager, and the district conservationist of the Soil Conservation Service, the appropriate representatives of the State government's institutions and agencies which have an interest in the lands and resources of the area (such as the Land and Water Resources and Fish and Wildlife Departments), range and other resource specialists from the State's land grant university, and a balance of range users, including local livestock producers, landowners, and others as appropriate.

The plans and programs of the Federal land managing agencies, already developed with local cooperation, would necessarily be the program for the Federal lands for the period for which planning has been completed. The steering committee would seek implementation of current programs, and would address itself in a timely fashion to future improvements and modifications as conditions, needs, and the resources change. Over time, the committee expects that—as agency planning addresses future issues—the steering committee would help integrate that planning into and develop a cooperative range management plan, consisting of a number of smaller plans for the various allotments. The steering committee would identify the objectives and goals to be met at the various stages of the cooperative range program, compile the best possible resource inventory data based upon such objectives and goals, evaluate and interpret such resource inventory data and reduce it to a form which can be easily understood by those who will actually put the data to use, and then identify sound and workable alternative range treatments and management schemes which will fulfill the objectives and goals to be met by the cooperative management program (with emphasis placed on factual and scientific data, and historic use). As new programs and plans are developed and evaluated, the steering committee may then, with confidence, seek agreement on the actions necessary to implement such programs and plans, including which agencies, individuals, or groups should undertake which actions, when and where such actions should occur, and how such actions will be accomplished. Wherever possible, commitments made by the U.S. Government, State agencies, or local range users should be set in writing and carefully honored.

During the development of the cooperative program, the steering committee would be well advised to seek the broadest possible consultation with the individual landowners and range users who opt to participate in the program and such other individuals or groups who have an expressed interest in the lands and resources of the area, so as to fit the program to local, as well as national and State priorities.

The committee expects that such cooperative range management programs would cost little or no more than what would be spent by the various agencies on their own. The Forest Service, BLM, and State agencies should be able to fund the programs through their usual sources. It is hoped, however, that top priority for funding would be placed on the designated study areas.

Another incentive program authorized by this section would allow grazing permittees to pay up to 50 percent of the amount they owe for grazing in the form of range improvements.

There may be many other incentive programs that the Secretaries may develop to improve range conditions. The committee encourages the development and implementation of such programs. The Secretaries are directed to report to the Congress the results of these programs no later than December 31, 1985.

Mr. CHURCH. Mr. President, I also ask unanimous consent that a list of organizations which support this bill, a statement by Bill Swan of the Idaho Cattleman's Association which details why the livestock industry favors the grazing fee formula contained in the bill, and several telegrams and letters in support of this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF ORGANIZATIONS SUPPORTING RANGE BILL

National Cattleman's Association.
National Livestock Producers Association.
American Farm Bureau Federation.
National Farmers Union.
National Grange.
National Farmers Organization.
Public Lands Council.
National Wool Growers Association.
National Association of State Depts. of Agriculture.
National Association of Conservation Districts.
Society for Range Management.
Western Universities Public Rangelands Coordinating Comm.
Interstate Producers Livestock Association.
National Women Involved in Range Economics.
Public Lands Institute.
National Environmental Development Association.
Western Environmental Trade Association.
Northern Great Plains Regional Sierra Club.
Wyoming Environmental-Agricultural Coalition.
Wyoming Sierra Club.
Wyoming Outdoor Council.
Wyoming Wilderness Society.
Plus: 51 state cattle associations affiliated with National Cattlemen's Association.

STATEMENT OF THE IDAHO CATTLEMEN'S ASSOCIATION

* * * * *

will often result in a higher grazing fee than the formula advocated by the Secretaries of Interior and Agriculture. In spite of this, he continues to say that their formula represents Fair Market Value and the Technical Committee formula does not.

Actually, the only study that arrived at Fair Market Value was the 1966 survey that determined that Fair Market Value at that time was $1.23. This is the base figure used in both the Secretaries formula and the Technical Committee formula. However, this $1.23 has been adjusted by an index referred to as Private Land Lease Index until today under this adjustment, Fair Market Value has reached $2.38 per A.U.M.

Let me state again, the conflict between the industry and the Administration is not "Fair Market Value" for we both agree that $1.23 is the starting point. The disagreement is in the make-up of the index that should be used to annually adjust Fair Market Value.

I would like to enumerate some of the reasons why the industry objects to the Administration's proposal. In Chapter 5, page 1 of the Secretaries Report it is stated, "The private lease data used to determine the current level of FMV, however, are not screened to determine just what the leasee's obligations are. This has become a matter of concern to some since the typical landlord-tenant lease arrangement is not known. Additional study is necessary in this area to determine the typical lessor-lessee relationship and the actual cost of their obligations to the lessee".

From Chapter 6, page 4: "The use of private grazing land lease rates from the probability survey of SRS is recommended for use in the 1978 Public Land Fee System. However, in computing fees for 1978 and 1979 we would continue to use the data gathered from the March Farm and Ranch Report." It is worthwhile to report that there was no data collected from Nevada or Arizona on Private Lease Rates during 1976 and 1977, yet these two states provide 26% of all public land grazing.

It is from this admittedly inadequate data that Fair Market Value has been adjusted from $1.23 to $2.38 per AUM. Is there any wonder that the livestock industry rejects this criteria as the role index to establish FMV?

As to the new probability survey that the Administration claims will end these inequities, the Statistical Reporting Service has this to say: "The data has sufficient unexplained variations to make it inadequate for determination of grazing charges or as a measurement of respondent bias."

The Administration in the Secretaries Report and in various hearings has claimed that using the combined index (Beef Price and Prices Paid) as part of the formula introduces "ability to pay" as a consideration in arriving at Fair Market Value. This, they claim, gives an economic advantage to users of public land and doesn't truly reflect Fair Market Value. We feel that they have completely misinterpreted the use of this index. As the Technical Committee stated, "The value of the resource (public grazing) is a derived demand from the product it produces (beef and lamb)." Therefore, the Committee concluded that the range fee formula should include factors that measure changes in the value of the range resource. Certainly, forage that produces beef worth 60¢ per pound has more value than forage that produces beef worth 30¢ per pound.

There are many other factors why the private lease rate index should not be the only criteria for adjusting grazing fees. Among them are weather conditions. A drought wil put unusual demands on private lands that may subside after a year.

Build up of cattle numbers in an area will result in a temporary increase in demand for the limited private land that is available for lease. Added restrictions on public grazing often accompanied by reductions in numbers creates a demand for this land. Competing nonagricultural uses often result in higher grazing leases.

In my experience working in public land matters, I have never seen the industry more united than they are on the grazing fee question.

We urge you to retain the Technical Committee formula as an index to adjust Fair Market Value.

I would also recommend that periodic surveys be instituted to update the 1966 study. As the Secretaries stated in their report "Little information presently exists to indicate if the relative cost of grazing public and private lands have increased, decreased or remained constant since 1966."

There are many other problems on public lands that need our attention. We hope that the grazing fee issue can be finally resolved so that we may address them.

PUBLIC LANDS COUNCIL,
WASHINGTON, D.C.,
NATIONAL CATTLEMEN'S ASSOCIATION,
DENVER, COLO.,
NATIONAL WOOL GROWERS ASSOCIATION,
WASHINGTON, D.C.,
September 29, 1978.

Hon. FRANK CHURCH,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: We want to express our thanks for your leadership and efforts in the Senate Energy and Natural Resources Committee on the Public Rangelands Improvement bill, H.R. 10587.

Although we are disappointed that the Committee deleted the wild horse and burros section and the guidelines for nonenvironment impact improvements, we generally support passage of the bill as reported. However, we would oppose any further weakening amendments.

We hope that the Senate will act promptly to pass this legislation which has the broad support of all the farm organizations and many professional range and environmental groups. (Enclosed is a list.)

Sincerely,

RONALD A. MICHIELI,
NCA, Director, Government Affairs for Land and Natural Resources/PLC, Executive Director.

WASHINGTON, D.C., *September 29, 1978.*
Hon. FRANK CHURCH,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: National Farmers Union urges your support for prompt passage in the Senate of the Public Grazing Lands Improvement Act of 1978. Producers in our Western States are anxious for enactment of this legislation which provides greatly needed funding for improvements of our public lands. Such improvements need to be made now to meet the present and future multiple uses of these lands.

Thanks for your leadership on this important conservation issue.

TONY T. DECHANT,
President, National Farmers Union.

WASHINGTON, D.C., *September 29, 1978.*
Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.:

The Public Rangeland Improvement Act of 1978, H.R. 10587, is a measure that is of vital importance to farmers and ranchers throughout the country and I strongly urge that it be passed by the Senate.

JOHN W. SCOTT,
Master, the National Grange.

WASHINGTON, D.C., *September 29, 1978.*
Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.:

We urge your support of H.R. 10587, Public Rangelands Improvement Act 1978.

CHUCK FRAZIER,
National Farmers Organization.

WASHINGTON, D.C., *September 29, 1978.*
Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.:

The American Farm Bureau Federation supports H.R. 10587 as passed by the House and amended by the Senate Energy and Natural Resources Committee, except for the Senate committee amendments to section 7 on wild horses and burros. We encourage the Senate's adoption of H.R. 10587.

JOHN DATT,
Director.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. CANNON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, I commend the distinguished Senator and the committee for the action they have taken in this matter.

We have been trying for years to get an equitable formula arrangement for the ranchers that would include the cost of production and the forage value differences and other factors. I regret that this has not been considered adequately up to the present time, and I think that under this legislation it will insure that these matters are taken into consideration.

There is one factor I am concerned about that is not in the bill, and that is that the bill does not deal with the wild horse issue. That is indeed a very serious problem for a lot of us out in the West. Particularly in my State it is a very serious problem.

I hope we can work out something with the House, or something later this year, to try to get at that most difficult problem.

Mr. President, this measure, H.R. 10587, is an important step in the preservation and restoration of our rangelands. Through this bill, the Congress recognizes that considerable portions of the rangelands are in unsatisfactory condition and will remain so unless a coordinated effort is undertaken to improve and then properly manage these public rangelands.

The bill provides funding for important on-the-ground improvements such as seeding and erosion control. The Secretary of Agriculture is directed to manage the rangelands to maintain their productivity. This includes authority to reduce or curtail grazing when the range becomes threatened. While this appears an appropriate authority, I do not believe it is proper to lay blame for range deterioration to livestock grazers as is sometimes the case. Livestockmen know only too well the value of the rangelands and the vast majority take particular care to insure that their allotments are prudently used. Many have undertaken voluntary programs of range improvement with the consent of Bureau of Land Management and the Forest Services. Many ranges in Neveda are in better condition now than they were when grazing first was introduced. I am pleased this legislation continues to recognize the important place of livestock grazing in the uses of these ranges.

It is of course appropriate that fees should be charged for the forage used in such livestock operations. This measure addresses a long-standing controversy of how the grazing fees should be deter-

mined in an equitable manner. I commend the committee for its decison to include factors of cost of production, differences in forage values and the livestock price index in the formula. This formula follows closely the formula proposed by the Technical Committee of the Departments of Interior and Agriculture. This formula recognizes the inability of the Index Private Pasture Lease Rates alone to measure short-run instabilities and incorporates a combined index of beef prices less a prices-paid index to measure short-term impacts. This approach is acceptable to livestock producers and will, I believe, lay to rest the controversy which has surrounded grazing fees for many years. A reasonable and equitable formula surely must have as one element some degree of acceptance in the group which must bear the cost. This formula is so accepted.

The House version of this bill included a section dealing with wild horse management. I hope the House language will be retained in conference. Considerable controversy has developed over what numbers of horses constitute an optimum population level. The House language attempts to establish factors which should be generally applied to determine an acceptable level. Whether this will completely avoid the numbers controversy is improbable but reflects, I believe, an acceptable criteria.

The fact remains that the optimum has already been exceeded in many areas of the West. Horses have been rounded up out of necessity but their continued care and disposal has proved difficult. This legislation attempts to redress the problem by permitting transfer of adopted horses to their owners following a 1-year probation period and assurance that the animals have been humanely treated. The present adoption program has not worked as well as hoped because of reluctance by qualified individuals to assume responsibility for a horse to which they would never have title. This provision would have the most immediate favorable impact and should be retained.

I believe we can provide better management for this resource without impairing the purpose of the original act or the intent of Congress.

I strongly supported the original legislation to protect the remnant herds of "wild" horses and I continue to believe they represent a significant and visible link to our frontier past. They also have the same rights to protection of their habitat and place in the natural order. However, like any wild animal, I believe it is important they be properly managed. The States are free to manage the numbers of deer, antelope, and big horn sheep which inhabit the same territory. The wild horse, however, is presently in a special status. I believe we can do a better job, both for the protection of the range, the competing wildlife population, and for the horses themselves.

Mr. President, I believe the measure is a long overdue step toward resolving these problems and I support its adoption.

Mr. HANSEN. Mr. President, I join the distinguished Senator from Nevada in expressing my growing concern and unease with the increasing numbers of horses and burros on western ranges. This is a very serious problem, indeed. The real danger lies in severe and very long-lasting damage to the environment. It is not the other way around. I think that sentiment has gotten caught up in this issue, so as to focus on the wrong concern that people really should be addressing.

I agree completely with the distinguished senior Senator from Nevada in seeing that it is a very serious problem. I hope it can be considered very shortly.

Mr. President, I support H.R. 10587. The Departments of the Interior and Agriculture has in the past set the grazing fees for the public lands from the authority given by the Taylor Grazing Act (43 U.S.C. 315). Since 1969, a formula has been in operation which has taken into consideration most of the operating costs incurred by private and public land graziors, with an adjustment being given for the private lease rate.

However, both departments have proposed and would have implemented increases in the fee as high as 25 percent, but Congress declared a moratorium. This increase was proposed at a time when beef prices for the producer was systematically decreasing and when many range improvements have been delayed, restrained or halted due to the court suit. There is a great debate on the degree of range improvements that are permissible. This bill properly addresses this problem. A 10-year wait is in effect while 212 environmental impact statements are being prepared. Graziors have paid part of their fees into range improvement funds. Permittees are being forced to pay more at a time when they could least afford it and when the fees that are applicable to the range improvement fund cannot be spent.

In 1973, total net farm income in the State of Wyoming was $123.7 million, and net income per farm was $14,788. By 1976 these figures has declined so that total farm income for Wyoming was $1.9 million and net income per farm was down to only $241. According to USDA's Economic Research Service, total and individual net income figures for these 4 years are as follows:

Year	Total net farm income—Wyoming	Net income per farm—Wyoming
1973	$123,700,000	$14,788
1974	61,700,000	7,530
1975	14,200,000	1,751
1976	1,900,000	241

It is at a time such as this that the Range Forest Index, which is used to compute present fees, is so inaccurate—that is, when prices of beef are low, owners tend to hold livestock they would ordinarily market, adding more cattle on a finite amount of land. This tends to drive the price of private grazing land up. The cost of private land is used as a comparative base to compute public fees: yet often, this is inaccurate since it may reflect increased numbers of cattle on hand due to distressed market conditions.

After careful analysis of this continuing situation, I have, with many cosponsors, offered amendments and bills which address the issue to bring equality in determining grazing fees. Title IV on range management of the Federal Land Policy and Management Act of 1976 directed the Secretaries of Agriculture and Interior to conduct a study to determine the value of grazing on the lands under their jurisdiction in the 11 Western States with a view to establish a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holder of grazing permits and leases on such lands. In making such a study, the Secretary shall take into consideration the cost of production normally associated with domestic livestock grazing in the 11 Western States, differences in forage values and other factors as may relate to the reasonableness of such fees. The Secretary shall report the result of such a study to the Congress not later than 1 year from, and after the date of approval of this act—which was October 1—together with recommendations to implement a reasonable grazing fee schedule based upon such a study.

Section 402(h) says:

Nothing in this act shall be construed as modifying in any way law existing on the date of approval of this Act with respect to the creation of right, title, interest or estate in or to public lands or lands in the National Forest by the issuance of grazing permits and leases.

I quote that act because I firmly contend that the cost of permit in the sale of ranches in the 11 Western States is included in the sale price and is a cost of doing business. The permit, in effect, has been allowed to accrue chattel value and is a legitimate cost of production. Along with 25 other Senators, I urged the Task Force and both Secretaries to include the cost of permit acquisition in the cost of production for that purpose only and that no right or title or interest should convey. They chose not to include the cost of permit acquisition in their determination of grazing fees. But, the fact should be recognized. It is a matter of equity. IRS sure thinks it is jim dandy. They recognize it.

Section 412(h) does not preclude the cost of permit being included in a determination of a cost of production but simply reaffirms what the Taylor Grazing Act said, that there is no value by law. I urge Congress to address this issue, to seek an equitable answer because I believe there is a public good served by grazing the public lands at a fair cost.

I quote from the paper done for the Council for Agricultural Science and Technology, Report No. 23, January 22, 1974, "Livestock Grazing on Federal Lands in the 11 Western States":

Almost half the land area in the 11 Western States is federally owned. Domestic livestock graze on 73 percent of this area. Federal land is estimated to supply 12 percent of all the grazing resources in the region and to provide the equivalent of the feed required year-long for 1.7 million head of cattle and 1 million head of sheep. These grazing lands provide energy, water, minerals, recreation opportunities and wildlife, in addition to grazing for domestic animals.

The forage on Federal lands represents a renewable natural resource and economic source of feed for production of cattle and sheep. Loss of the products of grazing cur-

rently derived from Federal lands would increase the scarcity of feed, meat, and wool.

The mounting demands for both grain crops and meat point to an increase and importance of forage on both private and public lands to support the beef and sheep industries. Elimination of grazing from the Federal range lands in the 11 Western States would require a shift of animals to other lands or would result in loss of these animals from the productive pool.

More animals on non-Federal lands would require more intensive use of private range land, acreage increases in pastures, harvested forage and feed grains; more acres in cultivation and greater dependence on feedlot feeding in meat production. Only limited acreage is available for development of additional intensive pastures in the United States.

The alternatives to less grazing on Federal range lands appears to us to be wasteful of natural resources and uneconomical for the producers dependent on these lands unless prices of meat and wool were to be increased considerably. Small communities in subsistence type livestock operation within large areas of Federal grazing land would suffer most if grazing on Federal lands were eliminated.

The grazing of herbage has been a natural process on grasslands, shrublands and forests, for as long as grazing animals have existed. The effect of grazing on the range environment depends upon the kind of vegetation, the intensity of grazing, the kind of animal and degree of management employed to control the animals. Experiments and wide-spread experiences show that moderate and planned grazing restores protective vegetational cover on deteriorated ranges, thereby reducing accelerated erosion and improving wildlife habitats. Most range land is better suited to all types of use today than it was before 1950.

Finally, the President, on July 21, 1978, while signing the grazing fee moratorium bill sounded a warning that passing anything other than the administration's grazing fee recommendation would be opposed by both departments and the White House.

I hope that the persons responsible in the departments recognize that:

First. The technical committee formula does consider FMV and was a joint, official effort.

Second. That the grazing fee section of this bill is only a small portion of the bill's content and that there is almost unanimous agreement that the other sections call for range improvements, and other needed reforms. It can be with the administration's cooperation, a most significant event in the history of rangelands.

Mr. President, I ask unanimous consent to have printed in the RECORD a telegram from representatives of the Wyoming Sierra Club, the Wyoming Outdoor Council, the Powder River Basin Resource Council, the Wyoming Public Lands Council, the Wyoming Stock Growers Association, the Wyoming Wool Growers Association, and the Wyoming Farm Bureau.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

LANDER, WYO., *September 12, 1978.*

Senator CLIFF HANSEN:

The undersigned members of the Wyoming Environmental-Agricultural Coalition would like to express our support for the legislative intent of the Public Rangelands Improvement Act of 1978 and request that the provisions of H.R. 10587 B accepted by the U.S. Senate. We believe that when enacted into law the combined provisions of this bill will provide direct benefits to all multiple uses of the public rangelands. Because public State and private rangelands areas often intermingled the improved management of public rangelands resulting from this legislation, will serve as a catalyst for an accelerated program of proper management on all rangelands ecosystems. Regardless of ownership, we urge the approval of this legislation, and request that its provisions be promptly signed into law by the President. Thank you for your consideration of our joint request.

(Wyoming Sierra Club-Laney Hicks) (Wyoming Outdoor Council-Bill Sperry) (Powder River Basin Resource Council-Tom Thorne) (Wyoming Public Lands Council-Tye Moore) Wyoming Stock Growers Association-Walt Reynolds) (Wyoming Wool Growers Association-Jim Magagna) (Wyoming Farm Bureau-Herb Manig).

Mr. HANSEN. Mr. President, each of these organizations endorses this bill, and I think that is a real tribute to the staff work that has been done and to the distinguished leadership of the senior Senator from Idaho in shepherding this legislation along and bringing it to this very happy conclusion.

Mr. CHURCH. I thank the Senator.

I assure both Senator CANNON and Senator HANSEN, who have spoken about the wild horse and burro problem, that there are provisions in the House-passed version of this bill that deal with that problem. We expect to take up those provisions in conference, in the hope that we can reach an understanding between both Houses as to the most appropriate way to address this serious and growing problem.

Mr. CANNON. I thank the Senator.

Mr. HANSEN. Mr. President, the distinguished junior Senator from Nevada has been most helpful and most knowledgeable in this area, and I hope that when conferees are appointed at an appropriate time, he and the junior Senator from Idaho might represent the minority side.

I ask now that the Senator from Nevada (Mr. LAXALT) be recognized.

Mr. CHURCH. I am happy to yield to the other principal sponsor of this bill, Senator LAXALT.

Mr. LAXALT. I thank the Senator from Idaho.

I believe that, for the first time in a long while, through the grazing production formula and through the extension of time, we are going to give badly needed stability to the livestock industry.

I commend the distinguished Senator from Idaho for his leadership in this matter. I share his concern and that of my colleague from Nevada with respect to the wild horse problem. We must do something about that. If I am selected as a conferee, I assure my colleagues that I will do all I can to work out an equitable solution with respect to the wild horse problem.

Mr. President, the bill we are now considering has been referred to by some as perhaps the most important legislation relating to the Western rangelands since passage of the Taylor Grazing Act in 1934. I am proud to have been one of the primary sponsors of this bill, and I would particularly like to compliment my distinguished colleague from Idaho, Senator CHURCH, for his diligent efforts. Having had the opportunity to work closely with Senator CHURCH on this bill, I can attest to his responsiveness to the needs of his constituents and the public at large.

Since a full background and explanation of the bill's specific provisions have already been outlined by Senator CHURCH and are contained in the committee report, I will not repeat a description of them here. My colleagues are now well aware that this is an effort to address in a single bill several issues that affect the future of the Western public lands, and I might add, that this is a historic opportunity for Congress t assert a clear and deliberate policy toward resolution of many of the problems involving the management and improvement of the public lands, particularly those administered by the Bureau of Land Management. This legislation is the product of many months of work by the members of the Senate Energy and Natural Resources Committee, members of the House Interior Committee, the livestock industry, and the environmental community.

Mr. President, H.R. 10587 will affect management of some 170 million acres of rangeland in the 11 Western States. It has been estimated that in the Western States at least half of all cattle and sheep spend part of their lives on public ranges. In my State of Nevada, grazing on public lands is a weighty issue where 87 percent of the land is administered by the Federal Government. In Nevada, approximately 68 percent of the cattle graze at least part of the time on public lands. With these facts in mind, I hope my colleagues understand the deep concern expressed by my Nevada constituents concerning the issues affecting the future of the western public lands addressed by this legislation.

Mr. President, if the quality of public rangelands is to be improved for wildlife, recreation, and livestock, the Congress must dedicate itself to a program of positive support for range improvements. H.R. 10587 begins such a program of positive support. This is a bill that is truly in the national interest, and I believe that it is a commonsense and reasonable approach that should allow improvement of the public lands as a natural resource.

I urge my Senate colleagues to support this much needed legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD a report by A. L. Lesperance of the University of Nevada's College of Agriculture entitled "The Importance of Public Lands in Red Meat Production."

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE IMPORTANCE OF PUBLIC LANDS IN RED MEAT PRODUCTION

Four hundred and seven million acres or 54% of the eleven Western States are publically owned. Seventy-six percent or 254 million acres are classified as rangeland. The principal management agency of this re-

source is the Bureau of Land Management, although the Forest Service is also charged with the management of a considerable portion of this resource.

Today, BLM forest and rangelands supply 16.2 million AUM's annually. Forest Service lands supply an additional 9.0 million AUM. Thus, grazing ruminants harvest 25.2 million AUM's from federally owned western rangelands each year. Currently the USDA has taken the position that each AUM of range forage produced results in an additional eight bushels of grain being available for export. Thus, these 25.2 million AUM's represent 202 million bushels of export grain annually ($644 million).

The western range forage resource must also be considered as an integral management tool for the major beef herds in the United States today. At this time 60% of the nations 43 million beef cows exist in herds of 100 or less. Conversely 30% of the cows exist in herds of 500 or more (12.9 million cows). Cattle on all federally owned land spend an average of three months each year using this resource. Therefore, if one divides the total public AUM's (25.2 million) by 3 it becomes obvious that 8.4 million cows spend an average of three months on public lands. Another way of saying this is that two out of every three cows in herds of 500 or more spend some time utilizing the public domain.

Although a very substantial case can be built at this time for the importance of livestock use of the public domain, a consideration of alternative feed sources makes the public range even more important in the future. The key to this situation is the production and use of our feed grains (corn, barley, oats, milo and wheat) today and by the year 2000. Table 1 lists the production and use of feed grains for recent years and predicting the same uses for 2000 A.D. The peak grain production ever achieved by this country was in 1973 when 256 million tons were produced.

TABLE 1.—PRODUCTION AND USE OF FEED GRAINS

[In millions of tons]

Year	Production	Human use	Livestock feed	Export	Carryover
1964	172.5	31.2	115.6	43.5	96.3
1969	220.4	33.1	148.4	39.3	74.7
1973	256.0	34.9	158.8	78.9	52.5
1974	218.7	------	131.1	------	29.0
2000	315.0	46.0	134.0	135.0	0

Agronomists predict we can produce much more; however, without new water sources and less expensive fertilizer (both unlikely) it seems doubtful that the figure of 315 million tons will be exceeded. Uses of grain for human consumption (food and alcohol) will continue to grow with an expanding population. Livestock uses have also grown but appeared to level off in 1974. Export, on the other hand, has doubled in the last five years. Total grain used during the last five to ten years has exceeded production by approximately seven to eight million tons per year. This has resulted in our grain reserves dwindling to less than 30 million tons in 1974. Grain reserves by the end of 1975 may well be less than 15 million tons.

The Nation has used its grain reserves for export advantage but this process, if continued, will effect future domestic use of grain. Based on an export level of 135 million tons by 2000 A.D., some 134 million tons of grain should be available for livestock feed.

Table 2 shows past use of feed grains and what we have to look forward to by the year 2000. Certain trends appear in these data, mainly non-ruminant (poultry and swine) and pleasure animals (pets and horses) uses of cereal grains has grown and will, in all likelihood, continue to grow proportionately with the increase in human population. Use of grains by dairy cattle will also increase.

TABLE 2.—LIVESTOCK GRAIN CONSUMPTION

[In millions of tons]

Year	Hogs, poultry	Pleasure	Dairy, sheep	Beef
1964	63.7	7.4	21.0	23.4
1969	69.8	8.9	20.1	44.3
1973	69.5	18.6	20.8	45.6
1974	58.2	16.4	21.0	31.1
2000	73.4	20.1	23.8	17.0

Beef use of grains also rose steadily until 1973–74 when the beef economic situation worsened. In the following year, beef use of grain fell by one-third which is indicative of the fact that the beef industry is not able to economically compete with other sectors for grain. With the tight grain situation of the coming years this fact will become more obvious which leads to the prediction that by the year 2000 A.D., the beef industry will only be consuming 17 million tons of grain annually.

Use of grain and other feeds by beef in 1974 and 2000 are presented in Table 3. This table is broken into two categories including cattle on feed (feedlot cattle) and other beef cattle (cow herd). In 1974, we had 13.6 million cattle on feed. It is anticipated that this number will increase to 21 million by 2000. Patterns of feed consumption will change for feedlot cattle. All 17 million tons of grain available for beef will be allocated to feed lot cattle, but due to the increased numbers in feedlots this actually means each feedlot calf will consume 1500 pounds less grain before slaughter. The difference will be made up by increased use of high quality forages, such as alfalfa, corn silage, and other feeds. Less concentrates for beef will result in certain management changes including cattle being on feed for less time. The major effect of tight grain supplies will, however, be on the nations cow herds. In 1974 these animals consumed over 10 million tons of grain but by the year 2000 this value will be zero.

TABLE 3.—PRESENT AND FUTURE SOURCES OF FEED FOR BEEF

[In millions of units]

Year	Number	Grain	Other concentrates	Harvest forage	Pasture	Range
Cattle on feed:						
1974	13.6	20.8	3.3	13.9	1.4	------
2000	21.0	17.0	4.0	23.5	1.4	------
Other beef (cows, etc.):						
1974	43.0	10.3	2.2	35.4	53.4	85.2
2000	50.0	0	2.2	25.8	53.4	147.5

Additional increases in forage produced on irrigated lands are not anticipated. More harvested forages must be fed to cattle on feed, therefore, less will be available for the cow herd. If our population is to maintain its present level of beef consumption (125 pounds of carcass beef per person per year) then we will require a beef herd of around 50 million cows by 2000. The requirements of this herd will dictate a tremendous increase in the dependence upon the nations range forage resources. Table 3 indicates that by 2000 an additional 60.3 million tons of range forage will have to be harvested by beef cows to acomplish this task. According to the BLM, approximately 800 pounds of harvested forage is equivalent to one AUM. Thus, today, 85.2 million tons represents some 213 million AUM's. The projected increase to 147.5 million tons of harvested forage by 2000 results in 368.8 million AUM's or an increase of 74 percent.

The present study, as well as a recent USDA publication, has projected where these increases in range forage production may come from. These are summarized by Ecogroups in Table 4. Two of the Ecogroups, including the eastern forests and western rangelands, will be called upon to make dramatic increases in forage production. The eastern forest is essentially privately owned thus normal supply and demand should accomplish this task. The western rangelands mostly fall into public ownership, thus complicating the job.

TABLE 4.—PROJECTED INCREASES IN GRAZING ON DIFFERENT ECOGROUPS BY THE YEAR 2000

[Million AUM's]

	1970	2000	Percent
Ecogroup:			
Eastern forest	53.5	132.1	147
Great Plains rangeland	92.8	96.1	4
Western forest	10.7	13.6	27
Western rangelands	56.1	127.0	126
Total	213.1	368.8	73

Nine basic plant ecosystems comprise the western range. These include sagebrush, pinyon-juniper, desert shrub, mountain meadow, mountain grassland, southwestern shrub chaparral, desert grass and annual grass types. Management of these nine types falls within BLM, FS and private ownership. Research in forage reestablishment or improvement has been conducted on all of these various types. The greatest potential increase in forage production is in the sagebrush ecosystem. This ecosystem currently produces 10.8 million AUM's. It has a potential capacity of 44.5 million AUM's or an increase of 312 percent. Other major increases will occur in the mountain grassland, annual grassland and pinyon-juniper ecosystems.

Perhaps a more important assessment of production potential would be to relate anticipated increases in forage production to ownership. Privately owned rangeland currently produces 34.8 million AUM's. It is anticipated that this segment will be increased by 140% to 83.6 million AUM's by 2000. Rangelands managed by the Forest Service currently produce 5.7 million AUM's. Projections to 2000 A.D. call for this resource to be increased to 9.0 million AUM's. The same projection for Bureau of Land Management lands call for an increase from 15.6 million to 34.8 million AUM's (123%) by the year 2000. Thus, if the total increase in range forage production of 70.9 million AUM's (69%) is scheduled to come from private rangelands, 27% must come from BLM lands and 4% from lands managed by the USFS.

Increases in production on private lands occurring in large blocks are readily obtainable. However, where private are public lands intermingle increases are difficult to obtain without related increases on the public sector, consequently improvement of BLM forage capacity becomes increasingly important if the nation is to meet its requirements for beef production by 2000 A.D.

The cost of producing more range forage is considerable, but it also pays big dividends. Table 5 shows the cost benefit ratio for range improvement. Improvement figures are based on a 20 year schedule. Generally, improvement in forage production also require additional fencing and water development. A Nevada study suggests the total development cost per AUM, assuming the development will last for 20 years, is around $3.07. A similar USDA study placed the price at $3.42. Returns generally occur in three areas. First, the BLM recovers half of the cost in its current charge of $1.51. This is scheduled to increase to nearly $3.00 by 1985. Secondly, the rancher himself must realize some profits, although recently this has been very small.

However, because of all the associated costs of harvesting the AUM's with the grazing ruminant, the rancher pumps back into the local economy anywhere between $10.00 and $15.00 per AUM. Thus, each additional AUM more than pays for its cost by returns to the BLM, rancher and local economy.

TABLE 5.—*Cost benefit ratio for range improvement*

Cost per AUM (20 year schedule):	
Brush eradication and seeding	$1.50
Additional fencing	1.40
Water development	.17
Total	3.07
USDA	3.42
Return per AUM:	
BLM (1976)	1.51
Rancher—	
Net	0– 4.00
Gross (local economy)	10.00–15.00
Public—	
(1 AUM=8 bushels of grain for export)	25.00

Perhaps the most important area of return is that which the entire public realizes in increased export. Each additional AUM releases 8 bushels of grain for export, thus every time we invest $3.00–$3.50 to produce a new AUM of range forage, we allow an additional $25.00 of grain to become available for export.

Under the best of circumstances the task of producing an additional 70.9 million AUM's of forage on western ranges by 2000 A.D. would be difficult. However, when ownership patterns include private as well as two separate governmental agencies then the problem becomes acute. Further, recent legal action (NRDC *et al.* versus Morton *et al.*) requiring the filing of environmental impact statements dealing with livestock grazing on specific areas seems to make the task impossible. By law, the BLM must accomplish this task on each of its 212 grazing allotments by 1988. This in itself is a monumental task. However, on every grazing allotment, complete moratoriums exist on range improvements until an impact statement on grazing is filed. From a practical standpoint, federal funds for improvement (including grazing fees) will not be available to improve public range until all impact statements are filed because the drain on BLM funds and manpower to file an impact statement are simply too large. Therefore, at this point, improvements in the forage resource on BLM lands before 1988 look very doubtful. Because of the restrictions being requested by NRDC (Natural Resource Defense Council) in filing the impact statement on the "specific site" concept and because of the equal importance being placed on all aspects of multiple use, improvements after 1988 look doubtful at this time also.

Unfortunately, throughout the recent court case and related actions concerning the publicly owned western ranges, little attention was paid to historical fact and present scientific knowledge. Livestock grazing commenced on western ranges in 1870 to 1880. During the period of 1880 to 1920, grazing pressure was immense. Great herds of both cattle and sheep were trailed into areas such as the Great Basin every year. During this period, the range resource could not withstand the overuse and began to deteriorate.

It has been estimated that the cold desert shrub region (mainly the sagebrush type) expanded by 50 million acres, mainly at the expense of the northwest bunchgrass region, partially as a result of this early grazing pressure. Prior to and during the depression commercial grazing of the public range decreased due to economic factors. Uncontrolled use of the public lands came to a stop with the passage of the Taylor Act of 1934. Since then range condition seems to have remained fairly constant. In a recent summary of a range study initiated in 1938, it was concluded that livestock grazing has not been generally destructive to the rangelands since 1937. Thus, much of the detrimental effect of livestock alluded to in the original NRDC brief does not in reality appear to exist.

Additional criticism has been aimed at livestock grazing in regards to competition with deer. This has become a critical area as western deer herds have generally been declining in recent years. Close examination of factual information, however, offers some logical reasons for this decline. First, as stated earlier, brush cover greatly increased during this period. This apparently offered a better habitat for the mule deer as a concurrent population explosion for this species was recorded. In 1900, populations of deer in Nevada were apparently less than 25,000. By 1950, this population had increased to over 300,000. Today in Nevada, as elsewhere, deer numbers are declining. This is generally being blamed on livestock grazing. Scientific facts do not support this idea. First, any wildlife population that undergoes an explosion due to environmental changes always surpasses a "safe level" that the new environment is capable of supporting. If all livestock and hunting pressures were removed from the western rangelands in 1950, deer populations would be falling today. Numerous scientific studies on many wildlife populations around the world exist to support this point. Wildlife populations exist in balance with nature. When a population expands, controlling factors such as disease, predation, etc., eventually catch up. This often results in fluctuations of the new population level for many years, until such a time as the population and controlling factors come into balance.

Cattle and deer do not eat the same plant species. Western ranges are a complex mixture of grasses, browse plants and other species. Cattle eat primarily grass, usually 90 to 95% or higher while deer consume basically browse and forbs. Deer will consume some grasses in early spring months but this occurs before cattle are turned out and amounts to less than 5% of their total diet. In Nevada studies, sagebrush is the single most important species consumed by deer, amounting to 30 to 35% of their diet. Cattle, on the other hand, do not consume sagebrush (*Artemisia tridentata*) as it is not palatable, and even toxic. Consequently cattle and sheep grazing were originally responsible for changes in plant communities that allowed increases in deer populations. Removal of domestic livestock today would not enhance wildlife production, and in fact, would ultimately be detrimental.

The decline in deer populations today are occuring because of factors other than livestock grazing. First, a simple understanding of population genetics partially explains the problem. However, in western areas at least two other factors exist which are contributing to the problem. Predator animals, chiefly the coyote, are having an ever increasing effect. Since removal of such successful controls as the poison 1080, predation has been increasing. The University of Nevada's Gund Ranch, located in central Nevada, now records coyote kills as the single largest cause of death to its calves. Although coyote kills have never been tabulated in fawns, their effect must be large.

Competition on deer winter ranges does occur, but not from cattle. Ever increasing populations of wild or feral horses are definitely competing with deer for available forage. With the passage of the Wild Horse and Burro Act of 1970, and subsequent placing of management of horses under the jurisdiction of BLM, populations have grown rather rapidly. In 1971, the BLM estimated 7,000 horses existed in Nevada. Today the figure is 28,000. That represents an annual increase of 30% in population. Today feral horses in Nevada consume annually more range forage than deer. With their current rate of growth, if remained unchecked, horses will consume more range forage in Nevada by 1980–82 than domestic livestock.

Federal management of wild horses has thus far been disastrous. To just maintain todays population on western ranges, some 15,000 horses must be removed annually. Preliminary trapping in Oregon and Nevada during 1975 suggests this cost the BLM $425–$450 to remove one horse. Thus, horse control will cost the BLM some $6.4 to $6.8 million annually. Horses cost the public in another fashion, and that is removal of forage that could be used by domestic livestock. Using the USDA equation of one AUM being equivalent to eight bushels of corn for export, feral horses on western ranges consume the equivalent of $32,000,000 in export every year.

The job of managing publicly owned rangelands has become a bureaucratic nightmare. Nevertheless, its importance as a resource must not be discounted and, in fact, will only become increasingly important in the next decade. The range resources' greatest value is to the public, because it can play an extremely important role in allowing more and more of our raw agricultural products, including grain, to be exported so that our dollar balance remains positive. In this regard, range forage from public lands today is worth $542 million annually. Privately owned western rangelands offer another $890 million, thus the total western range resource has an annual value to the nations population of 1.4 billion dollars. Projected increases in forage production to maintain todays beef consumption elevates this worth to 3.3 billion dollars by 2000 A.D.

The range forage resource does play an extremely important role in today's beef production as well as the overall economy of the United States. Projected increases in grain export as well as increased demand for grain for other than livestock feed suggests that western range forage must play a far more important role by the year 2000. Much of the scientific technology is available to make these adjustments and not destroy habitat. Additional research is needed, however, to accomplish the large scale increases which are projected. The most important area of immediate concern, however, is to obtain the legal and legislative help so the task may be accomplished.

APPENDIX

PRELIMINARY CONCLUSIONS REPORTED BASED ON NEVADA RANGE CONDITION STUDY CONDUCTED OVER PAST YEAR

Livestock grazing does not appear to have had a generally detrimental effect in the past some 40 years on those Nevada areas studied.

This was the impression of a University of Nevada range scientist based on data gathered over the past year concerning range conditions on 17 study sites in the State.

A preliminary report of information accumulated in the study was presented at a meeting of the Nevada Range Research and Development Committee held April 6 on the University of Nevada Reno campus. The committee had encouraged and financed the research effort. Ralph Holmgren, range scientist at the U.S. Forest Service Shrub Science Laboratory in Provo, Utah made the presentation. He noted the final report would be ready for publication this coming July.

The information presented resulted from assessment of the 17 sites this past year. The study was conducted by the University. The plots measured were established in 1938. The techniques used to measure the sites were the same as those used in 1938 so that results, as much as possible would be comparable. Many of the sites had not been eval-

uated since the early 1960's. Jack Artz, Extension Range Specialist at UNR, served as coordinator for the project.

Artz, in discussing the work said, "What we found suggests to me that in these particular range types in Nevada, livestock grazing has not been, generally, destructive to the rangelands since 1937. However, there hasn't been much improvement either."

"The objective of the Committee in encouraging these studies," Artz explained, "is to get better information on the condition and trend of Nevada rangelands. It is the Committee's feeling that there is valid data available but it is not being used in recent studies and statements."

"One group of studies," Artz continued, "can't give all the answers." The studies, for example, were mostly located, by design, on overgrazed winter range, and compare complete exclusion of livestock with a continuation of whatever kinds of livestock management that has occurred since the studies began. Only three of the 17 plots evaluated in 1975 show a marked visual difference between the grazed and the protected area. On several plots there has been improvement in the grazed and the protected portions so that changes are more or less parallel and not so visible. Artz says in at least half the study areas, however, there is little significant present difference between the grazed and the ungrazed after 38 years.

"Where there is a potential for greater production, major management changes will usually be required and in many cases this will mean some type of vegetation manipulation such as brush control and reseeding," Artz added.

The study sites were established by the Experiment Stations of the U.S. Forest Service and the University of Nevada to study vegetational changes on what were considered to be overgrazed desert and semi-desert winter ranges. Each study site consisted of 40 permanent plots within a 4-acre fenced area excluding livestock. A similar series of plots were established adjacent to the fenced area and were not enclosed. On each plot, ground cover and weight measurements by species were collected.

The 1975 work was conducted by a two-man University student team under the direction of Artz. Specific contributions to the effort were made by the U.S. Forest Service, Bureau of Land Management, Bureau of Indian Affairs, and the State Departments of Agriculture and Fish and Game. Holmgren was responsible for combining the 1975 data with the previous information.

SYMPOSIUM ON PASTURE METHODS FOR MAXIMUM PRODUCTION IN BEEF CATTLE: COMPETITIVE USE OF THE RANGE FORAGE RESOURCE [1] [2]

(By A. L. Lesperance,[3] P. T. Tueller [4] and V. R. Bohman [3] [5])

(NOTE.—Figure 1 not printed in the RECORD.)

The multiple use concept (Huss, 1964) considers a wide variety of land uses including grazing of livestock, wildlife production, recreation, watershed and timber production. Some uses are compatible, while others are more competitive and often result in subjectively determined measures influencing the ultimate uses of the land. In the utilization of range forage resources, the greatest area of direct competition occurs between livestock and wildlife grazing forages in common.

The multiple use concept can theoretically be practiced on all lands. However, it is obviously more easily legislated on the publicly owned lands which come under the management policies of one of the several regulatory agencies. Therefore, the multiple use concept has had far more influence in the western states. Nevada is unique in that 86 percent of the State is federally owned, and comes under the management of the Bureau of Land Management (BLM) primarily and to a lesser extent, the United States Forest Service.

Livestock grazing patterns vary in the intermountain area but generally animals graze foothill ranges in the spring and, as the season progresses, move higher into the mountains. With the onset of fall, animals gradually return to the foothill areas. During winter animals are either maintained on dry desert valleys or fed harvested forages (Bohman *et al.*, 1967). In Nevada the grazing pattern varies somewhat with the area. The southern part of the range area is generally utilized year-round. In the north, livestock usually are fed harvested forages from 3 to 5 months during the winter period.

It is difficult to completely ascertain the degree of range utilization on complex areas such as Nevada. However, in a recent study [6] on range utilization by livestock in Nevada, it was found that range sources supply a total of 4.1 million animal unit months (AUM). This amounts to 1.13 million metric tons of forage harvested annually by meat animals on Nevada ranges (over 90 percent of this use is accounted for by cattle). In 1965 53 percent of this forage, or 2.2 million AUM, was harvested on land managed by the BLM.

Use of range forage in Nevada is obviously more difficult to document for big game than for livestock. However, most use occurs on ranges utilized by cattle in either spring, summer or fall. Using an average daily consumption of 4% of the live body weight, it can be estimated that big game animals in Nevada consume 204,000 metric tons of forage annually (Anonymous, 1967). Mule deer (*Odocoileus h. hemionus*) account for over 90% of this use. Since approximately 1.33 million metric tons of forage are harvested annually by both livestock and deer, the necessity of determining the major sources of this forage is obvious.

Early investigators in the area of livestock-game competition chiefly studied relationships between elk and livestock. Pickford and Reid (1943), Rouse (1957), Julander and Jeffrey (1964), Mackie (1965) and Stevens (1966) have contributed to the understandings of elk-livestock range relationships. Morris (1956) concluded that the problem of elk and livestock competition could only be solved by an intelligent, fair and informed public, representing all interests in the land involved, developing a plan for the best management of all resources including game and livestock.

Direct competition studies between deer and cattle are scarce but general studies (Davis, 1952; Julander, 1955) have indicated that deer feed primarily on stems of woody plants while cattle generally use grass when grazing ranges which offer a wide degree of selectivity.

With increased public demand for recreation associated with big game species, every effort will be made by management to maintain or improve their numbers. Therefore, if the range livestock industry is to hold its current position of importance in the multiple use concept on the public domain, an understanding of the extent of competition between livestock and big game species is urgently needed.

The studies reported in this paper have been designed to better delineate the areas of competition between deer and cattle in Nevada.

EXPERIMENTAL PROCEDURE

Rumen-fistulated steers were used to collect forage samples as described by Lesperance, Bohman and Marble (1960a) on three Nevada range areas. Study sites are described in table 1 and figure 1. Samples were collected monthly for 2 years in Delamar Valley located 29 kilometers west of Caliente. Samples were also collected from May through November during a 4-year period at the Knoll Creek Field Laboratory eight kilometers east of Contact. The third area was located on the Nevada Test Site of the U.S. Atomic Energy Commission approximately 145 kilometers northwest of Las Vegas. Samples were collected monthly on this site for 2 years. In all three studies three to four animals were used during each sampling period. In addition samples were obtained for 2 to 3 consecutive days on both the Delamar Valley and Knoll Creek sites. Once obtained, samples were frozen and transported to the laboratory for botanical analysis (Lesperance *et al*, 1960b).

Five different ranges were selected for deer studies. Three are considered summer or year-around areas while two are winter areas. Year-round areas include Fox Mountain and White Rock. Fox Mountain is located approximately 161 kilometer north of Reno. White Rock, including portions of both the White Rock Range and Wilson Creek Range, is located 72 kilometers north of Caliente. Samples were collected on Fox Mountain for 4 years and on White Rock for 2. Both areas were sampled 5 times yearly. Bates Mountain is used only as a summer area and is located 32 kilometers northeast of Austin (samples were collected for two summer periods). Winter areas include Morey Bench and the Pequop Mountain area. Morey Bench is located on the east side of the Hot Creek Range, approximately 145 kilometers northeast of Tonopah. The Pequop area is located in the Pequop Mountains 48 kilometers east of Wells. Samples were collected at these two sites during one winter only. Normally rumen samples were collected from four to five deer in each area during each period immediately after sacrifice. A suitable subsample was removed from each rumen sample, frozen and brought to the laboratory for botanical analysis. Analysis was patterned after a point sampling technique described by Lesperance *et al.* (1960b). The actual procedure was modified since the point method gives surface area only and the presence of large items, such as leaves, stems and the inflorescence of various browse species, would cause overestimates for these. Therefore correction factors were developed to relate surface area to weight. Correction factors are described by Doughy (1966) and Deibert (1968).

All sampling areas described are typical of the wide variety of range habitat-types found in the Great Basin. Data on general botanical composition are divided into three categories: grasses, forbs and browse. Usually individual species of both browse and forbs have been identified. For the sake of simplicity, forage from trees or tree-like plants are classified as browse.

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[1] Presented at the 60th Annual Meeting of the American Society of Animal Science, Stillwater, Oklahoma, August 1968. The Symposium, made possible by support from the American Hereford Association, was organized jointly by the Pastures and Forages Committee, A.S.A.S., and the American Forage and Grassland Council.

[2] Contribution from the Agricultural Experiment Station, University of Nevada, Journal Series No. 125.

[3] Division of Animal Science.

[4] Division of Renewable Natural Resources.

[5] The authors gratefully acknowledge the assistance of F. E. Kinsinger, R. A. Brechbill, K. W. Brown, Norman Raymond, George Tsukamoto, Jack Woody, Marshall Humphreys, Clark Torell, D. W. Marble and C. F. Speth for aid in these investigations.

[6] Artz, J. L., 1969. Nevada Agricultural Experiment Station. Unpublished data.

TABLE 1—COLLECTION SITE DESCRIPTION

Site	Code in fig. 1	Elevation M	General vegetation	Sampling agent	Reference
Delamar Valley	DV	1,400	Desert shrub, limited grass	Cattle	Connor, 1962
Knoll Creek	KC	2,000	Sagebrush-grass aspen	do	Do.
Nevada Test Site	NTS	1,800	Northern desert shrub, grass, and forbs	do	Smith, 1968.
Fox Mountain	FM	2,200	Sagebrush-bitter-brush, limited grass and forbs	Deer	Doughty, 1966
White Rock	WR	2,600	Pinion-juniper mahogany and open areas of sagebrush-bitter brush	do	Deibert, 1968.
Bates Mountain	BM	2,600	Aspen-sage brush, forbs and grass	do	Doughty, 1966
Morey Bench	MB	2,000	Pinon-juniper, bitterbrush-sagebrush	do	Do.

RESULTS AND DISCUSSION

Cattle Diets. At Knoll Creek grass provided approximately 83 percent of the diet throughout the grazing period, although less than 15 percent of the vegetation cover consisted of grass (table 2). Generally as the season progressed the percent of dietary browse increased at the expense of forbs, although both remained low. The grass content of the diet remained relatively constant throughout the period (table 3), ranging from a high of 96 percent to a low of 78 percent in August. A surprising year-to-year variation was noted in the Knoll Creek data; apparently associated with weather patterns. In 1960, an extremely dry year (20 cm precipitation), the diet averaged 71 percent grass, 22 percent browse and 7 percent forbs. In 1963, an extremely wet year (37 cm precipitation), the diet averaged 83 percent grass and 17 percent forbs. Additional moisture increased the amount of available grass and forbs; thus the cattle were not forced to consume browse. Generally, these data compare similarly with those obtained by Cook, Harris and Young (1967) with esophageal fistulated cattle on Utah ranges. These workers observed the diet to contain on sagebrush and aspen types respectively, 77 percent and 84 percent grass, 12 percent and 3 percent browse, and 11 percent and 13 percent forbs. The Knoll Creek sagebrush grass range would be intermediate between the two described by the Utah workers. Antelope bitterbrush (*Purshia tridentala*) accounted for over 77 percent of the browse consumed at Knoll Creek.

Grass consumption was low in fall and winter and increased in spring and summer in Delamar Valley (table 2) although the yearly average was only 26 percent. The lowered consumption of grass did not indicate a preference for browse when the grass became mature and dry. Instead the area studied was grazed extensively and cattle were forced to consume a browse diet as virtually all grass had been consumed. Actually these animals displayed a remarkable preference for grass. During the summer periods grass made up less than 10 percent of the plant cover, yet fistula forage samples contained 60 to 80 percent grass (table 3). Apparently browse plants typical of this type (salt desert shrub) are relatively unplatable when compared to grass. The principal browse plants consumed were white sage or winterfat (*Eurotia lanata*) and Brigham tea (*Ephedra nevadensis*) with some saltbush (*Atriplex* spp.) being consumed in spring.

TABLE 2.—AVERAGE BOTANICAL COMPOSITION OF DIETS SELECTED BY FISTULATED CATTLE OF 3 NEVADA RANGES

Area	Percent of diet		
	Grass	Browse	Forbs
Knoll Creek (247)[1]	[2] (1.4) 83	9	8
Delamar Valley (129)	(2.5) 26	74	0
Nevada Test Site (117)	(2.5) 80	9	11

[1] Number of samples.
[2] Standard error of the mean.

TABLE 3.—PERCENTAGE GRASS IN DIETS SELECTED BY FISTULATED CATTLE BY MONTHS AT 3 NEVADA LOCATIONS

Month	Knoll Creek	Delamar Valley	NTS
January	(1)	(8.6) 26	(0.7) 98
February		(5.3) 18	(0) 100
March		(6.2) 22	(3) 88
April		(3.9) 39	(1.2) 93
May	[2] (1.7) 96	(3.6) 81	(6.5) 92
June	(3.0) 85		(.4) 99
July	(2.5) 80	(6.7) 60	(9.4) 67
August	(2.4) 78	(5.2) 27	(6.5) 80
September	(1.6) 81	(1.9) 5	(9.0) 63
October	(1.7) 87	(.5) 1	(7.3) 74
November	(1.6) 87	(2.4) 7	(12.6) 69
December		(1.4) 5	(6.2) 35

[1] Data not collected during blank months.
[2] Standard error of the mean.

TABLE 4.—AVERAGE BOTANICAL COMPOSTION OF DIETS SELECTED BY MULE DEER ON 3 SUMMER RANGES AND 2 WINTER RANGES

Area	Percent of diet		
	Grass	Browse	Forbs
Year-round:			
Fox Mountain (68)[1]	11	[2] (2.1) 83	6
White Rock (45)	5	(2.8) 85	10
Summer: Bates Mountain (29)	5	(4.9) 49	46
Winter			
Morey Bench (14)	2	(1.5) 97	1
Pequop (15)	5	(2.2) 91	4

[1] Number of samples.
[2] Standard error of the mean.

Deer Diets. On both summer and winter ranges deer appear to select browse to approximately the same degree that cattle select grass (table 4). At Fox Mountain deer averaged 11 percent grass in their diet; however 93 percent of the grass use occurred during March and May. Forb use remained relatively minor, never exceeding 9 percent. Browse use varied from 62 percent in the spring to 97 percent in the fall (table 5). The primary browse species selected in decreasing order of importance at this site are: sagebrush (*Artemisia spp.*); Curlleaf mountain mahogany (*Cercocarpus ledifolius*) and antelope bitterbrush.

TABLE 5—BROWSE COMPOSITION IN DIETS OF MULE DEER BY MONTHS AT 5 NEVADA LOCATIONS

Month	Year-round			Winter	
	Fox Mountain	White Rock	Summer, Bates Mountain	Morey Bench	Pequops Mountain
January	(1)			(0.9) 99	(2.3) 94
March	[2] (2) 62	(13) 76		(3.3) 92	(4.9) 86
May	(5.4) 75	(7.3) 70	(9.7) 52		
July	(1.4) 93	(6.4) 89	(4.7) 31		
September	(1.2) 97	(1) 90	(7.7) 64		
December	(2.3) 90	(.2) 100		(.3) 100	(3.7) 94

[1] Data not collected during blank months.
[2] Standard error of the mean.

Browse accounted for 85 percent of the diet at White Rock. Some 12 percent grass occurred in March, but only 1 percent by July. The principal browse species were: desert bitterbrush, birchleaf mahogany (*Cercocarpus montanus*); *Utah* juniper (*Juniperus ostcosperma*) and one-leaf pinon (*Pinus monophylla*).

Grass consumption at the Bates Mountain site was aslo low, occurring primarily in May. Forbs played a much more important role in the diet and are much more prevalent at this location. Browse was still the primary forage type consumed. The major browse species in their order of importance are: quaking aspen (*Populus tremuloides*); serviceberry (*Amelanchier alnifolia*); sagebrush, long flower snowberry (*Symphoricarpos longiflorus*) and chokecherry (Prunus virginiana).

Browse accounted for the great majority of the diet at the two winter areas. Principal browse at Morey Bench included: desert bitterbrush, pinon pine, Utah juniper and sagebrush; and at the Pequop site included: sagebrush, Utah juniper, mountain mahogany and bitterbrush.

Potential Dietary Competition. These data from eight sites in Nevada indicate that two general areas of competition exist between

deer and cattle; namely the early spring competition for grass and late fall competition for grass and late fall competition for browse. Both species generally select some forbs when available; however, with the exception of the Bates Mountain data, forbs play an unimportant role in the diet of either species. Consequently, the competition for forbs is not considered important on Nevada ranges.

The competition for grass during the early spring months would appear to have more serious consequences; however a close examination of these data leaves some question. Deer consumed approximately 14 percent grass during the months of March through May, and essentially no grass after that. Conversely cattle consumed in excess of 90 percent grass during this same period. Direct competition on the same area does not normally occur. Range cattle are grazing lower foothill areas during this period, while deer tend to graze in more mountainous terrain. Additionally, the development of approximately one million acres of reseedings in the foothill area of Nevada has greatly alleviated the problem Reseeded areas are normally used during the spring period (March to May) and are not used appreciably by deer in Nevada (Cole, 1968). By the time cattle are moved to native ranges, deer are no longer consuming grass, but have changed to a browse diet.

Throughout the summer cattle consume grass as long as it is available, while deer remain or browse. Obviously if overgrazing eliminates available grass, cattle will be forced to consume browse species. Apparently cattle will naturally switch to some browse in the late fall but by this time cattle usually have been returned to lower areas which are not often utilized by deer until later as a wintering area. Cattle appeared to actually select browse extensively during the fall in only one area, the Nevada Test Site. Browse consumption in Delamar Valley was not a function of selection, but rather of necessity.

At Knoll Creek browse only accounted for 9 percent of the diet in the September to November period.

The period of competition for browse in the fall is generally considered the most important by game managers. Deer and cattle were not always concentrating on the same browse species. Cattle at both Knoll Creek and Nevada Test Site extensively selected bitterbrush (*Purshia* spp.), which accounted for 63 percent of the total browse selected. Other species only accounted for small amounts of the diet and are not considered important. Browse species selected in the Delamar Valley area are not characteristic of normal deer winter use areas.

Deer tend to select three to five browse species in any one area. Consequently, they do not concentrate on a single species like cattle. Furthermore, certain browse species selected by deer are not utilized by cattle. Some 32 percent of the browse selected by deer in these studies, based on weighted averages, consisted of special (sagebrush, juniper and pinon) that were not found in the diet of cattle except for an occasional trace. Sagebrush was the only browse species selected extensively by deer at all five sites and accounted for an average of 17 percent of the total diet consumed by deer. Pinon and juniper accounted for an additional 15 percent of the total diet. Approximately 21 percent of the diet consisted of browse species normally not extensively selected by cattle, including serviceberry, aspen, chokeberry and snowberry. Although these browse species are consumed by cattle, they did not account for more than 1 percent of the diet in these studies. Thirty-three percent of the diet selected by deer consisted of bitterbrush and mahogany. Although only bitterbrush was extensively selected by cattle in these studies, mahogany is also considered desirable by cattle. It is apparent that these or similar browse species will constitute the most important area of fall competition.

Management Considerations. Obviously cattle can be managed to avoid dieting competition with deer simply by removing them from bitterbrush areas before the fall months; however A. L. Hormay, *personal communication* has emphasized the need for cattle use on bitterbrush. He indicates that bitterbrush plants are left in open-branched form under deer use while cattle graze bitterbrush and shape the plants into compact, solid, hedged forms. Such use stimulates adventitious growth in the interior of the crown; thus a sufficient proportion of the annual growth is protected, maintaining the plant in a more healthy state. Continued heavy use by cattle will be detrimental to bitterbrush. Hormay advocates a rest-rotation grazing pattern where cattle do not graze bitterbrush every year. The possibility of utilizing reseeded areas in the fall should not be discounted.

It is apparent that where ample forage is available there is little competition between deer and cattle. Deer are not animals of the grassland, whereas cattle are. However mismanagement of either species will upset the balance that now exists between both. Smith (1949) in studying adjacent winter deer ranges used exclusively by livestock in one case and by deer in the other, found that heavy use by deer killed much of the sagebrush and resulted in tremendous increases in a forb, balsam root (*Balsamorhiza sagittata*) generally not utilized by deer. Also during this 11-year study period grasses markedly increased on the deer ranges. The area grazed by livestock produced a dense stand of healthy sagebrush. Thus over-utilization by either animal species resulted in an increasingly less desirable plant population for that species but tended to produce an ecological shift more favorable for the utilization by the opposite animal species.

Changes which have occurred in Nevada from the onset of livestock grazing support Smith's (1949) observations. It is generally concluded that grasses were more abundant before the arrival of livestock. Livestock overgrazing, starting in the 1880's, extensively shifted Nevada ranges by increasing browse dominance (Robertson and Kennedy, 1954). Although this change would be considered detrimental in relationship to the climax succession of species, it has apparently produced a more favorable habitat for the mule deer. Deer populations were extremely low prior to 1920 when first surveys were available. In fact deer were considered scarce at that time (Anonymous, 1964), but numbers have increased since then. The Ruby Mountain herd in Elko County increased from an estimated 25 in 1917 to 3,000 in 1939. The peak population of deer in Nevada was obtained about 1950 and has remained fairly constant since then.

The situation in Nevada is not unique. Swank (1958) reported in Arizona that high deer populations spring from land misuse and further concluded that elimination of livestock from western ranges would eventually reduce deer populations.

Ecological shifts back to climax habitat seem long and almost impossible to accomplish even under complete protection from grazing. However, the continuation of present big game numbers (deer) on the public domain would appear to be assured by directly managing range forage with such species as cattle. Drastic changes in the use of the range forage resource on the public domain must not be enacted until the relationship of all factors are well understood. Elimination of such management species as cattle could eventually decrease deer numbers. The information available at this time leads to the conclusion that the maximum production of all animals will only be obtained by the dual utilization of the range forage resource by such diverse species as cattle and deer.

SUMMARY

Competitive use of the range forage resource between livestock and big game species becomes more important on the public domain with increased public demand for recreation associated with big game species. In Nevada this appears to be primarily a problem existing between cattle and mule deer. Studies were initiated to better delineate the actual areas of competition between the two species. Rumen-fistulated cattle were used to obtain a total of 493 samples of forage on three study areas. Rumen contents were obtained from 171 deer on five study areas. Samples were collected over several years and during specific grazing periods. Samples were analyzed for grass, browse and forbs. Individual browse and forb species were identified. Cattle extensively selected grass on all study areas, with grass accounting for over 80 percent of the diet as long as it was available. However, when grass was no longer available, then cattle consumed browse. Cattle selected some browse in fall months; mainly bitterbrush. Deer selected browse approximately to the same degree that cattle selected grass. Additionally, deer select three to five browse species; whereas cattle appear to concentrate on only one browse species in any area. The two periods of prime importance for competition are early spring use of grass and late fall selection of browse, primarily bitterbrush. Spring competition may be avoided by delaying cattle turnout on deer use ranges until May. Fall use of browse may be regulated similarly. However, management of bitterbrush stands with periodic livestock grazing suggests that more forage may be produced for deer. Data from this study, as well as others, suggest that the maximum production of deer can only be obtained on ranges managed with domestic livestock.

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Composition of Cattle and Deer Diets Grazing in Common [1]

(By R. P. Ansotegui,[2] A. L. Lesperance,[2] R. A. Pudney,[3] N. J. Papez [3] and P. T. Tueller [4])

Competitive use of the range forage resource by various large animal species is becoming more important on the public domain, especially with the increasing public demand for recreation associated with big game. In much of the West the problem centers around the multiple use by both cattle and deer.

Direct competition studies between deer and cattle are scarce; however, general studies (Kimball and Watkins, 1951; Goodrun and Reid, 1954 and Julander, 1955) have indicated that deer feed primarily on browse plants while cattle generally select grass when grazing on ranges which offer a wide variety of forages. Early rumen contents data for deer-cattle competition were based on pen-feeding trials to determine equivalence between species (Davis, 1952), however, pen feeding does not account for range animal relationships and thus the concept of competition is induced, implying that the total number of animal units regardless of kind of class of livestock. More recent comparisons of cattle and deer diets (Lesperance, Tueller and Bohman, 1970) suggest that the two species do not compete for the same plant species, and indeed may be very compatible in their food habits.

The present study was designed to determine the direct competition between deer and cattle on a complex mountainous range using slaughter and rumen evacuation techniques.

EXPERIMENTAL PROCEDURE

The present study was conducted in the Ruby Butte Study area including the Ruby Mountains of Northeastern Nevada as described by Hunter *et al* (1971). A maximum of six deer were sacrificed during each of the three collection periods (May, June and September) per year for a total of thirty-six deer for the two year study. Because of collection problems only thirty-two deer were actually sacrificed. Immediately following deer collections three rumen fistulated heifers were moved to the location. The rumen evacuation technique (Lesperance *et al* 1960) was employed and the cattle allowed to graze at will throughout the area. The sample was then extracted from the rumen and immediately frozen in dry ice. Botanical analysis was done using a 12X microscope and a two hundred point analysis technique (Doughty 1966). Forage was identified as grass, browse or forb with browse and forbs being keyed to genus and species.

RESULTS AND DISCUSSION

The Botanical composition of rumen samples from both cattle and deer by collection period are presented in Table 1.

TABLE 1.—*Botanical composition of cattle and deer diets grazing in common by period*

	Cattle	Deer
May:		
Grass	99.9	23.0
Browse	0.0	68.0
Forbs	0.1	9.0
July:		
Grass	96.6	1.4
Browse	1.7	70.4
Forbs	1.7	28.2
September:		
Grass	98.5	2.7
Browse	0.6	91.3
Forbs	0.9	6.0

Percent grass was significantly higher ($P<.01$) and browse significantly lower ($P<.01$) in cattle samples when compared to corresponding deer samples for all periods. Percent forbs were higher ($P<.01$) in deer samples during all periods except one September sampling when no differences existed.

Cattle diets did not differ significantly between periods ($P>.05$). Cattle selected over 95% grass during all seasons even though the availability as well as quality of the grass steadily decreased from May to September. Similar observations have been made by Conner *et al.*, 1963 and Smith *et al.*, 1966. These investigators concluded that cattle will select grass as long as it is available. Quality of the grass apparently had relatively little effect upon the animal selection habits.

Deer diets varied significantly between periods ($P<.01$). Deer selection tended to follow a pattern for selecting younger and more succulent growth. Early spring diets for deer contain the highest percentages of grass (23%) at this time forbs are just emerging while new browse growth is not available due to heavy winter use. Highest percentage of forbs (26%) in the deer diets occurs in July when forbs are at their peak production. In September most grasses and forbs have dried and consequently the deer is selecting almost entirely browse species (91%). Certain changes in browse selectivity occurs which further suggests that deer are selecting for only the most succulent growth. Early summer browse use consists mainly of service berry (Amelanchier alnifolia), choke cherry (Prumus virginiana), willow (Salix sp.) and aspen (Populus tremuloides). These species are all deciduous and produce early in the season.

Late season use includes big sage (Artemesia tridentata), bitter-brush (Purshia tridenata), Utah juniper (Juniperus osteosperma) pinyon pine (Pinus monophylla) and mountain mahogany (Cercocarpos ledifalius) which are generally non-deciduous and apparently less palatable.

Cattle primarily selecting grass as long as it is available. During these periods browse consumption would probably only occur after intensive overuse and depletion of grass availability. This has been observed by Conner *et al* (1963).

Deer are displaying a high degree of selectivity for succulent plant parts as they occur with the growing season. Under these conditions grass is only important during the early spring and then constitutes less than 25% of the diet. Lesperance, Tueller and Bohman (1970) reported similar dietary constituents with deer on a wide variety of Nevada ranges.

These data indicate that no real competition exists between cattle and deer during the grazing periods of this study. In fact, the selection of plant types by cattle and deer appears to be very compatible.

The continued balance of grass, browse and forb species in the complex plant cover of much of the forage resource of the public domain, will be dependent upon the continued use by grass selectors (cattle) as well as browse selectors (deer).

SUMMARY

The multiple use concept considers a wide variety of land uses including grazing of both domestic and wild ruminants in common. A two year study was designed to evaluate forage competition between cattle and deer on summer ranges of the Ruby-Butte Management area located in Northeastern Nevada. Thirty-two mule deer were sacrificed during three periods (May, July, September) of each year with rumen content samples collected. Immediately after deer were sacrificed three rumen fistulated heifers were moved to the same location and used to collect forage samples. Both deer rumen and cattle fistula samples were botanically analyzed using point analyses techniques. Percentages of grass, browse and forbs were determined. Average percent of grass, browse and forbs in cattle diets for May, July and September were respectively: 99.9, 0.0, 0.1; 96.6, 1.7, 1.7; and 98.3, 0.6, 0.9. Averages for deer diets for the same periods were: 23.3, 68.1, 8.9; 1.4, 70.4, 28.2; and 2.7, 91.3, 6.0. Percent grass was significantly higher ($P<.01$) and browse significantly lower ($P<.01$) in cattle samples when compared corresponding deer samples. Percent forbs were higher ($P<.01$) in deer samples during all periods except one September sampling when no difference existed. Cattle diets did not differ significantly between periods ($P<.05$). Deer diets did vary between season ($P<.01$) with grass being highest in May. These data indicate that no real competition exists between cattle and deer during these grazing periods, providing proper management exists. The selection of plant types by these two species appears to be very compatible, especially when considered with existing plant communities.

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Mr. LAXALT. Mr. President, we are all aware of the recommendations by the Secretaries of Interior and Agriculture to adopt a grazing fee formula which is strictly pegged to grazing lease charges on private lands. I am extremely concerned that it would severely jeopardize many Western livestock operations by tying public lands lease rates directly to private land rates.

To prevent this, the formula adopted by H.R. 10587 would incorporate private land lease rates, but would also recognize the factors of the cost of beef production and beef prices. In so doing, ranchers would be assured that grazing fees would reflect prices for their animals. In lean years, such as the past 4, fees would be lower to help alleviate situations such as the acute financial squeeze which has recently been experienced by many Western ranching operations.

Mr. President, there are those who contend that incorporating the recommendation of the Technical Committee, which is proposed by H.R. 10587, and which uses the price of beef and cost of production, would indicate that government would subsidize the public land livestock industry—as against those operating entirely on private lands. Mr. President, nothing could be further from the truth. Further, I know of no livestock or farm organization which agrees with that charge. And let me state that the livestock industry is not opposed to paying fair market value for its grazing fees and is willing to pay a reasonable and equitable grazing fee.

Mr. President, I hope my colleagues of the Senate will carefully consider all the facts and analyze the grazing fee formula provision of H.R. 10587. I believe that such an analysis, comparing grazing fees under the administration's proposal and the formula which this bill would establish, demonstrates that the grazing fee provisions of H.R. 10587 are equitable to the public land user and the citizens of the United States.

There are two points that I would like to make. First, the Assistant Secretary for Land and Water Resources of the Department of the Interior, Mr. Guy Martin, testified before the Senate Energy and National Resources Public Lands Subcommittee, "That for 9 of the last 14 years, the Technical Committee Formula," the formula provided in H.R. 10587, "would have resulted in a higher fee than the formula proposed by the administration's task force. Assistant Secretary Martin further testified that under both formulas the fee for 1979 would be the same—$1.89 per AUM. Mr. President, I submit that this hardly represents a subsidy.

At this time, Mr. President, I want to place into the RECORD some of the hidden costs that livestock raisers face on the public lands. This was compiled by Dr. Darwin Nielsen at Utah State University:

NON-FEE COSTS OF GRAZING FEDERAL LANDS

(Up-dated with 1976 (July) index numbers) 1966.

Lost animals, $0.60×1.76 (meat animals—price received), $1.06.

Association fees, $0.08×1.99 (production items), $0.16.

Veterinarian, $0.11×2.09 (wage rates), $0.23.

Moving livestock, $0.24×2.13 (autos and trucks) +$2.09/2 (wage rates) $2.11 average, $0.51.

Herding, $0.46×2.09 (wages), $0.96.

Salting and feeding, $0.45×2.06+2.13/2 (auto and truck) 2.10 average, $0.95.

Travel, $0.32×2.13+1.89/2 (auto, truck, fuel and energy) $2.01 average, $0.64.

Water, $0.08×1.99 (production items), $0.16.

Fence maintenance, $0.24×2.09+2.09/2 (wages) (building and fence), $0.51.

Horse Cost, $0.16×2.06 (feed), $0.33.

Water Maintenance, $0.19×2.09+2.14/2, (wages building, and fencing), $2.12, $0.40.

Dev. Depreciation, $0.11×3.02 (interest, rates), $0.33.

Other Costs, $0.13×1.99 (production items), $0.26.

Total non-feed cost per AUM, $6.50.

$6.50+$1.60=$8.10 Total Cost of Forest Service Grazing per AUM.

$6.50+$1.51=$8.01 total cost of BLM grazing per AUM/$6.50+$2.21=$8.71 estimated cost in 1980 per AUM.

Mr. President, this problem can be examined from a different perspective; for example, Nevada sheep counts for 1920 showed 1,340,000 head, and this steadily diminishes each decade to 1973, which shows over 1 million less—171,000. Now in 1978, the sheep industry in Nevada is in effect wiped out. I submit to my colleagues that if livestock grazing on public lands is subsidized, then they must be going broke being subsidized.

The grazing fee formula provisions of H.R. 10587 takes into account the rancher as producer and conservationist of the public lands. The provision of H.R. 10587 will assist the livestock producer by placing the grazing fee on a cost/price basis rather than the market value of the land concept now being used. It should be noted that these fees are only on a 7-year trial basis.

Mr. President, I believe that the linking of grazing fees to livestock prices and the costs of production allows the producer to remain in a financially viable condition and will at the same time protect the public lands.

In conclusion, Mr. President, I can only speak for my Nevada constituents, and I can assure my colleagues that Nevada livestock operators are keenly aware of conservation, maintenance, and improvement of the forage values of public lands on which they depend. Make no mistake about it, they know it is the key to their survival.

Mr. President, one of the most important parts of H.R. 10587 is the establishment of a grazing fee formula which reflects beef prices and forage values.

In providing some background for my colleagues, with passage of the Federal Land Policy and Management Act of 1976, the Congress instructed the Secretaries of Interior and Agriculture to undertake a 1-year joint study on grazing fees charged on the public lands. That study was completed, and frankly, Mr. President, the announcement by the Secretaries of Interior and Agriculture on October 21, 1977, came as a shock to the livestock industry and many of us in Congress. The Secretaries recommended adoption of a grazing fee formula which is strictly pegged to grazing lease charges on private lands. While this approach appears to have an aura of commonsense, upon closer examination, it is my view, that it becomes evident that it is invalid to tie public land grazing fee rates solely to private land rates.

The unmodified private land lease comparison proposed by the Secretaries of Interior and Agriculture is an inaccurate barometer and standard for unadjusted use in calculating public land fees for the following reasons:

First. The checkerboard land ownership pattern which prevails in many areas of the West means that many private land owners have little choice but to lease adjacent public lands in order to make an economic ranching unit. As such, public land leasing is often not analogous to the "willing buyer, willing seller" situation which governs private land lease transactions.

Second. Private land leases are often for short periods of time only, and reflect inflated rates which speculators or hobby ranchers can afford to pay. They can thus be significantly higher than what a full time rancher may be able to sustain on a year-round operation on public lands.

Third. Private land rates generally convey most of the rights of the land owners to the lessee. By a way of contrast, public land lessees do not have the exclusive right to exclude others, control predators, and exercise complete freedom as to livestock movement, supplemental feeding, and livestock numbers and use.

Fourth. Private land lease rates tend to be higher because the lands often contain a greater degree of improvements—such as fencing, water holes, and springs—than do public lands, and are of better forage quality than public lands.

Fifth. There is inadequate data to validate the lease rate as used by BLM and the Forest Service in determining the private land lease index. A good example of the inadequacy of this index is to look at Nevada's input into the private lands lease rate survey which is the basis for the index. Neveda has over 900 permittees using the public lands. The following responses by year were used in Nevada to help determine what grazing fee levels should be:

1971—11 responses used.
1972—8 responses used.
1973—8 responses used.
1974—8 responses used.
1975—9 responses used.
1976—0 responses used.
1977—0 responses used.

Thus, in the years 1976 and 1977, Nevada's private pasture rate has not even been determined. I understand that Arizona's responses are similar. These two States have 26.2 percent of the total AUM's on the Federal lands, so obvious-

ly, you have an initial error factor of 26.2 percent.

Sixth. Agricultural economists, range scientists, Federal personnel, and even Secretary of Interior Andrus openly admit that the public land lease as currently used leaves a lot to be desired when it comes to statistical creditability.

Seventh. The report published by the Secretaries of Interior and Agriculture summarily dismissed the findings and recommendations of the Technical Committee, a group of professionals who are expert and knowledgeable about the factors that should be considered in a grazing fee formula. They were originally chosen for their expertise in the fields of range science, agricultural economics, survey design, and statistical skills.

It is important to note that two of the members of the four-man Technical Committee were also on the Department's of Interior and Agriculture four-member Task Force Committee. A third member of the Technical Committee was the consultant on the task force. One would think that if the three members had agreed to the merits of the Technical Committee's recommendations, their input would have been reflected in the Secretary's report.

Given these facts, it would appear that it would severely jeopardize many western livestock operations to tie public land lease rates directly to private land rates.

At this point, Mr. President, I would like to emphasize the significance of grazing fee increases. It should be noted that cash-flow problems often plague ranch operations—much more than other businesses that have control over production and delivery schedules. Even a small increase in grazing fees could have serious impact on some ranching operations—to the extent of forcing some out of business. And it is of critical importance to recognize that many rural communities throughout the Western States, and this is particularly true for Nevada, have relied heavily on the livestock industry for their economic base. Major reductions in the size and profitability of the livestock industry could hurt these communities.

The provisions of H.R. 10587 replace the administration's discretionary power to set grazing fees with a specific formula. The formula in H.R. 10587 would incorporate private land lease rates, but would also recognize the factors of cost of beef production and beef prices.

There are some groups and individuals, who disagree with this concept and maintain that this would institute a "subsidy" of a small portion of a much larger industry and would therefore be unfair. To accommodate these concerns, H.R. 10587 puts the formula on a 7-year trial basis only. This trial period should allow all parties the opportunity to analyze the effects of incorporating cost of production and beef prices into a formula and determine whether the concept is worthy of permanent statutory enactment. At the same time, the trial formula will prevent undue grazing fee increases in years when ranchers can least afford it, and this should assist in combating the alarming rate of ranch sales and closures which have occurred in recent years.

Mr. President, it has come to my attention that some of my Senate colleagues, as well as the administration, are concerned that if H.R. 10587 is enacted, the costs of production might well be applied to the sale of coal, oil, gas, and timber from public lands.

However, I would like to bring to their attention that the cost-of-production concept already is generally involved in the sale of such natural resources. I believe this bill does not create a precedent at all. The following are examples which I feel are illustrations showing that the cost-of-production concept will not be a unique governmental policy.

Take timber, for example. The act of October 22, 1976 states that the Secretary of Agriculture must sell timber and forest products on national forest system lands for not less than their "appraised value." Department of Interior regulations state the same (43 C.F.R. 5402, 5442). Agricultural regulations go on to state that the objectives of national forest timber appraisals are to estimate "fair market value" and that the residual value approach to the appraisal of national forest timber is the standard approach (36 C.F.R. 223.4).

So one may ask the question—how is the value, the fair market value, of timber appraised? For standing timber, the residual is computed by first establishing the value of the timber at the mill—or other marketplace. From that figure are deducted the costs of cutting, removing, and transporting timber to market. Also deducted are the costs of land resource protection and rehabilitation, other related costs, and—please note—an allowance for profit and risk taking. In other words; the cost of production and the profitability. For such appraisals, large amounts of data must be collected on the amount and character of the timber on the lands; the cost of logging methods; road building and maintenance, trucking, market price of timber, interest rates, profit returns, et cetera. So, Mr. President, we can see that the cost-of-production concept is already an established policy in certain instances that are administered by the U.S. Forest Service.

Competitive bids are sometimes involved in the sale of certain public resources, but an economic analysis is made to determine acceptable bonuses, royalty rates, rental rates, et cetera. These appraisals take into account prospective buyers, costs, and reasonable profit margins.

Economic appraisals of deposits and solid minerals, whose general dimensions are more or less known or estimatable, can be based on an economic model of a producing mine. Estimates are made of the investments needed, the cost of operations, the market value of the products, the risk factor, et cetera. From this data, determination is made of the amount that could be paid for the minerals in place so that the net results from the operations of the mines would yield an exceptional rate of cash flow for that type of enterprise. This again is a residual concept, computing to the ore deposits the values left after payments of the other factors of production.

Of course, not all users of Federal resources or services are charged fair market value. One example would be recreational users, including those who use the same lands as do livestock operators. Admission fees are sometimes charged for highly developed Federal recreation sites, but these fees are less than the cost of operating these sites. Until recently, nominal or no rental was charged by the BLM for the lease of public lands to other entities for recreational or some other purposes.

Government agencies have administratively adopted many different standards, criteria, and methodology for appraising values and prices of property, rights, and services provided by the Government.

Appraisal practices depend in part on the purpose of the appraisal but the usual goal is to find out what a willing, uncoerced, knowledgeable buyer and a willing, uncoerced, knowledgeable seller would agree on in a private transaction. I might add that, because of the intermingled land situation in the West, a rancher is seldom a willing, uncoerced buyer of public forage. He has no choice but to use public lands; there are no alternatives. I believe it is important to keep this point in mind.

Usually, appraised value is based on the "highest and best use of the property"; that is, the economic use that would bring the highest price. But sometimes property is appraised for a specific use, which could be less than the value of the "highest and best use."

One form of appraisal is based on "transactional evidence" or "sales of comparable property." Appraisers search out and verify actual recent sales of property the same as, or similar to, the property being appraised. Obviously, when properties are not exactly alike, the appraiser attempts to make appropriate adjustments. In my view, this is the method proposed by the administration for granting fees.

While the "comparable sales" approach is often found satisfactory for relatively small sales of materials, the amount and characteristics of which are relatively easy to determine, beyond this limited area other economic appraisal methods which are subjectively adjusted are generally used by Government agencies. For some types of Government property, the Government agencies recognize that the "comparable sales" approach is insufficient and must be supplemented or replaced by other types of consideration. This, of course, is my argument with respect to grazing fees. For example, rentals are sometimes based on a percentage of the fair market value involved, the percentage depending perhaps on public policy, or on comparison of the relationship of rentals to land values in the area, rather than on actual comparable property. Sometimes rental values are based on the amount of property investment or the gross or net revenues from the property. The approach

here is often an attempt to approximate the value of the use authorized rather than the "highest used investment" of the land.

Mr. President, I feel that this type of approach should be taken with respect to appraising the value of public land forage. It is impossible to arrive at a fair market value solely by using "transactional evidence" when there are so few "comparable" private grazing lease true in my State of Nevada.

The administration itself has admitted that they are using short term private pasture rates in determining "comparable sells." In the 1977 survey of private land lease rates, no data on comparable sells were used in States of Nevada or Arizona because with so little private land, there were not enough transactions to record. How can the fair market value be determined on such unreliable or nonexistent data?

The administration has attempted to depreciate the impact of grazing fees on ranching operations. Comments that the Secretaries' formula which would double grazing fees over the next 4 years would average only about a $60 increase for most ranchers, illustrates the lack of understanding involved in their planned fee. A $60 increase would be for 32 cows, with calves, for 5 months of grazing on public lands. That would be a hobby rancher with additional income from other sources or a rancher with only limited use of Federal lands, who grazes most of his livestock on private or State-owned land.

A full time rancher in the Western States has to have at least 100 cows, with calves, before he can consider earning a living. A full time family rancher running between 100 and 150 cattle would see his total fee increase $630 each year under the administration's formula. These are not modest increases and as indicated in the Secretary's report, these increases cannot be passed along to the consumer. The cattle rancher, unlike other businesses, cannot pass along his cost. He is captive to the then present market price which he has no control over. Mr. President, if grazing is a value which should be retained on the public lands, then a public grazing fee should be related to the value of grazing as expressed in its ability to give livestock operators using the public lands a fair return. It should not be based on conditions which reflect a scarce limited market and land development pressures.

The grazing fee formula proposed by the Secretaries does not meet the objectives of a grazing fee system outlined in Federal legislation or previous Federal executive policies. It could not achieve fair market values; it is not fair and equitable to the public and the users of the public lands for livestock operations; it is not reasonable and it does not respond to the directive of Congress to take into consideration the cost of production normally associated with domestic livestock grazing in the 11 Western States, the difference in forage values and other factors relating to the reasonableness of such fees. The administration's formula would have an adverse affect on the production of food and fiber and on the economies of many western communities.

The problem with the administration's formula can be summed up in this statement by the Technical Committee's economist:

In the case of administered prices, failure to recognize potential imperfections in the price norm results in windfall gains and losses during periods of increasing marginal revenue, the government would fail to receive full market value for its range resources. Conversely, during periods of decreased marginal revenues, the government may charge in excess of fair market value for the range resources. The equal marginal principle states that the value of a resource is determined by its "value in use."

Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared by Senator DOMENICI with respect to this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. DOMENICI

I would like to point out several considerations concerning Section 8 of the Public Range Lands Improvement Act of 1978, H.R. 10587.

As passed by the House of Representatives, Section 8 contained the following language:

ALLOTMENT MANAGEMENT PLANS

SEC. 8. Section 402 (d) and (e) (90 Stat. 2743, 2774; 43 U.S.C. 1752 (d) and (e)) are hereby amended—

(a) by changing subsection (d) to read as follows:

"(d) All permits and leases for domestic livestock grazing issued pursuant to this section may, upon satisfactory completion of any court ordered environmental impact statements which may be required for the area involved, incorporate an allotment management plan developed by the Secretary concerned. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and any state or states having lands within the area to be covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms "court ordered environmental impact statement" and "range condition" shall be defined as in the "Public Range Improvement Act of 1978.".

(b) by deleting in subsection (e) the words "Prior to October 1, 1988, or thereafter, in" and by inserting "In".

During consideration of this legislation in the Senate Committee on Energy and Natural Resources, the Department of the Interior requested that part of the language in the first sentence be struck and that a second new sentence be added, so that the first two sentences of section 8 would read as follows:

(d) All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supercede any requirement for a completion of court-ordered environmental impact statements prior to development and incorporation of allotment management plans.

In a letter to the Committee, the Department explained their reasons for requesting the change of language. The letter states the following:

Section 402 (d) and (e) of FLPMA contain the authorization for incorporation of AMP's in permits and leases. October 1, 1988 was used as a reference date because it was expected that the Department would have fulfilled its obligation to complete ES's required by the court order in *NRDC* v. *Andrus* by that date. The court order requires completion of ES's before implementing "new" AMP's. It did not affect "old AMP's", those already in effect. There are about 1200 such AMP's already in affect that are not subject to the court order. The large majority of them are incorporated in licenses of one year duration. When these licenses expire, permits will be issued under the provisions of FLPMA calling or ten year permits except in certain limited situations.

Section 8 of H.R. 10587 would remove the date October 1, 1988 from Section 402 of FLPMA. It would revise the law by changing the situation under which incorporation of AMP's in licenses and permits is required, and provide instead that such incorporation is always in the discretion of the Secretary involved. In short, it would remove language of FLPMA requiring AMP's in leases or permits and would make their incorporation a matter of choice with the Secretary. In addition to this, it would also establish a condition that must be fulfilled before the Secretary can exercise his discretion to incorporate an AMP in a permit or lease. That condition is "satisfactory completion of any court-ordered environmental impact statement for the area involved" in an AMP. Therefore, the Secretary could not incorporate an AMP in a permit or lease renewed after H.R. 10587 became law until such time as an ES for the area is completed, even if the AMP had been incorporated in the lease or permit being renewed.

The problem the Department preceived with the House passed language in this regard is the applicability of this condition to all AMP's irrespective of whether they are subject to the court order. Application of the condition to incorporation of AMP's that are not subject to the court order results in interrupting and delaying the continued implementation of an AMP that has already been put into effect until an arbitrary date (the date of completion of the ES) in the future that has no meaning insofar as that particular AMP is concerned. Thus it needlessly and illogically prevents incorporation of AMP's that are already in effect and not subject to the court order, into renewal of leases or permits of which they have been apart.

Because it applies some of the restraints of the court order to AMP's not otherwise covered by the order, Section 8 does more than express the current situation or continue the status quo. The Department's suggested amendment would preserve the requirement of the court order for completion of an ES before implementation of a new AMP not in effect at the time of the court order, but would not arbitrarily delay implementation of other AMP's (to which the court order does not apply).

I hope this will make it clear why the Committee accepted the change in the language as requested by the Department. This new language in no way changes or effects the impact Section 8 has on "new" AMP's nor does it change the intent of Congress

for AMP's to be non-mandatory, and that if the Secretary chooses to implement an AMP, he may do so only after careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory board and any state or states having lands within the area to be covered by such allotment management plans.

Mr. CHURCH. Mr. President, I ask unanimous consent to have printed in the RECORD a table which compares the grazing fee as it would have been determined under the formula contained in H.R. 10587, with the administration's proposed fee and with the grazing fee actually charged by the Government during the period from 1965 to 1978, along with projected estimates for the years 1979 and 1980. I point out that this table shows that in 9 of the last 14 years, the fee contained in the bill actually would have resulted in a higher return to the Government than the proposed administration fee and in all 14 years more than the fees actually charged.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF SECRETARIES' (CURRENT) GRAZING FEE FORMULA AND FORMULA IN H.R. 10587

	LRI (private lease rate index)	BPI (beef price index)	PPI (prices paid index)	P (combined index) No. 1	FMV fee under H.R. 10587 No. 1 [1]	P (combined index) No. 2	FMV fee under H.R. 10587 No. 2 [2]	Current formula FMV fee	Actual BLM fees charged
Years:									
1965	100	0.95	0.97	−0.02	1.21			1.18	0.30
1966	100	1.05	.99	.06	1.30			1.23	.33
1967	100	1.05	1.00	.05	1.29			1.23	.33
1968	102	1.10	1.02	.08	1.35			1.25	.33
1969	105	1.23	1.07	.16	1.49			1.29	.44
1970	111	1.25	1.12	.13	1.53			1.37	.44
1971	111	1.36	1.17	.19	1.60			1.37	.64
1972	118	1.52	1.25	.27	1.78			1.45	.66
1973	129	1.95	1.49	.46	2.15			1.59	.78
1974	148	1.59	1.69	−.10	1.70			1.82	1.00
1975	159	1.52	1.86	−.34	1.56			1.9	1.00
1976	178	1.54	1.98	−.44	1.65			2.19	1.51
1977	197	1.61	2.08	−.47	1.85			2.42	1.51
1978 estimated index	189	2.18	2.18	0	2.32	0.16	2.52	2.38	1.51
1979 estimated index	205	2.31	2.33	−.02	2.50	.14	2.69	2.5	
1980 estimated index	212	2.38	2.49	−.11	2.47	.02	2.63	.61	

[1] If inflation rates offset beef prices.
[2] If inflation is curbed and beef prices remain strong.

Note: H.R. 10587 limits any fee increase (or decrease) to 25 percent of previous year's fee Secretaries' formula also would limit annual increase to 25 percent until FMV is reached after which any change would be limited to a plus or minus 12 percent Therefore, grazing fees for the next 2 yr under either formula would be the same: $1.89 (1979); $2.36 (1980).

The fee formula in H.R. 10587 is: $FMV = \$1.23 \times \frac{(L+P)}{100}$. L=Index of private land lease rates P=Combined index of beef price index minus prices paid index (BPI–PPI). The current fee formula is: $FMV = \$1.23 \times \frac{L}{0}$.

Mr. BUMPERS. Mr. President, it is with some reservation that I rise to speak against this bill, because of my understanding of some of the problems of the western ranchers, and certainly the concerns that the western Senators have—for that matter, Senators everywhere—who have constituents who lease the lands from either the Forest Service or the Bureau of Land Management.

This bill is better than nothing, and it certainly is better than what has been going on.

I am pleased with some of the improvements that were made, and I commend the Senator from Idaho (Mr. CHURCH) for agreeing in committee to strike out one of the more devastating provisions.

The PRESIDING OFFICER. If the Senator will yield temporarily, under the unanimous-consent agreement the vote is to occur at 11:50 a.m. which is now.

Mr. CHURCH. Mr. President, I ask unanimous consent that the vote be postponed until 11:55 a.m.

Mr. BUMPERS. That is fine.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, but I also want to catch a plane at 12:10 p.m. I am not certain I can make it in 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I shall make this as quick as possible.

Mr. President, I simply state that the administration and a lot of other people have been trying for years to get some sensible bidding procedure established so that leases on all of those public lands will be done in a very sensible, rational and fair way.

Now there are ranchers in the West who are discriminating against this because these things have become literally vested rights, and they are literally almost inheritable.

I do not want those lands to be owned by the big feedlot operators. I do not want them to be leased exclusively to the big agra beef cattle corporate interests. I want everyone out there to have a shot at it.

But now, Mr. President, the fee under this bill is a subsidy that the United States has no business indulging itself. For example, the fee schedule assumed that the fair market value in 1966 was on an average $1.23 per animal unit month. They do no lease lands by the acre. They do it by the animal unit month. That is normally a cow-calf unit per month. And the fee schedule at that time assumed that the fair market value in 1966 was $1.23 per a.u.m., and at the time BLM was charging 33 cents per a.u.m., while the Forest Service is charging 52 cents an a.u.m. Although the $1.23 estimate of fair market value was substantially more than the Federal fee actually charged, it was only about a third what private grazing lands of comparable value were leasing for in the 11 Western States.

This bill is an improvement, and it is a prospective bill. The rates actually go up each month for several years, but at the end of that time if they went up the maximum under the bill, they probably still would not be much more than one-half what private grazing lands are leasing for. It is not fair. It is not sensible. It is neither fair to the small ranchers out West, nor is it fair to the public of the United States who actually own these lands.

So I must regretfully vote no on this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MUSKIE (after having voted in the negative). On this vote, I have a pair with the distinguished Senator from Montana (Mr. MELCHER). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withdraw my vote.

Mr. CASE (when his name was called). Mr. President, I have a live pair with the distinguished Senator from Idaho (Mr. MCCLURE). If he were present he would vote "yea." If I were at liberty to vote I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. MELCHER), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from West Vir-

ginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. SARBANES), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting the Senator from Rhode Island (Mr. PELL), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

Mr. ROBERT C. BYRD. Mr. President, I request that the Chair ask whether all Senators present have voted.

The PRESIDING OFFICER. The Senate will be in order.

All Senators present have voted.

The result was announced—yeas 59, nays 7, as follows:

[Rollcall Vote No. 434 Leg.]

YEAS—59

Bartlett	Gravel	Morgan
Bayh	Hansen	Moynihan
Bellmon	Hart	Packwood
Bentsen	Hatfield,	Riegle
Biden	Paul G.	Roth
Burdick	Hayakawa	Schmitt
Byrd,	Heinz	Schweiker
Harry F., Jr.	Helms	Scott
Byrd, Robert C.	Hodges	Sparkman
Cannon	Hollings	Stafford
Chafee	Humphrey	Stennis
Chiles	Inouye	Stevens
Church	Jackson	Stevenson
Cranston	Laxalt	Stone
Curtis	Leahy	Talmadge
Danforth	Long	Thurmond
Dole	Lugar	Wallop
Eastland	Magnuson	Young
Ford	Mathias	Zorinsky
Garn	Matsunaga	
Goldwater	McGovern	

NAYS—7

Brooke	Metzenbaum	Williams
Bumpers	Nelson	
Glenn	Proxmire	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Muskie, against.
Case, against.

NOT VOTING—32

Abourezk	Haskell	Melcher
Allen	Hatch	Nunn
Anderson	Hatfield,	Pearson
Baker	Mark O.	Pell
Clark	Hathaway	Percy
Culver	Huddleston	Randolph
DeConcini	Javits	Ribicoff
Domenici	Johnston	Sarbanes
Durkin	Kennedy	Sasser
Eagleton	McClure	Tower
Griffin	McIntyre	Weicker

So the bill (H.R. 10587) was passed.

The title was amended so as to read:

An Act to improve the range conditions of the public rangelands.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. MCCLURE, and Mr. LAXALT conferees on the part of the Senate.

Mr. STEVENS. Mr. President, I ask unanimous consent that Steve Perles of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Christie Cohagen, Ryan Conway, Allyn Kreps, and Jon Fleming be accorded the privilege of the floor during the consideration of the Export-Import Bank bill until action on that bill is completed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, let me address a parliamentary inquiry to the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. As soon as the Senator from Washington (Mr. MAGNUSON) completes action on calling up a message from the House of Representatives, which he is about to do, does not the Export-Import Bank bill automatically come back before the Senate?

The PRESIDING OFFICER. The Senator is correct.

VOTING PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I have instituted what I hope will become the practice of the Chair, that being to obtain order in the Senate and ascertain whether any Senators present have not voted before announcing a vote. Increasingly, Senators are complaining that they were not able to vote. We had a Senator yesterday who said he was seeking recognition at the time the Chair announced the vote. Not long ago the Senator from Michigan (Mr. GRIFFIN) said that he was coming through the door when the vote was announced, and he did not get to vote.

This is not the Chair's fault, and neither is it the Senator's fault, but I just feel that if we institute the practice that the Chair obtain order before he announces the result, and ascertain that all Senators have voted, then we will not have any more of this problem where Senators seek recognition and are not able to get it, and then, because of the Senate rules, cannot vote, because once that vote is announced the Chair cannot even entertain a unanimous-consent request to let the Senator vote.

So I think that is a good practice, and I hope the Parliamentarian and the clerks will assist the Chair in the future—because we have various Senators in the Chair at the time that happens—in reminding the Chair to get order and to see if Senators have voted.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.) The Chair commends the distinguished majority leader for making this suggestion.

Mr. HEINZ. Mr. President, I ask unanimous consent that Frank Chaproth and Bill Reinsch of my staff be accorded the privilege of the floor during the consideration of measures before the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I make the same request on behalf of David Lippy of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

NEW PROCEDURE ON OBTAINING FLOOR PRIVILEGES FOR STAFF MEMBERS

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Washington yield to me?

Mr. MAGNUSON. I yield.

Mr. ROBERT C. BYRD. The Senator from Washington has been wanting this innovation for a long time. I ask unanimous consent that for the remainder of this session, Senators may enter at the desk with the——

Mr. MAGNUSON. Hooray.

Mr. ROBERT C. BYRD. With the Journal clerk, the names of whatever people they wish to have on the floor, indicating the legislative subject matter which they want to have attended on the floor by their people, and the date and time; and that, subject to conditions in the rear of the Chamber, those staff members be allowed on the floor for the specified dates and times and purposes, with the understanding that the Sergeant at Arms be required to implement this order in a reasonable way that will not allow overcrowding in the rear of the Chamber.

This would mean that the Sergeant at Arms might have to ask some of the staff people to rotate, so that we would not have too many in here.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I hope the majority leader will indicate that there is no intention here that any Senator may have a permanent filing at the desk to indicate that staff members would be admitted to the floor for the balance of the year, or anything like that.

Mr. ROBERT C. BYRD. No.

Mr. STEVENS. That they must specify the bill and the date on which the staff member would be admitted in this fashion, and I would ask the Senator further to specify that no Member, under this procedure, would be permitted to have more than two staff members on the floor at any one time.

Mr. ROBERT C. BYRD. That is perfectly agreeable with me. I am opposed to any Member getting standing unanimous consent to have a member of his

staff on the floor throughout the year or throughout the session. But for a particular bill that is coming up, he ought to be able to use them, and to tell the Journal clerk what members of the staff he wants on the floor and when, and not have to stand up on the floor, get the attention of the Chair, and obtain unanimous consent all the time; with the one proviso that the Sergeant at Arms be allowed to control the situation in the back so we would not have 50 or 75 staff people in each corner back here. The Sergeant at Arms, I think, can control that.

This will do away with all the jumping up and down of about 15 or 20 Senators trying to get the attention of the Chair.

Mr. STEVENS. Mr. President, if the Senator will yield further, what I am saying is that by this procedure any Senator could have up to two staff members on the floor to assist him with the legislation, and if he wishes more, as the Senator managing the bill on the majority or minority side, or if he has an amendment pending, that that could be arranged. But I think the automatic procedure ought to be cut off at two staff members for the remainder of the session, and then see how it works.

Mr. LONG. Mr. President, will the Senator yield?

Mr. STEVENS. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, when matters are on the floor involving a committee, I have in mind the Finance Committee for one, we need a number of our staff assistants here, not only to advise the managers of the bill, but to advise various other Senators on what the amendments are about, and how to prepare amendments, and things of that sort, and advise them on what is in the bill.

I take it what the Senator is suggesting here would not interfere with the right of a committee spokesman or the ranking minority member to have some of the committee staff on the floor?

Mr. STEVENS. Not at all. That would be according to the usual procedure, and you would ask unanimous consent, which would be granted automatically.

Incidentally, I would hope that the majority leader would agree that the Senator does not have to come over to the floor to file that statement, but he could prepare some note to file with the clerk, saying "I want so and so"——

Mr. ROBERT C. BYRD. No, I think if a Senator wants to be represented on the floor, he ought to be here and ask, because if we get into that situation we are going to have staff people just writing out the list themselves, and coming over.

Mr. STEVENS. All right.

Mr. ROBERT C. BYRD. I think this is a good innovation, but I do believe, and I hope the distinguished Republican whip will join me in stating this, that the Sergeant at Arms ought to give priority to staff people who have to be here to help the manager and the ranking minority Member in dealing with a bill, and give priority to a staff member of a Senator who is about to call up an amendment.

There is a staff gallery up here, to which I am pointing, which has been arranged for staff people, and they can take notes from that gallery.

But I think by this order we will finally implement a proposition that has, time and again, been recommended by the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. I appreciate the action of the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I appreciate the Senator's remarks.

Mr. STEVENS. That is another Magnuson rule?

Mr. MAGNUSON. Another Magnuson rule, yes.

The PRESIDING OFFICER (Mr. CHURCH). Without objection, it is so ordered.

PORT SAFETY AND TANK VESSEL SAFETY ACT OF 1978

Mr. MAGNUSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 682.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 682) entitled "An Act to amend the Ports and Waterways Safety Act of 1972, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Port Safety and Tank Vessel Safety Act of 1978".

SEC. 2. PORTS AND WATERWAYS SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT.

The Ports and Waterways Safety Act of 1972 (Public Law 92-340, 86 Stat. 424) is amended to read as follows:

"SECTION 1. STATEMENT OF POLICY.

"The Congress finds and declares—

"(a) that navigation and vessel safety and protection of the marine environment are matters of major national importance;

"(b) that increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment;

"(c) that increased supervision of vessel and port operations is necessary in order to—

"(1) reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment;

"(2) prevent damage to structures in, on, or imediately adjacent to the navigable waters of the United States or the resources within such waters;

"(3) insure that vessels operating in the navigable waters of the United States shall comply with all applicable standards and requirements for vessel construction, equipment, manning, and operational procedures; and

"(4) insure that the handling of dangerous articles and substances on structures in, on, or immediately adjacent to the navigable waters of the United States is conducted in accordance with established standards and requirements; and

"(d) that advance planning is critical in determining proper and adequate protective measures for the Nation's ports and waterways and for the marine environment, with continuing consultation with other Federal agencies, State representatives, affected users, and the general public, in the development and implementation of such measures.

"SEC. 2. VESSEL OPERATING REQUIREMENTS.—

"(a) IN GENERAL.—Subject to the requirements of section 3, the Secretary of the department in which the Coast Guard is operating (hereinafter referred to as 'Secretary') may—

"(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 9, establish, operate, and maintain vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and can include, but need not be limited to one or more of the following: reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

"(2) require vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

"(3) require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service: *Provided*, That the Secretary shall not require fishing vessels under 300 gross tons or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this Act;

"(4) control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be especially hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

"(A) specifying times of entry, movement, or departure;

"(B) establishing vessel traffic routing schemes;

"(C) establishing vessel size, speed, draft limitations and vessel operating conditions; and

"(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particualr operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; and

"(5) require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port and the environment.

"(b) SPECIAL POWERS.—The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

"(1) he has reasonable cause to believe such vessel does not comply with any regulation issued under this Act or any other applicable law or treaty;

"(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 7; or

"(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

"(c) PORT ACCESS ROUTES.—

"(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the terri-

torial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

"(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law: *Provided*, That such right has become vested prior to the time of publication of the notice required by class (A) of paragraph (3) hereof: *Provided further*, That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

"(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 3, the Secretary shall—

"(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and shall publish notice of such undertaking in the Federal Register;

"(B) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected states, as their responsibilities may require, take into account all other uses of the area under consideration (including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities invloving recreational or commercial fishing); and

"(C) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

"(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a Notice of Proposal Rulemaking for the designation contemplated or shall have published in the Federal Register a notice that no designation is contemplated as a result of the study.

"(5) In connection with a designation made pursuant to this subsection, the Secretary—

"(A) shall issue reasonable rules and regulations governing the use of such designated areas, including the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply:

"(B) to the extent that he finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

"(C) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: *Provided*, That such an adjustment will not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

"(D) shall, through appropriate channels, (i) notify cognizant international organizations of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation scheme designated pursuant to this subsection in any area of the high seas, to the same extent as required by the Secretary for vessels of the United States.

"(d) EXCEPTION.—Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this Act shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

"(1) innocent passage through the territorial sea of the United States, or

"(2) transit through the navigable waters of the United States which form a part of an international strait.

"SEC. 3. Considerations by Secretary.

"In carrying out his duties and responsibilities under section 2, the Secretary shall—

"(a) take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including but not limited to—

"(1) the scope and degree of the risk or hazard involved;

"(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

"(3) port and waterway configurations and variations in local conditions of geography, climate, and. other, similar factors;

"(4) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

"(5) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

"(6) environmental factors;

"(7) economic impact and effects;

"(8) existing vessel traffic services; and

"(9) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

"(b) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions.

"SEC. 4. WATERFRONT SAFETY.

"(a) The Secretary may take such action as is necessary to—

"(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

"(2) protect the navigable waters and the resources therein from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to—

"(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 4417a of the Revised Statutes, as amended;

"(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accident or casualty;

"(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

"(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

"(b) Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those prescribed by regulations hereunder.

"SEC. 5. PILOTAGE.

"The Secretary may require federally licensed pilots on any self-propelled vessel, foreign or domestic, engaged in the foreign trade, when operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by State law. Any such requirement shall be terminated when the State having jurisdiction over the area involved establishes a requirement for a State licensed pilot and has so notified the Secretary.

"SEC. 6. INVESTIGATORY POWERS.

"(a) SECRETARY.—The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this Act, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

"(b) BOARD.—The National Transportation Safety Board shall, upon its request, be made a party in interest, with all the rights attendant thereto, in the investigation of any transportation-related incident conducted pursuant to this section.

"(c) POWERS.—In an investigation under this section, the Secretary may issue subpenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpena. Any district court of the United States may, in the case of refusal to obey a subpena, issue an order requiring compliance with the subpena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

"SEC. 7. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.

"No vessel, subject to the provisions of section 4417a of the Revised Statutes, as amended, shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—

"(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment; or

"(2) fails to comply with any applicable regulation issued under this Act, under section 4417a of the Revised Statutes, as amended, or under any other applicable law or treaty; or

"(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party; or

"(4) does not comply with any applicable vessel traffic service requirements; or

"(5) is manned by one or more officers who are licensed by a certificating state

which the Secretary has determined, pursuant to section 4417a(11) of the Revised Statutes, as amended, does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States; or

"(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or

"(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English:

Provided, That clauses (1), (2), (3), and (4) shall not apply if the owner of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable regulation, law, treaty, or condition, as appropriate: *Provided further*, That clauses (5) and (6) shall become applicable eighteen months after the effective date of this section.

"SEC. 8. APPLICABILITY.

"This Act shall not apply to the Panama Canal. The authority granted to the Secretary under sections 2, 3, 4, and 5 of this Act shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this Act shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent he determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

"SEC. 9. INTERNATIONAL AGREEMENTS.

"(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this Act, for consideration as international standards.

"(b) AGREEMENTS.—The President is authorized and encouraged to—

"(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

"(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.

"(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) which is binding upon the United States in accordance with constitutional requirements, may—

"(1) require vessels in the vessel traffic service area to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and

"(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.

"SEC. 10. REGULATIONS.

"(a) In accordance with the provisions of the Administrative Procedure Act, as amended, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this Act.

"(b) The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of—

"(1) interested Federal departments and agencies,

"(2) officials of State and local governments,

"(3) representatives of the maritime community,

"(4) representatives of port and harbor authorities or associations,

"(5) representatives of environmental groups,

"(6) any other interested parties who are knowledgeable or exprienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment, and

"(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

"SEC. 11. PENALTIES.

"(a) CIVIL PENALTY.—

"(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(b) CRIMINAL PENALTY.—

"(1) Any person who willfully and knowingly violates this Act or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than a year, or both.

"(2) Any person who, in the willful and knowing violation of this Act or of any regulation issued hereunder, uses a dangerous weapons, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(c) IN REM LIABILITY.—Any vessel subject to the provisions of this Act, which is used in violation of this Act or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(d) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this Act or of regulations issued hereunder, for cause shown.

"(e) DENIAL OF ENTRY.—The Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States to any vessel not in compliance with the provisions of this Act or the regulations issued hereunder.

"(f) WITHHOLDING OF CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.".

SEC. 3. STUDY OF MONITORING SYSTEMS.

(a) CONTENT.—The Secretary, in consultation with the Secretary of Commerce and other appropriate departments or agencies of the Federal Government, shall study possible shore-station systems for monitoring vessels, including fishing vessels, within the Fishery Conservation Zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

(b) REPORT.—Within two years after the date of the enactment of this Act, the Secretary shall report his findings to the Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendations for a single, comprehensive, cost effective shore-station system for monitoring vessels within the Fishery Conservation Zone.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section, not to exceed $500,000 for the fiscal year ending September 30, 1980, and not to exceed $500,000 for the fiscal year ending September 30, 1981.

SEC. 4. IMPROVED PILOTAGE STANDARDS.

Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214) is amended to read as follows:

"SEC. 4442. (a) The Secretary of the department in which the Coast Guard is operating shall, in accordance with subsection (b) of this section, establish eligibility requirements for the issuance of a Federal license to pilot any steam vessel.

"(b) No person may be issued a Federal license to pilot any steam vessel unless he—

"(1) is at least twenty-one years of age;

"(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

"(3) agrees to have a thorough physical examination each year while holding such license;

"(4) demonstrates, to the satisfaction of the Secretary, that he possesses the requisite general knowledge and skill to hold such license;

"(5) demonstrates proficiency in the use of electronic aids to navigation;

"(6) maintains adequate knowledge of the waters to be navigated and knowledge of regulations for the prevention of collisions in such waters;

"(7) has sufficient experience, as determined by the Secretary, to evidence his ability to handle any vessel of the type and size which he may be authorized to pilot; and

"(8) meets any other requirement which the Secretary considers reasonable and necessary.

"(c) No Federal license to pilot a steam vessel shall be valid for a term longer than five years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements specified under subsection (b) of this section.".

SEC. 5. VESSELS CARRYING CERTAIN CARGOES IN BULK.

Section 4417a of the Revised Statutes of the United States, as amended (46 U.S.C. 391a), is further amended to read as follows:

"SEC. 4417a. (1) STATEMENT OF POLICY.—The Congress hereby finds and declares—

"(A) that the carriage by vessels of certain cargoes in bulk or in residue creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and to the adjoining land, including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems, and recreational and scenic values;

"(B) that existing standards for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of all such vessels, which use any port or place subject to the jurisdiction of the United States or which operate in the navigable waters of the United States, must be more stringent and comprehensive for the mitigation of the hazards to life, property, or the marine environment;

"(C) that existing international standards for inspection and enforcement are incomplete, that those international standards that are in existence are often left unenforced by some flag states, and that there is a need to prevent substandard vessels from using any port or place subject to the jurisdiction of the United States or from operating in the navigable waters of the United States, for the mitigation of the hazards to life, property, or the marine environment;

"(D) that standards developed through regulations shall incorporate the best available technology and shall be required unless clearly shown to create an adverse economic impact which is not outweighed by the benefits to navigation and vessel safety or protection of the marine environment;

"(E) that standards developed through regulations shall not impede or interfere with the right of innocent passage or any legitimate use of the high seas in accordance with recognized principles of international law; and

"(F) that the United States should continue to actively support and encourage efforts to obtain international agreements concerning navigation and vessel safety and protection of the marine environment.

"(2) DEFINITIONS.—As used in this section, unless the context otherwise requires—

"(A) 'Discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

"(B) 'Foreign vessel' means any vessel of foreign registry or operated under the authority of any nation other than the United States.

"(C) 'Hazardous material' means any liquid material or substance which is—

"(i) flammable or combustible; or

"(ii) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321); or

"(iii) designated a hazardous material under section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"(D) 'Marine environment' means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; and the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the water superjacent thereto.

"(E) 'Oil' includes oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"(F) 'Person' means any individual (whether or not a citizen or national of the United States), or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

"(G) 'Public vessel' means a vessel which—

"(i) is owned, or chartered by demise, and operated by the United States or any foreign government; and

"(ii) is not engaged in commercial service.

"(H) 'Commercial service' means all types of trade or business involving the transportation of goods or persons, excluding the service performed by combatant vessels.

"(I) 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(J) 'State' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

"(K) 'United States', when used in a geographical context, means all the States thereof.

"(L) 'Vessel of the United States' means any vessel documented or numbered under the laws of the United States.

"(M) 'Tanker' means a vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

"(N) 'Crude oil tanker' means a tanker engaged in the trade of carrying crude oil.

"(O) 'Product carrier' means a tanker engaged in the trade of carrying oil, other than crude oil, or hazardous materials.

"(P) 'Major conversion' means a conversion of an existing vessel which substantially alters the dimensions or carrying capacity of the vessel; or changes the type of vessel; or substantially prolongs its life; or which otherwise so alters the vessel that it is essentially a new vessel, as determined by the Secretary.

"(Q) 'New' means, with respect to various types of vessels subject to subsection (7), a vessel—

"(i) for which the building contract is placed after June 1, 1979; or

"(ii) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after January 1, 1980; or

"(iii) the delivery of which is after June 1, 1982; or

"(iv) which has undergone a major conversion, which is contracted for after June 1, 1979, or construction work of which is begun after January 1, 1980, or completed after June 1, 1982.

"(R) 'Existing' means, with respect to various types of vessels subject to subsection (7), a vessel which is not a new vessel.

"(S) 'Crude oil' means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

"(3) APPLICABILITY.—Except as provided in subsections (4) and (5), this section shall apply to any vessel—

"(A) regardless of tonnage, size, or manner of propulsion;

"(B) whether self-propelled or not;

"(C) whether carrying freight or passengers for hire or not;

"(D) which is a vessel of the United States, or which operates on or enters the navigable waters of the United States, or which transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and

"(E) which carries oil or any hazardous materials in bulk as cargo or in residue.

Any such vessel shall be deemed to be a steam vessel for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof.

"(4) EXCEPTIONS.—This section shall not apply to—

"(A) any public vessel; or

"(B) any vessel of not more than 500 gross tons, documented in the service of oil exploitation, which is not a tanker and which would be subject to this section only because of the transfer of fuel from fuel supply tanks of such vessels to offshore drilling or production facilities, if the crew member in charge of such transfer is certificated as a tankerman; or

"(C) cannery tenders, fishing tenders, and fishing vessels of not more than 500 gross tons, used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska, when engaged exclusively in the fishing industry; or

"(D) any foreign vessel not destined for, or departing from, a port or place subject to the jurisdiction of the United States that is in innocent passage through the territorial sea of the United States or in transit through the navigable waters of the United States which form a part of an international strait.

"(5) FISH PROCESSING VESSELS.—This section shall not apply to vessels of not more than 5,000 gross tons used in the processing and assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, and such vessels shall be allowed to have on board flammable or combustible liquid cargo in bulk to the extent authorized, and upon such conditions as may be required, by regulations issued by the Secretary.

"(6) REGULATORY AUTHORITY.—

"(A) In accordance with the provisions of the Administrative Procedure Act, as amended, the Secretary shall issue, and may from time to time amend or repeal, regulations for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, or manning of vessels to which this section applies, as may be necessary for protection against hazards to life and property, for navigation and vessel safety, and for protection of the marine environment. The regulations issued by the Secretary under this subsection shall be in addition to any other regulations, issued under other provisions of law, that may apply to such vessels. The regulations issued by the Secretary under this subsection shall include, but need not be limited to, requirements relating to—

"(i) superstructures, hulls, cargo holds or tanks, fittings, equipment, applicances, propulsion machinery, auxiliary machinery, and boilers;

"(ii) the handling or stowage of cargo, the manner of such handling or stowage of cargo, and the machinery and appliances used in such handling or stowage;

"(iii) equipment and appliances for lifesaving, fire protection, and prevention and mitigation of damage to the marine environment;

"(iv) the manning of such vessels and the duties, qualifications, and training of the officers and crew thereof, in accordance with subsections (9), (10), and (11);

"(v) improvements in vessel maneuvering and stopping ability and other features which reduce the possibility of collision, grounding, or other accidents;

"(vi) the reduction of cargo loss in the event of a collision, grounding, or other accident; and

"(vii) the reduction or elimination of discharges during ballasting, deballasting, tank

cleaning, cargo handling, or other such activity.

"(B) In issuing regulations under paragraph (A), the Secretary shall give due consideration to the kinds and grades of cargo permitted to be on board such vessel.

"(C) The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of—

"(i) interested Federal departments and agencies,

"(ii) officials of State and local governments,

"(iii) representatives of the maritime community,

"(iv) representatives of port and harbor authorities or associations,

"(v) representatives of environmental groups, and

"(vi) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment.

"(7) MINIMUM STANDARDS.—In issuing regulations pursuant to subsection (6), the Secretary shall require that any self-propelled vessel shall, as a minimum—

"(A) if a new crude oil tanker of 20,000 deadweight tons or above, be equipped with—

"(i) segregated ballast tanks which are protectively located;

"(ii) a crude oil washing system; and

"(iii) a cargo tank protection system, consisting of a fixed deck froth system and a fixed inert gas system;

"(B) if a new product carrier of 30,000 deadweight tons or above, be equipped with segregated ballast tanks which are protectively located;

"(C) if a new product carrier of 20,000 deadweight tons or above, be equipped with a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system or, if such a product carrier carries dedicated products which are incompatible with such a cargo tank protection system, an alternate protection system as authorized by the Secretary;

"(D) if an existing crude oil tanker of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with—

"(i) segregated ballast tanks; or

"(ii) a crude oil washing system:

Provided, That compliance may be delayed for vessels operating with dedicated clean ballast tanks if of 70,000 deadweight tons or above until June 1, 1983, or until June 1, 1985, for all other such vessels;

"(E) if an existing crude oil tanker of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or a crude oil washing system;

"(F) if an existing crude oil tanker of 20,000 deadweight tons or above, not later than June 1, 1985, be equipped with an inert gas system: *Provided*, That for a crude oil tanker of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, the Secretary may grant an exemption, if the vessel's owner can clearly show that compliance would be unreasonable and impracticable due to the vessel's design characteristics: *Provided further*, That an existing crude oil tanker of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1983;

"(G) if an existing product carrier of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with segregated ballast tanks or, in lieu thereof, may operate with dedicated clean ballast tanks;

"(H) if an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks;

"(I) if an existing product carrier of 40,000 deadweight tons or above, or an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, which is fitted with high-capacity tank washing machines, not later than June 1, 1985, be equipped with an inert gas system: *Provided*, That an existing product carrier of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1983;

"(J) if of 10,000 gross tons or above, not later than June 1, 1979, be equipped with—

"(i) a dual radar system, one with short-range and one with long-range capabilities and each with true-north features;

"(ii) an electronic relative motion analyzer;

"(iii) an electronic position fixing device;

"(iv) adequate communications equipment;

"(v) a sonic depth finder;

"(vi) a gyrocompass; and

"(vii) up-to-date charts:

Provided, That the effective date of compliance with the requirement of clause (ii) shall be July 1, 1982 or such earlier date as agreed to internationally and accepted by the United States;

"(K) if a new tanker of 10,000 gross tons or above, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment;

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment;

"(iv) two or more identical and adequate power units for the main steering gear;

"(v) an alternative and adequate power supply, either from an emergency source of electrical power or from another independent source of power located in the steering gear compartment; and

"(vi) means of automatic starting and stopping of power units with attendant alarms at all steering stations;

"(L) if an existing tanker of 10,000 gross tons or above, not later than June 1, 1981, be equipped with—

(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment; and

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment;

"(M) if an existing crude oil tanker of 20,000 deadweight tons and above, which is engaged in the transfer of oil from an offshore oil exploration or production facility on the Outer Continental Shelf of the United States, not later than June 1, 1979, be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks; and

"(N) in accordance with relevant international agreements to which the United States is a party, exempt vessels from the minimum requirements established in this subsection for segregated ballast, dedicated clean ballast, or crude oil washing if he determines that shore-based reception facilities are a preferred method of handling dirty ballast, and that adequate facilities are readily available.

In prescribing minimum requirements, unless otherwise required by law, the Secretary shall apply standards which are consistant with the International Convention for the Prevention of Pollution from Ships, 1973, and the International Convention for the Safety of Life at Sea, 1974, as modified by the respective Protocols of 1978 relating thereto. After the effective date of this subsection, the installation of segregated ballast tanks, a crude oil washing system, or an inert gas system, required by regulations issued hereunder, on a vessel is entitled to engage in coastwise trade in accordance with section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883) shall be effected within the United States, its territories (not including trust territories), or its possessions, and vessels which fail to comply with this requirement shall thereafter not have the right to engage in the coastwise trade.

"(8) EVIDENCE OF COMPLIANCE.—

"(A) No vessel of the United States to which this section applies shall have on board oil or hazardous materials in bulk as cargo or in residue until it has a Certificate of Inspection, issued under the provisions of title 52 of the Revised Statutes of the United States, and such certificate has been endorsed to indicate that the vessel is in compliance with the regulations issued under this section. If any such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance.

"(B) No foreign vessel to which this section applies shall operate on or enter the navigable waters of the United States, or transfer oil or hazardous materials in any port or place under the jurisdiction of the United States, unless such vessel has been issued a Certificate of Compliance by the Secretary. The Secretary shall not issue such certificate until the vessel has been examined by the Secretary and found to be in compliance with the provisions of this section and the regulations issued hereunder. If such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance. The Secretary may allow provisional entry for the purposes of conducting examinations.

"(C) The Secretary may accept, in whole or in part, a certificate, endorsement, or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party, as a basis for issuance of a Certificate of Compliance.

"(D) No vessel may carry any kind or grade of oil or hazardous materials in bulk as cargo or in residue unless its certificate is endorsed to allow such carriage. No such certificate may allow any vessel to carry any material prohibited by section 4472(3) of the Revised Statutes, as amended (46 U.S.C. 170).

"(E) A certificate issued under this section shall be valid for a period not to exceed twenty-four months and may be renewed as specified by the Secretary. The Secretary may issue a temporary certificate under this section in appropriate circumstances; except that the temporary certificate shall be valid for not more than thirty days. Any certificate shall be revoked or suspended if the Secretary finds that the vessel involved no longer complies with the conditions upon which the certificate was issued.

"(9) PERSONNEL AND MANNING STANDARDS FOR VESSELS OF THE UNITED STATES.—The Secretary shall prescribe standards for the manning of any vessel of the United States subject to the provisions of this section and the duties, qualifications, and training of the officers and crew thereof, including, but not limited to, standards relating to—

"(A) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

"(B) instruction in vessel and cargo handling and vessel navigation in emergency

situations and under accidental or potential accident conditions;

"(C) license qualifications by specific type and size of vessels;

"(D) qualification for licenses by use of simulators for the practice or demonstration of marine-oriented skills;

"(E) minimum health and physical fitness criteria for various grades of licenses and certificates: *Provided*, That the Secretary shall waive the applicability of such criteria to any individual holding a license or certificate in effect on the effective date of this subsection, including subsequent renewals thereof: *Provided further*, That, when such a waiver is granted, the Secretary may prescribe conditions or limitations to the license or certificate, or the renewal thereof, as he may find reasonable and necessary for the safety of any vessel on which the individual may be employed;

"(F) periodic retraining, and special training for upgrading positions, changing vessel type or size, or assuming new responsibilities; and

"(G) determination of licenses and certificates, conditions of licensing or certification and period of licensing or certification by reference to experience, amount of training completed, and regular performance testing.

"(10) TANKERMAN REQUIREMENTS.—

"(A) Any vessel of the United States having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of the crew certificated as tankerman, as may be required by the Secretary, and such requirement shall be so noted on the Certificate of Inspection issued to the vessel.

"(B) Any foreign vessel having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of personnel certificated as tankerman, or equivalent, as may be required by the Secretary, when the vessel transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and such requirement shall be noted in applicable terminal operating procedures. No transfer operations may take place unless the crew member in charge is capable of clearly understanding instructions in English.

"(C) The Secretary shall prescribe procedures, standards, and qualifications for the issuance of certificates or endorsements as tankerman, stating the kinds of oil or hazardous materials that can be handled with safety to the vessel and the marine environment.

"(D) Certificates or endorsements as tankerman shall be subject to suspension and revocation on the same grounds and in the same manner as provided for under the provisions of section 4450 of the Revised Statutes of the United States, as amended (46 U.S.C. 239).

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall issue regulations and procedures for the verification of manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States. Such regulations and procedures shall include, but need not be limited to, provisions relating to—

"(A) the receipt through the Inter-Governmental Maritime Consultative Organization or from the certificating state of the English text of laws, decrees, orders, regulations, specimen licenses and certificates, and other pertinent documents pertaining to manning, training, qualification, and watchkeeping of seafarers;

"(B) the publication and distribution of, or otherwise making available to the public and appropriate enforcement personnel, copies of materials received as provided for in paragraph (A);

"(C) the evaluation, at intervals of not less than five years, of each foreign state's system for licensing and certification of seafarers, including study course content and duration, examination requirements and prerequisites for licensing and certification, and related controls;

"(D) determination, after the evaluation required by clause (C), of whether or not the foreign state whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States;

"(E) publication in the Federal Register of each determination made pursuant to clause (D), together with a brief explanation of the reasons therefor; and

"(F) manning levels, based on vessel size and type of operation, when operating in the navigable waters of the United States, or in the safety zone in connection with utilization of deepwater ports.

"(12) MODIFICATIONS.—The Secretary may modify any regulation or standard prescribed under this section to conform to the provisions of an international treaty, convention, agreement, or an amendment thereto, which is ratified by the United States.

"(13) PROHIBITED ACTS.—

"(A) It is unlawful for any person—

"(i) to violate any provision of this section or any regulation issued under this section; or

"(ii) to refuse to permit any officer, authorized by the Secretary to enforce the provisions of this section, to board any vessel or to enter any shore area, place, or premises, under such person's control for purposes of inspection under this section; or

"(iii) to refuse to obey any lawful directive issued under this section.

"(B) It is unlawful for any vessel subject to the provisions of this section—

"(i) to operate in or on the navigable waters of the United States, or to use any port or place subject to the jurisdiction of the United States, while not in compliance with any provision of this section or any regulation issued hereunder; or

"(ii) to fail to comply with any lawful directive issued pursuant to this section.

"(14) PENALTIES.—

"(A) CIVIL PENALTY.—

"(i) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this section or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay and such other matters as justice may require.

"(ii) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(iii) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(B) CRIMINAL PENALTY.—

"(i) Any person who willfully and knowingly violates this section or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than a year, or both.

"(ii) Any person who, in the willful and knowing violation of this section or any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in subparagraph (1), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(C) IN REM LIABILITY.—Any vessel subject to the provisions of this section, which is used in violation of this section or any regulation issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to paragraph (A) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(D) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this section or of regulations issued hereunder, for cause shown.

"(E) DENIAL OF ENTRY.—The Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place subject to the jurisdiction of the United States to any vessel not in compliance with the provisions of this section or the regulations issued hereunder.

"(F) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this subsection. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

"(15) INSPECTION.—

"(A) NATIONAL PROGRAM.—

"(i) The Secretary shall establish a national program for inspection of any vessel subject to this section. Each such vessel shall be inspected or examined at least once each year. Any such vessel over ten years of age shall undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary.

"(ii) An inspection or examination may be conducted by any officer authorized by the Secretary. If any such officer is not reasonably available, the Secretary may contract for the conduct of inspections or examinations in the United States and in foreign countries. Under such contract, an inspector may be authorized to act on behalf of the Secretary, except that no such inspector may issue a Certificate of Inspection or Certificate of Compliance, but may issue a temporary certificate.

"(iii) Notwithstanding the provisions of section 1 of the Act of June 19, 1886, as amended (46 U.S.C. 331), the Secretary shall prescribe by regulation reasonable fees for any inspection or examination which is conducted pursuant to this section outside the geographical limits of the United States, or which, involving a foreign flag vessel, is conducted pursuant to the contract authority provided for in subparagraph (ii) of this paragraph. The owner or operator of any vessel inspected or examined by the Secretary or his designee shall be liable for such fees. Amounts received as fees shall be credited to the general Treasury.

"(B) VESSEL DOCUMENTS.—Any vessel subject to the provisions of this section shall have on board such documents as the Secretary deems necessary for inspection or enforcement under this section, including, but not limited to, documents indicating—

"(i) the kind, grade, and approximate quantities of any cargo on board;

"(ii) the shipper and consignee of the cargo;

"(iii) the points of origin and destination of the vessel; and

"(iv) the name of an agent in the United States authorized to accept legal process.

"(16) MARINE SAFETY INFORMATION SYSTEM.—

"(A) IN GENERAL.—The Secretary shall establish a marine safety information system which shall contain information with regard to any vessel subject to this section which operates on or enters the navigable waters of the United States, or which transfers oil or any hazardous materials in any port or place under the jurisdiction of the United States. The Secretary may, by regulation, require any such vessel to furnish such data or other information as he deems necessary, in order to carry out the purposes of this subsection, including, but not limited to—

"(i) the names of any person with an ownership interest in such vessel;

"(ii) details of compliance with the financial responsibility requirements of applicable statutes or regulations;

"(iii) registration information, including all changes in the name of the vessel;

"(iv) the history of accidents or serious repair problems of the vessel; and

"(v) a record of all inspections or examinations of a vessel conducted under subsection (15).

"(B) INTERAGENCY COOPERATION.—The head of each department or agency of the Federal Government shall, upon a written request from the Secretary, furnish any available information which the Secretary deems necessary to confirm the information received pursuant to paragraph (A).

"(17) LIGHTERING.—

"(A) IN GENERAL.—After the effective date of regulations issued by the Secretary pursuant to paragraph (B), no vessel may transfer oil or hazardous materials in a port or place subject to the jurisdiction of the United States, if the cargo has been transferred from another vessel in the navigable waters of the United States or in the marine environment unless—

"(i) the transfer was conducted in accordance with regulations issued by the Secretary, and

"(ii) both the delivering and receiving vessels had, on board at the time of transfer, a Certificate of Inspection or a Certificate of Compliance, as would have been required under subsection (8), had the transfer taken place in a port or place subject to the jurisdiction of the United States.

"(B) REGULATIONS.—The Secretary shall issue, and may from time to time, amend or repeal regulations for the transferring of oil or hazardous materials in the navigable waters of the United States or in the marine environment when such oil or hazardous material is destined for a port or place subject to the jurisdiction of the United States. Such regulations shall include, but need not be limited to—

"(i) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

"(ii) prevention of spills;

"(iii) equipment for responding to any spill;

"(iv) prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as such uses are defined by treaty, convention, or customary international law;

"(v) establishment of lightering zones; and

"(vi) requirements for communication and prearrival messages.

"(18) TANK WASHINGS.—

"(A) No vessel may transfer cargo in a port or place subject to the jurisdiction of the United States, if the vessel has discharged tank washings containing oil or hazardous materials in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party, in preparation for loading cargo in any port or place subject to the jurisdiction of the United States.

"(B) The Secretary shall establish effective control and supervisory measures to implement the provisions of this subsection.

"(19) REPORT.—Within six months after the end of each calendar year, the Secretary shall submit to the Congress—

"(A) a report on the administration of this section during the preceding calendar year;

"(B) a summary of inspection and enforcement activities during the preceding calendar year; and

"(C) recommendations to the Congress for any additional legislative authority necessary to improve navigation and vessel safety and protection of the marine environment.".

SEC. 6. SAVINGS CLAUSE.

(a) Regulations previously issued under statutory provisions which are amended by section 2 of this Act shall continue in effect as though issued under the authority of the Ports and Waterways Safety Act of 1972, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under title I of Public Law 92-340 for a violation which occurred before the effective date of this Act may be initiated or continued to conclusion as though such public law had not been amended by this Act.

(b) Regulations previously issued under statutory provisions which are amended by section 5 of this Act shall continue in effect as though issued under the authority of section 4417a of the Revised Statutes of the United States, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under the provisions of section 4417a of the Revised Statutes of the United States, as it existed prior to amendment by this Act, for a violation which occurred before the effective date of this Act, may be initiated or continued to conclusion as though such section had not been amended by this Act.

(c) If a provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Mr. MAGNUSON. Mr. President, Senate bill 682, the Port and Tanker Safety Act of 1978, is an important piece of legislation improving the safety of our waterways from unsafe vessel navigation and from the constant threat of pollution from the tanker trade. I have an amendment, in the nature of a substitute, to this bill as it passed the House. The amendment basically clarifies the bill in several aspects.

This legislation passed the Senate unanimously in May of 1977 following a rash of tanker disasters off the shores and in the ports of the United States. It established strong minimum standards for all tankers larger than 20,000 deadweight tons entering our ports. Because of President Carter's initiative and because of the Senate's strong and prompt action on S. 682, the Intergovernmental Maritime Organization (IMCO) convened to negotiate new and stronger international safety and construction standards for tankers. These negotiations were concluded in February of this year and produced new tanker standards embodied in two protocols—to the 1974 Safety of Life at Sea Convention and to the 1973 Convention for the Prevention of Pollution From Ships. Soon after the IMCO conference concluded, the *Amoco Cadiz* disaster vividly reminded us of the need for safe, properly equipped, and constructed tankers.

S. 682 will accomplish several things. First, it rewrites title I of the Port and Waterways Safety Act and provides for the full authority to establish, operate, and maintain vessel traffic services, to require proper safety, navigation, and communications equipment, and to control vessel traffic in hazardous areas, or under hazardous conditions. The Secretary will also regulate waterfront safety.

A new feature of this legislation is the grant of authority to the Secretary of Transportation to establish port access routes in the territorial sea and in the high seas approaches to ports. This has been carefully drafted so as not to infringe the high seas rights of navigation, but will offer greater safety and control over vessel traffic entering U.S. ports. Prior to the designation of such routes, the Secretary of Transportation must consult with other Federal departments and the States. This should insure coordination of geographically relevant activities, and the input from NOAA should help narrow those areas within prime fishing grounds that will be heavily used as navigational routes.

Finally, the act prohibits certain vessels from entering and operating in U.S. waters. If the Secretary finds that a tanker has a serious history of pollution accidents, and is unsafe, that tanker can be denied entry to our ports. Similarly, tankers that do not comply with United States or international regulations for safety, equipment or construction, tankers which illegally discharge oil, tankers that do not comply with vessel traffic service requirements, and tankers that do not meet proper crew and manning standards will not be allowed to enter our ports or operate in our waters. This should help drive the *Argo Merchants* and other floating disasters out of our ports and away from our coasts. Previous Coast Guard practice has been to require inspection of a vessel prior to the denial of entry. This bill insures that this procedure is no longer necessary. The bill does provide, however, that in accordance with international law, a vessel in distress may be allowed provisional entry if that is necessary for the safety of the vessel or the persons aboard. The safety of our ports or environment, however, is not to be jeopardized if the vessel is unsafe.

S. 682 also amends title II of the Port and Waterways Safety Act, dealing with tanker standards. The House amendment to S. 682 amended the original Senate version so as to conform the minimum construction standards of the bill to those of the February IMCO Conference. With the exception of the provisions governing older tankers (15 years or more) the provisions reflect these IMCO accords. It is absolutely essential, however, that everyone, including the administration and all foreign shipping nations, understand that these standards are only minimum requirements and

that there is no restriction or constraint hindering or impairing the Secretary from establishing additional, more stringent requirements. The legislation's incorporation of these standards does not acknowledge that the United States will not require standards tougher than those that came out of IMCO.

It is clear that the results of the February IMCO Conference did not provide standards equivalent to the President's proposal or the original Senate version of S. 682. That conference did proceed with a step in the right direction; however, Congress will continue its oversight of this issue, and certainly hopes to see standards developed that are more effective and stringent than the minimum standards in the bill. If these minimum expectations of IMCO are not fulfilled internationally with all due speed, Congress will consider again the unilateral adoption of the original provisions of S. 682 and the President's proposal.

The bill does go further than IMCO in one important respect. It covers existing tankers between 20 and 40 thousand deadweight tons by requiring that segregated ballast or crude oil washing systems be installed by 1986 or when the tanker is 15 years old, whichever is later. This is estimated to catch approximately 77 percent of the U.S. tanker fleet and 72 percent of the foreign fleet that intend to use U.S. ports.

As to the domestic trade, the bill provides a special provision for tankers engaged in the transfer of oil from the Outer Continental Shelf. These tankers must comply with all the minimum standards set forth elsewhere in the bill, but in addition must be equipped with segregated ballast or special ballast arrangements by 1980. The act also provides that, in regard to the domestic trade, the Secretary has complete authority to issue regulations applicable only to the domestic trade tankers and which differ from these applied to the international trade.

The legislation goes on to provide new tankerman, personnel and manning requirements, and new inspection requirements. Foreign manning standards are required to be comparable or more stringent than those of the United States, and the effective enforcement by foreign nations of these programs should be considered in this determination.

Mr. President, I would like to mention just a few more features of this legislation. S. 682 will require that the Secretary establish a marine safety information system which will contain information with regard to any vessel entering U.S. waters. This will enable us to know both the history of the vessel and its ownership. This type of system is essential.

A further requirement is that the Secretary fully utilize publicly available information in this system—that is, he must make full use of Lloyd's list and other such information. This section of the bill authorizes the Secretary of Transportation to require disclosure of "the names of any person with an ownership interest" in tank vessels. One concern about this subsection has been that the extent of the required disclosure is unclear with the hypothetical result that the Secretary could attempt to compel extremely far reaching disclosure concerning ownership. However, the bill is not intended to authorize the Secretary to require disclosures that would not further any environmental or safety objective. In the usual case, the Secretary would only have the authority to require disclosure of the name of the corporate owner of a tank vessel. Disclosure of the stockholders of reputable corporations with established records of financial responsibility is not required by this provision. The exception to the general rule limiting the disclosure required by section 5(16) to the name of the owner of record would be situations where the Coast Guard has reason to believe that the owner corporation is a "shell"—a corporation without substance—which would be unable to bear the financial responsibility for a pollution incident.

The bill also gives the Secretary authority to regulate "lightering"—that is, the practice of the offshore transferring of oil from large tankers with drafts too deep for U.S. ports, to smaller tankers. This practice is proliferating and the Secretary of Transportation will now be able to effectively regulate this, and require that both receiving and delivering vessels have appropriate certificates.

Mr. President, it is most important to secure passage of this important legislation today. The safety of our ports and the health of our marine environment demand that there be full authority to prevent, to the maximum extent practicable, the problems we have witnessed over and over again these past years. I strongly urge my colleagues to support passage of this legislation.

It is my understanding, because of the necessity of having this bill on the books, that the House will accept the amendments of the Senate, and that we can get the bill down to the White House.

Some of the amendments are technical. They involve a complex matter of deadweight tons, ballast, waterlines, safety factors, and other things which are technical relating to marine technology and marine safety.

I hope the Senate will pass this and we can get it over to the House.

I commend the Senator from Alaska and other members of the Commerce Committee, though the Senator from Alaska and I were more concerned, and the people from New England, after some of the disasters they had up there. We and our staff have worked long and hard on this bill. It is a technical bill, and it follows pretty much what the Secretary of Transportation has now invoked as minimum standards of safety, but his authority was a temporary regulation. This would put it into law. He has ample discretion in many cases to do certain things.

The Senator from Alaska has done yeoman work on this matter with me.

I ask unanimous consent that on the substitute, if he has no objection, we add the name of the Senator from Alaska.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, this bill reflects to a great extent the IMCO conclusions. There is one change in the tanker tonnage which lowers that tonnage.

The statement of the Senator from Washington is one in which I concur. We have worked long and hard trying to get a tanker safety bill. This will place into the law for all intents and purposes the regulations which are in effect now, plus the conclusions of IMCO, with one exception. While I am sure my good friend from Washington and I wish we could go further than this bill, this is the best we can do now.

I would hope that everyone would be aware that we are going to monitor the situation very closely. I, for one, had hoped that we would extend our jurisdiction, as far as tanker safety standards, out to the boundary of the 200-mile limit. This bill does not do that. But, as the Senator from Washington indicates, the Coast Guard may go beyond the 3-mile limit to take jurisdiction and prevent catastrophies if, based upon their information, there is or would be a tanker safety problem by virtue of a known hazard coming within our zone. We do not have to wait until the tanker gets within the 3-mile zone to act. We all remember the situation that developed in New England in regard to a vessel in those circumstances.

I commend the staff who worked on this bill very diligently, particularly Mr. Koch and Mr. Perles, the first with Senator MAGNUSON and the second with me, trying to make certain that we have gone as far as we are able to go at this time.

I do believe the record should show that we are going to monitor this bill and see if it does bring about an improvement. If it does not, perhaps we will have to go further. Right now, this is the best we can do. I think it is imperative that we get this bill to the White House in this session of Congress.

I congratulate my good friend, the former chairman of the Commerce Committee and with whom I have been pleased to work on this matter for a substantial number of years. I am pleased to cosponsor the substitute he has offered.

Can those amendments be offered en bloc as a substitute?

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

UP AMENDMENT NO. 1975

(Purpose: Amend the text of the Ports and Waterways Safety Act)

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON), for himself and Mr. STEVENS, proposes an unprinted amendment No. 1975 in the nature of a substitute.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Port and Tanker Safety Act of 1978".

SEC. 2. PORTS AND WATERWAYS SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT.

The Ports and Waterway Safety Act of 1972 (Public Law 92-340, 86 Stat. 424) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Ports and Waterways Safety Act.'"

"SEC. 2. STATEMENT OF POLICY.

"The Congress finds and declares—

"(a) that navigation and vessel safety and protection of the marine environment are matters of major national importance;

"(b) that increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment;

"(c) that increased supervision of vessel and port operations is necessary in order to—

"(1) reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment;

"(2) prevent damage to structures in, on, or immediately adjacent to the navigable waters of the United States or the resources within such waters;

"(3) insure that vessels operating in the navigable waters of the United States shall comply with all applicable standards and requirements for vessel construction, equipment, manning, and operational procedures; and

"(4) insure that the handling of dangerous articles and substances on structures in, on, or immediately adjacent to the navigable waters of the United States is conducted in accordance with established standards and requirements; and

"(d) that advance planning is critical in determining proper and adequate protective measures for the Nation's sports and waterways and the marine environment, with continuing consultation with other Federal agencies, State representatives, affected users, and the general public, in the development and implementation of such measures.

"SEC. 3. DEFINITIONS.—As used in this Act, unless the context otherwise requires—

"(1) 'Marine environment' means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

"(2) 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(3) 'State' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

"(4) 'United States', when used in a geographical context, means all the States thereof.

"SEC. 4. VESSEL OPERATING REQUIREMENTS.

"(a) In General.—Subject to the requirements of section 5, the Secretary may—

"(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 11, establish, operate, and maintain vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and may include, but need not be limited to one or more of the following: reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

"(2) require vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

"(3) require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or which is necessary in the interests of vessel safety: *Provided*, That the Secretary shall not require fishing vessels under 300 gross tons or recreational vessels 65 feet or less to pose or use the equipment or devices required by this subsection solely under the authority of this Act;

"(4) control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

"(A) specifying times of entry, movement, or departure;

"(B) establishing vessel traffic routing schemes;

"(C) establishing vessel size, speed, draft limitations and vessel operating conditions; and

"(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; and

"(5) require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment.

"(b) Special Powers—The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

"(1) he has reasonable cause to believe such vessel does not comply with any regulation issued under this Act or any other applicable law or treaty;

"(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 9; or

"(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

"(c) Port Access Routes.—(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

"(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law: *Provided*, That such right has become vested prior to the time of publication of the notice required by clause (A) of paragraph (3) hereof: *Provided further*, That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

"(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 5, the Secretary shall—

"(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and small publish notice of such undertaking in the Federal Register.

"(B) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration (including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deep water ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing); and

"(C) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

"(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a notice of proposed rulemaking for the designation contemplated or shall have published in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

"(5) In connection with a designation made pursuant to this subsection, the Secretary—

"(A) shall issue reasonable rules and regulations governing the use of such designated areas, including the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

"(B) to the extent that he finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

"(C) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: Provided, That such an adjustment will not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

"(D) shall, through appropriate channels, (i) notify cognizant international organizations of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation scheme designated pursuant to this subsection in any area of the high seas, to the same extent

as required by the Secretary for vessels of the United States.

"(d) Exception.—Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this Act shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

"(1) innocent passage through the territorial sea of the United States, or

"(2) transit through the navigable waters of the United States which form a part of an international strait.

"SEC. 5. CONSIDERATIONS BY SECRETARY.

"In carrying out his duties and responsibilities under section 4, the Secretary shall—

"(a) take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including but not limited to—

"(1) the scope and degree of the risk or hazard involved;

"(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

"(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

"(4) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

"(5) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

"(6) environmental factors;

"(7) economic impact and effects;

"(8) existing vessel traffic services; and

"(9) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

"(b) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions.

"SEC. 6. WATERFRONT SAFETY.

"(a) In General.—The Secretary may take such action as is necessary to—

"(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

"(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to—

"(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 4417a of the Revised Statutes, as amended;

"(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

"(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

"(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

"(b) State Law.—Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those which may be prescribed by regulations hereunder.

"SEC. 7. PILOTAGE.

"The Secretary may require faderally licensed pilots on any self-propelled vessel, foreign or domestic, engaged in the foreign trade, when operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by State law. Any such requirement shall be terminated when the State having jurisdiction over the area involved establishes a requirement for a State licensed pilot and has so notified the Secretary.

"SEC. 8. INVESTIGATORY POWERS.—

"(a) SECRETARY.—The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this Act, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

"(b) POWERS.—In an investigation under this section, the Secretary may issue subpenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpena. Any district court of the United States may, in the case of refusal to obey a subpena, issue an order requiring compliance with the subpena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

"SEC. 9. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.

"(a) IN GENERAL.—No vessel, subject to the provisions of section 4417a of the Revised Statutes, as amended, shall operate in the navigable waters of the United States or transfer cargo or residence in any port or place under the jurisdiction of the United States, if such vessel—

"(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment; or

"(2) fails to comply with any applicable regulation issued under this Act, under section 4417a of the Revised Statutes, as amended, or under any other applicable law or treaty; or

"(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party; or

"(4) does not comply with any applicable vessel traffic service requirements; or

"(5) is manned by one or more officers who are licensed by a certificating state which the Secretary has determined, pursuant to section 4417a(11) of the Revised Statutes, as amended, does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States; or

"(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or

"(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English.

"(b) EXCEPTIONS.—The Secretary may allow provisional entry of a vessel not in compliance with subsection (a), if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is not unsafe or a threat to the marine environment, and if such entry is necessary for the safety of the vessel or persons aboard. In addition, paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable law, treaty, regulation or condition, as appropriate. Clauses (5) and (6) of subsection (a) shall become applicable eighteen months after the effective date of this section.

"SEC. 10. APPLICABILITY.

"This Act shall not apply to the Panama Canal. The authority granted to the Secretary under sections 4, 5, 6, and 7 of this Act shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this Act shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent he determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

"SEC. 11. INTERNATIONAL AGREEMENTS.

"(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this Act, for consideration as international standards.

"(b) AGREEMENTS.—The President is authorized and encouraged to—

"(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

"(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.

"(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) which is binding upon the United States in accordance with constitutional requirements, may—

"(1) require vessels in the vessel traffic service area to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and

"(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.

"SEC. 12. REGULATIONS.

"(a) IN GENERAL.—In accordance with the provisions of section 553 of title 5, United States Code, as amended, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this Act.

"(b) PROCEDURES.—The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of all interested parties, including—

"(1) interested Federal departments and agencies,

"(2) officials of State and local governments,

"(3) representatives of the maritime community,

"(4) representatives of port and harbor authorities or associations,

"(5) representatives of environmental groups,

"(6) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment, and

"(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

"SEC. 13. ENFORCEMENT.

"(a) CIVIL PENALTY.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(b) CRIMINAL PENALTY.—(1) Any person who willfully and knowingly violates this Act or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

"(2) Any person who, in the willful and knowing violation of this Act or of any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(c) IN REM LIABILITY.—Any vessel subject to the provisions of this Act, which is used in violation of this Act or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(d) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this Act or of regulations issued hereunder, for cause shown.

"(e) DENIAL OF ENTRY.—Except as provided in section 9, the Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States to any vessel not in compliance with the provisions of this Act or the regulations issued hereunder.

"(f) WITHHOLDING OF CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.".

SEC. 3. STUDY OF MONITORING SYSTEMS.

(a) CONTENT.—The Secretary, in consultation with the Secretary of Commerce and other appropriate departments or agencies of the Federal Government, shall study the desirability and feasibility of possible shore-station systems for monitoring vessels, including fishing vessels, within the Fishery Conservation Zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

(b) REPORT.—Within two years after the date of the enactment of this Act, the Secretary shall report his findings to the Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring sytem examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendations for a single, comprehensive, cost effective shore-station system for monitoring vessels within the Fishery Conservation Zone.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section, not to exceed $500,000 for the fiscal year ending September 30, 1979, and not to exceed $500,000 for the fiscal year ending September 30, 1980.

SEC. 4. IMPROVED PILOTAGE STANDARDS.

Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214) is amended to read as follows:

"SEC. 4442. (a) The Secretary of the department in which the Coast Guard is operating shall, in accordance with subsection (b) of this section, establish eligibility requirements for the issuance of a Federal license to pilot any steam vessel.

"(b) No person may be issued a Federal license ot pilot any steam vessel unless he—

"(1) is at least twenty-one years of age:

"(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

"(3) agrees to have a thorough physical examination each year while holding such license;

"(4) demonstrates, to the satisfaction of the Secretary, that he possesses the requisite general knowledge and skill to hold such license;

"(5) demonstrates proficiency in the use of electronic aids to navigation;

"(6) maintains adequate knowledge of the waters to be navigated and knowledge of regulations for the provision of collisions in such waters;

"(7) has sufficient experience, as determined by the Secretary, to evidence his ability to handle any vessel of the type and size which he may be authorized to pilot; and

"(8) meets any other requirement which the Secretary considers reasonable and necessary.

"(c) No Federal license to pilot a steam vessel shall be valid for a term longer than five years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements specified under subsection (b) of this section.".

SEC. 5. VESSELS CARRYING CERTAIN CARGOES IN BULK

Section 4417a of the Revised Statutes of the United States, as amended (46 U.S.C. 391a), is further amended to read as follows:

"SEC. 4417a. (1) STATEMENT OF POLICY.—The Congress hereby finds and declares—

"(A) that the carriage by vessels of certain cargoes in bulk or in residue creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and to the adjoining land, including but not liimted to fish, shellfish, and wildlife, marine and coastal ecosystems, and recreational and scenic values;

"(B) that existing standards for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of all such vessels, which use any port or place subject to the jurisdiction of the United States or which operate in the navigable waters of the United States, must be more stringent and comprehensive for the mitigation of the hazards to life, property, and the marine environment;

"(C) that existing international standards for inspection and enforcement are incomplete, that those international standards that are in existence are often left unenforced by some flag states, and that there is a need to prevent substandard vessels from using any port or place subject to the jurisdiction of the United States or from operating in the navigable waters of the United States, for the mitigation of the hazards of life, property, or the marine environment;

"(D) that standards developed through regulations shall incorporate the best available technology and shall be required unless clearly shown to create an undue economic impact which is not outweighed by the benefits to navigation and vessel safety or protection of the marine environment;

"(E) that standards developed through regulations shall not impede or interfere with the right of innocent passage or any legitimate use of the high seas in accordance with recognized principles of international law; and

"(F) that the United States should continue to actively support and encourage efforts to obtain international agreements concerning navigation and vessel safety and protection of the marine environment.

"(2) DEFINITIONS.—As used in this section, unless the context otherwise requires—

"(A) 'Discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

"(B) 'Foreign vessel' means any vessel of foreign registry or operated under the authority of any nation other than the United States.

"(C) 'Hazardous material' means any liquid material or substance which is—

"(i) flammable or combustible; or

"(ii) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321); or

"(iii) designated a hazardous material under section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"(D) 'Marine environment' means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

"(E) 'Oil' includes oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"(F) 'Person' means any individual (whether or not a citizen or national of the United States), or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

"(G) 'Public vessel' means a vessel which—

"(i) is owned, or chartered by demise, and operated by the United States or any foreign government; and

"(ii) is not engaged in commercial service.

"(H) 'Commercial service' means all types of trade or business involving the transportation of goods or persons, excluding the service performed by combatant vessels.

"(I) 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(J) 'State' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

"(K) 'United States', when used in a geographical context, means all the States thereof.

"(L) 'Vessel of the United States' means any vessel documented or numbered under the laws of the United States.

"(M) 'Tanker' means a vessel constructed or adopted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

"(N) 'Crude oil tanker' means a tanker engaged in the trade of carrying crude oil.

"(O) 'Product carrier' means a tanker engaged in the trade of carrying oil, other than crude oil.

"(P) 'Major conversion' means a conversion of an existing vessel which substantially alters the dimensions or carrying capacity of the vessel; or changes the type of vessel; or substantially prolongs its life; or which otherwise so alters the vessel that it is essentially a new vessel, as determined by the Secretary.

"(Q) 'New' means, with respect to various types of vessels subject to subsection (7), a vessel—

"(i) for which the building contract is placed after June 1, 1979; or

"(ii) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after January 1, 1980; or

"(iii) the delivery of which is after June 1, 1982; or

"(iv) which has undergone a major conversion, which is contracted for after June 1, 1979, or construction work of which is begun after January 1, 1980, or completed after June 1, 1982.

"(R) 'Existing' means, with respect to various types of vessels subject to subsection (7), a vessel which is not a new vessel.

"(S) 'Crude oil' means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

"(3) APPLICABILITY.—Except as provided in subsections (4) and (5), this section shall apply to any vessel—

"(A) regardless of tonnage, size, or manner of propulsion;

"(B) whether self-propelled or not;

"(C) whether carrying freight or passengers for hire or not;

"(D) which is a vessel of the United States, or which operates on or enters the navigable waters of the United States, or which transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and

"(E) which carries oil or any hazardous materials in bulk as cargo or in residue.

Any such vessel shall be deemed to be a steam vessel for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof.

"(4) EXCEPTIONS.—This section shall not apply to—

"(A) any public vessel; or

"(B) any vessel of not more than 500 gross tons, documented in the service of oil exploitation, which is not a tanker and which would be subject to this section only because of the transfer of fuel from fuel supply tanks of such vessels to offshore drilling or production facilities, if the crew member in charge of such transfer is certified as a tankerman: *Provided*, That if the crew member in charge of the transfer of fuel holds a valid license as a master, mate, pilot, engineer or operator, it shall not be necessary for the crew member also to be certificated as a tankerman or have a tankerman endorsement on his license; or

"(C) cannery tenders, fishing tenders, and fishing vessels of not more than 500 gross tons, used in the salmon or crab fisheries of the State of Oregon, Washington, and Alaska, when engaged exclusively in the fishing industry; or

"(D) any foreign vessel, not destined for, or departing from, a port or place subject to the jurisdiction of the United States, that is in innocent passage through the territorial sea of the United States or in transit through the navigable waters of the United States which form a part of an international strait.

"(5) FISH PROCESSING VESSELS.—This section shall not apply to vessels of not more than 5,000 gross tons used in the processing and assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, and such vessels shall be allowed to have on board flammable or combustible liquid cargo in bulk to the extent authorized, and upon such conditions as may be required, by regulations issued by the Secretary.

"(6) REGULATORY AUTHORITY.—

"(A) In accordance with the provisions of section 553 of title 5, United States Code, the Secretary shall issue, and may from time to time amend or repeal, regulations for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, or manning of vessels to which this section applies, as may be necessary for increased protection against hazards to life and property, for navigation and vessel safety, and for enhanced protection of the maritime environment. The Secretary may issue differing regulations applicable to vessels engaged in the domestic trade, and may also issue regulations that exceed standards agreed upon internationally. The regulations issued by the Secretary under this subsection shall be in addition to any other regulations, issued under other provisions of law, that may apply to such vessels. The regulations issued by the Secretary under this subsection shall include, but need not be limited to, requirements relating to—

"(i) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;

"(ii) the handling or stowage of cargo, the manner of such handling or stowage of cargo, and the machinery and appliances used in such handling or stowage;

"(iii) equipment and appliances for lifesaving, fire protection, and prevention and mitigation of damage to the marine environment;

"(iv) the manning of such vessels and the duties, qualifications, and training of the officers and crew thereof, in accordance with subsections (9), (10), and (11);

"(v) improvements in vessel maneuvering and stopping ability and other features which reduce the possibility of collision, grounding, or other accidents;

"(vi) the reduction of cargo loss in the event of a collision, grounding, or other accident; and

"(vii) the reduction or elimination of discharges during ballasting, deballasting, tank cleaning, cargo handling, or other such activity.

"(B) In issuing regulations under paragraph (A), the Secretary shall give due consideration to the kinds and grades of cargo permitted to be on board such vessel.

"(C) The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of—

"(i) interested Federal departments and agencies,

"(ii) officials of State and local governments,

"(iii) representatives of the maritime community,

"(iv) representatives of port and harbor authorities or associations,

"(v) representatives of environmental groups, and

"(vi) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment.

"(7) MINIMUM STANDARDS.—In issuing regulations pursuant to subsection (6), the Secretary shall require that any self-propelled vessel shall, as a minimum—

"(A) if a new crude oil tanker of 20,000 deadweight tons or above, be equipped with—

"(i) segregated ballast tanks which are protectively located;

"(ii) a crude oil washing system; and

"(iii) a cargo tank protection system, consisting of a fixed deck froth system and a fixed inert gas system;

"(B) if a new product carrier of 30,000 deadweight tons or above, be equipped with segregated ballast tanks which are protectively located;

"(C) if a new product carrier of 20,000 deadweight tons or above, be equipped with a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system or, if such a product carrier carries dedicated products which are incompatible with such a cargo tank protection system, an alternate protection system as authorized by the Secretary;

"(D) if an existing crude oil tanker of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with—

"(i) segregated ballast tanks; or

"(ii) a crude oil washing system:

Provided, That compliance may be delayed for vessels operating with dedicated clean ballast tanks if of 70,000 deadweight tons or above until June 1, 1983, or until June 1, 1985, for all other such vessels;

"(E) if an existing crude oil tanker of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or a crude oil washing system;

"(F) if an existing crude oil tanker of 20,000 deadweight tons or above, not later than June 1, 1983, be equipped with an inert gas system: *Provided*, That for a crude oil tanker of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, the Secretary may grant an exemption, if the vessel's owner can clearly show that compliance would be unreasonable and impracticable due to the vessel's design characteristics: *Provided further*, That an existing crude oil tanker of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1981;

"(G) if an existing product carrier of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with segregated ballast tanks or, in lieu thereof, may operate with dedicated clean ballast tanks;

"(H) if an existing product carrier of 20,000 deadweight tons or above but less than

40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks;

"(I) if an existing product carrier of 40,000 deadweight tons or above, or an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, which is fitted with high-capacity tank washing machines, not later than June 1, 1983, be equipped with an inert gas system: *Provided*, That an existing product carrier of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1981;

"(J) if of 10,000 gross tons or above, not later than June 1, 1979, be equipped with—

"(i) a dual radar system, with short-range and with long-range capabilities and each with true-north features;

"(ii) an electronic relative motion analyzer, which is at least functionally equivalent to such equipment complying with specifications established by the United States Maritime Administration;

"(iii) an electronic position fixing device;

"(iv) adequate communications equipment;

"(v) a sonic depth finder;

"(vi) a gyrocompass; and

"(vii) up-to-date charts:

Provided, That the effective date of compliance with the requirement of clause (ii) shall be July 1, 1982 or such earlier date as agreed to internationally and accepted by the United States;

"(K) if a new tanker of 10,000 gross tons or above, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment;

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment;

"(iv) two or more identical and adequate power units for the main steering gear;

"(v) an alternative and adequate power supply, either from an emergency source of electrical power or from another independent source of power located in the steering gear compartment; and

"(vi) means of automatic starting and stopping of power units with attendant alarms at all steering stations;

"(L) if an existing tanker of 10,000 gross tons or above, not later than June 1, 1981, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment; and

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment;

"(M) if a crude oil tanker, which is engaged in the transfer of oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States, not later than June 1, 1980, be equipped with segregated ballast tanks, or may operate with dedicated clean ballast tanks or special ballast arrangements: *Provided*, That vessels subject to this paragraph shall comply fully with the other minimum standards of this section, where applicable; and

"(N) in accordance with relevant international agreements to which the United States is a party, exempt vessels from the minimum requirements established in this subsection for segregated ballast, dedicated clean ballast, or crude oil washing if he determines that shore-based reception facilities are a preferred method of handling dirty ballast, and that adequate facilities are readily available. After the effective date of this Act, the installation of segregated ballast tanks, a crude oil washing system, or an inert gas system, required by regulations issued hereunder, on a vessel which is entitled to engage in coastwise trade in accordance with section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883) shall be effected within the United States, its territories (not including trust territories), or its possessions, and vessels which fail to comply with this requirement shall thereafter not have the right to engage in the coastwise trade.

"(8) EVIDENCE OF COMPLIANCE.—

"(A) No vessel of the United States to which this section applies shall have on board oil or hazardous materials in bulk as cargo or in residue until it has a Certificate of Inspection, issued under the provisions of title 52 of the Revised Statutes of the United States, and such certificate has been endorsed to indicate that the vessel is in compliance with the regulations issued under this section. If any such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance.

"(B) No foreign vessel to which this section applies shall operate on or enter the navigable waters of the United States, or transfer oil or hazardous materials in any port or place under the jurisdiction of the United States, unless such vessel has been issued a Certificate of Compliance by the Secretary. The Secretary shall not issue such certificate until the vessel has been examined by the Secretary and found to be in compliance with the provisions of this section and the regulations issued hereunder. If such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance. The Secretary may allow provisional entry for the purposes of conducting examinations.

"(C) The Secretary may accept, in whole or in part, a certificate, endorsement, or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party, as a basis for issuance of a Certificate of Compliance.

"(D) No vessel may carry any kind or grade of oil or hazardous materials in bulk as cargo or in residue unless its certificate is endorsed to allow such carriage. No such certificate may allow any vessel to carry any material prohibited by section 4472(3) of the Revised Statutes, as amended (46 U.S.C. 170).

"(E) A certificate issued under this section shall be valid for a period not to exceed twenty-four months and may be renewed as specified by the Secretary. The Secretary may issue a temporary certificate under this section in appropriate circumstances; except that the temporary certificate shall be valid for not more than thirty days. Any certificate shall be revoked or suspended if the Secretary finds that the vessel involved no longer complies with the conditions upon which the certificate was issued.

"(9) PERSONNEL AND MANNING STANDARDS FOR VESSELS OF THE UNITED STATES.—The Secretary shall prescribe standards for the manning of any vessel of the United States subject to the provisions of this section and the duties, qualifications, and training of the officers and crew thereof, including, but not limited to, standards relating to—

"(A) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

"(B) instruction in vessel and cargo handling and vessel navigation in emergency situations and under accidental or potential accident conditions;

"(C) license qualifications by specific type and size of vessels;

"(D) qualification for licenses by use of simulators for the practice or demonstration of marine-oriented skills;

"(E) minimum health and physical fitness criteria for various grades of licenses and certificates: *Provided*, That the Secretary shall waive the applicability of such criteria to any individual holding a license or certificate in effect on the effective date of this subsection, including subsequent renewals thereof: *Provided further*, That, when such a waiver is granted, the Secretary may prescribe conditions or limitations to the license or certificate, or the renewal thereof, as he may find reasonable and necessary for the safety of any vessel on which the individual may be employed;

"(F) periodic retraining, and special training for upgrading positions, changing vessel type or size, or assuming new responsibilities; and

"(G) determination of licenses and certificates, conditions of licensing or certification and period of licensing or certification by reference to experience, amount to training completed, and regular performance testing.

"(10) TANKERMAN REQUIREMENTS.—

"(A) Any vessel of the United States having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of the crew certificated as tankerman, as may be required by the Secretary, and such requirement shall be so noted on the Certificate of Inspection issued to the vessel.

"(B) Any foreign vessel having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of personnel certificated as tankerman, or equivalent, as may be required by the Secretary, when the vessel transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and such requirement shall be noted in applicable terminal operating procedures. No transfer operations may take place unless the crew member in charge is capable of clearly understanding instructions in English.

"(C) The Secretary shall prescribe procedures, standards, and qualifications for the issuance of certificates or endorsements as tankerman, stating the kinds of oil or hazardous materials that can be handled with safety to the vessel and the marine environment.

"(D) Certificates or endorsements as tankerman shall be subject to suspension and revocation on the same grounds and in the same manner as provided for under the provisions of section 4450 of the Revised Statutes of the United States, as amended (46 U.S.C. 239).

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall issue regulations and procedures for the verification of manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States. Such regulations and procedures shall include, but need not be limited to, provisions relating to—

"(A) the receipt through the Inter-Governmental Maritime Consultative Organization or from the certificating state of the English text of laws, decrees, orders, regulations, specimen licenses and certificates, and other pertinent documents pertaining to manning, training, qualification, and watchkeeping of seafarers:

"(B) the publication and distribution of, or otherwise making available to the public and appropriate enforcement personnel, cop-

ies of materials received as provided for in paragraph (A);

"(C) the evaluation, at intervals of not less than five years, of each foreign state's system for licensing and certification of seafarers, including study course content and duration, examination requirements and prerequisites for licensing and certification, and related controls;

"(D) determination, after the evaluation required by clause (C), of whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States;

"(E) publication in the Federal Register of each determination made pursuant to clause (D), together with a brief explanation of the reason therefor; and

"(F) manning levels, based on vessel size and type of operation, when operating in the navigable waters of the United States, or in the safety zone in connection with utilization of deepwater ports.

"(12) MODIFICATIONS.—The Secretary may modify any regulation or standard prescribed under this section to conform to the provisions of an international treaty, convention, agreement, or an amendment thereto, which is ratified by the United States.

"(13) PROHIBITED ACTS.—

"(A) It is unlawful for any person—

"(i) to violate any provision of this section or any regulation issued under this section; or

"(ii) to refuse to permit any officer, authorized by the Secretary to enforce the provisions of this section, to board any vessel or to enter any shore area, place, or premises, under such person's control for purposes of inspection under this section; or

"(iii) to refuse to obey any lawful directive issued under this section.

"(B) It is unlawful for any vessel subject to the provisions of this section—

"(i) to operate in or on the navigable waters of the United States, or to use any port or place subject to the jurisdiction of the United States, while not in compliance with any provision of this section or any regulation issued hereunder; or

"(ii) to fail to comply with any lawful directive issued pursuant to this section.

"(14) ENFORCEMENT.—

"(A) CIVIL PENALTY.—

"(i) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this section or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(ii) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(iii) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(B) CRIMINAL PENALTY.—

"(i) Any person who willfully and knowingly violates this section or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

"(ii) Any person who, in the willful and knowing violation of this section or any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in subparagraph (i), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(C) IN REM LIABILITY.—Any vessel subject to the provisions of this section, which is used in violation of this section or any regulation issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to paragraph (A) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(D) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this section or of regulations issued hereunder, for cause shown.

"(E) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this subsection. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

"(15) INSPECTION.—

"(A) NATIONAL PROGRAM.—

"(i) The Secretary shall establish a national program for inspection of any vessel subject to this section. Each such vessel shall be inspected or examined at least once each year. Any such vessel over ten years of age shall undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary.

"(ii) An inspection or examination may be conducted by any officer authorized by the Secretary. If any such officer is not reasonably available, the Secretary may contract for the conduct of inspections or examinations in the United States and in foreign countries. Under such contract, an inspector may be authorized to act on behalf of the Secretary, except that no such inspector may issue a Certificate of Inspection or Certificate of Compliance, but may issue a temporary certificate.

"(iii) Notwithstanding the provisions of section 1 of the Act of June 19, 1886, as amended (46 U.S.C. 331), the Secretary shall prescribe by regulation reasonable fees for any inspection or examination conducted pursuant to this section outside the geographical limits of the United States, or which, when involving a foreign vessel, is conducted pursuant to the contract authority provided for in subparagraph (ii) of this paragraph. The owner or operator of any vessel inspected or examined by the Secretary or his designee shall be liable for such fees. Amounts received as fees shall be credited to the General Treasury.

"(B) VESSEL DOCUMENTS.—Any vessel subject to the provisions of this section shall have on board such documents as the Secretary deems necessary for inspection or enforcement under this section, including, but not limited to, documents indicating—

"(i) the kind, grade, and approximate quantities of any cargo on board;

"(ii) the shipper and consignee of the cargo;

"(iii) the points of origin and destination of the vessel; and

"(iv) the name of an agent in the United States authorized to accept legal process.

"(16) MARINE SAFETY INFORMATION SYSTEM.—

"(A) IN GENERAL.—The Secretary shall establish a marine safety information system which shall contain information with regard to any vessel subject to this section which operates on or enters the navigable waters of the United States, or which transfers oil or any hazardous materials in any port or place under the jurisdiction of the United States. In acquiring such information, the Secretary shall make full use of publicly available information. The Secretary may, by regulation, require any such vessel to furnish such data or other information as he deems necessary, in order to carry out the purposes of this subsection, including, but not limited to—

"(i) the names of any person with an ownership interest in such vessel;

"(ii) details of compliance with the financial responsibility requirements of applicable statutes or regulations;

"(iii) registration information, including all changes in the name of the vessel;

"(iv) the history of accidents or serious repair problems of the vessel; and

"(v) a record of all inspections or examinations of a vessel conducted under subsection (15).

"(B) INTERAGENCY COOPERATION.—The head of each department or agency of the Federal Government shall, upon a written request from the Secretary, furnish any available information which the Secretary deems necessary to confirm the information received pursuant to paragraph (A).

"(17) LIGHTERING.—

"(A) IN GENERAL.—After the effective date of regulations issued by the Secretary pursuant to paragraph (B), no vessel may transfer oil or hazardous materials in a port or place subject to the jurisdiction of the United States, if the cargo has been transferred from another vessel in the navigable waters of the United States or in the marine environment unless—

"(i) the transfer was conducted in accordance with regulations issued by the Secretary, and

"(ii) both the delivering and receiving vessels had, on board at the time of transfer, a Certificate of Inspection or a Certificate of Compliance, as would have been required under subsection (8), had the transfer taken place in a port or place subject to the jurisdiction of the United States.

"(B) REGULATIONS.—The Secretary shall issue, and may from time to time, amend or repeal regulations for the transferring of oil or hazardous materials in the navigable waters of the United States or in the marine environment when such oil or hazardous material is destined for a port or place subject to the jurisdiction of the United States. Such regulations shall include, but need not be limited to—

"(i) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

"(ii) prevention of spills;

"(iii) equipment for responding to any spill;

"(iv) prevention of any unreasoning interference with navigation or other reasonable uses of the high seas, as such uses are defined by treaty, convention, or customary international law;

"(v) establishment of lightering zones; and

"(vi) requirements for communication and pre-arrival messages.

"(18) TANK WASHINGS.—

"(A) No vessel may transfer a cargo in a port or place subject to the jurisdiction of the United States, if the vessel has arrived after having discharged tank washings containing oil or hazardous materials in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party, in preparation for loading

that cargo in any port or place subject to the jurisdiction of the United States.

"(B) The Secretary shall establish effective control and supervisory measures to implement the provisions of this subsection.

"(19) REPORT.—Within six months after the end of each calendar year, the Secretary shall submit to the Congress—

"(A) a report on the administration of this section during the preceding calendar year;

"(B) a summary of inspection and enforcement activities during the preceding calendar year; and

"(C) recommendations to the Congress for any additional legislative authority necessary to improve navigation and vessel safety and protection of the marine environment.".

SEC. 6. SAVINGS CLAUSE.

(a) Regulations previously issued under statutory provisions which are amended by section 2 of this Act shall continue in effect as though issued under the authority of the Ports and Waterways Safety Act of 1972, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under title I of Public Law 92-340 for a violation which occurred before the effective date of this Act may be initiated or continued to conclusion as though such public law had not been amended by this Act.

(b) Regulations previously issued under statutory provisions which are amended by section 5 of this Act shall continue in effect as though issued under the authority of section 4417a of the Revised Statutes of the United States, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under the provisions of section 4417a of the Revised Statutes of the United States, as it existed prior to amendment by this Act, for a violation which occurred before the effective date of this Act, may be initiated or continued to conclusion as though such section had not been amended by this Act.

(c) If a provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Mr. MAGNUSON. I want to say this is not as far as the Senator from Alaska and I would like to go, but we do have to get some experience in this matter. However, this is a pretty tough bill. I hope it will go a long way to reduce to the minimum the possibility of oil spills, as far as the United States is concerned.

Mr. STEVENS. With the new enforcement techniques the Coast Guard has, with their new long range and medium range surveillance aircraft, and for techniques they have developed for identifying tankers without regard to weather conditions, all of these things should give us an increased awareness of the presence of tankers with known safety hazards and give us the ability tc control their entry into our waters.

I think we must assure the Coast Guard that they have the facilities and the manpower to enforce this bill. I am pleased, again, that my good friend, being the chairman of the Appropriations Committee, will see to it that we do have that ability in the future.

I commend him once again for his actions and persistence in improving our ability to control this in advance, to prevent oil pollution, through the enactment of tough tanker safety standards.

As I said, I am pleased to be a cosponsor with him on this.

Mr. MAGNUSON. I move that the Senate concur in the House amendment with an amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment with an amendment.

The motion was agreed to.

Mr. MAGNUSON. I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3077, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3077) to amend and extend the Export-Import Bank Act of 1975, and for other purposes.

ORDER OF PROCEDURE

Mr. MUSKIE. Mr. President, earlier, I had a discussion with the distinguished floor manager of the bill, as well as with other Members interested in the so-called sunset amendment and the schedule for taking it up. The floor manager indicated that there were other amendments to the Eximbank bill that could be usefully and productively discussed and disposed of this afternoon. It seemed to me that that would be a more useful exercise than to begin debate on sunset which will not result in a vote today. So if it is the understanding of us all, and I address this question to Senator STEVENSON, that with the approval of the majority leader, we will not discuss sunset this afternoon, I shall not call it up this afternoon, but that we can take it up Monday morning.

I understand we are to convene at 9 o'clock on Monday morning. We can take it up as the first order of business at that time. I simply want to confirm that understanding with the distinguished Senator from Illinois.

Mr. ROTH. Will the Senator yield?

Mr. MUSKIE. Yes, I yield to my good friend.

Mr. ROTH. I am agreeable to postponing it until Monday. However, as I have indicated to the distinguished Senator from Maine, I do have a problem between 10 and 12. I am the one managing the amendment on the Republican side, but at 10 o'clock, my Subcommittee on Finance has hearings, which I have to attend, over which I am presiding at my request. The only question I raise is that I am eager to be here during the opening remarks and wonder what time we would be able to commence the discussion of the amendment.

Mr. MUSKIE. I do not know whether or not there will be special orders for Senators on Monday. I assure the Senator that I shall limit my opening remarks to a few minutes so that he might make his statement. I shall resume my statement after the conclusion of his, so he may leave for the hearing. Then there are other Senators who will have opening statements to make.

I think we can accommodate his schedule and his desire to be heard early on.

Mr. ROTH. I ask the distinguished Senator, does he know what time we shall be coming in on Monday?

Mr. MUSKIE. I understand it will be at 9 o'clock.

Mr. STEVENSON. Mr. President, it is my understanding, likewise, that the Senate will be coming in at 9 o'clock on Monday.

As the Senator from Maine indicated, there are amendments which I believe could be disposed of this afternoon by voice votes. Therefore, if the sunset amendment were to be laid down on Monday instead of this afternoon, we could dispose of some of the Senate's business today, leaving Monday to debate that amendment and perhaps others with, as I understand it, no votes to occur until after 6 o'clock on Monday.

There is no order entered, so all I can do to asssure the Senator is that I and, I am quite confident, my comanager, the Senator from Pennsylvania (Mr. HEINZ), will do all we can to protect Senators and make certain that there are no votes today or, for that matter, on Monday until 6 o'clock.

Mr. HEINZ. If the Senator will yield, I concur entirely with the chairman of the subcommittee (Mr. STEVENSON) that we shall do everything we can to put any votes that people may want over until 6. It does require unanimous consent to do that, but on the other hand, I know of nobody presently in the Chamber who would object.

Mr. MUSKIE. There must be an understanding, and the understanding would be among those concerned. If someone offers another amendment before I get here at 9 o'clock on Monday, that will be provided for, of course. I suspect we may dispose of most other amendments. There is another amendment dealing with the NEPA issue that also involves both of us.

I think we can use Monday usefully. We can only use it for debate in the course of the day, anyway.

The PRESIDING OFFICER. The Chair informs the Senators that a unanimous-consent agreement has been entered into under the terms of which no rollcall votes will be held before 6 o'clock on Monday.

Mr. MUSKIE. That takes care of the rollcall vote business, I believe.

So the understanding is that we shall withdraw our amendment this afternoon and I shall be here to call up my amendment on Monday at 9, if nothing intervenes. We can begin debate and I shall, of course, honor my agreement with the distinguished Senator from Delaware, who is a coauthor of the amendment and who has been working on this matter for 3 years now, so he can get his statement in and go to his hearing.

Mr. ROTH. I thank the Chairman.

Mr. STEVENSON. Mr. President, I shall do all I can to assure that it does work out that way. I just express the hope that if the Senators from Delaware

and Maine have more time available after their amendment is laid down on Monday than they need, it might be possible to get in some debate on some other amendments before the votes begin at 6.

Mr. MUSKIE. Right, and I might say to the Senator that our staffs are working on the NEPA issue, hoping to resolve that one. We may be able to dispose of that in the course of the day on Monday.

Mr. STEVENSON. Yes. I hope so. We shall be working on that over the weekend. That could obviate the debate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1976

(Purpose: To authorize the Secretary of the Treasury to use Eximbank to counter predatory foreign official financing practices in the United States)

Mr. STEVENSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1976.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

"Section (a) (1) Upon receipt of information that foreign sales to the U.S. are being offered involving foreign official export credits which exceed limits under existing international agreements, arrangements, standstills, minutes, or practices to which the U.S. and other major exporting countries have agreed, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether "non-competitive financing" is being offered.

(2) If the Secretary determines that such foreign "non-competitive" financing is being offered, he shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing U.S. sellers with financing to match that available through the foreign official export financing entity.

(b) The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing U.S. sellers, if he determines that:

(1) The availability of foreign official non-competitive financing is likely to be a determining factor in the sale, and

(2) the foreign non-competitive financing has not been withdrawn on the date the Bank is authorized to provide competive financing.

(c) Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity, provided however that loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended."

Mr. STEVENSON. Mr. President, it appears that certain foreign countries are violating their obligations under the arrangement on officially supported export credits. This amendment is addressed to such predatory credit practices.

The amendment, if approved, would permit the Bank, when necessary, to meet predatory financing of sales in the United States, to make financing available on the same terms.

This amendment, Mr. President, would not mandate any such financing by the Eximbank for purchases of American commodities in this country. It only would make it possible, when necessary to meet competition that arises from violations of the arrangement to which I have referred, and in those circumstances only after an appropriate finding by the Secretary of the Treasury, and only then the Bank would be authorized, but would not be required, to make competitive financing available.

I hope that this authority would never be used. Our hope in making it available to the Bank is that with such authority to meet the competition, we will be in a stronger position to negotiate agreements and in a stronger position to enforce agreements aimed at controlling predatory financing of exports.

The purpose of this amendment is not to declare or to accelerate a credit war. Its purpose is to put the United States in a position to end a credit war in the financing of exports.

I have discussed this matter with the distinguished comanager of this bill, and I hope he agrees that it should be accepted by the Senate.

Mr. HEINZ. Mr. President, I have received the amendment of the Senator from Illinois, and I think it is a very good—and I might even say a very necessary amendment, and I, for one, would encourage my colleagues to accept it.

Mr. STEVENSON. Mr. President, I thank the Senator.

I ask unanimous consent to have printed in the RECORD an explanation of the amendment.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

PROPOSAL TO AUTHORIZE THE EXIMBANK TO COUNTER PREDATORY FINANCING PRACTICES OF FOREIGN GOVERNMENTS

I. RATIONALE FOR THE PROPOSAL

The Export-Import Bank is directed by law "in cooperation with the export financing instrumentalities of other governments (to) seek to minimize competition in government-supported export financing" and to "seek to reach international agreements to reduce government subsidized export financing." The U.S. Government has engaged in intensive effort over the past five years to reach an agreement among the major industrial countries to reduce and eliminate predatory export credit competition. The negotiations have met with only limited success.

In February 1978, the U.S. Government announced a new international Arrangement on Officially Supported Export Credits. The Arrangement supersedes certain prior export credit understandings but does not embody any major forward step to reduce competition in export financing. In fact, because several governments continue to use low-cost export credits as a key instrument for overseas sales, it has been impossible to curb such practices. Thus, major product categories are excluded from the new Arrangement and there is express provision for countries to deviate from agreed financing limits, even for products which are expressly covered, once other countries are notified of intended deviations.

Excesses in export credit competition continue and are even on an upswing, especially when an export transaction is deemed to be of special national interest to the exporting country. Until recently, such use of export credits had been largely confined to sales to non-industrialized countries, but now, contrary to general understandings and accepted limitations between the major exporting countries, such financing is also being offered for sales in the U.S. market.

It would be consistent with the Bank's basic purpose to empower it to address this problem which otherwise threatens to have a major adverse impact on the U.S. economy. The Export-Import Bank is directed "to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are competitive with the government-supported rates and terms made available" from principal exporting countries. While the Bank's power to meet competition is generally an effective tool in placing U.S. sellers on a relatively equal competitive footing with their foreign competitors in overseas sales, the Bank lacks authority to counter such practices in the case of sales to the U.S., the world's largest market. In those cases, the Bank can only protest. It has no backup power to meet, where necessary, official financing which violates international understandings. Thus, U.S. sellers when competing against such financing are at a disadvantage and are losing major sales in this country.

The proposal outlined below is directed towards foreign export credits which exceed internationally agreed norms in sales to the U.S. The Bank would be authorized, where necessary, to meet such competition by financing the domestic sale of U.S. goods.

The proposal would not permit across-the-board financing of U.S. domestic sales. Specified prerequisites would be established for the use of the authority. A budget limit on the authority would insure that it would have only a minor effect on the Bank's capability to continue its other activities, while the authority would deter other countries from engaging in predatory financing practices.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1977

(Purpose: To require the President to report on international efforts to reach environmental agreements before imposing unilateral environmental review requirements on nuclear exports)

Mr. HEINZ. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1977.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

"No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to Sec. 407 of the Act (42 U.S.C. 2153e) entitled "Protection of the Environment" which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities."

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself and Senator STEVENSON.

The purpose of the amendment is to require the President to report on his efforts to reach international agreements with respect to environmental protection in cases where nuclear powerplants and other nuclear facilities are exported, and to do so before putting into effect any executive order or rule or regulation requiring environmental reviews for U.S. nuclear exports. Before the U.S. Government unilaterally imposes environmental review requirements on U.S. exporters of peaceful nuclear facilities, it should be recognized and acknowledged that the Nuclear Nonproliferation Act was not silent on the subject of environmental protection. Section 407 of the act requires the President to try to negotiate provisions for international cooperation on environmental protection in international agreements concerning nuclear exports.

The Nonproliferation Act recognized that a cooperative international approach to environmental protection would be more consistent with controlling the spread of nuclear weapons than would unilateral approaches which could serve only to displace U.S. exporters with foreign suppliers less concerned about either the environment or nonproliferation. Before we impose more unilateral restraints on U.S. nuclear exports, the President should report on the multilateral efforts he has undertaken. This should impose a minimal burden on the President; and we hope, as I say, that it will encourage the administration to go even further than it has gone.

The amendment would not prevent the President from putting into effect his proposed Executive order, nor preclude the issuance of other environmental rules and regulations. The sole requirement would be for the President to report to the Congress first on his actions pursuant to section 407 of the Nuclear Nonproliferation Act.

Mr. STEVENSON. Mr. President, I have examined this amendment, discussed it with my distinguished comanager, and I believe that it is entirely consistent with the Nuclear Nonproliferation Act of 1978; that it would encourage the President to comply with that act, with dispatch, by giving us the report it requires on the environment.

For that reason, and because of the gravity of this subject, I have no objection to taking this amendment to conference.

Mr. HEINZ. Mr. President, I think the Senator from Illinois is entirely correct in his observations as to the purpose of the amendment, and I appreciate his support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I would like to discuss briefly a situation which arose during the bill's consideration in the Banking Committee, and which I believe fully justifies my concern. When this bill was before us in committee, I offered an amendment which would have prohibited any extension of credit to the Republic of South Africa until a determination was made that that state had made significant progress toward the elimination of apartheid. I regret to say that the committee did not see fit to adopt my amendment. Let me explain the full implications of that decision, as an example of the importance of Congress' retaining the authority to take steps limiting Eximbank assistance in extreme cases.

Mr. President, I believe there is widespread agreement among all segments of American society that the unique South African policy of apartheid, in which the color of a person's skin alone determines his status in society and his enjoyment of fundamental human rights, violates all of the standards of a civilized society. I do not imagine that anyone in this Chamber would rise in defense of that policy. Yet there may be those who do not fully appreciate the ways in which U.S. export assistance, much of which may be dependent on Export-Import Bank programs, contributes to the maintenance of that abhorrent system.

In the first place, the simple fact that the United States provides assistance through this program directly to the Government of the Republic of South Africa, or its agencies, in the form of loan guarantees, will undoubtedly be read by many international observers as at least a tacit sign of approval by our Government of the policies of the South African regime. But even more importantly, there is significant evidence that American economic involvement in South Africa has contributed to the maintenance and stability of that racist government. This was the finding of a study conducted by my distinguished colleague from Iowa, Senator Clark, entitled "U.S. Interests in South Africa." The study concludes, in no uncertain terms, that American corporate activity in South Africa has contributed to the strength of the current government, and has enabled it to survive economic difficulties which might, in the absence of such activities, have made it somewhat less economically and militarily self-sufficient, and thus somewhat more willing to consider American objections, and objections raised by other nations, to its domestic policies. Let me quote briefly from the report. It states:

U.S. economic interests in South Africa may not be decisive in bailing South Africa out of its economic woes. But there is no question that it has been pivotal in directly assisting the South African government during its worst economic difficulties in the past, and, if permitted could do so in the future.

And, to continue:

The net effect of American investment has been to strengthen the economic and military self-sufficiency of South Africa's apartheid regime, undermining the fundamental goals and objectives of U.S. foreign policy.

It was in light of considerations such as the ones I have raised that an executive order was issued in 1964 prohibiting direct loans to the South African Government by the Eximbank. That prohibition continues in effect today. It is the official policy of our Government to prohibit direct loans to that government.

My amendment offered in committee would have removed the present inconsistency in American policy where, on the one hand, we are prohibiting direct loans, but, on the other hand, we do permit guarantees of credit.

Mr. President, I can see no justification at all for what is clearly a contradictory policy carried out by the United States.

I do not intend to argue that programs administered by the Eximbank have been responsible in a major way for American economic involvement in South Africa, but neither has such activity been insignificant. Our total Eximbank loan guarantees to South Africa in 1977 totaled approximately $116 million. All outstanding credit at the present time, all loan guarantees from last year and prior years, total approximately $200 million. While this represents only a small fraction of the Bank's portfolio, it nevertheless, symbolizes to the rest of the world our Government's attitude, despite its pronouncements to the contrary, toward economic involvement by American corporations that in turn has the effect of strengthening and stabilizing, the present South African Government and its domestic policies and the practice of apartheid.

The recommendations of the Clark report with respect to American policy are quite clear. Its first recommendation states:

Withdraw facilities of the U.S. Government which promote the flow of capital or credit to South Africa.

And I emphasize in continuing to quote from that report's conclusions this point:

This includes ending Export-Import Bank insurance and loan guarantees.

I wholeheartedly endorse that recommendation.

Mr. President, the Clark report and I are not alone in sharing that feeling. When the House considered its counterpart to this bill that is before us, it adopted an amendment imposing restrictions on Eximbank aid to South Africa. The language of the House provision is somewhat different from the one I offered in committee; it adds to the text that I offered an additional require-

ment that purchasers in South Africa meet the so-called Sullivan principles, propounded by the distinguished Reverend Leon Sullivan, governing corporate conduct with employees. This would provide further incentive for corporations operating in South Africa to deal humanely with their workers, thus tending to undermine the rigid class system imposed by the South African Government.

I might say that the House language, I think, in embodying that Sullivan principle embodied a fine provision, and I am happy that the other body has gone on record on that issue and in that form and has made clear that they consider it a matter of great and pressing concern.

Mr. President, it is not my intention to offer my amendment at this time here in the Chamber.

I hope, but I do not know, whether a majority of the Members of this body agree with me on this issue. I hope that the conferees on this bill will consider the matter carefully in their conference, that the Senate conferees will study the House bill closely, and that the conference will take the action that best suits American interests and the need to maintain American credibility as an ardent defender of human rights in Africa and elsewhere around the world.

Mr. President, my good friend and colleague from Massachusetts, Senator BROOKE, I know shares the concern that I have expressed. I know that he also wishes to comment on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, I thank my distinguished colleague and I thank the distinguished manager of the bill and the ranking minority member managing the bill.

Mr. President, it had been my hope that the full Senate, in considering the Eximbank legislation, would agree to an amendment to end all indirect Eximbank financing of investments in South Africa. However, after having discussed the matter with Senator RIEGLE, I have come to the conclusion that the matter is best left for a decision in conference regarding House bill language that would, if agreed to, place restrictions on the extension of Eximbank credit guarantees for ventures in South Africa. At a minimum, those restrictions should become law.

I recognize how difficult it is to find the right approach on South Africa. Anyone who has studied the situation understands that there are no simple answers. Yet, it has become increasingly apparent that unless the immoral system of apartheid is dismantled rapidly, events may truly "be in the saddle and ride man." The likelihood of major racial war in South Africa and the resultant tragedy for black and white alike is increasing.

In the past several years, we have been made painfully aware of the tragedies that threaten the peoples of South Africa. The tragic death of Steve Biko while under government detention; the closing of black and white moderate newspapers by the government; the riots in Soweto and elsewhere in the country all indicate that violence has been occurring and is likely to continue for the foreseeable future.

To understand why this is the case, a little background may be useful. In South Africa there are approximately 4.2 million whites with about 60 percent of Dutch descent and about 35 percent of British descent. There are 2.5 million people of mixed racial heritage, or coloreds, as they are referred to by the white South Africaners. The majority of them are descendents of South Asians and Malays brought to South Africa in the 19th century to work the plantations. The largest racial group is the 18 to 20 million black Africans.

In South Africa, white children receive free public education and free text books. Black and colored children must pay school fees and buy their own books. This is only one very small example of what is termed the "apartheid" policy.

Apartheid means apartness. It separates by conscious political decision the black and the racially-mixed from the white minority peoples in South Africa. As it has been said, it enshrines the concept of separateness without even the levening thought of equality.

There are many ways that the apartheid system impacts upon black South Africans. At the heart of the system are what are commonly known as the "pass laws." These restrict the freedom of movement of black South Africans. They require that every black South African carry at all times a pass which specifies the one place in South Africa that the black is allowed to reside, and to work. Criminal sanctions await the black who fails to carry the pass or is in contravention of its terms. To bring this odious practice into perspective, imagine that you were restricted to live and work in a specified place merely because you were born there. Even married couples who come from different areas in South Africa, if they are black, are not permitted to live together without special permission.

Most of the black men working in the urban areas are not permitted to have their wives live with them. But rather must live in dormitories and visit their families only a few months of the year. We all know that the family is the most basic of all institutions and that anything detrimental to the family cannot be in the best interests of any nation. No wonder that blacks in South Africa have found these conditions to be intolerable, and are now pressing for change.

Other forms of social injustice for blacks in South Africa include various forms of detention. Many blacks are banned from certain activities or certain locales. Banning orders are issued under so-called Supression of Communism Act which in most cases has very little to do with Communist activities. They vary in form and degree. The most severe are those which include 24 hour a day house arrest. Other less severe banning orders may permit movement within a particular neighborhood or district. Banning orders may restrict the person from attending a gathering of any more than two persons, whether of a political or a purely social nature. In other words, a man could not meet with his wife and his mother because that would involve three, not two, persons. Banning orders may also restrict the right to engage in a given occupation. They may also result in a loss of employment.

The intent of these banning orders is to restrict the freedom of movement and political participation of individuals who are in political opposition to the government. It matters not that the government can prove or not prove that an actual offense has been committed. The banning orders are applied as a means of limiting participation of the vast majority of South Africans in the political and social systems of that country.

I could cite numerous other instances where rights we take for granted, indeed, rights we believe are inalienable, are abridged and ignored for the majority of South Africans.

What is apparent from any careful and honest study of the situation in South Africa is that the majority of South Africans live under a government and under a social system which deprives them of their basic human rights. And, unless that system is changed and altered so as to allow the majority to have a meaningful say and to participate in a meaningful way in their country's decisions, I believe there will be nothing but chaos and disaster ahead for both white and black in South Africa. And it is unlikely, in my opinion, that the United States or the other countries of the world will remain untouched by the tragedy that could unfold in that country.

Whereas in Rhodesia and Southwest Africa the issue is fairly clear cut—that of decolonization—such is not the case with South Africa. South Africa is not a colonial remnant. The leaders of black Africa who bitterly oppose the policy of apartheid do not challenge the right of the white minority to live in that country. It is their country as well as it is the black Africans. They began to cultivate the land some 300 years ago, at approximately the same time that the migration of the ancestors of the majority of black Africans who live there took place. The whites consider themselves African with no other homeland. It is they, with their fellow black citizens, who must solve the problem.

The United States and other countries can encourage the process of change in South Africa. Indeed, to remain true to our own ideals, we must encourage that process. But, we must do so in a realistic manner, recognizing the difficulty of the task and the dangers that lie before us as we do so.

The people of the United States know how difficult the process is. Ours has been a long and frequently painful search for a decent relationship between black and white elements of our population that conforms to the ideals of our Founding Fathers. We can justifiably take pride that progress has been made. At least, we are at a point where there is now hope where there used to be nothing but despair. Our experience, I believe, has taught us how difficult the struggle is but also why it is so important.

Our failure to challenge the iniquitous system of apartheid would eventually result in a tragedy of untold proportions. And, while the actions we do take must be based on a full understanding of the unique situation in South Africa, they must also be unequivocal in signaling that we will not contribute to the maintenance of racial inequality in that country.

It is inconceivable to me that the vast majority of Americans would not agree that our own national value system and our own individual beliefs in basic human rights requires us individually and as a government to oppose the apartheid system. That system of discrimination is anathema to all we hold dear as Americans. It is wrong in both concept and design. It lacks an ethical or moral base. And all Americans, regardless of race or religious persuasion, should be united in opposition to that practice in that country, or similar practices in any country, especially our own country.

Congress will have the opportunity to indicate to South Africa that we are united in our opposition to apartheid and are willing to take substantive steps to increase pressure for its demise. I wish that we would eliminate any involvement by the Eximbank in the South African economy. I recognize, however, that such sentiment is not shared by a sufficient number of my colleagues to permit passage of an amendment to that effect. And I am not prone to engage in hollow gestures. But, at a minimum, Mr. President, the Senate, in conference with the House, should and must accept language limiting Eximbank credit guarantees only to those U.S. companies operating in South Africa which take substantive steps in opposition to the apartheid restrictions to treat black and white in an equal manner. We should do much more but at least this step will begin to replace ineffective rhetoric with substantive action. And we should make clear to the South African Government that we are willing to go beyond this step if it continues to adhere to a system and a doctrine that is a moral outrage.

Mr. President, during committee consideration of this bill I fully supported Senator RIEGLE's amendment to end all Eximbank involvement in the South African economy until such time as substantive action was taken to bring an end to the pervasive system of racial injustice in that country. Unfortunately, only a minority of committee members supported the amendment.

I naturally desire that the full Senate accept the amendment. Yet, after having discussed the matter with Senator RIEGLE, I realistically acknowledge that passage is unlikely. This is unfortunate in my opinion for such an action as contemplated in the amendment is fully justified. Nevertheless, I agree with the Senator's decision not to proceed with this amendment at this time only because it would be fruitless and because of the reasons I have given before.

By leaving the matter open on this manner, it is my hope that the Senate conferees will consider language adopted by the House with an open mind. That language, while not going as far as I would desire or as far as Senator RIEGLE would desire and other Senators in this body would desire, will place restrictions on Eximbank credit guarantees related to South Africa, requiring that such guarantees be restricted to companies following policies compatible with our opposition to apartheid. These restrictions are a minimal step that must be taken to express our strong disgust and our strong dismay over the continuation of apartheid.

Mr. President, I want to conclude again by commending our distinguished colleague from Michigan (Mr. RIEGLE) for introducing his amendment in the Senate Banking Committee, where we tried our very best to persuade our fellow members to go along with it and thus bring it to the floor of the Senate, and hopefully have it passed by the U.S. Senate.

But the fact that it was introduced is important. The fact that we have been given this opportunity by the Senator from Illinois, a distinguished member of our Banking Committee, and the Senator from Pennsylvania, another distinguished member of our committee, to have this colloquy, I think, is important, and I hope that our conferees will be so guided as to meet with the House conferees and take what I hope and pray will be a first step toward eliminating this immoral practice of apartheid in South Africa and any other place it occurs on God's Earth.

I thank my distinguished colleague.

(Mr. HODGES assumed the chair.)

Mr. RIEGLE. Mr. President, I would like to respond briefly to my good friend from Massachusetts, who makes an excellent and committed statement on this issue, and I agree with every syllable he has spoken here this afternoon.

The situation that exists today in South Africa, I think, is beyond the comprehension of any of us here who have not had the chance to see it as firsthand, or to talk at length with the people who suffer from the policies that we speak about in that country.

The Senator from Massachusetts raises the case, in passing, of Steve Biko, who was literally beaten to death by the police of that country while in their custody, and that is just one of the more recent of a number of outrageous cases of not just oppression, but literally murder, that have taken place under the banner of apartheid.

The fact that 1 cent of American money should be used in any form to prop up that government or to underwrite its policies or perpetuate those policies is indeed an outrage. The fact that we raise that issue here today, in a Saturday session with but a few of us here, in no way diminishes the urgency of this issue. I applaud the President, who signed the Executive order banning direct loans by this country to South Africa. But are we here in Congress remaining consistent with that action, with respect to indirect support in terms of these loan guarantees of the type we are talking about here? $200 million worth of activity underwritten by this Government, the taxpayers in my own State and the other 49 States, and for what? We saw a situation just the other day where there has been a change in the leadership of the Government of South Africa, and I suspect for the worse, if that can be possible, in that a new person is assuming the top leadership position who is known to be a hardliner. How many deaths will be added to the ones we already know about, of black persons in that country who are terrorized by their own government?

Even if we cannot find it within ourselves as a legislative body to see this problem as being on our doorstep, when in effect we helped finance it, nevertheless it is a fact that we cannot walk away from. To acknowledge that we are so timid and so indifferent and so disconnected that we allow the status quo to continue in terms of this indirect financial assistance to that government, and, in turn, to that government's policies, whether we intend that effect or not, nonetheless it happens and is happening today, and it is wrong.

We ought to put an end to it, and we ought not to have to stand up here, two or three of us, and make this point. There are 100 of us in this body, and I would hope that on looking at this problem, 100 Senators could see that this is not something we want to be associated with, and that it is time that we make our national policy consistent. It is absolute nonsense that on the one hand we cut off direct assistance as a matter of national policy when, on the other hand, we continue it through a side door in the form of the import-export loan guarantee program.

That is not surprising. Our Government's policies are riddled with contradictions of this sort. But hopefully when we find them, we will do away with them, reconcile our policies, speak with one voice, and act in a consistent manner.

In this area we are acting in a profoundly inconsistent manner, not only in terms of our own policies as they relate to these kinds of questions, but more fundamentally in terms of our national character and what we say we represent as a nation. Our emphasis is on human rights at home and abroad, and yet we basically walk away quietly on this issue.

It is a basic issue, and it is something that is going on in that country today; and the fact is that unless we act in ways that will not strengthen the hand of that government, we in effect make it easier for that government to continue those very policies. It is not right. It is not right, and it is time that we act against it.

I commend the House of Representatives for their stand, and I commend the Senator from Massachusetts for his eloquence in citing specific cases and examples of the things that go on on this globe this very day, this very hour, and this very minute, that we can help in our own way to bring to an end, but that in fact I think we are helping to make happen by the fact that, whether inadvertently or not, we strengthen the hand of that government with these kinds of loan guarantees.

I do not want to see a penny of this Government's money, the money of the

taxpayers of this country, being spent for that purpose.

Mr. President, I yield the floor.

Mr. HEINZ. Mr. President, the Senator from Massachusetts was entirely correct that this legislation does not do what he wants it to do. He is also entirely correct that the state of human rights in South Africa, to which I will come back to in a little bit in more detail, is abhorrent, lower than low, and to what he said I would like to add—because he is correct on both those points—that every single U.S. company operating in South Africa has a total obligation, a total moral obligation, to use every influence at its command to try to bring about a climate amicable to human rights, human freedom of expression, and all the other things we take for granted in this country, and to be a positive force for change in South Africa.

There are approximately 350 U.S. companies doing business in South Africa at the present time. U.S. direct investment totals about $1.6 billion, and that is just the book value. That represents about 16 percent of all the foreign investment, and it represents 4 percent of the total capital invested in the South African economy. But I suppose most important is that those American companies account for 90,000 jobs in South Africa, including about 60,000 black South Africans.

On March 1, 1977, 12 major U.S. corporations endorsed and expressed their support for what has been come to be referred to as the Sullivan principles. Leon Sullivan is from my own State of Pennsylvania. He is a clergyman of great note. He is an American who is second to none in his effective advocacy for human dignity. I have known him for well over a decade. He is a man who has worked so very diligently, first in his native city of Philadelphia in helping the disadvantaged, the unemployed, and helping to train people for real and productive jobs so they will have a level of dignity not only in work but in their daily lives which every American expects. And then by bringing that concept out of his native Philadelphia in the form of the opportunities industrialization centers throughout the United States so that it is today one of the most effective programs training people, giving them jobs, and, therefore, giving them dignity.

But the Reverend Sullivan's interest in human dignity did not stop at the borders of the United States. In 1974 he traveled to South Africa, and he saw first-hand there what was happening. He also visited with the American corporations doing business in South Africa. He promulgated, in consultation with many people, a set of principles which I think are fair restating. It was to these principles that the 12 companies to which I referred earlier expressed agreement on March 1, 1977:

First. The nonsegregation of the races in all eating, comfort, and working facilities.

Second. Equal and fair employment practices for all employees.

Third. Equal pay for all employees doing equal or comparable work for the same period.

Fourth. Initiation of, and development of, training programs that will prepare in substantial numbers blacks and other nonwhites for supervisory, administrative. clerical, and technical jobs.

Fifth. Increasing the number of blacks and other nonwhites in management and supervisory positions.

Sixth. Improving the quality of employees' lives outside the work environment in such areas as housing, transportation, schooling, recreation, and health facilities.

As of today, 98 of the 350 U.S. companies in South Africa have endorsed those principles and announced their adherence to them. The Canadian and the European Economic Community have adopted the same approach for companies operating in South Africa, too. But, Mr. President, it is also fair to say that if 98 companies have announced their adherence to these principles, that still leaves approximately 250 that have not. I believe we ought to make very clear here on the Senate floor today our expectation of what we believe is a moral obligation of those 250 companies that have not announced themselves for fundamental principles for progressive change to do so.

What we are talking about in South Africa is hard for many average Americans to understand. Perhaps I understand a little better than some because my wife was born in southern Africa, grew up there, went to school there. She and her family have experienced and seen for themselves exactly what happens under the laws of repression that exist in South Africa.

In this country we have a thing called a Bill of Rights, and we have other amendments to the Constitution that have expanded on those basic rights. Even now the Senate is seeking to extend the time period for the passage of the equal rights amendment.

In South Africa instead of a Bill of Rights, let me tell you what they have, Mr. President. They have the Internal Security Act of 1950. What does that do? It is defined as the Suppression of Communism Act, but wait until you hear the definition of communism. It defines communism as any doctrine which aims at bringing about political, industrial, social, or economic change. It debars any offender against that act from holding any office and can impose a ban on that person. How long would any Senator in this body last against such a ban? We all advocate change, some would say some backward and some forward, but we all advocate change of all those factors.

Instead of the Bill of Rights, they have the Public Safety Act of 1953, allowing a state of emergency to be imposed to counteractions or even threatened actions which would "endanger the public safety." The powers vested in the executive include the right to arrest without warrant, the right to take anybody out of this Chamber or off any street on any pretext. They do not even have to give a pretext. And to detain that person incommunicado. You cannot call your lawyer. The DA does not even have to know your there. You are just being held. No dime for the phone call—no phone.

Instead of the bill of rights which we have, they have the General Law Amendment of 1963, which not only provides for the arrest without warrant, the detention incommunicado, but it also provides for the trial of political detainees for successive 90-day periods.

Well, we have already defined what a political enemy is. It is anybody who thinks differently on any given day from the way they think people ought to be thinking. Successive 90-day periods? What that means is that you can be held for 3 months and then another 3 months and then another 3 months and, in effect, for years.

And, finally, most recently, instead of the bill of rights and the amendments to our Constitution which expand our freedoms in this country, there is the Terrorism Act of 1967.

We are all against terrorism, but this act expands on the definition of terrorism and it provides, first, that anybody who is charged with terrorism—just charged; they do not have to prove it—is subject to being held incommunicado, and, second, what is called in-depth deterrent detention. I suppose the most charitable explanation of that is burying you in a vault and throwing away the key. That is done not only without charge and without warrant, but it is also done without any hope or prospect of trial, of vindication, of settlement, of resolution of the issue.

Senator RIEGLE referred to the journalist, Steve Biko. That was the provision of law under which Mr. Biko was arrested and killed.

So, Mr. President, when I say I think the other 250 companies that have not yet endorsed these principles have a moral obligation to do so, I mean it. If they read the South African laws carefully, I think they would be just as repelled as I am sure everybody is in this Chamber today, and as most people are, who know a little bit about what is going on down there.

I hope that, regardless of what we do with this bill, those American companies doing business in South Africa understand what I perceive as a very solemn moral obligation on their part, to work for nonviolent change, to work for the advancement of human rights and basic human needs, and to use the leverage that they have in South Africa. And it is considerable, especially when it is conjoined with the economic influence of the Western European nations and Canada to bring about the kind of change that these first fearless 12 and now some 96 companies are working to bring about.

Mr. President, I yield the floor.

Mr. STEVENSON. Mr. President, if there are any differences here, they are not over the moral outrage which is apartheid. The differences are over the conduct of foreign policy by the Congress as opposed to the President. They are differences of method, not purpose or objective.

The polices of many nations on many subjects are offensive to us. Congress is repeatedly tempted to change those pol-

icies by withholding its trade. It legislates, or seeks to, eligibility for most favored nations treatment in the United States or for credits on account of foreign countries' policies with respect to human rights, with respect to nuclear proliferation, with respect to emigration, the environment, and so on. These attempts are usually counterproductive. They put the sovereignty and the pride of a foreign nation on the line and stiffen resistance to our efforts.

They also deprive the United States of economic opportunity. The credits, if not gotten from the Eximbank, are available from other institutions in other countries. So are the goods. If they cannot be bought from the United States, they can be obtained in this world somewhere else.

So these attempts typically cripple the United States, both politically and economically, and the country is already running a $30 billion-a-year trade deficit. With the decline of the Nation's economic strength, its authority in the world declines also; and with the decline of its authority in the world, the pursuit of all its objectives is undermined.

Mr. President, there are ways to discreetly link possibilities for economic advantages in the relations between the United States and other countries with our noneconomic objectives in the world. One of those objectives should be a change in the abhorrent policies of the Union of South Africa. The Sullivan amendment is one way. I want to assure the Senators from Massachusetts and Michigan, who have spoken eloquently, movingly, and persuasively, that that amendment will be seriously considered in the conference. It certainly should be.

I also remind my colleagues that this bill offers an alternative to the temptation of the Congress to impulsively conduct foreign policy—legislating credits here and legislating no credits there; for the People's Republic of China, yes, for Liberia, yes, for the Union of South Africa, no; and so on.

This procedural alternative which is in the bill was refined and improved by an amendment yesterday will involve the President and Congress in a systematic, continuing evaluation of the relationship between the United States and all countries. That evaluation of relationships will include attention to the policies of foreign countries with respect to the environment, with respect to human rights, their internal stability, emigration, and so on.

This procedure also deserves the serious consideration of the conference. It offers, I believe, more effective means to Congress and the Nation of achieving its objectives, and without shooting itself in the foot. It holds out the carrot. We have carrots as well as sticks available to us for the pursuit of our objectives in the world.

Finally, Mr. President, it can be argued that the termination of economic relations already curtailed in South Africa only creates in that country a siege mentality, stiffens the resistance, and, furthermore, eliminates the liberalizing influence of American business there, including employment opportunities for blacks in that country who, without them, would be destitute.

There are many means of pursuing our objectives. I appreciate the consideration of the Senators from Michigan and Massachusetts. I hope they realize that we share their abhorrence of the discriminatory policies of the Union of South Africa and accept our assurance that the Sullivan amendment will receive the most sympathetic and serious consideration in conference.

THE SUNSET AMENDMENT

Mr. LONG. Mr. President, I have not seen a printed version of an amendment which I am informed will be offered on this bill—in fact, I have only been shown a typewritten copy of this amendment which seeks to provide an enormous tax increase for the American people by a backdoor approach. As I understand it, the plan is to offer to this pending measure the so-called sunset amendment, which says that unless certain Government activities are expressly excluded, those Government functions will be discontinued.

The theory of such a bill is popular with the American people, because they feel, I believe correctly, that there is a lot of needless spending and waste in Government; that it should be reviewed and, insofar as spending is unnecessary or wasteful, it should be terminated. By reducing spending, the citizens of this country believe that Congress will be able to provide them a tax decrease. But that is not what some of our colleagues want to do. They want to write into this bill a provision to bring about the termination of all so-called tax expenditures.

What do they have in mind? Well, the term itself is contradictory. A tax is a revenue measure. It takes money from the American people and it makes that money available to Government. An expenditure ordinarily is an appropriation whereby the Government disburses money to pay salaries of employees, to provide governmental services, or to make grants. It is contradictory to use the term "tax expenditure" because taxes raise money and expenditures spend money.

Senators have heard enough of the discussion to understand that what the sponsors of such an amendment have in mind is that, insofar as there is anything in the tax law that they do not particularly agree with, they would like to regard that as a tax expenditure. This is based on the theory that if the Government fails to collect money, it loses money, because some people who they think should pay taxes fail to do so.

For example, they regard the capital gains provision in the law as a tax expenditure because people who pay a tax on a capital gain pay a lesser amount than those who pay a tax on the so-called ordinary income.

They choose to regard a donation to charity as a tax expenditure in that a person pays no tax on the income he gives to charity.

They choose to regard an investment tax credit as a tax expenditure because the taxpayer would otherwise pay a higher tax in the absence of a specific provision in the law allowing the credit.

The provision that says one can deduct the interest on his home mortgage is regarded as a tax expenditure, the thought being that one renting a house is absorbing the expense of the interest, insofar as there is an expense, while one who owns his own home receives a deduction that is not available to a tenant.

Now, the proposal will be made that we should pass a sunset bill applicable to so-called tax expenditure. That would amount to a backdoor tax increase of tens of billions of dollars on the American people.

In my judgment, it makes the whole idea of the sunset bill a delusion, a fraud, and a snare.

Here is a taxpayer being led to believe that we are going to carefully review Government expenditures and that in doing so we are going to reduce spending and save him some money, and what happens? Instead of cutting Government spending, we cut out the so-called tax spending—and what is tax spending? That is an expression which means the part of a taxpayer's own money he is permitted to keep.

Mr. President, it makes me think of what a duck hunter does when he goes out to shoot ducks. He sets some decoys out in the water. Then he waits with his duck call to hear a duck pass by. Let us say it is a greenhead mallard. At that point, the hunter goes to work with that duck call and makes the most beautiful quacking sound to that mallard up there, and it sounds like the mating call of a little hen duck on the water.

The duck circles, looking at that decoy below, and after a while he is attracted to come to those sexy sounds of the duck call. Eventually he comes in and cups his wings to light alongside the little hen. At that point, when he is almost standing still in the air with his wings cupped, the duck hunter rises and lets him have it with both barrels, shooting off his feathers and nailing the poor greenhead mallard as he comes in to make his landing alongside the little hen duck.

That is about what this sunset bill would amount to with the tax expenditure provision: a cleverly devised tax increase and a snare for the American people who are told they are going to be benefited by a reduction in spending and find that somehow or other the Congress has found a way to put a tax increase on them under the guise of giving them a cut in Government spending.

Talk about a delusion. Talk about deceit. Imagine a bill that is supposed to lead to a tax cut which is a hidden tax increase once we get the taxpayer in the trap.

I have looked at this typed amendment which may be modified before it is offered. It is very complicated. We will have to study it before we can do justice to it, to debate it adequately.

But, Mr. President, it is time the American people began to wake up and time the business people began to wake up to what is about to come up here in the Senate. They have a plan to put into effect a process by which very large and heavy taxes will be imposed on the American people in ways that could never be done if one had to follow the ordinary

process spelled out under the Constitution for the enactment of taxes on citizens of this country.

For example, one could not in this Congress put a 70-percent tax on a capital gain. The Congress would not pass it.

The President of the United States has indicated he would like to tax capital gains as ordinary income. He has also indicated he would like to put a lot of other tax increases into effect which he thinks justified, and he calls them a reform.

The House of Representatives did not see fit to pass those tax increases, even though they did have the alluring name of reform. The Senate Finance Committee has not seen fit to recommend those so-called reforms to the Senate, yet most of those proposals, and even taxes that go far beyond that, could be enacted without the support of a majority in either the House or the Senate under the proposed amendment we will hear offered Monday, by considering those to be tax expenditures.

Mr. President, that is a very dangerous way to legislate. It is time the American business community wakes up.

There are about 2,000 people in Washington who are paid to try to keep the business community informed. They better get busy and read what that amendment is when it is printed and made available. I have seen tax amendments that had the effect of creating tremendous problems for the business community, and all sorts of other situations offered here on this floor, where the appropriate legislative committee has not been offered the opportunity to conduct hearings or study them. I have seen those kinds of things become law because those who are adversely affected had no notice, had little opportunity to present their case, did not have the benefit of the opportunity to be heard before the appropriate committee, and no opportunity to talk to their Senators and their Congressmen and explain their concern. That way measures that very adversely affected those people become law.

Now we have this type of thing pending here. It will be offered. We were informed it would be offered today, but now we are told it will be offered Monday morning.

This is a backdoor tax increase that could adversely affect all that donate to charity, as well as all those that benefit from those charitable donations. It could adversely affect every person who sells his home or sells any property or makes a business investment.

It has far-reaching consequences as far as the economy is concerned because business people need to be able to know what the law is and what the law will be when they make their plans.

A businessman making investments which he plans to amortize and pay over a period of time often is relying on liberal tax provisions about depreciation. If those provisions are going to be repealed, that businessman will have to take whatever action he can to try to protect himself. He might be forced to raise his prices. He might be forced to cancel his plans insofar as they have not been executed, and that could be either inflationary, on the one hand, or could tend to depress the economy, on the other.

That type of thing, Mr. President, really should happen only after the committees that have appropriate jurisdiction have had the opportunity to hold hearings, to study the matter, and to make recommendations.

The approach that will be offered on this bill will not be offered in such a fashion. We have here a bill that is not really a revenue bill. It is an authorization bill. It is not a tax bill. Theoretically and practically, it is not a bill to which a revenue amendment should be offered.

I am told that on Monday we will be offered what is a proposal for a vast, enormous tax increase which could not possibly become law if it had to be passed by the House and the Senate after hearings before the appropriate committees—something to be sprung in the closing days of Congress, without any hearings by the appropriate committees.

I believe that everyone who is concerned about the fairness of tax laws, about seeking to do justice to taxpayers, about the right of a citizen to be heard and to petition Congress for redress of his grievance, should be alerted, in prospect of a move that may very well result in the largest tax increase in history.

It will have support from quarters that will surprise Senators. I think they will be surprised to see who some of the sponsors of that proposal are.

I believe that citizens, when they learn what this is and what the danger of it would be, are going to be very concerned that there are a lot of Senators who already have committed themselves, without really knowing what this thing is, to vote for it.

I hope when the matter is presented, we will be accorded, in due course, the opportunity to conduct hearings and to study this matter, as large tax increase bills should be studied, because that is what it is. It will be the largest tax increase proposal to be offered in this Congress, and it should not be passed.

The kind of back-breaking taxes that this proposal envisages on business people and other citizens in this country simply should not become law, unless it has had study, debate, and the opportunity for the American people to understand what is being proposed to be done to them, so that they can respond and discuss this matter with their Senators and their Representatives between now and the next election.

I would be interested to see how Senators and Representatives running for reelection would explain the kind of thing that is involved in the proposed amendment—explain it to a chamber of commerce in their home town or to a civic group or even to a group interested in the charities or the arts, or the United Way or the Community Chest. I would be interested in seeing how they would go about explaining their vote for this proposal, especially if they are talking to an audience that understands what it is.

In my judgment, this type of approach, in which you tax now and explain later, is not appropriate for the Senator nor for Congress in general. It is the kind of thing that Senators, acting in the best tradition of the U.S. Senate, would do well to oppose and to debate and to explore and to expose, until the point that the American people are sufficiently knowledgeable about it that they can express their concern to the Members of the Senate and the Members of the House. When that is the case, I would be happy for the Senate to vote on it. Prior to that time, I think it will be my duty to debate it for a while and explain what is involved in this matter.

Mr. HANSEN. Mr. President, I compliment the distinguished chairman of the Finance Committee, my good friend and colleague from Louisiana, for taking time this Saturday afternoon to call attention to what could be one of the most mischievous pieces of legislation that has been presented. I say that because, although I do not know all about the motivation that prompts the sponsors of the amendment that I have seen typed—it may be altered before it is presented on the floor, if it is presented—I think I have had a little exposure to the average, typical American so that I know something of his concerns.

I was the prime sponsor on this side of the Capitol to bring about a reduction in the taxes that the Federal Government levies on capital gains. This is an example of the sort of thing that the distinguished chairman of the Finance Committee has been talking about. There are 63 Members of the Senate who are cosponsoring that amendment to lower the taxes on capital gains. Yet, if this amendment were to be adopted, as I see it now typed up, it would require an affirmative action of Congress and would be subject to all the machinations that could be brought to bear by a future President of the United States in order to make it extremely difficult to continue a tax policy that has the clear endorsement of most Americans.

I am concerned about balanced budgets. I am concerned about doing something in trying to combat the oppressive weight of inflation. But I also am aware of the fact that when we compare the economy of the United States with that of Japan and West Germany, we find that we are falling behind; we are not keeping abreast.

The momentum we once had, which was the envy of the world, has now been taken over insofar as the launching of new ventures is concerned, so far as the flexing of productive muscle is concerned, by countries other than the United States. That is why 63 of us were concerned about doing something to try to regain a little of that momentum, a little of that strength, a little of that vitality and vibrancy which has created jobs in the United States, which has made us competitive with the rest of the world, which has kept the quality of life and the standard of living in the United States at a level that exceeds that of any other country. These are the things we have had that have been the hallmark of American life and of American production for a long time.

Yet, we have sensed clearly that we have been losing these, so we want to do something about changing that around.

I think it is clear that people now understand, when they examine what was taken in by the Treasury of the United States prior to 1969, which was taken in by the Treasury in the form of tax receipts on capital gains, when we raised the rates, which we did, for effective purposes, from a high of 25 percent to nearly double that, 49 percent, in a few extreme cases, that despite the simplistic conclusions made by some, we did not double the tax receipts by Treasury.

They did not go up at all. As a matter of fact, they dropped. We saw people leaving the stock markets of this country. We saw them pulling back and choosing to invest, not in venture capital operations, but rather, in sure and certain things such as bonds and loaning money through savings and loans, that sort of activity, because it was no longer worth the risk to take the chance that inevitably characterizes the launching of a new venture when they knew that if it did work out and if it were successful and they hoped sometime to capitalize on it they would be subjected to a tax that would indeed make it not all that profitable.

So this is the sort of background upon which Americans reasoned and concluded in this important year of 1978 they wanted to change around; 63 Members of the Senate are on record in support of changing those laws. That is only one of the laws that would be affected by this amendment.

Senator LONG has spoken about the gifts that are important to every city and every hamlet in the United States. We all know that the United Way drives and other community-sponsored charitable organizations have to depend upon the compassion, willingness, and generosity of Americans to support those who are less fortunate than they themselves may be. This, too, would be struck down, as I understand and interpret this amendment, were it to become law.

We have been debating for long months an energy policy in the United States. We have been talking about trying to reverse the state of business that has resulted in fewer wells being drilled in this country and money being sent abroad where the chances of return are greater than has been and is true in the United States. We have been trying to turn that around.

We recognize now that when we dropped the depletion allowance we did not really get a lot more money from the oil companies, from the wildcatters. What we did do though, Mr. President, was to run a lot of them out of the business and they quit drilling and our production in this country plummeted. It dropped very dramatically because when you add up all of the risks in the oil business, when you take into account the number of wells that are dry and are dusters as compared to those that are producers, and when you look at the taxes that you are going to have to pay if you do hit a producer, there were better ways in the judgment of a great many independent oilmen for making money than to continue in that risky business.

The distinguished Senator from Louisiana knows this far better than anyone else I know, and that is another way that this amendment would hurt America. It would insure that the disastrous trend that we have been pursuing too long which threatens our national security, increases our dependence upon foreign sources of supply, would be exacerbated were this to pass.

The sale of a home, anything you want to talk about, I think underscores the crying need today to make certain, sure, positive, and final that business decisions and decisions made by all Americans can be undertaken with a certainty that that is not going to be changed overnight. Yet this amendment would make possible changing this whole thing overnight, as I understand it.

So I think that the call for caution, the raising a red flag, saying let us refer this bill to the appropriate committees and debate it and understand it, is advice that is timely and should be heeded. I hope very much that we might understand that what America needs today if we want to combat unemployment, what America needs today if we want to fight inflation, what America needs today if we want to make the dollar more stable and increase its purchasing power as we compare it with the other currencies of the world, is a tax code that businessmen can depend upon, that will encourage them to go out and to employ people who may not now be employed, will encourage them to risk their dollars in new ways of producing things that America needs. We will not enhance this desire, we will not encourage this kind of activity by enacting a bill such as is now before the Senate if and when this amendment is introduced.

I do not intend to take longer.

I would thank my good friend from Louisiana, the chairman of the Finance Committee, for his perception in understanding what a very severe and real threat this bill is to all of the things we are working for in America right now. We are trying to reduce unemployment. We are trying to encourage greater business activity. We are trying to increase the production of America so as to make us more competitive so that people will find even greater reason to buy American than they have been finding in times past.

We are trying to stabilize the dollar not alone because it is important to us but also because in recent years, in recent decades, it has become the standard of value for the world. It will hurt not only America, if this kind of amendment were to pass. It would hurt every country that has to buy energy from an oil or gas producing country. It would hurt them all because if we adopt this amendment I can think of no better way of insuring actions by the OPEC countries that the dollar by itself must eventually be abandoned.

I would hope that Senators would take the time to read what my good friend from Louisiana has said. I would hope they would take the time to give due and sufficient consideration to this amendment before it passes.

I know we are in a time constraint. I know we want to get out of here by the 14th. All I can say is this: I pledge now my best efforts to join with my friends and colleagues on the Finance Committee to take the time on this floor to see that not only Members of the Senate understand it but also that people throughout the country also may understand it.

I am convinced that if we bring about that kind of comprehension, we need not fear the enactment of this amendment. There is real danger if in our hurry to get out of here by the 14th of October we say: "This is unimportant. It is not going to take place for a few years. Let's pass it now." The idea of sunset legislation is intriguing. We have passed a lot of bills that I think very well might see the sun go down on them. This amendment which deals with tax legislation is in an entirely different category. It should not see sunset fall upon it, I mean the whole tax concept, until people know what is taking place. This country needs stability. It needs certainty. It needs something it can depend upon. And the only way we can give that assurance is to see that this amendment is understood by all Americans.

I thank my friend.

Mr. LONG. Mr. President, if the Senator will yield, let me point out a thing here. I have a list here of some of the items that have been described as tax expenditures under the concept that some Senators have advocated for years.

Let us just take the item of interest on State and local bond issues. Now, there are some in the Treasury who feel that for the purpose of tax uniformity, these bonds issued by State and local governments should be taxed just as any other interest-bearing bond would pay taxes.

We all know that if that happens that means it is going to raise the cost of every school district to build a school, of any bond issue to try to improve a community, and it would hurt State and local governments.

We have never taxed that interest, and many of us have felt that the Constitution precludes it. The Supreme Court decisions have held that the power to tax is the power to destroy and that the Federal Government does not have the power to tax away what little sovereignty is left in State and local governments.

The Treasury Department would like the opportunity to go back to court with the new members on the Supreme Court. The hope to perhaps persuade the present Court to reverse the previous Court and say that they can tax the interest on these State and municipal bonds.

The votes cannot be found in the Senate to do that. The votes cannot be found in the House of Representatives to do that. The votes have not been available for even the entering wedge for that type of thing when it has been tried by administration after administration.

But under this type of proposal it might be possible. In other words, if we can fix a law that says that we will ter-

minate tax expenditures and the law intends this would be one of them, then when this is declared by the Bureau of the Budget or the Congressional Budget Office to be a tax expenditure, it falls under the sunset bill and it will expire. It must be renewed.

I am not familiar with the amendment enough to know just exactly how much advantage they want in order to put this tax on the American people. But I assume they would treat it like an ordinary bill so that if the President would like to regard this as an unconscionable benefit for those who collect the interest and he would like to regard this as a tax provision favoring certain taxpayers, then all it takes is the Presidential veto and one-third of either body plus one Member.

In other words, the President, plus 34 Senators, could do what the Treasury has never been successful in accomplishing, and that is achieving a way to tax this type of activity which involves the ability of State and local governments to finance themselves.

This is just one example of how they could put taxes on the American people where it could not be done otherwise. There is no way the Congress would pass that bill directly, but they could sneak it through with the sunset bill.

Mr. HANSEN. And 33 plus 1 extra Senator could prevent it from becoming law if the President were to veto.

Mr. LONG. Furthermore, capital gains are listed as one of these so-called tax expenditures. The President apparently was persuaded by people like Mr. Pechman and Stanley Surrey that capital gains on the sale of your home or the sale of your farm should be treated just like any other income and taxed the same way.

In formulating his original tax reform proposals, the suggestion was made that capital gains should be taxed as ordinary income. Well, it was dropped in the course of its being sent up here because they did not think they could pass it.

Beyond that, the Roper poll people went out and took a poll and the majority of people in America said they thought that a capital gain was different from ordinary income and it ought to be taxed on a different basis, that the way you pay taxes on the sale of your home should be different from the way you pay taxes on what you ordinarily earn.

The administration itself has changed its attitude. Why? Because the American people do not favor that kind of thing. Those who want to tax capital gains as ordinary income find that the trend is going against them. The American people are against what they want to do, and the Congress is not for what they want to do. There is no way they can do it directly, but they might be able to get away with it this way. Here is their chance. Call it a tax expenditure and stick it right to the American people where it hurts, even though there is no way they could get a majority of votes in the Senate or in the House for that kind of thing if it were taken up directly. But it might be done this way because Senators could vote for it and House Members could vote for it and they could say, "I did not vote to tax you, my friend. All I voted for was a study, a study to see if these things were justified, and if they were not justified they should be discontinued. But I voted to continue it."

Oh, yes, they voted to continue it—after they fixed it so that it would not take but the 34 votes in the Senate to tax your eyeballs off you, Mr. Citizen. Yes, they fixed it so they could tax your eyeballs off, and they could proceed to the point where all they would need were 34 votes, and they would be one of the other 60 and say, "Oh, no, you ought not pay those kinds of taxes."

If they do not want those kinds of taxes to put on the American citizen, they should not contrive that kind of trap and do it to them and then, like Pontius Pilate, wash their hands of it. They should not have anything to do with it. That type of thing should not be done. It ought to be resisted, and the American people will get wise to this kind of thing.

I am here to say, Mr. President, that Senators may not know it, but those who want to subscribe to this kind of activity arrange a grave peril for themselves. In due course, when the effect of this thing begins to hit, and the American people begin to understand it, I would just be interested to see how they are going to explain that to their constituents.

Mr. President, I ask unanimous consent to have printed in the RECORD a table prepared by the Joint Committee on Taxation listing these various items which would be regarded as tax expenditures and how much is involved in fiscal year 1978 through 1983.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—TAX EXPENDITURE ESTIMATES BY FUNCTION AND SUBFUNCTION [1]

[Fiscal years, in millions of dollars]

Function and subfunction	Corporations						Individuals					
	1978	1979	1980	1981	1982	1983	1978	1979	1980	1981	1982	1983
National defense:												
Exclusion of benefits and allowances to Armed Forces personnel							1,260	1,370	1,470	1,585	1,715	1,850
Exclusion of military disability pensions							115	120	130	135	145	150
International affairs:												
Exclusion of income earned abroad by U.S. citizens							360	385	415	475	510	550
Deferral of income of domestic international sales corporations (DISC)	1,135	1,335	1,525	1,630	1,700	1,830						
Deferral of income of controlled foreign corporations	615	665	720	775	835	905						
Special rate for Western Hemisphere trade corporations	25	15	5									
General science, space, and technology: Expensing of research and development expenditures	1,450	1,520	1,610	1,695	1,715	1,635	30	30	35	35	35	35
Energy:												
Expensing of exploration and development costs	885	965	1,080	1,185	1,265	1,360	300	300	360	420	480	545
Excess of percentage over cost depletion	1,120	1,210	1,310	1,400	1,485	1,570	340	370	405	430	435	440
Capital gains treatment of royalties on coal	15	15	20	20	20	20	50	60	70	75	85	95
Natural resources and environment:												
Exclusion of interest on State and local government pollution control bonds	220	265	300	330	355	390	110	130	145	160	175	185
Exclusion of payments in aid of construction of water and sewage utilities	10	10	10	10	10	10						
5-year amortization on pollution control facilities	−130	−45	40	130	180	140						
Tax incentives for preservation of historic structures		5	5	5	5	5	(2)	5	5	10	10	10
Capital gains treatment of certain timber income	205	230	250	275	300	335	60	65	70	80	85	95
Capital gains treatment of iron ore	5	10	10	10	10	10	5	10	10	10	10	10
Agriculture:												
Expensing of certain capital outlays	70	75	80	80	85	85	445	460	480	495	515	530
Capital gains treatment of certain ordinary income	10	10	10	15	15	15	350	365	385	405	425	450
Deductibility of noncash patronage dividends and certain other items of cooperatives	490	525	560	595	635	675	−175	−185	−190	−200	−210	−220
Commerce and housing credit:												620
Dividend exclusion							475	505	530	560	590	
Exclusion of interest on State and local industrial development bonds	235	270	315	355	400	445	115	135	155	175	195	220
Exemption of credit union income	80	90	100	115	125	140						
Excess bad debt reserves of financial institutions	705	790	930	1,025	1,040	1,085						
Deductibility of mortgage interest on owner-occupied homes							4,985	5,530	6,140	6,815	7,565	8,395
Deductibility of property tax on owner-occupied homes							4,665	5,180	5,750	6,385	7,085	7,865
Deductibility of interest on consumer credit							2,120	2,350	2,610	2,895	3,215	3,565
Expensing of construction period interest and taxes	500	525	555	585	615	645	140	90	145	165	205	230

TABLE 1.—TAX EXPENDITURE ESTIMATES BY FUNCTION AND SUBFUNCTION [1]—Continued

[Fiscal years, in millions of dollars]

Function and subfunction	Corporations						Individuals					
	1978	1979	1980	1981	1982	1983	1978	1979	1980	1981	1982	1983
Commerce and housing credit:												
Excess first-half depreciation	45	50	50	55	55	60	145	155	165	170	180	190
Depreciation on rental housing in excess of straight line	70	70	70	75	80	85	300	290	290	300	315	335
Depreciation on buildings (other than rental housing) in excess of straight line	140	130	115	110	105	105	125	115	105	95	90	95
Asset depreciation range	2,245	2,640	3,120	3,625	4,155	4,725	115	135	165	190	215	245
Capital gains (other than farming, timber, iron ore, and coal)	540	575	635	705	780	865	7,430	7,990	8,585	9,230	9,925	10,665
Deferral of capital gains on home sales							935	980	1,030	1,080	1,135	1,195
Capital gains at death							8,120	8,975	9,910	10,945	12,090	13,535
Corporate surtax exemption	3,885	3,540	2,905	3,005	3,225	3,480						
Investment credit	10,735	12,320	13,650	13,085	11,400	11,410	2,390	2,725	3,020	2,980	2,620	2,745
Transportation:												
Deductibility of nonbusiness State gasoline taxes							760	840	935	1,035	1,150	1,275
5-yr amortization on railroad rolling stock	−40	−40	−40	−40	−40	−35						
Deferral of tax on shipping companies	105	85	70	60	55	45						
Community and regional development: 5-yr amortization for housing rehabilitation	5	5	5	(2)	(2)	−5	10	5	5	(2)	(2)	−5
Education, training, employment and social services:												
Exclusion of scholarship and fellowship income							295	330	355	385	415	450
Parental personal exemption for students age 19 or over							770	790	815	840	865	890
Exclusion of employee meals and lodging (other than military)							300	325	350	380	410	445
Exclusion of contributions to prepaid legal services plans							10	15	20	35	50	60
Investment credit for employee stock ownership plans (ESOP's)	255	305	330	190								
Deductibility of charitable contributions (education)	255	285	315	350	380	410	585	645	720	795	885	980
Deductibility of charitable contributions to other than education and health	315	350	390	430	470	510	4,370	4,855	5,385	5,980	6,635	7,365
Maximum tax on personal service income							665	800	955	1,150	1,375	1,655
Credit for child and dependent care expenses							525	575	635	695	765	840
Credit for employment of AFDC recipients and public assistance recipients under work-incentive programs	15	20	20	20	20	20						
New jobs tax credit	1,475	1,035	215	110	55	35	985	860	(2)	(2)	(2)	(2)
Health:												
Exclusion of employer contributions for medical insurance premiums and medical care							6,340	7,225	8,240	9,390	10,705	12,205
Deductibility of medical expenses							2,435	2,655	2,895	3,155	3,435	3,745
Expensing of removal of architectural and transportation barriers to the handicapped	10	10	(6)	(2)	(2)	(2)						
Deductibility of charitable contributions (health)	160	175	195	215	235	255	875	970	1,075	1,195	1,330	1,475
Income security:												
Exclusion of social security benefits:												
Disability insurance benefits							550	605	685	760	840	925
OASI benefits for retired workers							4,210	4,700	5,165	5,670	6,205	6,735
Benefits for dependents and survivors							950	1,040	1,160	1,275	1,395	1,515
Exclusion of railroad retirement system benefits							265	280	295	305	315	325
Exclusion of workmen's compensation benefits							835	970	1,115	1,285	1,475	1,695
Exclusion of special benefits for disabled coal miners							50	50	50	50	50	50
Exclusion of unemployment insurance benefits							1,200	1,135	1,090	1,015	950	905
Exclusion of public assistance benefits							345	360	380	395	410	430
Exclusion of sick pay							75	60	65	65	70	75
Net exclusion of pension contributions and earnings:												
Employer plans							9,940	11,335	12,925	14,740	16,815	19,175
Plans for self-employed and others							1,650	1,920	2,205	2,535	2,915	3,355
Exclusion of other employee benefits:												
Premiums on group term life insurance							905	955	1,010	1,065	1,120	1,185
Premiums on accident and disability insurance							75	80	85	85	95	100
Income of trusts to finance supplementary unemployment benefits							10	10	10	10	10	10
Exclusion of interest on life insurance savings							2,025	2,225	2,450	2,705	2,980	3,290
Exclusion of Capital gains on home sales for persons age 65 and over							70	70	70	70	75	75
Additional exemption for elderly							1,155	1,215	1,275	1,340	1,405	1,475
Additional exemption for the blind							20	20	20	20	20	20
Deductibility of casualty losses							360	395	430	470	510	555
Tax credit for the elderly							250	255	255	255	255	255
Earned income credit:												
Nonrefundable portion							285	265				
Refundable portion							945	900				
Veterans benefits and services:												
Exclusion of veterans disability compensation							840	830	855	850	845	825
Exclusion of veterans pensions							40	40	40	40	35	35
Exclusion of GI bill benefits							200	170	150	130	110	95
General government: Credits and deductions for political contributions							60	75	60	85	65	90
General purpose fiscal assistance:												
Exclusion of interest on general purpose State and local debt	3,470	3,865	4,305	4,780	5,310	5,845	1,925	2,150	2,390	2,655	2,950	3,255
Deductibility of nonbusiness State and local taxes (other than on owner-occupied homes and gasoline)							8,505	9,440	10,480	11,630	12,910	14,330
Tax credit for corporations doing business in U S possessions	485	520	565	610	660	710						
Interest: Deferral of interest on savings bonds							625	670	725	780	840	950

[1] All estimates are based on the Internal Revenue Code as of Dec 31, 1977.

[2] Less than $2,500,000.

SUM OF THE TAX EXPENDITURE ITEMS BY TYPE OF TAXPAYER, FISCAL YEARS 1978-83

[In millions of dollars]

	Corporations and individuals	Corporations	Individuals
Fiscal year:			
1978	124,415	31,815	92,600
1979	136,175	34,425	101,750
1980	146,571	36,356	110,215
1981	159,040	37,620	121,420
1982	171,265	37,740	133,525
1983	187,510	39,820	147,690

Note: These totals represent the mathematical sum of the estimated fiscal year effect of each of the tax expenditure items included in the table. The limitations on the use of the totals are explained in the text.

Source: Staffs of the Treasury Department and the Joint Committee on Taxation.

(Mr. BURDICK assumed the Chair.)

Mr. LONG. Now, Mr. President, assuming that this is what the sponsors of that amendment have in mind, they are talking about a backdoor tax increase. I call it a sneak attack on the American taxpayers to the tune of well over $100 billion. Why cannot the American taxpayers be accorded the privilege of defending themselves against that? Why can they not let the ordinary committees hold hearings? Why cannot the Finance Committee have hearings on it and let the taxpayers appear? Why would they not let the Ways and Means Committee hold hearings on it and let the taxpayers appear and defend themselves?

I know why. They do not think they could pass it that way. They think the way to do this thing is to contrive it, arrange it, hold meetings, maneuver

around the Senate, buttonhole Senators, buttonhole Members of the House, get the whole thing greased and do not let the regular committees see it or hear it or know about it until the day is ready for them to offer the amendment and, at that point, hope they have enough votes lined up so that it is likely they can do it.

Mr. President, we have seen amendments proposed here on the floor to a tax bill in the name of tax reform that have caused all sorts of hardships for legitimate American business people. It sometimes takes us years to correct the mistakes that are made that way, and we often find it very difficult to offset the mischief created by that kind of legislation. That kind of amendment would not have been approved if the American people had known about it, if the business people had known about it, or if the workers had known about it, and had the opportunity to come and present their arguments and to show what it did to them. But those kinds of measures are done by surprise, by a floor amendment offered in the guise of tax reform at a time when people just have not had an opportunity to inform themselves or know about it.

I suspect that this kind of amendment is offered on the floor well knowing that if you gave the people affected a chance to make their case before the appropriate committees and to consult their Senators and their Congressmen it could not possibly pass. But it sometimes becomes law.

Now, that kind of amendment is just a drop in the bucket. It is just nothing compared to what this sunset amendment would do if it became law.

Mr. TALMADGE. Mr. President, will the distinguished Senator from Louisiana yield?

Mr. LONG. I yield to the distinguished Senator from Georgia.

Mr. TALMADGE. I desire to express my compliments to the distinguished chairman of the Finance Committee, the senior Senator from Louisiana, and also the distinguished Senator from Wyoming on the statements they have made.

I have had an opportunity to read the so-called Glenn amendment, which is cosponsored by several other distinguished Senators, although I have not had an opportunity to study it in detail and, frankly, I do not know what it means. It could mean that some officer in the executive branch of Government could determine what the Tax Code of this country might be. It could mean that periodically both the House and the Senate must revise in toto the entire Internal Revenue Code of the United States of America.

I do not know of anything in the country that would so disrupt our economy as to make it uncertain to the more than 200 million Americans what their tax burden on any item under any conditions under any circumstances might be.

If someone wanted to enlarge a factory in Louisiana, or in Wyoming, or in Georgia, or in New York, he would want to have some certainty as to what the Tax Code might be 4, 5, 6, 7, 8, 10 and even 20 years from now.

Yet, Mr. President, now that college education expenses have gotten so great, when a child is born a family starts making plans then and there how they are going to educate their children. They have to make financial plans and seek financial advice, to plan to enter that child in college 17 or 18 years in the future.

If we had an uncertainty in the Tax Code as to what their tax in the future would be, they could not make any plans. How could some young couple manage to buy a home, if they thought tomorrow Congress or some executive procedure of the Government would make it impossible for them to deduct the taxes that they paid on the home they were going to buy, or to deduct the interest on the home they were going to buy?

They could not afford to make a plan; they could not make a decision. Home building would immediately go into a slump, and every other business endeavor in this country would go into a slump.

This is a very complex matter. It is one of the most controversial and complex things I have seen in my almost 22 years in the Senate. If this amendment is offered—and I hope the good judgment of the Senators whose names I have seen attached to the amendment will prevent their offering it—but if it is offered, I hope it will be sent to the Finance Committee, where it can be given appropriate study and have testimony from people in all walks of life, so the American people can realize this imminent threat that faces them if this amendment were to become the law of this land.

I again congratulate my distinguished chairman, my colleague on the Finance Committee, for alerting the people, through these brief preliminary remarks, to the imminent and perilous dangers of what could happen if this bill were to become law.

I thank my distinguished chairman for yielding.

Mr. LONG. I thank the distinguished Senator, and I hope, Mr. President, that all Senators will begin to apprise themselves of what is involved in this matter, Mr. President. I make this statement so it can be in the RECORD and Senators can begin to look at it, and I hope the business community, the labor community, and the State and local governments, the aged—who, by the way, would be adversely affected; social security beneficiaries and even welfare recipients could be adversely affected by this proposal—could study what is said here, and seek advice of those in whom they have confidence as to ways in which they can best move to defend themselves. I am satisfied that people in all walks of life, every segment in America—be it a welfare client, a working man, a college student, a Government employee, whoever he may be, will find something in that amendment that applies to him.

I hope very much, Mr. President, that when the time comes we will be able to defeat the amendment, or postpone it for consideration until after those who have been assigned by the Senate the responsibility to study measures of this sort have had the opportunity to afford the American people their hearings, and have had the opportunity to report on it.

Mr. President, I yield the floor.

UP AMENDMENT NO. 1978

(Purpose: To express the sense of the Senate opposing wage/price or other stabilization standards enforced by the direct or implied threat of administrative actions or decisions pursuant to various laws)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1978.

Mr. HEINZ. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add a new section as follows:

Whereas Title II of the Economic Stabilization Act of 1970 expired on April 30, 1974 and the President of the United States is therefore not empowered to impose wage, price, profit, interest, dividend or other general economic stabilization controls pursuant to any existing statute or provision of the Constitution; and

Whereas the historical record amply documents the failure of peacetime wage and price controls to permanently reduce inflation; and

Whereas the wage and price controls implemented pursuant to the Economic Stabilization Act of 1970 produced serious inequities for many economic sectors, including workers, certain industries, and small businesses; caused harmful distortions in investment and production flows and selective shortages of many products and supplies; imposed heavy compliance and paperwork costs on both the government and private individuals; disrupted import and export markets; inhibited economic planning and generated pervasive economic uncertainty among those subject to continually changing regulations; and resulted in an unprecedented and damaging price explosion upon the lapse of such controls in 1974, thereby eliminating any temporary benefit that may have been achieved; and

Whereas the President intends to promulgate a wage and price program consisting of specific, numerical wage and price standards that will be enforced by indirect and informal sanctions, such as Federal procurement actions, environmental, consumer, and workplace safety standards decisions, import relief decisions, strategic stockpile management policies, and independent regulatory agency decisions; and

Whereas such discretionary authorities to grant relief or impose hardships were delegated to the President solely for the purpose of achieving the particular public policy objectives set forth in the statutes making such grants of discretionary authority, such as the protection of the public health and welfare through the establishment of ambient air quality standards, the protection of U.S. workers and industries against unfair trade practices, the reduction of workplace hazards faced by employees, the establishment of just and reasonable rates for the transport of goods in interstate commerce, and the maintenance of stockpiles of critical materials sufficient to protect against national emergencies, among others; and

Whereas it was not the intent of Congress in granting such discretionary authorities to provide the President with plenary powers

that could be directed to the establishment and enforcement of a general economic stabilization program not specifically authorized by statute; and

Whereas the use of such discretionary powers to compel compliance with specific, numerical wage and price standards amounts to a de facto wage/price control program; and

Whereas the employment of such discretionary powers to promote unrelated, unauthorized and arbitrarily chosen wage/price objectives constitutes a fundamental abuse of Executive power, would arbitrarily burden some sectors, industries and economic groups more than others depending upon the discretionary power to compel compliance available to the Executive Branch in each case, and is incompatible with our constitutional framework of divided powers, proper statutory delegation of authority, and legislative rather than ministerial pre-eminence in public policy-making; and

Whereas the President may request authority to implement a general economic stabilization program through the proper legislative process of requesting a statute granting him the authority to administer a program of wage, price and other economic controls, which program may include compliance and enforcement mechanisms ensuring equitable treatment of all economic sectors and affording due process to effected parties;

Now, therefore, be it

Resolved by the Senate that it strongly opposes any action by the President to promulgate specific, numerical wage, price, or other general economic stabilization standards enforced by the direct or implied threat that compliance with or accommodation to such standards by workers, unions, companies, industries and other private economic groups will be considered, weighed or otherwise taken into material consideration in actions, decisions or other exercises of administrative discretion pursuant to the Agricultural Adjustment Act, the Anti-Dumping Act of 1921, the Civil Aeronautics Act of 1938 (as amended), the Clean Air Act (as amended), the Communications Act of 1934 (as amended), the Consumer Product Safety Act, the Emergency Petroleum Allocation Act, the Energy Conservation and Production Act, the Energy Policy and Conservation Act, the Export Control Act of 1949 (as amended), the Federal Aviation Act of 1958 (as amended), the Federal Environmental Pesticide Control Act (as amended), the Federal Food, Drug, and Cosmetic Act (as amended), the Federal Insecticide, Fungicide, and Rodenticide Act of 1947 (as amended), the Federal Land Policy and Management Act of 1976, the Federal Non-Nuclear Energy Research and Development Act, the Federal Power Act (as amended), the Federal Property and Administrative Services Act (as amended), the Federal Trade Commission Act (as amended), the Federal Water Pollution Control Act (as amended), the Fishery Conservation and Management Act, the Internal Revenue Code of 1954 (as amended), the Interstate Commerce Acts (as amended), the Mining Law of 1872, the Motor Vehicle Information and Cost Savings Act (as amended), the National Environmental Policy Act, the National Forest Management Act of 1976, the National Labor Relations Act of 1935 (as amended), the Natural Gas Act (as amended), the Noise Control Act of 1972, the Occupational Safety and Health Act of 1970 (as amended), the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Strategic and Critical Materials Stock Piling Act, the Tariff Act of 1930, the Toxic Substances Control Act of 1976, the Trade Act of 1974, the Trade Expansion Act of 1962 (as amended), and the Water Quality Improvements Act of 1970.

Mr. HEINZ. Mr. President, the purpose of this amendment is very simply to express the sense of the Senate in opposing the use of any direct or implied threat of administrative action or decision pursuant to various laws being used to impose wage and price or other stabilization standards.

The fact is that the Economic Stabilization Act of 1970 expired on April 30, 1974, and the President therefore is not empowered to impose wage, price, profit, interest, dividends, or other general economic stabilization controls.

That being the case, Mr. President, it is this Senator's very strong view that if the President intends to promulgate any wage or price programs consisting of specific, numerical wage and price standards, that is all very well and good, but it is not the intent of Congress that he be allowed to enforce any such standards by indirect or informal sanctions such as Federal procurement actions, environmental, consumer, and workplace safety standards decisions, import relief decisions, strategic stockpile management policies, and independent regulatory agency decisions.

To allow the President to do that would be to allow to the Executive a power that Congress has never delegated. In fact, what we would be permitting is political blackmail, and that is not at all the intention of this Senator, or I believe, Mr. President, of the Senate.

The authorities that I mentioned a moment ago, which are explicitly set forth in my amendment, are discretionary authorities designed to grant relief or to impose hardships, which were delegated to the President solely for the purpose of achieving the particular public policy objectives set forth in the statutes.

We should make it very clear, and I think we do so by this amendment, that we have no intention of allowing such authority to be used for some other purpose that is not that of the intent of Congress. It should be clear, and I think it is clear on the record, when Congress does grant discretionary authorities with those specific purposes in mind, that it was never the intent of Congress to provide the President with plenary powers that could be directed to the establishment and enforcement of a general economic stabilization program not specifically authorized by statute.

With that in mind, Mr. President, I would urge my colleagues to accept this amendment. I believe it is an amendment consistent with our belief that the executive branch should not abuse its powers, that there is a responsibility of Congress not only to set forth its intentions, but to make sure that those intentions are not perverted.

I yield to my friend and colleague from Illinois.

Mr. STEVENSON. Mr. President, it is my understanding that this amendment is not intended to express the Senate's disapproval of wage and price guidelines, but instead the amendment is only intended to disapprove the implementation of wage and price guidelines by the President with powers under the various acts that are enumerated.

If that is indeed the purpose, not to prevent the wage and price guidelines that are apparently under consideration but the enforcement of the guidelines with the use of powers under these acts that were not intended by Congress, then I would have no objection to the amendment.

I would think the President well advised to consult with the Congress before using enactments of the Congress for purposes that were not intended at the time. I ask my good friend and colleague whether I am correct, namely, that this is not intended to express disapproval of so-called voluntary wage-price guidelines which may be under consideration and if it is aimed only at the implementation or enforcement of such guidelines.

(Mr. HODGES assumed the chair.)

Mr. HEINZ. The Senator is entirely correct. I say categorically that it is not the intention of this amendment or this Senator to constrain, or in any way prohibit, the President from promulgating whatever he wants in the way of guideline for phase II, phase III, or any other phase of voluntary wage and price guidelines. If the President wants to go further, if he wants to implement a general economic stabilization program, then he may request the authority through the proper legislative process of requesting a statute granting him the authority to administer a program of wage, price, and other economic controls.

The sole point of this amendment is, in general, to compel compliance with the explicit intent of our statutes and to see to it that there is no employment or use of such discretionary powers to promote unrelated, unauthorized, and arbitrarily chosen wage-price objectives which I believe would constitute a fundamental abuse of executive power, which would arbitrarily burden some sector in industry and economic groups more than others, depending upon the discretionary power to compel compliance available to the executive branch in each case, and that the imposition of any such sanction or the use of such power is fundamentally incompatible with our constitutional framework of divided powers and proper statutory delegation of authority and legislative rather than ministerial preeminence in public policymaking.

I say again, I think the Senator is entirely correct. I want to make clear for the record there is no intention here of preventing the President from proceeding in any way from moving on voluntary wage-price guidelines.

Mr. STEVENSON. I thank the Senator for that reassurance.

Mr. President, after the President's anti-inflation program is announced, and we do expect it to include elements of an incomes policy, there will be hearings in our banking committee. At that time the Senate can begin its consideration of the President's recommendations, including the use of these acts for enforcement purposes. Until such time as the Congress has had the opportunity to con-

sider their use for purposes that were not at the time intended, I certainly have no objection to such a statement of the sense of the Senate as this. I have no objection to the amendment.

The PRESIDING OFFICER. Does the Senator move adoption of the amendment?

Mr. HEINZ. Yes, I do.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Will the Senator from Illinois yield for a point of personal privilege?

Mr. STEVENSON. I yield for that purpose.

"NOT MY BIRTHDAY"

Mr. MATSUNAGA. Mr. President, I rise on a point of personal privilege.

This morning I was amused, although gratified, to read in the RECORD of yesterday that the junior Senator from Hawaii had celebrated his 62d birthday.

It was gratifying in that the senior Senator from Hawaii, Mr. INOUYE, and the distinguished majority leader, Mr. BYRD of West Virginia, had such wonderful things to say about this junior Senator from Hawaii. For that I am grateful, and I want the RECORD to show that the junior Senator from Hawaii was deeply moved by the generous remarks of both the senior Senator from Hawaii and the distinguished majority leader. It appears that I was not the only Senator who was moved by their words for the Senator from Kentucky, Mr. FORD, even went so far as to send me a birthday gift.

I was very much amused, although grateful, because yesterday was not my birthday.

It is said, Mr. President, that when a man celebrates his birthday, he usually takes a day off. But when a politician, after he has gone past his 60th birthday, celebrates his birthday, he may take several years off.

I quite expected laughter from the audience for having made that last remark.

I repeat, Mr. President, when the average person has a birthday, he usually takes a day off. But when a politician past 60 has a birthday, he may take several years off. [Laughter.]

Let the record show, Mr. President, that there was uproarious laughter in the Senate Chamber. [Laughter.]

Well, Mr. President, being past my 60th birthday, and being a politican, I do not intend to take several years off; but I must say that I would be fully satisfied with having but one birthday a year. So I repeat, yesterday, Septeriber 29, was not my birthday. My birthday does not arrive until the 8th of next month, that is, October the 8. I make this announcement for the benefit of those Senators who wish to make laudatory statements for the RECORD at that time. I must say, however, that I would prefer not to celebrate more than one birthday a year. (Laughter)

Mr. President, just to keep the record straight, I report: yesterday, September 29, was not the birthday of this junior Senator from Hawaii.

I thank the Senator from Illinois for yielding.

ORDER FOR PRINTING OF H.R. 13511 AND REPORT

Mr. LONG. Mr. President, I ask unanimous consent that when the tax bill, H.R. 13511, is reported, that 2,000 extra copies of the bill and report be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The Senate continued with the consideration of the bill.

UP AMENDMENTS NO. 1979

Mr. STEVENSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1979.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE —

SEC. 1. This title may be cited as the "Navigation Development Act".

SEC. 2. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to replace, at Federal expense as a part of project costs authorized in subsection (a) terrestrial wildlife habitat inundated as a result of the construction of the project on an acre-for-acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Secretary for wildlife protection purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach, at an estimated cost of $4,000,000 to be cost shared with the State of Missouri and administered in accordance with the provisions of the Federal Water Project Recreation Act (Public Law 89–72) and undertaken independently of the navigation features of the project.

(c) Within thirty days after the beginning of construction of the lock and dam authorized in subsection (a), the Secretary of the Army shall give notice in writing to the Secretary of the Treasury that such construction has begun, a copy of which notice shall be published in the Federal Register by the Secretary of the Treasury following receipt thereof.

(d) The project depth of the channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsections (a) and (b) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

SEC. 3. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by July 1, 1981, and take into account any appropriate recommendations in the report authorized by section 4 of this Act. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by July 1, 1982, submit to the Congress for approval, a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan and any subsequent changes thereto shall be granted only by enactment of the Congress.

(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propcse methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the

Upper Mississippi River resources management (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94–587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

(1) The Secretary of the Army shall provide for the Secretary of the Interior to undertake a study to determine the long- and short-term systemic ecological impacts of: (A) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (B) present operation and maintenance programs, (C) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (D) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

(2) The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis evaluation of the comparative environmental effects of alternative management proposals.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; and Saint Croix River, Minnesota and Wisconsin.

(h) Except for the provisions of section 2 of this Act, and necessary operation, maintenance, and activities related to safety, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress, or unless otherwise authorized by law.

(i) The lock and dam authorized pursuant to section 2 of this Act shall be designed and constructed to provide for possible future expansion. All new navigation projects authorized in the future or locks and dam navigation replacement projects now authorized but not under construction, initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

SEC. 4. (a) The Secretary of Transportation and Secretary of Commerce shall undertake a study, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget, and make findings and policy recommendations regarding any fuel tax imposed on inland waterways users, or alternatives or supplemental charges and on related matters. Such study shall include but shall not be limited to a consideration of the following matters:

(1) The economic impacts on (i) carriers and shippers using the inland waterways, (ii) users, including ultimate consumers, of commodities which are transported on the inland waterways, (iii) the balance of payments of the United States based on our international trade, (iv) the existing investment in industrial plants, agricultural interests and commercial enterprises and related employment in regions of the country served by water transportation directly or in combination with other modes, and (v) future economic growth prospects in such regions including anticipated shifts of industry and employment to other areas together with an evaluation of effects on regional economics and their development, including consistency with Federal policies as set forth in other legislation.

(2) The effects of such taxes or charges on the freight rates charged by other modes and the extent of diversion of traffic from the waterways to such other modes as both short- and long-term prospects, giving consideration to the development of alternative sources of supply and alternative modes of transportation or routing to market, and specifying the extent of such traffic diversion to modes which are shown by reliable data to be less safe than water carriers in the handling and transportation of hazardous materials or which are shown by such data to be less efficient than water carriers in the use of energy.

(3) The effects of such charges on the level of prices of commodities shipped to waterway and competing modes, including electric power rates and the costs of energy materials to ultimate consumers.

(4) The effects of such taxes or charges upon small business enterprise and upon industrial concentration and competition, both within the transportation industry and in any line of commerce as defined in the antitrust laws.

(5) The requirements of the Nation to the year 2000 for transportation service and the extent thereof which, considering the inherent advantages of waterway transportation, should be provided by inland waterway carriers, together with an estimate of the expansion and improvement of inland waterway capacity necessary to meet such requirement.

(6) The effects of waterway fuel taxes and other forms of user charges upon the achievement of the objectives of the National Transportation Policy as set forth in the preamble to the Transportation Act of 1940.

(7) The effects of waterway fuel taxes or other forms of waterway user charges in various forms and in various amounts upon the economic feasibility of waterway improvement projects.

(8) The effects of waterway taxes or other charges of various types and at various levels on the achievement of the expansion and improvement of the inland waterways estimated to be necessary under subparagraph (5) of this subsection or determined to be necessary by the Secretary of the Army under section 158 of the Water Resources Development Act of 1976 (Public Law 94–587).

(9) The extent to which the Federal Government should seek to supplement Federal appropriations from general revenues for the benefit of waterborne transportation by imposition of charges upon users of the facilities for which appropriations are made.

(10) The extent of Federal assistance to the several modes of freight transportation, including all forms of such assistance such as tax advantages, direct grants, rate adjustments for improvement purposes, assumption of pension fund liabilities, loans, guarantees, capital participation, revenues from land grants as well as provision of right-of-way operation, maintenance and improvement, together with an evaluation and comparison of the public benefits resulting from such assistance to each of the several transportation modes, in terms of adequacy, efficiency and economy of service, safety, technological progress, and energy conservation.

(11) The comparative levels of benefits received from Federal expenditures on waterways by (i) commercial users and (ii) other users, including but not limited to users for recreation, reclamation, water supply, low flow augmentation, fish and wildlife enhancement, hydroelectric power, flood control, and irrigation purposes.

(12) The various forms of user charges that could be established and the comparative impacts of each on the interests specified in this section.

(13) The administrative costs of waterway fuel taxes and of alternative user charges.

(14) The need for assistance to persons and communities, agricultural and/or industrial interests adversely impacted by user charges.

(15) The classes and categories of waterway users upon whom fuel taxes or other user charges should be imposed.

(16) The waterways of the United States including specifically the Great Lakes, deep draft channels, and coastal ports which should be included in any system of fuel taxes or other forms of user charges, together with the economic impact and effect on such waterways and users of such mechanism.

(17) The disposition and application of revenues derived from taxes and other charges imposed on waterway users including consideration of trust fund mechanism.

(b) Not later than three years after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a final report of the study authorized by this section, together with his findings and recommendations, including necessary legislation and those of the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget.

Mr. STEVENSON. Mr. President, authorizing legislation for lock and dam 26 has been before the Congress three times in the past 3 years. In 1976, the Senate Environment and Public Works Committee reported a bill authorizing lock and dam 26 to the Senate and recommended that the Senate pass the bill. In an effort to get a bill that the President would sign, the lock and dam 26 authorization and two other projects that the admin-

istration opposed were dropped from the bill. In 1977, the Senate passed a bill authorizing new lock and dam 26; however, for reasons unrelated to the merits of the lock and dam 26 replacement project, the House of Representatives did not act on the bill. Again in 1978, the Senate passed a bill authorizing the construction of a new lock and dam 26. Again, however, for reasons unrelated to the merits of the lock and dam 26 project there is a good chance that legislation will not be enacted this year. Therefore, I am offering an amendment to authorize the construction of a new lock and dam 26 project that both Houses of Congress have supported time and time again. The amendment is virtually identical to the language that the Senate approved earlier this year.

The amendment will:

First. Authorize a new lock and dam 26 with a single 1,200-foot lock, configured so it can accommodate a second lock if authorized by Congress.

Second. Authorize studies for the planned development and environmental protection of the Upper Mississippi River. The amendment also prohibits a 12-foot channel on the Upper Mississippi River and its tributaries and construction of any new navigation projects pending the study.

Third. Authorize a 3-year study by the Department of Transportation of a comprehensive system of user charges for the inland waterway system.

Mr. President, the need for the project is inescapable. The present dam is in bad shape. Traffic grows, and the locking capacity is already inadequate to meet demand.

The welfare of the world's most highly developed industrial and agricultural region requires adequate locking facilities below the confluence of its two principal navigation arteries. Grain must get to our ports for export. Fuel and petrochemicals must get to our cities.

Early action is imperative, and as the Senate and House have recognized the only action that makes sense is to authorize a new dam. We are at the 11th hour already. The minimum time for construction of a new dam with a single 1,200-foot lock is about 8 years. Construction delays could extend the period for another year or more. Thus, authorization for the new lock and dam must be enacted in the current session of the Congress to insure that the new lock is ready by the time it is needed.

Mr. President, time is running out for the 95th Congress. We can afford no more delay in getting work on this essential project underway. I urge the Senate to adopt the amendment.

Mr. President. it did not occur to me to offer this amendment until this morning after many Members had offered amendments yesterday which were agreed to by the Senate, which had little if anything to do with the Eximbank.

This amendment would have as much to do with the capacity of the United States for exports in the world as anything in this bill.

It would authorize the replacement of the lock and dam 26 at Alton, Ill., which is the most critical navigation facility in the United States.

It is critical to our trade, both our exports and imports, with other countries.

Mr. President, this authorization has been before Congress many times before. It has passed the Senate twice. It was passed by the House. Time is running out in this Congress. So in order to give this Congress a last chance to enact into law a measure already approved at least twice by both bodies—twice by this body, at least, and at least once by the other body—I hope there will be no objection to this amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I move the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENSON. I move to reconsider the vote by which the amendment was agreed.

Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. STEVENSON. Mr. President, I ask to insert in the RECORD an article which appeared in the Friday, September 29 edition of the Washington Post, and which I believe is highly relevant to our consideration on Monday of whether NEPA should apply to Eximbank transactions.

This article heralds a new competitor in the nuclear project market abroad—"Eastinghouse"—otherwise known as the Union of Soviet Socialist Republics.

This article indicates that the Soviets, with the West Germans and the French, are now able to replace any U.S. sale lost abroad.

It appears that the Soviets have become competitive in this market, because they have responded to concerns on safety voiced by third-country buyers. In other words, purchasing countries are well able to determine and set environmental policy within their own territory.

I would thus like my colleagues to bear these two points in mind when we debate the NEPA issue.

First, that we may shift the economic benefits of nuclear construction from the United States to the Soviet Union, if we try to dictate to foreign countries what we think their internal invironmental policy should be.

Second, that foreign countries, who have the greatest concern with their own territory, will act to protect that environment, based on terms which they impose on foreign sellers.

The article follows:

ANOTHER ROUND OF TROOP REDUCTION TALKS OPENS IN VIENNA

(By Michael Getler)

VIENNA.—"Here we are in 1978 trying to negotiate an agreement formulated in 1973 that might take place in the 1980's."

The words are those of a somewhat cynical Western delegate to the 16th round of talks between Western and Soviet bloc military alliances on reducing troop strength in Central Europe that opened here yesterday.

His remarks reflect an underlying sentiment among some Western delegates that the discussions have taken on a certain air of unreality. The feeling is that so much has changed in the world since these talks got under way that a new hard look at their basis, direction and prospects for ultimate success should be taken.

This is a minority view but it is an important undercurrent. Virtually all Western delegates privately acknowledge that there is some validity to it, though most do not see any other course to take.

The East-West mutual and balanced force reduction (MBFR) talks began here in October 1973, with the official Western objective of reducing the heavy numerical superiority of Warsaw Pact forces in Central Europe. It was hoped that this would reduce the chance of war by eventually cutting the forces of both sides to a smaller joint level.

Unofficially, however, it is widely acknowledged that a big part of the Western push to get these talks started was a Nixon administration effort to prevent acceptance by Congress of a barrage of amendments by former senator Mike Mansfield in the early 1970s calling for unilateral U.S. troop cuts in Europe.

With a Western effort to bargain on troop cuts with the Warsaw Pact, pressure for the Mansfield proposals could be reduced on Capitol Hill. The strategy worked.

Now, however, times have changed dramatically.

With the Vietnam war over, not only is there no significant pressure from Congress to bring American soldiers home from Western Europe, there seems to be increased congressional support for beefing up those forces as attention on U.S. defenses swings back to Europe.

The attention of the U.S. military has also shifted back to Europe.

"It's the only front we've got left," said one military official.

A new NATO long-term defense plan has been approved to build up equipment further. And if progress is not made soon in these talks, the momentum of that project as it gets into its buying and shipping phases might be hard to stop, officials here acknowledge.

A new array of Soviet medium-range missiles and bombers targeted on Western Europe has been deployed in recent years, prompting top West German defense officials to suggest publicly that these talks may soon become obsolete if progress does not come soon.

Whether the United States would want to pull several thousand troops out of West Germany now, and whether West Germany would want to deal with the political repercussions of such a pullout even under an agreement with the East, also may not have been thought through, some officials believe.

In January, the French government proposed a different forum of European disarmament conference that would encompass "the Atlantic to the Urals," a reference to the western sections of the Soviet Union. This is a far broader geographical region than the current MBFR talks, which are focused on Central Europe.

This proposal, even though frowned upon by Washington and seen as possibly disruptive of the current talks, has some appeal to

the West Germans who would like to see Soviet troops roll much farther back toward the east if some U.S. troops go back across the ocean.

The Germans, though solid supporters of the current talks, are worried about Central Europe becoming some sort of specially controlled area of the world as a result of MBFR. West Germany would be the main country whose territory and armed forces would come totally within that framework. This explains why the Western position in the MBFR talks has been to oppose flatly any specific ceiling on the West German forces within any common ceiling reached by the two alliances.

A major goal of the Warsaw Pact in these talks has been to try to force national ceilings on specific countries, especially the Germans, since Bonn's army is the only one that could expand quickly in an emergency.

Early this month, Sen. Joe Biden (D-Del.), chairman of the European affairs subcommittee of the Senate Foreign Relations Committee, released a Congressional Research Service report on the troop reduction talks which suggested that the negotiations appeared to be at an impasse.

Though some progress was made last June when the Eastern side, for the first time, seemed to accept the principle of rough parity and a common troop ceiling between power blocs, the report pointed to the dispute between both sides as to how many troops the East actually has in its forces as a potentially terminal stumbling block.

The report suggested that it was time for a "thorough policy-level review of Western positions and tactics for the negotiations."

Interviews here indicate that no "deep-seated, soul-searching" kind of review went on during the recess after the June proposals of the East, even though some delegates think that would have been a good idea. Rather, it is said here that normal consultations took place. Most officials claim that there are very few other approaches to MBFR that have not been thought of by now.

These delegates see the talks continuing as a useful forum for both sides, one that had made some progress at least in moving the Soviet Bloc toward some principles of parity and toward handing over at least some data to the West.

Some Western officials say that even if the data dispute disappeared tomorrow it would still take at least two years to work out a final agreement. Others here believe these talks may eventually be absorbed into some other forum, such as the Helsinki European Security Conference, perhaps linked to the French idea, or even a broadened version of the U.S. Soviet strategic arms limitation talks (SALT).●

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business with statements therein limited to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-805. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION No. 100

"Whereas, The Santa Ana River, customarily dry, has a history of occasional severe floods, the most recent occurring in 1969 when 22 lives were lost and 105 million dollars in damages resulted in the three counties of Orange, Riverside, and San Bernardino; and

"Whereas, In 1941, a short time after the 100-year flood of 1938, Prado Dam was completed creating an illusory sense of security downstream; and

"Whereas, In 1962 the boards of supervisors of the three counties requested a federal evaluation of the local situation; and

"Whereas, In 1964 Congress authorized the Army Corps of Engineers to prepare an evaluation and recommendations; and

"Whereas, In March 1975, the district engineer's report, identifying the Santa Ana River as the worst potential flood threat west of the Mississippi River, was forwarded to division headquarters and was received in Washington in December 1975; and

"Whereas, In October 1976, Congress authorized a Phase I General Design Memorandum subject to the issuance of a report and recommendations by the Army Chief of Engineers and to the notification of Congress; and

"Whereas, The report of the Chief of Engineers was issued in September 1977, and has recently been released by the Office of Management and Budget to the Secretary of the Army who is responsible for notification of Congress; and

"Whereas, Nearly two million people live in the floodplain area, and potential damages in the area have been estimated at 3.6 billion dollars in 1975 dollars, with approximate estimates of a potential 3,000 lives to be lost; and

"Whereas, The use of local resources has permitted the achievement of protection for a 70-year flood, the maximum level of protection which can be achieved without this project; therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully requests the United States Army Corps of Engineers to proceed expeditiously with preparation of the Phase I General Design Memorandum for the Santa Ana River Main Stem flood control project; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Army Chief of Engineers, to the Los Angeles District Office of the United States Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-806. A joint resolution adopted by the Legislature of Micronesia; to the Committee on Appropriations.

"HOUSE JOINT RESOLUTION No. 7-130

"Whereas, the total awards certified by the Micronesian Claims Commission amounted to 34.4 million dollars under Title I and 32.6 million dollars under Title II of the Micronesian Claims Act of 1971; and

"Whereas, the remaining balance of the awards under Title II amounts to 12.6 million dollars; and

"Whereas, United States Public Law 95-134 authorized such additional funds to be appropriated as may be necessary to make full payment on awards adjudicated by the Micronesian Claims Commission; and

"Whereas, the Committee on Appropriations of the United States House of Representatives passed Bill H.R. 12932 which included 12.6 million dollars to pay in full the balance of the awards under Title II; and

"Whereas, the Committee on Appropriations of the United States Senate deleted the 12.6 million dollars on May 17, 1978; and

"Whereas, the United States Senate Committee on Appropriations gave the following as its justification for deleting the 12.6 million dollars: '(t)he Committee recommends deletion of the $12,600,000 House Allowance for post World War II Claims under the provisions of title II of the Micronesian Claims Act of 1971. The General Accounting Office issued a report on March 7, 1978, which highlighted problems in how the Micronesian Claims Commission made title II awards and in how the initial payments were made. The report recommended improvements be made before additional funds are released. During budget hearings, the Committee learned that the High Commissioner in conjunction with the Federal Comptroller will develop procedures designed to eliminate the deficiencies pointed out in the GAO report. Until such procedures are developed and fully approved, no new funding for title II claims is recommended.'; and

"Whereas, the General Accounting Office's report included specific recommendations to improve the procedures for distribution of payments; and

"Whereas, the U.S. Department of Interior has stated that it proposes to follow these recommendations 'in the event additional payments are authorized and funds are made available for them.'; and

"Whereas, it is the sense of the Congress of Micronesia that the implementation of the recommended procedures need not take an inordinate amount of time to further delay the payment of all Title II awards; and

"Whereas, Micronesian claimants have awaited more than 30 years to be compensated in full for their meritorious claims; now, therefore,

"Be it resolved by the House of Representatives of the Seventh Congress of Micronesia, Second Special Session, 1978, the Senate concurring, that the appropriate committees of the United States Senate and the House of Representatives are respectfully requested to urge the United States Congress to reinstate the $12.6 million for the payment of Micronesian war damage claims awarded under the Micronesian Claims Act of 1971 within the U.S. Department of Interior general appropriation; and

"Be it further resolved that certified copies of this House Joint Resolution be transmitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives of the United States Congress, Senators Warren G. Magnuson and Robert C. Byrd and Representatives George H. Mahon and Sidney R. Yates, and the President of the United Nations Trusteeship Council."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment to the title and amendments to the preamble:

S. Res. 411. A resolution expressing the sense of the Senate that further efforts be made by Federal departments and agencies to channel additional deposits to minority-owned commercial banks (Rept. No. 95-1261).

By Mr. MATSUNAGA, from the Committee on Energy and Natural Resources, with an amendment:

S. 3392. A bill to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies (Rept. No. 95-1262).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 3540. A bill to rename the U.S. Federal building in Yakima, Wash., the "Justice William O. Douglas U.S. Federal Building"; ordered placed on the calendar, by unanimous consent.

By Mr. SCHMITT:

S. 3541. A bill to provide for a research, development, and demonstration program to determine the feasibility of developing solar space power satellite systems to generate electricity for domestic and export purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. METZENBAUM (for himself, Mr. ABOUREZK, Mr. BAYH, Mr. MARK O. HATFIELD, Mr. WEICKER, Mr. CRANSTON, Mr. WILLIAMS, Mr. RIBICOFF, Mr. KENNEDY, Mr. CULVER, Mr. RIEGLE, Mr. SARBANES, Mr. MATHIAS, Mr. CASE, Mr. JAVITS, Mr. CHAFEE, Mr. HEINZ, Mr. MOYNIHAN, and Mr. STONE):

S. 3542. A bill to establish a comprehensive urban park and recreation recovery program to be administered by the Secretary of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MORGAN:

S. 3543. A bill for the relief of Mrs. Elsie Belle Blackburn; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 3540. A bill to rename the U.S. Federal Building in Yakima, Wash., the "Justice William O. Douglas U.S. Federal Building"; ordered placed on the calendar, by unanimous consent.

JUSTICE WILLIAM O. DOUGLAS U.S. FEDERAL BUILDING

Mr. JACKSON. Mr. President, on behalf of Senator MAGNUSON and myself, I send to the desk a bill that will rename the U.S. post office in Yakima, Wash.

Mr. President, not long ago one of the most important men in the history of American justice and civil liberties retired from public life, and returned home to Gooseprairie, Wash. After serving nearly 37 years on the Supreme Court of the United States, Justice William O. Douglas retired from the High Court and returned to Washington State to fulfill his desire to "leave the city and get back to my woods and mountains as quickly as possible." In tribute to him, and in recognition of his outstanding service to America and the State of Washington, we are today introducing legislation to rename the former U.S. post office in Yakima, Wash., the "Justice William O. Douglas Federal Building."

Justice Douglas always demonstrated the strong will, keen intellect, and dedicated service that has been so instrumental in making America strong and vital. His determination and perseverance have been tested repeatedly—first in overcoming the handicaps of polio and poverty during his childhood and young adult life, and later in his courageous defense of our individual freedoms under the Bill of Rights.

During his years on the Court, Justice Douglas defended the guarantees of our first 10 amendments to the Constitution with such tenacity that he has unmistakenly established himself as one of the great men of our history. Few others have done as much to bring to reality the concept of meaningful freedom, dignity and equality for all persons living under our Constitution. In particular, he has been a foremost authority on the first amendment, always insisting that a healthy democracy was based upon the free flow of ideas and opinions. When challenged, Justice Douglas always defended that amendment and its principles against all encroachment.

Justice Douglas has also been a dedicated outdoorsman and participant in protecting our Nation's great natural resources and environment. Undoubtedly, his interest in conservation developed in his early years when he lived and worked in Yakima and traveled the many trails of the Cascade Mountains. He fell in love with the natural beauty of our State and later wrote about the need to preserve it for future generations. In this regard, he was particularly instrumental in aiding the development of the North Cascade National Park.

Mr. President, Justice Douglas has been a great complement to our State and our Nation. He has indeed stood atop the mountain, representing the best of American ideals and aspirations, and we are the better for it. His spirit has been an inspiration for all of us and should serve as a source of pride for generations to come. We ask, therefore, that the Senate move quickly to give favorable consideration to this legislation so that the Federal Building in Yakima can soon bear the name, "Justice William O. Douglas Federal Building."

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Federal Building and Courthouse located at 25 South Third Street in Yakima, Washington, is hereby designated as the "Justice William O. Douglas Federal Building." Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Justice William O. Douglas Federal Building.

Mr. JACKSON. Mr. President, I ask unanimous consent that the bill be considered as having been read twice and placed on the Calendar.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

By Mr. SCHMITT:

S. 3541. A bill to provide for a research, development, and demonstration program to determine the feasibility of developing solar space power satellite systems to generate electricity for domestic and export purposes; to the Committee on Commerce, Science, and Transportation.

(The remarks of Mr. SCHMITT when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. METZENBAUM (for himself, Mr. ABOUREZK, Mr. BAYH, Mr. MARK O. HATFIELD, Mr. WEICKER, Mr. CRANSTON, Mr. WILLIAMS, Mr. RIBICOFF, Mr. KENNEDY, Mr. CULVER, Mr. RIEGLE, Mr. SARBANES, Mr. MATHIAS, Mr. CASE, Mr. JAVITS, Mr. CHAFEE, Mr. HEINZ, Mr. MOYNIHAN, and Mr. STONE):

S. 3542. A bill to establish a comprehensive urban park and recreation recovery program to be administered by the Secretary of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Mr. METZENBAUM. Mr. President, I send a bill to the desk for introduction, and ask unanimous consent that the text be printed in the RECORD, and that 250 extra copies of the bill be printed for the use of the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Urban Park and Recreation Recovery Act of 1978".

FINDINGS

SEC. 2. The Congress finds that—

(a) the quality of life in urban areas is closely related to the availability of fully

functional park and recreation systems, including land, facilities, and service programs;

(b) residents of cities need close-to-home recreational opportunities that are adequate to specialized urban demands, with parks and facilities properly located, developed, and well maintained;

(c) the greatest recreational deficiencies with respect to land, facilities, and programs are found in many large cities, especially at the neighborhood level;

(d) inadequate financing of urban recreation programs due to fiscal difficulties in many large cities has led to the deterioration of facilities, nonavailability of recreation services, and an inability to adapt recreational programs to changing circumstances; and

(e) there is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.

SEC. 3. The purpose of this Act is to authorize Secretary of Interior (hereinafter referred to as the "Secretary") to establish an urban park and recreation recovery program which would provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas, facilities, and development of improved recreation programs for a period of five years. This short-term program is intended to complement existing Federal programs such as the Land and Water Conservation Fund and Community Development Grant Programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Such assistance shall be subject to such terms and conditions as the Secretary considers appropriate and in the public interest to carry out the purposes of this Act.

DEFINITIONS

SEC. 4. When used in this Act the term—

(a) "recreational areas and facilities" means indoor or outdoor parks, buildings, sites, or other facilities which are dedicated to recreation purposes and administered by public or private nonprofit agencies to serve the recreation needs of community residents. Emphasis shall be on public facilities readily accessible to residential neighborhoods, including multiple-use community centers which have recreation as one of their primary purposes, but excluding major sports arenas, exhibition areas, and conference halls used primarily for commercial sports, spectator, or display activities;

(b) "rehabilitation grants" means matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings, and support facilities, but excluding routine maintenance and upkeep activities;

(c) "innovation grants" means matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative and cost-effective ways to augment park and recreation opportunities at the neighborhood level and to address common problems related to facility operations and improved delivery of recreation service, and which shall exclude routine operation and maintenance activities;

(d) "recovery action program grants" means matching grants to local governments for development of local park and recreation recovery action programs to meet the requirements of this Act. Such grants will be for resource and needs assessment, coordination, citizen involvement and planning, and program development activities to encourage public definition of goals, and develop priorities and strategies for overall recreation system recovery;

(e) "maintenance" means all commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair and to protect them from deterioration resulting from normal wear and tear;

(f) "general purpose local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia;

(g) "special purpose local government" means any local or regional special district, public-purpose corporation or other limited political subdivision of a State, including but not limited to park authorities; park, conservation, water or sanitary districts; and school districts;

(h) "private, nonprofit agency" means a community-based, nonprofit organization, corporation, or association organized for purposes of providing recreational, conservational, and educational services directly to urban residents on either a neighborhood or communitywide basis through voluntary donations, voluntary labor, or public or private grants; and

(i) the term "State" means any State of the United States or any instrumentality of a State approved by the Governor; the District of Columbia; and the Commonwealth of Puerto Rico.

ELIGIBILTY FOR ASSISTANCE

SEC. 5. (a) Eligibility of general purpose local governments for assistance under this Act shall be based upon need as determined by the Secretary. Within one hundred and twenty days after the effective date of this Act, the Secretary shall publish in the Federal Register, a list of the local governments eligible to participate in this program, to be accompanied by a discussion of criteria used in determining eligibility. Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress, and may include but shall not be limited to, overcrowded or substandard housing conditions, current youth unemployment, minority population, age of housing, net increase in per capita income, population growth, unemployment rate, and rate of growth in employment, per cent at or below poverty level.

(b) Notwithstanding the list of eligible local governments established in accordance with subsection (a), the Secretary is also authorized to establish eligibility, at his discretion and in accord with the findings and purpose of this Act, to other general purpose local governments in standard metropolitan statistical areas as defined by the Census: *Provided*, That grants to these discretionary applicants do not exceed in the aggregate 15 per centum of funds appropriated under this Act for rehabilitation, innovation, and recovery action program grants.

(c) The Secretary shall also establish priority criteria for project selection and approval which consider such factors as—

(1) population;

(2) age and condition of existing recreation areas and facilities;

(3) demonstrated deficiencies in access to neighborhood recreation opportunities, particularly for minority, and low- and moderate-income residents;

(4) public participation in determining rehabilitation or development needs;

(5) the extent to which a project supports or complements target activities undertaken as part of a local government's overall community development and urban revitalization program;

(6) the extent to which a proposed project would provide employment opportunities for minorities, youth, and low- and moderate-income residents in the project neighborhood and/or would provide for participation of neighborhood, nonprofit or tenant organizations in the proposed rehabilitation activity or in subsequent maintenance, staffing, or supervision of recreation areas and facilities; and

(7) the amount of State and private support for a project as evidenced by commitments of non-Federal resources to project construction or operation.

GRANTS TO IMPLEMENT PROGRAM

SEC. 6. (a) The Secretary is authorized to provide 70 per centum matching rehabilitation and innovative grants directly to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments.

(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation and innovation grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities: *Provided*, That assisted recreation areas and facilities owned or managed by them offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant.

(2) Payments may be made only for those rehabilitation or innovative projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward the satisfactory completion of a project, except that the Secretary may, when appropriate, make advance payments on approved rehabilitation and innovative projects in an amount not to exceed 20 per centum of the total project cost.

(3) The Secretary may authorize modification of an approved project only when a grantee has adequately demonstrated that such modification is necessary because of circumstances not foreseeable at the time a project was proposed.

(b) Innovation grants should be closely tied to goals, priorities, and implementation strategies expressed in local park and recreation recovery action programs, with particular regard to the special considerations listed in section 7(b)(2).

LOCAL COMMITMENTS TO SYSTEM RECOVERY AND MAINTENANCE

SEC. 7. (a) As a requirement for project approval, local governments applying for assistance under this Act shall submit to the Secretary evidence of their commitments to ongoing planning, rehabilitation, service, operation, and maintenance programs for their park and recreation systems. These commitments will be expressed in local park and recreation recovery action programs which maximize coordination of all community resources, including other federally supported urban development and recreation programs. During an initial interim period to be established by regulations under this Act, this requirement may be satisfied by local government submissions of preliminary action programs which briefly define objectives, priorities, and implementation strategies for overall system recovery and maintenance and commit the applicant to a scheduled program development process. Following this interim period, all local applicants shall submit to the Secretary, as a condition of eligiblity, a five-year action program for park and recreation recovery that satisfactorily demonstrate:

(1) systematic identification of recovery objectives, priorities, and implementation strategies;

(2) adequate planning for rehabilitation of specific recreation areas and facilities, including projections of the cost of proposed projects;

(3) capacity and commitment to assure that facilities provided or improved under this Act shall thereafter continue to be ade-

quately maintained, protected, staffed, and supervised;

(4) intention to maintain total local public outlays for park and recreation purposes as levels at least equal to these in the year preceding that in which grant assistance is sought beginning in fiscal year 1980 except in any case where a reduction in park and recreation outlays is proportionate to a reduction in overall spending by the applicant; and

(5) the relationship of the park and recreation recover program to overall community development and urban revitalization efforts.

Where appropriate, the Secretary may encourage local governments to meet action program requirements through a continuing planning process which includes periodic improvements and updates in action program submissions to eliminate identified gaps in program information and policy development.

(b) Action programs shall address, but are not limited to the following considerations.

(1) Rehabilitation of existing recreational sites and facilities, including general systemwide renovation; special rehabilitation requirements for recreational sites and facilities in areas of high population concentration and economic distress; and restoration of outstanding or unique structures, landscaping, or similar features in parks of historical or architectural significance.

(2) Local commitments to innovative and cost-effective programs and projects at the neighborhood level to augment recovery of park and recreation systems, including but not limited to recycling of abandoned schools and other public buildings for recreational purposes; multiple use of operating educational and other public buildings; purchase of recreation services on a contractual basis; use of mobile facilities and recreational, cultural, and educational programs or other innovative approaches to improving access for neighborhood residents; integration of recovery program with federally assisted projects to maximize recreational opportunities through conversion of abandoned railroad and highway rights-of-way, waterfront, and other redevelopment efforts and such other federally assisted projects as may be appropriate; conversion of recreation use of street space, derelict land, and other public lands not now designated for neighborhood recreational use; and use of various forms of compensated and uncompensated land regulation, tax inducements, or other means to encourage the private sector to provide neighborhood park and recreation facilities and programs.

The Secretary shall establish and publish in the Federal Register requirements for preparation, submission, and updating of local park and recreation recovery action programs.

(c) RECOVERY ACTION PROGRAM GRANTS.—The Secretary is authorized to provide up to 50 per centum matching grants to eligible local applicants for program development and planning specifically to meet the objectives of this Act.

STATE ACTION INCENTIVE

SEC. 8. The Secretary is authorized to increase Federal implementation grants authorized in section 6 by providing an additional match equal to the total match provided by a State of up to 15 per centum of total project costs. In no event may the Federal matching amount exceed 85 per centum of total project cost. The Secretary shall further encourage the States to assist him in assuring that local recovery plans and programs are adequately implemented by cooperating with the Department of the Interior in monitoring local park and recreation recovery plans and programs and in assuring consistency of such plans and programs, where appropriate, with State recreation policies as set forth in statewide comprehensive outdoor recreation plans.

MATCHING REQUIREMENTS

SEC. 9. The non-Federal share of project costs assisted under this Act may be derived from general or special purpose State or local revenues, State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services, but not from any Federal grant program other than general revenue sharing and the community development bloc grant program. Reasonable local costs of action program development to meet the requirements of section 7(a) of this Act may be used as part of the local match only when local applicants have not received program development grants under the authority of section 7(c) of this Act. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

CONVERSION OF RECREATION PROPERTY

SEC. 10. No property improved or developed with assistance under this Act shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the current local park and recreation recovery action program and only upon such conditions as he deems necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness.

COORDINATION OF PROGRAM

SEC. 11. The Secretary shall (a) coordinate the urban park and recreation recovery program with the total urban recovery effort and cooperate to the fullest extent possible with other Federal departments and agencies and with State agencies which administer programs and policies affecting urban areas, including but not limited to, programs in housing, urban development, natural resources management, employment, transportation, community services, and voluntary action; (b) encourage maximum coordination of the program between appropriate State agencies and local applicants; and (c) require that local applicants include provisions for participation of community and neighborhood residents and for public-private coordination in recovery planning and project selection.

AUDIT REQUIREMENTS

SEC. 12. Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of project undertakings in connection with which assistance under this Act is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary, and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There are hereby authorized to be appropriated for the purposes of this Act, not to exceed $170,000,000 for each of the fiscal years 1979 through 1983, such sums to remain available until expended. Not more than 3 per centum of the funds authorized in any fiscal year may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 7(a) and 7(c), and not more than 10 per centum may be used for innovation grants pursuant to section 6 of this Act. Grants made under this Act for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated in any fiscal year.

LIMITATION OF USE OF FUNDS

SEC. 14. No funds available under this Act shall be used for the acquisition of land or interests in land.

SUNSET AND REPORTING PROVISIONS

SEC. 15. (a) The authority for new appropriations under this Act shall expire on September 30, 1983. Funds already authorized and appropriated as of that date will remain available until expended.

(b)(1) Within ninety days of the expiration of this authority, the Secretary shall report to the Congress on the overall impact of the urban park and recreation recovery program.

(2) On December 31, 1979, and on the same date in each year that the recovery program is funded, the Secretary shall report to the Congress on the annual achievements of the innovation grant program, with emphasis on the nationwide implications of successful innovation projects.

○ Mr. WILLIAMS. Mr. President, I am very pleased to join my distinguished colleague, Senator METZENBAUM, in sponsoring the "Urban Park and Recreation Recovery Act of 1978."

Earlier this year, the Department of the Interior completed the national urban recreation study mandated by Congress in Public Law 94–422. Among the study's major findings were that: First, people in all urban areas want a variety of close-to-home recreational opportunities; second, existing and potential recreation resources are not being fully utilized; third, the greatest recreation deficiencies occur in the inner cores of the Nation's largest cities, where recreational opportunities have actually declined and existing parks have deteriorated due to funding cutbacks; and fourth, current Federal programs do not effectively address the recreation needs of urban areas.

The bill we are introducing today is specifically tailored to meet the most urgent urban recreation needs. It will provide matching grants to local governments to stimulate the recovery and more effective utilization of recreation resources.

Eligibility for these grants may be based on the criteria used for the urban development action grants program, which targets assistance to the most severely distressed communities in all regions of the country. As one who has been deeply involved in the development of the UDAG program, I am pleased the Secretary of the Interior in determining eligibility for recreation recovery grants.

eligibility for recreation recovery grants.

As a further condition for assistance, local governments will be required to demonstrate their commitment to long-term operation and maintenance of their park systems. The benefits of this bill will, therefore, extend well beyond the immediate impact of the infusion of Federal funds.

Local governments will be allowed to transfer their grants under this bill to private nonprofit agencies or county or regional park authorities which provide recreation services to the public. This

added flexibility will help to assure that the operators of existing public recreation programs will have access to funding if they are sponsored by their local governments.

In addition to rehabilitation grants, special grants will be available for innovative projects which demonstrate new cost-effective means of providing recreation services. Such projects might include the use of schools and other structures for compatible recreational purposes, the conversion, in cooperation with other Federal programs, of abandoned rail and highway rights-of-way, and tax inducements for encouraging the private sector to offer neighborhood park programs.

Mr. President, this bill is an appropriate followup to my 1961 Open Space Act, which provided assistance for the acquisition of parkland in cities. The need now is to insure that the lands acquired under this and other programs are developed, maintained, and operated in a manner which will best meet the recreational needs of the communities they were designed to serve. Passage of this bill will be a wise investment in the life and the future of our cities. I urge my colleagues to give it their full support when it is considered in conjunction with the omnibus parks bill.●

By Mr. MORGAN:

S. 3543. A bill for the relief of Mrs. Elsie Belle Blackburn; to the Committee on the Judiciary.

MRS. ELSIE BELLE BLACKBURN

● Mr. MORGAN. Mr. President, today I am introducing a bill for the relief of Mrs. Elsie Belle Blackburn, a woman who has suffered much through the loss of her son, David, on March 5, 1975.

Mrs. Blackburn's son was struck by an Army vehicle operated beyond the scope of the driver's employment and outside his line of duty. The Army truck was driven by a soldier who had gone off his base and had been drinking.

Since the soldier involved was operating beyond the scope of his duties, an action could not be maintained under the Federal Tort Claims Act (28 U.S.C. 1346 (b) and 2674 (1970)). The case was dismissed under a motion for summary judgment before the Middle District Court of North Carolina, since the facts did not bring the plaintiff, Mrs. Blackburn, within the scope of the act.

Mr. President, this is a tragic situation. An innocent civilian has been killed and his family has no available remedy against a capable respondent. Sovereign immunity, waived in most cases under the Tort Claims Act, has been maintained in this case because the soldier involved was deviating from his duties for a few moments.

I believe that this case is an appropriate one for special consideration by the Senate. A family has been denied a son and the money which the Senate would provide could be but a small measure of compensation for that loss.●

ADDITIONAL COSPONSORS

S. 3527

At the request of Mr. BELLMON, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 3527, a bill to authorize funds for the Robert A. Taft Institute of Government.

SENATE JOINT RESOLUTION 166

At the request of Mr. STEVENS, his name was added as a cosponsor of Senate Joint Resolution 166, to designate October 14, 1978, as "National Jogging Day."

AMENDMENTS SUBMITTED FOR PRINTING

EXPORT-IMPORTS BANK ACT AMENDMENTS OF 1978—S. 3077

AMENDMENT NO. 3681

(Ordered to be printed and to lie on the table.)

Mr. GLENN (for himself, Mr. MARK O. HATFIELD, Mr. MUSKIE, Mr. GRIFFIN, Mr. BELLMON, Mr. JACKSON, Mr. CHAFEE, Mr. MCCLURE, Mr. MORGAN, Mr. KENNEDY, Mr. HATHAWAY, Mr. MATHIAS, Mr. CLARK, Mr. BROOKE, and Mr. HART) submitted an amendment intended to be proposed by them, jointly, to S. 3077, a bill to amend and extend the Export-Import Bank Act of 1945, and for other purposes.

TARIFF ON FILM, STRIPS, SHEETS, AND PLATES OF CERTAIN PLASTICS OR RUBBER—H.R. 5285

AMENDMENTS NOS. 3682 THROUGH 3684

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted three amendments intended to be proposed by him to H.R. 5285, an act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

DEPARTMENT OF ENERGY AUTHORIZATIONS—H.R. 12163

AMENDMENT NO. 3685

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to H.R. 12163, an act to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 or the Federal Non-Nuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes.

ADDITIONAL STATEMENTS

RESCISSION AMENDMENT TO ERA

● Mr. GARN. Mr. President, next Wednesday, at 11 a.m., the Senate will vote on my rescission amendment to House Joint Resolution 638, the extension of the ratification period for the Equal Rights Amendment. With that in mind, I would like to take a few moments and discuss some of the arguments for and against rescission, so that Senators will have a chance to think about them over the weekend. This will not be a lengthy, detailed statement; there will be time for debate on the issue on Tuesday, and on Wednesday before the vote, and the issues will be covered more thoroughly then.

First. Passage of a rescission amendment will kill the ERA.

Response: If it does, it will not be the fault of those supporting rescission. In my conversations with Senators, I find some that support ERA, and some that oppose it, as well as some who are not sure. But all who are supporting my amendment do so out of a real and profound concern for sound constitutional procedures. I see no reason why following sound procedures should jeopardize the amendment itself. It will be the managers of the bill who pull it off the floor, or refuse a conference with the House, not me. In fact, I have pledged to support the extension, if it can be brought into line with constitutional procedures.

Second. ERA should not be burdened with irrelevant considerations of rescission.

Response: ERA should not be burdened with extension either. It is quite likely that the courts will eventually hold that Congress has no power to extend. But if we insist on it, my amendment is carefully drafted to apply only to the extension period. It says nothing about the validity of the rescissions by the four States which have already rescinded. Nor does it address rescissions on any other amendment, either pending or future. Adoption of this amendment would not affect, either to permit or deny, rescissions on the D.C. Representation amendment, for example, or my own amendment providing for direct election of the President. It applies only prospectively, and to the Equal Rights Amendment, just as the extension does.

Third. Rescission is constitutional.

Response: I have already pointed out, in previous statements, that there is no provision of the Constitution no statute of the United States, and no holding of the Supreme Court to this effect. It is true that the Constitution does not mention rescission, but it does not mention extension either. For that matter, it does not mention repeal of laws, nor a great many other functions carried out by this Congress every day, let alone functions carried out by State governments.

What is most interesting about this argument, Mr. President, is that it apparently never occurred to the proponents of S. 215 in the 92d Congress, since that bill explicitly provided for rescission by the States. Nor to the Members of the Senate who voted for it unanimously. Forty-eight of those Members who favored rescission in 1971 are still here today.

Fourth. Since one Congress cannot bind another, we should allow the Congress sitting when 38 States appear to have ratified to decide if the rescissions are valid.

Response: It is true that we cannot bind future Congresses, but that is true on any issue, from constitutional amendments to social security. We cannot avoid our responsibility so easily. The 95th Congress, by voting an extension in the period of time for ratification, is taking

an unprecedented step. It is a step a number of States may well question. Under those circumstances, we owe it to the States to offer them guidance. Failure to provide for rescission may have a chilling effect on full and free debate in the 35 States which have already ratified.

Proponents of ERA talk a great deal about "full and free debate" but I find it hard to take them seriously when they refuse to permit the debate to go on in the 35 States that have already ratified. Many of those States acted with little or no consideration of the ERA; it sounded like a good idea, so they ratified it. Later, some of the problems were brought to their attention. Some of the problems raised may well be red herrings; others are certainly valid concerns, that need to be laid to rest. If the ERA is to carry the moral and symbolic weight its backers wish for it, it is essential that the debate go on, and that it go on in all 50 States, not only in the 15 which have not yet ratified.

Extension without rescission is inherently discriminatory. One of the basic civil rights is the right to full participation in the molding of the basic law by which our country is managed. That civil right is denied to the citizens of 35 States by extension without rescission.

It is true that the Congress sitting at the time 38 States appear to have ratified will make the judgment on rescission; but I point out to my colleagues that they will make the decision on extension as well. If three more States do not ratify before next March, the extension will go into effect. If, after that, three States do ratify, the Congress sitting at that time may well decide that the extension we vote in this Congress is invalvid. And that will be the end cf ERA. In my view, the extension has a much better chance of surviving the scrutiny of that future Congress, as well as the scrutinv of the Federal courts. and the people, if we add an amendment providing for rescission during the extension period.

Fifth. Rescission would cause confusion.

Response: The worst confusion would be to leave the rescission question hanging until after ERA was apparently ratified. Suppose three more States ratify in the next 2 years. One year would remain under the extension, but the rescissions have to be adjudicated by the Congress, and perhaps in the courts. What are the remaining 12 States to do in the meantime? Act? Not act? What of the ERA supporters? Do they take a break. to see what Congress decides? And what if Congress decides against them? Most of their extension is gone. and they have stopped work. That is when confusion abounds, and we will regret having passed up this opportunity to provide the States with some guidance.

Sixth. We should decide rescission when things are calmer.

Response: I heartily agree. Unfortunately, I do not see any period of calmness ahead in which we can consider this question. Certainly it is not going to be calm next year, when the original time period expires, or at such time as there are 38 ratifications, or in 1982, when the extension expires. About the calmest time I can think of was 1971, when the Senate unanimously agreed that rescission was valid, and should be recognized.

As I said before, Mr. President, this is intended only as a brief exposition of the issues, a preview of things to come. I hope that my colleagues will find it interesting, and that they will participate in the debate next week. Certainly ERA is an important issue; I hope to be able to convince Senators that the issues surrounding the extension of the ratification period are equally important. In the final analysis it is the basic fairness of the laws under which we operate that makes us a civilization. The rules must be the same for all sides, with no discrimination, and we tamper with our basic law, the Constitution, at our great peril.●

BERGLAND ON AGRICULTURE

● Mr. MORGAN. Mr. President, I have just come across an excellent article in the current issue of Challenge, the Magazine of Economic Affairs, which contains an informative interview with Bob Bergland, the Secretary of Agriculture. This interview touches on a wide range of topics, covering both international and domestic concerns, revealing the philosophy of this administration on agriculture. Given the complexity of farm policy generally, full discussion of this area of public endeavor can only lead to a more enlightened body politic. I do not subscribe to all of the positions that the Secretary takes, but I do believe that his views are worth reading and pondering. Therefore, Mr. President, I ask that the complete text of this article be printed in the RECORD.

The article follows:

OATS, PEAS, BEANS AND BARLEY GROW

Q. The expectation now is that the inflation rate for this year will be about seven percent or higher. But food prices have been rising even more rapidly than the overall price index, at something like double the average rate of increase in recent months? Why?

A. The leading element in the food price component of the Consumer Price Index (CPI) is beef. Cattle prices have risen about 30 percent since last October. Beef prices at the retail level have increased about 18 percent during the same period. But this price increase follows about three years of heavy financial losses by the beef producing industry brought about mainly by an earlier overbuilding of inventory. This is a cyclical thing. Until last October, with heavy liquidation of herds and large marketings of cattle from feed lots, prices were at or below the cost of production. Since then prices have risen and have reached levels where the industry is now making money. When beef prices rise, consumers switch from beef to other meat, poultry, cheese, or a different form of protein. Beef consumption this year will drop from 130 pounds to about 115 to 120 pounds per consumer because of the price increase. We don't expect much of an increase during the rest of this year beyond what has already been posted in the marketplace. There certainly won't be another 18 percent increase in the next six months such as we saw in the last six.

The second element of the food price increase has been in the fresh vegetable, and to some extent, fruit components. That is almost entirely the result of the California floods of last winter that devastated much of the spring and early summer vegetable supply. That's a seasonal, temporary thing. Here again, we see no reason for vegetable prices to rise as rapidly in the next six months as they did in the last. Overall, the food inflation for the year as a whole will probably be in the 8 to 10 percent range.

Q. Whatever the explanation for these price increases, urban consumers may think of this as a situation in which farmers are gaining at the expense of the rest of us, since food prices are rising more rapidly than the average. Is there any justification for that view?

A. Well, of course there's no such thing as free lunch. When beef prices go up the consumer pays if he or she buys. That's the normal way the market functions. But the fact is that the reverse situation prevailed in the preceding three years. Consumers enjoyed beef at far below its real value in the sense that beef producers had to take heavy financial losses. We had to make over one billion dollars in loans to cattle producers out of the resources of this department last year. It's been estimated that $30 billion in private credits were extended to keep the industry together. Everyone knows that the prices that prevailed up until last fall could not be sustained because the industry was taking such a terrible beating. This meant, of course, that the consumer got a break during that period because that drop in beef prices was passed on to the consumer. But it couldn't last.

Q. Some economists have argued that there are certain government policies which have contributed significantly to the current inflation. Arthur Okun has referred to these as "self-inflicted wounds." Isn't this true to some extent of certain agricultural policies—for example, cutbacks in farm acreage which reduce food supplies, payments to farmers to store part of their current output, price support programs in general?

A. The role of federal intervention in setting minimum price supports is very much like the federal minimum wage laws. Such laws also have an impact on the rate of inflation. The problem is that we need policies which have not only an economic logic but moral values as well, as in the case of the minimum wage. We decided a long time ago that if people have enough ambition to work for a living they're entitled to at least a minimum wage.

Q. What about the grain storage program?

A. We want to insure reliability of supply, to avoid the kind of situation we had in the past where we had to impose export embargoes. Remember that the weather probably has more to do with grain supplies than all the government policies of this world laid end to end. The variation in yield in the Soviet Union may be 50 million tons from one year to the next because of weather; in the United States, probably 40 million tons. We want to level out the peaks and valleys in commodity prices which result. That's the purposes of the storage program.

Q. So that presumably we're storing in years of relative surplus. * * *

A. * * * such as we had last year * * *

Q. * * * to release during years of relative shortage.

A. Precisely.

Q. What about acreage restrictions, the set-aside program?

A. During 1974–1975 there were no restrictions of any sort. A great deal of land—about 10 to 15 million acres—was plowed out from grass, trees were bulldozed, and the land was put to the production of crops at enormous expense. We call that "land mining." This is land that under ordinary circumstances should never be put to the production of grain. It is subject to severe erosion, it washes away, it blows away, it contaminates rivers and lakes. We want to minimize this "soil mining." So we have gone over to this volun-

tary land idling program for corn, wheat, and cotton. We have looked at our own reserves of these commodities and at world demand and we know there is more than enough stock on hand to meet any contingency. And so we have offered farmers an opportunity to put that poor land into a conserving use. It's the poorest land, the least productive land that's been taken from production. It has had a very modest impact on our supply.

Q. But farmers are paid, are they not, both for the acres that are not cultivated and for storing a portion of their current crop?

A. That is correct. They're paid for storage at the rate of 25 cents a year per bushel. That doesn't quite cover the cost of storage. As for the land which is taken out of production and put into conserving use, the first 10 percent of this crop land is not paid for; farmers can add another ten percent if they want to, for which they receive a very modest payment. But in every case it's the least productive land. The result is a reduction of about three to four percent in grain production below what it would be otherwise.

Q. But both measures—the storage program and the acreage restriction—obviously must have some upward pressure on the prices received by farmers.

A. They do indeed. They probably have resulted in keeping the prices from falling.

Q. Which is the same as saying that they have raised them above what they would be otherwise.

A. That's correct. And it's our objective to support farm prices at a level which is about equal to the cost of production for the most efficient producers.

Q. We have considered two or three types of government programs that some people would say tend to raise farm prices; others would say they tend to maintain them at minimum fair levels. But what about tariffs or import fees on imported sugar? Don't such measures obviously contribute to price inflation?

A. They do. No doubt about that. Although sugar is a barely noticeable part of the CPI, it's there nonetheless. There's a very unusual situation prevailing in the world sugar market today—the largest sugar surplus the world has ever had, and one of the lowest price levels in modern times. It's a mess, and American industry simply is not able to compete in the sugar world today. Sugar is distressed property and there are governments in this world that are offering to sell sugar at prices well below their own cost of production. This is a boom and bust business. Only three years ago sugar prices were 60 cents a pound because of a worldwide shortage. More recently they were eight cents a pound. But sugar prices can't stay at eight cents a pound because this would bankrupt half the world's producers and then when they were out of business prices would go back to 60 cents. What we're trying to do is develop a strategy where the price stays at a level which is not below bankruptcy but yet not so high as to stimulate an expansion. So we have a tax on imports. We're trying to establish a sugar price support policy that will enable our own industry to stay alive. We import half the sugar we consume. We will probably never be self-sufficient. The question is this: is it in the public interest to have half our sugar produced on our own shores or should we dismantle our industry and depend entirely on this very fickle and unstable sugar market?

Q. The President has called on labor to moderate its wage demands and on business to hold down increases in prices and in executive salaries. But these appeals do not seem to be coordinated with similar efforts to restrain increases in farm and food prices. You indicated that the impact of government policies on price increases in these areas is fairly small. But it does seem strange to the bulk of us non-farmers that this one sector of the economy somehow does not seem to have been drawn into what should be a comprehensive effort to hold down prices. Is that a fair way of putting it?

A. Yes, it's fair. But farm people, you know, are generally dissatisfied with our minimum price policies on the grounds that they're far too low.

Q. I suppose unions would say the same thing about wages.

A. That's right. Unions say the same thing, businessmen complain, farmers complain. I was literally driven out of my office last spring, physically driven from this room by a group of very, very irate farmers who were protesting what they felt were unrealistically low farm prices. So we hear the same complaint from farmers. But I think the President has adopted an even-handed policy in this regard.

Q. That may very well be. But it does seem that the appeal for price moderation is directed to some sectors of the community more than it is to others. Since you've just specified several cases in which the result of government farm policies may be to increase prices slightly, can't the question be legitimately raised whether all sectors of government and of the national community are being called on with similar emphasis to restrain prices?

A. The question can be raised. But I would repeat. the President has worked with an even hand on this problem and farmers are not exactly falling all over themselves to commend the administration on its pricing policy. They think the President has been too lenient with labor.

Q. What sectors of the farm community benefit most from the various kinds of farm price support and acreage restriction policies? Do the benefits go chiefly to the well-to-do farmers or to lower-income groups?

A. There are 2.8 million farms in the United States. Eight hundred thousand of these are what we call family commercial enterprises. This is really the genius of American agriculture. They're big enough to achieve economies of scale and sophisticated enough to utilize modern technology, but small enough to be highly motivated. This is the American family farm. They are chiefly in the Midwest and typically have some 600 acres of diversified land and a gross income between $20,000 and $100,000 a year. The farmers here are very resourceful and financially very strong. As a group they are the ones who benefit most by these price and income policies.

There are about one hundred thousand large, so-called corporate-type farms in the United States. For the most part, however, they are engaged in the production of perishable commodities like fruits and vegetables in California, where there is no federal price support policy. Or they may be engaged in the production of chickens, broilers, turkeys, and eggs. Again, there is no federal price support.

Then we have 1.5 or 1.6 million small farms in the country that gross less than $10,000 a year from farm sales. Many people on these small farms live surprisingly well. The 1.5 or 1.6 million so-called small farms that derive only about $2,000 of farm sales on the average also receive about $13,000 of nonfarm income per year, so that farming may be an incidental part of their total economic activity. But since they don't sell much they don't benefit much from the direct price support government programs.

Q. Whatever happened to the stereotyped picture of the poor farmers of the past? Are there any more? Into which of these categories do they fall, if any?

A. They can fall in any one of them. The big demonstrations of last winter were led generally by young men who had large farming enterprises—family commercial enterprises—and big mortgages and debts. They were poor. They had just gotten in over their heads and had a bad crop. Now there are also thousands of poverty stricken black sharecroppers and tenants and landowners in the South. There are also many poor farms in Appalachia, some of whose residents have nonfarm jobs and some who do not. They are part of that group of 1.5 to 1.6 million small farms I referred to earlier. That's a special kind of rural poverty we're dealing with, but not from a farm income standpoint. They'll never be viable commercial family farms because of the limitations of their soil characteristics.

Q. There was a time when many economists, or at least many economic textbooks, held that there were too many resources in American agriculture. That was a common explanation in the economic literature for the frequent problems of grain surpluses and the need for price subsidies. Now with only 3 to 4 percent of the work force in agriculture we still seem to be confronted with some of the same old problems. Does this mean that there are still too many resources in agriculture?

A. No. We have seen a profound and enormous change take place in the matter of food exports. They have really taken off in the last ten years. This year one-third of our grain production—more than one-half in the case of wheat—will be sold oversease. These sales will generate $25 to $26 billion in foreign exchange and will play a very important part in holding down our trade deficit. We're promoting the development of markets overseas for U.S. grains. When you consider our balance of payments problems there is no excess capacity in U.S. agriculture.

Q. Robert Strauss, the President's chief negotiator at recent meetings on liberalization of world trade, has warned that a satisfactory agreement on agriculture with our trading partners may not be forthcoming. What is the problem here? Foreign tariff barriers? Foreign countries' subsidies for their own agricultural output?

A. Both. The Japanese, for example, are our best single cash customer for farm produce at about $4 billion. But there's an enormous market demand in Japan that the Japanese don't want to let us satisfy. They have a high food price policy. They have maintained that they can generate enough food in their own islands to meet their own needs. Well, they cannot. But for their own internal political reasons they have maintained a high tax on some imported foods and Mr. Strauss has been bargaining with the Japanese to reduce the barriers to allow for the importation of more U.S. food. The European Community as a group buys about $6 billion of American farm produce. But they have a very difficult system for us to deal with. They take the proceeds of a variable levy on imports and use them to finance and subsidize exports. The United States has virtually lost the export of wheat flour to France because the French use that method. We're making some progress with them but it's a slow, tough row to hoe.

Q. It seems that the U.S is interested in freer trade where we have surpluses to sell, as in the case of agriculture. But it's also interested in restricting imports, as in the case of steel, where our domestic industry may be threatened by foreign competition, particularly by Japanese imports. I suppose that's perfectly natural, but it's hardly consistent and it may leave the impression that free trade is not a matter of principle. You use it when it benefits you economically and you argue against it when it hurts you economically.

A. I think free trade is a laudable goal and objective but it has to be taken in the context of the world as it really is. The world's market is not exactly free, unfortunately, and so we have to be realistic. We have import limits on certain food items, on dairy products, for example. The U.S. dairy industry could easily be destroyed by the subsidized exports which could come from the European Community. These exports could

not be sustained over many years, but for a few years they could flood the U.S. market with very low cost dairy products and at prices below those which any grower in this country could manage. So that we have to look at this from a broader public interest perspective.

Q. Couldn't the Japanese argue in the same way in response to our request that they lower tariff barriers on our shipments to them?

A. Yes. They can argue the same way and indeed they have. The difference is that we have maintained that our exports to Japan are commercial transactions at a value which is real in today's market. The Europeans will subsidize their shipment of butter and nonfat dried milk to the United States. That's an artificial market. That is not a real value in a supply and demand situation. But we argue that we can supply Japanese food at a price which is more reasonable than what they'd have to pay if they grew food themselves, and we're willing to do it on a dependable basis.

Q. What about Soviet Russia? Agriculture seems to be an area where the interests and needs of our two countries complement rather than compete with each other. That is, we produce substantially more than we can consume; we sometimes restrict output, and we're always looking for markets for what we produce. The Russians, on the other hand, have an interest in finding new sources of supply and in increasing their domestic production. Is that correct?

A. Yes.

Q. How important is the Soviet market for American grain farmers? Would its disappearance create serious problems for U.S. agriculture?

A. It's about the same as the Japanese market and something less than the European. So it's an important part of our market but not what I would regard as absolutely essential. However that situation is changing.

Q. Can you spell that out a bit?

A. I was in the Soviet Union recently. They're the world's largest wheat producer, the largest cotton producer. They are a productive country, but there are some things they do not have. They don't have livestock feed. They have continuing shortages of meat, milk, dairy products, chickens, eggs, and the like. They're increasing the output of these products to satisfy their growing consumer demand. I saw buildings for housing livestock enterprises everywhere in the Soviet Union. They're expanding these and they're well managed, very sophisticated, productive and efficient. I was impressed, frankly. Their situation was better than I had expected. But they do not have protein to feed those animals. They don't have corn. They can't grow it because of weather. And they can't grow enough soybeans to maintain the protein supplies required to maintain a good healthy output of animal products. My guess is that the Soviets are going to develop a dependency on somebody for protein that will grow and will become even more important with the passage of time. We see them in the market on a continuing and expanding basis over the next decade or more and it's my hope that the United States can be in that market. My guess is that market demand in the Soviet Union and Eastern Europe will increase more than in any other region in the world.

Q. We have heard much about the inefficiency of the Soviet form of agricultural organization. Does that inefficiency seem to be inherent in the whole system of collectivized agriculture?

A. There are inherent weaknesses in the centralized planning system. The plans are made in Moscow. There is an enormous, stifling bureaucracy, with nine separate ministries dealing with agriculture alone. But we would make a big mistake if we assumed that the system which prevailed ten years ago is still in place. It's going to change even more in the next ten years. They're in the process of decentralizing and giving the collective and state farms more decision-making authority. Much of Eastern Europe has decentralized. My guess is that with modernization the Soviets will reduce their manpower requirements in agriculture over the next twenty years to something closer to the U.S. level.

Q. To the extent that the Soviets succeed in really modernizing and increasing the efficiency of all aspects of their agriculture as you indicated they're doing, aren't they likely to reduce the demand for our exports?

A. My guess is that they will increase their demand because the emphasis is being placed in the area of livestock. Their needs will be feed, and they can't grow it.

Q. Do we have a mechanism in place to avoid the disruptive impact on our food prices of sudden large purchases by a country like the Soviet Union, such as happened in 1972–1973?

A. We do.

Q. Could you describe it briefly?

A. We have a bilateral understanding with the Soviets that they'll buy not less than six million tons per year until 1981, and if they want to buy more than eight they have to talk to us about it beforehand. We will not allow them to move in this market in the dark of night as they did before.

Q. And that's designed to even out the fluctuations in their imports from us?

A. That's right. And then as a more permanent solution to this problem, we are promoting international commodity agreements. We have one in sugar that's now pending in the U.S. Senate. Our negotiators are trying to get one on wheat. So that the managing of reserve stocks would be under a multilateral umbrella rather than a bilateral one such as we now have with the Soviet Union.

Q. One last question. Isn't there an inherent conflict of interest between farmers and the bulk of consumers? Isn't there a kind of necessary adversary relationship that always exists between these two broad sectors of the population?

A. Just as there is between any buyer and seller. But it doesn't need to be an adversary relationship. One thing I've tried to do is take into account consumer needs. I'm responsible for the appointment of Carol Foreman to be Assistant Secretary for Food, Nutrition and Consumer Affairs. She came out of the Consumer Federation of America. Some of my farm friends out here thought I had taken leave of my senses. My creed is that the consumer is the farmer's only customer and that we need to build better understanding between producers and consumers, so the consumers have some notion as to what the farmers' risks and problems are, their heartaches, and the suffering that goes with hard times and poor crops. And the farmer has to understand that the consumer doesn't have all the money in the world. We have 30 million consumers in this country who have a terrible time feeding their families. They're not rich. They're working people on a very limited income. I will not poke sticks at consumers or consumer organizations and ridicule them and defy them. I go to their meetings and listen to them.

Q. Do you think you can persuade consumers that when their food prices are going up sharply it's not the farmer that's cleaning up, that there's not something unfair about this?

A. Well, here's something to consider. Last year the labor costs in food processing and manufacturing were greater than the farmer's share of the consumer dollar. It costs more to process and distribute food than the farmer gets from farm sales. This is because of the skyrocketing trend toward having food ready for the oven. The consumer pays for the processing, freezing, and other preparation that goes on at the factory. There aren't many homemakers who bake bread anymore, or bake cake from scratch. They could save money if they did.●

THE AEGIS SYSTEM FOR THE NAVY

● Mr. CASE. Mr. President, one of the concerns facing the Navy for years has been the protection of aircraft carriers and other ships against enemy ships.

The Aegis system of sophisticated computers, radar, fire control mechanisms and missiles is intended to do this.

The Navy recently awarded to Litton Industries a contract for building the first of the Aegis destroyers at the Pascagoula, Miss., shipyard. Work on the Aegis components themselves already has been underway at the RCA facilities in Moorestown, N.J.

I ask that a recent article on the system be printed in the RECORD.

The article follows:

AEGIS

(By Cyril O'Brien)

Pioneer teams of officers and enlisted men are already working hand in hand with scientists, engineers and advanced fleet defense planners in testing, operating and preparing the *Aegis* system for deployment in the fleet. *Aegis* is an area AAW defense system geared to protect the fleet for the coming decades against threats not yet designed.

On the Pacific Missile Test Center range, the system has been undergoing live firing tests aboard the research and experimental ship USS *Norton Sound*. Already the *Aegis* ship has grasped supersonic missiles from their threatening paths overhead, accounted for hundreds of air attackers in a five-nation naval exercises and destroyed or intercepted simultaneous targets flown from the Pacific Missile Test Center.

A meld of electronics, computers, uncanny radar, missiles, launchers representing the imagination and dedication of thousands of people, *Aegis* is a product worthy of the concentrated efforts of the Navy team which combines American industry, military, government and its science advisors.

The *Aegis* radar, AN/SPY-1, provides the equivalent of hundreds of singular radar sensors which scan the sky from ocean wave to stratosphere. Unlike the conventional radar the sailor first knew in WW II with its whirling wire mesh, the electronically-steered array antenna of the AN/SPY-1 stand like four great shields amidship. Nothing seems to move, yet the AN/SPY-1 can detect, identify and simultaneously track hundreds of targets at one time and provide the means of simultaneous guidance of many weapons against those targets deemed hostile by the computers.

Actually, it is the rapid and automatic response of the radar, computers and weapons in one system that give *Aegis* the promise of the instant and decisive protection the Navy needs to survive.

One deck above the bridge of *Norton Sound*, within its electronics-loaded combat center, the *Aegis* firing team picks up and monitors the action commenced when the radar detects the target. A coded radio signal interrogator confirms that the incoming is friendly, hostile or unknown. The Navy operators intently monitor the multiple display screens and only their deliberate monotone repetition of the firing commands—"Engage track number 2—Target at Mach 1.2"—clue an observer that a target confrontation is anywhere near.

While a radar controller monitors the AN/SPY-1, a tactical action officer (TAO) directs the total operation while the missile system supervisor manages the final actions in the firing sequence.

The TAO isolates the incoming threat for

observation by pushing a button on his console to mark the blip on his screen with a luminous circle. That act brings to his view all of the information from the computer which the radar has obtained about the target: range, speed, direction, identification and target priority.

When the TAO is certain the target is hostile, he marks it for engagement. He determines the weapon and authorizes further action to the missile supervisor. When all parameters are go, the missile supervisor squeezes the firing key. This launches the missile to its target.

Even with launch of these modern missiles, the AN/SPY–1 radar system still has much to do. The radar guides the missile (made by General Dynamics, Pomona) to the vicinity of the target. In the last few seconds before intercept, AN/SPY–1 then activates an illuminator which transmits the homing signal to the target for the final seconds of the missile's flight.

Should the attackers be more numerous, the *Aegis* system will automatically schedule targets and control multiple missiles against multiple targets. All of these operations on the test range are observed and checked out by the ship's commanding officer and combat system officer to ensure the safety and readiness of all involved.

The whole sequence from detection to destruction takes minutes in test runs. In a combat situation the sequence could well be in seconds. Tomorrow's threat may give no more time than that.

"We know we cannot expect to be the first to fire in a sea confrontation," said Rear Admiral Wayne E. Meyer, *Aegis* shipbuilding project manager, NavSea. "So we have only time from launch of enemy's missile to somewhere before it could impact to detect, identify and destroy it."

In all engagements, men and men's decisions are very much part of the operation. However, *Aegis* is prepared to react in seconds, bvpassing most human decisions—because they have been made beforehand.

"The system will react automatically from target detection to engagement, right up to pulling the trigger—once the threat has met certain definitions and is a critical threat zone," said L.Cdr. Gilbert F. Monell, the combat system officer on several recent tests on *Norton Sound*. (RCA Corporation, Government Systems Division, Missile and Surface Radar, is the *Aegis* ship combat system developer.) "We don't even have to reserve the missile firing for a human hand. It can all be done automatically if we choose—faster than a person could think about it."

Perhaps the most significant test to date of the *Aegis* system came last spring when *Norton Sound* out of Port Hueneme encountered two simultaneous targets in a critical landmark test. Lt. Glen Rice, TAO, and Chief Jacob Barber, missile systems supervisor, were at their stations when the test operations conductor at PMTC released two BQM–34A radio-controlled drones. The ship's AN/SPY–1 radar picked up the two 12-foot-wing-span targets as they entered the radar coverage area. Upon engagement, one drone was destroyed by a direct hit and the other was well within the lethal impact zone.

This simultaneous multiple target engagement and subsequent intercepts ensured a capability which was a prime requirement of the far-sighted advanced missile system Navy planning group. The panel (headed by retired Rear Admiral Frederic S. Withington) was charged with looking at the Navy's threat of the 1980s and beyond. The group first met at The Johns Hopkins University Applied Physics Laboratory and included several members of the Lab's staff. APL had developed the first guided missiles for the Navy, and its *Terrier* and *Tartar* were the forerunners of the *Standard* missile. The APL-developed AMFAR radar provided the technology upon which AN/SPY–1 was based. George W. Luke is the *Aegis* program manager at APL.

RAdm. Meyer said the firepower demonstration from *Norton Sound* ". . . was nothing short of phenomenal. Never have two missiles been flown before in the configuration and under the simultaneous electronic control used in this operation. The successful preparation and conduct of these tests are direct results of the magnificent dedication of thousands of men and women across the country in military, government and industry."

LCdr. H. Wyman Howard, project officer SM–2/*Norton Sound* operations, said, "It means we can talk to two missiles at a time and guide them to impact on targets anywhere above the horizon. It also reaffirms that we have in a ship's magazine unmanned interceptors ready to deploy instantly, 24 hours a day."

Aegis is being developed primarily with the Navy officers and men in mind, one member of the industry team explained. "They participated in the development of a system which will continue to operate in the defense of the fleet and the nation when the rest of us, scientists and engineers, have gone on to something else."

With the current development test phase completed on *Norton Sound*, the emphasis on *Aegis* shifts to a combat systems engineering development (CSED) site in Moorestown, N.J. This site now houses the complete *Aegis* combat system (until the final and operational model is placed on an *Aegis* ship). Within this dry land test site, the system is being engineered for immediate and automatic response to counter even threats from under the sea.

When *Aegis* first goes to sea operationally, it will be on the new DDG–47 class destroyer. Later it will go on cruisers. A contract for construction of the lead destroyer is expected to be awarded this summer, with the first *Aegis* ship completed in 1982.●

ON THE NEED FOR A DEPARTMENT OF EDUCATION

Mr. BIDEN. Mr. President, the other day the Senate passed S. 991, a bill to create a Department of Education. I voted in favor of this bill.

I have had my doubts about the need for a Department of Education.

I do not believe that creating a new department in and of itself will make a substantial difference in improving the quality of education in our schools.

It will not make our children read better, it will not curb grade inflation in our universities and colleges and it will not insure that parents are actively involved in our schools.

While the committee has listed a number of advantages which the Department of Education is supposed to provide, for example, higher visibility, greater access to Congress and the President, many of these advantages are problematic.

What we may be doing is simply creating another Federal bureaucracy which seeks greater involvement in the affairs of local schools.

I believe that giving education greater focus and higher visibility is a desirable goal.

There are many problems in education today and unfortunately too little attention has been paid to these problems.

The Federal Government can play a valuable role in pointing out the problems but not at the expense of experimenting and intervening in such local educational matters as curriculum and school assignment.

This raises a second point of concern.

For many of the proponents of the Department of Education, the department is just a first step toward establishing a "national educational policy.'

I believe that it is necessary to reexamine educational policies periodically.

However, I do not agree with the argument that to have a national educational policy it must be financed and promulgated in Washington, D.C.

Historically, our education system has been founded on the premise of neighborhood schools and community control.

The lack of parental and community involvement plus changes in student attitudes toward learning have been the primary factor contributing to the decline of educational standards in our schools.

The Federal Government has played a constructive role in solving some educational problems such as underachievement by disadvantaged children by providing compensatory aid.

But other Federal initiatives such as busing have caused massive disruption and very little positive educational benefit.

There is a natural tendency within bureaucracies once they have identified a problem, to label existing efforts as inadequate and fragmented.

The "solution" then is to establish a comprehensive national policy to deal with the problem.

The national policy almost inevitably calls for more Federal spending and a greater Federal Government role in local affairs.

In the case of education I have doubts as to whether a greater Federal role is desirable.

Our greatest need is for a fundamental rededication of parents, teachers, students, administrators, and the Federal Government to the concept that our schools are the primary place for learning basic educational and occupational skills.

That, I believe, is the key to revitalizing American education.

Devoting additional resources to education may help.

Consolidating educational programs under a single existing authority may improve the management of these programs.

But until this rededication to basic education occurs, I doubt whether we will see improvement in the ability of our children to read, and write.

The Department of Education can play a large role in promoting revitalization of American education.

By creating a separate, Cabinet level Department of Education the problems of American education will be brought into greater focus and will have a higher visibility, both here in Congress and in the executive branch.

Perhaps the greatest single benefit of this bill will be to make the delivery of health, education, and social services more manageable within the Federal Government.

The Department of Health, Education,

and Welfare, no matter how capably administered, cannot give adequate consideration to health, education, and human services.

It is just too big a job.

I do not share the view that there will be a significant loss of coordination between health and social services programs and eduction programs.

This coordination has never been adequately achieved in the past and I am not sure that it will ever be achieved within the context of the present framework of HEW.

By creating a separate, Cabinet level Department of Education it may also be possible to attract the leadership and personnel necessary to enable the Federal Government to perform its role in the area of education.

Holding onto the services of first-rate educators has been extremely difficult in the past.

During the past 12 years we have had 13 Commissioners of Education.

This is not the type of educational leadership we need.

In conclusion, Mr. President, I believe that it is desirable to create a Department of Education.

S. 991 provides an efficient and simple framework for creating such a department.

But I do have misgivings about establishing an entity which could unnecessarily increase the role of the bureaucracy in education.

If we are to make significant progress in improving the quality of education in the United States it must be because we get involved at the grass roots level and commit ourselves to improving our schools.

Increased Federal involvement in education will not do it alone.

What we can do is to create a supportive environment in the Federal Government for these renewed efforts at the State and local levels.

The Department of Education could provide this supportive environment.

THE NEUTRON BOMB

● Mr. LEAHY. Mr. President, I rise to express my serious concern for the continuation of the development of the enhanced radiation weapon, the so-called neutron bomb. My vote for the authorization of appropriations for the Department of Energy national security programs is qualified by my opposition to the committee recommendation for procurement of enhanced radiation weapons components. There are, as I am sure you know, several important programs included in this legislation that are related to our national security. It is for these reasons that I support the bill, and I do not want my vote to be construed as support for this particular committee recommendation.

I believe that President Carter's decision to suspend development of the neutron bomb was in the best interest of our Nation and the world. The development of this weapon would lower the nuclear threshold and serve to escalate the arms race that we are seeking to curb. I am convinced that the solution to the problems of the North Atlantic Treaty Organization (NATO) lies in the strengthening and improvement of our conventional forces and not in the development of additional nuclear devices. If the neutron bomb were deployed, our posture of nuclear deterrence would be shifted perilously close to the actual use of nuclear weapons.

Mr. President, it is my hope that President Carter will remain firm in his opposition to these types of weapons and that he will continue to exercise his option to defer their development. The President has my support on this issue, and I intend to do whatever I can to support his deferral.●

THE GLENN AMENDMENT ON TAX EXPENDITURES

● Mr. HART. Mr. President, Federal spending of tax dollars has come under increased scrutiny by both the Congress and the American public. The loss of revenue through tax expenditures, however, receives far less rigorous examination than direct Federal spending even though tax spending is simply another form of using tax dollars to achieve national goals. A tax expenditure, provided through the Internal Revenue Code can take the form of a special exclusion, exemption, or deduction from gross income or a special credit, a preferential rate of tax, or a deferral of tax liability. It usually serves as an incentive for certain kinds of private activities or to aid taxpayers in certain circumstances.

The tax expenditures included in our Federal income tax laws depart from the fundamental purpose of raising revenue and are virtually exempt from any type of systematic congressional review. Once enacted, these special tax provisions are not subject to automatic termination, but remain as permanent features of the Federal income tax structure without regard to the special circumstances that may have led to their enactment. Such expenditures are the functional equivalent of direct spending programs in that the money lost through tax expenditures is not available for other Federal programs. Furthermore, spending programs operated through the tax system are not subject to the checks and balances inherent in the two-step authorization and appropriations process, that apply to direct spending programs.

A recent study conducted by Common Cause reveals that nearly 90 percent of the items in the tax expenditure budget are permanent and do not have to be reauthorized periodically. Common Cause found that meaningful oversight occurs rarely and only at the whim of the congressional tax committees. The findings of the study support the theory on which many special interest groups have acted for some time: Getting a tax benefit is better than getting a grant or loan from the Government, because once a tax benefit is enacted, there is a minimal chance of oversight and an even smaller chance that the benefit will be taken away.

Congress must begin to establish controls over tax spending and justify the ways in which the taxpayers hard-earned dollars are being spent. It is time to subject tax spending to the same rigorous scrutiny that direct spending now receives. The amount of revenue involved is simply too great for Congress to tolerate the inadequate review procedures that have governed such spending in the past.

I am pleased to be a cosponsor of Senator GLENN's amendment which will extend the sunset review procedure, which the reported bill would apply to most Government authorizations, to cover most Federal tax incentive provisions as well. This amendment will not terminate the operation of any tax incentive provision. It would simply endorse a concept leaving the enactment of detailed provisions for the next Congress. Specifically, it would require the tax-writing committees to report and the Congress to enact by the end of 1980 a sunset review and reauthorization schedule for tax incentive provisions similar to the schedule for authorized programs contained in the reported bill.

I have long supported efforts to prescribe termination dates and sunset reviews for tax expenditures. In both 1976 and 1977, I introduced a bill to provide a pilot program for review of certain existing tax expenditures and to provide for systematic review of new tax expenditures and existing tax expenditures which are continued. Under my bill, six specific tax expenditure provisions would undergo comprehensive review in both Houses of Congress at least every 4 years. An important aspect of the entire review process was that the burden of proof in determining the value of a tax expenditure to society would rest with those who benefit from it.

I believe Senator GLENN's amendment offers a beginning for a sensible process by which to evaluate specific provisions of our tax system. The amendment is not a substitute for the long-awaited tax reform which the American people have been promised year after year. It does offer a tool to reduce unjustified expenditures of tax revenue and to eliminate inequities of the Federal income tax structure. I look forward to working more closely with the Senator from Ohio in an effort to insure that tax expenditures receive the congressional scrutiny they deserve.●

APPOINTMENTS BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to Public Law 84–689, appoints the following Senators to attend the North Atlantic Assembly, to be held in Lisbon, Portugal, November 26–30, 1978: the Senator from North Carolina (Mr. MORGAN) and the Senator from Alaska (Mr. STEVENS).

HOUSE CONCURRENT RESOLUTION 725—REQUESTING THE PRESIDENT TO RETURN ENROLLED BILL (H.R. 8149)

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 725.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 725 requesting the President to return the enrolled bill (H.R. 8149) to provide customs procedural reform, and for other purposes, and providing for its reenrollment with a technical correction.

The PRESIDING OFFICER. Without objection, the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CALENDAR CALL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following Calendar Orders Nos. 1163 through 1170 beginning on 1168 on page 24; and 1170 beginning on page 24 through 1179, ending on page 25.

Mr. STEVENS. Reserving the right to object, and I do not object, I ask that I be added as a sponsor of Senate Joint Resolution 166, Calendar No. 1168.

The PRESIDING OFFICER. Without objection, it is so ordered; and there being no objection, it is so ordered.

TARIFF ON CERTAIN BALL AND ROLLER BEARINGS

The Senate proceeded to consider the bill (H.R. 8755) to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, after "That" insert "(a)";

On page 2, beginning with line 1, insert the following:

(1) by striking out "pulleys, pillow blocks, and shaft couplings;" in the superior heading to items 680.45 through 680.54 and inserting in lieu thereof "pulleys and shaft couplings; pillow blocks; flange, take-up, cartridge, and hanger units;";

On page 2, line 6, strike "(1)" and insert "(2)";

On page 2, line 8, strike "(2)" and insert "(3)";

On page 2, line 10, strike "SEC. 2." and insert "(b)";

On page 2, line 10, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 14, insert the following:

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"912.06. Yankee Dryer Cylinders (provided for in item 668.06, part 4D, schedule 6). Free. No change. On or before 12/31/81".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 3. (a) Subpart A of part 6 of Schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 740.10 the following new item:

"740.20. Necklaces, valued not over 30 cents per dozen, composed wholly of plastic shapes mounted on fiber string. Free. Free".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An act to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1241), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

The first section of H.R. 8755 would amend the Tariff Schedules of the United States (TSUS) to provide specific TSUS item numbers for certain ball and roller bearing units that are currently classifiable under TSUS item numbers covering a larger class of articles. No changes to the current applicable rates of duty would be made.

Section 2 of the bill, as amended, would permit temporarily (from date of enactment through December 31, 1981) duty-free entry of most-favored-nation (MFN) imports of Yankee dryer cylinders, a cast iron or aluminum-bronze components of a papermaking machine used to dry and finish paper. Such cylinders are now dutiable at 3.5 percent ad valorem.

Section 3 of H.R. 8755, as amended, would provide permanent (from date of enactment) duty-free treatment for MFN imports of plastic souvenir-type jewelry necklaces which are valued not over 30 cents per dozen. These necklaces, which are usually distributed free to spectators at parades, carnivals, and similar events, are now dutiable at 18 percent ad valorem if valued under 20 cents per dozen or 27.5 percent ad valorem if valued over 20 cents per dozen.

II. REASONS FOR THE BILL

Enactment of the first section of H.R. 8755 to provide separate classifications for certain mounted ball and roller bearing units and parts thereof that are currently classifiable elsewhere in the TSUS would enable more specific statistical reporting of imports of those products. The domestic industry believes that imports of the mounted bearings are increasing rapidly, but there is no import data available for some types of the mounted bearings.

Enactment of section 2 of H.R. 8755 would eliminate an unnecessary cost on a product, Yankee dryer cylinders, not produced in the United States.

Section 3 of the bill is intended to adjust an inequity in the tariff schedules, which currently assess an 18 to 27.5 percent ad valorem duty on souvenir-type jewelry when that duty is primarily intended to protect domestic producers of jewelry for personal adornment of a different character. Section 3 would apply in effect to jewelry given away to spectators at parades such as those associated with the Mardi Gras festival in New Orleans.

III. GENERAL EXPLANATION

A. BALL AND ROLLER BEARING UNITS

The first section of H.R. 8755 would permanently provide specific TSUS item numbers for certain ball and roller bearing units currently classified in the TSUS under item numbers which cover a large class of articles including the bearing units. Providing specific TSUS items for the bearing units will permit specific statistical information on imports of these articles to be collected.

Ball and roller bearings are manufactured in a multiplicity of sizes, shapes, and types. A recent development in the bearing industry has been the adding of an accessory to bearings in the form of a housing. The housing allows the manufacturers of the many machinery and equipment products using bearings to mount bearings in required locations by simply bolting the housing in place. The first section of H.R. 8755 covers the principal categories of mounted bearings: pillow block, flange, takeup, cartridge, and hanger units.

Pillow block, flange, takeup, cartridge, and hanger units incorporating ball and roller bearings are now classified under TSUS items 680.50 and 680.90. The rate of duty applicable to the articles is 9.5 percent ad valorem for column 1 (nondiscriminatory or "most-favored-nation") imports and 45 percent ad valorem for column 2 (mon-MFN) imports. If produced in a beneficiary developing country, MFN imports under item 680.90 are eligible for duty-free treatment under the Generalized System of Preferences.

The first section of H.R. 8755 redesignates TSUS items 680.52 and 680.54 as 680.55 and 680.56, respectively; and replaces item 680.50 with new items 680.50, 680.51, 680.52, 860.53, and 680.54. Rates of duty applicable to imports of the bearing units remain the same.

Seven U.S. firms have accounted for about 80 percent of domestic production in recent years of the items covered by the bill. Total domestic consumption of the bearing units is estimated at about $200 million, of which about $10 million is supplied by imports.

The Subcommittee on International Trade held a hearing on H.R. 8755 on July 31, 1978. No objections to the bill have been received from any source.

B. YANKEE DRYER CYLINDERS

Section 2 of H.R. 8755, as amended, which contains the substance of H.R. 7108, would permit temporary duty-free entry of imports of Yankee dryer cylinders. A Yankee dryer cylinder is a cast iron or aluminum-bronze component of a papermaking machine used to dry and finish, by creping or glazing, various grades of paper. For example, most sanitary tissues and paper towels have a crepe finish imposed by a Yankee dryer cylinder. In addition, these cylinders can be adapted to furnish a glaze to other grades of paper such as Kraft wrapping paper.

MFN imports of Yankee dryer cylinders are now dutiable under column 1 of TSUS item 668.06 at 3.5 percent ad valorem, unless imported from a beneficiary developing country eligible for duty-free treatment under the Generalized System of Preferences. Section 2 of H.R. 8755 adds item 912.06 to the Appendix to the TSUS providing temporary duty-free treatment for column 1 (MFN) imports of these cylinders.

There is no U.S. production of Yankee dryer cylinders and none is foreseeable in the near term. The committee understands that no acceptable substitutes are available domestically. The last U.S. firm to manufacture Yankee dryer cylinders ceased produc-

tion at midyear 1975, primarily because of large capital investment expenditures required to meet Environmental Protection Agency regulations.

Twelve cylinders were imported in 1977 totaling $5,875,000 in value. In recent years, imports have come from the following countries (in decreasing order by value): West Germany, the United Kingdom, Sweden, and Finland.

The Subcommittee on International Trade held a hearing on H.R. 7108, the substance of which is contained in section 2 of H.R. 8755, on July 31, 1978. No objections to the bill have been received from any source. The administration does not oppose enactment of the bill, and the Department of Commerce favors enactment.

C. PLASTIC SOUVENIR NECKLACES

Section 3 of H.R. 8755, as amended, would provide permanent duty-free treatment for imports of necklaces made of plastic shapes mounted on fiber string which are valued at not over 30 cents per dozen. These necklaces are the type which are distributed free to spectator s at parades, carnivals, and similar events.

Section 3 of the bill contains the substance of S. 2847, as amended by the committee. As introduced, S. 2847 would have provided duty-free treatment for imports of jewelry and other articles of personal adornment to be distributed free to spectators at parades, carnivals, and similar events. Such a provision would be burdensome for the Customs Service to administer because of the difficulty in ascertaining the end use of the imports. The committee changed the provision by adding a new item 740.20 to the TSUS providing duty-free treatment for imports of necklaces composed wholly of plastic shapes mounted on fiber string which are valued not over 30 cents per dozen.

Imports of articles of the kind covered by section 3 are dutiable under TSUS items 740.30 and 740.38 at column 1 (MFN) rates of 18 percent ad valorem and 27.5 percent ad valorem, respectively. The non-MFN rates on those articles are 45 percent ad valorem and 110 percent ad valorem, respectively. Imports of such articles under item 740.38 from designated beneficiary developing countries other than Hong Kong are eligible for duty-free treatment under the Generalized System of Preferences (GSP).

The article covered by the bill is the Mardi Gras bead necklace which is composed of plastic and string. During Mardi Gras parades, krewe (service organizations) members riding on floats throw the bead necklaces and other trinkets to spectators. Based on available data, U.S. consumption of Mardi Gras necklaces in 1977 is estimated to have ranged from $4 million to $5 million at retail, all of which was supplied from imports. The great bulk of imports are from Hong Kong and are currently ineligible for duty-free treatment under the GSP program because imports of such items from Hong Kong constitute more than 50 percent of the appraised value of the total imports of such articles into the United States.

Section 3 of the bill adjusts an inequity in the tariff schedules which currently assess on souvenir-type jewelry a 27.5 percent ad valorem rate of duty that is primarily intended to protect personal adornment of a different character.

The Subcommittee on International Trade held a public hearing on S. 2847, the amended substance of which is contained in section 3 of H.R. 8755, on July 31, 1978. In written submissions to the committee, the Departments of Treasury, State, and Commerce as well as the Office of Management and Budget of the Executive Office of the President opposed enactment of the bill. The general reason for opposition is that the administration prefers that reductions of tariffs be accomplished through international trade negotiations in which the President has the opportunity to obtain reciprocal benefits for U.S. exports. Moreover, the administration points out that since 1975 the items included in the bill have been entered duty-free when shipped from countries designated as eligible for benefits under the Generalized System of Preferences. The committee finds neither reason pursuasive. The value of imports are relatively small and are purchased ultimately by charitable organizations trying to keep costs down. Further, the principal supplier is not eligible for GSP treatment.

IV. COST OF CARRYING OUT THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the committee estimates that there will be no customs revenue loss resulting from the enactment of the first section of H.R. 8755. The annual customs revenue loss resulting from the enactment of section 2 will be approximately $200,000. The committee estimates the revenue effect of section 3 of the bill to be an annual customs revenue loss of approximately $475,000.

TARIFF ON CERTAIN FORMS OF ZINC

The Senate proceeded to consider the bill (H.R. 9911) to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc, which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 1, after "That" insert "(a)";

On page 2, line 5, strike "SEC. 2." and insert "(b)";

On page 2, line 5, strike "the first section of this Act" and insert "subsection (a)";

On page 2, line 7, after "consumption" insert "on or";

On page 2, line 8, strike "June 30, 1978" and insert "the date of enactment of this Act";

On page 2, beginning with line 9, insert the following:

(c) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of enactment of this Act, the entry of any article—

(1) which was made after June 30, 1978, and before the date of enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) of this section applied to such entry

shall, notwithstanding section 514 of the Tariff Act of 1930 or any other provisions of law, be liquidated or reliquidated as though such entry had been made on the date of enactment of this Act.

SEC. 2. SUSPENSION OF DUTY ON SOLUBLE NITROCELLULOSE

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"906.00. Gloves and trousers especially designed for use in forestry and incorporating two or more layers of protective lining material made wholly of woven manmade fibers (provided for in item 380.66, 380.84, or 705.35). Free. No change. On or before 6/30/80."

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

SEC. 3. SUSPENSION OF DUTIES OF CERTAIN GLOVES AND TROUSERS DESIGNED FOR USE IN FORESTRY

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following item:

"907.77. Nitrocellulose (provided for in item 445.25, part 4A, schedule 4). Free. No change. On or before 6/30/80."

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

TARIFF ON CERTAIN METALS

The Senate proceeded to consider the bill (H.R. 12165) to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, after "That" insert "(a)";

On page 2, beginning with line 10, strike through and including line 12, and insert in lieu thereof the following:

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(c) Upon request therefore filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the entry or withdrawal of any article—

(1) which was made after June 30, 1978, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a)(2) applied to such entry or withdrawal,

shall, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or relinquished as though such entry or withdrawal had been made on the date of the enactment of this Act.

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding in numerical sequence the following new item:

"903.60. Mixtures of mashed or macerated hot red peppers and salt (provided for in item 141.77 or 141.81, part 8C, schedule 1). Free No Change. On or before 6/30/81".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1243), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

The first section of H.R. 12165 would extend temporarily (through June 30, 1981) the duty-free treatment accorded imports of certain metal waste and scrap, unwrought metal, and other articles of metal. The primary metal content of these products consists of copper, iron and steel, and aluminum. Duty-free treatment has been accorded these articles almost continuously since 1942. The first section would also temporarily suspend duties on metal articles imported to be shredded or otherwise processed in such a way as to render them fit only for recovery of their metal content.

Section 2 of H.R. 12165 would provide temporarily (from date of enactment through June 30, 1981) duty-free treatment for most-favored-nation (MFN) imports of mixtures of mashed or macerated hot red peppers and salt. MFN imports of this mixture are now dutiable at the rate of 12 percent ad valorem.

II. PURPOSE OF THE BILL

Enactment of the first section of H.R. 12165 would enable domestic steel, copper, and aluminum manufacturers to keep their overall costs down. It would preserve the market and trade patterns which have developed since the original suspension of duties on these products in 1942 upon which U.S. manufacturers have become dependent.

Enactment of section 2 of H.R. 12165 would remove an unnecessary cost to manufacturers of hot red pepper sauces, the duty on certain pepper mashes, to enable the manufacturers to keep their cost of production down.

III. GENERAL STATEMENT

A. METAL WASTE AND SCRAP

The first section of H.R. 12165 would extend the suspension of the rates of duty on certain metal waste and scrap, unwrought metal, and other articles of metal. The primary metals covered by this provision are copper, aluminum, and iron and steel.

The duty on these articles have been suspended almost continuously since 1942. The first section of the bill would extend the suspension now provided for imports from countries receiving nondiscriminatory, "most-favored-nation," tariff treatment and for non-MFN imports under Tariff Schedules of the United States (TSUS) items 911.10, 911.11, and 911.12 until the close of June 30, 1981. The suspension would be retroactive to June 30, 1978, the date when the preceding suspension lapsed.

The section would also permit for the first time duty-free entry until June 30, 1981, of articles of metal that are imported to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content. The new suspension of duty would be effective on the date of enactment.

The metal wastes and scrap covered in the bill are an important part of metal supply and are considered raw materials in the same sense as metal ores. Many independent smelters in the United States depend on imported scrap materials in the same way that some domestic producers of primary metals depend on imported metal ores. Recovery of metal from most forms of metal wastes and scrap requires less energy than is needed to produce metals from ores.

The Subcommittee on International Trade held a public hearing on H.R. 12165 on July 31, 1978. Favorable testimony was received. No objections to the bill were heard. The Department of the Treasury favors enactment of the bill; the Departments of State and Commerce have no objectives to the bill.

B. MIXTURES OF HOT RED PEPPERS

Section 2 of H.R. 12165, as amended, which contains the substance of S. 3329, would permit temporary duty-free entry of imports of mixtures of mashed or macerated hot red peppers and salt. These mixtures, called "mash," are imported for use in preparing hot red pepper sauces.

Mixtures of mashed or macerated hot red peppers and salt are included in TSUS item 141.77 and are dutiable at a column 1 (MFN) rate of 12 percent *ad valorem*. There is a possibility that the present customs practice of classifying such imported mixtures under TSUS item 141.77 may change so that certain mixtures, depending on salt content, may be classified under TSUS item 141.81, in which case such imports would be dutiable at an MFN rate of 17.5 percent *ad valorem*. MFN imports under item 141.77, except from Mexico, are eligible for duty-free treatment if imported from a designated beneficiary developing country under the Generalized System of Preferences. Section 2 of the bill adds new item 903.60 to the Appendix to the TSUS, providing duty-free treatment for the imports of mashed or macerated hot red peppers and salt classified under TSUS item 141.77 or 141.81 entered through June 30, 1981.

The domestic hot sauce industry is comprised of about six firms, mostly in Louisiana, which produce hot red pepper sauces from pepper mash, and at least another 30 hot sauce makers scattered around the United States that use ingredients other than hot red peppers. Such ingredients usually consist of jalopeno peppers (a hot green pepper) or an oleo-resin (a synthetic) and tomato sauce mix, and are generally used to make taco or enchilada sauces for Mexican-type foods.

The taco or enchilada sauces are believed to be roughly competitive with the lower-priced red pepper sauces made from non-tabasco peppers. Pure tabasco sauce is believed to be a higher priced sauce. The McIlhenny Co., of Avery Island, La., produces only Tabasco sauce and probably accounts for the bulk of the U.S. production of this article, but it is not known what share of U.S. production of hot sauces is accounted for by that company.

The major end-user of the imported "mash" covered by this bill in recent years is the McIlhenny Co. The hot red peppers for the "mash" are grown in the United States in a limited number of locations. Climatic conditions restrict the growing areas. Due to increased demand for this product, McIlhenny was forced to establish new growing operations in several Latin American countries including Colombia, Honduras, and Mexico, as U.S. production did not meet demand. Imports of "mash" from these countries, except for Mexico, are duty-free since they are beneficiary developing countries under the Generalized System of Preferences (GSP).

The Subcommittee on International Trade held hearings on S. 3329, the substance of which is section 2 of H.R. 12165, on July 31, 1978. Favorable testimony on the bill was heard. No objections to the bill have been received. The administration has no objections to the bill, and the Department of State favors enactment.

IV. COST OF CARRYING OUT THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the committee estimates that the annual customs revenue loss resulting from the enactment of the first section of H.R. 12165 will be approximately $3 million. The committee estimates the customs revenue effect of section 2 of the bill to be an annual loss of approximately $20,000.

NATIONAL JOGGING DAY

The joint resolution (S.J. Res. 166) to designate October 14, 1978, as "National Jogging Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The premable was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas jogging is an excellent form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex or level of fitness;

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of heart, blood vessel and lungs, and serves as an advisable supplement to a weight-reducing or weight control program;

Whereas a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life;

Whereas over 300,000 persons all across America participated in hundreds of fun runs and fitness clinics last year and countless other individuals participated in jogging and running as a leisure time activity which is beneficial and enjoyable: Now, therefore be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation declaring October 14, 1978, as "National Jogging Day," and calling upon the people of the United States and interested groups to celebrate such day by embarking upon or containing a program of regular exercise, participation in sports and games for fitness and fun.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1246), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

Senate Joint Resolution 166 would authorize and request the President to issue a proclamation declaring October 14, 1978, as "National Jogging Day," and calling upon the people of the United States and interested groups to celebrate such day by embarking upon or continuing a program of regular exercise, participation in sports and games for fitness and fun.

STATEMENT

Regular exercise is essential for optimum health and fitness. Jogging is an excellent form of exercise that provides opportunities for a graduated program of physical fitness. It can benefit most individuals, regardless

of age, sex, or level of fitness. Anyone can take it up since jogging requires no special skill or expensive equipment.

Numerous medical authorities believe that a regular, sensible jogging program improves the function of heart, blood vessels and lungs. It thus helps to combat heart disease, which is still the No. 1 cause of death in the United States. Jogging also serves as an advisable supplement to a weight-reducing or weight control program.

Finally, a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life. This resolution brings to the attention of the American people the health and recreational benefits which can be experienced through regular exercise.

COST

The enactment of this legislation would involve no direct additional expenditure to the Government.

BENJAMIN N. MASCARENAS

The bill (S. 352) for the relief of Benjamin N. Mascarenas, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Benjamin N. Mascarenas shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1247), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Benjamin N. Mascarenas. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 54-year-old native and citizen of the Philippines who was admitted to the United States on September 18, 1972, as a worker of distinguished merit and ability. He resides in Chicago, Ill., with his spouse and four minor children. He is employed as a consulting architect in Chicago. A third preference visa petition submitted in his behalf of May 15, 1974, was approved on December 11, 1974; however, a visa number is not currently available to him.

CHATCHAI "RICK" CHATRANON

The bill (S. 809) for the relief of Chatchai "Rick" Chatranon, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Chatchai "Rick" Chatranon shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1248), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Chatchai "Rick" Chatranon. The bill provides for payment of the required visa fee and for an appropriate visa number deductions.

STATEMENT OF FACTS

The beneficiary of the bill is 31-year-old native and citizen of Thailand who entered the United States as a student on August 23, 1965. He last entered July 11, 1971, as a student authorized to stay for practical training until August 9, 1975. He received a bachelor of science degree in electrical engineering in August of 1974 and has been employed as a technical representative in Waltham, Mass. His parents, one sister, and one brother reside in Thailand. Another brother is a lawful permanent resident of the United States employed by the Veterans' Administration as an ophthalmologist.

SAMSON KOSSIVI KPADENOU

The Senate proceeded to consider the bill (S. 487) for the relief of Samson Kossivi Kpadenou, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, notwithstanding section 212(e) of the Immigration and Nationality Act, Samson Kossivi Kpadenou may be issued a visa and be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

REYNALDO S. MIRANDA

The Senate proceeded to consider the bill (S. 536) for the relief of Reynaldo S. Miranda, which had been reported to the Committee on the Judiciary with amendments on page 2, line 3, strike "sections 202(e) and" and insert "section", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Reynaldo S. Miranda shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1250), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Reynaldo S. Miranda. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 36-year-old native and citizen of the Philippines who was admitted to the United States on July 4, 1970, as an exchange visitor. He has been granted a waiver of the foreign residence requirement and is the beneficiary of approved third and sixth preference petitions. However, a visa number is not currently available to him. Dr. Miranda resides in Lutherville, Md., with his spouse and three children. He is employed as a surgical specialist.

REINA ESTELA OLVERA

The Senate proceeded to consider the bill (S. 652) for the relief of Reina Estela Olvera, which had been reported from

the Committee on the Judiciary with an amendment on page 2, line 3, after "of" insert "section 203(a) of" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Reina Estela Olvera shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to native of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1251), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill as amended is to grant the status of permanent residence in the United States to Reina Estela Olvera. The bill provides for payment of the required visa fee and for an appropriate visa number deduction. The amendment is technical in nature.

STATEMENT OF FACTS

The beneficiary of the bill is a 45-year-old native and citizen of Ecuador who was admitted to the United States as a visitor on September 14, 1969. Since her arrival, she has resided in Columbia, S.C., with the Suber family who provides for her needs. She is presently unemployed, but formerly was employed in Ecuador as a live-in maid by Mrs. Suber's father.

RICARDO ROSAS SALAZAR

The Senate proceeded to consider the bill (S. 3109) for the relief of Ricardo Rosas Salazar, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Ricardo Rosas Salazar shall be held and considered to be the natural-born alien son of Mr. and Mr. Charles Edwin Olsen, citizens of the United States. The natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT. C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1252), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to enable the beneficiary to qualify for the first preference status as the unmarried son of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 22-year-old native and citizen of Mexico who was abandoned as an infant. He came to the United States at the age of 14 as a student and began living with Mr. and Mrs. Charles Edwin Olsen, by whom he was adopted on May 12, 1976. The beneficiary is now living in Mexico where he is a Mormon missionary.

DR. ROLANDO REYES PEREZ AND AURORA SEVILLA ALONZO PEREZ

The Senate proceeded to consider the bill (S. 540) for the relief of Dr. Rolando Reyes Perez and his wife, Aurora Sevilla Alonzo Perez, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, beginning with line 3, strike through and including "Act" in line 5, and insert in lieu thereof "That, for the purposes of the Immigration and Nationality Act,";

On Page 2, line 7, strike "sections 202(a) and" and insert "section";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Rolando Reyes Perez and wife, Aurora Sevilla Alonzo Perez, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1253), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Doctor Rolanda Reyes Perez and his wife, Aurora Sevilla Alonza Perez. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of the Philippines. They were admitted to the United States on June 19, 1971 as exchange visitors. The beneficiaries are both physicians. Dr. Rolando Perez has a private medical practice in Silver Spring, Maryland, his wife is employed as a staff physician in Takoma Park, Maryland. They are the parents of one child, who was born August 15, 1975 in Washington, D.C.

DR. FRANCISCO DOZON AND LUZVIMINDA DOZON

The Senate proceeded to consider the bill (S. 1292) for the relief of Dr. Francisco Dozon and his wife, Luzviminda Dozon, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, beginning with line 3, strike "That, notwithstanding the provisions of section 212(c) of the" and insert in lieu thereof "That, for the purposes of the";

On page 2, line 4, after "under" insert "paragraph (1) through (8) of";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Francisco Dozon and his wife, Luzviminda Dozon shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1254), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Dr. Francisco Dozon

and his wife, Luzviminda Dozon. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The amendments are technical in nature.

STATEMENT OF FACTS

The beneficiaries of the bill are a 31-year-old doctor and his 28-year-old wife who are natives and citizens of the Philippines. Dr. Dozon was admitted to the United States as an exchange visitor on December 22, 1972, and it appears that he may no longer be subject to the 2-year foreign residence requirement. Mrs. Dozon was admitted to the United States as a nonimmigrant temporary worker on March 17, 1974. They were married on May 22, 1975, in New Jersey and they have a U.S. citizen child born in Chicago, Ill. Dr. Dozon is employed as one of two physicians at Rushville Community Hospital in Rushville, Nebr.

DR. LESLEY B. TIONGKO SERRANO AND KENNETH NEIL SERRANO

The Senate proceeded to consider the bill (S. 147) for the relief of Dr. Antonio Panganiban Serrano, his wife, Dr. Lesley B. Tiongko Serrano, and their son, Kenneth Neil Serrano, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "Doctor Antonio Panganiban Serrano, his wife,";

On page 1, line 5, strike "their" and insert "her";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Lesley B. Tiongko Serrano, and her son, Kenneth Neil Serrano, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residences to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

The title was amended so as to read:

A bill for the relief of Dr. Lesley B. Tiongko Serrano, and her son, Kenneth Neil Serrano.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1255), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Dr. Lesley B. Tiongko Serrano, and her son, Kenneth Neil Serrano. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The bill has been amended to delete the name of the beneficiary's husband, from whom she is now divorced.

STATEMENT OF FACTS

The beneficiaries are natives and citizens of the Philippines. Dr. Serrano and her son were admitted to the United States on January 22, 1976. She is self-employed as a physician. Dr. Lesley Serrano was divorced by Dr. Antonio Serrano on April 1, 1977. He married a U.S. citizen and, is the beneficiary of an approved visa petition.

NICK F. FLANGAS

The Senate proceeded to consider the bill (S. 454) for the relief of Nick F. Flangas, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, after "Flangas," insert "also known as Nikolaos Flangas,";

On page 1, line 9, strike "states" and insert "State";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Nick F. Flangas, also known as Nikolaos Flengas, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Nick F. Flangas, also known as Nikolaos Flangas.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1256), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Nick F. Flangas, also known as Nikolaos Flengas. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 26-year-old native and citizen of Greece who entered the United States on July 16, 1972, as a crewman. He is currently employed at a hotel in Las Vegas, Nev.

ORDER THAT COMMITTEE HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources have until midnight tonight to file its report on S. 3392.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CERTAIN ACTION TO BE TAKEN DURING RECESS UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the other body and that they may be appropriately referred during the recess over until Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until Monday the Vice President of the United States, the President pro tempore, and the Acting President pro tempore, be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Mr. TALMADGE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is that the only order for Monday?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

MESSAGES HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that throughout the remainder of this session, at the end of each day's session, that the clerk list in the RECORD the numbers and titles of House messages that remain at the desk at that point.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, on Monday, what will be the pending business after the order for the recognition of a Senator has been completed?

The PRESIDING OFFICER. S. 3077 will be pending before the Senate, and committee amendments will be the pending question.

Mr. ROBERT C. BYRD. Is that the export-import bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, there will be no rollcall votes before 6 o'clock on Monday. Is that in accordance with the order previously entered?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. This does not mean there will not be debate on amendments to the measure, or debate on other measures. It does not mean there will not be voice votes. It does not mean there will not be rollcall votes ordered.

The Senate will be transacting business throughout the day on Monday.

The only thing this order means is simply this: to wit, that any rollcall votes that are ordered on Monday up to 6 p.m. will not occur prior to 6 p.m. I would anticipate that several rollcall votes in all likelihood will have been ordered at that time, and those rollcall votes will then occur.

RECESS UNTIL 9 A.M. ON MONDAY, OCTOBER 2, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9 o'clock Monday morning.

The motion was agreed to; and at 3:09 p.m. the Senate recessed until Monday, October 2, 1978, at 9 a.m.

MESSAGES HELD AT THE DESK

The following messages from the House of Representatives are being held at the desk for further action:

S. 274. An act to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other related purposes.

S. 415. An act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn.

S. 555. An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

S. 703. An act to improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes.

S. 1029. An act to authorize the Smithsonian Institution to construct museum support facilities.

S. 1215. An act to provide for grants to tribally controlled community colleges, and for other purposes.

S. 1626. An act to clarify the status of the Librarian of Congress under subchapter I of chapter 63 of title 5, United States Code, relating to annual and sick leave.

S. 1816. An act to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States.

S. 2101. An act to modify the boundary of the White River National Forest in the State of Colorado.

S. 2399. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes.

S. 2416. An act to amend title VIII of the Public Health Service Act to extend for two fiscal years the program of assistance for nurse training.

S. 2466. An act to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes.

S. 2534. An act to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations.

S. 2570. An act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

S. 2916. An act to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes.

S. 3259. An act to authorize the permanent establishment of a system of Federal information centers.

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in U.S. agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings.

S. 3467. An act to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station," and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center."

S.J. Res. 16. Joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis.

H.R. 2329. An act to improve the administration of fish and wildlife programs, and for other purposes.

H.R. 3350. An act to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto.

H.R. 7658. An act to amend title 38 of the United States Code to assist veterans with a permanent and total service-connected disability due to the loss or loss of use of one upper and one lower extremity to acquire specially adapted housing.

H.R. 7678. An act relating to the assignment of retired military personnel to the American Battle Monuments Commission.

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes.

H.R. 8200. An act to establish a uniform law on the subject of bankruptcies.

H.R. 11209. An act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services.

H.R. 11870. An act to amend the Act of July 19, 1940, to authorize additional appropriations, and for other purposes.

H.R. 11886. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors, and for other purposes.

H.R. 12028. An act to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration.

H.R. 12326. An act to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that act, and for other purposes.

H.R. 13372. An act to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes.

H.R. 13418. An act to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes.

H. Con. Res. 653. A concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 12637.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 30, 1978:

DEPARTMENT OF JUSTICE

H. Brooks Phillips, of Mississippi, to be U.S. marshal for the northern district of Mississippi.

Richard T. Mulcrone, of Minnesota, to be a Commissioner of the U.S. Parole Commission for a term of 6 years.

DEPARTMENT OF STATE

John Gunther Dean, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

POPE JOHN PAUL I

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. BOLAND. Mr. Speaker, we were all terribly shocked and saddened by the untimely death of Pope John Paul I. His brief term as Pope was characterized by a spirit of warmth and humor that had already endeared him to many people, Catholics and non-Catholics alike. His effervescent personality and deep humility had made his pontificate one of great promise. He will be sorely missed.

Today's Washington Star contains an article by Mary McGrory that takes a thoughtful look at the short tenure of Pope John Paul I. I recommmend it to my colleagues.

The article follows:

WAS JOHN PAUL I TOO GOOD FOR US?

(By Mary McGrory)

The first thought that comes to numbed minds on the news of the death of Pope John

Paul I, just a month after he was elected, was that he may have been too good for us. The second is that there are, after all, no easy answers.

The merry patriarch of Venice, who had the shortest and one of the happiest pontificates in modern history, was an easy answer. He was an easy answer for the divided cardinals, who wanted someone who would combine the qualities of the two popes whose names he tactfully chose after his surprise election, John's heart, Paul's head.

He said, on his first, enchanting appearance, that he could match neither, but that with the world's prayers he would do his best.

He was an easy answer for tortured Italy, which having lost its claim to civic virtue with the kidnapping and murder of Aldo Moro, at least had not lost its last link to pride, the papacy.

And he was an easy answer for the world which was yearning for hope and obviously found it in the beaming countnance and gentle voice of Albino Luciani.

Joy broke out in Rome the Sunday of Aug. 30, when he appeared on the balcony of St. Peter's, his skullcap askew, and breathlessly shared with the throng in the square a few secrets of the conclave. He had gone in tranquilly to vote for a pope. The early ballots had told the story. As he saw "the danger" approaching, two colleagues had ventured to console him. He would be given strength by God, he would have the world's prayers. "What have you done?" he asked when it was plain he had won.

His surprise election caused consternation among the experts. It was not supposed to be so quick. No one, except his flock in Venice and a few Vatican insiders, knew who he was. From the moment he spoke, it didn't matter. The world, watching him on a million television screens, instantly made up its mind: he would do; he would more than do. The smile, luminous, a little off-center like the skullcap, was his first encyclical.

Something like delirium seized Rome. The cardinals held press conferences, and while bound by Pope Paul's severe sanctions against revealing anything that had occurred during the conclave, spoke with great fervor about their convictions that the Holy Spirit, who is so much invoked during their deliberations, had bent low over the stuffy Sistine Chapel during the four ballots it had taken them to settle on Luciani.

The fiercest anti-clericals allowed themselves to be charmed. From Venice came spontaneous accolades. The gondoliers, whom he mentioned in his little acceptance speech from the balcony, knew him well; so did the street-people and the shopkeepers. He had been a poor boy, one of them. They needed no pious propaganda from the Vatican mills. They knew he had sold church treasure to help the poor.

His charity endeared him to the Third World cardinal electors who represent the "new church," the Latin-Americans who personify the church's resistance to totalitarianism, and who believe in radical social reform. His conformity commended him to the Curia, which feared a non-Italian Pope who might challenge tyrants, instead of accommodating to them.

In the hours following his election, which had been predicted by probably half a dozen of the thousands of journalists who had raced to Rome, one arresting item appeared. Cardinal Lorscheider of Brazil, one of the foremost progressives, revealed that the little-traveled pope had once visited him in Sao Paolo. Obviously, he felt that in the peasant in St. Peter's he had an ally.

The new pope's personality outshone the few pronouncements of his papacy. His address to the cardinals in the Sistine Chapel after his election was a model of traditionalism, with enough mention of ecumenism to please the liberals.

His first audiences with prelates, diplomats and the journilasts were simply further demonstrations of his humanity and charm. His homily at his Inaugural Mass, which he had tried to imbue with something of his own simplicity, was totally noncommittal.

There is not much that can be said about his brief pontificate, except that he obviously reveled in it and the unexpected chance to preach to the world. Nobody can say what he would have done. He might have been another Pope John XXIII, a grandfatherly revolutionary. He almost certainly would not have been another Pope Paul VI, a troubled intellectual. Or he might have been the simple pastor he appeared to be during his first sermon to the world.

The Italians have a saying when asked about low expectations, about winning a lottery, a proposal, or a promotion. It is "ogni morte di Papa"—every death of a pope—meaning an event that is hardly expected to occur during one's lifetime.

But now, within 55 days, two popes have died. Pope Paul VI anticipated his death, spoke of it often. His reign, shadowed by scism, and his anguish over the fate of Moro was a long twilight. Pope John Paul spelled dawn.

But it was a false dawn. He was too easy an answer. Now the cardinals must convene again, wearily, warily—this time, without a smiler who had spent his whole life in the church, who never questioned and never rebelled but who kept an open mind. This time, they must have it out. There is no Luciani to paste over the differences. Maybe this time, they will look for physical, as well as spiritual stamina.

The shocked world is initiated to the ritual about to enfold so soon again: the crowds surging through the square to view the body, the funeral, the election, the wait for the white smoke. Some may even be resigned to the interruption of their football games. The discarded dossiers about candidates must be retrieved, the speculation and the gossip, and the sketchy information about Vatican politics rehashed.

If the world feels deprived and vagued cheated, it is easy to see why. Pope John Paul was a promise, a promise unexpectedly given and unexpectedly taken away. His mission was apparently to tell us what we already knew—that there are no easy answers.●

THOSE WHO WORE BLUE

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mrs. HECKLER. Mr. Speaker, recently, a distingiushed group of police officers retired from the Fall River, Mass., Police Department. In recognition of their years of dedicated service I would like to enter into the RECORD a poem by Robert Aguiar. These few lines best portray the feelings of these courageous public servants.

I believe my colleagues will join with me in congratulating these fine men and women as they leave the force they served so well.

Lt. Bronislaw Kozak.
Lt. Edmund Hussey.
Lt. John Dean.
Sgt. John Barek.
Sgt. Leon Kenney.
Sgt. Roland Gagnon.
Sgt. James Carroll.
Sgt. Adelino Flores.
Sgt. Hugh Kehoe.
Officer William Black.
Officer Patrick Leonard.
Officer Clarence Murphey.
Officer Loe St. Laurant.
Officer John Thomas.
Officer Arthur Alves.
Officer Elias Ayash.
Officer Mary Clement.
Officer James Forcier.
Officer Lou Prezwoznik.
Officer Mike Sullivan.
Officer Leo Albin.
Officer Leonard Clayton.
Officer Lucien Gendreau.
Officer Carlton Hindle.
Officer Edward Melanson.
Officer William Reagan.
Officer Albert Synnott.
Officer Edward Wilson.
Officer Antone Medeiros.
Officer Fred Plasski.
Officer Joseph Raposa.
Officer Edward Jerome.

The poem follows:

THOSE WHO WORE BLUE

Yes, I wore the color,
that stands out in the night.
A symbol of safety,
a beacon of light.

Now I've retired
Old memories I'll review.
Of friends left behind,
those men who wear blue.

I began as a young man,
with a dream to end crime,
Only to be shattered and crushed,
in a short span of time.

Always proud of the job,
I had set out to do,
Proud of the men,
I worked with in blue.

While problems I had many,
on one we'd agree,
There were times when my family,
saw little of me.

My badge I've now given,
to somebody new.
To proudly display,
on his armor of blue.

A sense of achievement,
we can proudly claim,
As we quietly depart,
without glory or fame.

O Lord when the time comes,
to make room for a few.
Pay special attention,
to all those who wore blue.

COLONEL OHLINGER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. YATRON. Mr. Speaker, it is with great personal sadness that I address our colleagues today. Mine is the sorrow every one of us feels at some time in our lives.

One week ago today, Col. Kenneth W. Ohlinger passed away. Kenny was my good friend and classmate in the Reading High School class of 1946 in Reading, Pa. An outstanding athlete, a natural leader, an individual of warmth and compassion and above all, a gentleman, Kenny was recognized by all of us who knew him then and later as exemplifying virtues to which we could all aspire.

But far greater than the personal loss

which I feel, is the loss our Nation has experienced with Kenny's passing.

Upon earning his commission with the Air Force and his pilot's wings, in March of 1953, Colonel Ohlinger embarked on a distinguished career which spanned 27 years and took him to Europe, the Far East, and across the United States. Colonel Ohlinger logged more than 5,000 fighter hours during that time, flying the F–86 Sabre, the F–101 Delta Dagger, and the F–106 Delta Dart.

He was deeply involved in the air defense system of the United States throughout his career, helping to insure that, in the event of a bomber attack, our people would be protected.

In his last assignment, Colonel Ohlinger served as vice commander of the 23d Air Division stationed in Duluth, Minn. until July 10, 1978, when ill health forced him into retirement.

On several occasions, Colonel Ohlinger was recognized for his exceptional performance in service to the country. He was a three-time recipient of the Air Force Commendation Medal. He was awarded the Meritorious Service Medal.

On his retirement, Colonel Ohlinger was honored with the Legion of Merit Award. I would like to quote from the official citation accompanying this important tribute:

Col. Kenneth W. Ohlinger distinguished himself by exceptionally meritorious conduct in the performance of outstanding services to the United States as Commander, 23rd Air Division; and Vice Commander, 23rd Air Division/23rd North American Air Defense Command Region, North American Air Defense Command/Aerospace Defense Command, from 17 July 1976 to 26 May 1978. In this important joint command assignment, the leadership, exemplary foresight, and mangement acumen consistently demonstrated by Colonel Ohlinger resulted in significant contributions to the effectiveness and success of the defense of the North American continent. The singularly distinctive accomplishments of Colonel Ohlinger culminate a distinguished career in the service of his country, and reflect great credit upon himself and the U.S. Air Force.

Just as he did at Reading High School, Kenny Ohlinger continues to represent a standard of excellence which I will always remember as a source of inspiration. This is Kenny Ohlinger's legacy: A Nation whose defense has been enhanced by his service, and a model of civic duty, patriotism, devotion to family, and compassion for others.

I would like to offer my sincere condolences to Kenny's devoted wife, Shirley, their sons Jeffrey and Michael, and the other members of the family.●

A DIFFERENT APPROACH TO PEST CONTROL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. WAXMAN. Mr. Speaker, I want to call to the attention of my colleagues a fascinating article that appeared in the July 1978 issue of Audubon. The article describes a field of research of interest to anyone concerned about the environmental damage caused by our steadily increasing use of chemical insecticides.

The author is Frank Graham, Jr., noted environmental writer and author of the book "Since Silent Spring," a followup to Rachel Carson's 1962 classic. Mr. Graham's article offers hope to those interested in the widespread application of environmentally benign pest control methods. The article traces the work of Agricultural Research Service scientist Ross Nielson.

Dr. Nielson's work involves the control of insect pests through natural selection. In an expansion of the "male sterilization" technique pioneered by Dr. Edward Knipling in the late 1950's, Dr. Nielson has developed a technique for inducing genetic weaknesses into wax moth populations—a serious pest for commercial apiarists. Nielson calls his theory the decreased fitness concept of pest control.

According to Graham, Dr. Nielson has successfully demonstrated that genetic weaknesses can be introduced into the wax moth gene pool which significantly decreases the insect's ability to survive in the environment. His research involves irradiating wax moths in the laboratory with sublethal dosages of cobalt-60. The treated moths are then released into the environment to mate with untreated moths. In field tests, the release of treated moths has reduced local populations of the wax moth from 50 to 98 percent. Commercial apiarists are understandably excited about the results.

PROSPECTS FOR WIDER APPLICATION

Many entomologists believe the techniques successfully used by Dr. Nielson on the wax moth may have application against other insect species.

For American agriculture, Dr. Nielson's research provides the prospect of one day ending their long and expensive dependence upon chemical pest control. While not commonly recognized, pesticides are a major cost factor in food production. In some cases, the cost of pesticides is the largest single expense a farmer may make during a planting season.

Despite almost four decades use of deadly chlorinated hydrocarbon and organic phosphate pesticides, crop damage due to insects has not decreased. Instead we have witnessed the striking increase in insect populations that have become increasingly virulent and resistant to our most toxic poisons.

The cost of American agriculture's commitment to pesticides has been high. Not only in terms of increasing production costs but also with respect to wildlife losses, increased water pollution and the unavoidable presence of pesticides residues in our food. Though perhaps unintended, these are very real side effects of our chemical assault on insect pests.

The contribution of pesticides to American agriculture's world supremacy in food production cannot be discounted. However, in light of what we know today about insect resistance and the long latency period of cancer-causing chemicals, it is legitimate to wonder whether future generations may regard our commitment to chemical pest control as a form of 20th century faustian bargain.

Rachel Carson sounded the warning 16 years ago with "Silent Spring." She predicted, with chilling precision, that the uncontrolled use of pesticides in agriculture would encourage the evolution of chemically resistant species of insects. These new species, she added, would reflect a "triumphant vindication of Darwin's principle of the survival of the fittest."

At a time when portions of the farming community are bitter over rising production costs, we should not pass on this opportunity to focus public attention on the need to reduce agriculture's costly reliance on chemical pest control. Pesticides compose a substantial portion of agricultural costs. The environmental costs are enormous and incalculable.

The work of scientists like Ross Nielson should be supported at the highest levels of Government and agriculture. The search for successful methods of controlling insects through natural controls should be pursued with no less vigor than that which spurred our initial commitment to chlorinated hydrocarbons almost 40 years ago.

Mr. SPEAKER, I strongly urge my colleagues to take a moment to review Mr. Graham's article. I request that a copy be placed in the RECORD at this point.

A MAVERICK SCIENTIST IS AT BAY, AND EMBATTLED BEES ARE LOSERS

(By Frank Graham, Jr.)

Ross Nielsen walked onto the thick metal grate that covered the radiation pit in the basement of the Nuclear Science Center at Louisiana State University. Below him was a large well, six feet across and filled with 15 feet of water. Overhead, on steel wires, hung a small, aluminum, lead-weighted diving bell.

"Don't leave anything in your shirt pocket when you come out here on the grate," Nielsen told me. "If something falls out when you lean over, it's gone for good."

I emptied my pocket and stepped onto the grate. When Nielsen dimmed the lights, I saw a pale glow concentrated in a disc at the bottom of the well.

"That glow is from the radiation," Nielsen said. "When we irradiate insects, we pack them in the diving bell, and the lead weights draw the bell down through the water into the core that's set in the floor of the well. Cobalt 60 around the core emits gamma rays. The thick layer of water protects the operator from radiation. If the water wasn't there, anyone standing on this grate would be dead in a minute—maybe 30 seconds."

Nielsen turned up the lights and leaned back against a table. He is a stocky, bespectacled man in his late fifties, with a soft voice and thinning, light-colored hair. A retired dairy and grain farmer and sometime lay bishop in the Mormon Church, he is currently, and precariously, research entomologist at the U.S. Department of Agriculture's Bee Breeding and Stock Center in Baton Rouge. He is also a man who has just been torn from a cherished task for the second time in his life.

At present, Nielsen lives in the eye of a storm. He has devised a pest control technique that the government's most respected authorities on insect irradiation describe as of "considerable scientific interest" and "by far the most unique and potentially practical genetic mechanism that has yet been proposed." An admiring colleague at Baton Rouge thinks its "Nobel Prize stuff—if it works." And a prominent southern beekeeper considers the project "the only important

thing that government scientists have done for us in years." Yet a highly placed USDA scientist in Washington, in downgrading Nielsen and his work, calls him "paranoid." Meanwhile, his immediate superiors report that he has "not been performing at an acceptable level of competence" and have put a stop to his pest control research.

"Somewhere in my office I've got a reproduction of a medieval woodcut." Nielsen said. "It shows a woman delousing a boy's head. It sort of reminds you of chimps picking lice off each other in the zoo. But to tell you the truth, we humans haven't passed much beyond this stage in pest control."

He lifted his right arm and made a series of random slaps at the air around him, mimicking a man wielding a flyswatter. "We know that chemical control is a dead end—insect resistance, if nothing else, proves that—but even a flyswatter works against our purpose, which is to rid ourselves of flies. The wariest, quickest flies escape and live to perpetuate their own kind. So we're really improving the breed, just as wolves or mountain lions contribute to a healthy deer herd. But my technique *lowers* a pest insect's ability to survive, and it uses natural selection as an ally. I know it works."

Nielsen calls his technique "the decreased fitness concept of pest control." Concentrating his research on the greater wax moth, a serious pest in commercial beehives across the South, he has demonstrated in the laboratory that these moths, irradiated at low levels and mated with untreated individuals, introduce to the normal population a host of random harmful mutations that are passed on to descendants for at least five generations. Even if the population escapes total extinction, the survivors' fitness to function is considerably impaired, or "decreased." The release of irradiated insects has, according to Nielsen, reduced local populations of the wax moth by anywhere from 50 to 98 percent, well below the levels at which they pose an economic threat to beekeepers.

Some of the most enthusiastic comments about Nielsen's work circulated within the Agriculture Department were written by Edward F. Knipling, the internationally acclaimed scientist who developed the "sterile male" attack on the screwworm. "The observations of Nielsen and his co-workers seem to provide the first evidence that field populations of an insect can be adversely affected over a period of a number of generations following the release of relatively few moths that received a low level of irradiation." Knipling wrote to his colleagues in 1976. "The mechanism in principle might be applicable to a number of important lepidopterous pests and perhaps other kinds of insects."

Entomologists have already suggested that the technique can be used against insects that are even more widely destructive than the wax moth, including the sugarcane borer and the tobacco budworm. Theoretically, the decreased fitness concept might be applied successfully to any pests, even vertebrates.

Yet how is it that the "breakthrough" foreseen by Knipling and pleaded for by beekeepers and farmers lies bottled up somewhere in the labyrinthine channels that characterize the Department of Agriculture? Nielsen's supervisors blame him for being unable to pull his program together. He and the beekeepers blame higher-ups at the department for throwing obstacles in his way at every point. While accusations are exchanged and positions harden, an American agriculture badly in need of cheap, safe, and effective alternatives to chemical insecticides waits in the anteroom.

At the heart of the problem stands Nielsen himself. Everyone concerned admits he is an unusual man—imaginative and resourceful, gifted with the single-mindedness, limitless patience at his work, and unique way of seeing the world around him that have always characterized pioneers in science. In a way, he is a throwback to an earlier era. Alien to the academic discipline until nearly middle age, too rough-edged to fit comfortably into any organization, insistent that he be allowed to do things his way or not at all, he is the despair of administrators. His confidence in himself is unshakable. Wrapped in the cloak of his deep religious faith, he is impervious to his detractors. "I have to believe that behind my work there is a higher inspiration than man," Nielsen told me. "This makes it important that I keep trying."

We took a final look around the grim, windowless radiation room, turned out the lights, and ascended through a series of locked doors back into daylight. Unless there is an abrupt change in his relations with his USDA superiors, this maverick scientist will be spending very little time over that cache of cobalt 60 in the future.

In 1940, Ross Nielsen, then a 20-year-old farmer in Hyrum, Utah, where he had been born, entered a tractor-operating contest and won a Ford tractor and plow. He was embarked on what he thought of as a lifelong career raising grain, dairy cattle, alfalfa seed, and hay in a high arid valley of northern Utah. "My whole heart and life were in it," he said.

He had dropped out after a couple of semesters at Utah State University to return to the farm. There he and his wife, Louise, raised seven children—all of whom have gone on to college either at Utah State or Brigham Young University—and took pride in one of the top dairy herds in the state. As a part of his operation he rented bees from a local apiarist. Naturally curious, Nielsen grew fascinated with these insects. With the beekeeper's help, he established 50 colonies as a hobby and soon was selling enough honey to pay his taxes.

Suddenly, in 1955, his carefully constructed world fell apart. "I learned I had a spinal arthritis condition, and the doctor told me I couldn't ride a tractor anymore," Nielson said. "I was finished as a farmer and didn't know where to turn. The next year I was in the employment office, thinking they might be able to place me in some line of work like tractor maintenance, but they didn't have anything for me. Then I saw a notice on the bulletin board that the federal bee lab at Utah State needed some additional help. "Say,' I told them, 'I can work with bees.' "

It was soon apparent to his superiors at the lab that Nielsen was uncommonly gifted in his new line of work. They offered him free time to return to Utah State and earn his degree. After 20 years, Nielsen found himself back in the classroom. He received his bachelor of science degree in 1962 and later was awarded a National Defense Education Act Fellowship, under which he did pioneer work in sexing live bee larvae. Until then, scientists had to dissect larvae to distinguish between the sexes. Nielsen went at the problem doggedly. He peered through his microscope at thousands of live larvae and finally noticed a feature in the males never discerned before.

"It's just a little slit on the ventral side of the twelfth abdominal segment, but once I spotted it I was able to sex the larvae with total accuracy," Nielsen said. "At first my department adviser didn't believe it could be done. 'I can't even sex the boys and girls here at school anymore,' he told me. Anyway, it was so obvious, everyone wonders why it hadn't been noticed before."

At that time a young genetics students at the university made a remark that seems now to have been prophetic in summing up Nielsen's achievements and troubles.

"How much formal training have you had in genetics?" she asked Nielsen.

"One course," he replied.

"I thought so," she said, "If you had more training, you probably wouldn't have thought it was worthwhile to try something everybody else said couldn't be done."

But Nielsen's discovery had important implications for beekeeping, where such knowledge is a practical matter in the process of developing commercial strains. At the suggestion of his graduate committee, he went to Brazil to study with Warwick E. Kerr, whose experiments had led to the importation from Africa to Brazil of the notorious "killer bee." (One of Kerr's workers permitted the ferocious insect to escape and acclimate to the New World). In 1967, Nielsen was assigned to Baton Rouge, where the Agriculture Department's research arm, the Agricultural Research Service, maintains the bee laboratory. Soon he was at work on problems caused by the persistence of the greater wax moth in beehives throughout the southern United States.

This insect (*Galleria mellonella*) is a small, grayish-brown moth with a wingspread of an inch or a fraction more. The female lays its tiny white eggs in masses in or around hives of the honeybee. The white, extremely active larvae burrow into the wax in honeycombs, leaving the combs a mass of webs and debris and rendering them generally unfit for commercial use. One of Rudyard Kipling's most effective political satires, "The Mother Hive," describes the invasion of a brood frame by the wax moth, representing the new progressive, pacifist element in English society, which spreads its insidious ideas (or eggs) and brings on internal rot.

While these moths have been known as pests in honeycombs for a long time, the traditional belief among apiarists was that strong bee colonies tended to repel them. The increasing use of chemical pesticides in agricultural regions since World War II, however, has been catastrophic. Many of the allegedly 'safe" pesticides that replaced DDT, including the widely used Sevin, are especially toxic to bees.

While speaking recently of Sevin and the newly developed encapsulated pesticides (which adhere to bees' fur like pollen and are brought back to the hive with fatal results), Francis L. Marckx, the president of a beekeepers' association in the state of Washington, outlined both the benefits of bees as pollinators and the threat of chemicals to his own industry: "Using the United States as a measuring stick, there are two billion dollars' worth of crops we just would not have were it not for the honeybee. Another six billion dollars' worth of crops are improved by the honeybee. One-third of the food we produce is directly or indirectly dependent on the bee. This information is brought out to note the importance of controlling the insidious threat of insecticides."

Louis Harbin, a commercial beekeeper in Nauvoo, Alabama, is even more graphic. "The crop dusters come over the fields to spray corn or soybeans and then kill maybe 85 percent of my bees," Harbin says. "Naturally, the colonies are greatly weakened. The moths are always there, and they thrive in weak colonies. This has been going on around here for 15 years, and it's cost me thousands of dollars. The hell with those chemicals—they'll kill us all."

As Ross Nielsen began to work on his doctoral thesis, he grew interested in radiation biology and its prospects as a weapon against the wax moth. The field was not new. In 1927 the geneticist Hermann J. Muller had shown that the occurrence of mutations in organisms can be artificially stimualted by exposing their egg cells to X-ray radiation.

Later, USDA's Edward Knipling, while conducting research on the screwworm fly which infested livestock regions throughout the South and Southwest, conceived the idea of using radiation to sterilize pest insects. The plan became feasible when science developed cobalt 60 sources. In the 1950s the Depart-

ment of Agriculture produced great numbers of screwworm flies in the laboratory, subjected them to sublethal doses of gamma rays that sterilized them, and released them in Florida. Females mating with those treated males laid infertile eggs. As the releases continued, each succeeding generation of normal flies was further outnumbered until the odds against a fertile mating became so great that the screwworm disappeared from the Southeast. The campaign against the screwworm later shifted to the Southwest and has since spread to Mexico, which serves as a reservoir for insects that reinfest Texas and nearby states.

When Nielsen began work on the wax moth, he was thinking chiefly in terms of Kipling's "sterile male" technique. His adviser at Louisiana State University was Edward N. Lambremont, director of the Nuclear Science Center there.

"Why not look at the total effects of radiation on these moths?" Lambremont suggested. "It's a broader topic"

With Lambremont's help, Nielsen obtained a strain of moths from the Agriculture Department's research center at Beltsville, Maryland, and began rearing them in a small metal building on the Louisiana State campus. He exposed both sexes of moths to varying degrees of radiation at all stages of their life cycles. He soon discovered that the use of sterile males was not likely to control wax moth populations. When released into a population of normal moths, the sterile males competed poorly for mates, and the release had little effect on permanently reducing the population.

But when Nielsen exposed his wax moths, especially pupae, to even lower radiation levels, he found that as they developed to adults they retained the ability to reproduce while exhibiting signs of other generic damage. There was, in fact, a high rate of reproduction at first matings between his treated moths and the untreated ones.

Then an amazing thing happened. Large numbers of deformities and other indications of genetic damage began to appear in the succeeding generations. Legs fell off some of the adult moths, or the larvae refused to feed, or they grew slowly and molted with difficulty. The labial palpi of many female adults dropped off, leaving them with a "pug-nosed" profile that provided a handy indicator of their presence in the wild.

Nielsen's treated moths were thus introducing mutations into a normal population, and the defects were being handed on with increasing virulence from one generation to the next. Ordinarily nature tends to select such harmful mutations *out* of a population; only the finest survive to reproduce and carry on a healthy population, while the mutants quickly disappear.

But according to Nielsen's observations, one of the apparent effects of the chain of events he had set in motion was that treated males competed for females more aggressively than their normal rivals. Natural selection, in effect, seemed to be favoring the mutants. Then, as mutations flooded the population through five or more generations, the moths became less and less fitted for survival. Reproduction declined. Nielsen began to have trouble keeping some of his laboratory strains from dying out altogether.

In 1973 Nielsen and his assistant, Dean Brister, made releases to the wild and got what he insists is confirmation of his laboratory data. By sampling populations of these insects in and around beehives, he found numbers of pug-nosed individuals and, eventually, greatly decreased populations. Mutations tended to spread rapidly because the wax moth goes through a number of generations annually (as many as seven or eight in southern areas).

There were interesting observations along the way. Moth larvae from treated populations seemed to have trouble evading bees' attacks in the hives. Nielsen also found a tremendous increase in the percentage of larvae that had been parasitized by their natural enemy, a braconid wasp.

Knipling, the originator of the "sterile male" technique, helped to prepare the biomathematical models for the monograph that Nielsen and Lambremont compiled on the early work and which eventually was published by the Department of Agriculture. The models demonstrated how the various outcross matings theoretically would induce mutations in succeeding generations and eventually suppress the population below the threshold of "economic damage" until perhaps the tenth generation, when another release would be necessary. The technique promises to be compatible with other methods, reducing a pest population until it becomes especially vulnerable to chemical and biological controls.

"If the action observed in the wax worm moth is similar in other species, this would be a major breakthrough," Knipling wrote to Nielsen in 1976. "I can see a lot of work ahead on this type of mechanism. But, the potential results seem to justify full exploration of the mechanism."

By this time, ironically, "full exploration" was growing exceedingly remote. Problems of administration and personality had intervened. Some of Nielsen's superiors, both on the scene and in Washington, were not convinced that his data justified a large-scale commitment by the Agricultural Research Service. Nielsen believes that one of the most influential critics of his work is Marshall Levin of the service's national program staff.

"Nielsen did some fine lab work, but his fieldwork is marginal," Levin says. "It hasn't been able to pass the peer review. We've had trouble getting him to publish. If he ever gets down to methodical work, we'll support him."

Nielsen believes that Levin is one of the "peers" whose comments have prevented at least one of his papers from being published. He feels that he is enmeshed in a vicious circle; he can get no official support for his work until his data are fully published, but his superiors are blocking that data from the light of day. Much of his published work depends on a valid technique for sampling moth numbers in the field, but the paper describing his sampling techniques has been held up for years.

"I've asked them to send any scientist of their choice with me into the field so he can see for himself that my data hold up," Nielsen said. "But they haven't responded to that request."

In 1973 Nielsen got permission from his superiors to release 5,000 treated moths in a rural area of Louisiana. "I thought then that it was only a negligible number of moths, but now I think that it was more than we needed to do the job," Nielsen told me. "The moth population in that area declined by 50 percent of normal after three months. A year later the population there was only 10 percent of normal."

Agricultural Research Service scientists, including Knipling and his colleague Waldemar Klassen at the Beltsville research center, arranged for Nielsen to go to Hawaii, where the wax moth is also a problem. The long-term object was a major pilot program to test Nielsen's theory. It was reasoned that the results of the test could be monitored more accurately on islands where there was little chance of insects migrating in from elsewhere to upset the calculations.

Nielsen studied the wax moth on Molokai and determined that it differed in many behavioral characteristics from his strain of laboratory moths. It was at this point that a serious disagreement arose between Nielsen and his fellow scientists Knipling and Klassen. They proposed that any pilot test ought to be "inundative" and suggested that Nielsen release 19,000 treated males every day for 60 days—a total of 1.14 million moths. Nielsen did not believe that such an expensive, large-scale project was necessary or even desirable.

"The resident moths are much different from the moths that would be released, and this approach could tend to isolate resident moths that would not mate with the released moths," Nielsen wrote. "This approach would not test the decreased fitness concept. The decreased fitness approach would be to start by releasing only a few moths, perhaps 200 per week, for four weeks. The decreased fitness factors would spread through the population for four months without more releases. Then more moths would be released at any desired ratio to the resident moths. Decreased fitness requires a period of time for natural selection to work. The inundative approach could work against natural selection and cause isolation of incompatible moths that would not react with the released moths."

This disagreement, which has never been settled, led to the abandonment of further work in Hawaii. Nielsen believes that his "inoculative" approach makes sense both economically and biologically. The Agricultural Research Service, in his view is obsessed with the goal of eradication, mounting expensive crusades to wipe out pest insects, as in the screwworm project, while dismissing small inoculative releases against insects such as the wax moth that would merely keep them below levels where they cause economic damage.

"The Agricultural Research Service isn't thinking in terms of small sums of money," Nielsen insists. "The empire it has built on these massive pilot studies and programs might collapse."

He wants to release only one treated male moth for every hundred in the natural population. Knipling and Klassen contend that Nielsen's own data suggest that the wax moth cannot be controlled unless he releases at least nine treated males for every normal male.

"I will find funding for Nielsen's project if he is willing to go along with his own data," Klassen says. "I can't see why he won't agree to test his theory at a ratio of nine to one. Later, we could try the inoculative approach too. But right now I haven't seen anything in his data to support it, and if a pilot test on his terms should fail, then the whole theory might be discredited."

The dispute, argued at long distance on the high plane of science, degenerated into intra-agency squabbling on the local level. Nielsen has had a series of ups and downs with his supervisors at the bee lab in Baton Rouge. In recent years he has had trouble getting what he considers his rightful promotions and salary increases, and several times he has resorted to the Agricultural Research Service's grievance procedure. Earlier this year a performance rating given him by his former supervisor was reduced by a successor.

A curious twist to the story is that the service's director for the Mississippi Valley area is Edward B. Knipling, whose father has been so closely involved in Nielsen's work. The younger Knipling has been both the sender and the recipient of a volume of agency memos dealing with the Nielsen affair.

"Nielsen has repeatedly shown that he can be productive if given the reins to do things his way," one of the several directors the bee lab has had in recent years wrote to Knipling. "He does not respond well to tight supervision. I know you think he needs it, but look what happened when Levin and others tried to dictate to Ross. They got nowhere. Ross has had two major publications in the past five months, equal to or greater than any scientist at this labor. To outline a schedule of work for him and not to do so for those who

have been less productive would only feed his suspicion that ARS is once again documenting material for adverse action proceedings."

Nielsen had, in a sense, thrown down the gauntlet to the younger Knipling, who ordered him to stop work on his research when he refused to take part in any wax moth project that did not include the inoculative approach or allow him to interpret his data in its support. For a time, he was unable to conduct his research even on his own time and at his own expense. He also was forbidden to attend the meetings of various beekeepers' associations, including those to which he belonged, and thus would not even be traveling at government expense.

"Am I paranoid?" Nielsen asks rhetorically. "Maybe I am, but I think it's understandable. I've experienced a great deal of harassment. They'd like to see me retire so they can hand on my work to someone else."

But Nielsen has gained some enthusiastic and widespread support. An ecologist at Louisiana State believes that Nielsen's superiors have gone out of their way to suppress his potentially valuable discoveries. And southern beekeepers seem to be unanimously convinced that the various field releases he has made in their areas have cut their losses to the wax moth.

"I'd take a million of them tomorrow," Alabama's Louis Harbin says of the irradiated moth. "When I heard this project had been stopped, I could have cried."

"We had less damage last year than ever before," says Binford Weaver, an apiarist in Navasota, Texas. "We moved hives in here around my home that contained some of Nielsen's treated moths, and the effect was amazing. Yet some of my colonies 20 miles away, where there were no treated moths, suffered the same old damage."

But Marshall Levin remains skeptical. "Nielsen is very articulate, and he's sold those beekeepers down there on his work," Levin says.

There is wide agreement (and even an occasional admission from Nielsen) that his fieldwork has not always been organized to satisfy the strictest scientific demands. Levin, for instance, believes that Nielsen cannot support his claims about the tremendous increase of parasites among treated moths because he has not sampled enough of them. But most scientists who are familiar with Nielson's theory remain excited about its potential.

"As both a beekeeper and a scientist, I'm rooting for Ross because I want to see this country cut down on its use of chemical pesticides," says E. C. Martin, who coordinates bee research at Beltsville. "He should have the opportunity to get his treated moths into the field so he can test his theory. It's difficult for him now to have freedom of action because he is in the Agriculture Department's research arm. I'm suggesting that he be loaned to our action arm—the Animal and Plant Health Inspection Service—where he'd have more opportunity to build a release program."

A question that concerns many people is whether Nielsen might inadvertently create through radiation-induced mutations a "super insect." The elder Knipling, in replying to a plant geneticist who raised this question, set forth not only a valid reason for putting Nielsen's theory to an immediate test but also a profound comment on the present state of pest control.

"Such risk would have to be taken into account," Knipling admitted. "However, we do not hesitate to conduct research on chemical control because strains can and do develop that are resistant to insecticides and that may become vigorous in other ways. I would regard the mere possibility of creating a 'monster' strain insufficient justification for recommending against exploratory investigations along lines proposed. In the case of the boll weevil we already have what I regard as a 'monster' which we have not dealt with effectively for more than 50 years. The chances seem high that the method of attack we are now using will lead to an even more formidable 'monster' unless we come up with new techniques or new methods of using the techniques we have."

Meanwhile, Ross Nielsen goes his lonely way, pushing at the unbelievers a theory of pest control that might—just might—help modern agriculture out of the chemical maze.●

POPE JOHN PAUL I

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. WOLFF. Mr. Speaker, I am saddened and shocked at the news this morning of the untimely death of Pope John Paul I. I share with all the people of good will throughout the world the grief of our loss. His warmth, his humility, his humor, and his brilliance were apparent in the all too brief days of his papacy.

His reign of only 34 days was too brief for the world to know him well. What we knew of him gave a promise of strong, but gentle leadership that would continue the innovations of his predecessors. He seemed the perfect pontiff for the times, with a warm and generous personality, and a quick wit, a perfect combination of personal traits that held out a promise of a great mediating capability that could bring devisiveness to an end, and differences stemming from the changes instituted by Popes John and Paul into harmony. It is the disappointment of our high expectations of what this pontiff could accomplish that magnifies our sense of loss. Judging from Pope John Paul's actions and personality, we mourn not only his death, but also the dashing of our hopes for what might have been.

The people of the world have lost the chance to benefit from his moral leadership. It is our hope that his successor will meet the same high standards to which the late pontiff aspired.●

WE DO NOT NEED A NEW FEDERAL DEPARTMENT OF EDUCATION

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. RUDD. Mr. Speaker, I was most disappointed to learn of the Senate action yesterday to approve legislation to create a new Federal Department of Education, with 15,600 Federal employees and a budget of $14.5 billion each year.

Education has throughout our country's history always been a matter of State and local jurisdiction. Federal involvement and aid programs in the education area have led to increasing Federal control and dictation in the way our schools are run. I am opposed to any increase in Federal control, and believe that a new Department of Education within the Federal Government will inevitably lead in this direcion.

Furthermore, approval of this new Department would represent the first time that a Cabinet-level agency has been created in an area that the Constitution has left to the States. I believe that this is a very bad precedent, and can only lead to Federal bureaucratic expansion in other areas where the Federal role should be very limited or nonexistent.

Mr. Speaker, the strength of American education is decentralization, which permits local communities to determine their own school policies and provide for their own educational needs. A new powerful Federal education bureaucracy will not help fulfill those needs, but would take more tax money from local sources for national redistribution, along with the imposition of further unwanted Federal controls on local school officials and teachers.

While the objective of grouping together all Federal education program might seem reasonable, it may be impossible to attain, as the history of this legislation in the Senate has shown.

Curriculum development, teacher training, occupational training, education research, and the myriad of other specialized education programs currently being conducted by the Federal Government—rightly or wrongly—are best handled by agencies that are attuned to special needs of the public in each area. Education would actually suffer if specialized programs had to compete with each other for attention and funding within one super Federal education department.

Education funding from the Federal Government has substantially increased from a level of $6.2 billion in 1970, to a proposed level of $22.7 billion in 1979—a 266 percent increase. It is therefore not a valid argument that a new Department of Education is needed to give education the priority for Federal funding that it should have. Moreover, the dissemination of funds by the Federal Government for education is currently decentralized among many agencies, which insures more fairness.

The new Department of Education would have total control over where all such funds would go, and with what controls. This would further dangerously weaken the local tax base and local control over education.

The dangers of a powerful national education agency have been demonstrated in many European countries, where local school officials and teachers, as well as parents, have no control over what is taught, or over professional standards or advancement.

We can avoid these perils of a centralized education bureaucracy by keeping Federal education activities dispersed among the various existing Federal departments and agencies. If anything, the activities and controls of these agencies should be reduced, not increased and made more powerful as a part of the President's Cabinet.

The case against a new Federal Department of Education far outweighs any benefits that might be derived. Such a

massive reorganization would not benefit education and schools throughout the country. It would not make Federal education efforts more responsive to the public, school boards, teachers, school administrators, and students. It would only result in additional cost and bureaucratic control from Washington.

I am opposed to any change in the Federal education structure that will further diminish the authority and control of local people over their schools and education programs, or which will further subordinate local and State autonomy to the Federal Government.

For that reason, I hope that the House of Representatives will not also approve legislation to create a new Department of Education. This is certainly the view of the vast majority of educators in my district, who I polled on this subject last March, and who told me that we do not need this new Cabinet-level agency.●

POPE JOHN PAUL I: A SHORT BUT TIMELESS LESSON

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. SARASIN. Mr. Speaker, I was grieved this morning when I learned of the sudden death of the new pontiff, Pope John Paul I, leader of the Roman Catholic Church and 262d successor of St. Peter. Serving his people from the seat of the Vatican for only 34 days, his death comes to us as a reminder of the inevitability, yet uncertainty, of death and the inherently transient nature of man. Indeed, it is a chilling reminder to all of us in the service of the public that nature is only capricious, paying little heed to title or respect for aspirations.

Though his tenure short, Pope John Paul I expressed in the past month what many require years to reveal. His kindness, his wisdom, his lovingness for all were qualities radiated around the world. In his simplicity and humbleness, and true devotion to God, he injected the Vatican with the same qualities to transform an institution that has long been characterized by splendid pomp and ritual. But most of all, he exemplified a man at peace with himself, and at peace with God—a peace that overflowed and which he readily shared with the entire church and global community. It was certainly a welcome peace in both a troubled church and a world in turmoil.

I deeply share in the feeling of loss and shock that has stunned the Catholic community for a second time this year—the loss not only of this man, but of his vision and the opportunity to experience the fulfillment of that vision. He had a place in history, and he fulfilled it with his entire capacity, bringing to the church a sense of stability when it needed a sense of stability, but promising change when it demanded change. He offered a feeling of historical continuity. But more than that, he provided a pastoral model, a true Christian witness, by transforming his compassion and convictions into concrete action for the betterment of his fellow human beings. His selfless concern for his fellow man is a legacy which we must all strive to continue, and while consoling our loss we must be greatful for the lesson he taught us in such a very short time.

I join Catholics all the world over in a prayer of thanksgiving for Albino Luciani, Pope John Paul I, and of hope for future continuity and peace as the church begins again its search for a new pontiff.

CETA

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. SARASIN. Mr. Speaker, the Comprehensive Employment and Training Act substitute offers us great encouragement that the problems plaguing CETA can be corrected and that the unemployed and underemployed can be better served.

During our Subcommittee on Employment Opportunities' hearings, we uncovered a number of difficult areas within the CETA law, difficulties which adversely affected our ability to reach our stated objective of reducing unemployment by providing unemployed and underemployed Americans with jobs and marketable skills.

Our committee acted to correct these problems, and we produced a good piece of legislation. To recap, we added stiff antifraud and abuse language, improved the reporting provisions, added necessary new national programs to deal with the employment problems of specific groups of unemployed citizens. We tightened the often abused and cost-ineffective public service employment section and provided stiffer controls on the wages that could be paid such employees. We reiterated our position that local prime sponsors should continue to enjoy flexibility and autonomy.

Many in the House felt these reforms did not go far enough to correct the deficiencies, and additional changes were made. These changes were essential to the overall operation of the CETA program and will provide us with greater assurances that our goals can be better met.

These changes included a stronger limitation on wages—limitations that will provide workers with a decent wage, provide motivation to secure new skills, training, and insure that the private sector is not in competition with government. We also reduced the number of countercyclical PSE positions available and in turn created new opportunities for youth, for the structurally unemployed and in private industry.

The new substitute measure embodies these changes and several new amendments that are consistent with our past work. By allowing for annual adjustments in the average wage, based on changes in the average wage in an individual prime sponsor's area, we will provide CETA with flexibility to meet changes in our economy. Temporary job and training opportunities will be protected from the ill-effects of inflation while still preserving the integrity of our efforts to keep wages within realistic boundaries.

The House has expressed its will that training be given a higher priority than it received in the past. Consistent with this is our provision that the maximum percentage of funds allowable for PSE in title II —structural unemployment— will be reduced from 50 percent for wages in fiscal year 1979 to 40 percent for wages and benefits in fiscal year 1982. The net effect of this provision will be to increase the funds available for training the structurally unemployed, thereby increasing the prospects that the formerly unskilled will be able to find permanent, unsubsidized jobs. We recognized, however, that such standards might not be applicable to all areas, particularly those suffering from severe unemployment problems. To counteract any negative ramifications from the limit on PSE, we allowed a waiver up to 50 percent of PSE in such areas.

A real concern that most of us feel is that CETA has not been made available to as many people who are in need of its services. This has happened primarily because there has been no real limit on participation in the program. Instead of providing needy people with temporary employment and then helping them find unsubsidized jobs, CETA has become a permanent "home." Some employees have been in the program for as long as 5 years, which means that other deserving unemployed citizens simply cannot enter CETA to gain either work experience or skills training. We wanted to open the program to more needy Americans, and to do this, we limited the duration of public service employment to 18 months out of any 5-year period.

Projects, limited by law to 1 year and open ended in the committee bill, would be limited to 2 years under our substitute.

The substitute legislation meets the concerns of the Congress. It meets the concerns the American public have voiced over excessive and unproductive spending. Most important, though, it meets the needs of the unemployed and underemployed in this country—their need to have access to work experience and to training, their need to develop skills that will enable them to compete in the work force, and their need for satisfying and productive jobs.●

RETIREMENT

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mrs. SPELLMAN. Mr. Speaker, today marks the end of the Capitol Hill careers of two remarkable public servants who have a combined commitment of almost 60 years as members of the Metropolitan Detail of the Capitol Hill Police.

Detective Sgt. James Costello, a resident of Adelphi, Md., ends 28 years of service at the close of business today.

Detective William Ekeland of Lanham, Md., is completing 29 years as a member of the same detail.

These two fine men have spent their lives dedicated to the safety of this Congress and I would like to pay tribute to them as they close this very important part of their lives.

I know I speak for all of the Members of this House when I wish them a healthy and prosperous retirement and thank them for their long service to this body.

For Sergeant Costello and Detective Ekeland this is only one phase of their honorable careers. As they embark upon the next chapters, I offer my sincerest congratulations on their exemplary service. And as their Representative, I also extend to them the good wishes of all the citizens of the Fifth Congressional District of Maryland.●

CIGARETTE BOOTLEGGING

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. PATTISON of New York. Mr. Speaker, cigarette racketeering is a major and growing problem. Because there are wide disparities between the taxes individual States levy on the sale of cigarettes, organized crime has established a large source of revenue by buying cigarettes in States with low taxes and selling them through the black market in States which charge high tax rates on cigarettes. Therefore, I am pleased that the House is taking action next week on H.R. 8853, legislation which makes cigarette bootlegging a Federal offense and provides for combating this problem by increased law enforcement activities. While I feel H.R. 8853 is only a partial solution, I support this bill.

Numerous studies, including an Advisory Commission on Intergovernmental Relations report and the Judiciary Committee report on H.R. 8853, document the seriousness of the cigarette bootlegging problem. Not only are State governments deprived of significant amounts of revenue, but of equal importance is the fact that the profit which goes to organized crime helps finance their other illegal operations. Eliminating racketeering would therefore have multiple benefits: the States will gain revenue and the mob will lose an important source of funding.

But to completely eliminate bootlegging, we cannot limit ourselves to law enforcement. Congressman ROBERT DRINAN and I have introduced legislation which strikes at the root of illegal cigarette trafficking by establishing a nationwide uniform tax rate on cigarettes. A uniform tax rate would destroy the profit motive, and racketeering would cease.

We already have an 8-cent-per-pack Federal tax on cigarettes. Our proposal, H.R. 10066, would set a second Federal tax on cigarettes and then rebate that additional revenue to the States, in proportion to their consumption. In order to insure that States would not then levy additional cigarette taxes, a provision is included requiring that for every 1 cent of tax a State imposes, it would lose 1 cent of its Federal rebate. Our bill sets the uniform national tax at 31 cents, equal to the highest combined Federal-State-local tax. Thus H.R. 10066 would result in a revenue gain for most States. In fact the Northeast-Midwest Institute is currently preparing a study which estimates the amount of revenue individual States would gain under H.R. 10066.

This does not mean, however, that the law enforcement approach should not also be adopted. The two methods for attacking this problem are entirely compatible. But I would like to quote from the Judicial Committee's report on the legislation which will come before us next week, which states "the 'tax approach,' by eliminating the profit motive, would likely eliminate cigarette bootlegging altogether." The report goes on to state that several witnesses testified that "the 'tax' approach held out the promise of '100-percent solution' to the problem, whereas the 'contraband approach' would at best reduce cigarette bootlegging by 30 percent."

I urge my colleagues to vote for H.R. 8853, as a step in the right direction. I look forward to enacting a uniform national tax rate on cigarettes in the 96th Congress.

U.C. SANTA BARBARA LOSES AN "INSTITUTION"—DR. STEPHEN S. GOODSPEED RETIRES.

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I have had the great good fortune of having as a friend and confident for many years, Dr. Stephen S. Goodspeed, vice chancellor, administrative affairs, University of California at Santa Barbara. He will retire December 31, 1978, after more than 31 years of service to that institution. During this time Dr. Goodspeed has, himself, become an "institution" within the institution. His long association with the university, starting in 1946, closely parallels the history of the school itself; the stature of both have grown greatly.

His sound advice, leadership, and experience have been sought by many and always freely given. The countless lives he has touched as lecturer, writer, administrator, and friend have all benefited highly from his quiet understanding and many areas of expertise.

His will be hard shoes to fill. He has already been notified that he will be recalled to campus service after his retirement as the chancellor's adviser on community relations. Steve Goodspeed is an extraordinary man.

Because of this long and distinguished career of dedicated service to education and to his fellowman, I ask the Members of the House to join with me, his wife Gracie, and his many friends in extending congratulations to Dr. Goodspeed, and wishing him a long and happy retirement.●

CREATING A DEPARTMENT OF EDUCATION: AND IGNORING PROPOSITION 13'S WARNING

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. RYAN. Mr. Speaker, if there ever was an antiproposition 13 issue before the House, it would have to be H.R. 13778, creating a Department of Education. Within a few days we will be debating the desirability of establishing a Department of Education, a department in name only. With the deletion of Indian education programs, child nutrition programs, and international education programs, the "Department" will be the Office of Education with a new name, 43 new supergrade positions, a $9 million increase in cost, and a $4.4 billion increase in budget.

With the taxpayers clamoring for cutbacks in Federal spending, they need only to ask the congressional candidate: Did you vote for the new Department of Education? Did you vote for the additional 43 new supergrade positions?

The following article appeared in the Washington Post on August 20, 1978, and I urge my colleagues to read it:

A LIBERAL'S VOTE FOR PROPOSITION 13

In June, I voted for Jarvis. I voted for a winner.

Mostly in the past I've voted for losers. Norman Thomas. Adlai Stevenson. Gene McCarthy. George McGovern. Mo Udall.

Twice before I voted for winners, LBJ in 1974. And Jerry Brown in 1974. I discovered then that winning's not always so great. Lyndon talked big and escalated everything: Vietnam, wiretaps, inflation. Jerry talked small and escalated everything: size of the bureaucracy, a state surplus so large that the chief fiscal officers can now only say it's "somewhere between $5 billion and $8 billion."

Howard Jarvis, of course, is not important. He's a bit player in this drama. He is in governmental reform what Cassandra was in the Trojan War: a voice from the chorus, a prophet from the pits.

My liberal friends tell me I've gone conservative. My magnanimous friends tell me I'm selfish. My black friends tell me I'm racist. Sen. McGovern tells me I'm a "degraded hedonist."

My friends still believe in Big Liberalism. I used to. I don't anymore.

I used to say that everyone who wants to, and has the ability, should get a free public education—all the way, as far as interest and efforts go. I still say that. But I don't know how to do it. In 25 years on tax-supported faculties in three states I've seen everything go in the wrong direction: Up, up have gone costs, staff size and fancy curriculum (we have a Wine Tasting course on my campus). Down, down have gone teaching loads, academic standards, student aptitude at entrance and student performance during the undergraduate years.

Here in California we have put more resources into "higher" education than we can possibly justify. In 1971, the state legislature passed the Ryan Act (after Leo Ryan, now a member of Congress). It mandated less Mickey Mouse pedagogy and more sub-

stantive work in the academic disciplines. After four years of bureaucratic subversion we ended up with more Mickey Mouse and less substance in teacher education. Mickey Mouse has new names: "multilingual multicultural experiences" is one of them; "competency-based evaluation" is another. Result: more state money into making new teachers, at a time when there are 30,000 already certified teachers unemployed in the state!

Here in California we have one of the world's most advanced and humane programs for retarded children and adults. What could be dearer to the hearts of Old Liberals?

We've been there too. Our daughter, braindamaged at birth, has been registered with, interviewed by any taken into ("clientized by a vendorized agency" is the way we say it in California) a total of 19 public, semipublic and publicly subsidized private agencies since we moved here in 1971. Her records have been "worked up" (shorthand for "eligibility review") by two public school districts, three "regional councils", three county welfare agencies, five offices of the Social Security Administration (two of which "lost" her records), two state agencies and four private groups that receive public money.

Now 23, and eligible for Supplementary Security Income, she has received a total of about $14,000 since spring 1974. We guess, conservatively, that the "helping professionals" on her case have cost the local, state and national governments at least that much again. It's hard to tell how much it cost her, and us, to sit in 19 different reception rooms for maybe 200 hours, clutching plastic numbers, waiting to be "worked up".

Well, of course, we've got to care for the disabled, the old and the poor. Our friends in the American Federation of Teachers and the California associations of welfare workers say Big Liberalism is still the way. I doubt it.

Once, in a spasm of consistency, I offered to be fired. I don't have much seniority, and I thought I could probably get another job. So I volunteered to be first on the layoff list during a period of low enrollments. One of my colleagues, a campus politician, put an end to that: "Sorry", he said, "the union won't stand for any layoffs. Bad precedent".

Now that they know I voted for Jarvis they'll probably reconsider.●

WORLD MOURNS DEATH OF POPE JOHN PAUL I

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. COUGHLIN. Mr. Speaker, I join my colleagues in expressing my profound sorrow over the untimely death of Pope John Paul I. As a humble man of peace and love, Pope John Paul will be missed not only by Roman Catholics, but by all people whatever their religious convictions.

The Pope, during his brief reign as pontiff, made his mark by establishing a more informal papacy, in keeping with his pastoral style of life before his election on August 28. During his 34 days as Pope, he won the admiration and confidence of world leaders, as well as the simple people to whom he devoted his life.

His kindness and ability to communicate simply and effectively with the religious leaders involved in the realm of temporal politics, in spite of their widely divergent philosophies, hinted at the promise of a "golden era" of continuity and great accomplishment for the Catholic Church. Only yesterday, while addressing a group of bishops, Pope John Paul spoke of the mission of the Catholic Church to teach higher ideals of Christianity as well as to work to alleviate misery and need throughout the world.

The world will truly miss the chance to know this gentle man more intimately as the Pope, but we have been fortunate to have had the opportunity to experience, if only for a brief moment in history, the divine influence of Pope John Paul I. I join the world in mourning his death, and pray that his goals and ideals will someday be achieved.●

THE SAFE DISPOSAL OF HAZARDOUS WASTES CANNOT WAIT: EPA MUST COMPLY NOW WITH THE CONGRESSIONAL MANDATE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. KEMP. Mr. Speaker, during the past 10 days the Buffalo Courier-Express has run a startling series of articles on the serious threats to our environment and public health arising from the improper disposal of toxic and other hazardous wastes. During the past week, the three members of the congressional delegation from the Buffalo area—Mr. NOWAK, Mr. LAFALCE and I—have brought that series, authored by Michael Desmond, its importance and its findings to the attention of the House and Nation.

The series was prompted by the discovery of toxic substances leeching through the soil in the Love Canal area of Niagara Falls, N.Y., creating a health hazard so severe that the State had to buy over 240 homes on the site and get the families out of the area. The wastes under the soil there had been covered 25 years ago according to the best technology of the day. But it was not good enough, and we still do not know the final extent to which the leeched chemicals have endangered or affected health and the environment.

The national news media attention the Love Canal incident produced brought to surface a large number of incidents of improper, often illegal, disposal. They range throughout the country, from the Northeast and Mid-Atlantic, through the South and Midwest, to the west coast. Even Hawaii and Alaska are effected. The correction of the problem is going to require the combined efforts of the Federal, State, and local governments and the private sector.

Movement is underway.

A State legislative committee has already conducted public hearings in the area with an eye toward changes in State law to deal with future disposal, a question yielding different answers from that dealing with past disposal.

In Washington, the House has passed legislation providing EPA with the emergency funds with which to deal with the Love Canal matter, and the State's two Senators have won support for the funds from their colleagues.

The House Interstate and Foreign Commerce Committee's Subcommittee on Oversight and Investigations and that committee's Subcommittee on Transportation and Commerce have been asked to conduct immediate hearings on why the Environmental Protection Agency has delayed implementation of the provisions of the Resource Conservation and Recovery Act, the measure which deals most directly with the question.

Inquiry has been made on the possibility of—and time table for—an investigation of EPA's "admitted failure" to issue the regulations called for in the Resource Conservation and Recovery Act.

And, of course, EPA has been implored to comply with that timetable and proceed immediately to promulgation of remedial regulations.

I am of the mind, after having finished the Buffalo Courier-Express series, especially the last in that series, "Waste Handling Solutions Can't Wait," that there is no room here for willy-dallying around, for shadow boxing with EPA. It is not as if this were a new issue; it is not as if EPA had not already been mandated, after extensive study, congressional hearings and exhaustive consideration of legislative options, to take care of this problem. It is not an area where more statutory authority is being called for. If the timetables contained in the RCRA were unrealistic, and I do not think they were, EPA did not warn us of that during the bill's consideration.

I am increasingly of the mind that EPA is not going to heed our pleas for enforcement of the RCRA, an act whose responsibilities have been assigned by Congress to EPA to fulfill, unless something is done which goes beyond all that we have done to date.

The concluding article in the Desmond series, as well as two to-the-point editorials, follow:

WASTE HANDLING SOLUTIONS CAN'T WAIT

(By Michael Desmond)

Since hazardous waste isn't going to go away or stop coming, something has to be done, and done quickly, before it buries every citizen.

That may seem obvious to some, but it is apparently not obvious to a wide array of bureaucrats in various levels of government.

For example, the federal Environmental Protection Agency (EPA) is still dawdling on the rules which should turn the Resource Conservation and Recovery Act of 1976 (RCRA) into something more than a dead letter.

The federal Commerce Department has the legal responsibility to study recycling of wastes to re-use them. It has no money for studies.

SMALL STAFF, BIG PROBLEM

California has one person assigned to try to find companies which can use waste from other companies. The Golden State produces an estimated 10 percent of the national annual total of hazardous waste. EPA estimates the national total at 92 billion pounds.

The federal Maritime Commission is paying for a study of sending waste out to sea to be burned in a special incinerator ship. The Courier-Express was present on Wednesday when Steffen W. Plehn, EPA deputy assistant administrator for solid waste, learned of that project for the first time.

EPA is now planning to look for former waste dump sites to see what is in them. Those plans were not announced until Thursday.

NEW YORK: HISTORY OF CALAMITIES

New York State has a history of chemical waste calamities. It has no record of where many waste dumps are. But it is doing a survey to determine where present sites might become future disasters.

Congress must bear strong criticism because it has done essentially nothing to force EPA to meet the mandates Congress wrote into RCRA. It has also provided very little money for research into newer and better methods for handling waste.

While all of this has been going on, the taxpayers are being hit for massive cleanup bills. A recent Michigan study indicates it will cost state taxpayers there $100 million to clean up a string of environmental disasters.

INDUSTRY AVOIDS COURT PRECEDENT

One attempt to determine who should pay for the cleanup in Michigan fell through when a group of major industries picked up the cleanup cost in one site rather than allow a court to set a precedent by deciding who should pay.

In general, the situation is a little like the old joke about having to hit the mule over the head with a two-by-four to gain his attention. Perhaps if some of the bureaucrats wandering through the problem were forced to live along the Love Canal in Niagara Falls or drink from wells in Toone, Tenn., or live downwind from the Silresim Corp. in Lowell, Mass., they might do something.

THREE URGENT AREAS

There are three distinct areas of activity which have to be undertaken. They are:

(1) Completion of rules for the entire waste disposal industry.

(2) Large amounts of research into reusing waste.

(3) Research to change production methods and cut down the amount of waste.

Finding past dump sites is interwoven with all three.

The basic missing ingredient in the whole situation is any sense of urgency. Life in Washington, D.C., moves along at a steady, even pace, undistracted by any of the harsher realities of life.

INSULARITY IN WASHINGTON

High EPA officials don't worry about what is going on outside of Washington. It is the lower level bureaucrats who have to go out and actually deal with the situations. It is an Eckhardt Beck (EPA Region 2 chief in New York City) personally going around Washington to get action on the Love Canal disaster in Niagara Falls, or a James Stahler (EPA environmental engineer in San Francisco) helping California put together a good hazardous waste program and then helping to sell the same program to other states.

There isn't a lot of that.

Instead, there is Plehn, who admits that no matter what the RCRA rules are, the EPA will be sued by someone. But the agency is racing through the rules process like a snail.

RULES DELAY INCREASES DANGERS

Every day that the rules are delayed—they were due April 21—bad dumps around the country are filling up and posing a future threat. EPA can do nothing until the rules are completed. So the federal government and many state governments are doing nothing about dumps that are being closed, in the absence of rules.

In trying to control the situation, government officials must watch for a different approach from industry. Based on past examples, some companies may just transfer the manufacture of chemicals overseas, leaving the waste overseas, also.

Many countries have no environmental protection rules at all.

Obviously, moving the production overseas might ease the waste problem in this country. It would still not end waste as a problem to human beings, but simply shift it.

PUBLIC DECISIONS NEEDED

The public is also going to have to make some decisions. If some of the chemicals and chemical products are going to continue in use, it is going to cost.

EPA's Plehn threw out an interesting figure in an interview with The Courier-Express the other day. He estimated it might cost $600 million to $800 million a year to meet the eventual RCRA requirements, when they take effect. That is a substantial amount of money, but only $3 to $4 a year for each citizen.

He pointed out the cost itself may bring about changes. EPA has studied the situation in West Germany, where chemical companies and other hazardous waste makers are now required to pay the full cost of getting rid of the waste. So the consumers foot the bill.

Under the long-delayed RCRA, that system would be instituted in the United States.

INDUSTRY'S BURDEN EYED

"The volume of waste will be less. The amount of waste will be less when this program is in full operation," Plehn said.

The current target date for completion of RCRA regulations is January 1980. But environmentalists predict EPA will not meet that date.

Without a bludgeoning of EPA by Congress or the public, the agency will continue on its leisurely way. Congress required EPA to come up with the RCRA regulations within 18 months of enactment, which was in 1976. So EPA will be 21 months late—if it sticks to its own schedule.

Industry is already moving in the area of cutting down waste. For example, the Hooker Chemicals & Plastics Corp. has spent $10 million in its Niagara Falls plant on two of its manufacturing operations. One change cut out waste products completely. The other cuts the waste production drastically.

WASTE CAN'T BE HIDDEN

Joe Louis once talked of the boxing ring as a place where you can run, but can't hide. This is true of hazardous waste. As has so often been horribly proven, it's everywhere.

The public has a stake in the situation. That is true for the captains of industry as well as the average citizen. Sometimes it seems as if every day brings another report of the bad effects of another chemical in another locale.

Today, the National Cancer Institute will release a report on the widely used chemical ethylene dichloride (EDC). The study indicates the chemical causes a wide variety of cancer in laboratory animals. The chemical is used to make vinyl chloride, which causes cancer in humans.

HAZARDOUS CHEMICAL ADDED TO FOOD

The chemical is widely used for everything from making other toxic chemicals to producing spices. In a release, the Institute noted, "EDC may appear as a food additive as a result of its use to extract spices such as annatto, paprika and tumeric." Both annatto and tumeric are used to color food.

LONG-TERM DANGERS POSED

A 1974 study estimated 163 million pounds of the chemical were lost into the environment in 1974 and that use is growing. In an EPA study of surface water in industrialized areas, the chemical was found in 26 percent of the waste samples.

The chemical also causes physical ailments of other kinds, especially blood disorders, and large doses are deadly.

The public must develop an awareness of the long-term dangers. The Love Canal dump had been closed for less than a quarter of a century when it failed to contain wastes. Whether newer and better designed burial sites will be more effective, only time can tell. A "safe" site today could be the next generation's Love Canal.

Both in the long run and the short run, better controls on waste disposal are not substitute for not having as much waste to dispose of.

But there are problems. Richard Herbst is a lawyer and mechanical engineer who is a senior policy adviser in the U.S. Commerce Department. Asked what that department was doing in the chemical waste field, he said, "To be quite frank, we were not given appropriations under the law to undertake the sort of program we should have."

PAPER FLOWS, MONEY TRICKLES

Another Commerce Department official commented, "There's a constant flow of paper from EPA and others in resource conservation." He added, "There's never been a penny appropriated for the Department of Commerce to carry out this act (RCRA)."

The Metallurgy Research Center of the federal Bureau of Mines is doing some research in the field of toxic wastes, especially with sludges containing some metal.

But, basically little is being done by either government or the private sector about hazardous wastes.

From his field perspective, Stahler commented. "We think there should be tax disincentives or even tax incentives." That is, toxic waste producers should be punished or rewarded for inaction or action.

Oregon has a somewhat different approach. Its policy is that if a material can be recycled, it must not be thrown away.

Occasionally, Plehn can cut to the heart of the issue. He told The Courier-Express:

"The problem does not go away. To this extent that wastes are not properly handled or disposed, they tend to come back and lay themselves at your feet. That's one of the grisly facts."

[From the Buffalo Courier-Express, Sept. 28, 1978]

"SILENT (TILL) SPRING" ON WASTE?

With the Federal Environmental Protection Agency (EPA) dragging its feet in dealing with the gargantuan problem of hazardous chemical wastes, must Congress do the same?

Rep. Fred B. Rooney, D-Pa., whose Subcommittee on Environment and the Atmosphere had scheduled hearings on the waste problems in June—they were never held—now says that he will not hold hearings until next spring on why the EPA has not put the Resource Conservation and Recovery Act (RCRA) of 1978 into effect and also on the problem of handling wastes already in the ground. (The EPA, which was supposed to come up with implementing regulations by last April 21, now says that the rules won't be ready until January 1980.)

Why should a concerned public have to wait for hearings until the spring? Both houses are moving toward adjournment and the November elections. But surely a start could be made on the hearings immediately after the elections are over. With a national waste problem as alarming as that disclosed in the recent series of articles in The Courier-Express, there is absolutely no excuse for untoward delay. We hope the Western New York congressional delegation, which has an acute problem in its own backyard, will push for prompt hearings. Rep. Henry J. Nowak, D-Buffalo, has already requested the House Subcommittee on Oversight and In-

vestigation to schedule hearings as soon as possible.

Meanwhile, only now is the EPA moving to acquire an inventory of the most dangerous waste dumps (an agency official has labeled 300 sites as being immediate health and safety hazards, but there are said to be 20,000 inactive hazardous dumps throughout the country). Only 10 regional staff members are working on the inventory, which is expected to take up to 30 days. We find it incomprehensible that of more than 11,000 EPA employes, only about 160 are assigned to the solid-waste problem. This situation lends further support to the need for accelerating the pace of the investigation.

[From the Buffalo Evening News, Sept. 25, 1978]

SPEED EPA WASTE RULES

All three members of the Buffalo-area congressional delegation are right in protesting the protracted delay by the Environmental Protection Agency in issuing federal regulations for the safe disposal of toxic chemicals and other industrial wastes.

When Congress enacted the Resource Conservation and Recovery Act in 1976, it mandated that the EPA issue its implementing regulations no later than last April. To date, however, the agency has not brought forth a single guideline, and it now appears that none will be ready until January, 1980, at the earliest.

We fully share with Messrs. Kemp, LaFalce and Nowak an impatience with an environmental agency that requires four years to comply with a congressional mandate. Representative Nowak called such delay "intolerable," and Representative LaFalce in a letter to the EPA administrator demanded that its rules be issued by early next year at the latest.

For his part, Representative Kemp spotlighted the critical importance of treating the problem of toxic waste disposal as one requiring national solutions.

New York State and the Niagara Frontier have a particular concern for ensuring the firmest possible federal standards as safeguards against the recurrence of many more Love Canal tragedies.

This state is a conspicuously heavy generator of industrial wastes, with about 40 percent of the state's total in the Niagara Frontier alone. Toxic wastes know no geographical boundaries. Substantial amounts are exported to or imported from other states.

New York has been well ahead of most other states in enforcing its own controls over the transporting, treatment and disposal of hazardous wastes. These were substantially strengthened this year by the Legislature's enactment of the Industrial Hazardous Waste Management Act. For the first time now, Albany has the authority to move ahead in establishing and financing repository sites for the safe and permanent disposal of dangerous wastes.

Obviously, however, New York's rules must comply with whatever standards EPA eventually establishes. Meanwhile, state environmental officials say they are hampered in contracting with firms for implementing safeguards because the latter are reluctant to undertake disposal programs so long as the eventual federal rules remain uncertain. Past experience with the state's air quality measures has made Albany officials wary of getting too far ahead of Washington in advancing rules that may later be superseded.

In enacting the first meaningful federal safeguards against toxic wastes, Congress rightly recognized the need for a uniform national approach. Only in this way can states like New York be spared an unfair competitive impact of costly control measures upon their economics.

There may well be merit in contentions that EPA must take special pains in devising disposal rules that can withstand any future court challenges. The fact remains, however, that it should not have to take four years to settle on effective safeguards for the prevention of many more mindless waste-dumping threats to public health and safety.●

PAULA LEAVES THE NEST

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. FINDLEY. Mr. Speaker, today marks the end of the second chapter in my association with a remarkable Washington, D.C., family, an association that began in the heart of that section of our Capital City torn by riots in the wake of the assassination of Martin Luther King in 1968.

Chapter 1 is the story of Melvin Cobb, who as a boy began academic tutoring after the riots with a group of Capitol Hill employees. The tutoring was conducted by my assistant, Bob Wichser, without whose guidance Melvin's life might have been far different. Melvin stuck to it and qualified for an after school summer job in my Washington office. Two years ago, Melvin moved on after graduating from high school with honors to a challenging apprenticeship as an electrician.

And now chapter 2 comes to a close as Melvin's sister, Paula Harrison, leaves also for new horizons. Paula replaced Melvin in 1976 and has met all the many demands of the position with distinction. For her last 2 years of high school she has diligently come to work each day after school, on Saturdays, and full-time during the summers. A thousand and one tasks have been hers, and she has completed each with enthusiasm and dependability.

Always cheerful, always cooperative, always positive in attitude, Paula has won life-long friends throughout the Rayburn Building and Capitol Hill. Numerous times I have seen her share a laugh with George Elliott, the Capitol Hill policeman down the hall from my office. He, like many others, will miss her very much.

And she has met her academic challenges, becoming the first woman in her family to graduate from high school. She even qualified for a scholarship and admission to college, a step she is not taking at this time, but which I hope she will at the first opportunity.

My staff and I are naturally sad to see Paula "graduate" from Capitol Hill. But we are confident that her future will be bright. And we are proud of her achievement. Paula and her brother before her are proof that the American dream that hard work will lead to success is still real. In working to better their situation they follow a path that countless Americans have trod before them, a path to progress that has made America the promised land for millions.

My experience with this Washington family has been indeed heartwarming. From it I can recommend that every employer in this country reach out for a similar opportunity to help others achieve their potential. Responsibility, trust, dependability, and working with people are virtues that a job can strengthen and enhance. Not only have Paula and Melvin benefited themselves and me by becoming good workers and productive members of society, but they have also become part of America's greatest resource—its store of honest, hard-working, and conscientious citizens.●

A NEED FOR BALANCING COST AND BENEFIT OF REGULATIONS SEEN

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. STEERS. Mr. Speaker, Federal regulations have played an increasingly dominant role in our Nation over the last several years. Federal agencies, such as the Food and Drug Administration and the Environmental Protection Agency, enforce regulations whose aims are to protect the health and safety of our citizens and the environment. The benefit from such regulations cannot be denied. However, the costs of such protection have simultaneously been growing with the increase in regulations. Therefore, our principal concerns with any regulation seem to be the cost as compared to the benefit.

Professor Murray L. Weidenbaum, director of the Center for the Study of American Business, has conducted a study which recognizes this problem of balancing cost and benefits of regulation. He estimates that regulations in fiscal year 1979 will cost those regulated at least $98 billion. These findings are a serious concern to me, and his resulting suggestions for reform—economic impact statements accompanying new regulations, enacting "sunset mechanisms" to evaluate existing regulatory agencies, finding alternatives to regulations—seem to be appropriate measures to avoid "overregulation," that is, where regulation costs exceed benefits.

Many of my constituents in Maryland also recognize this important balance between the costs and benefits of Federal regulations—or so it seems from those who responded to a regulation survey I sent out in July, in conjunction with FOR, the Forum on Regulation.

For several months I have been a member of the Forum On Regulation, a 120-member group of House and Senate Members investigating Federal regulations. The increasing number of Federal regulations have bothered me, and I feel obligated to find improvement in the Federal regulatory process.

One method to investigate the regulatory process is to discover what problems or benefits individual citizens have incurred as a result of Federal regulations. Therefore, FOR members are conducting surveys and a telethon to poll the citizens as to their opinions on regulation. I have just received the results of this survey

from my district in Maryland, and would like to share them with my colleagues.

It seems to me that those who responded to the FOR survey in my district approve of the aim of Federal regulations, but are dissatisfied with the methods used in effectuating them, especially those which tend to have a detrimental effect on small businesses. Perhaps it may be that reduced, simplified, less expensive and more efficient regulations are being asked for by the respondents to the survey, without necessarily drastic or overwhelming reduction in volume.

That many approve of the aim of the regulations is evidenced by the citizens who felt they were better off with regulations governing product safety—63.1 percent—and safe, healthy working conditions—63.3 percent—than they were 20 years ago. Further, when asked if they were better off, worse off, or the same as a result of existing Federal regulations, 69.1 percent felt better off with existing food and drug regulations, 62 percent better with water and air pollution standards, and 63.3 percent with advertising, packaging, and labeling rules. Noticeable exceptions to these results were opinions relating to schools and education, where 55 percent felt worse off, how businesses are run and operated, where 55.4 percent felt worse off, and hiring and employment, where 49.2 percent considered themselves worse off.

However, the respondents apparently do not approve of the methods used to implement most Federal regulations. For example, 53.8 percent of the citizens responded that most regulations are not practical and badly thought out; 72.1 percent believe they are not working the way they are supposed to be; and a whopping 88.2 percent are of the opinion that Federal regulations are complicated and confusing, therefore not easy to understand. Many, 64.1 percent, believe that the regulations have caused businesses now to lose money or fail—as opposed to 20 years ago—and a large percentage, 81.7 percent, responded that regulations have caused consumer products to cost more.

So it seems that the respondents believe harm has come to both the producers and consumers of the Nation as a result of Federal regulations. Seeing the support for the aims and benefits of many regulations, however, makes for a difficult task in maintaining, yet reducing, simplifying, and lessening the costs of the Federal regulatory process. The Forum On Regulation, as well as other Members of this Congress, should continue to find methods of cutting down the number of existing regulations, especially for small businessmen, and simplify the regulatory process. Increased efficiency should result, saving our Nation's producers and consumers millions of wasted dollars and man-hours, needed for paperwork, and aiding our economy in the process.

In addition I am a cosponsor of H.R. 5519 which would require the Congressional Budget Office to prepare economic impact statements in connection with rules and regulations proposed by Federal agencies. Currently no such studies of regulation costs and benefits are required. This bill would also aid in the thorough investigation of the Federal regulatory process.

Further, I support the administration's Executive Order 12044, which seeks to force Federal agencies to consider alternatives earlier in the regulatory process, and in addition, asks for reviews of regulations already on the books. The Regulatory Analysis Review Group, created to carry out the executive order, will select 10 to 20 regulations each year to review, and write reports on each, concentrating on the economic consequences of the proposed regulation. The hope is that such examinations will set examples for the other agencies to follow with their own regulations.

The formation of FOR, the citizen's survey of constituents, H.R. 5519, and Executive Order 12044 are steps in the right direction. Let us continue forward in our investigation of the Federal regulatory process, and hopefully emerge with further plans of action, which will be sufficient to rectify the current unsatisfactory situation.●

IN SUPPORT OF CONFERENCE REPORT TO ACCOMPANY H.R. 12255, COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 29, 1978

● Mr. SARASIN. Mr. Speaker, I would like to add my voice in support of the conference report to accompany H.R. 12255, the Comprehensive Older Americans Act of 1978. This legislation marks another giant step in the long effort needed to provide comprehensive services to our country's senior adults.

Of particular interest to me is the special attention that is paid to senior centers. One has only to visit a multipurpose senior center to realize just how much they mean to seniors. This was clearly the message our Subcommittee on Human Services received when we conducted an oversight hearing on title V at a senior center in Connecticut.

I am happy to say that several of the recommendations made at that time have carried through into this conference report. Senior center funds can now be used for staffing; new construction and leasing are now available; senior centers are to be given special consideration as focal points in the community for the delivery of services. My only regret is that separate authorization for senior centers was deleted, but enough emphasis has been placed on their vital role in the report to insure their development and expansion.

Mr. Speaker, our subcommittee has also spent a great deal of time looking at the future of aging. The foresight hearings we have conducted prove that Congress concern for America's seniors is indeed a target. In fact, we cannot relax for a minute our deep commitment to this growing segment of our population.

This year's reauthorization of the Older Americans Act is a clear reflection of that commitment and I am proud to have had a part in it.●

HOUSE OF REPRESENTATIVES—*Monday, October 2, 1978*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
October 2, 1978.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let the words of my mouth and the meditation of my heart, be acceptable in Thy sight, O Lord, my Strength and my Redeemer.—Psalms 19: 14.

O God our Father, our hearts are filled with gratitude as we join our Hebrew friends in celebrating Rosh Hashana—the coming of their new year. Might it be a year in which together we may share the benefits of increasing fellowship and renewed good will. Help us to work more fully with You and to labor more faithfully with one another for the highest good of our country.

Sustain us with Your power and support with Your presence the leaders of our Nation. Guide our President, our Speaker, Members of Congress, and all who are entrusted with our safety, our security, and our support. May good will live in the hearts of our people and peace abide within the borders of all nations, to the glory of Your holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 725. Concurrent resolution requesting the President to return the enrolled bill (H.R. 8149) to provide customs procedural reform, and for other purposes, and providing for its reenrollment with a technical correction.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12934) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes," and that the Senate agreed to the House amendments to the Senate amendments Nos. 2, 22, 24, 25, 30, 31, 34, 54, 66, 67, 90, 100, 106, 109, 111, 113, 115, 116, 117, 123, and 124 to the foregoing bill.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2249. An act to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to a bill of the House of the following title:

H.R. 11400. An act to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds.

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 682. An act to amend the Ports and Waterways Safety Act of 1972, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the amendment of the Senate to a bill of the House (H.R. 12467) entitled "An act to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for the other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. WILLIAMS, Mr. EAGLETON, Mr. KENNEDY, Mr. CRANSTON, Mr. HATHAWAY, Mr. JAVITS, Mr. STAFFORD, Mr. HATCH, and Mr. SCHWEIKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 991. An act to establish a Department of Education, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 29, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on September 29, 1978, the Clerk has received this date the following message from the Secretary of the Senate:

That the Senate passed without amendment H.J. Res. 1140, to amend section 8 of the Export-Import Bank Act of 1945.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to the authority granted the Speaker on Friday, September 29, 1978, the Speaker did on Saturday, September 30, 1978, sign the following enrolled bills:

H.J. Res. 1140. Joint resolution to amend section 8 of the Export-Import Bank Act of 1945;

S.J. Res. 165. Joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes; and

S. 2391. An act to extend the Commodity Exchange Act, and for other purposes.

REPORT TO CONGRESS SETTING FORTH DETERMINATION THAT IMPORT RELIEF FOR U.S. CLOTHESPIN INDUSTRY IS NOT IN NATIONAL ECONOMIC INTEREST—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-391)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

In accordance with section 203(b)(2) of the Trade Act of 1974, enclosed is a report to the Congress setting forth my determination that import relief for the U.S. clothespin industry is not in the national economic interest, and explaining the reasons for my decision.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1978.*

THIRTY DEFERRALS OF FISCAL YEAR 1979 FUNDS TOTALING $1,178.2 MILLION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-392)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 30 deferrals of fiscal year 1979 funds totalling $1,178.2 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1978.*

CONSENT CALENDAR

The SPEAKER pro tempore. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

RETURN OF GERMAN WAR PAINTINGS TO THE FEDERAL REPUBLIC OF GERMANY

The Clerk called the bill (H.R. 11945) to authorize the Secretary of the Army to return 10 paintings to the Navy of the Federal Republic of Germany.

There being no objection, the Clerk read the bill, as follows:

H.R. 11945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army is authorized to transfer to the Secretary of the Navy for return to the Navy of the Federal Republic of Germany, without compensation, ten German war paintings by the Artist Claus Bergen depicting the German Navy which are now the property of the United States in the custody of the Secretary of the Army.

(b) Nothing contained in this Act shall authorize the expenditure of any funds of the United States to defray any cost of transportation or handling incident to such transfer.

With the following committee amendment:

Committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Army is authorized to transfer to the Federal Republic of Germany, without compensation, title to, and custody of, ten paintings by the artist Claus Bergen depicting the German Navy that were seized from the German government by the United States Army after World War II.

SEC. 2. No funds of the United States may be expended in connection with any transportation or handling costs incident to the transfer authorized under the first section of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of the Army to return to the Federal Republic of Germany ten paintings of the German

Navy seized by the United States Army at the end of World War II.".

A motion to reconsider was laid on the table.

PROVIDING MEANS FOR ACQUISITION AND RETENTION OF TITLE TO CERTAIN LANDS FOR NATIVES OF KAKE, ALASKA

The Clerk called the bill (H.R. 14026) to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 14026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provisions of law, any Indian tribal or other entity that holds any lands described in section 2 of this Act, or interests therein, in fee simple may freely alienate and convey such lands or interests therein to others and, upon request of any Indian tribal or other entity for whom the United States holds title in trust to any lands described in section 2 of this Act, the Secretary of the Interior shall convey such lands to such entity in fee simple, free of all encumbrances and restrictions whatsoever, and (b) notwithstanding any other provisions of law, the corporation organized for the Natives of the village of Kake, Alaska, pursuant to the Alaska Native Claims Settlement Act, 85 Stat. 688, as amended and supplemented, shall be entitled to retain, and shall not be required to reconvey to any others, title to the surface estate in any lands described in section 2 of this Act that is conveyed to it pursuant to the Settlement Act.

SEC. 2. The lands subject to this Act are:

(a) That portion of United States Survey 963 in section 35, township 56 south, range 72 east, Copper River Meridian, Alaska, described as follows:

Beginning at the southwest corner of United States Survey 963, thence along the south boundary of said survey north 67 degrees 24 minutes 20 seconds east, a distance of 220.53 feet to a point on the boundary of power easement numbered E–2 of the Alaska Department of Highways; thence along the boundary of said easement north 34 degrees west a distance of 36.71 feet to a point which coincides with a corner on the boundary of such easement; then continuing on the boundary of such easement, north 9 degrees 30 minutes west a distance of 100 feet; thence north 61 degrees 16 minutes 58 seconds west a distance of 149.93 feet; thence south 76 degrees 35 minutes west a distance of 100 feet to a point on the west boundary of United States Survey 963; thence along said boundary south 13 degrees 25 minutes east a distance of 270 feet to the point of beginning, containing 1.09 acres, more or less, together with all improvements thereon and appurtenances thereto;

(b) That portion of lot 2 of United States Survey 3852 that liest between the west side of Keku Road as presently alined and Keku Straight, containing less than 1 acre, together with all improvements thereon and appurtenances thereto; and

(c) That portion of Alaska Tideland Survey Numbered 1091 designated as parcel E on the preliminary plat thereof, containing 2.183 acres, more or less, together with all improvements thereon and appurtenances thereto.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

1890 LAND-GRANT UNIVERSITY AGRICULTURAL RESEARCH FUNDING FORMULA

The Clerk called the bill (H.R. 13989) to amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1445 (b) of the Food and Agriculture Act of 1977 is amended to read as follows:

"(b) Beginning with the fiscal year ending September 30, 1979, the funds appropriated in each fiscal year under this section shall be distributed as follows:

"(1) Three per centum shall be available to the Secretary for administration of this section.

"(2) The remainder shall be allotted among the eligible institutions as follows:

"(A) Funds up to the total amount made available to all eligible institutions in the fiscal year ending September 30, 1978, under section 2 of the Act of August 1965 (79 Stat. 431; 7 U.S.C. 450i), shall be allocated among the eligible institutions in the same proportion as funds made available under section 2 of the Act of August 4, 1965, for the fiscal year ending September 30, 1978, are allocated among the eligible institutions.

"(B) Of funds in excess of the amount allocated under subparagraph (A) of this paragraph, 20 percentum shall be allotted among eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census. In computing the distribution of funds allocated under this subparagraph, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE UNITED STATES TO HOLD LAND IN TRUST FOR SUSANVILLE INDIAN RANCHERIA OF LASSEN COUNTY, CALIF.

The Clerk called the bill (H.R. 13991) to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, Calif., approximately 120 acres of land.

There being no objection, the Clerk read the bill as follows:

H.R. 13991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) beginning on the date of the enactment of this Act, all right, title, and interest of the United States in the following lands consisting of approximately one hundred and twenty acres situated within Lassen County, California, shall, subject to subsection (b) of this section, be held in trust by the United States for the Susanville Indian Rancheria, an Indian reservation organized under the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.):

MOUNT DIABLE MERIDIAN

Township 30 north, range 12 east:

Section 20: East half of the southeast quarter; and southeast quarter of the northeast quarter.

(b) Nothing in this Act shall deprive any person of any valid existing right of way of record which such person may have in any of the lands described in subsection (a) of this section.

With the following committee amendments:

Page 1, strike out all of line 3 and insert in lieu thereof "That, subject to valid existing rights,";

Page 2, lines 1 and 2, strike out "shall, subject to subsection (b) of this section," and insert in lieu thereof "shall";

Page 2, line 6, strike out "DIABLE" and insert "DIABLO"; and

Page 2, lines 10 through 13, strike out all of subsection (b).

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HISTORIC CHATTAHOOCHEE COMPACT

The Clerk called the bill (H.R. 13692) granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia.

There being no objection, the Clerk read the bill as follows:

H.R. 13692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the Historic Chattahoochee Compact between the States of Alabama and Georgia which compact reads as follows:

"HISTORIC CHATTAHOOCHEE COMPACT

"ARTICLE I. The purpose of this compact is to promote the cooperative development of the Chattahoochee Valley's full potential for historic preservation and tourism and to establish a joint interstate authority to assist in these efforts.

"ARTICLE II. This compact shall become effective immediately as to the States ratifying it whenever the States of Alabama and Georgia have ratified it and Congress has given consent thereto.

"ARTICLE III. The States which are parties to this compact (hereinafter referred to as 'party States') do hereby establish and create a joint agency which shall be known as the Historic Chattahoochee Commission (hereinafter referred to as the 'Commission'). The Commission shall consist of twenty-eight members who shall be appointed by the historical commission or organization or similar historical body or other designated authority in each of the counties represented by the Commission who shall be bona fide residents and qualified voters of the party State. In Alabama, two shall be residents of Barbour County, two shall be residents of Russell County, two shall be residents of

Henry County, two shall be residents of Chambers County, two shall be residents of Lee County, two shall be residents of Houston County, and two shall be residents of Dale County. If there are two historical organizations in any of said counties, then one Commission member shall be selected from each organization; if there are more than two organizations in any such county, then the organization shall meet and decide on the designation of members which will represent their respective county. In Georgia, one shall be a resident of Troup County, one shall be a resident of Harris County, one shall be a resident of Muscogee County, one shall be a resident of Chattahoochee County, one shall be a resident of Stewart County, one shall be a resident of Randolph County, one shall be a resident of Clay County, one shall be a resident of Quitman County, one shall be a resident of Early County, one shall be a resident of Seminole County, and one shall be a resident of Decatur County. In addition, these 11 Georgia members shall choose three at large members who shall be selected from any three of the Georgia member counties listed above. The Commission at its discretion may appoint as many advisory members as it deems necessary from any Georgia or Alabama county which is located in the Chattahoochee Valley area. The contribution of each party State shall be in equal amounts. If the party States fail to appropriate equal amounts to the Commission during any given fiscal year, voting membership on the Commission Board shall be determined as follows: The State making the larger appropriation shall be entitled to full voting membership. The total number of members from the other State shall be divided into the amount of the larger appropriation and the resulting quotient shall be divided into the amount of the smaller appropriation. The then resulting quotient, rounded to the next lowest whole number, shall be the number of voting members from the State making the smaller contribution. The members of the Commission from the State making the larger contribution shall decide which of the members from the other State shall serve as voting members, based upon the level of tourism, renovation and promotional activity, and general support of the Commission's activities by and in the county of residence of each of the members of the State making the smaller appropriation. Such determination shall be made at the next meeting of the Commission following September 30th of each year. Members of the Commission shall serve for terms of office as follows: Of the fourteen Alabama voting members, one from each of said counties shall serve for two years and the remaining member of each county shall serve four years. The member appointed by the older organization of each county shall serve for the four year term for the initial term of this compact. Upon the expiration of the original terms of office of Alabama members, all successor Alabama voting members shall be appointed for four year terms of office, with seven vacancies in the Alabama voting membership occurring every two years. Of the fourteen Georgia voting members, seven shall serve four year terms and seven two year terms for the initial term of this compact. The terms of the individual Georgia voting members shall be determined by their place in the alphabet by alternating the four and two year terms beginning with Chattahoochee County—four years, Clay County—two years, Decatur County—four years, etc. Upon the expiration of the original terms of office of Georgia members, all successor Georgia voting members shall be appointed for four year terms of office, with seven vacancies in the Georgia voting membership occurring every two years. Of the three Georgia at large Board members, one shall serve a four year term and two shall serve two year terms.

All Board members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the members of the Commission. The first chairman of the Commission created by this compact shall be elected by the Board of Directors from among its voting membership. Annually thereafter, each succeeding chairman shall be selected by the members of the Commission. The chairmanship shall rotate each year among the party States in order of their acceptance of this compact. Members of the Commission shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of the Commission.

"ARTICLE IV. The headquarters of the Commission shall be selected by the Commission and shall be centrally located in the Chattahoochee Valley area. Such headquarters shall be consistent with the legitimate need of the Commission. The Commission shall hold an annual meeting at the Commission Headquarters and one-half of the then members of the Commission shall constitute a quorum for the transaction of business. Additional meetings may be held at such times and places as may be considered necessary, desirable or convenient, upon call of the chairman, or, in the case of his absence or incapacity, of the vice chairman, or, on call of any three members of the Commission. The Commission shall determine and establish its own organization and procedure in accordance with the provisions of this Act and shall have an official seal. The Commission shall elect its chairman, its vice chairman, its secretary and its treasurer, and such officers shall hold office for a period of one year or until a successor is elected. Neither the secretary nor the treasurer need be members of the Commission. The Commission may require that the treasurer thereof be bonded in an amount to be determined by the Commission.

"ARTICLE V. The Commission shall have the right to adopt such rules and regulations as may be necessary to carry out the intent and purposes of this Act, and shall be authorized to provide for an executive committee of not fewer than five of its members to whom it may delegate such powers and authority as the Commission may deem to be advisable.

"ARTICLE VI. No member of the Commission shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as a member of the Commission. All such expenses are to be paid from the funds of the Commission. Further, it shall be unlawful for any member of the Commission or any employee thereof to charge, receive, or obtain, either directly or indirectly, any fee, commission, retainer or brokerage out of the funds of the Commission, and no member of the Commission or officer or employee thereof shall have any interest in any land, materials, or contracts sold to, or made or negotiated with the Commission, or with any member or employee thereof acting in his capacity as a member of such Commission. Violation of any provisions of this section shall be a misdemeanor and upon conviction shall be punishable by removal from membership or employment and by a fine of not less than $100.00 or by imprisonment not to exceed six months or both.

"ARTICLE VII. The Commission shall establish and maintain at such lawful depository or depositories as it shall select, a 'Historic Chattahoochee Fund' composed of the money or monies which may come into its hands from admission, inspection fees, gifts, donations, grants, bequests, loans, bond issues, governmental appropriations or other sources, either public or private. Such funds shall be used by the Commission to pay for the purposes herein set forth, and the servicing, retirement or amortization of any bonds or other evidences of indebtedness issued by the Commission.

"ARTICLE VIII. The Commission shall be authorized:

"1. To investigate and select available sites for housing historic exhibits, including the surrounding grounds, with such State, Federal, or local agencies and governments and private individuals, corporations, associations, or other organizations as may be involved, taking into consideration all pertinent factors affecting the suitability of such sites; to acquire, transport, renovate, maintain and exhibit appropriate and suitable military, or historic units, articles, exhibits, and attractions; to have full, complete and exclusive jurisdiction over the sites, and any related exhibits;

"2. To promote tourism throughout the Chattahoochee Valley by attending travel shows; issuing news releases, calendars of events and newsletters; publishing brouchures and pamphlets; constructing mobile travel exhibits; producing films and other visual presentations as may be necessary; and advertising in magazines and/or newspapers;

"3. To acquire by rent or lease agreement or otherwise, the necessary housing facilities; and to establish, improve and enlarge available facilities, including providing them with necessary equipment, furnishings, landscaping, and related facilities, including parking areas and ramps, roadways, sewers, curbs, and gutters;

"4. To enter into such contracts and cooperative agreements with the local, State, and Federal government, with agencies of such governments, with private individuals, corporations, associations, and other organizations, as the Commission may deem necessary or convenient to carry out the purposes of this Act, with such contracts and agreements to include leases to private industry;

"5. To borrow money from private sources, the State emergency fund, or such other source as may be acceptable to the Commission under such terms and conditions as may be provided by law, and, in order to provide security for the repayment of any such private loans, the Commission shall have the authority to pledge such future revenues from admissions and any other sources as may from time to time, be necessary or desirable;

"6. To issue and sell at any time and from time to time its revenue bonds for the purpose of providing funds to acquire, enlarge, improve, equip and maintain its property, and for the payment of obligations incurred for such purposes. The principal and interest on any such revenue bonds shall be payable solely out of the revenues derived from the project;

"7. To make such contracts in the issuance of its bonds as may seem necessary or desirable to assure their marketability and to provide for their retirement by a pledge of all or any revenue which may come to the Commission from the investment of the proceeds of the sale of such bonds or from any other source whatsoever;

"8. To accept public or private gifts, grants and donations;

"9. To acquire property by purchase, lease, gift, or license; and to dispose of any property of the Commission when, in the opinion of the Commission such disposition is deemed expedient;

"10. To allocate and expend funds from all donations, income and revenue from any source whatsoever coming into its treasury, for the fulfillment and accomplishment of its duties and responsibilities in such manner as may be necessary and appropriate for the perfection of the purposes of this Act;

"11. To sell, convey, transfer, lease or donate any property, franchise, grant, easement, license or lease or interest therein which it may own, and to transfer, assign, sell, convey, or donate any right, title or interest which it may have in any lease, contract, agreement, license or property;

"12. To hire such laborers, artisans, caretakers, technicians, stenographers and administrative employees and supervisory and professional personnel as may be necessary or advisable for the carrying out in the most efficient and beneficial manner of the purposes and provisions of this Act;

"13. To employ an executive director who shall serve at the pleasure of the Commission, who shall be responsible directly to the Commission, whose compensation shall be fixed by the Commission, whose duties and authority shall be designated by the Commission, and who shall be paid from funds of the Commission;

"14. To make such rules and regulations as the Commission may deem necessary and desirable to provide for the operation, management and control of its facilities;

"15. To perform such other acts necessary or incidental to the accomplishment of the purposes of this Act whether or not specifically authorized in this section, and not otherwise prohibited by law.

"ARTICLE IX. The Commission shall constitute a public body corporate and shall have, in addition to those set forth specifically in this Act, all powers necessary or convenient to effect the purposes for which it has been established under and by the terms of this Act, together with all powers incidental thereto or necessary to the discharge of its said powers and duties.

"ARTICLE X. The Commission, its property and income and all bonds issued by the Commission, the income from such bonds, or from the investment of such income, and all conveyances, leases, mortgages, and deeds of trust by or to the Commission shall be exempt from all taxation in the State of Alabama and the State of Georgia.

"ARTICLE XI. All obligations incurred by the Commission and all bonds issued by it shall be solely and exclusively an obligation of the Commission and shall not create an obligation or debt of the State of Alabama or the State of Georgia or any county or municipality of either.

"ARTICLE XII. The Commission shall maintain at all times accurate records and books of account covering revenues and expenditures. Such records and books shall be available for audit at any time by the department of examiners of public accounts, and shall be audited at least every two years in the same manner as audits are made of other State agencies and departments.".

SEC. 2. The Congress consents to the foregoing Historic Chattahoochee Compact between the States of Alabama and Georgia subject to the understanding that nothing contained therein shall be construed to confer upon the joint agency established thereby and known as the Historic Chattahoochee Commission, or upon any other person, the right of eminent domain.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING LAWFUL CERTAIN ACTIVITIES CONCERNING CERTAIN FOREIGN AND DOMESTIC LEGAL LOTTERIES

The Clerk called the bill (H.R. 11580) to amend title 18 of the United States Code to make lawful certain activities concerning certain foreign and domestic legal lotteries.

There being no objection, the Clerk read the bill as follows:

H.R. 11580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1307(b) of title 18 of the United States Code is amended—

(1) by inserting "or within a foreign place" after "within a State"; and

(2) by striking out "conducted by that State acting under authority of State law." and inserting in lieu thereof the following: "authorized by law in such State or foreign place.".

(b) Subsection (c) of section 1307 of title 18 of the United States Code is amended—

(1) by inserting "(1)" after "of this section"; and

(2) by inserting "; and (2) 'foreign country' means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States and its possessions)" before the period.

SEC. 2. Section 1953(b)(4) of title 18 of the United States Code is amended by striking out "in a lottery conducted by that State acting under authority of State law." and inserting in lieu thereof the following: "or within a foreign place in a lottery authorized by law in such State or foreign place.".

With the following committee amendments:

Page 1, line 3: After "That" insert "(a)".

Page 1, line 5: Strike "place" and insert "country".

Page 1, Strike all of lines 7 through 10, inclusive, and insert:

(2) by inserting "which is (1)" after "concerning a lottery"; and

(3) by inserting "; or (2) authorized by the laws of that foreign country" before the period.

(b) Subsection (c) of section 1307 of title 18 of the United States Code is amended—

(1) by inserting "(1)" after "of this section"; and

(2) by inserting "; and (2) 'foreign country' means an empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States and its possessions)" before the period.

Page 2, strike all of lines 10 through 15 inclusive, and insert:

SEC. 2. Subsection (b) of section 1953 of title 18 of the United States Code is amended—

(1) in paragraph (4)—

(A) by inserting "(A)" after "designed for use"; and

(B) by inserting "; or (B) within a foreign country in a lottery which is authorized by the laws of that foreign country" before the period; and

(2) by adding at the end the following: "For purposes of this subsection, 'foreign country' means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States and its possessions)."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend title 18, United States Code, to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes."

A motion to reconsider was laid on the table.

U.S. CAPITOL HISTORICAL SOCIETY

The Clerk called the bill (H.R. 11035) to incorporate the U.S. Capitol Historical Society.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MOORHEAD of California. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I rise in strong support of H.R. 11035, a bill to grant a Federal charter of incorporation to the U.S. Capitol Historical Society.

Under the direction of its distinguished president and our former colleague, the Honorable Fred Schwengel, the society provides a unique service to America. Founded in 1962, the society's main purpose is to encourage an understanding by the people of America of the founding, growth, and significance of the Capitol of the United States. The organization rightly emphasizes that the historic Capitol building is the "tangible symbol of (our) representative form of government." The U.S. Capitol Historical Society is truly an educational and historic resource of national importance. It is most deserving of the honor and recognition symbolized by a Federal charter.

The society currently has over 5,000 members, throughout the United States and in many foreign countries. All Members of Congress become members of the society upon election to Congress by the people of the United States. It is chartered in the District of Columbia as a nonprofit organization and, as a condition of this legislation, will be required to maintain this D.C. corporate status. The society is financed totally through dues and contributions; it receives no Federal subsidies and this legislation does not authorize any such expenditures.

The activities of the U.S. Capitol Historical Society are many and varied. It operates the visitor's information center in the Capitol Building itself, which has provided information and assistance to millions of tourists over the years. The society also publishes many books and pamphlets on the Capitol and Congress. Included among these publications is the very successful Capitol guidebook: "We The People." The Society has also spent over $250,000 in support of restoration artwork inside the Capitol building and plans call for more such projects. A program of Bicentennial Commemorative Medals, to recognize important historical events and personalities from 1777 to 1789, is also overseen and administered by this fine organization. The Society also assists students and visiting scholars in connection with research relating to the Capitol, and generally encourages such research.

Mr. Speaker, in recent years the practice of granting Federal charters of incorporation has come under considerable scrutiny and questioning. Concern has been expressed about the lack of ongoing Federal supervision of these "Federally endorsed" organizations. Some fear unintended, collateral side effects on State laws that otherwise would be applicable to such groups. In June, 1975, the Subcommittee on Administra-

tive Law and Governmental Relations of the House Judiciary Committee conducted an inquiry into "Oversight on Federal Incorporation." Numerous witnesses, including the Justice Department, urged "stricter standards" for the granting of Federal charters.

As a consequence of these hearings, at the outset of the 95th Congress our subcommittee adopted a new set of criteria for proposed, new Federal charters. These "minimum standards" are as follows:

Any private organization petitioning Congress for the purpose of obtaining the status of a Federal corporation shall be required to demonstrate that it is an organization which is—

(1) operating under a charter granted by a State or the District of Columbia, and that it has so operated for a sufficient period of time to demonstrate its permanence, which shall not be less than ten consecutive years in length immediately prior to approval of the Federal charter;

(2) organized and operated in the public interest, as a nonpartisan and nonprofit organization, with terms of membership and requirements for holding office within the organization which are not discriminatory on the basis of race, color, religion, or national origin;

(3) organized and operated solely for charitable, literary, educational, scientific, patriotic, or civic improvement purposes, and maintain its existing State or Dstrict of section 501(c) of title 26, United States Code; and

(4) organized and operated for the primary purpose of conducting activities which are national in scope, and responsive to a national need so as to justify Federal incorporation.

In addition to meeting the minimum standards set forth above, the private organization shall also be required to retain and maintain its existing State or District of Columbia charter for the life of its Federal charter, if approved.

I would point out to my colleagues that the United States Capitol Historical Society meets all of these rigorous standards and urge their support of H.R. 11035.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill as follows:

H.R. 11035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons:

Honorable Fred Schwengel, Washington, District of Columbia;

Honorable Marguerite Still Church, Evanston, Illinois;

Doctor Melvin M. Payne, Washington, District of Columbia;

Carl Haverlin, Northridge, California;

Doctor Walter Rundell, College Park, Maryland;

Victor M. Birely, Washington, District of Columbia;

Arthur B. Hanson, Esquire, Washington, District of Columbia;

Mrs. Adlai Stevenson III, Hanover, Illinois;

Mrs. Florian Thayn, Washington, District of Columbia;

and their successors are hereby created and declared to be a body corporate of the District of Columbia having the name "United States Capitol Historical Society" (hereinafter the "corporation"). The said corporation shall have perpetual existence and the powers, limitations, and restrictions herein contained.

COMPLETION OF ORGANIZATION

SEC. 2. The persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary to carry out the provisions of this Act.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be—

(a) to encourage in the most comprehensive and enlightened manner an understanding by the American people of the founding, growth, and significance of the Capitol of the United States of America as the tangible symbol of their representative form of government;

(b) to undertake research into the history of the Congress and the Capitol and to promote the discussion, publication, and dissemination of the results of such studies;

(c) to foster and increase an informed patriotism of the land in the study of this living memorial to the founders of this Nation and the continuing thread of principles as exemplified by their successors; and

(d) to mutually cooperate with the standing committees of the Congress, the Library of Congress, the Architect of the Capitol, and relevant departments and agencies of the executive branch of the Federal Government in furthering the objectives of the corporation.

POWERS OF THE CORPORATION

SEC. 4. The corporation shall have the power—

(a) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(b) to adopt, alter, and use a corporate seal;

(c) to choose officers, managers, and agents as the business of the corporation may require;

(d) to charge and collect membership dues;

(e) to adopt, amend, apply, and alter a constitution and bylaws not inconsistent with the laws of the United States of America or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(f) to contract and be contracted with;

(g) to take hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real, personal, or mixed, necessary or convenient for attaining the objects of the corporation, subject, however, to applicable provisions of law of any State (1) governing the amount or kind of real and personal property which may be held by, or (2) otherwise limiting or controlling the ownership of real and personal property which may be held by, or (3) otherwise limiting or controlling the ownership of real and personal property by, a corporation operating in such State;

(h) to transfer, lease, or convey real or personal property;

(i) to borrow money for the purposes of the corporation and issue bonds or other evidences of indebtedness therefor and secure the same mortgage or pledge subject to applicable Federal or State laws;

(j) to conduct campaigns for raising of funds and to accept contributions from individuals, corporations, and other bodies, foundations, and organizations;

(k) to print, to create and distribute commemorative medals, edit and publish, make, display, and sell books and magazines, pictures, slides, and cinemas, as may be necessary or desirable for the accomplishment of the purposes of the corporation;

(l) to buy, sell, and generally deal in appropriate and related souvenirs, commemorative medals, curios, mementos, and publications; and

(m) to do any and all acts necessary and proper to carry out the purposes of the corporation.

PRINCIPAL OFFICE; TERRITORIAL SCOPE OF ACTIVITIES; RESIDENT AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Washington, District of Columbia, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place and may be conducted throughout the various possessions of the United States.

(b) The corporation shall have in the District of Columbia at all times a designated agent authorized to accept service of process for the corporation, and notice to or service upon such agent or mailed to the business address of such agent shall be deemed as service or notice upon the corporation.

MEMBERSHIP

SEC. 6. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide.

ACTIVE BOARD OF TRUSTEES

SEC. 7. (a) The control and management of the affairs and funds of the corporation shall be vested in its active board of trustees which, exclusive of ex officio and honorary members, shall consist of not more than forty active members and not less than twelve active members, one of whom shall be elected chairman.

(b) The term of an active trustee of the board shall be four years in duration and, except by the unanimous vote of the members of the board of trustees present and voting, no active trustee may be reelected as an active trustee until after a lapse of one year from the expiration of his term as active trustee.

(c) The board of trustees shall meet not less than once annually in the Capitol of the United States at Washington, District of Columbia, and at such other times as may be determined by the chairman. No meeting of the board of trustees may be held except pursuant to a time and place stated in the bylaws or upon thirty days written notice in advance of any such meeting.

(d) Trustees of the corporation shall be elected by action of the active board of trustees. Trustees may be removed by the vote of two-thirds of the other active trustees at any time with or without cause.

OFFICERS OF THE CORPORATION

SEC. 8. (a) The officers of the corporation shall be a president, who shall be the chief executive officer, five vice presidents, a treasurer, and a secretary.

(b) During their respective terms of office, the officers of the corporation shall be ex officio members of the board with all the rights and privileges of a trustee including the right to vote. Officers may receive compensation or other remuneration for their services as determined by the board of trustees, and they may be reimbursed for their actual expenses.

(c) Officers of the corporation shall be elected annually by action of the board of trustees and shall continue in office at the pleasure of the board.

(d) The duties of the officers of the corporation shall be such as usually pertain to the offices they hold and also shall include such additional duties as may be delegated by the board of trustees.

(e) The board of trustees may employ an executive secretary and such other paid personnel as may be needed to assist the officers

and the board and to accomplish the programs and business of the corporation. The board shall fix the compensation and prescribe the duties of the executive secretary and such other paid personnel who shall serve at the pleasure of the board.

USE OF INCOME: LOANS TO OFFICERS, TRUSTEES, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the Corporation shall inure to any of its members, trustees, or officers, as such, or be distributable to any of them during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers or employees of the corporation or reimbursement for actual expenses in amounts approved by the board of trustees of the corporation.

(b) The corporation shall not make loans to its officers, trustees, or employees. Any director who votes for or assents to the making of a loan or advance to an officer, director, or employee of the corporation, and any officer who participates in the making of such loan or an advance, shall be jointly and severally liable to the corporation for the amount of such loan or advance until the repayment thereof.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 10. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 11. The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

BOOKS AND RECORDS: INSPECTION

SEC. 12. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of trustees, and committees having any authority under the board of trustees, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or the agent or attorney of such member, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 13. (a) The provisions of sections 2 and 3 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1102, 1103), shall apply with respect to the corporation.

(b) The corporation shall comply with the provisions of Public Law 91-510, section 451, October 26, 1970.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 14. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, any remaining assets of the corporation shall be distributed in accordance with the determination of the board of trustees of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME, EMBLEM, SEALS, AND INSIGNIA

SEC. 15. The corporation shall have the sole and exclusive right to the name "United States Capitol Historical Society" and to have and use in carrying out its purpose, distinctive insignia, emblems, seals, descriptive or designating marks, and words or phrases, as may be required in the furtherance of its functions. Nothing in this section shall be construed to interfere or conflict with established or vested rights.

ACQUISITION OF ASSETS AND LIBILITIES OF EXISTING CORPORATION

SEC. 16. The corporation may acquire the assets of the United States Capitol Historical Society, a corporation incorporated under the laws of the District of Columbia, upon discharging or satisfactorily providing for the payment and discharge of all of the liabilities of such corporation and upon complying with all laws of the District of Columbia applicable thereto.

ANNUAL REPORT

SEC. 17. The corporation shall, as soon as practicable after the end of each fiscal year, submit a report to each House of the Congress with respect to the activities of the corporation during the preceding fiscal year.

RESERVATION OF RIGHT TO AMEND OR REPEAL ACT

SEC. 18. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

With the following committee amendment:

Page 10, lines 20-24; strike ", upon discharging or satisfactorily providing for the payment and discharge of all of the liabilities of such corporation and upon complying with all laws of the District of Columbia applicable thereto" and insert: ". The United States Capitol Historical Society shall retain and maintain its existing status as a corporation incorporated under the laws of the District of Columbia or a State."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. That concludes the call of the Consent Calendar.

FIRST RECIPIENTS OF CONGRESSIONAL SPACE MEDAL OF HONOR WELCOMED TO CONGRESS

(Mr. FUQUA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, it is a happy occasion today to welcome to the Congress the first recipients of the Congressional Space Medal of Honor:

Alan Bartlett Shepard, Jr., John Herschel Glenn, Jr., Neil Alden Armstrong, Frank Borman, Charles Conrad, Jr., and, Mrs. Grissom on behalf of the late Virgil Ivan Grissom.

Their brilliant careers have made their names known to all the people of this Nation and throughout the world. Their pioneering exploits in space have given us all hope that man can be inspired to expand his horizons and surmount tremendous obstacles in our personal and national lives.

These men, as they led us into space, continue to lead us in many walks of life. Their careers serve to demonstrate the strengths of our way of life which can foster initiative, daring adventure and achievement. For many, achievements in space would have been enough, but for these singular men, exceptional performance has been a way of life. Such achievement is not without its penalties, as exemplified by the fact that Virgil Ivan Grissom gave his life in pursuit of making space a place where man could travel, work and contribute to our society.

It is most fitting that the Congressional Space Medal of Honor has been awarded to these intrepid men who have written one of the brightest chapters in the history of the 20th century. I am sure that every American and every person throughout the world shares with me the pride in their accomplishments.

On behalf of Chairman TEAGUE, I wish to invite the Members of the House to a reception in honor of these former astronauts which will be held in the Speaker's Dining Room today from 3 to 4 p.m. I think it fitting that the Members of the House take part in honoring these fine Americans.

COMMODITY FUTURES TRADING COMMISSION

(Mr. FITHIAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. FITHIAN. Mr. Speaker, as a member of the Subcommittee on Conservation and Credit and the Conference Committee, I support S. 2391 and recommend its adoption with the changes agreed to in conference. I wish to comment on one change made by the conferees in section 8, amending section 4(m) of the Commodity Exchange Act. The House bill, H.R. 10285, contained a provision which exempted from the registration requirements of the act any "commodity trading adviser" who provides commodity-related advice as incidental to his business as a dealer, processor, broker or seller in the cash market. S. 2391 contained no similar provision. The conferees adopted the provision contained in H.R. 10285. The purpose for adopting this exemption was to make it clear that cash agricultural businesses—including co-ops, grain elevators, processors, livestock dealers, feedlots, and similar organizations—who may occasionally give out general information concerning cash and futures market conditions, and may assist in formulating strategy relating to disposition of crops or livestock, are not required to register with the Commission as "commodity trading advisers." Because many persons dealing in the cash agricultural markets routinely give advice relating to cash and futures market conditions and assist farmers and producers of agricultural products in marketing their cash product, the committee felt that requiring such registration would burden both the industry and the CFTC and should be clearly exempted, so long as futures-related advice, is related, or incidental, to the cash business in question.●

INTERNATIONAL DAY OF BREAD

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, I thank you for the chance to announce that tomorrow, October 3, will be the International Day of Bread. This is a day when people of the world come together to ex-

press thanksgiving for the annual harvest in their native lands.

As has been the tradition over the past 10 years, I will be sending each one of you a loaf of bread with an appropriate message to provide you with food for thought as well as nourishment. An additional event this year will be the launching of three weather balloons containing payloads of wheat, flour, and bread. This will be a symbolic gesture of international brotherhood in recognition of the United State's bountiful harvest and our responsibility to feed this country's and the world's hungry. The launching is scheduled for 10:30 a.m. north of the Hirshhorn Museum. I would like to extend an invitation to my distinguished colleagues who wish to observe and participate in this event.

PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT TUESDAY, OCTOBER 3, 1978, TO FILE CONFERENCE REPORT ON H.R. 12931, FOREIGN ASSISTANCE APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tomorrow, October 3, 1978, to file a conference report on the bill (H.R. 12931) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

WATER RESOURCES DEVELOPMENT

Mr. MEEDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2704) to promote a more adequate and responsive national program of water research and development, and for other purposes, with Senate amendments to the House amendment, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 7, after line 12, of the House engrossed amendment, insert:

(5) The designated institutes will receive comment on and transmit all research and development proposals from the academic community to the Secretary for consideration and funding.

Page 11, strike out lines 9 to 14, of the House engrossed amendment, and insert:

SEC. 107. As used in this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Page 16, of the House engrossed amendment, strike out all after line 21 over to and including line 2 on page 17 and insert:

(b) the term "United States" extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Marianna Islands, and the Trust Territory of the Pacific Islands.

Page 17, of the House engrossed amendment, strike out lines 16 to 23, inclusive, and insert:

SEC. 205. (a) Subsection 2(a) of the Act of August 2, 1977 (Public 95-84) is hereby amended by striking "four" and inserting "five" and by striking "Puerto Rico, Virgin Islands, and Guam:" and inserting "the District of Columbia, the Comonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Teritory of the Pacific Islands:".

Page 18, line 10, of the House engrossed amendment, strike out "$20,000,000" and insert "$10,000,000".

Page 23, line 24, of the House engrossed amendment, strike out "$10,000,000" and insert "$8,500,000".

Page 24, line 8, of the House engrossed amendment, strike out "$10,000,000" and insert "$8,000,000".

Page 24, of the House engrossed amendment, strike out all after line 19 over to and including line 8 on page 25 and insert:

SEC. 402. (a) There is authorized to be appropriated to carry out the provisions of title II of this Act for the fiscal year ending September 30, 1979, the sum of $12,000,000, and for the fiscal year ending September 30, 1980, the sum of $14,000,000, all of which is to remain available until expended. The categories for which such funds are authorized are research, development and demonstration plant studies. The funds appropriated to such authorization shall be distributed to the foregoing categories as determined by prevailing budgetary priorities.

Page 31, line 24, of the House engrossed amendment, strike out "forty-five" and insert "thirty".

Page 31, line 25, of the House engrossed amendment, strike out "forty-five" and insert "thirty".

Mr. MEEDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, and I will not object, but I would like to ask the gentleman from Washington to explain the Senate amendments as to their policy significance, germaneness, budgetary significance, and anything else above and beyond what we had in our House-passed bill.

Mr. MEEDS. Mr. Speaker, if the gentleman will yield under his reservation, I would be happy to explain.

Mr. SEBELIUS. Mr. Speaker, I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I will be pleased to explain the amendments of the Senate. First of all, there are 9 of them; none are of major policy significance; all are clearly germane; and those which have budgetary significance, reduce the amounts authorized to be appropriated below the levels previously approved by the House of Representatives. The amendments are as follows:

First. Language is added to the bill to require that all applications for grants under title I of the bill emanating from the academic community be channeled through the Water Resources Research Institute for the State or jurisdiction in which the application originates. It is clear that the Institute would not have approval or veto authority over the application;

Second. The second and third amendments limit the jurisdictions to which the legislation applies by deleting from the bill as passed by the House the expression "and other location under jurisdiction of the United States";

Third. The fourth and fifth amendments reduce by one the number of saline water demonstration plants authorized by the House-passed bill and reduces by $10 million the funds authorized by the House-passed bill to be appropriated for this purpose;

Fourth. The sixth amendment reduced the amount authorized to be appropriated in fiscal year 1980 matching grants to Water Resources Research Institutes from $10 million in the House-passed bill to $8,500,000;

Fifth. The seventh amendment reduces the amount authorized to be appropriated in fiscal year 1980 for unfocused grants from $10 million in the House-passed bill to $8 million;

Sixth. The eighth amendment reduces the amount authorized to be appropriated in fiscal year 1980 for saline water research and development from $16 million in the House-passed bill to $14 million; and

Seventh. The ninth and final amendment reduces from 45 days to 30 days the period of time that guidelines promulgated by the Secretary for carrying the authorities under the act must lay before the legislative committees before they become final.

As I pointed out above, Mr. Speaker, none of these amendments weaken or dilute the House-passed measure in any meaningful or significant manner. This is still an excellent bill, one which is badly needed and one which deserves the approval of the House.

Mr. SEBELIUS. Mr. Speaker, I thank the gentleman.

● Mr. DON H. CLAUSEN. Mr. Speaker, although I do not personally agree with the Senate's action in reducing the number of saline demonstration plants from six to five, I urge concurrence with the amendments in the interest of getting this bill signed into law as quickly as possible.

But as we send this legislation to the White House, I ask my colleagues to join me in sending along with it the strongest possible message that we demand and expect immediate action by the Executive in moving this program ahead. I want to emphasize that the reduction in the number of demonstration plants being authorized must not be interpreted in any way as an indication that the Congress has wavered in its strong support of this program. On the contrary, we have reduced the number of plants as an attempted accommodation with the administration so as to strengthen the program's chances of swift implementation.

I will not belabor the point, Mr. Speaker, but I think we should take every opportunity to remind the administration that the Congress has been demanding action in water desalination for more than 10 years. Our committee has the re-

sponsibility of assessing the water supplies of this Nation and making certain that adequate supplies are available to meet our growing needs. Desalination of seawater and brackish groundwater is one of the many tools we have developed to meet that responsibility and to augment those supplies. The drought that struck our Western States last year proved the accuracy of our committee's prediction that severe water shortages would develop, and it proved the wisdom of the Congress in authorizing the construction of large demonstration desalting plants as a Federal initiative to help meet those shortages.

The importance of these plants goes far beyond the water they would produce. Their major purpose is to prove to our State and local governments, to municipalities and to industry that desalting is an economically viable method of providing additional water supplies. Further, these plants will give our scientific community the large testing facilities it needs to check out new concepts and new hardware as they are developed.

The administration has apparently taken the position that any water development in the West is a form of subsidy to Western States. In the case of the desalting program, nothing could be further from the truth. If there is a subsidy involved here, it is a subsidy to every man, woman, and child in this country who wants to be assured of continuing supplies of fresh drinking water. Every community on the coastal seaboard whose water supplies are being damaged by salt water intrusion or by infiltration of brackish water can see hope of relief in this program. The technology we have developed in the United States is now being used in hundreds of desalting plants throughout the world, but due to the footdragging of our executive branch the process has yet to be made available to the citizens of this country who need it the most.

It is time to move ahead, Mr. Speaker, and as we move to concur with the Senate amendments on this bill, let us also notify the Executive once again, in the strongest possible terms, that we expect and demand immediate implementation of this program.●

GENERAL LEAVE

Mr. SEBELIUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this legislation, S. 2704.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SEBELIUS. Mr. Speaker, further reserving the right to object, I do so for the purpose of making the following statement:

Mr. Speaker, I concur with the remarks of the distinguished chairman of our Water and Power Subcommittee, Mr. MEEDS, and will assure my colleagues on this side of the aisle that the Senate amendments are acceptable.

I also want to compliment the gentleman for the leadership he has provided over the past 2 years in bringing this desalting program to fruition. He has done an excellent job of steering a course that has tried to accommodate the administrative problems of the executive branch without sacrificing the necessary elements of a strong desalting program.

The gentleman from Washington is leaving the Congress this year, and this may well be the last water bill that we will bring to the floor together. I want to take this opportunity to thank the gentleman for his many years of dedicated work with our committee and, in particular, for his work during the 95th Congress as chairman of our subcommittee. In the 2 years just ending we have addressed some of the most controversial problems facing the Nation in the field of water and power, and the groundwork we have laid will most certainly result next year in some very comprehensive and far-reaching legislation to resolve those problems.

To the gentleman, and to his extremely knowledgeable and capable counsel, Jim Casey, who is also retiring this year, I say, "Thank you for a job well done. Your dedication and expertise will be sorely missed, and your contributions to the committee will long be remembered and appreciated."

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington, Mr. MEEDS?

There was no objection.

A motion to reconsider was laid on the table.

IAN SMITH SHOULD BE GRANTED VISA

(Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAGEDORN. Mr. Speaker, I was somewhat surprised to read in the Washington Post this morning that 4 days after President Carter said, "My guess is that Rhodesian Prime Minister Ian Smith and his black counterparts in the Government of Rhodesia would be allowed to have visas to visit in the United States" and to talk about the conflict over there in the southern part of Africa, that now the State Department says they are not sure.

I think this typifies a good deal of this administration's problems, there is too much guessing, and no one knows for sure who is speaking for the administration.

I would only urge the President to expeditiously order the State Department to extend this visa to Prime Minister Ian Smith and his black counterparts, recognizing that in recent months we have had Nkomo and Mugabe and other terrorist factions who have been allowed to come to the United States and to press their cases. I would hope the President would do this so that Members of Congress who are interested in this particular issue would be allowed the opportunity to visit with these heads of the Rhodesian Government before we leave Congress to go back to our congressional districts and campaign.

NATIONAL AQUACULTURE ORGANIC ACT OF 1977

Mr. LEGGETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9370) to provide for the development of aquaculture in the United States, and for other purposes, with a Senate amendment thereto, and to concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "National Aquaculture Policy Act of 1978".

FINDINGS

SEC. 2. Congress finds and declares that—

(1) Through intensive applications of science and technology, agriculture has met man's need for food supplies and for other renewable resources by extensive husbandry of terrestrial plants and animals, but similarly extensive husbandry of aquatic animals or plants has not been achieved.

(2) Many segments of the world population are now facing serious nutritional deficiencies and food shortages due to environmental degradation, adverse climatic conditions, and the steady growth of population. These problems will become more severe. The resulting demand for increased food production will have to be met in part through the application of scientific and technological advances from research on aquaculture and other underused food production systems.

(3) The world demand for seafood is increasing, but the harvest of some natural populations of fish and shellfish has exceeded levels of optimum sustainable yield.

(4) Aquaculture is contributing to world food supplies with production equal to 10 percent of current landings of seafoods, and that production has the potential for significant increase before the end of this century.

(5) Certain stocks of fish and shellfish of importance to the United States are declining, or are depleted, which has had an undesirable effect on both commercial and recreational fisheries.

(6) There is an extensive market for seafood in the United States, but the United States imports more than 50 percent of its fish and shellfish for human consumption (and those imports are 10 times greater than the level of exports). This dependence on imports results in balance of payment deficits and uncertainty and often inequality of supplies.

(7) Less than 3 percent of current United States fisheries production results from aquaculture, but there is good potential for expanding aquacultural production in the United States so that such production can equal or exceed the worldwide average. This would help to provide domestic consumers with a stable supply of high quality aquatic foods and assist the United States in its balance of payments.

(8) Aquatic plants are a source of food for human and animal consumption, a source of industrial materials and pharmaceuticals, a potential source of energy, and can be used to assist pollution control and abatement efforts.

(9) The rehabilitation and enhancement of the publicly owned fish and shellfish resources are desirable applications of agricultural technology as a means to ensure the general public benefits to be derived from the use of these common property resources.

(10) Aquaculture in the United States has traditionally been concentrated on a few species, but many other aquatic species have a potential for commercial culturing and other uses. While many scientific and technological problems are unsolved, there is sufficient knowledge to further the development of aquacultural production systems for additional species of fish, shellfish, and plants. Congress recognizes the importance of developing aquaculture of both plant and animal species.

(11) The application of aquacultural technology offers opportunities for the recovery of wasted thermal energy, nutrients, and other resources.

(12) Water areas, whether fresh, brackish, or marine, which are suitable for aquaculture are, in many cases, underused, and their total acreage is diminishing as such areas are put to other uses or destroyed.

(13) In those areas of the United States that are suitable for aquaculture but have land-use or water-use management policies that may inhibit the development of aquaculture facilities, consideration should be given to changing those policies so that aquaculture will be considered along with the other possible uses of such areas.

(14) The development of aquaculture in the United States has been inhibited by many economic, legal, and production factors; these include inadequate credit, diffused legal jurisdiction, lack of management information for such stocks as are available, or the lack of reliable supplies of seed stock.

(15) Government programs that help to reduce the risks associated with production of agricultural commodities have not been generally available to producers of aquatic species.

(16) Current efforts to develop aquaculture in the United States are numerous, but sometimes diffuse; a strong commitment by the Federal Government will bolster and consolidate these efforts and make aquaculture more viable, thereby stimulating private and public investment and development.

(17) Much knowledge of and many initiatives for aquacultural development exist at the State and local levels that should be used to assist any Federal effort in fostering cooperation between individuals and institutions to improve the aquaculture industry.

(18) The principal responsibility for the development of acquaculture in the United States must rest with the private sector.

PURPOSE

SEC. 3. It is the purpose of this Act to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national plan for aquaculture; and

(3) developing programs and encouraging activities in both the public and private sectors of the economy that will result in increased aquaculture, the coordination of domestic aquaculture efforts, the conservation and enhancement of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

DEFINITIONS

SEC. 4. As used in this Act, unless the context otherwise requires the term—

(1) "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including ocean ranching, except private ocean ranching of Pacific salmon for profit.

(2) "acquaculture facility" means any land, structure, or other appurtenance, if such land, structure, and appurtenance is located within the United States and is used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment.

(3) "aquatic species" means any natural species, native or introduced, or any variety of species produced by selective reproduction of finfish, molluk, or crustacean or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) "Director" means the Director of the Office of Science and Technology Policy established under the National Science and Technology Policy Organization and Priorities Act of 1976.

(5) "fund" means the Federal Aquaculture Assistance Fund established under section 13 of this Act.

(6) "person" means any individual who is a citizen or national of the United States and any corporation, partnership, association, Indian tribe, or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any State.

(7) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

(8) "United States", when used in a geographical context, means all States.

NATIONAL AQUACULTURE POLICY

SEC. 5. Congress finds and declares that aquaculture has the potential for augmenting existing commercial and recreational fisheries and producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

AQUACULTURE ASSESSMENT AND NATIONAL AQUACULTURE DEVELOPMENT PLAN

SEC. 6. (a) Within 1 year after the date of enactment of this Act, the Director, in cooperation with the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Interior, other Federal departments or agencies, State aquaculture agencies (designated under section 7 of this Act), and appropriate Regional Fishery Management Councils established under section 302 of the Fishery Conservation and Management Act of 1976, shall make a comprehensive assessment of aquaculture in the United States and shall by regulation establish a National Aquaculture Development Plan (hereafter in this Act referred to as the "Plan").

(b)(1) The Director shall give interested persons an opportunity to participate in the development and establishment of the Plan in accordance with the provisions of section 553 of title 5, United States Code.

(2) The Secretaries of Agriculture, Commerce, and the Interior, shall provide such clerical assistance and staff personnel as may be required by the Director to carry out the provisions of this section.

(3) At the earliest possible time in the development of the Plan, the Director shall hold pubic hearings: the number and location of such hearings shall be determined on the basis of the following criteria:

(A) geographical proximity of States to one another;

(B) similarity of States in aquacultural activities and potential; and

(C) other relevant factors.

(c) The assessment of aquaculture in the United States required to be made under subsection (a) of this section shall include—

(1) a complete profile of the United States aquacultural industry as to incidence, size, and status of commercial aquacultural enprises;

(2) identification of private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) identification of the various aquatic species currently being cultured and a description of the status of commercial development with respect to each such species;

(4) to the extent possible, identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog and description of all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture;

(6) a consideration of the need and appropriateness of designating a single Federal lead agency for all matters relating to aquaculture;

(7) identification of legal, regulatory, economic, physical, and social constraints that inhibit the development of aquaculture in the United States;

(8) a determination of the adequacy of Federal guarantees for loans for the construction, repair, expansion, or improvement of aquaculture facilities, disaster loans for persons engaged in aquaculture, and property and stock insurance for aquaculture facilities; and

(9) an exposition of the major policy issues that need to be addressed by the Plan and the presentation of policy alternatives in a manner that will facilitate both the formulation and implementation of the Plan.

(d) The Director shall submit a report with respect to the status of aquaculture in the United States tc the President and Congress upon completion of the assessment conducted under subsection (a) of this section, but in no event more than 12 months following the date of enactment of this Act.

(e) The Director shall use the assessment conducted under subsection (c) of this section as a basis for developing the Plan that shall consist of a series of development programs for those aquatic species that the Director determines to have a potential for culturing on a commercial or other basis.

(f) The Plan shall set forth those actions that the Director determines should be undertaken, and the period of time within which each such action should be completed with respect to—

(1) the implementation of each development program, including the research and development, technical assistance, demonstration, extension education, and training that may be necessary and appropriate with regard to—

(A) aquaculture facility design and operation;

(B) water quality management;

(C) use of waste products (including thermal effluents);

(D) nutrition and the development of economical feeds, including natural food sources;

(E) life history, behavior, genetics, phvsiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish but are injurious to humans);

(F) processing and market development;

(G) production management and quality control; and

(H) the development of adequate supplies of seed stock;

(2) research on the effect of aquaculture on estuarine and other water areas, and the management of such areas for aquaculture;

(3) the identification and analysis of any legal or regulatory constraints that may affect a development program;

(4) the construction, purchase, lease, or acquisition of necessary developmental aquaculture facilities; and

(5) such actions relating to research and development, technical assistance, demonstration, extension education, and training as the Director deems necessary and appropriate.

(g) The Plan shall include the allocation of funds appropriated under section 14 of this Act, in such amounts as the Director deems appropriate, to the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior for implementation of the aquaculture development programs under their respective jurisdictions.

(h) In preparing an aquaculture development program and in reviewing any such program under subsection (j), the Director shall, to the extent practicable, take into account any significant action which has been, or that is proposed to be, undertaken by any other Federal agency, any State agency, or any person, and that may affect the accomplishment of the program.

(i) Each action under an aquaculture development program prepared under this section shall be implemented, either individually, jointly, or collectively, by the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as specified by the Director in the program. The Director shall determine which Secretary or Secretaries are to have responsibility for implementing any such action on the basis of—

(1) the responsibilities conferred on the respective Secretaries by law or any executive action having the effect of law (including, but not limited to, Reorganization Plan Number 4 of 1970); and

(2) the experience, expertise, and other appropriate resources that each Department may have with respect to the action required under the program.

(j) The Plan shall provide for its revision, following review on a biennial basis to determine—

(A) if there are any aquatic species not currently identified in the Plan that have potential for aquaculture; and

(B) whether the actions specified in the Plan are being accomplished on a successful and timely basis.

(k)(1) The Director, in consultation with the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior, shall establish and appoint an advisory committee to assist in the assessment and in the development of the Plan.

(2) The Advisory Committee shall consist of 15 members who shall not be employees of the Federal Government, and at least 8 of such members (of whom at least 1 shall be from each area over which each Regional Fishery Management Council has authority) shall be engaged in private aquacultural enterprises.

(3) The members of the committee, while away from their homes or regular places of business in the performance of services for the committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

STATE AQUACULTURE AGENCIES

SEC. 7. (a) Any State wishing to participate in any national aquaculture development program under section 10 or 11 of this Act and authorized under this Act shall designate a single agency of such State to carry out such program in such State.

(b) Any State wishing to participate in the formulation of the Plan, but wishing to defer designation of an aquaculture agency for the State, may designate an acquaculture planning agency for the State as an interim measure.

(c) Any grants made to or contracts entered into with any agency of a State, or any agency of any political subdivision of a State, under section 10 of this Act, shall be made only with the approval of the aquaculture agency designated for such State, and such approval shall be an indication to the Federal sponsor of compliance with all State and local regulations that apply to that action.

(d) The Director shall inform the Governors of all the States of the provisions of this section and shall consult as the Director determines appropriate with representatives of the State aquaculture agencies during the development of the plan.

FUNCTIONS AND POWERS

SEC. 8. (a) In implementing the acquaculture development program prepared under section 6 of this Act for any aquatic species, the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as the case may be, shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture of such species to interested public and private organizations and individuals, but in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal or State agencies;

(2) consult and cooperate with interested persons, Federal, State, and local government agencies, regional commissions, educational institutions, and Indian tribes regarding the development of aquacultural technology;

(3) prescribe such regulations as may be necessary to carry out such a program; and

(4) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including such enhancement by private nonprofit enterprises), as well as in the promotion of private commercial aquacultural enterprises.

(b) In implementing any aquaculture development program, the Secretary of Agriculture development program, the Secretary of agriculture, the Secretary of Commerce, or the Secretary of the Interior, as the case may be, may—

(1) conduct scale tests of any aquaculture system for the purposes of assessing the biological and economic feasibility of the system;

(2) produce, under the authority of section 11 of this Act, and sell at cost, seed stock for commercial aquatic species when privately produced seed stock is unavailable, unreliable, or insufficient in quantity to meet production needs.

(3) develop methods to enhance aquatic species stocks by aquaculture;

(4) conduct such studies and research with respect to aquatic species as may be appropriate regardless of whether such species is or has been identified as a commercial species; and

(5) conduct such other tests or analyses or take such other actions as such Secretary deems necessary and appropriate.

(c) In addition to performing such other functions as are required under this Act, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior shall jointly—

(1) establish and maintain an aquaculture information center that shall function as a national clearinghouse for the collection, selection, analysis, and dissemination of scientific, technical, legal, and economic information relating to each aquaculture development program that is their individual, joint, or collective responsibility;

(2) conduct appropriate surveys, in coordination with other agencies, of public and private aquaculture activities being conducted in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(3) arrange for the mutual exchange of information relating to aquaculture with foreign nations;

(4) conduct a continuing study to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study (A) an assessment of the economic effect by species and by geographical region on such fisheries, and (B) recommended measures to ameliorate any adverse effect; and

(5) report to Congress on the findings made under the study provided for under clause (4) of this subsection in the biennial status report required by section 9(b)(4) of this Act.

(d) Any production information submitted under clause (2) of subsection (c) of this section to the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior shall be confidential and shall not be disclosed except to each other or to the advisory committee that may be appointed under section 6(k) of this Act or when required under court order. The Secretaries shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality, except that such Secretaries may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person who submits such information.

(e)(1) The Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior are each authorized to accept any restrictive or affirmative covenant, or bequest of real or personal property, or the proceeds from the sale or other disposition of such property or interests therein, for use in performing any function that such Secretary may have under this Act. Any such acceptance may be subect to the terms of any restrictive or affirmative covenant, or condition of servitude. if such terms are deemed by the Secretary concerned to be in accordance with law and compatible with the purpose for which acceptance is sought.

(2) Any gift or bequest of money, and proceeds from the sale of other property received as a gift or bequest under this subsection, shall be deposited in a separate account in the Treasury of the United States and shall be disbursed upon the order of the Secretary concerned.

COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE

SEC. 9. (a) There is established the Interagency Aquaculture Coordinating Committee (hereinafter in this section referred to as the "Committee") that shall be composed of the following representatives or their designees:

(1) The Director of the Office of Science and Technology Policy, who shall be the Chairman of the Committee unless, after the Plan is established, the President wishes to designate another member of the Committee as Chairman.

(2) The Secretary of Agriculture.

(3) The Secretary of Commerce.

(4) The Secretary of the Interior.

(5) The Secretary of Energy.

(6) The Administrator of the Environmental Protection Agency.

(7) The Chief of Engineers.

(8) The Commissioner of Food and Drugs.

(9) The Assistant Secretary of Labor for Occupational Safety and Health.

(10) The Administrator of the Small Business Administration.

(11) The Governor of the Farm Credit Administration.

(12) At least five representatives to be appointed by the Chairman of the Committee from the various State aquaculture agencies designated pursuant to section 7 of this Act.

(b) The functions of the Committee shall be—

(1) to ensure that there is a continuing exchange of information among the agencies represented on the Committee with respect to the nature and status of the programs or projects being conducted by such agencies that relate, or that may relate, to aquaculture in general or to the implementation of the Plan;

(2) to review on a continuing basis the relevant programs and projects of all Federal agencies to determine whether such programs are being conducted in compliance with subsection (c) of this section; and

(3) to ensure that the aquaculture information center established under section 8(c)(1) of this Act is functioning in conformance with the policy expressed in section 5 of this Act;

(4) to submit a biennial report to Congress on the status of aquaculture in the United States, including an explanation of any revision to the Plan made pursuant to section 6(j) of this Act; the first such biennial report shall be completed not later than 2 years after the date of submission to Congress of the Director's report as specified in section 6(d) of this Act.

(c) Each Federal agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or may affect, the achievement of the purposes of this Act, shall, in consultation with the Committee and to the maximum extent practicable perform such function, responsibility, or activity in a manner that is consistent with the purposes of this Act.

(d) Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer or any Federal agency to perform any functions relating to aquaculture that are authorized under any other provision of law.

CONTRACTS AND GRANTS

SEC. 10. (a) The Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior may carry out any function of this Act, other than demonstration projects undertaken pursuant to section 11 of this Act, relating to any aquaculture development program that such Secretary is directed to implement under the Plan, through grants to, or contracts with, any other Federal agency, any agency of any State, any agency of any political subdivision of a State, any Indian tribe, any regional commission, any educational institution, or any person.

(b) Any contract entered into, or any grant made, under subsection (a) of this section shall contain such conditions and limitations as the Secretary concerned shall by regulation prescribe as being necessary and appropriate to protect the interests of the United States, except that no such contract may be entered into, and no such grant may be made that is in violation of any applicable State or local law.

(c) The amount of any grant made under subsection (a) of this section may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) Any State agency, any political subdivision of a State, or any person who receives a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audits and examination, any books, documents, papers, and records that are pertinent to the funds received by such agency, political subdivision, or person under such grant or contract.

AQUACULTURE DEMONSTRATION PROJECTS

SEC. 11. (a) In order to promote the development of aquaculture, the Secretaries of Agriculture, Commerce, and the Interior are authorized jointly to distribute funds to promote the establishment and operation off aquaculture demonstration projects within each State that has established a State aquaculture agency pursuant to section 7 of this Act, and to conduct the activities described in subsections (b), (c), (d), and (e) of this section. Upon a determination by the Secretaries that a proposed demonstration project (1) demonstrates phases of aquaculture that are useful and beneficial to the State and aquaculture producers, and (2) is not duplicative of demonstration projects in the State or region involved, such funds shall be distributed, in the case of any State, to one or more of the following: the State aquaculture agency of such State, the State cooperative extension service of such State, the State agricultural experiment station of such State, and any university of such State eligible to receive funds under the sea grant program. The amount of funds distributed in any State for any demonstration project may not exceed an amount equal to one-half of the estimated cost of such project.

(b) The recipient in any State of any funds distributed under subsection (a) of this section shall—

(1) establish at least one aquaculture demonstration project within the State;

(2) sell the products of the demonstration project established under clause (1) of this subsection and pay to the United States a proportion of the proceeds equal to the proportion that the grants under this section bear to the total cost of operating the project, which payments shall be deposited in the fund;

(3) provide tours of the demonstrations project to aquaculture producers and other interested groups and individuals and, upon request, provide such producer groups and individuals with information concerning the operation of the project;

(4) determine the total income and the total cost of the project; and

(5) annually compile a report concerning income, costs, operating difficulties, and producer interest with respect to the demonstration project, and submit the report to the Secretaries concerned along with any recommendations concerning project changes.

The production of seed stock shall be a possible demonstration project.

(c) The results obtained from each demonstration project conducted under this section that prove economically practical shall be extended to aquacultural producers in each State through the State cooperative extension service and the Sea Grant Marine Advisory Program of each State as part of the ongoing education programs of such service.

(d) Two or more States may cooperate in the designation of a regional project, in which event the sums assignable to all the cooperating States shall be paid to the agency or institution responsible for the operation of the demonstration project.

GUARANTEES OF OBLIGATIONS ISSUED FOR AQUACULTURE FACILITIES

SEC. 12. (a)(1) The Secretary of Agriculture and the Secretary of Commerce (further reference in this section to the "Secretary" shall mean the Secretary concerned) may, subject to the provisions of this section, guarantee, or make a commitment to guarantee, the payment of interest on, and the principal amount of, any obligation issued by an obligor for any of the following purposes:

(A) the financing of the construction, reconstruction, or reconditioning of any aquaculture facility (including the financing of the purchase cost of any aquaculture facility to be reconstructed or reconditioned), except that no obligation may be guaranteed under this section later than 2 years after the date of the completion of the construction, reconstruction, or reconditioning of the aquaculture facility involved;

(B) the acquisition of stocks of aquatic species in all stages of development necessary to initiate any acquaculture facility;

(C) the financing of the initial operating expenses of any aquaculture facility;

(D) the financing of marketing operations exclusively for aquacultural products; or

(E) the refinancing of any existing obligation issued for any of the purposes specified in subparagraph (A), (B), (C), or (D) of this paragraph, whether or not guaranteed under this section, including, but not limited to, any short-term obligation incurred for the purpose of obtaining temporary funds for refinancing.

Guarantees and commitments to guarantee may be made under this section without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a)).

(2) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to both principal and interest, including any interest, if provided for in the guarantee, that may accrue between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(3) Any guarantee, or commitment to guarantee, made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee, or commitment of guarantee, so made shall be incontestable.

(4) The aggregate unpaid principal amount of all obligations guaranteed under this section and outstanding at any one time shall not exceed $100,000,000.

(b)(1) Obligations guaranteed under this section—

(A) shall have an obligor approved by the Secretary as being responsible and possessing the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of the acquaculture facilities;

(B) shall be in an aggregate principal amount that does not exceed 90 percent of the obligation involved;

(C) shall have maturity dates satisfactory to the Secretary, but not to exceed 25 years;

(D) shall provide for payments by the obligor satisfactory to the Secretary; and

(E) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such per annum percentage on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary.

(2) In guaranteeing any obligation under this section, the Secretary shall give preference to any person with 40 or fewer employees who, together with such person's affiliates, is primarily engaged in the business of aquaculture or commercial harvesting or gathering of aquatic species.

(3) No obligation may be guaranteed under this section unless the obligor conveys or agrees to convey to the Secretary such security interest as the Secretary may reasonably require to protect the interests of the United States.

(c)(1) The Secretary may charge a fee for any obligation guaranteed under this section, the amount of which shall be established by the Secretary by regulation not to exceed one-half of 1 percent per annum of the outstanding principal balance of the obligation. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least 60 days before each anniversary date thereafter.

(2) The Secretary shall charge and collect from the obligor such amounts as the Secretary may deem reasonable for the investigation of the application for any guarantee, for the appraisal of properties offered as security for any guarantee, and for the inspection of such properties during construction, reconstruction, or reconditioning, except that such charges shall not aggregate more than one-half of 1 percent of the original principal amount of the obligation to be guaranteed.

(3) All fees and other amounts received by the Secretary under the provisions of this subsection shall be deposited in the fund.

(4) Obligations guaranteed under this section, and agreements relating thereto, shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

(d)(1) In the event of a default, which has continued for 90 days, in any payment by the obligor of principal or interest due under any obligation guaranteed under this section, the obligee or the obligee's agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 180 days from the date of such default, payment by the Secretary of the unpaid principal amount of said obligation. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment; except that the Secretary shall not be required to make such payment if before the expiration of such period the Secretary finds that there was no default by the obligor in the payment of principal or interest or that such default has been remedied before any such demand.

(2) Payments required to be made by the Secretary under paragraph (1) of this subsection shall be made by the Secretary from the fund.

(3) In the event of any payment by the Secretary under paragraph (1) of this subsection, the Secretary shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary may, under such terms and conditions as the Secretary prescribes or approves, complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by the Secretary pursuant to a security agreement with the obligor.

(4) After any default referred to in paragraph (1) of this subsection, the Secretary shall take such action against the obligor or any other parties liable thereunder that, in the Secretary's discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary may accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary receives through the sale of property an amount of cash in excess of any payment made to an obligee under paragraph (1) of this subsection and the expenses of collection of such amounts, the Secretary shall pay such excess to the obligor.

(5) Whoever, for the purposes of obtaining any loan or advance of credit from any person with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the Secretary, or the acceptance, release, or substitution of any security on such loan, advance or credit, or for the purpose of influencing in any way the action of the Secretary under this section, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 2 years, or both.

(e) The Secretary of Agriculture and the Secretary of Commerce shall each promulgate such rules and regulations as they deem necessary or appropriate to carry out the purposes and provisions of this section.

(f) For purposes of this section, the term—

(1) "actual cost" of an aquaculture facility, as of any specified date, means the aggregate, as determined by the Secretary, of—

(A) all amounts paid by, or for the account of the obligor with respect to such facility on or before that date; and

(B) all amounts that the obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of such facility;

(2) "construction", "reconstruction", or "reconditioning" includes, but is not limited to, designing, inspecting, outfitting, and equipping of the acquaculture facility involved;

(3) "depreciated actual cost" means the actual cost depreciated on a straightline basis over the useful life of the property involved as determined by the Secretary;

(4) "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in subsection (a) of this section;

(5) "obligee" means the holder of any obligation; and

(6) "obligor" means any person primarily liable for payment of the principal of or interest on any obligation.

FEDERAL AQUACULTURE ASSISTANCE FUND

SEC. 13. (a) There is established in the Treasury of the United States a Federal Aquaculture Assistance Fund. The fund shall be available to the Secretaries of Agriculture, Commerce, and the Interior (further reference in this section to the "Secretary" shall mean the Secretary concerned) as a revolving fund for the purpose of carrying out, and administering, sections 11 and 12 of this Act. The fund shall consist of—

(1) any sums appropriated to the fund;

(2) any fees received by the Secretary from the sale of products from demonstration projects as provided in section 11 of this Act;

(3) any fees received by the Secretary in connection with any guarantee made under section 12 of this Act; and

(4) recoveries and receipts received by the Secretary under security, subrogation, and other rights and authorities under section 12 of this Act.

All payments made by the Secretary to carry out the provisions of section 12 of this Act (including reimbursements to other government accounts) shall be paid from the fund, only to the extent provided in appropriation Acts. Sums in the fund that are not currently needed for the purposes of section 11 or section 12 of this Act shall be kept on deposit or invested in obligations of or guaranteed by the United States.

(b) If at any time the moneys in the fund are not sufficient to pay any amount the Secretary is obligated to pay under section 12 of this Act, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of tne Treasury shall purchase any notes and other obligations to be issued hereunder, and for such purpose the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired by the Secretary of the Treasury under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Moneys borrowed under this subsection shall be deposited in the fund and redemptions of such notes and obligations shall be made by the Secretary from the fund.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 14. (a)(1) For purposes of carrying out the provisions of this Act, there are authorized to be appropriated, notwithstanding any authorization for appropriations in any other Act in effect before the date of the enactment of this Act:

(A) $10,000,000 for the fiscal year 1980;

(B) $20,000,000 for the fiscal year 1981; and

(C) $30,000,000 for the fiscal year 1982.

(2) The authorization for the fiscal year 1980 is not to exceed:

(A) $4,000,000 to the Department of Agriculture;

(B) $4,000,000 to the Department of Commerce; and

(C) $2,000,000 to the Department of the Interior.

(3) The authorization for the fiscal year 1981 and the fiscal year 1982 shall be allocated as provided in section 6(g).

(4) Not less than 50 percent of the funds appropriated to the Departments under this section shall be used for the purposes of section 10 and section 11 of this Act; and of such funds 3 percent shall be available to the Departments for administrative purposes.

(b) Commencing with fiscal year 1980, there are authorized to be appropriated, without fiscal year limitation, to the fund

such sums as may be necessary and apprcpriate for purposes of carrying out section 12 of this Act; but not to exceed $100,000,000.

EFFECTIVE DATE

SEC. 15. The provisions of this Act shall become effective October 1, 1978.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That this Act may be cited as the "National Aquaculture Act of 1978".

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—Congress finds the following:

(1) The harvest of certain species of fish and shellfish has exceeded levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for seafood.

(2) To satisfy its extensive market for seafood, the United States imports more than 50 percent of its fish and shellfish, but this dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies.

(3) Although aquaculture currently contributes approximately 10 percent of world seafood production, less than 3 percent of current United States seafood production results from aquaculture. Domestic aquacultural production, therefore, has the potential for significant growth.

(4) Aquacultural production of aquatic plants can provide sources of food, industrial materials, pharmaceuticals, and energy, and can assist in the control and abatement of pollution.

(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquacultural technology.

(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many economic, legal, and production factors such as inadequate credit, diffused legal jurisdiction, the lack of management information, and the lack of reliable supplies of seed stock.

(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies that may inhibit the development of aquaculture. These policies should be reviewed and modified so that aquaculture will be considered along with the other possible uses of such areas.

(b) PURPOSE.—It is the purpose of this Act to promote aquaculture in the United States by—

(1) declaring a national policy for aquaculture;

(2) establishing and implementing a national aquaculture development plan; and

(3) developing programs and encouraging activities in both the public and private sectors of the economy;

that will result in increased aquacultural production, the coordination of domestic aquacultural efforts, the conservation and enhancement of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

(c) POLICY.—Congress declares that aquaculture has the potential for augmenting existing commercial and recreational fisheries and for producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires—

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

(2) The term "aquaculture facility" means any land, structure, or other appurtenance that is used for aquaculture and is located in any State. Such term includes, but is not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

(3) The term "aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) The term "Council" means the National Agriculture Council established by section 4.

(5) The term "Fund" means the Federal Aquaculture Assistance Fund established by section 12.

(6) The term "person" means any individual who is a citizen or national of the United States, any Indian tribe, any institution of higher education, and any corporation, partnership, association or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any State.

(7) The term "Plan" means the National Aquaculture Development Plan required to be established under section 5.

(8) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

SEC. 4. NATIONAL AQUACULTURE COUNCIL.

(a) ESTABLISHMENT.—There is established the National Aquaculture Council. The members of the Council are the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior, or the designee of any such Secretary.

(b) CHAIRMAN AND TERMS.—(1) The Council shall have a Chairman and, except as provided in paragraph (2)(A), the term of office of the Chairman is 2 years.

(2) Within 1 month after the date of the enactment of this Act, the Council shall select from among its members—

(A) the Chairman to serve during the period beginning on the date of selection and ending at the close of September 30, 1980;

(B) the Chairman (who may not be the Secretary selected under subparagraph (A)) to serve during the 2-year period beginning on October 1, 1980; and

(C) the Chairman (who may not be the Secretary selected under subparagraph (A) or (B)) to serve during the 2-year period beginning on October 1, 1982.

(3) After September 30, 1984, the chairmanship of the Council shall be rotated among the Secretaries concerned according to the sequence established under paragraph (2).

(c) STAFF SUPPORT.—The members of the Council shall assign from their respective departments such staff and clerical personnel as may be necessary to enable the Council to carry out its functions under this Act.

(d) ADVISORY COMMITTEE.—The Council may establish, and appoint the members of, an advisory committee to assist the Council in carrying out its functions under this Act. Individuals appointed to the advisory committee shall be knowledgeable and experienced in the principles and practices of aquaculture. The members of the advisory committee (other than officers or employees of the Federal Government), while away from their homes or regular places of business in the performance of services for the advisory committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(e) INFORMATION SERVICES.—(1) In addition to performing such other functions that are assigned to it under this Act, the Council shall—

(A) establish and maintain an information service for the collection, analysis, and dissemination of scientific, technical, legal, and economic information relating to aquaculture;

(B) conduct appropriate surveys, in coordination with other Federal departments and agencies, of public and private aquacultural activities being conducted in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(C) arrange with foreign nations for the exchange of information relating to aquaculture;

(D) conduct a continuing study to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study—

(i) an assessment of any such adverse effect, by species and by geographical region, on such fisheries, and

(ii) recommend measures to ameliorate any such effect; and

(E) report to Congress on the findings made under the study provided for under subparagraph (D) in the biennial status report required under subsection (f).

(2) Any production information submitted to the Council under paragraph (1)(B) shall be confidential and may only be disclosed to the advisory committee that may be established under subsection (d) or when required under court order. The Council shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality, except that the Council may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information.

(f) BIENNIAL REPORT.—The Council shall prepare on a biennial basis, and submit to Congress, a report on the status of aquaculture in the United States. Each such report shall contain a description and evaluation of the actions undertaken with respect to the Plan during the reporting period, an explanation of any revisions made to the Plan under section 5(d) during the reporting period, and such other comments and recommendations regarding aquaculture in the United States as the Council deems appropriate. The first report required under this subsection shall be submitted to Congress by September 30, 1980.

SEC. 5. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

(a) IN GENERAL.—(1) Within 18 months after the date of the enactment of this Act, the Council by regulation shall establish the National Aquaculture Development Plan. Within 6 months after such date of enactment and before developing proposed regulations with respect to the Plan, the Council shall give interested persons an opportunity to participate in the development of the Plan by holding public hearings at regional locations that the Council deems appropriate taking into account—

(A) the geographical proximity of States to one another,

(B) the similarity of States in aquacultural activities and potential, and

(C) other relevant factors.

(2) in developing the Plan, and revisions thereto under subsection (d), the Council

shall consult with the Office of Science and Technology Policy, other appropriate Federal departments and agencies, appropriate States, and appropriate Regional Fishery Management Councils established under section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852).

(b) CONTENTS OF PLAN.—The Plan shall consist of the following programs:

(1) With respect to each aquatic species that the Council determines to have significant potential for culturing on a commercial or other basis, a program (which may include, but is not limited to, research and development, technical assistance, demonstration, extension education, and training activities) that the Council determines to be necessary to achieve such potential. The program shall relate to such of the following matters as may be appropriate, taking into account the status of aquaculture regarding the aquatic species concerned:

(A) Aquaculture facility design and operation.

(B) Water quality management.

(C) Use of waste products (including thermal effluents).

(D) Nutrition and the development of economical feeds, including natural food sources.

(E) Life history, genetics, physiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish but are injurious to humans).

(F) Processing and market development.

(G) Production management and quality control.

(H) The development of adequate supplies of seed stock.

(2) Research programs on the effect of aquaculture on estuarine and other water areas and on the management of such areas for aquaculture.

(3) Programs to analyze, and to formulate proposed resolutions of, the legal or regulatory constraints that may affect aquaculture.

(4) Such other research and development, technical assistance, demonstration, extension education, and training programs as the Council deems necessary or appropriate to carry out the purpose and policy of this Act. In formulating any program for inclusion in the Plan, and in reviewing any program under subsection (d), the Council shall, to the extent practicable, take into account any significant action that (i) has been, or is proposed to be, undertaken by any other Federal department or agency, any State agency, or any person; and (ii) may affect the accomplishment of the program.

(c) ACTIONS AND IMPLEMENTATION.—The Plan shall specify—

(1) with respect to each program included within the Plan pursuant to subsection (b), those actions that the Council determines should be undertaken, and the period of time within which each such action, should be completed, in order to implement the program; and

(2) with respect to each action referred to in paragraph (1), that the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, acting individually, jointly, or collectively, has responsibility for implementing the action.

The specifications of Secretarial responsibilities under paragraph (2) for implementing actions shall be determined by the Council on the basis of—

(A) the responsibilities conferred on the respective Secretaries by law or by any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970); and

(B) the experience, expertise, and other appropriate resources that the department of each such Secretary may have with respect to the action required under the program concerned.

(d) REVISION OF PLAN.—The Council shall undertake periodic reviews of the operation and effectiveness of the Plan. If as a result of any such review, or the aquacultural assessment required under subsection (e), the Council determines that—

(1) any aquatic species not currently identified in the Plan has significant potential for aquaculture;

(2) any program or action specified in the Plan is not being accomplished on a successful and timely basis; or

(3) any program or action specified in the Plan should be terminated because its objectives have been achieved or its projected benefits do not warrant further support;

the Council by regulation shall appropriately amend the Plan.

(c) CONTINUING AQUACULTURE ASSESSMENT.—The Council shall undertake a continuing assessment of aquaculture in the United States for the purpose of maintaining, on a continuing basis—

(1) a complete profile of the aquacultural industry with respect to the incidence, size, and status of commercial aquacultural enterprises;

(2) the identification of private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) the identification of the various aquatic species being cultured and a description of the status of commercial development of each such species;

(4) to the extent practicable, the identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog describing all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture; and

(6) the identification of the economic, physical, and social constraints that inhibit the development of aquaculture in the United States.

Within 6 months after the date of the enactment of this Act, the Council shall complete an initial assessment for purposes of carrying out this subsection. In developing the Plan, the Council shall take into account the information obtained as a result of such initial assessment.

SEC. 6. FUNCTIONS AND POWERS OF SECRETARIES.

(a) MANDATORY FUNCTIONS.—In implementing any program under the Plan, the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as the case may be, shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture to interested persons, but in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal departments and agencies and by State agencies;

(2) consult and cooperate with interested persons, Federal departments and agencies, State agencies, and regional commissions;

(3) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including such rehabilitation and enhancement by private nonprofit enterprises), and in the development of private commercial aquacultural enterprises; and

(4) prescribe such regulations as may be necessary to carry out such a program.

(b) DISCRETIONARY FUNCTIONS.—In implementing any program under the Plan, the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as the case may be, may—

(1) for the purposes of assessing the biological and economic feasibility of any aquacultural system—

(A) conduct tests of the system and, if necessary, construct, operate, and maintain developmental aquaculture facilities, including, but not limited to, production-scale facilities, for testing laboratory results, and

(B) conduct such other tests or analyses as may be necessary;

(2) produce, and sell at cost, seed stock for aquatic species when privately produced seed stock is unavailable, unreliable, or insufficient in quantity to meet production or research needs;

(3) develop methods to enhance stocks of aquatic species; and

(4) conduct such other tests or analyses or take such other actions as such Secretary deems necessary or appropriate.

(c) ACCEPTANCE OF GIFTS, BEQUESTS, ETC.—(1) The Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior may each accept any gift, temporary donation, or devise or bequest of real or personal property, or the proceeds from the sale or other disposition of such property or interests therein, for use in performing any function that such Secretary may have under this Act. Any such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary concerned to be in accordance with law and compatible with the purpose for which acceptance is sought.

(2) Gifts and bequests of money, and the proceeds from the sale of other property received as a gift or bequest under this subsection, shall be deposited in a separate account in the Treasury of the United States and shall be disbursed upon the order of the Secretary concerned.

SEC. 7. COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE.

(a) ESTABLISHMENT.—There is established the Interagency Aquaculture Coordinating Committee (hereinafter in this section referred to as the "Committee') that shall be composed of the following members or their designees:

(1) The Secretary of Agriculture.

(2) The Secretary of Commerce.

(3) The Secretary of the Interior.

(4) The Secretary of Energy.

(5) The Administrator of the Environmental Protection Agency.

(6) The Chief of Engineers.

(7) The Commissioner of Food and Drugs.

(8) The Administrator of the Small Business Administration.

(9) The Governor of the Farm Credit Administration.

The Chairman of the Council shall act as the Chairman of the Committee.

(b) FUNCTIONS.—The functions of the Committee shall be—

(1) to ensure that there is a continuing exchange of information among Federal departments and agencies with respect to the nature and status of the programs or projects being conducted by such agencies that relate, or that may relate, to aquaculture or to the implementation of the Plan; and

(2) to review on a continuing basis the relevant programs and projects of all Federal departments and agencies to determine whether such programs and projects are being conducted in compliance with subsection (c).

(c) FEDERAL CONSISTENCY.—Each Federal department and agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or that may affect, the achievement of the purpose and policy of this Act, shall, in consultation with the Committee and to the maximum extent practicable, perform such function, responsibility, or activity in a manner that is consistent with the purpose and policy of this Act.

SEC. 8. CONTRACTS AND GRANTS.

(a) IN GENERAL.—The Secretary of Agriculture, the Secretary of Commerce, and the

Secretary of the Interior may each carry out any program that such Secretary is responsible for implementing under the Plan through grants to, or contracts with, any person, any other Federal department or agency, any State agency, or any regional commission.

(b) TERMS AND CONDITIONS.—Any contract entered into, or any grant made, under subsection (a) shall contain such terms and conditions as the Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States, except that no such contract may be entered into, and no such grant may be made, for any purpose which is in violation of any applicable State or local law.

(c) LIMITATION.—The amount of any grant made under subsection (a) may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) AUDIT.—Each recipient of a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under such grant or contract.

SEC. 9. AQUACULTURE DEMONSTRATION PROJECTS

(a) DEFINITION.—As used in this section, the term "demonstration project" means any project that demonstrates, in a practical manner, the use, application, design, conful and beneficial to aquacultural producers.

(b) IN GENERAL.—In order to further the development of aquaculture, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior may each provide financial assistance under this section.

(c) FINANCIAL ASSISTANCE.—The financial assistance provided under this section shall be in the form of grants in an amount not to exceed 50 percent of the estimated cost of any demonstration project.

(d) APPLICATIONS FOR FINANCIAL ASSISTANCE.—Application for financial assistance under this section may be made by any person (including, but not limited to, any State agency and any regional commission) to the Secretary concerned in such form and manner as such Secretary shall prescribe. In providing financial assistance under this section, the Secretary concerned shall take into consideration whether similar projects are being implemented under Federal, State, or private auspices.

(e) TERMS AND CONDITIONS.—Financial assistance shall be provided under this section to each recipient under such terms and conditions as the Secretary concerned deems to be necessary or appropriate to carry out this section, including, but not limited to, conditions—

(1) relating to the disposition by the recipient of products resulting from the demonstration project and of the proceeds resulting from any sale of such products; and

(2) requiring the recipient—

(A) if applicable, to provide tours of the project for aquacultural producers and other interested groups and individuals and, upon request, provide such groups and individuals with information concerning the project, and

(B) to compile on an annual basis a report setting forth the income, cost, operating difficulties, and producer interest with respect to the project and to submit the report to the Secretary concerned along with any recommendation for project modifications that the recipient deems advisable.

(f) INFORMATION DISSEMINATION.—The results obtained from each demonstration project assisted under this section shall be disseminated through the State cooperative extension services, the Sea Grant Marine Advisory Program, and such other systems as the Secretary concerned deems appropriate.

SEC. 10. GUARANTEES OF OBLIGATIONS ISSUED FOR AQUACULTURE FACILITIES.

(a) IN GENERAL.—(1) The Secretary of Agriculture and the Secretary of Commerce (each of whom is hereafter in this section referred to as the "Secretary") may each, subject to the provisions of this section, guarantee, or make a commitment to guarantee, the payment of interest on, and the principal amount of, any obligation issued by an obligor for any of the following purposes:

(A) The financing of the construction, reconstruction, or reconditioning of any aquaculture facility (including the financing of the purchase cost of any aquaculture facility to be reconstructed or reconditioned), except that no obligation may be guaranteed under this section later than 2 years after the date of the completion of the construction, reconstruction, or reconditioning of the aquaculture facility involved.

(B) The acquisition of stocks of aquatic species for any aquaculture facility.

(C) The financing of the initial operating expenses of any aquaculture facility.

(D) The financing of marketing operations exclusively for aquacultural products.

(E) The refinancing of any existing obligation issued for any of the purposes specified in subparagraph (A), (B), (C), or (D) of this paragraph, whether or not guaranteed under this section, including, but not limited to, any short-term obligation incurred for the purpose of obtaining temporary funds for refinancing.

Guarantees and commitments to guarantee may be made under this section without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a)).

(2) The Secretary may not guarantee more than 90 percent of the principal of, and the interest on, any obligation under this section.

(3) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to both principal and interest, including any interest, if provided for in the guarantee, that may accrue between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(4) Any guarantee, or commitment to guarantee, made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee, or commitment of guarantee, so made shall be incontestable.

(5) The aggregate unpaid principal amount of all obligations outstanding at any one time and guaranteed under this section—

(A) by the Secretary of Agriculture may not exceed $150,000,000; and

(B) by the Secretary of Commerce may not exceed $150,000,000.

To the extent that one Secretary has not guaranteed obligations up to the limit established for that Secretary under this paragraph, that Secretary may allow the other Secretary to guarantee obligations under this section in amounts to be charged against such limit: but the aggregate unpaid principal amount of all obligations outstanding at any one time and guaranteed under this section by both Secretaries may not exceed $300,000,000.

(b) CONDITIONS.—(1) Obligations guaranteed under this section—

(A) shall have an obligor approved by the Secretary as being responsible and possessing the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of the aquaculture facilities;

(B) shall have maturity dates satisfactory to the Secretary, but not to exceed 25 years;

(C) shall provide for payments by the obligor satisfactory to the Secretary; and

(D) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such annual percentage on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary.

(2) The Secretary, in guaranteeing any obligation under this section, shall give preference to any person with 40 or fewer employees who, together with such person's affiliates, is primarily engaged in the business of aquaculture or commercial harvesting or gathering of aquatic species.

(3) No obligation may be guaranteed under this section unless the obligor conveys or agrees to convey to the Secretary such security interest as the Secretary may reasonably require to protect the interests of the United States.

(c) FEES.—(1) The Secretary may charge a fee for any obligation guaranteed under this section, the amount of which shall be established by the Secretary by regulation not to exceed one-half of 1 percent per annum of the outstanding principal balance of the obligation. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least 60 days before each anniversary date thereafter.

(2) The Secretary shall charge and collect from the obligor such amounts as the Secretary may deem reasonable for the investigation of the application for any guarantee, for the appraisal of properties offered as security for any guarantee, and for the inspection of such properties during construction, reconstruction, or reconditioning, except that such charges shall not aggregate more than one-half of 1 percent of the original principal amount of the obligation to be guaranteed.

(3) All fees and other amounts received by the Secretary under the provisions of this subsection shall be deposited in the fund.

(4) Obligations guaranteed under this section, and agreements relating thereto, shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

(d) DEFAULT.—(1) In the event of a default, which has continued for 90 days, in any payment by the obligor of principal or interest due under any obligation guaranteed under this section, the obligee or the obligee's agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 180 days from the date of such default, payment by the Secretary of the unpaid principal amount of said obligation. Within such period as may be specified in the guarantee or related agreements, but not later than 60 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment; except that the Secretary shall not be required to make such payment if before the expiration of such period the Secretary finds that there has been no default by the obligor in the payment of principal or interest or that such default has been remedied before any such demand.

(2) Payments required to be made by the Secretary under paragraph (1) shall be made by the Secretary from the Fund.

(3) In the event of any payment by the Secretary under paragraph (1), the Secretary shall have all rights in any security held by the Secretary relating to the Secretary's guarantee of such obligations as are conferred upon the Secretary under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary may, under such terms and conditions as the Secretary prescribes or approves, complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by the Secretary pursuant to a security agreement with the obligor.

(4) After any default referred to in paragraph (1), the Secretary shall take such action against the obligor or any other party liable thereunder that the Secretary deems necessary or appropriate to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary may accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary receives through the sale of property an amount of cash in excess of any payment made to an obligee under paragraph (1) and the expenses of collection of such amounts, the Secretary shall pay such excess to the obligor.

(5) Whoever, for the purpose of obtaining any loan or advance of credit from any person with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the Secretary, or the acceptance, release, or substitution of any security on such loan or advance of credit, or for the purpose of influencing in any way the action of the Secretary under this section, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 2 years, or both.

(e) The Secretary shall promulgate such rules and regulations as are deemed necessary or appropriate to carry out this section.

(f) For purposes of this section—

(1) The term "construction", "reconstruction", or "reconditioning" includes, but is not limited to, designing, inspecting, outfitting, and equipping of the aquaculture facility involved.

(2) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in subsection (a).

(3) The term "obligee" means the holder of any obligation.

(4) The term "obligor" means any person primarily liable for payment of the principal of or interest on any obligation.

SEC. 11. INSURANCE AGAINST CERTAIN LOSSES INCURRED IN AQUACULTURE FACILITY OPERATIONS

(a) DEFINITIONS.—As used in this section, unless the context otherwise requires—

(1) The term "direct insurance" means any insurance described in paragraphs (2), (3), and (4).

(2) The term "essential liability insurance" means insurance against all sums that the owner of an aquaculture facility is legally obligated to pay as damages because of bodily injury or property damage caused by the aquaculture facility, the operation of such facility, or the aquatic species cultured at such facility.

(3) The term "essential property insurance" means insurance against direct loss of, or direct damage to, the real or personal property of an aquaculture facility caused by perils, as they are defined and limited in standard fire policies and extended coverage endorsements thereon as approved by the State insurance authority, and insurance against loss of, or damage to, the real or personal property of an aquaculture facility from such perils as the Secretary by regulation shall specify, including, but not limited to, vandalism, malicious mischief, burglary, and theft.

(4) The term "essential stock insurance" means insurance against loss of, or damage to, any aquatic species being cultured at an aquaculture facility due to unavoidable or natural causes, including, but not limited to, drought, pollution, hail, frost, wind, winterkill, freeze, lightning, fire, excessive rain, flood, snow, wildlife, hurricane, tornado, insect or parasitic infestation, disease, and such other unavoidable or natural causes as the Secretary by regulation shall specify.

(5) The term "insurer" includes any insurance company or group of companies under common ownership that is authorized to engage in the insurance business under the laws of any State.

(6) The term "owner" means any person having an insurable interest in an aquaculture facility or aquatic species stock.

(7) The term "pool" means any pool or association of insurers in any State that is formed, associated, or otherwise created for the purpose of making insurance more readily available.

(8) The term "reasonable premium rate" means that premium rate determined by the Secretary, which would permit the purchase of any direct insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved.

The Secretary may by regulation define any technical or trade term necessary in the administration of this section, insofar as any such definition is not inconsistent with the provisions of this section.

(b) INSURANCE STUDY.—The Council shall conduct, within 18 months after the date of the enactment of this Act, and annually thereafter, a study to determine whether direct insurance is available to owners at reasonable premium rate through insurers, pools, or a suitable program adopted under State law.

(c) DIRECT INSURANCE.—(1)(A) If the study conducted under subsection (b) indicates that essential property insurance or essential liability insurance is not available at reasonable premium rates in any State and such insurance has not been provided by State action, the Secretary of Agriculture and the Secretary of Commerce (each of whom is hereafter in this section referred to as the "Secretary") may each establish a program to provide such insurance in such State, if the Secretary considers the issuance of such insurance necessary and appropriate to carry out the purpose and policy of this Act.

(B) Any essential property insurance or essential liability insurance issued by the Secretary under this paragraph shall be subject to such terms and conditions, and to such deductibles and other restrictions and limitations, as the Secretary deems appropriate, except that the Secretary may not provide essential property insurance or essential liability insurance with respect to—

(i) any aquaculture facility or stock of aquatic species that the Secretary determines to be uninsurable due to the failure of the owner to follow established principles for operating aquaculture facilities or culturing aquatic species, as the case may be; or

(ii) any aquaculture facility that the Secretary determines to lack reasonable protective measures to prevent loss or damage.

(2)(A) If the study conducted under subsection (b) indicates that essential stock insurance is not available at reasonable premium rates in any State and that such insurance has not been provided by State action, the Secretary shall establish a program to provide such insurance in such State.

(B) Any essential stock insurance issued by the Secretary under this paragraph shall be subject to such terms, conditions, deductibles, and other restrictions and limitations as the Secretary deems appropriate, except that the Secretary may not provide essential stock insurance with respect to any stock of aquatic species that the Secretary determines to be uninsurable due to the failure of the owner to follow established principles for culturing aquatic species or due to the lack of reasonable protective measures at the aquaculture facility concerned to prevent the loss of, or damage to, the stock being cultured.

(d) PREMIUM RATES.—(1) In determining the premium rate for any direct insurance offered under subsection (c)(1) or (2), the Secretary shall consult with persons knowledgeable and experienced in insurance, including, but not limited to, State insurance regulatory authorities, and may take into consideration with respect to the insurance concerned, the nature and degree of risk involved, the protective devices employed, the extent of past and anticipated losses, the prevailing rate for similar coverages, the economic importance of the insurance, and the relative abilities of the particular classes and types of insureds to pay the actual premium for such coverage.

(2)(A) The Secretary may not establish the premium rate for any direct insurance at less than 60 percent of the actual premium rate for such insurance.

(B) For purposes of subparagraph (A), the actual premium rate for any direct insurance offered under this section shall be determined as follows:

(i) If insurance of the same kind is offered by insurers or pools in the State concerned, the actual premium rate shall be the median premium rate for all such insurance so offered, as determined by the Secretary.

(ii) If insurance of the same kind is not offered by insurers or pools in the State concerned, the actual premium rate shall be the rate, as determined by the Secretary, at which insurers or pools in such State would offer such insurance, taking into account actuarially sound principles applicable to the elements making up such rate, including, but not limited to, claim losses, general administrative expenses, acquisition expenses, taxes, license fees, and profits.

In making determinations under clauses (i) and (ii) the Secretary shall consult with the insurance regulatory authority of the State concerned and any rate advisory organization licensed by such State.

(3) Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of the currently estimated reasonable premium rates for any particular coverage, class, State, or risk on the basis of additional information or actual loss experience.

(e) REINSURANCE.—(1) The Secretary may enter into any contract, agreement, treaty, or other arrangement with any insurer or pool to provide reinsurance coverage with respect to any direct insurance issued by such insurer or pool, in consideration of payment of such premiums, fees, or other

charges by insurers or pools that the Secretary deems to be appropriate, after consultation with persons knowledgeable and experienced in insurance.

(2) Reinsurance issued under this subsection shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from providing the direct insurance concerned during the term of the reinsurance contract, agreement, treaty, or other arrangement, over and above the amount of the insurer's or pool's retention of such losses, as provided in such reinsurance, contract, agreement, treaty, or other arrangement entered into under this section.

(3) Such contracts, agreements, treaties, or other arrangements may be made without regard to section 3679 (a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)), and shall include any terms and conditions that the Secretary deems necessary to carry out the purposes of this section. The premium rates and terms and conditions of such contracts, agreements, treaties, or other arrangements with an insurer or pool shall be uniform in any one year throughout the country.

(f) ADMINISTRATIVE PROVISIONS.—(1) All premiums received by the Secretary under this section shall be deposited into the Fund.

(2) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any owner, insurer, or pool the amount of any unpaid premium lawfully payable to the Secretary by such owner, insurer, or pool under any direct insurance or reinsurance issued under this section.

(3) No action or proceeding shall be brought for the recovery of any premium due the Secretary, or for the recovery of any premium paid to the Secretary in excess of the amount due, unless such action or proceeding is commenced within 5 years after the right accrued for which the claim is made; except that, if the insurer has made or filed with the Secretary a false or fraudulent statement or other document with intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

(g) CONTRACTS.—In order to provide for maximum efficiency in the administration of the insurance and reinsurance program provided under this section, and in order to facilitate the expeditious payment of any claims under such program, the Secretary may enter into contracts with any insurer, pool, or person, for the purpose of providing for the performance of any of the following functions:

(1) The estimation or determination of any amounts of payments for reinsurance or direct insurance claims.

(2) The receipt, disbursement, and accounting for funds in making payments for reinsurance and direct insurance claims.

(3) The auditing of the records of any insurer, pool, or person to the extent necessary to assure that proper payments are made.

(4) The establishment of the basis of liability for reinsurance or direct insurance payments, including the total amount of proved and approved claims that may be payable to any insurer, pool, or owner, and the total amount of premiums earned by any insurer or pool in the respective States from direct insurance or reinsurance.

(5) The provision of assistance in any manner provided for in the contract to further the purposes of this section.

(h) USE OF OTHER FEDERAL EMPLOYEES, SERVICES, ETC.—The Secretary may, with the consent of the agency concerned, accept and use, on a reimbursable basis, the officers, employees, services, facilities, and information of any Federal department or agency with respect to any insurance matter that is within the purview of this section.

(i) REGULATIONS.—The Secretary may prescribe regulations establishing the general method or methods by which proved and approved claims for losses are paid under any direct insurance or reinsurance issued under this section. Proved and approved claims shall be paid from the Fund.

(j) PAYMENT OF CLAIMS.—The Secretary, in providing any direct insurance of reinsurance under this section may adjust and pay all claims for proved and approved losses covered by such insurance and, upon the disallowance by the Secretary, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against the Secretary in the United States district court for the district in which the insured owner or reinsured insurer or pool resides or principally conducts business, and jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy.

(k) LIMITATIONS. The face amount of direct insurance and reinsurance coverage outstanding and in force at one time and issued under this section—

(1) by the Secretary of Agriculture may not exceed $125,000,000; and

(2) by the Secretary of Commerce may not exceed $125,000,000.

To the extent that one Secretary has not issued any such coverage up to the limit established for that Secretary under this subsection, that Secretary may allow the other Secretary to issue such coverage under this section in amounts to be charged against such limit; but the face amount of direct insurance and reinsurance coverage outstanding and in force at any one time and issued under this section by both Secretaries may not exceed $250,000,000.

(l) TERMINATION.—No direct insurance or reinsurance may be issued by the Secretary under this section after September 30, 1982.

SEC. 12. FEDERAL AQUACULTURE ASSISTANCE FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a Federal Aquaculture Assistance Fund. The Fund shall be available to the Secretary of Agriculture and the Secretary of Commerce (each of whom is hereafter in this section referred to as the "Secretary") as a revolving fund for the purpose of carrying out, and administering, sections 10 and 11. The Fund shall consist of—

(1) any sums appropriated to the Fund;

(2) any fees received by the Secretary in connection with any guarantee made under section 10;

(3) recoveries and receipts received by the Secretary under security, subrogation, and other rights and authorities under section 10;

(4) premiums paid to, or recovered by, the Secretary for any direct insurance or reinsurance issued by the Secretary under section 11; and

(5) moneys deposited pursuant to the last sentence of subsection (b).

All payments made by the Secretary to carry out the provisions of sections 10 and 11 (including reimbursements to other government 11 shall be kept on deposit or invested in accounts) shall be paid from the Fund only to the extent provided in appropriation Acts. Sums in the Fund that are not currently needed for the purposes of sections 10 and obligations of or guaranteed by the United States.

(b) TREASURY BORROWING.—If at any time the moneys in the Fund are not sufficient to pay any amount the Secretary is obligated to pay under section 10 or any direct insurance or reinsurance claim under section 11, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations to be issued under this subsection, and for such purpose the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired by the Secretary of the Treasury under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Moneys borrowed under this subsection shall be deposited in the Fund and redemptions of such notes and obligations shall be made by the Secretary from the Fund.

SEC. 13. AUTHORIZATION FOR APPROPRIATIONS.

(a) OTHER THAN TO FUND.—(1) For purposes of carrying out the provisions of this Act (other than sections 10 and 11), there are authorized to be appropriated to the Council, notwithstanding any authorization for appropriations to the Department of Agriculture, the Department of Commerce, or the Department of the Interior in any other Act in effect before the date of the enactment of this Act—

(A) $12,000,000 for fiscal year 1980;

(B) $22,000,000 for fiscal year 1981; and

(C) $32,000,000 for fiscal year 1982.

(2) The sums appropriated pursuant to paragraph (1) for any fiscal year shall be allocated by the Council as follows:

(A) 40 percent to the Department of Agriculture.

(B) 40 percent to the Department of Commerce.

(C) 20 percent to the Department of the Interior.

Not less than 33⅓ percent of the amount allocated to any Department under this paragraph for any fiscal year shall be used by that Department to carry out sections 8 and 9.

(b) TO FUND.—Commencing with fiscal year 1980, there are authorized to be appropriated, without fiscal year limitation, to the Fund such sums as may be necessary and appropriate for purposes of carrying out sections 10 and 11.

SEC. 14. DISCLAIMER.

Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer or any Federal department or agency to perform any function, responsibility, or action authorized under any other provision of law.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, first of all I take this reservation of objection for the purpose of according to my colleague, gentleman from California (Mr. LEGGETT) an opportunity to explain to the House what has been accomplished in the conference. Prior to that, Mr. Speaker, let me state that probably a lot of the Members do not know that the

word is "aquaculture" and not "agriculture." But when you pronounce them they almost sound the same so I yield to my colleague for an explanation of what we are doing here.

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Certainly I yield to to the gentleman from California.

Mr. LEGGETT. Mr. Speaker, H.R. 9370, a bill to provide for the development of aquaculture in the United States, passed the House on February 15 of this year by a vote of 234 to 130.

As it passed the House, the bill would direct the Secretary of Commerce to develop a national plan within 1 year and to identify those aquatic species that could be cultured on a commercial basis.

Each program for a priority species would be carried out either individually or jointly by the Secretary of Commerce, the Secretary of the Interior, or the Secretary of Agriculture, as the case may be, depending upon the agencies' responsibilities over such species pursuant to current law.

To assist in promoting aquaculture, the Secretary of Commerce for a period of 5 years would be authorized to guarantee loans for a total of $500 million, make disaster loans for a total of $250 million, and establish an insurance program to insure owners of aquaculture facilities for a face value totalling $1 billion.

An additional $72 million would be authorized for fiscal years 1979, 1980, and 1981 for the three Secretaries to carry out the other provisons of the act.

Mr. Speaker, on September 12, 1978, the Senate pased the bill, with amendments.

The major differences between the House and Senate versions of the bill are as follows:

First, the Senate bill designated the Director of the Office of Science and Technology Policy to be the lead agency in carrying out the act; the House designated the Secretary of Commerce for this purpose.

Second, it included ocean ranching in its definition of aquaculture but, unlike the House bill, it excluded from such definition private ocean ranching of Pacific salmon for profit.

Third, it reduced the guarantee program from $500 million to $100 million and it authorized such guarantees to be made by the Secretary of Agriculture in addition to the Secretary of Commerce, as provided by the House bill.

Fourth, it contained no provisions providing for disaster loan and insurance programs.

Fifth, it contained no funding authorization for fiscal year 1979 and it reduced from $72 million to $60 million the amount of funds authorized to be appropriated for carrying out the other provisions of the act.

Mr. Speaker, since the 12th of September, the staffs of the House Committee on Merchant Marine and Fisheries and the Senate Committees on Agriculture and on Commerce, Science, and Transportation have been working toward resolving the differences between the two versions of the bill. Compromise language has been worked out to which these committees have agreed and today the House is being asked to agree to such language.

Briefly explained, the compromise language would do the following:

First, so far as the lead agency is concerned, it would make the National Aquaculture Council the lead agency. The Council would be composed of the three Secretaries primarily involved with aquaculture—the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture.

The Chairmanship of the Council would be rotated among the three Secretaries, each serving for a term of 2 years.

The Council would have the responsibility for developing the national plan and the Chairman of the Council would head up the Interagency Coordinating Committee.

Second, so far as ocean ranching of Pacific salmon for profit is concerned, it would restrict the definition of aquaculture so as to not to include such ocean ranching in those States where it is prohibited by law.

Third, it would authorize the Secretaries of Commerce and Agriculture to guarantee loans totaling $300 million. Of this amount, each Secretary would be limited to total guarantees of $150 million.

Fourth, it would authorize the Secretary of Agriculture to establish a program to cover stock, property, and liability risks, when such insurance is not available at reasonable rates in the private market. The face value of such insurance could not exceed $250 million and each Secretary would be limited to a face value coverage of $125 million.

In both the guarantee loan and insurance provisions, if either Secretary does not utilize his entire limit then the excess may be utilized by the other Secretary.

Fifth, it would not authorize any funds to be appropriated for fiscal year 1979 and it would authorize to be appropriated for fiscal years 1980, 1981, and 1982 a total of $66 million for carrying out the other provisions of the act.

Mr. Speaker, the Senate amendments to the bill, as well as the amendments provided by the compromise language, are germane to the bill.

Mr. Speaker, I would also like to point out that the cost of carrying out this legislation, as provided by the compromise language, is substantially less than the House-passed bill. In this regard, the total authorization for the guarantee loan program has been reduced by $200 million; the disaster loan program, which authorized $250 million to be appropriated has been completely eliminated; the total face value authorization for the insurance program has been reduced $150 million; and the cost of carrying out the other provisions of the act has been reduced by an additional $6 million.

Mr. Speaker, naturally the authority for carrying out this legislation has been placed in the head of each department concerned. In the Department of Commerce, the National Marine Fisheries Services, and the Office of Sea Grant have already been cooperating in promoting the development of aquaculture in the United States. I would like to emphasize that we expect that cooperation to continue as it is only in that way that the Department can adequately and successfully carry out its responsibilities under the legislation.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman from California (Mr. LEGGETT) for his explanation.

Further reserving the right to object, there is one additional question I would ask, and I think it is a timely question. We all know what sometimes happens in the other body. The only question I would direct to my colleague is whether or not there are any nongermane amendments or amendments which were attached in the other body that would not be germane under the House rules.

Mr. LEGGETT. No; I would say to my colleague. Every amendment is germane, and we are complying with every provision in the House rules, other than with respect to this unanimous-consent request to bring the matter up.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague.

Further reserving the right to object, I yield to the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. Mr. Speaker, the National Aquaculture Act offers this Nation an opportunity to seize the initiative in the development of a new seafood production industry—an industry which can provide the United States with a new source of seafood.

By the year 2000, world demand for fish and shellfish is expected to increase dramatically. In the United States, demand is expected to increase by 80 percent.

To meet these rapidly expanding markets, we must look toward two systems of production—the traditional capture fisheries and aquaculture. With respect to the first, scientists estimate that the maximum sustainable yield from the world's capture fisheries will be approximately 100 million metric tons. In 1976, landings from capture fisheries totaled 70 million metric tons and at present rates of expansion, this source of seafood will be fully exploited before the close of the next quarter century.

This leaves one source to meet the burgeoning demand for high protein seafood. That source is aquaculture. Within the next decade, U.S. aquaculture production for species such as oysters, shrimp, lobsters, clams, marine plants, yellowtail flounder, trout, and salmon could double through the application of aquaculture technology.

The U.S. aquaculture industry stands on the precipice of a breakthrough similar to that achieved by U.S. agriculture. If this breakthrough can be achieved, the benefits to the United States will be extraordinary. At the present time, we import over $800 million of seafood products which could be provided by U.S. aquaculture. In addition to meeting our own demand for seafood and significantly reducing our seafood balance of payments deficit, the United States could become an exporter of marine protein to meet the food needs of other nations.

H.R. 9370 will assist the development of the fledgling aquaculture industry by providing venture capital and other forms of assistance. To accomplish this,

the House amendment provides for the establishment of a national aquaculture plan. This plan will contain a program designed to overcome the obstacles to commercial production of those species with a significant potential for commercial development. The agreement also authorizes the expenditure of matching funds for aquaculture demonstration projects and provides for the establishment of an obligation guarantee program to assist the aquaculture industry in obtaining much needed capital.

Mr. Speaker, the National Aquaculture Act is a landmark legislative initiative which should be approved by this House.

Mr. TRIBLE. Mr. Speaker, if the gentleman will yield further, on behalf of my colleagues, the gentleman from Washington (Mr. PRITCHARD) and the gentleman from Alaska (Mr. YOUNG) and myself, I would like to engage in colloquy with the chairman of the subcommittee, the gentleman from California (Mr. LEGGETT). I would ask the chairman if it is the intent of this legislation and of the committee that when any demonstration projects for ocean ranching of Pacific salmon are granted, preference be given to applications from fishermen cooperatives. This approach could improve the chances for a more sound and equal system of ocean ranching of Pacific salmon. Without the involvement of the fishermen in the development of ocean ranching, thereby sharing its benefits, the prospects for support of this new type of enterprise within the salmon fishing community appear very dim.

Mr. LEGGETT. Mr. Speaker, if the gentleman from Ohio (Mr. ASHBROOK) will yield, certainly, I understand the gentleman's question. He is referring to the problems we are now having in the State of Washington. The State of Washington precludes salmon ranching for private profit in the ocean. It does not include fishermen's cooperatives as profit institutions, and this would allow for assistance to cooperatives of that type, particularly in the State of Washington. In other areas such as in my State of California, ocean ranching of Pacific salmon for private project is not restricted. But I would hope that in administering the bill, the administration would give preference to such cooperatives as we have in Alaska which are operating very effectively at the present time.

Mr. TRIBLE. If the gentleman would yield further, second, in regard to the language dealing with advisory committees in section 4, I notice that the amendments to the bill require committee members to be "knowledgeable and experienced" in aquaculture. As the chairman knows, many fishermen are interested in starting aquaculture projects but have been unable to do so because no assistance is available. I ask, is it the chairman's intent that this phrase be defined to include fishermen who have a great deal of knowledge about the species, even though they may not have technical knowledge of the scientific aspects of aquaculture?

Mr. LEGGETT. The gentleman is correct, and certainly I think most fishermen would qualify to participate in this program. They know the marketing, the catch, and a lot about the processing with respect to the species, and that is going to qualify them to participate.

Mr. TRIBLE. I thank the chairman for his answers and once again urge that this bill be passed by the House.

Mr. BREAUX. Mr. Speaker, aquaculture legislation passed earlier this session in the other body contained substantial differences from the original House-passed bill. The House amendments to the Senate passed version offered today now reconciles those differences.

The demand for seafood production is growing constantly on a global basis. While various other countries are heavily engaged in aquaculture, the industry is still in its infancy in the United States. As the harvesting of natural populations of fish and shellfish grows and continues to meet or exceed their optimum sustainable yield, the need for development of aquaculture will also grow.

Unfortunately, the development of aquaculture in the United States has been inhibited by economic, legal, and production factors. Inadequate credit, legal complexities and constraints, lack of management information, and lack of reliable supplies of seed stock have been among the more important problems. H.R. 9370 is designed to overcome these difficulties.

The legislation declares a national aquaculture policy and provides for a national aquaculture development plan and for specific programs calculated to stimulate the development of aquaculture. Through these mechanisms, the legislation will promote increased aquaculture production, the coordination of domestic aquaculture efforts, the conservation and enhancement of aquatic resources, the creation of new job opportunities, and an improvement in the national balance of payments.

The aquaculture programs of the Departments of Commerce, Agriculture, and Interior will be coordinated through a National Aquaculture Council chaired by the Secretaries of those Departments on a rotating basis. Moreover, an interagency coordinating committee will assure that other agencies of the Federal Government do not operate at cross purposes with one another and with the Council.

Through grants, contracts, and public demonstration projects, aquaculture will be studied, promoted, and its capabilities realized. Funding for such programs, while modest in relation to the expected potential of the industry, should be sufficient.

Aquaculture is a highly risky business. But because of its potential for great benefit to the Nation, a loan guarantee program is provided in the bill which would permit investment to go forward, where otherwise this would be impossible. This is an essential component of the act. The formula adopted by the House and Senate for the outstanding aggregate of unpaid principal of all obligations guaranteed under the act represents a compromise. It is adequate at $300 million, but certainly not excessive.

Without insurance against certain losses in aquaculture operations, there is little hope that the industry will achieve its potential. Consequently, the bill provides for insurance under a Government program, but only if insurance is not available at reasonable premiums from the private sector. Here again, the House and Senate have compromised. The maximum level of outstanding insurance is $250 million.

In recognition of the administration's concerns with respect to the costs attached to this legislation, disaster loans have been deleted.

This is landmark legislation which demonstrates that the Federal Government can take the initiative to stimulate new industries, rather than merely inhibiting them through further regulation and burgeoning bureaucracy.

Again, I urge your favorable consideration of the bill.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

● Mr. PRITCHARD. Mr. Speaker, I rise in support of the National Aquaculture Act of 1978. This legislation has been carefully considered by the Merchant Marine and Fisheries Committee and the Senate Committee on Commerce, Science, and Transportation and the Committee on Agriculture, Nutrition, and Forestry.

The legislation provides for the development of a national aquaculture plan jointly by the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of the Interior in consultation with the Office of Science and Technology Policy. Among the three Secretaries, a chairman would be elected to serve a term of 2 years and chair the proceedings of the National Aquaculture Council which would develop the national plan. By establishing a rotating chairmanship between the three agencies, clear lines of authority and responsibility for the development of the plan would be established. Through such an arrangement, better coordination of the Federal aquaculture effort will result, with a more effective focusing of available research and development funds and improved dissemination of information.

The legislation also contains provisions for contracts and grants and aquaculture demonstration projects which would improve the understanding of aquaculture techniques and assist interested aquaculture producers. The legislation also contains loan guarantees which would be administered by the Departments of Agriculture and Commerce. In awarding these loan guarantees, the Secretaries are required to give preference to those persons with 40 or fewer employees. An insurance program would be provided if, after a study by the council, such insurance was deemed necessary.

This legislation contains an important compromise between the House and Senate versions in the definition of "aquaculture." The original House version included the concept of ocean ranching, which deals with the rearing, release, and return of Pacific salmon. This type of salmon culture is currently being experi-

mented with in the Pacific Northwest and is essentially quite promising in its application of existing science and technology to the culture of anadromous species. However, there is considerable controversy surrounding the entire issue of who is to receive benefits to be derived from ocean ranching. Also, we currently are attempting to resolve the Indian fishing rights questions in the Northwest, which does not improve the likelihood of new entrants in an already problem-laden industry.

The Senate version of this legislation, in an attempt to respond to existing commercial and recreational fishing groups in the Northwest expressly excluded "private ocean ranching of Pacific salmon for profit" from the definition of aquaculture. This type of "blunt-instrument" approach to an already complicated situation found very little acceptance among other House Members, myself included. Therefore, we were able to devise a compromise which would only exclude private ocean ranching of Pacific salmon for profit in those States where such ocean ranching is prohibited by law. Currently, the State of Oregon condones private ocean ranching. The State of Washington prohibits private ocean ranching, and the State of Alaska has developed a unique form of licensed ocean ranching which supports the formation of fishermen cooperatives. The fishermen cooperative approach is one method of allowing the benefits from ocean ranching to accrue to those who might be displaced if ocean ranching was allowed to proceed unchecked. By encouraging ocean ranching by fishermen cooperatives, the increased benefits which accrue from the application of existing technology will accrue to those who might be damaged if this new technology were to proceed recklessly. However, I do not feel that we can totally exclude the private sector from ocean ranching at this time. What this legislation does is merely shift the ultimate decision and the details of developing and implementing an ocean ranching program to the State, and only if the State decides to allow such ocean ranching to proceed. There are many unanswered questions surrounding ocean ranching, including such scientific problems as the need to preserve native stocks and also problems such as identifying the actual carrying capacity for Pacific salmon. Basically, we need to proceed cautiously with this new technology.

This issue has become excessively complicated due to the entire set of controversial Federal rulings regarding the allocation of anadromous fisheries in the Northwest. I find this compromise acceptable in that, first, it does not prohibit the private sector from participating in ocean ranching in those States where it is not illegal, thereby allowing private applications of existing technology, and ultimately reduced prices to the consumer; and second, it rests the decision regarding the precise implementation of ocean ranching appropriately with the State concerned.

Mr. Speaker, aquaculture holds considerable promise for the United States in adding to its total output of high-quality protein. It should not be oversold as a panacea for "feeding the world." The aquatic ecosystem is also limited in its carrying capacity and we must recognize this in the development of the national aquaculture program. Nevertheless, it is only wise that we begin to better coordinate the aquaculture technologies which are available. This bill would help considerably in that regard. Therefore, Mr. Speaker. I support passage of this legislation.●

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 9370, the National Aquaculture Act, which is now before this body. As a member of the committee which considered this bill, and as a cosponsor of the measure, I urge that my colleagues agree to the Senate amendments and allow this bill to be sent to the President.

H.R. 9370 will be extremely helpful to the American fishing industry. In my own State of Alaska, we have already started a long-range program to bring our salmon stocks up to their historic levels. This has been done on a voluntary basis by Alaskan fishermen throughout the State. Passage of this bill will provide further help for Alaska's program, and will also allow other States to start their own programs. I see this as a major step in allowing the U.S. fishing industry to regain its No. 1 position in the world.●

● Mr. AuCOIN. Mr. Speaker, regarding the advisory committee which the National Aquaculture Council may establish pursuant to section 4(d), it is my hope that the Council considers carefully the experiences which the Regional Fishery Management Councils have had as a result of the advisory panels they have established under the Fishery Conservation and Management Act of 1976.

With the broad range of competence an advisory committee can provide, the National Aquaculture Council will be able more quickly to develop a realistic, workable plan if such a committee is created. Given the many groups which have expressed interest in and concern about this legislation, I am confident the National Aquaculture Council will have a wide range of knowledgeable and experienced individuals from which to choose. Not only is private industry working in this area, but several fishermen's cooperatives, both commercial and recreational, and civic groups have been participating in increasing numbers of nonprofit fisheries enhancement programs.●

● Mr. HEFTEL. Mr. Speaker, it is a matter of historical record that events having the greatest impact on the evolution of nations often pass unnoticed at the time of occurrence.

Such, I believe, is the case for a piece of legislation approved without fanfare by the Congress this week—the National Aquaculture Policy Act of 1978.

As the world's population continues to expand at an almost geometric rate through this century, humanity's attention can be expected to turn more and more toward the watery 75 percent of the globe for the fulfillment of its needs. That, in fact, already is occurring, as oil derricks reach even further into the high seas, as nations modernize their fishing fleets and take steps to claim offshore waters and defend those waters against incursion, as a new breed of entrepreneur explores the ocean's depths for minerals and life-sustaining protein, as scientists pave the way for converting the ocean itself into a virtually limitless source of energy. The National Aquaculture Policy Act is a major step toward expanding that perception and that involvement by, in effect, domesticating aquatic food resources and opening them to modern mass production techniques. I believe that some day it will be looked upon as having initiated an equivalent of the great and monumentally successful effort to organize land-based food production during the past century.

That the citizens of Hawaii should be sensitive to the potential of aquaculture is not surprising. That they should have taken several positive and fruitful steps in promoting its development within the State, and in organizing pilot projects that eventually will find application in other States, is worthy of special praise. Expressions of appreciation are due also to Senator DANIEL K. INOUYE, author of the Senate version of the bill, whose patient and statesmanlike efforts were instrumental in insuring the bill's passage this session. And I would be remiss not to applaud the vast majority of my colleagues in both Houses of Congress—notably Representative ROBERT LEGGETT, author of the House version—for having the foresight to see aquaculture's potential and lend their support to its development.

With the passage of the National Aquaculture Policy Act of 1978, the Congress has placed the United States in the forefront in actively moving to meet one of the greatest challenges humanity will ever face—the challenge of feeding a spiraling population whose numbers, only a century ago, would have numbed the imagination.●

The SPEAKER pro tempore. Is there objection to the unanimous consent request of the gentleman from California (Mr. LEGGETT) to dispense with further reading of the amendment?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEGGETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 9370, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MODERNIZING FACULTY STRUCTURE AT U.S. MILITARY ACADEMY

Mr. NEDZI. Mr. Speaker, I call up the bill (H.R . 13416) to amend title 10, United States Code, to modernize the permanent faculty structure at the U.S. Military Academy, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. ASHBROOK. Reserving the right to object, I only take this reservation for the purpose, Mr. Speaker, of yielding to my colleague, the gentleman from Michigan. This matter does not seem to be on the Calendar, and I am wondering what is involved here.

Mr. NEDZI. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. NEDZI. I thank the gentleman for yielding.

Mr. Speaker, on September 29, the Armed Services Committee reported favorably on H.R. 13416, a bill to amend title 10, United States Code, to modernize the permanent faculty structure of the U.S. Military Academy, and for other purposes.

This bill essentially effects three changes in the statutes governing the structure of the U.S. Military Academy.

First, instead of the current situation in which the statutes control the specific disciplines for which permanent professorships may exist at the Academy, this legislation would simply state that there shall be 22 permanent professors at the Military Academy and leave the allocation of these professorships to the Army. This number will permit establishment of a new department of behavioral sciences and leadership which was recommended by the Borman Commission report in the wake of the West Point electrical engineering 304 cheating scandal in 1976.

Second, the statutes would be amended in several places to replace the word "registrar" with "director of admissions" since the latter designation more appropriately characterizes the function of the current registrar's office at the Military Academy.

Third, the specific references in the statutes to the positions of director of music, adjutant, and professor of military hygiene would be eliminated since the positions can be filled through normal Army personnel channels and do not require a legislative mandate.

This legislation has no cost and is strongly supported by the Superintendent of the Military Academy, as well as the Department of Defense.

Mr. Speaker, I urge passage of this legislation which was unanimously approved by the Armed Services Committee.

Mr. ASHBROOK. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill as follows:

H.R. 13416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4331 of title 10, United States Code, is amended to read as follows:

"§ 4331. Establishment; Superintendent; faculty

"(a) There is in the Department of the Army a United States Military Academy, at West Point, New York, in this chapter called the 'Academy', for the instruction and preparation for military service of selected persons called 'cadets'. The organization of the Academy shall be prescribed by the Secretary of the Army.

"(b) There shall be at the Academy the following:

"(1) A Superintendent.

"(2) A Dean of the Academic Board, who is a permanent professor.

"(3) A Commandant of Cadets.

"(4) Twenty-two permanent professors.

"(5) A chaplain.

"(6) A director of admissions.".

SEC. 2. Sections 3075(b)(2), 3204(2), 3205(a)(3), 3283(a), 3296(a), 3883, 3386, 4333(c) and (d), 4334(d), and 4336 (b) and (c) of title 10, United States Code, are each amended by striking out "registrar" each place it appears in such sections and inserting in lieu thereof "director of admissions".

SEC. 3. (a) Section 4338 of title 10, United States Code, is repealed.

(b)(1) Section 207 of title 37, United States Code, is amended by striking out subsection (b) and redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(2) Section 424 of such title is amended by striking out subsection (b) and redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

SEC. 4. (a) The section heading of section 4336 of title 10, United States Code, is amended to read as follows:

"§ 4336. Permanent professors; director of admissions".

(b) The table of sections at the beginning of chapter 403 of such title is amended—

(1) by striking out the item relating to section 4331 and inserting in lieu thereof the following:

"4331. Establishment; Superintendent; faculty

(2) by striking out the item relating to section 4336 and inserting in lieu thereof the following:

"4336. Permanent professors; director of admissions;

and

(3) by striking out the item relating to section 4338.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13416 just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12467, COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1978

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes, with House amendments to the Senate amendments thereto, insist on the House amendments to the Senate amendments, and to agree to the conference requested by the Senate.

Mr. Speaker, I might say, this is where we participate jointly with the Committee on Interstate and Foreign Commerce in the conference and we only have jurisdiction of titles I, II, III, and V of the House amendments to the Senate amendments, and that titles I, II, and IV of the Senate amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

The Chair hears none and, without objection appoints the following conferees only for considering titles I through IV of the House amendments to the Senate amendments and on modifications thereto committed to conference: Messrs. PERKINS, BRADEMAS, BEARD of Rhode Island, MILLER of California, KILDEE, HEFTEL, HAWKINS, BIAGGI, QUIE, JEFFORDS, and ERLENBORN.

Without objection, the Chair appoints the following conferees only for consideration of title V of the House amendments to the Senate amendments and modifications thereto committed to conference: Messrs. STAGGERS, ROGERS, SATTERFIELD, PREYER, SCHEUER, WAXMAN, FLORIO, CARTER, BROYHILL, and MADIGAN.

There was no objection.

MAGISTRATE ACT OF 1978

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1613) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 1613, with Mr. CORNWELL in the chair.

The Clerk read the title of the Senate bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I am pleased to bring to the floor a legislative proposal to amend the current jurisdictional provi-

sions in titles 18 and 28, United States Code, for U.S. magistrates. The administration drafted bill (S. 1613) passed the Senate on July 22, 1977, and was ordered reported by the Committee on the Judiciary on July 17, 1978. In addition to the Department of Justice—and the Attorney General, who avidly supports the measure—S. 1613 has been endorsed by the American Bar Association, the Federal Bar Association, the Judicial Conference, the Legal Services Corporation, the American Trial Lawyers, the Association of the Bar of the City of New York, and the California Bar Association.

In brief, S. 1613, as reported by the Judiciary Committee, grants magistrates trial jurisdiction to try civil cases where the parties consent to the exercise of that jurisdiction. It also provides for an expansion of the present power of magistrates to dispose of certain less serious criminal offenses by including all Federal misdemeanors within that jurisdiction. All of this trial authority is also based on consent.

I emphasize the word "consent" because the free, willing, and voluntary waiver of the right to be tried by the district court is the foundation of the proposed legislation. I wish to make it clear that no individual can be forced to have his or her case tried by a magistrate. In this regard, the legislation before us differs somewhat from the Senate-passed bill.

By way of background, the Federal magistrates system—created by an act of Congress in 1968 and implemented in 1971—was built upon the foundation of the U.S. Commissioner system. Although the 1968 legislation was a vast improvement over the existing system, it was not perfect. It did not clearly delineate the power of magistrates. The result has been uneven usage of this judicial officer throughout the federal system. As a result, in 1976 we undertook to clarify and further define the duties which could be assigned a magistrate by the district court.

Although our 1976 effort clearly broadened the powers of magistrates, it still left the appointment and utilization of magistrates in the hands of the district court. This had two results: A continued unevenness in quality and a disparity in the use of magistrates. It also made more legislation, as stated in the fine report of the Association of the Bar of the City of New York "inevitable." As a consequence, early in the 95th Congress, the Department of Justice (and its new Office for Improvements in the Administration of Justice) formulated a proposal to redefine the criminal and civil jurisdiction of magistrates and to place that jurisdiction on a more formalized basis. In addition, my subcommittee, when marking up the legislation, added explicit standards and procedures for selection of magistrates.

Mr. Chairman, I believe that magistrates have made a significant contribution to aiding the district courts to meet their delegated responsibilities. Statistics before us when we considered the omnibus judgeship bill prove this. We have reprinted many of these statistics in the hearing record on magistrates reform.

Lastly, I would like to address myself to the view expressed in the dissenting views that the prepared legislation is unconstitutional. The contention fails analysis.

Ten years ago, when Congress passed the Magistrates Act of 1968 there were three separate lines of authority which indicated that the trial and final adjudication (including the entry of judgment) of minor offense cases by U.S. magistrates, with the consent of the parties was constitutional. The pertinent case law and commentary at that time indicated that any one of the lines of authority, standing alone, would be sufficient. The presence of all three created a solid constitutional foundation for creation of the Federal magistrates system.

First, the magistrate is an adjunct of the U.S. District Court, appointed by the court and subject to the court's direction and control. When the magistrate tries a case, jurisdiction remains in the district court and is simply exercised through the medium of the magistrate.

Second, both parties must consent to trial before a magistrate and must consent to entry of final judgment by the magistrate for the district court.

Third, in all instances an appeal from a magistrate's decision lies in an article III court.

These three pillars are still standing today. They provide firm support for the proposed legislation which not only respects them, but reinforces them in several ways. No court has found the present statutory scheme to be constitutionally defective, and several have spoken approvingly.

Moreover, the U.S. Department of Justice, the Judicial Conference of the United States, and the U.S. Senate, after studying this question in detail, all concluded that the legislation is constitutional. I am confident—in my role as chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice—that the proposed legislation passes constitutional muster.

In conclusion, S. 1613 would allow magistrates to continue to complement the article III judiciary. It would add needed flexibility to the Federal judiciary and it would provide litigants with a less formal, more rapid, less expensive means of resolving their disputes. I strongly urge your support for this legislation.

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of S. 1613, a bill was drafted by the Department of Justice and has the strong support of the Attorney General, the American Bar Association, the Federal Bar Association, the Legal Services Corporation, the American Trial Lawyers Association, the American College of Trial Lawyers, the State Bar of California, and the Association of the Bar of the City of New York.

We have processed legislation which increases the number of district and court of appeals judges. This increase in the number of judges is intended to meet a need that has been in existence for the last 8 years, and the yearly increase in workload which is caused, in part, by our legislative efforts. These judges may be more than are needed. However, they should do much to help our Federal judiciary. But to merely increase judgships every so many years is not the answer to reforming and modernizing our Federal courts.

S. 1613 is a reform which I believe will do more to streamline our Federal courts than any other matter we have considered in this House this year. If you and I, as potential litigants, want to use a magistrate, who is readily available, who will most likely conduct a less formal, less expensive proceeding, why should not we be able to use him or her. They are presently doing just this in 48 districts throughout the United States with a great deal of success. In addition, last year magistrates disposed of over 103,000 minor and petty offenses. There were only approximately 140 appeals taken from these 103,000 cases.

Another important aspect of this legislation which I strongly support is the establishment in this legislation of a system of merit selection of magistrates. S. 1613 provides that each district establish a magistrate selection panel, which will be selected by the judges of the district court. This panel shall be composed of no fewer than five members, with a majority of the panel to be lawyers, and at least one member of the panel not a lawyer. The panel shall represent a cross-section of the legal profession and the community. Using the criteria enunciated by this legislation, as well as by the Judicial Conference, the panel is to inquire widely as to availability of acceptable candidates. This is a step in the right direction and I regret that we were unable to provide a similar system of merit selection for Federal judges.

Mr. Chairman, as I mentioned earlier, this legislation enjoys widespread support with the legal community, including judges and magistrates, and I urge the members to support its passage.

Mr. Chairman, I have no requests for time, and I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I would like to register my opposition to S. 1613, which would expand the role of Federal magistrates. I object to this bill for two reasons.

First, I question the need for this measure. The whole raison d'être of S. 1613 is the problem of Federal docket congestion. This House, however, recently passed two bills which directly affect this problem and which, I expect, would improve it dramatically.

On February 4, the House passed H.R. 7843, which created 145 new Federal judgeships, both at the trial and appellate levels. This bill has cleared the conference committee and will be law within a few days. On February 28, we passed H.R. 9622, which would abolish diversity jurisdiction. This would mean that citizens of different States could no longer bring their State law claims into Federal courts. It may well be that, when

these two measures are enacted into law, our Federal dockets problem will be solved. We should at least wait and see.

My second reason for opposing S. 1613 is that I seriously question its constitutionality. Article III of the Constitution sets forth three requirements for Federal judges: First, that they be appointed by the President, with the advice and consent of the Senate; second, that they have life tenure; and third, that their compensation not be diminished during their terms of office. This last requirement is considered especially important, since the power to reduce salary involves the power to destroy judicial independence.

Needless to say, the magistrate system does not satisfy any of these requirements. Magistrates are appointed not by the President with the advice and consent of the Senate, but by the district court, with the advice of a citizens' selection panel. Magistrates serve not for life, but at the pleasure of the district judges. And magistrates' salaries are not protected from diminution.

Proponents of this bill defend its constitutionality by pointing out that when a magistrate, as an adjunct of the U.S. district court, tries a case, jurisdiction remains in the district court and is simply exercised through the medium of the magistrate.

This justification may apply somewhat to the present system, where magistrates try cases and make recommendations to article III judges, who retain the power to make the final decision. Under S. 1613, however, the magistrates would, for the first time, be clearly given the power to dispose of civil cases by entering judgment themselves.

Under this bill, the heretofore clear distinction between the functions of magistrates and those of district judges would be lost. The magistrate would preside over trials in a black robe in the same courtroom used by article III judges; he would empanel juries, examine witnesses, make evidentiary rulings, find facts, and enter judgments. He could even, in the Marbury against Madison tradition, invalidate legislative or executive actions which he found unconstitutional. This would debase our balance-of-powers system, since a legislative or executive act could be nullified by a "judge" who had not been appointed by the President or approved by the Senate.

I hope my colleagues will agree with me that the constitutionality of S. 1613 is dubious. We should certainly not rush in and enact this legislation, which, in view of the House-passed measures which should alleviate the clogged Federal court calendars, is probably not even needed.

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman. I would like to associate myself with the remarks of my colleague, the gentleman from Wisconsin (Mr. KASTENMEIER).

As a member of the full committee on the Judiciary, I can attest personally to the care which the gentleman from Wisconsin (Mr. KASTENMEIER) and his subcommittee have taken in examining the issues presented by this legislation. Among the many people who support the legislation are individuals like former Senator Tydings, who appeared before the American Bar Association, and he was one of the original drafters of the 1968 magistrate legislation. Senator Tydings observed:

> Personally, I have a deep and sincere conviction with regard to the merits of this bill. I take pride in, and have received great gratification from, the fact that I helped draft the Federal Magistrates Act of 1968 and personally chaired the extensive hearings on the legislation while a U.S. Senator. This bill is a logical extension of the principle, and in keeping with the purpose and intent of, that Act when originally enacted in 1968.

Mr. Chairman, my good friend and our colleague from Massachusetts (Mr. DRINAN) mentioned at least two reasons why he will feel constrained to oppose the legislation. One is that he feels that there is no longer the need for this legislation given the imminent enactment of the omnibus judgeship bill. I would suggest to the gentleman that this might be true, and there might be some underutilized magistrates and some instances where there is clear misuse of talent.

But at least—using the State of Kentucky as an example—my judges at home tell me that in short order there will be need for even more Federal judges even with the enactment of the omnibus judgeship bill. Which in the State of Kentucky would provide two permanent and one temporary Federal judge, even that will not be sufficient.

But, the gentleman also cites constitutional arguments against the enactment of this legislation. I would direct—not that he needs his attention called to it—but I would direct the attention of the Chamber to pages 10 and 11 of the committee report, which deal with the constitutional argument. The committee did make a very serious study of that, referring back to hearings in earlier Congresses, referring to studies done by the Department of Justice and by a Judicial Conference Committee on the Administration of the Federal Magistrates System, all of which concluded—these jurists and academicians—that this is constitutional.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I personally think there is no question in the world that this legislation is constitutional. I could conceive of some objection to the Senate version, but the jurisdiction granted under this bill to the magistrates is entirely based on consent of both parties.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. KASTENMEIER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Kentucky.

The CHAIRMAN. The gentleman from Kentucky (Mr. MAZZOLI) is recognized for 2 additional minutes.

Mr. KASTENMEIER. As the gentleman knows, one can consent not to have a trial at all; one can consent not to have an attorney; one can consent to all sorts of things; one can consent to pleas.

I might further add that my friend from Massachusetts is a purist on this, but article III courts do not reconcile everything in this country. For example, the tax courts, the territorial courts are the courts that are not article III, resolve matters, and many of the Federal questions that are determined by State courts are not resolved by article III courts.

So, I think that requirement the gentleman from Massachusetts would mandate or suggest as a bar to this legislation is not really well taken.

Mr. MAZZOLI. I thank the gentleman. I would make one final point, Mr. Chairman: It was my privilege this past January to attend a conference at Williamsburg, at which we had the Chief Justice, the Attorney General of the United States, Chairman RODINO, chairman of our House Judiciary Committee, and many other people, including the gentleman from Massachusetts. We talked about many advances in the administration of justice, many new and sometimes unprecedented steps. As the gentleman remembers, we talked in some detail about the use of magistrates and enhancement of their role as a way of ending the logjam. So, it seems to me that if this House, when we reach the phase of taking the bill up under the 5-minute rule, has feelings about some amendments, so be it, but it does appear to be that this is legitimate legislation. I hope it is enacted.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. KASTENMEIER. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, would the gentleman comment on my brief remarks to the effect that there are serious questions when we consider the number of part-time magistrates, 305 out of 487 Federal magistrates who are now part time. They have obvious conflicts of interest, they practice law, they are active in the community. How can we delegate to them the powers that a full-time lifetenured Federal judge otherwise would have?

Mr. MAZZOLI. If the gentleman will permit me, I am not sure I am as articulate as the gentleman is on this, but we have separate functions. We have a need for title III judges obviously. I think we have need for a magistrate of a lesser rank at the same time who, with the acquiescence of the parties, could by applying wisdom and legal background adjudicate cases and settle them. There obviously are rights to appeal. This is not a conclusive and concluding activity, but I think we can have both and make them coexistent.

I thank the gentleman for his observations.

Mr. McCLORY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I yield myself 1 minute to comment further that under this bill only full-time magistrates are authorized to try civil

cases. In the criminal area, existing law—which allows part-time magistrates to try cases—is not changed.

Mr. Chairman, I should further announce that there will be an amendment offered at the proper time to strike the authorization for the upcoming fiscal year so as not to conflict with the Budget Committee for a failure to bring that before that committee. I promised the Rules Committee that I would offer this amendment.

Mr. Chairman, I yield back the balance of my time.

● Mr. RODINO. Mr. Speaker, I would like to limit my remarks to two aspects of the proposed legislation, which I strongly support.

First, I would like to talk about court reform, and second, I would like to briefly explain to the Members what the Committee on the Judiciary did to insure that the proposed legislation is constitutional.

In the 95th Congress one of the most difficult questions facing the Judiciary Committee has been what to do about court congestion and resultant delay in the Federal judicial system.

The stakes are extremely high. In the past the Federal courts have provided an effective forum for American citizens—especially the poor, undereducated, oppressed and underprivileged—to enforce constitutional and statutory rights. Now, court congestion threatens this role.

Mr. Chairman, congestion not only causes delay in obtaining relief but it also may cause the courts, in an effort to rush to judgment, to give insufficient attention to the pending cases. It also reduces the credibility of lawyers who must instruct their clients to wait patiently, often for years, for a decision which, more often than not, is by judgment order. In addition, it impacts more heavily on the very people who need judicial relief the most—the poor and powerless, minorities and middle-income citizens.

At the request of Attorney General Griffin B. Bell, I sponsored the original magistrates bill (H.R. 7493) in the House. The bill before us today (S. 1613 as amended) is essentially that bill, as amended—and improved—by both the Senate and House Judiciary Committees.

I, and the members of my committee, have also worked at passing an omnibus judgeship bill. This bill, which is I am pleased to say close to enactment, will be a substantial aid to the beleaguered Federal courts. However, it must be recognized that the Federal judicial branch cannot be expanded indeterminately without imperiling the high quality of persons attracted to the bench or without creating an impersonal bureaucracy similar to that which litigants are often trying to avoid. By no stretch of the imagination is expansion of the Federal judiciary a cure to the malady of court overload. It merely reacts to the problem, and ultimately may create more reliance on the system, exacerbating overload in the system. For that reason, I sought to limit the number of new judgeships and rely more heavily on structural reform within the existing system.

My committee—and the House—also processed legislation to abolish diversity of citizenship jurisdiction. I fear that this important legislation may not pass the Senate.

The Magistrate Act of 1978 is our third major effort in the area of court reform. It addresses a different need than that focused upon by the diversity and judgeship bills. The proposed legislation adds flexibility to the system. It does this by redefining and by increasing the trial jurisdiction of an existing judicial official—the U.S. magistrate, thus providing the district court with a tool to meet the varying demands on its docket. Because of magistrates' limited tenure and the method of their appointment, magistrate supply and knowledge can be used to complement a particular article III bench. Magistrates will be used only as the bench, bar, and litigants desire, only in cases where they are felt by all participants to be competent. I do not believe that litigants will be forced to have their cases tried by magistrates; the consent requirement protects against this.

Finally, for the reasons stated by the gentleman from Wisconsin (Mr. KASTENMEIER), I would like to express my view that the legislation is constitutional. The Committee on the Judiciary believes that it has an affirmative and continuing obligation to determine the constitutionality of any and all pieces of legislation before it.

We inquired with great care into any possible constitutional objections. We reviewed the printed records from the Senate and House hearings of the 89th, 90th, and 94th Congresses during which this question was also examined. Likewise, we reviewed our own reports from the 90th and 94th Congresses. The committee also reviewed a 1968 Senate study on the constitutionality of trial of minor offenses by magistrates, two detailed memoranda prepared by the Department of Justice which concluded that no such impediment existed, and a comprehensive study conducted by the Judicial Conference Committee on the Administration of the Federal Magistrates System which concluded that the proposed legislation was clearly constitutional.

In addition, the Senate carefully inquired into the issue during 2 days of hearings and found that the legislation passed constitutional muster. Moreover, the Subcommittee on Courts, Civil Liberties and the Administration of Justice asked almost every witness if he or she found the act constitutionally infirm and no one expressed substantial reservations.

With these facts in mind, I strongly support S. 1613 and urge its passage.●

● Mr. CORRADA. Mr. Chairman, I rise in support of the House version of S. 1613, the Magistrate Act of 1978.

The purpose of the bill is to amend the current jurisdictional provisions for U.S. magistrates in civil and less serious criminal cases. This is a much needed piece of legislation that should be enacted into law. The need for assistance to U.S. District Court Judges is imperative and was acknowledged in 1968 when the 90th Congress enacted the Federal Magistrate Act. A current examination of the available statistics and the projected workload of the U.S. District Court of Puerto Rico reaffirm my conviction that in addition to the four new judgeships, as provided in H.R. 7843, there is a real need for the passage of this bill. There is no doubt that the jurisdiction to be conferred to the magistrates in this bill would not only alleviate the workload of the judges but will also substantially increase their caseload disposition rate.

S. 1613, as reported by the House Committee on the Judiciary, serves the purpose of all those who believe in the effectiveness of the Federal judicial system as well as in improving the quality of justice imparted by it.

I urge my colleagues to vote in favor of this bill.●

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

S. 1613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Magistrate Act of 1978".

SEC. 2. Section 636 of title 28, United States Code, is amended—

(1) by redesignating subsections (c) through (f) thereof as subsections (d) through (g), respectively; and

(2) by inserting immediately after subsection (b) thereof the following new subsection:

"(c) Notwithstanding any provision of law to the contrary—

"(1) Upon the consent of the parties, a full-time United States magistrate may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he serves. When there is more than one judge of a district court, the designation shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge.

"(2) If a magistrate is designated to exercise civil jurisdiction under paragraph (1) of this subsection, the clerk of court shall notify the parties of their right to consent. The decision of the parties shall be communicated to the clerk of court. No district judge shall be informed of the parties' response to this notice, nor shall he attempt to persuade or induce any party to consent to reference of any civil matter to a magistrate.

"(3) Upon entry of judgment in any case referred under paragraph (1) of this subsection, an aggrieved party may appeal on the record to the district court in the same manner as on an appeal from a judgment of the district court to a court of appeals. Whenever possible the local rules of the district court and the rules promulgated by the conference shall endeavor to make such appeal expeditions and inexpensive. The district court may affirm, reverse, modify, or remand the magistrate's judgment.

"(4) Cases in the district courts under paragraph (3) of this subsection may be reviewed by the appropriate United States court of appeals by writ of certiorari granted upon the petition of any party to any civil case, before or after rendition of judgment or decree. Nothing in this paragraph shall be construed to be a limitation on any party's

right to seek review by the Supreme Court of the United States pursuant to section 1254 of this title.

"(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, upon the further consent of the parties prior to the entry of judgment, a United States magistrate designated to exercise civil jurisdiction under paragraph (1) of this subsection shall be empowered to direct the entry of judgment of the district court in accordance with the Federal Rules of Civil Procedure. An appeal from any such judgment may be taken directly to the appropriate United States court of appeals in the same manner as an appeal from any other judgment of a district court. Nothing in this paragraph shall be construed as a limitation on any party's right to seek review by the Supreme Court of the United States pursuant to section 1254 of this title.

"(6) Any proceeding conducted by a United States magistrate under this subsection shall be taken down by a court reporter appointed pursuant to section 753 of this title, if a district judge in such a proceeding would have been provided a court reporter under section 753, unless the parties with the approval of the judge or magistrate agree specifically to the contrary. Reporters referred to in the preceding sentence may be transferred for temporary service in any district court of the judicial circuit for reporting proceedings under this subsection, or for other reporting duties in such district court.".

SEC. 3. (a) Section 631(a) of title 28, United States Code, is amended by adding immediately after the first sentence thereof the following: "All magistrates shall be appointed pursuant to standards and procedures established by law.".

(b) The first sentence of section 631(b) of title 28, United States Code, is amended (1) by inserting "reappointed to" immediately after "appointed or"; and (2) by striking out the colon after "unless" and inserting in lieu thereof 'he has been a member of a bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States for at least five years; Provided also:".

(c) Paragraph (1) of section 631(b) of title 82, United States Code, is amended by striking after the word "requirements" the words "of the first sentence of this paragraph" and inserting in lieu thereof the words "of this subsection".

(d) Section 631(b)(2) of title 28, United States Code, is amended to read as follows:

"(2) He is selected pursuant to the recommendation of a Magistrate Selection Panel (hereinafter referred to as the 'Panel') established in each district by the district court:

"(A) The Panel shall be selected by the judges of the district court when a magistrate position is created or at a reasonable time before the term of such a position expires or an existing position becomes vacant. The Panel shall be composed of no fewer than five members, and its size shall be determined by the chief judge of the district court. A majority of the Panel shall be members of the bar, and at least one of the remaining members shall be a nonlawyer. Each member of the Panel shall be a resident of the district for which the appointment is to be made. In selecting members of the Panel, the judges of the district court shall insure that a cross section of the legal profession and the community is represented. The Chairman of the Panel shall be chosen by a majority vote of its members.

"(B) The Panel shall (i) give public notice in a manner designed to inform the widest possible segment of the legal profession of the vacancy throughout the district, inviting suggestions as to potential nominees; (ii) conduct inquiries to identify potential nominees; (iii) conduct inquiries to identify those persons among the potential nominees who are well qualified to serve as magistrates; and (iv) report to the district court within ninety days after the Panel's creation the results of its activities and recommend at least three, and not more than five, persons whom the Panel considers best qualified to fill the vacancies, using the criteria established by the chapter and any such criteria as the conference may from time to time promulgate: *Provided, however*, a Panel may recommend, with the concurrence of the district judges, one individual who is a sitting magistrate up for reappointment. All decisions of the Panel shall be by majority vote of the members.

"(C) The district court shall select from the list provided by the Panel. However, a district court may, by majority vote, reject the first list submitted by the Panel. If such list is rejected, however, the Panel shall submit a second list in accordance with this section from which the district court shall then select its magistrate.

"(D) No person shall be considered by a Panel as a potential nominee while serving as a Panel member or during a period of one year after termination of such service.

"(E) All information made available to the members of the Panel in the performance of their duties and all recommendations made to the district court shall be kept confidential.

"(F) Congress (i) takes notice of the fact that women and minorities are underrepresented in the Federal judiciary relative to the population at large; and (ii) recommends that the Panel, in recommending persons to the district court, shall give due consideration to qualified women, blacks, hispanics, and other minority individuals.

A district court which cannot meet the procedural requirements of this paragraph, for good cause shown, may appoint a part-time magistrate pursuant to its own publicized procedure, after having filed with the conference the reasons for not being able to comply with the requirements of this paragraph.".

(e) The amendments made by this section shall take effect on April 30, 1978.

SEC. 4. Section 633(c) of title 28, United States Code, is amended by striking the final sentence.

SEC. 5. (a) Section 633 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) REPORTS BY THE DIRECTOR.—The Director shall, within two years immediately following the date of enactment of the Magistrate Act of 1978, conduct a study and report to the Congress with respect to (1) the professional qualifications of individuals appointed under section 631 of this chapter to serve as magistrates, (2) the number of matters in which the parties consented to the exercise of jurisdiction by a magistrate pursuant to section 636(c) of this chapter, and (3) the number of appeals taken pursuant to paragraphs (3), (4), and (5) of such section 636(c), and the disposition of each such appeal. Thereafter, the Director shall conduct a study and report to each Congress with respect to the matters set forth in this subsection.".

(b) The heading for section 633 of title 28, United States Code, is amended by inserting "; Reports by the Director" immediately after "magistrates".

(c) The item relating to section 633 in the table of chapters of chapter 43 of title 28, United States Code, is amended by inserting "; Reports by the Director", immediately after "magistrates".

SEC. 6. Section 1915(b) of title 28, United States Code, is amended to read as follows:

"(b) Upon the filing of an affidavit in accordance with subsection (a) of this section, the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate in any civil or criminal case, if such transcript is required by the district court, in the case of proceedings conducted under section 636(b) of this title or under section 3401(b) of title 18, United States Code; and (3) printing the record on appeal if such printing is required by the appellate court in the case of proceedings conducted pursuant to section 636(c) of this title. Such expenses shall be paid when authorized by the Director of the Administrative Office of the United States Courts.".

SEC. 7. Section 3401 of title 18, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) When specially designated to exercise such jurisdiction by the district court or courts he serves, any United States magistrate shall have jurisdiction to try persons accused of, and sentence persons convicted of, misdemeanors committed within the judicial district.";

(2) in subsection (b)—

(A) by striking out "minor offense" and inserting in lieu thereof "misdemeanor";

(B) by striking out "such judge" and inserting in lieu thereof "a district judge or magistrate";

(C) by striking out "both"; and

(D) by striking out "and any right to trial by jury that he may have";

(3) by adding at the beginning of subsection (d) the following: "A magistrate may impose sentence and exercise all powers under chapter 402 of this title: Provided, however, That no such sentence shall include a commitment for a period in excess of one year for conviction of a misdemeanor or six months in other cases"; and

(4) by amending subsection (f) to read as follows:

"(f) For good cause shown the attorney for the Government may petition the district court to have proceedings in any misdemeanor case conducted before a district judge rather than a United States magistrate. Such petition should note the novelty, importance, or complexity of the case, or other pertinent factors, and be filed in accordance with regulations promulgated by the Attorney General. Nothing in this subsection shall be deemed to limit the discretion of the court to have any misdemeanor case tried by a district judge rather than a magistrate.".

SEC. 8. (a) The heading for section 3401 of title 18, United States Code, is amended by striking the words "Minor offenses" and inserting in lieu thereof "Misdemeanors".

(b) The item relating to section 3401 in the table of sections of chapter 219 of title 18, United States Code, is amended by striking the words "Minor offenses" and inserting in lieu thereof "Misdemeanors".

SEC. 9. No additional funds are authorized to be appropriated to implement the provisions of this Act for expenditure prior to October 1, 1978.

SEC. 10. Such sums as may be necessary to carry out the purposes of this Act are hereby authorized to be appropriated for expenditure on or after October 1, 1978.

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that the Committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. STUDDS) having assumed the chair, Mr. CORNWELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1613) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes, had come to no resolution thereon.

WATER RESOURCES DEVELOPMENT ACT OF 1978

Mr. ROBERTS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13059) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13509, with Mr. BARNARD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. ROBERTS) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. HAGEDORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring to the floor H.R. 13059, the Water Resources Development Act of 1978. I wish to extend my appreciation to my distinguished chairman, the gentleman from California (Mr. JOHNSON), for his usual fine leadership in bringing this bill out of committee. I also wish to extend my very warm thanks to the ranking minority member of the Subcommittee on Water Resources, the gentleman from California (Mr. DON H. CLAUSEN), and the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA).

H.R. 13059 contains project authorizations, studies of potential water resources projects, modifications to authorized projects, and other provisions relating generally to the water resources development program of the Corps of Engineers.

Section 101 of the bill authorizes 27 projects for construction. Included are projects for navigation, local flood protection, water supply, and hydroelectric power. Section 103 authorizes 11 projects for advanced phase 1 studies. The remainder of the bill consists of project modifications, study authorizations, and similar items. The bill contains a number of significant and worthwhile provisions and I would like to point out just a few of them.

Section 182 authorizes the Secretary of the Army, acting through the Chief of Engineers, to modify any water resources project of the Corps of Engineers to provide for mitigation of damages to fish and wildlife if the estimated cost of the modification does not exceed 10 percent of the total project cost or $7,500,000, whichever is the lesser. No appropriation can be made for the modification until it has been approved by resolutions adopted by our Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

In the case of many projects, especially the older ones, the need for mitigation of damages to fish and wildlife becomes evident when the project is ready to proceed to construction. Presently, this requires a modification of the project with an act of Congress—one of the periodic Water Resources Development Acts. This is a time-consuming process. Accordingly, the committee has included this provision permitting congressional approval of mitigation plans up to a set level through the committee resolution process. This will expedite the provision of mitigation measures and allow many projects to go forward sooner with adequate provision for mitigation.

Section 183 authorizes the Secretary of the Army, acting through the Chief of Engineers, to preserve, restore, interpret, and maintain historic properties located at Corps of Engineers water resource projects if such properties have been entered into the National Register of Historic Places. Although the National Historic Preservation Act of 1966 encourages and directs that historic properties under the jurisdiction of Federal agencies be maintained, preserved, rehabilitated, and restored, the Corps of Engineers lacks statutory authority to do so. This section provides that authority.

Section 181 clarifies the Corps of Engineers authority to acquire lands adjacent to and in the vicinity of a water resources project for recreational development.

Section 4 of the Flood Control Act of 1944 authorizes the Corps of Engineers to construct recreation facilities at its water resources projects. Section 4 was intended to provide broad authority to take advantage of the recreation potentials at Corps projects, including acquisition of lands for recreation areas and access roads. In recent years the statute has been too narrowly interpreted as authorizing only the development of recreation facilities on lands originally acquired for the project. The committee accordingly included section 181 to restate the intent of Congress that it be broadly interpreted.

The bill, in sections 108, 111, 115, 120, and 131, modifies five navigation projects to provide for Federal participation in the costs of construction of contained areas for the disposal of dredged materials. I wish to emphasize that this is not a new concept. Such a cost sharing arrangement was first adopted in the River and Harbor Act of 1970 for navigation projects in the Great Lakes, and has been applied to other projects on a case-by-case basis since that time. Maintenance of navigation projects has traditionally been at Federal cost because of the widespread national benefits which result from such projects. As environmental concerns have made open water disposal of dredged material impossible at various projects, and contained spoil disposal areas have become necessary, Federal participation in the cost of the disposal areas has been provided to maintain the traditional Federal responsibility.

There is a new concept included in this bill which has received some criticism. I believe, however, that this criticism has been based on a lack of understanding. In three cases the committee has included a finding of Congress that the total project benefits, or in the case of Gulfport Harbor the benefits associated with the most environmentally sound method of dredged material disposal, exceed the costs. These are cases where the benefits of the project, figured solely on economic grounds, may not exceed the costs. What must be remembered, however, is that there are intangible benefits associated with some projects, such as environmental benefits, and it may well be that these benefits make the project worthwhile and desirable. In unusual cases, therefore, the committee feels that it is proper to look at all of the costs and benefits of a project, tangible and intangible, and make a judgment that the project is indeed worth building. This was recognized in section 209 of the Flood Control Act of 1970 which provided that project formation and devaluation should include consideration of national economic benefits, regional economic benefits, the environment, and the well-being of the people.

These are but a few of the many worthwhile and needed provisions in this bill. The bill would meet any urgent water resources needs which cannot be postponed.

This is not an inflationary bill; it is not a budget-busting bill. It is a sound and reasonable bill. Projects contained in this bill represent a capital investment of this great Nation, both in the direct benefits they will provide over many years and in the substantial number of jobs they will create.

The flood control projects will more than pay for themselves in flood damages prevented. The power projects likewise more than pay for themselves as well as reducing our dependence on foreign oil. And the navigation projects will provide savings in transportation which will accrue to all of the people in our country.

Mr. Chairman, I urge enactment of this bill.

Mr. Chairman, I now yield such time as he may consume to the distinguished chairman of the full Committee on Public Works and Transportation, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 13059. I wish to commend the chairman of the Subcommittee on Water Resources, the gentleman from Texas (Mr. ROBERTS), for the fine job he has done in putting this bill together. I wish also

to extend my appreciation to the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA), and the ranking minority member of the subcommittee, the gentleman from California (Mr. DON H. CLAUSEN) for their support and cooperation in developing this legislation.

The development and conservation of our water resources has been a vital element in our Nation's progress. It is just as important now if we are to maintain and improve our way of life.

This bill contains many worthwhile provisions which the gentleman from Texas has already explained. I am particularly pleased with two badly needed projects in California which I have long supported. The first of these is a modification of the Sacramento River flood control project to extend the bank protection aspect of the project to additional areas subject to severe erosion problems. This erosion causes the loss of large amounts of extremely valuable farmland in addition to increasing the potential for damaging floods. The project modification will permit necessary corrective measures to be undertaken. The other project is the Sacramento River navigation project. Included in the bill is an authorization for a phase I study of this project. This study will provide detailed information on the economic and environmental aspects of this project so that we can consider it for authorization of construction. Preliminary studies indicate that the project has a very good benefit-to-cost ratio and is needed to meet anticipated demands of future commerce. The phase I study authorization will permit these studies to continue into the more detailed stage without unnecessary delay.

Another significant provision is found in section 187, which will allow the Washington Suburban Sanitary Commission to proceed with construction of a diversion structure on the Potomac. We were able to include this provision because Maryland, Virginia, the District of Columbia and interested Federal agencies have for the first time reached an agreement on the water resources of the region. This is an agreement on an apportionment of Potomac water during periods of low flow. It is a significant first step in what I hope will be even closer cooperation in the future—cooperation without which there can be no comprehensive plan for development of the water resources of the Potomac River basin. I am proud of our committee's role in bringing about this first agreement.

Mr. Chairman, I urge passage of the bill.

Mr. HAGEDORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 13059, the Water Resources Development Act of 1978, which directs the Corps of Engineers to undertake various projects for flood control, navigation, hydroelectric power, water supply and recreation. Some allege that this bill is an assault on the President's water policy and to an extent that is true. It is also true that this administration has in the 20 months it has been in office forwarded only one water resource project of the Corps of Engineers to Congress for consideration. If the Congress allowed this "water policy" to continue there would soon be no need for a water resource program.

Mr. Chairman, I would like to take a moment to explain one section in the bill which relates to a project in my congressional district. Section 165 authorizes the Corps of Engineers to undertake a demonstration project for the removal of silt and aquatic growth from Albert Lea Lake, Freeborn County, Minn., at an estimated cost of $4 million.

In recent years there has been considerable concern over the eutrophic condition of Albert Lea Lake. The advanced stage of eutrophication in the lake has been evidenced by several algae bloam "scum," noxious odors, and a decline in the quality of fish in the lake. This has resulted in drastically reduced recreational use of the lake, as well as a possible public health safety condition.

Initial studies indicate that it would be economically feasible to dredge at least the major portion of Albert Lea Lake from the shellrock channel to the outlet of the lake. This portion of the lake comprises approximately 910 acres, of which 610 might be dredged and the remaining 300 acres might be used as a deposit area for the dredged spoils.

The Secretary of the Army will report to the Administrator of the Environmental Protection Agency the plans for and the results of the project together with such recommendation as may be necessary to assist the Administrator in carrying out the programs elsewhere for freshwater lakes under section 314 of the Federal Water Pollution Control Act. In this way the information and experience developed at Albert Lea Lake will prove valuable to other lakes with similar problems around the country.

Mr. Chairman, the Committee on Public Works and Transportation brings before this body a bill designed to address water resource problems throughout the United States. The need for this legislation is evidenced by the near record setting number of appearances by Members of both the Senate and House before our committee requesting quick and favorable action on water resources development authorizations. We commend this bill to our colleagues in response to these requests and urge favorable adoption of H.R. 13059.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I know we are just going to proceed with general debate on this bill today.

When we do get to the amendment stage, I plan to offer two amendments to see if there is not some way possible in which we can provide support or assistance to private groups which border an area where there is a privately constructed dam. We did authorize the Corps of Engineers to examine these private dams in the National Dam Inspection Act, legislation passed in 1972; and we do have such a private dam in my congressional district which the Corps of Engineers has suggested may be dangerous. Now the whole community is in some state of distress, because of the threatening condition of the dam.

They have lowered the water level down 7 or 8 feet. Apparently this creates a terribly unsatisfactory situation.

Therefore, I am going to suggest two amendments, one of which would provide for an indepth engineering study of the dam, and the other which might establish a revolving fund for low interest loans in order to assist this group in meeting the expenses involved as far as repairs are concerned.

I will discuss these proposals in detail on Wednesday when amendments are in order, but I just wanted to alert the gentleman from Minnesota (Mr. HAGEDORN) and the chairman of the committee, to whom I have already spoken about this subject, to see if we can arrive at some sort of solution. I am hopeful that I will have the sympathetic ear of the chairman and of the ranking minority member on this subject.

Mr. HAGEDORN. Mr. Chairman, I have no further requests for time, but I would like to enter into a colloquy with our distinguished chairman of the Subcommittee on Water Resources, the gentleman from Texas (Mr. ROBERTS), concerning a project in the Rochester, Minn., area.

Mr. Chairman, I would like to take time to find out from the distinguished chairman of the subcommittee about a project in which I am very interested. On page 141 of the House report to accompany the bill H.R. 13059, language says that the city of Rochester, Minn., shall provide for the relocation of "highway bridges." On the other hand, section 162 of the bill, lines 7 through 11, provides that—

> Changes to highway and foot bridges, including rights-of-way, changes to approaches, and relocations, made necessary by the project and its present plan of protection, shall be accomplished entirely at federal expense at an additional cost of $1,891,000.

Could the distinguished chairman of the subcommittee clarify this?

Mr. ROBERTS. If the gentleman will yield, I will be happy to do so. The House report language describes the project as formulated and recommended by the Corps of Engineers. The language of section 162 changes the corps recommendations with regard to changes to highway and foot bridges. The legislative language clearly governs.

Mr. HAGEDORN. I thank the chairman.

Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. ROBERTS. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in support of this bill. The water projects authorized by this legislation have stood the test of extensive review by the local jurisdictions to be served, the authorizing and appropriating committees of the Congress, the Army Corps of Engineers, and in some instances, the Office of Management and Budget.

Most of these projects fit the water policy criteria presented by the President late last spring, including cost ben-

efit ratios far in excess of "one," a wide distribution of benefits, no overriding safety problems, excellent evidence of active public support, and acceptable cost-sharing arrangements with the communities these projects will serve.

The projects authorized by this legislation respond to clearly defined public needs ranging over flood protection, development of badly needed new water resources, navigational improvements, improvement to port facilities, and add a valuable source of low-cost energy.

This legislation is particularly important regarding the water resource and power needs of the Pacific Northwest, Mr. Chairman.

One of the projects approved for construction authorization, for example, is the addition of a second powerhouse on the McNary Dam, an important source of hydroelectric power using Columbia River stream flow.

This second powerhouse will deliver badly needed peaking power to the Pacific Northwest by the early 1990's by adding 1.2 million kilowatts of installed power. This represents a 10-percent increase in total system peaking.

As originally planned, the new McNary unit begins to deliver power when the Pacific Northwest power system will need all the assurances of reliability and flexibility it can get.

As other sources of energy become much more expensive and harder to replace in the Pacific Northwest by the turn of the century, and afterwards, we will become more and more dependent on reliable electrical generation and distribution, most of which will come from water resources.

The economic and social well-being of our region is the issue; and we just cannot afford to let this project slip.

There is no question but that we must exercise great caution in selecting sites for water projects and to make certain that chosen sites meet stringent environmental and cost benefit standards; but it is hard to quantify the gut needs of the people in terms of, say, water project costs and benefits measured by dollar value or other criteria often viewed in the abstract, Mr. Chairman.

In many areas to be served by these projects, lives are at stake, property is at stake, and an acceptable standard of living is at stake. These projects are national assets, and I urge this body to pass this bill.

Mr. Chairman, I commend the committee for its very, very good work.

● Mr. CORRADA. Mr. Chairman, I rise in strong support of H.R. 13059 the Water Resources Development Act of 1978, which authorizes the construction, repair and preservation of a number of public works on rivers and harbors for navigation, flood control and for other purposes. This legislation is the result of painstaking effort by the Public Works and Transportation Committee and they should be commended for their hard work. During numerous days of hearings, they heard testimonies from many different people in support of various projects. Subsequent to these hearings, the committee drafted this legislation to include a number of these prepared projects.

Mr. Chairman, under section 153, the Corps of Engineers is authorized to carry out a project in the Martin Peña Canal which runs through the city of San Juan, the capital of Puerto Rico. The Government of Puerto Rico is extremely interested in cleaning up and developing the water resources potential of the Martin Peña Canal. To this end, an immediate cleanup of the canal is necessary to rid San Juan of its biggest eyesore and to enhance the quality of life for the approximately 40,000 persons that live along its bank.

At present, the Martin Peña Canal and the adjacent San Jose Lagoon are in disastrous conditions. They are highly polluted and since there is a minimum inflow of water into the canal, it is a stagnant pool of water detrimental to the health of the citizens living next to it.

Section 153 also aims to improve the circulation throughout the canal thus enhancing the potential for recreational boating and commercial and mass transportation in the integrated bay and lagoon system which stretches for a total of 10 miles within the metropolitan area.

Through the improvements of the water quality, the environmental setting and the quality of life in and adjacent to the Martin Peña Canal, we can provide the necessary catalyst and, joining hands with the private sector, engage in further development of the area.

Mr. Chairman, the Government of Puerto Rico, the municipal government of San Juan, and various agencies of the Federal Government are engaged in a cooperative effort to develop this important area located in the center of our capital city. The estimate cost of $13,500,000 authorized for the demonstration project in H.R. 13059 will provide the necessary first step in getting this complex and very important project off the ground. I urge my colleagues to support this important legislation by casting their votes in favor of its passage.●

● Mr. OTTINGER. Mr. Chairman, I rise in support of H.R. 13059, the Water Resources Development Act of 1978. Included in this legislation are three water resource projects located in Westchester County, N.Y. The first two projects involve flood control of the Mamaroneck/Sheldrake and Byram Rivers. The third project concerns the dredging of the Mamaroneck Harbor.

Citizens living along the Mamaroneck/Sheldrake and Byram Rivers Basins have waited over 22 years for flood protection by the Armed Corps of Engineers. The Mamaroneck/Sheldrake and Byram Rivers projects were first authorized for study by the House Public Works Committee on June 13, 1956. Since that time, numerous devastating floods have hit the area causing millions of dollars in damage. In June of 1972 and again in September of 1975, two violent storms hit the area causing $3.5 million and $19.7 million worth of damages along the Mamaroneck/Sheldrake. Four-hundred and eighty-three thousand dollars worth of damages were caused by the storm of June 1972 in the Byram River Basin. In addition, during the 1975 storm—the flood of record—the village was under 9 feet of water, one person drowned, and more than 200 persons were evacuated by the Red Cross. The village has been informed by its largest employer, Sealectro, that if flood control is not forthcoming, the company will have to relocate at a cost of 660 jobs for the community.

The Mamaroneck/Sheldrake and Byram River flood control projects have positive benefit-to-cost ratios of 1.3 and 1.6. The water resource bill before the House today directs the Corps to undertake the first phase of construction by authorizing $1.4 million for a phase I design memorandum of advanced engineering and design.

H.R. 13059 also contains language to amend the local cooperation agreement for the Mamaroneck Harbor Federal navigation project. The local cooperation agreement which is currently on the books requires the village to furnish spoil disposal areas and to cover all costs associated with the disposal of dredged material if an upland disposal site is not available. At the time the original agreement was authorized by Congress years ago, these costs were minimal. The village was able to dump the dredge spoil at an upland disposal site, or it could dispose of the spoil in the Long Island Sound at a small cost to the locality.

Today, conditions have changed drastically and the costs of disposal are estimated at roughly $500,000—or one-half of the village's entire operating budget. The legislation allows the Federal Government to assist the village of Mamaroneck by paying 80 percent of the costs of disposal of the material dredged from the harbor. Without Federal assistance, the harbor will continue to silt up and movement in and out of the basin will eventually come to a standstill. Conditions now restrict movement of vessels with a draft over 6 feet to high tide.

The Corps is presently engaged in a 4-year study of the feasibility of using dredge spoil to build islands in Long Island Sound, which would provide an inexpensive avenue for disposing of the dredge spoils as well as a long term and comprehensive solution to the problem. The assistance contained in the water resources bill is short term, and will enable the village to continue functioning as a healthy and vital community.

Again, I want to stress my support for this legislation. Through the Water Resources Development Act of 1978, the Public Works Committee has demonstrated an understanding of the problems associated with severe flooding and the critical need to provide Federal assistance to those living in unprotected river basins in Westchester County, N.Y.●

● Mr. DON H. CLAUSEN. Mr. Chairman, I rise in strong support of H.R. 13059, the Water Resources Development Act of 1978. I would like to commend the gentleman from Texas (Mr. ROBERTS) for his leadership in bringing this legislation to the floor and, at the same time, express my appreciation to our committee chairman, the Honorable "BIZZ" JOHNSON and our ranking minority member, Congressman BILL HARSHA, for their support and guidance. Without the efforts of these distinguished Representatives we would not have this bill before us today.

Mr. Chairman, H.R. 13059 represents a bill mindful of the need to be fiscally responsible. To this purpose, I offered an

amendment during markup, supported by my chairman, which pared nearly $762 million from this legislation. We did this in recognition of the fact that we must balance the demands for water resource development with the realities of our ability to fund these projects and the desire to evaluate the continued need for these projects as they progress through the design and construction process.

I and my committee colleagues were concerned that by giving a blank check authorization to some of these projects the Congress would be precluded from anything but a complete commitment to these projects. The purpose of my amendment was to allow us to monitor the progress of these projects—just as we do in the 29 river basin programs covered by the River Basin Monetary Authorization Acts—and to retain our option to modify or suspend our commitment to these projects should such become necessary.

Unfortunately, Mr. Chairman, some people have not yet understood the thrust of my amendment and have erroneously concluded that the opposite is the case. Some incorrectly believe that any authorization is a complete commitment to build the project. That is why I have taken the time of the House on this matter for I feel that an embellishment of the committee's action was necessary to enhance the understanding of this very important concept. This new approach is a further refinement of the 2 phase authorization concept developed in the 1974 Water Resources Development Act—a program change I should point out that resulted from a meeting of Chairman ROBERTS, myself, and OMB Director Roy Ash in 1974. We were willing then as we are now to work with OMB to make positive changes in our water resources program and I will discuss this in greater detail later on.

Mr. Chairman, on October 13 of last year this body passed by an overwhelming vote of 331 to 70 H.R. 8309, the Navigation Development Act. This bill authorized the construction of Lock and Dam 26 at Alton, Ill., imposed waterway user charges for the first time on the inland waterway system, and directed that a study be done to assess the impact of those user charges. As passed by the House, H.R. 8309 contained no authorizations for water resources projects other than Lock and Dam 26. However, when the Senate considered this bill they added nearly 100 sections to the legislation, in essence adding a separate omnibus water resources bill to our House-passed initiative.

Mr. Chairman, many Members of the House have waited patiently for the Committee on Public Works and Transportation to begin work on a water resources development act. They have stood behind our committee and have not tried to incorporate their project authorizations in H.R. 8309 when this bill was considered by the House. This was not the case in the Senate, I regret to say. We could have gone to conference with the other body when they finished their consideration of H.R. 8309. However, given the Senate's calendar it is unlikely that they would take up a separate water resources development initiative and therefore would press our conferees to accept their various project authorizations. This would have prevented our House Members from seeking approval of their own projects unless these projects were already in the Senate bill.

In order to keep faith with our colleagues, the committee developed the bill before you today—H.R. 13059. It is our hope to receive a favorable consideration of this bill and then attach it to H.R. 8309 as a substitute for the Senate project amendments and go to conference. This will enable us to resolve the waterway user charge issue and at the same time insure that our colleagues have the opportunity to have their project authorizations adopted this session. Without this action the badly needed benefits of flood control, navigation, hydroelectric power, water supply, recreation and fish and wildlife mitigation that would accrue to these areas would be significantly delayed or even foregone.

Certain people, Mr. Chairman, would have us believe that the bill before us flies in the face of established procedure by authorizing projects which have not been approved by the administration. I think we should point out that since this administration took office they have forwarded only one project to Congress. By their inaction the administration is leaving the impression that, in a unilateral manner, they might be attempting to stop the water resources development program. During the committee's hearings on H.R. 13059 we received testimony that OMB has held the projects proposed in the original bill, without taking action on them, for an average of 8 months, and in many cases for as long as 19 months. This does not even include those projects for which the Chief of Engineers has finished his work but which OMB as dictated should not be forwarded.

This committee and Congress has always sought to cooperate with the executive branch to advance only the most responsible water resource projects. We cannot stand idly by, however, to allow OMB to singlehandedly stop the water resources development program. If we do not advance H.R. 13059, we will in essence be granting to the Executive the power to veto not just individual projects, but the total program by their inaction. OMB is aware that one of the surest ways to kill a program is to prevent new planning efforts from being initiated, on the one hand, while funding fully the construction of previously authorized projects on the other.

Mr. Chairman, in 1974 the Congress requested that a study be done to determine if comprehensive changes in our water policy were necessary. This study, auhorized by section 80 of the Water Resources Development Act of 1974, was completed in 1976 but was never forwarded to Congress. The current administration has ignored the mandates of section 80. Instead, it has independently formulated its own recommendations for changing water policy. I am dismayed that they have shunned our offers to cooperate with them in the development of their recommendations and further concerned over the lack of coordination with Congress that has occurred subsequent to the announcement of their recommendations.

I am a firm believer that the time has come to reevaluate our current thinking on water resources. The same committee responsible for water resources development is also responsible for the Clean Water Act. This makes great sense, for the issues of water quality and water quantity are inextricably linked—a point often made by former Chairman Bob Jones.

My innovative technology amendment to the 1977 Clean Water Act encouraged the development of treatment works emphasizing conservation, recycling and reuse of water. Another part of that amendment directed EPA to analyze the relationship of water quality programs to those programs dealing with allocation of water—the so-called traditional water resource development program. It is my hope that this study can be the cornerstone of our efforts to develop a new comprehensive water policy. That will take into consideration the growing demand through the Nation for water. As I have stated so often, we must provide a coordinated planning framework to be used as the basis for making wise, farsighted decisions with respect to the conservation, management, and development of our Nation's water resources.

Mr. Chairman, there has been no lack of interest or commitment to devising a comprehensive water policy by the Committee on Public Works and Transportation. However, there are very few legislative days remaining in the 95th Congress and, therefore, it is unlikely that we will be able to address water policy issues this year. Thus, we will have to begin again in the 96th Congress. This new start will allow us an opportunity to put aside this year's confrontations and, hopefully, develop a cooperative effort to make positive and essential changes in our water policy. I challenge the administration to work closely with us, for I predict, that if we cannot develop a coherent policy, the growing demands being placed on our limited water resources could precipitate a water crises far greater in consequence than the recent energy crises. The lessons of the California drought have heightened my sensitivity to this concern and I hope the lessons learned from that experience are not quickly forgotten. I look forward to a positive response from the administration.●

● Mr. RAHALL. Mr. Chairman, I rise to support H.R. 13059, the Water Resources Development Act of 1978. For months both the House and Senate Public Works Committee's have heard testimony, reports, and personal observation of the projects included in this legislation. I believe our time for listening must come to and end and our time for action must begin.

We have before us a proposal which will provide long term relief to many disaster areas across the Nation, positive constructive relief, not more Corps of Engineers studies. I admit that I am partial to this legislation for it contains over $100 million for flood relief for the residents of southern West Virginia as

well as Kentucky and Ohio. But I have seen the destruction and the lives that were washed away by the raging floods.

On April 1977, a devastating flood hit southern West Virginia and in the weeks that followed well over $104 million was spent on recovery efforts. I ask, how many more millions of dollars will it cost before we supply the long term relief that is needed. If the proper steps had been taken a few years back the $104 million could have provided the construction funds that are so desperately neeeded. And the long history of this area of our Nation will show many, many more millions of Federal money spent in past floods.

In April of this year, hundreds of the victims of the 1977 floods took part in a "Pilgrimage on Washington" which was followed by both Senate and House hearings. I believe their pleas are still with us today. This well-organized dignified petition of our Government for redress of grievances will have a lasting imprint on my memory. The thoughts of so many individuals so important to our Nation's energy policy, our West Virginia coal miners, their families and their friends cannot continue to go unheeded. To those who label this "pork-barrel" I say "hog-wash."

For years the corps "cost-benefit" ratio was the major stumbling block toward flood protection, I must at this time commend the members of the Water Resources Subcommittee, Chairman ROBERTS and full committee Chairman HAROLD "BIZZ" JOHNSON, for omitting this determining factor, realizing that the benefits due outweigh the costs.

We now face the threat of a Presidential veto. A veto based on the fact that the administration feels we are spending too much money to protect the welfare of our citizens. But I ask, where was the threat of a veto when we were asked to pass legislation to provide billions of dollars for foreign aid. At that time we were asked to support foreign assistance legislation for the good of the American economy, well, I ask, how has it helped our economy? Our inflation has increased, our dollar has deflated and our deficit spending has increased, yet this measure was designed for the good of the American economy. Surely we all see the effects of our spending, but how can we justify spending $4 billion for NASA operations when we are not willing to spend $10 million for flood protection. I feel the American citizens are entitled to a few million to protect their homes and families.

In conclusion Mr. Chairman, I urge my colleagues to let their voices and the voices of the American public be heard, a voice that is entitled to the benefit and protection which they so dearly need and so dearly pay for. A vote in support of H.R. 13059 will let that voice be heard.●

● Ms. HOLTZMAN. Mr. Chairman, I rise in reluctant support of H.R. 13059, the Water Resources Development Act of 1978. Although this bill authorizes many worthwhile projects, I am distressed to see the inclusion of funds to begin stage I of the so-called Hudson River skimming project. This proposal has been the object of a great deal of opposition in New York State, and for good reason. Not only is it unsound from the environmental and economic points of view, it also could pose a serious threat to public health.

The Hudson River project, proposed by the Board of Engineers for Rivers and Harbors, calls for water to be taken from the Hudson River near Poughkeepsie, treated, and then piped into the New York metropolitan area. It is claimed that the project, which would eventually cost $4.6 billion, is necessary to eliminate a projected shortage of water in the year 2000. However, the Tri-State Regional Planning Commission and other groups have shown that the shortage will not be nearly as severe as claimed. Inaccurate population projections and questionable per capita rates of water consumption have contributed to a greatly overstated estimate of shortage.

Presently, New York City water is among the purest in the country, because its source is uncontaminated upstate rainwater. The water-skimming proposal would add to this Hudson River water, shown to be contaminated by a wide variety of toxic and cancer-causing chemicals discharged into the river as industrial waste water. Chemical pollution of the river has become so serious that commercial fishing in the Hudson has been banned by the State. It is very difficult and expensive to test for and treat harmful substances and even treated water may contain dangerous levels of toxic chemicals. To subject New Yorkers to such potential hazards is unnecessary and risky.

In conclusion, there are far less risky alternatives worth investigating to meet New York City's water needs. A program of water conservation alone could save over 400 million gallons of water each day. These savings, combined with better use of existing reservoirs, would make it unnecessary to adopt this proposal.●

Mr. ROBERTS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 13059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. (a) Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive flood waters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

KODIAK HARBOR

The project for navigation improvements of Kodiak Harbor, Alaska: Report of the Chief of Engineers, dated September 7, 1976, at an estimated cost of $8,597,000.

PUGET SOUND

The project for navigation on the Blair and Sitcum Waterways, Tacoma Harbor, Washington: Report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $20,497,000.

TERRITORY OF GUAM

The project for flood control on the Agana River Territory of Guam: Report of the Chief of Engineers, dated March 14, 1977, at an estimated cost of $3,494,000.

CHETCO RIVER

The project for construction of navigation improvements at Chetco River, Oregon: Report of the Chief of Engineers, dated May 2, 1977, at an estimated cost of $4,666,000.

ROOT RIVER BASIN

The project for flood control, Root River Basin, Minnesota: Report of the Chief of Engineers, dated May 13, 1977, at an estimated cost of $4,900,000.

PANAMA CITY BEACHES

The project for beach erosion control and hurricane flood protection, Panama City Beaches, Florida. Report of the Chief of Engineers, dated July 8, 1977, at an estimated cost of $16,300,000.

DES MOINES RIVER BASIN

The project for flood control, Des Moines River Basin, Iowa and Minnesota: Report of the Chief of Engineers, dated July 22, 1977, at an estimated cost of $7,900,000.

CAZENOVIA CREEK

The project for flood control, Cazenovia Creek, Buffalo Metropolitan Area, New York: Report of the Chief of Engineers, dated September 8, 1977, at an estimated cost of $1,600,000.

LITTLE WOOD RIVER

The project for flood control, Little Wood River, vicinity of Gooding and Shoshone, Idaho: Report of the Chief of Engineers, dated November 2, 1977, at an estimated cost of $2,536,000.

GREENVILLE HARBOR

The project for navigation, Greenville Harbor, Mississippi: Report of the Chief of Engineers, dated November 15, 1977, at an estimated cost of $20,400,000.

GULFPORT HARBOR

The project for navigation, Gulfport Harbor, Mississippi: Report of the Chief of Engineers, dated January 16, 1978, at an estimated cost of $31,167,000, except that, for reasons of environmental quality, dredged spoil from such project shall be disposed of in open water in the Gulf of Mexico. For the purpose of economic evaluation of this project the benefits from such open water disposal shall be deemed to be at least equal to the costs of such disposal. If the Secretary of the Army, acting through the Chief of Engineers, determines after competitive bidding and pursuant to the provisions of Public Law 95-269 that transportation and disposal of dredged material cannot be carried out by contract at reasonable prices and in a timely manner, the Secretary, acting through the Chief of Engineers, is authorized to acquire the necessary dredged material transport equipment for the prosecution of the project.

GREAT LAKES-SAINT LAWRENCE SEAWAY

The project for extension of the navigation season on the Great Lakes and Saint Lawrence Seaway: Report of the Chief of Engineers, dated November 16, 1977, at an estimated annual cost of $6,127,000.

RAHWAY RIVER BASIN

The project for flood control on Robinson's Branch at Clark, Scotch Plains, and Rahway, New Jersey: Report of the Chief of Engineers, dated October 10, 1976, at an estimated cost of $12,650,000.

The project for flood control on the main stem of the Rahway River and Van Winkles Brook, Springfield, New Jersey: Report of the Chief of Engineers, dated October 24, 1975, at an estimated cost of $7,951,000.

CHEHALIS RIVER BASIN

The project for flood control on the Chehalis River at South Aberdeen and Cosmopolis, Washington: Report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $12,570,000.

BUSHLEY BAYOU

The project for flood control and other purposes for the Bushley Bayou area of the Red River backwater area, Louisiana: House Document Numbered 93–157, at an estimated cost of $29,300,000 except that construction shall not be initiated until a plan for mitigation of damages to fish and wildlife in connection with such project has been approved by Congress.

COLUMBIA RIVER

The project for construction of a second powerhouse at McNary Lock and Dam, Columbia River, Oregon and Washington: Senate Document Numbered 95–81, except that not to exceed $75,000,000 is authorized for initiation and partial accomplishment of such project.

WEARS CREEK

The project for flood protection for Jefferson City on Wears Creek, Missouri: House Document Numbered 94–628, at an estimated cost of $32,342,000.

LIBBY REREGULATING DAM

The project for installation of power generating facilities at the Libby Reregulating Dam, Kootenai River, Montana: Report of the Chief of Engineers, dated July 18, 1977, at an estimated cost of $43,054,000.

SAN FRANCISCO HARBOR

The project for light-draft navigation in the Fishermen's Wharf area, San Francisco Harbor, California: Report of the Chief of Engineers, dated February 3, 1978, at an estimated cost of $10,710,000.

OHIO RIVER BASIN

The project for flood control, Hocking River at Logan and Nelsonville, Ohio: Report of the Chief of Engineers, dated June 30, 1978, at an estimated cost of $7,650,000.

(b) The following works of improvement for the benefit of navigation and the control of destructive flood waters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated.

HALSTEAD, KANSAS

The project for flood protection, Halstead, Kansas: Report of the Board of Engineers for Rivers and Harbors, dated June 29, 1977, at an estimated cost of $4,070,000.

CABIN CREEK

The project for Cabin Creek, West Virginia: Report of the Board of Engineers for Rivers and Harbors, dated January 17, 1978, at an estimated cost of $21,080,000.

PARKER LANE

The project for flood control for Parker Lake, Muddy Boggy Creek, Oklahoma: Report of the Board of Engineers for Rivers and Harbors, dated November 2, 1976, at an estimated cost of $28,400,000, except that construction shall not be initiated until a plan of mitigation of damages to fish and wildlife in connection with such project has been approved by Congress.

SAVANNAH HARBOR

The project for navigation, Savannah Harbor, Georgia: Report of the Board of Engineers for Rivers and Harbors, dated June 29, 1977, at an estimated cost of $7,312,000, except that local interests shall be reimbursed at Federal expense for moving or modifying docks, bulkheads, warehouses, and towers necessary for project construction, at an estimated cost of $2,800,000. Such reimbursement at total Federal expenses shall be based on the replacement costs, exclusive of betterment, minus the fair market value of the existing structures.

BRAZOS HARBOR

The project for navigation improvement at Brazos Island Harbor, Texas: Report of the Board of Engineers for Rivers and Harbors, dated _____ at an esimated cost of $15,900,000.

OAKLAND HARBOR

The project for navigation, Oakland Outer Harbor, California; Report of the Board of Engineers for River and Harbors, dated June 21, 1978, at an estimated cost of $26,300,000.

(c) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct the project for navigation improvements on the Siuslaw River and Bar at Siuslaw, Oregon, in accordance with the recommendations of the Division Engineer, North Pacific Division, in the report dated June 1976, at an estimated cost of $20,291,000, except that such construction shall not begin until such recommendations have been approved by the Chief of Engineers.

SEC. 102. The Water Resources Development Act of 1976 (Public Law 94–587) is amended as follows:

(1) The first sentence of section 160 is amended by striking out all that follows after "recommendations" and inserting in lieu thereof the following: "of the Chief of Engineers in the report dated February 8, 1977, at an estimated cost of $25,000,000.". The last sentence of such section 160 is hereby repealed.

(2) The first sentence of section 172 is amended by striking out "contained in" and all that follows including the period at the end and inserting in lieu thereof the following: "recommended by the Chief of Engineers in the report dated April 22, 1977, at an estimated annual cost of $238,000.". The last sentence of such section 172 is hereby repealed.

(3) The first sentence of section 109 is amended by striking out "of the division engineer" and all that follows including the period at the end and inserting in lieu thereof "of the Chief of Engineers in the report dated September 27, 1977, at an estimated cost of $1,250,000.". The last sentence of such section 109 is hereby repealed.

(4) Section 175 is amended to read as follows:

"SEC. 175. The project for harbor modification at Cleveland Harbor, Ohio, is hereby authorized for construction, generally in accordance with the recommendations of the District Engineer contained in section M of the report of the District Engineer, dated June 1976, at an estimated cost of $30,400,000. Such construction shall be undertaken in stages. The initial stage shall consist of construction of that element of the project to depend and widen the East Basin, at an estimated cost of $22,400,000. The existing dredged material containment site known as site 14 may be used for the containment of excavated material from such construction. Construction of the final stage shall include one or more harbor entrances, but shall not be undertaken until completion of model studies and the determination by the Chief of Engineers that such further works are engineering feasible, and economically justified, and environmentally acceptable.".

(5) The paragraph under the heading "PEMBINA RIVER BASIN" in section 101 is amended by striking out "Report" and all that follows down through and including "Chief of Engineers." and inserting in lieu thereof the following: "Report of the Chief of Engineers, dated February 2, 1978, at an estimated cost of $430,000.".

SEC. 103. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resource development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers in, the reports hereinafter designated:

CHEHALIS RIVER BASIN

The project for navigation at Grays Harbor, Washington: Report of the Chief of Engineers, dated December 22, 1977, at an estimated cost of $1,000,000.

JEKYLL ISLAND

The project for beach erosion at Jekyll Island, Georgia: House Document Numbered 94–533 at an estimated cost of $615,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resource development projects:

RED BANK AND FANCHER CREEKS

The project for improvements on Red Bank and Fancher Creeks, California: At an estimated cost of $325,000.

WESTCHESTER COUNTY STREAMS

The project for flood control Mamaroneck and Sheldrake River Basins, New York, and Byram River, Connecticut: In accordance with the recommendations of the Board of Engineers for Rivers and Harbors dated July 12, 1978, at an estimated cost of $1,140,000.

HARRISBURG, PENNSYLVANIA

The project for flood control in Harrisburg, Pennsylvania: In accordance with the recommendations of the Board of Engineers for Rivers and Harbors in its report dated June 21, 1978, at an estimated cost of $825,000.

SACRAMENTO RIVER

The project for navigation on the Sacramento River, California, from San Francisco Bay to the Port of Sacramento, at an estimated cost of $750,000.

ASHTABULA HARBOR

The project for Ashtabula Harbor, Ohio: Enlargement of the turning basin known as area G by extending it eastward not more than five hundred feet and northward to within one hundred and fifty feet of the United States east breakwater, at an estimated cost of $350,000.

CRESCENT CITY HARBOR

The project for harbor improvement at Crescent City, Del Norte County, California, for deepening and maintaining a twenty-foot channel in the outer harbor area, including a connecting chanel between the harbor entrance and the outer basins and the inner harbor, and a sixteen-foot channel between the inner harbor and the inner boat basin and establishment of a sixteen-foot channel in the vicinity of the fish boat harbor, at an estimated cost of $400,000.

KAW LAKE

The project for Kaw Lake, Arkansas River, Oklahoma: Construction of treatment facilities and a regional conveyance system of water from Kaw Lake, at an estimated cost of $1,000,000.

TENKILLER FERRY LAKE

The project for Tenkiller Ferry Lake, Arkansas River, Oklahoma: Construction of treatment facilities and a regional conveyance system of water from Tenkiller Ferry Lake, at an estimated cost of $1,000,000.

ENGLEWOOD LAKE

The project for water quality control in the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas: For the Englewood Lake project, Oklahoma, at an estimated cost of $1,100,000.

(c) The Secretary of the Army is authorized to undertake advanced engineering and design for the projects in subsections (a) and (b) of this section after completion of the phase I design memorandum stage of such projects. Such advanced engineering and design may be undertaken only upon a finding by the Chief of Engineers, trans-

mitted to the Committees on Environment and Public Works of the Senate and Public Works and Transportation of the House of Representatives, that the project is without substantial controversy, that it is substantially in accordance with and subject to the conditions recommended for such project in this section, and that the advanced engineering and design will be compatible with any project modification which may be under consideration. There is authorized to carry out this subsection not to exceed $5,000,000. No funds appropriated under this subsection may be used for land acquisition or commencement of construction.

(d) The three floodwater control structures on the Johns Creek Tributary, and the program of land treatment for erosion and sediment control in the Nonconnah Creek Basin is authorized for construction in accordance with the plans and recommendations set forth in the joint report of the District Engineer and State Conservationist contained in Senate Document 95-96 at an estimated cost of $10,000,000.

(e) The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of a project for water supply within the New York Metropolitan area, substantially in accordance with the recommendations of the Board of Engineers for Rivers and Harbors report, dated January 18, 1978, titled Northeastern United States Water Supply Study. Such phase I design memorandum stage shall also include stage I, New York City Water Tunnel numbered 3. Nothing in this section shall be construed so as to authorize either the study or construction of any facility which would have, directly or indirectly, any effect on the water supply (including underground water) of Suffolk and Nassau Counties, New York. There is authorized to be appropriated to carry out the purpose of this subsection not to exceed $10.000,000.

SEC. 104. (a) The authorization for the Trexler Dam and Lake project, Lehigh County, Pennsylvania, as part of the Delaware River Basin project pursuant to section 203 of the Flood Control Act of 1962, is terminated upon its removal from the comprehensive plan for the Delaware River Basin by the Delaware River Basin Commission.

(b)(1) The survey for flood control and other purposes in the Beargrass Creek Basin, Kentucky, authorized by Resolution of the Committee on Public Works, United States Senate, January 29, is not authorized after the date of enactment of this Act.

(2) No report on the basin referred to in subsection (b)(1) of this section shall be submitted to Congress.

(3) No further study of the Beargrass Creek Basin, Kentucky, shall be undertaken except as authorized by a law enacted after the date of enactment of this Act.

SEC. 105. The portion of the project for the Nansemond River, Virginia, from United States Highway 460 Bridge at Suffolk, Virginia, to the upstream project limits at river mile 18.66, a distance of approximately two thousand five hundred feet, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 11, 1888 (25 Stat. 410), and modified by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 3, 1930 (46 Stat. 922), is not authorized after the date of enactment of this section.

SEC. 106. (a) The project for the Caesar Creek, Ohio River Basin, Ohio, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct a public water supply system in accordance with the document entitled "Southwest Ohio Water Plan", prepared by the Ohio Department of Natural Resources (April 1976), with modifications as the Chief of Engineers deems advisable, at an estimated cost of $33,000,000.

(b) Subject to subsection (c) of this section, the Federal share of the cost of construction of the water supply system pursuant to subsection (a) of this section shall be 100 per centum.

(c) Prior to the construction of the water system pursuant to subsection (a) of this section, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests which provides that (1) such non-Federal interests will provide the Secretary with the lands, easements, and rights-of-way necessary for the Secretary to construct such water supply system, and (2) after such construction is completed, all right, title, and interest of the United States in such water supply system shall be conveyed to such non-Federal interests who shall thereafter operate and maintain such water supply system.

SEC. 107. The project for flood protection on the Sacramento River, California, authorized by the Flood Control Act approved March 1, 1917, as amended, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct bank protection works along the reach of the Sacramento River and its tributaries from Red Bluff to Shasta Dam, and from Chico Landing downstream along each bank to the head of the Sacramento River Flood Control Project levees, subject to the same requirements of non-Federal cooperation applicable to other similar elements of the project, and to include mitigation of fish and wildlife losses induced by the project. The evaluation and justification of the project shall be based on the overall benefits and costs of all project elements. In addition to previous authorizations, there is hereby authorized to be appropriated the sum of $25,000,000 to carry out the purposes of this section.

SEC. 108. (a) The project for navigation improvements in Mobile Harbor, Theodore Ship Channel, Alabama, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives, dated December 15, 1970, and modified by section 112 of the Water Resources Development Act of 1976, is hereby further modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, embankments, and movement of materials therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Alabama, interstate agencies, municipalities, and other appropriate political subdivisions of the State and industrial concerns are participating in, and in compliance with, an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 109. (a) The project for flood protection on the Saginaw River, Michigan, authorized by the Flood Control Act of 1958 (Public Law 85-500) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to implement a nonstructural project for the purposes of flood damage reduction and recreation on the Tittabawassee River at Midland, Michigan, as determined by the Chief of Engineers to be economically justified (determined using the interest rate prevailing at the time such project was first authorized). If such nonstructural project is not implemented, the project originally authorized may be implemented.

(b) Non-Federal cooperation shall be required for such project as determined by the Chief of Engineers and in accordance with the cost-sharing principles of section 73(b) of the Water Resources Development Act of 1974 (Public Law 93-251) and the Federal Water Project Recreation Act (Public Law 89-72). Prior to initiation of the project, non-Federal interests shall agree to furnish such cooperation in accordance with section 221 of the Flood Control Act of 1970 (Public Law 91-611).

(c) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to include the costs and benefits of non-Federal improvements initiated by non-Federal interests subsequent to January 1, 1978, which the Chief of Engineers determines are compatible with and constitute an integral part of the project authorized by this section. In determining the non-Federal share for the project, the Chief of Engineers may give credit for such costs incurred by non-Federal interests in carrying out such improvements.

SEC. 110. (a) The project for the East Fork Lake, Ohio River Basin, Ohio, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to consruct a public water supply system substantially in accordance with the plan entitled "East Fork Lake Water Supply and Intake Plan", dated October 19, 1977, with modifications as the Chief of Engineers deems advisable, at an estimated cost of $16,500,000.

(b) Subject to subsection (c) of this section, the Federal share of the cost of construction of the water supply system pursuant to subsection (a) of this section shall be 100 per centum.

(c) Prior to the construction of the water supply system pursuant to subsection (a) of this section, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests which provides that (1) such non-Federal interests will provide the Secretary with the lands, easements, and rights-of-way necessary for the Secretary to construct such water supply system, and (2) after such construction is completed, all right, title, and interest of the United States in such water supply system shall be conveyed to such non-Federal interests who shall thereafter operate and maintain such water supply system.

SEC. 111. (a) The project for harbor improvement at Noyo, Mendocino County, California, authorized by the River and Harbor Act of 1962 (76 Stat. 1173), is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the cost of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, embankments, and movement of materials therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of California, municipalities, and other appropriate politi-

cal subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

(c) If, in lieu of diked disposal, the Secretary of the Army, acting through the Chief of Engineers, determines ocean disposal is necessary, the Federal share of the cost of such ocean disposal shall be 100 per centum.

SEC. 112. The navigation project for Lynnhaven Inlet Bay, and connecting waters, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173, 1174) is hereby modified to provide that the United States shall pay for the remedial work to Long Creek Canal which the city of Virginia Beach, Virginia, was required to carry out as a result of such navigation project, at a cost not to exceed $1,662,000.

SEC. 113. The general comprehensive plan for flood control and other purposes in the Ohio River Basin authorized by the Flood Control Act approved June 28, 1938, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to reconstruct and repair the Cherry Street bridge and the Walnut Street bridge, Massillon, Ohio, at an estimated cost of $1,500,000. Non-Federal interests shall own, operate, and, upon completion of the work authorized by this section, maintain such bridges in accordance with the requirements of the Flood Control Act approved June 28, 1938.

SEC. 114. The Pick-Sloan Missouri Basin program, authorized by the Flood Control Act of 1944 (58 Stat. 887) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct and to hydraulically, electrically, and financially integrate with the existing Missouri River basin Federal power system for operation and marketing of power, an adjacent-type pumped-storage hydroelectric facility with an estimated total capacity of 1,180 megawatts as part of the Fort Randall Dam-Lake Francis Case project, South Dakota, substantially in accordance with the plan set forth in the report of the Board of Engineers for Rivers and Harbors dated January 18, 1978, except that not to exceed $30,000,000 is authorized for initiation and partial accomplishment of this section.

SEC. 115. (a) The Stamford Harbor, Connecticut, navigation project authorized by the River and Harbor Act of 1919 is hereby modified to provide that for disposal of material dredged in maintaining the project, non-Federal interests may furnish without cost to the United States an area located between the harbor's east branch channel and Kosciuszko Park which is satisfactory to the Secretary of the Army, acting through the Chief of Engineers, for the disposal of the dredged material. The Secretary of the Army, acting through the Chief of Engineers, shall construct a dike to retain the dredged material and non-Federal interests shall contribute 25 per centum of the costs of constructing such dike. Non-Federal interests shall acquire all easements and rights-of-way required for construction at the site and hold the United States free of damages incurred during construction and maintain such dike upon completion

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Connecticut, interstate agencies, municipalities, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the Stamford Harbor area for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 116. The flood control project for Lavon Dam modification East Fork Trinity River, Texas, authorized by the Flood Control Act of 1962 is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to reimburse the Milligan Water Supply Corporation for the cost of relocating a three-inch waterline downstream, at a cost of $27,023.

SEC. 117. The project for navigation at Houston Ship Channel (Greens Bayou), Texas, authorized under section 301 of the River and Harbor Act of 1965 (79 Stat. 1091) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to perform such dredging operations as are necessary to maintain a forty-foot project depth in that section of Greens Bayou from mile 0 to mile 0.34 as described in House Document Numbered 257, Eighty-ninth Congress.

SEC. 118. The navigation project at Mamaroneck Harbor, New York, authorized by the first section of the Act entitled "An Act authorizing the construction, repair and preservation of certain public works on rivers and harbors, and for other purposes", approved September 22, 1922 (42 Stat. 1038), the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1029), and section 101 of the Rivers and Harbors Act of 1960 (74 Stat. 480) is hereby modified to provide that the Federal share of the additional cost of disposing in ocean waters dredged material resulting from dredging necessary to maintain the project, above the cost of disposing of such dredged material on land, shall be 80 per centum.

SEC. 119. The project for flood control, Wenatchee, Washington, canyons 1 and 2, authorized by resolution of the Committees on Public Works of the House of Representatives and Senate on December 15 and 17, 1970, respectively, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire lands, easements, rights-of-way, and to carry out relocations for such project on condition that local interests enter into a legally binding agreement, prior to construction, to reimburse the United States for the total costs of such acquisitions and relocations, and to repay such costs in not more than fifty equal annual installments, including interest on the unpaid balance. The rate of interest on the unpaid balance shall be that specified in section 301(b) of the Water Supply Act of 1958 (Public Law 85-500).

SEC. 120. (a) The Intracoastal Waterway from Jacksonville to Miami, Florida, authorized by the River and Harbor Act of 1927 is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the cost of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, weirs, return culverts, and embankments therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Florida, interstate agencies, municipalities and other appriate political subdivisions of the State, and industrial concerns are participating in, and in compliance with, an approved plan for the general geographic area of the dredging activity for construction, modification, expansion or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 121. The project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes as authorized in section 201 of the Flood Control Act of 1970 is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a combination of channel enlargement work and diversion channels along Ellicott Creek mostly in the Town of Amherst generally in accordance with the district engineer's recommended plan presented in the phase I general design memorandum dated February 1977 revised—April 1978, and accompanying final environmental impact statement dated January 1977 revised—April 1978; with such project refinements deemed necessary during detailed design for construction, at an estimated cost of $11,000,000.

SEC. 122. The hurricane-flood protection project for Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298) is hereby modified to provide that where the levees in Jefferson Parish in existence on the date of enactment of this section include pumping stations originally constructed by local interests, which stations form an integral part of that levee protection, the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct features, such as a flood wall with sluice gates or other means, to insure that, by the most economical means, the level of protection within Jefferson Parish provided by the hurricane-flood protection project will be unimpaired. Requirements for non-Federal cooperation for the additional work authorized by this section shall be on the same basis as levee improvements for hurricane-flood protection on this project.

SEC. 123. The project for flood control in the St. Francis Basin, Mississippi River and tributaries, authorized by the Flood Control Act approved May 15, 1928, is modified to provide for improvement of the Fifteen Mile Bayou and tributaries and Eight Mile Creek, Paragould, Arkansas, as recommended by the district engineer and the Mississippi River Commission in reports dated February 1978, and April 1977, respectively, subject to local cooperation requirements established by section 10 of the Flood Control Act approved July 24, 1946, and section 203 of the Flood Control Act approved August 13, 1968, at an estimated cost of $20,235,000.

SEC. 124. The Yaquina Bay and Harbor project, Oregon, authorized by the River and Harbor Act of March 2, 1919, is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to raise the south jetty to protect vehicular access provided, at non-Federal cost, to public use areas on accreted land adjacent to the south jetty, from damaging effects of overtopping of the jetty, on condition that local interests provide the necessary lands, easements, and rights-of-way for such modification. The estimated Federal construction cost of this modification is $2,200,000.

SEC. 125. The navigation project for Yazoo River, Mississippi, authorized by the River and Harbor Act of 1968, is hereby modified to provide that the cost of the alteration of the Shepardstown Bridge (mile 147.8) shall be entirely borne by the United States at an estimated cost to the United States is $3,600,000.

SEC. 126. The flood control project for the Skagit River Basin, Washington, authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1422) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers (1) to construct such additional flood control measures as are needed to extend flood protection upstream to and including the community of Sedro Woolley, Washington, and which the Chief of Engineers determines are engineeringly feasible, environmentally acceptable, and economically justified, and (2) to incorporate recreation facilities in the

project. Construction of such additional flood control measures, at an estimated cost of $12,000,000, shall be subject to the same conditions of local cooperation as are required for the project as authorized immediately prior to the date of enactment of this Act. The cost of recreation facilities shall be shared in accordance with section 2(b) of the Federal Water Project Recreation Act (Public Law 89–72).

SEC. 127. The project for flood protection on Willow Creek, Oregon, authorized by section 204 of the Flood Control Act of 1965 is hereby modified substantially in accordance with the special report of the Chief of Engineers, dated May 15, 1974, at an estimated cost of $24,100,000.

SEC. 128. The project for flood control and other purposes on the South Platte River Basin in Colorado, authorized by the Flood Control Act of 1950 (64 Stat. 175) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, upon the request of and in coordination with the Colorado Department of Natural Resources and upon the Chief of Engineers, finding of feasibility and economic justification, to reassign a portion of the storage space in the Chatfield Lake project to joint flood control-conservation purposes, including storage for municipal and industrial water supply, agriculture, and recreation and fishery habitat protection and enhancement. Appropriate non-Federal interests shall agree to repay the cost allocated to such storage in accordance with the provisions of the Water Supply Act of 1958, the Federal Water Project Recreation Act, and such other Federal laws as the Chief of Engineers determines appropriate.

SEC. 129. (a) The project for the Barbers Point Harbor, Hawaii, authorized by the River and Harbor Act of 1965 (79 Stat. 1092) is hereby modified to require a non-Federal cash contribution of 4.4 per centum of actual Federal construction costs, to be paid in estimated annual installations as construction proceeds, the final cost to be adjusted after actual costs have been determined. An additional non-Federal cash contribution shall be paid each year, equal to 50 per centum of the excess, if any, of the actual net revenue from the non-Federal sale of coral dredge material for that year over the net estimated revenue from the sale of such project material for that year as determined in the computation of the 4.4 per centum cash contribution requirement. The procedure and the unit values used for determining excess net revenues shall be approved by the Secretary of the Army.

(b) Agreement to make contributions as provided for in subsection (a) of this section shall be entered into between the non-Federal interests and the Secretary of the Army prior to initiation of construction.

SEC. 130. The plan for the harbor improvement at Honolulu Harbor, Oahu, Hawaii, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092) is hereby modified to delete the requirement that local interests contribute in cash, prior to initiation of construction, a lump sum amounting to 2.6 per centum of the estimated first cost of the general navigation facilities for the project, ascribed to land enhancement through deposition of dredged material.

SEC. 131. (a) The projects for Brunswick Harbor, Georgia, are modified to provide that non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, embankments, and movements of material therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies the State of Georgia, interstate agencies, municipalities, and other appropriate political subdivisions of that State and industrial concerns are participating in, and in compliance with, an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 132. (a) The project for navigation of Charleston Harbor, South Carolina, authorized by the River and Harbor Act of October 17, 1940, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a two-mile extension of the harbor navigation channel in the Wando River to the State port authority's Wando River terminal at an estimated cost of $4,500,000.

(b) The paragraph in section 101(a) of the Water Resources Development Act of 1976 under the heading "Cooper River Basin" is hereby amended by striking out "$500,000." and inserting in lieu thereof "$600,000, including the Wando River Channel Extension."

SEC. 133. The navigation project for Santa Cruz Harbor, Santa Cruz, California, authorized in section 101 of the River and Harbor Act of 1958 (Public Law 85–500) is hereby modified to provide that 100 per centum of the cost of operating and maintaining the sand bypassing facility authorized as part of such project shall be paid by the United States. In addition, such project is further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct an impermeable core within the existing jetties at such harbor, and to undertake such maintenance dredging outside the boundaries of the authorized project as may be necessary to prevent or mitigate shoaling, surge, and related problems in the harbor.

SEC. 134. The project for flood control in East St. Louis and vicinity, Illinois, authorized by section 204 of the Flood Control Act approved October 27, 1965, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide drainage channels in conjunction with the pumping plant to improve project effectiveness and the local environment, substantially in accordance with the report of the District Engineer, Saint Louis district, entitled "Reevaluation Report, Bluewaters Ditch area", dated September 1976, at an estimated additional cost of $2,200,000.

SEC. 135. The project for Trinity River and tributaries, Texas, authorized by the River and Harbor Act of 1965 (Public Law 89–298; 79 Stat. 1091) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to include estimates of net regional income benefit for the region surrounding the Trinity River using best available techniques and data to quantify such benefits, and to identify, display, and use such net regional benefits to the Trinity River region on an equal basis with national economic development benefits for the purpose of computing the economic justification of the project.

SEC. 136. The project for the mouth of the Colorado River, Texas, authorized by the River and Harbor Act of 1968, is hereby modified to provide that the diversion channel authorized as a part of such project to divert Colorado River flows into Matagorda Bay shall be constructed and maintained entirely at Federal expense and for the purpose of fish and wildlife enhancement. The benefits attributable to the diversion channel shall be deemed to at least equal its costs.

SEC. 137. The project for flood protection at Winona, Minnesota, authorized under the provisions of section 201 of the Flood Control Act of 1965, is hereby modified to provide that changes to two bridges within the limits of the city of Winona, Minnesota, made necessary by the project and its present plan of protection, shall be accomplished entirely at Federal expenses, at an estimated cost of $580,000.

SEC. 138. The West Kentucky tributaries feature, Mississippi River and tributaries project (Obion Creek) Kentucky, authorized by the Flood Control Act approved October 27, 1965, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire for the United States at least 6,000 acres of woodlands for fish and wildlife management, recreation and environmental purposes in the flood plain of the Obion Creek Basin, Kentucky, at an estimated cost of $2,285,000.

SEC. 139. The project for hurricane protection and flood control at New London, Connecticut, authorized by the Flood Control Act of 1962 is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to credit against the requirements for non-Federal interests those costs paid by the city of New London, Connecticut, before the date of enactment of this Act for feasibility studies and engineering design of the pressure conduit, construction costs for one hundred twenty one and five tenths feet of pressure conduit and construction costs for five hundred feet of dike equivalent, exclusive of cost for five hundred feet of shore edge protection, all a part of the authorized project.

SEC. 140. The project for navigation, Humboldt Harbor and Bay, California, authorized by section 101 of the River and Harbor Act of 1968 is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct needed protection works to prevent shoreline erosion damage to public and private facilities at and near Buhne Point, California, totally at Federal cost, at an estimated cost of $1,000,000.

SEC. 141. The project for navigation for the Atlantic Intracoastal Waterway bridges, Virginia and North Carolina, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–597 with respect to Hobucken, Core Creek, and Fairfield bridges at an estimated cost of $19,796,000.

SEC. 142. (a) The water resources development project for Harlan County Lake, on the Republican River, Nebraska, authorized by the Act of August 18, 1941 (Public Law 288, 77th Congress), is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers to replace, renovate, and upgrade the existing Federal recreation facilities of the project, and to provide for maintenance and operation of such facilities.

(b) The work authorized by this section shall include purchase of a dredge, dredging of channels, construction of breakwaters, replacement and extension of outdated water access facilities, the performance of necessary bank stabilization and appropriate filling activities, and such other items as are identified in connection with these activities located at Gremlin Cove, Patterson Harbor, Hunter Cove, and Methodist Cove/Pheasant Point in the June 1977 report of the Army Corps of Engineers.

(c) The modification authorized by this section shall be entirely at Federal expense, at an estimated cost of $4,211,000.

SEC. 143. The project for Burlington Dam and Reservoir on the Souris River, North Dakota, authorized in the Flood Control Act of 1970 is hereby modified in accordance with the recommendations of the district engineer, Saint Paul district, in the report dated December 1977, subject to approval of such recommendations by the Chief of Engineers. Before any construction is undertaken under authority of this section, the Secretary of the

Army, acting through the Chief of Engineers, shall submit to Congress a report as to possible damages resulting from such construction and the operation of the project as modified, which shall include such recommendations as the Secretary deems necessary to mitigate damages. Not to exceed $30,000,000 is authorized for initiation and partial accomplishment of the modification authorized by this section.

SEC. 144. The project for flood control on Corte Madera Creek, Marin County, California, authorized by section 201 of the Flood Control Act of 1962 is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project for unit 4, from the vicinity of Lagunitas Road Bridge to Sir Francis Drake Boulevard, substantially in accordance with the plan, dated February 1977, on file in the office of the San Francisco district engineer. The plan is hereby further modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct such flood proofing measures as may be necessary to individual properties and other necessary structural measures in the vicinity of Lagunitas Road Bridge to insure the proper functioning of the completed portions of the authorized project. The non-Federal share of the costs of such measures shall be in accordance with the cost-sharing provisions contained in section 73(b) of the Water Resources Development Act of 1974. The project is hereby further modified to eliminate any channel modifications upstream of Sir Francis Drake Boulevard.

SEC. 145. The project for the town of Niobrara, Nebraska, authorized by section 213 of the Flood Control Act of 1970 (84 Stat. 1824, 1829) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to relocate existing Nebraska Highway Number 12 through the relocated town of Niobrara, Nebraska, with necessary connections to Nebraska Highway Number 14, at an estimated cost of $1,600,000.

SEC. 146. The Secretary of the Army, acting through the Chief of Engineers, is authorized to perform intermittent dredging and such other work as may be required on the Yazoo River in Mississippi, from Greenwood south, to remove natural shoals as they occur, at an annual average cost of $200,000, so as to allow commerce to continue. Responsible local interests shall agree to (1) provide without cost to the United States all lands, easements, and rights-of-way required for dredging and disposal of dredged materials; (2) accomplish without cost to the United States such alterations, relocations, and rearrangement of facilities as required for dredging and disposal of dredged materials; and (3) hold and save the United States free from damages due to the dredging and disposal of dredged materials.

SEC. 147. (a) The Secretary of the Army, acting through the Chief of Engineers, shall design and construct, at full Federal expense, such flood control measures at or in the vicinity of Pikesville, Kentucky, and of Grundy, Virginia, on the Levisa Fork of the Big Sandy River; Pineville, Kentucky, on the Cumberland River; and Williamson and Matewan, West Virginia, on the Tug Fork of the Big Sandy River, as the Chief of Engineers determines necessary and advisable to afford these communities and other flood damaged localities and their immediate environs on both the Levisa and Tug Fork of the Big Sandy River and Cumberland River a level of protection against flooding at least sufficient to prevent any future losses to these communities from the likelihood of flooding such as occurred in April 1977, at an estimated cost of $100,000,000. Non-Federal interests shall hold and save the United States free from damages due to the construction works and maintain and operate all the works after their completion in accordance with regulations prescribed by the Secretary of the Army.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake measures in the interest of flood control including, but not limited to, dredging, clearing, and snagging, in the main stems and tributaries of the Tug and Levisa Forks of the Big Sandy River, Virginia, West Virginia and Kentucky, and the main stem and tributaries of the Cumberland River upstream of Cumberland Falls, Kentucky, at an estimated cost of $10,000,000.

(c) Congress hereby finds that the benefits attributable to the objectives set forth in section 209 of the Flood Control Act of 1970 exceed the cost of the flood control measures authorized by this section.

SEC. 148. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the advanced engineering and design for a flood control project at Milton, Pennsylvania, including, but not limited to, final construction plans at a cost not to exceed $2,500,000.

SEC. 149. For the purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes" approved June 21, 1940 (33 U.S.C. 511 et seq.), the Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge for all purposes of such Act. The total of all Federal funds authorized to be expanded under any provision of law as the result of the declaration made in the preceding sentence shall not exceed $400,000.

SEC. 150. The Secretary of the Army, acting through the Chief of Engineers, shall relocate the water supply intake facility on the Missouri River at Springfield, South Dakota, which facility is subject to severe sedimentation at an estimated cost of $2,000,000. Notwithstanding any other provision of law, the total cost of relocating such facility shall be paid by the United States.

SEC. 151. The Secretary of the Army, acting through the Chief of Engineers, shall take such action as may be necessary to correct slope failures and erosion problems along the banks of the Coosa River in order to protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Alabama. The Secretary of the Army, acting through the Chief of Engineers, shall coordinate any action taken under authority of this section with the Secretary of the Interior and the State of Alabama.

SEC. 152. (a) The Secretary of the Army, acting through the Chief of Engineers, shall include in the survey report on the enlargement of the navigation project for Galveston Harbor and Channel, Texas, the costs and benefits of improvements initiated by local interests after the date of enactment of this section which the Chief of Engineers determines are compatible with and constitute an integral part of his recommended plan.

(b) Upon approval by the Congress of such survey report, the Secretary of the Army, acting through the Chief of Engineers, shall reimburse the local interests, in accordance with subsection (d) of this section, for the funds expended to construct such portions of the project as are included in the approved project, if prior to such construction the detailed plans and specifications of such portions of such project were approved by the Chief of Engineers, if during such construction the Chief of Engineers inspected the work in progress, and if, after such project has been approved by Congress and after such construction has been completed, the Chief of Engineers approves such construction as in accordance with the approved project.

(c) The cost of work for which reimbursement is authorized by this section shall be determined in accordance with section 8(a) (2) of the Act of March 2, 1919 (33 U.S.C. 624).

(d) The Federal share of the cost of work for constructing the harbor and channel improvements authorized for reimbursement by this section shall be as follows:

(1) 100 per centum of the cost of a forty-foot or shallower project depth.

(2) 80 per centum of the cost of a forty-one- through forty-five-foot project depth.

(3) 66⅔ per centum of the cost of a forty-six- through fifty-foot project depth.

(4) 50 per centum of the cost of a fifty-one-foot or deeper project depth.

(e) The authorization to reimburse local interests contained in this section shall expire three years from the date of enactment of this section unless local interests begin construction of any portion of the project which is included in the approved project within such three-year period.

(f) Notwithstanding any other provision of this section, the total authorization to carry out this section shall not exceed $25,000,000.

SEC. 153. The Secretary of the Army, acting through the Chief of Engineers, shall carry out a project in the area of San Juan, Puerto Rico, extending from San Juan Bay to Pinones Lagoon along the Martin Pena Canal, providing for removal of sedimentation, silt, and other debris and objects from the canal, removal of debris and abandoned structures contiguous to the canal, and the improvement of circulation throughout the length of the canal, for the purpose of improving water quality, the environmental setting, and the quality of life in and adjacent to the canal. The estimated cost of such project is $13,500,000.

SEC. 154. (a) The Secretary of the Army acting through the Chief of Engineers, is hereby authorized to carry out the plan for Trimble Wildlife Area replacement, in substantial accordance with the report of the Chief of Engineers dated September 22, 1976, with such changes as the Chief of Engineers determines necessary, at an estimated cost of $4,614,000.

(b) The former owner of any land acquired by the United States under authority of this section shall be permitted to harvest any annual agricultural crop planted on such land during the calendar year 1978.

SEC. 155. The Secretary of the Army, acting through the Chief of Engineers, shall take such emergency measures as may be necessary to correct slopefailures and erosion problems along the banks of the Black Warrior River in order to protect the Mound State Monument near Moundville, Alabama, a National Historic Landmark. The Secretary of the Army, acting through the Chief of Engineers, shall coordinate any action taken under authority of this section with the Secretary of the Interior and the State of Alabama.

SEC. 156. The Secretary of the Army, acting through the Chief of Engineers, shall carry out a demonstration project for the removal of silt, aquatic growth, and other material in Lake George, Hobart, Indiana, and in that part of Deep River upstream of such Lake through Lake Station, Indiana, and to construct silt traps or other devices to prevent and abate the deposit of sediment in Lake George and such part of Deep River, at an estimated cost of $3,900,000.

SEC. 157. The Secretary of the Army, acting through the Chief of Engineers, shall construct such facilities as may be necessary to protect Cox's Park, Jefferson Coun-

ty, Kentucky, from bank erosion, at an estimated cost of $650,000.

SEC. 158. The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide a channel four feet deep and ninety feet wide at mean low water, in Umbrella Creek, Georgia, connecting with the Atlantic Intracoastal Waterway alternate route by way of Dover Creek, a distance of approximately three miles, at an estimated cost of $1,300,000. The United States share of the construction costs of this channel and of related general navigation facilities in connection with such channel shall not exceed 50 per centum. Non-Federal interests shall provide a public wharf open to all on equal terms and such other requirements as the Secretary of the Army, acting through the Chief of Engineers, determines necessary.

SEC. 159. Those portions of the Trent River in the City of New Bern, County of Craven, State of North Carolina, bounded and described in Committee Print Numbered 95–56 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States.

SEC. 160. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct the project for flood protection and other purposes for Saint Johns Bayou and the new Madrid Floodway, Missouri, in accordance with the recommendations of the Chief of Engineers in Senate Document 95–87 at an estimated cost of $23,700,000, except that the land for mitigation of damages to fish and wildlife shall be acquired as soon as possible after the first appropriation made to carry out this section. If the Secretary of the Army, acting through the Chief of Engineers, determines that the project authorized by this section will not be completed substantially as authorized, the land acquired for mitigation of damages to fish and wildlife shall be reconveyed to the former owners thereof in accordance with the provisions of section 11 of the River Basin Monetary Authorization Act of 1971 (Public Law 92-222).

SEC. 161. The Secretary of the Army, acting through the Chief of Engineers, shall amend the contract between the State of Illinois and the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois to relieve the State of Illinois of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future use water supply storage as is consistent with the Water Supply Act of 1958 (Public Law 85–500), until such time and in such proportion as the storage is used for water supply purposes.

SEC. 162. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to construct the project for flood control and other purposes on the Zumbro River at Rochester, Minnesota, substantially in accordance with the report of the Board of Engineers for Rivers and Harbors dated April 5, 1978, at an estimated cost of $50,698,000, except that changes to highway and foot bridges, including rights-of-way, changes to approaches, and relocations, made necessary by the project and its present plan of protection, shall be accomplished entirely at Federal expense at an additional estimated cost of $1,891,000.

SEC. 163. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to take such action as may be necessary to insure that approximately four thousand feet, including bridges and approaches, of the road crossing Cottonwood Branch of Lewisville Lake, Texas, formerly designated State Highway 24T, will be above elevation five hundred and thirty-two feet above mean sea level, at an estimated cost of $2,000,000. Prior to the undertaking of the work authorized by this section, appropriate non-Federal interests shall agree to furnish without cost to the United States lands, easements, and rights-of-way necessary for the work, to hold and save the United States free from damages due to the work and to accept all such work thereafter for operation and maintenance.

SEC. 164. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to take such action as may be necessary to replace the existing bridge across Cane Creek, Logan County, Arkansas, with a new bridge at an estimated cost of $350,000. Prior to the undertaking of the work authorized by this section, appropriate non-Federal interests shall agree to furnish without cost to the United States lands, easements, and rights-of-way necessary for the work, to hold and save the United States free from damages due to the work, and to accept all such work thereafter for operation and maintenance.

SEC. 165. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a demonstration project for the removal of silt and aquatic growth from Albert Lea Lake, Freeborn County, Minnesota, at an estimated cost of $4,000,000. The Secretary shall report to the Administrator of the Environmental Protection Agency the plans for and results of such project together with such recommendations as the Secretary determines necessary to carry out the program for freshwater lakes under section 314 of the Federal Water Pollution Control Act.

SEC. 166. (a) The Corps of Engineers Museum Foundation, is authorized to design and erect a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the service of the United States Army Corps of Engineers in war and peace.

(b) Upon request of the Secretary of the Army, the Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on federally owned public grounds in the District of Columbia, or its environs, upon which may be erected the memorial authorized in subsection (a) of this section. If the site selected is on public grounds under the jurisdiction of the government of the District of Columbia, the approval of the Mayor of the District of Columbia shall also be obtained.

(c) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission. The United States and the District of Columbia shall be put to no expense in the erection thereof.

(d) The authority conferred pursuant to this section shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this section, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

(e) The maintenance and care of the memorial erected under authority of this section shall be the responsibility of the head of the department, agency, or instrumentality having jurisdiction over the site of the memorial.

SEC. 167. The Secretary of the Army, acting through the Chief of Engineers, is authorized to renovate and improve the six Federal Government quarters existing at Dalecarlia Place, Dalecarlia Reservoir (Washington Aqueduct), Washington, District of Columbia, as the Secretary, acting through the Chief of Engineers, determines to be necessary, at a cost not to exceed $180,000.

SEC. 168. There is authorized to be appropriated to carry out the comprehensive plan of development of the Alabama-Coosa River Basin, in addition to all other authorized amounts, $2,000,000.

SEC. 169. After the date of the enactment of this section, the Secretary of the Army shall have all of the authority which the Secretary of the Air Force has immediately prior to such date over Trilby Wash Detention Basin (McMicken Dam) and Outlet Channel, Maricopa County, Gila River Basin, Arizona. The Secretary of the Army acting through the Chief of Engineers, is authorized to take necessary remedial measures to assure structural integrity and flood control capacity of the Trilby Wash Detention Basin (McMicken Dam) and Outlet Channel, Maricopa County, Gila River Basin, Arizona, constructed under authority of section 304 of Public Law 209 of the Eighty-third Congress, at an estimated cost of $7,500,000.

SEC. 170. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a water distribution system for the Island of Saint Thomas, United States Virgin Islands, including a ten-million-five-hundred-thousand-gallon storage tank in the vicinity of Krum Bay, at an estimated cost of $4,000,000. The costs of such distribution system and storage tank shall be repaid over a fifty-year period with interest at the rate established in section 301(b) of the Water Supply Act of 1958.

SEC. 171. The Secretary of the Army, acting through the Chief of Engineers, shall proceed as expeditiously as possible with the study and implementation of such flood control measures as may be feasible for Little Pigeon Creek, Indiana, in accordance with section 205 of the Flood Control Act of 1948.

SEC. 172. The project for flood control and improvement of the Lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), is modified and expanded to provide that the Secretary of the Army, acting through the Chief of Engineers, shall construct an auxiliary structure or take such other measures as the Chief of Engineers deems appropriate to insure the stability, dependability, and safety of the Old River Control Complex, Louisiana, authorized in the Flood Control Act of 1954 and to regain the operational capabilities of such Complex, all in accordance with the plan in the report of the District Engineer, New Orleans District, dated October 14, 1977, and entitled "Flood Control, Mississippi River and Tributaries, Old River Control, Louisiana, Auxiliary Structure, Letter Report".

SEC. 173. The Secretary of the Army, acting through the Chief of Engineers, shall inspect the Buckeye Lake Dam and Levee, Buckeye Lake, Ohio, to determine the structural stability of the dam and levee. A report shall be submitted to Congress, and a copy thereof furnished the Ohio Development of Natural Resources, setting forth the results of such inspection and recommendations of the Secretary of the Army of the necessary measures to assure the safety of the dam, levee, and surrounding areas.

SEC. 174. The Secretary of the Army, acting through the Chief of Engineers, shall, in cooperation with other departments, agencies, and instrumentalities of the United States, and with State and local governments, determine the extent of shoreline erosion damage in the United States causally related to the regulation of the waters of Lake Superior by the International Joint Commission—United States and Canada, in response to an emergency application by the United States made on January 26, 1973, and to report to Congress, not later than the end of the second year following the initial appropriation to carry out this section, the results of such survey, together with recommendations of a methodology for, and a determination of, the cost of indemnifying individual shoreline property owners, and a recommended schedule for such idemnifica-

tion. There is authorized to be appropriated to carry out this section not to exceed $2,000,000.

SEC. 175. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct a project for flood control and other purposes for Pottstown and vicinity, Schuylkill River basin, Pennsylvania, substantially in accordance with the plans recommended by the Chief of Engineers in House Document Numbered 93–321, at an estimated cost of $3,000,000.

(b) Congress hereby finds that the application of the provisions of section 209 of the Flood Control Act of 1970 result in the benefits from flood control measures authorized by this section exceeding their economic costs.

SEC. 176. (a) The Secretary of the Army, acting through the Chief of Engineers, shall undertake a program of research to increase his capability to control river ice and harbor ice, and to assist communities in breaking up such ice that would otherwise be likely to cause or aggravate flood or other damage or severe streambank erosion.

(b) The Secretary is further authorized to provide technical assistance to local units of government to implement local plans to control or break up river ice and harbor ice. As part of such authority, the Secretary is authorized to purchase, utilize, and, if requested by local units of government, loan any necessary ice-control or ice-break equipment to such local units of government.

(c) The sum of $3,000,000 is authorized to be appropriated to the Secretary in each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to implement this section.

SEC. 177. Each resolution adopted by the Committee on Environment and Public Works of the Senate, or the Committee on Public Works and Transportation of the House of Representatives, or their predecessors, during the Eighty-ninth Congress or any earlier Congress for review of any flood control, river and harbor, or other water resource report shall not be in effect after the date of enactment of this section unless funds were expended for carrying out such resolution during the Ninetieth Congress or any subsequent Congress prior to the Ninety-sixth Congress.

SEC. 178. The laws of the United States relating to the improvement of rivers and harbors, flood control, beach erosion, and other water resource development enacted after November 8, 1966, and before January 1, 1979, shall be compiled under the direction of the Secretary of the Army and the Chief of Engineers and printed for the use of the Department of the Army.

SEC. 179. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule or regulation under authority of any law of the United States relating to rivers and harbors, flood control, beach erosion or other water resources development under the jurisdiction of the Secretary of the Army, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule or regulation shall not become effective, if—

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the Secretary of the Army dealing with the matter of , which rule or regulation was transmitted to Congress on .", the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thiry, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on, or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule or regulation.

Sec. 180. The Secretary of Transportation is authorized and directed to prepare and transmit to Congress a list of those bridges over the navigable waters of the United States constructed, reconstructed, or removed during the period January 1, 1948, to January 1, 1979.

Sec. 181. The Secretary of the Army, acting through the Chief of Engineers, is authorized to acquire real property by condemnation, purchase, donation, exchange, or otherwise, as a part of any water resources development project for use for public park and recreation purposes, including but not limited to, real property not contiguous to the principal part of the project.

Sec. 182. The Secretary of the Army, acting through the Chief of Engineers, is authorized to modify any water resources development project for mitigation of damages to fish and wildlife if the estimated cost of such modication does not exceed 10 per centum of the estimated total cost of such project or $7,500,000, whichever is the lesser. No appropriation shall be made for any such modification of a project if such modification has not been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. For the purpose of securing consideration of such approval, the Secretary of the Army shall transmit to Congress a report of such modification, including all relevant data and all costs.

SEC. 183. The Secretary of the Army, acting through the Chief of Engineers, is authorized, to preserve, restore, interpret, and maintain those historic properties located on water resource development projects under the jurisdiction of the Department of the Army if such properties have been entered into the National Register of Historic Places.

SEC. 184. (a) If the Secretary of the Army, acting through the Chief of Engineers, determines that the construction of any identifiable segment of a major waterway constitutes the proximate cause of damage to any water well, spring, or artesian well, which is used or is susceptible for use for any beneficial purpose, then the Secretary of the Army, acting through the Chief of Engineers, is authorized to compensate any owner of such well, spring or artesian well, or such owner's designated lessee or authorized user, for actual damage sustained, including any diminution in land value caused by such damage.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall pay no claim for compensation under this section unless such claim is presented to an authorized agent of the United States Army Corps of Engineers within one year of the completion of the identifiable segment of the waterway project determined by the Secretary of the Army, acting through the Chief of Engineers to have been the proximate cause of damage.

(c) This section shall not be construed to affect any rule of substantive law regarding rights to underground water.

SEC. 185. Section 32(e) of the Water Resources Development Act of 1974 is amended by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000".

SEC. 186. The last sentence of subsection (c) of section 101 of the Water Resources Development Act of 1976 (Public Law 94–587) is amended by striking out "and 1979." and inserting in lieu thereof a comma and the following: "1979, 1980, 1981, and 1982.".

SEC. 187. Section 181(a)(2) of the Water Resources Development Act of 1976 (Public Law 94–587), is amended by striking out "(A)" and by striking out ", and (B)" and all that follows down through and including the period at the end thereof and inserting in lieu thereof a period.

SEC. 188. The second paragraph under the center heading "BRAZOS RIVER BASIN" in section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control and for other purposes", approved July 24, 1946 (60 Stat. 649), is amended by inserting "or water supply" after "irrigation".

SEC. 189. (a) Section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, as amended, is amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(b) The amendment made by this section shall not apply to any project under contract for construction on the date of enactment of this Act.

SEC. 190. (a) The Act approved March 29, 1956 (Public Law 455 of the 84th Congress, 70 Stat. 65), as amended, is further amended by striking out all after the phrase "cost of $88,000,000" and inserting in lieu thereof a period and the following: "The replacement and expansion of the existing industrial canal lock and connecting channels or the construction of an additional lock and connecting channels in the area of the existing lock is hereby authorized. The conditions of local cooperation specified in House Document Numbered 245, Eighty-Second Congress, shall apply to the construction of the replacement or additional lock and connecting channels, except that the additional costs, as determined by the Chief of Engineers, of lands, easements, and rights-of-way acquisition and relocations of residences, industries, and utilities beyond those costs at the Meraux site (Violet), including such costs attributable to the relocation, replacement, modification or construction of bridges or tunnels, shall be borne by the United States. All other costs of relocation, replacement, modification, or construction of bridges and tunnels (at a cost not to exceed $94,500,000) required as a result of the construction of the replacement or additional lock and connecting channels shall be borne by the United States; and before construction of bridges and tunnels may be initiated the non-Federal public bodies in-

volved shall agree (1) to hold and save the United States free from damages resulting from construction of the bridges and tunnels and their approaches, (2) upon completion of construction to accept title to such bridges and tunnels and approaches and thereafter to operate and maintain the bridges and tunnels and their approaches as free facilities.".

(b) The Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the affected areas, in the construction of the replacement or additional lock and connecting channels authorized by this section, including actions to encourage the use, wherever possible, of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendation for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

SEC. 191. Section 156 of the Water Resources Development Act of 1976 is amended by striking out "fifteenth" and inserting in lieu thereof "fiftieth".

SEC. 192. Section 54 of the Water Resources Development Act of 1974 (88 Stat. 26–28) is hereby amended as follows:

(1) Subsection (c)(1) is amended by striking out "for a period of five fiscal years" and by adding at the end thereof the following: "Such programs shall be completed by September 30, 1982.".

(2) The last sentence of subsection (d)(1) is amended by striking out "ninety days" and inserting in lieu thereof "six months" and by striking out "five-year".

(3) The last sentence of subsection (e) is amended to read as follows: "The final report shall be submitted within six months after the last fiscal year of funding and shall include a comprehensive evaluation of the national shoreline erosion control and demonstration program.".

(4) Subsection (f) is amended to read as follows:

"(f) There is authorized to be appropriated to carry out this section not to exceed $11,000,000.".

SEC. 193. Subsection (f) of section 202 of the Water Resources Development Act of 1976 is amended by striking out "and 1979." and inserting in lieu thereof a comma and the following: "1979, 1980, 1981, 1982, 1983, and 1984.".

SEC. 194. Subsection (b) of section 120 of the Water Resources Development Act of 1976 is amended by striking out "and September 30, 1979," and inserting in lieu thereof September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,".

SEC. 195. (a) Section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 4, 1915 (33 U.S.C. 560) is amended by adding at the end thereof the following: "No funds may be accepted or expended under this section unless such acceptance and expenditure has been specifically authorized for that project by law.".

(b) The proviso in section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved June 22, 1936 (33 U.S.C. 701h) is amended by inserting immediately after "as advantageous in the public interest," the following: "except that no such funds may be accepted or expended unless such acceptance and expenditure has been specifically authorized for that project by law.".

SEC. 196. Section 107(b) of the River and Harbor Act of 1970 (84 Stat. 1818, 1820), as amended, is further amended by deleting in the third sentence the phrase: "to the Congress not later than September 30, 1979." and substituting in lieu thereof: "on the upper four Great Lakes and their connecting channels to the Congress not later than September 30, 1979, and on the low reach below Lake Erie not later than September 30, 1980." Such section 107(b) is further amended by striking out "$15,968,200" and inserting in lieu thereof "$17,000,000".

SEC. 197. Subsection (b) of section 94 of the Water Resources Development Act of 1974 (Public Law 93–251) is amended by striking out "$600,000" and inserting in lieu thereof "$6,300,000".

SEC. 198. Subsection (a) of section 92 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in the third sentence thereof, by striking out "Each installment" and inserting in lieu thereof "Except as provided in paragraph (2) of this subsection, each installment"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The Secretary of the Army, acting through the Chief of Engineers, shall, upon the request of Saint Bernard Parish, Louisiana, modify the agreement entered into between the Secretary and Saint Bernard Parish pursuant to this section so that each installment to be paid by Saint Bernard Parish as its part of the non-Federal cost of the hurricane-flood protection project on Lake Pontchartrain, Louisiana, shall be one-fiftieth of the remaining unpaid balance as set forth in such agreement plus interest on such balance, and the total of such installments shall be sufficient to achieve full payment of such balance, plus interest, within fifty years of the initiation of project construction.".

SEC. 199. The last sentence of subsection (d) of section 167 of the Water Resources Development Act of 1976 (Public Law 94–587) is amended by striking out "and 1979." and inserting in lieu thereof a comma and the following: "1979, 1980, and 1981.".

SEC. 200. (a) Subsection (a) of section 66 of the Water Resources Development Act of 1974 (Public Law 93–251) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and thereafter to maintain such channel free of such trees, roots, silt, debris, and objects.".

(b) Subsection (b) of section 66 of the Water Resources Development Act of 1974 (Public Law 93–251) is amended by adding at the end thereof the following new sentence: "Non-Federal interests shall pay 25 per centum of the cost of maintaining the channel free of such trees, roots, silt, debris, and objects.".

SEC. 201. The second sentence of subsection (b) of section 116 of the River and Harbor Act of 1970 (84 Stat. 1822) is amended to read as follows: "The Secretary of the Army, acting through the Chief of Engineers, shall, before beginning any operation to maintain the channel authorized by this section, enter into a separate agreement with the appropriate non-Federal interests which is applicable only to that operation and which requires such non-Federal interests to pay 25 per centum of the cost of such maintenance operation.".

SEC. 202. Section 62(c) of the Water Resources Development Act of 1974 is amended by striking out "$330,000" and inserting in lieu thereof "$500,000".

SEC. 203. Section 108(k) of the Water Resources Development Act of 1974 (Public Law 93–251) is amended by striking out "$103,522,000" and inserting in lieu thereof "$140,000,000".

SEC. 204. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to cause surveys to be made at the following locations for flood control and allied purposes, and subject to all applicable provisions of section 217 of the Flood Control Act of 1970 (Public Law 91–611):

Homochitto and Buffalo Rivers, Saint Catherine and Coles Creeks, Bayou Pierre, and other major tributaries draining into the Mississippi River between Bayou Pierre and the Buffalo River, Mississippi, to recommend remedial measures for flood control, bank stabilization, sedimentation, and related purposes.

Saint Francis Lake and Floodways in Pointsett County, Arkansas.

Halifax River, Florida, to recommend remedial measures for improvement of the quality of water and related land resources with particular emphasis on the feasibility of modifying impediments interfering with the river's flow.

Illinois River in the vicinity of Hardin, Illinois, to recommend remedial measures for bank stabilization.

Kuskokwin River at Bethel, Alaska, feasibility of erosion control improvements.

Kinnickinnic River, Milwaukee County, Wisconsin, for flood control and allied purposes.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study the siltation problems on the Mississippi River upstream of River Mile 327, at Quincy Bay, Broad Lake, including the access channel thereto, and Triangle Lake areas located in the vicinity of Quincy, Illinois, with a view toward determining the feasibility of alleviating immediate and long-term siltation problems in the interest of navigation, environmental quality, water quality, recreation, fish and wildlife, and other such water resource needs. Such study shall be conducted in cooperation with interested Federal and State agencies and the Secretary of the Army, acting through the Chief of Engineers, shall report thereon to the Congress with his recommendations, to include proposed items of non-Federal cooperation within three years of the initial funding for the study.

(c) The Secretary of the Army, acting through the Chief of Engineers, is authorized to conduct a study, at an estimated cost of $135,000, of the feasibility of redeveloping the hydroelectric capacity of the Jackson Mills Dam and the Mines Falls Dam at Nashua, New Hampshire.

SEC. 205. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make studies in cooperation with the governments of the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands for the purposes of providing plans for the development, utilization, and conservation of water and related land resources of such territory and Commonwealth. Such studies shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

SEC. 206. The Secretary of the Army, acting through the Chief of Engineers, shall make such studies as may be necessary to determine the feasibility of measures to prevent and abate streambank erosion along the Tensaw River, Alabama, in order to protect Blakeley, Alabama, listed on the National Register of Historic Places from such erosion

Such studies shall be made in consultation with the Historic Blakeley Foundation. The Secretary of the Army, acting through the Chief of Engineers, shall report the result of such studies to Congress, together with recommendations.

SEC. 207. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a study of North East Texas, including, but not limited, to Grayson, Collin, and Denton Counties, to determine the need for storage of water in single and multiple-purpose projects required to meet anticipated demand in the region, at an estimated cost of $5,000,000. Such study shall include consideration of treatment facilities and such regional conveyance systems, as necessary, and the interconnection of existing and proposed water storage projects. The Chief of Engineers is authorized to undertake the phase I design memorandum stage of advanced engineering and design for separable projects as the Chief of Engineers determines appropriate. Before initiation of any such phase I stage, the Chief of Engineers shall advise Congress of the determination to do so.

SEC. 208. The Secretary of the Army, acting through the Chief of Engineers, is authorized to conduct a survey of the Buffalo Harbor, New York, to determine the feasibility of navigation improvements to support the proposed bulk commodity transshipment facility and modifications to realine the Buffalo River, New York, to accommodate passage and safe navigation of new and larger ships operating on the Great Lakes and to make recommendations in a report to be submitted to the Congress within two years of the date of enactment of this section.

SEC. 209. (a) The Secretary of the Army, acting through the Chief of Engineers, shall make a study of the possibility of rehabilitating the hydroelectric potential at former industrial sites, millraces, and similar types of facilities already constructed, of the possibility of converting such sites for use as new, small hydroelectric projects, and of expediting the licensing of such projects. The Secretary of the Army, acting through the Chief of Engineers, shall also provide technical assistance to local public agencies and cooperatives in any such rehabilitation at sites studied or qualified for study under this section.

(b) There is authorized to be appropriated to carry out this section $5,000,000 per fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

SEC. 210. Appropriations for any project which is authorized for initial construction by this Act are authorized for those fiscal years which begin on or after October 1, 1979.

SEC. 211. This Act may be cited as the "Water Resources Development Act of 1978".

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NEDZI) having assumed the chair, Mr. BARNARD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13059) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13059, Water Resources Development Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

(Mr. ROBERTS asked and was given permission to revise and extend his remarks.)

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13750, the Sugar Stabilization Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SUGAR STABILIZATION ACT OF 1978

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13750, with Mr. DAN DANIEL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Pursuant to the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, the gentleman from Colorado (Mr. JOHNSON) will be recognized for 30 minutes, the gentleman from Ohio (Mr. VANIK) will be recognized for 30 minutes, and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the American people regard sugar as a necessary and vital commodity as expressed by the level of sugar consumption. Congress has long recognized the need for maintaining a viable domestic sugar industry. However, the economically distressed domestic sugar producers in the United States are at the end of their rope.

In the intervening 4 years since the old Sugar Act was allowed to expire, we have experienced an acute global shortage which sent sugar prices soaring toward 60 cents a pound in the winter of 1974 and then a growing surplus which caused them to fall as quickly as they had risen. While the excessiveness of the 1974 prices impressed itself in the minds and pocketbooks of Americans, it was, fortunately, short-lived. The disastrous lows which followed, on the other hand, have proved much more enduring.

Sugar has been exported to the United States from foreign sugar producing countries in such great amounts that they have depressed domestic prices to the point where most domestic producers lose money on every pound of sugar cane and sugar beets they produce. Furthermore, these same pressures have resulted in the closing of a number of processing facilities upon which producers depend, thereby reducing badly needed employment opportunities. If this situation were allowed to continue, the collapse of the U.S. sugar industry would be inevitable.

Domestically, if sugar producers are allowed to be driven out of business, eroding our vital production base, we must then look to foreign nations for increasing supplies of sugar to meet consumer demand. For every pound of U.S. sugar bought, the money remains in this country and benefits the economy. If, on the other hand, we must turn elsewhere, we would not only worsen our balance of payments deficit, but would put ourselves increasingly at the mercy of foreign suppliers to pay whatever price they choose to extract.

As one of the world's largest and most important sugar consuming and importing nations, the continued survival and viability of our own sugar industry and the stability of the global market are clearly in our best interest.

H.R. 13750 provides a modest protection to sugar producers through a price objective for the 1978 sugar supply year of 16 cents per pound. It represents a compromise. While it may cover the cost of production for producers in certain parts of the United States, it is below the cost of production for producers in other parts of the United States and is a concession made in an attempt to obtain a sugar bill which will be acceptable to the Congress.

Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. FOLEY), chairman of the full committee.

Mr. FOLEY. Mr. Chairman, I rise in support of the bill, H.R. 13750, as reported by the House Committee on Agriculture. This legislation would implement the International Sugar Agreement and protect the welfare of both farmers and consumers by assuring a viable sugar industry in the United States.

The United States produces only about one-half of the sugar required for domestic consumption and imports the balance of its needs. In 1977, the dollar value of sugar imports amounted to over $1 billion. Failure of the domestic industry would add substantially to the negative blance of payments and contribute significantly to inflationary pressures.

Throughout the 40-year history of the old Sugar Act, we were assured of a healthy indigenous production base, adequate levels of sugar from foreign suppliers, and stable prices (well below what is paid in most other developed nations).

The yearly average New York market price for raw sugar was 2.78 cents per pound in 1940 and increased gradually until 1973 when it was 10.30 cents per pound. Only three times between 1940 and 1973 did the average yearly price change more than 1 cent per pound. Since the demise of the act in 1974, however, and our subsequent return to the free world market for a major part of our sugar, we have continually been prey to the wild and cyclical fluctuations characteristic of the world market and, in the absence of legislation, are likely to remain so. The 1974 season's high price shot up to 65.50 cents per pound. By 1976, the season average price had declined to 13.31 cents per pound with a season low price of 7 cents per pound. The variation between 1973 and 1974 average prices exceeded the 1940–73 total variation by more than 50 percent. This extreme price fluctuation hurt consumers in 1974–75 and has hurt producers since.

International trade in sugar amounts to only one-fourth of world production and half of the sugar entering world trade is subject to Government control on price or supply. The world free trade of sugar is for the most part a residual market. This makes world market prices for sugar extremely volatile and easily susceptible to rollercoaster movements in price.

As excess stocks of sugar have continued to mount worldwide in the wake of a series of record crops, increasing amounts of foreign sugar have been exported to the United States and have depressed domestic prices to the point where most domestic producers lose money on every pound of sugarcane and sugar beets they produce. These same pressures have resulted in the closing of a number of processing facilities upon which producers depend, thereby reducing badly needed employment opportunities and foreclosing the opportunity for sugar production in that area. If this situation is allowed to continue, the collapse of the U.S. sugar industry will be inevitable.

Congress affirmed the seriousness of the economic crisis facing the domestic sugar industry by requiring the Secretary of Agriculture to undertake needed actions to support the price of sugar as a part of the 1977 omnibus farm bill. However, USDA's efforts to implement congressional intent were long in coming. As large quantities of sugar continued to enter the United States displacing U.S. production, thousands of tons of domestic sugar were put under loan, where they remain, contributing substantially to the buildup of excess stocks.

Recognizing these considerations, I firmly believe that the legislation reported by the Committee on Agriculture mandating a comprehensive sugar policy and program is sorely needed.

Title I of H.R. 13750 would provide the President with legislative authority to implement the International Sugar Agreement once the agreement is ratified by the Senate, including authority to limit entry of sugar from non-member countries or areas, prohibit the entry of sugar without documentation required by the International Sugar Agreement and require the keeping of relevant records and the making of relevant reports.

The agreement is designed to reduce the extreme fluctuations which have occurred in the past by holding sugar prices within an 11–12-cent range for the next 5 years. U.S. participation in the agreement is essential if it is to be successful, and there is little controversy concerning these provisions.

The Committee on Ways and Means has adopted a substitute for title I which contains the substance of the bill as reported by the Agriculture Committee with a few technical changes. Agreement should be reached on these without protracted discussion.

Title II of H.R. 13750 sets forth the price at which sugar would be supported in the United States and the method of accomplishing this support. On these issues there are substantive differences between the provisions of the bill reported by the Agriculture Committee and the substitute amendment recommended by the Ways and Means Committee.

The Agriculture Committee bill provides a modest protection to sugar producers through a price objective for the 1978 sugar supply year of 16 cents per pound. This figure represents a compromise and, in view of the Agriculture Committee, is necessary to maintain the domestic sugar industry at approximately its current level of production. Moreover, while this price objective may be adequate for meeting the needs of the most cost-efficient producers in the United States, it remains well below the cost of production for the vast majority.

The USDA has estimated that the average cost of production in the United States is about 15.2 cents per pound. However, as reflected in a letter from the Comptroller General to the Ways and Means Committee dated September 1, 1978, this estimate is not based on accurate current data regarding the cost of production. The USDA figures are based on data for the 1969–71 sugarcane crops and the 1976–77 sugar beet crops projected to a current date. These estimated costs, however, are far from uniform across the country. USDA's estimate of sugar beet per pound production costs in Texas and Utah (approximately 17.5 cents per pound) are, on the average, almost 50 percent higher than in Michigan where the projected cost is approximately 13.5 cents per pound. Their projected cost of production for sugarcane ranges from 14.4 cents in Florida to 17.5 cents per pound in Louisiana.

The committee has been supplied with testimony and data which estimate the average production cost at a higher figure than supplied by USDA. For example, estimates made for their respective States by the University of Florida and Louisiana State University, based on much more current data than used by USDA were substantially higher than USDA's. Under the circumstances, it is the committee's view that 16 cents per pound is necessary as a price objective to assure the survival of the domestic industry at approximately its current level and to protect U.S. consumers from becoming even more dependent on imported sugar as a source of sweeteners.

The Agriculture Committee bill provides for the price objective to be adjusted semiannually beginning October 1, 1979, for changes in the parity and Wholesale Price Indexes. These factors, which were used for years under the old Sugar Act in making adjustments in the price objective, continue to provide the truest gage of costs incurred generally by sugar producers. If this feature is not retained, any price objective agreed on will be quickly diluted by inflation and shortly become meaningless.

Approximately 40 percent of the cost of production of sugar depends on labor costs. It is projected by the committee that the increase in labor costs resulting from the adjustments in title III of the bill would have the effect of adding 0.4 to 0.5 cents per pound for each year the bill is in effect. Unless an adjustment for increased costs of production in sugar legislation is made, the sugar producers will be faced with an ever increasing cost-price squeeze.

The Ways and Means Committee amendments provide for no adjustments in the price objective but rely solely on vague assurances of the Department of Agriculture that it would assist sugar producers in future years through supplemental sugar payments. In testimony before the Ways and Means Committee it was stated that no payments, however, are contemplated until October 1980, because the Department would use as a base for calculating its adjustments a price of 14.05 cents per pound and not the price objective of the bill.

Under the Agriculture Committee bill the price objective would be achieved through prices received by producers in the marketplace and not, as in the bill reported by the Ways and Means Committee, in part through payments by the Government. While it is true that any marketplace would be paid by consumers, this expense would be offset by higher receipts from fees on imported sugar which, it is anticipated would amount to some $2 billion through the 5-year period of the bill.

Many assertions have been made that the Agriculture Committee bill is much more inflationary than the Ways and Means Committee bill. This simply is not so. To begin with we are told by the Department of Agriculture that the cost of sweeteners is a very small portion of the Consumer Price Index. The USDA states that food prices constitute only about 17.7 percent of the total cost of living and that even significant changes in the price of one or two food items have

a relatively small impact on the total cost of living. This is a quote from a USDA briefing paper of September 25, 1978.

The Agriculture Committee bill, however, does not cause any significant changes in the price of sugar. It would increase the price less than 1.3 cents a pound for the 1978 crop above the price support level required under current law. Sugar and sweeteners represent only 2.8 percent of the Consumer Price Index for food and about one-half a percent of the total Consumer Price Index. The Congressional Budget Office estimates that the Agriculture Committee bill will result in an increase in the Consumer Price Index of three hundredths of 1 percent in 1979 and, at the end of the 5-year period of the bill thirteen-hundreths of 1 percent. Most sugar is used in processed foods where it forms a very small part of the total retail cost. It is not at all certain, in fact, that any increase in the price of sugar will, in fact, be passed on to consumers.

While admittedly the effect of the Ways and Means Committee bill is less on the Consumer Price Index, it has other inflationary aspects not present in the Agriculture Committee bill. The Congressional Budget Office estimates that enactment of the agriculture bill should result in a net reduction of Government outlays in fiscal year 1979 of $540 million, largely because increased sugar prices should induce repayment of outstanding price support loans, and in increased revenues from import fees in fiscal years 1980 through 1983 in the amount of $1,685 million. CBO estimates that the Ways and Means Committee amendments should result in a net decrease of Government outlays for fiscal year 1979 in the amount of $275 million because of repayment of price support loans and in increased revenues in fiscal years 1980–1983 from import fees in the amount of $140 million, less than one-tenth of the revenues resulting from the Agriculture Committee bill. CBO has not, however, included in its estimate the cost of Government payments that would be made in the Ways and Means Committee bill were enacted. According to CBO, each 1-cent-per-pound payment would result in increased Government costs in the amount of $129 million per year.

The Agriculture Committee bill, in brief, is not unduly inflationary—no more so than the alternatives before the House. It is the best bill before the House because it will do the best job of preserving efficient domestic producers and assuring the continuation of a sound domestic industry. The alternative under consideration surely will result in the phasing out of part of our industry and a greater reliance on imported sugar—contributing to our balance-of-payments deficit and to further inflationary pressures.

Finally, title II of H.R. 13750, as reported by the Agriculture Committee, provides for the price objective to be achieved through the imposition of mandatory quotas and import fees when the world price is below the price objective; whereas, the Ways and Means Committee provides for the price objective to be achieved through fees with residual authority for the administration to impose quotas if deemed necessary. The Agriculture Committee believes that the use of mandatory quotas is the only certain way to assure achievement of the price objective.

Little sugar is traded in world markets at its true cost of production. The "free market" tends to be a residual market in which sugar is priced arbitrarily and without relation to its cost to the producer. At the present time, it is estimated that virtually all sugar traded in the "free market" is subsidized. As a result, the imposition of an additional duty may simply cause producers to lower their prices—thus duties may never be effective, but may simply chase the price of sugar downward, defeating the purposes of the ISA and of our domestic sugar program. Further, the fees would be adjusted only on a quarterly basis and if there were disruptions through large imports within a quarter, the fees would not adequately protect the domestic market without the assistance of a quota mechanism.

Title III of the Agriculture Committee bill contains the labor provisions of the act to protect field workers engaged in the production of sugarcane and sugar beets. The amendment specifies minimum wages for field workers. This minimum, higher than prevailing rates in many parts of the United States, was considered in our determination of the 16-cent price objective. It also establishes for the first time protective measures not previously contained in sugar legislation. It provides protection for workers against discriminatory practices by producers and against excessive charges for goods and services supplied by producers, as well as assuring that workers are covered by workmen's compensation. Finally, it makes judicial remedies, similar to those contained in the Fair Labor Standards Act, available in the event of violations of any of the labor provisions.

The labor sections are patterned after provisions which were included in the Sugar Act Amendments of 1974, but which failed of enactment. These provisions have the support of representatives of the domestic sugar industry and of interested labor unions and in the committee's view should insure fair wages and sound working conditions for sugar field workers.

The Agriculture Committee bill also contains a number of technical provisions designed to implement the other provisions of the act. The Ways and Means Committee recommended a number of amendments to title III which do not change the substance of the bill reported by the Agriculture Committee and on which agreement should be easily reached in the House.

Mr. Chairman, the agriculture bill is a sound bill which is not unduly inflationary. Furthermore, it is the best bill now before the House because it will do the best job of preserving efficient domestic producers, a goal which is in the interests of consumers and the general economy. I urge the Members to vote in support of this measure.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the production of sugar in the United States is important as a food source which provides 50 percent of our sugar needs and as a contributor to domestic employment and economic growth.

While they have been officially recognized as the most physically efficient producers of sugar in the world, American farmers cannot produce the commodity as cheaply as their foreign counterparts. The reasons are simple: Americans have high standards of living, and the cost of labor is expensive. In addition to the cost of labor and other items like fuel and fertilizer, American farmers also must comply with Federal regulations governing the use of pesticides and other farm chemicals for the protection of public health and welfare. Compliance with such regulations is costly.

On four occasions in the last 19 months, the Government has apprised the President of the injurious and unfair competition U.S. producers face from imports of sugar that are priced below domestic costs of production.[1]

Sugar producers are not the only American businessmen to face the dilemma of unreasonable competition from imports. In fact, the President and his administration have not hesitated to impose import quotas or fees aimed at helping numerous other American industries to cope with this problem.

For example, in 1977, the administration took action to establish a trigger pricing mechanism that sets minimum prices for imported steel so that such imports are prevented from underselling American steel. Also, the administration initiated long-term plans to roll back imports of nonrubber footwear from Korea and China and imports of Japanese color TV sets. The administration also decided to continue existing restrictions on imports of cotton, cotton products, peanuts, dairy products, and cotton, wool, and manmade fiber textiles and apparel. Import relief, largely in the form of antidumping or countervailing duties was imposed by the Government for U.S. manufacturers of dinnerware, ball bearings, melamine (a plastic), swimming pools, parts for paving equipment, pressure sensitive tape, inedible gelatin, scissors and shears, cotton yarn, nuts, bolts and cap, screws, handbags and unwrought zinc.

While other American industries as beleaguered by unfair import competition as sugar were receiving the support of the administration to make imports more competitive with U.S. products, the best the White House was willing to propose

[1] "Four occasions": *Mar. 1977* USITC Sugar Report to the President that imports are a cause of serious injury to the domestic industry; *April 1978* USITC Sugar Report to the President that imports are interfering with the price support goals (13.5¢) of the de la Garza loan program; *Summer 1978* Treasury Dept. finding that EC sugar imports are being dumped on U.S. market & imposition of countervailing duty; *Sept. 1978* USITC reports there is indication of injury to domestic industry caused by dumping of imports from Belgium, France, and West Germany.

for the sugar industry was a not too helpful suggestion to subsidize the incomes of domestic producers with Federal tax dollars. This interim payments program was superseded by congressional action which created a sugar program for the 1977 and 1978 crop years. But, as the House Committee on Agriculture pointed out, the administration "efforts to implement congressional intent were long in coming and then so feebly begun as to be largely ineffectual."

THE NEED FOR SUGAR LEGISLATION

In its sugar report to the President in April, the U.S. International Trade Commission noted that without improvement in market conditions, a large percentage of domestic sugar producers will be unable to remain in business. Why should we be concerned? We should be concerned because sugar production makes an important contribution to the economic vitality of this Nation, and the alternatives if the industry collapses are not pleasing.

There are some 19,300 beet and cane sugar producers in this country and dozens of companies involved in the processing, milling, and refining of sugar. It only takes a fraction of these producers and companies to fail to bring the entire American sugar industry toppling over like dominoes. If an adequate volume of sugar production is not maintained, proccessors will not be able to remain in operation and should they be forced to close down, the market for all growers will be eliminated. Lost will be the yearly multibillion dollar contribution the sugar industry makes to the Nation's economy ($10.5 billion in 1977). Job layoffs by the tens of thousands will occur among those Americans who together earn more than $400 million annually on sugar farms and in sugar processing, milling, and refining plants. Studies have shown that for unemployed workers and failed producers, the resulting costs of unemployment compensation, welfare benefits, food stamps, losses to the Federal Treasury in tax revenues, and defaults on outstanding federally insured or guaranteed farm loans would exceed the cost of the sugar legislation before us today.

Also at stake is the future of the corn sweetener industry, which faces the same problem as the sugar industry—unfair competition from sugar imported into the United States at below domestic costs of production. H.R. 13750, as reported by the House Committee on Agriculture, is supported by both the National Corn Growers Association and the Corn Refiners Association, Inc.

Equally important, should the sugar and corn sweetener industries fail in this country, the American consumer will be sentenced to total dependency on the most volatile segment of world trade to meet his sweetener needs.

About 85 percent of world sugar output is traded among countries under protective arrangements to assure reliable, adequate supplies. The remaining 15 percent, or the residual market, comprises whatever sugar is left over to trade after commitments have been met under the protective arrangements. In times of surplus, this might mean a lot of sugar is available in the residual market; in times of shortage, there may be very little. Since the expiration of the Sugar Act in 1974, American consumers have had to rely on the residual market to meet about half of their sugar needs. Consequently, we had 66 cents sugar in 1975, when residual supplies were short; and 6 cents sugar this year when residual supplies have been high.

The price pendulum in the residual market swings with fluctuations in supply and will not keep still. In fact, it may very well be ready to swing back in the direction of high sugar prices. In May 1978, the Foreign Agriculture Service reported world sugar supplies and demand will reach equilibrium in 1980. If our domestic industry is not maintained, supplies of sugar for world consumption will be decreased by 6 million tons. This will result in dramatically higher prices for sugar and especially in the United States where consumers will by that time be totally dependent on residual foreign supplies.

Imported sugar currently contributes $1 billion annually to the U.S. trade deficit. Who knows by how much that figure will increase, contributing to further devaluation of the dollar, if we are forced to rely totally on imports to meet our needs?

Although the United States is a participant in the International Sugar Agreement which seeks to stabilize world market prices of sugar at a median range of between 15 and 19 cents per pound, raw value (exclusive of additional charges of 2.5 cents for insurance and transportation to the United States), international commodity agreements have not worked historically. In the case of the ISA, many people, myself included, feel the chances of success are not great, largely because the world's largest producer of sugar, the EEC, is not a participant in the agreement. Neither for that matter is the Dominican Republic, one of the largest exporters of sugar.

The United States is virtually the only major importer of sugar with no long-term policy to protect domestic producers and consumers from the price frivolity of the residual market. It is imperative this House consider legislation which will protect both producers and consumers by providing them with reliable and reasonably priced supplies of sugar.

THE SUGAR STABILIZATION ACT OF 1978

Those of us on the Ag Committee who drafted H.R. 13750 are aware our good friends and colleagues on the Ways and Means Committee have reported their own version of the bill. Both versions contain provisions which make possible U.S. participation in the International Sugar Agreement; establish a domestic sugar program; and set farm wage standards for sugar workers.

Although essentially identical in other respects, the big difference between theirs and ours is the proposed program for domestic sugar producers. The intent of both versions is to preserve the Nation's ability to produce part of its own sugar supply and to help protect both farmers and consumers by providing adequate, reliable supplies of sugar at fair prices. Both bills seek to maintain the domestic industry by increasing the price of imported sugar to make it competitive with domestic supplies of sugar.

The Ag Committee proposes to accomplish this by restricting imports of sugar to the amount necessary to fill the gap between domestic production and demand. With supply and demand in better balance, the price of sugar imports would rise, promoting a competitive atmosphere among them and domestic supplies of sugar and corn sweeteners. A backup system of fees would be available for use in the event the quotas did not cause adequate increases in the price of imported sugar. Quotas are preferable to fees for several reasons: They assure ample supplies and are easy to determine, because it is relatively simple to figure consumption and domestic production. Quotas are more fair, so testified many U.S. sugar producers and the exporting associations of 17 countries before the U.S. International Trade Commission during its investigation of sugar. Quotas accommodate both the domestic industry and foreign exporting nations, allowing the latter to also benefit from stable prices. Quotas were used in the Sugar Acts for more than 40 years. There is no reason for the administration to object to the use of quotas in light of its willingness to use them to assist so many other American industries faced with import competition.

Also, under the Ag Committee version of the bill, to safeguard consumers, all import restrictions could be readjusted or suspended entirely in the event of shortfalls in supply or if the price of imported sugar rises above the "price objective" of the legislation. The Ag Committee proposes no payments or subsidies to producers under the legislation.

In contrast, the Ways and Means Committee proposes to assist the domestic industry through the imposition of import fees and subsidy payments to producers. Unfortunately, the Ways and Means proposal can mean only lingering but certain death for sugar producers, in addition to increases in unemployment, increases in the Federal budget and trade deficits, and—sugar prices for consumers will be higher than they would have been had the House agreed to the proposal drafted by the Agriculture Committee.

First. The Ways and Means proposal if enacted will, nevertheless, result in the destruction of the sugar industry because the price objective in the Ways and Means bill is below the cost of production. Even the Ag Committee version of the bill is barely adequate with a 16-cent price objective. According to the Department of Agriculture, at 60 percent of parity—currently about 17 cents—the price of sugar would cover the costs of production for only about 70 percent of domestic producers. Obviously, the Ways and Means price objective of 15 cents is far too low.

Second. Although their collapse would be imminent, domestic producers would possibly "linger on" under the system of import fees and subsidies proposed in the Ways and Means bill. But this would not save the industry and it would be very costly to the Government, increasing both the budget and trade deficits. Under a system of import fees, imported sugar can continue to flow into the United States while producers rely on

subsidy payments under the Ways and Means proposal. Consequently, market prices will deteriorate further, causing greater need for more subsidies to the domestic industry.

Third. Once the industry takes its last dying breath and collapses under the Ways and Means bill, not only will the taxpayer have needlessly paid for subsidies, but also as a consumer he will be faced with the specter of the unemployment of sugar workers; increases in the cost of other farm programs as former sugar growers divert to producing crops already in surplus, further depressing farm prices and increasing the cost of deficiency payments; increases in the Federal trade deficit by at least $1.5 billion—the 1977 farm value of the raw beet, cane, and corn converted to sweeteners—as imports must now supply all needs. And finally, the price of sugar to the consumer will be higher than it would have had we passed by the Agriculture Committee's proposal for domestic legislation—because if the ISA succeeds and we do not have a successful domestic program to accompany it, the price of imported sugar entering this country will be between 17½ to 21½ cents per pound (ISA median goal of 15 to 19 cents plus 2.5 cents for the cost of insurance and transportation to the United States), starkly contrasting with the Ag Committee's lower price objective of 16 cents per pound.

Mr. DE LA GARZA. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, I rise in strong support of the bill reported out by the Committee on Agriculture with its various provisions regarding the sugar legislation.

I am somewhat amazed—although I should not really be surprised, I guess, when I consider the way politics work—at the tremendous outcry from some sources, particularly the media and some of the large industrial users of sugar, and their statements about how the sugar legislation we are now considering is going to do everything from causing World War III to wrecking the economy of the United States and, indeed, also wrecking the economy of the world, if I were to believe all the articles I have been reading.

I am somewhat amazed, however, and I remember, and maybe some of the members of the committee will also remember, what happened back in 1974 and 1975. We remember what the situation was when the price of sugar went up to about 50 cents a pound. All of a sudden, the increase was followed by huge increases by the soft drink manufacturers, who raised their prices 15 cents on a 10-cent bottle of soft drink and the price went up to 25 cents a bottle. And, the price of a candy bar doubled and tripled, but the size of the candy bar shrunk to about half of what it was before the sugar price went up to about 50 cents a pound.

Have we noticed any of the prices of soft drinks or the prices of any of the candy bars going down? Have the prices of soft drinks gone down as sugar has gone down from 50 cents a pound to about 10 cents a pound in some areas? No, it has not.

The people who said it was necessary for them to raise the price of their product, because of the increased price of sugar have certainly not taken massive steps to bring down the price of their product, although the price of sugar has fallen to a price that is completely unfair to all producers of sugar, whether we are talking about beet sugar producers or whether we are talking about cane sugar producers.

I think something ought to be done when considering the price fluctuations of the products that use sugar. Be that as it may, I think a great deal of opposition to this bill, from the information I have received, is put out by large industrial users who simply do not have their facts straight. I think they are using what amounts to scare tactics as far as trying to inform or misinform the public about what this bill does.

The world price of sugar is not really a world price. It is actually a world dumping price, and the United States is being dumped on. The people who export sugar from countries overseas produce sugar to take care of their own domestic needs, as they should. Whatever they have left over, they send to various countries with whom they have fixed commodities agreements. What they have left then, they kindly dump on the United States.

Mr. Chairman, we are making a heck of a mistake when we rely on countries that dump on us, because if there is ever a shortage of sugar, we can bet our last dollar they will not do what they can to help us get the sugar we need.

We need a strong domestic policy. We need one that secures for our domestic producers provisions that they can live with, that they can make a buck with. Right now we have a situation where they are going broke.

The bill reported out by the House Agriculture Committee meets those needs, but yet does so in the way that would allow the marketplace to bear the burden of price. We allow more sugar to come in when there is a need domestically for that sugar. That is sound policy. It makes a great deal of sense. It is going to take politcal courage to vote for it, particularly right before an election. But I think if the Members will take the time to listen to the figures and look at the facts, rather than look at the scare tactics of large industrial users, the Members will come down soundly for the bill reported out by the Agriculture Committee. I urge my colleagues to defeat the other bill and resist any efforts to amend it.

Mr. JOHNSON of Colorado. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Chairman, on August 11, 1978, the House Committee on Agriculture approved their version of this bill which is under consideration today. I supported this bill in committee and strongly urge its approval by my colleagues on the floor of the House of Representatives. This version of the bill is supported by a wide range of sugar-producing enterprises, national farm organizations, and labor unions. It authorizes the United States to participate in the International Sugar Agreement that was signed last December and provides a domestic program which will maintain a viable sugar-producing industry in this country.

On this last point the administration has repeatedly acknowledged the importance of maintaining a viable sugar-producing capacity in the United States and has promised a long-term program to achieve that goal. We all know that the administration's proposals have been woefully inadequate in this respect. The bill before you provides a reasonable long-range program and will assure the survival of the domestic industry with prices that are fair for consumers.

The bill is fair to both consumers and producers alike, inasmuch as it calls for an increase of 1.3 cents above the present loan rate of 14.65 cents for this year's crop. Each penny increase in sugar prices costs the average American 96 cents a year. Without this protection for the industry, we face the prospect of a declining sugar industry and increased reliance on foreign sugar. Normally, we import almost one-half of our sugar, and we cannot afford to become dependent on foreign sources for this important commodity. The bill will protect consumers from the wide fluctuations in world sugar prices which reached a record 64 cents in 1974 with even higher prices at retail in this country. This wild swing in prices is a clear indication that the market is badly in need of stabilization.

Some of my colleagues have raised the specter of inflation when speaking of the Agriculture Committee's bill. Noted economist Eliot Janeway has pointed out that direct subsidies, not import duties and fees, would be an inflationary method of assisting the sugar industry. Janeway points out that a new tariff is not only an alternative to more Government borrowing, but is "positively anti-inflationary." He goes on to state that, because import fees and tariffs are direct payments to the Treasury from nonincome taxpayers, they reduce the budget deficit without reducing purchasing power. Janeway, in a letter to my distinguished colleague, FLOYD FITHIAN of Indiana, noted that—

> It is axiomatic that any measure which calls for more borrowing will fuel "the engines of inflation" and that any alternative expedient will cool them off. The Administration's policy of direct payments to processors would admittedly be financed by more government borrowing; and would, therefore, fuel inflation.

Gentlemen, this bill is consistent with the other farm programs. The price objective is equal to about 60 percent of parity for sugar beets and sugarcane. This is well within the range of support programs for other crops. Of the eight crops—the six so-called basic crops and milk and wool—five are supported at more than 60 percent of parity and three at less than 60 percent of parity. The price objective also is only 16 percent higher than the price objective of the old Sugar Act when it expired in 1974. Both the wholesale price index and the index of prices paid by farmers have increased more since the old act expired. As I mentioned, each 1-cent increase in the price of sugar costs the average per-

son slightly less than $1 a year, if that increase is passed on to consumers. The cost to consumers as a whole would be more than offset by import fees on sugar from foreign countries, which would go into the U.S. Treasury.

There is also another aspect to this issue—that of jobs. Of the 11 million tons that America consumes in a year, approximately 6 million tons are produced domestically. This is a $2 billion industry that employs 100,000 people in 22 States. I have a particular concern about these individuals, who are involved in every aspect of domestic growing, first-processing and distributing of sweeteners in America. Already, many cane and beet growers have gone out of business. The demise of the sugar industry would have severe and adverse social and economic consequences on workers, the vast majority of whom in many States are minorities, with limited viable employment options.

I urge the passage of H.R. 13750 as reported by the Agriculture Committee.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Chairman, last week the Wall Street Journal carried an article entitled, "The Sour Mood in Farm Country." Meg Cox, author of the article, toured the farm belt and found farmers to be "irritated, even angry * * * frustrated, discouraged, and pessimistic."

Ms. Cox quoted one farmer who expressed the sentiments of many when he said:

> The one thing that would really help right now would be optimism about the administration. We're not overproduced, we're undersold. If we could only feel we had leadership; that the government would work with us to find a solution, rather than tell us what it is. We just don't see where the end of the road is. Just a little encouragement out of the system, that better days are ahead, would help.

As we all should realize by now, the agricultural sector of the economy, including sugar producers, is in tough economic straits. But no encouragement is coming from the Carter administration. As the President's position on sugar legislation illustrates, the White House continues on its dogged course, pursuing a policy which, by selling agriculture short, keeps the Nation bound to trade deficits and to a high-interest, debt-ridden, and inflationary economy.

Mr. Chairman, during the past 2 weeks, our offices have been the targets for a barrage of claims and counter claims regarding the sugar legislation pending before the House. Despite the welter of opinions, a few facts stand out clearly.

SIXTEEN CENTS PRICE OBJECTIVE AND INDEXING PROVISION ARE REALISTIC

First, the 16-cents-per-pound price objective for sugar and the indexing provision in the House Agriculture Committee bill are modest, reasonable and, indeed, necessary to prevent the ruin of a large share of the domestic sugar industry.

The prices received by sugar beet and sugarcane growers under the old Sugar Act averaged between 30 and 40 percent higher than the 16-cents price objective in the House Agriculture Committee's bill. The 16-cents price objective is a bare-bones level and it is from this exceedingly low price floor that the indexing provision will increase the price objective as production costs rise.

By contrast, the Ways and Means sugar bill would allow enough imported sugar into the United States to hold the market price down to 15 cents. Such a price objective is inadequate and will drive sugarcane and sugar beet producers out of business.

ADMINISTRATION'S SUGAR PAYMENT PROGRAM IS UNSOUND

Second, the sugar payment program, which the administration plans to establish as a supplement to the 15-cent price objective in the Ways and Means version of the sugar bill, is not economically sound.

The payment program will allow more imported sugar into the United States as each year goes by, thus aggravating our trade deficit for several years. By maintaining the price objective at 15 cents for the life of the bill, the payment program would cost the Federal Government around $1,400 million in lost import fees as compared with the revenue that would be raised by the House Agriculture Committee sugar bill. The payment program itself would be financed out of the Treasury and the consequences of such a program, as Elliot Janeway states, will be more borrowing, higher interest rates and more inflation.

SIXTEEN CENTS PRICE OBJECTIVE NOT INFLATIONARY

Third, establishing the price of raw sugar at 16 cents will not be inflationary in any significant way. The Congressional Budget Office estimates that the typical urban family of four will spend an additional $6.12 in fiscal year 1979 for sugar and sugar-containing products if the 16 cents price objective is adopted.

Marketing costs, not the price which farmers receive for their production, is the real culprit in food price inflation. Since 1973, according to a recent GAO report:

> Eighty-seven percent of the increase in consumer expenditures (for food) has been caused by higher marketing charges.

During the past several years, the retail price of sugar-containing products has continued to rise, despite the fact that the price of sugar has dropped precipitously—thus confirming the GAO report.

Ironically, the huge profits made by the sugar-using industry has not aroused the ire of consumer advocates to the same extent as our attempts to establish a minimal price floor under our domestic sugar producers. Obviously, consumer advocates have side-stepped the central issue behind food price inflation.

ADMINISTRATION SUGAR POLICY IMPAIRS FOOD SECURITY

Fourth, the Carter administration's sugar policy, as embodied in the Ways and Means sugar bill, impairs food security in the sugar-exporting developing nations. By allowing the current volume of imported sugar to increase, the Ways and Means sugar bill encourages developing nations to continue cash cropping sugar for export at the expense of producing foodstuffs for domestic consumption.

In developing nations such as the Philippines, the Dominican Republic, and Brazil (from which the United States imported 50 percent of its sugar in 1977), the governments manage to export sugar at such low prices, because they subsidize its sale abroad and because wages in the sugar fields are at subpoverty levels. Earnings from the export of sugar typically are funneled into the hands of a few while those actually laboring in the sugar fields become more impoverished, less self-sufficient and suffer from reduced nutritional levels. As I stated during the debate on last year's sugar bill:

> If we want sugar, we had better be willing to pay for it and not pay for it by promoting hunger and starvation in the developing nations of the world.

ATTACK ON AGRICULTURE COMMITTEE SUGAR BILL UNJUSTIFIED

Mr. Chairman, I believe those who claim to speak in behalf of economic development and food security abroad and in behalf of the consumer's welfare at home, cannot rightly do so by attacking title II of the House Agriculture Committee's sugar bill.

Consumer advocates who attack 16-cents sugar are shortsighted because their alternative, if adopted, will undermine domestic sugar production, make consumers more dependent on an unstable world sugar market, and by worsening the trade deficit, will fuel inflation. At 16 cents, the domestic sugar industry and the people it employs will survive, our trade balance will be improved by the revenue obtained from import fees, and the earned income resulting from the 16-cents price objective will reduce debt and interest payments which cause inflation to spiral.

Mr. Chairman, I therefore, urge my colleagues to support title II of the sugar bill reported by the Housing Agriculture Committee.

LABOR PROVISIONS BEST POSSIBLE

Mr. Chairman, I also wish to comment on the labor provisions in the sugar bills reported by the Agriculture Committee and by the Ways and Means Committee.

I offered the labor provisions as an amendment to H.R. 13750 in the Agriculture Committee. The labor provisions were agreed upon after prolonged discussion between representatives from interested labor unions and representatives from the domestic sugar industry.

As with all negotiations, the final agreement was a compromise between the parties involved. I believe the labor provisions are the best accommodation possible, taking into account the need to insure fair wages to sugar field workers and equipment operators, while at the same time recognizing the extent to which the producer is able to pay, given the 16 cents price objective.

While fieldworkers would like a better minimum wage and better protective measures, others want to see an end to the special labor provisions which historically have been included in sugar legislation. I believe the labor provisions in the sugar bill are sound. Coverage under the minimum wage is now industry-wide, including each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugar-

cane. The labor provisions also include a procedure to investigate and resolve disputes and to provide judicial remedies, not only for violations of the wage provisions, but also for violations of the protective measures.

Mr. Chairman, I fully support the labor provisions of H.R. 13750 and I urge my colleagues to do so as well.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Chairman, I rise in support of this bill. I would like to point to one other facet of this bill which has not yet been discussed. Whether we come down with 16 cents or 15.5 cents in terms of the final legislation, or whatever that compromise might be, I think it is extremely important that the Members of this House understand that if we were to depart from the general philosophy of this bill and go into a situation where we made direct payments out of the Treasury to the sugar growers, we would not only be adding to deficits and more inflation but, more importantly for those who represent the Corn Belt, we would be denying the development of the corn sweetener industry.

We have a great deal of corn on hand right now, and Members should be advised that keeping a viable corn sweetener industry going means the use of about 300 million bushels of corn per year.

Therefore, if we were to go to an alternate system, which we had in the past, where we made direct payments to the sugar growers, it would make a very, very unfair sweetener competition market. Therefore, I would strongly oppose that.

Mr. DE LA GARZA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I just take this final minute to say that, paraphrasing a great human being, never has so much misinformation been put out about any legislation as there has been on this bill.

I might say that practically all of the dear colleague letters and all of the letters and all that we have heard in the media, of course, have different versions, and every man and woman is entitled to his or her opinion.

But, there has been much information put out on this legislation, and when it is all so simple. We produce one-half of the sugar we consume. The other half comes from other countries in the world. Our domestic producers, who are efficient, law abiding, good American citizens, are being hurt, because of the price of the ultimate product in the marketplace, because of the imports.

I do not know why the effort has been made that inflation in the United States and, indeed, throughout the world shall be controlled by holding the sugar industry of the United States down. I do not know how anyone would think that the budget is going to be balanced by working on the Sugar Act. On the contrary, our version provides for no cost to the American taxpayer, no cost to the Government. It is that simple, Mr. Chairman.

All our colleagues complain, and rightfully so, about what is happening to steel, what is happening to automobiles, what is happening to television sets, what is happening to lumber. We could list from here to eternity the products that are being affected, because of imports, of competitive imports from other countries, and everyone is trying to help our domestic producers, so why make an exception of our sugar producers.

Here we are, probably one of the smallest industries in the United States, the sugar industry, and everyone is aiming at the sugar industry to balance the budget, to control inflation and, suffice it to say, doing everything that everyone wishes to be done, all in the interest of the consumer and in the interest of Government and taking it out of the hide of the few people who produce sugar. There is so much confusion, there are so many statements.

Mr. Chairman, I add a few examples of what I speak of on our need to sustain a viable domestic sugar industry:

The President says, "I believe that a strong and viable domestic sugar industry is vital to the economic well being of the American people."

The Secretary of Agriculture says, "I've been encouraging sugar producers to find alternative crops if they can."

On today's average cost of production for U.S. sugar growers:

Howard Hjort, chief USDA economist says average costs are around 15.2 cents a pound.

Barry Bosworth of the Wage and Price Stability Council says that costs are 14.05 cents a pound.

Secretary Bergland says that it costs about 16 cents a pound.

On the projected costs of various sugar proposals:

At one point USDA claimed that S. 2990 (a bill similar to the Ag Committee bill but with a 17-cent a pound support price) would raise costs from $1 to $3 billion over the administration proposals. Mr. Bosworth set this figure at $1.2 billion.

In their latest pronouncements, Messrs. Hjort and Bosworth claim an incremental cost of $4 billion—an increase of from 33 to 300 percent over their previous estimates.

(Economist Eliot Janeway says the administration's policy of direct payments would "fuel inflation" while the House Agriculture Committee version is "anti-inflationary.").

On the effect of the support program Congress mandated last year:

Mr. Hjort repeatedly told the Ways and Means Committee that the administration was effectively using the present "de la Garza" amendment which contains a price objective for 1978 of 14.65 cents a pound.

The September USDA "Sugar and Sweetener Report" notes that—

> During the first 21 days of August, a derived New York raw sugar price . . . has averaged about $13.02 per hundredweight.

The "national average market price" for domestic sugar (a price compiled by USDA on which they base sugar processor payments) stood at 11.69 cents a pound in July.

On the effect of various proposals on U.S. sugar imports:

Mr. Hjort told the Ways and Means Committee that the administration favored a program which would provide "55 percent of our domestic requirement" from U.S. sugar producers.

In answer to questions from the same committee, USDA said that under administration proposals "Import requirements would rise, perhaps to around 6 million tons." This would represent a decrease in the U.S. portion of our sugar supply to only 45 percent.

Mr. Chairman, I have no further request for time and I reserve the balance of my time.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I rise in very strong support of H.R. 13750, the Sugar Stabilization Act of 1978, as reported by the Committee on Agriculture, and in very strong opposition to the substitute for title II that will be offered by the Ways and Means Committee.

A review of the history of sugar legislation, Mr. Chairman, indicates that traditionally the Agriculture Committee has possessed exclusive jurisdiction over sugar legislation. As a matter of fact, according to the research I have been able to find, it has retained this position at least as far back as 1934. During that 44-year time period, the Agriculture Committee has considered and passed some 11 major pieces of sugar legislation, including the Sugar Stabilization Act before us today.

On this particular bill, the full committee had 5 complete days of public hearings as compared to 1 day before the Ways and Means Subcommittee on Trade. We also spent 5 days in markup, compared to 2 days of Ways and Means subcommittee markup and only 1 day of full committee action. I believe the version reported by the Agriculture Committee having a history of sugar program consideration and having had more time to develop an approach to solving sugar industry problems is a far more workable bill.

I would like to briefly state additional reasons why you should vote to defeat the Ways and Means Committee substitute to title II of H.R. 13750. One major difference between the two versions is that the Ways and Means substitute will provide for continued Government intervention in domestic sugar policy, whereas the Agriculture Committee language will allow a market-oriented program to stabilize sugar prices. Instead of using tariffs, quotas, and fees as the Agriculture version does, it relies on essentially a target price concept backed up by direct payments to sugar processors. Payments are inflationary, not wanted by farmers, and immensely unfair to the corn sweetener industry. The Agriculture Committee's approach, on the other hand, will bring revenues into the Treasury, and will allow sugar prices to be determined in the marketplace, to the benefit of the U.S. taxpayer.

It also makes a difference at what level we support sugar prices. At 15 cents, as mandated by the Ways and Means Committee, or something less than 15 cents we will only be fooling ourselves. We are not going to keep anybody in the sugar business at that level. According to USDA estimates, very, very

few sugar farmers have costs of production anywhere near 15 cents per pound. Probably what is going to happen is that we will activate a payment program, further draining the Treasury, that will make up the difference between the 15-cent level and whatever it takes to keep domestic sugar production viable, probably 17 or 18 cents per pound price support.

At least in the Agriculture Committee bill we come up with a more realistic 16-cent per pound figure and then allow for some escalation of the price to keep up with inflation and nothing more. The Ways and Means Committee bill does not have even that.

Providing a 16-cent figure with an escalation provision is also important to keeping the very extensive minimum wage provision in this bill. It will guarantee sugar workers more in minimum wage than other agricultural workers in America can receive under the law. Because the farmer is paying more for his labor each year, the amount he receives for his sugar cannot remain stagnant, and have him still stay in business.

It may seem to some people that the 16-cent figure is too high in relation to Government support levels for other commodities. The answer is "No." Several major commodities, except for rice, are all supported at a higher level than sugar. Sugar at 16 cents would be supported at 57 percent of parity, but peanuts are at 67 percent, wheat at 57 percent and milk is supported at 80 percent of parity.

Do not let me mislead you by using the word "support," however. What we are really doing is seeing that the consumer only pays a fair price in the marketplace, and by that I mean not only the home consumer but also the commercial and industrial users. Commercial users are the ones who use most of the sugar bought in the market—about 80 percent of it—and they ought to pay for it. The American consumer who is also a taxpayer, is smart enough to know that we are not fooling anybody by having a lower price for sugar and then having the difference made up by the Treasury. I think American consumers and taxpayers realize that it costs more in the long run to have the Government borrow more in order to finance this program, than by doing it through the marketplace where the price is right. It ought to be done that way in the first place anyway, and will ultimately prove more successful.

We ought to consider doing for all commodities what we are doing for sugar, and get away from price support programs. Consumers paying in the marketplace are paying what the commodities are really worth, and are not having their taxes used by Uncle Sam to pay for it.

So, Mr. Chairman, I urge my colleagues to adopt the Agriculture Committee's version of title II of the Sugar Stabilization Act, and defeat the substitute offered by the Committee on Ways and Means.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Chairman, this Nation needs the Sugar Stabilization Act of 1978 as reported by the House Committee on Agriculture. It needs this legislation to insure a viable domestic sugar industry and to bring price stability into the market. Producers and consumers will benefit equally from its passage. The Agriculture Committee has constructed the operations of tariffs and quotas to the benefit of the consumer, the taxpayer, and the country. The Congressional Budget Office has estimated that the U.S. Treasury will, over a 5-year period, receive funds of over $2.2 billion dollars under the version reported by the Agriculture Committee. In contrast, the version passed by the Ways and Means Committee would result in only $415 million for the same 5-year period. However, this $415 million figure does not take into account the payments to processors which the Ways and Means version entails.

The sugar producers of this Nation are facing production costs at levels above the 14.5-cent-per-pound level proffered by the administration and the 15-cent price contained in the Ways and Means Committee bill. Secretary Bob Bergland has recently commented that the cost of producing sugar in the United States is at least 16 cents per pound. Even at this 16-cent level, the return to the producer is so low that this will not cover the cost of production for over 30 percent of all sugarbeet growers. This cost figure is not founded, as some have charged, upon any inefficiency on the producers part. In fact, the U.S. International Trade Commission stated "the U.S. industry is probably the most physically efficient sugar industry in the world."

If the sugar producer is forced to switch to other crops, most likely wheat, corn, or soybeans, the switch will add to the already large supplies of these agricultural products. Not only will this action further depress the already low grain prices, but will add to the amount of deficiency payments and set-aside under present USDA programs.

The importance of the domestic sugar industry is further highlighted by the fact that failure of this industry would result in the loss of approximately 127,000 jobs. These jobs are not only on the farm, but in the processing, milling, and refining plants as well. Once gone, these jobs cannot be reestablished. There has never been a reopening of a processing plant once it has been closed.

The workers in the sugar industry earned an estimated payroll of $410 million in 1976. Every lost job will cost the Government a minimum of $13,000 in lost taxes, unemployment compensation, and other allowances.

The administration's policy of direct payments to processors would have to be financed by more Government borrowing, thus increasing inflationary pressures. H.R. 13750 as passed by the Committee on Agriculture finances the relief of sugar producers through taxation of foreign producers by means of a tariff. This method removes financial burdens from the Treasury and will not fuel inflation.

Sugar producers do not want handouts from the Government. Yet handouts are exactly what the administration has proposed. I say there should be no handout at taxpayer expense, but a sensible approach by tariff and quota which will allow the producer to recover his costs of production. A strong domestic industry is essential to the consumers of this Nation as well as for a healthy rural economy. I urge my colleagues to reject any weakening amendments to this legislation and approve the version reported by the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. JOHNSON of Colorado. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

The CHAIRMAN. The Chair will state that the gentleman from Texas (Mr. DE LA GARZA) has consumed 17 minutes and the gentleman from Colorado (Mr. JOHNSON) has consumed 8 minutes.

Under the rule, the gentleman from Ohio (Mr. VANIK) will be recognized for 30 minutes and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 30 minutes.

Mr. VANIK. Mr. Chairman, the Ways and Means Committee appreciates this opportunity to explain its amendments to the jointly referred bill H.R. 13750, the International Sugar Stabilization Act of 1978.

First, in title I the bill provides for the implementation of the International Sugar Agreement, or ISA, negotiated in 1977 among the world's major sugar exporting and importing nations.

This agreement is designed to stabilize the price of sugar in the range of 11 to 21 cents over the next 5 years, thus saving consumers from the type of high world sugar prices we had in 1974, and saving producers from today's disastrously low prices of around 7 cents a pound.

The United States led in negotiating the ISA, and it is an important diplomatic achievement, providing assistance to many less developed countries who are totally or primarily dependent on sugar for their national economies. The ISA places little or no burden on the United States, but does require we limit imports from non-ISA members and prohibit imports of sugar on which a small fee has not been paid for the financing of buffer stockpiles. The United States is the world's largest importer of sugar, and our participation in the agreement is essential for its success.

On the ISA issue, the House Agriculture Committee and the subcommittee are agreed and the substance of the language of the two committees in implementing the ISA is, for all intents and purposes, identical.

We think the Ways and Means language has fine-tuned some points, and we hope our changes are substituted.

Next is title II, where our differences occur—and where the costs and benefits occur. Title II basically provides a domestic support program by increasing the price of imported sugars through the use of trade devices such as tariffs or quotas. A program to complement the ISA is needed. Even with the implementation of the ISA, world sugar prices are presently and may continue to be far below U.S.

costs of production. U.S. producers should be consistently protected against those low prices.

In addition, unfair sugar trade practices are pervasive. Legislated trade controls are necessary in lieu of a massive application of our Nation's antidumping and countervailing duty laws.

The Ways and Means substitute seeks to insure the continued survival of the domestic sugar industry during the current period of distressed world prices by establishing a price objective of 15 cents per pound raw value for sugar beginning sugar supply year 1978—which starts October 1, 1978—through sugar supply year 1982. The requirement that imported sugar, which constitutes roughly half of U.S. supplies, be entered at least at this price will enable domestic producers to obtain roughly the same 15 cents for U.S.-grown sugars.

Our substitute obtains the 15-cent price objective through the imposition of special import duties to insure that over the sugar supply year, on the average, the price of imported sugar achieves the price objective. If the special import duties and adjustments to them fail to result in imported sugar entering at the price objective, the President may proclaim quotas on sugar designed to achieve the price objective and may allocate quota import rights by auction, the proceeds of such auctions to go to the Treasury.

Under the Ways and Means amendment, the price objective remains stable at 15 cents. Unlike the Agriculture Committee bill, the price objective does not escalate. To assist producers in meeting increasing costs—such as the mandated changes in labor rates—our proposal relies on existing authority in the 1949 Agricultural Act for the USDA to make direct payments to processors/producers. The Ways and Means Committee language very clearly does not legislate any new direct payments authority. Rather, it relies on existing law and commitment from the USDA to make direct payments to processors/producers to reflect any changes in the cost of production of sugar above the 15-cent price objective level. Changes in the cost of production shall be calculated by the USDA in the same manner as for other crops under the 1977 Food and Agriculture Act, and costs to be considered shall include (a) variable cost (b) machinery ownership costs, and (c) general farm overhead costs for the sugar crop. Direct payments will not be used to achieve the 15-cent price objective, but will only be used when the costs of production, as calculated on the same basis as for other crops, rises above 15 cents.

Title III is the farm labor title developed by the Agriculture Committee. We made only technical and conforming recommendations to this title. The Ways and Means Committee, in essence passed over this title without prejudice. In not making any changes in the farm labor title, the Ways and Means Committee does not indicate any preference for or against the Agriculture Committee provisions. Rather, we have been careful not to enter the jurisdiction of the Agriculture Committee.

The increased labor costs mandated by title III are not inconsistent with the lower price objective set by the Ways and Means Committee in title II. Increasing labor costs will be included in the calculation of the cost of production which will determine the size of the direct payments the administration will make.

Title IV is basically technical, procedural and conforming provisions and there are really no substantive differences between the two committees.

The Ways and Means Committee substitute has the full support of the administration.

The differences between the two committees involve the increased cost to the consumer versus the amount of increased protection to producers. I would like to insert in the RECORD at this point two tables which highlight the differences between the two Committees.

The first table is a computer run by the Department of Agriculture. Our proposal over 5 years will provide producers a return on land and management above costs of $955 million compared to the $2.9 billion in increased profits provided by the Agriculture Committee bill. The increased cost to consumers and users over the 5 years under the Ways and Means Committee substitute will be almost half a billion compared to nearly $4 billion under the agriculture bill. Of course, a lot of this will be recovered to the Treasury through increased tariffs on sugar. Thus, the net cost to users and taxpayers is only $200 million under our substitute and nearly $2 billion under the agriculture bill.

The next table contains Congressional Budget Office estimates of the inflationary impact of the Ways and Means Committee proposal versus agriculture's. According to CBO, our proposal would have a yearly impact on consumers of $80 million while the Agriculture Committee bill would rise from $240 million the first year to nearly $1.2 billion by 1983.

In a year in which inflation is the number one concern of the American public, I do not believe that we can in good conscience enact a costly and ever more inflationary sugar bill.

The other issue is whether 15 or 16 cents is enough to maintain a domestic sugar industry. We believe that 16 cents is excessive. The GAO has provided us with a report that shows many costs of production are way below the 16-cent level and that in this cyclical industry, enormous profits have been periodically made which should tide the industry through the periodic lean years.

Fifteen cents is roughly the current average cost of production and our substitute will provide some quick relief to the industry by moving prices to this level. Then, by relying on the USDA's commitment to treat sugar exactly as other commodities which receive direct payments—no better and no worse—the industry will receive direct payments to cover increases in the cost of production above the 15-cent level.

While our 15 cents does not cover the cost of production of every producer, we must remember, as the chief economist of the USDA testified,

Seldom do we guarantee the return to the producer. Rather we place a floor or a safety net on producers' price or returns under farm programs and expect that market prices at times will be down close to the floor and other times above. So far in the main we have not treated agriculture as a regulated industry.

One last point: We recognize that direct payments are difficult and unpopular—but they are a much more efficient way of providing aid to producers than is the Agriculture Committee's method of driving up the price of both imported and domestic sugar.

As the administration has noted,

A 1-cent increase in the cost of producing sugar in the United States can be offset by about $125 million in payments from taxpayers to sugar producers and processors. To increase producer and processor returns by $125 million through an increase of 1-cent-a-pound in the market price for sweeteners cost users and consumers $315 to $325 million, because the market price rises for all sweeteners consumed in the United States, including imported sugar.

Providing income support to some 13,000 sugar growers can be done much more efficiently than by increasing the price of sugar and sweeteners to 216 million consumers—a more efficient means is direct compensation.

During this time of inflation and in light of the need not to single out individual agricultural crops for special treatment, we believe the Ways and Means compromise is the best proposal.

PROJECTED IMPACTS OF ALTERNATIVE SUGAR BILLS
(5-YEAR TOTALS)

[In millions o dollars]

Item	Sugar bills		
	Administration	Ways and Means	H.R. 13750
Duty and fee receipts	1, 344	1, 490	2, 854
Producer payments	495	349	
Net to taxpayer	+849	+1, 141	+2, 854
User/consumer costs	23, 313	23, 798	27, 275
Change from administration		+485	+3, 962
Net to user/taxpayer	22, 464	22, 656	24, 421
Change from administration		+192	+1, 957
Return to land/management	915	955	2, 906
Change from administration		+40	+1, 991
	Annual average 1978/79–1982/83		
	Administration	Trade subcommittee	H.R. 13750
Duty and fee receipts	+269	+298	+571
Producer payments	99	70	
Net to taxpayer	+170	+228	+571
User/consumer costs	4, 6o3	4, 760	5, 455
Change from administration		+97	+792
Net to user/taxpayer	4, 493	4, 531	4, 884
Change from administration		+38	+391
Return to land/management	183	191	581
Change from administration		+8	+398

Excerpt from letter from Congressional Budget Office on September 11 on Ways and Means Committee bill:

CONSUMER PRICE INDEX AND CONSUMER EXPENDITURES

The following table shows estimates of the percent impact of H.R. 13750 on the Consumer Price Indices for food and for all commodities, the increase in consumer expenditures for sugar, and the increase in the annual food budget for a typical urban family of four, with the food budget impact expressed in March 1978 dollars. The estimates are based on a direct pass-through—to consumers—of price increases and do not include effects on substitute products such as corn sweeteners.

[By fiscal years]

	Projected impact on consumers				
	1979	1980	1981	1982	1983
CPI, food (percent)	0.04	0.04	0.04	0.04	0.04
CPI, total (percent)	0.01	0.01	0.01	0.01	0.01
Food budget (dollars)	1.59	1.59	1.59	1.59	1.59
Consumer expenditures for sugar (million dollars)	80	80	80	80	80

Excerpt from letter from Congressional Budget Office to Subcommittee on Trade on August 28 on Agriculture bill:

AGRICULTURE COMMITTEE BILL

Projected impact on consumers

[By fiscal years]

	1979	1980	1981	1982	1983
CPI, food (percent)	0.14	0.33	0.46	0.58	0.71
CPI, total (percent)	0.03	0.06	0.08	0.11	0.13
Food budget (dollars)	6.12	14.43	19.92	25.22	30.80
Consumer expenditures for sugar (million dollars)	240	570	780	960	1,180

I urge the House to support the Ways and Means Committee version of title II.

In noting the differences between the Agriculutre Committee bill and the Ways and Means bill, I would like to quote from Esther Peterson, the President's special assistant for consumer affairs, who testified before our Subcommittee on Trade that:

The bill reported by the Agriculture Committee would, we believe, only aggravate food price inflation. The initial price is inflationary and the escalator is nothing more than an indexation scheme which bears little if any resemblance to increases in production costs.

Support of the Ways and Means bill is a clear opportunity for the House to take a stand against building further inflation into our econmy.

At the same time, our bill provides nearly $1 billion more to producers/processors over the next 5 years than they would be receiving under present law. Our 15 cent price objective is more than adequate. As the chief economist of the USDA testified:

(15 to 15.2 cents per pound) implicity assumes that everybody just recently bought their land and paid a high interest on it, or alternatively stated, it is valuing land at its current price times the interest rate that the Federal Land Bank charged in the year of concern.

The Department estimates that a 15 cent level will provide a rate of return on land of 7 or 8 percent in addition to a return on management costs. This is pure profit to those many producers who have owned their land for generations.

Fifteen cents is roughly the average cost of production, which means that more than half the producers will be guaranteed a profit under our bill; we do not see the need or justification for providing profits to those who are the less efficient, high cost producers.

I would note that the sugar industry is a cyclical one. There are fat years and lean years. Three and 4 years ago, when sugar prices were around 60 cents, the consumer received no protection from high prices, and the industry made some $2.5 billion in profits in 2 years. The Hawaiian growers alone made $430 million in 1 year. In a single year, many producers recovered their entire equity commitment. Now the industry is on hard times and profits are low or there are even losses. They want the taxpayer to guarantee them a return. But prices will go up again—perhaps as soon as 3 years from now. Who will guarantee the consumer protection then? Why should we be guaranteeing this industry profits above the average cost of production and above changes in the cost of production when the consumer is never protected against high prices.

The sugar producers who are supporting the 16 cents figure plus escalation to 21.8 cents over 5 years are working against their own long range best interests. By driving up the price of sugar, they are simply providing windfall profits to high fructose corn sirup producers whose costs of production are already, several pennies below cane and beet sugar production costs. These windfall profits will encourage increased production of HFCS and the substitution of HFCS in products which previously used cane and beet sugar. It is likely that research will be spurred on how to crystalize HFCS economically. The result will be an early death to the traditional sugar industries.

The mandated labor rate changes of H.R. 13750 as reported by the Agriculture Committee are consistent with the lower price objective without an escalator recommended by the Ways and Means Committee.

The labor rates mandated by the Secretary of Agriculture under the loan program for crop year 1978 are basically the same as the rates in H.R. 13750, section 301 for 1978. Yet using these similar labor rates, the administration had recommended a 14.5 cents per pound price objective and an additional 0.2 cent per pound direct payment to cover costs, including labor costs. In other words, prior to the action of the Agriculture Committee setting wage rates, the USDA had established similar wage rates and then calculated that the guarantee to the producer necessary to cover those wage rates would only need to be 14.7 cents—1.3 cents less than the Agriculture Committee proposal.

The Agriculture Committee labor provision also mandates yearly increases in wages. The Department of Agriculture has assured your committee that these mandated labor cost changes will be fully reflected in the administration's calculation of cost of production changes for purposes of administering the existing direct payments program. Once the cost of production, including increased labor costs, rise above the 15 cents level, the administration will make direct payments, unless, of course, an increase in the world price and thus domestic price makes payments unnecessary. Therefore, the labor provisions recommended by the Agriculture Committee do not conflict with the Ways and Means Committee's bill.

Finally, I just want to say that the food inflation that would be caused by the Agriculture Committee's version of title II would be so serious that the bill would have to be vetoed. If Members really want a sugar bill and protection against world sugar prices of 7.5 cents per pound, they will support the Ways and Means version as the only version which has a chance of being signed into law. I quote from a recent letter to Members from Esther Peterson—

Automatic escalation will hurt consumers more than it would help sugar producers. It would increase the prices consumers must pay for all sweeteners consumed in this country, including imported sugar. It would lead to a never-ending inflationary spiral of higher costs of land, production, and prices. Given the importance of this issue, I believe that many of the President's advisors would recommend that he veto any sugar bill which automatically escalates the market price of sugar.

Again, as Secretary Bergland wrote to all Members in the last several days:

Adoption of a higher or escalating market price objective (as is provided in the Agriculture Committee version of the bill) is virtually certain to mean that no sugar legislation will become law this session. I am convinced that the President's advisors would unanimously recommend that he veto a measure with pricing provisions higher than those reported by the Ways and Means Committee.

To insure the enactment of a noninflationary sugar bill, I urge the Members to support the 15 cents nonescalator version of this legislation.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I urge adoption of the Sugar Stabilization Act of 1978 as reported by the Committee on Agriculture. This important piece of legislation is needed to preserve and protect the domestic sugar industry.

In large measure the problems faced by our sugar industry stem from foreign imports. Heavily subsidized foreign sugar is flooding into our Nation. Following a series of record crops worldwide, other countries are taking their excess stocks and exporting them to the United States.

Serving as a dumping ground for foreign sugar is injuring our own domestic producers. Prices are being depressed to the point where producers are losing money on their crops. Unless we act now, the domestic sugar industry could be irreparably shattered.

To help reverse this trend the bill establishes a price objective of 16 cents per pound. That figure would be adjusted semiannually based on the parity index and the wholesale price index. A system of mandatory import fees and quotas would be utilized to achieve the price objective.

I think it is also important to note what the bill does not do. Most significantly, the legislation is not an income support program with taxpayer-financed payments to producers. There are no Government payments to producers.

In addition, I would point out that this is not just a bill for producers. Consumers also benefit from having a strong domestic sugar industry. Dependence on foreign sugar would leave us at the mercy of other countries when it comes to price. You can be sure that if our sugar industry collapses the price will skyrocket.

The bill approved by the Committee on

Agriculture is a major step toward assuring a strong domestic sugar industry. It will aid producer and consumer alike by promoting price stability and assuring that we do not become increasingly dependent on foreign supplies. I urge its adoption.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I was particularly interested in the comments of the gentleman from Ohio (Mr. VANIK).

I do not think that I referred to an OPEC type of cartel. I was just trying to express concern about the fact that we are dependent on a number of sources which are relatively unstable with respect to supplies.

I agree with the gentleman's statement that the price of sugar rose to 60 cents a pound in a very high market and that a great number of fortunes were being made. I would even go so far as to say the public is being ripped off. I do not think it is being ripped off by the sugar producers. I wish someone could explain to me—and perhaps there are some answers available—why, when the sugar price went so high, all the soft drink manufacturers and all the big candy companies doubled the price of their product and cut in half the size of their product, and why today, when the price of sugar has gone down to about 10 cents a pound, the size of the soft drink and the price of the soft drink is still out of sight and the size of the candy bar is still just half of what it used to be.

If there is a ripoff going on, I think perhaps we ought to consider looking at some of these industries when there is talk about fortunes being made.

Did anyone ever look into the fact that when the price of sugar goes down, none of the prices of any of these corresponding products also go down? That is where we use sugar. We do not use it in raw form. We use it in consumer soft drinks and candy bars, et cetera. That is where the real ripoff is taking place.

Mr. VANIK. Mr. Chairman, I think the comment of the gentleman from Louisiana (Mr. BREAUX) about investigating the cost of the price escalation is very appropriate, but it applies to many things. There has been a spurt in the cost of candy and other things. It is almost impossible, in all fields, to bring those costs down.

That statement also applies to other products which we use, such as wheat, corn, and steel, as the gentleman says. It applies to almost anything. Moreover, once a new plateau is established, a new price plateau, it is very difficult to bring it down.

Mr. BREAUX. Mr. Chairman, if the gentleman will yield further, while we recognize that other industries are facing the problems which apply to sugar, we are only pointing to the sugar market, for the most part, today. We can say that there are reasons for all of these high prices, but that really should not be the case if the producer is only getting 10 cents a pound for his sugar.

Mr. VANIK. We cannot do anything about the money which the entrepreneur already made, the profits which occurred during 1974 when the Hawaiian cane growers, according to the GAO report, picked up $430 million in extra profits.

But the fact of the matter is that the approach of the Committee on Ways and Means, we think, addresses itself to the problem of the sugarcane grower. We think it addresses itself to the producer problem throughout America in a fair way which can provide an adequate base for prices.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

On the subject that the gentleman from Louisiana just raised about prices going up and staying up, raw sugar in 1973 was 10.29 cents per pound; in 1977 it was 10.99 cents. It had been as high as 29.5. But the cola drinks, 72 ounces, went from 86.1 to 107.4. Chocolate went from 7 to 14 cents. Cookies went from 57 to 104, so everything else doubled.

The gentleman from Louisiana is right. The price of raw sugar went up and came back down, and it is now at the price it was in 1973. So the gentleman from Ohio is not correct in his statement that commodity prices went up and stayed up. The other prices went up and stayed up, but the commodity itself went up and then came back down to its 1973 price.

Mr. VANIK. Yes, but the reason the price stayed up is that they were escalated through the commodity rise, and that is the great danger of inordinate rises in basic commodities. It sets the stage for a whole new plateau on which our price structure is based. Sugar is very important to the cost-of-living index. It is reflected throughout the whole spectrum of food. Sugar and the corn sweeteners are reflected throughout the whole spectrum of food. If the escalator provisions become law which are proposed in the Agriculture bill, we see a constant pressure for propellant. The propellant will be established in law to escalate price and continue that escalator on into the future. I do not think it is sound government policy.

Mr. JOHNSON of Colorado. If the gentleman will yield further, does the gentleman feel it is fair to increase the costs of labor for the sugar producers, as we have done under title III of the bill, without also increasing the price that the producers receive, the income that they receive? Under the Ways and Means Committee bill we have a mandated increase for labor costs that goes up from $3 to $3.80.

Mr. VANIK. It is in both bills?

Mr. JOHNSON of Colorado. Yes, but we put it in the Agriculture bill because we were providing an escalator for the cost of sugar production, and the sugar producer was going to receive more money. Under the gentleman's program he has to pay out more money but cannot receive more to compensate.

Mr. VANIK. Yes, but, as the gentleman knows, the direct payments provision will take care of the increasing costs.

Mr. JOHNSON of Colorado. If the gentleman will yield, that is only if the administration chooses to. It is not mandated.

Mr. VANIK. I think the administration has indicated its intention to do that. It has in the past. It has recognized its obligations on direct payments, and I do not believe there would be any reason to suppose they would ignore their commitments on this matter.

Mr. JOHNSON of Colorado. I appreciate the gentleman's taking this time to engage in this dialog. It has been my understanding the administration would not do that, and if the administration does, it is a payment out of the Treasury and amounts to a subsidy rather than coming from the actual consumer.

Mr. VANIK. Yes, but the net cost to the consumer, the taxpayers, is infinitely less under our proposal.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Louisiana.

Mr. MOORE. I appreciate the gentleman's yielding. On the point he just made, we can be assured that with the discretionary payments of the administration and direct payments to take care of the increasing cost of labor, I simply want to point out that under the existing de la Garza amendment passed in 1977 the sugar farmers did not get an increase and were paying a minimum wage increase, so they hit them with a minimum wage and did not give an increased price support. So I do not share the gentleman's feeling that the administration will be generous in the future.

Mr. VANIK. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. STEIGER. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, the subject before us today is one that has aroused a substantial amount of interest, notwithstanding the number of people on the House floor. There are, I am sure, many Members anxiously following this extraordinarily good debate in their offices. The reason I am taking any time at all, rather than to revise and extend, is that I do not have any remarks prepared, so I cannot do that; but my hope is that there will be Members who upon their return tomorrow and Wednesday morning will take the time to read the RECORD.

Few things I have ever dealt with have been as confusing, complicated, and difficult, as has sugar. I thought dairy was difficult, but dairy products and all the machinations of the price support system for dairy products, grade A and grade B, class 1 and class 2, Minnesota and Wisconsin average, pale by comparison with the sugar pricing problem that is dealt with between the Committee on Agriculture and the Committee on Ways and Means.

Thus, if I can in my brief time before yielding to the articulate and knowledgeable gentleman from Illinois (Mr. FINDLEY), let me see if I can draw for us what the issues are when we face them on Wednesday. There are four essentially with which we will have to deal. The first is what a price ought to be and how to achieve that price. The Committee on Agriculture has recommended a price level of 16 cents; the Committee on Ways and Means, 15 cents. The administration supports 15 cents. As I listen and talk

with colleagues on both sides of the aisle, I am somewhat confused, I must admit, because there are those from Colorado and Louisiana who say even 16 cents is not enough to sustain sugar production in those areas. If, in fact, that is the case, I am not sure why we have decided, may I say to my friend, the gentleman from Texas, to pick that level.

There is a second issue as to whether or not there ought to be an escalator above whatever price is established. My judgment is that the Committee on Agriculture escalator, which is not directly involved with cost of production, but rather goes beyond the cost of production, is a serious mistake. It will create a situation which down the road will lead to ever-increasing utilization of corn sweeteners, as compared to cane and beet sweeteners. It will escalate the price of sugar which is used in commodities across this country to a level beyond that in the International Sugar Agreement and is, therefore, a bad public policy, bad for sugar producers and bad for consumers alike.

I do believe an escalator is appropriate. I believe the Committee on Ways and Means version is not good because it rejected the decision of the Subcommittee on Trade to set the price level at 15 cents and then to provide a modest escalator, based on the cost of production, which would have taken that price to a level approaching 18 cents in about 4 or 5 years.

The escalator, in my judgment, is required because it does reflect title III of the Committee on Agriculture's version, which will escalate the cost of production to sugar producers in the United States of whatever kind because of the increased level of labor costs.

Third, there is the issue involved of whether or not we use the market to determine how the price is established, or do we use a subsidy. The Committee on Agriculture version sets a price, then uses the market essentially, though through a different way than I would do it, to set the price.

The Committee on Ways and Means version, supported by the administration, simply sets that price at 15 cents, leaves it there and then uses a subsidy.

It is not good. It is the wrong approach to use. I do not want to get back to the direct payment business for sugar producers.

And fourth, the question is whether or not we use tariffs or quotas as the basis on which we adjust how much comes in and from whence it comes. I believe the Committee on Ways and Means is correct in its decision to use tariffs instead of the approach used by the Committee on Agriculture which involves quotas. The quota did not work, it does not work, and it is bad policy, in my judgment.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I will yield in just a few moments.

Mr. Chairman, I have a problem in all of this, because I end up, as the Members will see from what I have said, rejecting the version of the Committee on Agriculture and also rejecting the version of the Committee on Ways and Means. Neither of them does what I think we ought to be doing, and I will attempt to offer something which I recognize will not succeed, because it will be rejected by the hard noses on both sides of this issue, and that is the 15-cent approach, using the tariff system, with an escalator, which is rationally based on cost of production.

I know I will lose on that, but I can at least live with myself, and I think I can live with my constituency, if I make that good faith effort. I am well aware and mindful of the fact that it makes no one happy. It makes all the sugar producers unhappy because it does not go as far as they think it should go, and it also makes the administration and the consumers unhappy because it does not give them what they want. But I say, "Fie on both your houses," because I think they are wrong and I think there is a better way to do it.

Mr. Chairman, I want to include at this point the following views:

DISSENTING VIEWS OF MESSRS. BARBER B. CONABLE, JR. AND WILLIAM A. STEIGER

Our vote in support of reporting the committee's amendments to H.R. 13750 should not be taken as an endorsement of the amendments or of the Bill. The importance of the sugar matter to the national interest and the fact that this Congress is rapidly approaching adjournment, requires that consideration by the Congress of the circumstances in which the sugar industry finds itself should be undertaken without unnecessary delay. It is in this spirit that we supported referring the committee's amendment to the floor.

On the merits, however, the committee's action on this measure gives us cause for concern. In general, we are fearful that the committee's amendments, together with other provisions in the bill which properly were not before us (e.g. the provisions on labor), significantly advance sugar into the growing ranks of agricultural commodities subject to heavy government involvement. As we are all aware, the record of the federal government in such matters has not been a very good one. Recent agricultural policy in this country has consistently addressed the symptoms and not the causes of the problems our agriculture community face. It has generated complex and expensive programs, including price support through direct government payments, without adequately addressing the underlying causes for the difficulties. Unfortunately, the committee's action today extends this tradition.

In particular, we are concerned about the committee's scheme for imposing a domestic sugar price objective which is to be achieved in the first instance by the imposition of additional tariffs and ultimately by the granting of direct payments to processors. In this connection, our principal concern is that the committee's approach for supporting the domestic industry is without regard to market forces which can moderate price increases while affording the required assistance to those in the industry who are most deserving.

Under the committee's approach, tariffs on the import of sugar would be imposed to achieve a predetermined domestic price objective which will be subject to periodic upward adjustments. This increase in sugar tariffs would be administered without the slightest regard to greater, legitimate production efficiencies abroad and to some serious production inefficiencies here.

Furthermore, should the tariff mechanism fail to protect the domestic industry by not raising the domestic price to the price objective, this measure allows for USDA to use pre-existing authority to make direct payments to processors (not producers) in the amount of the difference between market price and the price objective. The administrative and political problems, not to mention the outright waste, caused by direct grant price supports should be well known to all of us.

But one of the worst features of the committee's scheme is that whatever mechanism is employed for assisting the domestic industry, tariffs or direct payments, the price of sugar to the consumer advances without sufficient impact from the moderating influence of market forces. Moreover, assistance is given to the domestic industry without sufficient differentiation on a basis of relative production efficiency. Building such a program for such an important industry and basing it on such insensitivity to market forces, over the long run, benefits no one and costs the taxpayer dearly.

In subcommittee, Congressman Steiger won approval of a measure that, first, would have provided for increases in the price objective through tariffs only. Direct grants would not have been employed. Thus, at the least, whatever rise there might have been in sugar prices to the consumer, much of it would have been recouped as payments into the treasury.

Second, the Steiger plan also provided a mechanism through which increases in tariffs, and consequently the price of sugar, would have been tied to a rough average rise in the domestic costs of production. Such a basis for price increases would have reduced the subjectivity that will prevail under the committee's plan. But, what is more important, by linking increases in price to demonstrable increases in production costs, the Steiger plan would provide a clear incentive for the individual producer to insure that any increase in his production costs is less than the industry average. It would reward the efficient producers and require the marginal producers to face the choice of improving their efficiency or converting to alternative production. The result would have been a moderation in the rise in overall production costs and a similar moderation in the rise of sugar prices. Such a mechanism would have been in the best tradition of sound public policy.

In short, then, the committee passed amendments fail to allow market forces to influence price. They provide for direct government payments to industry and advance, too far, government involvement in the business of sugar production. For these reasons we must conclude that the Committee passed measures, alone, raise more problems than they resolve and, consequently, cause the bill to fall short of an adequate resolution of the problem facing the domestic sugar industry.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for yielding.

I did not want to rebut the gentleman's argument or get involved in an argument with the gentleman. I guess we could argue about these points all day long as between the version of the Committee on Agriculture and the version of the Committee on Ways and Means. But the game does not start for another 35 minutes, so I guess we have another minute or two here.

I thought the gentleman's argument was interesting when he said the quota system had not worked and he did not think it will work in the future. I was a little bit surprised at that.

When the gentleman says the quota system has not worked, was he referring to the old Sugar Act? And if so, I would like to have the gentleman detail in what way he thinks the old quota system did

not work, because most of us regard it as an eminently workable system.

Mr. STEIGER. I think the gentleman does, and I understand that because I know where the gentleman comes from, I will say to my friend, the gentleman from Colorado.

Of course, the gentleman would like to go to the old system because it worked well within the framework of the Committee on Agriculture, because that was part of the fiefdom worked out in which everybody sat down and divvied up that quota among various and sundry countries to try to achieve what the goal was. But it is wrong in terms of trade policy, it is wrong in terms of public policy, and I do not believe the quota system is the way to handle the problem.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. STEIGER) has expired.

Mr. STEIGER. Mr. Chairman, I yield myself 3 additional minutes.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I think the gentleman is using some code words.

Mr. STEIGER. I am sure I am.

Mr. JOHNSON of Colorado. The gentleman is using some code words in that specific analysis that I think are not particularly appropriate.

We have a quota system for dairy products by which we limit the importation of dairy products in this country to just 2 percent. We are talking about the old sugar quota system—and I never had a hand in voting on that—where we were trying to allocate among the various sugar-producing countries. We import sugar now from 36 different countries, and those countries themselves agree that the system worked.

We have quotas that work in other areas. Why does the gentleman say they do not work with sugar and they do work with dairy products, with peanuts, with cotton, with steel, with footwear, and with textiles? We have import quotas on all those materials and commodities.

Mr. STEIGER. My preference, I will have to admit, is to attempt not to correlate between particular products, as the gentleman from Colorado is attempting to do. There is a very big difference in the kind of quota system that one might have for dairy products and even for textiles, as compared to that which is available for sugar.

But I believe essentially in attempting to use the market as the mechanism to determine from where we get the product, that the market is better utilized through a tariff system than it is through a quota system. That is my bottom line, and that is why I do not accept the quota system as a basis on which to make those decisions.

I will admit the Committee on Agriculture is always involved in the quota system because it is so much easier, and besides that it is more in line with its jurisdiction, as compared with the tariff system, which is more in line with that of the Committee on Ways and Means.

I also must tell tne gentleman that because sugar is a unique commodity—and I do happen to agree with this one argument that is made and disagree with my chairman of the Subcommittee on Trade—this argument on what the landed price of sugar should be, that is, 9 cents versus 7 cents versus 12 cents, is absurd. There is not a world market price for sugar, and it is not fair in the administration of the sugar problem. We have taken some mechanical price as though it were established free and clear, and it does not happen.

The United States happens to suffer under this because we have a very large market. We depend for 40 to 50 percent of our sugar supplies on imported sugar, and most of the sugar I must say, is unfairly dumped. The prices are not fair prices, as compared to other kinds of commodities in which that is not the case.

Mr. Chairman, I will, when we get back into the House, ask unanimous consent to include in the RECORD a chart which involves a relatively extensive summary of prices paid for products containing sugar, along with the dates. I want to take just 1 more minute before yielding to others. Therefore, I will at this time yield myself one additional minute to deal with this problem that was raised by the colloquy among the gentleman from Colorado (Mr. JOHNSON), the gentleman from Louisiana (Mr. BREAUX), and the gentleman from Ohio (Mr. VANIK).

It is true that those commodities that use sugar at the commodity price, as sugar went up at a very rapid rate, about 4 or 5 months later saw the commodity price escalate tremendously, there is no question about that. It has not come down. There is no doubt about that. But I think it would not be fair to leave in the record the analysis as if you had it based solely on sugar, because it cannot be. You have to look at energy costs, labor costs. In terms of chocolate, for example, you have to look at what happened to the cocoa bean, and cocoa beans have gone up even more dramatically than sugar has. So I do not think it would be fair to criticize those in the consumer and sugar-producing products area as being overpaid, because you are looking at it only from the standpoint of sugar. That is simply not an accurate way of doing it. But I will have this chart go in the RECORD so that everyone can look at it and so that everyone will know exactly what has happened to commodities.

TABLE S-14.—SUGAR AND PRODUCTS CONTAINING CALORIC SWEETENERS: RETAIL PRICES, U.S. AVERAGE, 1967-77, AND BY MONTH 1977 TO DATE

[In cents]

Year and month	Sugar, granulated (5 lb)	Bread, white (1 lb)	Cookies, cream sandwich (1 lb)	Ice cream (½ gal)	Chocolate bar (1 oz)	Chocolate syrup (16 oz)	Cola drink (72 oz)	Carbonated fruit drink (72 oz)	Lemonade concentrate frozen (6 oz)	Fruit[1] drink, canned (46 oz)	Fruit cocktail, canned (303 can)	Pears, canned (2½ can)	Peaches, canned (2½ can)	Grape jelly (10 oz)	Relish sweet pickle (12 oz)
1967	60.5	22.2	51.8	80.9	5.0	22.7	60.8	57.0	1.23	32.0	26.1	45.3	32.1	26.2	33.1
1968	60.9	22.4	60.9	8.07	5.3	23.2	65.1	60.5	1.24	32.2	28.3	53.4	35.2	26.6	33.9
1969	62.0	23.0	49.9	81.3	5.9	24.1	68.9	63.1	12.7	33.8	27.8	50.3	34.4	27.9	35.0
1970	64.8	24.3	52.2	84.5	6.5	25.1	72.6	69.1	1.32	35.3	28.3	49.5	35.2	29.9	36.9
1971	68.1	25.0	54.5	85.4	6.7	25.5	75.8	72.6	13.9	36.2	30.7	52.9	36.7	31.4	39.1
1972	69.5	24.7	55.2	85.8	6.7	25.2	83.3	73.2	14.4	36.8	31.6	53.5	37.5	32.9	41.8
1973	75.5	27.6	57.8	91.0	7.0	26.6	86.1	75.5	14.7	38.0	33.8	56.6	41.0	35.3	44.0
1974	161.7	34.5	73.5	107.6	9.8	36.5	108.9	93.7	17.2	43.7	40.8	65.2	52.2	45.2	48.9
1975	186.2	36.0	94.0	122.3	12.5	48.0	132.8	115.2	23.0	54.3	46.2	74.9	59.2	61.2	57.7
1976	119.8	35.3	95.5	127.1	12.2	47.8	127.2	116.6	22.7	55.6	46.0	71.4	59.0	58.6	60.6
1977	108.1	35.5	104.1	135.2	14.5	52.8	107.4	113.8	23.1	.....	47.8	71.7	61.2	57.7	62.8
1977:															
January	105.7	35.8	95.5	131.7	12.3	48.8	105.5	111.7	22.9	56.1	47.0	71.1	60.3	57.6	63.3
February	107.1	35.3	96.7	130.7	13.0	51.3	105.4	111.5	23.0	55.4	47.2	70.7	60.2	57.2	63.4
March	109.3	35.2	101.2	131.2	13.4	51.9	105.7	112.3	23.2	56.9	47.3	70.9	60.7	57.5	63.7
April	109.8	35.7	99.2	130.2	13.9	52.4	107.6	113.6	23.4	57.7	47.3	70.8	60.7	57.5	63.6
May	111.8	35.5	100.5	134.7	14.3	53.2	107.9	114.2	22.7	58.3	47.8	71.2	61.6	57.7	62.1
June	111.8	35.3	98.7	137.0	1.47	53.5	107.7	114.0	22.6	58.9	47.9	72.0	62.3	58.0	61.0
July	108.5	35.6	101.7	137.6	14.9	53.2	106.5	114.8	23.2	58.5	48.0	72.0	61.7	57.9	60.7
August	106.6	35.6	99.2	135.5	15.1	53.5	108.3	116.4	23.0	58.6	48.1	71.8	61.5	57.8	61.3
September	106.7	35.7	109.5	137.5	15.2	53.9	109.1	114.2	23.1	59.4	48.1	72.2	61.7	57.6	62.0
October	106.1	35.5	111.6	138.6	15.5	54.0	108.2	114.4	23.2	59.2	48.5	72.0	60.4	57.8	63.2
November	105.7	35.4	117.6	137.9	15.8	53.9	108.0	114.4	23.2	59.5	48.4	72.2	61.6	8.1	64.3
December	107.8	35.9	117.8	139.6	16.2	54.4	108.4	114.1	23.3	61.0	48.7	72.9	62.1	58.2	65.4
1978:															
January	113.9	35.0	117.0	139.1	16.4	56.8	109.8	114.6	23.8	61.4	48.7	73.3	62.2	57.9	65.7
February	118.5	36.1	115.5	141.1	16.5	60.7	114.5	119.6	24.1	61.4	49.1	73.9	62.9	58.3	66.8
March	121.7	36.2	111.4	141.5	16.7	61.5	116.4	120.6	24.2	62.2	48.9	74.1	62.8	58.2	67.2
April	123.2	35.9	113.6	142.1	16.7	62.6	120.1	123.0	24.3	62.5	48.5	74.1	63.3	58.4	67.2
May	123.2	36.8	115.1	144.3	16.8	63.3	121.4	124.7	24.0	62.0	48.8	74.5	[2]	58.2	66.2

[1] Pineapple-grapefruit.
[2] Not available.

Source: Bureau of Labor Statistics.

Mr. Chairman. I yield 5 minutes to the gentleman from Ohio (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, this marks the 13th anniversary of my direct interest in sugar legislation which began in 1965. In that period of 13 years, I have come to respect the sugar industry, its lobbying expertise, its ability to reach almost every congressional district on very short notice with whatever communication it wants to get to each Member. And I have also been impressed with the unity of the sugar industry. Almost always it comes to the Hill united behind a particular approach. But I have also come to believe in miracles. Maybe this is a year of miracles. I hope it is. The miracle occurred several years ago when Congress adjourned without extending the Sugar Act, and we had a chance to let the market system function. And in its wake there was a period of continued rise in market price, the price having already gone through the ceiling, but it came back down.

I was impressed with the statement made by the gentleman from Wisconsin. I think he made some very sound observations. I think that the Committee on Ways and Means recommendation is superior to that of the Committee on Agriculure. I am intrigued by the proposal of the gentleman from Wisconsin—if that is offered as an amendment I will certainly support it—but I think there is still another option open to Members of this Committee as they consider the question of sugar, and that is to do nothing, simply let the existing law expire.

We seem to inflict upon ourselves, even on election eve, some unnecessary pain. Here we are in a period of rising cost of living, homemakers are particularly aware of the cost of food, we have a bill before us today dealing with a major food item, and we are proposing to legislate higher sugar prices here this week on the floor of the House of Representatives. It almost defies reason. Why should we be doing this on the eve of election day, taking up a bill which will have the effect of raising the price that consumers must pay for a basic food item? It really continues to amaze me that this legislative body would act in that matter. The alternative that I think is wisest is for us to let the existing act expire.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield on that point?

Mr. FINDLEY. I yield to the gentleman from Ohio.

Mr. JOHNSON of Colorado. Mr. Chairman, the gentleman made that statement twice, and I think what the gentleman means is that the de la Garza amendment expires and that the existing legislation of 1949 continues on. It does not expire.

Mr. FINDLEY. That is right. The de la Garza amendment would expire, and that is the existing law under which we now function.

Mr. JOHNSON of Colorado. Which mandates the quota system. The 1949 law authorizes but does not mandate, and that continues.

Mr. FINDLEY. That is correct. What strikes me as good sense on the part of this body, good sense from the standpoint of economics, from the standpoint of fair treatment of consumers and from the standpoint of our political well-being as we face the voters on November 7, is to let the de la Garza legislation expire. This would not leave the local sugar industry without protection. There would still be enormous opportunities for the administration to protect local sugar-producing interests. This can be done through any of several devices, and if these devices are used fully they could today protect the price of sugar in this country to the extent of about 13 cents a pound.

The functioning of these devices might result in a lower protection price if the so-called world price of sugar should slip back from its present level of around 8 cents to 6 cents. Then, the protection level would go down to 11 cents. But, even then the domestic interests would have substantial protection.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. STEIGER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois.

Mr. FINDLEY. I would ask my colleagues to ponder thoughtfully this other alternative, one which would leave the sugar industry with ample protection. Under it the administration would take the heat, the political responsibility and relieve this body of the pain of voting to raise consumer sugar prices on the eve of election day. It would permit the forces of the marketplace to function much more freely than would be the case under either the measure reported by the Committee on Agriculture or the substitute recommended by the Committee on Ways and Means.

Mr. VANIK. Mr. Chairman, I yield such time as he may desire to the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, let me first commend the gentleman from Ohio (Mr. VANIK), chairman of the subcommittee, the gentleman from Wisconsin (Mr. STEIGER), and the other members of the subcommittee who developed this legislation.

The gentleman from Illinois has made a plea that we not act. I think that would be the worst course of action that we could take. The administration fully concurs in the decision that we must move. Knowing something about the producing areas of the country and the economic impact of not taking any action, I would strongly urge the Members of the House to vote for the version of the bill that was passed out by the Ways and Means Committee. It has been developed after very sound and thorough consideration, not just of the merits, but of the whole legislative process.

When we look at the process, the administration point of view, the need for a Presidential signature; when we look at the other side, the Senate version of the bill, I think that the only way that we can possibly arrive at a solution that will give us a bill—and I think it is absolutely essential to our economy now that we do produce a bill—that will give us the kind of stability both in production and pricing that we absolutely need at this time, the way to get a bill is to vote for the Ways and Means Committee version, the Ways and Means Committee amendment that will be offered.

That I think is the sound course of judgment, and I strongly urge an "aye" vote on the Ways and Means Committee amendment.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Pennsylvania (Mr. LEDERER).

Mr. LEDERER. Mr. Chairman, I rise in support of the Ways and Means Committee version of the bill and I lend my support to the gentleman from Ohio, Chairman VANIK.

I would bring to the attention of the Committee that on September 28, 1978, on page 32484 of the CONGRESSIONAL RECORD, in the Extension of Remarks I had inserted an excerpt from the Wall Street Journal of September 26, 1978, giving a digest of the earnings report of the U.S. Sugar Corp. for the quarter ending July 31, 1978, as compared to July 31, 1977. That shows revenues of $68,620,502 for 1978 as compared with only $70,440,470 for 1977; it shows net income of $5,283,941 for 1978 as compared with $4,614,097 for 1977; and it shows share earnings: Net income of $2.16 for 1978 as compared with $1.86 for 1977.

This spectacular performance came about when sugar was selling for 13 or 14 cents per pound. It takes no mathematical genius to figure out what U.S. sugar will earn if the agriculture bill is adopted. I urge my colleagues to support the American consumer and support the Ways and Means Committee bill.

Mr. JOHNSON of Colorado. Mr. Chairman, if the gentleman will yield, would the gentleman say on the basis of the digest of earnings of one U.S. sugar corporation that we ought to disregard all the information we have received about costs of production from the sugar producers around the country? Does the gentleman know and is he able to tell us what the invested capital is and what the return is, and whether the U.S. Sugar Corp. is involved in anything else, and how they relate their profit to raw sugar, and what the costs would be for sugar? What is the relationship between all that and the sugar bill we are talking about in trying to protect the domestic sugar industry?

Mr. LEDERER. Mr. Chairman, I want the Committee to know first that I have no problem with price supports to the American farmers, but I believe there are a few conglomerate American sugar producers who are taking a big part of the sugar dollar and not filtering it down. That is the point I would make to the gentleman.

Mr. STEIGER. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL), a valued member of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. FRENZEL. Mr. Chairman, a couple of years ago we voted down a Sugar Act extension. Many Members of this body at that time thought that was probably a pretty good thing because there was

nothing quite so complicated as that Sugar Act. The distribution was hard to understand. So were the price levels. It seemed to be difficult of administration, and the whole issue was difficult to understand.

When that bill failed, there were a lot of people who said that we are better off without it. The system was too complicated. It would be better to see how the market works.

It did not take us very long to find out things did not work very well. As a result, only a year or so ago we passed the de la Garza amendment because those people who are active in the industry and represent the producing areas knew we had to have some kind of solution to put some order back into the sugar business.

Today, and subsequently when we vote on it, we have the problem before us once again. We have an Agriculture Committee bill which most people would agree, if they were to objectively evaluate it, is a complicated and messy bill. But, on the other hand, the alternative, the Ways and Means bill, is also pretty messy and complicated. Neither alternative then is very attractive.

But I would submit that the worst alternative of all is to pass nothing. Obviously, if these problems did not need to be solved, we would not have this legislation before us. Given the terrible responsibility of having to make a choice between these alternatives, I think that good sense would dictate that the Committee on Ways and Means' version is the superior bill. It takes us away from quotas, and into other systems of control which, in my judgment, are "less worse," if you will pardon the grammar. I think the quota system is, of course, the "most worse," and, on that basis alone, the Ways and Means Committee's version is better.

On the other hand, the Committee on Agriculture worked long and hard and in their bill there are many features which are worthy of preservation. For instance, the Committee on Ways and Means eliminated the Agrciulture Committee's escalation of the sugar price fix. That was removed in the full committee. The Subcommittee on Trade of the Committee on Ways and Means decided that we should have some sort of moderate escalation. I would prefer no escalation, but if we did not provide it, the Agriculture Committee would be right back at us again next year, and its requested increase would probably be even greater. It decided we would use cost of production as the escalator.

I believe the Committee on Agriculture used the CPI, which is totally without merit. There is no relationship between the CPI and the cost of sugar production. But I think the version of the subcommittee on Ways and Means is a reasonable way. If the gentleman from Wisconsin (Mr. STEIGER) offers it as an amendment, I shall support it.

I hope that we will pass the sugar bill, and I hope it will be in the form of that of the Committee on Ways and Means.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 1 additional minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. Chairman, the distinguished gentleman said that the Committee on Agriculture used the CPI, which is not a correct statement. The version of the Committee on Agriculture uses the Wholesale Price Index together with parity.

Mr. FRENZEL. I stand corrected. And I do agree with the gentleman, I think the WPI is not quite as bad an index, but almost.

Mr. JOHNSON of Colorado. If the gentleman will yield further, it worked for 40 years under the old Sugar Act. It worked out very well for providing stabilized costs for consumers for a long period of time.

Mr. FRENZEL. I am not so certain that it did. I am also quite certain that the wholesale price index was pretty stable itself for 40 years, but it has not been recently and it does not bear any particular relationship, of which I am aware, to the cost of production. I do not see why you would not be satisfied with the cost of production relationship because that is what you are trying to protect.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the problem we have with the cost of production index, as it is written into the 1977 law, is that it provides the Secretary with a wide discretion, and this applies to all the commodities that the 1977 act covers:

> . . . (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

As it has turned out, that is not a clear enough indication to the Department of Agriculture as to what should be involved in determining cost of production, because their figures are inevitably much lower than what we get from the farmers themselves, from any particular commodity group that is involved in promoting that commodity, or the studies that are done by the various agricultural schools around the country.

In other words, the formula that is presently being used in determining cost of production is totally inadequate for other commodities. The Committee on Agriculture came up with the old sugar formula which worked well for all those years for sugar. But the version the gentleman is supporting, namely the version of the Committee on Ways and Means, mandates increased costs but does not give back any increased income to the man who has to pay out for those costs.

I think the gentleman should recognize that that is totally unfair.

Mr. FRENZEL. I agree with the gentleman that we need to have escalation in the formula. I agree with the President and the full committee, that, however, it would be nicer if we could get along without it. But you and the Agriculture Committee will just come back to us next year with another bill if we don't put it in now. So we might as well put it in. I think we should put in something that is realistic. I do not see why we have to tie the price of sugar to something that does not have anything to do with the price of sugar. The cost of production may not be the best index in the world, but it is a heck of a lot better than the WPI.

Mr. JOHNSON of Colorado. With regard to the index that we have included, it has worked out very well for many years.

Mr. FRENZEL. Yes.

Mr. JOHNSON of Colorado. The gentleman is saying the cost of production index should work but somehow it does not.

The gentleman is saying that the cost of production index should work; but as a matter of fact, it does not. The wholesale price index and the parity price index have worked well. The gentleman says it has not; as a matter of fact, it has.

Mr. FRENZEL. If the gentleman will yield further, that worked fine when the cost of living was escalating at the rate of 2 percent, 2.5 percent, or 3 percent a year. However, when we are talking about 7 percent or 8 percent or 11 percent a year, that index is not a worthwhile index.

Mr. STEIGER. Mr. Chairman, I yield myself 30 seconds simply to say that the argument being used here on the cost of production, of course, does not make too much sense to me.

I will say to my distinguished, able, and articulate friend, the gentleman from Colorado (Mr. JOHNSON), that is the same one which we use on every other commodity. If the gentleman wants to change those, that is fine.

Mr. JOHNSON of Colorado. Not the one which we use for milk.

Mr. STEIGER. Mr. Chairman, I do not know why the gentleman keeps doing that to me. I have more than a passing interest in milk and dairy products and cheese; that is correct. We have done it thoughtfully in those products. The problem is that it is not done thoughtfully with respect to sugar.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself an additional 30 seconds to respond to that. We will trade sugar for milk production support any time the gentleman is willing to do it.

Mr. STEIGER. If the gentleman will yield, I am not looking to trade, no. I thank him very much. I like what we have for dairy farmers. I do not want to disrupt what we have.

Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. STOCKMAN), who has a number of very interesting observations.

Mr. STOCKMAN. Mr. Chairman, I rise in opposition to the committee bill in part because I think it is inflationary and will impose an enormously costly. unnecessary burden on sugar users.

However, I think the really central issue here which has not been joined today is the fact that this bill is really a blatant, unadulterated, reckless venture into protectionism on behalf of a minor agricultural crop which accounts for about 1 percent of our cropland and

about 2 percent of the gross value of our farm production in this country. Yet, I think for U.S. agriculture as a whole, the undeniable bottom line is that we will not have long-range prosperity unless we substantially expand our export market and unless the United States exerts forceful and unrelenting leadership to dismantle the absolutely mad and irrational tangle of protectionist agricultural policies which exist all around the world today.

Mr. Chairman, I remind my colleagues that the export acreage in this country is 100 million acres. That is 50 times more than is devoted to the whole domestic sugar industry. Our export earnings from that was $26 billion, and that is 15 times more than the entire gross revenue of the domestic sugar industry.

Mr. Chairman, the point is that unless we can make further progress toward opening up world agricultural trade, we are not going to be able to create a situation which will raise the prices for our basic commodities to a profitable level. I refer to commodities like corn, wheat, soybeans, and so forth.

Therefore, Mr. Chairman, we have an interest in being very careful about shifting toward protectionism on any agricultural commodity, because such a policy course is inconsistent with the interest of the great bulk of the farm sectors in this country.

As far as I can tell, all the arguments made for this special case of blatant protectionism can be boiled down to the fact that the world sugar market is supposedly thin, unstable, unreliable, and a haven for dumpers and cartels. The fact is that almost none of these arguments will hold water if we examine them carefully.

The cartel argument is absolutely a bogeyman. A cursory glance at history shows that cartels are not effective unless the cartel had absolute control over supplies.

That happens to be why OPEC is working on oil, because 60 percent of all the known reserves of petroleum in the world are located within a few hundred square miles in the Persian Gulf and it is controlled by three or four countries. Moreover, it would take nature a couple hundred million years to produce any more.

For sugar, the situation obviously is just diametrically opposite. It can be grown in nearly every latitude and climate. It is grown in 83 countries and is exported by 49 countries.

As we saw in 1974, there was a rapid supply response when prices went up. There are readily available substitutes such as from corn sweeteners.

Mr. Chairman, there is simply no way by which a cartel is going to exert sufficient control to permanently control existing and potential supplies at a price above the world level.

Second, we are told that the sugar market is too thin and that only 20 percent of the sugar is traded on the world market compared to total world production. If that is a cause for concern, we all better go hide under our beds because nearly every agricultural product produced in the world is traded at less than 20 percent. The figure for corn is 15 percent; rye, 10 percent; barley, oats and rice, 3 percent; cottonseed, 15 percent; and for meat of all kinds it is 8 percent.

So the point is that if we accept that argument, look out, because the corn and feed grain buyers around the world might just turn around and say, There is a thin and unstable market for corn. Only 15 percent is traded. Let us erect this protectionist tariff barrier that will keep out unreliable foreign corn.

The third argument is that there is not really a free market out there. It is totally controlled under fixed, high-priced, long-term contracts. I asked the Foreign Agricultural Service for a list of those fixed, long-term contracts. I found out there are only one that has any significance: the Cuban-Soviet contract, and that is not a commercial transaction at all. That is a pure barter deal in which Cuba sends about 4.5 million tons of sugar to the Soviet Union every year in return for oil, and then uses the premium to bolster its own economy to show, I suppose, that Marxism is the wave of the future in small developing countries, and uses the excess to finance mercenary troops in Africa, just to make sure. The point is that the 33-cent price on that contract is meaningless, because the ruble has no exchange value anywhere in the world other than within the Soviet Union. This is not a commercial transaction. It is purely a barter contract between Cuba and the Communist bloc.

We were told by one of our colleagues last week in a Dear Colleague letter that there is a contract between Australia and Japan at 23 cents a pound, well above the world price, for 600,000 tons a year. I checked that out. That contract was written in 1975 when 23 cents was well below the world price. But the Japanese are no slouches on trade, and when the world price came down, they renegotiated it, and it is now going at the world price.

In short, the argument that the world sugar market is unreliable is just not convincing, and is no justification for the protectionism implicit in this bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEIGER. Mr. Chairman, I reluctantly yield back the balance of my time.

Mr. VANIK. Mr. Chairman, I just want to take this time to point out the fourth pararagaph in a letter from the President to the Speaker dated today. I would like to have the entire letter placed in the RECORD, and when we go back into the House, I will ask unanimous consent to have the letter placed in the RECORD. The letter is as follows:

THE WHITE HOUSE,
Washington, October 2, 1978.

HON. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

To Speaker Tip O'Neill:

The House of Representatives will soon vote on legislation (H.R. 13750) to provide price and income protection to domestic sugar producers and to provide implementing authority for the International Sugar Agreement that was negotiated last year.

There is a major difference between the amendments approved by the Committee on Ways and Means and those approved by the Committee on Agriculture with respect to the pricing provisions in this legislation. The Ways and Means Committee version provides for a domestic market price objective for sugar of 15 cents a pound, raw value. The price of sugar in the United States would remain at 15 cents a pound until the world sugar price pushes it upwards.

In contrast, the Agriculture Committee version provides for an initial domestic market price objective for sugar of 16 cents a pound and, more importantly, it is automatically escalated (indexed) every six months based on changes in the wholesale price index and the index of prices paid by farmers. With these pricing provisions, the price of sugar to consumers would rise automatically simply because the price of the other goods and services rose, irrespective of the market situation.

The pricing provisions in the Agriculture Committee bill are highly inflationary. According to our analyses, the bill would cost consumers nearly $3.5 billion more over the five-year life of the bill than would the Ways and Means Committee version. This is unacceptable. We are opposed to any change in the sugar pricing provisions from those reported by the Ways and Means Committee. Adoption of a higher or escalating market price objective threatens any sugar legislation this session.

This Administration is strongly committed to providing equitable income protection to domestic sugar growers. But we can do this more efficiently and more effectively through use of the same deficiency payment system we use for other major agricultural commodities. And, by so doing, we can avoid adding further fuel to the inflationary fires.

I hope the House of Representatives will support the Ways and Means Committee version.

Sincerely,

JIMMY CARTER.

Mr. VANIK. Mr. Chairman, I yield back the balance of my time.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I have just one further very simple statement. Everyone has mentioned all these millions of dollars, and everyone has concern for the consumer. Again we want to reduce inflation and to do everything that is wise and good for the consumer and put it solely on the backs of the sugar producers of the United States.

I would like to mention just one simple fact. A 1-cent increase in the price of sugar entirely passed on to the consumer by the sugar user would result in an increase of 96 cents per year for an individual—96 cents per year. The average American consumes that much in 1 day with two or three cups of coffee in a restaurant. The average American consumes that much in 1 day if he buys one mixed drink at a lounge or at a bar. The average American consumes that much in 1 day if he smokes a pack and a half of cigarettes a day. Yet 1 cent to the American sugar consumer is 96 cents in 1 year—365 days. One day for coffee, 1 day for cigarettes, 1 day for alcoholic beverages. I can give you other examples. A milk shake or malted milk. If you chew several packages of gum.

If you drink a couple of beers. The Sunday papers cost 75 cents. A hamburger in the Members' restaurant costs more than a dollar if you buy any of these items. You get 96 cents before the day is half over. And a 1-cent increase in sugar costs 96 cents in 1 year. The question is: Will 96 cents a year for an individual be worth saving an industry that is so im-

portant to the people of the United States?

● Mr. CORRADA. Mr. Chairman, I wish to add my full support to the House Agriculture Committee version of H.R. 13750, the Sugar Stabilization Act, which establishes a price objective of 16 cents per pound, adjusted semiannually. I was a cosponsor of the de la Garza bill, and wish to commend my colleague and friend for his diligent work on this issue of vital importance to our agricultural economy. This price objective is not the windfall or boon which many have asserted would occur should we adopt this bill. We are speaking of the livelihood of a domestic industry beset by increased costs of production, land, labor, in addition to fierce competition from abroad. In my district, sugarcane has declined as an industry, from 11,608 farms in 1963–64 to 2,551 in 1973–74. In 15 years, we have dwindled from 9.8 million tons to 265,000 tons at present. About half of this production is consumed locally, and the other half sent to the mainland.

While the present sale price of a pound of sugar hovers around 13.5 cents, costs of production on the island are over 25 cents. Although at great expense we are closing this gap, it is obvious that a 2.5-cent-per-pound increase in the sale price of sugar is certainly not the unconscionable and immoral increment which has been alluded to. We are talking about the viability and sheer survival of a labor intensive domestic industry. In my district alone, over 40,000 persons depend for their livelihood on the growing and processing of sugarcane. Hawaii has over 30,000.

I sincerely hope that my colleagues can overcome the hysterical allegations of the effect of this bill, and lend your support to this vital industry before it succumbs or goes by default to foreign competitors.●

● Mr. TRAXLER. Mr. Chairman, I rise in complete support of the Sugar Stabilization Act of 1978, as reported by the House Agriculture Committee. Our colleagues on the Agriculture Committee have provided us with a reasoned and necessary bill, and one which I hope every Member can support.

There can be no question that our domestic sugar industry has suffered in the past few years. Prices have dropped as low as half the cost of production. Processing plants—both beet and cane—have closed, and will probably never reopen. Thousands of farm families have seen their incomes shrink when the rest of the work force is worried about cost of living increases.

Figures prepared by the U.S. Department of Agriculture show that there are about 15,000 farm families producing sugar beets. More than 10 percent of them—1,700—produce their beets in my congressional district in Michigan.

Some of our colleagues have tried to tell us this year that we should ignore the sugar beet and cane farmers of America. After all, they comprise only about 1 percent of our Nation's farms. They are trying to tell us that the problem is too small for us to be concerned about what happens to sugar beet and cane growers. When did the Congress ever set a standard of how many people must be injured before we act?

We were worried enough about these farm families before. For 40 years the Congress had consistently passed the Sugar Act to protect our domestic industry from the unfair competition of cheap foreign sugar. Some of our colleagues mistakenly voted against extending the Sugar Act in 1974, and our problems began.

We have now been trying to solve our sugar difficulties for well over 2 years. The U.S. International Trade Commission has ruled several times that sugar is being imported into the United States in such quantities so as to be a significant danger to our domestic industry. President Ford tried raising import fees to end the problem. His effort failed. President Carter tried raising import fees to end the problem. These efforts also failed. The Department of Agriculture tried using a direct payments scheme to end the difficulties faced by sugar growers. The industry as a whole is opposed to a direct payments program, and the Secretary is being sued in Federal District Court in Iowa in a suit challenging the legality of direct payments. He failed. We passed the de la Garza sugar loan amendment to the Food and Agricultural Act last year, and in the words of the Agriculture Committee's report to accompany H.R. 13750, "Efforts to implement congressional intent were long in coming and then so feebly begun as to be largely ineffectual."

So we are here today to try one more time to restore some sensibility to the domestic sugar industry. But why should we worry about sugar? Sugar is one of the few commodities that we have to import in order to meet consumer demand. We depend on foreign sources for nearly 50 percent of all of the sugar that is used in the United States. Every other major farm commodity we export, so we logically have to treat sugar differently. Americans consume an average of 96 pounds per person each year. This sugar is contained in the processed foods that consumers have come to demand. It is in the baked goods that we either buy or prepare at home. It is in our soft drinks. These are all uses in addition to the familiar sugar bowl on the table to sweeten our coffee, tea, and cereals.

So a problem that began by supposedly affecting only 1 percent of our Nation's farms is now a problem which affects well over 200 million consumers. Consumers are people and farmers are people. We have to then treat the situation as a people problem.

The Department of Agriculture estimates that it costs in 1978 an average of 15.2 cents per pound to produce raw sugar. The cost for the 1979 crop will be about 16.5 cents per pound on the average. The bill before us today will provide a market price objective of 16 cents per pound, raw basis. This price will be below the cost of production for at least half of the Nation's sugar producers who have to pay the same gas, electric, medical, and other bills that every consumer does. In some areas, notably some of our southern cane producing areas, this market price objective will be nearly 2 cents per pound below the cost of production. This bill is not helping anyone get rich, but it at least gives them a chance to deal in a more realistic fashion with prices that do not cover their costs.

You will hear some of our colleagues say that this price is twice the world price for sugar. Why force our consumers to pay more than they have to pay? These Members are talking about the so-called world market for sugar that is left over after the sugar producing nations of the world have met contract demands for their sugar that guarantee them a sizable profit. It is also sugar that does not have to be produced under the restrictions that we impose on our farmers. EPA regulations that restrict the use of pesticides, property taxes based on the current value of farmland, high cost farm implements, and high cost farm supplies are all items that no other producer in the world has to face. This so-called world market sugar has sold as low as 6 cents per pound this year, and even testimony before the House Ways and Means Committee revealed that this figure was below the cost of production for most of the world. How can domestic producers compete with this fire sale on leftover sugar?

You will also hear that this bill will cost our consumers too much. Consider certain facts about the entire world sugar situation and the administration's position on sugar. You have all heard that the International Sugar Agreement is the "cornerstone of the administration's sugar program." The goal of the ISA is to raise the price of sugar in the world market to between 11 and 21 cents per pound. When sugar is between 11 and 15 cents, sugar quotas will continue in operation so that the price will continue to increase. When sugar prices get to 15 cents per pound, all controls are off and we deal with a free market. When sugar prices go above 19 cents per pound, sugar is released from world stocks to reduce the price.

Simply put, the goal of the ISA is to raise sugar prices to between 15 and 19 cents per pound. The administration supports this price increase. But what does it mean to domestic consumers? Remember, the United States adds a tariff of 3.5 cents per pound to imported sugar. This means that the price of foreign sugar to consumers will be between 18.5 and 22.5 cents per pound during the life of the International Sugar Agreement. The price to consumers of the Sugar Stabilization Act of 1978 will be 16 to 21 cents per pound during the life of the program, including the price escalator clause that is in the bill. This means that our bill is actually cheaper for consumers that the cornerstone of the administration's sugar policy—the International Sugar Agreement.

It is only reasonable to expect that people pay what it costs to produce a product. No one will deny that. The sugar beet and cane growers of our nation are asking for only the same treatment that we give to every other laborer when we pass minimum wage legislation.

This bill not only effects sugar beet and cane growers, but also those people who work in the processing plants. More than 40,000 workers are dependent on a viable domestic sugar industry. Labor played a major role in designing the title III provisions of H.R. 13750. Both field

and plant workers need to be assured a decent wage, and this bill restores the type of protection these employees had for forty years under the old Sugar Act. The wage rates in the bill are consistent with those already announced by Secretary Bergland in line with the Burton amendment to the sugar loan program last summer.

The Sugar Stabilization Act of 1978, which I am pleased to cosponsor, is essential agricultural legislation. The House Agriculture Committee by design is intimately familar with the needs of our farmers, and has carefully reviewed and approved the bill we are now considering. I hope that all of my colleagues can trust in the expertise of our Agriculture Committee, and in an effort to protect a vital American agricultural industry will vote "yes" on H.R. 13750, the Sugar Stabilization Act of 1978.●

● Mr. SEBELIUS. Mr. Chairman, in recent months I have heard and read a great deal about the condition of the U.S. sugar industry. I think there is a consensus here that our domestic sugar industry is in trouble.

At the root of the problem is a world sugar surplus. This means that there is plenty of cheap sugar available to be imported into the United States. Much of this sugar comes from nations where governments have not interceded in labor-management relations by setting the price for labor.

A similar situation existed earlier this year. Some of you may remember representatives from the steel companies and Steelworkers Union who had no qualms about asking the Government for assistance to reduce steel imports. The only reason we agreed to limit steel imports was to save the domestic steel industry. That steel prices happened to rise was an unfortunate byproduct of this action. However, few Americans would want to see the destruction of the American steel industry.

Today, the problem is the same. Only the commodity is different. What is at stake is the future of the U.S. sugar industry.

In my district, the "Big First" of Kansas, millions of dollars have been invested in sugar beet harvesting and processing equipment. If that equipment is not used for harvesting and processing sugar beets, it might as well be considered scrap metal. While there is some salvage value in it, considerably more is outstanding at the lending institutions which financed the expansion during the brief period of higher sugar prices that occurred in 1974 and 1975.

There has been a lot of debate recently about how much it costs to produce sugar beets. The same questions surround sugar cane. Some of you may remember a recent letter from our distinguished colleague JIM JOHNSON, which was cosigned by a number of Members, myself included.

In that letter, Mr. JOHNSON pointed out that sugar cost of production estimates ranged from a low of 14.05 cents a pound—submitted by that renowed expert on farming and production costs, Barry Bosworth—to more than 16.4 cents per pound, a figure submitted by economists at State universities in Florida and Louisiana.

In Kansas, however, my growers need a minimum of 17 cents per pound to stay in business. Bill Turrentine, a sugar grower from Garden City, Kans., is one of 138 growers who contract their production to the beet plant in Rocky Ford, Colo. That plant, a cooperative venture, has lost $700,000 or more in each of the past 2 years.

In 1969, 281 growers contracted the production from 34,275 acres to the Rocky Ford plant. This year, 1978, 138 growers contracted 14,332 acres to the plant. Mr. Turrentine tells me that plant needs the production from at least 18,000 acres to operate economically.

Some of my colleagues favor the Ways and Means version of this bill because it does not contain a sugar price escalator. They say this will help contain inflation. However, both versions of the bill contain minimum wage provisions that escalate yearly. Does this not also contribute to inflation? It looks to me like another attempt to make the farmer the economic shock-absorber for inflation and I do not think that is right.

If we are to delete the sugar price escalator, we also should delete the labor price escalator. While we are looking at the labor provisions, you might note that the bill contains a great number of provisions to whip the landowners in line. However, it contains little to help producers when field hands decide against doing the job right, or even finishing it.

Let us remember who it is who is taking the risk.

Mr. Chairman, as far as I can see, the House Agriculture Committee version is far superior to the Ways and Means version. That is the version I intend to support and I respectfully suggest that my colleagues do likewise.

We must remember to be fair to the farmer. He is the backbone of this Nation.●

Mr. DE LA GARZA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DAN DANIEL, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes, had come to no resolution thereon.

MEAT IMPORT ACT OF 1978

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11545) to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11545, with Mr. FITHIAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, H.R. 11545, as reported by the Committee on Ways and Means, is a well-balanced bill which meets the needs of both producers and consumers for greater stability in the price of beef. Under existing law, the levels of beef and veal imports rise and fall in relation with the increases and decreases in the domestic commercial production of beef and veal. Thus, the statutorily mandated limits on imports of fresh, chilled, and frozen meat have frequently been set aside by the President in times when domestic supplies are tight. Although these Presidential actions to suspend or increase the quotas are immensely unpopular among cattlemen, the current law provides no other means for increasing imports when domestic production is low. Additionally, current law does not provide any means for restraining the increase in meat imports resulting under the law when domestic supplies are high and prices are depressed.

The countercyclical formula contained in H.R. 11545 is intended to correct these deficiencies. It should be stressed that this formula is no more restrictive over the next 10-year cattle cycle than current law. It simply controls the yearly flow of imports into this country in a manner that is more complimentary to U.S. production, thus achieving a stabilizing effect for domestic consumers and cattlemen.

Mr. Speaker, during this session of Congress, 36 bills were introduced to amend the Meat Import Act of 1964. The Subcommittee on Trade held 2 complete days of hearings on these proposals, during which testimony was received from Members of Congress, domestic producers, consumers, and importers.

In favorably reporting H.R. 11545, the Committee on Ways and Means very carefully considered: First, the need to provide American consumers adequate supplies of beef at reasonable, stable prices; second, the need to maintain a strong, viable domestic cattle industry and eliminate the "boom and bust" cycles of recent years; and third, the need to provide our major trading partners adequate access to our market so that they can properly plan their production to coincide with our import needs.

I believe that H.R. 11545 will be ex-

tremely beneficial to this Nation and I strongly urge its passage.

Mr. Chairman, I yield such time as he may consume to the chairman of the Subcommittee on Trade, the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, H.R. 11545, as reported, amends the Meat Import Act of 1964. The purpose of the bill is to stabilize U.S. beef and veal production and prices at levels adequate to provide a fair return to domestic producers of beef and veal and to insure U.S. consumers of beef and veal adequate supplies at reasonable, stable prices. This bill was introduced by our colleague, Mr. POAGE of Texas.

H.R. 11545, as amended, modifies the method of determining quota levels by the adoption of a countercyclical formula. Under current law, import quotas are highest when domestic production is high and supplies are plentiful. The quotas are lowest when domestic production is low and supplies are tighter. The current law has provided for a steady growth in imports over long periods of time as domestic production increases. However, within the shorter time frame of a cattle cycle it operates in a manner not complimentary to supply and demand conditions in the U.S. market. Under the countercyclical formula proposed in H.R. 11545, the limitations on imports would vary inversely with U.S. production of beef and veal so as U.S. production decreases, import limitations will be liberalized, and vice versa. This formula utilizes a current base period (1968–77) representing a complete cattle cycle and also contains a countercyclical adjustor which causes the formula to react more consistently and rapidly to changes in the domestic cattle market.

H.R. 11545 modifies the President's authority to suspend or increase the quotas. The committee believes that the adoption of a countercyclical formula should provide more long-term stability for the domestic cattle industry and consumers, thus reducing the need for Presidential action. The bill would permit the President to increase or decrease quotas by 10 percent only in response to changes in a price index ratio which reflects rapidly changing prices of meat at the retail and farm levels.

The bill also provides for a minimum level of imports of 1.2 billion pounds per year. This provision was adopted to assure supplying countries a guaranteed minimum quantity of imports the United States will accept in the future.

During the May 22 and June 19 hearings on meat legislation, the Subcommittee on Trade heard testimony from witnesses expressing concern about a loophole in existing law whereby exporting countries could circumvent the quota by subjecting quota meats to certain processing prior to entry into the United States. H.R. 11545 eliminates this loophole by extending the quota limitations to include these particular processed items. The bill also takes into account the impact of live cattle imports by excluding their carcass weight from the tonnage included in the computation of yearly domestic production, a figure which is used in the formula for determining import quotas.

The bill would become effective January 1, 1979 and would cease to be effective December 31, 1988, a time period encompassing approximately one complete cattle cycle.

The administration supports the countercyclical method of determining import levels included in H.R. 11545 as it is believed to be no more restrictive than current law over a full cattle cycle. The administration opposes provisions to restrict the present authority the President has to increase or suspend the quotas. They also prefer an effective yearly import floor of 1.3 billion pounds of meat instead of the 1.2-billion-pound minimum level provided for in this bill.

The Committee on Ways and Means has carefully considered the views of the administration, Members of Congress, producers, importers and consumers and believes the bill before you to be meritorious.

The committee ordered H.R. 11545, as amended, to be favorably reported by a rollcall vote of 22 "ayes" to 11 "nays" on August 16. I urge my colleagues to support the passage of this bill.

Mr. STEIGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I join my colleague in supporting H.R. 11545, the Meat Import Act of 1978. What we hope to achieve through passage of this bill is the stabilization of domestic cattle production over the long term, and consequently the assurance that adequate supplies of beef and veal will be consistently available to consumers at reasonable prices.

For the past several years, increased imports of beef and veal have had a detrimental effect on efforts by domestic producers to coordinate a rather rigid 10-year cattle cycle to what they expect will be the demand for their product in the U.S. market. Although the Meat Import Act of 1964 recognized the need for placing quota limits on meat imports, experience has since shown that the quota has not worked in a manner which either complements domestic production or promotes price stability. Quota limits are highest when domestic production is high and decreases at a time when domestic production is low and supplies possibly cannot meet demand.

This ludicrous situation causes supplies and, consequently, prices of beef to fluctuate widely and, in years when production is high and demand low, forces cattlemen to take losses much heavier than would be the case if imports supplemented domestic production in a more effective manner. This is exactly what H.R. 11545 is designed to do.

The bill builds on existing law with respect to the quota on meat imports, updating the formula base from which the quota level is derived and adding a new countercyclical adjuster to that formula. In the future, therefore, imports will be made responsive to the domestic cattle production cycle. When domestic production is high and supplies are plentiful, the amount of imported meat that may enter the United States is curtailed. When the reverse is true, the quota is expanded, allowing increased quantities of imported meat to ease domestic shortfall.

The adoption of such a quota mechanism is not an attempt to provide a guaranteed return to domestic cattlemen or to reward inefficient production. Cattle producers in the United States are among the most efficient in the world. But the problems in this business are unique. Producers must predict demand 5 to 10 years down the road in order to breed enough cattle today to satisfy needs far in the future. Costs of feed grains and other essential production components have skyrocketed. As an added and critical burden, domestic producers must contend with substantially increased imports resulting from overproduction abroad.

This country, nevertheless, relies strongly on imported meat to supplement domestic production and to hold down costs to consumers. It is important to preserve the role of such imports in the U.S. market. H.R. 11545, with its countercyclical adjuster, will not reduce imports over the long term. In fact, during the 10-year period that the bill would be in effect, more imported meat would come in than under current law. In addition, the bill would not allow imports to be restricted to less than 1.2 billion pounds. This would guarantee large beef producing nations, such as Australia and Canada, continuing exports of meat to the U.S. market at levels comparable to previous years.

A final aspect of this bill, which has caused some controversy, is the changes made with respect to Presidential authority. Unfortunately, the President in this and previous administrations has used his discretionary powers in a manner much broader than Congress intended. Consequently, much of the effect of the existing quota has been nullified by liberalizing the quota further each time its limits are reached. H.R. 11545 establishes boundaries within which the President can exercise discretionary authority in response to rapidly fluctuating beef prices. Thus, he could raise or lower the quota by 10 percent if the farm price of cattle increases faster than the retail meat price by 10 percent, or vice versa.

Mr. Chairman, the bill before us, with its countercyclical adjuster, and floor on imported meat, is a good bill that should adequately meet the problems facing domestic cattle producers as well as protect the interests of consumers. A stabilized beef industry is in the best interest of all concerned.

I urge my colleagues to approve H.R. 11545 at this time.

Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, earlier this year I was appointed by the minority leader as chairman of the Republican Task Force on the Agricultural Emergency. The task force spent some time studying current problems affecting agriculture, and a number of commodities that were having difficulty, as well. One agricultural problem that is certainly facing us at the present time concerns cattle production. In looking at what to do to help cattle producers, we came across a number of things, one of which was a countercyclical import quota approach. We introduced a task

force bill (H.R. 11463) on March 13, 1978, which had meat imports as one of its titles. One of the sections in that title contained a countercyclical meat import quota provision such as is used in the bill we are debating today. We believe this was the very first such bill to have been introduced in this body or the Senate proposing the countercyclical approach.

However, Mr. Chairman, I would like to caution the Members about the language of the bill because it also contains a provision I feel could severely limit the effectiveness of the countercyclical formula. Presently, the bill sets a floor under meat imports equaling 1.2 billion pounds. From my understanding of the countercyclical formula, it must have a great deal of flexibility in order to function properly. Just as there is no ceiling on imports, there should not be a floor, or minimum, placed on the amount imported. The whole reason for creating this approach is to help even out the boom and bust cycles of the cattle industry and allow supplying nations ample time to adjust to future markets. I submit that a floor is simply not needed and could cause harm to cattlemen at a time when they are trying to rebuild their herds.

Therefore, Mr. Chairman, I rise in very strong support of this bill and urge my colleague to support it. Due to the fact that it does have this countercyclical formula in place, which should go a long way toward helping solve our beef-importing problems in the future, it will improve our domestic cattle situation.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I rise in support of the bill. I wish to thank the gentleman from Ohio (Mr. VANIK) for his efforts in moving this bill forward and bringing it to the floor.

At this time last year, I never would have believed it possible to get action on this bill in the 95th Congress. This is a goal that many of us have been working toward for the past 5 years and it is a matter of great concern for my constituents.

Although this bill is not all that we had hoped for, it is at least an improvement over the present Meat Import Act of 1964. It will finally give us a rational formula for computing meat imports that will run counter to our domestic cattle cycles. This is the most important provision in this bill because it will finally give some stability to meat prices.

The countercyclical formula guarantees the consumer that whenever domestic production declines and prices go up the quota will be increased to allow more imported meat to enter the country. At the same time, it guarantees the producer that when there is an oversupply of meat and low prices the market will not be flooded with additional imports.

This bill by itself is not going to solve all of the problems of the consumers or the meat producers and it should not be expected to do so. But it will moderate the drastic swings in beef supply and beef prices that in recent years have resulted in beef boycotts by consumers and in bankruptcy for many family farms.

The bill does not accomplish everything that I had hoped it would. I was disappointed that the Ways and Means Committee defeated my amendment to place a countercyclical quota on live cattle imports. While live cattle imports represent only a small portion of the total cattle slaughter in the United States, they have a tremendous regional impact in the States that border on Mexico and Canada. I hope that some action can be taken on this problem in the future to place direct limits on the number of live cattle that can be imported.

I also feel that the minimum import level of 1.2 billion pounds per year should be eliminated or reduced. This provision defeats the purpose of having a countercyclical formula because it does not allow the formula to work below 1.2 billion pounds. This is inequitable because there is no corresponding ceiling in the bill to prevent quotas from going above a certain level. I think we should allow the formula to work without any restrictions and I hope that my colleagues will support the amendment that will be offered by the gentleman from Louisiana (Mr. MOORE) to delete this provision.

I also hope that Members will oppose any change in the bill's provisions concerning Presidential authority. The Ways and Means Committee developed an acceptable compromise on this issue by giving the President authority to increase or decrease the quota by 10 percent each year when market conditions reach a certain point.

This will give the President flexibility to act in those times when adjustments are truly needed to stabilize the meat market. At the same time it will put an end to the common use of meat import quotas as a political football. Invariably we have found that the quotas have been a favorite target of Presidents around election time or whenever their popularity is sagging.

The President should not be prevented from making adjustments to the quotas when they are necessary but he should not be permitted to arbitrarily disrupt the cattle market in order to score points with voters.

In conclusion, I believe that the bill reported by the Ways and Means Committee is one that both consumers and producers can live with in the future. I think it is a good compromise and I again commend the gentleman from Ohio for his efforts to develop this reasonable and workable approach to this problem.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. LEDERER).

Mr. LEDERER. Mr. Chairman, it must be remembered that meat imports are not in direct competition with domestic beef production. It is used as a supplement. Imports are not forcing domestic beef out of the marketplace, it is used along with domestic beef to produce another product. Accordingly, it is my belief that the supposition that a countercyclical approach "evens-out" our total meat supplies is at best illusionary.

I will now address to provisions of this bill which pertain to both the threshold and the ceiling limits on meat imports. These limits and the proposals to curtail Presidential authority to suspend quotas in time of need, are contrary to the national interest.

The proposed "floor" of 1 or 1.2 billion pounds of imports is insufficient to meet consumer needs and to assure adequate dependable supplies of lean beef. On the surface, of course, a threshold clause sounds very inviting. But the fact of the matter is that in the past 10 years the amount of imports has never gone below 1.2 billion pounds of meat, and only twice has the amount dipped below 1.3 billion. So this bone which has been thrown to the import community has no meat on it whatsoever.

In order for the President to be able to lift the quota restrictions, an almost impossible series of events must take place. The so-called average index ratio must be 1.10 or higher for the first two calendar quarters of the year before the President could lift the quotas. Given the high selling periods for beef, this all but rules out the quotas ever being lifted. I might add, that in the unlikely event that the restrictions were lifted, the President would still only be allowed to increase imports by 10 percent in any one calendar year. This could result in shortages and higher prices for all ground meat products.

● Mr. SIKES. Mr. Chairman, I feel that the bill, H.R. 11545, the Meat Import Act of 1978, can serve a very useful purpose. I congratulate the distinguished chairman, Mr. ULLMAN, and the members of the committee, for reporting it. The major objectives of the bill are sound. It contains a basic weakness which I hope will be eliminated from the bill. This weakness is the annual import minimum or "floor" which is now a part of H.R. 11545. Recent Presidential actions to increase imports of meat have exaggerated price fluctuations adversely just at the time that cattle producers were beginning to emerge from a long, bleak period produced by years of low, and sometimes, ruinous prices to the producer. There still is a lack of comprehension in some quarters of the Government about the real cause of high prices on meat to the consumer. The price received by the produced is a minor part of the cost to the consumer. Transportation, processing, and retailing account for the lion's share of the increases. The producer should not be penalized further by a floor on quotas for imports.

The bill would limit the President's discretionary authority over meat import levels. The President could increase imports by up to 10 percent if the farm price of cattle increases at least 10 percent faster than the retail meat price during the first two calendar quarters of the year, and he may lower imports by up to 10 percent under opposite circumstances. Currently, there are no provisions for restraining the increase in meat imports resulting under the law when domestic supplies are high and prices depressed.

The bill contains a countercyclical for-

mula for determination of import quotas. Imports would be in inverse proportion to domestic beef production—increasing in times of decreasing domestic output and decreasing in times of domestic surplus. The countercyclical formula is tied to domestic cow beef production—which is the best indicator of the stage of the cattle cycle. Cow beef output increases during the liquidation phase of the cycle, when total beef supplies are burdensome, and decreases during the herd buildup phase, when domestic supplies are more limited.

The bill also contains some useful objectives which have long been needed by both consumers and producers. In brief, it would provide more long-term stability for the U.S. cattle industry; assure consumers a more stable supply of beef at reasonable prices; prevent circumvention of the law and assure that the law is administered in line with the intent of Congress; help prevent the political pressures that are applied to Congress and the administration, by different elements of our economy and society, at different times during the 10-year cattle cycle.●

● Mr. MARLENEE. Mr. Chairman, I rise in support of the Meat Import Quota Act of 1978. Since Montana is one of the leading beef producing States, this legislation is of particular importance to the livestock people of my district and to the consumers of this Nation. I have worked long and hard to see that legislation designed to curtail imports and bring some sanity and stability into the livestock industry and market be passed.

My constituents are tired of being used as the whipping boys when Federal officials who do not know the first thing about raising cattle discuss inflation in terms of meat prices. My constituents are fed up with arbitrary decisions to raise import levels every time they can begin to meet production costs for raising those cattle.

It is time consumers as well as producers were able to count on a reasonable price variation for beef—not the wild fluctuations they have been experiencing for the past few years. It is time the Federal Government stopped bankrupting the people who feed us—and stopped misleading and manipulating citizens of this Nation who have the right to the best quality beef at consistently reasonable prices.

In early 1978, our stockgrowers were just beginning to get back on their feet after 4 disastrous years. Then the shortsighted administration, politically motivated, arbitrarily chose to raise imports again, and some stockgrowers went back to point zero.

The legislation we are about to pass allows import into the United States on a sound basis of domestic supply. The countercyclical formula will react quickly to changes in the domestic cattle market. This formula would inversly limit imports with the U.S. production so that when domestic production decreases, import limitations will be liberalized and when U.S. production is on the increase, imports will be lowered. Such action provides the livestock producer with a better insight into the price he or she is to obtain in the market, and also insulates the consumer from wide price fluctuations at the supermarket.

This bill has been a long time coming. For many years the influx of meat from foreign countries have held prices low and kept the rancher in a state of operation on credit. Although this bill addresses the problem of fresh, chilled and frozen meat, it does not go far enough in giving our domestic producers protection from the price depressing factors of live cattle imports. We need to limit the amount of live beef coming into this country. Border States such as Montana feel the influx of these imports through the lower prices received at sales within the State.

While I support the measure currently before the House, I feel that additional measures must be taken to guarantee a viable livestock industry. I feel that additional problems occur in eight basic areas. These are:

First. Remove the 10 percent trigger which allows 110 percent importation of the quota.

Second. Establish reciprocal testing requirements.

Third. Prohibit imports of any meat which contains chemicals not allowed in the United States.

Fourth. Count live cattle against the quota, which now does not apply to nearly 1 million head crossing our borders.

Fifth. Whenever a quota is exceeded take that off the next year's imports.

Sixth. Require labeling of all imported meats.

Seventh. Count all fresh, chilled, frozen, flaked, ground or cubed meat against the quotas.

Eighth. Adopt tougher tariff restrictions.

Although this bill addresses the problem of fresh, chilled and frozen meat, it does not take into account the above mentioned problems which are critical to the livestock industry.

We need to limit the amount of live beef coming into this country. Border States such as Montana feel the influx of these imports through disruption of their market sales within the State.

If we are to insure a viable, efficient livestock industry in the future, we have got to start now to encourage the industry to achieve a balanced supply.

The American cattleman cannot continue to sustain losses of $60 or more per head and survive. When enough cut their herds or go out of business, then the consumer will find out how high the cost can go.

H.R. 11545 addresses a stable supply and could be labeled a consumer bill as well as a livestock industry bill.

Despite the fact it does not go far enough, I urge its immediate passage.●

● Mr. NOLAN. Mr. Chairman, I wish to express my support for H.R. 11545, the Meat Import Act of 1978.

The Nation's livestock producers are still trying to make a financial and psychological recovery from the blow dealt them by the Carter administration when it decided to allow an additional 200 million pounds of beef into the United States. The President's economic advisers seriously misjudged the impact of the beef import decision on market prices which fell dramatically.

Besides the financial loss, cattle producers were stunned by the announcement, losing all faith in the Carter administration's farm policy. The livestock industry is still feeling the repercussions from the beef import decision. As one of my constituents noted in a letter to me dated September 5, 1978:

> I was talking to a cow buyer from West Fargo (North Dakota). He says that they are still buying thousands of cows and are averaging about one complete herd dispersal per day. The farmers have just given up.

I urge my colleagues to support H.R. 11545, because it will strength the livestock industry. The countercyclical formula for determination of import quotas will benefit producers and consumers because it will enhance price stability rather than the boom and bust market conditions recently experienced. H.R. 11545 will give livestock producers the long-term confidence they need to build up their herds in order to meet consumer demand and maintain stable prices.●

● Mr. RANGEL. Mr. Chairman, I rise in opposition to H.R. 11545, Meat Import Act of 1978. This bill rather than being called the Meat Import Act of 1978 should be entitled the Meat Import Restriction Act of 1978 for it severely restricts the President's ability to suspend or increase the quotas when the supply of meat does not keep pace with demand.

The vast majority of the beef we import does not compete with the domestic production of cattle. Domestic beef is primarily used to supply steaks and roasts, whereas imports are lean beef used mainly for hamburgers and manufactured products such as spam, hot dogs, and sausages.

By enacting the legislation we have before us, we would do little to help our domestic producers, but we would severely hurt many poor Americans who cannot afford to buy the better cuts of beef we produce within the United States. The double digit inflation that we have all experienced in the last few years has changed the consumer habits of all Americans. Poor people can no longer afford the occasional steak or roast which just a few short years ago they were able to put on their dinner table once or twice a week. At the same time, it is no coincidence, that during the past few years there has been a phenomenal increase in the number and sales of fast food hamburger stands. Increased inflationary pressures have caused even middle-class Americans to substantially change their eating habits and they too are consuming more and more hamburger meat.

Meat prices to consumers are up sharply and prices paid to cattlemen for cattle are near record highs. The long and purely domestic cattle cycle, which concededly may have hurt some farmers, is over and, as found by the U.S. International Trade Commission in 1977, is not related to imports. Why then at this

point in history should we add fuel to our inflation, all to the disadvantage of poor, fixed income, and middle-class Americans.

Yet, the Meat Import Act of 1978 would arbitrarily limit our imports to 1.2 billion pounds a year. In the last 10 years, meat imports have gone below 1.3 billion pounds only twice and this year we will import nearly 1.5 billion pounds.

If we enact this legislation we will only be adding increased fuel to the inflationary fire. It has been estimated that beef prices could rise by as much as 15 to 17 cents as a result of this legislation.

When your constituents this fall ask you "What have you done to keep inflation down?", you will be responsible to inform them of your vote on this legislation, whichever way that vote may be.

This is a bill which effects almost every American, but most importantly those Americans who have little economic choice, but to eat the products which come from imported beef. I urge all my colleagues to join me in defeating this bill and helping to keep inflation down.●

Mr. STEIGER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PREYER), having assumed the chair, Mr. FITHIAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11545) to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks during general debate on the bills H.R. 11545, Meat Import Act of 1978, and H.R. 13750, Sugar Stabilization Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

CLINICAL LABORATORY IMPROVEMENT ACT

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10909) to amend the Public Health Service Act to revise and strengthen the program under that act for national standards for and licensing of clinical laboratories, to amend the Social Security Act to require laboratories providing services financed under titles XVIII and XIX of such act to meet the requirements of such program, and for other purposes.

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Florida (Mr. FUQUA) as chairman of the Committee of the Whole and requests the gentleman from Indiana (Mr. FITHIAN) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10909, with Mr. FITHIAN (chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from Florida (Mr. ROGERS) will be recognized for 15 minutes, the gentleman from Kentucky (Mr. CARTER) will be recognized for 15 minutes, the gentleman from Ohio (Mr. VANIK) will be recognized for 15 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 10909 promises three benefits to the American people: First, it will bring vast improvements in the quality of clinical laboratory services in the United States; second, it will bring reductions in the costs of such services under the medicare and medicaid programs—reduction of over $125 million over the next 5 years, according to the Congressional Budget Office, and third, the bill will help cut down on kickbacks and other illegal activities associated with clinical laboratories.

Mr. Chairman, this bill was considered 2 years ago under suspension of the rules, and although it received a majority of the votes, it did not receive the two-thirds necessary for passage. Comparable legislation has passed the Senate twice.

Mr. Chairman, the bill has been referred to the Ways and Means Committee, which has recommended its adoption with amendments. I am prepared to recommend all of the Ways and Means Committee's amendments to this body.

Mr. Chairman, the American health care system relies heavily upon the services of clinical laboratories to analyze and provide information on samples of body tissues and fluids to enable physicians and other health professionals to diagnose and determine proper therapy for their patients. With advances in medical technology, a growing number of conditions can be detected through laboratory testing of body specimens, and health professionals are becoming increasingly dependent on accurate laboratory test results in order to treat their patients properly.

The cost of the health care system's dependence upon clinical laboratory services is staggering. In 1971, an estimated 2.9 billion laboratory tests were performed at a cost of $5.6 billion. By 1976, nearly 6 billion tests were conducted by the more than 65,000 clinical laboratories in this country, or an average of more than 20 tests per person, at a total cost of approximately $11 billion, more than 10 percent of every dollar spent for health care services in 1976. By 1986, it is estimated that some 15 billion tests will be conducted annually at a cost of about $25 billion.

Under provisions of existing Federal laws, the approximately 950 laboratories, both independent and hospital-based, engaged in interstate commerce must be inspected and licensed by the Center for Disease Control and must conform to stringent Federal standards. Any independent laboratory, whether interstate or intrastate, which receives reimbursement under medicare or medicaid is subject to standards under the medicare program and must be inspected and certified by State authorities as conforming to the medicare standards. Hospital-based laboratories receiving medicare or medicaid payments are required to be inspected and accredited by the Joint Commission on Accreditation of Hospitals. An additional 5,000 intrastate laboratories which do not receive medicare or medicaid reimbursement are subject to no Federal regulation.

While the quality of laboratory services is considerably better today than it was a decade ago before Federal programs were established, the Center for Disease Control estimates that nationally 15 percent of all laboratory tests are in error. A recent National Bureau of Standards Study concluded that, in microbiology performance, 7.6 percent of interstate laboratory determinations were in error, while 16.5 percent of the determinations by other large laboratories were incorrect. The study also found that 26 percent of sample tests performed in medicare and medicaid certified laboratories were inaccurate.

H.R. 10909 would consolidate existing regulatory programs into a single regulatory mechanism thus eliminating much of the overlapping and duplicative regulatory activity which presently exists. It would mandate the development of uniform national standards applicable to all commercial laboratories and require Federal inspection and licensure of such facilities unless a State demonstrates that it has adopted and is enforcing standards that are at least as stringent as the Federal standards. It would exempt physician office laboratories in which physicians perform all procedures themselves for their own patients.

It would also exempt laboratories located in the office of groups of not more than five physicians in which physicians or their employees perform procedures solely for their own patients pending the completion of a study to determine whether such laboratories should be required to participate in an approved proficiency testing program.

It would permit variances in the standards depending on the type of tests performed by laboratories and the purposes for which such tests are performed, thus enabling the Secretary to develop standards for laboratories which are primarily engaged in research activities but which also perform routine laboratory procedures or small laboratories which perform only a few procedures. Such standards, however, would have as their purpose the protection of the public health. It recognizes the difficulties which laboratories located in rural areas might experience in meeting standards with respect to qualified personnel and provides for a delay in the effective date of the personnel standards for such facilities.

Mr. Chairman, title II of H.R. 10909 amends the Social Security Act to incorporate into the medicare and medicaid programs the standards for clinical laboratories established by the bill. It also provides for limits under medicare and medicaid on allowable markups by physicians for laboratory services included in their bills which are performed by independent laboratories. If the physician fails to identify whether or not he—or someone in his office—performed the laboratory service, or what he was charged for it by the independent laboratory, payment for the laboratory service would be limited to the estimated lowest charge at which it could have been secured. The Secretary of HEW is required to report to the Congress within 2 years on the effect of this amendment.

The bill also provides that reimbursement for laboratory services, other than those provided in a hospital, would not include payment for the rental or lease of a facility where the amount paid is set as a percent of the cost of the laboratory services provided or is clearly unrelated or disproportionate to the fair market value of the facility.

I might note that my colleagues on the Ways and Means Committee have recommended amendments to these provisions, which in fact parallel provisions subsequently adopted in another piece of legislation—the hospital cost containment bill—by the Subcommittee on Health and the Environment. I am prepared to recommend adoption of their amendments in place of the Commerce Committee provisions.

Finally, title II authorizes State medicaid programs to use competitive bidding or similar arrangements for purchasing laboratory services for a 3-year period, provided certain requirements are met to assure adequate services are available, and that the laboratories contracted with serve a reasonable number of persons who are not covered by medicare and medicaid. The Secretary is required to evaluate these arrangements, which are expected to save millions of dollars for the programs, and make recommendations within 2 years concerning extension of the provision.

In sum, Mr. Chairman, H.R. 10909 will do three things. It will improve the quality of clinical laboratory services. It will save the taxpayer millions of dollars. And it will help put a stop to fraud and abuse.

I urge that the bill pass.

CONSTITUTIONALITY OF WARRANTLESS INSPECTIONS

In *Barlow's Inc.* v. *Usery* LW 4483, the Supreme Court reaffirmed previous decisions that authorize warrantless inspections of pervasively regulated industries. Specifically, Barlow's recognized the administrative search exception to the fourth amendment requirement crafted by the Court in *Colonade Catering Corp.* v. *United States*, 397 U.S. 72 (1970), involving inspections of a liquor license and *United States* v. *Biswell*, 406 U.S. 311 (1972), involving regulation of firearms traffic. As the Court noted in Barlow's:

> When an entrepreneuer embarks on such a business, he has voluntarily chosen to subject himself to a full arsenal of governmental regulation. (46 LW 4484)

Here, we are dealing with an industry whose present regulation is as extensive as that of other industries which the Supreme Court has found to be proper candidates in applying the fourth amendment warrant exception. Since 1967 those clinical laboratories dealing in interstate commerce have been federally regulated under both the Clinical Laboratory Improvement Act of 1967, 42 U.S.C. 263(a) et seq., and under the medicare regulations. In addition, 26 States have licensing or registration requirements pertaining to clinical laboratories, which have existed in certain States since the early 1950's. This history of licensing and regulations should suffice to make the clinical laboratory industry an appropriate one for applying the warrant exception to the fourth amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CARTER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I do not profess to be an expert in clinical laboratories, but it appears to me what we are about to do in this bill is something the Government has done all too often when, through regulation, it continues to drive up the costs of everything the consumer uses. This bill is supposed to regulate the intrastate clinical laboratories on the basis that the Government by regulating can produce a better clinical laboratory error ratio and a better product for the consumer. I mention that generally and also particularly in this case.

No one questions the fact that we ought to lower the error ratio in the clinical laboratories. The error rate ought to be zero if possible. But I question whether Government by hiring more bureaucrats can bring that about.

The report of how many errors we have in clinical laboratories ought to be questioned. The errors range from 15 percent to 50 percent in the information we have. In a 1967 study, the Center for Disease Control estimates that 15 percent of all laboratory tests are in error. In 1967 the National Communicable Disease Center study, within HEW, said the error rate could go as high as 50 percent in certain tests.

In 1973 the Bureau of Standards study concluded that 26 percent of the tests are in error.

These are some pretty wide variations.

In the past 11 years the quality of clinical laboratory service has improved and is certainly better today than it was 11 years ago.

The point I am trying to make is that before we put into effect a new Federal law with more regulations and more bureaucracy, we ought to have some sort of a study that tells us, and, indeed, proves to us, that this Federal expenditure and these additional rules are necessary in order to reduce the amount of errors which come out of these clinical laboratories than the ordinary course of the free market would otherwise do.

We do know for a fact that any time you pass regulations you have increased the cost to the consumers, and that will happen here.

One out of every 10 health care dollars is spent on clinical laboratory tests.

Clinical laboratories are one of the most competitive components of the health care industry. While medical costs have been spiraling, marketplace competition has caused lower percentage rises in laboratory tests than elsewhere in the health care industry.

In other words, every time we increase the regulations then the costs go up, and we have numerous complaints today from those people in the industry telling us they have too much regulation, and we also are receiving complaints from the consumers about health care costs.

A 1976 White House study says that regulations of the Government, as will be imposed under this bill, cost the consumers about $130 billion a year, more than they would otherwise pay for the costs and services.

A Washington University study in 1978 said that the cost of compliance alone is about $103 billion a year.

So I submit that before a bill like this should be passed we ought to have a convincing cost/benefit ratio study done, that will show us the true cost to the consumers, and whatever the improvements are projected to be, that they will indeed be superior to what they will be through what the normal marketplace competition would do.

I submit that what we have here is another typical governmental response at a problem, let us throw some more bureaucracy at it, let us provide more regulations for it and let us pour more money into it.

When you go to the American taxpayers who are going to have to pay the bill, I am convinced that they are not going to get any better service out of that money than what they are presently paying for.

Mr. VANIK. Mr. Chairman, on behalf of the chairman of the Subcommittee on Health of the Committee on Ways and Means, the gentleman from Illinois (Mr. ROSTENKOWSKI), and myself, I want to commend my distinguished colleague, the gentleman from Florida (Mr. ROGERS), and the Committee on Interstate and Foreign Commerce, for the work

they have done in developing this important legislation.

H.R. 10909 is a bill that effectively addresses several critical problems that have come to light in the clinical laboratory field—including the need to bring about more effective coordination and consistency in the application of quality assurance standards to clinical laboratories; and the need to eliminate abuse, waste, and overpayments in the reimbursement of laboratory services under medicare and medicaid.

The recent disclosures by several committees of the Congress of widespread abuse, excessive costs, and significant error rates in the performance of laboratory tests have made us all more acutely aware of the urgent need to provide legislative remedies. I firmly believe that the bill now before us represents a judicious and effective response to this need.

My colleague from Florida has ably described the bill, particularly those elements relating to the laboratory quality assurance program developed by the Commerce Committee. The Ways and Means Committee's contributions to the bill relate essentially to the medicare program and are designed to assure the consistent application to this quality assurance program to laboratories participating in medicare, and to preclude the use under medicare of billing and pricing practices that have contributed to abuse and overpayments.

Mr. Chairman, it has long been a matter of grave concern to the Ways and Means Health Subcommittee that many laboratories participating in medicare have not been required to meet rigorous quality assurance standards. In large part this is attributable to the existence of conflicting statutory authorities. And it is a reflection of the importance of this bill that it would eliminate these conflicts and provide for the implementation of a uniform Federal quality assurance system for clinical laboratories. The need for such a system can no longer be questioned; under present law, neither the Government nor medicare beneficiaries can feel entirely secure about the quality, reliability or accuracy of clinical laboratory tests. Considering the vital importance of such tests to proper diagnosis and treatment, we cannot allow such a situation to continue.

In addition to concerns about the reliability of test results, there is also grave concern about the continuation of certain types of billing and pricing practices—as well as certain types of financial arrangements between hospitals and physicians—that have produced unjustifiable increases in the cost of laboratory services to patients and the medicare program. Evidence accumulated by GAO, for example, indicates that there are frequently substantial markups in bills submitted by physicians for those laboratory services which the physician purchases from an outside source.

The bill addresses this problem in a reasonable way, I believe, by requiring that in such instances medicare payment for the service is to be related to the laboratory's charge to the physician. Moreover, the bill does recognize that a physician incurs some expense in extracting or collecting the specimens on which lab tests are to be performed, and provides for the payment of a reasonable fee to the physician for such a handling service. But the bill would eliminate, through the use of this "truth in billing" requirement, excessive and unreasonable markups.

Similarly, the bill deals in a responsible way with the problem created by those percentage rental and lease arrangements between physicians and hospitals under which the physician's compensation is directly related to the volume of services furnished. Since such arrangements often provide incentives to furnish excessive and unnecessary services—and thus increase medicare costs—there is a need to provide offsetting incentives and encouragement for the use of more reasonable arrangements. Thus, the bill seeks to discourage those arrangements that generate excessive use and costs by relating hospital reimbursement for professional services to the costs a hospital would have incurred if the services had been furnished directly by the hospital.

In short, the bill would eliminate certain practices that have now come to be recognized as abuse, while assuring that patients and providers alike will receive fair and equitable treatment under the medicare and medicaid programs.

Mr. Chairman, a great deal of time and effort has been devoted by both committees to the analysis of the problems involved and the development of reasonable solutions. We cannot defer action without exposing patients and the medicare program, to serious risk. I strongly urge my colleagues, therefore, to support this important bill.

Mr. CONABLE. Mr. Chairman, I yield 6 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, we are looking today at more redtape, more bureaucracy, and more Government. The interstate clinical labs are presently under Government supervision. Under this bill, the regulations would be extended to 70,000 smaller intrastate labs.

Government regulators cannot solve all problems. Last week there were two FAA airport towers guiding aircraft into San Diego, yet 150 people were killed in an air crash. Having two towers was not as safe as having one tower. Human errors will continue to exist. Having both State and Federal inspections does not guarantee perfection.

We are hearing every day from the taxpayers of this country who are loudly complaining about the bloated Federal bureaucracy in Washington. One agency they consistently speak out against is the sprawling empire of the Department of Health, Education, and Welfare. The Clinical Laboratory Improvement Act of 1978 we are discussing today will dramatically increase HEW's bureaucratic control over clinical laboratories, one of the most competitive fields of health care. For the first time, HEW standards will be extended to intrastate labs. The interstate labs are already regulated by the Clinical Laboratory Improvement Act of 1967, yet they will also fall under new categories of control with this bill. H.R. 10909 will allow HEW to impose complicated regulations on more than 70,000 laboratories used by physicians, not to mention more than 13,000 hospitals and independent labs. If this bill is passed, regulation of clinical labs will be in the hands of Washington officials who will have the power to override the primary enforcement responsibility of the States and duplicate State inspection authority.

The standards will apply to any interstate lab and to any intrastate lab which does not already have an HEW-approved program. There are few exemptions to the bill. National standards will apply to any office-situated lab having more than five health practitioners. There are no estimates for the vast numbers of dentists and podiatrists who would be covered under this bill along with thousands of physicians.

Bureaucratic overkill dominates H.R. 10909. Not only will labs be subject to a mass of HEW redtape, but HEW inspectors will be allowed to enter a lab and conduct inspections without a search warrant. A Supreme Court decision last spring did away with OSHA's warrantless search power. This same decision should apply to all Federal agencies. Unnecessary Government inspections violate the fourth amendment and constitute an obvious invasion of privacy. The OSHA decision was a clear indication that the American people are fed up with Government intrusion into their lives and welfare.

In offering dissenting arguments before the Interstate and Foreign Commerce Committee, I noted that laboratory costs, 10 percent every health care dollar spent, will skyrocket with the enactment of this bill. I ask that the committee consider the following:

Mandatory proficiency tests would apply to many thousand of otherwise exempt labs at an average going price of $300 per lab. To remain exempt, physicians could pay costs totaling over $21 million.

The 2,000 hospitals of 100 beds or less and the 1,900 nonaccredited hospitals may be required to hire an additional qualified technologist at a total cost of over $50 million. For the smaller rural hospitals, this will be a tremendous burden. Additional proficiency examinations and practical examinations will add severely to the cost and paperwork burden.

Ironically, laboratories have the lowest rise in costs of any segment of the health care sector due to their competitive nature. To absorb the costs of the proposed regulations, the smaller labs would have to merge or go out of business, reducing the number of clinical labs in the health care marketplace.

One of the most oppressive provisions of the bill involves a "protection of employees" clause which will make it more difficult to dislodge incompetent or un-

suitable employees. Because of a complicated discharge process, no employer could discharge any employee if the employee participated in any action to carry out any of the purposes of the bill. It is easy to see the inefficiency which would result simply because Washington dictates that they cannot be fired.

Justification for H.R. 10909 is feeble. My good colleague, Mr. SATTERFIELD of Virginia, noted in his committee views that physicians who order laboratory tests generally do not seem to feel that the quality of test results is a significant problem. With a large number of laboratories to select from throughout the country, there is no reason why physicians in a city or State have to tolerate poor quality. If the quality is poor, then the physician has chosen badly and it is not the laboratory's fault.

This legislation will give unnecessary powers to the HEW Secretary while ignoring the tremendous cost and time increase of complying with Government paperwork and standards—an increase which will add significantly to the patient's lab fee. The clinical laboratory industry will severely suffer from burdensome HEW requirements designed to eliminate competition; rural areas will find it impossible to meet the standards; and the few exemptions that exist for clinical labs will inevitably be removed once the regulations are in operation.

In light of experience involving HEW administration, there is every reason to believe that quality controls imposed by competitive market pressures would be far more effective than bureaucratic interference. We have State inspections and there is no need for duplicated Federal inspections.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 10909, the Clinical Laboratory Improvement Act of 1978.

I would note, first of all, that title I of this bill is the product of the efforts of our colleagues on the Interstate and Foreign Commerce Committee. In fact, much of what is set forth in title I has been carefully considered for several years, resulting from the perceived administrative duplication and overlap in standards for clinical laboratories, high rate of errors in laboratory testing, and waste, overpayments and other abuses that were found to exist.

Title I focuses on such significant matters as the development and application of national standards, a Federal licensure system, and providing a significant role for those States that are capable of assuming primary enforcement responsibility. I would point out only, with respect to title I, that many of the provisions are designed to improve the health and safety of our citizens in connection with the provision of clinical laboratory services.

Since our Ways and Means Committee is concerned primarily with protecting the medicare program and its beneficiaries from wasteful and dangerous practices, I will address my remarks primarily to those provisions in title II of the bill that were adopted by our committee, relating to the Social Security Act.

One particularly significant amendment that affects the medicare program would correct the problem of sometimes excessive markups in bills submitted by some physicians for laboratory services. Another provision would allow laboratory standards by the Joint Commission on Accreditation of Hospitals to be used as evidence of a hospital laboratory's compliance with national standards if the Secretary determines that the JCAH's standards are at least equivalent to the national standards. In addition, there is an important provision that would prevent excessive charges to medicare through dissuading certain types of unreasonable rental and lease arrangements between hospitals and physicians. I believe these changes are necessary and will help to improve the quality and cost containment efforts of the medicare program.

Mr. Chairman, as with any legislation there are a number of factors that will influence the ultimate success of the reforms that are contemplated. In the case of H.R. 10909, I believe it is important to point out that the Secretary will be expected to act prudently and judiciously in making use of such enforcement mechanisms as warrantless inspections and blind proficiency testing. It is of utmost importance that the rights of our laboratories, our providers and their patients be preserved—to be free from unnecessary harassment, invasion of privacy, and interference in the contractual and other relationships that have traditionally formed the foundation of our medical care delivery system. Further, it is expected that the Secretary will be equally prudent in conducting the many studies that this legislation requires—it would be most unfortunate if the costs of the studies should outweigh the benefits and objectives that are sought.

Mr. Chairman, I just want to say in conclusion that this legislation represents the determined efforts of many dedicated Members on both sides of the aisle in this Chamber and in the other body. It will further the efforts that have been ongoing for over a decade to strengthen and improve the clinical laboratory services provided to our citizens. I, therefore, urge my colleagues to give H.R. 10909 their approval and support.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. I thank the gentleman for yielding.

I take the floor at this time to inquire of the gentleman from Florida (Mr. ROGERS) one question, if I may. The present language in H.R. 10909 indicates that those trained in clinical pathology would be eligible to be in charge of a laboratory. Am I correct that this legislation would also permit those trained in clinical microbiology and clinical immunology to be in charge of a laboratory under their field as defined by their training?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

Yes, that is what the legislation contemplates. The gentleman is entirely correct that they would be qualified in their field.

Mr. O'BRIEN. I thank the gentleman.

Mr. CONABLE. Mr. Chairman, I yield back the remainder of my time.

Mr. VANIK. I have no further requests for time, and I yield back the balance of my time.

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I see it, this is one of the most important bills to come before this House for some time. As a doctor from a rural area, I know the need for well-trained medical technicians and hospital technicians. For that reason, I sent to school at my own expense one of the best laboratory technicians ever trained. She went to a hospital laboratory and worked there for quite a few years and she became extremely proficient.

If a physician working in his office is without a good laboratory person whom he can really depend on, he is not practicing good medicine and is incapable of doing so. A physician must have a well-qualified, trained technician, who ought to be examined for his proficiency. Who would be opposed to that? Who would be opposed to checking whether the lab personnel make accurate determinations of blood sugars, of cholesterol or whatever tests they might run?

It is extremely important, my friends, that a blood sugar be accurate. Suppose that one gets a false report on one's blood sugar and too much insulin is given. As a result of that, the patient goes into insulin shock.

I regret that between 7.6 percent and 26 percent of all the clinical lab tests in this country which are performed are inaccurate, according to various studies.

Now, my friends, we do need to assure quality work by our clinical laboratory technicians all over this country. I, for one, having been a physician in rural Appalachia who was able to send two people to school so they could be licensed, know the importance of having accurate lab tests performed. At the present time there are still licensed technicians in the clinic of which I own a part back in Kentucky.

It seems to me that no one would think of practicing medicine today without a qualified technician on the staff to let him know about the blood tests he performs—for example if the cholesterol is too high, if the nonprotein nitrogen is too high, or if the potassium is too high, or if other components of the blood are too high or too low.

Suppose in giving a blood sugar test in the morning an error is made. Suppose the blood sugar is estimated at 200 milligrams percent and the patient fails to take his insulin that day. He might very well go into insulin shock, so we must have trained technicians who can give reliable test results.

Also, Mr. Chairman, this legislation is not intended to be solely a federally run program. If a State wants to develop and enforce its own program of laboratory

regulation, it can seek "primary enforcement responsibility" as long as its standards are no less stringent than the national standards. However, the Federal Government does have the right to come in and monitor these laboratories. I think this monitoring authority is altogether fitting and proper to make sure the States "measure up" and to insure that they do not have someone doing lab tests and collecting medicare and medicaid dollars for doing so, when those tests are not correct, thus wasting the taxpayers' dollars. Instead, this bill will actually save money. It is estimated by the Congressional Budget Office that $126 million can be saved over the next 5 years if we follow this legislation to its conclusion.

Another thing I want to bring out any doctor who performs lab tests himself for his own patients is exempted from the national standards. This provision was adopted not because I wanted it to be particularly, but because the committee thought it reasonable.

The bill goes even further than that. A group of five physicians or less is also exempted from the national standards as long as those doctors agree to participate in a study of laboratories conducted by HEW. A group of five is quite a good size practice.

Again I believe, Mr. Chairman, this is a very, very reasonable bill, and it is offered to assure the public that lab technicians give quality performance, and that they find out accurately the blood chemistries which they obtain. Not only that, this bill is intended to prevent the fraud that is prevalent throughout this industry.

Mr. Chairman, I am very much supportive of this legislation, I hope that my colleagues will see fit to support it and thereby help improve health care everywhere throughout our country and at the same time save our taxpayers money. This legislation will save money, and it will serve to improve health care, prevent insulin shock, or prevent coma as a result of insulin treatment, and give accurate white blood counts so we can really diagnose other diseases.

This is good legislation. Personally, I support it strongly and I feel the entire body should support it.

Mr. Chairman, I reserve the balance of my time.

● Mr. STAGGERS. I rise in support of the bill H.R. 10909, the Clinical Laboratory Improvement Act of 1978, as reported by the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means.

This legislation is intended to improve the quality and reliability of one of the most important segments of our health care system—clinical laboratory tests and procedures. As has been documented on numerous occasions, inaccurate laboratory test results are at best inconvenient in that they must be redone but can often have disastrous consequences because of missed diagnoses. The accuracy of laboratory testing clearly can be improved, and this legislation insures improvement.

I urge adoption of the bill.●

● Mr. MAGUIRE. Mr. Chairman. I am glad that the House of Representatives is finally considering the Clinical Laboratory Improvement Act (CLIA). As you and my colleagues know, this is not new legislation. In 1976, the House failed to consider this legislation because of the heavy schedule at the end of last session. The Senate, however, passed this bill in 1976 by a vote of 64 to 11 and again by a voice vote in 1977. The Subcommittee on Health and the Environment, of which I am a member, has held hearings on the legislation in 1976 and 1977 and I am even more convinced as to the need for this bill.

The Clinical Laboratory Improvement Act is the extension and expansion of the licensure requirement contained in CLIA 1967, the legislation that authorized the Secretary of HEW to regulate by licensing clinical laboratories which operate in interstate commerce. CLIA 1967 has had a positive impact on the quality of lab testing in this country's interstate labs. For example, over a 10-year period 61,000 deficiencies were found in about 1,300 clinical labs and subsequently 96 percent of those deficiencies were corrected. But I must remind my colleagues that interstate laboratories represent only 6 percent of the Nation's total number of clinical labs.

And what about the 14,000-15,000 clinical labs which are located in about 7,000 hospitals and other facilities? And the estimated 50,000 to 80,000 physicians who conduct clinical lab tests in their own private facilities?

There is currently a tremendous variation in the standards which are used to regulate laboratories. The Joint Commission on the Accreditation of Hospitals (JCAH) applies standards to 4,400 hospital labs—however, these standards have been weak and ineffective. Other hospital based labs which engage in interstate commerce are certified by the Center for Disease Control and these standards are far more stringent. The 3,000 independent intrastate labs and the nearly 2,000 non-JCAH accredited hospital based labs which receive reimbursement under the medicare or medicaid programs are inspected and certified by State authorities as being in compliance with medicare standards. Nearly 5,000 intrastate labs which do not receive Federal reimbursement and over 50,000 to 80,000 labs in physicians offices are not subject to any Federal standards.

THE NEED FOR REGULATION

The quality of all clinical lab services to consumers of health care should be equally protected whether such services are provided in interstate commerce, independent labs in physicians offices, labs associated with hospitals whether they be small or large hospitals, urban or rural.

The accuracy of tests performed by clinical labs is essential to proper patient treatment. These tests often set in course diagnosis and treatment at the beginning of an illness. The American health care system increasingly relies upon the services of clinical labs. In 1976, nearly 6 billion tests were conducted by the more than 65,000 clinical labs in this country—or an average of more than 20 tests per person at a total cost of approximately $12 billion. More than 10 percent of every health dollar spent on health care services was spent for lab tests. By 1986 it is estimated that some 15 billion tests will be conducted annually at a cost of $25 billion.

The irregularity of existing procedures for regulating the quality of clinical laboratories renders the accuracy and reliability of lab testing grossly inadequate.

In my State of New Jersey, for example, our Department of Health rechecked 35,000 lab tests performed by 225 intrastate labs over a 10-year period from 1964 to 1973. Only 20 of these labs showed acceptable results more than 90 percent of the time, and only half of the labs showed acceptable results 75 percent of the time, and an astonishing 18 percent of the labs failed to provide an acceptable result on a simple test more than 70 percent of the time they were tested.

What are the consequences of unreliable and inaccurate tests?

Three malpractice cases point up the urgent need for this legislation. An erroneous test result led a baby to suffer severe irreparable brain damage, a patient suffered invasive cancer because an erroneous reading of an inadequate pap smear led to delay in diagnosing cancer, a patient suffered irreversible brain damage, lapsed into a coma and died when a physician prescribed the wrong medication based upon a faulty lab test. In addition, many clinical lab tests have never been inspected and some of those that have been were found to be dirty, filled with broken lab equipment, outdated and unlabeled reagents.

CLIA 1978

The basic method of regulation contemplated under the Clinical Lab Improvement Act is the implementation of a licensure system by the Secretary of HEW based upon compliance with quality assurance standards. These standards are flexible and take into consideration the types of tests and procedures performed by the lab. These standards would assure that there were adequate internal quality control programs, including the maintenance of records, surveillance of equipment and facilities, establishment of personnel qualifications and the development of a system of proficiency testing.

The bill also permits a State to assume primary enforcement responsibility for the regulation of labs located within or doing business within its jurisdiction in instances in which the State has adopted standards that are no less stringent than the national standards and has an adequate enforcement mechanism.

Mr. Chairman, I have been an active proponent of this legislation for several years. I urge my colleagues to support the Clinical Laboratory Improvement Act which I believe is essential to the health of the American people.●

Mr. CARTER. Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. EVANS of Colorado) having assumed the chair, Mr.

FITHIAN, chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10909) to amend the Public Health Service Act to revise and strengthen the program under that act for national standards for and licensing of clinical laboratories, to amend the Social Security Act to require laboratories providing services financed under titles XVIII and XIX of such act to meet the requirements of such program, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 10909.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS, NOTWITHSTANDING ADJOURNMENT

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Tuesday, October 3, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF EDUCATION PROPOSAL SHOWS ADMINISTRATION WEAKNESS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, there are two purposes to which the President's Cabinet may be put. It may provide a small, efficient group of experts to advise the President, and to carry out the policy he decides upon as well as execute the laws passed by the Congress. The other use to which the Cabinet may be put would be to provide an even increasing number of figureheads; departments created and Secretaries appointed primarily for the purpose of buying off pressure groups.

The former was the purpose for which George Washington set up the Cabinet. Under Washington it contained five members, among whom were Thomas Jefferson and Alexander Hamilton, two of the greatest minds with which this or any other country has ever been blessed. The latter purpose, that of buying the support of pressure groups, is the one to which this important instrument of government is being perverted by the Carter administration.

Ralph Nader backed Jimmy Carter for the Presidency. In return, President Carter tried to get a Department of Consumer Affairs created. The House of Representatives wisely demurred. The National Education Association also backed Carter for President. So now we have the administration pushing for a Department of Education. The Senate has passed this bill. We can hope, possibly vainly, that the House will block this bureaucratic dream.

Does anyone really expect Mr. Carter to get information from a Secretary of Education that he cannot now get by telephone from the Assistant Secretary for Education in the Department of Health, Education, and Welfare? Is there anyone who expects national education policy to be better carried out by adding another organization chart to the maze of bureaus and sub-bureaus, independent agencies, commissions, task forces, advisory councils, liaisons, interagency coordinators, ad hoc committees, peer review groups, assistants to the Deputy Assistant Secretaries and all the rest?

The President claims his Department of Education proposal is not a political payoff, but an efficiency measure. I wonder if anyone, anywhere, believes him? If it is an efficiency measure, it represents the kind of Carter efficiency which, in his 4 years as Governor of Georgia, increased that State's expenditures by 50 percent, the number of State bureaucrats by 25 percent, and its public debt by 20 percent.

I have pointed out to this House that the only sure result of the creation of a Department of Education would be a bureaucratic civil war, fought by thousands of bureaucrats at public expense. There would be a jurisdictional battle over nearly every program between the Department of Education and the Department of Health and Welfare, since almost every Federal education program has health aspects, welfare aspects, or both. Not only would such bureaucratic battles cost millions of dollars, but they would also destroy what little coherence we now have in our national education policy.

Another aspect of this Department of Education proposal is that it is further evidence that Carter is the weakest Chief Executive in this country's history. Relative to other governments, the resistance of this country to Cabinet expansion has been phenomenal—a phenomenon of which we may be justly proud. Nothing is easier than for a Chief Executive to court interest groups by calling for the creation of a new governmental department. It is a trick that has been indulged in throughout the world, with the result that in many countries Cabinets have become a joke, and have been replaced by other groups. Yet under four different political parties, Federalists, Democratic, Whig, and Republican, through 189 years and 38 administrations, we have expanded the number of Cabinet Secretaries by only 7.

One of the major factors separating the behavior of a great nation from that of a banana republic is a tradition of stability. The inflationary policy of the Carter administration is an indication of the way a great nation does not act: its currency should be as stable as possible, even when this stability requires the defiance of pressure groups which demand inflationary spending. In the same way, Carter's caving in to interest group demands for Cabinet expansion is steadily eroding our hard-earned reputation as a stable and responsible nation.

Resistance to Cabinet expansion is not a purely Republican policy. In 1947, when the U.S. Air Force was becoming too large and important to remain under the Army and Navy, the War Department and the Department of the Navy were combined under the new Department of Defense, thereby reducing the number of Departments by one. This was not a whim of Mr. Truman's. It was aimed at strengthening the Cabinet by keeping it small. It was also done, I might add, at the instigation of a Democratic President dealing with a solidly Republican Congress, and was the joint act of Republicans and Democrats.

Had the Army and Navy of 1947, like the education bureaucracy today, wanted separate cabinet status, they could have utilized enormous lobbying strength by calling on millions of loyal ex-servicemen from World War II at the moment their numbers were greatest.

Certainly the easiest thing President Truman and the 80th Congress—violent foes on so many other issues—could have done would have been to follow a Carter-type policy. They could have courted political favor by creating a new Department of the Air Force, satisfying a new bloc of voters while not risking the displeasure of the older blocs.

But the easy course Carter follows today would have weakened the Cabinet and hurt the national interest, so Truman would have no part of it. He risked defying three of the most powerful groups in Washington in order to have a Cabinet of 10 rather than of 12, and to maintain the tradition of a viable and effective executive branch.

Mr. Speaker, I feel that the same tradition is if anything more vital today than it was in 1947. This is a time when we need most to hold to the traditions of a great nation, precisely because our liberal leadership has betrayed so many of those traditions over the last quarter century. Once again, it is we conservatives who must defend our country's best traditions, even traditions upheld by yesterday's liberals, against the weak and degrading policies of the present administration.

BANKERS BEWARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, bankers should not be misled by various trade association letters, which indicate that national banks can now disregard the

Comptroller of the Currency's regulation which prohibits bank insiders from personally keeping the commissions received from the sale of credit life insurance.

The regulation, which went into effect January 1, 1978, has been under attack by the Independent Bankers Association of America. On September 13, the suit between the Independent Bankers Association of America and the Comptroller of the Currency was dismissed. The staff of the Comptroller's Office have indicated that since the judge did not declare the regulation null and void, the Comptroller's Office will require compliance with the regulation and use the Office's authority to secure this compliance.

I strongly support and applaud the Comptroller's Office for issuing this long needed regulation and for taking a stand to defend it.

Credit life insurance has for years been sold to improve the lender's security so that if a consumer dies before a loan is repaid the lender will be repaid from the insurance. Consumers and bank stockholders have been harmed by the practice of bank insiders personally profiting from the commissions earned from the sale of credit life insurance. Consumers have been encouraged to purchase the most expensive credit life insurance because this will yield the bank insider the largest commission. In some instances, consumers have been persuaded to buy credit life insurance when they do not need it. Undoubtedly, some consumers, such as senior citizens, have been discouraged or denied credit because since they did not qualify for credit life insurance, no commissions could be earned.

Many shareholders have been hurt by bank insiders keeping the commissions because these commissions otherwise would go to the bank as increased income. Permitting bank insiders to keep these commissions also probably reflects an unauthorized preferential dividend to some shareholders over other shareholders. Finally, the policy of retaining these commissions for the personal well-being of bank insiders does not reflect well on these employees, officers, directors, or principal shareholders of a bank since they have a fiduciary duty to all of the shareholders of the bank.

The regulation reads in part:

> No bank employee, officer, director or principal shareholder may retain commissions or other income from the sale of credit life insurance in connection with any loan made by the bank. Except as provided in subsequent paragraphs of this section, retention of credit life insurance income by such persons or by corporations, partnerships, associations or other entities in which such persons have an interest of more than five percent is an unsafe and unsound banking practice.

The Independent Bankers Association of America sued the Comptroller of the Currency in an attempt to prove that the regulation was invalid and to question the Comptroller's Office's authority to issue regulations. The judge in his decree stated that he believed that the Comptroller's Office in the course of the litigation had conceded that the regulation was actually a statement of policy and not a regulation.

The judge then dismissed the IBAA's suit, but did not rule on the validity of the regulation.

The staff of the Comptroller's Office indicate that the Comptroller's Office had no intention of making any concession that the regulation was merely a statement of policy. Consequently, they intend to request a modification of the judge's decree to correct this misinterpretation.

I believe enforcement of this regulation will result in substantial benefit to consumers around the country and will also benefit the banks as a whole and permit bank insiders to do their job better since they will not have a conflict of interest between the bank's interest and their own personal gain.

I hope other bank regulatory agencies will take such proconsumer stands.●

MOSCOW'S FEAR: CAPTIVE NATIONS IDEOLOGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, if the highly successful 20th observance of Captive Nations Week accomplished anything in nationwide style, it certainly imprinted on millions of Americans the existence of a captive nations ideology that is thoroughly grounded in the American tradition and is the best competitor to the Russian ideology of Leninism-Marxism. As the record clearly shows, Moscow fears this American ideology and knows it can be and is crippling to the spread of its ideology in the free world. Most of our people will realize this in years to come, for the struggle is a continuing one.

For an inkling into the nature of the captive nations ideology, I bring to the attention of my colleagues these additional examples of the spirit and vibrancy of the most recent Captive Nations Week: First, a proclamation by Mayor James W. Rutherford of Flint, Mich.; second, an excerpted article on "Saving the Captive Nations" in the August Free China Review; third, an article in The Rising Tide; fourth, a statement in the Pacific Cultural Foundation Newsletter; and fifth, a letter in the Binghamton, N.Y., Sun Bulletin:

PROCLAMATION

Whereas: The imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjunction and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations.

Now, therefore, I, James W. Rutherford, Mayor of the City of Flint, do hereby proclaim the week of July 16–22, 1978, as: "Captive Nations Week" in the City of Flint and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

[From Free China Review, August 1978]

SAVING THE CAPTIVE NATIONS

(By Liu K'ang-sheng)

Free leaders and freedom fighters from all over the world met in a mass meeting at Taipei July 21 to express their continuing support for the Captive Nations movement to liberate those who have been enslaved by the Communists. The Declaration issued by the more than 3,000 persons attending called for a security system of the free nations of East Asia and for an anti-Communist revolution on the Chinese mainland "to pull down tyranny and gain a sweeping victory."

Premier Sun Yun-suan, the keynote speaker, urged that the principle of human rights be applied consistently and equally everywhere. He said there could be no "double standard" of human rights. Dr. Ku Cheng-kang, the honorary chairman of the World Anti-Communist League, urged the free world to stand together against the "communization of any single piece of free land or enslavement of any free man."

Premier Sun said:

" 'To safeguard human freedom and resist Communist slavery' is both the shining banner and the righteous call of the movement supporting Captive Nations Week. The Republic of China was the first to respond to this great movement after it was initiated by the U.S. Congress in 1959. Many chapters of the World Anti-Communist League also have provided enthusiastic support. The movement has contributed to the solidarity of worldwide anti-Communist forces and the courage and confidence of peoples enslaved by the Communists as they seek freedom and survival.

"In the world of today, freedom and democracy are confronted by Communist totalitarianism. Mankind faces unprecedented challenges: slavery against freedom and violence against justice. Whether the free democracies have the foresight and determination to face up to these challenges will be decisive for their own destiny and also for the security of the world and the well-being of humankind. Freedom and justice will finally prevail. However, we must halt the expansion of the evil forces as quickly as possible and end the status quo of 'half freedom and half slavery' so as to relieve the enslaved people of their agony and shorten the distance to the goal of genuine freedom and peace.

"We want to point out that the Communists on the Chinese mainland are the source of world turmoil. Many Asian countries have been overrun in the last two decades and more. This is evidenced in the fall of Cambodia, Vietnam and Laos, where millions of

innocent people have been subjected to Communist massacre and persecution. Such a massive tragedy dispels all illusions about detente and appeasement, which can only lead the world into raging Communist flames and worsen human imperilment.

"The Chinese Communists have a fragile power structure and their internal struggles are violent. Even so, the Peping regime has clamored for implementation of the 'four modernizations' and attempted to put up a false front of 'unity' and 'strength' so as to trick the free world and accelerate 'third world' intrigues to alienate the democracies. In supporting the Captive Nations Week movement today, we must unite all anti-Communist forces, heighten our anti-Communist vigilance and enlarge the movement's influence in order to counter the Chinese Communist conspiracy.

"The theme of this year's political call to 'promote human rights and liberate enslaved peoples' is highly significant. As we know, the Chinese Communists are engaged in class struggle and imposing a rule of tyranny. They have reversed all human norms and standards. The people living on the mainland have lost all freedoms and their basic human rights, transforming that society into one that is dark, closed and devoid of liberty. Millions of people have been imprisoned, tortured and executed without trial. These bloodstained facts are verified by letters from the mainland and the accusations of freedom seekers. The recent public letter from defector Fan Yuan-yen to Hua Kuo-feng provides especially cogent testimony.

"In upholding human rights, President Carter of the United States has proclaimed 'Human Rights Day' and the 'Bill of Human Rights.' He has acted in the same spirit as the U.S. Congress in initiating Captive Nations Week; his aspirations of righteousness and motives of altruism are admirable. Human rights cannot, however, be upheld through the application of a double standard. People will be greatly confused if the principle of upholding human rights is applied in one place and ignored or overlooked in another place where human rights are under devastating attack. We seek to unite with all democracies to raise high the anti-Communist banners of freedom and human rights. We want to convey the anti-Communist movement for freedom and human rights behind the Iron Curtain and to the Chinese mainland.

"The Republic of China adheres to its anti-Communist national policy and remains in the democratic camp. Despite the buffeting of international countercurrents and the tumult and unrest in Asia, the Republic of China has never cowered in the face of adversity, changed its position to accord with the international situation or been swayed by events. To the contrary, this country has become ever more self-reliant with dignity, has always stood steadfastly in the free and democratic camp, and has joined with other countries and spared no effort in its staunch struggle to defend freedom and oppose slavery.

"The purpose of supporting Captive Nations Week is not only to liberate the captive peoples and assure them of freedom and their right to survive. We must also exert every effort to halt Communist expansion and thus assure that those who are still free will not be subjected to Communist enslavement and persecution. Consequently, the free world should be alerted to a recognition of these points:

"First, Communist expansion and aggression is the root of all the turmoil in the world. Before undertaking armed aggression, the Communists customarily employ their evil united front tactics of alienation, infiltration and subversion. Only by engaging in steadfast anti-Communist struggle can freedom-loving and peace-loving peoples avert Communist enslavement.

"Second, no matter how the Chinese Communists may smile or how Peiping confronts Moscow, their final objective is the communization of the world and the enslavement of mankind. If the free world pins its hopes on the Chinese Communists as one side of 'checks and balances' or of a 'strategic balance of power,' more international tension will ensue until the eruption of a war crisis.

"Third, although the path of anti-Communist struggle is tortuous and paved with thorns, humanity will finally triumph over bestiality, justice over evil and the day over the night. This is an ironclad rule of history and a natural consequence. No matter how frantic and cruel the Communist forces may be, the people of the free world have nothing to fear; no matter how frustrating the anti-Communist situation may appear, the people have no reason to be downhearted. Actually, the anti-Communist people have already heightened their vigilance, and those who originally harbored illusions about the Communists have come to their senses and rejected them, realizing that the Communist system and way of life can never be accepted by free people.

"We are convinced that there can never be coexistence between human rights and totalitarianism or between freedom and slavery. Let all who respect human rights and freedom unite together in common struggle, raise up their moral courage, promote the strength of justice and march courageously forward to assure freedom and peace for humankind."

The Declaration of the mass rally took note of the importance of free China to the Captive Nations movement. "The mainland will be recovered and our compatriots restored to freedom and human rights," the Declaration said. "Our political system based on the Three Principles of the People will enable all the people of our nation to enjoy liberty, democracy, prosperity and well-being."

The bases of Taiwan, Penghu, Kinmen and Matsu are strategic points of anti-Communism in the Western Pacific, the Declaration said, "blocking eastward Chinese Communist expansion by sea or air" and preventing Peiping's aggressive moves against Southeast Asia. The Republic of China has democratic and open political and social systems. Economic construction assures prosperity.

The rally said the United States is a Pacific nation and cannot evade its historic responsibility of maintaining Asian-Pacific security as a part of its dedication to the freedom and human rights of mankind. "President Carter's human rights campaign, moral principles and open diplomacy are the most powerful calls America has issued on the stage of international affairs in the present decade." The United States was urged to recognize that the Communists are a mortal enemy and that there can be no hope of playing off Peiping against Moscow.

Japan was called upon to suspend its negotiations with the Chinese Communists for a treaty of "peace and friendship." The Declaration called on the Japanese to strengthen cooperation with the Republics of China and Korea for their common defense, for checkmating Communist expansionism and attempts to gain hegemony, and for intensification of efforts to liberate all captive Asians.

If masses of people rise everywhere, the Communists cannot stand against them, the Declaration said. The will power of free mankind is reaching a climax, and soon will assure the defeat of Communism and lasting freedom and human rights for all.

Dr. Ku Cheng-kang said the free nations have made four serious mistakes. First, they have failed "to strengthen the battlefront of freedom against autocracy so as to deal effectively with world communization strategies." Attempts to bring about a balance of power through detente and checks and balances have weakened the democracies.

Second, not enough military and economic strength has been applied in the face of the Communist advance. Negoitations have been in vain. Concessions have brought no peace.

Third, the forces of freedom have not united against the hegemonistic moves of the Communists.

Fourth, the lessons of free peoples victimized by the Communists have been forgotten. Dr. Ku said: 'The Red bloc is bent on burying the free nations, but free world appeasers have been seeking common interests as grounds for rapport. This has enabled the Communists to trick the free nations into supplying them with foodstuffs and sophisticated facilities."

Dr. Ku warned against the danger of trying to pit Peiping against Moscow. "Backward, poor and confused, Peiping doesn't have the strength to check Moscow," he said. "We must point out that Peiping is trying to pull the United States to its side so American strength can be employed against the Russian threat. This pitting of a secondary enemy against the primary one is part of the regime's standing tactics of combining unity with struggle. The Americans in the meantime are referred to as imperialists to be dealt with sooner or later. Peiping is eagerly playing 'the American card' in an attempt to prosecute its great scheme—provocation of major U.S.–U.S.S.R. hostilities so as to bury both the Russian revisionists and the American imperialists in nuclear ashes, thus killing two birds without even using a stone."

The Chinese Communists do not really command the 800 million people of the mainland, Dr. Ku said. These people can be set free and their enormous strength used to build world peace and security. On the other hand, "normalization of relations" with the Chinese Communists would give them the opportunity to tighten their tyranny. "Those who think that Peiping shares common interests with the United States will, if they are permitted to have their way, expose Americans to increasingly serious threats," Dr. Ku told the rally.

"Only when China is unified and rebuilt in freedom and democracy can all of Asia be free and democratic." This will also lead to the lifting of the Communist curtains that now impose slave systems on Eastern Europe and Cuba, Dr. Ku added.

This is a turning point in history, he said, and the tide is running in favor of the democracies. Dr. Ku urged the following steps:

Refusing to allow the Chinese Communists to make further advances;

Assuring that the United States stands firmly at the head of the freedom forces;

Alliance of the Republics of China and Korea and Japan to safeguard East Asia and the Pacific. Japan should abandon the negotiation of a "peace and friendship" treaty with the Chinese Communists;

Assistance to the freedom fighters of Africa; and

Free World support of the freedom struggle of the Chinese people against the Communists.

"Promotion of human rights is the clarion call of this age for the freeing of the captive masses of people," Dr. Ku said. "We must build an invincible international united battle formation against Communist forces of enslavement. Our mission is to create a lasting new era of freedom from slavery."

Representative John M. Ashbrook of the United States told the rally that free men must fight for their freedom 52 weeks a year "until our brothers and sisters are free."

"We meet in a free country and climate of freedom," he said, "but we must remember why we are here. We speak for those enslaved people throughout the world who cannot speak for themselves. We speak for those

millions behind the Iron and Bamboo Curtains who are persecuted daily by Communism. We speak for those who are pressed by the scourge of Communism each day of the year.

"Communism makes bold promises to people everywhere in the world . . . but (provides) only slavery, brutality and oppression." Whether in Cambodia, Eastern Europe, Russia or mainland China, Communism is all the same.

[From the Rising Tide, Sept. 11, 1978]

CAPTIVE NATIONS WEEK

(By Ed Pettit)

Several hundred representatives from over thirty nations and sixteen organizations met on Capitol Hill the week of July 16 to observe the 20th annual Captive Nations Week. The theme of the program was The Captive Nations: Responsibility of the Free World.

Speakers included Senator Hayakawa of California, Sen. Moynihan (N.Y.), Reps. Daniel Flood (D-Pa.), Edward Derwinski (R-Ill.), Dr. Walter Judd, Lee Edwards and Chairman Lev E. Dobriansky.

The purpose of Captive Nations is set forth in the Resolution enacted by the U.S. Congress in 1957 and signed by President Eisenhower. It recognized the original 22 submerged nations that "look to the United States as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist or other religious freedoms, and of their individual liberties."

Since that time the number of nations dominated by the Soviet Union has risen to over thirty.

It seemed appropriate that the observance should take place the same week that Anatoly Scharansky and Alexander Ginzburg were sentenced by a Soviet court for their activities on behalf of ethnic and human rights.

The program also focused on Soviet violations of the Final Act of the 1975 Helsinki Accords. The speakers unanimously agreed that the Soviet Union has ignored its responsibility to put into practice an international agreement which it voluntarily signed; the only debate developed over what the United States should do about it.

By week's end, 15 senators and 30 congressmen had expressed their support for the conference and the fight against Soviet imperialism. Writer Lee Edwards declared that it had been the largest turnout in NCNC history.

Unfortunately, President Carter did little more than he had the previous year to honor Captive Nations Week. Last year Jimmy Carter almost became the first American president not to issue a proclamation supporting the Captive Nations Week since President Eisenhower first set aside the third week in July in honor of the more than one billion people oppressed by communist tyranny. President Carter finally issued a proclamation, but only at the last minute after an uproar of protest.

This year's proclamation was issued in plenty of time, but according to Lee Edwards in his weekly column it was ". . . dull, lifeless, perfunctory. It screamed of indifference." Not only did it fail to mention Communist tyranny, but there was, wrote Edwards, ". . . no mention of dissidents, the Soviet Union, Helsinki, or even totalitarianism of the right or left."

Having left America's "inordinate fear of Communism" behind, Jimmy Carter seems to have in an ironic twist of FDR's famous phrase only "himself to fear."

[From the Pacific Cultural Foundation Newsletter, Aug. 14, 1978]

CAPTIVE NATIONS WEEK MARKED IN TAIPEI

In 1959, the U.S. 86th Congress resolved that the third week of July each year should be designated as "Captive Nations Week." Congress authorized and asked the U.S. President to issue a message in this week to reiterate the U.S. determination to support the peoples confined in captive nations to strive for freedom.

In the past twenty years, successive U.S. Presidents have supported freedom seekers, such as the endeavor of President Dwight D. Eisenhower to liberate peoples imprisoned behind the Iron Curtain; President John F. Kennedy to save Cuba from Castro's dictatorship; President Lyndon B. Johnson to fight against Ho Chi Minh of Communist Vietnam. This year, President Carter announced the newest appeal on July 11 to urge Americans to stand firm for freedom, independence, and human rights. This reflects the U.S. concern for captive nations. As Chinese, we respect and appreciate the morality and human rights diplomacy of the U.S. Government. But it is painful to recall that billions of our fellow countrymen have been behind the Iron Curtain for nearly three decades.

Liberty and captivity are two incompatible states. People who live in the free world cannot comprehend how dolorous it is to be without freedom and dignity. But when we see countless people risk their life to escape from North Korea, Mainland China, East Germany, Laos and Vietnam, we realize that people will never retreat in their fight for freedom even if the price is life.

We are very fortunate to live in an open society in the free world. During the rally of the Captive Nations Week, we realize the responsibilities on our shoulder. It is imperative that we should strengthen our tasks of cultural interchange in order to promote mutual understanding and unity in the free world, and thus, to support more substantially the enslaved people in their struggle for freedom.

[From the Binghampton (N.Y.) Sun-Bulletin, July 14, 1978]

WE CAN'T FORGET CAPTIVE NATIONS

Editor, The Sun-Bulletin:

Lately President Carter and much of the world are concerned about the unjust and cruel treatment of Russian dissidents, also those in Lithuania, Ukraine and elsewhere.

However, persecutions are continuously going on in all the captive countries, lately especially in Czechoslovakia. Whenever people show signs of not agreeing with their Soviet-imposed regime—or only insist that laws of their land be observed by police and courts—they are in endless trouble. In the outside world not much is done about them. In fact, it seems convenient to forget.

Over 100 million intelligent, civilized people are denied freedom to speak, to live their own lives, to handle their own affairs. They are the Captive Nations of Eastern Europe. On the face of it each has its own government; actually set up and manipulated by Moscow Communists. A brief look at how this came about:

There was a time when Hitler conquered much of Europe and England was fighting for its very life. Russia's Stalin, then a buddy-buddy with Hitler, had no interest in the outcome. But after Hitler ordered the invasion of Russia and Russian armies were pushed hundreds of miles east, there was real danger that Stalin might make peace with Germany.

To prevent this from happening, England, but mostly the United States, helped the Russians with men, the know-how, food and war material. That's when the clever and cunning Stalin extracted from Churchill and Roosevelt agreement to give the Russian government influence in the Eastern European countries. This in exchange for a promise that these people will have free elections and religious freedom. That promise was never kept.

Germany was defeated and the Russian army rolled over the lands of the formerly free and independent countries. The Iron Curtain dropped heavily to cut them from contact with the West. Puppet governments installed, concentration and forced-labor camps set up, prisons filled and a program of liquidating all who disagreed. Promises, agreements, signatures meant nothing.

What does all this mean to the people of the Free World? For our own self-preservation, consider how this inhuman arrangement is working against us. Seeing what happened, Western Europe, together with the U.S.A., organized NATO as a possible defense against Russian expansion. Moscow then set up a similar group under the Warsaw Pact. This embraces men and military potential of Russia and all satellite countries.

Ten years ago Warsaw Pact armies, on Moscow orders, plunged into Czechoslovakia. Just like Hitler's soldiers used to do, but with a difference. You see, Czechoslovakia is a member of this Warsaw Pact and, while the soldiers of other member nations left shortly afterwards, the Russian Army settled itself there . . . and is still there.

Moscow set up another wide, all-embracing organization called something like the East European Industrial Corporation (COMECON). You guesed it; Russia holds the strings. Directly or indirectly, she sells to and buys from members at her price, she plans and oversees industrial, commercial and production schedules.

Now we see Cubans dying in Africa for Moscow's purposes. Consider the combined labor, energy and industrial capacity geared to the declared Communist plan to rule the world.

This set-up is morally wrong and dangerous to lasting peace. Definitely at cross-purposes with us and completely ignoring the human freedoms, even to which Russian government subscribed in Helsinki.

These Captive Nations ought to be free to govern their homelands. They all should be free of outside domination.

JOHN M. SOCHOR.

ENDICOTT, *July 10.*

MISSING IN ACTION IN SOUTHEAST ASIA

(Mr. DORNAN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DORNAN. Mr. Speaker, including those colleagues who may or may not be watching on our closed-circuit television. As a new Congressman, I have only used this special order process one other time. It is an awkward process because it keeps the staff people here so late. I have been advised "not to dull my pick" by speaking in special order to a nearly empty House, only a few colleagues, and this hard-working staff which takes care of our legislation, our business, and records our words for posterity and whatever years of freedom this country has left as a great republic.

Mr. Speaker, it is difficult to use the special order process because one has this awful feeling that he is keeping good people at work beyond an already long and already very arduous workday. However, I have noticed that many of my colleagues, for a cause far less tragic, will extend the workday during regular order before special orders begin and will take us many hours into the night because they need to plead for a public works project of great interest to their district. However, use like that of the House's time or sometimes delays for frivolous political proceedings do not stand out in sharp relief the way a special order stands out in consuming

time when there are so few people on the floor.

I have waited to within days of the close of my first term in this Congress to speak fully my frustration on the MIA cause. I am working hard in the election process so that I will have more years here to say something which has been in my heart and on my mind for a long time about the way we have treated the MIA families.

I do know, Mr. Speaker, that there is a sister of a missing in action pilot here tonight visiting us. She will spread the word of Mr. GILMAN's and my special orders. I do know that there are many courageous military people with chests full of awards for valor watching on our closed-circuit TV in our liaison offices. I want these people that I respect so much to listen well.

For them and for all who would read this RECORD, Mr. Speaker, I would like to say something that I never had the opportunity to say in this House during the last 2 years.

Mr. Speaker, I thought that the gentleman from New York (Mr. GILMAN) and I were the most obvious choices to go on this last congressional trip to Hanoi, for multiple reasons. The gentleman from New York (Mr. GILMAN) was and is a most trusted Member of Congress, including the other body, by the family members of the missing in action who have not given up hope. I think that over 13 years of work on this gut-ripping issue that I also have earned the trust of the family members of the missing in action.

I think only a handful of our colleagues realize that I was the one who started the POW bracelet. Millions were worn on the wrists of caring Americans—5 million of them. I gave that idea to a group that was originally formed to support a fight for victory for the free world forces in Vietnam.

Eventually they saw that this tragic no-win war was not moving toward victory and this group concentrated their efforts solely on stopping the torture of our POW's, to get them Geneva Convention treatment and to insure that our men would survive to come home. They also made a promise that they would never forget those who were missing if there was not a decent and somewhat complete accounting. That group raised millions of dollars, $13 million I am told, a tremendous sum of money for the message to reach the whole world of the plight of our POW's. I played the role of a big brother or adviser to this group called VIVA.

There were other groups that I helped, groups in Florida, in Dallas, in San Diego. I raised the money alone to make the first trip around the world for MIA wives.

The generous citizens who gave me the money for this world trip said that since I had a background in television and radio, they would not put up the money unless I accompanied the four wives—one Marine wife and three Air Force wives on that first sad trek around the globe.

We traveled to Moscow in 26°-below-zero weather, to Romania, to Rome where within 24 hours of arriving, we had a private audience with the Pope. When the Monsignor who had brought us in left the room to get some religious artifacts for these brave ladies, only one of whom was a Catholic, I suddenly looked around and realized that here there were eight wives and I, we had been joined in Rome by four Navy MIA wives alone with Pope Paul VI. His compassion and empathy was beautiful to behold. He said, and I remember the quotation verbatim:

> There is nothing analogous, to this journey in all of history, you young wives of warriors traveling to the very heartland of the war zone to ask not for freedom for your husbands but to ask for mercy and good treatment.

He said:

> I will use whatever diplomatic ability I have to also ask that good treatment be given to your husbands.

He said other lovely things and sent us on our journey with special prayers.

We went through India. Former Senator Keating was then the U.S. Ambassador. He arranged a meeting with the then leader of India, largest democracy on the face of the Earth, Mrs. Indira Gandhi. We went from there into Thailand. We went to Laos, to Cambodia, to Vietnam. These were all combat theaters. There I watched the original four wives, Carol Hanson, Connie Hestle, a wonderful lady married to a colonel who although he had his Air Force career right where he wanted it as head of academics at Nellis Air Force Base, at the top Air Force's gunnery school, who begged to be assigned to go to Vietnam. He is still missing to this date, as is Steve Hanson, Carol's young Marine captain, as is Pat Hardy's husband, an honor graduate from Stanford University and top F–4 pilot of the month in Vietnam when he was lost, still missing in action. The fourth lady, still a close friend of mine was Pat Mearns. Her husband, Art, an acknowledged hero who went down early in the war on Veterans Day in 1966 flying the toughest missions in U.S. aviation history in F–105 Thunderchiefs.

I watched Pat and Patty, Carol, and Connie go through hospitals in Vietnam. I remember stopping with them at the bed of a young GI from General Patton's son's unit, the 11th Cavalry, who had two legs and one arm blown off. How brave these wives were talking to our wounded. They held back their tears. How beautifully they communicated with those young Americans suffering in our hospitals because they knew of the poor treatment their husbands if they had survived would be getting in Communist prisons in the North.

We watched the care the North Vietnamese wounded soldiers were getting in our hospitals and how a very few American GI's resented that the enemy wounded were getting more time from our nurses than were our own men. We inquired why. They said the North Vietnamese all had worms, and when they had a stomach wound, it immediately would get infected. These North Vietnamese soldiers were not used to malaria in the South anymore than our men were. We wondered unselfishly about the kind of treatment that our men were getting in Hanoi. This was early in 1970, and watching the excellent treatment the North Vietnamese soldiers were getting, in spite of the vicious rumors to the contrary by the fifth column in our country, we felt even more determined to fight for Geneva treatment for our loved ones. Thousands of people to this very day drift out in the China Sea from shores in Indochina in little river skiffs and rafts still seeking to escape from concentration camps trying to seek decent treatment.

This the result of the Communist tyrranny in Indochina today, but so many voices that were raised in outrage in the sixties are silent today. And just what has happening to our men while we were watching these North Vietnamese soldiers getting excellent care in our hospitals in South Vietnam. Why they were being brutally thrust up in what was called "the ropes and bars" torture, twisted into painwracking human pretzels; men like Larry Atterbury, who after an overnight escape was spread-eagled in a cell naked, four guards standing on his arms and legs and like Jesus Christ, he was slowly scourged to death with large strips of truck tire rubber for 8 days. It took 8 days of vicious beating before Maj. Larry Atterberry gave up his soul to God.

Everyone acknowledges to me at the Pentagon that in those days the military wives of POW's were told—"Shut up, don't travel, be a good military wife, stay home and mind your children. We will take care of the POW problem." Sure they were taking care of it as Averill Harriman wanted it taken care of. Hidden quietly in secret memo. But then the wives and mothers organized, and before long the Department of Defense was following the lead of the families.

Dr. Kurshner in the South had 27 young men die in his arms alone. Victims of rotten Vietcong camps.

Two men were forced to kneel and then were shot in the back of their heads like rabid dogs, Sgt. Ken Rohrback and Capt. Rocky Vercase.

Another man, Major Nick Roe, after 5 years of slimy imprisonment in the Delta of the Mekong in the IVth Corps area survived 8 camps, maybe 10 camps, miraculously escaped a fifth time and fighting million-to-one odds forces a helicopter to see him and pluck him out of the jungle. That was at the end of 1968. The Communists were about to execute him because an American here had identified him, not as an Army engineer as he maintained but as a West Pointer and Green Beret. He survived the super rough southern imprisonment ever since he was captured in 1963.

One of my best friends in the Air Force was Lt. Col. David Hrdlicka. He and his wife are godfather and godmother to my oldest daughter, Robin. I am godfather to their oldest. Dave was a prisoner in Laos from May 1965 to 1968 or early 1969.

The Pathet Lao took photographs and made tape recordings of him and to this day he is unaccounted for and has been declared a PFOD, "presumptive finding of death," at his family's request; but there has been no information on Lt.

Dave Hrdlicka in 9 years. Is he one of the four sets of remains that have gone unidentified for weeks since they followed the Montgomery trip home? Four sets of bones returned in 5½ years from Laos. What a travesty on world justice.

I started to run for Congress in 1968, in 1970 and 1972, again in 1974, based partly on wanting to help this issue, and then I come here in 1977 to see the committee for MIA's disbanded before my eyes. I never have heard on any issue here so much distortion, lack of logic, and acceptance of or creation of misinformation as on this MIA issue here in the House.

And then the ultimate insult. Why was I not asked, because of my extensive POW/MIA background, because of my long track record of 13 years on this issue, to go to Hanoi and insert in the minds of the current leaders of the Communist regime that they must not dare execute any man they have left alive, but make very clear to them the words of Shakespeare in his finest play, Hamlet, "For murder, though it have no tongue, will speak with most miraculous organ."

I wanted to explain to them that if there is one single American left alive, and they kill that person to make sure that there is no more embarrassment, so that we can all sweep this issue under the rug then that horrid crime will someday out and their hope of so-called normalization are dashed for a lifetime. It appears some of our own people want subconsciously that this problem go away at any cost. If the Vietnamese have boxed themselves into a corner so that they must execute survivors we must get them out of that corner and fast—very fast. I would liked to have explained exactly what Shakespeare meant about the futility of covering up murders—that no matter where you kill a man there will always be some witness, particularly in countries with millions of people and small land mass.

Someday, somehow we will get these refugee sightings documented on lie detector tests in spite of language barriers, and we will even go to sodium pentothal the "truth serum." And so help me, allmighty God, if there is a single man living in Vietnam look out, my colleagues. I intend to send this special order over to Vietnam so the conquerers can figure out how to save face with the rest of the world. They had better learn that they will have to come forward with this information for us or else make some of it available through UN channels, or go through some other international channels. An attitude about healing the wounds of war will never develop here otherwise and that some of us take an oath to do everything we can until the day we die to get revenge for their killing our POW's who hung on until 5 or 6 years after that stinking war ended.

There is a Member of this House who said to me when I literally begged to go on this last trip to Hanoi, that it was not up to him which was just not so. This Member said to others, however, that the reason I was blocked, in spite of my expertise, from going was simply to use his own words, "I cannot control BOB DORNAN."

This person is not delegated to "control" fellow Congressmen on any kind of a trip let alone a journey of mercy such as an accounting for Americans still missing in action.

But, of course, if the trip was some phony entourage to seek so-called normalization of relations and to try again to bury an issue that refuses to be buried, then I can understand the remark that I could not be controlled on such a trip of false pretentions.

But my presence on that trip—and this has been confirmed to me by several DOD officials would have been most beneficial, just as the presence of the gentleman from New York (Mr. GILMAN) would have been, because we would have inserted thoughts that otherwise were not discussed, or pressed for the opportunities to give the Vietnamese positive food for thought.

When I am confronted with this problem of how to get the Vietnamese to be forthcoming, I remember the words about the Cuban missile crisis that were spoken by a clever young President, John F. Kennedy, who said during that crisis—and this is confirmed by all his biographers—that "if you have a rat cornered and you don't want it to fight then give it a way out."

We are not giving a way out to the Vietnamese. We are not giving them an honorable way to openly admit that—possibly in all the complications of ending the war and given the size and depth of the U Minh forest for example that there were some missing-in-action men alive.

I have had people sitting in my congressional office, both Americans held after 1975 in Saigon and Vietnamese former congressmen Vietnamese, who have told me one awful story after another of the possible fate of left behind U.S. POW's and now that I have so many letters of sightings, I have started to put things together into a pattern, and it is becoming an absolute nightmare.

A Vietnamese man in the United States who has never been properly or thoroughly interrogated tells me that he lived in June 1976 in Hanoi with the secretary to the No. 1 Communist in Vietnam and that this highly placed man started to discuss the MIA's—he said that they had many POW's there in Vietnam and they felt they were going to be embarrassed about it because they did not know how to tell the United States what to do with them. He said they had sent a handful of prisoners who had been shot down flying on top secret missions to the Soviet Union.

I asked Secretary Kissinger if that was true, and he said:

> Possibly it is, but any Americans who were sent to Russia would have been executed by now, because alive they would be too much of an embarrassment if the world found out.

Here on Capitol Hill some months ago again I asked our former Secretary State and former member of the International Security Council this: "Is it possible, Mr. Kissinger, that the Vietnamese have hundreds of boxes of remains in warehouses, pilot who had bailed out over downtown Hanoi for instance, men who, contrary to the Geneva Convention were filmed paraded down the streets of Hanoi?"

Mr. Kissinger said:

> Of course, they have hundreds of bodies. Maybe "warehousing" isn't the right word, but they can give them back to us by the hundreds whenever they feel like it. They want to use us as they used the French.

If the Vietnamese want to gain the respect of the world and become a decent, respected member of the community of nations, if they want us to follow anything other than the hardest line in our fight for the containment of communism, if they want to avoid a great holocaust in the world, if they want to help prevent war everywhere, if they want trade, if they want us to bend a little and have real dialog with them then they have to join with us and really, sincerely try to heal the wounds of war and tell all about our missing prisoners. Then, in all intelligence, we can move forward.

Every, I repeat every, war in which Communists have fought since 1917 they have held back POW's.

The Soviets held back thousands, if not hundreds of thousands of prisoners in World War II. Given the fact that Nazi SS units slaughtered millions of people behind the lines and engaged in constant atrocities on the Eastern front it is understandable that they would not return the prisoners for a few years but they were still returning Germans in 1953 and later, a decade after the war was over and then only a small, small percentage of the Italians, Romanians, and Germans taken prisoner.

The same with the Indochina War of the fiftys. While I was in Bangkok in 1970 at the Spanish embassy I was told about a Spanish soldier with the French Foreign Legion fighting the Viet Minh captured in 1954 who escaped from North Vietnam in 1969. 1969! That was 15 years after the French defeat in Vietnam. And our pullout from Vietnam has only been over 5 years. What ever happened to "Salt" and "Pepper"—code names for a young American black deserter and a young white American deserter who fought on the Vietnam battlefields against our own men. Where are they? Where is the young blond-haired deserter who went over to the Communist side near DaNang and who at one time boldly came in and towed three armored personnel carriers out of a U.S. motor pool and took them over to the other side? He was never accounted for after the war. There are many American deserters in Vietnam, some of whom are married to Vietnamese women with families. Maybe these traitors are the reason for some sightings. But the sightings are from all four corps areas of Vietnam and Laos also which turned into the Black Hole of Calcutta for our pilots. Not a single MIA or known POW has ever been turned over from Laos.

Only Ernie Brace captured in May of 1965 was held for a few weeks in the old French battle area of Dien Bien Phu.

But then he was put in solitary confinement for years in Hanoi until he was "found" by the communication tap system at Hoa Loa Prison in downtown Hanoi by Cmdr. John McCain. The other nine so-called Laos POW's were all held in Vietnam. By the way, our Government now cuts off Ernie Brace without any compensation for the years he spent as a POW—on a technicality. He had to come back and beg for a "private" congressional bill, after 8 years of Communist captivity.

I have here the translated letters of "live" MIA sightings. I want to put them together in one single packet into today's RECORD together with the DOD assessment of the categories of our missing by expected levels of Communist accountability. This I had first put in the RECORD on April 20, 1978, as the so-called DOD "Hawaii briefing" which was immediately ignored and never quoted by the 1977 Woodcock-Montgomery "sweetheart" journey to Hanoi.

Since then, I have received letters from Vietnamese refugees detailing reports of "live" sightings in Southeast Asia. I have transmitted those letters to the Defense Intelligence Agency and printed them again in the RECORD. They are listed as follows:

EXTENSIONS OF REMARKS

1. "We Must Not Shrink From Demanding a Full Accounting of POW/MIA From Vietnam," April 20, 1978, p. 11017–11018.
2. "MIA Sightings and the Montgomery Mission," September 11, 1978, p. 28838.
3. "MIA Live Sightings II," September 12, 1978, p. 29088.
4. "Reports of MIA Sightings—III," September 13, 1978, p. 29357.
5. "MIA Sightings IV," September 14, 1978, p. 29572.
6. "Two Stunning Letters," September 15, p. 29725.
7. "MIA Sightings—VI," September 18, 1978, p. 29964.
8. "MIA Sightings—VIII: Two More Stunning Letters," September 20, 1978, p. 30517.

How does DOD classification of MIA's square with the facts of the cases—now—1978?

Categories 1 and 2 on those men in DOD we know the Vietnamese have information, we know there are photographs and ID cards being preserved. And possibly there are other faces of our heroes on the 8-hour East German film "Pilots in Pajamas" which, for far, far, too long, has been stashed away as a secret document, when it has absolutely no security value. Every Communist country in the world ran the movie as a propaganda film. DOD puts in category 1 and 2 1,336 POW's and missing in action. And do you know how many remains came home, trailing behind this latest Montgomery Committee from those first two huge categories? One, my friends. One. When will we find out the identity of the four sets of remains from Laos, where over 300 men were shot down?

I am sick and tired of hearing about the men who shredded their airplanes into little bits down the sides of Karst mountains. I interviewed a POW on my TV show 10 years ago, the first man shot down in a jet over Indochina, the date June 6, 1964.

This RF–8 pilot, Comdr. Chuck Klusman, was captured and held in confinement in Laos. Get this: He got letters home to his wife in that summer of 1964—14 years ago—and his wife wrote letters back that were delivered to his Laotian cell by the Pathet Lao. He watched the white-painted ICC helicopter, the International Control Commission H–19, land by his prison compound sometimes with mail for him—in 1964. He escaped in August of 1964 after a summer of captivity. He worked his way down across Laos, got across the Mekong River, and down to Bangkok. Why has not Chuck Klusman been asked to comment on the so-called total impossibility of pilots surviving in bad ol' primitive Laos. In 1965 and 1966 and 1967 no one said, "How will anybody get back from Laos, from this hopelessly primitive, evil jungle area?"

I visited in four trips to Laos the Communist representative in a strange safehouse sitting in the middle of Vientiane surrounded by Pathet Lao guards. This man indicated to Mrs. Carol Hanson and others that there would be upward of a hundred pilots returned from Laos when the war was over. Where is he today? That was not a grossly exaggerated figure because if we got 566 live American prisoners back from North Vietnam with a shotdown rate of something around a thousand, why could we not expect a hundred men left alive out of 300 plus given the same bailout survival ratio? We have not gotten one single man back and not a body, until last month, when we got four sets of remains back, still inexplicably unidentified.

There is something wrong with those four sets of remains. When I went to Hawaii last October to our forensic laboratory and observed, they identified 21 of the 23 remains within 5 minutes; they identified the 22d by that night, and the 23d man by the end of the second week. Now, a month has gone by but we still do not know who the men are returned from Laos.

Why no modern status room? No crisis "war room" on reports of sightings. I asked the Air Force casualty section at Randolph Air Force Base, San Antonio, Tex., and they are great people, "Do you have anything to do with live sightings, coordinates, and so forth, anything?"

They said, "Absolutely nothing, sir. We have nothing to do with reported sightings, but we will do whatever DIA asks us or wants us to do. We give whatever information they declassify to families."

I have nothing but the utmost respect for all DIA commanders past and present, but why do they have to play this strange death dance with the CIA and the State Department on the missing. They told me, "Of course, if this Mr. Hung who testified August 9th in the Rayburn Building had a list of 49 prisoners, 49 alive POW's, we will go to Australia and check his story out with other Vietnamese refugees."

A month later, I asked the results and was told, "The team hasn't left yet."

I was told, "They are getting ready to go, but I don't know when."

I sat there with Mr. GILMAN at those Mr. Hung hearings before the South Pacific Committee, ably chaired by an excellent Congressman and Chairman, Mr. LESTER WOLFF, and was allowed to ask the refugee some questions.

I told him, "I hate to say this to somebody who just recently won freedom, but if you are lying to us about 'live' sightings, it is the most dishonorable act against American MIA families I have ever heard of, and I think you ought to be punished and thrown out of this country if it turns out to be untrue."

I said, "However—and we should give you the courtesy of the benefit of the doubt for a few weeks—if you are telling the truth it is the ugliest story about our desertion of brave American fighting men that I have heard of in 202 years of history."

I want to know why there is not a total, no expenses barred intense investigation of every single sighting story. Is there a war room that exists in the State Department coordinating every refugee sighting story? I doubt it. I will tell you what I observe out of our State Department. There is an immediate, an instantaneous reaction to attack and deliberately discredit as a lie any statement that comes out of any Vietnamese refugee's mouth. Dammit. Why?

The refugee letters I have been getting are from France, New England, California, Hong Kong, all over this world. There does not seem to me to be any rationale that these people would be trying to get anything out of being forthcoming. Getting tied up with a CIA or FBI investigation is not their idea of enjoying new found freedoms. They do not need a ticket here, they are here already. They do not need to tell some cock-and-bull story to get to go to France or come to this country. So, I want to know why there is not a big status room in the State Department where I can go and observe and see a pin on a large map where my friend Maj. David Hardwick was held and where the coordinates are each new sighting story is posted.

Now, here is a sad story that I got from a heroic Army hero who is unfortunately dead, Gen. Creighton Abrams, who was the commander for all our forces in Vietnam during my visits in 1970, 1971, and 1972. When I visited with him in January 1970, at his CP at Ton Son Nhut with the four wives I mentioned earlier, I said, General "isn't there any way we can put a commando team on one of these POW camps, to find out from rescued POW's whether our men are being tortured?"

He said,

Bob, let me tell you this. We have some very sophisticated people working on some very sophisticated rescue operations and you will be pleased before the end of the year is out.

Well, before that year was out, the raid on Son Tay had taken place. Then the general told me of caves in Laos where he knew there were many pilots held. In one cave he told us there were probably 6 to 12 men because he said they watched with low level recce planes the men carry out their honey buckets and carry in food. But there were auto-

matic weapons pointed into the caves. He said:

Would you have us put our choppers in there and have the Communists spray the caves with machine gun fire killing these men who have survived one or two or three years in lonely captivity? Are we to go in and get them killed after what they've survived. They wouldn't have a chance unless a raid was perfect.

From what we know now, maybe those men survived to 7 or 8 or 9 years, only to be written off. Disgusting. How we would love to go back in time now and take our chances to pull off those 1970 raids rather than do what we did, nothing, and let them die an ignominious death after our pullout. We should have hit the caves during the night and used high-powered rifles and infrared scopes and put teams on them hot and heavy and we would have probably at least saved some of our heroic surviving pilots.

This is what the Israelis taught us at Entebbe, when they gave the United States our best 200th birthday present—a successful July 4th raid against terrorist. Or as the German border guards did in their civilian clothes at Mogadishu, when they pulled off their perfect raid.

When we finally made our November 20, 1970, Son Tay raid we rejected our own intelligence which told us the grass in the camp had grown high meaning an empty camp. We went in anyway in frustration and endangered very, very brave raiders and then quit trying. Why?

I could go on for hours with screwed up stories of mishandled MIA cases, but again I feel uneasy about my friends here working so hard to take down my wards so late at night. I will try to sum up. There is so much more.

I do not want one more Pentagon general to look into my face and say, "Congressman, you know 10 times more than any other person in Congress on this issue," and then not back me up on a critical trip to Hanoi when time is running out. I am going to Vietnam this winter and pay my own way. And I know the clout that comes with a diplomatic passport. I must reason with the Vietnamese. They want our economic aid badly. They will be more forthcoming than ever now.

But what does this last trip majority report say? It says to completely disassociate the MIA question from any economic discussions. Leave the sightings and remains to the Red Cross. Sweep this issue under the human rights rug. Just go about normalizing relations, and give up our best MIA trump card when it is about to pay off. Never. Absurd reasoning. That is why I associate myself with Mr. HENSON MOORE'S clear logic. there is no hardcore evidence to say any man is alive, but conversely there is no hardcore evidence that every POW came home in the spring of 1973.

I repeat, after every Communist war, every single one, some POW's were held back. Men were held in Siberia, men were held in North Korea and in China. Castro still has his No. 1 lieutenant and former friend Hubert Matos, rotting in solitary confinement, blind, completely naked and in deplorable health—because Castro was so disgraced when his best lieutenant turned against him for selling out their noble revolution to oppressive Communism. I will show you the Gulag camps and that prisoners are everywhere Communists fight. The Chinese held Tom Downey for 20 years and Richard Fecteau for 19 years. Do not tell me men cannot survive for decades in Communist cells.

My colleagues will recall Dumas' story of "The Man in the Iron Mask." Perhaps they will recall that he said, "Does anybody know I'm in here?" I keep hearing these words over and over.

I do not know how many of my colleagues rejected my packet of information when I asked the DOD to pass it out on the airplane going over to Hanoi. Some said, "We don't want to read DORNAN'S crap."

Fine, be an ass and an ignorant know-it-all and reject my 13 years of labor on this issue. Waste the taxpayers money and collect autographs of Communists in Hanoi and then come home and speak inanities to MIA families. They scorn you for your naivete and arrogance on a tragedy you know nothing about.

Mr. Speaker, how many persons in this Chamber or in the other body have lost six close friends shot down over the north in Vietnam. How many have lost 50 acquaintances? None. How many of us got to know as close pals dozens of wives and mothers traveling with them all around the world? Only a few of us. Well it hurts to watch these people suffer and see them accused of grubbing for money.

I had to come home from Vietnam to President Nixon's administration when his people were patting the wives and parents on the heads as though they were fools telling them to be patient. I saw President Carter skilling promise everything to the families and just shove President Ford aside on this issue with his rhetoric saying "I will be the champion of the missing in action and demand a full accounting of heros." Then he broke every single campaign promise.

Those who know anything about this issue are all so quick to sweep it under the rug of appeasement.

Of course, the President just had a tremendous triumph, for which I am very, very grateful, in the Middle East, but there is no triumph in Indochina. Only disgrace.

Mr. Speaker, the Arabs returned all the Israeli POW's, and the Israelis returned all the Arab POW's. The Israelis gave excellent treatment to the Arabs whom they captured, and they were all returned in excellent condition. They have also returned the bodies of those killed in action. The Egyptians and Syrians tortured some Israeli fighter pilots to death but they returned most in fair shape.

Mr. Speaker, I do not want any Vietnamese to look me in the face and try to tell me they do not have clout with Laos. They have total hegemony and control over almost everything that goes on in Laos. They run the show there. They can absolutely help us get an accounting there.

A few Congressmen observed that situation there last month.

The fact is, Mr. Speaker, that I am not going to give up on this issue ever. I am coming back to this next Congress to demand a sightings status room in the State Department and to see a competitive status operation going on over in DIA with maps and full investigations of these letters I have been giving them.

I want to see some group help me put ads in Vietnamese newspapers in France, in Thailand, in Hong Kong, in Singapore, in Malaysia, in Australia, in every city near where these pathetic refugees swept up on the beaches of the world. I would like to see well-worded ads approved by psychologists at the State Department or DIA or any expert who would go over the context and pick perfect wording so that these refugees who write these letters will not be tempted to lie for selfish reasons.

Again, Mr. Speaker, I am not going to give up on this. I think those Congressmen who do not know anything about this tragedy should only vote "present" on that board up there if we get opportunities to vote for investigations next year.

Better yet, come up to "speed" and vote "yes." Do not write off these courageous families. Just say to yourself, "There but for the grace and mercy of God walks my mother, my dad, my wife, my son, my daughter," and do not try to "control" anybody. Be humble enough to listen to logic and commonsense on this final chapter of an awful page in American history.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I yield to my friend, the distinguished gentleman from New York.

Mr. GILMAN. Mr. Speaker, at this late hour, I want to commend the gentleman for his outpouring of compassion on this sad issue and for his comprehensive and stirring analysis of the entire problem.

I only wish that this Chamber had been filled to listen to his comments. I hope our colleagues will take the time to read his words, and I hope and pray that he will be back with us in the next session to continue in this vein.

Mr. DORNAN. Mr. Speaker, may I also thank my colleague, the gentleman from New York (Mr. GILMAN) for all of the advice and counsel which he has gave me on this issue during this 95th Congress as I was trying to learn the procedures and protocol of this great legislative body and how to get our story out.

May I just say in closing that much advice was given to me about the futility of a special order which I took months ago on April 20, on the subject of that DOD MIA category briefing. There were only two or three people on the House floor that evening. It was suggested to me that somehow I should learn how then Congressman Nixon in January of 1950, on the Alger Hiss affair, turned out a full Chamber and full galleries for a special order. I do not know how he did it. Those were days when people were not yet hammered insensate by bad news.

In 2 years, Mr. Speaker, I have never seen a special order draw more than a handful of congressmen. But it is better than doing nothing.

I know most of this will not be read. But I know it will be circulated throughout MIA family members and that is very important. I am not going to go on any longer into my hour of special order but I am going to use the mass media of this country to continue beating on this story. I am going on the ABC "AM America" Show October 9, and I am going to discuss our missing. I will also hold up this new bracelet that I am wearing for Anatoly Scharansky. I am capable of working several causes or crusades at the same time. Since I am the person who started the POW bracelet, I feel I am entitled to use it for a new tragic cause.

I had Mr. Scharansky's mother, Ida Milgrom begin crying as I held her hands saying goodbye in Moscow on September 2. She pleaded with me to help free Anatoly from Siberia. I met the other brave brother, Leonid Scharansky, in front of the single "token" Moscow synagogue the day before. He asked that Americans speak out for justice for the dissidents. With you, Ben, I met Avital Scharansky, the courageous wife, who came over from Israel to visit us in Congress. She was confused about what a symbolic bracelet would mean. Avital thought at first it was consigning her husband to a slow death, but the mother in Moscow understood instantly the importance of the bracelet because she is marooned in the Soviet Union. The brother Leonid told me, "What an excellent idea. Oh, what an honor to have hundreds of Americans wearing a bracelet with my brother's name." Avital also came back to me to say "Yes, I understand."

I also met with the courageous Maria Slepak in Moscow. She told me how she has been abused since they sent her husband to Siberia.

I met the courageous Dr. Alexander Lerner. I have seen these brave people fighting communism in their unique way also in Leningrad, in Kiev and in Riga, Latvia.

I am going to try to help this new bracelet to spread like wildfire. But I will not take off my MIA bracelet, or the Montagnard bracelet that has been on my wrist for 13 years. That was really POW bracelet No. 1. The Montagnard chieftan who gave it to me asked me not to take it off until the Communists stop kidnaping his people. That of course has not happened.

So there are all sorts of overlapping causes for freedom in our troubled world. This bracelet idea reminded everyone of our POW's and their plight and it stopped their torture. I am sorry it did not work so well to get a fair accounting of our missing in action. Since we know however that Scharansky and the other dissidents in Russia are alive, then these bracelets will help keep their memory alive in America. I will announce this bracelet program on national television on October 9 just the way I announced the POW bracelet on my own regional Los Angeles show on February 7, 1970. Those freedom-loving fighters behind the Bamboo Curtain and behind the Iron Curtain, will be heartened when they hear that thousands of Americans are wearing their names on bracelets together with the date that they were arrested by secret police and imprisoned. When I introduce this cause on the "AM America Show" coast-to-coast, it will also remind people that the MIA issue is not over either. I will remind them that sightings are coming closer together now out of Indochina, as more and more refugees escape from that area to tell us about live American POW's in 1975, 1976, and even 1977.

I finish tonight with this thought:

If we stall long enough and keep repeating long enough that "no American is alive in Vietnam" then eventually that will be a self-fulfilling statement, as it was in the case of Tucker Gougelmann. Please, my colleagues, develop a keen sense of urgency about the passing of each day and what it holds for the fate of any surviving POW's in Asia. For them every single day spent in a Communist cell is a living hell on Earth. Ask the returned 566 POW's lucky enough to have come home.

I appreciate so much the gentleman from New York (Mr. GILMAN) for staying so late and joining my special order.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I would like to take advantage of this opportunity to commend the gentleman in the well, who, although perhaps some of our colleagues do not realize it, has been so deeply and actively involved in this issue for many long years before he came to Congress.

I also wish to pay tribute to my distinguished colleague, the gentleman from New York, BEN GILMAN, who has been one of those relentless bulldogs in pursuit of answers to these questions about whatever became of the hundreds of unaccounted for POW's. I think both gentlemen are distinguished patriots, distinguished Americans, and distinguished humanitarians.

Mr. Speaker, over 5½ long years have passed since the signing of the Paris agreement which brought U.S. involvement in the war in Indochina to an end. During these past 5 years the families of hundreds of missing American servicemen and civilians who remain unaccounted for have waged their own long and lonely battle to learn the fate of their loved ones.

By the terms of the agreement, the Hanoi government was committed to provide information on the missing, however, instead of being forthcoming on this humanitarian issue they have stalled and done their best to trade the fate of these men for concessions from the United States. They have been using their own version of the installment plan, that is accounting for a few men whenever it suits their own political purposes.

Currently the present administration is considering normalizing relations with the Vietnamese Communists. During the last round of talks in Paris between the United States and Vietnam, the United States offered to normalize relations without preconditions ruling out nothing except direct aid to Vietnam. Further, the United States offered to lift the trade embargo on Vietnam if they would agree to exchange Ambassadors. Recently, the Vietnamese told a congressional delegation that they are prepared to go forward with establishing relations with the United States and are dropping their demand for reconstruction aid. Meanwhile, the MIA's and their families are still caught in an international chess game. Only some 70 men out of over 2,400 have been accounted for to date. There is no question that the Vietnamese could provide information on hundreds of these missing men. Department of Defense records indicate it is reasonable to expect the Vietnamese can account for over 1,300 of the missing.

Some of these men were known to have been alive in captivity at one time. Are these men still alive? How can their families rest until they learn the fate of their loved ones? And especially, how can the administration even begin to consider normalizing relations with Vietnam when this issue is unresolved?

Mr. Speaker, the most puzzling part of the new best friend relationship the administration is initiating with Hanoi is in the area of human rights. Not only are the Vietnamese one of the world's most blatant violators of the rights of their own people, but they are probably the only country which continues to violate the rights of a sizable group of Americans—the right of the POW/MIA families to know the fate of their loved ones. The administration's willingness to ignore its own human rights stand so as to orchestrate U.S. policy with that of the Communists is moral schizoprenia.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AMMERMAN (at the request of Mr. WRIGHT), for this week on account of convalescence from illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROGERS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. VANIK, to revise and extend his remarks and include extraneous material, to include tables that were part of his statement and a letter from the President relating to the sugar legislation (H.R. 13750).

Mr. STEIGER, to include extraneous

matter on H.R. 13750 and also to insert in the text of his presentation certain tables and charts.

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. RHODES.

Mr. STANTON.

Mr. MARLENEE in two instances.

Mr. CORCORAN of Illinois.

(The following Members (at the request of Mr. ROGERS) and to include extraneous matter:)

Mr. BYRON in 10 instances.

Mr. SISK in two instances.

Mr. ROSENTHAL in 10 instances.

Mrs. LLOYD of Tennessee in five instances.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. HAMILTON in 10 instances.

Mr. FISHER in 10 instances.

Ms. MIKULSKI in two instances.

Mr. HOLLAND in five instances.

Mr. MICHAEL O. MYERS.

Mr. BRADEMAS in five instances.

Mr. NOLAN.

Mr. ROBERTS.

Mr. PEPPER.

Mr. TEAGUE.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8588. An act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes;

H.R. 11005. An act to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1979;

H.R. 12928. An act making appropriations for energy and water development for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 12934. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes; and

H.J. Res. 1140. Joint resolution to amend section 8 of the Export-Import Bank Act of 1945.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following title:

S. 2249. An act to prohibit discrimination in rates charged by the Southwestern Power Administration;

S. 2391. An act to extend the Commodity Exchange Act, and for other purposes;

S.J. Res. 29. Joint resolution to authorize the President to issue a proclamation designating that week in November 1979, which includes Thanksgiving Day as "National Family Week"; and

S.J. Res. 165. Joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 29, 1978, present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 1445. Conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Cmdr. Edward White Rawlins, U.S. Navy (retired);

H.R. 9214. To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund;

H.R. 10126. To amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service;

H.R. 10581. Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes;

H.R. 12026. To create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness;

H.R. 13125. Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 13349. To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes; and

H.J. Res. 1140. To amend section 8 of the Export-Import Bank Act of 1945.

ADJOURNMENT

Mr. ROGERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 21 minutes p.m.) the House adjourned until tomorrow, Tuesday, October 3, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5064. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting a report on the study of compensatory education programs, pursuant to section 821(c) of Public Law 93-380; to the Committee on Education and Labor.

5065. A letter from the Assistant Secretary of the Treasury for Administration, transmitting a proposed correction to a records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5066. A letter from the Acting Secretary of the Interior, transmitting a report on the effect of the land claim by the Penaboscot Indian Nation upon the designation and administration of the east and west branches of the Penobscot River as a National Wild and Scenic River; to the Committee on Interior and Insular Affairs.

5067. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the bidding systems to be used and the tracts to be offered under each system in Outer Continental Shelf lease sale No. 65, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

5068. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the intention of the Department of State to consent to a request by the Government of Iran for permission to transfer U.S.-origin military equipment to the Government of Oman, pursuant to section 3(a) of the Arms Export Control Act, as amended; to the Committee on International Relations.

5069. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Australia (transmittal No. 78-104), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

5070. A letter from the Director, Administrative Office of the U.S. Courts, transmitting his third report on the operation of the speedy trial plans adopted by U.S. district courts and the operation of the Pretrial Services Agencies established in 10 district courts on a demonstration basis, pursuant to 18 U.S.C. 3155(a) and 3167; to the Committee on the Judiciary.

5071. A letter from the Secretary of the Army, transmitting a supplement to the special Corps of Engineers report on the Lower Snake River fish and wildlife compensation plan, Washington and Idaho; to the Committee on Public Works and Transportation.

5072. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report on the control of combined sewer overflow in the United States, pursuant to section 510(c) of the Federal Water Pollution Control Act, as amended (91 Stat. 1608); to the Committee on Public Works and Transportation.

5073. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's 15th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

5074. A letter from the Secretary of Agriculture, transmitting the report of the Special Task Force which reviewed the operation of Public Law 480, pursuant to section 1210 of Public Law 95-113; jointly, to the Committees on Agriculture, and International Relations.

5075. A letter from the Acting Comptroller General of the United States, transmitting a report on the Government's payroll allotment program (FGMSD-78-52, September 29, 1978); jointly, to the Committees on Government Operations, Armed Services, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 29, 1978, the following report was filed on September 30, 1978*]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 13650. A bill to

authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes; with amendment (Rept. No. 95–1480, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted October 2, 1978*]

Mr. BROOKS: Committee on Government Operations. Report on Northeast corridor improvement project construction delays and cost ramifications (Rept. No. 95–1674). Referred to the Committee of the White House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on improving internal auditing in the Departments of Air Force and Navy—an interim report (Rept. No. 95–1675). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on overseas real property management (Rept. No. 95–1676). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on procurement practices at the U.S. Army Communications and Electronics Material Readiness Command (Rept. No. 95–1677). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 9701. A bill to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes; with amendment (Rept. No. 95–1678). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13592. A bill to amend the Internal Revenue Code of 1954 with respect to employer's duties in connection with the recording and reporting of tips; with amendment (Rept. No. 95–1679). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on problems in the relationship between the Commerce Department's Maritime Administration and the National Maritime Council, a private trade organization (Rept. No. 95–1680). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on why search warrants should be required for certain mail openings by the Customs Service (Rept. No. 95–1681). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AMMERMAN (for himself, Mr. MURTHA, Mr. ROONEY, Mr. YATRON, Mr. MURPHY of Pennsylvania, Mr. GOODLING, Mr. LUNDINE, Mr. MOTTL, Mr. BROWN of Michigan, Mr. MCKAY, Mr. QUIE, Mr. HEFTEL, and Mrs. SMITH of Nebraska):

H.R. 14212. A bill to establish standards of fair practices that shall be observed by handlers and associations of producers in their dealings in agricultural products; to the Committee on Agriculture.

By Mr. MATHIS (for himself, Mr. WAMPLER, Mr. STANGELAND, Mr. HUBBARD, Mr. BOWEN, Mr. RAHALL, Mr. MCCLORY, Mr. MONTGOMERY, Mr. PRESSLER, Mr. QUIE, Mr. BAUMAN, Mr. PATTEN, Mr. JOHN T. MYERS, Mrs. SMITH of Nebraska, Mr. MICHEL, Mr. HEFNER, Mr. WHITEHURST, Mr. EDWARDS of Oklahoma, and Mr. FITHIAN):

H.R. 14213. A bill to prohibit the Secretary of Agriculture from prohibiting the use of nitrites as food preservative on the basis of any carcinogenic effect nitrites may be represented to have until a satisfactory substitute preservative is commercially available; to the Committee on Agriculture.

H.R. 14214. A bill to prohibit the Secretary of Agriculture and the Secretary of Health, Education, and Welfare from prohibiting the use of nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until the development of a satisfactory alternative food preservative; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. GIAIMO (for himself, Mr. GILMAN, and Mr. NEAL):

H. Res. 1394. Resolution expressing the sense of the House that the Reverend Sun Myung Moon appear before the Subcommittee on International Organizations investigating Korean-American relations; to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10909

By Mr. COLLINS of Texas:

—Page 11, line 22, after "research" insert "or for the analysis or diagnosis of rare disorders".

—Page 16, after line 2, insert the following:

"(3) the Secretary or the health systems agency, as the case may be, shall maintain records of the disclosures of any information under subparagraphs (A) and (B) of paragraph (2), including the purpose and identity of the individual or organization to which such disclosure is made."

—Page 24, line 23, after "who", insert "knowingly and willfully".

H.R. 11488

By Mr. FITHIAN:

—Page 122, line 17, strike out "$120,000,000" and insert in lieu thereof "$40,000,000"; in line 18 on that page strike out "$150,000,000" and insert in lieu thereof "$70,000,000"; and in line 19 on that page strike out "$150,000,000" and insert in lieu thereof "$130,000,000".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 4, 1978, p. 24499.

H.R. 13007. June 7, 1978. Banking, Finance and Urban Affairs. Sets forth requirements and restrictions respecting the use of electronic funds transfers by depository institutions.

H.R. 13008. June 7, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977, to increase Federal participation in the funding of benefits under such Title and under the Medicare program, and to raise to $100,000 in 1979 the ceiling on the amount of income that is subject to the tax.

H.R. 13009. June 7, 1978. Ways and Means. Amends the Internal Revenue Code to provide that any written interpretation of a tax law which is issued by the Internal Revenue Service to a taxpayer shall be binding unless: (1) legislation enacted after the date of the written interpretation renders such interpretation inapplicable; (2) the interpretation is revoked; or (3) the facts upon which such interpretation was based have materially changed.

H.R. 13010. June 7, 1978. Appropriations. Rescinds budget authority in the amount of $48,000,000 for foreign military assistance (H. Doc. 95–346), pursuant to the Impoundment Control Act of 1974.

H.R. 13011. June 7, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 13012. June 7, 1978. Judiciary. Requires any Federal agency, in promulgating a regulation pursuant to the Administrative Procedure Act, to publish its findings regarding whether such regulation should set lesser standards for compliance for individuals and small business and small organizations or whether such small entities or individuals should be exempt from such regulation. Requires such promulgating agency to obtain the comments of the Small Business Administration with respect to the impact of such regulation on such individuals and small entities.

Requires that such exemptions or lesser standards be incorporated in the proposed regulation where appropriate.

H.R. 13013. June 7, 1978. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to carry out a poject for the replacement of the seawall at Mandeville, Saint Tammany Parish, Louisiana.

H.R. 13014. June 7, 1978. Science and Technology. Requires the Secretary of Energy to develop research, development, and demonstration programs concerning the use of solar photovoltaic energy systems.

H.R. 13015. June 7, 1978. Interstate and Foreign Commerce. Establishes the Communications Regulatory Commission as an independent regulatory commission.

Terminates the Federal Communications Commission. Repeals the Communications Act of 1934.

Transfers all personnel and property of the Federal Communications Commission to the Communications Regulatory Commission.

Sets forth procedures for the licensing of telecommunications facilities in the United States.

H.R. 13016. June 7, 1978. Ways and Means. Amends the Internal Revenue Code to allow a deduction of up to $1,500 for household expenses to any taxpayer who maintains a household in which a handicapped dependent or a dependent aged 65 or over resides.

H.R. 13017. June 7, 1978. Judiciary. Amends the Civil Rights Act of 1964 to require a subpena duces tecum for the search for and seizure of evidence when anyone acting under color of law has probable cause to believe evidence of a crime is located on or about premises in which the person in possession of the evidence has a reasonable expectation of privacy.

H.R. 13018. June 7, 1978. Agriculture; Ways and Means. Establishes a private, nonmember, nonprofit Food Research Corporation to make financial, technical, and education assistance grants to individuals, nonprofit organizations, or the governments of States or foreign countries or political subdivisions

thereof, for: (1) provision of implements, low energy intensive machinery, and seeds to individuals engaged in agriculture or aquaculture who cannot produce the food necessary to nourish their families adequately; and (2) teaching individuals who are suffering from malnutrition methods to maximize food production and nutrition.

Amends the Internal Revenue Code to permit a taxpayer to designate that a portion of paid taxes be paid to the Food Research Corporation Fund.

H.R. 13019. June 7, 1978. Ways and Means. Amends the Internal Revenue Code to allow a tax credit for 70 percent of the State and local individual income tax paid by an individual taxpayer.

Disallows tax deductions for State and local individual income taxes and for State and local general sales taxes.

H.R. 13020. June 7, 1978. Armed Services. Entitles former spouses of members of the armed forces who were married to the member for at least ten years to a portion of that member's retired or retainer pay. Entitles such former spouses to a portion of the annuity of the surviving spouse of such member. Stipulates that such a member may not elect not to provide an annuity under the Survivor Benefit Plan without the consent of the member's spouse and any former spouses.

H.R. 13021. June 7, 1978. Armed Services. Entitles former spouses of members of the armed forces who were married to the member for at least ten years to a portion of that member's retired or retainer pay. Entitles such former spouses to a portion of the annuity of the surviving spouse of such member. Stipulates that such a member may not elect not to provide an annuity under the Survivor Benefit Plan without the consent of the member's spouse and any former spouses.

H.R. 13022. June 7, 1978. Agriculture. Amends the Animal Wildlife Act to prohibit coursing.

H.R. 13023. June 7, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that for purposes of determining the average monthly wage of individuals who qualify for disability benefits before attaining age 31, the number of benefit computation years shall be determined according to the formula used to determine the number of such years for old age and sruvivor's benefit recipients.

H.R. 13024. June 7, 1978. Post Office and Civil Service. States that any health insurance carrier which has a board of directors, the majority of which consists of physicians or hospital administrators, shall be ineligible for contracted coverage for Federal employees.

H.R. 13025. June 7, 1978. Science and Technology; Interior and Insular Affairs; Interstate and Foreign Commerce; Rules. Establishes a national materials policy to promote the most efficient use and disposal of materials and wastes.

H.R. 13026. June 7, 1978. Government Operations; Rules. Amends the Congressional Budget and Impoundment Control Act to limit total budget authority and budget outlays for fiscal year 1980 to the levels for fiscal year 1979. Prohibits outlays for fiscal years 1981, 1982, and 1983 from exceeding the previous fiscal year by more than five percent.

Authorizes the President to reduce any budget authority or outlay during fiscal years 1980 through 1983 by up to ten percent in order to comply with the requirements of this Act.

H.R. 13027. June 7, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce; Science and Technology; Rules. Directs the President to prepare and submit to the Congress a National Energy Policy Plan.

Provides for congressional review of such plan.

H.R. 13028. June 7, 1978. Agriculture; Interstate and Foreign Commerce. Directs the Administrator of the Environmental Protection Agency to request the National Academy of Science to conduct a study regarding the desirability of developing a Federal policy for the determination of the potential carcinogenicity in man of chemicals tested primarily in nonhuman test systems through the standardization of certain tests.

H.R. 13029. June 7, 1978. Judiciary. Specifies a certain period to be used as the benefit computation year in determining the primary insurance amount of a certain individual, under the Social Security Act.

H.R. 13030. June 7, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in satisfaction of such individual's claims against the United States.

H.R. 13031. June 7, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13032. June 8, 1978. Interstate and Foreign Commerce. Amends the Securities Act of 1933 and the Investment Company Act of 1940 to set forth provisions relating to investment in small business concerns.

H.R. 13033. June 8, 1978. Armed Services. Entitles certain unremarried former spouses of members of the uniformed services to medical and dental benefits under the Civilian Health and Medical Plan of the Uniformed Services (CHAMPUS).

H.R. 13034. June 8, 1978. Ways and Means; Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to define "quarter of coverage" for purposes of qualifying a handicapped individual for social security benefits as a quarter in which such handicapped individual has been paid $50 or more in wages or has been credited with $100 or more of self-employment income while working in a facility which provides remunerative work for the handicapped.

H.R. 13035. June 8, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment under the supplementary medical insurance program for foot care involving the cutting and removal of corns, warts, and calluses and the trimming of club nails.

H.R. 13036. June 8, 1978. Post Office and Civil Service. Authorizes Federal employees who allege an adverse personnel action because of handicap to bring an action for relief in a United States district court. States that the court may grant any appropriate relief against the Federal officer or employee responsible.

H.R. 13037. June 8, 1978. Ways and Means. Amends the Internal Revenue Code to allow handicapped individuals who are incapable of operating highway vehicles an income tax deduction for their commuting expenses.

H.R. 13038. June 8, 1978. Ways and Means. Lists products the manufacture of which shall constitute the "steel sector" for purposes of determining the appropriate product sector with respect to import restriction authority under the Trade Act of 1974.

H.R. 13039. June 8, 1978. Ways and Means. Amends the Internal Revenue Code to allow certain small businesses to compute taxable income under the cash method and without regard to inventories. Increases the corporate surtax exemption and reduces the corporate tax rates. Provides for limited recognition of the gain from the sale or exchange of a sole proprietorship prior to the age of 55, and nonrecognition after age 55. Allows the rapid amortization of expenses of a business for property acquired to put the business in compliance with Federal law and which does not have any economic usefulness to the business.

H.R. 13040. June 8, 1978. Government Operations. Amends the Freedom of Information Act to give courts jurisdiction to enjoin Federal agencies from withholding agency records, even if such records pertain to national defense or foreign policy and are properly classified pursuant to an Executive order, if the court finds no reasonable basis to support such Executive order.

Extends the time period an agency may use to determine whether or not such agency will comply with a request for information.

H.R. 13041. June 8, 1978. Armed Services. Includes chiropractic care in the health care which may be provided to members and former members of the armed forces and their dependents in facilities of the uniformed services and under the Civilian Health and Medical Plan of the Uniformed Services (CHAMPUS).

H.R. 13042. June 8, 1978. Armed Services. Repeals the requirement that specified male line officers in the Navy serve two years at sea or foreign service to be eligible for promotion to the grade of lieutenant commander.

H.R. 13043. June 8, 1978. Armed Services. Extends the maximum age for eligibility for the financial assistance program of the Senior Reserve Officers' Training Corps by the period of time that a student previously served on active duty in the armed forces, not to exceed four years.

H.R. 13044. June 8, 1978. Ways and Means. Repeals the requirement, under the Social Security Amendments of 1977, that the amount of monthly benefits payable to a spouse or surviving spouse under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 13045. June 8, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts deferred by participants in public deferred compensation plans.

H.R. 13046. June 8, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service officer or employee acting in his official capacity.

H.R. 13047. June 8, 1978. Ways and Means. Amends the Internal Revenue Code to establish tax accounting rules for trading stamp companies, using an accrual method of accounting, which elect to exclude from gross income costs incurred in redeeming trading stamps or coupons issued in connection with the sale of merchandise.

H.R. 13048. June 8, 1978. Interstate and Foreign Commerce. Establishes mandatory standards for State no-fault benefit plans for the compensation and rehabilitation of motor vehicle accident victims.

Establishes within the Department of Transportation the Standards for No-Fault Benefits Review Panel to evaluate the performance and effect of approved State plans.

H.R. 13049. June 8, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Authorizes and directs the Secretary of Energy to enter into cooperative agreements with designated States and Indian Tribes to pay the costs of: (1) assessing the radiation levels of residual radioactive materials from former uranium ore processing sites located in such States and on Indian land; and (2) limiting the risk of exposure of individuals to such radioactive materials.

H.R. 13050. June 8, 1978. Ways and Means. Subjects specified kinds of preserved beef and veal products to the policy of Congress related to the restriction of beef imports. Revises the formula for the determination of beef and veal import quotas. Repeals the authority of the President to limit beef imports at any one port of entry in order to insure the geographical distribution of such imports. Declares it the policy of Congress that a quota should be imposed upon the importation of cattle. Directs the President to

impose such limitation and to limit such imports at any one port of entry.

H.R. 13051. June 8, 1978. International Relations. Amends the Export Administration Act of 1969 to prohibit exportation to Uganda of articles subject to control under such Act.

H.R. 13052. June 8, 1978. Post Office and Civil Service. Maintains current classes of mail, rates of postage, and fees for postal services presently in effect until modified by Congress.

Repeals the authority of the Postal Service to: (1) establish temporary changes in rates; (2) reimburse a mailer for paying a fee determined to be unlawful or superseded by allower fee; and (3) establish uniform rates for books, films and educational materials based solely on weight.

H.R. 13053. June 8, 1978. Ways and Means. Prohibits the importation of any article which is the growth, product or manufacture of Uganda.

H.R. 13054. June 8, 1978. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation of Ugandan coffee.

H.R. 13055. June 8, 1978. Rules; Ways and Means. Prohibits Congress from making any appropriation in excess of total estimated revenues in any fiscal year beginning with fiscal year 1980. Provides an exception to such prohibition in time of war or national emergency.

Prohibits any increase in the national debt. Requires the repayment of the national debt during the next 100 years.

H.R. 13056. June 8, 1978. Rules; Ways and Means. Prohibits Congress from making any appropriations in excess of total estimated revenues in any fiscal year beginning with fiscal year 1980. Provides an exception to such prohibition in time of war or national emergency.

Prohibits any increase in the national debt. Requires the repayment of national debt during the next 100 years.

H.R. 13057. June 8, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to disregard renewal commissions received by an insurance salesman from life insurance policies which such salesman sold before reaching age 65, for purposes of determining eligibility based on income for social security benefits.

H.R. 13058. June 8, 1978. Banking, Finance and Urban Affairs. Ways and Means. Amends the Internal Revenue Code of 1954 and the Social Security Act to require the Secretary of the Treasury and the Secretary of Health, Education, and Welfare to, upon written request, disclose the mailing address of any individual to an officer of any depository institution or other bank or savings institution solely for the purpose of notifying such taxpayer of an account in such bank or institution which may be subject to State laws providing for the escheat or custodial taking of unclaimed or abandoned property.

H.R. 13059. June 8, 1978. Public Works and Transportation. Authorizes or modifies specified public works projects under the jurisdiction of the Secretary of the Army, acting through the Chief of Engineers, for navigation improvements, flood and erosion control, and public water supplies.

H.R. 13060. June 8, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13061. June 9, 1978. Merchant Marine and Fisheries; Interstate and Foreign Commerce. Requires the Secretary of the Interior to issue regulations relating to traps and trapping. Sets forth standards for approved traps.

Establishes an advisory commission to advise the Secretary on traps designed or intended for use.

Prohibits trapping on Federal lands where such trapping will adversely affect any species of mammal or bird.

Sets forth a procedure for the application and issuance of trapping permits.

Requires shipping certificates for packages containing specified parts of trapped animals shipped in interstate commerce.

Sets forth criminal penalties for violations of this Act.

H.R. 13062. June 9, 1978. Judiciary. Amends provisions setting forth additional penalties for using or unlawfully carrying a firearms during the commission of a Federal felony to name such activity "armed criminal action."

Specifies penalties for armed criminal action. Stipulates that offenders shall not be prosecuted under the Federal Youth Corrections Act or juvenile delinquency provisions and denies them parole eligibility.

H.R. 13063. June 9, 1978. Interstate and Foreign Commerce. Eliminates the requirement, under the Health Professions Educational Assistance Act, that alien foreign medical graduates in the United States who were licensed to practice medicine by a State as of January 9, 1977, must be certified by a medical specialty board as a condition of maintaining their immigration status.

H.R. 13064. June 9, 1978. Government Operations; Rules. Amends the Congressional Budget and Impoundment Control Act to limit total budget authority and budget outlays for fiscal year 1980 to the levels for fiscal year 1979. Prohibits outlays for fiscal years 1981, 1982, and 1983 from exceeding the previous fiscal year by more than five percent.

Authorizes the President to reduce any budget authority or outlay during fiscal years 1980 through 1983 by up to ten percent in order to comply with the requirements of this Act.

H.R. 13065. June 9, 1978. Government Operations; Small Business. Amends the Office of Federal Procurement Policy Act to require the payment of interest on contract payments which are overdue under Federal contracts with small businesses.

H.R. 13066. June 9, 1978. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to exclude from the civil liability of any health care practitioner or provider of health care services under any law of the United States, of any State, or of any political subdivision thereof, in any action for damages arising out of care or treatment for which payment has been made (in whole or in part) under the Social Security Act, costs incurred or anticipated for health care services for which payment may be made under this Act.

H.R. 13067. June 9, 1978. Agriculture; International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to direct the President to establish a reserve stock of agricultural commodities which will be available to carry out agreements under such Act whenever the commodities otherwise available for disposition are insufficient because of statutory limitations.

H.R. 13068. June 9, 1978. Banking, Finance and Urban Affairs Requires that the one-dollar coin bear the likeness of Elizabeth Pole. Amends the Coinage Act of 1965 to change the size and weight of such coin.

H.R. 13069. June 9, 1978. Interior and Insular Affairs. States that power and energy marketed by the Southwestern Power Administration shall be sold at uniform system-wide rates. Provides that agreed points of delivery shall not be changed unilaterally.

H.R. 13070. June 9, 1978. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Government authorities.

H.R. 13071. June 9, 1978. Interior and Insular Affairs. Expands the authorization for the American River Basin Development, California, to include a diversion structure and tunnel from the North Fork Consumnes River to Camp Creek.

H.R. 13072. June 9, 1978. Ways and Means. Amends the Internal Revenue Code to increase the maximum income tax deduction for amounts paid by or on behalf of an individual to an individual retirement account, for an individual retirement annuity, or for an individual retirement bond.

H.R. 13073. June 9, 1978. Education and Labor. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain.

H.R. 13074. June 9, 1978. Public Works and Transportation. Amends the Water Resources Development Act of 1974 to require that the Little Calumet River channel in Illinois be maintained free of trees, roots, silt, debris, and objects.

H.R. 13075. June 9, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain.

H.R. 13076. June 9, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain.

H.R. 13077. June 9, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain.

H.R. 13078. June 9, 1978. Judiciary. Permits a certain individual to remain in the United States for a specified period as a nonimmigrant alien, under the Immigration and Nationality Act.

H.R. 13079. June 12, 1978. Banking, Finance and Urban Affairs. Sets forth requirements and restrictions respecting the use of electronic funds transfers by depository institutions.

H.R. 13080. June 12, 1978. Banking, Finance and Urban Affairs. Amends the Homeowners' Loan Act of 1933 to allow Federal savings and loan associations to issue mutual capital certificates.

H.R. 13081. June 12, 1978. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to establish minimum rates, fares, and charges for air services provided to the Department of Defense by air carriers through contracts of more than 30 days' duration.

H.R. 13082. June 12, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 13083. June 12, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 13084. June 12, 1978. Public Works and Transportation. Amends the Federal

Water Pollution Control Act to lower the limit on penalties for the discharge of oil and hazardous substances into or upon waters of the United States.

H.R. 13085. June 12, 1978. Post Office and Civil Service. Gives Department of Energy couriers and security inspectors the same civil service retirement benefits as law enforcement officers and firefighters.

H.R. 13086. June 12, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to increase the number of directors of each Federal Reserve Bank from nine to twelve by adding three additional directors to the class of directors designated from the public by the Board of Governors of the Federal Reserve System.

H.R. 13087. June 12, 1978. Banking, Finance and Urban Affairs. Authorizes the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

H.R. 13088. June 12, 1978. Banking, Finance and Urban Affairs. Extends the supervisory authority of Federal agencies which regulate depository institutions.

Prohibits interlocking director and management relationships between financial institutions.

Prohibits any State nonmember insured bank from operating any foreign branch without prior written consent of the Federal Deposit Insurance Corporation.

Restructures the National Credit Union Administration.

Regulates the sale of insured financial institutions.

Establishes a Bank Examination Council.

Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

Sets forth standards for bank mergers and acquisitions.

Requires the termination of the National Bank Closed Receivership Fund.

H.R. 13089. June 12, 1978. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to construct a flood control project for Pottstown and vicinity, Schuylkill River Basin, Pennsylvania.

H.R. 13090. June 12, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a special postage stamp in honor of Doctor Ralph J. Bunche

H.R. 13091. June 12, 1978. Agriculture. Directs the Secretary of Agriculture, through the Commodity Credit Corporation, to support the price of honey marketed between January 1, 1979 and December 31, 1982 at a level to be determined according to a specialized formula.

Authorizes the Secretary to enter into or approve agreements under which honey producers will conduct information dissemination and advertising and sales promotion programs.

H.R. 13092. June 12, 1978. Ways and Means. Amends the Internal Revenue Code to increase to $5,000 the jurisdictional ceiling on taxpayer disputes involving deficiencies or overpayments to which small tax case procedures will be applied in the United States Tax Court.

Authorizes the chief judge of the Tax Court to assign small tax cases ($5,000 or less) to commissioners of the court. Authorizes a commissioner of the Tax Court to administer oaths and to procure the testimony of witnesses.

H.R. 13093. June 12, 1978. Public Works and Transportation. Modifies the project for the Trinity River and tributaries, Texas, to direct the Secretary of the Army, acting through the Chief of Engineers, to include net regional income benefit estimates and to use such benefits on an equal basis with national economic development benefits in computing the economic justification of the project.

H.R. 13094. June 12, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend the custom duty on certain alloy tool steel until June 30, 1981.

H.R. 13095. June 12, 1978. Public Works and Transportation. Stipulates that upon the withdrawal of approval of any portion of an Interstate Highway, the State involved, subject to the approval of the Secretary of Transportation, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs. Stipulates that refunds shall not be required if the State applies such funds to an eligible transportation project or to a public conservation or recreation purpose within ten years.

H.R. 13096. June 12, 1978. Interior and Insular Affairs. Provides that individual members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands for the Tribe or members thereof. Grant the tribe a preference right to purchase certain lands held in trust by the United States for tribal members.

H.R. 13097. June 12, 1978. Ways and Means. Amends the Medicare program of the Social Security Act to authorize the President to enter into agreements establishing reciprocal arrangements between such program and the program of any foreign country under which health services are provided.

Extends certain benefits for second and subsequent disabilities to individuals who have not attained the age of 65 if they meet specified criteria.

Eliminates the five year residency requirement for aliens to enroll in the Medicare program.

Requires, in specified instances, that services received in a skilled nursing facility shall be deemed inpatient hospital services.

H.R. 13098. June 12, 1978. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to cause the vessel Alice, owned by Hugh G. Vogt, Jr., of Chalmette, Louisiana, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade so long as such vessel is owned by a citizen of the United States.

H.R. 13099. June 12, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 13100. June 12, 1978. Judiciary. Declares a certain individual admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13101. June 12, 1978. Judiciary. Directs the United States District Court for the District of Arizona to waive certain limitations and requirements with respect to the filing of a specified tort claim against the United States.

H.R. 13102. June 12, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13103. June 13, 1978. Government Operations. Requires all Federal regulatory agencies to prepare with respect to each rule promulgated by such agencies: (1) a statement comparing the private costs of such rule with the benefit such rule would have on the environment; and (2) an environmental impact statement. Establishes standing task forces in each community affected by proposed agency rules to assess the economic and employment impact of each such rule.

Requires Congressional approval of any such rule which will cause an increase in unemployment.

H.R. 13104. June 13, 1978. Government Operations. Requires all Federal regulatory agencies to prepare with respect to each rule promulgated by such agencies: (1) a statement comparing the private costs of such rule with the benefit such rule would have on the environment; and (2) an environmental impact statement. Establishes standing task forces in each community affected by proposed agency rules to assess the economic and employment impact of each such rule.

Requires Congressional approval of any such rule which will cause an increase in unemployment.

H.R. 13105. June 13, 1978. Ways and Means. Amends the Internal Revenue Code with respect to corporate tax rates and dividend deductions, employer investment and employment credits, business expense deductions and investment credits, and individual stock dividend exclusions. Provides for cost-of-living adjustments to depreciation allowances, property bases and United States obligations.

H.R. 13106. June 13, 1978. Ways and Means. Amends the Internal Revenue Code with respect to corporate tax rates and dividend deductions, employer investment and employment credits, business expense dductions and investment credits, and individual stock dividend exclusions. Provides for cost-of-living adjustments to depreciation allowances, property bases and United States obligations.

H.R. 13107. June 13, 1978. Ways and Means. Amends the Antidumping Act, 1921, to revise procedures with respect to the investigation by the Secretary of the Treasury and the International Trade Commission of allegations of import "dumping." Imposes liquidation deadlines upon imported merchandise upon which a special "dumping" duty has been imposed. Requires the establishment of a task force for each investigation of "dumping" allegations to serve as an intermediary between the Secretary and the industrial and labor groups interested in the investigation.

H.R. 13108. June 13, 1978. Ways and Means. Amends the Antidumping Act, 1921, to revise procedures with respect to the investigation by the Secretary of the Treasury and the International Trade Commission of allegations of import "dumping." Imposes liquidation deadlines upon imported merchandise upon which a special "dumping" duty has been imposed. Requires the establishment of a task force for each investigation of "dumping" allegations to serve as an intermediary between the Secretary and the industrial and labor groups interested in the investigation.

H.R. 13109. June 13, 1978. Ways and Means. Amends the Social Security Act to include within the definition of a fully insured individual certain professionals whose profession first became subject to social security coverage on January 1, 1965.

H.R. 13110. June 13, 1978. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available to a person unable to operate a voting machine.

H.R 13111. June 13, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants and enter into contracts for establishing, maintaining, and expanding family planning projects with particular emphasis on adolescents.

H.R. 13112. June 13, 1978. Ways and Means. Interstate and Foreign Commerce. Amends the Social Security Act to increase Federal payment to States under the programs of Aid to Families with Dependent Children and Medicaid.

Requires as a condition of any State receiving such increase that the amount of such increase be paid to political subdivisions of the State which participate in the cost of the State plan.

H.R. 13113. June 13, 1978. Judiciary. Prohibits the issuance of a warrant to search any premises which are not under the control of a suspect in a crime under investigation, except upon a specific and further finding, based upon recorded nonhearsay evidence, that there is a high probability that the objects sought will be concealed, destroyed or altered.

H.R. 13114. June 13, 1978. Banking, Finance and Urban Affairs. Amends the National Housing Act to authorize the Secretary of Housing and Urban Development to direct the Federal National Mortgage Association to make mortgage credit assistance payments to lenders who agree to make home mortgage loans to eligible middle-income families.

H.R. 13115. June 13, 1978. Education and Labor. Amends the Higher Education Act of 1965 to authorize appropriations for, and establish a program of grants to, urban universities for (1) development of urban-oriented educational research, or service programs; and (2) assistance in carrying out such programs.

Authorizes a five year comprehensive grant to a university qualifying as an "urban grant university" and establishes criteria for such designation.

Creates an Urban University Advisory Council to (1) review, along with the Commissioner of Education, "urban grant university" applications; (2) advise the Commissioner; and (3) make recommendations to the President and to the Congress.

H.R. 13116. June 13, 1978. Interstate and Foreign Commerce. Directs the Federal Trade Commission to establish criteria to measure the level of competition in alternative energy source markets. Requires the Commission to make monitoring studies of the energy industry by applying such criteria in order to isolate any violations thereof. Permits the Commission to exercise its authority to remedy an anticompetitive situation after a show cause hearing where a person is deemed responsible for any violation.

H.R. 13117. June 13, 1978. District of Columbia. Vests all title and right to certain described land in the District of Columbia to be administered by the Secretary of the Interior to preserve and protect the Potomac River shoreline and for recreational purposes.

H.R. 13118. June 13, 1978. Government Operations. Establishes as an independent organization in the executive branch the Federal Translation Coordinating Council. Requires the Council to: (1) make such recommendations as may be necessary to coordinate all Federal activities involving translation; (2) determine, evaluate, and where possible, improve translation services available to interested persons; (3) determine the number and capabilities of translators whose services may be available to the Federal Government; (4) determine which institutions of higher education in the United States provide training in skills required for translation; (5) determine the needs of the Federal Government for translation services; and (6) determine such standards for translation as the Council may deem appropriate.

H.R. 13119. June 13, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts deferred by participants in public deferred compensation plans.

H.R. 13120. June 13, 1978. Public Works and Transportation. Amends the Tennessee Valley Authority Act to allow credits against required power investment return payments for expenditures for certified pollution control facilities.

H.R. 13121. June 13, 1978. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare program of the Social Security Act to increase the amount of benefits under such program which may be paid with respect to the treatment of mental, psychoneurotic, and personality disorders of outpatients.

H.R. 13122. June 13, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to issue substitute Treasury checks to replace any checks of the United States which have been lost, stolen, destroyed, or mutilated, without requiring an undertaking of indemnity by the owner or holder of such a check.

H.R. 13123. June 13, 1978. Interior and Insular Affairs. Authorizes the United States to take in trust for an Indian borrower title to land within an Indian reservation, when such land is purchased by an Indian of the tribe of that reservation with funds borrowed from the Farmers Home Administration.

H.R. 13124. June 13, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction of up to $2,500 annually and $10,000 in a lifetime for contributions to an individual housing account. Makes such accounts tax exempt and allows distributions from such an account to be tax free if such distributions are used exclusively for the purchase of a principal residence for the distributee.

H.R. 13125. June 13, 1978. Appropriates specified sums of money for fiscal year 1979 for specified programs of the Department of Agriculture, the Food and Drug Administration of the Department of Health, Education and Welfare, the Commodity Futures Trading Commission, and the Farm Credit Administration.

H.R. 13126. June 14, 1978. Interior and Insular Affairs. Provides that certain provisions of Federal reclamation law do not and shall not apply to lands in the Imperial Irrigation District of California.

H.R. 13127. June 14, 1978. House Administration; Post Office and Civil Service. Amends the Federal Election Campaign Act of 1971 to entitle any candidate in a general or special election for Federal office to mail as third class mail any campaign mail.

H.R. 13128. June 14, 1978. Agriculture. Requires a report to the Secretary of Agriculture from any foreign person (including individuals, organizations, governments, or any combination thereof) who holds, acquires, or transfers any interest, other than a security interest, in agricultural land.

H.R. 13129. June 14, 1978. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 13130. June 14, 1978. Ways and Means. Amends the Internal Revenue Code to apply the same tax rates to married persons filing separate returns as are presently applicable to unmarried individuals.

H.R. 13131. June 14, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to allow unlimited home health visits, to eliminate prior hospitalization as a requirement for receiving home health care under part A (Hospital Insurance Benefits for the Aged and Disabled) of such Title, and to eliminate confinement to home as a requirement for receiving such care under part B (Supplementary Medical Insurance Benefits for the Aged and Disabled) of such Title.

H.R. 13132. June 14, 1978. Agriculture. Requires a report to the Secretary of Agriculture from any foreign person (including individuals, organizations, governments, or any combination thereof) who holds, acquires, or transfers any interest, other than a security interest, in agricultural land.

H.R. 13133. June 14, 1978. Armed Services. Revises the special pay for medical officers, dental officers, veterinary officers, and optometry officers in the uniformed services on active duty.

H.R. 13134. June 14, 1978. Banking, Finance and Urban Affairs. Amends the Coinage Act of 1965 to change the size and weight of the one-dollar coin and to require that the obverse side of such coin bear the likeness of Susan B. Anthony.

H.R. 13135. June 14, 1978. Armed Services. Stipulates that a retired member of the uniformed services who, in lieu of receiving retired pay, is receiving compensation from the Veterans' Administration for a service-connected disability rated as total and who is participating in the Survivor Benefit Plan shall not be required to make payments into the Treasury for such Plan.

H.R. 13136. June 14, 1978. Judiciary; Ways and Means. Amends the Immigration and Nationality Act to: (1) grant permanent resident status to certain aliens in this country on January 1, 1977; (2) increase the number of total lawful admissions of aliens; (3) remove the English language requirement for citizenship; (4) direct the Attorney General to collect and remit wages due deported aliens after paying the taxes thereon; and (5) remove the residency requirements for persons seeking citizenship after serving in the U.S. Armed Forces.

H.R. 13137. June 14, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service officer or employee acting in his official capacity.

H.R. 13138. June 14, 1978. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to acquire lands associated with Canyons 1 and 2 at Wenatchee, Washington.

H.R. 13139. June 14, 1978. Ways and Means. Repeals the requirement, under the Social Security Amendments of 1977, that the amount of monthly benefits payable to a spouse or surviving spouse under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 13140. June 14, 1978. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13141. June 14, 1978. Judiciary. Declares a certain individual to have satisfied residence and physical presence requirements, under the Immigration and Nationality Act.

H.R. 13142. June 14, 1978. Judiciary. Declares a certain individual to have satisfied residence and physical presence requirements for naturalization, under the Immigration and Nationality Act.

H.R. 13143. June 14, 1978. Merchant Marine and Fisheries. Directs the Secretary of Transportation to document a certain vessel as a vessel of the United States.

H.R. 13144. June 15, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works and Transportation. Prohibits the construction of any regulated interstate pipeline unless the Federal Energy

Regulatory Commission grants a certificate of public convenience and necessity for such construction.

H.R. 13145. June 15, 1978. Judiciary. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 13146. June 15, 1978. Judiciary. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 13147. June 15, 1978. Ways and Means. Amends the Internal Revenue Code to allow a ten percent investment tax credit for the construction of enclosures or structures used exclusively for the housing, raising, or feeding of poultry or their produce.

H.R. 13148. June 15, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to increase the number of directors of each Federal Reserve Bank from nine to twelve by adding three additional directors to the class of directors designated from the public by the Board of Governors of the Federal Reserve System.

H.R. 13149. June 15, 1978. Agriculture. Amends the Food Stamp Act of 1977 with respect to two pilot projects involving the performance of work in return for food stamp benefits, to set deadlines for reports on such projects.

H.R. 13150. June 15, 1978. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to provide emergency medical services to specified veterans attending national conventions of certain related organizations recognized by the Administrator.

Authorizes the Administrator to contract with such organizations to furnish reimbursable emergency medical services at such conventions to non-veterans.

H.R. 13151. June 15, 1978. Judiciary. Makes the killing of an officer or employee of the Veterans' Administration who is performing official duties a Federal crime.

H.R. 13152. June 15, 1978. Agriculture; International Relations; Interstate and Foreign Commerce; Ways and Means. Establishes a National Board of Agricultural Governors to: (1) set parity prices and comprehensive cost of production prices for agricultural commodities; (2) establish a national production goal and allocate acreage allotments or marketing quotas; (3) establish a program to acquire reserve stocks; (4) establish import quotas; (5) conduct producer referendums on proposed regulations; and (6) establish and administer all agricultural and marketing programs of the Federal Government.

H.R. 13153. June 15, 1978. Ways and Means. Requires that Congress be notified of proposed actions of the President affecting the importation of certain meats and certain agricultural commodities into the United States. Stipulates that under specified conditions if both Houses of Congress adopt a concurrent resolution opposing such Presidential actions, such actions shall not become effective.

H.R. 13154. June 15, 1978. Public Works and Transportation. Directs the Secretary of Transportation to prescribe uniform standards for trucks carrying freight in interstate commerce and to prescribe standards for State taxation and regulation of such vehicles.

Stipulates that a State which does not comply with such standards shall have its apportionment of Federal highway funds reduced by ten percent for the first year of noncompliance, 20 percent for the second year, and 30 percent for each subsequent year.

H.R. 13155. June 15, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 13156. June 15, 1978. Banking, Finance and Urban Affairs; Interior and Insular Affairs. Authorizes the Secretary of Housing and Urban Development to establish an urban park and recreation recovery program to provide financial assistance for rehabilitation of recreation areas and facilities in the form of challenge grants to local governments.

H.R. 13157. June 15, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain.

H.R. 13158. June 15, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain.

H.R. 13159. June 15, 1978. Interior and Insular Affairs. Replaces the existing acreage limitation of 160 acres of reclaimed land per individual with a maximum farm size of 1,280 acres owned or leased in any combination by 25 or fewer persons.

Abolishes the residency requirement for qualified recipients.

H.R. 13160. June 15, 1978. Interior and Insular Affairs. Establishes the Long Island Sound Heritage in Connecticut and New York.

H.R. 13161. June 15, 1978. Banking, Finance and Urban Affairs. Requires the President to direct the United States Governor of the International Monetary Fund, the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the Inter-American Development Bank, the United States Governor of the International Development Association, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to propose requirements that their respective institutions establish human rights standards to be considered in connection with each application for assistance.

H.R. 13162. June 16, 1978. Agriculture; International Relations; Interstate and Foreign Commerce; Ways and Means. Establishes a National Board of Agricultural Governors to: (1) set parity prices and comprehensive cost of production prices for agricultural commodities; (2) establish a national production goal and allocate acreage allotments or marketing quotas; (3) establish a program to acquire reserve stocks; (4) establish import quotas; (5) conduct producer referendums on proposed regulations; and (6) establish and administer all agricultural and marketing programs of the Federal Government.

H.R. 13163. June 16, 1978. Agriculture. Requires the General Accounting Office to conduct an annual audit of all records by any person pertaining to the amount of grain being stored by such person under any program carried out by the Commodity Credit Corporation.

H.R. 13164. June 16, 1978. Armed Services; Merchant Marine and Fisheries. Revises the structure and purpose of the Reserve components of the Armed Forces. Declares that it is the intent of Congress that the Reserves shall be an equal element in a partnership with the active components of the Armed Forces.

Establishes the position of Assistant Secretary for Mobilization and Reserve Affairs in each of the branches of the Armed Forces. Makes organizational changes within the Department of Defense and the Department of Transportation with respect to the Coast Guard to carry out the purposes of this Act.

H.R. 13165. June 16, 1978. Public Works and Transportation. Modifies the Galveston Channel 40-foot project for navigation in Galveston Bay, Texas, as authorized under the Flood Control Act of 1965, to provide that non-Federal interests contribute a specified percentage of acquisition and construction costs.

H.R. 13166. June 16, 1978. Rules. Requires that legislation considered by Congress be accompanied by statements assessing the economic and social costs and the expected accomplishments of programs established or authorized by such legislation. Requires that duplicative programs be identified. Requires Federal agencies to annually report to Congress on the extent to which such programs meet their objectives. Prohibits the funding of any program for more than five years. Requires Congress to consider the extent to which any program has met its objectives in the past before considering refunding of such program.

H.R. 13167. June 16, 1978. Ways and Means. Amends the Internal Revenue Code to specifically allow a tax deduction for contributions to a tax-exempt black lung disability trust which has as one of its purposes to fund the future liabilities of an employer for claims filed by individuals seeking compensation for disability due to black lung disease. Limits the amount of the deductible contributions to not more than 38 percent of the employer's payroll.

H.R. 13168. June 16, 1978. Judiciary. Prohibits any person acting under color of Federal, State, or local law from searching any place or seizing any thing in the possession or control of any person who is not suspected of committing an act that is a criminal offense under Federal, State or local law and who does not consent to such search or seizure.

H.R. 13169. June 16, 1978. Judiciary. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 13170. June 16, 1978. Ways and Means. Amends the Internal Revenue Code to extend the election to amortize, based on a 60-month period, expenditures to rehabilitate low-income rental housing.

H.R. 13171. June 16, 1978. International Relations. Amends the Export Administration Act of 1969 to prohibit the export of any domestically produced crude oil or fuels refined from crude oil.

H.R. 13172. June 16, 1978. Interior and Insular Affairs. Authorizes the Secretary of the

Interior to provide funds to the Western States and Hawaii to cover the cost of eliminating hazards of open canals and drains by conversion to closed conduits or by installation of fencing.

H.R. 13173. June 16, 1978. Interior and Insular Affairs. Authorizes the Secretary of the Interior to eliminate open canal and drain hazards within the Middle Rio Grande project, New Mexico, by conversion to closed conduits or by installation of fencing.

H.R. 13174. June 16, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury to strike bronze, silver, and gold national medals and deliver them to the Lake Placid 1980 Olympic Winter Games Corporation, a nonprofit corporation.

H.R. 13175. June 16, 1978. Interstate and Foreign Commerce. Establishes a National Organization of Securities and Exchange Commission Accountancy to require independent public accounting firms which furnish audit reports with respect to any financial statements filed with the Securities and Exchange Commission to register with the Organization.

Requires the Organization to conduct continuing reviews of independent public accounting firms registered under this Act.

Suspends or revokes the registration of any firm which refuses to cooperate in such investigations.

Subjects independent public accounting firms to liability for damages because of a client's reliance on a negligently prepared audit report concerning a financial statement filed with the Securities and Exchange Commission.

H.R. 13176. June 16, 1978. Merchant Marine and Fisheries. Establishes an Interoceanic Canal Study Council to review and assess routes for the construction and operation of a sea-level canal across America.

Establishes the Joint United States-Panama Sea-Level Canal Study Commission to conduct such studies as may be related to the canal, including the preparation of an environmental report, if required.

Requires the Environmental Quality Council to afford interested persons an opportunity to present data respecting the environmental impact statement in such report.

H.R. 13177. June 16, 1978. Ways and Means. Amends the Internal Revenue Code by providing graduated corporate income tax rates ranging, over seven brackets, from a 16 percent rate on a corporation's first $25,000 income to a 45 percent rate on income over $150,000.

H.R. 13178. June 16, 1978. Interstate and Foreign Commerce. Amends the Clean Air Act to provide for the establishment of an Office of Small Community and Small Business Concerns, within the Environmental Protection Agency, which shall provide certain technical assistance and information to small communities and small businesses relating to environmental requirements.

H.R. 13179. June 16, 1978. Agriculture; Ways and Means. Authorizes the President to prohibit the importation of sugar from any country not a member of the International Sugar Organization, and to otherwise regulate foreign trade in sugar to implement the International Sugar Agreement. Authorizes the Secretary of Agriculture to impose quotas and fees on the importation of sugar and "sugar-containing products."

H.R. 13180. June 16, 1978. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to eliminate the deduction of railroad retirement annuities by amounts payable as social security benefits for persons who had current connections with the railroad industry, had at least five years of service, and had attained the age of 65 as of the effective date of such Act.

H.R. 13181. June 19, 1978. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board, upon a finding that an airline's classification, rule, regulation, or practice affecting liability or freight claims is unjust, unreasonable, or unjustly discriminatory, to prescribe the lawful classification, rule, regulation, or practice to be made effective.

H.R. 13182. June 19, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for occupational therapy services under the supplementary medical insurance program.

H.R. 13183. June 19, 1978. Agriculture. Prohibits the purchase of United States agricultural land by foreign persons, including individuals, organizations, and foreign governments, or any combination of such.

Requires foreign persons currently holding interests in United States agricultural land to submit to the Secretary of Agriculture a report on such interests.

H.R. 13184. June 19, 1978. Judiciary. Amends the Immigration and Nationality Act to provide for the exclusion and deportation from the United States of aliens affiliated with terrorist organizations. Removes certain diplomatic and semidiplomatic immunities from such aliens. Imposes criminal penalties on anyone who knowingly aids such aliens to enter the United States.

Amends the Foreign Agents Registration Act of 1938 to require an investigation of the activities of anyone registered under such Act as an agent of a terrorist organization. Imposes criminal penalties on an agent who knowingly receives funds from such an organization.

H.R. 13185. June 19, 1978. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to extend death benefit coverage to public safety officers who die as a result of a medical condition arising out of or exacerbated by official duties. Extends such benefit coverage to any person serving in an official capacity, with or without compensation, as an ambulance, first-aid, or rescue squad member.

H.R. 13186. June 19, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the withholding tax requirements with respect to gambling winnings.

H.R. 13187. June 19, 1978. Public Works and Transportation. Designates the United States Post Office and Federal Building in Griffin, Georgia, as the "John J. Flynt, Jr. Federal Building."

H.R. 13188. June 19, 1978. Interstate and Foreign Commerce. Declares specified portions of Stamford Harbor, Connecticut, to be nonnavigable waters.

H.R. 13189. June 19, 1978. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 13190. June 19, 1978. Agriculture. Requires a report to the Secretary of Agriculture from any foreign person (including individuals, organizations, governments, or any combination thereof) who holds, acquires, or transfers any interest, other than a security interest, in agricultural land.

H.R. 13191. June 19, 1978. Ways and Means. Amends the Internal Revenue Code by providing graduated corporate income tax rates ranging, over seven brackets, from a 16 percent rate on a corporation's first $25,000 of income to a 45 percent rate on income over $150,000.

H.R. 13192. June 19, 1978. Agriculture. Requires annual reporting to the Secretary of Agriculture by foreign persons and agents of purchases of agricultural lands. Imposes civil penalties for reporting violations.

H.R. 13193. June 19, 1978. Agriculture. Requires annual reporting to the Secretary of Agriculture by foreign persons and agents of purchases of agricultural lands. Imposes civil penalties for reporting violations.

H.R. 13194. June 19, 1978. Banking, Finance and Urban Affairs. Amends the National Housing Act to authorize the Secretary of Housing and Urban Development to direct the Federal National Mortgage Association to make mortgage credit assistance payments to lenders who agree to make home mortgage loans to eligible middle-income families.

H.R. 13195. June 19, 1978. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 13196. June 19, 1978. Government Operations. Amends the Federal Property and Administrative Services Act of 1949 to permit State and county agricultural extension services to obtain excess property from the United States.

H.R. 13197. June 19, 1978. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to undertake a demonstration project for silt and aquatic growth removal on an Iowa lake. Requires a report by the Secretary to the Environmental Protection Agency of such project.

H.R. 13198. June 19, 1978. Ways and Means Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to provide medicare benefits for individuals who require total parental nutrition (TPN).

H.R. 13199. June 19, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance of the Social Security Act) to provide medicare benefits for individuals who require total parental nutrition (TPN).

H.R. 13200. June 19, 1978. Agricultural. Amends the Federal Meat Inspection Act and the Poultry Products Inspection Act to increase the fines and maximum prison terms for bribery of and assaults on Federal meat and poultry inspectors, and for other violations of the respective acts. Subjects any person, firm, or corporation guilty of such violations to liability for a civil penalty for each violation.

H.R. 13201. June 19, 1978. Judiciary. Authorizes the issuance of a visa and admission for permanent residence to the United States of a specified individual, under the Immigration and Nationality Act.

H.R. 13202. June 19, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13203. June 21, 1978. Agriculture. Requires annual reporting to the Secretary of Agriculture by foreign persons and agents of purchases of agricultural lands. Imposes civil penalties for reporting violations.

H.R. 13204. June 21, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce; Rules. Directs the Secretary of Energy to conduct a study of the storage of spent nuclear fuel at temporary fuel storage facilities, and the permanent storage of radioactive waste.

Requires the President to issue a plan with

respect to the temporary and permanent storage of such waste.

Permits Congress to reject such plan by the adoption of a concurrent resolution.

H.R. 13205. June 21, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from gross income statutory subsistence allowances received by State police officers between 1969 and 1978.

H.R. 13206. June 21, 1978. House Administration. Directs the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain with private funds a monument to General Draza Mihailovich.

H.R. 13207. June 21, 1978. Ways and Means. Requires that until further Congressional action is taken, the determination of whether an individual is an employee for purposes of social security taxation, unemployment taxation, and income tax withholding shall be made in accordance with audit practices and regulations in effect December 31, 1975.

H.R. 13208. June 21, 1978. Ways and Means. Amends the Internal Revenue Code to exempt from unemployment taxation commercial fishermen who, pursuant to an agreement with the fishing boat owner, receive a share of the boat's catch of fish in lieu of cash remuneration.

H.R. 13209. June 21, 1978. Interstate and Foreign Commerce. Establishes, as an independent instrumentality within the Department of Commerce, the Standards for Product Liability Tort Law Review Panel to review State product liability legislation to determine whether such legislation is in accordance with basic standards set forth in this Act.

States that the product liability cause of action provided by this Act shall be in lieu of all existing causes of action for damage as a result of bodily injury caused by a product.

H.R. 13210. June 21, 1978. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for amounts contributed to a product liability trust, up to the fair market value of product liability insurance for the taxpayer. Sets forth the requirements such a trust must meet to be tax-exempt.

H.R. 13211. June 21, 1978. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Establishes the Federal Insurance Commission to regulate the insurance industry.

H.R. 13212. June 21, 1978. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce; Ways and Means. Establishes the Federal Insurance Commission to regulate the insurance industry and to establish Federal product liability tort litigation standards. Creates the Standards for Product Liability Trust Law Review Panel to review State product liability legislation. Amends the Internal Revenue Code to allow an income tax deduction for amounts contributed to a product liability trust, up to the fair market value of product liability insurance for the taxpayer. Sets forth the requirements such a trust must meet to be tax-exempt.

H.R. 13213. June 21, 1978. Armed Services. Revises the special pay for medical officers, dental officers, veterinary officers, and optometry officers in the uniformed services on active duty.

H.R. 13214. June 21, 1978. Armed Services. Repeals the compensation for members of the Naval Research Advisory Committee.

H.R. 13215. June 21, 1978. Armed Services. Authorizes supplemental appropriations for various military construction projects and for military family housing.

H.R. 13216. June 21, 1978. Agriculture. Establishes within the Department of Agriculture a Task Force on Beef-Grading Standards, which shall make determinations and recommendations with respect to establishing new beef-grading standards to replace existing standards.

Directs the Secretary of Agriculture to establish new beef-grading standards within three months after receiving the Task Force's recommendations.

H.R. 13217. June 21, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 13218. June 21, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 13219. June 21, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 13220. June 21, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 13221. June 21, 1978. Interior and Insular Affairs. Extends the boundaries of the Toiyabe National Forest in Nevada, to include specified lands at Mount Diablo, Meridian, Nevada. Removes the existing limitation of $12,500,000 on funds available for the acquisition of property in the area.

H.R. 13222. June 21, 1978. Ways and Means. Amends the Internal Revenue Code by providing graduated corporate income tax rates ranging, over seven brackets, from a 16 percent rate on a corporation's first $25,000 of income to a 45 percent rate on income over $150,000.

H.R. 13223. June 21, 1978. Government Operations; International Relations. Declares that the Federal Government should adopt an explicit national population policy and encourage and assist other countries to achieve their population goals.

Directs all agencies of the Federal Government to give consideration to population dynamics in decisionmaking.

Requires the President to annually transmit to Congress a Population Growth and Distribution Report.

Establishes in the Executive Office of the President an Office of Population Policy.

H.R. 13224. June 21, 1978. District of Columbia. Directs the Mayor of the District of Columbia, consistent with an urban renewal plan approved by the Council of the District of Columbia, to transfer all title and interest of the United States to and in specified property in Southwest Washington, D.C. to the District of Columbia Redevelopment Land Agency.

H.R. 13225. June 21, 1978. Judiciary. Amends the Immigration and Nationality Act to provide for the exclusion and deportation from the United States of aliens affiliated with terrorist organizations. Removes certain diplomatic and semidiplomatic immunities from such aliens. Imposes criminal penalties on anyone who knowingly aids such aliens to enter the United States.

Amends the Foreign Agents Registration Act of 1938 to require an investigation of the activities of anyone registered under such Act as an agent of a terrorist organization. Imposes criminal penalties on an agent who knowingly receives funds from such an organization.

H.R. 13226. June 21, 1978. Armed Services. Directs the Secretary of Defense, in computing incentive pay for medical officers of the uniformed services, to prescribe a system through which variable incentive pay may be reduced or adjusted to reflect amounts the Federal Government has paid to, or benefits received by, medical officers prior to the commencement of their active duty.

H.R. 13227. June 21, 1978. Judiciary. Amends the Civil Rights Act of 1964 to require a subpena duces tecum for the search for and seizure of evidence when anyone acting under color of law has probable cause to believe evidence of a crime is located on or about premises in which the person in possession of the evidence has a reasonable expectation of privacy.

H.R. 13228. June 21, 1978. Public Works and Transportation. Directs the Secretary of the Army to construct water storage projects and projects for the transportation of water to regions of water shortages.

H.R. 13229. June 21, 1978. Veterans' Affairs. Designates the Veterans' Administration hospital in Columbia, South Carolina, as the "Wm. Jennings Bryan Dorn Veterans' Hospital."

H.R. 13230. June 21, 1978. Banking, Finance and Urban Affairs; Public Works and Transportation. Establishes a National Development Bank for the purpose of facilitating private development of distressed areas.

Authorizes the Bank to extend various forms of financial assistance to businesses with projects in such areas.

H.R. 13231. June 21, 1978. Post Office and Civil Service. Directs the Secretary of Commerce to use the statistical method known as "sampling" when taking agricultural censuses. Authorizes the Secretary to use an alternative method with respect to data regarding the statistical classification of farms when "sampling" is not appropriate. Directs the Secretary when using such an alternative method to seek to reduce the time necessary to respond to census questions. Prohibits the Secretary from using any method which imposes unnecessary requirements upon persons responding to such questions.

H.R. 13232. June 21, 1978. Judiciary. Amends the Civil Rights Act of 1964 to require a subpena duces tecum for the search for and seizure of evidence when anyone acting under color of law has probable cause to believe evidence of a crime is located on or about premises in which the person in possession of the evidence has a reasonable expectation of privacy.

H.R. 13233. June 21, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13234. June 21, 1978. Judiciary. Directs the Chairman of the Civil Service Commission to determine the amounts of benefits under the Federal Employees' Compensation Fund to which a certain individual would have been entitled had such individual's husband died on a certain day after collecting widow's survivor benefits. Authorizes the Chairman to pay to such individual such sum.

H.R. 13235. June 21, 1978. Merchant Marine and Fisheries. Directs the Secretary of Commerce to issue to three individuals specified decorations in recognition of their service in the United States Merchant Marine during World War II.

H.R. 13236. June 21, 1978. Judiciary. Declares a certain individual to be the natural born alien son of such individual's parents who are United States citizens, for purposes of the quotas which the Immigration and Nationality Act place on immigrant visas.

H.R. 13237. June 21, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13238. June 22, 1978. Agriculture; Sci-

ence and Technology. Amends the Public Works and Economic Development Act of 1965 to authorize the Secretary of Commerce to conduct a program of research, development, and demonstration of quayule rubber production and manufacture as an economic development opportunity for the southwestern States. Establishes a National Advisory Committee to assist the Secretary in carrying out this Act.

H.R. 13239. June 22, 1978. Ways and Means. Amends the Internal Revenue Code to provide that all amounts, compensation, goods and services received as National Research Service Awards under the Public Health Service Act since July 12, 1974 are excludible from gross income to the same extent as scholarships and fellowship grants.

H.R. 13240. June 22, 1978. Ways and Means. Amends the Internal Revenue Code to reduce the tax on the capital gains of individuals by repealing the capital gains item of tax preference for the minimum tax for taxable years beginning in 1979 and by lowering the rate on capital gains in excess of $50,000 for taxable year beginning after December 31, 1980.

Restores the pre-1969 tax treatment of capital gains, beginning in taxable years after December 31, 1981, by lowering the corporate and individual alternate tax.

H.R. 13241. June 22, 1978. Ways and Means. Amends the Internal Revenue Code: (1) to allow the election of a deduction with respect to the amortization, based on a 60-month period, of any qualified facility producing alcohol from coal, wood, waste, or agricultural products for primary use as a motor fuel; (2) to exempt from specified excise taxes the sale of any gasoline or fuel at least ten percent of which is alcohol; and (3) to allow the tax-free withdrawal from bonded premises of distilled spirits to the extent such spirits are alcohol produced by a qualified alcohol-producing facility for primary use as motor fuel.

H.R. 13242. June 22, 1978. Ways and Means. Amends the Internal Revenue Code: (1) to allow the election of a deduction with respect to the amortization, based on a 60-month period, of any qualified facility producing alcohol from coal, wood, waste, or agricultural products for primary use as a motor fuel; (2) to exempt from specified excise taxes the sale of any gasoline or fuel at least ten percent of which is alcohol; and (3) to allow the tax-free withdrawal from bonded premises of distilled spirits to the extent such spirits are alcohol produced by a qualified alcohol-producing facility for primary use as motor fuel.

H.R. 13243. June 22, 1978. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for housing undertakings to any housing finance agency established by it. Exempts payments of such bonds from Congressional approval.

H.R. 13244. June 22, 1978. Post Office and Civil Service. Sets the postal rate for personal domestic letter mail of individuals sealed against inspection. Requires the Postal Service to maintain the rate for the class of the mail established by this Act at a certain percentage of the rate for the transmission of ordinary letters sealed against inspection.

H.R. 13245. June 22, 1978. Post Office and Civil Service. Sets the postal rate for personal domestic letter mail of individuals sealed against inspection. Requires the Postal Service to maintain the rate for the class of mail established by this Act at a certain percentage of the rate for the transmission of ordinary letters sealed against inspection.

H.R. 13246. June 22, 1978. Ways and Means. Amends the Internal Revenue Code to lower individual and corporate income tax rates.

H.R. 13247. June 22, 1978. Judiciary. Amends the Immigration and Nationality Act to require a State or private adoptive agency to evaluate the proposed adoption of a child by a United States citizen or resident alien before such child will be issued an immigrant visa.

Eliminates the limit on the number of alien children that may be adopted.

Raises the age limit for certain children born outside the United States eligible for automatic U.S. citizenship. Removes certain naturalization requirements regarding adopted alien children.

H.R. 13248. June 22, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment under the Supplementary Medical Insurance program for lenses prescribed by a physician to improve the eyesight of individuals with severely limited central visual acuity.

H.R. 13249. June 22, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to include Members of Congress, the President, and the Vice President under the Federal Old-Age, Survivors, and Disability Insurance system.

H.R. 13250. June 22, 1978. Interior and Insular Affairs. Authorizes the Secretary of the Interior to enter into a contract with the State of California for the cooperative development of facilities required for the management of fish and wildlife in the Suism Marsh, Solano County, California.

H.R. 13251. June 22, 1978. Judiciary. Provides for the regulation of United States participation in international amateur sporting events, and for the promotion of amateur athletics generally, through national governing bodies that are certified for individual sports and regulated by the United States Olympic Committee.

H.R. 13252. June 22, 1978. Ways and Means. Amends the Internal Revenue Code to provide for cost-of-living adjustments in individual income tax brackets and the personal exemption through calendar year 1981.

Directs the Council on Wage and Price Stability to conduct a study of the impact of this act on wages, prices, and Federal tax revenues and to report to the President and Congress on its findings.

H.R. 13253. June 22, 1978 Interior and Insular Affairs. Directs the Secretary of the Interior to enter into a cooperative agreement with the Franklin Institute of Philadelphia, Pennsylvania, to preserve the Benjamin Franklin National Memorial.

H.R. 13254. June 22, 1978. Agriculture. Establishes a commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 13255. June 22, 1978. Armed Services. Authorizes the President to sell one oiler, one auxiliary repair dry dock, and one surveying ship to the Republic of China.

H.R. 13256. June 22, 1978. Ways and Means. Amends the Internal Revenue Code to lower individual and corporate income tax rates.

H.R. 13257. June 22, 1978. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to require nuclear power reactor licensees and applicants to obtain financial protection sufficient to cover any public liability claims which may result from operation of the reactor.

H.R. 13258. June 22, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Amends the Atomic Energy Act of 1954 to require need, energy conservation and renewable energy conservation and renewable energy alternatives to be considered prior to the Nuclear Regulatory Commission's granting of nuclear power reactor licenses.

H.R. 13259. June 22, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Amends the Atomic Energy Act of 1954 to prohibit licensing and construction on additional nuclear power reactors unless and until the Nuclear Regulatory Commission makes affirmative findings that radioactive wastes can be safely contained and that a definite plan for such containment exists.

H.R. 13260. June 22, 1978. Ways and Means. Amends the Internal Revenue Code to allow a deduction to any business enterprise engaged in the manufacture, importation, distribution, lease, or sale of any product for contributions to its product liability loss reserve account and for amounts paid to a captive insurer (wholly or partially owned by the taxpayer) for product liability insurance.

H.R. 13261. June 22, 1978. International Relations; Judiciary; Public Works and Transportation; Ways and Means. Directs the President to report to Congress on a regular basis regarding acts of international terrorism. Establishes sanctions with respect to countries supporting international terrorism. Establishes a program for evaluating and assisting security measures at foreign airports. Makes it unlawful to manufacture or transport explosives without identification and detection taggants. Sets forth penalties for offenses in violation of the Convention for the Suppression of Unlawful Acts against the Safety of Aviation.

H.R. 13262. June 22, 1978. International Relations; Interstate and Foreign Commerce. Amends the International Emergency Economic Powers Act to direct the President to issue regulations which restrict investments in South Africa by United States persons to: (1) investments consisting solely of earnings of existing United States enterprises in South Africa; and (2) investments in enterprises which do not engage in employment practices.

Requires the President to establish mechanisms to monitor compliance with, and sets forth civil and criminal penalties for violations of, the provisions of this Act and regulations, licenses, and orders issued thereunder.

H.R. 13263. June 22, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury to strike bronze, silver, and gold national medals and deliver them to the Lake Placid 1980 Olmpic Winter Games Corporation, a nonprofit corporation.

H.R. 13264. June 22, 1978. Veterans' Affairs. Revises the list of specified categories of payments excluded from the determination of annual income for veterans' benefit payment purposes.

Sets increased flat pension and aid-and-attendance allowance rates. Sets increased flat benefit rates, with similar reductions, for surviving spouses and children of veterans.

Requires annual adjustments in such pension and benefit rates in conjunction with cost-of-living increases in Social Security benefits. Sets increased flat rate payments for specified pensions to certain war veterans reaching the age of 80.

H.R. 13265. June 22, 1978. Banking, Finance and Urban Affairs; Public Works and Transportation. Establishes a National Development Bank for the purpose of facilitating private development of distressed areas.

Authorizes the Bank to extend various forms of financial assistance to businesses with projects in such areas.

H.R. 13266. June 22, 1978. Interstate and Foreign Commerce. Extends the authorization of appropriations under the Public Health Service Act through fiscal year 1981 for: (1) surveys of the feasibility of establishing, operating, or expanding health maintenance organizations (HMO's); and (2) planning and initial development costs for establishing HMO's.

Authorizes the Secretary of Health, Edu-

cation, and Welfare to make loans to HMO's for the acquisition or construction of ambulatory health care facilities.

Requires the Secretary to establish a National Health Maintenance Organization Intern Program to provide training for individuals to become HMO administrators.

Requires each HMO to make available for public inspection specified financial information.

H.R. 13267. June 22, 1978. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to stipulate that nothing in such Act shall be construed to authorize any regulation designed to restrict hunting, recreational fishing, or recreational shooting sports or to establish safety or health standards for work performed in any location which is customarily used for such activities.

H.R. 13268. June 22, 1978. Judiciary. Authorizes and requests the President to appoint Lloyd Leslie Burke, colonel, United States Army, to the rank of brigadier general upon his retirement from active duty on June 30, 1978.

H.R. 13269. June 23, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to establish an Endangered Species Committee. Directs the Committee to review applications submitted by Federal agencies regarding proposed agency actions to determine whether an exemption from the requirement of the Act that Federal agencies take no actions which would jeopardize endangered species or their critical habitats should be granted.

Stipulates that such an exemption may be granted only after a public hearing and finding that the benefits of the agency action outweigh the benefits of alternative courses of action consistent with preserving the species or its critical habitat.

H.R. 13270. June 23, 1978. Ways and Means. Amends the Antidumping Act, 1921, to revise procedures relating to investigations, reporting, and antidumping duty assessments. Amends the Tariff Act of 1930 with respect to actions by the Secretary of the Treasury and the International Trade Commission in countervailing duty and antidumping cases.

Requires a study by the General Accounting Office of transferring specified functions of the Department of the Treasury to the International Trade Commission or other department of international trade.

Redescribes what constitutes dumping for purposes of determining violations of the antidumping laws.

H.R. 13271. June 23, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 13272. June 23, 1978. Government Operations. Amends the Freedom of Information Act to give courts jurisdiction to enjoin Federal agencies from withholding agency records, even if such records pertain to national defense or foreign policy and are properly classified pursuant to an Executive order, if the court finds no reasonable basis to support such Executive order.

Extends the time period an agency may use to determine whether or not such agency will comply with a request for information.

H.R. 13273. June 23, 1978. International Relations; Interstate and Foreign Commerce. Directs the President to issue regulations prohibiting any United States person from making any investment in South Africa until the President determines that the Government of South Africa has made substantial progress toward ending discrimination and achieving full participation of all the people of South Africa in the country's social, political, and economic life.

Permits Congress, through adoption of a resolution by both Houses, to disapprove such a Presidential determination.

Sets forth civil and criminal penalties for violations of this Act and regulations issued thereunder.

H.R. 13274. June 23, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to establish standards for determining the status of a taxpayer as an independent contractor or self-employed person for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, income tax withholding, and the Old-Age, Survivors, and Disability Insurance Program of the Social Security Act.

H.R. 13275. June 23, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to require coverage under such Title for new Federal employees after December 31, 1978, and to permit present employees to elect such coverage. Entitles Federal employees who elect such coverage to a transfer of retirement credits to the Old-Age, Survivors, and Disability Insurance program.

H.R. 13276. June 23, 1978. Judiciary. Prohibits use or supply of false documentation, false information, or birth or immigration documents of another for purposes of obtaining a Federal document containing an element of identification.

Forbids commerce in such information or documentation for purposes of securing a State or local government document containing an element of identification.

Proscribes specified acts relative to: (1) forgery, counterfeiting, or alteration of Federal, State, or local government documents containing an element of identification; (2) interstate or foreign commerce in any such counterfeited, forged, or altered document; and (3) receipt, possession, use, or furnishing of any such document with intent to secure false official identification.

H.R. 13277. June 23, 1978. Merchant Marine and Fisheries. Amends the Fish and Wildlife Coordination Act to establish a program of Federal assistance to the States for the preservation of natural game fish streams, administered by the Secretary of the Interior.

H.R. 13278. June 23, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants and enter into contracts for establishing, maintaining, and expanding family planning projects with particular emphasis on adolescents.

H.R. 13279. June 23, 1978. House Administration. Establishes in the Smithsonian Institution the Thomas A. Edison Centennial Commission to initiate and encourage the development of publications, projects, and programs, and to coordinate activities relating to the life and achievements of Thomas A. Edison.

Authorizes the State University of New Jersey to apply to the Commission for grants to assist specified State and Federal agencies in the compilation and publication of "The Papers of Thomas A. Edison."

H.R. 13280. June 23, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to establish an Endangered Species Committee. Directs the Committee to review applications submitted by Federal agencies regarding proposed agency actions to determine whether an exemption from the requirement of the Act that Federal agencies take no actions which would jeopardize endangered species or their critical habitats should be granted.

Stipulates that such an exemption may be granted only after a public hearing and the making of certain findings.

H.R. 13281. June 23, 1978. Agriculture; Ways and Means. Authorizes the President to regulate foreign trade in sugar in order to enforce the International Sugar Agreement of 1977. Authorizes the Secretary of Agriculture to establish a minimum domestic market price for sugar and to maintain the domestic market price by means of: (1) import fees; (2) quotas established by the President on the Secretary's recommendation; and (3) price supports for domestic sugar producers or processors. Conditions the price supports on: (1) adequate wages paid to employees as determined by the Secretary of Labor; and (2) restrictions on the employment of minors.

H.R. 13282. June 26, 1978. Interior and Insular Affairs. Establishes the Mojave National Park, California, to preserve the historic, recreational, and natural features of the Eastern Mojave Desert.

H.R. 13283. June 26, 1978. International Relations; Judiciary; Public Works and Transportation. Directs the President to report to Congress on a regular basis regarding acts of international terrorism. Establishes sanctions with respect to countries supporting international terrorism. Establishes a program for evaluating and assisting security measures at foreign airports. Makes it unlawful to manufacture or transport explosives without identification and detection taggants. Sets forth penalties for offenses in violation of the Convention for the Suppression of Unlawful Acts against the Safety of Aviation.

H.R. 13284. June 26, 1978. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 13285. June 26, 1978. Judiciary. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 13286. June 26, 1978. Rules; Government Operations. Requires Government programs to be evaluated pursuant to a specified schedule to determine whether each such program should be continued, terminated, or altered (sunset review). Prohibits the authorization of new budget authority for a period of more than six years. Prohibits the authorization of new budget authority for any program for which there has not been conducted a sunset review.

Establishes a Citizens' Commission on the Organization and Operation of Government to study and recommend ways to improve the efficiency and operation of Government agencies.

H.R. 13287. June 26, 1978. Agriculture. Establishes a National Agricultural Cost of Production Board to review, and advise the Secretary of Agriculture concerning the adequacy and accuracy of the cost-of-production formulas used by the Department of Agriculture in connection with the administration of its price support programs.

H.R. 13288. June 26, 1978. Post Office and Civil Service. Prohibits the payment of Federal retirement benefits to or through any person who is not retired.

H.R. 13289. June 26, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to reduce the number of quarters of coverage which a blind individual must have in order to qualify for benefits.

Increases the amount a blind person may earn and remain eligible for disability insurance under such Title. Provides for automatic increases in such amount related to increases in the cost-of-living index.

H.R. 13290. June 26, 1978. Merchant Marine and Fisheries. Amends the Dingell-Johnson

Sport Fish Restoration Act to deny benefits under that Act to any State which does not extend reciprocal fishing privileges to nonresident individuals who are aged 62 or over and hold valid fishing licenses issued by the State of their residency.

H.R. 13291. June 26, 1978. Public Works and Transportation. Modifies the hurricane flood protection project on Lake Ponchartrain to direct the Secretary of the Army, acting through the Chief of Engineers, to replace the seawall at Mandeville, Saint Tammany Parish, Louisiana.

H.R. 13292. June 26, 1978. Merchant Marine and Fisheries. Amends the Fish and Wildlife Coordination Act to establish a program of Federal assistance to the States for the preservation of natural game fish streams, administered by the Secretary of the Interior.

H.R. 13293. June 26, 1978. Interstate and Foreign Commerce. Establishes the Commission on National Primary Health Care needs to issue a report on national primary health care needs.

Authorizes the Secretary of Health, Education, and Welfare to make grants: (1) to community hospitals for planning, developing, and operating primary care centers in medically underserved populations; and (2) to demonstrate new, improved, or expanded primary health and dental care delivery mechanisms in the community setting for medically underserved populations.

H.R. 13294. June 26, 1978. Ways and Means. Amends the Internal Revenue Code to permit, in certain cases, the use of the percentage method in computing the depletion allowance for proven oil or gas properties which are transferred to a wholly-owned corporation.

H.R. 13295. June 26, 1978. Banking, Finance and Urban Affairs; Public Works and Transportation. Establishes a National Development Bank for the purpose of facilitating private development of distressed areas.

Authorizes the Bank to extend various forms of financial assistance to businesses with projects in such areas.

H.R. 13296. June 26, 1978. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first instance violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 13297. June 26, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to eliminate the testing of new human drugs and new animal drugs for effectiveness. Establishes drug advisory committees to review new human drug and new animal drug applications promptly. Requires assistance to small businesses engaged in drug manufacture to insure their compliance with such Act.

H.R. 13298. June 26, 1978. Ways and Means. Amends the Internal Revenue Code to allow certain individuals to compute the amount of the deduction for retirement savings on the basis of the earned income of their spouses.

H.R. 13299. June 28, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury, in recognition of the 1980 Winter Olympic games, to be held at Lake Placid, New York, to coin and issue 50-cent pieces.

H.R. 13300. June 28, 1978. Agriculture. Amends the Animal Widlife Act to prohibit coursing.

H.R. 13301. June 28, 1978. Post Office and Civil Service. Requires the Secretary of Commerce to treat the Commonwealth of Puerto Rico as a State for the purpose of making surveys to furnish interim current data on subjects covered by censuses.

H.R. 13302. June 28, 1978. Ways and Means. Amends Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 13303. June 28, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service officer or employee acting in his official capacity.

H.R. 13304. June 28, 1978. Interstate and Foreign Commerce; Judiciary. Amends the Federal Trade Commission Act and the Clayton Act to exempt incorporated or unincorporated, nonprofit professional associations of health care practitioners, who are licensed and regulated by the States, from the Federal Trade Commission Act and the antitrust laws.

H.R. 13305. June 28, 1978. Judiciary. Amends the Civil Rights Act of 1964 to require a subpena duces tecum for the search for and seizure of evidence when anyone acting under color of law has probable cause to believe evidence of a crime is located on or about premises in which the person in possession of the evidence has a reasonable expectation of privacy.

H.R. 13306. June 28, 1978. Ways and Means. Amends the Internal Revenue Code to provide for annual cost-of-living adjustments to the individual income tax rates, personal exemption amounts, withholding tax amounts and the minimum amounts of income which necessitate filing an income tax return.

H.R. 13307. June 28, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain. Directs the Comptroller General to report to Congress on the economic impact of this Act.

H.R. 13308. June 28, 1978. Rules. Amends the Congressional Budget Act of 1974 to prohibit the authorization of new tax expenditures, budget, or spending authority for more than five years. Requires all public legislation reported by any congressional committee and all agency implementing Federal programs to be accompanied by a statement of the costs which would be imposed upon State and local governments during the ensuing five years if such legislation or rule becomes law. Prohibits the enactment of any public bill or resolution without providing Federal payments to such State and local governments to cover the costs imposed by such bill or resolutions.

H.R. 13309. June 28, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury to strike and sell to the general public gold coin commemoratives. Prohibits counterfeiting, uttering, selling, or forging such coins and sets forth penalties for such acts. Directs the Secretary to enter into appropriate arrangements for the sale of such coins with the Administrator of General Services.

H.R. 13310. June 28, 1978. Science and Technology. Requires the Secretary of Energy to develop research, development, and demonstration programs concerning the use of solar photovoltaic energy systems.

H.R. 13311. June 28, 1978. International Relations; Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to direct the Secretary of the Department in which the Coast Guard is operating to establish fairways and traffic separation schemes for vessels.

Establishes safety and environmental regulations for vessels. Prohibits the entry of vessels into United States navigable waters which do not meet such requirements.

Includes vessels containing oil or hazardous materials in residue within the regulation applicable to steam vessels.

Establishes equipment, manning, environmental, and inspection requirements for oil and product tankers.

H.R. 13312. June 28, 1978. Merchant Marine and Fisheries. Authorizes the Commandant of the Coast Guard to contract with the Boston Educational Marine Exchange to establish aboard the Coast Guard cutter Chautauqua an exhibition and education center in order to: (1) educate the public regarding the present and future mission of the Coast Guard; and (2) conduct classes for the public related to seamanship and marine sciences.

H.R. 13313. June 28, 1978. Ways and Means. Requires that until further Congressional action is taken, the determination of whether an individual is an employee for purposes of social security taxation, unemployment taxation, and income tax withholding shall be made in accordance with Internal Revenue Service audit procedures and regulations in effect December 31, 1975.

Prohibits the treatment of any individual as an employee of any employer, if such employer consistently treated the individual, in good faith, as an independent contractor.

H.R. 13314. June 28, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to allow unlimited home health visits, to eliminate prior hospitalization as a requirement for receiving home health care under part A (Hospital Insurance Benefits for the Aged and Disabled) of such Title, and to eliminate confinement to home as a requirement for receiving such care under part B (Supplementary Medical Insurance Benefits for the Aged and Disabled) of such Title.

H.R. 13315. June 28, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to allow unlimited home health visits, to eliminate prior hospitalization as a requirement for receiving home health care under part A (Hospital Insurance Benefits for the Aged and Disabled) of such Title, and to eliminate confinement to home as a requirement for receiving such care under part B (Supplementary Medical Insurance Benefits for the Aged and Disabled) of such Title.

H.R. 13316. June 28, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to allow unlimited home health visits, to eliminate prior hospitalization as requirement for receiving home health care under part A (Hospital Insurance Benefits for the Aged and Disabled) of such Title, and to eliminate confinement to home as a requirement for receiving such care under part B (Supplementary Medical Insurance Benefits for the Aged and Disabled) of such title.

H.R. 13317. June 28, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to allow unlimited home health visits, to eliminate prior hospitalization as a requirement for receiving home health care under part A (Hospital Insurance Benefits for the Aged and Disabled) of such Title, and to eliminate confinement to home as a requirement for receiving such care under part B (Supplementary Medical Insurance Benefits for the Aged and Disabled) of such Title.

H.R. 13318. June 28, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security

Act to allow unlimited home health visits, to eliminate prior hospitalization as a requirement for receiving home health care under part A (Hospital Insurance Benefits for the Aged and Disabled) of such Title, and to eliminate confinement to home as a requirement for receiving such care under part B (Supplementary Medical Insurance Benefits for the Aged and Disabled) of such Title.

H.R. 13319. June 28, 1978. Judiciary. Prohibits the issuance of a search warrant by any Federal, State, or other governmental authority to search any place or seize the possessions of any person engaged in print or broadcast media work except by a court upon probable cause that such person has committed or is committing a criminal offense or that evidence will otherwise be destroyed.

H.R. 13320. June 28, 1978. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to increase the amount authorized to be appropriated to carry out such Act to $10,000,000.

H.R. 13321. June 28, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 13322. June 28, 1978. Judiciary. Provides that refugees who were paroled by the Attorney General for temporary entry into the United States under the Immigration and Naturalization Act and later admitted for permanent residence into the United States shall be treated for naturalization purposes as having established permanent resident status as of the date of such temporary entry.

H.R. 13323. June 28, 1978. Government Operations; Rules. Amends the Congressional Budget and Impoundment Control Act to limit total budget authority and budget outlays for fiscal year 1980 to the levels for fiscal year 1979. Prohibits outlays for fiscal years 1981, 1982, and 1983 from exceeding the previous fiscal year by more than five percent.

Authorizes the President to reduce any budget authority or outlay during fiscal years 1980 through 1983 by up to ten percent in order to comply with the requirements of this Act.

H.R. 13324. June 28, 1978. Agriculture. Authorizes the Secretary of Agriculture to establish pilot projects to develop and to test and demonstrate practical application of existing technology for the utilization of wood residues. Establishes in the Treasury of the United States a special fund to carry out the purposes of this Act.

H.R. 13325. June 28, 1978. Ways and Means. Requires that until further Congressional action is taken, the determination of whether an individual is an employee for purposes of social security taxation, unemployment taxation, and income tax withholding shall be made in accordance with audit practices and regulations in effect December 31, 1975.

H.R. 13326. June 28, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service Officer or employee acting in an official capacity.

H.R. 13327. June 28, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act to require the Secretary of the Interior to conduct an annual review of all species listed as endangered or threatened to determine whether any species should be removed from the list.

Authorizes the Secretary of the Interior to relocate endangered or threatened species.

Provides that projects funded by Federal moneys which jeopardize the continued existence of an endangered species shall be halted under such Act only if the Secretary of the Interior determines that the social and economic costs of halting the operation are justified and the cessation is approved by both Houses of the Congress.

H.R. 13328. June 28, 1978. Government Operations. Amends the State and Local Fiscal Assistance Act of 1972 to increase by ten percent the amounts allocated to State and local governments if such governments fund public education from sources other than property taxes.

H.R. 13329. June 28, 1978. Interior and Insular Affairs. Directs the President: (1) to abrogate all treaties entered into between the United States and any Indian tribe; (2) to convey to individual adult members of such tribe or to a tribal corporation any real property held in trust for such tribe and any funds deposited to its credit in the United States Treasury; (3) to abrogate all hunting and fishing rights; and (4) to subject all members of such tribe to Federal, State, and local laws.

Terminates the Bureau of Indian Affairs whenever all of the functions vested by law in the Bureau have been terminated as a result of this Act.

H.R. 13330. June 28, 1978. District of Columbia. Authorizes the Temporary Commission on Financial Oversight of the District of Columbia to enter into contracts with the Government of the District of Columbia with respect to financial planning services and auditing services. Removes the requirement that contracts negotiated for such purposes must be fixed price contracts.

Postpones the commencement of required annual fiscal year audits of the District of Columbia Government.

H.R. 13331. June 28, 1978. Judiciary. Makes specified changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines.

H.R. 13332. June 28, 1978. Post Office and Civil Service. Directs the President to make a compilation of all Federal statistical activities and to submit such compilation to Congress.

Terminates all Federal statistical authority not otherwise provided for by law as of a specified date.

Requires each report accompanying a bill or resolution which provides for Federal statistical authority to contain specified information including the purpose for which such information is being sought, the costs involved, and the number of respondents from which such information is to be obtained.

H.R. 13333. June 28, 1978. Banking, Finance and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities.

Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 13334. June 28, 1978. Interior and Insular Affairs. Redesignates the Badlands National Monument, South Dakota, as the Badlands National Park.

H.R. 13335. June 28, 1978. Ways and Means. Amends Title IV, part A (Aid to Families with Dependent Children) of the Social Security Act to extend the period in which States will receive additional Federal financial assistance for programs under such Title. Increases to $50,000,000 the ceiling on total funds available among the States beginning in the first quarter after September 30, 1978.

Subjects the single installment payment required for such assistance to specified limitations.

H.R. 13336. June 28, 1978. Ways and Means. Amends the Internal Revenue Code to exempt from the withholding of tax requirements for nonresident aliens commissions paid by a ship supplier to a nonresident alien employed by another nonresident alien, a foreign partnership, or a foreign corporation if such commissions derive from the sale of supplies used in the operation of ships.

H.R. 13337. June 28, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13338. June 28, 1978. Judiciary. Declares a certain individual eligible for naturalization, under the Immigration and Nationality Act, notwithstanding the English language requirements of such Act.

H.R. 13339. June 28, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13340. June 29, 1978. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to: (1) include fish processing at sea within the coverage of such Act; (2) revise total and individual foreign fishing allocations within specified United States fisheries; (3) revise certain foreign fishing permit requirements; and (4) prohibit transfers of United States harvested fish to foreign ships without the required fishing permits.

H.R. 13341. June 29, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to state that no Federal public works project begun after January 1, 1967, and before the date on which a species is listed pursuant to such Act as endangered shall be deemed to jeopardize the continued existence of the species or to result in the destruction of its critical habitat so long as such project is on or directly affects the navigable waters of the United States. Provides that if this Act applies to a public works project, the Secretary of the Interior shall take action to minimize adverse effects on the species.

H.R. 13342. June 29, 1978. Interstate and Foreign Commerce. Amends the Controlled Substances Act to direct the Attorney General to establish a marihuana pretrial diversion program in which any person arrested by Federal law enforcement officers solely for the possession of not more than 30 grams of marihuana or not more than seven grams of hashish may elect to receive drug-related counseling rather than be subject to criminal prosecution. Requires Federal law enforcement officers to issue field release citations in lieu of making arrests for possession of marihuana or hashish possession in such limited quantities.

H.R. 13343. June 29, 1978. Government Operations. Establishes the Department of Education to be headed by a Secretary of Education.

Establishes an Intergovernmental Advisory Council on Education, and a Federal Interagency Committee on Education.

Transfers to the Secretary specified functions of the (1) Department of Health, Education, and Welfare; (2) Department of Defense; (3) National Science Foundation; (4) Department of Justice; and (5) Department of Housing and Urban Development.

Amends the Indian Self-Determination and Educational Assistance Act to authorize the Secretary of Education to enter into contracts with tribal organizations to carry out functions transferred to the Secretary under this Act from the Department of the Interior.

H.R. 13344. June 29, 1978. House Administration. Authorizes the Board of Regents of the Smithsonian Institution to acquire the Museum of African Art.

H.R. 13345. June 29, 1978 Interstate and Foreign Commerce. Directs that all utility rate schedules which provide for the sale of electric power shall do at price levels which have been subject to and ordered into effect after prior public notice and full hearing. Prohibits the sale of electric energy except

in accordance with rate schedules fixed, approved or allowed to go into effect by a regulatory authority. Prohibits such regulatory authority from instituting a rate schedule without prior public notice and full hearing.

Sets procedures for the adjudication of alleged violations of this Act.

H.R. 13346. June 29, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that no part of the excess earnings of an individual shall be charged to any month if such month is in the taxable year in which occurs the first month after December 1977 that is both a month in which the individual is entitled to benefits and is unemployed.

H.R. 13347. June 29, 1978. Ways and Means. Amends the Internal Revenue Code to extend to participants in tax-exempt employer pension plans a limited income tax deduction for cash contributions to a retirement savings account.

H.R. 13348. June 29, 1978. Agriculture. Authorizes the Secretary of Agriculture to relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State.

H.R. 13349. June 29, 1978. Judiciary. Amends the Immigration and Nationality Act to repeal specified provisions depriving persons of their United States nationality and citizenship.

H.R. 13350. June 29, 1978. Interior and Insular Affairs. Replaces the existing acreage limitation of 160 acres of reclaimed land per individual with a limitation of 320 acres.

Abolishes the residency requirements for qualified recipients of project water.

H.R. 13351. June 29, 1978. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to extend and increase the authorization for appropriations under such Act.

Provides a set-aside from such authorizations for public works grants to certain counties and parishes.

Requires the 2½ percent set-aside for public works grants to Indian tribes and Alaskan Native villages under such Act to be made after such set-aside for counties is made.

H.R. 13352. June 29, 1978. Interstate and Foreign Commerce; Ways and Means. Requires all gasoline stations, within three years of the passage of this Act, to sell a mixture of gasoline and alcohol in the same manner as they sell gasoline. Imposes a civil penalty for violations of such requirement. Amends the Internal Revenue Code to allow rapid amortization of facilities producing alcohol for use as a fuel in motor vehicles. Amends the Clean Air Act with respect to the authority of the Environmental Protection Agency to regulate the use of alcohol as a fuel additive.

H.R. 13353. June 29, 1978. International Relations; Veterans' Affairs. Directs the Secretary of the Navy to provide for the repatriation of the remains of five unknown members of the United States Navy killed and interred in Tripoli, Libya, in 1804, and for the interment of such remains in Arlington National Cemetery.

H.R. 13354. June 29, 1978. Government Operations. Requires any United States Government budget submitted to the Congress which is in deficit to be printed in red ink.

H.R. 13355. June 29, 1978. Education and Labor; Ways and Means. Amends the Employee Retirement Security Act of 1974 and the Internal Revenue Code to allow the use of a participant's contributions to certain employee benefit plans as security for a loan from a bank or an insured credit union.

H.R. 13356. June 29, 1978. Agriculture. Requires a report to the Secretary of Agriculture, from any foreign person (including individuals, organizations, governments, or any combination thereof) who holds, acquires, or transfers any interest, other than a security interest, in agricultural land.

H.R. 13357. June 29, 1978. Agriculture. Requires a report to the Secretary of Agriculture, from any foreign person (including individuals, organizations, governments, or any combination thereof) who holds, acquires, or transfers any interest, other than a security interest, in agricultural land.

H.R. 13358. June 29, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Directs the Secretary of Energy to construct spent nuclear fuel storage facilities and to report to Congress and the President on the construction schedule. Authorizes agreements between the Secretary and licensed commercial powerplants for transfer of spent nuclear fuel.

H.R. 13359. June 29, 1978. Banking, Finance and Urban Affairs. Establishes the Price Restraint Board to issue standards and guidelines for noninflationary industrial price adjustments.

Requires certain firms which intend to adjust prices to notify the Board of such adjustments. Empowers the Board to delay, disapprove, or roll back such price adjustments.

Requires the Board to report to Congress at three-month intervals.

Authorizes the President to negotiate voluntary pay guideposts with labor.

Requires the Board to study the methods employed by major corporations in setting prices.

H.R. 13360. June 29, 1978. Judiciary. Amends the Federal Rules of Criminal Procedure to provide that a sentence of death may not be imposed for violation of a Federal law unless the standards and procedures set forth in this Act have been followed. Requires a separate hearing before a jury on the question of sentencing whenever a person is convicted of an offense for which death is a possible penalty. Allows a jury to recommend a sentence of death only if every member of the jury makes specified findings. Allows a judge to nevertheless refuse to impose the death sentence. Amends the Federal Rules of Appellate Procedure to set forth standards for review of death sentences.

H.R. 13361. June 29, 1978. Interior and Insular Affairs. Requires certain land situated within the Fort Peck Indian Reservation, Montana, to be held in trust by the United States for the Assiniboine and Sioux Tribes.

H.R. 13362. June 29, 1978. Public Works and Transportation. Authorizes Federal grants to assist the States in developing and implementing comprehensive and continuing plans for services to the blind.

H.R. 13363. June 29, 1978. Interstate and Foreign Commerce. Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to indemnify the sales representatives.

H.R. 13364. June 29, 1978. House Administration; Government Operations. Requires the President and Vice-President to adequately record all their official acts and to maintain all such records which shall be taken into the custody of the Archivist of the United States upon the termination of their terms of office. Prohibits the destruction of such records by such persons unless they have determined that such records are of no historical, administrative, or evidentiary value, obtained prior concurrence of the Archivist, and notified Congress 60 days prior to the proposed disposal date.

H.R. 13365. June 29, 1978. Veterans' Affairs. Permits unrestricted assignment by beneficiaries of National Service Life Insurance and United States Government Life Insurance policy proceeds in cases with conflicting claimants. Permits attorney's fees to be paid from such assignment. Increases the amount of attorney's fees in other insurance cases. Directs the court to determine a reasonable attorney's fee in specified cases where the insurance proceeds were paid prior to litigation.

Permits payment of interest at flexible rates on proceeds paid on National Service Life Insurance and United States Life Insurance policies in installment settlements.

H.R. 13366. June 29, 1978. Public Works and Transportation. Directs the Secretary of Transportation to select a route and provide for the construction of a highway between Wichita, Kansas, and Tucumcari, New Mexico, to be known as the "Wild West Highway".

H.R. 13367. June 29, 1978. Interstate and Foreign Commerce. Amends the Uniform Time Act to designate the last Sunday in February as the starting date for daylight savings time.

H.R. 13368. June 29, 1978. Judiciary. Amends the Indochina Migration and Refugee Assistance Act of 1975 to extend specified payments to assist refugees in the United States from Cambodia, Vietnam, or Laos.

Increases the amount available for special projects administered wholly or in part by State, local or private agencies for such refugees.

Makes any such refugee paroled into the United States under the Immigration and Nationality Act after March 31, 1975, eligible to have his status adjusted to that of a permanent resident.

H.R. 13369. June 29, 1978. Post Office and Civil Service. States that the mailing of a solicitation of an order of goods or services from an addressee in a form which could be interpreted as a bill, and which does not contain a prescribed statement that such solicitation is not a bill, shall constitute prima facie evidence that the person mailing such matter is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

H.R. 13370. June 29, 1978. International Relations; Judiciary; Public Works and Transportation; Ways and Means. Directs the President to report to Congress on a regular basis regarding acts of international terrorism. Establishes sanctions with respect to countries supporting international terrorism. Establishes a program for evaluating and assisting security measures at foreign airports. Makes it unlawful to manufacture or transport explosives without identification and detention taggants. Sets forth penalties for offenses in violation of the Convention for the Suppression of Unlawful Acts against the Safety of Aviation.

H.R. 13371. June 29, 1978. Merchant Marine and Fisheries. Amends the Migratory Bird Hunting Stamp Act to set the fee for Federal migratory-bird hunting and conservation stamps at $5, and authorizes the Secretary of the Interior to raise such fee to $7.50 if funds in the migratory bird conservation funds have been obligated.

Amends the Migratory Bird Conservation Act to require the Secretary of the Interior to consult with State governors (rather than obtain their approval) prior to purchasing or renting lands with funds from the migratory bird conservation fund.

H.R. 13372. June 29, 1978. Merchant Marine and Fisheries. Amends the Migratory Bird Hunting Stamp Act to set the fee for Federal migratory-bird hunting and conservation stamps at $5, and authorizes the Secretary of the Interior to raise such fee to $7.50.

Directs the Secretary to prohibit the hunting of migratory birds in any State which fails to approve an acquisition of waterfowl habitat within the reasonable time.

H.R. 13373. June 29, 1978. Veterans' Affairs. Extends the delimiting period for certain Vietnam era veterans pursuing a program of apprenticeship, on-the-job, or cooperative training for up to three years.

H.R. 13374. June 29, 1978. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified functions of: The Department of Health, Education, and Welfare; all of the functions of the Education Division and various educational functions handled by the Departments of Agriculture, Defense, and Interior; the Secretary of Housing and Urban Development; the National Foundation on the Arts and the Humanities; the National Endowments for the Arts and Humanities; and the National Science Foundation.

Creates the Federal Interagency Committee on Education and the National Advisory Commission on Education.

H.R. 13375. June 29, 1978. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation into the United States of certain vegetable products from Cuba until after December 31, 1989.

H.R. 13376. June 29, 1978. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation into the United States of certain vegetable products from Cuba until after December 31, 1989.

H.R. 13377. June 29, 1978. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation into the United States of certain vegetable products from Cuba until after December 31, 1989.

H.R. 13378. June 29, 1978. Ways and Means. Amends the Internal Revenue to exclude $100 of interest income from the gross income of an individual taxpayer.

H.R. 13379. June 29, 1978. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Corps of Engineers, to construct an adjacent-type pumped-storage hydroelectric dam as part of the Fort Randall Dam-Lake Francis Case project, South Dakota.

H.R. 13380. June 29, 1978. Ways and Means. Subjects specified kinds of preserved beef and veal products to the policy of Congress related to the restriction of beef imports. Revises the formula for the determination of beef and veal import quotas.

Revises the criteria under which the President may suspend a proclamation limiting beef and veal imports.

Requires the Secretary of Agriculture to study the regional economic impact of imports of beef and veal and report the results of such study to the Ways and Means Committee of the House and to the Finance Committee of the Senate.

H.R. 13381. June 29, 1978. Judiciary. Grants a Federal charter to the 369th Veterans' Association.

H.R. 13382. June 29, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Amends the Atomic Energy Act of 1954 (1) to provide for the regulation of uranium and thorium mill tailings by the Nuclear Regulatory Commission, and (2) to authorize the establishment of standards designed to insure that funds will be made available by a licensee for reclaiming and caring for former nuclear sites, structures, and equipment.

H.R. 13383. June 29, 1978. Merchant Marine and Fisheries. Directs the Secretary of the department in which the United States Coast Guard is operating to cause a certain vessel to be documented as a vessel of the United States.

H.R. 13384. June 29, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13385. July 10, 1978. Ways and Means. Increases the temporary public debt limit until March 31, 1979 by $414,000,000,000.

Amends the Second Liberty Bond Act to increase from $27,000,000,000 to $32,000,000,000 the face amount of bonds with a rate of interest exceeding 4¼ percent issued pursuant to such Act.

H.R. 13386. July 10, 1978. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay a monthly pension of $150 to each veteran of World War I who meets specified service requirements, or to the surviving spouse (who meets specified requirements), or when there is no surviving spouse, to the child or children (who meet specified requirements).

H.R. 13387. July 10, 1978. International Relations; Judiciary; Public Works and Transportation. Directs the President to report to Congress on a regular basis regarding acts of international terrorism. Establishes sanctions with respect to countries supporting international terrorism. Establishes a program for evaluating and assisting security measures at foreign airports. Makes it unlawful to manufacture or transport explosives without identification and detection taggants. Sets forth penalties for offenses in violation of the Convention for the Suppression of Unlawful Acts against the Safety of Aviation.

H.R. 13388. July 10, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 13389. July 10, 1978. Ways and Means. Amends the Internal Revenue Code to provide that all amounts, compensation, goods and services received as National Research Service Awards under the Public Health Service Act since July 12, 1974 are excludible from gross income to the same extent as scholarships and fellowship grants.

H.R. 13390. January 1, 1979. House Administration. Directs the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain with private funds a monument to General Draza Mihailovich.

H.R. 13391. July 10, 1978. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to authorize any State under such title to make medical assistance available for treatment of an individual outside a medical institution if such assistance had been provided to the individual while in such institution in order to enable the individual to leave the institution and return to a family.

H.R. 13392. July 10, 1978. Merchant Marine and Fisheries. Amends the Anadromous Fish Conservation Act to include within the conservation, development, and enhancement programs of the Act, fish in Lake Champlain which ascent streams to spawn.

H.R. 13393. July 10, 1978. Interstate and Foreign Commerce. Prohibits the sale of beverage containers without a minimum refund value of five cents. Requires labeling of refund values on all such containers. Prohibits sale of metal beverage containers with detachable openings.

H.R. 13394. July 10, 1978. Interior and Insular Affairs. Authorizes the Secretary of the Interior to design, construct, operate, and maintain, or to contract with the State of California for the design, construction, operation or maintenance of a sand dredging system on a section of the Trinity River and a debris dam and associated facilities on Grass Valley Creek, in Trinity County, California.

H.R. 13395. July 10, 1978. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct the flood control project on the South Fork Zumbro River, Rochester, Minnesota, substantially in accordance with a specified Board of Engineers for Rivers and Harbors report, provided certain changes are accomplished at Federal expense.

H.R. 13396. July 10, 1978. Public Works and Transportation. Modifies the flood protection project at Winona, Minnesota, as authorized under the Flood Control Act of 1965, to provide that two bridge changes within Winona city limits shall be made at Federal expense.

H.R. 13397. July 10, 1978. Judiciary. Restates and amends in its entirety Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (Law Enforcement Assistance).

H.R. 13398. July 10, 1978. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board, in determining whether to issue a certificate of public convenience and necessity, to evaluate the need for additional service in each market established on the record.

Directs the Board to include in such certificates such terms and conditions as are necessary to insure that the applicant will be required to furnish the service it has proposed between the points to be specified in any such certificate.

H.R. 13399. July 10, 1978. Education and Labor. Directs the Commissioner of Education to make a grant to Tuskegee Institute, Alabama, for the purpose of constructing a building in memory of General Daniel James to be named the "Daniel James Memorial Center for Preventive Health Education."

H.R. 13400. July 10, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction of up to $2,500 annually and $10,000 in a lifetime for contributions to an individual housing account. Makes such accounts tax exempt and allows distributions from such an account to be tax free if such distributions are used exclusively for the purpose of a principal residence for the distributee.

H.R. 13401. July 10, 1978. Agriculture. Amends the Animal Wildlife Act to prohibit coursing.

H.R. 13402. July 10, 1978. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to (1) make loans to certain cities and counties for the establishment and initial operating costs of clinics for the spaying and neutering of dogs and cats, and (2) make grants for the establishment of courses to train paraprofessionals in the anaesthetising and spaying and neutering of dogs and cats.

H.R. 13403. July 10, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Amends the Energy Reorganization Act of 1974 to require that Department of Energy decisions on sites for long-term or permanent radioactive waste storage be reviewed by affected States.

H.R. 13404. July 10, 1978. Interior and Insular Affairs. Replaces the existing acreage limitation of 160 acres of reclaimed land per individual with a maximum land holding of 1,920 acres owned or leased by a farmer. Limits ownership of such land to 640 acres.

Abolishes the residency requirement for qualified recipients.

Restricts the transfer of water rights upon the sale of such land.

H.R. 13405. July 10, 1978. Ways and Means. Amends the Internal Revenue Code to exempt gambling activities conducted by tax-exempt and political organizations, where the wagers are placed, the winners determined, and the prizes distributed in the presence of all the players, from treatment as unrelated business activities for purposes of the unrelated business tax.

H.R. 13406. July 10, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13407. July 11, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that no part of the excess earnings of an individual shall be charged to any month if such month is in the taxable year in which occurs the first month after December 1977 that is both a month in which the individual is entitled to benefits and is unemployed.

H.R. 13408. July 11, 1978. International Relations. Amends the Peace Corps Act to establish the Peace Corps as a government corporation to assume the functions of the Peace Corps, and to revise the employment conditions, compensation and assignment of volunteers.

H.R. 13409. July 7, 1978. International Relations. Amends the Peace Corps Act to establish the Peace Corps as a government corporation to assume the functions of the Peace Corps, and to revise the employment conditions, compensation and assignment of volunteers.

H.R. 13410. July 11, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 13411. July 11, 1978. Agriculture. Authorizes the Secretary of Agriculture, through grants made under contracts or other arrangements, to establish and operate, near the District of Columbia, an international agricultural trade center.

H.R. 13412. July 11, 1978. Ways and Means. Amends the Tariff Schedules of the United States to impose a customs duty of 6½ cents per pound on unrefined montan wax and to allow the free entry of other montan wax.

H.R. 13413. July 11, 1978. Judiciary. Provides for the regulation of United States participation in international amateur sporting events, and for the promotion of amateur athletics generally, through national governing bodies that are certified for individual sports and regulated by the United States Olympic Committe.

H.R. 13414. July 11, 1978. Public Works and Transportation. Amends the Public Works and Economic Development Act of 1965 to authorize the Secretary of Commerce, acting through the Economic Development Administration, to make grants to States and units of local government for the purpose of funding labor intensive public works projects on public buildings, including construction, demolition, and energy conservation.

H.R. 13415. July 11, 1978. Banking, Finance and Urban Affairs. Amends the Coinage Act of 1965 to change the size and weight of the one-dollar coin and to require that the obverse side of such coin bear the likeness of Susan B. Anthony.

H.R. 13416. July 11, 1978. Armed Services. Revises the facility structure of the United States Military Academy. Abolishes the positions of registrar and director of music. Removes the requirement that there be a specified number of permanent professors for specified subjects.

H.R. 13417. July 11, 1978. Ways and Means. Amends the Internal Revenue Code to allow certain small businesses to compute taxable income under the cash method and without regard to inventories. Increases the corporate surtax exemption and reduces the corporate tax rates. Provides for limited recognition of the gain from the sale or exchange of a sole proprietorship prior to the age of 55, and nonrecognition after age 55. Allows the rapid amortization of expenses of a business for property acquired to put the business in compliance with Federal law and which does not have any economic usefulness to the business.

H.R. 13418. July 11, 1978. Small Business. Amends the Small Business Act and the Domestic Volunteer Service Act of 1973 to transfer to the Small Business Administration the authority to conduct a program of volunteer assistance for small businesses. Includes the transfer of the SCORE (Service Corps of Retired Executives) and ACE (Active Corps of Executives) programs to the Administration from the ACTION Agency.

Increases the maximum allowable compensation and travel expenses for experts and consultants employed by the Administrator of the Small Business Administration to the maximum amounts payable under the executive schedule for Federal employees.

H.R. 13419. July 11, 1978. Ways and Means. Amends the Internal Revenue Code by providing graduated corporate income tax rates ranging, over seven brackets, from a 16 percent rate on a corporation's first $25,000 of income to a 45 percent rate on income over $150,000.

H.R. 13420. July 11, 1978. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to establish procedures, guidelines, and standards for financial and technical assistance by the Secretary of Energy to States for basic energy programs.

H.R. 13421. July 11, 1978. Judiciary. Amends the Indochina Migration and Refugee Assistance Act of 1975 to extend specified payments to assist refugees in the United Sttaes from Cambodia, Vietnam, or Laos.

Increases the amount available for special projects administered wholly or in part by State, local or private agencies for such refugees.

Makes any such refugee paroled into the United States under the Immigration and Nationality Act after March 31, 1975, eligible to have his status adjusted to that of a permanent resident.

H.R. 13422. July 11, 1978. Ways and Means. Amends the Tariff Schedules of the United States to impose a customs duty of 6½ cents per pound on unrefined montan wax and to allow the free entry of other montan wax.

H.R. 13423. July 11, 1978. Education and Labor. Establishes the Congressional Award Program in the United States and its territories to recognize and promote youth leadership and excellence in the areas of expedition fitness, personal creative development, and public service.

Creates a Congressional Award Board with a Director to supervise such program.

Authorizes the appointment of State Award directors under this Act.

Creates three Congressional Award Medals to be awarded under this Act.

H.R. 13424. July 11, 1978. Science and Technology; Armed Services. Establishes an oil shale technology demonstration program within the Department of Energy to test the commercial, social, and environmental viability of oil shale technologies. Authorizes Federal financial assistance to affected States and localities for essential community planning and development activities necessitated by this Act.

H.R. 13425. July 11, 1978. Ways and Means. Subjects specified kinds of preserved beef and veal products to the policy of Congress related to the restriction of beef imports. Revises the formula for the determination of beef and veal import quotas. Repeals the authority of the President to suspend a proclamation limiting beef imports. Directs the President to limit beef imports at any one port of entry in order to insure the geographical distribution of such imports. Declares it the policy of Congress that a quota should be imposed upon the importation of cattle. Directs the President to impose such limitation and to limit such imports at any one port of entry.

H.R. 13426. July 11, 1978. Armed Services. Authorizes the Secretary of Defense to place an additional ten civilian positions in the Department of Defense in Executive Level IV and Executive Level V and to prescribe the duties of such positions.

H.R. 13427. July 11, 1978. Judiciary. Authorizes the issuance of a visa to an individual and admission for permanent residence in the United States, under the Immigration and Nationality Act.

H.R. 13428. July 12, 1978. Agriculture. Amends the Animal Wildlife Act to prohibit coursing.

H.R. 13429. July 12, 1978. Ways and Means. Lists products the manufacture of which shall constitute the "steel sector" for purposes of determining the appropriate product sector with respect to import restriction authority under the Trade Act of 1974.

H.R. 13430. July 12, 1978. Ways and Means. Lists products the manufacture of which shall constitute the "steel sector" for purposes of determining the appropriate product sector with respect to import restriction authority under the Trade Act of 1974.

H.R. 13431. July 12, 1978. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to provide that a Professional Standards Review Organization shall not be considered an authority of the United States Government for the purposes of the Administrative Procedure Act.

H.R. 13432. July 12, 1978. Veterans' Affairs. Provides for the establishment in Delaware of a veterans' cemetery as part of the National Cemetery System.

H.R. 13433. July 12, 1978. Ways and Means. Amends the Internal Revenue Code to permit holders of life insurance policies to receive tax free income under annuity contracts funded by segregated exempt interest accounts in which 50 percent of the assets of such accounts consist of tax-exempt State or local government securities. Disallows tax deductions for expenses and interest incurred by life insurance companies in the maintenance of such exempt-interest assets accounts.

H.R. 13434. July 12, 1978. Judiciary. States that a United States court shall not dismiss certain suits against the Federal Government or against a State or local government on certain specified grounds that the plaintiff lacks standing to sue.

H.R. 13435. July 12, 1978. District of Columbia. Amends the National Capital Transportation Act of 1969 to require the Secretary of Transportation to make payments to the Washington Metropolitan Area Transit Authority in such amounts as the Transit Authority may requisition to finance the operation and maintenance of the Arlington Cemetery and Smithsonian stations of the Washington metropolitan area rapid rail transit system.

H.R. 13436. July 12, 1978. Public Works and Transportation. Modifies the navigation project for Santa Cruz Harbor, California, to allocate to the United States the total costs of operating and maintaining the sand bypassing facility.

Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct an impermeable core within the existing jetties at such harbor, and to undertake such maintenance dredging outside the boundaries of the authorized project as may be necessary to prevent or mitigate shoaling, surge, and related problems in the harbor.

H.R. 13437. July 12, 1978. Armed Services. Revises military health care operations by: (1) appointing regional civilian administrations; (2) requiring the development of budgeting and services programs by health care facilities; (3) authorizing private physicians to provide services at military facilities; (4) providing performance incentives for military medical personnel; and (5) requiring the recovery of the cost of military

health care services from insurers and employees.

H.R. 13438. July 12, 1978. Ways and Means. Requires that until further Congressional action is taken, the determination of whether an individual is an employee for purposes of social security taxation, unemployment taxation, and income tax withholding shall be made in accordance with audit practices and regulations in effect December 31, 1975.

H.R. 13439. July 12, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to eliminate the testing of new human drugs and new animal drugs for effectiveness. Establishes drug advisory committees to review new human drug and new animal drug applications promptly. Requires assistance to small businesses engaged in drug manufacture in insure their compliance with such Act.

H.R. 13440. July 12, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that no part of the excess earnings of an individual shall be charged to any month if such month is in the taxable year in which occurs the first month after December 1977 that is both a month in which the individual is entitled to benefits and is unemployed.

H.R. 13441. July 12, 1978. Ways and Means. Amends the Inernal Revenue Code to allow public utilities to exclude from gross income, as contributions to capital, all amounts received in aid of construction of electric energy, steam, or gas facilities.

H.R. 13442. July 12, 1978. Judiciary; Intelligence. Sets forth procedures for obtaining foreign intelligence information by means of electronic surveillance. States that electronic surveillance may be used for such purposes only upon: (1) the issuance of a surveillance certificate signed by the Attorney General and an assistant to the President for national security affairs who was confirmed by the Senate; and (2) in the case of electronic surveillance of a United States citizen, the issuance of a certificate signed by the President. Authorizes civil suits by those (other than foreign agents) aggrieved by electronic surveillance conducted or disclosed other than in accordance with this Act.

H.R. 13443. July 12, 1978. Merchant Marine and Fisheries. Amends the Fish and Wildlife Coordination Act to establish a program of Federal assistance and cooperation to the States for the preservation of natural game fish streams, administered by the Secretary of the Interior.

H.R. 13444. July 12, 1978. Ways and Means. Amends the Trade Act of 1974 to require the President to determine: (1) whether a recommendation by the United States International Trade Commission for import relief is in the national economic interest of the United States; and (2) in the event that such relief is not in the national interest, whether alternative import relief is appropriate.

Authorizes Congress to adopt the Commission's recommendation, instead of the President's action or inaction, by majority acceptance of a resolution in either House.

H.R. 13445. July 12, 1978. Judiciary. Establishes an independent agency to be known as the National Institute of Justice. Authorizes and directs the Institute to: (1) make evaluations of the effectiveness and quality of justice and administration of law; (2) conduct research concerning justice and administration of law; (3) conduct experimental programs; and (4) conduct training and educational programs in law and judicial procedures.

H.R. 13446. July 12, 1978. Ways and Means; Education and Labor. Amends the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 to permit assignment or alienation of rights under pension plans if: (1) such assignment or alienation is pursuant to a court decree of divorce or separate maintenance or a court order requiring the support of dependent children; (2) the court decree does not affect the payment schedule under the pension plan; and (3) a copy of the decree is submitted to the Secretary of Labor.

H.R. 13447. July 12, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13448. July 12, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13449. July 13, 1978. Rules. Amends the Congressional Budget Act of 1974 to require a budget surplus whenever the national unemployment rate drops below four and one-half percent.

Defines the methods and statistics to be used in determining the national unemployment rate.

H.R. 13450. July 13, 1978. Veterans' Affairs. Amends the National Service Life Insurance Act of 1940 to provide for a lump sum payment of National Service Life Insurance benefits for certain members of the Armed Forces killed in action between April 21, 1942. and December 31, 1942.

H.R. 13451. July 13, 1978. Science and Technology. Amends the Metric Conversion Act of 1975 to abolish the United States Metric Board. Vests authority for a metric system conversion and implementation program in the Secretary of Commerce. Requires enactment of the program into law prior to its becoming effective. Directs the Comptroller General to publish reports on adverse effects of increasing metric usage.

H.R. 13452. July 13, 1978. Government Operations. Amends the Freedom of Information Act to give courts jurisdiction to enjoin Federal agencies from withholding agency records, even if such records pertain to national defense or foreign policy and are properly classified pursuant to an Executive order, if the court finds no reasonable basis to support such Executive order.

Extends the time period an agency may use to determine whether or not such agency will comply with a request for information.

H.R. 13453. July 13, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 13454. July 13, 1978. Agriculture. Requires the Secretary of Agriculture to compile and publish a report, to be revised every three years, containing specific recommendations for a railroad transportation system adequate to meet the essential needs of the agricultural industry of the United States.

Directs the Secretary to participate in all proceedings of any Federal agencies likely to make an impact on the agricultural industry of the United States or on rural development in order to foster the cause of an efficient and economical transportation system serving such interests.

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H.R. 13456. July 13, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury to strike bronze, silver, and gold national medals and deliver them to the Lake Placid 1980 Olympic Winter Games Corporation, a nonprofit corporation.

H.R. 13457. July 13, 1978. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by the franchisor.

H.R. 13458. July 13, 1978. Veterans' Affairs. Permits an insured veteran upon reaching the age of 65 to exchange a five-year level premium term policy of National Service Life Insurance to a special endowment at age 96 plan.

H.R. 13459. July 13, 1978. Ways and Means. Amends the Internal Revenue Code to permit an individual to exclude from gross income all of the gain from the sale or exchange of one principal residence before such individual attains age 62 and one principal residence after such individual attains age 62

H.R. 13460. July 13, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide Medicare coverage of mental illness on an equal basis with coverage of physical illness and to provide payment for certain clinical psychologist's services.

Requires the Secretary of Health, Education, and Welfare to furnish to the States information about the residences of recipients of supplemental security income who reside in institutions, foster homes, or group living arrangements as necessary for the States to establish, maintain, and enforce standards for such residences.

H.R. 13461. July 13, 1978. Education and Labor. Requires the Secretary of Labor to make contracts and grants to reimburse public and private organizations for the reasonable cost of providing screening for asbestos-related diseases to individuals employed in an occupation involving exposure to asbestos to a degree which carries with it a significant risk of developing an asbestos-related disease.

Requires the Secretary to provide for a program under which any individual at risk is reimbursed for reasonable expenses incurred in the individual's screening.

Requires the Secretary to periodically report to Congress concerning this Act.

H.R. 13462. July 13, 1978. Interior and Insular Affairs. Removes residency requirements and acreage limitations applicable to lands subject to reclamation laws.

H.R. 13463. July 13, 1978. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to remove the statutory limitations on aggregate liability for a single nuclear incident and to limit the financial obligations of the United States with respect to such incidents.

H.R. 13464. July 13, 1978. Interstate and Foreign Commerce. Prohibits the distribution in commerce of any ionization smoke detector unless such device bears a label which: (1) includes a recognized symbol indicating the presence of radioactive material; and (2) bears the following statement: "This device contains radioactive material which may be hazardous to your health if ingested or improperly disposed."

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hazardous to your health if ingested or improperly disposed."

H.R. 13466. July 13, 1978. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to eliminate the deduction of railroad retirement annuities by amounts payable as social security benefits for persons who had current connections with the railroad industry, had at least five years of service, and had attained the age of 65 as of the effective date of such Act.

H.R. 13467. July 13, 1978. Makes supplemental appropriations for fiscal year 1978 to the Department of Agriculture, the Department of Defense, the Department of Housing and Urban Development, the Department of the Interior, the Department of Energy, the Department of Health, Education, and Welfare, the Department of Labor, the Department of Commerce, the Department of the Treasury, the Department of Transportation, the Legislative, Judicial and Executive Branches, and specified agencies.

Increases the amount to be appropriated for increased pay costs authorized by Law for fiscal year 1978.

H.R. 13468. July 13, 1978. Makes appropriations for the District of Columbia and for the Temporary Commission on Financial Oversight of the District of Columbia for fiscal years 1978 and 1979.

H.R. 13469. July 13, 1978. Veterans' Affairs. Establishes the Office of Assistant Chief Medical Director for Geriatrics, Gerontology, and Extended Care within the Office of the Chief Medical Director in the Veterans' Administration.

Directs the Administration of Veterans' Affairs to designate 20 Veterans' Administration hospitals as geriatrics centers.

Establishes a Geriatrics, Gerontology, and Extended Care Task Force within the Veterans' Administration.

H.R. 13470. July 13, 1978. Ways and Means. Amends the Internal Revenue Code to lower individual and corporate income tax rates.

H.R. 13471. July 13, 1978. Banking, Finance and Urban Affairs. Extends the supervisory authority of Federal agencies which regulate depository institutions.

Prohibits interlocking director and management relationships between financial institutions.

Prohibits any State nonmember insured bank from operating any foreign branch without prior written consent of the Federal Deposit Insurance Corporation.

Restructures the National Credit Union Administration.

Regulates the sale of insured financial institutions.

Establishes a Financial Institutions Examination Council.

Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

Establishes standards for insurance sales by banks.

Terminates the National Bank Closed Receivership Fund.

Authorizes transactional accounts and credit card surcharges.

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Authorizes transactional accounts and credit card surcharges.

H.R. 13473. July 13, 1978. Interior and Insular Affairs. Amends the acreage limitation and residency provisions of the Federal reclamation laws. Establishes restrictions on leasing of reclaimed land and conditions for repayment of project costs. Sets forth provisions to allow for public participation in the negotiation of water service contracts. Imposes conditions on the sale of land in excess of acreage limitations. Authorizes the Secretary of the Interior to implement this Act.

H.R. 13474. July 13, 1978. Ways and Means. Amends the Second Liberty Bond Act to increase the public debt limit. Increases the face amount of bonds which may be issued pursuant to such Act carrying a rate of interest exceeding 4¼ percent.

H.R. 13475. July 13, 1978. Judiciary. Authorizes the issuance of a visa to an individual and admission for permanent residence in the United States, under the Immigration and Nationality Act.

H.R. 13476. July 14, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to make transaction accounts, negotiable orders of withdrawal and share draft accounts, at all federally insured depository institutions, subject to reserve requirements set by the Board of Governors of the Federal Reserve System.

H.R. 13477. July 14, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to authorize the payment of interest on the required reserve balances of member banks held by Federal Reserve Banks.

H.R. 13478. July 14, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to establish an Endangered Species Committee. Directs the Committee to review applications submitted by Federal agencies regarding proposed agency actions to determine whether an exemption from the requirement of the Act that Federal agencies take no actions which would jeopardize endangered species or their critical habitats should be granted. Stipulates that such an exemption may be granted only after a public hearing and finding that the benefits of the agency action outweigh the benefits of alternative courses of action consistent with preserving the species or its critical habitat.

H.R. 13479. July 14, 1978. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to provide for a Federal payment to the District of Columbia for each fiscal year beginning with fiscal year 1979 in an amount equal to 40 percent of the amount of the revenues of the District of Columbia during such year from all sources other than receipts from the United States and general obligation bonds.

H.R. 13480. July 14, 1978. Interior and Insular Affairs. Replaces the existing acreage limitation of 160 acres of reclaimed land per individual with a limitation of 320 acres.

Abolishes the residency requirements for qualified recipients of project water.

H.R. 13481. July 14, 1978. Public Works and Transportation. Names the post office and Federal building in Portland, Maine, as the "Frederick G. Payne Building."

H.R. 13482. July 14, 1978. Public Works and Transportation. Changes the name of the Gainsville Public Use Area which is being constructed near Warsaw, Alabama, to the "S. W. Taylor Memorial Park."

H.R. 13483. July 14, 1978. Ways and Means. Amends the Internal Revenue Code to exempt certain small manufacturers and producers from the excise tax on firearms.

H.R. 13484. July 14, 1978. Ways and Means. Amends the Internal Revenue Code to allow handicapped individuals who are incapable of operating highway vehicles an income tax deduction for their commuting expenses.

H.R. 13485. July 14, 1978. Banking, Finance and Urban Affairs. Amends the Coinage Act of 1965 to change the size and weight of the one-dollar coin and to require that the obverse side of such coin bear the likeness of Susan B. Anthony.

H.R. 13486. July 14, 1978. Agriculture; Interior and Insular Affairs. Empowers the Secretary of Agriculture and the Secretary of the Interior to survey, evaluate, implement, and allocate funds for plans for water yield improvement practices on public and private watershed lands in Arizona, California, Colorada, Nevada, New Mexico, Utah, and Wyoming.

H.R. 13487. July 14, 1978. Small Business. Amends the Small Business Act to establish in the Small Business Administration a Small Business Extension Service which shall develop and implement a comprehensive program for the identification, development, and practical demonstration of management techniques suitable for use by small business concerns.

H.R. 13488. July 14, 1978. Ways and Means. Amends the Internal Revenue Code to expand and create tax benefits for United States citizens and resident aliens pertaining to the exclusion of foreign earned income, the computation of taxable income, the deduction of foreign living, travel, moving and education expenses, nonrecognition and gain on residential sales, and the exclusion of employer-supplied food and lodging.

H.R. 13489. July 14, 1978. Public Works and Transportation. Designates the Waterways Experiment Station in Vicksburg, Mississippi, as the "Will M. Whittington Waterways Experiment Station."

H.R. 13490. July 14, 1978. Ways and Means. Directs the Secretary of the Treasury to admit free of duty 47 carrillon bells for the use of Wake Forest University, Winston-Salem, North Carolina.

H.R. 13491. July 17, 1978. Interstate and Foreign Commerce. Requires the Federal Trade Commission to create the Office of Consumer Redress to establish programs, and to aid and cooperate with State programs for the administration and adjudication of controversies involving consumers.

H.R. 13492. July 17, 1978. Agriculture. Establishes a National Agricultural Cost of Production Board to review, and advise the Secretary of Agriculture concerning the adequacy and accuracy of the cost-of-production formulas used by the Department of Agriculture in connection with the administration of its price support programs.

H.R. 13493. July 17, 1978. Science and Technology. Amends the Metric Conversion Act of 1975 to abolish the United States Metric Board. Vests authority for a metric system conversion and implementation program in the Secretary of Commerce. Requires enactment of the program into law prior to its becoming effective. Directs the Comptroller General to publish reports on adverse effects of increasing metric usage.

H.R. 13494. July 17, 1978. Veterans' Affairs. Provides that persons who died while on active military duty are to be considered veterans for the purpose of administering certain medical benefits to their widows or surviving children.

H.R. 13495. July 17, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to increase the size of the boards of directors of Federal Reserve Banks. Increases the term of office for such directors.

H.R. 13496. July 17, 1978. Ways and Means. Amends the Internal Revenue Code to provide for annual cost-of-living adjustments to the individual income tax rates, personal exemption amounts, withholding tax amounts

and the minimum amounts of income which necessitate filing an income tax return.

H.R. 13497. July 17, 1978. Banking, Finance and Urban Affairs; Interior and Insular Affairs. Authorizes the Secretary of Housing and Urban Development to establish an urban park and recreation recovery program to provide financial assistance for rehabilitation of recreation areas and facilities in the form of challenge grants to local governments.

H.R. 13498. July 17, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to include Members of Congress, the President, the Vice-President, and Federal judges, under the Federal Old-Age, Survivors, and Disability Insurance system.

H.R. 13499. July 17, 1978. Judiciary. Provides for the regulation of United States participation in international amateur sporting events, and for the promotion of amateur athletics generally, through national governing bodies that are certified for individual sports and regulated by the United States Olympic Committee.

H.R. 13500. July 17, 1978. Government Operations; House Administration. Requires the President and Vice-President to adequately record all their official acts and to maintain all such records which shall be taken into the custody of the Archivist of the United States upon the termination of their terms of office. Prohibits the destruction of such records by such persons unless they have determined that such records are of no historical, administrative, or evidentiary value, obtained prior concurrence of the Archivist, and notified Congress 60 days prior to the proposed disposal date.

H.R. 13501. July 17, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 13502. July 17, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to provide that no Professional Standards Review Organization and no Statewide Professional Standards Review Council shall be considered an agency or authority of the United States Government for the purposes of the Administrative Procedure Act.

H.R. 13503. July 17, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on gondolas, covered hoppers, and box cars until June 30, 1980.

H.R. 13504. July 17, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the withholding tax requirements with respect to gambling winnings.

H.R. 13505. July 17, 1978. Ways and Means. Lists products the manufacture of which shall constitute the "steel sector" for purposes of determining the appropriate product sector with respect to import restriction authority under the Trade Act of 1974.

H.R. 13506. July 17, 1978. Ways and Means. Amends the Internal Revenue Code to reduce the existing excise taxes on transportation of persons and property by air.

H.R. 13507. July 17, 1978. Ways and Means. Amends the Internal Revenue Code to allow as an individual income tax deduction a reasonable allowance for salaries or other compensation for personal services actually rendered but not otherwise deductible paid to any individual during the taxable year.

H.R. 13508. July 17, 1978. Ways and Means. Amends the Internal Revenue Code to lower the corporate normal taxes and increase the surtax exemption.

H.R. 13509. July 17, 1978. Ways and Means. Amends the Internal Revenue Code to provide for annual cost-of-living adjustments to the individual income tax rates, personal exemption amounts, withholding tax amounts and the minimum amounts of income which necessitate filing an income tax return.

H.R. 13510. July 17, 1978. Judiciary. Directs the Administrator of the Veterans' Administration to pay a certain individual any compensation provided for by law as a result of personal injuries sustained in an automobile accident while serving in the Armed Forces of the United States.

H.R. 13511. July 18, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) lower individual, estate, trust, and corporate income taxes and rates; (2) increase the personal exemption; (3) make permanent the earned income credit and the investment tax credit and establish a new tax credit for the creation of employment for certain individuals; (4) revise the tax treatment of certain deductible expenses and tax shelters; (5) revise the tax treatment of certain small business enterprises; and (6) remove capital gains as an item of tax preference subject to the minimum tax.

H.R. 13512. July 18, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to increase the issuance and renewal periods for which broadcast station licenses shall be granted. Prohibits the Federal Communications Commission, in acting upon an application for the renewal of a license, from considering the application of any other person for the facilities for which such renewal is sought.

H.R. 13513. July 18, 1978. Interstate and Foreign Commerce; Interior and Insular Affairs; Public Works and Transportation. Prohibits the construction of any regulated interstate pipeline unless the Federal Energy Regulatory Commission grants a certificate of public convenience and necessity for such construction.

H.R. 13514. July 18, 1978. Public Works and Transportation. Names a specified Federal building in Shreveport, Louisiana, as the "Joe Waggonner Federal Building."

H.R. 13515. July 18, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of Housing and Urban Development to encourage each public housing agency to include at least one resident of a low-income housing project as a member of its governing board.

H.R. 13516. July 18, 1978. Post Office and Civil Service. Makes Franklin Delano Roosevelt's birthday, January 30, a legal public holiday.

H.R. 13517. July 18, 1978. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to direct the Secretary of Transportation to establish requirements for controlling spark emissions from locomotives in order to minimize the danger of fire along railroad rights-of-way.

H.R. 13518. July 18, 1978. Science and Technology; Armed Services; Interior and Insular Affairs. Establishes an oil shale technology demonstration program within the Department of Energy to test the commercial, social, and environmental viability of oil shale technologies. Authorizes Federal financial assistance to affected States and localities for essential community planning and development activities necessitated by this Act.

H.R. 13519. July 18, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of the net capital gain.

H.R. 13520. July 18, 1978. Banking, Finance and Urban Affairs. Amends the Coinage Act of 1965 to change the size and weight of the one-dollar coin and to require that the obverse side of such coin bear the likeness of Susan B. Anthony.

H.R. 13521. July 18, 1978. Interior and Insular Affairs. Grants to the City of Los Angeles easements and rights of way together with the right to continue the City's water and power operations within specified public lands situated in Mono County, California.

H.R. 13522. July 18, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a special postage stamp in honor of Doctor Ralph J. Bunche.

H.R. 13523. July 18, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a special postage stamp in honor of Doctor Ralph J. Bunche.

H.R. 13524. July 18, 1978. Ways and Means. Amends the Internal Revenue Code by providing graduated corporate income tax rates ranging, over seven brackets, from a 16 percent rate on a corporation's first $25,000 income to a 45 percent rate on income over $150,000.

H.R. 13525. July 18, 1978. Veterans' Affairs. Requires personnel employed as cemetery superintendents and assistant superintendents by the American Battle Monuments Commission to be United States citizens.

H.R. 13526. July 18, 1978. Agriculture. Requires annual reporting to the Secretary of Agriculture by foreign persons and agents of purchases of agricultural lands. Imposes civil penalties for reporting violations.

H.R. 13527. July 18, 1978. Judiciary. Declares a certain individual to have been married for the purposes of determining eligibility for an Armed Forces annuity. Directs the Secretary of the Army to pay such individual a certain sum.

H.R. 13528. July 18, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13529. July 19, 1978. Interstate and Foreign Commerce. Amends the Controlled Substances Act to make phencyclidine (PCP) a Schedule I (most dangerous substances) rather than a Schedule III drug.

Sets forth minimum mandatory prison terms for phencyclidine traffic.

Revises provisions specifying penalties for sale of controlled substances to persons under 21 to (1) repeal the requirement that the seller be at least 18 years old and (2) set forth separate mandatory prison terms for the sale of phencyclidine.

H.R. 13530. July 19, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 13531. July 19, 1978. Government Operations. Establishes a preference for domestic products and materials in Government procurements and in procurements with Federal funds.

H.R. 13532. July 19, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for a portion of the expenses incurred for the residential installation of insulation, solar and other renewable energy equipment, heating improvements and energy-conserving components between April 20, 1977, and January 1, 1986.

H.R. 13533. July 19, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Requires the Secretary of Energy to notify affected State legislatures of investigation and construction of sites for radioactive waste storage facilities. Provides for a period for disapproval of construction by the State legislature or by statewide referendum.

H.R. 13534. July 19, 1978. Government Operations; Rules. Requires each Federal agency to reduce the paperwork burden such agency places upon the private sector and State and

local governments by a specified amount each year until fiscal year 1982.

Amends the Legislative Reorganization Act of 1970 to require all public legislation reported by any congressional committee to be accompanied by a Paperwork Impact Statement detailing the paperwork burden which would be imposed upon the public sector and State and local governments by such legislation.

H.R. 13535. July 19, 1978. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 13536. July 19, 1978. Interstate and Foreign Commerce; Ways and Means. Authorizes the Secretary of Health, Education, and Welfare to provide, through demonstration projects, payments to individuals who are receiving, or are eligible to receive, benefits with respect to post-hospital extended care services under the Medicare program or intermediate care facility services or skilled nursing facility services under the Medicaid program who do not require 24-hour nursing care or supervision, and who desire to establish a noninstitutional living arrangement which will meet their medical and other needs.

H.R. 13537. July 19, 1978. Veterans' Affairs. Provides that remarriage of a surviving spouse of a veteran after age 30 shall not result in termination of dependency and indemnity compensation.

H.R. 13538. July 19, 1978. Veterans' Affairs. Provides that remarriage of a surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation.

H.R. 13539. July 19, 1978. House Administration. Amends the Federal Elections Campaign Act of 1971 to permit candidates for the Senate and House of Representatives to receive payments from contributions for loss of income during their campaigns for office.

H.R. 13540. July 19, 1978. Judiciary. Renders survivors of rescue squad members killed in the performance of duty eligible for public safety officer death benefits under the Omnibus Crime Control and Safe Streets Act of 1968.

H.R. 13541. July 19, 1978. Education and Labor. Prohibits a strike or a lockout affecting a perishable food processing operation unless the union or employer gives written notice to the Secretaries of Agriculture and Labor. Allows either the union, the employer, or any State Secretary of Agriculture to petition the Secretaries to appoint an arbitrator. Makes the arbitrator's decision on specified issues final, except for appeals by aggrieved parties

H.R. 13542. July 19, 1978. Ways and Means. Amends the Internal Revenue Code to extend until 1981: (1) the general tax credit; (2) the earned income credit; (3) withholding of the tax requirements; (4) present corporate tax rates and the surtax exemption; and (5) the credit for the employment of new employees.

H.R. 13543. July 19, 1978. Agriculture; Interstate and Foreign Commerce. Directs the Administrator of the Environmental Protection Agency to request the National Academy of Science to conduct a study regarding the desirability of developing a Federal policy for the determination of the potential carcinogenicity in man of chemicals tested primarily in nonhuman test systems through the standardization of certain tests.

H.R. 13544. July 19, 1978. Ways and Means. Amends the Internal Revenue Code to lower individual and corporate income tax rates.

H.R. 13545. July 19, 1978. Judiciary. Directs the Administrator of Veterans' Affairs to consider a certain National Service Life Insurance policy certificate to have been valid on and after the death of a certain individual.

H.R. 13546. July 20, 1978. Ways and Means. Lists products the manufacture of which shall constitute the "steel sector" for purposes of determining the appropriate product sector with respect to import restriction authority under the Trade Act of 1974.

H.R. 13547. July 20, 1978. Post Office and Civil Service. Provides a cost of living allowance for court employees and officials employed outside the continental United States or in Alaska.

H.R. 13548. July 20, 1978. District of Columbia. Authorizes the Temporary Commission on Financial Oversight of the District of Columbia to enter into contracts with the Government of the District of Columbia with respect to financial planning services and auditing services. Removes the requirement that contracts negotiated for such purposes be fixed price contracts.

H.R. 13549. July 20, 1978. Banking, Finance and Urban Affairs. Authorizes the Board of Directors of the Federal Deposit Insurance Corporation to require a weekly report from State nonmember banks on deposit and cash items. Directs that such report be made available to the Federal Reserve Board.

H.R. 13550. July 20, 1978. Ways and Means. Places limits on increases in Congressional spending for fiscal years 1980, 1981, and 1982. Amends the Internal Revenue Code to reduce individual, estate and trust, and corporate income tax rates in 1979 and 1980 and to establish a permanent reduction in such rates for 1981 and succeeding years. Increases the surtax exemption for corporations to $100,000.

H.R. 13551. July 20, 1978. Interstate and Foreign Commerce. Establishes the Commission on National Primary Health Care needs to issue a report on national primary health care needs.

Authorizes the Secretary of Health, Education, and Welfare, to make grants: (1) to community hospitals for planning, developing, and operating primary care centers in medically underserved populations; and (2) to demonstrate new, improved, or expanded primary health and dental care delivery mechanisms in the community setting for medically underserved populations.

H.R. 13552. July 20, 1978. Judiciary. Authorizes and directs the Attorney General to acquire, collect, classify and preserve any information which would assist in the identification of any deceased individual who has not been identified within 30 days of the date of death.

H.R. 13553. July 20, 1978. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to acquire Federal coal leases or rights thereto upon making certain findings.

Authorizes the Secretary to permit access to be granted through coal deposits for tunnels or surface rights-of-way by means of negotiated sales, competitive bidding requirements notwithstanding.

Specifies guidelines regarding applicability of minimum royalty provisions to modified coal leases.

Authorizes the appropriations necessary to carry out the provisions of this Act.

H.R. 13554. July 20, 1978. Judiciary. Amends the Clayton Act to prohibit any person from serving concurrently as a director or officer of more than one corporation that has assets or gross annual sales in excess of $1,000,000,000. Prohibits such major corporations from appointing as officers or directors, persons who hold such positions with other corporations.

Sets forth penalties and enforcement procedures for violations of the provisions of this Act.

H.R. 13555. July 20, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain.

H.R. 13556. July 20, 1978. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to include the Occupational Safety and Health Administration of the Department of Labor within the definitions of employer and employee for purposes of coverage under such Act.

H.R. 13557. July 20, 1978. Banking, Finance and Urban Affairs; Interior and Insular Affairs. Authorizes the Secretary of the Interior to enter into cooperative agreements with American Youth Hostels, Incorporated to develop a national plan for youth hostel development, and to administer a grant program to implement such plan.

Authorizes the Secretary to make grants for improvement and renovations of youth hostels, and for a pilot program for new youth hostel construction.

H.R. 13558. July 20, 1978. Banking, Finance and Urban Affairs. Amends the Coinage Act of 1965 to change the size and weight of the one-dollar coin and to require that the obverse side of such coin bear the likeness of Susan B. Anthony.

H.R. 13559. July 20, 1979. Banking, Finance and Urban Affairs; Interior and Insular Affairs; Public Works and Transportation. Amends the Public Works and Economic Development Act to establish an Office of Energy Impact Assistance within the Department of Commerce to provide financial and technical assistance to States, local governments, and Indian tribes suffering economic impact as a result of energy development activities.

H.R. 13560. July 20, 1978. Judiciary. Declares a certain individual the natural-born alien child of a certain United States citizen.

H.R. 13561. July 20, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13562. July 21, 1978. Ways and Means. Amends the Internal Revenue Code to confer tax-exempt status upon employee benefit trusts organized to invest in real estate.

H.R. 13563. July 21, 1978. Judiciary. Amends the Immigration and Nationality Act to provide for the exclusion and deportation from the United States of aliens affiliated with terrorist organizations. Removes certain diplomatic and semidiplomatic immunities from such aliens. Imposes criminal penalties on anyone who knowingly aids such aliens to enter the United States.

Amends the Foreign Agents Registration Act of 1938 to require an investigation of the activities of anyone registered under such Act as an agent of a terrorist organization. Imposes criminal penalties on an agent who knowingly receives funds from such an organization.

H.R. 13564. July 21, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the withholding tax requirements with respect to gambling winnings.

H.R. 13565. July 21, 1978. Appropriations. Rescinds $500,000,000 of the funds appropriated in the Departments of Labor and Health, Education, and Welfare Appropriations Act, 1977, pursuant to the Impoundment Control Act of 1974.

H.R. 13566. July 21, 1978. Agriculture; Banking, Finance and Urban Affairs. Transfers to the Department of Agriculture the functions of the Economic Development Administration of the Department of Commerce and the non-metropolitan portion of the community block grant program of the Department of Housing and Urban Development.

H.R. 13567. July 21, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury to strike and sell gold medallions to the public commemorating specified individuals in the American arts.

H.R. 13568. July 21, 1978. Agriculture. Amends the Federal Crop Insurance Act to increase the capital stock of the Federal Crop Insurance Corporation to make insurance available to producers of agricultural commodities, not including livestock, poultry, and other animals, wherever they are grown commercially. Provides for a 50 percent Federal subsidy of premiums and removes the ceiling on appropriations. Creates a revolving fund for the Corporation in the United States Treasury and gives the Corporation discretionary borrowing authority.

H.R. 13569. July 21, 1978. Agriculture; International Relations; Interstate and Foreign Commerce; Ways and Means. Establishes a National Board of Agricultural Governors to: (1) set partiy prices and comprehensive cost of production prices for agricultural commodities; (2) establish a national production goal and allocate acreage allotments or marketing quotas; (3) establish a program to acquire reserve stocks; (4) establish import quotas; (5) conduct producer referendums on proposed regulations; and (6) establish and administer all agricultural and marketing programs of the Federal Government.

H.R. 13570. July 21, 1978. Banking, Finance and Urban Affairs. Amends the Coinage Act of 1965 to change the size and weight of the one-dollar coin and to require that the obverse side of such coin bear the likeness of Susan B. Anthony.

H.R. 13571. July 21, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service Officer or employee acting in an official capacity.

H.R. 13572. July 24, 1978. Agriculture. Requires a report to the Secretary of Agriculture from any foreign person (including individuals, organizations, and governments or governmental instrumentalities) who owns an interest in United States agricultural land acquired after December 31, 1969.

H.R. 13573. July 24, 1978. Judiciary; Ways and Means. Amends the Internal Revenue Code to exclude from gross income punitive damages received by a private antitrust litigant. Disallows tax deductions for such damages paid or incurred by a taxpayer.

H.R. 13574. July 24, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that no part of the excess earnings of an individual shall be charged to any month if such month is in the taxable year in which occurs the first month after December 1977 that is both a month in which the individual is entitled to benefits and is unemployed.

H.R. 13575. July 24, 1978. Ways and Means. Amends the Internal Revenue Code to allow a limited deduction from the gross income of an employee for cash contributions made for his benefit to certain retirement plans.

H.R. 13576. July 24, 1978. Ways and Means. Amends the Internal Revenue Code to extend to participants in tax-exempt employer pension plans a limited income tax deduction for cash contributions to a retirement savings account.

H.R. 13577. July 24, 1978. Public Works and Transportation. Stipulates that upon the withdrawal of approval of any portion of an Interstate Highway, the State involved, subject to the approval of the Secretary of Transportation, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs. Stipulates that refunds shall not be required if the State applies such funds to an eligible transportation project or to a public conservation or recreation purpose within ten years.

H.R. 13578. July 24, 1978. Rules; Ways and Means. Places limits on increases in Congressional spending for fiscal years 1980, 1981, and 1982. Amends the Internal Revenue Code to reduce individual, estate and trust, and corporate income tax rates in 1979 and 1980 and to establish a permanent reduction in such rates for 1981 and succeeding years. Increases the surtax exemption for corporations to $100,000.

H.R. 13579. July 24, 1978. Public Works and Transportation. Amends the John F. Kennedy Center Act to: (1) require that all reimbursements received by the Center from concessionaries and other third party occupants for utilities be remitted to the Secretary of Interior; and (2) prohibit the Secretary of the Treasury from charging interest on any revenue bond issued by the Board of Trustees of the Center to finance parking facilities which has been paid in full through annual payments by its maturity date.

H.R. 13580. July 24, 1978. Armed Services. Authorizes the President to award a medal of honor posthumously to William James Tsakanikas for his actions during World War II.

H.R. 13581. July 24, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from gross income a corporate stock distribution to a stockholder based upon the reinvestment of stock dividends in the corporation by such stockholder pursuant to his election to participate in a qualified dividend reinvestment plan, as defined in this Act. Establishes a rebuttable presumption that a distribution made by a corporation which purchases its common stock within one year of such distribution shall not be deemed a distribution pursuant to a qualified dividend reinvestment plan.

H.R. 13582. July 24, 1978. Ways and Means. Amends the Internal Revenue Code by providing graduated corporate income tax rates ranging, over seven brackets, from a 16 percent rate on a corporation's first $25,000 of income to a 45 percent rate on income over $150,000.

H.R. 13583. July 25, 1978. Judiciary. Amends the charter of the Boy Scouts of America to stipulate that the annual report of the Boy Scouts shall be printed each year as a separate House document.

H.R. 13584. July 25, 1978. Judiciary. Amends the charter of the Boy Scouts of America to stipulate that the annual report of the Boy Scouts shall be printed each year as a separate House document.

H.R. 13585. July 25, 1978. Judiciary. Amends the charter of the Boy Scouts of America to stipulate that the annual report of the Boy Scouts shall be printed each year as a separate House document.

H.R. 13586. July 25, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to invalidate agreements preventing the broadcast of a professional sports game, by means of television, at the same time and in the same area in which the game is to be played.

H.R. 13587. July 25, 1978. Science and Technology. Amends the Metric Conversion Act of 1975 to abolish the United States Metric Board established by that Act and to eliminate the Board's responsibilities in the area of metric conversion.

Directs the Secretary of Commerce to carry out a program of coordination and education with respect to the metric system, and the Comptroller General to analyze and publish any adverse effects from increasing metric conversion.

H.R. 13588. July 25, 1978. Public Works and Transportation. Names the China Bluff Access Area being constructed as part of the Tennessee Tombigbee Waterway the "S. W. Taylor Memorial Park."

H.R. 13589. July 25, 1978. Interior and Insular Affairs. Designates specified lands in the Shasta-Trinity National Forest in California as wilderness, to be administered by the Secretary of Agriculture.

H.R. 13590. July 25, 1978. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to prohibit the shipment of certain classified information or material on vessels of Communist countries.

H.R. 13591. July 25, 1978. Veterans' Affairs. Amends the National Service Life Insurance Act of 1940 to provide for a lump sum payment of National Service Life Insurace benefits for certain members of the Armed Forces killed in action between April 21, 1942, and December 31, 1942.

H.R. 13592. July 25, 1978. Ways and Means. Amends the Internal Revenue Code to limit employers' recordkeeping and information return requirements with respect to employees' tips.

H.R. 13593. July 25, 1978. Education and Labor. Amends the Longshoremen's and Harbor Workers' Compensation Act with regard to coverage of the Act, procedures for obtaining death and disability compensation, and the amounts of such compensation.

H.R. 13594. July 25, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to eliminate the testing of new human drugs and new animal drugs for effectiveness. Establishes drug advisory committees to review new human drug and new animal drug applications promptly. Requires assistance to small businesses engaged in drug manufacture to insure their compliance with such Act.

H.R. 13595. July 25, 1978. Veterans' Affairs. Provides that remarriage of a surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation.

H.R. 13596. July 25, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to States for dental disease control programs.

Authorizes appropriations through fiscal year 1981 for fluoride rinse programs to be administered in schools.

H.R. 13597. July 25, 1978. Public Works and Transportation. Directs the Architect of the Capitol to install solar energy devices in the Rayburn House Office Building and the House Annex Numbered 2.

H.R. 13598. July 25, 1978. Merchant Marine and Fisheries. Directs the Secretary of the Interior to release to a certain individual a narwhale tusk cane seized by agents of the United States Fish and Wildlife Service. Exempts such individual from prosecution under the Endangered Species Act of 1973 with respect to such cane.

H.R. 13599. July 25, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13600. July 25, 1978. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13601. July 25, 1978. Judiciary. Declares two individuals to be natural-born alien children of their grandmother, under the Immigration and Nationality Act.

H.R. 13602. July 26, 1978. District of Columbia. Directs the Mayor of the District of Columbia to provide that motor vehicle stickers issued by any State to grant special parking rights for the handicapped shall be honored in the District of Columbia in the same manner as any such motor vehicle sticker issued by the Government of the District of Columbia.

H.R. 13603. July 26, 1978. Armed Services. Directs the Secretary of Defense, in computing incentive pay for medical officers of the uniformed services, to prescribe a system through which variable incentive pay may be reduced or adjusted to reflect amounts the Federal Government has paid to or benefits received by medical officers prior to the commencement of their active duty.

H.R. 13604. July 26, 1978. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to entitled divorced spouses and surviving divorced spouses of railroad employees to an annuity if such an individual was married to the railroad employee for at least ten years before such divorce.

H.R. 13605. July 26, 1978. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to provide that supplemental security income benefits which are due an individual who dies without leaving an eligible spouse shall be paid to the person or persons who paid the expenses of such individual's last illness and burial, to the extent and in such proportions that such person or persons paid such expenses.

H.R. 13606. July 26, 1978. Post Office and Civil Service. Maintains current classes of mail, rates of postage, and fees for postal services presently in effect until modified by Congress.

Repeals the authority of the Postal Service to: (1) establish temporary changes in rates; (2) reimburse a mailer for paying a fee determined to be unlawful or superseded by a lower fee; and (3) establishes uniform rates for books, films and educational materials based solely on weight.

H.R. 13607. July 26, 1978. Judiciary. Authorizes the holding of United States district court for the Southern District of New York in White Plains, the Western District of Pennsylvania in Johnstown, and establishes a Lufkin Division in the Eastern District of Texas.

H.R. 13608. July 26, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977, to increase Federal participation in the funding of benefits under such Title and under the Medicare program, and to raise to $100,000 in 1979 the ceiling on the amount of income that is subject to the tax.

H.R. 13609. July 26, 1978. Banking, Finance and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities.

Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 13610. July 26, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on freight cars until June 1, 1980.

H.R. 13611. July 26, 1978. Interstate and Foreign Commerce; Appropriations. Amends Title XIX (Medicaid) of the Social Security Act to provide medical assistance to certain eligible individuals under the age of 21 and to certain eligible women during and after pregnancy. Establishes a national child health assurance program (CHAP) income standard and a national maternal income standard.

Requires State plans for medical assistance under Title XIX to include a plan to implement a CHAP.

H.R. 13612. July 27, 1978. Banking, Finance and Urban Affairs. Extends the authority of the Board of Governors of the Federal Reserve System to regulate interest rates on deposits and share accounts in depository institutions.

H.R. 13613. July 27, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to invalidate agreements preventing the broadcast of a professional sports game, by means of television, at the same time and in the same area in which the game is to be played if all tickets to such game have been sold 72 hours before gametime.

Invalidates any agreement which would prevent the television broadcast of any professional football game in the original home area of a team the playing site of which has been moved from the original home area under an agreement prohibiting the location of a different franchise in such original area.

H.R. 13614. July 27, 1978. Judiciary. Amends the Clayton Act to prohibit any professional football league from granting to its members club an exclusive right to exhibit football games if such right includes a territorial limit and if a league rule would prohibit a home area that had a club from acquiring another club in the event the original club moves to a different site within the territorial limit.

Amends the Clayton Act to prohibit any professional football league from granting to its member clubs the exclusive right to exhibit football games within specified territorial limits.

H.R. 13615. July 27, 1978. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to study and report to Congress on the feasibility of measures to prevent streambank erosion along the Tensaw River, in order to protect Blakeley, Alabama, listed on the National Register of Historic Places.

H.R. 13616. July 27, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on freight cars until June 1, 1982.

H.R. 13617. July 27, 1978. Government Operations. Establishes the Department of Education to be headed by a Secretary of Education.

Establishes a Federal Interagency Committee on Education.

Transfers to the Secretary specified functions of the: (1) Department of Health, Education, and Welfare; (2) Department of Defense; (3) National Science Foundation; (4) Department of Justice; (5) Department of Housing and Urban Development; (6) Department of Agriculture; (7) Department of the Interior; and (8) Veterans' Administration.

Amends the Indian Self-Determination and Educational Assistance Act to authorize the Secretary to enter into contracts with tribal organizations to carry out functions transferred to the Secretary under this Act from the Department of the Interior.

H.R. 13618. July 27, 1978. Rules. Amends the Congressional Budget and Impoundment Control Act to prohibit the level of total budget outlays in any concurrent resolution passed in accordance with such Act from exceeding, in any calendar year, 20 percent of the gross national product of the United States, unless waived by a two-thirds vote in each House of Congress.

H.R. 13619. July 27, 1978. Ways and Means. Amends the Internal Revenue Code to revise the treatment of individual retirement accounts with respect to excess contributions, rollover provisions, penalty provisions, and reporting provisions.

H.R. 13620. July 27, 1978. Ways and Means. Amends the Internal Revenue Code to permit small businesses to accelerate depreciation on the first $100,000 of business property and to allow a limited nonrecognition of the gain from the sale or exchange of a business interest where a replacement interest in a small business concern is purchased within two years of the sale.

Amends the Securities Act of 1933 to increase the small offering exemption to $3,000,000.

H.R. 13621. July 27, 1978. Ways and Means; Government Operations. Establishes a Task Force on the Taxation of Real Property by State and Local Governments to study and evaluate such taxation, its effects on middle and fixed income taxpayers and the feasibility of using Federal taxation or other methods to reduce the dependence of State and local governments on such taxation.

H.R. 13622. July 27, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 13623. July 27, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from the gross income of an employee amounts paid or expenses incurred by the employer for educational assistance to the employee.

H.R. 13624. July 27, 1978. Public Works and Transportation. Amends the Federal Water Pollution Control Act to provide grants for the cost of operation and maintenance of waste treatment works providing secondary treatment.

H.R. 13625. July 27, 1978. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for State and Local property taxes that are allocable to the construction or improvement of sewage treatment works, even though such benefits tend to improve the value of the property taxed.

H.R. 13626. July 27, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include the services of licensed practical nurses under the coverage provided pursuant to such Titles.

H.R. 13627. July 27, 1978. International Relations. Establishes the Commission for the Preservation of America's Heritage Abroad. Directs the Commission to identify cemeteries, monuments and historic buildings abroad which are associated with the foreign heritage of United States citizens particularly those which are in danger of deterioration or destruction. Directs the Commission to designate such cemeteries, monuments, and buildings and to encourage foreign governments to preserve them.

H.R. 13628. July 27, 1978. Judiciary. Requires the Commissioner of Patents to prescribe the fees for any products of the Patent and Trademark Office not specified by statute, and to anounce any new or changed fee in the Federal Register 30 days before the effective date of such fee.

H.R. 13629. July 27, 1978. Science and Technology. Establishes the National Alcohol Fuels Commission to study the use of alcohol as an alternative fuel source.

H.R. 13630. July 27, 1978. Banking, Finance and Urban Affairs. Extends the authority of the Board of Governors of the Federal Reserve System to regulate interest rates on deposits and share accounts in depository institutions.

H.R. 13631. July 27, 1978. Agriculture; International Relations; Interstate and Foreign Commerce; Ways and Means. Establishes a National Board of Agricultural Governors to: (1) set parity prices and comprehensive cost of production prices for agricultural commodities; (2) establish a national production goal and allocate acreage allotments or marketing quotas; (3) establish a program to acquire reserve stocks; (4) establish import quotas; (5) conduct producer referendums on proposed regulations; and (6) establish and administer all agricultural and marketing programs of the Federal Government.

H.R. 13632. July 27, 1978. Education and Labor. Amends the Fair Labor Standards Act of 1938 to make the minimum wage requirements of that Act inapplicable to employees under the age of 21.

H.R. 13633. July 27, 1978. Ways and Means. Amends the Internal Revenue Code to remove the dollar and percentage limitations on the amount of the estate and gift tax marital deductions.

H.R. 13634. July 27, 1978. Judiciary. Authorizes the issuance of a visa to an individual and admission for permanent residence in the United States, under the Immigration and Nationality Act.

H.R. 13635. July 27, 1978. Makes appropriations to the Department of Defense for fiscal year 1979 for military personnel costs, operation and maintenance, procurement, research and development, the special foreign currency program and the working capital funds of the Army and Air Force. Makes appropriations for expenses of the Intelligence Community Staff and the Central Intelligence Agency Retirement and Disability Fund.

H.R. 13636. July 28, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for cash contributions to individual housing account.

H.R. 13637. July 28, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 13638. July 28, 1978. Rules; Government Operations. Requires Government programs to be evaluated pursuant to a specified schedule to determine whether each such program should be continued, terminated, or altered (reauthorization review). Prohibits the authorization of new budget authority for a period of more than ten years. Prohibits the authorization of new budget authority for any program for which there has not been conducted a reauthorization review.

Establishes a Citizens' Commission on the Organization and Operation of Government to study and recommend ways to improve the efficiency and operation of Government agencies.

H.R. 13639. July 28, 1978. Education and Labor. Authorizes the Commissioner of Education to make grants to State and local educational agencies, institutions of higher education, and other public and private nonprofit agencies for the Federal share of the cost of specified educational programs for criminal offenders.

H.R. 13640. July 28, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code of 1954 to permit ministers and their employers to enter into voluntary agreements for the treatment of such ministers as employed persons.

H.R. 13641. July 28, 1978. Banking, Finance and Urban Affairs. Exempts specified real estate transactions from the terms of the Interstate Land Sales Full Disclosure Act.

H.R. 13642. July 28, 1978. Judiciary. Directs Federal judges to continue any case whenever any party thereto or the counsel of any party is absent from court when the case is called if the absence is due to attendance as a member of a State legislature.

H.R. 13643. July 28, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury to strike and furnish to the Martin Luther King, Junior Center for Social Change, medals commemorating the life and ideals of Martin Luther King, Junior.

H.R. 13644. July 28, 1978. Science and Technology. Directs the Secretary of the Department of Energy to initiate research, development and demonstration of a permanent Federal repository for nuclear waste and spent nuclear fuel assemblies.

Establishes a Nuclear Waste Management Advisory committee to study and advise the Secretary on matters concerning nuclear waste disposal technology.

H.R. 13645. July 28, 1978. Judiciary. Requires Federal agencies to include the following in the general notice of a proposed rule: (1) the purpose of the rule; (2) the estimated number of persons and organizations affected by the rule: (3) a statement that the agency seeks alternative proposals which could achieve the goal of the proposed rule at a lower cost to certain persons and organizations; and (4) a list of the measures necessary for compliance with reporting requirements. Requires agencies to publish a justification of the selection of the final rule over alternative proposals.

Terminates after seven years any rule in effect before the enactment of this Act.

H.R. 13646. July 28, 1978. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to include Federal firefighters among the public safety officers with respect to whom death benefits may be paid by the Law Enforcement Assistance Administration.

H.R. 13647. July 28, 1978. Ways and Means. Amends the Internal Revenue Code to treat municipal sewer taxes, rents, and other similar sewer charges as deductible real property taxes.

H.R. 13648. July 28, 1978. Government Operations. Directs the Secretary of the Treasury to make payments to each State and local governmental unit, upon application, to compensate it for the loss of real property tax revenues resulting from the location of exempt real property (owned or occupied by representatives of a foreign country or international organization) within such State or local governmental unit. Sets forth eligibility requirements for such payments.

H.R. 13649. July 28, 1978. Agriculture; Ways and Means. Directs the Secretary of Agriculture to pay an indemnity to eligible producers or owners of cattle, goats, or sheep (except lambs), whenever the President acts to increase or suspend quotas or to otherwise increase imports for any reason other than as part of an international agreement to expand agricultural exports from the United States.

H.R. 13650. July 28, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Authorizes and directs the Secretary of Energy to enter into cooperative agreements with designated States and Indian Tribes to pay a certain percentage of the costs of: (1) assessing the radiation levels of residual radioactive materials from former uranium ore processing sites; and (2) limiting exposure of individuals to such radioactive materials.

Amends the Atomic Energy Act of 1954 to authorize the licensing and regulation of uranium mill tailings.

H.R. 13651. July 28, 1978. Interior and Insular Affairs. Changes the name of the Palmetto Bend Reservoir on the Navidad River, Texas, to Lake Texana.

H.R. 13652. July, 31, 1978. International Relations; Judiciary; Public Works and Transportation. Directs the President to report to Congress on a regular basis regarding acts of international terrorism. Establishes sanctions with respect to countries supporting international terrorism. Establishes a program for evaluating and assisting security measures at foreign airports. Makes it unlawful to manufacture or transport explosives without identification and detection taggants. Sets forth penalties for offenses in violation of the Convention for the Suppression of Unlawful Acts against the Safety of Aviation.

H.R. 13653. July 31, 1978. Small Business. Simplifies Government contracting procedures with respect to small businesses.

Establishes Government contract arbitration panels within the Small Business Administration.

Directs Federal agencies to take the apparent low responsive bidder's small business concern subcontracting plan into account in determining the responsibility of such bidder for the award of such contract.

Assigns an employee of the Small Business Administration to each Federal agency.

Establishes the Small Business Procurement Advisory Committee.

H.R. 13654. July 31, 1978. Government Operations. Amends the Freedom of Information Act to prohibit Federal agencies from disclosing personnel, medical, and similar files, the disclosure of which is sought for solicitation or other commercial purposes.

H.R. 13655. July 31, 1978. Interstate and Foreign Commerce. Extends authorizations under the Public Health Service Act through fiscal year 1981 for: (1) surveys of the feasibility of establishing, operating, or expanding health maintenance organizations (HMO's); and (2) planning and initial development costs for HMO's.

Authorizes the Secretary of Health, Education, and Welfare to make loans to HMO's for the acquisition or construction of ambulatory health care facilities.

Requires the Secretary to establish a National Health Maintenance Organization Intern Program to provide training for individuals to become HMO administrators.

Requires each HMO to make available to its members specified financial information.

Amends Title XIX of the Social Security Act to establish conflict-of-interest provisions related to State Medicaid plans.

H.R. 13656. July 31, 1978. Government Operations. Prohibits the General Services Administration (GSA) from awarding a single-source contract for the next two years to procure any commercially available product that may be procured from a multiple award schedule. Directs the Office of Federal Procurement Policy to study and report to Congress on GSA's procurement practices during this period.

H.R. 13657. July 31, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend the custom duty on mixtures of mashed or macerated hot red peppers and salt until June 30, 1981.

H.R. 13658. July 31, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act to require that an economic impact statement be prepared before the Secretary of the Interior lists a species as endangered; to change the factors that may be considered in determining whether a species is endangered: to establish an Endangered Species Committee to grant exemptions from the requirement of the Act that Federal agencies take no action which would jeopardize an endangered species; to authorize the President to grant exemptions in certain disaster areas; and to establish self defense as a defense to an offense against an endangered species.

H.R. 13659. July 31, 1978. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to extend the period of time during which the Consolidated Rail Corporation (Con Rail) is to transfer rail properties to State, local, or regional transportation authorities, or to the National Railroad Passenger Corporation to meet the needs of commuter or intercity rail passenger service.

H.R. 13660. July 31, 1978. Requires each Member of Congress, officer of either House of Congress, principal assistant to a Member or officer, employee of a Member, officer, or committee who is compensated at a rate equal to or in excess of the basic pay rate for grade GS–16, and any individual who becomes a candidate in any election for the office of Member to file an annual financial report.

H.R. 13661. July 31, 1978. Education and Labor. Requires the Secretary of Labor to make contracts and grants to reimburse public and private organizations for the reasonable cost of providing screening for asbestos-related diseases to individuals employed in an occupation involving exposure to asbestos to a degree which carries with it a significant risk of developing an asbestos-related disease.

Requires the Secretary to provide for a program under which any individual at risk is reimbursed for reasonable expenses incurred in the individual's screening.

Requires the Secretary to periodically report to Congress concerning this Act.

H.R. 13662. July 31, 1978. Interstate and Foreign Commerce. Amends the National Research Act to establish the President's Commission for the study of Ethical Problems in Medicine and Biomedical and Behavioral Research to conduct studies of the legal, ethical, and social implications involved in medicine and biomedical and behavioral research.

H.R. 13663. July 31, 1978. Interior and Insular Affairs. Directs the Secretary of the Interior to convey, to a certain individual, without consideration, all right, title and interest of the United States in certain real property.

H.R. 13664. August 1, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to invalidate agreements preventing the broadcast of a professional sports game, by means of television, at the same time and in the same area in which the game is to be played if all tickets to such game have been sold 72 hours before gametime.

Invalidates any agreement which would prevent the television broadcast of any professional football game in the original home area of a team the playing site of which has been moved from the original home area under an agreement prohibiting the location of a different franchise in such original area.

H.R. 13665. August 1, 1978. Judiciary. Amends the Clayton Act to prohibit any professional football league from granting to its members club an exclusive right to exhibit football games if such right includes a territorial limit and if a league rule would prohibit a home area that had a club from acquiring another club in the event the original club moves to a different site within the territorial limit.

Amends the Clayton Act to prohibit any professional football league from granting to its member clubs the exclusive right to exhibit football games within specified territorial limits.

H.R. 13666. August 1, 1978. Judiciary. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 13667. August 1, 1978. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 25 percent of the amount of rent paid by the taxpayer which is equal to the taxpayer's proportionate share of the local and State property taxes imposed on the land and building in which his dwelling is located.

H.R. 13668. August 1, 1978. Public Works and Transportation. Designates the Federal building and United States courthouse in Amarillo, Texas, as the "Marvin Jones Federal Building."

H.R. 13669. August 1, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to disregard renewal commissions received by an insurance salesman from life insurance policies which such salesman sold before reaching age 65, for purposes of determining eligibility based on income for for social security benefits.

H.R. 13670. August 1, 1978. Agriculture. Requires a report to the Secretary of Agriculture, from any foreign person (including individuals, organizations, governments, or any combination thereof) who holds, acquires, or transfers any interest, other than a security interest, in agricultural land.

H.R. 13671. August 4, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from a gross income a corporate stock distribution to a stockholder based upon the reinvestment of stock dividends in the corporation by such stockholder pursuant to his election to participate in a qualified dividend reinvestment plan, as defined in this Act. Establishes a rebuttable presumption that a distribution made by a corporation which purchases its common stock within one year of such distribution shall not be deemed a distribution pursuant to a qualified dividend reinvestment plan.

H.R. 13672. August 1, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on freight cars until June 1, 1980.

H.R. 13673. August 1, 1978, Agriculture. Amends the Packers and Stockyards Act of 1921 to authorize the use of value based or percentage tariffs by firms selling livestock on a commission basis.

Directs the Secretary of Agriculture to appoint an interagency task force within the Department of Agriculture for the purpose of analyzing and recommending methods by which any livestock sellers may furnish to livestock marketing agencies, dealers or packers information concerning the existence of any lien or security interest in or against such livestock.

H.R. 13674. August 1, 1978. Veteran's Affairs. Provides that remarriage of a surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation.

H.R. 13675. August 1, 1978. Agriculture. Amends the Agricultural Act of 1949 to repeal the requirement that interest rates on cotton price support loans be based on the lowest current interest rate on ordinary obligations of the United States, in order to insure that such interest rates are not less favorable to producers than the interest rates for such loans on other commodities.

H.R. 13676. August 1, 1978. Judiciary; Ethics; Armed Services; Post Office and Civil Service. Requires financial disclosure by all officials of the Executive branch, the Judicial branch, and Congress who are compensated at a pay rate of or greater than that for grade GS–16.

Establishes the Office of Government Ethics and the Judicial Ethics Committee to monitor compliance with this Act by Executive and Judicial officials, respectively, and to review financial disclosure statements for illegal conflicts of interest.

Extends the current prohibition of appearance before agencies by former Federal personnel to informal as well as formal contacts and extends the period of such prohibition.

H.R. 13677. August 1, 1978. Judiciary. Sets forth procedures for the preliminary investigations of complaints regarding the conduct of a Federal judge or justice by the Senate Judiciary Committee. Provides for further investigation by the House Judiciary Committee upon referral of a complaint by the Senate Judiciary Committee.

Authorizes and directs the House Judiciary Committee to review the conduct of each Federal judge and justice every eight years to determine if such conduct is consistent with the good behavior required by the Constitution.

H.R. 13678. August 1, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to establish: (1) a Drug Benefit Program for the aged to pay for prescription drugs from participating pharmacies; (2) a Drug Benefits List; (3) a Drug Benefits Council to advise the Secretary of Health, Education, and Welfare on matters relating to this Act; and (4) penalties for abuses of the benefits of this program.

H.R. 13679. August 1, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to treat individuals engaged in the harvesting or transportation of timber as independent contractors rather than employees for purposes of social security taxation, unemployment taxation, and the withholding of income tax.

H.R. 13680. August 1, 1978. Interior and Insular Affairs. Removes residency requirements and acreage limitations applicable to lands subject to reclamation laws.

H.R. 13681. August 1, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service Officer or employee acting in an official capacity.

H.R. 13682. August 1, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service Officer or employee acting in an official capacity.

H.R. 13683. August 1, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service Officer or employee acting in an official capacity.

H.R. 13684. August 1, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service Officer or employee acting in an official capacity.

H.R. 13685. August 1, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13686. August 2, 1978. Banking, Finance and Urban Affairs. Extends the authority of the Board of Governors of the Federal Reserve System to regulate interest rates on deposits and share accounts in depository institutions.

H.R. 13687. August 2, 1978. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to condition certain assistance to States, local governments, and agencies thereunder on the adoption of a law enforcement officers' bill of rights.

H.R. 13688. August 2, 1978. Government Operations. Requires the General Services Administration to establish a nationwide network of Federal Information Centers for the purpose of informing the public of programs and procedures of the Federal Government and for other appropriate and related purposes.

H.R. 13689. August 2, 1978. Government Operations. Requires all Federal regulatory agencies to prepare with respect to each rule promulgated by such agencies: (1) a statement comparing the private costs of such rule with the benefit such rule would have on the environment; and (2) an environmental impact statement. Establishes standing task forces in each community affected by proposed agency rules to assess the economic and employment impact of each such rule.

Requires Congressional approval of any such rule which will cause an increase in unemployment.

H.R. 13690. August 2, 1978. Ways and Means. Amends the Antidumping Act, 1921, to revise procedures with respect to the investigation by the Secretary of the Treasury and the International Trade Commission of allegations of import "dumping." Imposes liquidation deadlines upon imported merchandise upon which a special "dumping" duty has been imposed. Requires the establishment of a task force for each investigation of "dumping" allegations to serve as an intermediary between the Secretary and the industrial and labor groups interested in the investigation.

H.R. 13691. August 2, 1978. Ways and Means. Amends the Internal Revenue Code with respect to corporate tax rates and dividend deductions, employer investment and employment credits, business expense deductions and investment credits, and individual stock dividend exclusions. Provides for cost-of-living adjustments to depreciation allowances, property bases and United States obligations.

H.R. 13692. August 2, 1978. Judiciary. Interstate Compact—Grants the consent of Congress to the Historic Chattahoochee Compact between Alabama and Georgia.

H.R. 13693. August 2, 1978. Agriculture. Establishes within the Department of Agriculture a Federal Grain Insurance Corporation for the purpose of insuring producers of grain, dealing with a corporation member which is in the business of buying or storing grain, against loss due to the failure of such member to make proper payment for such grain.

H.R. 13694. August 2, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make grants and to provide other forms of assistance to neighborhood organizations for planning and carrying out housing, economic, and community development, and for neighborhood conservation and revitalization projects.

H.R. 13695. August 2, 1978. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for contributions to a tax-exempt school trust fund established to pay the postsecondary educational expenses of an eligible beneficiary of such fund.

H.R. 13696. August 2, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Requires the Secretary of Energy to notify affected State legislatures of investigation and construction of sites for radioactive waste storage facilities. Provides for a period for disapproval of construction by the State legislature or by statewide referendum.

H.R. 13697. August 2, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from the gross income of teachers and employees of tax-exempt organizations amounts distributed from tax-exempt annuity plans pursuant to a transfer of accumulated retirement benefits to a newly established annuity or an individual retirement account (IRA).

H.R. 13698. August 2, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to eliminate the testing of new human drugs and new animal drugs for effectiveness. Establishes drug advisory committees to review new human drug and animal drug applications promptly. Requires assistance to small businesses engaged in drug manufacture to insure their compliance with such Act.

H.R. 13699. August 2, 1978. Ways and Means. Amends the Internal Revenue to promote the survival of independent newspapers by providing for the establishment of tax exempt trusts for paying estate taxes on such papers, and by postponing the payment of estate taxes on such papers.

H.R. 13700. August 2, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service capacity.

H.R. 13701. August 2, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 13702. August 2, 1978. Interior and Insular Affairs. States that the Territory of American Samoa shall be represented in the United States Congress by a nonvoting delegate to the House of Representatives.

H.R. 13703. August 2, 1978. Interior and Insular Affairs. States that the Territory of American Samoa shall be represented in the United States Congress by a nonvoting delegate to the House of Representatives.

H.R. 13704. August 2, 1978. Interior and Insular Affairs. States that the Territory of American Samoa shall be represented in the United States Congress by a nonvoting delegate to the House of Representatives.

H.R. 13705. August 2, 1978. Interior and Insular Affairs. States that the Territory of American Samoa shall be represented in the United States Congress by a nonvoting delegate to the House of Representatives.

H.R. 13706. August 2, 1978. Agriculture. Repeals the requirement that the Secretary of Agriculture give written notice to individuals in control of common carriers of the existence of animal and plant contagion and quarantine zones, and of various regulations affecting the treatment and handling of livestock and produce within such zones.

H.R. 13707. August 2, 1978. Science and Technology. Authorizes the Secretary of Health, Education, and Welfare to make grants for research and development of new methods of research, experimentation, and testing which minimize the use of, and the pain inflicted upon, live animals.

H.R. 13708. August 2, 1978. Interior and Insular Affairs. Directs the Fryingpan-Arkansas Federal reclamation project be carried out in accordance with the final environmental statement for such project and with those laws of Colorado relating to the establishment of minimum streamflows for the reasonable protection of the environment.

Establishes maximum rates for project diversions.

H.R. 13709. August 2, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for occupational therapy services under the supplementary medical insurance program.

H.R. 13710. August 2, 1978. Judiciary. Amends the Federal Rules of Criminal Procedure to limit the circumstances under which a search warrant may be issued for property in possession of a third party. Allows a warrant to issue only if: (1) there is probable cause to believe the person in possession of the property committed or is committing a criminal offense; or (2) in any other case, only if a subpoena is not available or the property may be destroyed or removed and a restraining order would not prevent such removal or destruction.

H.R. 13711. August 2, 1978. Rules; Ways and Means. Places lists on increases in Congressional spending for fiscal years 1980, 1981, and 1982. Amends the Internal Revenue Code to reduce individual, estate and trust and corporate income tax rates in 1979 and 1980, and to establish a permanent reduction in such rates for 1981 and succeeding years. Increases the surtax exemption for corporations to $100,000.

H.R. 13712. August 2, 1978. Judiciary. Requires Federal agencies to include the following in the general notice of a proposed rule: (1) the purpose of the rule; (2) the estimated number of persons and organizations affected by the rule; (3) a statement that the agency seeks alternative proposals which could achieve the goal of the proposed rule at a lower cost to certain persons and organizations; and (4) a list of the measures necessary for compliance with reporting requirements. Requires agencies to publish a justification of the selection of the final rule over alternative proposals.

Terminates after seven years any rule in effect before the enactment of this Act.

H.R. 13713. August 2, 1978. Ways and Means. Amend the Internal Revenue Code to permit members of tax-exempt organizations to receive discounts on goods and services provided by such organizations. Limits the amount of advertising income of a tax-exempt organization which is subject to the tax on unrelated business income.

H.R. 13714. August 2, 1978. Ways and Means. Amends the Internal Revenue Code to increase from 15 to 25 the maximum number of individuals who may be shareholders in a corporation which has maintained Subchapter S corporate status for five consecutive taxable years.

H.R. 13715. August 2, 1978. Science and Technology. Directs the Secretary of Commerce, through utilization of the National Weather Service and the National Oceanic and Atmospheric Administration to coordinate Federal weather related activities, including specialized forecasting and the issuance of warnings for specified weather conditions.

Requires the Secretary of Defense to provide meteorological services for support of the military. Directs the Secretary of State to provide policy guidance in implementing international weather operations.

H.R 13716. August 2, 1978. Banking, Finance and Urban Affairs. Amends the Homeowners' Loan Act of 1933 to allow Federal savings and loan associations to issue mutual capital certificates.

H.R. 13717. August 2, 1978. Judiciary. Entitles certain parties which prevail in adjudication before a U.S. agency to an award for fees and other expenses in the absence of a finding by such agency that its position as a party was substantially justified or that an award is unjust.

Allows court to award costs to certain parties which prevail in any civil action brought by or against the United States. Entitles parties to attorneys' fees in certain circumstances and to additional fees and expenses in the absence of a finding, that the position of the U.S. was substantially justified.

H.R. 13718. August 2, 1978. Small Business. Amends the Small Business Investment Act of 1958 to subject corporations which are general partners to small business investment companies to examinations by the Small Business Administration in the same manner as such investment companies are correctly examined.

Authorizes the Administrator of the Small Business Administration to waive the requirement that such examinations be conducted annually, provided 24 months do not elapse between successive examination.

H.R. 13719. August 2, 1978. Interior and Insular Affairs. Authorizes the Secretary of the Treasury to make separate payments for each of the calendar years 1978 through 1982 to the governments of Guam and the Virgin Islands for tax losses to such possessions pursuant to certain Federal laws.

H.R. 13720. August 2, 1978. Interstate and Foreign Commerce. Establishes in the Department of Commerce a Visitors Information Agency. Requires the Administrator of such Agency: (1) to establish a national tourism policy; (2) to develop, plan, and carry out a program to encourage travel to the United States by residents of foreign countries; and (3) to take other specified steps to encourage travel.

Requires the Administrator to organize "Visit USA Committees" in foreign countries to promote travel to the United States.

Requires the Secretary of Commerce to establish an interagency task force to promote and develop tourists in the United States.

H.R. 13721. August 2, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13722. August 3, 1978. Ways and Means. Directs the Internal Revenue Service not to adopt a position which is inconsistent with a

general audit position, a regulation, or a ruling in effect on January 1, 1976, in determining whether an individual is an employer for purposes of social security taxation, unemployment taxation, and income tax withholding.

Prohibits the treatment of any individual as an employee of any employer, if such employer consistently treated the individual, in good faith, as an independent contractor.

H.R. 13723. August 3, 1978. Government Operations. Requires the President to submit to Congress a biannual report on the management of the executive branch. Requires the Director of the Office of Management and Budget to provide an evaluative report on Federal programs to the President to be included with the President's report.

H.R. 13724. August 3, 1978. Banking, Finance and Urban Affairs. Extends the authority of the Board of Governors of the Federal Reserve System to regulate interest rates on deposits and share accounts in depository institutions.

H.R. 13725. August 3, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act to require that an economic impact statement be prepared before the Secretary of the Interior lists a species as endangered; to change the factors that may be considered in determining whether a species is endangered; to establish an Endangered Species Committee to grant exemptions from the requirement of the Act that Federal agencies take no action which would jeopardize an endangered species; to authorize the President to grant exemptions in certain disaster areas; and to establish self defense as a defense to an offense against an endangered species.

H.R. 13726. August 3, 1978. Ways and Means. Amends the Internal Revenue Code to lower individual and corporate income tax rates.

H.R. 13727. August 3, 1978. Public Works and Transportation. Names a specified Federal building in Shreveport, Louisiana, as the "Joe Waggonner Federal Building."

H.R. 13728. August 3, 1978. House Administration; Judiciary; Rules. Establishes the Office of Congressional Legal Counsel to be headed by a Congressional Legal Counsel, and accountable to the Joint Leadership Group, to defend Congress, a House of Congress, committee, subcommittee, Member, officer, or employee of Congress or an agency thereof in certain civil actions, and to institute proceedings to enforce subpoenas upon authorization by the Joint Leadership Group or resolution of Congress, as specified by this Act.

Requires the Counsel to intervene or appear as amicus curiae in Federal or State legal actions in which the powers and responsibilities of Congress, under the Constitution, are placed in issue.

H.R. 13729. August 3, 1978. Ways and Means. Amends the Internal Revenue Code to reduce the existing excise taxes on transportation of persons and property by air.

H.R. 13730. August 3, 1978. Ways and Means. Amends the Internal Revenue Code to permit employees of tax-exempt organizations and State or local educational institutions who invest annuity funds in mutual funds to withdraw such funds before retirement without adversely affecting the tax status of their retirement plan.

H.R. 13731. August 3, 1978. Armed Services; Interstate and Foreign Commerce. Increases the stipend for individuals participating in the Armed Forces Health Professions Scholarship Program.

Amends the Public Health Service Act to make former members of such program who have completed all obligated service in one of the military departments eligible for special grants under such Act to engage in private practice in a health manpower shortage area.

H.R. 13732. August 3, 1978. Ways and Means. Amends the Internal Revenue Code to permit an accrual basis owner of a life care community to include in gross income over a ten year period an amount paid by an individual incident to becoming a resident of such life care community.

H.R. 13733. August 3, 1978. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to classify automated blood pressure machines as class II medical devices, notwithstanding certain requirements of the Federal Food, Drug, and Cosmetic Act for classification of medical devices.

H.R. 13734. August 3, 1978. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to stipulate that nothing in such Act shall be construed to authorize any regulation designed to restrict hunting, sport fishing, or shooting sports or to establish safety or health standards for work performed in any location which is customarily used for such activities.

H.R. 13735. August 3, 1978. Public Works and Transportation. Directs the Civil Aeronautics Board to immediately terminate the Airline Mutual Aid Pact and prohibits the Board from approving any agreement or pact whose purposes are the same or similar to such Pact.

H.R. 13736. August 3, 1978. Interstate and Foreign Commerce. Directs the President to prescribe and make effective a regulation prohibiting the sale of an unleaded gasoline at a price in excess of three cents per gallon more than the weighted average price per gallon at which leaded gasoline of the same or nearest octane number is priced.

H.R. 13737. August 3, 1978. Merchant Marine and Fisheries. Prohibits the taking of wolves or other predators on public lands by private individuals or Federal or State agencies. Permits the taking of any individual predator, upon order of the Secretary of the Interior or the Secretary of Agriculture, upon a demonstration that such predator has been killing domestic livestock. Prohibits the use of aircraft in taking predators.

H.R. 13738. August 3, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service Officer or employee acting in an official capacity.

H.R. 13739. August 3, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain company in full reimbursement for attorneys fees and related costs incurred in pursuing a certain claim before the Armed Services Board of Contract Appeals.

H.R. 13740. August 4, 1978. Ways and Means. Amends the Internal Revenue Code to revise the tax treatment of certain items of income and expenses of nonprofit tax-exempt organizations.

H.R. 13741. August 4, 1978. Agriculture; International Relations. Amends the Agricultural Act of 1954: (1) to establish United States Agricultural Trade Offices abroad, for the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities; and (2) to rename Agricultural Attaches Agricultural Counselors, and to require annual reports from them on specified subjects.

Amends the Commodity Credit Corporation Charter Act to require the Corporation to finance export sales of agricultural commodities on credit terms of from three to ten years.

Establishes an Assistant Secretary of Agriculture for Commodity Programs and an Under Secretary of Agriculture for International Affairs.

H.R. 13742. August 4, 1978. Judiciary. Prohibits any State or political subdivision thereof, including the District of Columbia, from treating as taxable income any compensation paid by any employer to any individual who is not a resident or domiciliary of such State or political subdivision.

H.R. 13743. August 4, 1978. Agriculture. Requires a report to the Secretary of Agriculture, from any foreign person (including individuals, organizations, governments, or any combination thereof) who holds, acquires, or transfers any interest, other than a security interest, in agricultural land.

H.R. 13744. August 4, 1978. Banking, Finance and Urban Affairs. Prohibits the establishment by State or Federal law of interest rate differentials between banks and savings and loan associations on savings accounts from which automatic transfers to third-party payment accounts may be made.

H.R. 13745. August 4, 1978. Merchant Marine and Fisheries. Authorizes appropriations to the Secretary of Defense to carry out conservation programs on military reservations and to fulfill responsibilities under cooperative plans, including those for enhancement of fish and wildlife habitat and development of recreation facilities.

Authorizes appropriations to the Department of the Interior to carry out conservation programs on public lands, including data collection, research, planning and rehabilitation programs.

Authorizes appropriations to the Department of Agriculture for conservation programs.

H.R. 13746. August 4, 1978. Ways and Means. Requires that Revenue Rulings issued by the Internal Revenue Service on or after December 1, 1975, relating to the definition of the term "employee" be disregarded in applying the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and income tax withholding requirements to real estate salespeople.

H.R. 13747. August 4, 1978. Judiciary. Authorizes the Administrator of the Law Enforcement Assistance Administration to provide grants and technical assistance to certain units of Local Government for the establishment and operation of programs designed to identify and expedite the prosecution of career criminal offenders.

Establishes within the Law Enforcement Assistance Administration an Office of Repeat Offenders to administer such program.

Directs the Attorney General to construct five Federal regional prisons to house both Federal and State prisoners.

H.R. 13748. August 4, 1978. Banking, Finance and Urban Affairs. Extends the authority of the Board of Governors of the Federal Reserve System to regulate interest rates on deposits and share accounts in depository institutions.

Prohibits the establishment by State or Federal law of interest rate differentials between banks and savings and loan associations on savings accounts from which automatic transfers to third-party payment accounts may be made.

H.R. 13749. August 4, 1978. Agriculture. Amends the Agricultural Adjustment Act of 1938 to alter the formula (consisting of the amount of the domestic consumption of a commodity for the immediately preceding year, plus estimated exports for the year in question, plus an allowance for carry-over for the determination of the "normal supply" of corn, wheat, and cotton for any marketing year, on which acreage allotments are based.

H.R. 13750. August 4, 1978. Agriculture; Ways and Means. Authorizes the President to limit the entry, or withdrawal from warehouse, for consumption in the United States, of sugar from any country not a member of the International Sugar Organization, and otherwise to regulate foreign trade in sugar to implement the International Sugar Agreement. Authorizes the Secretary of Agriculture to impose quotas and fees on the importation of sugar and sugar-containing products.

Requires payment of specified minimum wages to persons employed on a farm in the production, cultivation, and harvesting of sugar beets and sugarcane.

H.R. 13751. August 4, 1978. Agriculture; Ways and Means. Authorizes the President to limit the entry, or withdrawal from warehouse, for consumption in the United States, of sugar from any country not a member of the International Sugar Organization, and otherwise to regulate foreign trade in sugar to implement the International Sugar Agreement. Authorizes the Secretary of Agriculture to impose quotas and fees on the importation of sugar and sugar-containing products.

Requires payment of specified minimum wages to persons employed on a farm in the production, cultivation, and harvesting of sugar beets and sugarcane.

H.R. 13752. August 7, 1978. Agriculture; Interstate and Foreign Commerce. Amends the Consolidated Farm and Rural Development Act and the Public Health Service Act to provide assistance to water systems to enable such systems to achieve compliance with Title XIV (Safety of Public Water Systems) of the Public Health Service Act.

H.R. 13753. August 7, 1978. Government Operations. Provides for payments by the Secretary of the Treasury to any State which places on the ballot in the general election of November 1978 a question concerning the opinion of the voter on the subject of a balanced Federal budget.

H.R. 13754. August 7, 1978. Interior and Insular Affairs. States that the Territory of American Samoa shall be represented in the United States Congress by a nonvoting delegate to the House of Representatives.

H.R. 13755. August 7, 1978. Ways and Means. Lists products the manufacture of which shall constitute the "steel sector" for purposes of determining the appropriate product sector with respect to import restriction authority under the Trade Act of 1974.

H.R. 13756. August 7, 1978. House Administration. Directs the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain with private funds a monument to General Draza Mihailovich.

H.R. 13757. August 7, 1978. Small Business. Simplifies Government contracting procedures with respect to small businesses.

Establishes Government contract arbitration panels within the Small Business Administration.

Directs Federal agencies to take the apparent low responsive bidder's small business concern subcontracting plan into account in determining the responsibility of such bidder for the award of such contract.

Assigns an employee of the Small Business Administration to each Federal agency.

Establishes the Small Business Procurement Advisory Committee.

H.R. 13758. August 7, 1978. Ways and Means. Amends the Internal Revenue Code to provide the same tax treatment, with respect to determination of sources of income, to interest paid by foreign branches of domestic banks and interest paid by foreign branches of domestic savings and loan institutions.

H.R. 13759. August 7, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to pay to a State 66⅔ percent of the amount the State pays on behalf of senior citizen homeowners for real property taxes. Requires a State which wishes to receive such payments to pay all the property taxes due by the senior citizen and to obtain repayment upon the death of the homeowner from the estate. Directs the State to repay amounts paid by HUD upon receipt of payment from the estate.

H.R. 13760. August 7, 1978. Judiciary. Provides for the regulation of United States participation in international amateur sporting events, and for the promotion of amateur athletics generally, through national governing bodies that are certified for individual sports and regulated by the United States Olympic Committee.

H.R. 13761. August 7, 1978. Government Operations; Rules. Requires each Federal agency to reduce the paperwork burden such agency places upon the private sector and State and local governments by a specified amount each year until fiscal year 1982.

Amends the Legislative Reorganization Act of 1970 to require all public legislation reported by any congressional committee to be accompanied by a Paperwork Impact Statement detailing the paperwork burden which would be imposed upon the public sector and State and local governments by such legislation.

H.R. 13762. August 7, 1978. Veterans' Affairs. Designates the Veterans' Administration center in Temple, Texas, as the "Olin E. Teague Veterans' Center."

H.R. 13763. August 7, 1978. Ways and Means. Amends the Internal Revenue Code by providing graduated corporate income tax rates ranging, over seven brackets, from a 16 percent rate on a corporation's first $25,000 of income to a 45 percent rate on income over $150,000.

H.R. 13764. August 7, 1978. Ways and Means. Amends the Internal Revenue Code to qualify trusts established for the payment of product liability claims as tax exempt organizations. Allows taxpayers a business income tax deduction for contributions to such trusts only to the extent they exceed the reasonable costs of product liability insurance for the deducting taxpayer.

H.R. 13765. August 7, 1978. Interstate and Foreign Commerce. Amends the Securities Act of 1933 and the Investment Company Act of 1940 to set forth provision relating to investment in small business concerns.

H.R. 13766. August 7, 1978. Armed Services. Entitles certain unremarried former spouses of members of the uniformed services to medical and dental benefits under the Civilian Health and Medical Plan of the Uniformed Services (CHAMPUS).

H.R. 13767. August 7, 1978. Government Operations. Amends the Federal Property and Administrative Services Act of 1949 to direct the Administrator of General Services to fix prices for the establishment, maintenance, and operation of motor vehicle pools and equipment, and to furnish vehicles and related equipment to requisitioning agencies at prices fixed by the Administrator at levels which will recover all elements of cost.

H.R. 13768. August 7, 1978. Ways and Means. Amends the Internal Revenue Code to reduce individual, corporate, estate and trust income tax rates in 1979 and 1980 and to establish a permanent reduction in such rates for 1981 and succeeding years. Increases the surtax exemption to $100,000.

H.R. 13769. August 7, 1978. Ways and Means. Amends the Internal Revenue Code to reduce individual and estate and trust income tax rates in 1979 and 1980 and to establish a permanent reduction in such rates for 1981 and succeeding years.

H.R. 13770. August 7, 1978. Post Office and Civil Service. Provides a survivor's annuity to the surviving spouse of a civil service annuitant who married such spouse after retirement and died before January 8, 1971.

H.R. 13771. August 8, 1978. Ways and Means. Prohibits the issuance of any proposed or final regulations pertaining to arbitrage bonds between August 1, 1978, and December 31, 1979. Invalidates certain Treasury regulations pertaining to arbitrage bonds.

H.R. 13772. August 7, 1978. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to establish an Office of Audits, Investigations and Compliance in the Department of Labor to conduct audits and investigations relating to CETA programs.

H.R. 13773. August 7, 1978. Interior and Insular Affairs. Establishes an administrative procedure and guidelines to be followed by a newly created office of the Department of the Interior in determining whether or not Indian Tribes shall be granted Federal recognition.

H.R. 13774. August 7, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13775. August 7, 1978. Judiciary. Authorizes classification of a certain individual as the natural born alien son of his parents for purposes of the Immigration and Nationality Act.

H.R. 13776. August 7, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13777. August 7, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13778. August 8, 1978. Government Operations. Establishes the Department of Education to be headed by a Secretary of Education.

Establishes an Intergovernmental Advisory Council on Education, and a Federal Interagency Committee on Education.

Transfers to the Secretary specified functions of the: (1) Department of Health, Education, and Welfare; (2) Department of Defense; (3) Department of Justice; and (4) Department of Housing and Urban Development.

H.R. 13779. August 8, 1978. Agriculture. Amends the Animal Wildlife Act to prohibit coursing.

H.R. 13780. August 8, 1978. Education and Labor. Amends the Higher Education Act of 1965 to provide for a deferral of up to three years on the repayment of principal or interest of a federally insured student loan during a period of temporary total disability of the student borrower.

H.R. 13781. August 8, 1978. Ways and Means. Lists products the manufacture of which shall constitute the "steel sector" for purposes of determining the appropriate product sector with respect to import restriction authority under the Trade Act of 1974.

H.R. 13782. August 8, 1978. Ways and Means. Amends the Internal Revenue Code to provide that all wines which are made exclusively from berries or fruit other than grapes, and which contain not less than 12.5 grams of acid for each liter of juice, shall be allowed a volume of ameliorating material of up to 60 percent (presently limited to wines made from loganberries, currants, or gooseberries).

H.R. 13783. August 8, 1978. Government Operations. Amends the Federal Property and Administrative Services Act of 1949 to authorize the Administrator of General Services to permit the distribution of certain surplus Federal property to tax-supported or nonprofit organizations providing educational and recreational activities for young girls and boys.

H.R. 13784. August 8, 1978. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act: (1) To permit the Council Chairman to engage in occasional teaching, writing, or lecturing; and (2) to except the Mayor, and the Chairman and members of the City Council, and certain of their employees, from the prohibition against specified political activities.

H.R. 13785. August 8, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) Repeal the alternate tax on capital gains of individuals; (2) require an adjustment to the basis of a capital asset to account for inflation between the time of its

acquisition and sale; (3) increase the allowable deduction of long-term capital loss from ordinary income; and (4) eliminate capital gains as an item of tax preference.

H.R. 13786. August 8, 1978. Government Operations. Amends the Public Works Employment Act of 1976 to extend the authority of the Secretary of the Treasury to make payments to States and local governments to stimulate economic recovery.

H.R. 13787. August 8, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to allow unlimited home health visits, to eliminate prior hospitalization as a requirement for receiving home health care under part A (Hospital Insurance Benefits for the Aged and Disabled) of such Title, and to eliminate confinement to home as a requirement for receiving such care under part B (Supplementary Medical Insurance Benefits for the Aged and Disabled) of such Title.

H.R. 13788. August 8, 1978. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorized for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration cost for vocational education programs.

H.R. 13789. August 8, 1978. Armed Services. Entitles certain unremarried former spouses of members of the uniformed services to medical and dental benefits under the Civilian Health and Medical Plan of the Uniformed Services (CHAMPUS).

H.R. 13790. August 8, 1978. Judiciary. Amends the charter of the Boy Scouts of America to stipulate that the annual report of the Boy Scouts shall be printed each year as a separate House document.

H.R. 13791. August 8, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education and Welfare to make grants and enter into contract for health manpower projects and programs to train physicians and other health personnel to identify and deal with the special medical problems related to the mentally retarded.

H.R. 13792. August 8, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 13793. August 8, 1978. Judiciary. Expands Federal Government liability for the acts of its agents to include certain intentional and ministerial acts, such as assault, false arrest, malicious prosecution, and wrongful invasion of privacy.

States that such liability shall be exclusive and precludes any remedy against agents individually.

Amends the Federal Rules of Evidence to make evidence which is obtained as a result of a search or seizure and which is relevant, obtained in good faith and otherwise admissible unless the court finds that the search and seizure was made in intentional violation of the fourth amendment.

H.R. 13794. August 8, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of Commerce to identify on a continuing basis concerns which are in danger of closing or relocating and whose closing or moving would cause substantial economic dislocation in the community.

Provides, through the Secretary, loans for technical assistance and operating costs to an employee or employee/community corporation so that it may assume ownership of a concern so identified. Authorize loans to employees so that they may participate in a purchasing corporation.

H.R. 13795. August 8, 1978. Veterans' Affairs. Provides for an official memorial flag to honor war veterans to be displayed in all national cemeteries on Memorial Day in lieu of small flags at individual gravesites.

H.R. 13796. August 8, 1978. Ways and Means. Requires that, until further Congressional action is taken, the determination of whether an individual is an employee for purposes of social security taxation, unemployment taxation, and income tax withholding shall be made in accordance with audit practices and regulations in effect December 31, 1975.

H.R. 13797. August 8, 1978. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire by donation specified land and land interests and buildings in the city of Fort Scott, Bourbon County, Kansas, and to establish such area as the Fort Scott National Historic Site.

H.R. 13798. August 8, 1978. Interior and Insular Affairs. Amends the land selection process of the Alaska Native Claims Settlement Act of 1971.

H.R. 13799. August 8, 1978. Government Operations. Establishes a preference for domestic products and materials in Government procurements and in procurements with Federal funds.

H.R. 13800. August 8, 1978. Judiciary. Authorizes classification of two individuals as children for purposes of the Immigration and Nationality Act.

H.R. 13801. August 9, 1978. Interior and Insular Affairs. States that the Territory of American Samoa shall be represented in the United States Congress by a nonvoting delegate to the House of Representatives.

H.R. 13802. August 9, 1978. Judiciary. Grants a Federal charter to the Gold Star Wives of America.

H.R. 13803. August 9, 1978. Public Works and Transportation. Terminates the authorization of the navigation project on the Columbia Slough, Oregon.

H.R. 13804. August 9, 1978. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to require that aged, blind, or disabled aliens must have resided in the United States for five years preceding their application for benefits under such Title. Exempts those aliens: (1) who are political refugees; (2) whom a support agreement, under the Immigration and Nationality Act, excuses; or (3) who have specified disabilities.

Amends the Immigration and Nationality Act to stipulate that no immigrant shall be admitted to the United States except pursuant to a support agreement. Defines such agreement.

H.R. 13805. August 9, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the withholding tax requirements with respect to gambling winnings.

H.R. 13806. August 9, 1978. Agriculture. Directs the Secretary of Agriculture to establish a program of insured of guaranteed loans that will provide annual payments to eligible owners of private forest land.

H.R. 13807. August 9, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to revise the procedures to be followed by the Secretary of the Interior in issuing regulations under the Act. Authorizes the President to exempt Federal agencies from the requirement of the Act that agencies take no action which would jeopardize the continued existence of any endangered species.

Exempts certain raptors legally held in captivity on the effective date of this Act from certain restrictions of the Act relating to possession and dealing in endangered species.

H.R. 13808. August 9, 1978. Public Works and Transportation. Designates the United States post office and courthouse in Abilene, Texas, as the "Omar Burleson Federal Building."

H.R. 13809. August 9, 1978. Public Works and Transportation. Designates the Federal building, United States post office and courthouse in Midland, Texas, as the "George H. Mahon Federal Building."

H.R. 13810. August 9, 1978. Judiciary. Requires the reimbursement of any State or local government expenditure made at the request of the Secret Service for the protection of any person whom the Secret Service authorized by law to protect.

H.R. 13811. August 9, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act to require that an economic impact statement be prepared before the Secretary of the Interior lists a species as endangered; to change the factors that may be considered in determining whether a species is endangered; to establish an Endangered Species Committee to grant exemptions from the requirement of the Act that Federal agencies take no action which would jeopardize an endangered species; to authorize the President to grant exemptions in certain disaster areas; and to establish self defense as a defense to an offense against an endangered species.

H.R. 13812. August 9, 1978. Judiciary. Eliminates the divisions of the judicial district of Maine.

H.R. 13813. August 9, 1978. Public Works and Transportation. Authorizes the Secretary of the Army, through the Chief of Engineers, to establish a memorial to Jerry L. Litton. Redesignates the Smithville Lake project visitor center as the "Jerry L. Litton Memorial Visitor Center."

H.R. 13814. August 9, 1978. Ways and Means; Appropriations. Specifies conditions under which a State is authorized to continue cash payments in lieu of stamps to SSI (Supplemental Security Income) recipient.

H.R. 13815. August 9, 1978. Ways and Means. Establishes within the Internal Revenue Service an Office of Taxpayer Services to assist taxpayers with information and to receive and evaluate complaints of improper, abusive, or inefficient service by revenue personnel.

Establishes civil and criminal penalties for investigations of matters unrelated to the tax laws, and for the violation of other constitutional and legal rights guaranteed to taxpayers.

Requires the Secretary of the Treasury to prepare and distribute pamphlets advising taxpayers of their rights and of appeal procedures.

Requires a continuing audit of the administration of Federal Revenue laws by the Comptroller General of the United States.

H.R. 13816. August 9, 1978. Ways and Means. Amends the Internal Revenue Code to allow additional tax credits, income tax deductions, and other tax incentives for employers who make investments in areas which have been designated as "labor surplus" areas by the Secretary of Labor.

H.R. 13817. August 9, 1978. Ways and Means. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to mandate participation of nurses, dentists and other health care practitioners in the professional standards review process.

Establishes an advisory committee to the National Professional Standards Review Council.

Amends Title XVIII (Medicare) of the Act to authorize certain hospitals to allow their inpatient hospital facilities to be used for post-hospital extended care services.

Amends Title XIX (Medicaid) to provide for payment for certain skilled nursing facility services and intermediate care facility services.

Requires audits of certain entities receiving payments under the Social Security Act.

H.R. 13818. August 9, 1978. Agriculture. Authorizes the Secretary of Agriculture, through the Commodity Credit Corporation, to buy and sell substantially equivalent quantities of any commodity for which a reserve program has been established, to the extent needed to properly handle, rotate, distribute, and relocate such reserve or facilitate the operation of the price support program.

H.R. 13819. August 9, 1978. Judiciary. Directs the Commissioner of Patents to consider a certain patent application as having been filed on a certain date.

H.R. 13820. August 10, 1978. Interior and Insular Affairs. Establishes the Great Prairie Lakes National Recreation Area in the States of South Dakota, North Dakota, and Nebraska.

H.R. 13821. August 10, 1978. Interior and Insular Affairs. States that the Territory of American Samoa shall be represented in the United States Congress by a nonvoting delegate to the House of Representatives.

H.R. 13822. August 10, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to require the governing boards of hospitals and skilled nursing facilities having an average duration of stay of more than 30 days to establish written policies guaranteeing specified rights of patients.

Directs the Secretary of Health, Education, and Welfare to establish civil penalties for the violation of such rights.

Sets forth provisions concerning the processing and investigation of complaints.

H.R. 13823. August 10, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to revise the procedures followed by the Secretary of the Interior in issuing regulations under the Act. Establishes the Endangered Species Committee which is responsible for the review of applications for exemption from the requirements of the Act. Sets forth the rules for granting such an exemption.

H.R. 13824. August 10, 1978. Ways and Means; Post Office and Civil Service. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to require coverage under such Title for new Federal employees after December 31, 1978 and to permit present employees to elect such coverage. Entitles Federal employees who elect such coverage to transfer of retirement credits to the Old-Age, Survivors, and Disability Insurance program.

H.R. 13825. August 10, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 13826. August 10, 1978. Ways and Means. Amends the Internal Revenue Code to qualify buildings used in connection with, or in the trade or business of, farming for the investment tax credit.

H.R. 13827. August 10, 1978. Education and Labor. Amends the Rehabilitation Act of 1973 to require that any Federal Government contract in excess of $2,500 for the procurement of personal property and nonpersonal services shall contain a provision requiring the contracting employer to establish and operate an alcohol abuse and alcoholism rehabilitation program among employees, or arrange for referral to such programs.

Amends the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to make the Secretary of Health, Education, and Welfare responsible for fostering and encouraging alcohol abuse and prevention programs and services in State and local government and in private business and industry.

H.R. 13828. August 10, 1978. Ways and Means. Directs the Internal Revenue Service not to adopt a position which is inconsistent with a general audit position, a regulation, or a ruling in effect on January 1, 1976, in determining whether an individual is an employer for purposes of social security taxation, unemployment taxation, and income tax withholding.

Prohibits the treatment of any individual as an employee of any employer, if such employer consistently treated the individual, in good faith, as an independent contractor.

H.R. 13829. August 10, 1978. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to deduct all current expenditures for plants and facilities which are otherwise chargeable to capital account and which are certified as required by Federal law and as not significantly increasing the plant's or facility's value or productivity.

Permits a taxpayer to compute depreciation deductions on the basis of a depreciation period of his own choosing rather than on the basis of the useful life of personal property.

H.R. 13830. August 10, 1978. Veterans' Affairs. Provides that persons who died while on active military duty are to be considered veterans for the purpose of providing certain medical benefits to their widows or surviving children.

H.R. 13831. August 10, 1978. Armed Services. Amends the Civilian Health and Medical Plan of the Uniformed Services (CHAMPUS) with respect to medical and dental benefits for surviving spouses of members and former members of the uniformed services who are not remarried.

H.R. 13832. August 10, 1978. Agriculture. Authorizes the Secretary of Agriculture to establish pilot projects to develop and to test and demonstrate practical application of existing technology for the utilization of wood residues.

H.R. 13833. August 10, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13834. August 11, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on freight cars until June 1, 1982.

H.R. 13835. August 11, 1978. Agriculture; International Relations. Directs the President to establish a reserve stock of wheat to be used to provide on a donation or sale basis emergency food assistance to developing countries.

H.R. 13836. August 11, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to authorize the Board of Governors to require specified depository institutions to submit periodic reports to the Board on their assets and liabilities.

Removes the requirements for the maintenance of reserves against deposits by member banks. Makes the maintenance of such reserves by member banks in the Federal Reserve Banks optional.

H.R. 13837. August 11, 1978. Judiciary. Amends the Immigration and Nationality Act to provide that spouses of U.S. citizen members of the Armed Forces need not reside in a State for at least 6 months in order to petition for naturalization.

H.R. 13838. August 11, 1978. Agriculture. Amends the Agricultural Act of 1949 to extend the period of time during which milk shall be supported at not less than 80 percent of the parity price.

H.R. 13839. August 11, 1978. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to eliminate the deduction of railroad retirement annuities by amounts payable as social security benefits for persons who had at least ten years of service and had attained the age of 65 as of the effective date of such Act.

H.R. 13840. August 11, 1978. Government Operations. Authorizes the appropriation of funds necessary for the Inspector General of the Department of Health, Education, and Welfare (HEW) to: (1) carry out investigations of fraud and abuse of HEW programs including Medicaid; and Medicare (2) perform other prescribed duties of the Office of the Inspector General; and (3) conduct and submit to Congress a study on fraud and abuse in the areas of drug purchases, respiratory therapy and student financial aid programs.

H.R. 13841. August 11, 1978. Ways and Means. Directs the Secretary of the Treasury to provide funds to States for: (1) the development and operation of mechanized claims processing and information retrieval systems to provide for the administration of the State plan under Part A of Title IV (Aid to Families with Dependent Children) (AFDC) of the Social Security Act; and (2) the establishment and operation of a State AFDC fraud control unit.

H.R. 13842. August 11, 1978. Ways and Means. Amends Title XI (General Provisions) of the Social Security Act and the Internal Revenue Code to permit the disclosure to the Commissioner of Education of tax return information and mailing addresses of individuals who have either applied for student loans or have defaulted on such loans.

H.R. 13843. August 11, 1978. Ways and Means; Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish an effective means of obtaining from States and political subdivisions of States records as to deaths and of reviewing such records to prevent illegal payments under the Social Security Act to or on behalf of persons who have died.

H.R. 13844. August 11, 1978. Ways and Means. Requires each State as a condition of eligibility for Federal funds under Title IV (Aid to Families with Dependent Children) and Title XIX (Medicaid), to annually match its welfare rolls against relevant State and Federal employment records, wage reports of private employers; and benefit records under social security, supplemental security income, railroad retirement and other Federal benefit programs.

H.R. 13845. August 11, 1978. Agriculture. Amends the Perishable Agricultural Commodities Act to raise the maximum license fee for commission merchants, dealers, and brokers, and the minimum invoice value of specified goods any person must buy or sell or negotiate the sale of in order to be deemed a dealer or broker.

Authorizes the Secretary of Agriculture to inspect the records and require surety bonds of any commission merchant, dealer, or broker who has violated the provision of such Act requiring prompt full payment in respect of any transaction in any perishable agricultural commodity.

H.R. 13846. August 11, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from gross income prizes won in the New York State olympic lottery.

H.R. 13847. August 11, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to authorize the Board of Governors of the Federal Reserve System to require specified depository institutions to submit periodic financial reports to the Board.

Subjects to reserve requirements any bank that is either an insured bank or eligible to become an insured bank under the Federal Deposit Insurance Act, excluding savings and mutual savings banks.

Establishes reserve requirements.

Authorizes the Board to extend reserve requirements in specified circumstances.

Grants certain privileges of Federal Reserve banks to nonmember banks which maintain reserves required by this Act.

H.R. 13848. August 11, 1978. Agriculture; Ways and Means. Authorizes the President to limit the entry into the United States of

sugar from foreign countries, territories, and areas not members of the International Sugar Organization, and to prohibit the entry of any quantity of sugar without a valid certificate of contribution, in order to enforce the provisions of the International Sugar Agreement, 1977. Directs the Secretary of Agriculture to determine the price per pound, raw value, below which he has reason to believe that sugar should not be sold in the domestic market during each sugar supply year.

Authorizes the Secretary to impose import fees and the President to impose global quotas, on the entry of sugar, in order to achieve such price objective

H.R. 13849. August 11, 1978. Judiciary. Imposes criminal penalties upon any person in authorized possession of classified information identifying any individual or entity as being or having been employed or associated with the Central Intelligence Agency who releases such information to anyone not authorized to receive such information. Bars from prosecution under this Act persons who release such information to specified congressional committees, United States district court judges, and Federal law enforcement officers upon application to the Attorney General.

H.R. 13850. August 14, 1978. Judiciary; Armed Services; Post Office and Civil Service; Ethics. Requires financial disclosure by all officials of the Executive branch, the Judicial branch, and Congress who are compensated at a pay rate of or greater than that for grade GS–16.

Establishes the Office of Government Ethics and the Judicial Ethics Committee to monitor compliance with this Act by Executive and Judicial officials, respectively, and to review financial disclosure statements for signs of illegal conflicts of interest.

Extends the current prohibition of appearance before agencies by former Federal personnel to informal as well as formal contacts and extends the period of such prohibition.

H.R. 13851. August 14, 1978. Public Works and Transportation. Directs the Administrator of the Environmental Protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs.

H.R. 13852. August 14, 1978. Government Operations; International Relations. Declares that the Federal Government should adopt an explicit national population policy and encourage and assist other countries to achieve their population goals.

Directs all agencies of the Federal Government to give consideration to population dynamics in decisionmaking.

Requires the President to annually transmit to Congress a Population Growth and Distribution Report.

Establishes in the Executive Office of the President an Office of Population Policy.

H.R. 13853. August 14, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers and specified educational, medical or social service centers.

Directs the Secretary to serve as a national clearinghouse for local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 13854. August 14, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Requires the Secretary of Energy to notify affected State legislatures of investigation and construction of sites for radioactive waste storage facilities. Provides for a period for disapproval of construction by the State legislature or by statewide referendum.

H.R. 13855. August 14, 1978. Veterans' Affairs. Provides for the eligibility of certain cadets or midshipmen serving at a service academy on December 31, 1976, for post-Vietnam era veterans' educational benefits.

H.R. 13856. August 14, 1978. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965, as amended, to extend Federal financial assistance to States for all incidental costs relating to the acquisition of land or water rights acquired under such Act. Extends Federal financial assistance to any State for up to 50 percent of cost of administering any Land and Water Conservation Fund projects.

H.R. 13857. August 14, 1978. Banking, Finance and Urban Affairs; Education and Labor; Government Operations; Rules. Amends the Employment Act of 1946 to require the President to include in the annual economic report to Congress, for the purpose of reducing the rate of inflation; (1) a set of price and wage guidelines applicable to businesses and labor organizations of specified size; and (2) a coordinated set of fiscal, monetary, regulatory, antitrust, investment, productivity, international, and other economic policies. Establishes procedures for congressional approval of the guidelines as an effective national standard. Prescribes compliance provisions, including reports by businesses and labor organizations to the Council of Wage and Price Stability, and mediation initiated by the President.

H.R. 13858. August 14, 1978. Agriculture; International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to direct the President to establish a reserve stock of agricultural commodities which will be available to carry out agreements under such Act whenever the commodities otherwise available for disposition are insufficient because of statutory limitations. Limits the aggregate quantity of commodities in the reserve at any time to 6,000,000 metric tons.

H.R. 13859. August 14, 1978. Public Works and Transportation. Terminates the authorization of the Meramec Park Lake flood control project, Missouri.

H.R. 13860. August 14, 1978. Public Works and Transportation. Terminates the authorization of the Union Lake flood control project, Missouri.

H.R. 13861. August 14, 1978. Judiciary. Repeals the McCarran-Ferguson Act which provides exemptions from the antitrust laws for the business of insurance.

H.R. 13862. August 14, 1978. Judiciary. Amends the McCarran-Ferguson Act defining the "business of insurance" to exempt insurance companies from application of the antitrust laws only when such companies' activities directly affect the solvency and reliability of insurers, or directly relate to the underwriting of risks.

H.R. 13863. August 14, 1978. Judiciary. Amends the McCarran-Ferguson Act to remove the present exemption from the antitrust laws for the business of insurance. Reaffirms and continues the existing policy of State taxation of the business of insurance.

H.R. 13864. August 14, 1978. Judiciary. Amends the McCarran-Ferguson Act to allow the repeal of the exemption of the insurance business from the Federal antitrust laws when the Federal Trade Commission determines that State regulation of insurance is not effective in achieving the purposes of such laws.

H.R. 13865. August 14, 1978. Banking, Finance and Urban Affairs; Education and Labor; Government Operations; Rules. Amends the Employment Act of 1946 to: (1) establish a set of fiscal, monetary, and other economic and regulatory policies designed to combat inflation; (2) develop a set of guidelines to govern price increases and wage settlements; and (3) require the Joint Economic Committee to hold special hearings to review the President's proposed economic policies.

H.R. 13866. August 14, 1978. Judiciary. Relieves a certain individual of liability to the United States for a specified amount. Directs the Secretary of the Treasury to pay to such individual a certain sum.

H.R. 13867. August 14, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain company in full settlement of such company's claims against the United States.

H.R. 13868. August 14. 1978. Judiciary. Declares a certain individual to have satisfied the requirements relating to petitioning by residence with adoptive parents of an adopted child and relating to residence requirements and physical presence requirements, under the Immigration and Nationality Act. Authorizes such individual to be naturalized, under such Act.

H.R. 13869. August 15, 1978. Agriculture. Repeals the Agricultural Fair Practices Act of 1967 and establishes an agricultural bargaining policies substantially identical. Enumerates the unfair practices a handler of agricultural products is forbidden to commit under existing law, and adds a list of unfair practices an association of producers may not commit.

H.R. 13870. August 15, 1978. Judiciary. Declares that exclusive territorial arrangements made as a part of a licensing agreement for the manufacture, distribution, or sale of a trademarked soft drink product are lawful under the antitrust laws provided such product is in substantial and effective competition with other products of the same general class.

H.R. 13871. August 15, 1978. Ways and Means. Amends the Internal Revenue Code to subject to capital gains taxation the gain from the sale or exchange of farming property and undeveloped real property by a nonresident alien.

H.R. 13872. August 15, 1978. Interstate and Foreign Commerce. Requires the label of each loaf of bread packaged and distributed in interstate commerce to specify the cost to the manufacturer of the farm products which comprise the ingredients of the bread.

H.R. 13873. August 15, 1978. Ways and Means. Amends Part A of Title IV of the Social Security Act (Aid to Families with Dependent Children) to require each State, under such program, to establish a maximum income level beyond which an individual or family may not be eligible for aid.

H.R. 13874. August 15, 1978. Agriculture. Directs the Secretary of Agriculture to pay an indemnity to eligible producers or owners of cattle, goats, or sheep (except lambs), whenever the President acts to increase or suspend quotas or to otherwise increase imports for any reason other than as part of an international agreement to expand agricultural exports from the United States.

H.R. 13875. August 15, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State.

H.R. 13876. August 15, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State.

H.R. 13877. August 15, 1978. Agriculture. Directs the Secretary of Agriculture, through the Commodity Credit Corporation, to support the price of honey marketed between January 1, 1979 and December 31, 1982, at a level to be determined according to a specified formula.

Authorizes the Secretary to enter into or approve agreements under which honey producers will conduct information dissemination and advertising and sales promotion programs.

H.R. 13878. August 15, 1978. Rules. Amends the Congressional Budget Act of 1974 to require that Congress set for five year target

levels of budget authority, total budget outlays and Federal revenues.

H.R. 13879. August 15, 1978. Interior and Insular Affairs. Amends the Geothermal Steam Act of 1970 to increase the maximum amount of acreage which may be conveyed to a single person, association, or corporation under a Federal geothermal lease in a single State.

H.R. 13880. August 15, 1978. Judiciary. Requires the Federal Bureau of Investigation to classify the offense of arson as a part I offense for purposes of the Uniform Crime Reporting Program and the Uniform Crime Reports for the United States.

H.R. 13881. August 15, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to eliminate the testing of new human drugs and new animal drugs for effectiveness. Establishes drug advisory committees to review new human drug and new animal drug applications promptly. Requires assistance to small businesses engaged in drug manufacture to insure their compliance with such Act.

H.R. 13882. August 15, 1978. Ways and Means. Amends the Internal Revenue Code to allow a tax credit for a corporation which establishes a special employee stock ownership plan.

Qualifies employee stock ownership plan participants for the retirement savings income tax deduction.

Eliminates contributions made to such a plan as an item of tax preference for the purposes of the minimum tax.

H.R. 13883. August 15, 1978. Ways and Means. Amends the Internal Revenue Code to extend to participants in tax-exempt employer pension plans a limited income tax deduction for cash contributions to a retirement savings account.

H.R. 13884. August 15, 1978. Ways and Means. Amends the Internal Revenue Code to provide for an alternative 12-month period to the existing 60-month period of amortization for a new identifiable certified pollution control facility acquired, or whose construction began, after December 31, 1976.

H.R. 13885. August 15, 1978. Government Operations. Requires the President to submit to Congress a biannual report on the management of the executive branch. Requires the Director of the Office of Management and Budget to provide an evaluative report on Federal programs to the President to be included with the President's report.

H.R. 13886. August 15, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service Officer or employee acting in an official capacity.

H.R. 13887. August 16, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to establish an Endangered Species Committee. Directs the Committee to review applications submitted by Federal agencies regarding proposed agency actions to determine whether an exemption from the requirement of the Act that Federal agencies take no actions which would jeopardize endangered species or their critical habitats should be granted.

Stipulates that such an exemption may be granted only after a public hearing and finding that the benefits of the agency action outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat.

HR. 13888. August 16, 1978. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Administrator of Law Enforcement Assistance Administration to provide grants and technical assistance to units of general local government for the establishment and operation of programs designed to identify and expedite the prosecution of career criminal offenders.

H.R. 13889. August 16, 1978. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to designate as 'farm labor contractors' any labor organizations which establish and maintain an employment referral procedure or service which refers, furnishes, assigns, or recruits migrant workers for agricultural employment.

HR. 13890. August 16, 1978. Education and Labor; Ways and Means. Amends the Higher Education Act of 1965 to authorize the Commissioner of Education to establish a system of undergraduate tuition advances to be repaid as an income tax imposed by the Internal Revenue Code of 1954.

Establishes a trust fund in the United States Treasury for such tuition advance program.

HR. 13891. August 16, 1978. Ways and Means. Directs the Internal Revenue Service not to adopt a position which is inconsistent with a general audit position, a regulation, or a ruling in effect on January 1, 1976, in determining whether an individual is an employer for purposes of social security taxation, unemployment taxation, and income tax withholding.

Prohibits the treatment of any individual as an employee of any employer, if such employer consistently treated the individual, in good faith, as an independent contractor.

HR. 13892. August 16, 1978. Judiciary. Exempts United States attorneys and United States marshals appointed for the Northern Mariana Islands from the residency requirement if they are simultaneously serving in the same capacity in another district.

HR. 13893. August 16, 1978. Interstate and Foreign Commerce. Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to indemnify the sales representatives.

H.R. 13894. August 16, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to undertake demonstration programs to provide neighborhood self-help development funds, in the form of credit certificates of simulated tax credit payments, directly to residents in order to permit such residents to assign such resources directly to a public agency or private organization worthy of support. Authorizes the Secretary to make payments to redeem neighborhood improvement credits or to simulate tax credit refunds.

H.R. 13895. August 16, 1978. Education and Labor. Requires the Secretary of Labor to make contracts and grants to reimburse public and private organizations for the reasonable cost of providing screening for asbestos-related diseases to individuals employed in an occupation involving exposure to asbestos to a degree which carries with it a significant risk of developing an asbestos-related disease.

Requires the Secretary to provide for a program under which any individual at risk is reimbursed for reasonable expenses incurred in the individual's screening.

Requires the Secretary to periodically report to Congress concerning this Act.

H.R. 13896. August 16, 1978. Ways and Means. Amends the Internal Revenue Code to allow a tax credit for 50 percent of the State and local individual income tax paid by an individual taxpayer.

Disallows tax deductions for State and local individual income taxes, State and local general sales taxes, and State and local taxes on gasoline and other motor fuels.

H.R. 13897. August 16, 1978. Ways and Means. Amends the Internal Revenue Code to include antique, experimental, and home-built aircraft within the exemption from fuel excise taxes granted to government chartered air museums operated exclusively for the procurement, care, and exhibition of World War II combat or transport aircraft.

H.R. 13898. August 16, 1978. Education and Labor. Prohibits any Federal agency, department, or instrumentality from issuing, for the purpose of carrying out the provisions of Title VII of the Civil Rights Act of 1964 or any other Federal law or regulation relating to employment discrimination, any regulation, interpretation, opinion, guideline, or other action which directly or indirectly uses any numerical goal to provide preferential treatment for, or to discriminate against, any individual or group on the basis of race, color, religion, sex, or natural origin.

H.R. 13899. August 16, 1978. Agriculture. Prohibits the Secretary of Agriculture from taking any action under the Wholesome Meat Act or any other law to ban the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect they may be represented to have in humans, until three months after the submission of the results of the study required by the Saccharin Study and Labeling Act.

H.R. 13900. August 16, 1978. Post Office and Civil Service. Limits the number of District of Columbia area residents which may be employed by Executive agencies in the area of the District of Columbia.

H.R. 13901. August 16, 1978. Judiciary; Intelligence. Prohibits willful disclosure of information which has been designated pursuant to a Federal statute or Executive order as requiring a specific degree of protection and which identifies or leads to the identification of any individual as a present or former associate with a United States agency engaged in foreign intelligence activities.

H.R. 13902. August 16, 1978. Ways and Means. Amends the Internal Revenue Code to qualify buildings used in connection with, or in the trade or business of, farming for the investment tax credit.

H.R. 13903. August 16, 1978. Armed Services. Stipulates that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed.

H.R. 13904. August 16, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to require the Secretary of Health, Education, and Welfare to make grants to States to assist them in planning for and in meeting the costs of providing preventive health services.

Requires the Secretary to support five comprehensive community based programs to demonstrate and evaluate optimal methods to deliver comprehensive preventive health services to defined populations.

H.R. 13905. August 16, 1978. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to remove the statutory limitations on aggregate liability for a single nuclear incident and to limit the financial obligations of the United States with respect to such incidents.

H.R. 13906. 8–16–1978. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation to adjust annually, by the percentage change in the Consumer Price Index, any benefits paid under terminated employee benefit plans.

H.R. 13907. August 16, 1978. Judiciary. Authorizes the issuance of a visa to an individual and admission for permanent residence in the United States, under the Immigration and Nationality Act.

H.R. 13908. August 17, 1978. Public Works and Transportation. Directs the Secretary of Transportation to establish a single system of measuring noise and the impact of noise at airports and areas surrounding airports, and to prescribe land uses for such areas which are compatible with such noise levels.

Amends the Airport and Airway Development Act of 1970 to make grants available under such Act for noise compatibility programs with respect to areas situated near airports.

Requires operators of aircraft not in compliance with specified noise standards to im-

pose a surcharge on air rates and to use such funds to retrofit or replace such aircraft.

H.R. 13909. August 17, 1978. Judiciary. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any thing in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 13910. August 17, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on certain railroad freight car part until May 1, 1980.

H.R. 13911. August 17, 1978. Merchant Marine and Fisheries. Establishes within the Treasury a Recreational Boating and Facilities Safety Improvement Fund to be administered by the Secretary of the department in which the Coast Guard is operating.

Directs the Secretary to provide financial assistance from such Fund to States on a matching basis for recreational boating safety and facilities projects.

H.R. 13912. August 17, 1978. Post Office and Civil Service. Authorizes the postage-free mailing of sample ballots in connection with any election conducted by any State or political subdivision thereof.

H.R. 13913. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to exempt from the 100 percent tax on prohibited transactions the sale of certain real estate investment trust property and to extend the period during which certain property acquired by a trust may be treated as foreclosure property.

H.R. 13914. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to allow a limited deduction from the gross income of an employee for cash contributions made for his benefit to certain retirement plans.

H.R. 13915. August 17, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, physical examinations, and related routine laboratory tests.

H.R. 13916. August 17, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 13917. August 17, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 13918. August 17, 1978. Judiciary. Forbids Federal, State, and other governmental authorities from issuing any search warrant or subpena of journalistic property.

H.R. 13919. August 17, 1978. Agriculture. Amends the Food and Agriculture Act of 1977 to require, at the option of a sugar owner, acceleration of the maturity date of loans on 1977 crop sugar.

Requires the Secretary of Agriculture to move such sugar out of sugar-producing areas, and transport it to other areas, in order to make way for storage of the 1978 crop under the price support loan program.

H.R. 13920. August 17, 1978. International Relations: Judiciary; Ways and Means. Directs the President to seek an agreement of the signatory countries of the General Agreement on Tariffs and Trade to prohibit restrictive trade practices.

Amends the Trade Act of 1974 to include restrictive business practices by a foreign country or instrumentality affecting United States commerce or requiring United States concerns to engage in such practices within the coverage on such Act.

H.A. 13921. August 17, 1978. Interstate and Foreign Commerce; Judiciary.

Amends the Federal Trade Commission Act to impose certain reporting requirements on United States persons, partnerships, or corporations (and their foreign subsidiaries) with respect to restrictive business practice abroad.

Imposes civil penalties upon a United States firm and upon any officer or director of such firm, for noncompliance with such reporting requirements.

H.R. 13922. August 17, 1978. International Relations; Interstate and Foreign Commerce Judiciary; Ways and Means.

Amends the Federal Trade Commission Act to impose certain reporting requirements on United States businesses or persons with respect to restrictive business practices abroad.

Imposes civil penalties upon such firms and their officers for non-compliance with such reporting requirements.

Directs the President to seek an agreement of the signatory countries of the General Agreement on Tariffs and Trade to prohibit restrictive trade practices.

Amends the Trade Act of 1974 to include such practices by a foreign country or instrumentality affecting United States commerce or requiring United States concerns to engage in such practices within such Act's coverage.

H.R. 13923. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 13924. August 17, 1978. Veterans' Affairs. Exempts for veterans applying for federally guaranteed loans or mortgages for homes, condominiums, or mobile homes from the application of State usury laws.

H.R. 13925. August 17, 1978. Rules. Amends the Congressional Budget Act of 1974 to: (1) require that the contents of the first concurrent resolution of the budget be separated into two titles; and (2) prescribe a two-step process for the consideration of amendments to such resolution.

H.R. 13926. August 17, 1978. Public Works and Transportation. Permits nonprofit organizations to advertise the availability of free coffee for individuals traveling on highways on the Interstate Highway System or on the primary system.

H.R. 13927. August 17, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to disregard renewal commissions received by an insurance salesman from life insurance policies which such salesman sold before reaching age 65, for purposes of determining eligibility based on income for social security benefits.

H.R. 13928. August 17. Armed Services; Interior and Insular Affairs; International Relations; Interstate and Foreign Commerce. Establishes the Nuclear Waste Management Authority as an independent agency. Stipulates that the Authority shall have sole responsibility for the decontamination, storage, and disposal of all nuclear wastes as well as surplus, obsolete, or abandoned radioactive facilities. Establishes a Nuclear Waste Management Fund within the Treasury to fund the activities of the Authority.

H.R. 13929. August 17, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 13930. August 17, 1978. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize appropriations for fiscal years 1979 through 1985 to carry out the provisions of such Act.

H.R. 13931. August 17, 1978 Interior and Insular Affairs; Interstate and Foreign Commerce. Assists electrical consumers of the Pacific Northwest, through the use of the Federal Columbia River System, to achieve energy conservation. Encourages the development of renewable energy resources. Establishes a representative regional power planning process to insure the provision of a reliable and adequate electric power supply.

H.R. 13932. August 17, 1978. Public Works and Transportation. Directs the Civil Aeronautics Board to immediately terminate the Airlines Mutual Aid Pact and prohibits the Board from approving any agreement or pact whose purposes are the same or similar to such Pact.

H.R. 13933. August 17, 1978. Ways and Means. Prohibits the issuance of any proposed or final regulations pertaining to arbitrage bonds between August 1, 1978, and December 31, 1978. Invalidates certain Treasury regulations pertaining to arbitrage bonds.

H.R. 13934. August 17, 1978. Judiciary. Declares that any physician, registered nurse, or aircraft employee who, in good faith and with a reasonable belief that immediate medical attention is necessary, renders emergency care to an injured or ill person aboard an aircraft within the special aircraft jurisdiction of the United States shall not be liable for any civil damages as a result of any act or omission by such an individual in rendering such care, except for any act or omission amounting to gross negligence or willful or wanton misconduct.

H.R. 13935. August 17, 1978. Education and Labor. Amends the National Labor Relations Act with respect to the authority of the National Labor Relations Board to decide that a craft unit is an inappropriate collective bargaining unit to require such a decision to be based upon collective bargaining history, or decided in the same manner as the initial establishment of such a units would be.

H.R. 13936. August 17, 1978. Judiciary. Prohibits the issuance of a warrant to search for or seize any property (other than things otherwise criminally possessed) that is possessed by, or located on premises occupied by, a person not suspected of committing a criminal offense with respect to such property, unless there is reasonable cause to believe that such property will be destroyed or removed or otherwise become unavailable notwithstanding the issuance of a subpoena commanding its production.

H.R. 13937. August 17, 1978. Judiciary. Increases from two to three the number of judicial divisions within the Northern District of Ohio. Requires each division to have at least one active judge sitting full time and at least one additional active judge sitting at least half time, unless, upon request of the chief judge of the Northern District of Ohio, the United States Court of Appeals for the Sixth Circuit authorizes an alternative assignment.

H.R. 13938. August 17, 1978. Post Office and Civil Service. Provides that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement.

H.R. 13939. August 17, 1978. Science and Technology. Establishes the Commission on the Impact of Science and Technology on Society to analyze trends and future developments in those areas of science and technology most relevant to social issues and problems, appraise their impact on society, and the choices for coping with that impact, and recommend specific courses of action to be taken.

H.R. 13940. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to allow a tax credit for farmers who agree

not to use their land for other than agricultural purposes.

H.R. 13941. August 17, 1978. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to include the Occupational Safety and Health Administration of the Department of Labor within the definitions of employer and employee for purposes of coverage under such Act.

H.R. 13942. August 17, 1978. Agriculture; Interstate and Foreign Commerce. Prohibits the Secretary of Agriculture under the Wholesome Meat Act, and the Secretary of Health, Education, and Welfare under the Federal Food, Drug, and Cosmetic Act, or any other law, to ban the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect they may be represented to have in humans, until three months after the submission of the results of the study required by the Saccharin Study and Labeling Act.

H.R. 13943. August 17, 1978. House Administration. Authorizes the United States Navy Memorial Foundation to erect a memorial in the District of Columbia or its environs in commemoration of the men and women of the United States Navy who have served their country in war and peace.

H.R. 13944. August 17, 1978. Interstate and Foreign Commerce; Ways and Means. Requires State regulatory authorities and nonregulated utilities to establish uniform minimum amounts of electric energy and natural gas necessary to supply the essential needs of residential consumers during each billing period. Imposes limitations on the rates charged to such consumers for such amounts. Establishes a tax credit for residential users of propane and heating oil.

H.R. 13945. August 17, 1978. Armed Services; Merchant Marine and Fisheries. Revises the structure and purpose of the Reserve components of the armed forces. Declares that it is the intent of Congress that the Reserves shall be an equal element in a partnership with the active components of the armed forces.

Establishes the position of Assistant Secretary for Mobilization and Reserve Affairs in each of the branches of the armed forces. Makes organizational changes within the Department of Defense and the Department of Transportation with respect to the Coast Guard to carry out the purposes of this Act.

H.R. 13946. August 17, 1978. Science and Technology; Interior and Insular Affairs. Authorizes the creation of an Interagency Coordinating Committee: (1) to prepare a comprehensive five-year plan for environmental research and development on ground water; (2) to coordinate all Federal activities in this area; and (3) to study and recommend improvements of existing technical information transfer mechanisms. Authorizes designated agencies to make grants and to enter contracts to increase manpower and to conduct research on ground water.

H.R. 13947. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to increase the amount allowable as an income tax deduction for retirement savings plans and to allow a limited deduction for retirement savings contributions made on behalf of individuals covered by certain tax-exempt retirement and annuity plans.

H.R. 13948. August 17, 1978. Judiciary. Amends in its entirety Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (Law Enforcement Assistance). Replaces the Law Enforcement Assistance Administration within the Department of Justice with a Bureau of Criminal Justice Assistance. Establishes a National Institute of Justice and a Bureau of Justice Statistics under the authority of the Attorney General.

Restructures and limits the existing program of grants and assistance to State and local units of government.

Continues the existing program of Public Safety Officers' Death Benefits, but transfers its administration to the Secretary of Labor.

H.R. 13949. August 17, 1978. Judiciary. Requires a court of the United States in certain circumstances to issue a declaratory judgment in a case of actual controversy between a public utility and either the Secretary of the Treasury or a ratemaking body, with respect to specified provisions of the Internal Revenue Code of 1954 dealing with either the computation of credit for investment in depreciable property or depreciation deductions.

H.R. 13950. August 17, 1978. Judiciary. Permits, and sets guidelines for, the use of Spanish in actions in the United States District Court for the District of Puerto Rico and prohibits the disqualification of potential jurors in such court solely on the ground that they cannot speak English.

H.R. 13951. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to treat a library established by State or Federal law as a charitable institution for purposes of the charitable income tax deduction.

H.R. 13952. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 13953. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to subject to capital gains taxation the gain from the sale or exchange of farming property and undeveloped real property by a nonresident alien.

H.R. 13954. August 17, 1978. Veterans' Affairs. Establishes the Office of Assistant Chief Medical Director for Geriatrics, Gerontology, and Extended Care within the Office of the Chief Medical Director in the Veterans' Administration.

Directs the Administrator of Veterans' Affairs to designate 20 Veterans' Administration hospitals as geriatrics centers.

Establishes a Geriatrics, Gerontology, and Extended Care Task Force within the Veterans' Administration.

H.R. 13955. August 17, 1978. Government Operations. Establishes, within the Office of Management and Budget, the Office of Federal Information Management Policy to establish Government-wide policies and procedures regarding Federal information management activities and the costs imposed on the public by such activities.

Establishes the Federal Information Locator Office within the General Services Administration. Directs the Office to prepare a data profile for each public-use report and register all approved new reports in the Federal Information Locator System.

H.R. 13956. August 17, 1978. Judiciary; Post Office and Civil Service. Permits the transportation, mailing, and broadcasting of advertisements, information, and materials concerning lotteries conducted by nonprofit organizations in accordance with State law.

H.R. 13957. August 17, 1978. Government Operations. Establishes a preference for domestic products and materials in Government procurements and in procurements with Federal funds.

H.R. 13958. August 17, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State.

H.R. 13959. August 17, 1978. Judiciary. Revises Title 18 of the United States Code by repealing certain offenses and procedural provisions. Consolidates chapters which contain similar subject matter. Revises the maximum term of imprisonment for 14 offenses. Specifies a uniform fine structure. Requires judges to consider specific factors in determining a particular sentence. Directs the Judicial Conference of the United States to develop, make available, and analyze advisory sentencing guidelines. Modifies probation and parole provisions. Conforms the fine levels of criminal statutes in other titles of the U.S. Code to those of Title 18, except the Internal Revenue Code.

H.R. 13960. August 17, 1978. Interior and Insular Affairs. Changes the amount per acre which the Secretary of the Interior must pay to local governments for public lands within the boundaries of such localities.

H.R. 13961. August 17, 1978. Interior and Insular Affairs. Amends existing law governing payments made to local governments for public lands within such localities. Redefines "entitlement lands" for purposes of determining eligibility for such payments.

H.R. 13962. August 17, 1978. Ways and Means. Amends the Internal Revenue Code to increase the income tax deduction for contributions to retirement savings accounts for taxable years beginning in 1978 with yearly cost-of-living increases for taxable years beginning after 1978.

H.R. 13963. August 17, 1978. House Administration; Judiciary; Rules. Establishes the Office of Congressional Legal Counsel to be headed by a Congressional Legal Counsel, and accountable to the Joint Leadership Group, to defend Congress, a House of Congress, committee, subcommittee, Member, officer, or employee of Congress or an agency thereof in certain civil actions, and to institute proceedings to enforce subpoenas upon authorization by the Joint Leadership Group or resolution of Congress, as specified by this Act.

Requires the Counsel to intervene or appear as amicus curiae in Federal or State legal actions in which the powers and responsibilities of Congress, under the Constitution, are placed in issue.

H.R. 13964. August 17, 1978. Veterans' Affairs. Provides for an official memorial flag to honor war veterans to be displayed in all national cemeteries on Memorial Day in lieu of small flags at individual gravesites.

H.R. 13965. August 17, 1978. Banking, Finance and Urban Affairs; Interior and Insular Affairs. Authorizes the Secretary of the Interior to enter into cooperative agreements with American Youth Hostels, Incorporated to develop a national plan for youth hostel development, and to administer a grant program to implement such plan.

Authorizes the Secretary to make grants for improvement and renovations of youth hostels, and for a pilot program for new youth hostel construction.

H.R. 13966. August 17, 1978. Post Office and Civil Service. Establishes the American Constitution Bicentennial Commission to plan observances to commemorate the bicentennial of the Constitution of the United States.

H.R. 13967. August 17, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require food processors to (1) notify the Secretary of Health, Education, and Welfare of any possibly adulterated food; (2) establishes a food coding system; (3) maintain food distribution records; and (4) register with Secretary.

Provides for administrative detention of food believed to be adulterated.

Requires (1) State and local food labeling requirements to comply with Federal standards under such Act; (2) packages of perishable food to show the sell date; (3) certain labeling information regarding ingredients; and (4) importers to notify the Secretary of the identity of the imported food and the registration of the food processor.

H.R. 13968. August 17, 1978. Agriculture; Banking, Finance and Urban Affairs; Education and Labor; Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works and Transportation. Directs the President to designate interstate regions within the United States which would benefit from a unified approach to social and economic development.

Authorizes the establishment of advisory

commissions to plan, supervise, and administer development projects in such regions. Sets forth procedural, conflict of interest, and public access provisions governing such commissions.

Authorizes technical and financial assistance by specified Federal agencies in the development regions.

Provides for the development of the Appalachian region.

Authorizes appropriations and sets forth the operative dates for this Act.

H.R. 13969. August 17, 1978. Post Office and Civil Service. Direct the Postal Service to issue postage stamps commemorating the Jewish holiday of Chanukah.

H.R. 13970. August 17, 1978. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 to authorize the Secretary of Transportation to make grants to Governors or designated recipients for mass transportation funds to retrofit existing rail equipment which is part of any rail mass transportation system in any urbanized area which was operational before 1950 for the purpose of noise reduction.

H.R. 13971. August 17, 1978. Banking Finance and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities.

Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 13972. August 17, 1978. Interior and Insular Affairs. Designates specified lands in Montana as the Great Bear Wilderness to be included in the Flathead National Forest, Montana.

Enlarges the Bob Marshall Wilderness in Montana to include specified lands in Montana as a part of the Lewis and Clark National Forest.

H.R. 13973. August 17, 1978. Interior and Insular Affairs. Permits the Tigua Indian Tribe of Texas to file with the United States Court of Claims any claim for compensation for any real property acquired from such tribe by the United States without the payment of adequate compensation.

H.R. 13974. August 17, 1978. Judiciary. Declares a certain indiviual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13975. September 6, 1978. Rules; Government Operations. Requires Government programs to be evaluated pursuant to a specified schedule to determine whether each such program should be continued, terminated, or altered (reauthorization review). Prohibits the authorization of new budget authority for a period of more than ten years. Prohibits the authorization of new budget authority for any program for which there has not been conducted a reauthorization review.

Establishes a Citizens' Commission on the Organization and Operation of Government to study and recommend ways to improve the efficiency and operation of Government agencies.

H.R. 13976. September 6, 1978. Ways and Means. Amends the Internal Revenue Code to extend to participants in the tax-exempt employer pension plans a limited income tax deduction for cash contributions to a retirement savings account.

H.R. 13977. September 6, 1978. Ways and Means. Amends the Internal Revenue Code to treat an individual who conveys an apartment building or houses to a cooperative housing corporation and acquires stock in the cooperative and rights to the rental of one or more dwelling units in the cooperative, as a tenant-shareholder of the cooperative for purposes of the income tax deductions allowed to tenant-shareholders.

H.R. 13978. September 6, 1978. Ways and Means. Amends the Internal Revenue Code to make certain changes in the rules used in determining whether corporations are members of a controlled group for purposes of multiple tax benefits.

H.R. 13979. September 6, 1978. Ways and Means. Amends the Internal Revenue Code to allow a tax credit for expenses related to the purchase and installation of a fire detector in the home of the taxpayer.

H.R. 13980. September 6, 1978. Interstate and Foreign Commerce; Ways and Means. Authorizes the Secretary of Health, Education, and Welfare to provide, through demonstration projects, payments to individuals who are receiving, or are eligible to receive, benefits with respect to post-hospital extended care services under the Medicare program, or intermediate care facility services or skilled nursing facility services under the Medicaid program, who do not require 24-hour nursing care or supervision, and who desire to establish a noninstitutional living arrangement which will meet their medical and other needs.

H.R. 13981. September 6, 1978. Interstate and Foreign Commerce; Ways and Means. Authorizes the Secretary of Health, Education, and Welfare to provide, through demonstration projects, payments to individuals who are receiving, or are eligible to receive, benefits with respect to post-hospital extended care services under the Medicare program, or intermediate care facility services or skilled nursing facility services under the Medicaid program, who do not require 24-hour nursing care or supervision, and who desire to establish a noninstitutional living arrangement which will meet their medical and other needs.

H.R. 13982. September 6, 1978. Ways and Means. Amends the Internal Revenue Code to specify requirements regarding the use of structures for the housing, raising, or feeding of hogs, for purposes of the investment tax credit.

H.R. 13983. September 6, 1978. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to require that each State which participates in the program established by such Title shall equally distribute services under such program among all political subdivisions of the State.

H.R. 13984. September 6, 1978. Agriculture. Prohibits the Secretary of Agriculture from taking any action under the Wholesome Meat Act or any other law to prohibit the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect in humans that nitrites may be represented to have, unless validated evidence is made available to the Secretary which proves beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans, or until a substitute preservative is available.

H.R. 13985. September 6, 1978. Agriculture; Interstate and Foreign Commerce. Prohibits the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, from taking any action under the Wholesome Meat Act, the Federal Food, Drug, and Cosmetic Act, or any other law to prohibit the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect in humans that nitrites may be represented to have, unless validated evidence is made available to the Secretaries which proves beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans, or until a substitute preservative is available.

H.R. 13986. September 6, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to reduce certain Medicare deductibles, coinsurance charges, and monthly premiums under the Medicare program. Finances such reductions from general revenues.

H.R. 13987. September 6, 1978. Ways and Means. Amends the Internal Revenue Code to specifically allow a tax deduction for contributions to a tax-exempt black lung disability trust which has as one of its purposes to fund the future of an employer for claims filed by individuals seeking compensation for disability due to black lung disease. Limits the amount of the deductible contributions to not more than 38 percent of the employer's payroll.

H.R. 13988. September 6, 1978. Armed Services. Stipulates that general (previously commissioned) officers of the Army and Air Force who are assigned to the executive departments of such components of the armed forces (the Army Staff and Air Staff) may serve on such duty for not more than four years. Stipulates that individuals promoted to the grade of brigadier general while on such assignment shall be limited to a four-year tour of duty computed from the date of such promotion.

H.R. 13989. September 6, 1978. Agriculture. Amends the Food and Agriculture Act of 1977 to alter the formula for the distribution of Federal funds to support agricultural research at the 1890 land-grant colleges, to assure that such colleges receive funds in fiscal year 1979 and following years at levels at least the same as the present funding levels.

H.R. 13990. September 6, 1978. Ways and Means. Amends the Trade Act of 1974 by reserving textiles and textile products from negotiations to reduce or eliminate duty or other import restrictions when the President is engaged in an effort to obtain agreement limiting imports of such articles.

H.R. 13991. September 6, 1978. Interior and Insular Affairs. States that specified lands in California are to be held by the United States in trust for the Susanville Indian Rancheria of California.

H.R. 13992. September 6, 1978. Ways and Means. Amends the Internal Revenue Code to include alimony payments in the computation of the amount of income upon which the income tax deduction for contributions to a retirement savings account will be based.

H.R. 13993. September 6, 1978. Ways and Means. Amends the Federal-State Extended Unemployment Compensation Act of 1970 to change the measure of unemployment from the rate of insured unemployment, as determined by the number of unemployment claims filed, to the unemployment rate, as determined by the Bureau of Labor Statistics, for the purpose of establishing the beginning of an extended benefit period for receipt of unemployment compensation.

H.R. 13994. September 6, 1978. Government Operations; Interstate and Foreign Commerce; Ways and Means. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to direct a medical care facility to permit an individual to have access to such individual's own records unless such access would harm the individual.

Authorizes a medical care facility to disclose an individual's medical record without the individual's authorization only in specified instances.

Establishes penalties for the violation of this Act.

H.R. 13995. September 6, 1978. Armed Services. Revises the method of computing retired pay for regular enlisted members of the Army, Navy, Air Force and Marine Corps in order to include in such computation the number of years of such individual's nonregular service and certain other years of service.

H.R. 13996. September 6, 1978. Judiciary. Directs the Secretary of the Treasury to pay a certain sum to a certain individual in settlement of such individual's claims against the United States as a result of being improperly forced to resign from the Foreign Service Reserve and entitles such individual to receive retirement benefits under the For-

eign Service Retirement and Disability System.

H.R. 13997. September 6, 1978. Judiciary. Declares a certain individual to have satisfied residence and physical presence requirements for naturalization under the Immigration and Nationality Act.

H.R. 13998. September 6, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 13999. September 6, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14000. September 6, 1978. Judiciary. Authorizes classification of certain individuals as children for purposes of the Immigration and Nationality Act.

H.R. 14001. September 6, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 14002. September 7, 1978. Judiciary. Declares that exclusive territorial arrangements made as a part of a licensing agreement for the manufacture, distribution or sale of a trademarked soft drink product are lawful under the antitrust laws provided such product is in substantial and effective competition with other products of the same general class.

H.R. 14003. September 7, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to repeal the exclusion from services provided under such Title of inpatient hospital services provided by a physician in a hospital which has a teaching program.

Repeals the provisions under the Title XVIII directing that payment for the services of a physician rendered in a teaching hospital be made to a certain fund.

H.R. 14004. September 7, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 14005. September 7, 1978 Judiciary. Establishes, through the Director of the Administrative Office of the United States Courts, a program to: (1) compile and make available lists of qualified interpreters for non-English speakers and hearing impaired persons (whether or not also speech impaired); and (2) provide the services of such interpreters free in criminal actions and civil actions initiated by the United States.

H.R. 14006. September 7, 1978. Agriculture. Prohibits the Secretary of Agriculture from taking any action under the Wholesome Act or any other law to prohibit the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect in humans that nitrites may be represented to have, unless validated evidence is made available to the Secretary which proves beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans, or until a substitute preservative is available.

H.R. 14007. September 7, 1978. Interstate and Foreign Commerce. Prohibits the Secretary of Health, Education, and Welfare, from taking any action under the Federal Food, Drug, and Cosmetic Act or any other law to prohibit the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect in humans that nitrites may be represented to have, unless validated evidence is made available to the Secretary which process beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans, or until a substitute preservative is available.

H.R. 14008. September 7, 1978. Agriculture. Amends the Packers and Stockyards Act, 1921, to require any person who purchases any meat or meat food product from any packer to pay for such meat or meat food product within eight days of acceptance of delivery, unless purchaser and packer have agreed to another payment date.

H.R. 14009. September 7, 1978. Government Operations. Requires the President to submit to Congress a biannual report on the management of the executive branch. Requires the director of the Office of Management and Budget to provide an evaluation report on Federal programs to the President to be included with the President's report.

H.R. 14010. September 7, 1978. Public Works and Transportation. Renames Clayton Lake in Oklahoma Sardis Lake.

H.R. 14011. September 7, 1978. Ways and Means. Amends the program of Aid to Families with Dependent Children (AFDC) established by Part A of Title IV of the Social Security Act to establish a new formula for determining the amount of the Federal payment to each State for amounts expended by a State under such program.

H.R. 14012. September 7, 1978. District of Columbia. Amends the National Capital Transportation Act of 1969 to authorize the Secretary of Transportation to make contributions to the Washington Metropolitan Area Transit Authority, in addition to those already authorized by such Act, for the purpose of financing in part the construction costs of the Adopted Regional System (Metrorail).

Directs the Transit Authority to establish a sinking fund for the accumulation of assets for payment of principal on bonds and other obligations issued by the Authority.

Authorizes the Secretary to make an annual contribution to the Transit Authority in order to finance in part the operating and maintenance costs of the Authority's rapid rail transit system.

H.R. 14013. September 7, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to include all Members of Congress under the Federal Old-Age, Survivors, and Disability Insurance system, offsetting against any benefits based on such coverage the amount of any annuities received by such Members or their survivors from the Civil Service Retirement and Disability Fund.

H.R. 14014. September 7, 1978. Judiciary. Amends the Civil Rights Act of 1964 to require a subpena duces tecum for the search for and seizure of evidence when anyone acting under the color of law has probable cause to believe evidence of a crime is located on or about premises in which the person in possession of the evidence has a reasonable expectation of privacy.

H.R. 14015. September 7, 1978. Judiciary. Amends the Civil Rights Act of 1964 to require a subpena duces tecum for the search for and seizure of evidence when anyone acting under color of law has probable cause to believe evidence of a crime is located on or about premises in which the person in possession of the evidence has a reasonable expectation of privacy.

H.R. 14016. September 7, 1978. Agriculture; Ways and Means. Directs the Secretary of Agriculture to pay an indemnity to eligible producers or owners of cattle, goats, or sheep (except lambs), whenever the President acts to increase or suspend quotas or to otherwise increase imports for any reason other than as part of an international agreement to expand agricultural exports from the United States.

H.R. 14017. September 7, 1978. International Relations. Forbids any foreign assistance other than that relating to the production of food and nutrition, disaster relief, or military assistance. Allows certain exemptions.

Establishes a Commission on International Hunger Assistance in the executive branch.

H.R. 14018. September 7, 1978. Judiciary. Declares a certain individual retained in the United States as a permanent alien resident, under the Immigration and Nationality Act.

H.R. 14019. September 8, 1978. Veterans' Affairs. Permits the Administrator of Veterans' Affairs to recognize representatives of the Italian American War Veterans of the United States in the preparation, presentation, and prosecution of claims under laws administered by the Administration.

H.R. 14020. September 8, 1978. Ways and Means. Amends the Internal Revenue Code to confer tax-exempt status upon employee benefit trusts organized to invest in real estate.

H.R. 14021. September 8, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to establish standards for determining the status of a taxpayer as an independent contractor or self-employed person for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, income tax withholding, and the Old-Age, Survivors, and Disability Insurance Program of the Social Security Act.

H.R. 14022. September 8, 1978. Ways and Means. Amends the Internal Revenue Code to provide that, for purposes of computing the allowable retirement plan exclusion allowance and employer contributions for church employees, all years of service to a church, church convention, church association or agency of such organizations, shall be considered employment by one employer.

H.R. 14023. September 8, 1978. Ways and Means. Amends the Internal Revenue Code to provide church employees the same power presently enjoyed by employees of tax-exempt health and education organizations to elect alternative exclusion allowances for contributions to annuity contracts. Provides a minimum $10,000 allowance for annual additions to these contracts without regard to the amount of the employee's compensation.

H.R. 14024. September 8, 1978. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to classify automated blood pressure machines as class II medical devices, notwithstanding certain requirements of the Federal Food, Drug, and Cosmetic Act for classification of medical devices.

H.R. 14025. September 8, 1978. Judiciary. Specifies that each State entitled to more than one Representative in the 98th or any subsequent Congress shall establish a number of districts equal to the number of Representatives to which that State is entitled.

Requires a redistricting commission to be established in such State to prepare a redistricting plan.

H.R. 14026. September 8, 1978. Interior and Insular Affairs. Provides for: (1) the free alienation and conveyance of title to certain lands in the State of Alaska by an Indian tribal or other entity; (2) the acquisition of certain trust lands in Alaska from the Secretary of the Interior; and (3) the retention of title to the surface estate in such lands by the corporation organized for the Natives of the village of Kake, Alaska, pursuant to the Alaska Native Claims Settlement Act.

H.R. 14027. September 8, 1978. Agriculture; Interstate and Foreign Commerce. Directs the Secretary of Agriculture to conduct or arrange for the conduct of: (1) further research on the effects of nitrites on animals other than the Sprague-Dawley species of rat; and (2) research on possible nitrite substitutes, and preservative methods and processes, or combinations thereof, that may be used in the preservation of meat, poultry, or fish.

H.R. 14028. September 8, 1978. Veterans' Affairs. Provides for an official memorial flag to honor war veterans to be displayed in all

national cemeteries on Memorial Day in lieu of small flags at individual gravesites.

H.R. 14029. September 8, 1978. Judiciary. Prohibits Congress or any Congressional committee or subcommittee, or any court, grand jury, or administrative body of the United States or any State, from requiring that any newsperson reveal information or sources of information which such newsperson received while acting in a journalistic capacity.

H.R. 14030. September 8, 1978. Judiciary. Established, through the Director of the Administrative Office of the United States Courts, programs to: (1) compile and make available lists of qualified interpreters for non-English speakers and hearing impaired persons (whether or not also speech impaired; and (2) provide the services of such interpreters free in criminal actions and civil actions initiated by the United States.

H.R. 14031. September 8, 1978. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to eliminate the authorization for Federal expenditures to enclose or shelter facilities normally used for outdoor recreation. Removes certain restrictions on local funding for such facilities.

H.R. 14032. September 8, 1978. Ways and Means. Amends the Internal Revenue Code to increase to $5,000 the amount of gambling winnings that are not subject to withholding of income tax.

H.R. 14033. September 8, 1978. Banking, Finance and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities.

Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 14034. September 8, 1978. Judiciary. Declares certain individuals lawully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14035. September 11, 1978. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from a declaration of estimated income tax liability if the estimated amount of such liability is less than $500. Exempts the taxpayer from the addition to tax for failure to pay estimated income tax if the amount of such tax is less than $500.

H.R. 14036. September 11, 1978. Interior and Insular Affairs. Directs the Frying pan—Arkansas Federal reclamation project be carried out in accordance with the final environmental statement for such project and with those laws of Colorado relating to the establishment of minimum streamflows for the reasonable protection of the environment.

Establishes maximum rates for project water diversions.

H.R. 14037. September 11, 1978. Interior and Insular Affairs. Directs the Secretary of the Interior to prepare a study of historical Camden, South Carolina, to determine the feasibility and desirability of establishing such area as a unit of the National Park System.

H.R. 14038. September 11, 1978. Interior and Insular Affairs. Authorizes the establishment of the Historic Camden National Historic Park, in South Carolina.

H.R. 14039. September 11, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to disregard renewal commissions received by an insurance salesman from life insurance policies which such salesman sold before reaching age 65, for purposes of determining eligibility based on income for social security benefits.

H.R. 14040. September 11, 1978. Judiciary. Amends the Federal Torts Claims Act to make the United States liable for tort claims arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

H.R. 14041. September 11, 1978. Ways and Means. Amends the Internal Revenue Code to allow a ten percent investment tax credit for the construction of enclosures or structures used exclusively for the housing, raising, or feeding of poultry or their produce.

H.R. 14042. September 11, 1978. Armed Services. Authorizes appropriations for fiscal year 1979 for defense article procurement and research and development by the armed forces. Prescribes the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the armed forces and for civilian personnel of the Department of Defense. Sets forth the authorized military training student loans for the armed forces. Authorizes appropriations for civil defense.

H.R. 14043. September 11, 1978. Armed Services. Removes Naval chaplains from the control of the Chief of Naval personnel. Establishes a separate Chaplain Corps to be headed by a Chief of Chaplains appointed by the President with the advice and consent of the Senate. Establishes the position of Deputy Chief of Chaplains.

H.R. 14044. September 11, 1978. Banking, Finance and Urban Affairs. Extends the authority of the Board of Governors of the Federal Reserve System to regulate interest rates on deposits and share accounts in depository institutions.

Prohibits the establishment by State or Federal law of interest rate differentials between banks and savings and loan associations on savings accounts from which automatic transfers to third-party payment accounts may be made.

Authorizes Federal savings and loan associations to make specified loans and investments.

Establishes the National Credit Union Central Liquidity Facility to provide funds to meet the liquidity needs of credit unions.

H.R. 14045. September 11, 1978. Ways and Means. Amends the Social Security Act to authorize the garnishment of salaries payable by the Federal Government for the enforcement of court-ordered payments to or on behalf of an employee's or officials spouse, former spouse, or children (in addition to garnishment for alimony and child support payments presently authorized).

H.R. 14046. September 11, 1978. Science and Technology. Establishes a public service communications satellite research, development, and demonstration program within the National Aeronautics and Space Administration in cooperation with the Secretary of Commerce.

H.R. 14047. September 11, 1978. Agriculture; Ways and Means. Authorizes the prohibition of the importation of sugar from any country not a member of the International Sugar Organization, and otherwise regulates foreign trade in sugar to implement the International Sugar Agreement.

Authorizes the President to impose import quotas and fees on sugar and sugar-containing products. Requires the Secretary of Agriculture to monitor the average daily price of sugar.

Establishes a program of payments to domestic producers of sugar beets and sugarcane.

Requires payment of fair and reasonable wages to persons employed in the production, cultivation, and harvesting of sugar beets and sugarcane.

Establishes a program of payments to domestic producers of sugar beets and sugarcane.

H.R. 14048. September 11, 1978. Government Operations; Rules. Amends the Congressional Budget and Impoundment Control Act to limit total budget authority and budget outlays for fiscal year 1980 to the levels for fiscal year 1979. Prohibits outlays for fiscal years 1981, 1982, and 1983 from exceeding the previous fiscal year by more than five percent.

Authorizes the President to reduce any years 1980 through 1983 by up to ten percent in order to comply with the requirements of this Act.

H.R. 14049. September 11, 1978. Ways and Means. Amends the Internal Revenue Code to provide income, estate and gift tax deductions for charitable contributions for the construction or maintenance of buildings for tax-exempt lodge organizations.

H.R. 14050. September 11, 1978. Judiciary. Declares a certain individual to have been employed as a substitute carrier in a certain post office for a specified period of time, at the rates of basic pay required to be used in determining such individual's seniority rights and rates of compensation.

H.R. 14051. September 11, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 14052. September 11, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 14053. September 11, 1978. Judiciary. Authorizes a certain individual to file a claim against the United States, under the Public Health Service Act, for compensation for bodily paralysis and other injuries which allegedly resulted from such individuals' inoculation with swine flu vaccine.

H.R. 14054. September 11, 1978. Judiciary. Directs that a certain organization be relieved of liability to the United States for social security taxes paid during a specific time period, and directs the Secretary of the Treasury to repay such organization the amount of taxes imposed during such time period.

H.R. 14055. September 11, 1978. Judiciary. Declare a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14056. September 12, 1978. Rules: Government Operations. Requires Government programs to be evaluated pursuant to a specified schedule to determine whether each such program should be continued, terminated, or altered (reauthorization review). Prohibits the authorization of new budget authority for a period of more than ten years. Prohibits the authorization of new budget authority for any program for which there has not been conducted a reauthorization review.

Establishes a Citizens' Commission on the Organization and Operation of Government to study and recommend ways to improve the efficiency and operation of Government agencies.

H.R. 14057. September 12, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury to strike and sell gold medallions to the public commemorating specified individuals in the American arts.

H.R. 14058. September 12, 1978. Judiciary. Provides for the regulation of United States participation in international amateur sporting events, and for the promotion of amateur athletics generally, through national governing bodies that are certified for individual sports and regulated by the United States Olympic Committee.

H.R. 14059. September 12, 1978. Government Operations. Authorizes the appropriation of funds necessary for the Inspector General of the Department of Health, Education, and Welfare (HEW) to: (1) carry out investigations of fraud and abuse of HEW programs including Medicaid; (2) perform other prescribed duties of the Office of the Inspector General; and (3) conduct and submit to Congress a study on fraud and abuse in the areas of drug purchases, respiratory therapy and student financial aid programs.

H.R. 14060. September 12, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a commemorative stamp honoring General Casimir Pulaski.

H.R. 14061. September 12, 1978. Ways and Means. Amends Title XI (General Provisions) of the Social Security Act and the Internal Revenue Code to permit the disclosure to the Commissioner of Education of tax return information and mailing addresses of individuals who have either applied for student loans or have defaulted on such loans.

H.R. 14062. September 12, 1978. Ways and Means. Directs the Secretary of the Treasury to provide funds to States for: (1) the development and operation of mechanized claims processing and information retrieval systems to provide for the administration of the State plan under Part A of Title IV (Aid to Families with Dependent Children) (AFDC) of the Social Security Act; and (2) the establishment and operation of a State AFDC fraud control unit.

H.R. 14063. September 12, 1978. Ways and Means; Interstate and Foreign Commerce. Requires each State as a condition of eligibility for Federal funds under Title IV (Aid to Families with Dependent Children) and Title XIX (Medicaid), to annually match its welfare rolls against relevant State and Federal employment records, wage reports of private employers; and benefit records under social security, supplemental security income, railroad retirement and other Federal benefit programs.

H.R. 14064. September 12, 1978. Ways and Means; Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish an effective means of obtaining from States and political subdivisions of States records as to deaths and of reviewing such records to prevent illegal payments under the Social Security Act to or on behalf of persons who have died.

H.R. 14065. September 12, 1978. Judiciary. Authorizes the issuance of a visa to an individual and admission for permanent residence in the United States, under the Immigration and Nationality Act.

H.R. 14066. September 12, 1978. Judiciary. Directs the President to award the Legion of Merit to a certain individual in recognition of such individuals' 30 years of meritorous service in the United States Army.

H.R. 14067. September 13, 1978. Government Operations. Establishes the Department of Education to be headed by a Secretary of Education.

Establishes an Intergovernmental Advisory Council on Education.

Establishes within such Department: (1) an Office of Inspector General; (2) a General Counsel; (3) a research and development office; (4) an elementary and secondary education office; (5) a postsecondary education office; (6) an Office for Civil Rights; (7) a special education and rehabilitation services office; and (8) an overseas dependents office.

Transfers to the Secretary specified functions of the Departments of Health, Education, and Welfare; Defense; Justice; and Housing and Urban Development.

H.R. 14068. September 13, 1978. Education and Labor. Amends the Longshoremen's and Harbor Workers' Compensation Act with regard to coverage of the Act, procedures for obtaining death and disability compensation, and the amounts of such compensation.

H.R. 14069. September 13, 1978. Ways and Means. Amends the Internal Revenue Code to increase the gift tax annual exclusion.

H.R. 14070. September 13, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Requires the Secretary of Energy to notify affected State legislatures of investigation and construction of sites for radioactive waste storage facilities. Provides for a period for disapproval of construction by the State legislature or by statewide referendum.

H.R. 14071. September 13, 1978. Ways and Means. Amends the Internal Revenue Code and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to apply a tax on the wages of fishermen who are paid a share of the catch on boats with crews of ten or less members for purposes of: (1) the Federal Insurance Contributions Act; (2) the income tax; and (3) OASDI.

H.R. 14072. September 13, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to authorize the Board of Governors of the Federal Reserve System to require specified depository institutions to submit periodic financial reports.

Establishes reserve requirements for demand, savings, negotiable order of withdrawal and time deposits.

Subjects any bank to reserve requirements that is either an insured bank or eligible to become an insured bank under the Federal Deposit Insurance Act excluding savings and mutual savings banks.

Authorizes the Board to extend reserve requirements in specified circumstances.

Establishes the composition of reserves.

Directs the Board to conduct several studies.

Requires the Board to charge fees for its services.

H.R. 14073. September 13, 1978. Government Operations; Rules. Amends the Congressional Budget Act of 1974 to require a balanced budget with expenditures limited to a specific percentage of the gross national product. Amends the Budget and Accounting Act of 1921 to require the President to include an estimate of the gross national product for the year.

H.R. 14074. September 13, 1978. Agriculture; Ways and Means. Authorizes the prohibition of the importation of sugar from any country not a member of the International Sugar Organization, and otherwise regulates foreign trade in sugar to implement the International Sugar Agreement.

Authorizes the President to impose import quotas and fees on sugar and sugar-containing products. Requires the Secretary of Agriculture to monitor the average daily price of sugar.

Establishes a program of payments to domestic producers of sugar beets and sugarcane.

Requires payment of fair and reasonable wages to persons employed in the production, cultivation, and harvesting of sugar beets and sugarcane.

Establishes a program of payments to domestic producers of sugar beets and sugarcane.

H.R. 14075. September 13, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to two individuals in full settlement of such individuals' claims against the United States.

H.R. 14076. September 13, 1978. Judiciary. Declares a certain individual to have satisfied the residence and physical presence requirements for naturalization, under the Immigration and Nationality Act.

H.R. 14077. September 14, 1978. Ways and Means. Amends the Internal Revenue Code to revise the definition of a foreign convention, the rules regarding limits on subsistence expenses at such conventions, and the substantiation of such expenses for purposes of claiming an income tax deduction.

H.R. 14078. September 14, 1978. Government Operations; Rules. Amends the Budget and Accounting Act of 1921 to require that Federal expenditures not exceed 20 percent of the estimated gross national product. Authorizes tax proposals required to reduce receipts to no more than 20 percent of the estimated gross national product for the ensuing year.

Amends the Congressional Budget Act of 1974 to prescribe a two-step process for the consideration of amendments to the first concurrent resolution on the budget.

H.R. 14079. September 14, 1978. Interstate and Foreign Commerce. Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to indemnify the sales representatives.

H.R. 14080. September 14, 1978. Ways and Means. Amends the Internal Revenue Code to allow certain low- and middle-income individuals a limited, refundable income tax credit for the property taxes or rent paid by them for their principal residence.

H.R. 14081. September 14, 1978. International Relations. Amends the Export Administration Act of 1969 to authorize the President to impose export controls for national security purposes on goods and technology which have any potential for military, law enforcement, or intelligence gathering purposes.

Directs the President to require a license for the export of goods and technology to any Community country. Provides a procedure for Congress to disapprove the issuance of such license.

Authorizes the Secretary of Defense to review any proposed export of goods and technology to any Communist country and recommend disapproval if such export could prove detrimental to the national security of the United States.

H.R. 14082. September 14, 1978. Ways and Means. Amends the Internal Revenue Code to temporarily extend to domestic corporations which qualify as independent producers for purposes of the oil depletion allowance the foreign tax credit for production-sharing contracts.

H.R. 14083. September 14, 1978. Education and Labor. Amends the Indochina Refugee Children Assistance Act of 1976 to authorize appropriations for the educational programs under such Act for fiscal years 1980, 1981, and 1982.

H.R. 14084. September 14, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to set forth new and additional criteria to be used in the computation of disability benefits under such Title.

Sets forth new procedures for making and reviewing determinations of disability.

Directs the Secretary of Health, Education, and Welfare to study alternative methods of financing vocational rehabilitation services for disabled beneficiaries under Title II to the end that maximum savings will result to the Social Security Trust Funds.

H.R. 14085. September 14, 1978. International Relations. Amends the Export Administration Act of 1969 to authorize the President to impose export controls for national security purposes on goods and technology which have any potential for military, law enforcement, or intelligence gathering purposes.

Directs the President to require a license for the export goods and technology to any Communist country. Provides a procedure for Congress to disapprove the issuance of such license.

Authorizes the Secretary of Defense to review any proposed export of goods and technology to any Communist country and recommend disapproval if such export could prove detrimental to the national security of the United States.

H.R. 14086. September 14, 1978. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 25 percent of the amount of rent paid by the taxpayer which is equal to the taxpayer's proportionate share of the local and state property taxes imposed on the land and building in which his dwelling is located.

H.R. 14087. September 14, 1978. Banking, Finance and Urban Affairs. Authorizes the President to present, on behalf of the Congress, gold medals to Ben Abruzzo, Maxie Anderson, and Larry Newman for their distinguished feat as aviation pioneers (first Atlantic balloon crossing).

Authorizes the Secretary of the Treasury to strike and sell bronze replicas of such medals.

H.R. 14088. September 14, 1978. Ways and Means. Provides that certain New York City or State pension plans may acquire indebtedness of the City of New York without losing their status as tax-exempt qualified pension, profit-sharing, and stock bonus plans under the Internal Revenue Code.

Amends Title IV, part D (Child Support and Establishment of Paternity) of the Social Security Act to authorize the payment of amounts to States for child support collection or paternity determination services after September 30, 1978.

H.R. 14089. September 14, 1978. Ways and Means. Establishes conditions under which an interstate off-track wager may be accepted by an off-track betting system. Establishes penalties for the violation of such conditions.

H.R. 14090. September 14, 1978. Interstate and Foreign Commerce. Amends the Securities Act of 1933, the Securities and Exchange Act of 1934, and the Trust Indenture Act of 1939 to remove the exemptions from registration under those Acts for certain industrial development bonds. Designates such bonds as those which provide interest included as gross income under the Internal Revenue Code of 1954. Retains the exemptions for certain bonds issued under specified conditions involving governmental projects.

Authorizes the Securities and Exchange Commission to suspend trading in certain industrial development bonds.

H.R. 14091. September 14, 1978. Ways and Means. Amends the Internal Revenue Code to provide for annual cost-of-living adjustments to the individual income tax rates, personal exemption amounts, withholding tax amounts and the minimum amounts of income which necessitate filing an income tax return.

H.R. 14092. September 14, 1978. Judiciary. Declares that a certain individual shall be deemed to have been married for a specified period of time for the purpose of determining such individual's entitlement to widow's insurance benefits under the Social Security Act.

H.R. 14093. September 14, 1978. Judiciary. Relieves 17 civilian employees of the Department of the Navy of all liability to repay the United States certain amounts which represent overpayments of per diem allowances.

H.R. 14094. September 15, 1978. Ways and Means. Amends Title II (Old Age, Survivors, and Disability Insurance) of the Social Security Act to prevent excess earnings from being charged to any month in which an individual did not engage in self-employment and did not render services for wages for more than the applicable amount as determined under Title II.

Extends Medicare hospital insurance benefits, available to individuals entitled to benefits under Title II, to other individuals who would be entitled to benefits under Title II except that such individuals have not applied for such benefits.

H.R. 14095. September 15, 1978. Armed Services; Interior and Insular Affairs; Interstate and Foreign Commerce; Science and Technology. Establishes an Office of Nuclear Waste with the Department of Energy to develop programs for nuclear waste treatment, storage, and/or disposal.

Establishes a Nuclear Waste Management Fund to furnish financial assistance for nuclear waste management.

Establishes a Nuclear Waste Review Panel to coordinate nuclear waste policies of designated agencies and other parties selected by the chairman of the panel.

H.R. 14096. September 15, 1978. Judiciary. Declares a certain individual to have satisfied the residence and physical presence requirements for naturalization, under the Immigration and Nationality Act.

H.R. 14097. September 18, 1978. Education and Labor. Establishes an Afro-American History and Culture Board which shall be responsible for the establishment of the National Museum of Afro-American History and Culture.

H.R. 14098. September 18, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce. Provides for full State participation in the planning, siting, and licensing of nuclear storage and disposal facilities. Authorizes the States, through their legislatures, to disapprove the site selection of any nuclear storage or disposal facility within their boundaries.

H.R. 14099. September 18, 1978. Agriculture; Interstate and Foreign Commerce. Prohibits the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, from taking any action under the Wholesome Meat Act, the Federal Food, Drug, and Cosmetic Act, or any other law to prohibit the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect in humans that nitrites may be represented to have, unless validated evidence is made available to the Secretaries which proves beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans, or until a substitute preservative is available.

H.R. 14100. September 18, 1978. Education and Labor. Requires the Secretary of Labor to establish and administer an employment and training program which makes grants to State agencies for distribution to qualifying employers who employ previously unemployed individuals.

H.R. 14101. September 18, 1978. Education and Labor. Amends the National Foundation on the Arts and Humanities Act of 1965 to establish, within the National Endowment for the Arts, an Art Bank to be headed by a Director.

Authorizes the Director to purchase visual works of arts for the Art Bank, to make such works available on loan to certain private and governmental entities for public display, to sponsor exhibitions, and to assist State and local governments and nonprofit institutions in establishing Art Banks.

H.R. 14102. September 18, 1978. Ways and Means. Amends the Internal Revenue Code to allow manufacturers placing property eligible for the investment tax credit in designated "labor surplus" areas to take double investment tax credits and depreciation deduction for the property. Doubles the allowable deduction for real property taxes on realty used in connection with this property.

H.R. 14103. September 18, 1978. Ways and Means. Amends the Internal Revenue Code to provide for annual cost-of-living adjustments to the individual income tax rates, personal exemption amounts, withholding tax amounts and the minimum amounts of income which necessitate filing an income tax return.

H.R. 14104. September 18, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to revise the procedures to be followed by the Secretary of the Interior in issuing regulations under the Act.

Establishes a review board for the purpose of considering an application upon the recommendation of the Secretary of Interior for exemption from the requirement of the Act that Federal agencies take no action which would jeopardize the continued existence of any endangered species.

Establishes the Endangered Species Committee which shall make a final determination whether or not to grant an exemption to the requirements of this Act.

H.R. 14105. September 18, 1978. Ways and Means. Amends the Internal Revenue Code to remove the dollar and percentage limitations on the amount of the estate and gift tax marital deductions.

H.R. 14106. September 18, 1978. Government Operations. Authorizes the Administrator of General Services to make payments to local governments based on the amount of tax-exempt public and foreign lands within the boundaries of such governmental units.

H.R. 14107. September 18, 1978. Armed Services; Banking, Finance and Urban Affairs; Education and Labor; Government Operations; Ways and Means. Establishes a Defense Economic Adjustment Council and local Alternative Use Committee to prepare for and facilitate economic adjustment of workers, industries, and communities which may be or have been substantially affected by reductions in defense expenditures.

Provides eligible workers who are affected by defense cutbacks specified benefits, including income maintenance payments, pension credit, retraining, and maintenance of health, disability, and life insurance coverage.

H.R. 14108. September 18, 1978. Agriculture. Directs the Secretary of Agriculture to make indemnity payments to livestock and poultry producers in any case in which: (1) any significant conclusion, announced after August 1, 1978, of Federally sponsored research on the safety of using nitrites in cured livestock and poultry products is shown to be inaccurate; and (2) there has been, during the 120 days following the announcement, a fall in the average price per pound received by all producers for livestock and poultry sales.

H.R. 14109. September 18, 1978. Agriculture; Interstate and Foreign Commerce. Directs the Secretary of Agriculture to conduct or arrange for the conduct of: (1) further research on the effects of nitrites on animals other than the Sprague-Dawley species of rat; and (2) research on possible nitrite substitutes, and preservative methods and processes, or combinations thereof, that may be used in the preservation of meat, poultry, or fish.

H.J. Res. 963. June 7, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 964. June 7, 1978. Judiciary. Constitional Amendment—Prohibits Congress from causing Federal taxation to exceed 15 percent of the national gross product.

Prohibits the making of appropriations in excess of the total estimated revenues of the United States in any fiscal year except in time of war or national emergency.

H.J. Res. 965. June 9, 1978. Post Office and Civil Service. Designates the first week of August 1978, as "National Rivers and Bays Week."

H.J. Res. 966. June 9, 1978. Judiciary. Constitutional Amendment—Prohibits the levels of total budget outlay and new budget authority for any fiscal year from exceeding the corresponding level for the previous year by a percentage greater than the average annual percentage increase of the gross national product during the three calendar years immediately preceding the beginning of the applicable fiscal year.

H.J. Res. 967. June 9, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week beginning on the Sunday preceding the fourth Thursday in November of each year as "National Family Week."

H.J. Res. 968. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 969. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of Sep-

tember 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 970. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 971. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 972. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 973. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 974. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 975. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 976. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 977. June 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through 23, 1978, as "National Lupus Week."

H.J. Res. 978. June 12, 1978. Post Office and Civil Service. Authorizes and requests the President to designate Sunday, September 24, 1978, as "National Good Neighbor Day."

H.J. Res. 979. June 12, 1978. House Administration. Authorizes and directs the Secretary of the Interior to construct the Franklin Delano Roosevelt Memorial in Washington, D.C.

H.J. Res. 980. June 12, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978 as "Firefighters' Memorial Sunday."

H.J. Res. 981. June 12, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978 as "Firefighters' Memorial Sunday."

H.J. Res. 982. June 12, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978 as "Firefighters' Memorial Sunday."

H.J. Res. 983. June 12, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978 as "Firefighters' Memorial Sunday."

H.J. Res. 984. June 12, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978 as "Firefighters' Memorial Sunday."

H.J. Res. 985. June 12, 1978. Judiciary. Constitutional Amendment—Directs Congress to assure that the total outlays of the Government during any fiscal year (except for repayment of debt) do not exceed 33⅓ percent of the average national income for the three prior calendar years.

H.J. Res. 986. June 13, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 987. June 13, 1978. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 988. June 13, 1978. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 989. June 13, 1978. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 990. June 13, 1978. Judiciary. Constitutional Amendment—Prohibits and increases the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 991. June 13, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the first Sunday of September after Labor Day of each year as "National Grandparents Day."

H.J. Res. 992. June 13, 1978. House Administration. Establishes the President's Commission on the Victims of the Holocaust for the purpose of considering and developing plans for the design, construction, and location of a permanent memorial in the United States to the victims of the Holocaust.

H.J. Res. 993. June 13, 1978. Ways and Means. Provides that the Secretary of the Treasury shall determine the amount of additional revenue collected by the United States Treasury as a result of the approval of Proposition 13 by the voters in the State of California. Earmarks such revenue for a special national debt retirement fund. States that moneys from such fund shall be applied only to the retirement of the national debt.

Directs the Secretary to utilize this procedure in other cases involving State property tax reductions, which the Congress determines to be similar.

H.J. Res. 994. June 14, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 995. June 14, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 996. June 14, 1978. International Relations. Requests the President to (1) instruct the Department of State to report to Congress on the violations of human rights in Cambodia, (2) instruct the International Communications Agency to disseminate such information, and (3) instruct the Ambassador to the United Nations to introduce a resolution in the General Assembly condemning these atrocities.

H.J. Res. 997. June 15, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 998. June 15, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of June of 1978 as "National Veterans' Hospital Week."

H.J. Res. 999. June 15, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of September 17, 1978, as "National Port Week."

H.J. Res. 1000. June 15, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a special postage stamp in honor of Robert F. Kennedy.

H.J. Res. 1001. June 15, 1978. Post Office and Civil Service. Authorizes and requests the President to designate May 21, 1979, as "Firefighters' Memorial Sunday."

H.J. Res. 1002. June 16, 1978. Armed Services; Post Office and Civil Service. Designates John Adams as the "Father of the United States Marine Corps."

H.J. Res. 1003. June 16, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of June of 1979 as "National Veterans' Hospital Week."

H.J. Res. 1004. June 16, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1005. June 16, 1978. Judiciary. Constitutional Amendment—Requires any change in the U.S. tax law to increase Federal revenue to be approved by not less than two-thirds of all Members of Congress.

H.J. Res. 1006. June 16, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978 as "Firefighters' Memorial Sunday."

H.J. Res. 1007. June 19, 1978. Post Office and Civil Service. Authorizes and requests the President to designate a week, which is to include the seventh and tenth of the month, during the first ten days in May of 1979 as "Asian/Pacific American Heritage Week."

H.J. Res. 1008. June 19, 1978. Post Office and Civil Service. Designates February, 1977, as "Black History Month."

H.J. Res. 1009. June 21, 1978. Post Office and Civil Service. Authorizes the week of September 17 through 23, 1978, as "National Lupus Week."

H.J. Res. 1010. June 21, 1978. Judiciary. Constitutional Amendment—Prohibits the levels of total budget outlay and new budget authority for any fiscal year from exceeding the corresponding level for the previous year by a percentage greater than the average annual percentage increase of the gross national product during the three calendar years immediately preceding the beginning of the applicable fiscal year.

H.J. Res. 1011. June 21, 1978. Judiciary. Constitutional Amendment—Prohibits the levels of total budget outlay and new budget authority for any fiscal year from exceeding the corresponding level for the previous year by a percentage greater than the average annual percentage increase of the gross national product during the three calendar years immediately preceding the beginning of the applicable fiscal year.

H.J. Res. 1012. June 21, 1978. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 1013. June 21, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 14 of each year as "National Jogging Day."

H.J. Res. 1014. June 22, 1978. Post Office and Civil Service. Designates April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust."

H.J. Res. 1015. June 22, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1016. June 22, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1017. June 22, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1018. June 22, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1019. June 22, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1020. June 22, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1021. June 22, 1978. Post Office and Civil Service. Designates the week of September 10 through September 17 of 1978 as "National Rehabilitation Week."

H J. Res. 1022. June 22, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of September 17, 1978, as "National Port Week."

H.J. Res. 1023. June 22, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of September 17, 1978, as "National Port Week."

H.J. Res. 1024. June 23, 1978. Appropriations. Makes supplemental appropriations for salaries and expenses of the Agricultural Stabilization and Conservation Service of the Department of Agriculture.

H.J. Res. 1025. June 23, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 1026. June 23, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1027. June 23, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1028. June 23, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1029. June 23, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1030. June 23, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1031. June 23, 1978. Post Office and Civil Service. Designates June 25, 1978, as "National Brotherhood Day."

H.J. Res. 1032. June 23, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of June 1979 as "National Veterans' Hospital Week."

H.J. Res. 1033. June 23, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of June of 1979 as "National Veterans' Hospital Week."

H.J. Res. 1034. June 23, 1978. Post Office and Civil Service. Authorizes and requests the President todesignate the third week of June of 1979 as "National Veterans' Hospital Week."

H.J. Res. 1035. June 28, 1978. Judiciary. Constitutional Amendment—Stipulates that all persons have the right to equal opportunity and that no person may be denied the right to equal opportunity because of quotas or ratios based on race, color, national origin, religion, or sex.

H.J. Res. 1036. June 28, 1978. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 1037. June 28, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978 as "Firefighters' Memorial Sunday."

H.J. Res. 1038. June 28, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978 as "Firefighters' Memorial Sunday."

H.J. Res. 1039. June 28, 1978. Education and Labor; Post Office and Civil Service. Directs the Department of Commerce, in consultation with the Department of Labor, to develop methods for better collection and publication of labor force characteristics relating to women in professional, technical, and managerial occupations (including a breakdown in the statistical tables of the Bureau of the Census).

H.J. Res. 1040. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of June of 1979 as "National Veterans' Hospital Week."

H.J. Res. 1041. June 29, 1978. Judiciary. Restores posthumously full rights of United States citizenship to Jefferson Davis, effective December 25, 1868.

H.J. Res. 1042. June 29, 1978. Judiciary. Constitutional Amendment—Directs the President to forecast the gross national product for each fiscal year and to ensure that the total expenditures proposed in the budget submitted to Congress for each fiscal year do not exceed 20 percent of such forecast.

H.J. Res. 1043. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1044. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1045. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1046. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1047. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1048. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1049. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1050. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1051. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1052. June 29, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1053. June 29, 1978. Judiciary. Constitutional Amendment—Provides for popular enactment and repeal of laws, except those with respect to declaring war and similar matters. Requires a petition signed by a number of persons equalling at least three percent of the total number of persons voting in the last Presidential election both in each of at least ten States and nationwide to place such an issue on the ballot and a nationwide majority of vote cast to pass it.

H.J. Res. 1054. July 10, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 1055. July 11, 1978. Post Office and Civil Service. Authorizes and requests the President to designate November 30, 1978, as "National Postal Workers' Recognition Day."

H.J. Res. 1056. July 11, 1978. Post Office and Civil Service. Designates May 1978 as "Family Camping Month."

H.J. Res. 1057. July 11, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1058. July 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 1059. July 12, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "Children's Day."

H.J. Res. 1060. July 12, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the Sunday preceding the fourth Thursday in November of each year as "National Family Week."

H.J. Res. 1061. July 13, 1978. Judiciary. Constitutional Amendment—Prohibts deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 1062. July 13, 1978. Post Office and Civil Service. Designates Sunday, September 17, 1978, as "National Family Day."

H.J. Res. 1063. July 14, 1978. Judiciary. Extends the deadline for ratification of the equal rights amendment.

H. J. Res. 1064. July 17, 1978. Judiciary. Extends the deadline for ratification of the equal rights amendment.

H.J. Res. 1065. July 17, 1978. Judiciary. Extends the deadline for ratification of the equal rights amendment.

H.J. Res. 1066. July 17, 1978. Judiciary. Constitutional Amendment—Prohibits discrimination based on sex by the United States or by any State.

H.J. Res. 1067. July 17, 1978. Judiciary. Extends to 14 years the deadline for ratification of the equal rights amendment.

Provides that any legislature ratifying such amendment within the first seven years of such 14 year period may rescind such ratification before adoption of the amendment.

H.J. Res. 1068. July 18, 1978. International Relations. States that until Anatoly Shcharansky and Aleksandr Ginsburg are freed and the Soviet Union meets its commitment under the Helsinki Final Act there shall be no trade or cultural and educational exchanges between the United States and the Soviet Union.

H J. Res. 1069. July 20, 1978. Judiciary. Constitutional Amendment—Directs Congress to assure that the total outlays of the Government during any fiscal year (except for repayment of debt) do not exceed 33⅓ percent of the average national income for the three prior calendar years.

H.J. Res. 1070. July 20, 1978. Public Works and Transportation. Directs the Administrator of the General Services Administration to submit to Congress a study on the restoration of the Pension Building in the District of Columbia to house the Museum of the Building Arts.

H.J. Res. 1071. July 20, 1978. Interstate and Foreign Commerce. Requires the Federal Communications Commission, in interpreting or implementing policy governing the nationwide telecommunications network, to consider specified matters affecting rural users of telecommunications services.

Directs Congress: (1) to initiate studies to determine the potential economic impact of competition in the telecommunications industry; and (2) to establish a national telecommunications policy which permits competition in such industry and assures that residents of less densely populated rural areas continue to receive telecommunications services on a par with urban areas.

H.J. Res. 1072. July 20, 1978. Post Office and Civil Service. Designates the John Philip Sousa composition known as "The Stars and Stripes Forever" as the national march of the United States.

H.J. Res. 1073. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1074. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1075. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1076. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1077. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1078. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1079. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1080. July 24, 1978. Post Office

and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1081. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1082. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1978, as "National Guard Day."

H.J. Res. 1083. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of June of 1979 as "National Veterans' Hospital Week."

H.J. Res. 1084. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the second Saturday of August of each year as "National Volunteer Firefighters' Day."

H.J. Res. 1085. July 24, 1978. Post Office and Civil Service. Authorizes and requests the President to designate July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

H.J. Res. 1086. July 25, 1978. Judiciary. Constitutional Amendment—Prohibits a justice of the Supreme Court or a judge inferior court established by Congress from holding office for more than ten years after: (1) taking office; (2) the Senate last consented to his continuance in office; or (3) the ratification of this amendment, whichever last occurs, unless the President nominates and the Senate consents to a continuance in office.

H.J. Res. 1087. July 25, 1978. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 1088. July 26, 1978. Appropriations. Authorizes the Secretary of the Treasury to guarantee payment of principal and interest on loans in accordance with the provisions of the New York City Loan Guarantee Act of 1978 in specified amounts.

Appropriates amounts as necessary for payments of financial obligations guaranteed pursuant to the New York City Loan Guarantee Act of 1978.

H.J. Res. 1089. July 27, 1978. Constitutional Amendment—Provides that Members of the House of Representatives shall serve for terms of four years and that such Members may not serve more than three consecutive terms.

H.J. Res. 1090. July 31, 1978. Public Works and Transportation. Directs the Civil Aeronautics Board to immediately dissolve the Airlines Mutual Aid Pact. Directs the Board to study the collective bargaining process within the airline industry and to make recommendations to Congress within six months on methods of alleviating the occurrence of protracted airline strikes.

H.J. Res. 1091. July 31, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on November 11, 1978, as "Vietnam Veterans Week."

H.J. Res. 1092. July 31, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of June 1979 as "National Veterans' Hospital Week."

H.J. Res. 1093. July 31, 1978. Agriculture. Amends the Agricultural Act of 1949 to raise the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of their respective parity prices.

Reduces the price levels at which producers participating in the wheat and feed grains storage program: (1) may redeem and market commodities securing price support loans; and (2) must repay such loans.

H.J. Res. 1094. August 1, 1978. Post Office and Civil Service. Authorizes and requests the President to designate November 30, 1978, as "National Postal Workers' Recognition Day."

H.J. Res. 1095. August 1, 1978. Post Office and Civil Service. Authorizes and requests the President to designate November 30, 1978, as "National Postal Workers' Recognition Day."

H.J. Res. 1096. August 1, 1978. Post Office and Civil Service. Authorizes and requests the President to designate November 30, 1978, as "National Postal Workers' Recognition Day."

H.J. Res. 1097. August 1, 1978. International Relations. Declares that President Brezhnev of the Soviet Socialist Republics should authorize the release of Doctor Semyon Gluzman from prison and allow him and his family to emigrate to Israel.

H.J. Res. 1098. August 1, 1978. International Relations. Declares that President Brezhnev of the Soviet Socialist Republics should authorize the release of Doctor Semyon Gluzman from prison and allow him and his family to emigrate to Israel.

H.J. Res. 1099. August 1, 1978. International Relations. Declares that President Brezhnev of the Soviet Socialist Republics should authorize the release of Doctor Semyon Gluzman from prison and allow him and his family to emigrate to Israel.

H.J. Res. 1100. August 1, 1978. Public Works and Transportation. Directs the Civil Aeronautics Board to immediately dissolve the Airlines Mutual Aid Pact. Directs the Board to study the collective bargaining process within the airline industry and to make recommendations to Congress within six months on methods of alleviating the occurrence of protracted airline strikes.

H.J. Res. 1101. August 1, 1978. Judiciary. Constitutional Amendment — Provides for enactment and repeal of laws by popular vote. Requires a petition signed by at least eight percent of the whole number of people in each of at least three-fourths of the States to place such an issue on the ballot and a majority vote in each of at least three-fourths of the States to pass it.

H.J. Res. 1102. August 1, 1979. Judiciary. Constitutional Amendment—Requires that justices of the Supreme Court and judges of inferior Federal courts be reconfirmed by the Senate every eight years.

H.J. Res. 1103. August 2, 1978. Judiciary. Constitutional Amendment—Prohibits discrimination based on sex by the United States or any State.

H.J. Res. 1104. August 2, 1978. Post Office and Civil Service. Authorizes and requests the President to designate January 28, 1979, as "Day of Marti, Apostle of Liberty."

H.J. Res. 1105. August 3, 1978. Judiciary. Constitutional Amendment—Prohibits a justice of the Supreme Court or a judge of any inferior court established by Congress from holding office for more than ten years after: (1) taking office; (2) the Senate last consented to his continuance in office; or (3) the ratification of this amendment, whichever last occurs, unless the President nominates and the Senate consents to a continuance in office.

H.J. Res. 1106. August 7, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the month of November, 1978, as "National REACT Month" (radio emergency associated citizens teams).

H.J. Res. 1107. August 7, 1978. Post Office and Civil Service. Designates April 27, 28, and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust."

H.J. Res. 1108. August 9, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the last Friday of each year as "National Arbor Day."

H.J. Res. 1109. August 9, 1978. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 1110. August 9, 1978. Judiciary. Makes the Congressional determination that a simple majority of each body of a State legislature is sufficient for the ratification of proposed Constitutional amendments for which the mode of ratification is by three-fourths of the State legislatures.

H.J. Res. 1111. August 10, 1978. Agriculture. Amends the Agricultural Act of 1949 to raise the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of their their respective parity prices.

Reduces the price levels at which producers participating in the wheat and feed grains storage program: (1) may redeem and market commodities securing price support loans; and (2) must repay such loans.

H.J. Res. 1112. August 10, 1978. International Relations. Condemns President-for-Life Francisco Macias Nguema of Equatorial Guinea.

H.J. Res. 1113. August 10, 1978. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to prepare and submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing recommendations and proposals for means of improving the delivery of health care and related services to senior veterans.

H.J. Res. 1114. August 10, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the month of March, 1979, as "Youth Art Month."

H.J. Res. 1115. August 10, 1978. Post Office and Civil Service. Designates December 26, 1979, as "National Schoolbus Driver Day."

H.J. Res. 1116. August 10, 1978. Judiciary. Constitutional Amendment—Provides that total expenditures shall not exceed total revenues for any fiscal year. Authorizes suspension of such prohibition in specified circumstances. Directs the amount of any annual deficit be considered an expenditure of the United States in the following fiscal year. Authorizes alternative methods of accounting for such deficits. Directs the Board of Governors of the Federal Reserve System to reduce the national debt through open-market operations.

H.J. Res. 1117. August 16, 1978. Post Office and Civil Service. Authorizes and requests the President to designate January 28, 1979, as "Day of Marti, Apostle of Liberty."

H.J. Res. 1118. August 16, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of Thanksgiving Day of each year as "National Farmworkers Week."

H.J. Res. 1119. August 16, 1978. Agriculture. Amends the Agricultural Act of 1949 to raise the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of their respective parity prices.

Reduces the price levels at which producers participating in the wheat and feed grains storage program: (1) may redeem and market commodities securing price support loans; and (2) must repay such loans.

H.J. Res. 1120. August 16, 1978. Public Works and Transportation. Directs the Civil Aeronautics Board to immediately dissolve the Airlines Mutual Aid Pact. Directs the Board to study the collective bargaining process within the airline industry and to make recommendations to Congress within six months on methods of alleviating the occurrence of protracted airline strikes.

H.J. Res. 1121. August 16, 1978. Public Works and Transportation. Directs the Civil Aeronautics Board to immediately dissolve the Airlines Mutual Aid Pact. Directs the Board to study the collective bargaining process within the airline industry and to make recommendations to Congress within six months on methods of alleviating the occurrence of protracted airline strikes.

H.J. Res. 1122. August 16, 1978. Public Works and Transportation. Directs the Civil Aeronautics Board to immediately dissolve the Airlines Mutual Aid Pact. Directs the Board to study the collective bargaining process within the airline industry and to make recommendations to Congress within six months on methods of alleviating the occurrence of protracted airline strikes.

H.J. Res. 1123. August 17, 1978. Judiciary.

Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res 1124. August 17, 1978. Judiciary. Constitutional Amendment—Requires any change in the U.S. tax law to increase Federal revenue to be approved by not less than two-thirds of all Members of Congress.

H.J. Res. 1125. August 17, 1978. Post Office and Civil Service. Authorizes and requests the President to designate September 3, 1978, as "Working Mothers' Day."

H.J. Res. 1126. August 17, 1978. Post Office and Civil Service. Authorizes and requests the President to designate September 3, 1978, as "Working Mothers' Day."

H.J. Res. 1127. August 17, 1978. Government operations. Requires Federal departments and agencies which make various conditional grants to State and local governments to conduct and submit to Congress a study on consolidating such grants under a single grant program.

H.J. Res. 1128. August 17, 1978 Government Operations. Requires Federal departments and agencies which make various conditional grants to State and local governments to conduct and submit to Congress a study on consolidating such grants under a single grant program.

H.J. Res. 1129. September 6, 1978. Post Office and Civil Service.

Designates the square dance as the national folk dance of the United States.

H.J. Res. 1130. September 6, 1978. Agriculture.

Amends the Agricultural Act of 1949 to raise the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of their respective parity prices.

Reduces the price levels at which producers participating in the wheat and feed grains storage program: (1) may redeem and market commodities securing price support loans; and (2) must repay such loans.

H.J. Res. 1131. September 7, 1978. Post Office and Civil Service.

Authorizes and requests the President to designate November 30, 1978, as "National Postal Workers' Recognition Day."

H.J. Res. 1132. September 8, 1978. Post Office and Civil Service.

Authorizes and requests the President to designate the month of March 1979, as "Youth Art Month."

H.J. Res. 1133. September 11, 1978. Agriculture.

Amends the Agricultural Act of 1949 to raise the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of their respective parity prices.

Reduces the price levels at which producers participating in the wheat and feed grains storage program may redeem and market commodities securing price support loans; and must repay such loans.

H.J. Res. 1134. September 11, 1978. Public Works and Transportation. Changes the name of Copan Dam and Lake in the States of Oklahoma and Kansas to Copan Dam and Lake of the Delawares in honor of the Delaware Indians.

H.J. Res. 1135. September 11, 1978. Public Works and Transportation. Changes the name of Oologah Lake in the State of Oklahoma to Will Rogers Lake.

H.J. Res. 1136. September 12, 1978. Judiciary. Constitutional Amendment—Providing that total expenditures shall not exceed total revenues for any fiscal year. Authorizes suspension of such prohibition in specified circumstances. Directs the amount of any annual deficit to be considered an expenditure of the United States in the following fiscal year. Authorizes alternative methods of accounting for such deficits. Directs the Board of Governors of the Federal Reserve System to reduce the national debt through open-market operations.

H.J. Res. 1137. September 14, 1978. Judiciary. Constitutional Amendment—Prohibits total appropriations from exceeding estimated revenues for a fiscal year, except in times of war or national emergency.

H.J. Res. 1138. September 15, 1978. International Relations. Authorizes the appointment of Members of Congress to meet with representatives of the Japanese Diet for discussion of common problems in the interests of relations between the United States and Japan.

H.J. Res. 1139. September 19, 1978. Appropriations. Authorizes appropriations, as necessary, for certain on-going projects on activities for fiscal year 1979, in the Departments of Labor; Health, Education, and Welfare; and Defense Appropriations Acts.

H.J. Res. 1140. September 20, 1978. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 to extend the termination date for such Bank.

H.J. Res. 1141. September 21, 1978. International Relations. Directs the President to: (1) convene an International Conference on Communication and Information by January 1, 1982; (2) take steps to prepare for and host such conference; and (3) report to Congress the recommendations of such conference.

H.J. Res. 1142. September 21, 1978. Public Works and Transporation. Directs the Administrator of the General Services Administration to submit to Congress a study on the restoration of the Pension Building in the District of Columbia to house the Museum of the Building Arts.

H.J. Res. 1143. September 21, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate September 8 of each year as "National Cancer Day."

H.J. Res. 1144. September 25, 1978. Post Office and Civil Service. Designates October 4, 1978, as "CB Radio Recognition Day."

H.J. Res. 1145. September 25, 1978. Banking and Urban Affairs. Amends the Export-Import Bank Act by extending the Export-Import Bank's authority to operate until June 30, 1979.

H.J. Res. 1146. September 28, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the month of November 1978, as "National REACT Month" (radio emergency associated citizens teams).

H.J. Res. 1147. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1148. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1149. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1150. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1151. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1152. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1153. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1154. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1155. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H.J. Res. 1156. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

H J. Res. 1157. October 4, 1978. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 by extending the authority of the Export-Import Bank until June 30, 1979.

H.J. Res. 1158. October 4, 1978. Judiciary. Constitutional Amendment—Provides that total expenditures shall not exceed total revenues for any fiscal year. Authorizes suspension of such prohibition in specified circumstances. Directs the amount of any annual deficit be considered as expenditure of the United States in the following fiscal year. Authorizes alternative methods of accounting for such deficits. Directs the Board of Governors of the Federal Reserve System to reduce the national debt through open-market operations.

H.J. Res. 1159. October 4, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the first Sunday in June of each year as National Shut-In Day.

H. Con. Res. 640. June 8, 1978. International Relations. Declares that the Congress condemn the violations of human rights by the Government of the Republic of Uganda and urges the President to take certain actions with respect to such violations.

H. Con. Res. 641. June 9, 1978. International Relations. States that the Congress of the United States calls upon the Rumanian Government to: (1) restore legal status and full religious freedom to the Byzantine Rite Catholic Church; (2) restore full religious freedom to the Latin Rite Catholic Church and all other religious communities; and (3) permit the Holy See to appoint bishops in both the Latin Rite and Byzantine Rite Catholic Churches.

H. Con. Res. 642. June 13, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 643. June 15, 1978. Ways and Means. Urges the prompt appointment of the National Commission on Social Security established by the Social Security Amendments of 1977. Resolves that the Congress direct such Commission to study the feasibility of converting the present old-age, survivors and disability insurance programs of the Social Security Act into self-renewing investment funds which will fulfill the purpose of the present program with a substantial reduction in taxes.

H. Con. Res. 644. June 15, 1978. Government Operations. States that each Federal agency should periodically review and revise all its lists of persons to whom printed materials are mailed by such agency in order to insure that such lists contain only the names of persons who are still intertsted in receiving such materials.

H. Con. Res. 645. June 16, 1978. Post Office and Civil Service. Declares that the Congress denounces the planned America Nazi Party march in Skokie, Illinois.

H. Con. Res. 646. June 21, 1978. International Relations. Declares it the sense of Con-

gress that the President should direct the Ambassador to the United Nations to use all means at his disposal to obtain action by the General Assembly removing the observer status of the Palestine Liberation Organization at the United Nations.

H. Con. Res. 647. June 21, 1978. Interstate and Foreign Commerce. Expresses Congressional objections to proposed Department of Energy amendments which would increase entitlements paid to refiners of foreign crude oil by domestic refiners.

H. Con. Res. 648. June 22, 1978. Post Office and Civil Service. Declares that the Congress denounces the planned American Nazi Party march in Skokie, Illinois.

H. Con. Res. 649. June 22, 1978. Post Office and Civil Service. Declares that the Congress denounces the planned American Nazi Party march in Skokie, Illinois.

H. Con. Res. 650. June 22, 1978. Post Office and Civil Service. Declares that the Congress denounces the planned American Nazi Party march in Skokie, Illinois.

H. Con. Res. 651. June 22, 1978. International Relations; Ways and Means. Requests the President to convene a White House Conference on Foreign Trade to (1) examine and recommend methods to increase trade, (2) to evaluate the recommendations made by the President's Task Force on Export Policy, and (3) assess the impact on the United States of the anticipated trade agreement of the Multilateral Trade Negotiations.

H. Con. Res. 652. June 26, 1978. Ways and Means. Expresses the sense of the Congress that the President, in carrying out his duties under the Trade Act, should seek the adoption and application of trade agreements which include environmental and safety and health standards among the international fair labor standards to be adopted.

H. Con. Res. 653. June 28, 1978. Makes corrections in the enrollment of H.R. 12637 (North Pacific Fisheries Act).

H. Con. Res. 654. June 28, 1978. Provides for the adjournment of the House of Representatives from June 29 to July 10, 1978.

H. Con. Res. 655. June 28, 1978. International Relations. States that the Congress of the United States calls upon the Rumanian Government to: (1) restore legal status and full religious freedom to the Byzantine Rite Catholic Church; (2) restore full religious freedom to the Latin Rite Catholic Church and all other religious communities; and (3) permit the Holy See to appoint bishops in both the Latin Rite and Byzantine Rite Catholic Churches.

H. Con. Res. 656. June 29, 1978. Judiciary. Expresses the sense of the Congress that the President should be continually committed to assuring that Federal regulations are issued expeditiously, written clearly, and designed to efficiently meet the goals of the programs they are designed to regulate.

H. Con. Res. 657. July 10, 1978. International Relations. Expresses the Congress' condemnation of the trial of Anatoly Scharansky and calls upon the Soviet Union to comply with the Helsinki agreement by permitting Mr. Scharansky to emigrate to Israel.

H. Con. Res. 658. July 11, 1978. Interstate and Foreign Commerce. Requires the Department of Energy to report on the energy conservation impact of all legislation, rules, and orders that will substantially increase fuel consumption in the United States before such actions take effect.

H. Con. Res. 659. July 11, 1978. International Relations. Expresses the sense of the Congress that the Soviet Government should terminate its unjust trials and incarceration of members and affiliates of the Soviet Helsinki Groups and allow these persons to pursue their lawful activities on behalf of basic human rights.

Urges the President to express to the Soviet Government the adverse effects such trials will have on issues of economic, strategic, and other importance between the United States and the Soviet Union.

H. Con. Res. 660. July 11, 1978. International Relations. Expresses the sense of the Congress that the Soviet Government should terminate its unjust trials and incarceration of members and affiliates of the Soviet Helsinki Groups and allow these persons to pursue their lawful activities on behalf of basic human rights.

Urges the President to express to the Soviet Government the adverse effects such trials will have on issues of economic, strategic, and other importance between the United States and the Soviet Union.

H. Con. Res. 661. July 11, 1978. International Relations. Declares it the sense of the House of Representatives that the President undertake discussions with the other industrialized countries with a view toward establishing, in cooperation with the member countries of the Organization of Petroleum Exporting Countries (OPEC) which are in current account surplus, a major capital pool for productive investment in the developing countries.

H. Con. Res. 662. July 11, 1978. International Relations. Declares it the sense of the House of Representatives that (1) the President recognize the severity of the international monetary crisis; (2) the President undertake discussion with the other industrialized countries to develop a common approach to this crisis; and (3) the approach should focus on a long-term solution to the crisis caused by exclusive reliance on the dollar as the key international monetary reserve asset.

H. Con. Res. 663. July 12, 1978. International Relations. Expresses the sense of the Congress that the Soviet Union should terminate its incarceration and trials of members of the Soviet Helsinki Groups.

Urges the President to express to the Government of the Soviet Union the effect of such actions may have upon the economic, strategic, and other matters of mutual importance between the United States and the Soviet Union.

H. Con. Res. 664. July 12, 1978. International Relations: Ways and Means. Requests the President to convene a White House Conference on Foreign Trade to (1) examine and recommend methods to increase trade, (2) evaluate the recommendations made by the President's Task Force on Export Policy, and (3) assess the impact on the United States of the anticipated trade agreement of the Multilateral Trade Negotiations.

H. Con. Res. 665. July 12, 1978. Ways and Means. Urges the prompt appointment of the National Commission on Social Security established by the Social Security Amendments of 1977. Resolves that the Congress request such Commission to study the feasibility of converting the present old-age, survivors, and disability insurance programs of the Social Security Act into self-renewing investment funds which will fulfill the purpose of the present program with a substantial reduction in taxes.

H. Con. Res. 666. July 13, 1978. Post Office and Civil Service. Declares that decisions by the Civil Service Commission on applications for civil service retirement benefits should be made within 21 days.

H. Con. Res. 667. July 17, 1978. International Relations. Expresses the sense of the Congress that the President should use his influence to induce the Soviet Union to withdraw all troops occupying Czechoslovakia by December 1978, and to reevaluate sales and export licenses to the Soviet Union and participating Warsaw Pact countries if such withdrawal is not effectuated.

H. Con. Res. 668. July 19, 1978. Interior and Insular Affairs. Declares that the Oahe unit, James division, Missouri River Basin project, South Dakota is a worthwhile project but that the authorized plan needs modification. Welcomes a modification plan from the State of South Dakota. Continues authorization for such projects.

H. Con. Res. 669. July 20, 1978. International Relations. Expresses the sense of the Congress that the Soviet Government should terminate its unjust trials and incarceration of members and affiliates of the Soviet Helsinki Groups and allow these persons to pursue their lawful activities on behalf of basic human rights.

Urges the President to express to the Soviet Government the adverse effects such trials will have on issues of economic, strategic, and other importance between the United States and the Soviet Union.

H. Con. Res. 670. July 21, 1978. International Relations. Declares it the sense of the Congress that the President will take steps to: (1) call upon the Soviet Union to resurrect the Ukranian Orthodox and Catholic Churches; (2) contact the officials of the Soviet Union to secure freedom of worship in the Soviet Union and Eastern Europe; and (3) raise the question of Stalin's liquidation of such churches in the United Nations.

H. Con. Res. 671. July 26, 1978. Interior and Insular Affairs. Expresses the sense of Congress that the Environmental Protection Agency, the Nuclear Regulatory Commission, and the Federal courts should expedite all remaining administrative and judicial proceedings with respect to the Seabrook Nuclear Station project (New Hampshire), and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures.

H. Con. Res. 672. July 27, 1978. International Relations. Expresses the sense of the Congress that the President should use his influence to induce the Soviet Union to withdraw all troops occupying Czechoslovakia by December 1978, and to reevaluate sales and export licenses to the Soviet Union and participating Warsaw Pact countries if such withdrawal is not effectuated.

H. Con. Res. 673. July 28, 1978. International Relations; Post Office and Civil Service. Declares it the sense of the Congress (1) that the President should express to the Soviet Union the disapproval of the American people concerning the nondelivery of mail to persons residing within the Soviet Union and (2) that the United States should bring to the attention of the next Congress of the Universal Postal Union the failure of the Soviet Union to comply with certain articles of the Universal Postal Union.

H. Con. Res. 674. July 28, 1978. International Relations; Ways and Means. Requests the President to convene a White House Conference on Foreign Trade to (1) examine and recommend methods to increase trade, (2) evaluate the recommendations made by the President's Task Force on Export Policy, and (3) asses the impact on the United States of the anticipated trade agreement of the Multilateral Trade Negotiations.

H. Con. Res. 675. August 1, 1978. International Relations. Expresses the disapproval of the Congress of the denial by the Government of the Soviet Union of the right to emigrate and the harassment and imprisonment of individuals, including Mrs. Ida Nudel, who desire to emigrate.

H. Con. Res. 676. August 1, 1978. International Relations. Expresses the disapproval of the Congress of the denial by the Government of the Soviet Union of the right to emigrate and the harassment and imprisonment of individuals, including Mrs. Ida Nudel, who desire to emigrate.

H. Con. Res. 677. August 2, 1978. International Relations. Expresses the sense of the Congress that the United States continue to maintain diplomatic relations with the Republic of China and continue to maintain unchanged its Mutual Defense Treaty with such country.

H. Con. Res. 678. August 2, 1978. International Relations. Expresses the sense of the Congress that the people of Lithuania, Latvia, and Estonia should be given the right of self-determination. Calls for free elections in the Baltic States, under the auspices of the United Nations.

H. Con. Res. 679. August 3, 1978. Interior and Insular Affairs; Merchant Marine and Fisheries. Prohibits commercial fishing on the Klamath and Trinity Rivers until it is determined that such fishing will not have an adverse impact on the fishery resource, the subsistence rights of the Turok, Hoopa, and Karok Indians, and on the continuance of reasonable sports fishing for salmon and steelhead trout.

H. Con. Res. 680. August 7, 1978. International Relations. Expresses the sense of the Congress that the President should use his influence to induce the Soviet Union to withdraw all troops occupying Czechoslovakia by December 1978, and to reevaluate sales and export licenses to the Soviet Union and participating Warsaw Pact countries if such withdrawal is not effectuated.

H. Con. Res. 681. August 7, 1978. International Relations. Urges the President to take the necessary actions to obtain the repayment in gold bars of the remainder of the Soviet Union's World War II debt to the United States.

H. Con. Res. 682. August 8, 1978. Judiciary. Expresses the sense of the Congress that the Attorney General should parole into the United States the 15,000 Cambodian refugees currently in Thailand

H. Con. Res. 683. August 8, 1978. Sets forth the congressional budget for the United States Government for fiscal year 1979. Specifies the appropriate level of new budget authorities and the estimated budget outlays for each major functional category.

H. Con. Res. 684. August 8, 1978. Interior and Insular Affairs. Expresses the sense of Congress that the Environmental Protection Agency, the Nuclear Regulatory Commission, and the Federal courts should expedite all remaining administrative and judicial proceedings with respect to the Seabrook Nuclear Station project (New Hampshire), and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures.

H. Con. Res. 685. August 9, 1978. Interior and Insular Affairs. Expresses the sense of Congress that the Environmental Protection Agency, the Nuclear Regulatory Commission, and the Federal courts should expedite all remaining administrative and judicial proceedings with respect to the Seabrook Nuclear Station project (New Hampshire), and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures.

H. Con. Res. 686. August 9, 1978. Interior and Insular Affairs. Expresses the sense of Congress that the Environmental Protection Agency, the Nuclear Regulatory Commission, and the Federal courts should expedite all remaining administrative and judicial proceedings with respect to the Seabrook Nuclear Station project (New Hampshire), and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures.

H. Con. Res. 687. August 10, 1978. Makes a correction in the enrollment of H.R. 10732.

H. Con. Res. 688. August 10, 1978. Interior and Insular Affairs. Expresses the sense of Congress that the Environmental Protection Agency, the Nuclear Regulatory Commission, and the Federal Courts should expedite all remaining administrative and judicial proceedings with respect the Seabrook Nuclear Station project (New Hampshire), and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures.

H. Con. Res. 689. August 10, 1978. International Relations. Requests the President to submit a report concerning the actions of United States Armed Forces in Zaire in May and June 1978 to the Speaker of the House and the President pro tempore of the Senate as required by the War Powers Resolution of 1973.

H. Con. Res. 690. August 10, 1978. International Relations. Declares it the sense of the Congress that the President will take steps to: (1) call upon the Soviet Union to resurrect the Ukranian Orthodox and Catholic Churches; (2) contact the officials of the Soviet Union to secure freedom of worship in the Soviet Union and Eastern Europe; and (3) raise the question of Stalin's liquidation of such churches in the United Nations.

H. Con. Res. 691. August 10, 1978. International Relations. Expresses the disapproval of the Congress of the denial by the Government of the Soviet Union of the right to emigrate and the harassment and imprisonment of individuals, including Mrs. Ida Nudel, who desire to emigrate.

H. Con. Res. 692. August 11, 1978. International Relations; Ways and Means. Requests the President to convene a White House Conference on Foreign Trade to (1) examine and recommend methods to increase trade, (2) evaluate the recommendations made by the President's Task Force on Export Policy, and (3) assess the impact on the United States of the anticipated trade agreement of the Multilateral Trade Negotiations.

H. Con. Res. 693. August 14, 1978. Interior and Insular Affairs. Expresses the sense of Congress that the Environmental Protection Agency, the Nuclear Regulatory Commission, and the Federal courts should expedite all remaining administrative and judicial proceedings with respect to the Seabrook Nuclear Station project (New Hampshire), and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures.

H. Con. Res. 694. August 14, 1978. International Relations. Expresses the sense of the Congress that the President should use his influence to induce the Soviet Union to withdraw all troops occupying Czechoslovakia by December 1978, and to reevaluate sales and export licenses to the Soviet Union and participating Warsaw Pact countries if such withdrawal is not effectuated.

H. Con. Res. 695. August 15, 1978. Budget. Sets forth the congressional budget for the United States Government for fiscal year 1979. Specifies the appropriate level of new budget authorities and the estimated budget outlays for each major functional category.

H. Con. Res. 696. August 16, 1978. Directs the adjournment of the House.

H. Con. Res. 697. August 16, 1978. Interior and Insular Affairs. Expresses the sense of Congress that the Environmental Protection Agency, the Nuclear Regulatory Commission, and the Federal courts should expedite all remaining administrative and judicial proceedings with respect to the Seabrook Nuclear Station project (New Hampshire), and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve their efficiency.

H. Con. Res. 698. August 17, 1978. International Relations.

Expresses the sense of the Congress that the President should use his influence to induce the Soviet Union to withdraw all troops occupying Czechoslovakia by December 1978, and to reevaluate sales and export licenses to the Soviet Union and participating Warsaw Pact countries if such withdrawal is not effectuated.

H. Con. Res. 699. August 17, 1978. International Relations.

Declares the sense of the Congress that the President and the Secretary of State should take all necessary steps to bring the Baltic States question before the United Nations and to urge the United Nations to request the Soviet Union to withdraw all Russian and non-native troops, agents, colonists, and controls from the Republics of Lithuania, Latvia, and Estonia, and to permit the return of all Baltic exiles from Siberia and from prisons and labor camps in the Soviet Union.

Requires the Secretary of State to do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications.

Calls for a return of self-determination to the peoples of Lithuania, Latvia, and Estonia through free elections conducted under the auspices of the United Nations.

H. Con. Res. 700. August 17, 1978. International Relations.

Declares the sense of Congress that the President shall take steps to: (1) call upon the Soviet Union to permit the resurrection of the Ukrainian Orthodox and Catholic Churches; (2) contact the officials of the Soviet Union to secure freedom of worship in the Soviet Union and Eastern Europe; and (3) raise the question of Stalin's liquidation of such churches in the United Nations.

H. Con. Res. 701. August 17, 1978. Judiciary. Expresses the sense of the Congress that the Attorney General should parole into the United States the 15,000 Cambodian refugees.

H. Con. Res. 702. August 17, 1978. Judiciary. Expresses the sense of the Congress that the Attorney General should parole into the United States the 15,000 Cambodian Refugees.

H. Con. Res. 703. August 17, 1978. Judiciary. Expresses the sense of the Congress that the Attorney General should parole into the United States the 15,000 Cambodian Refugees.

H. Con. Res. 704. August 17, 1978. Ways and Means. Urges the prompt appointment of the National Commission on Social Security established by the Social Security Amendments of 1977. Resolves that the Congress request such Commission to study the feasibility of converting the present old-age, survivors and disability insurance programs of the Social Security Act into self-renewing investment funds which will fulfill the purpose of the present program with a substantial reduction in taxes.

H. Con. Res. 705. September 7, 1978. Education and Labor; Post Office and Civil Service. Expresses the sense of Congress that compliance with the provisions of Title VIII of the Civil Rights Act of 1964 (prohibiting employment discrimination) or any other law relating to equal employment opportunity should not result in positions being excepted from the competitive service in the Federal civil service and should be accomplished by means which do not adjust Federal civil service standards.

H. Con. Res. 706. September 7, 1978. Judiciary. Expresses the sense of the Congress that the Attorney General should parole into the United States the Cambodia refugees currently in Thailand.

H. Con. Res. 707. September 7, 1978. International Relations. Expresses the sense of Congress that: (1) the United Nations should consider the placement of a peacekeeping force in Lebanon; and (2) Syria should issue a declaration of its intent to withdraw its troops upon placement of an United Nations peacemaking force in Lebanon.

H. Con. Res. 708. September 8, 1978. Armed Services. Expresses the sense of Congress that

the President establish a commission on defensive weapons systems for the purpose of comparing the Multiple Aim Point System (MAP) with alternative defensive weapons systems.

H. Con. Res. 709. September 11, 1978. International Relations; Ways and Means. Requests the President to convene a White House Conference on Foreign Trade to (1) examine and recommend methods to increase trade, (2) evaluate the recommendations made by the President's Task Force on Export Policy, and (3) assess the impact on the United States of the anticipated trade agreement of the Multilateral Trade Negotiations.

H. Con. Res. 710. September 11, 1978. Education and Labor. Expresses the support of Congress of the President's Commission on Pension Policy in conducting a comprehensive review of retirement income, survivor benefit, and disability benefit programs in the United States.

H. Con. Res. 711. September 13, 1978. Ways and Means. Declares that it is the sense of Congress that the "Proposed Revenue Procedure on Private Tax-Exempt Schools" should not be adopted by the Internal Revenue Service.

H. Con. Res. 712. September 14, 1978. International Relations. Declares the sense of Congress that the President shall take steps to: (1) call upon the Soviet Union to permit the resurrection of the Ukrainian Orthodox and Catholic Churches; (2) contact the officials of the Soviet Union to secure freedom of worship in the Soviet Union and Eastern Europe; and (3) raise the question of Stalin's liquidation of such churches in the United Nations.

H. Con. Res. 713. September 18, 1978. Authorizes a joint session of Congress on Monday, September 18, 1978, to receive a message from the President.

H. Con. Res. 714. September 19, 1978. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that standards should be developed in the motion picture and broadcasting industries to prevent the information of ethnic, racial, and religious groups in films and programs which portray such groups.

H. Con. Res. 715. September 19, 1978. International Relations. Commends President Carter, President Sadat, and Prime Minister Begin for their efforts to promote peace in the Middle East. Expresses the sense of Congress that the agreements reached at the Camp David Summit: (1) provide the basis for peace treaties among the parties to the Arab-Israeli conflict; and (2) the United States should continue to pursue further direct peace talks among parties in the Middle East.

H. Con. Res. 716. September 19, 1978. International Relations. Expresses the sense of the Congress that the peoples of Lithuania, Latvia, and Estonia should be given the right of self-determination. Calls for free elections in the Baltic States, under the auspices of the United Nations.

H. Con. Res. 717. September 19, 1978. Judiciary. Expresses the sense of the Congress that the Attorney General should parole into the United States the Cambodian refugees currently in Thailand.

H. Con. Res. 718. September 20, 1978. House Administration. Establishes the Claude Pepper Senior Citizen Congressional Intern program which authorizes each Member of Congress to hire each year one senior citizen intern to serve within the District of Columbia for one of two two-weeks periods.

H. Con. Res. 719. September 20, 1978. International Relations. Commends President Carter, President Sadat, and Prime Minister Begin for their efforts to promote peace in the Middle East. Expresses the sense of Congress that the agreements reached at the Camp David Summit: (1) provide the basis for peace treaties among the parties to the Arab-Israeli conflict; and (2) the United States should continue to pursue further direct peace talks among parties in the Middle East.

H. Con Res. 720. September 20, 1978. International Relations. Expresses the concern of Congress for the safety of the residents of the South African black community known as "Crossroads." Urges the South African Government: (1) to reconsider its plan to destroy Crossroads; and (2) to recognize the rights of the residents to continue to live in Crossroads.

H. Con. Res. 721. September 20, 1978. International Relations. Expresses the concern of Congress for the safety of the residents of the South African black community known as "Crossroads". Urges the South African Government: (1) to reconsider its plan to destroy Crossroads; and (2) to recognize the right of the residents to continue to live in Crossroads.

H. Con. Res. 722. September 20, 1978. International Relations. Expresses the concern of Congress for the safety of the residents of the South African black community known as "Crossroads." Urges the South African Government: (1) to reconsider its plan to destroy Crossroads; and (2) to recognize the rights of the residents to continue to live in Crossrroads.

H. Con. Res. 723. September 20, 1978. International Relations. Expresses the concern of Congress for the safety of the residents of the South African black community known as "Crossroads." Urges the South African Government: (1) to reconsider its plan to destroy Crossroads; and (2) to recognize the rights of the residents to continue to live in Crossroads.

H. Con. Res. 724. September 26, 1978. Ways and Means. Expresses Congressional disapproval of the proposed Internal Revenue Service procedure relating to private tax-exempt schools.

H. Con. Res. 725. September 28, 1978. Makes technical corrections in the enrollment of H.R. 8149.

H. Con. Res. 726. September 28, 1978. Armed Services. Declares it the sense of Congress that, in selecting a site to be used as a launching base for the MX intercontinental missile, the Secretary of Defense should exempt from consideration areas the siting of such a missile would result in the destruction of idling of productive farmranchers from their homes and land.

H. Con. Res. 727. September 29, 1978. Makes technical corrections in the enrollment of H.R. 8394.

H. Con. Res. 728. September 29, 1978. Banking, Finance and Urban Affairs. Declares that the Congress opposes the President's promulgation of wage, price, or other economic stabilization standards enforced by a direct or implied threat that compliance with such standards by unions, industries, or other private economic groups will be materially considered in the exercise of administrative discretion by federal agencies.

H. Con. Res. 729. October 4, 1978. International Relations. Expresses the sense of Congress that the settlement plan for Namibia adopted by the United Nations Security Council has the greatest potential to be a peaceful, internationally acceptable settlement.

Calls upon all Namibian political parties to support the settlement plan to facilitate the formation of an independent state.

Calls upon the Government of the Republic of South Africa to: (1) reassess its decision to reject the proposed settlement plan; and (2) seek to resolve the remaining differences with the plan for Namibian independence.

H. Con. Res. 730. October 4, 1978. Makes certain technical corrections in the enrollment of H.R. 12255.

H. Con. Res. 731. October 4, 1978. International Relations. Expresses the sense of Congress that the Helsinki monitoring groups should be recommened for nomination for the Nobel Peace Prize.

H. Con. Res. 732. October 5, 1978. Ways and Means. Declares that it is the sense of Congress that the procedure proposed by the Internal Revenue Service concerning the tax-exempt status of certain private schools should be withdrawn.

H. Con. Res. 733. October 5, 1978. House Administration. Establishes the Claude Pepper Senior Citizen Congressional Intern program which authorizes each Member of Congress to hire each year one senior citizen intern to serve within the District of Columbia for one of two two-week periods.

H. Res. 1219. June 7, 1978. Sets forth the rule for the consideration of H.R. 12933 (Appropriations for the Department of Transportation and related agencies).

H. Res. 1220. June 7, 1978. Sets forth the rule for the consideration of H.R. 12929 (Appropriations for the Departments of Labor and Health, Education, and Welfare and for related agencies).

H. Res. 1221. June 8, 1978. Sets for the rule for the consideration of H.R. 10285 (Extension of the Commodity Exchange Act).

H. Res. 1222. June 8, 1978. Sets forth the rule for the consideration of H.R. 12005 (Authorization of appropriations for the Department of Justice).

H. Res. 1223. June 8, 1978. Sets forth the rule for the consideration of H.R. 12935 (Appropriations for the legislative branch).

H. Res. 1224. June 8, 1978. Sets forth the rule for the consideration of H.R. 12928 (Appropriations for public works for water and power development and energy research).

H. Res. 1225. June 8, 1978. Sets forth the rule for the consideration of H.R. 12932 (Appropriations for the Department of the Interior).

H. Res. 1226. June 8, 1978. Sets forth the rule for the consideration of H.R. 12936 (Appropriations for the Department of Housing and Urban Development and certain independent Federal entities).

H. Res. 1227. June 8, 1978. Sets for the rule for the consideration of H.R. 12934 (Appropriations for the Department of State, Justice, and Commerce, the Judiciary, and related agencies).

H. Res. 1228. June 8, 1978. Extends the congratulations of the House of Representatives to the Washington Bullets on winning the National Basketball Association World Championships.

H. Res. 1229. June 13, 1978. Sets forth the rule for the consideration of H.R. 12927.

H. Res. 1230. June 13, 1978. Sets forth the rule for the consideration of H.R. 12932.

H. Res. 1231. June 13, 1978. International Relations; Merchant Marine and Fisheries. Expresses the sense of the House that the exchange of the Panama Canal Treaty instruments of ratification should not occur earlier than March 31, 1979, unless implementing legislation has been enacted to such exchange.

Requires specific Congressional authorization by an Act of Congress prior to any conveyance, relinquishment, or disposition of U.S. property in the Panama Canal Zone to any foreign government.

H. Res. 1232. June 13, 1978. Ways and Means. Disapproves the determination of the Secretary of the Treasury, under the Tariff Act of 1930, waiving the imposition of countervailing duties on Canadian fish.

H. Res. 1233. June 14, 1978. Sets forth the rule for the consideration of H.R. 10587.

H. Res. 1234. June 14, 1978. Sets forth the rule for the consideration of H.R. 7577.

H. Res. 1235. June 14, 1978. Sets forth the rule for the consideration of H.R. 12432.

H. Res. 1236. June 14, 1978. Sets for the rule for the consideration of H.R. 12928.

H. Res. 1237. June 14, 1978. House Administration. Authorizes funding for the further expenses of investigations and studies to be

conducted by the House Ad Hoc Committee on Energy.

H. Res. 1238. June 15, 1978. Rules. Establishes in the House of Representatives a House Select Committee on Arson to conduct investigation of arson in the United States.

H. Res. 1239. June 16, 1978. Rules. Sets forth the rule for the consideration of H.R. 12931.

H. Res. 1240. June 16, 1978. Rules. Sets forth the rules for the consideration of H.R. 3350.

H. Res. 1241. June 19, 1978. Expresses the sorrow of the House upon the death of the Honorable Clifford Allen, a Representative from the State of Tennessee.

H. Res. 1242. June 19, 1978. Government Operations. Disapproves the Reorganization Plan Numbered 3 transmitted by the President to Congress which recommends creating a Federal Emergency Management Agency to consolidated Federal emergency activities.

H. Res. 1243. June 21, 1978. Sets forth the rule for the consideration of H.R. 12536.

H. Res. 1244. June 21, 1978. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Federal Communications Commission should maximize local primary radio broadcast service and any proceeding respecting the provision of class I–A and I–B radio service. Prohibits the operation of a standard broadcast station with power in excess of 50,000 watts.

H. Res. 1245. June 21, 1978. International Relations. Declares it the sense of the House of Representatives that: (1) the United States support the refusals of United States scientists to visit the Union of Soviet Socialist Republics in protest of the conviction of Yuri Orlov; (2) the United States condemn the U.S.S.R.'s violation of the human rights of its citizens; and (3) the President direct government agencies to evaluate scientific exchanges with the U.S.S.R. until the human rights provisions of the Helsinki Accords are fulfilled.

H. Res. 1246. June 21, 1978. Rules. Amends the Rules of the House of Representatives to repeal the requirement that all motions to suspend the rules be seconded by tellers if demanded.

H. Res. 1247. June 22, 1978. Rules. Sets forth the rules for the consideration of H.R. 12931.

H. Res. 1248. June 22, 1978. House Administration. Amends the Supplemental Appropriations Act, 1974, to increase to three the number of Lyndon Baines Johnson congressional interns which may be hired by each Member of the House of Representatives. Authorizes the payment of additional compensation to such interns from the clerk-hire allowance.

H. Res. 1249. June 26, 1978. Appoints a committee of Members of the House of Representatives and Senate to attend the funeral of the late Honorable William M. Ketchum of California.

Adjourns the House of Representatives as a mark of respect for the late Mr. Ketchum.

H. Res. 1250. June 28, 1978. Rules. Requires the House Permanent Select Committee on Intelligence to investigate all aspects of the involvement of the Central Intelligence Agency in the civil war in Angola during 1975 and 1976 including any illegal activities by the Agency in the United States with respect to such involvement in Angola.

H. Res. 1251. June 29, 1978. Elects a Representative to the House Committee on Ways and Means.

H. Res. 1252. June 29, 1978. Sets forth the rule for the consideration of H.R. 1609.

H. Res. 1253. June 29, 1978. Sets forth the rule for the consideration of H.R. 12796.

H. Res. 1254. June 29, 1978. Armed Services. Directs the Secretary of Defense to rescind that portion of the Department of Defense directive which permits deserters from military service to receive in absentia discharges.

H. Res. 1255. June 29, 1978. House Administration. Provides that where two or more Members of the House of Representatives pay the basic pay of an individual from the clerk-hire allowance of each such Member, such individual shall be considered to be on the payroll of only one such Member for purposes of determining the number of individuals employed by such Members under the clerk-hire allowance.

H. Res. 1256. June 29, 1978. House Administration. Provides that where two or more Members of the House of Representatives pay the basic pay of an individual from the clerk-hire allowance of each such Member, such individual shall be considered to be on the payroll of only one such Member for purposes of determining the number of individuals employed by such Members under the clerk-hire allowance.

H. Res. 1257. June 29, 1978. Ways and Means. Declares it is the sense of the House of Representatives that the Committee on Ways and Means should study and consider legislation to achieve the goals of recent proposals by certain economists to control inflation by providing tax benefits to employers who moderate price increases for their products and to employees who moderate wage demands.

H. Res. 1258. June 29, 1978. Agriculture. Declares it to be the sense of the House of Representatives that in any governmental reorganization, the Department of Agriculture should not be changed in any way that would diminish its ability to perform any of its vital functions.

H. Res. 1259. June 29, 1978. International Relations. Directs the Secretary of State to furnish certain information to the House of Representatives with respect to specified military equipment shipments to Chile.

H. Res. 1260. June 29, 1978. Ways and Means. Expresses the House's disapproval of the Secretary of the Treasury's proposal to waive countervailing duties on certain exported fish subsidized by the Canadian Government.

H. Res. 1261. July 11, 1978. Sets forth the rule for the consideration of H.R. 12163.

H. Res. 1262. July 11, 1978. International Relations. Expresses the sense of the House of Representatives that the Secretary of State: (1) make every effort to negotiate an agreement with Canada to preserve our mutual airshed, protect air resources, and maintain air quality; and (2) take whatever diplomatic actions necessary to reduce or eliminate any undesirable impact on both countries resulting from air pollution from any source.

H. Res. 1263. July 11, 1978. Post Office and Civil Service. Declares that the House of Representatives honors the Native Americans participating in the Longest Walk and requests the President to declare the week of July 15 through 22, 1978, as the Longest Walk Week and a week for support of Native Americans.

H. Res. 1264. July 12, 1978. Sets forth the rule for the consideration of H.R. 11392.

H. Res. 1265. July 12, 1978. Sets forth the rule for the consideration of S.J. Res. 4.

H. Res. 1266. July 12, 1978. Sets forth the rule for the consideration of H.R. 7308.

H. Res. 1267. July 13, 1978. Calls for the impeachment of Andrew Young, United States Ambassador to the United Nations.

H. Res. 1268. July 17, 1978. International Relations. Expresses the sense of the House of Representatives that the United States Olympic Committee should immediately take such measures as necessary to have the International Olympic Committee select a site for the 1980 Olympic games outside the Soviet Union.

H. Res. 1269. July 18, 1978. Armed Services. Directs the Secretary of Defense to rescind that portion of the Department of Defense directive which permits deserters from military service to receive in absentia discharges.

H. Res. 1270. July 18, 1978. House Administration. Provides that where two or more Members of the House of Representatives pay the basic pay of an individual from the clerk-hire allowances of each such Member, such individual shall be considered to be on the payroll of only one such Member for purposes of determining the number of individuals employed by such Members under the clerk-hire allowance.

H. Res. 1271. July 18, 1978. House Administration. Provides that where two or more Members of the House of Representatives pay the basic pay of an individual from the clerk-hire allowance of each such Member, such individual shall be considered to be on the payroll of only one such Member for purposes of determining the number of individuals employed by such Members under the clerk-hire allowance.

H. Res. 1272. July 18, 1978. House Administration. Provides that where two or more Members of the House of Representatives pay the basic pay of an individual from the clerk-hire allowance of each such Member, such individual shall be considered to be on the payrolls of only one such Member for purposes of determining the number of individuals employed by such Member under the clerk-hire allowance.

H. Res. 1273. July 18, 1978. House Administration. Provides that where two or more Members of the House of Representatives pay the basic pay of an individual from the clerk-hire allowance of each such Member, such individual shall be considered to be on the payroll of only one such Member for purposes of determining the number of individuals employed by such Member under the clerk-hire allowance.

H. Res. 1274. July 18, 1978. International Relations. Expresses the sense of the House of Representatives that the United States Olympic Committee take the necessary measures to have the International Olympic Committee transfer the 1980 summer Olympics to a site outside the Soviet Union, and that the United States should consider withdrawal from such Olympics and establishing an alternate competition if such transfer does not occur.

H. Res. 1275. July 18, 1978. International Relations. Expresses the sentiment of the House of Representatives that (1) the Governments of the United States and Canada set up a bilateral task force under the International Joint Commission to conduct an evaluation of the desirability of a United States-Canadian clean air agreement to be submitted to the two Governments within nine months of the adoption of this resolution; and (2) the President take any diplomatic action necessary to reduce any undesirable impact on both countries from air pollution.

H. Res. 1276. July 18, 1978. House Administration. Provides for the further expenses of the House Select Committee on Assassinations.

H. Res. 1277. July 18, 1978. Sets forth the rule for the consideration of H.R. 13385.

H. Res. 1278. July 19, 1978. Sets forth the rule for the consideration of H.R. 13007 (Consumer Credit Protection Act amendments).

H. Res. 1279. July 19, 1978. Post Office and Civil Service. Recognizes the unique contributions made to the United States and the world by Thomas Alva Edison on the 100th anniversary of the General Electric Company.

H. Res. 1280. July 20, 1978. House Administration. Creates an additional position of Assistant Chief Telephone Operator in the Office of the Clerk, and abolishes five telephone operator positions with such Office.

H. Res. 1281. July 20, 1978. Armed Services. Directs the Secretary of Defense to rescind that portion of the Department of Defense directive which permits deserters from military service to receive in absentia discharges.

H. Res. 1282. July 21, 1978. Rules. Amends the Rules of the House of Representatives to transfer the responsibility of investigating Communist and subversive organizations affecting the internal security of the United States to a standing committee on Internal Security established by this Resolution. Confers upon such Committee the responsibility for investigating all organizations within the United States aimed at overthrowing the Government of the United States by force, insurrection or other unlawful means or inciting or employing violence to obstruct the authority of the Federal Government with respect to matters of internal security of the United States.

H. Res. 1283. July 25, 1978. International Relations. Expresses the sense of the House of Representatives that the United States Olympic Committee should immediately take such measures as necessary to have the International Olympic Committee select a site for the 1980 summer Olympic games outside the Soviet Union.

H. Res. 1284. July 25, 1978. International Relations. Expresses the sense of the House of Representatives that the United States Olympic Committee should immediately take such measures as necessary to have the International Olympic Committee select a site for the 1980 summer Olympic games outside the Soviet Union.

H. Res. 1285. July 25, 1978. House Administration. Directs the printing as a House document of the transcript of the proceedings in the Committee on Ways and Means of August 2, 1978, Incident to the presentation of a portrait of the Honorable Al Ullman to the Committee.

H. Res. 1286. July 26, 1978. Sets forth the rule for the consideration of H. R. 12514.

H. Res. 1287. July 26, 1978. Sets forth the rule for the consideration of H. R. 9486.

H. Res. 1288. July 26, 1978. Sets forth the rule for the consideration of H.R. 11711.

H. Res. 1289. July 27, 1978. Armed Services. Directs the Secretary of Defense to rescind that portion of the Department of Defense directive which permits deserters from military service to receive in absentia discharges.

H. Res. 1290. August 1, 1978. Authorizes the printing of additional copies of the report accompanying H.R. 11280.

H. Res. 1291. August 1, 1978. Sets forth the rule for the consideration of H.R. 13635.

H. Res. 1292. August 1, 1978. International Relations. Expresses the sense of the House of Representatives that the United States, while seeking to improve relations with the People's Republic of China, shall continue to maintain full diplomatic relations with the Republic of China and shall not alter its Mutual Defense Treaty with such country.

H. Res. 1293. August 4, 1978. Sets forth the rule for the consideration of H.R. 8729.

H. Res. 1294. August 4, 1978. Sets forth the rule for the consideration of H.R. 12452.

H. Res. 1295. August 4, 1978. Sets forth the rule for the consideration of H.J. Res. 638.

H. Res. 1296. August 4, 1978. Establishes in the House of Representatives the Select Committee on Nonmetropolitan America to conduct an investigation of nonmetropolitan America.

H. Res. 1297. August 7, 1978. House Administration. Makes available the contingent fund of the House of Representatives to pay the reasonable expenses of sending or transporting the official records and papers of any Member of the House of Representatives from the District of Columbia to any location designed by such Member in the district represented by the Member.

H. Res. 1298. August 7, 1978. International Relations. Commends the Azorean Communities Congress upon their first meeting to be held August 16–19, 1978.

H. Res. 1299. August 7, 1978. Expresses the profound sorrow of the House of Representatives of the death of his Holiness Pope Paul VI.

H. Res. 1300. August 8, 1978. Sets forth the rule for th consideration of H.R. 12303.

H. Res. 1301. August 8, 1978. Sets forth the rule for the consideration of H.R. 12347.

H. Res. 1302. August 8, 1978. Sets forth the rule for the consideration of H.R. 12584.

H. Res. 1303. August 8, 1978. Orders the printing of additional copies of the House Report entitled "Second Concurrent Resolution on the Budget—Fiscal Year 1979," for use by the House Committee on the Budget.

H. Res. 1304. August 8, 1978. Ways and Means. Declares it is the sense of the House of Representatives that the Committee on Ways and Means should study and consider legislation to achieve the goals of recent proposals by certain economists to control inflation by providing tax benefits to employers who moderate price increases for their products and to employees who moderate wage demands.

H. Res. 1305. August 9, 1978. International Relations. Expresses the sentiment of the House of Representatives that (1) the Governments of the United States and Canada set up a bilateral task force under the International Joint Commission to conduct an evaluation of the desirability of a United States-Canadian clean air agreement to be submitted to the two Governments within nine months of the adoption of this resolution; and (2) the President take any diplomatic action necessary to reduce any undesirable impact on both countries from air pollution.

H. Res. 1306. August 9, 1978. Sets forth the rule for the consideration of H.R. 13511.

H. Res. 1307. August 10, 1978. Sets forth the rule for the consideration of H.R. 11280.

H. Res. 1308. August 10, 1978. Government Operations. Expresses the House of Representatives disapproval of Reorganization Plan No. 4 of 1978, relating to the Employment Retirement Income Security Act of 1974, transmitted to the Congress on August 10, 1978.

H. Res. 1309. August 10, 1978. Armed Services. Disapproves the obligation of the United States proposed to be made by the Secretary of the Navy in modification to contracts numbered N00024–71–C–0268 and N00024–78–C–0206 between the United States and the Electric Boat Division of General Dynamics Corporation.

H. Res. 1310. August 10, 1978. Armed Services. Disapprove the obligation of the United States proposed to be made by the Secretary of the Navy in modification to contracts numbered N00024–69–C–0283 and N00024–70–C–0275 between the United States and the Ingalls Shipbuilding Division of Litton Systems, Incorporated.

H. Res. 1311. August 1, 1978. Sets forth the rule for the consideration of H.R. 11622.

H. Res. 1312. August 11, 1978. International Relations. Expresses the sense of the House of Representatives that (1) the United States should continue to work for a law of the sea treaty; (2) such treaty should assure certain traditional freedoms of the sea and also provide protection for the marine environment; (3) an international authority should be created to regulate the exploitation of deep ocean minerals; and (4) a Common Heritage Fund to help developing nations fight pollution should be established from such ocean mineral revenues.

H. Res. 1313. August 14, 1978. Rules. Establishes in the House of Representatives the Select Committee on Nonmetropolitan America to conduct a full and complete investigation on nonmetropolitan America.

H. Res. 1314. August 14, 1978. International Relation. Expresses the sense of the House of Representatives that the United States Olympic Committee take the necessary measures to have the International Olympic Committee transfer the 1980 summer Olympics to a site outside the Soviet Union, and that the United States should consider withdrawal from such Olympics and establishing an alternate competition if such transfer does not occur.

H. Res. 1315. August 15, 1978. Requires an affirmative vote of two-thirds of the Members present and voting, a quorum being present, on final passage of H.J. Res. 638.

H. Res. 1316. August 16, 1978. Armed Services. Directs the Secretary of Defense to rescind that portion of the Department of Defense directive which permits deserters from military service to receive in absentia discharges.

H. Res. 1317. August 16, 1978. House Administration. Provides for the printing as a House of Representatives document "The Balance of Power Series."

H. Res. 1318. August 16, 1978. Post Office and Civil Service. Recognizes the great contribution of Bernardo de Galvez to the independence of the United States.

H. Res. 1319. August 16, 1978. Post Office and Civil Service. Recognizes the great contribution of Bernardo de Galvez to the independence of the United States.

H. Res. 1320. August 16, 1978. Agriculture; Interstate and Foreign Commerce. Declares that it is the sense of the House of Representatives that the Secretary of Agriculture and the Secretary of Health, Education, and Welfare should take no action to prohibit the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect they may be represented to have in humans, until three months after the submission of the results of the study required by the Saccharin Study and Labeling Act.

H. Res. 1321. August 16, 1978. Sets forth the rule for the consideration of H.R. 10898 (United States Railway Association authorization for fiscal year 1979).

H. Res. 1322. August 16, 1978. Sets forth the rule for the consideration of S. 1613 (expanding the civil and criminal jurisdiction of United States magistrates).

H. Res. 1323. August 17, 1978. Sets forth the rule for the consideration of H.R. 1.

H. Res. 1324. August 17, 1978. Sets forth the rule for the consideration of H.R. 12611.

H. Res. 1325. August 17, 1978. Sets forth the rule for the consideration of H.R. 13059 (construction and preservation of public works on rivers and harbors).

H. Res. 1326. August 17, 1978. Sets forth the rule for the consideration of H.R. 11733.

H. Res. 1327. August 17, 1978. Rules. Establishes in the House of Representatives the Select Committee on Nonmetropolitan America to conduct an investigation of nonmetropolitan America.

H. Res. 1328. August 17, 1978. International Relations. Urges the President to communicate with the Soviet Union concerning its obligation in accordance with the Helsinki accords to allow Isaac Zlotver to emigrate from the Soviet Union.

H. Res. 1329. August 17, 1978. International Relations. Urges the President to communicate with the Soviet Union concerning its obligation in accordance with the Helsinki accords to allow Isaac Zlotver to emigrate from the Soviet Union.

H. Res. 1330. August 17, 1978. International Relations. Urges the President to communicate with the Soviet Union concerning its obligation in accordance with the Helsinki accords to allow Isaac Zlotver to emigrate from the Soviet Union.

H. Res. 1331. August 17, 1978. Government Operations; Ways and Means. Declares that it is the sense of the House of Representatives that the Federal budget must be brought into balance and outlines steps which must be taken to achieve such a budget by 1980.

H. Res. 1332. August 17, 1978. Rules. Amends that Rules of the House of Representatives to provide that a motion to suspend the rules and pass a bill or resolution shall not be in order if the legislation which makes or authorizes appropriations may be in excess of $100,000,000 for any fiscal year.

H. Res. 1333. September 6, 1978. Sets forth the rule for the consideration of H.R. 13471.

H. Res. 1334. September 6, 1978. International Relations. Expresses the sense of the House of Representatives that Reverend Sun Myung Moon appear before the Subcommittee on International Organizations investigating Korean-American relations.

H. Res. 1335. September 6, 1978. Rules. Amends the Rules of the House of Representatives to require remarks made on the floor or submitted for inclusion in the Congressional Record be relevant to government matters.

H. Res. 1336. September 6, 1978. Post Office and Civil Service. Expresses the House of Representatives disapproval of the President's alternative plan for pay adjustments for Federal employees.

H. Res. 1337. September 6, 1978. Standards of Official Conduct. Declares that a Member of the House of Representatives who is charged with the commission of a crime should stand aside from any committee and subcommittee chairmanships for as long as the charges are pending.

H. Res. 1338. September 6, 1978. House Administration. Authorize the printing of the report entitled "Freedom of Information Act requests for Business Data and Reverse-FOIA Lawsuits" for the use of the Committee on Government Operations.

H. Res. 1339. September 6, 1978. Government Operations. Declares that no State or local government which reduces its share of funds for a cooperative Federal project in order to meet self-imposed spending limitations will receive any additional Federal funds to offset such a reduction.

H. Res. 1340. September 7, 1978. International Relations. Urges the President to communicate with the Soviet Union concerning its obligation in accordance with the Helsinki accords to allow Isaac Zlotver to emigrate from the Soviet Union.

SENATE—*Monday, October 2, 1978*

(Legislative day of Thursday, September 28, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our prayer today is the "Prayer of a Sportsman" by an unknown author. It speaks for the politician as well as the athlete. It is said to have been the favorite poem of the late Knute Rockne, long-time football coach at the University of Notre Dame and is especially appropriate for us in view of the current recognition given our Sergeant at Arms.

Let us pray:

"Dear Lord, in the battle that goes through life,
I ask but a field that is fair,
A change that is equal with all in the strife,
A courage to strive and to dare.

"And if I should win, let this be my code,
With my faith and my honor held high . . .
And if I should lose, let me stand by the road,
And cheer as the winners go by."

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 2, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Georgia is recognized.

THE JOURNAL

Mr. TALMADGE. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have no need for the minority leader's time. I am happy to yield it to my good friend from Georgia who has the special order.

Mr. TALMADGE. Mr. President, I have a special order, as soon as the majority and minority leaders make their statements. So if the Senator from Alaska has no statement to make I shall proceed.

Mr. STEVENS. I yield to the Senator from Georgia from my time whatever he wants to use.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Georgia (Mr. TALMADGE) is recognized for not to exceed 15 minutes.

S. 3544—DEMONSTRATION PROJECTS FOR TRAINING AND EMPLOYMENT OF AFDC RECIPIENTS AS HOMEMAKERS AND HOME HEALTH AIDES

Mr. TALMADGE. Mr. President, on behalf of myself and Senators INOUYE, HATHAWAY, NUNN, and MATSUNAGA, I am introducing today legislation which should have significant and beneficial effects in dealing with three major problems in our health and welfare programs.

First, the bill establishes a means whereby many thousands of older and disabled people will be assisted in remaining at home rather than being moved into high-cost nursing home and intermediate care facilities.

Second, it establishes a program whereby many thousands of women now on the welfare rolls can be formally trained as homemakers and home health aides to provide supportive services to maintain the independent living capacity of thousands of other people who would otherwise require medicaid paid-for institutional care.

And, if experience elsewhere becomes the pattern here, the large majority of these trained people will ultimately be removed from the welfare rolls because they will have become gainfully and usefully employed self-respecting members of the health professions.

Finally, properly implemented, enormous savings in medicaid and welfare costs should result as people leave the welfare rolls and others are kept out of high-cost nursing homes.

The Federal and State Governments who fill in the amounts on the checks—and, most importantly, the taxpayers who sign those checks—should all have their burdens reduced.

Let us put the problem—and the opportunities—in perspective.

Long-term institutional care costs for medicaid are greater than those for hospital care.

In fiscal 1979, upwards of an estimated $8 billion will be spent for skilled nursing home and intermediate care facility services.

It is estimated that as many as 40 percent of those in institutions do not necessarily have to be there—and would not be there if proper alternative supportive services were available.

The legislation we propose would encourage the availability of those services by means of taking people off the welfare rolls—training them—and then using these new homemakers and home health aides to meet what has been a largely unmet need.

Basically, the amendment would authorize demonstration programs in eight States for up to 5 years.

Interested States would apply to and be selected by the Secretary of HEW.

It is expected that priority would be

given to States, such as my own State of Georgia and the State of Hawaii which have demonstrated active interest and effort in supporting the concept and in developing and encouraging this proposal.

The States of Florida, Michigan, New Jersey, and New Mexico have also indicated strong desire to participate in a program which would take people off the welfare rolls and also keep people out of costly nursing homes.

Full responsibility for the program would be given to the State health services agency designated by the Governor.

That agency could subcontract for various aspects of its program where appropriate, but complete responsibility for training and operation would reside in the one agency.

Individuals eligible for training and employment would be only those coming from the AFDC rolls or who were on AFDC within 6 months of application for the program.

The people would be trained in a formal program of some 10 or 12 weeks duration and paid reasonable allowances during such training.

The program would be established by the State and approved by the Secretary.

The Secretary would be expected, where requested, to assist a State in developing its training program.

Following completion of training, they would be employed by public and nonprofit agencies and organizations—such as State or local health departments—to provide supportive services to the aged, disabled, retarded and others who might reasonably be expected to require institutional care in the absence of those services.

Services would be provided to those for whom the care was not reasonably and actually otherwise available.

These people could not be employed under this program to provide care in hospitals or similar institutions.

They are not intended to be a reservoir of subsidized labor for hospitals.

However, public and nonprofit hospitals might well employ these people as outreach workers to facilitate timely discharge of hospitalized patients.

However, subsequently, they might well leave this program and be employed on a nonsubsidized regular basis, as was the case in New Mexico which pioneered this type of program.

The numbers of people in a State eligible for training and employment would be limited only by their ability to be trained and employed and the number of those in need of home health and homemaker services.

The Secretary is expected to establish safeguards to assure that the program, as well as those trained and employed, are not improperly exploited.

Those eligible to receive the care and services would include all individuals whose income was within 200 percent of the State's standard of need and who might reasonably be expected to require institutional care without the supportive service.

It should also be understood that the large majority of medicare beneficiaries would, because of this income standard, be potentially eligible for these homemaker and home health services.

However, while medicare program costs should be moderated as a result, these services, unless otherwise qualified for reimbursement, would not be a regular medicare benefit.

The reason for establishing the eligibility level above the State's needs standard is because of the high probability that an individual, even with income somewhat above the needs standard, would become a medicaid recipient when he required skilled nursing home or intermediate care.

States might also make the services of these home health aides and homemakers available to individuals above these income limits with a sliding scale of fees charged.

States would be eligible for 90 percent Federal matching for the program costs.

Such amounts would be paid from funds authorized from medicaid.

No net cost is assumed inasmuch as the reduction in medicaid costs resulting from the prevention or postponement of expensive care in insitutions should more than offset the costs of training and provision of home health and homemaker services.

It is anticipated that hospital stays may also be shortened—or even avoided—because of the availability of these services.

And, to the extent that those trained ultimately find regular employment in the health care field—outside of this program—we will have relieved the welfare burden.

Mr. President, we have a unique opportunity here to reduce the welfare rolls, enhance the self-respect and income of those providing necessary care and to keep many thousands of Americans out of high-cost institutions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEMONSTRATION PROJECTS FOR TRAINING AND EMPLOYMENT OF AFDC RECIPIENTS AS HOMEMAKERS AND HOME HEALTH AIDES

(a) The Secretary of Health, Education, and Welfare is authorized to enter into agreements with States, selected at his discretion, for the purpose of conducting demonstration projects for the training and employment of eligible participants as homemakers or home health aides, who shall provide authorized services to elderly or disabled individuals, or other individuals in need of such services, and to whom such services are not otherwise reasonably and actually available or provided, who would, without the availability of such services, be reasonably anticipated to require institutional care.

(b) For purposes of this section the term "eligible participant" means an individual who has voluntarily applied for participation and who, at the time such individual enters the project established under this section, has been certified by the appropriate agency of State or local government as being eligible for financial assistance under a State plan approved under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the 90-day period which immediately precedes the date on which such individual enters such project and who, within such 90-day period, had not been employed as a homemaker or home health aide.

(c)(1) The Secretary shall enter into agreements under this section with no more than eight States. Priority shall be given to States which have demonstrated interest in providing services of the type authorized under this section.

(2) A State may apply to enter into an agreement under this section in such manner and at such time as the Secretary may prescribe.

(3) Any State entering into an agreement with the Secretary under this section must—

(A) provide that the demonstration project shall be administered by a State health services agency designated for this purpose by the Governor (which may be the State agency administering the State plan for medical assistance under title XIX of the Social Security Act);

(B) establish a formal training program, approved by the Secretary as adequate to prepare eligible participants to provide part-time and intermittent homemaker services or home health aide services to individuals who are elderly, disabled, or otherwise in need of such services, who would, without the availability of such services, be reasonably anticipated to require institutional care;

(C) provide for the full-time employment of those eligible participants who successfully complete the training program with one or more public agencies (or, by contract, with private nonprofit agencies) as homemakers or home health aides, rendering authorized services to individuals who are elderly, disabled, or otherwise in need of such services, who would, without the availability of such services, be reasonably anticipated to require institutional care, at wage levels comparable to the prevailing wage levels in the area for similar work;

(D) provide that such services provided under subparagraph (C) shall be made available without regard to income of the individual requiring such services, but that a reasonable fee will be charged (on a sliding scale basis) for such services provided to individuals who have income in excess of 200 percent of the needs standard in such State under the State plan approved under part A of title IV of the Social Security Act for a household of the same size as such individual's household;

(E) provide for a system of continuing independent professional review by an appropriate panel to assure that services are provided only to individuals reasonably determined in need of such supportive services;

(F) provide for evaluation of the project and review of all agencies providing services under the project;

(G) submit periodic reports to the Secretary as he may require; and

(H) meet such other requirements as the Secretary may establish for the proper and efficient implementation of the project.

(4) The number of participants in any project shall not exceed that number which the Secretary determines to be reasonable, based upon the capability of the agencies involved to train, employ, and properly utilize eligible participants.

(5) Any contract with a private nonprofit agency entered into pursuant to paragraph (3)(C) shall provide for reimbursement of such agencies for services on a basis proportionate to the amount of time allocated to individuals eligible to receive such services under this section.

(d)(1) For purposes of this section, authorized homemaker and home health aid services include part-time or intermittent—

(A) personal care, such as bathing, grooming, and toilet care;

(B) assisting patients having limited mobility;

(c) feeding and diet assistance;

(D) home management, housekeeping, and shopping;

(E) health oriented record keeping;

(F) family planning services; and

(G) simple procedures for identifying potential health problems.

(2) Such authorized services do not include any services performed in an institution, or any services provided under circumstances where institutionalization would be substantially more efficient as a means of providing such services.

(e) (1) Agreements shall be entered into under this section between the Secretary and the State agency designated by the Governor. Under such agreement the Secretary shall pay to the State, as an additional payment under section 1903 of such Act for each quarter, an amount equal to 90 percent of the reasonable costs incurred (less any related fees collected) by such State during such quarter in carrying out a demonstration project under this section, including reasonable wages and other employment costs of eligible participants employed full time under such project.

(2) Demonstration projects under this section shall be of a maximum duration of four years, plus an additional time period of up to six months for planning and development, and up to six months for final evaluation of reporting. Federal funding under this subsection shall not be available for the employment of any eligible participant under the project after such participant has been so employed for a period of three years.

(f) For purposes of title IV of the Social Security Act, any eligible participant taking part in a training program under a project authorized under this section shall be deemed to be participating in a work incentive program established by part C of such title.

(g) For the first year during which an eligible participant is employed under the project established under this section, such participant shall, notwithstanding any other provision of law, retain any eligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, and any eligibility for social and supportive services provided under the State plan approved under part A of title IV of such Act, which such participant had at the time such participant entered the training program established under this section.

(h) The Secretary shall submit annual reports to the Congress evaluating the demonstration projects carried out under this section, and shall submit a final report to the Congress not less than six months after he has received the final reports from all States participating in such projects.

(Later the following occurred:)

Mr. TALMADGE. Mr. President, earlier today I introduced S. 3544 on behalf of myself and several of my colleagues, including Senator HATHAWAY.

Unfortunately, Senator HATHAWAY was not able to be present when the bill was offered.

Therefore, I ask unanimous consent that Senator HATHAWAY's remarks be included in the RECORD at the conclusion of my statement introducing S. 3544.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. HATHAWAY

It is my pleasure to join with Senator Talmadge and my other distinguished colleagues to introduce an amendment to the Social Security Act which will have a great impact on the health care and welfare systems of our nation. The purpose of this legislation is to train women who are presently on the welfare rolls to be homemakers and home health aides, thereby providing at-home health and support services to persons who would otherwise have to be confined to an institution under Medicare.

Clearly,the implications of such training are vast. Women who are now recipients of Aid to Families with Dependent Children (AFDC) money would be eligible, if they so chose, to enroll in a formal training program of ten or twelve weeks, established by the State and approved by the Department of Health, Education and Welfare, during which time they would receive an allowance to enable them to maintain themselves and their children. At the end of this time they would be qualified homemakers or home health aides, and could then be employed by public and nonprofit organizations and agencies to provide support services to the elderly, handicapped, or other Medicaid recipients.

In the area of health care, the field of allied health personnel is becoming recognized as a valuable mechanism for providing a variety of health care services to people in their homes, in outlying areas, and short of a physician's care. These include homemaking help such as cooking, shopping and cleaning, and health maintenance for individuals who need assistance in bathing, walking, and so on. Although under this program the trainees would work with Medicaid patients and serve as outreach workers for hospitals to patients who have been discharged, they may of course choose to leave the program and use their training elsewhere, finding that the skills they have acquired are greatly needed. And with this training, we have removed these people from the welfare rolls and provided them with marketable skills, thereby reducing the welfare rate and raising the employment rate.

It is important to note that the program is completely voluntary—an AFDC recipient is under no obligation to enroll and does not risk loss of AFDC funds by refusing to participate. Further, the number of persons eligible for the program is determined only by the number of persons in need of such services in the state and by the ability of the applicants to be trained and employed.

When we focus on the recipients of this care, we find that many of the patients in nursing homes and intermediate care facilities do not have to be there—not only can they remain at home with the help of these support services, but most prefer to live in the familiar surroundings in which they can retain their sense of independence and dignity. As we as a nation learn more about the special needs of our elderly and handicapped citizens, we realize the importance of providing them with the means to take their places as valuable members of society and remain in its mainstream.

In order to be eligible for the homemaker and home health services, an individual's income must be within 200 percent of the State standard of need. In addition, he or she would have to require institutional care if the support services were not provided. The reason that the eligibility level is above the state's standard of need is that most individuals, regardless of income, would become Medicaid recipients once they require intermediate care or care in a skilled nursing facility.

In addition, most Medicare beneficiaries would be potentially eligible for homemaker and home health services because of the income standard set for this program. These services, however, unless the recipient is otherwise qualified for reimbursement, would not be a regular Medicare benefit.

I believe that by providing these services we can shorten some hospital stays and even avoid others. Therefore, the cost of the training programs and the provision of the services would be offset by the reduction of expenses which would otherwise be incurred by longer periods of institutionalization. Not to be forgotten also is the reduction in welfare costs as these aides become members of the work force.

The states, in setting up their programs, can decide to make these services available to those whose incomes are above the eligibility level, and charge fees on a sliding scale.

This legislation would authorize 8 states to set up demonstration programs for up to 5 years with the Federal government providing 90% matching funds for the programs from funds authorized under Medicaid. The Secretary of HEW will select the 8 participating states from those which apply, and I would expect the recipients of awards to include both rural and urban states. In those then selected, the state health agency designated by the governor shall have full responsibility for the program. Although the agency could subcontract for some aspects of the program, responsibility for the training and operation would rest solely with the agency. The Secretary of HEW would be expected to assist a State in developing its training program as well as establishing safeguards to prevent abuses.

I would like finally to emphasize my strong support for a program which, besides its fiscal merits, would enhance the dignity of both the providers and recipients of the needed services. I would urge my colleagues to give their full consideration to this measure.

APPROVAL OF VISAS FOR VISIT BY RHODESIAN OFFICIALS URGED

● Mr. BAKER. Mr. President, on the 14th of September, Senator HAYAKAWA and 26 other Senators on both sides of the aisle, including myself, wrote Reverend Sithole, then the chairman of the executive council of the transitional government in Rhodesia. We invited him to bring a delegation to the United States to explain to the American public, the Congress and even the administration the problems and prospects, from their perspective, for a peaceful transition to majority rule in Rhodesia.

Reverend Sithole accepted this invitation and both he and Prime Minister Smith applied for visas to enter the United States. As Senator HAYAKAWA noted in a press conference held earlier this afternoon, the State Department has yet to act on these visas.

Mr. President, I believe the State Department's conduct in this matter is unconscionable. The American people have a right to be fully informed concerning a major issue in the foreign policy of the United States; an issue on which a substantial portion of the American people and the Congress disagree with the administration.

I find it extremely ironic, Mr. President, that the administration would be at all hesitant to allow the expression of a point of view that is admittedly at odds with that of the administration. The administration has no such compunction in allowing admission to members of the Communist party or to members of the PLO. Nor did the administration express any reluctance in the admission of Joshua Nkomo, the Soviet-backed terrorist who recently boasted of shooting down a Rhodesian civilian airliner.

So I take this opportunity, Mr. President, to urge the President and the Sec-

retary of State to consider carefully the implications of denying or delaying further the approval of these visas. The American public deserves the opportunity to learn what is happening in Rhodesia. They deserve the opportunity to learn from the people involved, and not solely from the administration; and I would hope Mr. President that the administration will proceed quickly with the approval of these applications.●

ORDER OF BUSINESS

Mr. TALMADGE. Mr. President, I yield back the remainder of my time and I suggest the absence of a quorum.

Mr. MUSKIE. Mr. President, if the Senator will withhold—

Mr. TALMADGE. I withhold that.

Mr. MUSKIE. Mr. President, first, a parliamentary inquiry. What is the pending business?

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3077, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 3077) to amend and extend the Export-Import Bank Act of 1975, and for other purposes.

AMENDMENT NO. 3678

(Purpose: To add an additional title)

Mr. MUSKIE. Mr. President, I send an amendment to the desk and ask that it be reported.

The ACTING PRESIDING pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE), for himself, Mr. ROTH, and Mr. GLENN, proposes an amendment numbered 3678.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 2, immediately before line 1, insert the following:

"TITLE I—AMENDMENTS TO THE EXPORT-IMPORT BANK ACT OF 1945".

On page 2, line 2, strike out "SEC. 2." and insert "SEC. 101.".

On page 2, line 22, strike out "SEC. 3." and insert "SEC. 102.".

On page 3, line 2, strike out "SEC. 4." and insert "SEC. 103.".

On page 14, line 8, strike out "SEC. 5." and insert "SEC. 104.".

On page 14, line 12, strike out "SEC. 6." and insert "SEC. 105.".

On page 14, line 16, strike out "SEC. 7." and insert "SEC. 106.".

On page 15, line 15, strike out "SEC. 8." and insert "SEC. 107.".

On page 16, immediately after line 4, insert the following:

"TITLE II—SUNSET ACT OF 1978

"PART A—GENERAL PROVISIONS

"SEC. 201. This title may be cited as the 'Sunset Act of 1978'.

"SEC. 202. The purposes of this title are—

"(1) to require that most Government programs be reauthorized according to a schedule at least once every ten years;

"(2) to limit the length of time for which Government programs can be authorized to ten years;

"(3) to bar the expediture of funds for Government programs which have not been provided for by a law enacted during the ten-year sunset reauthorization cycle; and

"(4) to encourage the reexamination of selected Government programs each Congress.

"SEC. 203. (a) For purposes of this title:

"(1) The term 'budget authority' has the meaning given to it by section 3(2) of the Congressional Budget Act of 1974.

"(2) The term 'permanent budget authority' means budget authority provided for an indefinite period of time or an unspecified number of fiscal years which does not require recurring action by the Congress, but does not include budget authority provided for a specified fiscal year which is available for obligation or expenditure in one or more succeeding fiscal years.

"(3) The term 'Comptroller General' means the Comptroller General of the United States.

"(4) The term 'agency' means an executive agency as defined in section 105 of title 5, United States Code, except that such term includes the United States Postal Service and the Postal Rate Commission but does not include the General Accounting Office.

"(5) The term 'sunset reauthorization cycle' means the period of five Congresses beginning with the Ninety-seventh Congress and with each sixth Congress following the Ninety-seventh Congress.

"(b) For purposes of this title, each program (including any program exempted by provision of law from inclusion in the Budget of the United States) shall be assigned to the functional and subfunctional categories to which it is assigned in the Budget of the United States Government, fiscal year 1979. Each committee of the Senate or the House of Representatives which reports any bill or resolution which authorizes the enactment of new budget authority for a program not included in the fiscal year 1979 budget shall include, in the committee report accompanying such bill or resolution (and, where appropriate, the conferees shall include in their joint statement on such bill or resolution), a statement as to the functional and subfunctional category to which such program is to be assigned.

"(c) For purposes of parts B, C, D, and F of this title, the reauthorization date applicable to a program is the date specified for such program under section 101(b).

"PART B—REAUTHORIZATION OF GOVERNMENT PROGRAMS

"SEC. 211. (a) Each Government program (except those listed in section 213) shall be reauthorized at least once during each sunset reauthorization cycle during the Congress in which the reauthorization date applicable to such program (pursuant to subsection (b)) occurs.

"(b) The first reauthorization date applicable to a Government program is the date specified in the following table, and each subsequent reauthorization date applicable to a program is the date ten years following the preceding reauthorization date:

"Programs included within subfunctional category	*First reauthorization date*
254 Space, Science, Application and Technology.	
272 Energy Conservation.	
301 Water Resources.	
352 Agriculture and Research Services.	
371 Mortgage Credit and Thrift Insurance.	
376 Other Advancement and Regulation of Commerce.	
501 Elementary, Secondary, and Vocational Education.	
601 General Retirement and Disability Insurance.	
602 Federal Employment Retirement and Disability.	
703 Hospital and Medical Care for Veterans.	
806 Other General Government.	
851 General Revenue Sharing	September 30, 1982
051 Department of Defense—Military.	
053 Atomic Energy Defense Activities.	
154 Foreign Information and Exchange Act.	
251 General Science and Basic Research.	
306 Other Natural Resources.	
351 Farm Income Stabilization.	
401 Ground Transportation.	
502 Higher Education.	
553 Education and Training of Health Care Work Force.	
701 Income Security for Veterans.	
752 Federal Litigative and Judicial Activities.	
802 Executive Director and Management.	
803 Central Fiscal Operations	September 30, 1984.
054 Defense Related Activities.	
152 Military Assistance.	
155 International Financial Programs.	
253 Space Flight.	
255 Supporting Space Activities.	
274 Emergency Energy Preparedness.	
302 Conservation and Land Management.	
304 Pollution Control and Abatement.	
407 Other Transportation.	
504 Training and Employment.	
506 Social Services.	
554 Consumer and Occupational Health and Safety.	
704 Veterans Housing.	
751 Federal Law Enforcement Activities.	
801 Legislative Function.	
852 Other General Purpose Fiscal Assistance	September 30, 1986.
153 Conduct of Foreign Affairs.	
271 Energy Supply.	
303 Recreational Resources.	
402 Air Transportation.	
505 Other Labor Services.	
551 Health Care Services.	
604 Public Assistance and Other Income Supplements.	
702 Veterans Education, Training, and Rehabilitation.	
753 Federal Correctional Activities.	
805 Central Personnel Management.	
902 Other Interest	September 30, 1988.
151 Foreign Economic and Financial Assistance.	
276 Energy Information, Policy and Regulation.	
372 Postal Service.	
403 Water Transportation.	
451 Community Development.	
452 Area and Regional Development.	
453 Disaster Relief and Insurance.	
503 Research and General Education Aids.	
552 Health Research.	
603 Unemployment Compensation.	
705 Other Veterans Benefits and Services.	
754 Criminal Justice Assistance.	
804 General Property and Record Management.	
901 Interest on the Public Debt	September 30, 1990.

"(c)(1) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which authorizes the enact-

ment of new budget authority for a program for a period of more than ten fiscal years, for an indefinite period, or (except during the Congress in which such next reauthorization date occurs) for any fiscal year beginning after the next reauthorization date applicable to such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment to the bill or resolution which would make the authorization period conform to the requirement of such sentence.

"(2)(A) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program for any fiscal year beginning after the first (or any subsequent) reauthorization date applicable to such program under paragraph (b), unless the provision of such new budget authority is specifically authorized by a law which constitutes a required authorization for such program.

"(B) For the purposes of this subsection, the term 'required authorization' means a law authorizing the enactment of new budget authority for a program, which complies with the provisions of paragraph (1) and is enacted during the Congress in which the reauthorization date for such program occurs, or during a Congress after such date and prior to the Congress in which the next reauthorization date for such program occurs.

"(3) No new budget authority may be obligated or expended for a program for a fiscal year beginning after the last fiscal year in a sunset reauthorization cycle unless a provision of law providing for the continuation of such program has been enacted during such sunset reauthorization cycle.

"(4) Any provision of law providing permanent budget authority for a program shall cease to be effective (for the purpose of providing such budget authority) on the first reauthorization date applicable to such program.

"(5) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program unless the bill or resolution, or amendment thereto, (or the report which accompanies such bill or resolution) includes a specific reference to the provision of law which constitutes a required authorization for such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which provides such reference to the appropriate provision of law.

"SEC. 212. (a) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which has been reported by a committee and which authorizes the enactment of new budgt authority for a program for a fiscal year beginning after the next reauthorization date applicable to such program, unless a reauthorization review (to the extent the committee or committees having jurisdiction deem appropriate) of such program has been completed during the Congress in which the reauthorization date for such program occurs (or during a subsequent Congress when such required authorization is considered), and the report accompanying such bill or resolution includes a separate section entitled 'Reauthorization Review' recommending, based on such review, whether the program or the laws affecting such program should be continued without change, continued with modifications, or terminated, and also includes, to the extent the committee or committees having jurisdiction deem appropriate, each of the following matters:

"(1) Information and analysis on the organization, operation, costs, results, accomplishments, and effectiveness of the program.

"(2) An identification of any other programs having similar objectives, and a justification of the need for the proposed program in comparison with those other programs which may be potentially conflicting or duplicative.

"(3) An identification of the objectives intended for the program, and the problems or needs which the program is intended to address, including an analysis of the performance expected to be achieved, based on the bill or resolution as reported.

"(4) A comparison of the amount of new budget authority which was authorized for the program in each of the previous four fiscal years and the amount of new budget authority provided in each such year.

"(b) It shall not be in order in either the Senate or the House of Representatives to consider a bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for which there previously has been no such authorization unless the report accompanying such bill or resolution sets forth, to the extent that the committee or committees having jurisdicion deem appropriate, the information specified in subsection (a) (2) and (3).

"(c) Each committee having legislative jurisdiction over a program included in section 213 shall conduct a review of such program of the type described in subsection (a) at least once during each sunset reauthorization cycle, during the Congress in which the reauthorization date applicable to such program occurs, and shall submit to the Senate or the House of Representatives, as the case may be, a report containing its recommendations and other information of the type described in subsection (a) to the extent that the committee deems appropriate. It shall not be in order to consider a bill or resolution reported by the committee having legislative jurisdiction which authorizes the enactment of new budget authority for such program unless such report accompanies such bill or resolution, or has been submitted during the Congress in which the reauthorization date for such program occurred as provided section 211(b), whichever first occurs.

"SEC. 213. (a) Section 211(c) shall not apply to the following:

"(1) Programs included within functional category 900 (Interest).

"(2) Any Federal programs or activities to enforce civil rights guaranteed by the Constitution of the United States or to enforce antidiscrimination laws of the United States, including but not limited to the investigation of violations of civil rights, civil or criminal litigation or the implementation or enforcement of judgments resulting from such litigation, and administrative activities in support of the foregoing.

"(3) Programs which are related to the administration of the Federal judiciary and which are classified in the fiscal year 1979 budget under subfunctional category 752 (Federal litigative and judicial activities).

"(4) Payments of refunds of internal revenue collections as provided in title I of the Supplemental Treasury and Post Office Departments Appropriation Act of 1949 (62 Stat. 561), but not to include refunds to persons in excess of their tax payments.

"(5) Programs included in the fiscal year 1979 budget in subfunctional categories 701 (Income security for veterans), 702 (Veterans education, training, and rehabilitation), 704 (Veterans housing), and programs for providing health care which are included in such health in subfunctional category 703 (Hospital and medical care for veterans).

"(6) The following social security and Federal employee retirement programs;

"(A) Programs funded through trust funds which are included with subfunctional categories 551 (Health care services), 601 (General retirement and disability insurance), or 602 (Federal employee retirement and disability).

"(B) Retirement pay and retired pay of military personnel on the retired lists of the Army, Navy, Marine Corps, and the Air Force, including the Reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve; and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code (survivor's benefits), classified in the fiscal year 1979 budget in subfunctional category 051 (Department of Defense—military).

"(C) Retirement pay and medical benefits for retired commissioned officers of the Coast Guard, the Public Health Service Commissioned Corps, and the National Oceanic and Atmospheric Commissioned Corps and their survivors and dependents, classified in the fiscal year 1979 budget in subfunctional category 551 (Health care services) or in subfunctional category 306 (Other natural resources).

"(D) Retired pay of military personnel of the Coast Guard and Coast Guard Reserve, members of the former Lighthouse Service, and for annuities payable to beneficiaries of retired military personnel under the retired serviceman's family protection plan (10 U.S.C. 1431–1446) and survivor benefit plan (10 U.S.C. 1447–1455), classified in the fiscal year 1979 budget in subfunctional category 403 (Water transportation).

"(E) Payments to the Central Intelligence Agency Retirement and Disability Fund, classified in the fiscal year 1979 budget in subfunctional category 054 (Defense-related activities).

"(F) Payments to the Civil Service Retirement and Disability Fund for financing unfunded liabilities, classified in the fiscal year 1979 budget in subfunctional category 805 (Central personnel management).

"(G) Payments to the Foreign Service Retirement and Disability Fund, classified in the fiscal year 1979 budget in subfunctional category 153 (Conduct of foreign affairs).

"(H) Payments to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, classified in the fiscal year 1979 budget in various subfunctional categories.

"(I) Administration of the retirement and disability programs set forth in this section.

"(b) If a question is raised in the Senate with respect to the application of any paragraph of subsection (a) to any bill, resolution, or amendment, or to any provision of law, the Presiding Officer shall submit the question to the Senate for decision.

"SEC. 214. (a) It is the sense of the Congress that all programs should be considered and reauthorized in program categories which constitute major areas of legislative policy. Such authorizations should be for sufficient periods of time to enhance oversight and the review and evaluation of Government programs.

"(b) The reauthorization schedule contained in section 211(b) may be changed by concurrent resolution of the two Houses of the Congress (except that changes in the schedule affecting permanent appropriations may be made only by law).

"(c) All messages, petitions, memorials, concurrent resolutions, and bills proposing changes in section 211(b) and all bills proposing changes in section 213(a), shall be referred first to the committee with legislative jurisdiction over any program affected by the proposal and sequentially to the Committee on Rules in the House of Representatives or to the Committee on Rules and Administration in the Senate as provided for in subsection (d).

"(d) Except as provided in subsection (f), the Committee on Rules in the House of Representatives or the Committee on Rules and Administration in the Senate shall report any concurrent resolution or

bill referred to it under the provisions of subsection (c) and which previously has been reported favorably by a committee of legislative jurisdiction within thirty days (not counting any day on which the Senate or the House of Representatives is not in session), beginning with the day following the day on which such resolution or bill is so referred, with its recommendations.

"(e) The recommendations of the Committee on Rules or the Committee on Rules and Administration pursuant to subsection (d) or (f) shall include a statement on each of the following matters:

"(1) The effect the proposed change would have on the sunset reauthorization schedule.

"(2) The effect the proposed change would have on the jurisdictional and reauthorization responsibilities and workloads of the authorizing committees of Congress.

"(3) Any suggested grouping of similar programs which would further the goals of this title to make more effective comparisons between programs having like objective.

"(f) Any concurrent resolution or bill proposing a change in section 211(b) or 213 (a) which has been reported by a committee before June 1, 1980, shall be referred in the House to the Committee on Rules and in the Senate to the Committee on Rules and Administration. Such committee shall report an omnibus concurrent resolution or bill containing its recommendations regarding the proposed changes by July 1, 1980, and consideration of such bill or resolution shall be highly privileged in the House of Representatives and privileged in the Senate. The provisions of subsections (c) and (d) of section 1017 of the Impoundment Control Act of 1974, insofar as they relate to consideration of rescission bills, shall apply to the consideration of concurrent resolutions and bills proposing changes reported pursuant to this subsection, amendments thereto, motions and appeals with respect thereto, and conference reports thereon.

"(g) It shall not be in order in the Senate or the House of Representatives to consider a bill or resolution reported pursuant to subsection (b), (c), (d), or (f) which proposes a reauthorization date for a program beyond the final reauthorization date of the sunset reauthorization cycle then in progress. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which meets the requirements of this subsection.

PART C—PROGRAM INVENTORY

"SEC. 221. (a) The Comptroller General and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, shall prepare an inventory of Federal programs (hereafter in this part referred to as the 'program inventory').

"(b) The purpose of the program inventory is to advise and assist the Congress in carrying out the requirements of parts B and D. Such inventory shall not in any way bind the committees of the Senate or the House of Representatives with respect to their responsibilities under such parts and shall not infringe on the legislative and oversight responsibilities of such committees. The Comptroller General shall compile and maintain the inventory, and the Director of the Congressional Budget Office shall provide budgetary information for inclusion in the inventory.

"(c) Not later than July 1, 1979, the Comptroller General, after consultation with the Director of the Congressional Budget Office and the Director of the Congressional Research Service, shall submit the program inventory to the Senate and House of Representatives.

"(d) In the report submitted under this section, the Comptroller General, after consultation and in cooperation with and consideration of the views and recommendations of the Director of the Congressional Budget Office, shall group programs into program areas appropriate for the exercise of the review and reexamination requirements of this title. Such groupings shall identify program areas in a manner which classifies each program in only one functional and only one subfunctional category and which is consistent with the structure of national needs, agency missions, and basic programs developed pursuant to section 201(i) of the Budget and Accounting Act, 1921.

"(e) The program inventory shall set forth for each program each of the following matters:

"(1) The specific provision(s) of law authorizing the program.

"(2) The committees of the Senate and the House of Representatives which have legislative or oversight jurisdiction over the program.

"(3) A brief statement of the purpose or purposes to be achieved by the program.

"(4) The committees which have jurisdiction over legislation providing new budget authority for the program, including the appropriate subcommittees of the Committees on Appropriations of the Senate and the House of Representatives.

"(5) The agency and, if applicable, the subdivision thereof responsible for administering the program.

"(6) The grants-in-aid, if any, provided by such program to State and local governments.

"(7) The next reauthorization date for the program.

"(8) A unique identification number which links the program and functional category structure.

"(9) The year in which the program was originally established and, where applicable, the year in which the program expires.

"(10) Where applicable, the year in which new budget authority for the program was last authorized and the year in which current authorizations of new budget authority expire.

"(f) The inventory shall contain a separate tabular listing of programs which are not required to be reauthorized pursuant to section 211(c).

"(g) The report also shall set forth for each program whether the new budget authority provided for such program is—

"(1) authorized for a definite period of time;

"(2) authorized in a specific dollar amount but without limit of time;

"(3) authorized without limit of time or dollar amounts;

"(4) not specifically authorized; or

"(5) permanently provided,

as determined by the Director of the Congressional Budget Office.

"(h) For each program or group of programs, the program inventory also shall include information prepared by the Director of the Congressional Budget Office indicating each of the following matters:

"(1) The amounts of new budget authority authorized and provided for the program for each of the preceding four fiscal years and, where applicable, the four succeeding fiscal years.

"(2) The functional and subfunctional category in which the program is presently classified and was classified under the fiscal year 1979 budget.

"(3) The identification code and title of the appropriation account in which budget authority is provided for the program.

"SEC. 222. The General Accounting Office, the Congressional Research Service, and the Congressional Budget Office shall permit the mutual exchange of available information in their possession which would aid in the compilation of the program inventory.

"SEC. 223. The Office of Management and Budget, and the executive agencies and the subdivisions thereof shall, to the extent necessary and possible, provide the General Accounting Office with assistance requested by the Comptroller General in the compilation of the program inventory.

"SEC. 224. Each committee of the Senate and the House of Representatives, the Congressional Budget Office, and the Congressional Research Service shall review the program inventory as submitted under section 221 and not later than October 1, 1979, each shall advise the Comptroller General of any revisions in the composition or identification of programs and groups of programs which it recommends. After full consideration of the reports of all such committees and officials, the Comptroller General in consultation with the committees of the Senate and the House of Representatives shall report, not later than December 31, 1979, a revised program inventory to the Senate and the House of Representatives.

"SEC. 225. (a) The Comptroller General, after the close of each session of the Congress, shall revise the program inventory and report the revisions to the Senate and the House of Representatives.

"(b) After the close of each session of the Congress, the Director of the Congressional Budget Office shall prepare a report, for inclusion in the revised inventory, with respect to each program included in the program inventory and each program established by law during such session, which includes the amount of the new budget authority authorized and the amount of new budget authority provided for the current fiscal year and each of the five succeeding fiscal years. If new budget authority is not authorized or provided or is authorized or provided for an indefinite amount for any of such five succeeding fiscal years with respect to any program, the Director shall make projections of the amounts of such new budget authority necessary to be authorized or provided for any such fiscal year to maintain a current level of services.

"(c) Not later than one year after the first or any subsequent reauthorization date, the Director of the Congressional Budget Office, in consultation with the Comptroller General and the Director of the Congressional Research Service, shall compile a list of the provisions of law related to all programs subject to such reauthorization date for which new budget authority was not authorized. The Director of the Congressional Budget Office shall include such a list in the report required by subsection (b). The committees with legislative jurisdiction over the affected programs shall study the affected provisions and make any recommendations they deem to be appropriate with regard to such provisions to the Senate and the House of Representatives.

"SEC. 226. The Comptroller General and the Director of the Congressional Budget Office shall include in their respective reports to the Congress pursuant to sections 202(f) and 702(e) of the Congressional Budget Act of 1974 an assessment of the adequacy of the functional and subfunctional categories contained in section 211(b) for grouping programs of like missions or objectives.

"SEC. 227. (a) The Director of the Congressional Budget Office shall tabulate and issue an annual report on the progress of congressional action on bills and resolutions reported by a committee of either House or passed by either House which authorize the enactment of new budget authority for programs.

"(b) The report shall include an up-to-date tabulation for the fiscal year beginning October 1 and the succeeding four fiscal years of the amounts of budget authority (1) authorized by law or proposed to be authorized in any bill or resolution reported by any committee of the Senate or the House of Representatives, or (2) if budget authority is not authorized or proposed to be author-

ized for any of the five fiscal years, the amounts necessary to maintain a current level of services for programs in the inventory.

"(c) The Director of the Congressional Budget Office shall issue periodic reports on the programs and the provisions of laws which are scheduled for reauthorization in each Congress pursuant to the reauthorization schedule in section 211(b). In these reports, the Director shall identify each provision of law which authorizes the enactment of new budget authority for programs scheduled for reauthorization and the title of the appropriation bill, or part thereof, which would provide new budget authority pursuant to each authorization.

"PART D—PROGRAM REEXAMINATION

"SEC. 231. (a) Each committee of the Senate and the House of Representatives periodically shall provide through the procedures established in section 232, for the conduct of a comprehensive reexamination of selected programs or groups of programs over which it has jurisdiction.

"(b) In selecting programs and groups of programs for reexamination, each committee shall consider each of the following matters:

"(1) The extent to which substantial time has passed since the program or group of programs has been in effect.

"(2) The extent to which a program or group of programs appears to require significant change.

"(3) The resources of the committee with a view toward undertaking reexaminations across a broad range of programs.

"(4) The desirability of examining related programs concurrently.

"SEC. 232. (a)(1) The funding resolution first reported by each committee of the Senate in 1980, and thereafter for the first session of each Congress, shall include a section setting forth the committee's plan for reexamination of programs under this part. Such plan shall include each of the following matters:

"(A) The programs to be reexamined and the reasons for their selection.

"(B) The scheduled completion date for each program reexamination: *Provided*, That such date shall not be later than the end of the Congress preceding the Congress in which the reauthorization date applicable to a program occurs as provided in section 211(b), unless the committee explains in a statement in the report accompanying its proposed funding resolution the reasons for a later completion date, except that reports on programs scheduled for reauthorization during the 97th Congress and selected for reexamination in a committee's plan adopted in 1980 may be submitted at any time until February 15, 1982.

"(C) The estimated cost for each reexamination.

"(2) The report accompanying the funding resolution reported by each committee in 1980 and thereafter for the first session of each Congress, shall with respect to each reexamination include in its plan both the following matters:

"(A) A description of the components of the reexamination.

"(B) A statement of whether the reexamination is to be conducted (i) by the committee, or (ii) at the request and under the direction of or under contract with, the committee, as the case may be, by one or more instrumentalities of the legislative branch, one or more instrumentalities of the executive branch, or one or more nongovernmental organizations, or (iii) by a combination of the foregoing.

"(3) It shall not be in order to consider a funding resolution reported by a committee of the Senate in 1980, and thereafter for the first session of a Congress unless—

"(A) such resolution includes a section containing the information described in paragraph (1) and the report accompanying such resolution contains the information described in paragraph (2); and

"(B) the report required by subsection (c) with respect to each program reexamination scheduled for completion during the preceding Congress by such committee has been submitted for printing.

"(4) It shall not be in order to consider an amendment to the section of a funding resolution described in paragraph (1) reported by a committee for a year—

"(A) if such amendment would require reexamination of a program which has been reexamined by such committee under this section during any of the five preceding years;

"(B) if such amendment would cause such section not to contain the information described in paragraph (1) with respect to each program to be reexamined by such committee; or

"(C) if notice in writing of intention to propose such amendment has not been given to such committee and the Committee on Rules and Administration in the Senate not later than January 20 of the calendar year in which such year begins or the first day of the session of the Congress in which such year begins, whichever is later. The notice required by this subparagraph shall include the substance of the amendment intended to be proposed and, if such amendment would add one or more programs to be reexamined, shall include the information described in paragraphs (1) and (2) with respect to each such program. This subparagraph shall not apply to amendment proposed by such committee or by the Committee on Rules and Administration, as the case may be.

"(b) In order to achieve coordination of program reexamination each committee shall, in preparing each reexamination plan required by subsection (a), consult with appropriate committees of the Senate or appropriate committees of the House of Representatives, as the case may be, and shall inform itself of related activities of and support or assistance that may be provided by (1) the General Accounting Office, the Congressional Budget Office, the Congressional Research Service, and the Office of Technology Assessment, and (2) appropriate instrumentalities in the executive and judicial branches.

"(c) Each committee shall prepare and have printed a report with respect to each reexamination completed under this title. Each such report shall be delivered to the Secretary of the Senate not later than the date specified in the resolution and printed as a Senate document. To the extent permitted by law or regulation, such number of additional copies as the committee may order shall be printed for the use of the committee. If two or more committees have legislative jurisdiction over the same program or portions of the same program, such committees may reexamine such program jointly and submit a joint report with respect to such reexamination.

"(d) The report pursuant to subsection (c) shall set forth the findings, recommendations, and justifications with respect to the program, and shall include to the extent the committee deems appropriate, each of the following matters:

"(1) An identification of the objectives intended for the program and the problem it was intended to address.

"(2) An identification of any other program having potentially conflicting or duplicative objectives.

"(3) A statement of the number and types of beneficiaries or persons served by the program.

"(4) An assessment of the effectiveness of the program and the degrees to which the original objectives of the program or group of programs have been achieved.

"(5) An assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program.

"(6) Information on the regulatory, privacy, and paperwork impacts of the program.

(e) A report submitted pursuant to this section shall be deemed to satisfy the reauthorization review requirements of title I.

"SEC. 233. Each department or agency of the executive branch which is responsible for the administration of a program selected for reexamination pursuant to this part, shall, not later than six months before the completion date specified for reexamination reports pursuant to section 232(a)(1)(B), submit to the Office of Management and Budget and to the appropriate committee(s) of the Senate and the House of Representatives a report of its findings, recommendations, and justifications with respect to each of the matters set forth in section 232(d), and the Office of Management and Budget shall submit to such committee(s) such comments as it deems appropriate.

"SEC. 234. For the purposes of this part:

"(1) The term 'funding resolution' means, with respect to each committee of the Senate, the first authorization resolution reported by such committee for a year under section 133(g) of the Legislative Reorganization Act of 1946, or any action taken in lieu of such funding resolution, which in any event shall occur not later than May 15.

"(2) An amendment to a funding resolution includes a resolution of the Senate which amends such funding resolution.

"PART E—CITIZENS' COMMISSION ON THE ORGANIZATION AND OPERATION OF GOVERNMENT

"SEC. 241. There is authorized to be established, as an independent instrumentality of the United States, the Citizens' Commission on the Organization and Operation of Government (hereinafter in this part referred to as the 'Commission').

"SEC. 242. It is hereby declared to be the policy of the Congress to promote economy, efficiency, and improved service in the transaction of the public business in the departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government.

"SEC. 243. (a) The Commission shall conduct a nonpartisan study and investigation of the organization and methods of operation of all departments, agencies, independent instrumentalities, and authorities of the executive branch of the Government in the following major policy areas:

"(1) International affairs and defense.

Functions:

"150—International affairs.

"050—National defense.

"150—International affairs.

"(2) Resources and technology.

"Functions:

"250—General science, space, and technology.

"270—Energy.

"300—Natural resources and environment.

"(3) Economic development.

"Functions:

"350—Agriculture.

"370—Commerce and housing credit.

"400—Transportation.

"450—Community and regional development.

"(4) Human resources.

"Functions:

"500—Education, training, employment, and social services.

"550—Health.

"600—Income security.

"700—Veterans benefits and services.

"(5) General Government.

"Functions:

"750—Administration of justice.

"800—General Government.

"850—General purpose fiscal assistance.

"900—Interest.

The Commission shall make such recommendation as it determines necessary to—

"(1) increase the effectiveness of Government services, programs, and activities by changing the structure and execution of administrative responsibilities;

"(2) improve delivery of services through elimination of needless duplication or overlap, consolidation of similar services, programs, activities, and functions, and termination of such services, programs, and activities which have outlived their intended purpose;

"(3) maintain expenditures at levels consistent with efficient performance of essential services, programs, activities, and functions;

"(4) simplify and eliminate overlaps in agency regulatory functions by review of the laws, regulations, and administrative reports, and procedures; and

"(5) determine the appropriate responsibilities of each level of government, the manner and alternative means for each level of government to finance such responsibilities, the forms and extent of intergovernmental aid and assistance, and the organization required for proper balance and division of respective Federal, State, and local government roles, responsibilities, and authorities.

"(b) The Commission shall submit to the President, the Committee on Governmental Affairs of the Senate, and the Committee on Government Operations of the House of Representatives such interim reports as it deems advisable, and, not later than four years after the appointment and qualification of a majority of the Commission Members, a final report setting forth the Commission's findings and recommendations. The final report of the Commission shall include the comments of the appropriate congressional committees.

"(c) At least once every year for two years after the submission of the final report, the Comptroller General shall report to the Congress on the status of actions taken on the Commission's final report.

"SEC. 244. (a) The Commission shall be composed of fifteen members appointed from among individuals with extensive experience in or knowledge of United States Government as follows:

"(1) Five members appointed by the President by and with the advice and consent of the Senate.

"(2) Five members appointed by the President pro tempore of the Senate, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the Senate.

"(3) Five members appointed by the Speaker of the House of Representatives, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the House.

"(b)(1) Two members appointed under subsection (a)(1) shall be appointed to serve as Chairman and Vice Chairman (as provided in paragraph (2) of this subsection) and shall not engage in any other business, vocation, or employment. Such two members shall not be of the same political affiliation.

"(2) The member described in paragraph (1) who is, when appointed, not of the same political affiliation as the President shall serve as Chairman of the Commission and the other such member shall serve as Vice Chairman of the Commission.

"(c) Of the members appointed and qualified under subsection (a)(1) other than the members to whom subsection (b) applies, not more than two shall be of the same political affiliation.

"(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

"(e) Eight members of the Commission shall constitute a quorum, but the Commission may establish a lesser number to constitute a quorum for the purpose of holding hearings.

"SEC. 245. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable.

"(b)(1) Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by him and shall be served by any person designated by the Chairman or such member. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

"(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances to witneses summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

"(3) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpena duly issued under the authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States attorney for any judicial district in which such person resides or is found, such attorney may proceed by information for the prosecution of such person for such offense.

"(c) The Commission is authorized to secure directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission deems useful in the discharge of its duties. All departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission in accordance with existing law.

"SEC. 246. (a) Subject to such rules and regulations as may be adopted by the Commission, the Commission shall have the power—

"(1) to appoint and fix the compensation of an Executive Director and such additional staff personnel as it deems necessary in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and—

"(A) in the case of the Executive Director, at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code; and

"(B) in the case of not more than three additional staff members, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

"(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

"(b) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

"SEC. 247. (a) The Chairman of the Commission shall receive compensation at a rate equal to the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the Vice Chairman shall receive compensation at a rate equal to the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) All other members of the Commission who are not officers or employees of the Federal Government shall receive compensation at the rate of $200 for each day such member is engaged in the performance of the duties vested in the Commission.

"(c) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of the Commission.

"SEC. 248. The Commission shall cease to exist ninety days after the submission of its final report.

"SEC. 249. There is authorized to be appropriated until September 30, 1983, without fiscal year limitations, the sum of $4,000,000 to carry out the provisions of this title.

"SEC. 250. The Commission shall be subject to the Federal Advisory Committee Act.

"PART E—MISCELLANEOUS

"SEC. 251. Section 206 of the Budget and Accounting Act, 1921 (31 U.S.C. 15), is amended by inserting immediately before the period a comma and 'or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 201 of this Act for the fiscal year'.

"SEC. 252. Nothing in this Act shall require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant such Executive order, or which are otherwise specifically protected by law. In addition nothing in this Act shall require any committee of the Senate to disclose publicly information the disclosure of which is governed by Senate Resolution 400, Ninety-fourth Congress, or any other rule of the Senate.

"SEC. 253. (a) The provisions of this section and sections 211(a), 211(b), 211(c)(1), 211(c)(2), 211(c)(5), 212, 213(b), 214(a), 214(c), 214(d), 214(e), 214(f), 214(g), part D (except section 233) section 255, and section 256 of this title are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(b) In the Senate, paragraphs (2) and (5) of section 211(c) shall also be treated as amendments to rule XVI of the Standing Rules of the Senate.

"(c) Any provision of this Act which is enacted as an exercise of the rulemaking power of the Senate may be waived or suspended in the Senate by a majority vote of the Members voting.

"SEC. 254. (a) To assist in the review or reexamination of a program, the head of an agency which administers such program and the head of any other agency, when requested, shall provide to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such

program such studies, information, analyses, reports, and assistance as the committee may request.

"(b) Not later than six months prior to the first reauthorization date specified for a program in section 211(b) the head of the agency which administers such program or the head of any other agency, when requested by a committee of the Senate or House of Representatives, shall conduct a review of those regulations currently promulgated and in use by that agency which the committee specifically has requested be reviewed and submit a report to the Senate or the House of Representatives as the case may be, setting forth the regulations that agency intends to retain, eliminate, or modify if the program is reauthorized and stating the basis for it decision.

"(c) On or before October 1 of the year preceding the Congress in which occurs the reauthorization date for a program, the Comptroller General shall furnish to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program a listing of the prior audits and reviews of such program completed during the preceding six years.

"(d) Consistent with the discharge of the duties and functions imposed by law on them or their respective Offices or Service, the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each committee of the Senate and the House of Representatives such information, analyses, and reports as the committee may request to assist it in conducting reviews or evaluations of programs.

"SEC. 255. (a) For purposes of this section and part B, the term 'required authorization waiver resolution' means only a resolution of the Senate or the House of Representatives—

"(1) which is introduced by the chairman of a committee pursuant to subsection (b);

"(2) which waives the provisions of subsection 211(c)(2) of this Act for the purpose of allowing consideration of a bill or resolution providing new budget authority for a program for not more than one fiscal year in an amount which does not exceed the amount of new budget authority required to maintain the current level of services being provided during the fiscal year preceding the fiscal year for which new budget authority would be provided; and for purposes of this section, such current level of services shall be determined initially from the report submitted to the Congress pursuant to section 605 of the Congressional Budget Act of 1974 and shall be certified by the Director of the Congressional Budget Office; and

"(3) the matter after the resolving clause of which is as follows: "That it is in order in the Senate (House of Representatives) to consider a bill (resolution) providing new budget authority for for the fiscal year in an amount (not to exceed $.' (with the first blank space being filled with identification of the program; the second blank space being filled with the fiscal year for which the new budget authority would be provided; and the third blank space being filled with the amount of new budget authority necessary to maintain the current level of services for such program for the fiscal year preceding the fiscal year for which such new budget authority would be provided).

"(b) The chairman of the committee of the Senate or the House of Representatives having legislative jurisdiction over a program or programs shall introduce a required authorization waiver resolution for such program or programs not later than the fifth day (not counting any day on which the Senate or the House, as the case may be, is not in session) following the occurrence of either of the following:

"(1) A bill authorizing the enactment of new budget authority for the same program or programs has been under consideration for not less than fifteen hours, including debate on the motion to consider the authorization bill, and no limitation of debate has been agreed to; or

"(2) A bill authorizing the enactment of new budget authority for the same program or programs has been vetoed by the President and such veto has been sustained by either the Senate or the House of Representatives.

"(c) A required authorization waiver resolution relating to a program introduced in, or received by, the Senate or the House of Representatives shall be referred to the appropriate committee of the Senate or the House of Representatives, as the case may be; except that any resolution introduced, received after September 1 of the second session of a Congress shall immediately be placed on the appropriate calendar. With respect to any resolution still pending before a committee on September 1, of the second session of a Congress, the committee shall be automatically discharged and the resolution placed on the appropriate calendar.

"(d) The provisions of section 912 of title 5, United States Code, relating to the consideration of resolutions of disapproval of reorganization plans shall apply in the House of Representatives and the Senate to the consideration of required authorization waiver resolutions.

"SEC. 256. The Committees on Governmental Affairs and on Rules and Administration of the Senate and the Committees on Government Operations and on Rules of the House of Representatives shall review the operation of the procedures established by this title, and shall submit a report not later than December 31, 1986, and each five years thereafter, setting forth their findings and recommendations. Such reviews and reports may be conducted jointly.

"SEC. 257. There are hereby authorized to be appropriated through fiscal year 1990 such sums as may be necessary to carry out the review requirement of parts B and D and the requirements for the compilation of the inventory of Federal programs as set forth in part C.".

Mr. MUSKIE. Mr. President, I suspect that we will have ample opportunity to discuss the amendment and what it proposes and what its implications are, before the day is out.

The ACTING PRESIDENT pro tempore. Will the Senator suspend momentarily? The Chair is advised that the committee amendments were set aside only until today so the amendment of the Senator from Maine would be out of order until the committee amendments are disposed of.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

Mr. MUSKIE. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Maine has the floor.

Mr. MUSKIE. Mr. President, the committee amendment which is involved is an amendment recommended by the Committee on Environment and Public Works. Although there is no time specified it was understood that the staffs of Senator STEVENSON, interested Senators from the Committee on Environment and Public Works, and Senator JACKSON would be working over the weekend to develop an alternative to the committee amendment. That work is underway, is under consideration, and the whole purpose of putting the amendment over was intended to give us time to work out such an amendment.

May I put this parliamentary inquiry? It was clearly the understanding of all involved, including the leadership, that that was the purpose of putting it over, and it was also the understanding on Saturday afternoon that we would proceed to my amendment the first thing this morning, although it was not the subject of a unanimous-consent request.

Mr. President, in view of the fact that the Senators directly involved are not present on the floor at this time I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LONG. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

RECESS UNTIL 11 A.M.

Mr. STEVENSON. Mr. President, I move that the Senate stand in recess until the hour of 11.

There being no objection, the Senate, at 9:55 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MCGOVERN).

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW NATIONAL HEALTH INSURANCE PROGRAM

Mr. KENNEDY. Mr. President, today I am pleased to make public an outline of a significant new national health insurance program, prepared by the Committee for National Health Insurance in collaboration with my office.

It is nearly 10 years since CNHI was formed. Its goal was and is to achieve high quality health care for all Americans as a matter of right, within a system that brings runaway health costs under control.

Many aspects of American life have changed since CNHI was formed in 1968. Many of these changes have been positive and have enriched the quality of life for millions of Americans. But in one area—the health area—the crisis which was just emerging in 1968 has grown seriously worse. The major reason has been the runaway escalation of health care costs.

This rampant inflation takes its toll everywhere—on Federal budgets where the percentage of the Federal dollar spent on health has risen from 4.3 percent in 1963 to 12.7 percent this year; on State budgets where Medicaid costs have become the single most rapidly escalating cost; on corporations which pay more and more each year for health benefits; on the American family which must pay $2,115 today, and $3,590 in 1983 for benefits which cost $533 in 1963; on the elderly, who pay more for their care today out of their own pocket than the year Medicare was implemented.

Hospital costs are so out of control that usually rational people talk about establishing a 12-percent hospital inflation rate as a public policy objective to control costs. There is something fundamentally wrong when the best one can hope for is to limit hospital inflation to 12 percent. It is astonishing that even that unacceptable target would save 30 billion dollars over the next 5 years. But such is the case in an area where costs are increasing at the rate of $1 million per hour.

The Nation as a whole will spend $252 billion in 1981 on health care and that money will pour into a system without cost controls, without quality controls, with uneven access to care, and without any prospects for improvement.

In fact 26 million Americans still have no insurance coverage whatsoever; 19 million more have minimal, and totally inadequate coverage. And 51 million Americans live in areas without sufficient access to health care.

We must face the hard reality. The current nonsystem of medical care is a failure. If left unchecked, that failure will become a disaster—a disaster which will destroy Federal and State budgets, seriously injure the economy, cause countless human tragedies, and in my opinion, create a citizens revolt that will pale the current concern over taxes. Make no mistake about it.

There is a growing grass roots constituency, represented by CNHI, which cares deeply about this issue, and which will make itself increasingly felt in the months ahead. The senior citizens, church groups, and working men and women of this country are ready to move. Their ranks will be swelled, I believe, by the middle class which will see its premiums rising and its benefits falling because of inflation. This coalition for national health insurance will have to be reckoned with.

Every American family knows what it means to live within a budget. It is time the American health care system learned to live within a budget. The proposal I am making public today imposes such a budget. No other program to guarantee comprehensive benefits to all Americans will cost less than this proposal. In fact, once cost containment takes effect the Nation will pay less for health care than if the current nonsystem is left unchecked.

I see national health insurance as the last, best chance of bringing the health care system under control. It is more than a financing method. It is a system that will allow the Nation to budget its health care expenses prospectively and then live within it; it is a system that will provide incentives for alternative, less costly delivery models—such as HMO's—it is a system which will enable, through progressive reimbursement policies, an emphasis on prevention of disease, of increasing individual responsibility for maintaining health; it is a system in which one can improve the quality of care.

Next week the health subcommittee will begin oversight hearings on this proposal. We will hold hearings in Washington and around the country. Our goal is to begin a serious, intensive national debate. On the basis what is learned, a legislative proposal will be developed, to be introduced early next session.

There are those who say we cannot afford national health insurance. If there is one thing that is clear it is that we literally cannot afford not to have it. I believe the economics of the situation, if nothing else, will help assure that the next Congress will be known as the health insurance Congress.

HEALTH CARE FOR ALL AMERICANS

INTRODUCTION

The purpose of this plan is to create a national health insurance program which will:

First. Make comprehensive health services available to all Americans.

Second. Control runaway health care costs through a prospective budgeting system.

Third. Allow a significant role for a publicly regulated private insurance system.

Fourth. Promote system reforms to emphasize preventive medicine and encourage the development of alternative delivery systems such as HMO's.

Fifth. Enhance the quality of care.

Sixth. Insure adequate compensation for health care providers.

Seventh. Provide protection against catastrophic costs.

Eighth. Assure full public accountability of all aspects of the plan and its operations and consumer participation in its development and administration.

THE PROGRAM

UNIVERSAL COVERAGE

The program will provide for everyone in the country to be covered for comprehensive service benefits, including preventive health care services and catastrophic costs of illness.

The universal coverage will be assured as follows:

For the employed, self-employed, and other individuals, there will be mandated benefits. Employers will be responsible for the major share of the health insurance costs of their employees and dependents.

For the poor and unemployed, the Federal Government will pay the costs.

For elderly, medicare will be upgraded to provide more comprehensive benefits.

COMPREHENSIVE BENEFITS

The mandated benefits will provide full coverage for in-patient services, physicians' services in and out of hospital, home health services, X-rays, and lab tests. Costs of catastrophic illness will be fully covered since there will be no arbitrary nonmedical limits on number of hospital days or physician visits. Preventive care for all members of the population will be actively encouraged and fully covered.

Specified mental health benefits will be included. Future benefits to be phased in will include prescription drugs—to be covered at the outset for the elderly—and other professional services.

IMMEDIATE COST CONTAINMENT

Immediately upon enactment, the legislation will impose overall revenue and expenditure limits on hospitals and revenue limits on physician services. Budget caps will be used to restrain current rates of increase in these services. Protection for the wages of nonsupervisory employees will be assured.

When benefits begin 2 years following enactment, prospective budgeting of hospital and physician expenditures will become the principal method of cost control.

BUDGETING COSTS

In advance of each fiscal year of benefits, negotiations between representatives of hospitals and doctors, on the one hand, and the public authority, private insurers and health maintenance organizations on the other, will determine hospital budgets and schedules of payment of physician fees. Future increases in health care costs will not be permitted to exceed rises in the costs of other goods and services.

Providers will not be allowed to charge patients additional amounts above those that are negotiated in the budgetary process.

National, areawide and State budgets for health services and medical care will set maximum levels of expenditures.

PUBLIC AUTHORITY

Universal coverage will be assured through a bipartisan Federal Public Authority (PA) whose members will be appointed by the President, subject to Senate confirmation. Not less than one-half of the members will be consumer representatives. Most Americans will be insured by a PA-certified and regulated insurer or HMO which is a member of a consortium of first, insurance companies, second, nonprofit health service plans, or third, federally qualified health maintenance organization of their choice.

The PA will regulate and oversee the operations of the certified insurers and consortia and will consolidate the administration of medicare, a federalized medicaid program and several other existing Federal programs. Its major objectives will be to assure universal coverage through the combination of public and private programs, control the rapidly escalating costs of medical care, and to effect major reforms in the provision of health care by bringing private and public financing into conformity with the goals of the legislation. It will also design national strategies for the expenditures of resource development funds in conjunction with existing agencies established in the health care planning legislation. The PA will establish standards such as assuring open enrollment, guidelines for mandated coverage, and procedures to assure adequate payment to providers. The public authority will

also certify insurers to participate in the program, monitor their activities, and recertify them on an annual basis. The authority will publish rules and regulations for the guidance of provider reimbursement policies and for utilization review and quality assurance programs.

STATE AUTHORITIES

The Public Authority will contract with each State and territory to establish State authorities (SA's) as agents of the Federal agency to implement national policy. Programs such as State rate review agencies, health systems agencies, and professional standards review organizations, will be used to the maximum extent possible consistent with the objectives of the program.

The SA's bipartisan members will be nominated by the State Governor and approved by the PA. Consumers will comprise not less than one-half of the membership, in addition to representatives of the State and local governments and providers.

The State authority, along with its certified insurers, will negotiate with hospital representatives to establish institutional budgets. Consumers, including employer and employee representatives, will also be involved in this process. Hospitals will be grouped into various categories—that is, teaching/nonteaching, nonprofit community/proprietary, bed size, patient mix, et cetera. No insurance carrier will be permitted to reimburse a hospital above the negotiated amounts, nor will the hospital be permitted to charge rates exceeding the approved amounts. Consistent with the system of prospective budgeting with caps, alternative ways of reimbursing providers will be given careful scrutiny in the coming months.

Similarly, the SA's, along with certified insurers, will negotiate with physician representatives and approved HMO's to establish fee schedules and other levels of payment for physician services based on per capita amounts, fee-for-time, stipends, salary and other approval methods. Fee schedules will be designed toward equalizing differences in rates of physician reimbursement for the same illness or category of service, and to encourage more primary care physicians, particularly in medically underserved areas.

Every resident of the United States will be issued a health insurance card.

If a patient receives medical care without proof of health insurance coverage, the provider will bill the State authority, which will be responsible for determining the source of payment to be used for the individual.

In the event no certified carrier or HMO is available in an area, the State Agency will offer the mandated health insurance coverage to all residents in the area.

THE INSURANCE INDUSTRY

Private health insurance companies or Blue Cross/Blue Shield plans, in order to participate in the national health insurance program, will require Federal certification and to be included as a member of either the commercial carrier or Blue Cross/Blue Shield consortium. Continuation of Federal certification will be subject to each company satisfying the following:

First. Provide for the enrollment of all group members, or individuals, without regard to age, sex, occupation, race, prior medical history, current health status, employment, marital status or source of premium payment;

Second. Conduct an annual open enrollment season designed to provide the opportunity for new applicants to join the health insurance program;

Third. Be a member of a consortium;

Fourth. Not require the purchase of other forms of business or personal insurance as a condition for enrollment in the health insurance program;

Fifth. Price and advertise the mandated health insurance benefits separately from other forms of insurance;

Sixth. Offer uniform, comprehensive insurance benefits at earnings-based premiums equal to or below the maximum set by the public authority without experience rating;

Seventh. Provide only those other forms of medical insurance or disability income benefits which do not duplicate or conflict with the uniform health insurance benefits offered by the Federal program;

Eighth. Reimburse health care providers (both institutional and professional)—for all services covered by the uniform comprehensive benefits, and at fees and rates not to exceed those established in negotiation with the providers and approved by the State authority;

Ninth. Adhere to the standards set by the public authority regarding claims and quality review criteria, interpretation of benefits, customer service, advertising and other matters;

Tenth. Issue identification cards to all enrollees which guarantee payment for the mandated benefits at established fees and/or reimbursement rates to all participating providers; such cards will not identify the source of premium financing;

Eleventh. Utilize only standardized and State authority-approved insurance policies that do not contain unjust, unfair, inequitable, misleading and/or deceptive language or encourage representation;

Twelfth. Utilize only standardized and approved claims forms designed for uniformity, clarity, and easy use for review and benefit reimbursement under the mandated program;

Thirteenth. Collect data and report on utilizations and costs to the State authority as required by the public authority;

Fourteenth. Implement methodologies to assure that patient diagnosis and length of hospital stay are consistent and that quality of care is maintained;

Fifteenth. Refrain from gathering and exchanging information and data on prior medical histories of individuals enrolled, or making application to enroll, in the mandated program;

Sixteenth. Obtain approval of State authority for all advertising material for mandated benefits;

Seventeenth. Allow the public authority or its designee access to financial and management records as they pertain to the administration of the mandated benefits package;

Eighteenth. Include a clause extending coverage for at least 30 days after employment termination;

Nineteenth. Assure uniform charges;

Twentieth. Develop medical care profiles on treatment provided and facilities used to rapidly detect any minimizations or excesses which would conflict with the rendering of quality care and the efficient delivery of medical services.

INSURANCE CONSORTIA

Specific responsibilities for each consortium will be the following:

First. To represent their member companies by participating with the Public Authority, which will establish premium rates based on anticipated expenditures for the forthcoming year;

Second. To participate, on behalf of their member representatives, with provider representatives and State Authorities in all prospective rate and utilization review negotiations of physican payment and hospital budgets:

Third. To serve as a management vehicle to redistribute excess employer/employee contributions to member carriers, requiring additional payments:

Fourth. To serve as the source of carrier reinsurance in the event of revenue shortfalls because of adverse selection or catastrophe;

Fifth. To review and approve carrier marketing material prior to distribution. Individual insurers will continue to market directly, but only with material approved by the consortium and the State authorities;

Sixth. To administer a placement service for individuals failing to select a carrier or to be allocated among carriers by the State authority;

Seventh. To organize, through their members, an administrative appeals procedure to resolve subscriber/provider/insurer disputes. The first review can be performed by the carrier, the second review by the consortium, and the third review by the State authority;

Eighth. To monitor, separate from direct Federal surveillance, its members' satisfying Federal qualification requirements;

Ninth. To develop an accounting, research and evaluation component to collect and analyze cost data for its members, and for data reporting to the State and public authorities as essential elements in effective administration and control;

Tenth. To furnish technical assistance to its members in the areas of administration, provider reimbursement and systems reforms.

HEALTH MAINTENANCE ORGANIZATIONS

HMOs and other nontraditional forms of health care delivery will be fully supported. Special provisions will be made for neighborhood health centers, community mental health centers, half-way houses and other organized methods of delivering health care. Programs which are useful in reaching underserved populations, including those in inner cities, rural America and migrant labor areas, will be covered.

The HMOs will be full participants in budget negotiations for institutions to be served by their enrollees and will receive full compensation for covered in-patient and out-patient services furnished in an institution operated by the HMO itself.

Since HMOs are expected to maintain their lower rates of hospitalization as compared with other types of insurers, the HMOs will be able to provide services beyond those mandated by the comprehensive benefits program and thus compete successfully with traditional forms of organization and delivery.

FINANCING

Financing will be effected through a combination of employer/employee contributions, and Federal general revenue support for the poor and unemployed, and for improvement of the medicare program. The self-employed and other individuals not covered by employer groups will purchase coverage at group rates through a certified insurer or qualified HMO.

Earnings-based premiums will be established. This means a premium based on employers' total payrolls, of which the employees may be charged up to 25 percent, the exact amount of each employee's payment being determined in accordance with his or her wages. There may be contractual arrangements for employers to pay the total premium. In the case of the self-employed and the nonemployed, there will be a premium based on the individual's earned and/or nonearned income.

The earnings-based premium on employers will allow those whose employees' pay is lower than the average for the entire community to purchase good health insurance at less than what would be their experience-rated premium under our present system. It will mean that employers whose payrolls are higher than the average for the entire community will pay a larger amount, but no more in relation to payroll than other employers. Low- and high-wage employees will be similarly affected.

Thus, a company with lower-paid employees will pay less than a company with the same number of higher-paid employees. For example, if a 5 percent earnings-based premium is used, a firm paying average wages of $20,000 will pay $1,000 for health benefits for employees and eligible dependents—less up to 25 percent as the employees' share—while a firm with average wages of $10,000 per year will pay only $500—less up to 25 percent as the employees' share. Federal subsidies will limit new costs to employers to a small percentage of payroll during the early years of the program.

Because the employer's contribution is based on employee salaries and wages rather than on the individual employer's cost of providing coverage, the costs of hiring low-wage employees will not be proportionately higher than for high-wage employees, and there will be no disincentive to hire part-time workers, those with high health risks, or those with eligible dependents. Migrant workers, seasonal employees, and others who have fallen between the cracks of other programs will be automatically covered—at the same premium percentage of their salaries and wages—without onerous premiums being imposed on their employers.

Companies which enjoy a lower-than-average rate for health insurance based on their experience—because they have healthier-than-average employees—currently save on taxes—health insurance as a deduction against their corporate income tax liability. Under the earnings-based premium, they will continue to save on taxes but will enjoy no premium reduction because others in the community may have a higher experience rate.

PAYING FOR THE POOR AND THE UNEMPLOYED

The program will provide for quality care for all under one system. The poor and the unemployed Americans will be insured for the same benefits as the employed. They will have the same choices of insurer or HMO as the employed. Costs of the short-term unemployed will be covered by a provision requiring 30 days' coverage for laid-off employees under employer plans. The long-term unemployed and the poor will be an on-budget cost to the Federal Government; but both in terms of identifications and in levels of payment, the status of these groups will be indistinguishable from others.

Preliminary calculations indicate that the net impact on the Federal budget will be tolerable.

COMPETITION BETWEEN CONSORTIA AND AMONG INSURER AND HMO'S

Certified insurers and qualified HMO's will know what premium they will be entitled to receive for each person or family covered. Their incentives will be to control costs, be efficient, and offer competitive supplementary benefits, but not to compete on "risks."

Many employers will provide additional health benefits and other lines of insurance as benefits. With the mandated benefit package of the national health insurance program as a base to build upon, the insurers and HMO's will be expected to compete vigorously to attract new groups and for the self-employed, the poor, and the unemployed. The HMO's will be highly competitive on the basis of their greater scope of benefits offered and lower costs of hospitalization.

EXISTING EMPLOYER-EMPLOYEE ARRANGEMENTS

An employer will not be relieved, by national health insurance, of any existing contractual or other obligation to provide or pay for health services to his employees. If an employer's cost under an existing contract exceeds what he would be required to pay to finance the mandated package, he could, as a result of negotiations with his employees, apply the excess to their cost of the mandated benefits and other services not covered by the legislation.

Provision will also be made for those organizations which self-insure to continue their individual programs. In cooperation with these organizations, the national health insurance program will develop arrangements for their participation which will conform to the overall goals and objectives of the national program.

EQUALIZATION AND REINSURANCE PROGRAM

Equalization and reinsurance funds will be established within each consortium and among consortia to counterbalance individual member companies, service plans, and HMO's. The funds will assure that no consortium member will be able to profit by selecting risks and that no consortium will engage in adverse selection in relation to other consortia. The pooling arrangements of these funds will be based on well-established insurance practices. Another fund will transfer payment for costs of treatment of out-of-area enrollees.

Unforeseen medical costs, such as those resulting from natural disasters, will be protected by these funds.

ADMINISTRATIVE COSTS

There will be provisions to limit to predetermined levels of administrative costs in both the public and private component parts of the program.

The costs of administering the Federal and State public functions as well as private administrative costs will be strictly monitored and will be minimized through Federal regulation.

PREVENTIVE MEDICINE AND HEALTH PROMOTION

The program will provide payment for services to prevent illness and to detect disease at an early stage. It will be designed to encourage health education of enrollees in all consortia member companies, plans or HMO's.

Coverage for the provision of specific preventive services will be included, such as immunization and hypertension detection and follow-up.

The preventive medicine and health promotion aspects of this program for personal health services will dovetail with other programs developed as a national strategy for prevention-oriented, environmental, community and personal health practices.

RESOURCES DEVELOPMENT

A resources development fund will be established to stimulate development of services for population groups for whom access to services is presently denied or severely limited. The fund will also support a nationwide program of demonstration projects for the development of services designed to assist the elderly and chronically ill to remain in their own homes rather than to be institutionalized.

CONSUMER AND PROVIDER ADVISORY COUNCILS

A National Health Insurance Advisory Council will be appointed. It will consist of providers of health care services and consumers of such services. The latter, who will have no financial interest in the furnishing of health services, will be a majority.

The National Health Insurance Advisory Council will assure similar representation at all levels of public authority involved in the program. It will advise the Federal Public Authority on matters of general policy in the administration of the program, in the formulation of regulations, and in the perform-

ance of the PA's functions generally. It will also maintain a continuing study of the operations of the program with particular attention to utilization of health services, with a view to recommending any changes in benefits or administration.

The State authorities will maintain similarly composed advisory councils.

The advisory councils will appoint professional and technical committees as they deem necessary to advise them with respect to the various classes of covered and prospectively covered services.

*Net on-budget cost of the plan**

Fiscal year	Amount in billions
1978	$14.1
1981	18.8
1983	21.7

*This is the net impact on the budget of providing mandated personal health services to the poor, the unemployed and upgrading the Medicare program. Benefits include inpatient hospital care services, physician services in-hospital, out-of-hospital and office visits, preventive care, and protection against catastrophic costs.

In addition to the on-budget costs for mandated services, it would be necessary for the Federal Government to provide subsidies to small employers and employees in low-waged industries. The DHEW has estimated that the magnitude of this subsidy will be in the area of $5 billion.

Providing drugs for the elderly would add $2.6 billion to the cost of the plan in 1978; $3.5 billion in 1981; and $4.1 billion in 1983.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 3077.

UP AMENDMENT NO. 1980

(Purpose: to revise the Export-Import Bank's non-financial and non-commercial lending criteria)

Mr. CHAFEE. Mr. President, on behalf of myself, Mr. McGOVERN and Mr. THURMOND, I send to the desk an unprinted amendment.

The PRESIDING OFFICER (Mr. BUMPERS). The committee amendment is still pending. As long as it is pending, the Senator's amendment would not be in order except by unanimous consent.

Is there objection to considering the amendment of the Senator from Rhode Island?

Mr. LONG. Mr. President, reserving the right to object, I think the amendment has to be read, or I see it, before I give consent. I do not know what is in the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFFE), for himself, Mr. McGOVERN and Mr. THURMOND, proposes an unprinted amendment numbered 1980:

Beginning with page 3, line 1, strike out all through page 13, line 20, and insert in lieu thereof the following:

DENIAL OF EXPORT APPLICATIONS

SEC. 4. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out the remainder of the paragraph after "and employment in the United States," and inserting in lieu thereof "and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest or where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for non-financial or non-commercial considerations.".

Mr. LONG. I have no objection, Mr. President.

Mr. STEVENSON. Mr. President, reserving the right to object——

Mr. CHAFEE. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois has reserved the right to object. Does the Senator object?

Mr. STEVENSON. Reserving the right to object, is my understanding that no vote would occur on this amendment until 6 o'clock or thereafter?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENSON. Is my understanding also correct that the rights of the Senator from Maine to bring up the committee amendment of the Committee on Environment and Public Works would not be prejudiced by the debate on this amendment now?

The PRESIDING OFFICER. The Senator is correct. The adoption of this amendment would not prejudice the committee amendment.

Mr. STEVENSON. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Rhode Island may proceed.

The following Senators requested, and by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. CHAFEE: Mark Gorman and Don Planty; Mr. McGOVERN: Ruth Claveloux; Mr. JACKSON: Richard Perle.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I would like to review the bidding, if I may, on this amendment as it ties in with the act before us, the Export-Import Act amendments, and the Stevenson amendment, which previously has been adopted by this body.

Under the Stevenson amendment, the situation as it applies is that the President shall send to Congress a list of those countries to which he believes the United States should not grant Export-Import Bank credits. Included in that list would be the so-called Jackson-Vanik countries, which already exist on lists.

In addition, there would be those countries that the President feels have not met various criteria, such as in the area of nuclear proliferation or environmental protection or human rights or international terrorism. That list remains before Congress and is in effect for 5 years, unless the President should take off specific countries, which he can do by sending forward the individual countries in a list or separately.

When the original list is submitted to Congress, Congress has 60 days in which to reject the list. Congress cannot add countries, nor can it delete countries, but it can reject the whole list.

With that understanding of what the act provides to date and the amendment as adopted last week, the so-called Stevenson amendment, I, in conjunction with Senator McGOVERN and Senator THURMOND, have brought forward this amendment, which provides that the President does have the right, when he deems it in the national interest or where such action would clearly and importantly advance U.S. policy in such areas as international terrorism, nuclear proliferation, environmental protection, and human rights—to deny applications for credit to the Export-Import Bank. In other words, we cannot give country X the right to have the Export-Import Bank support.

The significant difference between what this amendment would accomplish as opposed to the existing Stevenson language is in the matter of lists. In the Stevenson amendment, lists must come before Congress. I and others feel very strongly that this matter of sending in lists of countries that the President at that particular time deems to be naughty in one way or another is really not in the best interests of the country, because those lists that come forward set in concrete our relationships with countries A, B, or C.

When the list comes before Congress, if country L is not on the list, there can be a rancorous debate on the floor of Congress as to why that country is not on the list; or there can be a debate as to why country A is on the list. They are wicked; they are naughty. What about country X?

So, on the floor of the Senate—and the same can be true in the House—we expose to the world the views, the antagonisms, the gripes, and the objections of various Members of Congress with respect to a country, whatever it might be. Therefore, we have what we might call blood all over the floor, and we are damaging our potential relationships with these countries.

If, indeed, a country is in disfavor with the President for some reason, as the criteria observe, and the information is before Congress and on a list, then, when the President chooses to take that country off, we again go through a long, unpleasant debate, damaging our relations with that nation and other nations.

It seems to me, Mr. President, that whenever we deal publicly with the names of those countries that are officially in disfavor with this Nation, we get into a lot of trouble. We have been through that. I do not want to bring up too many specifics, but we have seen that these things are self-defeating. If we want a country to improve its behavior in some area, be it human rights or international terrorism or nuclear proliferation or whatever, once we officially list that country as in our disfavor, as being naughty, that country does not change its ways. Indeed, it digs in its heels and says it is not going to respond to official pressure such as this.

For example, we went through a long debate with respect to lifting the Turkish arms embargo, and officially it was declared that we could not sell arms to Turkey, because of the Cyprus issue. We say that that did not change Turkey one iota. It did not improve the situation in Cyprus. But what it did was to poison our relationships with Turkey. It was absolutely self-defeating. It was a loser both ways—a loser on Cyprus and a loser in our relationships with Turkey and its contributions to NATO, and so forth.

Mr. President, I do not want to debate that all over again here. I just use that as an example, and I think we can think of many such examples.

It seems to me that the way we should effect changes—if indeed we do want to influence country A to reform itself in such and such a manner—is through quiet diplomacy, not having 535 Secretaries of State on the floors of both bodies saying this must be done and that must be done, country A is bad, country X is bad.

It seems to me that we can make our views known, but let us leave the conduct of our foreign policy in such matters as this to the President and to the Secretary of State.

That does not mean we are not going to have influence. That does not mean we are going to be abrogating our responsibilities in any way. We are not.

But, Mr. President, I very, very strongly believe that we all agree that we want to improve our export policy and, indeed, the President has said that just last week.

I do not think there is a Member of this body who does not believe that our export situation cannot be improved. But the question is how to do it?

I believe that as to this step of putting countries on this list and, although they can be taken off, there is going to be all kinds of bitter debate about their coming off. I think this will be harmful to our export policy, it will be poisoning to our relationships with certain countries, and it will be a loser exactly as we found in so many past experiences.

This amendment, which I have and which I am joined in by my distinguished colleagues, provides that the President can fail to grant the Export-Import applications. He has that power under this act. But he can do it quietly and he can do it under these guidelines that we have set forth.

So, Mr. President, I earnestly urge my colleagues that they support this amendment, and I solicit their support.

We are not working on a time limitation.

The PRESIDING OFFICER. We are not under a time agreement.

The Senator from South Dakota is recognized.

Mr. McGOVERN. Mr. President, I think the Senator from Rhode Island has made the case very well for the amendment that we are jointly offering here along with Senator THURMOND.

I ask unanimous consent that the Senator from Arkansas, Senator BUMPERS, be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. BELLMON. Will the Senator ask that the Senator from Oklahoma be added as a cosponsor also?

Mr. McGOVERN. I also ask unanimous consent that the Senator from Oklahoma, Senator BELLMON, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, the Stevenson amendment as it is now offered on the floor would require the President to publish a black list of countries ineligible for Eximbank transactions. The President would make his determination based on U.S. national interest plus the performance of other countries in matters such as human rights, nuclear proliferation, and environmental protection. The President could add or subtract from the black list, and Congress would have 60 days in which to veto any change. All countries now affected by the Jackson-Vanik amendment would be on the list at least initially. The Jackson-Vanik procedures would be slightly modified for all countries except the Soviet Union which would apparently retain a special position of dishonor on the black list.

The proponents argue that this amendment would bring greater predictability to Eximbank transactions, and at least begin eroding the Jackson-Vanik amendment.

I grant that a list of ineligible countries would mean more predictability—but at an unacceptable cost in lost exports for American farmers and workers—and in the flexibility America needs to pursue those policies such as human rights and nuclear nonproliferation which are today giving our Nation a new moral force in the world.

As for the quantity of exports, no one argues that a black list will increase the number of countries now eligible for Exim credits. No one argues that U.S. exporters and U.S. farmers will have more places abroad to sell their goods if this amendment passes. And the addition of even a few more ineligibles could easily cost billions in lost export earnings at a time when our balance of payments and the strength of the U.S. dollar represent serious and immediate threats to U.S. strength in the world.

Once a country became ineligible for Exim credits, U.S. exporters would surely be reluctant to proceed without Exim support, and the country itself would certainly turn to other markets for its imports.

It is easy for me to see how the black list would grow—and hard to see how it would shrink. We have all heard debates in recent years in which countries like Argentina or Vietnam—Chile or Cambodia—Uganda or the Philippines have been cited for one action or another of which a majority in Congress rightly disapprove. We have watched the list of countries ineligible for U.S. assistance grow. We know how hard it is to remove a prohibition once it is on the books. It is an unfortunate fact in the life of nations that the number of possible transgressions is endless and that they occur quickly, whereas the kind of free and open society we cherish takes years of patient building.

It is true that this amendment would not permit Congress to add countries to the black list, only to reject deletions. But it is also true that the political hullabaloo that would occur each time a new objectionable country appeared on the scene would make further additions inevitable.

Consider what our debate over listing or delisting countries would do for American diplomacy. The President moves to delete country X, because he thinks he sees signs of democractization. Opponents argue that country X is still worse than country Y which is not on the list, and clearly no better than country Z which took the lead, let us say, against us in the United Nations just last week. It is hard to see how this debate by itself will improve our relations with country X, Y, or Z and easy to see how each could turn elsewhere not only for imports, but for friendly advice on human rights, nuclear power and the other kinds of issues raised in this amendment.

What of the countries that escape the black list and escape notice in our debates? The eligibles could very well interpret the President's decision as meaning that they are entitled to whatever Exim financing they request, regardless of the economic validity of the transactions. And would they not rightly assume they had received a good housekeeping seal of approval for their performance on all the criteria listed in this amendment—even if their performance were clearly lacking?

Mr. President, let me mention again the special discrimination which the sponsors of this bill would apply to the Soviet Union. Do we think that Soviet policies are worse than China's?—worse than Uganda's?—worse than Cambodia's? Does the United States Senate want to send the Soviet Union a signal when it votes today that it is the world's least favored nation as far as we are concerned? I doubt that very much, but make no mistake that this is the way our action will be interpreted if we vote for the Stevenson amendment.

Perhaps the present system of managing Exim credits is less than perfect, although I have heard no one cite a case other than the Allis Chalmers sale to Argentina which was held up pursuant

to the human rights directive Congress itself wrote into the Exim authorization. Perhaps my colleagues can cite other examples. But I am by no means persuaded that any gain in predictability could nearly outweigh the damage blacklisting would do to the foreign commerce of the United States and to the ability of this Nation to influence the behavior of other nations.

Mr. President, I just want to add a few thoughts to what has already been said so well by the Senator from Rhode Island.

I want to say, first of all, that I think all of us understand that Senator STEVENSON and Senator HEINZ have offered language which they sincerely believe would advance the export of foreign policy interests of the United States. This is really a judgment matter. It is not a matter of different objectives.

I have no doubt at all that the committee in offering the language that they brought to the Chamber thought that was an improvement over the present method of dealing with other countries in our export business.

But it is the strong conviction of the administration, the Department of State, the Department of Commerce, and many of us in the Senate that on this point the committee is mistaken and that the language which the Senator from Rhode Island has just described is much more consistent with the objective of this country of trying to expand its exports at a time when our dollar is in trouble, when our balance of payments are in disarray, and the worst thing it seems to me we could do right now, perhaps not the worst thing, but certainly a damaging thing to our export posture with the rest of the world, is to call on the President to publish a blacklist against a whole array of countries that could be barred from Exim credits by Presidential action.

I know that the Senator from Illinois in arguing the case for his amendment says that they are offering an alternative to impulsive congressional determination of eligibility country by country; in other words, putting this responsibility in the hands of the President rather than Congress.

But as the Senator from Rhode Island has already pointed out, in effect, we are formalizing the blacklist. We are not going to get away from impulsive debate here in Congress. Under the terms of the Stevenson amendment, these blacklists have to be submitted to Congress for periodic review and invites simply on a more formal basis the kind of harmful debate that the Senator from Rhode Island referred to.

Beyond that, Mr. President, if it is true that Congress occasionally acts impulsively, and I suppose that case could be made, on export policy and on other matters, why do we think it improves the situation in any manner to call for the administration to formalize that kind of arbitrary conduct when it comes to our export policy?

The Stevenson amendment, as it now has been offered would require the President, in effect, to publish a blacklist of countries ineligible for Eximbank transactions. The President would make his determination based on U.S. national interests, plus the performance of other countries in a whole range of matters, such as human rights, nuclear proliferation, and environmental protection.

The proponents argue that this amendment would bring greater predictability to Eximbank transactions, and we have been told by some proponents of the committee amendment that it provides a formula under which you could being eroding the Jackson-Vanik amendment.

Mr. President, I grant that a list of predictability, but I think that an unacceptable cost in loss exports for American workers, American farmers, and American industry, and it would mean a loss of the flexibility America needs to pursue those policies that we are all concerned about in the field of human rights and nuclear nonproliferation, which are today giving our Nation a new moral force in the world.

But as the Senator from Rhode Island has argued so well to publish a blacklist and to invite the kind of inflammatory debate that we know would take place in this Chamber each time one of those lists was furnished to us would actually reduce not only the opportunities for export but would reduce the foreign policy influence of the United States not only with nations that happens to be on the blacklist but for others who might be assailed here in the Chamber as to their relative virtues or lack thereof each time one of these debates took place.

As for the quantity of exports, no one argues that a blacklist will increase the number of countries now eligible for Exim credits. No one argues that U.S. exporters and U.S. farmers will have more places abroad to sell their goods if the committee amendment is allowed to stand. And the addition of even a few more ineligible countries could easily cost billions in lost export earnings at a time when our balance of payments and the strength of the U.S. dollar represent serious and immediate threats to U.S. strength in the world.

Once a country became ineligible for Exim credits and it was published on the official blacklist, U.S. exporters would surely be reluctant to proceed without Exim support, and the country itself would certainly turn to other markets for its imports.

It is easy for me to see how the blacklist would grow and hard to see how it would shrink. We have all heard debates in recent years in which countries like Argentina, Vietnam, Chile, Cambodia, Uganda, or the Philippines have been cited for one action or another of which a majority in Congress rightly disapproves, and we have watched the list of countries ineligible for U.S. assistance grow. We know how hard it is to remove one of those prohibitions once it is on the books. It is just an unfortunate fact in the life of nations that the number of possible transgressions is endless and that they occur quickly, whereas the kind of free and open society we cherish takes years of patient building.

It is true, Mr. President, that the committee amendment would not permit Congress to add countries to the blacklist, only to reject the deletions. But it is also true that the political hullabaloo that would occur each time a new objectionable country appeared on the scene would make further additions inevitable. Consider what our debate over listing or deleting countries would do for American diplomacy, Mr. President. I do not want to belabor that point, because the Senator from Rhode Island, I think, has made it very clear.

But what of the countries that escape the blacklist and escape notice in our debate? The eligibles could very well interpret the President's decision in leaving them off the ineligible list as meaning they are entitled to whatever Exim financing their request regardless of the economic validity of the transactions.

They would, would they not, rightly assume they had received the Good Housekeeping seal of approval for their performing on all the criteria listed in this amendment, even if their performance was clearly lacking?

Mr. President, let me mention again the special discrimination which the sponsors of this bill would apply to the Soviet Union. There is a provision in the bill that has the effect of treating some of the countries now covered by the Jackson-Vanik amendment on a different basis than they are now treated.

But the Soviet Union is singled out as the one country in the world to which we would continue to apply discriminatory treatment.

Mr. President, the question one has to raise is this: It is not are the Soviets virtuous. All of us are disturbed about human rights practices in the Soviet Union, about emigration policies, and so on. But the question is at a time when they are supposedly on the verge of negotiating some kind of limitation on arms that might save the world from nuclear destruction, the so-called SALT negotiations with the Soviet Union, is it wise to single this one country out as apparently the worst country in the world, the one to which we are most discriminatory when it comes to Export-Import credits. Do we really think, for example, that Soviet policies are any worse in the human rights field than, say, those of China or Uganda or Cambodia? Does the U.S. Senate at this time want to send the Soviet Union a clear diplomatic signal when it votes today that we believe it is the world's least favored nation as far as we are concerned when it comes to commercial trade?

I find that particularly unwise considering the fact that in recent years the Soviets have proved to be one of our best commercial customers for the grain we have produced in surplus in this country. One has to wonder why that serves either the economic interests or the political or security interests of the United States for us to send that kind of unflattering, if not insulting, signal at a time when we are told here by the sponsors of this bill that it is designed to reduce some of the unfortunate results of debate here in the Senate.

But I think we should make no mistake about it. If the committee amendment is left to stand in its present form singling out the Soviet Union as the chief culprit in our trade policy, it will be interpreted

in the Soviet Union as a setback for any of the things we might hope to achieve by quiet diplomacy.

Perhaps the present system of managing Exim credits is less than perfect, although I have heard no one cite a case other than the Allis Chalmers sale to Argentina, which was held up pursuant to the present human rights directive Congress itself wrote into the Exim authorization.

I am by no means persuaded that any gain in predictability could outweigh the damage blacklisting could do to the foreign commerce of the United States and to the ability of this Nation to influence the behavior of other countries.

Mr. President, I want to read just one paragraph from a letter that was sent to all of us from the Secretary of Commerce, Juanita M. Kreps. She says, referring to the committee amendment offered by the distinguished Senator from Illinois (Mr. STEVENSON):

> The naming of ineligible countries, publicly in particular, is out of keeping with the spirit of export expansion and casts doubt on the depth of the Government's export commitment. I also believe that the requirement to list specific countries may provide inadequate flexibility for dealing with country problems, whereas Export-Import Bank programs, by administrative action, are in accord with the overall country policies of the U.S. Government and can promptly reflect changes which may occur.

Mr. President, I ask unanimous consent that the letter dated September 29, 1978, be printed in the RECORD.

There being no objection, the letter ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., September 29, 1978.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: On September 26, President Carter set a high Administration priority on exporting and announced a series of measures to encourage our foreign trade. This announcement reflects our concern about the U.S. trade deficit, stemming from slow growth in American exports as well as from oil imports. President Carter has asked me to direct, in coordination with other concerned agencies, the continuation of efforts to improve our export potential and performance.

The Senate will shortly consider S. 3077, the five-year reauthorization bill for the Export-Import Bank. The Bank is key to our trade promotion efforts, providing credit for exports which is unavailable privately or which offsets credit competition from suppliers in foreign countries. The present Export-Import Bank Act will expire on September 30, 1978, and S. 3077 will be the first order of business from an export viewpoint. I strongly hope the Senate will promptly pass this important legislation and reaffirm the President's intention to close our trade deficit.

It appears that S. 3077 now includes provisions to require the listing by name of countries eligible and ineligible to receive Export-Import Bank credits. I must indicate my reservations about the wisdom of this requirement. The naming of ineligible countries, publicly in particular, is out of keeping with the spirit of export expansion and casts doubt on the depth of the Government's export commitment. I also believe that the requirement to list specific countries may provide inadequate flexibility for dealing with country problems, whereas Export-Import Bank programs, by administrative action, are in accord with the overall country policies of the U.S. Government and can promptly reflect changes which may occur.

Sincerely,

JUANITA M. KREPS.

Mr. McGOVERN. Mr. President, this issue is not an ideological one. One looks at the political spectrum of the Senators sponsoring this amendment, the Senator from Rhode Island, the Senator from South Carolina, the Senator from Arkansas, and myself. We do not always vote on the same ideological side of issues, but what we are attempting to do by this substitute amendment is to preserve the flexibility that the President needs to conduct the foreign policy of the United States, to preserve the common sense flexibility our executive branch needs in creating a more hopeful and favorable market for exports and, in short, while providing congressional guidance, as our amendment does, not to risk the disruption of our export markets at a time when they are so desperately needed.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, I wonder before the Senator yields the floor if he would yield for a question?

Mr. McGOVERN. Yes, I yield to the Senator from Rhode Island.

Mr. CHAFEE. It seems to me the point the Senator made about a country not being on the list as meaning we have given them our good housekeeping seal of approval is a very valid point.

Would it not indicate, if the President chose not to put a country on the list because he was delicately negotiating, and some progress was being made, but that was not publicly the view, and publicly the country looked like they deserved to be on the blacklist, would not everybody say they ought to be on the blacklist, and if they are not, we are approving them?

Mr. McGOVERN. I think that is exactly right. I can think of examples of that very kind in recent years. We had one country in the Middle East that provoked a debate on the Senate floor recently about whether certain factors in which they were engaged justified continued American support. It is quite clear that the reason why the administration did not want that country blacklisted, in effect, by the denial of assistance right now, is that we are engaged in delicate negotiations to arrive at a settlement in the Middle East. Yet we would not want to send a signal to that country that we approve of everything they are doing in Lebanon or elsewhere. But the publication of an ineligible list, which did not include that country, could very well be interpreted as a pat on the back and an indication that we are not disturbed about their practices.

It is much better, it seems to me, as the Senator himself said a while ago, to leave the administration some degree of flexibility in dealing with these countries, not to risk the danger of a blacklist that freezes our influence, that handicaps our influence, but to leave those questions open for negotiation, and not to be so eager to interpose political questions, environmental questions, nuclear questions on commercial trade transactions.

Mr. CHAFEE. I have one more question. One of the virtues of the Stevenson language, as I understand it, as argued by the proponents, is that it gives certainty. If a country is on the list, it is blacklisted, and then American exporters know they cannot sell to that country. Yet if the country is not on the list, then American exporters know they can sell to that country. But I am not sure that that is exacly true because, as I understand the act, even though a country is not on the list, the President can still deny a sale to that country.

Mr. McGOVERN. The Senator is correct on that.

Mr. CHAFEE. So these lists really do not give us certainty but do give us all of the drawbacks that lists do bring about, it seems to me.

I was wondering if the Senator concurred in that?

Mr. McGOVERN. I not only concur with that, but I say Congress could still interpose objections. There is nothing about either of these amendments that prevents Congress from engaging in the kind of impulsive action that the committee has been concerned about. This may provide a formal way for the administration to be guided, but it does not prevent Congress from engaging in the very impulsive action the committee is concerned about.

I do not see what is to be gained by the so-called element of predictability. If I may add this comment, last week the distinguished Senator from Illinois said that the approach the committee is providing offers a carrot and puts the stick in the closet. I think in the case of the Soviet Union, it puts the stick right in the eye of Moscow, by saying, in effect, that they are the one country in the world that we are going to single out for special punishment.

To say that that is a mistake is not in any way to suggest that one endorses what is going on in the Soviet Union today. Obviously they have a different system of political and social organization than we do. It is not a system I would choose to live under, but we have been enjoying—I suppose that is the word—rather profitable sales in grain that would otherwise be piled up in American elevators at the cost of the taxpayers, were it not for these outlets in the Soviet Union.

So I think we make a mistake in officially going on record here in Congress that right now we are going to seek out this one country for the top of the blacklist.

I thank the Senator.

Mr. HOLLINGS. Mr. President——

Mr. HEINZ. Mr. President, if the Senator from South Carolina will withhold for one moment, I wonder if the Senator from Rhode Island might be willing to respond to a question or two about his amendment.

Is it the Senator's intent, in offering this amendment, to make the Export-Import Bank and the financing that it gives to American exporters who are attempting to sell abroad in the face of foreign competition—hopefully thereby attempting to employ more people in the United States, earn some additional foreign exchange for the United States, and advance the economic well-being in foreign countries by providing our techni-

cal expertise and know-how, since in most instances that is involved—is it the Senator's intent to use the Export-Import Bank even more than it is now as an instrument of U.S. foreign policy? Is that the Senator's intention?

Mr. CHAFEE. Well, no, it is not my intention to use it more as an arm of U.S. foreign policy. It is the intention to use it to a greater extent to increase exports.

Mr. HEINZ. Well, then, I suggest to the Senator——

Mr. CHAFEE. I am looking for the Export-Import Bank to be my primary objective by a long shot is not for the Export-Import Bank to be a foreign policy arm of the country; it is to increase exports.

Mr. HEINZ. Then I suggest to the Senator that he might want to change the amendment, because as I read his amendment, this invites the President to use the Export-Import Bank much more than he does now as an instrument of foreign policy; because what the Senator's amendment says is that the Bank may deny applications for credit for nonfinancial or noncommercial considerations where the President determines that such an action would clearly and importantly advance U.S. policy.

Where it would advance U.S. policy; well, what policy is that? Presumably foreign policy; but the amendment goes beyond foreign policy and says "in such areas as international terrorism, nuclear proliferation, environmental protection, and human rights."

Now, regardless of where one stands on the merits of each of those issues, it seems to me that the way the Senator's amendment is drafted invites the President to use the withholding of financing by the Export-Import Bank, not just for U.S. foreign policy purposes, but for U.S. policy purposes overseas in each of those areas.

If that is the intent of the amendment, I wish the Senator would say so, so we would know what he is talking about. If the Senator wants the U.S. Government to be more active in these areas, I would like to know about it, because it seems to me to mean I have misunderstood earlier conversations I have had with the Senator that he wants a climate of greater certainty, not more uncertainty. I just want to be clear on what his objective is.

Mr. CHAFEE. The objective is stated there in the amendment:

> Shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports.

Just as in your amendment there are certain criteria which the President may use should he deem it clearly would impair the U.S. interest to take action based on these various criteria; it is the same criteria you have. The language is straight from your committee amendment.

But certainly we have to leave the President a little latitude. The difference between your proposal and our proposal is that the President does not have it set in concrete. The President, using these criteria, and using his judgment—he is the top man—can deny credit for other than financial or commercial reasons. But that is a long way from your proposal, in which everything is set out in black and white.

Mr. HEINZ. The Senator assumes that the first part of his amendment, which reads "and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports" is new language in the Export-Import Bank law. In fact, it is not new language. Section 2(b)(1)(A) already so states, that that is the objective of the Export-Import Bank. So, in fact, laudable as the objectives of the Senator from Rhode Island are, all the Senator is doing in this amendment is adding more encouragement to the administration to use the Export-Import Bank as an instrument of U.S. policy, not just foreign policy but U.S. policy including domestic policy.

For the record, let me read, in part, section 2(b)(1)(A), which precedes the place where the Senator's amendment would appear:

> To meet this objective, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are competitive with the government-supported rates and terms and other conditions available for the financing of exports from the principal countries whose exporters compete with United States exporters. The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government supported export financing.

The reason for having an Export-Import Bank in fact is to strengthen the competitive position of the U.S. exporters and thereby expand total U.S. exports. Therefore, I suggest that what the Senator has added in the first part of his amendment is absolutely nothing new under the Sun. What is new is the phrase that the president of the Export-Import Bank should deny applications "where such action would clearly and importantly advance U.S. policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights."

Mr. CHAFEE. If the Senator will look at the Stevenson amendment, which we adopted, that is the exact language there. Is the Senator suggesting that we could successfully get through the Congress a bill that says, "You cannot consider human rights at all in exports?" Of course not. We are realists. In the amendment adopted last Friday we find this: "The President, in making his determination, shall consider and give appropriate weight to such factors as he deems relevant." Then it lists them: Its relationship to countries friendly and hostile to the United States; its internal stability; its policies and actions with respect to peaceful settlement of international disputes; aiding and abetting any individual or groups that have committeed any act of terrorism; nuclear proliferation; environmental protection, and human rights. I do not know what the Senator is saying.

Mr. HEINZ. Let me make it very clear to the Senator. The Senator is entirely correct about the factors which appear in our amendment. What is different is that in the amendment adopted on Friday we asked the President to make an overall national interest determination, and in making such overall determination to consider and give appropriate weight to those factors just mentioned as he deems relevant. In other words, he can take those into consideration. He can give them weight or not, as he sees fit. He does so and comes out with the bottom line; namely, the overall national interest.

That is vastly different, it seems to me, from the way this amendment must be construed.

I may misconstrue the amendment. But as I read it, and as I suggest it must be read by anybody in the general counsel's office at the Bank, it says that the Export-Import Bank should deny application for credit, et cetera, where the President determines that such action would clearly and importantly advance U.S. policy in the areas we have discussed. Is that what it says?

Mr. CHAFEE. That is exactly what it says.

Mr. HEINZ. So the President——

Mr. CHAFEE. Could I point out——

Mr. HEINZ. Could we isolate the areas of disagreement? This does not require, as I understand it, that the President make an overall national interest determination in doing this. Is that right?

Mr. CHAFEE. The President can only deny these applications where, in his judgment, his denial would clearly and importantly advance U.S. policy. That gives the President a lot of latitude.

Mr. HEINZ. It sure does.

Mr. CHAFEE. Clearly and importantly advance U.S. policy in such areas as are listed.

There is no question, we have given the President considerable latitude, just as you have in your amendment. There is no argument here so there is no real difference. The Senator can try to make a difference, but there is no difference. In your amendment, you say that the President can make a separate national interest determination. We are leaving it to the President in both instances.

Mr. HEINZ. Does the Senator see a difference, then, between a national interest determination and a decision to "clearly and importantly advance U.S. policy in such areas as" et cetera?

Mr. CHAFEE. No.

Mr. HEINZ. The Senator sees no difference?

Mr. McGOVERN. Will the Senator yield?

Mr. HEINZ. I would suggest at some point we would want to clarify that further.

Mr. McGOVERN. Will the Senator yield for a question?

Mr. HEINZ. I yield the floor.

Mr. McGOVERN. I have been listening to the series of questions that the Senator from Pennsylvania has raised with the Senator from Rhode Island. It seems to me the only difference in the language substantively is the preposition "or" in the amendment offered by the Senator from Rhode Island and myself, which comes after the phrase, "national interest." In that amendment there is the preposition "or" and then it refers to

the whole range of considerations that the committee amendment says the President shall take into account when he is considering what is the U.S. national interest. Those turn out to be the same considerations.

I might ask my cosponsor, the Senator from Rhode Island, if he would have any objection to changing the word "our" in his amendment on line 7 to "and."

Mr. CHAFEE. No. I believe, as we discussed this briefly last week, that would be perfectly agreeable to me. Therefore, where the President determines that such action would be in the national interest, and so forth and so on, so always there has to be the national interest.

Mr. McGOVERN. Then it puts it on the same basis as the committee amendment without the blacklist and without special discrimination on top of the blacklist where the Soviet Union is put on a special blacklist apart from the other blacklist. If we just change the word "or" to "and" in our amendment it would be the same as the committee amendment. On page 3, line 20, in the committee amendment they talk about the national interest and then they say "and in making such a determination shall take into account" all these other factors we are talking about.

Mr. President, on that basis, if the Senator will modify the amendment, I think we can clear up this semantic confusion we have just seen demonstrated.

Mr. HEINZ. Is the Senator making such a request?

The PRESIDING OFFICER. If the Senator will suspend, the yeas and nays have been ordered on this amendment so it takes unanimous consent to modify the amendment.

Mr. CHAFEE. I do request.

Mr. HEINZ. Reserving the right to object, if the Senator believes the amendment was correctly sent in, why does the Senator want to change this in view of our colloquy?

Mr. CHAFEE. I will state I feel we are really splitting hairs, but I think the Senator from South Dakota has made a point that would perhaps go toward making the Senator from Pennsylvania happier, if he can be made happier, so I am perfectly prepared to make the change.

Mr. McGOVERN. That is the only reason I can see for making the change.

The PRESIDING OFFICER. Is there objection to the Senator's request to modify his amendment? If not, the amendment is so modified.

The amendment, as modified is as follows:

Beginning with page 3, line 1, strike out all through page 13, line 20, and insert in lieu thereof the following:

DENIAL OF EXPORT APPLICATIONS

SEC. 4. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out the remainder of the paragraph after "and employment in the United States," and inserting in lieu thereof "and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest and where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for non-financial or non-commercial considerations.".

TEXTILES

(Mr. SPARKMAN assumed the chair.)

Mr. HOLLINGS. Mr. President, I thank my distinguished colleagues from Illinois and Pennsylvania for allowing me just a few moments at this titme.

I wish to speak to the article in the morning Washington Post entitled, "Textile Tariff Move Alarms White House." Mr. President, there are several things to be covered. Let us go right to the substance of the story, which says that the White House is alarmed and that the special trade representative, Mr. Robert Strauss, was surprised; he is characterized as having been "caught off base."

Mr. President, in submitting the textile amendment on Friday, it was not the intent nor was it the effect, to catch the distinguished special trade representative "off base." I have the greatest respect for Bob Strauss, and I say in all candor that I do not believe the present administration would be in office had it not been for his tact and for his capabilities as our national party chairman during some very trying periods in reconciling the various individuals and groups. The point is that Robert Strauss, as chairman, did an outstanding job of reconciliation. Then, after the nominee was chosen, Bob had quite a task in getting all the sections of the party together with one of the first nominees from the South in 100 years. So his capabilities are well proved. And certain it is that he was not surprised or "caught off base."

I should recite several things. No. 1, he and I have been in constant contact over the year. The Carter administration pledged to help the textile industry. I have letters from Vice President MONDALE and President Carter. We had meetiings. I do not think we have to go through all the dates and the times, but they are current, right up until September 15, when Ambassador Strauss wrote the head of the American Textile Manufacturers Institute that he thought they ought to get together and have further meetings with respect not only to the tariff plan, but with respect to other problems ranging from Peoples Republic of China inputs to rules of origin. Before that letter of invitation to the leaders of industry was issued on September 15, Ambassador Strauss was nice enough to call and suggest that perhaps I could issue the invitation.

I know that he was sincerely trying to help me. But my credibility has already been injured along that line of getting leaders of industry to meet with leaders of the administration. We have had leadership meetings over and over again. I have called some, Congressmen have called others. The Vice President, the President, and Ambassador Strauss have met with them.

I do not want any misunderstanding on just exactly what occurred on Friday. I said to Ambassador Strauss at the time of that conversation: "If I start calling meetings, it will appear that I do not mean to press on my particular amendment that is now in the Finance Committee. We have had a hearing. If I get an opportunity before the close of this session, Bob, I am going to offer that particular amendment."

He said, "If I came from South Carolina and the industry was so vital to the economy as it is to your State, I would be doing exactly what you are doing." So there is no misunderstanding on that score. We discussed it and it ended up with his issuing the invitation. And he stated at that time, in the letter, that he discussed this with me.

True it is, we are trying to keep conversations between the leaders of industry and our own special trade representative's office and the Ambassador himself open and current. We appreciate his help. We want his help. We need his help. But as recently as less than 10 days to 2 weeks ago, I admonished him at that time that I had 46 cosponsors. I said "There are 46 cosponsors on this bill, now. Over on the House side, there are 215 cosponsors." And he knows the closing date of the session.

This is something that not just we in South Carolina are interested in, but Senator MOYNIHAN from New York and many others are interested in. This is something that not just east coast Senators are interested in, but as proved on Friday, the western Senators, such as Senator HANSEN from Wyoming and many others, are vitally interested in—because textiles permeate the entire economy as the largest employer of manufacturing labor. We have had differences between management and labor in this country. But on textiles, they came together. We have had George Meany, head of the AFL–CIO; Mr. Irving Shapiro, head of DuPont and the Business Round Table; Mr. Robert Small, head of the American Textile Manufacturers Institution, to Sol Chakin, of the apparel group, the Ladies Garment Workers Union, and all the rest come to a conclave over on the House side earlier this summer, saying, "Ambassador Strauss, President Carter, please listen. We are hemorrhaging. The industry is going down the drain."

When President Kennedy found injury and gave relief in 1961, he expressed his alarm that textiles were possibly facing a $200 million deficit situation. Under that finding, there was a determination of injury. Now, by 1976, it has grown to a $2.6 billion deficit; and by 1977, $4.4 billion.

Let me here cite the present figures that I obtained from the U.S. Department of Commerce Office of Textiles, just this morning, October 2, 1978. Let me refer first to Europe, because of the emphasis of the newspaper article. I want to give special emphasis to just how important the matter of textiles is to the EEC. The chief negotiators, according to the article, say the entire negotiations would collapse if this measure passed. In Europe, the deficit in balance of textile trade for the first 6 months, extrapolated for the year, is $416 million. For Asia, it was $4.396 billion. Those are the exact figures, between Europe and Asia, for a deficit of at least $4.812 billion, by the textile office's own estimate.

I only add quickly that the South American balance is slightly in favor of the United States. We have some bilateral agreements there. It balances out

slightly in favor of the United States down in Latin America.

There it is: In Europe, only $416 million; in Asia, $4.396 billion.

So, No. 1, our special ambassador for trade was not surprised or caught off base. The White House, with all of its liaison, had to be on notice, with 46 cosponsors on the Senate side and 215 in the House, and special conferences. Even Ambassador Strauss was saying in the middle of September, 2 weeks ago, that this was getting real serious and we ought to have a conference. I take it the conference was a well-intended one, not a put-on, that he thought something should be done and that we ought to be correlating and coordinating. So they knew it was serious. They cannot now, in a morning story, say, "We were caught off base," because at the time it was presented on Friday afternoon, they delayed long enough for the Senator from Tennessee to leave town, for the senior Senator from South Carolina to leave town, and all the other Senators, and they waited for all the others to leave town that I had standing around here ready to vote, and we still had a clearcut, 2 to 1, almost 3 to 1 majority of 56 to 21.

The fact of the matter is that there are possibly two Senators that told me since it was referred to in the morning paper that they made a mistake on the tabling of it. So I think instead of 56 it was really 58 to 19 amongst those Senators that voted.

The manager of the bill was saying that he had heard from the White House that it would perhaps necessitate a veto. The chairman of the subcommittee did use the word "collapse." He thought the negotiations would collapse. He had been told that by Ambassador Strauss.

Let us refer to that particular point. On last Thursday and Friday in London, England, some of the negotiators met with respect to the discussion of the Tokyo round, the special tariff round that has been going on for some time.

Incidentally, and I know the senior Senator from Georgia would confirm this, because he represented the Finance Committee and the U.S. Senate at GATT talks—whenever we go, we never know exactly what is going on. The State Department does not let us know what is going on. We have to find it out from our industry counterparts. The senior Senator attended such talks with Mr. Cheetham, the textile executive and head of the industry, and would confirm this. Let me also add that when we go to these sessions, governments are almost always found on the side of their particular industries. In all cases save one—the United States of America.

I think we have done better under Ambassador Strauss. I know from my experience over 18 years, back when I was working with then Senator John F. Kennedy in the late 1950's, at that particular time, we could not even talk to the Ambassador. Ambassador Strauss has been very considerate in trying to get his negotiators to keep in touch with us.

But the point is that on last Thursday and Friday, some of our chief representatives of industry were in London and had occasion to talk in some dismay with Mr. Sidney Rothwell. Mr. Sidney Rothwell is commercial director of the British Textile Employers Association in Manchester, England. One of the chief industry negotiators asked, "Mr. Rothwell, why do you folks continue to insist on the Swiss formula, on the one hand, and with respect to textiles, and if we really remove textiles from the tariff round, would the negotiations, the tariff round negotiations, collapse?"

He immediately answered, "No." When asked, "Why are you insisting on the Swiss formula, and leaving textiles on the table?" His answer was, "Because we're getting reciprocity, that is what we hope to get. Otherwise, we would pull it off ourselves."

I do not want to mislead. As best I understand, he hopes to get more from the United States, particularly in the area in wool. Even though they have just a small amount now, they still hope to do better with wool.

But the main reciprocity they hope for, and all the negotiators are considering and thinking about, is from Korea, Hong Kong, Taiwan, and Japan. I will point that out in a few minutes.

But he said, "Look, if we didn't get reciprocity, we just would not continue, but let me check with my counterparts and I will get back in touch."

We are constantly told by Ambassador Strauss that if we take textiles away from these negotiations that the tariff round would immediately collapse. So Mr. Rothwell said, "Let me check with my counterparts and I will get back in touch."

Once again, upon checking, he said, "No, they would not collapse."

They understand the special situation. That has long been clear, since the Kennedy seven-point program of May 7, 1961, plus one-price cotton, plus the multifiber agreement that came in later under the Agricultural Act of 1956, plus we have 18 bilateral agreements. And the other countries understand just that particular point.

So, upon checking, he said, "No."

Well, the Senator from South Carolina still was not satisfied. So we had him called in London, England, less than an hour ago. I said to Mr. Rothwell, "We don't want to use your name now unless we have permission." He said, "Not only can you use my name, but I will send you the documentation in writing on this particular point."

So I do not think it is time, really, to say, "Chicken Little, the sky is falling." I can understand the politics of this. Necessarily, the trade representatives do not want other particular commodities to join on, and I daresay they will not. They do not have the case. They do not have the case of injury.

Now, injury has been proved for CB radios, television, footwear, stainless steel, and under the 1974 Trade Act they have been removed and there is no collapse.

Congress intended the 1974 Trade Act for cases where the injury has been proved. The injury here is proved and it is exacerbated. As I say we are hemorrhaging and this is no time now to cut another vein.

I will refer here to a couple of other points, and then I will be glad to yield if there are any particular questions.

Mr. LONG. Will the Senator yield at this point?

Mr. HOLLINGS. I am glad to yield.

Mr. LONG. The Senator, I believe, knows that there is currently a suspension of the countervailing duties where countries are dumping things into this Nation to the injury of the American producers and the administration desires to continue that suspension for a considerable period of time yet.

Of course, that will not come as good news to those who are being injured by these imports.

The Senator, of course, knows that we have a tremendous deficit in our trade and it is a deficit that we really can no longer afford.

Right now, there must be about $600 billion of so-called Eurodollars, that is American money in Europe, Japan, and elsewhere around the world, which people should be expected to bring back to the United States to buy something.

Now, they do not want to buy what we have for sale. They do not want to buy our manufactured goods. They do not want to buy our agricultural surplus.

Generally, for lack of anything else, they would like to buy gold, if we had any for sale. Also, they would like to buy our real estate or buy up our corporations. But we cannot afford the enormous deficit and the amount of money that is overseas the way it is now. The Senator is familiar with that problem.

Mr. HOLLINGS. The chairman is exactly right. They are buying up our land. They would not sell us oil wells. In no sense would they ever sell us their oil wells. Yet, they are buying up our farmland. They are buying up our islands in South Carolina. They are buying up our corporations. They are trying to buy up the banks and the gold.

Mr. LONG. The problem is that we are just not in the position to permit foreigners to expand their markets for things we can produce here. For the time being, we are unable to produce our energy requirements, so we are compelled to import a huge amount of energy for billions of dollars which we cannot afford. That is contributing to the decline of our dollar and our international problems.

However, with regard to the various manufactured articles—I do not care whether it is automobiles or textiles or other areas—this Nation can produce them, and the workers and the business people would like to produce them, to satisfy our own market.

I was not here when the vote occurred on the Senator's amendment. Mr. Strauss complained that he was over on the west coast, I think doing duty for the Democratic Party and perhaps the administration simultaneously. I had a commitment to go down to Richmond to see if I could do a little good for the Democratic Party and say a few words for a very fine Democrat who is the attorney general and is running for U.S. Senate, for a vacancy that will exist in the Senate in January. So I did not have occasion to take part in the debate, either.

It seems to me that we should ask our friends to understand that we cannot keep accepting more and more of their imports. If we cannot do any bet-

ter, we will have to act unilaterally. We really are in no position to sacrifice any more American industry than we have sacrificed already.

Mr. HOLLINGS. Exactly.

The chairman and I had occasion to meet with the head of Sony, from Japan, and the head of Philips, from the Netherlands, and other business leaders.

Time and again, negotiators say, "What is your fall-back position?" There is no fallback when you are lying on your back and are down and out. That is where we are. They have to understand that, and I think they really do understand it.

When it comes to agricultural products, we never could get the attention of Congress until the cotton farmer cried "uncle" and the sheep herder cried "uncle."

It is interesting that since 1939 we have had a restriction that you cannot import into the United States more than 30,000 bales of cotton, for example, and that is the law today—since 1939. But the importation of bales of cotton and finished textile goods last year represented 1,750,000 bales. That is how they are exceeding the basic law and policy of Congress.

When they come to agricultural products, it is not on wheat. They always excite our wheat farmers, and we sponsor those.

In fact, Russia buys more wheat than the entire European community. Russia buys more wheat than Japan, but we do not have Russian textiles here.

Look at Hong Kong. This is where we are trying to get reciprocity, but they do not seem to want to listen.

I will give the figures for 1977. It was $1,134 million in imports of textile goods, and we exported them, U.S. exports, $28 million. So there we had a deficit of $1,106 million.

For the first 6 months of 1978 from Hong Kong, it is imports of $618 million, and exports of $14 million, for a 6-month deficit of $604 million.

We are trying to complete this, because the manager of the bill wants to get back to the main portion of the bill.

The deficit in our textile trade with little Hong Kong, projected out, is going to approximate $1.2 billion to $1.3 billion.

Concerning Taiwan, in 1977, just that little country of 16 million people, we had a $684 million deficit in balance of trade on textiles. It was almost $700 million then and it is going to exceed $800 million in 1978 and it will get up near $1 billion before long, the way it is coming into this country.

So when they talk about Europeans, keep in mind the head of the British Textile Employers Association, who said, "Oh, no, we're not going to collapse over textiles. We know about that."

We are trying to look at things as they are and to see what we will have to do. In 1934, Cordell Hull called it the Reciprocal Trade Act. Now they do not talk about the reciprocity that Mr. Rothwell referred to. They are talking about free trade. They can really get these buzz words and zap you: "Are you for protectionism or for free?"

We take an oath to protect the United States from all its enemies. The Senator took that oath, the President took it, and I am sure Ambassador Strauss took it, too. There is nothing wrong with protecting, and there is nothing wrong with reciprocity.

The Marshall plan is not a welfare plan. The negotiations under the Tokyo round in Europe, taking place now, is not a welfare conference to give away something. It is a reciprocity matter, where we sit down and reciprocate, give and take. We are closing mills in my State, but I do not realistically expect a rollback. I can understand our fair share, and more. But, we just cannot cut another vein.

Other nations have guaranteed 6 percent of the increased domestic consumption. They have very favorable bilaterals, which brings about the deficit I am talking about. Now, for heaven's sake, let us not cut another vein in the name of free trade, when they know it is unrealistic trade. It is killing the jobs, mainly the jobs of women and minorities.

The biggest employer of women in the United States is the textile industry—over 60 percent, textile and apparel. The biggest employer of black minorities in our southland, at 40 percent in the State of South Carolina, is the textile industry.

The Senator and I and others, on the Finance Committee and the Budget Committee and the Appropriations Committee, are just regurgitating CETA, countercyclical, public works, any kind of financial gimmick to give to job creation for minorities. We had the Black Caucus in the news this weekend. This is what they should be arguing about. In all candor, without being political, I think we did a better job on the floor of the Senate, than the Senator or Mr. Strauss, for the Democratic Party.

I thank the Senator from Illinois and the Senator from Pennsylvania.

Mr. BELLMON. Mr. President, I ask unanimous consent that the statement I am about to make appear elsewhere in the RECORD so it will not interfere with the debate on the amendment.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum, for a moment.

Mr. STEVENSON. Mr. President, will the Senator withhold that?

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. BELLMON. I will be only 2 minutes.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield for that purpose?

Mr. BELLMON. I yield for that purpose.

Mr. HEINZ. I thank the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At this point there was a colloquy concerning locks and dam 26 which is printed later in today's RECORD, by unanimous consent.)

Mr. STEVENSON. Mr. President, I apologize to the Senator from Rhode Island who has an amendment pending and who has been very patient while other matters have intervened. I had hoped that we could discuss this amendment with the Senator from Oklahoma, who is a cosponsor, along with the Senator from South Dakota.

If it is the wish of the Senator from Rhode Island to do so now, I would be glad to proceed.

The PRESIDING OFFICER (Mr. FORD). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we are all faint with hunger as we sit here today. I would just as soon go to a time certain later on, but I do not know whether the schedule will permit it.

The PRESIDING OFFICER. Under the standing order the yeas and nays have been ordered on this amendment, but under the previous order there will be no votes until after 6 p.m. today.

Mr. CHAFEE. If there are no other matters, though I believe Senator MUSKIE has an amendment, I am ready to go forward if the Senator from Illinois is ready. Or if he has a time certain, that will be all right. I will be here until 6 o'clock anyway. It is whatever he wishes.

Mr. STEVENSON. Mr. President, I do not know of any other business which can be disposed of. While it is unfortunate that more Senators are not in the Chamber to discuss this important matter, I believe we should go ahead.

Mr. President, it is ironic, but the cosponsors of this amendment and the managers of the bill have precisely the same objective. I think there is some misunderstanding. In any event, there is no difference in our objectives and our purposes, but there are different approaches.

The purpose of section 4 of the bill is to reconcile the conduct of foreign economic policy with foreign political policy. Its purpose is to replace what has become an unsystematic, impulsive, ad hoc conduct of economic policy by both the executive branch and the Congress, with a global, systematic approach that would involve the Congress in the periodic establishment of certain criteria for determination of country eligibility for Eximbank credits with the President implementing that policy.

As it is now, there are lists, there are blacklists, and, what is more, there is a persistent temptation on the part of the Congress to legislate eligibility for MFN, to legislate eligibility for CCC credits, for ExIm credits according to the fears of the moment, according to its opinion of the policies of a foreign country on such diverse matters as the environment, human rights, emigration, nuclear proliferation, terrorism, and so on. That impulsive involvement by the Congress in determinations country by country and issue by issue makes the United States an unreliable supplier of goods in the world; it makes us an unreliable supplier of credits in the world. We continue to shoot ourselves in the foot. In the course of doing so, we weaken ourselves economically. Already the trade deficit is running at an annual

level of about $30 billion. The dollar is sinking eratically, and as this process continues we lose not only economic opportunity throughout the world but also our authority in the world and the influence with which to pursue effectively all our objectives, including the noneconomic ones.

About 5 years ago, or it was longer than that, this Senator from Illinois, as chairman of the Subcommittee on International Finance, began an effort to devise procedural alternatives to this ad hoc, compulsive approach to foreign economic policy. That approach has already yielded some benefits. It yielded a reform of the Export Administration Act which now involves a procedure similar to that which we are proposing for the Eximbank in this legislation.

Instead of maintaining such anachronistic, artificial distinctions as then existed in our export control procedures between market and nonmarket countries, legislating controls for exports to Hungary but not for Libya or Iraq, we now have in that act, the Export Control Act, a procedure which requires the President to annually review the relationships of the United States with all countries in the world and to prepare a list, a list of countries which are subject to export controls. It has worked well in practice. It has gotten us away from that artificial barrier between East and West which originated during the fevers of the late forties.

Now, Mr. President, we turn to Exim, and I hope, in time, also to the Trade Act, which contains such artificial distinctions.

This process has produced many lists. It is to get away from a process which produces a multitude of blacklists that we propose this new process which, after periodic reviews of U.S. relations with all countries, would produce one list, and that, I trust, considering the economic interests of the United States, would be a short list subject to debate in the Congress at 5-year intervals.

One of the problems with the present process is that it does precisely what the sponsors of this amendment do not want to do. It produces lists. It produces statutory lists of ineligible countries and procedures which they have to go through which are tortured and involve the Congress in efforts to get off that list. The Trade Act, for example, makes eligibility for both MFN and credits dependent upon Presidential waivers, and an annual approval in the Congress. Romania and Hungary now have to go through an annual process to maintain the trade agreements which have been negotiated between them and ourselves.

That list, which blacklists nonmarket countries, now includes Albania, Bulgaria, People's Republic of China, Czechoslovakia, East Germany, Estonia, Hungary, Latvia, Lithuania, North Korea, Vietnam, Outer Mongolia, Cuba, the Soviet Union, Cambodia, Laos, and the People's Democratic Republic of Yemen.

I should repeat that Hungary is now off it, but, like Romania, to stay off, it has to go through an annual waiver procedure which requires congressional approval.

In addition, the Eximbank maintains its blacklist of countries ineligible for guarantees and insurance, which includes those dictated by statute and also others dictated by policy, by administrative decision. The countries on this blacklist include Albania, Bulgaria, the People's Republic of China, Czechoslovakia, the German Democratic Republic, Estonia, Latvia, Lithuania, the Northern Korean People's Republic, Vietnam, Outer Mongolia, Tibet, Cuba, U.S.S.R., Cambodia, Laos, Uganda, Rhodesia, Namibia, Transkei, Botswana, the People's Democratic Republic of Yemen, and partially, the Republic of South Africa, Chile, and Uruguay.

In addition to those blacklists, there is, of course, the law which requires the State Department to assess the attitudes of all countries that receive assistance from the United States toward human rights, to make reports to the Congress on their policies toward human rights.

That process produces something of a list; it certainly constitutes the most obtrusive scrutiny and investigation by this country and by Congress.

Mr. President, I ask unanimous consent that the Eximbank list of countries ineligible for guarantees, loans, and insurance appear in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COUNTRIES INELIGIBLE FOR EXIMBANK LOANS, GUARANTEES AND INSURANCE FOR LEGAL OR POLICY REASONS (EXCEPT CREDITWORTHINESS) AS OF AUGUST 25, 1978 [1] [2]

Peoples Republic of Albania.
Peoples Republic of Bulgaria.
Peoples Republic of China.
Czechoslovak Socialist Republic.
German Democratic Republic (East Germany).
Estonia.
Latvia.
Lithuania.
Northern Korean Peoples Republic.
Vietnam.
Outer Mongolia—Mongolian Peoples Republic.
Tibet.
Cuba.
Union of Soviet Socialist Republics (including its captive constituent republics).
Democratic Kampuchea.
Laos.
Uganda.
Rhodesia.
Namibia.
Transkei.
Bophuthatswana.
Peoples Democratic Republic of Yemen.
Republic of South Africa—not eligible for direct loans.
Chile—not eligible for direct credits or guarantees and insurance in excess of $750,000 per buyer.
Uruguay—not eligible for direct credits or financial guarantees.

[1] The requirements of the Trade Act of 1974 have been satisfied with respect to Hungary, and the President determined on August 18, 1978 that it was in the national interest for Eximbank to support transactions to Hungary. Hence, Hungary is now eligible for Eximbank loans, guarantees and insurance.

[2] U.S. exports to countries not listed are not automatically eligible for support under Eximbank's programs because applications for support for sales to a particular country may not have been received by Eximbank and a policy decision may not as yet have been made with respect to such country.

Mr. STEVENSON. Mr. President, OPIC has its black list. The Overseas Private Investment Corporation publishes for public distribution a list of countries eligible and ineligible for insurance and financing. I ask unanimous consent that the list of OPIC be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation fosters economic development through encouragement of long-term U.S. private investment in some 90 friendly less-developed countries in Latin America, Asia, Africa, and Europe. It does this by providing qualified U.S. investors (including financial institutions) with political risk insurance, financial assistance, and investment counseling.

OPIC programs are extended to new projects or for the expansion of existing projects which are financially sound and promise significant benefits to the social and economic development of the host country. Projects must not adversely affect U.S. employment.

This brochure lists each of the countries with which an agreement for the operation of OPIC programs is in force or under negotiation and gives the status and range of program availability at the time of publication. Collectively, these countries contain more than half of the earth's population and represent the great new markets of the future.

U.S. investors are urged to check with OPIC for confirmation of the current availability of services in a listed country.

OPIC's insurance program provides coverage in the countries indicated herein, against:

inconvertibility of local currency earnings and return of capital;

expropriation and, in some cases, abrogation of contractual rights; and

war, revolution and insurrection.

To the private investor, political risk insurance is often an essential element in the decision to make a commitment in a developing nation. Although the investor has the capability to assess the practical business considerations involved, he may find it difficult to judge the country's long-range political climate. OPIC's insurance coverage typically is assured for the duration of project loans or contracts and for 12 to 20 years on equity. OPIC rates are based on the coverages elected and on OPIC's assessment of the risks of the project.

OPIC presently offers insurance protection to U.S. construction and service contractors.

FINANCE SERVICES

The major objectives of the finance program are to promote and finance economically and financially viable projects in the developing world, sponsored by smaller and medium sized U.S. businesses. The three principal means for accomplishing these objectives are OPIC's pre-investment assistance program, the all-risk loan guaranty and direct loan program.

OPIC promotes projects using its pre-investment assistance program which includes a survey program, on a risk sharing basis, to find and confirm the viability of projects. OPIC financing may be in the form of either loans to a project utilizing its own capital or of loan guaranties issued to private U.S. financial institutions. The OPIC loan guaranty is an all-risk guaranty for the prompt payment of principal and interest payments. OPIC financing is based on the project's economic and financial viability and usually does not involve a U.S. sponsor's guaranty of the project.

	Insurance			Finance		
	Inconvertibility	Expropriation	War, revolution, insurrection	Loan guaranties	Direct loans	Pre-investment
Afghanistan [1]	+	+	+	×	+	+
Antigua [1]	+	+	+	+	+	+
Argentina [2]	○	○	○	○	○	○
Bangladesh	○	○	○	○	○	
Barbados [2]	+	+	+	+	+	+
Belize	+	+	+	+	+	+
Benin (Dahomey) [1]	+	+	+	+	+	+
Bolivia	○	○	○	+	+	+
Botswana [1]	+	+	+	+	+	+
Brazil [2]	+	+	+	+	+	+
Burundi [1]	+	+	+	+	+	+
Cameroon [1]	+	+	+	+	+	+
Central Africa Empire	+	+	+	+	+	+
Chad	+	+	+	+	+	+
Chile [1]	○	○	○	○	○	○
China, Republic (Taiwan) [1]	+	+	+	+	+	+
Colombia	○	○	○	+	+	+
Congo (Brazzaville) [1]	+	+	+	+	+	+
Costa Rica	+	+	+	+	+	+
Cyprus [1 2]	+	+	+	+	+	+
Dominica [1]	+	+	+	+	+	+
Dominican Republic	+	+	+	+	+	+
Ecuador	○	○	○	○	+	+
Egypt [1]	+	+	+	+	+	+
El Salvador	+	+	+	+	+	+
Ethiopia [1]	+	+	+	+	+	+
Fiji [1 2]	+	+	+	+	+	+
Gabon [1 2]	+	+	+	+	+	+
Gambia [1]	+	+	+	+	+	+
Ghana [1]	+	+	+	+	+	+
Greece [1 2]	+	+	+	+	+	+
Grenada	+	+	+	+	+	+
Guatemala	+	+	+	+	+	+
Guinea [1]	+	+	+	+	+	+
Guyana [1]	+	+	+	+	+	+
Haiti	+	+	+	+	+	+
Honduras	+	+	+	+	+	+
India	+	+	+	+	+	+
Indonesia [1]	+	+	+	+	+	+
Iran [2]	+	+	+	+	+	+
Israel [2]	+	+	+	+	+	+
Ivory Coast [1]	+	+	+	+	+	+
Jamaica [1 2]	+	+	+	+	+	+
Jordan	+	+	+	+	+	+
Kenya [1]	+	+	+	+	+	+
Korea [1]	+	+	+	+	+	+
Lesotho [1]	+	+	+	+	+	+
Liberia [1]	+	+	+	+	+	+
Madagascar [1]	+	+	+	+	+	+
Malawi [1]	+	+	+	+	+	+
Malaysia [1]	+	+	+	+	+	+
Mali [1]	+	+	+	+	+	+
Malta [2]	+	+	+	+	+	+
Mauritania [1]	+	+	+	+	+	+
Mauritius [1]	+	+	+	+	+	+
Morocco [1]	+	+	+	+	+	+
Nepal [1]	+	+	+	+	+	+
Nicaragua	+	+	+	+	+	+
Niger [1]	+	+	+	+	+	+
Nigeria	+	+	+	+	+	+
Oman [2]	+	+	+	×	×	+
Pakistan	+	+	+	+	+	+
Panama [2]	+	+	+	+	+	+
Papua New Guinea	+	+	+	+	+	+
Paraguay	+	+	+	+	+	+
Peru	○	○	○	○	+	+
Philippines	+	+	+	+	+	+
Portugal [2]	+	+	○	○	+	+
Romania [1 2]	+	+	+	+	+	+
Rwanda	+	+	+	+	+	+
St. Christopher (St. Kitt's—Nevis) [1]	+	+	+	+	+	+
St. Lucia [1]	+	+	+	+	+	+
St. Vincent	+	+	+	+	+	+
Saudi Arabia [2]	+	+	+	×	×	+
Senegal [1]	+	+	+	+	+	+
Sierra Leone [1]	+	+	+	+	+	+
Singapore [1 2]	+	+	+	+	+	+
Somali Republic	○	○	○	○	○	○
Sri Lanka (Ceylon) [1]	+	+	+	+	+	+
Sudan [1]	+	+	+	+	+	+
Surinam [2]	○	○	○	○	○	○
Swaziland [1]	+	+	+	+	+	+
Syria	+	+	+	+	+	+
Tanzania (excluding Zanzibar)	+	+	+	+	+	+
Thailand	+	+	+	+	+	+
Togo [1]	+	+	+	+	+	+
Trinidad-Tobago [1 2]	+	+	+	+	+	+
Tunisia [1]	+	+	+	+	+	+
Turkey	+	+	+	+	+	+
Uganda [1]	×	×	×	×	×	×
Upper Volta	+	+	+	+	+	+
Venezuela [2]	○	○	○	○	+	+
Western Samoa	+	+	+	+	+	+
Yemen (Sanaa)	+	+	+	+	+	+
Yugoslavia [1 2]	+	+	+	+	+	+
Zaire [1]	+	+	+	+	+	+
Zambia [1]	+	+	+	+	+	+

+=Program available.
×=Program not currently available.
○=Check with OPIC concerning issues limiting types of investment which may be covered.

[1] Members of the World Bank International Center for the Settlement of Investment Disputes.

[2] Programs subject to restrictions because of country's relatively high per capita gross national product.

Note: Certain OPIC programs may be available in some less developed dependencies of France, Great Britain, and the Netherlands.

Mr. CHAFEE. Will the Senator yield for a question on that point?

Mr. STEVENSON. I yield for a question.

Mr. CHAFEE. Mr. President, I think there is a very important point here that should be made. The Senator says that the Eximbank already has a list. That may be, but that is a list that can be changed overnight by withdrawal of the country from it. It does not necessitate going to Congress and presenting a whole list of reasons for removing a name from the list. That, I think, is the essential point of the debate we are having here today.

Does the Senator agree that the list that he mentioned—not the list of Trade Act countries, that is set by Congress. We cannot do anything about that. But the countries that the Senator illustrated, that he indicated were on the Eximbank list does he agree they can be changed, removed immediately, without any congressional action, without any congressional notification, without any great debate on the floor of Congress?

Mr. STEVENSON. The list that I referred to of the Eximbank includes countries listed by law as well as by administrative practice. The bill before us would enable the President, the administration, to remove the countries listed by law from that list by a new process, except the Soviet Union. It would involve just one act of congressional review in the Congress. In other words, it would liberalize the authority of the President with respect to removing countries now ineligible by law. The provision in the bill, with no congressional review at all, also would permit him, at will, to add countries in order to make them ineligible and of course, with inherent powers the President can block transactions for any country, whether it is on the list or not.

So I think the objective of liberalizing the conduct of economic policy is advanced by this amendment, as it is not by continuing the status quo. He could take countries off the list that are now on it by law.

Mr. CHAFEE. But the President can do that now. The only difference between what the Senator is proposing and what the President can do now is with respect to the so-called Jackson-Vanik countries, which I think the Senator referred to as the Trade Act countries. Under his proposal, when the President takes them off the list, he has to justify it and they are off for good; whereas, in our proposal, or under the way it presently exists, he can take them off. The only thing is he has to come to Congress every year. That is a plus for the Senator.

On the other hand, the minuses of the Senator's proposal are that the President has to come forward with a list of the other countries that he wants to blacklist—not the Jackson-Vanik countries, but a whole series of others, the ones the Senator mentioned that the Eximbank does not presently choose to deal with. Then it becomes a matter that is sent to Congress in a list, locked in concrete, and a very complicated process has to be gone through to get them off. That is one objection we have.

The second, of course, is that the only country that can ever be removed we specifically single out as being the Soviet Union. They are worse than all the other countries in the world, as has been mentioned previously in the debate.

Mr. STEVENSON. Mr. President, countries can be taken off the ineligible list by the President at any time, subject to congressional approval. The reason for the retention of the Trade Act provisions with respect to the Soviet Union are regrettable, but I think, quite obvious. It was hoped that this would be a truly systematic process, entailing a global review of all countries, but that did not become possible because of the conduct of the Soviet Union.

Indeed, the State Department should not be permitted to have it both ways. It wanted no conciliatory gesture made toward the Soviet Union, and the Senator from Illinois even traveled to Moscow to meet with Soviet officials, including the Soviet Foreign Minister, to discuss this matter and the grave possibility that it would become difficult for Congress to change its procedures with respect to the Soviet Union if the Soviet Union per-

sisted in its trial of certain dissidents and its conduct in East Africa.

The Soviet Union is obviously a special case. It is the only other nuclear superpower and I do not see anything very surprising about treating it as a special case.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. STEVENSON. But nothing would have pleased me more if it had been possible to involve it in a procedure which involved all other countries in the world, but at this time in history that did not seem prudent.

The time was wrong, and the State Department agreed that this was not a propitious time, for the reasons I have mentioned, all of them the doing of the Soviet Union, to make such a gesture toward that country.

I think it is regrettable, but it is not owing to the Senator from Illinois, it is owing to the Soviet Union, and its own conduct.

I tried to make the consequences of that conduct quite clear to the Soviet officials with whom I discussed the matter in Moscow in June and, unhappily, what was told them has come to pass.

I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from Illinois.

Under current law, aside from the Jackson-Vanik amendment, a restriction of an additional $300 million that can be loaned to the Soviet Union, I assume that $300 million restriction is in the current legislation?

Mr. STEVENSON. The Senator is correct. That provision which appears in the Trade Act and in the Exim legislation would not be affected by this amendment, nor would the Jackson-Vanik provision with respect to the Soviet Union.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. HEINZ. Will the Senator yield?

Mr. STEVENSON. Yes, I yield to the Senator from Pennsylvania.

Mr. HEINZ. I would just like to observe that, indeed, there is, as the Senator from Illinois was saying, a list of countries that, for all intents and purposes, is as public as we could imagine it to be.

First, as the Senator from Rhode Island knows, there is the list of so-called Trade Act countries, and we are reminded of them every year as they are reviewed.

Now, the law is often specific with respect to the other countries as well. My recollection is that Uganda is on the list because of a limitation on an appropriations bill. My recollection is that Rhodesia is on the list because we voted on that.

Mr. STEVENSON. If the Senator will yield, did not the Senate in the last 2 weeks approve an amendment with respect to Uganda?

Mr. HEINZ. The Senator is entirely correct. That is an even more recent action. It was on the IMF, the Witteveen Facility bill, to which the Senator refers, where the Senate did, as the Senator from Illinois said, adopt an amendment prohibiting virtually any trade relations with Uganda.

Mr. CHAFEE. If the Senator will yield for a question, I am not sure what his point is. Is he suggesting that——

The PRESIDING OFFICER. Does the Senator yield?

Mr. HEINZ. I do not wish to yield.

The PRESIDING OFFICER. Actually, the Senator from Illinois has the floor.

Mr. HEINZ. Will the Senator yield further?

Mr. STEVENSON. Mr. President, let me try to clarify one point.

This bill, after years of work, establishes a worldwide systematic procedure which involves principally the President, but also the Senate and the House, in a determination of the country eligibility for credits.

It leaves, however, the Jackson-Vanik provisions of the Trade Act in effect with respect to the Soviet Union.

That is the special provision that the Senator has referred to with respect to the Soviet Union, and that was not changed for reasons which I have already mentioned and go directly to the conduct of that country and not to the desire of this Senator.

For the other Trade Act countries, the process and procedures for acquiring eligibility would be simplified, and with respect to those two countries, not including Poland and Yugoslavia, namely Rumania and Hungary, here Congress has approved MFN and eligibility for Exim credits. There would no longer be the need to go through the annual review, which injects uncertainty in the economic relations between the United States and those countries, making enlargement of the economic opportunity on both sides difficult. It is subject to a great deal of uncertainty.

Now, I do not think Senators are very enthusiastic about lists, but we are legislating in the real world, and Senators who support this amendment have already alluded to the temptation of the Congress to move ad hoc, issue by issue, country by country, to determine eligibility. We had a debate Saturday about the Union of South Africa.

In the Banking Committee, when this matter was considered, the Senator from Pennsylvania may recall one of the amendments that was offered which would have legislated ineligibility for the Republic of Afghanistan, the People's Republic of Albania, the Republic of Algeria, the People's Republic of Angola, the Federal Republic of Argentina, the State of Bahrain, the Commonwealth of Bangladesh, the People's Republic of Benin, the Republic of Bolivia, Bulgaria, Burma, Burundi, Cameroon, Cape Verde Islands, Central African Republic, which is now, of course, the Central African Empire, that is Mr. Bokassa, who apparently is still eligible, the Republic of Chad, Chile, the People's Republic of China, the Congo People's Republic, the Republic of Cuba, the Federal Socialist Republic of Czechoslovakia, the Republic of Ecuador, the Republic of Equatorial Guinea, Ethiopia, Gabon, the GDR, Ghana, Guinea, Guinea-Bissau, Haiti, Honduras, the People's Republic of Hungary, Iran, Iraq, Ivory Coast, Jordan, Kampuchea, North Korea, Kuwait—I will not read them all.

Mr. President, I ask unanimous consent that the amendment offered in that committee be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

SUBSTITUTE AMENDMENT

Page 2, immediately after line 3, insert the following new section:

SEC. 4. Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting at the end thereof the following new paragraph:

"(7) In no event shall the Bank guarantee, insure, or extend credit or participate in any extension of credit to the Republic of Afghanistan, the People's Republic of Albania, the Republic of Algeria, the People's Republic of Angola, the Federal Republic of Argentina, the State of Bahrain, the Commonwealth Nation of Bangladesh, the People's Republic of Benin, the Republic of Bolivia, the People's Republic of Bulgaria, the Socialist Republic of the Union of Burma, the Republic of Burundi, the Federal Republic of Cameroon, the Republic of Cape Verde Islands, the Central African Republic, the Republic of Chad, the Republic of Chile, the People's Republic of China, the Congo Peoples' Republic, the Republic of Cuba, the Federal Socialist Republic of Czechoslovakia, the Republic of Ecuador, the Republic of Equatorial Guinea, the Republic of Ethiopia, the Republic of Gabon, the German Democratic Republic, the Republic of Ghana, the Republic of Guinea, the Republic of Guinea-Bissau, the Republic of Haiti, the Republic of Honduras, the People's Republic of Hungary, the Empire of Iran, the Republic of Iraq, the Republic of Ivory Coast, the Kingdom of Jordan, Democratic Kampuchea, the People's Republic of North Korea, the State of Kuwait, the Kingdom of Laos, the Republic of Liberia, Libyan Arab Republic, the Republic of Malawi, the Republic of Mali, the Republic of Mauritania, the People's Republic of Mongolia, the People's Republic of Mozambique, the Kingdom of Nepal, the Republic of Niger, the Sultanate of Oman, the Republic of Pakistan, the Republic of Panama, the Republic of Peru, the People's Republic of Poland, Crown Colony of Rhodesia, the Socialist Republic of Romania, the Republic of Rawanda, São Tomé and Principe Islands, the Kingdom of Saudi Arabia, Republic of Mahe Seychilles, the Somali Republic, the Republic of South Africa, the Republic of the Sudan, the Kingdom of Swaziland, the United Republic of Tanzania, the Kingdom of Thailand, the Republic of Togo, Transkei, (Bantu Homeland), the Republic of Tunisia, the Republic of Uganda, the Union of Soviet Socialist Republics, the Republic of Uruguay, the People's Republic of Vietnam, the Republic of Yemen, the People's Democratic Republic of Yemen, the Socialist Federal Republic of Yugoslavia, [the Republic of Zaire,] unless and until the President determines that there has been significant improvement in human rights conditions in that country and transmits to the Congress a statement describing and explaining the determination."

Mr. STEVENSON. My point, Mr. President, and this is an extreme example, obviously, is the temptations that beset the Congress. Every one of the countries on that list had been identified by some reputable human rights organization as an offender against human rights. That now is what we are up against, attempts in the House, attempts in the Senate, attempts on the Witteveen legislation, on

Exim legislation, on foreign aid legislation, to legislate eligibility for credits, to legislate eligibility for MFN, to legislate because we do not like their immigration policy, or we would like the policy of some country to change on human rights, or because of terrorism, or some other matter.

So I say to my good friend that I agree with him completely, and I share his purpose. But I suggest to him that this is the reality. This is what we are up against.

Without some systematic procedural alternative to such impulsive, ad hoc, irrational, and counterproductive actions, they will continue.

The Senator from Pennsylvania may recall that it was only as a result of our amendment and the procedural alternative that it offered members of the Banking Committee that the other issues involving all those countries also the Union of South Africa, was resolved. When the Union of South Africa came up on Saturday, it was not pressed. I believe one of the reasons it was not pressed is that this bill does contain a systematic procedure that will afford Congress an alternative to such an impulsive, ad hoc process as now is often attempted. It deprives the United States of economic opportunity throughout the world by continually inflicting wounds upon our own body, by shooting ourselves in the foot, making us look ridiculous, and depriving us of the authority and the influence in the world with which to pursue all our objectives, including human rights, including emigration, including the protection of the environment.

I say that because not only do we look ridiculous and presumptuous and hypocritical to many countries, but also, the credits are available elsewhere; the goods are available elsewhere. There is very little made in the United States that is unique any more. If the goods or the credits cannot be obtained from us because of our impulsive conduct of economic policy, they will be obtained someplace else.

So we have attempted to do what the proponents of this amendment propose to do, but I fear that they not only undo our attempts to establish an alternative to this impulsive process, but also, they could make the status quo worse, as my friend and colleague from Pennsylvania indicated, by inviting the President to determine, not on a country-by-country basis or even an issue-by-issue basis, but on a per case, a per transaction basis, for every transaction of the Eximbank, whether it is going to advance terrorism, nuclear proliferation, environmental protection. human rights, and so forth. That is a step backward.

I yield the floor.

Mr. HEINZ. Mr. President, I concur in the rationale and thoughts expressed by the Senator from Illinois in opposing the amendment offered by the Senator from Rhode Island (Mr. CHAFEE).

I particularly agree that the Senator from Rhode Island is trying to accomplish exactly what we are trying to accomplish ourselves, and I salute him on his great dedication to trying to create an export climate which is one of certainty, and one in which American exporters may know in advance what kinds of help they may get from those agencies responsible for furthering our export policy. I think he truly understands the need for this.

One of the things that is at issue between the managers of the bill and the Senator from Rhode Island and his cosponsors is whether a list is a good or a bad thing to have. In this instance, the committee amendment includes a so-called negative list.

As I understand it, it is the contention of the Senator from Rhode Island that having any list at all is fundamentally a problem to him and an embarassment to this country, to the President, and to the country so listed. It was with that in mind that I started a few moments ago to bring to the attention of the Senate the fact that a list already exists and that it is a public list.

I mentioned the rather substantial list of Trade Act countries which includes Albania, Bulgaria, People's Republic of China, the Czechoslovakian Socialist Republic, the German Democratic Republic, Estonia, Latvia, Lithuania, Northern Korean People's Republican, Vietnam, Outer Mongolia or the Mongolian People's Republic, Tibet, Cuba, the Union of Soviet Socialist Republics, Democratic Kampuchea, and Laos.

We had discussed Uganda, and we had started to discuss Rhodesia. Of course, U.N. sanctions have been applied against Rhodesia. Congress, in agreeing to remove the Byrd amendment last year, removed any further legislative barriers to our concurring in the economic sanctions against Rhodesia.

There are further countries—namely, Namibia, Transkei, and Bophuthatswana—which we do not recognize; and the fact that we do not recognize them is a signal fact that we do not want the Export-Import Bank to assist in our doing business there.

By Executive order, which is clearly a very public device, the Republic of South Africa is not eligible for direct loans.

Therefore, what I suggest to my colleagues is that we have a list. People get on for a variety of reasons—but private it is not; it is very much public.

It is the intention of the managers to try to get Congress out of the business of legislating what countries the Export-Import Bank or any other agencies will allow us to do business with. Instead we want to set up a procedure whereby the President, taking a variety of factors into account, may make a reasoned judgment, something that is not always easy to do in the heat of a moment or in the heat of legislative opportunity brought about, perhaps, by some headline or another, that would move a particular Member to feel that he would have an opportunity to do something that might be politically interesting, tempting, or expedient, but not necessarily in the overall national interest.

One of the questions I would like to raise with the Senator from Rhode Island is a policy question. As I understand his amendment, it speaks in terms of case-by-case decisions, application-by-application decisions for credit. The amendment of the Senator from Rhode Island would appear to be silent on the question of whether or not he expects the President to make unpublished determinations of country eligibility.

The question I pose to the Senator, therefore, is this: Do I understand his amendment correctly? Is his objective to further the application-by-application approach, or does he seek, as a matter of policy, to have the President—albeit, privately as opposed to publicly—make it country-by-country as opposed to case-by-case or application-by-application decisions?

What is the Senator's policy that he wants to pursue here?

Mr. CHAFEE. Obviously, we have given the President considerable latitude just as the Senator's act has. In addition to the names that are on the list of the countries under the Senator's provision the President also has the right to deny licenses on an ad hoc country-by-country basis.

It is my hope that the President will rarely use his power of denying export-import licenses, Eximbank credits to countries and that when he does it he will do it only, as the Senator notices in the provision I have, when he feels it is in the very extreme national interests of the country.

But I wish to touch on a point that has been made very vigorously by the Senator from Illinois and by the Senator from Pennsylvania.

One of the points the Senator keeps stressing here is that he wishes to get it away from this ad hoc impulsive action by Congress. But has he done that? Regardless of whether or not Congress can add names to this list that comes in, and clearly they cannot under the provision he has in his act, Congress can get it other ways, just the way they do it today. They can get it through amendments tacked on to different bills. There is nothing to prevent Congress from acting if they choose against the Republic of North Korea or the People's Republic, or whatever it is.

So, there is a good deal of talk by the Senator from Pennsylvania and the Senator from Illinois that we have avoided this impulsive action, but indeed we have not. Nothing has changed. The only thing that has changed by the Senator's provision here is that we have a list that comes forward and is publicized to the world that these countries are blacklisted, and that in no way can trade be conducted with them. All right, the Senator says, "Well, the President can change his mind. He can send in changes to the list or withdraw names." But that takes a 60-day process. And I just think getting into this whole business of announcing to the world that country A or country B or country C are naughty countries and we are not going to deal with them, there is the name written down in stone, is a process that has brought unfortunate consequences to our foreign relations, and it is not just those of us who are sponsoring this amendment. As the Senator knows, the administration is opposed to this act, and if I might I shall just read from a letter written on behalf of the administration

by the acting Secretary, at the time, of State, Warren Christopher, just 3 days ago, to the President of the Senate, Vice President MONDALE. This is what he said:

If the Bank is to operate effectively, it should not be encumbered by new legislative requirements which unduly restrict its ability to pursue its fundamental objective—the promotion of U.S. exports. For this reason the Administration is strongly opposed to any requirement that the President compile a list of ineligible or eligible countries. In our view the complex and sensitive problems which would be involved in formulating and publishing such lists could substantially inhibit Ex-Im Bank operations. . . .

From a foreign policy standpoint, to declare formally that a country is not eligible for Ex-Im Bank financing could have serious consequences for our overall relations with that country. It would be more harmful than helpful in bringing about an improvement in the conditions which might cause us to find a country ineligible.

And we know that. We have had that from experience:

Moreover, the cumbersome procedures for adding or deleting countries from a list would make it difficult to adjust the list to reflect changing circumstances.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD, recognizing that this was drawn up before the Stevenson amendment which withdrew the requirement that those countries eligible on that list be submitted.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., September 28, 1978.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: I am writing to urge your support of legislation (S. 3077) authorizing the continuation of the Export-Import Bank for another five years, and increasing its lending authority from $25 billion to $40 billion. I also urge the Senate not to approve Section 4 of the bill or any similar requirement that the President compile a list of countries eligible or ineligible for Export-Import financing.

As the President has emphasized this week, improving U.S. export performance is an essential element of our efforts to maintain confidence in the dollar. The Export-Import Bank plays a major role in helping U.S. firms to compete successfully in world markets in which major trading nations are aggressively promoting their exports.

If the Bank is to operate effectively, it should not be encumbered by new legislative requirements which unduly restrict its ability to pursue its fundamental objective—the promotion of U.S. exports. For this reason the Administration is strongly opposed to any requirement that the President compile a list of ineligible or eligible countries. In our view the complex and sensitive problems which would be involved in formulating and publishing such lists could substantially inhibit Ex-Im Bank operations. Failing to list a country as eligible would give an immediate signal to our trade competitors to rush in and fill the gap.

From a foreign policy standpoint, to declare formally that a country is not eligible for Ex-Im Bank financing could have serious consequences for our overall relations with that country. It would be more harmful than helpful in bringing about an improvement in the conditions which might cause us to find a country ineligible. Moreover, the cumbersome procedures for adding or deleting countries from a list would make it difficult to adjust the list to reflect changing circumstances.

We urge Senate approval of a bill that would not add new encumbrances to the Bank's operations, and that would enable it to enhance its contribution to reducing the trade deficit, strengthening the dollar, and creating U.S. jobs.

Sincerely,

WARREN CHRISTOPHER,
Acting Secretary.

Mr. HEINZ. Mr. President, I listened carefully to the Senator from Rhode Island. One of the arguments he advances against the list is that it would be public, it would be known, and it would, therefore, be embarrassing. In fact, probably the strongest argument one could make, is having a list that would be known against Congress legislating in a hit-and-miss way on 1, 10, or as we heard from the Senator from Illinois a moment ago, several dozen countries.

The fact that the administration did make overall national interest determinations, it seems to me, makes it unnecessary for Congress to make the kinds of hit-or-miss propositions, most of which seem to carry, that Congress has on occasion made.

So the other side of the coin is simply that the list also is a way of getting Congress to think twice before it does something that it might afterwards regret.

I also note, Mr. President, that this amendment, as was mentioned by Senator STEVENSON, does not remove section 2(b)(2), thus maintaining provisions requiring the President to make national interest determinations for Communist countries, nor does it address the Jackson-Vanik amendment provision's right to emigrate, and thus it fails to alter the present ad hoc approach to determine eligibility on a country-by-country, issue-by-issue basis where that is the case.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, we have been debating this for some time. I will just say, in conclusion, that the amendment that we have before us and from the committee is so opposed by the administration that it gets the President into a situation where he sends before Congress a list which announces to the world that these countries are blacklisted, that we cannot grant them Exim credit, bank credits. It deprives him of his flexibility to deal with these countries. It places this country in an embarrassing position as regards not only the countries that are on the list, but then a whole storm of debate about why other countries are not on the list.

We found from bitter experience, Mr. President, we have had to reverse our field several times here, that once we announce to the world through a list sent before Congress that such and such a country is misbehaving, there is no way in the world that is going to get that country to change its ways. As a matter of fact, it reduces the chance that that country will change its ways. How could it possibly change its ways under a threat from the United States that it is misbehaving; therefore, we are going to treat them in a different manner than we treat other countries?

So, the way to handle this is not have it forcing the President to send lists to Congress. The way to handle it is to let the President quietly proceed. He can quietly notify these countries that we disapprove of the way they are conducting themselves. But let us not announce it to the world. Finally, let us not have every country in the world that can possibly get off this list get off except the Soviet Union. They are more wicked, we proclaim in the world, than any other country, worse than Uganda, worse than Red China, and worse than North Korea. Is that not a foolish way to do business?

So, Mr. President, I hope that this amendment, which will in my judgment restore a sense of balance to the whole system, be adopted.

That is all I have to say, on this matter. I yield the floor.

Mr. HEINZ. Mr. President, it is not my intention to prolong the debate because I am just as hungry as anybody else. But I have just two points: One, of course, the Senator from Rhode Island does not strike the language regarding the Soviet Union. He leaves it in. His amendment treats the Soviet Union the same way our amendment does, and I presume, therefore, his amendment means the Soviet Union is all the things he said we should not believe it to be.

The second point I did want to bring to the attention of my colleagues is that, yes, we have heard from the administration that some of people, vocal people, in the State Department, such as Deputy Secretary Christopher, do not like our amendment. But I think equal weight might profitably be given to some of the people who represent the international exporting community.

Here before me I have a letter from the International Economic Affairs Department of the National Association of Manufacturers, a group representing those who have as great an interest, I think, as anybody in exporting, and in doing so successfully. Let me quote in part from this letter of September 13, 1978:

A second major provision of S. 3077 is the deletion of Section 2(b)(2) of the Eximbank Act and its replacement by new eligibility procedures for Eximbank programs. Under the revised system, the President would be required to stipulate those countries he deems ineligible for Eximbank programs for reasons of national interest. If not disapproved by both Houses, the listing would have effect for five years, and excepting 1974 Trade Act language relating to the Soviet Union, would be the sole method of determining eligibility for Eximbank programs.

The NAM supports such a revision in Eximbank eligibility procedures. This would, in our opinion, spare the Eximbank from the periodic ambushes it receives from well-intentioned but often misdirected sources seeking to implement extraneous foreign policy objectives. It must be noted that a clear weakness in the official U.S. export credit system is its distinct lack of consistency and predictability. This is in part caused and reinforced by the Bank's patchwork statute that makes program eligibility a diffuse process that denies U.S. exporters a firm basis on which to negotiate. Under the proposed new process, not only would U.S.

companies have advance knowledge of country eligibility, but on a long term basis they would have the assurance that eligibility alterations would be a strictly controlled process based on established criteria.

More important, however, is the growing realization that the recent years' experience with attempts to achieve foreign policy goals by means of trade legislation has failed and in many instances has proved counterproductive. Too often, we have found the only lasting effect of such efforts to be losses in our own international economic performance and competitiveness. The U.S. Export-Import Bank has been the frequent vehicle for such efforts; and as a result, we have seen the Bank's activities increasingly mired down in issues extraneous to its mandate.

Mr. President, this letter is signed by Lawrence A. Fox, vice president. I ask unanimous consent that the entire text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, D.C., September13, 1978.

Within the next few days the Senate will be considering S. 3077 a bill to provide reauthorization to the U.S. Export-Import Bank and to extend its enabling legislation until September, 1983. The NAM supports both the increased loan authority and the five year extension. Aside from these most fundamental features, several additional provisions would have significant impact on the future operations of the Bank.

Chief among these provisions is Section 5 of the bill which prohibits application of the National Environmental Policy Act (NEPA) to the foreign activities of the Eximbank. In our opinion, the prohibition enunciated in Sec. 5 merely reaffirms the past practice of the Eximbank which has been to respect local environments in the absence of federal regulation.

For the Congress or the Administration to expand the scope of NEPA by making its provisions applicable to the Eximbank would certainly be ill-advised. In this regard, it is increasingly clear that the U.S. competitive edge in manufactured goods exports is either diminishing or nonexistent. The credit programs offered by the Eximbank constitute one of the sole means by which U.S. exporters can offset to some degree the government-supported export promotion programs of their foreign competitors. It would seem that in the face of a $27 billion trade deficit, a depreciating dollar and keen competition for world market shares that it would be ill-advised to further saddle the Eximbank with environmental concerns that constitute a questionable extension of U.S. law and in any case, are beyond the Bank's ability to implement.

A second major provision of S. 3077 is the deletion of Section 2(b)(2) of the Eximbank Act and its replacement by new eligibility procedures for Eximbank programs. Under the revised system, the President would be required to stipulate those countries he deems ineligible for Eximbank programs for reasons of national interest. If not disapproved by both Houses, the listing would have effect for five years, and excepting 1974 Trade Act language relating to the Soviet Union, would be the sole method of determining eligibility for Eximbank programs.

The NAM supports such a revision in Eximbank eligibility procedures This would, in our opinion, spare the Eximbank from the periodic ambushes it received from well-intentioned but often misdirected sources seeking to implement extraneous foreign policy objectives. It must be noted that a clear weakness in the official U.S. export credit system is its distinct lack of consistency and predictability. This is in part caused and reinforced by the Bank's patchwork statute that makes program eligibility a diffuse process that denies U.S. exporters a firm basis on which to negotiate. Under the proposed new process, not only would U.S. companies have advance knowledge of country eligibility, but on a long term basis they would have the assurance that eligibility alterations would be a strictly controlled process based on established criteria.

More important, however, is the growing realization that the recent years' experience with attempts to achieve foreign policy goals by means of trade legislation has failed and in many instances has proved counterproductive. Too often, we have found the only lasting effect of such efforts to be losses in our own international economic performance and competitiveness. The U.S. Export-Import Bank has been the frequent vehicle for such efforts; and as a result, we have seen the Bank's activities increasingly mired down in issues extraneous to its mandate.

We further urge the Senate to reject efforts to tie the hands of the Eximbank as regards its support of agricultural exports. At present we believe that adequate financial support for agricultural commodity exports exists within the Commodity Credit Corporation. While the Eximbank will continue to maintain sufficient funds to finance agricultural exports in any case, a specific limitation might needlessly tie up funds not needed for agricultural exports but which are critically needed by our manufactured goods sector.

In closing, we would urge your support of S. 3077 and specifically request support for Sec. 5 to limit the environmental reporting burden of the Eximbank and for Sec. 4 to revise eligibility procedures for Eximbank programs.

Sincerely,

LAWRENCE A. FOX,
Vice President.

Mr. HEINZ. Mr. President, I yield the floor.

Mr. CHAFEE. I would like to ask one quick question, and this is the last question: In the letter from the National Association of Manufacturers it says that the list is the sole way of denying Exim credit to a country. That is not correct, if I understand the act correctly. In addition to putting a country on the list, the President also has the right to deny the Exim credit to a country even though it is not on the list; is that not so?

Mr. HEINZ. The list is the only means of determining eligibility of a country.

Mr. CHAFEE. That is right. But one of the points the Senator is making here is that this gives a certainty to the matter. But the truth of the matter is that even if a country is not on the list the President can still deny an Exim credit to that country for project A, B, or C; is that not correct?

Mr. HEINZ. That is correct.

Mr. CHAFEE. Right.

Mr. HEINZ. And the Senator from Rhode Island's amendment, of course, does not change it.

Mr. CHAFEE. I recognize that. But it is unfair, it seems to me, that whoever wrote this letter, this gentleman, says it removes all uncertainty, because it does not, in fact, remove the uncertainty.

Mr. HEINZ. The Senator would have to assume, in order for his argument to be totally accurate, that there is no legislative intent, explicit or implicit, in the position of the managers. In fact, I think the statements of today, and Friday make very clear that there is a mandate to the President here to use the country list, and only in very unusual or extraordinary circumstances to use the individual approval process, the case-by-case, application-by-application process, to further some particularly pressing or unusual goal. That, indeed, I think is more than clear in the legislative history regarding our amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, this morning I asked the distinguished Senator from South Dakota (Mr. MCGOVERN) to add me as a cosponsor of the Chafee-McGovern amendment.

I just want to state for the benefit of the RECORD and some of my colleagues my reasons for joining in this amendment.

This is one of those things about which I am apprehensive, because I am not at all sure the other Senators who have not been here to participate in the debate are going to understand the implications of what we are doing to ourselves.

I have a classmate, one of my best friends in law school, who offered me two tickets to the Dallas-Redskins football game tonight. He also happens to be a director of the National Coal Co. and, since I sit on the Energy Committee, I had to reluctantly decline the tickets. I had to decline them and he did not understand. He said, "What are you fellows doing to yourselves?" And I sometimes wonder myself. My daughter would give up her space in Heaven to see that game tonight, and I would have liked to have accepted the tickets.

That is only mildly relevant to what I wanted to say. But I want to say this: This is another case where, if we do not adopt this amendment, later on when some industry, whether it is Allis-Chalmers in Illinois, Reynolds Metals in my State, or some other company in Rhode Island or Louisiana or wherever, has a chance to export a quarter of a billion to a half billion dollars in goods and services to a country which happens to be on some kind of an arbitrary list the President has made up, that company in your State is not going to get the benefit of that proposed export sale.

Now, that is a parochial view, I admit. There are perfectly valid reasons why this country from time to time ought to withhold some of its products, particularly those exports that are uniquely made in the United States, and that are needed so critically by some particular country.

Yes, I will yield to the Senator from Louisiana.

Mr. LONG. Maybe it is parochial, but the way the Senator from Arkansas is speaking sounds like the way I ought to vote. I have been here for some time, and when I vote I want to vote for my constituents, because it is more important to me how the citizens of Louisiana make out, whether they have jobs, whether they have business, whether they have payrolls, that is more important to me than some of these nebulous

foreign policy things we are talking about.

Would the Senator tell me do I vote for the amendment or against the amendment if I want to vote for jobs for the people in Louisiana?

Mr. BUMPERS. You vote for the amendment.

Mr. LONG. That is all I need to know. That answers my question.

Mr. BUMPERS. Now, if I may just continue, I would like to point out that while I have championed the President's cause on human rights, and still do, there are hundreds of millions of people in the world who are still looking to the United States for leadership in alleviating themselves from the terrible plight in which they find themselves, because of the existence of an autocratic or authoritarian ruler in their country.

But have we carried out that policy in a fair and objective way? Of course, we have not. Let us take Iran. If you will pardon the expression, some of my best friends are Iranians. But there is not anybody in this body who believes for a minute that human rights are at the top of the priority list in Iran.

Let me tell you something else: We are worried right now about the trouble the Shah is in in Iran. We are afraid he is going to fall from power, even though he does not represent the noble ideals of this country. Why are we? Because he has oil. He sends it to the United States; and do you know what else? He sends it to Israel. Iran was one of the few countries, if not the only country, which continued to supply Israel with oil during the Arab-Israeli war of 1973.

So he is vital to us, and Iran is vital to us, just as the rest of those oil-producing countries are. But I can promise you, if we put out a list, and the President omitted Iran, there would be Members of this body who would rise up in righteous indignation and debate hour after hour why Iran should have been included.

And there are others. There are the Philippines and South Korea. I do not mean to denigrate those countries, which have been our friends and on which we rely for certain things, but if the President sends a list here and says, "You may export to all the countries except these," every one of those countries will be raised in debate on this floor.

Mr. President, I have just named three countries, but all I am saying is that we are tying our hands.

At a time when the President is trying to promote exports and reduce our trade deficits, which everybody knows contributes significantly to inflation in this country, we come in here with a regulation which will be impossible to enforce.

The amendment of the Senator from Rhode Island and the Senator from South Dakota does not say that the President cannot add a name to the list, or cannot suggest other countries, or suggest to the Eximbank that an export not take place because it would not be in the best interest of the country.

What we are saying is, let us not publish on the front end a list—and, Lord, the list gets longer all the time. I do not know how many countries there are in the world now. We must have 160 or 170 members of the United Nations, and we all know these small countries violate human rights.

And, Mr. President, I want to tell you something: The Senator from Louisiana and his colleague and the Senators from California, the Senators from Arkansas, and the Senators from Mississippi met with the Vice President just last week to tell him that we are in big trouble with our rice crop this year. Arkansas produces 40 percent of the rice in this country. The biggest crop we ever had before was 800,000 acres. This year we have 1,200,000, and what we are telling the Vice President is, "You call the Secretary of Agriculture and tell him to increase the Public Law 480 aid." And if you think the people of Arkansas care who gets it you are wrong. They do not. They want the rice exported, because they want the rice market to come back. There is no market for rice right now, and the farmers in my State are desperate. They are scared to death. As a matter of fact they know that if we do not export a lot more rice this year than last year, the bottom will fall out of the market. There are 165 million hundredweight being produced in this country, and the demand, including exports, is estimated today to be 111 million hundredweight. We are going to have a rice surplus of 54 million hundredweight.

Do you think I want to go home and tell my folks that a relatively unknown country such as Belize, with a population of about 500,000 down in Central America, put somebody in as president that should not have been there, and therefore we are not going to send them any rice?

This morning the Senator from Pennsylvania asked the Senator from Rhode Island, "Are you trying to implement foreign policy with this amendment?"

"Well, to an extent, yes."

You know, whether you like it or not, we have to get along with our friends and neighbors, and sometimes they do not live by all the constitutional guarantees under which the people of this country happily live. But I am going to tell you something else: If we have not learned anything else in this country in the last 20 years, I hope to God we have learned that we cannot impose our will on everybody, by force or otherwise.

And, finally, not only do I want to ship rice and soybeans to all the countries of the world which need them, but what kind of human rights, I ask, do we champion when we withhold food, which the Export-Import Bank financed $500 million worth of last year, from these nations? What kind of humanitarians are we when we say we are not going to allow the women and children of some of these Third World nations to eat, because we do not like their ruler, or because they did something environmentally unsound, or because they have done something that we perceive may not be in our best interests?

Maybe they have even entertained Mr. Brezhnev in their country, and treated him to a state dinner, and we say because of that there is a little affinity between that country and the Soviet Union we do not like, so we are not going to ship food to that country.

I have tried to put it in the most basic of terms, but nobody should misunderstand for a minute what the implications of this bill are. It says that at any time our national interest is affected we can withhold shipment. It requires the President to prepare a list, which could not be inclusive no matter how honest and dedicated he was in preparing the list for all the world to see, which denigrates some of those nations that we do consider our friends, but which we all know are in violation of human rights. If we do that, we are going to paralyze the Export-Import Bank completely. We might as well close its doors and say we are not going to export any goods any more, and forget about our trade deficit.

I know the motivation for this. I know the Senator from Illinois, one of the finest U.S. Senators in this country, worked hard on this bill, and I know he believes very strongly in the idea of this being submitted, but I disagree with that. I do not think it is in the country's best interest, and I hope the majority of my colleagues in the Senate will not support it.

(Mr. BURDICK assumed the chair.)

Mr. STEVENSON. Mr. President, I hope the Senator from Arkansas will stick around a little while, because he just made an impassioned speech in opposition to this amendment. The Senator from Illinois represents the largest exporting State in the United States of America. The National Association of Manufacturers is not opposing this amendment because its members want to lose business. The provisions of this bill are intended to get rid of lists. Here is a list; it is already there. If the Senator had been here a little earlier, he would have heard us put the lists in the RECORD. They are already published. Here is the Eximbank list, and this is the OPIC list, and the worst of it is not the lists which are already published, but the attempts by Congress to legislate ad hoc, impulsively, in all the fevers of the legislative process, because of the policy of some country on emigration, on human rights, on the environment, on terrorism, or on arms control whether that country is going to get MFN or CCC credit, or Eximbank credits.

We have developed a systematic procedural alternative to that impulsive process which produces ineligibility for the Union of South Africa today, for the People's Republic of China tomorrow, with Congress legislating foreign policy instead of the President conducting it.

Years ago we developed a procedure that is already working with respect to the Export Administration Act. We got rid of the artificial distinctions between market and nonmarket countries which now produce congressional lists of ineligibility.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. STEVENSON. Yes.

Mr. BUMPERS. One of the provisions under the bill unless this amendment is

adopted, of course, would require the President to submit a list. One of the criteria that he would use in determining who was ineligible would be nations that have not done all they ought to do, for example, to eliminate nuclear proliferation.

Mr. STEVENSON. Will the Senator let me respond?

Mr. BUMPERS. Certainly.

Mr. STEVENSON. The reason those items were listed, and we tried to throw in everything we could think of, is that that is what the Congress is throwing in legislating eligibility on the basis of. We go on to say in the legislative history that you do not have to consider each factor, but you consider the entirety, just as you do now. The effort is to create a systematic process by which you consider everything, economic and noneconomic, and do it every 5 years instead of day in and day out.

Saturday we had a debate here about the Union of South Africa. Just a week or so ago when the Senator from Pennsylvania and I were managing with the Senator from Idaho (Mr. CHURCH) and others the legislation to authorize U.S. participation in the Witteveen facility of the IMF, again, as happens, an effort was begun, and in that case it succeeded, to legislate eligibility, to cut off exports in that case to Uganda. It is to get away from that impulsive, feverish temptation in the Congress to legislate eligibility that we come up with a systematic every 5-year alternative which has already worked. It has worked in the Banking Committee.

The Senator was not here when I read one of the amendments offered in the Banking Committee on ineligibility, which included some 20 countries from Afghanistan to Zaire which had been listed by a reputable human rights organization as violating human rights. The amendment was offered to deprive them all of eligibility. Because we had a procedural alternative then, the efforts in that case, and also in the instance of South Africa, did not succeed.

What this does is to establish broad criteria. It does not say you have to consider just its attitude toward nuclear proliferation. You consider everything. Then a final determination is made. You do that recognizing that the primary purpose of the Eximbank, and the necessity of the country, is to promote exports, not cut them off. The President then, presumably, if he is serious about exports, comes up with a short list.

I would suggest to my friend that Congress then comes up with a short debate. From then on we also do not have to go through all the procedures under the Trade Act with respect to the Eastern European countries. We break down that artificial division in favor of a global process, which treats all countries, with the exception of one, on the same basis.

Mr. BUMPERS. If I may, I am not as much concerned about what happened before or what may happen in the future as I am concerned about the specifics of this bill. The point I did not finish a while ago is this: One of the criteria the President is directed to use is whether or not that country has lent itself to the possibility of nuclear proliferation.

I have been an ardent opponent to the breeders for the simple reason that I do not think we ought to be embarking on a plutonium society in this country and lending at least some idea across the world that we see nothing wrong with it. As Members know, I was somewhat upset about the White House deal with the Senator from Idaho about the breeder. I am opposed to breeders. I do believe they lend themselves to nuclear proliferation. Yet the French and Germans are going ahead full scale with breeder reactors. I do not care how you slice it, but I consider it irresponsible from the standpoint of nuclear proliferation. My question is, Would that be grounds for the President to include those two countries on the list?

Mr. STEVENSON. He would have to consider the totality. He can disregard every factor under it or the totality of the factors if the economic interest dominates.

Mr. BUMPERS. Does your amendment——

Mr. STEVENSON. It is the amendment offered by the Senators from Rhode Island, South Dakota, and Arkansas that requires, not just country by country but case by case, with respect to every transaction, a consideration of nuclear proliferation. And not only nuclear proliferation but environmental protection, human rights, and international terrorism. That is the amendment that would invite him to consider nuclear proliferation and everything else and not just country by country but every time a Caterpillar tractor gets sold to Argentina, Uruguay, or to Brazil.

If the Senator wants to get away, as I do, from this impulsive, irrational, emotional suggestion that somehow we can extraterritorially impose all our standards of conduct on the world, shooting ourselves in the foot every time we try because the products can be obtained somewhere else, he would join us. We deprive ourselves of authority and influence in the world, as it is and cannot pursue nuclear proliferation or human rights or any of our objectives effectively, including our economic objective. It is to get rid of that and deal with it in a systematic and rational way over 5-year intervals that we have come up with a procedure such as this. It is not the procedure that the State Department first addressed itself to. It has been changed since then.

Mr. BUMPERS. Is the Soviet Union on the Eximbank list of prohibited recipients of Eximbank's financing?

Mr. STEVENSON. It is on the Congress list and, therefore, on the Exim list. Under this approach, it would remain on the list. It is the only country that would remain outside this new global process. I say to the Senator I think that is unfortunate.

I went to Moscow in January to say that it would be unfortunate if the conduct of the Soviet Union with respect to dissidents, with respect to East Africa, made it impossible for the Congress to bring the Soviet Union within this new global approach toward eligibility for Exim. Unhappily, what was suggested and said then has come to pass. And it was the State Department, as well as other Members of this Chamber, who said, "This is not the time to bring down the barriers and to be promoting eligibility for credits or making other conciliatory economic gesture toward the Soviet Union."

That is not my doing. That is, as I told Minister Gromyko and others, his doing. Unhappily, that has come to pass. I hope in time, in the near future, it will change.

Some of us, including the Senator from Connecticut (Mr. RIBICOFF), who serves with the distinguished Senator from Louisiana on the Finance Committee, and who is chairman of its Subcommittee on International Trade, who has the corresponding jurisdiction in that committee over MFN that I and others in the Banking Committee have over Exim, will go to the Soviet Union next month to continue our discussions with the Soviet Union on these economic questions, and to express the hope once again that the relations between the countries can be improved and the atmosphere in the Congress improved to the point where we can bring it into this process.

But in the meantime should we neglect the opportunity to bring the Eastern European countries a little closer? There is some political merit in doing that, instead of subjecting Romania and Hungary to the embarrassment every year of having to go through a waiver process here with congressional review of their internal policies. That is what this bill gets away from.

That is what would be perpetuated and possibly, under the amendment offered by the Senator from Rhode Island, made worse.

Mr. BUMPERS. The Senator said a moment ago that the whole idea here is to let the President decide these things on a case-by-case basis. The Senator followed that by saying we can get away from a case-by-case basis, get away from having Romania come in and subject itself to the considerable embarrassment of having to ask for waivers every time they seek to get something bought in this country through the Eximbank.

Mr. STEVENSON. The amendment which the Senator, I understand, is sponsoring says: "Only in cases where the President determines that such action would be in the national interest or where such action would clearly and importantly advance U.S. policy in such areas as international terrorism, nuclear proliferation, environmental protection, and human rights should the Eximbank deny applications for credit * * *."

That is case by case. That refers to the sale of the Caterpillar tractors. That is not what our amendment does. That is precisely what we are trying to get away from.

Mr. CHAFEE. Will the Senator yield?

Mr. STEVENSON. I have not yielded yet.

What we are trying to get is a systematic approach, a global approach, break down such artificial barriers as exist in the Trade Act now, move away from the individual, case-by-case determinations. There is no effort to undo the President's

inherent constitutional authority. The purpose is to implicate, and if you will, the Congress in this alternative, as an alternative to impulsive actions with respect to the Union of South Africa or Argentina or Chile. We have now, or would, under this bill, a way of dealing with all those questions—not case by case, not issue by issue, not country by country, but every 5 years, in a way that involves Congress in its determination of ineligibility, if we disagree and Congress will support it, should be a short list.

I yield to the Senator from Rhode Island.

Mr. CHAFEE. If the Senator will yield a minute, I do point out that at the urging of his colleague, we added the word "and" instead of "or" in our amendment, on line 7.

Second, under his very amendment that was adopted Saturday, regardless of whether a country is on the list or not—in section (6), he says "Notwithstanding any other provision of this subsection, the President may disapprove any guarantee" and so forth, "if, in light of the factors set forth in the third sentence," and so on.

Those factors are the very ones the Senator has been talking about here; namely, international terrorism, nuclear proliferation, and so on.

We have debated this a long time, Mr. President, but it is clear that the President, if he chooses to do things on a case-by-case basis, can still do it. But the great drawback of the committee amendment is that this list comes forward, it is there, it is in concrete. If Nicaragua is on the list and Rhode Island or Louisiana or Maine or Illinois gets a chance to sell $5 million worth of goods to Nicaragua, they cannot do it. There is no way they can do it.

Then we get into all kinds of arguments here over what countries should or should not be on the list. I think an arbitrary situation where lists come up is just not in our best interest and is going to cost us a lot of jobs.

I thank the Senator.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY ASTRONAUTS

OUR DEBT TO AMERICA'S SPACE PIONEERS

Mr. ROBERT C. BYRD. Mr. President, it is appropriate that six former astronauts were yesterday awarded the first Congressional Space Medals of Honor by President Carter. These pioneers led the way into an age that, I believe, could ultimately prove to be more significant to mankind than the discovery of the New World was in the late 15th century.

This is an era that seems often bereft of genuine heroes. But these astronauts have become almost universally admired. Men in every nation recognize that it took enormous courage to launch into the apparent void of outer space, trusting only in human technology and the Providence of God. Indeed, though it is probable that future generations will realize the fuller benefits of our space explorations, and may take them for granted, we can appreciate more the courage and personal character involved, for we better understand the risks that these men took.

All of us are indebted to these astronauts, and to those who followed them into space. Moreover, we owe our deep gratitude to the thousands of scientists and technicians in the public and private sector, whose skills, knowledge, and dedication made our space program so successful. Many have declared that never in the history of the human race have men had at their disposal tools and instruments so perfectly made and adapted to the needs of their users. The American space program has been a monument to our technological abilities.

But above all, we owe to these astronauts and the teams that supported them our gratitude for the sense of pride they have given to this Nation and its people. As we observed their activities in space, no citizen of the United States could fail to feel the enormous pride that stemmed from the fact that these men were Americans, and that their victories were American victories.

We have, as Members of our own body, two very distinguished astronauts—Mr. JOHN GLENN and Mr. HARRISON SCHMITT.

Mr. President, it is a pleasure for me to congratulate the five astronauts and the widow of Virgil Grissom on receiving the Congressional Space Medals of Honor, and to tell them how pleased I am to have them with us today.

At this time, I ask JOHN GLENN to present to the Senate these astronauts and Mrs. Grissom, by name, after which I ask unanimous consent that the Senate stand in recess for 2 minutes, to allow us to extend a welcome to our distinguished guests.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. GLENN. I thank the majority leader very much.

It is my distinct pleasure to introduce my colleagues and Betty to the Senate today.

We were highly honored yesterday, when the President came down to the Cape and presented us with the medals.

The only person who received a medal yesterday and who is not able to be with us in Washington today is Frank Borman, who had some duties down there and was not able to come to Washington.

It is my pleasure to introduce, first, Mrs. Betty Grissom, widow of Gus Grissom, our friend, and she accepted the medal yesterday on behalf of Gus, posthumously; next, Neil Armstrong; Pete Conrad; and Al Shepard. I am honored to be included with the group.

[Applause, Senators rising.]

Mr. STEVENSON. Mr. President, our colleague, the distinguished Senator from Ohio, with characteristic modesty, neglected to mention that he was one of the recipients of the space medal yesterday, also.

The PRESIDING OFFICER. The RECORD will so indicate.

2-MINUTE RECESS

At 2:44 p.m., the Senate recessed until 2:46 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

CONGRESSIONAL SPACE MEDAL OF HONOR

Mr. STEVENSON. Mr. President, I join my colleagues in welcoming the recipients of the Congressional Space Medal of Honor, and Mrs. Grissom, on behalf of her husband, to the Senate today. Senators may greet the recipients—Neil Armstrong, Frank Borman, Charles Conrad, Jr., Alan Shepard, Mrs. Grissom, and our colleague, Senator JOHN GLENN—in the John F. Kennedy room, S–210, from 1:45 p.m. to 2:45 p.m.

The citations accompanying each award presented by President Carter set forth the individual contributions of each recipient. I will not attempt to review them here, but I ask unanimous consent that the citations be printed at this point in the RECORD.

There being no objection, the citations were ordered to be printed in the RECORD, as follows:

CITATIONS FOR SPACE MEDAL OF HONOR AWARDED OCTOBER 1, 1978

NEIL ARMSTRONG

By direction of the President, Neil A. Armstrong is awarded the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

In March 1966, commanding Gemini 8 in earth orbit, Armstrong was the first person to dock one space vehicle with another, a technique that would be essential to carrying out the later lunar landing. Shortly after docking, a malfunctioning thruster in the control system caused the two craft to start rolling. After undocking, the Gemini rolled faster. Armstrong analyzed the difficulty correctly, and even on the verge of dizzy disorientation initiated the actions necessary to overcome the failure and land the spacecraft safely. As commander of Apollo 11, he made the first landing on the moon. Equipment malfunctions, added to hazardous and unanticipated terrain, again threatened destruction. Armstrong overrode the automatic system and personally piloted the lunar module past the original landing site to a safer area, where he put the craft down gently with only thirty seconds of fuel remaining. Once more his professional skills and unshakable nerves had saved a mission and averted disaster. Perhaps a third of the human race, certainly the largest audience in the history of television, watched his first steps on the moor, united as never before by an awareness of a new era in the history of mankind, by pride in what mankind had accomplished, admiration for the United States of America, and hopes and prayers for the safe return of Armstrong and his crew. With steady, cool professionalism, repeatedly overcoming hazards, Neil Armstrong became the first to walk on a celestial body other than our earth, bringing great credit upon himself, his Nation and mankind.

FRANK BORMAN

By direction of the President, Frank Borman is awarded the Congressional Space

Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

Frank Borman commanded the Gemini 7 and Apollo 8 space missions which significantly hastened and facilitated achievement of the manned lunar landing objective. Problems with the development of hardware caused major modifications to each of these missions close to launch time, necessitating extensive replanning and retraining. Borman's meticulous attention to detail and tireless pursuit of excellence contributed to the achievement of all objectives on both missions. In December 1965, commanding Gemini 7, he proved that man is physically capable of staying in space and performing useful work for the length of time needed for a round trip to the moon. In December 1968, Apollo 8, under Borman's command, first made that round trip. In a Christmas Eve telecast from lunar orbit, Borman and his crew read the story of creation from Genesis and showed millions of watchers around the world views of earth that they had never seen before. This moving demonstration of technological achievement and peaceful intent heightened the stature of our Nation throughout the world community. Colonel Borman's career as an astronaut reflects great credit upon himself, his service, and all mankind.

CHARLES CONRAD

By direction of the President, Charles Conrad, Jr., is awarded the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

From August 1965 through June 1973, Astronaut Conrad participated in four space flights of increasing duration, complexity, and achievement. Following two flights in Project Gemini, Conrad commanded Apollo 12 and made man's second landing on the moon. In May and June 1973, he commanded the first crew to man Skylab and led the lengthy, dangerous, and strenuous activities that were necessary to repair damage inflicted on the orbital workshop during launch and thereby save the two-billion-dollar program. Skylab had arrived in orbit without thermal protection and with inoperable solar power panels. Internal temperatures of 130°F were threatening to damage supplies and equipment, as well as preclude extended habitation. Conrad and Joseph P. Kerwin deployed a stopgap sunshade and the internal temperature dropped. Later, in an unprecedented three and one-half hours of work outside the spacecraft, they freed a jammed solar power panel, which thereafter produced electricity to power the experiments performed by three crews. The actions of Conrad and his crew made possible five months of productive science and experimental processing of materials in space. His career as an astronaut, climaxed by the rescue of the Skylab program, reflected great credit upon himself and materially advanced the welfare of the Nation and of mankind.

JOHN GLENN

By direction of the President, John H. Glenn, Jr., is awarded the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and mankind.

John Glenn was the first American to orbit the earth. His successful three-orbit flight on Friendship 7 in February 1962, in the third manned mission in project Mercury, went far toward eliminating the lead held by the Soviets in space. He demonstrated the value of the human pilot in space when an attitude-control thruster malfunctioned. He experimented with the various means available to compensate for the faulty device, selected the most economical mode, and flew the remainder of the mission manually. An erroneous warning light then signaled to the ground net that the spacecraft's heatshield was unlocked. The ground controllers devised a possible method for retaining the heatshield, which was essential for a safe reentry, and Glenn executed the new procedure with remarkable calm. He continued to control attitude manually during descent until his fuel supply ran out, after which the craft began a dangerous oscillation. Glenn had decided to dampen the oscillation by deploying the drogue parachute early, when the parachute popped out automatically. He returned to a Nation and a world which seized on him as a major hero. This difficult role he handled with the same polite dignity that he brought to all his assignments. John Glenn's career as an astronaut reflects great credit upon himself, his service, and his Nation.

VIRGIL GRISSOM

By direction of the President, Virgil I. Grissom is awarded the Congressional Space Medal of Honor (posthumously) for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

From July 1961 to January 1967, Astronaut Grissom participated in two space flights and lost his life during preparation for a third. In a time of relatively primitive space hardware, he piloted the second manned Mercury mission. After landing in a choppy sea, equipment failure caused the hatch to be jettisoned prematurely. Moving quickly, Grissom took to the waves as water entered the sinking spacecraft.

As commander of the first manned Gemini flight in March 1965, Grissom demonstrated and evaluated the capabilities of the spacecraft and launch vehicle system and the procedures necessary for the support of subsequent long-duration and rendezvous missions. On January 27, 1967, while training to command the first manned Apollo mission, he and his two crewmates died in a flash fire that swept through their spacecraft atop the launch vehicle. That accident led directly to a rededication of effort by the National Aeronautics and Space Administration's government-industry-university team, which, in turn, produced the successful lunar landing program. In his death, as in his life, Virgil Grissom significantly advanced the exploration of space and the prestige of his Nation.

ALAN SHEPARD

By direction of the President, Alan B. Shepard, Jr., is awarded the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

Alan Shepard was this Nation's first man to venture into space. He was boosted into a hostile environment on the tip of a ballistic missile when the medical effect of extended weightlessness and radiation were still unknown. His successful suborbital flight demonstrated that his country lacked neither the courage nor the technology to compete in the arena of space. As head of the Astronaut Office during project Gemini, he was a key participant in spacecraft development and operations. As commander of Apollo 14, Shepard showed the highest qualities of leadership. By extending virtually every dimension of lunar operations, his mission enlarged the capabilities of the lunar science program. His long and productive career as an astronuat reflects credit upon himself, his service, and his Nation.

Mr. STEVENSON. The individuals being honored with this award are achievers, and they represent associates at NASA. fellow workers, and all Americans who brought this Nation from an inferior position in space technology to a position of world leadership. The honorees, therefore, represent an era in U.S. space history—a period of almost 20 years during which we pioneered in manned and unmanned space flight and began our initial programs in space science and applications. During this period we learned we could live and work in space and do useful things.

Mr. President, the Nation is now entering a new era in space made possible by the Space Shuttle. This new era will be devoted to the challenge of making the tangible benefits of space technology available to persons on Earth. Yesterday, in awarding the Congressional Space Medal of Honor at the Kennedy Space Center, President Carter discussed the importance of the Space Shuttle to the Nation's future space effort. The President said:

With its ability to lift a payload of up to 32 tons into orbit, on mission after mission, the shuttle will give us regular, frequent, and economical access to space. Like the sea, the land, and the air, it will become an environment in which human beings can live and work for the welfare of their species.

Paradoxically, the most exciting thing about the space shuttle is that it will make our use of space routine.

The Administrator of NASA, Dr. Robert Frosch, also discussed the Nation's future in space at the ceremony yesterday. Mr. President, I ask unanimous consent that the prepared remarks of President Carter and Dr. Frosch be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PRESIDENT JIMMY CARTER REMARKS TO KENNEDY SPACE CENTER, OCTOBER 1, 1978

Dr. Frosch, thank you for that fine introduction.

Governor Askew . . . distinguished members of the United States Senate and House of Representatives who are here with us, both from the Florida delegation and from other States . . . Congressman Tiger Teague, retiring Chairman of the Committee on Science and Technology, who has done so much to build our space program and who wrote the legislation establishing the Space Medal of Honor . . . ladies and gentlemen:

We are here today to recognize and honor six American pioneers of the farthest and highest of all frontiers—the frontier of space.

We honor them for their individual qualities—their dedication, their skill, their extraordinary courage.

But we do more than that.

What these men have done is the most visible part of a vast and continuing collective accomplishment.

Tens of thousands of Americans—including scientists, engineers, administrators, skilled workers, and others—have contributed directly to the success of the American space enterprise.

They in turn, have had the support of a nation, and the good wishes of a planet.

The glory that belongs to the six recipients of the Space Medal of Honor belongs equally to those who helped them—and, in a real sense, to all humanity.

This does not diminish that glory.

It enlarges it.

It is fitting that these ceremonies take place today, on the 20th anniversary of the founding of the National Aeronautics and Space Administration.

And it is fitting that they take place here, where the ships that took men to the moon were launched, and where we will take our next great step into space with the first flight of the Space Shuttle.

The age of space can now be said to have reached the threshold of its maturity.

It began 21 years ago this week with the launching of Sputnik I.

That remarkable achievement galvanized our own space efforts.

We have met the challenge fully.

Indeed, we have gone far beyond it.

As Americans, we are proud of our achievements, and glad of the benefits they have brought our nation, and, indeed, the entire world.

We often speak of progress.

But there is nothing in scientific and technological experience to compare with the enormous leaps we have made in the brief span of the two decades of the space age.

We have worked what any other time would have considered miracles.

We have taken the stuff of fantasy, and we have turned it into reality.

The dreams of a few visionaries have become a part of the everyday lives of hundreds of millions of people.

Consider what we have done in just one quarter of a human lifetime:

We have put men in orbit around the earth and the moon — and machines in orbit around the earth, the moon, the sun, and the planet Mars.

We have learned to maneuver in space, to dock in space, and even to walk in space.

On board Skylab, we have learned to live and work in a weightless environment for many weeks at a time.

We have begun the exploration of the inner and outer planets.

Two American Vikings have been sending back valuable scientific data from the surface of Mars for more than two years.

Pioneer 10 has passed Jupiter and is on its way to interstellar space.

It will be the first tangible product of human hands to leave the solar system.

Its flight time may turn out to be longer than the life of the civilization that launched it, and its destination is unknown—but, like the entire effort of space exploration, it is a striking symbol of human curiosity, human ingenuity, and the very human desire to communicate.

And, of course, we went to the surface of the Moon—not once but six times, and each time the astronauts returned safely to their home planet and their home country.

In the nine years since a man took that one small step, the giant leap it represented has almost come to be taken for granted.

Yet, at the outset, many doubted it could be done at all, and many more doubted it could be done in so short a time.

But it was done—and done magnificently.

The goal was met.

And this great space center is deservedly named for the man who summoned his fellow citizens to an extraordinary adventure, President John F. Kennedy.

We went to the Moon, in part, as a matter of national pride.

But when we got there, we discovered something very interesting.

Through the eyes and cameras of the astronauts, we looked back at the Earth.

Above the strange horizon of the Moon, in a pitch black sky, we saw our own world as a single delicate globe of swirling blue, white, green, and brown.

From the perspective of space, our planet has no national boundaries.

It is very beautiful, but it is also very fragile.

And it is the special responsibility of the human race to preserve it.

Of all the things we have learned from our explorations of space, none has been more important than this perception of the essential unity of our world.

Space has brought us a great deal of knowledge; it may also have brought us a measure of wisdom.

Today we celebrate the accomplishments of the past.

In the spirit of the men we honor, we also look toward the future—a future that is as exciting as anything that has gone before.

The first great era of the space age is over.

The second is about to begin.

It will come into its own when the Space Shuttle—the heart of our new Space Transportation System—becomes operational.

With its ability to lift a payload of up to 32 tons into orbit, on mission after mission, the Shuttle will give us regular, frequent, and economical access to space.

Like the sea, the land, and the air, space will become an environment in which human beings can live and work for the welfare of their species.

Paradoxically, the most exciting thing about the Space Shuttle is that it will make our use of space routine.

The first generation of space activities was driven, in large part, by a single overriding goal—the quest for the Moon.

In the second generation—thanks to the versatility of the Shuttle—our activities in space will be enormously varied.

We have invested some one hundred billion dollars over the history of our space programs.

It is now time for us to capitalize on our investment.

We have already reaped many practical benefits from space.

Over the next generation, those benefits will increase geometrically.

Communications satellites have already made global communications instantaneous, reliable, and cheap.

They have brought remote areas of our earth out of their isolation.

We will continue to develop them.

Weather satellites have already saved billions of dollars and thousands of lives through early warnings of hurricanes and floods.

We will continue to develop them.

We have greatly strengthened our national security through defense space applications.

We will continue to develop these capabilities.

Photoreconnaissance satellites have become an important stabilizing factor in world affairs.

In the monitoring of arms control agreements, they make an immense contribution to the security of all nations.

We shall continue to develop them.

Earth resources satellites have already proved their value to many countries.

Through remote sensing, they tell us about everything from the location of mineral and energy deposits to the condition of our crops—from the motion of icebergs to the health of the oceans.

We will continue to develop and use these satellites for the benefit of all people throughout the world.

Aboard the Shuttle on many of its missions will be the European-built laboratory, the Spacelab.

Scientists of many nations will use the Spacelab to do research in all branches of science and engineering.

No one can say where this research will lead.

But carefully selected experiments could yield direct benefits in the coming decades.

I am often asked about space factories, solar power satellites, and other large-scale engineering projects in space.

In my judgment, it is too early to commit the nation to such projects.

But we will continue the evolving development of our technology, taking intermediate steps that will keep open possibilities for the future.

During the period of the Saturn-Apollo missions, we were pilgrims in space, ranging far from home in search of knowledge.

Now we will become shepherds, tending our technological flocks.

But like the shepherds of old, we will keep our eyes on the heavens.

We are committed to the practical uses of space.

But we are equally committed to the scientific exploration of the solar system and the universe.

In the 1980s and 1990s, we will continue the direct reconnaissance of the solar system.

Through the eyes of our remote cameras, we will see Mars and Venus; Jupiter and its moons; Saturn, its moons and its rings; and comets and asteroids.

The study of other planets—their climate, geology, geophysics, and perhaps their biology—will increase our understanding of our own.

We will seek to learn more about the Sun.

Many missions will aim at this goal in the years to come.

In one of them, an instrumented probe will journey far above the plane of the solar system, to look down at the never-before-seen polar regions of the Sun.

And, finally, we will look out from Earth orbit to the very edge of the universe—notably by means of the Space Telescope.

In its orbit three hundred miles above the Earth's surface, the Space Telescope will at last let us see the universe without interference from the Earth's obscuring atmosphere.

It will be the centerpiece of astronomy for the decade beginning in the mid-80s.

Its contributions may dwarf all but the most fundamental discoveries of the past, leading to a quantum growth in our understanding of the basic nature of time, matter, and energy.

In the coming generation, the scope and range of our space activities will reflect the range of our requirements and interests as a vigorous, responsible, and free society.

Those activities will be measured against all the needs of our country.

We will be encouraging other countries to participate both in the work and in its benefits.

But we will not give up our leadership.

In the last analysis, the challenge of space takes us very close to the heart of things.

It brings us face to face with the mysteries of creation, matter, energy, and life.

The men we honor today met that challenge, and were equal to it.

Our nation met that challenge, and was equal to it.

And in the final two decades of the 20th century, America will reach out once more to the beauty and mystery of space.

And, once more, America will be equal to the task.

Thank you.

DR. FROSCH'S REMARKS AT THE CONGRESSIONAL SPACE MEDAL OF HONOR CEREMONY AT KENNEDY SPACE CENTER, FLA., OCTOBER 1, 1978

Mr. President, it is an honor to have you here on your birthday to celebrate the twentieth anniversary of the National Aeronautics and Space Administration and for the first presentation of the Congressional Space Medal of Honor. NASA people have been privileged, not only to continue and to advance the 20th century transportation revolution of aeronautics, but to participate in laying the foundations of the future human adventure in and use of space.

We will be seen, not as a technological incident of the 20th century, but as founders of a future activity of mankind, an activity of continuing and growing importance to the human race.

No matter how much the technology changes (and the shuttle system will be an important change), the early accomplishments will always be remembered (as a child's first steps are always remembered no

matter how great the later accomplishments.)

The path of civilization has been a hard one over the eons. Cultures have risen and sunk back, philosophies have waxed and waned, monuments have been built and have slowly eroded away. The true marks and memories of a civilization are not only found in its physical creations, and how it cares for itself and its people, but in the progress it has contributed toward liberation of the mind from the constraining horizons of the past. One major force has been the growth of scientific knowledge through the exercise of human reason.

The spirit of man aspires to the stars. Every generation has looked out at the universe in search of faith, of hope, of beauty, of adventure, and of the power of knowledge. In our generation, a very few have taken the first brave steps out there to begin the great human adventure of using and understanding the universe beyond the earth. To honor those recent accomplishments, and to lead our way into America's next decades of space, it is my privilege to introduce the President of the United States.

Mr. STEVENSON. I compliment President Carter on his constructive and forward-looking statement. We must, however, establish specific goals in space which will achieve this new era. To this end I introduced last week for myself and other Senators the Space Policy Act of 1978, S. 3530. The goals contained in this act will guide our efforts for the next decade in a responsible and efficient manner. Its passage will be a priority concern of the Committeee on Commerce, Science, and Transportation during the next session of Congress.

Mr. President, the Congressional Space Medal of Honor recipients contributed significantly to establishing the United States as a leader in space activities, as mandated by the National Aeronautics and Space Act of 1958. We must now proceed aggresively, yet sensibly, to build on these achievements.

ORDER FOR DAILY RECESSES FROM THE CLOSE OF BUSINESS EACH DAY UNTIL 9 A.M. THE FOLLOWING DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess from tonight through the remainder of the week, through Friday, until 9 the following morning, through Saturday.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. At the close of business each day.

Mr. HEINZ. Mr. President, reserving the right to object, will the Senator restate his request?

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business today, tomorrow, Wednesday, Thursday, and Friday, it stand in recess until the hour of 9 o'clock a.m. on tomorrow, Wednesday, Thursday, Friday, and Saturday respectively; and I make the same request for next week, in the effort to complete our work and adjourn sine die by Saturday, October 14, a week from this coming Saturday.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. JACKSON. Mr. President, I ask unanimous consent that Mike Harvey and Deborah Merrick be granted the privilege of the floor in connection with the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT-IMPORT BANK AMENDMENTS OF 1978

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HODGES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, I ask unanimous consent that George Jacobson, of Senator CULVER'S staff, be accorded the privilege of the floor during the consideration of amendments or any votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. RIEGLE). Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, may I ask what is the pending business?

The PRESIDING OFFICER. The Chair would advise that the pending business is an amendment by the Senator from Rhode Island (Mr. CHAFEE) numbered 1980 on which the yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur in relation to the amendment by Mr. CHAFEE at 6:30 p.m. today. Then I would make a unanimous-consent request to get it set aside so that Mr. MUSKIE can proceed with the environmental amendment.

Mr. HEINZ. Mr. President, reserving the right to object, and I do not intend to object, if the Senate should be prepared to vote on another matter at 6 o'clock, not the amendment offered by Senator CHAFEE, that would not be precluded?

Mr. ROBERT C. BYRD. No, not at all, just the vote on the amendment by Mr. CHAFEE. If other votes are ordered, they could begin at 6 o'clock.

Mr. HEINZ. Well, Mr. President, I know of no objection on our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. CHAFEE be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the amendment is temporarily laid aside.

Mr. MUSKIE. Mr. President, what now is the pending business?

The PRESIDING OFFICER. The Chair would advise that the pending business now is the first committee amendment.

Mr. MUSKIE. I thank the Chair.

The PRESIDING OFFICER. To S. 3077.

SECTION 5—NEPA

Mr. MUSKIE. I thank the Chair.

Mr. President, when the legislation dealing with the Export-Import Bank was reported from the Banking Committee it included a section, section 5, which read as follows:

SEC. 5. Section 2 of the Export-Import Bank Act of 1945 (as amended by section 4) is amended by adding at the end thereof the following:

"(f) Except as otherwise provided by a law enacted after the date of enactment of this subsection, no rule, regulation, or interpretation pursuant to the National Environmental Policy Act of 1969 applies to an activity of the bank which does not have an environmental impact within the United States."

Mr. President, because of the implications of that language the Environmental Policy Act, the Committee on Environment and Public Works undertook to consider the bill under a reference that was ordered on May 23, 1978, to be reported not later than July 7, 1978.

After 2 days of hearings, the Committee on Environment and Public Works unanimously reported an amendment which undertook to strike the language which I have just read in S. 3077.

I think it fair to say that the committee voted to strike for reasons I will get into in just a moment.

I ask unanimous consent that Phil Cummings, of the staff of the Committee on Environment and Public Works, have the privilege of the floor during the consideration and vote on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. In the course of the hearings, Mr. President, we were advised that the administration had under consideration an Executive order to implement the National Environmental Policy Act with respect to activities of U.S. agencies impacting abroad; that is, on our foreign activities, and that an effort on the part of the appropriate executive agencies was underway at the time of our hearings.

It was our feeling that that process ought to be allowed to continue, and to produce a policy result, so that the National Environmental Policy Act might be made to apply to future activities by action of the President and the executive agencies, rather than by a blanket exemption of the kind proposed by the Banking Committee.

The development of an Executive order has proceeded since that time. It has produced a draft which appears to meet no one's favor, including that of the distinguished floor manager of the bill, including myself, and including the Senator from Washington (Mr. JACKSON), who

might be described as the father of the National Environmental Policy Act.

So we come to the floor with these two conflicting recommendations of two Senate committees: One to exempt the Export-Import Bank, and the other to strike that exemption because we have found it impossible to prod executive agencies into developing a policy which accommodates our conflicting views of what ought to be done.

The situation at this point is that the Banking Committee reported S. 3077 recommending the language exempting it from NEPA, the Committee on Environment and Public Works recommended striking that language, and the Council on Environmental Quality has been trying to draft an Executive order that accommodates those two positions, and has produced language which satisfies no one, to my knowledge.

In the meantime, at the staff level and at the level of Senators who have had time to consider the problem, we have been trying to develop a compromise that could be recommended to the Senate for inclusion in this legislation.

I think it accurate to suggest that the compromise language at the present point in its development comes close, in a way, to accommodating the conflicting points of view, but not altogether. So I am forced to take the position that what we are debating is the conflicting recommendations of the two committees.

So the issue before the Senate, Mr. President, is how the National Environmental Policy Act should be applied by Federal agencies in their decisionmaking which affects foreign territory. In 1969, Senator JACKSON and I agreed that NEPA applied to Federal actions abroad. The Congress, in enacting the statute, agreed. This is a conclusion which was endorsed by the House Merchant Marine and Fisheries Committee in oversight hearings on the act in 1971. And this is a conclusion which has been endorsed by the Council on Environmental Quality on several occasions.

Unfortunately, several Federal agencies have actively resisted incorporating NEPA provisions into international decisions with the enthusiasm that accompanied their domestic efforts. And public interest litigators have not attempted to enforce NEPA's mandate in the international area with as much energy as they pursued NEPA in the domestic arena. As a result, nearly 9 years after the enactment of NEPA, most Federal agencies operating in the international arena have not even attempted to comply with the mandate that environmental factors be included in the decisionmaking process involving Federal actions abroad. This is disturbing.

Now, section 5 has been added to S. 3077, the Export-Import Bank authorization bill. Section 5, which the committee amendment deletes, categorically exempts one agency of the Federal Government from the requirements of the National Environmental Policy Act. Of over 1,000 Federal agencies currently in existence, this bill proposes to exempt one, the Export-Import Bank, from NEPA. Such categorical action is not warranted. It is a dangerous precedent. And it is contrary to the stated purposes of the National Environmental Policy Act.

Section 5 is not helpful to the discussion of how to apply NEPA abroad. The Council on Environmental Quality (CEQ), pursuant to a directive from the President, has been attempting to work out simplified procedures suitable to agencies operating both domestically and abroad. In consultation with CEQ a number of agencies with international operation, among them the Agency for Interational Development (AID) and the National Oceanic and Atmospheric Administration (NOAA) have worked out acceptable NEPA procedures. CEQ has also developed, in consultation with the Department of State, and other agencies operating abroad, an Executive order giving Federal agencies environmental guidance in their foreign operations is a beginning step in serving the interests of the world environment, and diplomatic interests of this Nation. I would have preferred a stronger Executive order. But it is a beginning.

Even for those who feel that NEPA should not be given an expansive interpretation, section 5 is unsatisfactory. The exemption of one agency of Government from the statutory requirements of NEPA, leaves by clear reasoning all other agencies of Government subject to full NEPA authority.

The Committee on Environment and Public Works considered this matter carefully. We held 2 days of hearings and concluded with a well-attended markup session.

The committee reviewed the concerns expressed by the exporting interests as well as their client agencies in the Federal Government. These concerns are premature, if not ill-founded. We have heard the charge that the application of the National Environmental Policy Act (NEPA) to Federal actions abroad will have serious effects on the Nation's foreign policy, as well as the Nation's economic situation at home. We have heard that "the mere discussion of the draft (CEQ) regulations appears to have generated great uncertainty in the business community and may have adversely affected U.S. exports." We have heard that Eximbank could not, even if it wanted to, apply NEPA to its decision process because the short time available to process transactions. We explored these contentions in our hearings. The committee, after this careful review, voted unanimously to strike section 5. Let us review the reasons for this strong support for the committee amendment.

The draft CEQ regulations have not had a negative effect upon Federal agencies or American citizens in their endeavors abroad. We explored this question in one of our hearings. Testifying before the committee was the Chairman of the Export-Import Bank. At that time, I asked Mr. Moore, "Has NEPA as yet hampered Eximbank's operations?"

Mr. Moore responded: "No, sir."

Second, even if the regulations had been proposed as drafted and circulated to Federal agencies with international operations the Council on Environmental Quality—CEQ—international regulations would have given Federal agencies the flexibility required to deal with special exigencies in their foreign operations.

The executive order which the President has finally decided to issue is even more flexible. I would go so far as to characterize it as a giveaway of the very minimal environmental provisions in the act.

Yet those sponsors of section 5 are not satisfied with reducing needless impact to less than minimal implications.

The President characterized the executive order he is about to sign in a statement on September 26. It may be useful to quote that statement:

> Environmental reviews. For a number of years the export community has faced the uncertainty of whether the National Environmental Policy Act (NEPA) requires environmental impact statements for Federal export licenses, permits and approvals.
>
> I will shortly sign an Executive Order which should assist U.S. exports by eliminating the present uncertainties concerning the type of environmental reviews that will be applicable and the Federal actions relating to exports that will be affected. The Order will make the following export-related clarifications:

I call the attention of the sponsors of section 5 to these words of the President:

> Environmental Impact Statements will not be required for Federal export licenses, permits, approvals, and other export-related actions that have potential environmental effects in foreign countries.
>
> Export licenses issued by the Departments of Commerce and Treasury will be exempt from any environmental reviews required by the Executive Order.
>
> Abbreviated environmental reviews will be required only with respect to (1) nuclear reactors, (2) financing of products and facilities whose toxic effects create serious public health risks, and (3) certain Federal actions having a significant adverse effect on the environment of nonparticipating third countries or natural resources of global importance.

Even that minimal application of NEPA is resisted and rejected by the sponsors of section 5.

Accordingly, this order will establish environmental requirements for only a minor fraction (well below 5 percent) of the dollar volume of U.S. exports. At the same time, it will provide procedures to define and focus on those exports which should receive special scrutiny because of their major environmental impacts abroad.

In short, the committee sees no compelling need to act hastily. Section 5 is a meat ax approach to a complex, but soluable, problem. Section 5 is unnecessary and will not help in finding a workable solution.

It may be instructive to go back to the language of the statute. Section 102(2)(c) of the National Environmental Policy Act reads:

> All agencies of the Federal Government shall include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the *human* environment a detailed statement by the responsible official on the environmental impact of the proposed action.

The National Environmental Policy Act (NEPA) asks Federal agencies only to incorporate environmental considerations into decisionmaking processes. The act does not state that only environmentally acceptable outcomes shall be pursued; it states only that disastrous, damaging elements be recognized by Federal decisionmakers. Let us look before we leap.

Apparently, the sponsors of section 5 do not even want to look at the environmental consequences of such actions.

The act does not state that only Federal agencies operating within the territorial United States shall comply with NEPA. Rather, the act states, "all Federal agencies" shall comply.

NEPA is a statute which, above all, emphasizes the commitment of the United States to a safe and healthful environment. We have taken pride as a government and a people in the fact that our country has exerted strong leadership in environmental policy. And we ought not back off from that leadership position when it is quite possible, in my judgment, to reconcile our international economic interests and our worldwide environmental interests. And it is possible to reconcile them internationally, the same way we reconcile them internally.

I admit that not all agencies of the Federal Government have been enthusiastic about environmental protection and NEPA application. But at least in a few agencies with international operations the leadership has taken the "bull by the horns." We have documented this in several hearings over the years in the Committee on Environment and Public Works. Evidence was presented again at our most recent hearings.

A STROKE OF GOOD FORTUNE FOR AID

Take, for example, the Agency for International Development (AID). AID has successfully adopted procedures making environmental assessment part of its regular grant process. In December of last year, AID Administrator Gilligan wrote that AID's "over all experience (with NEPA) is a positive one." I ask unanimous consent that this letter concerning AID's implementation of NEPA from its Administrator, John Gilligan, be made printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, D.C., December 9, 1977.

Hon. CHARLES WARREN,
Chairman, Council on Environmental Quality, Jackson Place, N.W., Washington, D.C.

DEAR MR. CHAIRMAN: In a memorandum dated October 21, 1977 to heads of agencies with foreign affairs responsibilities, the Acting Director of the Office of Management and Budget noted that several agencies had "expressed reservations about the preparation of Environmental Impact Statements for programs conducted abroad," and suggested that comments on this subject should be sent to you to assist the Council in its current review of its environment guidelines. Because A.I.D. is one of the few foreign affairs agencies with direct, practical experience in preparing detailed analyses of projects conducted abroad, I am hopeful that our comments can be most useful to you in conducting your review.

A.I.D.'s environmental regulations, prepared in cooperation with the Council, have now been in effect for almost 18 months. Under these regulations, A.I.D. activities have been subjected to a written environmental examination which forms a basis for a threshold determination of significance. In more than 30 cases, decisions have been made to undertake more detailed environmental assessments. These assessments have covered or will cover a wide range of projects, including malaria control, rural development, construction of farm-to-market roads, and upgrading of housing conditions, in countries with widely varying political systems and environmental sensitivities. Additionally, while our experience with preparation of Environmental Impact Statements in conformance with CEQ guidelines is limited, we have recently completed a programmatic impact statement on our pest management programs, and we are about to commence preparation of an Environmental Impact Statement concerning the development of the master sewerage plan for the city of Alexandria, Egypt, which will assess the implications of this project for the entire Eastern Mediterranean region.

Like most Federal agencies, A.I.D. has not undertaken environmental responsibilities without encountering administrative difficulties. We are now engaged in the process of reevaluating our existing regulations in order to propose modifications, where appropriate, which will ensure that environmental analysis is effectively and meaningfully integrated into program planning.

Yet, our overall experience is a positive one. "We have discovered that developing countries themselves have come increasingly to recognize the inter-related nature of environment and development and to seek to ensure that environmental considerations are adequately addressed in development projects. Further, the practical experience of A.I.D. has been that it is possible to undertake detailed environmental analyses of U.S.-supported projects abroad and that the results obtained are useful to us, as well as to host country planners, in making project decisions."

A.I.D.'s experience, moreover, has demonstrated that, in practice, none of the four potential negative impacts hypothetically associated with the conduct of environmental analyses, as outlined in the Acting Director's memorandum of October 21, constitutes a significant problem for agency operations:

(1) Many of A.I.D.'s projects involve delicate negotiations with foreign governments and/or private organizations in foreign countries. A.I.D.'s environmental regulations contain special procedures which seek to accommodate the exigencies of foreign policy which may arise in the course of development. Yet, we have not found it necessary to date to utilize all the available procedures contained in our regulations, and, almost without exception, we have been able to undertake environmental analyses without strain on the relations between the United States and foreign countries. In fact, we have found that environmental analysis is no more intrusive, or potentially upsetting, than other reviews, e.g., those for social soundness or women in development, that are routinely undertaken by the Agency.

(2) Achievement of the Agency's mandate has not been impaired by the conduct of environmental analyses. This Agency's experience fully supports the President's conviction, expressed in his environmental message of May 23, that "development programs that are environmentally sound will yield the most economic benefits." Further, Congress, in enacting Section 113 of the International Development and Food Assistance Act of 1977, confirmed the important place which protection of the environment and natural resources must hold in the constellation of development priorities.

(3) The fear of loss of U.S. jobs is, I presume, based upon the assumption that, if agencies must conduct environmental analyses, it will be more difficult to consummate proposed export transactions. Quite simply, there has been no problem in this regard for A.I.D. No project has fallen through because of required environmental analyses, and, as far as we can discern, compliance with our environmental regulations may have had only minimal impact on U.S. jobs in the chemical industry as a result of the discontinuance of our financing selected pesticides.

(4) A.I.D.'s compliance with its environmental regulations has resulted in an increase in program operating costs in terms of both staff allocations and contractual services. Such an increase is, of course, inevitable in connection with any new endeavor undertaken by an agency. Expenditures for environmental evaluation are highly variable depending on the type of analysis needed, the size of the project, and the personnel conducting the assessment, but the following will serve as indicators of cost incurred: In FY 77, A.I.D. expenditures for four formal assessments within the Asia bureau, prepared by individuals under a technical services contract, averaged $22,500 each. The Office of Housing uses $30,000 as an appropriate estimate for each Housing Guaranty Loan—this cost being based upon consultative services to prepare either comprehensive Initial Environmental Examinations or subsequent Environmental Assessments. Costs within the Africa bureau have ranged from $55,000 for a contract to prepare an assessment for a rural development project to $90,000 for a major irrigation project. The cost to complete the Environmental Impact Statement on the Agency's past management activities was $276,000. This, however, was not a project-related assesment, but rather an assessment of a program covering the entire Agency. An assessment for an expanded research project into the eradication of the Tsetse Fly required $92,500. The Assessment was prepared by an assemblage of individual experts on the subject of fly eradication and range management.

In summary, A.I.D. has no significant reservations about the preparation of environmental analyses for programs conducted abroad. We look forward to working with the Council in the future in seeking ways to improve our Agency's procedures and to ensure that development is environmentally sound.

Sincerely yours,

JOHN J. GILLIGAN.

Mr. MUSKIE. The evidence from the AID "experiment" with NEPA over the past few years has been summarized best by AID Administrator Gilligan:

1. AID has been able to undertake envimental analyses "without strain" on foreign relations.

2. Achievement of the Agency's mandate has not been impaired by the conduct of environmental analyses.

3. U.S. jobs have not been lost due to environmental analyses.

4. Costs have not been excessive.

Notably, AID's analysis rebutted each of the four major "potential" negative

impacts hypothetically associated with the conduct of environmental analyses abroad.

During the last 2 years, an Office of the Environmental Coordinator has been established in AID and officials in most of the AID bureaus and missions have been designated to implement the regulation. Some 12–20 environmental assessments (EA's) have been completed. The projects assessed include an irrigation scheme in Sri Lanka, a rural development project in Liberia, and the construction of a dam in Gambia. These environmental assessments, as well as EA's on an integrated rural development project in the Philippines, in a housing project in Panama, have resulted in significant improvements in project design—surely, not an unhappy consequence of the application of NEPA.

(Mrs. HUMPHREY assumed the chair.)

Mr. MUSKIE. The final EIS prepared by the Agency for International Development on its pest control program was published in May 1977. It resulted in a new, more environmentally sensitive AID policy on pesticides. AID now is placing greater emphasis on technical assistance and research to promote the concept of integrated pest management while decreasing its assistance for the procurement of pesticides. AID will no longer provide, except in emergencies, assistance for pesticides which have been cancelled or suspended by EPA for health or environmental reasons, unless a thorough analysis shows that the benefits outweigh the risks and there are no practical alternatives. The export of harmful substances is the subject of a recent article written by columnist Jack Anderson. I ask unanimous consent that this article be printed at the point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HAZARDOUS EXPORTER

(By Jack Anderson)

Most developing nations look to the United States for food and technology, which Americans supply in generous abundance. But some U.S. firms are also unloading shoddy and unsafe goods upon the Third World. That dumping operation has made the United States the world's leading exporter of hazardous products.

The federal government routinely permits products that have been banned in America to be exported, thus promoting safety at home and profits from abroad. That double standard has touched off a spirited debate in the back rooms of Washington. On the one hand, it seems immoral and hypocritical for the government to protect American consumers from dangerous products that are then peddled to unsuspecting customers overseas. Yet the U.S. government, it is also argued, should not impose our national morality on foreign cultures.

The controversy was brought to a head last March by our report that Tris-treated children's pajamas were being sold overseas. The Consumer Product Safety Commission had banned the sale in the United States of garments that had been treated with the cancer-causing chemical Tris. That left several firms with a large inventory of cancer-causing clothing on their hands.

White House consumer adviser Esther Peterson is now conducting a quiet, comprehensive review of the sensitive issue. She has concluded that the government simply lacks a coherent export policy. After our story, for example, the Consumer Product Safety Commission also banned the export of Tris-treated garments. But other cancer-causing products are sold abroad freely, including food additives such as cyclamates and Red Dye No. 2. Also available for export are electric toys, unsafe baby pacifiers, hazardous cosmetics, adulterated drugs, poisonous pesticides and products with dangerous amounts of asbestos.

Some banned products might be considered, by some countries, to be worth the risk. Depo Provera, for example, is an injectable contraceptive banned in this country because it may cause cancer. But some countries, oppressed by overpopulation, have virtually begged U.S. officials to let them purchase it. The antibiotic chloromycetin is also severely restricted in the United States, yet is widely used abroad to combat infectious diseases rarely found here.

But moral questions are raised by other sales. Nestle's infant formula, for example, is perfectly safe in the United States. But in backward countries, where the water is unclean and sterilization inadequate, the formula can cause illness in infants who drink it. Illiterate families who cannot follow the explicit directions on the formula's package may also produce malnutrition in their children.

Yet there are heavy economic pressures on the White House to permit the exports to continue without government interference. For the profits are growing along with the world's population, which wants to buy more U.S. products. The foreign sales, of course, also reduce the nation's troubling trade deficit.

Occasionally, the export of harmful products can boomerang in unexpected ways. Dangerous pesticides sold overseas, for instance, have been used to spray food crops that were later imported back into the United States. Even bootleg, Tris-treated pajamas could turn up in domestic stores, with foreign labels.

Some firms, seeking escape from U.S. regulations, are also setting up shop in more agreeable climes. Yet they continue to produce goods for the lucrative U.S. market. This emerging trend is described in a federally funded study by Barry Castleman, a respected chemical engineer.

"As certain hazardous and polluting industries come under increasing regulation in industrial nations," the study says, "some of the affected processes are exported . . . to non-regulating countries where cheap and ignorant labor is abundant." Those "runaway shops" then enjoy the "competitive advantage of not having had to comply with costly workplace and pollution-control regulations."

Asbestos factories, for example, once shifted from northeastern to southern states in pursuit of cheaper, non-union labor. Now they're moving to such places as Brazil, Mexico and South Korea to escape the laws regulating asbestos. One asbestos manufacturer called Amatex, the study alleges, moved a plant recently from Pennsylvania to Mexico. According to eyewitnesses, the new plant is already caked with asbestos waste, which is also strewn across a nearby dirt road where children walk to school. Yet the workers and their families haven't been warned about the risk of cancer and lung disease.

Mr. MUSKIE. As Jack Anderson points out, "* * * the export of harmful products can boomerang in unexpected ways." AID's effort in implementing NEPA will do a great deal to minimize these boomerang effects which do so much to harm our Nation's relationships with citizens of other nations.

In a March 1978 address, John Gilligan stressed the importance to American foreign policy interests of including environmental factors in AID's financing decisions, in these words:

> We have learned that development in the Less Developed Countries can be effective—and worth the investment—only if it lasts. We have learned that development lasts only if environmental considerations are a major part of a project's conception and implementation and we are learning that an impact assessment need not be as laborious, or time-consuming as we once thought.

The AID position is particularly noteworthy given the attitude of that agency to NEPA just a few years ago. At a recent luncheon of the International Institute for Environment and Development, John Gilligan summarized his agency's perspective:

> As most of you probably know, AID was sued by four environmental organizations in 1975. As far as I am concerned, that suit was a stroke of good fortune for AID and the future of developing nations." AID Press Release 78–25 (March 23, 1978)

There is no reason Madam President, except to those who will not see, that similar procedures cannot work for the Export-Import Bank and other agencies with international responsibilities. In fact, the Bank already requires a detailed individual review of each loan and financial guarantee application which would only need minimal expansion to include an environmental assessment. Yet bureaucratic inflexibility, added to the unfounded fears of the over-zealous and paranoid export industry, are paralyzing Eximbank's efforts to comply with the law.

A LEADERSHIP ROLE FOR THE U.S.

It seems to me that our example can be useful to other nations. Our Clean Air Act was transferred wholesale to Japan. The Japanese adopted it and enforced it more rigidly than we have. The same can be true elsewhere, especially in the underdeveloped nations which have not experienced the consequences of environmental degradation and can benefit from leadership by the country that, perhaps more than any other, has suffered from the degradation of the environment.

Why should we withhold environmental analysis? Should we not help other nations learn from our experience? We have the sophistication, wisdom, experience, and the information we have developed. We should export that information to assist their understanding, comprehension, and awareness in every conceivable way through every agency of the Government which has any contact with the rest of the world.

I would like to summarize a few of the examples which have been cited as situations where preparation of some environmental analysis could have prevented environmental harm.

SOME ENVIRONMENTAL DISASTERS

The need for environmental assessments of U.S. foreign programs is illustrated by environmental and economic disasters associated with projects which did not undergo such examination:

The Agency for International Development provided an untested pesticide, leptophos, to farmers in Egypt. Some farmers died, other suffered convulsions, speech impairments, loss of bladder control. Water buffalo died.

The Export-Import Bank financed construction of a nuclear powerplant in the Philippines on a site which had not been properly surveyed. The site is now considered dangerously close to a geologic fault and active volcanoes. The economic viability of the plant is also questioned;

Efforts to promote cattle grazing in the Sahel region of Africa by drilling wells to supply water led to overgrazing and trampling of vegetation. As a result, the cattle and their owners starved and desert conditions spread to new areas;

Expensive reservoirs intended to supply irrigation water or hydroelectric power in India, Pakistan, and Columbia have silted up because watersheds were not protected from deforestation and severe erosion.

These are only a few examples.

The effects of pollution-caused illnesses may be even more severe in developing countries because of generally poor nutrition and health and the warm, humid climates. Both rural and urban residents are exposed to debilitating or fatal illnesses associated with air and water pollution. Particles of lead and arsenic from mineral processing and dust from grain, cotton or tobacco mills contaminate the air downwind of the facilities. Lands which are vital for crops, agriculture, and wildlife are unknowingly degraded, as in the Sahel countries of Africa. Without access to environmental data, development planners operate blindfolded. They cannot anticipate factors which would undermine the profitability of the project or threaten the health of the environment and the people living in it. Planners do not have to function in ignorance. Incorporation of environmetal assessment procedures into the planning process can bring to light important environmental constraints and assist in the design of better projects.

For example, the Agency for International Development discovered through preparation of an environmental assessment that construction of a housing project in Panama would pollute a nearby estuary and contaminate the fish on which the people depended for protein. Forewarned, AID integrated sewage treatment facilities into the project design to protect the resource.

It would be useful to have printed in the RECORD at this point articles which appeared in the Washington Post and New York Times concerning the Philippine reactor. I ask unanimous consent that that be done, Madam President.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 8, 1978]

NUCLEAR PLANT LOAN CHALLENGED

MARCOS KIN PLANS FACILITY NEAR PHILIPPINE VOLCANOES

(By Thomas O'Toole)

A $644 million loan by the Export-Import Bank to finance construction of a nuclear powerplant in the Philippines is being challenged by Congress because the plant will be built by a relative of Philippine President Ferdinand Marcos on a site surrounded by five volcanoes.

The largest single loan transaction ever guaranteed by the Ex-Im Bank will be the subject of a hearing today by Rep. Clarence L. Long (D-Md.), chairman of the House Appropriations subcommittee on foreign operations. Long is challenging the loan on the twin questions of safety and conflict-of-interests, which he charges are more than enough to disapprove the loan.

The safety issue has been raised in questions from outside of Congress to the Ex-Im Bank. The White House Council on Environmental Quality and the Nuclear Regulatory Commission have both criticized privately the wisdom of constructing a 620,000 kilowatt nuclear plant on a site less than 100 miles from five volcanoes, four of them described as "active."

One of the active volcanoes is Mt. Natib, located 10 miles from the nuclear powerplant's site at Napot Point at the edge of the South China Sea. The outer edge of a huge mudflow that resulted from the last eruption of this volcano is fewer than two miles from the powerplant site, where ground has already been broken and where the foundation has begun to rise.

One volcano of the five is considered inactive. Named Mt. Mariveles, it is 12 miles away. The other three volcanoes are between 60 and 90 miles from the site and are all active. Their names are Taal, Mt. Banakoa and Mt. San Cristobal.

In an internal 1977 memorandum, the NRC said it made a study of the site at the request of the Philippine Atomic Energy Commission and concluded that "all volcanic hazards should be considered possible at the site." The NRC identified the volcanic hazards at the site as ranging from "ash fall and lava flow to volcanic earthquake."

At the hearing today, Long will question Export-Import Bank President John L. Moore Jr. about the $644 million loan guarantee for the $1.2 billion plant, which is to be built and insured by companies owned by Herminio Disini. One of the wealthiest men in the Philippines, Disini is married to a cousin of Imelda Marcos, wife of president Ferdinand Marcos. Disini's wife is the private physician to Imelda Marcos.

Less than a month ago, Marcos ordered a government takeover of three of the 35 companies controlled by Disini after U.S. news accounts of Disini's accumulation of wealth based on his relationship to Marcos. The Philippine embassy said yesterday that the scope of Disini's involvement in the nuclear power project "is under very intensive review by the government in Manila."

Last December, Washington Post correspondent Jay Mathews reported that Disini's Asia Industries was the Philippine agent for Westinghouse Electric Corp., which is to supply the reactor and turbine for the nuclear power plant. Asia Industries is also to be the construction company heading the nuclear plant project.

At the same time, a company named Summa Insurance, which is also controlled by Disini, has won a contract to write a $668 million insurance policy on the nuclear project. The policy would require premium payments of $10 million a year, so big that the Philippine government's Government Service Insurance System agreed to cover any liability Summa might incur.

The $644 million Ex-Im Bank loan guarantee includes an outright loan of $277.2 million and a guarantee that the Ex-Im Bank will cover defaults on $367.2 million in private bank loans arranged for the nuclear project by the Philippine government.

The loan guarantee has already been approved, but Long believes his hearinng may convince NRC to deny an export license for the reactor on safety and conflict-of-interest grounds. The NRC must also approve export of enriched uranium fuel to the Philippines for use in the power plant when it is ready.

Besides being near five volcanoes, the Philippine nuclear plant will also be located less than six miles from the entrance to the Subic Bay Naval Base, where the U.S. Navy's Seventh Fleet stores 110 million gallons of diesel oil, 1.7 million gallons of jet fuel and ammunition for 20 surface warships, two aircraft carriers and the 200 warplanes assigned to the two carriers.

Long points out that the NRC rejected a request by Baltimore Gas & Electric Co. a year ago to build an nuclear power plant at Perryman, Md., at least in part because it was too close to the Aberdeen Proving Grounds, an Army installation where ordnance and new weapons are tested.

The NRC privately says it rejected Baltimore G & E's request mostly because the Perryman site exceeded its population criterion of 500 people per square mile for a nuclear power plant. The NRC admits Perryman's proximity to Aberdeen was a factor but not the major one.

The volcanic hazard is clearly the most serious one, according to internal NRC documents. Hazards from the closest volcanoes include lava and mud slides that could cover the power plant. Ash falls from all five nearby volcanoes could cover the site like heavy snowfalls, clogging filters and cooling ponds and raising havoc with the nuclear plant's complex machinery.

[From the Washington Post, Feb. 9, 1978]

OFFICIALS SCORED ON A-PLANT LOAN

(By Thomas O'Toole)

The State Department and the Export-Import Bank drew sharp criticism at a congressional hearing yesterday for promoting and guaranteeing a $644 million loan for a Philippine nuclear power plant without investigating the plant's safety and ownership.

"Is it no problem to you that this plant is being built near five volcanoes," asked Rep. Clarence D. Long (D-Md.), chairman of the House Appropriations Subcommittee on Foreign Operations. "Don't you care if the plant is safe?"

"That would be foolish," replied Ex-Im Bank President John L. Moore, Jr., who admitted he was not fully informed of safety studies done on the plant's location at the edge of the South China Sea. "But it is my understanding that additional strength is being built into the plant to withstand any eruptions of those volcanoes."

Moore and Deputy Assistant Secretary of State Louis V. Nosenzo were asked repeatedly if they knew of any involvement in the project by Herminio Disini, who is related by marriage to Philippine President Ferdinand Marcos. Disini was described as civil contractor and insurance agent for the plant and Philippine agent for the company (Westinghouse Electric Corp.) building the plant.

Declaring that matters of conflict-of-interest were not the concern of the Ex-Im Bank, Moore said the question was turned over last November to the Justice Department for investigation. Moore said the Justice Department's criminal fraud division is investigat-

ing whether any illegal payments had been made in connection with the Ex-Im Bank loan.

"If there have," Moore said, "then the due process of law will take its course."

Nosenzo said it was not the State Department's role to question potential conflicts of interest in promoting overseas business ventures. He said there was no way "to detect the kinds of questions you are raising."

Long pointed out that the only safety studies done in connection with the loan for the plant's construction were by the Nuclear Regulatory Commission, which sent one safety expert to the Philippine Islands for two weeks. The Nuclear Regulatory Commission said it normally studies site safety of an atomic plant over a period of "six man years."

"Of great concern to us," the NRC said in a letter to Congress May 24, 1977, "is the fact that a review of this kind is an implication that we have signed off on a site evaluation study of the Philippine plant." The NRC denied that it had done so.

Moore and Nosenzo defended the project by insisting the Philippines needs nuclear energy to fuel economic growth. They said that if the United States did not finance the project the Germans or the French would. Moore said Germany had bid on the plant just before the Ex-Im Bank approved the loan.

Nosenzo was asked why State promoted such a project. Long said he had cablegrams from U.S. embassy officials in Manila pleading the plant's case, calling it the "Aswan Dam" of the Philippines.

"Quite often, an embassy asks for projects in particular countries," Nosenzo replied. "It's not unusual."

Moore said $71 million of the $277 million loan the Ex-Im Bank granted outright to the Philippines had already been disbursed and that "all but $20 million" had been committed.

"If we call a halt now," Moore said, "you'd have a frustrated contract and I guess you'd go back to the fundamentals of law" to resolve the financial questions.

[From the New York Times, Feb. 9, 1978]

PHILIPPINE LOAN BEING INVESTIGATED

WASHINGTON.—The Justice Department is investigating a controversial American loan to the Philippines for a $1.2 billion nuclear power project, the chairman of the Export-Import Bank disclosed today.

However, the chairman, John Moore, told a Congressional hearing that he did not believe anything improper would be found from the investigation into the bank's approval of a $644 million loan and a loan guarantee program.

Mr. Moore was sharply questioned on the project by Representative Clarence Long's subcommittee. The facility is to be located near active volcanoes and near the United States naval base at Subic Bay.

The loan program was approved in late 1975, but Mr. Moore disclosed that the Justice Department's criminal fraud division stated an investigation in November 1977.

He said that the law enforcement agency was looking into affidavits from United States suppliers that they had made no illegal payments overseas in connection with the loan.

The primary United States supplier is the Westinghouse Electric Corporation, which will provide the nuclear power plant.

Representative Long told Mr. Moore the United States should withhold a nuclear export license for the project.

He said he opposed the granting of a license on safety grounds and because of a possible conflict of interest in that Herminio Disini, owner of Asia Industries, the construction company for the project, is related by marriage to Imelda Marcos, wife of the President of the Philippines.

Mr. MUSKIE. Madam President, these articles highlight what can only be termed a disaster from both foreign policy and environmental perspectives. The incident in fact, has become the focus of quite a bit of anti-American as well as anti-President Marcos feeling in the Philippines.

LITIGATION POTENTIAL

Some Federal agencies and exporters are concerned that lawsuits will interfere with U.S. foreign policy and national security, and may hinder the Eximbank's promotion of exports. They fear that the application of the National Environmental Policy Act abroad will lead to a great deal of litigation. This, in turn, could result in court injunctions and therefore cause serious harm to the U.S. export position, they say.

Several points need to be raised in connection with these charges. First, it is essential to remember that the Export-Import Bank finances only 10 percent or so of all U.S. exports abroad. It is likely that no more than 2 percent of all the projects financed by the Export-Import Bank would be covered under even the most comprehensive NEPA arrangement. Hence at most, application of NEPA to the Export-Import Bank activities abroad would impact upon two-tenths of a percent of all U.S.exports.

To address the problem of litigation, however, it must be stressed that there is no way the Congress can make a statute "litigation proof." Suits will be and have been brought to clarify the meaning of almost every statute enacted by the Congress. This is not to say most or even a large number of plaintiffs will get very far.

While a party can file a complaint to challenge Federal actions, it may be difficult to achieve standing, and therefore proceed beyond the complaint state in cases involving NEPA's application to agency activities in foreign countries. Plaintiffs may have to demonstrate that they are "injured in fact" by the adverse environmental effects in a foreign country. This requirement in itself screens out most potential plaintiffs as we have in the domestic NEPA litigation. Beyond the standing question, however, it is important to remember that the courts have treated the question of NEPA application abroad with great deference to the judgment of the executive branch. Since enactment of NEPA in 1969, only six cases have been filed raising the issue of NEPA's application of agency actions abroad. In only one of these cases was a temporary injunction issued—Sierra Club against Coleman. In several cases, notably in the nuclear test on the Alaskan island of Amchitka and in the more recently heralded NORML suit involving the spraying of Mexican marihuana by the pesticide pariquot, the courts have deferred to the executive branch discretion. It is significant to note that the U.S. Circuit Court of Appeals for the District of Columbia has held that the executive branch decisions as to NEPA must be honored by the courts when they affect the foreign policy of the Nation.

Yet some will argue that this is mere speculation. They argue that we have had no experience with the application of NEPA abroad, therefore how can we predict what will happen? Let me capsulize the experience of the last 9 years of NEPA litigation. Tens of thousands of Federal actions have been assessed for environmental impacts. Of those projects assessed, an estimated 10,000 environmental impact statements have been prepared since NEPA's enactment in 1969. Nine hundred lawsuits have been filed to enforce agency compliance with NEPA—it is probable that many of those lawsuits have been filed for preparation of an environmental impact statement where prior to that time only an assessment had been completed. And in only 150 cases have temporary court injunctions been issued in the lifetime of NEPA.

In conclusion, very few—less than 3 percent—of the projects analyzed through the environmental impact statement process have been enjoined. The percentage of enjoined cases is even smaller when based on the total number of projects assessed. As Federal agencies and their outside consultants have become more adept at meeting the requirements of NEPA, the amount of NEPA litigation has diminished markedly in recent years.

But perhaps even more significant is the provision of the executive order to be promulgated. That order purports to be the sole representation of how environmental considerations are to be factored into Federal decisions abroad. The order specifically states that nothing in the order shall be construed as creating a cause of action. Further, the administration has specifically stated that the Justice Department is prepared to vigorously defend this position. This should satisfy the concerns of the exporters.

COSTS OF COMPLIANCE WITH NEPA

Does it cost too much to require Federal agencies operating abroad to comply with NEPA? Quite frankly, this is nearly impossible to answer. Is it worth the cost of assessment to find that granting a particular air route will permit jet aircraft to violate the wilderness silence of the majestic Grand Tetons? What is the long-range benefit of analyzing the nuclear waste storage capability of a plant to be constructed under a license issued by the Nuclear Regulatory Commission?

Notwithstanding the philosophical question, the Council on Environmental Quality has made a survey of Federal agencies costs related to NEPA compliance. I would caution that these are estimates, for the intent of NEPA is to integrate environmental considerations into decisionmaking. This is the antithesis of a strict accounting procedure.

I ask unanimous consent that the table from the Sixth Annual Report of the Council on Environmental Quality showing agencies' costs be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED EIS PREPARATION AND REVIEW AND COMMENT COSTS [1]

[Fiscal years]

Agency: Formal process for determining	Preparation, 1974	Review and comment, 1974	Total, 1974	Total as percentage of operating budget, 1974 [2]	Preparation, 1975
COE: [3] Yes	$21,933,832	$76,000	$22,009,832	1.2	$27,057,447
USDA:					
FS: [4] No estimate	27,000,000	225,000	27,225,000	2.7	27,000,000
SCS: [5] No—use estimates	3,500,000	360,200	3,860,200	1.0	3,500,000
APHIS: [4] No—use estimates	125,000	NA	125,000	NA	85,000
REA: [5] No—use estimates	117,190	11,295	128,485	.73	161,630
DOC: [4] No—use estimates	430,000	3,174,000	3,604,000	.24	526,680
DOD: [6] No—use estimates	5,200,000	NA	NA	NA	4,200,000
DOI: [7 8]					
No—use estimates	15,200,000	5,500,000	20,700,000	.1	23,400,000
BLM: [9] Yes	3,544,243	305,000	3,849,243	1.3	NA
BOR: [5] Yes	575,000	995,400	1,570,400	1.4	600,000
BuRec: [4] No—use estimates	3,796,000	390,000	4,186,000	.63	4,050,000
DOI—Continued					
FWS: No—use estimates	NA	1,849,000	NA	NA	NA
NPS: [5] No—use estimates	$1,900,900	545,000	$2,445,900	0.54	$2,013,600
USGS: [10] No—use estimates	2,400,000	800,000	3,200,000	1.85	5,000,000
DOT: [4] No—use estimates	31,746,000	250,000	31,996,000	.18	36,500,000
ERDA: [4 5 11] No—use estimates	NA	NA	NA	NA	3,400,000
EPA: [4] Yes	1,280,000	1,600,000	2,880,000	.048	6,300,000
FEA: [12] No -use estimates	NA	NA	NA	NA	330,000
FPC: [4] Yes	1,481,419	70,000	1,551,419	5.4	1,333,000
GSA: [4] No—use estimates	1,600,000	10,000	1,610,000	.18	2,325,000
HEW: [5] No—use estimates	40,000	100,000	140,000	.0001	80,000
HUD: [5] No—use estimates	6,000,000	275,000	6,275,000	0.7	NA
NRC: [4 11] Yes	NA	NA	NA	NA	14,900,000

NA—Not available.

[1] From responses to a NEPA questionnaire distributed by CEQ to all Federal agencies in November 1974.

[2] From Federal budget figures for fiscal year 1976.

[3] Costs include in-house and contractor staff, inventories, impact assessments, EIS's, supplements, and public meetings.

[4] Costs include in-house and contractor staff only.

[5] Costs include in-house staff only.

[6] Costs include in-house and contractor staff, travel, research, administration, and public hearings, but do not include environmental assessments.

[7] Total for department.

[8] Costs include preparation of all environmental assessments as well as EIS's.

[9] Costs include in-house staff, program services, leave, and other indirect costs for all environmental assessments and EIS's.

[10] Fiscal year 1974 costs include in-house staff and obtaining other agencies' expertise, fiscal year 1975 also includes contractor staff.

[11] Not established until 1975.

[12] Costs include consultant fees, NEPA training, and preparation of NEPA manual.

Mr. MUSKIE. Madam President, I would highlight a few of the examples from the CEQ report. Unfortunately, this is the most up-to-date data available. The Department of Housing and Urban Development estimated that they spent $6.3 million or 0.7 percent of its fiscal year 1974 operating budget preparing environmental assessments. In contrast, the Forest Service spent $27.2 million or 2.7 percent of its annual operating budget in fiscal year 1974 in preparation of environmental analyses. Expenditures vary with the activities of the agencies However, given that all parties agree that the complexity of foreign environmental statements should be somewhat less than what is required of domestic agencies, costs estimated by domestic agencies almost certainly represent the outside range of possible expected expenditures for NEPA compliance abroad.

APPLICATION OF NEPA TO EXIMBANK

Some have argued that just because NEPA has been applied successfully by the Agency for International Development—AID—it is not necessarily adaptable to the operation of Eximbank and other agencies with foreign missions. There are differences between AID and Eximbank. But this fact does not in itself recommend exemption of Eximbank from NEPA.

Foreign policy and economic problems vary with the agency under study. Certainly, the Eximbank's operations and mandate are different from that of AID. It is on this basis that the export industry states that Eximbank operations do not lend themselves to incorporating NEPA into decisionmaking. This posture is identical to the posture of AID 3 years ago. Today, AID, after a good effort, is a good example of how to do it right. NEPA can work and does apply in the international arena. AID is doing it. So are a few other agencies, for example, the National Oceanic and Atmospheric Administration.

Madam President, we cannot afford to let bureaucratic intransigence stop this Nation's effort to clean up the environment. I view the approach of the "hesitant agencies" in just this way. The message from the bureaucracy is, "we have not done it before; therefore, we cannot do it in the future." Beyond this bureaucratic inflexibility, there are several contentions of these interests which need to be answered.

Application of NEPA to Eximbank will not stop the export industry of this Nation. First of all, one must keep in mind that Eximbank finances only approximately 10 percent of the Nation's exports. NEPA could not, even if it tried to, stop the U.S. export industry in its tracks.

Second, as to exports financed by Eximbank, two points need to be raised. First, NEPA reads: "To the maximum extent possible," agencies shall assess environmental impacts. It does not state that agencies do full scale environmental impact statements on each and every project or have their operations shut down. Within the time constraints of each agency's procedure and statutory requirements, the agency decisionmakers shall assess the environmental implications of the proposed action. Is this such an onerous requirement?

Third, in discussions with staff, Eximbank representatives indicated concern that 40 percent of the Eximbank's dollar volume would be subjected to NEPA review. This may be impressive sounding, but let us look at the facts. The table which I ask unanimous consent to have printed in the RECORD at this point is very revealing.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—EXPORT-IMPORT BANK OF THE UNITED STATES GROSS AUTHORIZATIONS, JULY 1, 1975, THROUGH MAY 31, 1978

[In thousands of dollars]

	Fiscal year 1976			Transitional quarter			Fiscal year 1977			Fiscal year 1978 (8 mo)		
	Authorizations	Export value	Gross authorizations	Authorizations	Export value	Gross authorizations	Authorizations	Export value	Gross authorizations	Authorizations	Export value	Gross authorizations
Direct loans	150	$4,895,856	$2,141,526	17	$599,481	$267,250	52	$1,441,467	$700,003	40	$2,210,765	$1,250,350
CFF loans	696	277,424	143,669	127	30,117	14,950	305	85,207	47,064	176	68,932	34,624
Discount loans	1,226	678,065	1,203,652	242	95,270	166,041	609	199,613	473,481	80	163,096	86,365
Financial guarantees	417	171,366	1,097,199	86	188,367	156,895	91	918,628	489,015	317	317,697	233,881
Bank guarantees	737	758,806	563,966	185	164,524	115,396	662	766,547	531,730	478	282,525	217,679
M/T FCIA	1,080	860,160	707,368	252	170,275	139,629	684	580,357	408,824	502	2,529,682	1,648,209
S/T FCIA	1,077	4,354,049	2,762,549	279	796,150	590,750	1,008	4,476,352	2,949,512	328	222,356	290,003
Total	5,383	11,995,726	8,619,929	1,118	2,044,184	1,450,911	3,411	8,468,171	5,599,629	1,921	5,795,053	3,761,111

Mr. MUSKIE. Madam President, this information, supplied to the committee by Eximbank's General Counsel, shows the distribution of Eximbank authorizations over the last several years. Take the current fiscal year. Eximbank participated through May 31, of this year in 40 direct credit projects—out of a total of 1,960 transactions. These 40 projects account for $2.2 billion of the $5.8 billion in total dollar volume of the Eximbank this fiscal year. In other words, these 40 transactions, or 2 percent of all Eximbank transactions this fiscal year, constitute nearly 40 percent—37.9—of the Bank's dollar volume, and probably constitute the sum total of Eximbank projects classified as "major Federal actions significantly affecting the quality of the human environment."

Each of these 40 projects is a "large ticket transaction." In other words, the typical export transaction would not fall within the rubric of this analysis. The small business shipping shoes abroad, even the exporter of tractors or construction equipment, probably would not, and should not, be the focus of the inquiry. Rather, we are talking about large pesticide plants and large power generating facilities, or nuclear powerplants. These are major projects which have major environmental implications.

The typical Eximbank transaction takes place in 40 days, that is 40 days from application for a loan to final approval. But the large ticket transactions are handled in a generically different fashion by the Bank. For example, Eximbank is on record stating that it knows when a nuclear plant is to be exported as much as 2½ years prior to the time final action must be taken by the Bank; 2½ years is not a great deal of time to handle all of the paper work associated with the sale of a plant and uranium supply. But it is not 40 days either; 2½ years should give the decisionmakers at Eximbank time to assess at least some of the environmental implications of large projects. With a plant of the complexity of a nuclear powerplant, why should not an environmental assessment be done?

Senators may recall the stories in the papers about a reactor financed in the Philippines by the Eximbank. It is situated on or near several active geological faults, not to mention near an active volcano. The project not only could threaten the lives and safety of the Filipinos who live near by, but could become an even worse public relations disaster for this country.

Environmental impacts are not some ephemeral concept. Bureaucratic tunnel vision, which refuses to recognize the environment as an important factor in making decisions, reflects itself in degradation of land, water and air. The human environment and quality of life for persons on earth are tangible concepts. And, as the Philippines reactor example so amply demonstrates, environmental impacts have foreign relations implications. Yes, American decisionmakers should be appraised of environmental impacts of projects. It is a good business, it is good diplomacy, it is good for the environment, and it is good sense!

Madam President, I had hoped that prior to delivering this rather lengthy statement, we might have been able to achieve compromise language with those who sponsor the language in the pending Eximbank legislation. Unfortunately, we have not yet done so.

I think the compromise which we are prepared to accept does everything that the Committee on Banking and the floor manager of the legislation have accomplished, unless what he wants to accomplish is to ignore completely the environmental implications.

Some of these exports of American technology are to undeveloped countries which do not have the experience, the wisdom, nor the understanding to evaluate truly for themselves these environmental implications.

What he wants to do is to reduce paperwork, to reduce time considerations—and that is justified—while preserving meaningful environmental assessment, and the language we have been looking at will do the job. If we get to that, I will be glad to get into a discussion of that language and present it to the Senate.

For the time being, I have no choice, and had no choice, but to give to the Senate the reasons why the Committee on Environment and Public Works acted unanimously to strike section 5 in S. 3077.

I yield the floor.

Mr. STEVENSON. Madam President, this effort to extend the application of the Environmental Protection Act to foreign countries and to the global commons is well-intentioned but, I fear, counterproductive.

I know the depth of feeling of the distinguished Senator from Maine, and I believe I share his feeling about the desirability of doing what can be done to prevent American companies and agencies of our Government from inflicting unacceptable damage upon the environment outside our territory.

The environment is one of many factors to be considered. With a $30 billion trade deficit, a sinking dollar, inflation at 11 percent, and high unemployment in the United States, this is not a time to inflict more damage upon our economy, unless there is a reasonable chance of achieving a worthwhile purpose.

We have concluded, in the Subcommittee on International Finance, which has conducted wide-ranging hearings on American competitiveness in the world and on export policy generally, that many of the difficulties we face and the erosion of our ability to compete effectively are for reasons which are self-inflicted. I fear this is another such example of a well-intentioned effort, but one that will produce no material benefits for the environment and will result in significant damage to our economy and to our political authority in the world.

The danger is that the applicability of NEPA to American industry and perhaps also to the exports of American agriculture——

Mr. CULVER. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield to the Senator from Iowa for a question.

Mr. CULVER. I just wonder what is the factual basis for the Senator's assertion that the application of NEPA to Export-Import Bank activities, in the Senator's words, will have no material benefits to the environment.

The hearings we had, as the Senator from Maine already has said, indicated that, unfortunately, there already are available innumerable tragic illustrations of instances in which a callous insensitivity to the environmental consequences of our overseas activities has brought about almost incalculable suffering and hardship, and represent additional economic costs that could have been avoided. And the Senator from Illinois has also indicated that the exemption from NEPA will have no material adverse effect on the environment. I do not know how he can make such a cavalier sweeping statement. If we keep putting nuclear reactors on top of volcanoes, can he stand up here with a straight face and say anything we do overseas will have no adverse material, economic, environmental consequence?

Right today the United States of America, under Export-Import authority, is not required to restrain the uninhibited sales overseas of those very items that we domestically have determined are not safe, or are unhealthy for human consumption in this country.

How can the Senator stand there, with all due respect, with a straight face and say that if we exempt the Export-Import Bank from the application of NEPA policy, it will have no adverse effect on the environment? How can he make such a prospective future statement when we are already replete with painful, embarrassing, shocking, and immoral evidence to the contrary, based not on what might some day happen, but on what has already taken place.

And as to the fact that it will at the same time have all of this adverse consequence on the economy of this country, what is the purport and import of that statement?

It says to me that any time the United States of America finds itself in any kind of dollar difficulty, then bar the door, and sell to the poor uninformed people in the world anything and everything regardless of the consequences. Sell to them if it will "improve" the health of our balance of payments.

What kind of trade off is that for the supposed moral leader of the free world, much less the tradition of some of the finest most distinguished spokesmen in the moral tradition of this party, the majority party?

Now as to the fact that NEPA will have very considerable adverse economic consequences to the United States, by what tortured reasoning does one reach that conclusion?

The distinguished Senator from Maine has very eloquently given us some facts. What are those facts?

The facts are that the Export-Import Bank financing of our overseas economic trade today represents what? Ten percent of the total U.S. foreign trade activity. Of that 10 percent we are talking at best about a fraction of 1 percent that could conceivably be affected by this law.

Now, with all due respect to a $30 billion or $40 billion balance-of-trade problem, and we all want to address it re-

sponsibly, are we going to address it by polluting the world? Are we going to address it by making people sick? Are we going to reduce it by exporting everything? We found that we cannot put certain pajamas on our own kids, but then we sell those pajamas overseas. We do not care how many kids get cancer from the tris in the pajamas, because we want to help the balance-of-payments problem.

Madam President, that is one quid pro quo this Senator will never buy.

How on earth can we go before the world, the United States of America, the moral exemplar, and say: Anything goes in our dollar diplomacy, because our balance of payments is in trouble. Do not pass an energy bill. Export pesticides that poison kids. Or put a nuclear reactor on a volcano in the Philippines. Do not worry about where the waste is going to go.

Madam President, the Senator from Maine mentioned we held 2 days of hearings on this. I may just have a statement here longer. I think it is worth debating a while.

Mr. STEVENSON. Madam President, who has the floor?

Mr. CULVER. I think the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. CULVER. I thought it was yielded.

Mr. STEVENSON. Did not the Senator from Illinois yield only for the purpose of a question?

The PRESIDING OFFICER. The Senator from Illinois can decline to yield further. He yielded only for a question.

Mr. STEVENSON. Madam President, I do not yield further for that purpose.

Mr. CULVER. Madam President, will the Senator yield for a question,

Mr. STEVENSON. I will after I get a chance to make an opening comment on this amendment. I have not had a chance to say anything yet.

Mr. CULVER. We will have a chance. We will have a long evening here. We can talk a long time. It is officially important that we must.

Mr. STEVENSON. Mr. President, I do not yield.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from Illinois has the floor and he declines to yield.

Mr. STEVENSON. Mr. President, these repeated efforts in the United States to legislate standards extraterritorially, which came in recent years and with all the affluence of national middle age, upon other countries, many of them poor, many of them with people starving, does not strike me as moral leadership. They strike me as moral imperialism.

Those countries have it within their capacity to make their own determinations with respect to environmental degradation, and this country, without extending all the requirements of NEPA to commercial sales abroad, could still make gratuitous advice available through CEQ or through other appropriate agencies to those countries in order to enable them to make decisions about the environment if they want it.

But for us to gratuitously say they have no sense or no concern about the welfare of their people and must subject themselves and their imports from the United States to all the delays and all the expense of compliance with NEPA is insulting, and there are diplomats from developing countries who have expressed themselves in those terms.

Furthermore, Mr. President, there are very few products manufactured by the United States which are any longer unique. If they cannot be obtained from the United States or the credits with which to purchase them from the United States, they can be obtained from other countries, and then we do what we have done time and time again in the past. We shoot ourselves in the foot. We deprive ourselves of economic strength, and we deprive ourselves of the political authority and influence in the world with which to pursue all our objectives, whether it is nuclear proliferation, human rights, or the right to emigrate, as well as our economic interests throughout the world.

We are in danger once more of shooting ourselves in the foot for well-intentioned purposes, but as usual with results that are not those intended.

If the United States is of a mind to give advice to other countries about the environmental consequences of their purchase of goods, it can do so, and it can do so without subjecting them to the requirements of NEPA and without depriving ourselves of economic opportunity. It can do so under the provisions of this bill which provide that in determining what countries will be eligible for credits, the President should take into consideration their environmental policies, along with many other noneconomic factors.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. STEVENSON. I would appreciate it if the Senators would let me go for just a little longer. I would like to put some material into the RECORD and then I would be happy to yield. But I would like an opportunity to respond to some of the points which have been made by the distinguished Senators from Maine and Iowa.

Now, the example of AID has been given. First, Mr. President, on that point there is the related point about the ability of other countries to govern their own affairs without the gratuitous interference or advice of the United States, and with particular reference to the questions of nuclear exports which was raised by my friend from Iowa, I ask unanimous consent that there be printed in the RECORD an article from the Washington Post of September 29 entitled "Soviet Reactor in Finland Seen As Economic Threat to West."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET REACTOR IN FINLAND SEEN AS ECONOMIC THREAT TO WEST

(By Thomas O'Toole)

LOVIISA, FINLAND.—The Finns who operate the first nuclear power plant to be exported to the West by the Soviet Union jokingly refer to it as their "Eastinghouse" reactor. But they see the future for Soviet nuclear power as anything but laughable.

The Finns call their Soviet-built plant "Eastinghouse" because it so closely resembles the 38 nuclear electric plants built around the world by Westinghouse, the American company preeminent in the field.

Westinghouse tried to land this contract eight years ago but lost to the Soviets even though it bid 20 percent less than the $250 million the Finns paid the Soviets. Therein lies a story.

For the last two years, Westinghouse has told the White House and the Congress that stricter controls on nuclear exports will mean a staggering loss of sales. Insisting that nuclear energy is here to stay, Westinghouse has said that if American companies fail to build the world's nuclear power plants, the French and the West Germans will.

There is little doubt that American companies such as Westinghouse may lose some of their share of the nuclear market but there is doubt that the French and Germans will capture that loss. If the Finnish experience is a guide, it may be the Soviets who win a large share of the market.

A trip to this small town on the Gulf of Finland by touring American journalists offers evidence that this may turn out to be one of the most serious economic threats the Soviet Union has ever mounted on the West.

The Soviet-built plant is already in operation, a shiny, whirring machine that last week started its fourth straight month without missing a kilowatt. An almost identical second plant is nearly constructed, less than 100 yards from the first. More than 600 Soviet construction workers are still at work there.

Talks are taking place concerning a third plant, which at 1 million kilowatts will be more than twice the size of the 440,000-kilowatt plant now in service. The Finns say they don't have to decide on this plant for another two years but it is clear from conversations here with executives of the government-owned Imatran Voima Power Co. that a decision of sorts has already been reached—the plant will be built by the Soviets.

"Why change something when it works?" asked Kalveli Numminen, director of Imatran. Anders Palmgren, superintendent of the Loviisa power station added: "The plant we have here happens to be one of the best in the world. The fuel works well, the virbrations in the turbines are low and we have not had a single fuel leak in more than 10,000 hours of operation. We are delighted with this nuclear power plant."

The Finns talk bluntly about how they would like to become salesmen for Soviet nuclear power around the world. The Finns here think that the Soviet nuclear power design is as good as any in the West and want to share in the profits they see tumbling into Soviet coffers once others turn to Moscow.

Until the Finns bought their first Soviet plant, things did not go well with Soviet nuclear exports. The Soviets have exported nuclear plants to East Germany, Poland, Bulgaria and Hungary but in the last few years lost bidding battles to Westinghouse for a plant in Yugoslavia and to a Canadian firm for a plant in Romania.

None of these Communist countries thought the Soviet nuclear design was safe. Five years ago, the Soviets were trying to sell nuclear plants without the thick concrete containment buildings around them that are the American trademark.

The Soviets did not build redundant cooling systems favored by American companies to cool down the reactor if its nuclear fuel should accidentally overheat. The Soviet computer controls of the plant were also incomplete.

The Finns convinced the Soviets to change their ways. They bought not only the Soviet reactor but also steam generators and turbines. Then they went to a West German

firm for the controls, a Dutch company for the concrete containment and to Westinghouse for a $10 million system to flood the reactor with 1,000 tons of ice if its heat and pressure need to be subdued in a hurry. The Soviets got the message and will now supply these items.

Currently said to be negotiating to buy Soviet nuclear plants are Cuba, Libya and a third, unnamed country. Visitors now flock to Loviisa to watch the plant work and to talk about it with the Finns.

The Loviisa plant could win the Good Housekeeping award for industrial cleanliness. It is nearly spotless, from its white turbines to the dark green of its cooling tanks along the walls of the main reactor building. The reactor itself is silent. The only noise is the high-pitched whine of the turbines.

The Finns say one reason they picked the Soviet plant over the Westinghouse design is the financing, which other countries might not get from the Soviets. They loaned the Finns money at low interest rates, gave them uranium fuel free of charge for the first year and let the Finns subcontract almost half the construction work to Finish firms.

The way the Finns tell it, the country needs nuclear energy. Finland has no oil, coal or natural gas and pays out more than $1 billion a year to import energy. The country is so flat it has only six dam sites left to exploit, all of them expensive. The only domestic fuel is peat.

Nuclear power presently supplies 8 percent of Finland's electricity, and that figure is likely to rise to 35 percent within a few years. That would make Finland the world's most nuclear-dependent nation, but the Finns hope that their experience with plants such as "Eastinghouse" will turn to profits when other energy-strapped countries are shopping for Soviet nuclear technology.

Mr. STEVENSON. Mr. President, this case is a case in point. The United States has virtually lost its export market for nuclear reactors, and it is not because other countries are forsaking the opportunity to acquire nuclear reactors.

It is because they are acquiring their nuclear reactors from other sources, and those other sources are not so fastidious about the environment as is this one. In this case the source is the Soviet Union and, as the article indicates, it is the importers not the exporters of nuclear reactors who have insisted in the case of the Soviet Union that those reactors be more sensitive and responsive to the dangers of environmental degradation.

The Finns in this case insisted that the Soviet Union install environmental safeguards in the nuclear reactors. Well, it is an unattractive attribute of American character, but we have a temptation to think that others are not so capable as we are of governing themselves. I do not think that is the case Mr. President. I remind my colleagues that it was not until recent years that we even adopted a National Environmental Protection Act.

Most of the countries of the world are at stages of development at which we did not have an Environmental Protection Act. We could not have afforded all the requirements which we now can afford in order to protect ourselves from unnecessary degradation of the environment earlier in our development.

Many of these countries are seeking to feed the starving, the hungry. Some 600 million people are at the edge of starvation. A full belly, some rudimentary health services, some shelter have to come first, just as they did in the United States.

The example of AID has been mentioned, and I have no quarrel with the policy of AID.

That is a very different situation. AID is not involved in commercial exports. It has no competition. Its assistance projects, its loans and grants are not forfeit to competitors as a result of delay and expense for environmental reasons. AID can go forward.

How expensive the experience has been for AID I do not know. How time-consuming it has been for AID I do not know either. How much the intended beneficiaries of AID's programs have had to pay and, perhaps, with lives for those delays and for the expenses which eat into the funds which might otherwise be available to help develop their agriculture or their health services or their industries I do not know.

I do know, however, that 12 environmental impact statements have been completed with respect to AID projects, only 12—one on AID's pest management activities. There was one on a malaria control program for Sri Lanka, which makes me wonder how it helped control malaria in Sri Lanka; one on the Mahaweli Basin development stage for Sri Lanka; another on an irrigation and development project for Sri Lanka; one on roads in Guyana; one on waste water collection and transport system for Panama; another for the development of subtropical lands in Peru; another one on research on the tsetse fly for Tanzania; another for irrigation in Senegal.

I do not know how much or how long, but I do question whether the delays and the expense helped the poor people of those countries overcome the ravages of malaria. I also know, Mr. President, that in addition to the 12 environmental impact statements completed so far there are 13 uncompleted for Africa, 10 uncompleted for Asia; and 4 uncompleted for Latin America.

There are far more uncompleted than there are completed, and I question whether the people in those countries are not being prevented from benefiting from housing, roads, irrigation, tsetse fly control, by the delays which compliance with NEPA is causing AID.

But I do not raise that. That is an entirely different situation. It has nothing to do with subjecting our commercial exports to the requirements of NEPA.

This subject has attracted a good deal of debate and discussion recently, and, like my good friends and colleagues who support the amendment of the Public Works and Environment Committee, I would like to enter some materials on my side of this argument for the RECORD. One is a report on " 'Environmental Restraints On U.S. Exports' Conference and the Need For Export Expansion" of the National Legal Center for the Public Interest.

Mr. President, this report states, among other things:

The application of the National Environmental Policy Act (NEPA) to export licensing and Export-Import financing, as well as other federal agency actions with international effects, conflict with current U.S. objectives to: expand exports, reverse an unprecedent trade deficit, strengthen the dollar and decrease unemployment. At the very least, foreign environmental impact statement (EIS) requirements for federal agencies would introduce delays and increase costs and uncertainties of U.S. commercial transactions and further impede the ability of the U.S. firms to export. U.S. government-imposed obstacles which exporters face, place them at a disadvantage with their foreign competitors who are not hampered by similar obstacles from their own governments. The need is therefore, to abandon exports disincentives not increase them and to develop a coherent policy that encourages exports and our export ethic.

I ask unanimous consent that that report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT ON "ENVIRONMENTAL RESTRAINTS ON U.S.A. EXPORTS" CONFERENCE AND THE NEED FOR EXPORT EXPANSION, APRIL 6, 1978

SUMMARY

The application of the National Environmental Policy Act (NEPA) to export licensing and Export-Import Bank financing, as well as other federal agency actions with international effects, conflict with current U.S. objectives to: expand exports, reverse an unprecedented trade deficit, strengthen the dollar and decrease unemployment. At the very least, foreign environmental impact statement (EIS) requirements for federal agencies would introduce delays and increase costs and uncertainties of U.S. commercial transactions and further impede the ability of the U.S. firms to export. U.S. government-imposed obstacles which exporters face, place them at a disadvantage with their foreign competitors who are not hampered by similar obstacles from their own governments. The need is therefore, to abandon exports disincentives not increase them and to develop a coherent policy that encourages exports and our export ethic.

Such was the consensus of those attending the April 6, 1978 Conference on "Environmental Restraints on U.S.A. Exports," sponsored by the National Legal Center for the Public Interest, together with seven affiliated, independent regional centers and with the cooperation of the National Association of Manufacturers, the Special Committee for U.S. Exports and the U.S. Council of the International Chamber of Commerce.

The Conference examined in detail two separate but related developments which pose a severe challenge to American exporters: litigation against the Export-Import Bank by two environmental organizations (Natural Resources Defense Council and the National Audubon Society) and draft regulations from the President's Council on Environmental Quality (CEQ) which would require the preparation by federal agencies of a foreign EIS on American exports of environmentally significant equipment and services. The suit against the Export-Import Bank alleges that the environment in Indonesia, Zaire, Gabon, Tobago and other foreign countries, will be harmed by the Bank's financing. The environmentalists claim that prior to agreeing to finance such exports, the Bank must prepare a detailed statement that would be circulated for public comment and open to challenge in the courts. Included in the complaint as environmentally significant exports are construction equipment and U.S. advisory services for the construction of a railroad in Gabon, dredging equipment to Indonesia to enable it to reclaim land for agricultural use, nuclear exports, electric-

generating equipment and other industrial exports.

While the lawsuit represents an attempt to impose the requirement of an EIS upon the Eximbank, the proposed CEQ regulations would include Eximbank and other federal agencies and departments which have international responsibilities. Thus, all exports with any federal government connection, whether it be a pro forma license or direct government participation and funding, would be subject to the preparation of a foreign EIS and potential public challenge in the courts. Pursuant to a May 23, 1977 Executive Order (number 11991) from the Carter Administration; the CEQ was charged with the responsibility of reforming NEPA procedures. It issued its draft regulations on NEPA's foreign application for interagency comment on January 6, 1978, to thirty federal agencies. The regulations will not be released for public comment via publication in the Federal Register until agency comments are studied by CEQ and possibly incorporated in modified regulations.

The National Legal Center for the Public Interest, a public interest organization deeply concerned by the likely economic and social consequences of potential environmental restraints on American exports, invited interested parties from both sides of the debate to the conference in order to enable participants to formulate an informed opinion. The distinguished speakers, panelists and audience members represented business, labor, trade associations, public interest groups, academia, foreign governments, the executive and legislative branches of government, U.S. and foreign diplomatic corps, banks, press, international lawyers and investment houses.

Two central themes emerged from the conference. The first was the general conclusion that any additional environmental restrictions on American exports, at a time when the United States trade deficit is the largest in the Nation's history, could have severe repercussions on our balance of payments, unemployment, inflation, our ability to compete in the world marketplace, and on our diplomatic relations with less developed nations that might be resentful of intrusion on their sovereignty by unilateral imposition of American social goals. The second theme was that the U.S. urgently needs a cohesive and comprehensive policy to encourage exports, and that past actions of the executive branch and Congress have resulted in serious disincentives to U.S. exports which were mainly responsible for our record trade deficit of 26 billion dollars in 1977 and four and a half billion dollars in February 1978.

REPORT

Nicholas Yost, General Counsel of CEQ, reported that his organization "has no intention of doing anything which will damage U.S. exports." The consensus of the Conference participants was that CEQ's intentions were not the issue, but rather the impact of its policies based upon the realities of international competition and trade. The application of NEPA to foreign nations elicited strong reservations from the panelists and audience, who were concerned that CEQ's proposals could paralyze certain U.S. exports. Opposition ranged from legal questions such as international law problems, legislative intent, judicial interpretation and CEQ's authority to issue such sweeping regulations, to more fundamental policy concerns involving U.S. unemployment, the trade deficit, the need for economic expansion, the ability of American exporters to compete against foreign producers, the length of time required for the filing of an EIS, and adverse foreign reaction.

In explaining the draft regulations Yost outlined CEQ's three major concerns:

"We want to insure that if a product is banned or strictly regulated in the United States on health grounds, the U.S. agency and other officials are at least aware of this before providing the product to a foreign country.

"We want, at a minimum, full disclosure before a U.S. decision-maker takes an action which threatens natural resources of global importance.

"We want to be sure that the U.S. decision-maker is aware of what she or he is doing if the actions, however beneficial to one country, cause a significant adverse effect on another country."

Thomas B. Stoel, Staff Attorney of the Natural Resources Defense Council, advocated the need to implement CEQ's first objective because the U.S. government does not know what quality of chemicals banned here is currently being exported.

He estimates that 60 million pounds of banned chemicals are exported each year.* Their destination is undetermined. "Occasionally, we hear that they've caused harm in some foreign country but we really don't know," he said.

CEQ's Legislative Mandate for extending NEPA

Although Congress passed NEPA in 1969, the geographical scope of the Act remains a controversy. Section 102(2)(C) contains the following operative language:

"The Congress . . . directs that to the fullest extent possible . . . all agencies of the Federal government shall . . . include in . . . major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—(1) The environmental impact of the proposed action," etc.

Environmentalists argue that the term "human environment" is not limited to the artificial boundaries of the nation-state system, and, therefore, NEPA applies to acts taking place in all nations. They claim when Congress fails to address a significant issue in an important piece of legislation, it becomes the responsibility of the executive branch and ultimately the courts to decide the issue. Others disagree. The environmental movement has for the past six years been actively seeking a judicial determination that would extend NEPA's reach on federal agency actions to every corner of the globe. Yost argued that Congress had intended to extend E'S requirements abroad and cited examples from NEPA's legislative history. Recently, members of the committee that gave birth to NEPA endorsed CEQ's proposals as consistent with their intent. Senator Edmund Muskie wrote: "I hope the Administration will support vigorously the protection of the global environment to assure that relevant factors are brought to light and made available in the decisionmaking process under NEPA. CEQ deserves support and encouragement as it proceeds with steps to give effect to the mandate of Congress." However, Ben Blackburn, President of the Southeastern Legal Foundation and a former Member of Congress, pointed out that "there is no poorer source to contact regarding congressional intent than the committee members who gave birth to the bill, because they are naturally going to be proud of their offspring. They're going to give it the most extensive interpretation possible." John M. Finch, Associate General Counsel of the National Association of Manufacturers, in commenting on the application of NEPA asked why is the question "Does NEPA apply?" still open to debate nine years after enactment. "The answer, it seems to me, is defective legislation," he concluded.

Competitive impact

Yost commented on the "flexibility" of CEQ's draft regulations, including "special factors that may limit the scope, the length of time for public review, diplomatic consideration, international competition and confidentiality." The issue of the length of time involved in the preparation of an EIS was raised by Lawrence Fox, Vice President of International Economic Affairs, National Association of Manufacturers. Although Yost stated that "the CEQ believes that the preparation of a foreign EIS will not cause delays because it can—and should—be done at the same time the agency is making its decision on whether to approve the project," Fox noted that a recent General Accounting Office report estimated the average time involved in the preparation of an EIS is 31 months. In comparison, the average Export-Import Bank response time in 1976 for a preliminary commitment for direct credits was 40 days, and a typical guarantee or insurance application was processed within three weeks. To subject exporters to lengthy EIS procedures will undoubtedly hamper the ability of Americans to seriously compete in the world market. Maurice Sonnenberg, an international investment consultant, added his reservation regarding CEQ's assessment of delays: "Being familiar with so many government processes, there is no such thing as an expeditious government review I know of. They try, and they promise, but it just doesn't occur."

CEQ's draft regulations were issued for inter-agency comment on January 6, 1978. The response to date is said to have been mixed. One favorable response was received from John J. Gilligan, Administrator of the Agency for International Development (AID) AID acknowledged that the initiation of a process to analyze the environmental impacts of its actions more systematically will be a helpful tool in the execution of its mandate. However, a panelist pointed out that AID is a philanthropic and not a commercial operation that has to compete in the world marketplace. Furthermore, the AID process is much less vigorous than NEPA requirements.

Foreign impact

Reaction by foreign nations to proposed EIS's on their environment has been a major issue in the debate over CEQ's proposals and the Eximbank lawsuit. Many nations are resentful of unilateral imposition of American social goals, such as the human rights policy, on their societies, and consider such action an intrusion on their sovereignty. Mr. Yost declared that a foreign country's sovereignty will not be violated by CEQ's proposals. A foreign EIS "represents a respect for foreign sovereignty," he said. "The foreign country can use the environmental analysis as it sees fit. Both the U.S. agency and the other country are free to decide whether to proceed with an environmentally damaging alternative." But Professor Don Wallace, Jr., Director of the Institute for International and Foreign Trade Law at Georgetown University Law Center, pointed out that, in his opinion, CEQ's draft regulations do not pay very much attention to the actual needs of for-

*NOTE.—While Stoel did not explain the basis for this estimate nor elaborate on what chemicals, banned in the U.S., are exported, it is known that DDT is one such product. The case of DDT underscores the dilemma confronting U.S. policymakers who seek to impose our standards on foreign countries. DDT is viewed abroad not as a danger, but on the contrary, as the eradicator of malaria and other diseases that previously killed millions of people. Other industrialized nations have not banned DDT and continue to export it to foreign customers.

The fact that certain substances or products are banned here, as well as the reasons for the ban, should be brought to the attention of federal agencies and foreign purchasers. It is equally obvious that the reasons why other governments have not adopted our position will be brought to the attention of foreign purchasers who will decide whether the benefits outweigh the risks.

eign nations. "I have not seen the machinery, the procedures (from CEQ) which show how that foreign interest will actually be brought into the formulation of these regulations," Wallace added.

Florencio Acosta, Minister Counselor for Commercial Affairs of the Embassy of Mexico, responded to CEQ's proposals: "The law, 'strictu sensu,' perhaps does not infringe upon the sovereignty of other countries, but by regulating through the environmental impact statements, the end result is the imposition of someone's criterion to modify someone else's behavior." For a country like Mexico, the difficult balance between industrial development and environmental protection "becomes a matter of providing the minimum standards applicable to the survival of human beings," said the Minister.

John Cannon, President of the Mid-America Legal Foundation, predicted that as a result of implementation of environmental regulations to exports, the U.S. "may find a number of countries complaining about violation of some of the most basic treaty obligations we have . . . if, for example, in one case there were serious delays to the point of effectively blocking a project in connection with one country, and a fairly quick approval in the case of another country." Minister Acosta cited a recent cancellation of Eximbank financing of a Mexican pipeline due to an American-created controversy over gas pricing. "The immediate repercussion of U.S. exports was the cancellation of steel pipe orders at a time when relief to the ailing U.S. steel industry would have been welcomed. Fortunately for Mexico, the existence of other money markets permitted the construction of the pipeline to develop a resource that would help better the conditions of our people," he said.

Economic impact

Richard P. Schepard, Assistant General Counsel of the Industry and Trade Administration of the Department of Commerce, in commenting on CEQ's proposals, suggested that foreign EIS's "would increase delays and uncertainties associated with U.S. commercial transactions and further deteriorate the climate in this country for exporting." And, he added, "foreign nations resent it as an aspersion on their capacity to deal with matters within their own jurisdiction." He proposed that the burden of measuring the benefit of social and environmental goals versus their possible negative effects on economic goals "should be placed squarely on the proponents of these programs." He observed that "inevitably, failure to engage in cost/benefit analysis leads to regulatory overkill—you reach the point of diminishing returns where requiring further environmental expenditures is counterproductive."

Willis C. Armstrong, former President of the U.S. Council of the International Chamber of Commerce stated, "Responsible governments and businesses recognize the need for measures to protect the environment, and they are adopting them with encouraging frequency." Armstrong, a former Assistant Secretary of State and Minister to Canada and Great Britain, advocated the need for industrial growth if the needs of the world's population, which will double by the end of the century, are to be met in a minimal fashion. He noted that in 1971, American members of the International Chamber proposed that the environment be considered at their World Congress and in 1974, "Guidelines for World Industry" was released. The Guidelines stated, ". . . industry believes that environmental measures should be devised so as not to distort international trade relationships." In line with this, Myrna P. Field, President of the Mid-Atlantic Legal Foundation, pointed out that the sum "spent in the U.S. in 1977 on pollution control amounted to $187 for each man, woman and child—a sum which exceeds the annual per capita income in many less developed countries."

Ecological impact

Dr. Sidney Galler, Deputy Assistant Secretary for Environmental Affairs of the Department of Commerce and the environmental expert in charge of implementing NEPA in the Department, was one of the numerous government officials attending the conference. Dr. Galler raised several questions on the impact of foreign environmental disclosures which are treated as legal issues when they are properly ecological:

"Do we have the requisite data and knowledge today to achieve an EIS that would allow a decisionmaker to project the impacts of his proposed decision on a sovereign nation? The answer is No.

"Can an abbreviated so-called foreign environmental impact statement . . . meet NEPA requirements to provide a viable and precise assessment to enable the decisionmaker again to project the impacts of his decision on the human environment in a foreign sovereign nation? The answer is No.

"What kinds of liabilities might ensue to the U.S. resulting from a decision based on an inaccurate abbreviated so-called foreign EIS which ultimately could have a catastrophic impact on the environment of a foreign sovereign nation?"

Dr. Galler urged businessmen, government officials, academic scientists and environmentalists to use optimum instruments for projecting impacts on the global environment. "I submit very respectfully, I don't believe that Section 102(2)(C) of NEPA is that instrument," he concluded.

Labor impact

Citing the trade imbalance and the "increasing edifice of hindrances to American exports," Howard Samuel, Deputy Undersecretary for International Affairs of the Department of Labor, called for an expansion in U.S. foreign trade to provide jobs and more benefits for America's working people. Samuel traced the history of the 1974 Adjustment Assistance Program of the Trade Act which has awarded benefits to 320,000 U.S. workers who have lost their jobs because of both imports and a decline in export volume. "I don't think the Adjustment Assistance Program is the answer to our import/export problems. We're not doing enough, but I think the Administration plans to do more," he said regarding expansion of export programs. He warned exporters, however, that the Labor Department does not advocate the export of products banned in the U.S.

Legal implications of Eximbank lawsuit

Charles N. Brower, a Senior Partner of White and Case and counsel to Mid-America Legal Foundation and other intervenor-defendants in the Export-Import Bank litigation, questioned the legal grounds which would require the filing of a foreign EIS on U.S. exports the Bank finances. He argued against the extraterritorial application of NEPA to American exports for three legal reasons:

"There is a conflict between NEPA and the primary statutory mandate of the Export-Import Bank to promote United States exports.

"The foreign projects which are the recipients of Eximbank-supported exports of United States equipment and services are not "major Federal actions" within the meaning of NEPA.

"NEPA does not apply to 'Federal' actions where both the actions and their environmental effects are confined to the jurisdiction of a foreign sovereign state."

"To condition the offer of a U.S. export upon performance of an environmental analysis could lead to one predictable result: the foreign nation would choose to avoid delays, expense and insult to its sovereignty of such gratuitous, unilateral environment second-guessing by Uncle Sam—and take its business elsewhere," concluded Brower.

Thomas B. Stoel, attorney for the plaintiffs in the Eximbank suit limited his remarks about the suit to the statement that the only substantive document filed by plaintiffs to date is their complaint.** He did add that plaintiffs are talking to the governmental defendants and are hopeful the lawsuit will be settled in the next few months. The proposed settlement is broadly patterned after the settlement the Natural Resources Defense Council and others negotiated with the Agency for International Development.

Stoel did not believe foreign impact statements would be viewed unfavorably by foreign governments, citing the experience of AID and the World Bank with its impact assessment procedures. "I think the World Bank, among the international agencies, has been a leader in environmental impact assessments," he said.

Referring to the element of delay, allegedly introduced by possible court challenges to the impact statement, Stoel commented that "if there should be litigation, the courts can be remarkably speedy in dealing with these questions in a foreign relations context."

Need for trade expansion

The conference included discussion of several factors which contribute to the deteriorating trade balance of the U.S. Our trade deficit in 1977 equaled 26.7 billion dollars and February's deficit was 4½ billion dollars. In addition, the U.S. share of world exports has declined from 18% in 1960 to 12% in 1977. A number of conference speakers viewed CEQ's proposals as another trade obstacle for American exporters.

"In recent years U.S. exporting firms have suffered from a relentless ad hoc accretion of export restrictions and disincentives that have reduced the competitiveness of American exports in world markets," declared James Theberge, President of the Institute for Conflict and Policy Studies and former U.S. Ambassador to Nicaragua. He cited several examples: the human rights policy of the Carter Administration, the Arab Boycott legislation, the administration of U.S. export control policy, the drawn-out controversy concerning the Nuclear Nonproliferation Act which has caused a virtual cessation of U.S. nuclear technology exports, the 1976 Tax Reform Act which has substantially reduced longstanding tax incentives for American citizens employed abroad, and current efforts by the Carter Administration to abolish DISC, a special tax program to stimulate exports.

William L. Wearly, chairman of Ingersoll-Rand Company, listed lending restraints by the Export-Import Bank, inadequate funding of trade promotion by the Department of Commerce and other legislative and regulatory restrictions as additional obstacles to exports. Although the public believes that oil imports caused our trade deficit, Wearly noted that in 1977 imports of oil rose by $10.2 billion, and imports of non-oil products rose by $16 billion. "Had we maintained the 18 percent of world exports that we held in 1960, our exports would have been $60 billion greater than they were in 1977," said Wearly. "Sixty billion would equate to roughly a million and a half to two and a half million jobs in the U.S.," he pointed out.

Wearly said the greatest disincentive American exporters face is the lack of a sub-

**NOTE.—Since the date of the complaint, January 1977, the government has not filed an answer. The intervenor-defendants led by Mid-America Legal Foundation have, however, filed an answer thereby permitting them to challenge any proposed settlement reached without their participation.

stantive, comprehensive and cohesive Government export policy and to illustrate this point he quoted Senator Lloyd Bentsen who remarked, "Foreign economic policy in the U.S. is shaped not systematically, but almost by accident. It is a least common denominator worked out by a kind of guerrilla warfare among the Departments of State, Treasury, Agriculture, the Federal Reserve Board, and a whole host of other executive branch agencies."

Recommendations to formulate an export-incentive program were suggested and discussed at the conference. In order to bring the export problem to the forefront of policy-making, Wearly urged President Carter to promptly convene a White House Conference on Exports to be attended by representatives of government, industry and labor and asked that a target date for necessary legislation be set within the next 90 days. He also proposed the establishment of a Foreign Trade Department, similar to Japan's Ministry of International Trade and Industry (MITI), with the power to cut through unnecessary red tape to eliminate trade disincentives and to help facilitate exports.

Because the "U.S. government lags behind the governments of other industrial countries in official promotion of exports and in the provision of fiscal and financial incentives," Ambassador Theberge offered a six-point guideline for policymakers:

1. The U.S. government, in close cooperation with the private sector exporting community, must formulate and set in operation a new and effective export expansion policy. The key component must be judicious dismantling of burdensome obstacles to exports and introduction of a well-designed set of fiscal and financial incentives to export.

2. Life should be injected into the moribund *President's Export Council.* A revived Council could coordinate the private sector's input for a new export expansion policy.

3. A *Special Inter-Agency Committee on Export Expansion* should be formed to help develop the new export policy.

4. Our embasies overseas should be involved in the process of formulating a new policy and improving inter-agency coordination in the export field.

5. Industrial research and development should be strengthened to reverse the disturbing long-term decline.

6. Specially designed incentives are required for small and medium-size firms which would provide extraordinary assistance to these new exporters during the early years of entry and adaptation in the export market.

What can be done?

In the concluding conference session, "What Can Be Done?" NLCPI President, Leonard J. Theberge, suggested several courses of action. He recommended that the export community become fully informed on the issues which impact American efforts and then inform others. He pointed out that Edward Denison of the Brookings Institution estimated that environmental controls and OHA programs were costing the U.S. about 1.4% of total output from the private sector in 1975. Furthermore, this percentage is increasing, and, since it is already claiming 20 to 25% of the growth potential of our economy which is going to non-productive uses, it will have a growing impact on the competitiveness of U.S. exports.

On the specific question of the Council on Environmental Quality draft regulations, Theberge suggested that the most important time for individuals to make their points of view known to federal officials, Members of Congress and the executive agencies was *before* the "proposed" regulations appear in the *Federal Register.* He said, "There is still time to influence, firstly, the set of CEQ regulations which will impact adversely on exports, and secondly, the proposal made by Chairman Wearly to urge President Carter to convene a White House Conference on Exports and to create a Foreign Trade Department." He concluded by saying, "What is needed to overcome our deteriorating balance of payments deficit is a cooperative approach between government, management and labor to develop an export ethnic that will enable the U.S. to regain its fair share of international trade."

Mr. STEVENSON. Mr. President, that conference considered at some length our efforts to legislate extraterritorially our standards of the moment with respect to the environment, and, based on that conference, an article was written by Thomas Bethell and published in the Harper's magazine of October 1978. The article is entitled, "Exporting Pettifoggery." I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPORTING PETTIFOGGERY

(By Tom Bethell)

Within the past year there has been a good deal of comment about the nation's unfavorable balance of trade, which amounted to an excess of imports over exports of $27.8 billion in 1977. By contrast, ten years ago the country enjoyed a $4 billion trades surplus. Thus dollars have been flowing abroad, and the value of the dollar in relation to some other currencies has been declining. The customary explanation for this—favored by President Carter and others in his Administration—is that we now have to import greater quantities of much more expensive oil. We are therefore implored to use less oil so that our trade might be brought back into balance.

Upon examination, this explanation turns out to be a tendentious, not to say ideological, way of looking at the matter. Germany and Japan, for example, import greater quantities of oil in relation to their gross national product than the United States does. And so they have done for many years. It is not so much our imports that have been increasing as our exports that have been decreasing. America's market share of world exports has steadily declined from 18 percent in 1960 to 12.7 percent in 1977. (Had our market share remained at 18 percent, U.S. exports last year would have been $60 billion greater, converting the large trade deficit into an even larger surplus.) That is another way of looking at the matter: perhaps equally ideological, but less often discussed.

It is sometimes said that the United States does not have an "export ethic." Within the past few years, however, the truism has been given a new twist. Neglect is turning into positive abhorrence. Exports are in danger of being labeled "unethical." Carter's human rights policy under Assistant Secretary of State Patricia M. Derian is having the effect, apparently intentional, of converting former allies and trading partners into enemies. ("Two years ago I was standing on the flag," Derian told a group of Democratic contributors recently. "Now it is on the wall behind me.") The nuclear nonproliferation pact has caused Brazil to shift all its government purchases away from the United States.

Further, the U.S. government does not provide the same assistance and commercial promotion abroad that other governments routinely do. After more than a year and a half in office, Carter still has not appointed anyone to the President's Export Council. Inflation prompts potential businessmen to turn instead to bonds and other government paper. The pervasive antibusiness background (e.g., restrictive tax policies limiting venture capital) also hurts exports. Finally, but not least, we should pay attention to the vigorous activities of those who are fashionably counterproductive, notably the environmentalists.

Consider the lawsuit filed by a "public interest" law center called the Natural Resources Defense Council (and filed jointly by the National Audubon Society) a week before the Carter Administration took office. NRDC is one of the largest of approximately 100 public-interest law centers, a number of which were initially funded, and are currently sustained, by grants from the Ford Foundation, which in the past nine years has spent $20 million on such institutions. That is nearly half of all financial support given to public-interest law centers.

The lawsuit, filed in the U.S. District Court for the District of Columbia, sought to require Eximbank, the Export-Import Bank of the United States, to apply the same procedures for the protection of foreign environments as have been developed in recent years to protect the domestic environment. In short, Eximbank, which makes loans to foreign countries to facilitate their purchases of U.S. goods, technologies, and services, would be required to file an "environmental impact statement" before making a foreign loan. The Washington law firm of White & Case, which represented the Mid-America Legal Foundation when it intervened on behalf of Eximbank several months after the initial filing, noted in a "status memorandum" early this year that—

The ramifications of this lawsuit, if successful, could be enormous. In 1976, for example, Eximbank credits and guarantors supported nearly $12 billion in U.S. export sales to 157 markets. These sales were related to an Eximbank-estimated 500,000 American jobs. If even a small portion of these sales were lost through the encumbrance of Eximbank with the time-consuming, tedious, and expensive process of preparing gratuitous assessments of foreig environmental effects, the result would be disastrous.

There are two principal reasons for this foretaste of disaster. In the first place, America no longer enjoys a technological or manufacturing advantage over foreign competitors, and therefore the deciding factor in a major foreign sale is often the speed with which Eximbank's financing can be provided. Eximbank usually reacts to applications for loans within a matter of a few weeks; but a study by the General Accounting Office showed that environmental impact statements, on average, delayed projects by thirty-one months. Clayton Norris, as deputy vice-president of Eximbank's Project Development Division, has said that "speed is of the essence in working out successful export transactions." Bank loan procedures, if subjected to environmental impact statements, "would totally collapse, and bank operations would come to a virtual standstill."

The other difficulty would arise out of the breach of confidentiality involved in making the extensive economic and environmental inquiries in the foreign countries involved, and then promulgating these findings in accordance with the National Environmental Policy Act, or NEPA.

The congress, perhaps unconsciously, delivered a powerful weapon into the hands of the public-interest law movement when, in 1969, it enacted NEPA, according to which the government is required to assess the "environmental impact" of any "major" federal action ("major" has never been precisely defined). This assessment takes the form of an "environmental impact statement," to be written by the federal agency contemplating the action in question.

From the point of view of the public-interest lawyer, by now comfortably ensconced within the Environmental Defense Fund, or the Natural Resources Defense Council, or the Sierra Club Legal Defense Fund, or the Center for Law and Social Policy, and fi-

nanced in part by the proceeds from the sale of Ford automobiles, the beauty of the environmental impact statement was that it could always be challenged in court. A show of solicitousness for the environment, far from mollifying the environmentalist, tends to act as the red flag to the bull. Hitherto unsuspected complications within the environment could always be pointed out, thus delaying and delaying a proposed project. It was precisely in anticipation of such legal challenges that preparing environmental impact statements became such a time-consuming business. And it was in the tireless deployment of such legal challenges that the environmentalist eventually became the object of the following suspicion: that it wasn't so much the smoke coming out of the factory chimney that he objected to, as the activity going on within the factory itself.

Not long after the environmental movement was firmly established at home, the discovery was made that it might also be possible to "export" environmentalism. The legislative history of NEPA is not precise on the subject of how far the "environment" extends, perhaps because Congress did not anticipate the fanaticism that would come to surround the subject. The act had said merely that "major federal actions significantly affecting the quality of the human environment" shall be assessed; but Sen. Henry Jackson of Washington had also inserted into the *Congressional Record*, during a floor debate on October 8, 1969, the following summary of an earlier House-Senate conference: "Although the influence of the U.S. policy will be limited outside its own borders, the global character of ecological relationships must be the guide for domestic activities."

It was not long before lawsuits were filed challenging federal actions overseas. In 1974, for example, the Sierra Club and the Natural Resources Defense Council jointly sued the Atomic Energy Commission and Eximbank, requiring that they prepare impact statements on the "nuclear power export program." The issue of the extraterritorial application of NEPA was not decided in court, however, because the Atomic Energy Commission agreed to prepare a "generic" impact statement (as opposed to a specific one).

Concern about nuclear reactors seems reasonable enough. As Charles Warren, the current chairman of President Carter's Council on Environmental Quality, has pointed out, Eximbank authorized a loan of $277 million in December, 1975, to permit the Philippines to buy a nuclear reactor, and an environmental impact statement, had one been written, would have revealed that "the Philippine Islands are located in an earthquake belt."

But the suit filed in early 1977 by NRDC against Eximbank shows that environmentalists are also prepared to go to unreasonable lengths in pursuit of what is now occasionally described as "environmental imperialism." For several years, the Republic of Gabon has been attempting to build a 440-mile railroad across the heart of Gabon. The railroad, passing through swamps and forests, is intended to link the mineral-rich interior of the country to the coast, and so has been described as "the backbone of that country's future economic development." Numerous firms from different countries have joined in its construction, including a New York engineering firm, which was engaged to provide "consultative quality control services" for the continuing construction of the railroad. This firm received a $4.6 million loan commitment from Eximbank. (The entire railroad will cost more than $1 billion.)

"Modest though the American involvement may be," Charles N. Brower of the White & Case law firm has noted, "it has now become the basis of an attempt to extend the procedural provisions of NEPA into the heart of Gabon." The construction may endanger the "habitats" of gorillas, crocodiles, buffalo, and elephants, the NRDC has warned in its suit against Eximbank, and so environmental impact statements are called for, statements that would no doubt take months if not years to prepare, inevitably resulting in the government of Gabon's purchasing its quality control services elsewhere.

The lawyer in the Justice Department responsible for defending Eximbank against this challenge turned out to be James W. Moorman, who was appointed Assistant Attorney General of the Lands and Natural Resources Division in May, 1977. Other lawyers is Washington who have been following this case have expressed doubts as to Moorman's enthusiasm for defending Eximbank, because before coming to the Justice Department, Moorman was, from 1971 to 1977, executive director of and attorney for the Sierra Club Legal Defense Fund. It was, of course, the Sierra Club that had brought the almost identical suit against the AEC and Eximbank three years earlier, and Moorman, while executive director, had recommended that the Sierra Club be party to that suit.

Moorman's subsequent involvement in the case raised the thorny matter of "conflict of interest," but with a difference. Normally the phrase refers to the possibility that someone might give financial assistance to former colleagues by construing the government's rules in such a way as to help them. In Moorman's case, the appearance of conflict of interest was ideological, not financial. Although he had worked for the Sierra Club, and was now in the position of defending against a challenge by NRDC, the two organizations shared many of the same goals and had, in fact, jointly sued the government at least ten times while Moorman was with the Sierra Club. Moorman and Thomas B. Stoel, Jr., counsel for NRDC, had served as co-counsel in the case that delayed construction of the Alaska pipeline for three years.

It was certainly arguable that the "extreme" environmentalist—as Moorman had been characterized in a letter to the Senate Judiciary Committee opposing his nomination—would put loyalty to the environment above all else, and so would be a weak advocate for the government against environmentalist attack.

Moorman's subsequent handling of the case did indeed raise the question of where his loyalty lay. A key issue whenever an environmentalist sues the government is proof of "standing." That is, why should environmentalists in Manhattan be allowed to sue the government on behalf of Gabonese crocodiles, unless the environmentalists are able to show that they are personally going to suffer injury as a result of the death of such crocodiles? To show such a connection in court is to show one's legal "standing."

Thomas Stoel, representing NRDC, had candidly written to the Justice Department on the "standing" question: "Our problem is that we have virtually no knowledge of the current activities of the Bank, so we have no way of demonstrating the connection between those activities and the plaintiffs' members." In which case, why had NRDC brought suit in the first place? Clearly it was not in fact representing its members. It was representing a cause.

Despite the exceedingly weak legal position adopted by his current adversary (and former partner), in September, 1977, Moorman withdrew an earlier government motion challenging NRDC's standing—a motion that had been filed while the Justice Department was still staffed by Ford Administration appointees. Thus, at one stroke Moorman was able to dismantle what he himself, in his public-interest lawyer days, had described as "the greatest hurdle in a suit with the federal government." There now would be no challenge to NRDC's standing.

In December, 1977, Moorman was attacked in a memorandum filed in court that suggested "an appearance of impropriety" in his role. He then temporarily withdrew from representation of Eximbank, pending a "review" of his status by the Justice Department's Office of Legal Counsel. Eight months later, this review still has not been completed.

Meanwhile, the Eximbank case is being handled by Lois Schiffer, chief of the General Litigation Section under Moorman. She previously worked for the Center for Law and Social Policy, an organization that "has been steadily plugging the extraterritorial application of NEPA since it was enacted," according to a Washington lawyer who has taken an interest in this case. Moorman, incidentally, is also an alumnus of the Center for Law and Social Policy, having worked there as a staff attorney from 1969–71. As Charles N. Brower noted in December, 1977, "Mr. Moorman is at least bureaucratically the man in charge," and even if he no longer is, it is clear that Eximbank will continue to be defended by lawyers more interested in the environment than in exports. Eximbank has expressed dissatisfaction with its legal representation, and has tried, unsuccessfully, to be represented by lawyers of its own choosing.

As matters have developed in the past few months, all three branches of government are wrangling over the complex matter of exports, the environment, and the law. In January, 1978, the Council on Environmental Quality issued draft provisions unequivocally stating that the "application of NEPA to significant environmental efforts [is] not confined to the United States." The environmentalists had won this round, but there was much criticism of the draft regulations within some government departments, notably Commerce and State. Rowland Evans and Robert Novak wrote a column in which they claimed that "the proposed regulations were drawn secretly by CEQ planners with apparent help from the Natural Resources Defense Council." Although this has not been independently confirmed it is at least suggestive that Gus Speth, one of three CEQ members, was formerly an attorney with NRDC.

In response both to the NRDC suit against Eximbank and to CEQ's draft regulations, the National Legal Center for the Public Interest (a public-interest law firm that, among other things, keeps an eye on what other such firms are up to) held a conference in April on "Environmental Restraints on U.S. Exports." The overall tone of the conference was critical of the overseas application of NEPA. Florencio Acosta, Mexico's Minister Counselor for Commercial Affairs, citing a recent cancellation of Eximbank financing in his country (due to U.S. domestic squabbling), noted that "the immediate repercussions on U.S. exports was the cancellation of steel pipe orders at a time when relief to the ailing U.S. steel industry would have been welcomed. Fortunately for Mexico, the existence of other money markets permitted the construction of the pipeline to develop a resource that would help better the conditions of our people."

An administrative assistant to Sen. Adlai E. Stevenson III, of Illinois, attended the conference and reported back his findings, and, in the early summer, Stevenson introduced to a bill extending Eximbank's charter an amendment that would have exempted the bank from any restrictions under NEPA. (Illinois is one of the principal exporting states.) But this amendment, which was passed by the Senate Banking Committee, was then "sequentially referred" to the Senate Committee on the Environment—chaired by Sen. Edmund Muskie of Maine—

where it was, as expected, unanimously opposed. (Maine has more scenery than factories.) There the matter stands in Congress. Senators are undoubtedly hoping that they will not have to commit themselves in a floor vote to being either against exports or against the environment.

Although the Carter Administration at the middle levels is riddled with environmentalists, word does seem to have reached the White House, belatedly, that all the world does not necessarily love them. Public-opinion polls on the subject tend to be misleading. If asked "Do you want clean air?" nearly everyone will say yes. But if the phrase "at the expense of exports" is added to the question, most people will say no. Weeks passed, then months, and still CEQ's draft regulations were not recast into final and unalterable form. An Executive order has been issued that steers circumspectly between the extremes of commercialism and environmentalism, but that does not resolve, once and for all, the disputed legal question of whether Eximbank must conform to the provisions of NEPA.

As for the progress of the lawsuit against Eximbank at U.S. District Court, there has been very little action there, either, in recent months. In fact, eighteen months after the suit was filed, the government still has not filed a reply—a most unusual delay, and one that has been condoned by the judge in the expectation, it is thought, that one or another branch of government would alter the statutory rules in such a way as to render the case "moot." But to date this has not happened. Everyone involved is waiting for someone else to make the first move. Eximbank meanwhile continues to operate without the burden of NEPA on its back.

The American government, it has been said, is constructed in such a way as to make it extremely difficult for those newly arrived at the seats of power to do good. For this we may be grateful, however, because as the events surrounding the Eximbank case suggest, the same machinery of government makes it just as difficult for well-intentioned visionaries to do harm.

Mr. STEVENSON. Finally, Mr. President, I would like to say just a word before I yield the floor, or yield to my colleagues, about the applicability of NEPA as a legal proposition.

It has been asserted by environmentalists and in complaints which have been filed in court by environmentalists that NEPA is applicable to the extraterritorial activities of the Export-Import Bank, and it is because of those assertions, the pendency of that litigation, and the ensuing uncertainty and the danger that we will be made a more unreliable supplier of goods to the world that the Senate Banking Committee took its position embodied in this bill with respect to the application of NEPA. It concluded that NEPA should not be applied to actions of the bank which have no impact in the United States.

I have asked the Congressional Research Service to research the question and advise us as to whether Congress intended that NEPA do apply to the activities by the bank in the global context and in foreign nations.

The history is lacking any explicit consideration of this issue, and it struck me as highly unlikely that Congress would have taken such a momentous step, namely, to extend NEPA to the financing and the guarantees, the activities of the Eximbank in support of American exports abroad, without some consideration of the subject.

The study of the Library of Congress reaches the conclusion which I had anticipated. It states, among other things:

There is no language in NEPA that can be pointed to with certainty to support a contention that the EIS requirement would apply to a major Federal action occurring in a foreign nation and the environmental impact is limited to that territory. . . .

The courts have been reluctant to face and resolve this issue.

Cogent arguments can be presented on both sides of this issue.

In the absence of any clear statutory expression or congressional intent, and considering the rules of statutory construction and principles of international law, the more persuasive argument would appear to be on the side which professes that NEPA does not apply in such situations.

Mr. President, I ask unanimous consent that this report of the Congressional Research Service of the Library of Congress dated July 6, 1978, be printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

APPLICATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT'S ENVIRONMENTAL IMPACT STATEMENT REQUIREMENT WHEN A FEDERAL ACTION IMPACTS ONLY WITHIN THE TERRITORIAL JURISDICTION OF A FOREIGN NATION

"The extent to which the environmental impact statement (EIS) requirements of the National Environmental Policy Act (NEPA) apply to federal actions abroad has become one of the most controversial NEPA questions now concerning the federal courts and agencies".[1] This report presents a legal overview of one of the basic issues in this controversy that has been drawing more and more interest and concern—are Federal agencies required to file an EIS concerning their participation in activities that take place entirely within the territorial jurisdiction of a foreign nation or nations and the impact of that action affects only the environment in that nation or nations? Thus, the question addressed in this report is a narrow one. No attempt will be made to address other legal issues arising from the extraterritorial application of NEPA, e.g., as to the legal requirement to file an EIS when a major Federal action occurs in an area of the globe or in space beyond the territorial jurisdiction of any nation (areas designated to be for the common interest or the province of all mankind) and its impact is limited to that area, or where that action may occur outside of the territorial jurisdiction of the United States but it has a direct significant affect on the environment of the United States.

The following analysis reveals that the question raised has no clear or settled determination. Arguments can be advanced to support both an affirmative and a negative response. The most persuasive arguments, however, would appear to bolster the position that the EIS requirement does not apply in such a situation. A definitive determination of this controversy would seem to await final and specific regulations in this regard by the Council on Environmental Quality (CEQ), upheld by the courts if challenged; or, in the absence of such a sustained regulatory action, by a court of law in an interpretation of existing law; or by legislative action of the Congress.

THE STATUTE

Section 102(2)(C) of NEPA directs all agencies of the Federal Government to prepare an EIS concerning "major Federal actions significantly affecting the quality of the human environment". There is nothing specifically in this provision that would require the preparation of an EIS concerning international activities, nor is there any language in NEPA itself that can definitely be pointed to that makes that statute operative extraterritorially. "Legislation is normally interpreted as applying within the territorial jurisdiction of the enacting State unless there is a clearly expressed intent that it should apply extraterritorially".[2]

§ 359. Implied territorial limitations.

Unless the intention to have a statute operate beyond the limits of the state or country is clearly expressed or indicated by its language, purpose, subject matter, or history, no legislation is presumed to be intended to operate outside the territorial jurisdiction of the state or country enacting it. To the contrary, the presumption is that the statute is intended to have no extraterritorial effect, but to apply only within the territorial jurisdiction of the state or country enacting it. Thus, an extraterritorial effect is not to be given statutes by implication. Accordingly, a statute is prima facie operative only as to persons or things within the territorial jurisdiction of the lawmaking power which enacted it. These rules apply to a statute using general words, such as "any" or "all," in describing the persons or acts to which the statute applies. They are also applicable where the statute would be declared invalid if given an interpretation resulting in its extraterritorial operation.[3]

On the other hand, it has been argued that there is no indication in the language that NEPA should not apply extraterritorially. "NEPA specifically applies to all federal agencies and makes no exception for foreign affairs."[4] It has also been argued that the language and structure of NEPA lead to the conclusion that NEPA should be so construed.[5] Further, it has been contended that the extraterritorial rule is inapplicable in this connection.

It may be inappropriate to apply this doctrine to the question of NEPA's application to federal actions which have site-specific impacts in foreign countries, however. The statute requires neither that a foreign government act in a certain way nor that actions on foreign soil be conducted pursuant to American environmental goals. NEPA is aimed at and reaches only the decision-making process of the federal agencies. Although the effects of the agency's administrative decision may extend abroad, the decision itself, which is all that NEPA reaches, is made on domestic soil and thus can hardly be seen as beyond the scope of congressional authority.[6]

This argument, it would seem, fixes the initial focal point of the Act as being the action of the agency. It can just as reasonably be looked at from the point-of-view that it is the ultimate action that must be looked at first, and then a determination as to the federal agency participation. In other words, if the EIS requirement applies only when there is a major federal action significantly affecting the human environment, does one look at whether the action significantly affects the human environment first, in which case it would seem that the extraterritorial principle is critical, or does one look first to ascertain whether there is first and foremost a major Federal action?

The legal difficulty with applying United States law to ultimate actions occurring in a foreign nation, not necessarily conducted or controlled by United States enterprises or authorities, is that such might be a breach of international law. At the basis of international law lies the notion that a nation occupies a definite part of the Earth, within which it normally exercises, subject to the limitations imposed by international law, jurisdiction over persons and things to the exclusion of the jurisdiction of other nations.[7] Thus, a United States law cannot impose a binding requirement on a foreign nation

Footnotes at end of article.

or its citizens within the territorial jurisdiction of that nation. It has been argued, however, that "the extra-territorial application of NEPA would not transgress accepted principles of international law since the imposition of its procedures abroad would not infringe on either the foreign sovereignty or the rights of foreign nationals".[8] Yet, as indicated by the question just posed, the inquiry does not end there. It may then become a difficult question of law and/or fact as to whether the Act really applies to the impact on the environment in the foreign nation, or whether the United States agency has sufficient contact or control over either the project or the foreign nation itself to be deemed an action of the agency itself. For example, the Agency for International Development, Department of State, has issued regulations regarding the environmental assessment of proposed A.I.D. projects involving the procurement and use of pesticides.[9] An exception is established therein from the procedures where the Agency is a "minor donor". "For the purposes of these procedures, A.I.D. is a minor donor to a multidonor project when (i) A.I.D.'s total contribution to the project will not exceed either $1,000,000 or 25 percent of the estimated project cost; and (ii) A.I.D. does not, under the terms of the agreement governing its contribution, control the planning or design of the multidonor project".[10]

An interesting related problem would be the ascertaining of the significance of the quality of the human environment affected within the territorial jurisdiction of a foreign nation only. Not only would a Federal agency be hampered practically from, e.g., analyzing alternatives therein, but it is entirely possible that the action might not only be legal in the foreign nation but actually encouraged. For example, a developing nation might well tolerate or prefer a certain amount of pollution in order to foster industry so as to remove what it might deem to be a greater source of pollution, e.g., squalor. In other words, if an action in a foreign nation is, as a matter of law and policy, acceptable there, yet would be adverse here, would this balance possibly have the affect of our trying to impose a standard upon another nation in violation of their right to sovereignty?

The language of NEPA can be interpreted both ways.

Phrases within the National Environmental Policy Act provide some support for applying the Act extraterritorially. The expansive language of NEPA's declaration of purposes, which speaks of encouraging harmony between "man and his environment" and eliminating damage to the "environment and biosphere" suggests a concern with the quality of the environment that transcends the boundaries of the United States. In addition, section 102(2)(F) requires that agencies recognize the "worldwide character" of environmental problems. But the provisions of the Act which call for an annual Environmental Quality Report state that the Report should set forth the condition of the environment of the nation, not of the world.[11]

THE LEGISLATIVE HISTORY

There does not appear to be anything conclusive on this point in the legislative history of NEPA. There are indications in the legislative history that can be pointed to show that Congress was concerned with global environmental ramifications. This, however, does not necessarily show a Congressional intent that NEPA was to be applicable to Federal actions in foreign nations when the impact is limited to the environment there. Yet, proponents of this position have urged just such an interpretation from this history.

Actually, the legislative history of NEPA is sparse. "The Act was hastily put together, passed, and signed." [12] The following history as set forth in a court case [13] gathers the references which support the concern that Congress had for international implications of United States actions.

Additionally, there is specific language in the committee reports indicating a Congressional intent that NEPA be broadly applied. In its discussion of the Environmental Quality Report required by section 4341, the Conference Committee stated that the Report "will set forth an up-to-date inventory of the American environment, *broadly and generally identified* . . . . " (Emphasis added.) Conf. Rep. No. 91–765, in 1969 U.S. Code Cong. & Ad. News, pp. 2751, 2771. Identical language is found in the House Report. H. Rep. No. 91–378, *Id.* at p. 2759.

Finally, the legislative history demonstrates that Congress clearly recognized that environmental problems are worldwide in scope. It was therefore particularly concerned about the international implications of United States actions that affect the human environment. In the House Report, for example, it is stated:

Implicit in this section [42 U.S.C. § 4341] is the understanding that the international implications of our current activities will also be considered, inseparable as they are from the purely national consequences of our actions. H. Rep. No. 91–378, *supra* at p. 2759.

See also, 115 Cong. Rec. 40416–40417 (1969) (Remarks of Senator Jackson). Hence section 4332(2)(E) directs federal agencies to support, "where consistent with the foreign policy of the United States, . . . initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment. . . ." Cooperation is possible, according to Senator Jackson, "because the problems of the environment do not, for the most part, raise questions related to ideology, national security and the balance of world power." 115 Cong. Rec. at 40417 (1969). In view of this expressed concern with the global ramifications of federal actions, it is reasonable to conclude that the Congress intended NEPA to apply in all areas under its exclusive control. In areas like the Trust Territory there is little, if any, need for concern about conflicts with United States foreign policy or the balance of world power.

Yet, even this apparently strong judicial pronouncement must be measured against the issue that the court was addressing, namely, whether NEPA applies to the Trust Territory of the Pacific Islands. The court, in citing the above legislative history did so to conclude that it was the intent of Congress that NEPA apply in all areas under the exclusive control of the United States.

The legislative history of NEPA supports the inclusion of foreign impacts within the scope of Sec. 102(2)(C). A 1968 "Congressional White Paper on a National Policy for the Environment" which summarized the joint House-Senate conference on national environmental policy that led to NEPA's introduction, was inserted into the Congressional Record by Senator Jackson, the principal Senate sponsor of NEPA. It stated, "(a)lthough the influence of the U.S. policy will be limited outside its own borders, the global character of ecological relationships must be the guide for domestic activities." 115 Cong. Rec. 29078, 29082. The Senate and House reports on NEPA were also concerned about the international aspects of environmental pollution. S. Rep. No. 91–296, 91st Cong., 1st Sess. (1969); H.R. Rep. No. 91–378, 91st Cong., 1st Sess. (1969). Statements to the same effect were made during the floor debates. 115 Cong. Rec. 14347, 19009, 40416–7. *See also*, H.R. Rep. 92–316, 92nd Cong., 1st Sess., at 32–33 (1971).

Thus, even though the legislative history is not clear on this point, there are enough indications to support an interpretation that the environment of all man was intended. "Thus, a reasonable conclusion is that Congress would have intended section 102(2)(C) to apply to all federal activities worldwide if it had actually considered the issue".[15] However, in spite of positions taken along this line, often bolstered by the fact that several Federal agencies have already adopted regulations which apply to their extraterritorial activities, not all agencies are of this view, and the courts appear reluctant to so pronounce such a broad scope to the Act.

THE CASES

There have only been a few court cases which deal in any way with the extraterritorial issue. Only one case posed the question in a somewhat direct fashion because in the others the Government consented to file an E.S during the court proceedings. Yet, even this case has, upon recent developments, lost its significance. This case, *Sierra Club* v. *Coleman*, involved a suit alleging that the Secretary of Transportation and the Administrator of the Federal Highway Administration had failed to prepare and process an EIS on the Darien Gap Highway, a stretch of highway between Panama and Columbia. On October 17, 1975, the United States District Court for the District of Columbia enjoined the Government from furnishing any further assistance toward construction of the highway until it had complied with NEPA and applicable administrative regulations, including, but not limited to, the filing of an adequate EIS.[16] The Government then prepared and processed an EIS, but upon motion the District Court continued the preliminary injunction because of certain deficiencies in the EIS. For proponents of the position that the statute requires an EIS for international activities, great reliance has been placed on this decision, and its apparent recognition of the Government's duty to file an EIS in such instances. On appeal, however, the Court of Appeals found the EIS adequate but remanded the matter for further finding on an issue of standing.[17] The Court noted specifically:

In view of the conclusions that we reach in this case, we need only assume, without deciding, that NEPA is fully applicable to construction in Panama. We leave resolution of this important issue to another day.[18]

Two cases are presently pending in the courts which deal with this issue. Merely because the issue has been raised in these cases does not mean that the courts will actually face it.

On March 13, 1978, The National Organization for the Reform of Marijuana Laws (NORML) filed a suit in the United States District Court for the District of Columbia against the Department of State, the Drug Enforcement Administration, and the Department of Agriculture, for failing to prepare and consider an EIS with respect to the herbicide spraying program against marijuana and poppy fields in Mexico. Plaintiff filed a motion for a preliminary injunction seeking an order directing the defendants to comply with NEPA and enjoining any further assistance to the spraying program until such compliance is made. In its memorandum in support of that motion, the plaintiff asserts that it seeks the preliminary injunction to make effective the declared policy of Congress that all Federal agencies shall comply with NEPA.

It asserts that the spraying program is a major Federal action significantly affecting the quality of the human environment of the United States and Mexico and that NEPA applies to actions which have impacts outside the continental United States. In NORML's view, an environmental impact statement is required for the spraying program because of its impacts on both the United States and Mexico. Either one of these, however, is sufficient from our perspective to require an impact statement. . . . Section 102(2)(C) ap-

Footnotes at end of article.

plies to impacts outside the continental United States, particularly impacts in such a close neighbor as Mexico. The language of NEPA does not specify that Sec. 102(2)(C) applies where the quality of the human environment outside the United States is affected. However, the language and structure of NEPA lead to the conclusion that Sec. 102(2)(C) should be so construed. The legislative history of NEPA, though fairly sparse, supports this construction. Administrative actions of the CEQ and Executive Branch agencies—in issuing guidelines, in promulgating regulations, and in preparing environmental impact statements—have followed this construction. The few judicial precedents that exist favor it".

In opposition to this motion, the defendants state, among other reasons for denial of the preliminary injunction, that the spraying program is important to Mexico and that it has informed the Department of State that it will continue with the program even without the technical or financial assistance by the United States to the program, and "injunctive relief will not address any environmental or health concerns alleged by plaintiff. In light of newly available information regarding the herbicide paraquat, the Department of State is preparing an environmental impact statement on the effects in this country of its support for a narcotics eradication program in Mexico and is also analyzing effects in Mexico of United States assistance to the eradication program". It is anticipated that the EIS and the environmental analysis will be completed by the Fall of 1978. "These actions by the defendants render moot any consideration by this court of plaintiff's claim on the merits that the federal defendants must comply with the requirements of NEPA".

The decision by the Court on the motion should be reached shortly. One can only speculate whether there will be any definitive resolution of the question whether as a matter of law an EIS should have been filed in this instance. However, in light of the defendants' action in beginning to prepare one, it seems unlikely that the court will feel it necessary in this particular case to address that question.

In a suit filed January 14, 1977, in the United States District Court for the District of Columbia, the *Natural Resources Defense Council* v. *Export-Import Bank of the United States*, injunctive relief was sought to order Eximbank to conform its decision-making processes to the provisions of NEPA. The Court, upon motion, has agreed to stay the proceedings until the Executive Branch has developed a consistent internal position on the international reach of NEPA.

THE CEQ REGULATIONS

In the CEQ, *Memorandum to Heads of Agencies on Applying the EIS Requirement to Environmental Impacts Abroad*, Sept. 24, 1976, it is stated that the Council believes, based on NEPA and its legislative history, that "§ 102(2)(C) of NEPA applies to all significant effects of proposed federal actions on the quality of the human environment—in the United States, in other countries, and in areas outside the jurisdiction of any country". The Memorandum was issued in order to encourage a consistent application of NEPA. CEQ has the ultimate responsibility for the administration of NEPA.

On January 11, 1978, CEQ circulated for agency review a set of draft regulations on applying NEPA to significant foreign environmental effects:

DRAFT

Section 1508.13 *Human Environment*

"Human environment" shall be interpreted comprehensively to include the natural and physical environment and the interaction of people with that environment. The human environment is not confined to the geographical borders of the United States.

Section 1506.13 *Application of NEPA to Significant Environmental Effects Not Confined to the United States*

(a) Agencies shall fully comply with these regulations insofar as their major Federal actions significantly affect the environment of:

(1) The United States and its trust territories.

(2) The global commons, which consists of areas outside the jurisdiction of any nation (e.g., the oceans).

(3) Antarctica.

(b) Agencies shall comply with the provisions of these regulations pertaining to foreign environmental statements (sec. 1508.——) insofar as their major Federal actions significantly affect the environment only of one or more foreign nations.

Section 1508.——. *Foreign Environmental Statement*

(a) "Foreign environmental statement" is the statement required by sec. 102(2)(C) of the Act when a major Federal action significantly affects the environment only of one or more foreign nations. Such statements need only contain the information called for in sections 1502.13-.15.

(b) In developing their implementing procedures for such statements under section 1507.3, affected agencies shall consult with the Council which shall assist the agency in fitting the Act's requirements to the practical considerations of operating in the international context. Among other things these procedures shall:

(1) Establish criteria by which the agency can determine that a foreign environmental statement or portions thereof will not be subject to public comment when such review would be inconsistent with the accomplishment of the agency's statutory objectives.

(2) Take into account special factors which would limit the review period or the required detail of the statement such as:

(i) Diplomatic considerations or the relative unavailability of information;

(ii) Whether the Federal agency role is one limited to passing on proposals developed elsewhere (as opposed to situations where the agency is involved in early planning or joint sponsorship); and

(iii) International commercial competition and confidentiality.

(3) Ensure consideration in foreign environmental statements of:

(i) Activities which are unlawful or strictly regulated in the United States in order to protect public health or safety;

(ii) Activities which threaten natural, ecological or environmental resources of global importance; and

(iii) Activities which may have inadvertent adverse effects on other foreign countries.

This proposal has proved to be highly controversial, with opinions expressed by some agencies along the lines that there is a concern about such a proposal upon the conduct of foreign policy, the maintenance of national security and the development of American exports.[19]

Although CEQ has attempted to create a procedure that will compel identification of site-specific environmental impacts only in foreign countries and still allow some flexibility for agencies operating in the foreign arena, these questions concerning the hybrid FES indicate that this device may in fact do more damage to NEPA's integrity than simply finding that the statute does not apply to federal actions with wholly foreign environmental impacts.[20]

Final regulations on this aspect are expected shortly. When they are adopted, such regulations unless judicially attacked and found to be in conflict with the provisions of the statute, would be binding. "Rules, regulations, and general orders enacted by administrative agencies pursuant to the powers delegated to them have the force and effect of law . . ."[21]

CONCLUSION

The foregoing analysis can be summarized in the following points:

(1) There is no language in NEPA that can be pointed to with certainty to support a contention that the EIS requirement would apply to a major Federal action occurring in a foreign nation and the environmental impact is limited to that territory.

(2) There is no definitive expression in the legislative history of NEPA to indicate that Congress intended such a result.

(3) There is no uniform agreement among the Federal agencies as to the extraterritorial scope of NEPA.

(4) The courts have been reluctant to face and resolve this issue.

(5) Cogent arguments can be presented on both sides of this issue.

(6) In the absence of any clear statutory expression or congressional intent, and considering the rules of statutory construction and principles of international law, the more persuasive argument would appear to be on the side which professes that NEPA does not apply in such situations.

(7) Even if NEPA were to be given such an interpretation of extraterritorial application, additional legal and practical difficulties might arise in ascertaining whether a United States agency participation or control in an action be deemed "major", and what legal connsiderations enter into a determination as to the quality of human environment "significantly" affected.

(8) This issue may become moot upon CEQ regulations on this subject, or upon determination court holdings, or upon some legislative action by the Congress.

FOOTNOTES

[1] Comment, *Forthcoming CEQ Regulations to Determine Whether NEPA Applies to Environmental Impacts Limited to Foreign Nations*, 8 ELR 10111 (1978).

[2] Department of State Legal Memorandum: *Application of the National Environmental Policy Act of 1969 to Actions of the Federal Government Outside the United States*, in Hearings on the Administration of the National Environmental Policy Act, Part 2, Before the Subcomm. on Fisheries and Wildlife Conservation of the House Comm. on Merchant Marine and Fisheries, 91st Cong., 2d Sess. (1970), at 548, 553.

[3] 73 Am. Jur. 2d, Statutes § 359.

[4] Comment, *Controlling the Environmental Hazards of International Department*, 5 Ecology L. Q. 321, 344 (1976).

[5] See, for example, the Memorandum of Points and Authorities in Support of Plaintiff's Motion for a Preliminary Injunction in The National Organization for the Reform of Marijuana Laws (NORML) v. United States Department of State, Civ. Action No. 78-0428, pending in the United States District Court for the District of Columbia.

[6] Comment, *Forthcoming CEQ Regulations to Determine Whether NEPA Applies to Environment Impacts Limited to Foreign Countries*, 8 ELR 10111, 10114 (1978).

[7] W. W. Bishop, Jr., *International Law* (1971), at 398.

[8] Note, *The Extraterritorial Scope of NEPA's Environmental Impact Statement Requirement*, 74 Mich. L. Rev. 349, 357-358 (1975).

[9] 22 CFR, Part 216, with recent addition at 43 Fed. Reg. 20490-20493 (May 12, 1978).

[10] 22 CFR § 216.1(c)(12).

[11] Smith, *The Application of NEPA to Trade Contracts With Foreign Governments*, 1 Harv. L. Rev. 568, 569 (1976).

[12] Comment, *Controlling the Environmental Hazards of International Development*, 5 Ecology L. Q. 321, 352 (1976).

[13] *People of Enewetak* v. *Laird*, 353 F. Supp. 811, 817-818 (D. Hawaii 1973).

[14] Plaintiff's Memorandum in The National Organization for the Reform of Marihuana Laws (NORML) v. United States Department of State, supra note 5.

[15] Note, *The Extraterritorial Scope of*

NEPA's Environmental Impact Statement Requirement, 74 Mich. L. Rev. 349, 371 (1975).

[16] 405 F. Supp. 53 (D.D.C. 1975).

[17] *Sierra Club* v. *Adams*, — F.2d — (D.C. Cir. March 14, 1978).

[18] At ft. nt. 14, p. 6 of the slip opinion.

[19] For additional information, See Congressional Research Service Issue Brief Number IB 78022, "Environmental Impact Statements: International".

[20] Comment, *Forthcoming CEQ Regulations to Determine Whether NEPA Applies to Environmental Impacts Limited to Foreign Countries*, 8 ELR 10111, 10113 (1978).

[21] 2 Am. Jur. 2d, Administrative Law § 292.

Mr. STEVENSON. I also ask unanimous consent that a letter from Richard T. Kennedy, Commissioner of the Nuclear Regulatory Commission, dated March 2, 1978, addressed to the Chairman of the Council on Environmental Quality, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NUCLEAR REGULATORY COMMISSION,
Washington, D.C., March 2, 1978.

HON. CHARLES H. WARREN,
Chairman, Council on Environmental Quality, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate this opportunity to comment on the regulations proposed by the Council on Environmental Quality with respect to NEPA's application to "agency activities affecting the environment in foreign nations and the global commons." The Nuclear Regulatory Commission takes its NEPA responsibilities extremely seriously, and is fully committed to fulfilling legal obligations mandated by NEPA. Accordingly, the Commission has recognized the obligation that environmental impact statements be prepared for major actions outside U.S. territory which have significant impacts on the U.S. and/or global environment.

I do not believe, however, that NEPA mandates consideration of the impacts of such activities on the environment of foreign nations. Nor can regulations for the implementation of NEPA require what NEPA does not itself require. To place agencies of the United States in the position of judging—in accordance with the laws and policies of this country—the acceptability of the environmental impacts on another country of a project sought by it would be contrary to sound law and policy. As the Supreme Court said in *United States* v. *Belmont*:

(O)ur Constitution, laws and policies have no extraterritorial operation, unless in respect to our own citizens. 301 U.S. 324, 332 (1937).

With respect to the Claim that Congress, in passing NEPA, intended the evaluation of foreign impacts, the Supreme Court's observation in *Johnson* v. *Eisentrager* is apposite:

Such extraterritorial application of organic law would have been so significant an innovation in the practice of governments that, if intended or apprehended, it could scarcely have failed to excite contemporary comment. Not one word can be cited. 339 U.S. 763, 784 (1950).

The Nuclear Regulatory Commission considered the extraterritorial reach of NEPA in a decision issued in June, 1977. *In the Matter of Babcock and Wilcox (Burgeraktion)*, 5 NRC 1332. In that case, which arose from an export licensing proceeding for shipment of a nuclear reactor to the Federal Republic of Germany, the petitioners asserted that NEPA required the Commission to assess site-specific impacts on the German environment resulting from the reactor's operation.

In concluding that NEPA did not require preparation of an environmental impact statement to consider the site specific impacts of the reactor export on territory within the sovereign jurisdiction of a foreign government, the Commission carefully considered the terms and the legislative history of the statute. The Commission found nothing in the statute itself or its legislative history to suggest that Section 102(2)(c) of NEPA was intended to apply to impacts within a foreign country. It observed that the only section which dealt explicitly with the question of international application is Section 102(2)(f), which is characterized as "revealingly limited in scope:"

(t)o the fullest extent possible . . . (2) all agencies of the Federal government shall . . . (F) recognize the worldwide and long-range character of environmental problems and, where *consistent with the foreign policy of the United States*, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment. (Emphasis supplied.) 5 NRC 1332, 1338

The Commission considered the references to the "human environment" elsewhere in the statute and legislative history, and concluded that they reflected a global or worldwide outlook, one concerned for the global commons for which the United States shares responsibility with all other nations, not an intent to become involved in matters primarily or exclusively of interest only to a particular foreign sovereign. 5 NRC 1332, 1339.

The Commission's decision—both what it did and did not resolve—and its rationale were aptly summarized by Commissioner Gillinsky, writing in concurrence:

(T)oday's ruling rejects Petitioner's contentions pertaining to assessment of site-specific environmental impacts within the Federal Republic of Germany as lying outside the scope of our responsibilities under the National Environmental Policy Act of 1969, 42 U.S.C. Section 4321 *et seq.* On the other hand, however, it recognizes that NEPA does prescribe consideration of the non-U.S. impacts of nuclear export licensing decisions insofar as these may affect the global environment.

Our view as to the breadth of our responsibilities under NEPA in the present context is based predominantly on NEPA's language and legislative history, interpreted in light of general principles of international law, the practical difficulties of preparing impact statements on foreign sites, and the advice received from the Department of State on this question. I believe this record as to NEPA's international reach reveals that the statute manifests both a concern for the foreign environmental consequences of United States actions and a comparable sensitivity to intruding on the prerogatives of foreign nations.

I believe we have implicitly recognized that NEPA's prescription regarding assessment of global impacts is a flexible one whose precise contours may vary significantly depending on the circumstances in which it is applied.

If one accepts that NEPA mandates a flexible approach to the assessment of non-U.S. impacts, the Darien Gap and Alaska Pipeline cases do not necessarily conflict with the result reached here . . . (a)lthough owing to judicial silence one can only speculate as to the courts' reasoning in these cases.

What the Commission has not decided today . . . (is) precisely what matters must be considered in examining the "global" impacts of U.S. nuc'ear exports once site-specific impacts within foreign countries have been excluded. 5 NRC 1332 at 1354–56.

I believe that the considerations of law and policy described in *Burgeraktion* remain valid, and accordingly do not concur in the proposed regulations insofar as they would require the assessment of site-specific foreign impacts.[1]

At the same time that I oppose adoption of any reference in CEQ's proposed regulations to preparation of environmental assessments for impacts occurring in the territory of foreign nations, I offer the following additional comments on specific provisions of the draft. I note that the proposed regulations include several factors (such as problems of international relations and commercial considerations) which would allow flexibility in the degree of detail of foreign environmental statements, and in whether and for what period such statements would be subject to public comment. However, the regulations fail to recognize that these factors might also argue forcefully against preparation of any EIS. I believe that the option of not preparing a statement is an essential feature of any regulations speaking to the issue of NEPA's foreign reach.

The regulations also provide that agency implementing procedures must "ensure consideration in foreign environmental statements of . . . activities which are unlawful or strictly regulated in the United States in order to protect public health or safety." This provision fails to reflect that a strictly regulated activity in the United States—such as the operation of nuclear power plants—may also be strictly regulated in the recipient nation, in accordance with that nation's laws, policies, and national priorities.

Finally, I would note that these provisions need to be considered in the context of the complete package of proposed NEPA regulations circulated on December 12, 1977. In my letter of February 7, 1978, I forwarded views of NRC's General Counsel in which I concurred as to those regulations. Those comments identified several problems, the most significant of which are:

1. Since several provisions in the regulations, as drafted, would have a major effect on the substance of agency decisionmaking, such provisions would appear to exceed CEQ's mandate from the President to develop "procedural" regulations.

2. There are strong legal and policy arguments that the regulations would not bind and independent regulatory agency, such as the Nuclear Regulatory Commission.

3. The regulations would appear to overturn much NEPA case law, as developed by the Supreme Court and other federal courts, and thus have the potential to cause extensive litigation and consequent delay, as the courts are called upon to assess the legality and meaning of the new requirements.

I reiterate my view that the undesirable effects of the proposed regulations on NEPA's international application would be greatly compounded if the broader package of NEPA regulations were adopted in the form in which they were originally circulated.

Sincerely,

RICHARD T. KENNEDY,
Commissioner.

[1] The *Burgeraktion* opinion and concurrence discuss the *Wilderness Society* and *Sierra Club* cases which CEQ in its Memorandum to Heads of Agencies of January 19, 1978, cites in support of its view of NEPA's international application. The Commission drew different conclusions from those cases. See 5 NRC 1332 at 1341–3, 1355. The two other court cases cited in that memorandum were settled by agreement of the parties. The courts in those cases did not address the question of NEPA's extraterritorial reach and therefore, they establish no legal precedent on the issue. With respect to AID's experience, also cited in the January 19 memo, it is significant that AID determined in 1976 that it would prepare "analyses" of its programs conducted abroad, *not* Section 102(2)(C) impact statements, reviewable as such in the courts.

Mr. STEVENSON. Mr. President, I ask unanimous consent that an article entitled "The Legal Parameters of NEPA—Does the CEQ's Grasp Exceed Its Reach" by Charles N. Brower, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LEGAL PARAMETERS OF NEPA—DOES THE CEQ'S GRASP EXCEED ITS REACH?

(By Charles N. Brower)

Since its initiation in the early 1970's, the building of the TransGabon Railroad has been seen by the Government of the Republic of Gabon as the backbone of that countries future economic development. Running over 700 kilometers across the heart of Gabon, the railroad passes through hitherto impassable rain forests, swamps and savannah, thus tying together for the first time the mineral rich areas of the interior with the coast. Its final projected cost is over $1 billion.

The TransGabon Railroad is not a project of American foreign aid. In collaboration with their former French colonial advisers, the Gabonese themselves have planned, initiated, and carried the project forward on their own initiative. They have entered into numerous individual contracts with foreign firms, and each such contract was the product of keen international competition. Only one small part of the project was initially provided to a firm from the United States. A New York engineering firm was engaged to share with a French firm and an Italian firm the duties of providing consultative quality control services for the continuing construction of the railway. Since provision of financing was a prerequisite to securing any part of the contract at all, the United States firm solicited and received a $4.6 million preliminary commitment from the Export-Import Bank of the United States.

Modest though the American involvement may be, it has now become the basis of an attempt to extend the procedural provisions of the United States National Environmental Policy Act into the heart of Gabon. Noting that the construction of the railroad may jeopardize the habitats of such endangered species as the gorilla, crocodile, forest buffalo and African elephant, the Natural Resources Defense Council and the National Audubon Society have alleged, in a lawsuit against the Export-Import Bank, that the Eximbank support of exports for the project constitutes a "major Federal action significantly affecting the quality of the human environment." They say that the National Environmental Policy Act requires the preparation, consideration, and circulation of a "detailed environmental impact statement" concerning the environmental cost of the TransGabon railway and its alternatives.

Several questions are presented by such an extraordinary application of United States environmental law. Was the National Environmental Policy Act ever intended to be applied in favor of the protection of foreign environments? Would such an application of NEPA amount to a practical infringement upon the sovereignty of Gabon?

Is the railway a "major Federal action" merely because it is partly financed by Eximbank credits? Would the requirement that an environmental impact statement be issued conflict with Eximbank's primary statutory duty to provide competitive support for United States exports?

I raise these questions not only because I happen to represent a group of exporters and manufacturers associations who have intervened in the lawsuit involving the TransGabon Railroad. I raise them not because plaintiffs in that case (represented by one of the panelists here this morning, Mr. Stoel) seek declaratory and injunctive relief with respect to a few projects in Gabon, in Indonesia, in Trindad and Tobago, and in Zaire. I raise them because I am concerned about the practical impact of granting the relief plaintiffs seek and about the attitude of the Council on Environmental Quality on similar issues. Plaintiffs seek a declaratory judgment that NEPA applies "with full force and effect to Eximbank" and an injunction requiring the Eximbank to comply with Section 102(2)(C) of NEPA by preparing "detailed environmental impact statements" with respect to the export of "all . . . environmentally significant equipment and services." And, as we have heard this morning from the General Counsel of the Council on Environmental Quality, the CEQ has issued draft regulations concerning the extraterritorial application of NEPA which presumably would require environmental assessments of most, if not all, United States actions abroad, including Eximbank financing of United States goods and services to other countries.

These facts are most disturbing not only from a strictly legal point of view but from an economic one as well. To condition the offer of a United States export upon performance of an environmental analysis could only lead to one predictable result: that the foreign country would choose to avoid the delays, expense, and insult to its sovereignty of such gratuitious, unilateral environmental second-guessing by Uncle Sam by merely electing to take its business elsewhere. The winner would be the foreign competitor; the loser would be the United States exporter. The application of the NEPA environmental impact statement requirement over the impact of United States exports abroad would thus be not only extraordinary legally but disastrous economically. It should be squarely rejected for at least three reasons: (1) there is a conflict between NEPA and the primary statutory mandate of the Export-Import Bank to promote United States exports; (2) the foreign projects which are the recipients of Eximbank-supported exports of United States equipment and services are not "major Federal actions" within the meaning of NEPA: and (3) NEPA does not apply over even "Federal" actions where both the actions and their environmental effects are confined to the jurisdiction of a foreign sovereign state. I shall briefly discuss each of these three points this morning.

The question posed by the pending lawsuit and, to a large extent, by CEQ's draft regulations is whether the Export-Import Bank of the United States should issue environmental impact statements as a precondition to its credit support for the sale of specific items of goods and services abroad. The most immediate answer, I believe, is that such an application of NEPA would directly conflict with the primary statutory responsibility of the Eximbank, which, under the Export-Import Bank Act, is to provide "guarantees, insurance and extensions of credit at rates and on terms and conditions which are competitive with the Government-supported rates and terms and other conditions available for the financing of exports from the principal countries whose exporters compete with United States exporters." 12 U.S.C. § 635(b)(1)(A).

The preparation of an environmental impact statement or its equivalent would involve too much time, too much money, too much uncertainty, and too much plain and simple arrogance to be favorably received by foreign purchasers of American products. The requirement that such a statement be prepared would thus be in "clear and irreconcilable conflict" with the primary statutory duties of Eximbank, and, under the case law, it is therefore not required under NEPA. Similar statutory conflicts have led the courts to preempt the requirement of an environmental impact statement in favor of the primary statutory mandates of no less than eleven federal statutes and affected agencies.

In the case of the Export-Import Bank, the conflict of statutes is clear. The Eximbank is specifically directed by statute to provide competitive terms of finance for American exports in order to maintain their parity with financial terms offered by the financial institutions of the governments of virtually all of the United States' major industrial competitors. Whenever the Congress has wished to make exception to the pure commercial criteria of Eximbank support, it has done so by express enactment. It has, for example, required the Bank to consider such factors as human rights and domestic employment effects in granting loans. But it has only done so by express enactment. Congress has made no such express provision for Eximbank to consider environmental factors, and none should be implied.

The second argument against extension of NEPA over United States exports is related to the first. Because United States exports are merely purchases of specific items of goods and equipment for use in foreign projects, these projects are not "major Federal actions" for which an environmental impact statement was ever intended to be prepared. Indeed, the CEQ's own current regulations recognize that federal presence in an otherwise private or local project will not "federalize" the entire enterprise for purposes of NEPA unless there is sufficient "Federal control and responsibility" over the project to give the United States decisionmaker some real authority and power.

Such Federal responsibility simply does not exist in regard to the use of United States exports, even when they are purchased with direct Eximbank support. There is a general presumption in domestic projects that federal financing or licensing may give the government effective control. However, these same factors do not hold true in the case of licenses or finance for American exports, where the recipient of Eximbank credit, for example, has been offered and accepted such credit only as an inducement to purchase American goods or services in preference to similar goods or services offered by foreign firms. The mere fact that Eximbank financed a few million dollars in professional engineering services for the billion dollar plus Gabon railway, for example, does not mean that that project was "ours." The only action affecting the environment whatsoever—the decision to build the railroad—was an exclusively Gabonese decision. It should not demand a United States environmental impact statement merely because there was some Federal presence.

The final point is that the Congress never intended to export the particularly rigorous and exactly procedural requirements of NEPA environmental impact statements to regulate events taking place exclusively within the sovereign territory of a foreign country.

First, I should make clear that I am concerned only with the preparation of United States environmental impact statements for exclusively foreign actions, be they assisted by exports or otherwise. I am not now questioning whether Federal agencies should apply environmental factors when considering regional foreign aid programs or major actions which may have a significant effect on the territory of the high seas or other "global commons." Indeed, as the CEQ has pointed out, both the Agency for International Development and several other federal agencies involved in the international sphere have already adopted environmental procedures and have on occasion issued full impact statements when such projects were involved.

What I am concerned with are actions having exclusively foreign effects. To take

the substantial leap into evaluating the affairs of such foreign countries would be an extraordinary measure indeed. It is an established rule of statutory construction that United States law will be applied "only to conduct occurring within, or having effect within, the territory of the United States, unless the contrary is clearly indicated by statute." Our domestic statutory requirements are simply not appropriate for application overseas, lest our misdirected good intentions be allowed to rise to the level of "unwarranted enroachment upon the sovereignty of [a foreign] state."

It is for this reason that the Fair Labor Standards Act, the National Labor Relations Act and numerous other acts of Congress have been held not to be applicable overseas even to United States citizens working for United States companies. In such cases, it has been held that the regulations of local labor conditions rests solely with the foreign sovereign state. Certainly the preorgative of deciding the appropriate level of environmental protection for its citizens should also lie exclusively with the host state, unless under the rule of statutory construction I have mentioned, Congress has clearly expressed a contrary intention.

But there is nothing in either the language or the legislative history of NEPA to counteract this strong presumption. Although the text of NEPA does make broad reference to the protection of "man's" and the "human" environment, there is equal reference throughout the statute to purposes of preserving the environment of "the Nation" on behalf of future generations of "Americans." In both cases, this broad language serves only as a declaration of environmental policy concerns and does not govern the quite specific directives and duties which were imposed by NEPA upon Federal agencies. For these specific directives, one must look to the so-called "action-forcing" provisions of NEPA. And there is only one point where the statute makes express reference to global concerns among its "action-forcing" provisions. In one subsection, NEPA directs agencies to institute general programs "designed to maximize international cooperation" on environmental matters, with the important proviso that all such measures must be "consistent with the foreign policy of the United States." It is apparent, however, from every other "action-forcing" provision of the statute, that Congress did not envision the application of its environmental directives where foreign countries would be exclusively affected. While Congress certainly was concerned with protection of the international environment, it intended that such protection be achieved only through cooperative and negotiated efforts, and not through the inflexible statutory procedure for formal, detailed environmental impact statements required domestically by other provisions of NEPA.

A flexible, cooperative approach to international environmental responsibilities—not the unilateral imposition of rigid statutory procedures—has been consistently adopted by both Congress and agencies of the Federal Government since the passage of NEPA. For example, when Congress sought to provide environmental responsibilities for the Government's foreign private investment insurance company, the Overseas Private Investment Corporation, it did not rely upon the terms of NEPA but rather acted directly and expressly to insure that OPIC would consider environmental effects, but only in an informal, cooperative way.

Finally, contrary to the repeated representations of the CEQ and of CEQ Chairman Charles Warren, no court has ever ruled that environmental impact statements should be prepared for actions entirely within the jurisdiction of a foreign sovereign state. Two of the cases which the CEQ is fond of citing—the NRDC pesticide suit against AID and an earlier suit brought by the Sierra Club against several agencies involved with nuclear exports—were settled, and the courts thus never reached the issue. Although the CEQ states that the court in the Sierra Club litigation "assumed" that governmental actions abroad were covered by the Act, this interpretation is particularly peculiar in light of the fact that the programmatic impact statement by the Atomic Energy Commission which in fact settled the case expressly disavowed any application to foreign environmental impacts and limited itself only to activities and impacts in "the U.S. and [on] the high seas."

The other two cases cited by the CEQ—the Trans-Alaska-Canadian pipeline case and the Darien Gap Highway case—both involved impacts within the United States as well as without. The issue of NEPA's independent foreign reach was never before the courts. As we stated only last month by the United States Court of Appeals for the District of Columbia Circuit—the jurisdiction in which all four of these cases were decided—"We leave resolution of this important issue to another day."

I should like to conclude by noting that just as the CEQ has been somewhat cavalier in its approach to the legal authority for the unilateral extension of NEPA to cover certain Federal actions abroad, so also has it obfuscated or misunderstood the true nature and effects which its proposals will have. The imposition of unilateral United States environmental impact statements for actions in foreign countries most certainly would involve the direct application of American public procedural standards in a highly offensive manner. This is particularly true in regard to exports. The preparation of a foreign environmental impact statement would require United States agencies to gather extensive foreign environmental information, "detailed statements" concerning localized impacts, and to subject this entire process to the scrutiny and second-guessing of American public comment. Such is the very essence of the environmental impact statement process.

The paternalistic assessment of foreign environmental factors through unilateral impact statements is simply in no way a cooperative "gift" which foreign governments may be expected to welcome and encourage. Rather, the very attempt to extend American environmental values in such a manner will ultimately lead only to the rejection upon the improvement of the foreign environment whatsoever.●

Mr. STEVENSON. And finally, Mr. President, it is because of uncertainty about the applicability of the NEPA that the Banking Committee has taken this action. That uncertainty, added to many other measures which the Congress and the executive branch have taken to make the United States at least appear throughout the world an unreliable trader, and unreliable seller of goods, an unreliable furnisher of credit, is what prompts the amendment.

If it was necessary, if there were not other ways to more effectively promote our objective of a healthy, global environment, I would be less inclined to support this provision of the committee bill. But there are other ways of doing it. There are other ways in this bill of doing it. There are other ways through CEQ, and through other agencies of the Federal Government, of making the information available if it is wanted in other countries. I can see nothing for this amendment except that it will deprive us of economic opportunities; it will weaken our economy, and, consequently, it will also deprive us of political authority in the world and the authority with which to pursue all of our objectives, including a clean environment.

With that, Mr. President, I also ask unanimous consent that a statement by the chairman of the Commerce Committee (Mr. CANNON) in opposition to this amendment be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CANNON

I stand in firm opposition to any attempt to modify or strike Section 5 of S. 3077 as reported by the Senate Banking Committee. I believe the language included in the bill which prevents the application of the National Environmental Protection Act of 1969 (NEPA) to the activities of the Export-Import Bank to be absolutely necessary. This is essential so that the Eximbank will not be improperly restricted in fulfilling its mandate to competitively support U.S. exports.

I read with great interest the President's remarks made earlier this week which addressed his strong commitment to placing a higher priority on exports. Included in his statement was a section on environmental reviews. I believe it is important in this context to examine in detail what he said.

First, the President indicated that he will shortly sign an Executive Order which would eliminate the present uncertainties concerning the types of environmental reviews that will be applicable and the Federal actions relating to exports that will be affected. The order will make the following export-related clarifications:

Environmental Impact Statements will not be required for Federal export licenses, permits, approvals, and other export-related actions that have potential environmental effects in foreign countries.

Export licenses issued by the Departments of Commerce and Treasury will be exempt from any environmental reviews required by the Executive Order.

Abbreviated environmental reviews will be required only with respect to (1) nuclear reactors, (2) financing of products and facilities whose toxic effects create serious public health risks, and (3) certain Federal actions having a significant adverse effect on the environment of non-participating third countries or natural resources of global importance.

Since the Administration is currently drafting the Executive Order, it is imperative Congress put itself on record as recognizing the contributions to domestic growth and employment that the Export-Import Bank provides. Any proposals or restrictive legislation of this sort—whether it be through application of existing NEPA regulations or new rules inspired by the Council on Environmental Quality—puts U.S. exporters at a critical disadvantage and ignores the fact that financing will be available by other governments. If our participation is precluded, the only winners will undoubtedly be our major competitors and the losers would be U.S. workers and the balance of payments.

Each of us knows the situation U.S. industry is facing. In my opinion, the Eximbank should be permitted to finance in competition with foreign governmental institutions without NEPA restrictions.

I strongly urge retention of Section 5 of S. 3077 as reported by the Banking Committee.

Mr. CULVER. Mr. President, under the committee reorganization efforts that the distinguished Senator from Illinois headed up a year ago, the Senate

Public Works Committee was renamed the Senate Environment and Public Works Committee. I served in the House on the so-called Bolling Committee, which considered a similar effort to modernize committee jurisdictions, to try to develop a rational, logical place for the consideration of increasingly complex public policy questions, within a framework where the members could develop some expertise and knowledge about the general subject, and, at the same time, be sensitive to the parameters and the implications of legislative action within that committee's newly defined jurisdiction.

As I understand it, the distinguished Senator from Illinois was of the persuasion, and I shared that view, that it made no sense in the Senate to have duplication, overlap, inefficiency, proliferation of committee jurisdiction of the same subject matter by all kinds of committees all over the landscape.

So what made more sense was to try to consolidate those subject matters and let the appropriate emphasis apply, to let the appropriate committees of jurisdiction give appropriate consideration, reflection, review, and action to increasingly difficult questions.

Mr. President, the distinguished Senator is a member of the Senate Banking Committee, and he says:

> The pressures from our constituency on this committee, the extent to which they are concerned about environmental law, prompt us to come forward and carve out an exemption.

An exemption? An exemption to what? The National Environmental Policy Act. This exemption would be unique. This exemption would be a rifleshot that would carve out a special treatment. For whom? For the business interests of the country. And because they want to make a buck, we will just set aside anything that gets in the way—anything that gets in the way—of making a buck.

The Banking Committee said, "Good idea. Good idea."

What about each and every one of those other constituencies that may influence and capture the committee mood—those 15 or 20 other agencies that are in the export business all over town, all over the country, which would then come walking forward? And they will be here if this bill goes through with that Banking Committee recommendation.

It is an open invitation to every other special interest group in America to come forward, "Belly up to the window and get your chit exempting you from the law as far as environmental protection in the world is concerned."

Mr. President, the distinguished Senator from Illinois says there has to be a better way, and I agreed with him. We should consolidate these subject matters into these committees. So under the Stevenson rules, ironically—ironically—under the Stevenson rules when you come forward with an idea like this out of a committee that does not have appropriate jurisdiction, it is what? It is referred sequentially to the committee that does, in fact, know something about it. And that is what has been done in this instance.

The Senate Environment and Public Works Committee held 2 days of hearings on this subject. We had all the appropriate witnesses. We had the head of the Export-Import Bank come before our committee. He was specifically asked, "Has the possible application of NEPA requirements to your agency adversely affected our ability to compete in international export markets to date?" He answered, "No."

Mr. President, you cannot get a more informed authority than that.

We went to the head of the agency who is monitoring all these applications, who is responsible for their work, and said to him, "Now, Mr. Agency Head, is this really getting in the way with your operation?"

"No," he said.

Mr. President, after 2 full days of hearings, what happened on the Senate Environment and Public Works Committee?

Well, Mr. President, we took a vote. The vote was unanimous in that committee to recommend that when this legislation comes to the floor, that we have a committee amendment. Republican, Democrat, left and right, unanimously agreeing that it would be unwise public policy to accept the recommendation of the Banking Committee. That was a unanimous vote.

Now, Mr. President, if the Senate of the United States sets up a Committee on Environment and Public Works, and the committee makes a considered judgment and unanimously recommends a course of action on that subject matter, is that not to be given heavy weight and consideration? Can that be cavalierly dismissed, arrogantly disregarded, so that any other committee who wants to lay claim to some supposed expertise or competence in that area should roll them over? That is a dangerous precedent here, when you repudiate and reject that considered judgment of an appropriate committee of jurisdiction on a subject matter that is uniquely their responsibility.

Mr. President, there are compelling reasons why the Eximbank should not be exempt from the requirements of NEPA and why section 5 of this bill should be deleted. It is not because there are any Senators among us who lack concern about America's ability to compete effectively in international business markets. Let us put that red herring aside. All of us are sensitive to that. All of us are concerned about the dollar. Let us just stipulate that we lie awake nights, properly, with regard to the balance of payments and its implications to our world role and our economic strength. But we should not be under any illusions or any false conceptions here with regard to what the real consequences are as far as this legislation is concerned.

Mr. President, it has been suggested here that, even though the distinguished Senator from Illinois has gone to the Library of Congress, even though he has asked a lot of people what the legislative history is for NEPA—does NEPA apply or not—I understood the distinguished Senator to say that, in the judgment of at least some of these people, the legislative history lacks any explicit direction. Well, I fundamentally disagree with even the suggestion that there is ambiguity in that legislative history. On the contrary, the legislative history makes a strong case for the application of NEPA to activities of the U.S. Government anywhere in the world, not just within the borders of the 50 States.

Mr. President, section 102(2)(c) from the legislation itself, reads as follows:

> All agencies of the Federal Government shall include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment a detailed statement—

And it goes on.

Second, section 103(c)(4) reads:

> Federal agencies shall consider "the relationship between local short term uses of man's environment."

Further, Mr. President, the distinguished Senator from Washington (Mr. JACKSON) stated on this very floor during the debate on NEPA—it is in the legislative history, nobody in the Library of Congress with those fancy degrees should have trouble finding that paragraph—the distinguished Senator from Washington stated on the Senate floor:

> What is involved is a congressional declaration that we do not intend, as a government or as a people, to initiate actions which endanger the continued existence or health of mankind, that we will not intend to initiate action which will do damage to the air, cattle, land, and water which supports life on earth.

Mr. President, section 102(2)(f) calls on Federal agencies—

> to recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, an appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing the decline in the quality of mankind's world environment.

Mr. President, this legislative history certainly does not suggest to even a first-year law student that there is any question as to the reach and application of NEPA policy.

Finally, Mr. President, the report of the House Merchant Marine and Fisheries Committee, House Report 92–316, states the following in response to an assertion by the Department of State that NEPA applied only within the United States. Quoting from the House Merchant Marine and Fisheries Committee report:

> Stated most charitably, the committee disagrees with this interpretation of NEPA. The history of the act makes it quite clear that the global effects of environmental decisions are inevitably part of the decisionmaking process and must be considered in that context. In this connection, both the World Bank and the United Nations Development Program have recently been experimenting with the incorporation of environmental assessments and foreign projects support. NEPA requires the State Department to follow this example.

Mr. President, this bill was referred sequentially, as I mentioned, to the Committee on Environment and Public

Works. The Resource Protection Subcommittee, which I chair, held 2 days of hearings this summer to determine the appropriate way to deal with this question. The issues are complicated. The issues are, indeed, complicated by the very differing requirements of the various Federal departments.

Solutions, whatever they are, should apply uniformly to all the appropriate Federal departments of this Government involved in overseas activity, and not just the Export-Import Bank. The provisions in section 5 of S. 3077 would set, in my judgment, an unacceptable precedent for the 15 or 20 other agencies which routinely have activities abroad.

Mr. President, much has been said by the distinguished Senator from Illinois about the impropriety of the United States giving consideration to the environmental implications of some of these overseas activities. He apparently feels that would constitute an inappropriate incursion or encroachment on the sovereignty of the host country. It would be, in his words, "not a moral imperative that we should be sensitive to these problems of environmental implications," but, in his words, somehow would be "moral imperialism" to impose such considerations on the host nations involved. Mr. President, it was interesting that, at the same time the distinguished Senator was making this observation, he repeatedly encouraged us to look to the actual language of the legislation where, in his words, you would find that the President of the United States was authorized, on a discriminatory basis, to pick and choose unilaterally, on his own authority, as to the adequacy or the inadequacy of a particular nation-state's own domestic environmental program.

Mr. President, I think that is one section we really ought to get rid of, because if there is a definition of the concern of the distinguished Senator from Illinois, that has to be it. That has to be it. What could be more arrogant than that kind of blanket authority to go around and open up the statute books of every country and say, "To my satisfaction, your environmental policy, subparagraph 5(b)(a), leaves a lot to be desired; let me substitute my judgment for your own political process before you can do business with us."

Mr. President, that is a bad idea. That constitutes legitimate cause for the kind of concern that the distinguished Senator from Illinois purports to be so sensitive to.

Mr. President, the United States of America, in my judgment, does have a moral responsibility to assess the impact of its actions on the environment of the world and, where possible, to share its knowledge and understanding of some of those consequences with other nations in the world, particularly those who may be adversely affected by one or another of our particular project activities.

Mr. President, this does not, by any stretch of the imagination or any distortion, responsibly constitute interfering in the affairs of foreign nations.

At its very extreme, it is important to note here that NEPA requires what? What is it that NEPA requires?

It only requires that the Federal agencies examine options. That is all it does. All this law requires is that before we finance something under the Export-Import Bank, before we go ahead with an aid project in a foreign country, we are obligated and required to consider the environmental consequences of what we are doing.

That is all. Look at those options. We are not even legally obliged to follow a recommendation that is determining that what we are doing is insanity. We are not obliged under the law, even if an environmental impact statement came up with a finding that to take the action would threaten life and limb and cause incalculable damage and destruction and human suffering, the administrator under this law is not obligated to follow the environmentally sound course of action.

This approach, Mr. President, rather than being viewed by foreign countries as an offensive intrusion into their affairs, is generally welcomed by other nations, many of whom are now, as the distinguished Senator from Maine has already observed, in the process of adopting the same kind of statutes, the same kind of legislation. They are doing so either domestically or are advocating it in appropriate international forums. And they have lifted those laws directly from our own experience.

Mr. President, frankly, most of these countries that the Senator has made reference to just do not have the expertise in this area that they need. How are they to know what the consequences of a particular project are to their environment or to their people if they do not enjoy the expertise to make those informed and very difficult and complex assessments?

The distinguished Senator from Illinois has talked about the competitive consequences. How often have we heard, "It may be wrong, but if we don't do it, somebody else will." So, let us hurry up and do the wrong thing.

Just think about that. If we know that to build a nuclear reactor next to that volcano is ill advised, but the country to whom we are selling that nuclear reactor has not figured that out yet, as I understand the distinguished Senator from Illinois, he implies we should hurry up and sell it, because if we do not, the French or the Soviet Union will beat us to it.

Now, I hope—I hope—that is not what the distinguished Senator from Illinois wanted me to hear.

Mr. President, we talk about shooting ourselves in the foot. The distinguished Senator several times has said:

> We always go around shooting ourselves in the foot.

Well, with all due respect, Mr. President, I would rather have us shoot ourselves in the foot than maim and cripple children elsewhere in the world in order to make a buck. I would rather shoot ourselves in the foot than shoot somebody else's head off, or burn them up, or have them poisoned to death, because we had a lot of stock in our inventory that the U.S. domestic laws would not let us poison Americans with. But we want to move it. We want to move it overseas to help our balance of payments, and that is what is happening right today.

Mr. President, in our committee hearings—think of this, think of this if you have a conscience—we heard that products which have been banned in the United States are still being shipped abroad. For example, pesticides, including DDT, BHC, chlordane, cyclamates, food sweeteners, food dyes such as red dye No. 2 are still being sent abroad. And generally, export licenses or permits are not required to ship abroad products which have been banned in the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from Business Week, dated June 12, 1978, entitled "Banned at Home—But Exported." Banned at home—but exported.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BANNED AT HOME—BUT EXPORTED

Item: Last year, when the Consumer Product Safety Commission banned the sale of children's clothes treated with Tris, a flame-retardant chemical suspected of causing cancer, the CPSC allowed the export of the clothes to other countries. A few weeks ago, the agency changed its mind and announced a ban on all such exports.

Item: When the Food & Drug Administration turned down a petition from Upjohn Co. to market Depo-Provera as a contraceptive because it caused tumors in dogs, it prevented Upjohn from exporting the drug from the U.S. for contraceptive use. But now the FDA is urging drug-law revisions that would permit such exports.

Such conflicting policies reflect a growing debate within the government: Should the U.S. attempt to impose its health and safety standards on the rest of the world? And, if not, how can the U.S. justify sending, many times to Third World nations, products that it has labeled unfit for use in the U.S.?

Banned products now being exported include the pesticides DDT, BHC, and chlordane; cyclamate food sweeteners; and certain food dyes, such as Red Dye No. 2. And Tris-treated clothing reportedly is still being shipped out by some apparel manufacturers who question the CPSC's authority to impose an export ban. The list is expected to grow as regulatory agencies ban more substances for health and safety reasons and as U.S. companies push for exports.

FEW SAFEGUARDS

So far there is no sign that a broad policy on such exports will emerge from Congress. A new drug law now under consideration will make it possible for drug companies to ship abroad drugs not approved for sale in the U.S.—illegal now except for certain drugs exported for clinical testing. On the other hand, amendments nearing final passage in Congress would tighten up the current pesticide law by requiring the Environmental Protection Agency to inform other governments when it cancels its approval of the use of a pesticide and by requiring the purchaser of any unregistered pesticide to sign a statement acknowledging that he is aware of the pesticide's status. A copy of that statement would go to the importer's government.

Congress became interested last year after learning that Tris-treated clothing was being sold to other countries. Inquiries revealed that there are few export safeguards. "Every single agency has a different statutory man-

date, and none is adequate," says Representative Benjamin S. Rosenthal (D-N.Y.), who will chair hearings on the export policies of regulatory agencies in late June. "We should not be in the business of exporting hazards," he says.

While many banned products are willingly accepted abroad, some health officials fear that the developing countries are being used as both "dumping" and testing grounds by U.S. corporations. Last year, the U.N. Environmental Program passed a resolution urging governments to prohibit the export of potentially harmful chemicals except with the "knowledge and consent of appropriate authorities in the importing countries."

But Harold B. Hubbard, chief of food and drug control for the Pan American Health Organization, says that most recipient nations do not have the expertise or laboratory facilities to carry out a sophisticated product safety program. "Sometimes there is virtually no control," he says.

BIG BUSINESS

In many cases, a developing country may use a suspected cancer-causing product because the benefits outweigh the risks. The classic example is the toxic pesticide DDT, which was banned for sale in the U.S. in 1972. The countries that continue to import DDT use it to kill disease-carrying mosquitos, and see the alternatives—widespread outbreaks of malaria—as far worse.

Although companies that export pesticides are reluctant to supply data, it appears that exporting unregistered pesticides is a big business for some U.S. companies. The Natural Resources Defense Council, one of the few groups that have been collecting statistics in this area, estimates that 15 percent of the 588 million pounds of pesticides exported in 1975 were not registered for use in the U.S.

The National Institute of Occupational Safety & Health (NIOSH) first recognized the potential problems of such exports in 1976, when it was investigating the causes of nerve damage suffered by workers at a Velsicol Chemical Corp. plant in Bayport, Tex. The workers were handling the pesticide leptothos. The substance had never been approved for sale in the U.S., but it was being sold in 50 countries, and NIOSH discovered that it had been a suspected cause of an outbreak of paralysis in water buffalo in Egypt, which resulted in the deaths of more than 1,000 animals. Velsicol ceased production of the chemical in 1976.

But in the absence of any proof of harm to workers or consumers, the makers of other banned products feel no compunction about shipping them abroad. Richard W. Kasperson, vice-president for regulatory affairs at Abbott Laboratories, says he "violently" disagrees with the FDA ban on cyclamates, and his company is marketing them throughout Canada and Europe. Also, many apparel makers are seething over the Consumer Product Safety Commission's ban on Tris, and Bates Nitewear Co., of Greensboro, N.C., is one that shipped its stocks of Tris-treated clothing overseas. "I shipped it to places where it couldn't get back into this country," says President Louis Bates. "But I got only $400,000 for my $2.5 million in goods."

Mr. CULVER. Mr. President, it says here, in part, that banned products are willingly accepted abroad. Some health officials fear that the developing countries are being used as both dumping—I repeat, as both dumping—and testing grounds by U.S. corporations.

Last year, the U.N. environmental program passed a resolution urging governments to prohibit the export of potentially harmful chemicals except with the "knowledge and consent of appropriate authorities in the importing countries."

But Harold B. Hubbard, Chief of Food and Drug Control for the Pan American Health Organization, says that most recipient nations do not have the expertise or laboratory facilities to carry out a sophisticated product safety program. He says that sometimes there is virtually no control.

Mr. President, this article in Business Week is a very disturbing document because of what this says about this country.

The distinguished Senator from Illinois talks about our moral and political position in the world being compromised if we do not exempt the Export-Import Bank from the application of the National Environmental Policy Act, but what are the moral and political consequences of this for our international reputation? What does that do to our leadership in the world? And, frankly, what should it do?

Mr. President, it seems to me that the United States should not be leading the world in the retrenchment of greater consciousness and sensitivity to our global environment.

Rightly or wrongly, the world, for the most part, looks to the United States of America for leadership and moral example. What is more fundamentally moral than an issue such as this?

It seems to me that we are not going to shoot ourselves in the foot if we develop the reputation as a seller to these countries, that we are not going to be in the business of selling them something that we banned at home; that we are not going to be in the business of trying to make a buck off their ignorance. This is "buyer beware." This does not take you back to the 19th century; it takes you back to the 14th century. This is that kind of economic argument.

But if we, in international commerce, can develop the reputation and be respected for being sensitive to the environmental implications of what we sell, I think it puts us in a better competitive position than to be among those nation-states that have the reputation of being totally indifferent to the consequences of what we do to the host country.

Mr. President, the Senator talked about the delay in some of our aid projects necessitated by some of these environmental impact statements. The distinguished Senator from Maine already has said what the view is of the individual in our own Government charged with the responsibility of administering those aid programs. He said it has made them better. He said it has made them better, just as the head of the agency charged with the Export-Import Bank said the application of this NEPA law has not adversely affected our foreign sales. Why do we not listen to somebody who is in a position to know about these subjects?

Mr. President, the following are examples of some environmental catastrophes which might have been avoided had environmental analyses of projects been undertaken in a timely way.

The Senator said he would not like to see NEPA applied, I gather, even to our foreign aid program, where it is being applied and working well. This is the assessment of Mr. Gilligan, the distinguished Administrator of the Agency. He talked about some delays that he thought people might be experiencing in getting assistance under the foreign aid program.

Let us look at the record for a moment.

In Indonesia, farmers used imported pesticides similar to DDT to control an insect known as the rice borer. This pesticide also killed fish when it was applied to deal with the rice borer. The pesticide killed fish in rice paddies which provided farmers with their principal cash crop, and their principal source of protein.

I ask the distinguished Senator from Illinois: If you were waiting on the dock for these pesticides to deal with the rice borer, and the pesticides wiped out your fish crop, your protein base in that country, I would think you would be of the opinion that it was too bad the pesticide arrived at all, not that it was delayed, but that you went to the dock and found it there.

What about the case in Brazil? A hydroelectric project was built with aid from the United States, and unanticipated environmental impacts from the project resulted in additional expenditures of $150 million to settle with farmers and to control floods.

What about the situation in Egypt? The distinguished Senator from Maine mentioned one experience Egyptians had, but there was another, at least, one that we are aware of. The construction of the Aswan Dam was a Soviet project. Egyptian construction of the Aswan Dam has increased the incidence of blood disorders caused by water-borne parasites, and has affected 65 percent—65 percent—of farmers living along the Nile River.

We already have made reference to one of the most incredible instances. In January of 1976, the Export-Import Bank authorized a loan of more than $277 million to enable the Philippines to purchase a nuclear-powered reactor, despite the fact that the Philippines are located in an earthquake belt, and despite the fact that the proposed location was 14 miles from a volcano. In addition, the Philippines have no stable salt formations and therefore cannot even store the radioactive wastes. Yet, the Export-Import Bank went ahead and authorized that loan.

As I understand the effect of the amendment that is proposed by the distinguished Senator from Illinois, there is nothing at all now to inhibit that from happening again. On the contrary, there is an open invitation not even to slow down and pause because of the environmental implications of what we finance and what we do here and there.

The fact that the Soviet Union might sell a nuclear reactor to Finland, and Finland might be smart enough to say, "We're not going to buy that turkey without some safeguards," that is well and good for Finland, and speaks well for it. But what about the other countries that obviously, as in the instance of the Philippine Government, are not in a position to defend themselves against potential annihilation of the whole country?

(Mr. SASSER assumed the chair.)

Mr. GRAVEL. Mr. President, will the Senator yield for an observation and a question and to see if he shares my view?

Mr. CULVER. I yield.

Mr. GRAVEL. I share the Senator's view, and I believe he has laid out a very persuasive case in this regard.

With respect to our environmental threshold, I have always interpreted that it was not a flash in the pan or an aberration. It was an awareness of maturity that we rose to and laid down in simple law, which essentially said that before we do something, we should study it, so that we know the consequences and what the options are.

As I interpret what the Senator is pressing for, it is that we should try as much as possible to take this maturity that we have in this area and try to influence other nations to make a similar exercise; that if we are going to provide them with some economic succor similar to this economic succor, it should be this new maturity that we have and are pioneering in the world.

Mr. CULVER. Absolutely.

Mr. GRAVEL. That is essentially the point the Senator is trying to get across.

Mr. CULVER. Absolutely. The distinguished Senator from Alaska is absolutely correct.

This is why it is a phony issue. It really is a red herring. If you really listen to the argument of the sponsors of the Banking Committee's amendment, it would lead you to believe that if you did not have NEPA applied to the activities of the Export-Import Bank, our trade deficit of $30 billion a year would just disappear—up and gone. That all you have to do is to get rid of those naughty environmentalists, and we really could outdo the French and the Germans and the Russians. "Let us back on the field. We have got the kind of rules under which we thrive."

Moreover, we heard them talk about the dollar that is under attack, and about inflation that is a problem. Well, we finally got a program to take care of that. We wasted weeks in here on the natural gas bill. The poor President is still trying to struggle with some kind of anti-inflation program, but now the distinguished Senator from Illinois has suddenly come up with the magic panacea. What is it? Just get NEPA off the back of the poor Export-Import Bank and we are going to go to work, and the dollars are going to pile up, the deficit will disappear, and everyone will dump the yen and the mark and come aboard because they heard that we can now sell chemicals overseas that you cannot sell here at home, and we are going to turn this money market around. Look at it.

The argument is really incredible.

The distinguished Senator from Maine has told us that we are only talking about 10 percent of the total business volume in overseas sales of the Export-Import Bank overseas, and of that percent the number that would conceivably be affected and be required to participate in this NEPA business is a fraction of 1 percent.

Mr. President, section 5 was inserted by the Banking Committee for one reason, because of false fears in the business community about draft CEQ guidelines for implementing NEPA abroad.

As the distinguished Senator from Maine has said, after months of negotiations between CEQ and other Federal agencies, the President has announced that he will issue an Executive order to implement the compromise agreement as part of his new export policy.

As the distinguished Senator from Maine has observed, he, the distinguished Senator from Washington, and the Senator from Iowa have reservations about that. But the one thing that it does have in its favor is that it has uniform application. It is a rational policy. It does not run around and pick and choose based on who is getting the most political heat this week. It is a considered document with regard to a critically important and complex public policy issue.

Mr. President, this Executive order is extremely flexible, perhaps to a fault. It allows exemptions, it allows modifications, and it allows exceptions of procedures to agencies whenever foreign trade, whenever political or national security questions are involved. There is great leeway given to the Export-Import Bank to address the problems of delay. It has to be emphasized again, even with the full application of NEPA, that the agency involved is only required to consider the option, to look before we leap, and not look back and see where we leaped.

Furthermore, this Executive order will not even be implemented for 6 to 8 months, during which time the proper Senate committee, Environment and Public Works, can hold oversight hearings to assure a smooth operation of the plan.

Meanwhile, Mr. President, the Export-Import Bank will not be affected at all. It will not be affected at all.

In our hearings the Bank President, John Moore, again testified that the Export-Import Bank is not being affected by NEPA now, and that there is no reason to rush into an exemption at this time.

Finally, Mr. President, this Executive order that the President may soon issue is supported by the Department of State, the Department of Commerce, the Department of the Treasury, as well as CEQ, Interior, and other agencies with environmental concerns.

And it seems to me that the experience with domestic application of NEPA has been very positive. Those very agencies, as the distinguished Senator from Maine has stated, which initially were reluctant to examine alternatives before acting, now are using that process with enthusiasm and with much sounder results. And, as he mentioned, the recent moves by the Agency for International Development to apply these procedures have met with general acceptance within the Agency and in the developing nations involved.

Mr. President, someone has suggested that the Export-Import Bank claims that 40 percent of their dollar volume could be affected by NEPA's requirements. There are many qualified people who feel that this is at best an inflated figure, even if you acknowledge that Bank President John Moore said, "We are not having any problems with NEPA."

If the Bank, however, is correct, then what percent would be likely to be stopped or affected by NEPA? Past studies indicate that of the projects wherein environmental impact statements were done, 3 percent ended up being enjoined for some period of time.

In fiscal year 1977 the Bank did $8.5 billion worth of business. Forty percent of this is $3.4 billion. Three percent of $3.4 billion is $102 million.

So in the worst case analysis, accepting the figures from the most self-serving agency source, what are we talking about? In the worst case analysis NEPA might hold up $102 million in sales. If the experience of other Federal agencies is a guide the delay could be for a short time. And the trade deficit last year, if I recall correctly, was about $36 billion.

So rather than put a $100 million dent in $36 billion by selling pesticides, by building nuclear reactors on tops of volcanoes, by poisoning water supplies, by eliminating the fish crop, by destroying the protein base, how many Americans will vote for keeping that $100 million here?

What price do you put on those kids who will never walk again? What price do you put on the foreign policy implications to this Nation after we do something with horrendous environmental consequences? To whom do you think that finger of blame is going to be pointed? To the French, to the Russians, to the Germans? No. Where it should be pointed. If we are so unwise and so foolish as to go forward with this legislation, it should be pointed at those money grubbing Americans who are prepared to trade in the health, the welfare, and the safety of people to make a buck at a time when they know that the very thing they are selling, that very product, is banned at home, unfit for American consumption.

Mr. President, if by any conceivable definition, that concern constitutes moral imperialism, maybe it is time we had a little. Maybe it is time we had a little. If we can go around the world saying that America stands against the oppression of human freedom, if we can go around the world chastizing these govenments and saying, "Let those minds go free, let those souls speak out, let those hearts beat in freedom's cause," and then be cynical and hypocritical enough to come right back the next day and dump on their doorsteps some products that we have banned in America as unsafe for human consumption, how hypocritical can you be to profess concern about their lack of freedom to think and express themselves, but take advantage of their ignorance by poisoning the very well water of their country in order to what? To help our balance of payments.

No, Mr. President, that is not a trade that makes this Senator at all comfortable. I think that is the issue; that is clearly the issue here.

So Senators should support the amendment that was unanimously adopted by the Environment and Public Works Committee, and vote to delete section 5 from the bill.

Finally, let me just say how much re-

spect and admiration I have for the leadership that has been evidenced for so many years in this area, the courageous leadership by the distinguished Senator from Maine.

He oftentimes in a very lonely way has had to withstand the know-nothing assaults on the lofty, noble purposes of the objectives inherent in this legislation.

If America with its expertise, if America with its stake in the outcome, if America with 6 percent, of the world's population, which is consuming one-thirds of the world's resources, does not even feel it is in their own self-interest to be an enlightened force of leadership in raising the sights of the world community to the dangers and consequences of continued degradation of our human environment on this planet then, Mr. President, no one else will.

No one else will because we, whether we like it or not, have inherited a very special and unique historical role and responsibility. We are the ones selling these products, we are the ones who have the capacity to assess their implications. We do not know as much as we would like to know and must know. But what little we do know requires us to assume a very clear moral obligation to share so that the common heritage on this planet will be more civilized, more humane, and more safe and secure than it otherwise would be.

Mr. MUSKIE. Mr. President, I doubt that there is much more to be said that has not been said on this issue. I appreciate the case that has been made by my distinguished colleague, Senator CULVER, a member of the Environment and Public Works Committee, who conducted most of the hearings. the markup, and who has brought to the floor the background, the understanding, and the knowledge that he acquired in that process, and who has presented it to the Senate with an eloquence that cannot be surpassed on this floor.

I appreciate his kind references to myself. But it was important, I think, that the Senate understand why the Environment and Public Works Committee is so concerned about this amendment. This is the first amendment to exempt the first agency from an environmental statute that had its origins in the Environment and Public Works Committee years ago, that was overwhelmingly endorsed by the Congress of the United States, and that has forced Federal agencies to look at the consequences, the environmental consequences, of their acts.

As the Senator from Iowa has pointed out, agencies have not always traveled in the environmental direction even after the options have been presented, but at least it could not be said that they did not know and understand what those consequences were.

If we are now to begin to exempt agencies that feel they would be more comfortable outside its mandate, where will it stop? When will the next agency come to Congress to ask for exemption? What the Senator from Illinois is asking us to do is to return to the state of things as it was 10 years ago when outside the public eye, without full public exposure of the consequences, agency after agency of the Federal Government undertook actions and adopted policies with serious environmental consequences with no public safeguards against them.

We believed at that time that agencies that were not environmentally oriented needed safeguards to protect the public interest on environmental values. That is why the Environmental Policy Act was adopted, because over and over again, as we conducted hearings on clean air legislation, clean water legislation, solid waste legislation, we were challenged by private citizens who said to us, "How can you have the nerve to apply these environmental areas to those of us in the private sector, to the average citizens, when the Federal Government itself is one of the worst violators and does nothing about it?"

Over and over again in hearings, long before the National Environmental Policy Act was proposed, the record is replete with complaints of average citizens who reminded us over and over again that we were asking of our citizens what we would not ask of the Government we represent.

So now the clock is turning back and the first agency to seek exemption has come to us to be exempt.

What on God's Earth makes the Export-Import Bank so different from all of the other hundreds and, yes, thousands of Federal agencies that we should give it an exemption of this kind? What? Is it the 10 percent of our exports over which they preside? Are they so bereft of ingenuity and commitment to the public interest that they cannot figure out a way to perform their principal mission and, at the same time, consider the environmental values which the American people have supported over the last decade or more, as poll after poll have revealed? Have they not anybody down there with that Bank with an environmental conscience, who understands his principal mission but also has some desire to conform it to other values which are in the public interest?

I find it impossible to believe. If the Export-Import Bank has got a reason, then every agency in the Government has got a reason to abondon these values.

Mr. CULVER. Mr. President, will the Senator yield at that point?

Mr. MUSKIE. I yield.

Mr. CULVER. The Senator will recall, of course, that it was his question of Mr. John Moss, the President of the Bank himself, in which he properly asked him, as I recall, "Is the operation of NEPA, do you observe, adversely affecting your ability to encourage and stimulate exports?" And what was his answer?

Mr. MUSKIE. His answer was "No, sir."

Mr. CULVER. So here we have a case of the agency head himself coming forward formally and testifying, "This does not hurt us," and yet we are seriously considering making an exemption for that particular agency.

What will happen in the next case where they come forward and say, "It slowed down one case out of 5,000 that we had going in this agency, but we cannot attest even to that?" That, of course, I guess, will be an exemption we will just grant tout de suite.

Mr. MUSKIE. I will tell you what further bothered us. We have been waiting all summer for the executive branch to devise an Executive order to accommodate the concerns of Eximbank and at the same time honor the objectives of NEPA.

So when we finally get a drafted Executive order that all but surrenders NEPA, what do they say? "That is not a sufficiently complete surrender," they said. We did not give enough to them.

So for the last 2 days Senator JACKSON, who is the original author of the National Environmental Policy Act, and I have been trying to put together a statutory compromise that would try to accommodate the principal mission of Eximbank and the objectives of the National Environmental Policy Act. We changed word after word, paragraph after paragraph, to give away more and more, but still preserve the basic environmental values and still require that somebody other than Eximbank look at the environmental consequences. And that last remnant that we asked for—that last remnant to insure that somebody else besides the exporters would look at the environmental consequences—that was too much. I though we were all agreed on compromise statutory language, but then they picked that little paragraph out of the pages of the amendment: "Oh, the Council on Environmental Quality can look at it and raise objections; we don't want that."

Complete surrender is what they want. Just dump the National Environmental Policy Act.

If this body has lost that much commitment to the National Environmental Policy Act, then we might as well know it. We might as well know it today. Because, sure as the Sun shines in the heavens, if we exempt Eximbank, agency after agency will be coming before us for a like exemption, because they will find like reasons to advance.

I think this whole afternoon has been unnecessary. Reasonable men could have accommodated these two objectives of national policy: external trade and environmental protection. They are both internal policy objectives, and they are both external policy objectives of our country. Our own laws say so. And I have had something to do with writing those laws.

Reasonable men could have accommodated these two objectives. As a matter of fact, language was written that would accommodate them reasonably, but we have not had that kind of an environment in which to work on this floor this afternoon. I am sorry we have had to take this much time.

I do not think anything further needs to be said from my point of view on our side of the issue. I thing Senator JACKSON may wish to know where the issue lies at this point; so I will suggest the absence of a quorum simply so that I may notify him that we seem to have reached the end of our side of the debate.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, there are just a few points that need to be, it seems to me, cleared up, which do raise the appearance of a misunderstanding.

I would like to work out a reasonable compromise, and perhaps it is still possible. It certainly should be possible to work out something that would take care of the pajamas, but it is not necessary to subject every export supported by the Eximbank, of Caterpillar tractors, or computers, or Iowa corn, to all the requirements of the National Environmental Policy Act.

We could do what the Senators have suggested, and it would be reasonable. We should have done it before, by establishing a procedure which would cut off exports of hazardous pajamas or other materials to unsuspecting innocent people abroad.

That is not what they are proposing to do. They would not cut them off. That would give them advice. We could cut them off, and perhaps we should do that, but that is not what is being suggested here. What is being suggested here is that all American exports, regardless of how dangerous they are to the environment or to an individual, which are supported by the Eximbank, must be subjected to the requirements of the Environmental Policy Act. Not the commercial exports, not the sales of American commodities in America, only those sales to foreigners supported by the Eximbank.

Here is what one foreign diplomat had to say about that proposal. I am quoting from a diplomat from a lesser developed country:

> The law, "strictu sensu," perhaps does not infringe upon the sovereignty of other countries, but by regulating through the environmental impact statements, the end result is the imposition of someone's criterion to modify someone else's behavior. For a country like Mexico, the difficult balance between industrial development and environmental protection becomes a matter of providing the minimum standards applicable to the survival of human beings.

I have not seen the machinery that would be established by the Council on Environmental Quality to give consideration to the rights of people in Bangladesh or Mexico or Pakistan to live, to exist, to survive. This proposal to export environmental standards of the United States will not establish environmental standards for Mexico or Sri Lanka or Pakistan, and it will not help those countries feed the poor. They will suffer, or more likely they will just buy the goods and obtain the credit elsewhere. It will not help Great Britain prevent oil spills. That country and many others are just as sensitive to environmental considerations as is this country.

We have no right to think that we are the only ones who are sensitive to the environment. In fact, the Senators themselves indicated that many other countries are adopting laws fashioned after the Environmental Protection Act.

Well and good, they can do so. We can also control, as has been suggested, exports from the United States of hazardous substances, and we can also provide them information about the effect of imported nonhazardous goods on their environment. But we do not have to subject all exports from the United States to the requirements of the Protection Act.

If the proposition was just to require, as was suggested, the Eximbank to consider environmental consequences, or to consider the options, I would be glad to write it into the law. In fact, with my colleague (Mr. HEINZ), we have suggested just such a proposal for the law. But that was not a satisfactory basis for compromise. The only satisfactory basis is to apply NEPA with elaborate procedures involving CEQ, with an effective veto over determinations that there is not a major impact outside the United States.

That is a process which is unreasonable. It is a process which is not necessary. It is a process which would go way beyond the circumstances which have been described with much eloquence by the Senator from Iowa and the Senator from Maine. Those circumstances, including the pajamas, including the pesticides, including the nuclear reactor, can be taken care of, but without subjecting all exports supported by the Eximbank to conformance with the Environmental Protection Act.

Mr. MUSKIE. Will the Senator advise me as to how that would take place? I have been trying to find out from him and the staff for months. I do not know any way that can be done, short of writing in policy which does it. The Senator and his staff have been reluctant to approve any policy formation we have offered to try to screen out the vital from the nonvital and the significant from the insignificant. The Senator has resisted every one. I would just like to know once and for all, in clear, lucid, plain language that I can understand, exactly how that is going to be done.

Mr. STEVENSON. I would suggest, Mr. President, for a start, that we take this question of hazardous substances out of the context of the Environmental Protection Act and put it into the context of hazardous substances, toxic substances.

If the Senator will withhold for one moment, we will have in the near future the opportunity to consider the Export Administration Act. That is the basic export control authority. In conjunction with the consideration of that Export Control Act, we could consider requirements that would require the administration, the Commerce Department in this case administers export controls, to simply prohibit, to cut off, the export of hazardous substances which are banned for consumption in the United States.

That would be one way. I am not suggesting that is right, but it would be one possibility that we could consider.

Mr. MUSKIE. The Senator presided last year over the restructuring of committee jurisdiction. I do not recall that restructuring including giving environmental jurisdiction of this kind to the Banking and Currency Committee. It strikes me that the Senator went out of his way to be sure it was given to our committee and/or the Commerce Committee. In the Environment and Public Works Committee we have dealt with the question of hazardous substances to our great frustration for the last 15 years. It may be the Senator and his committee have demonstrated such alertness to environmental matters that they have an answer to to these problems which has escaped us all these years.

One of the things which was in the mechanisms of the National Environmental Policy Act was that if we could at least surface to the public consciousness the consequences of releasing such substances into the environment, the court of public opinion might generate the pressures to do the job when we could not find a mechanism.

We have legislation in the Clean Air Act and the Clean Water Act which deal with hazardous substances. I have made myself a nuisance around this place from time to time with my efforts to strengthen those laws. We still do not have them strengthened. Now the Senator has answered that in the shipment of hazardous substances abroad we should exempt Eximbank from the one law we have that does anything about it with the suggestions that somehow in his committee we can find another way down the line which will do the job.

(Mr. PROXMIRE assumed the chair.)

Mr. STEVENSON. Mr. President, I do not want to prolong this, but I have tried to suggest that the extraterritorial extension of the Environmental Protection Act will not produce the desired results. The hazardous substances will still be exported. Even with the application of NEPA they could still be exported from the United States and received in other countries. There may be ways of cutting off, through export controls, the exports of hazardous substances.

The jurisdiction over the Export Control Act is in the Banking Committee. I cannot remember this subject ever being considered in the committee. The law does now come up for review. I know I, and I am sure other Members, including the chairman of that committee now occupying the chair, would be glad to work with the Senators from Iowa and Maine to develop an effective means of truly controlling exports of hazardous substances and materials. I do not think it is as easy as it sounds. In China they want DDT. They may need DDT.

Mr. MUSKIE. They can manufacture it themselves if they wish to. But we have a law on the books, this one. The Senator's committee has never concerned itself with enforcing this law through the agencies over which it has jurisdiction. On the contrary, the Senator wants to exempt them. This law has been on the books for 9 years and it clearly applies to overseas activities. AID has accepted that conclusion. NOAA has accepted that conclusion. What evidence do we have of sensitivity in the Senator's committee that would generate a better

law than we have on the books that the Senator would want to exempt his institutions from compliance? I am not impressed by the Senator.

Mr. STEVENSON. The thing to do is to clarify the law, to make it clear that NEPA does not apply. The Senator feels it does and others feel it does not.

I have already placed in the RECORD the conclusion of the Congressional Research Service. We also have the conclusion of the Justice Department, namely that NEPA does not apply.

Mr. MUSKIE. If NEPA does not apply, the Senator does not need this amendment.

Mr. STEVENSON. If it had not been because of an effort to undo our clarification of what we understood to be the law in pending litigation, this issue would not be before us. The effort took place in the Committee on the Environment and Public Works. We agreed to a sequential referral of our bill to that committee. It was the effort of that committee, as I perceived it, to extend the jurisdiction of NEPA to cover the bank against what we consider to be the law that brought this issue to the floor. The Banking Committee has jurisdiction over exports. The Banking Committee has jurisdiction over the Eximbank.

If the Committee on Public Works and Environment wants to extend NEPA to the Eximbank, it seems to me that committee ought to have just as much to say about it as the Environment Committee.

Mr. MUSKIE. The Senator extended NEPA by offering this amendment. If NEPA does not apply to the Eximbank, it does not need to be exempted. So there must be somebody in the Banking Committee who concluded that there was at least enough of a case to be made that NEPA applies to Eximbank that the Senator thought we need to exempt it. As a matter of fact, I learned that a lot of people in the State Department are unhappy with the Senator's exemption, because if the exemption passes, then by definition, every foreign activity not covered by this exemption comes under NEPA. I ask that two letters from the State Department be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., October 2, 1978.

Hon. ROBERT C. BYRD,
U.S. Senate.

DEAR SENATOR BYRD: It is my understanding that the Senate will today consider Section 5 of S. 3077, the Export-Import Bank Act Amendments of 1978. That section would provide that no rule, regulation or interpretation pursuant to the National Environmental Policy Act (NEPA) would apply to an activity of Eximbank which does not have an environmental impact within the United States.

The Administration opposes adoption of Section 5 because it is unnecessary and could give rise to substantial uncertainties which could have an adverse impact upon U.S. exports, and on foreign policy and national security activities. We support and urge adoption of the Environment and Public Works Committee's amendment to delete Section 5.

As announced in his export policy statement of September 26, the President will shortly sign an Executive Order which will provide for environmental reviews of certain kinds of Federal actions relating to exports. Environmental concerns will be addressed, but in a manner which avoids delay or other adverse impacts on U.S. exports. The Executive order will provide the certainly needed to protect exports and other foreign policy objectives, and therefore we do not believe that any legislative change is warranted at this time.

By creating an exemption for Eximbank, Section 5 could give rise to a damaging inference that the detailed procedural requirements of NEPA apply to activities of other Federal agencies which may have environmental impacts abroad. Although the Administration strongly disagrees with any such interpretation of NEPA, this could result in major uncertainties, including increased risks of litigation, that would impede conduct of our foreign policy, national security activities, non-proliferation policies, and agricultural export programs. It could have an especially adverse impact upon our reliability as a supplier in the nuclear area, an essential element of our non-proliferation policy.

We are equally opposed to an amendment which we understand may be proposed to create explicit and burdensome statutory procedures to apply to Eximbank actions with environmental effects overseas. These could encumber the Eximbank to such an extent that the effectiveness of its operations would be seriously undermined. Such an amendment, if it also expressly exempts the Eximbank from NEPA, would give rise to the problem mentioned in the preceding paragraph—namely, that NEPA, by inference, may apply to activities such as nuclear fuel shipments, reactor licenses and agreements, PL 480 and other agricultural exports, Defense Department activities including arms transfers and routine Commerce Department export licenses and permits.

Determining Federal agency responsibilities for the foreign environmental effects of their actions is an extremely broad and complex issue which should not be handled on an individual agency basis. We believe that Congressional action in this area, without further hearings and detailed discussion of the wide range of activities involved, would be unwise.

It is crucial that the Eximbank bill be passed before adjournment, since the Bank's charter has expired, and it is now operating under a joint resolution. We hope that the Congress will avoid engaging in an unnecessary and undesirable policy dispute which might lead to serious delay in the enactment of the Eximbank bill.

For these reasons, I urge that you support the amendment to delete Section 5 of S. 3077, and oppose any substantive amendments which may be offered on this subject.

Sincerely,

WARREN CHRISTOPHER,
Acting Secretary.

THE LEGAL ADVISER,
DEPARTMENT OF STATE,
Washington, D.C., September 29, 1978.

Hon. ADLAI E. STEVENSON, III,
U.S. Senate.

DEAR SENATOR STEVENSON: I have been asked to provide you with a current statement of the Administration's position on Section 5 of S. 3077, the Export-Import Bank Act Amendments of 1978. That Section would provide that no rule, regulation or interpretation pursuant to the National Environmental Policy Act (NEPA) applies to an activity of the Export-Import Bank which does not have an environmental impact within the United States.

As I testified before the Subcommittee on Resource Protection of the Senate Committee on Environment and Public Works, the Administration cannot support Section 5 because it addresses one aspect of a complex problem that we feel should be dealt with on a Government-wide basis. The Administration understands the concerns underlying Section 5. The President addressed himself to them in his statement of September 26 on U.S. export policy. He announced in that statement that he will shortly sign an Executive Order which should assist U.S. exports by eliminating present uncertainties concerning the type of environmental reviews that will be applicable and the Federal actions relating to exports that will be affected.

The draft Executive Order, which you have seen, exempts export licenses, permits and approvals from environmental reviews. The environmental impact statement procedure will not be applied to export actions. Abbreviated environmental reviews will be applied with respect to nuclear reactors, financing of products and facilities whose toxic effects create serious public health risks, and certain Federal actions having a significant adverse effect on the environment of non-participating third countries or natural resources of global importance.

The Administration is convinced that the proposed Executive Order better balances our government's strong commitment to protection of the environment with other important U.S. foreign policy, national security and economic interests than does Section 5. We do not believe that any legislative action is needed to clarify the underlying legal and policy issues, which we feel are correctly dealt and with in the draft Executive Order. We believe the Export-Import bank can prepare the environmental reviews proposed in the Executive Order without damage to its program. Therefore, the Administration earnestly supports the withdrawal of Section 5.

Sincerely yours,

HERBERT J. HANSELL.

Mr. STEVENSON. Does the Senator challenge the logic of that conclusion? The passage of an exemption from NEPA has to assume that NEPA applies to the Eximbank. If the Senate agrees with him and the House does and adopts the exemption, then every other agency implementing foreign policy has to come in to ask for an exemption in order to avoid coverage by NEPA.

The Senator sought this route not because there is a clear answer. There is no such thing. The legislative history—and I wrote it—covers all agencies of the Federal Government. There was no exemption of agencies engaged in foreign activities and it took 9 years for the Senator to come to this conclusion. In that period, the AID program was sued, and it was decided, after considering the consequences of those suits, that it was covered. So AID is operating under NEPA. Now, the Senator comes and says, "Eximbank is not covered by NEPA."

What a ridiculous argument, when you have to rest on the assumption that NEPA covers Eximbank in order to apply for the exemption.

Mr. President, it apparently never occurred to anyone in Congress that NEPA would apply extraterritorially, because the issue never came up. It was never raised. There is not a word in the legislative history about its extraterritorial applicability. Surely, if there had been any intention to apply it extraterritorially, there would have been some consideration given to that possibility when Congress adopted NEPA.

Mr. CULVER. Will the Senator yield on that point?

Mr. STEVENSON. Not yet.

Mr. President, this matter only comes to a head because, after all those years, complaints have been filed against the Eximbank, which argued that NEPA is applicable.

It was said earlier that the bank has not been adversely affected. The bank itself says it has not been adversely affected. Of course it has not been adversely affected, because there has been no outcome of that litigation. It has not been touched by NEPA yet. The Banking Committee did what it did in order to clarify the law, clarify what we believed to be the intent of Congress at the time it adopted the law; namely, that it does not apply. If it is the will of Congress to——

Mr. MUSKIE. Will the Senator yield and cite the legislative history which says that? There is no word to that effect.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. STEVENSON. Mr. President, if Congress wants to make it apply, it will have an opportunity to do so. The provisions of this bill, as reported by the Banking Committee, do not repeal NEPA. They say that rules and regulations implementing NEPA shall not be applicable to the Eximbank. Our purpose is to give Congress an opportunity to determine what the policy of the United States should be and, until that time, to relieve exporters and importers of considerable uncertainty about what the policy is.

It is also, in the interim, our intention to eliminate any possibility of overkill by applying NEPA to the financings of the Eximbank, at least until the time when Congress concludes, after giving the matter due consideration, that that is really what it wants to do.

Mr. CULVER. Will the Senator yield?

Mr. STEVENSON. Mr. President, I yield the floor.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. MUSKIE. Mr. President, I wish the Senator from Illinois would listen, because he obviously has not listened to some of the other arguments. The logic of the Senator's argument is that unless an agency was specifically named in the legislative history, whether it is foreign or domestic is immaterial, it is not covered; it is not covered. Let me read section 2, the purposes of the National Environmental Policy Act.

> The purposes of this Act are to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts to prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems of natural resources important to the Nation; to establish a Council on Environmental Quality.

Does the environment stop at the Nation's borders? Does man occupy only the United States? Does the biosphere confine itself to our national borders?

If anybody had suggested to me in 1969, after almost 10 years of studying the environment, that when I was participating in the writing of a National Environmental Policy Act, all I was concerned with was our political borders, I would have been shocked and astounded. Nobody suggested that—nobody. We have language that says "all activities of the Federal Government are covered," "all agencies of the Federal Government shall undertake environmental analysis." Now, on the floor of the Senate, in 1978, we are told this language means, "All agencies of the Federal Government except those engaged in foreign activities." That is really engaging in phony legislative history.

Mr. CULVER. Will the Senator yield?

Mr. MUSKIE. It has been a long time since I went to law school, but I still think I can read legislative history. I have been writing legislative history for 20 years here in Congress, and for many years before that at the State level. "All Federal agencies," to me, means all Federal agencies.

Mr. CULVER. Will the Senator yield?

Mr. MUSKIE. Yes, I yield.

Mr. CULVER. Mr. President, unfortunately, it is apparent that the distinguished Senator from Illinois really was not listening very carefully when some of us attempted to address the issue of legislative history. He is talking about some nice fellow over at the Library of Congress who gave him the piece of paper as to what the legislative intent of Congress was. All he could determine was that it does not appear to be very explicit.

Mr. President, I wonder if I could have the Senator's attention.

With all due respect to the fellow working in the bowels of the Library of Congress, we happen to have the coauthors here. When you talk about wanting it from the horse's mouth as to legislative history—Senator JACKSON stated on the Senate floor, during consideration of NEPA:

> What is involved is a congressional declaration that we do not intend, as a Government or as a people, to initiate actions which endanger the continued existence or health of mankind.

"Health of mankind." Nobody said the definition of mankind's health stops at the water's edge in the continental United States. That is as clear as anything can be.

Anybody over at the Library of Congress who does not find that sufficiently explicit does not know what "expressed" means. That is clear.

He said: "We will not intend to initiate action which will do damage to the air, cattle, land, and water which support life on earth."

It seems to me that is rather sweeping and global in its clear import.

Now, if somebody is looking for legislative history, how about starting with the statute?

I was told in law school before we went to the legislative history to determine what the public policy reasons were for the particular bill in question, if it said on the face of the statute what the intent of Congress was, we did not have to get behind the statute.

The only time we have got to look for legislative history is when it does not stand up and hit us right in the face, and if the clear language of the statute expressly states what the congressional intent is, anybody wandering around loose looking for something else is really wasting time.

Now, what does the statute say? Section 102(2)(C) reads:

> All agencies of the Federal Government shall "include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. . . .

The Continental United States is not the only place we have mankind. The Continental United States is not the only place we have a human environment.

A lot of people question how human that environment is if we live in certain parts of the United States. But we have not gotten so arrogant and presumptuous to define humankind and mankind and the global environment as somehow neatly circumscribed by the U.S. geography.

Further, 102(2)(C)(iv) reads:

> Federal agencies shall consider "the relationship between local short-term uses of man's environment . . . ."

Section 102(2)(F) calls on Federal agencies to "recognize the worldwide and long-range character of environmental problems—worldwide, and long-range character—and, where consistent with the foreign policy of the United States, in anticipating and preventing the decline in the quality of mankind's world environment."

If you were a first-year law student and you had that statutory language in front of you and the prof. said, "Would the distinguished Senator from Illinois be good enough to tell us whether or not on the face of the statute there is a clear congressional intent, does he really feel that we have to go stumbling around the stacks looking at old CONGRESSIONAL RECORDS to find out what Congress meant?" He vent to the same law school I did and I sure had to give the prof. a different answer on these facts.

Finally, Mr. President, in 1972, the report of the House Merchant Marine and Fisheries Committee (H. Rept. 92–316) expressly stated in a response to an assertion by the U.S. State Department—the State Department made some statement at that time that NEPA only applied to the United States.

All right, here is our diligent student, painstakingly searching for the congressional intent.

Well, I wonder if our little scholar over in the Library of Congress stumbled across this one. House Report 1972, right on point, and what did they say? The House committee said:

> Stated most charitably, the Committee disagrees with this interpretation of NEPA.

That is legislative history.

The House committee that handled the legislation, ought to have some authority and standing to speak to this point, as do the two coauthors of the bill here on the floor now and who have both either expressed themselves or been quoted without any contradiction as to the implication and reach of this statute. The House committee says:

"The history of the Act makes it quite clear that the global effects of environmental decisions are inevitably part of the decision-making process and must be considered in that context. . . . In this connection, both the World Bank and the United Nations Development Program have recently been experimenting with the incorporation of environmental assessments in foreign project support. NEPA requires the State Department to follow this example."

So much, Mr. President, for legislative history. To come forward and say there is great ambiguity, lack of clarity and uncertainty is simply wrong. I think that the only lack of clarity and uncertainty being advanced is by some of those interests that are totally insensitive and never have been sympathetic to the original objectives of NEPA, whose purposes are clear to anyone who cares to read the statute.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1980, AS MODIFIED

Mr. JACKSON. Mr. President, I rise in opposition to the amendment submitted by the distinguished junior Senator from Rhode Island (Mr. CHAFEE).

This amendment would reverse a long and serious effort to bring some order and rationality to the process of determining eligibility for Ex-Im participation by placing such eligibility on a relatively stable basis. The Stevenson proposal goes a long way to reconciling the need for some discretion with respect to eligibility with a requirement that eligibility not change from day to day as the national mood responds to specific actions of specific governments. It takes a long view, and in that regard it enables us to distinguish between what is fundamental and what is transitory.

Senator STEVENSON together with the distinguished Senator from Pennsylvania (Mr. HEINZ) have worked long and hard to devise the formulation contained in the Stevenson amendment passed last week. I urge my colleagues that we retain this well thought out approach and not abandon it to the difficult and complex arrangements that have evolved over the years.

In the development of the Stevenson approach to eligibility for Ex-Im Bank loans there is a good balance between judgments of the executive branch and judgments of Congress. Countries that Congress has already determined to be ineligible under section 402 of the Trade Act would continue to be ineligible unless the President wishes to add them to the eligible list, one at a time, and Congress would then have an opportunity to make a final determination under expedited procedures. This is ample protection for the many Americans who have long supported an effort to bring about the reunification of divided families by rewarding a liberalization of emigration practices from countries that have shut the door on persons desiring to emigrate. We have had some substantial success in this area—and thousands of Romanian families, and now some Hungarian ones, are being reunited under section 402 of the Trade Act.

This is a development that can and should continue—and the Stevenson approach will enable it to do so.

Mr. THURMOND. Mr. President, I rise to enthusiastically support the Chafee amendment, of which I am a cosponsor, designed to replace section 4 of this bill which imposes a heavy administrative burden on the Export-Import Bank and, in addition, results in a detrimental impact on the exports of our country.

Mr. President, before I proceed further with my discussion of this amendment and the justification therefor, I want to assure you and my other distinguished colleagues that I strongly favor and support most of the provisions of S. 3077. It contains many excellent features—features that are critically important to the continued development of an efficient and effective Export-Import Bank.

The extension and the increase of the Bank's authority to September 30, 1983, as specified in S. 3077, will provide the major basic provisions to enable the Bank to perform its principal purpose efficiently and effectively for the next 5 years. More specifically, the much-needed and favorable provisions of S. 3077 include:

First. The increase from $20 billion to $25 billion in the limit on amount of guarantees and insurance;

Second. The increase in the limitation for congressional review of large Bank credits from $60 million to those over $100 million;

Third. The added flexibility permitted the Bank to give final approval during lengthy congressional adjournments to credits which would otherwise have to await the return of Congress;

Fourth. The encouragement of Bank support for solar and other renewable energy equipment exports;

Fifth. The calling for international agreements to control official export credit completion while empowering the Bank to meet such competition in each case.

Mr. President, all of us are aware of the massive U.S. trade deficit, and its critically adverse implications for the dollar in the United States and in the rest of the world. With the prospects relatively bleak for any substantial reduction of imports in the near future, an important effect will be to increase exports as much as possible. Our timely and appropriate action can place the Export-Import Bank in an effective position to contribute significantly toward improving our export trade situation.

International markets have become increasingly competitive over the years, and this competition comes in many shapes and forms. The United States no longer has such a competitive advantage on most products and services to the end that the refusal of the United States to provide its export will preclude the proposed plant or project from going forward. Today, there are normally several foreign suppliers in these type situations whose total product packages are fully competitive with that available from a U.S. manufacturer. Thus, in about every transaction with even a potential possibility of adverse U.S. impact or restriction, the project is likely to go over to a foreign supplier who can offer the product with less adverse impact or restriction. Eximbank, if properly structured with the authority and flexibility to aid our U.S. exporters in these day-to-day situations, make up the difference in the "competitive edge" needed by our exporters against foreign suppliers.

It is this need to provide the appropriate authority with a minimum amount of restriction which provides the strongest argument for this amendment. The amendment will eliminate major and undesirable restrictions and burdensome paperwork that the provisions of S. 3077, if enacted as currently printed, would place upon Eximbank and other related groups and agencies. With this amendment, the resultant S. 3077 would then extend the life of Eximbank and increase its authority to provide support for U.S. exporters in a significant way.

Mr. President, the Export-Import Bank is already under a number of statutory constraints in addition to those applying to the financial operations of the Bank. These restrictions have been enacted in the past decade rather than having been a part of the original statute.

A review of some of these directives and constraints show us that the Bank is required to:

First. Seek to minimize competition in Government-supported export financing and seek international agreements to reduce subsidized export financing;

Second. Report to the Congress semiannually in detail the actions taken and progress made by the Bank regarding the competitive situation compared to foreign export credit agencies;

Third. Supplement and encourage private capital while making loans at rates and on terms competitive with other countries but taking into consideration the average cost of money to the Bank;

Fourth. Take into account any serious adverse effect of loans and guarantees on U.S. industry and employment and the availability of materials in short supply in the United States;

Fifth. Take into account in consultation with the Secretary of State the observance of and respect for human rights in the country to receive exports supported by a loan or financial guarantee and the effect such exports may have on human rights in that country;

Sixth. Do no business with a Communist country without a Presidential determination of national interest, with a separate determination on any loan of $50 million or more;

Seventh. Prior to final approval, submit to Congress for 25 days of continuous session, or for a 35-calendar-day period, whichever comes first, any loan and/or financial guarantee of $100 million or more, and any loan or financial guarantee of whatever size for nuclear power;

Eighth. Withold all financing from

any country failing to observe international agreements or bilateral agreements with the United States on nuclear safeguards, or from nonnuclear countries which explode a nuclear device, unless the President finds such financing in the national interest and Congress has been notified for 25 days of continuous session;

Ninth. Not assist sales to or for use in a nation in armed conflict with the United States or assist any nation in the purchase of any liquid metal fast-breeder nuclear reactor or any nuclear fuel reprocessing facility;

Tenth. Not finance defense articles or services to a less-developed country;

Eleventh. Support no exports to any nonmarket economy country with the exception of Poland and Yugoslavia under provisions of the Trade Act of 1974 unless there is a Presidential determination that such action would be in the national interest;

Twelfth. Report annually to the Congress the details of the Bank's operations; and

Thirteenth. Coordinates its activities with overall U.S. Government foreign economic policy through its membership on the National Advisory Council on International Monetary and Financial Policies (NAC).

When we consider all the current restrictions under which the Export-Import Bank operates, I feel that all of us agree that extreme care must be given to any consideration that would result in further restriction of the Bank's ability to aid our U.S. exporters. We must recognize fully that the United States already faces an uphill export fight against foreign competition which in most cases has the full and unqualified financial and other support of their governments. Furthermore, the United States no longer possesses a lead in technology against that of a number of other countries. Thus, when restrictions prohibit the Bank's financing of a particular item now, it usually means that the purchase will be made from another country rather than from the United States. The citing of these type situations where the United States might lose very easily some significant export sales opportunities serves to point up the need for the Export-Import Bank to have as much flexibility as possible within the boundaries of its satutory authority so that it can facilitate exports.

Mr. President, not only does section 4 of the bill as it now exists severely restrict Eximbank operations, but it poses a strong threat to Eximbank's ability to support U.S. export sales. Section 4 now requires the President to compile a list of countries he deems ineligible for participation in the Bank's programs. This list will undoubtedly have an adverse effect on our exports. The appearance of countries on this list will jeopardize billions of dollars in export sales. Many countries will undoubtedly question our reliability as a dependable supplier of products to customers abroad. With our current high trade deficits and the instability of our dollar abroad, this is not wise, especially when considering the President's statement last week, as he unveiled our national export policy, that an essential element of our economic policy is improving our export performance.

Mr. President, there are also significan impacts on our foreign policy that must be considered. Placing a country on a list open to the world as ineligible goes far beyond simple financial relationships, but would seriously impair our dealings with that country in other endeavors. In addition, Mr. President, not putting a country on this list could be interpreted as tacit approval of the actions of that country. Of course, this would not be the case on many occasions. However, the point is that this appearance could be displayed. Moreover, this section could result in numerous debates in Congress concerning whether to place or remove a country from an ineligible list. The possible dangers to have this activity occurring while the State Department is working with the same country to make significant progress toward human rights are shattering.

Mr. President, this amendment will allow much more flexibility to the Eximbank and the President in promoting a strong export policy. It provides for consideration of international terrorism, nuclear proliferation, environmental protection, and human rights as the current bill does; but it does not require the list that must be prepared as the bill now reads.

Mr. President, this amendment provides appropriate procedures for the consideration of nonfinancial or noncommercial matters but it does not do this at the expense of a strong and effective export policy in this country, and I urge its adoption.

The PRESIDING OFFICER. The hour of 6:30 having arrived, under the previous order, the Senate will proceed to vote on the amendment of the Senator from Rhode Island.

The question is on agreeing to the amendment of the Senator from Rhode Island. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SPARKMAN (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Nevada (Mr. CANNON). If he were present and voting he would vote "yea." If I were at liberty to vote, I would vote "nay." I, therefore, withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), and the Senator from TEXAS (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

Mr. ROBERT C. BYRD. Before the Chair announces the vote, will the Chair ascertain whether all Senators have voted?

The PRESIDING OFFICER. Have all Senators in the Chamber voted? Apparently so.

The result was announced—yeas 45, nays 35, as follows:

[Rollcall Vote No. 435 Leg.]

YEAS—45

Baker	Hansen	Nelson
Bartlett	Hart	Nunn
Bayh	Hatfield, Paul G.	Packwood
Bellmon	Hayakawa	Pell
Bentsen	Helms	Percy
Biden	Hodges	Ribicoff
Bumpers	Hollings	Roth
Burdick	Humphrey	Schmitt
Chafee	Laxalt	Schweiker
Culver	Long	Stafford
Curtis	Lugar	Stevens
DeConcini	Mathias	Thurmond
Eagleton	Matsunaga	Wallop
Glenn	McGovern	Zorinsky
Gravel	Melcher	
Griffin		

NAYS—35

Brooke	Hatfield, Mark O.	Riegle
Byrd, Harry F., Jr.	Heinz	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Case	Johnston	Scott
Church	Magnuson	Stennis
Cranston	McClure	Stevenson
Danforth	Metzenbaum	Stone
Dole	Morgan	Talmadge
Durkin	Moynihan	Weicker
Eastland	Muskie	Williams
Ford	Proxmire	Young
Garn	Randolph	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, against.

NOT VOTING—19

Abourezk	Goldwater	Kennedy
Allen	Haskell	Leahy
Anderson	Hatch	McIntyre
Cannon	Hathaway	Pearson
Chiles	Huddleston	Tower
Clark	Inouye	
Domenici	Javits	

So the amendment (UP 1980) was agreed to.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, that was the last rollcall vote today. Tomorrow at 10 o'clock a.m. the Senate will begin consideration of the ERA extension. In the meantime, the export-import bill will be temporarily laid aside.

(The following proceedings occurred during the consideration of UP amendment No. 1980 and are printed at this point by unanimous consent:)

LOCKS AND DAM 26

Mr. BELLMON. Mr. President, Saturday afternoon, when only three or four Senators were on the floor, the Senate adopted by voice vote an amendment offered by the distinguished Senator from Illinois (Mr. STEVENSON), authorizing the reconstruction of locks and dam 26 at Alton, Ill.

This amendment contains no provision, as was adopted on two previous occasions by the Senate, for a waterway users charge. No notice whatsoever was given to any person involved in this issue prior to the offering of the amendment. In particular, the Senator from New Mexico (Mr. DOMENICI) who would have objected strenously to this end-run around the normal Senate procedure, was not notified. Whatever the merits of locks and dam 26, I can only consider the offering an acceptance of this amendment was accompanied in a strange and somewhat questionable manner, contrary to the spirit of comity usually present in the Senate. If Members of the Senate are going to attempt to move this important type issue, which has previously been objected to through the Senate in this manner, I believe the Senate as an institution will cease to function effectively.

I have been in contact with Senator DOMENICI. I know he feels strongly that he has dealt openly and fairly with this colleagues on this issue. Yet, when three or four Senators were on the floor, and when Senator DOMENICI was out of town, and when no one made any effort to protect his legitimate interest or those of the majority of the Senate who voted twice for user charge, this amendment was quickly passed through. The amendment offered by Senator STEVENSON and accepted by voice vote is virtually identical to one the Senate had previously voted down on a rollcall vote. I do not know if this amendment imperils enactment of this legislation or not. But I believe unless this provision is stricken from the bill, Senator DOMENICI will feel compelled to do everything he can to prevent enactment of this legislation, both by extended debate on the bill, itself, as well as extended debate on the adoption of the conference report.

I urge the managers of this bill to reconsider very carefully the procedure that they used last Saturday afternoon. On behalf of Senator DOMENICI I urge them to immediately void the enactment of this provision.

Mr. STEVENSON. Mr. President, the amendment to which the Senator from Oklahoma has referred has been twice passed by the Senate. It has been passed by the House of Representatives.

It would authorize the replacement of the locks and dam at Alton, Ill., which is the most critical navigation facility in the United States. It is legislation which I have introduced, after it was first introduced by Vice President, then Senator, MONDALE. It has been approved by the Public Works Committee on several occasions. It has been approved by the Commerce Committee, and now time is running out in this Congress.

This is not a laughing matter, Mr. President. This is the most critical navigation facility in the United States. The welfare of the Midwest, the most developed region in the world, both agriculturally and industrially, depends on locks and dam 26.

I went by the locks and dam 26 at Alton just a few days ago and saw the barges backed up as far as the eye could see both ways above and below that lock and dam. Already its capacity is exceeded by the traffic, the barge traffic carrying farm commodities to market, markets throughout the world, fertilizers, fuel upstream to Chicago, and other large cities in the Midwest. Not only is its capacity exceeded by traffic, but the dam is in serious condition.

It would take probably 10 years to replace that dam, and it is possible that during that period this lock and dam will go out and if that happens, the country will suffer; the most critical navigation facility in the United States will be gone, the economy of the Midwest will be crippled, and the Nation itself will suffer.

I am deadly serious about this, and I am going to do everything in my power to prevent that from happening.

The purpose of offering that amendment, already approved at least twice by the Senate and by committees time and again by the Senate, is to get some action in this Congress before it is too late. And I hope that instead of responding with possibilities of more inaction, the Public Works Committees will be all the more encouraged in this Congress to reconcile whatever their differences are and to get the job done.

I am not against user fees, but I am very much against holding this dam hostage to the resolution by Congress of another issue.

Congress has been fooling around on this long enough. I will support user fees. I have worked with the distinguished Senator from New Mexico to try to get user fees, and if it had been possible to put user fees on this bill I would have done so. But I have been advised that to initiate user fees as an amendment to this bill would run afoul of the Constitution.

If there is some way of getting action on a reasonable user fee formula I would be all for it.

There is a compromise proposal which has been advanced which would provide for user fees, including a trust fund, and it is a compromise that I believe the Senator from New Mexico would support, I certainly hope so; I would support it; I believe the Senator from Louisiana (Mr. LONG) would support it; and the administration would support it.

And perhaps now with this move, the waterway interests would put the interests of the country, including our farmers, ahead of their own and support that compromise.

If not, if there is not action by the ordinary and usual means and on such a basis or such a reasonable basis as that, I am going to continue to do everything I can to represent the people who sent me here to represent them, and that means continuing to do everything I can, and I have been trying for several years now, to get the replacement of this critical navigation facility authorized.

Mr. BELLMON. Mr. President, let me respond briefly, and then I will yield the floor.

Let me simply say, and again I am speaking on behalf of the Senator from New Mexico, that the bill which would authorize construction of locks and dam 26 plus the user fee is in conference with the House of Representatives, and if it is the objective of the Senator from Illinois to see that the conference acts and brings a report back, I certainly support that. But at the same time I think it would be a great mistake to go ahead and act on locks and dam 26 in this manner since the Senate has twice rejected the bill to authorize construction of locks and dam 26 without a user fee proposal, and I believe this is the objective the Senator from New Mexico has. I believe the conference could easily resolve the matter before adjournment and perhaps the desires of everyone could be met in that way.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I understand the concern of the Senator from Oklahoma (Mr. BELLMON) and the equal dismay of the Senator from New Mexico (Mr. DOMENICI) and I think there is a point of fairness to be recognized here.

I in no way criticize my colleague, Senator STEVENSON, for having brought up this amendment. Indeed a lot of amendments were brought up on Saturday that were not germane to this legislation, and this is one of them.

I myself offered a nongermane amendment that was adopted. But in this instance there is a way to be fair, I think, to Senator DOMENICI that would also preserve the point that the Senator from Illinois is trying to make, and that is if the Senator from Illinois would agree to, and ask the Senate, which could only be done by unanimous consent, to allow the motion to reconsider, which was tabled, to be vitiated. That would give Senator DOMENICI an opportunity, should he so desire, to reconsider the vote on Saturday which was taken clearly without his foreknowledge.

The Senator from Illinois is under no obligation whatsoever to either make that request or to agree to it, should someone else make it. But it does seem to me a matter of simple fairness when somebody is out of town that he have an opportunity for a vote to be reconsidered.

I do note on page S16785 of the RECORD the rather unusual situation where the Senator from Illinois not only moved the adoption of the amendment, which is certainly his prerogative, but then moved to reconsider the vote and then he also moved to lay that motion on the table.

Now, the Senator from Illinois was certainly three times fortunate in having the votes to do that, but it does seem to me that we could avoid any procedural problem with this bill, such as

any possibility of extended debate which Senator BELLMON suggested Senator DOMENICI might undertake, if the Senator from Illinois would simply allow Senator DOMENICI to have an opportunity, should he desire to do so, to move to reconsider the vote.

Mr. STEVENSON. Mr. President, Senators were consulted, appropriate Senators. There was notice. There was a quorum call held before the vote in the Senate on this amendment, and there was no objection expressed to the procedure. There was no objection expressed to the amendment which, as I have indicated before, has already passed the Senate twice and been approved by at least two committees of the Senate. It has been approved by the House.

Now, I am willing to consider any reasonable procedure. But it certainly would not be reasonable for me at this point to consider any such procedure as has been suggested, without some indication that there is going to be favorable action by the Congress on this measure, and by the executive branch.

I am not sure they are in conference yet, but if they are in conference perhaps the pendency of this amendment in the Senate and on this bill will encourage the conferees to act.

On both the authorization for locks and dam 26 and user fees, as I say, I have supported user fees from the beginning. So I certainly cannot agree to that request now. But I am willing to consider reasonable propositions, and I hope others are, too, because, as I indicated on Saturday I never would have offered this amendment had not many others brought up nongermane amendments.

I think this is an amendment which is about as germane to exports as anything in this bill. There will be a serious curtailment of American agricultural exports if this lock and dam goes out and is not replaced in the near future.

Mr. LONG addressed the Chair.

Mr. STEVENSON. So I will consider anything. But this process of adding nongermane amendments to this bill was not begun by me. I hope at least the comanager would agree with me that the two managers should not be the only ones in the Senate precluded from offering germane amendments to this bill. Maybe there is reason for reconsidering some other amendments, including, perhaps, the Hollings amendment—I might be party to an effort to get rid of all the nongermane, controversial amendments on this bill, assuming there is some action on the part of others and those in conference to act on locks and dam 26.

Mr. CHAFEE. Mr. President, may I raise a point of order?

The PRESIDING OFFICER. The Senator from Illinois has the floor and it will be for him to yield.

Mr. STEVENSON. Mr. President, let me first yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I believe the Senator knows that I have discussed this problem with Mr. DOMENICI, and I also discussed it with the Secretary of Transportation, Mr. Adams, and we had pretty well agreed that we ought to have a compromise of the issue. I believe Mr. DOMENICI is willing to agree to a compromise of the matter which we debated so heatedly here, a compromise that would involve a tax as well as the construction of the dam, and the Secretary of Transportation, as I understand it, is willing to agree to the compromise.

The Senator from Illinois (Mr. STEVENSON) is willing to agree to it, and I really believe it is the majority view of all those concerned on both sides of the argument that the proposed compromise is acceptable.

Unfortunately, it does contain one suggestion that some of the barge people find obnoxious, and that is we would take the money raised by the tax and put it into a trust fund which would suggest that we are going to act further on that matter in the future. I think it is fair to say no matter what we do about the matter we will have further legislation on that subject in the future.

So the issue, if not put to bed, would arise again in future years. But I see nothing new about that. The issue of user fees on the waterways is one that has been discussed as long as I have been around here, and I have been around here for 30 years, and it was discussed long before that.

I think what we are suggesting is a good compromise. The Senator says he could not put it on this bill under the Constitution. If he put it, put the tax part of it, on this bill it would be subject to a point of order, and although the Chair would submit it here and, perhaps, a majority might go along with it on the House side, I would suspect that in the House a single Member could make a point of order and the Parliamentarian would uphold it, and that would be the end of it.

So I think the answer to this thing is to take a minor revenue bill, put the lock and dam amendment, as well as the compromise tax and trust fund aspects of it, all together on one revenue measure and then go to the House and see if the House will agree to it. I am optimistic that the House would probably do so.

I am sorry we cannot obtain unanimous agreement on that because there are some in the barge area who would object. They apparently do not like the trust fund idea. They would be willing to accept the tax but are not willing to agree to the trust fund.

That being the case, I really think the answer is to move this matter on a revenue bill. I will cooperate. I just cannot guarantee that we can obtain cooperation from all of the others involved.

I agree with the Senator this is something that should be resolved in this session, and it would be a travesty, in light of the tremendous need there is to act in this area, if the Congress were unable to get together because I believe a majority vote could be had for the kind of thing Mr. DOMENICI and I, and, I believe, Mr. STEVENSON are all willing to agree to.

Mr. STEVENSON. Mr. President, the Senator from Louisiana has made a characteristically sound and hopeful suggestion.

We are all agreed on a compromise, or at least many of us are willing to accept the outlines of the compromise which I believe was first suggested by the Senator from Louisiana, which would involve a trust fund. If some way can be found of enacting that compromise trust fund, the user fee proposal that he has suggested along with the authorization of the locks and dam, I would have no objection to doing it on a revenue bill. Perhaps some other way can be found of authorizing the locks and dam on one bill and the user fee, perhaps, on a revenue bill.

Perhaps before we conclude we can discuss with all parties these possibilities and get some action; but until we have done that I do not think it would be very appropriate for this Senator to agree to reconsider what the Senate did on Saturday. But I agree to work with Senator LONG, Senator DOMENICI, and Senator BELLMON.

Mr. LONG. I would hope we could agree to solve it in that fashion, and perhaps make the whole thing moot. I can sympathize with the Senator's desire to make something happen. Even Senator DOMENICI wants something to happen. The manager of the bill (Mr. STEVENSON) has demonstrated that he is willing to agree to some of the suggestions Mr. DOMENICI has made along this line, as well as some of the suggestions of others. All he is trying to do is get the Senate to act. I understand he is willing to agree to the so-called compromise; Mr. DOMENICI is willing to agree to it, and I am willing to agree to it. What he is trying to do is get some action, and not just sit while the possibility of action in this Congress gets more unlikely every day and every hour.

Mr. STEVENSON. I thank the Senator for his understanding. What I am trying to do is get Congress to do what it apparently is willing to do, and end this long delay, which is imperiling commerce on the Mississippi River and commerce on the Illinois River. More traffic passes through this locks and dam than the Panama Canal. Debate over the replacement of the locks and dam has been going on now for 10 years, and it will take another 10 years to replace it. Meantime, the traffic is backed up, and it is in danger of going out.

Mr. LONG. Might I point out that if we are not able to resolve this matter before this bill is disposed of, there is another alternative; for example, a motion to recommit and report back would be in order. I would hope we would try to resolve the matter before this bill is disposed of, and perhaps if we could resolve it with the kind of compromise Mr. DOMENICI is willing to agree to, I am willing to agree to, and the manager of the bill (Mr. STEVENSON) is willing to agree to, maybe the thing can be resolved in the best interests of the Nation. I certainly hope so.

Mr. STEVENSON. That is my own purpose. It is not to get the action as a part of this bill; it is to encourage Congress to act as quickly as possible.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield to the Senator from Pennsylvania.

Mr. HEINZ. I know the motivations of the Senator from Illinois are very good. I understand why he wants to pressure

the Congress to take action on locks and dam 26. The Senator is quite correct as to the need for the reconstruction and rebuilding of that project, and I am one who supports going ahead with locks and dam 26, as the Senator knows.

Senator LONG is also entirely correct that I think we have arrived at a formula for compromise.

But I would be remiss if I did not state once again that it does trouble me that at this point the Senator from Illinois is unwilling to vitiate the motion to table the motion to reconsider and the motion to reconsider, because I think there is a fundamental point of procedural fairness here. I, as the comanager of the bill with the Senator from Illinois, would hate to see this bill get bogged down in endless debate, and nothing would be easier with all the amendments that are coming up, than to have this bill take so long that the leader would want to take it down. I think that would be very unfortunate, because we do need this legislation. The Export-Import Bank needs reauthorization.

So I would hope that, at the appropriate time, when Senator DOMENICI returns, the Senator from Illinois would favorably consider the request that either I or maybe the Senator from Illinois could make along the lines I have just suggested.

I thank the Senator from Illinois for yielding. I know that he is a reasonable man and will consider these things in due course.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield to the Senator from New Mexico.

Mr. SCHMITT. I would second the suggestion of the Senator from Pennsylvania. I think it is important to realize that on this matter the Senate did reach a conclusion some months ago, a conclusion that was clearly a compromise, but nevertheless one the Senate could support. I think if any action was taken on this measure, it should be to reaffirm that conclusion, and I would hope that at the appropriate time we could reconsider the action taken Saturday in Senator DOMENICI's absence and the absence of many other Senators interested in this problem. I believe the Senate would be willing to take the same action it took before, and might well take it unanimously, since the Senate did argue and debate the matter and resolve it.

So I would add whatever persuasiveness I might have to that of the Senator from Illinois, and I would urge that we reconsider the action taken on Saturday relative to the issue, and then take steps to resolve it as we did earlier resolve it here in the Senate.

Mr. STEVENSON. Mr. President, as the Senator from Louisiana mentioned earlier, a user fee amendment on this bill may be subject to a point of order. A tax measure, under the Constitution, would have to originate in the House of Representatives. If it had not been for that, I would have suggested essentially the same proposal earlier.

The Senator from Louisiana indicated that it might be possible to get a revenue measure before the Senate still in this Congress, which would, of course, give the Senate an opportunity to act on the user fee issue, perhaps also on the locks and dam issue on that revenue bill.

Mr. LONG. Mr. President, I believe that before we do that, we ought to consult with the Senator from West Virginia (Mr. RANDOLPH), due to the fact that he has that matter in conference on another bill. As far as I am concerned, I very much favor that approach, and I hope we can do that.

Mr. STEVENSON. I think maybe the best thing at this time would be to defer action on the possibility of reconsidering until we have had a chance to confer with a few more Senators.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. BELLMON. The Senator from New Mexico (Mr. DOMENICI) will be back on Wednesday. If the matter could be taken up in his presence, I think it would be a good thing.

Mr. STEVENSON. Perhaps then we could vote on a motion to reconsider, or to recommit with instructions. There are other possibilities, too, I might add. Perhaps by then we will have had an opportunity to discuss the matter with the Senator from West Virginia.

If I were acting on my own initiative, my preference would be to recommit with appropriate instructions.

I thank the Senators.

Mr. SCHMITT. Mr. President, if the Senator will yield to me, with appropriate thanks, I think that is exactly the action we could take, to reconstitute the same compromise on either one or two bills to be considered next week. I think that would be acceptable, certainly, to my colleague from New Mexico.

Mr. HEINZ. Mr. President, I too, would like to thank the Senator from Illinois for his reasonableness.

Mr. STEVENSON. I thank the Senators. I, too, express the hope we have now all expressed that we could work out something along the lines suggested by the distinguished Senator from Louisiana, so that Congress does not neglect its duty once again to act on both of these issues.

I thank the Senators, and I feel confident that we can work something out.

(Conclusion of earlier proceedings.)

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT OF 1978

Mr. TALMADGE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3384.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3384) entitled "An Act to require foreign persons who acquire, transfer, or hold interests in United States agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Agricultural Foreign Investment Disclosure Act of 1978".

REPORTING REQUIREMENTS

SEC. 2. (a) Any foreign person who acquires or transfers any interest, other than a security interest, in agricultural land shall submit a report to the Secretary of Agriculture not later than 90 days after the date of such acquisition or transfer. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which such foreign person acquired or transferred;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) in any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred and—

(A) in any case in which such transferee is an individual, the citizenship of such transferee; and

(B) in any case in which such transferee is not an individual or a government, the nature of the legal entity holding the interest, the country in which such transferee is created or organized, and the principal place of business of such transferee;

(8) the agricultural purposes for which such foreign person intends, on the date on which such report is submitted to the Secretary, to use such agricultural land; and

(9) such other information as the Secretary may require by regulation.

(b) Any foreign person who holds any interest, other than a security interest, in agricultural land on the day before the effective date of this section shall submit a report to the Secretary not later than 180 days after such effective date. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which is held by such foreign person;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) the agricultural purposes for which such foreign person—

(A) is using such agricultural land on the date on which such report is submitted to the Secretary; and

(B) intends, as of such date, to use such agricultural land; and

(8) such other information as the Secretary may require by regulation.

(c) Any person who holds or acquires (on

or after the effective date of this section) any interest, other than a security interest, in agricultural land at a time when such person is not a foreign person and who subsequently becomes a foreign person shall submit a report to the Secretary not later than 90 days after the date on which such person becomes a foreign person. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(d) Any foreign person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in land at a time when such land is not agricultural land and such land subsequently becomes agricultural land shall submit a report to the Secretary not later than 90 days after the date on which such land becomes agricultural land. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(e) With respect to any foreign person, other than an individual or a government, who is required by subsection (a), (b), (c), or (d) of this section to submit a report, the Secretary may, in addition, require such foreign person to submit to the Secretary a report containing—

(A) the legal name and the address of each person who holds any interest in such foreign person;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(f) With respect to any person, other than an individual or a government, whose legal name is contained in any report submitted under subsection (e) of the section, the Secretary may require such person to submit to the Secretary a report containing—

(A) the legal name and the address of any person who holds any interest in the person submitting the report under this subsection;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

CIVIL PENALTY

SEC. 3. (a) If the Secretary determines that a person—

(1) has failed to submit a report in accordance with the provisions of section 2, or

(2) has knowingly submitted a report under section 2—

(A) which does not contain all the information required to be in such report, or

(B) which contains information that is misleading or false,

such person shall be subject to a civil penalty imposed by the Secretary. The amount of any such civil penalty shall be determined in accordance with the provisions of subsection (b) of this section. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States in an appropriate district court of the United States.

(b) The amount of any civil penalty imposed by the Secretary under subsection (a) of this section shall be such amount as the Secretary determines to be appropriate to carry out the purposes of this Act, except that such amount shall not exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest in agricultural land with respect to which such violation occurred.

INVESTIGATIVE ACTIONS

SEC. 4. The Secretary may take such actions as the Secretary considers necessary to monitor compliance with the provisions of this Act and to determine whether the information contained in any report submitted under section 2 accurately and fully reveals the ownership interest of all foreign persons in any foreign person who is required to submit a report under such section.

REPORTS TO CONGRESS AND THE PRESIDENT

SEC. 5. (a) In accordance with the schedule set forth in subsection (b) of this section, the Secretary shall—

(1) with respect to each period set forth in such subsection, analyze information obtained by the Secretary under section 2 and determine the effects of foreign persons acquiring, transferring, and holding agricultural land, particularly the effects of such acquisitions, transfers, and holdings, on family farms and rural communities; and

(2) transmit to the President and each House of the Congress a report on the Secretary's findings and conclusions regarding—

(A) each analysis and determination made under paragraph (1); and

(B) the effectiveness and efficiency of the reporting requirements contained in section 2 in providing the information required to be reported by such section.

(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination transmitted, pursuant to subsection (a) of this section—

(1) with respect to information obtained by the Secretary under section 2 during the 6-month period following the effective date of section 2, within 9 months after such effective date;

(2) with respect to information obtained by the Secretary under section 2 during the 12-month period following the effective date of section 2, within 15 months after such effective date; and

(3) with respect to each calendar year following the 12-month period referred to in paragraph (2), within 90 days after the end of such calendar year.

REPORTS TO THE STATES

SEC. 6. Not later than 30 days after the end of each 6-month period beginning after the effective date of section 2, the Secretary shall transmit to each State department of agriculture, or such other appropriate State agency as the Secretary considers advisable, a copy of each report which was submitted to the Secretary under section 2 during such 6-month period and which involved agricultural land located in such State.

PUBLIC INSPECTION

SEC. 7. Any report submitted to the Secretary under section 2 shall be available for public inspection at the Department of Agriculture located in the District of Columbia not later than 10 days after the date on which such report is received by the Secretary.

REGULATIONS

SEC. 8. Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for purposes of carrying out the provisions of this Act.

DEFINITIONS

SEC. 9. For purposes of this Act—

(1) the term "agricultural land" means any land located in one or more States and used for agricultural, forestry, or timber production purposes as determined by the Secretary under regulations to be prescribed by the Secretary;

(2) the term "foreign government" means any government other than the Federal Government or any government of a State or a political subdivision of a State;

(3) the term "foreign person" means—

(A) any individual—

(i) who is not a citizen or national of the United States;

(ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act;

(B) any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(C) any person, other than an individual or a government—

(i) which is created or organized under the laws of any State; and

(ii) in which, as determined by the Secretary under regulations which the Secretary shall prescribe, a significant interest or substantial control is directly or indirectly held—

(I) by any individual referred to in subparagraph (A);

(II) by any person referred to in subparagraph (B);

(III) by any foreign government; or

(IV) by any combination of such individuals, persons, or governments; and

(D) any foreign government;

(4) the term "person" includes any individual, corporation, company, association, firm, partnership, society joint stock company, trust, estate, or any other legal entity;

(5) the term "Secretary" means the Secretary of Agriculture; and

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

EFFECTIVE DATES

SEC. 10. (a) Except as provided in subsection (b) of this section, this Act shall become effective on the date of the enactment of this Act.

(b) Section 2 shall become effective on the date on which regulations prescribed by the Secretary under section 8 become effective.

Amend the title so as to read: "An Act to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agiculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes.".

Mr. TALMADGE. Mr. President, S. 3384 would require foreign nationals who acquire, transfer, or hold interests in U.S. agricultural land to report their transactions or holdings to the Secretary of Agriculture. The Secretary would be required to analyze the information gained from the reports and submit annual reports to Congress on the effects of such foreign investment.

A few months ago we in Congress heard from a number of hard-pressed farmers who were seeking better prices for their crops and livestock. Some of these farmers expressed their concern over a high level of activity by foreign investors in purchasing U.S. agricultural

land within their local areas. These farmers reported several instances in which foreign interests were buying up large acreages of prime farmland and rangeland, often at prices far out of reach of our own farmers.

Unfortunately, reliable data on the extent of foreign investment in agricultural land are not available.

Because of the intense concern expressed by many people about this issue, and the serious questions of public policy involved, I felt it was imperative that more facts and statistics be obtained. Accordingly, I asked the Comptroller General in January to have the General Accounting Office conduct a study of the acquisition of agricultural land by foreign investors.

Specifically, I asked the GAO to provide the Committee on Agriculture, Nutrition, and Forestry with information on, first, various State laws that place restraints on, or require reporting of, alien land ownership, and second, the general availability of reliable data on the subject.

The GAO study was completed in June of this year, the results of which I reported to the Senate. The GAO study confirmed sufficient foreign investment activity to justify some of the concerns that have been expressed. A spot check by GAO investigators revealed, for example, that foreign investors have acquired 6.3 percent of all farmland in a single county of my State in the past year and a half.

GAO recommended that the Federal Government, to get a better handle on this problem, establish a comprehensive reporting system.

Following up the initial GAO report, the Committee on Agriculture, Nutrition, and Forestry is conducting, with the assistance of several Federal agencies, a much broader investigation of the entire issue and of its effect on national and international policy. On the basis of this further investigation, the committee will be in a better position to determine if there is any need for legislation to regulate or limit alien farmland ownership.

In the meantime, there is a clear need for a reliable nationwide system for monitoring farmland acquisition by foreigners, as recommended by GAO. Consequently, the Committee on Agriculture, Nutrition, and Forestry recently reported, and the Senate approved, S. 3384.

On September 14, 1978, the House Committee on Agriculture reported H.R. 13356, a bill similar to S. 3384, as passed by the Senate. On September 26, 1978, the House of Representatives approved S. 3384 after amending the bill by inserting the text of H.R. 13356.

The amendments made by the House do not change the substance of S. 3384, as passed by the Senate.

The House struck from the Senate bill a provision requiring termination of the land reporting requirements in 3 years in the absence of contrary congressional action. However, the House amended the section of the bill requiring annual reports to Congress and the President. Under the House amendment, the Secretary is to include in the reports findings regarding the effectiveness of the legislation in obtaining information on foreign ownership of U.S. agricultural land. The Secretary's assessments in this regard will assist the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry in exercising their oversight responsibilities and determining whether the legislation should be amended.

The House also made several technical changes in S. 3384 that should prove beneficial in its administration. I commend Chairman FOLEY and the other distinguished members of the House Committee on Agriculture for their hard work.

Mr. President, I ask unanimous consent that there be printed in the RECORD a summary of S. 3384, as amended by the House of Representatives.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 3384, THE AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT OF 1978

S. 3384 will require foreign persons who acquire, transfer, or hold interests in U.S. agricultural land to report their transactions or holdings to the Secretary of Agriculture. The Secretary will be required to analyze information gained from the reports and submit annual reports to the President and Congress on the effects of such foreign investment activity.

REPORTING REQUIREMENTS

The bill requires that reports be submitted by foreign persons to the Secretary of Agriculture in the following situations:

(1) Whenever a foreign person acquires or transfers an interest in agricultural land, a report of the transaction must be filed within 90 days after the acquisition or transfer. (Sec. 2(a))

(2) Every foreign person who holds an interest in agricultural land on the day before the effective date of the reporting requirements in the bill must file a report within 180 days after the effective date. (Sec. 2(b))

(3) Whenever a person who holds an interest in agricultural land becomes a foreign person, a report detailing the person's interest in the land must be filed within 90 days after the change in the person's status. (Sec. 2(c))

(4) Whenever U.S. land held by a foreign person becomes agricultural land, a report detailing the person's interest in the land must be filed within 90 days after the change in the status of the land. (Sec. 2(d))

As used in S. 3384, it is intended that the terms—

(a) "interest in land" and "interest in agricultural land" mean any legal or beneficial interest in land (or agricultural land), including contracts for sale or similar arrangements and leaseholds of long duration or that have other characteristics that effectively convey an ownership interest in land, but not security interests or easements (the term "interest" would not include any contingent interest); and

(b) "agricultural land" includes land generally used for agricultural purposes—as well as land actually in use for agricultural purposes—and land associated with the raising of livestock or poultry.

Each foreign person will be required to submit, in its report, information that provides—

(1) the legal name and address of the person;

(2) the person's citizenship (if the person is an individual);

(3) the nature of the entity, the person's principal place of business, and the nation where organized (if the person is a business or other legal entity);

(4) the type of interest in the land;

(5) the legal description and acreage of the land;

(6) the purchase price paid for the land;

(7) the agricultural purposes for which the person intends to use the land, and—with respect to land held by a foreign person on the day before the effective date of the reporting requirements of the bill, or that has changed to agricultural land, or the owner of which has become a foreign person—the agricultural purposes to which the person is devoting the land;

(8) with respect to land transferred by the person, data on the transferee; and

(9) such other information that the Secretary of Agriculture may require. (Sec. 2(a)–(d))

It is expected that the Secretary of Agricultural will require in his regulations that the report include—

(a) with respect to land held by the foreign person on the day before the effective date of the reporting requirements of the bill, or that has changed to agricultural land, or the owner of which has become a foreign person, the date that the foreign person acquired the property;

(b) *all* uses of the land, not just agricultural uses;

(c) the State and county in which the land is located; and

(d) with respect to land transferred by the foreign person, the consideration received by the person for transferring the land.

The bill authorizes the Secretary of Agriculture to require foreign business or other legal entities that are required to report on their transactions or holdings also to submit reports on who holds interests in them, and, if the holders of interests are business or other legal entities, to require the holders of interests to submit reports on who holds interests in them. (Sec. 2(e)–(f)).

DUTIES OF THE SECRETARY OF AGRICULTURE

S. 3384 requires the Secretary of Agriculture to analyze information obtained from reports submitted by foreign persons and determine the effects of foreign investment in agricultural land, especially the effect on family farming and rural communities. The Secretary is to submit annual reports to the President and Congress (1) detailing his findings and conclusions based on his analyses and determinations and (2) noting his findings and conclusions regarding the effectiveness and efficiency of the bill in providing needed information. (Sec. 5)

It is intended that the Secretary analyze the information received from foreign persons to determine the effect of foreign investment on rural land markets, and to determine trends with respect to ownership or control of U.S. agricultural lands by foreign persons. The Secretary should include such analysis and determination in his reports to Congress.

It is expected that the initial report, due 9 months after the effective date of the requirement for reporting by foreign persons, will separately provide findings relating only to foreign investments in land as of the date before such effective date. These findings will serve as a benchmark against which future findings can be measured.

Copies of the reports to Congress should also be sent to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

It is expected that the Secretary will seek the cooperation and assistance of State and county government and make maximum use of Department of Agricu'ture field offices (including State and county ASCS offices) in obtaining information from foreign and other persons under the bill.

The Secretary will be required to transmit

a copy of each report he receives from a foreign or other person under the bill to the appropriate State governmental agency in the State where the agricultural land involved is located. (Sec. 6)

The bill also provides that the Secretary must prescribe regulations necessary to carry out the bill within 90 days after it is enacted. (Sec. 8)

CIVIL PENALTIES

The bill authorizes the assessment of civil penalties if a foreign or other person required to report under the bill either fails to submit a report in accordance with the reporting provisions of the bill, or knowingly submits a report that does not contain all the information required to be reported or that contains information that is misleading or false. It is understood that the term "knowingly", as used in the bill, means that the person knows or has reason to know that the report is incomplete, misleading, or false.

The penalty will be assessed by the Secretary of Agriculture and will be recoverable in a civil action brought by the Attorney General in an appropriate U.S. district court unless the person pays the penalty upon demand by the Secretary.

The amount of each penalty will be determined by the Secretary, but may not exceed an amount equal to 25 percent of the fair market value of the person's interest in the land with respect to which the violation occurred. (Sec. 3)

GENERAL PROVISIONS

The Secretary of Agriculture will have authority to take whatever action is necessary to monitor compliance with the provisions of the bill and to determine whether the information contained in any report accurately and fully reveals the ownership interest of all foreign persons in a foreign person required to submit a report under the bill. (Sec. 4)

The term "foreign person" is defined to include any business or other legal entity in which foreign individuals or governments directly or indirectly hold substantial control or a significant interest. (Sec. 9(3))

Any report submitted to the Secretary under the bill will be available for public inspection at the Department of Agriculture located in the District of Columbia. It is understood that this provision will not derogate from any rights to access to records of the United States Government that a person may have under the Freedom of Information Act, and that the reports submitted under the bill will be available as a matter of course under that Act. (Sec. 7)

The reporting requirements will become effective on the date (no later than 90 days after the enactment of the bill) that the Secretary's regulations under the bill become effective. (Secs. 2, 10)

Mr. TALMADGE. With the enactment of S. 3384, we will have an effective, nationwide system for obtaining reliable information on foreign ownership and control of our farm and forest land.

Mr. DOLE. Mr. President, I commend Senator TALMADGE, the distinguished chairman of the Committee on Agriculture, Nutrition, and Forestry for his time and effort in making S. 3384—the Agricultural Foreign Investment Disclosure Act of 1978—a reasonable approach to find out the extent of foreign ownership in U.S. agricultural land.

During the past few months many farmers in this country have expressed their concerns to me about wealthy foreign investors purchasing large tracts of prime U.S. farmland. If this is occurring on a wide scale across this Nation, our family farm system and rural communities could be jeopardized.

The Committee on Agriculture, Nutrition, and Forestry, under the leadership of Senator TALMADGE, initiated several efforts to determine how serious of a problem there really is with these foreign purchases of our Nation's most precious natural resource. Though results from these efforts are now coming in, they are spotty and, in some cases, incomplete.

Mr. President, I am not certain that foreign ownership of our farmland is currently a major problem. But to really know for sure, a systematic method of acquiring the pertinent information is needed—and this is what S. 3384 really does.

This bill would not, in any way, limit foreign investment—it just requires current and future foreign owners to report their acreage to the Secretary of Agriculture on a continuing basis. Given this, I support S. 3384 and urge the President to sign this bill.

Mr. TALMADGE. Mr. President, I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

Mr. TALMADGE. I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

W. R. "BOB" POAGE PECAN FIELD STATION

Mr. TALMADGE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3467.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3467) entitled "An Act to designate the United States Department of Agriculture Pecan Field Station in Brownwood, Texas, as the 'W. R. "Bob" Poage Pecan Field Station', and to designate the United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, as the 'Roman L. Hruska Meat Animal Research Center' ", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, shall hereafter be known and designated as the "W. R. 'Bob' Poage Pecan Field Station". Any reference to such laboratory in any law, regulation, record, or other paper of the United States shall be deemed a reference to it as the W. R. "Bob" Poage Pecan Field Station.

Amend the title so as to read: "An Act to designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the 'W. R. "Bob" Poage Pecan Field Station'."

Mr. TALMADGE. Mr. President, S. 3467 designates the U.S. Department of Agriculture Pecan Field Station near Brownwood, Tex., as the W. R. "Bob" Poage Pecan Field Station in honor of my personal friend Congressman BOB POAGE who is retiring after 42 years of service.

When I became a member of the Senate Committee on Agriculture and Forestry in 1957, BOB already had 16 years of service as a member of the House Committee on Agriculture.

As we came to know each other, I quickly developed a great and enduring respect for the integrity and principles of this man. I also developed a great admiration for his dedication and ability in the cause of agriculture in this country. My respect and admiration for him have continued to grow through the years.

The 35 years that BOB POAGE has served as a member of the House Committee on Agriculture—8 of them as chairman—have been landmark years for American farmers and their families. More progressive legislation for agriculture has been enacted during this period than during any other. BOB POAGE's imprint is on virtually all of it.

He has fought to enact and retain sound programs to assure this nation a continuing supply of food and fiber at reasonable prices to consumers. He has fought for programs to make life better for rural and small town America. Of great importance to BOB POAGE was the establishment of the Department of Agriculture Pecan Field Station in Texas.

Although raising pecans is considered by some to be merely a hobby, in many areas of the country it is a large commercial business with significant benefits for local populations. BOB was aware of the peacan industry's importance and was instrumental in the establishment of the Pecan Field Station. The station has had a significant effect on the industry and has been of particular benefit to the many small farmers for whom pecans is a cash crop.

Because of BOB POAGE's untiring interest and dedication to agriculture, it is fitting that the Nation honor him through the enactment of S. 3467.

I should like to note that S. 3467, as amended by the House, contains the text of H.R. 11123, which is identical to section 1 of S. 3467 as passed by the Senate. The House struck from S. 3467 a provision that would have designated a Federal facility in honor of former Senator Roman L. Hruska. This action was taken by the House after it had passed and cleared for the President's signature S. 409, similar legislation designating the U.S. Department of Agriculture Meat Animal Research Center near Clay Center, Nebr., the Roman L. Hruska Meat Animal Research Center.

Mr. DOLE. Mr. President, S. 3467 would rename the Pecan Field Station in Brownwood, Tex., the W. R. "Bob" Poage Pecan Field Station in honor of Congressman POAGE.

My personal friend, Congressman BOB POAGE, has served in the House of Representatives since 1937 and is retiring this year. I had the privilege of serving with Congressman POAGE on the House Agriculture Committee.

In 1941, Mr. POAGE was appointed to the House Committee on Agriculture, whereupon he left all other committees to serve solely on agriculture. He was the committee's vice chairman from 82d

through the 89th Congresses and during the 94th and 95th Congresses. He served as chairman of the Agriculture Committee during the 90th through 93d Congresses.

Mr. POAGE's reputation as an expert on virtually all aspects of agriculture is well established. Of great importance to Mr. POAGE was the establishment of the Department of Agriculture Pecan Field Station near Brownwood, Tex.

The research station occupies 160 acres of land and employs 12 persons. The station was established for the purpose of conducting breeding and culture studies on pecans with emphasis on the development of new varieties, the development of superior root stocks, studies of high density planting, and methods of controlling pecan insects.

Mr. POAGE has served agriculture in this country all his life. He has left his personal mark on the agricultural legislation of this country. It is fitting that the Congress honor him in this way.

S. 3467, as amended by the House, contains the text of H.R. 11123, which is identical to section 1 of S. 3467 as passed by the Senate.

The House removed from S. 3467 a section that has named a Federal facility in Nebraska for former Senator Roman L. Hruska.

This action was taken by the House after it had passed and cleared for the President's signature S. 409, similar legislation designating the U.S. Department of Agriculture Meat Animal Research Center near Clay Center, Nebr., the Roman L. Hruska Meat Animal Research Center.

Mr. President, in honor of the outstanding contribution to American agriculture by Congressman W. R. "BOB" POAGE of Texas, I urge the Senate to concur in the House amendments.

Mr. TALMADGE. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. TALMADGE. I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of two calendar items which have been cleared for unanimous consent, Calendar Orders numbered 1182 and 1184.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, these items are cleared on our calendar and we have no objection to proceeding to their consideration and their passage.

NATIONAL INVENTORS' DAY

The joint resolution (S.J. Res. 168) designating and authorizing the President to proclaim February 11, 1979, as "National Inventors' Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in honor of the important role played by inventors in promoting progress in the useful arts and in recognition of the invaluable contribution of investors to the welfare of our people, February 11, 1979, is hereby designated "National Inventors' Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1259), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the joint resolution is to authorize and request the President to issue a proclamation designating February 11, 1979, as "National Inventors Day."

STATEMENT

This resolution will aid in focusing public attention on invention and innovation, which are so essential to progress in the useful arts in the United States. The date of February 11 is significant in that it is the birthday of Thomas A. Edison who invented the first practical incandescent electric lamp, the 100th anniversary which will be celebrated in 1979, and who was the first inventor to be inducted into the National Inventors Hall of Fame.

The joint resolution would designate, and authorize the President to proclaim February 11, 1979 as "National Inventors Day," calling upon the people of the United States to celebrate the day with appropriate ceremonies and activities. The purpose is to honor and focus public attention upon the vital contributions of inventors to the quality of life in this country and, indeed, throughout the world. It is the duty of Congress under the Constitution to promote progress in the useful arts, and it is hoped that such focusing of attention on inventors will also remind all of us of the continuing urgent need for invention and innovation and for a effective patent system in this country.

The U.S. Patent and Trademark Office recently reported that, whereas in 1961 only about 17 percent of U.S. patents were issued to residents of foreign countries, by the end of 1977 the foreign share had increased to over 36 percent. In view of the importance of U.S. markets and the consequent incentive to obtain patents in this country, it is said that U.S. patent activity is a good indicator not only of the extent of technology effort in this country, but also of that in foreign countries. This statistically indicated relative decline in inventive activity in the United States may therefore serve as a warning that a stimulus is presently needed to restore the relative standing of the United States on the tally sheet of significant worldwide invention and technological innovation.

The very real adverse effects of this decline in technological innovation on the Nation's competitiveness in world markets was recently mentioned by my colleague, Senator Adlai Stevenson, of Illinois, as being a contributor to the Nation's enormous current trade deficit. In this regard he said that the deficit results largely from our lack of exports to pay for it, and indicated that the lack of exports is a result of a decline in technological innovation which has accounted for 45 percent of the Nation's economic growth between 1929 and 1969. He also said he thought the key to recovery and stable prices is industrial innovation, but that the Nation is losing its edge in this respect.

Designation of a "National Inventors Day," as provided by the joint resolution, will help direct needed public attention to the problem. February 11 is the birthday of Thomas A. Edison, one of our greatest inventors and the first to be inducted into the National Inventors Hall of Fame upon its establishment in 1973. On February 11 of each year ever since a National Inventors Day has been celebrated by appropriate displays of inventions at the U.S. Patents and Trademarks Office and ceremonies to induct inventors into the National Inventors Hall of Fame. The Governors of many States as well as mayors in many cities issue proclamations each year honoring inventors on that day. Moreover, the year 1979 will mark the 100th anniversary of the invention of the incandescent lamp by Thomas Edison and, therefore, it seems there is no date more appropriate than February 11, 1979, to honor inventors and draw public attention to the need for more invention and innovation and for a thriving patent system.

COST

No cost would result from the enactment of the Senate joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JUSTICE WILLIAM O. DOUGLAS U.S. FEDERAL BUILDING

The bill (S. 3540) to rename the U.S. Federal Building in Yakima, Wash., the "Justice William O. Douglas U.S. Federal Building," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Federal Building and Courthouse located at 25 South Third Street in Yakima, Washington, is hereby designated as the "Justice William O. Douglas Federal Building." Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Justice William O. Douglas Federal Building.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 30 minutes, and that Senators may speak for 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT WITH RESPECT TO CLOTHESPINS FROM THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT—PM 226

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with section 203(b)(2) of the Trade Act of 1974, enclosed is a report to the Congress setting forth my determination that import relief for the U.S. clothespin industry is not in the national economic interest, and explaining the reasons for my decision.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1978.*

REPORT OF DEFERRAL OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 227

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Human Resources, the Committee on Finance, the Committee on Energy and Natural Resources, the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Foreign Relations, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 30 deferrals of fiscal year 1979 funds totalling $1,178.2 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1978.*

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Pursuant to order of the Senate of Saturday, September 30, 1978, the Secretary of the Senate, on September 30, 1978, during the recess, received a message from the House of Representatives reporting that the Speaker has signed the following enrolled bill and joint resolutions:

S. 2391. An act to extend the Commodity Exchange Act, and for other purposes;

S.J. Res. 165. A joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes; and

H.J. Res. 1140. A joint resolution to amend section 8 of the Export-Import Bank Act of 1945.

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore (Mr. HODGES).

MESSAGES FROM THE HOUSE

At 1:34 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 2566. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the United States Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

The message also announced that the House has passed the bill (S. 3151) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes, with amendment in which it requests the concurrence of the Senate; insists upon its amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RODINO, Mr. BROOKS, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. CONYERS, Mr. EILBERG, Mr. MANN, Mr. DANIELSON, Mr. MCCLORY, Mr. RAILSBACK, Mr. WIGGINS, and Mr. FISH were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to H.R. 9370, an act to provide for the development of aquaculture in the United States, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 13797. An act to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes; and

H.J. Res. 685. A joint resolution to designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday".

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 727. A concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 8394.

HOUSE BILLS AND JOINT RESOLUTION SIGNED

At 2:54 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 2249. An act to prohibit discrimination in rates charged by the Southwestern Power Administration;

S.J. Res. 29. A joint resolution to authorize the President to issue a proclamation designating that week in November 1979, which includes Thanksgiving Day as "National Family Week";

H.R. 8588. An act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes;

H.R. 11005. An act to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979;

H.R. 12928. An act making appropriations for energy and water development for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 12934. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 3:55 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 2704) to promote a more adequate and responsive national program of water research and development, and for other purposes.

The message also announced that the House insists upon its amendments to the amendment of the Senate to H.R. 12467, an act to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. BRADEMAS, Mr. BEARD of Rhode Island, Mr. MILLER of California, Mr. KILDEE, Mr. HEFTEL, Mr. HAWKINS, Mr. BIAGGI, Mr. QUIE, Mr. JEFFORDS, and Mr. ERLENBORN, solely for titles I through IV; and Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. CARTER, Mr. BROYHILL, and Mr. MADIGAN, solely for title V, were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 5:29 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the Speaker has signed the following enrolled bills:

H.R. 8149. An act to provide customs procedural reform, and for other purposes;

H.R. 9945. An act to amend the act creating the Indian Claims Commission to re-

peal the provision limiting the activities of Commissioners during the two years following their terms of office; and

H.R. 11400. An act to authorize appropriations of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. MORGAN).

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 11733. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

HOUSE BILL AND JOINT RESOLUTION HELD AT DESK

The following bill and joint resolution were read by title and held at the desk, by unanimous consent:

H.R. 13797. An act to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes; and

H.J. Res. 685. A joint resolution to designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday."

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on September 30, 1978, he presented to the President of the United States the following enrolled bill and joint resolution:

S. 2391. An act to extend the Commodity Exchange Act, and for other purposes; and

S.J. Res. 165. A joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes.

REPORT OF A COMMITTEE SUBMITTED DURING THE RECESS

Pursuant to order of Saturday, September 29, 1978, the following report of a committee was submitted on October 1, 1978:

By Mr. LONG from the Committee on Finance, with an amendment:

H.R. 13511. An act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes (together with supplemental views) (Rept. No. 95-1263).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By MR. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 13635. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes (Rept. No. 95-1264).

TUITION TAX CREDIT ACT OF 1978—CONFERENCE REPORT

Mr. LONG, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12050, an Act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition (Rept. No. 95-1265).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TALMADGE (for himself, Mr. INOUYE, Mr. NUNN, Mr. MATSUNAGA, and Mr. HATHAWAY):

S. 3544. A bill to provide for demonstration programs to train and employ AFDC recipients as homemakers and home health aides; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE (for himself, Mr. INOUYE, Mr. NUNN, Mr. MATSUNAGA, and Mr. HATHAWAY):

S. 3544. A bill to provide for demonstration programs to train and employ AFDC recipients as homemakers and home health aides; to the Committee on Finance.

(The remarks of Mr. TALMADGE when he introduced the bill appear elsewhere in todays proceedings.)

ADDITIONAL COSPONSORS

S. 3414

At the request of Mr. WALLOP, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 3414, a bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

S. 3481

At the request of Mr. MCCLURE, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 3481, a bill to retrocede to the State of Maryland all lands within the District of Columbia, except lands owned by the United States.

SENATE JOINT RESOLUTION 157

At the request of Mr. MCCLURE, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Joint Resolution 157, proposing an amendment to the Constitution to retrocede to the State of Maryland all lands within the District of Columbia except lands owned by the United States.

SENATE RESOLUTION 469

At the request of Mr. ROBERT C. BYRD, the Senator from Oregon (Mr. MARK O. HATFIELD) was added as a cosponsor of Senate Resolution 469, concerning the inhuman acts of the Government of Cambodia against the people of Cambodia.

AMENDMENTS SUBMITTED FOR PRINTING

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3686

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN (for himself, Mr. HART, Mr. DOLE, and Mr. BROOKE) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

EQUAL RIGHTS AMENDMENT DEADLINE RATIFICATION (H.J. RES. 683)

AMENDMENT NO. 3687

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to Amendment No. 3675 intended to be proposed to House Joint Resolution 683, a joint resolution extending the deadline for the ratification of the Equal Rights Amendment.

● Mr. STEVENSON. Mr. President, I was an original cosponsor of the Equal Rights Amendment and I continue to support its adoption.

The resolution to extend the time for ratification of ERA, however, raises an issue distinct from the issue of equal rights and just as important. It is an issue of political due process.

An amendment to the Constitution aimed at securing fairness should itself be secured by means that are fair, and fairness requires the ratification process to produce a "contemporaneous" expression of the public's opinion. The Constitution requires as much. And 10 years is a long time. The public's opinion can change. An opinion expressed in the last State to ratify—as long as 10⅓ years after adoption of the amendment by Congress—does not assure a contemporaneous expression of opinion.

We are faced with this issue of due process by the efforts of ERA supporters to change the rules in order to secure the adoption of the amendment with more time. I would not have supported a congressional affirmation of a State's right to rescind at the outset of the 7 year period. But now we are asked to give one side 3⅓ more years. An amendment approved by means which accorded one side more time and the other no time in which to seek rescissions could earn the disrespect of the public and disserve the very cause of equal rights it is intended to advance. Such means could win disrespect for the law in general.

In order to avoid such a result I have supported Senator GARN's amendment permitting States to rescind their ratifications during the period of extension. After studying the relevant Supreme Court decisions, congressional precedents and interpretations of article 5 of the Constitution, I have concluded that the decision as to whether rescissions ought to be considered is a determination the Congress can only make at the time of

purported ratification of the amendment. Any action by this Congress regarding rescission now would be premature, misleading to the States and nonbinding. The approval of his amendment would signify congressional disapproval of rescission. The defeat of his amendment would signify congressional disapproval of rescission. And the Congress can at this time make neither decision. It cannot bind a future Congress. If 38 States ratify, then the Congress will face the decision—and no matter what we do now. And only then can the Congress make a wise decision, considering then when the requisite States have ratified, whether ratification expresses a contemporaneous opinion or whether rescissions deprived ratification of that effect. The Congress now should be neutral on the question of rescission. It should state that it is neutral. Otherwise Congress will imply a decision it cannot make and mislead the public. I, therefore, intend to offer an amendment which will state that the Congress expresses no opinion on the validity of a State's action to rescind its ratification and expressly leave that determination to the Congress when and if the 38 States ratify. This amendment merely states the law. It states fact. It is the only course the Congress can take without misleading the public.

The legal basis upon which I recommend this course is open to no serious challenge.

The function of the Congress sitting at the time of purported ratification is not ministerial, but a significant and indispensable one. The Congress in the cases of the 14th, 15th, and 19th amendments made decisions with respect to this very issue—the acceptance or rejection of rescissions. The Supreme Court in *Coleman* v. *Miller*, 307 U.S. 433 (1939), has expressly stated that this question is "an open one for the consideration of the Congress when, in the presence of certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment." (307 U.S. 433, 454.) Never has the Congress purported to make the decision on rescission before the requisite ratifications have taken place.

Such guidance as has been provided by the Court in Coleman and earlier in *Dillon* v. *Gloss*, 256 U.S. 368 (1921), indicates that it is the duty and responsibility of the Congress with respect to the ratification process to insure that ratification represents a "reasonably contemporaneous expression" of the will of the people. Rescissions by States bear upon that issue. Logically and legally, as well, the "reasonably contemporaneous" determination can be made only by the Congress at the time of purported ratification. Only then can Congress evaluate the reasonableness of the period of time which has elapsed between congressional approval and ratification of the amendment. And only the Congress then can determine whether efforts to rescind by States ought to be taken into account in deciding whether the purported ratification represents a reasonably contemporaneous expression of the will of the people.

That determination may well be affected by the number of years during which the amendment has been considered, the number of States which have attempted to rescind their ratifications, and the procedures by which such recissions were accomplished. These are facts not before the Congress now and facts without which a reasoned—and reasonable—policy with respect to rescission cannot be adopted. Nor can we, or should we, attempt to prejudge that question for the Congress or the Court which will have those facts before them.

House Joint Resolution 638 neither prohibits nor encourages rescission. But the amendment offered by Senator GARN, whether adopted or rejected, would be construed as an expression of congressional intent one way or the other and a signal to the States. Yet, such an expression would not be binding on a future Congress—and it would be premature. If forced to a vote one way or the other on the Garn amendment, I would vote for it as marginally preferable to voting against it in those circumstances.

This amendment is preferable. It in no way affects the rights of States to rescind, if they have that right, nor does it mislead States as to how rescissions will be received in Congress. It simply recognizes the facts and the law—that the determination as to the validity of rescissions lies with the Congress in the future, not now. I ask unanimous consent that my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

In lieu of the matter proposed to be inserted, insert the following: *"Provided, however,* That the Congress expresses no opinion with respect to the effect of the action of a legislature of any State in rescinding its ratification of such article of amendment inasmuch as such determination lies with the Congress at the time of the purported ratification of such article of amendment by the legislatures of three-fourths of the several States.".●

AMENDMENT NO. 3688

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to House Joint Resolution 638, supra.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

● Mr. TALMADGE. Mr. President, on behalf of the Committee on Agriculture, Nutrition and Forestry, I desire to give notice that a public meeting has been scheduled for Friday, October 6, at 9 a.m. in room 324, Russell, to consider the nomination of Robert W. Feragen, of Virginia, to be Administrator of the Rural Electrification Administration.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HEALTH AND SCIENTIFIC RESEARCH

Mr. STEVENSON. Mr. President, I ask unanimous consent that the Subcommittee on Health and Scientific Research of the Committee on Human Resources be authorized to meet during the sessions of the Senate on Monday, October 9, Tuesday, October 10, and Friday, October 13, to hold hearings on the natural health insurance legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS

Mr. STEVENSON. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Relations be authorized to meet during the sessions of the Senate on Wednesday, October 4, Thursday, October 5, and Friday, October 6, 1978, to hear witnesses on U.S. Relations With Latin America: Trends and Issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT INVESTIGATIONS SUBCOMMITTEE

Mr. STEVENSON. Mr. President, I ask unanimous consent that the Permanent Investigations Subcommittee of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, October 3, 1978, to hold a hearing on the transfer of technology in the Dresser Industries export licensing action.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 3, to hold a hearing on Ex. K, 95–2, Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, to consider nominations, and to consider the release of classified material concerning Korea hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LONG. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet during the session of the Senate on tomorrow to consider various matters before it.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROTECTING THE RIGHTS OF U.S. CITIZENS BORN OVERSEAS

● Mr. KENNEDY. Mr. President, I was not able to be on the floor last week during consideration of H.R. 13349, which repealed certain conditions for the retention of U.S. nationality and citizenship by American children born overseas of one citizen parent. But I want the RECORD to show that I strongly support this bill, and I had originally asked that it be expeditiously considered by the Senate.

In fact, the bill as it came from the House did not go as far as I would have liked. Had there been time on the Senate calendar I would have offered amendments and sought to bring this bill in line with the broader provisions of

S. 2314, which I introduced earlier this session.

However, I will seek next session to further reform the nationality law along the lines of S. 2314, and I shall introduce a bill to this effect early next year.

Mr. President, I am gratified that the Senate has cleared for the President an essential first step in reforming our nationality law as it relates to the retention of citizenship of American children born overseas.

H.R. 13349, as it cleared the Senate, helps to update and clarify the meaning and intent of our basic law on nationality and citizenship by repealing certain provisions which are no longer invoked or have been declared unconstitutional by the courts. Second, the bill remedies the onerous requirements of present law for the retention of American nationality and citizenship to certain children born outside of the United States. It removes the discriminatory treatment against these children in the retention of their American nationality and citizenship.

In the context of the need for a general reform of the basic immigration and nationality statute, these objectives are very modest. But for the thousands of people affected, this act is of vital importance—especially for those who truly value their democratic heritage and their status as citizens of the United States.

Mr. President, current law states that a child shall lose his or her nationality and citizenship, unless the child is "continuously physically present" in the United States for at least 2 years between the ages of 14 and 28, or until the alien parent is naturalized and "the child begins to reside permanently in the United States while under the age of 18 years."

These requirements have been causing some needless hardships to a growing number of American children born overseas, with only one citizen parent. Moreover, such requirements are discriminatory—even within a child's family. They do not apply, for example, to the child's brothers or sisters born within the United States, but living with the family overseas. Nor do such requirements apply to any other category of American citizen children born outside of the United States.

So I am pleased the Senate has acted to remove this discrimination against American children born overseas of mixed parentage—so that their longtime rights to American nationality and citizenship are not placed in jeopardy by arbitrary decisions of outmoded law.

Mr. President, there was strong support for this bill and for my original bill S. 2314, from a large number of interested citizen groups, both here and abroad. In recent weeks the Judiciary Committee has received strong endorsements from the American Legion, the National Association for Uniformed Services, the European Republican Committee, and Democrats Abroad, among others.

I ask that a selection of these letters be printed in the RECORD.

The letters follow:

AMERICAN CHILDREN'S CITIZENSHIP RIGHTS LEAGUE,
Geneva, Switzerland, June 30, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: ACCRL, a non-profit organization of parents of American children born abroad, has been working very hard to eliminate discrimination in American laws against children who are born abroad with one non-American parent. At the present time some of these children are born stateless. Others face requirements to live for certain periods in the United States or risk becoming stateless later in their lives. We feel, and hope that you will agree with us, that such discrimination is unworthy of our great country. We feel that it would be especially appropriate to eliminate this discrimination now before the International Year of the Child begins in January 1979.

Senator Edward Kennedy has sponsored a bill, S. 2314, which would go far toward the elimination of this problem. His bill now awaits action by your committee. We would be most grateful for your support for this bill, and for your help in seeing that this bill reaches the full Senate this year. There are many thousands of families who await this redress who join me in thanking you for your most kind consideration.

Most respectfully,
ANDREW P. SUNDBERG,
Co-Chairman.

NATIONAL ASSOCIATION FOR UNIFORMED SERVICES,
Arlington, Va., July 20, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The National Association for Uniformed Services is a non-profit organization whose membership consists of active, reserve and retired personnel of all grades from the seven uniformed services and their wives and widows. In general our organization's purpose is to develop and support activities which will promote the general well-being of the members of the uniformed services and their dependents, to uphold and defend the Constitution of the United States and to support a strong national defense.

Active and retired members of the uniformed services community and their dependents have suffered hardships as a result of current U.S. laws governing the transmission, and subsequent retention, of U.S. citizenship to certain children born abroad. Under present U.S. law, for a child born overseas of an American parent and a non-American parent to have any right to U.S. citizenship, conditions precedent and subsequent to the birth of the child must be fulfilled by the American parent and the child, respectively. For transmission of U.S. citizenship to such a child, the American parent must have been physically present in the United States for ten years, five of which must have been after the parent's reaching the age of fourteen. To retain the U.S. citizenship so transmitted, the child must, in addition, spend two continuous years in the United States between the ages of fourteen and twenty-eight. These provisions of current U.S. law have resulted in children of U.S. citizens being born without, or subsequently losing, the U.S. citizenship of their American parent. Many of these children, furthermore, ultimately find themselves without any citizenship at all, or "stateless" persons.

We urge the Congress to enact remedial legislation to eliminate hardships being imposed and what we consider discrimination against a few who have no control over their predicament.

Senator Edward M. Kennedy has introduced a bill, S. 2314, which would go far toward the elimination of this problem. We understand that your Committee will consider this bill at the full Committee level this month, and note this development with approval. Further, we would appreciate your continuing support for this bill, and your efforts to insure that S. 2314 reaches the Senate floor for favorable and timely action this session.

I thank you, Mr. Chairman, for your kind consideration of our comments.

Sincerely,
JOHN P. SHEFFEY,
Executive Vice President.

THE RETIRED OFFICERS ASSOCIATION,
Washington, D.C., July 19, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Retired Officers Association is a nonprofit organization whose membership, which numbers in excess of 245,000, consists of persons who are or have been commissioned or warrant officers in any component of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service. The Retired Officers Association supports generally a strong national defense, and represents the interests of retired officers, their dependents and survivors.

A number of our members and their dependents have suffered hardships on account of present U.S. laws governing the transmission, and subsequent retention, of U.S. citizenship to certain children born abroad. Under present U.S. law, for a child born overseas of an American parent and a non-American parent to have any right to U.S. citizenship, conditions precedent and subsequent to the birth of the child must be fulfilled by the American parent and the child, respectively. For transmission of U.S. citizenship to such a child, the American parent must have been physically present in the United States for ten years, five of which must have been after the parent's reaching the age of fourteen. To retain the U.S. citizenship so transmitted, the child must, in addition, spend two continuous years in the United States between the ages of fourteen and twenty-eight. These provisions of current U.S. law have resulted in children of U.S. citizens being born without, or subsequently losing, the U.S. citizenship of their American parent. Many of these children, furthermore, ultimately find themselves without any citizenship at all, or "stateless" persons.

The Retired Officers Association believes that the above provisions of current U.S. law are discriminatory, and impose severe hardships on many U.S. citizens living and/or born abroad. Accordingly, we urge the Congress to enact remedial legislation eliminating this discrimination. Such legislative action, which is long overdue, would be particularly appropriate during this session, before the International Year of the Child begins in 1979.

Senator Edward M. Kennedy has introduced a bill, S. 2314, which would go far toward the elimination of this problem. We understand that your Committee will consider this bill at the full Committee level this month, and note this development with approval. Further, we would appreciate your continuing support for this bill, and your efforts to insure that S. 2314 reaches the Senate floor for favorable and timely action this session.

I thank you, Mr. Chairman, for your kind consideration of our comments.

Sincerely,

JOHN F. WANAMAKER,
Commander,USN,
Legislative Counsel.

JULY 11, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR CHAIRMAN EASTLAND: The American Legion, in keeping with its policy of seeking equity in the requirements for U.S. citizenship, is concerned over several features of current law which appear to discriminate against those children born abroad to one American parent and one non-American parent. We support the enactment of legislation to eliminate these inequities.

It is our understanding that S. 2314, a bill addressing this situation by calling for several revisions in the Immigration and Nationality Act, is now before the Judiciary Committee and is scheduled for consideration later this month. We request your assistance to insure that the Committee act upon this measure as quickly as possible and that the full Senate subsequently consider it in a timely fashion.

Sincerely,

MYLIO S. KRAJA,
Director, National Legislative Committee.

EUROPEAN REPUBLICAN COMMITTEE,
London, United Kingdom, July 12, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: The European Republican Committee wishes to convey its deep interest in the expeditious passage of S. 2314. We feel that this bill will serve to redress the inequities currently found in some sections of our Immigration and Nationality Act.

We strongly urge you to support this legislation in order to ensure equal protection of the citizenship rights of all United States citizens.

Sincerely,

NORMA E. ARMSTRONG.

DEMOCRATS ABOARD (U.K.),
London, England, July 11, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR SENATOR: I write in reference to S. 2314, sponsored by Senator Edward Kennedy.

Democrats Abroad have worked hard to eliminate legislation which discriminates against Americans living overseas or which in any way treats them in a manner inferior to their fellow citizens in the United States. Our Central Committee has strongly endorsed S. 2314. On their behalf I urge you and the full Judiciary Committee to take favorable action on this bill so that it may come before the Senate in this session.

We appreciate your support. And when I say "we" I not only mean Democrats Abroad, but also thousands and thousands of Americans and their children whose future citizenship may be in jeopardy.

Yours sincerely,

ANTHONY HYDE.

DEMOCRATS ABROAD (DPCA),
London, England, June 28, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: Apropos of our meeting and conversation of June 14. I will now take the opportunity to state formally that Democrats Abroad strongly urge passage of S. 2314.

The Immigration and Nationality Act of 1952, as amended, contains provisions which are highly discriminatory against American citizens born and/or living overseas. These provisions concern the rights of Americans to transmit citizenship to their children who are born overseas and the obstacles which such children face in the retention of their American citizenship.

Under present law, for a child born overseas of an American parent and a non-American parent to have any rights to United States citizenship, conditions precedent and subsequent to his birth must be fulfilled respectively by the American parent and the child himself. The American parent must have been physically present in the United States for ten years, five of which must be after the age of fourteen. The child must additionally spend two continuous years in the United States prior to his twenty-eighth birthday. If the American parent does not meet the conditions precedent, he or she cannot transmit U.S. citizenship to the child. If the condition precedent is fulfilled but the condition subsequent is not, the "provisional" American citizenship which the child has possessed until then lapses on his twenty-sixth birthday. For this reason, this "provisional" citizenship status has come to be commonly known as "Cinderella citizenship."

According to the State Department, there are over 1.8 million American citizens living overseas. Each year during the five year period 1972–1976, an average of 38,000 children have been born overseas acquiring American citizenship automatically at birth because of the qualifications of their parents to transmit citizenship under the present law. Of this number, 15,000 acquire a provisional or "Cinderella citizenship" because only one parent was an American citizen.

S. 2314, which has been introduced by Senator Edward M. Kennedy, would eliminate the condition subsequent of two years continuous residence on the part of a child so placed. It would reduce the condition precedent to two continuous years residence for the American parent to transmit citizenship in such instances. Finally S. 2314 would repeal those provisions of the present law that have been found to be unconstitutional by the Supreme Court of the United States, but which still remain on the statute books, and would also repeal other sections that are closely related to those found unconstitutional. I attach a more detailed analysis of the bill which has been prepared by the American Childrens' Citizenship Rights League (ACCRL), a non-partisan organization with which I am also associated.

Democrats Abroad, a constituent part of the Democratic Party in the United States, has dedicated itself to seeking the elimination of all discriminatory legislation which treats Americans living overseas in an inferior manner to Americans living in the United States. They believe that enactment of S. 2314 would provide a substantial improvement over the onerous provisions of the present law. I note the bi-partisan support which the bill enjoys, as the European Republican Committee has also endorsed it. Further, such non-partisan organizations as ACCRL, the Association of Americans Resident Overseas (AARO) and the American Legion support it. Finally, we understand that the Departments of State and Justice, the Office of Management and Budget and the White House have approved and recommended passage of S. 2314, noting the discriminating aspects of the current statute.

We Americans live in an era of much greater international mobility and much more frequent international marriage. We also are embarked under President Jimmy Carter's leadership on a new venture in trying to promote a greater affection for human rights among all men. Since the present American law deals unfairly with the citizenship rights of some children and leads to cases of children born stateless, it is altogether fitting and proper that the United States should abolish such discriminatory legislation.

I want to thank you again, Mr. Chairman, for meeting with me to discuss this problem. Democrats Abroad hope that you, the Judiciary Committee and the U.S. Senate will, in this session, act favorably upon S. 2314.

Yours sincerely,

JOHN P. LOIELLO,
Secretary.●

ERA: THE EXTENSION ISSUE

Mr. GRIFFIN. Mr. President, I ask that a statement I have made concerning the pending ERA extension legislation be printed in the RECORD.

The statement follows:

STATEMENT BY U.S. SENATOR ROBERT P. GRIFFIN

Within a few days, the U.S. Senate will be voting on a bill that would extend the period allowed for ratification by the states of ERA—the proposed Equal Rights Amendment to the U.S. Constitution.

My position on ERA is well known and has been a matter of public record for a long time. I cosponsored the original ERA amendment in the Senate; I spoke in support of it when the proposal was debated on the Senate floor in 1972; and of course, I voted for it.

As a cosponsor of ERA, I continue to support it strongly; and I hope the required ¾ of the states will ratify it.

Now that the seven year ratification period is about to expire, Congress is considering a legislative proposal to extend the period for an additional 39 months.

This extension proposal raises some novel and very serious Constitutional and legal questions that have troubled me—questions unrelated to the merits of ERA itself.

1. Does Congress have the authority, under the Constitution, to extend the ratification period?

2. If so, should Congress recognize the right of a ratifying state to rescind, or withdraw, its ratification—at least during the extension period?

From time to time in recent weeks, I have been studying and weighing the arguments on both sides of these troublesome questions. I fully recognize that the decisions to be made by Congress will be historic and precedent-setting.

I also feel a heavy responsibility because I know that the vote count in the Senate is very close, and the position I take could possibly tip the balance.

However, the time has come to "fish or cut bait." I've decided to state my position here in Michigan—rather than in Washington—in the hope that it will maximize the opportunity for understanding among the Constituents I am honored to represent. Needless to say, I am keenly aware of the deep division that exists among women (and men, too) concerning this legislation.

It is one of those issues on which a politician cannot hope to win. But, as a Senator, I have many tough decisions to face.

I've decided that when the roll is called next week, I shall vote for the legislation to extend the ERA ratification period.

I shall vote to cut off a filibuster if one is launched to block the bill.

And I shall not vote for the rescission amendment that will be offered.

Here, briefly, are my reasons:

1. To become part of the Constitution, a proposed amendment must be ratified by ¾ of the states within a reasonable period of time. But it is within the power of Congress

to determine what is a "reasonable" time. My reading of the Supreme Court decisions bearing on this point convinces me, as a lawyer and as a Senator, that Congress does have the Constitutional authority to extend the ratification period. Considering the fundamental nature and significance of this proposed amendment, and the fact that legislatures of a number of states have not yet voted on it, I believe a 39 month extension is not unreasonable.

2. If the ratification period is extended, I believe the case for recognizing a State's rescission would then be much stronger, particularly if rescission were affected during the extension period. However, my review of the history and legal opinions bearing on this point convinces me, as a lawyer and as a Senator, that this Congress cannot bind a future Congress on the question of rescission.

When and if a claim is made that ¾ of the states have ratified a proposed Constitutional amendment, it is for the Congress then sitting to determine whether such is the fact. At that point, it is the responsibility of the Congress then sitting to review, count and pass judgment on the validity of each State's ratification.

Although there is no precedent for doing so, I believe Congress at that point could recognize a State's rescission.

I am well aware that emotions run deep on this issue. However, I have tried my best to approach it objectively and deliberately, focusing on the legal and Constitutional questions involved.

I hope the final judgment of the Senate will be in that spirit too.

NOTICE OF DETERMINATION CONCERNING GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN COUNTRY

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received requests for determinations under rule 43 which would permit Thomas Connaughton, legislative assistant to Senator BIRCH BAYH, Robert L. Dowen, legislative assistant to Senator BOB DOLE, Neal J. Houston, administrative assistant to Senator ROBERT T. STAFFORD, Ronald L. Tammen, legislative assistant to Senator WILLIAM PROXMIRE, Harris Miller, legislative assistant to Senator JOHN A. DURKIN, Charles P. Jones, legislative assistant to Senator RICHARD S. SCHWEIKER, to participate in a program sponsored by a foreign educational organization, the Van Leer Foundation of Jerusalem, Israel, November 13–23, 1978.

It has been determined that participation by the above named in the program in Israel, at the expense of the Foundation to discuss issues in the education field is in the interest of the Senate and the United States.●

THE STRONG CASE FOR SALT II

● Mr. KENNEDY. Mr. President, the United States and U.S.S.R. are presently engaged in a final, and we all hope and expect a successful, round of the SALT II negotiations. It is clear that the emerging agreement will make an important contribution not only to our national security but to improved relations between the only two countries which can destroy the world.

Last week, my good friend the Senator from Maryland (Mr. MATHIAS) made a strong and convincing case for the SALT II accords. He clearly pointed out the strength of the U.S. deterrent and the substantial progress represented by SALT II. He explained why SALT cannot be expected to solve the "potential threat of ICBM vulnerability" and observed that "those who point to ICBM vulnerability consistently ignore the fact that the two other legs of our nuclear triad provide a powerful disincentive in the form of approximately 7,000 nuclear weapons, for any Soviet consideration of a preemptive attack on our ICBM's."

Senator MATHIAS' case for our national security through SALT II will be extremely useful as we join with the Carter administration in taking that case to the Congress and people. The administration has begun to make the case for SALT in hundreds of successful appearances throughout the country, and I am confident that the President will lend his personal support to this vital national effort in the months ahead.

I request that the text of Senator MATHIAS' article, in the September 21 issue of the Christian Science Monitor, be printed in the RECORD.

The article follows:

SALT II: WILL CARTER MAKE THE STRONG CASE THERE IS?

(By CHARLES MCC. MATHIAS, Jr.)

The Salt II treaty suffers from being negotiated by an administration that seems unable or unwilling to make a positive case for arms control. It suffers from a widely held perception that the administration has taken a series of unilateral decisions which have weakened this country militarily. It suffers because the Soviet Union has chosen this time to initiate a series of actions which can only be seen as inimical to détente and undermining the prospects for arms control.

But SALT can promote the national interests of the United States in ways that are really unrelated to other issues, such as Soviet activity in Africa.

Never has the capacity of the Soviet Union and the United States to do damage to each other been greater, and yet neither feels secure. This insecurity is reflected in the view, widely expressed in this country, that the United States, despite its sizable annual defense budget, is weak and growing weaker.

This is not the case. A quick look at our strategic nuclear forces confirms the strength of our deterrent. We have over 300 B–52 bombers armed with approximately 2,000 nuclear bombs. We have 41 nuclear submarines with over 600 nuclear Sea-Launched Ballistic Missiles (SLBMs) which carry over 5,000 nuclear weapons. Finally, we have 1,054 Intercontinental Ballistic Missiles (ICBMs) capable of delivering over 2,000 nuclear warheads.

Our triad of bombers, submarines and ICBM can deliver a total of over 9,000 nuclear weapons. One measure of our relative strength is that at present the Soviets have only about half this number of warheads. Moreover, approximately half of our nuclear weapons are located in unvulnerable submarines whereas Soviet strategic forces are concentrated in increasingly vulnerable land-based installations.

Nor have we stood still in the last 10 years as some suggest. In 1970 we had roughly 4,000 nuclear warheads. Today, that figure has more than doubled. Published figures show that between 1970 and 1977 we added over 500 new ICBMs to our arsenal. During the same period the Soviet Union deployed something over 400 new ICBMs. Today, we are pressing forward on several strategic nuclear programs, such as the Trident and cruise missile, which can significantly improve our capabilities.

The Soviet Union has not been idle either. Whereas we once could speak of our clear superiority in nuclear weapons, now we refer to our "essential equivalence" with U.S.S.R. The Soviets have had an ambitious weapons development program which has produced a nuclear arsenal of impressive proportions. If we use ICBM throw-weight (thousands of pounds carrying capacity) as the yardstick of comparison between the U.S. and the U.S.S.R., latter is clearly superior. This is, however, only one measure of comparative strength and gives a skewed impression of the realities just as does citing only our numerical superiority in warheads.

Despite the efforts of both the Soviet Union and the United States to expand their nuclear arsenals, both countries share a mounting sense of insecurity. We are both arming without really increasing our chances of surviving nuclear war as functioning societies. What we should both be seeking instead is a condition of strategic stability in which neither side can gain a unilateral advantage by initiating nuclear war. We should also be seeking to reduce the potential damage of any nuclear exchange within the context of maintaining strategic stability. Limiting the number of nuclear weapons targeted on each other can contribute to this goal. That is what SALT II seeks to do.

The SALT I the Soviet Union was permitted more ICBM and SLBM launchers than was the United States. Under SALT II the principle of equal aggregates has been accepted. SALT II sets limits on the aggregate number of strategic nuclear launchers. This means that equal ceilings will be placed on the combined total of bombers, SLBMs, and ICBMs each side can have. There will be sublimits as well for certain categories of delivery systems. For example, neither side will be permitted more than 820 MIRVed ICBMs. This limitation is of great importance to the United States because it is precisely this category of Soviet delivery vehicles which we consider most threatening.

To achieve the overall aggregate of 2,250 the U.S.S.R. will have to destroy from 250 to 300 launchers at present targeted on the United States. Since our active force is under the agreed aggregate of 2,250, we will not be required to destroy any of our existing weapons. This agreement will inhibit Soviet weapon deployment while leaving us considerable leeway: to pursue our strategic programs as planned at present.

Under SALT I both the Soviet Union and the United States bound themselves not to interfere with the so-called National Technical Means of surveillance of the other side. No deliberate concealment of nuclear launchers is permitted. This injunction will be an important part of SALT II. Our negotiators believe that the limits being established are limits we can verify through independent means. We have absolutely no intention of "trusting" the Russians. Senate ratification of this agreement and certainly my vote will depend on the verifiability of this agreement.

SALT II will take initial steps "toward grappling with the issue of controlling the proliferation of new types of weapons and the modernization of existing systems. Ultimately, we can control quantity, but we do so to little purpose if we do not also control quality.

Finally, SALT II will point to SALT II. It will set out a tentative agenda for continuing

efforts to get control over our nuclear arsenals. A major topic on that agenda will be further restrictions on those Soviet systems we consider most worrisome.

Critics of SALT point to range restrictions placed on cruise missiles and the exemption of the Soviet Backfire bomber from aggregate restrictions as evidence that SALT does not serve U.S. interests.

The restrictions on cruise missiles will be in a protocol to the treaty which will expire before we even can deploy our first cruise missile. The Soviets will be under severe pressure to make major concessions if they want to see these restrictions continued for the full term of the treaty, which is scheduled to expire in 1985. Here, we will have a bargaining chip of enormous potency.

It is true that the Backfire bomber can probably hit the United States, but most agree its mission is not intercontinental. It appears to be intended for possible use in Europe and the Far East. The Backfire bomber system is analogous to our so-called Forward Based Systems (FBS)—planes and missiles capable of hitting the U.S.S.R., but based in Europe—which are not covered by SALT. We have, for example, FB–111 bombers located in England which can hit Soviet targets. Moreover, the nuclear arsenals of our allies, Great Britain and France, are not affected by SALT. We have successfully avoided having these systems made part of the SALT process. Insisting on the inclusion of Backfire in the SALT aggregates could jeopardize this achievement.

By restricting both the Soviet Union and the United States, a fine drawn SALT agreement can serve our mutual interests. It can point us in the right direction. Clearly, however, the case for SALT in the United States is not seen as self-evident.

Critics complain, for example, that SALT does not solve the problem of ICBM vulnerability—that is, that in the 1980's the United States land-based force will become increasingly vulnerable to a preemptive Soviet strike. Unfortunately, a SALT treaty which would solve that problem simply isn't in the cards. It would involve massive reductions in the Soviet land-based force which comprises 70 percent of the U.S.S.R.'s nuclear arsenal. SALT will, however, leave us a range of options with which to respond to the potential threat of ICBM vulnerability. I say "potential" because those who point to ICBM vulnerability consistently ignore the fact that the two other legs of our nuclear Triad provide a powerful disincentive, in the form of approximately 7,000 nuclear weapons, for any Soviet consideration of a preemptive attack on our ICBMs.

Teddy Roosevelt used to refer to the White House as a "bully pulpit," and it is. I hope that the President will begin to use his bully pulpit to get these truths about SALT across to the American people. Ultimately, only he can turn the tide.●

NOTICE OF DETERMINATION CONCERNING GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of a Senator who has participated in a program, the principal objective of which was educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics received a request for a determination under rule 43 which would permit Senator JACOB JAVITS, to participate in a program sponsored by a foreign charitable organization, the Combined Jewish Appeal of Montreal, Quebec, Canada, on September 9, 1978.

It has been determined that participation of Senator JAVITS in the program in Montreal, Quebec, at the expense of the Combined Jewish Appeal to discuss the prospects for peace in the Middle East is in the interest of the Senate and the United States.●

EXTENSION OF HOME HEALTH DEMONSTRATIONS

● Mr. CHURCH. Mr. President, I would like to express my satisfaction at the action taken by the Senate on September 29 to reauthorize the home health demonstration program contained in S. 2474, the Health Services Extension and Primary Health Care Act of 1978.

Section 320 of S. 2474, as approved by the Senate, reauthorizes this program for an additional 3 years. The bill authorizes $8 million for startup, expansion, and training grants for home health agencies during fiscal year 1979; $9 million during fiscal year 1980; and $10 million for fiscal year 1981.

This program, established in legislation I introduced in 1973, provides grants to meet the initial costs of establishing home health agencies in underserved areas and expanding the services available through existing agencies, as well as grants to promote training of home health agency personnel. It has enjoyed considerable success during its first 3 years of operation: $3 million was awarded to 55 communities during fiscal year 1976 to expand home health services, and an additional $3 million was awarded to 56 communities during fiscal year 1977. These grants have meant that home health services are now available to thousands of elderly and handicapped individuals who did not have access to this kind of care before.

The $6 million appropriation approved by Congress for fiscal year 1978 has resulted in development and expansion grants for another 48 communities already, with an additional 51 grant awards being made soon. This means that more than 200 communities have made use of this program during the past 3 years to significantly increase the availability of home health services. The grant applications received by the Department of Health, Education, and Welfare each year has far exceeded the limited funding available for this purpose, so I am very pleased that the Senate has voted to continue this program for another 3 years.

The authorized funding levels in the Senate-approved bill, however, are considerably lower than the $16 million for each of fiscal years 1979, 1980, and 1981 originally reported out by the Committee on Human Resources. A similar measure, with higher funding levels, should be considered within the next few days by the House of Representatives, and I hope that some of this additional funding can be restored in a House-Senate conference.●

WILD HORSES

● Mr. EAGLETON. Mr. President, I have been a strong supporter of the Wild Horse and Burro Act, and was an original cosponsor of the act 6 years ago. The act was established to protect the wild horses of Western States from the mustangers who illegally trapped and sold them. The Bureau of Land Management was given authority to protect the horses, and subsequently initiated a program to transfer the wild horses from the public range into private ownership and care. The adopt-a-horse program was intended to be a protection policy for the horses, protecting the mustangs from drought conditions, overcrowding, and illegal slaughter.

The public response was heartening. Currently, the waiting list at the Bureau of Land Management is 8,000 names long. From all appearances, it seems that the BLM has a very successful program in the adopt-a-horse program.

However, a recent incident in Missouri has made me question what type of protection we are really providing the wild horses. Charges have been brought against two Missourians for alleged mistreatment of 80 horses obtained from the BLM adopt-a-horse program. The horses, according to Missouri humane field investigators, were starving to death, and had eaten every edible vegetation within reach. The BLM and U.S. Attorney's office are investigating the disappearance of 175 wild horses from the same owner. It is possible that the missing mustangs may have been sold to slaughter houses.

I have asked the Bureau of Land Management for a full investigation of this deplorable situation. I am shocked that a Government-sponsored program would allow the slaughter, deaths, and inhumane treatment of horses that has gone on in Sedalia. I am led to believe that this is not an isolated case.

I ask that the text of the newspaper articles from the Kansas City Times and the Sedalia Democrat be printed in the RECORD following my remarks. I hope that my colleagues will give special attention to this incredible story, especially in light of a possible conference on amendments to the public grazing lands bill, passed in the Senate on Saturday.

The material follows:

[From the Sedalia (Mo.) Democrat, Sept. 22, 1978]

SLOAN, MITTS FACE NEW STATE CHARGES

(By Dan Potter)

Additional warrants for the arrest of Carl Mitts, 3501 West Broadway, and Sam Sloan, Windsor, have been issued by the Benton County prosecutor for the alleged mistreatment of about 80 horses both men obtained through the "Adopt-a-Horse" program of the U.S. Department of the Interior's Bureau of Land Management. The charges of cruel treatment of the mustangs come just three days after the pair was arrested for failure to properly dispose of the bodies of the four dead horses within 24 hours.

Like the earlier county charges, the state charges of "impounding" the mustangs "without food and water, overwork and cruel treatment" is a misdemeanor.

Vic Maurer, a field investigator for the Humane Society of Missouri, said the new charge should encourage the BLM to take the wild horses back for redistribution, considering the gravity of the charges and the condition of the horses.

Maurer said he asked the warrants be issued on the basis of two reports by experts from the University of Missouri-Columbia and statements by Sloan and Mitts in a letter sent to the BLM in January.

The Benton County prosecutor's office said the cruelty charges carry maximum penalties of $1,000 fine, one year in jail or both upon conviction.

In a letter dated Jan. 16, 1978, signed by Mitts and Sloan and stamped received by the BLM in Rock Springs, Wyo., on Jan. 20, 1978, the two men ask for "2,000" mustangs through the adoption program.

The letter also states the two "have 2,600 acres available for immediate use. . . . We also have approximately 4,000 (1,000) pound bales of 10,000 (square bales) of hay."

But, as Maurer's investigation proved, the horses Mitts and Sloan eventually obtained were quartered on only 168 acres. Also, until Don Kellogg, a BLM wild horse program specialist ordered the two men to provide hay for the animals earlier this week, most of the mustangs had managed to survive on the pasture that was eaten down to the roots, according to Maurer.

Maurer said the letter represented a "gross misrepresentation" of the care the two promised for any horses they could obtain, when compared against his finding and those of the university experts.

A report by Arthur A. Case, professor of veterinary medicine and surgery at the University of Missouri, reads in part: "There were many places" in the pasture where the mustangs were quartered "where the grass was eaten virtually into the earth." That ". . . the horses had eaten every edible grass, clover and other edible plant in the pasture that was available that horses will eat except in the dunging areas or along the brushpiles and along the draws. The horses had even eaten much of the vegetation of the trees, which were within reach," according to Case.

About the only healthy condition Case noted in his report was the water supply. Two "pounds were apparently a good water supply for the horses . . ." Case reported.

In another report submitted by Melvin Bradley, a professor of nutrition at the university, "Small horses (assumed to be yearlings or 2-year-olds) were pot-bellied suggesting a high internal parasite load."

Bradley's report found "half the herd was in bad condition showing most or all of their ribs. Eight or ten were emaciated. Some moved with wobbly gaits."

Like Case, Bradley also noted: "The supply of edible forage had been exhausted with mostly weeds and unpalatable, high fiber plants remaining."

Of one of the dead horses found, Bradley concluded: "This horse had fallen at the crest of a slope in an area of stobs created by a rotary mower (brush Hog) and had struggled 80–100 feet down the slope, probably over a period of four or more days. Layers of skin had been abraded from his chest, elbows, stifles and lips," the report says.

Of the feed supply, Bradley notes: "The feed supply of this pasture was inadequate to sustain this number or even half this number of horses."

Bradley does report the horses had access to another pasture, but, "Although a gate was open to another pasture with good forage immediately south, no signs of use by the horses were noted. This may be because wild horses fear fences and must be driven through gates into strange places and new areas," the report reads.

The parasites found in the horses by Bradley are ascarids. They reach 12 inches in length and plug the small intestine by sheer numbers causing colic or ruptured intestines.

Because "hungry horses" eat toxic plants, they are in further danger, said Bradley.

Maurer said the reports point out the urgency of the need for quick action by the BLM.

Bradley's findings echo those sentiments. "If these horses remain in their present environment without an effective parasite control program and adequate supplemental feed supply, most are likely to perish before spring."

Kellogg, who was flying back to Sedalia from Washington Friday, was not available for comment Friday morning on the abuse problem and the future of the horses. He has noted in the past, however, that it is quite likely the horses will be taken back once abuse has been determined.

Maurer and others are continuing the investigation and branching into other areas of the state where it is possible additional "Adopt-a-Horse" mustangs are suffering.

FENCE CUT TO FREE HORSES

(By James J. Fisher)

LINCOLN, Mo.—Anger over what some residents here consider the emaciated condition of over 100 wild horses shipped here from Wyoming's Grand Teton mountains apparently led to the cutting of the fence surrounding their 200-acre pasture north of here sometime early Wednesday morning.

The fence—four strands of barbed wire—was cut in 32 places and some posts were torn out of the ground. Apparently none of the horses escaped from the pasture next to U.S. 65. Lincoln is midway between Sedalia, Mo., and Warsaw, Mo.

The co-owner of the horses—about half of them stallions—refused to speculate on who cut the wire, but Lincoln's mayor, Mrs. Alice Eken, said she thinks the "some of the more pitiful horses were loaded up and shipped out to the killers (slaughter market)."

The co-owner, Sam Sloan, said:

"They're all here. We got in 109 from the BLM (Bureau of Land Management) starting a year ago and there were 105 out there last Thursday. There are two dead horses out there among them, dead of old age.

"Of course we are going to have to do a head count since the fence was cut but none of those horses were shipped out. Under the agreement we signed with the BLM we can't sell the horses. There's no way we'd put ourselves into a position like that."

BLM officials are expected to inspect the herd today.

Sloan, a Windsor, Mo., seed dealer, and his partner in the horse venture, Carl Mitts, a Sedalia real estate man, brought the horses to Benton County through the federal "Adopt-A-Horse" program, whereby horses on BLM land are given to persons who agree never to sell them.

The program has been pushed by several humane and horse organizations who were appalled by the indiscriminate slaughter of free-roaming horses by the ranchers who lease BLM land in the West. The ranchers were killing or capturing horses they claim ruin pasture for their cattle and sheep.

Such horses—including those here in Benton County—are protected under a variety of federal laws.

Sloan said he and Mitts never even saw the horses until they arrived.

"There were about a quarter dead when they got here," Sloan said. "Real poor. And real wild. Spooky. Couldn't get near them."

Sloan said he was amazed to find about 50 percent of the BLM horses were uncastrated and several others, because of the length of their teeth, were more than 20 years old.

"Those are the horses who've died—the old ones," he said.

Mayor Eken said the condition of the horses in the pasture abutting the highway—a main artery to the Lake of the Ozarks—has been a scandal all summer.

"We could see those poor horses just starving to death out there," she said. "It seemed like they got skinnier and skinnier every day."

Mrs. Ingeborg Malsy, another Lincoln resident, said tourists passing through the area have commented on the horses' condition.

"I've tried to see about feeding them myself but I don't know if I'm allowed to legally or it will all cause a big mess," she said.

"I do know seeing those poor horses standing out in that pasture which was eaten down to the nub was enough to make you sick."

When Mrs. Eken and Mrs. Malsy went to check the horses Wednesday afternoon they said the skinnier horses were missing. It was about that time that they discovered the breaks in the fence.

"They can say anything they want but I'm convinced that when the little story appeared in the Sedalia paper Tuesday night they managed to get trailers in here or a semi-trailer and load the skinnier ones out."

A spokesman for the Benton County sheriff's office said the cutting of the wire apparently was done early Wednesday morning by vandals living in or around Lincoln who wanted to let the horses out so they could get more grass.

Sloan said the first he heard of any complaints was a call he received at the Benton County sheriff's office at 8:20 a.m. Wednesday morning.

"I've been here in Windsor all summer. I've got three phones. They could have called me."

Sloan said he will be happy to talk to any BLM investigators. Or anyone else.

And after that?

"We'll see how this comes out. Then we're gonna have to geld some of those stallions. Fifty stallions!

"Hell, one's more than enough."●

THE REVENUE ACT OF 1978

● Mr. KENNEDY. Mr. President, when the Senate Finance Committee tax bill comes to the Senate floor later this week, I intend to work with the administration and others to improve the bill as much as possible, so that it more nearly reflects the responsible sort of tax legislation that the Senate should enact and that the American people deserve in this era of tax revolt and public outcry over our unfair and complex Federal tax system.

The three most glaring defects in the committee bill are: the inadequate tax relief granted to those in the $10,000 to $50,000 income groups; the grossly excessive and irresponsible tax relief granted for capital gains; and the objectionable array of special interest loopholes in the bill.

In addition, the bill is also open to a fourth serious objection—its failure to deal responsibly with significant aspects of tax reform. The committee bill is not just a tax reduction bill. In numerous provisions, it is also a tax revision bill. But in virtually every case, the committee's revisions are antireform.

To be sure, there are occasional small oasis in the desert, such as the denial of a tax deduction for country clubs and yachts and sporting lodges, or the imaginative new tax credit offered to pur-

chasers of State and local bonds who include the interest in their income.

But in many other areas, the committee bill simply opens up new loopholes in the tax laws or ignores the need for meaningful reforms in obvious areas like DISC, deferral of foreign income, or the unconscionable deductions still allowed for meals, first class air travel, and entertainment.

At the end of this statement, I have included a list of the modifications that I believe should be made in the Finance Committee bill, in order to turn it into a responsble product of Senate action. I ask that the list be printed in the RECORD.

The PRESIDING OFFICE. Without objection, it is so ordered.

Mr. KENNEDY. Among the major changes are the following:

1. DISTRIBUTION OF TAX RELIEF

The tax reductions in the committee bill should be extensively revised to give more relief to workers and the middle class—those earning from $10,000 to $50,000.

An important goal of tax relief in the present bill is to hold taxpayers harmless against the effects of inflation and scheduled increases in the social security tax. The tax cut bill passed by the House of Representatives was properly and severely criticized for holding harmless only those with $50,000 income or higher, while leaving all other income groups with a net tax increase when the combined effects of inflation, the social security tax increase and the present tax cut are considered.

The distribution of the tax relief in the Finance Committee bill is an improvement over the House bill in one respect, in that all income groups would be protected against inflation and the social security tax increase. But the bill is grossly defective for another reason. It gives huge and excessive protection to those at the top of the income scale. But it gives only scant protection to the average worker and the middle class.

The following table tells the story—all amounts are in millions of dollars at 1978 income levels, unless otherwise indicated:

Income	Inflation tax increase	Social security tax increase	Combined inflation and social security tax increase	Finance Committee tax relief	Protection against inflation and social security tax increase, percent
0 to $5,000	$192	$42	$236	$395	167
$5 to $10,000	984	86	1,070	2,292	214
$10 to $15,000	1,075	120	1,195	1,449	121
$15 to $20,000	1,310	297	1,607	1,966	122
$20 to $30,000	2,121	1,345	3,466	3,681	106
$30 to $50,000	1,808	1,005	2,813	2,960	105
$50 to $100,000	$944	$218	$1,162	$1,849	159
$100 to $200,000	286	45	331	776	234
Over $200,000	105	11	116	1,121	966
Total	8,824	3,169	11,993	16,490	137

The long-standing practice for granting tax relief in the Federal income tax laws has been to give top priority to low-income groups, second priority to middle-income groups, and last priority to the wealthiest income groups. But the Finance Committee bill stands these obvious priorities on their head: The rich come first, the poor come next, and the middle class comes last. That is not fair.

Even the figures in the chart understate the problem. The inflation tax increase figures are calculated on the basis of the overall Consumer Price Index. But the costs of basic necessities like food, housing, energy, and health are rising even faster than the CPI—often more than twice as fast. These costs impose an especially heavy burden on lower income groups, and provide an additional justification for increased tax relief of such groups.

The Senate has an obligation to correct the shocking priorities in the committee bill, by granting greater tax reductions for middle-income citizens. I intend to offer a floor amendment to achieve this goal through additional rate and bracket changes, targeted heavily to the $10,000 to $20,000 income groups which need relief the most, but with additional relief as well for the $20,000 to $50,000 income groups, who are also left behind in the committee bill.

The hole in the committee bill is a deep one, and relatively large amounts are involved—additional tax relief totaling $3 to $5 billion for the four income groups in the table would be required to make their tax relief even reasonably fair, compared to the relief afforded other groups. A fairer distribution is essential if this flagrant defect in the bill is to be avoided.

2. CAPITAL GAINS.

It is time for both the Senate and the President to draw the line on capital gains relief and reject the incredible $3.8 billion pot of gold that the committee bill presents to wealthy taxpayers. A week ago, I stated my view that, because of the capital gains relief provisions, the committee had nailed its bill to the railroad track, with the veto train approaching. The train is closer now.

As it comes to the floor, the bill is an embarrassment to the Senate and an affront to the average taxpayer. The three most serious objections to the capital gains provisions are their inequity, their inefficiency, and their distorting effect on myriad economic transactions in the Nation:

The inequity is obvious. In effect, the capital gains relief is a Roth-Kemp bill for persons earning over $50,000 a year. Seventy percent of the benefits will flow to the 1.4 percent of taxpayers wealthy enough to be in this income group—their average tax reduction will be about $20,000 each. Such large amounts of tax relief are not available to other taxpayers in other income groups, and are unjustified for the rich.

The inefficiency is also obvious. I share the goal of enhanced business investment in the Nation. But compared to other alternatives—such as the investment credit, accelerated depreciation and costs in the corporate tax rate—reductions in the tax on capital gains are the most wasteful method of achieving this important goal. The wild economic claims made for capital gains relief are not shared by responsible economists, and the Senate should not allow itself to be fooled into adopting this changeling baby that the Finance Committee and the investment community and their well-heeled lobbyists have laid on our legislative doorstep.

The distortions likely to be caused in the economy and the tax laws are an ominous additional consequence of the capital gains relief. Enactment of this excessive measure is likely to set off a mad scramble by executives, doctors, dentists, lawyers, athletes, entertainers, and other high income persons to shift their income into capital gains, in order to take advantage of the bargain basement tax rates that would be applicable to such gains.

The capital gains relief enacted in the House bill was already a travesty of responsible tax policy. But the Finance Committee version is over three times worse, and a Presidential veto may be the only cure.

3. TAX REFORM

Although the committe bill is not an appropriate vehicle for a full-dress debate on tax reform, there are three specific areas in which the Senate should amend the bill to enact major tax reforms that have been widely and repeatedly debated in the Senate in recent years:

First. DISC: We should close the DISC tax loophole, the wasteful and inefficient subsidy for exports which costs the Treasury $1.3 billion a year. The last remaining leg DISC had to stand on has now been removed by the Carter administration's package of comprehensive and more effective export incentive proposals announced last week. In that package, the absence of DISC was as appropriate as it was conspicuous. It is now time to put DISC out to pasture, along with the handful of other tax subsidies that Congress has tried, found wanting, and rejected in other years.

Second. Deferral: Similarly, we should close the deferral tax loophole, which allows U.S. multinational corporations to avoid U.S. taxes on the earnings of their overseas subsidiaries. At a time of significant unemployment and inadequate levels of investment in the United States, the deferral loophole is an unjustified tax incentive for American firms to invest in foreign nations and

hire low-wage foreign workers at the cost of American jobs. Deferral is a "runaway plant" loophole that costs the Treasury $665 million a year.

Third. Expense account living: Few, if any, aspects of the tax system cause more outrage among ordinary taxpayers than the widespread abuses by which wealthy persons obtain tax write-offs for personal living expenses through claims for tax deductions.

For each deduction, the taxpayer gets a rebate from the Treasury for part of the cost of such expenses. For corporations, with a 48 percent tax rate, the executive's life of luxury comes at a 48 percent discount. For persons in the top 70 percent tax bracket, the discount is even higher; they only have to pay 30 cents on the dollar to enjoy themselves at ringside at the American taxpayer's expense.

Surprisingly, the Finance Committee actually chose to sail into these well-charted waters. Not surprisingly, however, the committee spotted only an ice cube, when it should have seen the iceberg. The committee bill deals with only one small facet of the problem—it outlaws deductions for country clubs, yachts, hunting and fishing lodges, and similar entertainment. At least when defense contractors take Defense Department officers into duck blinds in the future, they shouldn't be stealing the Treasury blind as well.

There are many other areas of expense account living where the Senate should not hesitate to impose similar restrictions, beginning with prohibitions on tax deductions for first class air fare, meals, and tickets to sports events, theaters, and other entertainment functions. The average American pays for these pleasures out of hard-earned after-tax dollars, and so should every other citizen.

In sum, the committee bill could more properly be called "the Tax Injustice Act" of 1978. If Congress does not improve it by eliminating the worst abuses, it deserves the veto it will surely get, and Congress will deserve the special post-election session that will be required to do the job correctly.

The recommendations follow:

REVENUE ACT OF 1978—RECOMMENDED AMENDMENTS

I. Individual Income Tax Provisions:

A. Increase tax reductions for lower and middle-income taxpayers who are short-changed by the Committee bill. An additional tax reduction of $3–5 billion would be required to give taxpayers in the $10–50,000 income groups similar protection against inflation and Social Security taxes as the Committee gives (1) to the lowest income groups through the increased earned income credit, and (2) to the highest income groups through the capital gains relief.

B. Use the revenues proposed for the earned income credit to extend the current credit to poverty level workers without dependents, instead of increasing the current credit, which goes only to workers with dependents.

C. Repeal the tax *deduction* for political contributions; use the revenues provided for doubling the tax *credit* for contributions to increase the percentage of a contribution which may be taken as a credit.

II. Tax Shelters:

A. Apply "at-risk" rules to all activities except real estate and to all taxpayers except widely held corporations.

B. Insure that new lower rates for small corporations are not used as tax shelters by high income individuals.

C. Give IRS more effective means to audit tax shelter partnerships.

III. Business Income Tax Provisions:

A. Repeal deferral of U.S. tax on income of U.S.-controlled foreign subsidiaries.

B. Repeal DISC, the export tax subsidy.

C. Repeal expense account living deductions for:

1. First class air travel
2. Meals (except on travel status)
3. Entertainment expenses, including tickets to theaters, sporting events, etc.

D. Amend investment credit provisions:

1. Phase-in a refundable investment credit by allowing the credit to offset 100% of tax liability in 1983 and by making it fully refundable in 1984.

2. Place 5-year termination date on the investment credit for the cost of rehabilitating commercial buildings.

3. Delete the Texas International Airlines special interest provision.

4. Delete the investment credit for pig pens and similar structures.

5. Delete the provision making additional credit for ESOPs permanent; continue the credit for a 5-year period and require Treasury study.

6. Require the 5-year amortization deduction for pollution control facilities to be reduced by the amount of the credit.

7. Restore the House provision that tax-exempt industrial development bonds cannot be combined with the investment credit for pollution control facilities.

E. Convert the Targeted Jobs Tax Credit to an identical direct grant program administered by the Labor Department.

F. Delete the provisions expanding tax exemptions for industrial development bonds, including the E. F. Hutton special interest provision.

G. Require accrual accounting for farm corporations with annual gross sales of $1 million or more.

H. Delete the provision expanding the WIN tax credit.

I. Delete the provision expanding the tax exemption for construction payments to utilities.

J. Delete the provision increasing the ADR method of accelerated depreciation from 20 percent to 30 percent.

IV. Capital Gains:

A. Delete the provision increasing the capital gain exclusion from 50 percent to 70 percent of gains.

B. Strengthen the alternative minimum tax by increasing the top rate to 35 percent.

C. Delete the provision reducing the corporate capital gain tax rate from 30 percent to 28 percent.

D. Retain the present minimum tax for corporations.

E. Add provisions to simplify the operation of the carryover basis rules for assets transferred at death; reduce the period for delaying the effective date of the 1976 changes from three years to two years.●

DR. ROBERT MARSHALL

● Mr. EAGLETON. Mr. President, Dr. Robert Marshall has been named "Mr. Safety of 1978" by the Kansas City Area Safety Council. The award recognizes the outstanding achievements and contributions in safety by either a volunteer or professional. Dr. Marshall has served for many years as an adviser to the National Education Association safety education programs, and as a member of the National Safety Council's board of directors.

I would like to add my congratulations to Dr. Marshall along with Governor Teasdale, who has proclaimed June 12, 1978, as Dr. Robert L. Marshall Day in Missouri.

I request that the following article from Traffic Safety be printed in the RECORD.

The article follows:

ROBERT L. MARSHALL IS NAMED KANSAS CITY'S "MR. SAFETY"

Dr. Robert L. Marshall, dean of the School of Public Services and director of the Missouri Safety Central at Central Missouri State University, has received the second annual "Mr. Safety" award of the Kansas City Area Safety Council.

The award was presented at the council's annual meeting and awards luncheon held June 12 at the Hilton Plaza Inn in Kansas City, Mo.

The "Mr. Safety" award is intended to recognize outstanding achievements and contributions in safety by either a volunteer or a paid professional in the Kansas City area. The first such award was presented last year to Joseph R. Hogsett, an attorney in the Jackson County (Mo.) prosecutor's office and a member of the National Safety Council's board of directors.

EVENTFUL CAREER

A native of Kansas, Marshall holds a master's degree from the University of Wichita and a doctorate in school administration and curriculum from the University of Kansas. He served in the Navy in both World War II and the Korean War, attaining the rank of captain before his retirement from the Naval Reserve in March 1977. He served as first national president of the American Driver Safety Education Association, and in 1956 he was chosen to serve as safety education director for the Kansas City Public School District, a post which he held for seven years. During that tenure the city developed what many regard as a model school safety program that has been imitated in other parts of the U.S. and in other nations.

Marshall also served for six years as associate executive secretary of the National Education Association's commission on safety education, a position in which he assisted colleges and universities to develop safety programs. As a result of these contacts, he was selected to assist in the presentation of a safety education center plan to the Missouri state government. From this plan grew the Missouri Safety Center at Central Missouri State University of which Marshall was appointed director.

Marshall served for six years as a member of the National Safety Council's board of directors during which time he participated in several conferences and committees. Currently, he is a safety education consultant for Griffith University in Brisbane, Australia, for the United Nation's International Labor Organization, and for the minister of transport for the State of Queensland, Australia.

Marshall has lectured in 49 of the 50 states in this country and in several foreign countries, and has written for many publications on the policies and practices of safety education.

In recognition of Marshall's selection as Mr. Safety, Gov. Joseph P. Teasdale of Missouri issued a proclamation declaring June 12, 1978, as Dr. Robert L. Marshall Day.●

NATIONAL EMPLOY THE HANDICAPPED WEEK

● Mr. DOLE. Mr. President, this first week in October, October 1 through October 7, has been proclaimed "National Employ the Handicapped Week" by the President. Every year, thousands more disabled persons become rehabilitated and capable of gainful employ-

ment. I am pleased that we are recognizing their potential by designating this week in which to recognize the employment opportunities for the disabled.

THE REHABILITATION ACT

Today the House and Senate conferees meet to work out differences in H.R. 12467, the Vocational Rehabilitation Act of 1978. This act continues funding for many Federal programs involving rehabilitation programs and research benefiting the handicapped. The bill focuses attention on severely disabled persons who may or may not show evidence of vocational potential, and to such special groups as preschool children, older blind persons, and the developmentally disabled. The origins of this legislation date back to 1920, when the Congress first passed a law which endorsed the philosophy that handicapped individuals are entitled to receive both State and Federal support in the area of vocational rehabilitation.

This bill makes an obvious effort to administer to the total needs of the disabled individual. Emphasis is given on comprehensive services, which promote the idea that health, employment, training, housing, and recreational and social needs are legitimate areas which merit being addressed as a set of issues.

Also, under this law, advocacy panels are strengthened. The panels have been set up to make the disabled individual aware of available services, and that his interests will be protected by experts in the field. And, in general, the bill gives emphasis to the eventual goal of independence for the disabled through productive employment opportunities.

THE TAX BILL

Last week during the Finance Committee markup of the tax bill, I introduced an amendment to allow the severely disabled to claim an additional personal exemption. With some modifications, my amendment was accepted by the committee. The amendment will allow for disabled taxpayers and/or his disabled spouse, below the ages of 65, to claim the additional exemption. The exemption is to be phased in at $500 during the first 2 years, which will then switch to the $1,000 exemption in the third year of coverage. The exemption is not allowed those persons who receive cash benefits under Federal assistance programs.

I feel that this amendment is a needed one, for it recognizes that the severely disabled have additional everyday expenses for which they deserve some compensation or relief. I am hopeful that the Senate bill will agree to this amendment, and that it will be accepted by the House conferees.

60 MINUTES

Last evening on the CBS "60 Minutes" program, a segment was devoted to work disincentives which the handicapped now incur under the supplemental security income program. The broadcast pointed out that although modern medicine and vocational rehabilitation programs are working together to prepare the disabled worker for employment, our public assistance laws have not advanced in like fashion. The interview graphically portrayed some of the problems which develop when disabled persons are forced to choose between total dependence on welfare, or taking an entry level job and being unable to pay medical and attendant care expenses. The problems illustrated in the show are ones which deserve consideration by Congress.

S. 2505 AND H.R. 12972

Last February, Senator JAVITS and I introduced a medicaid proposal which would have allowed certain severely disabled workers to maintain their medicaid eligibility, even if their income exceeded the earnings limitation in the definition of disability. By allowing for medical expenses to be subtracted from gross income, we allowed for this adjusted income to be the one used in determining medicaid eligibility. Unfortunately, this bill has not been acted upon.

The House of Representatives has addressed this problem through another bill, H.R. 12972. This bill would allow for benefits to be gradually phased out for disabled persons, to the point when their income reached $440 a month. As it is now, SSI benefits and medicaid are totally cut off at the substantial gainful activity level, which has been determined to be $240 per month of earnings. I intend to raise this matter before the Finance Committee tomorrow, and hope that positive action will be taken to address these needs.

CONCLUSION

If these needs can be addressed, I think we shall have progressed a considerable distance toward removing many of the legal barriers to employment which the handicapped experience. Experience has shown that the disabled are often preferred workers over the nondisabled. This is because, on the average, their job performance, attendance record, and reliability tend to be above average.

However our primary emphasis on the disabled must be to allow them to be normal. We must not demand that they be better than other employees before granting them an opportunity to work. We must be willing to accept them as ordinary persons, and give them the freedom to establish their own level of excellence. During this "National Employ the Handicapped Week," I hope that workers and employers will strive to make the working world more accessible to the disabled. There is no reason why the disabled should not be encouraged to seek employment. With a little patient work, the barriers will come tumbling down.●

GASOHOL PRODUCTION IN MISSOURI

● Mr. EAGLETON. Mr. President, much has been said recently about the subject of gasohol, about how it could possibly reduce our dependence on imported oil and how it could boost farm income through the sale of crops for alcohol production. In Missouri, where the citizens are known for their "show me" attitude, a group of farmers are determined to do the showing to the rest of the country by demonstrating that alcohol production on a commercial scale for use in gasohol is both cost and energy efficient.

On September 25, a group of about 100 farmers who have formed a concern known as American Agri-Fuels voted unanimously to build a $20 million gasohol production plant in Missouri. The fine efforts of the individuals involved in this project should not go unnoted by the Senate.

Mr. President, I ask that two articles which have appeared in the Kansas City Times regarding this project be printed in the RECORD.

The articles follow:

[From the Kansas City Times, Sept. 26, 1978]

FARMERS FROM FIVE STATES VOTE FOR GASOHOL PLANT IN MISSOURI

About 100 farmers from Missouri, Kansas, Nebraska, Iowa and Michigan, hopeful of a new market for their crops, voted unanimously Monday night to build a $20 million gasohol plant on one of four sites in Missouri.

The plant, which would produce alcohol to be combined with gasoline for motor fuel use, could be built in St. Joseph, Clinton, Atchison County or in the Missouri Bootheel.

The farmers, attending a closed meeting of American Agri-Fuels, a Clinton, Mo., concern which proposes a plant producing 80,000 gallons of gasohol daily by 1980, selected a committee to work out financing for the plant and explore the legal details of organizing as a corporation.

In a meeting before the vote, the president of a firm active in the construction of distillation plants told the group that gasohol probably could be made from their corn for 67 to 75 cents a gallon.

D. R. Miller, president of Vulcan Cincinnati Inc., which has proposed a feasibility study for a $20 million distillery to produce 200-proof ethylene alcohol as an additive to gasoline, said the production figure does not include a profit but does include starting the gasohol plant and depreciation on it.

Members of Agri-Fuels, each contributed $200 to form a corporation to construct the plant. The organization raised about $20,000 through membership fees.

Miller said burning crop wastes to run the distillation plant would in effect be using solar energy, since the crops are grown by the sun.

He said his estimates on the cost per gallon of gasohol were based on $2 corn. Higher corn prices, he said, naturally would mean higher production costs.

"But doesn't mean that it isn't possible," said Miller. "You would be selling the residue from production (high protein cattle feed) at a correspondingly higher price. That would help you recover some of your costs in producing the alcohol."

Mixed on a 1-to-9 ratio with regular gasoline, gasohol improves performance, adds about a half-mile to the gallon in mileage, and, most important to farmers, gives them another outlet from the huge grain surpluses that plague them.

Miller said he believes the price of a gallon of ethylene alcohol is getting close to the point where it compares favorably to gasoline, "especially when you figure that gasohol is 130 octane. You could probably add over 10 percent gasohol to any tank of gasoline. Or you could cut refining costs by developing a lower octane gas which would be boosted by the gasohol."

Miller said he would advise locating the plant according to these criteria:

Accessibility to grain fields. Starch in grain is the prime ingredient for the distillation of such alcohol.

Proximity to railroads, highways and a labor force, and perhaps a community that could provide assistance—possibly in the form of revenue bonds.

Proximity to adequate electrical power sources and plenty of water.

Miller said Europeans are ahead of the United States in the distillation of methanol alcohol, another gasoline additive made mainly from wood chips.

And he said Brazil is committed to the production of alcohol for fuel from sugar cane.

"What we have to do in this country is get off dead center in this energy thing," Miller said. "Perhaps it means a reordering of subsidies. We pay farmers for not producing crops; why not take some of that money and invest it so it can produce part of our fuel needs, rather than send 30 cents from each gallon of gasoline back to the Arabs?"

Miller said he does see one small hitch in gasohol's future.

"At one point in the process, the ethylene alcohol is going to be 200 proof," he said. "It would be pure enough to cut and drink. So I'll bet, just to make sure, the government is going to be there to make sure none gets away.

"And it won't. The distillation will be a closed system. And there are plans to add just a little gasoline to it during the process so it will be undrinkable."

That is, said Miller, unless the drinker has a powerful thirst and a cast iron stomach.

[From the Kansas City Times, Sept. 28, 1978]

GASOHOL SPECS OK

(By John M. Wylie II)

The group that voted Monday to proceed with plans for a huge gasohol plant in Missouri reached agreements Wednesday for the design, engineering and construction of the facility.

American Agri-Fuels, which still is working on its corporate structure, said the engineering work will be handled by McEver Engineering of Houston. Bohler Brothers of America, Inc., also Houston-based, will design and build the plant.

Bohler Brothers is affiliated with Vogelbusch Technology, an Austrian firm that has designed and constructed many gasohol plants in Brazil.

Bill Houk, chairman of American Agri-Fuels, said in an interview that the mammouth project is moving ahead quickly.

"The work's all been done," Houk said. "Nebraska did it seven years ago, and has been waiting for federal money. Our job has been to review and verify their work. Everyone has been waiting for $15 million loan guarantees."

His group, Houk said, will rely entirely on private funds. Houk and two fellow farmers, Wayne Cryts and George Corbett, have been named as the three-man team to move the plant forward.

Houk said he hopes to have the engineering and design work on track by the end of this week, along with details of how to structure the organization.

The three Agri-Fuels officials met most of Wednesday with several Kansas City lawyers and with officials of McEvers and Bohler Brothers.

Science Management Corporation, McEvers' parent company, said from its Moorestown, N.J., headquarters that the Missouri facility will be the first in the nation to produce commercial quantities of ethyl alcohol for use in motor vehicle fuels.

Gasohol is a mixture of 10 percent alcohol and 90 percent gasoline which, its advocates say, burns better and cleaner than gasoline in conventional automobile engines.

Houk said the final price tag for the plant still is being discussed, but he believes "it will be upwards of $30 million." Price estimates for the facility have ranged from $20 million to $50 million.

Under the agreements completed Wednesday, McEver will complete a feasibility study and a detailed cost estimate. The facility will use the Vogelbusch alcohol production processes now in use in 50 plants worldwide.

The processes, however, have never before been used in the United States, Science Management said.

The plant will have a 20-million-gallon annual capacity, Science Management said.

Klaus Rokita, the Austrian-born expert on the Vogelbusch process who now is based at Bohler Brothers headquarters in Houston, said he believed the Agri-Fuels plan to fuel the new plant with crop wastes would work. Rokita said in an interview Wednesday that the basic Vogelbusch design uses a coal boiler. But he said adding crop wastes as a fuel should not be a serious problem.

"We are very confident this can be done," he said. Asked if getting the crop wastes to the plant would be a problem, he said it would not.

Pointing to Houk, Cryts and Corbett, he said, "These people have convinced me." Houk said his group's task next week will be to select a site for the plant. Four areas are under consideration—St. Joseph, Clinton, Atchison County and the Missouri Bootheel.

In keeping wtih the group's growing reputation for acting swiftly, Houk said he expects a decision on the site "within two weeks."

Officials of AgriFuels and the firms that have agreed to work with them on the Missouri project stress that they believe the plant, if successful, will serve as a protoype for gasohol plants wherever there are crops to feed them.

The Missouri plant will produce alcohol from corn, wheat, milo and other grains. Houk said he hopes to have the plant in operation in January 1980.●

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, while I have the floor, I ask unanimous consent that Jim Lockemy, Sally Rogers, and Eric Hultman of the Judiciary staff be granted the privilege of the floor during consideration and voting on House Joint Resolution 638.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTIONS IN THE ENROLLMENT OF H.R. 8394

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 727.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 727, which will be stated.

The legislative clerk read as follows:

H. CON. RES. 727

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 8394), to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, the Clerk of the House of Representatives shall make the following correction: Strike out subparagraph (B) of paragraph (1) of subsection (a) of the first section of the bill and insert in lieu thereof the following:

"(B) by inserting after "National Wildlife Refuge System' the second time it appears, National Fish Hatcheries, or other areas,' ".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The concurrent resolution (H. Con. Res. 727) was considered and agreed to.

COMPREHENSIVE EMPLOYMENT AND TRAINING AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2570.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

(The amendment of the House is printed in the RECORD of September 22, 1978, beginning at page 31029.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree with the amendment of the House and agree to the request for a conference on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. NELSON, Mr. WILLIAMS, Mr. KENNEDY, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. HATCH, and Mr. CHAFEE as conferees on the part of the Senate.

ORDER TO HOLD HOUSE JOINT RESOLUTION 685 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 685 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMITHSONIAN MUSEUM SUPPORT FACILITIES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1029.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1029) entitled "An Act to authorize the Smithsonian Institution to construct museum support facilities", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) the first section of the Act entitled " 'An Act to authorize the Smithsonian Institution to plan museum support facilities', approved September 19, 1975 (Public Law 94-98), is amended by inserting ', and to construct,' after 'to prepare plans for'.

"(b) The first section of such Act is further amended by adding at the end thereof the following new sentence: 'No appropriation shall be made to construct the facilities authorized by this Act until the Committee on

Public Works and Transportation of the House of Representatives by resolution, approves the final plans and specifications of such facilities.'.

"(c) Effective October 1, 1979, section 3 of such Act is amended to read as follows:

"'SEC. 3. There is authorized to be appropriated to the Smithsonian Institution $21,500,000 to carry out the purposes of this Act. Any portion of the sums appropriated for such purposes may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.'."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House with an amendment, which I send to the desk on behalf of Mr. PELL.

UP AMENDMENT NO. 1981

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. PELL, proposes an unprinted amendment numbered 1981:

On page 1, lines 10 and 11, of the House engrossed amendment, strike out "by resolution, approves" and insert "and the Committee on Rules and Administration of the Senate, by resolution, approve".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. PELL be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. PELL

I believe it is necessary for the Senate to now amend S. 1029 in view of the House having amended this bill to give the Committee on Public Works and Transportation of the House of Representatives by resolution approval of final plans and specifications for construction of museum support facilities of the Smithsonian at Suitland, Maryland.

My amendment, basically technical in nature, would give the Senate Committee on Rules and Administration equality in such approval, which it would not have if the House amendment is accepted without further amendment by this body.

The eventual cost of the proposed Suitland facility is $21.5 million. At the time of the hearing by the Committee on Rules and Administration of the Senate and in the Committee report it was brought out that there is a great need for a school of conservation in the Smithsonian complex. Smithsonian officials in testifying gave assurance that such a school of conservation would be incorporated in the new facility.

It should be noted that the amended version of S. 1029 would require no further action by the Congress, but would give the two committees, one of each house, final review of completed plans and specifications.

I believe the House amendment should be accepted but further amended here and now to give the Senate's committee an equal voice.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD H.R. 10909 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is received, H.R. 10909, the health clinic bill, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 13797 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 13797, the Fort Scott bill, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL AQUACULTURE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9370.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (H.R. 9370) to provide for the development of aquaculture in the United States, and for other purposes.

(The amendment of the House is printed in the RECORD of October 2, 1978, in the House proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. MATSUNAGA. Mr. President, I rise in support of the H.R. 9370, the National Aquaculture Act of 1978.

As a cosponsor of the Senate passed bill, S. 3408—and I might add, as a long time supporter and cosponsor of proposed aquaculture legislation spanning my previous years of service in the other body—I would like to state why I believe passage of H.R. 9370, the House compromise proposal, is both timely and in the very best interest of the Nation. I do so with the fervent hope that my Senate colleagues will join me today in supporting this landmark legislation.

First, Mr. President, as you may know, the United States at present has no comprehensive aquaculture development plan despite the fact that studies indicate that the preparation of such a policy statement is long overdue. Second, as you may also know, Mr. President, my State, the State of Hawaii, is already moving forward with a bold aquaculture planning program with the anticipation that a commercially viable aquaculture industry can be created in Hawaii which will attract substantial private investment capital and thus bolster the State's economy. Finally, Mr. President, it is a well known fact that the institutional base for the development of a national aquaculture development plan is already established in three Federal agencies, the Department of Agriculture, the Department of Commerce, and the Department of the Interior. Creating, as this bill does, a coordinating National Aquaculture Council, consisting of the Secretaries of three Departments—Agriculture, Commerce, and the Interior—is in my judgment, most appropriate and will get us over the troubling problem of having to designate a lead agency at this time.

If I may, permit me to elaborate more fully on each of these topics.

With regard to the question of whether or not this legislation is needed, I direct your attention to the overwhelming amount of evidence in support of the position that a national aquaculture policy should be established by the Federal Government as soon as possible. Mr. President, hunger and malnutrition prevail throughout the world in substantial segments of the population of many, many regions. Based on a survey conducted in 161 countries, the United Nations Food and Agriculture Organization estimated recently that the world's undernourished stood at approximately 450 million, or a quarter of the underdeveloped world. Moreover, the U.N. group also predicted that the number is likely to increase in the years ahead.

Ironically, most of that population is located in the southern hemisphere of the world in areas most suitable for the development of aquaculture enterprises. Nonetheless, as populations continue to increase explosively, the ability to provide them with adequate nutrition is decreasing, because more land is being reclaimed from agriculture to support more people, and because naturally occurring animal and plant life is being over-expoited to fill the food gap. In particular, aquatic resources are in trouble.

In the case of commercial fisheries, for example, from 1950 to 1970, the total fish harvest for commercial operations increased from 21 million tons to about 70 million tons. Since 1970, however, the yield has remained more or less static or has actually decreased in some categories. Some authorities believe that the total world fish catch cannot much exceed the 100 million ton level without imperiling seriously the reproductive potential of valuable commercial stocks. At the same time, it is estimated that the total demand for commercial fisheries products will more than likely eclipse the 100 million ton level within the next two decades. Other authorities believe that serious depletion of certain commercially exploited fish has already occurred with irreversible consequences. One example cited is the blue-fin tuna whose numbers have decreased precipitously in recent years. Another example is the green sea turtle, an animal which is now receiving attention in Hawaii's aquaculture program.

The only logical way to counteract such a perilous trend is to learn how to manage living aquatic resources. Aquaculture offers such a possibility just as land-based agriculture has developed technologies for managing a wide variety of plant and animal life.

I realize that it would be naive to suggest that aquaculture will be a cure-all for the world's nutritional problems. But at the same time, it would be equally

naive not to recognize aquaculture's potential to contribute significantly to the alleviation of this problem. Some additional statistics are worth mentioning in this context.

According to a 1975 National Academy of Sciences study, the United States produced 65,000 metric tons of fish through aquaculture that year. This represented slightly more than 3.4 percent of the total U.S. seafood demand. Although commercial aquaculture operations are located at various sites throughout the entire United States and its coastal waters, it is not yet a large industry—only about $100-200 million in total worth. Nevertheless, it has been estimated that the industry will double its output by 1982 to about $375 to $400 million.

Even more optimistic projections have been made both in this country and abroad:

Biologists at the National Marine Fisheries Service in Seattle have estimated that aquaculture developments totaling 500,000 acres could produce 20 billion pounds of fish in 25 years, enough to maintain per capita fish consumption in an expanded U.S. population of 300 million.

One estimate holds that in the United States, with the present state of aquaculture technology, production by aquaculture could be increased between three and five times from current production levels and that a more concentrated effort could result in a fifteen- to twenty-fold increase in production. That means that the United States could theoretically produce up to 1.4 million tons of seafood from aquaculture, given the stimulus to do so. Such a production level would account for nearly one-half the present, annual U.S. consumption of seafood—3.2 million tons.

A recent Senate committee print on Soviet Oceans Development (1976) acknowledges the Soviet's interest in aquaculture and concludes that Soviet emphasis on aquaculture is increasing for two fundamental reasons: First, the Soviets perceive that the future return from ocean fisheries will decrease as demand increases; and second, the rapid development of marine biology, ecology, and engineering has made it possible to develop aquaculture as a major component of the economy, like agriculture. Some Soviet officials have predicted that maritime areas will be eventually utilized for aquaculture, "up to a depth of 100 yards and up to 1 mile off the shore by the end of the century." It is apparent, then, that the Russian emphasis on aquaculture anticipates that the production potential of the fisheries industries will dwindle while the demand for fisheries products will continue to increase. They have chosen aquaculture to help fill the anticipated supply-versus-demand gap.

Moreover, in a report prepared for congressional hearings held on the House side in 1976, two important conclusions were reached. The first was that a review of the status of aquaculture in the world indicates aquaculture projects are contributing significantly to the economies of other countries but very little to the U.S. economy, despite an extensive import market for seafood. The second conclusion was that aquaculture could coexist very profitably with agriculture in the United States and provide an added benefit by reducing the balance-of-payments deficit resulting from the importation of seafood and related products into the U.S. markets.

Finally, Mr. President, with respect to the question of why this legislation is needed, I would like to bring to your attention the statement contained in the just completed National Research Council report entitled, "Aquaculture in the United States, Constraints and Opportunities." It reads in part as follows:

> Our analysis of the production, science, and technology, economics, business, law, and administration of aquaculture indicates that, in the United States, aquaculture will have only a minor impact on food production in the near term, in comparison with other food production systems. We have been unable to make a definitive statement about the exact future role of aquaculture as a source of food in the United States. It is, however, our considered opinion that in the long term, aquaculture will be a means of increasing protein supplies. We believe that aquaculture has the potential to contribute to increased food production. If this potential is to be tested, expenditures for current programs and for research and development must be increased.

Mr. President, moving to the second point I made in my opening statement, I would like to comment briefly on the bold aquaculture initiatives currently being undertaken in my home State, Hawaii. The March 1978 issue of the prestigious trade journal, the Commercial Fish Farmer, was devoted exclusively to articles describing these initiatives. Indeed, the subtitle of that issue was headlined: "Aquaculture in Hawaii."

Because Hawaii experiences year-around climatic conditions favorable to aquaculture development, it has, in my view, the potential to become the aquaculture capital of the United States. Freshwater prawn—related to shrimp—and certain species of fish are already being produced commercially. The potential for the production of other forms of aquatic life in Hawaii, is, according to all available reports, almost limitless. We have the potential for raising and producing commercially, both freshwater forms—catfish, turtles, prawn, crayfish, et cetera—and saltwater forms—oysters, marine shrimp, lobster, sea turtles, seaweeds, et cetera. But by all accounts, Mr. President, the development of this potential is going to be a costly undertaking. Land suitable for aquaculture is both scarce and expensive. Furthermore, Government regulations, both Federal and local, tend both to inhibit aquaculture development and escalate project costs. Finally, the economics of aquaculture—for example, supply versus demand; market expansion and perishability of aquaculture products—render it a risky investment.

As a developing technology, Hawaii recognizes that aquaculture programs are going to require large infusions of money for research. Specifically, funding is needed to broaden the scope of research in basic biology, genetics, disease control, and a wide range of husbandry management techniques for virtually all of the aquatic life forms identified now as having commercial potential. Like agriculture in its infancy, it is not yet known how to manage aquatic animals and plants with absolute reliability when they are crowded together in a cost efficient, intensive aquaculture environment. Fiscal and tax incentives will also be needed to encourage the technological and commercial development of aquatic life forms under these conditions. I submit further, Mr. President, that it is asking too much of entrepreneurs and venture capitalists to produce the funds themselves to undertake the research and development costs necessary for commercial success.

In this regard, the September 7, 1978, Honolulu Advertiser carried a very informative feature article on the current status of aquaculture planning and development in Hawaii and I ask unanimous consent at this time, Mr. President, to have the story printed in the RECORD at the conclusion of my remarks. The writer is Advertiser Staff Reporter Barbara Hastings. Her article is entitled: "Aquaculture in Hawaii—Prophets and Profits—a Search for New Crops."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. The issue of funding research and development costs for aquaculture leads me to the last topic I wish to discuss, Mr. President, and that is the questions of how aquaculture priorities will be established and who will make resource allocation decisions at the Federal level.

By establishing both a triparty National Aquaculture Council, as well as an Interagency Aquaculture Coordinating Committee, this legislation sets in motion a unique working framework which will maximize the utilization of aquaculture expertise already available in each of the cooperating Departments—Agriculture, Commerce, and Interior—while minimizing wasteful duplication of effort aimed at common problems. The key function of these two coordinating bodies will be to insure that a continuing exchange of information occurs relating to aquaculture planning and development. In addition, it will also insure that all Federal agencies with functions relating to aquaculture are carrying out those functions in a manner consistent with the purposes and policy of the act.

In conclusion, Mr. President, I would like to reaffirm my strong support for the passage of H.R. 9370. There is no question in my mind that this proposed legislation will enable the United States to move ahead agressively to establish a well managed national aquaculture program and I again ask my colleagues to join me in supporting this landmark legislation.

EXHIBIT 1

PROPHETS AND PROFITS—A SEARCH FOR NEW CROPS

(By Barbara Hastings)

Farms of prawns and oysters may yet prove to be big business for Hawaii. It's possible, too, that the market for them is almost as limitless as their proponents suggest.

But prawns and oysters are expensive luxury items: They won't go far toward nar-

rowing the world's protein gap or, closer to home, providing seafood at reasonable prices.

While worldwide fish consumption grows, fisheries do not. The U.S. domestic haul has not increased since 1970. The United States already imports half of its fish, shelling out about $2 billion a year to foreign nations.

Pacific nations are heavy fish eaters. The Japanese, South Koreans and Russians all are searching farther and farther from home for fish, especially tuna. Other nations, such as Indonesia, are cutting back on exports to take care of the home folks first.

About 30 million pounds of fish are consumed in Hawaii each year, nearly 2.5 times as much per person as on the Mainland. About two-thirds is imported.

Even mahimahi, the dolphin so popular in island restaurants, is imported "in vast amounts" from Taiwan, according to state officials.

As the global demand for fish increases and natural fisheries decrease, the economics of aquaculture look better and better. But what direction should Hawaii take?

Some researchers and scientists are interested in seeing finfish, like mullet, as Hawaii's next aquaculture project. Finfish will go much further than prawns and oysters in feeding the world's undernourished, they believe.

The key is to get finfish to breed while in captivity—a feat that remains elusive.

At Oceanic Institute, small-scale work with mullet-breeding has been "more successful more times than anywhere else," says Director Robert Shleser.

Shleser says it will be at least two years before mullet regularly produce babies at Makapuu, but the full-scale program is about to get under way. Only last week the state released $230,000 to the institute for a marine finfish hatchery.

Once captive breeding of mullet can be regularly achieved, the knowledge can be transferred to other species. Seed (babies or larvae) can be supplied to fish farmers, not unlike going to a feed store for seed corn.

But marine (ocean) shrimp is most often mentioned as the best bet for Hawaii's aquaculture future.

Unlike freshwater prawns, shrimp can be economically harvested at various sizes and sold at various price levels. Perhaps more important, shrimp are raised in salt water, while prawns require fresh water—an increasingly precious commodity.

All this is not lost on state officials. After getting the existing aquaculture industry established, "our second priority is commercial culture of a species which has fewer technical problems and has a hell of a market—that's marine shrimp," says Richard Gibson, manager of the state aquaculture program.

However, shrimp-raising is no cinch. Feed is expensive and much research and development are needed, especially in breeding. If breeding can be achieved in captivity, it would eliminate the need to catch egg-laden females in the open sea.

Colin Nash, a biologist formerly with Oceanic Institute, warns that getting into a marine shrimp industry won't be easy. "We're (Hawaii) not the first, we're almost the last" to try to raise marine shrimp, he says. "Florida is a graveyard of entrepreneurs who tried marine shrimp," he adds.

A marine shrimp industry for Hawaii, experts say, will take a lot of money and a 10-year lead time, that is, the time from the beginning of the research to the beginning of commercial production.

Rom Moav, an Israeli aquaculturist and until recently a visiting professor at the University of Hawaii, suggests that Hawaii stick with freshwater farming and concentrate on polyculture—raising more than one species in a single pond. Fish such as carp could share the same ponds as prawns, which are bottom eaters. "A pond with 3,000 pounds of prawns can raise 5,000 pounds of fish," Moav says.

Then, in addition to food crops, seaweed could become an aquaculture money-maker.

Taylor A. "Tap" Pryor, who is trying to put together a commercial oyster farm on the North Shore of Oahu, is experimenting with seaweed. He's working with the eucheuma variety, in great demands as a binder in a range of things from cosmetics to beer to milk shakes.

Pryor plans to raise the seaweed in on-land ponds as part of the oyster-raising cycle. That has never been done.

Maxwell Doty, a professor of algology at the University of Hawaii, has been working for years on seaweed culture. Apparently because of local constraints and economics, much of the seaweed-rearing has been done in the Philippines, while the analysis has been done at UH.

While Pryor is working on landbased seaweed ponds, Doty has done his research with natural waters. Work was done in Kaneohe Bay in 1975, but some seaweed escaped, creating controversy over cultivating it in local waters. The state became wary of approving further seaweed operations.

After once rejecting Pryor's request, the state Department of Agriculture was finally convinced that his system was sufficiently closed, leaving little chance that the crop could escape into surrounding coastal waters.

C. Brewer had an even harder struggle trying to get permits to grow the seaweed next to the reef runway at Honolulu Airport.

Marine Colloids, the United States' largest user of seaweed, is looking for new sources of the stuff. Estimates are that it could become a multimillion-dollar business for a place like Hawaii.

While mullet-breeding is still being researched, the raising of a tuna bait is a little further along on Maui.

There, the county is raising top-minnows. County officials, the local office of the federal Sea Grant Program and state agencies that helped fund the project hope it will help the aku industry.

The traditional tuna bait, nehu, is in short supply. "The key to expansion, or even the survival of the aku industry, is baitfish," says Eric Soto, Maui economic development coordinator.

If the trials succeed, Maui Mayor Elmer Cravalho says, he'll move the operation to Molokai. A baitfish operation could result in a $6 million to $10 million industry, according to Soto.

Cravalho also plans to use treated sewage effluent in the Pauwela area to raise brine shrimp as a feed for other species.

Aquaculture's future for the Islands, then, is open-ended, but restricted by technology. The state can rely on prawns, catfish and oysters, or branch out into new species as research makes them viable crops.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a summary of the bill and statements on its behalf by various Senators be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUMMARY: H.R. 9370—NATIONAL AQUACULTURE ACT OF 1978

Findings, purpose, and policy

Section 2 sets forth findings concerning the potential benefits to the U.S. from the development of aquaculture; declares a national policy to encourage that development; and states that the purpose of the bill is to establish a plan and programs to carry out that policy.

Definitions

Section 3 defines the terms used in the act.

NATIONAL AQUACULTURE COUNCIL

Section 4 establishes the National Aquaculture Council, consisting of the Secretaries of the Department of Agriculture, Commerce, and the Interior; provides for a rotating chairmanship of the Council, and requires the Council to report to the Congress biennially on the status of aquaculture in the U.S.

National aquaculture development plan

Section 5 requires the Council, within 18 months, to establish a National Aquaculture Development Plan setting forth those actions which the Federal government should undertake to further the development of aquaculture. The plan shall include programs for each species which has a potential for aquacultural development. This section also requires an on-going assessment of aquaculture to determine the size and nature of the U.S. aquaculture industry.

Functions and powers of the secretaries

Section 6 provides that in implementing the Plan, the Secretaries shall provide assistance to all interested persons, shall consult and cooperate with interested persons and agencies, and shall encourage the use of aquaculture to rehabilitate and enhance the public fisheries. The Secretaries may conduct tests of aquacultural systems, including production-scale facilities; produce and sell seed stock; and develop methods to enhance stocks of aquatic species.

Coordination of national activities regarding aquaculture

Section 7 establishes the Interagency Aquaculture Coordinating Committee, consisting of the members of the Council and the heads of six other federal agencies with functions relating to aquaculture. The functions of the Committee shall be to ensure a continuing exchange of information relating to aquaculture and to ensure that all Federal agencies with functions relating to aquaculture are carrying out those functions in a manner consistent with the purposes and policy of the Act.

Contracts and grants

Section 8 provides that the Secretaries may use contracts or grants to carry out the purposes of the Act. Such contracts or grants can be made to any person, Federal department or agency, State agency or regional commission. The grant would be on a cost sharing basis and can only be made if the recipient at least matches the grant.

Aquaculture demonstration projects

Section 9 authorizes the Secretaries to cooperate in the development of aquacultural projects on a matching fund basis after considering whether similar projects exist. Any person, State agency or regional commission would be eligible. The recipient would be required to maintain information about the demonstration project and conduct tours if they are appropriate.

Guarantees of obligation

Section 10 provides that the Secretary of Agriculture and the Secretary of Commerce may guarantee up to 90 percent of the principal and interest of private obligations for the development, operation, or refinancing of aquacultural enterprises. Preference would be for aquacultural enterprises that employ 40 or fewer workers.

The term of the loans could not exceed the level established by the Secretaries. The Secretaries could charge a service fee of not more than one-half of one percent.

The total amount of loans guarantees under the section could not exceed $300 million which would generally be divided between the two secretaries.

Insurance for aquaculture

Section 11 provides that the Secretary of Agriculture or the Secretary of Commerce can issue direct insurance for stock, property, and liability.

However, no direct insurance program can be established unless a study in the first 18 months after enactment of the bill indicates a need. Should such a need be established for "essential stock insurance" the Secretaries would be required to develop appropriate stock insurance programs. However, the development of property insurance or liability insurance programs would be discretionary even if the study indicates a need.

Provision for premium subsidy is made but the subsidy can not exceed 40 percent of the rate that would exist if such insurance were available commercially.

The total face value of all insurance coverage that would be permitted at any one time is $250 million. This would be generally divided equally between the two Secretaries. No insurance may be isssued after September 30, 1982.

Aquaculture assistance fund

Section 12 establishes a revolving fund in the Treasury for the purpose of carrying out and administering the loan guarantee programs and insurance programs. Borrowing authority for the secretaries from the Treasury is established; however, all expenditures from the fund are subject to appropriations.

Authorization for appropriations

Section 13 authorizes appropriation of $12 million, $22 million and $32 million for fiscal years 1980, 1981, and 1982.

Any funds appropriated would be allocated in the following manner:

A. 40 percent to the Department of Agriculture.

B. 40 percent to the Department of Commerce.

C. 20 percent to the Department of Interior.

At least one-third of such funds would have to be used to carry out the contract and grant program and demonstration projects in Sections 8 and 9.

Disclaimer

Section 14 declares that this Act does not amend, repeal or modify the authority of any Federal department or agency authorized under any other law.

STATEMENT BY SENATOR INOUYE

I strongly support the passage of H.R. 9370. On February 15, 1978, an earlier version of this bill passed the House. That bill was subsequently referred to the Senate Committee on Commerce, Science, and Transportation. In consultation with that Committee, and with the Committee on Agriculture, Nutrition and Forestry, which also has jurisdiction over aquaculture, we worked up a new version of the bill, S. 3408, which I introduced on August 14, 1978 and which was jointly reported by the two committees on August 25, 1978. On September 12, 1978, the Senate considered this bill and passed it by unanimous consent with the House number attached.

In lieu of a conference, the staffs of the two Senate committees and staff from the House worked up a compromise version which was passed by the House earlier today. This new version has been approved by all interested members of the two Senate committees. I have examined it and believe that this Inouye-Leggett bill is more broadly acceptable than either of the original versions.

I urge my colleagues to support this initiative for aquaculture and to accept the amended bill as returned to us. Now designated the National Aquaculture Act of 1978, this measure will promote development through a variety of incentives which involve the resources of three major departments—Agriculture, Commerce and the Interior—while recognizing that the principal responsibility rests with the private sector.

The mechanisms provided for Federal assistance include contracts and grants, aquaculture demonstration projects, guarantees of obligations for facilities, and insurance against certain losses incurred in aquaculture facility operations. I believe these provide to the aquatic food producer many opportunities to be innovative and aggressive in development while enjoying some forms of assistance or risk sharing which have long been available to terrestrial food producers. The variety of mechanisms is particularly desirable for an industry now poised for potentially rapid growth, but containing some elements which are mature in experience and fairly well established as businesses, while containing many other elements that are young in experience, dealing with stock that consists principally of wild strains, and almost untried in the marketplace.

There are two changes I wish to point out. I had brought the Executive Office of the President into the planning by assigning some responsibility towards this to the Office of Science and Technology Policy. The amended bill has this role reduced to consultation by the coordinating council composed from the three principal departments. I find that during the interim since introducing S. 3408, the Office of Science and Technology Policy has activated two Federal Coordinating Committees for Science Engineering and Technology (FCCSET). One deals with agriculture and renewable resources, the other with oceanic and atmospheric matters; both would normally consider topics pertinent to aquaculture. I have been assured that these two CCSET groups will form a joint committee to give direction to coordination by the Executive Branch. This news assures me that our original intent, to assure adequate coordination, will be realized.

The second change concerns coordination at the State level. I believe that some institutional barriers to aquaculture development do exist at that level. S. 3408 tried to effect change in that condition by providing some Federal programs contingent on certain State responses. Though the House amendments have eliminated these, I do believe the plan development is broad enough and involves sufficient interests to assure that intergovernmental coordination can be achieved. This is certainly a matter that I will follow in oversight activities.

I am hopeful that this national recognition of the importance of aquaculture as an industry will be of major help in States such as my own State of Hawaii where aquaculture has been given a high priority in efforts to broaden our economic base and to reduce our dependence upon tourism, government, sugar and pineapple as the mainstays of our existence. I commend our State for its vision and I am happy to share in this effort to bring overdue Federal recognition to the promise and importance of aquaculture.

I ask my colleagues who joined me last month in passing S. 3408 to join me again in support of H.R. 9370, as amended.

STATEMENT BY SENATOR STONE

I want to urge acceptance of the House amendments to the Senate amendment on H.R. 9370, the National Aquaculture Act of 1978.

This amendment is the result of the joint work of the staff of the House Merchant Marine and Fisheries Committee and the staffs of the Senate Committee on Agriculture, Nutrition and Forestry and the Senate Committee on Commerce, Science and Transportation to find a good compromise between the House passed bill and the Senate amendment.

We have had before us this year many bills with the common objective of promoting aquaculture. Throughout the Congress and the nation there has been a rising awareness of the potential of aquaculture and a desire to support the development of aquaculture in the United States. There have been many differences about the specifics, but, also a strong common foundation of support of the basic idea of a national aquacultural policy.

I am very happy to say that the amendments that the House is proposing take the best of the proposals and combine them into a stronger bill than either the House or the Senate originally proposed.

Our objective is to help aquaculture come into it's own, I believe that the House amendment to H.R. 9370 will do it. I urge my colleagues to accept the House proposed amendments.

STATEMENT BY SENATOR MAGNUSON

I support passage of H.R. 9370. In most respects, the compromise version of the bill which is before us today is, in my opinion, better than either the original House-passed version or the Senate-passed version. The mechanism of a National Aquaculture Council for planning and coordinating Federal aquaculture activities is preferable to either of the earlier versions; and the level of funding permitted for financial incentives for aquacultural development (loan guarantees, insurance and demonstration projects) is more appropriate than in either of those versions.

There is one element of the compromise before us on which I would particularly like to comment: the question of whether ocean ranching of salmon for profit should be included within the statutory definition of "aquaculture" and therefore be within the scope of the act. The original House version did include this type of aquaculture, but the Senate had excluded it. The reason for that exclusion was that this type of aquaculture has become extremely controversial in the Pacific Northwest because fishermen are concerned that it might have an adverse effect on existing salmon stocks. Whether ocean ranching for profit will be permitted is essentially a matter of state law. In working out this compromise bill with the House, the House insisted that ocean ranching be included in this bill, at least in those States where it is legal. The definition of aquaculture in this bill therefore excludes ocean ranching for profit where it is prohibited by state law. I want to emphasize that this change in language in the definition does not change the over-all neutral position of the Congress on this issue: the determination of whether ocean ranching for profit is permissible is one for the individual states to make. My own State has acted to ban this practice.

● Mr. WEICKER. Mr. President, I would like to ask the distinguished Senator from Hawaii (Mr. INOUYE) if it is the intention of subsection 5(d) of H.R. 9370, entitled "Revision of Plan" to include revisions to the national aquaculture development plan that would address environmental impacts due to aquaculture practices.

Let me explain further. If the plan is found to cause or allow adverse environmental impacts, could the plan be revised to lessen or eliminate such impacts?

Mr. INOUYE. Yes, it is the intention of H.R. 9370, under subsection 5(d)(3), to revise or terminate any program or action in the plan if its projected benefits do not warrant further support. Adverse environmental impacts caused by

an aquaculture program specified in the plan that exceeds the program's benefits would then be sufficient reason to revise or terminate such a program.

Mr. WEICKER. Thank you, Senator. Your explanation fully addresses my concerns. I would like to request that this exchange become part of the legislative history of H.R. 9370.

Mr. INOUYE. I assure the Senator from Connecticut that our colloquy will be part of the legislative history of H.R. 9370.●

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3151.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3151) entitled "An Act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

SEC. 2. There are hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof), the following amounts:

(1) For General Administration, $28,996,000.

(2) For General Legal Activities, $89,884,000.

(3) For the Antitrust Division, $46,377,000.

(4) For United States Attorneys and Marshals, $196,736,000.

(5) For Fees and Expenses of Witnesses, $20.144.000.

(6) For Support for United States Prisoners, $25,100,000.

(7) For Community Relations, $5,353,000.

(8) For the Federal Bureau of Investigation, $560,250,000, including $1,369,000 for the program of domestic security and terrorism and for providing a written report to a member of Congress on any investigation conducted based on a threat on the member's life purusant to 18 U.S.C. 351.

(9) For the Immigration and Naturalization Service, $320,722,000, of which $2,052,000 shall be made available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(10) For the Federal Prison System, $362,662,000.

SEC. 3 No amounts authorized to be appropriated by this Act may be used or obligated to carry out the activities of the Law Enforcement Assistance Administration or the Drug Enforcement Administion.

SEC. 4. During the fiscal year for which appropriations are authorized by this Act, each organiaztion of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the appropriate committees of the Senate and the House of Representatives a minimum of fifteen days prior to—

(1) the reprograming of funds in excess of $150,000 or 10 per centum, whichever is less, between the programs within the Offices, Divisions, and Boards, as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) the reprograming of funds in excess of $500,000 or 2 per centum, whichever is less, between programs within the Bureaus, as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) the increase of personnel or funds by any means for any project or program for which funds or other resources have been denied or restricted;

(5) the creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; or

(7) any significant relocation of offices or employees.

SEC. 5. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organizations' programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations will be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials will provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation and cognizant personnel as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

SEC. 6. Sums authorized to be appropriated by this Act for the activities of the Federal Prison System may be used for compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms, and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestocks; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code.

SEC. 7. Sums authorized to be appropriated by this Act for the activities of the Federal Prison System may be used for planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, such sums to remain available until expended. The labor of United States prisoners may be used for work performed under this authorization.

SEC. 8. Sums authorized to be appropriated by this Act for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, which established a National Institute of Corrections, are authorized to remain available until expended.

SEC. 9. The Federal Prison Industries, Incorporated, is authorized to make such contracts and commitments as may be necessary in carrying out the program set forth in the budget for fiscal year ending September 30, 1979 for that corporation.

SEC. 10. The Attorney General shall consult with the Secretary of Defense in order to develop a plan to assure that such suitable correctional facilities as the Department of Defense operates which are not in active use shall be made available for operation by the Department of Justice for the confinement of the United States prisoners. Such plan shall provide for the return of the management of the Department of Defense of any such correctional facility upon a finding by the Secretary of Defense that such return is necessary to the operation of the Department.

SEC. 11. (a) On or before September 1, 1979, the Attorney General shall submit to the Congress—

(1) a plan to assure the closure of the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before January 1, 1982; and

(2) a report on the status of the Federal Prison Industries.

(b) The report made under this section shall include a long-range plan for the improvement of meaningful employment training, and the methods which could be undertaken to employ a greater number of United States prisoners in the program. Such report may include recomendations for legislation.

SEC. 12. No part of any funds authorized to be appropriated by this Act may be used for the purpose of transferring any border control activities of the Immigration and Naturalization Service (including patrol and inspections) to any other agency or department of the Federal Government.

SEC. 13. (a) The sums authorized to be appropriated by this Act for the activities of the Immigration and Naturalization Service may be used for payment of expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies where provision for reimbursement by such State and local law enforcement agencies is made; payment or rewards; payment of expenses, not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use, without regard to the general purchase price limitation for the current fiscal year, and hire of, passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payments of fines and passage money; operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for enforcement fence and construction incident to such fence; benefits in accordance with those provided under sections 911(9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)–(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; research related to immigration enforcement; payment of interpreters and translators who are not citizens of the United States; and distribution of citizenship textbooks to aliens without cost to such aliens.

(b) The Attorney General, in consultation

with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.

SEC. 14. (a) Sums authorized to be appropriated by this Act for the activities of the Federal Bureau of Investigation may be used for expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification, and preservation of identification and other records and their exchange with, and for the official use of, the fully authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use, without regard to the general purchase price limitation for the current fiscal year, and hire of, passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under section 911 (9) through (11) of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)–(11)) under regulations prescribed by the Secretary of State; and up to $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate.

(b) None of the funds authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any civil service employee.

SEC. 15. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in Public Law 92–544 (86 Stat. 1115) sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until but not later than the end of the fiscal year ending September 30, 1979.

SEC. 16. (a) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a correctional center for Federal detainees. Such correctional center shall be capable of accomodating not less than five hundred such detainees.

(b) There are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979 to carry out the provisions of this section.

SEC. 17. The Attorney General shall undertake a study of the extent to which complaints of violations of Federal criminal laws are not prosecuted and shall make recommendations for improving the percentage of such complaints which are prosecuted by the Department. The study shall also analyze the cases that have not been prosecuted and make recommendations to assure that the decisions not to prosecute are in accordance with national policy. The study and recommendations shall be provided to the Committees on the Judiciary of the Senate and House of Representatives not latter than March 31, 1979.

SEC. 18. In addition to any other sums authorized by the Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $1,000,000 to bring the facilities of the Federal Prison System into compliance with fire safety standards of the localities in which such facilities are located. Not later than one hundred and eighty days after the appropriation of sums authorized for this purpose, the Federal Bureau of Prisons shall report to the Congress the extent to which such facilities have complied with such standards. Such report shall describe the purposes for which sums authorized to be appropriated have been or are to be expended.

SEC. 19. Sums authorized to be appropriated by this Act for carrying out the activities of the United States Marshals Service may be used for the purchase of firearms and ammunition.

SEC. 20. There are authorized to be appropriated such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for nondiscretionary costs.

SEC. 21. Sums authorized to be appropriated by this Act for General Legal Activities may be used for miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration or the Associate Attorney General or the Deputy Attorney General; and, expenses of collection evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate.

SEC. 22. The Attorney General is authorized to procure services with sums authorized to be appropriated by this Act, as authorized by section 3109(b) of title 5, United States Code.

SEC. 23. Sums authorized to be appropriated by this Act may be used for the purchase of insurance of motor vehicles operated on official Government business in foreign countries.

SEC. 24. Sums authorized to be appropriated by this Act may be used for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at costs not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of those dependents between their places of residence and schools serving the area which those dependents would normally attend school when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

SEC. 25. Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings are authorized to be expended for such purposes in accordance with regulations prescribed by the Attorney General.

SEC. 26. Sums authorized to be appropriated by this Act may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 27. Sums authorized to be appropriated by this Act for General Administration may be used for the hire of passenger motor vehicles; and, miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration or the Associate Attorney General.

SEC. 28. No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

SEC. 29. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679 (a) of the Revised Statutes (31 U.S.C. 665 (a)), section 3732(a) of the Revised Statutes, as amended (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), section 3741 of the Revised Statutes, as amended (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254(a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes, as amended (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraph (2) or (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at that time shall be deposited into the Treasury of the United States as miscellaneous receipts.

SEC. 30. (a) The Attorney General shall transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United

States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved does not constitute the position of the United States with respect to such matter.

SEC. 31. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall in its Uniform Crime reports classify arson as a Part 1 offense.

SEC. 32. The Attorney General shall, using sums authorized to be appropriated by this Act, establish and implement advisory procedures (1) for the identification of individuals who meet the standards and guidelines promulgated by the President for the selection, on the basis of merit, of nominees for United States district court judgeships and (2) for the submission of their names to the President and to the Senate with respect to each vacancy in the office of a United States district court judgeship. Such procedures shall be designed to identify exceptionally well qualified individuals without regard to political affiliation. No nomination or appointment to a United States district court judgeship shall be invalidated on the basis of a failure to comply with this section.

Amend the title so as to read: "An Act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree with the amendments of the House and agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. EASTLAND, Mr. KENNEDY, Mr. BAYH, Mr. ABOUREZK, Mr. DECONCINI, Mr. PAUL G. HATFIELD, Mr. THURMOND, Mr. MATHIAS, and Mr. WALLOP; and Mr. RIBICOFF, Mr. JACKSON, Mr. JAVITS, and Mr. PERCY, with special expertise in the area of special prosecutor, as conferees on the part of the Senate.

DRUG ABUSE PREVENTION AND TREATMENT AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HATHAWAY, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2916.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2916) entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that Act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Abuse Prevention and Treatment Amendments of 1978".

EXTENSION OF SECTIONS 409, 410, AND 503

SEC. 2. (a) The first sentence of section 409 (a) of the Drug Abuse Office and Treatment Act of 1972 is amended (1) by striking out "and" after "1977,", and (2) by inserting after "1978," the following: "and September 30, 1979,".

(b) Section 410(b) of such Act is amended by adding at the end the following: "For the fiscal year ending September 30, 1979, there is authorized to be appropriated (1) $153,000,000 for grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs, and (2) $24,000,000 for grants and contracts under such subsection for other programs and activities.".

(c) Section 503(b) of such Act is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the following: "and $7,000,000 for the fiscal year ending September 30, 1979".

REPORTS

SEC. 3. (a) Section 502 of the Marihuana and Health Reporting Act (Public Law 91-296) is amended by striking out "annually" and inserting in lieu thereof "biennially".

(b) Section 405(b) of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(b) The Secretary shall transmit a report to the President and the Congress with respect to each fiscal year on—

"(1) the health consequences and extent of drug abuse in the United States,

"(2) a description and evaluation of the effectiveness of the drug abuse prevention functions carried out through any entity of the Department of Health, Education, and Welfare in the fiscal year for which the report is made,

"(3) a description of the manner in which such functions were carried out, a description of the amount of funds expended in carrying out such functions, and a description and evaluation of the coordination within the Department of Health, Education, and Welfare in carrying out such functions,

"(4) a description and evaluation of the effectiveness of experimental methods and programs implemented in carrying out such functions, recommendations for implementation of such methods and programs by others in carrying out their drug abuse prevention functions, and a description and evaluation of the effectiveness of the means used to disseminate information respecting such methods and programs, and

"(5) proposals for changes in the drug abuse prevention functions carried out through the Department of Health, Education, and Welfare (including recommendations for legislation).

The report required by this subsection shall be transmitted not later than January 15 of each year.".

(c) Not later than 120 days after the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the Congress a report on the extent and nature of drug abuse in rural areas, the special needs and circumstances which must be addressed in providing drug abuse prevention functions to these areas, and specific recommendations respecting such functions in these areas.

STATE PLANS FOR FORMULA GRANTS

SEC. 4. Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended—

(1) by striking out "July 15" and inserting in lieu thereof "July 31",

(2) by inserting after "groups," in paragraph (3) "of political subdivisions in the State,",

(3) by inserting after "areas of the State" in paragraph (3) "and from population groups in the State which are seriously affected by drug abuse",

(4) by striking out "in carrying out" in paragraph (3) and inserting in lieu thereof "in preparing and carrying out", and

(5) by amending paragraph (7) to read as follows:

"(7) provide reasonable opportunity for political subdivisions in the State to submit to the State agency recommendations respecting the preparation and carrying out of the State plan;".

TECHNICAL ASSISTANCE

SEC. 5. Section 502(b)(3) of the Drug Abuse Office and Treatment Act of 1972 is amended by striking out "control and treatment" and inserting in lieu thereof "prevention, control, and treatment".

ACTIVITIES OF THE NATIONAL INSTITUTE ON DRUG ABUSE

SEC. 6. (a) Section 410(a) of the Drug Abuse Office and Treatment Act of 1972 is amended by inserting ", acting through the National Institute on Drug Abuse," after "Secretary" the first place it appears.

(b)(1) Title V of such Act is amended by adding at the end thereof the following new section:

"§ 504. Review of programs and activities

"The Secretary, acting through the Institute, shall, by regulation, provide for review of all grants made, and contracts entered into, for research, training, treatment, prevention, and other programs and activities authorized under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of drug abuse.".

(2) The table of sections at the beginning of such title is amended by adding at the end thereof the following new item:

"504. Review of programs and activities.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements by Mr. HATHAWAY and Mr. WILLIAMS be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATHAWAY

Currently pending before the Senate is S. 2916, the Drug Abuse Prevention Amendments of 1978. The bill was considered and agreed to by the Senate on May 24, 1978. The pending version, while virtually identical to that which passed the Senate, does contain differences adopted by the House of Representatives on September 18, 1978, requiring the concurrence of the Senate.

With the Senate's concurrence to these differences, which are in no way inconsistent with its earlier action, the measure can be cleared for the President.

On September 18, the House took up for consideration its companion bill, H.R. 12348, which has been reported on May 15. The House agreed to incorporate into H.R. 12348 the key elements of the Senate bill which were different from H.R. 12348 as reported, and then passed S. 2916 after substituting this text for the original Senate version. These actions were all taken after prior consultation with me and other concerned Senators. Thus the pending measure is in practical effect tantamount to the conference report which likely would have emerged had a formal conference been held.

In the following respects the pending measure is identical to that which passed the Senate on May 24:

It provides a one-year extension of the authorizations of appropriations under the Drug Abuse Office and Treatment Act of 1972. That Act provides the authority for the National Institute on Drug Abuse (NIDA) in the Department of Health, Education, and Welfare to conduct drug abuse research and prevention, treatment and rehabilitation programs.

It establishes a total authorization level for such activities of $229 million for the 1979 fiscal year.

Of this sum, a total of $177 million is proposed for activities under Section 410 of that Act which funds a variety of treatment, prevention, demonstration, and other activities. For treatment programs $153 million is authorized, and the remaining $24 million is earmarked for prevention, demonstration and other activities under that section.

A total of $45 million is authorized for formula grants to states under Section 409 of the Act.

For research grants and contracts under Section 503, $7 million is authorized to support development and testing of non-addictive (or less addictive) analgesics, blocking drugs for treatment of heroin addiction, and detoxification agents.

It requires the Secretary of HEW to submit an annual report to Congress on the problems of drug abuse in the United States, and the Department's response to those problems, and provides that the report to Congress on marihuana and health be made on a biennial rather than annual basis.

It requires that the Director of NIDA provide technical assistance to States and local governments in development of drug abuse prevention programs.

It requires the Secretary to submit to Congress not later than 120 days after enactment of the bill a report on the nature and extent of drug abuse problems in rural areas, the drug abuse programs directed at such areas, and recommendations regarding these programs.

It clarifies provisions of existing law to insure that grant review and award procedures shall be conducted through the Institute and shall utilize scientific peer review.

The rationale behind each of these provisions was set forth in the committee report accompanying the Senate bill, and also set forth during floor debate on May 24.

The pending measure also contains additional elements not previously agreed to by the Senate. It requires that state plans for drug abuse formula grants provide for representation on the state drug abuse advisory boards by political subdivisions, and by population groups which are seriously affected by drug abuse, consultation with such advisory group in preparation of the plan, and reasonable opportunity for political subdivisions to submit to the state agency recommendations regarding the plan. These amendments are sound ones, and worthy additions to the statute.

Because this measure is virtually identical to that already approved by the Senate, because the differences represent worthy improvements, and because there is a continued need for strong drug abuse programs, I urge my colleagues to concur in this amended version.

STATEMENT BY SENATOR WILLIAMS

The House of Representatives has approved, with minor amendments, S. 2916, to amend the Drug Abuse Office and Treatment Act of 1972, which the Senate approved on May 24 of this year. In order to clear this Act for the President's signature as quickly as possible, the House of Representatives incorporated several provisions of the Senate-passed bill. I urge the Senate to accept the minor additional provisions of the House.

The Drug Abuse Prevention and Treatment Amendments of 1978 provide for a revision and extension of the authorizations for one year, to continue drug abuse research and prevention, treatment and rehabilitation programs of the National Institute on Drug Abuse in the Department of Health, Education and Welfare.

This legislation provides for a total of $229 million for fiscal year 1979 for the programs of the National Institute of Drug Abuse. This includes $45 million for formula grants to the States, $177 million for special grants and contracts ($153 million for treatment programs, and $24 million for prevention, demonstration, and other programs), and $7 million for certain research related to heroin addiction and drugs to replace opium and its derivatives in medical use. This authorization is the same as that originally approved by the Senate.

The legislation also requires the Secretary of Health, Education, and Welfare to submit an annual report to Congress and the President describing the problems of drug abuse in the United States and the Department's response to these problems. This reporting requirement is intended to replace the requirement that the Secretary of HEW submit an annual report respecting new drug abuse treatment and rehabilitation methods to the Director of the Office of Drug Abuse Policy which was recently abolished under the President's Reorganization Plan No. 1. It also provides that the report to Congress on marihuana and health be made on a biennial rather than annual basis.

This legislation also requires the Director of the National Institute on Drug Abuse to provide technical assistance to State and local governments to assist them in applying for grants and contracts for drug abuse prevention programs.

The only provisions of the bill before us which have not been previously approved by the Senate require that State plans for drug abuse formula grants provide for representation on the State drug abuse advisory board by political subdivisions of the State, representation on the State drug abuse advisory board by population groups in the State which are seriously affected by drug abuse, consultation by the State drug abuse agency with the State drug abuse advisory board in its preparation of the State plan, and reasonable opportunity for political subdivisions in the State to submit to the State agency recommendations respecting the preparation and carrying out of the State plan. I believe that these measures improve the Senate bill and should be accepted.

The Senate provisions which the House agreed to accept include:

An amendment to require the Secretary of Health, Education, and Welfare to list in his annual drug abuse report to the President and Congress, the amount of funds expended by HEW in carrying out its drug abuse prevention functions;

An amendment to require the Secretary to submit a report to Congress on the extent and nature of drug abuse in rural areas, the drug abuse program needs for these areas and recommendations respecting programs for these areas;

An amendment to clarify that the provisions of drug abuse project grants and contracts under section 410 of the Act and the review of grants and contracts for research, training, treatment and prevention programs and activities under the Act shall be conducted by the Secretary through the National Institute on Drug Abuse. This conforms with actual practice and is comparable to statutory provisions relating to the National Institute on Alcohol Abuse and Alcoholism.

The Administration would have preferred a three-year reauthorization of these programs. However, both the Senate and House Committees agreed that there should be only a one-year reauthorization at this time, although we fully acknowledge that drug abuse is still a major problem which requires a major effort on the part of the Federal Government.

When the Office of Drug Abuse Policy (ODAP) was abolished under the President's Reorganization Plan No. 1, Congress was assured that the overall functions of ODAP would be undertaken by the Domestic Policy Staff, working with a revitalized Strategy Council on Drug Abuse. These functions, as spelled out in Title II of the Drug Abuse Office and Treatment Act, were to coordinate and insure a coherent Presidential drug abuse policy throughout the Executive Branch. ODAP was required by statute to oversee all organizational and policy issues and to recommend and implement resource and program priorities and to issue an annual report on its efforts.

We were also assured that Dr. Peter Bourne, as the President's Assistant on Health, would continue to take lead responsibility for formulating a comprehensive drug policy and would continue to be available to testify before Congress as needed.

Because ODAP is no longer in existence, it was felt that this program should receive only a one year reauthorization to allow Congress time to determine whether the coordinating responsibilities of ODAP would be effective under this new system. With the departure of Dr. Bourne from the White House staff, it is even more crucial that Congress have this additional year to determine whether the drug abuse efforts of the federal government are being effectively coordinated.

It is crucial that the Federal Government continue its efforts to control drug abuse. Deaths due to heroin use have declined since the inception of this program and heroin related injuries have shown a similar decrease. The crime rate nationwide has been reduced by approximately nine percent.

Nonetheless, these trends ought not to inspire complacency but rather should encourage continued Federal leadership and initiative. Barbiturates, narcotics-analgesics, and other sedatives, including those taken in combination with alcohol, account for over three-fifths of all drug related deaths. Increased use of phencyclidine, or PCP, poses a particularly grave problem because its component chemicals are widely available and PCP can be synthesized through relatively unsophisticated chemical procedures on an inexpensive scale. PCP produces severe behavioral and physical changes and has many chemical variations, equally devastating.

The Federal Government must not be allowed to let up on its efforts to solve the problems created by drug abuse. I urge the Senate to approve this measure so that it can be sent to the President for signature.

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFIT ACT OF 1978

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11886.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 11886) entitled "An Act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors, and for other purposes", with the following amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That (a) this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Act of 1978".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$41" in subsection (a) and inserting in lieu thereof "$44";

(2) by striking out "$75" in subsection (b) and inserting in lieu thereof "$80";

(3) by striking out "$113" in subsection (c) and inserting in lieu thereof "$121";

(4) by striking out "$155" in subsection (d) and inserting in lieu thereof "$166";

(5) by striking out "$216" in subsection (e) and inserting in lieu thereof "$232";

(6) by striking out "$272" in subsection (f) and inserting in lieu thereof "$292";

(7) by striking out "$322" in subsection (g) and inserting in lieu thereof "$346";

(8) by striking out "$373" in subsection (h) and inserting in lieu thereof "$400";

(9) by striking out "$419" in subsection (i) and inserting in lieu thereof "$450";

(10) by striking out "$754" in subsection (j) and inserting in lieu thereof "$809";

(11) by striking out "$937" and "$1,312" in subsection (k) and inserting in lieu thereof "$1,005" and "$1,408", respectively;

(12) by striking out "$937" in subsection (l) and inserting in lieu thereof "$1,005";

(13) by striking out "$1,032" in subsection (m) and inserting in lieu thereof "$1,107";

(14) by striking out "$1,172" in subsection (n) and inserting in lieu thereof "$1,258";

(15) by striking out "$1,312" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,408"; and

(16) by striking out "$843" in subsection (s) and inserting in lieu thereof "$905".

(b) Subsection (p) of section 314 (as amended by clause (15) of subsection (a) of this section) is further amended by inserting before the semicolon a period and the following new sentence: "In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of $1,408".

(c) Section 314(r) is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "Subject to section 3203(e) of this title, if any veteran, otherwise entitled to the compensation authorized under subsection (o) of this section or at the maximum rate authorized under subsection (p) of this section, is in need of regular aid and attendance, then, in addition to such compensation under subsection (o) or (p) of this section—

"(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of $604; or

"(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of $900, in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal healthcare services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.".

(d) Section 314 is amended by adding at the end thereof the following new subsection:

"(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (l) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by $175.

"(2) If a veteran described in paragraph (1) of this subsection receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.".

(e) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by the amendments made by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. (a) Section 315(1) is amended—

(1) by striking out "$46" in clause (A) and inserting in lieu thereof "$49";

(2) by striking out "$77" in clause (B) and inserting in lieu thereof "$83";

(3) by striking out "$98" in clause (C) and inserting in lieu thereof "$110";

(4) by striking out "$120" and "$22" in clause (D) and inserting in lieu thereof "$137" and "$27", respectively;

(5) by striking out "$30" in clause (E) and inserting in lieu thereof "$34";

(6) by striking out "$52" in clause (F) and inserting in lieu thereof "$61";

(7) by striking out "$77" and "$22" in clause (G) and inserting in lieu thereof "$88" and "$27", respectively;

(8) by striking out "$37" in clause (H) and inserting in lieu thereof "$40";

(9) by striking out "$83" in clause (I) and inserting in lieu thereof "$89"; and

(10) by striking out "$70" in clause (J) and inserting in lieu thereof "$75".

(b) Section 315 is further amended by striking out "50 per centum" in the matter preceding paragraph (1) and in paragraph (2) and inserting in lieu thereof "30 per centum".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$203" and inserting in lieu thereof "$218".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade:	Monthly rate
E-1	$297
E-2	307
E-3	314
E-4	334
E-5	343
E-6	351
E-7	368
E-8	388
E-9	[1] 406
W-1	376
W-2	391
W-3	402
W-4	426
O-1	376
O-2	388
O-3	416
O-4	439
O-5	484
O-6	544
O-7	590
O-8	646
O-9	694
O-10	[2] 760

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $437.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $814.".

(b) Subsection (b) of such section is amended by striking out "$33" and inserting in lieu thereof "$35".

(c) Subsection (c) of such section is amended by striking out "$83" and inserting in lieu thereof "$89".

(d) Such section is further amended by adding at the end thereof the following new subsection:

"(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $45 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of 'permanently housebound' will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended—

(1) by striking out "$140" in clause (1) and inserting in lieu thereof "$150";

(2) by striking out "$201" in clause (2) and inserting in lieu thereof "$216";

(3) by striking out "$259" in clause (3) and inserting in lieu thereof "$278"; and

(4) by striking out "$259" and "$52" in clause (4) and inserting in lieu thereof "$278" and "$56", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended—

(1) by striking out "$83" in subsection (a) and inserting in lieu thereof "$89";

(2) by striking out "$140" in subsection (b) and inserting in lieu thereof "$150"; and

(3) by striking out "$71" in subsection (c) and inserting in lieu thereof "$76".

BENEFITS FOR SURVIVING SPOUSES AND CHILDREN OF CERTAIN TOTALLY DISABLED VETERANS

SEC. 204. Section 410 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection (b):

"(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service connected.

"(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

"(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.".

TITLE III—MISCELLANEOUS PROVISIONS

NONTAXABLE STATUS OF CERTAIN RETIRED PAY RECEIVED IN LIEU OF VETERANS' BENEFITS

SEC. 301. Section 3101 is amended by adding at the end thereof the following new subsection:

"(d) In the case of a person who—

"(1) has been determined to be eligible to receive pension or compensation under laws administered by the Veterans' Administration but for the receipt by such person of pay pursuant to any provision of law providing retired or retirement pay to members or former members of the Armed Forces or commissioned officers of the National Oceanic and Atmospheric Administration or of the Public Health Service; and

"(2) files a waiver of such pay in accordance with section 3105 of this title in the amount of such pension or compensation before the end of the one-year period beginning on the date such person is notified by the Veterans' Administration of such person's eligibility for such pension or compensation,

the retired or retirement pay of such person shall be exempt from taxation, as provided in subsection (a) of this section, in an amount equal to the amount of pension or compensation which would have been paid to such person but for the receipt by such person of such pay.".

RATE OF SPECIAL PENSION FOR MEDAL OF HONOR RECIPIENTS

SEC. 302. Section 562(a) is amended by striking out "$100" and inserting in lieu thereof "$200".

BURIAL BENEFITS

SEC. 303. (a) Section 902(a) and section 903(a)(1) are amended by striking out "$250" and inserting in lieu thereof "$300".

(b) Section 906(b) is amended by striking out "dying in the service, and".

(c) The first sentence of section 907 is amended by inserting "the greater of (1) $1,100, or (2)" after "not exceeding".

AUTOMOBILE ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 304. Section 1902(a) is amended by striking out "$3,300" and inserting in lieu thereof "$3,800".

STUDY OF HEALTH-CARE AND COMPENSATION NEEDS OF FORMER PRISONERS OF WAR

SEC. 305. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of Defense, shall carry out a comprehensive study of the disability compensation awarded to, and the health-care needs of, veterans who are former prisoners of war. The Administrator shall include in such study—

(1) descriptions and analyses of the repatriation procedures, including physical examinations, for former prisoners of war and the adequacy of such procedures and the resultant medical records of former prisoners of war;

(2) the types and severity of disabilities that are particularly prevalent among former prisoners of war in various theaters of operation at various times;

(3) a description and analysis of procedures used with respect to former prisoners of war in determining eligibility for health-care benefits and in adjudicating claims for disability compensation, including an analysis of the current use of statutory and regulatory provisions specifically relating to former prisoners of war; and

(4) a survey and analysis of the medical literature on the health-related problems of former prisoners of war.

(b) The Administrator shall transmit to the Congress and to the President a report on the results of such study not later than February 1, 1980. Such report shall include recommendations for such administrative and legislative action as the Administrator considers may be necessary to assure that former prisoners of war receive compensation and health-care benefits for all disabilities which may reasonably be attributed to their internment.

REQUIREMENT OF UNITED STATES CITIZENSHIP FOR SUPERINTENDENTS AND ASSISTANT SUPERINTENDENTS OF CEMETERIES OPERATED BY THE AMERICAN BATTLE MONUMENTS COMMISSION

SEC. 306. The third paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended by adding after the last sentence thereof the following new sentence: "No individual may be employed as the superintendent, or as an assistant superintendent, of a cemetery operated by the Commission unless such individual is a citizen of the United States.".

MEMORIAL TO HONOR VETERANS OF THE VIETNAM CONFLICT IN MEMORIAL AMPHITHEATER OF ARLINGTON NATIONAL CEMETERY

SEC. 307. The Secretary of Defense shall have placed in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery a memorial plaque which shall bear the following inscription: "The people of the United States of America pay tribute to those members of the Armed Forces of the United States who served honorably in Southeast Asia during the Vietnam conflict.". To further honor those members of the Armed Forces who lost their lives in hostile action in Southeast Asia during the Vietnam conflict, the Secretary of Defense shall have placed near such plaque in a suitable repository a display of the Purple Heart Medal and other medals, ribbons, and decorations associated with service in Southeast Asia during the Vietnam conflict.

TITLE IV—EFFECTIVE DATES

SEC. 401. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on October 1, 1978.

(b) The amendment made by section 302 shall take effect on January 1, 1979.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to provide increases in the rates of disability and dependency and indemnity compensation for disabled veterans and their survivors, to provide for the payment of benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans, to increase the amounts paid for funeral and burial expenses of deceased veterans, and for other purposes.".

Mr. BAKER. May I inquire what that bill is?

Mr. CRANSTON. The Veterans' Disability Compensation and Survivors' Benefits Act. It is H.R. 11886. I have been told that has been cleared on that side, as well as H.R. 12018, the Veterans' Housing Benefits Act.

Mr. BAKER. I do not have that on my list at this moment. I wonder if the majority whip could proceed but not to the point of submitting the matter to the Senate.

Mr. CRANSTON. We can wait until tomorrow.

Mr. BAKER. There is no need to do that, if we can have just a moment. It does not appear on my list, and we are checking it.

Mr. President, I am advised that was inadvertently left off.

Mr. CRANSTON. Mr. President, I rise to urge my colleagues to support the compromise agreement on H.R. 11886, the proposed Veterans' Disability Compensation and Survivors' Benefits Act of 1978, unanimously passed by the House of Representatives on September 26, 1978, so that this important measure may be sent to the President.

Mr. President, our committee and the House Veterans' Affairs Committee have worked long and hard to reconcile the differences between several House-passed bills, including H.R. 11886, the compensation cost-of-living increase bill passed by the House on June 28, 1978, and the Senate amendment to H.R. 11836, passed by the Senate on August 7, 1978. The Senate amendment to H.R. 11886 incorporated provisions similar to those contained in several separate bills passed by the House.

Although the provisions of the several House bills and the Senate amendment were similar in many ways, there were a number of substantive differences. I am very pleased that we have achieved what

I believe to be a fair and equitable resolution of the differences, and that the compromise agreement will provide for substantial improvements in the service-connected disability compensation and dependency and indemnity compensation—DIC—programs, the burial benefits program, and other programs for veterans and survivors.

COST-OF-LIVING INCREASE IN COMPENSATION AND DIC RATES

Mr. President, with respect to the percentage of rate increase in compensation benefits for the Nation's service-connected disabled veterans and in DIC benefits for the survivors of those whose deaths were service connected, the House bill provided for a 6.5-percent increase and the Senate amendment for a 7.3-percent increase. The rate increase in the Senate amendment was based on the Congressional Budget Office's July 1978, estimate of the October 1977, to October 1978, increase in the Consumer Price Index.

Our committee's objective is to insure that the rates of disability compensation and DIC are increased in proportion to the increase in the CPI, based on the most recent CBO estimate. The compromise agreement provides for the 7.3-percent increase contained in the Senate amendment.

DEPENDENTS' ALLOWANCES

Mr. President, with respect to dependents' allowances in the compensation and DIC programs, the House and Senate approaches were substantially different. The Senate-passed bill would restructure these allowances by substantially increasing them, along the lines of the levels contained in the Senate-passed bill to restructure the nonservice-connected pension program—embodied in the provisions of S. 2384, the proposed "Veterans' and Survivors' Pension Improvement Act of 1978." That bill was passed by the Senate on July 31, 1978, and is presently in conference.

The House, however, had passed no comparable increases. Rather, the House-passed version would provide for a 6.5-percent cost-of-living increase in the rates; and H.R. 11888, passed by the House on June 28, 1978, would provide for an extension of prorated dependents' allowances in the compensation program—presently provided only to those veterans with service-connected disabilities rated 50 percent or higher—to those rated 40-percent disabled.

Mr. President, in our efforts to reconcile these substantial differences in approach with respect to dependents' allowances, our committee took into account the costs associated with the Senate-passed increases and the fact that benefits under the compensation and DIC programs—in contrast to the pension program—are not need based. We also carefully considered—as pressed by the House in our discussions—the amount of other income support available to disabled veterans with dependents, such as social security disability payments. We also examined the rationale behind the House action extending prorated dependents' allowances to veterans with 40-percent disability ratings, that is, that veterans with disabilities rated at 40 percent may have substantial impairments of earning capacity and needs for additional income support for their dependents.

On the basis of these considerations, and in the interest of arriving at an accommodation on the issues, we agreed on a 7.3-percent cost-of-living increase in dependents' allowances in the compensation and DIC programs, small additional increases in the amounts payable to veterans for dependent children in order to make uniform the amounts paid for each additional child—$34 for the first and $27 for each additional child—and extension of the prorated dependents' allowances to veterans rated 30 percent disabled as well as those rated 40 percent disabled. The extension of such allowances to 30-percent-disabled veterans was based on the view that the justification for the extension to such veterans was comparable to that for 40-percent-disabled veterans.

There are approximately 146,000 veterans rated 40 percent disabled and 251,000 veterans rated 30 percent disabled. Under the compromise agreement, a 40-percent-disabled veteran with a spouse and two children would receive a dependency allowance compensation increase of $46 per month and a 30-percent-disabled veteran with a spouse and two children would receive an increase of $33 per month.

THREE-EXTREMITY LOSS

The compromise agreement provides that the rate of compensation payable to a 100-percent-disabled veteran who has suffered the loss, or loss of use, of three extremities, or a combination of loss or loss of use of three extremities, would be increased to the next higher rate or intermediate rate, not to exceed $1,408 per month.

HIGHER AID-AND-ATTENDANCE ALLOWANCE

Mr. President, both the House, by passing H.R. 11891 on July 18, 1978, and the Senate, in its amendment to H.R. 11886, made provision for veterans who are so severely disabled that they require aid and attendance at a higher level than is provided for under the current schedule of rates.

Both versions of this provision would have entitled the veteran in need of such care to an aid-and-attendance rate of $900 per month in lieu of the present rate of $563—$604 as increased by the compromise agreement. However, there were significant differences in the provisions as passed; and the compromise agreement is, I believe, a most equitable and just resolution of the different approaches. Under H.R. 11891, a veteran would have been eligible for the new rate if the veteran was in need of "constant medical aid and attendance". Under the Senate amendment to H.R. 11886, a veteran would have been eligible if the veteran required "special aid and attendance", in the absence of which the veteran would require hospitalization, nursing home care, or other residential institutional care. Under the compromise agreement, the veteran would be eligible for the new rate if the veteran is in need of a "higher level of care" than that required by a veteran in need of regular aid and attendance, and the Administrator finds that the veteran, in the absence of such care, would require hospitalization, nursing home care, or other residential institutional care. A need for "higher level of care" would be defined as a need, determined by a VA or VA-contracted physician, for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who is providing such services under the regular supervision of a licensed health-care professional. The committees have agreed that this provision is intended to be strictly construed by the VA so that the new allowance would be granted only where the veteran's need is clearly established and the amount of health-care services required on a daily basis is substantial.

PAIRED EXTREMITIES

Mr. President, H.R. 6501, passed by the House on May 23, 1977, and the Senate amendment provided for veterans who have suffered the loss or loss of use of one extremity from service-connected disability and the loss or loss of use of the other paired extremity from nonservice-connected disability. The compromise agreement provides for an increase of $175 in the monthly rate of compensation for the veteran who has suffered the loss or loss of use of one paired extremity so as to entitle the veteran to a rating of not less than 40 percent and the non-service-connected loss or loss of use of the other, paired extremity, which would, if service-connected, be rated at not less than 40 percent. This provision for a new "statutory award" in such cases responds to the need to assure equitable treatment for such veterans by means of an increase in compensation for the materialization of the unique risk of bilateral impairment created by such veteran's service-connected extremity loss.

In the event of any judgment award or settlement amount received by the veteran for the non-service-connected disability, the increase in compensation would not be paid until such time as the amount otherwise payable equals or exceeds the amount of the award or settlement.

Mr. President, the decision to adopt a flat $175 additional rate for a special statutory award was reached after it became clear that the application of the complicated principles and factors agreed upon to compute the amount of the award in different circumstances produced rates varying by about $20 per month—up to $179 per month. These principles and factors are set forth in the explanatory statement which I will insert in the RECORD at the conclusion of my remarks.

"HOUSEBOUND" RATE FOR DIC SURVIVING SPOUSES

Mr. President, the compromise agreement provides for a monthly rate of $45 for a new "housebound" allowance in the case of a surviving spouse receiving DIC who is not in need of regular aid and attendance, but who, by reason of a disability or disabilities expected to remain throughout the surviving spouse's lifetime, is so disabled as to be

substantially confined to his or her home, or the ward or clinical area, if he or she is institutionalized. Provision for such a rate was included in H.R. 11886, as originally passed by both the House ($44) and the Senate ($45).

BENEFITS FOR SURVIVORS OF CERTAIN TOTALLY DISABLED VETERANS

Mr. President, the compromise agreement includes provisions for certain survivors similar to those contained in H.R. 11890, passed by the House on July 25, 1978, and the Senate amendment. Thus, the compromise agreement would provide for the payment of benefits under chapter 13 of title 38, United States Code, at the DIC rates to the surviving spouses and children of totally disabled veterans, including those whose ratings had been increased to total by reason of individual unemployability, if at the time of the veteran's death the rating had been in effect continuously for 10 years, or 5 years or more continuously from the date of discharge, and, in the case of a surviving spouse, the marriage to the veteran was in effect for 2 or more years immediately preceding the veteran's death. This provision would apply to deaths occurring prior to the effective date, and does not exclude deaths resulting from other than natural causes. It would also provide that, in the case of a judgment award or settlement amount received by the surviving spouse or child on account of the veteran's death, the benefits otherwise payable pursuant to this provision under chapter 13 would not be paid until such time as the amount otherwise payable monthly equals the amount of the judgment award or settlement amount.

BURIAL BENEFITS

Mr. President, the compromise agreement contains provisions to increase certain VA burial benefits. The Senate amendment would have increased by $700—from $800 to $1,500—the maximum burial benefit paid in the event of a veteran's service-connected death. H.R. 12258, passed by the House on September 18, 1978, would have increased by $100—from $250 to $350—the maximum burial benefit paid in the event of a veteran's non-service-connected death. In order to resolve the different concerns addressed by the two Houses, the compromise agreement provides for an increase of $300—from $800 to $1,100 in the service-connected allowance, and an increase of $300—from $800 to $1,100 in the non-service-connected allowance.

The compromise agreement also includes authorization to the VA provide memorial markers for veterans whose remains are unrecoverable, as did H.R. 12227, passed by the House on June 19, 1978, and the Senate amendment.

TAX EXEMPTION OF CERTAIN CASES OF MILITARY RETIRED PAY

Mr. President, the compromise agreement contains a provision from H.R. 11886 as passed by the House, but not contained in the Senate amendment, to assure that the retired or retirement pay of an Armed Forces retiree or a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service who the VA determines would be eligible for pension or compensation but for the receipt of such retired or retirement pay would be exempt from taxation in an amount equal to the amount of pension or compensation that would have been retroactively paid to such a person but for the receipt of such retired or retirement pay. To gain the benefit of the exemption, the individual would have to file a waiver of such retired or retirement pay during the 1-year period following the date of notice by the VA to such person of eligibility for pension or compensation.

This provision codifies a recent ruling—Revenue Ruling 78-161, issued on May 1, 1978—by the Internal Revenue Service, revoking an earlier IRS ruling. This change in the IRS interpretation of the congressional intent in providing for the tax-exempt status of veterans' benefits clearly follows from a 1976 decision of the Court of Appeals for the Fourth Circuit in *Strickland* v. *Commissioner* of *Internal Revenue*, 540 F. 2d 1196. The Finance Committee, after notification, has interposed no objection to this provision, which enjoyed strong support in the House Ways and Means Committee.

MEDAL OF HONOR PENSION INCREASE

Both H.R. 11889, passed by the House on July 25, 1978, and the Senate amendment to H.R. 11886 provided for a 100-percent increase—from $100 to $200—in the monthly special pension granted to recipients of the Medal of Honor. Thus, the increase in this special benefit, which is intended to enhance the significance of the highest award for valor that can be bestowed on a member of our Armed Forces, is included in the compromise agreement.

AUTOMOBILE ASSISTANCE ALLOWANCE

Mr. President, the Senate amendment would have provided for an increase of $800—from $3,300 to $4,100—in the automobile assistance allowance paid on a one-time basis to certain severely disabled veterans, an increase fully warranted, in my view, by the sizeable increase in the cost of automobiles since December 22, 1974, the date of the last increase in this benefit. In view of the lack of any comparable House provision, an increase of $500—from $3,300 to $3,800—is contained in the compromise agreement.

PRISONERS OF WAR STUDY

Mr. President, the Senate amendment provided for a comprehensive study of issues relating to veterans who are former prisoners of war. The House bills did not contain a comparable provision, but the compromise agreement provides for such a study, with minor modifications in particular aspects of the study and an extension of the due date from March 1, 1979, to February 1, 1980.

AMERICAN BATTLE MONUMENTS COMMISSION

Mr. President, the Senate amendment would require that persons employed as superintendents or assistant superintendents of our overseas cemeteries, under the jurisdiction of the American Battle Monuments Commission, be citizens of the United States. The House bills did not contain a comparable provision. The compromise agreement contains this provision, which requires the continuation of the existing practice of the ABMC.

VIETNAM VETERANS MEMORIAL

Mr. President, the compromise agreement contains the provisions of H.R. 12261, passed by the House on July 17, 1978, and the identical Senate amendment provision to direct the Secretary of Defense to place in the Memorial Amphitheater of Arlington National Cemetery a memorial plaque to honor those members of the Armed Forces who served honorably in Southeast Asia during the Vietnam conflict. The compromise agreement provides for a slight change in the text of the plaque's inscription, which would read as follows: "The people of the United States pay tribute to those members of the Armed Forces of the United States who served honorably in Southeast Asia during the Vietnam conflict."

PROVISIONS NOT CONTAINED IN COMPROMISE AGREEMENT

Mr. President, I would like to note that the compromise agreement does not contain the provisions of the Senate amendment relating to Americans who fought in Allied Forces during World War II.

I strongly urged the inclusion of this provision as a matter of equity for those valiant Americans who joined in the fight against Nazi aggression before the United States entered World War II and suffered service-connected disabilities in service with our allies. However, the House Committee, which had not had the opportunity to hold hearings on the issues involved, refused to accept this provision; and they have agreed to hold such hearings in the First Session of the 96th Congress.

EXPLANATORY STATEMENT

Mr. President, in order that all Senators and the public may have a full understanding of the provisions of the compromise agreement, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks, a document, also inserted during consideration in the other body, which will serve in lieu of a joint explanatory statement accompanying a conference report, entitled "H.R. 11886, 'Veterans' Disability Compensation and Survivors' Benefits Act of 1978'—Explanatory Statement of House Bill, Senate Amendment, and Compromise Agreement".

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 11886, "VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS ACT OF 1978"—EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT, AND COMPROMISE AGREEMENT

TITLE I—VETERANS' DISABILITY COMPENSATION

RATE INCREASES

Secs. 101(a) and 103. The House bill and the Senate amendment would amend chapter 11 of title 38, United States Code, to increase the basic rates of service-connected disability compensation for veterans, the rates payable for more severe disabilities, and the annual clothing allowance. The House bill would increase those rates by 6.5 percent; the Senate amendment, by 7.3 percent.

The compromise agreement contains the Senate provision.

THREE-EXTREMITY LOSS

Sec. 101(b). The House bill and the Senate amendment would increase the rate of compensation payable to a 100-percent disabled veteran who has suffered the service-connected loss, or loss of use, of three extremities. The House bill would increase the rate payable to such a veteran to the next higher rate, not to exceed $1,397 per month; the Senate amendment, to the next higher rate or intermediate rate, not to exceed $1,408 per month. The Senate amendment also specified that the increased rate would be payable for any combination of loss or loss of use of three extremities.

The compromise agreement contains the Senate provision.

HIGHER AID-AND-ATTENDANCE ALLOWANCE

Sec. 101 (c). The Senate amendment would provide that a veteran entitled to the regular aid-and-attendance allowance under section 314(r) of title 38, United States Code, who is in need of special aid and attendance, shall receive $900 per month for such purpose, in addition to other compensation, if the Administrator finds that, in the absence of care provided by another person, the veteran would require hospitalization, nursing home care, or other residential institutional care.

The House bill does not contain a comparable provision; but H.R. 11891, passed the House on July 18, 1978, would provide that a veteran entitled to the regular aid-and-attendance allowance under section 314(r) who is in need of constant medical aid and attendance shall receive $900 per month for such purposes, in addition to other compensation.

The compromise agreement provides that if a veteran entitled to the regular aid-and-attendance allowance under section 314(r) is in need of a higher level of care and the VA finds that but for the provision of such care the veteran would require hospitalization, nursing home care, or other residential institutional care, the veteran shall receive $900 per month allowance in lieu of the regular aid-and-attendance allowance. Under this provision, a need for a higher level of care would be considered a need for personal health-care services provided on a daily basis in the veteran's home by a person who either is licensed to provide such services or who the Administrator finds is providing such services under the regular supervision of a licensed health-care professional.

The factors considered in determining whether a disabled veteran is in the need of regular aid and attendance under current law are specified in 38 C.F.R. § 3.352(a). They include, among others, the inability to dress or undress oneself; keep ordinarily clean and presentable; feed oneself; attend to the wants of nature; or to protect oneself from the hazards or dangers incident to one's daily environment. Individuals providing assistance to a veteran for these necessities ordinarily need not possess any specific health-care skills.

The Committees, however, recognize that the health-care needs of certain of the more seriously disabled veterans are such that higher levels of skill are required of those giving them aid and attendance, and that, in such cases, the costs of necessary aid and attendance are extraordinarily high. Therefore, the higher aid and attendance allowance would be paid to those whose need for such assistance extends beyond that for which the current rate is adequate. It is intended that entitlement to the higher rate be limited to those who, in addition to meeting the requirements for aid and attendance under 38 C.F.R. § 3.352(a), have a demonstrable need for and regularly receive the services of a licensed health-care professional (such as a doctor of medicine or osteopathy, a registered or licensed practical nurse, or a physical therapist) or an individual performing skilled health-care services under the regular supervision of a licensed professional, and who, but for the assistance of such person, would be institutionalized.

Examples of qualifying skilled health-care services for this purpose include, but are not limited to, physical therapy, administration of injections, placement of indwelling catheters, and the changing of sterile dressings, or like functions which are required on a regular basis and which require professional health care training or the regular supervision of a trained health care professional to perform. The need for such care is to be determined by a physician employed by the Veterans Administration, or in areas where no such physician is available, after examination by a physician retained under a contract or fee arrangement.

The Committees on Veterans' Affairs note that, ordinarily, the laws governing veterans' benefits are to be liberally construed but that in this instance it is their intention that this new provision be strictly construed by the VA and that the higher allowance be granted only when the need is clearly established and the amount of services required by the veteran each day is substantial.

DEPENDENTS' ALLOWANCES

SEC. 102. The House bill would provide for a 6.5-percent increase in dependents' allowances paid to a service-connected disabled veteran rated 50-percent or more disabled; and H.R. 11888, passed by the House on June 28, 1978, would provide for an extension of prorated dependents' allowances to veterans rated 40-percent disabled.

The Senate amendment would provide for substantial increases in the additional allowances for a spouse and children paid to a service-connected disabled veteran rated 50-percent or more disabled, and for a 7.3-percent increase in the rates payable for the veteran's dependent parents and helpless spouse.

The compromise agreement provides for a 7.3-percent increase in those rates, an extension of prorated dependents' allowances to veterans rated 30-percent and 40-percent disabled, and for small increases in the rates paid to veterans who have more than one child so that the additional amounts paid for additional children are uniform—generally, $34 for the first and $27 for each additional child.

PAIRED EXTREMITY LOSS

Sec. 101d. The Senate amendment would amend section 360 of title 38 to provide that a veteran who has suffered the service-connected loss or loss of use of one extremity entitling the veteran to a rating of 40 percent or more, and who has also suffered the non-service-connected loss or loss of use of the paired extremity which, if service connected, would entitle the veteran to a rating of 40 percent or more, would be entitled to compensation based on a rating increased by the same amount that the rating would be increased by virtue of bilateral impairment if both disabilities were service connected and would not result in total disability, but not including an increase for the non-service-connected disability itself.

The House bill does not contain a comparable provision; but, H.R. 6501, which passed the House May 23, 1977, would amend section 360 to provide that a veteran who has suffered the service-connected loss or loss of use of one foot or hand and the non-service-connected loss or loss of use of the other foot or hand so as to render the veteran totally disabled shall be compensated as if the entire disability were service connected.

The compromise agreement amends section 312 to provide that a veteran (a) whose service-connected disabilities are less than total, and (b) who has suffered the service-connected loss or loss of use of one extremity so as to entitle the veteran to a rating of not less than 40 percent and the non-service-connected loss or loss of use of the other, paired extremity which would, if service connected, be rated at not less than 40 percent, shall be entitled to a "statutory award" of $175 per month.

In formulating the compromise agreement on this provision, the Committees considered several alternatives based on certain agreed-upon principles, as follows: First, the concept embodied in the special consideration given under section 360 of title 38, United States Code, to veterans with certain bilateral organ impairments, part of which is non-service-connected, should not be extended to veterans with paired extremity impairments that are, in part, non-service-connected. Second, the increase in compensation benefits under this provision should never be greater than the amount of compensation payable for the veteran's service-connected extremity disability alone. Third, the increased compensation payable by virtue of the provision in the compromise agreement should not in any case result in the payment to any veteran with a partly non-service-connected "paired-extremity" impairment of an amount exceeding one-half of the difference between the rate payable to a veteran rated 90-percent service-connected disabled and one who is rated totally (100-percent) service-connected disabled. Fourth, no veteran who is already rated totally disabled as a result of service-connected causes should be provided an increase in benefits under this provision. Fifth, the increase should not alter the dependents' allowance or other statutory awards or benefits for which the veteran is eligible.

In attempting to arrive at a method of computing the increase in compensation under these principles, it was determined that none of the several alternatives to the above-described provision which were given thorough consideration could be administered with ease and also would produce equitable results for the several categories of veterans whom this provision would affect. For example, it seemed evident that it would not be equitable to provide an increase for a 90-percent-rated veteran that was substantially less than the increase for an 80-percent-rated veteran, as one alternative would have done. Under another alternative, the amount of the increase for "paired" veterans in different categories varied somewhat, but not substantially. The Committees, therefore, agreed that the administrative burdens which any of the several alternatives would have created could be forestalled, and the Committees' concern for equitable treatment in each case in accordance with the above principles could be met by the provision described above. Under this provision, the dependents' allowance paid to such a veteran is to be based solely on the veteran's service-connected disability rating without regard to any such increase; the veteran is not made eligible for nor entitled to any increase in any additional statutory awards or other benefits by virtue of the special new statutory award; and, in the event of any award or settlement amount received by the veteran for the non-service-connected disability, the increase in compensation would not be paid until such time as the amount otherwise payable monthly equals the amount of the award or the settlement amount.

TITLE II—SURVIVORS' BENEFITS

RATE INCREASES

Secs. 201(a)–(c), 202, and 203. The House bill and the Senate amendment would amend chapter 13 of title 38, United States Code, to provide increases of 6.5 percent and 7.3 percent, respectively, in the basic rates of dependency and indemnity compensation (DIC) payable to the surviving spouses and surviving children of veterans who have died as the result of service-connected disability, including those surviving spouses in need of regular aid and attendance.

The compromise agreement contains the Senate provision.

DEPENDENTS' ALLOWANCES

The Senate amendment would provide for a substantial increase in the rate paid to a surviving spouse receiving DIC who has one dependent child and in the rate paid for additional children. The House bill would provide for a 6.5-percent increase in the rate paid to such a surviving spouse who has one or more dependent children.

The compromise agreement, consistent with the agreement on dependents' allowances for chapter 11, provides for a 7.3-percent increase in the rate paid to such a surviving spouse who has one or more dependent children.

"HOUSEBOUND" RATES

Sec. 210(d). Both the House bill and the Senate amendment would provide for a new "housebound" rate, at the rate of $44 per month and $45 per month, respectively, for a surviving spouse receiving DIC who is so disabled as to be substantially confined to such surviving spouse's home, or ward or clinical area, if institutionalized, but is not in need of regular aid and attendance.

The compromise agreement provides for the Senate rate.

BENEFITS FOR SURVIVING OF CERTAIN TOTALLY DISABLED VETERANS

Sec. 204. The Senate amendment would provide for benefits to be paid under chapter 13 of title 38 for the survivors of veterans who were rated totally (but not necessarily permanently) disabled from service-connected causes at the time of death but whose deaths were not the result of their service-connected disabilities, as follows: (A) at the full DIC rate to the survivors of a veteran whose death has not been determined to be service-connected and who had been rated totally disabled continuously (i) for 20 or more years at the time of death, or (ii) for 10 or more years continuously since the date of discharge from active service; (B) to the surviving spouses of all other veterans who at the time of death were rated totally disabled on the following alternative bases, between which the surviving spouse could elect: (i) payment at the full DIC rate for a period of time equal to the period during which the veteran was so rated, or (ii) monthly payments for life based on the amount payable under (i) spread out over the actuarially expected life of the surviving spouse (the monthly amount being calculated by multiplying the applicable DIC rate by a number derived by dividing the number of months the veteran was so rated by the number of months of remaining life expectancy of the surviving spouse); and (C) to the surviving children of veterans other than those described in (A) above, (i) at the full DIC rate to a child who became permanently incapable of self-support before reaching the age of 18 or a child of a veteran who has been rated totally disabled at the time of death continuously for a number of months greater than the number of months then remaining until the child reaches age 21, and (ii) in all other cases, at a rate to be determined by multiplying the applicable DIC rate by the number derived by dividing the number of months the veteran was continuously rated totally disabled by the number of months remaining before the child reaches age 21. Under this provision, ratings of total disability would not include such ratings based on individual determinations of unemployability; the current-law marriage requirements would apply to recipients; surviving parents would not be eligible for such benefits; and the surviving spouse and children would not be excluded from benefits in the event that the veteran's death was attributable to a cause other than natural; however, a survivor whose willful misconduct caused the veteran's death would not be entitled to benefits under this provision.

The House bill does not contain a comparable provision; but H.R. 11890, passed by the House on July 25, 1978, would provide for DIC eligibility to the surviving spouse, children, or parents of a veteran rated totally and permanently disabled at the time of death, if such rating had been in effect for 10 years or more or continuously from the date of discharge. For a surviving spouse to be entitled, the House bill requires that the marriage be in effect for the 5-year period immediately preceding the veteran's death. Survivors would be eligible only if the veteran's death was due to natural causes.

The compromise agreement provides for the payment of benefits under chapter 13 at the DIC rates to the surviving spouses and children of totally disabled veterans, including those whose ratings had been increased to total by reason of individual unemployability, if at the time of the veteran's death the rating had been in effect continuously for 10 years, or 5 years or more continuously from the date of discharge, and, in the case of a surviving spouse, the marriage to the veteran was in effect for two or more years immediately preceding the veteran's death. This provision does not exclude eligibility based on deaths occurring before the effective date. However, it does not provide for benefits for any period prior to the effective date. It also provides, as did both versions, that death resulting from the veteran's misconduct would not be covered. The provision does not exclude deaths resulting from natural causes; but it does provide that in the case of a judicial award or settlement amount received by the surviving spouse or child on account of the veteran's death, the benefits otherwise payable under chapter 13 would not be paid until such time as the amount otherwise payable monthly equals the amount of the award or settlement. Although the compromise agreement does not retain the specific Senate provision barring benefits in the case of the survivor's willful misconduct in connection with the veteran's death, the Committees have agreed to the provision in question in recognition of the VA regulation on this subject (38 CFR 3.11)—which embodies the common law prohibition against an individual profiting from his or her own wrongdoing—and its clear applicability to this new benefit.

TITLE III—MISCELLANEOUS PROVISIONS

BURIAL BENEFITS

Sec. 303. The Senate amendment would amend section 907 of title 38 to provide for the payment of (a) maximum burial allowance of $1,500 to be paid by the VA in the event of a veteran's service-connected death, a $700 increase over the current maximum of $800; or (b) the amount of the burial benefit paid in the event of a Federal employee's job-related death, whichever is the greater.

The House bill does not contain a comparable provision; but H.R. 12258, passed by the House on September 18, 1978, would amend section 902(a) of title 38 to provide for an increase of $100—from $250 to $350—in the burial benefit paid by the VA in the case of a veteran's non-service-connected death.

The Senate amendment would authorize the Administrator to provide memorial markers for deceased veterans whose remains are unrecoverable.

The House bill does not contain a comparable provision; but H.R. 12257, passed by the House on June 19, 1978, contains a similar provision.

The compromise agreement provides for (a) the payment of (i) a maximum burial allowance of $1,100 to be paid by the VA in the event of a veteran's service-connected death, an increase of $300 over the current maximum of $800, or (ii) the amount of the burial benefit paid in the event of a Federal employee's job-related death, whichever is the greater; (b) an increase of $50 in the burial benefit—from $250 to $300—in the event of a veteran's non-service-connected death; and (c) provision of memorial markers for deceased veterans whose remains are unrecoverable.

TAX EXEMPTION IN CERTAIN CASES OF MILITARY RETIREMENT PAY

Sec. 301. The House bill would amend section 3101 of title 38, United States Code, to provide, as did a recent Court of Appeals recision (*Strickland* v. *Commissioner of Internal Revenue*, 540 F. 2d. 1196 (4th Cir. 1976), acquiesced in by the Internal Revenue Service, that the retired or retirement pay of an Armed Forces retiree or a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service who the VA determines would be eligible for pension or compensation but for the receipt of such retired or retirement pay would be exempt from taxation in an amount equal to the amount of pension or compensation that would have been retroactively paid to such a person but for the receipt of such retired or retirement pay. To gain the benefit of the exemption, the individual would have to file a waiver of such retired or retirement pay during the one-year period following the date of notice by the VA to such person of eligibility for pension or compensation.

The Senate amendment does not contain a comparable provision.

The compromise agreement contains the House provision with technical modifications.

MEDAL OF HONOR

Sec. 302. The Senate amendment would amend section 562(a) of title 38, United States Code, to increase by $100—from $100 to $200—the monthly rate of special pension paid to recipients of the Medal of Honor, effective October 1, 1978. The House bill does not contain a comparable provision; but H.R. 11889, passed by the House on July 25, 1978, would provide an identical increase, effective January 1, 1979.

The compromise agreement contains the provisions of H.R. 11889.

AUTOMOBILE ASSISTANCE ALLOWANCE

Sec. 304. The Senate amendment would amend section 1903(a) of title 38, United States Code, to increase $800—from $3,300 to $4,100—the maximum amount of the automobile assistance allowance paid on a one-time basis to certain severely disabled veterans. The House bill does not contain a comparable provision.

The compromise agreement contains an increase of $500—from $3,300 to $3,800—in this allowance.

PRISONER OF WAR STUDY

Sec. 305. The Senate amendment would require the VA to conduct, in consultation with the Secretary of Defense, a comprehensive study on issues relating to disability compensation awarded to, and the health-care needs of, former prisoners of war, including repatriation procedures, disabilities particularly prevalent among former prisoners of war, VA procedures in adjudicating compensation claims and in determining health-care eligibility, a comparison with other allied governments' benefits programs for their former prisoners of war, and a rationale for the VA's current interpretation of applicable law and regulations representing prisoner-of-war benefits; and to submit to the Congress and the President by March 1, 1979, a report on the results of that study, together with the VA's recommendations as to any administrative and legislative actions necessary to assure that a former prisoner of war receives compensation and health-care benefits for all disabilities reasonably attributable to his or her internment.

The House bill does not contain a comparable provision.

The compromise agreement contains the Senate provision relating to the study (with minor technical amendments) with a due date for its submission to Congress of February 1, 1980, and a deletion of the requirement of a comparative review of allied governments' programs for former prisoners of war and, in lieu thereof, provision for a survey and analysis of available literature on the health-care problems of former prisoners of war.

AMERICAN BATTLE MONUMENTS COMMISSION

SEC. 306. The Senate amendment would amend the law establishing the American Battle Monuments Commission (An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes, approved March 4, 1923 (36 U.S.C. 121)) to require the Commission to employ only United States citizens as superintendents and assistant superintendents of ABMC cemeteries.

The House bill does not contain a comparable provision.

The compromise agreement contains the Senate provisions, with minor technical amendments.

MEMORIAL FOR VETERANS OF THE VIETNAM CONFLICT

SEC. 307. The Senate amendment would direct the Secretary of Defense to place, in the Memorial Amphitheater in Arlington National Cemetery, a memorial plaque honoring those members of the United States Armed Forces who served honorably in Southeast Asia during the Vietnam conflict.

The House bill does not contain a comparable provision; but H.R. 12261, passed by the House on July 17, 1978, contains an identical provision.

The compromise agreement contains this provision.

TITLE IV—EFFECTIVE DATES

SEC. 401. The House bill would provide an effective date of October 1, 1978, as do the other House-passed bills mentioned herein with the exception of H.R. 11889 (Medal of Honor pension) which would become effective on January 1, 1979, and H.R. 12261 (Vietnam memorial), which would become effective upon enactment.

The Senate amendment would provide an October 1, 1978, effective date for all amendments to title 38; other provisions would be effective upon enactment.

The compromise agreement provides for an effective date of October 1, 1978, for all provisions except the increase in the Medal of Honor pension, which would become effective on January 1, 1979.

PROVISIONS NOT INCLUDED IN COMPROMISE AGREEMENT

ADMINISTRATIVE CLARIFICATION

The House bill contains three provisions making minor changes in survivors' DIC and pension benefits: first, to provide that if dependency and indemnity compensation (DIC) has been awarded to a surviving child and subsequently an additional child becomes entitled retroactively, the retroactive amount paid to the additional child shall equal the difference between the total amount of the increased award for the retroactive period and the total award actually paid for that period; second, to provide for a similar result in the case of a surviving child who becomes retroactively entitled to pension benefits; and third, to provide that, where a surviving spouse is receiving DIC benefits for a child who, upon attaining age 18, is attending an approved educational institution and thus becomes eligible for DIC concurrently with the surviving spouse, the DIC benefit payable to the child for the month during which he or she attains age 18 shall be reduced by the amount paid to the surviving spouse for that month for the child.

The Senate amendment does not contain comparable provisions.

The compromise agreement does not contain these provisions.

AMERICANS WHO FOUGHT IN ALLIED FORCES DURING WORLD WAR II

The Senate amendment would amend section 109(b) of title 38, United States Code, to provide that Americans who, while citizens of the United States, volunteered between September 1, 1939, and December 8, 1941, to serve in the armed forces of the allies of the United States during World War II and suffered service-connected disabilities during such service would be entitled, while they are citizens and residents of the United States, to service-connected disability compensation in the same manner and to the same extent as veterans who served in the United States Armed Forces, reduced by the amount of any benefits received from the allied government.

The House bill does not contain a comparable provision.

The compromise agreement does not contain this provision; but the House Veterans' Affairs Committee agrees to hold hearings during the First Session of the 96th Congress on the issues raised by the Senate provision and other related issues.

BUDGET AUTHORITY

The Senate amendment would clarify that none of the provisions of the Committee bill, other than amendments providing for new spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, would authorize directly or indirectly, the enactment of new budget authority.

The House bill does not contain a comparable provision.

The compromise agreement does not contain this provision.

COSTS

The following table shows the fiscal year 1979 budget authority costs (as estimated by the Congressional Budget Office) of H.R. 11886 as passed by the House (plus certain other House-passed bills indicated below); as amended by the Senate, and as included in the compromise agreement:

[In millions]

Provisions of compromise agreement	As passed by House	Senate amendment	Compromise agreement
Title I:			
Sec. 101(a)	[1] $347.3	[7] $312.9	[7] $312.9
Sec. 101(b)	2.5	2.5	2.5
Sec. 101(c)	12.1 (H.R. 11891)	12.1	12.1
Sec. 101(d)	[2] (H.R. 6501)	[2]	[2]
Sec. 102	54.8 (H.R. 11888)	206.2	134.7
Sec. 103	5.9	.9	.9
Title II:			
Secs. 201(a) and (c), 202, 203	[3]	67.7	6.7
Sec. 201(b)	[3]	46.1	[4]
Sec. 201(d)	1.5	1.5	1.5
Sec. 204	5.7 (H.R. 11890)	22.3	11.1
Title III:			
Sec. 301	$1.5 [3]		$1.5
Sec. 302	[2] (H.R. 11889)	[2]	[2]
Sec. 303(a)	31.7 (H.R. 12258)		15.8
Sec. 303(b)	[2] (H.R. 12257)	[2]	[2]
Sec. 303(c)		[8] $7.7	3.3
Sec. 304		1.4	.9
Sec. 305		[2]	[2]
Sec. 306		0	0
Sec. 307	0 (H.R. 12261)	0	0
Title IV: Sec. 401	0	0	0
Total	[6] 451.5	[8] 681.3	[9] 563.4

[1] Includes secs. 103, 201 (a), (b), and (c), 202, and 203.
[2] Less than $500,000.
[3] Included in sec. 101(a).
[4] Included in secs. 201 (a) and (c), 202, 203.
[5] Reduction in tax revenues; does not affect budget authority.
[6] Composite total—omits costs less than $500,000 and includes costs of House-passed bills indicated in parentheses.
[7] Includes sec. 103.
[8] Amount shown in S. Rept. 95-1054 is $682,800,000.
[9] Omits costs less than $500,000.

Mr. CRANSTON. Mr. President, the Congressional Budget Office has provided the committee with a cost estimate of the amendments of the House to the Senate amendment of H.R. 11886. I ask unanimous consent that the CBO estimate be printed in the RECORD immediately following the explanatory statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 28, 1978.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 11886, the Veterans Disability Compensation and Survivors Benefit Act of 1978.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE: COST ESTIMATE

1. Bill number: H.R. 11886.

2. Bill title: The Veterans Disability Compensation and Survivors Benefit Act of 1978.

3. Bill status: As agreed upon by the House and Senate Veterans Affairs Committees, September 27, 1978.

4. Bill purpose.

TITLE I

Section 101 (a): would provide a 7.3 percent increase in the rates payable for disability compensation.

Section 101 (b): would provide that veterans receiving compensation for the loss or loss of use of three extremities be paid at the next higher rate of intermediate rate above his/her present level of compensation.

Section 101 (c): would provide for a special aid and attendance allowance of $900 per month for a veteran whose disabilities are so severe that, in absence of daily care by another person, such veteran would require hospital, nursing home or other residential institutional care.

Section 101 (d): would increase the compensation payable a veteran who has suffered the service-connected loss or loss of use of one paired extremity entitling the veterans to a rating of 40 percent or more, and who

has also suffered the non-service-connected loss or loss of use of the other paired extremity, which if service-connected would also be rated 40 percent or more.

Section 102 (a): would increase allowances for dependent spouses and children under disability compensation by 7.3 percent.

Section 102 (b): would extend to payment of dependents allowances to veterans receiving compensation at ratings of 30 and 40 percent.

Section 103: would increase by 7.3 percent the clothing allowance payable to veterans whose service-connected disabilities necessitate the use of prosthetic or orthopedic devices or wheelchairs.

TITLE II

Section 201 (a, b and c): would increase by 7.3 percent the rates payable to surviving spouses and children in receipt of dependency and indemnity compensation (DIC).

Section 201(d): would provide for housebound allowances for DIC surviving spouses who, because of disability, are permanently confined to their homes.

Section 202: would increase by 7.3 percent the rates payable to DIC surviving children where there is no surviving spouse entitled.

Section 203: would increase by 7.3 percent the rates payable to DIC surviving children who have attained the age of eighteen but who are still entitled to benefits by virtue of being permanently incapable of self-support or in school.

Section 204: would extend eligibility for full DIC benefits to surviving spouses of veterans who did not die of service-connected causes but who at the time of death were rated permanently and totally disabled and had been so rated for 10 years or more prior to the veteran's death, or for 5 years or more if such rating was continuous from the date of the veteran's discharge. Limited eligibility for DIC benefits would be extended to surviving spouses of veterans who were rated permanently and totally disabled at the time of death, but where such rating had been effective for less than 20 years.

TITLE III

Section 301: would exempt from taxation that amount of retirement pay received by former members of the Armed Forces and commissioned officers of the National Oceanic and Atmospheric Administration or the Public Health Service which is equal to the amount of tax-free veterans compensation or pension to which such person would be eligible but for the receipt of such retirement pay.

Section 302: would increase from $100 to $200 the amount of the special monthly pension payable to all Medal of Honor recipients.

Section 303(a): would increase from $250 to $300 the burial allowance payable to the survivors of war veterans dying of non-service-connected causes.

Section 303(b): would extend eligibility for memorial markers to the survivors of any veteran whose body is not recovered.

Section 303(c): would increase from $800 to $1,100 the maximum burial allowance payable to the survivors of veterans dying of service-connected causes.

Section 304: would increase from $3,300 to $3,800 the maximum automobile assistance allowance available to certain disabled veterans.

Section 305: would direct the VA to conduct a study of the disability compensation and health care benefits accorded former prisoners of war.

Section 306: would require that superintendents and assistant superintendents of American Battle Monuments Commission cemeteries be American citizens.

Section 307: would provide for the placement of a plaque honoring Vietnam Era servicemen in Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery.

TITLE IV

Section 401: specifies that the amendments made by this bill would take effect on October 1, 1978, with the exception of Section 302 which would take effect on January 1, 1979.

5. COST ESTIMATE

[By fiscal years; in millions of dollars]

		1979	1980	1981	1982	1983
TITLE I						
Sec. 101(a), sec. 102(a)	Req. BA	312.9	314.4	316.0	317.5	319.2
	O	287.9	314.3	135.9	317.5	319.0
Sec. 101(b)	Req. BA	2.5	2.5	2.5	2.5	2.5
	O	2.5	2.5	2.5	2.5	2.5
Sec. 101(c)	Req. BA	12.1	12.2	12.3	12.3	12.4
	O	11.2	12.1	12.2	12.3	12.3
Sec. 101(d)	Req. BA	.9	1.0	1.0	1.1	1.1
	O	.9	1.0	1.0	1.1	1.1
Sec. 102(b)	Req. BA	134.7	135.4	136.0	136.6	137.4
	O	123.9	135.4	136.0	136.6	137.4
Sec. 103	Req. BA	(*)	(*)	(*)	(*)	(*)
	O	(*)	(*)	(*)	(*)	(*)
TITLE II						
Sec. 201 (a, b, and c), sec. 202, sec. 203.	Req. BA	67.7	68.1	68.4	68.8	69.1
	O	62.3	68.1	68.4	68.7	69.1
Sec. 201(d)	Req. BA	1.5	1.5	1.5	1.5	1.5
	O	1.5	1.5	1.5	1.5	1.5
Sec. 204	Req. BA	11.1	11.5	11.8	12.2	12.5
	O	10.2	11.5	11.8	12.2	12.5
TITLE III						
Sec. 301 (revenue loss)		[1] 1.5	1.6	1.7	1.8	1.9
Sec. 302	Req. BA	(*)	(*)	(*)	(*)	(*)
	O	(*)	(*)	(*)	(*)	(*)
Sec. 303(a)	Req. BA	15.8	15.9	16.1	16.3	16.5
	O	15.8	15.9	16.1	16.3	16.5
Sec. 303(b)	Req. BA	(*)	(*)	(*)	(*)	(*)
	O	(*)	(*)	(*)	(*)	(*)
Sec. 303(c)	Req. BA	3.3	3.3	3.3	3.3	3.3
	O	3.3	3.3	3.3	3.3	3.3
Sec. 304	Req. BA	.9	.8	.7	.7	.6
	O	.9	.8	.7	.7	.6
Sec. 305	Req. BA	NA	NA	NA	NA	NA
	O	NA	NA	NA	NA	NA
Sec. 306	Req. BA	0	0	0	0	0
	O	0	0	0	0	0
Sec. 307	Req. BA	(*)	(*)	(*)	(*)	(*)
	O	(*)	(*)	(*)	(*)	(*)
TITLE IV						
Sec. 401	Req. BA	0	0	0	0	0
	O	0	0	0	0	0
Total H.R. 11886	Req. BA	563.4	566.6	569.6	572.8	576.1
	O	520.4	566.4	569.4	572.7	575.8
Revenue loss		1.5	1.6	1.7	1.8	1.9

[1] Non-add.

*Less than $500,000.

6. Basis for estimate:

TITLE I

Section 101(a) and 102(a): The cost of the 7.3 percent increase in disability compensation rates was calculated by multiplying the number of veterans at each disability rating level by the increase in payment for that level.

Section 101(b): According to VA figures, there are 727 veterans receiving compensation for the loss or loss of use of three extremities. It is estimated that these veterans would receive an average increase in benefits of $290 a month.

Section 101(c): Since the determination of eligibility for the special aid and attendance allowance would have to be made on a case-by-case basis, the number of veterans who would qualify cannot be estimated precisely. This estimate assumes 3,000 eligibles a year.

Section 101(d): There are no data available upon which to base an estimate of the number of veterans who have lost, or lost the use of, one paired extremity due to service-connected causes and have also lost, or lost the use of, the other paired extremity as a result of non-service-connected causes. Since, however, the probability of losing an extremity in civilian life is quite low, it is reasonable to assume that the number of cases affected by this provision would be insignificant.

Section 102(b): Although it is not possible to estimate precisely the number of dependents of veterans rated 30 to 40 percent disabled, it is assumed that they have slightly more dependents than veterans rated 50 percent or greater of veterans rated 50 percent or more, 76.5 percent have on the average 1.8 dependents each. This estimate assumes that 80 percent of veterans rated 30 to 40 percent disabled have an average of 2 dependents each.

Section 103: There are approximately 63,000 veterans receiving clothing allowances. All such veterans would be eligible for the increased benefit.

TITLE II

Sections 201 (a, b & c), 202 and 203: The number of DIC recipients in each payment category were multiplied by the increase in payment for the category to estimate the cost of the increase in DIC rates.

Section 201(d): It is not possible to estimate precisely the number of DIC surviving spouses who would be eligible for housebound allowances, as no surviving spouse groups are now eligible for such benefits. A comparison with the number of compensation veterans who receive housebound allowances would not be valid, since all such veterans have service-connected disabilities. Of veterans receiving pension, 3.7 percent also receive housebound allowances. Unlike pension veterans, however, DIC widows need not be disabled, elderly, or needy. It can, therefore, be assumed that a much lower percentage of DIC widows would be eligible for this benefit. A rate of 0.8 percent was used for this estimate.

Section 204: The estimate of the cost of these two sections is somewhat rough since much of the data needed to estimate the cost precisely is not available. According to the VA study, Total Service-Connected Disability and Cause of Death (September 1976), 43 percent of denied DIC claims were survivors of veterans who had been rated

permanently and totally disabled for 10 years or more. Although the study does not include data on claims of veterans who were rated 100 percent for 5 years or more and continuously since the date of discharge, it is assumed that this category would cover an additional 2 percent of denied DIC claims.

TITLE III

Section 301. There is no data available on the number of new compensation or pension cases which come into the rolls on a waiver of military or other specified retirement pay, nor on the benefit level of such veterans. Based on lengthy discussions with VA and the Department of Defense, this estimate assumes approximately 20,000 cases each year affected by the bill with an average disability rating of between 30 and 40 percent. It is further assumed that the income of the veterans involved would be taxed, on the average, at between 15 and 20 percent. The midpoint of these two ranges was used.

Section 302: According to VA data, there are 270 Medal of Honor holders currently receiving the special pension.

Section 303(a): It is estimated that there will be approximately 315,000 claims for non-service-connected burial allowance in fiscal year 1979, all of which would receive the increased allowance.

Section 303(b): Since the number of veterans whose remains are not recovered after their deaths would be quite low and the cost of memorial markers is small, the cost of this provision should not be significant.

Section 303(c): According to VA figures, there are approximately 11,000 claims for service-connected burial benefits each year.

Section 304: There are currently approximately 1,700 claims for automobile assistance allowances each year that would be eligible for the higher benefit.

Section 305: It was not possible to obtain from VA an estimate of the cost of this study.

Section 306: Since this provision would not affect total employment or pay levels, it would have no cost.

Section 307: The cost of a plaque honoring Vietnam Era servicemen would not be significant.

Required Budget Authority: Although this bill would result in additional future federal liabilities through extensions of certain entitlements, the bill would require subsequent appropriation action to provide the necessary budget authority. The figures shown in the cost estimate above as "Required Budget Authority" represent that amount of budget authority needed to cover the estimated outlays that would result from the enactment of H.R. 11886.

7. Estimate comparison: None.

8. Previous CBO estimate:

On April 26, 1978, an estimate of the cost of H.R. 11886 as ordered reported by the House Committee on Veterans Affairs was sent to Chairman Roberts. A cost estimate of S. 2828 which contained many of the provisions of H.R. 11886 in the Senate was prepared for the Senate Veterans Affairs Committee on July 31, 1978. The compromise agreement on H.R. 11886, however, differs substantively from both earlier bills.

9. Estimate prepared by: K. W. Shepherd (225-7766).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director
for Budget Analysis.

CONCLUSION

Mr. CRANSTON. Mr. President, in closing I want to express my deep gratitude to the chairman of the Subcommittee on Compensation, Pension, and Insurance of the House Committee on Veterans' Affairs (Mr. MONTGOMERY) and the chairman of the full committee (Mr. ROBERTS), as well as the ranking minority members of the Subcommittee on Compensation, Pension, and Insurance (Mr. WYLIE) and of the full committee (Mr. HAMMERSCHMIDT), for their cooperative spirit and open-mindedness in fashioning this compromise agreement dealing with several difficult and complex matters. I am also very grateful to my distinguished colleagues, the ranking minority member of the Senate Committee on Veterans' Affairs, the Senator from Vermont (Mr. STAFFORD) and the chairman of the Subcommittee on Compensation and Pension of the Senate Committee, the Senator from Georgia (Mr. TALMADGE), for their excellent work on this legislation.

In addition, I would like to congratulate several members of the House committee staff whose expertise and diligence were invaluable in the development of this measure—Mack Fleming, Lou Townsend, Arnold Moon, John Holden, and Charles Parkinson—as well as the members of our committee staff who participated in this effort—Mary Sears, Jon Steinberg, Ed Scott, Garner Shriver, Gary Crawford, John Pressley, and Harold Carter. We also are very much indebted to our legislative counsels, Bob Cover of the House and Hugh Evans of the Senate, and to the VA for its technical assistance.

I believe that the reasons I have expressed in support of the compromise agreement make a strong case for this legislation, and I urge my colleagues to support it.

Mr. THURMOND. Mr. President, the needs of the service-connected disabled veteran must always remain first in priority in the scheme of veteran's benefits. The Veterans' Disability Compensation and Survivors' Benefits Act of 1978, as amended, will accomplish this end.

H.R. 11886, as amended, will protect the fixed incomes of many disabled veterans who might survive solely on compensation benefits alone. This bill provides for a cost-of-living increase of approximately 7 percent. Additionally, veterans with the service-connected loss of one extremity who suffer the subsequent non-service-connected loss of use of the other paired extremity are provided additional benefits under the bill.

Mr. President, H.R. 11886, as amended, will increase the aid-and-attendance allowance for certain catastrophically disabled veterans. The survivors of the many veterans who are blinded due to service-connected injuries but die of non-service-connected causes will be eligible to receive dependency and indemnity compensation (DIC) benefits. I am confident that this provision will substantially alleviate the hardships imposed under existing law upon many survivors of disabled veterans who were blind or suffered from other disabilities.

Mr. President, these are several of the important provisions of this bill, others exist, but I will not discuss them at this time. I would, however, like to commend the staff of both the Senate and House Veterans' Affairs Committees for their diligence and industry in considering the many difficult problems presented by the differing approaches contained in the House and Senate bills. I am extremely gratified that the members of these committees developed a proposal which won unanimous endorsement.

I fully endorse, H.R. 11886, as amended, and encourage my colleagues to do likewise.

● Mr. STAFFORD. Mr. President, I rise in strong support of H.R. 11886 as amended and with differences between House and Senate on this year's Veterans' Disability Compensation and Survivor Benefits Act accepted and passed by the House of Representatives on September 26.

When H.R. 11886 originally passed the House of Representatives it contained a 6.5-percent increase in the rates of compensation for veterans' service-connected disabilities and a similar percentage increase in monthly payments to survivors of our war dead. The Senate bill passed by the Senate on August 7, 1978, authorized a 7.3 percent cost-of-living increase in the rate payable to veterans in receipt of compensation and for those survivors receiving dependency and indemnity compensation.

The amended bill before us at this time conforms with the Senate-passed bill in providing the 7.3-percent increase and is in line with the latest Congressional Budget Office estimate for the October to October rate of increase in the cost-of-living. Congress has acted from time to time to make sure that our Veterans' Administration benefits be increased so that our programs remain responsive to changing economic conditions. We must continue to respond to the needs of the over 2 million veterans receiving compensation benefits as a result of disabilities received while serving in the armed services of this Nation and compensation for the survivors of those veterans who died in service or as a result of their service-connected disabilities.

A House-passed bill provided for dependency allowances to be paid to veterans with service-connected disabilities rated 40 percent or more. Our Senate-passed bill provided for substantial increases in the dependency allowances to be paid for veterans rated 50 percent or more. H.R. 11886 as amended establishes a 30-percent disability rating instead of the 58 percent presently required when a veteran commences to receive additional allowance because of dependents.

The amended bill before us provides for an additional $300 monthly payment to certain veterans presently receiving monthly payments because of the need of aid and attendance of another person. This added amount over and above the regular aid and attendance allowance will only go to those severely and catastrophically disabled veterans who require the higher level of care. The previously passed Senate veterans' compensation bill had a similar provision. We believe this additional assistance will make it possible for many catastrophically disabled veterans to avoid being permanently institutionalized. The added $300 monthly should help many to obtain needed services within their own home.

This bill provides for a statutory award of $175 monthly in addition to the regu-

lar rate of compensation where the veteran is rated less than 100 percent and has suffered the loss of paired extremities where the loss of one extremity is of service connection and the other not service connected.

Also, the bill before us would provide that in those cases where the death of a veteran rated totally disabled by reason of service-connected disabilities is found to be of nonservice origin, the surviving spouse will be entitled to service-connected death benefits provided the veteran has been rated totally disabled for a period of 10 years or more immediately preceding death and the spouse was married to such veteran for not less than 2 years during the period the veteran was so rated. If discharged from service for less than 10 years the veteran must have been rated totally disabled for the 5 years preceding death.

We have provided in the bill now being considered an increase in burial benefits from the previous limit of $800 to $1,100 and for an increase of $50 for nonservice-connected burial benefits—from $250 to $300. Also provision is made for providing memorial markers for deceased veterans whose remains are not recoverable.

The Senate passed bill provided for an increase in the automobile assistance allowance for veterans who have suffered the service-connected loss or loss of use of one or both feet, or one or both hands, or who are blind. Under present law such veterans are entitled to a one-time grant of $3,300 to assist them in purchasing an automobile.

Since the last increase in 1975 of the automobile allowance the Consumer Price Index shows a rise of 22.7 percent in cost of new automobiles. The increase provided in the Senate passed bill was from $3,300 to $4,100. The compromise agreed upon is to raise the automobile allowance from $3,300 to $3,800.

H.R. 11886 as now amended is a good bill and will be of tremendous benefit to disabled wartime veterans and their families. Once again we are fulfilling our obligation to those who have served our Nation so well in time of war and conflict. I commend to you the changes and improvements we are now recommending and urge support for H.R. 11886 as amended.●

Mr. CRANSTON. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 11886 be printed as passed by the Senate.

The PRESIDING OFFICER. The Senate just concurred in the House amendment.

Mr. CRANSTON. I did not hear what the Chair said.

Mr. THURMOND. Mr. President, I have a few words on this bill.

The PRESIDING OFFICER. It will now be printed as a public law, assuming it is signed, now that action has been completed.

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 11886 be printed as passed by the Senate today.

The PRESIDING OFFICER. The Senate has not passed the bill. It concurred in the House amendments.

VETERANS' HOUSING BENEFITS ACT OF 1978

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 12028.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 12028) entitled "An Act to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration", with the following amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That (a) this Act may be cited as the "Veterans' Housing Benefits Act of 1978".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' HOUSING BENEFITS

ASSISTANCE FOR SPECIALLY ADAPTED HOUSING FOR CERTAIN DISABLED VETERANS

SEC. 101. Section 802 is amended by striking out "$25,000" and inserting in lieu thereof "$30,000".

BASIC ENTITLEMENT FOR HOME, CONDOMINIUM, AND MOBILE HOME LOANS

SEC. 102. (a) Subsection (a) of section 1802 is amended—

(1) in the first sentence, by striking out "World War II or the Korean conflict" both places it appears and inserting in lieu thereof "World War II, the Korean conflict, or the Vietnam era"; and

(2) in the second sentence, by striking out "Entitlement" and all that follows through "World War II, has" and inserting in lieu thereof "In the case of any veteran who served on active duty during two or more of the periods specified in the preceding sentence, or in section 1818 of this title, for which eligibility for the benefits under this chapter may be granted, entitlement derived from service during the most recent such period (1) shall cancel any unused entitlement derived from service during any earlier such period, and (2) shall be reduced by the amount by which entitlement from service during any earlier such period has".

(b) Subsection (b) of such section is amended—

(1) in the first sentence, by inserting "(A)" after "(1)", redesignating clause (2) as subclause (B), and redesignating clause (3) as clause (2); and

(2) in the second sentence, by striking out "clauses (1) and (2) above" and inserting in lieu thereof "clause (1) of the preceding sentence".

BASIC LOAN GUARANTY PROGRAM

SEC. 103. (a) Subsection (a)(1) of section 1803 is amended by striking out "World War II or Korean conflict veteran" and inserting in lieu thereof "veteran eligible for benefits under this chapter".

(b) Subsection (a) of such section is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 1810(a) of this title, the Administrator may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Administrator may from time to time find the loan market demands for loans for such purposes."; and

(2) by striking out "section 1810(a)(4)" in paragraph (3)(B) and inserting in lieu thereof "clauses (4) and (7) of section 1810(a) of this title".

PURPOSES FOR WHICH HOME LOANS MAY BE GUARANTEED

SEC. 104. Section 1810 is amended—

(1) by striking out clause (6) in subsection (a) and inserting in lieu thereof the following new clause:

"(6) To purchase a one-family residential unit in a condominium housing development or project, if such development or project is approved by the Administrator under criteria which the Administrator shall prescribe in regulations.";

(2) by inserting after such clause the following new clause:

"(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system or through the application of a residential energy conservation measure."; and

(3) by adding at the end of such section the following new subsection:

"(d) For the purposes of subsection (a)(7) of this section:

"(1) The term 'solar heating' has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiation energy transfer.

"(2) The terms 'solar heating and cooling' and 'combined solar heating and cooling' have the meaning given such terms in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

"(3) The term 'passive system' includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Administrator to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

"(4) The term 'residential energy conservation measure' means—

"(A) caulking and weatherstripping of all exterior doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, and floor insulation;

"(E) water heater insulation;

"(F) storm windows and doors:

"(H) such other energy conservation measures as the Administrator may identify for the purposes of this clause.".

AMOUNT OF VETERANS' ADMINISTRATION LOAN GUARANTIES AND DIRECT LOANS FOR PURCHASE OR CONSTRUCTION OF HOMES

SEC. 105. (a) Section 1810(c) is amended by striking out "$17,500" and inserting in lieu thereof "$25,000".

(b)(1) Subparagraph (A) of section 1811(d)(2) is amended by striking out "$17,500" both places it appears and inserting in lieu thereof "$25,000".

(2) Subparagraph (B) of such section is amended by striking out "specified by the Administrator" and all that follows in such subparagraph and inserting in lieu thereof "that bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under such section at the time the loan is made bears to $17,500. The amount of the guaranty entitlement under section 1810(c) of this title of any veteran who is granted a loan under this section, or who before the date of the enactment of the Veterans' Housing Benefits Act of 1978 was granted a loan under this section, shall be charged with the amount that bears the same ratio to $17,500 as the amount of the loan bears to $33,000.".

ELIGIBILITY FOR HOME LOANS FOR VETERANS WHO SERVED AFTER JANUARY 31, 1955

SEC. 106. (a) Section 1818 is amended—

(1) by inserting "and prior to August 5, 1964, or after May 7, 1975," in subsection (a) after "January 31, 1955,";

(2) by striking out "active duty after such date" in subsection (a)(3) and inserting in lieu thereof "such active duty";

(3) by inserting "the provisions of section 1802(a) of this title and" in subsection (a) after "subject to";

(4) by striking out subsection (b) and redesignating subsection (c) as subsection (b); and

(5) by striking out "Veterans who serve after January 31, 1955" in the catchline and inserting in lieu thereof "Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975".

(b) The item relating to section 1818 in the table of sections at the beginning of chapter 37 is amended to read as follows:

"1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.".

MOBILE HOME AND MOBILE HOME LOT LOANS

SEC. 107. (a) Subsections (a) and (b) of section 1819 are amended to read as follows:

"(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

"(A) To purchase a lot on which to place a mobile home already owned by the veteran.

"(B) To purchase a single-wide mobile home.

"(C) To purchase a single-wide mobile home and a lot on which to place such home.

"(D) To purchase a double-wide mobile home.

"(E) To purchase a double-wide mobile home and a lot on which to place such home.

"(2) A loan for any of the purposes described in paragraph (1) of this subsection may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the mobile home.

"(3) Any loan made for the purposes described in clause (C) or (E) of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion which finances the purchase of the mobile home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

"(b)(1) Use of entitlement under this section for the purchase of a mobile home unit shall preclude the use of remaining entitlement for the purchase of an additional mobile home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

"(2) The Administrator shall restore entitlement to all loan guaranty benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.".

(b)(1) Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in mobile home financing warrants such exemption.".

(2) Paragraph (3) of such subsection is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "The Administrator's guaranty may not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $17,500. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator.".

(3) Such subsection is further amended by adding at the end thereof the following new paragraph:

"(4) The amount of guaranty entitlement available to a veteran under this section shall not be more than $17,500, less the amount of any such entitlement as may have been used under this section. Use of entitlement under section 1810 or 1811 of this title shall reduce entitlement available for use under this section to the same extent that entitlement available under such section 1810 is reduced below $17,500.".

(c) Subsection (d) of such section is amended to read as follows:

"(d)(1) The maturity of any loan guaranteed under this section shall not be more than—

"(A) fifteen years and thirty-two days, in the case of a loan for the purchase of—

"(i) a lot;

"(ii) a single-wide mobile home; or

"(iii) a single-wide mobile home and a lot; or

"(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

"(i) a double-wide mobile home; or

"(ii) a double-wide mobile home and a lot.

"(2) Nothing in paragraph (2) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.".

(d) Clause (4) of subsection (e) of such section is amended to read as follows:

"(4) the amount of the loan to be paid by the veterans is not in excess of the amount determined to be reasonable, based upon—

"(A) with respect to any portion of the loan to purchase a new mobile home, such cost factors as the Administrator considers proper to take into account;

"(B) with respect to any portion of the loan to purchase a used mobile home, the reasonable value of the property, as determined by the Administrator;

"(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

"(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator;".

(e) Such section is further amended by striking out subsection (g) and by redesignating subsections (h), (i), (j), (k), (l), (m), and (n) as subsections (g), (h), (i), (j), (k), (l), and (m), respectively.

(f) Subsection (h) of such section (as redesignated by subsection (e) of this section) is amended (b) by inserting "(1)" before "No loan", (2) by striking out the third sentence of such subsection, and (3) by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of mobile homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for the additional purpose of monitoring safety factors involved in the installation of mobile homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of mobile homes purchased through the utilization of such assistance.

"(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of mobile homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw any delegation under the preceding sentence at any time and in whole or in part.".

(g)(1) Subsections (i), (j), and (l) of such section (as redesignated by subsection (e) of this section) are amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)".

(2) Subsection (l) of such section (as redesignated by subsection (e) of this section) is amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (i)".

EFFECTIVE DATES

SEC. 108. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on October 1, 1978.

(b) The amendment made by clause (1) of section 104 of this title shall take effect on July 1, 1979, except with respect to the authority to prescribe regulations for the implementation of such amendment, which shall be effective on the date of the enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

EDUCATION LOAN PROGRAM ELIGIBILITY AND REPORTS ON DEFAULT EXPERIENCE

SEC. 201. Section 1798 is amended—

(1) by inserting "and the criteria established under subsection (g) of this section" before the period at the end of subsection (a);

(2) in subsection (c)—

(A) by striking out "and" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and"; and

(C) by inserting after clause (2) the following new clause:

"(3) satisfies any criteria established under subsection (g) of this section.";

(3) in subsection (d)(1)—

(A) by inserting "(A)" before "over"; and

(B) by inserting a comma and "or (B) over such shorter period as the Administrator may have prescribed under subsection (g) of this section" after "such date";

(4) by striking out paragraph (3) of subsection (e) and inserting in lieu thereof the following:

"(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include in maximum feasible detail—

"(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans;

"(B) data regarding the default experience and default rate at each educational institution (i) with respect to loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) with respect to other loans made under this section; and

"(C) comparisons of the collective default experience and default rates with respect to such loans at all such institutions to the default experience and default rates with respect to such loans at each such institution.";

(5) by striking out "1701(1)" in subsection (f)(3) and inserting in lieu thereof "1701(a)(1)"; and

(6) by adding after subsection (f) the following new subsection:

"(g)(1) The Administrator shall conduct, on a continuing basis, a review of the default experience with respect to loans made under this section.

"(2)(A) To ensure that loans are made under this section on the basis of financial need directly related to the costs of education, the Administrator may, by regulation, establish (i) criteria for eligibility for such loans, in addition to the criteria and requirements prescribed by subsections (c) and (d) of this section, in order to limit eligibility for such loans to eligible veterans and eligible persons attending educational institutions with relatively high rates of tuition and fees, and (ii) criteria under which the Administrator may prescribe a repayment period for certain types of loans made under this section that is shorter than the repayment period otherwise applicable under subsection (d)(1)(A) of this section. Criteria established by the Administrator under clause (i) of the preceding sentence may include a minimum amount of tuition and fees that an eligible veteran or eligible person must pay in order to be eligible for such a loan (except that any such criterion shall not apply with respect to a loan for which the veteran is eligible as a result of an extension of the period of eligibility of such veteran for loans under this section provided for by section 1662(a)(2) of this title).

"(B) In prescribing regulations under subparagraph (A) of this paragraph, the Administrator shall take into consideration information developed in the course of the review required by paragraph (1) of this subsection.

"(C) Regulations may be prescribed under subparagraph (A) of this paragraph only after opportunity has been afforded for public comment thereon.".

BURIAL BENEFITS

SEC. 202. (a) Subsection (b) of section 903 is amended to read as follows:

"(b) In addition to the benefits provided for under section 902 of this title and subsection (a) of this section, in the case of a veteran who is eligible for a burial allowance under such section 902, or under such subsection, and who is not buried in a national cemetery or other cemetery under the jurisdiction of the United States—

"(1) if such veteran is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (B) is owned by a State or by an agency or political subdivision of a State, the Administrator shall pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veterans; and

"(2) if such veteran is buried in a cemetery, or a section of a cemetery, other than as described in clause (1) of this subsection, the Administrator shall pay a sum not exceeding $150 as a plot or interment allowance to such person as the Administrator prescribes, except that if any part of the plot or interment costs of a burial to which this clause applies has been paid or assumed by a State, any agency or political subdivision of a State, or a former employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities.".

(b)(1) Chapter 24 is amended by adding at the end thereof the following new section:

"§ 1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

"(a)(1) Subject to subsection (b) of this section, the Administrator may make grants to any State to assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State. Any such grant may be made only upon submission of an application to the Administrator in such form and manner, and containing such information, as the Administrator may require.

"(2) There is authorized to be appropriated $5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years for the purpose of making grants under paragraph (1) of this subsection.

"(b) Grants under this section shall be subject to the following conditions:

"(1) No State may receive grants under this section in any fiscal year in a total amount in excess of 20 per centum of the total amount appropriated for such grants for such fiscal year.

"(2) The amount of any grant under this section may not exceed an amount equal to 50 per centum of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

"(3) If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph (2) of this subsection, but the value of such land may not be used for more than an amount equal to 50 per centum of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section.

"(4) If a State that has received a grant under this section to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

"(c)(1) In addition to the conditions specified in subsection (b) of this section, any grant to a State under this section to assist such State in establishing a veterans' cemetery shall be made on the condition that such cemetery shall conform to such standards and guidelines relating to site selection, planning, and construction as the Administrator may by regulation prescribe. In prescribing regulations for the purposes of the preceding sentence, the Administrator shall take into account the standards and guidelines for site selection, planning, and construction that are applicable to cemeteries in the National Cemetery System, including those provided in subsections (b), (c), and (d) of section 1004 of this title.

"(2) The Administrator may by regulation prescribe such additional terms and conditions for grants under this section as the Administrator considers appropriate.

"(d) Sums appropriated under subsection (a) of this section shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated. If all funds from a grant under this section have not been utilized by a State for the purposes for which the grant was made within three years after such grant is made, the United States shall be entitled to recover any such unused grant funds from such State.".

(2) The table of sections at the beginning of chapter 24 is amended by adding at the end thereof the following new item:

"1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries.".

HEADSTONES AND MARKERS

SEC. 203. (a) Section 906 is amended by adding at the end thereof the following new subsections:

"(c) A headstone or marker furnished under subsection (a) or (b) of this section may be of any material, including but not limited to marble, granite, bronze, or slate, requested by the person entitled to request such headstone or marker if the material requested is determined by the Administrator (1) to be cost effective, and (2) in a case in which the headstone or marker is to be placed in a national cemetery, to be aesthetically compatible with the area of the cemetery in which it is to be placed.

"(d) In lieu of furnishing a headstone or marker under subsection (a)(2) or (b) of this section, the Administrator, in the Administrator's discretion, having due regard for the circumstances in each case, may reimburse the person entitled to request such headstone or marker for the actual costs incurred by or on behalf of such person in acquiring a non-Government headstone or marker for placement in any cemetery other than a national cemetery in connection with the burial or memorialization of the deceased individual. Reimbursement under the preceding sentence may be made only upon the request of the person entitled to request the headstone or marker and may not be made in an amount in excess of the average actual cost, as determined by the Administrator, of headstones and markers furnished under subsections (a) and (b) of this section.".

(b) Section 902 is amended—

(1) by striking out "in his discretion" in subsection (a) and inserting in lieu thereof "in the Administrator's discretion";

(2) by striking out "as he prescribes" in

subsection (a) and inserting in lieu thereof "as the Administrator prescribes"; and

(3) by striking out "his death" in subsection (b) and inserting in lieu thereof "the death of such veteran".

TECHNICAL AMENDMENTS TO LAW NAMING A CERTAIN VETERANS' ADMINISTRATION HOSPITAL

SEC. 204. Section 203 of Public Law 95-353 is amended—

(1) by striking out "designed" in the first sentence and inserting in lieu thereof "designated"; and

(2) by inserting "map, record," in the second sentence after "document,".

EFFECTIVE DATES

SEC. 205. (a) Except as provided in subsection (b), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) The amendment made by section 202(a) of this title shall take effect on October 1, 1978.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to improve the housing benefits programs of the Veterans' Administration, to authorize the Administrator of Veterans' Affairs to pay an allowance to a State for expenses incurred in the burial of eligible veterans in cemeteries owned and operated by or for such State solely for the interment of veterans, to authorize program of grant assistance to States for the establishment, expansion, and improvement of State veterans' cemeteries, and for other purposes.".

Mr. CRANSTON. Mr. President, I rise in support of H.R. 12028, the proposed "Veterans' Housing Benefits Act of 1978." The bill was originally passed by the House of Representatives on July 17, 1978. On July 31, the Committee on Veterans' Affairs unanimously ordered the bill favorably reported with an amendment in the nature of a substitute and a title amendment, and on August 7, the Senate passed the measure as so amended. The bill as it comes before the Senate today is a compromise agreed to by the two Veterans' Affairs Committees and passed by the House of Representatives on September 28.

Mr. President, this compromise represents an equitable resolution of the differences between the two Houses and, I believe, fairly vindicates the position of the Senate. In fact, in most areas in which the House and Senate were in disagreement, I believe that the compromise agreement contains provisions that are actually improvements over the positions originally taken by both Houses.

BASIC PURPOSE

The basic purpose of H.R. 12028 as it is before the Senate today, which I will refer to as "the compromise agreement," is to improve VA housing assistance programs by increasing certain housing-related entitlements, expanding eligibility to certain entitlements so as to include a class of Vietnam-era veterans, and restructuring the VA mobile-home loan program so as to make it more similar to the conventional housing loan program. In addition, the compromise agreement includes provisions that authorize the VA to provide assistance to States in the establishment, expansion, and operation of State veterans' cemeteries and provisions improving the VA's program for providing headstones and memorial markers.

SUMMARY OF PROVISIONS

Mr. President, I want to explain in summary fashion, the provisions of the compromise agreement.

TITLE I—VETERANS' HOUSING BENEFITS

The provisions of title I include amendments to title 38, United States Code, relating to Veterans' Administration housing benefits programs, that would:

First, increase from $25,000 to $30,000 the grant to assist certain severely disabled veterans to acquire specially adapted housing. This change will benefit approximately 3,800 severely disabled veterans over the next 5 years.

Second, extend entitlement under chapter 37, relating to VA home, condominium, and mobile home loans, to veterans who served on active duty during the Vietnam era for periods between 90 and 180 days. This change would provide chapter 37 entitlement for approximately 168,000 Vietnam-era veterans on the same basis that it is provided to veterans who served during World War II and the Korean conflict.

Third, grant authority to the Administrator of Veterans' Affairs to guarantee loans for general home improvements and for energy-related home improvements at an interest rate—set after consultation with the Secretary of HUD—higher than that set for loans for the purchase of homes.

Fourth, provide for chapter 37 loan guaranties for the purchase of a unit in an approved converted condominium project or development.

Fifth, increase, from $17,500 to $25,000 the chapter 37 maximum loan guaranty amount for the conventional VA home-purchase loan guaranty program. This change will provide increased loan entitlement to approximately 28 million eligible veterans and will directly assist the approximately 380,000 veterans who will use the VA guaranty in the coming year to purchase a home.

Sixth, improve the VA mobile-home loan program by making it more similar to the VA conventional home loan program by (a) revising criteria relating to restoration of entitlement following use of loan entitlement to purchase a mobile home to make such criteria parallel to those for restoration of entitlement to purchase a conventional home, (b) substituting a maximum loan guaranty of 50 percent of the loan amount up to a maximum of $17,500 for the existing maximum dollar loan amount, (c) increasing the term of years for the purchase of a single-wide mobile home—from 12 years and 32 days—to 15 years and 32 days, and (d) permitting use of any remaining loan entitlement to purchase a mobile home when the veteran is moving from a conventional home to a mobile home.

Seventh, authorize the Administrator, under certain prescribed conditions, to delegate to the Secretary of HUD responsibility for the inspection of the mobile-home manufacturing process, and require that random onsite inspections include monitoring of safety factors involved in the installation of such homes.

TITLE II—MISCELLANEOUS PROVISIONS

Mr. President, title II includes provisions relating to the VA educational assistance program and the VA burial benefits and cemetery programs, and a technical amendment to a public law relating to the naming of certain VA hospitals. Specifically, these provisions would:

First, amend title 38 to authorize the Administrator of Veterans' Affairs, on the basis of information derived from a mandated continuing review of and annual report on VA educational loan default experience and rates, and in order to insure that such loans are made on the basis of financial need directly related to the costs of education, to establish and apply criteria for VA educational assistance loan eligibility (a) to limit eligibility to eligible veterans and other eligible persons attending educational institutions with high rates of tuition and fees, and (b) to require repayment of certain educational assistance loans, especially small loans; earlier than allowed under current law.

Second, amend title 38 to direct the Administrator to pay the currently authorized $150 burial plot or interment allowance to a State or an agency or political subdivision of a State, instead of to a veteran's survivors, when an eligible veteran is buried, without charge to the survivors, in a veterans' cemetery owned by a State or an agency or a political subdivision of a State; and to authorize the appropriation of $5 million for fiscal year 1980 and each of the 4 succeeding fiscal years to fund grants to States to assist in the establishment, expansion, or improvement of State veterans' cemeteries, such grants to be on a 50-percent Federal/50-percent State basis, with the limitation that no more than 50 percent of the State's share may be in the form of land owned by the State and to be dedicated to cemetery use.

Third, amend title 38 to authorize the Administrator to supply a VA headstone or memorial marker of any material requested, including but not limited to marble, granite, bronze, or slate, when the material requested is determined to be cost effective and, if the headstone or marker is to be placed in a national cemetery, esthetically compatible with the area of the cemetery where it is to be placed; and, further, to authorize the Administrator to pay a cash allowance not in excess of the average actual cost of VA headstones and markers, in lieu of a VA-provided headstone or marker, as reimbursement for a non-VA headstone or marker actually purchased for use in a cemetery other than a national cemetery.

Fourth, amend Public Law 95-353, which provided for the naming of certain VA hospitals, to correct two technical errors.

Mr. President, in order that all Senators and the public may fully understand the various agreements reached in arriving at the compromise agreement, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks a document, also inserted during consideration in the other

body, which will serve in lieu of a joint explanatory statement accompanying a conference report, entitled "H.R. 12028, 'Veterans' Housing Benefits Act of 1978'—explanatory statement of House bill, Senate amendment, and compromise agreement."

Mr. President, the Congressional Budget Office has provided a cost estimate on the compromise agreement, which I ask unanimous consent be printed in the RECORD after the explanatory statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

CONCLUSION

Mr. CRANSTON. Mr. President, as I have noted in the past, I am continually impressed with the genuine commitment to the welfare of veterans that is shown not only by Members from both sides of the aisle on our committee but also by all of the members of the House committee as well. That same spirit prevailed throughout the negotiations on this measure. Thus, I enthusiastically recommend this compromise agreement to the Senate today.

In closing, I want to thank the chairman of the Subcommittee on Housing of the House Committee on Veterans' Affairs Representative BRINKLEY, and the chairman of the full committee, Representative ROBERTS, as well as the ranking member of the Subcommittee on Housing Representative ABDNOR, and of the full committee Representative HAMMERSCHMIDT, for their fine cooperation in fashioning this compromise agreement. I am also very grateful to my distinguished colleagues, the ranking minority member of our committee, the Senator from Vermont (Mr. STAFFORD) and the chairman of our Subcommittee on Housing, Insurance, and Cemeteries, the Senator from Florida (Mr. STONE) for their consistently fine work on this and other veterans' matters.

In addition, I would like to recognize several members of the House committee staff whose expertise and hard work helped make the development of this measure possible—Mack Fleming, Elizabeth Lunsford, John Holden, James Webb, and Charles Parkinson—as well as the members our committee staff who participated in this effort—Bill Brew, Mary Sears, Babette Polzer, Jon Steinberg, Ed Scott, Garner Shriver, Gary Crawford, John Pressly and Harold Carter. We are also very grateful for the fine work of our legislative counsels—Bob Cover in the House and Hugh Evans in the Senate, and to the VA for its technical assistance.

Mr. President, for the foregoing reasons, I urge the adoption of the House amendment embodying the compromise agreement.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 2, 1978.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 12028, the Veterans Housing Improvements Act of 1978.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE: COST ESTIMATE

1. Bill number: H.R. 12028.

2. Bill title: Veterans Housing Improvements Act of 1978.

3. Bill status:

As agreed upon by the House and Senate Veterans' Affairs Committees, September 27, 1978.

4. Bill purpose:

Section 101: would increase the maximum specially adapted housing grant from $25,000 to $30,000.

Section 103: would allow the interest rate for home improvement loans to be higher than the limit set for mortgages.

Section 104: would permit the use of VA loans for the purchase of converted condominiums, and would include the installation of solar heating and other energy conservation systems in the permissible uses of VA home improvement loans.

Section 105: would increase from $17,500 to $25,000 the maximum amount of a home loan that could be guaranteed by VA.

Section 106: would change certain titles in title 38, U.S.C.

Section 107: would restructure the VA mobile-home loan program to accomplish the following:

Substitute a maximum loan guaranty (50 percent of the loan up to $17,500) for the current limitations on the amount of guaranteed loans.

Increase the term of years for a loan for a single-wide mobile home from 12 to 15 years.

Provide for the same criteria for restoration of loan entitlement as applies to the conventional housing loan program.

Authorize the use of remaining loan entitlement for a mobile home.

Allow the Administrator to delegate the inspection of the mobile home manufacturing process to HUD.

Specify that the on-site inspection of mobile homes by VA include a check for safety factors involved in the installation of such homes.

Section 108: specifies an effective date of October 1, 1978.

TITLE II

Section 201: would establish certain new criteria regarding education loans and their repayment.

Section 202: would provide that if a veteran is buried in a state or local cemetery or section thereof which is reserved solely for the interment of veterans, the $150 plot allowance shall be paid to the state or political subdivision. This section would also establish a program under which the Administrator may make grants to states to establish, expand or improve such states veteran cemeteries. The amount of the grant could not exceed 50 percent of the total value of the land to the acquired or dedicated for the cemetery and the improvements to be made on such land, with the remaining amount to be contributed by the state receiving the grant.

Section 203: would provide that the survivors of a veteran who is eligible for a VA headstone may receive cash in lieu of such headstone.

5. COST ESTIMATE

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
TITLE I					
Sec. 101	4.4	4.2	4.2	3.7	2.6
Sec. 102	(*)	(*)	(*)	(*)	(*)
Sec. 103	(*)	(*)	(*)	(*)	(*)
Sec. 104	(*)	(*)	(*)	(*)	(*)
Sec. 105	(*)	(*)	1.1	1.6	1.8
Sec. 106	0	0	0	0	0
Sec. 107	(*)	(*)	.6	1.2	1.9
Sec. 108	0	0	0	0	0
TITLE II					
Sec. 201	(*)	(*)	(*)	(*)	(*)
Sec. 202	0	2.0	4.0	5.0	5.0
Sec. 203	3.6	3.8	4.1	4.3	4.6
Total cost	8.0	10.0	14.0	15.8	15.9

*Less than $500,000.

6. Basis for estimate:

Section 101: Costs resulting from the increase in the specially adapted housing grant program are based on VA participation rate estimates. Since the maximum benefit is usually granted, it is assumed that all grant recipients would receive the full $5,000 increase.

Sections 102, 103, 104: These three sections all extend entitlement of the home loan guaranty programs. As these programs operate at a net cost to the federal government, any increase in participation in the programs would result in additional costs. Since, however, all loans guaranteed by VA are secured and the cost of defaults is offset by the sale of the property, the cost to the government per loan is small. It is not expected that the net cost of these three sections would be significant.

Section 105: The cost of increasing the maximum loan guaranty level is based on VA estimates of loan terminations and claims. The number of terminations is estimated to increase from 7 in 1978 to 511 in 1983.

Section 107: Improving the mobile home loan program would increase outlays in the loan guaranty revolving fund. It is estimated that the number of new loans resulting from these provisions would range from 1,150 in 1979 to 2,750 in 1983.

TITLE II

Section 201: This provision would shorten the repayment period for certain educational loans and would, thereby, result in some savings. The savings, however, should be less than $500,000 a year.

Section 202: The provision that would pay the plot allowance to a state or locality for the burial of a veteran in a specific veterans' cemetery would have no significant cost as only three states have such cemeteries. The new program of grants to states for the creation or expansion of veterans' cemeteries is authorized at $5 million a year. It is estimated that such funds would spend out at 40 percent for each of the first two years and the remaining 20 percent in the third year.

Section 203: In fiscal year 1977, 325,000 burial allowances were paid. Of this number, only 70 percent also requested headstones. It is assumed that the remaining 30 percent of such cases who did not desire a VA headstone would apply for the cash benefit. An average cost of $42 per headstone was used and was inflated by the CPI for the outyears.

7. Estimate comparison: None.

8. Previous CBO estimate:

Estimates of the cost of H.R. 12028 as passed by the House and as passed by the Senate were prepared. The provisions contained in the compromise bill are different from those contained in either earlier version.

9. Estimate prepared by: K. W. Shepherd (225–7766)

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

H.R. 12028, "VETERANS' HOUSING BENEFITS ACT OF 1978": EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT, AND COMPROMISE AGREEMENT

TITLE I—VETERANS' ADMINISTRATION HOUSING BENEFITS PROVISIONS

Specially adapted housing grant increase

SEC. 101. The House bill and the Senate amendment would amend section 802 of title 38, United States Code, to provide for an increase from $25,000 to $30,000 in the maximum amount of the specially adapted housing grant.

The compromise agreement contains this provision.

Equalization of VA home loan eligibility for Vietnam-era veterans

SECS. 102, 103(a), and 106. The House bill and the Senate amendment would amend various provisions of chapter 37 of title 38 to reduce from 181 to 90 days—the same length of active-duty service required of veterans of other periods of war—the active-duty service required for Vietnam-era veterans to be eligible for VA home loan programs.

The compromise agreement contains this provision.

Higher interest rates for energy-related and other home-improvement loans

SEC. 103(b). The Senate amendment would amend section 1803(c)(1) of title 38 to provide authority for the VA to guarantee loans for energy-related home improvements at an interest rate higher than that set for loans to purchase homes.

The House bill contained no comparable provision.

The compromise agreement contains the Senate amendment with an amendment to include authority to guarantee home-improvement loans at higher interest rates for general home improvements as well as energy-related improvements and with technical amendments.

Guarantees of loans for purchases of converted condominium units and for energy-related home improvements

SEC. 104. The Senate amendment would amend section 1810(a) of title 38 to include among the authorized purposes for VA home-loan guaranties the purchase of a unit in a converted condominium development or project and to define the energy-related home improvements that would qualify for a VA-guaranteed loan at an interest rate (as provided for in the amendment made by section 5(1) of the Senate amendment) higher than the rate set for a loan for the purchase of a home.

The House bill contained no comparable provisions.

The compromise agreement contains the Senate provisions with technical amendments and a modification of the provision relating to energy-related home-improvement loans to eliminate a clause that would authorize such a loan, at a higher interest rate, for home improvements to "a dwelling or farm residence which *is to be* . . . owned and occupied by the veteran. . . ." (Emphasis added.) The Committees feel strongly that, where the veteran desires to have certain energy-related home improvements made to a house that he or she is planning to purchase, such energy-related home improvements should ordinarily be included as part of the total transaction relating to the purchase of the home and thus should be financed as part of and at the same interest rate as the loan for the purchase of the home—not as a separate loan at a higher interest rate. Thus, by removing the provision authorizing the higher interest for VA-guaranteed loans for energy-related home-improvements prior to purchase and occupancy, the Committees intend to encourage lenders and builders to arrange for the inclusion of the needed loan amounts in the lower-interest, home-purchase loan. The Committees further recognize that there may be instances when such financing may not be obtainable; and, in those instances, the veteran would still have the option of seeking the separate energy-related, guaranteed home-improvemen loan after purchase and occupancy of the house if the veteran has remaining home loan entitlement.

The Committees also note that the provisions relating to various solar energy systems are meant to include authority for the Administrator to guarantee loans for solar energy systems that include or are limited to solar domestic hot water systems.

Amount of loan guaranties and direct loans for purchase or construction of homes

SEC. 105. The House bill and the Senate amendment would amend section 1810(c) of title 38 to provide for an increase in the maximum VA loan guaranty amount from $17,500 to $25,000, and make conforming amendments to section 1811(d)(2), relating to the VA's direct loan program, to reflect the amendments raising the loan guaranty maximum to $25,000 and the amendments made by section 7 of the House bill and section 9 of the Senate amendment to restructure the mobile-home loan guaranty program.

The compromise agreement contains these provisions.

Mobile-home and mobile-home lot loans

SEC. 107. The House bill and the Senate amendment would amend section 1819 of title 38 in order to restructure the VA mobile-home loan program by—

Substituting a maximum loan guaranty (50 percent of the loan up to a maximum guaranty of $17,500) for the existing statutory maximum dollar loan amounts;

Increasing the maximum term of years for which a loan for a single-wide mobile home may be financed;

Providing the same criteria for restoration of loan entitlement as in the conventional housing loan program; and

Changing the current mobile-home loan program to allow a veteran to use remaining loan entitlement when moving from a conventionally built home to a mobile home.

The compromise agreement contains these provisions. The Committees note that the provisions relating to purposes for which loans may be guaranteed under the mobile home loan guaranty program include authority for the Administrator to guarantee loans for the purchase of either new or used mobile homes.

Mobile-home inspection requirement

The House bill would delete the existing requirements in section 1819(i) of title 38 that the VA (a) inspect the mobile-home manufacturing process of manufacturers who sell mobile homes to veterans using VA assistance and (b) conduct random on-site inspections of mobile homes purchased by veterans with VA assistance.

The Senate amendment would retain both inspection requirements but allow the Administrator to delegate the responsibility for inspection of the manufacturing process to the Secretary of Housing and Urban Development (HUD), subject to (a) acceptance of the delegation by the Secretary, (b) a requirement that the Administrator promptly be provided the full results of HUD inspections, and (c) the right to revoke the delegation in whole or in part and for such period or periods of time as the Administrator determines appropriate. In addition, the Senate amendment would add a provision to the onsite inspection requirement to require the Administrator to check for safety factors during such inspections.

The compromise agreement contains the provisions of the Senate amendment with two modifications. First, the requirement that the Secretary of HUD provide the results of manufacturing process inspections to the Administrator is limited to those instances where the Administrator requests such results. Second, the provision relating to manufacturing-process inspections was also modified to eliminate the Administrator's authority to withdraw from the Secretary of Housing and Urban Development the delegation of the duty to conduct manufacturing-process inspections "for such period or periods of time" as the Administrator desires. This change was made so that once the Administrator decides to withdraw the delegation, no renewal of the delegation would be permitted except upon terms and conditions agreed to by the Secretary.

Effective dates

SEC. 108. The House bill and the Senate amendment would both become effective on October 1, 1978.

Under the compromise agreement, all provisions relating to VA housing benefits will take effect on October 1, 1978, except that the effective date for the provision (section 104(1)) authorizing VA guaranties of loans for the purchases of units in converted condominium developments and projects is delayed until July 1, 1979, in order to give the Administrator sufficient time to develop and publish regulations incorporating standards for the approval of converted condominium projects.

TITLE II—MISCELLANEOUS PROVISIONS

VA education loan program

SEC. 201. The Senate amendment would amend section 1798 of title 38 to authorize the Administrator, on the basis of information derived from the mandated continuing review of education loan default experience and rates and in order to ensure that such loans are made on the basis of financial need directly related to the costs of education, to establish and apply criteria for VA loan eligibility (a) to limit eligibility to veterans and other eligible persons attending educational institutions with high rates of tuition and fees, and (b) to require repayment of certain loans, especially small loans, earlier than allowed under current law.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision with modifications to require that the Administrator's report on the default experience and rates be submitted to the Congress not later than December 31 of each year (rather than on February 1) and to make certain technical changes. The Committees note that it is their intention that the second and third elements of the annual report are both to be broken down into two categories: loans in connection with accelerated payments under section 1682A and other VA educational assistance loans.

State veterans' cemetery assistance

Sec. 202. The Senate amendment would amend chapter 23 of title 38 to establish a program of assistance to the States for the establishment, expansion, improvement, operation, and maintenance of State veterans' cemeteries. The program would use a three-part Federal-State matching-fund approach, each funded on a maximum 65-percent Federal and 35-percent State basis, as follows: (a) grants to the States for the establishment, expansion, or improvement of State veterans' cemeteries, with a State being able to take credit for the value of land already

owned by the State and dedicated to use as a veterans' cemetery at the time of the grant; (b) payments by the Federal Government to the States toward the cost of the interment of each eligible person in such cemeteries, up to a maximum federal payment of $150 per interment; and (c) payments by the Federal Government to the States toward the annual cost of maintenance of the gravesites of each eligible person buried in such cemeteries, up to a maximum federal payment of $40 per year per eligible gravesite.

The House bill contained no comparable provision; but H.R. 12252, which the House passed on July 18, 1978, would direct the Administrator to pay the currently authorized $150 plot allowance to a State or an agency or political subdivision of a State (instead of to a veteran's survivors) when an eligible veteran is buried in a veterans' cemetery owned by a State or an agency or a political subdivision of a State.

The compromise agreement contains the provisions of the House bill relating to the payment of the plot allowance to a State together with provisions from the Senate amendment relating to the Federal-State matching grant program for the establishment, expansion, or improvement of State veterans' cemeteries, with modifications to change the Federal-State payment ratio to a 50-percent Federal/50-percent State basis and to require that at least 50 percent of the State's share must be in cash (instead of allowing all of the State's share to consist of land dedicated by the State for the cemetery). The compromise agreement also includes a provision for the recapture of the Federal funds from the State if the cemetery ceases to be operated by or on behalf of the State as a veterans' cemetery. The provisions of this new authority were adapted by the Committees to reflect their belief that there is an important role for the Federal Government to play in assisting interested States to establish or expand State veterans' cemeteries but that the States should retain the long-term responsibility for the care and maintenance of such facilities.

Memorial markers and headstones

SEC. 203. The Senate amendment would amend section 906 of title 38 to authorize the Administrator to supply a VA headstone or memorial marker made of any material requested, including but not limited to marble, granite, bronze, or slate, when the material is determined by the Administrator to be cost effective and, if the headstone or marker is to be placed in a national cemetery, aesthetically compatible with the cemetery area.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision with a further amendment to section 906 to authorize the Administrator, when requested by the person entitled to request the headstone or marker, to pay a cash allowance in lieu of providing a VA headstone or memorial marker. This provision would limit the cash payment to an amount not to exceed the average actual cost of VA headstones and markers, and would require that the payment be made only as a reimbursement for a non-VA headstone or marker actually purchased and only for a headstone or marker for use in a cemetery other than a national cemetery.

Technical amendments to VA hospital-naming law

SEC. 204. On August 28, 1978, H.R. 11579, which provided for the naming of certain VA hospitals, was enacted as Public Law 95-353. Section 203 of the measure as enacted contained two technical errors.

The compromise agreement contains provisions which correct those two errors.

Provisions not included in the compromise agreement

The Senate amendment would clarify that none of the provisions of the Committee bill, other than amendments providing for new spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, would authorize, directly or indirectly, the enactment of new budget authority.

The House bill contained no comparable provision.

The compromise agreement does not contain this provision.

The Senate amendment would amend section 1816(a) of title 38 to require the Administrator to evaluate the desirability—from the standpoint of exercising forbearance enabling the veteran to continue to own the home—of taking an assignment of a VA-guaranteed loan before allowing a lender to take such a loan to foreclosure.

The House bill contained no comparable provision.

The compromise agreement does not contain this provision.

Mr. CRANSTON. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I am pleased to add my full support for H.R. 12028, as amended. This act will increase the VA specially adapted housing grant from $25,000 to $30,000 for certain disabled veterans who have suffered the loss or loss of use of both lower extremities or who have suffered other disabilities which require the use of a wheelchair or other prosthetic device for locomotion.

The act also reduces the required active-duty service period for Vietnam-era veterans for the GI home loan guaranty program from 181 days to 90 days and will raise the maximum home loan guaranty under present law of $17,500 to $25,000.

Mr. President, H.R. 12028, as amended, will also enhance the home-buying power of millions of veterans across the country by significantly improving and revamping the mobile home loan program. Under this legislation, the maximum mobile home loan guaranty would be increased to $17,500 or 50 percent of the loan amount. Additionally, the bill will increase the term of years for a loan on a single-wide mobile home from 12 to 15 years, and will make other significant improvements in this important program that will render mobile home loans more accessible to our Nation's 30 million veterans.

Additionally, this bill will provide authority for the Administrator of the Veterans' Administration to enter into a 50–50 matching grant agreement with States for the establishment, expansion, and improvement of State veterans' cemeteries. It permits a State to count up to 25 percent of the value of land set aside for this purpose as a portion of its share.

Mr. President, these are the major provisions and I urge my colleagues to support H.R. 12028, as amended.

Mr. CRANSTON. Mr. President, I thank the distinguished Senator from South Carolina for his hard work on this bill and for his remarks today.

● Mr. STAFFORD. Mr. President, H.R. 12028, as amended by the Senate, the Veterans' Housing Benefits Improvement Act of 1978, was passed by the Senate on August 7, 1978. The amended bill is the result of considerable compromise between the Veterans' Affairs Committees of the House and Senate. The members of both committees and members of the staff of both committees are to be congratulated and commended for their excellent and cooperative work in bringing to us these needed improvements in veterans' benefits.

This bill will provide veterans relief from the continuing rise in the cost of housing and should make home improvement loans more available to veterans.

The bill before us will increase the maximum specially adapted housing grant from $25,000 to $30,000, for certain severely service-connected disabled veterans. It will reduce from 181 days to 90 days the active duty service required for Vietnam-era veterans to be eligible for VA home loan benefits. This brings this provision in line with wartime veterans of World War II and the Korean conflict.

The bill will authorize the Administrator of Veterans' Affairs to guarantee loans for energy-related and other home improvements at a rate of interest which may be higher than the interest rate allowed for the acquisition of a home or condominium.

The bill authorizes the VA Administrator to guarantee loans for the purchase of a one-family residential unit in a VA-approved converted condominium housing development or project. Under present law and regulations the veteran cannot have the advantage of a loan guarantee to purchase a condominium which has been recently converted from a rental unit. Under our provision veterans may purchase such units.

Provision is made for an increase of the maximum VA loan guaranty from $17,500 to $25,000. Also provision is made for energy efficient loans. This is a welcome proviso and should help promote the conservation of our Nation's energy.

To improve the Veterans' Administration mobile-home loan program, the bill eliminates the present multiple statutory maximum guaranty in the amount of $17,500. There is also an increase of the maximum term of years for which loans are financed from 12 years and 32 days to 15 years and 32 days. It also provides that a veteran who obtains a mobile home loan will have the opportunity to use his or her partial or remaining entitlement.

I especially emphasize that the bill before us includes most of the provisions of S. 1556 which was introduced by Senator HANSEN in May of last year and which was added during floor debate in the Senate on August 7, 1978. The bill before us provides authority for the Administrator of Veterans' Affairs to enter into 50–50 matching grant agreements with States for the establishment, expansion, and improvement of State veterans' cemeteries. It permits a State to count up to 50 percent of the value of land set aside for this purpose as a portion of its share.

Many of our cemeteries are not available to our veterans because of the lack of space. The national cemetery system study submitted on January 21, 1974, to the Congress pointed out the lack of sufficient gravesites at national cemeteries and the need for more veterans' cemeteries. The VA has started a program in recognition of the need.

As pointed out when this matter was before the Senate in August, it is recognized there is a strong desire among veterans to have a final resting place within their home States and to be buried with their comrades in arms. The program authorized in this bill may help in some States in meeting the problem. It is another alternative in addressing a recognized need.

A provision of significance to State and local governments is a provision that would direct the Administrator of Veterans' Affairs to pay a $150 plot allowance to a State or political subdivision of a State as reimbursement for expenses incurred when an eligible veteran is buried in a veterans' cemetery owned by a State or local government.

I direct the attention of my colleagues to the inclusion in the bill before us of the Senate passed provision for use of slate for VA-provided headstones or memorial markers in addition to marble, granite, and bronze as now provided in VA regulations.

This new authorization would allow the person entitled to request a headstone to specify the material providing the Administrator finds that it is "cost-effective" and if the memorial placed in a national cemetery is "esthetically compatible" with the cemetery. As stated when this provision was before the Senate on August 7, I take no position as to which product I prefer. My home State produces marble, granite, and slate. So as I see it, a choice should be available to the beneficiary under the law. Freedom of choice is the issue in this amendment, providing the cost of the product is competitive and comparable. Any one of the designated materials should be available in the selection of a headstone or marker.

A provision not in the Senate passed bill would permit the Administrator of Veterans' Affairs to pay a cash amount not to exceed the average actual cost of a Government headstone or marker as reimbursement for the actual costs incurred by a veterans' survivor in acquiring a headstone or marker for placement in any cemetery, other than a national cemetery in connection with the burial of a deceased veteran. The intent is to provide our veterans' survivors a choice in selecting an appropriate memorial.

Considering the many differences between the House and Senate versions, a fair and proper compromise is the result of the efforts of the members of the two Veterans' Affairs Committees. I urge support of the amended H.R. 12028.●

Mr. CRANSTON. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

DEPARTMENT OF EDUCATION: THE FIRST STEP

Mr. CRANSTON. Mr. President, the Senate has passed and sent to the House a bill to create a Federal Department of Education. S. 991 is a truly significant measure, and I am pleased to have been an early supporter and a cosponsor. I am strongly hopeful that the House of Representatives will affirm its support of similar legislation, so that the bill can be sent to the President in the final days of this, the 95th Congress.

Those of us who worked to secure Senate passage of S. 991 recognize and appreciate the vision and faith of the distinguished chairman of the Senate Governmental Affairs Committee, Senator ABRAHAM RIBICOFF. From his experience as Secretary of Health, Education, and Welfare, Senator RIBICOFF sensed the compelling need to separate Federal education programs from growing and competing pressures within the present Department of HEW. The year and a half of intensive hearings Senator RIBICOFF chaired on this measure comprise one of the most comprehensive examinations of the interrelationship of Federal education program that has yet been undertaken. The hearings both clarified the issues and documented the need for why the Department should be created and how it should be formed.

As passed, S. 991 provides a solid base upon which the Federal Government can reassess its present education programs and address the future. It can bring together many education programs presently scattered throughout the agencies, and in time, become responsible for additional programs of an education nature as well. Most importantly, a department of education can address these issues with a focus entirely its own and at a level responsible directly to the President. So many Members of the Senate were convinced of this need that 62 Senators were cosponsors when S. 991 reached the floor for debate and passage.

Mr. President, the drive to establish a Cabinet-level berth for Federal education programs began some 125 years ago. In the period 1908–51, as the committee report points out, more than 50 measures were introduced in Congress to create such a department, though none got beyond the committee stage. As early as 1923, the President of the United States endorsed the department concept when Calvin Coolidge made clear his support for education's place in the Cabinet.

The most dramatic moves toward a new status for edcation began with the creation of HEW in 1953 and with the education initiatives of the Johnson administration. Presidential candidate GEORGE MCGOVERN endorsed the Department in his 1972 campaign, as did Jimmy Carter in 1977, and under the Carter administration the President's reorganization project produced, in November 1977, several options for the President's consideration relative to the enhancing of education's status in the executive branch. President Carter's decision in favor of an Education Department was announced in his state of the Union address in January 1978.

Mr. President, the committee presented the Senate with a most comprehensive measure in S. 991. I am pleased to have been able to support most of its provisions. Along with the entire program of the present Education Division of HEW, the Senate transferred the programs for special institutions, telecommunications demonstration, health professions and nursing loan and scholarships, the Rehabilitative Services Administration, the Office for Handicapped Individuals, the Advisory Council on Educational Statistics, the Institute of Museum Services, the USDA Graduate School, the Overseas Dependents' Schools, Law Enforcement Education Loans, selected science education programs, and housing construction loans.

Various Senators, including me, raised concerns about certain transfers proposed in the original bill. My own caveats can be briefly summarized.

ADMINISTRATION OF HEAD START

Mr. President, I am particularly pleased that S. 991 specifically provides that the Head Start program will not be transferred to the new Department of Education. Head Start is presently administered in the Administration for Children, Youth, and Families within the Office of Human Development Services in HEW. S. 991, as originally introduced, provided for Head Start to be transferred into the new Department of Education. I have felt very strongly that such a transfer was inappropriate and would pose a very serious threat to the continued success of Head Start. Head Start is not simply or even primarily an educational program. It is a comprehensive preschool program which provides vital health, nutrition, and other social services to low-income children. Many individuals felt, as I did, that the proposed transfer of Head Start into a department of education would seriously undermine the comprehensive nature of its services.

On June 22, I introduced with Senator BROOKE and 25 other Senators an amendment to S. 991 to delete Head Start from among those programs to be transferred to the new Department of Education. The Governmental Affairs Committee in its markup of S. 991 concurred with our views and unanimously voted to delete Head Start from the transferred programs.

Our amendment also proposed to strike from S. 991, as originally introduced, section 8 which would have authorized the President administratively to transfer Head Start, or any other program to the new Department. I am pleased that the Governmental Affairs Committee, in marking up S. 991, concurred with our view and deleted this provision from S. 991. This assures not only that Head Start will not be transferred administratively, but that other programs such as the veterans' educational assistance programs conducted under authority of title

38, United States Code, which at one time had been contemplated for transfer, cannot be administratively transferred.

TRANSFER OF THE REHABILITATION SERVICES ADMINISTRATION

Mr. President, I confess that I do not understand the rationale for—and do not support—the proposed transfer of the Rehabilitation Services Administration to the new Department of Education. As a result of such a transfer, the conduct of services by RSA may well be isolated from the conduct of such key interrelated programs as developmental disabilities, titles II and XVI of the Social Security Act, section 504 enforcement, and others—all programs which affect greatly handicapped individuals.

Mr. President, I shall be viewing carefully the future coordination between RSA and appropriate related programs remaining in the Department of Health, Education, and Welfare. I believe that such coordination is extremely important if we are to assure that the limited resources available are spent in the wisest possible manner.

INDIAN EDUCATION

For many Senators, the proposed transfer of Indian education programs from the Bureau of Indian Affairs raised especially difficult and agonizing questions. Viewed solely on its merits, the transfer held considerable promise. But our Indian people have been cheated by "promise" so many times that the significant tribal opposition to this move was compelling, and to me, deeply persuasive. Senator after Senator took the floor during this eloquent debate to deplore the miserable state of our Indian schools as currently mismanaged by the Bureau of Indian Affairs. But many of the same Senators, after consulting with their Indian constituencies, simply could not bring themselves to vote against the expressed wishes of the many tribes and individuals they represent. In time, with a department of education showing as much competence as I believe it can, the views of the Indian community may change. But until that happens, in terms of their own federally supported education programs, I vote with the Indians of my State.

Mr. President, S. 991 is a good bill, a necessary bill, a forward looking bill of which the Senate can be proud. I look forward to Department of Education legislation reaching the President for signature, and the movement of this measure to realization.

WHY THE PUBLIC WORKS BILL IS "COMPLETELY UNACCEPTABLE"

Mr. PROXMIRE. Mr. President, last Wednesday the Senate passed the Public Works Appropriations Conference Report by a vote of 86 to 9. Unfortunately, that vote also must have aggravated the concerns of millions of Americans who rightly fear that runaway Federal spending commitments will continue to fuel the fires of inflation. I know that the best way to fight fire is with water. But I hope that the supporters of this bill are not so naive as to hope that water projects will do the job.

Many of my colleagues in the Senate and House may still wonder why the President called this bill "completely unacceptable" in his press conference last Thursday. After all, the bill is $879 million under the budget and more than a quarter million dollars under the appropriation for fiscal year 1978. It says so right there in the conference report on page 68.

Actually, Mr. President, I think that by now most of us know full well that this conference report is not under the budget in any realistic sense of the word. In my speech opposing final passage last week I very carefully outlined the bookkeeping tricks that were used to make it look as though we were actually saving the taxpayers money in this bill. The fact is, this conference report will cost the taxpayers $1.8 billion more than the administration's budget request in terms of long-range spending commitments.

President Carter is not only concerned about the quantitative totals in this bill. He has pointed out that the bill is also seriously deficient in the quality of the spending commitments mandated in this legislation.

Mr. President, on Sunday the Washington Star ran an article by Roberta Hornig explaining why the President is adamantly opposed to several of the water projects funded for fiscal year 1979 in the Public Works Conference Report.

I should like to refer very briefly to one short paragraph, because it indicates the unfortunate attitude that has developed in Congress.

Miss Hornig quotes a House Member as saying the following:

> I wish this weren't happening. He (Carter) may be right on the merits and he probably is. But politically, I wish he weren't so damn pure.

I ask unanimous consent that the Star article be printed in full at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY CARTER IS ADAMANT ON SOME WATER PROJECTS

(By Roberta Hornig)

With the 95th Congress in its waning days, President Carter and Democratic lawmakers are moving toward another bitter confrontation on the same issue that got them off to such a bad start a year and a half ago: so-called "pork barrel" water projects.

Carter has all but announced he will veto a $10.1 billion energy and public works appropriations bill when it reaches the White House early this week, mostly because it contains 33 water projects he dislikes.

Angered, but anticipating the rejection, House and Senate leaders are gearing up for a battle to save the bread and butter projects so dear to congressional hearts, particularly in election years.

Majority Leader Jim Wright of Texas and Rep. Tom Bevill, D-Ala., chairman of the public works appropriations subcommittee—actively abetted by Speaker Thomas P. O'Neill Jr.—are leading the effort in the House, which would vote first on overriding the expected veto. The vote probably will come late this week.

Senate Majority Leader Robert C. Byrd, criticizing Carter for describing the public works bill as "pork barrel" legislation, vowed yesterday to work to override. Emotionally defending the water projects, he cited dangers from floods in his home state and the water needs of many areas of the west.

Said an exasperated key House Democrat: "I wish this weren't happening. He (Carter) may be right on the merits and he probably is. But politically, I wish he weren't so damn pure."

Carter's disdain for the legislation, which passed both the House and the Senate overwhelmingly, centers on the "public works" portion of the bill, involving $1.8 billion. He has no trouble with the "energy" section, which would cost over $6 billion.

The argument Carter is using is inflation, a charge that the water projects bill is "fiscally irresponsible." In literature circulated among congressmen, the Carter-White House lobby effort says that "this is no time for Congress to send the president a 'wish-list' which will cost taxpayers $1.8 billion more than the president's program and to expect anything but a veto."

Twenty-seven of the projects, mostly in the Western and Southern states, are "new starts" and that is what Carter has against them. While Congress says they are necessary to develop ports and harbors, water supplies for irrigation and flood control, Carter charges that the projects have not been fully planned, or are excessively expensive, not economically sound and would cause unnecessary environmental damage.

But congressmen say most of the White House opposition is focused on six projects—three of them slated for construction and three for study—that were on a Carter "hit list" both last year and again early this summer.

The construction projects are:

Bayou Bodcau, La. In a fact sheet circulating on Capitol Hill, the White House says only 60 families would benefit from the water projects at a federal investment of $240,000 each.

Congressional backers counter that work has already begun and if it is not completed, the project itself could lead to flood damage.

The Narrows Unit, Colo. The White House says the dam would dislocate 642 people, adversely affect whooping crane habitat, destroy over 40 historical and archeological sites as well as 15,000 acres of agricultural and wildlife lands and 15 miles of free-flowing river.

Proponents say the dam is needed for supplemental water supplies in the thirsty West.

Yatesville Lake, Ky. According to the White House, the dam would mainly benefit unneeded recreation facilities and would require relocation of 93 cemeteries, 213 dwellings, six churches and four commercial buildings and cause problems for operating oil wells.

The supporters' answer is that the flood control benefits are needed as is recreation in an economically depressed area.

The three projects to be studied are:

Lukfata Lake, Okla. The White House charges that most of the water supply benefits would go to one catfish farm and several potential catfish farms in return for inundating "1,680 acres of wildlife habitat and bottomland hardwood forest considered of unusually high natural value."

Fruitland Mesa, Colo. The White House says the project area is farmed by only 69 landowners, which would mean an investment of about $1.2 million each.

Savery-Pot Hook, Colorado-Wyoming. The White House says the project would benefit only 106 existing farms, at an average investment by the federal government of almost $700,000 each.

The White House insists the study money is intended "just to keep them (the projects) alive." No further study is needed to determine they are unjustified investments, the administration argues.

Carter has other problems with the public works bill.

He says congressional funding procedures "disguise true cost" by not including total cost, but only what amounts to a "down payment."

Also, the bill would add 2,300 new federal employees and cut out any funding for the Water Resources Council, which oversees federal water policy.

Even if the president wins the veto override vote battle, he will not win, according to Capitol Hill critics.

O'Neill, Wright and Bevill warned last week that a veto would probably cost him votes in the House on the Senate-passed natural gas pricing bill, the heart of his energy program. O'Neill predicted a "disaster," and Wright called it "utterly foolhardy to jeopardize his most important energy bill."

O'Neill, Wright, Byrd and Senate Whip Alan Cranston all have personally pleaded with Carter not to veto the measure and force his party leaders on the Hill to go against their president.

The battle over water projects initiated by Carter in the early days of his administration led to a standoff and took months to overcome.

"It's too bad this has to come up again," a Democrat remarked yesterday.

Mr. PROXMIRE. Mr. President, the Washington Post also expressed its opposition to several "pork barrel" bills now rolling about the Halls of Congress in the closing days of the session. In an editorial this morning, the Post called on President Carter to veto the public works bill and other wasteful bills that fatten the coffers of local beneficiaries at public expense. Mr. President, I second the Post's call for the President to veto these bills, and ask unanimous consent that the October 2 editorial, "Pork Barrel Polka," be reprinted in the CONGRESSIONAL RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PORK-BARREL POLKA

It seems strange that, in this year of Proposition 13 and all the talk about a taxpayers' revolt, a president should find it necessary to denounce, once again, "pork-barrel allocation." But Mr. Carter was absolutely right to do so at his press conference Thursday. The pork barrel is rolling wildly around on the Hill this fall and Congress is dancing with joy as more and more goodies are stuffed into it.

Those goodies—pet projects of members of Congress who want something for their friends or the folks back home—are not confined to the public-works bill, which the president has threatened to veto. They can be found elsewhere, too—in the highway bill, the parks bill and the tax bill, to mention just a few. Not every project or proposal in those bills can be described as pork. But enough of them can be to make all the bills highly suspect.

The public works authorization bill, for example, directs the Corps of Engineers to build free water systems for Caesar Creek and East Fork Lake, Ohio. The highway bill mandates a rural public-transportation system for the vicinity of Sherman and Dension, Tex. The parks bill creates or expands federal facilities in more than 35 states, including new historic sites in Charles County Md., and Richmond, Va. The tax bill includes an exception to benefit two large chicken farms, one in Maine and one in Arkansas. The list goes on and on.

Both parties have a piece of the action. Republicans have been just as busy, and just as successful, as Democrats in putting projects into the barrel. Those water systems, for example, go to cities in the district of the senior Republican member of the House Public Work Committee, Rep. William E. Harsha. And that new historic site in Charles County—the home of Thomas Stone—is the pet project of the great Republican watchdog of the House, Rep. Robert E. Bauman.

If Congress goes through with what now appears to be its intention of approving this welter of projects, President Carter should not have the slightest qualms about using his veto power extensively, even though Senate Majority Leader Robert C. Byrd (D-W. Va.) has said he would try to override a veto of the public-works bill. Mr. Carter will need to explain his actions with some care—considerably more than he exercised in explaining the nuclear-carrier veto—because each of these hundreds of projects has its own core of supporters. But the mood of the country is likely to be with him and not with those in Congress who are filling the barrel as if there were no tomorrow.

Mr. PROXMIRE. Mr. President, I think these are things that all of us should consider if and when the President does veto the measure. I hope he does and hope in that event, the House and Senate, if necessary, will support his veto.

STEVENSON AMENDMENT SELLS TAXPAYERS DOWN THE MISSISSIPPI RIVER

Mr. PROXMIRE. Mr. President, earlier today the distinguished floor manager of the Export-Import Bank bill, Senator STEVENSON, reassured the Senate that he had consulted with "appropriate" Members of the Senate before calling up his amendment on Saturday authorizing replacement of locks and dam 26 on the Mississippi River.

I can only wonder what definition my distinguished colleague means to convey by his use of the term "appropriate."

Mr. President, a number of us who are very deeply concerned about locks and dam 26 were not consulted when action was taken.

I want to go on record making it clear that the Senator from Illinois did not consult with me on this amendment prior to its passage by unanimous consent in the presence of a mere handful of Senators. Neither, to my knowledge, did he consult with my colleague (Mr. NELSON), who has opposed any effort to rebuild locks and dam 26 without making provision for user charges for those who benefit from our Nation's inland waterway system, and led the fight for environmental protective provisions in locks and dam 26 legislation.

Mr. President, it seems that in the fall of every even-numbered year the U.S. Senate gets into a giddy rush toward adjournment, ignoring the best interests of the American taxpayers by tacking irresponsible tax favors or pork-barrel projects onto otherwise respectable bills.

A particularly flagrant example of this "Christmas Tree" mentality is the amendment of the Export-Import Bank authorization bill with a provision to authorize a new locks and dam 26 on the Mississippi River. On two different occasions in the past year and a half the Senate has made clear its own preference that there be no new locks and dam 26 without the simultaneous imposition of some sort of user charge. This position has been strongly supported by the administration—so strongly, in fact, that President Carter has said that he will veto any authorization for locks and dam 26 that does not provide for substantial user charges as well.

Yet the amendment that was added to the Export-Import Bank bill has no provision for user charges. It provided only for still another study of the subject.

There are two major issues here, Mr. President. First, on the merits of locks and dam 26: Should the Senate repeal its earlier actions and authorize this new half-billion dollar project without user charges? Clearly the answer should be "no." More than 3 years ago I awarded the Army Corps of Engineers my Golden Fleece Award for this project, and I have seen nothing since then to convince me to change my mind. Replacement of the existing facility will cost the taxpayers more than half a billion dollars, even though a number of studies have shown that the project could be rehabilitated at a fraction of that cost. Nevertheless, a number of us who opposed reconstruction of this facility agreed to a compromise under which we would support reconstruction, so long as the charges to the general taxpayer were offset by the imposition of substantial user charges geared to recover a percentage of future costs of capital construction on shallow draft waterways. At a bare minimum, any authorization of locks and dam 26 should provide for such user charges. The Stevenson amendment does not.

Clearly, this legislation will be filibustered by Senators who quite rightly resent the way in which their interests have been violated. Unless some compromise can be reached, we can look forward to long debate on this issue and the near certainty of a Presidential veto if the bill passes with this amendment, as agreed to on Saturday, intact.

Mr. President, I hope that those who support reconstruction of locks and dam 26 will realize that this is not the way to accomplish their goal.

WORKER HEALTH IN JEOPARDY

Mr. PROXMIRE. Mr. President, from time to time, this body is called upon to weaken our occupational safety and health regulations by voting for exemptions or by various enforcement weakening moves.

The arguments are reinforced by the complaints all of us have received in our home States from businessmen who understandably resent the cost, the time-consuming regulations and the difficulties of operating in fear and doubt of about fines and public embarrassment.

Mr. President, safeguarding the health of American workers should be a central national purpose. If there were any doubt about it or if there is any doubt at a future time when the Senate is asked to weaken the regulations that protect our workers, consider a recent column carried in the September 30 AFL-CIO News, "Washington Window." A column in that paper puts together the findings of the National Cancer Institute, the Na-

tional Institute of Environmental Health Sciences, and the National Institute for Occupational Health and Safety. It points to the devastating effect on workers in certain industries and how greatly the incidence of cancer exceeds that of the general population.

Mr. President, here are some of the appalling statistics:

A shoe worker is eight times more likely than the average American to develop cancer of the nasal cavity and sinuses and twice as likely to get leukemia.

A tire builder is twice as likely to get cancer of the brain or bladder.

A metal miner is three times as likely to develop lung cancer.

Printing pressmen on newspapers are more than twice as likely to get cancer of the mouth and pharynx.

Textile workers are nearly twice as likely to also develop cancer of the mouth and pharnyx.

Coal miners get stomach cancer at a rate 40 percent more than normal.

Furniture workers have an incidence of nasal cavity and sinus cancer 300 to 400 percent higher than normal.

Coke byproduct workers have a 181-percent excess incidence of cancer of the large intestine and a 312-percent excess incidence of cancer of the pancreas.

In short, a worker's occupation will determine his or her odds of contracting cancer and also the kind of cancer.

The data on estimates of cancer by occupation were prepared by the National Cancer Institute, the National Institute of Environmental Health Sciences, and the National Institute for Occupational Safety and Health.

The study became available a week after Health, Education, and Welfare Secretary Joseph Califano told the AFL–CIO's national conference on job health and safety that Government scientists estimated that 21 to 38 percent of all cancers are work-related. This buried the conventional wisdom propagated so long by industry that only 1 to 5 percent of cancers were job-related and, therefore, workers should just go ahead and whistle while they work.

Mr. President, all of us should dwell on these statistics the next time we are tempted to vote to weaken enforcement of our occupational health standards.

I ask unanimous consent that the column be printed in the RECORD at this point.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

WASHINGTON WINDOW

Cancer haunts the industrial workplace and dooms some workers more than others. That grim fact was revealed in a new study by government scientists reporting that:

A shoe worker is eight times more likely than the average American to develop cancer of the nasal cavity and sinuses and twice as likely to get leukemia.

A tire builder is twice as likely to get cancer of the brain or bladder.

A metal miner is three times as likely to develop lung cancer.

Printing pressmen on newspapers are more than twice as likely to get cancer of the mouth and pharynx.

Textile workers are nearly twice as likely to also develop cancer of the mouth and pharynx.

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In short, a worker's occupation will determine his or her new odds of contracting cancer and also the kind of cancer.

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The study became available a week after Health, Education & Welfare Sec. Joseph Califano told the AFL–CIO's national conference on job health and safety that government scientists estimated that 21 to 38 percent of all cancers are work-related. This buried the conventional wisdom propagated so long by industry that only 1 to 5 percent of cancers were job-related and, therefore, workers should just go ahead and whistle while they work.

While scientists can pinpoint the excess incidence of cancer in certain occupational groups, they cannot always identify the specific cause.

The scientists say the excess incidence of cancer in these occupational groups is in addition to the risks involving exposure to known cancer agents.

These known agents include asbestos, arsenic, benzene, chromium, nickel, and petroleum products. There are an estimated 13,900 excess cancer deaths per year associated with exposure to asbestos. Exposure to other substances cause an additional 33,000 excess cancer deaths.

Some 1.5 million workers are exposed to arsenic and they run a threefold to eightfold risk of respiratory tract cancer.

Some 2 million workers are potentially exposed to benzene, with a fivefold risk of excess cancer deaths from leukemia.

Some 1.4 million workers exposed to nickel run a fivefold to tenfold risk of cancer of the respiratory tract.

Some 1.5 million workers exposed to chromium compounds run a ninefold excess risk of respiratory cancer. The 3.9 million workers exposed to petroleum products run a twofold to 33-fold excess risk based on studies of coke oven and gas workers.

Because cancer usually takes several decades to develop, and new substances are continually introduced, it is to be expected that the incidence of work-related cancer deaths will rise in the years ahead. Indeed, scientists say, job-related cancers now comprise a substantial and increasing fraction of cancer incidence.

At the same time, regulations issued by the Occupational Safety & Health Administration are limiting, though not eliminating, exposure to such substances as benzene and asbestos. But the payoff is in the future.

AN ENDANGERED SPECIES WITHOUT THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, Saturday was the expiration date for the Endangered Species Act. The Senate has passed a 3-year extension and now we await House action.

A great amount of controversy surrounds the act which protects over 700 species. It is not my purpose to discuss the extension but rather to present the parallel human example that the Senate has overlooked.

What am I speaking of? The Genocide Convention.

Just as steps have necessarily been taken to protect vanishing flora and fauna, so must we also protect men and women. What could be simpler? What could possibly make more sense?

Would not the German Jews have been a prime candidate for such a list in the Nazi era of annihilation? Talk about an endangered species; they certainly were it.

Would not the Ukrainian peasants, the 5 million who perished under the leadership of Joseph Stalin during the early thirties, qualified for such a list?

And what of 1978—do not the horrors of Cambodia pose that constant threat we have historically experienced?

Mr. President, if we concede the need for protections for lower forms of life, how can we ever reconcile our lack of protection for human rights?

We cannot overlook the basic right to live which is protected by the Genocide Convention.

When we ratify the Genocide Convention we will not only be the 83d state to do so, but another nation recognizing a universal need.

Mr. President, the choice is obvious.

Are we not willing to protect the most fundamental of all rights?

Mr. President, we must be. We can never overlook the human species of which we are all members.

Mr. President, we must ratify the Genocide Convention to insure that we are never placed on an endangered species list.

SUNSET LEGISLATION

Mr. GLENN. Mr. President, the Sunset Bill shortly will be presented to the Senate as an amendment to S. 3077, the Export-Import Bank bill, with an additional amendment regarding procedures for review of tax incentives.

During last Saturday's session, remarks were made on the Senate floor which can only be said to misrepresent both the provisions and intent of this tax incentive amendment. It was asserted that this was "an enormous tax increase for the American people by a back-door approach." Absolutely not true. That charge is made repeatedly in the remarks and shows a disregard of both the language and intent of the amendment.

It was also alleged that we were in a situation "where the appropriate legislative committee has not been offered the opportunity to conduct hearings or study" the proposal. Absolutely not true. Hearing records substantiate that, despite our efforts since March of 1977, the Senate Finance Committee has chosen not to consider this proposal which was referred to it on the first day of this Congress.

With that kind of misrepresentation occurring on the Senate floor which could mislead some Senators, clarification is in order. The amendment does not terminate or modify in any way any tax incentive provision. It merely requires the

tax writing committees to report and the Congress to enact, in the next session a procedure for orderly review and reauthorization of all tax incentives, a procedure to be in place by the end of 1980, with the reauthorization process stretching out over a 10-year period. At the present time there is no such regular review process, and during the last few years the Federal revenue foregone as a result of tax incentives has risen from $52 billion in 1971 to $124 billion this year, and is estimated to be $187 billion by 1983. We must keep watch on this fastest growing part of our Federal deficit, one which receives little or no scrutiny compared to direct Federal expenditures which periodically must go through an authorization and appropriations process.

I want to stress a most important factor. The review is neutral. The tax writing committees, in reviewing tax incentives, may find particular incentives working so well that they should be increased, and I would probably support that.

In other cases, the incentives would not be changed. In still other cases where the incentive provisions are not doing the job for which they were originally intended, and were siphoning off what would otherwise be tax revenue, the committees could and should recommend termination—"sunsetting" of such incentives. In that case, I would hope and expect that as revenue once foregone became available to the Federal Treasury, a reduction in tax rates for individuals and corporations alike would result. Thus, far from prompting a tax increase, the amendment is designed to produce a tax cut for the average American taxpayer.

The review and reauthorization procedure embraced by the amendment is not an unusual one. Significant numbers of recently enacted tax expenditures have been given expiration dates. For example, the "new jobs" tax credit was enacted last year through 1978. The ESOP tax credit was enacted in 1976 through 1980. The exclusion from an employee's income for prepaid fees paid by his employer was enacted in 1976 through 1981. And I could list many more comparable temporary provisions. This proposal would simply extend the practice of imposing time limitations on tax expenditures to a larger number of these provisions.

I would like to address some other concerns previously raised regarding this amendment.

Concern.—Creates too much uncertainty for business.

Answer.—The amendment now provides for the "grandfathering" of existing contractual or business relationships established in reliance on a particular incentive. I, too, am concerned that we not take precipitous action that could in some instances wreck a business that made long-term commitments which were prompted by the tax law. Under this amendment, we would not.

Concern.—Requires the termination of major tax incentives that underlie vital facets of the American economy.

Answer.—Although opponents cite as imminent the termination of the charitable contribution deduction, homeownership tax preference, the tax exemption for interest paid on state and local indebtedness and other tax incentives generally agreed to be desirable, this allegation is simply unfounded. The amendment specifically provides for excluding those tax incentives from sunset that the tax writing committees and Congress determine not be subject to periodic reauthorization requirements. Providing exclusions from such requirements for a limited number of tax incentives would be comparable to the exclusion from reauthorization requirements now provided in the principal sunset bill for a limited number of spending programs. If tax incentives such as those just mentioned are made subject to reauthorization requirements it will only be because the tax writing committees and Congress as a whole determine that those provisions should be required to undergo periodic reauthorization. Nothing in the amendment requires that those specific provisions be reauthorized.

Concern.—Provides for a review period which is too short and will exhaust our tax-writing committees.

Answer.—The original sunset bill had a 5-year review cycle, which would have created a considerable workload. That has now been lengthened to 10 years, and this amendment would be similarly stretched out. Surely the more than 80 major tax erpenditures can be considered and reevaluated over a 10-year period. If not, we are in more serious trouble with running our Federal Government than the sunset bill and this amendment are going to cure.

Concern.—Creates a concept of tax expenditures which treats all sources of income as "Federal property," only some of which we decide to give back to the people.

Answer.—Some columnists somehow put that interpretation on the term "tax expenditures" when it first came into common usage. Yet the amendment does not embrace that interpretation. It has the goal simply of establishing control of Federal tax and budgetary policy, not of developing some new and perverted economic theory.

I hope this statement will clarify some of the deliberate misrepresentations made concerning this amendment and that my colleagues will support this necessary approach to getting control of our Federal budgetary processes.

Mr. President, I ask unanimous consent to have printed in the RECORD a section-by-section analysis on the sunset tax amendment and a summary analysis of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSES ON SUNSET TAX AMENDMENT

Section 261. Definitions—the term "tax expenditure" provision is the definition in the Budget Act but broadened to include rulings, regulations and other IRS tax treatments.

"Federal law" would encompass all methods for the creation of a tax expenditure.

Section 262. The Director of the Congressional Budget Office is required to compile an inventory of tax expenditure provisions in consultation with the Joint Tax Committee. By July 1, 1979 the Director is required to submit a report to the tax writing Committees containing certain information relating to the tax expenditure provisions.

Section 263. The tax writing committees are to review the tax inventory and advise the Director of CBO of any revisions by October 1, 1979. After considering this advice, the Director of CBO is to report a revised tax inventory to both Houses by December 1, 1979.

Section 264. (a) The Director of CBO is to revise the tax inventory after each session of Congress and report to both Houses.

(b) The Director of CBO is to issue periodic reports to both Houses concerning the revenue losses anticipated to result from the passage of tax expenditures contained in legislation reported by the tax writing committees or passed by either House.

Section 265. (a) This is the primary operative provision of the amendment.

During the 96th Congress, the tax writing Committees are to report, and the Congress is to enact, legislation establishing a schedule of reauthorization dates for tax expenditure provisions. The tax expenditures to be included in the schedule are: all those in the tax inventory, all those not in the tax inventory but which are in effect when this bill is enacted, and all those not in the tax inventory which have been established as of the date of enactment of the bill but which will not become effective until some later date.

The tax writing committees and the Congress can specifically exempt those tax expenditures which they feel generally accepted or are not well-suited to the "sunset" process. Further, they are authorized to provide for transition rules so as to ensure that those who have made investment decisions based upon the expectation that a particular tax expenditure will be available will not be adversely affected if it isn't continued at some future time.

The schedule to be enacted is to provide for a cycle of five reauthorization dates beginning with September 30, 1982 and continuing with the next four even-numbered years. This comprises the ten-year cycle which then repeats itself.

(b) Those tax expenditures on the schedule which are not reauthorized or are not otherwise continued in some form through the operation of transition rules cease to be effective on January 1, three months after the reauthorization date. The reason for this is due to the fact that most taxpayers operate on a calendar year basis.

(c) A point of order may be raised against legislation which seeks to extend a tax expenditure on the schedule for an indefinite period of time, for longer than 10 years, or for a period of time that extends beyond the next reauthorization date.

(d) After the scheduled bill is enacted a point of order may be raised against any legislation which propose the enactment of a new tax expenditure provision that does not have a reauthorization date which conforms with the schedule unless it is specifically exempted. Such legislation can provide for transition rules as well.

(e) The reauthorization dates in the schedule are to provide for a review of tax expenditure provisions in the same Congress as the review under the "sunset" bill for programs having similar objectives.

Section 266. Authorizes transition rules, conforming and technical changes and substitute provisions to minimize unfairness, to mitigate any adverse effect or to provide for an orderly end of the effectiveness of a provision.

Section 267. A point of order lies against consideration of any legislation which would shift a reauthorization date out of a reauthorization cycle.

Section 268. (a) A point of order may be raised against any legislation which proposes to reauthorize a tax expenditure provision unless the specified review has been completed.

(b) A point of order may be raised against the consideration of any legislation which proposes to enact a new tax expenditure provision unless the specified information is included in the accompanying report.

SUMMARY ANALYSIS OF SUNSET TAX AMENDMENT

The amendment would extend the "sunset" concept beyond its application to federal spending programs by also requiring periodic review and reauthorization of tax expenditure provisions. The purpose is to subject tax expenditure provisions to the same type of systematic review, as is required of direct expenditure programs under the Senator Muskie's "sunset" amendment. The bulk of the policy decisions involved would be made in the 96th Congress in the establishment of a specific review schedule. The only decision specifically embodied in the amendment is the decision to go ahead with a comprehensive review of tax expenditures.

The amendment provides that the Director of the Congressional Budget Office, in consultation with the Joint Tax Committee, compile an inventory of tax expenditure provisions and submit that list to the tax writing committees. A revised inventory is subsequently to be submitted to both Houses.

During the 96th Congress, the tax writing committees are directed to report, and Congress is to consider, a bill prescribing a schedule for the review and reauthorization of all tax expenditure provisions. However, the tax writing committees and the Congress are authorized to specifically exempt those tax expenditures which they feel are generally acceptable or are not particularly well-suited to the "sunset" process. Further, the amendment authorizes the tax writing committees and the Congress to provide for transition rules so as to ensure that those who have made investment decisions based upon the expectation that a particular tax expenditure will be available will not be adversely affected if it isn't continued at some future time.

The schedule to be enacted is to provide for five review and reauthorization dates comprising the ten-year cycle. The review schedule is to be structured so as to insure that the tax expenditures be subject to review at the same time as direct government expenditures having similar objectives. This will promote the kind of comprehensive examination of direct spending programs and tax expenditure provisions affecting the same policy areas, which is not now taking place.

The tax writing committees are to conduct a review of those tax expenditures scheduled for review in that Congress. If either or both of the committees recommends that a tax expenditure provision be continued, then the report is to include, in the scope and detail at the discretion of the committees, an analysis of the objectives of the provision, the effectiveness in meeting those objectives and the extent to which other tax expenditures or programs are duplicative.

If the tax writing committees fail to file this report or the committees and the Congress determine that a tax expenditure provision not continue beyond its reauthorization date, then the provision will cease to apply and the transition rule, if one has been provided, will go into effect. These procedures are equally applicable to newly enacted tax expenditures as with those in effect when the review schedule is enacted.

Mr. LONG. Mr. President, this matter by the Senator from Ohio (Mr. GLENN) is one that, at a minimum, should be considered by the appropriate committees. It ought to be the subject of hearings by the appropriate committee which, in this case, would be the Committee on Finance. All the arguments, pro and con, ought to be fully considered before the Senate seeks to act on any such proposal.

What the Senator is proposing is no minor proposal, Mr. President. This is an effort to implement a whole new concept in taxation that is completely at odds with the way American people understand their tax system to work.

This concept is that a taxpayer owes a certain amount of taxes to the Government whether the law says so or not.

It proceeds on the theory that a failure to tax by this Government costs the Government money, just as though the Government had a completely ill-considered spending program that was wasting the taxpayers' money without getting anything at all for it.

This concept, Mr. President, tends to regard the hard-earned money of an American citizen as though it belongs to the Federal Government even though the law does not say so.

We have available to us, for example, a pamphlet prepared by the Budget Committee, with the assistance, I assume, of the Congressional Budget Office, undertaking to list item by item what it regards as tax expenditures.

I notice that on each one of them, whether it be the deduction for charitable contribution, the exclusion of contributions to prepaid legal services, the deduction for interest on a home mortgage, the deduction for property taxes, contributions to pension plans, and so forth, all start out with an estimated revenue loss.

In other words, those who propose this concept start out by assuming that wherever the Government fails to tax a citizen, the Government is losing this revenue.

For example, I point out the provision in the booklet involving State and local bonds.

That is a source of income that never has been taxed by Congress, beginning with the original income tax law back in 1913. Congress, at that time, took the prevailing view that the Federal Government had no power and no right to tax the income and the resources of the State and local governments, on the theory that the power to tax is the power to destroy, the power to take away what little sovereignty remains in State and local governments.

I call your attention to page 181 of this booklet, under the title "Exclusion of Interest on General Purpose State and Local Debt." Estimated revenue loss, $6.695 billion. In other words, there is a source of revenue for the State governments that the Federal Government never has sought to tax in the history of the Nation. People have proposed to tax it, but it never has been taxed, the Budget Committee proceeds on the theory that there is a revenue loss to the Government because the Federal Government has not undertaken to take away what little sovereignty is left to State and local governments.

Under our constitution, the Federal Government was never intended to have this right to destroy what little sovereignty State and local governments still have.

The Budget Committee assumes that the Government has been denied this revenue, $6.695 billion a year, because the States have somehow wrongfully escaped taxation on their State and local bonds.

Look at page 69 of the same publication, under the heading "Deductibility of Mortgage Interest and Property Taxes on Owner-Occupied Homes." That is the interest payment on a person's home. The estimated revenue loss for fiscal year 1980, is $11.890 billion. Again, we see the theory reflected that the Federal Government had been cheated out of $11 billion a year because the Government failed to tax the interest on a person's home.

What would be the purpose of this proposal? Obviously, the purpose is to make it easier to increase the tax on that homeowner, to provide an additional method by which the Government could tax those State and local bonds, and, generally, to make it easier to raise the taxes on all taxpayer's of this country.

It would increase the taxes of the pension funds used for the retirement of workers. It would increase taxes for elderly people receiving social security income. It would set the stage for an increase in taxes for small business at the same time the Finance Committee is recommending that the lowest rates be reduced to 17 percent.

If this procedure proposed by the Senator from Ohio would be implemented, those small business companies would be taxed at 48 percent or 46 percent, rather than at 17 percent.

The law provides how Congress can put more taxes on citizens. All it takes is a majority vote in the two Houses and the President signing it. But this proposal would seek to change that procedure radically.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 additional minutes.

Mr. LONG. Mr. President, are we under a limitation tonight?

Mr. GLENN. Five minutes.

Mr. LONG. Mr. President, if I am to be limited in time this evening, then I think that for this evening I could content myself with merely placing in the RECORD a letter signed by me and a number of my colleagues, as well as a brief summary indicating our concern about this matter. I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., October 2, 1978.

DEAR COLLEAGUE: The Senate will be considering the Glenn sunset amendment on "tax expenditures." The purpose of the amendment is to cause Internal Revenue

Code provisions that result in "tax expenditures" to expire unless they are extended by subsequent legislation. This is intended to bring about very large increases in taxes.

Tax expenditures are defined to include virtually every matter covered in the Internal Revenue Code. Such items as the deduction for State and local taxes paid, the additional personal exemption for the aged and blind, the exclusion of social security benefits, the exclusion of interest on State and local Government bonds, the lower tax rates on capital gains and dozens of others are all included in the tax expenditure tables. The items shown on the tax expenditure tables are part and parcel of our system of taxation, and in many cases have been part of that system since the present Federal income tax law was first enacted more than 60 years ago.

Those who formulated the concept of tax expenditures seem to base it on the theory that all income belongs to the Government to the extent that the Government allows the taxpayer to keep some of it.

These provisions of the tax law were enacted as part of the normal legislative process. The tax expenditure sunset amendment would instead result in a minority of either House (if supported by the President) or a majority of one House acting alone being able to impose more than $100 billion in new taxes on the American people. The fundamental change in the way our tax law is made is dangerous.

We are enclosing a fact sheet on the amendment as well as a list of some of the major items considered to be tax expenditures. At a minimum the amendment is a commitment to heavy tax increases on those affected, and it means a great increase in the uncertainty that plagues every businessman when he considers making investments. We hope you will agree that the tax expenditure sunset amendment should be defeated.

Sincerely,

Russell B. Long, Herman E. Talmadge, Carl T. Curtis, Clifford P. Hansen, Pat Moynihan, Mike Gravel, Lloyd Bentsen, Harry F. Byrd, Jr., Abe Ribicoff, Bill Roth, and Paul Laxalt.

"SUNSET" AMENDMENT ON "TAX EXPENDITURES"

What the amendment does:

It requires the repeal of all "tax expenditure" provisions between 1982 and 1990 and every 10 years thereafter (according to a schedule to be enacted later).

What is a "tax expenditure"?

"Tax expenditure" is defined as "any provision of Federal law which allows a special exclusion, exemption, or deduction in determining liability for any tax or which provides a special credit against any tax, a preferential rate of tax or a deferral of tax liability." This appears to mean any provision of law which tends to reduce or limit an individual's taxes. (However, it is subject to a variety of possible interpretations. For example, the provision limiting the maximum rate of tax on earned income is generally listed as a "tax expenditure", while the total exemption of low income people from taxation is not so listed. The lower rate paid by corporations on their first dollars of income is considered a tax exxpenditure, while the lower rate by individuals is not.)

What is the practical effect of the amendment?

The amendment does nothing to reduce taxes but makes it much easier to increase taxes. Under present law, an Act of Congress signed by the President is needed to increase taxes. Under the amendment, taxes go up automatically unless a law is enacted to prevent the increase. Thus the amendment effectively delegates the power to impose a new tax to either House of Congress or to the President in the exercise of his veto power.

Who would face potential tax increases under the amendment?

For corporations, "tax expenditure" items if added would total $34 billion; for individuals $102 billion. Among those who would be affected are:

Homeowners: ($11 billion—deductibility of property tax and mortgage interest; deferral of gain on home sale.

Employees generally: ($22 billion)—nontaxability of employer contributions to private pension plans, health benefit programs, group insurance, and other employee benefits.

Taxpayers generally: In addition to the deductibility of property taxes, present law allows a deduction for State and local income and other taxes. Termination of this "tax expenditure" would raise Federal taxes by $9 billion.

Veterans, people getting Social Security, the aged: The non-taxability of social security is called a $7 billion "tax expenditure." The elderly credit is worth $0.3 billion, and veterans would pay an additional $1 billion in taxes if their "tax expenditures" (mostly non-taxability of disability compensation) were terminated.

State and local Governments/charitable organizations: The non-taxability of interest on State and local Governments and the deductibility of charitable contributions both serve to encourage taxpayers to use funds in these ways. If these "tax expenditures" were terminated, the Federal Government could increase its revenue by $16 billion at the expense of State and local Governments.

Small business: The maximum corporate tax rate, currently 48 percent, does not apply to the first $50,000 of corporate taxable income (the rates are now 20 percent for the first $25,000 and 22 percent for the next $25,000). If corporations had to pay a 48 percent tax rate on all earnings, their taxes would be $3.5 billion higher.

Items subject to automatic termination under "tax expenditure" proposal

[In billions]

"Tax Expenditure" Item:	*Amount of tax—1979*
Employee benefits:	
Contributions to pensions, health ins., etc. deductible	$21.5
Employee stock ownership (ESOP)	.3
Social security benefits nontaxable	6.6
Sick pay, workmen's compensation, etc. nontaxable	1.1
Unemployment benefits nontaxable	1.1
Armed Forces benefits/allowances nontaxable	1.5
Other	.3
Investment tax credit	15.0
Deductibility of State/local taxes:	
General taxes	9.4
Property tax on homes	5.2
Gasoline tax	.8
Capital gains:	
General	9.3
Gain on sale of home	1.0
Gains at death	9.0
Charitable contributions	7.3
Interest on State/local bonds:	
General	6.4
Industrial development	.4
Interest exclusions:	
On home mortgage	5.5
On consumer credit	2.4
Corporate surtax exemption	3.5
Asset depreciation range	2.8
Medical expense deduction	2.7
Interest on life insurance nontaxable	2.2
Jobs tax credits	1.9
Percentage depletion (oil, gas, minerals)	1.6
Research and development cost expensing	1.5
Exemptions/credits for aged and blind	1.5
DISC (domestic international sales corporations)	$1.3
Energy exploration/development	1.3
Earned income tax credit	1.2
Veterans:	
Disability compensation nontaxable	.8
Other benefits	.2
Maximum tax on earnings	.8
Other	8.8
Sum of individual items [1]	136.2

[1] Because of interaction among various "tax expenditure" items and the graduated nature of the tax system, it is not, strictly speaking, possible to arrive at a "total" by adding the individual items.

Source: Based on "Estimates of Federal Tax Expenditures" (Joint Committee on Taxation), March 14, 1978.

Mr. LONG. Mr. President, it seems to me the idea of saying that any failure of the Government to tax is a subsidy to that person is a concept that this Nation is not ready to buy. It certainly should be explored carefully.

This type of sweeping change in the approach to taxation, to make it easier to impose taxes on citizens, should not be a part of any sunset bill. The sunset bill proceeds on the theory that the taxpayer is going to receive a tax cut because we are going to reduce wasteful spending in Government; and then we are told, "Oh, no; sunset bill really ends up being an expedited method by which more taxes will be heaped on him."

One can contend that the purpose of imposing more taxes on taxpayers is that eventually that might lead to a tax cut. Most taxpayers would respond to that by saying that more taxes generally lead to more spending; and if it is all the same to them, they would prefer that the money be left in their pockets.

Therefore, Mr. President, I urge my colleagues to think carefully about this matter. At a minimum, I would urge that they insist that this matter be considered carefully by the appropriate committee—and it has not. We should study the matter thoroughly, and it will take a future Congress to do that.

When people have had a chance to understand the real meaning of the proposal and realize that Congress is serious about enacting something of this sort, and they have expressed their concern about the matter, I doubt very much that the Senate will be willing to vote for it.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. GLENN. Is it not true that this proposal has been before the Senate Finance Committee since the beginning of this Congress?

Mr. LONG. We have talked about various proposals similar to this one. If the Senator wants to be heard before the committee, he can be heard. I cannot recall him coming before the committee in regard to that.

Mr. GLENN. The Senator, in March of last year, gave testimony before the Governmental Affairs Committee, in which I asked him to consider this, and it was submitted to the Finance Committee; and the Finance Committee has refused

to consider this for nearly 2 years now. So when the Senator says this has not been available and has not been presented, that is a deliberate misrepresentation of the facts.

Mr. LONG. Mr. President, we have not refused to consider it. We have been busy doing many other things this year, such as reporting out a big tax-cut bill that we hope to act on sometime soon.

The proposal the Senator had, I believe, is somewhat different from some of the earlier versions of his same suggestion.

I would be willing to conduct hearings on this matter in the next Congress. I do not believe we could do justice to it in this Congress. It seems to me that it certainly should not be acted upon in the absence of very careful consideration. We on the Senate Finance Committee usually proceed on the theory that revenue bills must originate in the House of Representatives.

Mr. GLENN. Mr. President, will the Senator yield further?

Mr. LONG. I yield.

Mr. GLENN. How is this a revenue bill? This sets up a procedure for the Senate Finance Committee to decide what should be reconsidered and what should not be reconsidered. It does not deal directly with changes in taxes in any way, shape, or form. It only asks that these things be reviewed on a periodic, regular basis, so that they are not runaway.

Mr. LONG. If the purpose of this is not to raise more revenue by repealing these so-called tax expenditures, which means increasing taxes on the persons involved, what else could it mean?

It is not satisfactory to say that there is no intention to repeal all tax expenditures and that the amendment only would require periodic review to update and revalidate most provisions. Nothing is so certain in the legislative process to allow the Senator to assure anybody that only his best intentions would prevail.

Mr. GLENN. All this does is to provide for a procedure whereby these are reviewed. Some of them might be increased. The one on home interest mortgage payment deductions, for instance—I might well vote with the Senator to increase that.

The bill is neutral. We should reconsider these tax incentives because they have been growing at an enormous rate in recent years, and we allow the Finance Committee complete latitude in how the schedule to reconsider them will be set up. We do not try to limit what you would do in this. This is no effort to increase the taxes of the people of this country. It is to apply to situations where there are unfair tax incentives and they are siphoning off revenue, to have them reconsidered and to recoup some of that revenue which will reduce the taxes of people in this country. This is not an effort to do away with their interest payment deductions.

The PRESIDING OFFICER (HARRY F. BYRD, JR.). The time yielded to the Senator from Louisiana has expired.

Mr. LONG. Mr. President, I ask unanimous consent for 1 additional minute.

Mr. PACKWOOD. Mr. President, I did not hear the request.

Mr. LONG. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, as long as it is 1 additional minute, I will not object. But I will object to any time beyond that.

The PRESIDING OFFICER. Without objection, the Senator from Louisiana may proceed for 1 additional minute.

Mr. LONG. Mr. President, one word out of the Senator's statement points out what I had in mind. The Senator refers to provisions of the law as "unfair." "These unfair provisions in the law."

I assume he wants to repeal all of those provisions. It is all right with me if he can repeal them, provided he can get 51 votes in the Senate and a majority of the votes in the House of Representatives.

But to set up a procedure whereby Senators make a list of tax provisions and then say, "We did not vote to tax you, my friend; we just voted to put your name on the list." Then a few years down the road, perhaps only 1 year down the road, that fellow may be required to pay a big tax increase. That is not how taxes should be imposed.

It would seem to this Senator that the more appropriate way to increase taxes would be to offer an amendment to a Senate bill, or wait until the House of Representatives sends us a bill, and then proceed to move to amend it.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

UNANIMOUS-CONSENT AGREEMENT—MODIFICATION

Mr. ROBERT C. BYRD. Mr. President, on Saturday I asked and obtained unanimous consent that throughout the remainder of this session, the clerk list at the end of each day's session the number and title of House messages that remain at the desk in the RECORD. I ask unanimous consent that that order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GOLDWATER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. GOLDWATER be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the order for the recognition of Mr. GOLDWATER has been completed, the Senate proceed to the consideration of House Joint Resolution 638, which is the ERA extension resolution.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, will the distinguished majority leader put in an order for 15 minutes for me?

SPECIAL ORDER

Mr. ROBERT C. BYRD. Absolutely. Mr. President, I ask unanimous consent that on tomorrow, after Mr. GOLDWATER is recognized, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes, after which the Senate will proceed to the consideraion of House Joint Resolution 638.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii (Mr. MATSUNAGA). The Senator may proceed.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MATSUNAGA. Mr. President, under the previous order of the Senate, I do now move that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and at 7:33 p.m., the Senate recessed until Tuesday, October 3, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 1978:

DEPARTMENT OF STATE

Herbert S. Okun, of Maryland, a Foreign Service officer of class 1, for the rank of Minister during the tenure of his assignment as the State Department SALT Representative at Geneva, Switzerland.

IN THE COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of captain:

Raymond E. Womack
Albert D. Grantham
Ralph W. Bartels
Jackson C. Arney
William E. Whaley, Jr.
Charles R. Corbett
Leonard W. Garrett
Kenneth F. Franke
Ernest Bizzozero
John C. Ikens
James O. Sullivan
Ronald D. Rosie
Robert T. Nelson
Robert F. Bennett
Gerald K. Mohlenbrok
Jon C. Uithol
Stevens H. Smith
Ernest B. Acklin, Jr.
Walter W. McDougall
Marshall E. Gilbert
Christopher M. Holland
Edward V. Grace
Melvin L. Sites
Neil F. Kendall
Robert J. Watterson
Robert F. Dugan
James Watt
Peter J. Cronk
John B. Ekman
Eugene E. O'Donnell
James G. Glasgow
Cecil S. Berry
Robert E. Warakomsky

David A. Naus
Kenneth M. Roughgarden
Larry E. Telfer
Robert C. Williams
Douglas G. Currier
Terry R. Grant
Richard A. Sutherland
Frederick F. Burgess, Jr.
John C. Spence
Robert F. Ingraham
Wilhelm A. Wulff
Robert W. Miller
Emlyn L. Jones, Jr.
Frank R. Grundman
James D. Webb
Ralph Winn
Benjamin E. Joyce
Robert E. Whitley
Lawrence R. Montali
Jarold C. Carlton
Paul E. Pakos
James H. Costich
Robert S. Palmer, Jr.
Alfred F. Parker
Carlton F. Meredith
Donald A. Feldman
John N. Faigle

The following reserve officers of the U.S. Coast Guard for promotion to the grade of captain:

James Costello
Donald G. Kneip

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be first lieutenant

Akom, Kenneth S., [redacted].
Alexander, Bing C., [redacted].
Alexander, Don P., [redacted].
Alexander, Jimmy H., [redacted].
Alexander , Thomas M., [redacted].
Almer, Dennis A., [redacted].
Arps, William T., [redacted].
Atkinson, Frank B., [redacted].
Ayres, Patrick A., [redacted].
Ballard, Russell A., [redacted].
Balven, Carolyn M., [redacted].
Bankston, James R., [redacted].
Barrett, Charles L., III, [redacted].
Bassett, Greyson T., [redacted].
Bauer, Joseph D., [redacted].
Baumann, Charles M., [redacted].
Beims, Michael A., [redacted].
Bellamy, Charles E., [redacted].
Belt, Kenneth W., [redacted].
Beran, Ernest K., [redacted].
Berthold, James W., [redacted].
Betebenner, Curtis L., [redacted].
Beverage, Daniel J., [redacted].
Biehl, Robert E., [redacted].
Billingsley, Vernon H., Jr., [redacted].
Blaise, Peter J., [redacted].
Bobrowski, Robert F., [redacted].
Boman, Gerald K., [redacted].
Bondaruk, Robert E., [redacted].
Booth, Virginia A., [redacted].
Borowski, John R., [redacted].
Bourgoine, Philip E., Jr., [redacted].
Bowling, Stephen D., [redacted].
Braden, William T., [redacted].
Bradley, William L., [redacted].
Braun, Dale E., [redacted].
Breedlove, Gerald W., [redacted].
Brewster, Robert B., [redacted].
Brock, Michael E., [redacted].
Brooker, Jack D., [redacted].
Brown, Linda F., [redacted].
Brown, Thomas W., [redacted].
Browne, Donald F., [redacted].
Brumme, Donald F., [redacted].
Buck, John R., [redacted].
Bulawa, Lannette J., [redacted].
Burger, Douglass G., [redacted].
Bynum, Stanley D., [redacted].
Byren, Robert W., [redacted].
Calvert, John M., [redacted].
Campbell, Craig E., [redacted].
Campbell, John A., [redacted].
Cardwell, Jimmy E., [redacted].
Carlson, David C., [redacted].
Carpenter, Charles G., [redacted].
Casey, Michelle M., [redacted].
Cassidy, George S., [redacted].
Cate, Ronald G., [redacted].
Cauhape, John C., [redacted].
Chenoweth, Edd P., [redacted].
Chevere, Pedro A., [redacted].
Christopher, James K., [redacted].
Cioletti, Craig L., [redacted].
Clark, Allen D., [redacted].
Clay, Garry C., [redacted].
Cohn, Jay M., [redacted].
Coker, Kelley R., [redacted].
Collings, Michael A., [redacted].
Colwell, William C., [redacted].
Conway, Dayton E., [redacted].
Conway, Jerome F., [redacted].
Cook, Douglas E., [redacted].
Cook, Gary L., [redacted].
Cook, Terry G., [redacted].
Copeland, Mark T., [redacted].
Cornette, Ronald K., [redacted].
Cossey, Alfred G., [redacted].
Costa, Charles E., [redacted].
Coulombe, Stephen A., [redacted].
Court, Charles W., Jr., [redacted].
Cox, Billy C., [redacted].
Craddock, Luther, Jr., [redacted].
Creasy, Delbert G., [redacted].
Crotty, Jill M., [redacted].
Crouch, Charles E., Jr., [redacted].
Crupper, Charles G., Jr., [redacted].
Cummings, Christopher F., [redacted].
Czarniecki, Charles, [redacted].
Dabney, James B., [redacted].
Dahlgren, Gregory C., [redacted].
Dangerfield, Edward W., Jr., [redacted].
David, Marilyn H., [redacted].
Davis, Harold L., [redacted].
Davis, John R., [redacted].
Day, James L., [redacted].
Dellavolpe, David A., [redacted].
Delyser, Ronald R., [redacted].
Denesik, Wayne M., [redacted].
Dickey, Grady L., [redacted].
Dixon, Donald C., [redacted].
Donovan, James T., [redacted].
Dooley, Dennis, [redacted].
Dowdell, Jeffrey M., [redacted].
Dowling, Robert J., [redacted].
Dunagan, Larry O., [redacted].
Duncan, James R., Jr., [redacted].
Dykes, Terrance J., [redacted].
Dziewulski, Kenneth J., [redacted].
Ebbs, Raymond E., [redacted].
Echord, Jessie G., [redacted].
Edwards, John K., [redacted].
Ehmer, Joseph M., [redacted].
Ehrlich, Stuart M., [redacted].
Eisenhut, Thomas J., [redacted].
Ellis, Larry D., [redacted].
Eriksen, John W., [redacted].
Evans, Clarence, [redacted].
Evans, Richard A., [redacted].
Ewert, Richard A., [redacted].
Farr, Harvey R., [redacted].
Finkes, Paul F. Jr., [redacted].
Fisher, James A., [redacted].
Fisher, Max L., [redacted].
Fletcher, Michael L., [redacted].
Flynn, Mary F., [redacted].
Fogle, Thomas J., [redacted].
Folkerts, Jerald L., [redacted].
Fortier, Eugene F., [redacted].
Foster, Roy M., [redacted].
Fraley, Stephen R., [redacted].
Fraser, John J., [redacted].
Freeman, Arie, Jr., [redacted].
Freeman, Kenneth M., [redacted].
French, James T., [redacted].
Friedlein, Charles B., Jr., [redacted].
Fuzzell, Steven L., [redacted].
Gaines, Kathleen C., [redacted].
Gallegos, William C., [redacted].
Gambrell, Doyle H., Jr., [redacted].
Garcia, Cesar R., [redacted].
Garcia, Patrick J., [redacted].
Gasbarro, James J., [redacted].
Gentry, Giles D., Jr., [redacted].
Gentry, Rickey B., [redacted].
Gieschen, Rudolph H., Jr., [redacted].
Giles, Louis M., [redacted].
Glaspy, Michael R., [redacted].
Gnadt, Larry W., [redacted].
Golinski, David A., [redacted].
Goulette, Daniel L., [redacted].
Grau, Richard R., [redacted].
Greenfield, Ted W., [redacted].
Griswell, Robert D., [redacted].
Grubb, Jack L., [redacted].
Guggisberg, Fannalou, [redacted].
Gunn, Bruce R., [redacted].
Gurksnis, Thomas W., [redacted].
Haas, Thurman R., [redacted].
Haller, John J., Jr., [redacted].
Hamblin, Carl L., Jr., [redacted].
Hammer, James R., [redacted].
Hammond, Gary W., [redacted].
Hammond, Lynn W., [redacted].
Hansche, William A., [redacted].
Hanson, Johnnie L., [redacted].
Harbick, Robert F., [redacted].
Hargarten, Donald L., [redacted].
Harrell, Cynthia S., [redacted].
Harris, Jeffery B., [redacted].
Hartman, Ralph S., [redacted].
Hass, James L., [redacted].
Hawley, Alfred D., III, [redacted].
Hayden, John S., [redacted].
Hewitt, Doris E., [redacted].
Higdon, John R., [redacted].
Hill, Richard C., Jr., [redacted].
Hoekman, Michael M., [redacted].
Hoelzel, Michael J., [redacted].
Hoffman, David G., [redacted].
Hoffman, Lee V., Jr., [redacted].
Hoffman, William Y., [redacted].
Hofmann, William L., [redacted].
Holmes, James C., Jr., [redacted].
Hoppe, Billy J., [redacted].
Howard, Felix B., [redacted].
Howard, Patrick M., [redacted].
Hughes, Daniel B., [redacted].
Hughes, Patsy A., [redacted].
Huguet, David R., [redacted].
Huisveld, Peter, III, [redacted].
Hume, Jerry L., [redacted].
Hurt, Roger L., [redacted].
Hutchings, Philip D., [redacted].
Illing, William A., [redacted].
Ingersoll, David B., [redacted].
Jackson, Ernest L., [redacted].
James, Richard D., [redacted].
Jensen, Richard M., [redacted].
Jensik, Robert R., [redacted].
Johnson, Denver M., [redacted].
Johnson, Douglas A., [redacted].
Johnson, Gary L., [redacted].
Johnson, Scott E., [redacted].
Jolley, James R., [redacted].
Jones, Craig R., [redacted].
Jorgensen, Michael S., [redacted].
Kebler, Claude R., [redacted].
Kellogg, Stuart D., [redacted].
Kenna, Jean H., [redacted].
Kiehlbaugh, Gary G., [redacted].
Kincannon, Douglas R., [redacted].
King, Carol D., [redacted].
King, David A., [redacted].
Kirkpatrick, Debora T., [redacted].
Kirkpatrick, Gary J., [redacted].
Klein, Martin G., [redacted].
Klinger, James T., [redacted].
Kloeber, Peter K., [redacted].
Knight, Michael E., [redacted].
Knox, Raymond O., [redacted].
Kohlhaas, Calder D., Jr., [redacted].
Kojzarek, Henry, [redacted].
Kolet, Terrence E., [redacted].
Koszykowski, Edward S., [redacted].
Krotchie, Michael C., [redacted].
Kuhn, John E., [redacted].
Ladd, Stephen R., [redacted].
Lambert, Corliss F., [redacted].
Lamontagne, Robert H., [redacted].
Lane, Lawrence R., [redacted].
Lang, Terry A., [redacted].
Lanning, Kenneth W., [redacted].
Lantz, William R., [redacted].
Larsen, Randall J., [redacted].
Lawson, Albert L., [redacted].
Leclair, Steven R., [redacted].
Ledbetter, George H., [redacted].
Lee, Ernest T., [redacted].
Leeper, Michael L., [redacted].

Leigh, Thomas E., xxx-xx-xxxx.
Lentz, Steven C., xxx-xx-xxxx.
Levine, Nadine E., xxx-xx-xxxx.
Lewis, Keith A., xxx-xx-xxxx.
Lewis, Leon B., xxx-xx-xxxx.
Lewy, John L., xxx-xx-xxxx.
Liebe, Hans J., xxx-xx-xxxx.
Liebergot, David E., xxx-xx-xxxx.
Litko, Joseph R., xxx-xx-xxxx.
Little, Chester L., xxx-xx-xxxx.
Little, Laurence J. R., xxx-xx-xxxx.
Littleton, Dewey L., xxx-xx-xxxx.
Lloyd, Garland B., II, xxx-xx-xxxx.
Lockett, David L., xxx-xx-xxxx.
Loewer, David C., xxx-xx-xxxx.
Lofton, Edward R., xxx-xx-xxxx.
Long, James R., Jr., xxx-xx-xxxx.
Long, Lisa B., xxx-xx-xxxx.
Lovejoy, Charles A., xxx-xx-xxxx.
Lumpkin, Patricia S., xxx-xx-xxxx.
Luther, Dale A., xxx-xx-xxxx.
Lyell, William A., Jr., xxx-xx-xxxx.
MacKay, John D., xxx-xx-xxxx.
Macky, Robert C., Jr., xxx-xx-xxxx.
Mahan, Edward L., Jr., xxx-xx-xxxx.
Maloney, Michael B., xxx-xx-xxxx.
Malter, Paul L., xxx-xx-xxxx.
Marenic, George T., xxx-xx-xxxx.
Marshall, Geoffrey J., xxx-xx-xxxx.
Mason, Bruce, xxx-xx-xxxx.
Mastin, Alan B., xxx-xx-xxxx.
Mater, Richard K., xxx-xx-xxxx.
Matthews, Keith E., xxx-xx-xxxx.
Mayfield, Edward D., xxx-xx-xxxx.
McCoy, Harold M., xxx-xx-xxxx.
McDaniels, Roger W., xxx-xx-xxxx.
McDonald, Joal L., xxx-xx-xxxx.
McDuffee, Donald N., Jr., xxx-xx-xxxx.
McIntosh, Harold, Jr., xxx-xx-xxxx.
McLeod, Thomas M., xxx-xx-xxxx.
McNally, John R., xxx-xx-xxxx.
Means, Charles D., xxx-xx-xxxx.
Melrose, Douglas C., Jr., xxx-xx-xxxx.
Melusen, Bruce T., xxx-xx-xxxx.
Mendy, Allen B., xxx-xx-xxxx.
Mercer, Ronne G., xxx-xx-xxxx.
Mignard, Robert G., xxx-xx-xxxx.
Milholland, Sarah L., xxx-xx-xxxx.
Miller, Ronald E., xxx-xx-xxxx.
Miller, Ronald W., xxx-xx-xxxx.
Miller, Scott R., xxx-xx-xxxx.
Millson, William J., xxx-xx-xxxx.
Mincher, Gary L., xxx-xx-xxxx.
Moe, Thomas C., xxx-xx-xxxx.
Mogge, John W., Jr., xxx-xx-xxxx.
Moore, Ernest S., xxx-xx-xxxx.
Moore, James T., xxx-xx-xxxx.
Moore, Randy J., xxx-xx-xxxx.
Morrison, Mark F., xxx-xx-xxxx.
Moseley, William E., xxx-xx-xxxx.
Nadeau, Duane R., xxx-xx-xxxx.
Naquin, David L., xxx-xx-xxxx.
Naylor, Walter F., III, xxx-xx-xxxx.
Nelson, William O., xxx-xx-xxxx.
Nevin, Kathleen J., xxx-xx-xxxx.
Newsom, Angelia L., xxx-xx-xxxx.
Nordin, John R., xxx-xx-xxxx.
Norelius, Mark A., xxx-xx-xxxx.
Nunemaker, Donald G., Jr., xxx-xx-xxxx.
O'Brien, Gregory J., xxx-xx-xxxx.
Ohnesorge, Danny R., xxx-xx-xxxx.
Oler, Roger E., xxx-xx-xxxx.
Olson, Karen L., xxx-xx-xxxx.
Opalenik, Robert S., xxx-xx-xxxx.
Orvold, David N., xxx-xx-xxxx.
Othold, Roy K., xxx-xx-xxxx.
Pape, Larry R., xxx-xx-xxxx.
Parker, Joseph R., Jr., xxx-xx-xxxx.
Parsons, Gregory D., xxx-xx-xxxx.
Passey, John W., xxx-xx-xxxx.
Patridge, Robert A., xxx-xx-xxxx.
Patterson, James M., xxx-xx-xxxx.
Patterson, Leonard E., xxx-xx-xxxx.
Pavlovich, John G., xxx-xx-xxxx.
Payeur, Ronald R., xxx-xx-xxxx.
Pemberton, Delbert W., xxx-xx-xxxx.
Pepin, Michael R., xxx-xx-xxxx.
Perella, David J., xxx-xx-xxxx.
Perez, Obel, xxx-xx-xxxx.
Peters, Johnny L., xxx-xx-xxxx.
Peters, Thomas A., xxx-xx-xxxx.
Phillips, Howard M., xxx-xx-xxxx.
Phipps, William E., Jr., xxx-xx-xxxx.
Pickell, Christopher J., xxx-xx-xxxx.
Polen, Dorothy M., xxx-xx-xxxx.
Porter, James E., III, xxx-xx-xxxx.
Porter, Michael D., xxx-xx-xxxx.
Poutier, John M., xxx-xx-xxxx.
Powell, Lanis F., xxx-xx-xxxx.
Puca, Joseph H., xxx-xx-xxxx.
Pulliam, David V., xxx-xx-xxxx.
Raburn, Wayne A., xxx-xx-xxxx.
Randall, Raymond R., xxx-xx-xxxx.
Randall, Walter J., Jr., xxx-xx-xxxx.
Rauen, Greg W., xxx-xx-xxxx.
Rauscher, Kurt A., xxx-xx-xxxx.
Re, Stephen M., xxx-xx-xxxx.
Richard, Diana L., xxx-xx-xxxx.
Richard, Kenneth G., xxx-xx-xxxx.
Richey, Thomas A., xxx-xx-xxxx.
Riley, Francis L., xxx-xx-xxxx.
Rivera, Carmen M., xxx-xx-xxxx.
Roba, Donald A., xxx-xx-xxxx.
Roberts, Randy D., xxx-xx-xxxx.
Roberts, Reed L., xxx-xx-xxxx.
Rodgers, Jimmie D., xxx-xx-xxxx.
Rogers, Kevin R., xxx-xx-xxxx.
Rogers, Ronald B., xxx-xx-xxxx.
Rooney, Arthur J., Jr., xxx-xx-xxxx.
Roop, Richard O., xxx-xx-xxxx.
Roper, Harold E., xxx-xx-xxxx.
Rosales, Leo A., xxx-xx-xxxx.
Rounce, Scott C., xxx-xx-xxxx.
Roy, Kenneth W., xxx-xx-xxxx.
Russell, Eva M., xxx-xx-xxxx.
Ryba, James M., xxx-xx-xxxx.
Sallar, Reuben H., xxx-xx-xxxx.
Salazar, Emanuel S., Jr., xxx-xx-xxxx.
Sather, John M., xxx-xx-xxxx.
Saunders, James M., xxx-xx-xxxx.
Schreiber, Barry A., xxx-xx-xxxx.
Schriml, John M., xxx-xx-xxxx.
Schubert, Kennith R., xxx-xx-xxxx.
Schulte, Robert H., xxx-xx-xxxx.
Schweichler, Louis H., xxx-xx-xxxx.
Scolnik, Stephen, xxx-xx-xxxx.
Scull, Charles V., xxx-xx-xxxx.
Sedlacek, Dean W., xxx-xx-xxxx.
Selah, William W., xxx-xx-xxxx.
Sexton, Willis E., Jr., xxx-xx-xxxx.
Shapter, Thomas R., xxx-xx-xxxx.
Shaw, David G., xxx-xx-xxxx.
Shearer, Robert E., III, xxx-xx-xxxx.
Sheldon, Clark A., xxx-xx-xxxx.
Short, Thomas W., xxx-xx-xxxx.
Simmons, Thomas W., xxx-xx-xxxx.
Singleton, Charles K., xxx-xx-xxxx.
Singleton, Thomas M., xxx-xx-xxxx.
Sitzes, Barbara J., xxx-xx-xxxx.
Skeith, William E., Jr., xxx-xx-xxxx.
Slaughter, Sharon L., xxx-xx-xxxx.
Smith, James G., Jr., xxx-xx-xxxx.
Smith, Sherwood R., xxx-xx-xxxx.
Smock, Danny J., xxx-xx-xxxx.
Snow, Stephen J., xxx-xx-xxxx.
Sorrentino, Anthony J., xxx-xx-xxxx.
Staley, John D., xxx-xx-xxxx.
Stampley, John R., xxx-xx-xxxx.
Steenson, Loren M., xxx-xx-xxxx.
Steiner, Merrill R., xxx-xx-xxxx.
Stephens, Gerald L., xxx-xx-xxxx.
Stewart, Michael C., xxx-xx-xxxx.
Stewart, Richard C., xxx-xx-xxxx.
Stille, W. T., III, xxx-xx-xxxx.
Stiver, Thomas N., xxx-xx-xxxx.
Strain, Frederick R., xxx-xx-xxxx.
Stroh, John J., xxx-xx-xxxx.
Stuckey, Samuel A., xxx-xx-xxxx.
Stuerke, Cecil R., xxx-xx-xxxx.
Swanson, Phillip A., xxx-xx-xxxx.
Swetz, David C., xxx-xx-xxxx.
Talbot, Laurie H., xxx-xx-xxxx.
Tallent, Terrence J., xxx-xx-xxxx.
Thomas, Anthony A., xxx-xx-xxxx.
Thomas, Ralph L., Jr., xxx-xx-xxxx.
Thompson, Frederick J., xxx-xx-xxxx.
Todd, Donald B., xxx-xx-xxxx.
Torsiello, Marjorie A., xxx-xx-xxxx.
Trefzer, Robert C., xxx-xx-xxxx.
Trempe, Barbara M., xxx-xx-xxxx.
Tyner, Joe E., xxx-xx-xxxx.
Uken, James R., xxx-xx-xxxx.
Ullom, Linda J., xxx-xx-xxxx.
Underwood, Galen R., xxx-xx-xxxx.
Varga, Paul J., III, xxx-xx-xxxx.
Vavra, William J., xxx-xx-xxxx.
Vice, Harold L., xxx-xx-xxxx.
Volpe, Bernard S., xxx-xx-xxxx.
Vonschlieder, Deric R., xxx-xx-xxxx.
Waggoner, Edward C., xxx-xx-xxxx.
Walker, Arthur L., Jr., xxx-xx-xxxx.
Walker, Harry J., xxx-xx-xxxx.
Walker, Wayne G., xxx-xx-xxxx.
Waltman, James M., xxx-xx-xxxx.
Ware, John C. H., xxx-xx-xxxx.
Watchorn, William F., xxx-xx-xxxx.
Watt, David G., xxx-xx-xxxx.
Watts, John G., xxx-xx-xxxx.
Webster, Timothy R., xxx-xx-xxxx.
Weed, Laurence M., xxx-xx-xxxx.
Weiland, Michael A., xxx-xx-xxxx.
Wellbrock, Russell A., xxx-xx-xxxx.
Wells, Chalice M., xxx-xx-xxxx.
West, Gordon M., xxx-xx-xxxx.
West, John M., xxx-xx-xxxx.
Wetherell, Michael N., xxx-xx-xxxx.
Weyant, Lee E., xxx-xx-xxxx.
Wheeler, David P., xxx-xx-xxxx.
Wheeler, James D., xxx-xx-xxxx.
Whitcher, Donald O., Jr., xxx-xx-xxxx.
White, Kenneth J., xxx-xx-xxxx.
Wigley, Clark P., xxx-xx-xxxx.
Wilkerson, Claudell, xxx-xx-xxxx.
Willett, Daniel S., xxx-xx-xxxx.
Williams, Clarence J., Jr., xxx-xx-xxxx.
Williams, Gregory H., xxx-xx-xxxx.
Wiram, Gordon M., xxx-xx-xxxx.
Woods, Charles E., Jr., xxx-xx-xxxx.
Woolley, Michael G., xxx-xx-xxxx.
Wray, William K., xxx-xx-xxxx.
Wuertele, Frederick S., xxx-xx-xxxx.
Yanner, Michael L., xxx-xx-xxxx.
Young, Robert E., xxx-xx-xxxx.
Zeigler, Timothy R., xxx-xx-xxxx.

To be second lieutenant

Aman, Richard R., xxx-xx-xxxx.
Angelo, John E., xxx-xx-xxxx.
Baum, Robert K., xxx-xx-xxxx.
Baur, David A., xxx-xx-xxxx.
Boudreaux, Wayne C., xxx-xx-xxxx.
Boulware, Jeffrey S., xxx-xx-xxxx.
Bowlin, Thomas L., xxx-xx-xxxx.
Boyle, Edward J., xxx-xx-xxxx.
Brand, Andrew M., xxx-xx-xxxx.
Brown, David K., xxx-xx-xxxx.
Buch, Robert J., xxx-xx-xxxx.
Carter, Thomas L., xxx-xx-xxxx.
Cole, Richard W., xxx-xx-xxxx.
Conner, Thomas C., xxx-xx-xxxx.
Conway, Bruce A., xxx-xx-xxxx.
Copher, Paul D., Jr., xxx-xx-xxxx.
Cowart, Ashby V., Jr., xxx-xx-xxxx.
Deptula, David A., xxx-xx-xxxx.
Ebron, John, Jr., xxx-xx-xxxx.
Eich, Carl R., xxx-xx-xxxx.
Eldard, Richard K., xxx-xx-xxxx.
Elliott, Gus G., Jr., xxx-xx-xxxx.
Evans, Richard H., xxx-xx-xxxx.
Ewing, Robert D., xxx-xx-xxxx.
Foley, Michael, xxx-xx-xxxx.
Frank, Robert A., xxx-xx-xxxx.
Freidenrich, Alan R. C., xxx-xx-xxxx.
Ginn, Robert W., xxx-xx-xxxx.
Graf, Irene L., xxx-xx-xxxx.
Guiles, Norman L., xxx-xx-xxxx.
Gutierrez, Martin D., xxx-xx-xxxx.
Hartz, Gregg E., xxx-xx-xxxx.
Heck, Stephen W., Jr., xxx-xx-xxxx.
Hernandez, Richard A., xxx-xx-xxxx.
Herrera, Joseph, Jr., xxx-xx-xxxx.
Hicks, Gerard D., xxx-xx-xxxx.
Higbee, Terry A., xxx-xx-xxxx.
Hirn, John J., xxx-xx-xxxx.
Kalota, John S., xxx-xx-xxxx.
Kimpel, Gordon P., xxx-xx-xxxx.
Klabo, William R., xxx-xx-xxxx.
Kreycik, Bruce F., xxx-xx-xxxx.
Lewis, Neal B., xxx-xx-xxxx.

Little, Robert D., Jr., [redacted].
Lynch, Richard G., Jr., [redacted].
March, James K., [redacted].
McKenna, Brian M., [redacted].
Mendes, Frank M., [redacted].
Milburn, Michael C., [redacted].
Moderow, Donald L., [redacted].
Morgan, Barry G., [redacted].
Nielsen, Milton C., [redacted].
Norsworthy, Ernest L., Jr., [redacted].
Otten, Matthew R., [redacted].
Parkinson, Paul E., [redacted].
Patch, Robert H., [redacted].
Prater, Evan L., [redacted].
Rainey, Larry B., [redacted].
Ranhofer, Richard F., [redacted].
Reed, Ronald D., [redacted].
Reem, Harold L., [redacted].
Robinson, Peter L., [redacted].
Ruth, Steven L., [redacted].
Sablotny, James S., [redacted].
Sallee, Charles M., [redacted].
Saltzman, Irwin J., [redacted].
Schafer, Louis L., [redacted].
Seidler, Thomas J., [redacted].
Shelby, Rex T., [redacted].
Slimak, L. Kevin S., [redacted].
Smith, Douglas E., [redacted].
Smith, Gary E., [redacted].
Smith, James W., [redacted].
Spirko, Michael R., [redacted].
Squiller, Samuel F., [redacted].
Stahre, David E., [redacted].
Stepko, Eugene J., [redacted].
Stirr, Richard L., [redacted].
Stitt, Samuel C., Jr., [redacted].
Swanson, Robert C., [redacted].
Tessmer, George W., [redacted].
Thomas, Patrick J., [redacted].
Todd, Steven G., [redacted].
Townsend, Michael A., [redacted].
Walker, Jerry W., [redacted].
Wallinder, Allan R., [redacted].
Wargowsky, Paul G., [redacted].
Welch, Desmond R., [redacted].
White, John T., [redacted].
Williams, Randy B., [redacted].
Wolber, Michael W., [redacted].
Yates, Chester W., Jr., [redacted].

The following officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of Section 8284, Title 10, United States Code, with a view to designation under the provisions of Section 8067, Title 10, United States Code, to perform the duties indicated, and with date of rank to be determined by the Secretary of the Air Force.

BIOMEDICAL SCIENCES CORPS

To be first lieutenant

McLean, Kent M., [redacted].

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, sections 3442 and 3447:

DENTAL CORPS

To be colonel

Beasley, Joe D., [redacted].
Crombie, Joe N., [redacted].
Cucolo, Frank A., [redacted].
Hillis, Robert E., [redacted].
Krakowiak, Francis, [redacted].
McCormick, Jim L., [redacted].
Moore, Henry B., [redacted].
Nelson, Robert N., [redacted].
Rigdon, Walter F., [redacted].
Ruff, James M., [redacted].
Simkins, Benjamin R., [redacted].
Takala, John A., [redacted].
Valha, Daniel J., [redacted].
Walker, Kahn K., [redacted].
Wentz, Clarence E., [redacted].

MEDICAL CORPS

To be colonel

Bloom, Irving B., [redacted].
Griffith, Don G., [redacted].
Handte, Robert E., [redacted].
Hazan, S. Jay, [redacted].
Hicks, Philip S., [redacted].
Lindley, Sheldon K., [redacted].
Moynihan, Francis W., [redacted].
Thomas, John P., [redacted].

The following-named officer for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, section 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Pare, Henri A., [redacted].

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, section 3442 and 3447:

ARMY PROMOTION LIST

To be lieutenant colonel

Abate, Claue W., [redacted].
Acree, Charles D., [redacted].
Adamick, Donald H., [redacted].
Adams, James L., [redacted].
Adams, John A., [redacted].
Adams, Thomas L., [redacted].
Adams, William R., [redacted].
Adkins, Alexander J., [redacted].
Adkinson, Michael H., [redacted].
Ahrens, Alfred J., [redacted].
Aiken, George F., [redacted].
Akers, Frank H., [redacted].
Alger, John I., [redacted].
Allan, Jon A., [redacted].
Allen, William D., [redacted].
Allen, Glenn R., [redacted].
Allen, Jimmie E., [redacted].
Allman, Edmond A., [redacted].
Amato, James D., [redacted].
Amrine, Robert M., [redacted].
Anderschat, Richard, [redacted].
Andersen, Jerome R., [redacted].
Anderson, Francis E., [redacted].
Anderson, Joseph B., [redacted].
Anderson, Lawrence, [redacted].
Anderson, Randall J., [redacted].
Andrean, Charles M., [redacted].
Andree, Martin E., [redacted].
Andrews, Edward L., [redacted].
Angle, Thomas L., [redacted].
Archambault, Emile, [redacted].
Ariyoshi, Robert T., [redacted].
Armistead, Joseph D., [redacted].
Armstrong, David B., [redacted].
Armstrong, Lester F., [redacted].
Arnold, Joseph C., [redacted].
Asbury, David L., [redacted].
Ashley, Kenneth W., [redacted].
Asmuth, George W., [redacted].
Atcheson, Donald W., [redacted].
Atkinson, Thomas J., [redacted].
Aune, Lawrence E., [redacted].
Aux, George W., [redacted].
Babb, Lawrence R., [redacted].
Bacheldor, Ned W., [redacted].
Baer, James T., [redacted].
Bahm, John F., [redacted].
Bailey, Edward E., [redacted].
Baker, Robert F., [redacted].
Baker, Robert G., [redacted].
Ball, Elwyn J., [redacted].
Barber, Duane D., [redacted].
Barkman, Ralph A., [redacted].
Barnes, Charles W., [redacted].
Barnes, Russell M., [redacted].
Barron, Max R., [redacted].
Barron, Nicholas, [redacted].
Barry, Michael J., [redacted].
Barta, Donald F., [redacted].
Bartels, Steven E., [redacted].
Bartlett, Charles M., [redacted].
Bartlett, Leroy, III, [redacted].
Bassett, Byron E., [redacted].
Basta, James M., [redacted].
Bates, Jimmy N., [redacted].
Battaglioli, Victor, [redacted].
Baumann, Bruce W., [redacted].
Beach, Karl L., [redacted].
Beale, Richard E., [redacted].
Beall, Raymond F., [redacted].
Beasley, Louis J., [redacted].
Becker, Edward G., [redacted].
Becker, James W., [redacted].
Beddingfield, Robert, [redacted].
Beerthuis, Mark A., [redacted].
Beierschmitt, James, [redacted].
Beim, Alexander, [redacted].
Bell, Charles L., [redacted].
Bell, David A., [redacted].
Bell, Richard F., [redacted].
Bellamy, Mark L., [redacted].
Benton, David L., [redacted].
Benware, Marshall G., [redacted].
Berg, Earl E., [redacted].
Berggren, Tommy H., [redacted].
Bergman, David M., [redacted].
Bermingham, Dennis, [redacted].
Bezner, Robert Z., [redacted].
Bickerdike, Edwin V., [redacted].
Biegler, Duane R., [redacted].
Bigelow, James E., [redacted].
Biggio, John E., [redacted].
Bills, Ray W., [redacted].
Binns, Harvey L., [redacted].
Bircher, John E., [redacted].
Bird, Victor R., [redacted].
Birnkammer, Eve, [redacted].
Bisio, Carl A., [redacted].
Bither, Rodney D., [redacted].
Bixler, Louis R., [redacted].
Black, Gorham L., [redacted].
Blackglove, Joseph, [redacted].
Blackwell, Paul E., [redacted].
Blair, Willis A., [redacted].
Bobbitt, John F., [redacted].
Boehme, Ronald E., [redacted].
Boening, Suzanne S., [redacted].
Boesch, Carl R., [redacted].
Bolen, William S., [redacted].
Bolt, William J., [redacted].
Bombel, George A., [redacted].
Bond, Peter A., [redacted].
Bosma, Phillip H., [redacted].
Bouldin, James R., [redacted].
Bouley, Eugene E., [redacted].
Bouton, David A., [redacted].
Bowen, Harold L., [redacted].
Bradford, James C., [redacted].
Bradford, John D., [redacted].
Brady, Brian W., [redacted].
Brainerd, Ardell T., [redacted].
Brendle, Thomas M., [redacted].
Bresser, Richard C., [redacted].
Briggs, Donald T., [redacted].
Brinkley, William A., [redacted].
Broadie, Samuel F., [redacted].
Brodie, Craig E., [redacted].
Brookes, James A., [redacted].
Brooks, Susan, [redacted].
Broussard, Allen, [redacted].
Brown, Edward M., [redacted].
Brown, Francis W., [redacted].
Brown, Jerry H., [redacted].
Brown, Kent O., [redacted].
Brown, Lloyd K., [redacted].
Brown, Martin A., [redacted].
Brown, Oren R., Jr., [redacted].
Brown, Raymond A., [redacted].
Brown, Robert C., [redacted].
Brown, Robert D., [redacted].
Brown, Robert E., [redacted].
Brown, William R., [redacted].
Brunick, James L., [redacted].
Bryant, Thomas, [redacted].
Bryant, Wilbert, [redacted].
Brynildsen, Gordon, [redacted].
Buffardi, Louis N., [redacted].
Bujakowski, Thomas, [redacted].
Bullard, Charles N., [redacted].
Burdett, John C., [redacted].
Burge, Marvin E., [redacted].
Burke, John C., [redacted].
Burr, Jacky A., [redacted].
Burroughs, Bruce G., [redacted].
Burroughs, Dale A., [redacted].
Butler, Arthur H., [redacted].
Butts, Melvin A., [redacted].
Byard, Johnny R., [redacted].
Byerley, Byron E., [redacted].
Byrkit, Richard D., [redacted].
Cain, Mack H., [redacted].

Camia, Dante A., xxx-xx-xxxx.
Campbell, Delwin M., xxx-xx-xxxx.
Campbell, Jerry C., xxx-xx-xxxx.
Cannan, Patrick F., xxx-xx-xxxx.
Cannard, Robert S., xxx-xx-xxxx.
Carey, Ronald, xxx-xx-xxxx.
Carey, Spencer V., xxx-xx-xxxx.
Cargile, Eugene D., xxx-xx-xxxx.
Carlin, James J., xxx-xx-xxxx.
Carlisle, Richard D., xxx-xx-xxxx.
Carlock, William C., xxx-xx-xxxx.
Carlson, Albert E., xxx-xx-xxxx.
Carlton, Charles A., xxx-xx-xxxx.
Carothers, Joe D., xxx-xx-xxxx.
Carr, Peter H., xxx-xx-xxxx.
Carr, Wesley D., xxx-xx-xxxx.
Cartland, John C., xxx-xx-xxxx.
Cartwright, Edward, xxx-xx-xxxx.
Casey, William F., xxx-xx-xxxx.
Caver, Troy V., xxx-xx-xxxx.
Cawley, Thomas J., xxx-xx-xxxx.
Caylor, Eugene H., xxx-xx-xxxx.
Chadbourne, William, xxx-xx-xxxx.
Chapman, Alan A., xxx-xx-xxxx.
Chapman, James H., xxx-xx-xxxx.
Chapman, Keith E., xxx-...
Chappell, Isaac H., xxx-xx-xxxx.
Cheal, Arnold E., xxx-...
Chesarek, William D., xxx-xx-...
Cheshire, George T., xxx-...
Chester, James T., xxx-xx-xxxx.
Chidichimo, Salvatore P., xxx-xx-xxxx.
Childers, Charles K., xxx-xx-xxxx.
Chiminiello, John L., xxx-...
Choate, Jeffery J., xxx-...
Christensen, Allen, xxx-...
Christian, Stephen, xxx-xx-...
Christman, Daniel W., xxx-xx-xx...
Church, Douglas R., xxx-xx-xxxx.
Clark, Frederick M., xxx-xx-xxxx.
Clark, Ralph C., xxx-xx-xxxx.
Clark, Wesley K., xxx-xx-xxxx.
Cleveland, Charles, xxx-xx-...
Cobb, Tyrus W., xxx-xx-xxxx.
Coe, Gary Q., xxx-xx-xxxx.
Cohut, Victor J., xxx-xx-xxxx.
Coke, Alfred M., xxx-xx-xxxx.
Colavita, Henry J., xxx-xx-...
Cole, Paul A., xxx-xx-xxxx.
Cole, Robert A., xxx-xx-x...
Coleman, Harold D., xxx-xx-xx...
Coleman, John L., xxx-xx-xx...
Coleman, Obe D., xxx-xx-...
Coleman, Robert P., xxx-xx-...
Coley, John H., II, xxx-xx-xxxx.
Colie, Dennis G., xxx-...
Coll, Thomas J., xxx-xx-...
Collier, Emory C., xxx-xx-...
Collins, David R., xxx-xx-...
Colliton, Jeffry D., xxx-xx-...
Comfort, Harold J., xxx-...
Coniglio, James V., xxx-xx-...
Conner, Leroy E., xxx-xx-xxxx.
Connor, Michael J., xxx-...
Conrad, Donald H., xxx-...
Cook, Sanford D., xxx-xx-xxxx.
Coomer, William O., xxx-...
Coonfield, Derrill, xxx-xx-xxxx.
Coonradt, Leo J., xxx-...
Cope, John A., xxx-xx-...
Copes, Ronald A., xxx-...
Coppens, John P., xxx-xx-...
Cornell, Allen C., xxx-xx-...
Corrigan, Robert E., xx...
Corson, John R., xxx-xx-x...
Coughlin, James M., xxx-...
Coulson, Robert T., xxx-xx-...
Coutoumanos, George, xxx-xx-...
Cowan, Charles E., xxx-...
Cowan, William F., xxx-xx-xxxx.
Cowings, John S., xxx-...
Cox, James R., xxx-...
Cox, Robert S., xxx-...
Crackel, Theodore J., xxx-x...
Craddock, Ollie C., xxx-...
Crandall, Charles D., xxx-xx-...
Crask, Garnett E., xxx-...
Cravens, James J., Jr., xxx-...
Creasy, Joseph L., xxx-xx-...
Creech, William R., xxx-xx-...
Creek, Raymond S., xxx-xx-xxxx.
Crescioni, Charles, xxx-xx-xxxx.
Crissman, Robert S., xxx-xx-xxxx.
Crocker, David L., xxx-xx-xxxx.
Csoka, Kalman, Jr., xxx-xx-xxxx.
Cunningham, Alden M., xxx-xx-xxxx.
Cunningham, Michael, xxx-xx-xxxx.
Cunningham, Richard, xxx-xx-xxxx.
Cunningham, Thomas, xxx-xx-xxxx.
Cupples, Alan, B., xxx-xx-xxxx.
Curl, William W., xxx-xx-xxxx.
Dailey, John N., xxx-xx-xxxx.
Dale, Charles A., xxx-xx-xxxx.
Dalia, Jeffrey L., xxx-xx-xxxx.
Dambrogio, William, xxx-xx-xxxx.
Damron, Donald W., xxx-xx-xxxx.
Davenport, Don L., xxx-xx-xxxx.
Davidson, Sam R., xxx-xx-xxxx.
Davis, Harley C., xxx-xx-xxxx.
Davis, Joseph L., xxx-xx-xxxx.
Davis, Julian A., xxx-xx-xxxx.
Davis, Robert J., xxx-xx-...
Davis, Thomas J., xxx-xx-xxxx.
Davidson, Michael S., xxx-xx-xxxx.
Dean, John D., xxx-xx-xxxx.
Degraff, George C., xxx-xx-xxxx.
Dehncke, Rae W., xxx-xx-xxxx.
Dempsey, John W., xxx-xx-xxxx.
Dereu, John A., xxx-xx-xxxx.
Desreis, Richard W., xxx-xx-xxxx.
Desrochers, George, xxx-xx-xxxx.
Devitt, Ronald R., xxx-xx-xxxx.
Dewitt, Emmit D., xxx-xx-xxxx.
Dickey, James S., xxx-xx-xxxx.
Dieduardo, Joseph A., xxx-xx-xxxx.
Dimichele, Lawrence, xxx-xx-xxxx.
Dinger, Raymond L., xxx-xx-xxxx.
Doering, Archie M., xxx-xx-xxxx.
Doerr, Marvin L., xxx-xx-xxxx.
Doherty, Robert L., xxx-xx-xxxx.
Donahue, John F., xxx-xx-xxxx.
Donnell, Victor L., xxx-xx-xxxx.
Dorr, Charles D., xxx-xx-xxxx.
Dortch, John D., xxx-xx-xxxx.
Doss, Allan W., xxx-xx-xxxx.
Dowling, Dean E., xxx-xx-xxxx.
Doyle, Edward J., xxx-xx-xxxx.
Dragozetich, William, xxx-xx-xxxx.
Draper, Jerry Y., xxx-xx-xxxx.
Dunagan, Kern W., xxx-xx-xxxx.
Duncan, George R., xxx-xx-xxxx.
Duncan, Wendall J., xxx-xx-xxxx.
Durham, George E., xxx-xx-xxxx.
Duron, Manuel C., xxx-xx-xxxx.
Duval, Aaron D., xxx-xx-xxxx.
Dzinich, Kurt S., xxx-xx-...
Earnest, Olen L., xxx-xx-xxxx.
Edge, Liston L., xxx-xx-xxxx.
Edgeworth, Charles, xxx-xx-xxxx.
Edmondson, Bert, D., xxx-xx-xxxx.
Eifried, Gary, xxx-xx-xxxx.
Ellerson, Geoffrey, xxx-xx-xxxx.
Elliott, Don A., xxx-xx-xxxx.
Ellis, Benjamin F., xxx-xx-xxxx.
Elson, Peter M., xxx-xx-xxxx.
Emerick, Michael L., xxx-xx-xxxx.
Entlich, Richard E., xxx-xx-xxxx.
Entrekin, Philip B., xxx-xx-xxxx.
Epperson, Gary E., xxx-xx-xxxx.
Erickson, Albert J., xxx-xx-xxxx.
Erkins, Moses, xxx-xx-xxxx.
Ernst, Carl F., xxx-xx-xxxx.
Eskew, Michael P., xxx-xx-xxxx.
Essex, George H., xxx-xx-xxxx.
Estep, James L., xxx-xx-xxxx.
Evans, John A., xxx-xx-xxxx.
Evans, Larry D., xxx-xx-xxxx.
Eveland, George B., xxx-xx-xxxx.
Farris, Ivan R., xxx-xx-xxxx.
Fayard, Marshall J., xxx-xx-xxxx.
Feliciano, Jose R., xxx-xx-xxxx.
Felker, Timothy L., xxx-xx-xxxx.
Ferguson, Walter N., xxx-xx-xxxx.
Fernandez, Erik, xxx-xx-xxxx.
Ferry, John V., xxx-xx-xxxx.
Fields, James E., xxx-xx-xxxx.
Fields, Joyce F., xxx-xx-xxxx.
Filion, Joffre W., xxx-xx-xxxx.
Finegan, Ray D., xxx-xx-xxxx.
Finical, John A., xxx-xx-xxxx.
Fischer, Donald C., xxx-xx-xxxx.
Fishback, David M., xxx-xx-xxxx.
Fisher, Bernard T., xxx-xx-xxxx.
Fisher, Martin C., xxx-xx-xxxx.
Fite, Don G., xxx-xx-xxxx.
Fitzenz, David G., xxx-xx-xxxx.
Fitzpatrick, Henry, xxx-xx-xxxx.
Fitzpatrick, James, xxx-xx-...
Flebotte, Paul R., xxx-xx-xxxx.
Fleming, Paul A., xxx-xx-xxxx.
Flemming, Roland W., xxx-xx-xxxx.
Fletcher, William F., xxx-xx-xxxx.
Flohe, Donald L., xxx-xx-xxxx.
Florio, Paul J., xxx-xx-xxxx.
Flynn, Michael J., xxx-xx-xxxx.
Flynn, Michael J., xxx-xx-...
Fontaine, Roland G., xxx-xx-xxxx.
Forest, Ronald P., xxx-xx-xxxx.
Forestiere, Frank D., xxx-xx-xxxx.
Forsythe, Thomas K., xxx-xx-xxxx.
Foster, James H., xxx-xx-xxxx.
Fox, Alexander J., xxx-xx-xxxx.
Frankel, Alfred W., xxx-xx-xxxx.
Frasche, Robert M., xxx-xx-xxxx.
Frazier, Errol R., xxx-xx-xxxx.
Frazier, Robert D., xxx-xx-...
Freck, Larry G., xxx-xx-xxxx.
Frederick, Jonathan, xxx-xx-xxxx.
Free, Lazelle E., xxx-xx-xxxx.
Freeman, Eldon V., xxx-xx-xxxx.
French, Stephen H., xxx-xx-xxxx.
Frey, Martin C., xxx-xx-xxxx.
Fried, Page G., xxx-xx-xxxx.
Fritz, Allan J., xxx-xx-xxxx.
Fritz, Stanley G., xxx-xx-xxxx.
Fry, Ronald A., xxx-xx-xxxx.
Fuller, George D., xxx-xx-xxxx.
Fuller, John D., xxx-xx-xxxx.
Fulmer, Lemos L., xxx-xx-xxxx.
Furtado, William J., xxx-xx-xxxx.
Futamase, Atsushi, xxx-xx-xxxx.
Gabelmann, James F., xxx-xx-xxxx.
Gaddis, Joseph T., xxx-xx-xxxx.
Galda, Dwight W., xxx-xx-xxxx.
Gall, Frank Jr., xxx-xx-xxxx.
Gall, John S., xxx-xx-xxxx.
Gallagher, Thomas F., xxx-xx-xxxx.
Gallagher, William, xxx-xx-xxxx.
Gallegos, Gonzalo R., xxx-xx-xxxx.
Garcia, Reynaldo A., xxx-xx-xxxx.
Garland, James F., xxx-xx-xxxx.
Garland, Robert L., xxx-xx-xxxx.
Garner, David W., xxx-xx-xxxx.
Garretson, Ralph B., xxx-xx-xxxx.
Garrity, Joseph L., xxx-xx-xxxx.
Garvey, Richard E., xxx-xx-xxxx.
Gary, Harley J., xxx-xx-xxxx.
Gass, Henry B., xxx-xx-xxxx.
Gaston, Joseph R., xxx-xx-xxxx.
Gately, Bernard F., xxx-xx-xxxx.
Gavin, Laurence W., xxx-xx-xxxx.
Gehring, Carl H., xxx-xx-xxxx.
Geiger, Kenneth H., xxx-xx-xxxx.
Genega, Stanley G., xxx-xx-xxxx.
Gersbach, Germain H., xxx-xx-xxxx.
Getchell, John V., xxx-xx-xxxx.
Gibson, William E., xxx-xx-xxxx.
Gilbert, Jack D., xxx-xx-xxxx.
Gilchrist, Malcolm, xxx-xx-xxxx.
Gill, Clair F., xxx-xx-xxxx.
Gillem, Dennis J., xxx-xx-xxxx.
Gillespie, Clarke M., xxx-xx-xxxx.
Gilmore, George L., xxx-xx-xxxx.
Girouard, Robert H., xxx-xx-xxxx.
Glantz, David M., xxx-xx-xxxx.
Glasscock, James A., xxx-xx-xxxx.
Glassman, Authur L., xxx-xx-xxxx.
Gleszer, Peter E., xxx-xx-xxxx.
Glick, Charles R., xxx-xx-xxxx.
Glover, Carl V., xxx-xx-xxxx.
Godboldte, Cordell, xxx-xx-xxxx.
Godrey, Thomas G., xxx-xx-xxxx.
Goetz, Robert C., xxx-xx-xxxx.
Goff, Clifford N., xxx-xx-xxxx.
Goff, Edward L., xxx-xx-xxxx.
Gogolkiewicz, Richard, xxx-xx-xxxx.
Golden, James R., xxx-xx-xxxx.
Goodridge, Clair L., xxx-xx-xxxx.
Goodwin, Robert A., xxx-xx-xxxx.
Gorcys, Gregory N., xxx-xx-xxxx.
Gordon, Henry, xxx-xx-xxxx.

Gorman, Vincent C., xxx-xx-xxxx.
Gothreau, Andrew F., xxx-xx-xxxx.
Graham, Allan D., xxx-xx-xxxx.
Granadodiaz, Manuel, xxx-xx-xxxx.
Grandstaff, Terrence, xxx-xx-xxxx.
Gray, Clyde E., xxx-xx-xxxx.
Gray, Robert E., xxx-xx-xxxx.
Green, William D., xxx-xx-xxxx.
Greenwell, Edmund S., xxx-xx-xxxx.
Greer, Harold E., xxx-xx-xxxx.
Greer, Robert H., xxx-xx-xxxx.
Gregor, Leonard C., xxx-xx-xxxx.
Grice, Kenneth R., xxx-xx-xxxx.
Griffin, Donald K., xxx-xx-xxxx.
Griffin, Eldred E., xxx-xx-xxxx.
Griffin, Thomas H., xxx-xx-xxxx.
Grimes, Paul T., xxx-xx-xxxx.
Grimsley, Turner E., xxx-xx-xxxx.
Grizio, Myron E., xxx-xx-xxxx.
Gruber, Robert C., xxx-xx-xxxx.
Gryczynski, Edward, xxx-xx-xxxx.
Guenzburger, Albert, xxx-xx-xxxx.
Guest, Robert K., xxx-xx-xxxx.
Guilhaus, Howard H., xxx-xx-xxxx.
Hacker, Larry M., xxx-xx-xxxx.
Hadaway, Bobby G., xxx-xx-xxxx.
Hagler, Ralph L., xxx-xx-xxxx.
Hagman, J. Michael, xxx-xx-xxxx.
Hahn, Richard O., xxx-xx-xxxx.
Hahn, Robert L., xxx-xx-xxxx.
Halgus, Joseph D., xxx-xx-xxxx.
Hall, Francis G., xxx-xx-xxxx.
Hallam, William H., xxx-xx-xxxx.
Hallenbeck, Ralph A., xxx-xx-xxxx.
Hamilton, James H., xxx-xx-xxxx.
Hamlette, John H., xxx-xx-xxxx.
Hamm, Michael R., xxx-xx-xxxx.
Handley, William M., xxx-xx-xxxx.
Handy, Malvin L., xxx-xx-xxxx.
Hanko, Thomas M., xxx-xx-xxxx.
Hardy, Robert S., xxx-xx-xxxx.
Harrington, William, xxx-xx-xxxx.
Harris, Arnom H., xxx-xx-xxxx.
Harris, Dalrymple M., xxx-xx-xxxx.
Harris, William D., xxx-xx-xxxx.
Harrison, Gerald A., xxx-xx-xxxx.
Hart, James A., xxx-xx-xxxx.
Hartjen, Raymond C., xxx-xx-xxxx.
Harvey, Floyd D., xxx-xx-xxxx.
Harvey, Joe B., xxx-xx-xxxx.
Harvey, John R., xxx-xx-xxxx.
Hatfield, Gary L., xxx-xx-xxxx.
Haubrich, Robert W., xxx-xx-xxxx.
Hawley, Robert I., xxx-xx-xxxx.
Haynes, John R., xxx-xx-xxxx.
Head, Jorj C., xxx-xx-xxxx.
Headen, Clifton, Jr., xxx-xx-xxxx.
Heard, Jerry D., xxx-xx-xxxx.
Heffner, Lewis R., xxx-xx-xxxx.
Heizer, Alfred S., xxx-xx-xxxx.
Helmlinger, John A., xxx-xx-xxxx.
Helms, Robert F., xxx-xx-xxxx.
Hempel, Donald R., xxx-xx-xxxx.
Henderson, Donald D., xxx-xx-xxxx.
Henderson, Donald R., xxx-xx-xxxx.
Hengen, Orville J., xxx-xx-xxxx.
Herold, John M., xxx-xx-xxxx.
Herrick, James J., xxx-xx-xxxx.
Herrick, Thomas M., xxx-xx-xxxx.
Hickling, James E., xxx-xx-xxxx.
Hicks, Larry W., xxx-xx-xxxx.
Hicks, Walter G., xxx-xx-xxxx.
Higdon, Thomas E., xxx-xx-xxxx.
Highlander, Richard, xxx-xx-xxxx.
Hill, George F., xxx-xx-xxxx.
Hilton, Billy L., xxx-xx-xxxx.
Hoffert, Thomas M., xxx-xx-xxxx.
Hogan, Vincent G., xxx-xx-xxxx.
Holdsworth, John W., xxx-xx-xxxx.
Holland, Guy H., xxx-xx-xxxx.
Hollander, Kenneth, xxx-xx-xxxx.
Hollwedel, George C., xxx-xx-xxxx.
Holman, Gerald F., xxx-xx-xxxx.
Holmond, Joe L., xxx-xx-xxxx.
Holston, William W., xxx-xx-xxxx.
Holtry, Anthony K., xxx-xx-xxxx.
Holtry, Preston W., xxx-xx-xxxx.
Holzheuser, Henry R., xxx-xx-xxxx.
Hood, John E., xxx-xx-xxxx.
Hopkins, John A., xxx-xx-xxxx.
Horio, Kenneth K., xxx-xx-xxxx.
Horvath, Leroy L., xxx-xx-xxxx.
Houghton, Gareth C., xxx-xx-xxxx.
Hovey, Roy A., xxx-xx-xxxx.
Howard, Beatrice A., xxx-xx-xxxx.
Howard, Ralph E., xxx-xx-xxxx.
Howard, Robert T., xxx-xx-xxxx.
Howell, Milton L., xxx-xx-xxxx.
Howlett, Jack R., xxx-xx-xxxx.
Hudgens, George T., xxx-xx-xxxx.
Hudson, Daniel L., xxx-xx-xxxx.
Hudson, McKinley, xxx-xx-xxxx.
Huggins, Ansel L., xxx-xx-xxxx.
Huntsberry, Henry C., xxx-xx-xxxx.
Hurley, Robert D., xxx-xx-xxxx.
Hustead, Stephen C., xxx-xx-xxxx.
Hylan, Bruce H., xxx-xx-xxxx.
Inabinet, Lewis S., xxx-xx-xxxx.
Indreland, Richard, xxx-xx-xxxx.
Ingram, Lionel R., xxx-xx-xxxx.
Inman, Stephen E., xxx-xx-xxxx.
Ionoc, John, Jr., xxx-xx-xxxx.
Isaac, Alfred G., xxx-xx-xxxx.
Ischinger, Martin M., xxx-xx-xxxx.
Jackson, Daniel J., xxx-xx-xxxx.
Jackson, Ernest R., xxx-xx-xxxx.
Jacobs, Jack H., xxx-xx-xxxx.
Jacobs, Ronald R., xxx-xx-xxxx.
Jagielski, James R., xxx-xx-xxxx.
James, Richard D., xxx-xx-xxxx.
Jarrett, Byron S., xxx-xx-xxxx.
Jaunitis, Juris, xxx-xx-xxxx.
Jaworowski, Joseph, xxx-xx-xxxx.
Jenkins, Joseph S., xxx-xx-xxxx.
Jenkins, Kenneth E., xxx-xx-xxxx.
Jenkins, Paula F., xxx-xx-xxxx.
Jensen, Craig L., xxx-xx-xxxx.
Jewel, James S., xxx-xx-xxxx.
Jochetz, Charles D., xxx-xx-xxxx.
Johansen, Eldon R., xxx-xx-xxxx.
Johnson, Bruce P., xxx-xx-xxxx.
Johnson, John E., xxx-xx-xxxx.
Johnson, Julius F., xxx-xx-xxxx.
Johnson, Larry E., xxx-xx-xxxx.
Johnson, Thomas E., xxx-xx-xxxx.
Johnson, William L., xxx-xx-xxxx.
Johnston, Eugene J., xxx-xx-xxxx.
Johnston, Fredrick, xxx-xx-xxxx.
Johnston, Reynold A., xxx-xx-xxxx.
Jones, Alan F., xxx-xx-xxxx.
Jones, Horace, xxx-xx-xxxx.
Jones, Lavert W., xxx-xx-xxxx.
Jones, Leslie H., xxx-xx-xxxx.
Jones, Robert T., xxx-xx-xxxx.
Jones, Wendell O., xxx-xx-xxxx.
Jordan, Kenneth M., xxx-xx-xxxx.
Jorgensen, Robert R., xxx-xx-xxxx.
Joy, James R., xxx-xx-xxxx.
Justis, James C., xxx-xx-xxxx.
Kalitka, Peter F., xxx-xx-xxxx.
Kamof, Michael E., xxx-xx-xxxx.
Kaprielian, Edward, xxx-xx-xxxx.
Karr, Thomas W., xxx-xx-xxxx.
Kay, Bruce F., xxx-xx-xxxx.
Kearns, Philip F., xxx-xx-xxxx.
Keaveney, Michael W., xxx-xx-xxxx.
Keivit, Robert J., xxx-xx-xxxx.
Keller, Kenneth F., xxx-xx-xxxx.
Kelley, Erskine H., xxx-xx-xxxx.
Kelley, Hugh A., xxx-xx-xxxx.
Kelley, Richard L., xxx-xx-xxxx.
Kelly, David S., xxx-xx-xxxx.
Kelly, James A., xxx-xx-xxxx.
Kelly, Thomas J., xxx-xx-xxxx.
Kemper, Clarence B., xxx-xx-xxxx.
Kendall, Arnold E., xxx-xx-xxxx.
Kennedy, John P., xxx-xx-xxxx.
Kent, Charles E., xxx-xx-xxxx.
Kettering, John R., xxx-xx-xxxx.
Keys, James W., xxx-xx-xxxx.
Kimball, Gerald W., xxx-xx-xxxx.
Kimball, John A., xxx-xx-xxxx.
Kincaid, Richard D., xxx-xx-xxxx.
King, David, xxx-xx-xxxx.
King, Earle E., xxx-xx-xxxx.
King, Gerald F., xxx-xx-xxxx.
King, James E., xxx-xx-xxxx.
Kinzer, Joseph W., xxx-xx-xxxx.
Klausner, John T., xxx-xx-xxxx.
Klein, Frank W., xxx-xx-xxxx.
Knowles, Richard W., xxx-xx-xxxx.
Knutzen, John A., xxx-xx-xxxx.
Kocsis, John T., xxx-xx-xxxx.
Kollar, James E., xxx-xx-xxxx.
Koors, Glenn J., xxx-xx-xxxx.
Kipcsak, Arpad A., xxx-xx-xxxx.
Kopf, James C., xxx-xx-xxxx.
Korkin, Robert A., xxx-xx-xxxx.
Kosevich, Richard S., xxx-xx-xxxx.
Kosta, Antonio L., xxx-xx-xxxx.
Kress, James P., xxx-xx-xxxx.
Krohn, Charles A., xxx-xx-xxxx.
Kulbacki, Walter S., xxx-xx-xxxx.
Kurtz, Richard G., xxx-xx-xxxx.
Kwasniewski, John E., xxx-xx-xxxx.
Kymer, Richard R., xxx-xx-xxxx.
Lacey, William J., xxx-xx-xxxx.
Ladd, Richard B., xxx-xx-xxxx.
Laferte, Albert E., xxx-xx-xxxx.
Lalley, Patrick J., xxx-xx-xxxx.
Lanahan, George W., xxx-xx-xxxx.
Lancaster, Lynn A., xxx-xx-xxxx.
Landin, Robert F., xxx-xx-xxxx.
Lane, Charles D., xxx-xx-xxxx.
Lang, John P., xxx-xx-xxxx.
Langston, Guy A., xxx-xx-xxxx.
Lape, Jerry V., xxx-xx-xxxx.
Larochelle, Russell, xxx-xx-xxxx.
Larsen, Daniel M., xxx-xx-xxxx.
Larson, Eugene J., xxx-xx-xxxx.
Larson, Richard G., xxx-xx-xxxx.
Laster, James F., xxx-xx-xxxx.
Latsons, Martin A., xxx-xx-xxxx.
Lawhead, Gary W., xxx-xx-xxxx.
Lawn, Michael J., xxx-xx-xxxx.
Lawrie, Thomas J., xxx-xx-xxxx.
Lawton, John P., xxx-xx-xxxx.
Leassear, Leonard A., xxx-xx-xxxx.
Ledbetter, Charles, xxx-xx-xxxx.
Lehrman, Larry D., xxx-xx-xxxx.
Leideritz, James D., xxx-xx-xxxx.
Leonard, George R., xxx-xx-xxxx.
Leonard, Ronald R., xxx-xx-xxxx.
Lewis, Carlos G., xxx-xx-xxxx.
Lewis, Edgar C., xxx-xx-xxxx.
Lewis, Gerald R., xxx-xx-xxxx.
Lewis, Harry C., xxx-xx-xxxx.
Lewis, Joe A., xxx-xx-xxxx.
Lewsen, Robert F., xxx-xx-xxxx.
Liberti, Joseph C., xxx-xx-xxxx.
Lind, Gary C., xxx-xx-xxxx.
Lindsay, Larry A., xxx-xx-xxxx.
Lipka, Gerald, xxx-xx-xxxx.
Lipson, Elliot S., xxx-xx-xxxx.
Little, Douglas W., xxx-xx-xxxx.
Lloyd, Herbert J., xxx-xx-xxxx.
Long, George L., xxx-xx-xxxx.
Long, James B., xxx-xx-xxxx.
Long, Regina M., xxx-xx-xxxx.
Long, Wendel L., xxx-xx-xxxx.
Lopez, Luis, xxx-xx-xxxx.
Lopezdelacruz, Juan, xxx-xx-xxxx.
Lord, Fred E., xxx-xx-xxxx.
Lorsung, Norman E., xxx-xx-xxxx.
Lott, Claude W., xxx-xx-xxxx.
Lovejoy, William C., xxx-xx-xxxx.
Lovgren, Jaul W., xxx-xx-xxxx.
Lowe, Karl H., xxx-xx-xxxx.
Lowry, William I., xxx-xx-xxxx.
Lozier, Gary O., xxx-xx-xxxx.
Lucy, Daniel H., xxx-xx-xxxx.
Lujan, Armando, xxx-xx-xxxx.
Lundberg, Maynard J., xxx-xx-xxxx.
Lutz, Ward A., xxx-xx-xxxx.
Lutz, William G., xxx-xx-xxxx.
Lynch, Charles A., xxx-xx-xxxx.
Lynch, David F., xxx-xx-xxxx.
Lyon, Kenneth S., xxx-xx-xxxx.
Mabry, Joseph M., xxx-xx-xxxx.
MacDonald, Charles, xxx-xx-xxxx.
Mace, James S., xxx-xx-xxxx.
Mack, John S., xxx-xx-xxxx.
MacLellan, Norman A., xxx-xx-xxxx.
Madden, Charles E., xxx-xx-xxxx.
Maddry, Ted R., xxx-xx-xxxx.
Mahalik, Paul D., xxx-xx-xxxx.
Maimon, Joel J., xxx-xx-xxxx.
Major, Frank, xxx-xx-xxxx.

Major, James S., xxx-xx-xxxx.
Mallard, Richard L., xxx-xx-xxxx.
Mallone, Richard F., xxx-xx-xxxx.
Mancuso, Frank N., xxx-xx-xxxx.
Mandeville, Craig H., xxx-xx-xxxx.
Mann, Carl A., xxx-xx-xxxx.
Mann, Robert E., xxx-xx-xxxx.
Manning, Roger D., xxx-xx-xxxx.
Mansi, Leo J., xxx-xx-xxxx.
Marchand, Gary J., xxx-xx-xxxx.
Marchi, John D., xxx-xx-xxxx.
Margolius, Benjamin, xxx-xx-xxxx.
Marshall, Edgar A., xxx-xx-xxxx.
Martin, Paul, xxx-xx-xxxx.
Martin, Richard B., xxx-xx-xxxx.
Mason, William B., xxx-xx-xxxx.
Mathewes, Paul H., xxx-xx-xxxx.
Matson, Donald F., xxx-xx-xxxx.
Matteson, Richard J., xxx-xx-xxxx.
Matthews, Cleve E., xxx-xx-xxxx.
McBride, Hugh M., xxx-xx-xxxx.
McCaffrey, Barry R., xxx-xx-xxxx.
McCaffrey, John C., xxx-xx-xxxx.
McCarthy, Brian J., xxx-xx-xxxx.
McCarver, James M., xxx-xx-xxxx.
McCaskill, Horace J., xxx-xx-xxxx.
McClain, Charles W., xxx-xx-xxxx.
McClellan, Donald H., xxx-xx-xxxx.
McCollum, Lawrence, xxx-xx-xxxx.
McCollum, Tommie L., xxx-xx-xxxx.
McCormack, Michael, xxx-xx-xxxx.
McCown, John E., xxx-xx-xxxx.
McCown, Ronald O., xxx-xx-xxxx.
McCoy, Ray E., xxx-xx-xxxx.
McCurdey, Newton F., xxx-xx-xxxx.
McCurry, William K., xxx-xx-xxxx.
McDermott, Richard, xxx-xx-xxxx.
McDevitt, Coleman J., xxx-xx-xxxx.
McDonough, William, xxx-xx-xxxx.
McDowell, Robert M., xxx-xx-xxxx.
McElroy, James W., xxx-xx-xxxx.
McFarlin, Robert P., xxx-xx-xxxx.
McGarity, Robert L., xxx-xx-xxxx.
McGrath, Catherine, xxx-xx-xxxx.
McGrath, Thomas R., xxx-xx-xxxx.
McGrath, Walter J., xxx-xx-xxxx.
McGuinness, John W., xxx-xx-xxxx.
McGurk, Francis W., xxx-xx-xxxx.
McGurk, Robert S., xxx-xx-xxxx.
McHugh, Bernard J., xxx-xx-xxxx.
McKay, Donald M., xxx-xx-xxxx.
McKee, David L., xxx-xx-xxxx.
McKenzie, Melvin R., xxx-xx-xxxx.
McKenzie, Smith R., xxx-xx-xxxx.
McKeon, Charles A., xxx-xx-xxxx.
McKinney, Clarence, xxx-xx-xxxx.
McLaughlin, Robert, xxx-xx-xxxx.
McLean, William F., xxx-xx-xxxx.
McLeskey, Frank R., xxx-xx-xxxx.
McMakin, James P., xxx-xx-xxxx.
McMonegal, William, xxx-xx-xxxx.
McNamara, Paul K., xxx-xx-xxxx.
McWilliams, James L., xxx-xx-xxxx.
Means, Dale F., xxx-xx-xxxx.
Meek, Donald L., xxx-xx-xxxx.
Meier, Arthur C., xxx-xx-xxxx.
Melander, Harold W., xxx-xx-xxxx.
Menking, Hugh M., xxx-xx-xxxx.
Merchant, Richard I., xxx-xx-xxxx.
Meredith, Richard L., xxx-xx-xxxx.
Merrill, Robert K., xxx-xx-xxxx.
Merritt, Donald E., xxx-xx-xxxx.
Merritt, William P., xxx-xx-xxxx.
Metcalf, Richard A., xxx-xx-xxxx.
Metelko, James E., xxx-xx-xxxx.
Metzer, Robert S., xxx-xx-xxxx.
Meurer, Frederick E., xxx-xx-xxxx.
Miles, Milton, E., xxx-xx-xxxx.
Millard, Ramon E., xxx-xx-xxxx.
Miller, Bruce F., xxx-xx-xxxx.
Miller, George M., xxx-xx-xxxx.
Miller, Gerald D., xxx-xx-xxxx.
Miller, Paul L., xxx-xx-xxxx.
Mills, Walter L., xxx-xx-xxxx.
Mills, William C., xxx-xx-xxxx.
Mitchell, John M., xxx-xx-xxxx.
Mitchell, Ralph M., xxx-xx-xxxx.
Mitchiner, Marvin E., xxx-xx-xxxx.
Mix, David J., xxx-xx-xxxx.
Mock, Wayne E., xxx-xx-xxxx.
Modrall, Nelson E., xxx-xx-xxxx.
Moerbe, Ronald H., xxx-xx-xxxx.
Monroe, Dennis G., xxx-xx-xxxx.
Montes, Juan A., xxx-xx-xxxx.
Monteverde, Miguel, xxx-xx-xxxx.
Montgomery, James R., xxx-xx-xxxx.
Montgomery, Patrick, xxx-xx-xxxx.
Montgomery, Thomas, xxx-xx-xxxx.
Moon, John K., xxx-xx-xxxx.
Moore, Alan L., xxx-xx-xxxx.
Moore, Frederick T., xxx-xx-xxxx.
Moore, Howard W., xxx-xx-xxxx.
Moore, John T., xxx-xx-xxxx.
Moore, Julius B., xxx-xx-xxxx.
Moore, Richard C., xxx-xx-xxxx.
Moore, Richard E., xxx-xx-xxxx.
Moorehead, Robert L., xxx-xx-xxxx.
Moran, Michael A., xxx-xx-xxxx.
Moreau, James G., xxx-xx-xxxx.
Morgan, Donald J., xxx-xx-xxxx.
Morgan, Paul F., xxx-xx-xxxx.
Morgan, Richard J., xxx-xx-xxxx.
Morris, Delton R., xxx-xx-xxxx.
Morris, Hollis L., xxx-xx-xxxx.
Moscrip, John, Jr., xxx-xx-xxxx.
Mosier, Douglas K., xxx-xx-xxxx.
Moss, James W., xxx-xx-xxxx.
Mountz, Robert E., xxx-xx-xxxx.
Mouser, Thomas M., xxx-xx-xxxx.
Muldoon, James J., xxx-xx-xxxx.
Mullen, George M., xxx-xx-xxxx.
Mullen, William A., xxx-xx-xxxx.
Muller, Richard H., xxx-xx-xxxx.
Mullis, Harry E., xxx-xx-xxxx.
Murdock, Don H., xxx-xx-xxxx.
Murphy, Charles R., xxx-xx-xxxx.
Murphy, Haspard R., xxx-xx-xxxx.
Murphy, Joseph K., xxx-xx-xxxx.
Murphy, William J., xxx-xx-xxxx.
Murray, George T., xxx-xx-xxxx.
Murray, William K., xxx-xx-xxxx.
Myers, Douglas V., xxx-xx-xxxx.
Myers, Duane H., xxx-xx-xxxx.
Myers, Richard E., xxx-xx-xxxx.
Myers, William E., xxx-xx-xxxx.
Nash, Kenneth H., xxx-xx-xxxx.
Necessary, Kenneth, xxx-xx-xxxx.
Neilson, Robert S., xxx-xx-xxxx.
Nelson, Harold M., xxx-xx-xxxx.
Nelson, Jerry B., xxx-xx-xxxx.
Nettling, John T., xxx-xx-xxxx.
Neubert, Gunter H., xxx-xx-xxxx.
Nickens, Joseph E., xxx-xx-xxxx.
Nikotich, George S., xxx-xx-xxxx.
Nixon, Howard T., xxx-xx-xxxx.
Nixon, Robert A., xxx-xx-xxxx.
Novembre, Peter J., xxx-xx-xxxx.
Oakley, William B., xxx-xx-xxxx.
O'Brien, Richard T., xxx-xx-xxxx.
O'Connor, James M., xxx-xx-xxxx.
O'Connor, John M., xxx-xx-xxxx.
Oehrlein, Richard V., xxx-xx-xxxx.
O'Hall, Carl J., xxx-xx-xxxx.
O'Laughlin, Michael, xxx-xx-xxxx.
Olds, William K., xxx-xx-xxxx.
Olenick, Benjamin J., xxx-xx-xxxx.
Olive, Sergei V., xxx-xx-xxxx.
Olivera, Humberto F., xxx-xx-xxxx.
Olsen, Alexander K., xxx-xx-xxxx.
Olsen, Gary A., xxx-xx-xxxx.
Olson, Richard V., xxx-xx-xxxx.
O'Malley, Thomas E., xxx-xx-xxxx.
O'Neal, Samuel K., xxx-xx-xxxx.
O'Neil, Peter G., xxx-xx-xxxx.
Ono, Tadahiko, xxx-xx-xxxx.
Osborne, Gerald C., xxx-xx-xxxx.
Osterhoudt, Michael, xxx-xx-xxxx.
O'Sullivan, Kenneth, xxx-xx-xxxx.
Otis, Malcolm D., xxx-xx-xxxx.
O'Toole, Robert H., xxx-xx-xxxx.
Owen, Charles S., xxx-xx-xxxx.
Owen, Felix E., xxx-xx-xxxx.
Owen, John F., xxx-xx-xxxx.
Owens, John V., xxx-xx-xxxx.
Paccerelli, George, xxx-xx-xxxx.
Padron, Francisco J., xxx-xx-xxxx.
Page, James Q., xxx-xx-xxxx.
Page, Richard R., xxx-xx-xxxx.
Pahland, Richard C., xxx-xx-xxxx.
Palmer, Allyn J., xxx-xx-xxxx.
Palmer, Robert C., xxx-xx-xxxx.
Parker, Charles M., xxx-xx-xxxx.
Parker, Harold P., xxx-xx-xxxx.
Parker, John E., xxx-xx-xxxx.
Parks, Robert R., xxx-xx-xxxx.
Parrish, John C., xxx-xx-xxxx.
Paruti, Alexander J., xxx-xx-xxxx.
Passarelli, John, Jr., xxx-xx-xxxx.
Paterson, Theodore, xxx-xx-xxxx.
Patin, Jude W., xxx-xx-xxxx.
Patterson, Jerry R., xxx-xx-xxxx.
Peck, Millard A., xxx-xx-xxxx.
Pedigo, William E., xxx-xx-xxxx.
Peggs, Robert W., xxx-xx-xxxx.
Pennell, William H., xxx-xx-xxxx.
Perry, Daniel R., xxx-xx-xxxx.
Perry, Richard, xxx-xx-xxxx.
Perry, Richard O., xxx-xx-xxxx.
Perry, Ronald J., xxx-xx-xxxx.
Peterlin, Frank T., xxx-xx-xxxx.
Petersen, William T., xxx-xx-xxxx.
Peterson, Robert H., xxx-xx-xxxx.
Pflugrath, Charles, xxx-xx-xxxx.
Phillips, Billy J., xxx-xx-xxxx.
Phipps, Olen C., xxx-xx-xxxx.
Pickler, John M., xxx-xx-xxxx.
Pierce, Niles, xxx-xx-xxxx.
Pierson, Rex F., xxx-xx-xxxx.
Pilgrim, George E., xxx-xx-xxxx.
Pilgrim, Mark T., xxx-xx-xxxx.
Pinomarina, Nestor, xxx-xx-xxxx.
Platt, Richard A., xxx-xx-xxxx.
Plomgren, Chester A., xxx-xx-xxxx.
Pogorzelski, Jerome, xxx-xx-xxxx.
Poindexter, Alonzo, xxx-xx-xxxx.
Pollard, Royce E., xxx-xx-xxxx.
Polonis, Lawrence L., xxx-xx-xxxx.
Pope, Derwin B., xxx-xx-xxxx.
Porch, David B., xxx-xx-xxxx.
Porter, Joseph G., xxx-xx-xxxx.
Powell, Luther C., xxx-xx-xxxx.
Prather, Dan E., xxx-xx-xxxx.
Prestipino, Samuel, xxx-xx-xxxx.
Price, Jerry C., xxx-xx-xxxx.
Prim, David F., xxx-xx-xxxx.
Pritchett, Charles, xxx-xx-xxxx.
Pruitt, Ronald O., xxx-xx-xxxx.
Prusinovski, Louis, xxx-xx-xxxx.
Quast, John G., xxx-xx-xxxx.
Quesenberry, John R., xxx-xx-xxxx.
Quijano, Ramon Jr., xxx-xx-xxxx.
Quinlan, Michael M., xxx-xx-xxxx.
Quinn, Robert J., xxx-xx-xxxx.
Quinones, Ruben D., xxx-xx-xxxx.
Ragsdale, Jack D., xxx-xx-xxxx.
Raley, Thomas S., xxx-xx-xxxx.
Ranallo, James Jr., xxx-xx-xxxx.
Ratcliff, Owen L., xxx-xx-xxxx.
Rawlerson, Frank, xxx-xx-xxxx.
Ray, Russell H., xxx-xx-xxxx.
Ray, Webster D., xxx-xx-xxxx.
Rea, Thomas E., xxx-xx-xxxx.
Reece, Charles R., xxx-xx-xxxx.
Reed, Arthur W., xxx-xx-xxxx.
Reed, William A., xxx-xx-xxxx.
Reeves, Richard F., xxx-xx-xxxx.
Reinkober, Thomas E., xxx-xx-xxxx.
Remick, Lawrence E., xxx-xx-xxxx.
Repischak, Leroy T., xxx-xx-xxxx.
Resch, Robert E., xxx-xx-xxxx.
Rhodes, Charles E., xxx-xx-xxxx.
Rice, Myron K., xxx-xx-xxxx.
Richards, Harold B., xxx-xx-xxxx.
Richardson, Dennis, xxx-xx-xxxx.
Richmond, Laura J., xxx-xx-xxxx.
Ridick, John A., xxx-xx-xxxx.
Rives, Charles M., xxx-xx-xxxx.
Robbins, John R., xxx-xx-xxxx.
Roberson, Carlton F., xxx-xx-xxxx.
Roberts, James F., xxx-xx-xxxx.
Roberts, Richard H., xxx-xx-xxxx.
Roberts, William F., xxx-xx-xxxx.
Robertson, Jarrett, xxx-xx-xxxx.
Robinson, Richard S., xxx-xx-xxxx.
Robinson, William A., xxx-xx-xxxx.
Rockwell, Richard F., xxx-xx-xxxx.
Rodriguez-Alvarez, Orlando P., xxx-xx-xxxx.

Roebuck, Zigmund, J., [redacted].
Roesler, David E., [redacted].
Rogers, Richard L., [redacted].
Rosensteel, Grant L., [redacted].
Ross, Barry D., [redacted].
Rothlisberger, Charles J., [redacted].
Rourke, John E., [redacted].
Rowe, David H., [redacted].
Rowe, Gerald H., [redacted].
Royal, Luther, [redacted].
Rozga, Anthony A., [redacted].
Rudd, Johnny R., [redacted].
Ruhl, Garrett E., [redacted].
Rhumann, Richard A., [redacted].
Russ, Sam W., [redacted].
Russell, David E., [redacted].
Russo, Alan M., [redacted].
Rust, David H., [redacted].
Rutland, Jackie E., [redacted].
Ryan, James D., [redacted].
Rye, James A., [redacted].
Sabin, Charles B., [redacted].
Saenz, Gilberto, [redacted].
Saffron, Joseph P., [redacted].
Sagerser, Roy P., [redacted].
Samuels, Seymour, II, [redacted].
Sanders, Marvin L., [redacted].
Sanders, Purvis L., [redacted].
Santos, Agapito, [redacted].
Sarakaitis, Joseph, [redacted].
Sarda, Ram M., [redacted].
Sasaki, Raymond N., [redacted].
Sauer, James B., [redacted].
Sawczyn, William, [redacted].
Schaller, Robert H., [redacted].
Scharf, James D., [redacted].
Scharf, Paul A., [redacted].
Schaum, Fred W., [redacted].
Scheidig, Robert E., [redacted].
Schmidt, Charles L., [redacted].
Schmidt, John III, [redacted].
Schmidt, Werner G., [redacted].
Scholl, Wayne J., [redacted].
Schrader, Stanley A., [redacted].
Schreyach, Jon C., [redacted].
Schuetze, Irving P., [redacted].
Scobie, Timothy, C., [redacted].
Scott, Eugene F., [redacted].
Seaborn, Donald J., [redacted].
Seger, Robert E., [redacted].
Semrau, Buddy L., [redacted].
Senecal, Jan L., [redacted].
Seremet, Andrew J., [redacted].
Sheaffer, Frederick, [redacted].
Sheffield, Robert W., [redacted].
Sheffield, Ronald L., [redacted].
Shepherd, James G., [redacted].
Shiley, Roger D., [redacted].
Shine, Alexander P., [redacted].
Shippey, William H., [redacted].
Shirley, Frederick, [redacted].
Shreffler, Lynn D., [redacted].
Shuler, Brigham, S., [redacted].
Siebenaler, Donald, [redacted].
Sifrit, Roger W., [redacted].
Silberstein, Kenneth, [redacted].
Sill, Glenn E., [redacted].
Simonetta, Russell, [redacted].
Simpson, Albert F., [redacted].
Simpson, Donald A., [redacted].
Simpson, Kenneth W., [redacted].
Simpson, Patrick J., [redacted].
Sims, George M., [redacted].
Sims, Thomas, Jr., [redacted].
Sinor, Donald R., [redacted].
Sirois, George A., [redacted].
Sivells, James B., [redacted].
Skenders, Louis E., [redacted].
Slaughter, Frank L., [redacted].
Sloan, Murrell L., [redacted].
Slye, William T., [redacted].
Smart, Neil A., [redacted].
Smith, Bruce E., [redacted].
Smith, Charles F., [redacted].
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Smith, Edward C., [redacted].
Smith, Glenn N., [redacted].
Smith, Graham A., [redacted].
Smith, Hubert G., [redacted].
Smith, Jimmy T., [redacted].
Smith, Lee H., [redacted].
Smith, Michael R., [redacted].
Smith, Paul M., [redacted].
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Smith, William D., [redacted].
Smith, William H., [redacted].
Smullen, Frederick, [redacted].
Sneed, Bryant S., [redacted].
Snelgrove, Larris M., [redacted].
Snodgrass, Wilder M., [redacted].
Snook, Larry, [redacted].
Snow, Joseph T., [redacted].
Snyder, L. B., II, [redacted].
Sobel, Robert L., [redacted].
Solenberger, Thomas, [redacted].
Sosnowski, John J., [redacted].
Sottak, Barry J., [redacted].
Spagnoli, Joseph B., [redacted].
Speltz, Karl W., [redacted].
Spirek, Dennis G., [redacted].
Sprague, Michael D., [redacted].
Stalmann, Bernard E., [redacted].
Stamant, Philemon A., [redacted].
Steadman, Kenneth A., [redacted].
Steele, Robert M., [redacted].
Steele, William T., [redacted].
Steinig, Ronald D., [redacted].
Stephens, Charles D., [redacted].
Stephens, Jeffrey L., [redacted].
Stephens, Thomas E., [redacted].
Sterret, John D., [redacted].
Stewart, Charles W., [redacted].
Stinson, George W., [redacted].
Stock, Lawrence W., [redacted].
Straub, Delbert M., [redacted].
Stryker, James W., [redacted].
Sturbois, Louis J., [redacted].
Sturdivant, Robert, [redacted].
Sturges, Scott L., [redacted].
Stutz, Darvel C., [redacted].
Sullivan, Gerald R., [redacted].
Sullivan, John E., [redacted].
Sullivan, William E., [redacted].
Summerford, Wheeler, [redacted].
Summers, Michael H., [redacted].
Surette, Warren J., [redacted].
Sutcliffe, Bruce E., [redacted].
Swan, Leanora M., [redacted].
Swanson, Gary D., [redacted].
Swedlung, Jerry G., [redacted].
Sweeney, Robert D., [redacted].
Szymanowicz, Philip, [redacted].
Takata, Alvin M., [redacted].
Tames, Robert G., [redacted].
Taylor, Donald R., [redacted].
Taylor, John R., [redacted].
Taylor, Morris M., [redacted].
Taylor, Richard H., [redacted].
Templeton, Allen E., [redacted].
Tepper, Elliott I., [redacted].
Terry, Elbridge W., [redacted].
Terry, Millard D., [redacted].
Tezak, Edward G., [redacted].
Thomas, James A., [redacted].
Thomas, Joseph J., [redacted].
Thomas, Noel R., [redacted].
Thomas, Steven A., [redacted].
Thomas, Thomas N., [redacted].
Thomason, Jeffrey H., [redacted].
Thompson, Leon G., [redacted].
Thompson, Tommy R., [redacted].
Tiggle, Charles B., [redacted].
Timmerman, Frederic, [redacted].
Timmons, Aurin C., [redacted].
Timpf, Richard H., [redacted].
Tinberg, Larry R., [redacted].
Tincher, James C., [redacted].
Tingle, Gordon W., [redacted].
Tinsley, William A., [redacted].
Tivol, Edwin A., [redacted].
Todd, Patrick R., [redacted].
Todd, Timothy O., [redacted].
Tomita, Ralph S., [redacted].
Torres, Manuel, [redacted].
Totten, Michael W., [redacted].
Tousant, Clifford A., [redacted].
Tracy, David S., [redacted].
Tragemann, Richard, [redacted].
Traino, Joseph A., [redacted].
Trotter, Kenneth E., [redacted].
Trotti, John D., [redacted].
Trussell, James B., [redacted].
Turner, Charles E., [redacted].
Turner, Philip B., [redacted].
Turner, Russell W., [redacted].
Turpin, William C., [redacted].
Tysdal, Thomas P., [redacted].
Ulmer, Samuel C., [redacted].
Ungerer, David C., [redacted].
Ussery, Freddie J., [redacted].
Vandehei, Richard P., [redacted].
Vandever, John J., [redacted].
Vanhoose, Dallas, Jr., [redacted].
Vanhorn, Frederick E., [redacted].
Vanloon, Weston O., [redacted].
Vanvleck, James E., [redacted].
Vanzant, John H., [redacted].
Vasey, Michael C., [redacted].
Vaughn, Robert P., [redacted].
Vaughn, Ronald K., [redacted].
Velez, Agustin E., [redacted].
Verduin, Robert W., [redacted].
Verrier, Thomas L., [redacted].
Vick, Prentice R., [redacted].
Viduya, Robert C., [redacted].
Viles, Ronald J., [redacted].
Virant, Leo B., [redacted].
Vogel, Robert A., [redacted].
Volk, Paul J., [redacted].
Wagner, Jerry T., [redacted].
Wahlbom, David M., [redacted].
Wahlbom, Philip C., [redacted].
Waldrop, Richard S., [redacted].
Walk, Gary J., [redacted].
Walker, Herbert A., [redacted].
Walker, John S., [redacted].
Walker, Lyman J., [redacted].
Walkley, Lester D., [redacted].
Wall, Joseph H., [redacted].
Wall, Kenneth E., [redacted].
Wallace, Thomas L., [redacted].
Walsh, Robert E., [redacted].
Walterhouse, Richard, [redacted].
Walther, John R., [redacted].
Ward, James A., [redacted].
Ward, Joel H., [redacted].
Ward, Richard F., [redacted].
Ware, Robert P., [redacted].
Warman, Cletis M., [redacted].
Warner, Lawrence E., [redacted].
Wascom, Charles L., [redacted].
Washington, Billy J., [redacted].
Watkins, John M., [redacted].
Watson, Jacob T., [redacted].
Watson, Jerry L., [redacted].
Watson, Raymon L., [redacted].
Watts, John E., [redacted].
Way, Darwin M., [redacted].
Weaver, John C., [redacted].
Wever, William C., [redacted].
Weber, Neal J., [redacted].
Webster, Lynn C., [redacted].
Weeks, Thomas L., [redacted].
Weirich, Danford N., [redacted].
Weisman, Donald E., [redacted].
Weiss, Robert M., [redacted].
Welch, David A., [redacted].
Wells, James V., [redacted].
Wells, Robert D., [redacted].
Wells, William L., [redacted].
Wernitznig, Ronald, [redacted].
Wessling, Richard B., [redacted].
Westbrook, William, [redacted].
Westfall, Grover D., [redacted].
Wheelan, John D., [redacted].
Wheeler, James E., [redacted].
Wheeler, William L., [redacted].
Whelan, Richard W., [redacted].
Whelan, Robert E., [redacted].
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White, Florine J., [redacted].
White, William C., [redacted].
Whitehead, Charles, [redacted].
Whitehouse, Elray P., [redacted].
Whitmer, Dennis K., [redacted].
Whittington, Robert, [redacted].
Wilde, Gary D., [redacted].
Wilkinson, Robert H., [redacted].
Williams, Gerald P., [redacted].
Williams, Robert G., [redacted].
Williams, Roger D., [redacted].

Willman, Landon P., xxx-xx-xxxx.
Willson, Daniel A., xxx-xx-xxxx.
Wilpuetz, Robert E., xxx-xx-xxxx.
Wilson, Daniel B., xxx-xx-xxxx.
Wilson, John W., xxx-xx-xxxx.
Wilson, Samuel F., xxx-xx-xxxx.
Wilson, Thomas A., xxx-xx-xxxx.
Winarski, Stanley T., xxx-xx-xxxx.
Winder, Gordon L., xxx-xx-xxxx.
Windsor, Thomas C., xxx-xx-xxxx.
Winkler, David M., xxx-xx-xxxx.
Winters, Robert F., xxx-xx-xxxx.
Winton, Harold R., xxx-xx-xxxx.
Wirth, Frederick B., xxx-xx-xxxx.
Wissinger, Allen R., xxx-xx-xxxx.
Wolfkill, Harry H., xxx-xx-xxxx.
Womble, Columbus M., xxx-xx-xxxx.
Wood, Robert H., xxx-xx-xxxx.
Wood, Shelton E., xxx-xx-xxxx.
Woodard, Larry H., xxx-xx-xxxx.
Woodham, Gary E., xxx-xx-xxxx.
Woods, Luther L., xxx-xx-xxxx.
Woodson, Robert L., xxx-xx-xxxx.
Worthington, Gerald, xxx-xx-xxxx.
Wright, Johnny F., xxx-xx-xxxx.
Wright, Walter C., xxx-xx-xxxx.
Wroblewski, Frank M., xxx-xx-xxxx.
Wyatt, Bobby J., xxx-xx-xxxx.
Wyatt, Robert L., xxx-xx-xxxx.
Wylie, Edgar L., xxx-xx-xxxx.
Willie, William J., xxx-xx-xxxx.
Xenakis, William A., xxx-xx-xxxx.
Yager, Lawrence W., xxx-xx-xxxx.
Yanagihara, Galen H., xxx-xx-xxxx.
Yates, William G., xxx-xx-xxxx.
Yazinski, Edward C., xxx-xx-xxxx.
Yearout, Paul H., xxx-xx-xxxx.
Young, James A., xxx-xx-xxxx.
Young, Robert S., xxx-xx-xxxx.
Youngblade, Walter, xxx-xx-xxxx.
Yourtee, Leon R., xxx-xx-xxxx.
Yurkas, Gary E., xxx-xx-xxxx.
Zamenick, Stephen J., xxx-xx-xxxx.
Zeltner, Richard L., xxx-xx-xxxx.
Zepke, John R., xxx-xx-xxxx.
Zikmund, Robert L., xxx-xx-xxxx.

CHAPLAIN CORPS

To be lieutenant colonel

Bailey, John C., xxx-xx-xxxx.
Baker, Walter S., xxx-...
Baldwin, Charles S., xxx-xx-xxxx.
Bass, Charles D., xxx-xx-xxxx.
Bell, Robert E., xxx-xx-xxxx.
Bowker, Gary A., xxx-xx-xxxx.
Brady, Lester G., xxx-...
Cassibry, Paul B., xxx-...
Caulder, Francis R., xxx-xx-xxxx.
Connett, Reynold B., xxx-xx-xxxx.
Daniell, Robert D., xxx-xx-xxxx.
Edgren, James A., xxx-xx-xxxx.
Goeres, Richard V., xxx-...
Greenburg, Alcuin E., xxx-xx-xxxx.
Hudson, Roland B., xxx-xx-xxxx.
Kelly, Colin P., xxx-xx-xxxx.
Luedee, Rene, xxx-xx-xxxx.
Newby, Claude D., xxx-xx-...
Perkins, James R., xxx-xx-...
Permenter, W. T., xxx-xx-...
Roland, Clarence H., xxx-xx-...
Rosheim, Waldron A., xxx-...
Schreiber, Paul E., x...
Sparling, Darryl E., xxx-xx-...
Sullivan, Max D., xxx-xx-...
Zimmerman, Matthew, xxx-xx-xxxx.

JUDGE ADVOCATE CORPS

To be lieutenant colonel

Barnes, Holman J., xx...
Bozeman, John R., xxx-xx...
Brandenburg, Andrew, xxx-xx-xxxx.
Burns, Thomas P., xxx-xx...
Corrigan, Dennis M., xxx-...
Crean, Thomas M., xxx-xx-xxxx.
Darley, Roger G., xxx-xx...
Demitz, Robert A., xxx-xx...
Delvin, Terrence E., xxx-...
Dunn, John P., xxx-xx-xxxx.
Gentry, William O., xxx-...
Gilley, Dewey C., xxx-xx-xxxx.
Green, Herbert J., xxx-xx-xxxx.
Higgins, Bernard F., xxx-xx-xxxx.
Kaplan, Harvey W., xxx-xx-xxxx.
Lane, Jack F., xxx-...
Mann, Richard G., xxx-xx-xxxx.
Nichols, John J., xxx-xx-xxxx.
Sims, Benjamin A., xxx-xx-xxxx.
Steinberg, Barry P., xxx-xx-xxxx.
Taylor, Warren P., xxx-xx-xxxx.
Tiedemann, John J., xxx-xx-xxxx.
Weinberg, Paul, xxx-xx-xxxx.
Williams, Herbert D., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Barron, Garrett W., xxx-xx-xxxx.
Beckham, Carl N., xxx-xx-xxxx.
Billingsley, Herchel, xxx-xx-xxxx.
Bivens, Rolland N., xxx-xx-xxxx.
Bradford, Jackie E., xxx-xx-xxxx.
Bulla, Bill F., xxx-xx-xxxx.
Burt, Joe M., xxx-xx-xxxx.
Butler, Eulous S., xxx-xx-xxxx.
Copeland, Keith E., xxx-xx-xxxx.
Covington, William, xxx-xx-xxxx.
Cunningham, Clyde R., xxx-xx-xxxx.
Cunningham, Jerry A., xxx-xx-xxxx.
Czachowski, Robert, xxx-xx-xxxx.
Damian, Kenneth J., xxx-xx-xxxx.
Danielski, Linn J., xxx-xx-xxxx.
Daubel, Karl J., xxx-xx-xxxx.
David, James R., xxx-xx-xxxx.
Davis, Charles T., xxx-xx-xxxx.
Eaton, Frederick A., xxx-xx-xxxx.
Engelkirk, Paul G., xxx-xx...
Fahey, Thomas E., xxx-xx-xxxx.
Fields, Jerry L., xxx-xx-xxxx.
Finkelstein, Eugene, xxx-xx-xxxx.
Flory, Alan J., xxx-xx-xxxx.
Freihett, Gene A., xxx-xx...
Frew, William D., xxx-xx-xxxx.
Gatens, Paul D., xxx-xx-xxxx.
Gill, Joseph E., xxx-xx-xxxx.
Glick, David D., xxx-xx-xxxx.
Greenwood, Robert J., xxx-xx-xxxx.
Gregg, Jerry L., xxx-xx-xxxx.
Gustat, Matthew P., xxx-xx-xxxx.
Hampton, Jon F., xxx-xx-xxxx.
Harman, Richard B., xxx-xx-xxxx.
Hassell, William B., xxx-xx-xxxx.
Hoefer, Rufus S., xxx-xx-xxxx.
Holway, William K., xxx-xx-xxxx.
Hopkin, Clarence E., xxx-xx-xxxx.
Jackman, Timothy, xxx-xx-xxxx.
Jones, Douglas E., xxx-xx-xxxx.
Jones, Malachi B., xxx-xx-xxxx.
Katsuyoshi, Charles, xxx-xx-xxxx.
Kenison, Charles B., xxx-xx-xxxx.
Kinion, Ronald O., xxx-xx-xxxx.
Kitchin, David J., xxx-xx-xxxx.
Kreiner, John E., xxx-xx-xxxx.
Laaken, B. Richard, xxx-xx-xxxx.
Lamothe, John D., xxx-xx-xxxx.
Lohmiller, William, xxx-xx-xxxx.
Malebranche, Reginald, xxx-xx-xxxx.
Marley, Henry B., xxx-xx-xxxx.
McNelis, Peter J., xxx-xx-xxxx.
Miller, Gerald G., xxx-xx-xxxx.
Morelli, Nicholas, xxx-xx-xxxx.
Morris, John B., xxx-xx-xxxx.
Nason, Jesse N., xxx-xx-xxxx.
Newby, John H., xxx-xx-xxxx.
Obrien, Joseph D., xxx-xx-xxxx.
Parker, Robert L., xxx-xx-xxxx.
Parmer, Bert E., xxx-xx-xxxx.
Perkins, Jacob H., xxx-xx-xxxx.
Picone, Gaspare P., xxx-xx-xxxx.
Pottle, Lloyd E., xxx-xx-xxxx.
Preston, Edward J., xxx-xx-xxxx.
Redington, Bryce C., xxx-xx-xxxx.
Reed, Podge M., xxx-xx-xxxx.
Reid, Willis A., xxx-xx-xxxx.
Roby, William W., xxx-xx-xxxx.
Russell, Gerald E., xxx-xx-xxxx.
Saccaro, Anthony, Jr., xxx-xx-xxxx.
Sampson, James R., xxx-xx-xxxx.
Sandidge, William M., xxx-xx-xxxx.
Schnakenberg, David, xxx-xx-xxxx.
Scofield, Thomas C., xxx-xx-xxxx.
Shoup, Kenneth J., xxx-xx-xxxx.
Smalling, Oliver H., xxx-xx-xxxx.
Smith, George T., xxx-xx-xxxx.
Sodetz, Frank J., xxx-xx-xxxx.
Solverud, Truman H., xxx-xx-xxxx.
Taylor, Jack S., xxx-xx-xxxx.
Tower, Gerald E., xxx-xx-xxxx.
Troy, Milton W., xxx-xx...
Vorpahl, Kenneth W., xxx-xx-xxxx.
Walker, Jimmy, xxx-xx-xxxx.
Warner, Lyle W., xxx-xx-xxxx.
Watson, Robert J., xxx-xx-xxxx.
Watts, Olen C., xxx-xx-xxxx.
Weis, John R., xxx-xx-xxxx.
White, Joseph S., xxx-xx-xxxx.
Wichelt, Roger H., xxx-xx-xxxx.
William, Clarence, xxx-xx-xxxx.
Williams, David G., xxx-xx-xxxx.
Wilson, Joe H., xxx-xx-xxxx.
Wilson, William L., xxx-xx-xxxx.
Yohman, Joseph F., xxx-xx-xxxx.
Young, Jimmy L., xxx-xx-xxxx.

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Arnold, Thelma S., xxx-xx-xxxx.
Davis, Benjamin S., xxx-xx-xxxx.
Kawano, Adeline A., xxx-xx-xxxx.
Mayberry, John D., xxx-xx-xxxx.
Monagan, Charles F., xxx-xx-xxxx.
Roberts, James E., xxx-xx-xxxx.
Sundstrom, Carl, xxx-xx-xxxx.
Yokoi, Frances N., xxx-xx...

VETERINARY CORPS

To be lieutenant colonel

Clark, Jon R., xxx-xx-xxxx.
Garrett, Charles A., xxx-xx-xxxx.
Heil, James R., xxx-xx-xxxx.
Palo, Matti W., xxx-x...
Trucksa, Robert C., xxx-xx-xxxx.
Whitmire, Richard E., xxx-xx-xxxx.

ARMY NURSE CORPS

To be lieutenant colonel

Alexander, Gus N., xxx-xx-xxxx.
Andrews, Charles E., xxx-xx-xxxx.
Bredemeier, Laura A., xxx-xx-xxxx.
Brua, Nancy J., xxx-xx-xxxx.
Bryant, Margie M., xxx-xx...
Burke, Gerald W. xxx-x...
Cameron, Karyn S., xxx-xx-xxxx.
Cannon, Kathleen M., xxx-xx-xxxx.
Clark, Dorothy J., xxx-xx-xxxx.
Courts, Dorothea A., xxx-xx-xxxx.
Crowley, Maureen A., xxx-xx-xxxx.
Ewing, Donna M., xxx-xx-xxxx.
Foree, Betty M., xxx-xx-xxxx.
Frank, Rita M., xxx-xx-xxxx.
Frankeberg Ann P. xxx-xx-xxxx.
Gill, Julia K., xxx-xx-xxxx.
Haag, George P., xxx-xx-xxxx.
Hale, Robert E., xxx-xx-xxxx.
Jaquez, Virginia, xxx-xx-xxxx.
Johnson, Evelyn V., xxx-xx-xxxx.
Jones, Jane A., xxx-xx-xxxx.
Keyser, Collette P., xxx-xx-xxxx.
Knight, Sylvia S., xxx-xx-xxxx.
Larrabee, Marvin L., xxx-xx-xxxx.
McCasland, Nickel Jr., xxx-xx-xxxx.
McConnell, Carol M., xxx-xx-xxxx.
McDowell, Boyce N., xxx-xx-xxxx.
Mino, Thomas A., xxx-xx-xxxx.
Montgomery, Raymond, xxx-xx-xxxx.
Pfaehler, Karl H., xxx-xx-xxxx.
Pugh, Calvin C., xxx-xx-xxxx.
Ricks, Lajoic J., xxx-xx-xxxx.
Riveradiaz, Victor, xxx-xx-xxxx.
Roberts, Marvin B., xxx-xx-xxxx.
Schneider, Harold P., xxx-xx-xxxx.
Segler, Esther J., xxx-xx-xxxx.
Selman, Charles J., xxx-xx-xxxx.
Skonieczny, Thomas, xxx-xx-xxxx.
Stevens, Lila C., xxx-xx-xxxx.
Voisine, March J., xxx-xx-xxxx.
Wheeler, Peggy L., xxx-xx-xxxx.
Young, David, xxx-xx-xxxx.

EXTENSIONS OF REMARKS

PLACES THAT USED TO NEED NAMES

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, October 2, 1978

● Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Missouri (Mr. EAGLETON) wrote an amusing and interesting article for Saturday's Washington Star concerning the postal ZIP codes.

I ask that it be printed in the Extension of Remarks.

The article follows:

PLACES THAT USED TO NEED NAMES

(By THOMAS F. EAGLETON)

Everything has to be someplace, and every place needs a name. At least, that is what we always have assumed throughout 6,000-odd years of recorded human history. During that stretch of time, we've named the places we come to and go from after anything and everything.

In Missouri, some places, like Hannibal, are named after famous people. Some places, like Moscow Mills, are named after other places. Some places, like New Franklin, are named after both.

We've named places after high ideals, such as Independence, and after lofty goals, such as Success. There's a Daisy, Missouri, which honors flowers, and a Buffalo, Missouri, which honors beasts.

There is greenery in Green City. However, there are no blue springs in Blue Springs. There used to be blue springs in Blue Springs, but then the town moved. They took the name along and left the spring behind.

Most of us find this variety of names amusing. Some would even go as far as to say that names like this are a necessity, at least if we all want to remember where we live. That view is not shared by the U.S. Postal Service, however. They don't like names at all.

For a long time, the Postal Service has been waging a subtle campaign to get rid of names. It began in the big cities, with the invention of zones. Suddenly one day, downtown St. Louis became St. Louis 1, St. Louis 2, St. Louis 3. Downtown Kansas City became Kansas City 5 and Kansas City 6, etc. It all seemed innocent enough, at first.

Then, in 1963, came a quantum leap in the march of progress—the discovery of the ZIP code. With ZIP code, the entire third line of everyone's home address became obsolete.

Today, if you are writing to a friend in Sikeston, you still are allowed to write "Sikeston, Mo." on the envelope, more as a bow to tradition than anything else. However, as far as the Postal Service is concerned, your friend lives in neither Sikeston nor Missouri. He lives in 63801, period.

In one grand sweep, order had triumphed over chaos. Before the discovery of ZIP code, for example, confused postal workers had to grapple with 24 different places named Springfield. Since 1963, though, Americans have lost nary a moment's sleep over the chances of 65801's mail mistakenly ending up in 19064.

Even with ZIP code, however, the typical address still contained at least two lines chock full of imprecise, confusing, despicable words. There was a plethora of St.'s, Dr.'s, Blvd.'s and Pkwy.'s. In some places, streets were numbered; in some places, streets were named. Some had the odd addresses on the right side, some on the left. Some had numbers going up to the north and down to the south, and some were just the other way around. In light of all of this confusing perplexity, it's a wonder we got any mail at all.

But no more! During the next 2½ years, the Postal Service has announced, everyone's ZIP code will get four more digits. From now on not only every hamlet, but also every rutted alley in every hamlet, will have its very own set of digits. Thus "the 900 block of Locust Street in downtown St. Louis, Missouri" will become something like "6310123-45," and the picturesque block of Hill Street in Hannibal where Mark Twain walked as a boy might quaintly be known as "634011111."

No doubt this is progress, but toward what? For the time being, the Postal Service seems to be content merely to assign a ZIP code to every block. But the cynics among us surely will note that the use of nine digits makes it possible to create a billion different ZIP codes. With that kind of capability, what is to prevent the Postal Service from declaring the need for a separate ZIP code for each house, or maybe even each individual? It should be noted that most of us already carry a nine-digit number on our Social Security cards.

Of course, such a scheme would not be without advantages. The use of personal ZIP code in lieu of names and addresses would save a lot of ink. It would make it easier to differentiate among people with names like Smith, Jones and Brown. It also would save us the social embarrassment of addressing a letter to Miss So-and-So, when it should have gone to Mrs. or Ms.

Besides, the Postal Service says that if we don't go to the nine digit ZIP, they might have to raise the rates again. Lord knows no one wants that, so I guess we'll just have to adjust.

Still, it sort of hurts to see the five-digit ZIP code join its brother, the 13-cent stamp, on a long trip down Memory Lane. Or, that is, down 337153986.●

THE PASSING OF JOHN PAUL I

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. OBERSTAR. Mr. Speaker, the papacy of Pope John Paul I began with such promise only weeks ago.

In his first act as Pope, this warm, gracious and learned man announced his intention to forgo in his installation ceremony the last vestiges of temporal power which had been attached to the Papacy since the Middle Ages.

In taking the names of his two immediate predecessors, he committed himself to a ministry of reconciliation. He hoped to consolidate the reforms in the church of the past 20 years.

He was uniquely suited to that role.

Less than 1 month ago, the world was moved by a ceremony whose simplicity and beauty was awesome. The millions who watched that ceremony are today stunned at the sudden passing of the spiritual leader of 700 million Roman Catholics.

Through the Will of God, the papacy of Pope John Paul I will not be known for its accomplishments.

It will be known for the great hope which it inspired.●

VETERANS' AFFAIRS IN GOOD HANDS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. TEAGUE. Mr. Speaker, as you know, I am retiring from Congress after the completion of my present term. I have enjoyed every minute I have spent in this Chamber. What could be more fulfilling than serving the Nation you love at its highest level?

One of the most satisfying areas in which I have worked is veterans' affairs. I hardly need tell you and my other old friends here that the needs and entitlements of veterans, their dependents and survivors have been closer to my heart than any other legislative matter. I would be deeply concerned if I thought the system of veterans benefits we have developed over the years was in any danger.

I am not worried, though. Veterans' legislative interests are in very good hands. My good friend and colleague from Texas, RAY ROBERTS, as chairman of the Veterans' Affairs Committee has demonstrated his deep commitment and unswerving zeal in seeking a fair deal for veterans. I have been called "TIGER" for a long time, but I will tell you that RAY ROBERTS has been another tiger in taking on forces in the administration that can not resist taking cuts at veterans' programs.

You are aware, Mr. Speaker, what RAY ROBERTS has accomplished already this year. When the administration sent us a budget that would have forced cutbacks in the VA medical program, he stood up on the floor of the House and showed all Members just what a drastic effect such cuts would have. He blocked them.

Under his leadership, the House has approved new programs for young veterans. He has kept the old programs up to date. And it has not been easy. As the memory of the last war recedes, there are all too many in Washington who await their chance to get a slice of the VA appropriation for their own pet projects.

I can tell them they better come well prepared. RAY ROBERTS will fight to the end for veterans. He has demonstrated that. I can assure America's veterans that they have a strong and willing

champion in the chairman of the House Committee on Veterans' Affairs. He is a man of integrity. He is a good man to have at your side when the battle is joined.

VETERANS' ADMINISTRATION AND HEALTH PLANNING

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. ROBERTS. Mr. Speaker, it was reported in the July 15, 1978, issue of U.S. Medicine that Robert Derzon, then Administrator of the Health Care Financing Administration of the Department of Health, Education and Welfare, told a symposium of State and local officials:

The problem of VA and health planning is one of the most difficult ones at HEW.

He said the VA had more "political clout" than most groups and urged his audience to put pressure on their Congressmen "to vote down what is not sound."

The reporter checked his notes, at my request, and verified the accuracy of the quotes, but I wrote to the Secretary of HEW, Joseph Califano, and asked for details of any problems his Department was having with the Veterans' Administration. I reminded him of earlier correspondence in which I have objected to HEW officials assuming responsibility for veterans benefits programs when there is no basis in law for them to do so. I further asked Mr. Califano to cite the authority by which HEW officials travel around the country urging State officials to put pressure on Congress.

The file of my objections to unwarranted HEW intrusions into veterans programs has become a thick one, Mr. Speaker. So that all Members may be aware of this matter, I include Mr. Califano's letter in reply to my inquiry into the RECORD:

WASHINGTON, D.C.,
September 20, 1978.

Hon. RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of July 26, you expressed concern over a remark attributed to Robert Derzon, Administrator of the Health Care Financing Administration. I have discussed this matter with Mr. Derzon and he assures me that he neither said, nor does he believe, that "the problem of VA and health planning is one of the most difficult ones at HEW."

Mr. Derzon does not know how his comments could have been so misconstrued as to result in the statement reported to you. He does hope there will be cooperation between VA facilities and local Health Systems Agencies to assure that equitable and rational allocation of resources exists. Presently, VA representatives do sit on HSA boards and thus participate in the planning process.

I can assure you that this Department will continue its efforts to insure cooperation with the VA in improving the health planning process. For instance, the Bureau of Health Planning will soon issue a policy notice which directs Health Systems Agencies under HEW to review relationships with the VA and to enhance the participation of VA medical District Directors in regional health planning. In addition, HEW will cooperate with the VA and other Federal agencies in the submission of health plans under OMB Circular A-95.

I look forward to close cooperation between this Department and the VA in fully developing needed mechanisms for effective communication within the health planning process.

Sincerely,

JOSEPH A. CALIFANO, Jr.●

CONGRESSIONAL QUARTERLY SURVEY

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. BRADEMAS. Mr. Speaker, the current issue of Congressional Quarterly includes that publication's annual survey on congressional foreign travel.

I am listed in the article as having made "No response to CQ queries," the inference being that CQ repeatedly requested the desired information.

Actually, Mr. Speaker, my office received only one survey form from CQ, and that form did not indicate any deadline date for response. Moreover, when my secretary, approximately a month ago, telephoned CQ to ask for the deadline date for returning the form, she was told only that there was "no rush."

Mr. Speaker, I have asked my secretary, who is overworked, to try to be more prompt in responding to such surveys. I would suggest that the editors of CQ ask their researchers, who probably are overworked as well, to be a little more precise about their deadline dates for requested information.

In the meantime, Mr. Speaker, I am today returning CQ's form in order that its request may be honored, and am including at this point in the RECORD a copy of my response so that it may immediately be available to anyone interested:

CONGRESSIONAL QUARTERLY, INC.,
Washington, D.C.

DEAR MEMBER: Each year Congressional Quarterly conducts a survey of travel by Members of Congress to foreign countries. The results will be published by CQ and distributed to our news clients in the form of a report and fact sheet.

I would be grateful if you would fill out the form below, indicating your foreign travel in calendar 1977, and return it in the accompanying envelope. Your reply will be used to check and supplement data from other records. Vacation travel at your own expense is not included in our survey.

Sincerely,

WAYNE KELLEY,
Executive Editor.

Name of Member: Hon. John Brademas (D Ind.).

Countries Visited in 1977, date, purpose*, and at whose expense**:

People's Republic of China, April 1, 1977, U.S. Delegation at request of the President, and Federal Government.

Cyprus, August 6, 1977, U.S. Delegation at request of the President to the funeral of President Makarios of Cyprus, and Federal Government.

Greece, July 8, 1977, to participate in Greek American Seminar organized by Greek World magazine, and Greek World magazine.

*Please be specific about the purpose of the journey, whether you traveled as a delegate to a conference, as a member of a committee investigation or study project, or at presidential request, etc.

**Federal Government, personal, foundation, etc.

To help us with any questions or clarifications please indicate name of person filling out form.

Alice M. Jackson, Secretary to Congressman Brademas.

Thank you.●

AMONG THE SIMPLE BELONGINGS OF AN ELDERLY LADY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. PEPPER. Mr. Speaker, this poem, provided to me by Dr. Mary Ganikos, the Director of the American Personnel and Guidance Association's Project on Aging, was found among the few simple belongings of an elderly lady, after she died in a geriatric ward of a hospital. It is entitled "What Do You See? What Do You See?"

The poem follows:

"WHAT DO YOU SEE? WHAT DO YOU SEE?"

What do you see nurses, what do
You see?
Are you thinking when you are
Looking at me—
A crabbit old woman, not very
Wise,
Uncertain of Habit, with far-away
eyes.

Who dribbles her food and makes
No reply
When you say in a loud voice—
"I do wish you'd try."

Who seems not to notice the
Things that you do,
And forever is losing a stocking
Or a shoe.

Who unresisting or not, lets you
Do as you will,
With bathing and feeding, the long
day to fill.

Is that what you are thinking—
Is that what you see?
Then open your eyes, nurse, you're
Not looking at me.

I'll tell you who I am as I sit
Here so still;
As I use at your bidding, as I eat
At your will,

I'm a small child of ten with a
Father and mother,
Brothers and sisters, who love one
Another.

A young girl of sixteen with wings
On her feet,
Dreaming that soon now a lover
She'll meet;
A bride soon at twenty—my heart
Gives a leap,

Remembering the vows that I
Promised to keep;
At twenty-five now I have young
Of my own,
Who need me to build a secure,
Happy home;
A woman of thirty, my young now
Grow fast,

Bound to each other with ties that
Should last;
At forty, my young sons have
Grown and are gone,
But my man's beside to see
I don't mourn.
At fifty, once more babies play
Round my knee.
Again we know children, my loved
One and me.
Dark days are upon me, my
Husband is dead,
I look at the future, I shudder
With dred,
For my young are all rearing
Young of their own,
And I think of the years and the
Love that I've known.
I'm an old woman now and nature
Is cruel—
Tis her jest to make old age look
Like a fool.
The body it crumbles, grace and
Vigour depart
There is now a stone where I once
Had a heart;
But inside this old carcass a young
Girl still dwells.
And now and again my battered
Heart swells.
I remember the joys, I remember
The Pain,
And I'm loving and living life
Over again.
I think of the years all too few—
Gone too fast,
And accept the stark fact that
Nothing can last,
So open your eyes, nurses, open
And see
Not a crabbit old woman, look
Closer—see Me! ●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● MR. CORCORAN of Illinois. Mr. Speaker, due to the scheduling of preliminary study hearings into the possible closing of Chanute Air Force Base which would affect my district, I was absent during the business for Thurday, September 28. I would like to insert in the RECORD at this time my voting record for that day:

Rollcall No. 847. Motion by Howard that the House resolve itself into the Committee of the Whole House for the further consideration of H.R. 11733, Surface Transportation Assistance Act of 1978, "yea".

Rollcall No. 848. Amendment offered by Goldwater that sought to strike language authorizing FAA access to National Driver Register information, "nay."

Rollcall No. 849. On final passage of H.R. 11733, Surface Transportation Assistance Act of 1978, "yea."

Rollcall No. 850. On adoption of the conference report to accompany H.R. 3816, Federal Trade Commission Amendments of 1978, paired against.

Rollcall No. 851. On adoption of the conference report to accompany H.R. 9214, International Monetary Fund Authorization, paired against.

Rollcall No. 852. Amendment to H.R. 12005, Department of Justice Authorization for fiscal year 1979, which requires the Attorney General to establish procedures for identifying individuals who meet the standards promulgated by the President for the merit selection of Federal district court judgeships, and to submit their names to the President and Senate with respect to each vacancy in the office of a district court judgeship, paired for.

Rollcall No. 853. On final passage of H.R. 12005, Department of Justice Authorization for fiscal year 1979, "yea."

Rollcall No. 854. On adoption of the conference report to accompany H.R. 12934, State, Justice, Commerce, Judiciary Appropriations for fiscal year 1979, "yea." ●

NOTRE DAME ACADEMY 100TH BIRTHDAY

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. STANTON. Mr. Speaker, it is a privilege for me to bring to the attention of my colleagues that Notre Dame Academy, located in my congressional district of Geauga County, Ohio, will celebrate its centennial under the theme "100 Years Young" during the month of October.

In 1877, the first Notre Dame Academy, located at Superior and East 17 Street, began with a total enrollment of 14 students. Under the direction of Mother Mary Chrysostom, the second superior general of the Sisters of Notre Dame, a five story structure, designed as a provincial house for the Sisters and as an academy for the girls, was ready for occupancy on May 1, 1878. These buildings served the community and young women almost 40 years. Because of the need for more room, a new location was selected under the leadership of Mother Mary Cecelia, the third superior general of the Sisters of Notre Dame.

At the corner of Ansel and Superior, overlooking East Boulevard and Rockfeller Park, a three story tudor gothic building was erected. The new academy officially opened on January 11, 1915. At that time, students were accepted in the first grade and were educated through grade 12. The rapid growth of the high school department necessitated that gradual elimination of the elementary grades until 1944, when the academy became a 4 year high school. The memories of Ansel Road are deep and lasting in the minds and hearts of the thousands of young women who spent t..eir high school days at "castle Ansel."

However, again because of necessity, the principal announced to the student body on May 29, 1963, that a new site for Notre Dame Academy, 210 acres in rural Geauga County, had been purchased adjacent to the Sisters' Provincial House. The following September 6, 1963, witnessed the opening of the first year in temporary buildings for instructional purposes. The solemn blessing of the modern two story brick building took place on May 31, 1965. On May 1, 1978, ground was broken for a new addition to the present building which houses a resource center and additional classroom space.

Students commute to Notre Dame from sixteen school districts located in Cuyahoga, Lake, Geauga, and Portage counties. The faculty now numbers 50 and the student body 850 young women. A comprehensive high school, Notre Dame makes available units of credit in college preparatory, business, and general-vocational courses. Through the contributed services of the Sisters of Notre Dame and the dedicated services of their lay teachers and staff, it is possible to offer a Catholic education to many students who otherwise could not afford it.

The same traditions and the same spirit of the pioneers of Notre Dame on Ansel are still relived and re-echoed among the faculty and student body of Notre Dame on Butternut!

Mr. Speaker, never before has the Christian message been more needed in both our national life and in our family life. I believe that the health of our Nation is a direct reflection of the health of our families. The Sisters of Notre Dame Academy are to be commended in the most generous terms for the vital role they have played in teaching Christian living to thousands of Americans over the past 100 years.

To the Sisters and lay staff of Notre Dame Academy, I extend my heartiest congratulations and appreciation for the leadership they are giving in the great tradition of Notre Dame. To the Alumnae, may they carry the spirit and the memories of Notre Dame always.

I express my warmest good wishes for the next 100 years.●

TRADE DEFICIT

HON. KENNETH L. HOLLAND

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. HOLLAND. Mr. Speaker, last Friday, the other body, in a bold and completely rational action, passed the companion bill to H.R. 10853 which has been introduced by the gentleman from North Carolina (Mr. BROYHILL) and me with 216 cosponsors. Already those of us in both bodies who desire to avoid having the textile and apparel industries follow the disgraceful route of specialty steel, television, and footwear are being labeled "protectionists" by individuals in positions of authority and responsibility for this Nation's international trade relations. I hope those of us who sincerely support a free trade and a fair trade system will remain firm. This Nation faces its longest trade deficit in history last year. All across this land, our workers fear the loss of even more job opportunities because of unfair foreign competition. The value of our currency is declining dramatically because of these events. Inflation continues to rage, fueled by these developments.

I believe that it is time the Congress acted in the interest of salvaging our economy and our people's jobs, undeterred by those whose only response seem to be the issuance of unfair and insulting labels.●

TWENTIETH ANNIVERSARY OF NASA

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. TEAGUE. Mr. Speaker, October 1, 1978, marked the 20th anniversary of the founding of the National Aeronautics and Space Administration.

When Congress passed the Space Act of 1958, we included as the very first sentence the following:

> The Congress hereby declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

In the 20 eventful years since 1958, NASA has brought pride and glory to the Nation in a series of magnificent achievements which have been accomplished, in the spirit of the 1958 act, for the benefit of all mankind. We didn't realize on that date, two decades ago, that the space age would affect the lives of every American and all people throughout the world.

Let us reflect for a moment on the tremendous challenge which faced this new agency which was born on October 1, 1958. With the launching of sputnik and the heavier payloads which the Soviet Union hurled into orbit in 1957, a spirit of embarrassment, humiliation and close to defeatism gripped our land. It was almost as though another Pearl Harbor had struck. People wondered how it was possible for our scientific know-how to be overtaken so dramatically.

But NASA rose to the challenge. Building on the foundations of the able talent in the old National Advisory Committee for Aeronautics, NASA mobilized a great team from Government, private industry, and the scientists and engineers who worked around the clock to give this Nation preeminence in space. Few endeavors in the span of recorded history have so captured the imagination of the world. Few human activities have produced such an explosion of new knowledge.

When Neil Armstrong first set foot on the Moon on July 20, 1969, NASA had met the goal set by President Kennedy in 1961 to accomplish a manned landing on the Moon within the decade. Few of us appreciate the almost superhuman industrial effort, led and coordinated by NASA, which enabled this Nation to meet the goal. The careful planning, the inventive genius, the pressure to meet deadlines, the meshing of the myriad bits and pieces, the training and the testing the struggle to succeed, the agony of the tragic fire in which three brave astronauts gave their lives in 1967. and the final triumph in 1969 combine to make a story which will live in history.

When we went to the Moon, it was not a case of sending billions of tax dollars into space; 90 percent of NASA's expenditures were utilized for contracts with American industrial firms, and to pay the wages of the American men and women who worked to make the space program a success.

Although the Apollo manned lunar landing was the most visible NASA program, we should not overlook the many other achievements which have brought untold benefits to every man, woman, and child throughout the land. Today, we routinely use communication, weather, navigation and Earth resources satellites. Aeronautical research has developed speedier and safer planes, resulted in short-take-off planes, fashioned quieter engines, and through NASA research has done such things as grooving runways to prevent hydroplaning in wet weather. This NASA research has resulted in the grooving of highways to improve safety at potentially dangerous points. There are countless other examples of practical benefits first developed by NASA in the space program, from the use of lasers in eye surgery to the home use of fuel cells, fire-resistant clothing and home furnishings, to exotic lubricants developed to withstand extreme temperatures on the Moon.

Under the able leadership of five Administrators—T. Keith Glennan, James E. Webb, Thomas O. Paine, James C. Fletcher, and now Robert Frosch—NASA in its 20-year history has opened new vistas for all mankind. We are now on the threshold of a new era which will be ushered in as the Space Shuttle will soon fly in orbit for the first time. The next 20 years of NASA may well produce even more startling advances for the benefit of all mankind.●

JAMES A. FARRELL, JR.

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. MURPHY of New York. Mr. Speaker, I rise today to express profound sorrow at the passing of a great patriot and dear friend whose dedicated service to this country will be sorely missed; whose courage and unflagging devotion to the betterment of the U.S. merchant marine will not soon be forgotten. James A. Farrell, Jr., was the finest combination of those qualities which have made the United States the proud Nation it is.

An energetic and honest businessman, James A. Farrell, Jr., spent a brave and forthright career devoted to the development and advancement of a strong and powerful U.S. merchant marine.

Indeed, the name Farrell is synonymous with the strength and resiliency of the American merchant marine.

James A. Farrell, Jr., was the grandson of a sea captain who operated in the U.S. coastwise trade. The son of James A. Farrell, Sr., the former president of the U.S. Steel Corp., and creator of the Isthmian Steamship Co., James A. Farrell, Jr., along with his brother John, founded the American-South African Line in 1926. This was the genesis of Farrell Lines. Through war and peace, Farrell Lines set the example of courage and sacrifice we have come to expect from our maritime industry.

As president of Farrell Lines, James A. Farrell, Jr., extended the company's services to three coasts of Africa, Australia, and New Zealand. As a leader in the community, James A. Farrell, Jr., was one of our greatest spokesmen on the development of African economies. Last year, during a period of severe decline and uncertainty in the U.S. maritime industry, Farrell Lines acquired American Export Lines to form a combined fleet of 39 ships, serving five continents, the largest privately owned steamship company in the United States.

A trustee of the Yale Sailing Assn., United Seamen's Service and Mystic Seaport, Mr. Farrell was a member of the American Bureau of Shipping, U.S. Naval Reserve, International Sailing Association, the Society of Naval Architects and Marine Engineers, American Legion Marine Post 945 and the New York Yacht Club.

Mr. Farrell initiated steamship conference operations on the South and West African trade routes and was a founder of the Committee of American Steamship Lines of which he was chairman in the 1950's.

He was the 1977 recipient of the Admiral of Ocean Sea Award, presented annually to an industry executive for outstanding contributions to the promotion of U.S.-flag shipping.

To Jim Farrell's wife, Emilie, I offer my personal condolescences and I ask all of you to join me in expressing our grief at the passing of this great man.●

TRIBUTE TO THE PHILOMATHEAN SOCIETY

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. MICHAEL O. MYERS. Mr. Speaker, today marks the 165th anniversary of the founding of the Philomathean Society of the University of Pennsylvania, the Nation's oldest continuous collegiate literary society.

It was on October 2, 1813 that the orginal 13 members signed the constituting Articles in order to "promote our improvement in learning and likewise more fully establish the reputation of the University." In the years that have followed, "Philo," as she is known by generations of Pennsylvania students, has more than admirably realized that goal.

No finer example can be found of Philo's capacity and ambition than the "Rosetta Stone Report," published by the society in 1858. This remarkable volume contained the first accurate English translation of the Rosetta Stone, and was entirely the work of three undergraduate members. It quickly sold out two editions, and was internationally hailed as a great work of scholarship. In a letter to the society, German scientist Baron Alexander von Humboldt called it:

> A historic monument of great importance, especially worthy of praise since it offers the first essay at independent investigation by the litterateur of the New Continent.

Whatever task the Philomatheans undertook, they set about to accomplish on a grand scale. In 1917, the society staged "The Masque of the American Drama," which was considered at the time to have been the largest theatrical production ever presented in North America. It involved over 1,000 student workers and required 1,500 costumes. In another year, Philo built a full-scale replica of the Globe Theater on the university campus to house its production of Shakespeare's "The Comedy of Errors."

The society has achieved an unparalleled record of service to Pennsylvania and its students. In the last 165 years, publications Philomatheans have founded include Punch Bowl, the Daily Pennsylvanian, Era, Penn Review, High Ball, Chac, the Red and the Blue, Junto, the Trend, Lotus, and the University magazine. Philos have organized the university student assembly, the debate council, the Senior Tutor Society, Connaissance, Penn Players, and the Latin American Graduate Students Association. An annual speakers series, begun in 1814, has recently brought to Pennsylvania notables such as Margaret Mead, Henry Steele Commager, I. F. Stone, Ashly Montagu, Ayn Rand, and John Barth. The society established the first library for students at the university, sponsored the first permanent campus art gallery, and helped create the department of general literature.

Philo's sons and daughters have gone on to provide more service to the university and the world community. Alumni have included 3 university provosts, 16 university trustees, and 31 university professors. Also among their number have been seven Congressmen, three Senators (including a President pro tempore), two Cabinet officers, three Ambassadors, two Governors, and six generals, plus enumerable local legislators, judges, lawyers, doctors, authors, editors, scientists, theologicans, and educators.

The Philomathean Society could easily rest on its past glory, but today Philo remains as vibrant and ready to contribute as ever. Philomatheans produce a series of musical concerts, operate an art gallery, run a poetry reading series, sponsor speakers, show film programs, and publish Era, the university's scholarly-literary magazine. Philo still maintains its own library, which is available for use by any Pennsylvania student.

The Philomathean is one of the last of the great literary societies that at one time were represented on nearly every American campus. These literary societies trained generations of our Nation's leaders through the exercises they provided their members in writing, speaking, and thinking. Yet today, only a handful have survived. It is indeed a testimony to the dedication and wisdom of the students at the University of Pennsylvania that they have supported the Philomathean Society for over a century and one-half.

I wish the Philomatheans a happy anniversary on this milestone for the society, and extend my hopes for a successful and productive future.●

ILLEGAL IMMIGRATION I

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. SISK. Mr. Speaker, today, I am initiating a series of remarks on the subject of illegal immigration, its affect on U.S. population growth, our environment, our economy and our legal and social institutions. The subject of illegal immigration has received growing attention by the press recently. The larger ramifications of allowing this problem to go unsolved need to be discussed, especially the problems of population growth and environmental and resource constraints in this Nation.

Whether we are trying to solve the problems of adequate water supplies for the arid West, housing and police protection in our cities, or recreation and agricultural resources in our countryside, all are tied fundamentally to the central issue of population numbers.

There are some, Mr. Speaker, who after viewing the awesome population and resource figures from such sources as the U.N. Environment Programme, or the World Watch Institute, or from such national organizations as the Sierra Club, throw up their hands in despair and simply walk away from this problem. The problem is too large, too complex, too difficult, they say.

These fears will come true if we wait and fail to act expeditiously and compassionately on the problem of illegal immigration. It will not get better in the weeks and months ahead.

We have within our power as legislators to bring illegal immigration under control and subsequently allow legal immigration within a framework of laws which are just, fair, effective, and reasoned. To stop illegal immigration is fundamentally a question of whether the United States has the right to be sovereign within its own borders. Surely, we have that right.

A distinguished American recently testified on this question before the Select Committee on Population. Gen. Maxwell Taylor, with great clarity, forcibly painted a picture of this problem and its ramifications. He noted that by the year 2000, the United States may have a population in excess of 300 million people, nearly half as large as India is today, if illegal immigration is left uncontrolled.

An additional 75 million people living in this country, using energy at an average U.S. consumption level (1972), is the equivalent of adding 4.65 billion people living at an Indian standard of living (expressed in terms of per capita energy consumption). This additional resource consumption—to say nothing of the needed timber, food, minerals, water, highways, homes, automobiles, employment, health care, et cetera. will dramatically increase pollution, deplete our forests, erode our soil and land, dwindle our fossil fuels, crowd our overburdened cities and escalate our taxes.

The time to act is now.●

THE FUTURE OF THE FREE ENTERPRISE SYSTEM

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. RHODES. Mr. Speaker, on October 21, former Federal Reserve Chairman Arthur Burns spoke to a group in Memphis about the state of our economy, and the effects of Federal intervention on inflation.

From his vantage point of great experience in dealing with economic trends and Federal attempts to influence them, Arthur Burns presented a cogent analysis of Government's role as a causative factor in our inflation, and that plaguing other countries of the world.

I urge my colleagues to take time to read this trenchant overview of our current economic challenge, particularly his recommendations for unwinding inflation and establishment of a stabilized economy.

Text of Dr. Burns' remarks is as follows:

THE FUTURE OF THE FREE ENTERPRISE SYSTEM

(By Arthur F. Burns)

Prediction of the economic future has always been a hazardous task. Noting this fact, a distinguished economic historian, Werner Sombart, once remarked that "it is precisely the most gifted men who have made the most fundamental mistakes" in predicting the economic future. While I am by no means sure that "gifted men" are more prone to misjudge the future than are ordinary mortals, there is ample evidence that judgments of the future even by the ablest economists have often been mistaken.

Karl Marx, who revolutionized economic and political thinking over much of the world, provides an outstanding example.

Marx believed that certain tendencies inherent in capitalism would ultimately lead to its destruction. In his version, small business firms would gradually disappear as capitalism evolved. The concentration of production in a diminishing number of large enterprises would be accompanied by concentration of wealth in fewer and fewer hands. The middle class would thus be destroyed and the masses proletarized. Inadequate consumption would lead to recurring epidemics of overproduction, and depressions of increasing severity would follow. As the misery of the proletariat deepened, resistance to capitalist exploitation would intensify and become more militant. With such powerful tendencies at work, the capitalist order was bound to collapse; it was only a matter of time when the capitalists would be expropriated and all instruments of production socialized.

Thus, according to Marx's theory, the failure of capitalism in its later stages to meet elementary economic needs of the working masses would inevitably lead, although not without intense struggle, to the replacement of free enterprise by a socialistically planned regime.

In our own century, another great economist, Joseph Schumpeter, brilliantly challenged Marx's analysis. Schumpeter saw in capitalism a highly efficient engine of mass production and mass consumption. In his view the capitalist spirit expresses itself characteristically through innovation—that is, developing new commodities, devising new technologies, harnessing new sources of supply, devising new market strategies, forming new types of organization. The competition of new products and new ways of doing busi-

ness against old products and customary procedures—that is the essence of the capitalist process. This competition of the new against the old is what really matters in the business world; it has been continuing at a rapid pace, and it accounts for the vast improvement in living standards wherever capitalism has flourished. Indeed, not only economic improvement, but the major achievements of modern times in the sciences and arts are, directly or indirectly, the products of capitalism.

Being a student of business cycles, Schumpeter was well aware of recurring business slumps and their spells of unemployment. But he regarded recessions as temporary phenomena that paved the way, so to speak, to more effective utilization of resources and therefore to still higher standards of living. He went on to argue, nevertheless, that the great economic and cultural achievements of modern capitalism did not assure its future; on the contrary, the very success of capitalism would eventually cause its replacement by a socialist civilization. He thus accepted Marx's conclusion but not the analysis on which it was based.

According to Schumpeter, capitalism would be destroyed by factors growing out of its own inner processes. As business corporations became larger, they would become bureaucratic and impersonal. The entrepreneurial function of innovating would be largely assumed by trained specialists. Increasing affluence would provide both the means and the will to expand social programs and thus lead to a growing role of government. The intellectual class created and nourished by capitalism would become increasingly hostile to its institutions. Animosity toward free enterprise would be exploited by government officials seeking additional power for themselves. The general public would fail to support free enterprise because the issues debated in the public arena are much too complex and often involve long-range considerations that go beyond popular concern. Even businessmen would become increasingly willing to accept the teachings of their detractors. In this social and political environment, capitalist enterprise would in time be undermined and finally replaced by socialism.

Thus, Schumpeter arrived at precisely the same conclusion as Karl Marx. But whereas Marx attributed the eventual coming of socialism to the failure of capitalism, Schumpeter attributed it to the outstanding success of capitalism.

When we turn from the theories of Marx and Schumpeter to recorded experience, several facts immediately stand out. First, we find that the nations practicing socialism in Marx's and Schumpeter's sense had either banished free enterprise under external military pressure, as in the case of Eastern Europe, or had undergone an internal revolution without ever developing a significant degree of free enterprise, as in the case of the Soviet Union and mainland China.

Second, we find that greater economic success has been generally achieved in nations that extensively practice free enterprise than in nations where it is prohibited or severely limited. The economic performance of the United States, West Germany, and France has been more impressive than that of the Soviet Union or East Germany or Poland. Likewise, the economic performance of Japan, Taiwan, or Brazil has clearly surpassed that of India, Sri Lanka, or Egypt.

Third, although Marx's analysis continues to appeal to many intellectuals, his elaborate theoretical structure has been discredited by experience. Instead of bringing economic misery to the masses, capitalism has produced vast improvements in their economic condition. True, socialism has triumphed in some countries, but the triumph was achieved in a far different way than Marx had envisaged. On the other hand, Schumpeter's theory that capitalism would eventually be destroyed by its very success in improving the lot of people cannot be dismissed so readily. His prognosis may or may not turn out to be valid. But there is no denying that much of what has happened in recent decades in countries that boast of practicing free enterprise fits rather closely his theoretical model.

Let me speak more specifically about one prominent feature of Schumpeter's analysis—namely, the expanding role of government in economic life. The broad trend of American economic development has been toward increasing emphasis on the service industries, and the government has become the channel through which much of the public's demand for services is satisfied. As our economy has undergone industrialization and urbanization, there has been a steady increase in the interdependence of people—that is, in their reliance on the wisdom and enterprise, and also in their exposure to the folly and indolence, of their neighbors. In such an environment, social and economic problems often arise that cannot be adequately handled by private enterprise and governmental activities therefore tend to expand.

The spread of political democracy has accentuated the trend toward seeking governmental solutions of economic and social problems. With more people in the lower income groups taking advantage of the right to vote and with advocates of all sorts active in legislative halls, demands on the government have been mounting—to eliminate or regulate private monopoly, to conserve natural resources, to strengthen trade unions, to raise minimum wages, to protect the environment, to improve housing conditions, to protect unwary consumers, to subsidize agriculture or other industries, and so on and on.

The range of governmental activities has thus been steadily expanding and so too has the cost. In 1929 governmental expenditure—that is, the combined total of Federal, State, and local spending—amounted to 11 per cent of the dollar value of our Nation's entire production of goods and services. The corresponding figure rose to 20 percent in 1940, 23 percent in 1950, 30 percent in 1960, 35 percent in 1970, and 37 percent in 1977.

The sharply rising trend of governmental spending has, of course, involved a steady increase in the fraction of the nation's labor force that works directly or indirectly for the government. But our government affects the economy not only by employing people or by purchasing supplies and equipment from private industry. In addition, vast sums of money are transferred by the government to individuals not involved in current production—that is, beneficiaries of public retirement funds, unemployment insurance, medicare, aid to veterans, food stamps, etc. And our government also effects the economy by guaranteeing a variety of private loans and by regulating numerous industrial, commercial, and financial practices.

All these activities, particularly transfer payments and governmental regulation, have grown by leaps and bounds in recent years. Transfer payments, which were merely 3 percent as large as the Nation's total wage and salary bill in 1930, rose to 11 percent by 1965 and reached 21 percent in 1977. The *Federal Register*, which records government regulations, ran to 3,400 pages in 1937, but swelled to about 10,000 pages in 1953 and to 65,000 in 1977. At least 90 Federal agencies are now involved in issuing governmental regulations. Funds allocated for regulation in this year's Federal budget amount to $4.5 billion—more than twice the expenditure in 1974. This figure, of course, omits the expenditures on regulation by our State and local governments. And it omits also the enormous costs of compliance imposed on private industry. According to a recent investigation by the Center for the Study of American Business at Washington University, these compliance costs amounted to $63 billion in 1976.

The proliferation and increasing cost of governmental activities in our country have resulted in a growing burden of taxation—higher income taxes, higher sales taxes, higher property taxes, higher social security taxes. Even so, the willingness of our government to raise revenue by taxation has fallen distinctly short of its propensity to spend.

Since 1950 the Federal budget has been in balance in only five years. Since 1970 a deficit has occurred in every year. Budget deficits have thus become a chronic condition of Federal finance; they have been incurred in years when business conditions were poor and also when business was booming. Not only that, but the deficits have been mounting in size. In the fiscal year now ending, the deficit is likely to exceed $60 billion when "offi-budget" outlays are included in the total—as they indeed should be. Instead of vanishing or diminishing as the economy improves, which was once accepted practice, the deficit has been increasing in the course of the current economic expansion.

The persistence of substantial deficits in our Federal finances is mainly responsible for the serious inflation that got under way in our country in the mid-sixties. Let us never forget the simple fact that when the government runs a budget deficit, it pumps more money into the pocketbooks of people than it takes out of their pocketbooks. That is the way a serious inflation is typically started and later nourished. And when the deficit increases at a time of economic expansion, as it has been doing lately, we should not be surprised to find the rate of inflation quickening. Of course, other factors—particularly, money creation by our central bank and the power wielded by trade unions—have played their part in the inflationary process.

The growing intervention of government in economic affairs that has taken place in the United States has been matched or exceeded by similar developments in other countries that we think of as continuing to practice free enterprise. The causes of this increasing penetration of government into the economic life of individual countries have been broadly similar—namely, industrialization and urbanization, increasing interdependence of people, faster communication through radio and television, rising expectations of people, wider participation of citizens in the political arena, and increasing reliance on government for the solution of economic and social problems.

The degree of government participation in economic life has thus been increasing in every industrial country outside the Socialist sphere. To cite some examples: government expenditure in the United Kingdom amounted to 34 per cent of the gross domestic product in 1962 and to 44 per cent in 1975. Corresponding figures in the case of West Germany are 34 and 42 per cent; in the case of France, 36 and 40 per cent; in the case of Canada, 29 and 41 per cent; in the case of Australia, 24 and 32 per cent. A similar trend appears also in Japan; but it is worth noting that governmental spending amounted to only 23 per cent of the gross domestic product of Japan in 1975—a substantially lower figure than in any other major industrial country.

And just as the rapid expansion of governmental activities in the United States has been accompanied by persistent budget deficits, that too has happened in other industrial countries. Indeed, loose governmental finance and rapid inflation have often been practiced more intensively outside the United States, and they have recently become characteristic features of major economies that still boast of free enterprise.

The world-wide inflation that has been under way since the late 1960's has become a serious threat to the free enterprise system. The fact that inflation masks underlying economic realities makes it all the more insidious. For example, the trend of retail trade and housing starts began to weaken in the United States early in 1973, but many members of the business community paid little attention to that ominous development. Nor did they recognize that standard accounting practices, which rely on historical costs in reckoning inventories and capital consumption, were resulting in enormous overstatements of their profits. Caught up in the euphoria of inflation, they built up inventories out of all proportion to actual or prospective sales, and thus set the stage for the subsequent sharp decline of production and employment. What happened in the United States was paralleled in greater or lesser degree in European industrial countries and in Japan.

The corrosive effects of inflation go far beyond the distortion of businessmen's perspective. Inflation erodes the purchasing power of everyone's money income. Inflation weakens the willingness of many people to save for the future. Inflation drives up the level of interest rates. And once businessmen become aware of the illusory element in profits, inflation adds to uncertainty about the future. In an inflation-ridden environment, businessmen have no good way of judging what their costs of production may turn out to be, or what prices they may be able to charge, or what profits, if any, will accrue when they undertake new investments. The risk premium that attaches to calculations of prospective profits from new investments therefore goes up. This discourages business capital investment and hampers the improvement of productivity.

Nor is that all. As the effects of inflation spread across the economy, they in time weaken the capital market. The classical view that inflation tends to favor business profits and therefore higher stock prices no longer fits today's world of powerful trade unions, high interest rates, and a governmental bias toward cosumption. Recent experience in the United States and in other countries has demonstrated that persistent inflation adversely affects stock prices as well as bond prices. Even now, despite the recent upsurge in stock prices, the Dow-Jones industrial average is below the level reached in 1965; and in view of the huge rise in the general price level since then, the stock market has obviously suffered a severe depression.

As a result of the disappointing performance of the stock exchanges, the interest of investors in equity securities has greatly diminished during recent years. Some wealthy individuals, seeking a refuge from inflation, have turned to investing in works of art, or in real estate, or in foreign currencies, gold or other commodities. Many members of the middle class, being similarly disillusioned with equities, have sought an inflation hedge by purchasing a home or an extra house when they already owned one. But the many millions who lack financial sophistication, and even some who possess it, have found no better way to protect themselves against the ravages of inflation than to let cash pile up in the form of bank deposits or other liquid assets—with the result that the purchasing power of their monetary savings has generally kept eroding.

Many professional money managers, likewise discouraged by the behavior of common stock prices, have found solace in the high yields that have become available on corporate and government bonds. And they have also displayed some tendency to shorten the maturity of their investments, so that they could shift to higher-yield securities if faster inflation served to raise interest rates another notch or two in the future. With institutional as well as individual investors switching from common stocks to other investments, brokerage firms and investment advisory services have suffered reverses. Numerous firms of this type have closed down their operations or sold out to more enterprising members of their industry. These in turn have reacted to the declining interest in equities by becoming department stores of finance—that is, by offering to their troubled customers stock options, commodity futures, municipal bond funds, money market funds, tax shelters, and so on, in addition to the more traditional services. Adjustments of this type have enabled some brokerage and advisory firms to survive and even to prosper.

But what matters most for the future of our economy is the erosion of investor interest in equity issues. In 1965 corporate shares constituted over 43 percent of all financial assets of American households; by 1977 they were down to 25 percent. Between 1970 and 1975 the number of individual shareholders in our country fell from about 31 million to 25 million. More significant still, this decline was concentrated among young and middle-aged people. Net purchases of equity issues by private pension funds have also slumped in recent years. So-called "equity kickers", once a prominent feature of loans placed by insurance firms, have practically vanished. As a result of this declining interest in equities, the supply of venture capital has drastically diminished in our country. Public issues by small firms have dwindled and we rarely hear nowadays of the formation of new high-technology companies.

If the scepticism about equities that has marked recent years continues in the future, it will become difficult even for some well-established corporations to finance their long-term investment projects. This difficulty will be accentuated if internally generated funds continue to provide a reduced share of total financing needs—as has been the case during the past decade of high inflation. Furthermore, if business firms are forced to rely more heavily on short-term funds, the corporate economy will become more vulnerable to financial strains in the future. In such an environment a business recession could be even more disruptive than the recession we recently experienced.

In short, the changes wrought by inflation have already weakened the framework of our economic system. They threaten to do so to a greater degree if the inflationary bias of the economy is extended. I judge from the sluggishness of stock exchanges in other major industrial countries during the past decade that, with the exception of Japan, their experience has been similar to that of the United States. If inflationary trends should persist, the economies of these countries will also face a very uncertain future.

Serious as these longer range economic consequences of inflation appear to be, there is even greater reason for concern about its impact on social and political institutions. Inflation has capricious effects on the distribution of income and wealth among a Nation's families and businesses. Inflation eventually leads to recession and extensive unemployment, and such adversities are generally followed by new measures of governmental intervention. Inflation robs people who in their desire to be self-reliant have set aside funds for the education of their children or their own retirement. Inflation hits many of the poor and elderly especially hard. More ominous still, by causing disillusionment and breeding discontent, inflation excites doubts among people about themselves, about their government, and about the free enterprise system itself.

Such anxieties tend to spread from one country to another. In particular, when the value of our own dollar depreciates in foreign exchange markets, as has happened again during the past two years, confidence in the international economy as well as in our own tends to weaken. The ultimate consequence of persistent inflation may therefore be a decline in both the scope and the efficiency of free enterprise on a world-wide scale.

At the beginning of this address, I reviewed the theories of capitalist evolution by Marx and Schumpeter. It is interesting to observe that while Marx visualized numerous developments that would weaken capitalism, persistent inflation was not among them. Nor was this threat to our free enterprise system foreseen by Schumpeter. Nor, for that matter, was it foreseen by Keynes; both he and his early followers were concerned about vanishing investment opportunities and unemployment, not about inflation. These failures of economic vision counsel humility in any judgments about the future; and yet I keep wondering whether the inflationary development that Schumpeter had failed to foresee may not be reinforcing the very processes on which he dwelt so provocatively.

Ours is still a dynamic and prosperous economy, but the prosperity around us has become uneasy and even joyless to many thoughtful citizens. Inflation is certainly our Nation's main economic problem, but it is by no means the only economic problem. Unlike earlier times, when we were troubled either by inflation or by unemployment, we have experienced in recent times a disconcerting rise of the general price level even when unemployment was extensive. And our social economy has been beset by other problems—among them a growing burden of taxes, excessive governmental regulation, excessive power of labor, restrictive business practices, depressed business profits, deteriorating central-city areas, decline of the work ethic, and widespread crime. Not all of these ills can be ascribed to inflation. And yet this factor has had a more ramifying influence on our economy than may appear at first glance.

I have already observed that inflation ultimately leads to recession. In turn, extensive unemployment creates an environment that is favorable to new or larger welfare programs and other increases in governmental spending—increases that often outlast the recession. Again, it is at least partly because of inflation that workers, particularly when they are well organized, can achieve increases in wages that far exceed improvements in productivity. It is at least partly because of inflation that the statutory minimum wage keeps rising—thereby causing unemployment among young people and breeding crime. It is at least partly because of inflation that many of our cities have suffered physical and cultural deterioration. And, needless to add, the poverty that persists in the midst of our plenty is in no small degree attributable to inflation.

The burden of taxes has also risen because of inflation. Although deficits at the Federal level of government have become our way of life, taxes have increased along with expenditures. Indeed, Federal revenues fell below 90 per cent of Federal expenditures in only seven years since 1946. Since our individual income tax is highly progressive, the tax burden on workers goes up, just as if Congress had legislated higher taxes, even when real wages remain constant—that is, when wages in dollars simply keep pace with increases in the consumer price level. The corporate income tax, to be sure, is essentially proportional; but under conventional accounting techniques, inflation creates phantom profits on which corporations have been paying many billions of dollars in taxes. And the consequences of inflation for the capital gains tax have been still more drastic. A recent study by Professor Martin Feldstein of Harvard indicates that in 1973 individuals paid taxes on more than $4.5 billion of capital gains from corporate shares; but when the costs of the shares are adjusted for in-

creases in the general price level, it turns out that these individuals actually experienced a real capital loss of nearly $1 billion.

Human nature inevitably takes its toll. If intense effort or large financial risks are no longer compensated by the possibility of earning large rewards, the effort and the risks will be less readily undertaken. That is the condition toward which we have been generally moving. And it is precisely because a grim future may eventually become our lot and that of other nations still enjoying freedom that big government and the disease of inflation that comes in its train must be resisted by an alert citizenry. This need is now more widely appreciated than at any time since World War II, but it is not yet understood widely enough.

There are some faint flickerings, however, that the American people are becoming less passive about the dangers facing our Nation. The recent tax revolt of California citizens may be a symptom of a general awakening of the middle class. Of late, many politicians have been vying with one another in proclaiming inflation as our Number One problem. Trade unions have been unable to persuade Congress this year that their market power needs strengthening. Much is heard these days in Congressional halls about the importance of reducing business taxes. A move to cut back rather than increase the tax on capital gains has won widespread support. And of late we have even witnessed some minor reductions within the still swelling total of Federal expenditures.

These are interesting and promising events. As yet, they are much too tenuous and uncertain to justify extrapolation. They nevertheless suggest that the time may be right for a serious attack on the inflation that has been plaguing our country. That will not be an easy task, but it will be even harder if we hesitate or delay. Once an economy has become engulfed by expectations of inflation, economic policy makers no longer have very good choices. Still, much can in time be accomplished with determined leadership.

Restrictive monetary and fiscal policies, if pushed far enough, are always capable of bringing inflation under control; they might, however, also unsettle the economy by bringing on extensive unemployment. To minimize that risk, it would be wise to supplement monetary and fiscal policies with carefully selected structural policies. A prescription for a balanced attack on the inflation problem might therefore run as follows in today's environment: first, that the Federal Reserve continue its present moderately restrictive monetary policy without interference by the Congress or the White House; second, that the budget for next year permit a substantial cut in the Federal deficit and that the move toward budgetary balance be completed within the following two years; third, that this and next year's increase in the salaries of Federal employees be scaled down to one-half the figure suggested by wage comparability studies; fourth, that the President cut his own salary by, say, 10 per cent and call on all Presidential appointees and members of Congress to do likewise; fifth, that the President reinforce these examples for the Nation by calling on top corporate executives to refrain from any increase in their compensation over the next two years; sixth, that a national center be promptly established for encouraging the organization of productivity councils across the nation, factory by factory and shop by shop, with a view to cooperation by management and labor in raising output per manhour; seventh, that we make a start toward blunting the cost-raising measures that we have allowed to flourish—such as tariffs, import quotas, farm price supports, and minimum wage laws, and that we also postpone the target dates that have been set for environmental and safety regulations.

In the course of my remarks this evening I have dwelt on the corrosive influence of inflation because I consider this the greatest danger to our free enterprise system. I am convinced that inflation is a disease that can be brought under control; but that will happen only when the will to do so becomes strong enough. In our country there is a powerful political constituency behind each of the government's spending programs, behind every tariff and import quota, behind every regulation that protects a particular group from the pressures of competition. We have powerful political constituencies in favor of perennially easy credit. We have powerful political constituencies in favor of other public or private arrangements that benefit some groups but raise prices to everyone. Our urgent need now is for a nationwide constituency that will fight for the paramount interest that we as a people have in a dollar of stable purchasing power.

Other nations—notably, Germany, Switzerland, and Japan—have demonstrated that inflation can be unwound. Even Great Britain has recently succeeded in reducing its inflation rate sharply. If we and other inflation-ridden nations succeed in curbing inflation within the framework of our basic institutions, we may yet experience a true economic renaissance in the Western world. On the other hand, if the present world-wide inflation continues, a command economy may eventually be the bitter fruit of this generation's complacency and neglect. It it the duty of each of us to do what we can to prevent this from happening.●

INTEREST ON ARGENTINA BANK LOAN IS 8½ PERCENT A MONTH

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. MARLENEE. Mr. Speaker, Ken Byerly is the highly respected publisher of the Lewiston News-Argus in my district. He recently toured South America, and saw firsthand some economic facts of life which too many of our fellow Americans—and their representatives 'n the Congress—have chosen to ignore.

As the elected representatives of the people, we have the responsibility to remain vigilant against the economic diseases which have afflicted our Latin American neighbors. We can see the stirrings of those diseases in our own society, and a recent series of articles by Mr. Byerly in his newspaper documents our problem superbly. I would especially commend the following insertion to the attention of my colleagues.

The article follows:

[From the Lewistown News-Argus, Aug. 13, 1978]

INTEREST ON ARGENTINA BANK LOAN IS 8½ PERCENT A MONTH

(By Ken Byerly)

The interest on a bank loan in Argentina a while back was as high as 11 per cent a month—that right, a MONTH!

But things are better now as a bank loan may be obtained for only 8½ per cent a month.

That's still 100 per cent interest a year.

The reason?

It's inflation.

Venezuela had the lowest inflation rate last year of South America's 10 major countries. It was 18.7 per cent, about double the U.S. rate.

But Venezuela is the envy of all South America.

Argentina is still the world's inflation champ with 172.9 per cent a year.

Chile has reduced its 1976 inflation rate of 443.2 per cent to 42.2 per cent.

Brazil's inflation is 36.4 per cent, but it was five per cent in June alone which would be 60 per cent a year if continued.

That's small potatoes though compared to Peru where the cost of living jumped 13.3 per cent in May, and inflation for the first five months of 1978 was 34 per cent.

If both rates continue, it would mean the cost of living in Peru would soar 159.6 per cent in a year, and inflation would hit 81.6 per cent.

South Americans didn't like to mention their inflation problems when my wife Scottie and I were there last month. They're ashamed and troubled.

But the Buenos Aires Herald Spoke out with a lead editorial, "Hooked on Inflation."

"Countries can live with inflation," it said, "just as human beings can live even though they fill their veins with heroin. But they can never live properly. They tend to need more and more of the drug that gives them fleeting satisfaction.

"Just as the lives of drug addicts are stunted and sordid, so are the lives of nations that yearn for more and more inflationary policies.

"No country whose economy is afflicted with inflation can attain political stability without a dictatorship, while the effects on society of constant monetary depreciation are invariably devastating," the Argentina newspaper's editorial continued.

Then came the alarming conclusion which the Carter Administration and the Congress should read, reread and then act swiftly and wisely on to cut government deficits and uncontrolled spending.

"Unless inflation is defeated," the Buenos Aires Herald said, "Argentina will never be a stable democracy, its economy will never expand at an adequate rate and its social problems will never be satisfactorily resolved.

"As long as inflation continues to rage, there will be no improvements in the quality of life, society will continue to be shifting and atomized, selfishness and mediocrity will increase.

"Until inflation is defeated," the editorial concluded, "the country's drive to achieve its enormous promise cannot begin, and the possibility of it (Argentina) playing a substantial role in the world will be tiny."

It makes one think what is happening to our United States abroad with our declining dollar and growing trade deficit. We are losing strength and influence.

Just across the Rio Plata (River of Silver) from Argentina is a delightful country with lovely people that is fast "going down the drain" in spite of the fact that it has some of the finest cattle and the grass in South America.

Cattle and sheep graze 12 months of the year.

It's Uruguay, the smallest of South America's 10 major countries with an area of 72,000 square miles (about North Dakota's size), with 95 per cent of the land arable.

Our guide, an intelligent and thoughtful woman in her 50's from Montevideo, loves her country and is proud of its history.

But she made no bones about their present problems.

"We used to be known as 'the Switzerland of South America,' " she said less than five minutes after we boarded a bus at the airport and were driving along Montevideo's beautiful Atlantic Ocean waterfront enroute to the city's center, "but our economy is bad now.

"Our standard of living used to be the highest in South America, but no more and there is great inflation."

This was evident when we exchanged our dollars for Uruguay's pesos. A 5,000 peso

note, for example, had lines printed across the 5,000 and a 5 printed over it.

The reprinted 5 peso note was worth 83 cents in American money when we were there or about 16.7 cents a peso. But if they had left it as a 5,000 peso note it would have been worth the same—just 83 cents in U.S. money.

They'd just dropped the three zeros (000) to make things more workable. Hence the reduction from 5,000 to 5, 1,000 to 1, and so on.

We were the first welfare and socialized nation in the world," said our guide, "and some think this is the reason for our present troubles."

Which it is, experts say.

The government provides most everything from the cradle to the grave.

The result is a tragic inflation and slide in Uruguay's economy.

More than half the people now work for the government.

"It's an impossible situation," our guide said. "Everyone has three jobs in order to live."

Uruguary's population was once four million. Now it is 2.7 million and many continue to leave.

The loss in professional people has been tragic—doctors, lawyers, engineers and others who have gone to Venezuela, Brazil and other countries.

"We hope to improve our economy," our guide said, "as it is no good now. Maybe it will be better in another year or two."

Chances are that it won't.

Perhaps there is a lesson for us in Uruguay's decline from South America's highest standard of living to the sad troubles that that lovely nation with its beautiful people now have.●

HAPPY BIRTHDAY TEAMSTERS

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1978

● Mr. NOLAN. Mr. Speaker, as of yesterday, the International Brotherhood of Teamsters is 75 years old. I would like to join my fellow Teamsters and their friends throughout the country in congratulating the union. The Brotherhood of Teamsters, and the entire labor movement, have been and continue to be a force behind some of the most forward looking movements for economic progress and human development in American history.

The fact is that the Teamsters will continue to make a difference because they have realized from the beginning that working men and women, together with those of us in Government, can and do bring about constructive change when we join and work as partners.

And as partners, I know my colleagues will join me in extending sincere good wishes to every member and every family of the International Brotherhood of Teamsters on this 75th anniversary of its founding.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 3, 1978, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 4

9:00 a.m.
Foreign Relations
Western Hemisphere Affairs Subcommittee
To receive testimony on U.S. relations with Latin America.
4221 Dirksen Building

Government Affairs
Civil Service and General Service Subcommittee
To hold hearings on S. 1390, to authorize certain National Guard employment to be credited for civil service retirement, and S. 1821, to provide paid leave for Federal employees participating in athletic activities as an official representative of the U.S.
3302 Dirksen Building

9:30 a.m.
Environment and Public Works
To resume hearings on the nomination of Richard M. Freeman, of Illinois, to be a Member of the Board of Directors of TVA.
4200 Dirksen Building

Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91–596).
4232 Dirksen Building

Judiciary
To hold hearings on the nominations of Carin Ann Clauss, of Virginia, to be U.S. district judge for the District of Columbia; B. Avant Edenfield, to be U.S. district judge for the southern district of Georgia; and Donald E. O'Brien, to be U.S. district judge for the northern and southern districts of Iowa.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
To resume consideration of proposed legislation to designate certain Alaska lands as national parkland.
3110 Dirksen Building

Select Committee on Intelligence
To hold a closed business meeting.
S–407, Capitol

1:00 p.m.
Conferees
On H.R. 12467, to extend the programs established under the Rehabilitation Act, and to establish a comprehensive services program for the severely handicapped.
H–236, Capitol

2:00 p.m.
Conferees
On S. 3025, authorizing funds for FY 79 for the Federal Election Commission.
H–328, Capitol

OCTOBER 5

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Samuel D. Zagoria, of Maryland, to be a Consumer Product Safety Commissioner.
235 Russell Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 3429, to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, Montana.
3110 Dirksen Building

Foreign Relations
Western Hemisphere Affairs Subcommittee
To continue to receive testimony on U.S. relations with Latin America.
4221 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91–596).
4232 Dirksen Building

2:00 p.m.
Conferees
On S. 3025, authorizing funds for FY 79 for the Federal Election Commission.
H–328, Capitol

Conferees
On S. 2570, authorizing funds through FY 1979 for the Comprehensive Employment and Training Act.
4232 Dirksen Building

OCTOBER 6

9:00 a.m.
Agriculture, Nutrition, and Forestry
To consider the nomination of Robert W. Feragen, of Virginia, to be Administrator of the Rural Electrification Administration.
324 Russell Building

Foreign Relations
Western Hemisphere Affairs Subcommittee
To continue to receive testimony on U.S. relations with Latin America.
4221 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of M. Athalie Range, of Florida, to be a Member of the Board of Directors of the National Railroad Passenger Corporation.
235 Russell Building

Joint Economic
To hold hearings on the September employment-unemployment situation.
6226 Dirksen Building

2:00 p.m.
Conferees
On S. 2570, authorizing funds through FY 1979 for the Comprehensive Employment and Training Act.
EF–100, Capitol

OCTOBER 7

9:00 a.m.
Conferees
On S. 2570, authorizing funds through FY 1979 for the Comprehensive Employment and Training Act.
S–207, Capitol

OCTOBER 9

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 10

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 11

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To continue hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

OCTOBER 13

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume hearings on national health insurance programs.
4232 Dirksen Building